

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
June 05, 2012**

A meeting of the Fayetteville City Council will be held on June 05, 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:

Agenda Additions:

A. Consent:

1. Approval of the May 15, 2012 City Council meeting minutes. **APPROVED**
2. **Animal Services Donation Revenue:** A resolution approving a budget adjustment in the amount of \$19,175.00 representing donation revenue to Animal Services for the first quarter of 2012.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 109-12

3. **Bid #12-28 Chevrolet of Fayetteville:** A resolution awarding Bid #12-28 and authorizing the purchase of two 4X4 compact pickup trucks from Chevrolet of Fayetteville in the total amount of \$39,958.00, one for use by the Wastewater Division and one for use by the Meter Division, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 110-12

4. **Bid #12-29 MHC Kenworth/Volvo:** A resolution awarding Bid #12-29 and authorizing the purchase of one tandem axle dump truck from MHC Kenworth/Volvo of Springdale in the total amount of \$128,755.00, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 111-12

5. **Bid #12-30 North Point Ford:** A resolution awarding Bid #12-30 and authorizing the purchase of one 4X4 crew cab dump truck from North Point Ford of North Little Rock in the total amount of \$46,909.00, for use by the Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 112-12

6. **Bid #12-31 J. Richard Wolf Co.:** A resolution awarding Bid #12-31 and authorizing the purchase of one trailer mounted diesel water pump from J. Richard Wolf Company of Stuttgart in the total amount of \$49,760.00, for use by Sewer Maintenance.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 113-12

7. **Bid #12-32 ICM, Inc.:** A resolution awarding Bid #12-32 and authorizing the purchase of one sewer cleaning-vacuum machine from ICM, Inc. of Jacksonville in the total amount of \$361,276.05 for use by Water and Sewer, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 114-12

8. **Bid #12-35 Terex Utilities:** A resolution awarding Bid #12-35 and authorizing the purchase of one 1.5 ton service body truck from Terex Utilities south of North Little Rock in the total amount of \$41,554.00, for use by Water and Sewer.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 115-12

9. **Bid #12-36 Terex Utilities:** A resolution awarding Bid #12-36 and authorizing the purchase of one service body truck with nine-foot utility body from Terex Utilities south of North Little Rock in the total amount of \$38,385.00, for use by the Transportation Division, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 116-12

10. **Bid #12-38 MHC Kenworth/Volvo:** A resolution awarding Bid #12-38 and authorizing the purchase of one truck tractor unit from MHC Kenworth/Volvo of Springdale in the total amount of \$114,715.00 for use by Wastewater Treatment, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 117-12

- 11. Bid #12-41 Terex Utilities:** A resolution awarding Bid #12-41 and authorizing the purchase of one Ford F-550 super duty 4X4 truck with crane from Terex Utilities south of North Little Rock in the total amount of \$68,038.00, for use by the Wastewater Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 118-12

- 12. Bale Chevrolet:** A resolution authorizing the purchase of two fully-equipped Chevrolet Tahoe police pursuit vehicles from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of \$109,570.00, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 119-12

- 13. McClelland Consulting Engineers:** A resolution approving a contract with McClelland Consulting Engineers, Inc. in the amount of \$388,600.00 for water transmission line layout and easement acquisition related to a third connection to Beaver Water District.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 120-12

- 14. Fulbright Expressway/Highway 71B Flyover Project:** A resolution authorizing the donation of right-of-way to the Arkansas State Highway Commission to facilitate completion of the Fulbright Expressway/Highway 71B Flyover Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 121-12

- 15. Professional Hiring Policy:** A resolution to approve the City's Professional Hiring Policy numbers PU-12 and PU-13.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 122-12

B. Unfinished Business:

- 1. RZN 12-4077 Halsell Road/Pratt Place Inn Appeal:** An ordinance rezoning that property described in rezoning petition RZN 12-4077, for approximately 2.37 acres, located on Halsell Road from C-PZD, Commercial Planned Zoning District, to RSF-4, Residential Single-Family, 4 units per acre, subject to the offered Bill of Assurance. ***This ordinance was left on the Second Reading at the May 15, 2012 City Council meeting.***

TABLED TO THE JUNE 19, 2012 CITY COUNCIL MEETING.

C. New Business:

- 1. Proposed 2013-2017 Five-Year Capital Improvements Plan:** A resolution adopting the 2013-2017 Five-Year Capital Improvements Plan.

TABLED TO THE JUNE 19, 2012 CITY COUNCIL MEETING.

2. **Amend §97.015 Operating Hours:** An ordinance to Amend §97.015 Operating Hours in Chapter 97: Parks and Recreation to authorize the Parks and Recreation staff to extend a park's closing time when necessary for a tournament or special event.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5501

3. **VAC 12-4102 (1000 W. Stone St./Fayetteville High School):** An ordinance approving VAC 12-4102 submitted by Crafton Tull and Associates for property located at 1000 West Stone Street to vacate utility easement and right-of-way.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5502

4. **Amend §173.08 Arkansas Energy Code:** An ordinance to amend §173.08 Arkansas Energy Code of the building regulations chapter of the U.D.C. to adopt the 2009 Residential International Energy Efficiency Code, with amendments herein.

THIS ITEM WAS LEFT ON THE FIRST READING.

5. **RZN 12-4108 (4847 W. Wedington Dr./Bank of Wynne):** An ordinance revoking R-PZD 07-2576 (Woodstock) and rezoning that property described in rezoning petition RZN 12-4108, for approximately 31.68 acres, located at 4847 West Wedington Drive from R-PZD, Residential Planned Zoning District 07-2576, to R-A, Residential Agricultural.

THIS ITEM WAS LEFT ON THE FIRST READING.

6. **R-PZD 12-4079 (N.W. Corner of W. Cleveland St. & Hall Ave./Project Cleveland):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 12-4079, Project Cleveland, located at the northwest corner of West Cleveland Street and Hall Avenue; containing approximately 2.71 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

THIS ITEM WAS LEFT ON THE FIRST READING.

7. **“Move to Amend” Campaign Support:** A resolution to support the “Move to Amend” campaign by joining with other communities around the country to defend democracy by amending the United States Constitution to ensure only human beings, not corporations, have constitutionally protected free speech rights.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 123-12

8. **Amend Chapter 117:** An ordinance to amend Article IV Taxicabs and Article V Limousine Service of Chapter 117 of the Fayetteville Code to clarify notice requirements, cancellation of unused certificates of Public Convenience and Necessity, and other provisions.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5503

- 9. Enact §39.10 Water and Wastewater Damage Claims:** An ordinance to enact §39.10 Water and Wastewater Damage Claims into the Fayetteville Code.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5504

- 10. Enact §39.11 Damage Claims Other Than Water and Wastewater Damage Claims:** An ordinance to enact §39.11 Damage Claims Other Than Water and Wastewater Damage Claims into the Fayetteville Code.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5505

City Council Tour: Thursday, June 14, 2012 at 4:30 p.m. The Council will be touring: R-PZD 12-4079 (N.W. Corner of W. Cleveland St. & Hall Ave./Project Cleveland)

Announcements:

Adjournment: 10:15 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				
Alderman Tennant and Ferrell were absent	Petty	✓			
	Tennant	Absent			
	Ferrell	absent			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Mayor Jordan	✓			

7-0

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

Subject:	Consent				
Motion To:		Approve			
Motion By:		Boudreaux			
Seconded:		Gray			
Minutes Approved passed. 109-12 thru 122-12	Petty	✓			
	Tennant	Absent			
	Ferrell	absent			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Mayor Jordan				

6-0

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

Subject:	RZN 12-4077 Halsell Road/Pratt Place Inn Appeal				
Motion To:		<i>Third Read</i>	<i>Table to June 19, 2012</i>		
Motion By:		<i>Gray</i>	<i>Gray</i>		
Seconded:		<i>Lewis</i>	<i>Boudreaux</i>		
B. 1 Unfinished Business <i>Tabled to June 19, 2012</i>	Petty	<i>✓</i>	<i>✓</i>		
	Tennant	<i>absent</i>	<i>absent</i>		
	Ferrell	<i>absent</i>	<i>absent</i>		
	Adams	<i>✓</i>	<i>✓</i>		
	Lewis	<i>✓</i>	<i>✓</i>		
	Gray	<i>✓</i>	<i>✓</i>		
	Boudreaux	<i>✓</i>	<i>✓</i>		
	Kinion	<i>✓</i>	<i>✓</i>		
	Mayor Jordan				

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

Subject:	Proposed 2013-2017 Five-Year Capital Improvements Plan				
Motion To:		Table to June 19, 2012			
Motion By:		Petty			
Seconded:		Lewis			
C. 1 New Business Tabled to June 19, 2012	Petty	✓			
	Tennant	Absent			
	Ferrell	Absent			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Mayor Jordan				

6-0

Subject:	Amend §97.015 Operating Hours				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Lewis	Boudreaux		
Seconded:		Adams	Gray		
C. 2 New Business passed 5501	Petty	✓	✓	✓	
	Tennant	absent	absent	absent	
	Ferrell	absent	absent	absent	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Mayor Jordan				

6-0

6-0

6-0

Subject:	VAC 12-4102 (1000 W. Stone St./Fayetteville High School)				
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>	
Motion By:		<i>Boudreaux</i>	<i>Boudreaux</i>		
Seconded:		<i>Gray</i>	<i>Lewis</i>		
C. 3 New Business <i>passed</i> 5502	Petty	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Tennant	<i>absent</i>	<i>absent</i>	<i>absent</i>	
	Ferrell	<i>absent</i>	<i>absent</i>	<i>absent</i>	
	Adams	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Lewis	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Gray	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Boudreaux	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Kinion	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Jordan				
		<i>6-0</i>	<i>6-0</i>	<i>6-0</i>	

Subject:	Amend §173.08 Arkansas Energy Code				
Motion To:					
Motion By:					
Seconded:					
C. 4 New Business <i>Left on the first Reading</i>	Petty				
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Boudreaux				
	Kinion				
	Mayor Jordan				

Subject:	RZN 12-4108 (4847 W. Wedington Dr./Bank of Wynne)				
Motion To:					
Motion By:					
Seconded:					
C. 5 New Business <i>Left on the first Reading</i>	Petty				
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Boudreaux				
	Kinion				
	Mayor Jordan				

Subject:	R-PZD 12-4079 (N.W. Corner of W. Cleveland St. & Hall Ave./Project Cleveland)				
Motion To:					
Motion By:					
Seconded:					
C. 6 New Business <i>Left on the first Reading</i>	Petty				
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Boudreaux				
	Kinion				
	Mayor Jordan				

Subject:	"Move to Amend" Campaign Support				
Motion To:		<i>Approve</i>			
Motion By:		<i>Petty</i>			
Seconded:		<i>Kinion</i>			
C. 7 New Business <i>Passed</i> 123-12	Petty	✓			
	Tennant	<i>absent</i>			
	Ferrell	<i>absent</i>			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Mayor Jordan				

6-0

Subject:	Amend Chapter 117				
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>	
Motion By:		<i>Boudreaux</i>	<i>Boudreaux</i>		
Seconded:		<i>Petty</i>	<i>Adams</i>		
C. 8 New Business <i>Passed</i> 5503	Petty	✓	✓	✓	
	Tennant	<i>absent</i>	<i>absent</i>	<i>absent</i>	
	Ferrell	<i>absent</i>	<i>absent</i>	<i>absent</i>	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Mayor Jordan				

6-0

6-0

6-0

Subject:	Enact §39.10 Water and Wastewater Damage Claims				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Kinion	Kinion		
Seconded:		Lewis	Lewis		
C. 9 New Business <u>passed</u> 5504	Petty	✓	✓	✓	
	Tennant	Absent	absent	absent	
	Ferrell	Absent	absent	absent	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Mayor Jordan				

6-0

6-0

6-0

Subject:	Enact §39.11 Damage Claims Other Than Water and Wastewater Damage Claims				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Gray	Boudreaux		
Seconded:		Lewis	Adams		
C. 10 New Business <u>passed</u> 5505	Petty	✓	✓	✓	
	Tennant	Absent	absent	absent	
	Ferrell	Absent	absent	absent	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Mayor Jordan				

6-0

6-0

6-0



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan

THRU: Sondra Smith, City Clerk

FROM: Kit Williams, City Attorney

A handwritten signature in dark ink, appearing to read 'Kit Williams', with a long horizontal line extending to the right.

DATE: June 6, 2012

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of June 5, 2012

1. **Animal Services Donation Revenue:** A resolution approving a budget adjustment in the amount of \$19,175.00 representing donation revenue to Animal Services for the First Quarter of 2012.
2. **Bid #12-28:** A resolution awarding Bid #12-28 and authorizing the purchase of two 4x4 Compact Pickup Trucks from Chevrolet of Fayetteville in the total amount of \$39,958.00, one for use by the Wastewater Division and one for use by the Meter Division, and approving a budget adjustment.
3. **Bid #12-29:** A resolution awarding Bid #12-29 and authorizing the purchase of one tandem axle dump truck from MHC Kenworth/Volvo of Springdale in the total amount of \$128,755.00 and approving a budget adjustment.
4. **Bid #12-30:** A resolution awarding Bid #12-30 and authorizing the purchase of one 4x4 Crew Cab Dump Truck from North Point Ford of North Little Rock in the total amount of \$46,909.00 for use by the Transportation Division.
5. **Bid #12-31:** A resolution awarding Bid #12-31 and authorizing the purchase of one trailer mounted diesel water pump from J. Richard Wolf Company of Stuttgart in the total amount of \$49,760.00 for use by Sewer Maintenance.

6. **Bid #12-32:** A resolution awarding Bid #12-32 and authorizing the purchase of one sewer cleaning-vacuum machine from ICM, Inc. of Jacksonville in the total amount of \$361,276.05 for use by Water and sewer, and approving a budget adjustment.
7. **Bid #12-35:** A resolution awarding Bid #12-35 and authorizing the purchase of one 1.5-ton Service Body Truck from Terex Utilities south of North Little Rock in the total amount of \$41,554.00 for use by Water and Sewer.
8. **Bid #12-36:** A resolution awarding Bid #12-36 and authorizing the purchase of one service body truck with a 9-foot utility body from Terex Utilities south of North Little Rock in the total amount of \$38,385.00 for use by the Transportation Division and approving a budget adjustment.
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9. **Bid #12-36 Terex Utilities:** A resolution awarding Bid #12-36 and authorizing the purchase of one service body truck with nine-foot utility body from Terex Utilities south of North Little Rock in the total amount of \$38,385.00, for use by the Transportation Division, and approving a budget adjustment.
10. **Bid #12-38 MHC Kenworth/Volvo:** A resolution awarding Bid #12-38 and authorizing the purchase of one truck tractor unit from MHC Kenworth/Volvo of Springdale in the total amount of \$114,715.00 for use by Wastewater Treatment, and approving a budget adjustment.
11. **Bid #12-41 Terex Utilities:** A resolution awarding Bid #12-41 and authorizing the purchase of one Ford F-550 super duty 4X4 truck with crane from Terex Utilities south of North Little Rock in the total amount of \$68,038.00, for use by the Wastewater Division.
12. **Bale Chevrolet:** A resolution authorizing the purchase of two fully-equipped Chevrolet Tahoe police pursuit vehicles from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of \$109,570.00, and approving a budget adjustment.
13. **McClelland Consulting Engineers:** A resolution approving a contract with McClelland Consulting Engineers, Inc. in the amount of \$388,600.00 for water transmission line layout and easement acquisition related to a third connection to Beaver Water District.
14. **Fulbright Expressway/Highway 71B Flyover Project:** A resolution authorizing the donation of right-of-way to the Arkansas State Highway Commission to facilitate completion of the Fulbright Expressway/Highway 71B Flyover Project.
15. **Professional Hiring Policy:** A resolution to approve the City's Professional Hiring Policy numbers PU-12 and PU-13.

B. Unfinished Business:

1. **RZN 12-4077 Halsell Road/Pratt Place Inn Appeal:** An ordinance rezoning that property described in rezoning petition RZN 12-4077, for approximately 2.37 acres, located on Halsell Road from C-PZD, Commercial Planned Zoning District, to RSF-4, Residential Single-Family, 4 units per acre, subject to the offered Bill of Assurance. ***This ordinance was left on the Second Reading at the May 15, 2012 City Council meeting.***

Left on the Second Reading

C. New Business:

1. **Proposed 2013-2017 Five-Year Capital Improvements Plan:** A resolution adopting the 2013-2017 Five-Year Capital Improvements Plan.
2. **Amend §97.015 Operating Hours:** An ordinance to Amend §97.015 Operating Hours in Chapter 97: Parks and Recreation to authorize the Parks and Recreation staff to extend a park's closing time when necessary for a tournament or special event.
3. **VAC 12-4102 (1000 W. Stone St./Fayetteville High School):** An ordinance approving VAC 12-4102 submitted by Crafton Tull and Associates for property located at 1000 West Stone Street to vacate utility easement and right-of-way.
4. **Amend §173.08 Arkansas Energy Code:** An ordinance to amend §173.08 Arkansas Energy Code of the building regulations chapter of the U.D.C. to adopt the 2009 Residential International Energy Efficiency Code, with amendments herein.
5. **RZN 12-4108 (4847 W. Wedington Dr./Bank of Wynne):** An ordinance revoking R-PZD 07-2576 (Woodstock) and rezoning that property described in rezoning petition RZN 12-4108, for approximately 31.68 acres, located at 4847 West Wedington Drive from R-PZD, Residential Planned Zoning District 07-2576, to R-A, Residential Agricultural.
6. **R-PZD 12-4079 (N.W. Corner of W. Cleveland St. & Hall Ave./Project Cleveland):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 12-4079, Project Cleveland, located at the northwest corner of West Cleveland Street and Hall Avenue; containing approximately 2.71 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
7. **“Move to Amend” Campaign Support:** A resolution to support the “Move to Amend” campaign by joining with other communities around the country to defend democracy by amending the United States Constitution to ensure only human beings, not corporations, have constitutionally protected free speech rights.
8. **Amend Chapter 117:** An ordinance to amend Article IV Taxicabs and Article V Limousine Service of Chapter 117 of the Fayetteville Code to clarify notice requirements, cancellation of unused certificates of Public Convenience and Necessity, and other provisions.

9. Enact §39.10 Water and Wastewater Damage Claims: An ordinance to enact §39.10 Water and Wastewater Damage Claims into the Fayetteville Code.

10. Enact §39.11 Damage Claims Other Than Water and Wastewater Damage Claims:
An ordinance to enact §39.11 Damage Claims Other Than Water and Wastewater Damage Claims into the Fayetteville Code.

City Council Tour: Thursday, June 14, 2012 at 4:30 p.m. The Council will be touring:
R-PZD 12-4079 (N.W. Corner of W. Cleveland St. & Hall Ave./Project Cleveland)

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.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-28 AND AUTHORIZING THE PURCHASE OF TWO 4x4 COMPACT PICKUP TRUCKS FROM CHEVROLET OF FAYETTEVILLE IN THE TOTAL AMOUNT OF \$39,958.00, ONE FOR USE BY THE WASTEWATER DIVISION AND ONE FOR USE BY THE METER DIVISION, 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 awards Bid #12-28 and authorizes the purchase of two 4x4 compact pickup trucks from Chevrolet of Fayetteville in the total amount of \$39,958.00, one for use by the Wastewater Division and one for use by the Meter Division.

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

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City Of Fayetteville (Not a Purchase Order)						Requisition No.: P.O Number:	Date: 5/25/2012 Expected Delivery Date:	A. 12 Bale Chevrolet Page 1 of 2	
Vendor #: 13292		Vendor Name: Bale Chevrolet				Mail Yes:____ No:____			
Address:						Fob Point:		Taxable Yes:____ No:____	
City:		State:		Zip Code:		Ship to code: 50		Quotes Attached Yes:____ No:____	
Requester:						Requester's Employee #:		Division Head Approval: <i>[Signature]</i>	
						Extension:			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2012 Chevrolet Tahoe, Police Package	2	EA	25,093.00	\$50,186.00	9700.1920.5802.000	2081.2012		
2	Upfit items: Cage unit, console light bar	2	EA	9,907.00	\$19,814.00	9700.1920.5802.00	2081.2012		
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
	Shipping/Handling		Lot		\$0.00				
Special Instructions:						Subtotal: \$70,000.00 Tax: _____ Total: \$70,000.00			
Approvals:									
Mayor: _____			Department Director: _____			Purchasing Manager: _____			
Finance & Internal Services Director: _____			Budget Manager: _____			IT Manager: _____			
Dispatch Manager: _____			Utilities Manager: _____			Other: _____			

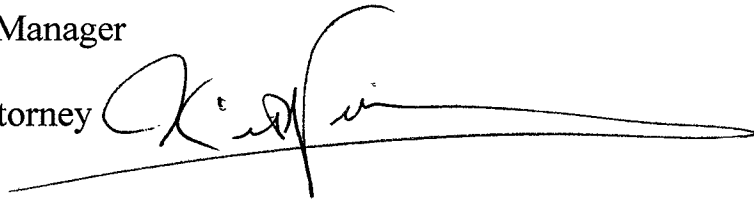
Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: City Council

CC: Mayor Jordan
Don Marr, Chief of Staff
Paul Becker, Finance Director
Peggy Vice, Purchasing Manager

FROM: Kit Williams, City Attorney



DATE: May 30, 2012

RE: Adding Alderman notification provision to PU-12.6 and PU-13.6

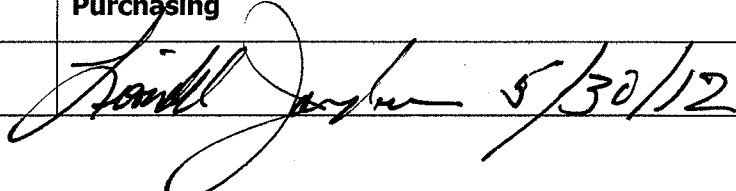
Pursuant to your request, Mayor Jordan has added the following sentence to the provision governing professional services selections when the contract is below \$20,000.00.

“The Mayor shall promptly notify the City Council of every professional services selection and contract awarded pursuant to this section.”

The Mayor has approved the revised PU-12 and PU-13 with the above change made in PU-12.6 and PU-13.6. These revised policies are now what are before you to approve with the Resolution for item #15 of the Consent Agenda.

CITY OF FAYETTEVILLE, ARKANSAS

POLICY AND PROCEDURE

Subject:	Professional Services Selection Process: Legal, Financial Advisory, Architectural, Engineering, Land Surveying and Construction Manager
Policy Number:	PU-12
Original Policy Date:	June 27, 1990
Effective Date of New/Revised Policy:	May 30, 2012
Revision Dates:	Replaces PUR-13 issued June 27, 1990; Revised July 8, 2005; Revised December 22, 2008
Custodian: (Division)	Purchasing
Mayor's Signature and Date	 5/30/12

PU-12.0 PURPOSE:

The purpose of this directive is to establish a formal Competitive Selection of Professional Services Policy for legal, financial advisory, architectural, engineering, construction management and land surveying services and the responsibilities for its execution.

PU-12.1 DEFINITION:

- A. The City and all its boards, commissions and authorities shall competitively select, based on qualifications and performance evaluation criteria, all professional services performed for or on behalf of the City. The three (3) highest qualified firms shall be elected without consideration of the fees. Fees shall be considered as one of the selection criteria for other professional services required.
- B. It is the policy of the City to publicly announce requirements for the competitive selection for professional services as referenced above, and to negotiate contracts for such services on the basis of demonstrated competence and qualifications for the type of professional services required provided that the services are rendered at fair and reasonable prices.

PU-12.2 RESPONSIBILITY:

- A. All municipal boards, commissions, and authorities established pursuant to state statute or other legislative authority other than that provided for in A.C.A. tit.14, ch. 47 A.C.A. sec. 14-47-101 et seq., shall be responsible for the implementation of such policies and procedures as are hereinafter delegated to the Mayor and the City Council.

PU-12.3 PROCEDURES:

- A. The competitive selection for such services shall be conducted by a review committee which shall include one Alderman appointed by the Mayor to serve and represent the Council, the Mayor (or representative), the Finance & Internal Services Director (or representative), the involved Department Heads, appropriate city personnel and may include professionals, and/or individuals with expertise in the community. The review committee for each proposed contract shall establish the qualifications and evaluation criteria necessary for the specific services to be provided. This committee shall be established prior to the issuance of any Request for Proposal (RFP) or Request for Qualification (RFQ) so that it may establish the point ranges for the four selection criteria and review the proposed RFP or RFQ.
- B. The RFP or RFQ shall outline the structure of the selection committee and shall state the point ranges which will be used to select the firm. The RFP or RFQ will not ask for cost estimates.
- C. The Mayor will cause to be advertised in a newspaper of general circulation a notice that the city has a need to contract for a particular professional service and shall invite all interested parties to submit, to the extent permitted by the ethical standards of that profession, a statement of their qualifications and other relevant information based on the evaluation criteria specifically developed for the proposed services to be provided.
- D. Once an RFP or RFQ has been advertised, any questions or inquiries regarding the RFP or RFQ by a prospective responder must be directed to the Purchasing Division. Direct contact by the prospective responder and the effected division/department personnel regarding the RFP or RFQ should be avoided unless referred by Purchasing.
- E. Competitive selection of professional services may be from annual statements of qualifications and performance data. The City may advertise annually for legal, financial advisory, architectural, engineering, construction manager or land surveying services to submit annual statements of qualifications and performance data. The City shall evaluate current statements of qualifications and performance data of firms on file whenever a project requiring these professional services are proposed.

PU-12.4 SELECTION PROCESS:

- A. In evaluating the qualifications of each firm, the review committee shall consider the following (assigning point ranges for each element from 20% to 45%, so that the total for the four elements combined equals 100%):
 - 1. The specialized experience and technical competence of the firm with respect to the type of professional services required;
 - 2. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;

3. The past record of performance of the firm with respect to such factors as control of costs, quality of work and ability to meet schedules and deadlines; and
 4. The firm's proximity to and familiarity with the area in which the project is located.
- B.** The review committee shall evaluate all statements of qualifications and other submittals and may conduct interviews with up to five (5) firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and shall select therefrom, in order of preference, based on criteria established and published by the review committee, no less than three (3) of the firms deemed to be the most highly qualified to provide the services required. The method of selection shall be for each committee member to rate the firms based on the points established in the RFP or RFQ so that each member selects 3 firms, rated 1, 2, and 3. The firm receiving the highest number of 1st place votes shall be selected (if a tie occurs, the firm receiving the highest number of 1st and 2nd place votes shall be selected. If a tie still occurs, the Committee will hold further discussions, followed by a re-vote.)
- C.** The review committee or its designee shall negotiate a contract with the highest qualified firm for the services to be rendered, at compensation which the review committee, or its designee, determines is fair and reasonable to the city, subject to the approval of the governing board, commission or authority as referred to in PUR-12.2 (A) of this policy. In making such determination, the review committee or its designee, shall take into account the scope, complexity, and professional nature of the services to be rendered.
- D.** Should the review committee, or its designee, be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price determined to be fair and reasonable to the City, negotiations with that firm shall be formally terminated. The review committee, or its designee, shall then undertake negotiations with the second most qualified firm. Should the review committee, or its designee, be unable to negotiate a satisfactory contract with any of the selected firms, the review committee shall reevaluate the necessary legal, architectural, engineering or land surveying services, including the scope and reasonable fee requirements.

PU-12.5 CONTRACT REVIEW/RECOMMENDATION:

- A.** The selection committee will recommend, after negotiations and review by the City Attorney, Finance and Internal Services Director, Internal Auditor, Accounting Manager, and Purchasing Manager, the most advantageous contract to the Board for awarding.

PU-12.6 CONTRACTS UNDER \$20,000:

- A.** The requirement for a review committee may be waived and the review of qualifications as hereinabove stated shall be delegated to the responsible department head for recommendation of the Mayor who shall review and approve or disapprove all professional services contracts in an amount of twenty thousand dollars (\$20,000.00) or less. If no annual statements of qualifications are on record the department head shall solicit qualification statements from

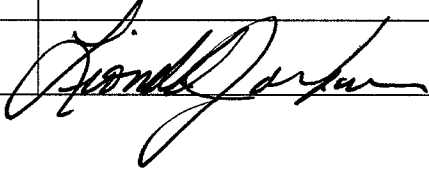
appropriate firms for recommendation to the Mayor who shall review and approve or disapprove all professional services contracts in an amount of twenty thousand dollars (\$20,000.00) or less. The Mayor shall promptly notify the City Council of every professional services selection and contract awarded pursuant to this section.

PU-12.7 PROFESSIONAL PROJECT EVALUATION:

- A.** Upon completion or termination of a contract, the division head responsible for the project will submit a summary evaluation of the professional firm's handling of the project to include the following data:
 - a.** name of professional firm;
 - b.** date of contract and date of completion;
 - c.** cost as stated in initial contract, amount paid, and reason for any difference;
 - d.** special strengths exhibited by professional firm;
 - e.** problems or weaknesses in professional firm's handling of the project;
 - f.** adherence to time schedule by the professional firm; and
 - g.** names of key personnel working on the project and comments on their performance.
- B.** The summary evaluation will be submitted to the Purchasing Manager through the department director and will be filed in the Purchasing Manager's records. The evaluations will be available to selection committee members for review when evaluating firms to select for other projects.

CITY OF FAYETTEVILLE, ARKANSAS

POLICY AND PROCEDURE

Subject:	Professional Services Selection Process: Other Services
Policy Number:	PU-13
Original Policy Date:	June 27, 1990
Effective Date of New/Revised Policy:	May 30, 2012
Revision Dates:	Replaces PUR-13 issued June 27, 1990; Revised July 8, 2005; Revised December 22, 2008
Custodian: (Division)	Purchasing
Mayor's Signature and Date	 5/30/12

PU-13.0 PURPOSE:

The purpose of this directive is to establish a formal Competitive Selection of Professional Services Policy for all professional services other than those for legal, financial advisory, architectural, engineering, construction management and land surveying and the responsibilities for its execution.

PU-13.1 DEFINITION:

- A.** The City and all its boards, commissions and authorities shall competitively select based on qualifications and performance evaluation criteria all professional services performed for or on behalf of the City.
- B.** It is the policy of the City to publicly announce requirements for the competitive selection for professional services as referenced above, and to negotiate contracts for such services on the basis of demonstrated competence and qualifications for the type of professional services required provided that the services are rendered at fair and reasonable prices.

PU-13.2 RESPONSIBILITY:

- A.** All municipal boards, commissions, and authorities established pursuant to state statute or other legislative authority other than that provided for in A.C.A. tit. 14, ch. 47, A.C.A. sec. 14-47-101 et seq, shall be responsible for the implementation of such policies and procedures as are hereinafter delegated to the Mayor and the City Council.

PU-13.3 PROCEDURES:

- A. The competitive selection for such services shall be conducted by a review committee which shall include one Alderman appointed by the Mayor to serve and represent the Council, the Mayor (or representative), the Finance & Internal Services Director (or representative), the involved Department Heads, appropriate City personnel and may include professional, and/or individuals with expertise in the community. The review committee for each proposed contract shall establish the qualifications and evaluation criteria necessary for the specific services to be provided. This committee shall be established prior to the issuance of any Request for Proposal (RFP) or Request for Qualification (RFQ) so that it may review the proposed RFP or RFQ.
- B. The RFP or RFQ shall outline the structure of the selection committee and shall state the point ranges which will be used to select the firm.
- C. The Mayor will cause to be advertised, in a newspaper of general circulation, a notice that the City has a need to contract for a particular professional service and shall invite all interested parties to submit, to the extent permitted by the ethical standards of that profession, a statement of their qualifications and other relevant information based on the evaluation criteria specifically developed for the proposed services to be provided.
- D. Once an RFP or RFQ has been advertised, any questions or inquiries regarding the RFP or RFQ by a prospective responder must be directed to the Purchasing Division. Direct contact by the prospective responder and the affected division/department personnel regarding the RFP or RFQ should be avoided unless referred by Purchasing.

PU-13.4 SELECTION PROCESS:

- A. In evaluating the qualifications of each firm, the review committee shall include the following:
 - 1. Qualifications in Relation to Specific Project to be Performed: Information reflecting qualifications of the firm. Indicated specialized experience and technical competence of the firm in connection with the type and complexity of the service required. Subcontractors, if used, must be listed with information on their organization.
 - 2. Experience, Competence, and Capacity for Performance: Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project. Provide detailed breakdown of subcontractor's staff to be used and how they are to be used to supplement your staff.
 - 3. Proposed Method of Doing Work: A proposed work plan (description of how the project would be conducted as well as other facts concerning approach to scope you wish to present) indicating methods and schedules for accomplishing each phase of the work. Include with this the amount of work presently underway.

4. Past Performance: Previous evaluations (as set forth in PUR-13.7) shall be considered a significant factor. If previous evaluations with this city are not available, the professional firm's past performance records with others will be used, including quality of work, timely performance, diligence, ability to meet past budgets, and any other pertinent information. The firm will provide a list of similar jobs performed and the person with that firm from whom the City can obtain information.
 5. Price
- B. Proposal Evaluation: In evaluating the qualifications of each firm, the review committee shall consider the following (assigning point ranges for each element from 10% to 35%, so that the total for the five elements combined equals 100%):
1. Qualifications in relation to specific project to be performed;
 2. Experience, competence, and capacity of performance;
 3. Proposed method of doing work;
 4. Past performance; and
 5. Price.
- C. The review committee shall evaluate all submittals and may conduct interviews with up to five (5) firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based on criteria established and published by the review committee, no less than three (3) of the firms deemed to be the most highly qualified to provide the services required. The method of selection shall be for each committee member to rate the firms based on the points established in the RFP or RFQ so that each member selects 3 firms, rated 1, 2, and 3. The firm receiving the highest number of 1st place votes shall be selected (if a tie occurs, the firm receiving the highest number of 1st and 2nd place votes shall be selected. If a tie still exists, the Committee shall hold further discussions and a re-vote shall occur.)
- D. The review committee or its designee shall then negotiate a contract with the highest qualified firm for the services to be rendered, at compensation which the review committee, or its designee, determines to be fair and reasonable to the City, subject to the approval of the City Council.
- E. Should the review committee, or its designee, be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price determined to be fair and reasonable to the City, negotiations with that firm shall be formally terminated. The review committee, or its designee, shall then undertake negotiations with the second most qualified firm. Should the review committee, or its designee, be unable to negotiate a satisfactory contract with any of the selected firms, then the review committee shall reevaluate the services including the scope and reasonable fee requirements.

PU-13.5 CONTRACT REVIEW/RECOMMENDATION:

- A. The selection committee will recommend, after negotiations and review by the City Attorney, Internal Auditor, Accounting Manager, and Purchasing Manager, the most advantageous contract to the City Council for awarding.

PU-13.6 CONTRACTS UNDER \$20,000:

- A. The requirements for a review committee may be waived and the review of qualifications as hereinabove stated shall be delegated to the responsible department head for recommendation to the Mayor, who shall review and approve or disapprove all professional services contracts in an amount of twenty thousand dollars (\$20,000) or less. The Mayor shall promptly notify the City Council of every professional services selection and contract awarded pursuant to this section.

PU-13.7 PROFESSIONAL PROJECT EVALUATION:

- A. Upon completion or termination of a contract, the division head responsible for the project will submit a summary evaluation of the professional firm's handling of the project to include the following data:
- a. name of professional firm;
 - b. date of contract and date of completion;
 - c. cost as stated in initial contract, amount paid, and reason for any difference;
 - d. special strengths exhibited by professional firm;
 - e. problems or weaknesses in professional firm's handling of the project;
 - f. adherence to time schedule by the professional firm; and
 - g. names of key personnel working on the project and comments on their performance.
- B. The summary evaluation will be submitted to the Purchasing Manager through the department director and will be filed in the Purchasing Manager's records. The evaluations will be available to selection committee members for review when evaluating firms to select for other projects.

Handed out at Agenda Session 5/29/12



2013-2017 Five Year Capital Improvements Program

May 29, 2012



Capital Improvements Projects By Project Area – All Funding Sources

Project Area	Budget 2013	Budget 2014	Budget 2015	Budget 2016	Budget 2017	Total 2013-2017
Bridge & Drainage	360,000	360,000	360,000	360,000	360,000	1,800,000
Information Technology	950,000	620,000	520,000	455,000	390,000	2,935,000
Other	1,001,000	930,000	875,000	649,000	646,000	4,101,000
Parks	1,441,000	904,000	829,000	835,000	851,000	4,860,000
Public Safety	1,118,000	1,157,000	1,180,000	1,226,000	2,045,000	6,726,000
Solid Waste	1,849,000	200,000	524,000	138,000	275,000	2,986,000
Trail	1,548,000	1,641,000	1,650,000	1,679,000	1,670,000	8,188,000
Transportation	2,139,000	2,352,000	2,616,000	2,978,000	2,385,000	12,470,000
Vehicles & Equipment	4,365,000	2,925,000	3,177,000	4,529,000	3,637,000	18,633,000
Water & Sewer	5,883,000	5,810,000	5,832,000	5,753,000	5,835,000	29,113,000
	<u>20,654,000</u>	<u>16,899,000</u>	<u>17,563,000</u>	<u>18,602,000</u>	<u>18,094,000</u>	<u>91,812,000</u>

Capital Improvements Projects

Sales Tax Capital Improvements Fund

By Project Category

CITY OF FAYETTEVILLE, ARKANSAS
CAPITAL IMPROVEMENTS PROGRAM (2013-2017)
Sales Tax Capital Improvements Funding - By Project Category

Project Category	Budget 2013	Budget 2014	Budget 2015	Budget 2016	Budget 2017	Total 2013-2017
Bridge & Drainage	\$360,000	\$360,000	\$360,000	\$360,000	\$360,000	\$1,800,000
Fire	591,000	690,000	651,000	651,000	1,314,000	3,897,000
Information Tech.	950,000	620,000	520,000	455,000	390,000	2,935,000
Library	405,000	414,000	430,000	439,000	449,000	2,137,000
Other Capital	449,000	456,000	445,000	210,000	197,000	1,757,000
Parks & Recreation	178,000	184,000	89,000	75,000	71,000	597,000
Police	367,000	302,000	359,000	400,000	551,000	1,979,000
Street	100,000	100,000	100,000	100,000	100,000	500,000
Trail	1,548,000	1,641,000	1,650,000	1,679,000	1,670,000	8,188,000
Transportation	1,957,000	2,221,000	2,484,000	2,845,000	2,251,000	11,758,000
	<u>\$6,905,000</u>	<u>\$6,988,000</u>	<u>\$7,088,000</u>	<u>\$7,214,000</u>	<u>\$7,353,000</u>	<u>\$35,548,000</u>

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Funding Source / Category / Division	Page #	Budget 2013	Budget 2014	Budget 2015	Budget 2016	Budget 2017	Total 2013-2017
2130 - PARKING FUND:							
<u>Parking Improvements</u>							
Parking & Telecommunications (D840)							
Parking Revenue PCI Compliance Upgrade	17	52,000	0	0	0	0	52,000
Parking Lot Improvements and Overlays	18	30,000	31,000	32,000	33,000	34,000	160,000
		82,000	31,000	32,000	33,000	34,000	212,000
2130 - Parking Fund Total		82,000	31,000	32,000	33,000	34,000	212,000

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Funding Source / Category / Division	Page #	Budget 2013	Budget 2014	Budget 2015	Budget 2016	Budget 2017	Total 2013-2017
2250 - PARKS DEVELOPMENT FUND:							
<u>Parks & Recreation Improvements</u>							
Parks & Recreation (D460)							
Community Park Improvements	19	700,000	683,000	700,000	673,000	420,000	3,176,000
Regional Park Development	20	563,000	0	0	87,000	360,000	1,010,000
Parks & Recreation Office Renovation	21	0	37,000	40,000	0	0	77,000
		<u>1,263,000</u>	<u>720,000</u>	<u>740,000</u>	<u>760,000</u>	<u>780,000</u>	<u>4,263,000</u>
2250 - Parks Development Fund Total		<u>1,263,000</u>	<u>720,000</u>	<u>740,000</u>	<u>760,000</u>	<u>780,000</u>	<u>4,263,000</u>

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2300 - IMPACT FEE FUND:							
<u>Fire Improvements</u>							
Fire Department (D300)							
Fire Impact Improvements	23	74,000	77,000	80,000	83,000	86,000	400,000
		74,000	77,000	80,000	83,000	86,000	400,000
<u>Police Improvements</u>							
Police (D200)							
Police Impact Improvements	24	86,000	88,000	90,000	92,000	94,000	450,000
		86,000	88,000	90,000	92,000	94,000	450,000
<u>Water & Sewer Improvements</u>							
Utilities Director (D900)							
Wastewater Impact Improvements	25	400,000	400,000	400,000	400,000	400,000	2,000,000
Water Impact Improvements	26	500,000	500,000	500,000	500,000	500,000	2,500,000
		900,000	900,000	900,000	900,000	900,000	4,500,000
		1,060,000	1,065,000	1,070,000	1,075,000	1,080,000	5,350,000
2300 - Impact Fee Fund Total							

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4470 - SALES TAX CAPITAL IMPROVEMENTS FUND:							
<u>Bridge & Drainage Improvements</u>							
Engineering (D610)							
Stormwater Quality Management	27	160,000	160,000	160,000	160,000	160,000	800,000
Other Drainage Improvements	28	200,000	200,000	200,000	200,000	200,000	1,000,000
		360,000	360,000	360,000	360,000	360,000	1,800,000
<u>Fire Improvements</u>							
Fire Department (D300)							
Fire Apparatus Purchases	29	426,000	426,000	466,000	506,000	1,169,000	2,993,000
Fire Facility Maintenance	30	125,000	125,000	165,000	125,000	125,000	665,000
Fire Information Technology Updates	31	40,000	139,000	20,000	20,000	20,000	239,000
		591,000	690,000	651,000	651,000	1,314,000	3,897,000
<u>Information Technology Improvements</u>							
Budget & Research (D540)							
Enterprise Data Warehouse System	32	97,000	0	0	0	0	97,000
Information Technology (D440)							
Exchange/Office Upgrade	33	220,000	150,000	150,000	0	0	520,000
Local Area Network (LAN) Upgrade	34	140,000	150,000	135,000	135,000	145,000	705,000
Data Center Relocation	35	220,000	0	0	0	0	220,000
Backup Storage Appliance	36	75,000	0	0	0	0	75,000
Microcomputer & Printer Replacements	37	68,000	90,000	75,000	75,000	75,000	383,000
Storage Area Network (SAN)	38	40,000	40,000	40,000	120,000	40,000	280,000
Geographic Information System (GIS)	39	50,000	70,000	75,000	75,000	80,000	350,000
AccessFayetteville Technical Improvements	40	25,000	100,000	30,000	30,000	30,000	215,000
Document Management	41	15,000	20,000	15,000	20,000	20,000	90,000
		950,000	620,000	520,000	455,000	390,000	2,935,000

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<u>Library Improvements</u>							
Library (D150)							
Library Materials Purchases	42	375,000	383,000	398,000	406,000	415,000	1,977,000
Library Computer Replacements	43	30,000	31,000	32,000	33,000	34,000	160,000
		405,000	414,000	430,000	439,000	449,000	2,137,000
<u>Other Capital Improvements</u>							
Accounting & Audit (D510)							
Accounting Image Scanner & Check Sealer	44	5,000	5,000	0	0	0	10,000
Audit Expense	45	7,000	7,000	7,000	7,000	7,000	35,000
Building Maintenance (D530)							
Building Improvements	46	119,000	120,000	121,000	123,000	125,000	608,000
City Clerk/Treasurer (D130)							
Legislative Management/Agenda Routing	47	33,000	0	0	0	0	33,000
City Clerk Document Management Equipment	48	0	22,000	47,000	10,000	10,000	89,000
City Council iPads	49	0	7,000	0	0	0	7,000
Government Channel (D710)							
City Hall Audio-Visual Renovation	50	70,000	100,000	100,000	0	0	270,000
Television Center Equipment	51	50,000	50,000	50,000	50,000	50,000	250,000
Television Center Digital Conversion	52	75,000	75,000	100,000	0	0	250,000
Remote Meeting Recording	53	50,000	0	0	0	0	50,000
Location Production System	54	0	65,000	0	0	0	65,000
Digital Signage Implementation	55	0	0	15,000	15,000	0	30,000
Parking & Telecommunications (D840)							
Telecommunication Systems Upgrades	56	5,000	5,000	5,000	5,000	5,000	25,000
Purchasing (D550)							
Citywide Building Insurance Appraisal Study	57	35,000	0	0	0	0	35,000
		449,000	456,000	445,000	210,000	197,000	1,757,000

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<u>Parks & Recreation Improvements</u>							
Parks & Recreation (D460)							
Forestry, Safety and ADA	58	31,000	31,000	31,000	31,000	31,000	155,000
Native Grasses Program	59	10,000	10,000	10,000	10,000	10,000	50,000
Lights of the Ozarks	60	23,000	23,000	23,000	23,000	23,000	115,000
Tree Escrow	61	114,000	62,000	25,000	11,000	7,000	219,000
Fayetteville Senior Center Parking Lot & Drainage	62	0	58,000	0	0	0	58,000
		178,000	184,000	89,000	75,000	71,000	597,000
<u>Police Improvements</u>							
Police (D200)							
Police Bulletproof Vests	63	10,000	11,000	42,000	10,000	10,000	83,000
Police Building Improvements	64	25,000	25,000	25,000	75,000	25,000	175,000
Police Technology Improvements	65	40,000	70,000	25,000	25,000	25,000	185,000
Police Unmarked Vehicles	66	57,000	72,000	72,000	72,000	126,000	399,000
Police Equipment Replacement	67	20,000	20,000	35,000	25,000	10,000	110,000
Police Specialized Equipment	68	55,000	64,000	32,000	28,000	85,000	264,000
Police Patrol Vehicle Electronic Upgrades	69	160,000	0	43,000	0	200,000	403,000
Police Network/Server Replacements	70	0	30,000	75,000	150,000	30,000	285,000
Police K-9 Replacement	71	0	10,000	10,000	0	0	20,000
Police Weapons Replacement	72	0	0	0	15,000	40,000	55,000
		367,000	302,000	359,000	400,000	551,000	1,979,000
<u>Street Improvements</u>							
Engineering (D610)							
Street ROW/Intersection/Cost Sharing	73	100,000	100,000	100,000	100,000	100,000	500,000
		100,000	100,000	100,000	100,000	100,000	500,000
<u>Trail Improvements</u>							
Transportation Services (D800)							
Trail Development	74	1,548,000	1,641,000	1,650,000	1,679,000	1,670,000	8,188,000

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		1,548,000	1,641,000	1,650,000	1,679,000	1,670,000	8,188,000
<u>Transportation Improvements</u>							
Transportation Services (D800)							
In-House Pavement Improvements	75	1,842,000	1,551,000	1,695,000	1,955,000	1,576,000	8,619,000
Sidewalk Improvements	76	115,000	520,000	639,000	740,000	525,000	2,539,000
Traffic Signal Improvements	77	0	150,000	150,000	150,000	150,000	600,000
		1,957,000	2,221,000	2,484,000	2,845,000	2,251,000	11,758,000
4470 - Sales Tax Capital Improvements Fund Total		6,905,000	6,988,000	7,088,000	7,214,000	7,353,000	35,548,000

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5400 - WATER & SEWER FUND:							
<u>Wastewater Treatment Improvements</u>							
Utilities Director (D900)							
Phosphorus Standards Management	79	50,000	50,000	50,000	50,000	50,000	250,000
Wastewater Treatment Plant (D930)							
Disinfection System Replacement - W.W.T.P.	80	1,000,000	0	0	0	0	1,000,000
Irrigation Reels - W.W.T.P.	81	151,000	161,000	0	0	0	312,000
Plant Pumps and Equipment - W.W.T.P.	82	200,000	225,000	225,000	225,000	225,000	1,100,000
Upgrade/Replace Lift Stations - W.W.T.P.	83	100,000	100,000	150,000	150,000	180,000	680,000
Building Improvements - W.W.T.P.	84	56,000	33,000	35,000	35,000	35,000	194,000
		1,557,000	569,000	460,000	460,000	490,000	3,536,000
<u>Water & Sewer Improvements</u>							
Water & Sewer Maintenance (D910)							
Water System Rehabilitation and Replacement	85	1,010,000	1,150,000	2,095,000	1,825,000	2,055,000	8,135,000
Water/Sewer Relocate for Street Bonds	86	500,000	500,000	500,000	500,000	500,000	2,500,000
Sanitary Sewer Rehabilitation	87	1,210,000	1,000,000	1,200,000	1,250,000	1,250,000	5,910,000
Water/Sewer Impact Fee Cost Sharing	88	275,000	275,000	275,000	275,000	275,000	1,375,000
Water/Sewer Equipment Expansions	89	38,000	220,000	45,000	8,000	0	311,000
Baxter Water Tanks Painting	90	0	850,000	0	0	0	850,000
		3,033,000	3,995,000	4,115,000	3,858,000	4,080,000	19,081,000
<u>Water & Sewer Services Improvements</u>							
Billing & Collections (D520)							
Printer Replacements	91	30,000	0	0	0	0	30,000
Business Office Improvements	92	20,000	20,000	20,000	20,000	20,000	100,000
Information Technology (D440)							
Business Office Technology Improvements	93	30,000	15,000	12,000	10,000	10,000	77,000

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Water & Sewer Maintenance (D910)							
Water Meters	94	313,000	311,000	315,000	325,000	325,000	1,589,000
Backflow Prevention Assemblies	95	0	0	10,000	10,000	10,000	30,000
Water/Sewer Rate Study	96	0	0	0	170,000	0	170,000
		393,000	346,000	357,000	535,000	365,000	1,996,000
5400 - Water & Sewer Fund Total		4,983,000	4,910,000	4,932,000	4,853,000	4,935,000	24,613,000

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5500 - SOLID WASTE FUND:							
<u>Solid Waste Improvements</u>							
Solid Waste & Recycling (D920)							
Recycling Baler	97	538,000	0	0	0	0	538,000
Solid Waste Compactors	98	126,000	130,000	134,000	138,000	142,000	670,000
Solid Waste Facility - Transfer Station Expansion	99	635,000	0	0	0	0	635,000
Recycling Drop Off Facility (North / Central)	100	66,000	70,000	0	0	0	136,000
Recycling Improvements	101	28,000	0	0	0	0	28,000
Solid Waste Compost Site Slab Expansion	102	416,000	0	0	0	0	416,000
Solid Waste Mad Vac	103	40,000	0	0	0	0	40,000
Recycling Commercial Expansion (Organics)	104	0	0	390,000	0	0	390,000
Solid Waste Rate Study	105	0	0	0	0	133,000	133,000
		<u>1,849,000</u>	<u>200,000</u>	<u>524,000</u>	<u>138,000</u>	<u>275,000</u>	<u>2,986,000</u>
5500 - Solid Waste Fund Total		<u>1,849,000</u>	<u>200,000</u>	<u>524,000</u>	<u>138,000</u>	<u>275,000</u>	<u>2,986,000</u>

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5550 - AIRPORT FUND:							
<u>Aviation Improvements</u>							
Aviation (D810)							
Airport Self Serve Station Upgrade	107	10,000	0	0	0	0	10,000
Airport Roof Replacements	108	41,000	60,000	0	0	0	101,000
Airport Sprinkler System Replacement - White Hangar	109	65,000	0	0	0	0	65,000
Airport ARFF Personal Protective Gear Replacement	110	31,000	0	0	0	0	31,000
		147,000	60,000	0	0	0	207,000
5550 - Airport Fund Total		147,000	60,000	0	0	0	207,000

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9700 - SHOP FUND:							
<u>Vehicles & Equipment Improvements</u>							
Fleet Operations (D830)							
Fleet - Police/Passenger Vehicles	111	329,000	300,000	336,000	312,000	283,000	1,560,000
Fleet - Solid Waste Vehicles/Equipment	112	1,151,000	931,000	598,000	1,345,000	1,085,000	5,110,000
Fleet - Construction Equipment	113	437,000	0	587,000	123,000	195,000	1,342,000
Fleet - Backhoes/Loaders	114	608,000	463,000	381,000	182,000	414,000	2,048,000
Fleet - Other Vehicles and Equipment	115	969,000	205,000	123,000	732,000	608,000	2,637,000
Fleet - Tractor/Mowers	116	267,000	161,000	179,000	248,000	57,000	912,000
Fleet - Light / Medium Utility Vehicles	117	604,000	760,000	740,000	762,000	596,000	3,462,000
Fleet - Heavy Utility Vehicles	118	0	105,000	233,000	825,000	399,000	1,562,000
		<u>4,365,000</u>	<u>2,925,000</u>	<u>3,177,000</u>	<u>4,529,000</u>	<u>3,637,000</u>	<u>18,633,000</u>
9700 - Shop Fund Total		<u>4,365,000</u>	<u>2,925,000</u>	<u>3,177,000</u>	<u>4,529,000</u>	<u>3,637,000</u>	<u>18,633,000</u>

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<u>Funding Source / Category / Division</u>	<u>Page #</u>	<u>Budget 2013</u>	<u>Budget 2014</u>	<u>Budget 2015</u>	<u>Budget 2016</u>	<u>Budget 2017</u>	<u>Total 2013-2017</u>
All Funding Sources - Total		20,654,000	16,899,000	17,563,000	18,602,000	18,094,000	91,812,000

CAPITAL IMPROVEMENTS PROGRAM (2013-2017)
UNFUNDED PROJECTS

AVIATION IMPROVEMENTS:

Airport Aircraft Parking Ramp Rehabilitation	\$	500,000
Airport Corporate Hangar Construction		652,000
Airport Obstruction Removal		260,000
Airport Runway Extension EA/EIS		150,000
Airport Widening of Taxiways B, C, & F		1,225,000
		<u>2,787,000</u>

FIRE IMPROVEMENTS:

Fire Station #2 Replacement		2,300,000
Kid's Safety Park & City Training Complex		1,690,000
		<u>3,990,000</u>

INFORMATION TECHNOLOGY IMPROVEMENTS:

ERP Upgrade/Replacement		1,000,000
Hansen Version 8 Upgrade		195,000
		<u>1,195,000</u>

LIBRARY IMPROVEMENTS:

Library Computer Replacements		85,000
Library Materials Purchases		222,000
		<u>307,000</u>

PARKS & RECREATION IMPROVEMENTS:

Community Park Improvements		435,000
Regional Park Development		18,304,000
		<u>18,739,000</u>

POLICE IMPROVEMENTS:

Police Headquarters Building	17,500,000
Police Records Management System	850,000
Police Unmarked Vehicles	33,000
	<u>18,383,000</u>

SOLID WASTE IMPROVEMENTS:

Recycling Facility - Construction / Demolition (C&D)	1,560,000
Solid Waste Facility - Recycling Center (MRF) Expansion	4,985,000
	<u>6,545,000</u>

STREET IMPROVEMENTS:

Matching Funds for Federal STP-A funding	6,250,000
Razorback Road (Hwy 112) Improvements	1,250,000
	<u>7,500,000</u>

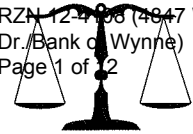
TRANSPORTATION IMPROVEMENTS:

Asphalt Plant	1,300,000
In-House Pavement Improvements	953,000
Sidewalk Improvements	151,000
	<u>2,404,000</u>

WATER & SEWER IMPROVEMENTS:

Water Line Replacement, Gregg, Township - Sycamore	1,500,000
Water Line Replacement, MLK, Finger Rd - Barbara	1,775,000
Water/Sewer Relocation Old Wire, Mission - Crossover	5,030,000
	<u>8,305,000</u>

TOTAL - UNFUNDED \$ 70,155,000



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Jeremy Pate, Development Services Director

FROM: Kit Williams, City Attorney

DATE: May 30, 2012

RE: Woodstock Rezoning and Cleveland Street Project PZD
Zoning and Planned Zoning District considerations

I have been providing Aldermen the legal factors they can consider when determining whether or not to approve a PZD or zoning request for over a decade. When the City Council first began considering whether or not to approve a PZD, I provided the attached memo on May 22, 2003. It is still correct today. Please especially read the section entitled "Voting" to ensure that I can effectively defend any decision the City Council will make.

When the land now zoned PZD (Woodstock) was presented to the Planning Commission, I gave them the attached memo of May 11, 2012, stating that the property owner had the legal right to have his property zoned away from the defunct PZD into a developable zone. The City Council needs to rezone this property to the best possible zoning district or districts after considering all of the relevant factors.

You can weigh many factors to determine what is the best zoning district or districts for this property. You should certainly consider the 2030 Plan, but it is only one of many factors to consider when determining the proper zoning. It is also proper to consider the desires of the property owner, the appropriate and best use of the property, traffic issues, good civil design and arrangement and the other factors detailed in my May 11th memo. All of these factors are proper considerations both for the Cleveland Street Apartment Project PZD and the defunct Woodstock PZD property whose new owner requests rezoning into various

zoning districts: Community Services, Neighborhood Services, Neighborhood Conservation, Resident Single Family, 4 units per acre and Residential Multi-Family, 24 units per acre.

CONCLUSION

If any Alderman desires to vote against a proposed rezoning or PZD approval, please explain your opposition based upon one or more of the factors approved by the Supreme Court:

1. 2030 Plan objectives
2. Public opposition that is logical and reasonable
3. Traffic
4. Safety and Fire protection
5. Good civic design and efficiency
6. Adequacy of public facilities (sewage, water)
7. Noise
8. Litter
9. Decrease in value of adjoining land
10. Appropriate and best use of land
11. Compatibility with adjacent zones (spot zoning)

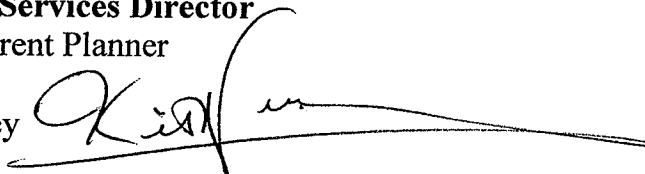
Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Planning Commissioners

CC: Jeremy Pate, Development Services Director
Andrew Garner, Senior Current Planner

FROM: Kit Williams, City Attorney



DATE: May 11, 2012

RE: Expired PZD's must be rezoned upon owner's request

When a PZD has expired, the property owner loses **all** development rights on his property until it is rezoned. Almost all of a property's real worth and value is in its development rights. This loss of all of a property's development rights would constitute a government taking of the property requiring our taxpayers to pay the reasonable value of the property (very large amount of money) except the property owner must first "exhaust his remedies" by asking for a rezoning.

As long as the rezoning is granted by the City Council, no regulatory taking has occurred. However, if the property owner's request to rezone the property out of its "zombie" status (unusable and undevelopable) is just denied and the property is not rezoned into some developable zoning district, the property owner would probably have a textbook case of inverse condemnation or regulatory taking. **This must not be allowed to occur.**

Because the new owner of the property zoned for the now defunct Woodstock PZD has requested rezoning, the Planning Commission should recommend what you believe is appropriate zoning. If you get stuck on how it should be zoned now, please just recommend that the City Council rezone it back to the zoning it had prior to the approval of the PZD. **The City Council MUST rezone this property either to its prior zoning district or to the zoning district or districts that would conform to state law purposes and the 2030 Long Range Plan.** Just denying the property owner's requested rezoning is a recipe for disaster and must not happen.

When the Planning Commission is considering whether or not to recommend approval of a rezoning request, the City Planning Division presents useful information from various city departments that cover issues included with the City's 2030 Long Range

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State Statutes authorize cities to prepare zoning and development plans and list nine purposes or goals that these plans may promote:

- " 1. Efficiency and economy in the process of development;
2. The appropriate and best use of land;
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5. Adequate light and air in the use and occupancy of buildings;
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The appellate courts of Arkansas have recognized and approved many different factors that a Planning Commission can consider when a proposed rezoning is contested.

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“Spot zoning has been defined by several authorities. It has been said that:

‘ Spot zoning, by definition, is invalid because it amounts to an arbitrary, capricious and unreasonable treatment of a limited area within a particular district. As such, it departs from the comprehensive treatment or privileges not in harmony with the other use classifications in the area and without any apparent circumstances which call for different treatment. Spot zoning almost invariably involves a single parcel or at least a limited area.’ R. Wright and S. Webber, *Land Use* (1978).” Riddell v. City of Brinkley, 612 S.W. 2d 116, 117 (1981).

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Finally, a proponent of a rezoning will often argue that he or she is entitled to a rezoning in order to put the property to its “**highest and best use**” from a monetary viewpoint. The benefit to the owner of a proposed rezoning may certainly be considered, “(h)owever, we have held that **rezoning is not justified solely on the ground that it is necessary to put a particular tract to its most remunerative use.**” Tanner v. City of Green Forest, 302 Ark. 170, 788 S.W. 2d 727, 729 (1990). (emphasis added).

CONCLUSION/SUMMARY

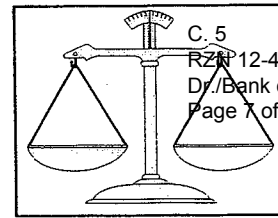
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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**
City Council

FROM: **Kit Williams, City Attorney**

DATE: **May 22, 2003**

RE: **City Council Considerations for Planned Zoning Districts (PZD's)**

Since you are now considering a PZD for Lowe's and will consider the St. Joseph property for a Planned Zoning District at your next meeting, I thought you might like a short summary of issues that are appropriate for your consideration of these requests.

A Planned Zoning District includes approval of both a zoning change and a large-scale development. Thus, all zoning considerations as well as considerations relevant to LSD approval are relevant. You legally have much more discretion for the zoning part of the PZD decision. Therefore, my recommendation is that if you do not believe a Planned Zoning District should be passed, you should refer primarily to problems with changing the zoning rather than problems in the Large Scale Development when explaining why you are voting against any Planned Zoning District.

ZONING CONSIDERATIONS

1. 20/20 Plan objectives
2. Public opposition that is logical and reasonable
3. Traffic
4. Safety and Fire protection
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6. Adequacy of public facilities (sewage, water)
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"(S)pot zoning includes zoning one lot in a manner entirely different from the surrounding area "Smith v. City of Little Rock, 279 Ark. 4, 648 S.W. 2d 454, 457 (1983).

"Highest and best use."

A proponent of a rezoning will often argue that he or she is entitled to a rezoning in order to put the property to its **"highest and best use"** from a monetary viewpoint. The benefit to the owner of a proposed rezoning may certainly be considered, "(h)owever, we have held that **rezoning is not justified solely on the ground that it is necessary to put a particular tract to its most remunerative use.**" Tanner v. City of Green Forest, 302 Ark. 170, 788 S.W. 2d 727, 729 (1990). (emphasis added).

LARGE SCALE DEVELOPMENT CONSIDERATIONS

In the second part of your decision, you have less discretion. As long as the developer has complied with our development ordinances (you should rely upon our city staff for this analysis), the remaining issue would be whether this proposed development would **compound a dangerous traffic condition**. That does not mean only whether more traffic will result from a development (which would almost always be the case), but whether the existing and proposed transportation infrastructure serving the new development can handle the anticipated increased flow without causing or compounding a dangerous traffic condition.

"For the purpose of this section, a 'dangerous' traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern." §166.05 7. d. (4) Unified Development Code.

In that context, if you determine that parking from the proposed development would regularly and significantly overflow onto nearby, narrow streets, you might conclude that this creates or compounds a dangerous traffic condition.

Traffic is also a factor to be considered in the **rezoning** segment of your decision (where you have greater discretion). At least two recent Arkansas Supreme Court cases relied on traffic issues to sustain a rejection of rezoning.

"Increased traffic on limited roads"
City of Lowell v. M & N Mobile Home Park (1996).

"Increased risk of traffic accidents"
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VOTING

When you state your reasons to vote for or against these PZDs and any other potentially controversial rezonings or PZDs, please refer to some of the eleven factors recognized by our Supreme court to be relevant to zoning considerations.

Do not refer to things you have no control over such as the current zoning of the property when explaining any vote against the PZD.

Keep in mind that most developmental issues such as compliance with the Commercial Design Standards, Tree Ordinance, Parking Lot Landscaping Ordinance, Sign Ordinance, drainage and grading regulations, etc. have already been carefully considered and approved by our Planning and Engineering Departments and Planning Commission. Your job under the PZD Ordinance is not to go back to square one to re-examine everything as a second Planning Commission.

However, I believe you have the power to agree to changes in the Large Scale Development or Preliminary Plat contrary to the precise approval of the Planning Commission. You have these rights now on appeal from Planning Commission decisions on LSDs and Preliminary Plats. I believe the City Council may judiciously approve changes (if consistent with our ordinances). Most changes should also be acceptable to the developer/proponent. Changes unacceptable to the developer equate with a rejection of the project and should be supported by reasons sufficient to reject the whole PZD (without the changes).

Please feel free to call upon me at the meeting prior to moving to accept or reject the PZD request to clarify any factors or issues presented in this memo.

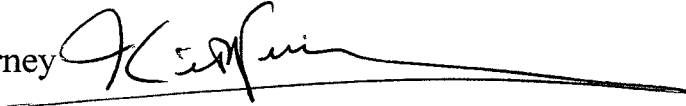
Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Jeremy Pate, Development Services Director

FROM: Kit Williams, City Attorney



DATE: May 30, 2012

RE: Woodstock Rezoning and Cleveland Street Project PZD
Zoning and Planned Zoning District considerations

I have been providing Aldermen the legal factors they can consider when determining whether or not to approve a PZD or zoning request for over a decade. When the City Council first began considering whether or not to approve a PZD, I provided the attached memo on May 22, 2003. It is still correct today. Please especially read the section entitled "Voting" to ensure that I can effectively defend any decision the City Council will make.

When the land now zoned PZD (Woodstock) was presented to the Planning Commission, I gave them the attached memo of May 11, 2012, stating that the property owner had the legal right to have his property zoned away from the defunct PZD into a developable zone. The City Council needs to rezone this property to the best possible zoning district or districts after considering all of the relevant factors.

You can weigh many factors to determine what is the best zoning district or districts for this property. You should certainly consider the 2030 Plan, but it is only one of many factors to consider when determining the proper zoning. It is also proper to consider the desires of the property owner, the appropriate and best use of the property, traffic issues, good civil design and arrangement and the other factors detailed in my May 11th memo. All of these factors are proper considerations both for the Cleveland Street Apartment Project PZD and the defunct Woodstock PZD property whose new owner requests rezoning into various

zoning districts: Community Services, Neighborhood Services, Neighborhood Conservation, Resident Single Family, 4 units per acre and Residential Multi-Family, 24 units per acre.

CONCLUSION

If any Alderman desires to vote against a proposed rezoning or PZD approval, please explain your opposition based upon one or more of the factors approved by the Supreme Court:

1. 2030 Plan objectives
2. Public opposition that is logical and reasonable
3. Traffic
4. Safety and Fire protection
5. Good civic design and efficiency
6. Adequacy of public facilities (sewage, water)
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9. Decrease in value of adjoining land
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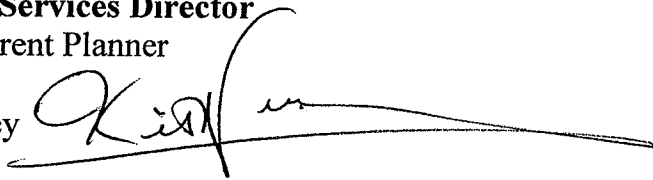
Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Planning Commissioners

CC: Jeremy Pate, Development Services Director
Andrew Garner, Senior Current Planner

FROM: Kit Williams, City Attorney



DATE: May 11, 2012

RE: Expired PZD's must be rezoned upon owner's request

When a PZD has expired, the property owner loses **all** development rights on his property until it is rezoned. Almost all of a property's real worth and value is in its development rights. This loss of all of a property's development rights would constitute a government taking of the property requiring our taxpayers to pay the reasonable value of the property (very large amount of money) except the property owner must first "exhaust his remedies" by asking for a rezoning.

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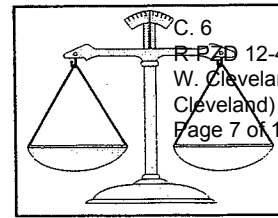
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THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**
City Council

FROM: **Kit Williams, City Attorney**

DATE: **May 22, 2003**

RE: **City Council Considerations for Planned Zoning Districts (PZD's)**

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Please feel free to call upon me at the meeting prior to moving to accept or reject the PZD request to clarify any factors or issues presented in this memo.

Lisa Branson - Fwd: [Form mail from AccessFayetteville] - cleveland and hall development

From: City Clerk
To: Aldermen
Date: 5/29/2012 1:26 PM
Subject: Fwd: [Form mail from AccessFayetteville] - cleveland and hall development

Hello All

Additional information was added to this email and resent to webmaster.

*City of Fayetteville
Office of the City Clerk
113 W. Mountain
Fayetteville, AR 72701
479-575-8323
city_clerk@ci.fayetteville.ar.us*

TDD (Telecommunications Device for the Deaf): (479) 521-1316



**FIND IT
IN
FAYETTEVILLE**

>>> Webmaster 5/29/2012 11:10 AM >>>

Webmaster
www.accessfayetteville.org
City of Fayetteville, Arkansas
webmaster@ci.fayetteville.ar.us

>>> <prbriney@gmail.com> 5/29/2012 10:18 AM >>>

From: Patrick Briney

Email: prbriney@gmail.com

To: mayor@ci.fayetteville.ar.us

Subject: cleveland and hall development

Message:

Dear Mr. Jordan,

Regarding the Mims apartment development at Cleveland and Hall Avenue, I would like the commission to consider very important deficiencies that already exist on the part of the city engineer's office and the planning commission.

I live at 760 N. Cedarwood Avenue, west of Hall Avenue on a dead-end side street off of Cleveland Street. I also own two properties at 816 and 824 Hall Avenue. When the Fayetteville engineers 'improved' Hall Avenue over nine years ago, they narrowed my driveways, took out side yard parking, posted 'no parking on street' signs, and tilted the street to channel water runoff through my driveways and into my properties. I am the victim of poor city planning and lack of compensation. You can find a video (<http://www.youtube.com/watch?v=gbB8KVAutuQ>) of the flooding problems I face every year in spite of my nine years of verbal and written complaint. Photos can be viewed at

<https://plus.google.com/photos/11210638052178088826/albums/5580383908610212881>. My foundations are eroding, I have had to replace two rusted motors for the heater blower, the underside of the floors are always moist, the yards have been ruined, and access to and from the driveway requires wading through a river of water pouring off of Hall Avenue. The water rises above the curb and rushes down not only through my driveways but the front and back yards as well.

This has direct bearing on your consideration of the Mim's apartment complex. First, Hall Avenue has been narrowed and parking is not allowed. Congestion is a real problem caused by the narrowness of the street as can be seen when Leverett Elementary school parent's are dropping off or picking up children. Traffic flow patrols are required to minimize the chaos on Hall Avenue and Cleveland.

Adding 222 new units for a potential of 444 drivers plus guest automobiles will cause perpetual congestion on a narrow street. This is unfair to the residents and landowners on Hall Avenue and of those who use Cleveland street. It devalues our properties and lowers the quality of living. It is especially unfair to me because I have already been victimized by the city of Fayetteville. For nine years, the city engineers have failed to remedy the problems I have already listed, and there has been no reimbursement for damages to my properties.

Second, the additional parking and construction of the proposed project will add to the flood problem on Hall street. My properties are already being used illegally by the city for runoff. They have turned a deaf ear to my plight and ignored my nine years of complaint. The You Tube video is an embarrassment to the city of Fayetteville, yet they shamelessly delay remedy. Approval of the Mim's apartment complex will increase the runoff onto the street and into my properties adding to the problem rather than fixing the problem.

Approval of the Mim's development is relegating the area to the campus especially from 824 Hall to the corner of Hall and Cleveland. This is unfair to the land owners and residents who already live there. If the commission deems that this is the best use for this area, then all property owners in the area should be given just compensation for their properties, lost income, damages, and inconvenience. However, this does not relieve both the automobile and pedestrian congestion on Cleveland Street that will occur between the apartment complex and campus property. Subjecting the residents who use Cleveland Street for access is inconsiderate and irresponsible.

Personally, I have been abused by the city of Fayetteville's use of my property for flood control at my expense, the lost convenience of parking space, the persistent failure to remedy the flooding problems and the neglect to reimburse me for damages in spite of nine years complaint. Adding to the persistence of the abuse by the city of Fayetteville by allowing the Mim's development to occur as proposed is reprehensible.

Sincerely,
Pat Briney

Added at Agenda
Session 5/29/12
NB#7

AGENDA REQUEST

C. 7
"Move to Amend" Campaign Support
Page 1 of 12

FOR: COUNCIL MEETING OF JUNE 5, 2012

FROM:

ALDERMAN MATTHEW PETTY
ALDERMAN MARK KINION

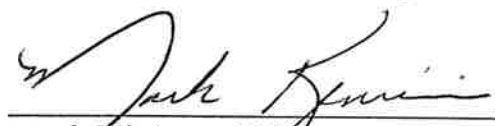
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Support The "Move To Amend" Campaign By Joining With Other Communities Around The Country To Defend Democracy By Amending The United States Constitution To Ensure Only Human Beings, Not Corporations, Have Constitutionally Protected Free Speech Rights

APPROVED FOR AGENDA:


Matthew Petty, Alderman

5-9-2012
Date


Mark Kinion, Alderman

5-25-2012
Date


City Attorney (as to form)

5-8-2012
Date

RESOLUTION NO. _____

A RESOLUTION TO SUPPORT THE "MOVE TO AMEND" CAMPAIGN BY JOINING WITH OTHER COMMUNITIES AROUND THE COUNTRY TO DEFEND DEMOCRACY BY AMENDING THE UNITED STATES CONSTITUTION TO ENSURE ONLY HUMAN BEINGS, NOT CORPORATIONS, HAVE CONSTITUTIONALLY PROTECTED FREE SPEECH RIGHTS

WHEREAS, the United States Supreme Court has asserted by a five to four majority that corporations have the same free speech rights as human beings; and

WHEREAS, United States citizen human beings have and should continue to be valued more and enjoy greater inalienable and constitutional free speech rights than corporations, business associations or unions; and

WHEREAS, money is not speech and should be able to be constitutionally regulated as to political contributions and its use in political campaigns by candidates or other entities attempting to influence political decisions or votes.

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 expresses its support of the national "Move To Amend" campaign to defend democracy by amending the United States Constitution to ensure only human beings, not corporations or other associations, have constitutionally protected free speech rights and to reject the premise that money is "speech".

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby requests that Arkansas legislators on the State and Federal level also support an appropriate United States Constitutional Amendment to ensure the First Amendment's Free Speech rights protect real people, rather than corporations, associations, unions or other entities.

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Under the Supreme Court: High court agrees to consider corporate free speech post-Citizen United

April 9, 2012

Nicole Debevec

United Press International

The U.S. Supreme Court agreed to consider taking another bite of the corporate political free speech apple recently, accepting a petition asking justices to summarily overturn a Montana Supreme Court decision petitioners say flies in the face of Citizens United.

In upholding a ban on corporate independent expenditures in state elections, the Montana justices determined that "unlike Citizens United, this case concerns Montana law, Montana elections and it arises from Montana history."

That ruling, the petition said, raises the question for the U.S. Supreme Court to consider: "Whether Montana is bound by the holding of Citizens United, that a ban on corporate independent political expenditures is a violation of the First Amendment, when the ban applies to state, rather than federal, elections."

Citizens United vs. Federal Election Commission is the Supreme Court's 5-4 decision two years ago that effectively ended the restrictions on political contributions from the general funds of corporations and unions.

In asking for a summary judgment, the petition (American Tradition Partnership, et al., vs. Bullock, et al.) by two Montana corporations said the state's top court was wrong in its reasoning about the origin of the flow of the vast sums of money pouring into election campaigns, among other things. The money isn't coming from corporations, but people, the petition argued, and people have been free to spend pretty much as they see fit since 1976.

"The core holding of Citizens United," the petition argued, "is that the independence of independent expenditures means that they pose no cognizable quid-pro-quo corruption risk and no other cognizable governmental interest justifies banning

corporate independent expenditures. Thus, the Montana Supreme Court's decision constitutes an attempt to force the reconsideration of Citizens United simply because it disagrees with the opinion.

"That effort should be rejected summarily."

In March, Justices Ruth Bader Ginsburg and Stephen Breyer argued the Montana case would give the Supreme Court a chance to rethink Citizens United.

"A petition for certiorari will give the Court an opportunity to consider whether, in light of the huge sums currently deployed to buy candidates' allegiance, Citizens United should continue to hold sway," the statement said.

Ginsburg and Breyer said in their statement lower courts were still bound by the 2010 ruling that freed corporations and labor unions to spend as much as they wished on campaigns if they did so independently of candidates. The court put on hold the state court ruling upholding a Montana law similar to the federal law nullified in Citizens United, at least until an appeal is decided.

Most of the money spent in this election cycle is by the so-called "Super PACs," political action committees formed to make independent expenditures promoting or opposing a certain candidate and that have gained great traction and appeal since Citizen United was handed down.

In their petition, the corporations said the Montana decision was in conflict with the Supreme Court's Citizens United holding that corporations could not be banned from doing core political speech and the Court's reasoning that the independence of such speech (through super PACs) eliminated risk of corrupting candidates.

A lower court in Montana relied on Citizens United in declaring the Corrupt Practices Act unconstitutional, but the state's Supreme Court overturned that decision Dec. 30, ruling the U.S. Supreme Court campaign spending decision didn't conflict with the state's law because it was federal,

not state.

James Bopp Jr. of The Bopp Law Firm in Terre Haute, Ind., and lead counsel for the corporations, said, "If Montana can ban core political speech because of Montana's unique characteristics, free speech will be seriously harmed."

He said speakers would be silenced because of corrupt activities more than 100 years ago or because Montana candidates typically don't spend much on their campaigns, Legal Newsline said.

In its petition, the corporations said reconsidering Citizens United "based on the facts proposed for limiting core political speech would pose grave constitutional dangers to free speech and association," the petition read. "Consequently, summary reversal is appropriate."

In the filing, Bopp urges the Court to overturn Montana's ban and to reverse the ruling by the state Supreme Court that upheld it, the state's Corrupt Practices Act, which bars corporate contributions in state political campaigns.

Montana Attorney General Steve Bullock expressed mixed feelings about the U.S. Supreme Court's decision to stay the Montana law.

"At the end of the day, the Citizens United decision dealt with a completely different electoral system -- the federal elections and federal laws," he said on MSNBC. "But the vast majority of elections are at the state and local level."

"There are real differences there," he said. "That's what we pushed, and I think that the court would recognize that."

Just last week, Democracy for America said it began a new campaign designed to take apart the Citizens United decision by taking on the ruling through the court system and highlighting Bullock's case before the U.S. Supreme Court.

The advocacy group's campaign calls on attorneys general from across the United States to sign onto an amicus brief -- or friend-of-the-court brief -- documenting the need to overturn the 2010 Supreme Court decision, Democracy for America said in a release.

"Citizens United corrupts our democratic process,"

said Jim Dean, the organization's chairman. "This campaign, courageously headed by Montana's Attorney General Steve Bullock, demands that the Supreme Court address [its] decision that allowed undisclosed amounts of money to flow into our electoral process. Corporations are not people and ordinary citizens should not be drowned out of democracy."

Adam Skaggs, senior counsel at the Brennan Center for Justice at New York University's School of Law, also argued for the Supreme Court to uphold Montana's ban, saying the matter before it gives the justices a chance to review the "real-world consequences" of Citizens United and "the devastating effect it has had on our democracy," Legal Newsline said.

"The Montana Supreme Court was right to uphold the state's law banning corporate money in elections. The state's experience with corruption, and the flood of super PAC spending today, makes clear that corporate spending in elections can give rise to the appearance and reality of corruption," Skaggs said in a statement.

However, the petitioners said Citizens United hasn't been burdensome.

"Citizens United has not proven unworkable, as evidenced by those who have exercised their liberty under it," the petition said. "Lower courts, except for the [Montana Supreme Court], have uniformly followed this court's holding, and legislatures and government agencies, with few exceptions, have implemented the protections of Citizens United."

Perhaps the most notable objection to the ruling was President Obama's comments during the 2010 State of the Union address, when he remarked, "With all due deference to separation of powers, last week the Supreme Court reversed a century of law that I believe will open the floodgates for special interests -- including foreign corporations -- to spend without limit in our elections."

More recently, Sen. John McCain, R-Ariz., co-sponsor of legislation that limited how much individuals could contribute to political campaigns, predicted "major scandals" would be the result of the more prominent role of super PACS that Citizen United allowed to foster, The Hill reported.

"What the Supreme Court did is a combination of much money washing around, too much of it we arrogance, naivete and stupidity the likes of which I don't know who's behind it and too much have never seen," McCain said. "I promise you, corruption associated with that kind of money." there will be huge scandals because there's too

Places that have already passed this as an ordinance or resolution:

Citizens Initiative

1. Boulder, CO | Citizens Initiative
2. Dane County, WI | Citizens Initiative
3. Falmouth, MA Town Meeting | Citizens Initiative
4. Madison, WI | Citizens Initiative
5. Missoula, MT | Citizens Initiative
6. Oak Park Township, IL | Citizens Initiative
7. West Allis, WI | Citizens Initiative

Municipal Government Resolution

1. Albany, CA City Council | Municipal Government Resolution
2. Albany, NY City Council | Municipal Government Resolution
3. Albany, VT Town Meeting | Municipal Government Resolution
4. Arcata, CA City Council | Municipal Government Resolution
5. Asheville, NC City Council | Municipal Government Resolution
6. Athens, OH | Municipal Government Resolution
7. Barnet, VT Town Meeting | Municipal Government Resolution
8. Berkeley, CA | Municipal Government Resolution
9. Bolton, VT Town Meeting | Municipal Government Resolution
10. Brandon, VT Town Meeting | Municipal Government Resolution
11. Brattleboro, VT Town Meeting | Municipal Government Resolution
12. Brighton, NY Town Council | Municipal Government Resolution
13. Bristol, VT Town Meeting | Municipal Government Resolution
14. Bryson City, NC Board of Alderpersons | Municipal Government Resolution
15. Buffalo, NY City Council | Municipal Government Resolution
16. Burlington, VT Town Meeting | Municipal Government Resolution
17. Calais, VT Town Meeting | Municipal Government Resolution
18. Carrboro, NC Board of Aldermen | Municipal Government Resolution
19. Chapel Hill, NC Town Council | Municipal Government Resolution
20. Charlotte, VT Town Meeting | Municipal Government Resolution
21. Chester, VT Town Meeting | Municipal Government Resolution

22. Chico, CA City Council | Municipal Government Resolution
23. Chittenden, VT Town Meeting | Municipal Government Resolution
24. Corvallis, OR City Council | Municipal Government Resolution
25. Craftsbury, VT Town Meeting | Municipal Government Resolution
26. Danby, NY City Council | Municipal Government Resolution
27. Duluth, MN City Council | Municipal Government Resolution
28. East Montpelier, VT Town Meeting | Municipal Government Resolution
29. Eugene, OR City Council | Municipal Government Resolution
30. Fairfax, CA City Council | Municipal Government Resolution
31. Fayston, VT Town Meeting | Municipal Government Resolution
32. Flagstaff, AZ City Council | Municipal Government Resolution
33. Fletcher, VT Town Meeting | Municipal Government Resolution
34. Fort Bragg, CA City Council | Municipal Government Resolution
35. Franklin, NC City Council | Municipal Government Resolution
36. Granville, VT Town Meeting | Municipal Government Resolution
37. Greensboro, VT Town Meeting | Municipal Government Resolution
38. Hardwick, VT Town Meeting | Municipal Government Resolution
39. Hartford, CT City Council | Municipal Government Resolution
40. Hartford, VT Town Meeting | Municipal Government Resolution
41. Hartland, VT Town Meeting | Municipal Government Resolution
42. Highlands, NC Town Council | Municipal Government Resolution
43. Hinesburg, VT Town Meeting | Municipal Government Resolution
44. Ithaca, NY Common Council | Municipal Government Resolution
45. Jamestown, CO City Council | Municipal Government Resolution
46. Jefferson County, WA Board of County Commissioners | Municipal Government Resolution
47. Jericho, VT Town Meeting | Municipal Government Resolution
48. Key West, FL City Commission | Municipal Government Resolution
49. Lancaster, PA City Council | Municipal Government Resolution
50. Leverett, MA Town Meeting | Municipal Government Resolution
51. Lincoln, MA Town Meeting | Municipal Government Resolution
52. Lincoln, VT Town Meeting | Municipal Government Resolution
53. Los Altos Hills, CA City Council | Municipal Government Resolution
54. Marina, CA | Municipal Government Resolution
55. Marlboro, VT Town Meeting | Municipal Government Resolution

56. Marshfield, VT Town Meeting | Municipal Government Resolution
57. Middletown Springs, VT Town Meeting | Municipal Government Resolution
58. Monkton, VT Town Meeting | Municipal Government Resolution
59. Montgomery, VT Town Meeting | Municipal Government Resolution
60. Montpelier, VT Town Meeting | Municipal Government Resolution
61. Moretown, VT Town Meeting | Municipal Government Resolution
62. Mountain View, CA City Council | Municipal Government Resolution
63. Mt Holly, VT Town Meeting | Municipal Government Resolution
64. Nevada City, CA City Council | Municipal Government Resolution
65. Newbury, VT Town Meeting | Municipal Government Resolution
66. Newfane, VT Town Meeting | Municipal Government Resolution
67. Newport, OR City Council | Municipal Government Resolution
68. Norwich, VT Town Meeting | Municipal Government Resolution
69. Ojai, CA City Council | Municipal Government Resolution
70. Orange County, NC Board of Commissioners | Municipal Government Resolution
71. Orlando, FL City Council | Municipal Government Resolution
72. Peru, VT Town Meeting | Municipal Government Resolution
73. Petaluma, CA City Council | Municipal Government Resolution
74. Plainfield, VT Town Meeting | Municipal Government Resolution
75. Point Arena, CA City Council | Municipal Government Resolution
76. Port Townsend, WA City Council | Municipal Government Resolution
77. Portland, ME City Council | Municipal Government Resolution
78. Portland, OR City Council | Municipal Government Resolution
79. Pueblo, CO City Council | Municipal Government Resolution
80. Putney, VT Town Meeting | Municipal Government Resolution
81. Randolph, VT Town Meeting | Municipal Government Resolution
82. Redlands, CA City Council | Municipal Government Resolution
83. Richmond, CA City Council | Municipal Government Resolution
84. Richmond, VT Town Meeting | Municipal Government Resolution
85. Ripton, VT Town Meeting | Municipal Government Resolution
86. Rochester, VT Town Meeting | Municipal Government Resolution
87. Roxbury, VT Town Meeting | Municipal Government Resolution
88. Rutland City, VT Town Meeting | Municipal Government Resolution
89. Rutland Town, VT Town Meeting | Municipal Government Resolution

90. Santa Cruz, CA City Council | Municipal Government Resolution
91. Santa Fe, NM City Council | Municipal Government Resolution
92. Seattle, WA City Council | Municipal Government Resolution
93. Sharon, VT Town Meeting | Municipal Government Resolution
94. Shelburne, VT Town Meeting | Municipal Government Resolution
95. Shrewsbury, VT Town Meeting | Municipal Government Resolution
96. South Burlington, VT Town Meeting | Municipal Government Resolution
97. South Miami, FL City Council | Municipal Government Resolution
98. South Robertson Neighborhood Council (Los Angeles, CA) | Municipal Government Resolution
99. Starksboro, VT Town Meeting | Municipal Government Resolution
100. Sudbury, VT Town Meeting | Municipal Government Resolution
101. Telluride, CO Town Council | Municipal Government Resolution
102. Thetford Center, VT Town Meeting | Municipal Government Resolution
103. Thousand Oaks, CA City Council | Municipal Government Resolution
104. Tunbridge, VT Town Meeting | Municipal Government Resolution
105. Underhill, VT Town Meeting | Municipal Government Resolution
106. Waitsfield, VT Town Meeting | Municipal Government Resolution
107. Walden, VT Town Meeting | Municipal Government Resolution
108. Waltham, VT Town Meeting | Municipal Government Resolution
109. Warren, VT Town Meeting | Municipal Government Resolution
110. West Haven, VT Town Meeting | Municipal Government Resolution
111. West Hollywood, CA City Council | Municipal Government Resolution
112. Williamstown, VT Town Meeting | Municipal Government Resolution
113. Williston, VT Town Meeting | Municipal Government Resolution
114. Windsor, VT Town Meeting | Municipal Government Resolution
115. Winooski, VT Town Meeting | Municipal Government Resolution
116. Woodbury, VT Town Meeting | Municipal Government Resolution
117. Woodstock, VT Town Meeting | Municipal Government Resolution
118. Worcester, VT Town Meeting | Municipal Government Resolution
119. Yachats, OR City Council | Municipal Government Resolution
120. Yarmouth, MA City Council | Municipal Government Resolution

State

1. Vermont State Legislature | State

Ordinance

1. Barnstead, NH | Ordinance
2. Blaine Township, PA | Ordinance
3. Donegal, PA | Ordinance
4. Essex County Democratic Committee | Ordinance
5. Humboldt County, CA | Ordinance
6. Lehman, PA | Ordinance
7. Licking, PA | Ordinance
8. Monroe, ME | Ordinance
9. Montgomery County, VA | Ordinance
10. Mt Shasta, CA | Ordinance
11. Newtown, PA | Ordinance
12. Nottingham, NH | Ordinance
13. Packer, PA | Ordinance
14. Pittsburgh, PA | Ordinance
15. Porter, PA | Ordinance
16. Shapleigh, ME | Ordinance
17. Van Etten, NY | Ordinance
18. Wayne, PA | Ordinance
19. Windsor, PA | Ordinance

Places that have passed a similar ordinance/resolution

1. Northfield Township, IL | Citizens Initiative

Municipal Government Resolution

1. Los Angeles, CA City Council | Municipal Government Resolution
2. Lynn, MA City Council | Municipal Government Resolution
3. Marin County, CA Board of Supervisors | Municipal Government Resolution
4. Newburyport, MA Town Council | Municipal Government Resolution
5. Northampton, MA City Council | Municipal Government Resolution
6. Oakland, CA City Council | Municipal Government Resolution
7. San Francisco, CA City Council | Municipal Government Resolution
8. Tampa Bay, FL City Council | Municipal Government Resolution
9. Taos, NM City Council | Municipal Government Resolution

10. Taos, NM County Board of Commissioners | Municipal Government Resolution

State

1. Alaska State Senate | State

Info from movetoamend.org/resolutions-map

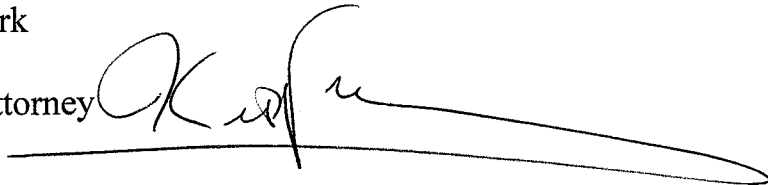
Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Sondra Smith, City Clerk

FROM: Kit Williams, City Attorney



DATE: May 31, 2012

RE: Placing notification of change of business address in Taxicab Chapter of the Fayetteville Code

I want to thank Chairman Brenda Boudreaux and Alderman Justin Tennant for attending the Ordinance Review Committee meeting on Wednesday, May 30th at 5:00 P.M. to review all the proposed changes to the **Taxicab and Limousine Services** Chapters of the Fayetteville Code. The proposed changes had been recommended by City Clerk Sondra Smith, the Police Department and my office. The reasons for each proposed change were discussed and analyzed by the Ordinance Review Committee. I believe the Ordinance Review Committee Chairman Brenda Boudreaux will give you a report at your meeting concerning those discussions.

The only revision of the proposed ordinance as presented to you at the Agenda session was a new suggestion by City Clerk Sondra Smith to require taxicab and pedicab owners to keep the City Clerk's Office up to date on any business address changes so that notification of these businesses when a new applicant for a Certificate of Public Necessity and Convenience would be easier. The Ordinance Review Committee felt this was a good requirement, and so I have drafted a new notification requirement section to be inserted where the \$100.00 surety bond requirement section was being repealed. If the City Council wants to make this change, only Section 4 of the ordinance will need to be amended.

After Mayor Jordan introduces this ordinance and reads its title but **BEFORE** I read the whole ordinance, please move to amend the ordinance to the one attached to this memo which has the new Section 4 notification of change of business address. If this amendment passes, I can then read the whole ordinance in its final form as recommended at the Ordinance Review Committee.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ARTICLE IV TAXICABS AND ARTICLE V LIMOUSINE SERVICE OF CHAPTER 117 OF THE FAYETTEVILLE CODE TO CLARIFY NOTICE REQUIREMENTS, CANCELLATION OF UNUSED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, AND OTHER PROVISIONS

WHEREAS, notification of all holders of current and valid Certificates of Public Convenience and Necessity should be accomplished by the taxicab applicant (as required of pedicab applicants) rather than the City Clerk; and

WHEREAS, if a taxicab or limousine service's holder of a Certificate of Public Convenience and Necessity goes out of business or fails to operate for one year, the Certificate should be deemed abandoned and cancelled as it is for pedicabs; and

WHEREAS, other technical changes should be made to the **Taxicab** and **Limousine Service** Chapters.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.31 **Rates** of the Fayetteville Code by deleting "and Fayetteville City Clerk" from the last sentence in (B).

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.32 (C) by repealing it in its entirety and enacting a new §117.32 (C) as shown below:

"(C) Public Hearing for Certificate. When the Police Department notifies the City Clerk that a proper and adequate application has been filed, the City Clerk shall fix a time and place for a public hearing thereon. The City Clerk shall thereupon notify the applicant who shall have the duty to notify all holders of current and valid Certificates of Public Convenience and Necessity for taxicabs and pedicabs and provide proof of such service to the City Council. Any interested person shall have the right either in person or by representatives of their own choosing to be

present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.”

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.33 **Liability Insurance** by denoting the current wording as (a) and by deleting “finance director” as the last two words of (a) and replacing them with “City Clerk,” so that the required insurance policy will be filed in the City Clerk’s Office; and by enacting (b) as shown below

“(b) Insurance required under this section must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before cancelling, failing to renew, or making a material change to the insurance policy. If the insurance of the holder lapses or is cancelled and new insurance is not obtained, the Certificate of Public Convenience and Necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a taxicab service while the certificate is suspended under this section.”

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.34 **Licensing Requirements** by repealing (B) *Surety Bond required* and enacting (B) *Notification of change of address required* as shown below:

“(B) *Notification of change of address required.*

“Every holder of a Certificate of Public Convenience and Necessity for taxicabs and pedicabs shall ensure the City Clerk’s Office is promptly notified of any change of its business address. Failure to comply with this notification requirement is not only grounds for revocation or suspension, but also waives any expectation of notification by another applicant for a certificate pursuant to §117.32(C).”

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.36 by amending the title to “**Suspension, Revocation and Cancellation of Certificate**” and enacting a new subsection C as shown below:

“(C) If any holder of a Certificate goes out of business, fails to operate under the Certificate for one calendar year, fails to have any vehicle inspected to operate under the Certificate for one calendar year or fails to have any driver or operator properly permitted under the Certificate for one calendar year, the holder’s Certificate of Public Convenience and Necessity shall be deemed abandoned and shall be denoted as cancelled and invalid by the City Clerk.”

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.63 **Liability Insurance** of the **Limousine Service** Chapter by replacing “finance director”

with "City Clerk" in the current language and denoting this as subsection (A) and enacting a new (B) as shown below:

"(b) Insurance required under this section must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before cancelling, failing to renew, or making a material change to the insurance policy. If the insurance of the holder lapses or is cancelled and new insurance is not obtained, the Certificate of Public Convenience and Necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a limousine service while the certificate is suspended under this section."

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby enacts §117.65 **Suspension, Revocation and Cancellation of Certificate** as shown below:

"§117.65 Suspension, Revocation and Cancellation of Certificate.

"A limousine service's Certificate of Public Convenience and Necessity may be suspended, revoked or cancelled for the same reasons and by the same procedures set forth in §117.36."

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
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

**City of Fayetteville Arkansas
City Council Meeting Minutes
May 15, 2012**

A meeting of the Fayetteville City Council was held on May 15, 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, Petty, Tennant, Ferrell, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Kinion

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan recognized students from Woodland Junior High.

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions: None

Consent:

Approval of the May 1, 2012 City Council meeting minutes.

Approved

Bid #12-33 Center Point Contractors, Inc.: A resolution awarding Bid #12-33 and authorizing a contract with Center Point Contractors, Inc. in the amount of \$37,410.00 for the construction of St. Joseph Park, approving a ten percent (10%) project contingency, and approving a budget adjustment of \$14,361.00.

Resolution 92-12 as recorded in the office of the City Clerk.

Fayetteville Police Department Donation Revenue: A resolution approving a budget adjustment in the amount of \$2,900.00 representing donation revenue to the Fayetteville Police Department in support of officer service awards.

Resolution 93-12 as recorded in the office of the City Clerk.

State and Federal Law Enforcement Forfeiture Revenue: A resolution approving a budget adjustment in the amount of \$43,366.00 representing state and federal law enforcement forfeiture revenue received during the first quarter of 2012 and authorizing expenditures therefrom.

Resolution 94-12 as recorded in the office of the City Clerk.

McClelland Consulting Engineers, Inc. Task Order No. 9: A resolution to approve Task Order No. 9 with McClelland Consulting Engineers, Inc. in the amount of \$32,504.00 for plans and specifications, construction administration and record drawings of the Executive Hangar Office Addition Project and to approve a budget adjustment of \$32,504.00.

Resolution 95-12 as recorded in the office of the City Clerk.

2012 Community Development Block Grant Award: A resolution approving a budget adjustment recognizing the actual amount of the 2012 Community Development Block Grant award from the U.S. Department of Housing and Urban Development.

Resolution 96-12 as recorded in the office of the City Clerk.

The Spirits Shop, Inc.: A resolution approving a settlement agreement with The Spirits Shop, Inc., concerning condemnation litigation filed as part of the N. Garland Avenue Improvement Project, in the total amount of \$16,900.00.

Resolution 97-12 as recorded in the office of the City Clerk.

Bid #12-34 David's Fire Equipment: A resolution to award Bid #12-34 to purchase two thermal imagers from David's Fire Equipment in the amount of \$20,400.00 plus sales tax for the Fayetteville Fire Department.

Resolution 98-12 as recorded in the office of the City Clerk.

Bid #12-39 Benchmark Construction of NWA, Inc.: A resolution awarding Bid #12-39 and authorizing a contract with Benchmark Construction of NWA, Inc. in the amount of \$407,560.07

for the construction and installation of a concrete pad at the solid waste and recycling facility, approving a ten percent (10%) project contingency, and approving a budget adjustment.

Resolution 99-12 as recorded in the office of the City Clerk.

Water and Sewer Relocation AHTD Utility Agreement: A resolution approving a cost-share agreement with the Arkansas State Highway and Transportation Commission for the construction of water and sewer relocations related to the widening of Crossover Road (Highway 265) from Joyce Boulevard to Albright Road.

Resolution 100-12 as recorded in the office of the City Clerk.

University of Arkansas (Razorback Transit) Contract: A resolution approving a contract with the University of Arkansas (Razorback Transit) in an annual amount of \$50,000.00 regarding public transit services within the City of Fayetteville.

Resolution 101-12 as recorded in the office of the City Clerk.

Gallagher Benefits Services, Inc.: A resolution approving a contract with Gallagher Benefits Services, Inc. in an amount not to exceed \$79,100.00 for the provision of employee benefits brokerage services, and approving a budget adjustment.

Resolution 102-12 as recorded in the office of the City Clerk.

Windstream Communications, Inc.: A resolution to approve the Telecommunications Franchise application of Windstream Communications, Inc. and to approve the Non-Exclusive Telecommunications Franchise Agreement with Windstream Communications, Inc.

Resolution 103-12 as recorded in the office of the City Clerk.

Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke Appointment: A resolution to appoint Jason Taylor and Alan Harrison as successor commissioners for Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke, Phase 1 Subdivision Infrastructure Project.

Resolution 104-12 as recorded in the office of the City Clerk.

Donald and Brenda Johnston Settlement Agreement: A resolution approving a settlement agreement with Donald and Brenda Johnston, trustees of the Don and Brenda Johnston joint revocable trust U/D/T August 12, 2000, concerning condemnation litigation filed as part of the N. Garland Avenue Improvement Project, in the total amount of \$13,250.00.

Resolution 105-12 as recorded in the office of the City Clerk.

Alderman Boudreaux moved to approve the Consent Agenda as read. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

Unfinished Business: None

Public Hearing:

Mayor Jordan opened the public hearing

A to Z Taxi: A resolution granting a Certificate of Public Convenience and Necessity to A to Z Taxi for the operation of up to four (4) taxicabs in the City of Fayetteville.

Police Chief Greg Tabor gave a brief description of the resolution. He also pointed out that the Agenda says up to four taxicabs and the application actually says up to five.

Alderman Ferrell moved to amend the resolution to state up to five (5) taxis. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

Jackson Campbell, owner of Down Under Taxi voiced his concerns and spoke against the resolution.

Alderman Petty asked how many taxis do we currently have operating in the City and how many were approved in the last year.

Police Chief Greg Tabor: Unfortunately I do not know the answer to that. He began listing the companies he knew by memory that were currently in operation.

Mayor Jordan closed the public hearing.

Alderman Adams asked Kit for an explanation as to why the Council approves these requests.

City Attorney Kit Williams explained what State Statutes require.

Alderman Ferrell stated at one time we had very little taxi service. I am under the opinion that if they meet the rules and regulations, then I think the market will rule. Our citizens need cabs on the weekends.

Alderman Tennant: I am concerned about restricting businesses from coming in but I am also concerned about having too many. Is the applicant starting out with one car?

William Browning, driver for A to Z Taxi representing the owner: Yes, and we are already licensed in Siloam Springs. He spoke about the current wait times for cabs and explained the need for another company.

Alderman Adams: Do you plan to have wheelchair hangars or bicycle racks on your cars?

William Browning: We plan to. All our vehicles will be vans and we want at least one to be wheelchair accessible with bike racks also.

Jackson Campbell spoke on the current parking problems for the taxis and he gave their current response times.

Alderman Ferrell: I have been told that there is a community that does not allow any other cab companies in their town. If we are willing to let people compete, I would think it would be to the best interest of our operators to allow somebody from a town to come in here and offer a cab service from a town that does not allow any competition for their cab service.

Alderman Lewis: What is the approach for taxi parking?

Don Marr: I am not aware of anything. They can stop and pick up anywhere.

Alderman Boudreaux: That might be something we look into because there aren't very many places that a taxi can pull over and sit and wait.

Alderman Ferrell moved to approve the resolution. Alderman Adams seconded the motion. Upon roll call the resolution passed 7-0. Alderman Kinion was absent.

Resolution 106-12 as recorded in the office of the City Clerk.

1609 S. Duncan Avenue Raze and Removal: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess located at 1609 S. Duncan Avenue in the City of Fayetteville, Arkansas, and approving a budget adjustment in the amount of \$3,495.00.

Chad Ball, Community Services Coordinator gave a brief description of the resolution.

City Attorney Kit Williams asked for an explanation of some of the problems that this structure is facing.

Chad Ball briefly explained each problem.

Alderman Lewis compared this situation to when your car is totaled in an accident. She stated it would be more efficient to remove it and rebuild it than it is to fix it.

Chad Ball: Part of the Chief Building Officials determination was the cost effectiveness and the public safety aspect of it.

Mayor Jordan opened the public hearing.

There was no public comment.

Mayor Jordan closed the public hearing.

Alderman Tennant: It is a dangerous place and I would really hate for kids to go in there and have something happen that we regret. So this is a good idea.

Alderman Ferrell: This is not out of the ordinary for us to take this action but can you remember how many we have had to tear down?

Chad Ball listed previous examples.

City Attorney Kit Williams: We have had probably three or four in the last decade and almost every time the owners remove it. This time we think the owners are out of state and may not do it so we are probably going to have to demolish it.

Alderman Ferrell: One of the things I have noticed on everyone we have looked at is that the property taxes are current. Property taxes were paid weren't they?

Chad Ball: In 2010, however 2011 has yet to be paid.

Alderman Ferrell moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 7-0. Alderman Kinion was absent.

Resolution 107-12 as recorded in the office of the City Clerk.

New Business:

RJN Group: A resolution approving an engineering services agreement with RJN Group in the amount of \$499,595.00 to update the wastewater collection system model and master plan.

David Jurgens, Utilities Director gave a brief description of the resolution.

Alderman Lewis: This came through the Water and Sewer Committee and we discussed the value of having the model against what you can compare in using our own system to build the model. David, can you speak on how this model can help us gauge the needs in areas as we have more density.

David Jurgens briefly explained ways this would help in the future.

Alderman Boudreaux moved to approve the resolution. Alderman Lewis seconded the motion. Upon roll call the resolution passed 7-0. Alderman Kinion was absent.

Resolution 108-12 as recorded in the office of the City Clerk.

VAC 12-4064 Rochier St./Park Green: An ordinance approving VAC 12-4064 submitted by Crafton Tull and Associates, Inc. for property located at 1001 West Rochier Street to vacate undeveloped streets and alley ways in the Rochier Heights Subdivision.

City Attorney Kit Williams read the ordinance.

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

Steven Beam with Crafton, Tull & Associates representing the developer stated I am available for any questions that you may have.

Alderman Lewis: Where are you in the process for this whole project?

Steven Beam briefly explained what stage the project was currently in.

Alderman Lewis moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

City Attorney Kit Williams read the ordinance.

Alderman Lewis: Is this a hillside?

Jeremy Pate: It was and they were required to meet the 30% tree canopy and not on preserved land.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Kinion was absent.

Ordinance 5499 as Recorded in the office of the City

Amend §33.250 Composition; Membership: An ordinance to amend §33.250 Composition; Membership of the Board of Adjustment to reduce the number of members from seven to five and the term from five to three years.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Petty: Have members of the board ever been paid in the past?

Jeremy Pate: Not this board that I am aware of.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Adams seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

City Attorney Kit Williams read the ordinance.

Alderman Petty moved to suspend the rules and go to the third and final reading. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

City Attorney Kit Williams read the ordinance.

Alderman Lewis: How do people learn about what this board does?

Alderman Gray: They go to our website and all the boards and openings are explained.

Alderman Boudreaux: It's more of a technical board more so than a lot of our committees.

City Attorney Kit Williams stated it is a very important board in the fact that decisions from this board do not come to the City Council and cannot be appealed to the City Council. He went on to explain the importance of the board.

Jeremy Pate: Traditionally the make up of the board has consisted primarily of those in the design profession or those in the realtor profession. He further explained the functions and responsibilities of the board.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Kinion was absent.

Ordinance 5500 as Recorded in the office of the City

RZN 12-4077 Halsell Road/Pratt Place Inn Appeal: An ordinance rezoning that property described in rezoning petition RZN 12-4077, for approximately 2.37 acres, located on Halsell Road from C-PZD, Commercial Planned Zoning District, to RSF-4, Residential Single-Family, 4 units per acre, subject to the offered Bill of Assurance.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the appeal.

Alderman Lewis: What has been discussed regarding Halsell and Sang?

Jeremy Pate stated is hasn't really been discussed other than access. He went on to explain other various discussions that had been made.

Alderman Boudreaux: The Planning staff supports this right?

Jeremy Pate: We did support the request to RSF-4; we felt the density limitation was adequate considering it's completely surrounded by RSF-4. He stated this property seems very separate from anything else.

Alderman Boudreaux: What was the Planning Commissioner's concerns about this, why did they not approve it?

Jeremy Pate: There was some public comment expressing concerns with traffic and increased density. We felt it was consistent and compatible with the neighborhood and that is why we were supportive of it.

Alderman Ferrell: When the applicant came forward they hadn't offered the Bill of Assurance. Usually when someone is coming forward to the Planning Commission would you characterize the Bill of Assurance as a pretty significant factor in consideration?

Jeremy Pate: It can be when comments arise at a meeting and they can hopefully resolve some of those. I don't know if this resolves any of those comments or not to be honest. Sometimes if the applicant seems willing to offer something we will table it and have another discussion. In this particular case it ended up that they voted.

Alderman Adams: Jeremy, back when the PZD was created and approved, the uses that were permitted for that PZD depended on the property being whole. Did anything that we permitted through that PZD depend on property remaining whole?

Jeremy Pate: If I understand your question the answer is no. He went on to explain the PZD process.

Alderman Lewis: The property is heavily wooded. Does it fall in the Hillside Overlay District?

Jeremy Pate: Yes, it looks like everything on this property that is green represents the hillside boundary.

Alderman Lewis: So this is just a zoning request. When we don't know anything about a proposal for the site, I am really concerned about ingress and egress at that site with a very blind corner. We really need to be careful.

Jeremy Pate: Staff recognized that from the very first meeting we had with the applicant and they may be able to speak more to that in terms of what their plans are.

Alderman Tennant: When I drove that I was looking at that exact area and I was thinking that a development there might help because you could build the road out a little bit and clear some of it out.

A discussion followed.

Jeremy Pate explained what the process would be if this zoning were approved.

Mary Bassett, representing the sellers Julian and Jane Archer stated we are here tonight to ask for a downgrade in zoning of the property. She went on to explain their plans for the property.

John Davidson who is looking to develop the property and purchase it from the Archer's addressed previous concerns and explained his future plans for the property.

Mayor Jordan: I would like to ask who the neighbors are along the road that is in complete agreement with what you are doing and how many properties are we talking about?

John Davidson: The two adjoining neighbors. The Hughes and I do not remember the name of the woman that lives on the curve.

Alderman Tennant: Any idea on what size house you are going to build?

John Davidson: About 2800-3500 sq. ft. Somewhere in that range.

Alderman Tennant: So four nice houses in a nice part of town.

John Davidson: The one thing that was said at the Planning Commission meeting was they kept bringing up a buffer. My question is, is a bunch of honeysuckle a better buffer than another single family home, because the only person that is going to be touching this commercial use that everyone keeps talking about would be our units, not a neighborhood that is past us. If anything we are revitalizing the area.

Alderman Lewis: I want you to be clear that when I am saying there is a need to make sure that road is safe, I am talking about pedestrians and sidewalks. I hope that our Hillside Ordinance can protect the trees from being cleared completely back.

John Davidson: When I am talking about clearing back I am talking about underbrush that is growing out into the road, etc. In all fairness they own 145 acres and are putting four units on that. If we can't rezone a little piece like this then what are they suppose to do with this 140 acres.

A discussion followed.

Alderman Adams: Sidewalks have been started so I think it is important that you consider that very strongly. They need to be continued on down around there.

John Davidson: I don't care either way because I have to pay for them either way.

Alderman Adams: We want you to care.

John Davidson explained where the current sidewalks were.

A discussion followed.

Julian Archer, owner of the property pointed out that he sent a memo to the Council explaining the background. He stated I would be pleased to answer any questions.

Hank Broyles, resident of 589 N. Rockcliff stated I am here to support this. He went on to speak in favor of the appeal.

James Butch Cogger, a resident briefly gave the history of this property and went on to speak against the appeal.

Alderman Ferrell asked would you prefer a large scale development.

James Butch Cogger: I think it needs to be treated as a large scale development.

Alderman Ferrell: Would you prefer to see it as a large scale development or would you prefer it be treated like a large scale development.

James Butch Cogger: I would like to see both in the long run.

Alderman Ferrell: You said a Bill of Assurance is not worth anything. Kit can you tell us?

City Attorney Kit Williams explained what a Bill of Assurance is.

Alderman Lewis: Jeremy, can you tell about the difference in expectations? This rezoning as compared to large scale development it seems like a different stage in the process.

Jeremy Pate: It is a different stage. He went on to explain the differences. He stated our requirement to improve infrastructure is based on the impact of the development.

City Attorney Kit Williams: That is a judgment call and it's difficult to make a precise definition now. I would think that with four houses being built near this particular curve, at least a portion of the road near the curve to help alleviate traffic problems and danger, that would probably fall within the rough proportionality of the impact. That would be what my advice would be.

Alderman Lewis: Can that be part of the condition of approval? Can that be hooked to the zoning?

City Attorney Kit Williams: No, it cannot be hooked to the zoning at all. It would be a part of the condition of approval for the development itself.

John Faucette, resident of Loren Circle expressed his concerns with the road. He went on to speak against the appeal. He asked will you require a sidewalk or will you say you can pay cash in lieu of a sidewalk?

City Attorney Kit Williams stated that is not going to be a decision by the City Council. That will be coming to the Planning Commission. He explained the process that is used.

John Faucette went on to express his concerns with the drainage.

Mayor Jordan reminded everyone that the main thing we are looking at is rezoning.

Alderman Boudreaux: If no improvements are made to the property than there won't be any improvements made to the road. I think anything would be beneficial to what is there now. If it is rezoned something will happen.

Mary Bassett: Halsell Road has been mentioned to have accidents and maybe the City needs to pay attention to that road whether or not you rezone this.

Alderman Ferrell: This was an appeal. Do we have to vote on the appeal or do we just vote to approve the ordinance.

City Attorney Kit Williams explained the current policy.

Alderman Ferrell: The Planning staff has recommended this and since then we have received the promise. There have been a couple of good comments made tonight to help improve the safety.

Mike Lieber, resident on Cedarwood expressed his concerns with that corner and stated attention has to be paid to the safety of that road.

Alderman Lewis: Are you generally in favor or opposed to changing the zoning of that property?

Mike Lieber: I consider that inevitable.

Alderman Adams: Some of us are on the Street Committee and I think sometimes a very good outcome of something that comes up like this is attention to another problem.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 6-1. Alderman Lewis voting no. Alderman Kinion was absent.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Boudreaux seconded the motion.

Alderman Lewis: I wondered if we might hold it on this second reading to give people a chance to come and speak up.

Upon roll call the motion failed 5-2. Alderman Petty and Lewis voting no. (It requires six (6) affirmative votes to suspend the rules). Alderman Kinion was absent.

This ordinance was left on the Second Reading

Announcements:

Adjournment: 7:40 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer



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Monday, May 21, 2012

MCDANIEL ASKS SUPREME COURT TO RECONSIDER CAMPAIGN FINANCE DECISION

LITTLE ROCK - Attorney General Dustin McDaniel and 22 other attorneys general today asked the U.S. Supreme Court to reconsider a 2010 decision that eliminated federal restrictions on independent political spending by corporations.

In an amicus brief, McDaniel said the decision in the Citizens United case should be revisited by the Court. The states shared with the Court concerns that unrestricted independent campaign expenditures may distort political races, promote corruption or require corporate shareholders to fund political communication that they oppose.

"The Citizens United decision opened the door for corporations and labor unions to secretly spend as much as they want, whenever they want, on political issues," McDaniel said. "I believe in reasonable contribution limits with transparent reporting requirements so that the people can know who is financing candidates and issues. The Citizens United case has destroyed those concepts."

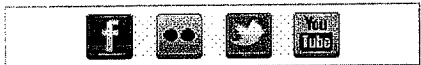
The amicus brief was submitted in a Montana case that involves whether Citizens United should pertain to state and local elections. In an order issued earlier this year related to the Montana case, Justice Ruth Bader Ginsburg wrote that the experience in Montana and elsewhere makes it "exceedingly difficult" to argue that independent corporate expenditures "do not give rise to corruption or the appearance of corruption."

In the brief, the attorneys general argue that, under Citizens United, there is a higher risk that "nonresident corporations with discrete and well-defined interests will dominate campaign spending in state and local election contests," if applied to states.

The case is American Tradition Partnership Inc. v. Bullock, 11-1179.

###

Connect With Dustin



Handed out
at the
June 5, 2012
City Council
meeting.

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 June 05, 2012

A meeting of the Fayetteville City Council will be held on June 05, 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:

Agenda Additions:

A. Consent:

1. Approval of the May 15, 2012 City Council meeting minutes.
2. **Animal Services Donation Revenue:** A resolution approving a budget adjustment in the amount of \$19,175.00 representing donation revenue to Animal Services for the first quarter of 2012.
3. **Bid #12-28 Chevrolet of Fayetteville:** A resolution awarding Bid #12-28 and authorizing the purchase of two 4X4 compact pickup trucks from Chevrolet of Fayetteville in the total amount of \$38,958.00, one for use by the Wastewater Division and one for use by the Meter Division, and approving a budget adjustment.

4. **Bid #12-29 MHC Kenworth/Volvo:** A resolution awarding Bid #12-29 and authorizing the purchase of one tandem axle dump truck from MHC Kenworth/Volvo of Springdale in the total amount of \$128,755.00, and approving a budget adjustment.
5. **Bid #12-30 North Point Ford:** A resolution awarding Bid #12-30 and authorizing the purchase of one 4X4 crew cab dump truck from North Point Ford of North Little Rock in the total amount of \$46,909.00, for use by the Transportation Division.
6. **Bid #12-31 J. Richard Wolf Co.:** A resolution awarding Bid #12-31 and authorizing the purchase of one trailer mounted diesel water pump from J. Richard Wolf Company of Stuttgart in the total amount of \$49,760.00, for use by Sewer Maintenance.
7. **Bid #12-32 ICM, Inc.:** A resolution awarding Bid #12-32 and authorizing the purchase of one sewer cleaning-vacuum machine from ICM, Inc. of Jacksonville in the total amount of \$361,276.05 for use by Water and Sewer, and approving a budget adjustment.
8. **Bid #12-35 Terex Utilities:** A resolution awarding Bid #12-35 and authorizing the purchase of one 1.5 ton service body truck from Terex Utilities south of North Little Rock in the total amount of \$41,554.00, for use by Water and Sewer.
9. **Bid #12-36 Terex Utilities:** A resolution awarding Bid #12-36 and authorizing the purchase of one service body truck with nine-foot utility body from Terex Utilities south of North Little Rock in the total amount of \$38,385.00, for use by the Transportation Division, and approving a budget adjustment.
10. **Bid #12-38 MHC Kenworth/Volvo:** A resolution awarding Bid #12-38 and authorizing the purchase of one truck tractor unit from MHC Kenworth/Volvo of Springdale in the total amount of \$114,715.00 for use by Wastewater Treatment, and approving a budget adjustment.
11. **Bid #12-41 Terex Utilities:** A resolution awarding Bid #12-41 and authorizing the purchase of one Ford F-550 super duty 4X4 truck with crane from Terex Utilities south of North Little Rock in the total amount of \$68,038.00, for use by the Wastewater Division.
12. **Bale Chevrolet:** A resolution authorizing the purchase of two fully-equipped Chevrolet Tahoe police pursuit vehicles from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of \$109,570.00, and approving a budget adjustment.
13. **McClelland Consulting Engineers:** A resolution approving a contract with McClelland Consulting Engineers, Inc. in the amount of \$388,600.00 for water transmission line layout and easement acquisition related to a third connection to Beaver Water District.
14. **Fulbright Expressway/Highway 71B Flyover Project:** A resolution authorizing the donation of right-of-way to the Arkansas State Highway Commission to facilitate completion of the Fulbright Expressway/Highway 71B Flyover Project.
15. **Professional Hiring Policy:** A resolution to approve the City's Professional Hiring Policy numbers PU-12 and PU-13.

