

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
September 18, 2012**

A meeting of the Fayetteville City Council will be held on September 18, 2012 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

- 1. Advertising and Promotion Commission Appointment** – The Commission recommends the appointment of Ching Mong **APPROVED**
- 2. Nominating Committee Report** – Alderman Adella Gray **APPROVED**

Agenda Additions:

- 1. 2014 Governor's Conference on Tourism:** A resolution to encourage selection of Fayetteville for the 2014 Governor's Conference on Tourism.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 184-12

A. Consent:

1. Approval of the September 4, 2012 City Council meeting minutes. **APPROVED**
2. **Repeal Resolution No. 152-12 Drake Field Pavement Rehab & Re-Marking Phase II Project:** A resolution repealing Resolution No. 152-12 rescinding an unneeded budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 185-12

3. **2012-2013 Selective Traffic Enforcement Program (STEP) Grant:** A resolution to approve the 2012-2013 Selective Traffic Enforcement Program Grant award in the amount of \$112,500.00 and to approve the attached budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 186-12

4. **Riggs Cat:** A resolution to approve the purchase of a backhoe loader pursuant to the state contract from Riggs Cat in the amount of \$136,000.00 plus any applicable sales tax and to approve the attached budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 187-12

5. **Goodwin & Goodwin Change Order 1:** A resolution to approve Change Order No. 1 of the construction contract with Goodwin & Goodwin, Inc. for an additional \$105,125.00 and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 188-12

6. **Bid 12-67 Second Nature Property Management, LLC:** A resolution awarding Bid #12-67 and authorizing a contract with Second Nature Property Management, LLC in the amount of \$48,206.00 for the planting and maintenance of trees from the Tree Escrow Fund, and approving a ten percent (10%) project contingency.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 189-12

7. **Razing and Removal Costs for 1609 S. Duncan Avenue:** A resolution certifying to the Tax Collector of Washington County, Arkansas the costs of razing and removal of a dilapidated and unsafe structure upon the property owned by Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess located at 1609 S. Duncan Avenue in the City of Fayetteville, Arkansas.

REMOVED FROM CONSENT FOR DISCUSSION

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 190-12

B. Unfinished Business:

1. **RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins):** An ordinance rezoning that property described in rezoning petition RZN 12-4166, for approximately 20.99 acres, located to the south of Skillern Road from R-A, Residential Agricultural to RSF-0.5, One Half Single-Family Units Per Acre. *This ordinance was left on the First Reading at the August 21, 2012 City Council meeting and Tabled to the September 18, 2012 City Council meeting.*

TABLED TO THE OCTOBER 16, 2012 CITY COUNCIL MEETING.

C. New Business:

1. **§92.01 Definitions of the Animals Chapter & §92.35 Managed Care of Feral Cats:**
An ordinance to enact new definitions into §92.01 **Definitions** of the **Animals** Chapter of the Fayetteville Code and enact §92.35 **Managed Care of Feral Cats**

THIS ITEM WAS LEFT ON THE SECOND READING.

2. **VAC 12-4141 (555 W. Maple St./555 Maple):** An ordinance approving VAC 12-4141 submitted by McClelland Consulting Engineers, Inc. for property located at 555 West Maple Street to vacate a portion of Lafayette Street right-of-way, a total of 0.04 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5524

3. **VAC 12-4201 Nantucket Phase IV:** An ordinance approving VAC 12-4201 submitted by Civil Design Engineering for property located west of Morningside Drive (Nantucket Phase IV) to vacate a utility easement, a total of 0.24 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5525

4. **ADM 10-3554 I-540 Design Overlay District and Board of Adjustment Variance Findings:** An ordinance to amend Chapters, 151, 156, 161, 164, 166, and 174 of the Unified Development Code to repeal the requirements of the I-540 Design Overlay District and revise various sections of the code accordingly and to amend the Board of Adjustment findings for variances to reflect state statutes.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5526

5. **Amend 163.13 Wireless Communication Facilities:** An ordinance to amend §163.13 Wireless Communication Facilities of the Unified Development Code to clarify height limitations for antennas placed upon existing structures, to empower the zoning and development administrator to grant a variance in appropriate circumstances and to declare an emergency.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5527

6. **Amend §36.01 Initiative Petitions; When to be Filed:** An ordinance to amend §36.01 Initiative Petitions; when to be filed to change 60 days before the general election to 83 days before the general election to facilitate ballot printing for early voting.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5528

7. **2012 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2012 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

THIS ITEM WAS LEFT ON THE FIRST READING.

City Council Tour: None

Announcements:

Adjournment: 8:25 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.

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Old business and new business.

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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 Petty Was <u>absent</u> Alderman Adams arrived at 6:07pm	Kinion	✓			
	Petty	absent			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Boudreaux	✓			
	Mayor Jordan	✓			

8-0

Subject:	Advertising and Promotion Commission Appointment				
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Lewis			
Approved	Kinion	✓			
	Petty	absent			
	Tennant	✓			
	Ferrell	✓			
	Adams	absent during the vote			
	Lewis	✓			
	Gray	✓			
	Boudreaux	✓			
	Mayor Jordan				

6-0

Subject:	2014 Governor's Conference on Tourism				
Motion To:		Add to the agenda	Approve		
Motion By:		Ferrell	Gray		
Seconded:		Tennant	Tennant		
Added to the Agenda Approved 184-12	Kinion	✓	✓		
	Petty	Absent	absent		
	Tennant	✓	✓		
	Ferrell	✓	✓		
	Adams	✓	✓		
	Lewis	✓	✓		
	Gray	✓	✓		
	Boudreaux	✓	✓		
	Mayor Jordan				

7-0

7-0

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

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

7-0

Subject:	Consent				
	A.7. Razing & Removal Costs for 1609 S. Duncan Avenue was removed from the consent agenda for discussion				
Motion To:		Approve			
Motion By:		Kinion			
Seconded:		Boudreaux			
<u>Approved</u> A.7. removed for discussion	Kinion	✓			
	Petty	Absent			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Boudreaux	✓			
	Mayor Jordan				

185-12
thru
190-12

7-0

Subject:	A.7. Razing and Removal Costs for				
Motion To:		Remove from Consent	Approve		1609 S Dineen
Motion By:		Ferrell	Boudreaux		Adams
Seconded:		Adams	Gray		Must
<u>Public Hearing</u> <u>Opened</u> There was no public comment <u>Closed</u> Approved	Kinion	✓	✓		be a
	Petty	absent	absent		Public
	Tennant	✓	✓		Hearing.
	Ferrell	✓	✓		
	Adams	✓	✓		
	Lewis	✓	✓		
	Gray	✓	✓		
	Boudreaux	✓	✓		
	Mayor Jordan				

7-0

7-0

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

Subject:	RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins)				
Motion To:		<i>Table to October 16, 2012</i>			
Motion By:		<i>Fernell</i>			
Seconded:		<i>Lewis</i>			
B. 1 Unfinished Business <i>Tabled to October 16, 2012</i>	Kinion	✓			
	Petty	<i>Absent</i>			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Boudreaux	✓			
	Mayor Jordan				

7-0

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

Subject:	§92.01 Definitions of the Animals Chapter & §92.35 Managed Care of Feral Cats				
Motion To:		2nd Reading			
Motion By:		Boudreaux			
Seconded:		Ferrell			
C. 1 New Business <i>Left on</i> <i>the</i> <i>Second</i> <i>Reading</i>	Kinion	N			
	Petty	Absent			
	Tennant	✓			
	Ferrell	✓			
	Adams	N			
	Lewis	✓			
	Gray	✓			
	Boudreaux	✓			
	Mayor Jordan	✓ (yes)			

6-2

Subject:	VAC 12-4141 (555 W. Maple St./555 Maple)				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Lewis	Ferrell		
Seconded:		Ferrell	Tennant		
C. 2 New Business <i>passed</i>	Kinion	✓	✓	✓	
	Petty	Absent	Absent	Absent	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
5524	Mayor Jordan				

7-0

7-0

7-0

Subject:		VAC 12-4201 Nantucket Phase IV			
Motion To:					
		2nd Read	3rd Read	Pass	
Motion By:		Boudreaux	Tennant		
Seconded:		Lewis	Ferrell		
C. 3 New Business <u>Passed</u> 5525	Kinion	✓	✓	✓	
	Petty	Absent	absent	absent	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	Absent during the vote,	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Mayor Jordan				
		7-0	7-0	6-0	

Subject:		ADM 10-3554 I-540 Design Overlay District and Board of Adjustment Variance Findings			
Motion To:					
		2nd Read	3rd Read	Pass	
Motion By:		Boudreaux	Lewis		
Seconded:		Ferrell	Adams		
C. 4 New Business 5526	Kinion	✓	✓	✓	
	Petty	Absent	absent	Absent	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Mayor Jordan				
		7-0	7-0	7-0	

Subject:		Amend 163.13 Wireless Communication Facilities			
Motion To:		2nd Read	3rd Read	Pass	Emergency clause
Motion By:		Ferrell	Ferrell		Boudreaux
Seconded:		Lewis	Tennant		Ferrell
C. 5 New Business 5527	Kinion	✓	✓	✓	✓
	Petty	absent	absent	absent	absent
	Tennant	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Adams	✓	✓	✓	✓
	Lewis	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Boudreaux	✓	✓	✓	✓
	Mayor Jordan				
		7-0	7-0	7-0	7-0

Subject:		Amend §36.01 Initiative Petitions; When to be Filed			
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Tennant		
Seconded:		Adams	Ferrell		
C. 6 New Business 5528	Kinion	✓	✓	✓	
	Petty	absent	absent	absent	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Mayor Jordan				
		7-0	7-0	7-0	

Subject:	2012 Millage Levy				
Motion To:					
Motion By:					
Seconded:					
C. 7 New Business <i>Left on the first Reading</i>	Kinion				
	Petty				
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Boudreaux				
	Mayor Jordan				

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



Departmental Correspondence



www.accessfayetteville.org

LEGAL
DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan

THRU: Sondra Smith, City Clerk

FROM: Kit Williams, City Attorney

DATE: September 19, 2012

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of September 18, 2012

1. **Governor's Conference:** A resolution to encourage selection of Fayetteville for the 2014 Governor's Conference on Tourism (already provided).
2. **Repeal of Resolution No. 152-12:** A resolution repealing Resolution No. 152-12 rescinding an unneeded budget adjustment.
3. **2012-2013 STEP Grant:** A resolution to approve the 2012-2013 Selective Traffic Enforcement Program grant award in the amount of \$112,500.00 and to approve the attached budget adjustment.
4. **Riggs Cat:** A resolution to approve the purchase of a backhoe loader pursuant to the state contract from Riggs Cat in the amount of \$136,000.00 plus any applicable sales tax and to approve the attached budget adjustment.
5. **Goodwin & Goodwin Change Order #1:** A resolution to approve Change Order #1 of the contract with Goodwin & Goodwin, Inc. for an additional \$105,125.00 and to approve a budget adjustment.
6. **Bid #12-67:** A resolution awarding Bid #12-67 and authorizing a contract with Second Nature Property Management, LLC in the amount of \$48,206.00 for the planting and maintenance of trees from the Tree Escrow Fund, and approving a 10% project contingency.

7. **Razing & Removal Costs for 1609 S. Duncan Avenue:** A resolution certifying to the tax collector of Washington County, Arkansas the costs of razing and removal of a dilapidated and unsafe structure upon the property owned by Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess located at 1609 S. Duncan Avenue in the City of Fayetteville, Arkansas;
8. **Amend §163.13 Wireless Communication Facilities:** An ordinance amending §163.13 **Wireless Communication Facilities** of the Unified Development Code to clarify height limitations for antennas placed upon existing structures, to empower the Zoning and Development Administrator to grant a variance in appropriate circumstances and to declare an emergency.
9. **Amend §36.01 Initiative Petitions; When to be Filed:** An ordinance to amend §36.01 **Initiative Petitions; When to be Filed** to change 60 days before the General Election to 83 days before the General Election to facilitate ballot printing for early voting.

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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.

Added at Agenda Session
9-11-12

AGENDA REQUEST

C. 1
§92.01 Definitions of the Animals Chapter &
§92.35 Managed Care of Feral Cats
Page 1 of 8

FOR: COUNCIL MEETING OF SEPTEMBER 18, 2012

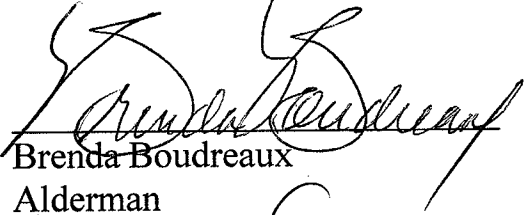
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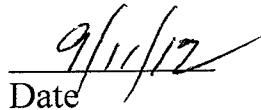
ALDERMAN BRENDA BOUDREAUX

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Enact New Definitions Into §92.01 **Definitions Of The Animals**
Chapter Of The Fayetteville Code And To Enact §92.35 **Managed Care Of Feral Cats**

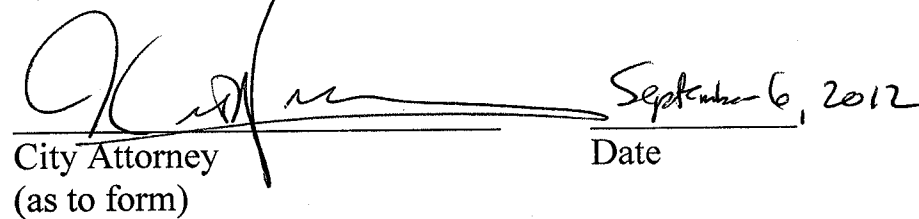
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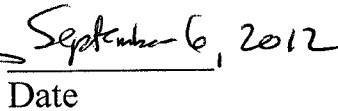

Brenda Boudreaux
Alderman


Date

09-11-12 P03:47 RCVD

WJB


City Attorney
(as to form)


Date



**TO: Mayor Jordan
City Council**

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

**CC: Jeremy Pate, Development Services Director
Yolanda Fields, Community Services Director
Justine Middleton, Animal Services Superintendent**

FROM: Kit Williams, City Attorney

DATE: September 6, 2012

RE: Control of feral cat population

Animal Services has looked at how some other cities have attempted to better control and manage their feral cat population. The key is to prevent breeding in the most effective manner possible. A trap, neuter and return program appears to be the best solution. Accordingly, we have drafted the proposed new code section which authorizes such a program in Fayetteville if an Animal Welfare Organization volunteers to administer the program.

This ordinance was scheduled and heard at the Ordinance Review Committee with myself, Yolanda Fields, Justine Middleton, Dr. James Robb and other staff present to discuss the problem of feral cats and this potential new way to control their population. Several audience members also spoke about this issue and supported this new ordinance.

Since the Ordinance Review Committee did not have a quorum, no official vote in support of this ordinance could be taken. However, Chairman Brenda Boudreaux examined the ordinance, questioned staff and indicated her personal support for the ordinance to enact a trap, neuter and return program for Fayetteville.

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Yolanda Fields, Dir. Community Services

From: Justine Middleton, Animal Services Superintendent

Date: August 30, 2012

Subject: New Ordinance for the managed care of feral cats

PROPOSAL:

Allowing for the managed care for existing feral cats is a topic that has arisen repeatedly at the Animal Services Advisory Board. The main purpose behind allowing such activity is to humanely reduce the population of feral cats that otherwise goes largely unchecked. Currently, Animal Services will trap ferals cats on a strictly complaint driven basis. Those cats that are deemed feral are held the required five days and then euthanized. There is no evidence that this is curbing the feral cat population in any way.

Having a structure in place to allow for well organized management of feral cats through a trap, neuter, and return (TNR) program will eventually lead to a natural reduction in the number of feral cats as well as an increase in their current quality of life. Both the Humane Society of the United States and the American Society for the Prevention of Cruelty to Animals endorse trap, neuter, return program. These types of programs are also highly touted by no kill advocates.

The proposed ordinance is crafted in a way that will allow for TNR activities to be underwritten by a sponsoring Animal Welfare Organization (i.e. a third party non-profit) with the day to day management being given by volunteer caretakers. Animal Services will preform quarterly inspections of each designated colony to ensure compliance with the requirements of the ordinance.

RECOMMENDATION:

Staff endorses this new ordinance as another step in lowering the euthanasia rate at the Animal Shelter in addition to a more effective and humane means of controlling the existing feral cat population in Fayetteville.

BUDGET IMPACT:

N/A

ORDINANCE NO. _____

**AN ORDINANCE TO ENACT NEW DEFINITIONS INTO §92.01
DEFINITIONS OF THE ANIMALS CHAPTER OF THE FAYETTEVILLE
CODE AND TO ENACT §92.35 MANAGED CARE OF FERAL CATS**

WHEREAS, increased efforts to control feral cats and reduce their ability to reproduce is needed in Fayetteville; and

WHEREAS, an ordinance for managed care of feral cats would improve control over feral cats and reduce their overall number through a spay and neuter program.

**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 and adds the following definitions (properly alphabetized) into §92.01 **Definitions** of the **Animals** Chapter of the Fayetteville Code:

Eartip. A mark identifying a feral cat as having been sterilized, specifically the removal of a quarter inch off the tip of the cat's left ear in a straight line cut while the cat is anesthetized.

Feral cat. A cat that is not socialized to humans and is not an owned cat.

Feral cat colony. A group of feral cats that congregate together as a unit and share a common food source.

Sterilize. To spay or neuter.

Trap, Neuter and Return Program. A program pursuant to which feral cats are trapped, sterilized, vaccinated against rabies, eartipped, returned to the location where they were captured and provided with long-term care by a Caretaker in accordance with this Chapter.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby enacts
§92.35 **Managed Care of Feral Cats** into the Fayetteville Code as shown on Exhibit A.

PASSED and **APPROVED** this 18th day of September, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT A

“§92.35 Managed Care of Feral Cats

(A) *Trap, Neuter and Return Program*

A Trap, Neuter and Return program is established to better control and manage feral cats who are living in a colony cared for by a Caretaker. This program will not be in effect until it is sponsored and managed by a non-profit Animal Welfare Organization approved by the Fayetteville Animal Services Program. This sponsoring organization shall supervise the Caretakers and ensure the Caretakers perform all duties imposed upon them by §92.35 (B). This approved Animal Welfare Organization shall report annually to Animal Services concerning the status and population of all registered feral cat colonies including the total number of managed cats and the number of cats and kittens sterilized, vaccinated and/or placed for adoption.

(B) *Caretaker Duties*

A Caretaker of a feral cat colony shall regularly provide food, water and shelter for the cats in his or her feral cat colony. The Caretaker shall make reasonable efforts to:

- (1) trap all cats so they can be sterilized, vaccinated, and ear-tipped by a veterinarian;
- (2) recapture all cats to update rabies vaccinations as required by state law;
- (3) register all feral cats with the sponsoring Animal Welfare Organization and maintain medical records for all cats;
- (4) find adoptive or foster homes for any kittens born to the feral cats of the colony;
- (5) report annually in writing the total number of feral cats in the colony, the number sterilized and vaccinated, the number of kittens born and the number of cats and kittens adopted or placed in foster care.

(C) *Caretaker Exemption from §92.22 (C) and (D)*

A Caretaker of a feral cat colony who is properly registered with the approved Animal Welfare Organization and in compliance with all Caretaker Duties stated above shall be exempt from §92.22 **Running at Large Prohibited** subsections (C) and (D) only for allowing properly managed feral cats from running at large. Any such feral cat which is running at large within Fayetteville and is a nuisance or problem for neighbors may be trapped or caught by Animal Services officers, impounded and dealt with as any other cat or dog captured while running at large would be handled. Such exemption ends if the Caretaker's status is revoked or abandoned.

(D) *Loss of Caretaker Status*

(1) If a Caretaker fails to adequately perform the duties required by (B), the Animal Welfare Organization shall report this failure to Animal Services which may revoke all of the Caretaker's rights to care for the feral cat colony and the exemption from §92.22 (C) and (D). If the Caretaker disputes the grounds for revocation of his or her Caretaker status, the Caretaker can appeal in writing within three business days to the Community Services Director who shall conduct a hearing during which the Caretaker can explain why his or her Caretaker's status should not be revoked. The Director shall then make a final determination whether or not to revoke the Caretaker's status.

(2) If a person desires to be released from Caretaker duties, the person shall immediately notify the Animal Welfare Organization who shall notify the City's Animal Services Program, which shall release and revoke the person's Caretaker status and the duties and exemption thereunder.

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

CHAPTER 92 ANIMALS

ARTICLE I
GENERAL PROVISIONS

92.01 Definitions

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandon. Any person who knowingly deserts an animal on public or private property.

Animal. Any living creature, domestic or wild.

Animal shelter. Any facility operated by a humane society, municipal agency or its authorized agent(s) for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

At large. Not under the physical control of the animal's owner or harborer, or his authorized representative, either by leash, trolley system, or enclosure. An animal intruding upon or damaging the property of another person or upon public property, trespassing on school grounds, harassing passersby or passing vehicles, or interfering with refuse collection, harassing meter readers and not under the physical control referred to herein shall be deemed "running at large." An animal within an automobile or other vehicle shall not be deemed "running at large" if the animal is physically confined to the vehicle. An animal shall not be considered "at large" when on the premises of the owner or harborer thereof and accompanied by the owner or harborer.

Cat. A feline of either sex, including one neutered or sterilized.

City. City of Fayetteville, Arkansas.

Dangerous Animal. Any animal which, when unprovoked, approaches in a manner of attack any person or domestic animal upon the streets, sidewalks, or any other public ground or place.

Dog. A canine of either sex, including one neutered or sterilized.

Enclosure. A fence or pen, or structure forming or causing an enclosure of sufficient strength or construction to contain the specific animal and prevent the animal from escaping. Owners confining dogs or cats by means of an enclosure must provide a minimum space of 100 square feet (10x10) per dog or cat four (4) months of age or older.

Harbor. For a period of three days or more, to keep and care for an animal or provide a premises to which the animal returns.

Kennel means a structure or facility used for the purpose of breeding two or more litters of puppies or kittens within any twelve month period. A facility used for commercially boarding more than three dogs or cats or combination thereof at any time shall be considered a 'Kennel'.