B. Unfinished Business:

1. **RZN 12-4077 Halsell Road/Pratt Place Inn Appeal:** An ordinance rezoning that property described in rezoning petition RZN 12-4077, for approximately 2.37 acres, located on Halsell Road from C-PZD, Commercial Planned Zoning District, to RSF-4, Residential Single-Family, 4 units per acre, subject to the offered Bill of Assurance. ***This ordinance was left on the Second Reading at the May 15, 2012 City Council meeting.***

Left on the Second Reading

C. New Business:

1. **Proposed 2013-2017 Five-Year Capital Improvements Plan:** A resolution adopting the 2013-2017 Five-Year Capital Improvements Plan.
2. **Amend §97.015 Operating Hours:** An ordinance to Amend §97.015 Operating Hours in Chapter 97: Parks and Recreation to authorize the Parks and Recreation staff to extend a park's closing time when necessary for a tournament or special event.
3. **VAC 12-4102 (1000 W. Stone St./Fayetteville High School):** An ordinance approving VAC 12-4102 submitted by Crafton Tull and Associates for property located at 1000 West Stone Street to vacate utility easement and right-of-way.
4. **Amend §173.08 Arkansas Energy Code:** An ordinance to amend §173.08 Arkansas Energy Code of the building regulations chapter of the U.D.C. to adopt the 2009 Residential International Energy Efficiency Code, with amendments herein.
5. **RZN 12-4108 (4847 W. Wedington Dr./Bank of Wynne):** An ordinance revoking R-PZD 07-2576 (Woodstock) and rezoning that property described in rezoning petition RZN 12-4108, for approximately 31.68 acres, located at 4847 West Wedington Drive from R-PZD, Residential Planned Zoning District 07-2576, to R-A, Residential Agricultural.
6. **R-PZD 12-4079 (N.W. Corner of W. Cleveland St. & Hall Ave./Project Cleveland):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 12-4079, Project Cleveland, located at the northwest corner of West Cleveland Street and Hall Avenue; containing approximately 2.71 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
7. **Amend Chapter 117:** An ordinance to amend Article IV Taxicabs and Article V Limousine Service of Chapter 117 of the Fayetteville Code to clarify notice requirements, cancellation of unused certificates of Public Convenience and Necessity, and other provisions.
8. **Enact §39.10 Water and Wastewater Damage Claims:** An ordinance to enact §39.10 Water and Wastewater Damage Claims into the Fayetteville Code.
9. **Enact §39.11 Damage Claims Other Than Water and Wastewater Damage Claims:** An ordinance to enact §39.11 Damage Claims Other Than Water and Wastewater Damage Claims into the Fayetteville Code.

D. City Council Agenda Session Presentations:

- 1. Discussion of Five Year Capital Improvement Project – Paul Becker, Finance 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.

City of Fayetteville Staff Review Form

A. 2
Animal Services Donation Revenue
Page 1 of 4

City Council Agenda Items
and
Contracts, Leases or Agreements

6/5/2012

City Council Meeting Date
Agenda Items Only

Justine Middleton
Submitted By

Community Services
Division

Development Services
Department

Action Required:

Recognize donation revenue to Animal Services for the 1st quarter of 2012. Approval of a Budget Adjustment in the total amount of \$19,175.00

<u>\$19,175</u> Cost of this request	\$ - Category / Project Budget	<u>Animal Services Donations</u> Program Category / Project Name
<u>see attached detail</u> Account Number	\$ - Funds Used to Date	<u>Animal Services Project</u> Program / Project Category Name
<u>see attached detail</u> Project Number	\$ - Remaining Balance	<u>General</u> Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

[Signature]
Department Director

05-10-2012
Date

Previous Ordinance or Resolution # _____

[Signature]
City Attorney

5-16-12
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Bisher
Finance and Internal Services Director

5-14-2012
Date

Received in City Clerk's Office 05-10-12 P02:14 RCVD

[Signature]
Chief of Staff

5-14-12
Date

Received in Mayor's Office

ENTERED
5/10/12
[Signature]

[Signature]
Mayor

5/15/12
Date

Comments: Staff recommends approval of the budget adjustment in the amount of \$19175

CITY COUNCIL AGENDA MEMO

To: City Council

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

From: Justine Middleton, Animal Services Superintendent

Date: May 7, 2012

Subject: Approval of a Budget Adjustment for Animal Services Division

PROPOSAL:

Animal Services would like to recognize donation revenue from the first quarter of 2012. These funds are donated by private citizens and organizations to benefit the animals cared for by Animal Services.

RECOMMENDATION:

Staff recommends approval of a budget adjustment to budget the Animal Services Donation Revenue for the first quarter of 2012.

BUDGET IMPACT:

Recognize Animal Shelter Donations in the amount of \$19,175.00.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE
AMOUNT OF \$19,175.00 REPRESENTING DONATION REVENUE TO
ANIMAL SERVICES FOR THE FIRST QUARTER OF 2012

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A", in the amount of \$19,175.00 representing donation revenue to Animal Services for the first quarter of 2012.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby expresses its sincere gratitude for these donations.

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 2 **V11.0425**
Animal Services Donation Revenue

Recognizing donation revenue to the Fayetteville Animal Shelter from the 1st quarter of 2012.

1 of 1

City of Fayetteville Staff Review Form

A. 3
 Bid #12-28 Chevrolet of Fayetteville
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

6/5/2012

City Council Meeting Date
 Agenda Items Only

Dennis Pratt / Barbara Olsen
 Submitted By

Fleet Operations
 Division

Transportation
 Department

Action Required:

A resolution awarding Bid 12-28 to Chevrolet of Fayetteville for \$39,958 for the purchase of two 4 x 4 compact pickup truck for use by Meter Division and Wastewater Division.

\$ 39,958.00
 Cost of this request

\$ 308,000.00
 Category / Project Budget

Light/Medium Utility Vehicles
 Program Category / Project Name

9700.1920.5802.00
 Account Number

\$ 15,985.00
 Funds Used to Date

Vehicles and Equipment
 Program / Project Category Name

02078.2012
 Project Number

\$ 292,015.00
 Remaining Balance

Shop Fund
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

Terry J. Gully
 Department Director

5-18-12
 Date

Previous Ordinance or Resolution #

J. B. Kelly
 City Attorney

5-18-12
 Date

Original Contract Date:

Original Contract Number:

Manda Hurtwell
 Finance and Internal Services Director

5/18/12
 Date

Received in City
 Clerk's Office

Don Man
 Chief of Staff

5/18/12
 Date

Received in
 Mayor's Office



Siorell Jordan
 Mayor

5/21/12
 Date

Comments:

Revised January 15, 2009

05-13-12 P03:54 RCVD

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TG*

From: Dennis Pratt, Fleet Operations Supt.

Date: May 16, 2012

Subject: Purchase of two 4 x 4 compact pickups for Meter and Wastewater

PROPOSAL: That City Council approve the purchase of two 4 x 4 pickup trucks in the amount of \$39,958 for use by Meter and Wastewater Divisions.

RECOMMENDATION: Bid 12-28 was opened on April 6, 2012. A Bid tab sheet is attached.

Truck 2070 is a 2005 Ford Ranger 4 x 4 pickup truck that is used by the Meter Division. Fleet and Meter have agreed to replace this truck with a 4 x 4 Chevy Colorado. Truck 2070 has 119,593 miles on it and was slated for replacement in 2012.

Unit 1092 is a 2002 Ford Explorer 4 x 4 that is used by the Wastewater Plant East. Unit 1092 has 119,967 miles on it and was slated for replacement in 2010. This unit has already been pushed back for two years. This unit was scheduled to be replaced with an Explorer or like unit so capital funds were placed in the Police/passenger vehicles project. OMI has said that they can utilize a 4 x 4 extended cab compact pickup instead. Fleet and OMI have agreed to replace this unit with a 4 x 4 Chevy Colorado.

I recommend the purchase of these trucks from Chevrolet of Fayetteville for \$39,958 which was the lowest bidder on Bid 12-28.

This purchase was unanimously approved by the Equipment Committee at the meeting of May 8, 2012.

BUDGET IMPACT: Both replacements were budgeted for on the capital and operating sides. On the capital side, funds were placed in the Police / Passenger project for the Wastewater replacement – the attached Budget adjustment moves funds from there to the Light/medium utility vehicle project for the purchase of this pickup.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-28 AND AUTHORIZING THE PURCHASE OF TWO 4x4 COMPACT PICKUP TRUCKS FROM CHEVROLET OF FAYETTEVILLE IN THE TOTAL AMOUNT OF \$38,958.00, ONE FOR USE BY THE WASTEWATER DIVISION AND ONE FOR USE BY THE METER DIVISION, 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 awards Bid #12-28 and authorizes the purchase of two 4x4 compact pickup trucks from Chevrolet of Fayetteville in the total amount of \$38,958.00, one for use by the Wastewater Division and one for use by the Meter Division.

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

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 12-28
DATE: 04/06/12
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 12-28, Compact 4x4 Pickup Truck

BIDDER		Make & Model	UNIT PRICE	EST. QUANTITY	TOTAL BASE BID
1	<i>AWARD</i> Chevrolet of Fayetteville	Chevrolet Colorado	\$ 19,979.00	2	\$ 19,979.00
2	George Nunnally Chevrolet	Chevrolet CT 15653 Colorado 4WD Extended Cab	\$ 20,320.00	1	\$ 20,320.00

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

CERTIFIED:

P. Vice

P. VICE, PURCH MGR

Julie Paladino
WITNESS

04/06/12
DATE

W

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: 3/16/2012
P.O Number:	Page 2-28 Chevrolet of Fayetteville
	Expected Delivery Date:

Vendor #:	17009	Vendor Name:	CHEVROLET OF FAYETTEVILLE	Mail Yes: No: ☒
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Address:	Fob Point:	Taxable Yes: No: ☒	Quotes Attached Yes: No: ☒
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City:	State:	Zip Code:	Ship to code:	Divison Head Approval:
			50	

Requester:	Requester's Employee #:	Extension:
BARBARA OLSEN	1940	485

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2012 CHEVROLET COLORADO 4 X 4 EXTENDED	2	EA	19,979.00	\$39,958.00	9700.1920.5802.00	02078.2012		702155
2	CAB PICKUP PER BID 12-28. TO BE UNIT 2155,				\$0.00				
3	FIXED ASSET #702155				\$0.00				
4	AND UNIT 2156, FIXED ASSET #702156				\$0.00				702156
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: \$39,958.00

Total: \$39,958.00

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

City of Fayetteville Staff Review Form

A. 4
 Bid #22-29 MHC Kenworth/Volvo
 Page 1 of 6

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

6/5/2012

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen
 Submitted By

Fleet Operations
 Division

Transportation
 Department

Action Required:

A resolution awarding Bid 12-29 to MHC/Kenworth/Volvo of Springdale in the amount of \$128,755 for the purchase of one tandem axle dump truck, and approval of a Budget Adjustment to move funds to the Fleet Expense Account.

\$ 128,755.00
 Cost of this request

9700.1920.5802.00
 Account Number

02079.2012
 Project Number

\$ 192,956.00
 Category / Project Budget

\$ -
 Funds Used to Date

\$ 192,956.00
 Remaining Balance

Medium / Heavy Utility Vehicles
 Program Category / Project Name

Vehicles and Equipment
 Program / Project Category Name

Shop Fund
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

Terry Z. Gully 5-17-12
 Department Director Date

Previous Ordinance or Resolution # _____

[Signature] 5-18-12
 City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

[Signature] 5/18/12
 Finance and Internal Services Director Date

Received in City Clerk's Office 5-13-12 A09:05 RCVD
 [Signature]

[Signature] 5-18-12
 Chief of Staff Date

Received in Mayor's Office
 ENTERED 5/18/12 [Signature]

[Signature] 5/21/12
 Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *T26*

From: Dennis Pratt, Fleet Operations Supt.

Date: May 16 2012

Subject: Purchase of one tandem axle dump truck for Transportation

PROPOSAL: That City Council approve the purchase of one tandem axle dump truck in the amount of \$128,755 for use by Transportation Division, and approval of a budget adjustment to move funds to the Fleet Expense account.

RECOMMENDATION: Bid 12-29 was opened April 6, 2012. Six bids were received; a bid tab sheet is attached.

Unit 739 is a 2001 Sterling LT9500 Dump truck with over 153,128 miles that is no longer dependable for full time front line use. This unit was slated for replacement in 2011 due to age and poor condition.

The bid (Option 1) from MHC/Kenworth/Volvo of Springdale for a 2013 Kenworth T470 with Heil body is the lowest bid that meets specs. I recommend acceptance of the bid from MHC/Kenworth/Volvo in the amount of \$128,755.

This purchase was unanimously approved by the Equipment Committee at the meeting on May 8th, 2012.

BUDGET IMPACT: This replacement was budgeted for on both the capital and operating sides. The purchase price of the replacement unit was underestimated so the balance of funds needed are being moved into the project from shop fund balance.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-29 AND AUTHORIZING THE PURCHASE OF ONE TANDEM AXLE DUMP TRUCK FROM MHC KENWORTH/VOLVO OF SPRINGDALE IN THE TOTAL AMOUNT OF \$128,755.00, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-29 and authorizes the purchase of one tandem axle dump truck from MHC Kenworth/Volvo of Springdale in the total amount of \$128,755.00.

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

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT
A



BID: 12-29
 04/06/12
 3:00 PM
 CITY OF FAYETTEVILLE

Bid 12-29, Tandem Axle Diesel Dump Truck

BIDDER	MANUFACTURER	MODEL	Quantity	TOTAL BID PRICE
1 MHC Kenworth/Volvo - Springdale - Option 1 <i>MEETS ALL SPECS</i>	Kenworth	T470 2013	1	\$108,767.63
	Hell	Duraclass 13' HPT - 316 11-14 Yards	1	\$19,987.00
				\$128,754.63
2 MHC Kenworth/Volvo - Springdale - Option 2	Kenworth	T800 2013	1	\$117,142.82
	Hell	Duraclass 13' HPT - 316 11-14 Yards	1	\$19,987.00
				\$137,129.82
3 Shipley Motor Equipment Company - Option 1	Mach	Vision	1	\$115,592.32
	Henderson	Mark 3	1	\$25,160.00
				\$140,752.32
4 Shipley Motor Equipment Company - Option 2	Mach	Vision	1	\$115,592.32
	Hilbilt	13' Material Dump Bed	1	\$18,290.90
				\$133,883.22
5 Truck Centers of Arkansas - Option 1 <i>DOESN'T MEET SPECS!</i>	Freightliner	114 SD	1	\$92,100.00
	Hilbilt		1	\$18,290.90
<i>NO DISC BRAKES, BODY SPEC LOWER, TOWING HITCH</i>				\$110,390.90
6 Truck Centers of Arkansas - Option 2 <i>DOESN'T MEET SPECS!</i>	Freightliner	114 SD	1	\$92,100.00
	Henderson	Mark E	1	\$25,160.00
<i>NO DISC BRAKES, BODY SPEC LOWER, MAIN FRAME STRUCTURE SMALLER</i>				\$117,260.00

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

CERTIFIED:

A. FOREN, PURCH AGENT

WITNESS

DATE

[Signature]

[Signature]

04/06/12

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. 4
P.O Number:	5/16/2012 #22-29 MHC Kenworth/Volvo
	Expected Delivery Date:

Vendor #:	73750	Vendor Name:	MHC KENWORTH / VOLVO	Mail Yes: No: X
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Address:	Fob Point:	Taxable Yes: No: X	Quotes Attached Yes: No: x
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City:	State:	Zip Code:	Ship to code:	Division Head Approval:
		50		<i>Kevin E. Smith</i>

Requester:	Requester's Employee #:	Extension:
BARBARA OLSEN	1940	485

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2013 KENWORTH T470 CHASSIS WITH HEIL	1	EA	128,754.63	\$128,754.63	9700.1920.5802.00	02079.2012		700769
2	DURACCLASS 13' HPT-316, 11 TO 14 YARD				\$0.00				
3	DUMP TRUCK, PER BID 12-29, TO BE UNIT				\$0.00				
4	769, FIXED ASSET 700769				\$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: \$128,754.63

Total: \$128,754.63

Approvals:		
Mayor: _____	Department Director: _____	Purchasing Manager: _____
Finance & Internal Services Director: <i>Mr. Hester</i>	Budget Manager: _____	IT Manager: _____
Dispatch Manager: _____	Utilities Manager: _____	Other: _____

City of Fayetteville Staff Review Form

A. 5
 Bid #12-30 North Point Ford
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

6/5/2012

City Council Meeting Date
 Agenda Items Only

Dennis Pratt / Barbara Olsen
 Submitted By

Fleet Operations
 Division

Transportation
 Department

Action Required:

A resolution awarding Bid #12-30 to North Point Ford of North Little Rock in the amount of \$46,909 for the purchase of one crew cab 4 x 4 dump truck for use by Transportation Division.

\$ 46,909.00
 Cost of this request

\$ 308,000.00
 Category / Project Budget

Light / Medium Utility Vehicles
 Program Category / Project Name

9700.1920.5802.00
 Account Number

\$ 55,943.00
 Funds Used to Date

Vehicles and Equipment
 Program / Project Category Name

02078.2012
 Project Number

\$ 252,057.00
 Remaining Balance

Shop Fund
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

T. J. Gully
 Department Director

5-18-12
 Date

Previous Ordinance or Resolution #

C. Kelly
 City Attorney

5-18-12
 Date

Original Contract Date:

Original Contract Number:

Maisha Hentzeck
 Finance and Internal Services Director

5/18/12
 Date

Received in City Clerk's Office 05-13-12 A09:06 RCVD

Don Man
 Chief of Staff

5/18/12
 Date

Received in Mayor's Office

Donald Jordan
 Mayor

5/21/12
 Date



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *12-2*

From: Dennis Pratt, Fleet Operations Supt.

Date: May 16, 2012

Subject: Purchase of one crew cab dump truck for Transportation

PROPOSAL: That City Council approve the purchase of one crew cab dump truck in the amount of \$46,909 for use by Transportation Division.

RECOMMENDATION: Bid 12-30 was opened on April 6, 2012. Three bids were received; a bid tab sheet is attached.

Unit 336 is a 2002 Ford F350 crew cab dump truck with 115,201 miles that is no longer dependable for full time front line use by the Street Right of Way Division. This unit was slated for replacement in 2010 and has been pushed back for two years. Fleet and Transportation have agreed to replace this unit with a 2012 Ford F550 with Henderson Mark III dump body.

The bid from North Point Ford – Option 1, is the lowest bid that meets specs. I recommend acceptance of the bid from North Point Ford – Option 1, in the amount of \$46,909.

This purchase was unanimously approved by the Equipment Committee at the meeting on May 8th, 2012.

BUDGET IMPACT: This replacement was budgeted for on both the capital and operating sides.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-30 AND AUTHORIZING THE PURCHASE OF ONE 4x4 CREW CAB DUMP TRUCK FROM NORTH POINT FORD OF NORTH LITTLE ROCK IN THE TOTAL AMOUNT OF \$46,909.00, FOR USE BY THE TRANSPORTATION 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 #12-30 and authorizes the purchase of one 4x4 crew cab dump truck from North Point Ford of North Little Rock in the total amount of \$46,909.00, for use by the Transportation Division.

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 12-30
 04/06/12
 3:00 PM
 CITY OF FAYETTEVILLE

Bid 12-30, Crew Cab 4X4 Dump Truck

BIDDER	MANUFACTURER	MODEL	TOTAL BID PRICE
1 Country Ford	Ford	F-550	\$35,031.44
DOES NOT MEET SPECS:	Crysteel	E-Tipper Dump Body LB-500 HO18T	\$11,100.00
DUMP BODY HAS 2 PIECE FLOOR CONSTRUCTION INSTEAD OF ONE PIECE			\$46,131.44
ENAMEL PAINT DOES NOT MEET SPECS			
2 North Point Ford - Option 1	Ford	F-550	\$35,397.00
	Henderson Product	Mark III	\$11,512.00
AWARD			\$46,909.00
MEETS ALL SPECS			
3 North Point Ford - Option 2	Ford	F-550	\$35,397.00
DOES NOT MEET SPECS	Hilbilt	XPC	\$11,191.00
DUMP BODY - PREP + THICKNESS ARE WRONG			\$46,588.00

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

CERTIFIED: *Alice*
 A. FOREN, PURCH AGENT

Julie Paladino
 WITNESS

04/06/12
 DATE

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. 5
P.O Number:	5/16/2012 Bid #12-30 North Point Ford
	Expected Delivery Date

Vendor #:	6481	Vendor Name:	NORTH POINT FORD	Mail Yes: ☐ No: ☒
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Address:	Fob Point:	Taxable Yes: ☐ No: ☒	Quotes Attached Yes: ☐ No: ☒
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City:	State:	Zip Code:	Ship to code:	Divison Head Approval: <i>Renee E. Ford</i>
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Requester:	Requester's Employee #:	Extension:
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BARBARA OLSEN

1940

485

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2012 FORD F550 TRUCK WITH HENDERSON	1	EA	46,909.00	\$46,909.00	9700.1920.5802.00	02078.2012		700373
2	MARK III BODY PER BID 12-30.				\$0.00				
3	TO BE UNIT #373, FIXED ASSET 700373				\$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: \$46,909.00

Total: \$46,909.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: *Tha Hector* Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

City of Fayetteville Staff Review Form

A. 6
 Bid #12-31 J. Richard Wolf Co.
 Page 1 of 6

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

6/5/2012

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding Bid #12-31 to J. Richard Wolf Co. of Stuttgart, AR in the amount of \$49,760 for the purchase of one trailer mounted diesel water pump for use by Water & Sewer, Sewer Maintenance Division.

\$ 49,760.00
 Cost of this request

\$ 603,244.00
 Category / Project Budget

Other Vehicles and Equipment
 Program Category / Project Name

9700.1920.5802.00
 Account Number

\$ 171,798.00
 Funds Used to Date

Vehicles and Equipment
 Program / Project Category Name

02080.2012
 Project Number

\$ 431,446.00
 Remaining Balance

Shop Fund
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

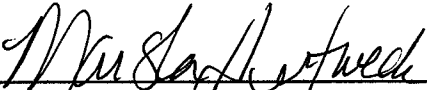

 Department Director 5-17-12
 Date

Previous Ordinance or Resolution # _____


 City Attorney 5-18-12
 Date

Original Contract Date: _____

Original Contract Number: _____


 Finance and Internal Services Director 5/18/12
 Date

Received in City Clerk's Office 5-18-12 A09:05 RCV



 Chief of Staff 5/18/12
 Date

Received in Mayor's Office



 Mayor 5/21/12
 Date

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TJG*

From: Dennis Pratt, Fleet Operations Supt.

Date: May 17, 2012

Subject: Purchase of one trailer mounted water pump for Water & Sewer

PROPOSAL: That City Council approve the purchase of one trailer mounted water pump in the amount of \$49,760 tax included from J. Richard Wolf Co for use by Water & Sewer Division.

RECOMMENDATION: Bid 12-31 was opened on April 10, 2012. Four bids were received; a bid tab sheet is attached.

Unit #81 is a 20 year old 1992 Sykes pump. It was budgeted for replacement in 2012 as it is no longer dependable for full time front line use.

I recommend the purchase of this water pump from J. Richard Wolf Company of Stuttgart, AR for \$49,760.00 (tax included) which is the low bid that meets specs.

This purchase was unanimously approved by the Equipment Committee at the meeting on May 8th, 2012.

BUDGET IMPACT: This replacement was budgeted for on both the capital and operating sides.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-31 AND AUTHORIZING THE PURCHASE OF ONE TRAILER MOUNTED DIESEL WATER PUMP FROM J. RICHARD WOLF COMPANY OF STUTTGART IN THE TOTAL AMOUNT OF \$49,760.00, FOR USE BY SEWER MAINTENANCE

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 #12-31 and authorizes the purchase of one trailer mounted diesel water pump from J. Richard Wolf Company of Stuttgart in the total amount of \$49,760.00, for use by Sewer Maintenance.

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 12-31
04/10/12
2:00 PM
CITY OF FAYETTEVILLE

Bid 12-31, Trailer Mounted Diesel Water Pump

BIDDER	MANUFACTURER	MODEL	TOTAL BID PRICE
1 Hugg & Hall Equipment	Thompson	6JSCEN-DJDST-4ST-MC	\$51,521.00
2 Keeling Company IMPELLER SIZE IS WRONG HEAD PRESSURE PSI IS TOO LOW NO COMMUNICATION PORTS FOR ALARM SYSTEM	Magnum Power Products	MTP6500FHD	\$35,545.00 3287.91 TAX 38,832.91
3 ICM Inc.	Pioneer	PP66512L71-H	\$59,900.00
4 J. Richard Wolf Company AWARD	Tsurumi	EPT4-150DPQJD	\$49,760.00 **PRICE INCLUDES SALES TAX

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

CERTIFIED:

A. Rasco
A. RASCO, PURCH AGENT

Jocanna Main
WITNESS

4/10/12
DATE

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-6 5/16/2012
P.O Number:	Expected Delivery Date:

Vendor #:	Vendor Name: J. RICHARD WOLF COMPANY	Mail Yes: No: X
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Address:	Fob Point:	Taxable Yes: No: X	Quotes Attached Yes: No: x
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City:	State:	Zip Code:	Ship to code: 50	Divison Head Approval: 
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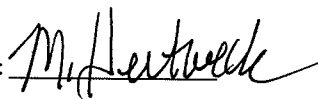
Requester: BARBARA OLSEN	Requester's Employee #: 1940	Extension: 485
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Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2012 TSURUNI TRAILER MOUNTED DIESEL	1	EA	49,760.00	\$49,760.00	9700.1920.5802.00	02080.2012		709163
2	WATER PUMP PER BID #12-31, TO BE UNIT				\$0.00				
3	9163, FIXED ASSET 709163				\$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: \$49,760.00

Total: \$49,760.00

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. 7
 Bid #12-32 ICM, Inc.
 Page 1 of 6

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

6/5/2012

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding Bid #12-32 to ICM, Inc of Jacksonville, AR in the amount of \$361,276.05 for the purchase of one Sewer Cleaning - Vacuum Machine for use by Water & Sewer, and approval of a budget adjustment to move funds to the Fleet expense account.

\$ 361,276.00

Cost of this request

\$ 603,244.00

Category / Project Budget

Other Vehicles and Equipment

Program Category / Project Name

99700.1920.5802.00

Account Number

\$ 221,558.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02080.2012

Project Number

\$ 381,686.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

Terry D. Gully
 Department Director

5-17-12
 Date

Previous Ordinance or Resolution # _____

R. B. Kelly
 City Attorney

5-18-12
 Date

Original Contract Date: _____

Original Contract Number: _____

M. Hestwood
 Finance and Internal Services Director

5/18/12
 Date

Received in City Clerk's Office 13-12 A09:05 RCVD

Don Mar
 Chief of Staff

5/18/12
 Date

Received in Mayor's Office

Lionel Jordan
 Mayor

5/21/12
 Date



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TG*

From: Dennis Pratt, Fleet Operations Supt.

Date: May 17, 2012

Subject: Purchase of one Sewer Cleaner / Vacuum Truck for Water & Sewer

PROPOSAL: That City Council approve the purchase of one Sewer Cleaner / Vacuum Truck in the amount of \$361,276.05 for use by Water & Sewer, Sewer Maintenance, and approve a budget adjustment to move funds to the Fleet expense account.

RECOMMENDATION: Bid #12-32 was opened April 10th, 2012. Five bids were received; a Bid tab sheet is attached.

Unit #89 is a 1999 Mack truck with Vactor body that was due for replacement in 2009; replacement was pushed back 3 years. This unit is no longer dependable for full time front line use.

I recommend the purchase of this truck from ICM Inc of Jacksonville, AR for \$361,276.05.

This purchase was approved by the Equipment Committee at the meeting on May 8th, 2012.

BUDGET IMPACT: This replacement was budgeted for on both the capital and operating sides, but the purchase price was underestimated. A Budget Adjustment is attached.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-32 AND AUTHORIZING THE PURCHASE OF ONE SEWER CLEANING-VACUUM MACHINE FROM ICM, INC. OF JACKSONVILLE IN THE TOTAL AMOUNT OF \$361,276.05 FOR USE BY WATER AND SEWER, 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 awards Bid #12-32 and authorizes the purchase of one sewer cleaning-vacuum machine from ICM, Inc. of Jacksonville in the total amount of \$361,276.05, for use by Water and Sewer.

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

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

VA1.0222
Bid #12-32 ICM, Inc.
Page 4 of 6

Budget Year	Division: Fleet Operations	Request Date	Adjustment Number
2012	Department: Transportation Services	5/1/2012	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

The purchase price to replace unit #89 (a 1999 Mack truck with Vactor body) was underestimated in the capital project. Funds to cover the shortage are requested from fund balance as it is too early in the year to know if there will be extra funds in some other project that might be moved to cover the shortage.

Sufficient funds remain to meet City objectives.

Division Head 5-1-12 Budget Director 5-1-12 Department Director 5-1-12 Finance Director 5/18/12 Chief of Staff 5-18-12 Mayor 5/21/12	Prepared By: _____ Reference: _____ Budget & Research Use Only Type: A B C D E P General Ledger Date Posted to General Ledger Checked / Verified
--	---

TOTAL BUDGET ADJUSTMENT		36,500	36,500	Project.Sub Number
Account Name	Account Number	Increase / (Decrease) Expense	Revenue	
Vehicles and equipment	9700.1920.5802.00	36,500		02080 . 2012
Use of fund balance	9700.0970.4999.99		36,500	
		-	-	
		-	-	
		-	-	
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		-	-	

EXHIBIT





BID: 12-32
DATE: 04/10/12
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid #12-32 ICM, Inc.
Page 5 of 6

Bid 12-32, Sewer Cleaning-Vacuum Machine

BIDDER	MANUFACTURER	MODEL	QTY	TOTAL COST
1 Henard Utility Products Inc				
A Line Item #1	VAC-CON	PD3611 HEN / 1500 (824 @ 18") LHAE	1	\$ 124,500.00
B Line Item #2	VAC-CON	PD3611 HEN / 1500 (824 @ 18") LHAE	1	\$ 224,709.00
DOESN'T MEET SPECS DUE TO OPERATIONAL + SAFETY ISSUES				\$ 349,209.00
2 ICM Inc				
A Line Item #1	KENWORTH	T800 SERIES	1	\$ 131,452.45
B Line Item #2	HI-VAC / AQUATECH	B10	1	\$ 229,823.60
DOES MEET SPECS				\$ 361,276.05
3 Peterbilt of Fort Smith				
A Line Item #1	PETERBUILT	367	1	\$ 137,614.00
B Line Item #2	VACALL	AJVR1015	1	\$ 219,776.00
DOESN'T MEET SPECS - OPERATIONAL + SAFETY ISSUES				\$ 357,390.00
4 Scruggs Equipment Co.				
A Line Item #1	KENWORTH	T800 SERIES	1	\$ 117,345.00
B Line Item #2	VACTOR	2110PD-824-16	1	\$ 200,147.00
DOESN'T MEET SPECS - OPERATIONAL + SAFETY ISSUES				\$ 317,492.00
5 Truck Component Services				
A Line Item #1	FREIGHTLINER	114SD	1	\$ 117,159.00
B Line Item #2	VACALL	AJVR1015	1	\$ 219,776.00
DOESN'T MEET SPECS - OPERATIONAL + SAFETY ISSUES				\$ 336,935.00

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

CERTIFIED:

A. Rasco
A. RASCO, PURCHASING AGENT

Jamela Main
WITNESS

4/10/12
DATE

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.: A-7
Date: 5/17/2012
Bid #12-32 ICM, Inc.
Page 6 of 6
P.O Number: Expected Delivery Date:

Vendor #: 75560 Vendor Name: ICM, Inc Mail Yes: No: X

Address: Fob Point: Taxable Yes: No: X Quotes Attached Yes: No: x

City: State: Zip Code: 50 Ship to code: Division Head Approval: [Signature]

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 KENWORTH T800 CHASSIS WITH HI-VAC /	1	EA	361,276.05	\$361,276.05	9700.1920.5802.00	02080.2012		709164
2	AQUATECH B10 SEWER CLEANER / VACUUM				\$0.00				
3	BODY PER BID #12-32. TO BE UNIT 9164,				\$0.00				
4	FIXED ASSET 709164				\$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: \$361,276.05

Total: \$361,276.05

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

City of Fayetteville Staff Review Form

A. 8
 Bid #12-35 Terex Utilities
 Page 1 of 6

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

6/5/2012

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen
Submitted By

Fleet Operations
Division

Transportation
Department

Action Required:

A resolution awarding Bid 12-35 to Terex Equipment of North Little Rock in the amount of \$41,554 for the purchase of one 1.5 Ton Service Body Truck for use by Water and Sewer, Water Distribution Division.

\$ 41,554.00
 Cost of this request

\$ 160,342.00
 Category / Project Budget

Light / Medium Utility Vehicles
 Program Category / Project Name

9700.1920.5802.00
 Account Number

\$ 86,789.00
 Funds Used to Date

Vehicles and Equipment
 Program / Project Category Name

02078.2011
 Project Number

\$ 73,553.00
 Remaining Balance

Shop Fund
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

Terry J. Gully 5-17-12
 Department Director Date

Previous Ordinance or Resolution # _____

Car Kelly 5-18-12
 City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

M. Hesteech 5/18/12
 Finance and Internal Services Director Date

Received in City Clerk's Office 05-13-12 A09:05 RCVD


Don Man 5/18/12
 Chief of Staff Date

Received in Mayor's Office


Donald J. Jurek 5/21/12
 Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TG*

From: Dennis Pratt, Fleet Operations Supt.

Date: May 16, 2012

Subject: Purchase of one 1.5 ton Service Body Truck for Water Distribution Division

PROPOSAL: That City Council approve the purchase of one 1.5 ton Service Body truck in the amount of \$41,554 for use by W&S Water Distribution Division.

RECOMMENDATION: Bid #12-35 was opened on April 23rd. Five bids were received; a bid tab sheet is attached.

Truck 335 is a 2002 Ford F550 extended cab 4 x 4 with 176,222 miles that is used by Water and Sewer, Water Distribution. It is no longer suitable for full time front line use. It was slated for replacement in 2011, but was pushed back one more year.

I recommend the purchase of this truck from Terex Utilities South of N. Little Rock for \$41,554.00 which is the low bid on Bid 12-35.

This purchase was unanimously approved by the Equipment Committee at the meeting on May 8th, 2012.

BUDGET IMPACT: This replacement was budgeted for on both the capital and operating sides.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-35 AND AUTHORIZING THE PURCHASE OF ONE 1.5 TON SERVICE BODY TRUCK FROM TEREX UTILITIES SOUTH OF NORTH LITTLE ROCK IN THE TOTAL AMOUNT OF \$41,554.00, FOR USE BY WATER AND SEWER

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 #12-35 and authorizes the purchase of one 1.5 ton service body truck from Terex Utilities South of North Little Rock in the total amount of \$41,554.00, for use by Water and Sewer.

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 12-35
 04/23/12
 2:00 PM
 CITY OF FAYETTEVILLE

Bid 12-35, 1.5 Ton Service Body Truck

BIDDER	MANUFACTURER	MODEL	TOTAL BID PRICE
1 Country Ford 17,500 GVWR 4X4 Extended Cab and Chassis 11' Utility type truck body installed on above chassis	Ford Dakota	F-550 CBG13294VHFF	\$32,867.44 \$10,500.00 \$43,367.44
2 North Point Ford (Option 1) 17,500 GVWR 4X4 Extended Cab and Chassis 11' Utility type truck body installed on above chassis	Ford Knapheide	F-550 7132D54J1	\$33,401.00 \$9,874.00 \$43,275.00
3 North Point Ford (Option 2) 17,500 GVWR 4X4 Extended Cab and Chassis 11' Utility type truck body installed on above chassis	Ford Dakota	F-550 CBG13294VHFF	\$33,401.00 \$10,957.00 \$44,358.00
4 Terex Utilities South 17,500 GVWR 4X4 Extended Cab and Chassis 11' Utility type truck body installed on above chassis	Ford Reading	Super Duty F-550 DRW 4WD SuperCab USR132ABHH	\$32,114.00 \$9,440.00 \$41,554.00
5 Utility Truck Equipment Company 17,500 GVWR 4X4 Extended Cab and Chassis 11' Utility type truck body installed on above chassis	Ford Knapheide	F-550 7132D54J	\$33,396.00 \$13,110.25 \$46,506.25

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

CERTIFIED:

A. Foren
 A. FOREN, PURCH AGENT

Julie Paladino
 WITNESS

04/23/12
 DATE

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: **5/16/2012** A. 8
 P.O Number: _____ Expected Delivery Date: _____ Bid #12-35 Terex Utilities
 Page 5 of 6

Vendor #: **15379** Vendor Name: **TEREX UTILITIES** Mail Yes: _____ No: X

Address: _____ Fob Point: _____ Taxable Yes: _____ No: X Quotes Attached Yes: _____ No: X

City: _____ State: _____ Zip Code: _____ Ship to code: **50** Division Head Approval: *Dennis E. Dine*

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 FORD SUPER DUTY F560 4 X 4 EXTENDED	1	EA	41,554.00	\$41,554.00	9700.1920.5802.00	02078.2011		700374
2	CAB WITH READING BODY PER BID 12-36.				\$0.00				
3	TO BE UNIT 374, FIXED ASSET 700374				\$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: **\$41,554.00**

Total: **\$41,554.00**

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: *Dr. Heston*

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

City of Fayetteville Staff Review Form

A. 9
 Bid #12-36 Terex Utilities
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

6/5/2012

City Council Meeting Date
 Agenda Items Only

Dennis Pratt / Barbara Olsen
 Submitted By

Fleet Operations
 Division

Transportation
 Department

Action Required:

A resolution awarding Bid #12-36 to Terex Utilities of North Little Rock in the amount of \$38,385.00 for the purchase of one Service body truck with 9 foot Utility body for use by Transportation Division, and approval of the budget adjustment to move funds to the Fleet expense account.

\$ 38,385.00
 Cost of this request

\$ 308,000.00
 Category / Project Budget

Light / Medium Utility Vehicles
 Program Category / Project Name

9700.1920.5802.00
 Account Number

\$ 102,852.00
 Funds Used to Date

Vehicles and Equipment
 Program / Project Category Name

02078.2012
 Project Number

\$ 205,148.00
 Remaining Balance

Shop Fund
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

Department Director

5-17-12
 Date

Previous Ordinance or Resolution #

City Attorney

5-18-12
 Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

5/18/12
 Date

Received in City Clerk's Office 5-13-12 A09:06 RCVD

Chief of Staff

5/18/12
 Date

Received in Mayor's Office

Mayor

5/21/12
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TJG*

From: Dennis Pratt, Fleet Operations Supt.

Date: May 17, 2012

Subject: Purchase of one Service body truck with 9' utility body for Transportation

PROPOSAL: That City Council approve the purchase of one service body truck with 9 foot utility body in the amount of \$38,385 for use by Transportation Division, and approve a budget amendment to move funds to the Fleet expense account.

RECOMMENDATION: Bid #12-36 was opened on April 23, 2012. Five bids were received; a Bid tab sheet is attached.

Truck 338 is a 2002 Ford F350 dump bed truck that is no longer dependable for full time front line use and needs to be replaced. It was slated for replacement in 2010 and was pushed back for 2 years.

This division has no service body trucks and has requested to replace the dump body with a service body.

I recommend the purchase of this truck from Terex Utilities South of N. Little Rock, AR for \$38,385.00 which was the low bid on Bid 12-36.

This purchase was unanimously approved by the Equipment Committee at the meeting on May 8th, 2012.

BUDGET IMPACT: Funds were budgeted in 2011 for this replacement, but inadvertently were not rebudgeted to 2012. Funds are being requested from fund balance with the attached Budget Adjustment. This replacement was budgeted for on the operating side.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-36 AND AUTHORIZING THE PURCHASE OF ONE SERVICE BODY TRUCK WITH NINE-FOOT UTILITY BODY FROM TEREX UTILITIES SOUTH OF NORTH LITTLE ROCK IN THE TOTAL AMOUNT OF \$38,385.00, FOR USE BY THE TRANSPORTATION DIVISION, 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 awards Bid #12-36 and authorizes the purchase of one service body truck with nine-foot utility body from Terex Utilities South of North Little Rock in the total amount of \$38,385.00, for use by the Transportation Division.

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

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 12-36
 04/23/12
 2:00 PM
 CITY OF FAYETTEVILLE

Bid 12-36, Service Body Truck - 9ft. Utility Bed

BIDDER	MANUFACTURER	MODEL	TOTAL BID PRICE
1 Country Ford 19,000 GVWR crew cab and chassis 9' Utility type truck body installed on above chassis	Ford Dakota	F-550 CBG11094VHSS	\$31,495.44 \$9,500.00 \$40,995.44
2 North Point Ford (Option 1) 19,000 GVWR crew cab and chassis 9' Utility type truck body installed on above chassis	Ford Knapheide	F-550 7108D54J1	\$31,641.00 \$7,493.00 \$39,134.00
3 North Point Ford (Option 2) 19,000 GVWR crew cab and chassis 9' Utility type truck body installed on above chassis	Ford Dakota	F-550 CBG11094VHSS	\$31,641.00 \$9,846.00 \$41,487.00
4 Terex Utilities South <i>AWARD</i> 19,000 GVWR crew cab and chassis 9' Utility type truck body installed on above chassis	Ford Reading	Super Duty F-550 DRW Crew Cab U108ABHH	\$30,355.00 \$8,030.00 \$38,385.00
5 Utility Truck Equipment Company 19,000 GVWR crew cab and chassis 9' Utility type truck body installed on above chassis	Ford Knapheide	F-550 7108D54J	\$31,961.00 \$10,962.75 \$42,923.75

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

CERTIFIED: 
 A. FOREN, PURCH AGENT


 WITNESS

04/26/12
 DATE

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. 9 5/17/2012
P.O Number:	Bid #12-36 Terex Utilities Expected Delivery Date 6

Vendor #: 15379	Vendor Name: TEREX UTILITIES	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: <i>Kevin E. [Signature]</i>
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 FORD F550 SUPER DUTY CREW CAB	1	EA	38,385.00	\$38,385.00	9700.1920.5802.00	02078.2012		700375
2	WITH READING BODY PER BID 12-36. TO BE				\$0.00				
3	UNIT #375, FIXED ASSET #700375				\$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: \$38,385.00

Total: \$38,385.00

Approvals:

Mayor: _____	Department Director: _____	Purchasing Manager: _____
Finance & Internal Services Director: <i>M. H. [Signature]</i>	Budget Manager: _____	IT Manager: _____
Dispatch Manager: _____	Utilities Manager: _____	Other: _____

City of Fayetteville Staff Review Form

A. 10
 Bid #12-38 MHC Kenworth/Volvo
 Page 1 of 6

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

6/5/2012

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen
 Submitted By

Fleet Operations
 Division

Transportation
 Department

Action Required:

A resolution awarding Bid #12-38 to MHC Kenworth / Volvo of Springdale in the amount of \$114,715 for the purchase of one truck tractor unit for use by Wastewater Treatment Plant, and approval of a budget adjustment to move funds to the Fleet expense account.

\$ 114,715.00
 Cost of this request

9700.1920.5802.00
 Account Number

02079.2012
 Project Number

\$ 192,956.00
 Category / Project Budget

\$ 128,755.00
 Funds Used to Date

\$ 64,201.00
 Remaining Balance

Medium / Heavy Utility Vehicles
 Program Category / Project Name

Vehicles and Equipment
 Program / Project Category Name

Shop Fund
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

Terry Gully 5-17-12
 Department Director Date

Previous Ordinance or Resolution # _____

Q. Bluff 5-18-12
 City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Maisla Hertwech 5/18/12
 Finance and Internal Services Director Date

Received in City Clerk's Office 3-12 A09:05 RCVD
Urh

Don Man 5/18/12
 Chief of Staff Date

Received in Mayor's Office
 ENTERED 5/18/12

Donna Jordan 5/21/12
 Mayor Date

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: May 16, 2012

Subject: Purchase of one truck tractor unit for Wastewater Division

PROPOSAL: That City Council approve the purchase of one truck tractor unit from MHC Kenworth in the amount of \$114,715 for use by Wastewater Division, and approval of a budget adjustment to move funds to the Fleet expense account.

RECOMMENDATION: Bid #12-38 was opened on April 23rd, 2012. Two bids were received; a bid tab sheet is attached.

Truck 753 is a 1999 Kenworth T800 (semi truck tractor) that has 325,102 miles that is used by Wastewater Treatment Plant. It is no longer suitable for full time front line use and was scheduled for replacement this year.

I recommend the purchase of this truck from MHC Kenworth / Volvo of Springdale, AR for \$114,715.00 which is the low bid on Bid 12-38. Bid tab sheet is attached.

This purchase was unanimously approved by the Equipment Committee at the meeting on May 8th, 2012.

BUDGET IMPACT: This replacement was budgeted for on both the capital and operating sides. The replacement purchase price was underestimated so the balance of funds needed are being moved in the Fleet expense account.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-38 AND AUTHORIZING THE PURCHASE OF ONE TRUCK TRACTOR UNIT FROM MHC KENWORTH/VOLVO OF SPRINGDALE IN THE TOTAL AMOUNT OF \$114,715.00 FOR USE BY WASTEWATER TREATMENT, 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 awards Bid #12-38 and authorizes the purchase of one truck tractor unit from MHC Kenworth/Volvo of Springdale in the total amount of \$114,715.00 for use by Wastewater Treatment.

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

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

K:\Veh.Repl-Exp Requests\2012 Requests\4-23-12 WWPE Truck Tractor 770 BA.xls



BID: 12-38
04/23/12
3:00 PM
CITY OF FAYETTEVILLE

Bid 12-38, Truck Tractor

BIDDER	MANUFACTURER	MODEL	TOTAL BID PRICE
1 MHC Kenworth/Volvo - Springdale	AWARD		
Tandem axle diesel powered truck tractor	Kenworth	T800	\$110,715.00
Hydraulic wet line kit	Chelsea	A3XK	\$4,000.00
			\$114,715.00
2 Peterbilt of Fort Smith, LLC			
Tandem axle diesel powered truck tractor	Peterbilt	367	\$114,593.00
Hydraulic wet line kit	Muncie	TG8B-U6807P3KX	\$4,465.60
			\$119,058.60

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

CERTIFIED:


A. FOREN, PURCH AGENT


WITNESS

04/23/12
DATE

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. 10 5/16/2012 #12-38 MHC Kenworth/Volvo	
							P.O Number:	Expected Delivery Date:	
Vendor #: 73750			Vendor Name: MHC KENWORTH / VOLVO				Mail Yes: ☐ No: ☒		
Address:					Fob Point:		Taxable Yes: ☐ No: ☒		Quotes Attached Yes: ☐ No: ☒
City:			State:		Zip Code:	Ship to code: 50	Divison 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 KENWORTH T800 TRUCK WITH CHELSEA	1	EA	114,715.00	\$114,715.00	9700.1920.5802.00	02079.2012		700770
2	HYDRAULIC WET KIT PER BID #12-38. TO BE				\$0.00				
3	UNIT #770, FIXED ASSET 700770				\$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: \$114,715.00		
							EXEMPT		
							Total: <u>\$114,715.00</u>		
Approvals: Mayor: _____ Finance & Internal Services Director:  Dispatch Manager: _____ Department Director: _____ Budget Manager: _____ Utilities Manager: _____ Purchasing Manager: _____ IT Manager: _____ Other: _____									

City of Fayetteville Staff Review Form

A. 11
 Bid #12-41 Terex Utilities
 Page 1 of 6

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

6/5/2012

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding Bid #12-41 to Terex Utilities of N. Little Rock in the amount of \$68,038 for the purchase of one Ford F550 Super Duty 4 x 4 truck with crane for use by Wastewater Division.

\$ 68,038.00

Cost of this request

\$ 308,000.00

Category / Project Budget

Light / Medium Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 141,237.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02078.2012

Project Number

\$ 166,763.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

5-17-12
 Date

Previous Ordinance or Resolution #

City Attorney

5-18-12
 Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

5/18/12
 Date

Received in City Clerk's Office 05-13-12 A09:06 RCVD

Chief of Staff

5/18/12
 Date

Received in Mayor's Office



Mayor

5/21/12
 Date

Comments:



CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TG*

From: Dennis Pratt, Fleet Operations Supt.

Date: May 17, 2012

Subject: Purchase of one service body truck with crane for Wastewater Division

PROPOSAL: That City Council approve the purchase of one service body truck with crane in the amount of \$68,038 for use by Wastewater Division.

RECOMMENDATION: Bid #12-41 was opened on April 27th, 2012. Six bids were received; a Bid tab sheet is attached.

Unit #320 is a 1999 Ford 1 ton service body truck with crane that has 118,535 miles and is no longer dependable for full time front line use. It was due for replacement in 2011 and was pushed back one year.

I recommend the purchase of this truck from Terex Utilities South of N. Little Rock in the amount of \$68,038.00 which is the low bid on Bid 12-41.

This purchase was unanimously approved by the Equipment Committee at the meeting on May 8th, 2012.

BUDGET IMPACT: This replacement was budgeted for on both the capital and operating sides.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-41 AND AUTHORIZING THE PURCHASE OF ONE FORD F-550 SUPER DUTY 4X4 TRUCK WITH CRANE FROM TEREX UTILITIES SOUTH OF NORTH LITTLE ROCK IN THE TOTAL AMOUNT OF \$68,038.00, FOR USE BY THE WASTEWATER 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 #12-41 and authorizes the purchase of one Ford F-550 super duty 4x4 truck with crane from Terex Utilities South of North Little Rock in the total amount of \$68,038.00, for use by the Wastewater Division.

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

BID: 12-41
 DATE: 04/27/12
 TIME: 3:00 PM
 CITY OF FAYETTEVILLE

Bid 12-41, Service Body Truck with Crane

BIDDER	Make & Model	TOTAL BASE BID
1 Bob Hurley Ford	Ford X5H	\$ 41,687.00
	Titan 38	\$ 26,477.91
	Auto Crane 5005 H FM	\$ 27,167.21
		\$ 95,332.12
2 Country Ford - Option 1	Ford F-550	\$ 33,531.44
	Omaha Standard Custom Service Body	\$ 12,160.00
	Auto Crane 5000 H	\$ 27,665.00
		\$ 73,356.44
3 Country Ford - Option 2	Ford F-550	\$ 33,531.44
	Dakota Crane Body	\$ 14,500.00
	Ideal Liberator 5000H	\$ 28,919.00
		\$ 76,950.44
4 North Point Ford	Ford F-550	\$ 34,147.00
	Dakota Crane Body	\$ 44,416.00
	Ideal Liberator 5000H PXTW20-LS	
		\$ 78,563.00
5 Terex	Ford Super Duty F-550 DRW 4DW Super Cab	\$ 33,093.00
	Reading USLP108BAHH	\$ 11,945.00
	Auto Crane	\$ 23,000.00
		\$ 68,038.00
6 Utility Truck Equipment Company	Ford F-550	\$ 33,218.00
	Dakota DB108	\$ 15,131.50
	Stellar 5521	\$ 28,230.00
		\$ 76,579.50

AWARD

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

CERTIFIED:

P. Vice
 P. VICE, PURCH MGR

Julie Paladino
 WITNESS

04/30/12
 DATE

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. 11 5/17/2012
P.O Number:	Expected Delivery Date: 6

Vendor #: 15379	Vendor Name: TEREX UTILITIES	Mail Yes: No: ☒
--------------------	---------------------------------	--

Address:	Fob Point:	Taxable Yes: No: ☒	Quotes Attached Yes: No: ☒
----------	------------	---	---

City:	State:	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 FORD F550 SUPER DUTY 4 X 4 WITH	1	EA	68,038.00	\$68,038.00	9700.1920.5802.00	02078.2012		700376
2	READING BODY AND AUTO CRANE PER BID				\$0.00				
3	#12-41. TO BE UNIT 376, FIXED ASSET 700376				\$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:	\$68,038.00
Total:	\$68,038.00

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

City of Fayetteville Staff Review Form

A. 12
Bale Chevrolet
Page 1 of 4City Council Agenda Items
and
Contracts, Leases or Agreements

6/5/2012

City Council Meeting Date
Agenda Items OnlyGreg Tabor
Submitted ByPatrol
DivisionPolice
Department

Action Required:

Approve the purchase of two (2) fully equipped Chevrolet Tahoe Police Pursuit Vehicles and a budget adjustment in the amount of \$109,570.

\$ 109,570.00

Cost of this request

\$ -

Category / Project Budget

Police Take Home Units

Program Category / Project Name

various

Account Number

\$ -

Funds Used to Date

Police Vehicles

Program / Project Category Name

12013-1201

Project Number

\$ -

Remaining Balance

General/Police Impact

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 05-13-12 P01:59 RCVD
Clerk's Office

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date

Comments:

City Council Agenda Memo

To: Mayor Jordan and City Council Alderman

From: Greg Tabor, Chief of Police 

Date: May 18, 2012

Subject: Purchase of two Chevrolet Tahoes for expansion

Recommendation:

On May 8, 2012, the Equipment Committee approved the addition of two (2) Chevrolet Tahoe (2WD) Police Pursuit Vehicles (PPV). The recommendation is for the City Council to approve this purchase off the State Vehicle Contract from Bale Chevrolet in Little Rock, AR in the amount of \$50,186. Also approve a budget adjustment in the amount of \$109,570 which covers the total cost of these vehicles fully equipped with mobile data terminals, mobile video recorders, radars, cages, consoles, etc..

Background:

The police department has not added any expansion vehicles to its marked patrol fleet since 2005. Over the past 7 years approximately 48 street miles have been added to the City of Fayetteville due to new development, which is 9% growth. The Tahoe, which is rated for police use, addresses a number of logistical concerns unique to our current situation. Officers must have more available vehicle space to meet on-hand equipment needs. Increased technology like the mobile data terminals, in-car audio/video recording equipment and automatic vehicle license plate readers require additional space in the automobile's cabin, so there is less and less space for the officer and/or a passenger. In 2011, five Chevrolet Tahoe PPVs were purchased for the police department. Early fuel usage comparisons have revealed the Chevrolet Tahoe and Ford Crown Victorias receive equal miles per gallon. However, the city shop has incurred less maintenance costs with the Tahoes.

Discussion:

The start-up cost of purchasing enough vehicles for a take-home program prevents most police departments from benefiting from this arrangement, and for this reason we are attempting to phase in this system. In 2011, the police department began a take-home car program with 5 marked patrol units. Eligibility for this benefit is based on an officer's seniority and requirement that he/she resides within the city limits. A take-home car program benefits both officers as well as our citizens: 1.) the presence of marked patrol cars has a positive effect on crime prevention and community policing efforts. Residents feel safer. 2.) take-home vehicles last longer because officers have a sense of ownership in the car, and when a police vehicle is not being used 24/7 by several officers, the patrol vehicle takes more time to reach the replacement mileage threshold. 3.) officers with take-home cars are more readily available to respond in a case of an emergency or critical incident. During the commute to work, they are connected by radio and computer to all calls for service and can instantly respond if needed. 4.) officers utilizing take-home vehicles will not need to spend approximately a half hour every shift loading and unloading required equipment and performing inspections for damage and contraband. 5.) a take-home car program is excellent for recruitment and retention of police officers, and it allows us to compete with our neighboring agencies in Springdale, Rogers and Bentonville.

Budget Impact:

The \$109,570 to purchase the fully equipped Chevrolet Tahoes will be funded out of Police Impact Fees and fines collected for unregistered motor vehicles as defined in A.C.A. 27-14-3. The \$157,552 to fund the first six years of operating expenses (maintenance, overhead and insurance) and replacement charges, and the \$69,960 to fund the second six years of operating expenses would be funded with federal forfeitures. There would be minimal impact to the Police Department's operating budget for fuel usage for the officer to commute between work and his/her residence.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PURCHASE OF TWO FULLY-EQUIPPED CHEVROLET TAHOE POLICE PURSUIT VEHICLES FROM BALE CHEVROLET OF LITTLE ROCK, PURSUANT TO A STATE PROCUREMENT CONTRACT, IN THE TOTAL AMOUNT OF \$109,570.00, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the purchase of two fully-equipped Chevrolet Tahoe police pursuit vehicles from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of \$109,570.00.

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

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

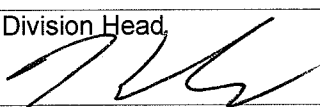
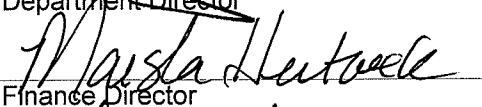
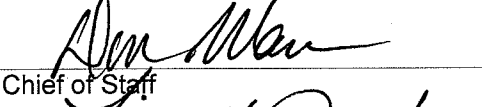
**City of Fayetteville, Arkansas
Budget Adjustment Form**

V11.0425
Bale Chevrolet
Page 4 of 4

Budget Year 2012	Division: *ALL DIVISION(S) Department: Citywide	Request Date 5/18/2012	Adjustment Number
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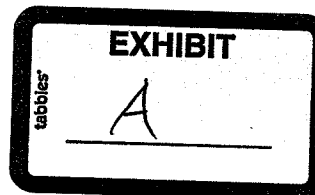
BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Funding to purchase 2 Chevy Tahoes to be used in the Police Take Home Vehicle Program. The cost of the vehicles with equipment provided by Fleet is \$40,000 each for a total of \$80,000. The Police Department provides the computer, radio and video equipment for a cost of \$13,200 each or \$26,400. This funding will be provided by the Court fees for Public Safety vehicles (\$29,570) and Police Impact Fees (\$76,830). The on-going replacement and motor pool related charges of \$227,472 will be charges to IRS forfeitures collected to date.

Division Head 	Date 5-18-2013	Prepared By: _____ Judy Cohea
Budget Director 	Date 5-18-12	Reference: _____
Department Director 	Date 5/18/12	Budget & Research Use Only
Finance Director 	Date 5/18/12	Type: A B C D E P
Chief of Staff 	Date 5/21/12	General Ledger Date _____
Mayor 	Date 5/21/12	Posted to General Ledger _____
		Initial Date
		Checked / Verified _____
		Initial Date

TOTAL BUDGET ADJUSTMENT

<u>109,570</u>	<u>109,570</u>	
Increase / (Decrease)		Project.Sub
Expense	Revenue	Number
01.06	29,570	12013 . 12013
29,570		12013 . 12013
(50,430)		08076 . 2303
50,430		12013 . 12013
(26,400)		08076 . 2303
26,400		12013 . 12013
111,600		09024 . 12013
87,552		09024 . 12013
21,024		09024 . 12013
7,336		09024 . 12013
(227,512)		09024 . 2009
	29,570	02081 . 2012
	50,430	02081 . 2012
80,000		02081 . 2012
		.
		.



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

05-Jun-12

City Council Meeting Date
Agenda Items Only

David Jurgens
Submitted By

Water & Sewer
Division

Utilities
Department

Action Required:

Approval of an Engineering Services Agreement with McClelland Consulting Engineers for \$388,600.00 for water transmission line layout and easement acquisition.

\$ 388,600

Cost of this request

\$ 1,000,000

Category / Project Budget

Water Improvements

Program Category / Project Name

~~5400-5600-5808.00~~

Account Number

\$ -

Funds Used to Date

Water/Sewer Improvements

Program / Project Category Name

10007.1

Project Number

\$ 1,000,000

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item ☒ XXBudget Adjustment Attached ☐

[Signature]
Department Director

15 MAY 12
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

5-15-12
Date

Original Contract Date:

Original Contract Number:

[Signature]
Finance and Internal Services Director

5/17/12
Date

Received in City 05-15-12 11:41 RCVD
Clerk's Office

[Signature]
Chief of Staff

5/17/12
Date

Received in
Mayor's Office

5-15-12 BNP
ENTERED

[Signature]
Mayor

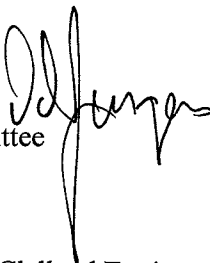
5/18/12
Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

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



Date: May 14, 2012

Subject: Engineering Agreement with McClelland Engineers for \$388,600 for water transmission line layout and easement acquisition

RECOMMENDATION

City Administration recommends approval of an Engineering Services Agreement with McClelland Consulting Engineers for \$388,600 for water transmission line layout and easement acquisition.

BACKGROUND

Drinking water is delivered to the City of Fayetteville through two City owned transmission lines that run from the Beaver Water District (BWD) site in Lowell, through Springdale, to the northeast corner of Fayetteville. These two lines, a 36" pipe installed in 1967 and a 42" pipe installed in 1993, are side by side – generally within 20' of each other – all the way from the BWD plant to a location near the intersection of Joyce and Crossover Road. The 1967 pipe experiences an average of four leaks per year; the 1993 pipe had its first leak in May, 2012. Repairing one of these leaks can take up to two weeks, placing the City in the very uncomfortable position of having only one transmission line. During extreme demand conditions, neither line alone can meet peak day water supply requirements. Additionally, there is some risk that an incident that causes a problem with one pipe could disrupt both pipes.

There will be an eventual need for a third transmission line, driven by both service reliability and demand. Recognizing this need, the BWD has acquired easement to an area west of I-540 for a future water distribution point to their four customers. This location significantly enhances future flow efficiency to BWD's customer cities while simultaneously reducing risk by separating the transmission lines – one incident will not be able to impact all transmission lines to Fayetteville. Each city is responsible to run its own transmission main to this future distribution point.

DISCUSSION

This project involves all actions required to acquire easements for a new water transmission line – approximately 58,000' long, and 50' wide – beginning at the existing 36" water transmission line on Van Asche Drive in Fayetteville and ending at the future Beaver Water District west clearwell/transmission line north of Elm Springs west of the Wagon Wheel exit off I-540. Major subtasks include:

1. Establish and survey (topographic and boundary) alignment and boundaries as required for easement descriptions;
2. Identify major conflicts including utilities, current and future highways, and specifically evaluating potential karst formations, based on existing data;
3. Determine geotechnical evaluation plan (City will execute separate geotechnical contract).
4. Develop easement requirements, including performing land records searches, obtaining appraisals, developing easement descriptions and maps, completing easement negotiations, and developing easement offer and side letters.

An engineering selection committee met on September 22, 2011, and selected McClelland Consulting Engineers to execute this work. The attached contract was developed through negotiations.

BUDGET IMPACT

Funds are available in project 10007.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$388,600.00 FOR WATER TRANSMISSION LINE LAYOUT AND EASEMENT ACQUISITION RELATED TO A THIRD CONNECTION TO BEAVER WATER DISTRICT

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 contract with McClelland Consulting Engineers, Inc. in the amount of \$388,600.00 for water transmission line layout and easement acquisition related to a third connection to Beaver Water District. A copy of the contract is attached to this Resolution as Exhibit "A".

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
MCCLELLAND CONSULTING ENGINEERS, INC.

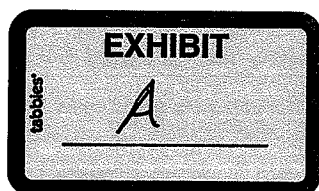
THIS AGREEMENT is made as of _____, 2012, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and MCCLELLAND CONSULTING ENGINEERS, INC. (hereinafter called MCCLELLAND CONSULTING ENGINEERS).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the investigation, planning, and preliminary design of the Fayetteville Water Transmission Main Western Corridor. Therefore, CITY OF FAYETTEVILLE and MCCLELLAND CONSULTING ENGINEERS in consideration of their mutual covenants agree as follows:

MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS' 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 MCCLELLAND CONSULTING ENGINEERS.
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of MCCLELLAND CONSULTING ENGINEERS.
- 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 MCCLELLAND CONSULTING ENGINEERS

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 MCCLELLAND CONSULTING ENGINEERS during the Survey (Topographic and Boundary), Preliminary Alignment and Easement Acquisition Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.

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

2.2 Engineering Services – Water Transmission Line Layout and Easement Acquisition.

2.2.1 Perform engineering services for the Water Transmission Line Layout and Easement Acquisition as described in the Scope of Services in Appendix A.

SECTION 3 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall,

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

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

3.3 Guarantee access to and make all provisions for MCCLELLAND CONSULTING ENGINEERS to enter upon public and private property as required for MCCLELLAND CONSULTING ENGINEERS to perform the services under this Agreement.

3.4 Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by MCCLELLAND CONSULTING ENGINEERS and render in writing decisions pertaining thereto within seven (7) calendar days.

- 3.5 The Utilities Engineer is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The Utilities Engineer 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 MCCLELLAND CONSULTING ENGINEERS 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. MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS

- 5.1 Compensation
- 5.1.1 Water Transmission Line Layout and Easement Acquisition

The maximum not-to-exceed amount authorized for this Agreement is **\$388,600.00**. The CITY OF FAYETTEVILLE shall compensate MCCLELLAND CONSULTING ENGINEERS based on a Unit Price or Lump Sum basis as described in Appendix A.

- 5.1.1.1 Subject to the City Council approval, adjustment of the not-to-exceed amount may be made should MCCLELLAND CONSULTING ENGINEERS establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character 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 MCCLELLAND CONSULTING ENGINEERS' 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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS' percent completion of the project.

5.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of MCCLELLAND CONSULTING ENGINEERS' 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 MCCLELLAND CONSULTING ENGINEERS 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, MCCLELLAND

CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS 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, MCCLELLAND CONSULTING ENGINEERS 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

MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS' services.

6.2 Professional Responsibility

6.2.1 MCCLELLAND CONSULTING ENGINEERS will exercise reasonable skill, care, and diligence in the performance of MCCLELLAND CONSULTING ENGINEERS' services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to MCCLELLAND CONSULTING ENGINEERS any defects or suspected defects in MCCLELLAND CONSULTING ENGINEERS' services of which CITY OF FAYETTEVILLE becomes aware, so that MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS.

6.3 Cost Opinions and Projections

Cost opinions and projections prepared by MCCLELLAND CONSULTING ENGINEERS relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on MCCLELLAND CONSULTING ENGINEERS' experience, qualifications, and judgment as a design professional. Since MCCLELLAND CONSULTING ENGINEERS 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, MCCLELLAND CONSULTING ENGINEERS does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by MCCLELLAND CONSULTING ENGINEERS.

6.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of MCCLELLAND CONSULTING ENGINEERS' 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 MCCLELLAND CONSULTING ENGINEERS.

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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of MCCLELLAND CONSULTING ENGINEERS' default.

6.5.4 If termination for default is effected by MCCLELLAND CONSULTING ENGINEERS, 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 MCCLELLAND CONSULTING ENGINEERS for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by MCCLELLAND CONSULTING ENGINEERS 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, MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS to fulfill contractual obligations, it is determined that MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond MCCLELLAND CONSULTING ENGINEERS' reasonable control, MCCLELLAND CONSULTING ENGINEERS shall be entitled to additional compensation and time for reasonable costs incurred by MCCLELLAND CONSULTING ENGINEERS in temporarily closing down or delaying the Project.

6.7 Rights and Benefits

MCCLELLAND CONSULTING ENGINEERS' 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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS 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 of MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS for services rendered by MCCLELLAND CONSULTING ENGINEERS.

6.10 Publications

Recognizing the importance of professional development on the part of MCCLELLAND CONSULTING ENGINEERS' employees and the importance of MCCLELLAND CONSULTING ENGINEERS' public relations, MCCLELLAND CONSULTING ENGINEERS may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to MCCLELLAND CONSULTING ENGINEERS' 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 MCCLELLAND CONSULTING ENGINEERS. 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 MCCLELLAND CONSULTING ENGINEERS' activities pertaining to any such publication shall be for MCCLELLAND CONSULTING ENGINEERS' 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 MCCLELLAND CONSULTING ENGINEERS 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.

MCCLELLAND CONSULTING ENGINEERS may use or modify MCCLELLAND CONSULTING ENGINEERS' proprietary computer models in service of CITY OF FAYETTEVILLE under this agreement, or MCCLELLAND CONSULTING ENGINEERS may develop computer models during MCCLELLAND CONSULTING ENGINEERS' service to CITY OF FAYETTEVILLE under this agreement. Such use, modification, or development by MCCLELLAND CONSULTING ENGINEERS does not constitute a license to CITY OF FAYETTEVILLE to use or modify MCCLELLAND CONSULTING ENGINEERS' computer models. Said proprietary computer models shall remain the sole property of MCCLELLAND CONSULTING ENGINEERS. CITY OF FAYETTEVILLE and MCCLELLAND CONSULTING ENGINEERS will enter into a separate license agreement if CITY OF FAYETTEVILLE wishes to use MCCLELLAND CONSULTING ENGINEERS' 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. MCCLELLAND CONSULTING ENGINEERS may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by MCCLELLAND CONSULTING ENGINEERS as part of the Services shall become the property of CITY OF FAYETTEVILLE when MCCLELLAND CONSULTING ENGINEERS has been compensated for all Services rendered, provided, however, that MCCLELLAND CONSULTING ENGINEERS shall have the unrestricted right to their use. MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. MCCLELLAND CONSULTING ENGINEERS 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.

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

MCCLELLAND CONSULTING ENGINEERS' address:
1810 North College Avenue
Fayetteville, AR 72703

6.14 Successor and Assigns

CITY OF FAYETTEVILLE and MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

6.15 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.

6.16 Entire Agreement

This Agreement represents the entire Agreement between MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by MCCLELLAND CONSULTING ENGINEERS, 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 MCCLELLAND CONSULTING ENGINEERS

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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by MCCLELLAND CONSULTING ENGINEERS' 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 MCCLELLAND CONSULTING ENGINEERS' obligations under this clause are in addition to MCCLELLAND CONSULTING ENGINEERS' 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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS 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. MCCLELLAND CONSULTING ENGINEERS shall also maintain the financial information and data used by MCCLELLAND CONSULTING ENGINEERS 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. MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS;

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

MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS or any of MCCLELLAND CONSULTING ENGINEERS' 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 MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS as it could pursue in the event of a breach of the Agreement by MCCLELLAND CONSULTING ENGINEERS. 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 MCCLELLAND CONSULTING ENGINEERS 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, MCCLELLAND CONSULTING ENGINEERS 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 MCCLELLAND CONSULTING ENGINEERS, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

MCCLELLAND CONSULTING ENGINEERS,
INC.

By : _____
Mayor, Lioneld Jordan
ATTEST:

By: 

By: _____
Sondra Smith, City Clerk

Title: PRESIDENT, FAYETTEVILLE

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

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES**

APPENDIX A – SCOPE OF SERVICES

This is **Appendix A**, consisting of 3 pages, referred to in and part of the **Agreement For Professional Engineering Services** between CITY OF FAYETTEVILLE, ARKANSAS and MCCLELLAND CONSULTING ENGINEERS, INC. dated _____.

Initial:

CITY OF FAYETTEVILLE _____
MCCLELLAND CONSULTING ENGINEERS, INC. DJS

The following contains additional Scope of Services tasks.

A.1 General Scope

The work covered by this agreement includes developing a corridor, up to and including acquiring easements, for a future water transmission line from northwest Fayetteville to a future Beaver Water District distribution point west of I-540, the conceptual routing of which was performed by others.

A.2 Specific Scope of Services

MCCLELLAND CONSULTING ENGINEERS shall provide a suitable engineering staff to complete the necessary field surveys, to perform preliminary alignment, to prepare easement documents, to provide needed services during easement identification, appraisal, and acquisition, and to provide other services as may be directed by the CITY OF FAYETTEVILLE. The staff shall consist of engineers, engineering technicians, inspectors, easement negotiators, and other assistants as may be necessary to carry on the work in an efficient and expeditious manner. It is expected that some subcontract work will be performed; subcontractors should be identified and approved by the City of Fayetteville. MCCLELLAND CONSULTING ENGINEERS and subcontractors will provide the following services:

A2.1 Detailed Scope of Services

1. Establish and survey (topographic and boundary) alignment for approximately 58,000 feet of water transmission main (50 ft. width). Meet with CITY OF FAYETTEVILLE as needed to discuss deviations from preliminary alignment.
2. Perform boundary survey as required to develop easements descriptions.
3. Identify major conflicts (specifically evaluating potential karst formations, based on existing data).
4. Identify major utilities along proposed corridor.
5. Request comments from U.S. Fish and Wildlife, State Historic Preservation Office, and U.S. Army Corps of Engineers.
6. Coordinate with Beaver Water District regarding their proposed route and distribution station to be located west of I -540.

7. Determine geotechnical evaluation plan (City will execute separate geotechnical contract).
8. Perform land records searches to identify property owners (estimated 90 parcels).
9. Develop appraisal plan for City approval; obtain appraisals (estimated 30 parcels).
10. Develop easement description and Exhibit A map for each parcel and submit to the CITY OF FAYETTEVILLE for review and approval. The CITY OF FAYETTEVILLE will be responsible for inserting easement description into easement documents.
11. Complete easement negotiations (estimated 90 parcels).
12. Develop easement offer letters and side letters for City finalization and signature.
13. Record executed documents for Benton County Parcels at the Benton Courthouse. THE CITY OF FAYETTEVILLE will record Washington County Parcels at the Washington County Courthouse.

A.3 Project Deliverables

The following will be submitted to the CITY OF FAYETTEVILLE, or others indicated, by the MCCLELLAND CONSULTING ENGINEERS as part of the Project.

- Topographic Survey – 50 ft wide strip topo
- Boundary Survey
- Centerline conceptual plans
- Draft easement offer letters and side letters
- Geotechnical requirements plan
- Easement documents
- Appraisal plan for City approval; obtain appraisals

A.4 Compensation

In consideration of the performance of the foregoing services by MCCLELLAND CONSULTING ENGINEERS, the CITY OF FAYETTEVILLE shall pay to MCCLELLAND CONSULTING ENGINEERS compensation as follows:

1. Compensation shall be paid to MCCLELLAND CONSULTING ENGINEERS on the basis of MCCLELLAND CONSULTING ENGINEERS's standard hourly rates in effect at the time the work is performed, plus reimbursable expenses. Rates are adjusted annually at the beginning September 1st of each calendar year. MCCLELLAND CONSULTING ENGINEERS agrees to keep the CITY OF FAYETTEVILLE apprised in a timely manner of costs incurred.
2. The reimbursable expenses for which MCCLELLAND CONSULTING ENGINEERS will be reimbursed shall include travel expenses when traveling outside Northwest Arkansas in connection with the project, rental expenses for special equipment needed for completion of the work, purchase of material, and other expenses directly attributable to the project,

including any work performed by subcontractors. MCCLELLAND CONSULTING ENGINEERS shall charge the CITY OF FAYETTEVILLE for reimbursable expenses at actual cost plus ten percent (10%).

The maximum not-to-exceed amount authorized by this contract is **\$388,600**.

A.4 Project Schedule

MCCLELLAND CONSULTING ENGINEERS shall begin work under this Agreement within fourteen (14) calendar days of a Notice to Proceed (NTP) and shall complete the work described in Section A2.1 within 18 months of issuance of the notice to proceed.

City Of Fayetteville - Purchase Order (PO) Request						Requisition No.:		Date:	
(Not a Purchase Order)						P.O Number:		Expected Delivery Date:	
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:		Mail		Yes:		No: ☒	
7460		McClelland Consulting Engineers, Inc.		Fob Point:		Taxable		No: ☐	
Address:				City:		Yes:		No: ☐	
1810 N. College Avenue, PO Box 1229				Fayetteville		Yes:		No: ☐	
State:		Zip Code:		Ship to code:		Division Head Approval:		Quotes Attached	
AR		72702				Yes:		No: ☐	
Requester:				Requester's Employee #:		Extension:			
Allison Atha				2613		670			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Engineering services agreement for water transmission line layout and easement acquisition	1	JOB	388,600.00	\$388,600.00	5400-5600-5808.00	10007.1		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				
Special Instructions:						Subtotal: \$388,600.00			
RFQ 11-01, Selection #1						Tax: _____			
						Total: \$388,600.00			
Approvals:						Purchasing Manager: _____			
Mayor: _____		Department Director: _____		Budget Manager: _____		IT Manager: _____		Other: _____	
Finance & Internal Services Director: _____		Utilities Manager: _____							
Dispatch Manager: _____									

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

A. 14
Fulbright Expressway/Highway
71B Flyover Project
Page 1 of 8

June 5, 2012
City Council Meeting Date

<u>Chris Brown</u> Submitted By	<u>Engineering</u> Division	<u>Development Services</u> Department
------------------------------------	--------------------------------	---

Action Required:

Approval of a Resolution authorizing the donation of right-of-way to the Arkansas State Highway Commission for the Fulbright Expressway/Hwy 71B Flyover Project.

<u>\$ -</u> Cost of this request	<u>\$ -</u> Category / Project Budget	<u>Transportation Bond Improvements</u> Program Category / Project Name
<u>Account Number</u>	<u>\$ -</u> Funds Used to Date	<u>Street Improvements</u> Program / Project Category Name
<u>06035.1700</u> Project Number	<u>\$ -</u> Remaining Balance	<u>2006A Sales Tax Construction</u> Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

05.09.2012
Date

Previous Ordinance or Resolution # _____

[Signature]
City Attorney

5-11-12
Date

Original Contract Date: _____

Paul a. Babin
Finance and Internal Service Director

5-14-2012
Date

Original Contract Number: _____

[Signature]
Chief of Staff

5-14-12
Date

Received in City Clerk's Office
[Signature]

[Signature]
Mayor

Date

Received in Mayor's Office
[Signature]

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

Council Meeting of June 5, 2012

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director 8

From: Chris Brown, City Engineer

Date: May 7, 2012

Subject: A resolution authorizing the donation of right-of-way to the Arkansas State Highway Commission for the Fulbright Expressway/Hwy 71B Flyover Project

PROPOSAL:

The City of Fayetteville has been presented with a request from the Arkansas State Highway & Transportation Department (AHTD) to donate 0.38 acres or 16,682 square feet of right of way that was set aside in the Final Plat of CMN Business Park II for the proposed construction of the 71B Flyover to the Arkansas State Highway Commission.

RECOMMENDATION:

Staff recommends executing the documents presented by the Arkansas State Highway and Transportation Department.

BUDGET IMPACT:

No Impact.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE DONATION OF RIGHT-OF-WAY TO THE ARKANSAS STATE HIGHWAY COMMISSION TO FACILITATE COMPLETION OF THE FULBRIGHT EXPRESSWAY/HIGHWAY 71B FLYOVER PROJECT

WHEREAS, the City Council of the City of Fayetteville specifically finds that certain real property described in the attached Exhibit "A" is no longer needed for municipal purposes; and

WHEREAS, said property is needed by the Arkansas State Highway Commission for completion of the Fulbright Expressway/Highway 71B flyover project,

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 donation of right-of-way described in the proposed deed attached to this Resolution as Exhibit "A", to the Arkansas State Highway Commission to facilitate completion of the Fulbright Expressway/Highway 71B Flyover Project.

PASSED and **APPROVED** this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Job No. 040535
Tract No. 2

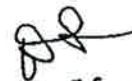
**DONATION
WARRANTY DEED
WITH CONTROL OF ACCESS**

KNOW ALL MEN BY THESE PRESENTS:

That the City of Fayetteville, Arkansas, Grantor, Lioneld Jordan and Sondra Smith, Mayor and City Clerk, respectively, by statute duly authorized so to act, for and in consideration of the mutual covenants and benefits inuring to the parties hereto, does hereby grant, bargain, deliver, quitclaim and donate to the Arkansas State Highway Commission, Grantee and unto its successors and assigns, the following land, together with all abutter's existing, future and potential common law or statutory rights of access between the herein described property and the Grantors' remaining abutting and contiguous land, but saving and excepting such minerals therein and thereunder, as oil, gas, distillate, condensate, salt water and its component parts, and all other hydrocarbons which do not interfere with the surface use for highway purposes, lying and being described as follows, to-wit:

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

Commencing at a ½ inch rebar with cap 1466 being used as the southeast corner of Lot 17D of the CMN Business Park II, Phase II, Lot 17 Subdivision to the City of Fayetteville; thence South 40° 18' 38" West along the south line of said Lot 17D a distance of 37.42 feet to a point on the Northwestern right of way line of U.S. Highway 71B (Fulbright Expressway) as established by AHTD Job 040535, for the POINT OF BEGINNING; thence South 76° 41' 21" East along said right of way line a distance of 45.91 feet to a point; thence North 53° 50' 19" East along said right of way line a distance of 99.13 feet to a point on the Northerly right of way line of U.S. Highway 71B (Fulbright Expressway) as established by AHTD Job 9447; thence South 40° 16' 51" West

 This instrument was prepared by
David S. Long, Title Attorney
Arkansas State Highway and Transportation Dept.
P.O. Box 2261, Little Rock, Arkansas 72203



along said right of way line a distance of 251.08 feet to a point; thence South 59° 06' 52" West along said right of way line a distance of 199.27 feet to a point; thence North 40° 18' 38" East a distance of 124.10 feet to a point on the south line of said Lot 17D and also being the Northwesterly right of way line of U.S. Highway 71B (Fulbright Expressway) as established by AHTD Job 040535; thence North 40° 18' 38" East along said south line of Lot 17D and Northwesterly right of way line of U.S. Highway 71B, a distance of 198.39 feet to the POINT OF BEGINNING and containing 0.38 acres, more or less, or 16,682 square feet, more or less.

TO HAVE AND TO HOLD the same unto the said Arkansas State Highway Commission and unto its successors and assigns forever.

And the Grantor hereby covenants with Grantee that Grantor will forever warrant and defend the title to said land against all lawful claims, whatsoever.

IN WITNESS WHEREOF, City of Fayetteville, Arkansas, has caused these presents to be executed by its Mayor and City Clerk on this ____ day of _____, 2012.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

By: _____
Sondra Smith, City Clerk

ACKNOWLEDGMENT

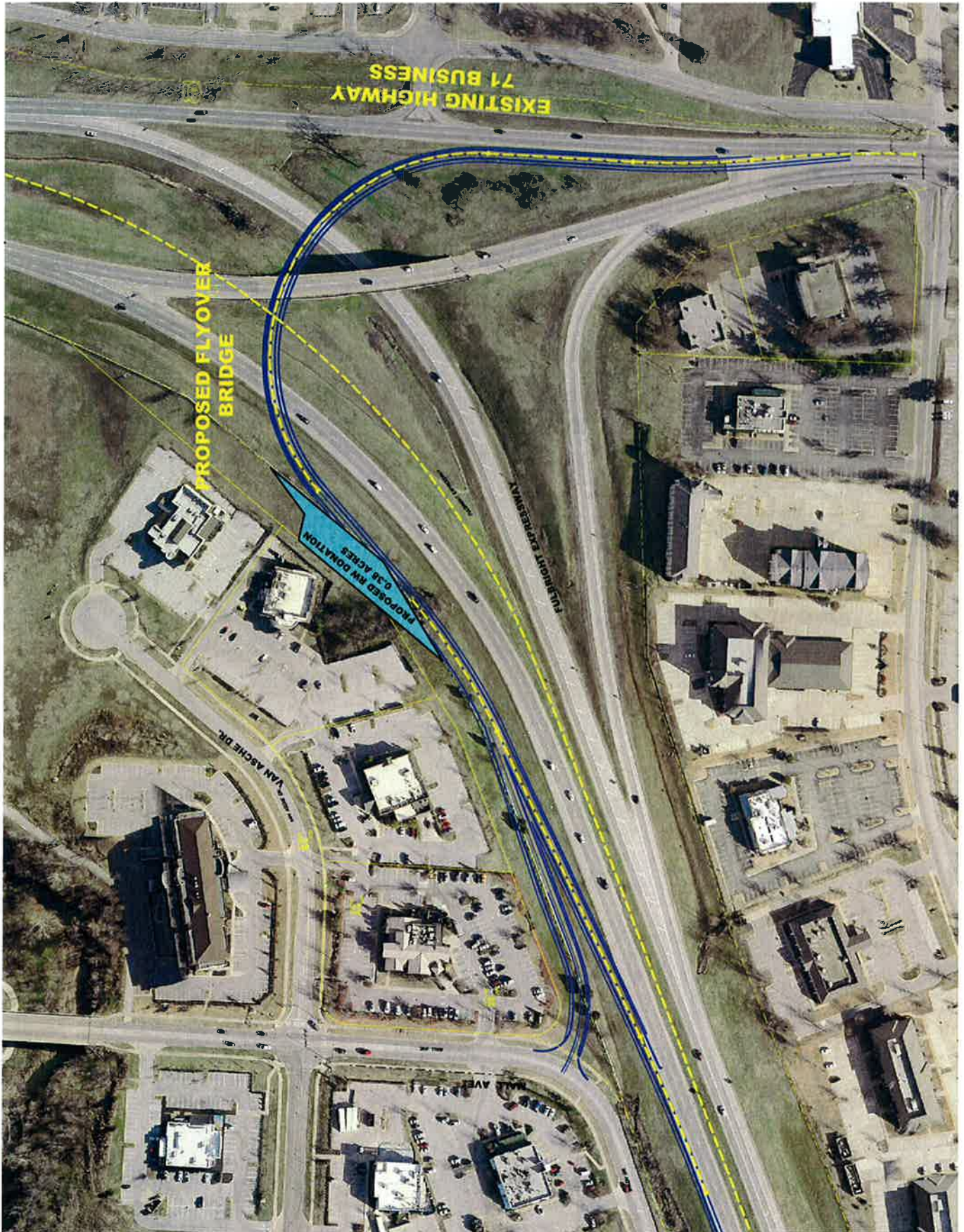
STATE OF ARKANSAS)

COUNTY OF)

Before me, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared the within named Lioneld Jordan and Sondra Smith, who has been authorized by statute to execute the above instrument, to me well personally known, who stated that they were the Mayor and City Clerk of the City of Fayetteville, Arkansas, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and on the behalf of said City of Fayetteville, Arkansas, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal on this ____ day of _____, 2012.

My Commission Expires: _____
_____, Notary Public



AGENDA REQUEST

FOR: COUNCIL MEETING OF JUNE 5, 2012

FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve The City's Professional Hiring Policy Numbers Pu-12
And Pu-13

APPROVED FOR AGENDA:



City Attorney

May 17, 2012
Date



Utilities Director

17 May 12
Date



Finance Director

5/17/12
Date



Chief of Staff

5/17/12
Date



Mayor

5/21/12
Date



05-17-12 A09:59 RCVD

Kim G.

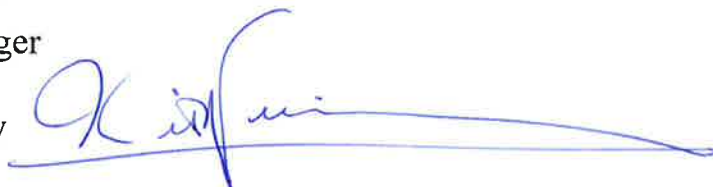
Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Don Marr, Chief of Staff
Paul Becker, Finance Director
Peggy Vice, Purchasing Manager

FROM: Kit Williams, City Attorney



DATE: May 17, 2012

RE: Adoption of Professional Services Selection City Policy for contracts under \$20,000.00

The City Council has clear statutory authority to set “the procedure for making all purchases (under) twenty thousand dollars (\$20,000.00).” A.C.A. §14-58-303(b). You exercised that statutory authority by enacting §34.23 **Purchases and Contracts Not In Excess of \$20,000.00** of the Fayetteville Code. (D) of that code section states

“The hiring or engagement of professional services shall be conducted according to the professional hiring policy approved by the City Council.”

The City of Fayetteville Policy and Procedure covers many, many city policies including Professional Services Selection Process (in Numbers PU-12 and PU-13). These policies and amendments thereto are distributed to department directors for comments before being officially adopted by the Mayor. However, your statutory authority and the code section on professional selection for contracts under \$20,000.00 require your approval of those particular city policies.

I do not believe you have officially approved these policies, and so I am presenting them for your approval through the accompanying Resolution. As Chief Executive Officer and Administrator of the City, the Mayor

has the statutory power and authority to approve and amend all city policies except the portions of PU-12 and PU-13 that apply to contracts less than \$20,000.00. For those portions, the City Council has exclusive approval authority.

I ask that you exercise this approval authority to examine the **Contracts Under \$20,000.00** section of both PU-12 and PU-13 and approve this policy. You also have the statutory power to amend this portion of the policies prior to approving them.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE THE CITY'S PROFESSIONAL HIRING
POLICY NUMBERS PU-12 AND PU-13**

WHEREAS, the City Council has statutory power to "provide ... the procedure for making all purchases which do not exceed the sum of twenty thousand dollars (\$20,000.00);" A.C.A. §14-58-303(b); and

WHEREAS, the City Council enacted §34.23 **Purchases and Contracts Not In Excess of \$20,000.00** and mandated that "the hiring or engagement of professional services shall be conducted according to a professional hiring policy approved by the City Council"; and

WHEREAS, the City Policy and Procedure relating to Professional Services Selection should be expressly approved by the City Council to ensure their use for professional services contracts under \$20,000.00 are fully authorized.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves City Policy and Procedure **Professional Services Selection** in Policy Numbers PU-12 and PU-13 (attached) and specifically approves the procedure adopted for contracts under \$20,000.00 that "(t)he requirements for a review committee may be waived (by the Mayor) and the review of qualifications shall be delegated to the responsible department head for recommendation to the Mayor"

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

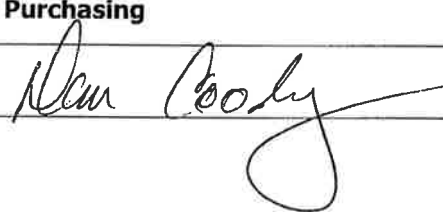
By: _____
LIONELD JORDAN, Mayor

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

PU-12
Page 1 of 4

CITY OF FAYETTEVILLE, ARKANSAS

POLICY AND PROCEDURE

Subject:	Professional Services Selection Process: Legal, Financial Advisory, Architectural, Engineering, Land Surveying and Construction Manager
Policy Number:	PU-12
Original Policy Date:	June 27, 1990
Effective Date of New/Revised Policy:	December 22, 2008
Revision Dates:	Replaces PUR-13 issued June 27, 1990; Revised July 8, 2005
Custodian: (Division)	Purchasing
Mayor's Signature and Date	 12/24/08

PU-12.0 PURPOSE:

The purpose of this directive is to establish a formal Competitive Selection of Professional Services Policy for legal, financial advisory, architectural, engineering, construction management and land surveying services and the responsibilities for its execution.

PU-12.1 DEFINITION:

- A. The City and all its boards, commissions and authorities shall competitively select, based on qualifications and performance evaluation criteria, all professional services performed for or on behalf of the City. The three (3) highest qualified firms shall be elected without consideration of the fees. Fees shall be considered as one of the selection criteria for other professional services required.
- B. It is the policy of the City to publicly announce requirements for the competitive selection for professional services as referenced above, and to negotiate contracts for such services on the basis of demonstrated competence and qualifications for the type of professional services required provided that the services are rendered at fair and reasonable prices.

PU-12.2 RESPONSIBILITY:

- A. All municipal boards, commissions, and authorities established pursuant to state statute or other legislative authority other than that provided for in A.C.A. tit.14, ch. 47 A.C.A. sec. 14-47-101 et seq., shall be responsible for the implementation of such policies and procedures as are hereinafter delegated to the Mayor and the City Council.

PU-12.3 PROCEDURES:

- A. The competitive selection for such services shall be conducted by a review committee which shall include one Alderman appointed by the Mayor to serve and represent the Council, the Mayor (or representative), the Finance & Internal Services Director (or representative), the involved Department Heads, appropriate city personnel and may include professionals, and/or individuals with expertise in the community. The review committee for each proposed contract shall establish the qualifications and evaluation criteria necessary for the specific services to be provided. This committee shall be established prior to the issuance of any Request for Proposal (RFP) or Request for Qualification (RFQ) so that it may establish the point ranges for the four selection criteria and review the proposed RFP or RFQ.
- B. The RFP or RFQ shall outline the structure of the selection committee and shall state the point ranges which will be used to select the firm. The RFP or RFQ will not ask for cost estimates.
- C. The Mayor will cause to be advertised in a newspaper of general circulation a notice that the city has a need to contract for a particular professional service and shall invite all interested parties to submit, to the extent permitted by the ethical standards of that profession, a statement of their qualifications and other relevant information based on the evaluation criteria specifically developed for the proposed services to be provided.
- D. Once an RFP or RFQ has been advertised, any questions or inquiries regarding the RFP or RFQ by a prospective responder must be directed to the Purchasing Division. Direct contact by the prospective responder and the effected division/department personnel regarding the RFP or RFQ should be avoided unless referred by Purchasing.
- E. Competitive selection of professional services may be from annual statements of qualifications and performance data. The City may advertise annually for legal, financial advisory, architectural, engineering, construction manager or land surveying services to submit annual statements of qualifications and performance data. The City shall evaluate current statements of qualifications and performance data of firms on file whenever a project requiring these professional services are proposed.

PU-12.4 SELECTION PROCESS:

- A. In evaluating the qualifications of each firm, the review committee shall consider the following (assigning point ranges for each element from 20% to 45%, so that the total for the four elements combined equals 100%):
 - 1. The specialized experience and technical competence of the firm with respect to the type of professional services required;
 - 2. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;

PU-12
Page 3 of 4

3. The past record of performance of the firm with respect to such factors as control of costs, quality of work and ability to meet schedules and deadlines; and
 4. The firm's proximity to and familiarity with the area in which the project is located.
- B. The review committee shall evaluate all statements of qualifications and other submittals and may conduct interviews with up to five (5) firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and shall select therefrom, in order of preference, based on criteria established and published by the review committee, no less than three (3) of the firms deemed to be the most highly qualified to provide the services required. The method of selection shall be for each committee member to rate the firms based on the points established in the RFP or RFQ so that each member selects 3 firms, rated 1, 2, and 3. The firm receiving the highest number of 1st place votes shall be selected (if a tie occurs, the firm receiving the highest number of 1st and 2nd place votes shall be selected. If a tie still occurs, the Committee will hold further discussions, followed by a re-vote.)
- C. The review committee or its designee shall negotiate a contract with the highest qualified firm for the services to be rendered, at compensation which the review committee, or its designee, determines is fair and reasonable to the city, subject to the approval of the governing board, commission or authority as referred to in PUR-12.2 (A) of this policy. In making such determination, the review committee or its designee, shall take into account the scope, complexity, and professional nature of the services to be rendered.
- D. Should the review committee, or its designee, be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price determined to be fair and reasonable to the City, negotiations with that firm shall be formally terminated. The review committee, or its designee, shall then undertake negotiations with the second most qualified firm. Should the review committee, or its designee, be unable to negotiate a satisfactory contract with any of the selected firms, the review committee shall reevaluate the necessary legal, architectural, engineering or land surveying services, including the scope and reasonable fee requirements.

PU-12.5 CONTRACT REVIEW/RECOMMENDATION:

- A. The selection committee will recommend, after negotiations and review by the City Attorney, Finance and Internal Services Director, Internal Auditor, Accounting Manager, and Purchasing Manager, the most advantageous contract to the Board for awarding.

PU-12.6 CONTRACTS UNDER \$20,000:

- A. The requirement for a review committee may be waived and the review of qualifications as hereinabove stated shall be delegated to the responsible department head for recommendation of the Mayor who shall review and approve or disapprove all professional services contracts in an amount of twenty thousand dollars (\$20,000.00) or less. If no annual statements of qualifications are on record the department head shall solicit qualification statements from appropriate firms for recommendation to the Mayor who shall review and approve or

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Page 4 of 4

disapprove all professional services contracts in an amount of twenty thousand dollars (\$20,000.00) or less.

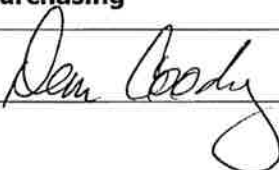
PU-12.7 PROFESSIONAL PROJECT EVALUATION:

- A. Upon completion or termination of a contract, the division head responsible for the project will submit a summary evaluation of the professional firm's handling of the project to include the following data:
 - a. name of professional firm;
 - b. date of contract and date of completion;
 - c. cost as stated in initial contract, amount paid, and reason for any difference;
 - d. special strengths exhibited by professional firm;
 - e. problems or weaknesses in professional firm's handling of the project;
 - f. adherence to time schedule by the professional firm; and
 - g. names of key personnel working on the project and comments on their performance.
- B. The summary evaluation will be submitted to the Purchasing Manager through the department director and will be filed in the Purchasing Manager's records. The evaluations will be available to selection committee members for review when evaluating firms to select for other projects.

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Page 1 of 4

CITY OF FAYETTEVILLE, ARKANSAS

POLICY AND PROCEDURE

Subject:	Professional Services Selection Process: Other Services
Policy Number:	PU-13
Original Policy Date:	June 27, 1990
Effective Date of New/Revised Policy:	December 22, 2008
Revision Dates:	Replaces PUR-13 issued June 27, 1990; Revised July 8, 2005
Custodian: (Division)	Purchasing
Mayor's Signature and Date	 12/29/08

PU-13.0 PURPOSE:

The purpose of this directive is to establish a formal Competitive Selection of Professional Services Policy for all professional services other than those for legal, financial advisory, architectural, engineering, construction management and land surveying and the responsibilities for its execution.

PU-13.1 DEFINITION:

- A. The City and all its boards, commissions and authorities shall competitively select based on qualifications and performance evaluation criteria all professional services performed for or on behalf of the City.
- B. It is the policy of the City to publicly announce requirements for the competitive selection for professional services as referenced above, and to negotiate contracts for such services on the basis of demonstrated competence and qualifications for the type of professional services required provided that the services are rendered at fair and reasonable prices.

PU-13.2 RESPONSIBILITY:

- A. All municipal boards, commissions, and authorities established pursuant to state statute or other legislative authority other than that provided for in A.C.A. tit. 14, ch. 47, A.C.A. sec. 14-47-101 et seq, shall be responsible for the implementation of such policies and procedures as are hereinafter delegated to the Mayor and the City Council.

PU-13.3 PROCEDURES:

- A. The competitive selection for such services shall be conducted by a review committee which shall include one Alderman appointed by the Mayor to serve and represent the Council, the Mayor (or representative), the Finance & Internal Services Director (or representative), the involved Department Heads, appropriate City personnel and may include professional, and/or individuals with expertise in the community. The review committee for each proposed contract shall establish the qualifications and evaluation criteria necessary for the specific services to be provided. This committee shall be established prior to the issuance of any Request for Proposal (RFP) or Request for Qualification (RFQ) so that it may review the proposed RFP or RFQ.
- B. The RFP or RFQ shall outline the structure of the selection committee and shall state the point ranges which will be used to select the firm.
- C. The Mayor will cause to be advertised, in a newspaper of general circulation, a notice that the City has a need to contract for a particular professional service and shall invite all interested parties to submit, to the extent permitted by the ethical standards of that profession, a statement of their qualifications and other relevant information based on the evaluation criteria specifically developed for the proposed services to be provided.
- D. Once an RFP or RFQ has been advertised, any questions or inquiries regarding the RFP or RFQ by a prospective responder must be directed to the Purchasing Division. Direct contact by the prospective responder and the affected division/department personnel regarding the RFP or RFQ should be avoided unless referred by Purchasing.

PU-13.4 SELECTION PROCESS:

- A. In evaluating the qualifications of each firm, the review committee shall include the following:
 1. Qualifications in Relation to Specific Project to be Performed: Information reflecting qualifications of the firm. Indicated specialized experience and technical competence of the firm in connection with the type and complexity of the service required. Subcontractors, if used, must be listed with information on their organization.
 2. Experience, Competence, and Capacity for Performance: Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project. Provide detailed breakdown of subcontractor's staff to be used and how they are to be used to supplement your staff.
 3. Proposed Method of Doing Work: A proposed work plan (description of how the project would be conducted as well as other facts concerning approach to scope you wish to present) indicating methods and schedules for accomplishing each phase of the work. Include with this the amount of work presently underway.

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Page 3 of 4

4. Past Performance: Previous evaluations (as set forth in PUR-13.7) shall be considered a significant factor. If previous evaluations with this city are not available, the professional firm's past performance records with others will be used, including quality of work, timely performance, diligence, ability to meet past budgets, and any other pertinent information. The firm will provide a list of similar jobs performed and the person with that firm from whom the City can obtain information.

5. Price

B. Proposal Evaluation:

In evaluating the qualifications of each firm, the review committee shall consider the following (assigning point ranges for each element from 10% to 35%, so that the total for the five elements combined equals 100%):

1. Qualifications in relation to specific project to be performed;
 2. Experience, competence, and capacity of performance;
 3. Proposed method of doing work;
 4. Past performance; and
 5. Price.
- C. The review committee shall evaluate all submittals and may conduct interviews with up to five (5) firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based on criteria established and published by the review committee, no less than three (3) of the firms deemed to be the most highly qualified to provide the services required. The method of selection shall be for each committee member to rate the firms based on the points established in the RFP or RFQ so that each member selects 3 firms, rated 1, 2, and 3. The firm receiving the highest number of 1st place votes shall be selected (if a tie occurs, the firm receiving the highest number of 1st and 2nd place votes shall be selected. If a tie still exists, the Committee shall hold further discussions and a re-vote shall occur.)
 - D. The review committee or its designee shall then negotiate a contract with the highest qualified firm for the services to be rendered, at compensation which the review committee, or its designee, determines to be fair and reasonable to the City, subject to the approval of the City Council.
 - E. Should the review committee, or its designee, be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price determined to be fair and reasonable to the City, negotiations with that firm shall be formally terminated. The review committee, or its designee, shall then undertake negotiations with the second most qualified firm. Should the review committee, or its designee, be unable to negotiate a satisfactory contract with any of the selected firms, then the review committee shall reevaluate the services including the scope and reasonable fee requirements.

PU-13.5 CONTRACT REVIEW/RECOMMENDATION:

- A. The selection committee will recommend, after negotiations and review by the City Attorney, Internal Auditor, Accounting Manager, and Purchasing Manager, the most advantageous contract to the City Council for awarding.

PU-13.6 CONTRACTS UNDER \$20,000:

- A. The requirements for a review committee may be waived and the review of qualifications as hereinabove stated shall be delegated to the responsible department head for recommendation to the Mayor, who shall review and approve or disapprove all professional services contracts in an amount of twenty thousand dollars (\$20,000) or less.

PU-13.7 PROFESSIONAL PROJECT EVALUATION:

- A. Upon completion or termination of a contract, the division head responsible for the project will submit a summary evaluation of the professional firm's handling of the project to include the following data:
- a. name of professional firm;
 - b. date of contract and date of completion;
 - c. cost as stated in initial contract, amount paid, and reason for any difference;
 - d. special strengths exhibited by professional firm;
 - e. problems or weaknesses in professional firm's handling of the project;
 - f. adherence to time schedule by the professional firm; and
 - g. names of key personnel working on the project and comments on their performance.
- B. The summary evaluation will be submitted to the Purchasing Manager through the department director and will be filed in the Purchasing Manager's records. The evaluations will be available to selection committee members for review when evaluating firms to select for other projects.

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

municipal improvements. All such purchases and contracts shall be subject to prior appropriations, in the budget approved by the City Council, or to other authorization of expenditures therefor, approved by the Council.

(Code 1965, §2-66; Ord. No. 1215, 9-14-59; Ord. No. 1687, 7-21-69; Ord. No. 3453, 9-5-89; Code 1991, §34.22)

34.23 Purchases And Contracts Not In Excess Of \$20,000.00

- (A) All such purchases not in excess of \$20,000.00 shall be made by the mayor, or his duly authorized representative, after the securing and recording of quotation bids therefor; provided quotation bids need not be secured for purchases under \$1,000.00.
- (B) Cost-share agreements with developers or governmental entities for the improvement of City infrastructure are expressly exempt from the requirements of this section. The City Council shall signify its approval of cost-share agreements by Resolution.
- (C) Contracts not in excess of \$20,000.00 shall be made and entered into by the mayor. The mayor shall have the authority to approve contract change orders up to the contingency amount, if any, as set forth in any approved contract even though such contingency amount may exceed \$20,000.00.
- (D) The hiring of engagement of professional services shall be conducted according to a professional hiring policy approved by the City Council.
- (E) *Sole Source Provider.* Multiple quotation bids shall not be required if the Purchasing Manager approves the Sole Source Justification form signed by the requesting Division Head for an item that is uniquely compatible with existing equipment or has unique and essential design or performance features.
- (F) *Waiver of the Requirement for Bids.* The City Council, by ordinance, may waive the requirements of this section for competitive bids or quotes in exceptional situations where this procedure is deemed not feasible or practical.

(Code 1965, §2-67; Ord. No. 1215, 9-14-59; Ord. No. 1687, 7-21-69; Ord. No. 2259, 8-3-76; Ord. No. 3400, 1-3-89; Ord. No. 3453, 9-5-89; Ord. No. 3676, 2-17-93; Ord. No. 3719, 7-6-93; Code 1991, §34.23; Ord. No. 4722, 7-19-05; Ord. No.

4901, 7-18-06; Ord 4963, 12-19-06; Ord. 5298, 12-15-09)

34.24 Repealed

34.25 Sales

- (A) The purchasing agent may sell or exchange any city-owned supplies, equipment, or materials if such have a fair market value of less than \$2,500.00 through a quote process. Vehicles and heavy equipment are excluded from this process.
- (B) Such supplies, equipment, or materials which have a fair market value of \$2,500.00 or more may be sold by the purchasing agent by public auction or by contract sale after formal competitive bids for the purchase therefore have been solicited by advertisement and by other means and such bids have been received and opened.
- (C) In regard to the marketing and sale of hay produced by the City of Fayetteville:
 - (1) The current year's hay crop shall be advertised for sale, at a pre-established base price on or about April 1st of a given year. The hay shall be pre-committed, on a first call, first commit basis, up to 60% of the projected crop. Any remaining hay shall be marketed during the harvest season at the same base price on a first call, first served basis.
 - (2) A base or standard price shall be established based on average fair market value for square baled Bermuda grass hay, behind the baler, in Northwest Arkansas, or based on the best available information from the cooperative extension service.
 - (3) Prior to buyer's removal of the hay from the site, adjustments as determined by site operating personnel, will be made to the base price for quantity purchases; according to the type of bale purchased; and the relative quality of the harvested hay; and for damage the hay may have received during the harvest.
- (D) In regard to the marketing and sale of dried biosolids produced by the City of Fayetteville Wastewater Utility:
 - (1) Bulk quantities of dried biosolids (defined as amounts greater than 500 pounds not in a

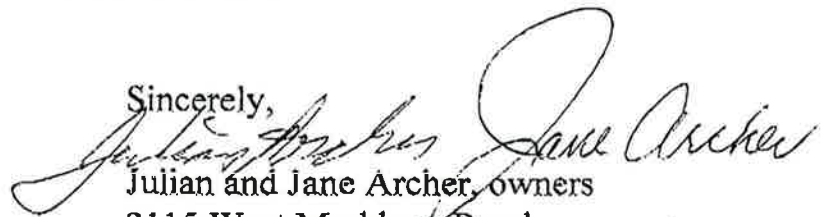
Tuesday, April 24, 2012

Mr. Jesse Fulcher
Planning Division
City of Fayetteville, AR

Dear Mr. Fulcher,

We would like to appeal the decision of the Fayetteville Planning Commission at its April 23, 2012, meeting in regards to our rezoning request (RZN 12-4077). Kindly forward this request to the City Clerk and ask that this matter be put on the Fayetteville City Council agenda at the earliest possible date.

Sincerely,



Julian and Jane Archer, owners
2115 West Markham Road
Fayetteville, AR 72701
Tel. and fax 582-5443

Left on the Second Reading at the May 15, 2012 City Council meeting

Tuesday, April 24, 2012

B. 1
RZN 12-4077 Halsell Road/Pratt
Place Inn Appeal
Page 2 of 38

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Planning Division
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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: April 26, 2012
Subject: RZN 12-4077 (Halsell Road/Pratt Place Inn)

RECOMMENDATION

Planning staff recommends approval of an ordinance to rezone the subject property from C-PZD, Pratt Place Inn to RSF-4, Residential Single-family, 4 units per acre. A recommendation by the Planning Commission to forward the request to the City Council failed.

BACKGROUND

The property is zoned Commercial Planned Zoning District (CPZD) and contains approximately 2.37 acres. Staff is reviewing a property line adjustment that will create the lot configuration being rezoned. The site is undeveloped with access to Halsell Road and is within the Hillside/Hilltop Overlay District. The property is part of an approximately 72-acre property known as Pratt Place Inn located at the top of Markham Road.

The City Council rezoned the property to C-PZD in 2005 (Ord. No. 4786) to allow the property owners to operate an inn and restaurant, activities hall and parking lot for social events such as weddings and receptions. The CPZD approval also included a maximum of four residential dwelling units, three existing residences and one proposed innkeeper's residence. The Pratt Place Inn development is to the south of the property proposed for rezoning and well separated by a dense stand of mature trees. Access from this property to the Pratt Place Inn is not available.

DISCUSSION

On April 23, 2012 a recommendation by the Planning Commission to forward the rezoning request to the City Council failed by a vote of 2-6-0 (Commissioners Honchell and Noble voted yes). The applicant has appealed this decision to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 12-4077, FOR APPROXIMATELY 2.37 ACRES, LOCATED ON HALSELL ROAD FROM C-PZD, COMMERCIAL PLANNED ZONING DISTRICT, TO RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE, SUBJECT TO THE OFFERED BILL OF ASSURANCE.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from C-PZD, Commercial Planned Zoning District to RSF-4, Residential Single-Family, 4 units per acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

Section 3: That the zoning change is subject to the Bill of Assurance offered by the applicant and hereby accepted by the City Council of the City of Fayetteville, as shown on Exhibit "C".

PASSED and APPROVED this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

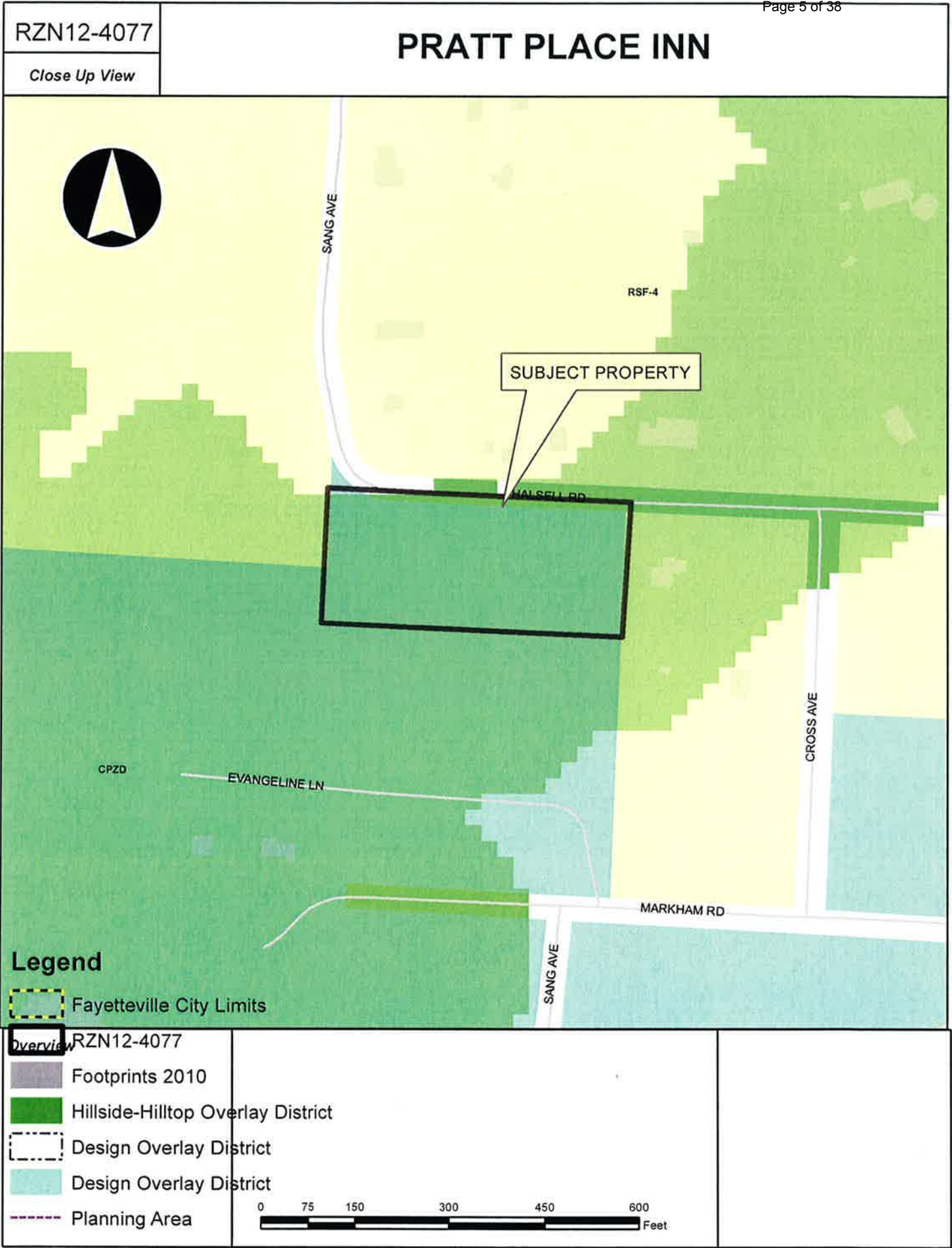


EXHIBIT "B"
RZN 12-4077

PROPERTY TO BE REZONED:

A PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TOWIT: BEGINNING AT A POINT WHICH IS N02°47'27"E 426.73' FROM AN EXISTING ALUMINUM MONUMENT MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°47'27"E 215.00' TO AN EXISTING REBAR, THENCE S87°21'57"E 481.92' TO AN EXISTING P/K NAIL, THENCE S03°47'10"W 215.00', THENCE N87°22'16"W 478.19' TO THE POINT OF BEGINNING, CONTAINING 2.37 ACRES MORE OR LESS.

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

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

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

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

1. The use of Petitioner's property shall be limited to Four (4)
residential lots.
2. Other restrictions including number and type of structures upon the property are limited to Four (4) single family houses. One (1)
house per lot. No other structures other
than accessory units (ex. garage, dog house, pool
house, etc.) shall be allowed.
3. Specific activities will not be allowed upon petitioner's property include
Any activity not allowed in RSF-4.
4. (Any other terms or conditions) Architectural control
covenants (protective covenants) will be
placed on this property prior to title transfer
by the seller. These covenants are similar
to the ones used in The Pointe Arc subdivision.

EXHIBIT "C"

B. 1
RZN 12-4077 Halsell Road/Pratt
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5. Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

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

May 2, 2012
Date

JULIAN ARCHER
Printed Name

2115 West Parkhurst Rd
Address
Fayetteville, AR
72701

Julian Archer
Signature

NOTARY OATH

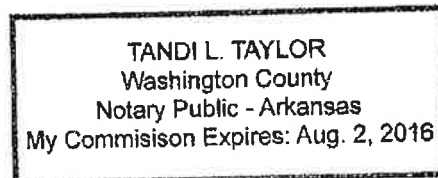
STATE OF ARKANSAS }
 }
 }.ss
COUNTY OF WASHINGTON }

And now on this the 2 day of May, ²⁰¹²~~2007~~, appeared before me, Tandi Leigh Taylor, a Notary Public, and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

Tandi Taylor
NOTARY PUBLIC

My Commission Expires:

8-2-16



March 13, 2012

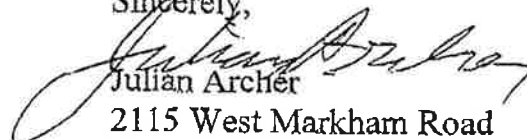
To the City of Fayetteville Development Services Department:

This note is in response to your request for a written explanation of my request for rezoning and a three lot split of a portion of Parcel # 765-14525-000. My wife, Jane, and I are the owners of this parcel which is held in the name of ArcherLLC. We have been owners since 1979 and prior to that it was owned by my mother. It was zoned R-1 until about 2006 when it was incorporated into the Pratt Place Inn PZD which includes about 70 acres. Under the existing zoning, nothing can be done with this property. Anyone familiar with Pratt Place Inn and Barn knows how much effort, time and treasure we have put into keeping Sassafras Hill (Markham Hill) looking natural. We are requesting a rezoning to R-4 of about one half of this parcel, or about 2.4 acres, so we can do a lot split of the portion of the parcel fronting on Halsell Road to the north. The split would be into three lots making each lot about .80 acres, far larger than the lots permitted under R-4 zoning.

If approved, this will create three residential lots which will carry the same protective covenants that were used in our nearby Bois d'Arc subdivision. While rezoning and the lot split will add three family homes to the neighborhood and the automobiles these three families will operate, its impact will be minimal considering the number of houses which could be built on this acreage. The house size requirements, building material choices, and setbacks will enhance the entire neighborhood in the same way that Bois d'Arc has done. And, obviously, the three houses will add to the tax revenue for the county.

As well as I can determine from city plats, there is water and sewer in Halsell Road. It seems there is an 8" sewer line and a 2" water line which becomes 8" at the point where Halsell turns north and becomes Sang. Furthermore, there are electric and phone lines along Halsell.