Locked Enclosure. A fence or pen, or structure with all gates or entrances locked with a key or combination device. The structure forming or causing an enclosure of sufficient strength or construction to contain the specific animal and prevent the animal from escaping.

Microchip. An identifying integrated circuit placed under the skin of a dog or cat for purposes of identifying the owner of the animal.

Noisy Animals. Any domestic animal which barks, whines, or howls in an unwarranted, or continuous, or loud, or frequent fashion.

Pet Shop means a commercial establishment or facility which regularly sells pets such as dogs, cats, birds, rodents, reptiles and/or fish to the general public. Pet Shops are only allowed in C-1, C-2, C-3, Downtown Core, Mainstreet Center, Downtown General and by Conditional Use in R-O Districts

Restrained. Any animal secured by leash and under the control of owner or harborer. At public events of 100 persons or more, leashes shall be a maximum length of 6 feet. The animal must be within 4 feet of the owner or harborer.

Special Event. A specified or designated public occurrence, affair, or event at which more than three hundred (300) persons are reasonably expected by the organizer or sponsor thereof to be in attendance.

Sterilize means to surgically alter an animal so that it cannot reproduce.

Tether. A rope, chain, or cable of appropriate strength that is firmly anchored to the bed of an open bed pickup truck or similar vehicle in at least two places. Tether is to be used to restrain the animal and fastened to the animal by means of a harness or collar and to be the appropriate length as to afford the animal freedom to move about the vehicle, but to restrict the animal to a set radius to prevent it from reaching either side or the rear of the vehicle so that the animal cannot be thrown

*Added at Agenda Session
9-11-12 - New Ordinance*

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §36.01 **INITIATIVE PETITIONS;
WHEN TO BE FILED** TO CHANGE 60 DAYS BEFORE THE
GENERAL ELECTION TO 83 DAYS BEFORE THE GENERAL
ELECTION TO FACILITATE BALLOT PRINTING FOR EARLY
VOTING

WHEREAS, early voting especially for armed service members stationed overseas require ballots to be prepared early enough to ensure our citizens have the right to vote; and

WHEREAS, the *Arkansas Constitution* provides: "In municipalities and counties the time for filing an initiative petition shall not be fixed at less than sixty days nor more than ninety days before the election," Art. 5 §1; and

WHEREAS, to help ensure the City Clerk has sufficient time to inspect an initiative petition and allow the petitioner sufficient time to correct minor mistakes or obtain replacement signatures, the period of time for filing initiative petitions should be extended from 60 days before the election to 83 days before the election.

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 §36.01 **Initiative Petitions; When To Be Filed** by repealing the current language and enacting new language under the same title:

"All municipal initiative petitions shall be filed pursuant to *Amendment 7* of the *Constitution of the State of Arkansas* found in *Article 5 §1* of the *Arkansas Constitution*. These initiative petitions shall be filed no later than 83 days before the general election date."

PASSED and APPROVED this 18th day of September, 2012.

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
September 04, 2012**

A meeting of the Fayetteville City Council was held on September 04, 2012 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Gray, Boudreaux, Kinion, Petty, Tennant, Ferrell, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

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

Approved

Lifesource International Lease Agreement: A resolution approving a lease agreement with Lifesource International for premises located at 1932 S. Garland Avenue in exchange for services to the citizens of Fayetteville.

Resolution 174-12 as recorded in the office of the City Clerk.

Fayetteville Police Department Policies: A resolution approving Fayetteville Police Department policies 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 41.1.1 Patrol, 41.2.8 Vehicular Pursuit, 41.3.5 Grooming and Uniform Requirements, 54.1.1 Public Information Policy, and 46.1.1 Critical Incidents.

Resolution 175-12 as recorded in the office of the City Clerk.

Allied Waste Services of Bella Vista: A resolution approving one (1) year extension agreement with Allied Waste Services of Bella Vista to haul and dispose of solid waste and recycling in the City.

Resolution 176-12 as recorded in the office of the City Clerk.

Bid #12-65 Benchmark Construction of NWA, Inc.: A resolution awarding Bid #12-65 and authorizing a contract with Benchmark Construction of NWA, Inc. in the amount of \$335,230.42 for installation of a concrete pad and associated work at the City solid waste and recycling facility, approving a project contingency of \$33,523.04, and approving a budget adjustment.

Resolution 177-12 as recorded in the office of the City Clerk.

Solid Waste Hauling and Disposal Fees: A resolution approving a budget adjustment in the amount of \$303,598.00 to provide funding for solid waste hauling and disposal fees.

Resolution 178-12 as recorded in the office of the City Clerk.

Keep Fayetteville Beautiful Committee: A resolution authorizing the Mayor to appoint up to seven (7) persons to serve at the pleasure of the Mayor as a Keep Fayetteville Beautiful Committee to facilitate creation of a Keep Fayetteville Beautiful affiliate to work in coordination with Keep Arkansas Beautiful and Keep America Beautiful, and sunseting the authorization for this committee upon incorporation of a private non-profit organization.

Resolution 179-12 as recorded in the office of the City Clerk.

SWEPCO Energy Block Grant Rebate: A resolution approving a budget adjustment in the amount of \$14,561.00 recognizing revenue from the SWEPCO Energy Block Grant Rebate and allocating the revenue to the LED Trail Lighting Program.

Resolution 180-12 as recorded in the office of the City Clerk.

Alderman Boudreaux moved to approve the Consent Agenda as read. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

ADM 12-4144 3078 N. College Ave. Siebert Appeal: A resolution to reverse the Planning Commission's decision to grant and thereby to deny the variance to Eric Siebert to operate his Shave the Planet business longer than 90 days as an outdoor mobile vendor. *This resolution was Tabled at the July 03, 2012 City Council meeting to the September 04, 2012 City Council meeting.*

Jeremy Pate gave a brief description of the resolution.

Mayor Jordan: We did a 90 day extension. Isn't the 90 days almost up anyway?

Jeremy Pate: It would be as of September 25th.

Alderman Ferrell: My understanding is that Alderman Petty has some amendments to this and also that will go to Ordinance Review. As soon as it's through Ordinance Review we can hear it all at one time. I would assume to do that as soon as we can.

Alderman Petty: That is fine with me but you should know that while I anticipate it getting to Ordinance Review this month, my intentions are also to send it through the Planning Commission. So I do not expect it to make it to the Council by September 25th.

Alderman Ferrell: The 25th is what they asked for and that is when the license will be up. Either way their license will be over, is that right?

Jeremy Pate: That's correct. So if this is tabled again and it goes past that date, their maximum time at that particular location would be up, and so they would move until the next year.

Alderman Boudreaux: As late as it is I cannot see making a decision on this right now.

Alderman Ferrell: After the amendments come to the Council, will it be up to the Council to send it to the Planning Commission or will it automatically go from Ordinance Review to Planning Commission?

Alderman Boudreaux: It will go to Planning, Ordinance Review and then us.

Alderman Petty: It is my intention to send it to Ordinance Review first.

Alderman Boudreaux: Before it goes to Planning?

Alderman Petty: That was the advice I received from staff and I think it's a good idea so we can nail out some of the policy differences and intentions and Planning Commission can comment on procedural issues.

Alderman Ferrell: What is the next sequence of events on this Jeremy?

Jeremy Pate: I think ultimately it is up to the sponsor. There are some pretty major changes of this particular ordinance so those are some items that we would rather have the Council weigh in on at Ordinance Review Committee before we take the technical aspects of the ordinance through the Planning Commission process.

Alderman Boudreaux: Is this coming from an Alderman or is staff supporting this?

Jeremy Pate: This is coming from an Alderman.

City Attorney Kit Williams: If you are going to table it you should probably table it indefinitely because once the time is run, there is no sense in hearing the appeal.

Eric Siebert, owner of Shave the Planet thanked the Council.

Alderman Boudreaux moved to table the appeal indefinitely. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

This item was tabled indefinitely.

Amerlux Exterior, LLC: An ordinance waiving the requirements of formal competitive bidding and approving an agreement with for the purchase of seventeen (17) streetlight poles and fixtures manufactured by Dynamic Lighting, Inc. in the total amount of \$28,415.93 for installation on downtown improvement projects along Mountain Street, College Avenue, Center Street, East Avenue and Meadow Street. *This ordinance was left on the First reading at the August 21, 2012 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Terry Gulley, Transportation Services Director gave a brief description of the ordinance.

Alderman Petty: I would like to thank the Council and staff for honoring my request. I really appreciate taking the extra time to investigate what this company offers. I appreciate the intention to keep everything the same but respectfully I am going to vote no. I feel like we should go as far as seeing how much savings there would be long term to replace the existing poles with new technology rather than buying into this old energy intensive technology.

Alderman Lewis: What is the time on this and at what point do you revisit this?

Terry Gulley explained the area where the new streetlight poles would be placed.

Alderman Lewis: So any new lights beyond that?

Terry Gulley: Anywhere else like on Block Street we went with LED lights and that is our intention from that point on. We do the same thing on our trail lighting. We are pretty much committed to that in the future.

Alderman Tennant moved to suspend the rules and go to the third and final reading. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-1. **Alderman Petty** voting no.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. **Alderman Boudreaux, Tennant, Ferrell, Adams and Gray** voting yes. **Alderman Kinion, Petty and Lewis** voting no.

Ordinance 5520 as Recorded in the office of the City Clerk

Amend §154.03 Private Parties/Zoning Amendment: An ordinance to amend §154.03 Private Parties/Zoning Amendment to clarify the powers of the Planning Commission and City Council when a property owner seeks rezoning. *This ordinance was left on the First reading at the July 17, 2012 City Council meeting. This ordinance was left on the Second reading at the August 7, 2012 City Council meeting. This ordinance was left on the Second reading and Tabled until an Attorney General opinion is received.*

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: We received the Attorney General's opinion, correct?

City Attorney Kit Williams: That is correct. He agreed with my analysis that this particular code section could not be applied and the state law is pretty clear on what is required, which is a majority decision. I do think we should remove this from the code since it is not a valid code section. I would ask that you replace the previous code section and adopt the new code sections that were in the ordinance.

Alderman Ferrell: What do we have left that requires a super majority?

City Attorney Kit Williams listed all the things that required a two thirds vote.

Alderman Lewis: I appreciate the Council allowing time to get that opinion.

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

Ordinance 5521 as Recorded in the office of the City Clerk

Public Hearing:

Fayetteville Taxi LC, Public Convenience Necessity: A resolution granting a Certificate of Public Convenience and Necessity to Fayetteville Taxi LC for the operation of one (1) to four (4) taxicabs in the City of Fayetteville.

Mayor Jordan opened the public hearing.

Police Chief Greg Tabor gave a brief description of the resolution.

Alderman Ferrell: Do you think we have too many cabs?

Police Chief Greg Tabor stated based on what I see on Dickson Street I would probably say no.

Alderman Gray: What is the population of Fort Smith?

Police Chief Greg Tabor: I think around 90,000.

Alderman Gray: So their ratio is about the same as ours.

Alderman Adams: This column on this report says number of driver permits denied. What does it take to be denied? How do your records tell us something?

Police Chief Greg Tabor explained why an application would be denied.

A discussion followed.

Alderman Tennant: One of the things I am concerned about is we have 35 permitted but that is not necessarily how many are on the street. That would be a fluid changing number all the time.

Police Chief Greg Tabor: That is my understanding.

Alderman Tennant: This would just be raising the ceiling of maximum permitted.

Police Chief Greg Tabor: In the certificate it specifically says a maximum number but their certificate may be a lower number.

Stewart Larrabee, the applicant gave a brief description of his company.

Alderman Tennant: How many cars are you going to start with?

Stewart Larrabee: Just one for now.

Alderman Tennant: Do you have a marketing or advertising plan? I think people would use ride sharing if they knew about it.

Stewart Larrabee: Yes, this is something that the City could implement immediately and have a couple temporary signs that everyone sees. Some of this is long term goals for next year.

Bryce Curry of Dynasty Transportation expressed his concerns and spoke against the resolution.

Alderman Petty: Why haven't you asked to increase the number of vehicles you are permitted to run?

Bryce Curry: That is something I have done on the sidelines. I never realized there was a position that said you are allowed 10 cabs and that is it. We put cabs out there because they were needed.

Alderman Petty: Has your business expanded since you opened it?

Bryce Curry explained how his business has grown and expanded.

Alderman Petty: Why do you think the wait times on the weekends and peak hours are so long?

Bryce Curry: You are never going to solve that problem. The problem is there are 23 bars. He went on to explain how many people there are leaving the bars at the same time.

Mayor Jordan: So Mr. Curry, you are saying there are a lot of people downtown on Dickson Street.

Bryce Curry: I would say it is since the students are back.

Mayor Jordan closed the public hearing.

Alderman Ferrell: The Chief of Police didn't think we had too many cabs and the competition is good regardless of what you might hear tonight. I hope new ideas are implemented but we will see what the market decides.

Alderman Lewis: It's really up to the market and I feel like that is what this is about. You see a need and opportunity and are going for it. That is where my decision sits. I think the market needs to play its roll there.

Alderman Tennant: I agree, but it does worry me a little bit when it comes to taxi cabs that we need to make sure we have a quality product out on the street. My fear is that when the market decides whether that taxi cab stays or goes, I don't want to damage the projection that we have of Fayetteville.

Alderman Petty: I think if you look at performance as a whole it is not meeting the expectations of downtown patrons. The only way to do that is to add more cabs.

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

Resolution 181-12 as recorded in the office of the City Clerk.

New Business:

2012 Arkansas Department of Environmental Quality E-Waste Grant: A resolution approving application for a 2012 Arkansas Department of Environmental Quality E-Waste Grant of \$25,000.00 for an E-Waste coupon redemption program.

Brian Pugh, Waste Reduction Coordinator gave a brief description of the resolution.

Don Marr explained their findings from a conference in Dallas that was focused on residential recycling. He thanked Brian Pugh and the staff for all their work on getting this accomplished.

Brian Pugh: We hope to get this grant by December in time for the Holiday Season.

Alderman Tennant: I think this is a great thing. Thank you very much.

Brian Pugh explained when the next E-waste drop-off would be held at the Arvest Ballpark. He went on to address why E-waste could not be taken at the bulky waste clean-ups.

Alderman Adams stated that what little bit of time I spent volunteering with Brian showed me what can happen and it simply takes some face to face time and education. She thanked Ward 4 for opening their doors to them.

Brian Pugh explained a survey that was conducted.

Don Marr further explained positive effects from the survey.

Alderman Lewis: Does Washington County have certain times that they can take E-Waste?

Brian Pugh explained their operation and times for pick ups.

Alderman Lewis moved to approve the resolution. Alderman Adams seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 182-12 as recorded in the office of the City Clerk.

Enact Article XXIV Audit Committee and Internal Auditor: An ordinance to enact Article XXIV Audit Committee and Internal Auditor into Chapter 33 Departments, Boards, Commission and Authorities of the Code of Fayetteville.

City Attorney Kit Williams read the ordinance.

Vicki Deaton, Internal Auditor gave a brief description of the ordinance.

Alderman Ferrell thanked Vicki Deaton and the staff and stated I think this is a good product.

City Attorney Kit Williams pointed out a typo that needed to be corrected.

Vicki Deaton: The Audit Committee has seen this and gone over both the internal audit charter and this whole packet and they are in agreement.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5522 as Recorded in the office of the City Clerk

Amend Chapter 166.04 Required Infrastructure Improvements – Development in City limits: An ordinance amending subsection 166.04(l)(ii)(g) of Chapter 166 Development of the Unified Development Code to change the fee-in-lieu formulas related to park land dedications.

City Attorney Kit Williams read the ordinance.

Alison Jumper, Park Planning Superintendent gave a brief description of the ordinance.

Mayor Jordan: Is that basically saying that the park dedication is depending upon the market and what your land is worth?

Alison Jumper: It has two variables; the persons per unit changes that and the cost of land. So the persons per unit when it's changed, it will change the ratio of acres of land deeded per unit and then the persons per unit and the cost per acre affect the fees in lieu.

Mayor Jordan confirmed the variables.

A discussion followed.

Alderman Lewis: So on the acres per unit help me understand why that goes down.

Alison Jumper briefly explained why it goes down.

Don Marr further explained why it goes down.

Alderman Lewis: You were saying that you were going to re-visit this in one year but in the ordinance it says every two years.

City Attorney Kit Williams explained why it would be looked at next year.

Alison Jumper: The Parks Board requested that we do it next year too.

Alderman Ferrell: Isn't it every five years that the County re-assesses property?

City Attorney Kit Williams: I can't guarantee how many years that is.

Alderman Ferrell: We are going to do this every two years to keep up?

City Attorney Kit Williams: We try to keep up with our prices so there is not an inspiration for a developer just to give money in lieu thereof. We couldn't get any park land for that money and we couldn't get as much. So that is why we wanted to have it reappraised so it would be fair and a level playing field.

Alderman Lewis: When is the last time this was changed?

Alison Jumper: The last major change was in 2006.

Alderman Lewis: So this is establishing a regular two year examination.

City Attorney Kit Williams: They are going to look at it and they did in 2008 but there wasn't much change and any reason to bring it to the Council when there wasn't going to be a change.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5523 as Recorded in the office of the City Clerk

Hughmount Village Development Sewer Extension: A resolution to approve the extension of the City's sewerage system beyond the city limits to the proposed Hughmount Village Development.

City Attorney Kit Williams: Alderman Gray asked me to bring this resolution forward and I brought a bare bones one forward. I thought maybe we should have one that would be more like the ones we have done in the past where we would require the developers to be treated as if they were inside the City and so they would not have some unfair advantage to developers developing inside. The first thing I would ask you to do is to amend the original resolution that went out in the Tentative Agenda to the resolution that was presented to you at the Agenda Session with the other terms and conditions within it.

Alderman Kinion moved to amend the resolution to the resolution that was submitted at Agenda Session. Alderman Ferrell seconded the motion.

Alderman Kinion: I think it's important that when we look at this that we did take the next step to look at the amendment because this does put an adjoining development that will be annexed into the city on a level playing field as if it was already annexed. We can annex this because it is an island outside the city limits due to a few acres between that and the current development but with the amendment this does offer fairness as we move forward in considering this.

Upon roll call the motion passed unanimously.

Kim Hesse, representing Phil Phillips of Hughmount Village LLC.: This was approved in 2005; it did try to go through annexation, which was turned down at the time because of adjacent property owners. There have been a couple of partnerships since this was constructed. This development back in 2005 was in the growth boundary of the City of Fayetteville and so the design for streets and drainage, water and sewer does follow the City requirements that was a standard back then. It was constructed almost to 90% and several of you were on the tour and saw the condition of the subdivision. All streets and drainage are in, the gravity sewer system within the development is constructed and your water is constructed. This did go through your City inspection process and testing process. At this point everything was constructed per standards. As we go forward we understand that everything has to be retested because it has been sitting for a few years. We understand the Council's stance on not connecting outside the City limits. We don't want to encourage sprawl and your taxpayers resources are going to be on the limits. This development is somewhat unique. It was in the ground before this particular developer and partner ever thought of connecting to City sewer. This was designed with a package, sewer treatment system and it was passed through the State Health Department. It has since expired. The preliminary plat approvals have expired, this went through the County and

those expired as well as did the Health Department standards, or the permit for that treatment system. So we are going through the process again. This is not so much a financial stance for the developer, it's a common sense stance in that he realizes that if he puts in his package treatment system that the rules under Washington County is, once this is annexed into the City, the City has the ability to have you disconnect your decentralized system and hook onto the City's system. That would be a waste of resources and you would have a system in the ground that would not be utilized. It just makes business sense to come to you and ask for this connection. We certainly understand the agreement that was brought up with Mr. Kit Williams. We are under full agreement to meet all the City requirements from your impact fees to your development requirements. I think this is a win win. You are going to gain the impact fees. The development was there whether we hung onto the sewer or not. The answer is how is the sanitary sewer to be treated? By hooking onto your system this Council has a lot more control on how the sewage is treated. You have more control over the rest of the development like park land, streamside ordinance and things like that. This is along the tributary to Clabber Creek. You gain some of the impact fees and in the future this development would be assured to be within all of your City requirements as far as your development as well as your treatment. Your resources for water service as far as maintaining the water system will already be dedicated to the City of Fayetteville for about 500 feet from your 48 inch line that we are connected to. The sewer lines are not far beyond your city limits. I think this is going to be a win win for the developer as well as the City. We had to go through the process with the County. We lost our development rights and in the interim they adopted zoning so we had to go through a conditional use permit process. Their zoning is one unit per acre. This subdivision is closer to 3.6 units per acre. To get the rights we had to go through conditional use and that is a very public process where we held a neighborhood meeting and we met many of the neighbors. It was a huge turnout because people living out here really care about what is going on in their neighborhood. They came away from that liking the fact that Mr. Phillips is going to build quality homes that we have incorporated a lot of green space. The design changed to incorporate more green space. One of the few worries they had was that centralized system. It wasn't under their control to change that but that was really the only thing we heard against this development. In the end the neighbors came to the conditional use permit meeting at the County and spoke in favor of this development. So you have a lot of people out there that are looking forward to Mr. Phil Phillips developing this because they trust him as the developer. I hope that we can make this all work for Mr. Phillips as well as the City.