Sincerely,


Julian Archer
2115 West Markham Road
Fayetteville, AR 72701
Tel. and fax 479 582-5443

B. 1

RZN 12-4077 Halsell Road/Pratt

Place Inn Appeal

Page 10 of 38

FILED FOR RECORD

'98 DEC 2 PM 10 05

WASHINGTON CO AR
K. HARNES

DECLARATION
OF
PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS
BOIS D'ARC SUBDIVISION

KNOW ALL MEN BY THESE PRESENTS;

These covenants of assurance are entered into by and between the parties hereto on this 25 day of NOVEMBER, 1998.

WITNESSETH;

WHEREAS, Julian P. W. Archer and Jane G. Archer are the owners of the following described real property situated in Washington County, Arkansas, to-wit:

Bois d'Arc subdivision which consists of:

Part of the SE1/4 of SW1/4 of Section 8, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Beginning at the SW corner of said section 8 thence S 86 48' 12"E 1424.99 feet to the POINT OF BEGINNING, thence N 02 50' 30" 203.12 feet, thence N 87 03' 10" W 84.02 feet, thence N 03 02' 03" 490.02 feet, thence S 87 11' 52" E 967.48 feet, thence N 02 38' 31" E 589.53 feet, thence S 87 24' 08" E 322.57 feet, thence S 02 37' 45" W 1294.53 feet, thence S 86 42' 01" E 1210.46 to the Point of Beginning; containing 24.70 acres, more or less.

and,

WHEREAS, said owners desire to establish certain bills and restrictions and covenants of assurance to assure the orderly development of the above described real property and to further assure the protection of the investment made in such property by this owner and all others who shall purchase herein.

THEREFORE, the following bills and restrictions and covenants of assurance are deemed in full force and effect, the same to run with and apply to all of the above described real property from this date forward until the same shall terminate or be modified according to the provisions herein, to wit:

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1. All lots in said subdivision shall be known and described as residential lots and no structure shall be erected on any lot other than one family, detached dwellings not to exceed two stories in height with one, two or three car garage, except by special approval of the architecture review committee or the Bois d'Arc Property Owners Association as hereinafter provided. Accessory buildings such as detached garages, garden storage buildings or workshops for carrying on a hobby may be authorized by the architecture review committee or the Bois d'Arc Property Owners Association as hereinafter provided. The owner or owners of each platted lot in the Bois d'Arc subdivision will participate on an equal share basis per platted lot in the payment of any fees or assessments as determined under the provisions of the by-laws of the Bois d'Arc Property Owners Association and as such will be treated as equal members of the Bois d'Arc Property Owners Association as hereinafter provided.

For the purpose of these protective covenants, Julian P. W. Archer or his successors in title or his assigns, shall be the subdivider and developer.

2. Utility easements are reserved over the lots in those widths as shown on the recorded plat, and such easements are for utility use only, the ownership of the same remaining in the lot owner.

3. No noxious or offensive trade shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, it being the express understanding that the subdivision is for residential purposes only. Any home-based business requires the prior approval of the Board of Directors

4. No building on lots 1-14 and on lot 19 shall be erected nearer than 70 feet to the street right-of-way line and on lots 15-18 no building shall be erected nearer than 40 feet to the street right-of way. For all lots in this subdivision no building shall be erected nearer than 40 feet to any side lot line, nor nearer than 40 feet to the rear lot line. However, any and all setback requirements may be reduced or otherwise modified, but not increased, if expressly permitted in writing by the architecture review committee. The reductions or modifications cannot, of course, fall below the setbacks required by the City of Fayetteville.

5. No residential lot shall be re-subdivided into smaller lots, but part of a lot may be sold in connection with and incorporated into an adjacent full lot unless such sale violates any applicable City of Fayetteville or Washington County ordinance.

6. No trailer, basement, tent, shack, garage, barn or other building shall be erected in the subdivision to be used as a

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temporary dwelling, nor shall any residence of any temporary character be permitted. Basements and garages may be built only as a part of a permanent residence. No prefabricated modular houses shall be built on any lot without the written approval of the architecture review committee. This shall not preclude or prevent the erection of temporary construction facilities on said lot by the subdivider, lot owners, or builders during construction phases.

7. No structure shall be moved onto any lot to be utilized as a residence. No building shall be erected or altered on any lot until the design, plans, materials, colors, elevations, and location thereof have been approved in writing by the architecture review committee. All residences and accessory buildings must have exterior walls and surfaces of natural materials such as stone, brick or stained wood to maintain the bucolic nature of Bois d'Arc. In the event the architecture review committee fails to approve or disapprove a proposed design within thirty (30) days after a request for such approval is received in writing (if sent through the mail, the request must be sent certified mail) by the chairperson of the architectural review committee, then such approval will not be required, providing the design, size, and location on the lot conforms to these regulations and is in harmony with the existing structures already in the subdivision. In any case, either with or without the approval of the architecture review committee, the heated floor area of any residence must meet the following minimum requirements, to-wit: A minimum square footage of 2,500 square feet. The foregoing minimum is exclusive of carports and storage spaces or garages, basements, attics, porches, patios and decks. Exceptions to the foregoing minimum square feet of living area may be specifically granted by the architectural review committee for specially designed residences, provided that the design and quality of the structure would be in harmony with the general character of other homes in the subdivision, or not be detrimental to the future development of said development. The architectural review committee shall, after approval of site preparation and construction plans and design, establish a maximum time between the first land clearing and completion of the dwelling.

8. If garages are attached garages, the entrances must be on the side or the rear of the house so that the garage bay does not open onto the street. Detached garages are permitted, but they must be situated so that the open garage bay is not easily visible from the street.

9. Mailboxes of a style and color designated by the architecture review committee will be installed at the lot owner's expense. They

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will consist of a cast metal post with coordinated mailbox attached and painted a uniform color determined by the architectural review committee. A house number of a style determined by the architecture review committee will be attached to this post as well.

10. No radio or television antennas of any kind and no large satellite dishes shall be erected, allowed to exist, or be maintained within the development.

11. No signs, with the exception of the subdivision identification signs, shall be displayed on any lot. However, one sign of not more than five square feet advertising a lot owner's property for sale or rent, or any signs used by the subdividers or builder to advertise the property during the construction and sales period, will be permitted. All signs shall comply with the Fayetteville Sign Ordinance, Chapter 174 of the Fayetteville Code of Ordinances or other applicable city, county, or state ordinance or regulation, or any amendment thereto.

12. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets not to exceed eight in number may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

13. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Each lot must be maintained by its owner(s) and kept in a clean condition. Household composting of plant material is allowed as long as said composting does not create or constitute a public nuisance.

14. No fence of a solid nature, other than dense evergreen shrubs or trees and/or native stone, which would block the view from the street of any residence or have an unsightly appearance is to be erected in the subdivision, with the exception of temporary fences by the subdivider during the construction phase. No chain link or other metal fences (except ornamental or wrought iron) may be erected. A wooden lattice fence may be erected in the rear yard of a residence, but its style and placement must be presented to and approved by the architecture review committee prior to construction.

15. No permanent or seasonal parking of trailers, camping vehicles, mobile homes, or boats shall be allowed on the road right-of ways in the Bois d'Arc subdivision. If a trailer, camping vehicle, mobile home, or boat is parked on a seasonal or permanent basis on a

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lot or private road it must be screened by dense evergreen shrubs or trees that will grow to at least eight feet in height.

16. The owner or owners of each platted lot will participate on an equal share basis per platted lot in the cost of care and maintenance of the common areas, the streetlight fixtures, traffic separation islands, entranceways, the stone and wrought iron wall, as well as landscaping, water, and electricity for the above, and to carry out such projects for Bois d'Arc as the Board of Directors deems necessary. See Exhibit "A" for the agreement between the City of Fayetteville and the Bois d'Arc Property Owners Association concerning their respective responsibilities for streetlights.

17. Any desired clearing or cutting operation, other than removal of underbrush, dead trees, and live trees less than four (4) inches in diameter measured five (5) feet off the ground, will require advance written approval by the architecture review committee. If a tree is cut without approval, the property owner will be fined \$100 which will be paid to the treasurer of the Bois d'Arc Property Owners Association.

18. Each lot owner shall, throughout construction and thereafter, provide for adequate drainage of surface waters across his property. Under no circumstances may such surface waters be diverted in a manner as to cause the same to be directed across the lands of another either inside or outside the subdivision and thus constitute a nuisance. This provision does not apply to the natural streams which flow in or across the subdivision and which the developers have left open in as natural a condition as possible. These stream beds shall be maintained by the lot owner so as to allow the stream to follow its existing natural course. Furthermore, these stream beds shall be maintained in such a manner that they do not become clogged in heavy rains and overflow their banks and run onto adjacent lots.

19. Each property owner shall be further responsible for adjusting the drainage of surface waters across his lot in such a manner as to prevent such drainage from blocking or interfering with the road right-of-ways platted in the development.

20. Building restrictions shall be strictly regulated and deviations permitted for only the most compelling reasons. An architecture review committee shall be appointed by the subdivider or the subdivider shall act in the capacity of such a committee. This committee shall have the responsibility of reviewing all prospective construction, including the matters mentioned herein above, to assure conformity with the land and woodland concept as well as minimal interference with other lots in the addition. No particular

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construction shall be required by the committee. The architecture review committee shall also have the responsibility of monitoring the actual construction and site development to assure adherence to the approved plans. Later, the architecture review committee shall be appointed by the property owners association once that association is operative and when residences have been constructed on all the lots in this subdivision or when all lot owners in Bois d'Arc have constructed residences therein. This latter provision is to take into account the a situation where lot owners have purchased one or more adjacent lots with the intention of building on only one of them.

21. Nothing in these covenants shall be deemed to restrict the rights of the subdivider or the property owners association within said development to establish and enforce other rules, regulations, and covenants governing the operation, ownership, and maintenance of said development. In no event, however, shall said rules and regulations so promulgated have any force and effect if the same shall conflict with these covenants of assurance, and to the extent that such rules and regulations shall conflict with these covenants of assurance, said rules and regulations shall be null, void, and of no effect whatsoever. Invalidetion of any one of these covenants, conditions, or restrictions, or any part thereof, by order or judgment in any court shall in no way affect any of the other provisions which shall remain in full force and effect.

22. These covenants and restrictions are to run with the land, and shall be binding upon the subdivider and/or developer, his successors and assigns for a period of fifty (50) years from the date hereof. At any time within six (6) months from the expiration period, a 3/4 majority of the lot owners may express their intention in writing, drafted so as to be recorded with the registrar of deeds, that they no longer wish for said covenants of assurance to remain in full force and effect, and the same shall therefore be terminated as of the expiration date. In the event that no such action is taken, then these covenants shall continue for an additional period of five years, and may then be terminated in accordance with the terms set forth for the original termination. It is further provided that, should a two-thirds (2/3) majority of lot owners at any time wish to amend these covenants of assurance, either by adding to or taking from the present form, the same shall be incorporated into a written instrument capable of being recorded as above referred to and under the same terms and conditions thereof.

23. If any of the parties hereto, or their successors in title, or their heirs or assigns shall violate or attempt to violate any of

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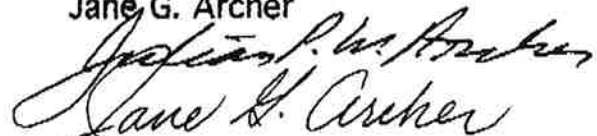
these covenants or restrictions as herein above set forth, prior to the expiration or termination of these covenants of assurance, both in the original term and continuations thereof, then it shall be lawful and authorized for any person or persons, either as a class or singularly, who own any lot in this subdivision, or any portion thereof, to prosecute any proceedings at law or in equity against the person or persons so violating, or attempting to violate, any such covenant or restriction, and thereby either prevent said violation, or recover damages or other penalties for such violation including attorney's fees and court costs and, further, to utilize any and all other remedies at law which may now exist or which may hereafter apply.

24. All owners of property described herein above shall belong to the association known as the Bois d'Arc Property Owners Association, which association shall be duly created pursuant to the laws of the State of Arkansas. That association shall be governed by a Board of Directors consisting of persons owning property within the Bois d'Arc Subdivision and elected to office by the property owners herein and shall be managed according to the by-laws and the rules and regulations promulgated thereunder. The authority of the Board of Directors in the enforcement of these covenants of assurance and in the enforcement of the rules and regulations of said association shall be absolute, and all owners consent to said enforcement by their purchase of real property and dwellings hereunder. Among its other powers, said Board of Directors shall have the authority to make special and/or annual assessments against the real property and dwellings of the owners in order to obtain the means required to maintain the common areas and to carry out such projects for Bois d'Arc as the Board of Directors deems necessary. Such assessments will be made on a per platted lot basis with one share per lot. Said assessments when made shall constitute a valid lien on the real property benefited thereby to the extent of said assessment, and if not paid when due, the real property shall be subject to foreclosure.

WITNESS our hands and seals on this 25 day
of NOVEMBER, 1998.

By: Julian P. W. Archer and

Jane G. Archer



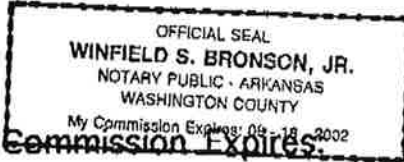
ACKNOWLEDGMENT

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STATE OF ~~ARKANSAS~~
COUNTY OF ~~WASHINGTON~~

Now on this 25 day of NOVEMBER, 1998, personally appeared before me, a Notary Public, within and for the State and County aforesaid, duly commissioned and acting, Julian P. W. Archer and Jane G. Archer stated that they had executed the above and foregoing instrument for the purposes therein contained

WITNESS my hand and official seal on the day first herein above written.



My ~~Commission Expires:~~

Winfield S. Bronson, Jr.
Notary Public

Filed for Record:

Recorded in:

98105337

**Real Estate Contract
(Lots and Acreage)**

Page 9 of 11



Form Serial Number: 072245-000133-1152934

20. OTHER:**Buyer and Seller hereby agree to the following:**

- 1. Seller shall apply for (3) lots to be created on the property. Lot split to be approved on the property by Governing bodies. Buyer and seller to mutually agree on Covenants and deed.**
- 2. Seller shall record protective covenants and restrictions on the property similar to those attached as "Bois D'Arc Subdivision". Buyer and Seller to mutually agree on covenants. The Sellers shall retain the POA architectural design committee rights to approve houses as per covenants.**
- 3. The Buyer shall have the right to build homes with a 15 feet rear lot line set back. Seller agrees to such give Buyers this variance.**
- 4. Seller agrees to give Buyers an additional 15 more feet of property as located on the South or rear side. This shall be included in final survey with acreage description and shall be deeded to Buyer at closing.**
- 5. Buyer agrees to close on this property within 5 business days following full governmental approval of the lot split.**
- 6. Buyer agrees to incur any costs required by governing bodies on lot split such as sidewalk.**

21. LEAD-BASED PAINT RISK ASSESSMENT/INSPECTION:

- ☒ A. Buyer understands and agrees that, according to the best information available, improvements on this Property were not constructed prior to 1978 and should not contain lead-based paint hazards.
- ☐ B. Buyer has been informed that the Property, including without limitation garages, tool sheds, other outbuildings, fences, signs and mechanical equipment on the Property that were constructed prior to 1978, may contain lead-based paint. Seller will provide the Lead-Based Paint Disclosure (pre-1978 construction) within three (3) business days after acceptance of this Real Estate Contract. The obligation of Buyer under this Real Estate Contract is contingent upon Buyer's acceptance of the Lead-Based Paint Disclosure provided by Seller and an Inspection and/or Risk Assessment of the Property for the presence of lead-based paint and/or lead-based paint hazards obtained at Buyer's expense. If Buyer finds either the Lead-Based Paint Disclosure or the Inspection and/or Risk Assessment unsatisfactory, in the sole discretion of Buyer, within ten (10) calendar days after receipt by Buyer of the Lead-Based Paint Disclosure, Buyer shall have the absolute option to unilaterally terminate this Real Estate Contract with all Earnest Money (if any) returned to Buyer and, neither Buyer nor Seller having further obligation to the other thereafter. Buyer may remove this contingency and waive the unilateral termination right at any time without cause by written General Addendum signed by Buyer and delivered to Seller. If Buyer does not deliver to Seller or Listing Firm a Termination of Real Estate Contract Addendum terminating this Real Estate Contract within the ten (10) calendar days after receipt by Buyer of the Lead-Based Paint Disclosure, this contingency shall be deemed waived and Buyer's performance under this Real Estate Contract shall thereafter not be conditioned on Buyer's satisfaction with the Lead-Based Paint Inspection and/or Risk Assessment of the Property.

Buyer has been advised of Buyer's rights under this Paragraph 21.



PC Meeting of April 23, 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: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: April 19, 2012 Updated April 26, 2012

RZN 12-4077: Rezone (HALSELL ROAD/PRATT PLACE INN, 481): Submitted by BATES AND ASSOCIATES for property located on HALSELL ROAD. The property is zoned C-PZD, COMMERCIAL PLANNED ZONING DISTRICT (PRATT PLACE INN) and contains approximately 2.37 acres. The request is to rezone a portion of the Pratt Place Inn property to RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE. Planner: Jesse Fulcher

BACKGROUND:

Property Description: The property is zoned Commercial Planned Zoning District (CPZD) and contains approximately 2.37 acres. Staff is reviewing a property line adjustment that will create the lot configuration being rezoned. The site is undeveloped with access to Halsell Road and is within the Hillside/Hilltop Overlay District. The property is part of an approximately 72-acre property known as Pratt Place Inn located at the top of Markham Road.

The City Council rezoned the property to C-PZD in 2005 (Ord. No. 4786) to allow the property owners to operate an inn and restaurant, activities hall and parking lot for social events such as weddings and receptions. The CPZD approval also included a maximum of four residential dwelling units, three existing residences and one proposed innkeeper's residence. Surrounding land use is listed in Table 1.

Table 1
Surrounding Zoning and Land Use

Direction from Site	Land Use	Zoning
North	Single family residential	RSF-4, Residential Single-Family
South	Undeveloped	C-PZD Pratt Place
East	Single family residential	RSF-4, Residential Single-Family
West	Undeveloped/Pratt Place parking	C-PZD Pratt Place

Proposal: The request is to rezone 2.37 acres of the property from C-PZD to RSF- 4, Residential Single Family Four Units per Acre. This will allow the applicant to split and develop single-family homes on the property, currently prohibited by the Planned Zoning District zoning.

Public Comment: Staff has received questions from a property owner in the area.

RECOMMENDATION:

Staff recommends forwarding RZN 12-4077 to the City Council with a recommendation for approval based on findings stated herein.

PLANNING COMMISSION ACTION:

Date: April 23, 2012 ☐ Tabled ☐ Forwarded ☒ Denied

Motion: Cabe

Second: Noble

Vote: 2-6-0 (Motion to forward failed)

Note:

CITY COUNCIL ACTION:

☐ Approved ☐ Denied

Date: May 15, 2012

INFRASTRUCTURE:

Streets: The site has access to Halsell Road. Halsell Road is an unimproved two lane residential city street. Street improvements will be evaluated at the time of development.

Water: Public water is available to the property. The 8" water main at the northwest corner switches to a 2" line along the north side of the property. Public water main improvements will need to be extended through the property to provide domestic and fire flow for any proposed development

Sewer: Sanitary sewer is available to the site. There is an 8" main at the northeast corner of the site. Public sewer main improvements may need to be extended through the property at the time of development.

Drainage: Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain and the

Streamside Protection Zones

Police: The Fayetteville Police Department has not expressed concerns with this request.

Fire: The Fayetteville Fire Department has not expressed concerns with this request.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates a majority of this site as **Rural Residential Area**. These areas recognize existing low-density, large lot residential development, but are identified to encourage the conservation and preservation of woodlands, grasslands and agricultural lands that are sparsely settled.*

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds the proposal for low-density residential development to be consistent with the rural residential land use designation. Generally, this designation is limited to outlying properties that lack adequate street and water infrastructure or public services such as police and fire. However, there are a few properties closer to the center of the city where low density development is encouraged to preserve woodlands, grasslands or agricultural lands, despite having adequate public infrastructure to support higher density development. This piece of the “Markham Hill” property is heavily wooded and located in the Hillside/Hilltop Overlay District, restricting development potential. However, it is in a residential setting along Halsell Road that supports a standard subdivision development pattern.

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

Finding: The current zoning of the property, C-PZD, prohibits any future development on the approximately 72-acre property. The proposed rezoning will allow a 2.37 acre section along Halsell Road to be developed for single-family homes.

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

Finding: The property is currently undeveloped, so any new development will increase traffic on surrounding streets. However, the size of the site and density will limit the number of houses and corresponding traffic, such that there won’t be an increase in traffic danger or congestion.

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

Finding: As noted in Finding #3, the size of the property and density limits the development potential of the site, and in staff's opinion, future development will not undesirably increase the load on public services. Comments from the Engineering and Police Departments are included.

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

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(F) *Building height regulations.*

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

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

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. (Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10)

Date 4/3/12

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for comments on the proposed RZN 12-4077 (Halsell Road / Pratt Place Inn, 481) submitted by Bates and Associates for property located on Halsell Road.

It is the opinion of the Fayetteville Police Department that this RZN will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This RZN will create an increase in traffic danger and congestion on the narrow two lane residential streets in the area. There are no sidewalks on the north or south side of the roadway in the planned area. A sidewalk is needed for pedestrians due to the increased automobile traffic from this RZN.

Sincerely,

Captain William Brown
Fayetteville Police Department



Bates & Associates, Inc.

Civil Engineering & Surveying

91 W. Colt Square Dr./ Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350
www.nwabatesinc.com

To Whom It May Concern:

Our client, Julian Archer is proposing a Property Line Adjustment within the City of Fayetteville. The subject properties are located on Halsell and Markham Roads and contain approximately 7.81 total acres. Our client would like to adjust the parcels in a way to create a 2.37 acre parcel along Halsell road for rezoning and future development. The current zoning for the property is CPZD. We have previously submitted a Rezoning application to Rezone the 2.37 acre parcel to RSF-4. If you have any questions please feel free to contact us.

Sincerely,

Derrick Thomas PLS



Bates & Associates, Inc.

Civil Engineering & Surveying

91 W. Colt Square Dr./ Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350
www.nwabatesinc.com

3/14/2012

RE: JULIAN ARCHER REZONE- PART OF PARCEL #765-14525-000

PROPERTY TO BE REZONED:

A PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N02°47'27"E 426.73' FROM AN EXISTING ALUMINUM MONUMENT MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°47'27"E 215.00' TO AN EXISTING REBAR, THENCE S87°21'57"E 481.92' TO AN EXISTING P/K NAIL, THENCE S03°47'10"W 215.00', THENCE N87°22'16"W 478.19' TO THE POINT OF BEGINNING, CONTAINING 2.37 ACRES MORE OR LESS.

Page 27 of 38



the 1990s, the number of people with HIV/AIDS in the United States has increased by 100% and the number of people who have died of AIDS has increased by 200%. In 1990, there were 100,000 people living with HIV/AIDS in the United States. In 1995, there were 200,000 people living with HIV/AIDS in the United States. In 2000, there were 400,000 people living with HIV/AIDS in the United States. In 2005, there were 800,000 people living with HIV/AIDS in the United States. In 2010, there were 1,200,000 people living with HIV/AIDS in the United States. In 2015, there were 1,600,000 people living with HIV/AIDS in the United States. In 2020, there were 2,000,000 people living with HIV/AIDS in the United States. The number of people who have died of AIDS in the United States has also increased significantly. In 1990, there were 10,000 people who died of AIDS in the United States. In 1995, there were 20,000 people who died of AIDS in the United States. In 2000, there were 40,000 people who died of AIDS in the United States. In 2005, there were 80,000 people who died of AIDS in the United States. In 2010, there were 120,000 people who died of AIDS in the United States. In 2015, there were 160,000 people who died of AIDS in the United States. In 2020, there were 200,000 people who died of AIDS in the United States. The increase in the number of people living with HIV/AIDS and the number of people who have died of AIDS in the United States is a result of the increasing prevalence of HIV/AIDS and the lack of effective treatments. The only effective treatment for HIV/AIDS is antiretroviral therapy (ART), which has been available since the late 1980s. However, many people do not take their ART as prescribed, which can lead to drug resistance and a higher risk of complications. In addition, many people do not get tested for HIV/AIDS, which can lead to a delayed diagnosis and a higher risk of complications. The increase in the number of people living with HIV/AIDS and the number of people who have died of AIDS in the United States is a public health crisis that requires immediate action. The CDC and other public health agencies are working to reduce the number of people living with HIV/AIDS and the number of people who have died of AIDS in the United States. They are doing this by increasing the number of people who get tested for HIV/AIDS, by increasing the number of people who take their ART as prescribed, and by increasing the number of people who are aware of the risks of HIV/AIDS. The CDC and other public health agencies are also working to reduce the stigma associated with HIV/AIDS, which can lead to a higher risk of complications and a higher risk of death. The CDC and other public health agencies are also working to increase the number of people who are aware of the risks of HIV/AIDS, which can lead to a higher risk of complications and a higher risk of death. The CDC and other public health agencies are also working to increase the number of people who are aware of the risks of HIV/AIDS, which can lead to a higher risk of complications and a higher risk of death.



STATE OF TEXAS,
COUNTY OF DALLAS, ss. I, J. L. BARNETT, Clerk of the County Court, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears of record in the County Clerk's Office, this 10th day of November, 1908.

J. L. BARNETT,
Clerk of the County Court.

WITNESSES MY HAND AND SEAL OF OFFICE, this 10th day of November, 1908.

JOHN W. BARNETT, County Clerk.

DATE: 3/28/78

SCALE: 1" = 300'

SHEET NO. 1 OF 1

PROJECT NO. 100

DATE: 3/28/78

SCALE: 1" = 300'

SHEET NO. 1 OF 1

PROJECT NO. 100

Bates & Associates, Inc.

Civil Engineering & Land Surveying

LEGEND:

1. 1" = 300'

2. 1" = 300'

3. 1" = 300'

4. 1" = 300'

5. 1" = 300'

6. 1" = 300'

7. 1" = 300'

8. 1" = 300'

9. 1" = 300'

10. 1" = 300'



Planning Area 2 & 3

Permitted Use	Conditional Use	Type of Use
Unit 1		City-wide uses by right
	Unit 4	Cultural & Recreational facilities
Unit 6		Agriculture

(B) Density/Intensity

Planning Area	Density (dwelling units)	Intensity (square feet nonresidential)
1	 Maximum 4 dwelling units Oak Cabin (existing) 2248 W. Markham Tower House (existing) 109 N. Sang Innkeeper House (proposed) 2230 W. Markham Archer Log House (existing) 2115 W. Markham Inn, maximum 4 new rental cabins do not count toward density, as these are not to be utilized as residences	Maximum 33,340 SF Inn: 18,900 SF (proposed) Barn: 6,300 SF (existing) Two-stall barn: 340 SF English Cottage (existing): 1,800 SF Max. 4 cabins: 6,000 SF (1500 SF each proposed, with removal of existing cabins)
2	No dwelling units permitted	Any structure size permitted to be determined by Conditional Use Permit, if requested (Planning Commission)
3	No dwelling units permitted	Any structure size permitted to be determined by Conditional Use Permit, if requested (Planning Commission)

(C) Bulk and area regulations.

Planning Area	Lot width minimum	Lot area minimum	Land area per dwelling unit
1	200 feet (frontage onto a public street)	1 acres	1 acre
2	N/A	3.57 acres	No dwellings permitted
3	N/A	4.18 acres	No dwellings permitted

(D) Setback requirements.

Planning Area	Front	Side	Rear
1	50 feet	10 feet	20 feet
2	50 feet	10 feet	20 feet
3	50 feet	10 feet	20 feet

(E) Height. Maximum height for all structures.

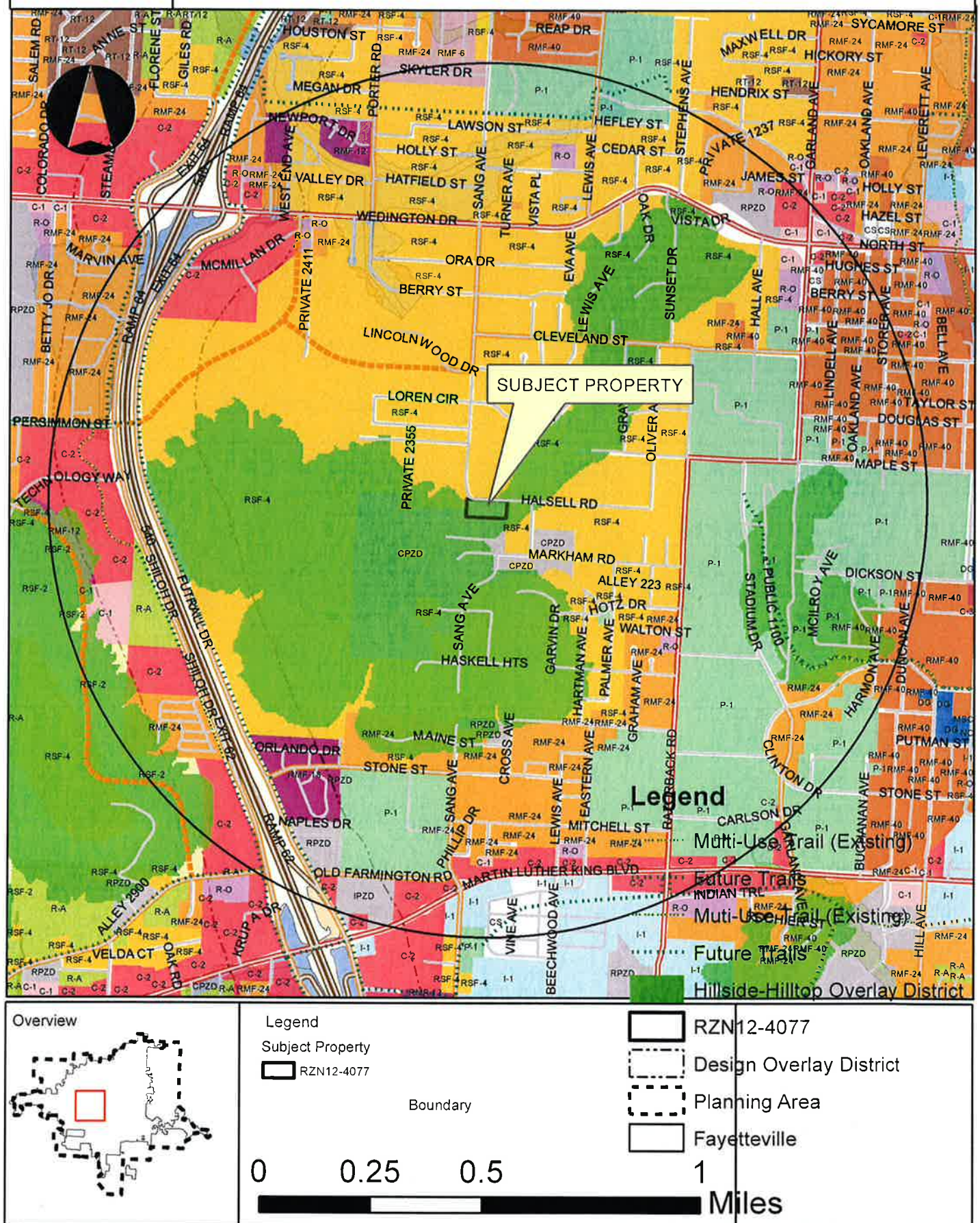
Planning Area	
1	60 feet
2	50 feet
3	50 feet

(F) Building area. In any Planning Area the area occupied by all buildings shall not exceed 25% of the total lot area.

RZN12-4077

HALSELL ROAD/PRATT PLACE INN

One Mile View



RZN12-4077

PRATT PLACE INN

Close Up View



SANG AVE

RSF-4

SUBJECT PROPERTY

HALSELL RD

CROSS AVE

CPZD

EVANGELINE LN

MARKHAM RD

SANG AVE

Legend

Fayetteville City Limits

Overview RZN12-4077

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

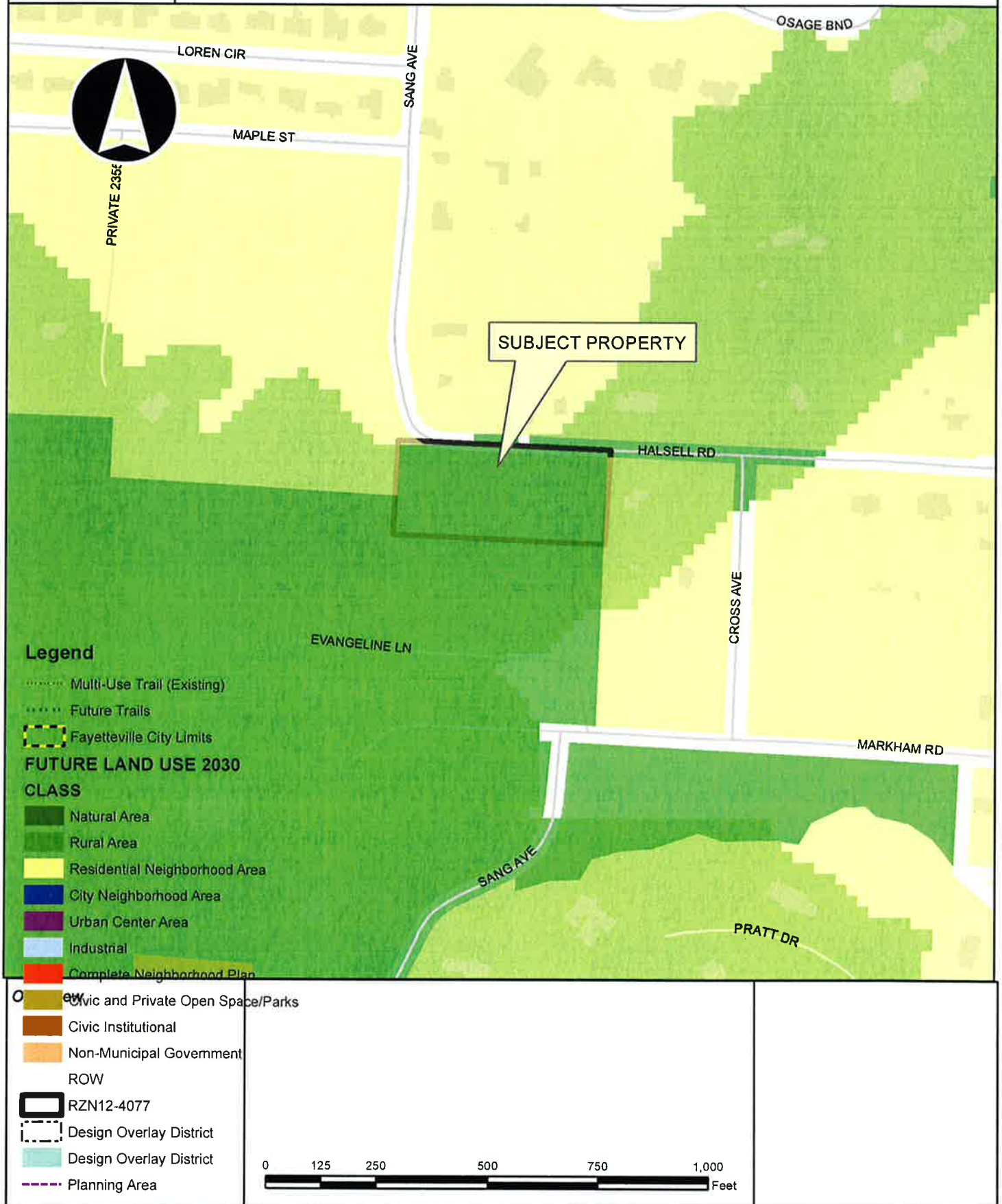
Planning Area



RZN12-4077

HALSELL ROAD/PRATT PLACE INN

Future Land Use



Sondra Smith - Re: Fwd: appeal request

From: Sondra Smith
To: Fulcher, Jesse
Date: 4/25/2012 11:18 AM
Subject: Re: Fwd: appeal request
CC: Branson, Lisa
Attachments: Branson, Lisa

Hi Jesse,

May 15, 2012 will be the next meeting. We can get the appeal on the May 15 agenda. Do you have information that you will be submitting regarding the appeal. Thanks!

Sondra E. Smith CAMC, CMC

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

TDD (Telecommunications Device for the Deaf): (479) 521-1316



>>> Jesse Fulcher 4/25/2012 9:15 AM >>>
Sondra,

Below is a written request for an appeal of a decision by the Planning Commission. Which City Council meeting will this go to?

Thanks, Jesse

>>> julian Archer <profarcher@yahoo.com> 4/24/2012 11:19 PM >>>
Tuesday, April 24, 2012

Mr. Jesse Fulcher
Planning Division

City of Fayetteville, AR

Dear Mr. Fulcher,

We would like to appeal the decision of the Fayetteville Planning Commission at its April 23, 2012, meeting in regards to our rezoning request (RZN 12-4077). Kindly forward this request to the City Clerk and ask that this matter be put on the Fayetteville City Council agenda at the earliest possible date.

Sincerely,

Julian and Jane Archer, owners
2115 West Markham Road
Fayetteville, AR 72701
Tel. and fax 582-5443

MAY 14 2012

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

May 8, 2012

To Mayor Lioneld Jordan and members of the Fayetteville City Council,

This is a memorandum to provide some background on our appeal of the Planning Commission's decision in regard to our rezoning request (RZN-12-4077).

BACKGROUND: My wife Jane and I own approximately 140 acres west of the University of Arkansas and east of I-540. This property was purchased by my grandfather Cassius Pratt in 1900 and was inherited from my mother Evangeline Pratt Waterman Archer in 1979. Not surprisingly, we have received numerous unsolicited offers to sell it, either for a development (it was zoned at the time R-1, now called R-4), or for a huge retirement complex for those who wanted to be in close proximity to the University with all of its cultural and sports offerings, or for private student housing complexes similar to the ones in the offing now around the campus. Instead of selling the whole thing, we held onto it and covered our expenses with the sale of certain portions. The first was a three lot split of 5 acres north of the intersection of Cross and Halsell, then a four lot split of 10 acres off of Hotz, then a three lot split of four acres east of the intersection of Cross and Halsell, then a sale of about 15 acres which became the Waterman Woods development, then a two lot split of 2 ½ acres north of the intersection of Sang and Center (now Haskell), and then a development we did called Bois d'Arc of 19 lots on 25 acres which follows Osage Bend from Cleveland to Sang. All of these lot splits and the development have lots far larger than the minimum city requirements and all of them have protective covenants accompanying the land title which, among other things, provide us with architectural control of all construction. Only our first lot split had no covenants, much to our regret.

This 140 acres is a larger enclave, almost half again as large as the land Alice Walton has provided the Crystal Bridges Museum, and exists near the heart of Fayetteville, a city twice the size of Bentonville. We, of course, do not have the financial resources for preservation that Ms. Walton does and so had to create in 2005-2006 Pratt Place Inn and Barn as a "commercial" venue for lodging and events. This was done by creating a PZD. Alderman Lucas said at the time, "I hope in five years that the inn goes so that it never changes." Five years have past and, despite the

recession starting in 2008 the inn is “going,” having opened with a AAA four-diamond rating, the only inn or hotel in Northwest Arkansas with such a designation and one of only four in the State of Arkansas. It was Planning Division Director Tim Conklin’s idea that the PZD encompass 72 acres instead of our 10 or so acre proposal. We were willing to accept that in 2005 because at the time we did not foresee any complications with it. Our request now before the Planning Commission and the City Council is to take 2.4 acres out of the PZD and do a four lot split, leaving the PZD essentially intact.

Let me paint for you a different picture. If Pratt Place Inn and Barn had failed, as have many projects in this area, the entire PZD and part of the remaining 70 acres to the west of it would have been taken over by banks and sold to developers. If anyone bothers to look at the liens on the property, they can see that Metropolitan Bank, Arkansas Capital, and Bank of America have what are for us staggering obligations owed to them. Further, The Bank of the Ozarks had a lien on another 40 acres to secure their Performance Bond made out to the City of Fayetteville.

If you have not had the occasion to visit either the inn or the barn, we hope that you will make time to do so before the May 15 council meeting. Just stop by and someone on the staff will be pleased to show you around.

HALSELL ROAD 2.4-ACRE LOT SPLIT (RZN 12-4077):

It is bizarre and quite inexplicable to us why the Planning Commission denied our request on April 23. Audience turnout was minimal and no one wrote in opposition, though we understand some phone calls were made in opposition.

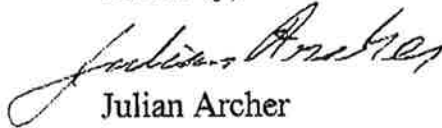
Our letter of March 13, 2012, makes clear that we are requesting a four lot split, not the possible 10 lots (nor a subdivision), and there is a detailed plat provided showing that. We have reaffirmed this with a Bill of Assurance to the City of Fayetteville dated May 2, 2012. The main issue being raised seems to be about the nature of the “buffer” that the 72-acre PZD would provide. This is what is brought up in Ms. Stacey Park’s email to you of May 7 as well as comments by James “Butch” Cogger at the April 23 Planning Commission meeting and by Commissioner Kyle Cook (former Alderman Cook at the time of the PZD hearings of the City Council in 2005).

The “buffer” question is a complete misreading and inaccurate recollection of the discussions at the City Council meetings of September 20, October 4 and 18, and November 1, 2005. Never once was the PZD described as a “buffer” at these meetings and Alderman Cook did not speak at all, neither to ask a question nor to make a comment, at any of these four meetings. The main concerns were about traffic volume, road width, sidewalks, and curb and gutter drainage. We will provide copies of the minutes of these meetings, rather than drawing upon a memory of what was said seven years ago, to any of you who would like them.

In his City Council Agenda Memo of August 31, 2005, then Director of Current Planning, Jeremy Pate, noted on page 5 concerning tree preservation that “The project shall meet or exceed the minimum percent canopy (25%) required for a Planned Zoning Development.” It was not an issue since the 72-acre PZD was, still is, and always will be heavily wooded. In the 16 Conditions of Approval proposed by the Planning Division, Condition 9 stated that “At all times a significant tree canopy and vegetative buffer (visual and physical) shall be maintained adjacent to surrounding properties in Planning Area 1, where non-residential activities are to occur.” This has been the case and would continue to be the case even if every tree and bush on the 2.4 acre proposed lot split were removed! Such a removal of the “tree canopy and vegetative buffer” is not permitted either by the city or our protective covenants. A look at our previous lot splits and development will show how well this has worked. It is interesting that the opposition to the Halsell lot split comes not from the adjacent property owners, with one possible exception, but from a couple of people who live quite a distance away and cannot see from their property the 2.4 acres in question and have little or no reason even to drive on Halsell. At the Planning Commission meetings of August and September, 2006, about the PZD there was some discussion about a tree “buffer”, but this revolved around the need to widen Markham Road, provide a sidewalk, install drainage pipes and curb and gutters which would entail taking down trees. The questioners were assured by staff that a Tree Preservation Plan would be required. (It should be noted that the Pratt Place PZD was the only application processed through a new procedure of getting City Council approval first and then going to the Planning Commission. Shortly afterward the procedure reverted to the original application routing.)

Perhaps all of the above is more than you care to know about this question, but we do not want you to have to try to inform yourselves about it while the council meeting is in progress and certain people are making inaccurate statements, without adequate time to make your decision.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julian Archer", is written over the printed name. The signature is fluid and stylized, with a large initial 'J' and 'A'.

Julian Archer

City of Fayetteville Staff Review Form

C. 1
Proposed 2013-2017 Five-Year
Capital Improvements Plan
Page 1 of 4

City Council Agenda Items
and
Contracts, Leases or Agreements

6/5/2012

City Council Meeting Date
Agenda Items Only

Kevin Springer

Submitted By

Budget & Research

Division

Finance & Internal Services

Department

Action Required:

Approve a resolution adopting the Proposed 2013-2017 Five Year Capital Improvements Plan.

N/A

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

\$

Account Number

Funds Used to Date

Program / Project Category Name

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

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

05-13-12 P03:22 RCVD

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date

Comments:

RESOLUTION NO. _____

**A RESOLUTION ADOPTING THE 2013-2017 FIVE-YEAR CAPITAL
IMPROVEMENTS PLAN**

**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 adopts the 2013-2017 Five-Year Capital Improvements Plan, a copy of which is attached to this Resolution as Exhibit "A" and incorporated herein.

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville, Arkansas

2013-2017 Five Year Capital Improvements Plan

Proposed



City of Fayetteville Staff Review Form

C. 2
Amend §97.015 Operating Hours
Page 1 of 6

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

6/5/2012

City Council Meeting Date
Agenda Items Only

<u>Chase Gipson</u>	<u>Recreation Programs</u>	<u>Parks and Recreation</u>
Submitted By	Division	Department

Action Required:

An ordinance to ammend §97.015 Operating Hours in Chapter 97: Parks and Recreation to authorize the Parks and Recreation staff to extend a park's closing time when necessary for a tournament or special event.

<u>NA</u>	<u>\$ -</u>	<u></u>
Cost of this request	Category / Project Budget	Program Category / Project Name
<u></u>	<u>\$ -</u>	<u></u>
Account Number	Funds Used to Date	Program / Project Category Name
<u></u>	<u>\$ -</u>	<u></u>
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

<u>Commie Edmonston</u>	<u>5-18-12</u>	Previous Ordinance or Resolution #	<u>97.015</u>
Department Director	Date		

<u>K. J. Allen</u>	<u>5-18-2012</u>	Original Contract Date:	<u></u>
City Attorney	Date	Original Contract Number:	<u></u>

<u>Margie Hestwood</u>	<u>5/18/12</u>
Finance and Internal Services Director	Date

<u>Don Man</u>	<u>5/18/12</u>
Chief of Staff	Date

<u>Donald Jordan</u>	<u>5/21/12</u>
Mayor	Date

Received in City Clerk's Office 05-13-12 P01:29 RCVD

Received in Mayor's Office

ENTERED
5/18/12
P.H.

Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan
City Council

Thru: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director *C.E.*

From: Chase Gipson, Recreation Superintendent *CG*

Date: May 18, 2012

Subject: Authorizing Parks and Recreation staff to extend the normal operating hours of a park.

PROPOSAL:

Tournament play and special events in a Park facility occasionally run behind schedule for a number of reasons including inclement weather, extra innings/overtime, teams arriving late from another facility, etc. Over the course of a day with several games, these delays can add up to games or events starting an hour or two late. When this does occur, Parks Staff needs to be able to extend the hours of the park beyond the normal closing time of 11 p.m., to better accommodate participants and scheduling.

RECOMMENDATION:

Authorizing Parks and Recreation staff to extend the normal operating hours of a park when reasonable and necessary to accommodate a tournament or special event.

BUDGET IMPACT:

Potential increase in HMR revenue due to additional teams participating in a tournament.

ATTACHMENTS:

Letter from City Attorney, Kit Williams
Proposed Amendment to §97.015
Copy of current law, Chapter 97



Departmental Correspondence



**LEGAL
DEPARTMENT**

www.accessfayetteville.org

**TO: Mayor Jordan
City Council
Don Marr, Chief of Staff
Connie Edmonston, Parks & Recreation Director**

**Kit Williams
City Attorney**
**Jason B. Kelley
Assistant City Attorney**

FROM: Kit Williams, City Attorney

A handwritten signature in dark ink, appearing to read "Kit Williams", written over a horizontal line.

DATE: March 12, 2012

RE: Authorizing Parks and Recreation Staff to extend the normal operating hours of a park when reasonable and necessary to accommodate a tournament or special event

Chase Gipson, Recreational Superintendent of the Parks and Recreation Department, notified me that they had concerns about extending the normal operating hours of a city park when a tournament was running late and the last game could not be finished until after 11:00 P.M. The current §97.015 **Operating Hours** is somewhat unclear about the staff's ability to occasionally extend the closing hour of a park to accommodate a late running tournament or special event.

Therefore, I agreed that **Operating Hours** should be slightly amended to make it clear that in certain rare, but necessary situations, the Parks and Recreation staff in charge of a park could extend the operating hours so the last game of the night could be finished. This usually happens in softball tournaments if rain delays some early rounds. Fortunately, most of our softball fields (at Gary Hampton and Lake Fayetteville) are pretty far from residential neighborhoods so extending the operational hours slightly beyond 11:00 P.M. should not cause much, if any, inconvenience for our citizens.

I recommend we leave the established wording intact and unchanged and place it under (a). Then, the City Council could enact: "(b) Parks and Recreation Staff is authorized to extend the operating hours of a park when reasonable and necessary to accommodate a tournament or special event." This should resolve Parks and Recreation Staff's concern about whether they are authorized to allow a little more time for the last scheduled game to finish even if it is later than 11:00 P.M.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §97.015 OPERATING HOURS IN CHAPTER 97: PARKS AND RECREATION TO AUTHORIZE THE PARKS AND RECREATION STAFF TO EXTEND A PARK'S CLOSING TIME WHEN NECESSARY FOR A TOURNAMENT OR SPECIAL EVENT

WHEREAS, occasionally a tournament is delayed by weather or otherwise runs later than planned so that its last game cannot be finished by 11:00 P.M.; and

WHEREAS, the Parks and Recreation Staff should be empowered to extend the closing time for such tournament or special event if reasonable and necessary.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §97.015 **Operating Hours** by placing all current wording under a new subsection (a) and enacting a new subsection (b) as follows:

“(b) Parks and Recreation Staff is authorized to extend the operating hours of a park when reasonable and necessary to accommodate a tournament or special event.”

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

CHAPTER 97: PARKS AND RECREATION

**ARTICLE I
GENERAL PROVISIONS**

97.001 Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

City. The City of Fayetteville, Arkansas.

Director. A person immediately in charge of any park area and its activities, and to whom all park attendants of such area are responsible.

Park. A park, reservation, playground, beach, recreation center or any other area in the city, owned or used by the city, and devoted to active or passive recreation.

Person. Any person, firm, partnership, association, corporation, company, or organization of any kind.

Vehicle. Any wheeled conveyance, whether motor powered, animal-drawn, or self-propelled and shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the city parks.

(Code 1965, §17-A-1; Ord. No. 1594, 4-1-68; Code 1991, §97.001)

(Code 1965, §17A-2; Ord. No. 1594, 4-1-68; Code 1991, §97.002)

97.002-97.014 Reserved

**ARTICLE II
PARK OPERATIONS;
ADMINISTRATION AND
ENFORCEMENT**

97.015 Operating Hours

Except for unusual and unforeseen emergencies, city parks shall be open to the public every day of the year from daylight until 11:00 p.m. Any section or part of any park may be declared closed to the public by the city or its duly authorized representative at any time and for any interval of time.

(Code 1965, §17A-32; Ord. No. 1594, 4-1-68; Code 1991, §97.015)

**97.016 Fee For City Park Ballfields
For Tournaments**

(A) For the use of city park ballfields for tournaments, the mayor or his/her designee shall establish fees to be charged to defray the costs of maintenance, trash pickup and removal, equipment use, water, and electricity.

(B) The sponsors of any tournament shall arrange for all necessary umpires. Upon conclusion of each tournament, the sponsors shall restore each field to the same condition it was in prior to the tournament.

(Code 1965, §2-100; Ord. No. 2714, 4-7-81; Ord. No. 4115, 8-18-98; Code 1991, §97.016)

Cross reference(s)--Penalty, §97.999.

97.017 Fees For City Swimming Pools

Upon the recommendation of the Parks and Recreation Advisory Board, the mayor, or his/her designee, shall establish and make periodic adjustments to the schedule of fees charged for the use of city swimming pools.

(Ord. No. 4371, 2-19-02; Code 1991, §97.017)

**97.018 Enforcement By Director, Park
Attendants, And City Police**

The director, park attendants and city police shall in connection with their official duties diligently enforce the provisions of this chapter.

(Code 1965, 17A-33; Ord. No. 1594, 4-1-68; Code 1991, §97.018)

97.019-97.029 Reserved

**ARTICLE III
CARE OF PARK PROPERTY**

97.030 Buildings And Other Property

No person in a park shall wilfully mark, deface, disfigure, injure or tamper with any buildings, monuments, bridges, tables, benches, fireplaces, signs, public utilities or other structures or equipment, facilities, or park property or appurtenances whatsoever, either real or personal.

(Code 1965, §17A-3; Ord. No. 1594, 4-1-68; Code 1991, §97.030)

Cross reference(s)--Penalty, §97.999.

Current Law ↑

City of Fayetteville Staff Review Form

C. 3
 VAC 12-4102 (1000 W. Stone
 St./Fayetteville High School)
 Page 1 of 20

City Council Agenda Items
 and
 Contracts, Leases or Agreements

6/5/2012

City Council Meeting Date
 Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

VAC 12-4102: Vacation (1000 W. STONE ST./FAYETTEVILLE HIGH SCHOOL, 522): Submitted by CRAFTON TULL AND ASSOCIATES, INC. for property located at 1000 WEST STONE STREET. The property is zoned P-1, INSTITUTIONAL. The request is to vacate utility easement and right-of-way.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Date

Received in City
 Clerk's Office

Chief of Staff

Date

Received in
 Mayor's Office

Mayor

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 *JP*

From: Andrew Garner, Senior Planner

Date: May 16, 2012

Subject: VAC 12-4102 (Fayetteville High School Athletic Facilities)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to vacate undeveloped utility easements and right-of-way.

BACKGROUND

The subject property contains approximately 22.57 acres on the northern portion of the Fayetteville High School (FHS) campus. A majority of the site is zoned P-1, Institutional and a small area in the northwest corner of the site is zoned RMF-24, Residential Multi-Family 24 Units per Acre. This portion of the campus contains athletic facilities for the school including the football stadium.

The applicant's request is to vacate un-constructed street right-of-way and utility easement within the site, as indicated on the attached exhibits. None of these streets were ever constructed and the easements that are being requested to be vacated have not been utilized. Fayetteville High School is in the process of renovating and expanding their athletic facilities and prior to construction of new structures in these areas of the site, the easements and right-of-way must be vacated.

DISCUSSION

On May 14, 2012, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 8-0-0.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 12-4102 SUBMITTED
BY CRAFTON TULL AND ASSOCIATES FOR PROPERTY
LOCATED AT 1000 WEST STONE STREET TO VACATE
UTILITY EASEMENT AND RIGHT-OF-WAY.

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

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

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

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

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

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

“Any relocation of existing utilities shall be at the owner/developer’s expense.”

PASSED and **APPROVED** this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "B"
VAC 12-4102

UTILITY EASEMENTS TO BE VACATED

UTILITY EASEMENTS IN ALL THAT PORTION OF TREADWELL STREET AND BUCHANAN AVENUE IN THE I.W. DUNCAN ADDITION TO THE CITY OF FAYETTEVILLE AND A PORTION OF TREADWELL STREET IN THE OAK PARK PLACE ADDITION TO THE CITY OF FAYETTEVILLE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT BEGINNING AT THE NORTHEAST CORNER OF LOT 1, BLOCK 8 OF THE I.W. DUNCAN ADDITION, THENCE SOUTH 255', THENCE WEST 195' TO THE SOUTHEAST CORNER OF LOT 212 OF THE OAK PARK PLACE ADDITION, THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 212 TO ITS INTERSECTION WITH THE EAST RIGHT OF WAY LINE OF DELAWARE STREET AS PLATTED, THENCE SOUTH 80' MORE OR LESS, TO A POINT ON THE NORTHWESTERLY LINE OF LOT 302 OF THE OAK PARK PLACE ADDITION, THENCE NORTHEASTERLY 15', MORE OR LESS, TO A POINT ON THE NORTH LINE OF SAID LOT 302, THENCE EAST 128', MORE OR LESS, ALONG THE NORTH LINE OF LOTS 302, 301, AND 300 OF SAID OAK PARK PLACE ADDITION TO THE NORTHWEST CORNER OF LOT 1, BLOCK 9, OF THE I.W. DUNCAN ADDITION, THENCE EAST 195' THENCE SOUTH 335', THENCE EAST 50', THENCE NORTH 335', THENCE EAST 195', THENCE NORTH 50', THENCE WEST 195' THENCE NORTH 255', THENCE WEST 50' TO THE POINT OF BEGINNING.
SAID STREET RIGHT OF WAYS HAVING BEEN VACATED BY ORDINANCE 2462, FILED IN BOOK 973, PAGE 484.

UTILITY EASEMENT TO BE VACATED

ALL THAT PART OF BUCHANNAN AVE LOCATED IN THE NW 1/4, SW 1/4 OF SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST THAT LIES SOUTH OF AND CONTIGUOUS TO THE PROPERTY FILED IN DEED BOOK 374, PAGE 617 AND EXTENDING SOUTH 100 FEET, MORE OR LESS.

RIGHT-OF-WAY TO BE VACATED

ALL THAT PART OF BUCHANNAN AVE LOCATED IN THE NW 1/4, SW 1/4 OF SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST THAT LIES SOUTH OF AND CONTIGUOUS TO THE PROPERTY FILED IN DEED BOOK 374, PAGE 617 AND EXTENDING SOUTH 360 FEET, MORE OR LESS TO THE NORTH LINE OF STONE STREET.



PC Meeting of May 14, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Development Services Director
DATE: May 8, 2012 Updated May 16, 2012

VAC 12-4102: Vacation (1000 W. STONE ST./Fayetteville High School, 522):
Submitted by CRAFTON TULL AND ASSOCIATES, INC. for property located at 1000 WEST STONE STREET. The property is zoned P-1, INSTITUTIONAL and contains approximately 22.57 acres. The request is to vacate a utility easement and right-of-way.

Planner: Andrew Garner

Findings:

Property description: The subject property contains approximately 22.57 acres on the northern portion of the Fayetteville High School (FHS) campus. A majority of the site is zoned P-1, Institutional and a small area in the northwest corner of the site is zoned RMF-24, Residential Multi-Family 24 Units per Acre. This portion of the campus contains athletic facilities for the school including the football stadium. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Single family residential	RMF-24, Residential Multi-Family 24 Units Per Acre; RMF-40, Residential Multi-Family 40 Units Per Acre
South	Fayetteville High School Campus	P-1, Institutional
East	Single and multi-family residential	RMF-40, Residential Multi-Family 40 Units Per Acre
West	Single family residential	RMF-24, Residential Multi-Family 24 Units Per Acre

Request: The applicant's request is to vacate un-constructed street right-of-way and utility easement within the site, as indicated on the attached exhibits. None of these streets were ever constructed and the easements that are being requested to be vacated have not been utilized. Fayetteville High School is in the process of renovating and expanding their athletic facilities and prior to construction of new structures in these

areas of the site, the easements and right-of-way must be vacated.

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

UTILITIES

RESPONSE

Ozarks Electric	No Objections
Cox Communications	No Objections
Southwestern Electric Power Company	No Objections
Arkansas Western Gas	No Objections
AT&T	No Objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer	No Objections
Transportation	No Objections
Solid Waste	No Objections

Public Comment: No public comment has been received.

Recommendation: Finding that adequate access and utility easements exist to serve the subject property, staff recommends forwarding **VAC 12-4102** to the City Council with a recommendation for approval subject to the following conditions:

- ~~1. The legal descriptions are too vague to be accurately mapped by the City GIS Division. The legal descriptions should be revised to have a metes and bounds description or other method for the City GIS Division to accurately map the areas that are being vacated. This condition shall be required to be met prior to this item being placed on the City Council agenda.~~

THIS CONDITION WAS MET PRIOR TO PLANNING COMMISSION.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: May 14, 2012

Motion: Cook

Second: Chesser

Vote: 8-0-0



Crafton Tull

architecture | engineering | surveying

Conway
Little Rock
Oklahoma City
Rogers
Russellville
Tulsa

April 4, 2012

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

RE: FHS Athletics Renovation - Easement Vacation / Dedication

Dear Planning Commission:

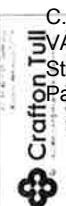
This letter shall accompany the Easement and Right-of-Way Vacation application for the Fayetteville High School Athletics Renovation. The project is located on the north side of the existing Fayetteville High School campus.

The request is to vacate utility easements in order to proceed with building construction. In addition to this and in anticipation of future improvements we are also requesting that the right-of-way for S. Buchanan Avenue be vacated.

Please see attached Exhibit A for a graphical representation of these requests. Should you need any further information to process this request please let us know.

Sincerely,
Crafton Tull

Jonathan Ely, P.E.
Project Manager



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PROJECT NO. 111004-00
 ISSUE DATE: 01/24/2012
 SHEET NO. 10
 CRAFTON, TULL & ASSOCIATES, INC.
 1000 W. Stone St., Fayetteville, AR 72701

EASEMENT DEDICATION AND VACATION
 FAYETTEVILLE SCHOOL DISTRICT NO. 1
 FAYETTEVILLE
 ARKANSAS



RECORD INFORMATION
 FAYETTEVILLE SCHOOL DISTRICT NO. 1
 FAYETTEVILLE, AR

GRADE TABLE

LINE #	STATION	GRADE	CHORD BEARING	CHORD DISTANCE
1	0+00	10.00	N 0° 0' 0" E	10.00
2	1+00	10.00	N 0° 0' 0" E	10.00
3	2+00	10.00	N 0° 0' 0" E	10.00
4	3+00	10.00	N 0° 0' 0" E	10.00
5	4+00	10.00	N 0° 0' 0" E	10.00
6	5+00	10.00	N 0° 0' 0" E	10.00
7	6+00	10.00	N 0° 0' 0" E	10.00
8	7+00	10.00	N 0° 0' 0" E	10.00
9	8+00	10.00	N 0° 0' 0" E	10.00
10	9+00	10.00	N 0° 0' 0" E	10.00
11	10+00	10.00	N 0° 0' 0" E	10.00
12	11+00	10.00	N 0° 0' 0" E	10.00
13	12+00	10.00	N 0° 0' 0" E	10.00
14	13+00	10.00	N 0° 0' 0" E	10.00
15	14+00	10.00	N 0° 0' 0" E	10.00
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18	17+00	10.00	N 0° 0' 0" E	10.00
19	18+00	10.00	N 0° 0' 0" E	10.00
20	19+00	10.00	N 0° 0' 0" E	10.00
21	20+00	10.00	N 0° 0' 0" E	10.00

THESE EASEMENTS ARE BEING DEDICATED TO THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE USE OF THE CITY OF FAYETTEVILLE, ARKANSAS, IN CONNECTION WITH THE CONSTRUCTION AND OPERATION OF THE FAYETTEVILLE HIGH SCHOOL, AND THE CITY OF FAYETTEVILLE, ARKANSAS, HEREBY AGREES TO ACCEPT SAID EASEMENTS FOR THE USE OF THE CITY OF FAYETTEVILLE, ARKANSAS, IN CONNECTION WITH THE CONSTRUCTION AND OPERATION OF THE FAYETTEVILLE HIGH SCHOOL.

THESE EASEMENTS ARE BEING DEDICATED TO THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE USE OF THE CITY OF FAYETTEVILLE, ARKANSAS, IN CONNECTION WITH THE CONSTRUCTION AND OPERATION OF THE FAYETTEVILLE HIGH SCHOOL, AND THE CITY OF FAYETTEVILLE, ARKANSAS, HEREBY AGREES TO ACCEPT SAID EASEMENTS FOR THE USE OF THE CITY OF FAYETTEVILLE, ARKANSAS, IN CONNECTION WITH THE CONSTRUCTION AND OPERATION OF THE FAYETTEVILLE HIGH SCHOOL.

PANEL LINE TABLE

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5	4+00	10.00	N 0° 0' 0" E	10.00
6	5+00	10.00	N 0° 0' 0" E	10.00
7	6+00	10.00	N 0° 0' 0" E	10.00
8	7+00	10.00	N 0° 0' 0" E	10.00
9	8+00	10.00	N 0° 0' 0" E	10.00
10	9+00	10.00	N 0° 0' 0" E	10.00
11	10+00	10.00	N 0° 0' 0" E	10.00
12	11+00	10.00	N 0° 0' 0" E	10.00
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PANEL LINE TABLE

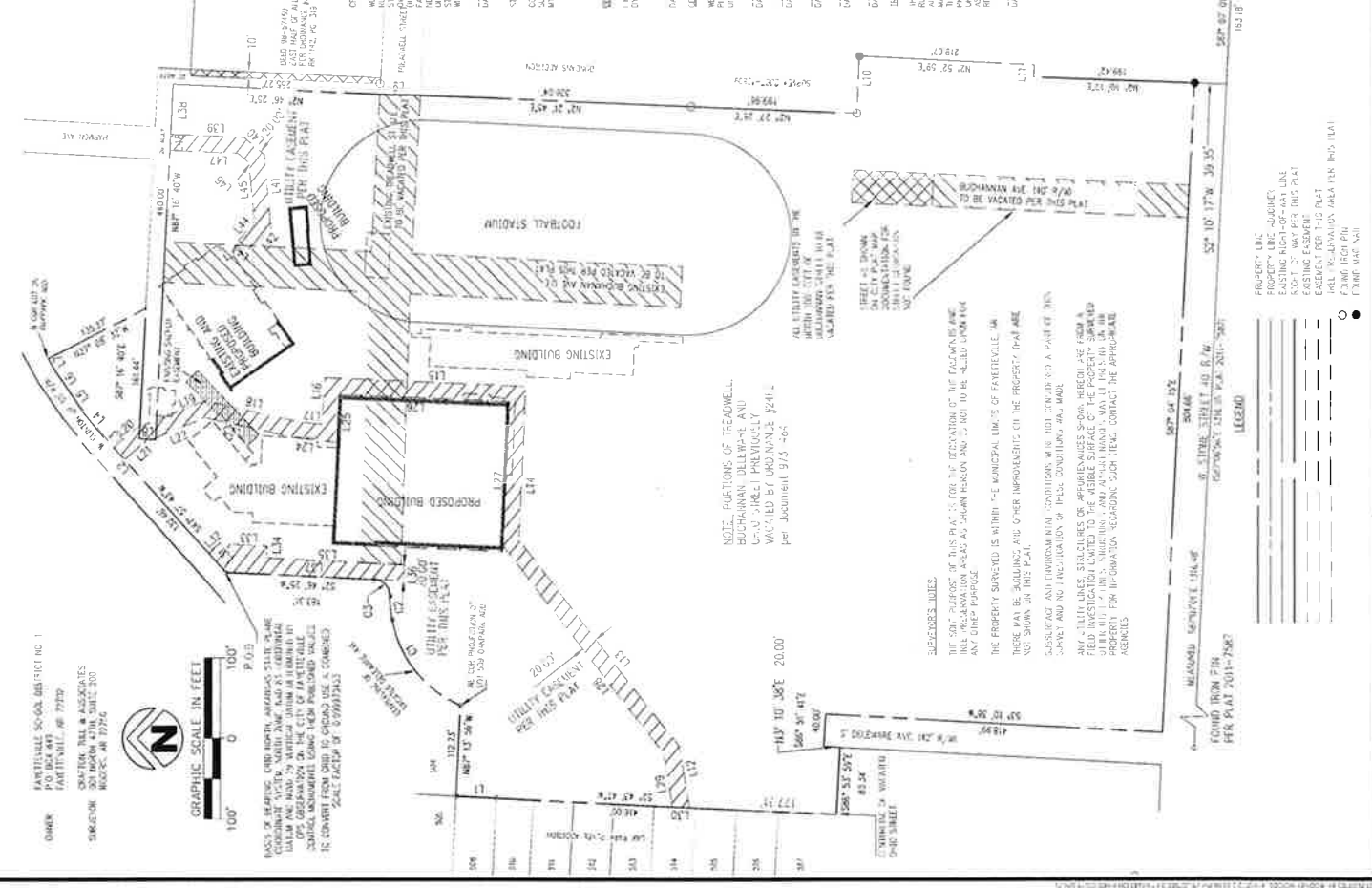
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7	6+00	10.00	N 0° 0' 0" E	10.00
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13	12+00	10.00	N 0° 0' 0" E	10.00
14	13+00	10.00	N 0° 0' 0" E	10.00
15	14+00	10.00	N 0° 0' 0" E	10.00
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PANEL LINE TABLE

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5	4+00	10.00	N 0° 0' 0" E	10.00
6	5+00	10.00	N 0° 0' 0" E	10.00
7	6+00	10.00	N 0° 0' 0" E	10.00
8	7+00	10.00	N 0° 0' 0" E	10.00
9	8+00	10.00	N 0° 0' 0" E	10.00
10	9+00	10.00	N 0° 0' 0" E	10.00
11	10+00	10.00	N 0° 0' 0" E	10.00
12	11+00	10.00	N 0° 0' 0" E	10.00
13	12+00	10.00	N 0° 0' 0" E	10.00
14	13+00	10.00	N 0° 0' 0" E	10.00
15	14+00	10.00	N 0° 0' 0" E	10.00
16	15+00	10.00	N 0° 0' 0" E	10.00
17	16+00	10.00	N 0° 0' 0" E	10.00
18	17+00	10.00	N 0° 0' 0" E	10.00
19	18+00	10.00	N 0° 0' 0" E	10.00
20	19+00	10.00	N 0° 0' 0" E	10.00
21	20+00	10.00	N 0° 0' 0" E	10.00

THESE EASEMENTS ARE BEING DEDICATED TO THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE USE OF THE CITY OF FAYETTEVILLE, ARKANSAS, IN CONNECTION WITH THE CONSTRUCTION AND OPERATION OF THE FAYETTEVILLE HIGH SCHOOL, AND THE CITY OF FAYETTEVILLE, ARKANSAS, HEREBY AGREES TO ACCEPT SAID EASEMENTS FOR THE USE OF THE CITY OF FAYETTEVILLE, ARKANSAS, IN CONNECTION WITH THE CONSTRUCTION AND OPERATION OF THE FAYETTEVILLE HIGH SCHOOL.

THESE EASEMENTS ARE BEING DEDICATED TO THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE USE OF THE CITY OF FAYETTEVILLE, ARKANSAS, IN CONNECTION WITH THE CONSTRUCTION AND OPERATION OF THE FAYETTEVILLE HIGH SCHOOL, AND THE CITY OF FAYETTEVILLE, ARKANSAS, HEREBY AGREES TO ACCEPT SAID EASEMENTS FOR THE USE OF THE CITY OF FAYETTEVILLE, ARKANSAS, IN CONNECTION WITH THE CONSTRUCTION AND OPERATION OF THE FAYETTEVILLE HIGH SCHOOL.



PETITION

PETITION TO VACATE EASEMENT AND RIGHT-OF-WAY LOCATED AT THE FAYETTEVILLE HIGH SCHOOL
ATHLETIC CENTER, CITY OF FAYETTEVILLE, ARKANSAS

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

We, the undersigned, being all the owners of the real estate abutting the easement and right-of-way
hereinafter sought to be abandoned and vacated, lying in Fayetteville High School property, City of
Fayetteville, Arkansas, a municipal corporation, petition to vacate an alley which is described as follows:

SEE ATTACHED LEGAL DESCRIPTION

That the abutting real estate affected by said abandonment of the easement and right-of-way are at the
Fayetteville High School Athletic Center, City of Fayetteville used by the public for a period of many
years, and that the public interest and welfare would not be adversely affected by the abandonment of
the portion of the above described easement and right-of-way.

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

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

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

Dated this 3 day of April, 2012.

David Tate

Printed Name

David Tate

Signature

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: March 28, 2012UTILITY COMPANY: OZARKS ELECTRICAPPLICANT NAME: Jonathan Ely, P.E. (Representative) APPLICANT PHONE: 479-878-2432
REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
- ☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

** Existing Fayetteville High School Site

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:


Signature of Utility Company RepresentativeLead Staking Tech
Title

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

DATE: March 28, 2012

UTILITY COMPANY: AT&T

APPLICANT NAME: Jonathan Ely, P.E. (Representative) APPLICANT PHONE: 479-878-2432
REQUESTED VACATION *(applicant must check all that apply):*

- ☒ Utility Easement
☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following *(alley, easement, right-of-way)*, described as follows:

General location / Address (referring to attached document- must be completed)**

** Existing Fayetteville High School Site

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

• No objections provided the following conditions are met: RELOCATION OR REPAIR OF ANY EXISTING AT&T FACILITIES WILL BE @ THE OWNER OR DEVELOPER'S EXPENSE. CONDUITS ARE TO BE PROVIDED BY OWNER/DEVELOPER FOR RELOCATION.

Susan K. Clouser
Signature of Utility Company Representative

OSP ENGINEER-DESIGN
Title

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

DATE: March 28, 2012

UTILITY COMPANY: Solid Waste & Recycling

APPLICANT NAME: Jonathan Ely, P.E. (Representative) APPLICANT PHONE: 479-878-2432
REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** Existing Fayetteville High School Site

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

- ☐ No objections provided the following conditions are met:

Brian Pugh
Signature of Utility Company Representative
Waste Reduction Coordinator
Title

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

DATE: March 28, 2012

UTILITY COMPANY: CITY OF FAYETTEVILLE TRANSPORTATION DIV.

APPLICANT NAME: Jonathan Ely, P.E. (Representative) APPLICANT PHONE: 479-878-2432

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
- ☒ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** Existing Fayetteville High School Site

{ATTACH legal description and graphic representation of what is being vacated-SURVEY}

UTILITY COMPANY COMMENTS:

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

- ☐ No objections provided the following conditions are met:



Signature of Utility Company Representative

ASSISTANT TRANSPORTATION MGR.

Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: March 28, 2012UTILITY COMPANY: Source Lin Co.APPLICANT NAME: Jonathan Ely, P.E. (Representative)APPLICANT PHONE: 479-878-2432

REQUESTED VACATION (applicant must check all that apply):

☒ Utility Easement☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.☐ Alley☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed)**

** Existing Fayetteville High School Site

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

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

- No objections provided the following conditions are met:

Randy Wade
Signature of Utility Company RepresentativeField Coordinator
Title

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

DATE: March 28, 2012

UTILITY COMPANY: AEP-SWEPCO

APPLICANT NAME: Jonathan Bly, P.E. (Representative) APPLICANT PHONE: 479-878-2432
REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☒ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** Existing Fayetteville High School Site

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

Jonathan Bly
Signature of Utility Company Representative

Title

Dist Engr.

UTILITY APPROVAL FORM

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

DATE: March 28, 2012

UTILITY COMPANY: Cox

APPLICANT NAME: Jonathan Ely, P.E. (Representative) APPLICANT PHONE: 479-878-2432
REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

** Existing Fayetteville High School Site

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

- _____
- _____
- No objections provided the following conditions are met:

Any damage or relocation of existing facilities will be at the
owner or developer's expense.


Signature of Utility Company Representative

Field Engineer
Title

UTILITY APPROVAL FORM

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

DATE: March 28, 2012 → 04/06/2012

UTILITY COMPANY: City of Fayetteville

APPLICANT NAME: Jonathan Ely, P.E. (Representative) APPLICANT PHONE: 479-878-2432
REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
☒ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

**** Existing Fayetteville High School Site**

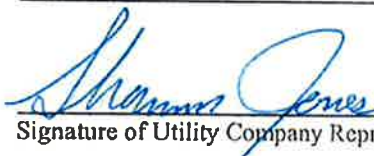
(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

The City must retainin easement rights along Buchanan from Stone to the structure on the south side of the football stadium.

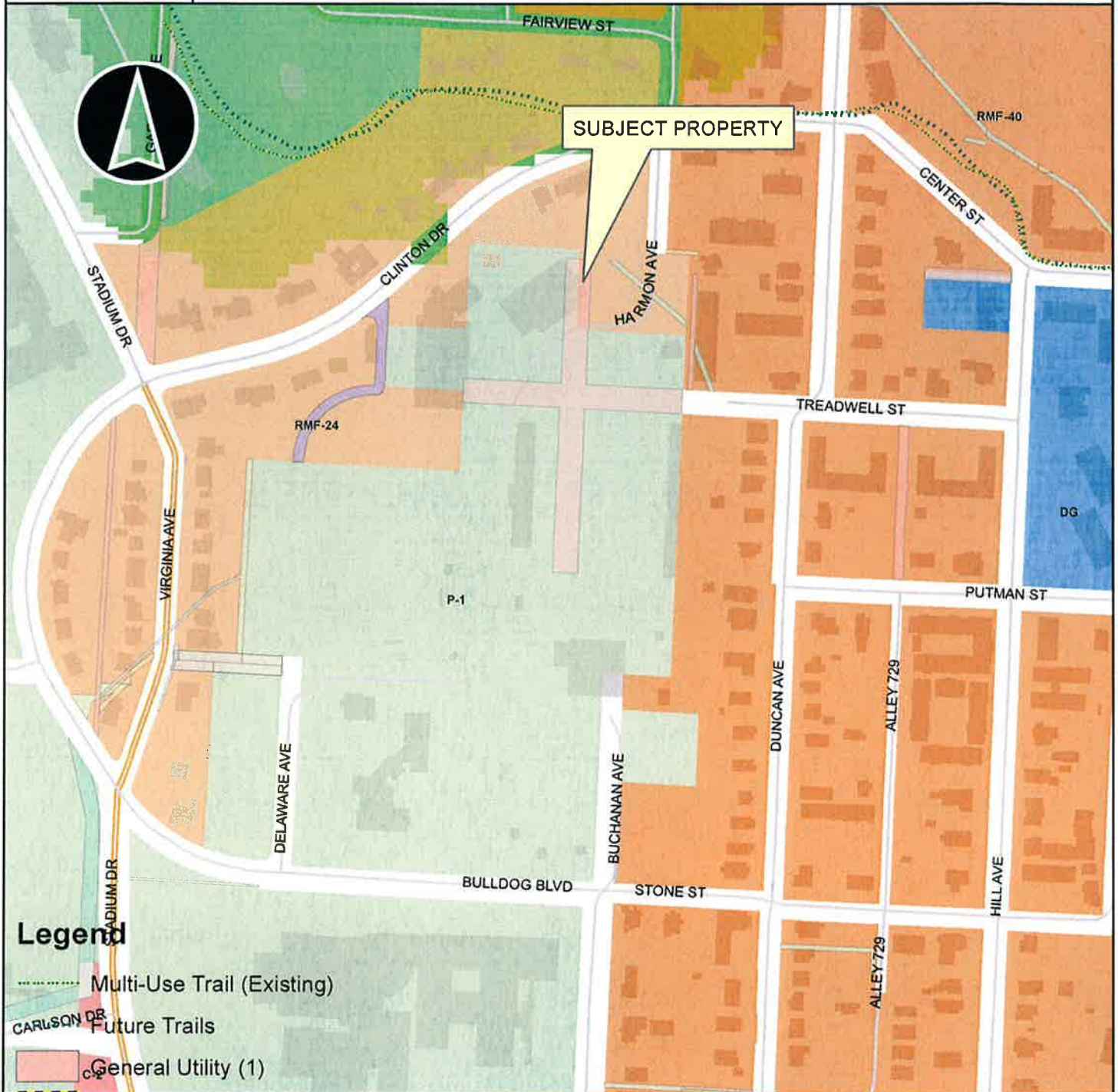

Signature of Utility Company Representative

Utilities Engineer
Title

VAC12-4102

FHS

Close Up View



AGENDA REQUEST FORM

C. 4
Amend §173.08 Arkansas Energy Code
Page 1 of 58

FOR: COUNCIL MEETING OF June 05, 2012

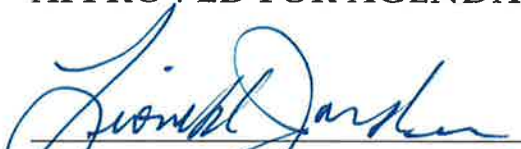
FROM: Mayor Lioneld Jordan
Council Member Matthew Petty
Council Member Sarah Lewis

ORDINANCE TITLE AND SUBJECT:

ADM 11-3655: Residential Energy Code

An ordinance to amend the Residential Energy Code, adopting the 2009 IECC Energy Code for Residential Construction, with the addition of a Home Energy Rating System (HERS) requirement.

APPROVED FOR AGENDA:



Mayor **Lioneld Jordan**

5/18/12
Date



Council Member **Matthew Petty**

5/21/2012
Date



Council Member **Sarah Lewis**

5/21/12
Date

Packet Prepared by:



Jeremy Pate
Director of Development Services

05.17.2012
Date

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www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan
City Council

CC: Don Marr, Chief of Staff
Kit Williams, City Attorney
Jeremy Pate, Development Services Director
David Molaschi, Building Official

From: Leif Olson, Associate Planner

Date: May 17, 2012

Subject: ADM 11-3655 Residential Building Codes

PURPOSE

In July of 2011, Mayor Lioneld Jordan and Alderman Matthew Petty co-sponsored Resolution 117-11 to have city staff examine City building codes and recommend amendments to further promote sustainable practices and energy conservation for City Council consideration.

BACKGROUND

The City of Fayetteville, along with the rest of the State, has consistently followed the State of Arkansas' lead on building code adoption to regulate construction practices in the commercial and residential sectors. Currently, the State requires compliance with an amended 2003 International Energy Conservation Code (IECC). Since the State's adoption of the 2003 IECC there have been three IECC updates (2006, 2009 and 2012). Due to Arkansas' rural nature the State Building Codes are not regularly updated to the newer standards, primarily because rural areas may not have the resources to adequately enforce these codes. Unfortunately, that leaves the more urban areas of the State regulating building practices with the older, less energy efficient standards unless a municipality chooses to adopt more stringent standards. In addition, Northwest Arkansas is unique our counterparts in the central, south and east parts of the state in that we are situated in a different climate zone. Many peer urban areas in the climate zone in which Fayetteville is situated (Springfield, Joplin, Columbia, MO; Lawrence, Manhattan, KS; Bowling Green, KY; Nashville, TN) have adopted new energy codes for building construction.

In December 2007, the Mayor's Ad-Hoc Committee on Energy Efficient Construction was assembled with the goal of improving energy efficiency. The Committee quickly narrowed its focus on new residential construction and created the voluntary Residential Energy Efficiency Program (REEP) and the Fayetteville Energy Scorecard. Unfortunately, the voluntary REEP program has not resulted in the widespread adoption of green building practices that the City had hoped for in the 4 years since it was adopted.

On July 5, 2011 the City Council passed Resolution 117-11 directing City Staff to examine Fayetteville's current building codes and recommend possible changes to encourage energy efficiency improvements for City Council consideration. A Residential Building Code Task Force was formed comprised of local home builders, architects and energy performance consultants tasked with researching, modeling and developing a recommendation for the adoption of energy code changes. Included in the staff report is the research and energy modeling analysis conducted by the Residential Building Code Task

Force as well as a report prepared by the U.S. Department of Energy titled “Impacts of the 2009 IECC on Residential Buildings in Arkansas”. Together these analyses paint a clear picture of the improvements that can be made upon the existing energy codes for residential construction, and what the cost and benefit will be to the consumer.

RECOMMENDATION

After completing substantial research and home energy modeling, the Residential Building Code Task Force and City staff recommends adopting the 2009 IECC for residential construction with an additional requirement for a Home Energy Rating (HERS) for all new residential structures. After consulting with Home Builders Association membership representatives on multiple occasions, staff is also recommending a delayed implementation date for the HERS and sticker requirement, as this is a new step in the home construction process for some builders.

Included in the staff report are the following resources:

- 1) Resolution 117-11, adopted by the City Council
- 2) Committee Summary Analysis of Residential Energy Codes
- 3) Cost/Benefit Analysis of Residential Energy Codes (3 pages)
- 4) Dept. of Energy Report, “Impacts of the 2009 IECC for Residential Buildings at State Level”
- 5) 2009 IECC, Chapter 11 Residential Energy Efficiency

BUDGET IMPACT

None.

Marked-Up Version

The following language is removed:

173.08 Arkansas Energy Code

~~(A) Adoption by reference. The Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as may from time to time hereafter may be amended, is hereby adopted by reference pursuant to A.C.A. § 14-55-206 and § 14-55-207.~~

~~(B) The Arkansas Energy Code is amended by adding a provision for an Energy Efficiency Certificate for new home construction.~~

~~The Building Safety Division is authorized to design, approve and may later amend an Energy Efficiency Certificate to be affixed inside the main electrical panel indicating the operational energy efficiency measures incorporated into the building at the time of the completion of its construction.~~

The following language is added:

173.08 Energy Efficiency Code

(A) *Commercial.* The Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as may from time to time hereafter may be amended, is hereby adopted by reference pursuant to A.C.A. § 14-55-206 and § 14-55-207.

(B) *Residential.* The 2009 International Energy Efficiency Code (IECC) is hereby adopted by reference for all new residential structures.

(1) The 2009 IECC is hereby amended by adding a provision requiring a Home Energy Rating (HERS) for new home construction. The City of Fayetteville requires that all new residential construction have a Home Energy Rating (HERS) completed by an independent RESNET certified home energy rater, or equivalent, prior to the issuance of a Certificate of Occupancy. Residential developments that utilize the exact same floor plan multiple times are required to have a HERS completed on a minimum of 20% of the residential units.

(2) A sticker shall be posted in a very prominent location near the front door showing the estimated monthly utility cost until the home is sold.

(3) All additions, alterations, renovations or repairs to existing residential structures shall comply with the standards of the 2009 IECC, but shall not be required to provide a HERS or post a sticker. Where it is shown to be impractical to meet the 2009 IECC, the Building Official may consider permitting additions, alterations, renovations or repairs in compliance with the Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as may from time to time hereafter may be amended.

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ORDINANCE NO.

AN ORDINANCE TO AMEND §173.08 **ARKANSAS ENERGY CODE** OF THE BUILDING REGULATIONS CHAPTER OF THE U.D.C. TO ADOPT THE 2009 RESIDENTIAL INTERNATIONAL ENERGY EFFICIENCY CODE, WITH AMENDMENTS HEREIN.

WHEREAS, Fayetteville customers spend over \$50 million annually for electricity and natural gas services; and

WHEREAS, more efficient buildings can conserve energy, reduce stress on our electricity grid and natural gas supplies while saving money and resources for our citizens; and

WHEREAS, improved building codes emphasizing energy conservation can reduce future energy consumption and the costs associated with energy production; and

WHEREAS, the existing State adopted and amended 2003 International Energy Efficiency Code is inferior in comparison with the 2009 International Energy Efficiency Code;

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 repeals §173.08 **Arkansas Energy Code** of the Unified Development Code and enacts a replacement §173.08 **Energy Efficiency Code** as shown below:

“§173.08 Energy Efficiency Code

- (A) *Commercial.* The Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as may from time to time hereafter may be amended, is hereby adopted by reference pursuant to A.C.A. § 14-55-206 and § 14-55-207.
- (B) *Residential.* The 2009 International Energy Efficiency Code (IECC) is hereby adopted by reference for all new residential structures.
- (1) The 2009 IECC is hereby amended by adding a provision requiring a Home Energy Rating (HERS) for new home construction. The City of Fayetteville requires that all new residential construction have a Home Energy Rating (HERS) completed by an independent RESNET certified home energy rater, or equivalent, prior to the issuance of a Certificate of Occupancy. Residential developments that utilize the exact same floor plan multiple times are required to have a HERS completed on a minimum of 20% of the residential units.
- (2) A sticker shall be posted in a very prominent location near the front door showing the estimated monthly utility cost until the home is sold.
- (3) All additions, alterations, renovations or repairs to existing residential structures shall comply with the standards of the 2009 IECC, but shall not be required to provide a HERS or post a sticker. Where it is shown to be impractical to meet the 2009 IECC, the Building Official may consider permitting additions, alterations, renovations or repairs in compliance with the Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as may from time to time hereafter may be amended.”

Section 2. That in order to adequately prepare the residential construction industry for the new requirement for a Home Energy Rating (HERS) for new home construction, the effective date for subsections 173.08 (B)(1) and (2) shall be January 01, 2013.

PASSED and **APPROVED** this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

RESOLUTION NO. 117-11

A RESOLUTION TO REQUEST THAT MAYOR JORDAN HAVE CITY STAFF EXAMINE CITY BUILDING CODES AND RECOMMEND AMENDMENTS TO FURTHER PROMOTE SUSTAINABLE PRACTICES AND ENERGY CONSERVATION FOR CITY COUNCIL CONSIDERATION

WHEREAS, Fayetteville customers spend over \$50 million annually for electrical and natural gas services; and

WHEREAS, over 80% of Fayetteville's electrical power is produced from coal imported from Colorado and Wyoming; and

WHEREAS, buildings in the United States consume over 40% of all energy and 70% of all electricity used in the United States; and

WHEREAS, more efficient buildings can conserve energy, reduce stress on our electric grid and natural gas supplies and save money as well as resources; and

WHEREAS, improved building codes emphasizing sustainability and energy conservation can favorably impact future energy consumption and all the costs associated with energy production.

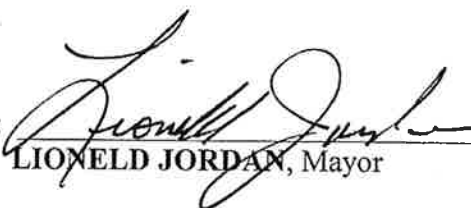
NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby requests that Mayor Jordan have his City staff examine Fayetteville's current building codes and recommend possible changes to encourage feasible improvements for increased energy conservation and overall sustainability for City Council consideration.

PASSED and APPROVED this 5th day of July, 2011.

APPROVED:

ATTEST:

By: 
LIONELD JORDAN, Mayor

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



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Analysis of Residential Energy Codes

Residential Building Code Task Force
City of Fayetteville Sustainability and Strategic Planning Department
2012

Background: On July 5, 2011 the City Council passed Resolution 117-11 directing City Staff to examine Fayetteville's current building codes and recommend possible changes to encourage energy efficiency improvements for City Council consideration. A Residential Building Code Task Force was formed comprised of local home builders, architects and energy performance consultants tasked with researching, modeling and developing a recommendation for the adoption of energy code changes.

Process: The Residential Building Code Task Force met a total of four times in 2011 and 2012. The Task Force utilized the expertise of its members to model the energy efficiency of a "typical" 1,824 sq. ft. home according to four different sets of building codes; the 2003, 2009 and 2012 International Energy Efficiency Codes (IECC) and the Energy Star Code. The results of this modeling exercise are included in the attached spreadsheets.

Comparison between the 2003, 2006, 2009 and 2012 International Energy Conservation Code (IECC) Building Envelope Requirements:

The IECC is typically published every three years. Each edition has some changes from the previous one. The residential portion of the code was heavily revised in 2004 and climate zones and building envelope requirements were restructured into a different format. This makes the post 2004 IECC codes much more concise and easier to use. However, these changes also complicate comparisons of pre-2004 codes to the newer versions. The changes between the 2006, 2009 and 2012 IECC were mainly to improve energy efficiency and make the code more stringent.

The major building thermal envelope updates to the 2003 IECC are the U-factor and Solar Heat Gain Coefficient (SHGC) requirements for fenestrations (windows) and the insulation *R*-factors for foundations and walls.

The Building Thermal Envelope is defined as what separates the building from unconditioned space. Windows are measured in terms of their thermal transmission, or U-factor. U-factor measures the rate of heat transfer through a product. The lower the U-factor, the lower the amount of heat loss, and the better a product is insulating a building. Solar Heat Gain refers to the increase in temperature in a space, object or structure that results from solar radiation. The amount of solar gain changes with the strength of the sun, and with the ability of any intervening material to transmit or resist the radiation.

The thermal building envelope changes between the 2003, 2006 and 2009 versions of the IECC are shown below:

	2003 IECC adopted by State with amendments	2006 IECC	2009 IECC
Ceiling	<i>R</i> -38	<i>R</i> -38	<i>R</i> -38
Skylight U-factor	N/A	0.60	0.60
Fenestration U-factor	0.41	0.40	0.35
Fenestration SHGC	N/A	N/A	0.45
Wood Frame Wall	<i>R</i> -13	<i>R</i> -13	<i>R</i> -13
Mass Wall	<i>R</i> -8.1	<i>R</i> -5	<i>R</i> -5/10*
Floor	<i>R</i> -19	<i>R</i> -19	<i>R</i> -19
Basement Wall	<i>R</i> -10/13**	<i>R</i> -10/13**	<i>R</i> -10/13**
Slab	<i>R</i> -4	<i>R</i> -10,2 ft depth	<i>R</i> -10,2 ft depth
Crawlspace Wall	<i>R</i> -10/13**	<i>R</i> -10/13**	<i>R</i> -10/13**

* The second *R*-value applies when more than half the insulation is on the interior of the mass wall.

** The first *R*-value applies to continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.

Additional revisions to the 2009 IECC to improve energy efficiency included:

- The 2009 IECC requires that all sealed ducts located outside of the building's thermal envelope be verified by conducting a duct tightness test. The 2003 and 2006 IECC requires ducts to be sealed but not to a specific leakage rate verified by testing.
- 50% of the lighting lamps in a building have to be high efficiency in the 2009 IECC. The 2006 IECC has no lighting requirement.
- Trade off credit can no longer be obtained for high-efficiency heating, ventilation, and air conditioning (HVAC) equipment in the 2009 IECC. For example, if a high efficiency furnace is used, no reduction in wall insulation is allowed.
- A permanent sticker shall be posted on or in the electrical distribution panel that lists the predominant *R*-values of the insulation in the ceiling/roof, walls, foundation and ducts outside conditioned space. Also, the certificate shall list U-factors for window, the types and efficiencies of heating, cooling, and water heating equipment.

The 2012 IECC continues this trend, with all of the 2009 requirements and heightened requirements for efficiency within the thermal building envelope. Wood frame walls go from *R*-13 insulation to 20; 75% of lighting fixtures are required to be high-efficiency; and the infiltration standards are much more stringent. Importantly, the mechanical systems within a residence begin to get much more scrutiny. In comparison, the 2003 IECC has no duct infiltration standards, the 2009 has 8 CFM per 100sf standard, and the 2012 IECC allows no more than 4 CFM per 100 sf of infiltration. As noted in the following cost-benefit analysis, the 2012 IECC significantly increases the cost of construction when compared to the current 2003 energy code, therefore the committee chose not to pursue this option further.

Overview of the 2009 IECC with Anticipated Energy Cost/Benefit Analysis

The 2009 IECC is designed to save the consumer in utility costs because the building's thermal envelope and duct system will be tighter allowing for less air infiltration and the solar heat gain will be reduced with the improved window U-factor ratings. The efficient lighting requirements require less energy thereby increasing efficiency. The 2009 IECC scope includes residential single-family housing and multifamily housing three stories or less above-grade, intended for permanent living. The code is intended to apply to new buildings and additions/alterations/renovations/repairs.

Ceiling	R-38
Skylight U-factor	U-0.60
Window U-factor	U-0.35
Wood Frame Wall	R-13
Fenestration Solar Heat Gain Coefficient (SHGC)	0.45
Mass Wall	R-5/10*
Floor	R-19
Basement Wall	R-10/13*
Slab	R-10, 2 ft depth
Crawlspace Wall	R-10/13*

* The first R-value applies to continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.

Additional requirements of the 2009 IECC include:

- Building envelope must be caulked and sealed.
- Supply ducts in attics must be insulated to R-8. Return ducts in attics and all ducts in crawlspaces, unheated basements, garages, or otherwise outside the building envelope must be insulated to R-6.
- All ducts must be sealed and either:
 1. Verified by pressure testing. The duct system is tested and the air leakage out of ducts must be kept to an acceptable maximum level.
 2. All ductwork must be installed entirely within the building envelope. Testing is not required if all ducts are inside the building thermal envelope.
- Less insulation is allowed for mass walls and more insulation is required for steel framing.
- 50% of the lighting in a building must be high efficacy.
- Standard administrative requirements apply (inspections, documentation).
- A certificate must be posted near the electrical panel listing insulation levels and other energy-efficiency measures.

Exemptions/allowances from prescriptive measures:

- One door and 15 square feet of window area are exempt.

Mandatory requirements:

Windows can never exceed an area-weighted average solar heat gain coefficient (SHGC) of 0.50.

Compliance Paths:

The 2003, 2006 and 2009 IECC all effectively contain three alternative compliance paths.

1. Prescriptive Measures. This is considered the simplest path. These requirements do not vary by building size, shape, window area or other features. The 2009 IECC has a single table of requirements for insulation R-values and window and door U-factors and SHGC.
2. Total building envelope UA (U-factor multiplied by area). This is the path predominantly used by the REScheck software. Based on the prescriptive U-factor table, it allows trade-offs whereby some energy efficiency measure can fall below code requirements if balanced by other measures that exceed code requirements.
3. Simulated performance path. This path allows compliance if the home has calculated annual energy consumption equal to or less than that of a standard reference design that meets the code's prescriptive requirements. This path allows for crediting energy efficiency measures not accounted for in other paths, such as renewable energy measures. The 2009 performance path differs from previous editions of the IECC in that it allows no trade-off credit for the use of high efficiency space heating, space cooling or water heating equipment.

Cost/Savings Analysis:

The Residential Building Code Task Force performed an analysis comparing the same 1,824 sq. ft. home constructed under both the 2003 IECC and the 2009 IECC and modeled with either gas or electric heat. The resulting analysis estimated an annual energy cost savings of \$267 for the gas home and \$344 for the electric home. The additional cost for building to the higher efficiency standards of the 2009 IECC was \$2,049, or amortized over a 30 year loan, \$132 annually. This represents a **net average annual energy savings for the home built to 2009 IECC standards of \$135 for the gas heated home and \$209 for the electric heated home.**

Overview of the Energy Star Version 3 Code with Cost/Benefit Analysis

The Energy Star Qualified Homes Version 3 goes beyond the requirements of the 2009 IECC. The Energy Star V3 code may be viewed as a stretch code to the 2009 IECC in that it requires higher efficiencies in some of the thermal building envelope requirements, and it promotes higher efficiency HVAC systems and appliances. The primary examples of this are; greater efficiencies for window U-factors, tighter building envelope requirements, tighter duct sealing requirements and increased foundation insulation installation requirements. Additionally, the Energy Star V3 code requires the installation of Energy Star certified appliances.

	2009 IECC	Energy Star Version 3
Ceiling	R-38	R-38
Skylight U-factor	U-0.60	N/A
Fenestration U-factor	U-0.35	U-0.32
Fenestration SHGC	0.45	0.40
Wood Frame Wall	R-13	R-13
Floor	R-19	R-19
Basement Wall	R-10/13*	R-19
Slab	R-10, 2 ft depth	R-19
Crawlspace Wall	R-10/13	R-13

Some additional significant features of the Energy Star Qualified Homes, Version 3 that differentiate it from the 2009 IECC include:

	2009 IECC	Energy Star V-3
HVAC	7.7 HSPF / 13 SEER / 11 EER ASHP – electric backup	8.5 HSPF / 14.5 SEER / 12 EER ASHP – electric backup
Ceiling Insulation Installation	Grade II Installation	Grade I Installation
AG Wall Insulation Installation	Grade III Installation	Grade I Installation
Foundation Insulation Installation	Grade II Installation	Grade I Installation
Infiltration	7.0 ACH50	5.0 ACH50
Water Heater	0.90 EF Electric DHW, 52 Gallons	0.92 EF Electric DHW, 52 Gallons
Dishwasher	Standard Efficiency	Energy Star
Refrigerator	Standard Efficiency	Energy Star
Lighting	50 % Fluorescent	80 % Energy Star Fluorescent
Bathroom Exhaust Fans	Standard Efficiency	Energy Star Exhaust Fans

Energy Star Cost/Saving Analysis:

Energy Star estimates that for a 2,200 sq. ft. all electric home with an unconditioned basement, located in Climate Zone 4 the improved efficiency standards would increase the annual mortgage cost by \$264. **The estimated monthly utility savings would be \$420, for a net cash flow increase of \$156/year for the homeowner.**

Conclusion

The 2003 IECC adopted and amended by the State of Arkansas has been improved on by subsequent code updates in recent years. The 2009 IECC has significantly higher thermal building envelope requirements than the 2003 IECC achieved primarily through higher efficiency windows and doors, better slab insulation, ductwork insulation and sealing requirements to reduce infiltration. The Energy Star V3 code has even higher efficiency requirements than the 2009 IECC and could be considered a stretch code. Both the 2009 IECC and the Energy Star V3 code have been shown to achieve a demonstrable net return on investment for the homeowner.

Recommendation

Based on the analysis performed calculating the cost of implementing the new energy code with the energy savings a homeowner could realize, the Residential Building Code Task Force and Staff recommends that the City adopt the 2009 IECC with the additional requirement for a Home Energy Rating (HERS) for all new residential construction. The HERS would provide a common denominator for all homebuilders and contractors to measure performance and will ensure that the construction techniques for all of these systems are sound. Staff would also recommend that the City require a Home Performance Sticker be placed in a prominent location near the front door showing the estimated monthly utility cost until the home is sold. This provides homebuyers the information needed to make an informed decision when making one of the largest investments a family can make. The Home Performance Sticker can also be a marketing tool for the homebuilders that wish to excel in this area.

IECC Cost Comparison - 1,824 SF Residential Structure

	2003 IECC State Ver.	2009 IECC	Cost	2012 IECC	Cost	Energy STAR Ver. 3	Cost
Ceiling	R-38	R-38	\$0	R-49	\$	R-38	\$0
Skylight U-factor	N/A	0.6	N/A	0.55	N/A	N/A	N/A
Fenestration U-factor	0.41	0.35	N/A	0.35	N/A	0.32	N/A
Fenestration SHGC	N/A	0.45	see windows and doors	0.4	see windows and doors	0.4	see windows and doors
Doors	R-13	R-2.9	\$	R-2.9	\$	R-4.8	Standard
Wood Frame Wall	R-13	R-13	\$	20 or 13+5***	\$	R-13	\$
Mass Wall	R-8.1	R-5/10*	N/A	R-8/13	N/A	Not Specified	N/A
Crawl Space Floor	R-19	R-19	N/A	19	N/A	R-19	N/A
Basement Wall	R-10/13**	R-10/13**	N/A	R-10/13**	N/A	R-19	N/A
Slab	R-4	R-10, 2 ft depth	\$	R-10, 2 ft depth	\$	R-10, 2 ft depth	\$
Crawl Space Wall	R-10/13**	R-10/13**	N/A	R-10/13**	N/A	R-13	N/A
Duct Blaster Test	No	Yes	\$	Yes	\$	Yes	\$
Duct Infiltration	N/A	8CFM per 100 sf	\$	4CFM per 100 sf	\$	4CFM per 100 sf	\$
Duct Insulation	R-8 Attic/R-5.6 Other	R-8 Attic/R-6 Other	\$	R-8 Attic/R-6 Other	\$	R-8 Attic/R-6 Other	\$
HVAC Specs (Gas)	10 SEER w 78% AFUE	13 SEER w 78% AFUE	N/A	13 SEER 78% AFUE	N/A	13 SEER 90% AFUE	N/A
HVAC Specs (Electric)	6.8 HSPF/10 SEER	7.7 HSPF/13 SEER	\$	7.7 HSPF/13 SEER	\$	8.5 HSPF/14.5 SEER	\$
Trade Off Credits	Allowed	Not Allowed	N/A	Not Allowed	N/A	Not Allowed	N/A
Blower Door Test	No	Yes	\$	Yes	\$	Yes	\$
Infiltration	N/A	7.0 ACH50	\$	3 ACH50	\$	5.0 ACH50	\$
Caulk & Seal	Yes	Yes	\$	Yes	\$	Yes	\$
Lighting	N/A	50% High Efficacy	\$	75% High Efficacy	\$	80% Energy STAR	\$
Programmable Therm	No	Yes	\$	Yes	\$	Yes	\$
Windows SHGC	N/A	0.4	\$	0.4	\$	N/A	\$
Sticker in Panel	No	Yes	Incl. with blower door test	Yes	Incl. with blower door test	N/A	Incl. with blower door test
Dishwasher	Standard	Standard	\$	Standard	\$	Energy STAR	Standard
Water Heater	Standard	Standard	\$	Standard	\$	Energy STAR	Standard
Refrigerator	Standard	Standard	Not supplied	Standard	Not supplied	Energy STAR	Not supplied
Bathroom Exhaust	Standard	Standard	RCS	Standard	RCS	Energy STAR	\$
Total			\$ 2,189.28		\$ 3,576.35		\$ 2,648.48
Additional items Required for Energy Star Version 3							
Gasketed cover for Attic insulation access or pull-down stairway							
Sheetrock sealed to top plate at all attic/wall interfaces using caulk, foam, or equivalent material.							\$ 124.00
Kickout flashing required at bottom of all roof to wall intersections							\$ 200.00
Self sealing bituminous membrane at all valleys and roof deck penetrations							Standard
Cement board or equivalent moisture resistant barrier behind all tub and shower enclosures composed of tile or panel assemblies with caulked joints. Paper-faced backerboard shall not be used.							\$ 50.00
Building Materials with visible water damage or mold shall not be used.							\$ 35.00
Energy Star Version 3 TOTAL							\$ 3,057.68

* The second R-value applies when more than half the insulation is on the interior of the mass wall
 ** The first R-value applies to the continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.
 ***First value is cavity insulation, second is continuous insulation or insulated siding.
 # subtotal for Energy star items listed above

CODE VERSION	FUEL TYPE*	UTILITIES \$/YR**	DESIGN LOADS Heat/Cool (kBTU/hr)	# TONS	MM BTU/YR	HERS INDEX
2003 IECC AR version "	Gas Electric	\$1,725 \$1,898	37.8/25.9 37.8/25.9	2.5 2.5	114.5 69.8	100 100
2009 IECC "	Gas Electric	\$1,458 \$1,560	32.6/21.3 32.6/21.3	2.0 2.0	94.6 61.3	84 86
2012 IECC "	Gas Electric	\$1,214 \$1,404	22.9/14.2 22.9/16.4	1.5 1.5	75.7 51	74 78
ENERGY STAR v.3 "	Gas Electric	\$1,166 \$1,227	25.3/17.7 25.3/17.7	1.5 1.5	72.1 44.3	66 65

*Gas--furnace and water heater: Electric--heat pump and water heater

**Utility rates: \$0.09/kWh elec., \$1.00/CCF gas

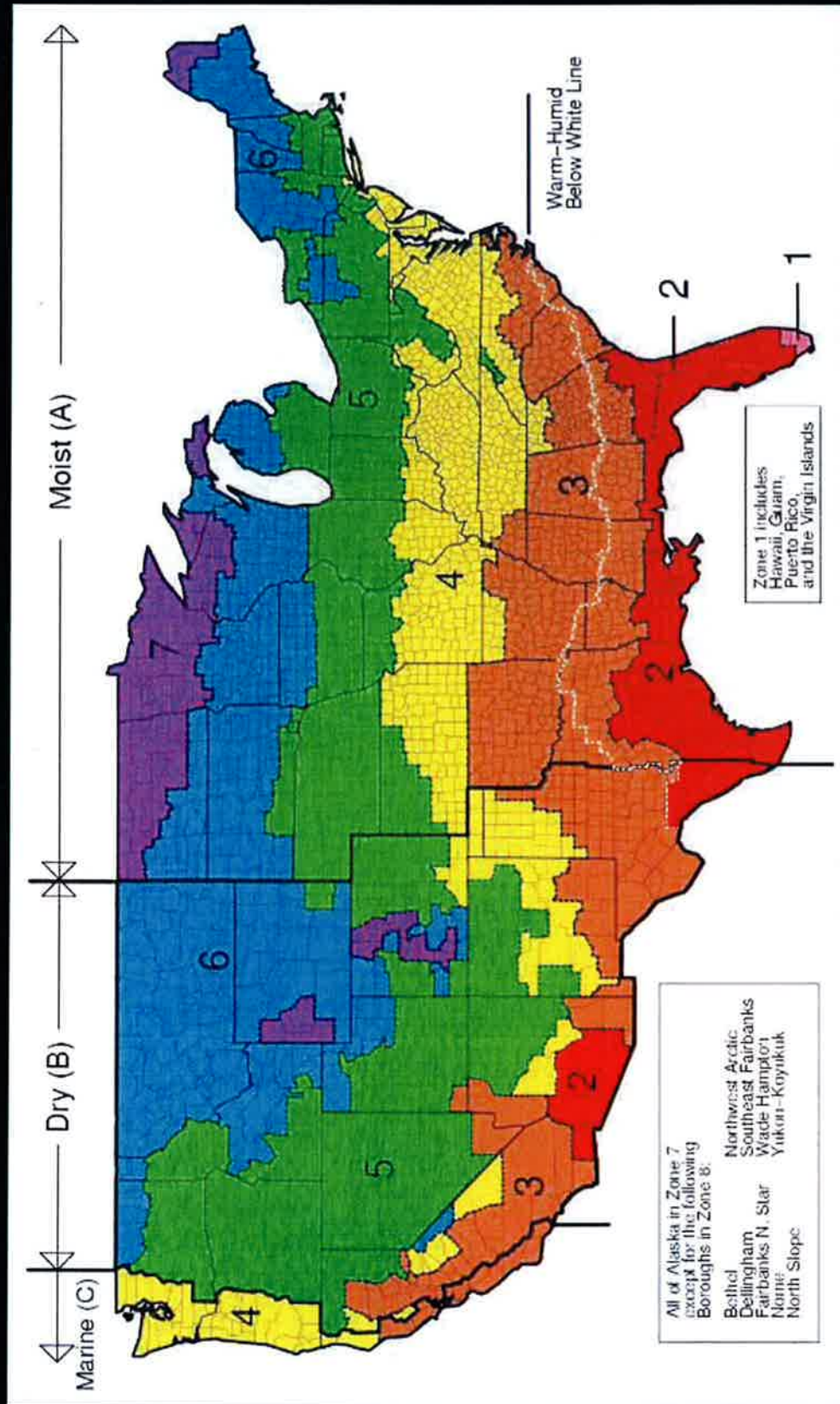
CODE VERSION	FUEL TYPE*	UTILITIES \$/YR**	DESIGN LOADS Heat/Cool (kBTU/hr)	# TONS	MM BTU/YR	HERS INDEX	ADDED COST	Avg Monthly Savings	Ammortized Cost/ Monthly Add
2003 IECC AR	Gas	\$1,725	37.8/25.9	2.5	114.5	100			
"	Electric	\$1,898	37.8/25.9	2.5	69.8	100			
2009 IECC	Gas	\$1,458	32.6/21.3	2.0	94.6	84		\$ 22.25	
"	Electric	\$1,560	32.6/21.3	2.0	61.3	86	\$ 2,049.28	\$ 28.17	\$ 11.00
2012 IECC	Gas	\$1,214	22.9/14.2	1.5	75.7	74		\$ 42.58	
"	Electric	\$1,404	22.9/16.4	1.5	51	78	\$ 3,436.35	\$ 41.17	\$ 18.45
ENERGY STAR v.3	Gas	\$1,166	25.3/17.7	1.5	72.1	66		\$ 46.58	
"	Electric	\$1,227	25.3/17.7	1.5	44.3	65	\$ 3,057.68	\$ 55.92	\$ 16.41

*Gas--furnace and water heater: Electric--heat pump and water heater

**Utility rates: \$0.09/kWh elec., \$1.00/CCF gas

***30 year fixed mortgage with 5% interest rate

Climate Zones – Chapter 3



A MEMBER OF THE INTERNATIONAL CODE FAMILY

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IECC[®]

INTERNATIONAL ENERGY CONSERVATION CODE[®]



2006

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CHAPTER 1

ADMINISTRATION

■ PART 1—SCOPE AND APPLICATION

SECTION 101

SCOPE AND GENERAL REQUIREMENTS

101.1 Title. This code shall be known as the *International Energy Conservation Code* of [NAME OF JURISDICTION], and shall be cited as such. It is referred to herein as “this code.”

101.2 Scope. This code applies to *residential* and *commercial* buildings.

101.3 Intent. This code shall regulate the design and construction of buildings for the effective use of energy. This code is intended to provide flexibility to permit the use of innovative approaches and techniques to achieve the effective use of energy. This code is not intended to abridge safety, health or environmental requirements contained in other applicable codes or ordinances.

101.4 Applicability. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern.

101.4.1 Existing buildings. Except as specified in this chapter, this code shall not be used to require the removal, *alteration* or abandonment of, nor prevent the continued use and maintenance of, an existing building or building system lawfully in existence at the time of adoption of this code.

101.4.2 Historic buildings. Any building or structure that is listed in the State or National Register of Historic Places; designated as a historic property under local or state designation law or survey; certified as a contributing resource with a National Register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the National or State Registers of Historic Places either individually or as a contributing building to a historic district by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, are exempt from this code.

101.4.3 Additions, alterations, renovations or repairs. Additions, alterations, renovations or repairs to an existing building, building system or portion thereof shall conform to the provisions of this code as they relate to new construction without requiring the unaltered portion(s) of the existing building or building system to comply with this code. Additions, alterations, renovations or repairs shall not create an unsafe or hazardous condition or overload existing building systems. An addition shall be deemed to comply with this code if the addition alone complies or if the exist-

ing building and addition comply with this code as a single building.

Exception: The following need not comply provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.
2. Glass only replacements in an existing sash and frame.
3. Existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation.
4. Construction where the existing roof, wall or floor cavity is not exposed.
5. Reroofing for roofs where neither the sheathing nor the insulation is exposed. Roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing.
6. Replacement of existing doors that separate *conditioned space* from the exterior shall not require the installation of a vestibule or revolving door, provided, however, that an existing vestibule that separates a *conditioned space* from the exterior shall not be removed,
7. Alterations that replace less than 50 percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power.
8. Alterations that replace only the bulb and ballast within the existing luminaires in a space provided that the *alteration* does not increase the installed interior lighting power.

101.4.4 Change in occupancy or use. Spaces undergoing a change in occupancy that would result in an increase in demand for either fossil fuel or electrical energy shall comply with this code. Where the use in a space changes from one use in Table 505.5.2 to another use in Table 505.5.2, the installed lighting wattage shall comply with Section 505.5.

101.4.5 Change in space conditioning. Any nonconditioned space that is altered to become *conditioned space* shall be required to be brought into full compliance with this code.

101.4.6 Mixed occupancy. Where a building includes both *residential* and *commercial* occupancies, each occupancy shall be separately considered and meet the applicable provisions of Chapter 4 for *residential* and Chapter 5 for *commercial*.

ADMINISTRATION

101.5 Compliance. *Residential buildings* shall meet the provisions of Chapter 4. *Commercial buildings* shall meet the provisions of Chapter 5.

101.5.1 Compliance materials. The *code official* shall be permitted to approve specific computer software, worksheets, compliance manuals and other similar materials that meet the intent of this code.

101.5.2 Low energy buildings. The following buildings, or portions thereof, separated from the remainder of the building by *building thermal envelope* assemblies complying with this code shall be exempt from the *building thermal envelope* provisions of this code:

1. Those with a peak design rate of energy usage less than 3.4 Btu/h-ft² (10.7 W/m²) or 1.0 watt/ft² (10.7 W/m²) of floor area for space conditioning purposes.
2. Those that do not contain *conditioned space*.

SECTION 102 ALTERNATE MATERIALS—METHOD OF CONSTRUCTION, DESIGN OR INSULATING SYSTEMS

102.1 General. This code is not intended to prevent the use of any material, method of construction, design or insulating system not specifically prescribed herein, provided that such construction, design or insulating system has been *approved* by the *code official* as meeting the intent of this code.

102.1.1 Above code programs. The *code official* or other authority having jurisdiction shall be permitted to deem a national, state or local energy efficiency program to exceed the energy efficiency required by this code. Buildings *approved* in writing by such an energy efficiency program shall be considered in compliance with this code. The requirements identified as "mandatory" in Chapters 4 and 5 of this code, as applicable, shall be met.

PART 2—ADMINISTRATION AND ENFORCEMENT

SECTION 103 CONSTRUCTION DOCUMENTS

103.1 General. Construction documents and other supporting data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the *code official* is authorized to require necessary construction documents to be prepared by a registered design professional.

Exception: The *code official* is authorized to waive the requirements for construction documents or other supporting data if the *code official* determines they are not necessary to confirm compliance with this code.

103.2 Information on construction documents. Construction documents shall be drawn to scale upon suitable material. Electronic media documents are permitted to be submitted

when *approved* by the *code official*. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed, and show in sufficient detail pertinent data and features of the building, systems and equipment as herein governed. Details shall include, but are not limited to, as applicable, insulation materials and their *R*-values; fenestration *U*-factors and SHGCs; area-weighted *U*-factor and SHGC calculations; mechanical system design criteria; mechanical and service water heating system and equipment types, sizes and efficiencies; economizer description; equipment and systems controls; fan motor horsepower (hp) and controls; duct sealing, duct and pipe insulation and location; lighting fixture schedule with wattage and control narrative; and air sealing details.

103.3 Examination of documents. The *code official* shall examine or cause to be examined the accompanying construction documents and shall ascertain whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

103.3.1 Approval of construction documents. When the *code official* issues a permit where construction documents are required, the construction documents shall be endorsed in writing and stamped "Reviewed for Code Compliance." Such *approved* construction documents shall not be changed, modified or altered without authorization from the *code official*. Work shall be done in accordance with the *approved* construction documents.

One set of construction documents so reviewed shall be retained by the *code official*. The other set shall be returned to the applicant, kept at the site of work and shall be open to inspection by the *code official* or a duly authorized representative.

103.3.2 Previous approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

103.3.3 Phased approval. The *code official* shall have the authority to issue a permit for the construction of part of an energy conservation system before the construction documents for the entire system have been submitted or *approved*, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holders of such permit shall proceed at their own risk without assurance that the permit for the entire energy conservation system will be granted.

103.4 Amended construction documents. Changes made during construction that are not in compliance with the *approved* construction documents shall be resubmitted for approval as an amended set of construction documents.

103.5 Retention of construction documents. One set of *approved* construction documents shall be retained by the *code official* for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws.

SECTION 104 INSPECTIONS

104.1 General. Construction or work for which a permit is required shall be subject to inspection by the *code official*.

104.2 Required approvals. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the *code official*. The *code official*, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the *code official*.

104.3 Final inspection. The building shall have a final inspection and not be occupied until *approved*.

104.4 Reinspection. A building shall be reinspected when determined necessary by the *code official*.

104.5 Approved inspection agencies. The *code official* is authorized to accept reports of *approved* inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

104.6 Inspection requests. It shall be the duty of the holder of the permit or their duly authorized agent to notify the *code official* when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

104.7 Reinspection and testing. Where any work or installation does not pass an initial test or inspection, the necessary corrections shall be made so as to achieve compliance with this code. The work or installation shall then be resubmitted to the *code official* for inspection and testing.

104.8 Approval. After the prescribed tests and inspections indicate that the work complies in all respects with this code, a notice of approval shall be issued by the *code official*.

104.8.1 Revocation. The *code official* is authorized to, in writing, suspend or revoke a notice of approval issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure, premise, or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

SECTION 105 VALIDITY

105.1 General. If a portion of this code is held to be illegal or void, such a decision shall not affect the validity of the remainder of this code.

SECTION 106 REFERENCED STANDARDS

106.1 General. The codes and standards referenced in this code shall be those listed in Chapter 6, and such codes and stan-

dards shall be considered as part of the requirements of this code to the prescribed extent of each such reference.

106.2 Conflicting requirements. Where the provisions of this code and the referenced standards conflict, the provisions of this code shall take precedence.

106.3 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

106.4 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

SECTION 107 FEES

107.1 Fees. A permit shall not be issued until the fees prescribed in Section 107.2 have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

107.2 Schedule of permit fees. A fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority.

107.3 Work commencing before permit issuance. Any person who commences any work before obtaining the necessary permits shall be subject to an additional fee established by the *code official*, which shall be in addition to the required permit fees.

107.4 Related fees. The payment of the fee for the construction, alteration, removal or demolition of work done in connection to or concurrently with the work or activity authorized by a permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

107.5 Refunds. The *code official* is authorized to establish a refund policy.

SECTION 108 STOP WORK ORDER

108.1 Authority. Whenever the *code official* finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the *code official* is authorized to issue a stop work order.

108.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

108.3 Emergencies. Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

108.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a vio-

lation or unsafe condition, shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.

SECTION 109 BOARD OF APPEALS

109.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the *code official* relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The *code official* shall be an ex officio member of said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the *code official*.

109.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

109.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training and are not employees of the jurisdiction.

CHAPTER 4

RESIDENTIAL ENERGY EFFICIENCY

SECTION 401 GENERAL

401.1 Scope. This chapter applies to residential buildings.

401.2 Compliance. Projects shall comply with Sections 401, 402.4, 402.5, and 403.1, 403.2.2, 403.2.3, and 403.3 through 403.9 (referred to as the mandatory provisions) and either:

1. Sections 402.1 through 402.3, 403.2.1 and 404.1 (prescriptive); or
2. Section 405 (performance).

401.3 Certificate. A permanent certificate shall be posted on or in the electrical distribution panel. The certificate shall not cover or obstruct the visibility of the circuit directory label, service disconnect label or other required labels. The certificate shall be completed by the builder or registered design professional. The certificate shall list the predominant *R*-values of insulation installed in or on ceiling/roof, walls, foundation (slab, basement wall, crawlspace wall and/or floor) and ducts outside conditioned spaces; *U*-factors for fenestration and the solar heat gain coefficient (SHGC) of fenestration. Where there is more than one value for each component, the certificate shall list the value covering the largest area. The certificate shall list the types and efficien-

cies of heating, cooling and service water heating equipment. Where a gas-fired unvented room heater, electric furnace, or baseboard electric heater is installed in the residence, the certificate shall list "gas-fired unvented room heater," "electric furnace" or "baseboard electric heater," as appropriate. An efficiency shall not be listed for gas-fired unvented room heaters, electric furnaces or electric baseboard heaters.

SECTION 402 BUILDING THERMAL ENVELOPE

402.1 General (Prescriptive).

402.1.1 Insulation and fenestration criteria. The *building thermal envelope* shall meet the requirements of Table 402.1.1 based on the climate zone specified in Chapter 3.

402.1.2 *R*-value computation. Insulation material used in layers, such as framing cavity insulation and insulating sheathing, shall be summed to compute the component *R*-value. The manufacturer's settled *R*-value shall be used for blown insulation. Computed *R*-values shall not include an *R*-value for other building materials or air films.

TABLE 402.1.1
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT^a

CLIMATE ZONE	FENESTRATION U-FACTOR ^b	SKYLIGHT ^b U-FACTOR	GLAZED FENESTRATION SHGC ^{b, c}	CEILING R-VALUE	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE ⁱ	FLOOR R-VALUE	BASEMENT ^c WALL R-VALUE	SLAB ^d R-VALUE & DEPTH	CRAWL SPACE ^e WALL R-VALUE
1	1.2	0.75	0.30	30	13	3/4	13	0	0	0
2	0.65 ^j	0.75	0.30	30	13	4/6	13	0	0	0
3	0.50 ^j	0.65	0.30	30	13	5/8	19	5/13 ^f	0	5/13
4 except Marine	0.35	0.60	NR	38	13	5/10	19	10/13	10, 2 ft	10/13
5 and Marine 4	0.35	0.60	NR	38	20 or 13+5 ^h	13/17	30 ^g	10/13	10, 2 ft	10/13
6	0.35	0.60	NR	49	20 or 13+5 ^h	15/19	30 ^g	15/19	10, 4 ft	10/13
7 and 8	0.35	0.60	NR	49	21	19/21	38 ^g	15/19	10, 4 ft	10/13

For SI: 1 foot = 304.8 mm.

- a. *R*-values are minimums. *U*-factors and SHGC are maximums. R-19 batts compressed into a nominal 2 × 6 framing cavity such that the *R*-value is reduced by R-1 or more shall be marked with the compressed batt *R*-value in addition to the full thickness *R*-value.
- b. The fenestration *U*-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
- c. "15/19" means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. "15/19" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. "10/13" means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.
- d. R-5 shall be added to the required slab edge *R*-values for heated slabs. Insulation depth shall be the depth of the footing or 2 feet, whichever is less in Zones 1 through 3 for heated slabs.
- e. There are no SHGC requirements in the Marine Zone.
- f. Basement wall insulation is not required in warm-humid locations as defined by Figure 301.1 and Table 301.1.
- g. Or insulation sufficient to fill the framing cavity, R-19 minimum.
- h. "13+5" means R-13 cavity insulation plus R-5 insulated sheathing. If structural sheathing covers 25 percent or less of the exterior, insulating sheathing is not required where structural sheathing is used. If structural sheathing covers more than 25 percent of exterior, structural sheathing shall be supplemented with insulated sheathing of at least R-2.
- i. The second *R*-value applies when more than half the insulation is on the interior of the mass wall.
- j. For impact rated fenestration complying with Section R301.2.1.2 of the *International Residential Code* or Section 1608.1.2 of the *International Building Code*, the maximum *U*-factor shall be 0.75 in Zone 2 and 0.65 in Zone 3.

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TABLE 402.1.3
EQUIVALENT *U*-FACTORS^a

CLIMATE ZONE	FENESTRATION <i>U</i> -FACTOR	SKYLIGHT <i>U</i> -FACTOR	CEILING <i>U</i> -FACTOR	FRAME WALL <i>U</i> -FACTOR	MASS WALL <i>U</i> -FACTOR ^b	FLOOR <i>U</i> -FACTOR	BASEMENT WALL <i>U</i> -FACTOR	CRAWL SPACE WALL <i>U</i> -FACTOR ^c
1	1.20	0.75	0.035	0.082	0.197	0.064	0.360	0.477
2	0.65	0.75	0.035	0.082	0.165	0.064	0.360	0.477
3	0.50	0.65	0.035	0.082	0.141	0.047	0.091 ^c	0.136
4 except Marine	0.35	0.60	0.030	0.082	0.141	0.047	0.059	0.065
5 and Marine 4	0.35	0.60	0.030	0.057	0.082	0.033	0.059	0.065
6	0.35	0.60	0.026	0.057	0.060	0.033	0.050	0.065
7 and 8	0.35	0.60	0.026	0.057	0.057	0.028	0.050	0.065

- a. Nonfenestration *U*-factors shall be obtained from measurement, calculation or an approved source.
b. When more than half the insulation is on the interior, the mass wall *U*-factors shall be a maximum of 0.17 in Zone 1, 0.14 in Zone 2, 0.12 in Zone 3, 0.10 in Zone 4 except Marine, and the same as the frame wall *U*-factor in Marine Zone 4 and Zones 5 through 8.
c. Basement wall *U*-factor of 0.360 in warm-humid locations as defined by Figure 301.1 and Table 301.1.

402.1.3 *U*-factor alternative. An assembly with a *U*-factor equal to or less than that specified in Table 402.1.3 shall be permitted as an alternative to the *R*-value in Table 402.1.1.

402.1.4 Total UA alternative. If the total *building thermal envelope* UA (sum of *U*-factor times assembly area) is less than or equal to the total UA resulting from using the *U*-factors in Table 402.1.3 (multiplied by the same assembly area as in the proposed building), the building shall be considered in compliance with Table 402.1.1. The UA calculation shall be done using a method consistent with the *ASHRAE Handbook of Fundamentals* and shall include the thermal bridging effects of framing materials. The SHGC requirements shall be met in addition to UA compliance.

402.2 Specific insulation requirements (Prescriptive).

402.2.1 Ceilings with attic spaces. When Section 402.1.1 would require R-38 in the ceiling, R-30 shall be deemed to satisfy the requirement for R-38 wherever the full height of uncompressed R-30 insulation extends over the wall top plate at the eaves. Similarly, R-38 shall be deemed to satisfy the requirement for R-49 wherever the full height of uncompressed R-38 insulation extends over the wall top plate at the eaves. This reduction shall not apply to the *U*-factor alternative approach in Section 402.1.3 and the total UA alternative in Section 402.1.4.

402.2.2 Ceilings without attic spaces. Where Section 402.1.1 would require insulation levels above R-30 and the design of the roof/ceiling assembly does not allow sufficient space for the required insulation, the minimum required insulation for such roof/ceiling assemblies shall be R-30. This reduction of insulation from the requirements of Sec-

tion 402.1.1 shall be limited to 500 square feet (46 m²) or 20 percent of the total insulated ceiling area, whichever is less. This reduction shall not apply to the *U*-factor alternative approach in Section 402.1.3 and the total UA alternative in Section 402.1.4.

402.2.3 Access hatches and doors. Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated to a level equivalent to the insulation on the surrounding surfaces. Access shall be provided to all equipment that prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer is required to be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened, and to provide a permanent means of maintaining the installed *R*-value of the loose fill insulation.

402.2.4 Mass walls. Mass walls for the purposes of this chapter shall be considered above-grade walls of concrete block, concrete, insulated concrete form (ICF), masonry cavity, brick (other than brick veneer), earth (adobe, compressed earth block, rammed earth) and solid timber/logs.

402.2.5 Steel-frame ceilings, walls, and floors. Steel-frame ceilings, walls and floors shall meet the insulation requirements of Table 402.2.5 or shall meet the *U*-factor requirements in Table 402.1.3. The calculation of the *U*-factor for a steel-frame envelope assembly shall use a series-parallel path calculation method.

Exception: In Climate Zones 1 and 2, the continuous insulation requirements in Table 402.2.5 shall be permitted to be reduced to R-3 for steel frame wall assemblies with studs spaced at 24 inches (610 mm) on center.

TABLE 402.2.5
STEEL-FRAME CEILING, WALL AND FLOOR INSULATION
(R-VALUE)

WOOD FRAME R-VALUE REQUIREMENT	COLD-FORMED STEEL EQUIVALENT R-VALUE ^a
Steel Truss Ceilings^b	
R-30	R-38 or R-30 + 3 or R-26 + 5
R-38	R-49 or R-38 + 3
R-49	R-38 + 5
Steel Joist Ceilings^b	
R-30	R-38 in 2 × 4 or 2 × 6 or 2 × 8 R-49 in any framing
R-38	R-49 in 2 × 4 or 2 × 6 or 2 × 8 or 2 × 10
Steel-Framed Wall	
R-13	R-13 + 5 or R-15 + 4 or R-21 + 3 or R-0 + 10
R-19	R-13 + 9 or R-19 + 8 or R-25 + 7
R-21	R-13 + 10 or R-19 + 9 or R-25 + 8
Steel Joist Floor	
R-13	R-19 in 2 × 6 R-19 + 6 in 2 × 8 or 2 × 10
R-19	R-19 + 6 in 2 × 6 R-19 + 12 in 2 × 8 or 2 × 10

a. Cavity insulation R-value is listed first, followed by continuous insulation R-value.

b. Insulation exceeding the height of the framing shall cover the framing.

402.2.6 Floors. Floor insulation shall be installed to maintain permanent contact with the underside of the subfloor decking.

402.2.7 Basement walls. Walls associated with conditioned basements shall be insulated from the top of the *basement wall* down to 10 feet (3048 mm) below grade or to the basement floor, whichever is less. Walls associated with unconditioned basements shall meet this requirement unless the floor overhead is insulated in accordance with Sections 402.1.1 and 402.2.6.

402.2.8 Slab-on-grade floors. Slab-on-grade floors with a floor surface less than 12 inches (305 mm) below grade shall be insulated in accordance with Table 402.1.1. The insulation shall extend downward from the top of the slab on the outside or inside of the foundation wall. Insulation located below grade shall be extended the distance provided in Table 402.1.1 by any combination of vertical insulation, insulation extending under the slab or insulation extending out from the building. Insulation extending away from the building shall be protected by pavement or by a minimum of 10 inches (254 mm) of soil. The top edge of the insulation installed between the *exterior wall* and the edge of the interior slab shall be permitted to be cut at a 45-degree (0.79 rad) angle away from the *exterior wall*. Slab-edge insulation is not required in jurisdictions designated by the *code official* as having a very heavy termite infestation.

402.2.9 Crawl space walls. As an alternative to insulating floors over crawl spaces, crawl space walls shall be permitted to be insulated when the crawl space is not vented to the outside. Crawl space wall insulation shall be permanently fastened to the wall and extend downward from the floor to the finished grade level and then vertically and/or horizon-

tally for at least an additional 24 inches (610 mm). Exposed earth in unvented crawl space foundations shall be covered with a continuous Class I vapor retarder in accordance with the *International Building Code*. All joints of the vapor retarder shall overlap by 6 inches (153 mm) and be sealed or taped. The edges of the vapor retarder shall extend at least 6 inches (153 mm) up the stem wall and shall be attached to the stem wall.

402.2.10 Masonry veneer. Insulation shall not be required on the horizontal portion of the foundation that supports a masonry veneer.

402.2.11 Thermally isolated sunroom insulation. The minimum ceiling insulation R-values shall be R-19 in Zones 1 through 4 and R-24 in Zones 5 through 8. The minimum wall R-value shall be R-13 in all zones. New wall(s) separating a sunroom from *conditioned space* shall meet the *building thermal envelope* requirements.

402.3 Fenestration. (Prescriptive).

402.3.1 U-factor. An area-weighted average of fenestration products shall be permitted to satisfy the U-factor requirements.

402.3.2 Glazed fenestration SHGC. An area-weighted average of fenestration products more than 50 percent glazed shall be permitted to satisfy the SHGC requirements.

402.3.3 Glazed fenestration exemption. Up to 15 square feet (1.4 m²) of glazed fenestration per dwelling unit shall be permitted to be exempt from U-factor and SHGC requirements in Section 402.1.1. This exemption shall not apply to the U-factor alternative approach in Section 402.1.3 and the Total UA alternative in Section 402.1.4.

402.3.4 Opaque door exemption. One side-hinged opaque door assembly up to 24 square feet (2.22 m²) in area is exempted from the U-factor requirement in Section 402.1.1. This exemption shall not apply to the U-factor alternative approach in Section 402.1.3 and the total UA alternative in Section 402.1.4.

402.3.5 Thermally isolated sunroom U-factor. For Zones 4 through 8, the maximum fenestration U-factor shall be 0.50 and the maximum skylight U-factor shall be 0.75. New windows and doors separating the sunroom from *conditioned space* shall meet the *building thermal envelope* requirements.

402.3.6 Replacement fenestration. Where some or all of an existing fenestration unit is replaced with a new fenestration product, including sash and glazing, the replacement fenestration unit shall meet the applicable requirements for U-factor and SHGC in Table 402.1.1.

402.4 Air leakage (Mandatory).

402.4.1 Building thermal envelope. The *building thermal envelope* shall be durably sealed to limit infiltration. The sealing methods between dissimilar materials shall allow for differential expansion and contraction. The following shall be caulked, gasketed, weatherstripped or otherwise sealed with an air barrier material, suitable film or solid material:

1. All joints, seams and penetrations.

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2. Site-built windows, doors and skylights.
3. Openings between window and door assemblies and their respective jambs and framing.
4. Utility penetrations.
5. Dropped ceilings or chases adjacent to the thermal envelope.
6. Knee walls.
7. Walls and ceilings separating a garage from conditioned spaces.
8. Behind tubs and showers on exterior walls.
9. Common walls between dwelling units.
10. Attic access openings.
11. Rim joist junction.
12. Other sources of infiltration.

402.4.2 Air sealing and insulation. Building envelope air tightness and insulation installation shall be demonstrated to comply with one of the following options given by Section 402.4.2.1 or 402.4.2.2:

402.4.2.1 Testing option. Building envelope tightness and insulation installation shall be considered acceptable when tested air leakage is less than seven air changes per hour (ACH) when tested with a blower door at a pressure of 50 pascals (1 psf). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances.

During testing:

1. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;
2. Dampers shall be closed, but not sealed, including exhaust, intake, makeup air, backdraft and flue dampers;
3. Interior doors shall be open;
4. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
5. Heating and cooling system(s) shall be turned off;
6. HVAC ducts shall not be sealed; and
7. Supply and return registers shall not be sealed.

402.4.2.2 Visual inspection option. Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table 402.4.2, applicable to the method of construction, are field verified. Where required by the *code official*, an *approved* party independent from the installer of the insulation shall inspect the air barrier and insulation.

402.4.3 Fireplaces. New wood-burning fireplaces shall have gasketed doors and outdoor combustion air.

402.4.4 Fenestration air leakage. Windows, skylights and sliding glass doors shall have an air infiltration rate of no

more than 0.3 cfm per square foot (1.5 L/s/m^2), and swinging doors no more than 0.5 cfm per square foot (2.6 L/s/m^2), when tested according to NFRC 400 or AAMA/WDMA/CSA 101/I.S.2/A440 by an accredited, independent laboratory and *listed* and *labeled* by the manufacturer.

Exceptions: Site-built windows, skylights and doors.

402.4.5 Recessed lighting. Recessed luminaires installed in the *building thermal envelope* shall be sealed to limit air leakage between conditioned and unconditioned spaces. All recessed luminaires shall be IC-rated and *labeled* as meeting ASTM E 283 when tested at 1.57 psf (75 Pa) pressure differential with no more than 2.0 cfm (0.944 L/s) of air movement from the *conditioned space* to the ceiling cavity. All recessed luminaires shall be sealed with a gasket or caulk between the housing and the interior wall or ceiling covering.

402.5 Maximum fenestration U-factor and SHGC (Mandatory). The area-weighted average maximum fenestration U-factor permitted using trade-offs from Section 402.1.4 or 405 shall be 0.48 in Zones 4 and 5 and 0.40 in Zones 6 through 8 for vertical fenestration, and 0.75 in Zones 4 through 8 for skylights. The area-weighted average maximum fenestration SHGC permitted using trade-offs from Section 405 in Zones 1 through 3 shall be 0.50.

SECTION 403 SYSTEMS

403.1 Controls (Mandatory). At least one thermostat shall be provided for each separate heating and cooling system.

403.1.1 Programmable thermostat. Where the primary heating system is a forced-air furnace, at least one thermostat per dwelling unit shall be capable of controlling the heating and cooling system on a daily schedule to maintain different temperature set points at different times of the day. This thermostat shall include the capability to set back or temporarily operate the system to maintain zone temperatures down to 55°F (13°C) or up to 85°F (29°C). The thermostat shall initially be programmed with a heating temperature set point no higher than 70°F (21°C) and a cooling temperature set point no lower than 78°F (26°C).

403.1.2 Heat pump supplementary heat (Mandatory). Heat pumps having supplementary electric-resistance heat shall have controls that, except during defrost, prevent supplemental heat operation when the heat pump compressor can meet the heating load.

403.2 Ducts.

403.2.1 Insulation (Prescriptive). Supply ducts in attics shall be insulated to a minimum of R-8. All other ducts shall be insulated to a minimum of R-6.

Exception: Ducts or portions thereof located completely inside the *building thermal envelope*.

403.2.2 Sealing (Mandatory). All ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed.

Joints and seams shall comply with Section M1601.4.1 of the *International Residential Code*.

Duct tightness shall be verified by either of the following:

1. Postconstruction test: Leakage to outdoors shall be less than or equal to 8 cfm (226.5 L/min) per 100 ft² (9.29 m²) of *conditioned floor area* or a total leakage less than or equal to 12 cfm (12 L/min) per 100 ft² (9.29 m²) of *conditioned floor area* when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test.

2. Rough-in test: Total leakage shall be less than or equal to 6 cfm (169.9 L/min) per 100 ft² (9.29 m²) of *conditioned floor area* when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the roughed in system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 ft² (9.29 m²) of *conditioned floor area*.

Exceptions: Duct tightness test is not required if the air handler and all ducts are located within *conditioned space*.

TABLE 402.4.2
AIR BARRIER AND INSULATION INSPECTION COMPONENT CRITERIA

COMPONENT	CRITERIA
Air barrier and thermal barrier	Exterior thermal envelope insulation for framed walls is installed in substantial contact and continuous alignment with building envelope air barrier. Breaks or joints in the air barrier are filled or repaired. Air-permeable insulation is not used as a sealing material. Air-permeable insulation is inside of an air barrier.
Ceiling/attic	Air barrier in any dropped ceiling/soffit is substantially aligned with insulation and any gaps are sealed. Attic access (except unvented attic), knee wall door, or drop down stair is sealed.
Walls	Corners and headers are insulated. Junction of foundation and sill plate is sealed.
Windows and doors	Space between window/door jambs and framing is sealed.
Rim joists	Rim joists are insulated and include an air barrier.
Floors (including above-garage and cantilevered floors)	Insulation is installed to maintain permanent contact with underside of subfloor decking. Air barrier is installed at any exposed edge of insulation.
Crawl space walls	Insulation is permanently attached to walls. Exposed earth in unvented crawl spaces is covered with Class I vapor retarder with overlapping joints taped.
Shafts, penetrations	Duct shafts, utility penetrations, knee walls and flue shafts opening to exterior or unconditioned space are sealed.
Narrow cavities	Batts in narrow cavities are cut to fit, or narrow cavities are filled by sprayed/blown insulation.
Garage separation	Air sealing is provided between the garage and conditioned spaces.
Recessed lighting	Recessed light fixtures are air tight, IC rated, and sealed to drywall. Exception—fixtures in conditioned space.
Plumbing and wiring	Insulation is placed between outside and pipes. Batt insulation is cut to fit around wiring and plumbing, or sprayed/blown insulation extends behind piping and wiring.
Shower/tub on exterior wall	Showers and tubs on exterior walls have insulation and an air barrier separating them from the exterior wall.
Electrical/phone box on exterior walls	Air barrier extends behind boxes or air sealed-type boxes are installed.
Common wall	Air barrier is installed in common wall between dwelling units.
HVAC register boots	HVAC register boots that penetrate building envelope are sealed to subfloor or drywall.
Fireplace	Fireplace walls include an air barrier.

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403.2.3 Building cavities (Mandatory). Building framing cavities shall not be used as supply ducts.

403.3 Mechanical system piping insulation (Mandatory). Mechanical system piping capable of carrying fluids above 105°F (41°C) or below 55°F (13°C) shall be insulated to a minimum of R-3.

403.4 Circulating hot water systems (Mandatory). All circulating service hot water piping shall be insulated to at least R-2. Circulating hot water systems shall include an automatic or readily *accessible* manual switch that can turn off the hot-water circulating pump when the system is not in use.

403.5 Mechanical ventilation (Mandatory). Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.

403.6 Equipment sizing (Mandatory). Heating and cooling equipment shall be sized in accordance with Section M1401.3 of the *International Residential Code*.

403.7 Systems serving multiple dwelling units (Mandatory). Systems serving multiple dwelling units shall comply with Sections 503 and 504 in lieu of Section 403.

403.8 Snow melt system controls (Mandatory). Snow- and ice-melting systems, supplied through energy service to the building, shall include automatic controls capable of shutting off the system when the pavement temperature is above 50°F, and no precipitation is falling and an automatic or manual control that will allow shutoff when the outdoor temperature is above 40°F.

403.9 Pools (Mandatory). Pools shall be provided with energy-conserving measures in accordance with Sections 403.9.1 through 403.9.3.

403.9.1 Pool heaters. All pool heaters shall be equipped with a readily *accessible* on-off switch to allow shutting off the heater without adjusting the thermostat setting. Pool heaters fired by natural gas or LPG shall not have continuously burning pilot lights.

403.9.2 Time switches. Time switches that can automatically turn off and on heaters and pumps according to a preset schedule shall be installed on swimming pool heaters and pumps.

Exceptions:

1. Where public health standards require 24-hour pump operation.
2. Where pumps are required to operate solar- and waste-heat-recovery pool heating systems.

403.9.3 Pool covers. Heated pools shall be equipped with a vapor-retardant pool cover on or at the water surface. Pools heated to more than 90°F (32°C) shall have a pool cover with a minimum insulation value of R-12.

Exception: Pools deriving over 60 percent of the energy for heating from site-recovered energy or solar energy source.

**SECTION 404
ELECTRICAL POWER AND LIGHTING SYSTEMS**

404.1 Lighting equipment (Prescriptive). A minimum of 50 percent of the lamps in permanently installed lighting fixtures shall be high-efficacy lamps.

**SECTION 405
SIMULATED PERFORMANCE ALTERNATIVE
(Performance)**

405.1 Scope. This section establishes criteria for compliance using simulated energy performance analysis. Such analysis shall include heating, cooling, and service water heating energy only.

405.2 Mandatory requirements. Compliance with this section requires that the mandatory provisions identified in Section 401.2 be met. All supply and return ducts not completely inside the *building thermal envelope* shall be insulated to a minimum of R-6.

405.3 Performance-based compliance. Compliance based on simulated energy performance requires that a proposed residence (*proposed design*) be shown to have an annual energy cost that is less than or equal to the annual energy cost of the *standard reference design*. Energy prices shall be taken from a source *approved* by the *code official*, such as the Department of Energy, Energy Information Administration's *State Energy Price and Expenditure Report*. *Code officials* shall be permitted to require time-of-use pricing in energy cost calculations.

Exception: The energy use based on source energy expressed in Btu or Btu per square foot of *conditioned floor area* shall be permitted to be substituted for the energy cost. The source energy multiplier for electricity shall be 3.16. The source energy multiplier for fuels other than electricity shall be 1.1.

405.4 Documentation.

405.4.1 Compliance software tools. Documentation verifying that the methods and accuracy of the compliance software tools conform to the provisions of this section shall be provided to the *code official*.

405.4.2 Compliance report. Compliance software tools shall generate a report that documents that the *proposed design* complies with Section 405.3. The compliance documentation shall include the following information:

1. Address or other identification of the residence;
2. An inspection checklist documenting the building component characteristics of the *proposed design* as listed in Table 405.5.2(1). The inspection checklist shall show results for both the *standard reference design* and the *proposed design*, and shall document all inputs entered by the user necessary to reproduce the results;
3. Name of individual completing the compliance report; and

4. Name and version of the compliance software tool.

Exception: Multiple orientations. When an otherwise identical building model is offered in multiple orientations, compliance for any orientation shall be permitted by documenting that the building meets the performance requirements in each of the four cardinal (north, east, south and west) orientations.

405.4.3 Additional documentation. The *code official* shall be permitted to require the following documents:

1. Documentation of the building component characteristics of the *standard reference design*.
2. A certification signed by the builder providing the building component characteristics of the *proposed design* as given in Table 405.5.2(1).
3. Documentation of the actual values used in the software calculations for the *proposed design*.

405.5 Calculation procedure.

405.5.1 General. Except as specified by this section, the *standard reference design* and *proposed design* shall be configured and analyzed using identical methods and techniques.

405.5.2 Residence specifications. The *standard reference design* and *proposed design* shall be configured and analyzed as specified by Table 405.5.2(1). Table 405.5.2(1) shall include by reference all notes contained in Table 402.1.1.

405.6 Calculation software tools.

405.6.1 Minimum capabilities. Calculation procedures used to comply with this section shall be software tools capable of calculating the annual energy consumption of all building elements that differ between the *standard reference design* and the *proposed design* and shall include the following capabilities:

1. Computer generation of the *standard reference design* using only the input for the *proposed design*. The calculation procedure shall not allow the user to directly modify the building component characteristics of the *standard reference design*.
2. Calculation of whole-building (as a single zone) sizing for the heating and cooling equipment in the *standard reference design* residence in accordance with Section M1401.3 of the *International Residential Code*.
3. Calculations that account for the effects of indoor and outdoor temperatures and part-load ratios on the performance of heating, ventilating and air-conditioning equipment based on climate and equipment sizing.
4. Printed *code official* inspection checklist listing each of the *proposed design* component characteristics from Table 405.5.2(1) determined by the analysis to provide compliance, along with their respective performance ratings (e.g., *R*-value, *U*-factor, SHGC, HSPF, AFUE, SEER, EF, etc.).

405.6.2 Specific approval. Performance analysis tools meeting the applicable sections of Section 405 shall be permitted to be *approved*. Tools are permitted to be *approved* based on meeting a specified threshold for a jurisdiction. The *code official* shall be permitted to approve tools for a specified application or limited scope.

405.6.3 Input values. When calculations require input values not specified by Sections 402, 403, 404 and 405, those input values shall be taken from an *approved* source.

TABLE 405.5.2(1)
SPECIFICATIONS FOR THE STANDARD REFERENCE AND PROPOSED DESIGNS

BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Above-grade walls	Type: mass wall if proposed wall is mass; otherwise wood frame. Gross area: same as proposed U-factor: from Table 402.1.3 Solar absorptance = 0.75 Emissittance = 0.90	As proposed As proposed As proposed As proposed As proposed
Basement and crawl space walls	Type: same as proposed Gross area: same as proposed U-factor: from Table 402.1.3, with insulation layer on interior side of walls.	As proposed As proposed As proposed
Above-grade floors	Type: wood frame Gross area: same as proposed U-factor: from Table 402.1.3	As proposed As proposed As proposed
Ceilings	Type: wood frame Gross area: same as proposed U-factor: from Table 402.1.3	As proposed As proposed As proposed
Roofs	Type: composition shingle on wood sheathing Gross area: same as proposed Solar absorptance = 0.75 Emissittance = 0.90	As proposed As proposed As proposed As proposed
Attics	Type: vented with aperture = 1 ft ² per 300 ft ² ceiling area	As proposed
Foundations	Type: same as proposed foundation wall area above and below grade and soil characteristics: same as proposed.	As proposed As proposed
Doors	Area: 40 ft ² Orientation: North U-factor: same as fenestration from Table 402.1.3.	As proposed As proposed As proposed
Glazing ^a	Total area ^b = (a) The proposed glazing area; where proposed glazing area is less than 15% of the conditioned floor area. (b) 15% of the conditioned floor area; where the proposed glazing area is 15% or more of the conditioned floor area. Orientation: equally distributed to four cardinal compass orientations (N, E, S & W). U-factor: from Table 402.1.3 SHGC: From Table 402.1.1 except that for climates with no requirement (NR) SHGC = 0.40 shall be used. Interior shade fraction: Summer (all hours when cooling is required) = 0.70 Winter (all hours when heating is required) = 0.85 ^c External shading: none	As proposed As proposed As proposed As proposed Same as standard reference design As proposed
Skylights	None	As proposed
Thermally isolated sunrooms	None	As proposed

(continued)

TABLE 405.5.2(1)—continued
SPECIFICATIONS FOR THE STANDARD REFERENCE AND PROPOSED DESIGNS

BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Air exchange rate	Specific leakage area (SLA) ^d = 0.00036 assuming no energy recovery	For residences that are not tested, the same as the standard reference design. For residences without mechanical ventilation that are tested in accordance with ASHRAE 119, Section 5.1, the measured air exchange rate ^e but not less than 0.35 ACH For residences with mechanical ventilation that are tested in accordance with ASHRAE 119, Section 5.1, the measured air exchange rate ^e combined with the mechanical ventilation rate, f which shall not be less than $0.01 \times CFA + 7.5 \times (N_{br} + 1)$ where: CFA = conditioned floor area N_{br} = number of bedrooms
Mechanical ventilation	None, except where mechanical ventilation is specified by the proposed design, in which case: Annual vent fan energy use: $kWh/yr = 0.03942 \times CFA + 29.565 \times (N_{br} + 1)$ where: CFA = conditioned floor area N_{br} = number of bedrooms	As proposed
Internal gains	$IGain = 17,900 + 23.8 \times CFA + 4104 \times N_{br}$ (Btu/day per dwelling unit)	Same as standard reference design
Internal mass	An internal mass for furniture and contents of 8 pounds per square foot of floor area.	Same as standard reference design, plus any additional mass specifically designed as a thermal storage element ^{g, f} but not integral to the building envelope or structure
Structural mass	For masonry floor slabs, 80% of floor area covered by R-2 carpet and pad, and 20% of floor directly exposed to room air.	As proposed
	For masonry basement walls, as proposed, but with insulation required by Table 402.1.3 located on the interior side of the walls	As proposed
	For other walls, for ceilings, floors, and interior walls, wood frame construction	As proposed
Heating systems ^{g, h}	As proposed Capacity: sized in accordance with Section M1401.3 of the <i>International Residential Code</i>	As proposed
Cooling systems ^{g, i}	As proposed Capacity: sized in accordance with Section M1401.3 of the <i>International Residential Code</i>	As proposed
Service water heating ^{h, k}	As proposed Use: same as proposed design	As proposed $gal/day = 30 + (10 \times N_{br})$
Thermal distribution systems	A thermal distribution system efficiency (DSE) of 0.88 shall be applied to both the heating and cooling system efficiencies for all systems other than tested duct systems. Duct insulation: From Section 403.2.1. For tested duct systems, the leakage rate shall be the applicable maximum rate from Section 403.2.2.	As tested or as specified in Table 405.5.2(2) if not tested
Thermostat	Type: Manual, cooling temperature setpoint = 75°F; Heating temperature setpoint = 72°F	Same as standard reference

(continued)

TABLE 405.5.2(1)—continued

For SI: 1 square foot = 0.93 m²; 1 British thermal unit = 1055 J; 1 pound per square foot = 4.88 kg/m²; 1 gallon (U.S.) = 3.785 L; °C = (°F-3)/1.8, 1 degree = 0.79 rad.

- a. Glazing shall be defined as sunlight-transmitting fenestration, including the area of sash, curbing or other framing elements, that enclose conditioned space. Glazing includes the area of sunlight-transmitting fenestration assemblies in walls bounding conditioned basements. For doors where the sunlight-transmitting opening is less than 50 percent of the door area, the glazing area is the sunlight transmitting opening area. For all other doors, the glazing area is the rough frame opening area for the door including the door and the frame.
- b. For residences with conditioned basements, R-2 and R-4 residences and townhouses, the following formula shall be used to determine glazing area:

$$AF = A_s \times FA \times F$$
 where:
 - AF = Total glazing area.
 - A_s = Standard reference design total glazing area.
 - FA = (Above-grade thermal boundary gross wall area)/(above-grade boundary wall area + 0.5 × below-grade boundary wall area).
 - F = (Above-grade thermal boundary wall area)/(above-grade thermal boundary wall area + common wall area) or 0.56, whichever is greater.
 and where:
 - Thermal boundary wall is any wall that separates conditioned space from unconditioned space or ambient conditions.
 - Above-grade thermal boundary wall is any thermal boundary wall component not in contact with soil.
 - Below-grade boundary wall is any thermal boundary wall in soil contact.
 - Common wall area is the area of walls shared with an adjoining dwelling unit.
- c. For fenestrations facing within 15 degrees (0.26 rad) of true south that are directly coupled to thermal storage mass, the winter interior shade fraction shall be permitted to be increased to 0.95 in the proposed design.
- d. Where leakage area (L) is defined in accordance with Section 5.1 of ASHRAE 119 and where:

$$SLA = L/CFA$$
 where L and CFA are in the same units.
- e. Tested envelope leakage shall be determined and documented by an independent party approved by the code official. Hourly calculations as specified in the 2001 ASHRAE *Handbook of Fundamentals*, Chapter 26, page 26.21, Equation 40 (Sherman-Grimsrud model) or the equivalent shall be used to determine the energy loads resulting from infiltration.
- f. The combined air exchange rate for infiltration and mechanical ventilation shall be determined in accordance with Equation 43 of 2001 ASHRAE *Handbook of Fundamentals*, page 26.24 and the "Whole-house Ventilation" provisions of 2001 ASHRAE *Handbook of Fundamentals*, page 26.19 for intermittent mechanical ventilation.
- g. Thermal storage element shall mean a component not part of the floors, walls or ceilings that is part of a passive solar system, and that provides thermal storage such as enclosed water columns, rock beds, or phase-change containers. A thermal storage element must be in the same room as fenestration that faces within 15 degrees (0.26 rad) of true south, or must be connected to such a room with pipes or ducts that allow the element to be actively charged.
- h. For a proposed design with multiple heating, cooling or water heating systems using different fuel types, the applicable standard reference design system capacities and fuel types shall be weighted in accordance with their respective loads as calculated by accepted engineering practice for each equipment and fuel type present.
- i. For a proposed design without a proposed heating system, a heating system with the prevailing federal minimum efficiency shall be assumed for both the standard reference design and proposed design. For electric heating systems, the prevailing federal minimum efficiency air-source heat pump shall be used for the standard reference design.
- j. For a proposed design home without a proposed cooling system, an electric air conditioner with the prevailing federal minimum efficiency shall be assumed for both the standard reference design and the proposed design.
- k. For a proposed design with a nonstorage-type water heater, a 40-gallon storage-type water heater with the prevailing federal minimum energy factor for the same fuel as the predominant heating fuel type shall be assumed. For the case of a proposed design without a proposed water heater, a 40-gallon storage-type water heater with the prevailing federal minimum efficiency for the same fuel as the predominant heating fuel type shall be assumed for both the proposed design and standard reference design.

TABLE 405.5.2(2)
DEFAULT DISTRIBUTION SYSTEM EFFICIENCIES FOR PROPOSED DESIGNS^a

DISTRIBUTION SYSTEM CONFIGURATION AND CONDITION:	FORCED AIR SYSTEMS	HYDRONIC SYSTEMS ^b
Distribution system components located in unconditioned space	—	0.95
Untested distribution systems entirely located in conditioned space ^c	0.88	1
"Ductless" systems ^d	1	—

For SI: 1 cubic foot per minute = 0.47 L/s; 1 square foot = 0.093 m²; 1 pound per square inch = 6895 Pa; 1 inch water gauge = 1250 Pa.

- a. Default values given by this table are for untested distribution systems, which must still meet minimum requirements for duct system insulation.
- b. Hydronic systems shall mean those systems that distribute heating and cooling energy directly to individual spaces using liquids pumped through closed loop piping and that do not depend on ducted, forced airflow to maintain space temperatures.
- c. Entire system in conditioned space shall mean that no component of the distribution system, including the air handler unit, is located outside of the conditioned space.
- d. Ductless systems shall be allowed to have forced airflow across a coil but shall not have any ducted airflow external to the manufacturer's air handler enclosure.

Impacts of the 2009 IECC for Residential Buildings at State Level

September 2009

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Executive Summary

The Building Energy Codes Program (BECP) recently conducted a nationwide residential energy code analysis for the U.S. Department of Energy (DOE). The analysis compares the requirements of the 2009 International Energy Conservation Code® (IECC) with the residential code—or typical construction practice in the absence of a code—in most states as of June 2009. The results, which include estimated typical energy savings of updating each state's code to the 2009 IECC, are provided in this report in chapters specific to each state.

An overview of the 2009 IECC and its major chapters, as well as a brief comparison to previous versions, is provided as introductory information. The IECC is then briefly compared to the International Residential Code, which contains a chapter with energy efficiency requirements that are very similar to the IECC.

Several states have either not adopted a mandatory energy code or developed their own codes which have minimal or no connection to the IECC. The latter—including California, Florida, Oregon, and Washington—were not included in this analysis as the codes in these states would be difficult to appropriately compare to the 2009 IECC and most of these states have energy offices that have already assessed the IECC on their own.

Chapter 2 is dedicated to outlining some of the major code differences in the 2009 IECC that are not contained in any previous version of the code, and to which much of the energy savings of the 2009 IECC compared to previous versions is attributable. These energy saving differences are described in further detail in the report, and include:

- Mandatory duct pressure testing coupled with maximum allowable duct leakage rates. These requirements are applicable when any portion of the ducts are outside the conditioned space.
- A requirement that 50% of lamps in a residence must be energy efficient
- Several improvements in basic envelope requirements
- Elimination of trade-off credits for high efficiency heating, cooling, or water heating equipment.

The full results of each state specific analysis are provided in the following report.¹

¹ DISCLAIMER: The results contained in this report are complete and accurate to the best of BECP's knowledge, based on information available at the time it was written.

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1.0 Chapter 1 Overview of the 2009 IECC

1.1 Introduction

This report examines the requirements of the 2009 International Energy Conservation Code® (IECC) on residential buildings on a state-by-state basis with a separate, stand-alone chapter for each state. A summary of the requirements of the code is given for each state. The 2009 IECC is then compared to the current state code for most states² or typical current construction practice for the states that do not have a residential energy efficiency code. Estimated typical energy savings of updating each state's code to the 2009 IECC are reported.

1.2 Overview of the 2009 IECC

The International Energy Conservation Code sets requirements for the “effective use of energy” in all buildings. Certain buildings that use very low energy use (such as buildings with no heating or cooling) are exempt. The code applies to new buildings and to remodels, renovations, and additions to buildings.

Table 1 shows the organization of the 2009 IECC. The IECC has two separate categories of buildings: residential and commercial. The code requirements are almost entirely different for these two categories. Residential buildings are essentially defined as low-rise buildings (3 stories or less above grade) intended for long-term living (hotels/motels are classified as commercial buildings). The requirements for residential buildings are in Chapter 4; the requirements for commercial buildings are in Chapter 5. Chapters 1 through 3 and Chapter 6 apply to all buildings. This report only addresses the residential portion of the IECC, a separate report addresses commercial buildings³.

The only chapters of the IECC with specific requirements for residential buildings are Chapter 4 and, to a lesser extent, Chapter 1 and Chapter 3. Chapter 4 does reference certain commercial building requirements in Chapter 5 (for example, HVAC systems serving multiple dwelling units). Chapters 2 and 6 only provide supporting information.

Chapter 1 primarily addresses when the code applies and provides instruction to help confirm compliance with the code.

Table 2 below summarizes the sections in Chapter 1.

Chapter 2 defines terms used in the code.

Chapter 3 provides a U.S. map and tables of the climate zones used in the IECC. Climate zones in the code are set on county boundaries. These zones are shown in Figure 1. Section 303 specifies information required at the building site to verify insulation level and specifies National Fenestration Rating Council (NFRC) standards for

² States with their own home-developed codes are not compared to the IECC in this report. This includes California, Oregon, Washington, and Florida. This is done for two reasons. First, these states generally have codes that have little resemblance to the IECC, making a thorough comparison beyond the scope of this study. Second, these states generally have highly capable energy offices that are capable of assessing the IECC on their own (and often have). Alaska, Hawaii and Vermont also do not have an energy analysis here because of difficulties in assessing construction practice particular to those states. No energy analysis was conducted for states that have already adopted the 2009 IECC.

³ Many states adopt the ANSI/ASHRAE/IESNA Standard 90.1 for commercial buildings rather than the IECC and therefore 90.1-2007 is examined for commercial buildings in the separate report. The 2009 IECC permits compliance with Standard 90.1-2007 as one option for complying with the IECC for commercial buildings.

rating fenestration performance. Chapter 3 contains only one element that directly contains a specific construction requirement: protective covering for insulation on the exterior of foundations (Section 303.2.1).

Table 1. IECC Table of Contents

CHAPTER 1 ADMINISTRATION
101 Scope and General Requirements
102 Alternate Materials—Method of Construction, Design or Insulating Systems
103 Construction Documents
104 Inspections
105 Validity
106 Reference Standards
107 Fees
108 Stop Work Order
109 Board of Appeals
CHAPTER 2 DEFINITIONS
201 General
202 General Definitions
CHAPTER 3 CLIMATE ZONES
301 Climate Zones
302 Design Conditions
303 Materials, Systems and Equipment
CHAPTER 4 RESIDENTIAL ENERGY EFFICIENCY
401 General
402 Building Thermal Envelope
403 Systems
404 Electrical Power and Lighting Systems
405 Simulated Performance Alternative
CHAPTER 5 COMMERCIAL ENERGY EFFICIENCY
501 General
502 Building Envelope Requirements
503 Building Mechanical Systems
504 Service Water Heating
505 Electrical Power and Lighting Systems
506 Total Building Performance
CHAPTER 6 REFERENCED STANDARDS

Table 2. Overview of IECC Chapter 1

Section	Overview/summary
101 Scope and General Requirements	Defines how code applies to additions, alterations, renovations, and repairs. Exempts certain low energy buildings.
102 Alternate Materials—Method of Construction, Design or Insulating Systems	Provides code official leeway in interpreting requirements.
103 Construction Documents	Construction documents as required by the code official must be provided.
104 Inspections	Inspections must be permitted and code officials must give approval before allowing further construction or occupancy.
105 Validity	Instructs that remainder of code applies even if a portion is found to be illegal or void.
106 Referenced Standards	Referenced standards must be complied with; the IECC takes precedence if there are any conflicts.
107 Fees	Fees for permits.
108 Stop Work Order	Authority and conditions for stop work orders
109 Board of Appeals	For hearing and deciding appeals.

1.3 Residential Building Requirements – Chapter 4 of the IECC

The 2009 IECC sets construction requirements related to energy efficiency for four energy end-uses:

- 1) Space heating
- 2) Space cooling (air conditioning)
- 3) Water heating
- 4) Lighting⁴

Table 3 shows the organization of the IECC requirements in Chapter 4.

Most of the requirements in the IECC are contained in Section 402 for the building envelope (ceilings, walls, windows, floor/foundation). Figure 1 shows the prescriptive requirements for most envelope measures (there are also separate requirements for skylights, high mass walls, and steel-framed ceilings, walls, and floors).

⁴ Lighting is new to the scope of the IECC for residential buildings in 2009. Previous editions of the IECC only had requirements for space heating, space cooling, and water heating.

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Table 3. Overview of IECC Chapter 4

Section	Overview/summary
401 General	Identifies the two compliance paths: prescriptive and performance. Requires a certificate to be posted on the building listing R-values and other energy efficiency information.
402 Building Thermal Envelope	This section contains most of the prescriptive requirements in the code. Insulation and fenestration requirements are given by climate zone. Air sealing requirements.
403 Systems	Contains requirements for heat pump controls, duct testing and sealing, piping insulation, and equipment sizing.
404 Electrical Power and Lighting Systems	Contains requirements for efficient lighting.
405 Simulated Performance Alternative	The performance approach. This utilizes the requirements of Sections 401 through 404 as a starting point and allows trade-offs. Unlike previous versions of the IECC this does not give extra credit for high efficiency heating, cooling, and water heating equipment. Compliance is determined using computer software. Allows more flexibility in meeting the code.

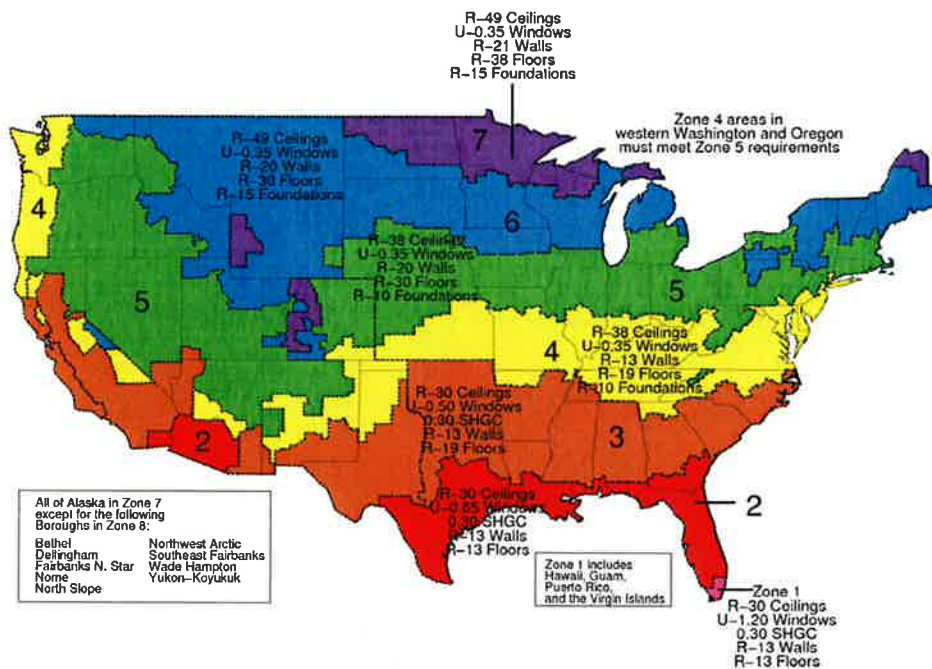


Figure 1. Prescriptive Envelope requirements

1.4 Comparison to Previous Versions of the IECC

The IECC is typically published every three years, though there are some exceptions. In the last two decades, full editions of the MEC came out in 1989, 1992, 1993, and 1995, and full editions of the IECC came out in 1998, 2000, 2003, 2006, and 2009⁵.

Though there were changes in each edition of the IECC from the previous one, the IECC can be categorized into two general eras: 2003 and before, and 2004 and after. This is because the residential portion of the IECC was heavily revised in 2004. The climate zones were completely revised (reduced from 17 zones to 8 primary zones in 2004) and the building envelope requirements were restructured into a different format. The code became much more concise and much simpler to use. These changes complicate comparisons of state codes based on pre-2004 versions of the IECC to the 2009 IECC.

The IECC also had substantial revisions from 2006 to 2009. These revisions were not to the code format, but rather were changes to specific requirements to improve energy efficiency and make the code more stringent. The 2009 has some important new requirements:

- The duct system now has to be tested and the air leakage out of ducts must be kept to an acceptable maximum level. Testing is not required if all ducts are inside the building envelope (for example in heated basements), though the ducts still have to be sealed.
- 50% of the lighting “lamps” (bulbs, tubes, etc.) in a building have to be energy efficient. Compact fluorescents qualify, standard incandescent bulbs do not.
- Trade-off credit can no longer be obtained for high efficiency HVAC equipment. For example, if a high efficiency furnace is used, no reduction in wall insulation is allowed. This will have a great impact on reducing the flexibility allowed by the REScheckTM software. No energy impact is assigned to this code change in the analysis of updating state codes to the 2009 IECC in this report.
- Vertical fenestration U-factor requirements are reduced from 0.75 to 0.65 in Climate Zone 2, 0.65 to 0.5 in Climate Zone 3, and 0.4 to 0.35 in Climate Zone 4.
- The maximum allowable solar heat gain coefficient is reduced from 0.40 to 0.30 in Climate Zones 1, 2, and 3.
- R-20 walls in climate zones 5 and 6 (increased from R-19)
- Modest basement wall and floor insulation improvements
- R-3 pipe insulation on hydronic distribution systems (increased from R-2)
- Limitation on opaque door exemption both size and style (side hinged)
- Improved air-sealing language
- Controls for driveway/sidewalk snow melting systems
- Pool covers are required for heated pools.

1.5 The IECC Compared to the International Residential Code (IRC)

Chapter 11 of the IRC contains energy efficiency requirements that are very similar to the IECC. This Chapter allows compliance with the IECC as an option for IRC compliance. The scope of the IRC is limited to one- and two-family dwellings and to townhouses, whereas the IECC includes other low-rise multifamily buildings such

⁵ There was also a published version of the IECC in 2004, but that version is referred to as a “supplement” edition.

as apartments. States can adopt the IRC, the IECC, or both. While nearly all the requirements in the IRC are identical to those in the IECC, there are a few differences between the 2009 IECC and 2009 IRC. Most notably:

- The IRC requires 0.35 solar heat gain coefficient (SHGC) glazing in Climate Zones 1-3, the IECC requires 0.30 SHGC. Impact resistant fenestration in Climate Zones 2 and 3 is allowed to have an SHGC of up to 0.40 in the IRC only.
- The IECC has higher basement wall and floor insulation levels in colder zones.
- The IRC has no “mandatory” (cannot be traded off) requirements related to fenestration U-factor or SHGC, the IECC does.
- Compliance with the IECC is allowed as an alternative to Chapter 11 of the IRC. The IRC does not directly contain a simulated performance alternative; the IECC must be used instead for this compliance alternative.

Because of these changes, the 2009 IRC does not achieve equivalent energy savings to the 2009 IECC.

1.6 Current State Codes

This report addresses each state code individually, but a brief summary of state codes is presented here. Almost 40 states have adopted the IECC or its predecessor, the Model Energy Code (MEC), as their mandatory state code. Many of these states have made some modifications or amendments to the IECC or MEC. These modifications can vary from a few minor changes to extensive revisions.

Some states have no mandatory codes. As of the date of this report, these states are:

- Alabama
- Hawaii
- Kansas
- Mississippi
- Missouri
- North Dakota
- South Dakota
- Wyoming

Four states have developed their own codes that have minimal or no connection to the IECC:

- California
- Florida
- Oregon
- Washington

In certain cases, cities or counties within a state have a different code from the rest of the state. For example, Austin and Houston have adopted progressive energy codes that exceed the minimum Texas statewide code.

2.0 Chapter 2 – Energy Analysis of Major Improvement in 2009 IECC

The 2009 IECC contains major differences that are not contained in any previous version of the IECC. These changes account for much of the energy savings attributable to the 2009 IECC compared to any of the older versions of the IECC.

2.1 Duct Testing

Section 403.2.2 of the 2009 IECC requires air ducts systems, where any of the ducts pass outside of the conditioned space (into attics, garages, etc.), to be pressure tested for leakage with maximum leakage rates specified. The duct system now has to be tested to prove that the air leakage out of ducts is kept to an acceptable level. Testing is not required if all ducts are inside the building envelope (for example in heated basements), though all ducts are required to be sealed.

The IECC has always required ducts to be sealed. However, multiple studies have shown that visual inspection of ducts is not adequate. Ducts are often located in difficult to access areas such as attics and crawl spaces. Cracks and other leakage points in ducts may not be visible because they are covered by insulation, hidden from view, or simply too small to be readily apparent to the human eye. Testing of completed homes in Washington state, where prescriptive code requirements for duct sealing apply, “showed no significant improvement” over non-code homes (Washington State University 2001). Another study from Washington state concluded: “Comparisons to air leakage rates reported elsewhere for homes built before the implementation of the 1991 WSEC show no significant improvement by the general population” despite years of training emphasizing duct sealing (Hales et al. 2003). The requirement to meet a specific leakage limit will result in improving the buildings that would have had the leakiest ducts. Figure 2 illustrates this effect.

Numerous other studies around the nation show substantial duct leakage in new homes, including those in states with codes requiring duct sealing. For example, a 2001 study of 186 houses built under the MEC in Massachusetts reported “serious problems were found in the quality of duct sealing in about 80% of these houses” (Xenergy 2001). Pressurization tests in 22 of these houses found an average leakage to the outside of the house of 183 cfm, or 21.6% of the system flow, at a pressure of 25 Pascals.

The IECC allows a variety of compliance methods. Notably, the testing can be done at rough-in stage immediately after the ducts are installed. This allows potentially costly call backs to be avoided if the tested leakage rate exceeds code requirements.

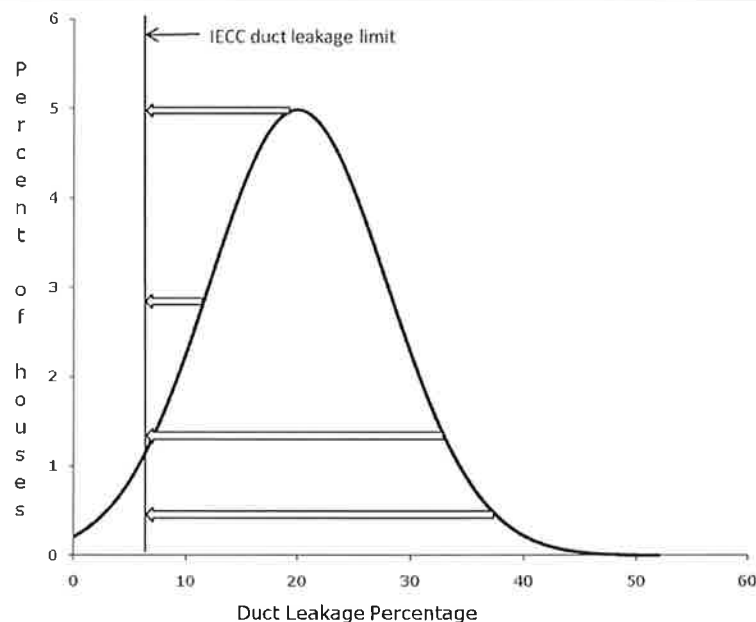


Figure 2. Impact of improved duct sealing. The curve illustrates the approximate distribution of leakage rate in new homes. The arrows show the reduction in duct leakage necessary to meet the code requirement.

2.2 Lighting

The 2009 IECC requires 50% of lamps (bulbs, tubes) within a residence to be energy efficient. There were no requirements for lighting in single-family homes in previous versions of the IECC. This includes but is not limited to CFLs. Standard incandescent bulbs do not qualify. Savings attributable to the lighting requirements in the IECC will decrease as Federal law requires improved light bulbs in 2012 to 2014.

2.3 Envelope Improvements

The 2009 IECC has a number of improvements in basic envelope requirements over the 2006 IECC. Allowable glazed fenestration (windows and skylights) SHGC has been reduced to a maximum of 0.30, meaning that no more than 30% of the sun's heat can pass through the window into the home. Fenestration U-factor requirements have improved in Climate Zones 2, 3, and 4. Wall insulation for wood frame walls has been bumped up from R-19 to R-20 in Climate Zones 5 and 6. Floor insulation and basement wall insulation have increased in the very coldest zones.

2.4 Elimination of Equipment Trade-offs

Previous versions of the IECC allow reductions in envelope measures to below-code levels if heating and cooling equipment efficiency is improved to above-code levels. For example, a popular trade-off in colder climates is to use a high efficiency gas furnace allowing a reduction of wall insulation. The 2009 IECC eliminates these types of trade-offs. Since these trade-offs are by definition energy neutral, their elimination in theory would not impact energy use. However, building envelope measures often have longer lifetimes than heating and cooling equipment so there can be long-term impacts. Additionally, there is expected to be some "free rider" effect where high efficiency equipment will be used regardless of the IECC requirements and the trade-offs, so the older IECC allowed envelope reductions as an unintended side effect.

3.0 References

Washington State University. 2001. *Washington State Energy Code Duct Leakage Study Report*. WSUCEEP01105. Washington State University Cooperative Extension Energy Program, Olympia, Washington.

Hales, D., A. Gordon, and M. Lubliner. 2003. 2003. *Duct Leakage in New Washington State Residences: Findings and Conclusions*. ASHRAE transactions. KC-2003-1-3.

Hammon, R. W., and M. P. Modera. 1999. "Improving the Efficiency of Air Distribution Systems in New California Homes-Updated Report." Consol. Stockton, California.
http://www.energy.ca.gov/title24/ducttape/documents/IMPROVE_EFFICIENCY_RES.PDF

Journal of Light Construction. April 2003. "Pressure-Testing Ductwork." Michael Uniacke.

Sherman et al. 2004. Instrumented HERS and Commissioning.
http://www.energy.ca.gov/pier/final_project_reports/500-04-012.html

Xenergy. 2001. Impact Analysis Of The Massachusetts 1998 Residential Energy Code Revisions.
http://www.mass.gov/Eeops/docs/dps/inf/inf_bbrs_impact_analysis_final.pdf



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techsupport@becp.pnl.gov
www.energycodes.gov/support/helpdesk.php

EERE Information Center
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www.eere.energy.gov/informationcenter

U.S. DEPARTMENT OF
ENERGY

Energy Efficiency &
Renewable Energy

PNNL-18545 • September 2009

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Impacts of the 2009 IECC on Residential Buildings in Arkansas

September 2009

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(9/2003)

Analysis of 2009 International Energy Conservation Code Requirements for Residential Buildings in Arkansas

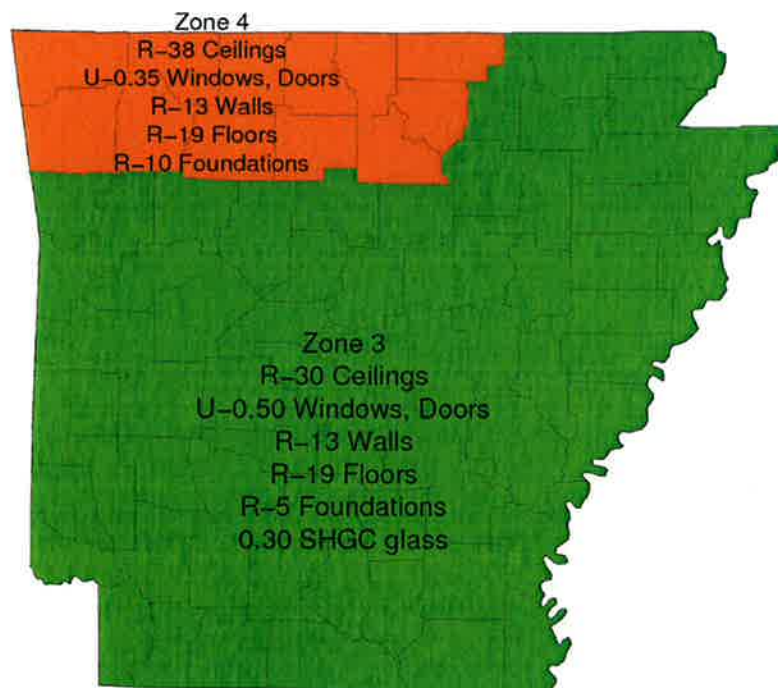
Summary

The 2009 International Energy Conservation Code (IECC) contains several major improvements in energy efficiency over the current state code, the 2003 IECC with amendments. The most notable changes are improved duct sealing and efficient lighting requirements. A limited analysis of these changes resulted in estimated savings of \$242 to \$245 a year for an average new house at recent fuel prices.

Overview of the 2009 IECC

The IECC scope includes residential single-family housing and multifamily housing three stories or less above-grade intended for permanent living (hotel/motel is not “residential”). The code applies to new buildings and additions/alterations/renovations/ repairs.

The map below shows the primary building envelope requirements for all residential buildings in the 2009 IECC.



Notable requirements in the 2009 IECC:

- Building envelope must be caulked and sealed.
- Slab-on-grade insulation is R-10 to a depth of 2 feet in Zone 4. Insulation is not required for slab-on-grade foundations in Zone 3.
- Supply ducts in attics must be insulated to R-8. Return ducts in attics and all ducts in crawlspaces, unheated basements, garages, or otherwise outside building envelope must be insulated to R-6.

BUILDING ENERGY CODES PROGRAM

IMPACTS OF THE 2009 IECC FOR RESIDENTIAL BUILDINGS IN ARKANSAS

- All ducts must be sealed and either:
 - *verified by pressure testing* – the duct system has to be tested and the air leakage out of ducts must be kept to an acceptable maximum level.
 - *installed entirely within the building thermal envelope* – testing is not required if all ducts are inside the building thermal envelope (for example in heated basements), though the ducts still have to be sealed.
- Piping for hydronic (boiler) heating systems must be insulated to R-3.
- Although vapor retarders are not required by the IECC, the I-codes do set wall vapor retarder requirements in Section R601.3 of the 2009 IRC. However, vapor retarders are not required in Arkansas.
- Less insulation is allowed for mass walls and more insulation is required for steel framing.
- 50% of the lighting “lamps” (bulbs, tubes, etc.) in a building must be high efficacy. Compact fluorescents qualify, standard incandescent bulbs do not. Standard I-code administrative requirements (inspections, documentation) apply.
- A certificate must be posted near the electrical panel listing insulation levels and other energy efficiency measures.

Exemptions/Allowances from prescriptive measures:

- One door and 15 ft² of window area are exempt
- Skylight U-factors are allowed to be U-0.65 in Zone 3 and U-0.60 in Zone 4
- 500 ft² or 20% of ceiling area of cathedral ceiling, whichever is less, is allowed to have R-30 insulation

Mandatory Requirements:

Windows can never exceed an area-weighted U-factor of 0.48 in Zone 4 and cannot exceed an area-weighted SHGC of 0.50 in Zone 3. The 2009 IECC also identifies a set of other requirements that are strictly “mandatory” that must be done in all buildings, such as building envelope and duct sealing.

Compliance Paths:

The IECC effectively contains three alternative compliance paths.

- 1) Prescriptive measures. This is considered the simplest path. These requirements do not vary by building size, shape, window area, or other features. The IECC has a single table of requirements for insulation R-values and window and door U-factors and SHGC. There is a corresponding U-factor table that permits compliance of less common component types (e.g., structural insulated panels), albeit without any cross-component trade-offs.
- 2) Total building envelope UA (U-factor multiplied by area). This is the path predominantly used by the REScheckTM software. Based on the prescriptive U-factor table, it allows trade-offs whereby some energy efficiency measures can fall below code requirements if balanced by other measures that exceed code requirements.
- 3) Simulated performance (requires software programs). This path allows compliance if the home has a calculated annual energy consumption (or energy cost) equal to or less than that of a standard reference design that just meets the code’s prescriptive requirements. This path allows for crediting energy efficiency measures not accounted for in the other paths, such as renewable energy measures. The 2009 performance path differs from previous editions of the IECC in that it allows no tradeoff credit for the use of high efficiency space heating, space cooling, or water heating equipment.

Main Difference between the Current Arkansas Code and the 2009 IECC

Arkansas has adopted the 2003 IECC with amendments, including:

- No glazed fenestration SHGC requirement. The 2003 IECC requires a maximum SHGC of 0.40 in south and central Arkansas.
- Duct insulation is set to R-5.6. The 2003 IECC duct insulation values vary from R-2 to R-8.

Major differences between the 2009 IECC and the Arkansas code are listed below:

- The current state code requires ducts to be sealed but not to a specific leakage rate verified by testing as is required in the 2009 IECC (if any ducts are outside the building envelope).
- 50% of the lighting “lamps” (bulbs, tubes, etc.) in a building have to be high efficacy in the 2009 IECC; the 2003 IECC has no lighting requirement. Compact fluorescents qualify, standard incandescent bulbs do not.
- Trade-off credit can no longer be obtained for high efficiency HVAC equipment in the 2009 IECC. For example, if a high efficiency furnace is used, no reduction in wall insulation is allowed. (This will have a substantial impact on the flexibility allowed by the REScheck™ software and other energy performance analysis tools.)
- The format of the 2003 IECC and 2009 IECC are substantially different. The 2009 IECC has new climate zones that cover larger geographic regions than the zones in the 2003 IECC. The envelope insulation and window requirements in the 2003 IECC vary by window-to-wall area percentage, but not in the 2009 IECC. This change in format makes a simple comparison of the envelope requirements in the two codes impossible.

Energy Analysis

A brief energy analysis was conducted comparing the current state code to the 2009 IECC. The EnergyGauge™ software was used to determine the energy impacts of changes in envelope requirements. EnergyGauge™ is based on the DOE-2 energy simulation software developed by DOE (Lawrence Berkeley National Laboratory 1981).

Two sets of buildings were simulated: one with energy efficiency levels set to the prescriptive requirements of the current state code, and one with energy efficiency levels set to the prescriptive requirements of the 2009 IECC. All inputs other than the changes in energy efficiency levels were identical in the two sets of simulations.

The analysis assumed a two-story, single-family house with a conditioned floor area of 2,400 ft². It was assumed that the house had 8.5-ft high ceilings, a ceiling area (bordering the unconditioned attic) of 1,200 ft², a gross exterior wall area of 2,380 ft², and a window area of 357 ft² (15% of the wall area) equally oriented north, south, east, and west. Heating with a natural gas furnace (\$1.20/therm) and central electric air conditioning (\$.12/kWh) were assumed.

High-efficacy lighting was assumed to increase from 10% to 50% of all lighting within the building, reducing lighting energy use by 26%, or \$74 a year. Savings attributable to the lighting requirements in the IECC will decrease as Federal law requires improved light bulbs in 2012 to 2014. Improved duct sealing was assumed to save 10% of the heating and cooling costs. Actual savings will vary depending on many factors, including how well ducts are currently sealed in the absence of any testing requirements.

Table 1 shows the estimated annual energy savings per house that result from meeting the improved requirements in the 2009 IECC. Total savings includes heating, cooling, and lighting and is shown as a percentage of the end-uses covered by the 2009 IECC (heating, cooling and water heating).

Table 1. Energy End Use and Percentage Savings

Climate Zone	Annual Energy Cost (\$)				Savings 2009 IECC vs. Arkansas Code	
	Arkansas Code		2009 IECC		Savings (\$/yr)	Percent Savings
	Heating	Cooling	Heating	Cooling		
Little Rock (CZ 3A)	965	300	853	244	242	15
Springfield MO (CZ 4A)	1185	213	1034	193	245	14



The U.S. Department of Energy's Building Energy Codes Program is an information resource on national model energy codes. We work with other government agencies, state and local jurisdictions, national code organizations, and industry to promote stronger building energy codes and help states adopt, implement, and enforce those codes.

BECP Website:

www.energycodes.gov

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City of Fayetteville Staff Review Form

C. 5
RZN 12-4108 (4847 W.
Wedington Dr./Bank of Wynne)
Page 1 of 32

City Council Agenda Items
and
Contracts, Leases or Agreements

6/5/2012

City Council Meeting Date
Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

RZN 12-4108: (4847 W. WEDINGTON DR./BANK OF WYNNE, 438): Submitted by BATES AND ASSOCIATES for property located at 4847 WEST WEDINGTON DRIVE. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT (R-PZD 07-2576 WOODSTOCK) and contains approximately 31.68 acres. The request is to rezone the subject property to CS, COMMUNITY SERVICES AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

05-17-2012
Date

Previous Ordinance or Resolution #

City Attorney

5-18-2012
Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

5/18/12
DateReceived in City
Clerk's Office

05-17-12 P04:45 RCVD

Chief of Staff

5/18/12
DateReceived in
Mayor's Office

Mayor

5/21/12
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: May 17, 2012

Subject: RZN 12-4108 (Bank of Wynne Rezone/Woodstock PZD Revocation)

RECOMMENDATION

Planning Commission and staff recommend approval of an ordinance to revoke the expired Woodstock Planning Zoning District and rezone the property from R-PZD 07-2576 Woodstock to R-A, Residential Agricultural, the zoning that was in place prior to the R-PZD.

BACKGROUND

The subject property contains 31.68 acres located on the south side of Wedington Drive (State Highway 16) between 46th Street and Broyles Avenue. The site is zoned R-PZD 07-2576, and generally flat hay pasture with trees along the fence rows. The property is generally undeveloped except for two residences, one in the northwest corner and the other in the southeast corner of the site. On October 2, 2007 the City Council approved the Woodstock Planned Zoning District on the subject property (R-PZD 07-2576). The property was originally zoned R-A, Residential Agricultural. The R-PZD zoning permitted a total of 382 dwellings and 100,390 square feet of non-residential square feet. Construction permits for the project were never obtained and the R-PZD approval has expired. Within the past year, the Future Land Use Plan designation on this site changed, scaling back the City Neighborhood Area on this site from the entire Wedington Drive street frontage to the northwest corner of the site.

If an approved PZD expires the property does not automatically revert back to the original zoning. The property is unable to be developed or subdivided until the old PZD zoning is revoked and a new, valid zoning district is assigned. In an effort to establish a valid zoning district on the subject property the property owner, the Bank of Wynne, has requested a rezoning. Their request is to rezone 9.08 acres to CS, Community Services and 22.60 acres to RSF-4, Residential Single Family Four Units Per Acre. The areas of the site for the proposed rezoning are depicted on the attached survey provided by the applicant.

Staff recommends denial of applicant's proposal finding that the rezoning request is not consistent with the City Plan 2030 Future Land Use designation of this site. The Future Land Use Plan Designates a majority of this site as Residential Neighborhood, and confines the City Neighborhood designation in the northwest portion of the site around the intersection of Broyles and Wedington. The applicant proposes to rezone their entire frontage along Wedington (about 820 feet of street frontage, 300 feet deep, 9.08 acres) to Community Services. In addition, the proposal to rezone 22.60 acres of undeveloped pasture to RSF-4 on the edge of the developed area of the City could encourage a sprawling development pattern in conflict with the primary goals of City Plan 2030: *Goal 2: We will discourage suburban sprawl, and Goal 3: We will make traditional town form the standard.* This is discussed in more detail in the findings throughout the staff report.

DISCUSSION

Prior to the May 14, 2012 Planning Commission meeting, the City Attorney advised staff and the Planning Commission that if they did not recommend in favor of the applicant's proposed zoning request that they should recommend some zoning district. On May 14, 2012 the Planning Commission made a recommendation to forward the rezoning request to the City Council with a recommendation for the property to revert back to the zoning that was in place prior to the PZD, which was R-A, Residential Agricultural. The motion passed with a 7-1-0 vote (Commissioner Hoskins voted 'no').

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REVOKING R-PZD 07-2576 (WOODSTOCK) AND REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 12-4108, FOR APPROXIMATELY 31.68 ACRES, LOCATED AT 4847 WEST WEDINGTON DRIVE FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT 07-2576, TO R-A, RESIDENTIAL AGRICULTURAL.

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

Section 1: That a portion of the property as described herein zoned R-PZD 07-2576 (Woodstock) is hereby revoked because the developer failed to obtain development permits in accordance with the approved phased development schedule.

Section 2: That the zone classification of the following described property is hereby changed as follows:

From R-PZD, Residential Planned Zoning District 07-2576 to R-A, Residential Agricultural, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 2 above.

PASSED and APPROVED this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

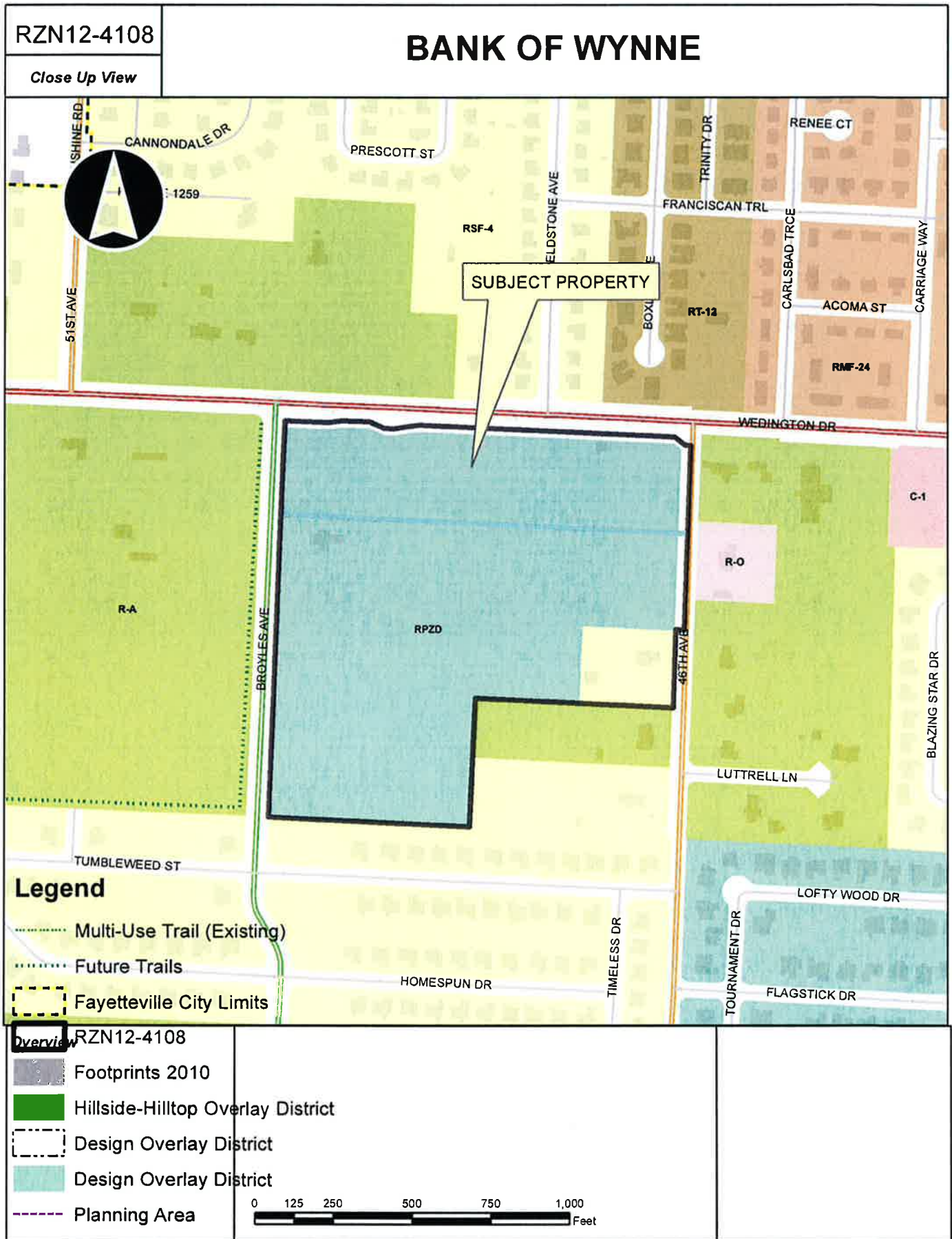


EXHIBIT "B"
RZN 12-4108

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N02°21'23"E 966.66' FROM AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°21'25"E 300.00' TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY #16, THENCE ALONG SAID SOUTH RIGHT-OF-WAY THE FOLLOWING: S87°33'20"E 139.56' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N83°32'33"E 44.48' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S88°03'22"E 88.17' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S67°34'26"E 53.20' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°16'19"E 27.89' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N81°59'46"E 81.42' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°20'54"E 819.70' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S51°36'34"E 42.96' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S86°09'07"E 18.27', THENCE LEAVING SAID SOUTH RIGHT-OF-WAY S02°12'08"W 280.19', THENCE N87°20'54"W 1303.10' TO THE POINT OF BEGINNING, CONTAINING 9.08 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°21'25"E 966.66', THENCE S87°20'54"E 1303.10', THENCE S02°12'08"W 309.20', THENCE N87°14'57"W 26.21' TO THE WEST RIGHT-OF-WAY OF N. 46TH AVENUE, THENCE ALONG SAID WEST RIGHT-OF-WAY S02°08'46"W 249.44', THENCE LEAVING SAID WEST RIGHT-OF-WAY N87°14'45"W 634.58' TO AN EXISTING REBAR, THENCE S02°30'10"W 410.73' TO AN EXISTING REBAR, THENCE N87°12'44"W 643.04' TO THE POINT OF BEGINNING, CONTAINING 22.60 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Planning Commissioners

CC: Jeremy Pate, Development Services Director
Andrew Garner, Senior Current Planner

FROM: Kit Williams, City Attorney

DATE: May 11, 2012

RE: Expired PZD's must be rezoned upon owner's request

When a PZD has expired, the property owner loses **all** development rights on his property until it is rezoned. Almost all of a property's real worth and value is in its development rights. This loss of all of a property's development rights would constitute a government taking of the property requiring our taxpayers to pay the reasonable value of the property (very large amount of money) except the property owner must first "exhaust his remedies" by asking for a rezoning.

As long as the rezoning is granted by the City Council, no regulatory taking has occurred. However, if the property owner's request to rezone the property out of its "zombie" status (unusable and undevelopable) is just denied and the property is not rezoned into some developable zoning district, the property owner would probably have a textbook case of inverse condemnation or regulatory taking. **This must not be allowed to occur.**

Because the new owner of the property zoned for the now defunct Woodstock PZD has requested rezoning, the Planning Commission should recommend what you believe is appropriate zoning. If you get stuck on how it should be zoned now, please just recommend that the City Council rezone it back to the zoning it had prior to the approval of the PZD. **The City Council MUST rezone this property either to its prior zoning district or to the zoning district or districts that would conform to state law purposes and the 2030 Long Range Plan.** Just denying the property owner's requested rezoning is a recipe for disaster and must not happen.

When the Planning Commission is considering whether or not to recommend approval of a rezoning request, the City Planning Division presents useful information from various city departments that cover issues included with the City's 2030 Long Range

Plan. This document was the result of many public hearings and much input from citizens, staff, commissioners and council members. However, “A land use plan is meant to be just that – a plan. It is not legally binding on the city.” Taylor v. City of Little Rock, 583 S.W. 2d 72, 73 (1979).

State Statutes authorize cities to prepare zoning and development plans and list nine purposes or goals that these plans may promote:

- “ 1. Efficiency and economy in the process of development;
2. The appropriate and best use of land;
3. Convenience of traffic and circulation of people and goods;
4. Safety from fire and other dangers;
5. Adequate light and air in the use and occupancy of buildings;
6. Healthful and convenient distribution of population;
7. Good civic design and arrangement;
8. Adequate public utilities and facilities; and
9. Wise and efficient expenditure of funds.”

A.C.A. §14-56-403 (b).

The appellate courts of Arkansas have recognized and approved many different factors that a Planning Commission can consider when a proposed rezoning is contested.

1. **Public Opposition**

“Opposition by a large majority of the citizens in the neighborhood”

Thomas Petroleum v. West Helena (1992).

“The Opinion of local residents, **when it reflects logical and reasonable concerns**”

City of Lowell v. M & N Mobile Home Park (1996).

“Some of the residents (of the area) objected”

Tanner v. City of Green Forest (1990).

2. **Traffic**

“Increased traffic on limited roads”

City of Lowell v. M & N Mobile Home Park (1996).

“Increased risk of traffic accidents”

Thomas Petroleum v. West Helena (1992).

3. **Noise**
City of Lowell v. M & N Mobile Home Park (1996).
4. **Decreased value of adjoining land**
City of Lowell v. M & N Mobile Home Park (1996).
5. **Potential for criminal activity**
Thomas Petroleum v. West Helena (1992).
6. **Increased litter**
Thomas Petroleum v. West Helena (1992).
7. **Strain on Sewage service**
Tanner v. City of Green Forest (1990).
8. **Spot zoning**
“The need to maintain consistent zoning area, and not to set a precedent of spot zoning (T)he property was entirely surrounded by a residential area, and that the residents objected “ Thomas Petroleum v. West Helena, 310 Ark. 682, 839 S.W. 2d 523, 525 (1992).

“Spot zoning has been defined by several authorities. It has been said that:

‘ Spot zoning, by definition, is invalid because it amounts to an arbitrary, capricious and unreasonable treatment of a limited area within a particular district. As such, it departs from the comprehensive treatment or privileges not in harmony with the other use classifications in the area and without any apparent circumstances which call for different treatment. Spot zoning almost invariably involves a single parcel or at least a limited area.’ R. Wright and S. Webber, Land Use (1978).” Riddell v. City of Brinkley, 612 S.W. 2d 116, 117 (1981).

“(S)pot zoning includes zoning one lot in a manner entirely different from the surrounding area “ Smith v. City of Little Rock, 279 Ark. 4, 648 S.W. 2d 454, 457 (1983).

However, the most recent case I could find referring to “spot zoning” {Camden Community Development Corp. v. Sutton, 339 Ark. 368, 5 S.W. 3rd 439, 443 (1999)} cast doubt on Professor Wright’s quoted statement that “Spot zoning, by definition, is invalid”

Finally, a proponent of a rezoning will often argue that he or she is entitled to a rezoning in order to put the property to its “**highest and best use**” from a monetary viewpoint. The benefit to the owner of a proposed rezoning may certainly be considered, “(h)owever, we have held that **rezoning is not justified solely on the ground that it is necessary to put a particular tract to its most remunerative use.**” Tanner v. City of Green Forest, 302 Ark. 170, 788 S.W. 2d 727, 729 (1990). (emphasis added).

CONCLUSION/SUMMARY

Factors that may be considered in rezoning issues:

1. 2030 Plan objectives
2. Public opposition that is logical and reasonable
3. Traffic
4. Safety and Fire protection
5. Good civic design and efficiency
6. Adequacy of public facilities (sewage, water)
7. Noise
8. Litter
9. Decrease in value of adjoining land
10. Appropriate and best use of land
11. Compatibility with adjacent zones (spot zoning)



PC Meeting of May 14, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Development Services Director
DATE: May 8, 2012 *Updated May 16, 2012*

RZN 12-4108: Rezone (4847 W. WEDINGTON DR./BANK OF WYNNE, 438): Submitted by BATES AND ASSOCIATES for property located at 4847 WEST WEDINGTON DRIVE. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT (R-PZD 07-2576 WOODSTOCK) and RSF-4 and contains approximately 31.68 acres. The request is to rezone the property to CS, COMMUNITY SERVICES and RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE. Planner: Andrew Garner

BACKGROUND:

The subject property consists of approximately 31.68 acres located on the south side of Wedington Drive (State Highway 16) between 46th Street and Broyles Avenue. The site is zoned R-PZD 07-2576 (Woodstock) and RSF-4, and is generally flat hay pasture with trees along the fence rows. The property is generally undeveloped except for two residences, one in the northwest corner and the other in the southeast corner of the site. The surrounding zoning and land use are listed in *Table 1*.

Table 1
Surrounding Land Use/Zoning

Direction from Site	Land Use	Zoning
North	Single family residences; Ozark Electric facility, Duplexes	R-A; RSF-4; RT-12
South	Single family residences	RSF-4; R-A
East	Single family residences	R-A
West	Pasture	R-A

History: On October 2, 2007 the City Council approved the Woodstock Planned Zoning District on the subject property (R-PZD 07-2551). The property was originally zoned R-A, Residential Agricultural. The R-PZD zoning permitted a total of 382 dwellings and 100,390 square feet of non-residential square feet. Construction permits for the project were never obtained and the R-PZD approval has expired. Within the past year, the Future Land Use Plan designation on this site changed, scaling back the City Neighborhood Area on this site from the entire Wedington Drive street frontage to the northwest corner of the site.

PZD Revocation: If an approved PZD expires the property does not automatically revert back to the
G:\ETC\Development Services Review\2011\Development Review\11-3807 RZN SW Corner of Razorback Rd_15th St (Champion Club Condo's)\03
Planning Commission\05-09-2011\Comments and Redlines

original zoning. The property is unable to be developed or subdivided until the old PZD zoning is revoked and a new, valid zoning district is assigned.

Proposal: The property owner, the First National Bank of Wynne, proposes to rezone 9.08 acres from R-PZD 07-2576 Woodstock to CS, Community Services and 22.60 acres from R-PZD 07-2576 Woodstock to RSF-4, Residential Single Family Four Units Per Acre. The areas of the site for the proposed rezoning are depicted on the attached survey provided by the applicant.

Public Comment: Staff has not received public comment on this request.

RECOMMENDATION:

Staff recommends denial of **RZN 12-4108 (Woodstock)** finding that the proposed rezoning request is not consistent with the City Plan 2030 Future Land Use designation of this site. The Future Land Use Plan Designates a majority of this site as Residential Neighborhood, and confines the City Neighborhood designation in the northwest portion of the site around the intersection of Broyles and Wedington. The applicant proposes to rezone their entire frontage along Wedington (about 820 feet of street frontage, 300 feet deep, 9.08 acres) to Community Services. In addition, the proposal to rezone 22.60 acres of undeveloped pasture on the edge of the developed area of the City could encourage a sprawling development pattern in conflict with the primary goals of City Plan 2030: *Goal 2: We will discourage suburban sprawl, and Goal 3: We will make traditional town form the standard.* This is discussed in more detail in the findings throughout the staff report.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>May 14, 2012</u>	☐ Tabled	☒ Forwarded	☐ Denied		
Motion: <u>Chesser</u>	Second: <u>Bunch</u>	Vote: <u>7-1-0 (Hoskins voted 'no')</u>			
Notes: <u>Forwarded with a recommendation to have the property revert back to the zoning in place prior to the R-PZD, which was R-A, Residential Agricultural.</u>					
CITY COUNCIL ACTION:		Required	<u>YES</u>		
		☐ Approved		☐ Denied	
Date:					

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates the northwest portion of this site near the intersection of Wedington Road and Broyles Avenue as **City Neighborhood Area** and a majority of the site, including about half of the site's frontage on Wedington as a **Residential Neighborhood Area**.*

City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multifamily. Non residential uses range in size, variety and intensity from grocery stores and offices to churches, and are typically located at corners and along connecting corridors...Setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone.

Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single family multifamily and row-houses...It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood, such as retail and offices, on corners and along connecting corridors.

INFRASTRUCTURE:

Streets: The site has access to Wedington Drive, Broyles Avenue, and 46th Street. Wedington Drive has been recently improved to a five-lane state highway with a 10-foot wide asphalt trail adjacent to this site. Broyles Avenue is an improved two-lane Minor Arterial roadway with a turn lane at Wedington, and 46th Street is an unimproved Collector street adjacent to the eastern boundary of the property. Street improvements would be evaluated at the time of development.

Water: Public water is available to the property. There is an 18-inch water main on the south side of Wedington, a 12-inch water main on the east side of Broyles and an 8-inch water main on the west side of 46th Street. Public water main improvements may need to be extended through the property to provide domestic and fire flow for any proposed development.

Sewer: Sanitary sewer is available adjacent to the site. There is a 6-inch main on the east side of 46th Street. Public sewer main improvements may need to be extended through the property at the time of development. The capacity of the existing main will need to be evaluated to ensure adequate capacity.

Drainage: Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain and the Streamside Protection Zones.

Police: Staff did not receive objections from the Police Department to this rezoning.

Fire: The subject property is located 1 mile from the Station No. 7 located at 835 Ruppel Road with an expected response time of 2.25 minutes. No adverse impacts on call volume or response time are anticipated.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds the proposal not consistent with the land use planning objectives, principles and policies. About half of this site's street frontage is designated as Residential Neighborhood Area and is proposed to be rezoned to CS, Community Services. The City's Future Land Use Plan intends more intense and dense uses along this stretch of Wedington to be concentrated around the node of the Broyles Avenue/Wedington Drive intersection, not along the entire 800-foot street frontage of this site. The applicant's proposal is not consistent with the Future Land Use Plan designation. This proposal extends the potential for non-residential, commercial, and multi-family uses along the entire property frontage at a depth of approximately 300 feet deep. This shape of the boundary appears to encourage a highway commercial strip center pattern which is not consistent with the City's land use planning objectives. With the recent adoption of City Plan 2030 less than a year ago, there was discussion and a modification to the Future Land Use Plan map to reduce the area of this particular site that was classified as City Neighborhood area. The boundary of City Neighborhood area on City Plan extends down Broyles Avenue approximately 700 feet to encourage the more intense and dense uses to allow for the potential of a square-back street and a more traditional neighborhood commercial pattern instead of a commercial strip center pattern. The proposed rezoning would allow commercial and multi-family dwellings along the entire Wedington frontage rather than limit these more intense uses in a compact pattern at the busier corner location. This is not consistent with the Guiding Policies for City Neighborhood Areas. The intent is not to have one continuous strip of commercial development along arterials/highways, but rather to have defined nodes primarily at corner locations, and transition in the land use transect along the corridor consistent with City Plan Goal 3 to "...make traditional town form the standard." Additionally, the proposal to rezone 22.60 acres of undeveloped pasture on the edge of the developed area of the City to RSF-4 could encourage a sprawling development pattern in conflict with some of the primary goals of City Plan 2030:

Goal 2: We will discourage suburban sprawl

Goal 3: We will make traditional town form the standard

The RSF-4 development pattern is a suburban zoning district (not traditional) that generally yields a gross density of approximately 2.5 units per acre. This is not consistent with the intent of Residential Neighborhood Areas to have a variety of housing types. Further, the RSF-4 adjacent to CS is a rather abrupt

transition of land uses that may result in some compatibility issues as the property develops in the future. Staff feels that this rezoning proposal is not consistent with the overriding land use plan of the City or the Future Land Use Plan and recommends denial of the request.

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

Finding: The proposed zoning is needed at this time as the existing R-PZD zoning has expired and the property is unable to be developed in any manner, including minor applications such as a lot split or single family residence, until the expired PZD zoning is revoked and a new zoning district is assigned.

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

Finding: The proposed rezone would not appreciably increase traffic over the existing R-PZD zoning that permitted up to 382 residences and 100,390 square feet of non-commercial space. However the R-PZD has fully expired and cannot be developed. The proposed zoning would certainly increase traffic over that existing on the largely undeveloped property. However, given this site's location at the intersection of a Principal Arterial roadway (Wedington) and a Minor Arterial (Broyles Avenue) at the site's northwest corner; the street infrastructure can safely accommodate increased traffic with street improvements required at the time of development. It should be noted that a traffic signal is anticipated at the intersection of Broyles/Wedington, and a condition of approval for the Woodstock R-PZD was payment of an assessment towards the installation of that signal. 46th Avenue is located along the site's eastern frontage is a Collector Street.

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: Increased load on public services were taken into consideration and recommendations from the Engineering, Fire, and Police Departments and are included in this report. The proposed zoning change to Community Services and RSF-4 should not have an adverse impact on public services with improvements required for development.

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

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

Finding: Not applicable. Staff recommends denial of the request.

PROPOSED ZONING

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cottage Housing Development

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(F) *Building height regulations.*

G:\ETC\Development Services Review\2011\Development Review\11-3807 RZN SW Corner of Razorback Rd_15th St (Champion Club Condo's)\03 Planning Commission\05-09-2011\Comments and Redlines

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

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11)

161.19 Community Services

(A) *Purpose.* The *Community Services* district is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood Shopping goods
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 24	Home occupations
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation, trades and services
Unit 19	Commercial recreation, small sites

Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density. None*

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling	18 ft.
All others	None

(2) *Lot area minimum. None*

(E) *Setback regulations.*

Front:	The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a residential district:	15 feet

(F) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

(G) *Minimum buildable street frontage.* 65% of the lot width.

(Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5462, 12-6-11)

166.06 Planned Zoning District (PZD)

(L) Revocation.

- (1) Causes for revocation as enforcement action. The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
 - (a) Building permit. If no building permit has been issued within the time allowed.
 - (b) Phased development schedule. If the applicant does not adhere to the phased master development plan schedule as stated in the approved development plan.
 - (c) Open space and recreational facilities. If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff may report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) Procedures. Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) Effect. In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

Date 4/24/12

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request comments on proposed RZN 12-4108 (4847 W. Wedington Drive / Bank of Wynne, 438) submitted by Bates and Associates for property located at 4847 W. Wedington Drive.

It is the opinion of the Fayetteville Police Department that this RZN will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This will not create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



Bates & Associates, Inc.

Civil Engineering & Surveying

91 W. Colt Square Suite 3/ Fayetteville, AR 72703

PH: 479-442-9350 * FAX: 479-521-9350

www.nwabatesinc.com

C. 5
RZN 12-4108 (4847 W.
Wedington Dr./Bank of Wynne)
Page 22 of 32

April 25, 2012

Planning Commission
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: First National Bank of Wynne Wedington Property Rezoning

Dear Commissioners,

This letter is to fulfill the requirements of item 5 on the rezoning application. We are proposing to rezone the property from RPZD to CS and RSF-4.

- a. Current property owner: First National Bank of Wynne.; there are no pending sales.
- b. The zoning change is needed in order to bring the property that fronts Wedington Drive to a more conforming use than what the residential zoning allows. The zoning change is needed on the back portion in order to replace the expired RPZD with a more conforming RSF-4 zoning.
- c. With both commercial and residential development expanding to the West along Wedington, this property should conform with surrounding properties in terms of land use, traffic, appearance, and signage.
- d. A 30" sewer main is located West of the property. An 18" water main is located on the site along the north, as well as a 12" water main along Broyles Ave., and an 8" main along 46th Ave.
- e. This property conforms with the City's future land use plan for this area.
- f. The zoning change is needed in order to update the expired RPZD and get the property out of "Zoning Limbo."
- g. The rezoning from RPZD to CS and RSF-4 will increase traffic but with Broyles Ave. on the West and N. 46th Ave. in the East, access management will decrease the potential for danger and congestion.
- h. The proposed commercial zoning will reduce the population density should decrease the load on public services. The proposed residential zoning will conform with all neighboring properties and should not cause an undesirable increase the load on public services.
- i. Since the current RPZD zoning has expired, it is not possible for the new owner to use the existing property. Due to the location and nature of construction along Wedington, Community Services and RSF-4 zoning appears to be a more appropriate use for the site.

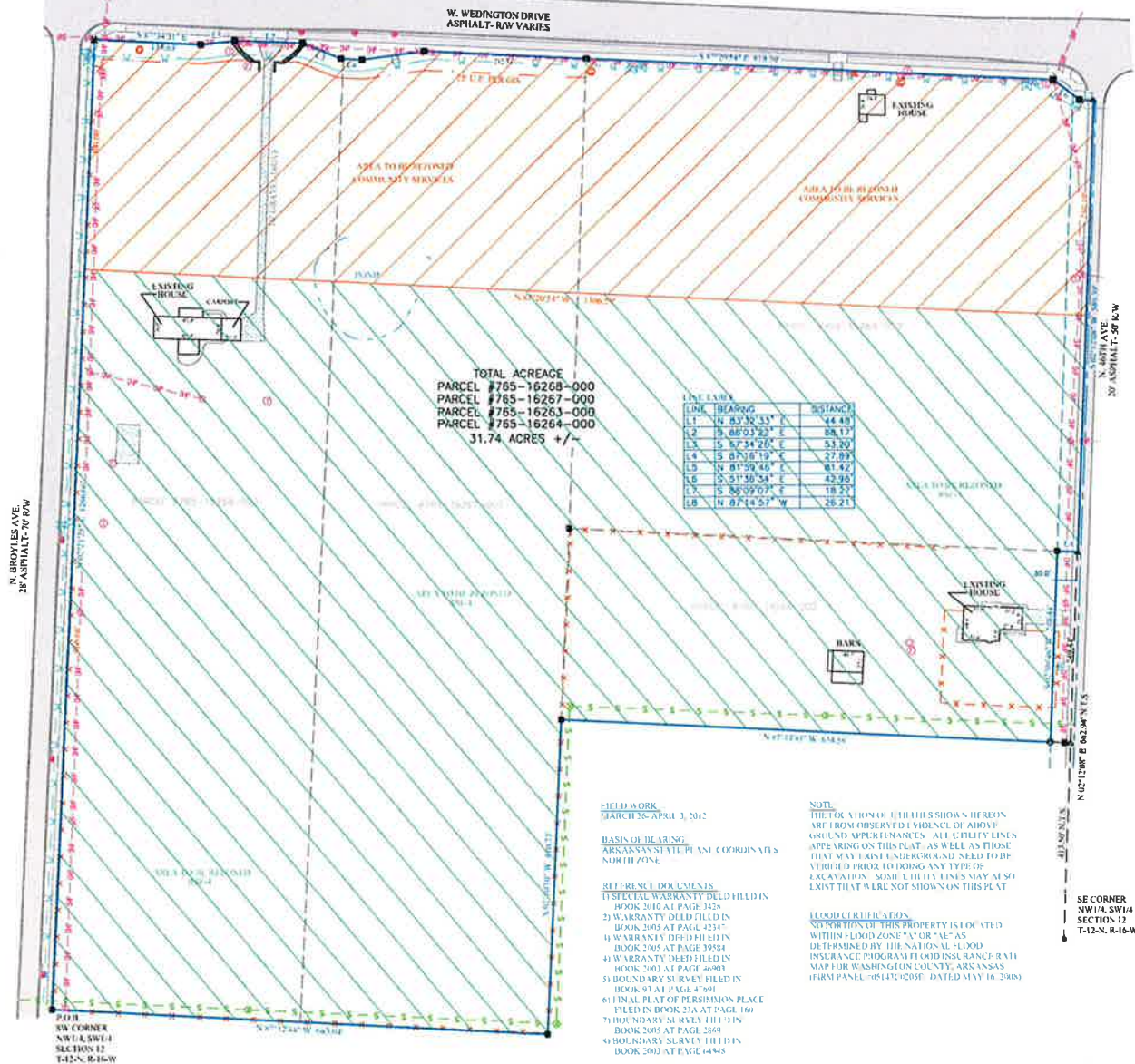
If you have any questions or require additional information, please feel free to call.

Sincerely,

Bates & Associates, Inc.

REZONING EXHIBIT

C. 5
RZN 12-4108 (4847 W.
Wedington Dr./Bank of Wynne)
Page 23 of 32



SURVEY DESCRIPTIONS

PORTION TO BE REZONED COMMUNITY SERVICE

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS N 02°23'37" E 86.66' FROM AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N 02°23'37" E 100.00' TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY #16, THENCE ALONG SAID SOUTH RIGHT-OF-WAY TO THE FOLLOWING: S 87°32'33" E 139.56' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE E 51°30'54" E 44.48' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S 68°03'22" E 28.17' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S 67°54'20" E 53.20' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S 87°18'19" E 27.89' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N 87°59'24" E 81.42' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S 51°30'54" E 42.96' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S 88°09'07" E 18.27' THENCE LEAVING SAID SOUTH RIGHT-OF-WAY, S 02°12'06" E 280.19', THENCE N 87°29'54" W 139.16' TO THE POINT OF BEGINNING, CONTAINING 0.66 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

PORTION TO BE REZONED RSP-2

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N 02°23'37" E 86.66', THENCE S 87°32'33" E 139.56', THENCE S 02°12'06" E 280.19', THENCE N 87°29'54" W 139.16' TO THE WEST RIGHT-OF-WAY OF N 48TH AVENUE, THENCE ALONG SAID WEST RIGHT-OF-WAY, S 02°08'46" W 249.44', THENCE LEAVING SAID WEST RIGHT-OF-WAY, N 87°14'51" W 64.63', THENCE S 02°30'09" E 410.73' TO AN EXISTING REBAR, THENCE S 51°30'54" E 42.96' TO THE POINT OF BEGINNING, CONTAINING 22.60 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

PROPERTY CURRENTLY ZONED
RP2D

STATE RECORDING NUMBER
009-108-31W-12SD-3-602

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS 3RD DAY OF APRIL, 2012.



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR, THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.



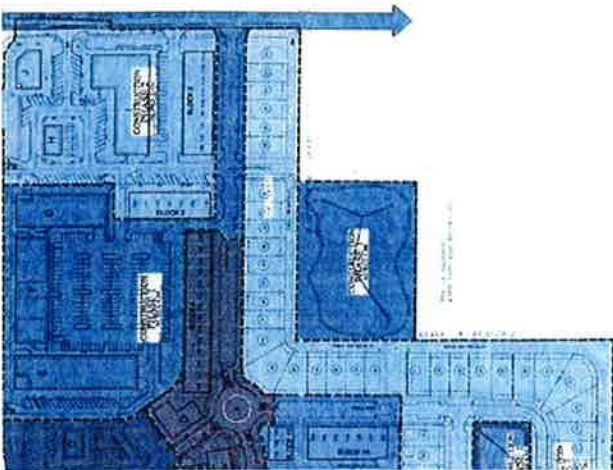
VICINITY MAP



VICINITY MAP NOT TO SCALE

PREPARED BY: LINDSEY & ASSOCIATES CITY OF FAYETTEVILLE WASHINGTON COUNTY, ARKANSAS		DATE: APRIL 12, 2012		SCALE: 1" = 40'		PROJECT: REBAR MARKING		LOCATION: SECTION 12 TOWNSHIP 16 NORTH RANGE 31 WEST		LEGEND: THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING		RECORDING NUMBER/DATE:	
PROJECT: REBAR MARKING		DATE: APRIL 12, 2012		SCALE: 1" = 40'		PROJECT: REBAR MARKING		LOCATION: SECTION 12 TOWNSHIP 16 NORTH RANGE 31 WEST		LEGEND: THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING		RECORDING NUMBER/DATE:	

PHASE 4: Permits will be pulled within four years of approval. Construction will be completed within five and one half years of approval.
PHASE 5: Permits will be pulled within five years of approval. Construction will be completed within six and one half years of approval.
PHASE 6: Permits will be pulled within six years of approval. Construction will be completed within seven and one half years of approval.
PHASE 7: Permits will be pulled within seven years of approval. Construction will be completed within eight years of approval.



EXISTING ZONING

DEVELOPMENT PHASING

in seven phases to span over the next eight years.
I will be pulled within one year of city counsel approval.
II. be completed within two and one half years of approval.
be pulled within two years of Fayetteville City
construction will be completed within three and one
Improvements to the west side of 46th Ave. will
be pulled within three years to Fayetteville City

by: Brock-Broyles Land Development
by: Applian Centre for Design & TSW

AERIAL VIEW OF THE WOODSTOCK COMMUNITY

Woodstock Community

PZD-Large Scale Development
PZD-Master Development Plan

PLANNING AREA 1 - MIXED USE DEVELOPMENT

Description

These mixed-use planning areas are designed to create small scale commercial frontages with loft style spaces over the first floor of retail. While most buildings will be 4 stories, a select few will be 5 stories in order to enhance architectural character. Storefront character will create a main street pedestrian-friendly environment. These buildings are comprised of wide sidewalks in front to help separate the pedestrian from the street thoroughfare. The five large buildings have been carefully arranged around the perimeter of the block to create strong street edges and to conceal the interior parking. Retail, local service, cultural business, restaurants, and office suites are placed on the ground floor fronting onto the quieter streets. The upper floors are designed for attainable residential apartments/condos. Street facing facades help frame the street.

At least 75% of the front edge of the lot will have a building, and 60% of this required building frontage must be at the "build to line". Several mixed-use buildings will have urban loft - like apartments in the upper floors.

A. Permitted Uses

- Unit 1 City wide uses by right
- Unit 5 Government facilities
- Unit 12 Offices, studios and related services
- Unit 13 Eating places
- Unit 15 Neighborhood shopping goods
- Unit 16 Shopping goods
- Unit 17 Trades and Services
- Unit 19 Commercial recreation, small sites
- Unit 24 Home occupation
- Unit 25 Professional offices
- Unit 34 Liquor store
- Unit 26 Multi family dwellings

B. Conditional Uses

- Unit 2 City-wide uses by conditional use permit
- Unit 4 Cultural and recreational facilities
- Unit 14 Hotel, motel, amusement facilities
- Unit 17 Trades and services
- Unit 29 Dance halls
- Unit 35 Outdoor music establishments

Unit 40 Sidewalk Cafes

C. Residential density/Non-residential Intensity

Residential Density	10.37
Dwelling units	184
Density (units/acre)	17.74
Non-residential Intensity	98,747 sq.ft.
Sq.ft. of Non-residential Intensity (sq.ft./acre)	9,522.4sq.ft./acre

D. Lot Width Minimum

Not Applicable

E. Lot Area Minimum

Not Applicable

F. Land Area per Dwelling Unit

No Bedroom	670 Sq. Ft minimum
One Bedroom	850 Sq. Ft minimum
Two or more bedroom	1000 Sq. Ft minimum

G. Setback Requirements

Front - from Right of Way	5 ft
Wedington - from City Right of Way	14 ft
Broyles Ave - from City Right of Way	30 ft
49th Ave - from City Right of Way	20 ft
Rear -	4 ft
Side-	5 ft

Encroachments Into Setbacks

There will be no encroachments into right-of-ways. Covered entries, stairs, stoops bay windows etc. are allowed up to 8' within setbacks. At the second and fourth level of buildings, encroachments in the form of balconies and bay windows are encouraged, but shall not exceed 6' into the setback. Encroachments will comply with all applicable City Building Codes.

H. Height Regulations

Shall not exceed four stories except on facades with underground parking garage entrances. Building height on the northern half of buildings B, E, and G and the east half of building I shall not exceed 50' and three floors. The remaining halves of these

buildings shall not exceed 62' in height or four floors. Buildings F shall not exceed three stories or 50'.

I. Building Area

Shall not exceed 90% of Planning Area

J. Landscaping

Landscaping as indicated on the Master Development Plan and Landscaping Plan is required as part of this PZD.

K. Parking

In accordance with the Unified Development Code

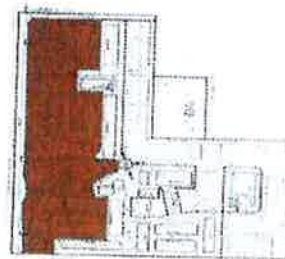
L. Architectural Design Standards

Architectural Design Standards - Material to be brick, stucco masonry, siding, wood trim shingles, aluminum clad window systems (see typical elevation). Dwellings shall not turn a rear facades to a public street and shall utilize articulation including windows, entries/doors, etc. to front public streets. Structures shall be constructed consistent with the architectural elevations presented in the PZD booklet.

M. Signage

In accordance with the Unified Development Code Commercial design standards.

Part of Phase 1,2, & 3



Woodstock Community

PZD-Large Scale Development
PZD-Master Development Plan

PLANNING AREA 2 - TOWNHOUSES

Description

The building prototype in PA2 is designed to accommodate people who wish to own single family residential, attached townhouses. This type of townhouse is ideal for promoting a mix of residents of diverse ages and economic situations. Townhouses will be a minimum of 18 feet wide with varying depths. The preferred setback for the units from the right of way line will be 5 feet with some variance allowed, though all areas within the front setback, regardless of size, will feature a small entry space treated with a combination of low shrubs, groundcover and pavers.

Porches, stoops, balconies, bay windows, chimneys and stairs may encroach into the front setback to a maximum distance of three feet. These encroachments, combined with facades of two to three stories in height, will create an intimate sense of outdoor space. Parking for the residents is located at the rear of the buildings in alley-loaded garages, while visitors and guests will be allowed to park on-street in front of the units.

A. Permitted Uses

- Unit 1: City wide uses by right
- Unit 26: Multi family dwellings

B. Conditional Uses

- Unit 15: Neighborhood shopping goods
- Unit 24: Home occupations
- Unit 25: Professional offices
- Unit 40: Sidewalk cafes

C. Residential Density

- Acreage 7.56 ac.
- Dwelling units 104
- Density 13.76 units/ac.

D. Lot Width Minimum

- Multi Family 20'

E. Lot Area Minimum

900 sq.ft.

F. Land Area per Dwelling

One Bedroom 800 sq.ft.

Two Bedroom 1,000 sq.ft.

Three or more Bedroom 1,000 sq.ft.

G. Setback Requirements

Front -

Broyles Ave.

49th Ave

Townhouse blocks 11 through 14

Due to alley condition and site constraints

Side -

Rear -

5 ft

30 ft

20 ft

0 ft

0 ft

0 ft

Encroachments

No encroachments will be allowed into right-of-ways.

Encroachments such as porches, covered entries, balconies, stairs, stoops bay windows etc. are allowed up to 6' within setbacks when setbacks are greater than 15'.

(Note: All Encroachments will comply with all applicable City Building Codes).

H. Height Regulation

Shall not exceed 45 ft.

I. Building Area

None

J. Landscaping

Landscaping as indicated on the Landscaping Plan is required as part of this PZD.

K. Parking

Parking for residents shall be located off alleys in two-car garages. Visitor parking shall be located on streets or in lots.

Off-street parking may be located in shared parking districts.

On-Street parking is permitted on most public streets.

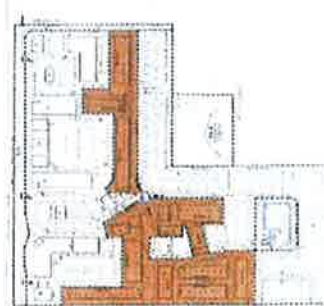
The number of parking spaces provided in this planning area will comply with city code.

L. Architectural Design Standards
Architectural Design Standards - Material to be brick, stucco masonry, siding, wood trim shingles, aluminum clad window systems (see typical elevation). Dwellings shall not turn a rear facades to a public street and shall utilize articulation including windows, entries/doors, etc. to front, public streets. Structures shall be constructed consistent with the architectural elevations and concepts presented in the PZD booklet.

M. Signage

In accordance with the Unified Development Code for multi family residential areas.

Part of Phase 2, 4, 5, and 6



Woodstock Community

PZD-Large Scale Development
PZD-Master Development Plan

PLANNING AREA 3 - SINGLE FAMILY

Single Family 22.5 ft



In accordance with the Unified Development Code for single family residential areas.

Part of Phase 7

Description
 This planning area is designed to promote a charming streetscape scene and provide easy, walkable access to enjoying the nearby community building, greenspace, and nearby offices and commercial center. Medium-sized, single-family lots will be 40 x 90 feet on average. Garages will be serviced from alley ways with allowances for zero lot line garages, while on-street parking is provided on public streets for residents' visitors. These homes will face directly onto public streets with rear alley access.

This planning area is designed to promote a charming streetscape scene and provide easy, walkable access to enjoying the nearby community building, greenspace, commercial center, greenspace, and offices. Medium-sized, single-family lots will be 40 x 90 feet on average. On-street parking is provided on public streets for residents' visitors. A build to line will be established in the covenants for this neighborhood so homes will have similar distances from the right-of-way, creating an intimate sense of outdoor space along the community's sidewalks. An urban residential character will thus be created, serving to tie the neighborhood together as a pedestrian friendly space.

A. Permitted Uses
 Unit 1: City wide uses by right
 Unit 8: Single-family dwellings

B. Conditional Uses
 Unit 2: City-wide uses by conditional use permit
 Unit 24: Home occupations
 Detached Second Dwelling Units

C. Residential Density
 Acreage 8.36 ac.
 Lots 54
 Density 6.46 units/ac.

D. Lot Width Minimum

E. Lot Area Minimum
 Single Family 3000 sq.ft.

F. Land Area per Dwelling
 Single Family 3000 sq.ft.

G. Setback Requirements
 Front - 10 ft
 Broyles Ave. - 30 ft.
 49th Ave. - 15 ft.
 Side - 0 ft.
 Lot 7 - 8 ft.
 Rear - 0 ft.

H. Height Regulation
 Shall not exceed 40 Ft

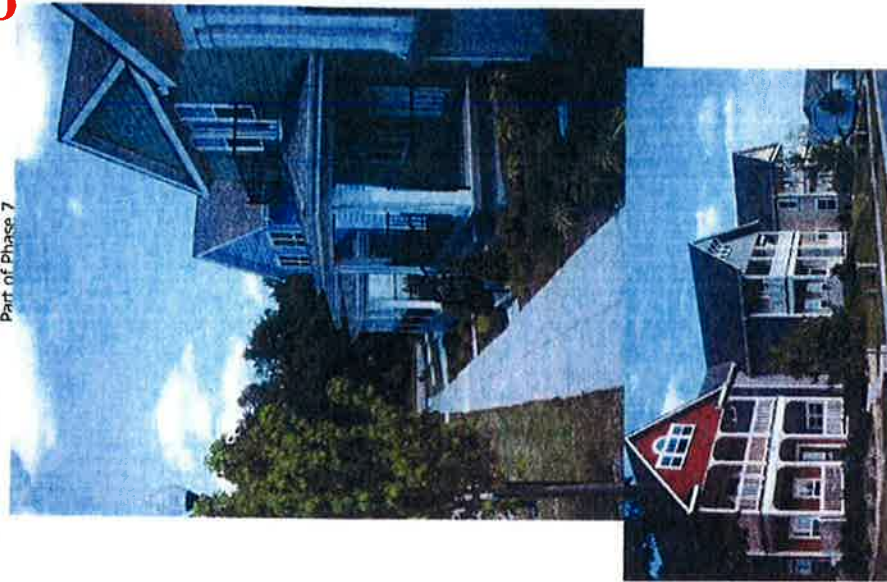
I. Building Area
 Shall not exceed 80%

J. Landscaping
 In accordance with the Fayetteville Landscape Ordinance. Landscaping as indicated on the Master Development Plan and Landscaping Plan is required as part of this PZD

K. Parking
 Will be in accordance with the Unified Development Code

L. Architectural Design Standards
 Architectural Design Standards - Material to be brick, stucco masonry, siding, wood trim shingles, aluminum clad window systems (see typical elevation). Dwellings shall not turn a rear facades to a public street and shall utilize articulation including windows, entries/doors, etc. to front, public streets. Structures shall be constructed consistent with the architectural elevations and concepts presented in the PZD booklet.