City Attorney Kit Williams: At the Agenda Session you all talked about it and I had a rough draft of the agreement that I was going to propose that they sign for it. I heard some comments about making sure it was in deeds and make it stronger like that. I also said of course I have to talk with the developer. I have now gotten a signed copy of the proposed agreement with a couple of changes and I wanted to call that to your attention. The developer has a lot of green space within his development. You can see that on the plat there. There is a real big land area by the start of the creek but also behind between the houses there is a linear park that has a trail that is going to be built in there with trees planted and things like that. It was the developer's request that they be allowed to dedicate that area for their park land dedication. I told them that the code would allow that, at the developer's request, as long as the land is suitable for park purposes. I mentioned to Ms. Hesse that when I was on the Council once we rejected some park land because it was underneath a utility easement. We thought that isn't park land. If it was

marsh land or some other problems like that, that would not be suitable for park purposes. Even though this contract talks about park land dedication, that is all contingent upon our code which has some recommendations by the Parks Department and Parks and Recreation Advisory Board and even the Planning Commission. That is basically whether or not the land is suitable for park purposes. If it's suitable for park purposes our code says the dedication shall be accepted. That's the only provision I wanted to make sure you understood that you still need to show land to the Parks Department and the Parks and Recreation Advisory Board. It can't be marsh land. It has to be land that would be good for a linear trail. You will see in paragraph five not only are they going to dedicate the trail but they are going to have to build it and plant the trees that they have shown there. Now it's approximately because they have not surveyed out the trail yet. They will have to build it to our standards and they will have to maintain it unless and until their development is annexed into the City. Once it is annexed to the City, since this park land will be dedicated to the City, then we would then maintain it. I don't think it is proper for us to spend money outside the City limits, so until that time their property owner's association will have to have an irrevocable restrictive covenant saying they will maintain the premises. There is also a requirement in this agreement that they be annexed as soon as legally they can. This will also help inspire them to be annexed because they eventually would probably like the City to begin maintaining that trail. The only other part I wanted to call to your attention is that if in fact, that's a tributary to Clabber Creek; which of course we are going to have a trail along and eventually there will be an offshoot going north toward these subdivisions. If they do get near to this subdivision, part of this is that they must grant an easement from the end of where their proposed trail is to wherever we are going to be coming up from Clabber Creek and along their land only. That is all part of this and I just wanted to make sure because when I showed this to Jeremy he was concerned about the fact what if it's not suitable land. So you are going to need to go through the process and show the appropriate people that it is suitable park land.

Kim Hesse: Mr. Phillips is agreeable to that but all of this land is very suitable and on the tour we pointed out the area where the treatment system would be. Someone asked what happens if it's not a treatment system and we said we would leave it as park land. It is very level, very high property. The only thing Mr. Phillips was concerned about is he wants to dedicate the land rather than do the fees because he has already spoken with these neighbors about how much green space could be dedicated, the County has already looked at being able to keep the space green. One thing to be aware of, as this goes through the County, yes we have all your City requirements but the County will make us widen and improve Hughmount Road from the north boundary line all the way down to Mount Comfort Road and improve an intersection. So this development is going to be a costly development but it's going to be a nice development and the neighbors are for it and I think it can be a benefit to the City.

Don Marr: I would like the clerk to reflect in the minutes the dialogue that the City Attorney just said because we think it's important that development processes go through this process as consistently between developer to developer. Park land dedication is done through our Parks Advisory Board and if it is acceptable appropriate land, as Ms. Hesse describes, I don't think there will be an issue with that. What we want to avoid is having developers negotiating outside of the typical system to get items done that don't go through the normal advisory process. We just wanted to make that point as a result of this contract.

Alderman Boudreaux: How is this going to work then? How is this going to work as far as the owner's concern about giving park land fees? Have I missed something here? Do you go ahead and dedicate the park at this point rather than fees but it's just being held?

City Attorney Kit Williams: It will be dedicated once they have satisfied the ordinance requirements. The ordinance requirements say it must be suitable land in order for it to be dedicated.

Alderman Boudreaux: It still goes through the Park Board even though it's outside the City and all of that?

City Attorney Kit Williams: That is correct.

Alderman Ferrell: Kit and Don both referred to this that it's got to go through the Parks and Recreation Board. Since they are not a policy making but an advisory capacity, ultimately this Council will make the decision with a recommendation from them isn't that correct?

City Attorney Kit Williams: Well the final decision could be appealed to you from that but as long as the land is suitable for park purposes the proposed dedication shall be accepted. This is language, that I guaranteed to the drafters of the impact fees statute in Arkansas, would remain because that is how our park land dedication ordinance was grandfathered into that statute.

Alderman Ferrell: So the advisory committee is setting policy?

City Attorney Kit Williams: No, they do not set policy but they do recommend whether or not that's a good park and then they look at the land and if there is some concern it could go to the Planning Commission and they will also look at it, but the key test is that if it's suitable land, in other words if it's not waste land or some other big problem with it then it must be acceptable.

Alderman Boudreaux: I would like to address Bobby's concerns. I don't think the City Council wants to see every park land dedication that goes through the Parks Board. That is the way it was done when I was on the Parks Board and I certainly don't think this Council wants to start taking on every park land dedication if that is what you are going at because we don't review those unless there is a concern or an appeal or something. Otherwise it goes to the Parks Board and they are the ones that make those decisions and generally make good ones.

Alderman Ferrell: What I was talking about was when we get something that comes into us for approval, the dedication; in our packets it tells us whether its lieu money paid or whether it's property for park land dedication if we are asked to approve something. Am I wrong in understanding that we are ultimately approving what their recommendation was?

Alderman Boudreaux: It would be unless it reaches a certain level of density or so forth and then it's a requirement by the ordinance that it be park land right?

City Attorney Kit Williams: Sometimes you get development decision too like in a planned zoning district and we get not only the zoning decision but also the development decision which

often is only at the Planning Commission level. The preliminary plat rarely comes to you, it can appeal and usually the park land dedication is decided at the preliminary plat stage. Is that right?

Jeremy Pate: Correct, at the Planning Commission.

City Attorney Kit Williams: So you wouldn't see that unless somebody wants to appeal it to you.

Alderman Ferrell: I have no problem with this deal.

Phil Phillips, the developer: I appreciate you all listening to this. I just wanted to assure you and the Park Commission that we are going to do everything we can to make them happy. The better our place is, the better the lots will sell and houses will be built. We are not trying to low ball this in anyway or give them a bad name. I am here to make this happen and it's been a long, hard, expensive process up to this point and I am really going to work hard to make everybody that is a decision maker as happy as I can. I just wanted to say that. Thank you all and thank you Kim for doing a good job of presenting this to you.

Alderman Lewis: I have a question for Jeremy. In looking at the map, I am not seeing how the stormwater is being dealt with. Right now it looks like it goes into the creek.

Kim Hesse replied yes and pointed out the areas on the maps. She stated in meeting with your City Engineers they have brought up the fact that we need to reduce the impact of that water and the velocity of water hitting the creek. Those ordinances were probably not in place at the time that it was designed and it was constructed. So yes, there is a lot of water hitting that creek. So what we have discussed is utilizing ways to slow the water down, do some improvements to inside the creek bed itself to slow that water down. That is going to be a process through the redesign of the subdivision.

Alderman Lewis: We have spent \$400,000 on Red Oak Park out west of town on a similar situation so you have the exact same type of design that all the water from all the roofs and driveways went to the same little creek.

City Attorney Kit Williams: Subsection 3 says "comply with all grading, stormwater, tree preservation and other development requirements as if this development was occurring within the City of Fayetteville" means you comply with our current requirements. We need probably some detention instead of dumping everything into the creek because that is what has caused us great problems in the past. So you are going to have to comply with the current grading and drainage and stormwater requirements that we have.

Kim Hesse: They mentioned the very same measures that were done at Red Oak, implementing some of those same measures with this development as far as the rock dams that were created to slow the water down and to get it to step down, creating pools so the water slows down, and then goes down another set of falls, pools again. That is what we are looking at.

Alderman Kinion: So Kim you guys talked with the City Engineers about this to meet the standards.

Kim Hesse: Yes, before we considered tying on the sewer we still had to get this back through your approval process and that was a part of it. We met with most of your Engineering staff and we were looking at options on how to work with this.

Alderman Kinion: Because it does seem like when we went on the tour out there that there would be the capacity to have dams in that very north part as you are going down.

Kim Hesse pointed out the area on the map.

Alderman Lewis: What's the County thing about stormwater at this point in the design?

Kim Hesse: Normally they refer anything within Fayetteville's growth boundary to Fayetteville. They say that but they still want to review what Fayetteville's solutions would be. So first we get Fayetteville's approval and can currently get the County's approval.

Alderman Lewis: So if this were being laid out today would this be the outcome? Right now there are subterranean pipes that end up in that ditch. So I am asking if it were a blank slate would those pipes be routed in the same place based on County regulations.

Kim Hesse: Possibly in the County but not on City. City does override County when it's in the growth boundary; however they still have that option to review it and final approval.

Alderman Lewis: My question stems from precedence setting. That is what I am wondering about. One thing that has concerned me about this is what stops other folks from developing right outside the City limits and then saying we already have it in so why can't we just connect now. My question is if it's past your land being sold for development now and it's platted, what would happen? Water and Sewer would be something like what is being designed now but would stormwater be similar, would they require any sort of detention in that area?

Kim Hesse: They probably wouldn't require detention at this point because there is no single discharge to the creek anymore allowed, which this was designed as a signal point discharge and two points. It's still the same design where you let it shoot out.

Alderman Lewis: So the County no longer allows for single point discharge to a stream?

Kim Hesse: They have implanted more detention than they have in the past.

Alderman Kinion: It is this southern part that is most concerning because we have quite a bit of the development down there.

Kim Hesse: I would say it is one third to two thirds. She showed the area on the map.

Alderman Kinion: It's the southern part where we have. There's an outlet coming from the west that is collecting all the streets from the west over to the southern part of that.

Kim Hesse and Phil Phillips continued to point out the area on the map.

Alderman Kinion: What is the velocity that we are looking at at the discharge point?

Kim Hesse: I don't know. It was hard to even get drainage calculations. This was done in 2005 and there is not a drainage report. So what we are doing as Mr. Phillips engineer, we have to get an as built survey of what's out there; all the curb inlets, size of the pipe and recalculate that velocity. Based on that velocity, that will help determine the engineers viewpoint, the City Engineer and what they will require.

Alderman Kinion: I do believe that in this amendment that they have got to comply so that is what we are going to be counting.

City Attorney Kit Williams: That's correct.

Kim Hesse: That encompasses the streamside ordinance which wouldn't have been encompassed if we didn't have this agreement.

City Attorney Kit Williams: Yes, they have to comply with all current development regulations including stormwater and streamside protection and everything else. It sounds to me like they are going to maybe have to pull up some of that pipe and put detention in, because it's not only the velocity but the amount of flow at a certain level, and that flow is not allowed to increase pre and post development. Of course the engineers know a lot better than that.

Alderman Lewis: I just want to celebrate the progress that has been made and the knowledge and the learning that has happened since this type of design has been put in. It's a major thing and it's an expensive learning curve.

Terry Coberly, a citizen asked if the sewer rates for outside the City will be higher than those that is in the City and is it City water?

David Jurgens, Utilities Director: The rates for a City sewer service outside the City are in fact higher than inside the City. It's not exactly an apples and apples comparison but for everything after the first 2,000 gallons used, the outside City rate is currently \$6.10 per thousand and the inside City rate is approximately \$4.30 per thousand. Also it is on City water already so as far as the impact on billing or water consumption or any of that has no impact whatsoever.

Connie Edmonston, Parks and Recreation Director: Our normal process is to actually go out and view the property. I think it is very important for us to look at it and analyze it and make certain that we are getting a park that we will be proud of and not have problems caused by drainage. So if there is any way that we can write in here to satisfy the park land dedication requirements, the park land will be viewed by Parks staff and Parks Board prior to taking the 3.86 acres that is on this.

City Attorney Kit Williams: The ordinance certainly controls everything and even the City Council has to obey their own ordinances so that doesn't have to actually be a part of this agreement. They still have to comply with the ordinance because if it's not land suitable for park purposes then the dedication can be denied. If the land is suitable for park purposes, according to our ordinance, it says the dedication shall be accepted. Certainly you have a right to go out there and take a look at that and if they are in violation of the ordinance then that would take precedence and they would have to understand that at that point we could not accept the proposed dedication.