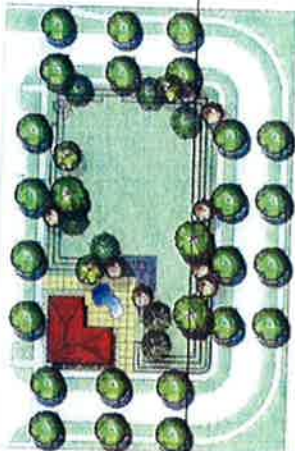
M. Signage



Woodstock Community

PZD-Large Scale Development
 PZD-Master Development: Plan

PLANNING AREA 4 - CIVIC BUILDING AND WOODSTOCK PARK

Description The Civic Building encourages a sense of belonging among residents of the neighborhood. Sighted to be a focal anchor for the community, with cultural and recreational facilities, offices, and possibly, a post office and swimming pool. Possible occupants include the office of the Property Owners Association (POA), for Woodstock Community. Integral to the Civic Building, the Woodstock Park area provides flexibility for outdoor recreation, gatherings, block parties and neighborhood events. The park greens, gazebos and civic building allow neighbors to interact on a day to day basis. Woodstock park is planned to serve as a focal point of the neighborhood, as opposed to simply being space that's left over once the buildings are finished.	F. Land Area per Dwelling N/A G. Setback Requirements Front - 5 ft H. Height Regulation Shall not exceed 35 Ft I. Building Area N/A J. Landscaping In accord with the Fayetteville Landscape Ordinance. Landscaping as indicated on the Master Development Plan and Landscaping Plan is required as part of this PZD K. Parking Parking will be located on streets, and in accord with the Unified Development Code L. Architectural Design Standards Architectural Design Standards - Material to be brick, stucco masonry, siding, wood trim shingles, aluminum clad window systems. Structure shall not turn a rear facades to a public street and shall utilize articulation including windows, entries/doors, etc. to front, public streets. Structures shall be constructed consistent with the architectural elevations and concepts presented in the PZD booklet. M. Signage In accordance with the Unified Development Code for single family residential areas. Part of Phase 1, 5, 6, and 7	   
A. Permitted Uses Unit 12 Offices, studios and related offices Unit 19 Commercial recreation, small sites B. Conditional Uses Unit 2 City-wide uses by conditional use permit Unit 4 Cultural and recreational facility Unit 13 Eating Place C. Non-residential Intensity Acreage 3.34 Non-residential Area 1650 sqft. Intensity 494.01 sqft./acre D. Lot Width Minimum N/A E. Lot Area Minimum N/A	M. Signage In accordance with the Unified Development Code for single family residential areas. Part of Phase 1, 5, 6, and 7	  

Client: Nock-Brooks Land Development
Prepared by: Applian Centre for Design & TSW

Woodstock Community

PZD-Large Scale Development
PZD-Master Development Plan

RZN12-4108

Current Land Use

BANK OF WYNNE



Legend

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

Overview

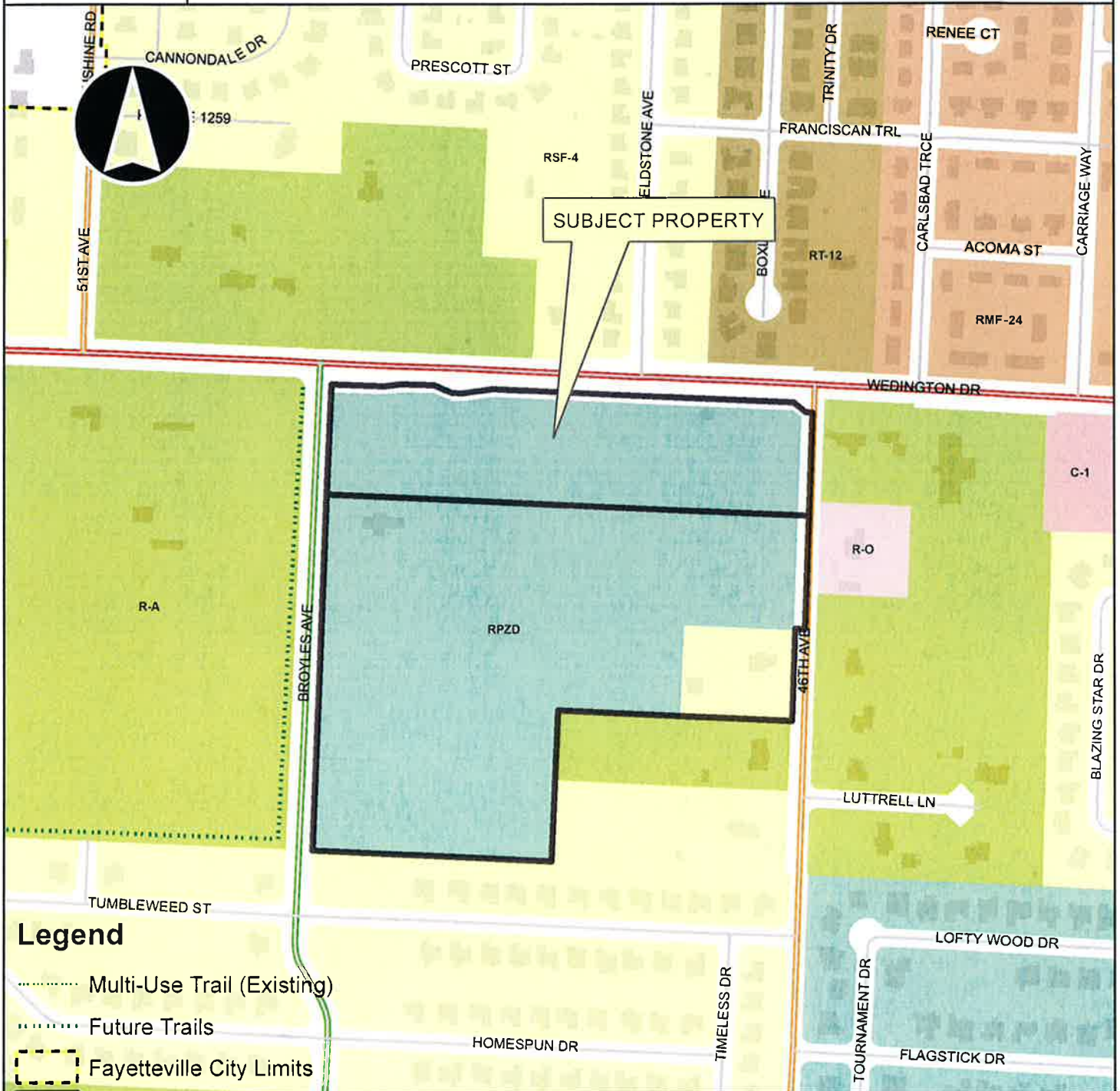
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



RZN12-4108

BANK OF WYNNE

Close Up View



Legend

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

Overview

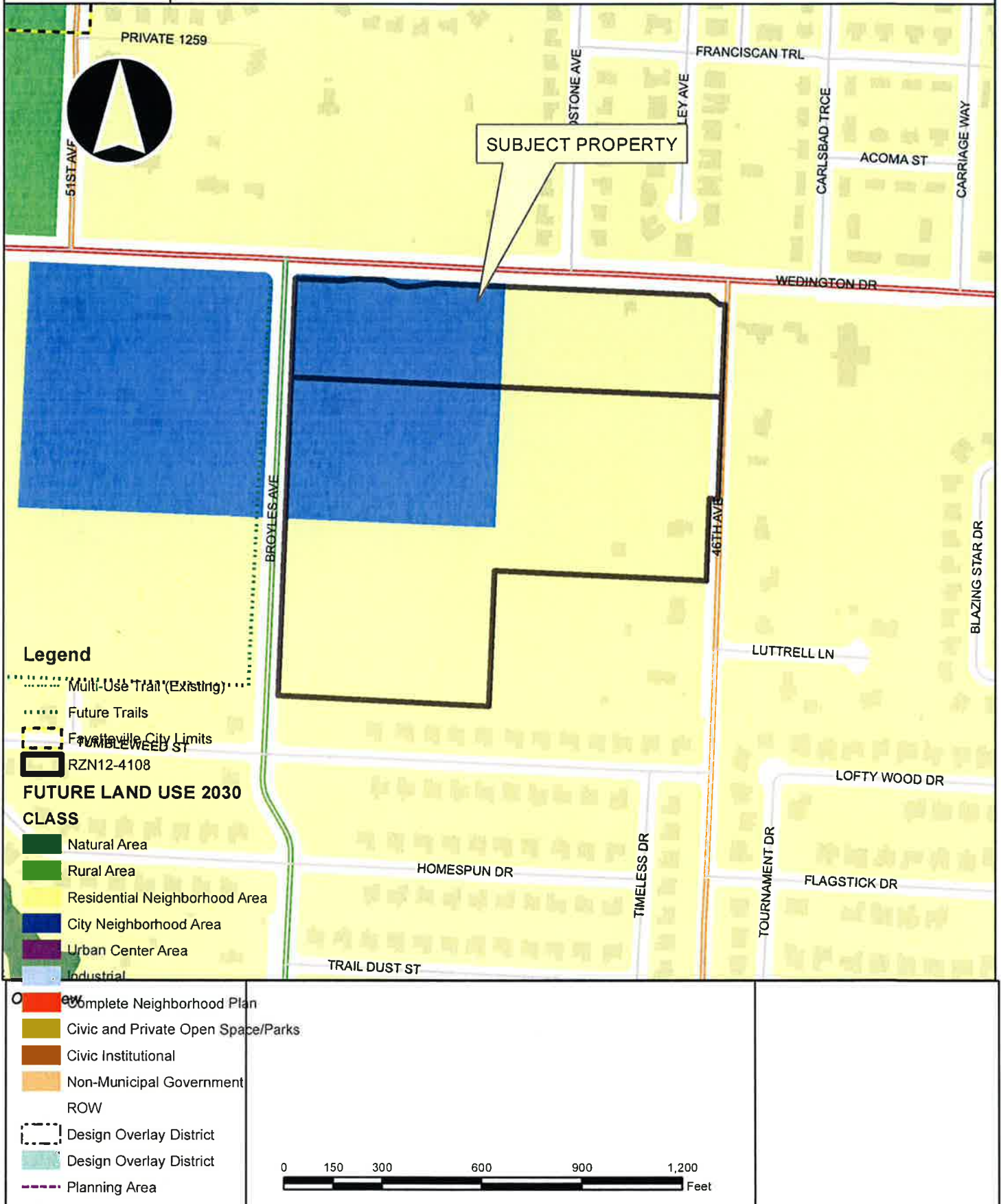
- RZN12-4108
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



RZN12-4108

BANK OF WYNNE

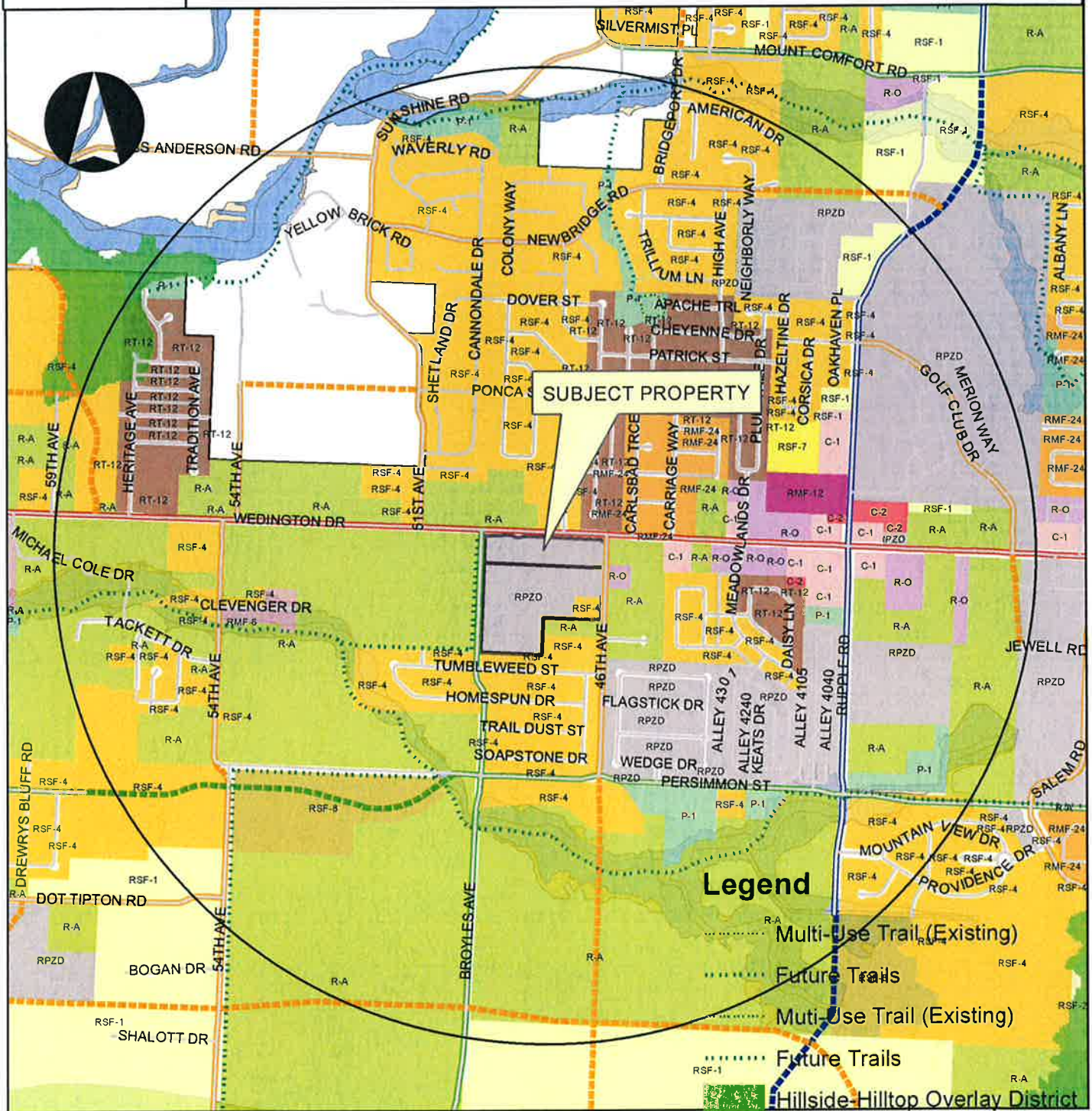
Future Land Use



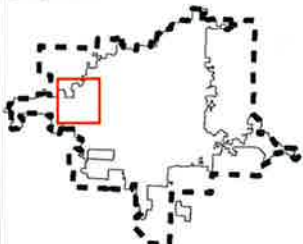
RZN12-4108

One Mile View

BANK OF WYNNE



Overview



Legend

Subject Property

RZN12-4108

Boundary

0 0.25 0.5

1 Miles

- RZN12-4108
- Design Overlay District
- Planning Area
- Fayetteville

City of Fayetteville Staff Review Form

C. 6

R-PZD 12-4079 (N.W. Corner of W.
Cleveland St. & Hall Ave./Project Cleveland)
Page 1 of 174City Council Agenda Items
and
Contracts, Leases or Agreements

6/5/2012

City Council Meeting Date
Agenda Items OnlyJesse Fulcher
Submitted ByPlanning
DivisionDevelopment Services
Department

Action Required:

R-PZD 12-4079: Residential Planned Zoning District (N.W. CORNER OF W. CLEVELAND ST. & HALL AVE./PROJECT CLEVELAND, 443): Submitted by MCCLELLAND CONSULTING ENGINEERS, INC. for property located at the NORTHWEST CORNER OF WEST CLEVELAND STREET AND HALL AVENUE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and RMF-40, RESIDENTIAL MULTI FAMILY, 40 UNITS PER ACRE, and contains approximately 2.71 acres. The request is for zoning, land use and large scale development approval for a Residential Planned Zoning District with 122 multi-family dwellings.

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

05-17-2012
Date

Previous Ordinance or Resolution #

City Attorney

5-18-2012
Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

5/18/12
DateReceived in City Clerk's Office
5-13-12 P03:39 RCVD
UW

Chief of Staff

5/18/12
DateReceived in
Mayor's Office

Mayor

5/21/12
DateENTERED
5/18/12 BRP

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council
Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director *JP*
From: Jesse Fulcher, Current Planner
Date: May 16, 2012
Subject: R-PZD 12-4079 (Project Cleveland)

RECOMMENDATION

Planning staff and the Planning Commission recommend approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Project Cleveland, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a 122 unit multi-family development with a 421 space parking deck on 2.71 acres.

BACKGROUND

The subject property contains approximately 2.71 acres located at the northwest corner of Cleveland Street and Hall Avenue. Approximately 1.60 acres is zoned RMF-40 and 1.11 acres is zoned RSF-4. The property is developed with an existing three-building apartment complex containing 60 dwellings units, and four single-family dwellings.

The applicant proposes to construct a multi-story student housing development with 122 units, containing 450 bedrooms. A multi-story parking garage is also proposed containing 421 parking spaces. The overall density will be 45 units per acre. A breakdown of the density and unit count is provided on page 20 of the project booklet. The current unit count on the property is 64. A total of 68 are permitted by the current zoning.

A traffic study was prepared by Peter's & Associates to evaluate the impact of this development on the surrounding street network and intersections. The study was later expanded to include the intersections of Cleveland and Razorback, Cleveland and Sunset, Cleveland and Oliver, and Wedington and Hall. A copy of the full traffic study has been included in the packet. In addition, the developer commissioned a second traffic study by Small Arrow Engineering. This study was not complete for the Planning Commission meeting, but has been included in the packet for review by the City Council. Engineering staff has supplied a memo in the packet summarizing the traffic studies and other traffic-related issues and concerns that have been submitted.

DISCUSSION

Neighborhood residents attended the Planning Commission meeting at which this project was considered to listen and provide comments. Minutes from the meeting are included in the packet. The Planning Commission voted 7-1-0 (Pennington voting 'no') to forward the project to the City Council with a recommendation for approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Chris Brown, City Engineer *CB*

Date: May 18, 2012

Subject: R-PZD 12-4079 Project Cleveland-Review of Traffic Studies

SUMMARY

Two traffic studies have been submitted by the developer of Project Cleveland, by Peters and Associates of Little Rock, and Small Arrow Engineering of Joplin, Mo. These studies have been reviewed by staff; findings are as follows:

- 1) The methods of trip generation used by each Traffic Engineer, while slightly different, are based on standard trip generation methods. Adjustments to the trips from standard values are supported by recent studies of college housing, and the adjustments are conservative compared to study results.
- 2) The studies generally agreed on the distribution of trips to the street network, where the majority of trips will be made on Cleveland Street toward Garland Ave. The studies do not estimate an appreciable increase in traffic on Cleveland Street west of Razorback Road.
- 3) Overall, the development's impact to traffic on surrounding streets is not significant, and levels of service on surrounding streets will remain as they exist today.
- 4) Pedestrian levels are expected to increase significantly, and both studies recommended improvements to accommodate the increased pedestrian load.

Further review details are provided below.

TRIP GENERATION

Trip generation is a method of estimating the amount of traffic generated by a new development. The standard reference document for trip generation is the Institute of Transportation Engineers (ITE) Trip Generation Manual. For apartments such as the one proposed, the ITE Manual has several charts to cover variables such as type of apartment, time of day (am or pm peaks), etc. Charts providing trip estimates by both dwelling units and by persons are provided. All of these charts in the ITE Manual are developed empirically, by plotting data from traffic studies and developing a best fit line.

The ITE Manual does not provide charts for specific types of apartments such as the student housing proposed by Project Cleveland. Recent studies have attempted to refine trip generation rates for student housing projects such as this. Studies at Auburn University, the University of Minnesota, and at 4 universities in Virginia have

shown that vehicle trips for student housing near campus, and on a transit route, may be reduced by as much as 80% from the ITE Manual estimates.

In the case of project Cleveland, the two traffic studies provided used different methods of calculating trips generated from the development:

- Peters and Associates used the ITE Manual charts developed for Apartments, using trips per person, and adjusted these trips based on a study at Auburn University, which estimated reductions in trips from the ITE Manual for housing on transit routes. The reductions are 40% for AM peak trips and 20% for PM peak trips.
- Small Arrow Engineering used the ITE Manual charts for Mid-Rise Apartments, using an average of trips per person and trips per dwelling unit, and included an adjustment based on a Technical Memorandum developed by Spack Consulting. (The Spack memorandum was developed from a study of trips generated from existing housing around the University of Minnesota.) Small Arrow's trip generation calculations for the apartments were substantially lower than Peters and Associates; however, Small Arrow included conservative calculations for the coffee shop that ultimately brought their calculations more in line with Peters.

Note that trip generation is either by dwelling unit, or by persons. When calculating trips by persons, both studies used the number of bedrooms, assuming one person per bedroom.

After review of these calculations, and based on the studies reviewed related to apartment complexes on or near campuses, and with transit availability, it is staff's opinion that the trip generation calculations are appropriate. In fact, Peters and Associates calculations seem somewhat high for a development with this set of characteristics.

TRAFFIC DISTRIBUTION

After the trip generation calculations, the next task is to distribute the traffic generated to the roadway network. Using existing surrounding land uses and existing traffic data, ingress and egress route is assigned a percentage of the traffic generated by the development.

For this project, the two traffic studies are generally in agreement on the traffic distribution. A summary of the distribution is as follows:

Cleveland Street-East: 35-50% of generated trips
Hall Avenue: 25-35% of trips
Cleveland Street-West: 25-30% of trips

Both traffic studies estimate while 25 to 30 percent of generated trips will be to/from the west on Cleveland Street, most of those will use Razorback Road, and only 10% of generated traffic will continue on Cleveland Street west of Razorback Road. Using the higher numbers from the Peters study, this equates to approximately 15 vehicles in the peak hour, and 100 vehicles per average day, neither of which is expected to have a significant effect on this segment of roadway.

LEVEL OF SERVICE

Level of service is a “grade” given to street segments and intersections. For intersections, this grade is based on the delay per vehicle, or how long each vehicle takes to navigate through an intersection. LOS ranges from “A” to “F”. LOS “D” or above is considered acceptable.

The intersections evaluated in the two traffic reports all received a grade of “D” or higher in both the pre- and post-development analysis. There was very little change in the levels of services due to the development, which suggests that the development will not create traffic issues on adjacent streets and intersections.

PEDESTRIAN TRAFFIC

Both traffic studies specifically mentioned pedestrian traffic as an issue to be considered and accounted for. The Small Arrow study counted 53 southbound and 53 eastbound pedestrians in the peak hour, and projected approximately 200 pedestrians crossing Hall and Cleveland during the peak hour. This obviously is a significant increase. The study recommends 10 foot wide crosswalks on all legs of the Hall and Cleveland intersection.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 12-4079, PROJECT CLEVELAND, LOCATED AT THE NORTHWEST CORNER OF WEST CLEVELAND STREET AND HALL AVENUE; CONTAINING APPROXIMATELY 2.71 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 City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from RSF-4, Residential Single Family, 4 units per acre and RMF-40, Residential Multi-Family, 40 units per acre to R-PZD 12-4079 as shown in Exhibit "A" and "B" 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, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

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 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

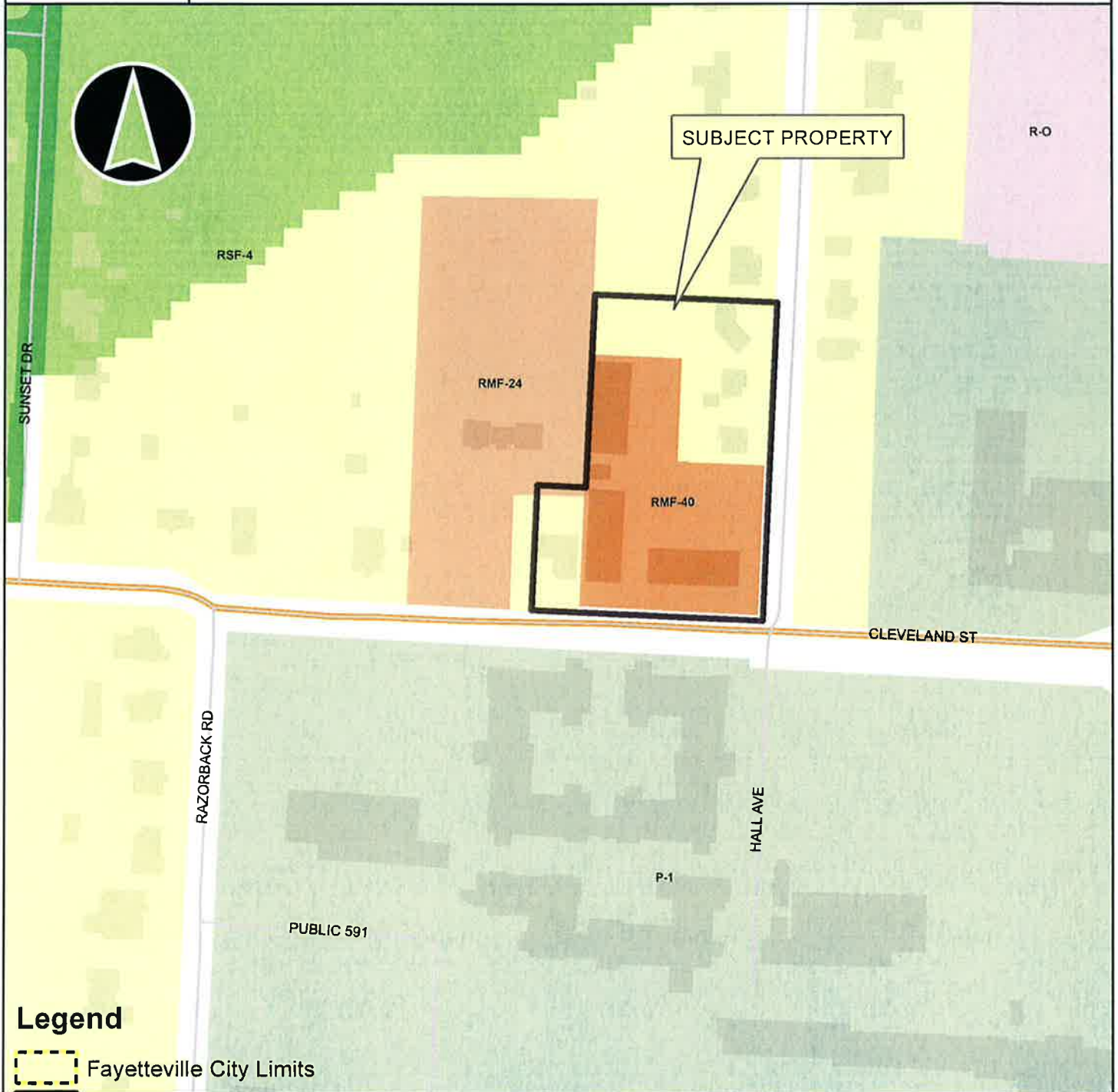
EXHIBIT "A"

C. 6
R-PZD 12-4079 (N.W. Corner of W.
Cleveland St. & Hall Ave./Project Cleveland)
Page 7 of 174

RPZD12-4079

Close Up View

PROJECT CLEVELAND



Legend

Fayetteville City Limits

RPZD12-4079

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

Planning Area

0 75 150 300 450 600 Feet

EXHIBIT "B"
R-PZD 12-4079

METES AND BOUNDS PROPERTY DESCRIPTION
(WASHINGTON COUNTY PARCEL NUMBERS 765-02584-000,
765-02589-000, 765-02573-000, 765-02587-000,
765-02581-000, 765-02591-000)

PART OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 8, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF THE NE 1/4 OF SAID SE 1/4,
THENCE SOUTH 87 DEGREES 12 MINUTES 06 SECONDS EAST A DISTANCE OF 430.00 FEET TO THE POINT OF BEGINNING (P.O.B.); THENCE NORTH 02 DEGREES 48 MINUTES 36 SECONDS EAST A DISTANCE OF 170.07 FEET; THENCE SOUTH 87 DEGREES 09 MINUTES 27 SECONDS EAST A DISTANCE OF 64.75 FEET; THENCE NORTH 02 DEGREES 47 MINUTES 20 SECONDS EAST A DISTANCE OF 261.53 FEET; THENCE SOUTH 87 DEGREES 19 MINUTES 22 SECONDS EAST A DISTANCE OF 247.50 FEET; THENCE SOUTH 02 DEGREES 45 MINUTES 49 SECONDS WEST A DISTANCE OF 432.07 FEET; THENCE NORTH 87 DEGREES 12 MINUTES 06 SECONDS WEST A DISTANCE OF 312.50 FEET; THE POINT OF BEGINNING (P.O.B.), CONTAINING 117928 SQUARE FEET OR, 2.71 ACRES AND BEING SUBJECT TO THE RIGHT OF WAY OF CLEVELAND STREET ALONG THE SOUTH BOUNDARY AND HALL STREET ALONG THE EAST BOUNDARY THEREOF.

CONDITIONS OF APPROVAL

JUNE 5, 2012
CONDITIONS OF APPROVAL
R-PZD 12-4079 PROJECT CLEVELAND

1. City Council determination of compatibility with existing land uses and compliance with adopted land use policies and goals including City Plan 2030 and the Planned Zoning District for R-PZD 12-4079 Project Cleveland. *As described herein, staff recommends in favor of the project.*
2. City Council determination of street improvements. *Staff recommends the following:*
 - a. Cleveland Street shall be improved along the project frontage to include two 13 foot travel lanes (26 feet total required for fire aerial apparatus access) and on-street parallel parking on the north side of the street.
 - b. Travel lanes shall also be shared cyclist lanes, requiring the installation of sharrows/chevron symbols in the north and south travel lanes for Cleveland Street. Symbols shall be installed from Garland Avenue to Oliver Street.
 - c. An 8' sidewalk shall be constructed along the entire property frontage and connect to the existing 5' sidewalk in front of the Theta Tau property. The existing sidewalk between Theta Tau and Razorback shall be removed and replaced with a 5' sidewalk that is ADA compliant.
 - d. A raised intersection shall be constructed at Cleveland Street and Hall Avenue with a patterned concrete/asphalt and embedded lighting, as indicated on page 21 of the traffic study.
 - e. A raised crosswalk shall be installed on Hall Avenue near the school's parking lot entrance. The final location shall be determined based on ADA access requirements and input from the Fayetteville School District.
 - f. A crosswalk shall be installed on Hall Avenue at the north end of the project to connect the sidewalks on the east and west side of Hall.
 - g. In coordination with the Fayetteville School District, one of the existing crosswalks on Cleveland Street shall be removed.
 - h. Due to the extensive utility improvements required and resulting trenching on Hall Avenue and Cleveland Street, the developer shall also be required to mill and overlay Hall Avenue along the property frontage. The remaining areas shall be inspected after construction with the city reserving the right to require either street patching or a similar milling and overlay in these areas.
 - i. (Offered by applicant) A separated climbing lane shall be installed on the south side of Cleveland from Sang to Oliver, with sharrows provided on the north side of the street. The bike lane will be separated from the east-bound travel lane by a 6" curb, with openings provided at existing driveways and streets, and for drainage. The existing centerline shall be removed and relocated based on the adjusted centerline of the travel lanes.
3. City Council determination of compliance with Urban Residential Design Standards. *Staff finds that the proposed building elevations meet the requirements for multi-family design standards. The applicant has committed through the PZD process to comply with the requirements of the Downtown Design Overlay District (DDOD), which are stricter design standards. The current building design also complies with these design standards. Additional construction level information is always necessary to fully review for compliance with DDOD standards.*

JUNE 5, 2012
CONDITIONS OF APPROVAL
R-PZD 12-4079 PROJECT CLEVELAND

4. Heavy construction vehicles shall not be permitted to use Cleveland Street west of the project or Hall Avenue north of the project. Construction traffic, other than passenger vehicles, shall use Garland as the primary point of access.
5. All off-site utility upgrades and extensions determined necessary by the City of Fayetteville to serve this development shall be completed at the time of development, prior to certificate of occupancy permits.
6. Parks fees in the amount of \$38,320 shall be paid prior to building permit approval.
7. Pursuant to the phasing schedule provided in the project booklet, all permits necessary to begin construction shall be obtained within 18 months from the date of City Council approval of the PZD. A final certificate of occupancy shall be obtained within 42 months from the date of building permit approval.
8. Any proposed fencing shall be indicated on construction plans to ensure compliance with applicable development and design standards.
9. All tree preservation, landscape, engineering and fire department conditions included herein shall apply.

Standard conditions of approval:

10. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
11. If applicable, a business license shall be obtained prior to opening the business to the public.
12. Street signs are required to be installed on each private street where buildings are addressed. These signs shall be installed at the owner's expense and should meet MUTCD requirements. Please contact the City's Address Coordinator, Susan Pierce at 479-575-8391. Address numbers shall also be required on both sides of each structure, or as determined appropriate by the Fire Department.
13. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
14. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
15. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit.

JUNE 5, 2012
CONDITIONS OF APPROVAL
R-PZD 12-4079 PROJECT CLEVELAND

16. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
 17. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principal structure. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
 18. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
 19. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the Design Overlay District.
 20. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
 21. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Urban Forester of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - d. Project Disk with all final revisions
 - e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Urban Forester.
 - f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.
-



PC Meeting of May 14, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Glenn Newman, Staff Engineer
THRU: Jeremy Pate, Development Services Director
DATE: ~~May 9, 2012~~ Updated May 16, 2012

R-PZD 12-4079: Residential Planned Zoning District (N.W. CORNER OF W. CLEVELAND ST. & HALL AVE./PROJECT CLEVELAND, 443): Submitted by MCCLELLAND CONSULTING ENGINEERS, INC. for property located at the NORTHWEST CORNER OF WEST CLEVELAND STREET AND HALL AVENUE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and RMF-40, RESIDENTIAL MULTI FAMILY, 40 UNITS PER ACRE, and contains approximately 2.71 acres. The request is for zoning, land use and large scale development approval for a Residential Planned Zoning District with 122 multi-family dwellings.

Planner: Jesse Fulcher

Findings:

The subject property contains approximately 2.71 acres located at the northwest corner of the Cleveland Street and Hall Avenue. Approximately 1.60 acres is zoned RMF-40 and 1.11 acres is zoned RSF-4. The property is developed with an existing three building apartment complex consisting of 60 dwellings units and parking lot, and four single-family lots. The current surrounding land use and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Single-family	RSF-4
South	Multi-family/dormitory	University
East	School/Single-family	P-1/RSF-4
West	Fraternity	RMF-24

Proposal: The applicant proposes to construct a multi-story student housing development with 122 units, containing 450 bedrooms. A multi-story parking garage is also proposed containing 421 parking spaces. The overall density will be 45 units per acre. A breakdown of the density and unit count is provided on page 20 of the project booklet. The current unit count on the property is 64. A total of 68 are permitted by the current zoning.

Bedrooms: Five (5) bedroom units aren't being requested with this development. A request to allow five bedroom units would require that this project be resubmitted to the Technical Plat Review Committee meeting and all other subsequent hearings.

Water and Sewer System: The property has access to existing public water and sewer services. However, off-site extensions are required to provide adequate fire flow to serve the development.

Adjacent streets and access: The project fronts on two public streets; Hall Avenue, a local street and Cleveland Street, a collector street. Access to a 421 space parking garage is from Hall Avenue. Direct access to Cleveland Street is not being proposed and would be prohibited by the Access Management Ordinance. Chapter 166.02(F) reads “Property that fronts onto two public streets shall place a higher priority on accessing the street with the lower functional classification, ex. Local and Collector.”

Traffic study and street Improvements: ~~A traffic study (see pages attached) has been conducted based on an original design for 570 beds (450 currently proposed).~~ Since the Subdivision Committee meeting, the traffic engineer has conducted additional analysis and revised the traffic study to include the intersections of Cleveland and Razorback, Cleveland and Sunset and Cleveland and Oliver, and Wedington and Hall. The study also now reflects the intended density of 450 bedrooms. In addition, a second traffic study has been prepared by a separate engineering firm. Results from both studies are included.

Peters & Associates Engineers, Inc. (Traffic analysis conducted March 13-15, 2012, with additional intersection studies conducted May 3-4, 2012)

Hourly (page 7) and 24-hour traffic (page 6) counts are provided for Cleveland Street and Hall Avenue, as well as an estimate of traffic volumes (page 14*) expected from this proposed student housing development. The estimated traffic volumes presented in Table 3 include a reduction in vehicular trip-generation, since it is “assumed that a large number of these residents will utilize public transit or walk/bike to campus destinations in reasonable close proximity.”

Capacity and level of service analysis is provided for traffic conditions for the AM, school PM and typical PM peak hours for the intersections of: Garland and Cleveland; Cleveland and Hall/U of A entrance drive; and Cleveland and U of A exit drive (page 19*). All vehicle movements for the projected traffic conditions at the study intersections are expected to continue to operate at an acceptable level of service “D” or better. Based on the updated traffic study conducted in May, this will also be the case for the intersections of Razorback, Sunset, Oliver and Wedington. The study reveals that only one turning movement has a reduction in the level of service - southbound turning movements on Hall Avenue and Cleveland Street are reduced from a level of service “B” to a level of service “C”, which is an acceptable level of service.

Figures 3, 3A, 5, 6, 7, 7A, 8, and 8A have been included in this report and illustrate the existing traffic conditions, projected traffic conditions, and site generated traffic volumes for each of the studied intersections. Figure 4 illustrates site traffic directional distribution.

* These pages are from the first traffic study, which was based on 570 bedrooms, and do not include the new study intersections west of the project site.

Small Arrow Engineering, Inc. (Traffic analysis conducted on Tuesday, May 1, 2012)

The applicant has hired a second traffic engineering firm to provide a separate and independent review of the existing and projected traffic conditions in the vicinity of the project. At the time of this report, staff had only received preliminary information, which is included. A final traffic

report will be available at a later date, should this item be forwarded to the City Council. This traffic study was not required and should not be viewed as an incomplete task. The Planning Commission, however, may decide to wait until this report is complete before making a recommendation on the project.

High traffic volume and speeding have long been a concern raised by residents near Cleveland Street, particularly west of Razorback Road. The City of Fayetteville has conducted traffic counts and evaluated a variety of traffic calming tools for this street in the past. However, the steep terrain, where the highest speeds occur, limits the use of conventional vertical measures, such as speed tables. Staff has again evaluated the traffic conditions using the current analysis provided by the traffic engineering firms and recognizes opportunities for traffic calming measures near the project site, where the greatest increase in traffic will occur. Implementing traffic calming measures and requiring street improvements, and coordinating these changes with the elementary school will result in reduced vehicle speeds, offer safer pedestrian crossings for students of the elementary school and university, and increase walkability and bicycle mobility for the neighborhood. These measures are outlined in the recommended street improvements section of the report.

Street improvements: The traffic study recommends installing pedestrian crossing warning signs and crosswalks on Hall Avenue and raised crosswalks with embedded LED lights along Cleveland Street, between Hall Avenue and Garland Avenue.

City staff recommends the following street improvements:

- 1) Cleveland Street shall be improved along the project frontage to include two 13 foot travel lanes (26 feet total required for fire aerial apparatus access) and on-street parallel parking on the north side of the street.
- 2) Travel lanes shall also be shared cyclist lanes, requiring the installation of sharrows/chevron symbols in the north and south travel lanes for Cleveland Street. Symbols shall be installed from Garland Avenue to Oliver Street.
- 3) An 8' sidewalk shall be constructed along the entire property frontage and connect to the existing 5' sidewalk in front of the Theta Tau property. The existing deteriorating sidewalk between Theta Tau and Razorback shall be removed and replaced with a 5' sidewalk that is ADA compliant to better facilitate pedestrian traffic.
- 4) A raised intersection shall be constructed at Cleveland Street and Hall Avenue with a patterned concrete/asphalt and embedded lighting, as indicated on page 21 of the traffic study.
- 5) A raised crosswalk shall be installed on Hall Avenue near the school's parking lot entrance. The final location shall be determined based on ADA access requirements and input from the Fayetteville School District.
- 6) A crosswalk shall be installed on Hall Avenue at the north end of the project to connect the sidewalks on the east and west side of Hall.
- 7) In coordination with the Fayetteville School District, one of the existing crosswalks on Cleveland Street shall be removed.
- 8) Due to the extensive utility improvements required and resulting trenching on Hall Avenue and Cleveland Street, the developer shall also be required to mill and overlay Hall Avenue along the property frontage. The remaining areas shall be coordinated

during construction with the city reserving the right to require either street patching or a similar milling and overlay in these areas prior to final occupancy

Street improvement 9)

*In addition to these improvements, the applicant has indicated a willingness to provide traffic calming improvements to Cleveland west of the project site, as well, to assist with the existing traffic speed concerns. The applicant is proposing to install a separated climbing lane on the south side of Cleveland from Sang to Oliver, with sharrows provided on the north side of the street. The bike lane will be separated from the east-bound travel lane by a 6" curb, with openings provided at existing driveways and streets, and for drainage. This will require the centerline to be removed and relocated based on the adjusted centerline of the travel lanes. Engineering, Planning and the Trails Coordinator have all reviewed this concept and accepts the applicant's proposal. This will be included as a requirement in the conditions of approval.

<i>Tree Preservation:</i>	Existing Tree Canopy:	19.8%
	Tree Canopy Preserved:	6.80%
	Minimum Canopy Required:	19.8%
	Mitigation Required:	66 two-inch caliper trees

Public Comment: Notification was delivered to property owners within 100' of the project boundary and two public notice signs were posted on the property. Staff has received questions and comments from multiple city residents. All letters are attached. The primary concerns voiced by residents include; building height and scale, safety for parents and school children walking to Leverett Elementary, increased (and existing) traffic on Cleveland and Hall, location of the parking deck entrance, removal of single-family residences and trees.

Recommendation: Staff recommends that **R-PZD 12-4079** be forwarded to the City Council with a recommendation for approval finding that the project is compatible with existing land uses and in compliance with adopted land use policies and goals including City Plan 2030 and the Planned Zoning District ordinance as follows:

Future Land Use Plan Designation: City Neighborhood Area. *City neighborhood areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multifamily.*

This land use designation provides a great deal of flexibility, allowing a multitude of factors to be considered when reviewing land use changes. As noted herein over half of this site is already zoned for multi-family housing up to 40 units per acre and with a height allowance of 60 feet. The entire west side of the property is bordered by RMF-24 zoning, also with a height allowance of 60 feet. The south side of the property is across from university operated student housing. To the east is an elementary school and to the north is a single-family neighborhood.

These factors and the central location of this site, creates anticipation for a more dense housing development. However, an appropriate transition to surrounding properties must still be provided to provide a project that is compatible with the surrounding neighborhood,

particularly to the north.

The original proposal did not at all respond to the scale or style of surrounding properties. This, the third proposal, finally considers the design elements of the dense housing on the south side of Cleveland and the low density housing on Hall Avenue. The project begins on the south as a five-story urban housing project, below the 60 foot high allowance, but the massing begins to break down as the project moves north on Hall. The building walls begin to move away from the street, green space is increased, building openings become larger, the building becomes detached in sections, building height is decreased below the 45 foot height allowance in the underlying zoning, the density is reduced, and building materials transition from institutional to residential. These changes to the building and site design elements appropriately bridge two different, but compatible land uses in a relatively short distance along Hall Avenue.

Goal 1: We will make appropriate infill and revitalization our highest priorities. *The city should consider mechanisms to ensure quality development and promote appropriate development that reflects the existing community character of Fayetteville's neighborhoods.*

This proposed development provides infill in a well-developed area of Fayetteville with access to infrastructure that is already available and currently maintained. This development will increase traffic on surrounding streets. However, residents will be able to walk, bike or use transit more readily than a project located further away from the campus reducing daily vehicle trips and reducing the burden on the existing transportation system. This project also provides an appropriate transition between a variety of land uses, including 5-story student housing to the south, a fraternity house to the west, an elementary school to the east and an established single-family neighborhood on Hall Street.

Goal 2: We will discourage suburban sprawl. *For decades, zoning practices have supported a separation of land uses; in doing so, development has spread across the landscape and made people solely dependent on the automobile to get from here to there. The impacts of sprawl have caused increased traffic congestion and health problems due to a lack of walkable places. By permitting infill development at a higher density than the existing zoning, this project discourages suburban sprawl on the perimeter of the City and takes advantage of proximity to existing utility and public infrastructure and services.*

Goal 3: We will make traditional town form the standard.

The proposed development will be of traditional form, compact and pedestrian oriented, with the building located at the street, parking internalized, wide sidewalks, street trees, and eyes on the street, creating a safer neighborhood environment.

Goal 4: We will grow a livable transportation network. *The development will increase walkability and bicycle facilities, and through building placement, raised intersections and crosswalks, and wide sidewalks, slow vehicle speeds on Cleveland Street and Hall Avenue.*

Goal 5: We will assemble an enduring green network. *Development of the site will decrease the amount of greenspace and tree canopy on the site. The applicant has proposed tree preservation on the west and north sides of the property, including low impact design*

features, and provided greenspace for residents and the public adjacent to Hall Avenue.

Goal 6: *We will create opportunities for attainable housing. It is unclear what the price point will be for these residences and this is not something that the city controls. However, providing a variety of housing types promotes mixed-income neighborhoods where attainable housing doesn't exist in isolation. Providing a variety of housing types also frees up single-family houses in existing neighborhoods, providing more opportunities for move-up buyers.*

Conditions of Approval:

1. Planning Commission determination of compatibility with existing land uses, and compliance with adopted land use policies and goals including City Plan 2030 and the Planned Zoning District for R-PZD 12-4079 Project Cleveland. *As described herein, staff recommends in favor of the project.*

THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE PROJECT PROPOSAL.

THE PLANNING COMMISSION FOUND IN FAVOR OF THE PROJECT PROPOSAL.

2. Planning Commission determination of street improvements. *Staff recommends the following*
 - a. Cleveland Street shall be improved along the project frontage to include two 13 foot travel lanes (26 feet total required for fire aerial apparatus access) and on-street parallel parking on the north side of the street.
 - b. Travel lanes shall also be shared cyclist lanes, requiring the installation of sharrows/chevron symbols in the north and south travel lanes for Cleveland Street. Symbols shall be installed from Garland Avenue to Oliver Street.
 - c. An 8' sidewalk shall be constructed along the entire property frontage and connect to the existing 5' sidewalk in front of the Theta Tau property. The existing sidewalk between Theta Tau and Razorback shall be removed and replaced with a 5' sidewalk that is ADA compliant.
 - d. A raised intersection shall be constructed at Cleveland Street and Hall Avenue with a patterned concrete/asphalt and embedded lighting, as indicated on page 21 of the traffic study.
 - e. A raised crosswalk shall be installed on Hall Avenue near the school's parking lot entrance. The final location shall be determined based on ADA access requirements and input from the Fayetteville School District.
 - f. A crosswalk shall be installed on Hall Avenue at the north end of the project to connect the sidewalks on the east and west side of Hall.
 - g. In coordination with the Fayetteville School District, one of the existing crosswalks on Cleveland Street shall be removed.
 - h. Due to the extensive utility improvements required and resulting trenching on Hall Avenue and Cleveland Street, the developer shall also be required to mill and overlay Hall Avenue along the property frontage. The remaining areas shall be inspected after construction with the city reserving the right to require either street patching or a similar milling and overlay in these areas.
 - i. (Offered by applicant) A separated climbing lane shall be installed on the south

side of Cleveland from Sang to Oliver, with sharrows provided on the north side of the street. The bike lane will be separated from the east-bound travel lane by a 6" curb, with openings provided at existing driveways and streets, and for drainage. The existing centerline shall be removed and relocated based on the adjusted centerline of the travel lanes.

THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS. THESE RECOMMENDATIONS HAVE BEEN EXPANDED SINCE THE SUBDIVISION COMMITTEE MEETING.

THE PLANNING COMMISSION FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS AS PRESENTED, INCLUDING THE APPLICANT'S OFFER TO CONSTRUCT A CLIMBING LANE ON CLEVELAND FROM SANG TO OLIVER.

3. Planning Commission determination of compliance with Urban Residential Design Standards. *Staff finds that the proposed building elevations meet the requirements for multi-family design standards. The applicant has committed through the PZD process to comply with the requirements of the Downtown Design Overlay District (DDOD), which are stricter design standards. The current building design also complies with these design standards. Additional construction level information is always necessary to fully review for compliance with DDOD standards.*

THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE PROPOSED BUILDING ELEVATIONS.

THE PLANNING COMMISSION FOUND IN FAVOR OF THE BUILDING AS DESIGNED.

4. Heavy construction vehicles shall not be permitted to use Cleveland Street west of the project or Hall Avenue north of the project. Construction traffic, other than passenger vehicles, shall use Garland as the primary point of access.
5. All off-site utility upgrades and extensions determined necessary by the City of Fayetteville to serve this development shall be completed at the time of development, prior to certificate of occupancy permits.
6. Parks fees in the amount of \$38,320 shall be paid prior to building permit approval.
7. Pursuant to the phasing schedule provided in the project booklet, all permits necessary to begin construction shall be obtained within 18 months from the date of City Council approval of the PZD. A final certificate of occupancy shall be obtained within 42 months from the date of building permit approval.
8. Any proposed fencing shall be indicated on construction plans to ensure compliance with applicable development and design standards.
9. All tree preservation, landscape, engineering and fire department conditions included herein shall apply.

Standard conditions of approval:

10. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
11. If applicable, a business license shall be obtained prior to opening the business to the public.
12. Street signs are required to be installed on each private street where buildings are addressed. These signs shall be installed at the owner's expense and should meet MUTCD requirements. Please contact the City's Address Coordinator, Susan Pierce at 479-575-8391. Address numbers shall also be required on both sides of each structure, or as determined appropriate by the Fire Department.
13. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
14. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
15. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit.
16. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
17. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principal structure. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
18. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
19. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the Design Overlay District.

20. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
21. Prior to the issuance of a building permit the following is required:
- Grading and drainage permits
 - An on-site inspection by the Urban Forester of all tree protection measures prior to any land disturbance.
 - Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - Project Disk with all final revisions
 - One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Urban Forester.
 - Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.
-

Planning Commission Action: ☐ Approved ☐ Tabled ☒ Forwarded

Meeting Date: May 14, 2012

Motion: Honchell

Second: Hoskins

Vote: 7-1-0 (Pennington voting 'no')

Findings associated with R-PZD 12-4079 (Project Cleveland)

Sec. 166.06. Planned Zoning Districts (PZD)

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2030;

FINDING: Staff finds that many aspects of the development proposal to be consistent with the Unified Development Code and City Plan 2030. The future land use map designates the property as a City Neighborhood Area, which is characterized as more densely populated than residential neighborhood areas, providing a mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multifamily. Setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone. The proposal is for a multifamily development across the street from the University of Arkansas, providing residents the opportunity to walk, bike or use transit to reach any part of the campus. Shopping opportunities are also within walking distance of this development, allowing residents to be less dependent on the automobile. The development, while more dense than the existing land uses, appropriately bridges multi-story housing and an established single-family neighborhood.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be in compliance with all applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The street infrastructure in the area is adequate to serve this development. Cleveland Street is currently a high volume collector street, due to the access the street provides to the university, Leverett Elementary and several intersecting neighborhood streets. The development will also have access to Garland Avenue and Razorback Road, two primary connecting streets. The water and sewer infrastructure is currently inadequate to serve this density. However, the developer will be required to upgrade several lines on Cleveland and Hall to support the development. These upgrades will extend the life span of the utility network, reducing long term maintenance and replacement costs. Increased capacity also allows for future infill development in the area.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: In staff's opinion the proposed rezoning is compatible with surrounding zoning and land uses when all existing conditions are considered. The primary density is occurring on property that is already zoned RMF-40 and with a 60' height allowance. The remainder of the property is zoned RSF-4. However, the property to the west of both zoning districts is zoned RMF-24, also with a 60' height allowance. The building mass is greatly reduced as it moves into the RSF-4 zoning area, the building walls are broken down and the interior of the site is opened up to the neighborhood. Only adjacent to the RMF-24 zoning district along the west property line does the building increase in height back to 5 stories, but still under the 45' limit in RSF-4. The building design appropriately bridges two different, but compatible land uses over a short distance.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: Over half of the subject property is already zoned for 40 units per acre and a height allowance of up to 60'. The property is also adjacent to university housing, RMF-24 zoning to the west, and an elementary school to the east. In staff's opinion, a multi-family development on this property, with appropriate transition to the single-family neighborhood, is an appropriate land use. The tree preservation plan is below what is required for a planned zoning district. However, there are a number of quality, large species trees that will be preserved at the southwest corner and along the north property line, providing a natural buffer between the development and the property immediately north.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: Cleveland Street is a high volume collector street with approximately 7,500 average daily trips. The existing volumes are due to the high number of residential streets that intersect Cleveland, and the access that the street provides to the university campus and elementary school. This development will increase traffic on Cleveland, Hall, Garland and other local streets in the area. However, as indicated by the traffic study, all vehicle movements for the projected traffic conditions at the study intersections are expected to continue to operate at what calculates as an acceptable LOS "D" or better for the worst-case AM, school PM and typical PM peak hours. In fact only one intersection will decline due to the development - Hall Avenue, which will decrease from a LOS "B" to a LOS "C." Based on this information, it is staff's opinion that the proposed development will not unduly burden the existing road network.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The project booklet and plans provide for a unified development under a unified development plan.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

Sec. 161.29 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposal is for a multi-family development that provides flexibility in design to achieve compatibility with a variety of land uses and zoning districts, and harmonious interaction between two different, but compatible land uses. The building design along with the proposed street improvements will decrease the impact of the development on the surrounding street network and adjacent properties. Green space has been provided along the interior and exterior of the development as a way to open the development up to the neighborhood, and several large species trees are planned for preservation along the southwest and north property lines. As noted herein, it is staff's opinion that the proposed development is consistent with the city's adopted land use policies and the planned zoning district ordinance.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

(C) *R – PZD, Residential Planned Zoning District.*

- (1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:
- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.
 - (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
 - (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
 - (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
 - (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed planned zoning district will allow flexibility in land use in a predominantly residential area consistent with City Plan 2030; provide a framework that promotes an effective relationship between different, but compatible land uses; provide a harmonious relationship with surrounding development by minimizing land use incompatibilities, heavy traffic congestion and excessive demands on existing public facilities; provide a means to densely develop an area with existing tree canopy; and encourage the efficient use of public facilities.

- (2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.
- (4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The residential uses on this property will be at least fifty-one percent of the gross floor area within the development.

(F) ***Bulk and area regulations***

- (1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:
 - (a) The densities of surrounding development;
 - (b) the densities allowed under the current zoning;
 - (c) the urban development goals and other policies of the city's General Plan;
 - (d) the topography and character of the natural environment; and
 - (e) the impact of a given density on the specific site and adjacent properties.
- (2) *Lot area and setback requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.
- (3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.
- (4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

Required Findings for Rezoning Request.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds many aspects of the development proposal to be consistent with the UDC and City Plan 2030. The future land use map designates the property as a City Neighborhood Area, which is characterized as more densely populated than residential neighborhood areas, providing a mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multifamily. Setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone. The proposal is for a multifamily development across the street from the University of Arkansas, providing residents the opportunity to walk, bike or use transit to reach any part of the campus. Shopping opportunities are also within walking distance of this development, allowing residents to be less dependent on the automobile. The development, while more dense than the existing land uses, proposes an appropriate bridges multi-story housing and an established single-family neighborhood.

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

Finding: The property is currently zoned RMF-40 and RSF-4, which allows many aspects of the proposed development, but not across the zoning boundary line. The proposed rezoning is necessary to allow the multi-family development to extend north across the three existing single-family properties.

3. 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 development will increase the number of dwelling units on the property from 64 to 122, a significant increase in population density. However, as noted herein, the development will not undesirable increase the load on public services including schools, water, and sewer. The project is proposed to provide housing for university students, and with the recent increase in enrollment, this type of housing is expected and needed, especially this close to the university campus. The existing water and sewer lines will be upgraded to serve this development, extending the life span of the lines and decreasing long term maintenance and replacement costs.

4. 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



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C. 6

R-PZD 12-4079 (N.W. Corner of W.
Cleveland St. & Hall Ave./Project Cleveland)
Page 28 of 174

THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

To: Jesse Fulcher, Current Planner

May 9, 2012

From: Glenn Newman, P.E.
Staff Engineer

Re: Plat Review Comments May 14, 2012 – Planning Committee Meeting)

Development: LSD 12-4079 Project Cleveland

Engineer: MCE Consulting Engineers, Inc.

Special Comments:

1. It is engineering's understanding that the Rain Gardens are for Educational purposes only and may not be designed in accordance with the new City's Draft LID Manual.
2. Structural engineer will be required to acknowledge the drainage plan, including the ponding adjacent to the building, the rain gardens, underground detention, storm drainage underneath the slab, etc..
3. The civil engineer of record and owner have offered to exceed the requirements of the Drainage Criteria Manual to capture the offsite runoff between the proposed structure and the existing retaining wall west of the project and route the flow under the structure. Engineer of record indicated this will have a "large" factor of safety.

Standard Comments:

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Any damage to the existing public street due to construction shall be repaired/replaced at the owner/developers expense.
3. The engineer of record shall provide "Full Time" inspection for utilities and "Part Time" inspection for the storm drainage and roadway construction for this project. – Weekly reports should be submitted to the City of Fayetteville's public works inspector. – This includes the Fire Line Installation.
4. Water and sewer impact fees will apply for the additional impact to the system. The fees will be based on the proposed meter size and will be charged at the time of meter set.
5. Fire Line monthly fees will be applied based on the size of the riser penetrating the slab. See Chapter 51.136 of the Unified Development Code for table of fees associated with pipe diameter.
6. Prior to engineering approval of the **building permit**, either the required public improvements must be installed and accepted, or performance bonds in the amount of 150% of the construction cost for all public improvements must be submitted, accompanied by a unit price estimate approved by the Engineering Division.



THE CITY OF FAYETTEVILLE, ARKANSAS



PARKS AND RECREATION DIVISION
1455 S Happy Hollow Rd
Fayetteville, AR 72701
P (479) 444-3471 F (479) 521-7714

TDD (Telecommunications Device for the Deaf)
(479) 521-1316

URBAN FORESTRY DIVISION

TREE PRESERVATION AND PROTECTION – Chapter 167

To: McClelland Consulting Engineers, Leslie Tabor
CC: Jesse Fulcher, Current Planner
From: Megan Dale, Urban Forester/Landscape Administrator
Date: 14 May 2012
Subject: PZD 12-4079: Project Cleveland Planning Commission Review Comments

Requirements Submitted:

N	Initial Review with the Urban Forester
Y	Site Analysis Map Submitted
Y	Site Analysis Written Report Submitted
Y	Complete Tree Preservation Plan Submitted
Y	Tree Mitigation Form Submitted
N/A	Tree Preservation Waiver Submitted

Canopy Measurements:

Total Site Area (minus Master Street Plan ROW and Dedicated Parkland)	
acres	2.60
square feet	113,200
Existing Tree Canopy (minus existing easements)	
acres	0.52
square feet	22,520
percent of site area	19.8%
Tree Canopy Preserved	
acres	0.17
square feet	7,789
percent of total site area	6.8%
Site Percent Min. Canopy Required	25%

Mitigation: Required -

Canopy Below Required	Preservation Priority/Type	Forestation Base Density (ft2)	Number of 2" caliper trees to be planted
14,461 ft2	High Priority	218	66
ft2	Mid-Priority	290	
ft2	Low Priority	436	

On-site Mitigation = 16 trees

Tree Escrow = 50 trees at \$675 = \$33,750

Mitigation Type Requested:

☒ On-Site ☐ Off-Site ☒ Tree Escrow ☐ Not Requested Yet

Mitigation Type Requested Approved: ☒ YES ☐ NO

TREE PROTECTION PLAN CHECKLISTS AND COMMENTS:

Plan Checklist:

NA = not applicable

Yes = submitted by applicant

No = required by City Code but not included on submitted plan

The Site Analysis Plan [167.04(H)(1)]

Tech Plat	SD	PC	Site Analysis Plan Components
Y	Y	Y	5 year aerial check on existing trees
Y	Y	Y	Property Boundary
Y	N	Y	Natural Features 100ft beyond property line shown
Y	Y	Y	Existing Topography with slopes $\leq$ 15% highlighted
Y	Y	Y	Soils
N	Y	Y	Significant Tree(s): 24", 18" and 8" DBH
N	Y	Y	Table listing Sig. Trees with species, size, health
N/A	N/A	N/A	Grouping of Trees: all other trees that do not meet significant requirements
N/A	N/A	N/A	Table listing Grouped Trees with average species, size, health
N	Y	Y	All existing utilities
N/A	N/A	N/A	All perennial and intermittent streams with approximate center line
N/A	N/A	N/A	Floodplains/Floodways
Y	Y	Y	Existing street, sidewalk or bike path ROW
Y	Y	Y	Submitted Site Analysis Plan

The Analysis Plan Report [167.04(H)(4)]

Tech Plat	SD	PC	Analysis Plan Report Components
N	Y	Y	Detail Design Approaches used to minimize damage to OR removal of existing canopy
N	Y	Y	Justification for removal of individual or groupings of trees/canopy
N	Y	Y	Details providing information on on-site mitigation OR off-site alternatives
Y	Y	Y	Submitted Analysis Report

Tree Preservation Plan [167.04(H)(2)]

Tech Plat	SD	PC	Tree Preservation Plan Components
Y	Y	Y	Shows ALL Proposed Site Improvements
Y	Y	Y	Delineates trees/canopy to be preserved and removed
Y	Y	Y	Depict limits of soil disturbance
			Detail measures that will be used to protect trees during construction:
Y	Y	Y	1. Tree Protection Fencing
N	Y	Y	2. Limits of Root Pruning
N	N	N	3. Traffic flow on work site
N	N	N	4. Location of material storage
N	N	N	5. Location of concrete wash out
N	N	N	6. Location of construction entrance/exit
N	Y	Y	Location of ALL existing and new utility/drainage easements

TREE PRESERVATION AND PROTECTION PLAN COMMENTS:

1. All items above marked with "N" and redlines need to be addressed prior to approval.
2. Label Tree Preservation Easement on this plan.
3. Show traffic flow on work site, material storage and concrete wash out area.
4. Prior to Building Permit approval, all required landscaping will require a performance bond and a completed Landscape Surety Form. Submit a landscape estimate for review at time of construction plan review.
5. Prior to Certificate of Occupancy, a 3-year Maintenance Plan must be submitted with a 3-year surety (letter of credit, bond or cash) and completed Landscape Surety Form.



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THE CITY OF FAYETTEVILLE, ARKANSAS



PARKS AND RECREATION DIVISION
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URBAN FORESTRY DIVISION

LANDSCAPE REGULATIONS – Chapter 177

To: McClelland Consulting Engineers, Leslie Tabor
From: Megan Dale, Urban Forester/Landscape Administrator
CC: Jesse Fulcher, Current Planner
Date: 14 May 2012
Subject: PZD 12-4079: Project Cleveland Planning Commission Review Comments

Applicable Requirements:

Y	Site Development & Parking Lot Standards
Y	Street Tree Planting Standards
N/A	Stormwater Facilities

Plan Checklist:

Y= submitted by applicant
N=required by City Code but not included on submitted plan
NA= not applicable

Tech Plat	SC	PC	
			All Landscape Plans
Y	Y	Y	Irrigation notes either automatic or hose bib 100' o.c. (177.03A.7.g & 177.04.B.3.a)
Y	Y	Y	Species of plant material identified (177.03.A.7.d & e)
Y	Y	Y	Size of plant material at time of installation indicated minimum size 2" caliper for trees and 3 gal. shrubs (177.03.A.7.b & c)
Y	Y	Y	Soil amendments notes include that soil is amended and sod removed (177.03.C.6.b)
Y	Y	Y	Mulch notes indicate organic mulching around trees and within landscape beds (177.03.C.6.c & d)
N	Y	Y	LSD and Subdivisions plans stamped by a licensed Landscape Architect, others by Landscape Designer (177.03.B)
NA	NA	NA	Planting bed contained by edging (177.03.C.6.f)
N	Y	Y	Planting details according to Fayetteville's Landscape Manual (177.03.C.6.g)

Tech Plat	SC	PC	
			Site Development & Parking Lot Standards
NA	NA	NA	Wheel stops/ curbs (177.04.B.1)
NA	NA	NA	Interior landscaping (177.04.C) <i>Narrow tree lawn (8' min width, 37.5' min length/ 1 tree per 12 spaces) OR Tree island (8' min. width, 18.7' min. length/1 tree per 12 spaces) All parking lot trees must be deciduous (177.04.C.3)</i>
Y	Y	Y	Placement of Trees (177.04.C.2) <i>Either side at points of access (entrance/exit)</i>
Y	Y	Y	Perimeter landscaping (177.04.D) <i>Side and rear property lines (5' wide landscaped) Front property line (15' wide landscape) (177.04.D.2.a) Shade trees planted on south and west sides of parking lots (177.04.D.2.e) Parking lot adjacent to R.O.W.- continuous row planting of shrubs - 50% evergreen. Remaining landscaping to be ground cover and / or turf.) (177.04.D.4a) NOTE: Shade trees are described in street tree planting standards</i>
			Street Tree Planting Standards (time of F.P. or permit) (177.05)
NA	NA	NA	Residential Subdivisions- 1 large species shade tree/ lot tree planted within R.O.W. if possible
Y	Y	Y	Nonresidential Subdivision- 1 large species shade tree/30 L.F. tree planted within 15-25' greenspace
Y	Y	Y	Urban Tree Wells-urban streetscape only- 8' sidewalk , trees every 30 L.F. (177.05.B.3.a-f)
N	Y	Y	Structural Soil-if urban wells are used, a note or detail of structural soil must be indicated on the landscape plan
NA	NA	NA	Timing of planting indicated on plans (subdivisions only) (177.05.A.4)
NA	NA	NA	Written description of the method for tracking plantings (177.05.A.4.e)
Y	Y	Y	Plan contains 3-year Maintenance and Monitoring Agreement. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. (177.05.A.2.e)
Tech Plat	SC	PC	
			Stormwater Facilities (time of F.P. or permit) (177.06.A – C)
NA	NA	NA	1 deciduous or evergreen tree/ 3000 square feet
NA	NA	NA	4 large shrubs or small trees (3 gal) / 3000 square feet
NA	NA	NA	6 shrubs or grasses (1 gal) / 3000 square feet
NA	NA	NA	Ground cover unless seed or sod is specified
NA	NA	NA	50% of facility planted with grass or grass like plants

Conditions of Approval:

1. Prior to Building Permit approval, all required landscaping will require a performance bond and a completed Landscape Surety Form. Submit a landscape estimate for review at time of construction plan review.
2. Prior to Certificate of Occupancy, a 3-year Maintenance Plan must be submitted with a 3-year surety (letter of credit, bond or cash) and completed Landscape Surety Form.

Date 4/3/12

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for comments on the proposed R-PZD 12-4079 (NW corner of W. Cleveland Street & Hall Avenue / Project Cleveland, 443) submitted by McClelland Consulting Engineers, Inc. for property located at the NW corner of W. Cleveland and Hall.

I had previously expressed concern for traffic safety and congestion. It appears that the developer has reduced the project's density, conducted a traffic survey, met with and received the support from the school, and taken numerous other steps to minimize my concerns about this project.

Sincerely,

Captain William Brown
Fayetteville Police Department



www.accessfayetteville.org

TO: Planning Division

FROM: Carole Jones, Park Planner II

DATE: April 30, 2012

SUBJECT: Parks & Recreation Subdivision Committee Review Comments

Meeting Date: May 3, 2012

Item: RPZD 12-4079 (Project Cleveland/1236 W. Cleveland St., 443)

Park District: SW

Zoned: RSF-4 and RMF-24

Billing Name & Address: Specialized Real Estate Group
1200 Shipley Street
Springdale, AR 72764

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ 0.024 acre per unit = _____ acres	_____ @ \$960 per unit = \$ _____
Multi Family	_____ @ 0.017 acre per unit = _____ acres	_____ @ \$680 per unit = \$82,960

COMMENTS:

- On March 5, 2012 PRAB reviewed the project and recommended accepting money in lieu for 222 multi-family units to satisfy the park land dedication ordinance due to the development's proximity to Lewis Soccer Complex, Wilson Park, Hotz Park and Scull Creek Trail.
- Credit will be given for the existing 60 multi-family units and the existing four single family homes.
- Fees in the amount of \$38,320 are due as calculated below:

Calculation:	122 multi family units proposed (total) X \$680/per unit	= \$ 82,960
	Credit for 60 existing multi family units X \$680/per unit	= - \$ 40,800
	Credit for 4 existing single family units X \$960/per unit	= - \$ 3,840

		= \$ 38,320 (balance)

- The actual amount of fees will be based on the type (single family or multi-family) and number of units. Fees must be paid prior to signing of final plat or issuing of building permits.

**TRAFFIC STUDY
PETERS AND ASSOCIATES
MARCH 13-15, 2012**

Traffic Study

STREET SYSTEM

Cleveland Street at Hall Avenue consists of an eastbound lane and a westbound lane. Just east of Hall Avenue, Cleveland Street widens to a three lane roadway consisting of an eastbound lane, a westbound lane and a bi-directional center left-turn lane. This roadway is asphalt and constructed with curbs and gutters. There are sidewalks along both sides of Cleveland Street in the vicinity of Garland Avenue and Hall Avenue. Cleveland Street is classified as a Collector on the City of Fayetteville Master Street Plan (MSP).

Hall Avenue, north of Cleveland Street, is approximately 24 feet wide with no pavement markings separating the northbound and southbound lanes. This roadway is asphalt and constructed with curbs and gutters. There are sidewalks along both sides of the street in the immediate vicinity of Cleveland Street and the speed limit is 25 miles per hour. Hall Avenue is classified as a Local Street on the City MSP.

The intersection of Cleveland Street and Garland Avenue is signalized. This is a 6-phase traffic signal operation with signal indications mounted on mast arms. The controller is located on the northwest corner of this intersection. There are pedestrian crosswalks and pedestrian signal heads on all four legs of this intersection.

The following photos show the general layout of Hall Avenue, Cleveland Street and Garland Avenue. These were taken at locations as indicated on the photo captions.

Traffic Study



Univ. of Arkansas Parking Lot Entrance

Looking east on Cleveland Street
toward Hall Avenue.



The Site

Looking south on Hall Avenue
toward Cleveland Street.



Cleveland Street

Looking east on Cleveland Street
toward Garland Avenue.



Looking north on Garland Avenue
toward Cleveland Street.

Traffic Study

EXISTING TRAFFIC CONDITIONS

Hourly, 24-hour traffic counts were made at the following locations in the vicinity of the site by this consultant as a part of this study:

STREET	24-HOUR VOLUME	TABLE & CHART
Cleveland Street Approaches to Hall Avenue (Two-Way)	7,458	Table 1/Chart 1
Hall Avenue Southbound Approach to Cleveland Street	428	Table 2/Chart 2

Hourly 24-hour traffic count data for these locations are summarized on Tables and Charts 1 and 2.

Other traffic count data collected as a part of this study include AM, school PM and typical PM peak hours vehicle turning movement counts at the following intersections:

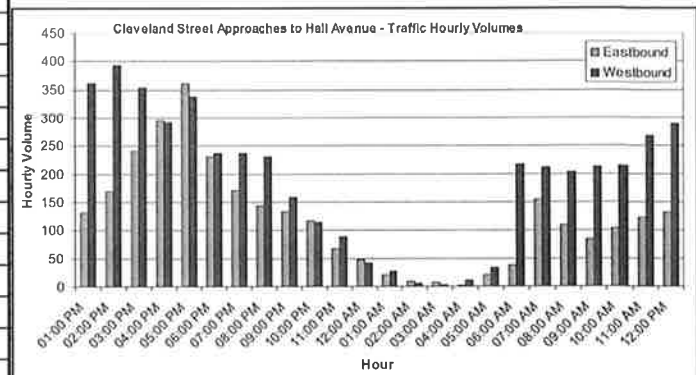
- o Garland Avenue and Cleveland Street
- o Cleveland Street and Hall Avenue / parking lot access drive entrance.
- o Cleveland Street and parking lot access drive exit.

The peak hours vehicle turning movement count data at these intersections are summarized in the following peak hour turning movement Charts 3 thru 12 and are presented in more detail in the Appendix of this report. Pedestrian traffic counts are also included on the count data in the Appendix.

AM and PM peak hours vehicle turning movement counts made as a part of this study are shown on Figure 3, "Existing Traffic Volumes - AM and PM Peak Hours." School PM peak hours vehicle turning movement counts made as a part of this study are shown on Figure 3A, "Existing Traffic Volumes - School PM Peak Hour."

Traffic Study

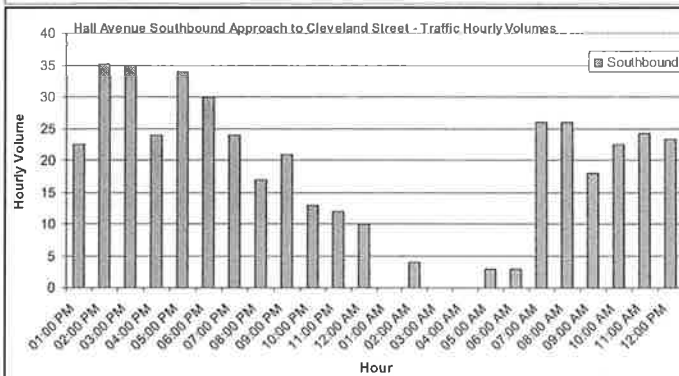
TIME	Cleveland Street Approaches to Hall Avenue		
	Eastbound	Westbound	EB + WB
01:00 PM	133	362	494
02:00 PM	170	393	563
03:00 PM	242	354	596
04:00 PM	296	293	589
05:00 PM	361	337	698
06:00 PM	230	237	467
07:00 PM	172	237	408
08:00 PM	145	230	375
09:00 PM	133	158	292
10:00 PM	117	113	231
11:00 PM	67	88	155
12:00 AM	48	42	90
01:00 AM	20	27	47
02:00 AM	9	6	15
03:00 AM	8	4	11
04:00 AM	1	10	11
05:00 AM	20	33	54
06:00 AM	37	218	255
07:00 AM	154	211	365
08:00 AM	110	204	314
09:00 AM	84	212	297
10:00 AM	103	214	317
11:00 AM	123	269	392
12:00 PM	133	289	422
24-Hour Total:	2916	4543	7458



**Table 1—Chart 1 24-Hour Traffic Counts
Cleveland Street Approaches to Hall Avenue**

TIME	Hall Avenue Southbound Approach to Cleveland Street
	Southbound
01:00 PM	23
02:00 PM	35
03:00 PM	35
04:00 PM	24
05:00 PM	34
06:00 PM	30
07:00 PM	24
08:00 PM	17
09:00 PM	21
10:00 PM	13
11:00 PM	12
12:00 AM	10
01:00 AM	0
02:00 AM	4
03:00 AM	0
04:00 AM	0
05:00 AM	3
06:00 AM	3
07:00 AM	26
08:00 AM	26
09:00 AM	18
10:00 AM	23
11:00 AM	24
12:00 PM	23
24-Hour Total:	428

**Table 2—Chart 2 24-Hour Traffic Counts
Hall Avenue Southbound Approach to Cleveland Street**



Traffic Study

and an approximate 20 percent reduction in vehicle traffic during the PM peak hour for this housing type. For Project Cleveland, a similar vehicle trip reduction is appropriate. These calculations indicate that approximately 1,321 vehicle trips (combined in and out) per average weekday are projected to be generated by the proposed residential student housing land use on this site. Of this total, approximately 96 vehicle trips are estimated during the traffic conditions of the AM peak hour, approximately 107 vehicle trips are estimated during the traffic conditions of the school PM peak hour and approximately 182 vehicle trips are estimated during the traffic conditions of the PM peak hour.

Residential traffic, as will be the traffic associated with this site, ordinarily does contribute to the adjacent street traffic conditions during the on-street AM peak traffic hour and the PM peak traffic hour. Additionally, the site is in the vicinity of an existing elementary school. Accordingly, the AM, school PM and typical PM peak traffic periods of the adjacent streets in the immediate vicinity of the site are the traffic operating conditions which have warranted primary traffic analysis as a part of this study.

PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE	24-HOUR TWO-WAY WEEKDAY VOLUME	AM PEAK HOUR VOLUME		SCHOOL PM PEAK HOUR VOLUME		TYPICAL PM PEAK HOUR VOLUME	
				ENTER	EXIT	ENTER	EXIT	ENTER	EXIT
			Residential Student Apartments	570 Persons	220	1,321	21	75	57
TOTAL ENTERING + EXITING				96		107		182	
Volumes include reduction in traffic to account for pedestrian traffic of 40% during the AM peak hour and 20% during the school and typical PM peak hours.									

Table 3 – Project Cleveland - Summary of Trip-Generation

Table 3 – Project Cleveland - Summary of Trip-Generation

Traffic Study

- o With existing intersection lane geometry and traffic control at the existing study intersections.
- o Project Cleveland Drive A constructed to consist of an inbound lane and an outbound lane at Hall Avenue.

EXISTING TRAFFIC CONDITIONS		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT	NB LT	NB TH	NB RT	SB LT	SB TH	SB RT	Overall Intersection
INTERSECTION	PEAK HR		PEAK HOUR - LEVEL OF SERVICE												
Garland Avenue and Cleveland Street	AM	SIGNAL	C	C	C	C			A	B		A	A		B
	School PM		C	C	C	C			B	B		B	B		B
	PM		D	C	C	C			C	C		B	C		C
Cleveland Street and Hall Avenue	AM	"STOP" SIGN		A		A						B			n/a
	School PM			A		A						B			n/a
	PM			A		A						B			n/a
Cleveland Street and Parking Lot Exit	AM	"STOP" SIGN		A		A			B		A				n/a
	School PM			A		A			B		B				n/a
	PM			A		A			C		B				n/a

Table 4 - Level of Service Summary - Existing Traffic Conditions

PROJECTED TRAFFIC CONDITIONS		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT	NB LT	NB TH	NB RT	SB LT	SB TH	SB RT	Overall Intersection
INTERSECTION	PEAK HR		PEAK HOUR - LEVEL OF SERVICE												
Garland Avenue and Cleveland Street	AM	SIGNAL	C	C	C	C			A	B		A	B		B
	School PM		C	C	C	C			B	B		B	B		B
	PM		D	C	C	C			C	C		B	C		C
Cleveland Street and Hall Avenue	AM	"STOP" SIGN		A		A						C			n/a
	School PM			A		A						C			n/a
	PM			A		A						C			n/a
Cleveland Street and Parking Lot Exit	AM	"STOP" SIGN		A		A			B		A				n/a
	School PM			A		A			B		A				n/a
	PM			A		A			C		B				n/a
Hall Avenue and Drive A	AM	"STOP" SIGN	A		A				A				A		n/a
	School PM		A		A				A				A		n/a
	PM		A		A				A				A		n/a

Table 5 - Level of Service Summary - Projected Traffic Conditions

Traffic Study

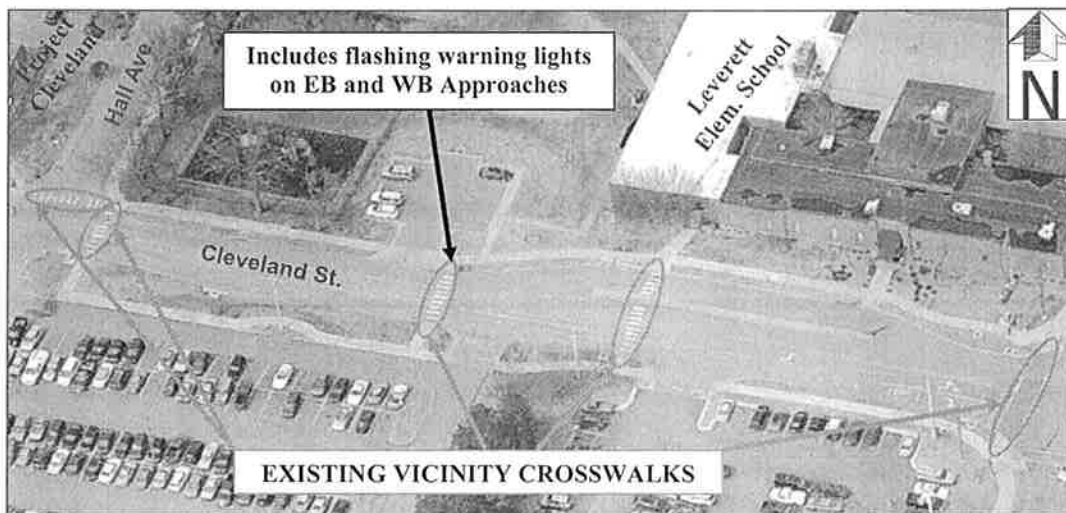
PEDESTRIANS



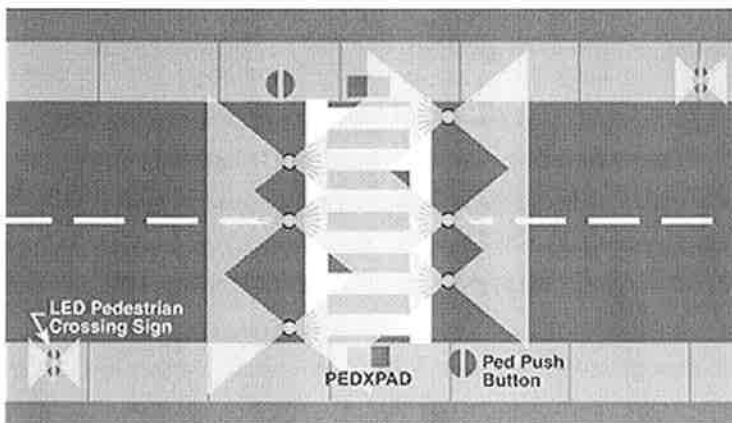
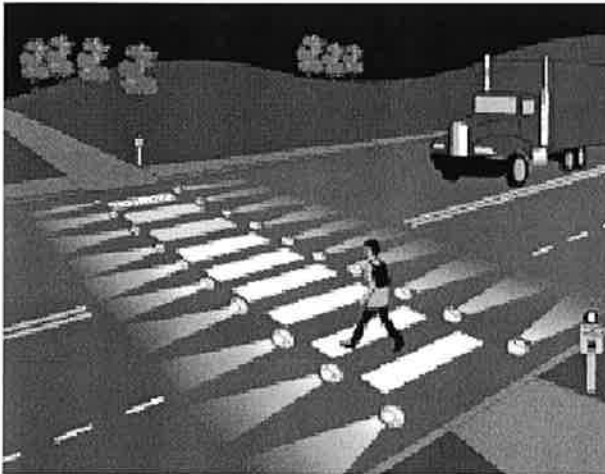
MUTCD Sign W11-2

It was observed that there is considerable pedestrian activity in the vicinity of this proposed development because of the proximity to the University of Arkansas and Leverett Elementary School as depicted on the graphic below. Some of the pedestrian activity included parents of students at Leverett Elementary School parking in a parking lot on the southwest corner of Garland Avenue and Cleveland Street, then crossing Cleveland Street to either walk their child into school or pick their child up. Pedestrian traffic has been included in the capacity and LOS analysis. Pedestrian traffic should be taken into consideration at the proposed access drive.

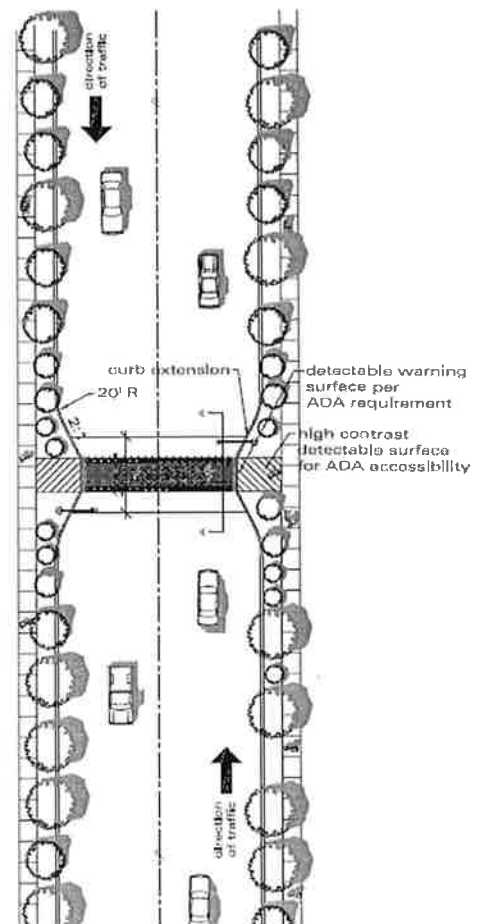
It is recommended to install pedestrian crossing warning signs per the MUTCD (as shown to the left) for traffic exiting the site drive approaching Hall Avenue. Also, it is recommended to include pedestrian crosswalk markings across the site access drive. Additionally, it is recommended to install a new crosswalk (and required MUTCD signs) across Hall Avenue near the north edge of the site. This could be constructed as a raised crosswalk with embedded LED lights in pavement to also serve to reduce speed by vehicles on Hall Avenue in the vicinity. Consideration could be given to include these same type pedestrian crosswalk enhancements to existing crosswalks along Cleveland Street, between Hall Avenue and Garland Avenue due to the existing high pedestrian activity observed in this area. Examples are shown on the following page.



Traffic Study



An illuminated crosswalk is a relatively new traffic control device that is being used throughout the nation to alert approaching motorists to the presence of pedestrians in or about to enter a marked midblock crosswalk or at a marked crosswalk on an uncontrolled approach at an intersection. It consists of a series of lighting units encased in durable housings and embedded in the pavement parallel with the marked crosswalk. The lights are activated by a pedestrian, either by pushbutton or passive detection, and are aimed to flash toward approaching traffic. They serve essentially the same function as traditional flashing beacons, with the major differences being the location of the lights and the pedestrian activation feature. These light systems are known by many names, including in-pavement flashers, in-pavement flashing lights, pedestrian crosswalk warning systems, pedestrian crosswalk lights, crosswalk pavement lights, in-roadway warning systems, in-roadway lights, in-roadway warning lights, SMART crosswalks, intelligent road studs, flashing crosswalks, lighted crosswalks, in-pavement flashers, and "Santa Rosa lights," among others. The terminology used in the *Manual on Uniform Traffic Control Devices* (MUTCD) Section 4, refer to In-Roadway Lights as In-Roadway Warning Lights (IRWL).



Traffic Study

The streets in the vicinity include several crosswalks with required MUTCD signing. Additionally, there are existing sidewalks and ADA ramps on surrounding streets. Although existing street and intersection lane geometry at the study intersections, as a result of traffic operational analysis conducted as a part of this study, has been determined to be adequate, the frontage of the site to public streets should include pedestrian sidewalk provision as can be expected to be a City requirement.

OTHER ISSUES

There are several items unique to this development listed as follows:

- Project Cleveland is along the existing Razorback Transit route. This will facilitate usage by residents and have the effect of reducing vehicular traffic generation.
- The access drive proposed to serve the Project Cleveland development will intersect Hall Avenue only with no direct access via Cleveland Street. Access via Hall Avenue (local street) is better than direct access on higher volume Cleveland Street (Collector) providing fewer non-site traffic volume conflicts with ingress and egress to the site.
- There is no on-street parking allowed on Hall Avenue or on Cleveland Street in the vicinity of the development.
- Existing daily volume on Hall Avenue is approximately 860 vehicles per typical weekday (two-way volume). It is expected that approximately 25 percent of the site-generated traffic will utilize Hall Avenue, north of the site (an additional two-way volume of approximate 330 vehicles per day). The combined total of the projected 1,190 vehicles per day (two-way volume) on Hall Avenue, north of the site is expected to remain well below the City of Fayetteville Master Street Plan local street service volume of less than 4,000 vehicles per day.

Traffic Study

- It is projected that approximately 30 percent of the site-generated traffic volumes is expected to enter and exit the proposed site from the west via Cleveland Street. It is assumed that most, if not all, of this traffic from the west will be from or destined to the University of Arkansas facilities, thereby using Razorback Road, west of the site. It is expected that site-generated traffic volumes will likely not travel west of Razorback Road via Cleveland Street unless they are destined to a specific location in that area.



Traffic Study

FINDINGS and RECOMMENDATIONS

Findings of this study are summarized as follows:

- Approximately 1,321 vehicle trips (combined in and out) per average weekday are projected to be generated by the proposed residential student housing land use on this site. Of this total, approximately 96 vehicle trips are estimated during the traffic conditions of the AM peak hour, approximately 107 vehicle trips are estimated during the traffic conditions of the school PM peak hour and approximately 182 vehicle trips are estimated during the traffic conditions of the PM peak hour.
- Capacity and LOS analysis results for existing traffic conditions for the study intersections indicate existing vehicle movements for existing traffic conditions at the study intersections presently operate at what calculates as an acceptable LOS "D" or better for the AM, school PM and typical PM peak hours.
- Capacity and LOS analysis results performed for projected traffic conditions for the AM, school PM and typical PM peak hours for the study intersections indicate vehicle movements at the study intersections are expected to continue to operate at what calculates as an acceptable LOS "D" or better for the worst-case AM, school PM and typical PM peak hours.
- Project Cleveland is along the existing Razorback Transit route. This will facilitate usage by residents and have the effect of reducing vehicular traffic generation.
- The access drive proposed to serve the Project Cleveland development will intersect Hall Avenue only with no direct access via Cleveland Street. Access via Hall Avenue (local street) is better than direct access on higher volume Cleveland Street (Collector) providing fewer non-site traffic volume conflicts with ingress and egress to the site.

Traffic Study

- Existing daily volume on Hall Avenue is approximately 860 vehicles per typical weekday (two-way volume). It is expected that approximately 25 percent of the site-generated traffic will utilize Hall Avenue, north of the site (an additional two-way volume of approximate 330 vehicles per day). The combined total of the projected 1,190 vehicles per day (two-way volume) on Hall Avenue, north of the site is expected to remain well below the City of Fayetteville Master Street Plan local street service volume of less than 4,000 vehicles per day.
- It is projected that approximately 30 percent of the site-generated traffic volumes is expected to enter and exit the proposed site from the west via Cleveland Street. It is assumed that most, if not all, of this traffic from the west will be from or destined to the University of Arkansas facilities, thereby using Razorback Road, west of the site. It is expected that site-generated traffic volumes will likely not travel west of Razorback Road via Cleveland Street unless they are destined to a specific location in that area.

Recommendations of this study are summarized as follows:

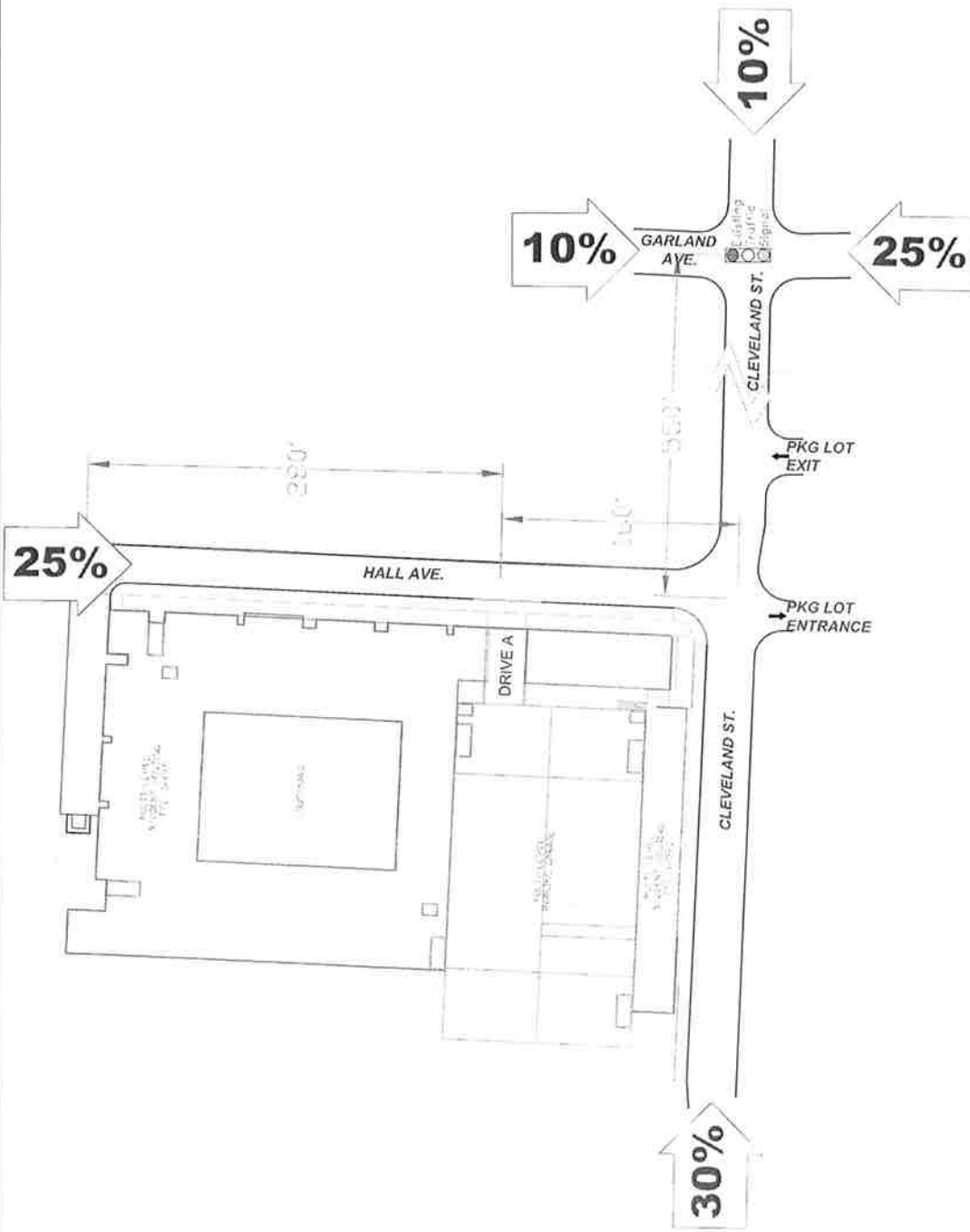
- It is recommended to construct the site access drives along Hall Avenue to consist of an inbound lane and an outbound lane.
- The new access drive intersection along Hall Avenue must conform City of Fayetteville design standards and will require approval by the City.
- It is recommended to install pedestrian crossing warning signs per the MUTCD for traffic exiting the site drive approaching Hall Avenue. Also, it is recommended to include pedestrian crosswalk markings at the site access drive adjacent to Hall Avenue. Additionally, it is recommended to install a new crosswalk (and required MUTCD signs) across Hall Avenue near the north edge



Traffic Study

of the site. This could be constructed as a raised crosswalk with embedded LED lights in pavement to also serve to reduce speed by vehicles on Hall Avenue in the vicinity.

- It is recommended that consideration be given to including raised crosswalks with embedded LED lights in pavement enhancements to existing crosswalks along Cleveland Street, between Hall Avenue and Garland Avenue due to the existing high pedestrian activity observed in this area.



DIRECTIONAL DISTRIBUTION
SITE TRAFFIC

PROJECT CLEVELAND
STUDENT HOUSING
RESIDENTIAL DEVELOPMENT
FAYETTEVILLE, ARKANSAS

PROJECT No. P1567
DATE: 3-28-2012
PETERS & ASSOCIATES
ENGINEERS, INC.



FIGURE NO.
4

P1567 - Existing Uses (4 SF Houses and 60 MF Units)
Summary of Multi-Use Trip Generation
Average Weekday Driveway Volumes
March 28, 2012

Land Use	Size	24 Hour Two-Way Volume	AM Pk Hour		PM Pk Hour	
			Enter	Exit	Enter	Exit
Single Family Detached Housing						
	4 Dwelling Units	38	1	2	3	1
Apartments	60 Dwelling Units	399	6	25	24	13
Total Driveway Volume		437	7	27	27	14
Total Peak Hour Pass-By Trips			0	0	0	0
Total Peak Hour Vol. Added to Adjacent Streets			7	27	27	14

Note: A zero indicates no data available.

TRIP GENERATION BY MICROTRANS

P1567 - PROJECT CLEVELAND - FAYETTEVILLE AR
Summary of Trip Generation Calculation
For 570 Persons of Apartments
March 28, 2012

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	3.31	1.99	1.00	1887
7-9 AM Peak Hour Enter	0.06	0.00	1.00	34
7-9 AM Peak Hour Exit	0.22	0.00	1.00	125
7-9 AM Peak Hour Total	0.28	0.54	1.00	160
4-6 PM Peak Hour Enter	0.26	0.00	1.00	148
4-6 PM Peak Hour Exit	0.14	0.00	1.00	80
4-6 PM Peak Hour Total	0.40	0.65	1.00	228
AM Pk Hr, Generator, Enter	0.14	0.00	1.00	80
AM Pk Hr, Generator, Exit	0.16	0.00	1.00	91
AM Pk Hr, Generator, Total	0.30	0.56	1.00	171
PM Pk Hr, Generator, Enter	0.24	0.00	1.00	137
PM Pk Hr, Generator, Exit	0.16	0.00	1.00	91
PM Pk Hr, Generator, Total	0.40	0.64	1.00	228
Saturday 2-Way Volume	3.24	2.16	1.00	1847
Saturday Peak Hour Enter	0.00	0.00	1.00	0
Saturday Peak Hour Exit	0.00	0.00	1.00	0
Saturday Peak Hour Total	0.26	0.52	1.00	148
Sunday 2-Way Volume	3.06	1.93	1.00	1744
Sunday Peak Hour Enter	0.00	0.00	1.00	0
Sunday Peak Hour Exit	0.00	0.00	1.00	0
Sunday Peak Hour Total	0.26	0.51	1.00	148

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 8th Edition, 2008.

TRIP GENERATION BY MICROTRANS

**TRAFFIC STUDY
PETERS AND ASSOCIATES
MAY 3 & 4, 2012**

From: "Leslie Tabor" <ltabor@mcclelland-engrs.com>
To: "Jesse Fulcher" <jfulcher@ci.fayetteville.ar.us>
CC: "Seth Mims" <seth@mc3multifamily.com>
Date: 5/7/2012 5:09 PM
Subject: FW: P1567 - Revised Figures - Project Cleveland
Attachments: P1567-Figures-REV-5-7-12.pdf

Jesse,

Please see the attached and below from Peter's.

Thank you for your patience!
Leslie

Leslie Tabor

McClelland Consulting Engineers

1810 North College Avenue

Fayetteville, Arkansas 72703

Phone (479) 443-2377

Fax (479) 443-9241

USGBC Member Logo

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From: Randy M. Tolbert [mailto:rmtolbert@traffic-engineers.com]
Sent: Monday, May 07, 2012 5:06 PM
To: Leslie Tabor
Cc: E. J. Peters
Subject: P1567 - Revised Figures - Project Cleveland

Leslie,

Attached are PDF copies of the following figures:

* Figure 3, "Existing Traffic Volumes - AM and PM Peak Hours"

- * Figure 3A, "Existing Traffic Volumes - School PM Peak Hour"
- * Figure 4, "Directional Distribution - Site Traffic"
- * Figure 5, "Entering Traffic Percentage Turns"
- * Figure 6, "Exiting Traffic Percentage Turns"
- * Figure 7, "Site-Generated Traffic Volumes - AM and PM Peak Hours"
- * Figure 7A, "Site-Generated Traffic Volumes - School PM Peak Hour"
- * Figure 8, "Projected Traffic Volumes - AM and PM Peak Hours"
- * Figure 8A, "Projected Traffic Volumes - School PM Peak Hour."

We have completed our capacity and level of service analysis for the AM, school PM and PM peak hours for existing and projected traffic conditions (projected traffic includes the change in number of residents to 450) for the following study intersections:

- * Garland Avenue and Cleveland Street
- * Cleveland Street and Hall Avenue / University of Arkansas parking lot entry access drive
- * Cleveland Street and Hall Avenue / University of Arkansas parking lot exit access drive
- * Hall Avenue and Project Cleveland Drive A
- * Wedington Drive and Hall Avenue
- * Cleveland Street and Razorback Road
- * Cleveland Street and Sunset Avenue
- * Cleveland Street and Oliver Avenue.

It was found that all vehicle movements at the study intersections currently operate at what calculates as an acceptable LOS "D" or better for the AM, school PM and PM peak hours. Traffic volumes used for existing traffic conditions are shown on the attached Figures 3 and 3A.

It was found that all vehicle movements at the study intersections are calculated to continue to operate at what calculates as an acceptable LOS "D" or better for the AM, school PM and PM peak hours. Traffic volumes used for projected traffic conditions are shown on the attached Figures 8 and 8A. Projected traffic conditions were conducted with the following assumed:

- * With existing intersection lane geometry and traffic control at the existing study intersections.
- * Project Cleveland Drive A constructed to consist of an inbound lane and an outbound lane at Hall Avenue.

We will have a revised report to you by the end of the day Friday, May 11, 2012. If you have any questions and/or need to discuss in more detail, let us know. Thanks and have a great day.

Randy Tolbert

<mailto:rmtolbert@traffic-engineers.com> rmtolbert@traffic-engineers.com

PETERS & ASSOCIATES ENGINEERS, INC.

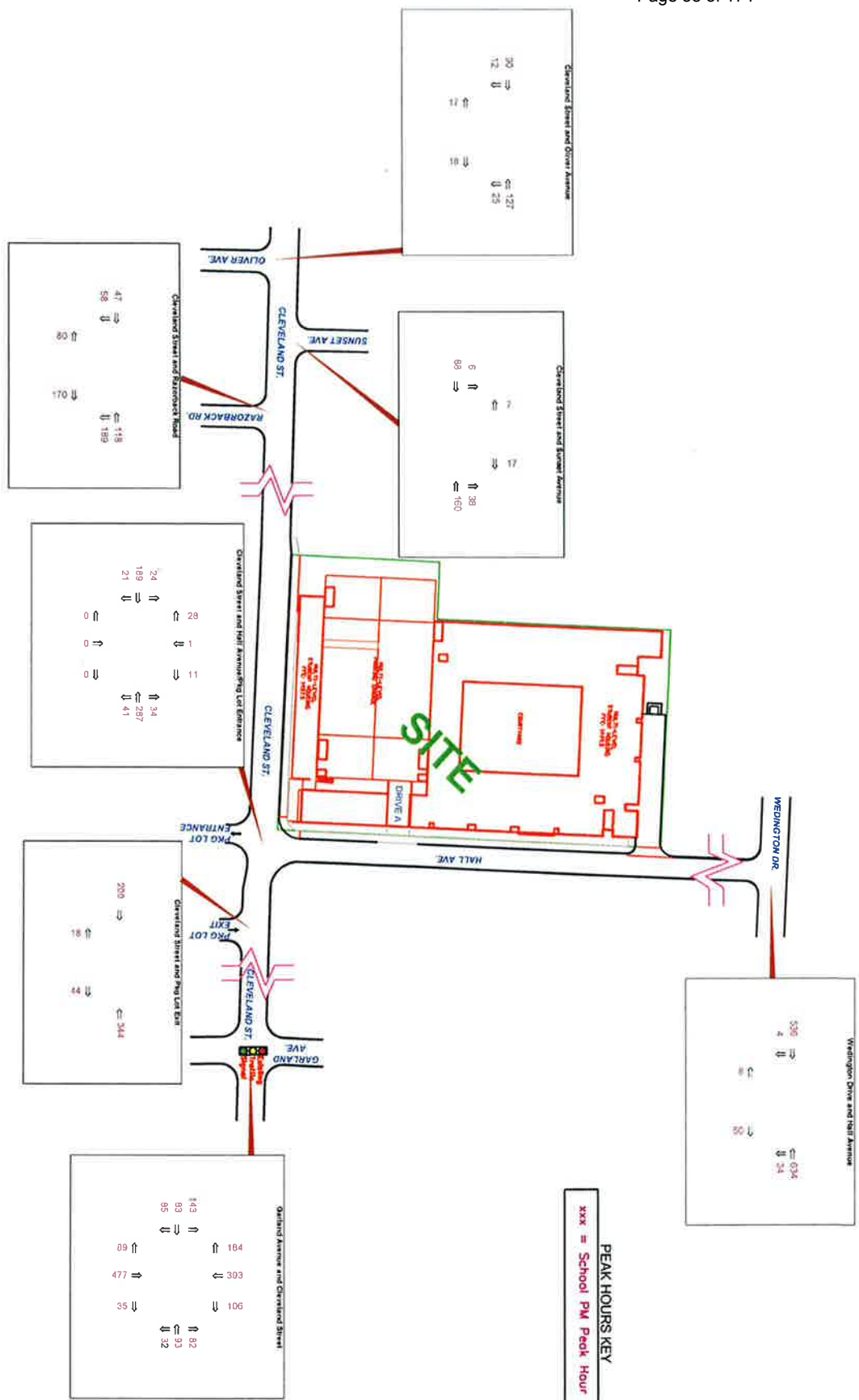
5507 Ranch Drive, - Suite 205

Little Rock, Arkansas 72223

Voice: 501-868-3999 (Ext. 103)

Fax: 501-868-9710

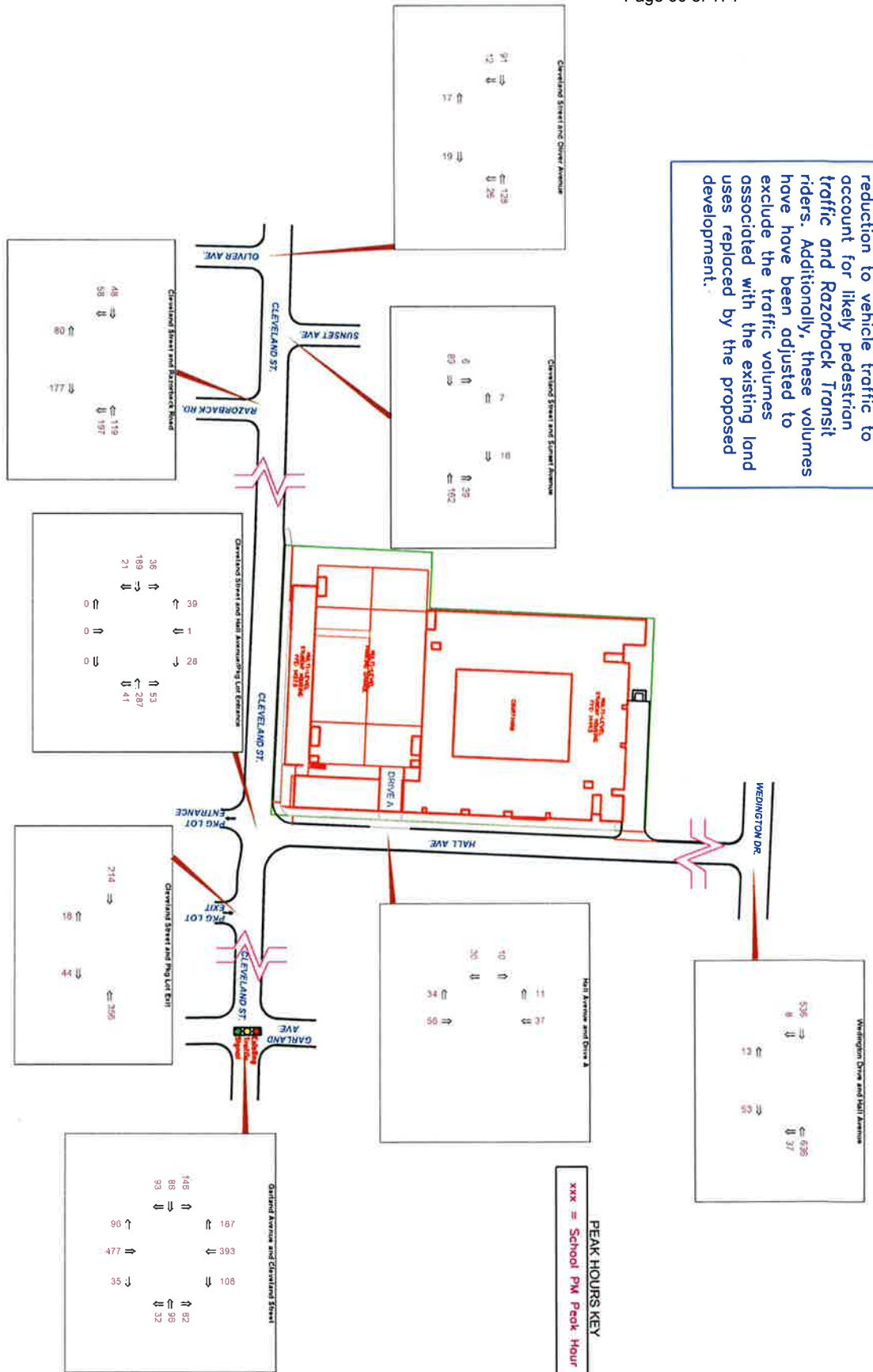


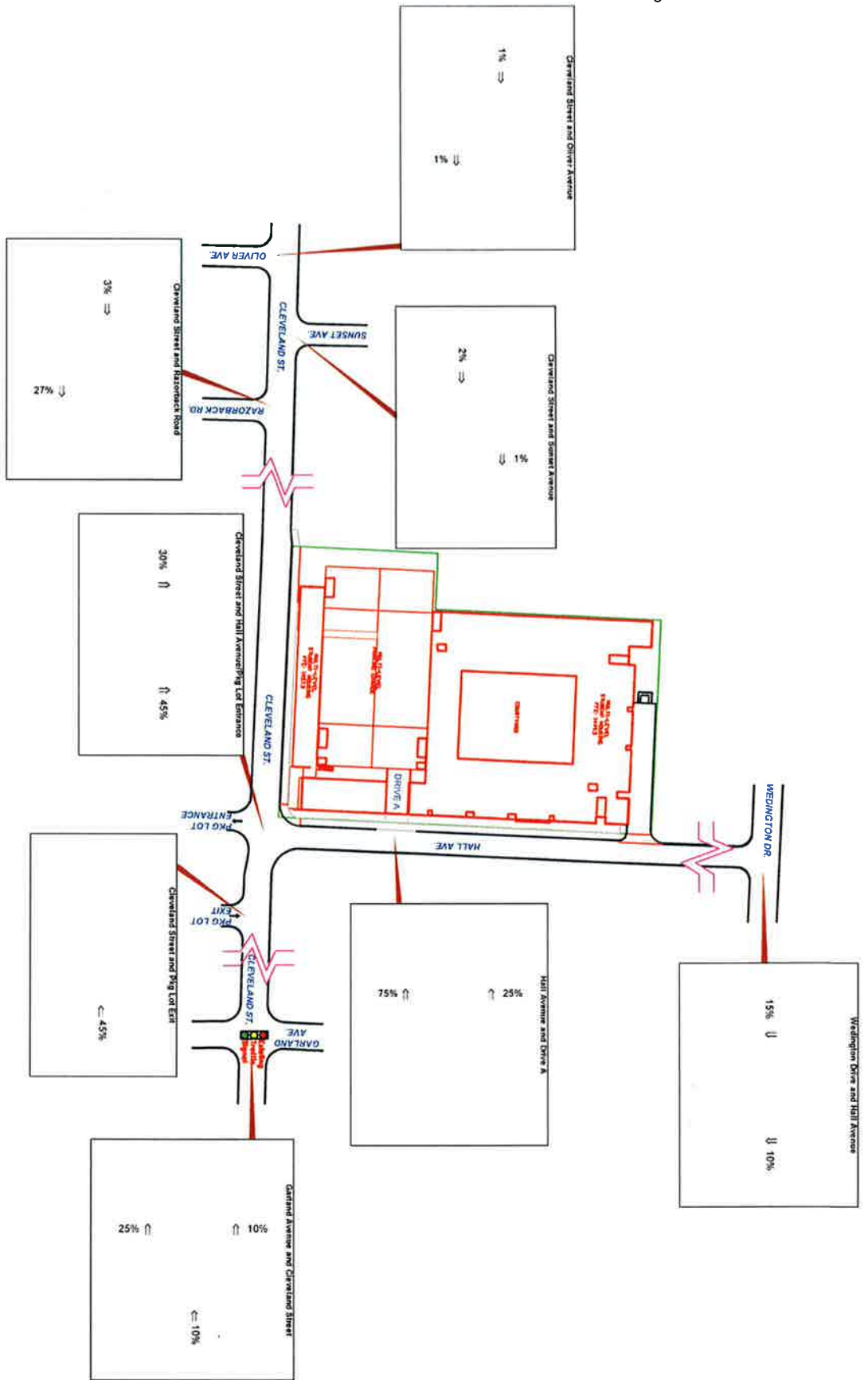


NOTE: These volumes include a reduction to vehicle traffic to account for likely pedestrian traffic and Razorback Transit riders. Additionally, these volumes have been adjusted to exclude the traffic volumes associated with the existing land uses replaced by the proposed development.



NOTE: These volumes include a reduction to vehicle traffic to account for likely pedestrian traffic and Razorback Transit riders. Additionally, these volumes have been adjusted to exclude the traffic volumes associated with the existing land uses replaced by the proposed development.



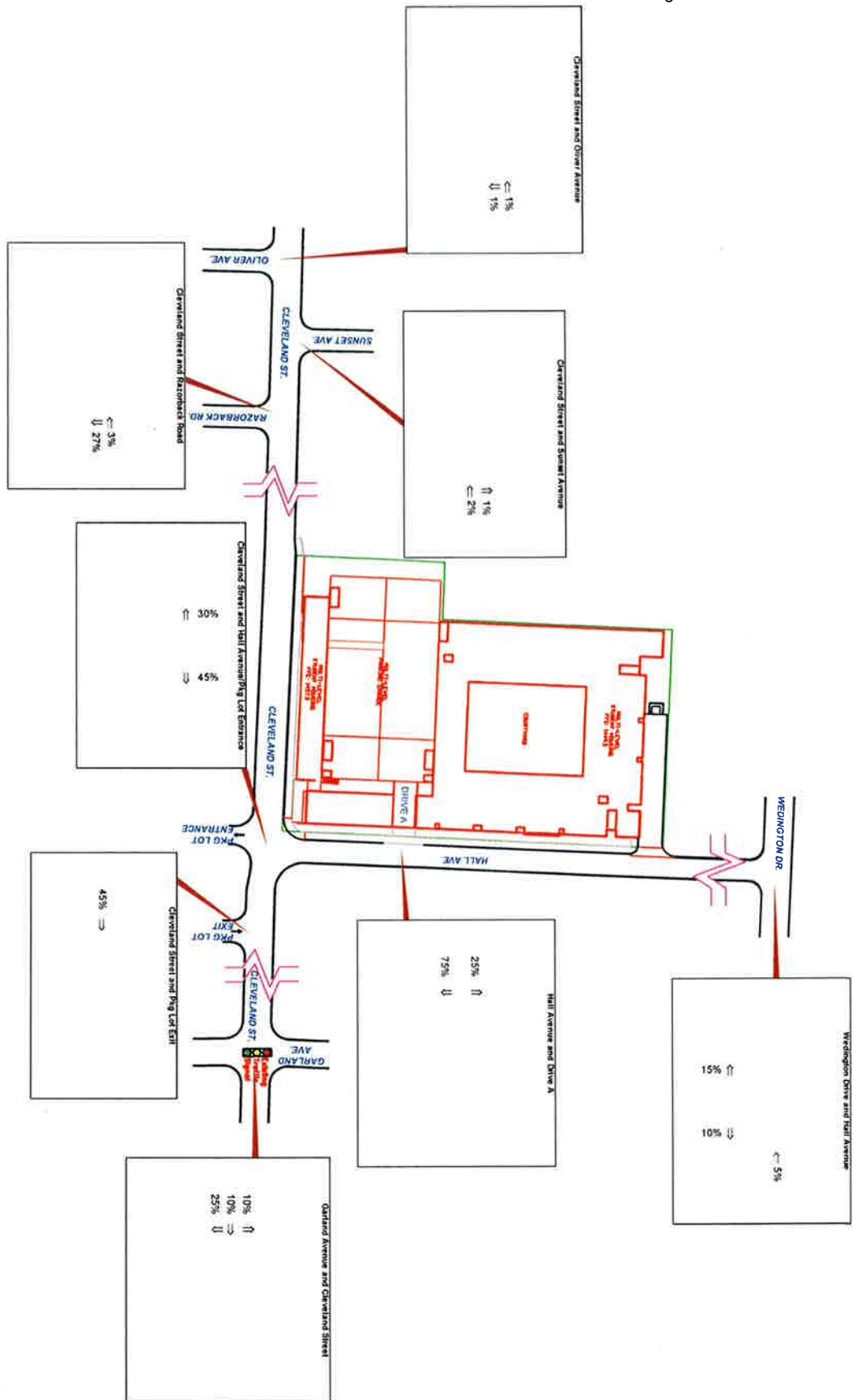


PROJECT No. P1567
DATE: 5-7-2012
PETERS & ASSOCIATES
ENGINEERS, INC.

PROJECT CLEVELAND
STUDENT HOUSING
RESIDENTIAL DEVELOPMENT
FAYETTEVILLE, ARKANSAS

ENTERING TRAFFIC
PERCENTAGE TURNS

FIGURE NO.
5



NOTE: These volumes include a reduction to vehicle traffic to account for likely pedestrian traffic and Razorback Transit riders. Additionally, these volumes have been adjusted to exclude the traffic volumes associated with the existing land uses replaced by the proposed development.

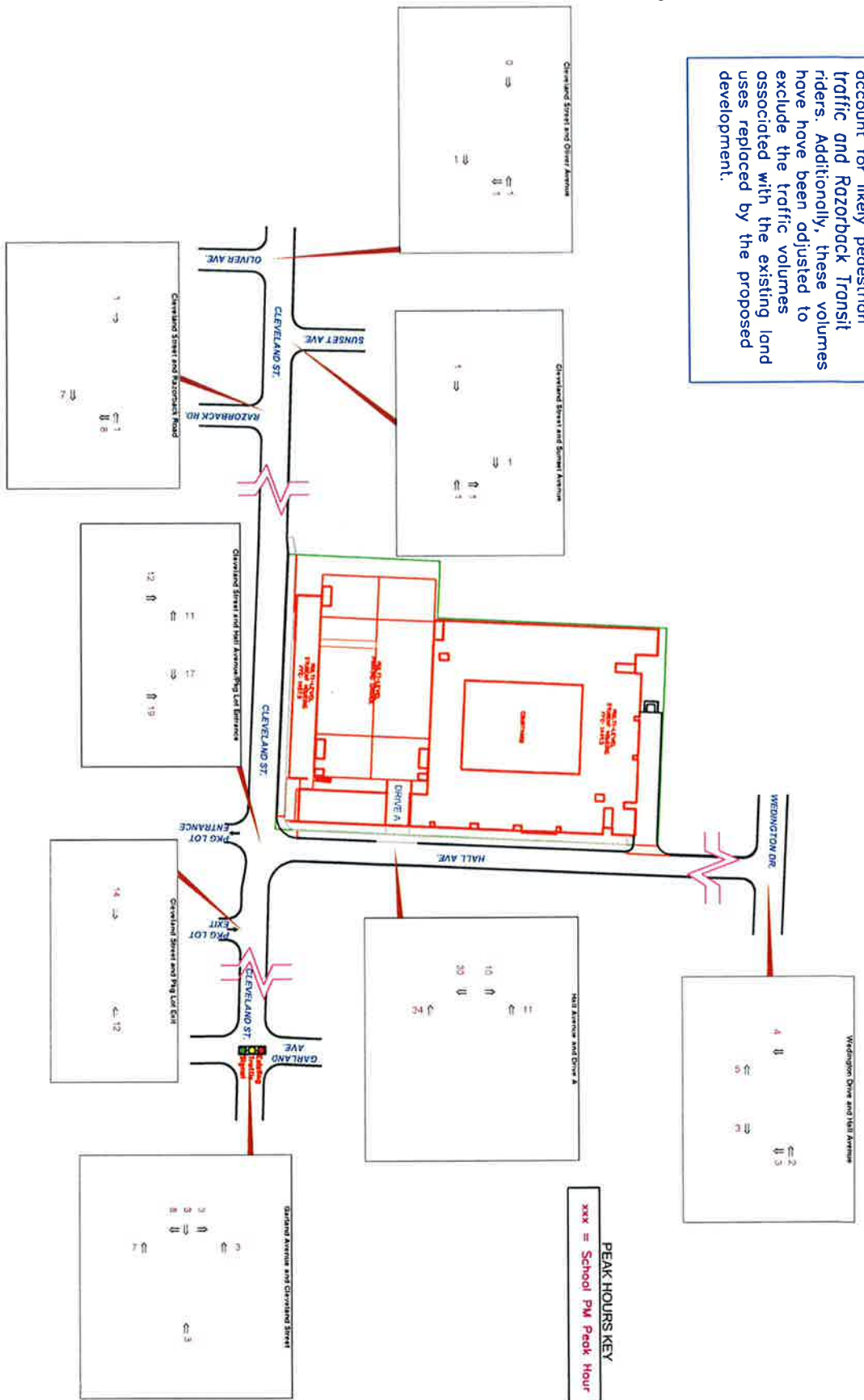


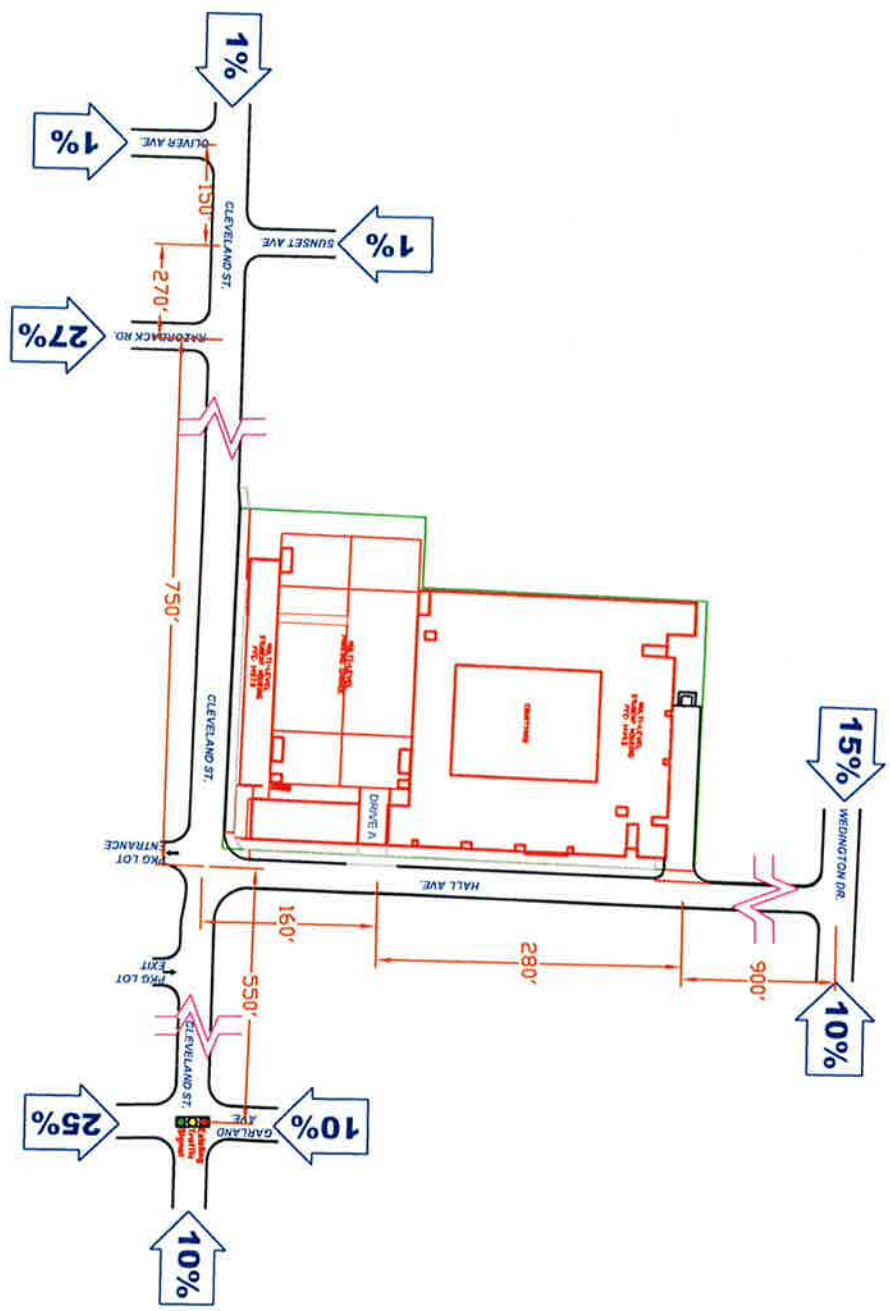
PROJECT No. P1567
DATE: 5-7-2012
PETERS & ASSOCIATES
ENGINEERS, INC.

PROJECT CLEVELAND
STUDENT HOUSING
RESIDENTIAL DEVELOPMENT
FAYETTEVILLE, ARKANSAS

SITE-GENERATED
TRAFFIC VOLUMES
AM AND PM PEAK HOURS
FIGURE No. **7**

NOTE: These volumes include a reduction to vehicle traffic to account for likely pedestrian traffic and Razorback Transit riders. Additionally, these volumes have been adjusted to exclude the traffic volumes associated with the existing land uses replaced by the proposed development.





TRAFFIC STUDY
SMALL ARROW ENGINEERING, INC.
MAY 1, 2012

Hall & Cleveland
Fayetteville, Arkansas
5/1/2012
Party Cloudy

	SB LEFT CARS	SB LEFT TRUCKS	SB THRU CARS	SB THRU TRUCKS	SB RIGHT CARS	SB RIGHT TRUCKS	WB LEFT CARS	WB LEFT TRUCKS	WB THRU CARS	WB THRU TRUCKS	WB RIGHT CARS	WB RIGHT TRUCKS	EB LEFT CARS	EB LEFT TRUCKS	EB THRU CARS	EB THRU TRUCKS	EB RIGHT CARS	EB RIGHT TRUCKS	TOTALS CARS	TOTALS TRUCKS
7:00 AM	2	0	0	0	2	0	1	0	12	1	2	1	7	0	17	1	1	1	44	4
7:15 AM	1	0	0	0	2	0	6	0	42	0	6	0	12	0	28	0	1	2	98	2
7:30 AM	2	0	0	0	6	0	12	0	48	0	6	0	17	0	73	1	8	3	172	4
7:45 AM	7	0	2	0	13	0	32	0	53	1	7	0	8	0	49	1	26	1	197	3
8:00 AM	0	0	3	0	6	0	23	0	28	3	5	0	5	0	32	1	16	2	118	6
8:15 AM	0	0	6	0	1	0	7	0	31	1	6	0	5	0	29	1	11	3	96	5
8:30 AM	1	0	1	0	2	0	11	0	28	1	1	0	3	0	30	0	3	2	80	3
8:45 AM	0	0	0	0	3	0	2	0	43	2	2	0	3	0	35	0	2	1	90	3
PEAK HR	9	0	11	0	26	0	74	0	160	5	24	0	35	0	183	4	61	9	583	18
PEAK HR VOL	9		11		26		74		165		24		35		187		70		601	
PEAK HR VPH	SB		SB		46				WB		263				EB		292			
% CARS	100.00%		100.00%		100.00%		100.00%		96.97%		100.00%		100.00%		97.86%		87.14%		97.00%	
% TRUCKS	0.00		0.00%		0.00%		0.00%		3.03%		0.00%		0.00%		2.14%		12.86%		3.00%	
PEAK HR FACTOR	0.32		0.46		0.50		0.58		0.76		0.86		0.51		0.63		0.65		0.75	

Sunny

	SB LEFT CARS	SB LEFT TRUCKS	SB THRU CARS	SB THRU TRUCKS	SB RIGHT CARS	SB RIGHT TRUCKS	WB LEFT CARS	WB LEFT TRUCKS	WB THRU CARS	WB THRU TRUCKS	WB RIGHT CARS	WB RIGHT TRUCKS	EB LEFT CARS	EB LEFT TRUCKS	EB THRU CARS	EB THRU TRUCKS	EB RIGHT CARS	EB RIGHT TRUCKS	TOTALS CARS	TOTALS TRUCKS
4:00 PM	7	0	0	0	6	0	15	0	61	1	3	0	4	0	43	0	6	2	145	3
4:15 PM	1	0	0	0	5	0	7	0	54	1	4	0	4	0	61	1	4	1	140	3
4:30 PM	0	0	2	0	4	0	3	0	64	1	5	0	2	0	50	0	4	2	134	3
4:45 PM	2	0	0	0	8	0	5	0	69	1	0	0	5	0	54	0	7	0	150	1
5:00 PM	0	0	1	0	8	0	15	0	103	1	4	0	6	0	49	0	5	2	191	3
5:15 PM	4	0	0	0	4	0	11	0	78	1	2	0	5	0	56	0	3	2	163	3
5:30 PM	1	0	0	0	5	0	5	0	63	1	2	0	4	0	33	0	1	0	114	1
5:45 PM	0	0	1	0	4	0	3	0	66	0	1	0	5	0	57	0	5	2	142	2
PEAK HR	6	0	3	0	24	0	34	0	314	4	11	0	18	0	209	0	19	6	538	10
PEAK HR VOL	6		3		24		34		318		11		18		209		25		648	
PEAK HR VPH	SB		SB		33				WB		363				EB		252			
% CARS	100.00%		100.00%		100.00%		100.00%		98.74%		100.00%		100.00%		100.00%		76.00%		98.46%	
% TRUCKS	0.00		0.00%		0.00%		0.00%		1.26%		0.00%		0.00%		0.00%		24.00%		1.54%	
PEAK HR FACTOR	0.38		0.38		0.75		0.57		0.76		0.55		0.75		0.93		0.89		0.84	

Sunny

	SB LEFT CARS	SB LEFT TRUCKS	SB THRU CARS	SB THRU TRUCKS	SB RIGHT CARS	SB RIGHT TRUCKS	WB LEFT CARS	WB LEFT TRUCKS	WB THRU CARS	WB THRU TRUCKS	WB RIGHT CARS	WB RIGHT TRUCKS	EB LEFT CARS	EB LEFT TRUCKS	EB THRU CARS	EB THRU TRUCKS	EB RIGHT CARS	EB RIGHT TRUCKS	TOTALS CARS	TOTALS TRUCKS
2:30 PM	1	0	1	0	13	0	9	0	39	1	3	0	11	0	50	0	2	2	129	3
2:45 PM	4	0	0	0	8	0	8	0	57	1	9	0	21	0	52	0	3	3	162	4
3:00 PM	1	0	3	0	11	0	8	0	77	2	16	0	7	0	44	0	5	3	172	5
3:15 PM	2	0	0	0	13	1	6	0	73	5	6	0	4	0	55	0	2	0	161	6
PEAK HR	8	0	4	0	45	1	31	0	246	9	34	0	43	0	201	0	12	8	624	18
PEAK HR VOL	8		4		46		31		255		34		43		201		20		642	
PEAK HR VPH	SB		SB		58				WB		320				EB		264			
% CARS	100.00%		100.00%		97.83%		100.00%		96.47%		100.00%		100.00%		100.00%		60.00%		97.20%	
% TRUCKS	0.00		0.00%		2.17%		0.00%		3.53%		0.00%		0.00%		0.00%		40.00%		2.80%	
PEAK HR FACTOR	0.50		0.33		0.82		0.86		0.81		0.53		0.51		0.91		0.63		0.91	

Hall & Wedington
Fayetteville, Arkansas
5/1/2012
Partly Cloudy

	NB LEFT		NB RIGHT		WB LEFT		WB THRU		EB THRU		EB RIGHT		TOTALS	
	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS
7:00 AM	1	0	6	2	3	0	16	0	82	1	1	0	109	3
7:15 AM	1	0	10	0	3	0	50	5	175	2	0	0	239	7
7:30 AM	0	0	11	0	3	0	64	3	295	0	2	0	375	3
7:45 AM	2	0	20	0	5	0	52	3	288	3	4	0	371	6
8:00 AM	0	0	9	0	6	0	76	2	165	1	7	0	263	3
8:15 AM	0	0	5	0	7	0	63	1	156	0	5	1	236	2
8:30 AM	2	0	6	0	2	0	85	4	138	3	2	0	235	7
8:45 AM	1	0	1	0	6	0	105	4	174	4	1	0	288	4

PEAK HR	2	0	45	0	21	0	255	9	904	4	18	1	1245	14
PEAK HR VOL	2		45		21		264		908		19		1259	
PEAK HR VPH	NB		47		WB		285		EB		927			
% CARS	100.00%		100.00%		100.00%		96.59%		99.56%		94.74%		98.89%	
% TRUCKS	0.00		0.00%		0.00%		3.41%		0.44%		5.26%		1.11%	

PEAK HR FACTOR	0.25		0.56		0.75		0.85		0.77		0.68		0.83	
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Sunny

	NB LEFT		NB RIGHT		WB LEFT		WB THRU		EB THRU		EB RIGHT		TOTALS	
	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS
4:00 PM	0	0	8	0	10	0	194	3	145	1	6	0	363	4
4:15 PM	1	0	4	0	5	0	188	3	131	2	2	0	331	5
4:30 PM	0	0	2	0	8	0	215	0	136	0	1	0	362	0
4:45 PM	1	0	6	0	8	0	215	1	119	1	2	0	351	2
5:00 PM	1	0	2	0	13	0	247	0	150	1	0	0	413	1
5:15 PM	1	0	9	0	4	0	168	1	128	0	2	0	312	1
5:30 PM	0	0	9	0	4	0	230	1	157	1	1	0	401	2
5:45 PM	0	0	8	0	4	0	199	1	139	0	2	0	352	1

PEAK HR	3	0	19	0	33	0	845	2	533	2	5	0	1438	4
PEAK HR VOL	3		19		33		847		535		5		1442	
PEAK HR VPH	NB		22		WB		880		EB		540			
% CARS	100.00%		100.00%		100.00%		99.76%		99.63%		100.00%		99.72%	
% TRUCKS	0.00		0.00%		0.00%		0.24%		0.37%		0.00%		0.28%	

PEAK HR FACTOR	0.75		0.53		0.63		0.86		0.89		0.63		0.87	
----------------	------	--	------	--	------	--	------	--	------	--	------	--	------	--

Razorback & Cleveland
Fayetteville, Arkansas
 5/1/2012
 Partly Cloudy

	NB LEFT		NB RIGHT		WB LEFT		WB THRU		EB THRU		EB RIGHT		TOTALS	
	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS
7:00 AM	10	0	28	0	30	1	7	0	20	0	25	0	120	1
7:15 AM	10	0	28	1	31	1	7	0	20	0	25	0	121	2
7:30 AM	10	0	29	1	31	1	7	0	20	0	25	0	122	2
7:45 AM	10	0	29	1	31	2	8	0	20	0	26	0	124	3
8:00 AM	10	0	29	1	31	2	8	1	20	1	26	0	124	5
8:15 AM	11	0	29	1	31	2	7	0	20	0	25	0	123	3
8:30 AM	10	0	29	1	31	1	7	0	20	0	25	0	122	2
8:45 AM	10	0	28	1	30	1	7	0	20	0	25	0	120	2

PEAK HR	41	0	116	4	124	7	30	1	80	1	102	0	493	13
PEAK HR VOL	41		120		131		31		81		102		506	
PEAK HR VPH	NB		161		WB		162		EB		183			
% CARS	100.00%		96.67%		94.66%		96.77%		98.77%		100.00%		97.43%	
% TRUCKS	0.00		3.33%		5.34%		3.23%		1.23%		0.00%		2.57%	

PEAK HR FACTOR	0.93		1.00		0.99		0.86		0.96		0.98		0.98	
----------------	------	--	------	--	------	--	------	--	------	--	------	--	------	--

Sunny

	NB LEFT		NB RIGHT		WB LEFT		WB THRU		EB THRU		EB RIGHT		TOTALS	
	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS	CARS	TRUCKS
4:00 PM	38	0	39	1	52	1	23	1	8	0	10	2	170	5
4:15 PM	35	0	43	0	45	1	25	0	8	1	15	0	171	2
4:30 PM	30	0	44	0	63	1	18	0	17	0	21	0	193	1
4:45 PM	37	0	49	0	60	1	29	0	20	0	20	0	215	1
5:00 PM	55	0	36	0	65	1	30	0	6	0	30	0	222	1
5:15 PM	36	0	49	0	62	1	28	0	12	0	28	0	215	1
5:30 PM	30	0	43	1	24	0	25	0	12	0	29	0	163	1
5:45 PM	36	0	49	1	25	1	26	0	11	0	30	0	177	2

PEAK HR	158	0	178	0	250	4	105	0	55	0	99	0	845	4
PEAK HR VOL	158		178		254		105		55		99		849	
PEAK HR VPH	NB		336		WB		359		EB		154			
% CARS	100.00%		100.00%		98.43%		100.00%		100.00%		100.00%		99.53%	
% TRUCKS	0.00		0.00%		1.57%		0.00%		0.00%		0.00%		0.47%	

PEAK HR FACTOR	0.72		0.91		0.96		0.88		0.69		0.83		0.95	
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Garland & Cleveland
Fayetteville, Arkansas

3/15/2012
Weather Unknown (data provided by Peters & Assoc)

	SB LEFT CARS	SB LEFT TRUCKS	SB THRU CARS	SB THRU TRUCKS	SB RIGHT CARS	SB RIGHT TRUCKS	WB LEFT CARS	WB LEFT TRUCKS	WB THRU CARS	WB THRU TRUCKS	WB RIGHT CARS	WB RIGHT TRUCKS	NB LEFT CARS	NB LEFT TRUCKS	NB THRU CARS	NB THRU TRUCKS	NB RIGHT CARS	NB RIGHT TRUCKS	EB LEFT CARS	EB LEFT TRUCKS	EB THRU CARS	EB THRU TRUCKS	EB RIGHT CARS	EB RIGHT TRUCKS	TOTALS CARS	TOTALS TRUCKS
7:00 AM	19	0	63	0	29	0	3	0	6	0	5	0	4	0	51	0	4	0	9	0	6	0	9	0	208	0
7:15 AM	19	0	91	0	33	0	1	0	2	0	5	0	3	0	51	0	1	0	21	0	3	0	5	0	235	0
7:30 AM	48	0	103	0	54	0	1	0	4	0	6	0	12	0	63	0	4	0	29	0	8	0	11	0	343	0
7:45 AM	69	0	142	0	74	0	4	0	17	0	5	0	20	0	64	0	10	0	16	0	15	0	15	0	451	0
8:00 AM	53	0	149	0	54	0	5	0	8	0	4	0	20	0	63	0	10	0	11	0	7	0	20	0	404	0
8:15 AM	39	0	136	0	41	0	3	0	5	0	6	0	12	0	66	0	8	0	18	0	3	0	20	0	365	0
8:30 AM	17	0	78	0	25	0	2	0	6	0	7	0	12	0	62	0	5	0	15	0	3	0	9	0	241	0
8:45 AM	32	0	92	0	36	0	3	0	5	0	3	0	13	0	56	0	5	0	5	0	6	0	10	0	266	0
PEAK HR	209	0	530	0	223	0	13	0	34	0	21	0	72	0	256	0	32	0	74	0	33	0	66	0	1563	0
PEAK HR VOL	209		530		223		13		34		21		72		256		32		74		33		66		1563	
PEAK HR VPH			50		962				WB		68				NB		360		EB		100.00%		173		100.00%	
% CARS	100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%	
% TRUCKS	0.00		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%	
PEAK HR FACTOR	0.76		0.89		0.75		0.65		0.50		0.88		0.90		0.97		0.80		0.64		0.55		0.83		0.87	

Weather Unknown (data provided by Peters & Assoc)

	SB LEFT CARS	SB LEFT TRUCKS	SB THRU CARS	SB THRU TRUCKS	SB RIGHT CARS	SB RIGHT TRUCKS	WB LEFT CARS	WB LEFT TRUCKS	WB THRU CARS	WB THRU TRUCKS	WB RIGHT CARS	WB RIGHT TRUCKS	NB LEFT CARS	NB LEFT TRUCKS	NB THRU CARS	NB THRU TRUCKS	NB RIGHT CARS	NB RIGHT TRUCKS	EB LEFT CARS	EB LEFT TRUCKS	EB THRU CARS	EB THRU TRUCKS	EB RIGHT CARS	EB RIGHT TRUCKS	TOTALS CARS	TOTALS TRUCKS
4:00 PM	27	0	90	0	31	0	11	0	14	0	27	0	16	0	106	0	14	0	42	0	14	0	20	0	412	0
4:15 PM	30	0	107	0	29	0	8	0	16	0	34	0	20	0	116	0	11	0	38	0	17	0	12	0	438	0
4:30 PM	32	0	98	0	31	0	10	0	25	0	33	0	30	0	124	0	6	0	52	0	12	0	19	0	472	0
4:45 PM	28	0	128	0	40	0	11	0	29	0	23	0	27	0	99	0	5	0	65	0	10	0	25	0	490	0
5:00 PM	42	0	137	0	31	0	7	0	36	0	34	0	27	0	119	0	8	0	62	0	15	0	31	0	549	0
5:15 PM	23	0	133	0	42	0	14	0	40	0	21	0	26	0	117	0	3	0	62	0	20	0	33	0	534	0
5:30 PM	18	0	136	0	44	0	10	0	22	0	17	0	21	0	81	0	6	0	36	0	16	0	27	0	434	0
5:45 PM	26	0	147	0	50	0	8	0	42	0	14	0	26	0	75	0	9	0	28	0	17	0	22	0	464	0
PEAK HR	125	0	496	0	144	0	42	0	130	0	111	0	110	0	459	0	22	0	241	0	57	0	108	0	2045	0
PEAK HR VOL	125		496		144		42		130		111		110		459		22		241		57		108		2045	
PEAK HR VPH			50		765				WB		283				NB		591		EB		100.00%		406		100.00%	
% CARS	100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%		100.00%	
% TRUCKS	0.00		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%		0.00%	
PEAK HR FACTOR	0.74		0.91		0.86		0.75		0.81		0.82		0.92		0.93		0.69		0.93		0.71		0.82		0.93	

**TRAVEL BY UNIVERSITY STUDENTS IN VIRGINIA
IS THIS TRAVEL DIFFERENT FROM TRAVEL BY THE GENERAL
POPULATION?**

Travel by University Students in Virginia

Is This Travel Different from Travel by the General Population?

Asad Khattak, Xin Wang, Sanghoon Son, and Paul Agnello

To improve regional travel demand models, transportation engineers and planners want to represent subpopulations appropriately. A key segment of the population is university students, and their behavior is neither well understood nor well represented in travel demand models. Furthermore, universities provide a unique context for behavioral research because they are livable, are friendly to alternative travel modes, have a higher density than other contexts, and offer mixed travel modes. This study collected and analyzed data on the travel behavior of university students. With the use of an Internet-based survey instrument, the study collected data on travel behavior, sociodemographics, and context variables at four major universities in Virginia. This paper provides information about the design and implementation of the survey, the instrument structure, and a descriptive analysis of students' personal and travel characteristics. The results indicated that the sociodemographics and travel behavior of university students were different from those of the general population. Moreover, differences in travel behavior were found between students living on campus and students living off campus and between students attending urban campuses and those attending suburban campuses. The insights gained from this study serve as a basis for further such surveys and help provide an understanding of travel behavior in and around university campuses.

Analysis and understanding of travel behavior lie at the core of travel demand modeling and forecasting. Whereas the travel behavior of the general population is typically measured through behavioral surveys, certain subgroups can be underrepresented. Specifically, current national survey efforts, such as the 2009 National Household Travel Survey (NHTS), significantly underrepresent college-age students for a host of reasons; for example, they may live in dormitories and have mobile phones instead of landline phones [surveys show that the proportion of such individuals at Old Dominion University (ODU) and Virginia Polytechnic Institute and State University (VT) in Virginia is nearly 60%]. Telephone interview surveys that use random-digit dialing of telephone exchanges associated with landlines in target geographic areas also often miss university student populations. Mobile phone numbers are increasingly not associated with the geographic area of the students' residence, making it difficult to include them in samples. Students living in dormi-

itories and other university housing considered group quarters do not fit nicely within the household categories used in surveys and travel demand models. Moreover, few documented surveys of university students' travel behavior exist. Thus, the travel behavior of university students is not well understood or properly represented, yet university students can constitute a significant portion of a region's population.

Another important reason to survey university students is that universities represent environments that are more livable, are friendly to alternative travel modes, have a higher density than other environments, and offer mixed travel modes. As such, exploration of the travel behavior of students can be instructive and reveal valuable information about associations with the built environment and the extent of differences in travel (e.g., trip generation and mode choices) compared with the general population. To this end, the Virginia Department of Transportation (DOT) conducted Internet-based surveys of university students.

Supplemental NHTS data were collected at the main campuses of four universities in Virginia: VT, the University of Virginia (UVA), Virginia Commonwealth University (VCU), and ODU. The study was conducted to obtain a better understanding of the travel behavior of college-age students, a significant component of travel in many areas. These universities are fairly representative of the major universities in Virginia. UVA and VT are representative of universities located in smaller college towns, and ODU and VCU are representative of universities located in urban areas. The survey instrument was designed to resemble the NHTS, with the telephone-based NHTS successfully being transferred to an Internet-based survey. Statistical analyses of the data were conducted and revealed important aspects of students' travel behavior in urban and suburban contexts.

The objectives of this paper are to document the survey efforts at Virginia universities and to explore the travel behavior of university students by comparison with the travel behavior of the general population. On the basis of the results of statistical analysis of the socioeconomic, demographic, and travel characteristics of university students, the fundamental research question to be answered is whether the travel behavior of university students is different from that of the general population, and, if so, to what extent is it different? To this end, the trip generation (trip rates and purposes), modal choices, and departure time decisions of university students were comprehensively analyzed and compared with statistics for the general population of Virginia.

RELEVANT LITERATURE

Student travel is rarely investigated in national surveys, including NHTS, and only a few documented surveys focusing on the travel behavior of university students exist in the reviewed literature.

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National Household Travel Survey

To understand traveler behavior, NHTS was developed on the basis of the Nationwide Personal Transportation Survey, conducted in 1969, 1977, 1983, 1990, and 1995, and the American Travel Survey, conducted in 1977 and 1995 (1). The U.S. Department of Transportation conducted the latest NHTS in 2008 and 2009. The main purpose of NHTS is to provide information for the analysis of policy issues, setting of funding priorities, monitoring of trends in travel behavior, and calibration of travel demand models (2). The survey collects information on the demographic characteristics of households and individuals, vehicles owned, daily and longer-distance travel for all purposes by all modes (in detail), telecommuting, Internet use, and perceptions of the transportation system (2, 3). NHTS 2001 shows that, on average, each household had 1.8 drivers and owned 1.9 personal vehicles, whereas 8% of households in the nation did not have a vehicle available.

Trips produced by household members are a key part of travel demand models. U.S. residents made an average of four trips per day in 2001. A comparative analysis of NHTS 2001 and NHTS 2009 data shows that the overall trip rate was lower in 2009 than in 2001 (4), which can be attributed to factors that include an economic recession, higher unemployment levels, and higher gasoline prices. NHTS 2001 shows that 87% of daily trips were taken by personal vehicle (38% were trips in a personal vehicle with a single occupant, whereas 49% were trips in a personal vehicle with others), followed by walking (8.6%), and public transit (1.5%) (5).

Nonresponse in Student Surveys

Nonresponse has been identified to be a serious concern in all household surveys (3, 6). The literature provides further information about general participation in surveys by university students (7). For instance, students at a selected liberal arts college were given four different surveys throughout an academic year (7). Female students and students with high grade point averages were found to be more likely to take part in surveys, whereas students receiving financial aid were less likely to do so. Furthermore, socially engaged university students were more likely than their less engaged peers to take part in surveys. Students with investigative personalities were more likely than students with enterprising personalities to respond to the survey.

In another study, institutions participating in the National Survey of Student Engagement drew a random sample of students that included 306,962 students from 437 schools (8). Whether the survey was administered via the web or paper affected the response rate: in the Internet survey, females were more likely to respond and the response rates for urban schools were 10% lower than those for rural schools; and in the paper survey, private colleges had a higher response rate than public colleges. Universities that were urban and that had a high density and campuses with large part-time student populations were advised to administer surveys via paper, partly because of the lower response rates.

University Travel Behavior Survey

Only a few surveys of the travel behavior of university students could be found in the peer-reviewed literature (9–13). Rodríguez and Joo have used data from a University of North Carolina–Chapel Hill student and staff commuter survey to illustrate relationships

between mode choice and spatial characteristics while accounting for time and costs (9). FTA sponsored research on transit systems in colleges and provided a good picture of transit use practices at selected major universities (10). Gallarza and Saura implemented a survey of Spanish university students to study their travel preferences during vacation breaks from a tourism perspective (11). Kamruzzaman et al. used the trip diary method to investigate 2 days of out-of-home travel and activities by college students (12). They found that students visited 3.59 unique locations and that female students visited more unique locations than male students. However, these studies do not explicitly provide detailed information about daily trip rates, destinations, modes, and departure times.

A 2001 North Carolina state university student activity–travel survey reported 843 students in its sample (13). Students were asked to complete a travel diary for 1 school day. The results showed that undergraduate students and on-campus residents were engaged in more activities than graduate students and students living off campus. Graduate students made five trips per day, whereas undergraduate student made more than six trips per day. The student trip rates were significantly higher than the regional average of 4.06 trips per day recorded in the Triangle Regional Model household travel survey (North Carolina Department of Transportation, 1999). For mode split, about 60% of on-campus trips were made by walking and 30% were made by automobile. Nearly 45% of the trips were related to university activities, including school or class, study or research, and work or volunteer activities. Besides these activities, trips for meals and social and recreational activities had high frequencies.

The gaps apparent in the literature include a scarcity of behavioral surveys of university students and limited knowledge about the travel behavior of university students. By documenting the results of this student survey, similar surveys in other regions can benefit from the insights that have been obtained.

DESCRIPTION OF SURVEY AND BEHAVIORAL DATA

Survey Data

NHTS data were collected from four universities in Virginia, including two universities in urban areas and two universities in suburban areas. The survey was conducted by major survey research centers at each of the four universities. After the data were checked for errors, cleaned, and cleared, each university had more than 600 students in the sample. Note that the final sample sizes are somewhat smaller than the total number of students who responded, because a portion of the students did not report all their trips and the data for those students were removed from the sample. The sociodemographics of the samples were compared with those of the university student population and were found to be quite representative. Specifically, values of demographic variables for the sample were generally within 5% to 10% of those of the variables for the university student population, with a moderate overrepresentation of female students (especially in the VCU and VT samples) and graduate students (especially in the VCU and VT samples). Consideration was given to correction of the data for overrepresentation by the use of sample weights. However, the use of sample weights creates a host of other issues, which could not be dealt with within the scope of the current study. Therefore, the samples were used directly in this study (without addition of sample weights). Note that the latest version of the 2009 NHTS Virginia add-

on was used to compare the travel behavior of the general population with that of university students.

Survey Instructions

Undergraduate and graduate students were selected as the target population of the survey. For each university, about 5,000 students were randomly selected through a series of contact methods. About 1,000 students from each university responded, representing an overall response rate of roughly 20%. The surveys gathered information on the sociodemographics and travel characteristics of the students. Given the length of the survey and the need to keep track of travel details, students who completed the survey were entered into random drawings for incentives.

To be consistent with the NHTS instrument, the survey had eight sections that included questions on personal characteristics, vehicle ownership, university commute, attitude toward walking and bicycling, work and parking information, transit use, traveler information, and Internet use as well as a trip diary. However, the traditional NHTS cannot efficiently capture the trip movements of university students, as significant segments of the NHTS questionnaire are centered on trips to and from work and trips to and from schools for children in from kindergarten to Grade 12, but such trips did not fit the situation for college students (14). NHTS also uses the household as the basic unit sampled, and so the basic unit sampled needed to be modified for university students.

Therefore, the student survey was redesigned and numerous changes and adjustments were made to ensure that the survey was applicable to individuals in a university setting (14). An important change was the trip diary, which was transformed into an online diary that visually appeared similar to a standard paper diary. Changes to questions were also made, including questions over issues related to trip purposes, common travel modes, and the unit of analysis (individual instead of household). The survey was transferred from a telephone interview format to a format for use as an online tool. An Internet-based survey methodology is a more feasible, appropriate, and efficient means of collecting travel information from university students.

RESULTS

Individual Characteristics of Students

The personal characteristics for the sample and overall student populations of the four universities are shown in Table 1.

Statistics show that most students live off campus, live with family or roommates, are younger and unmarried, have relatively lower incomes, have a driver's license, and have a vehicle available. Furthermore, UVA and VT have more younger and unmarried students, whereas ODU and VCU have more part-time students and students with higher incomes, as expected. Notably, the percentage of undergraduate students in the sample is relatively lower than the percentage of undergraduates in the actual populations of all four universities, which may be due to the relatively lower response rate of undergraduate students. Meanwhile, the percentage of female respondents in the sample is relatively higher than the actual percentage in the student populations of three universities, which may indicate that female students are more likely to respond to the surveys, consistent with the findings of previous studies (7, 8). Consideration is being given to use of a correction for overrepresentation by using sample weights, but sample weights were not used in the present study.

Among the four universities, UVA has a relatively lower percentage of students who work for profit, whereas more than one-half of the students at the other three universities work for profit.

More than one-half of the responding students live off campus. Most of the students do not live alone. The proportions of students living alone are only 6% for ODU and less than 20% for the other three universities. Owing to their urban locations, ODU and VCU have relatively higher percentages of students living with family members. As expected, university students in urban areas are more likely to have a job and live with family members, which is similar to the situation for more traditional households in the general population, whereas most students in suburban campuses live with roommates, which is different from the situation for traditional households in the general population.

About 95% of university students report that they have a driver's license. The automobile ownership or access rate is also relatively high. In ODU and VCU, more than 90% of students who have a

TABLE 1 Comparison of Sociodemographic Characteristics of University Students

Characteristic	ODU	VCU	UVA	VT
Sample size (<i>N</i>)	708	652	780	644
Living off campus (%)	79 (79)	88 (—)	66 (57)	74 (79)
Living alone (%)	6	16	15	14
Living with roommate (%)	41	41	68	71
Living with family member (%)	53	43	17	15
Undergraduate (%)	75 (82)	52 (79)	58 (69)	59 (83)
Mean age (year)	25.3 (26.3)	25.9 (25.4)	23 (—)	23.5 (—)
Male (%)	38 (38)	32 (40)	37 (47)	46 (57)
Married (%)	24 (—)	22 (—)	14 (—)	13 (—)
Full-time student (%)	80.3 (76.8)	82.7 (—)	95.5 (—)	95.5 (96.1)
Works for profit (%)	58 (—)	59 (—)	35 (—)	50 (—)
Has driver's license (%)	94 (—)	95 (—)	93 (—)	95 (—)
Average number of vehicles (%)	2.03 (—)	1.75 (—)	1.33 (—)	1.65 (—)
Income (% of students making <\$10,000/year)	53 (—)	55 (—)	66 (—)	61 (—)

NOTE: Numbers in parentheses represent value for actual student population; (—) = not available.

TABLE 2 Personal Characteristics by University Student Category

Variable	Living on Campus				Living off Campus			
	ODU	VCU	UVA	VT	ODU	VCU	UVA	VT
Age (years)	19.7	19.5	19.6	19.1	26.8	26.8	24.9	25.0
Male (%)	37	32	35	51	38	32	39	45
Undergraduate (%)	98	94	92	96	69	46	41	46
Married (%)	0	1	5	0	31	25	18	17
Full-time student (%)	98	100	98	99	76	80	94	94
Works for profit (%)	27	30	15	17	67	63	46	62
Average number of vehicles	1.18	0.73	0.55	0.99	2.25	1.89	1.74	1.87

driver's license have a car available for use. The proportions for VT and UVA are lower (84% for VT, 72% for UVA). This difference might be associated with factors such as urban location, relatively higher income levels, and worker status.

Students living on campus have different personal characteristics from students living off campus (Table 2). Students living on campus tend to be younger and unmarried. Students living off campus own more vehicles and are more likely to be working. No significant difference between students living on campus and students living off campus is found by gender. Almost all students living on campus are full-time students. Few graduate students (less than 10%) live on campus. Owing to substantial differences in personal characteristics between students living on campus and students living off campus, it is possible that their travel behaviors will also be different.

Student Travel Characteristics

The survey captures various aspects of daily travel on campus and off campus during 24 h of the day.

Trip Rates

To capture the travel behavior of students fully, a trip was defined as movement from one address to another, as long as it was more than 300 ft. Therefore, trips between on-campus buildings were counted as separate trips, as some of these can be relatively long trips; for example, students may need to take a shuttle between campus buildings, given that the campuses of the four universities

surveyed are relatively large. These definitions are consistent with those for NHTS, when it is considered that in NHTS and regional travel behavior surveys, walking trips do not necessarily take place on publicly maintained roadways but are captured in the measurement.

Table 3 shows that the average daily trip frequency is between 4.4 and 4.9, which is higher than that for the general population. Analysis of the 2009 NHTS Virginia add-on shows that the daily average number of trips is 3.69 per person. A *t*-test shows that the university students make a significantly higher (more than 20%) number of trips than the general population. When mode splits are considered, the average number of trips that students make by auto is lower than that for the general population, even for students from urban campuses. Notably, students make more walking and bicycling trips. Because of regional differences, transit trips for different universities could not be compared directly with those for the general population from the Virginia NHTS.

Fewer trips are taken on weekends than on weekdays. More specifically, the student trip rate on weekdays is significantly higher than that for the general population of Virginia, but the difference is not large on weekends. The trip rates of the students in this study are also relatively lower than those reported in a previous study (13), which was done in 2001. Some level of trip underreporting may be occurring in these student surveys, partly because of the survey burden.

Figure 1 shows the average number of trips by student group and residential status. Among all four universities, students living on campus make more trips than students living off campus students, and undergraduate students make more trips than graduate students. This finding is consistent with the findings of other studies of university students (13) and indicates that students living on campus

TABLE 3 Comparison of Personal Trip Rates of Students

University	N	Mean	Min.	Max.	SD	Auto Trips	Walking or Bicycling	Transit Trips	Weekday Average	Weekend Average
ODU	708	4.59	0	15	2.85	2.75	1.78	0.03	5.00	3.46
VCU	652	4.85	0	15	2.72	2.71	1.93	0.19	5.09	3.84
UVA	780	4.87	0	15	3.00	1.45	3.17	0.21	5.16	3.49
VT	644	4.41	0	14	2.67	1.83	2.30	0.26	4.74	3.38
NHTS Virginia add-on	31,592	3.69	0	24		3.10	0.37	0.14	3.75	3.54

NOTE: Appropriate weights were applied when statistics for the NHTS Virginia add-on data were calculated. Min. = minimum; max. = maximum; SD = standard deviation.

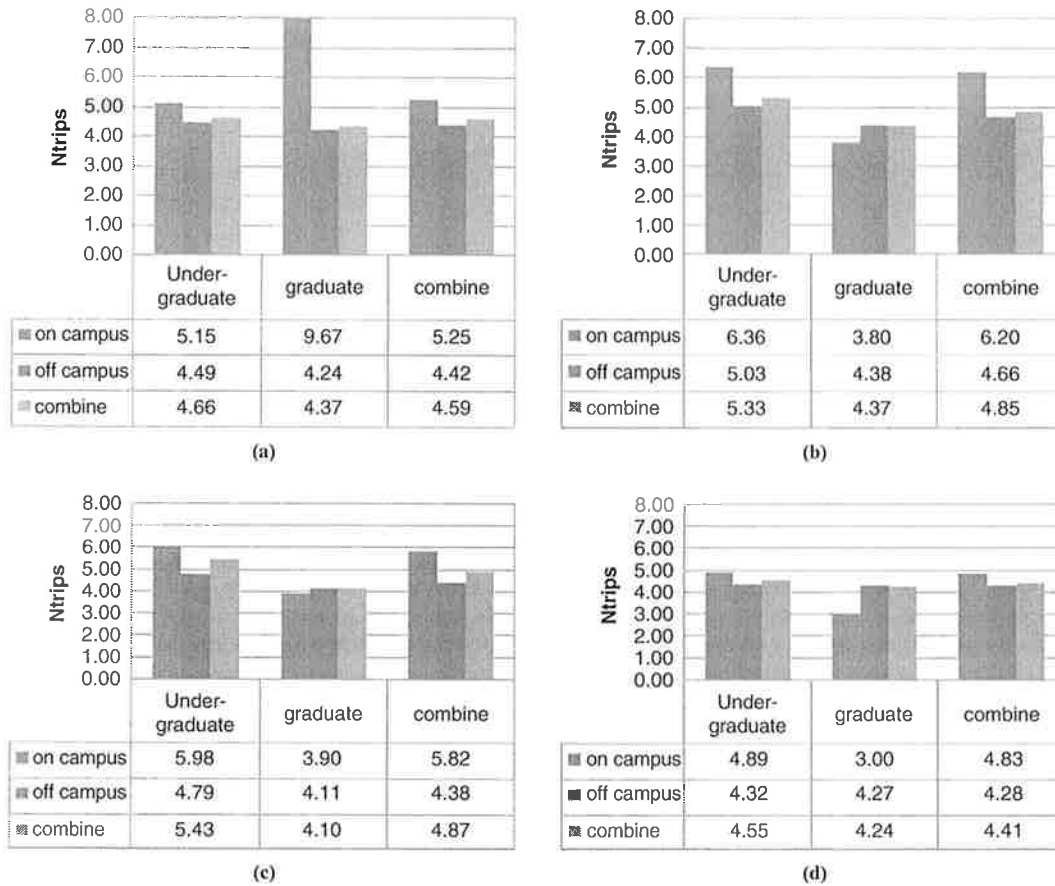


FIGURE 1 Trip rates by living status (on or off campus) and student status (graduate or undergraduate): (a) ODU, (b) VCU, (c) UVA, and (d) VT (sample size for graduate students at ODU living on campus was too small and not representative for comparison with other groups; Ntrips = number of trips).

tend to be more active and participate in more activities, owing to their ages and lifestyles. Campuses also typically provide students with greater accessibility to various types of activities that include education, recreation, dining, and shopping; and therefore, students living on campus tend to make more trips than students living off campus. The overall reported trip rates seem to be lower than expectations and the rates in the literature (1), perhaps because of a host of factors that include the relatively high survey burden; transfer of the NHTS method conducted over the telephone to the one-shot survey conducted online, as a result of which the interviewers could not confirm the respondents' answers; and students being a young and busy segment of the population.

Travel Mode Characteristics

Figure 2 shows the mode split for students. Students use alternative modes much more frequently than the general population. Although similar percentages of students at the four universities have a driver's license, students at the two urban campuses (ODU and VCU) have higher numbers of drive-alone trips: more than 40% of trips in these two urban campuses were in a vehicle with a single occupant (drive alone). The percentages for shared rides are similar

among all universities (between 11% and 16%). Walking accounts for a large proportion of the cases of modal split. The percentage of students who walk is the highest at UVA, where more than one-half of the trips are by walking; this can be for a host of reasons that include student parking restrictions, campus walkability, and the accessibility and proximity of campus buildings. UVA, VT, and VCU have higher percentages of bus trips. More school shuttles or buses and regional transit services are available at those universities. Mode shares vary among the four universities, which may be the result of several factors that include personal preference, the working situations of the students, the campus built environment, cost and time, availability and accessibility of public transit, and climate.

University students have different mode choices than the general population of Virginia. Specifically, on the basis of the Virginia NHTS add-on survey, a majority of daily trips occurred in personal vehicles: 41% of all trips were made by driving alone. This percentage is similar at the two urban universities. However, it is much lower at the two suburban universities. The percentage of the general population who share rides (43%) is substantially higher than that for university students. The shares of other modes for the general population are quite low: 4% for public transit, 10% for walking, and less than 1% for bicycling.

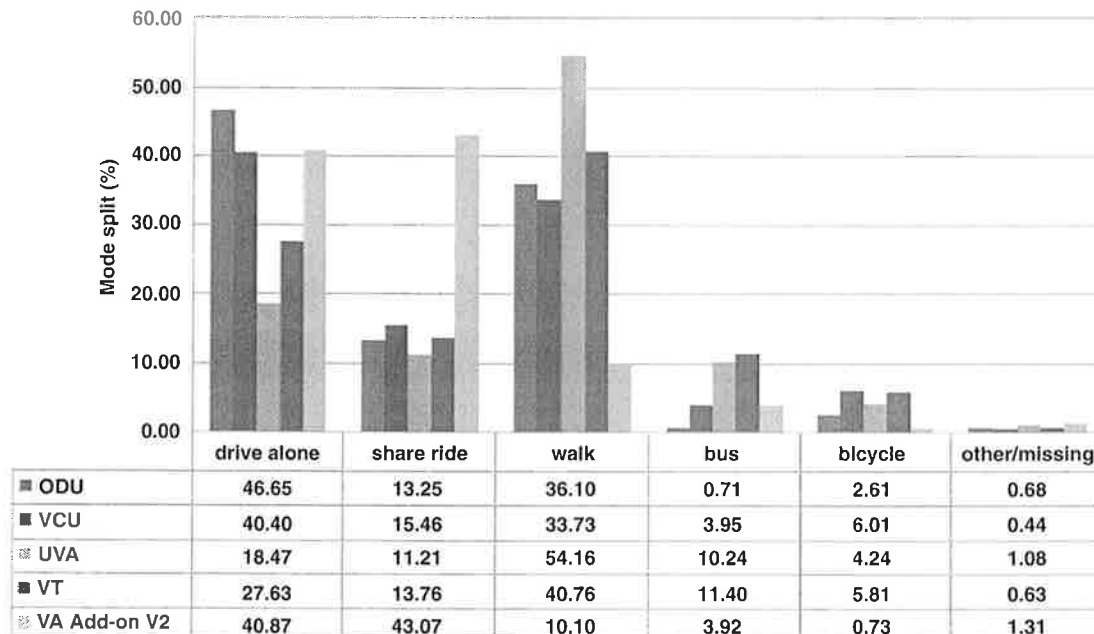


FIGURE 2 Mode split of university students and Virginia's general population (V2 = Version 2; appropriate weights were applied when statistics for Virginia NHTS add-on data were calculated).

Table 4 shows the differences between students living on campus and those living off campus by mode choice. Students living off campus are more likely to drive, as expected. The proportion of drive-alone trips is less than 10% for students living on campus, whereas it ranges from 28% to 58% for students living off campus.

Students living on campus make more walking trips. The percentages of bus and bicycle trips for students living on campus and for students living off campus differ among the universities. Walking accounts for a large portion of trip modes even for students living off campus, especially for UVA students living off campus. An exploration of whether a relationship exists between higher numbers of walking trips and the built environment would be interesting.

ODU and V1 students living off campus make a higher percentage of transit trips than students living on campus, whereas the situation is the opposite for VCU and UVA, where students living on campus make a higher percentage of transit trips. This is partly due to variations in the availability and quality of transit service. For bicycle trips, ODU and UVA students living on campus make a

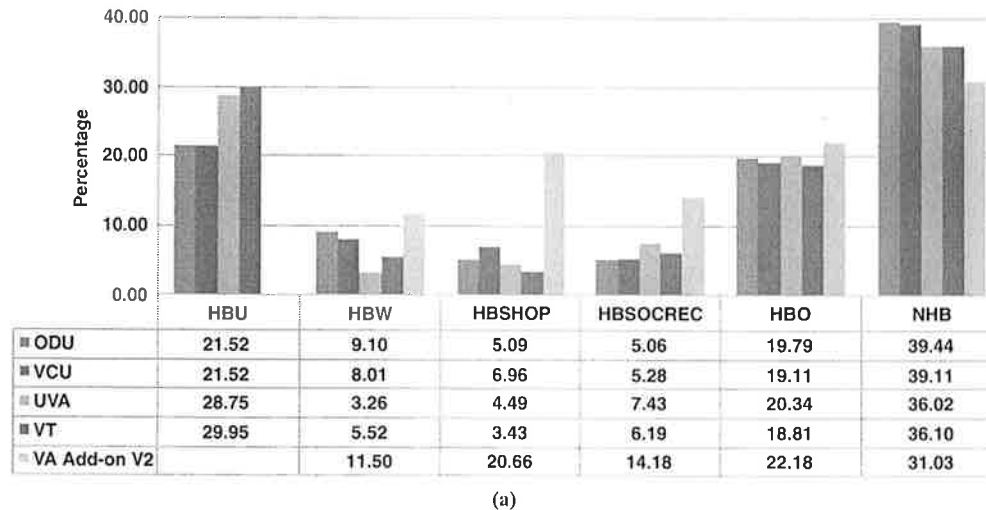
higher percentage of bicycle trips than students living off campus, whereas VCU and VT students living on campus make a lower percentage of bicycle trips than students living off campus. The differences in mode choices between students living on campus and students living off campus are more pronounced for urban campuses.

Travel Purposes

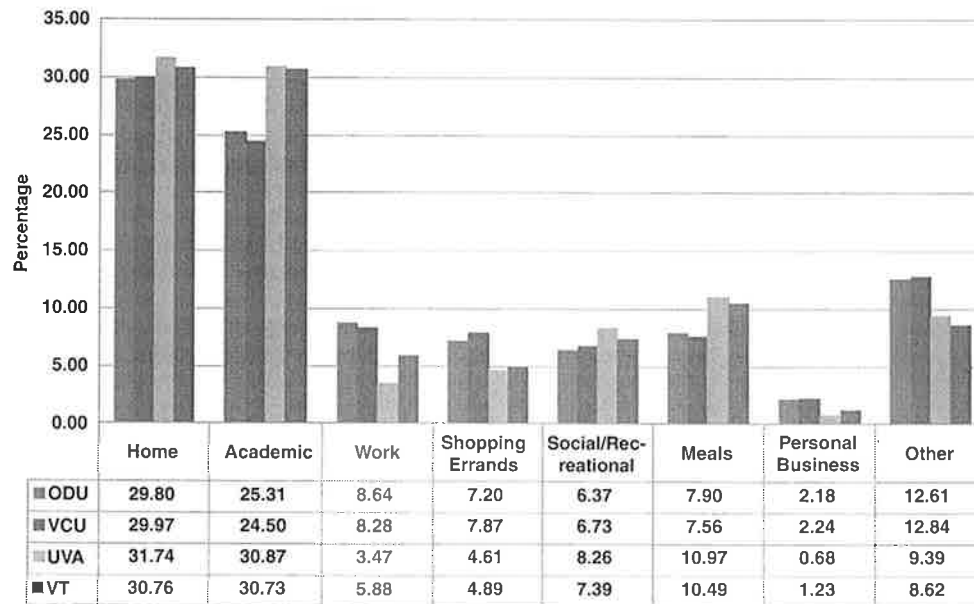
Figure 3 presents student travel classified by different purposes. A large portion of daily trips are taken between home and university. These account for 20% to 30% of all trips. The proportion of commute trips between the home and the workplace ranges from 3% to 9%. In the 2009 NHTS Virginia add-on sample, the commute trips between home and workplace accounted for about 12% of all trips. University students have smaller percentages of home-based shopping trips and home-based social or recreational trips than the general population. The number is about 10% for students, whereas it

TABLE 4 Trip Modes by Residential Status of Students

[illegible]



(a)



(b)

FIGURE 3 Student trip purpose: (a) proportion of student trips by type and (b) proportion of student trips by purpose.

is 21% for the sample of the Virginia population. About one-third of the trips are non-home based, and this proportion is similar for both university students and the general population. Detailed statistics for trips by trip purpose show that the purpose making up the largest portion (about 30%) of trips is to go home, which is similar for all four universities. Furthermore, UVA and VT have higher percentages (about 30%) of trips for academic purposes and meals (about 10%). ODU and VCU have higher levels of trips to work (about 8%) and social and personal trips, including trips for shopping, recreation, and personal business.

Table 5 shows the differences between students living on campus and students living off campus by trip purpose. Students living on campus have higher percentages of home-based university trips and home-based other trips, whereas students living off campus show higher

percentages of home-based work trips and home-based shopping trips. Finally, trip rates by purpose can be obtained by using appropriate trip rates multiplied by the appropriate trip purpose percentages.

Temporal Distribution of Trips

Daily trips are spread unevenly by time of day (Figure 4). For the general population, the Virginia add-on survey indicates that no strong peaks exist during the morning and evening commute periods. Trips are quite evenly distributed (about 8%) between noon and 6:00 p.m. However, student trips show a clear peak during noon time for all four universities, and more trips are taken after 6:00 p.m. This reflects the different lifestyles of university students; that is,

TABLE 5 Trip Purpose by Residential Status of Students

Trip Purpose	Living on Campus				Living off Campus			
	ODU (%)	VCU (%)	UVA (%)	VT (%)	ODU (%)	VCU (%)	UVA (%)	VT (%)
HBU	30.8	25.5	29.1	34.2	18.3	20.7	28.2	28.1
HBW	2.6	1.8	.7	1.9	11.1	9.1	4.8	6.9
HBO	23.3	23.4	22.3	25.9	18.2	16.9	17.0	15.7
NHB	32.1	42.8	38.3	28.9	41.2	38.4	33.8	38.7
HBSHOP	4.0	1.2	1.9	2.6	5.4	8.0	5.6	3.7
HBSOCREC	5.7	5.1	6.4	5.6	4.8	5.3	8.1	6.4
Other or missing	1.4	.2	1.2	.9	1.1	1.5	2.5	.5
Total	100	100	100	100	100	100	100	100

NOTE: HBU = home-based university; HBW = home-based work; HBO = home-based other; NHB = non-home based; HBSHOP = home-based shopping; HBSOCREC = home-based social and recreational.

they participate in more activities during midday and evening (e.g., visit bars) than the sample of the general population.

Limitations

The study is limited by the use of cross-sectional data from universities in a single state. Although the universities selected are somewhat representative of large state institutions in states in the United States and cover both urban and suburban contexts, Virginia is unique in some ways, especially its history of development, including a colonial past. However, a varied geography, a diversified economy, an extensive transportation system, and the existence of several state-supported universities make Virginia relatively representative of states of moderate size.

The authors recognize that such surveys can have nonresponse and noncoverage biases and trip underreporting, when the survey burden is considered (on average, it took 40 min to complete the survey). Inherent uncertainty in the sample also exists, and the authors recognize this. Although the data analyzed in the paper cannot fully explore and reveal all issues related to student travel and the forces at work, the findings are insightful for the characterization of student travel. For example, the data give a sense of how mode choices can vary in more livable university environments (e.g., nearly 55% of student trips at UVA were by walking), even in cities with cultures of travel oriented toward the private automobile.

SUMMARY AND CONCLUSIONS

This study contributes by comprehensively exploring the travel behavior of university students and providing a detailed quantitative analysis of their travel patterns, which to date have been weakly

covered in the research literature. Owing to the physical environment of universities, which typically have higher densities than other environments, offer mixed travel modes, and are friendly to alternative travel modes, college students may act differently when they travel, and this study seeks to understand the differences between students and the general population. An Internet survey was used to collect behavioral data for students at four universities in Virginia, including two urban and two suburban campuses. The survey results suggest that an Internet-based survey methodology is a feasible, appropriate, and efficient means of collecting travel information from university students.

The travel behavior and sociodemographics of university students are different from those of the general population. As a younger and busier population group with relatively low incomes, university students make more daily trips, especially on weekdays, whereas their trip rate on weekends is only slightly higher than that of the general population. For trip modes, although driving is still the dominant transportation mode on two urban campuses, students make substantially more nonmotorized trips than a sample of the general population in Virginia. The main reasons for travel by students are going to university or work, home, academic activities, meals, shopping, and social or recreational activities. Students participate in fewer shopping and social or recreational activities than a sample of the general population. The temporal distribution of trips by students is also different from that of trips by the general population. Although no substantial peak times for trips were observed, the highest percentage of student trips was at noon. Students also made more trips in the evening than the general population. Overall, students travel more frequently, heavily use alternative modes, undertake more trips for university or work purposes, and predominantly travel during off-peak periods.

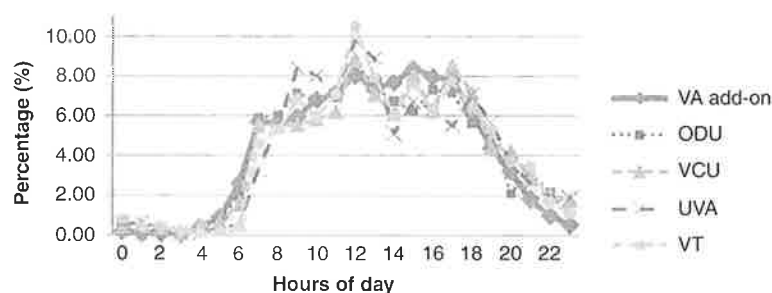


FIGURE 4 Temporal distribution of student daily trips.

Students living on campus and students living off campus show distinct differences according to their personal characteristics and travel behavior. Students living on campus are often younger, unmarried, and full-time, and most of them are undergraduate students, as expected. Compared with students living off campus, students living on campus have a higher daily trip rate, different mode choices, and different trip purposes. They tend to drive less and walk more. Students living on campus also make more home-based university trips and home-based other trips than students living off campus, but they make fewer home-based shopping trips.

The study develops a deeper understanding of variations across urban and suburban campuses. It has found notable differences in personal characteristics and travel behaviors across the four universities. These differences may be due to the regional contexts (urban or suburban) as well as differences in the social and built environments of the universities. Students from ODU and VCU have more in common when their travel behavior is compared with that of students from VT and UVA, although their trip rates are similar; specifically, students from ODU and VCU drive more, walk less, and make more trips for purposes other than academic activities. Because they are on urban campuses, students have a fairly complex travel environment and have more feasible alternatives for participation in activities.

As mentioned previously, university students are a special subgroup and have travel behavior different from that of the general population. However, they are underrepresented in NHTS and other regional surveys, and they have received little attention in the literature. This study has attempted to fill the gap. Universities are large trip generators. Although a majority of student trips occur on campus and students are more likely to use alternative travel modes, university students affect regional traffic because of their diverse travel patterns. More attention needs to be given to trips by university students, and work needs to be done to capture the impacts of these trips and properly incorporate trips by university students into regional travel demand models. Promising approaches include microsimulation of the student population by the use of different trip rates and purposes for students in travel demand models, temporal models of trips by students, and segmentation of mode choice models by students and nonstudents. These data also have ancillary uses. For example, they may be used to (a) explore the use of time and participation in activities by students; (b) analyze spatially student travel in the high-density university environment, which offers mixed travel modes and is friendly to alternative travel modes; and (c) evaluate the role of new travel information technologies in student travel.

Overall, the results of this study of student travel at four public universities in Virginia provides a rich resource to help provide an understanding of the travel behavior of university students and design practical transportation strategies, for example, improve traffic flow around campuses by providing more incentives to using alternative modes. The behavioral data will be used as a basis to develop university-based trip purposes for travel demand models and to assist with other transportation planning efforts.

ACKNOWLEDGMENTS

Ju-Yin Chen ably managed the project. The authors have benefited greatly from discussions with the following individuals: Nelson Newton and Jaesup Lee of the Virginia DOT, Jeremy Raw (formerly

of the Virginia DOT), Thomas Guterbock, Deborah Rexrode, and Jim Ellis of UVA, Antoine Hobeika and Susan Willis-Walton of VT, Jimmy Chen of VCU, Nancy Vandecar-Burdin and Wendi Wilson-John of ODU, and Ken Kaltenbach of the Corradino Group. Special thanks are extended to the following for help with instrument development, data collection, and survey data sharing: the Transportation Research Institute and Social Science Research Center at ODU, the Center for Survey Research at UVA, the Survey and Evaluation Research Laboratory of VCA, and the Center for Survey Research at VT.

REFERENCES

1. Committee to Review the Bureau of Transportation Statistics' Survey Programs. Letter report to Bureau of Transportation Statistics, U.S. Department of Transportation. TRB, Washington, D.C., 2002. <http://onlinepubs.trb.org/onlinepubs/reports/nhts.pdf>. Accessed July 20, 2010.
2. FHWA, U.S. Department of Transportation. *NHTS, National Household Travel Survey: Our Nation's Travel*. <http://nhts.omni.gov/index.shtml>. Accessed July 20, 2010.
3. Hu, P. S., and T. R. Reuscher. *Summary of Travel Trends, 2001 National Household Travel Survey*. FHWA, U.S. Department of Transportation, 2004.
4. Polzin, S. E. The Case for Moderate Growth in Vehicle Miles of Travel: A Critical Juncture in U.S. Travel Behavior Trends. U.S. Department of Transportation, 2006.
5. *NHTS: Highlights of the 2001 National Household Travel Survey*. Bureau of Transportation Statistics, U.S. Department of Transportation, 2003.
6. Cantor, D., G. Shapiro, L. Chen, G. Choudhry, and M. Freedman. *Non-response in the National Household Transportation Survey (NHTS)*. Westat, Rockville, Md. <http://onlinepubs.trb.org/onlinepubs/archive/conferences/nhts/Shapiro.pdf>. Accessed Jan. 20, 2010.
7. Porter, S. R., and M. Whitcomb. Non-Response in Student Surveys: The Role of Demographics, Engagement and Personality. *Research in Higher Education*, Vol. 46, No. 2, 2005, pp. 127–152.
8. Porter, S. R., and P. D. Umbach. Student Survey Response Rates Across Institutions: Why Do They Vary? *Research in Higher Education*, Vol. 47, No. 2, 2006, pp. 229–247.
9. Rodriguez, D., and J. Joo. The Relationship Between Non-Motorized Mode Choice and the Local Physical Environment. *Transportation Research Part D*, Vol. 9, 2004, pp. 151–173.
10. *TCRP Synthesis 78: Transit Systems in College and University Communities*. Transportation Research Board of the National Academies, Washington, D.C., 2008. http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_syn_78.pdf. Accessed July 20, 2010.
11. Gallarza, M. G., and G. Saura. Value Dimensions, Perceived Value, Satisfaction and Loyalty: An Investigation of University Students' Travel Behavior. *Tourism Management*, Vol. 27, 2006, pp. 437–452.
12. Kamruzzaman, M., J. Hinc, B. Gunay, and N. Blair. Using GIS to Visualize and Evaluate Student Travel Behavior. *Journal of Transport Geography*, Vol. 19, No. 1, 2011, pp. 13–32.
13. Eom, J. K., J. R. Stone, and S. K. Ghosh. Daily Activity Patterns of University Students. *Journal of Urban Planning and Development*, Vol. 135, No. 4, 2009, pp. 141–149.
14. Guterbock, T., S. Vandecar-Burdin, S. White, P. Willis-Walton, J. Agnello, D. Ellis, W. Rexrode, and J. Wilson. College Road Trip: Transforming the NHTS into a Web-Based Travel Diary Survey of University Students in Virginia. Presented at American Association for Public Opinion Research Annual Meeting, Chicago, Ill., 2010.

The views expressed in this paper are those of the authors, who are responsible for the facts and the accuracy of the data.

The Transportation Planning Applications Committee peer-reviewed this paper.

PUBLIC COMMENT

From: Julia Kennefick <kennefick@mac.com>
To: <Jfulcher@ci.fayetteville.ar.us>
Date: 3/25/2012 3:28 PM
Subject: Housing project at Hall and Cleveland

Dear Mr. Fulcher,

I am a resident of Fayetteville. I live on Sunset Drive, just north of Cleveland. I understand that there is currently proposed a development of 5 stories with 446 parking spaces at Hall and Cleveland. While in principle I see no problem with developing that site for student housing as it is now used, I do have a problem with such a large development going in that spot. My main concern is that it just does not fit with the character of that street or surrounding neighborhoods, as it is mainly single family residences in the area. I can see perhaps a development of 2-3 stories, but 5 stories seems way out of scale.

I have three children, two of whom have completed their schooling at Leverett and one that will start attending there in a few years. They have all walked to and from school, crossing that intersection at Hall and Cleveland. That area is already pretty busy with traffic, with the University parking lots across the street plus the school traffic in the morning and afternoon. If you do allow a development there, I highly suggest you make sure that there is ample pedestrian cross walk protection, perhaps even lights. I am all for infill and development of the area, but I encourage you to make sure our children remain safe as they travel through the area on foot.

Thank you for your time,

Julia Kennefick

920 N Sunset Dr.
Fayetteville, AR 72701
(479) 439-0199

From: Linda Eichmann <leichmann@msn.com>
To: <jfulcher@ci.fayetteville.ar.us>
CC: <rhonda@adamsward4.com>, <ward4_pos2@ci.fayetteville.ar.us>
Date: 3/25/2012 3:41 PM
Subject: Cleveland and Hall Streets

Dear Mr. Fulcher,

My name is Linda Eichmann and my husband Raymond and I live at 629 N. Oliver, just a few blocks from the proposed student housing development at the corner of Cleveland/Hall. I am familiar with the proposed development because I walk past it several times a week in order to pick up a grandchild who attends Leverett Elementary School. As you are aware, Leverett is located directly across the street from the proposed development and people in our neighborhood with children or grandchildren at Leverett walk past this site daily.

As I understand the proposed project, the development seeks to replace 4 single family houses (zoned RSF-4) and a small apartment complex with a 5-story, 220 unit building with a 5-level parking deck large enough to hold 446 parking spaces. The total size of the proposed site is 2.7 acres.

We oppose this project and request that the planning staff withhold its recommendation for approval based on a number of reasons, including:

- 1) The sheer size and density of the project on a small footprint of land - a 5 story, 220 unit student housing complex located on 2.7 acres,
- 2) The location of the project directly across from Leverett Elementary School,
- 3) The location of the project within the University Heights Neighborhood Association and the inappropriate transition on Cleveland and Hall with a 220 unit student housing development and single family residences,
- 4) The removal of 4 single family residences from our neighborhood and the radical change of zoning density for these zoned houses from 4 units per acre to approximately 81 units per acre,
- 5) The increased traffic onto Cleveland and Hall Avenue,
- 6) The proposed entrance of the parking deck being directly across the street from the entrance to the Leverett playground,

The size of the development, the relatively small size of the site, and the location of this proposal speak for themselves, but I would like to emphasize that the project will effectively remove current family housing from Leverett Elementary and will increase an already congested and dangerous traffic conditions on Hall and Cleveland. Every year there are a number of families with children at Leverett who live in the existing apartment complex. The proposed development resembles a student dorm and is not a place where families will reside.

The development will also increase the traffic onto Cleveland and Hall. As a member of the UHNA, I know that our neighborhood requested the city to perform a traffic study on Cleveland several years ago. This study confirmed our complaints that this relatively small and steep road had an excessive number of vehicles travelling on it at excessive speeds. We were informed by the city that Cleveland was certainly a candidate for traffic calming. This project will increase the traffic along Cleveland, which is already treacherous to cross- especially during the times that the University is in session. Furthermore, Hall has Leverett Elementary at one end and a steep T-intersection with Wedington at the other end. With children, families and students crossing Hall and Cleveland several times a day, this project will add to an already dangerous situation.

Finally, as an active member of UHNA, please note that we have objections to another situation where the single family residence character of our neighborhood is being chipped away by inappropriate uses and developments. Removing single family zoned houses and family apartments for a very large, very dense student housing complex (in reality, a dormitory) is an inappropriate use in our single family

neighborhood.

I thank you for your consideration of our objections. I ask that our email be placed in the record of this PZD application so the members of the planning Commission and the City Council can be aware of our objections.

Sincerely,

Linda and Raymond Eichmann
629 N. Oliver Avenue

From: Stephenie Foster <stephenief@gmail.com>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 3/26/2012 10:19 AM
Subject: Cleveland/Hall St. development concerns

Hi Jesse,

I live on Sunset Dr. and have had children attending Leverett Elementary for the last eleven years. I would like to express my concerns regarding the proposed development for the apartments at the corner of Cleveland and Hall Streets.

First, I am concerned about the size of the project. Traffic is fairly heavy in that area already with the current apartments, elementary school, and university parking. This new development proposes to increase habitation on that corner by over 350%. The current road configuration cannot support that kind of an increase in traffic. Dangers already abound for pedestrians (many of them being small children) along the Cleveland sidewalk, and this project would multiply those dangers threefold. I have almost been struck by cars twice while crossing in the crosswalk this year. Additionally, the plans show the removal of practically all of the mature trees, and placement of the new structure very close (within 2 or 3 feet) to the sidewalk. The plans show a wider sidewalk (8') with tree planters (3'x5') placed along the road side of the sidewalk. This is probably to accommodate the smokers who come over from the University property to smoke. The traffic (vehicular and pedestrian) that would result from a development this size is not supported by the current roadway infrastructure. I hope you will consider all the concerns of the neighbors and school parents as you review this project.

Thank you,
Stephenie Foster
stephenief@gmail.com
479-236-4975

From: "Gail L. Halleck" <ghalleck@uark.edu>
To: "Jfulcher@ci.fayetteville.ar.us" <Jfulcher@ci.fayetteville.ar.us>
Date: 3/26/2012 12:53 PM
Subject: proposed project for corner of Cleveland and Hall streets

Good afternoon Mr. Fulcher,

I was made aware of the details of the proposed large housing development across from Leverett Elementary on the corner of Hall and Cleveland streets. I have many concerns. As a parent who fought tirelessly years ago during a school district rezoning process that considered closing Leverett Elementary, I have a strong fondness for and interest in preserving this school. I had a child there then and also do now. I strongly believe in the need for this historic, wonderful school in this very location. Leverett over the past 100+ years has enjoyed many of the benefits of being in close proximity to the University. It is my hope that anyone who builds in the vicinity of this school takes a critical look at what environment can and should coexist with the 4-11 year olds that also inhabit this space as well as preserving the character of the surrounding neighborhood.

The scale of the proposed project seems too large for the 2.7 acre lot. To be adjacent to a school and add that much traffic would be like pouring several hundred more gallons of water into a bucket that is already full. There are enough traffic issues on Cleveland and Hall streets without adding a 220-unit, 5-story development with 446 more parking spaces. And so it also seems to be a question of infrastructure in this regard.

I beg you as the city planner assigned to this project to help the developers reconsider the scope and size of this project. And also to encourage them to meet with concerned parents and neighbors or maybe with just a few appointed representatives from the university, Leverett and the neighborhood association to brainstorm what might be done with that land to better serve the community at large, not just one particular segment of the community. There are so many creative parents and neighbors surrounding Leverett, some of whom are architects and involved in city planning, thus mitigating the frustrations of dealing with ignorance of issues pertaining to such a project. I can't help but think that amazing things would come out of such meetings and that development could go forward with the full support of the neighbors and the community.

I thank you for your time reading and considering this,

Respectfully yours,
Gail Halleck

From: rharriso <rharriso@uark.edu>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 3/26/2012 2:55 PM
Subject: proposed plan for apts. Cleveland and Hall

Dear Mr. Fulcher, I am writing to indicate my objection to the proposed new apartments to be built on Cleveland and Hall. I live at 611 Oliver, the historic Oliver farmhouse for the area. We feel that adding so many cars is a real detriment to an area of relatively quiet single family dwellings and especially since there is an elementary school right on Cleveland where we have been working to achieve traffic calming. new sidewalks are in for students. These just finished. for some time now we have been considering how to slow down the traffic so that children and adults can cross Cleveland safely. A new stop sign has been installed to meet this need. this is perhaps the only residential neighborhood that borders the campus and its need must be considered. Rebecca Newth Harrison

From: Nancy McCartney <nmccartn@hotmail.com>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 3/26/2012 4:09 PM
Subject: Project Cleveland

Dear Mr. Fulcher:

It is with trepidation that I read about the proposed development "Project Cleveland" on the corner of Hall and Cleveland. I have lived in the University Heights neighborhood since 1980 and have seen the traffic escalate tremendously. Every day I drive cautiously past Leverett School on my way out Garland to The Farm trying to negotiate all the terrible traffic at the SE corner of the school at 7:45 am and again about 4:30 pm. I have often thought I should send a drawing of the amazing gyrations that occur there as people try to pick up/deposit kids, cross the street with and against the light, and turn into the Hotz Hall parking lot. I am totally surprised that there hasn't been a very serious accident there with the current level of traffic. My kids used to walk: I don't think I would allow that if I were a parent now (which of course just compounds the traffic). The noise, hazards to kids, pedestrians, motorists plus the litter (already tremendous, especially on game days) is surely going to increase with this proposed development. Ergo, I propose not allowing it. Thank you.

Mr. Jesse Fulcher,

My wife and I live at 668 Gray Ave. We're just west of the proposed development at Cleveland and Hall. After looking at the plans, living in this neighborhood for thirty-one years, raising a family here, having my wife, child and I attend the U of A, employment of my wife and son at the U of A, dealing with the constant migration of students in and out of the U of A, parking for football & basketball, increasing student and Fayetteville population and the autos and motorcycles that follow, having to travel through or around the U of A to go anywhere except west on Cleveland towards I 540, I can say with inarguable confidence, utmost determination and unwavering command of the environment, transportation, and sheer developmental folly that plagues the U of A campus and the surrounding neighborhoods, that this development will destroy the character of a family friendly neighborhood, diminish property values, destroy what little sanity is left now for travel around the area, increase traffic issues exponentially and cost the city and taxpayers millions of dollars to meet the already overburdened infrastructure and increasing crime. Furthermore, given the sheer number of un-rented, unused, vacant, previous abandoned holes in the ground left by very poorly thought-out plans, made by so-called, well-meaning developers and approved by our city leaders, this project looks, sounds, and smells like a large, bankrupt hole in the ground. It is unnecessary, foolish, and fiscally irresponsible. When all falls apart, which it most assuredly will, the city and taxpayers will be left holding the bill. Then, it will all be blamed on the economy. We've got plenty of examples all around the campus and city from which to learn. Do we need yet one more slap across the face to learn this lesson? This is not a project that should be remotely considered as beneficial or even remotely needed. It is and will be a very expensive boondoggle. I'll live with the congregation of nicotine addicts on the brick wall along Cleveland ANY DAY before I'd chose replacing them with this lunacy. We've paid dearly enough for the inflated egos of self-serving developers. Please, say 'no' to this. Please.

Joe Paul

From: Justin Eichmann <rjeichmann@gmail.com>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 3/27/2012 12:30 AM
Subject: Student Housing Development - Cleveland St/Hall Ave.

Jesse, I am writing in regard to the proposed student housing development at the corner of Cleveland St. and Hall Ave across from Leverett Elementary School. I live at 648 N. Gray Ave., just a few blocks from this site and I have a child who attends Leverett and another who will attend Leverett next year. Please have this email placed with the public comment received on this application.

I believe the development has several problems, namely:

1) Inappropriate Transition. This development is an inappropriate transition from the residential neighborhood area and Leverett Elementary to the east, north and west. A 222 unit, 5-6 story development at a 75 foot height is a very large and dense project on such a small piece of property, especially when it transitions to a low-intensity residential neighborhood area such as the Hall and Cleveland area. Contrary to the guiding policies for residential neighborhood areas in the city's 2030 plan, this project does not represent a development scale that maintains compatibility, use and proportionality with the surrounding residential area. In fact, I believe this development could in fact shadow residences and parts of the Leverett playground at different times of day and the year.

2) Traffic. The project would impact Cleveland St. and Hall Ave., both of which are intended for more moderate levels of traffic flow and service. The parking garage entrance and exit is onto Hall Ave, designated as a local street, is not only an intensive use of this street but is also directly across from the Leverett Elementary playground. Hall Ave. is bounded at one end by Leverett Elementary and the other end with a steep T-intersection with Wedington Dr. In between are single family residences. I feel like the impact of hundreds and hundreds of vehicles on this local street is unwise, especially with the recent construction of dormitories and parking decks by the University in the vicinity.

3) Appropriate Infill Location. Across the intersection of Hall Ave. and Wedington Drive is a 6-acre parcel of undeveloped property located behind the Harps Grocery Store that is currently for sale. This property is located just a few thousand feet away and is a much more appropriate location for a project of this size, density and impact as it better transitions with the commercial and multi-family (including student housing) uses in that area. Furthermore, it abuts a principal arterial street better served for the vehicle traffic that this development will attract. I point out this available property only as an illustration that other appropriate infill opportunities exist in this same area. Removing an existing family apartment complex along with 4 single family homes in order to replace them with a project of a density of 80 units per acre is not the only, and I feel not the best, infill opportunity in this immediate area.

I thank you consideration of my opinions and I hope planning staff will not recommend approval of this PZD application.

Thanks,

Justin Eichmann
648 N. Gray Ave.

From: "Burt H. Bluhm" <bbluhm@uark.edu>
To: "jfulcher@ci.fayetteville.ar.us" <jfulcher@ci.fayetteville.ar.us>
Date: 3/27/2012 9:26 PM
Subject: PZD at Cleveland and Hall

Hi Jesse,

My name is Burt Bluhm -- my family lives at 930 N Hall Avenue in Fayetteville. We purchased our house approximately 2 years ago so that I could walk to work (I am a professor at UA) and it seemed like a great neighborhood in which to raise my two little girls. We were drawn to the quiet, peaceful feel of the block, especially considering its proximity to campus and the elementary school. As a homeowner, I have some serious concerns and reservations about the proposed re-zoning of the apartment complex/adjoining properties at the intersection of Cleveland and Hall, approximately a half block from my property. As I understand it, a ~250 unit apartment complex + parking garage is being planned for the site. I think there are some serious questions that need to be carefully considered before a project of this scope should go forward in this particular location. I have tried to condense my concerns down into three major concepts:

1. The (single) proposed outlet for the parking garage is on Hall Ave., directly across from the elementary school playground. This will dramatically change the traffic flow on Hall, and on Cleveland (which is often quite busy at certain times of the day - I can tell you personally, since I cross that intersection on foot at least twice a day). I just don't think Hall is designed to handle this level of traffic, and I cannot believe the developer's project description claiming that no traffic study is required/warranted. It seems to me that a privately owned development project of this type (apartments + parking garage) must be quite rare or currently non-existent in Fayetteville. What do we know about potential impacts on neighborhood traffic? Noise? Crime?
2. For better or worse, and in my opinion probably worse, this project will permanently change the character of the neighborhood. I think we need to question as a community whether an apartment complex that is so urban in nature that it requires a parking garage is really the direction Fayetteville should go with development near campus. I sincerely hope to be a 30+ year resident of Hall Avenue, and I can easily foresee a day in 15-20 years when a 250-unit complex as proposed falls on hard times/poor management, and becomes a blight for the neighborhood as well as campus. Frankly, I have already witnessed some problems with the existing apartment complex during the two years I have lived here, such as domestic disturbances that spill out onto Hall Ave. It just seems to me that we as a community should be very, very cautious about development projects of this scale, especially when they are literally across the street from campus and an elementary school, and within a stone's throw of the Chancellor's house.
3. I would like to hear discussion of the 'campus edge' zoning being proposed vs. the current zoning for the property in question. It seems to me the property has its current zoning for a very specific set of reasons, and that rezoning to 'campus edge' should thus be very clearly warranted and be consistent with the wishes of homeowners (such as myself) who will be affected for years to come should the proposed development come to pass. For example, I strongly suspect that this development would negatively affect the value of my house, and thus the developer's profits would come, to some extent, at the cost of the owner-occupants who live on Hall Avenue.

I wish I could attend some of the upcoming public meetings at which this development will be discussed, but I am traveling quite a bit over the next several weeks. I would certainly value your opinions/feedback on these concerns and perhaps we could sit down over coffee to talk about it sometime in April.

Thanks for your time.

Very best regards,

Burt Bluhm

From: <wmertins@mertinslaw.com>
To: <Jfulcher@ci.fayetteville.ar.us>
Date: 3/30/2012 3:18 PM
Subject: Opposition to proposed apartment complex on Cleveland/Hall

Dear Mr. Fulcher -

I am writing to express my strong opposition to the proposed development on Cleveland/Hall. I have 3 children at Leverett, and live in the University Heights Neighborhood. The proposed development is out of character with the neighborhood, is ridiculously out of scale with the adjoining single family homes, further erodes the character of our neighborhood, and poses substantial risk to the children who walk and bike to Leverett Elementary.

I am not opposed to growth, but am strongly opposed to reckless growth that destroys neighborhoods, increases traffic in an already taxed neighborhood, undermines the safety of our children, and kills any prospect of them safely walking or biking to school. This corner cannot support an additional 200 units, 446 more cars, and the problems that come with them. Please do all in your power to stop this project or send it back to the developer for a more sensible proposal.

William Mertins

Mertins Law Firm, PLLC
300 N. College Ave, Suite 200
PO Box 1762
Fayetteville, AR 72702-1762
479-582-1560

www.mertinslaw.com

Planning - "Project Cleveland" proposed development

From: Joy M Williams <williamsjoym@gmail.com>
To: <PLANNING@CL.FAYETTEVILLE.AR.US>
Date: 4/3/2012 5:35 PM
Subject: "Project Cleveland" proposed development

April 3, 2012

To Whom It May Concern:

We are writing to express concerns about the proposed rezoning and subsequent development of the property at the intersection of Cleveland Street and Hall Ave. The design for "Project Cleveland", as submitted, virtually quadruples the current existing 60 units. The impact of the increased traffic associated with that dense of development cannot be accommodated in this neighborhood. Traffic is already heavy and pedestrian safety is currently a concern. The University and elementary school traffic create a very dicey situation, particularly in the morning. A traffic study will, no doubt, bear this out. The driveway to the proposed complex's parking deck is on Hall and traffic coming or going North or South will exacerbate either the existing University neighborhood traffic problem or create new challenges at Hall and Wedington Drive. There is no good way to go.

Secondary to the primary traffic problem issue is the height of the proposed structure. It would loom at the South end of Hall Avenue - the highest point on the block. The developer references the structure's various heights and compliance to code, as in 60' adjacent to a single-family residence, but it also proposes an "85' interior structure". The development will be *so* much higher than any house on Hall, and then feel even higher due to the slope. Transition to the existing neighborhood is a concern and height disparity is the biggest issue.

We are not opposed to rental property or apartments in the neighborhood as it is currently zoned. But the PZD allows for way too much density and subsequent traffic.

Please add this email to the project's file as maintained by the Planning Department.

Sincerely,

John and Joy Williams

924 Hall Ave.

Fayetteville, AR 72701

From: Jesse Fulcher
To: Planning
Subject: Re: "Project Cleveland" proposed development

April 3, 2012

To Whom It May Concern:

We are writing to express concerns about the proposed rezoning and subsequent development of the property at the intersection of Cleveland Street and Hall Ave. The design for "Project Cleveland", as submitted, virtually quadruples the current existing 60 units. The impact of the increased traffic associated with that dense of development cannot be accommodated in this neighborhood. Traffic is already heavy and pedestrian safety is currently a concern. The University and elementary school traffic create a very dicey situation, particularly in the morning. A traffic study will, no doubt, bear this out. The driveway to the proposed complex's parking deck is on Hall and traffic coming or going North or South will exacerbate either the existing University neighborhood traffic problem or create new challenges at Hall and Wedington Drive. There is no good way to go.

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We are not opposed to rental property or apartments in the neighborhood as it is currently zoned. But the PZD allows for way too much density and subsequent traffic.

Please add this email to the project's file as maintained by the Planning Department.

Sincerely,
John and Joy Williams
924 Hall Ave.
Fayetteville, AR 72701

From: <wmertins@mertinslaw.com>
To: Jesse Fulcher <jfulcher@ci.fayetteville.ar.us>
Date: 4/10/2012 2:13 PM
Subject: Re: Opposition to proposed apartment complex on Cleveland/Hall

Mr. Fulcher - I am writing to renew my protest of the proposed apartment complex on Cleveland/Hall Streets. Even with the revisions proposed by the developer, the project is still terribly out of scale for the neighborhood, and the developer's own traffic study should stop this project dead in its tracks. If Fayetteville wants to preserve single family neighborhoods and neighborhood schools, this proposed project must be stopped or substantially reformed.

I wish I could protest this proposed development at each meeting of the Commission or Council, but my work and family obligations prevent me. Instead, please forward this email to all who may be considering this project, and know that I strongly oppose the proposed development for the reasons set out above and in my March 30 email below.

Perhaps this project would be better suited to the 27 acre field by Temple at the bottom of Cleveland hill, or the empty land on Wedington west of Harps. Both tracts are for sale, and would be far better fits than the intersection of Cleveland and Hall streets.

Again, I strongly oppose the proposed apartment complex on Cleveland and Hall, and urge all who are considering it to reject the developer's request.
Thank you for your time.
William Mertins

On Mon, Apr 2, 2012, at 02:52 PM, Jesse Fulcher wrote:

Mr. Mertins,

Thank you for your feedback. I will include your comments with the staff

report that will be presented to the Planning Commission and City Council. Please let me know if there is anything else that I can do.

Sincerely,

Jesse Fulcher

Jesse Fulcher

Current Planner

City of Fayetteville

479-575-8267

[1]jfulcher@ci.fayetteville.ar.us

(TDD 479-521-1316 Telecommunication Device for the Deaf)

<[2]wmertins@mertinslaw.com> 3/30/2012 3:17 PM >>>

Dear Mr. Fulcher -

I am writing to express my strong opposition to the proposed development on Cleveland/Hall. I have 3 children at Leverett, and live in the University Heights Neighborhood. The proposed development is out of character with the the neighborhood, is ridiculously out of scale with the adjoining single family homes, further erodes the character of our neighborhood, and poses substantial risk to the children who walk and bike to Leverett Elementary.

I am not opposed to growth, but am strongly opposed to reckless growth that destroys neighborhoods, increases traffic in an already taxed neighborhood, undermines the safety of our children, and kills any prospect of them safely walking or biking to school. This corner cannot support an additional 200 units, 446 more cars, and the problems that come with them.

Please do all in your power to stop this project or send it back
to the developer for a more sensible proposal.

William Mertins

Mertins Law Firm, PLLC

300 N. College Ave, Suite 200

PO Box 1762

Fayetteville, AR 72702-1762

479-582-1560

www.mertinslaw.com

References

1. <mailto:jfulcher@ci.fayetteville.ar.us>
2. <mailto:wmertins@mertinslaw.com>

From: Susan <sgard10720@aol.com>
To: "jfulcher@ci.fayetteville.ar.us" <jfulcher@ci.fayetteville.ar.us>
Date: 4/11/2012 7:27 PM
Subject: Hall and Cleveland

Thank you for your email. As we discussed, I am very much against the proposed development on the corner of Hall and Cleveland. As a current homeowner, we already have a problem with the traffic on Hall not obeying the posted speed limit, the residents of the existing apartments do not use the crosswalks and the crossing guards at Leverett School are concerned about increased traffic and student safety.

In addition I do worry about my property value falling next to such a development. I think there is more than enough property for sale in the area already zoned for such a large scale complex.

The North end of campus has had a huge increase in both student parking and student housing in past five years (U of A parking deck and the Maple Hill dorms as well as the return to student housing of the two towers).

I feel that this development should not proceed. Susan Gardner

Sent from my iPhone

From: Delia Buffington <deezyb@sbcglobal.net>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 4/25/2012 8:58 PM
Subject: proposed private student housing at Cleveland and Hall

Dear Mr. Fulcher, My husband, Tom, and I live at 639 North Oliver, just around the corner from the proposed new private student housing. We both attended the University of Arkansas as did two of our children and we are big supporters in several ways. Progress can be measured in many ways, but we cannot support a private, multi storied, high density dorm of this size just a block and a half away from our small, overburdened street and call it progress. Please keep our neighborhood a neighborhood that is not over run by traffic and all the problems associated with such density. Let elementary students, college students and families coexist without placing undue burdens on any group. Diversity is wholesome and healthy. Thank you for your consideration and let me go on record to the planning commission and City Council as a NO vote for the proposed, privately owned, student housing at the corner of Cleveland and Hall. Sincerely, Dee Buffington

Dear Strategic Planning,

My name is Mikel Lolley. I live at 20 S. Hill Avenue, where I have lived and invested for nearly 29 years. We are located opposite the UofA campus from the proposed Project Cleveland, but we share many of the same issues as the University Heights neighborhood. We can only wish that this type of development was under consideration in our neighborhood. Allow me to explain:

- 1) We love living adjacent to the UofA campus. The campus provides us with wonderful amenities that we take full advantage of. But, the UofA also poses the most significant threat to the future of our immediate neighborhood. The UofA could at any time assume that they need to expand into our neighborhood to build student housing. They would simply buy-up our neighborhood via eminent domain. We see private development at the scale proposed by Project Cleveland as the only force large enough to stand in the way of any future plans by the UofA marching into neighborhoods, and snatching-up the underutilized and undervalued properties. We also know that we would have much more of a say in the quality of a proposed private development vetted thru the City of Fayetteville than if it was a public development vetted and built by the UofA.
- 2) We love the walkability, the density and the diversity of our immediate neighborhood. We have always known that with the future growth of the both the UofA and the City of Fayetteville, we would see nothing but increased pressure on our neighborhood. We now endure a 2am pedestrian rush hour on Hill Avenue that did not exist a few short years ago. Still, we continue to invest in this neighborhood, and adjust with the understanding that this neighborhood will continue to change and become increasingly walked, dense and diverse given its prime location. It is utterly unrealistic for people living adjacent to the UofA campus, or Downtown to expect that these neighborhood's in particular will remain exactly the same forever, and that Fayetteville's 2030 Plan is good for the City, so long as it's not in my back yard.
- 3) We love contributing to the modest re-gentrification of our older neighborhood. We would love to see a project at the scale and quality of the proposed Project Cleveland and witness private infill development take-on the long overdue investment in replacing the aging infrastructure for water, sewer, sidewalks, crosswalks, street lights, and bicycle lanes. Our neighborhood has changed significantly from when it was annexed into the City of Fayetteville as the Putman Addition 100 years ago – Fayetteville's first suburb. It will continue to change from its suburban roots into a downtown neighborhood, and need the amenities that come from that type of growth. We would rather see these upgrades coming from the private sector whenever possible through appropriate infill development and see our tax dollars spent on other things. What better way to finance these significant infrastructure improvements than thru private infill development.
- 4) We regard the student housing recently built by the UofA on the south side of Cleveland as a modest improvement, certainly better than the 1960's housing blocks that litter the UofA skyline, but still find this student housing grossly out of scale and lacking in vitality. We think

that the private sector does a much better job anticipating markets (student expectations) and designing more vital communities at appropriate scale than state agency, as evidenced by the UofA over the decades. We would rather see the UofA stick to what they do well, and leave student housing to the private sector. Let the private sector develop to market expectations, as well as develop a more vital and alive infill project that can complement an existing neighborhood.

- 5) We coexist with the traffic that is in our neighborhood, and understand that it will continue as the neighborhood becomes increasingly central, sandwiched between two cities for the UofA and Downtown Fayetteville. But we have also come to know via the 30 apartment units that we own and manage that a large contingent of cars sit idle in the lot, Monday thru Friday, and only get moved on the weekends. The fear for increased traffic coming from walkable infill development is unfounded in our direct and personal experience. Why drive when it's easier and cheaper to walk? It's why we live downtown.
- 6) We would welcome the type and quality of infill development being proposed by Project Cleveland into our neighborhood. It would increase our property values, add to the tax rolls, and the property would remain in the private domain and in lieu of in State control, adding tax revenue for our public schools for decades to come.
- 7) We would welcome this type of infill development for removing blighted properties that pose a whole host of issues far worse than a few more students in one professionally managed property, rather than a bunch of students crammed into a few run down houses that aren't being managed at all. Furthermore, the pressure for density has to be relieved from somewhere, and the proposed Project Cleveland could not be in a more appropriate location.
- 8) Fayetteville, as evidenced by the last census, is going thru transformational growth and change. We see Project Cleveland as exactly the type of infill development, consistent with the goals of the 2025 Plan and the 2030 Update, that we wish to see for Fayetteville's future. This development is in the most appropriate of locations, and is merely taking an existing blighted multi-family apartment building, and a few run down houses, adjacent to an elementary school and replacing them to create a much better situation for everyone.

The UofA would be a dreadful alternative to private investment within our immediate neighborhood and concentrated private investment will prove the only way to render those properties adjacent to the UofA from being obtained via eminent domain. We would welcome Project Cleveland to keep our neighborhood in private hands, where we would have much more of a say in what gets built, ensuring that it adds to the overall vitality of our immediate neighborhood, and how it gets managed and maintained well into the future.

Sincerely, Mikel C Lolley

20 S. Hill Ave. / Fayetteville AR 72701 / 479.841.7801 / mikel.lolley@gmail.com

From: Julia Kennefick <kennefick@mac.com>
To: Jesse Fulcher <jfulcher@ci.fayetteville.ar.us>
CC: Mikel Lolley <mikel.lolley@gmail.com>
Date: 4/30/2012 3:49 PM
Subject: Project Cleveland - Mikel Lolley

Dear Mr. Fulcher,

Re, Mr. Lolley's recent comments on Project Cleveland, I have previously expressed my views on this proposed development, and they are not out of line with Mr. Lolley's views. I am for infill development whole heartedly, and welcome it in my own backyard. However, I enjoy the green space in the current apartment block as it faces Cleveland, and in looking at the proposed development, I notice that many of the large trees that line Cleveland will be removed. I see that they are keeping perhaps some of the existing canopy and doing a good job replacing the actual trees, but the green space on Cleveland itself will be lost. I like the idea of a development there, but again hope it can be done to fit in to the existing residential neighborhood and not edge right up to the sidewalk, especially as the buildings as proposed will be quite high.

The traffic is definitely a concern for me. My husband was recently hit as a pedestrian there while holding my two year old daughter and walking my 11 year old son to school. Luckily he was not injured, but it is scary to contemplate. Folks use those residential streets as a way to avoid the Wedington/Garland intersection.

The traffic through there in its current state leaves much to be desired. Again, I simply want to express that

if the proposed development goes through, that careful attention be paid to the traffic infrastructure in the area. Overall, I think it is improving, but we need to keep up with the increased traffic problems as more students live "off campus" even if that housing is right across the street from the actual campus. I take

Mr. Lolley's point that keeping students close is a good thing, to increase the number of students that can walk. I love living close to campus and see it as a huge positive in my family's life.

Have the developers considered adding any store fronts to their project? I guess that would raise a whole other set of traffic concerns!

Best wishes,

Julia Kennefick

920 Sunset Dr.
Fayetteville AR 72701
479-439-0199

From: "Barbara Fraleigh" <barbara@secureusinc.com>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 5/2/2012 3:02 PM
Subject: Cleveland & Hall

Dear Mr. Fulcher,

This letter is in regards to the proposed development at the corner of Cleveland & Hall Streets.

As a thirty year homeowner in the neighborhood, I would like to suggest that the size and location of project is not suitable for this location. As I drive by this corner, I try to imagine the impact that the proposed development would have on an already established residential neighborhood and Leverett Elementary School. In my opinion, it is not a good fit.

I can understand the motivation of the investor/developer to try to build close to the University. There is certainly a flurry of this type of building activity within Fayetteville right now catering to the student population. Their paperwork and designs all look wonderful on paper, but the impact of such a large development cannot be good for the established neighborhood.

I would hope that our investments in our neighborhood are not disregarded.

Thank you for your consideration.

Barbara Fraleigh

1624 W. Halsell Road

Fayetteville, AR 72701

From: beverly schaffer <bschaffer@arkansas.net>
To: Jesse Fulcher <jfulcher@ci.fayetteville.ar.us>
Date: 5/4/2012 4:34 PM
Subject: Fwd: Project Cleveland

Jesse, here are some thoughts I shared today with the Ward 4 aldermen. Thanks, Beverly Schaffer

Begin forwarded message:

> From: beverly schaffer <bschaffer@arkansas.net>
> Date: May 4, 2012 1:25:07 PM CDT
> To: Sarah Lewis <sarahelainelewis@gmail.com>, Rhonda Adams <Rhonda@adamsward4.com>
> Cc: Archie Schaffer <archie.schaffer@tyson.com>
> Subject: Project Cleveland
>
> Dear Sarah and Rhonda,
>
> Thank you for arranging for Seth Mims to come to the Ward 4 meeting Monday night and share the new plans for this project. The current plans were approved yesterday by the subdivision committee of the planning commission. I believe the committee recommended approval of the project.
>
> The plans for this project are an improvement over the first two versions. However, the building footprint is the same except for the lowered height on the north, east and south perimeters. The parking deck in the center is still almost 7 ft. The number of units dropped from 170 to 122 (yesterday, I heard they may have dropped that number again by 5 or so). However, the units now are almost all 4 person units rather than the 1, 2 and 4 mix originally planned. That is allowing them to keep the density high, around 450 renters and vehicles. So while the scale of the building was reduced modestly, and the number of units was reduced by half since the first number was floated (220), the density and number of vehicles has been reduced by only 20%.
>
> The building will be a non-smoking complex and Seth says they will not allow smoking on the sidewalks. That's an improvement. However, there is no ordinance that prohibits smoking on sidewalks so I don't know how the property managers can prohibit it. Unfortunately, this development could push the smoking further down Hall or Cleveland until a broader solution is implemented.
>
> Also, the plans now provide for parallel parking in front of the building on Cleveland. All parking on that stretch of Cleveland was removed two years ago after abuse by the dorm residents who simply stored their cars up and down the street for days at a time, even in the "no parking" areas. The developers say street parking helps slow down traffic. That may be true in some places. That was not the case on Cleveland, however. Many of the neighborhood residents complained repeatedly to the police and the city transportation division about the dangerous conditions on Cleveland due to the student parking on the north side and the speeding vehicles. Finally, the city agreed that all parking should be eliminated. We do not want to see it returned. Brad Anderson and Jeff Coles probably can verify the history of these parking problems and the decision to remove parking from the street. In any case, I can't see how there is room for street parking in front of the building. The intersection at Hall and Cleveland already will be very congested and the developers are asking for a dedicated bike lane on one side of the street, as well. Adding parked vehicles to the curb will create another diversion and possibly worsen the visibility for drivers turning left onto Hall from Cleveland. I hope these plans will get very close scrutiny.
>
> The building still is going to be squeezed onto that corner and will dramatically alter the character of the block between Hall and Razorback. It's an improvement in some ways but it's discouraging that it will not be the kind of development that would bring families or UA faculty or staff into the neighborhood rather than more dorm rooms. I want to make sure this doesn't become the trend all along the perimeter of campus.
>
> We think the scale of the building still is incompatible with the neighborhood. The developers continue

to stress that the building is not as tall as the Maple Hill dorms but they avoid discussing the vast difference in scale when compared to every single property on the north side of Cleveland. The north side of Cleveland is not a part of the UA campus. If the compatibility of future structures proposed for the neighborhood streets abutting campus will be judged not by the scale of the existing homes and buildings on the north side of Cleveland but by what has been built across the street on the UA campus in an institutional zoning area, homeowners will be encouraged to sell their properties to developers and get out of the neighborhood now. We don't think the city can deny the next developer the same scale and density all the way around "campus edge" if this project is approved. With the emphasis placed on student housing as a priority above all other considerations, the north side of Cleveland is likelier than not to evolve into an adjunct to campus. Once that invisible line between campus and neighborhood begins to erode, it will be nearly impossible to stop the further decline of University Heights.

>

> These are some of my thoughts on the project as it currently stands.

>

> Thank you for all you do to represent the residents of Ward 4.

>

> Beverly

>

From: rharriso <rharriso@uark.edu>
To: Jesse Fulcher <jfulcher@ci.fayetteville.ar.us>
Date: 5/7/2012 7:50 AM
Subject: Re: Cleveland and Hall Street development; email change

dear Jesse Fulcher, please note I have had to change my email to:
rebeccanewth@gmail.com I am in university heights neighborhood and
involved with cleveland hall development news. must be on west coast may
9th however. i am against the hugeness of the development as not in
keeping with neighborhood, increasing smoking, trash, traffic (all of
which we have dealt with when university stopped allowing smokers on
campus. now we have to pick up cigarette butts and trash that comes along
with it such as bottles, packages, junk food, cans, cups) Perhaps the city
is trying to get leverett school moved, as it has tried before, and by
putting such traffic and congestion right next to the school is another
way of accomplishing that? sorry to seem so jaded. Rebecca Harrison
Quoting Jesse Fulcher <jfulcher@ci.fayetteville.ar.us>:

>> Neighbors,

> >

> > I wanted to let you know that the applicant for the project at the
> > corner of Cleveland and Hall has requested that the development
> > application scheduled for the Subdivision Committee meeting tomorrow
> > at 9:00 AM be tabled until the following meeting date on May 3rd. The
> > project has already been advertised and is listed on the agenda, so
> > anyone in attendance can comment on the project, or wait until the
> > upcoming meetings in May.

> >

> > The latest project proposal and staff comments are available for to
> > review on the City's website at
> > <ftp://ftp.accessfayetteville.org/Published/Development%20Review/>

> >

> > Please don't hesitate to contact me if you have any questions.

> >

> > Sincerely,

> >

> >

> > Jesse Fulcher

> >

> > Jesse Fulcher

> > Current Planner

> > City of Fayetteville

> > 479-575-8267

> > jfulcher@ci.fayetteville.ar.us

> > (TDD 479-521-1316 Telecommunication Device for the Deaf)

We know the university is projected to grow and that we are going to have to find somewhere to house the students. Cleveland Street and Hall is not that place for the following reasons.

The area is heavily trafficked. Cleveland is a two-lane collector street. For some years now the University Heights Neighborhood has been seeking to handle this by putting in a three way stop at Razorback and Cleveland, by putting in sidewalks which narrow Cleveland and let neighbors and elementary school students walk more safely along Cleveland.

The area has a trash problem because it forms the border between the University and the town making it possible for students to smoke on the north side of Cleveland but not on the south. This has created piles of cigarette butts and packages and drink cups and cans and so forth. Mr. Bayari the owner of the rental property has been contacted several times and has even offered to remove his stone wall (where students sit to smoke) but nothing has solved the problem of the sidewalk on the north of Cleveland being a smoking 'lounge'. He, however, has only a 60 unit building.

There is an elementary school directly opposite the prospective Cleveland Project.

There is an intact and well-established neighborhood, the only one bordering the University, where you suggest allowing a unit with 421 parking spaces. Oliver Street alone, one street West of Razorback, contains the following important properties.

1. The chancellor's house.
2. A Fay Jones house formerly called the Hotz House.
3. Another early Fay Jones house, perhaps the earliest.
4. The Oliver Farmhouse circa 1883 with land deeds going back to 1853 (in the process of having placed on the historic registry).
5. The Judge Meriwether House.

And there are other Fay Jones houses and architect designed houses in neighboring blocks.

It would seem in retrospect that this kind of neighborhood should be left alone to continue to evolve as the University does, rather than to erode it until there is no neighborhood anymore. Anyone can enter a campus through athletic facilities and through rental units but it is special to be able to drive and walk among old and homey houses with gardens and sheep pastures. Infill is not going to enhance that. You may think that a rental unit such as the one proposed will not affect the areas I am talking about, but that would be wrong.

So with these ideas I respectfully submit this letter.

Rebecca Newth Harrison
611 North Oliver Avenue
Fayetteville, AR 72701
443-4403

PLANNING COMMISSION MINUTES MAY 14, 2012

R-PZD 12-4079: Residential Planned Zoning District (N.W. CORNER OF W. CLEVELAND ST. & HALL AVE./PROJECT CLEVELAND, 443): Submitted by MCCLELLAND CONSULTING ENGINEERS, INC. for property located at the NORTHWEST CORNER OF WEST CLEVELAND STREET AND HALL AVENUE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and RMF-40, RESIDENTIAL MULTI FAMILY, 40 UNITS PER ACRE, and contains approximately 2.71 acres. The request is for zoning, land use and large scale development approval for a Residential Planned Zoning District with 122 multi-family dwellings.

Jesse Fulcher, current planner, read the staff report.

Seth Mims, applicant, stated that they were trying to create a walkable, urban development, designed to meet the goals of City Plan 2030. The project was aimed at collegiate housing for university workers and students. Most of the residents will walk or bike due to the proximity to campus, and due to the cost to park in another location on campus. The project has been modified greatly since the first submittal, and we have added in a pocket park and tree preservation areas that will be open to the public. We will use low impact development standards in the landscaped areas. The second traffic study that was just completed confirmed the findings of the first study. We will be installing 10' cross-walks at the intersections and included lights in the cross-walks for added visibility. We feel that this project provides an appropriate transition between the university and the neighborhood. The university is growing and new housing needs to be provided. This will also get students out of the existing neighborhoods, and reduce carbon emissions by reducing vehicle trips from those neighborhoods. The project will be LEED certified and will be safe housing, with secure parking in a traditional town form.

Marty Matlock, neighbor, commended the developers for working with the community, but there are three main concerns; 1) safety at the street intersections with so many elementary students and existing problems with Cleveland Street; 2) the scale of the building is too much, there is already a transition provided by the existing apartment complex; and 3) they aren't providing an appropriate transition between land uses.

Kenneth Garner, neighbor, stated that he owns 6 acres behind the houses on Hall Avenue. The addition of this development to the housing that will be provided in Reid and Hotz Halls when they are converted back into student housing, will ruin my quality of life.

Maria Williams, neighbor, stated that more student housing isn't needed, and that there is already a transition provided by the existing apartment complex. Students won't have to drive to school, but they will drive to other locations.

Janet McCullum, neighbor, stated that she doesn't see how raised intersections will help; they don't work on Block Street. How will emergency responders address this much density. There are only 421 parking spaces for 450 beds. On street parking shouldn't be allowed and overflow parking will end up on the elementary school property. There will also be more wrecks at Hall and Wedington, because you can't see west very well.

Susan Gardner, neighbor, stated that she was opposed to the development; concerned with safety of pedestrians and smokers from campus. The 450 students that will live in development will create too much traffic and the proposed street improvements will not help.

Commissioner Chesser asked about the bedroom count per unit.

Mims stated that there will be a mixture of bedroom counts.

Commission Chesser asked if the traffic study looked at the times of trips.

Mims stated that the study did evaluate times throughout the day, including peak AM, peak school PM and peak PM times.

Fulcher clarified where the level of service was being reduced.

Commission Chesser stated that he lives in the neighborhood and will be walking a child to the elementary school as well. The on street parking will increase safety for pedestrians and reduce vehicular speeds. Supports the building design.

Commissioner Honchell asked about the classification of Razorback Road.

Chris Brown, City Engineer, stated that it is state HWY 112 up to Maple Street, and is a local street from there to Cleveland.

Commission Honchell noted that it was a nice project and complimentary to future expansion in the area.

Commissioner Winston asked about residents using the school property to park.

Fulcher stated that the school was private property.

Commission Winston asked about the amount of parking spaces.

Mims described the parking spaces, scooter and bike spaces that will be provided.

Fulcher read over the parking requirements for multi-family development and stated that this proposal was well within code requirements.

Commission Winston stated that the project was appropriate, with increase density around the university, and that the street improvements will help with existing and projected traffic conditions.

Commission Chesser discussed how the increased density, on-street parking, and street improvements will improve safety and reduce speeds.

Commission Cook stated that the pedestrian and street improvements were good, and the climbing lane will be a benefit. The changes to the building height and size are an improvement. The existing zoning of the site is odd in this location. Hopefully, future multi-family development will not extend further beyond this site. The proposal is consistent with the future land use plan.

Motion:

Commissioner Honchell made a motion to forward **R-PZD 12-4079** to the City Council with a recommendation for approval finding in favor of recommendations 1, 2, and 3, and all other conditions. **Commissioner Hoskins** seconded the motion. **Upon roll call the motion passed with a vote of 7-1-0 (Commissioner Pennington voting 'no' and Commission Cabe absent).**

Project Cleveland

planned zoning district application **PZD 12-4079**



MAY 17, 2012

DEVELOPER

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MCE McCLELLAND
CONSULTING
ENGINEERS, INC.



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_ a: current ownership information.

Property 1: Fadil Bayyari Trust is the current property owner and there is a pending sale of the property to Specialized Real Estate Group.

2025 Creekview #B
Fayetteville, AR 72704

Property 2: Linda Berry Trust 1 is the current property owner and there is a pending sale of the property to Specialized Real Estate Group.

PO Box 565
Johnson, AR 72741

Property 3: Charles + Marianne Baxter are the current property owners and there is a pending sale of the property to Specialized Real Estate Group.

805 N. Hall Avenue
Fayetteville, AR 72701

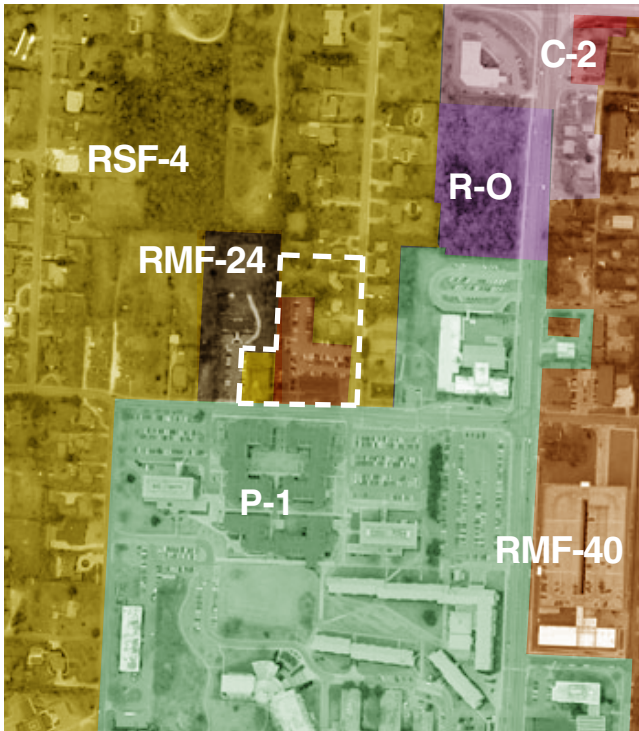


map of ownership.

_ b: project summary.

The subject property is located on the northwest corner of Cleveland Street and Hall Avenue, address 1220 West Cleveland Street. It contains 2.71 acres with 5 individual lots currently owned by three different owners with a pending sale to Specialized Real Estate Group.

The property to the west is zoned RMF-24, the property to the north is zoned RSF-4, the property to the east is zoned RSF-4 with an adjacent P-1 zone (Leverett Elementary School), and the property to the south is zoned P-1 (University of Arkansas Campus).



local zoning map.



walkscore: 75 *Very Walkable*
www.walkscore.com

This proposed Planned Zoning Development seeks to identify, prioritize, and appropriately remedy a recognizable zoning gap within the thoughtful and progressive zoning districts within the City of Fayetteville. Along the University of Arkansas edges and corridors there are significant areas of scale and use transitions that could ultimately result in more positive transects with the introduction of a new planned zoning district that is outlined within this document: Campus Edge Zoning District.

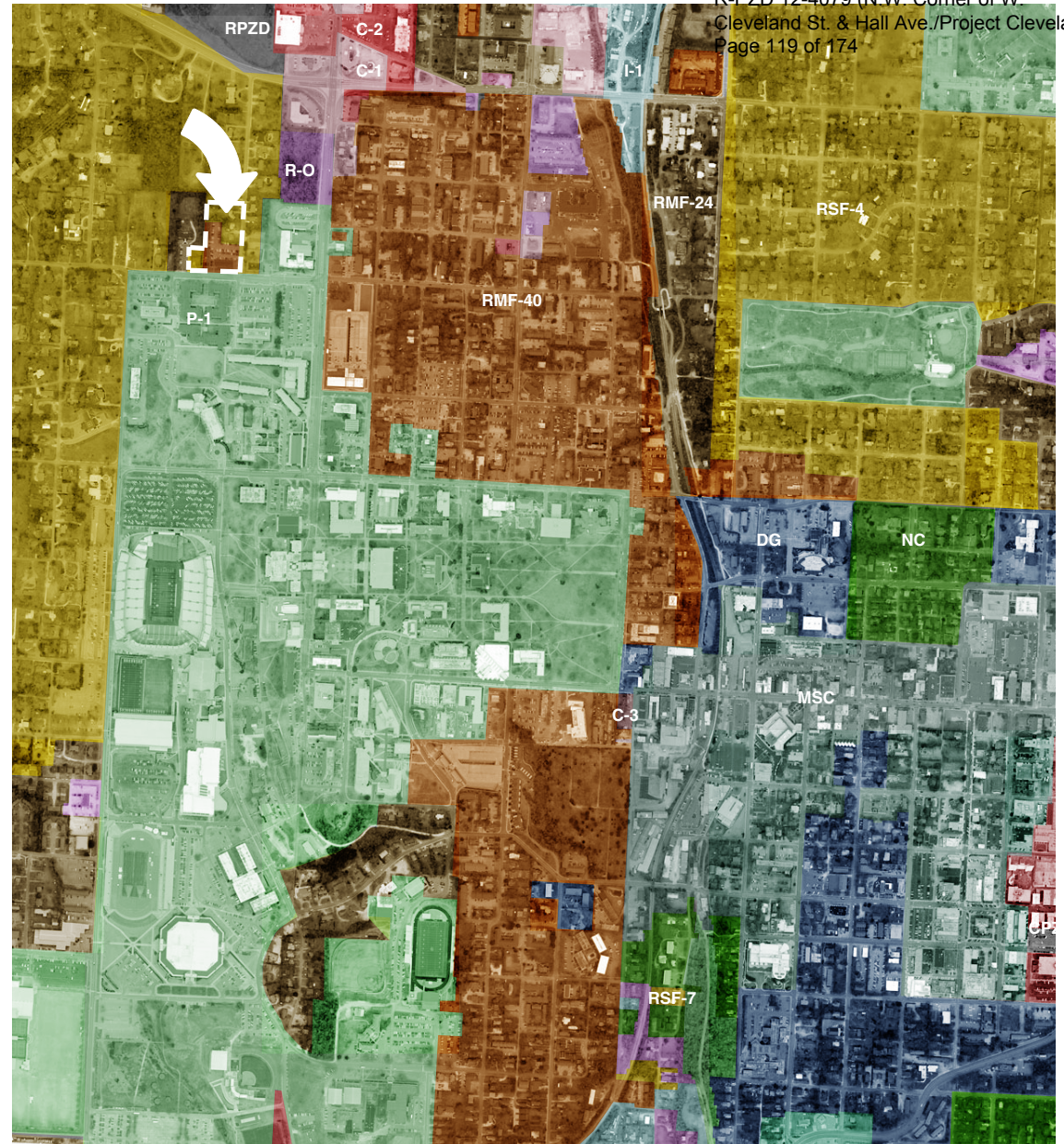
The proposed district allows for the required density to make development practical and viable combined with architectural scale transitions that are uniquely and appropriately addressed based on the site constraints and general context within the fabric of the city. These goals are achieved by creating a zoning district that is balanced by utilizing an existing zoning district, Downtown General, and eliminating inappropriate commercial uses while increasing the height limit along the institutional edges of the property. This allows for a better transition within the immediate context around the University of Arkansas. Design standards will adhere to the same qualities that are mandated in the City of Fayetteville Downtown Design Overlay District, further expanding the overall aesthetic and material quality further into the built environment of our city.

Ultimately, this project will reinforce and expand the goals of the Fayetteville 2030 plan, provide attainable, safe, modern living and amenities, and become another sustainable site/building example by meeting a minimum of LEED Silver certification. Furthermore, this project will reduce commuting traffic and city infrastructure expansion by avoiding typical sprawl development in favor of dense, walkable infill. All of these attributes are combined to provide a development that fulfills the growing need for attainable multifamily housing in the City of Fayetteville.

- our developmental philosophies
- multifamily options that encourage walking and are on established transit routes are better than sprawl
 - good development adhering to good design standards is a better option for the neighborhood than what could be built under current zoning by right
 - 'sustainability' is not just a buzz word when good basic site and building design principles are actually being used to benefit people, planet, and profit. the promised low impact development site strategies and the track record of this development team supports this stance.

our developmental attributes:

- ↖ we are conserving land
(parking garage, high density, small site, no sprawl)
- ↖ we are conserving, controlling, and filtering storm water
(bioswales, raingardens, underground detention, rainwater harvesting for irrigation and fixing existing stormwater runoff problems on adjacent parcels)
- ↖ we are reducing energy consumption
(LEED certified construction, efficiency in density)
- ↖ we are reducing carbon emissions and traffic congestion
(less commuter traffic, more resource efficient density)
- ↖ we are pulling students out of single family neighborhoods
(and putting them 50 feet across the street from the U of A)
- ↖ we are providing safe student housing
(secure access to the parking garage, apartments, and on-site amenities)
- ↖ we are respecting traditional town form
(stoops, wide sidewalks with trees, green spaces, and lower building heights adjacent to single family homes)
- ↖ we are adhering to Transit Oriented Development
(bus route, walkability)



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area zoning map.





1. street + lot layout.

There is a single lot type in Project Cleveland consisting of multifamily units along all street fronts with a parking garage wrapped by residential building and an interior courtyard. This project potentially could house a neighborhood coffee shop, small market or sidewalk cafe on the ground floor near the courtyard entrance on Hall Avenue that would primarily serve the residents of this property, the neighborhood and adjacent University of Arkansas dormitories.

Other tenant clubhouse/amenities are proposed for the interior of the building, near the east side. These amenities would provide indoor fitness, gathering, and lounge spaces along with an exterior pool and terrace.

Access to the parking garage is from the east on Hall Avenue. Fire lanes will be on two sides: south and east.

2. site plan showing proposed improvements.

The site plan illustrates the disposition of the building on the site and shows the location of new sidewalks, trees, and other improvements. Please refer to the Civil plats for additional improvements information.

Sanitary sewer, storm sewer, and water lines will all be built and deeded to the City of Fayetteville, along with all necessary right-of-ways.

3. buffer areas.