Connie Edmonston: Land suitable for park purposes, not only you look at the land, you also look at where it lies in conjunction with other parks within the area, where it lies, where the trail corridor is planned, where our master plan is, where we are planning for parks. We look at if it's in the flood plain, floodway, the roads and how they go through it. Is that park land serving the residents in that development the best that we can? We try to make the best development possible for the parks system because we are going to have that park forever. We want to make certain that up front we review, walk the land, analyze it and give the recommendation for it.

Alderman Kinion: On our tour we went in the south entrance and if you have a map its 4, 5, 6, 7, and 8. I am not a park person, I mean I am not a professional, but it's going to make a lovely entry way that would be very attractive for recreation as well as offering property. I would encourage you to go out and look at it. It is the property immediately north of the southern entrance. Am I correct Kim? It's above the creek so it's not in the lower level where there is a lot of run off or flooding. They do have to comply with number 5 on this contract that would put it in compliance with our procedure is that right?

City Attorney Kit Williams: They have to build a trail to our standards and also plant trees that they have shown within their plat which is on page 16 of 24. You can still see it there but even that is kind of hard to see. They have shown us various trees and they have also shown the trail through that. We have other lateral parks I think and linear parks for trails. It certainly seems to be serving the residents there which is the whole reason that we can charge impact fees for the people that are actually paying them, who are the property owners that are going to be buying that property.

Alderman Boudreaux: I do kind of appreciate her concern because this has actually specified particular lots and that is not the normal procedure to go out and survey a development. I'm sure they probably will think that this is the perfect place but can we not change this? Of course this has all been agreed to by the owner of the property, the developer, but I do kind of regret that it wasn't put a little bit more openly that the Parks Department and staff would have some ability to actually choose the property. This does read and it would be lots 4,5,6,7, and 8; 3.86 acres and that is what the owner has agreed to in this.

City Attorney Kit Williams: Right and I still have to point out that in the Unified Development Code that has been adopted by the city and that we were able to use in order to keep that from being invalidated by the State impact fee statute. The word says that if the land that is being

offered to be dedicated by the developer is suitable for park purposes then the proposed dedication shall be accepted.

Alderman Boudreaux: Where does it say that now?

City Attorney Kit Williams: If you look on my memo I am reading it right out of there.

Alderman Boudreaux: I am reading the actual contract instead. The developer has signed Exhibit "A".

City Attorney Kit Williams: Right, that is correct.

Alderman Boudreaux: That Exhibit "A" does not say that.

City Attorney Kit Williams: It doesn't have to because we cannot agree to anything that would be contrary to code. So they have heard that tonight and they have agreed to that. They realize it must be suitable for park purposes or the dedication will not be allowed.

Don Marr: I think obviously our key thing is we got this literally at this meeting and the Parks Department hasn't had a chance to see lots 4,5,6,7 and 8 but with what is in the record tonight it is clear that it has to go through our process so we will do so and hopefully that will give us protection. If it doesn't meet that requirement then we will be back here by probably them appealing that request to you.

Alderman Boudreaux: Sounds good. I do want to say that I have a lot of reservations about this whole project and accepting something into our sewer system that is not part of the City. I still don't like it. It bothers me that developers go out and buy cheap land right outside the City limits and develop with this idea that they can use these centralized sewer systems. I do feel like this developer is trying to do the right thing with this and it is very close to the city limits. We do have a contract which requires the developer to do everything required as if it were in the city limits. It does certainly generate revenue and I wanted to point that out. It does not cost us to add this sewer and it actually generates revenue to the City. So bearing all that in mind and of course the obvious that we don't want sewer systems of any kind close to our water sources and our waterways I will support this based on this. It really does bother me to accept anything outside the city as far as running our sewer outside the city limits. It does concern me but everything has been done to make this acceptable.

Aubrey Shepherd, a citizen expressed his concerns with the existing dedication ordinance and he listed ways it affects this development.

Connie Edmonston: The Parks and Recreation Advisory Board has adopted criteria for accepting park land. It's land that we believe is suitable and that is how we work with each one of our developers and it seems to work out well.

Alderman Petty: I can certainly appreciate the good faith that the applicants have proposed this to us with. I feel like I have become a pretty good judge of character and I think you guys have

acted in good faith and I appreciate that. I am not going to be able to support it for a couple of reasons. I feel like we aren't calling this what it actually is. Even in the contract this says "in full compliance with all requirements of the UDC as if the development was inside the city limits and zoned RSF-4." For all practical purposes there are a few semantic differences but for all practical purposes this is a back way to do a rezoning and annexation in one. We are not calling it that. I like the contract, like Alderwoman Boudreaux said; the developer has done everything to make this acceptable except for the most important thing which is to be annexed. I am against a development in this location for some other reasons. I think it's a bad idea to convert agriculturally productive land that makes this area more resilient and notable for something like this but that's not the argument I am going to make. This isn't a good idea because of the precedent it sets. If this developer is willing to make these promises and we sign this contract, what happens when the property to the west, a same proposal comes forward? The property to the north and west of that one, what grounds do we have to deny that. We set the precedent. Is it just going to be emotional grounds, are we just going to say I feel like we have reached the point where these commitments aren't enough to justify the extension of City services. I don't think that is proper. I think there is a line that is drawn. We are responsible for drawing that line and we drew it in concert with the citizens who requested annexation in the past. We drew that line where the city limits are now. We have drawn a growth boundary that is about two miles out from the city limits that says we are going to plan for growth there and in that regard I can appreciate knowing of these plans. If nothing else the timing is simply wrong because the citizens of Fayetteville don't want that piece to be annexed or that would be the proposal. We even heard on the tour that this property was not capable of being annexed because of the political and cultural will of the surrounding properties. For me that is the test. What happens with the next proposal to the adjacent property?

Alderman Kinion: When I look at this I don't think it is setting a precedent to people going north and going west and east of the city. What is happening here is we have a development that is going to occur regardless of what we do this evening. The infrastructure is in place and the momentum is moving forward and so against my wishes also I had to think about this as what is realistically going to happen. I feel like it is the best thing that we can do in the long run to protect the integrity of the affluent coming from the development that is going into a stream that is directly going into Clabber Creek that will then impact the quality of the water downstream as we have our affluent from our sewer plant. I would also have to look at the potential growth. It will be annexed one of these days. So you can say that this is viable agricultural land but it is not being used as an agricultural property at this moment in time. What we have is in place infrastructure for development. So I think the responsible thing when I looked at us to do since we are only 500 feet away from our main sewer line here is to go ahead and connect it against our principles in a certain way but realistically looking at a responsible way to manage a development that is going to impact our city regardless in the long run. So for us to have the capacity to responsibly manage the activity of the stream, the sewer, and the impact of the development as a whole to get dedication of park land, even though it is not delightful to do this, it seems to me the right thing to do in this case. By saying no I am not setting a precedent, I am being responsible for what is inevitable. I think in the long run it is the responsible thing to do in managing this development that is going to occur regardless. I will support this.

Alderman Gray: I will support it also. I think a lot of good things have already been said and I am not going to resay them. I just appreciate that Mr. Phillips and Ms. Hesse have brought this forward and I personally am happy to see that one of the developments that didn't make it, that something is going to be happening there. I think it is going to be a lot more expensive and they have spent a lot of time and money on making it happen and making it happen right and I agree with Alderman Kinion. It's not a matter of if it's going to happen. It's going to happen and so what we need to do the responsible thing for the City of Fayetteville. I will be supporting it. Thank you all.

Alderman Ferrell: I am going to support it also; I think something is going to happen there. Can't you imagine what it was like when people were thinking about annexing Mt. Sequoyah and having to run pipes up hill; saying we can't run those pipes up that hill. I totally understand the notion that if you take the utilities out that it should go to the inner city but my God if we adopted that mentality years ago and if the other idea was you can't take agricultural land, then we would all be humped up on this square. With that I would move that we pass the resolution.

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

Alderman Lewis: I appreciate you originally coming to the Water and Sewer Committee and being a part of the tour for the committee and that was very helpful. As you know I have been very hesitant. I think Matthew made some very good points and they really are the reason I have been so hesitant on this. It makes me very nervous about precedent here. I don't like the idea that this would become a trend. The thing that has helped me come around is the contract that you drafted. The reason that it helps me support this is because water flows down hill and it happens to be flowing into the city. I visit so many houses on the west part of town in Ward 4 where there right by their house or down stream from them it's blown out so wide that it's going up into their porch. It's because upstream we have allowed pipes to be drained directly into the little stream that just can't handle it so they adjust. It costs a lot of money to Fayetteville tax payers to fix that and so I really appreciate and I agree that this can't be the trend or general approach. I don't know if we can work with the County or what but where water is flowing into our community we need to pay attention to that because it ends up costing us money as a community. It costs everyone. I really appreciate the open mindedness of the developer and the team in looking at ways to address the water issue on this property because it does affect everyone. I just really hope for the record if the County is watching, please make sure that you amend your water codes to let it soak in and not flow down stream.

Alderman Petty: Sometimes I like being the only one to vote a certain way because it gives me some lee way to really speak my mind. I think there is an assumption that the development is going to happen and I am going to challenge that. I hadn't planned on challenging it tonight but I want to now. I attended the quarterly business luncheon run by the Center for Business and Economic Research two quarters ago with a presentation by Kathy Deck on Northwest Arkansas Growth, from the City it was just me and Paul Becker there. What we saw was even though sales tax had recovered and jobs numbers had recovered in Northwest Arkansas which is unique among the nation, single family house starts had not, single family sales had not. Now single family homes within town with close proximity to amenities never dipped and they still maintained their sales. Anything on the edge of town has not recovered. Multi-family has

recovered; it's even increased and is doing more than what it did before the recession. Being the youngest person on the Council sometimes I think I have a little bit of a unique perspective from a generational standpoint. When you look at any recession historically there are two kinds of fixes that happen. There is an economic fix where people in a certain job sector start earning more money or they switch jobs or that sort of thing like manufacturing around World War II after the great depression. We just went through something similar and we are going to have an economic fix. The other kind of fix is a spacious fix where you see new cities grow in a new way that they didn't before. After the great depression it was the suburbs. All the evidence now points to a retraction of the suburbs, even the evidence that we can see today that is coming out of our own University. People want to live downtown, especially when you start looking at younger and younger people. The cities future customers aren't going to want a house out where this development is for a couple of reasons. A \$200,000 home or a \$150,000 home or even a \$120,000 home in this kind of location isn't affordable. There are four factors of affordability, the housing cost is the biggest one and then there is transportation, food and energy. A study commissioned by the Northwest Arkansas Council, which was released last year, showed that the average Northwest Arkansas home household paid as much in transportation as they did in housing. That is how it's going to be if you choose to live at this development. People are choosing to live in locations like this less and less. I wish Mr. Phillips the best if this gets approved. I don't want to see a proposal fail with so much invested in it. But like so many other phased developments we have seen, I predict that this isn't going to get built out. We are going to see a strong start and then we are going to see it falter. That is a hard prediction to make in the Council seat. That is why I am not supporting it because I don't think it's inevitable. Otherwise this would be worth it to me. All the evidence points to a change in the way people want to live and the way the cities grow and this is very conventional.

Alderman Kinion: I would like to point out that Kathy Deck also in the skyline report said that we would have more residential growth in Northwest Arkansas. If you look in the Northwest Arkansas Business Journal it says this means three things. More people are actively looking for work again, more people are finding work and population growth and people are starting to move back into the region. She goes on to say that regarding the housing market that the average sale prices are up and the population growth means that there is a demand for single family homes. So you can look at statistics either way. I just want to offer that because that is the most recent statistics that I saw when I looked at the development of affordable housing in Northwest Arkansas.

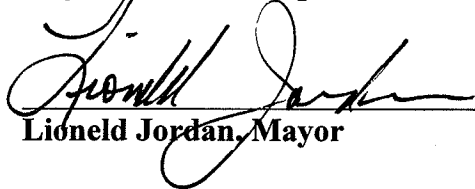
Alderman Adams: I had a personally difficult vote for me right after I got on the Council when a neighborhood outside our city limits didn't like our plans for streets. We have a plan for streets and our streets are going to do things that impact neighborhoods. I feel like on the same thing what we can do to benefit our city for something outside the city limits is also important. I think we have to think about things going both ways. I appreciate the expertise on our Council teaching us how this is good for our city. I appreciate Dr. Lewis's comments on how we do have to protect our city in ways that impact us when we know that otherwise it may be bad for us. We do good things and bad things that impact people outside of our city all the time or often. Thank you for your help in teaching us a little bit about this issue.

Upon roll call the resolution passed 7-1. Alderman Boudreaux, Kinion, Tennant, Ferrell, Adams, Lewis and Gray voting yes. Alderman Petty voting no.

Resolution 183-12 as recorded in the office of the City Clerk.

Announcements:

Adjournment: 8:25 p.m.


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer

Added to the City Council meeting 9-18-12

AGENDA REQUEST

FOR: COUNCIL MEETING OF SEPTEMBER 18, 2012

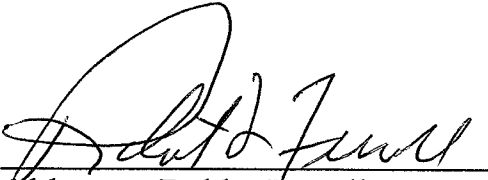
FROM:

ALDERMAN BOBBY FERRELL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Encourage Selection Of Fayetteville For The 2014 Governor's Conference On Tourism

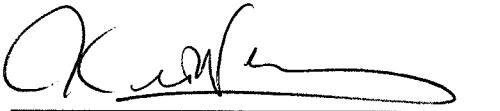
APPROVED FOR AGENDA:



Alderman Bobby Ferrell

9-18-12

Date



City Attorney
(as to form)

Sept 18, 2012

Date

RESOLUTION NO. _____

**A RESOLUTION TO ENCOURAGE SELECTION OF FAYETTEVILLE FOR
THE 2014 GOVERNOR'S CONFERENCE ON TOURISM**

WHEREAS, the City Council of the City of Fayetteville thanks the Arkansas Parks, Recreation and Travel Commission for considering Fayetteville for the location of its 2014 Governor's Conference on Tourism; and

WHEREAS, with a proven tradition of hospitality, entertainment and fun, Fayetteville's Town Center and completely renovated, Chancellor Hotel can serve as excellent hosts for the Governor's Conference.

**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 welcomes the Arkansas Parks, Recreation and Travel Commission's consideration of Fayetteville for the 2014 Governor's Conference on Tourism and looks forward to welcoming all attendees of this conference to enjoy the #1 Farmers Market in America (on the Square), the preeminent Entertainment District on Dickson Street, the beautiful U of A campus, the Clinton House Museum, the Arkansas Air Museum and close by regional attractions such as Crystal Bridges Museum in Bentonville and beautiful Beaver Lake.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby respectfully requests that the Arkansas Parks, Recreation and Travel Commission choose Fayetteville as the location for the 2014 Governor's Conference on Tourism.

PASSED and APPROVED this 18th day of September, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



Fayetteville A&P Commission
PO Box 4157
Fayetteville, Arkansas 72702

RECEIVED

AUG 31 2012

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

August 30, 2012

TO: Fayetteville City Clerk

FROM: Marilyn Heifner *M. Heifner*
Executive Director, Fayetteville Advertising and Promotion Commission

RE: Vacancy on Fayetteville Advertising and Promotion Commission for term expiring April 1, 1014.

The Fayetteville Advertising and Promotion Commission at their August 13, 2012, regular meeting voted to appoint Ching Mong to fill a tourism industry position on the A & P Commission vacated by Brandon Karn. Mr. Mong is a resident of Fayetteville and a registered voter.

The Commission asks for the approval of the Fayetteville City Council per state statute as follows:

26-75-605 (b)(2) Advertising and Promotion Commissions

Vacancies on the commission, whether resulting from expiration of a regular term or otherwise, in any of the four (4) tourism industry positions provided for in subdivision (a) (1) or in the at-large position provided for in subdivision (a)(3) shall be filled by appointment made by the remaining members of the commission, with the approval of the governing body of the city.

Thank you.

RECEIVED

City of Fayetteville Application Form
For appointment to City Boards, Commissions, and Committees

AUG 31 2012

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Ching Mong Name Spouse name (if applicable) Restaurant Self Occupation/Employer Name
3120 W. Essex Dr. Fayetteville AR 72704 Resident Street Address City State Zip Code
1998 N. College Ave. Fayetteville AR 72703 Mailing Address City State Zip Code
479-466-9327 Home phone # 479-571-8886 Business phone chingmong@gmail.com Email Address
AEP Choice of Committee Commissioner Position 34 yrs. Length of Residency in the City Limits of Fayetteville

Are you a Fayetteville registered voter? Yes ☒ No ☐

1. What are your qualifications for serving on this committee, including education and expertise in the subject matter?

education: U of A Bachelor's in Political Science / plans
past commissioner 2000-2004. Restaurant owner/operator

2. Why would you like to be considered for appointment to this committee?

I want to have a positive impact on the promotion of our
community.

References:

Don Moore Name 3191 Katherine Ave. Fay. Address 479-263-0282 Phone
Duncan Johnson Name 50 E. Poplar St. Fay Address 502-645-6274 Phone

How did you hear about the opening(s)? NWA Times ☐ Free Weekly ☐ Accessfayetteville.org ☒
 Government Channel ☐ Chamber of Commerce ☐ Other ☒ Friends

State statute §21-8-701 requires the following persons shall file a written Statement of Financial Interest upon appointment. The Statement of Financial Interest for the previous calendar year shall be filed by January 31st of each year by the following: Planning Commission, Airport Board, Water or Sewer Board, Utility Board or Civil Service Commission.

If you are applying for the Planning Commission you must also complete and submit a Real Estate Holdings Form which may be obtained on our website at accessfayetteville.org

If you have any questions you may contact the City Clerk's office at 575-8323 or by email city_clerk@ci.fayetteville.ar.us

Office Use Only:

Term Begins: _____

Appointed: _____

Term Expires: _____

Replaced: _____

Terminated: _____

Resigned: _____

*Approved 9-18-12
City Council Meeting*

Nominating Committee Report

Meeting: Wednesday, September 5, 2012

City Hall, Room 326, 4:00 p.m.

Members Present – Adella Gray, Bobby Ferrell, Rhonda Adams, and Mark Kinion

The Committee recommends the following candidates for appointment:

Animal Services Advisory Board

- Meredith McKee – One Unexpired Washington County Representative Term Ending 06/30/15
- Richard Clehouse – One Unexpired Finance Term Ending 06/30/15

Construction Board of Adjustments and Appeals

- No applications were received

Environmental Action Committee

- Angie Albright – One Unexpired Community Citizen-at-Large Term Ending 06/30/15

Historic District Commission

The Mayor recommends

- Jerry Hogan – One Unexpired Term Ending 06/30/15

Parks and Recreation Advisory Board

- Angie Sass – One Unexpired Term Ending 12/31/14

Public Facilities Board

- No applications were received

Town and Gown Advisory Committee

- Barry Herzog– One Resident/Ward 1 Term Ending (TBD)
- Diane Warren– One Resident/Ward 2 Term Ending (TBD)
- Tommy Deweese– One Resident/Ward 3 Term Ending (TBD)
- Ryan Miller – One Resident/Ward 4 Term Ending (TBD)
- Steve Clark– One Business Owner/City Development Community Term Ending (TBD)
- Joseph Kieklak– One University of Arkansas Student Term Ending (TBD)

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
September 18, 2012**

A meeting of the Fayetteville City Council will be held on September 18, 2012 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

- 1. Advertising and Promotion Commission Appointment** – The Commission recommends the appointment of Ching Mong
- 2. Nominating Committee Report** – Alderman Adella Gray

Agenda Additions:

A. Consent:

1. Approval of the September 4, 2012 City Council meeting minutes.

2. **Repeal Resolution No. 152-12 Drake Field Pavement Rehab & Re-Marking Phase II Project:** A resolution repealing Resolution No. 152-12 rescinding an unneeded budget adjustment.
3. **2012-2013 Selective Traffic Enforcement Program (STEP) Grant:** A resolution to approve the 2012-2013 Selective Traffic Enforcement Program Grant award in the amount of \$112,500.00 and to approve the attached budget adjustment.
4. **Riggs Cat:** A resolution to approve the purchase of a backhoe loader pursuant to the state contract from Riggs Cat in the amount of \$136,000.00 plus any applicable sales tax and to approve the attached budget adjustment.
5. **Goodwin & Goodwin Change Order 1:** A resolution to approve Change Order No. 1 of the construction contract with Goodwin & Goodwin, Inc. for an additional \$105,125.00 and to approve a budget adjustment.
6. **Bid 12-67 Second Nature Property Management, LLC:** A resolution awarding Bid #12-67 and authorizing a contract with Second Nature Property Management, LLC in the amount of \$48,206.00 for the planting and maintenance of trees from the Tree Escrow Fund, and approving a ten percent (10%) project contingency.
7. **Razing and Removal Costs for 1609 S. Duncan Avenue:** A resolution certifying to the Tax Collector of Washington County, Arkansas the costs of razing and removal of a dilapidated and unsafe structure upon the property owned by Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess located at 1609 S. Duncan Avenue in the City of Fayetteville, Arkansas.

B. Unfinished Business:

1. **RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins):** An ordinance rezoning that property described in rezoning petition RZN 12-4166, for approximately 20.99 acres, located to the south of Skillern Road from R-A, Residential Agricultural to RSF-0.5, One Half Single-Family Units Per Acre. *This ordinance was left on the First Reading at the August 21, 2012 City Council meeting and Tabled to the September 18, 2012 City Council meeting.*

Left on the First Reading.

C. New Business:

1. **VAC 12-4141 (555 W. Maple St./555 Maple):** An ordinance approving VAC 12-4141 submitted by McClelland Consulting Engineers, Inc. for property located at 555 West Maple Street to vacate a portion of Lafayette Street right-of-way, a total of 0.04 acres.
2. **VAC 12-4201 Nantucket Phase IV:** An ordinance approving VAC 12-4201 submitted by Civil Design Engineering for property located west of Morningside Drive (Nantucket Phase IV) to vacate a utility easement, a total of 0.24 acres.