There are no additional provided buffer areas on the site outside of what is required to meet the provisions of the Unified Development Code.

4. tree preservation areas.

Trees located on the west/southwest corner and northwest corner of the project site will be protected and preserved according to Title XV of the Unified Development Code, Chapter 167: Tree Preservation and Protection, as shown on tree preservation drawings.

No trees located on adjacent properties will be removed.

5. storm water detention areas + drainage.

The development will not increase the amount of storm runoff from the site to the adjacent properties more than currently exists. Runoff on the site will be detained underground in the courtyard area. The runoff will be released at a rate such that the peak runoff is not increased due to the development. The runoff will discharge into existing storm drainage along Hall Avenue.

6. undisturbed natural areas.

There are no undisturbed natural areas on site.

7. existing + proposed utility connections and extensions.

Approximately 312 LF of the existing 6" waterline running west from the intersection of Cleveland Street and Hall Avenue will need to be upgraded to an 8" waterline. Additionally, approximately 460 LF of existing 6" waterline running northward from the intersection of Cleveland Street and Hall Avenue would need to be upgraded to a 12" waterline.

The existing 6" sanitary sewer line that runs north/south on Hall Avenue will need to be upgraded to an 8" sanitary sewer line. This upgrade would need to occur from the intersection of Wedington Drive, south to Project Cleveland's northeast property corner (approx. 915 LF).

8. development + architectural design standards.

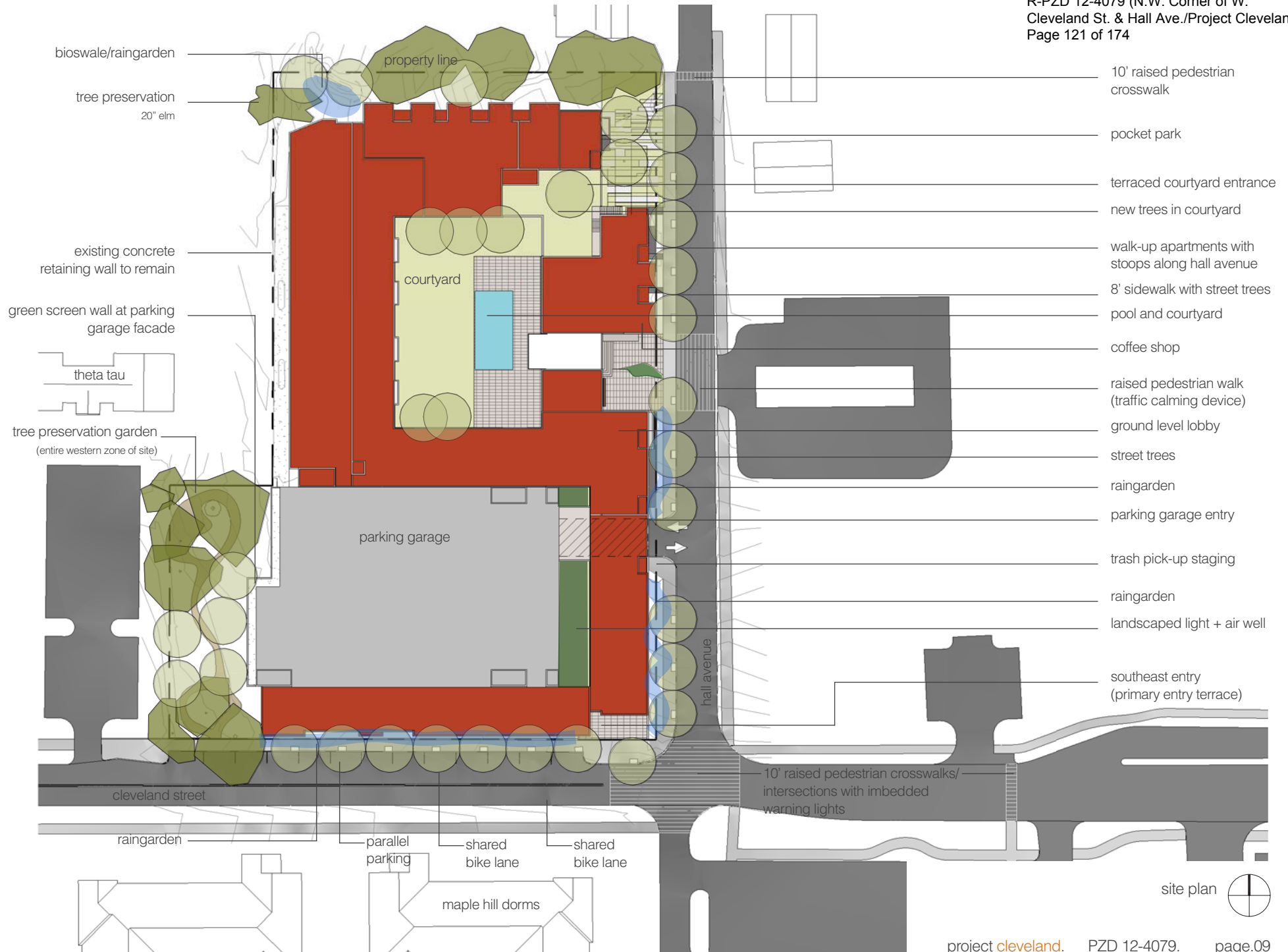
This multi-family development is currently designed for 122 units, 450 beds.

The project adopts a modern aesthetic appropriate to its scale and location within the city. Clean lines, clearly defined volumes, and precise arrangement of the elements relative to local topographic conditions of the site characterize the architectural design.

Development and Architectural Standards are provided in the Zoning Criteria for the Planning Area.

9. building elevations.

See proposed building elevations + perspective views on pages 10-14.



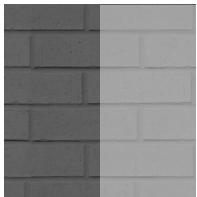


south elevation.



east elevation.

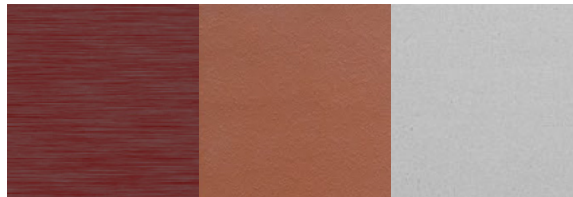
material options:



gray brick.



gray + white stucco.



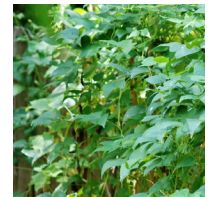
rainscreen panel system options:
composite metal, terracotta panel, cement fiberboard panel



cedar siding.



architectural concrete.



green screen.



north elevation.



west elevation.

*these views are in-process perspectives, subject to change.

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view looking south along hall.

*these views are in-process perspectives, subject to change.

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view looking west from the intersection of cleveland and hall.

*these views are in-process perspectives, subject to change.

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view looking northeast along cleveland street.



aerial view from the northeast.

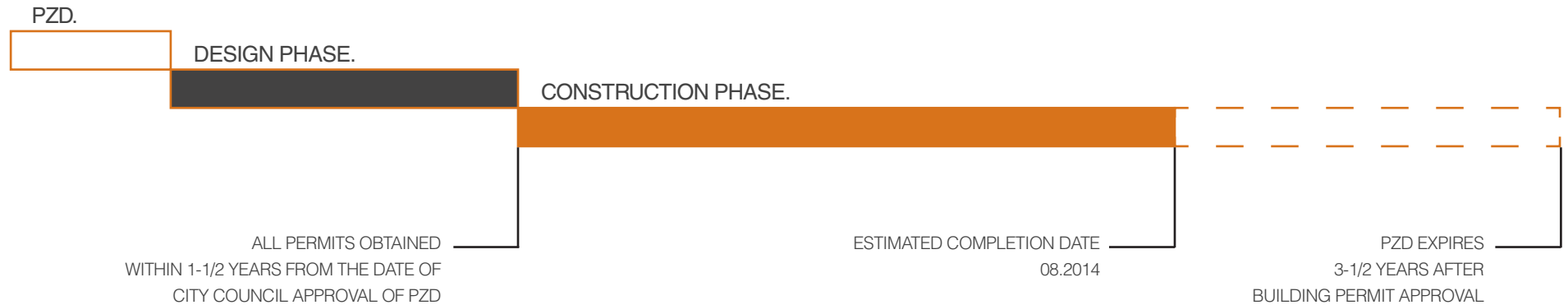


axon view from the northeast.

_ d: proposed development phasing + time frame.



Since this is essentially a single-building proposal, this project will consist of one phase. The project will be constructed in totality through the estimated time frame of the proposal. All permits necessary to begin construction shall be obtained within one-and-a-half years from the date of city council approval of the PZD. A final certificate of occupancy shall be obtained within three-and-a-half years from the building permit approval.



phasing + time frame diagram.

_ e: proposed planning areas (PA).

There will be only one planning area proposed in this
PZD: PA.1: Campus Edge.

PA.1: CAMPUS EDGE

PERMITTED USES

unit 1: city-wide uses by right.
unit 8: single-family dwellings.
unit 9: two-family dwellings.
unit 10: three-family dwellings.
unit 26: multi-family dwellings.

CONDITIONAL USES

unit 4: cultural + recreational facilities.
unit 12: limited business.
unit 13: eating places.
unit 15: neighborhood shopping goods.
unit 40: sidewalk cafes.

DENSITY

none.

LOT WIDTH MINIMUM

dwelling (all unit types)

18 ft.

LOT AREA MINIMUM

none.

LAND AREA PER DWELLING UNIT

n/a.

REQUIRED SETBACKS [see diagram on page 19]

front	build-to zone from front property line to 25'
side	10'
rear	0'

MINIMUM BUILDABLE STREET FRONTAGE

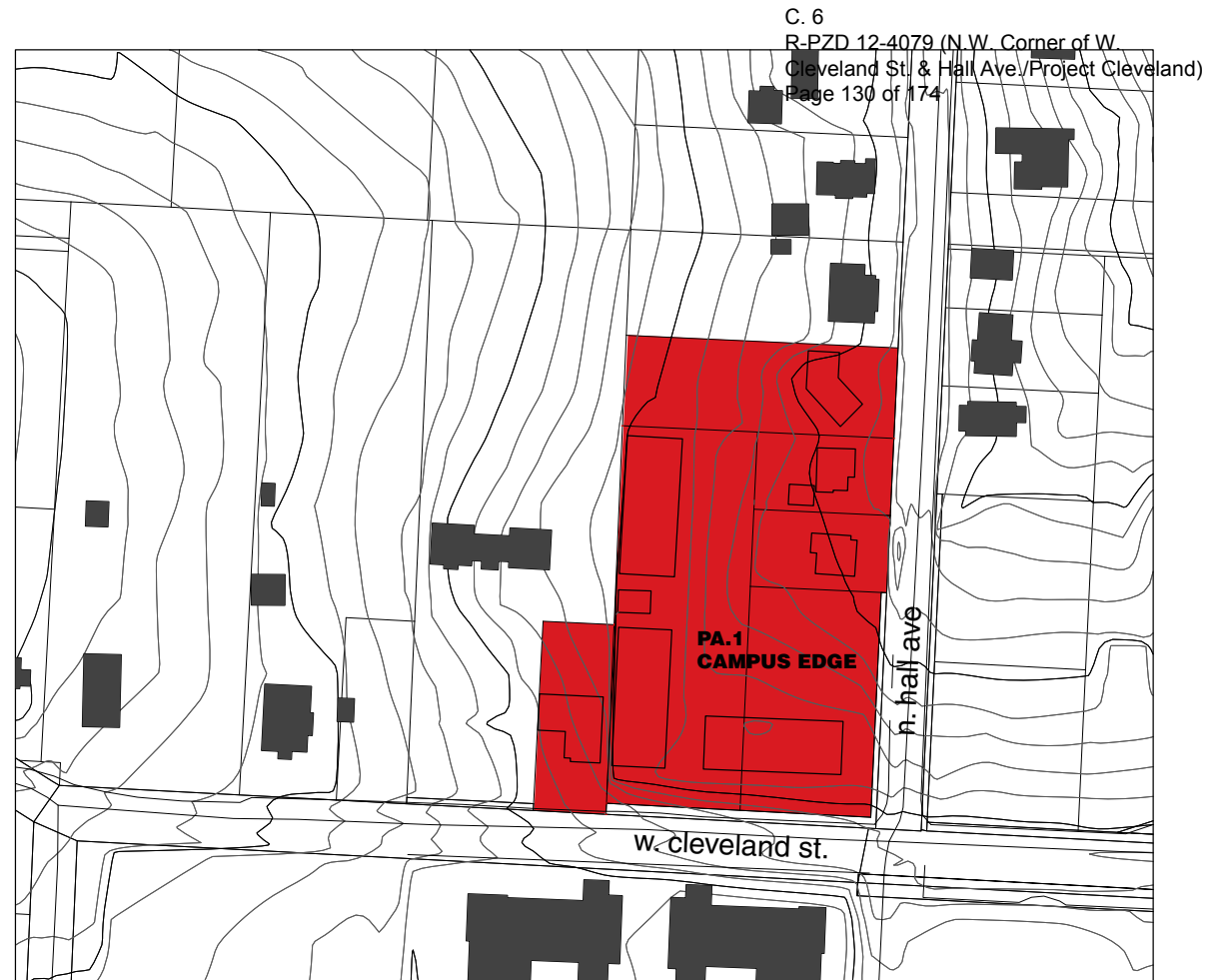
50% of lot width.

HEIGHT REGULATIONS [see diagram on page 19]

60 ft. maximum

LANDSCAPING

In accordance with the City of Fayetteville Unified Development Code.



PA map.



PARKING

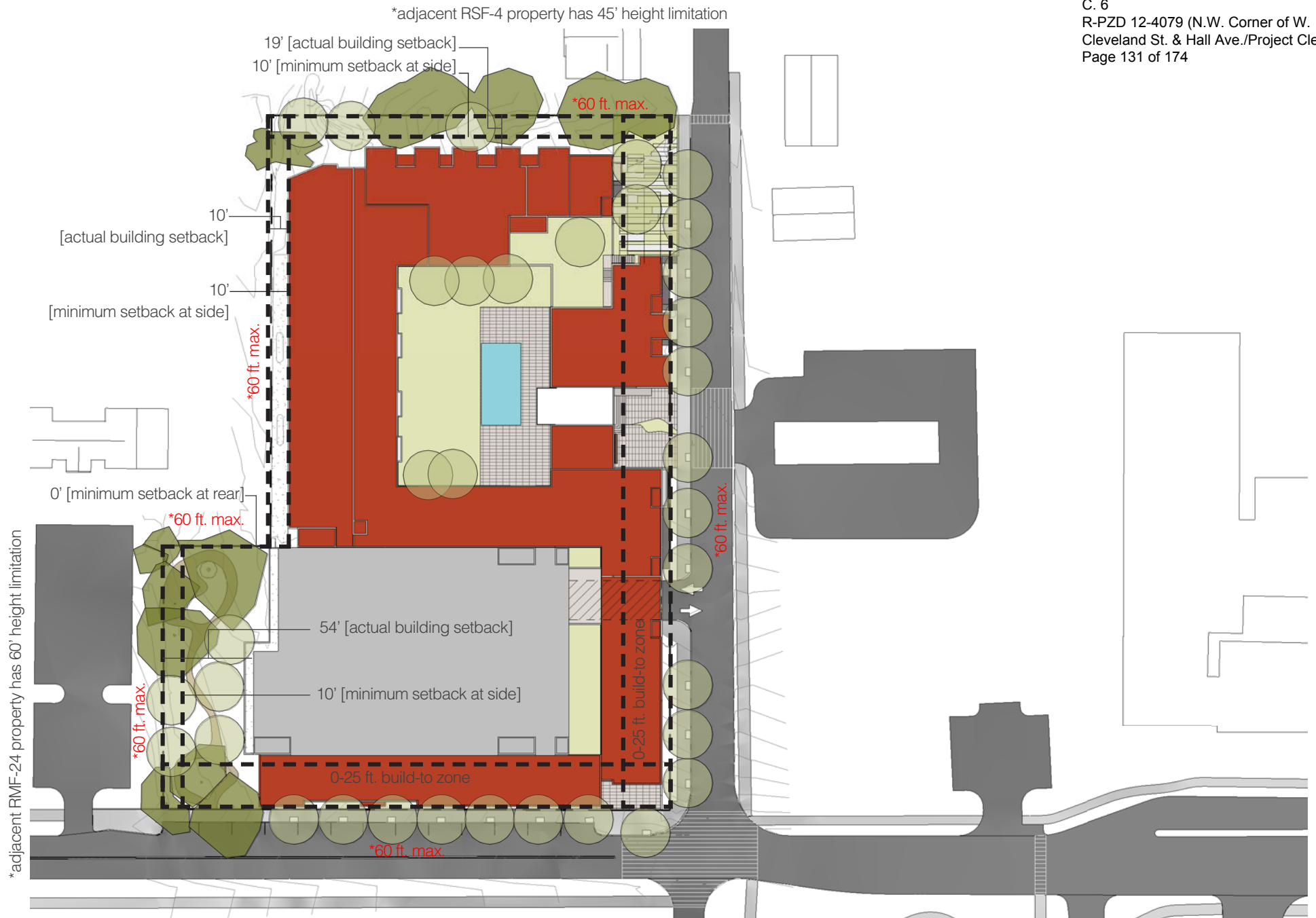
In accordance with the City of Fayetteville Unified Development Code.

ARCHITECTURAL DESIGN

All structures shall be designed and constructed to comply with the architectural design standards of the PA-1 Planning Area and all Downtown General design standards.

SIGNAGE

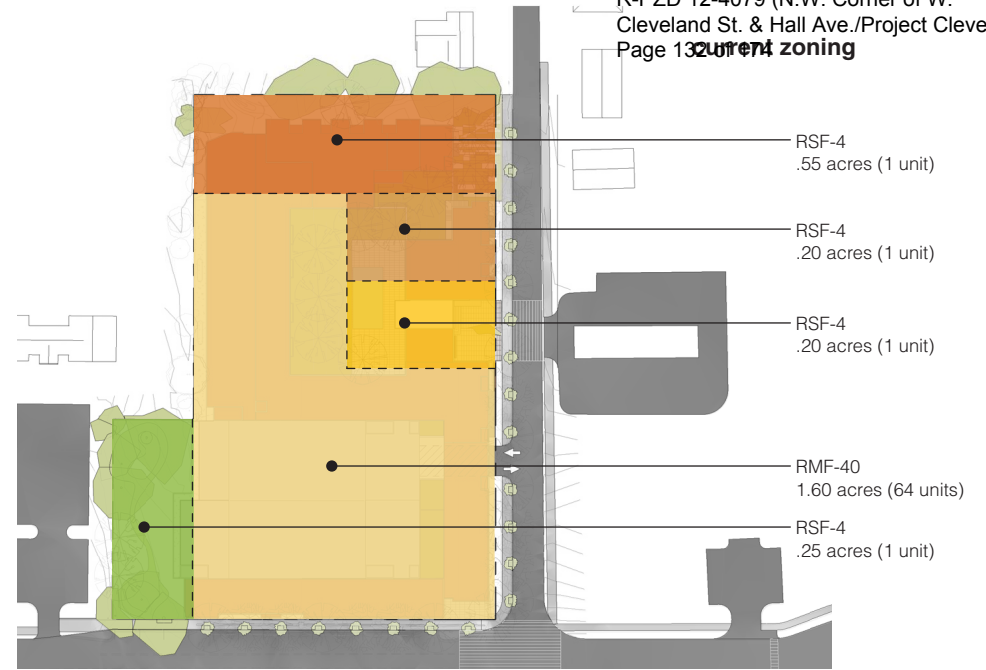
In accordance with the City of Fayetteville Unified Development Code Chapter 174 requirements for multi-family districts.



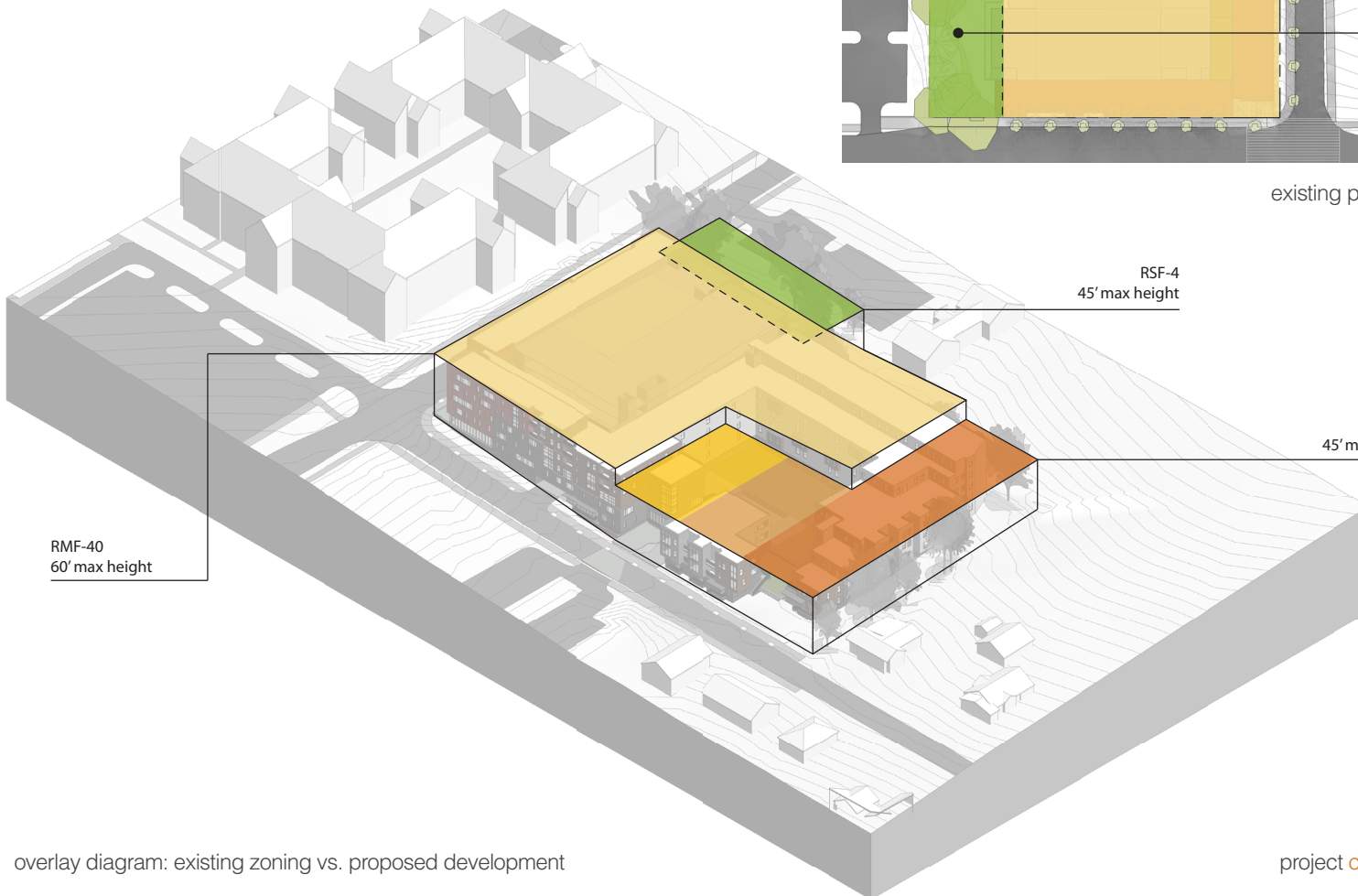
required setbacks + height regulations diagram



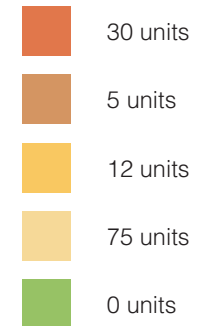
*60 ft. building height maximum above projected existing grade plane to top of occupied spaces



existing parcels plan 



proposed units



_ f: proposed zoning + development standards.

Permitted uses will consist mostly of all residential dwelling types, with conditional uses being that of cultural and recreational facilities, eating places, neighborhood shopping goods, and sidewalk cafes.

There will be no maximum density and no lot area minimums. The lot width minimum for all dwelling unit types will be 18 feet.

The required front setback will be a build-to zone from the front property line to 25 feet into the site. The front of the property is referring to the sides facing Cleveland Street and Hall Avenue. The sides of the property will have a required setback of 10 feet. The sides of the property are referring to those property lines facing west towards Theta Tau. The rear will have no required setback. The rear of the property is referring to the side to the west of the building, facing north. [see the required setbacks diagram on page 19]

The minimum buildable street frontage will be 50% of the lot width on each street facing facade.

Height restrictions on all sides will be a uniform maximum of 60 feet above projected existing grade plane to top of occupied spaces.

All structures shall be designed and constructed to comply with the architectural design standards of the PA-1 Planning Area, Downtown Design Overlay District, and all City design standards.

The landscaping, parking, and signage will all be installed in accordance with the City of Fayetteville Unified Development Code.



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aerial photo + diagram of surrounding area.





ZONE	RSF-4 [portion of current zoning]
PERMITTED USES	unit 1: city-wide uses by right. unit 8: single-family dwellings. unit 41: accessory dwellings.
CONDITIONAL USES	unit 2: city-wide uses by CUP. unit 3: public protection + utility facilities. unit 4: cultural + recreational facilities. unit 5: government facilities. unit 9: two-family dwellings. unit 12: limited business. unit 24: home occupation. unit 36: wireless communications facilities.
DENSITY	4 or less single-family units, 7 or less two-family units.
LOT WIDTH MINIMUM	single-family 70 ft. single-family [hillside overlay district] 60 ft. two-family 80 ft. two-family [hillside overlay district] 70 ft.
LOT AREA MINIMUM	single-family 8,000 sq. ft. single-family [hillside overlay district] 8,000 sq. ft. two-family 12,000 sq. ft. two-family [hillside overlay district] 12,000 sq. ft.
LAND AREA PER DWELLING UNIT	single-family 8,000 sq. ft. single-family [hillside overlay district] 8,000 sq. ft. two-family 6,000 sq. ft. two-family [hillside overlay district] 6,000 sq. ft.

REQUIRED SETBACKS	front 15 ft. side 5 ft. rear 15 ft.
MINIMUM BUILDABLE STREET FRONTAGE	none
HEIGHT REGULATIONS	45 ft. maximum. existing structures shall be grandfathered in.

ZONE	RMF-40 [portion of current zoning]
PERMITTED USES	unit 1: city-wide uses by right. unit 8: single-family dwellings. unit 9: two-family dwellings. unit 10: three-family dwellings. unit 26: multi-family dwellings.
CONDITIONAL USES	unit 2: city-wide uses by CUP. unit 3: public protection + utility facilities. unit 4: cultural + recreational facilities. unit 5: government facilities. unit 11: manufactured home park. unit 12: limited business. unit 24: home occupation. unit 25: professional offices. unit 36: wireless communications facilities.
DENSITY	40 units or less.
LOT WIDTH MINIMUM	manufactured home park 100 ft. lot within a manufactured home park 50 ft. single-family 60 ft. two-family 60 ft. three or more 90 ft. professional offices 100 ft.
LOT AREA MINIMUM	manufactured home park 3 acres. lot within a manufactured home park 4,200 sq. ft. townhouses: development individual lot 10,000 sq. ft. single-family 6,000 sq. ft. two-family 6,500 sq. ft. three or more 8,000 sq. ft. fraternity or sorority 1 acre.
LAND AREA PER DWELLING UNIT	manufactured home park 3,000 sq. ft. townhouses + apartments no bedroom 1,000 sq. ft. one bedroom 1,000 sq. ft. two or more bedrooms 1,200 sq. ft. fraternity or sorority 500 sq. ft. per resident.

REQUIRED SETBACKS	front build-to zone of 10-25 ft. side 8 ft. rear 20 ft.
MINIMUM BUILDABLE STREET FRONTAGE	50% of lot width
HEIGHT REGULATIONS	60 ft. maximum. any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

ZONE	DOWNTOWN GENERAL [for comparison purposes]
PERMITTED USES	unit 1: city-wide uses by right. unit 4: cultural + recreational facilities. unit 5: government facilities. unit 8: single-family dwellings. unit 9: two-family dwellings. unit 10: three-family dwellings. unit 13: eating places. unit 15: neighborhood shopping goods. unit 24: home occupations unit 25: offices, studios, + related services. unit 26: multi-family dwellings.
CONDITIONAL USES	unit 2: city-wide uses by CUP. unit 3: public protection + utility facilities. unit 14: hotel, motel + amusement services. unit 16: shopping goods. unit 17: transportation trades + services. unit 19: commercial recreation, small sites. unit 28: center for collecting recyclable materials. unit 36: wireless communications facilities. unit 40: sidewalk cafes.
DENSITY	none.
LOT WIDTH MINIMUM	dwelling (all unit types) 18 ft.
LOT AREA MINIMUM	none.
LAND AREA PER DWELLING UNIT	n/a.

REQUIRED SETBACKS	front build-to zone from front property line to 25 ft. side none. rear 5 ft. rear, from center line of alley 12 ft.
MINIMUM BUILDABLE STREET FRONTAGE	50% of lot width.
HEIGHT REGULATIONS	4 stories or 56 ft. [whichever is less]

ZONE	PA.1: CAMPUS EDGE	
PERMITTED USES	unit 1: city-wide uses by right. unit 8: single-family dwellings. unit 9: two-family dwellings. unit 10: three-family dwellings. unit 26: multi-family dwellings.	
CONDITIONAL USES	unit 4: cultural + recreational facilities. unit 12: limited business. unit 13: eating places. unit 15: neighborhood shopping goods. unit 40: sidewalk cafes.	
DENSITY	none.	
LOT WIDTH MINIMUM	dwelling (all unit types)	18 ft.
LOT AREA MINIMUM	none.	
LAND AREA PER DWELLING UNIT	n/a.	

REQUIRED SETBACKS	front build-to zone from front property line to 25' side 10' rear 0'
MINIMUM BUILDABLE STREET FRONTAGE	50% of lot width.
HEIGHT REGULATIONS	60 ft. building height maximum above projected existing grade plane to top of occupied spaces.

analysis of site characteristics.

Project Cleveland's site is bounded on two sides by existing streets. To the east is Hall Avenue and to the south is Cleveland Street.

The property slopes from the south to the north and is currently covered in a mix of apartments, single-family homes, and a sparatic tree canopy. There are no tributaries or drainage ways on site besides the swale along the north edge of the property, which runs west to east.

Located just north of the University of Arkansas Campus and just west of Leverett Elementary School, the site has views towards the Maple Hill dormitory complex and Hotz Hall to the south, as well as views east and north of existing homes, and west towards the Theta Tau house.

_ h: recreational facilities, open space + accesses.



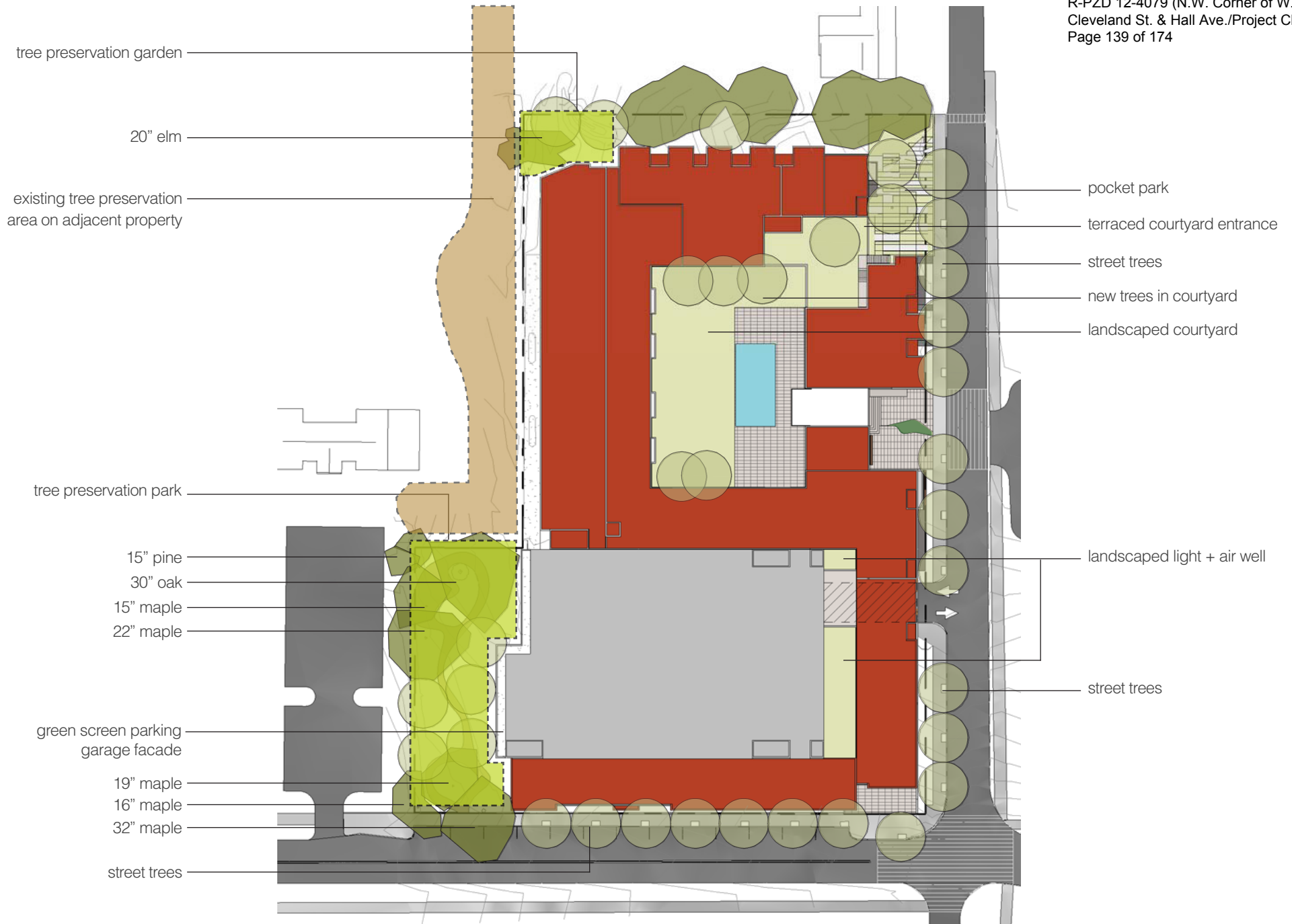
This project proposes two new greenspaces, one at the tree preservation garden that occupies the western portion of the property, and one on the north-east corner of the property, adjacent to Hall Avenue. These open areas will be accessible and usable by tenants as well as neighbors. These are not specifically dedicated parks, but will be maintained by the development for the greater benefit of the neighborhood.

City of Fayetteville public parks and open areas exist within ready access to this project, including Asbell Park, Wilson Park, Agri Park, Hotz Park, and Old Main Lawn at the University of Arkansas. Large areas of the university campus also serve as a greenspace. This project is within close proximity to bike trails such as Scull Creek Trail, Frisco Trail, and Oak Ridge Trail.

_ i: reason for requesting zoning change.

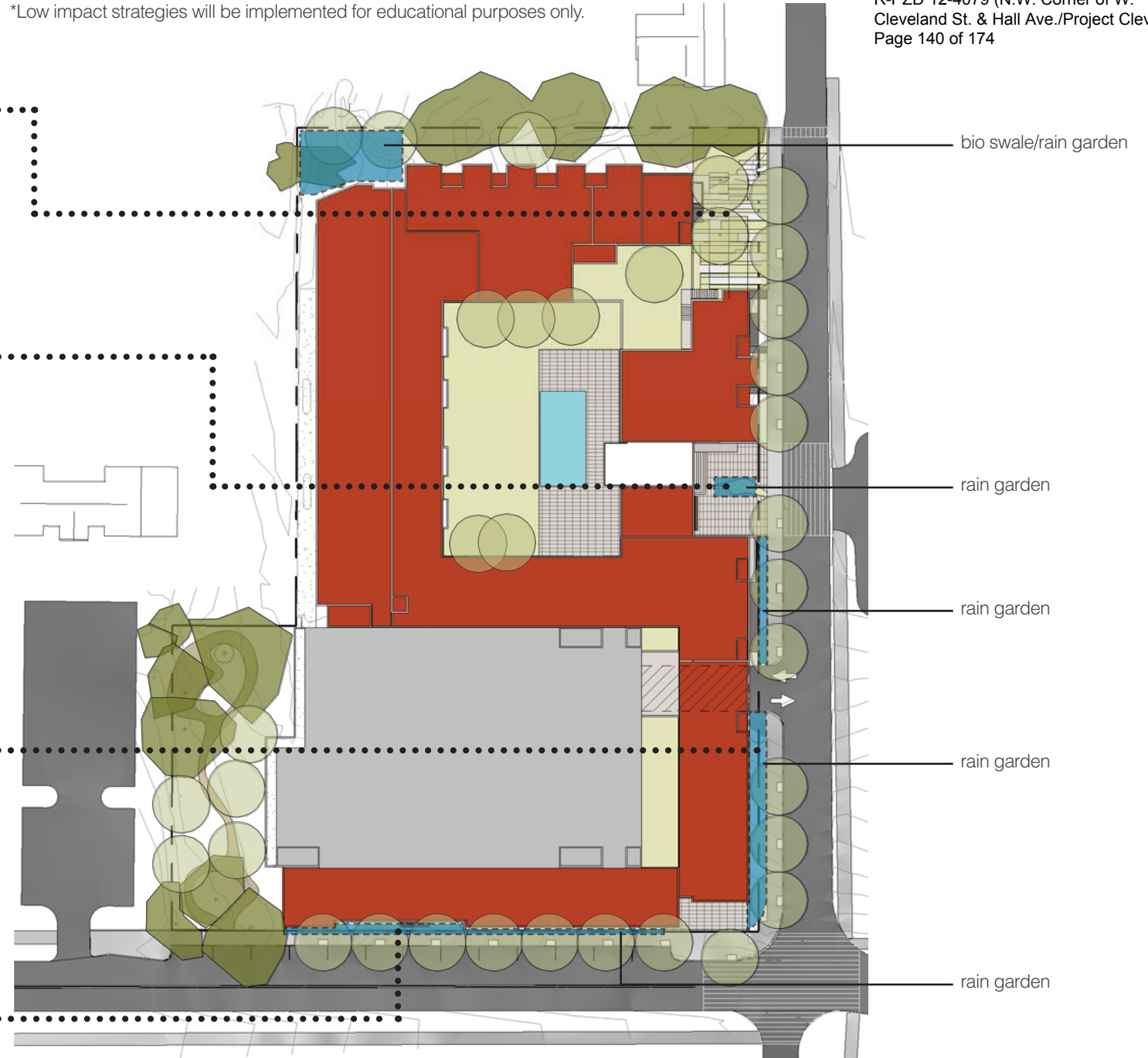


A development such as Project Cleveland would not be possible under other zoning districts. There currently exists a gap in the existing city zoning that does not properly address sites adjacent to the University campus. This Campus Edge zone requires an advantageous density in order to best utilize the site. The project designers wish to present current and future residents some of the lifestyle amenities that the Fayetteville 2030 City Plan provides by encouraging pedestrian street life yet in a more appropriately urban manner.



tree preservation garden + outdoor space diagram. 

*Low impact strategies will be implemented for educational purposes only.



low impact design diagram.



_j: relationship to the existing + surrounding properties.



To the west is the Theta Tau house along with other single-family residences, to the north are single family residences. Adjacent to the east are single-family rentable homes as well as Leverett Elementary School. Further to the east are approximately four square blocks of multi-family structures. Directly across the street to the south is the large University of Arkansas campus dormitory complex, Maple Hill, and the nine story dormitories Hotz Hall and Reid Hall.

Project Cleveland will solidify the corner of Cleveland Street and Hall Avenue, and address the rather large presence of the Maple Hill, Hotz Hall, and Reid Hall dormitories. The facade of these streets will be solid and consistent when adjacent to larger institutional zones, while scale will be gradually broken down when adjacent to more residential zoning and buffered with landscape screening systems. The building will be a safe and pleasant distance from the street and feature sidewalks and landscaping.

The traffic will access Project Cleveland from Hall Avenue traveling north from Cleveland Street. The majority of traffic from Cleveland Street will be from the east, but there will be a smaller amount from the west. This will be in accordance with the UDC access management.

All signage is to comply with the City of Fayetteville Unified Development Code.



figure ground of surrounding neighborhood.



project cleveland.
multi-family housing.

figure ground of greater campus area.



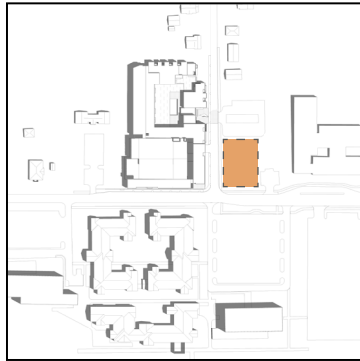


east elevation with site context + height comparison.

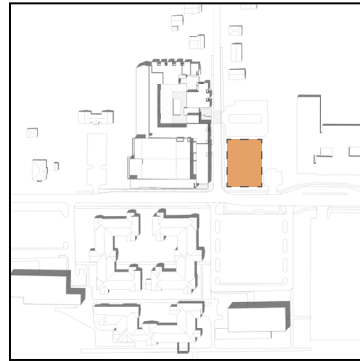
shadow study | summer solstice



9 AM



11 AM



1 PM



3 PM



5 PM

shadow study | winter solstice



9 AM



11 AM



1 PM



3 PM



5 PM

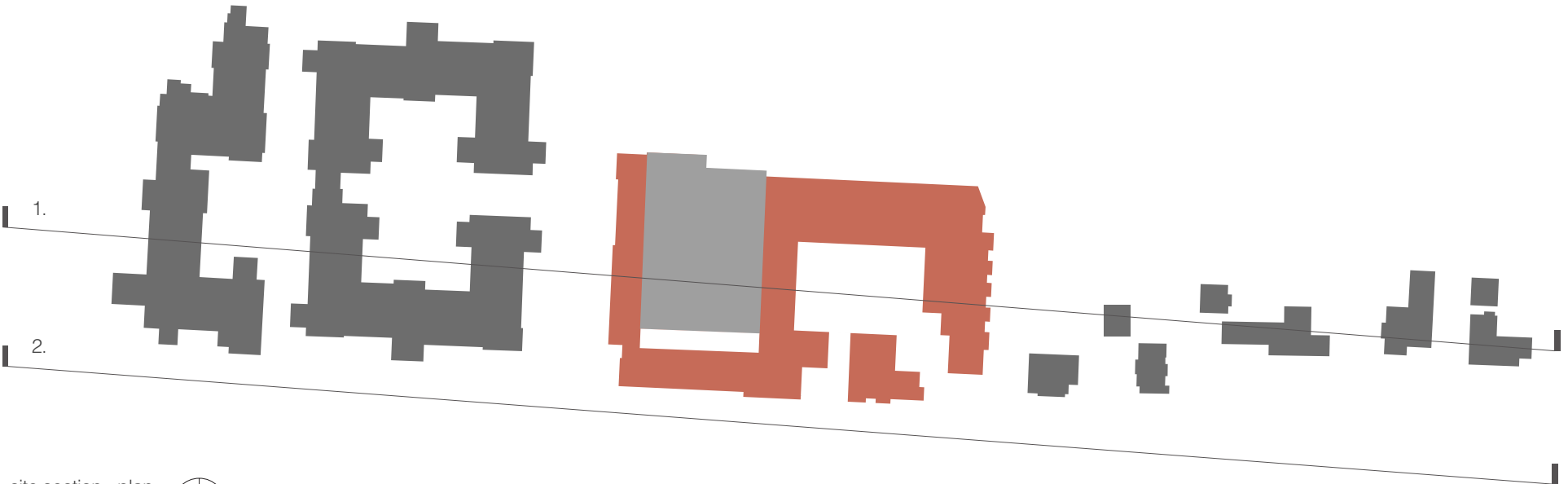
 leverett elementary school playground area



1. site section running north/south through maple hill dormitory, project cleveland, + homes on hall avenue - looking west



2. site section running north/south through hall avenue - looking west



site section - plan 



project cleveland

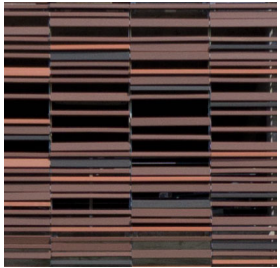
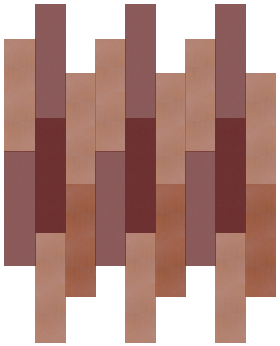


campus edge diagram

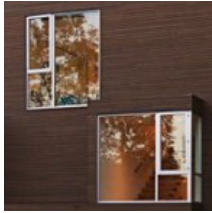
The Campus Edge Zone provides an appropriate connection between two different, yet compatible land uses, one being the dense University of Arkansas campus, and the other being the lower density housing areas which surround the campus. This zone allows for larger massing to be situated near campus with that massing reducing in scale and height as it moves toward lower density areas. The materials also transition from institutional to more residential types.



university of arkansas garland center



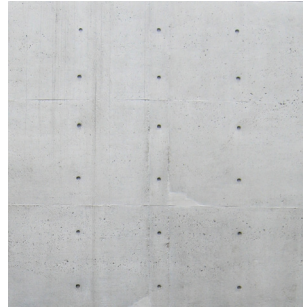
rainscreen



operable glazing



storefront glazing



architectural concrete

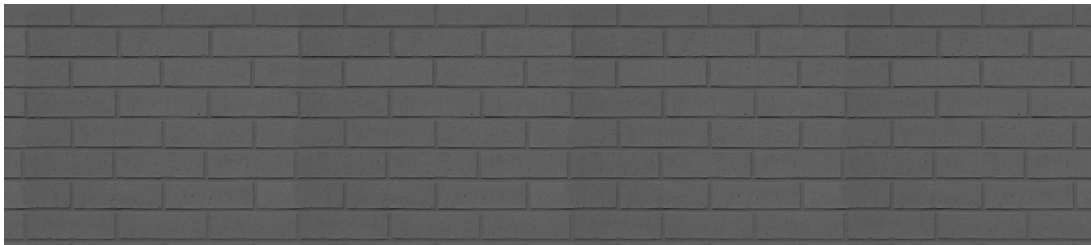


stucco



wood

institutional palette residential palette



dark brick



light brick

material transitions



a. 824 n. hall ave



b. 816 n. hall ave



c. 800 n. hall ave



d. 1164 w. cleveland ave



e. 1220 w. cleveland ave ★



f. 725 n. hall ave ★



g. 727 n. hall ave ★



h. 805 n. hall ave ★





i. 1400 w. cleveland st.



j. 1338 w. cleveland st.



k. 1326 w. cleveland st.



l. 1322 w. cleveland st.



m. 1236 w. cleveland st. *



e. 1220 w. cleveland st. *



n. 1164 w. cleveland st.



d. 1100 w. cleveland st.



o. 1175 n. garland ave.



p. 1261 w. cleveland st.



q. 1263 w. cleveland st.



r. 1365 w. cleveland st.

* indicates building is currently occupying the project cleveland site.



CITY OF FAYETTEVILLE PLANNING GOALS.

GOAL 1 We will make appropriate infill and revitalization our highest priorities.	Project Cleveland's infill strategy will provide a more appropriate density for this Campus Edge zone by utilizing the property to it's correct potential. More units in close proximity to the University and other neighborhood services will encourage even more appropriate development and revitalization right where it is needed.
GOAL 2 We will discourage suburban sprawl.	Project Cleveland discourages suburban sprawl by concentrating residential population near the center of the city and near the University campus, encouraging more revitalization in this area, and decreasing traffic and infrastructure expansion demands on the rest of the city.
GOAL 3 We will make traditional town form the standard.	Project Cleveland encourages the values of traditional urban life by encouraging pedestrian activity through a street-level cafe or coffee shop and relegating parking and building services to the interior of the building.
GOAL 4 We will grow a livable transportation network.	Project Cleveland encourages the use of alternative transportation methods by being directly on the Razorback Transit route, being in close proximity to the University campus, being in close proximity to bike trails, and providing appropriately scaled and usable sidewalks.
GOAL 5 We will assemble an enduring green network.	Project Cleveland contributes to the green network of Fayetteville by advancing the development of the Campus Edge zone as having tree-lined streets, rich landscape elements, a planted courtyard, and various elevational green screens. This project will be LEED Silver certified at a minimum.
GOAL 6 We will create opportunities for attainable housing.	Project Cleveland is the definition of attainable housing. Condos and upscale housing units built in the past have caused a large amount of space in the downtown and campus area to remain empty, leaving the city with appropriate density possibilities still unrealized. By providing well designed yet affordable, rentable apartment units directed towards students and young professionals, Project Cleveland is helping to revitalize this area and create the density and liveliness that is more appropriate for this Campus Edge zone.



Two traffic studies have been completed. The following findings and recommendations are excerpts from pages 31-33 of the study completed by Peters & Associates Engineers, Inc., dated May 10, 2012.

Findings and Recommendations of Traffic Study 01:

- Approximately 1,043 vehicle trips (combined in and out) per average weekday are projected to be generated by the proposed residential student housing land use on this site. Of this total, approximately 75 vehicle trips are estimated during the traffic conditions of the AM peak hour, approximately 85 vehicle trips are estimated during the traffic conditions of the school PM peak hour and approximately 144 vehicle trips are estimated during the traffic conditions of the PM peak hour.
- Capacity and LOS analysis results for existing traffic conditions for the study intersections indicate existing vehicle movements for existing traffic conditions at the study intersections presently operate at what calculates as an acceptable LOS "D" or better for the AM, school PM and typical PM peak hours.
- Capacity and LOS analysis results performed for projected traffic conditions for the AM, school PM and typical PM peak hours for the study intersections indicate vehicle movements at the study intersections are expected to continue to operate at what calculates as an acceptable LOS "D" or better for the worst-case AM, school PM and typical PM peak hours.
- Project Cleveland is along the existing Razorback Transit route. This will facilitate usage by residents and have the effect of reducing vehicular traffic generation.
- The access drive proposed to serve the Project Cleveland development will intersect Hall Avenue only with no direct access via Cleveland Street. Access via Hall Avenue (local street) is better than direct access on higher volume Cleveland Street (Collector) providing fewer non-site traffic volume conflicts with ingress and egress to the site.
- Existing daily volume on Hall Avenue is approximately 860 vehicles per typical weekday (two-way volume). It is expected that approximately 25 percent of the site generated traffic will utilize Hall Avenue, north of the site (an additional two-way volume of approximate 260 vehicles per day). The combined total of the projected 1,120 vehicles per day (two-way volume) on Hall Avenue, north of the site is expected to remain well below the City of Fayetteville Master Street Plan local street service volume of less than 4,000 vehicles per day.
- It is projected that approximately 30 percent of the site generated traffic volumes is expected to enter and exit the proposed site from the west via Cleveland Street. It is assumed that most, if not all, of this traffic from the west will be from or destined to the University of Arkansas facilities, thereby using Razorback Road, west of the site. It is expected that very little, if any, site-generated traffic volumes will likely travel west of Razorback Road via Cleveland Street unless they are destined to a specific location in that area. This travel pattern is consistent with traffic counts made west of the site at Cleveland Roads intersections with Razorback Road, Sunset Avenue and Oliver Avenue.
- It is recommended to construct the site access drives along Hall Avenue to consist of an inbound lane and an outbound lane.
- The new access drive intersection along Hall Avenue must conform City of Fayetteville design standards and will require approval by the City.
- It is recommended to install pedestrian crossing warning signs per the MUTCD for traffic exiting the site drive approaching Hall Avenue. Also, it is recommended to include pedestrian crosswalk markings at the site access drive adjacent to Hall Avenue. Additionally, it is recommended to install a new crosswalk (and required MUTCD signs) across Hall Avenue near the north edge of the site. This could be constructed as a raised crosswalk with embedded LED lights in pavement to also serve to reduce speed by vehicles on Hall Avenue in the vicinity.
- It is recommended that consideration be given to including raised crosswalks with embedded LED lights in pavement enhancements to existing crosswalks along Cleveland Street, between Hall Avenue and Garland Avenue due to the existing high pedestrian activity observed in this area.

The following findings and recommendations are excerpts from pages 07-37 of the study completed by Small Arrow Engineering, LLC, dated May 14, 2012.

Findings and Recommendations of Traffic Study 02:

Existing Conditions.

- The existing signalized intersection at Cleveland Street & Garland Avenue is operating at LOS B with a delay of 19.5 sec/veh for the A.M. peak hour and LOS C with a delay of 28.2 sec/veh for the PM peak hour.
- The intersection of Hall Avenue & Cleveland Street with a single stop control on the south-bound lane operated at LOS A for both the AM and PM peak hours in the undeveloped condition.
- Consideration should be given to removing mid-block crosswalks for improved pedestrian safety.
- Add a “Do Not Enter” sign on the “One Way” sign

Existing + Developed Conditions.

- The signalized intersection of Cleveland Street and Garland Avenue would operate at LOS C with a delay of 22.1 sec/veh for the A.M. peak hour and LOS C with a delay of 28.6 sec/veh for the PM peak hour. When compared to the same time periods without the new development, there is a 2.6 second increase in delay for the AM and a 0.4 second increase in delay in the PM. The intersection of Hall Avenue & Cleveland Street continued to operate at LOS A for both the AM and PM peak hours when stop control was added on the east and west directions for the developed conditions.

At the Hall Avenue and Cleveland Street intersection:

- Adding a 3 to 4 inch high raised table as a traffic calming feature at the intersection or milling the intersection and constructing contrasting pavement colors/types in the intersection and in the crosswalk areas. (ie.. Crosswalks could be brick pavers with a colored stamped concrete logo in the intersection.
- Adding 10 foot wide crosswalks along the west and south sides of the intersection.
- Widening the existing 6 foot wide crosswalks along the north and east sides of the intersection to 10 foot wide crosswalks.
- Adding/Improving lighting in/near the intersection.
- Adding a “Do Not Enter” sign on the “One Way” sign to the university’s driveway to add an additional level of enforcement.
- Consideration may be given to adding a crosswalk beacon system.

At the mid-block crosswalks:

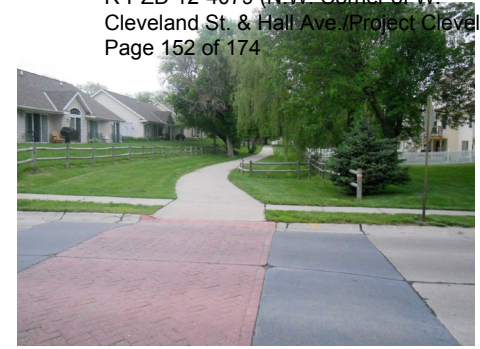
- Consideration should be given to removing the crosswalks for safety reasons with those movements moved to either the Hall and Cleveland intersection or the Garland and Cleveland intersection.

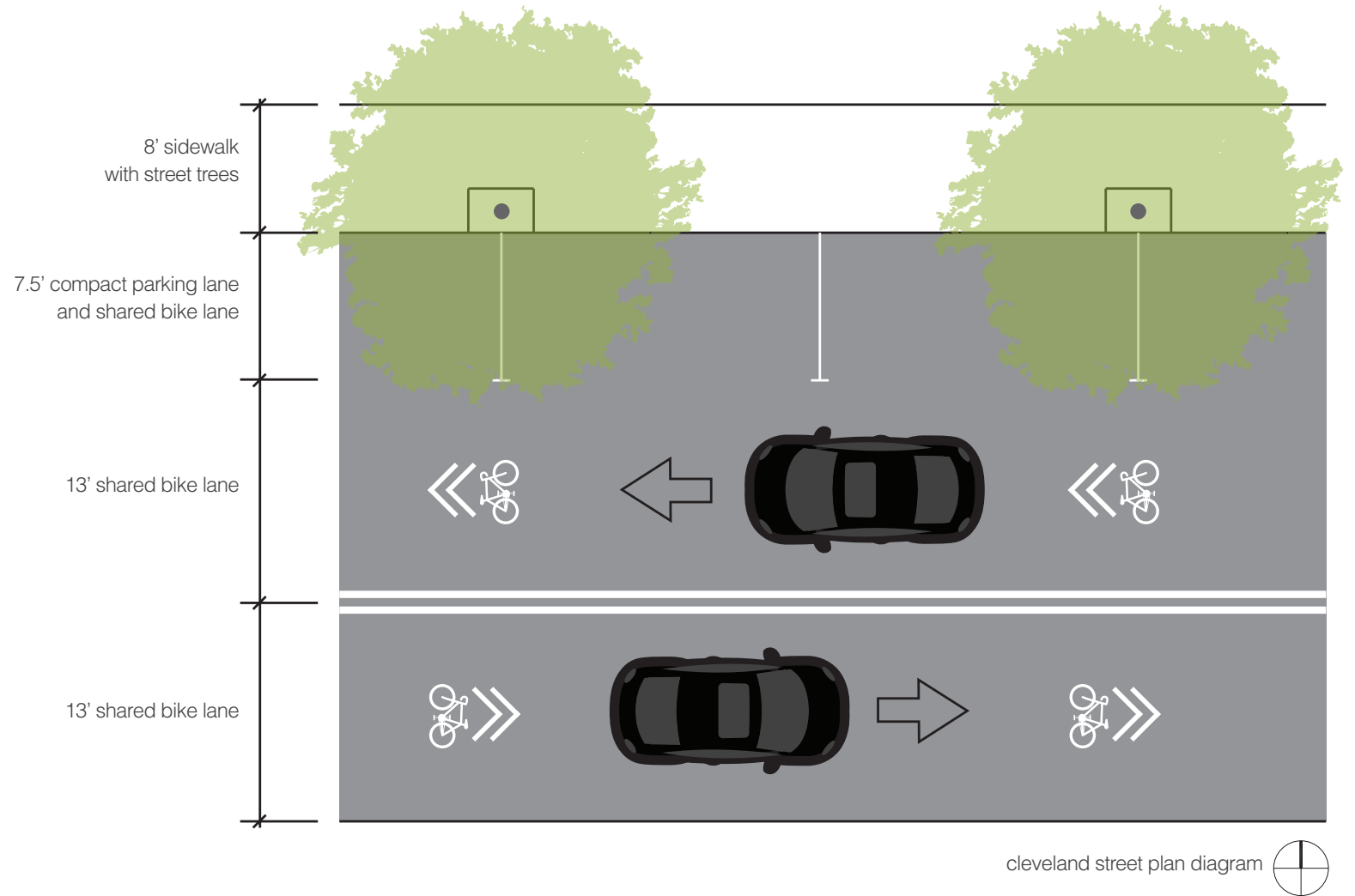
Future Conditions (2032):

- The signal at Cleveland Street and Garland Avenue would operate at LOS C with a delay of 26.3 sec/veh for the A.M. peak hour and LOS E with a delay of 69.3 sec/veh for the PM peak hour.
- The intersection of Hall Avenue & Cleveland Street with a single stop control on the south-bound lane operated at LOS B for both the AM and PM peak hours in the future condition.
- Adding a dedicated eastbound left turn lane at the Cleveland Street and Garland Avenue signal should be considered to remove the split timing.

Future + Developed Conditions (2032):

- For the Future (2032) Developed Condition, the existing signal at Cleveland Street and Garland Avenue would operate at LOS C with a delay of 28.9 sec/veh for the A.M. peak hour and LOS E with a delay of 72.2 sec/veh for the PM peak hour.
- The intersection of Hall Avenue & Cleveland Street continued to operate at LOS B for both the AM and PM peak hours when stop control was added on the east and west directions for the developed conditions.





_ m: impacts on city services.



Project Cleveland will connect to proposed utility lines and will improve upon existing water and sewer infrastructure to meet city requirements.

Storm water discharge will meet requirements of the City of Fayetteville Unified Development Code & Drainage Manual by use of underground detention with lid strategies.

_ n: statement of commitments.



1. + 2. dedication + on or off site improvements.

All public streets along with their associated sidewalks and drainage improvements will be designed and constructed in accordance with The Master Street Plan, City of Fayetteville Code of Ordinances, Title XV Unified Development Code, Chapter 172: Parking & Loading, Chapter 171: Streets and Sidewalks, and Chapter 170: Storm Water Management, Drainage & Erosion Control respectively. All of the above areas will be dedicated to the City, and maintenance will then be provided by the City. Sewer and Water improvements will also be planned and built in accordance with the City of Fayetteville.

3. natural resources + environmentally sensitive areas.

There are no significant natural resources or environmentally sensitive areas on site.

4. project phasing restrictions.

As this is essentially a single building urban typology proposal, there will be only one phase for the project.

5. fire + police protection.

Fire and police protection will be provided by the Fayetteville Fire and Police Departments. The units presented in this PZD are not seen to present any needed increase in protection and service.

Two fire lanes will be provided: one on Cleveland Street and one on Hall Avenue.

6. other commitments imposed by the city.

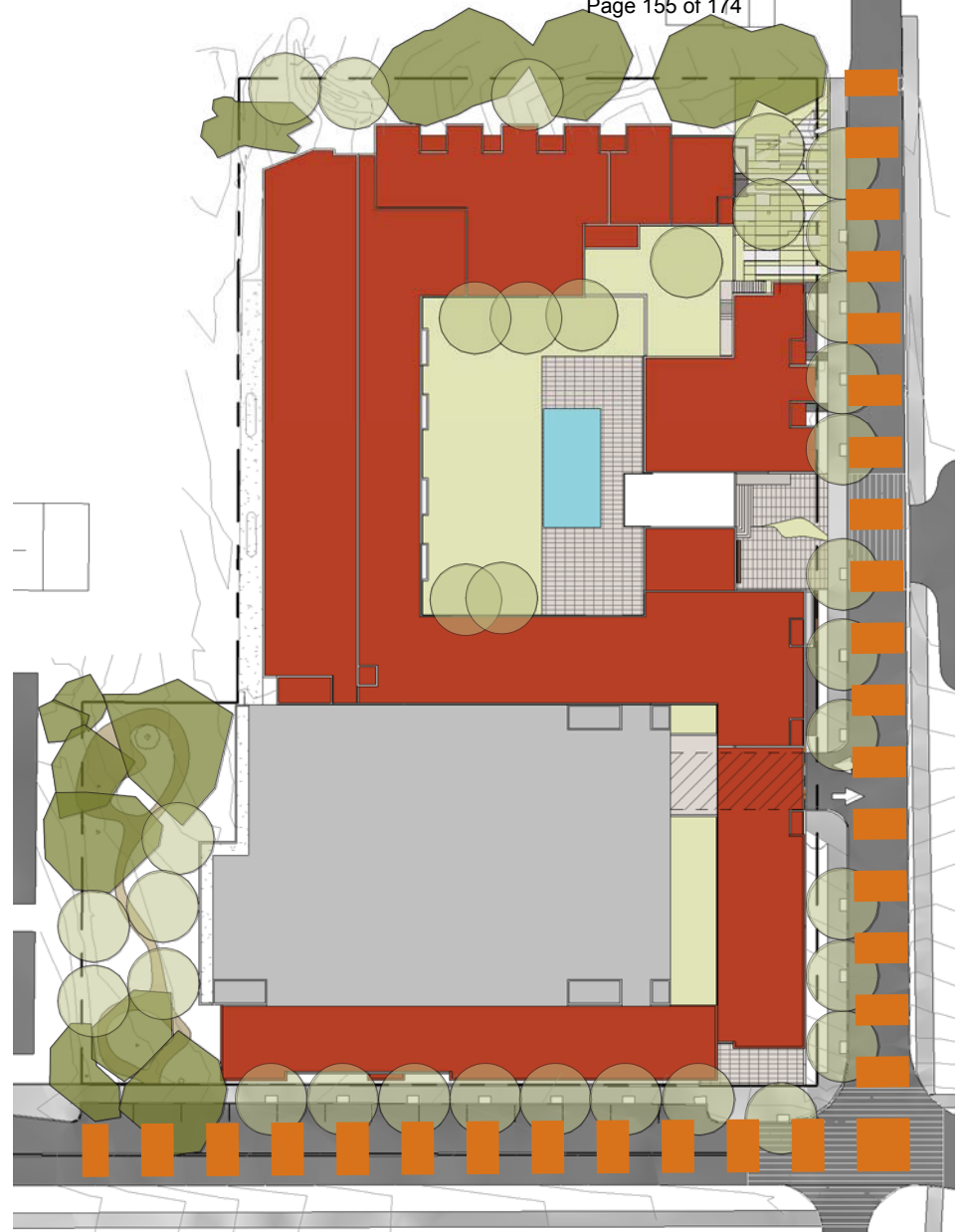
There are currently no other commitments imposed by the City of Fayetteville.

7. parks, trails + open space commitments.

Greenspace requirements will be met for Project Cleveland; tree preservation and protection will be implemented in accordance with the City of Fayetteville Code of Ordinances Title XV Unified Development Code: Chapter 167 Tree Preservation & Protection. Landscaping within Project Cleveland will also be planned in accordance with the City of Fayetteville Landscape Manual, which sets forth the standards and specifications for Tree Preservation, Protection, and Landscaping.

8. proposed preliminary building elevations.

See section "C. 9." on pages 10-11 for proposed building elevations.



new fire lane access.



1. screening + landscaping.

Trees and other landscape features will be planted as shown on the plats. Trees shall line the public streets of the development in harmony with city codes and requirements. Landscaping will also be consistent with the submitted Landscape Plan.

2. traffic + circulation.

The traffic and vehicle circulation areas will be installed in accordance with the Unified Development Code and per traffic study recommendations.

3. parking standards. [parking diagrams on page 45]

All parking areas will be installed in accordance with section 172 of the Unified Development Code.

The parking garage is concealed on three sides by building and will conform to city requirements for parking garages.

4. perimeter treatment.

All uses of land or structures will meet the open space, buffer, and green strip provisions of the Unified Development Code.

5. sidewalks.

Public sidewalks will be designed and constructed in accordance with the Master Street Plan and Section 171 of the Unified Development Code.

6. streetlights.

Streetlights will be built to the specifications of the Unified Development Code. Custom streetlights will be used as needed.

7. water. [diagram on page 46]

Approximately 312 LF of the existing 6" waterline running west from the intersection of Cleveland Street and Hall Avenue will need to be upgraded to an 8" waterline. Additionally, approximately 460 LF of existing 6" waterline running Northward from the intersection of Cleveland Street and Hall Avenue would need to be upgraded to a 12" waterline. All utilities will be installed according to city requirements.

8. sewer. [diagram on page 46]

The existing 6" sanitary sewer line that runs north/south on Hall Avenue will need to be upgraded to an 8" sanitary sewer line. This upgrade would need to occur from the intersection of Wedington Drive, south to Project Cleveland's northeast property corner (approx. 915 LF).

9. streets + drainage.

The development will not increase the amount of storm runoff from the site to the adjacent properties than currently exists, in fact, existing problems will be remedied. Runoff on the site will be detained underground in the courtyard area. The runoff will be released at a rate such that the peak runoff is not increased due to the development. The runoff will discharge into existing storm drainage along Hall Avenue.

10. construction of nonresidential facilities.

The street level of Project Cleveland will contain a possible coffee shop or sidewalk cafe as both an amenity for the residents as well as an amenity for the surrounding neighborhood. There will also be an amenities club house near the courtyard entrance on Hall Avenue to contain all necessary amenities for the tenants of Project Cleveland.

11. tree preservation.

Tree preservation at Project Cleveland will follow Title XV of the Unified Development Code, Chapter 167: Tree Preservation and Protection.

The required preserved canopy for a PZD is 25%, however only 19.8% is existing. Extensive efforts have been undertaken to maintain and preserve existing trees specifically in areas that lie between this development and adjacent properties. In all, 6.8% canopy is being preserved on site. Nine large species trees will be planted on site to add to current canopy calculations, and an additional sum will be paid into the City's tree escrow account to aid in the maintenance and planting of trees throughout the City of Fayetteville.

12. architectural design standards.

Project Cleveland will comply with the architectural design standards of Title XV of the Unified Development Code, Chapter 166: Development, section 166.21: Downtown Design Overlay District with the following revisions due to the nature of student housing design common in this zone:

- a. We propose the required minimum glass on the first or ground floor to be lowered from 40% to 20%.
- b. We also propose no restrictions on pedestrian access intervals along principal facades.

Both items found in Section E. Exterior Architectural Elements, 7. Opacity and Facades, b. First or Ground Floor Requirements of Any Principal Facade.

13. proposed signage [type and size].

All signage is to comply with the City of Fayetteville Unified Development Code. No pole/pylon signs will be permitted within Project Cleveland. Signage classifications in accordance with the UDC is specified in the zoning criteria for the Planning Area.

14. view protection.

There are no existing threatened views by completion of this project.

15. revocations.

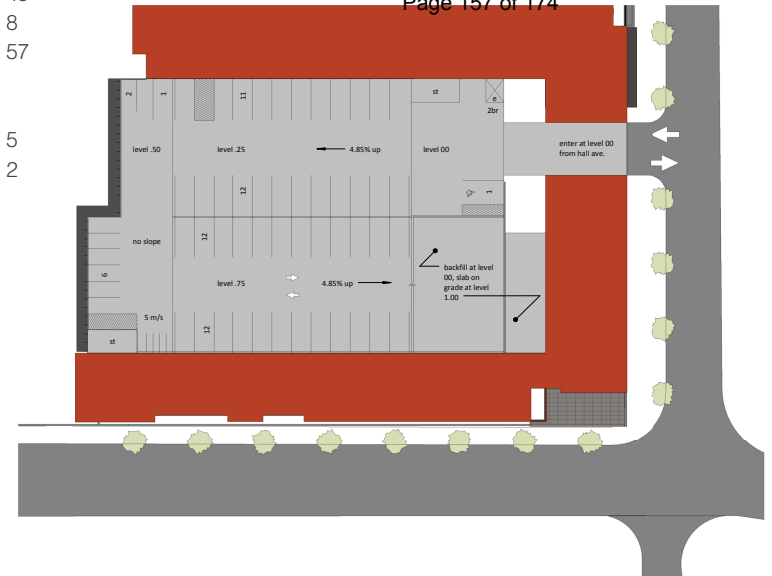
The developer understands causes for revocation and will take all measures necessary to avoid revocation.

16. covenants, trusts + homeowner associations.

No covenants, trusts, or homeowner associations currently exist for this property.

standard spaces: 49
compact spaces: 8
parking provided: 57

motor/scooter
spaces (m/s): 5
bike racks (br): 2



parking garage diagram - level 00

standard spaces: 57x5=285
compact spaces: 9x5=45
parking provided: 66x5=330

motor/scooter
spaces (m/s): 5x5=25

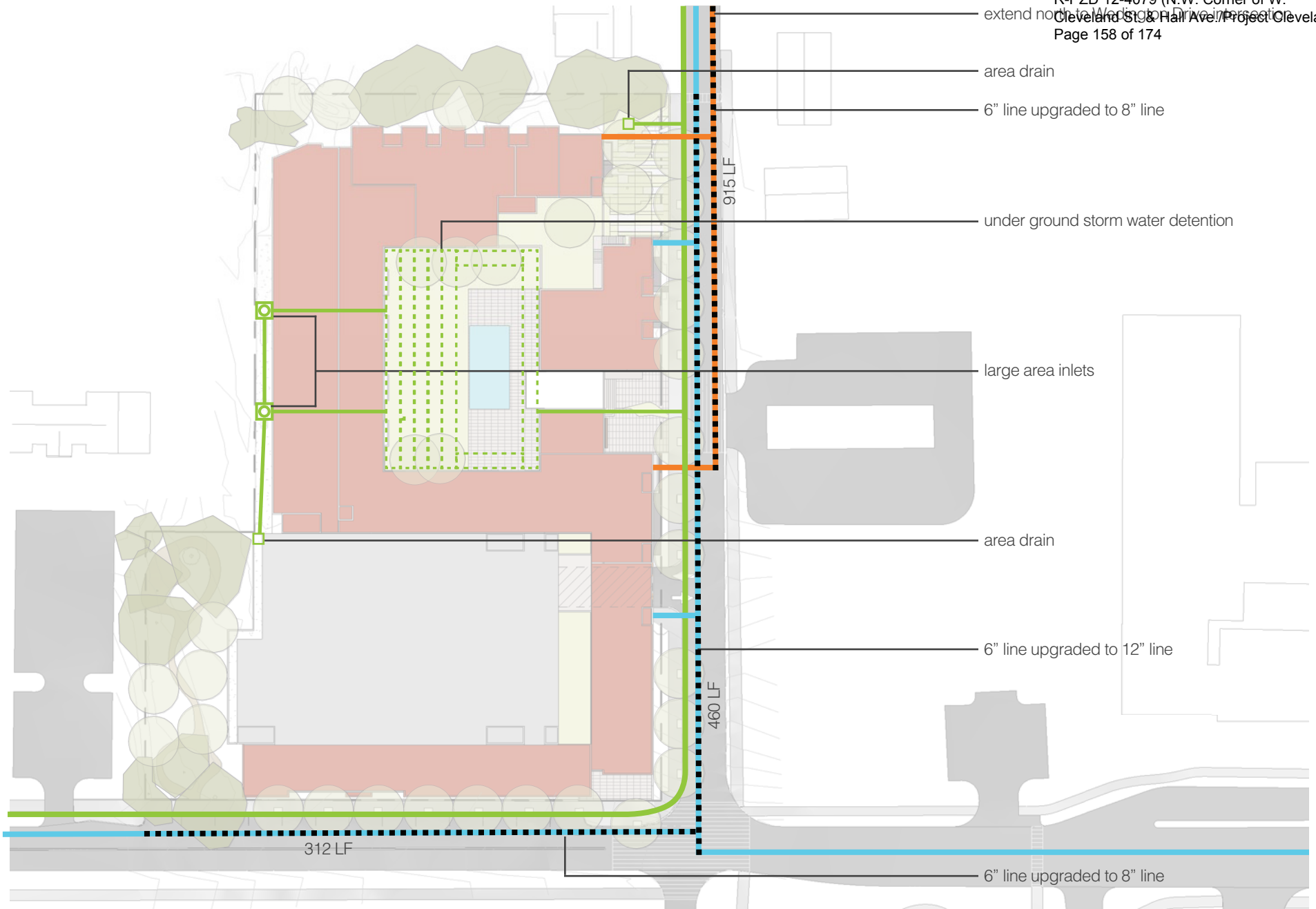


parking garage diagram - levels 01-05

standard spaces: 31
compact spaces: 3
parking provided: 34



parking garage diagram - level 06



water line sanitary sewer line storm water drainage upgraded line

proposed utility + storm water diagram

all new electrical lines to be placed underground.

_ p: how the proposal fulfills the intent/purpose of the planned zoning district.



The proposed structure(s) in accordance and support of the proposed Campus Edge zoning district decisively address and define the ability to provide infill development within an identifiable zoning gap in the City of Fayetteville. By providing a transitional zone appropriately scaled to the diversity of the context, this zone and the proposed structure will support and exceed the Fayetteville 2030 plan, reinforce the sustainable network of our city, and positively affect the city infrastructure through appropriate improvements. The nature of the development will fulfill the growing need for attainable, walkable, multifamily housing in the City of Fayetteville.

EXISTING FEATURES

- PROPERTY LINE
- RIGHT OF WAY LINE
- SANITARY SEWER LINE
- WATER LINE
- GAS LINE
- UNDERGROUND PHONE
- OVERHEAD TV CABLE
- FENCE
- DITCH FLOWLINE
- FIRE HYDRANT
- WATER METER
- WATER VALVE
- SANITARY SEWER MH
- CLEAN-OUT
- DRAINAGE MH
- POWER POLE
- GUY WIRE WITH ANCHOR
- GAS METER
- STREET LIGHT POLE
- PEDESTAL (AS NOTED)
- SIGN (AS NOTED)
- MAILBOX
- POST (AS NOTED)
- ELEVATION (AS NOTED)
- COTTON PICKER SPINDLE
- FOUND IRON PIN
- CONTROL POINT

PROPOSED FEATURES

- BOUNDARY/ROW LINE
- FIRE HYDRANT
- SANITARY SEWER MANHOLE
- BENCH MARK
- FIRE LANE STRIPING
- CONCRETE CURB & GUTTER
- HEAVY DUTY ASPHALT PAVING
- CONCRETE SIDEWALK
- PERVIOUS PAVERS
- RAIN GARDEN
- PROPOSED STREET LIGHT

SITE GENERAL NOTES:

ALL DIMENSIONS, UNLESS OTHERWISE NOTED, ARE TO THE FACE OF CURB, FACE OF BUILDING OR CENTERLINE OF STRIPE.

EXCEPT WHERE INDICATED OTHERWISE, PAVING SHALL BE STANDARD DUTY BITUMINOUS PAVEMENT.

UNLESS OTHERWISE NOTED, ALL CURB INDICATED SHALL BE 18" CONCRETE CURB AND GUTTER. CURB AND GUTTER ON ANY CITY STREET SHALL BE 18".

UNLESS OTHERWISE NOTED, ALL RADII ARE TO BE 4' 0" AT THE FACE OF CURB.

THE CONTRACTOR SHALL REFER TO THE ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF THE SLOPED PAVING EXITS, PORCHES, RAMPS, PRECISE BUILDING DIMENSIONS AND EXACT BUILDING UTILITY ENTRANCE POINTS.

PAINTED TRAFFIC ARROWS AND ALL SIGNS, PAVEMENT MARKINGS ETC. SHALL CONFORM TO M.U.T.C.D. STANDARDS.

GENERAL CONTRACTOR SHALL COORDINATE AND COMPLY WITH ALL UTILITY COMPANIES INVOLVED IN PROJECT AND PAY ALL REQUIRED FEES AND COSTS.

FOR SITE UTILITIES, SEE UTILITY PLAN.

ALL WORK SHALL BE DONE IN STRICT ACCORDANCE WITH SITE SPECIFICATIONS.

CONTRACTOR SHALL COORDINATE LOCATION AND PLACEMENT OF FIRE LANE STRIPING WITH CITY OF FAYETTEVILLE FIRE MARSHAL.

CONTRACTOR SHALL MAINTAIN ALL TREE PROTECTION AREAS.

TRASH ENCLOSURES SHALL BE SCREENED ON THREE SIDES WITH MATERIALS COMPLIMENTARY TO AND COMPATIBLE WITH THE PRINCIPLE STRUCTURE.

ALL NEW UTILITIES SHALL BE PLACED UNDERGROUND, AND ALL EXISTING UTILITIES UNDER 12KV SHALL BE RELOCATED UNDERGROUND.

ALL MECHANICAL AND UTILITY EQUIPMENT LOCATED ON ANY WALL AND/OR ON THE GROUND SHALL BE SCREENED. ALL ROOF MOUNTED UTILITIES AND MECHANICAL EQUIPMENT SHALL BE SCREENED BY INCORPORATING SCREENING INTO THE STRUCTURE UTILIZING MATERIALS COMPATIBLE WITH THE SUPPORTING BUILDINGS. MECHANICAL AND UTILITY EQUIPMENT OVER 30 INCHES IN HEIGHT SHALL MEET BUILDING SETBACKS. SMALLER GROUND MOUNTED EQUIPMENT MAY BE SCREENED WITH TALL GRASSES OR SHRUBS.

PRIOR TO CONSTRUCTION, A SITE VISIT WITH CHUCK RUTHERFORD WILL BE SCHEDULED TO ESTABLISH THE CONDITION OF THE EXISTING CURB. ALL EXISTING CURB CUTS WILL BE REMOVED AND REPLACED WITH STANDARD CURB. ANY CURB TO REMAIN THAT IS CURRENTLY DAMAGED OR CRACKED SHALL BE REMOVED AND REPLACED WITH STANDARD CURB. ANY CURB DAMAGED DURING CONSTRUCTION SHALL BE REMOVED AND REPLACED PER THE CITY OF FAYETTEVILLE.

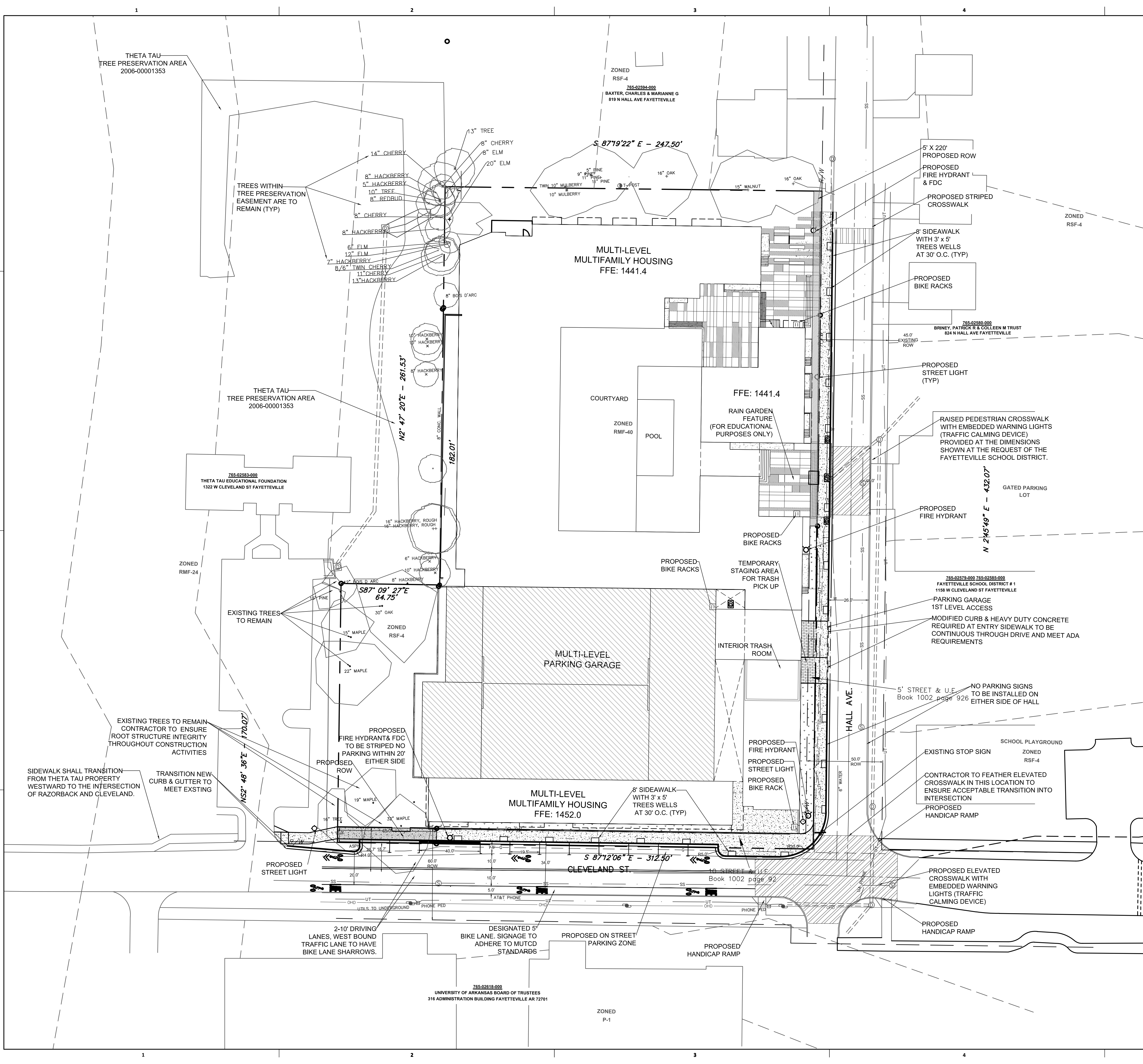
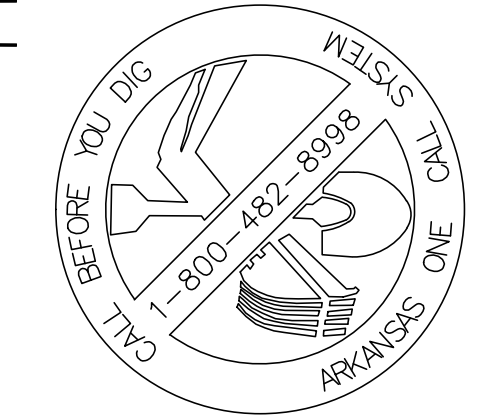
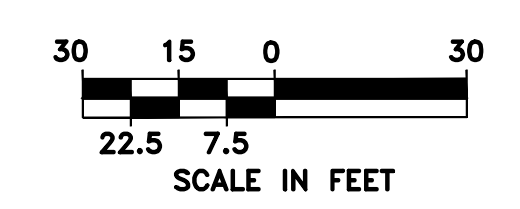
GENERAL SITE INFORMATION

MULTIFAMILY HOUSING	PARKING SPACES REQUIRED	PARKING SPACES PROVIDED
202,562 SF 122 UNITS	@ 450 BEDS - 450 SPACES	STANDARD SPACES - 325 COMPACT SPACES - 56
CLUB 4,809 SF	48 SPACES - 100 SF BUSINESS OCCUPANCY	ACCESSIBLE SPACES - 9 MOTORCYCLE/SCOOTER - 30
CAFE 611 SF	7 SPACES - 15 NET SF/PERSON	BIKE RACKS - 8 (REQUIRED)
GARAGE 150,612 SF	473 TOTAL SPACES	10 COMPACT PARALLEL SPACES
PARKING REDUCTIONS	15% REDUCTION DUE TO TRANSIT STOP PROXIMITY REDUCTION DUE TO BIKE RACK AVAILABILITY REDUCTION DUE TO MOTORCYCLE/SCOOTER PARKING	431 TOTAL SPACES
PERCENTAGE OF OPEN SPACE	TOTAL SITE 2.71 AC 100% PERVIOUS .55 20% IMPERVIOUS 2.16 80%	

TREE MITIGATION CALCULATIONS

	ACRES	SQ. FT.	% OF TOTAL SITE
TOTAL SITE	2.71	113,600	100.0%
EXISTING CANOPY	.45	22,250	19.8%
PRESERVED EXISTING CANOPY	.18	7,789	6.8%

PZD ZONING REQUIREMENT 25% CANOPY.
MITIGATION 14,461 SF
HIGH PRIORITY 14,461/218 = 66 TREES
ON SITE = 16 TREES
ESCROW = 50 TREES X \$700 = \$35,000



PROJECT CLEVELAND FAYETTEVILLE, AR.

PZD 12-4079

MAY 2012

FY122106

GENERAL PROVISIONS: PROJECT CLEVELAND

Authority

This PZD master development plan is authorized by Sections 161 and 166, Planned Zoning Districts of the City of Fayetteville Unified Development Code. The provisions of this PZD master development plan shall run with the land. The landowners, their successors, heirs, or assigns shall be bound by this master development plan, as amended and approved by the City Council.

Adoption

The adoption of this PZD master development plan shall evidence the findings and decision of the Fayetteville City Council that this Planned Zoning District for (Project Cleveland) is in general conformity with the Fayetteville City Plan 2030; is authorized by the provisions of Sections 161 and 166 of the City of Fayetteville Unified Development Code.

The provisions of this PZD master development plan shall prevail and govern the development of (Project Cleveland), provided, however, that where the provisions of this Master development plan do not address a particular subject, the relevant provisions of the City of Fayetteville Unified Development Code, as amended, or any other applicable resolutions or regulations of the City of Fayetteville, shall be applicable.

Enforcement

To further the mutual interest of the residents, occupants, and owners of the PZD Master development plan and of the public in the preservation of the integrity of the Plan, the provisions of this Plan relating to the use of land, statement of commitments, development and architectural standards, and the location of common open space shall run in favor of the City of Fayetteville and shall be enforceable at law or in equity by the City without limitation on any power or regulation otherwise granted by law.

Conflict

Where there is more than one provision within the PZD Master Development Plan that covers the same subject matter, the provision which is most restrictive or imposes higher standards or requirements shall govern unless determined otherwise by the Zoning and Development Administrator.

Maximum Level of Development

The total number of dwellings or the total commercial, business, or industrial intensity approved for development within the Planning Areas is the maximum development requested for platting or construction. The actual number of dwellings or level of development for commercial, business, or industrial properties may be less due to subdivision or site improvement plan requirements or other requirements of the City Council.

Project Tracking

At the time of subdivision final plat or large scale development the applicant shall provide a summary of the development, to date, to the Planning Division, in order to assure maximum development limits are not exceeded.

METES AND BOUNDS PROPERTY DESCRIPTION

(Washington County Parcel Numbers 765-02584-000, 765-02589-000, 765-02573-000, 765-02587-000, 765-02581-000, 765-02591-000)

Part of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section 8, Township 16 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows:

Commencing at the southwest corner of the NE 1/4 of said SE 1/4, thence South 87 degrees 12 minutes 06 seconds East a distance of 430.00 feet to the POINT OF BEGINNING (P.O.B.); thence North 02 degrees 48 minutes 36 seconds East a distance of 170.07 feet; thence South 87 degrees 09 minutes 27 seconds East a distance of 64.75 feet; thence North 02 degrees 47 minutes 20 seconds East a distance of 261.53 feet; thence South 87 degrees 19 minutes 22 seconds East a distance of 247.50 feet; thence South 02 degrees 45 minutes 49 seconds West a distance of 432.07 feet; thence North 87 degrees 12 minutes 06 seconds West a distance of 312.50 feet the POINT OF BEGINNING (P.O.B.), containing 117928 square feet or, 2.71 acres. And being subject to the right of way of Cleveland Street along the south boundary and Hall Street along the east boundary thereof.

Developer:
Specialized Real Estate Group
1200 Shipley Street
Sprindale, AR 72764

Representatives:
Modus Studio
112 W. Center Street
Suite 500
Fayetteville, AR 72701

McClelland Consulting Engineers
1810 North College Ave.
Fayetteville, AR 72701

PROJECT CLEVELAND

PZD - PA-1 CAMPUS EDGE

PA.1CAMPUS EDGE
w. cleveland st.n. hall ave
There will be only one planning area proposed in
this PZD: PA.1: Campus Edge.
PA.1: CAMPUS EDGE
PERMITTED USES
unit 1: city-wide uses by right.
unit 8: single-family dwellings.
unit 9: two-family dwellings.
unit 10: three-family dwellings.
unit 26: multi-family dwellings.
CONDITIONAL USES
unit 4: cultural + recreational facilities.
unit 12: limited business.
unit 13: eating places.
unit 15: neighborhood shopping goods.
unit 40: sidewalk cafes.
DENSITY
none.
LOT WIDTH MINIMUM
dwelling (all unit types) 18 ft.
LOT AREA MINIMUM
none.
LAND AREA PER DWELLING UNIT
n/a.
REQUIRED SETBACKS [see diagram on page 17]
front build-to zone from front property line to
25'
side 10'
rear 0'
MINIMUM BUILDABLE STREET FRONTAGE
50% of lot width.
HEIGHT REGULATIONS [see diagram on page 17]
60 ft. maximum
LANDSCAPING
In accordance with the City of Fayetteville Unified
Development Code.
PARKING
In accordance with the City of Fayetteville Unified
Development Code.
ARCHITECTURAL DESIGN
All structures shall be designed and constructed
to comply with the architectural design standards
of the PA-1 Planning Area and all Downtown
General design standards.
SIGNAGE
In accordance with the City of Fayetteville Unified
Development Code Chapter 174 requirements for
multi-family districts.
project cleveland. PZD 12-4079.



Project
Cleveland
Fayetteville, Ar.

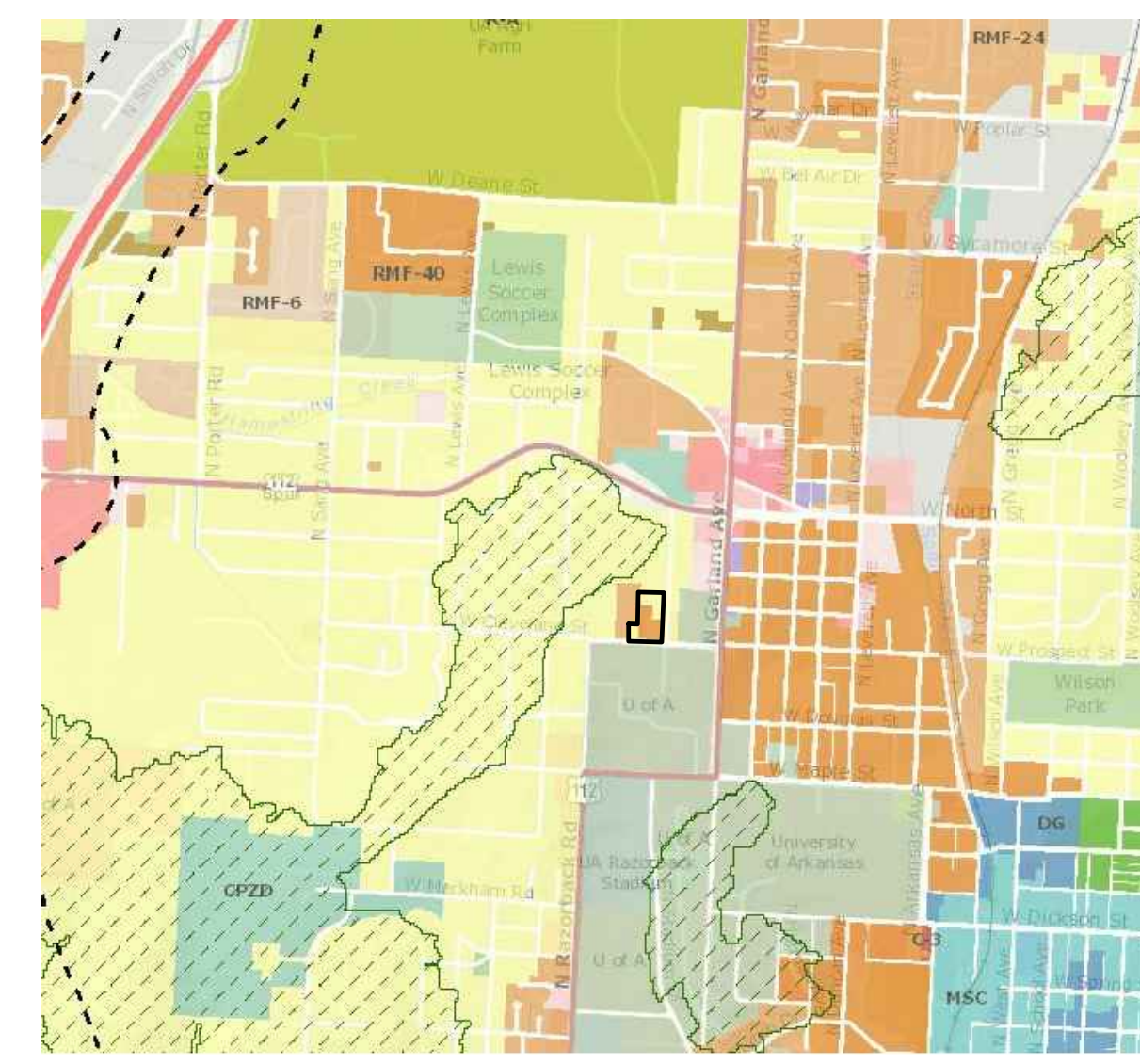
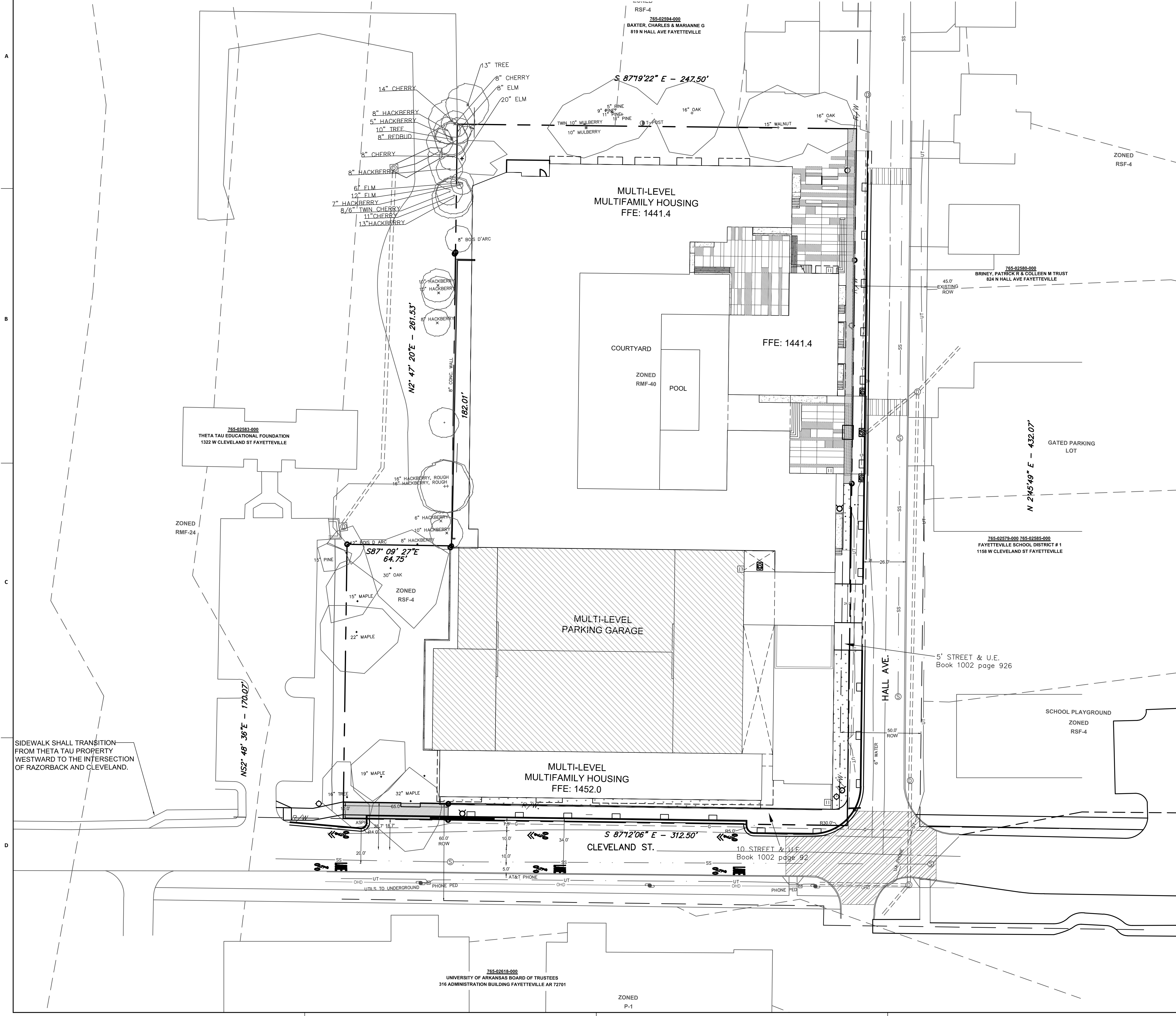
MARK	DATE	DESCRIPTION

CONTENTS	
ZONING & DEVELOPMENT STANDARDS BY PLANNING AREA	
DESIGN:	PZD Subdivision
DATE:	05.07.12
PROJECT:	FY122106

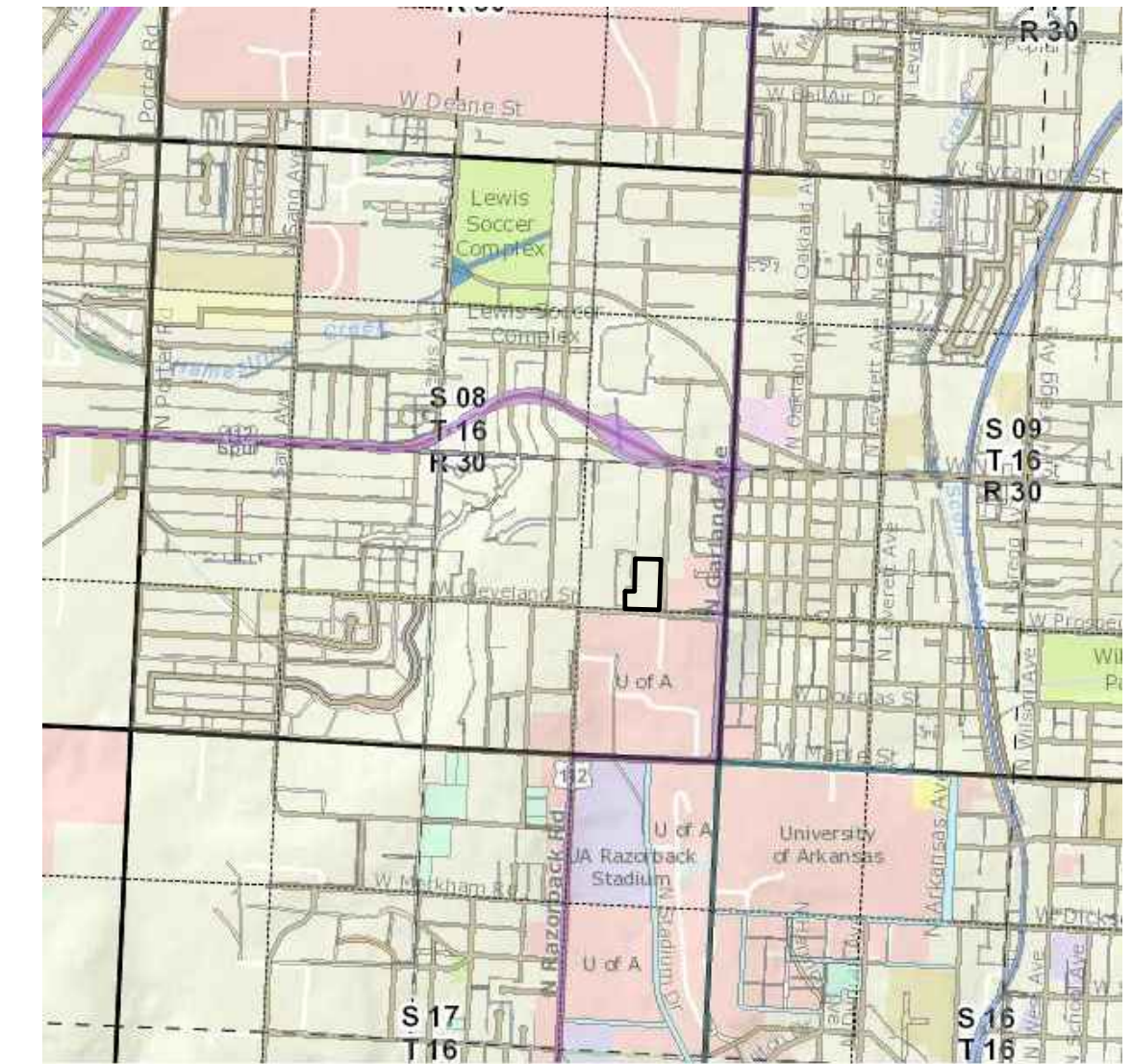
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PROJECT CLEVELAND PZD - PA-1 CAMPUS EDGE

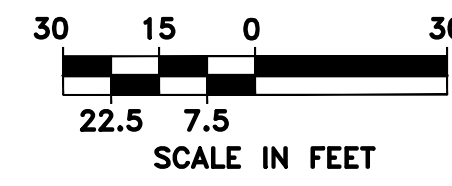


ZONING



PLAT MAP

LAND USE			
SYMBOL	LAND USE	UNITS/SF	ACRES
MF	MULTI-FAMILY	122	2.71
C	COMMERCIAL - CLUB	4,809 SF	NA
C	COMMERCIAL - CAFE	611 SF	NA



MARK	DATE	DESCRIPTION
		CONTENTS
		MASTER DEVELOPMENT PLAN
DESIGN	PZD Subdivision	
DATE	05.07.12	
PROJECT	FY122106	

Original Signature On File

DESCRIPTION

REVISIONS

NO. DATE DRN: APPVD.

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
DESIGNED TO SERVE
Fayetteville
1810 N. College
Little Rock
900 W. Markham

CLEVELAND ST.
AT HALL AVE
APARTMENTS

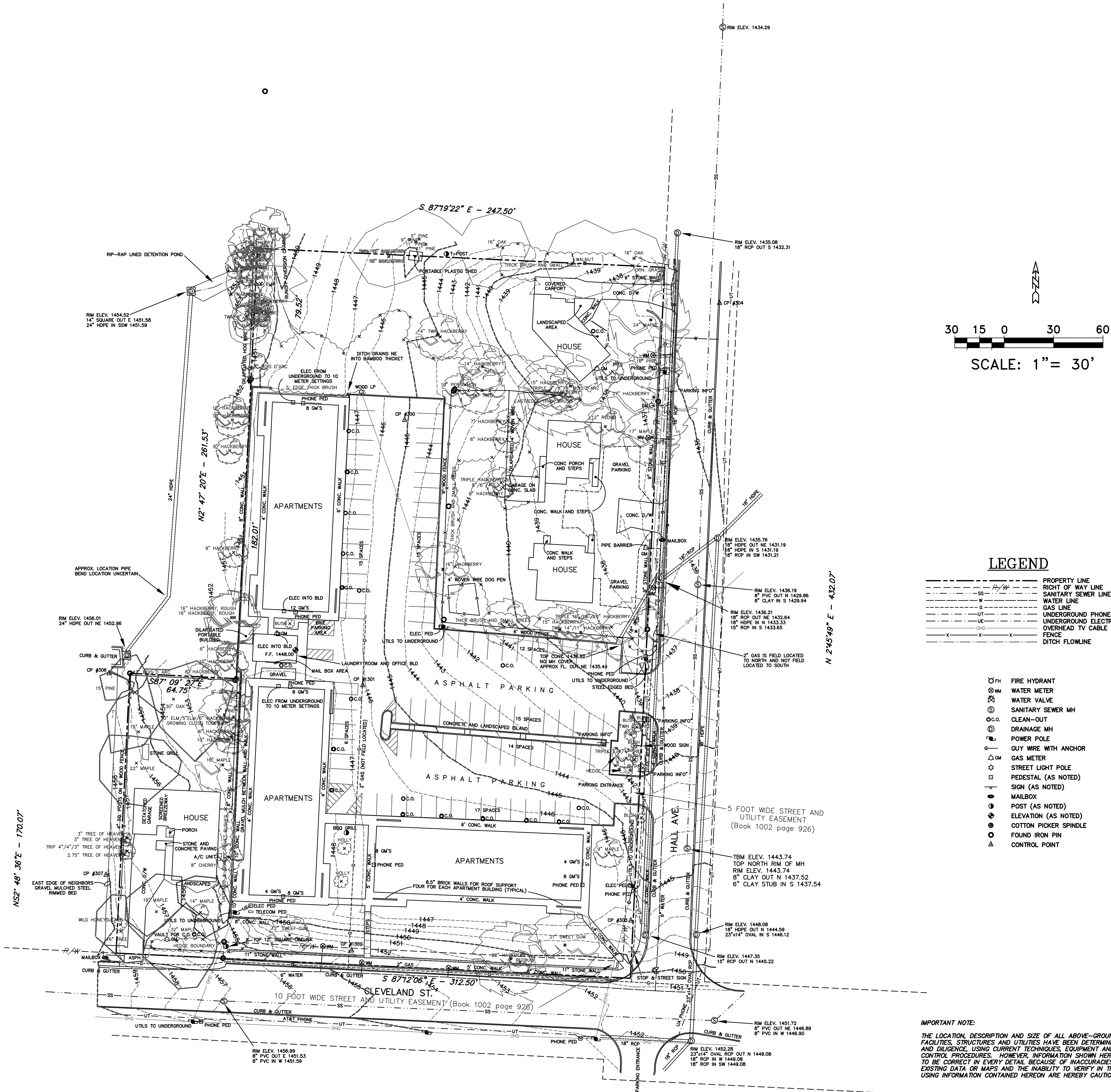
FAYETTEVILLE, ARKANSAS

TITLE

TOPOGRAPHIC
SURVEY

DRAWN BY CT	APPROVED P.J.W.
SCALE 1"=30'	DATE MAR. 2012
JOB NO. FY122106	FIELD BOOK
SHEET NO.	REV.

1

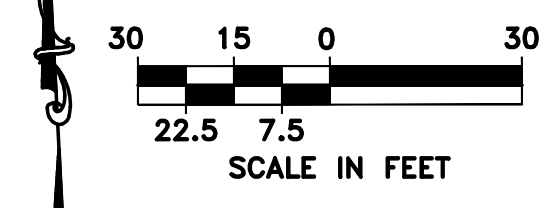


IMPORTANT NOTE:
THE LOCATION, DESCRIPTION AND SIZE OF ALL ABOVE-GROUND AND UNDER-GROUND FACILITIES, STRUCTURES AND UTILITIES HAVE BEEN DETERMINED WITH DUE CARE AND DILIGENCE, USING CURRENT TECHNIQUES, EQUIPMENT AND PROPER ACCURACY CONTROL PROCEDURES. HOWEVER, INFORMATION SHOWN HEREON IS NOT WARRANTED TO BE CORRECT IN EVERY DETAIL BECAUSE OF INACCURACIES IN OR LACK OF EXISTING DATA OR MAPS AND THE INABILITY TO VERIFY IN THE FIELD. PERSONS USING INFORMATION CONTAINED HEREON ARE HEREBY CAUTIONED ACCORDINGLY.

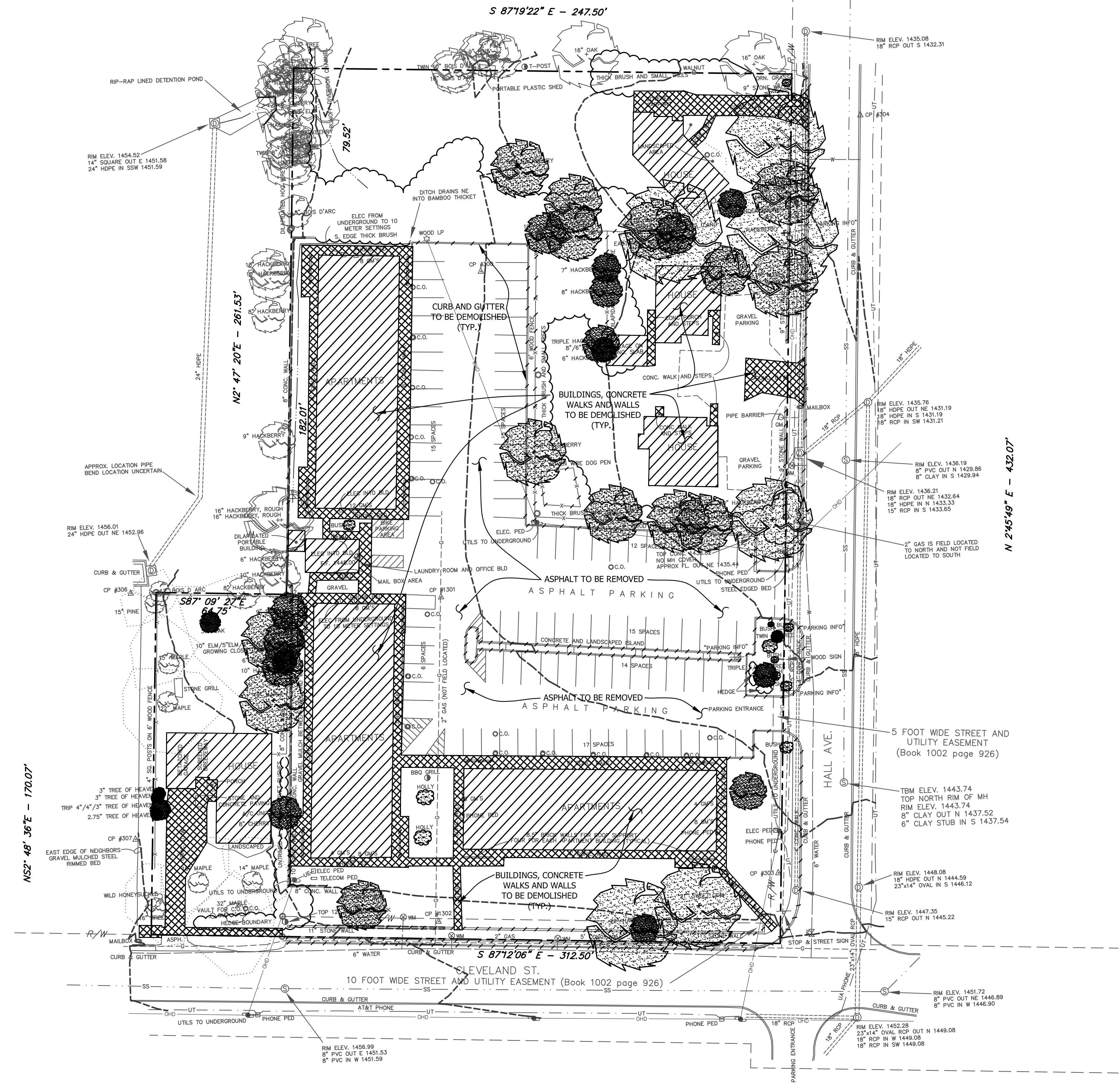
LEGEND

---	PROPERTY LINE
---	RIGHT OF WAY LINE
---	SANITARY SEWER LINE
---	WATER LINE
---	GAS LINE
---	UNDERGROUND PHONE
---	UNDERGROUND ELECTRIC
---	OVERHEAD TV CABLE
---	FENCE
---	DITCH FLOWLINE

- FH FIRE HYDRANT
- ⊗ VM WATER METER
- ⊗ WV WATER VALVE
- ⊗ S SANITARY SEWER MH
- ⊗ CO CLEAN-OUT
- ⊗ DM DRAINAGE MH
- ⊗ PP POWER POLE
- ⊗ GW GUY WIRE WITH ANCHOR
- ⊗ GM GAS METER
- ⊗ SL STREET LIGHT POLE
- ⊗ PE PEDESTAL (AS NOTED)
- ⊗ SI SIGN (AS NOTED)
- ⊗ MB MAILBOX
- ⊗ PO POST (AS NOTED)
- ⊗ EL ELEVATION (AS NOTED)
- ⊗ CP COTTON PICKER SPINDLE
- ⊗ FI FOUND IRON PIN
- ⊗ CP CONTROL POINT



- CONCRETE SURFACE TO BE REMOVED
- BUILDING STRUCTURES TO BE REMOVED
- TREES TO BE REMOVED
- CURB & GUTTER, AND MISCELLANEOUS ITEMS TO BE REMOVED



EXISTING FEATURES

- PROPERTY LINE
- RIGHT OF WAY LINE
- SANITARY SEWER LINE
- WATER LINE
- GAS LINE
- UNDERGROUND PHONE
- OVERHEAD TV CABLE
- FENCE
- DITCH FLOWLINE
- FIRE HYDRANT
- WATER METER
- WATER VALVE
- SANITARY SEWER MH
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- DRAINAGE MH
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- SIGN (AS NOTED)
- MAILBOX
- POST (AS NOTED)
- ELEVATION (AS NOTED)
- COTTON PICKER SPINDLE
- FOUND IRON PIN
- CONTROL POINT

PROPOSED FEATURES

- BOUNDARY/ROW LINE
- FIRE HYDRANT
- SANITARY SEWER MANHOLE
- BENCH MARK
- FIRE LANE STRIPING
- CONCRETE CURB & GUTTER
- HEAVY DUTY ASPHALT PAVING
- CONCRETE SIDEWALK
- PERVIOUS PAVERS
- RAIN GARDEN
- PROPOSED STREET LIGHT

SITE GENERAL NOTES:

ALL DIMENSIONS, UNLESS OTHERWISE NOTED, ARE TO THE FACE OF CURB, FACE OF BUILDING OR CENTERLINE OF STRIPE.

EXCEPT WHERE INDICATED OTHERWISE, PAVING SHALL BE STANDARD DUTY BITUMINOUS PAVEMENT.

UNLESS OTHERWISE NOTED, ALL CURB INDICATED SHALL BE 18" CONCRETE CURB AND GUTTER. CURB AND GUTTER ON ANY CITY STREET SHALL BE 18".

UNLESS OTHERWISE NOTED, ALL RADII ARE TO BE 4' 0" AT THE FACE OF CURB.

THE CONTRACTOR SHALL REFER TO THE ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF THE SLOPED PAVING EXITS, PORCHES, RAMPS, PRECISE BUILDING DIMENSIONS AND EXACT BUILDING UTILITY ENTRANCE POINTS.

PAINTED TRAFFIC ARROWS AND ALL SIGNS, PAVEMENT MARKINGS ETC. SHALL CONFORM TO M.U.T.C.D. STANDARDS.

GENERAL CONTRACTOR SHALL COORDINATE AND COMPLY WITH ALL UTILITY COMPANIES INVOLVED IN PROJECT AND PAY ALL REQUIRED FEES AND COSTS.

FOR SITE UTILITIES, SEE UTILITY PLAN.

ALL WORK SHALL BE DONE IN STRICT ACCORDANCE WITH SITE SPECIFICATIONS.

CONTRACTOR SHALL COORDINATE LOCATION AND PLACEMENT OF FIRE LANE STRIPING WITH CITY OF FAYETTEVILLE FIRE MARSHAL.

CONTRACTOR SHALL MAINTAIN ALL TREE PROTECTION AREAS.

TRASH ENCLOSURES SHALL BE SCREENED ON THREE SIDES WITH MATERIALS COMPLIMENTARY TO AND COMPATIBLE WITH THE PRINCIPLE STRUCTURE.

ALL NEW UTILITIES SHALL BE PLACED UNDERGROUND, AND ALL EXISTING UTILITIES UNDER 12kV SHALL BE RELOCATED UNDERGROUND.

ALL MECHANICAL AND UTILITY EQUIPMENT LOCATED ON ANY WALL AND/OR ON THE GROUND SHALL BE SCREENED. ALL ROOF MOUNTED UTILITIES AND MECHANICAL EQUIPMENT SHALL BE SCREENED BY INCORPORATING SCREENING INTO THE STRUCTURE UTILIZING MATERIALS COMPATIBLE WITH THE SUPPORTING BUILDINGS. MECHANICAL AND UTILITY EQUIPMENT OVER 30 INCHES IN HEIGHT SHALL MEET BUILDING SETBACKS. SMALLER GROUND MOUNTED EQUIPMENT MAY BE SCREENED WITH TALL GRASSES OR SHRUBS.

PRIOR TO CONSTRUCTION, A SITE VISIT WITH CHUCK RUTHERFORD WILL BE SCHEDULED TO ESTABLISH THE CONDITION OF THE EXISTING CURB. ALL EXISTING CURB CUTS WILL BE REMOVED AND REPLACED WITH STANDARD CURB. ANY CURB TO REMAIN THAT IS CURRENTLY DAMAGED OR CRACKED SHALL BE REMOVED AND REPLACED WITH STANDARD CURB. ANY CURB DAMAGED DURING CONSTRUCTION SHALL BE REMOVED AND REPLACED PER THE CITY OF FAYETTEVILLE.

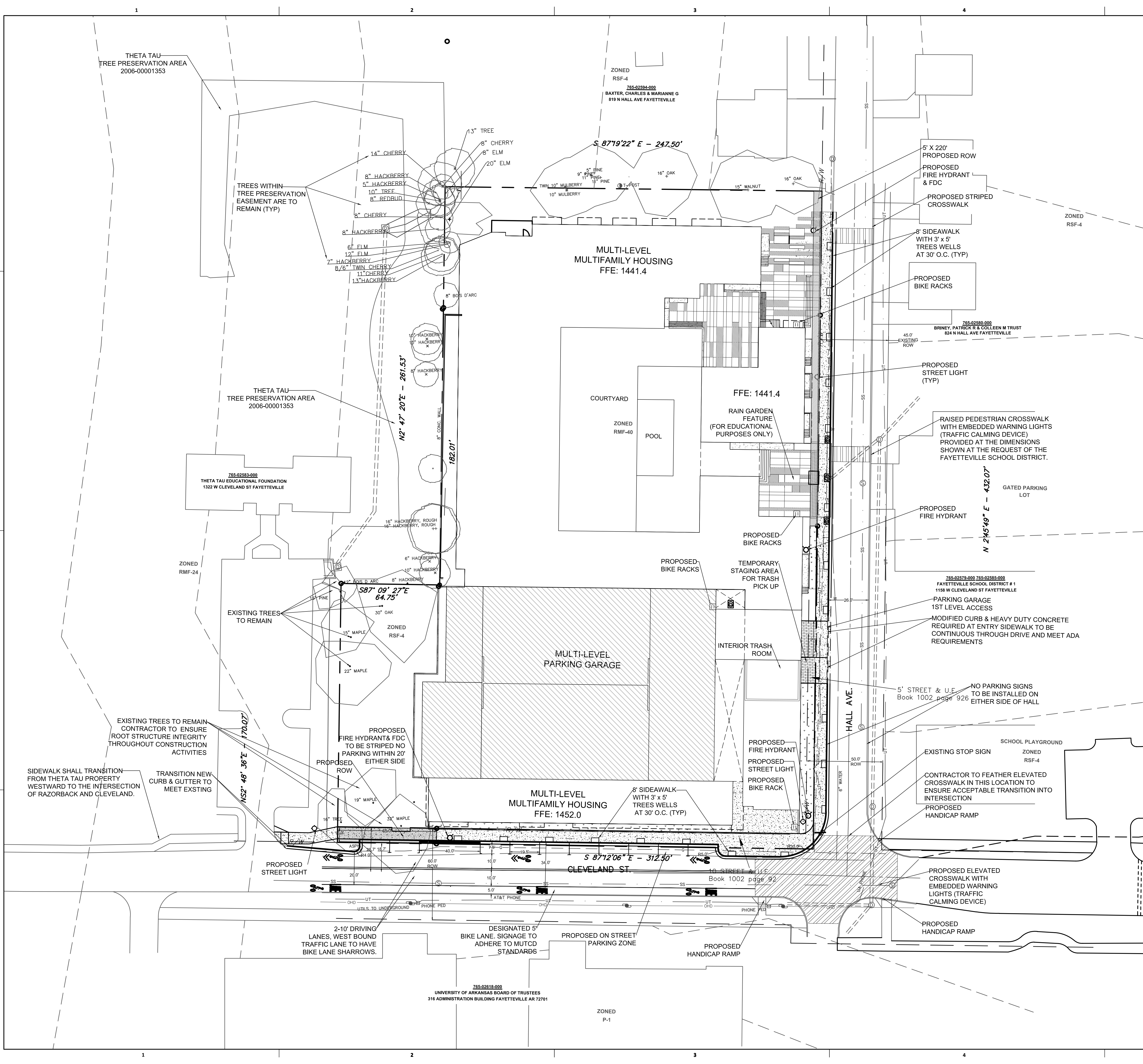
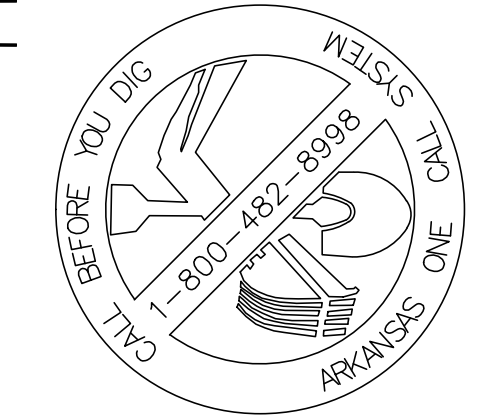
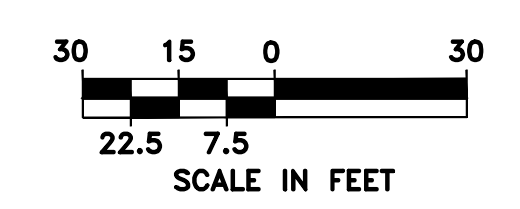
GENERAL SITE INFORMATION

MULTIFAMILY HOUSING	PARKING SPACES REQUIRED	PARKING SPACES PROVIDED
202,562 SF 122 UNITS	@ 450 BEDS - 450 SPACES	STANDARD SPACES - 325 COMPACT SPACES - 56
CLUB 4,809 SF	48 SPACES - 100 SF BUSINESS OCCUPANCY	ACCESSIBLE SPACES - 9 MOTORCYCLE/SCOOTER - 30
CAFE 611 SF	7 SPACES - 15 NET SF/PERSON	BIKE RACKS - 8 (REQUIRED)
GARAGE 150,612 SF	473 TOTAL SPACES	10 COMPACT PARALLEL SPACES
PARKING REDUCTIONS	15% REDUCTION DUE TO TRANSIT STOP PROXIMITY REDUCTION DUE TO BIKE RACK AVAILABILITY REDUCTION DUE TO MOTORCYCLE/SCOOTER PARKING	431 TOTAL SPACES
PERCENTAGE OF OPEN SPACE	TOTAL SITE 2.71 AC 100% PERVIOUS .55 20% IMPERVIOUS 2.16 80%	

TREE MITIGATION CALCULATIONS

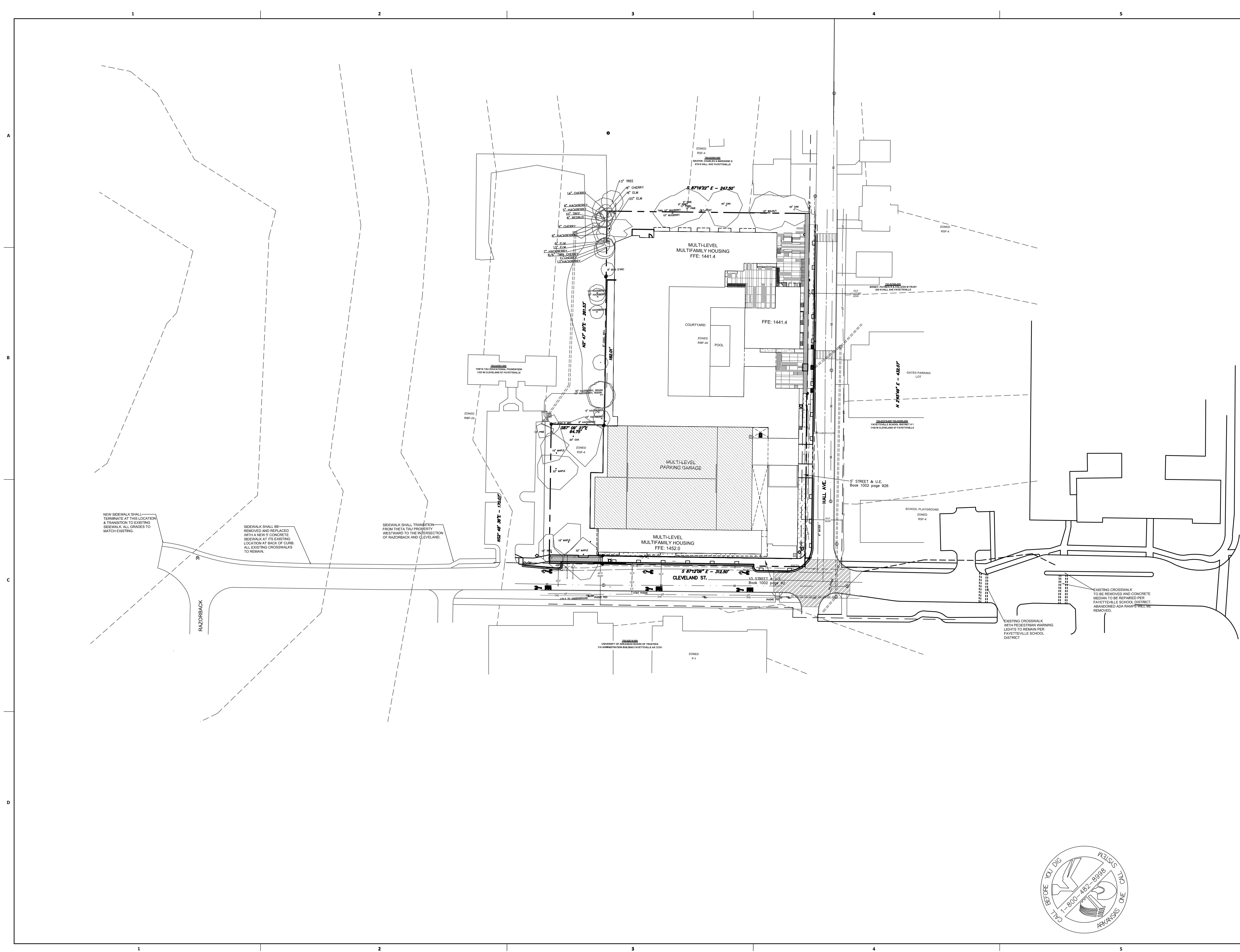
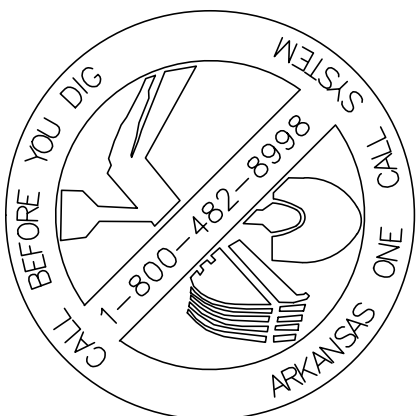
	ACRES	SQ. FT.	% OF TOTAL SITE
TOTAL SITE	2.71	113,600	100.0%
EXISTING CANOPY	.45	22,250	19.8%
PRESERVED EXISTING CANOPY	.18	7,789	6.8%

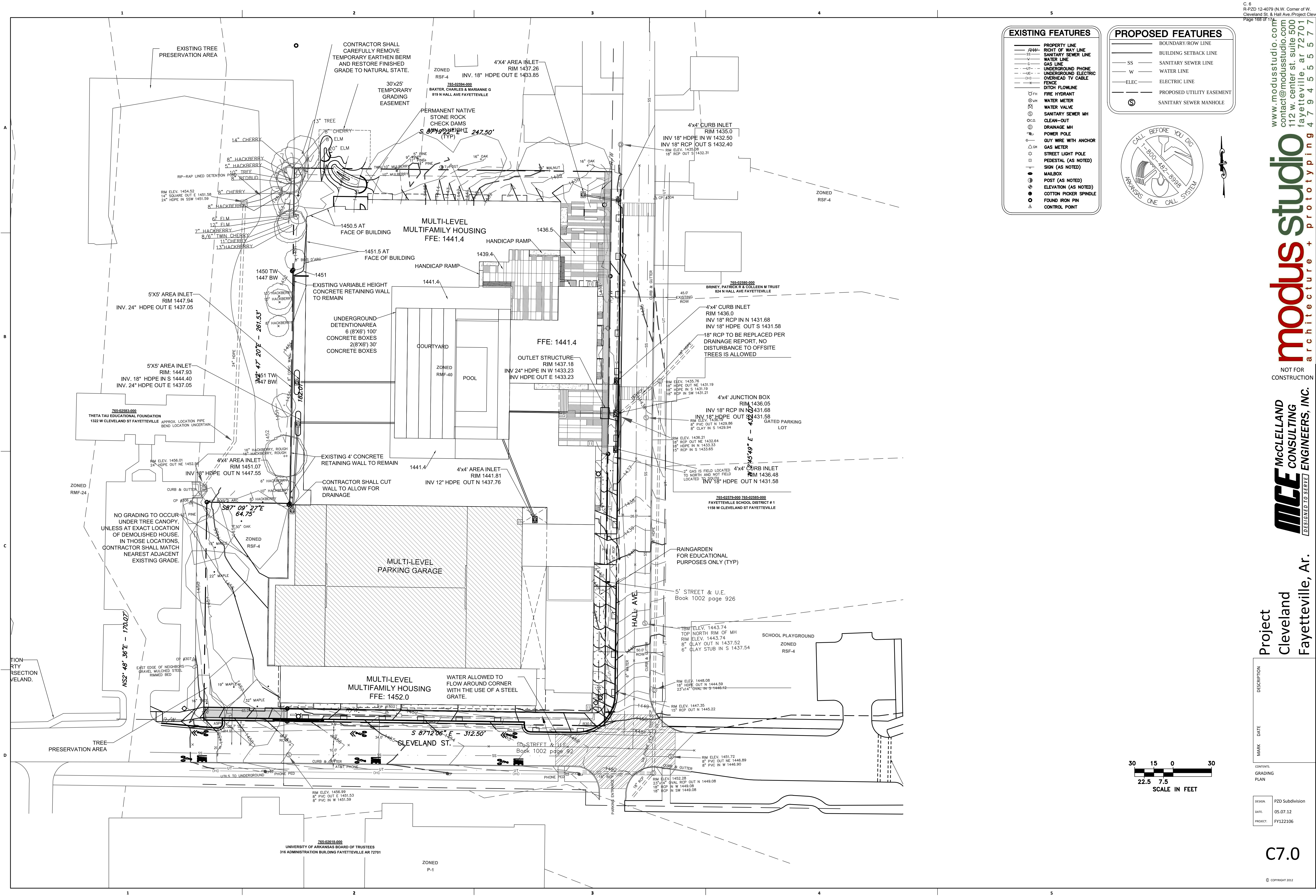
PZD ZONING REQUIREMENT 25% CANOPY.
MITIGATION 14,461 SF
HIGH PRIORITY 14,461/218 = 66 TREES
ON SITE = 16 TREES
ESCROW = 50 TREES X \$700 = \$35,000



CONTENTS.

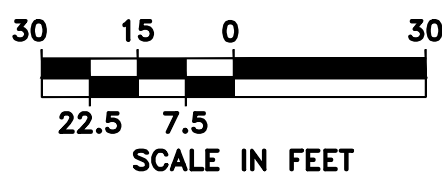
OFFSITE
IMPROVEMENTS

C6.1



EXISTING FEATURES	
	PROPERTY LINE
	RIGHT OF WAY LINE
	SANITARY SEWER LINE
	WATER LINE
	GAS LINE
	UNDERGROUND ELECTRIC
	OVERHEAD TV CABLE
	FENCE
	DITCH FLOWLINE
	FIRE HYDRANT
	WATER METER
	WATER VALVE
	SANITARY SEWER MH
	CLEAN-OUT
	DRAINAGE MH
	POWER POLE
	GUY WIRE WITH ANCHOR
	GAS METER
	STREET LIGHT POLE
	PEDESTAL (AS NOTED)
	SIGN (AS NOTED)
	MAILBOX
	POST (AS NOTED)
	ELEVATION (AS NOTED)
	COTTON PICKER SPINDLE
	FOUND IRON PIN
	CONTROL POINT

PROPOSED FEATURES	
	BOUNDARY/ROW LINE
	BUILDING SETBACK LINE
	SANITARY SEWER LINE
	WATER LINE
	ELECTRIC LINE
	PROPOSED UTILITY EASEMENT
	SANITARY SEWER MANHOLE



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Fayetteville, Ar.

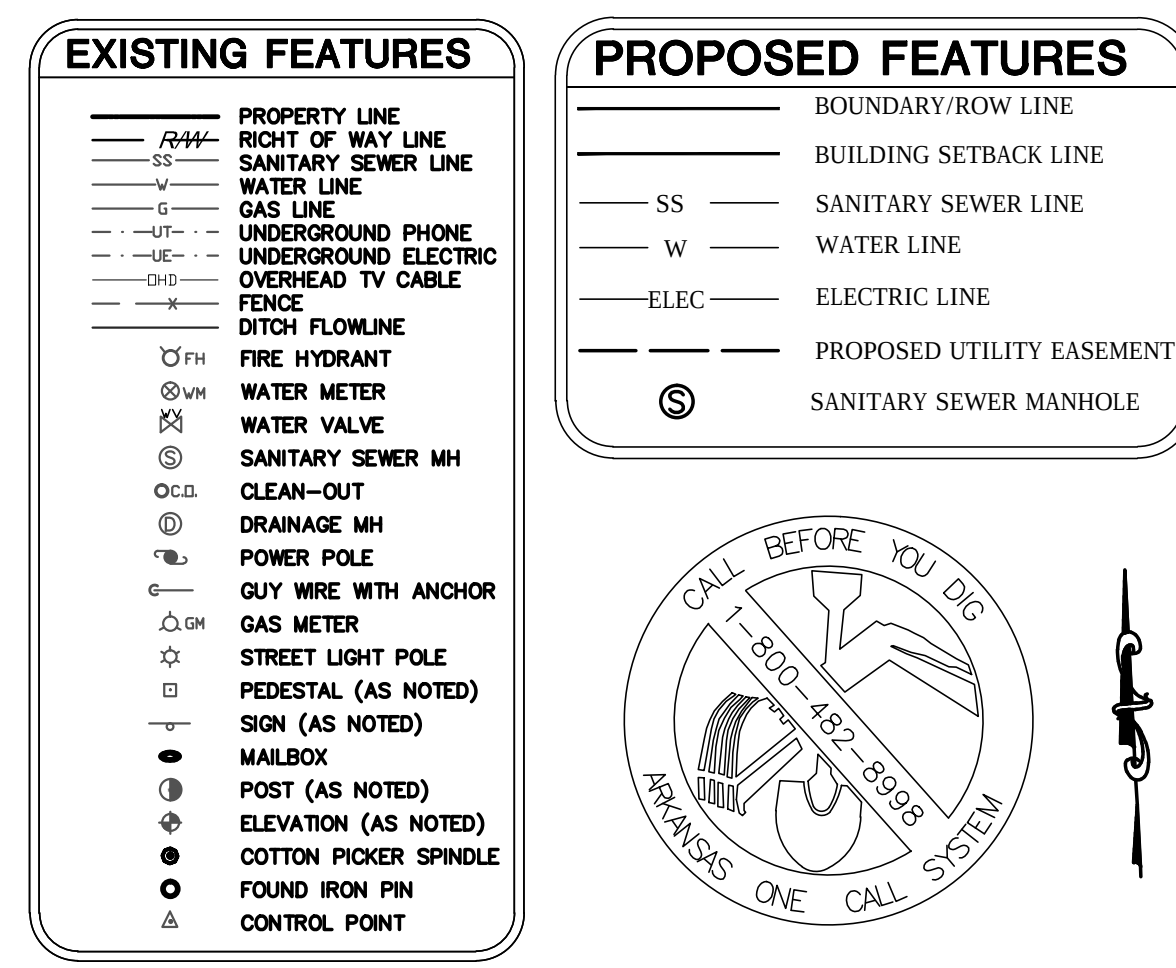
MARK	DATE	DESCRIPTION

CONTENTS	
GRADING	
PLAN	

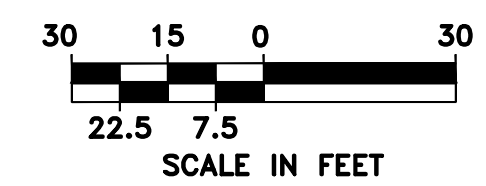
DESIGN	PZD Subdivision
DATE	05.07.12
PROJECT	FY122106

C7.0

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O COMMERCIAL STRUCTURES THAT MAY REQUIRE A FIRE SPRINKLER SYSTEM MUST OBTAIN A FIRE FLOW STUDY SUBMITTED AND APPROVED BY THE FIRE DEPARTMENT PRIOR TO APPROVAL OF PROJECT.



K:\2020\222106 - MC3 - Cleveland Street Apartments\Sheet\A-CURRENT UTILITY.dwg, 4/25/2022 9:56:48 AM, 11
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Fayetteville, Ar.

PERSON	DATE
PZD Subdivision	
Submittal	04.25.12
PROJECT	FY122106

STATE OF ARKANSAS
REGISTERED
PROFESSIONAL
ENGINEER
No. 12538
DANIEL RYAN GILL

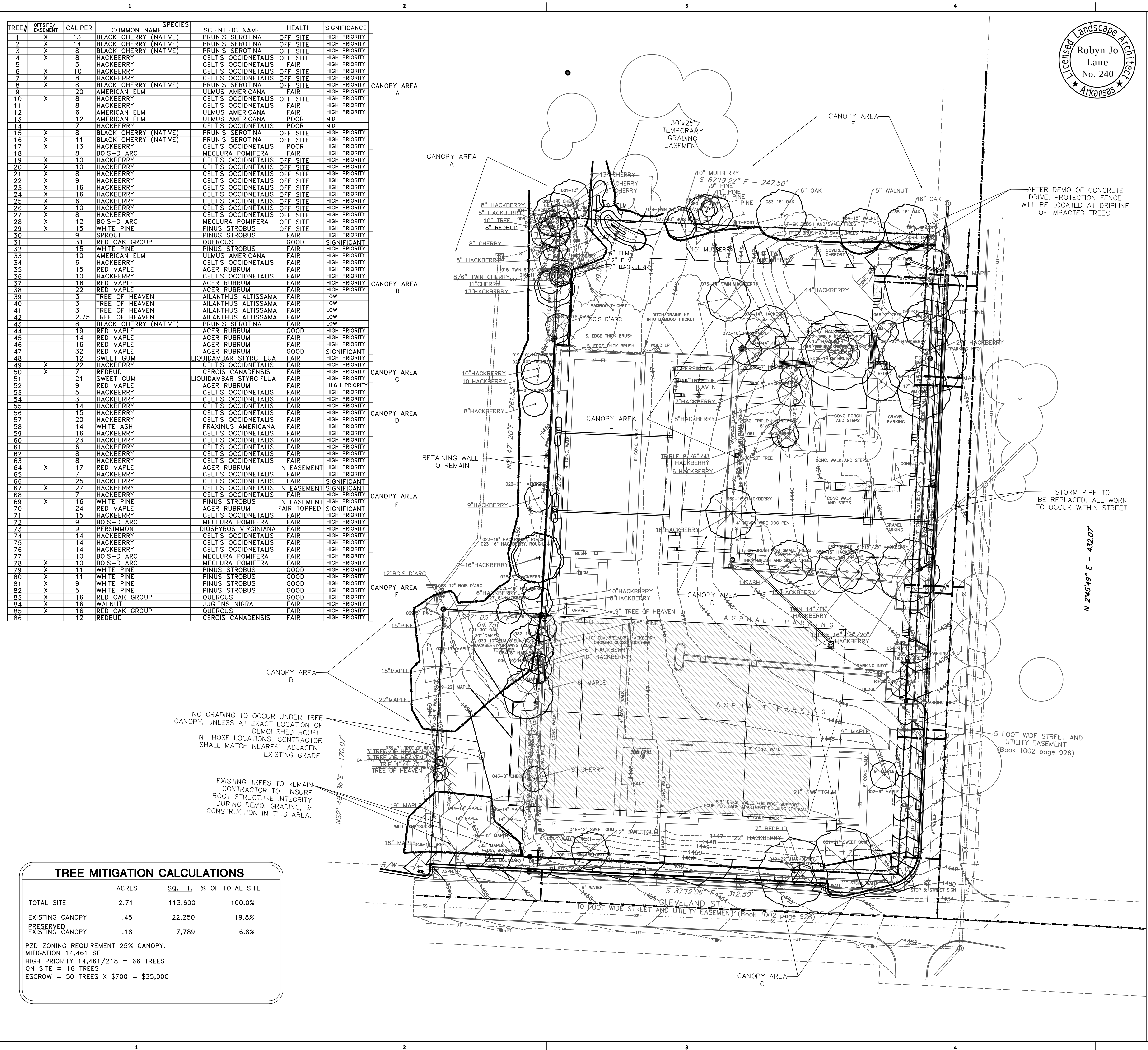
CERTIFICATE OF AUTHORIZATION
McCLELLAND
CONSULTING
ENGINEERS, INC.
No. 24
TRANS-ENGINEER

Original Signature On File

C8.1

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EXISTING FEATURES

- PROPERTY LINE
- RIGHT OF WAY LINE
- SANITARY SEWER LINE
- WATER LINE
- GAS LINE
- UNDERGROUND PHONE
- OVERHEAD TV CABLE
- FENCE
- DITCH FLOWLINE
- FIRE HYDRANT
- WATER METER
- WATER VALVE
- SANITARY SEWER MH
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- POWER POLE
- GUY WIRE WITH ANCHOR
- GAS METER
- STREET LIGHT POLE
- PEDESTAL (AS NOTED)
- SIGN (AS NOTED)
- MAILBOX
- POST (AS NOTED)
- ELEVATION (AS NOTED)
- COTTON PICKER SPINDLE
- FOUND IRON PIN
- CONTROL POINT

PROPOSED FEATURES

- BOUNDARY/ROW LINE
- BUILDING SETBACK LINE
- SS SANITARY SEWER LINE
- W WATER LINE
- ELEC ELECTRIC LINE
- PROPOSED UTILITY EASEMENT
- SANITARY SEWER MANHOLE
- PF TREE PROTECTION FENCING
- TREES TO BE REMOVED

CITY OF FAYETTEVILLE STANDARD NOTES FOR TREE AND NATURAL AREA PROTECTION

- ALL TREES AND NATURAL AREAS SHOWN ON THIS PLAN TO BE PRESERVED SHALL BE PROTECTED DURING CONSTRUCTION WITH TEMPORARY FENCING
- PROTECTIVE FENCES SHALL BE ERCTED ACCORDING TO THE CITY OF FAYETTEVILLE STANDARDS FOR TREE PROTECTION.
- PROTECTIVE FENCES SHALL BE INSTALLED PRIOR TO THE START OF ANY SITE PREPARATION WORK AND SHALL BE MAINTAINED THROUGHOUT ALL PHASES OF THE CONSTRUCTION PROJECT.
- EROSION AND SEDIMENTATION CONTROL BARRIERS SHALL BE INSTALLED OR MAINTAINED IN A MANNER WHICH DOES NOT RESULT IN SOIL BUILD UP WITHIN TREE DRIPLINES.
- PROTECTIVE FENCES SHALL SURROUND THE TREES OR GROUP OF TREES AND WILL BE LOCATED AT THE DRIPLINE. FOR NATURAL AREAS, PROTECTIVE FENCES SHALL FOLLOW THE LIMIT ON CONSTRUCTION IN ORDER TO PREVENT THE FOLLOWING:
 - SOIL COMPACTION IN THE ROOT ZONE OF AREA RESULTING FROM VEHICULAR TRAFFIC OR STORAGE OF EQUIPMENT.
 - ROOT ZONE DISTURBANCES DUE TO GRADE CHANGES (GREATER THAN 6")
 - ROOT TRENCHING NOT VIEWED BY CITY ARBORIST.
 - WOUNDS TO EXPOSED ROOTS, TRUNK, OR LIMBS BY MECHANICAL EQUIPMENT.
 - OTHER ACTIVITIES DETRIMENTAL TO TREES SUCH AS CHEMICAL STORAGE, CONCRETE TRUCK CLEANING, AND FIRES.
- EXCEPTIONS TO INSTALLING FENCES AT TREE DRIPLINES MAY BE PERMITTED IN THE FOLLOWING CASES:
 - WHERE THERE IS TO BE AN APPROVED GRADE CHANGE, IMPERMEABLE PAVING SURFACE, TREE WELL, OR OTHER SUCH SITE DEVELOPMENT.
 - WHERE PERMEABLE PAVING IS TO BE INSTALLED WITHIN A TREE'S DRIPLINE, ERECT THE FENCE AT THE OUTER LIMITS OF THE PERMEABLE PAVING AREA (PRIOR TO SITE GRADING SO THIS AREA IS GRADED SEPARATELY PRIOR TO PAVING INSTALLATION TO MINIMIZE ROOT DAMAGE)
 - WHERE TREES ARE CLOSE TO PROPOSED BUILDINGS, ERECT THE FENCE TO ALLOW 6-10 FEET OF WORKSPACE.
 - WHERE THERE ARE SEVERE SPACE CONSTRAINTS DUE TO TRACT SIZE OR OTHER SPECIAL REQUIREMENTS.
 - WHERE ANY OF THE ABOVE EXCEPTIONS RESULT IN A FENCE BEING CLOSER THAN 4 FEET TO A TRUNK, PROTECT THE TRUNK WITH STRAPPED ON PLANKING TO HEIGHT OF 8' (OR LIMITS OF LOWER BRANCHING) IN ADDITION TO THE REDUCED FENCING PROVIDED.
 - TREES APPROVED FOR REMOVAL SHALL BE REMOVED IN A MANNER WHICH DOES NOT IMPACT TREES TO BE PRESERVED.
 - ANY ROOTS EXPOSED BY CONSTRUCTION ACTIVITY SHALL BE PRUNED FLUSH WITH THE SOIL. BACKFILL ROOT AREAS WITH GOOD QUALITY TOPSOIL AS SOON AS POSSIBLE. IF EXPOSED NOT COMPLETED WITHIN 2 DAYS, COVER WITHIN ORGANIC MATERIAL TO REDUCE SOIL TEMPERATURE AND MINIMIZE WATER LOSS DUE TO EVAPORATION.
 - ANY LANDSCAPE IRRIGATION TRENCHING SHALL OCCUR AS FAR AWAY FROM ANY TREE TRUNK AS POSSIBLE.
 - NO LANDSCAPE TOPSOIL DRESSING GREATER THAN 4" SHALL BE ALLOWED WITHIN THE DRIPLINE OF ANY TREE.
 - NO SOIL IS PERMITTED ON THE ROOT FLARE OF ANY TREE.
 - PRUNING TO PROVIDE CLEARANCE FOR STRUCTURES, VEHICULAR TRAFFIC, AND EQUIPMENT SHALL TAKE PLACE PRIOR TO COMMENCEMENT OF CONSTRUCTION.
 - ALL FINISHED PRUNING MUST BE DONE ACCORDING TO RECOGNIZED, APPROVED STANDARDS OF THE INDUSTRY, ANSI-A300 PRUNING, 2008 OR LATER. A CITY CERTIFIED TREE PRUNER MUST BE RETAINED TO MAKE ALL PRUNING CUTS. A LIST IS AVAILABLE FROM THE URBAN FORESTER.
 - DEVIATIONS FROM THE ABOVE NOTES MAY BE CONSIDERED ORDINANCE VIOLATIONS IF THERE IS SUBSTANTIAL NON-COMPLIANCE OR IF A TREE SUSTAINS DAMAGE AS A RESULT.

TREE MITIGATION CALCULATIONS			
	ACRES	SQ. FT.	% OF TOTAL SITE
TOTAL SITE	2.71	113,600	100.0%
EXISTING CANOPY	.45	22,250	19.8%
PRESERVED EXISTING CANOPY	.18	7,789	6.8%

PZD ZONING REQUIREMENT 25% CANOPY.
MITIGATION 14,461 SF
HIGH PRIORITY 14,461/218 = 66 TREES
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NOT FOR
CONSTRUCTION

DESCRIPTION

MARK DATE

CONTENTS

TREE
PRESERVATION
DETAILS

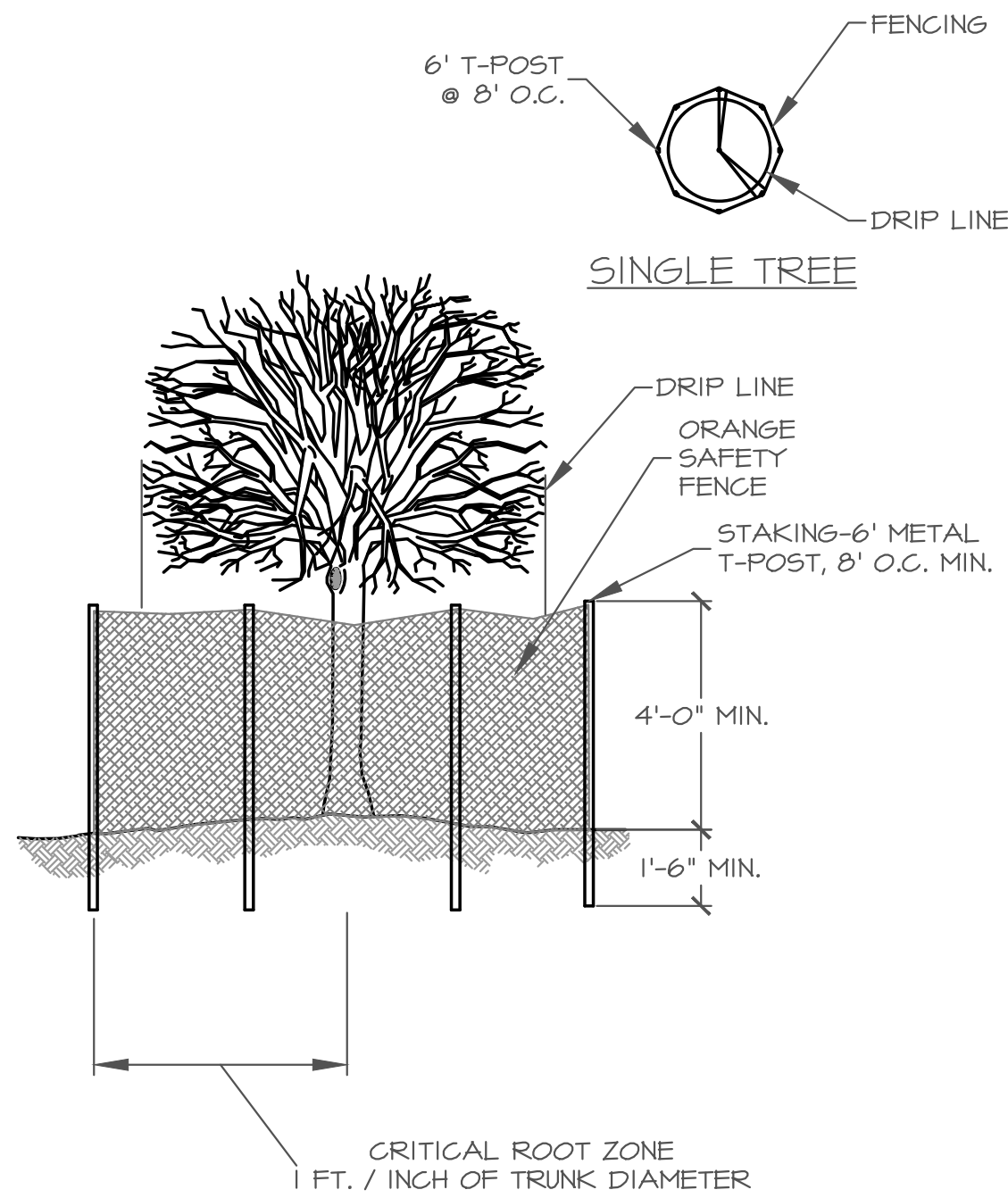
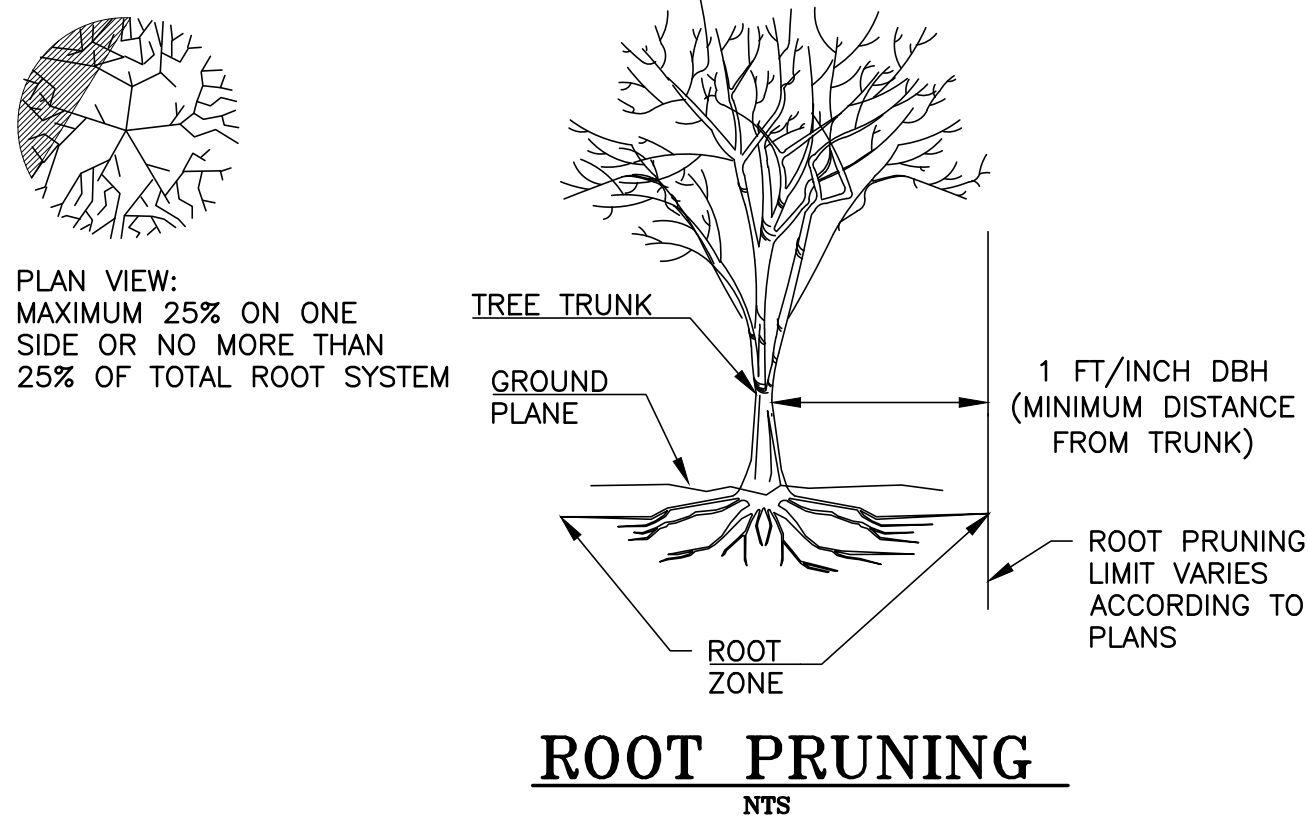
DESIGN: PZD Subdivision
DATE: 05.07.12
PROJECT: FY122106

C9.2

TREE ROOT PRUNING NOTES

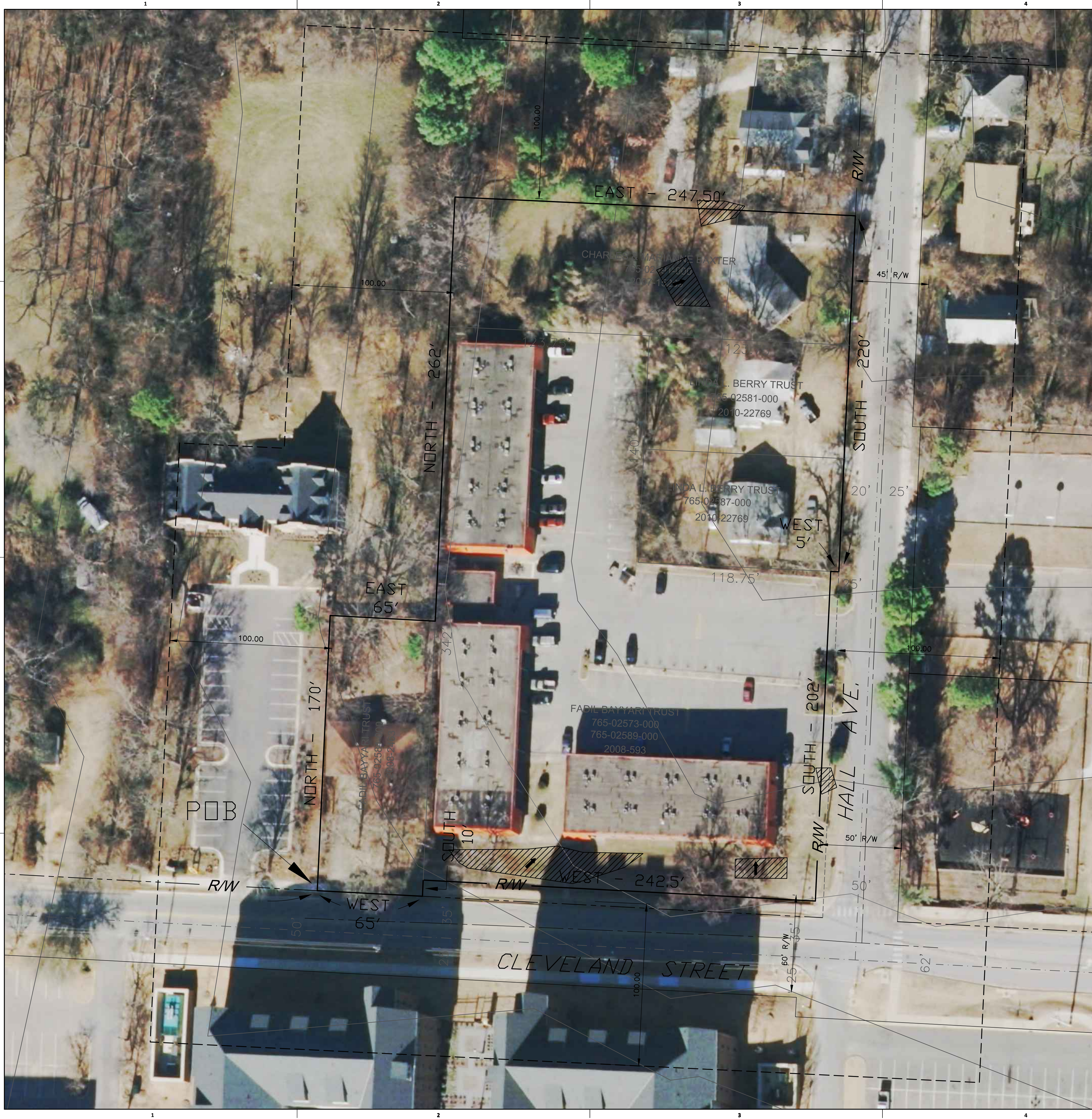
A TREE SHOULD BE ROOT PRUNED ONLY IF THE PROBLEM CAN BE SOLVED BY REMOVING LESS THAN 25 PERCENT OF THE TREE'S ROOTS, WITH NO MORE THAN 25 PERCENT FROM ONE SIDE.

1. A DOSKO OR VERMEER ROOT PRUNER SHOULD BE USED. THE CUT SHOULD EXTEND TO A DEPTH OF 24–36 INCHES. MASONRY SAWS WILL WORK BUT USUALLY ARE NOT LARGE ENOUGH TO REACH THE CORRECT DEPTH. IF THE PROPER PRUNING TOOL IS NOT AVAILABLE A TREE STUMP GRINDER CAN BE SUBSTITUTED.
2. CUT ROOTS CLEANLY AFTER EXCAVATION WITH CLEAN, SHARP TOOLS, TO PROMOTE CALLUS FORMATION AND WOUND CLOSURE. WOUNDS MAY BE DRESSED WITH A TREE ROOTING HORMONE COMPOUND THAT IS AVAILABLE AT GARDEN CENTERS.
3. BACKFILL THE EXCAVATION AS SOON AS POSSIBLE AND WATER THE SOIL AROUND THE ROOTS TO AVOID LEAVING AIR POCKETS. IF BACKFILLING WON'T HAPPEN FOR SEVERAL DAYS, COVER THE EXPOSED ROOTS WITH BURLAP AND KEEP DAMP. BACKFILL AS SOON AS POSSIBLE.



TREE PROTECTION FENCE

SCALE: NTS



EXISTING LEGEND

---	PROPERTY LINE
---	RIGHT OF WAY LINE
---	SANITARY SEWER LINE
---	WATER LINE
---	GAS LINE
---	UNDERGROUND PHONE
---	UNDERGROUND ELECTRIC
---	OVERHEAD TV CABLE
---	FENCE
---	DITCH FLOWLINE

○ FH	FIRE HYDRANT
⊗ WM	WATER METER
⊗ WV	WATER VALVE
⊗ SS	SANITARY SEWER MH
⊗ OC.D.	CLEAN-OUT
⊗ D	DRAINAGE MH
⊗ P	POWER POLE
⊗ G	GUY WIRE WITH ANCHOR
⊗ GM	GAS METER
⊗ SLP	STREET LIGHT POLE
⊗ P.D.	PEDESTAL (AS NOTED)
⊗ S	SIGN (AS NOTED)
⊗ M	MAILBOX
⊗ P.N.	POST (AS NOTED)
⊗ E	ELEVATION (AS NOTED)
⊗ C.P.S.	COTTON PICKER SPINDLE
⊗ F.I.P.	FOUND IRON PIN
⊗ C.P.	CONTROL POINT

GRADES GREATER THAN 15%

DRAINAGE FLOW

TREE MITIGATION CALCULATIONS

	ACRES	SQ. FT.	% OF TOTAL SITE
TOTAL SITE	X.XX	XXX.XXX	100.0%
EXISTING CANOPY	.XX	XX,XXX	XX.X%
PRESERVED EXISTING CANOPY	.XX	XX,XXX	XX.X%

EFFORTS IN MITIGATION ARE OCCURRING ON SITE CURRENTLY
ADDITIONAL TREES BEYOND WHAT ARE PLANNED CURRENTLY
WILL BE PLACED ON SITE AND APPROVED BY URBAN FORESTER

SOIL INFORMATION

ALL SOILS ON SITE CONSIST OF FaC2 - FAYETTEVILLE FINE SANDY LOAM
THESE SOILS HAVE ERODED SLOPES FROM 3-8%.

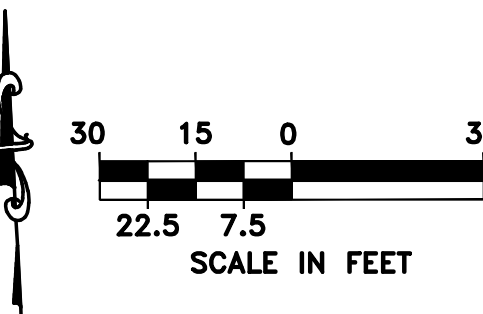
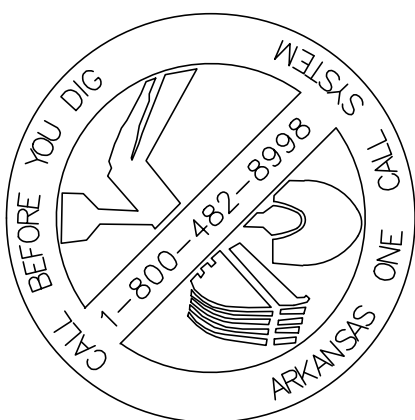
ALL EXISTING STRUCTURES ON SITE WILL BE DEMOLISHED.

ALL OHE SERVICE WILL BE RELOCATED UNDERGROUND

ALL EXISTING EASEMENTS ARE INDICATED.

STREETS BORDERING SITE WILL BE WIDENED PER REQUIREMENT OF FAYETTEVILLE FIRE DEPARTMENT.

EXISTING SUB-SURFACE DRAINAGE STRUCTURES AND PIPES WILL BE REMOVED AND REPLACED WITH AN UNDERGROUND DETENTION SYSTEM.



AGENDA REQUEST

5th (9th)
FOR: COUNCIL MEETING OF JUNE 19, 2012

FROM:

SONDRA SMITH, CITY CLERK
KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend Article Iv **Taxicabs** And Article V **Limousine Service** Of Chapter 117 Of The Fayetteville Code To Clarify Notice Requirements, Cancellation Of Unused Certificates Of Public Convenience And Necessity, And Other Provisions

APPROVED FOR AGENDA:

Dendra E. Smith
City Clerk

5/10/12
Date

Kit Williams
City Attorney

5/10/12
Date

Don Man
Chief of Staff

5-14-12
Date

David D. Hester
Mayor

5/14/12
Date



Paul A. Becher

FINANCE & INTERNAL SVC DIRECTOR

5-14-2012

05-10-12 P03:42 RCVD

5-10-12 KJ

**TO: Mayor Jordan
City Council**

**Kit Williams
City Attorney**

**Jason B. Kelley
Assistant City Attorney**

THRU: Sondra Smith, City Clerk

**CC: Don Marr, Chief of Staff
Greg Tabor, Police Chief**

FROM: Kit Williams, City Attorney



DATE: May 17, 2012

**RE: Revisions of Taxicabs & Limousine Services Chapters
of Fayetteville Code**

After consultations with the Fayetteville Police Department and the City Clerk, I have drafted an ordinance to remove obsolete sections, make the Taxicab and Limousine Services Chapter's notification and insurance provisions equivalent to the pedicab's more recent requirements, and clarified what City official should receive and maintain required documents. Alderman Ferrell also asked me to draft language prorating the \$100.00 license fee depending upon when the taxi or limousine is first placed in service. I have done that in sections 6 and 7 of the Ordinance. Below is a summary of the proposed changes:

TAXICAB ORDINANCE

(1) §117.31 (B): Remove "and Fayetteville City Clerk" from last line.

(2) §117.32 (C): Replace with my new language so that Police Department first ensures the proper and adequate application has been filed before the City Clerk schedules the public hearing. Applicant must notify other companies instead of City Clerk.

(3) §117.33: Change last two words from “finance director” to “City Clerk”. Add language requiring that the insurance policy must include an automatic notification of City Clerk if policy cancelled or is no longer in effect.

(4) §117.34 (B): Repeal (B) \$100 surety bond unnecessary. Realphabetize (C) and (D).

(5) §117.36: Add my new (C) → “deemed abandoned and shall be denoted as cancelled and invalid ...” if Certificate holder goes out of business or fails to operate for a year.

(6) §117.41: Add two sentences to change the \$100.00 annual fee to prorated amount depending upon what quarter the taxi is first placed in service.

LIMOUSINE ORDINANCE

(1) §117.61 **License Required; Fee:** Added language identical to taxi fee proration for limousines.

(2) §117.63: Change “finance director” to “City Clerk”. Put in notification language if insurance lapses.

(3) Add §117.65: Suspension, Revocation and Cancellation of Certificate
“A limousine service’s Certificate of Public Convenience and Necessity may be suspended, revoked or cancelled for the same reasons and by the same procedures set forth in §117.36.”

Alderman Brenda Boudreaux has scheduled an Ordinance Review Committee meeting on May 30, 2012, at 5:00 p.m. in Room 326 so the Police Department, City Clerk and I can discuss the reasons we suggest these amendments be adopted by the City Council.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ARTICLE IV TAXICABS AND ARTICLE V LIMOUSINE SERVICE OF CHAPTER 117 OF THE FAYETTEVILLE CODE TO CLARIFY NOTICE REQUIREMENTS, CANCELLATION OF UNUSED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, AND OTHER PROVISIONS

WHEREAS, notification of all holders of current and valid Certificates of Public Convenience and Necessity should be accomplished by the taxicab or limousine applicant (as required of pedicab applicants) rather than the City Clerk; and

WHEREAS, if a taxicab or limousine service's holder of a Certificate of Public Convenience and Necessity goes out of business or fails to operate for one year, the Certificate should be deemed abandoned and cancelled as it is for pedicabs; and

WHEREAS, other technical changes should be made to the **Taxicab** and **Limousine Service** Chapters.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.31 **Rates** of the Fayetteville Code by deleting "and Fayetteville City Clerk" from the last sentence in (B).

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.32 (C) by repealing it in its entirety and enacting a new §117.32 (C) as shown below:

"(C) Public Hearing for Certificate. When the Police Department notifies the City Clerk that a proper and adequate application has been filed, the City Clerk shall fix a time and place for a public hearing thereon. The City Clerk shall thereupon notify the applicant who shall have the duty to notify all holders of current and valid Certificates of Public Convenience and Necessity for taxicabs and pedicabs and provide proof of

such service to the City Council. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.”

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.33 **Liability Insurance** by denoting the current wording as (A) and by deleting “finance director” as the last two words of (A) and replacing them with “City Clerk,” so that the required insurance policy will be filed in the City Clerk’s Office; and by enacting (B) as shown below:

“(B) Insurance required under this section must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before cancelling, failing to renew, or making a material change to the insurance policy. If the insurance of the holder lapses or is cancelled and new insurance is not obtained, the Certificate of Public Convenience and Necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a taxicab service while the certificate is suspended under this section.”

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.34 **Licensing Requirements** by repealing (B) *Surety Bond required* and realphabetizing the remaining subsections.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.36 by amending the title to “**Suspension, Revocation and Cancellation of Certificate**” and enacting a new subsection C as shown below:

“(C) If any holder of a Certificate goes out of business, fails to operate under the Certificate for one calendar year, fails to have any vehicle inspected to operate under the Certificate for one calendar year or fails to have any driver or operator properly permitted under the Certificate for one calendar year, the holder’s Certificate of Public Convenience and Necessity shall be deemed abandoned and shall be denoted as cancelled and invalid by the City Clerk.”

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.41 by adding the following after the third sentence of the section:

“The license fee shall be prorated depending upon when the taxi is first operated during its first calendar year of service. Taxis placed in service after April 1 shall pay \$75.00; after July 1 shall pay \$50.00 and after October 1 shall pay \$25.00.”

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.61 **License Required; Fee** by adding the following at the end of the section:

“The license fee shall be prorated depending upon when the limousine is first operated during its first calendar year of service. Limousines placed in service after April 1 shall pay \$75.00; after July 1 shall pay \$50.00 and after October 1 shall pay \$25.00.”

Section 8: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.63 **Liability Insurance** of the **Limousine Service** Chapter by replacing “finance director” with “City Clerk” in the current language and denoting this as subsection (A) and enacting a new (B) as shown below:

“(B) Insurance required under this section must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before cancelling, failing to renew, or making a material change to the insurance policy. If the insurance of the holder lapses or is cancelled and new insurance is not obtained, the Certificate of Public Convenience and Necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a limousine service while the certificate is suspended under this section.”

Section 9: That the City Council of the City of Fayetteville, Arkansas hereby enacts §117.65 **Suspension, Revocation and Cancellation of Certificate** as shown below:

“§117.65 **Suspension, Revocation and Cancellation of Certificate.**

“A limousine service’s Certificate of Public Convenience and Necessity may be suspended, revoked or cancelled for the same reasons and by the same procedures set forth in §117.36.”

PASSED and APPROVED this 19th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

CHAPTER 117: VEHICLE-RELATED BUSINESSES

ARTICLE I
REPAIR SHOPS AND WRECKER
SERVICES

117.01 Definitions

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Motor vehicle. Every self-propelled device in, upon or by which any person or property is or may be transported or drawn over public streets and highways, except devices used exclusively upon stationary rails or tracks. "Motor vehicle" shall include, but shall not be limited to, automobiles, trucks, tractors, motorcycles, implements of husbandry, or buses.

Motor vehicle repair shop. Any business where motor vehicles are repaired for a charge and any place where the work of repairing motor vehicles is carried on as an incident to the business of selling new or used motor vehicles, or new or used motor vehicle parts, or as an incident to any other traffic in motor vehicles or their parts or equipment.

Motor vehicle wrecker service. Any business which, as a part of its operation, tows disabled motor vehicles for a charge.

Repair work on motor vehicles. Any work on the premises of a motor vehicle repair shop which requires direct or indirect physical contact with a motor vehicle or part thereof.

(Code 1965, §13C-1; Ord. No. 2190, 1-20-76; Code 1991, §117.01)

117.02 Storage Of Wrecked Vehicle

- (A) No person in charge of or in control of a motor vehicle repair shop, or a motor vehicle wrecker service, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, nonoperable or wrecked motor vehicle to be stored on the premises longer than 10 days, unless said motor vehicle is stored in an enclosed building or is stored behind a six-foot fence constructed of such material that the motor vehicle is not readily visible by motorists or pedestrians. A six-foot view-obscuring fence may be constructed in accordance with this section, notwithstanding any provision of the city's zoning code (Chapter 160).
- (B) No person in charge of, or in control of, a motor vehicle repair shop, or a motor vehicle wrecker

service, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, nonoperable or wrecked motor vehicle to be stored within 50 feet of a public street right-of-way; provided, if a building structure is lawfully located closer than 50 feet from the street right-of-way, no partially dismantled, nonoperable or wrecked motor vehicle shall be stored closer to the street right-of-way than the wall of the building.

(Code 1965, §§13C-2, 13C-3; Ord. No. 2190, 1-2-76; Ord. No. 2196, 2-17-76; Code 1991, §117.02)

117.03-117.09 Reserved

ARTICLE II
USED CAR SALES

117.10 Report To Police Department
Required

All automobile dealers in the city are required to furnish to the police department a list of all used cars sold by the dealer, setting forth such information as is prescribed by the police department.

(Code 1965, §19-8; Ord. No. 1447, 6-7-65; Code 1991, §117.10)

117.11-117.19 Reserved

ARTICLE III
REPEALED

117.20-117.29 Reserved

ARTICLE IV
TAXICABS

117.30 Definitions

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Certificate. A Certificate of Public Convenience and Necessity issued by the City Council, authorizing the holder thereof to conduct a taxicab business in the city.

Driver's permit. The permission granted by the Chief of Police, or his duly-appointed representative, to a person to drive a taxicab upon the streets of the city.

Holder. A person to whom a Certificate of Public Convenience and Necessity has been issued.

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

Manifest. A daily record prepared by a taxicab driver and/or taxicab company of all trips made by company vehicles showing time and place of origin, destination, number of passengers, and the amount of fare of each trip.

Person. Includes an individual, a corporation, or other legal entity, a partnership, and any unincorporated association.

Rate card. A card issued by the city for conspicuous display in each taxicab which contains the rates of fare then in force.

Taxicab. A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of not more than seven passengers and not operated on a fixed route. This definition expressly excludes limousines.

Waiting time. The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act, or fault of a passenger or passengers.

(Code 1965, Sec. 20-16; Ord. No. 1910, 4-3-73; Code 1991, §117.30; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.31 Rates

- remove*
- (A) All taxicabs shall utilize a meter for calculation of rates and such apparatus shall be clearly visible to the occupant of the vehicle.
- (B) The City Council has the authority to establish the maximum allowable rates for all taxicabs, consistent with the provisions of Arkansas Code Annotated § 14-57-303 for the City sponsored taxi program utilizing City issued taxi coupons. The City Council shall utilize the percentage change as calculated utilizing the change, from year to year, of the rate per mile published by the Internal Revenue Service for the allowed mileage reimbursement rate for Federal Income Tax purposes. Each licensed taxi company shall, on an annual basis, submit to the Fayetteville Police Department and Fayetteville City Clerk the fare schedule the taxi company will utilize for the next twelve (12) months and each taxi company shall cause this fare schedule to be posted prominently within each taxi in full view of the passenger.
- (C) The maximum allowable rate effective November 1 shall be left undetermined and shall be established by City Council Ordinance at any time deemed necessary by the Fayetteville City Council.

- (D) Zone A shall be bounded on the west by Razorback to Maple to Garland, on the North by Drake to Gregg Avenue to Futrell/Milsap Road, on the East by College Avenue, Rock Street to Mill Avenue to Huntsville Road to Morningside Drive and on the South by 15th Street. Zone B shall be the remaining portions of Fayetteville not incorporated in Zone A. A Taxi Zone Map, marked Exhibit A, is attached hereto and made a part hereof.

(Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04; Ord. 4777, 10-04-05)

Cross reference(s)--Public Transit Board, §33.320.

117.32 Certificate Of Public Convenience And Necessity Required; Issuance Procedure

- (A) No person shall operate or permit a taxicab or limousine owned, leased or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a Certificate of Public Convenience and Necessity from the Fayetteville City Council.
- (B) An application for a certificate shall be filed with the Police Department upon forms provided by the city, and said application shall be verified under oath and shall furnish the following information:
- (1) The name and address of the applicant, including the name and address of all officers and stockholders of the company, if incorporated, and the name of the person to whom complaints should be directed;
 - (2) The financial status of the applicant, including the financial status of the officers and stockholders of the company, if incorporated, including the amount of all unpaid judgments against the applicant (officers and stockholders of the company, if incorporated), and the nature of the transaction or acts giving rise to said judgments;
 - (3) The experience of the applicant including all officers and stockholders of the company, if incorporated, in the transportation of passengers;
 - (4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate;
 - (5) The number of vehicles to be available for operation or controlled by the applicant and the location of proposed depots and terminals. The applicant shall furnish a minimum and maximum number of vehicles to be permitted;

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

- (6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;
- (7) The hours between which the applicant proposes to provide taxicab or limousine service to the general public, and the days, if any, on which the applicant does not propose to provide taxicab service to the general public, and;
- (8) The rate schedule which the applicant proposes to use to charge passengers.

(C) Upon the filing of an application, the City Clerk shall fix a time and place for a public hearing thereon. Written notice of such hearing shall be given to the applicant and to all persons possessing current and valid Certificates of Public Convenience and Necessity. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.

(D) Findings of the City Council.

- (1) If the City Council finds that further taxicab or limousine service in the city is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this subchapter, then the city clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.
- (2) The City Council shall deny any application in which the proposed hours of service or the proposed rate schedule are found to be unreasonable to meet the public need.
- (3) In making the above findings, the City Council shall take into consideration the number of taxicabs or limousines already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant.

(Code 1965, §§20-17--20-20; Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.32; Ord 4623, 10-05-04; Ord. 4661, 12-21-04)

117.33 Liability Insurance

- (A) No Certificate of Public Convenience and Necessity shall be issued or continued in operation unless there is in full force and effect automobile liability insurance for each vehicle. The insurance shall have limits of not less than \$25,000 for personal injury to, or death of, any one person in any one accident, and liability limits of \$50,000 for personal injury to, or death of, two or more persons in any one accident, and \$25,000.00 for injury to or destruction of property or others in any one accident. The insurance shall be maintained with an insurance company authorized to do business in the state. A certificate evidencing such insurance shall be filed with the finance director.

(Code 1965, §20-21; Ord. No. 1910, 4-3-73; Ord. No. 3038, 10-2-84; Code 1991, §117.33; Ord. 4661, 12-21-04)

117.34 Licensing Requirements

(A) Decal required.

No certificate shall be issued or continued in operation unless the holder thereof has secured an annual permit decal for each vehicle granting the right to engage in the taxicab business. Permit decals shall be placed on the rear window of the permitted vehicle, and be clearly visible at all times. The licensing shall be for the calendar year, with holders required to file annual renewal applications and fees at least thirty (30) days prior to the end of each year; and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his operation and control. All vehicles so licensed shall be required to show proof of the purchase of for hire tags from the State of Arkansas.

(B) Surety Bond required.

No certificate shall be issued unless and until the applicant shall file with the City Clerk a surety bond in the amount of \$100.00, conditioned upon the applicant establishing, maintaining, and continuing the proposed service until such time as the certificate issued to the applicant is cancelled, withdrawn, or has expired.

(C) Radio dispatch required.

Every certificate holder shall maintain a radio dispatch system in operation during the hours of operation set forth in the application for the Certificate of Public Convenience and Necessity, capable of providing reasonably prompt service in response to requests received by telephone. Two-way radios are the preferred system. Citizens Band (CB) radios shall not be used. Any holder of a Certificate of Public Convenience and Necessity at the time of passage of this ordinance shall have six (6) months from the effective date thereof to comply with this provision.

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

(D) *Scanners prohibited.*

The use of scanners or other similar devices to monitor other taxicab operator's calls is hereby prohibited.

(Code 1965, §20-22; Ord. No. 1910, 4-3-73; Code 1991, §117.34; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.35 Transfer Of Certificate

No Certificate of Public Convenience and Necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the City Council.

(Code 1965, §20-23; Ord. No. 1910, 4-3-73; Code 1991, §117.35; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.36 Suspension, Revocation Of Certificate

(A) A certificate issued under the provisions of this article may be suspended by the Chief of Police, or his duly-appointed representative, if the holder thereof has (1) violated any of the provisions of this article, (2) discontinued operations for more than 20 days, (3) violated any ordinances of the city, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

(B) The Chief of Police, or his duly-appointed representative, shall inform the City Council of all such suspensions, and may also recommend the revocation of a certificate. Upon such recommendation, the City Council shall set a time and place for a revocation hearing. The holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

Add (C) out of business → certificate cancelled
(Code 1965, §20-24; Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.36; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.37 Taxicab Driver's Permit Required; Issuance Procedure

(A) No person shall operate a taxicab for hire upon the streets of the city and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the city shall be so driven at any time for hire, unless the driver of said taxicab shall have first obtained and shall have then in force a taxicab driver's permit issued under the provisions of this subchapter.

(B) *Application required.*

(1) An application for a taxicab driver's permit shall be filed with the Chief of Police, or his duly-appointed representative, on forms provided by the city, and such application shall be verified under oath and shall contain the following information:

(a) The names and addresses of four residents of county, who have known the applicant for a period of one year and who will vouch for the sobriety, honesty, and general good character of the applicant.

(b) A concise history of his employment; and,

(c) satisfactory proof that the applicant is twenty one (21) years of age or over, as required by Arkansas Code Annotated § 14-57-404.

(C) Before any application is finally passed upon by the Chief of Police, or his duly-appointed representative, the applicant shall be required to present a current Arkansas Drivers License, with the appropriate endorsement allowing the transport of passengers for hire.

(D) The police department shall conduct a local background check of each applicant for a taxicab driver's permit, and a report of such background check and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the Chief of Police, or his duly-appointed representative.

(E) The Chief of Police, or his duly-appointed representative, shall, upon consideration of the application and the reports and certificate required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the City Council to offer evidence why his application should be reconsidered.

(F) *Form and term of permit.*

(1) Upon approval of an application for a taxicab driver's permit, the Chief of Police, or his duly-appointed representative, shall issue a permit to the applicant which shall bear the name, address, age, signature and photograph of the applicant.

(2) Such permit shall be in effect for the remainder of the calendar year. A renewal permit for each calendar year thereafter shall be issued, unless the permit for the preceding year has been revoked.

Insert probation language

FAYETTEVILLE CODE OF ORDINANCES
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Each certificate holder shall maintain copies of the drivers permit application and other supporting information so long as the driver is employed by the certificate holder. Each certificate holder shall promptly inform the Chief of Police, or his duly-appointed representative, upon the termination or resignation of a driver.

(Code 1965, §§20-25--20-31; Ord. No. 1910, 4-3-73; Code 1991, §117.37; Ord. 4632, 10-05-04; Ord. 4661, 12-21-04; Ord. 4796, 11-15-05)

117.38 Display Of Permit

Every permittee under this article shall post his driver's permit in such a place as to be in full view of all passengers while the driver is operating a taxicab, and the permit shall be illuminated when necessary for viewing.

(Code 1965, §20-32; Ord. No. 1910, 4-3-73; Code 1991, §117.38; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.39 Suspension, Revocation Of Permit

The Chief of Police, or his duly-appointed representative, is hereby given the authority to suspend any driver's permit issued under this article for a driver's failure or refusal to comply with the provisions of this article, such suspension to last for a period of not more than ten days. The Chief of Police, or his duly-appointed representative, is also given authority to revoke any driver's permit for failure to comply with the provisions of this article. However, a permit may not be suspended or revoked unless the driver has received notice and has had an opportunity to present evidence in his behalf.

(Code 1965, §20-33; Ord. No. 1910, 4-3-73; Code 1991, §117.39; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.40 Failure To Comply With Applicable Law

Every driver licensed under this article shall comply with all city, state, and federal laws. Failure to do so will justify the Chief of Police, or his duly-appointed representative, in instituting proceedings for revocation of the permit.

(Code 1965, §20-33.1; Ord. No. 1910, 4-3-73; Code 1991, §117.40; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.41 Vehicles To Be Kept Safe And Sanitary

Every vehicle operating under this article shall be subject to a thorough examination and inspection by the Fleet Division of the City, to include verification of the accuracy of each fare meter. The cost of said

inspection shall be at a rate set by the Fleet Superintendent and shall be calculated at the hourly charge schedule utilized by the division. In addition, certificate holders shall pay an annual one hundred (100) dollar fee per vehicle, to defray the City's administrative costs. The vehicle must comply with such reasonable rules and regulations as may be prescribed by the Chief of Police, or his duly-appointed representative. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Chief of Police, or his duly-appointed representative, shall determine necessary. The vehicle, upon passage of an inspection shall be affixed with a decal that certifies the vehicle as safe to operate in the City of Fayetteville. If a properly inspected, licensed taxicab with decal is taken out of service and replaced with another taxicab, the replacement taxicab must be inspected by the Fleet Superintendent at the established rate as set out above. However, the replacement taxicab shall then receive a decal without the owner having to pay the \$100.00 administrative fee.

(Code 1965, §20-33.2; Ord. No. 1910, 4-3-73; Ord. No. 1916, 4-17-73; Code 1991, §117.41; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04; Ord. 4929, 9-19-06)

117.42 Designation Of Vehicle As Taxicab By Insignia Or The Like

No vehicle covered by the terms of this article shall be licensed whose color scheme, identifying design, monogram, or insignia to be used thereon shall, in the opinion of the Chief of Police, or his duly-appointed representative, conflict with or imitate any color scheme, identifying design, monogram or insignia used on a vehicle or vehicles already operating under this article, in such a manner as to be misleading or tend to deceive or defraud the public; and provided further, that if, after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram or insignia is used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering such taxicab or taxicabs shall be suspended or revoked. The vehicle operator shall also be required to display the decal affirming the safe condition of the vehicle. In addition, every taxicab shall have affixed to its roof an illuminated sign bearing either the word "taxicab" or "taxi."

(Code 1965, §20-33.3; Ord. No. 1910, 4-3-73; Ord. No. 2527, 5-1-79; Code 1991, §117.42; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.43 Acceptance, Discharge Of Passengers

(A) Duties of Drivers.

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

- (1) *Restriction on number of passengers.* No drivers shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of the taxicab as defined by the vehicle manufacturer. Every taxicab, as required by state law, shall carry a child safety seat and the driver shall know how to properly install and safely use such device. A child under six years of age, properly restrained by a child safety seat shall not be counted as an extra passenger when accompanied by an adult.
- (2) *Refusal to carry orderly passengers prohibited.* No driver shall refuse or neglect to convey any orderly person or persons, or any person or persons accompanied by a seeing eye dog, or a seeing eye dog upon request, unless unable or forbidden by the provisions of this article to do so; provided, it shall not be unlawful for a driver to refuse or neglect to convey any passenger who has previously refused or failed to pay a legal fare as provided in this article.
- (3) *Prohibitions of drivers.* It shall be a violation of this article for any driver of a taxicab to solicit business for any hotel or motel, or to attempt to divert patronage from one hotel or motel to another. Neither shall such driver engage in selling intoxicating liquors or use his vehicle for any illegal purpose.
- (4) *Passengers without fare prohibited.* No driver shall permit any person to be carried in a taxicab as a passenger without payment of the legal fare mentioned in this article while a fare-paying passenger is also being carried in the cab.
- (B) *"Shared Ride" vs. "Exclusive Ride."* All persons engaged in the taxicab business in the city, operating under the provisions of this article, shall render an overall service to the public desiring to use taxicabs. Such service may be a "shared ride" taxicab system where the consent of passengers is not needed to pick up or discharge additional passengers, nor to choose the route taken by the vehicle; or, such service may be an "exclusive ride" taxicab system providing door-to-door service in which the party hiring the vehicle has exclusive use of the vehicle and may direct the vehicle's route and destination. Under the shared ride system, a maximum of three pickups at different locations shall be permitted; after which all parties must reach their destination before additional pickups can be made.

Response to calls. Holders of Certificates of Public Convenience and Necessity shall answer all calls received by them during the hours of operation specified on the holder's application for services inside the corporate limits of the city as soon as they can do so; and, if said services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason for the delay. Any holder who shall refuse to accept a call anywhere in the corporate limits of the city at any time when such holder has available cabs shall be deemed in violation of this article, except on those occasions when the Chief of Police, or his duly-appointed representative, declares the streets of the City to be unsafe due to inclement weather. Any vehicle operated under the provisions of this article shall be equipped with snow tires or chains when required by weather conditions.

(Code 1965, §§20-33.7, 20-33.8; Ord. No. 1910, 4-3-73; Ord. No. 2302, 1-4-77; Ord. No. 2601, 2-19-80; Ord. No. 2716, 4-21-81; Code 1991, §117.43; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.44 Signed Receipt To Passenger Upon Request

The driver of any taxicab shall, upon demand by the passenger, render to such passenger a signed receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the taxicab company, the number of the taxicab, amount of charges, and date and time of transaction.

(Code 1965, §20-33.5; Ord. No. 1910, 4-3-73; Code 1991, §117.44; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.45 Refusal Of Passenger To Pay Fare

It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this article after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service.

(Code 1965, §20-33.6; Ord. No. 1910, 4-3-73; Code 1991, §117.45; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.46 Daily Manifest To Be Kept

Every company shall maintain a daily manifest upon which are recorded all trips made each day, showing the time and place of origin and destination of each trip and amount of fare. The forms for each manifest shall be of a character approved by the chief of police.

(Code 1965, §20-33.9; Ord. No. 1910, 4-3-73; Ord. No. 2527, 5-1-79; Code 1991, §117.46; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

117.47 Advertising

- (A) Subject to the restrictions provided herein, it shall be lawful for any person owning or operating a taxicab, bus, van, or motor vehicle for hire to permit advertising matter to be affixed or installed in or on such taxicab, bus, van, or motor vehicle for hire. The advertising shall not in any way obstruct the vision of the driver of the vehicle. Advertising on a taxicab shall be limited to one sign located on the rear of the vehicle which sign shall not exceed nine square feet in area. Advertising on a bus or van shall be limited to one sign on each side of the vehicle and one sign on the rear of the vehicle, none of which signs shall exceed 12 square feet in area.
- (B) It shall be unlawful for any person to display on any taxicab, bus, van, or motor vehicle for hire any advertisement of tobacco products, alcoholic beverages, x-rated motion pictures, or any advertisement that is false, misleading, or deceptive.

(Code 1965, §20-33.10; Ord. No. 1910, 4-3-73; Ord. No. 2750, 8-18-81; Code 1991, §117.47; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.48 Enforcement

The police department possesses the authority under existing law to issue citations as appropriate.

(Code 1965, §20-33.11; Ord. No. 1910, 4-3-73; Code 1991, §117.48; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.49 Meter Rates Established

- (A) It shall be unlawful for any person, owning, operating, driving, or in charge of any taxicab for hire in the city to drive or operate such taxicab, or to use or advertise in connection therewith the word "taxi," "taxicab," or "cab" or in soliciting trade from the public to represent or exhibit such vehicle as a "taxi," "taxicab," or "cab" unless such vehicle is equipped with an approved fare meter according to the provisions of this chapter. An approved fare meter is a meter that registers accumulating fare charge with each amount being visible to passenger(s).
- (B) Taxi services provided to patrons utilizing City issued taxi coupons shall be based on a zone rate system with the initial meter charge, charge per mile and additional person charge incorporated into a flat rate per zone. The Zone Rate shall be used exclusively by all taxicabs excluding waiting time except as provided in subsection (D) below. The ceiling rates shall apply to all taxicabs operating in

the city. The initial zone rates are set out as follows:

Ceiling rate, no more than a rate of:

- (a) Travel within One Zone \$8.00
- (b) Travel incorporating Two Zones \$12.00
- (c) No charge for additional person shall be charged.
- (d) Waiting time ceiling rate, not to exceed \$10.00 per hour.

(C) Taxi companies shall utilize the zone of the trip origination and zone of the trip destination for purposes of valuation for the trip.

(D) A taxicab operator may make special contractual arrangements in advance with persons at fares either higher or lower than those set forth by this article, but such contract must be in writing and a copy thereof filed with the City Clerk.

(Ord. 4751, 9-06-05; Ord 4777, 10-04-05)

117.50-117.59 Reserved

**ARTICLE V
LIMOUSINE SERVICE**

117.60 Definition

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Limousine service. Transportation service over the streets of the city, in a type of automobile commonly referred to as a limousine. This definition expressly excludes taxicabs.

(Code 1965, §20-34; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.60; Ord. No 4623, 10-05-04; Ord. 4661, 12-21-04)

117.61 License Required; Fee

It is hereby declared to be a privilege for any person to furnish limousine service, and no person shall engage in such undertaking without first paying to the city an annual license fee of \$100.00 for each limousine used on the streets of the city, for the privilege of engaging in such business, and obtaining a Certificate of Public Convenience and Necessity. The fee shall be paid on or before January 1st of each year.

(Code 1965, §20-35; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.61; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

CD117:11

Insert provision language

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

117.62 Vehicles To Be Kept Safe And Sanitary

Every vehicle operating under this article shall be subject to a thorough examination and inspection by the Fleet Division of the City. The cost of said inspection shall be at a rate set by the Fleet Superintendent and shall be calculated at the hourly charge schedule utilized by the division. The vehicle must comply with such reasonable rules and regulations as may be prescribed by the Chief of Police, or his duly-appointed representative. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Chief of Police, or his duly-appointed representative, shall determine necessary. The vehicle, upon passage of an inspection shall be affixed with a decal that certifies the vehicle as safe to operate in the city of Fayetteville.

(Code 1965, §20-36; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Ord. No. 2660, 9-18-80; Ord. No. 3037, 10-2-84; Ord. No. 3234, 12-16-86; Ord. No. 4003, §1, 10-1-96; Code 1991, §117.62; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.63 Liability Insurance

replace with City Clerk
(A) No person shall furnish limousine service unless and until such person has filed with the finance director a copy of a motor vehicle liability insurance policy issued by an insurance company authorized to do business in the state, providing limits of not less than \$25,000.00 for personal injury to, or death of, any one person in any one accident, liability limits of \$50,000.00 for personal injury to, or death of, two or more persons in any one accident, and \$25,000.00 for injury to or destruction of property of others in any one accident.

add (B) Insurance Notification
(Code 1965, §20-38; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Ord. No. 3037, 10-2-84; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.64 Licensing Requirements

No Certificate of Public Convenience and Necessity shall be issued or continued in operation unless the holder thereof has secured an annual permit decal for each vehicle granting the right to engage in the limousine business. Permit decals shall be placed on the rear window of the permitted vehicle, and be clearly visible at all times. The licensing shall be for the calendar year, with holders required to file annual renewal applications and fees at least thirty (30) days prior to the end of each year; and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his operation and control. All vehicles so licensed shall be required to show proof of the purchase of for hire tags from the State of Arkansas.

117.65-117.74 Reserved

**ARTICLE VI
RENT-A-CAR SERVICE**

117.75 Definition

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Rent-a-car service. The furnishing of rent-a-car service in the city whereby an automobile is rented for the exclusive use of a person for an indefinite period of time at a rate established by both the mileage traveled and length of time the automobile is so rented.

(Code 1965, §20-50; Ord. No. 1261, 4-10-61; Code 1991, §117.75)

117.76 License Required; Tax

It is hereby declared to be a privilege for any person to furnish rent-a-car service in the city, and no person shall engage in such undertaking without first paying to the city a license tax of \$200.00 per year. Such tax shall be paid on or before January 1st of each year.

(Code 1965, §20-51; Ord. No. 1261, 4-10-61; Ord. No. 2842, 8-3-82; Code 1991, §117.76)

117.77 Insurance Or Cash Deposit Required

(A) No person shall furnish rent-a-car service unless and until such person has furnished and filed with the City Accounting Department, an insurance policy written by an insurance company authorized to do business in the state, which policy shall bind the insurance company writing same to indemnify, up to the amount of \$20,000.00, any person suffering any personal injury or property damage from the negligent or otherwise faulty operation of such rent-a-car service.

(B) In lieu of furnishing the above insurance, a person operating a rent-a-car service may give to the city a statement or other satisfactory assurance that there has been deposited in any city bank the sum of \$20,000.00 in cash, which shall be available at all times for the payment of any damage lawfully assessed against any such person, from the operation of such rent-a-car service.

(Code 1965, §20-52; Ord. No. 1261, 4-10-61; Code 1991, §117.77)

117.78-117.79 Reserved

CD117:12

*117.65
Suspension, Revocation and Cancellation
of Certificate*

AGENDA REQUEST

FOR: COUNCIL MEETING OF JUNE 5, 2012

FROM:

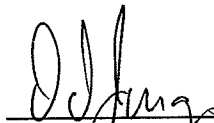
KIT WILLIAMS, CITY ATTORNEY

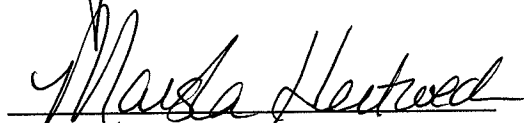
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Enact §39.10 Water And Wastewater Damage Claims Into The Fayetteville Code

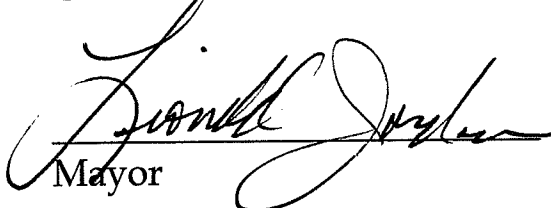
APPROVED FOR AGENDA:


City Attorney Date May 17, 2012


Utilities Director Date 17 MAY 12


Finance Director Date 5/17/12


Chief of Staff Date 5/17/12


Mayor Date 5/24/12



05-17-12 A09:59 RCVD

Kim G.

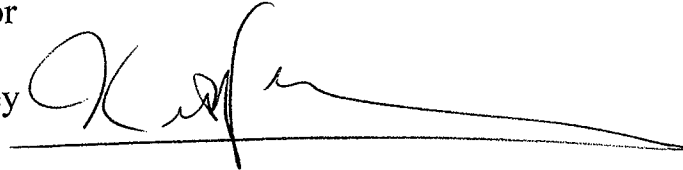
TO: **Mayor Jordan**
City Council

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

CC: **Don Marr**, Chief of Staff
David Jurgens, Utilities Director
Paul Becker, Finance Director

FROM: **Kit Williams**, City Attorney



DATE: **May 16, 2012**

RE: **Codifying Damage Claim Procedure**

HISTORY

The City of Fayetteville has historically investigated damage claims by its customers for sewer main back-ups and other problems associated and caused by city infrastructure. Some damages to property caused by blocked sewer **main**s (not private sewer service pipes) have normally been compensated. See Resolution No. 48-78 of August 1, 1978 and Resolution No. 76-87 of October 6, 1987. (attached)

UPDATING NEEDED

These 25 year old and older policies need updating and clarification. The current \$2,500.00 limit of Resolution No. 76-87 may have been appropriate in 1987, but is far from adequate now to pay legitimate damage claims experienced by our citizens for sewer main back-ups in recent years. The Utilities Department looked at historical data and determined that an \$8,000.00 level was appropriate now. In an extreme or unusual situation, the Mayor can request the City Council to approve an even higher figure (up to \$20,000.00). I do not believe we should allow a claimant or department director to appeal to the City Council, but instead reserve this power solely for the Mayor.

INPUT FROM CITY DEPARTMENTS

I want to thank the administration and all division and department heads for their work and input on the updating and codification of the City's policies concerning when a damage claim against the City should be paid and for what type of damage should the City consider paying. I especially want to thank Utilities Director David Jurgens who has the longest and largest history considering whether or not to pay personal property claims for sewer main blockage back-ups and some water main break flooding issues.

I believe the City needs to codify these damage claim policies and repeal earlier resolutions passed by the Fayetteville Board of Directors. The proposed policies will be codified into Chapter 39 **City Policies** of the Code of Fayetteville which now has only a single section dealing with filing a municipal improvement district.

Please read these policies which do not make significant changes from what has been our normal procedure for decades. However, I would like this procedure to be clarified and codified to ensure that all citizens with similar claims will be treated equally and fairly.

SOVEREIGN IMMUNITY

Please keep in mind that the City's statutory sovereign immunity protects us from liability and even from being sued in most circumstances in which someone is injured or whose property is damaged as a result of our employee's negligence or mistake. Therefore, our damage claim policy should be very restrictive so as not to waste our taxpayers' money. Thus, we will continue not to pay for pain and suffering or for anything that would be paid an insurance company. We can pay a deductible amount of an insurance policy if the City is assured the payment will not be diverted to an insurance company. Our policy still does not cover our motor vehicles insured through the Municipal League which handles claims for such car or truck accidents.

I believe enacting these new damage claim policies will protect the City and its taxpayers from potential litigation and ensure our damage claim procedure is the most efficient, equal, fair and transparent possible.

ORDINANCE NO. _____

**AN ORDINANCE TO ENACT §39.10 WATER AND WASTEWATER
DAMAGE CLAIMS INTO THE FAYETTEVILLE CODE**

WHEREAS, occasionally a city sewer main gets blocked causing sewage to back up into a residence or a city water main breaks and causes some damage to nearby property; and

WHEREAS, sovereign immunity protects the City from liability from such damages even if our employees might have somehow acted negligently (which is usually not the case); and

WHEREAS, the City has long offered some limited compensation for property damage and clean-up costs to affected persons on a case by case basis; and

WHEREAS, the procedure for how to handle such claims, with limits on the type of compensation and amount of compensation clearly expressed should be enacted into the Fayetteville Code to ensure consistent and fair treatment of such situations.

**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 enacts §39.10 **Water and Wastewater Damage Claims** into the Fayetteville Code as shown on Exhibit A.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals any and all previous Resolutions and Ordinances concerning such damage claims.

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT A

ARTICLE II

Damage Claims

§39.10 Water and Wastewater Damage Claims.

(A) Establishment of Property Damage Claim Compensation Policy.

Without waiving its statutory sovereign immunity, the City establishes the following voluntary policy governing the permissible payment of reasonable compensation for property damage claims proximately caused by a failure of the municipally owned water or wastewater infrastructure system that results in a trespass into and damage to private property.

(B) Requirements for Property Damage Claims To Be Eligible for Compensation.

- (1) The cause of the damage must be directly attributed to a failure of municipal infrastructure owned and operated by the Fayetteville Water and Wastewater utility, and cannot be associated with or caused by a private sewer or water connection or service line.
- (2) The failure must not be caused by factors beyond the City's control such as: loss of electrical service; flooding of its infrastructure; acts of third parties; failure of claimants to properly maintain protective devices (back flow valves, check valves, clean out caps, etc.); acts of God; and other circumstances beyond the City's control.
- (3) A claim form must be completed in writing and submitted to the Mayor's Office within thirty (30) days of property damage occurrence. Claim forms may be supplemented later with additional information, bills, etc. as allowed by the Utilities Director of the City of Fayetteville. Failure to submit the initial claim form within thirty (30) days of the incident terminates the claimant's opportunity to request compensation.

(C) Limitation of any compensation that might be paid.

- (1) Because the City of Fayetteville is protected by sovereign immunity, the city shall pay **no** compensation for any alleged damage associated with or related to any alleged personal injury (except a medical insurance deductible or co-payment) or any other damage except for property damage.
- (2) Compensation which may be paid for damage to property shall be limited to the cost of cleaning or repair of the damage or, in the event that the cost of cleaning or repair exceeds the fair market value of the subject property, less salvage value, compensation shall be limited to the fair market value of the

damaged property less any salvage value. No compensation shall be paid for inconvenience, loss of use, loss of profits or rents, consequential damages, or anything other than cleaning, repair or replacement of property, and, in extreme cases, dislocation expenses not to exceed three days.

- (3) No payment by the City may accrue to the benefit, directly or indirectly, of an insurance carrier, nor for any damage if such is covered by any insurance policy. If the insurance company waives any subrogation right, the City may pay an amount equal to the deductible already paid by the claimant for a property damage claim. Claimants shall be required to provide documents satisfactory to the City establishing their insurance coverage or lack thereof for any claim.
- (4) The Utilities Department Director may not authorize any payment greater than \$8,000.00 for any claim pursuant to this section. The Mayor may request the City Council to authorize an amount greater than \$8,000.00 by Resolution, but in no case shall the City pay more than \$20,000.00 pursuant to this claims procedure for a damage claim related to a water or wastewater utility infrastructure occurrence unless in an extraordinary case the Mayor recommends and the City Council by two-thirds majority approves an exemption from the \$20,000.00 damage cap and approves a payment up to \$40,000.00.
- (5) This subsection does not pertain to nor affect in any manner the motor vehicle liability insurance requirements of A.C.A. §21-9-303 nor the claims procedure and limitations to comply with that state law.

(D) *Discretion of the City.*

The City acting through its Utilities Department Director has complete and sole discretion whether or not to pay any compensation pursuant to this section if the claimant has properly and timely submitted the claim form and all necessary documentation. This section provides no right to compensation for any claimant, nor any right to appeal to the Mayor or City Council.

(E) *Release required if compensation paid.*

If the City offers to pay any compensation pursuant to this section, the claimant must sign a full release to receive the compensation offered by the city.

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RESOLUTION NO. 76-87

MICROFILMED

A RESOLUTION AMENDING RESOLUTION NO. 48-78 TO
AMEND THE CITY'S POLICY REGARDING PAYMENT OF
COMPENSATION BY THE CITY FOR PROPERTY DAMAGE
CAUSED BY A CITY SEWAGE SYSTEM BACK-UP.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF
FAYETTEVILLE, ARKANSAS:

Section 1. That Section 1 of Resolution No. 48-78 is
hereby amended by amending the first subparagraph to read as
follows:

The City will pay a maximum of \$2,500 per incident, per
dwelling unit (or per business unit), excluding occupant
labor, for the documented cost of repairing, replacing, or
cleaning a building structure or building contents damaged by
a City sewage system back-up; provided,

- (a) The blockage occurred in a City sewage system main and
not in a private line connecting a structure to the City
sewage main;
- (b) The sewage back-up was caused by an isolated line
blockage and not by excessive infiltration of surface
water or by general flooding conditions;
- (c) The sewage back-up was not caused by a pump failure due
to electric outages;
- (d) The City will pay paid receipts only or will make
payments jointly to the owner and vendor;
- (e) The City will not pay for a property owner's labor and
will not pay based on estimates; and
- (f) The City reserves the right to use an independent claims
adjuster to settle a claim made under this policy which
is over \$1,000, or if unusual circumstances, as deter-
mined by the City, exist or if a disagreement with the
property owner arises.

PASSED AND APPROVED this 6th day of October, 1987.

APPROVED

By: Marilyn Johnson
Mayor

ATTEST

By:

Guzanne McWhirter
City Clerk

RESOLUTION NO. 48-78

A RESOLUTION ESTABLISHING A POLICY REGARDING THE PAYMENT OF COMPENSATION BY THE CITY OF FAYETTEVILLE FOR PROPERTY DAMAGE CAUSED BY A CITY SEWAGE SYSTEM BACK-UP.

WHEREAS, the City's sewage system on occasion experiences an isolated back-up; and

WHEREAS, such a back-up sometimes results in damage to a building structure or to building contents; and

WHEREAS, under existing law, the City is not legally liable for such damage, but the Board of Directors has determined that under certain conditions, the City should compensate the property owner for such damage.

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

Section 1. That the Board of Directors hereby establishes the following policy regarding the payment of compensation to a property owner for damages to a building structure or to building contents caused by a back-up of the City's sewage system:

The City will pay a maximum of \$1,000 per incident, per dwelling unit (or per business unit), excluding occupant labor, for the documented costs of repairing, replacing, or cleaning a building structure or building contents damaged by a City sewage system back-up; provided,

- (a) The blockage occurred in a City sewage system main and not in a private line connecting a structure to the City's sewage main; and
- (b) The sewage back-up was caused by an isolated line blockage and not by excessive infiltration of surface water or by general flooding conditions.

Section 2. Any claim for payment of compensation under Section 1 of this resolution shall be presented in writing to the City Engineer within ninety (90) days of the incident giving rise to the claim. The complaint shall be signed by the claimant and shall state concisely the facts upon which the claim is based and shall set forth the address of the claimant, the time, date and place of the incident giving rise to the claim, and the amount claimed. The claimant shall furnish the City Engineer with (a) a description of the property damaged and a description of the damage done, and (b) itemized statements or bills from those performing repair or cleaning service or furnishing repair or cleaning materials and supplies with notations as to whether or not the same have been paid, and, if paid, the date of payment.

-2-

Section 3. The City Engineer or his duly authorized representative, shall investigate each claim. Within thirty (30) days of receipt of a claim, the City Engineer shall render a decision on the claim and notify the claimant in writing of his decision. A claimant may appeal the decision of the City Engineer to the City Board of Directors by filing written notice of appeal with the City Clerk within ten (10) days from the date of the City Engineer's decision.

PASSED AND APPROVED this 1st day of August 1978.

APPROVED:

Ernest E. Lonsberry
MAYOR

ATTEST:

Sailene Westbrook
CITY CLERK

AGENDA REQUEST

FOR: COUNCIL MEETING OF JUNE 5, 2012

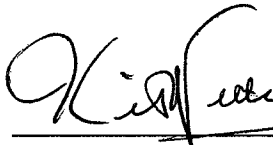
FROM:

KIT WILLIAMS, CITY ATTORNEY

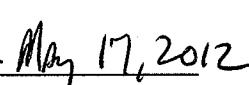
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

**An Ordinance To Enact §39.11 Damage Claims Other Than Water And
Wastewater Damage Claims Into The Fayetteville Code**

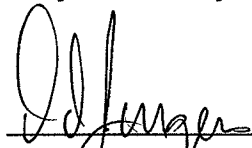
APPROVED FOR AGENDA:



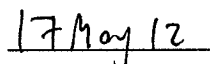
City Attorney



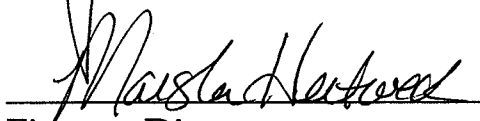
Date



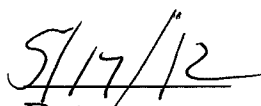
Utilities Director



Date



Finance Director



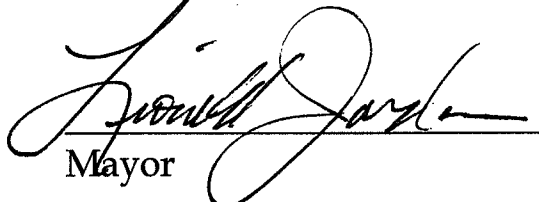
Date



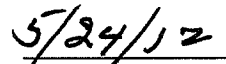
Chief of Staff



Date



Mayor



Date



05-17-12 A09:59 RCVD

Kim G.

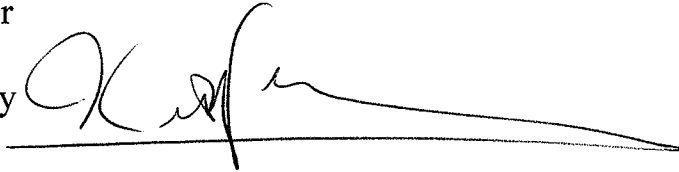
Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Don Marr, Chief of Staff
David Jurgens, Utilities Director
Paul Becker, Finance Director

FROM: Kit Williams, City Attorney



DATE: May 16, 2012

RE: Codifying Damage Claim Procedure

HISTORY

The City of Fayetteville has historically investigated damage claims by its customers for sewer main back-ups and other problems associated and caused by city infrastructure. Some damages to property caused by blocked sewer **main**s (not private sewer service pipes) have normally been compensated. See Resolution No. 48-78 of August 1, 1978 and Resolution No. 76-87 of October 6, 1987. (attached)

UPDATING NEEDED

These 25 year old and older policies need updating and clarification. The current \$2,500.00 limit of Resolution No. 76-87 may have been appropriate in 1987, but is far from adequate now to pay legitimate damage claims experienced by our citizens for sewer main back-ups in recent years. The Utilities Department looked at historical data and determined that an \$8,000.00 level was appropriate now. In an extreme or unusual situation, the Mayor can request the City Council to approve an even higher figure (up to \$20,000.00). I do not believe we should allow a claimant or department director to appeal to the City Council, but instead reserve this power solely for the Mayor.

INPUT FROM CITY DEPARTMENTS

I want to thank the administration and all division and department heads for their work and input on the updating and codification of the City's policies concerning when a damage claim against the City should be paid and for what type of damage should the City consider paying. I especially want to thank Utilities Director David Jurgens who has the longest and largest history considering whether or not to pay personal property claims for sewer main blockage back-ups and some water main break flooding issues.

I believe the City needs to codify these damage claim policies and repeal earlier resolutions passed by the Fayetteville Board of Directors. The proposed policies will be codified into Chapter 39 **City Policies** of the Code of Fayetteville which now has only a single section dealing with filing a municipal improvement district.

Please read these policies which do not make significant changes from what has been our normal procedure for decades. However, I would like this procedure to be clarified and codified to ensure that all citizens with similar claims will be treated equally and fairly.

SOVEREIGN IMMUNITY

Please keep in mind that the City's statutory sovereign immunity protects us from liability and even from being sued in most circumstances in which someone is injured or whose property is damaged as a result of our employee's negligence or mistake. Therefore, our damage claim policy should be very restrictive so as not to waste our taxpayers' money. Thus, we will continue not to pay for pain and suffering or for anything that would be paid an insurance company. We can pay a deductible amount of an insurance policy if the City is assured the payment will not be diverted to an insurance company. Our policy still does not cover our motor vehicles insured through the Municipal League which handles claims for such car or truck accidents.

I believe enacting these new damage claim policies will protect the City and its taxpayers from potential litigation and ensure our damage claim procedure is the most efficient, equal, fair and transparent possible.

ORDINANCE NO. _____

**AN ORDINANCE TO ENACT §39.11 DAMAGE CLAIMS OTHER THAN
WATER AND WASTEWATER DAMAGE CLAIMS INTO THE
FAYETTEVILLE CODE**

WHEREAS, occasionally an uninsured city vehicle or piece of equipment causes property damage to a citizen's structure or vehicle such that it would be appropriate to pay to repair such structure or vehicle even though Fayetteville's sovereign immunity protects us from liability for such damages even if caused by our negligence; and

WHEREAS, it is proper to enact a policy explaining the procedure and limitations of such compensation.

**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 enacts §39.11 **Damage Claims Other Than Water and Wastewater Damage Claims** into the Fayetteville Code as shown on Exhibit A.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals any and all previous Resolutions and Ordinances concerning such damage claims.

PASSED and APPROVED this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT A

ARTICLE II

Damage Claims

§39.11 Damage Claims other than Water and Wastewater Damage Claims.

(A) *Establishment of Property Damage Claim Compensation Policy.*

Without waiving its statutory sovereign immunity, the City establishes the following voluntary policy governing the permissible payment of reasonable compensation for property damage claims (other than Water and Wastewater) proximately caused by uninsured city vehicles, equipment, infrastructure, or personnel activities. Claims relating to City vehicles which are insured shall be handled by the City's insurance adjustor (currently the Municipal League) except that very small property damage claims may be voluntarily paid by the City if a full release is obtained.

(B) *Requirements for Property Damage Claims To Be Eligible for Compensation.*

- (1) The cause of the damage must be directly attributed to a malfunction of such uninsured vehicle or equipment, neglect or misuse of such equipment by City personnel, dangerous disrepair of City infrastructure, or other similar situation.
- (2) Any problem with the City's infrastructure that causes damage must not have been caused by factors beyond the City's control such as floods, tornados, ice storms or other acts of God, nor by acts of third parties, nor by the failure of a claimant to act in a reasonably prudent manner.
- (3) A claim form must be completed in writing and submitted to the Mayor's Office within thirty (30) days of damage occurrence. Claim forms may be supplemented later with additional information, bills, etc. as allowed by the Chief of Staff of the City of Fayetteville. Failure to submit the initial claim form within thirty (30) days of the incident terminates the claimant's opportunity to request compensation.

(C) *Limitation of any compensation that might be paid.*

- (1) Because the City of Fayetteville is protected by sovereign immunity, the city shall pay **no** compensation for any alleged damage associated with or related to any alleged personal injury (except a medical insurance deductible or co-payment) or any other damage except for property damage.
- (2) Compensation which may be paid for damage to property shall be limited to the cost of repair of the damage or, in the event that the cost of repair exceeds the fair market value of the subject property, less salvage value, compensation

shall be limited to the fair market value of the damaged property less any salvage value. No compensation shall be paid for inconvenience, loss of use, loss of profits or rents, consequential damages, or anything other than repair or replacement of property.

- (3) No payment by the City may accrue to the benefit, directly or indirectly, of an insurance carrier, nor for any damage if such is covered by any insurance policy. If the insurance company waives any subrogation right, the City may pay an amount equal to the deductible already paid by the claimant for a property damage claim. Claimants shall be required to provide documents satisfactory to the City establishing their insurance coverage or lack thereof for any claim.
- (4) The Chief of Staff may not authorize any payment greater than \$8,000.00 for any claim pursuant to this section. The Mayor may request the City Council to authorize an amount greater than \$8,000.00 by Resolution, but in no case shall the City pay more than \$20,000.00 pursuant to this claims procedure for a damage unless in an extraordinary case the Mayor recommends and the City Council by two-thirds majority approves an exemption from this \$20,000.00 damage cap and approves a payment up to \$40,000.00.
- (5) This subsection does not pertain to nor affect in any manner the motor vehicle liability insurance requirements of A.C.A. §21-9-303, nor the claims procedure and limitations to comply with that state law.

(D) Discretion of the City.

- (1) The City acting through its Chief of Staff has complete and sole discretion whether or not to pay any compensation pursuant to this section if the claimant has properly and timely submitted the claim form and all necessary documentation. Only the Mayor may request City Council consideration for an amount in excess of \$8,000.00. This section provides no right to compensation for any claimant, nor any right to appeal to the Mayor or City Council.
- (2) The City does not waive its sovereign immunity by considering whether or not to voluntarily pay any portion of a damage claim submitted for review under this section. The decision of the City is final and unappealable to any court.

(E) Release required if compensation paid.

If the City offers to pay any compensation pursuant to this section, the claimant must sign a full release to receive the compensation offered by the city.

RESOLUTION NO. 76-87

MICROFILMED

A RESOLUTION AMENDING RESOLUTION NO. 48-78 TO
AMEND THE CITY'S POLICY REGARDING PAYMENT OF
COMPENSATION BY THE CITY FOR PROPERTY DAMAGE
CAUSED BY A CITY SEWAGE SYSTEM BACK-UP.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF
FAYETTEVILLE, ARKANSAS:

Section 1. That Section 1 of Resolution No. 48-78 is
hereby amended by amending the first subparagraph to read as
follows:

The City will pay a maximum of \$2,500 per incident, per
dwelling unit (or per business unit), excluding occupant
labor, for the documented cost of repairing, replacing, or
cleaning a building structure or building contents damaged by
a City sewage system back-up; provided,

- (a) The blockage occurred in a City sewage system main and
not in a private line connecting a structure to the City
sewage main;
- (b) The sewage back-up was caused by an isolated line
blockage and not by excessive infiltration of surface
water or by general flooding conditions;
- (c) The sewage back-up was not caused by a pump failure due
to electric outages;
- (d) The City will pay paid receipts only or will make
payments jointly to the owner and vendor;
- (e) The City will not pay for a property owner's labor and
will not pay based on estimates; and
- (f) The City reserves the right to use an independent claims
adjuster to settle a claim made under this policy which
is over \$1,000, or if unusual circumstances, as deter-
mined by the City, exist or if a disagreement with the
property owner arises.

PASSED AND APPROVED this 6th day of October, 1987.

APPROVED

By: Marilyn Johnson
Mayor

By: Guzanne McWhorter
City Clerk

RESOLUTION NO. 48-78

A RESOLUTION ESTABLISHING A POLICY REGARDING THE PAYMENT OF COMPENSATION BY THE CITY OF FAYETTEVILLE FOR PROPERTY DAMAGE CAUSED BY A CITY SEWAGE SYSTEM BACK-UP.

WHEREAS, the City's sewage system on occasion experiences an isolated back-up; and

WHEREAS, such a back-up sometimes results in damage to a building structure or to building contents; and

WHEREAS, under existing law, the City is not legally liable for such damage, but the Board of Directors has determined that under certain conditions, the City should compensate the property owner for such damage.

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

Section 1. That the Board of Directors hereby establishes the following policy regarding the payment of compensation to a property owner for damages to a building structure or to building contents caused by a back-up of the City's sewage system:

The City will pay a maximum of \$1,000 per incident, per dwelling unit (or per business unit), excluding occupant labor, for the documented costs of repairing, replacing, or cleaning a building structure or building contents damaged by a City sewage system back-up; provided,

- (a) The blockage occurred in a City sewage system main and not in a private line connecting a structure to the City's sewage main; and
- (b) The sewage back-up was caused by an isolated line blockage and not by excessive infiltration of surface water or by general flooding conditions.

Section 2. Any claim for payment of compensation under Section 1 of this resolution shall be presented in writing to the City Engineer within ninety (90) days of the incident giving rise to the claim. The complaint shall be signed by the claimant and shall state concisely the facts upon which the claim is based and shall set forth the address of the claimant, the time, date and place of the incident giving rise to the claim, and the amount claimed. The claimant shall furnish the City Engineer with (a) a description of the property damaged and a description of the damage done, and (b) itemized statements or bills from those performing repair or cleaning service or furnishing repair or cleaning materials and supplies with notations as to whether or not the same have been paid, and, if paid, the date of payment.

-2-

Section 3. The City Engineer or his duly authorized representative, shall investigate each claim. Within thirty (30) days of receipt of a claim, the City Engineer shall render a decision on the claim and notify the claimant in writing of his decision. A claimant may appeal the decision of the City Engineer to the City Board of Directors by filing written notice of appeal with the City Clerk within ten (10) days from the date of the City Engineer's decision.

PASSED AND APPROVED this 1st day of August 1978.

APPROVED:

Ernest E. Lonsasty
MAYOR

ATTEST:

Maureen Weather
CITY CLERK

Agenda Session 5/29/12

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
Ward 4 Position 2 – Sarah E. Lewis

Tentative Agenda City of Fayetteville Arkansas City Council Meeting June 05, 2012

A meeting of the Fayetteville City Council will be held on June 05, 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:

Agenda Additions:

A. Consent:

- 1. Approval of the May 15, 2012 City Council meeting minutes.
- 2. **Animal Services Donation Revenue:** A resolution approving a budget adjustment in the amount of \$19,175.00 representing donation revenue to Animal Services for the first quarter of 2012.
- 3. **Bid #12-28 Chevrolet of Fayetteville:** A resolution awarding Bid #12-28 and authorizing the purchase of two 4X4 compact pickup trucks from Chevrolet of Fayetteville in the total amount of \$38,958.00, one for use by the Wastewater Division and one for use by the Meter Division, and approving a budget adjustment.

4. **Bid #12-29 MHC Kenworth/Volvo:** A resolution awarding Bid #12-29 and authorizing the purchase of one tandem axle dump truck from MHC Kenworth/Volvo of Springdale in the total amount of \$128,755.00, and approving a budget adjustment.
5. **Bid #12-30 North Point Ford:** A resolution awarding Bid #12-30 and authorizing the purchase of one 4X4 crew cab dump truck from North Point Ford of North Little Rock in the total amount of \$46,909.00, for use by the Transportation Division.
6. **Bid #12-31 J. Richard Wolf Co.:** A resolution awarding Bid #12-31 and authorizing the purchase of one trailer mounted diesel water pump from J. Richard Wolf Company of Stuttgart in the total amount of \$49,760.00, for use by Sewer Maintenance.
7. **Bid #12-32 ICM, Inc.:** A resolution awarding Bid #12-32 and authorizing the purchase of one sewer cleaning-vacuum machine from ICM, Inc. of Jacksonville in the total amount of \$361,276.05 for use by Water and Sewer, and approving a budget adjustment.
8. **Bid #12-35 Terex Utilities:** A resolution awarding Bid #12-35 and authorizing the purchase of one 1.5 ton service body truck from Terex Utilities south of North Little Rock in the total amount of \$41,554.00, for use by Water and Sewer.
9. **Bid #12-36 Terex Utilities:** A resolution awarding Bid #12-36 and authorizing the purchase of one service body truck with nine-foot utility body from Terex Utilities south of North Little Rock in the total amount of \$38,385.00, for use by the Transportation Division, and approving a budget adjustment.
10. **Bid #12-38 MHC Kenworth/Volvo:** A resolution awarding Bid #12-38 and authorizing the purchase of one truck tractor unit from MHC Kenworth/Volvo of Springdale in the total amount of \$114,715.00 for use by Wastewater Treatment, and approving a budget adjustment.
11. **Bid #12-41 Terex Utilities:** A resolution awarding Bid #12-41 and authorizing the purchase of one Ford F-550 super duty 4X4 truck with crane from Terex Utilities south of North Little Rock in the total amount of \$68,038.00, for use by the Wastewater Division.
12. **Bale Chevrolet:** A resolution authorizing the purchase of two fully-equipped Chevrolet Tahoe police pursuit vehicles from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of \$109,570.00, and approving a budget adjustment.
13. **McClelland Consulting Engineers:** A resolution approving a contract with McClelland Consulting Engineers, Inc. in the amount of \$388,600.00 for water transmission line layout and easement acquisition related to a third connection to Beaver Water District.
14. **Fulbright Expressway/Highway 71B Flyover Project:** A resolution authorizing the donation of right-of-way to the Arkansas State Highway Commission to facilitate completion of the Fulbright Expressway/Highway 71B Flyover Project.
15. **Professional Hiring Policy:** A resolution to approve the City's Professional Hiring Policy numbers PU-12 and PU-13.

*New
Resolution*

B. Unfinished Business:

1. **RZN 12-4077 Halsell Road/Pratt Place Inn Appeal:** An ordinance rezoning that property described in rezoning petition RZN 12-4077, for approximately 2.37 acres, located on Halsell Road from C-PZD, Commercial Planned Zoning District, to RSF-4, Residential Single-Family, 4 units per acre, subject to the offered Bill of Assurance. *This ordinance was left on the Second Reading at the May 15, 2012 City Council meeting.*

Left on the Second Reading

C. New Business:

1. **Proposed 2013-2017 Five-Year Capital Improvements Plan:** A resolution adopting the 2013-2017 Five-Year Capital Improvements Plan.
2. **Amend §97.015 Operating Hours:** An ordinance to Amend §97.015 Operating Hours in Chapter 97: Parks and Recreation to authorize the Parks and Recreation staff to extend a park's closing time when necessary for a tournament or special event.
3. **VAC 12-4102 (1000 W. Stone St./Fayetteville High School):** An ordinance approving VAC 12-4102 submitted by Crafton Tull and Associates for property located at 1000 West Stone Street to vacate utility easement and right-of-way.
4. **Amend §173.08 Arkansas Energy Code:** An ordinance to amend §173.08 Arkansas Energy Code of the building regulations chapter of the U.D.C. to adopt the 2009 Residential International Energy Efficiency Code, with amendments herein.
5. **RZN 12-4108 (4847 W. Wedington Dr./Bank of Wynne):** An ordinance revoking R-PZD 07-2576 (Woodstock) and rezoning that property described in rezoning petition RZN 12-4108, for approximately 31.68 acres, located at 4847 West Wedington Drive from R-PZD, Residential Planned Zoning District 07-2576, to R-A, Residential Agricultural.
- Tour* 6. **R-PZD 12-4079 (N.W. Corner of W. Cleveland St. & Hall Ave./Project Cleveland):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 12-4079, Project Cleveland, located at the northwest corner of West Cleveland Street and Hall Avenue; containing approximately 2.71 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
7. **Amend Chapter 117:** An ordinance to amend Article IV Taxicabs and Article V Limousine Service of Chapter 117 of the Fayetteville Code to clarify notice requirements, cancellation of unused certificates of Public Convenience and Necessity, and other provisions.
8. **Enact §39.10 Water and Wastewater Damage Claims:** An ordinance to enact §39.10 Water and Wastewater Damage Claims into the Fayetteville Code.
9. **Enact §39.11 Damage Claims Other Than Water and Wastewater Damage Claims:** An ordinance to enact §39.11 Damage Claims Other Than Water and Wastewater Damage Claims into the Fayetteville Code.

D. City Council Agenda Session Presentations:

- 1. Discussion of Five Year Capital Improvement Project – Paul Becker, Finance Director**

City Council Tour: *Thursday, June 14, 2012 4:30*

Announcements:

Adjournment:

Add:

NB#7 *"Move to Amend" Campaign Support:*

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.

Pre Agenda Meeting 5/23/12

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
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City of Fayetteville Arkansas
City Council Meeting
June 05, 2012**

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15. **Professional Hiring Policy:** A resolution to approve the City's Professional Hiring Policy numbers PU-12 and PU-13.

REMOVE

16. **Time Striping, Inc.:** A resolution

B. Unfinished Business:

- ✓ 1. **RZN 12-4077 Halsell Road/Pratt Place Inn Appeal:** An ordinance rezoning that property described in rezoning petition RZN 12-4077, for approximately 2.37 acres, located on Halsell Road from C-PZD, Commercial Planned Zoning District, to RSF-4, Residential Single-Family, 4 units per acre, subject to the offered Bill of Assurance. *This ordinance was left on the Second Reading at the May 15, 2012 City Council meeting.*

Left on the Second Reading

C. New Business:

- ✓ 1. **Proposed 2013-2017 Five-Year Capital Improvements Plan:** A resolution adopting the 2013-2017 Five-Year Capital Improvements Plan.

NB#5

2. **RZN 12-4108 (4847 W. Wedington Dr./Bank of Wynne):** An ordinance revoking R-PZD 07-2576 (Woodstock) and rezoning that property described in rezoning petition RZN 12-4108, for approximately 31.68 acres, located at 4847 West Wedington Drive from R-PZD, Residential Planned Zoning District 07-2576, to R-A, Residential Agricultural.

NB#6

3. **R-PZD 12-4079 (N.W. Corner of W. Cleveland St. & Hall Ave./Project Cleveland):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 12-4079, Project Cleveland, located at the northwest corner of West Cleveland Street and Hall Avenue; containing approximately 2.71 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

NB#3

4. **VAC 12-4102 (1000 W. Stone St./Fayetteville High School):** An ordinance approving VAC 12-4102 submitted by Crafton Tull and Associates for property located at 1000 West Stone Street to vacate utility easement and right-of-way.

NB#2

5. **Amend §97.015 Operating Hours:** An ordinance to Amend §97.015 Operating Hours in Chapter 97: Parks and Recreation to authorize the Parks and Recreation staff to extend a park's closing time when necessary for a tournament or special event.

- ✓ 6. **Amend Chapter 117:** An ordinance to amend Article IV Taxicabs and Article V Limousine Service of Chapter 117 of the Fayetteville Code to clarify notice requirements, cancellation of unused certificates of Public Convenience and Necessity, and other provisions.

NB#4

7. **Amend §173.08 Arkansas Energy Code:** An ordinance to amend §173.08 Arkansas Energy Code of the building regulations chapter of the U.D.C. to adopt the 2009 Residential International Energy Efficiency Code, with amendments herein.

8. **Enact §39.10 Water and Wastewater Damage Claims:** An ordinance to enact §39.10 Water and Wastewater Damage Claims into the Fayetteville Code.

9. **Enact §39.11 Damage Claims Other Than Water and Wastewater Damage Claims:**
An ordinance to enact §39.11 Damage Claims Other Than Water and Wastewater Damage Claims into the Fayetteville Code.

D. City Council Agenda Session Presentations:

- ① **Fayetteville Chamber of Commerce Economic Development Quarterly Report**

- ② **Animal Shelter Presentation – Yolanda Fields and Justine Middleton**

move to next agenda
ADD- Discussion of Five Year Capital Plan -
City Council Tour:
Paul Becker

*Call Chung
what are
this?
Can we move
& do 2 at
together?
move to July?*

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.

Lisa Branson - Presentation of 10th & 11th Quarterly Economic Development Reports to City Council during Agenda Session July 31, 2012

From: Chung Tan <CTan@fayettevillear.com>
To: Don Marr <dmarr@ci.fayetteville.ar.us>, "LBranson@ci.fayetteville.ar.us" <LBranson@ci.fayetteville.ar.us>
Date: 5/24/2012 8:24 AM
Subject: Presentation of 10th & 11th Quarterly Economic Development Reports to City Council during Agenda Session July 31, 2012
CC: Steve Clark <SClark@fayettevillear.com>, Jennifer Irwin <JIrwin@fayettevillear.com>, Katherine Brandt <KBrandt@fayettevillear.com>

Hi Don/Lisa:

Following my telephone conversation with Lisa and per the request of the city, we will combine the 10th Quarterly Economic Development reports (Jan-March, 2012) with the 11th Quarter (April-June, 2012) and will present the 6 months activities to the City Council during the Agenda Session on July 31st. As such, we will not be making a presentation for the 10th Quarter on Tuesday, May 29th.

Please confirm.

Chung

CHUNG TAN

Chamber Manager for Economic Development



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*Note: Please consider the environment before
printing this email.*