3. **ADM 10-3554 I-540 Design Overlay District and Board of Adjustment Variance Findings:** An ordinance to amend Chapters, 151, 156, 161, 164, 166, and 174 of the Unified Development Code to repeal the requirements of the I-540 Design Overlay District and revise various sections of the code accordingly and to amend the Board of Adjustment findings for variances to reflect state statutes.
4. **Amend 163.13 Wireless Communication Facilities:** An ordinance to amend §163.13 Wireless Communication Facilities of the Unified Development Code to clarify height limitations for antennas placed upon existing structures, to empower the zoning and development administrator to grant a variance in appropriate circumstances and to declare an emergency.
5. **Amend §36.01 Initiative Petitions; When to be Filed:** An ordinance to amend §36.01 Initiative Petitions; when to be filed to change 60 days before the general election to between 90 days and 83 days before the general election to facilitate ballot printing for early voting.
6. **2012 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2012 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

D. City Council Agenda Session Presentations:

1. Discussion of General Fund Budget for 2013 – Paul Becker

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.



Fayetteville A&P Commission
PO Box 4157
Fayetteville, Arkansas 72702

RECEIVED

AUG 31 2012

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

August 30, 2012

TO: Fayetteville City Clerk

FROM: Marilyn Heifner *M. Heifner*
Executive Director, Fayetteville Advertising and Promotion Commission

RE: Vacancy on Fayetteville Advertising and Promotion Commission for term expiring April 1, 2014.

The Fayetteville Advertising and Promotion Commission at their August 13, 2012, regular meeting voted to appoint Ching Mong to fill a tourism industry position on the A & P Commission vacated by Brandon Karn. Mr. Mong is a resident of Fayetteville and a registered voter.

The Commission asks for the approval of the Fayetteville City Council per state statute as follows:

26-75-605 (b)(2) Advertising and Promotion Commissions

Vacancies on the commission, whether resulting from expiration of a regular term or otherwise, in any of the four (4) tourism industry positions provided for in subdivision (a) (1) or in the at-large position provided for in subdivision (a)(3) shall be filled by appointment made by the remaining members of the commission, with the approval of the governing body of the city.

Thank you.

RECEIVED

Advertising and Promotion
Commission Appointment
Page 2 of 2City of Fayetteville Application Form
For appointment to City Boards, Commissions, and CommitteesCITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Name Ching Mong Spouse name (if applicable) Restaurant Occupation/Employer Name Self
 Resident Street Address 3120 W. Essex Dr. City Fayetteville State AR Zip Code 72704
 Mailing Address 1998 N. College Ave. City Fayetteville State AR Zip Code 72703
 Home phone # 479-466-9327 Business phone 479-571-8886 Email Address chingmong@gmail.com
 Choice of Committee A & P Position Commissioner Length of Residency in the City Limits of Fayetteville 34 yrs.

Are you a Fayetteville registered voter? Yes ☒ No ☐

1. What are your qualifications for serving on this committee, including education and expertise in the subject matter?

education: U of A Bachelors in Political Science / plans
past commissioner 2000-2004. Restaurant owner/operator

2. Why would you like to be considered for appointment to this committee?

I want to have a positive impact on the promotion of our
community.

References:

Name Don Moore Address 3191 Katherine Ave Fay. Phone 479-263-0202
 Name Duncan Johnson Address 50 E. Poplar str. Fay Phone 502-645-6274

How did you hear about the opening(s)? NWA Times ☐Free Weekly ☐Accessfayetteville.org ☒Government Channel ☐Chamber of Commerce ☐Other ☒Friends

State statute §21-8-701 requires the following persons shall file a written Statement of Financial Interest upon appointment. The Statement of Financial Interest for the previous calendar year shall be filed by January 31st of each year by the following: Planning Commission, Airport Board, Water or Sewer Board, Utility Board or Civil Service Commission.

If you are applying for the Planning Commission you must also complete and submit a Real Estate Holdings Form which may be obtained on our website at accessfayetteville.org

If you have any questions you may contact the City Clerk's office at 575-8323 or by email city_clerk@ci.fayetteville.ar.us

Office Use Only:

Term Begins: _____

Appointed: _____

Term Expires: _____

Replaced: _____

Terminated: _____

Resigned: _____

City of Fayetteville Staff Review Form

A. 2
 Repeal Resolution No. 152-12
 Drake Field Pavement Rehab &
 Re-Marking Phase II Project
 Page 1 of 10

City Council Agenda Items
 and
 Contracts, Leases or Agreements

9/18/2012

City Council Meeting Date
 Agenda Items Only

Ray M. Boudreaux

Submitted By

Aviation

Division

Transportation

Department

Action Required:

Action Required: A Resolution to rescind Resolution No. 152-12 which approved a Budget Adjustment that is not needed.

\$ -

Cost of this request

\$ 118,190.00

Category / Project Budget

Pavement Rehab & Re-marking Phase II

Program Category / Project Name

5550.0955.6820.41

Account Number

\$ 18,000.00

Funds Used to Date

Airport Revenue (Grant)

Program / Project Category Name

12012 1

Project Number

\$ 100,190.00

Remaining Balance

Airport

Fund Name

Budgeted Item ☒Budget Adjustment Attached ☐

Ray M. Boudreaux
 Department Director

8-22-12

Date

Previous Ordinance or Resolution #

84-12, 128-12

152-12, 153-12

Original Contract Date:

Jim Bluff
 City Attorney

8-24-12

Date

Original Contract Number:

Marla Hestade
 Finance and Internal Services Director

8/24/12

Date

Received in City 08-23-12 P03:52 RCVD
 Clerk's Office

Kim G.

Don Men
 Chief of Staff

8/24/12

Date

Received in
 Mayor's Office

ENTERED
 8/24/12
PA

Mayor

8/27/12

Date

Comments:



AVIATION DIVISION
FAYETTEVILLE EXECUTIVE AIRPORT • DRAKE FIELD

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor Jordan
THRU: Chief of Staff
THRU: Staff/Contract Review Committee
THRU: Terry Gulley, Transportation Director *TG*
FROM: Ray M. Boudreaux, Aviation Director *RB*
DATE: August 20, 2012

SUBJECT: Rescind Resolution 152-12

RECOMMENDATION: Rescind Resolution 152-12 as not needed.

BACKGROUND: The City Council approved Resolution 152-12 and 153-12 at the August 7, 2012 meeting. Following the meeting it was discovered that 152-12 was not needed as the information in 152-12 was included in 153-12 along with additional adjustments necessary to comply with grant changes. Resolution 152-12 was pulled from the July 17 Agenda and added to the August 7 Agenda by mistake. The most efficient way to correct the problem is to rescind 152-12.

BUDGET IMPACT: N/A

Attachments: Staff Review
Resolution 152-12
Resolution 153-12
Resolution 128-12

RESOLUTION NO. _____

**A RESOLUTION REPEALING RESOLUTION NO. 152-12 RESCINDING AN
UNNEEDED 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 repeals
Resolution No. 152-12 in order to rescind an unneeded budget adjustment.

PASSED and APPROVED this 18th day of September, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

RESOLUTION NO. 152-12

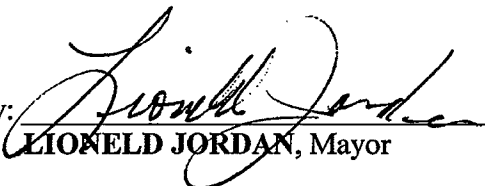
A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$7,012.00 TO REFLECT MODIFICATIONS TO THE DRAKE FIELD PAVEMENT REHAB & RE-MARKING PHASE II PROJECT NECESSITATED BY GRANT PROGRAM CHANGES

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

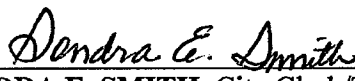
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A", in the amount of \$7,012.00 to reflect modifications to the Drake Field Pavement Rehab & Re-Marking Phase II Project necessitated by grant program changes.

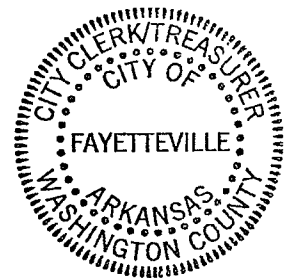
PASSED and APPROVED this 7th day of August, 2012.

APPROVED:

By: 
LIONELD JORDAN, Mayor

ATTEST:

By: 
SONDRA E. SMITH, City Clerk/Treasurer



A. 2
Repeal Resolution No. 152-12
Drake Field Payment Rehab &
Re-Marking Phase II Project
Page 5 of 10

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

To make necessary changes to the Pavement Rehab Phase II project budget. 1. Reduces the FAA grant revenue in accordance with changes requested by the FAA project manager. 2. Increases the expected Arkansas Department of Aeronautics (ADA) grant revenue from 5% to 10% in accordance with recent revisions to the ADA grant program for FAA grant matching. 3. Decreases the project expense to eliminate the 5% contingency line item per FAA request. 4. Increases the amount to be restored to the Airport's Use of Fund Balance account that was used for design and engineering costs during project formulation.

TOTAL BUDGET ADJUSTMENT

EXHIBIT

A

tabbies

RESOLUTION NO. 153-12

A RESOLUTION APPROVING CHANGE ORDER NO. 2 TO A CONTRACT WITH PAVEMENT MAINTENANCE UNLIMITED, LLC REDUCING THE CONTRACT BY \$22,050.00 FOR THE PAVEMENT REHAB & RE-MARKING PHASE II PROJECT AT DRAKE FIELD, AND APPROVING A BUDGET ADJUSTMENT

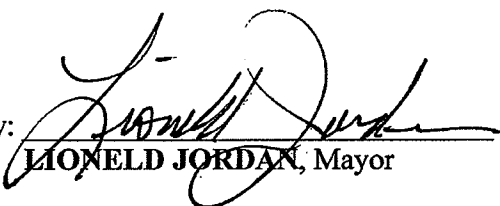
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approving Change Order No. 2 to a contract with Pavement Maintenance Unlimited, LLC reducing the contract by \$22,050.00 for the Pavement Rehab & Re-marking Phase II project at Drake Field.

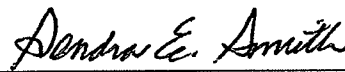
Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution as Exhibit "A".

PASSED and APPROVED this 7th day of August, 2012.

APPROVED:

By: 
LIONELD JORDAN, Mayor

ATTEST:

By: 
SONDRA E. SMITH, City Clerk/Treasurer



BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION	
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TOTAL BUDGET ADJUSTMENT

EXHIBIT
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RESOLUTION NO. 128-12

A RESOLUTION AWARDING BID #12-46 AND AUTHORIZING A CONTRACT WITH PAVEMENT MAINTENANCE UNLIMITED, LLC FOR PAVEMENT REHABILITATION AND RE-MARKING AT FAYETTEVILLE EXECUTIVE AIRPORT-DRAKE FIELD IN THE AMOUNT OF \$99,190.00, APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT IN THE AMOUNT OF \$22,050.00, APPROVING APPLICATION FOR AND ACCEPTANCE OF GRANTS FROM THE FEDERAL AVIATION ADMINISTRATION AND THE ARKANSAS DEPARTMENT OF AERONAUTICS TO FUND NINETY-FIVE PERCENT (95%) OF THE PROJECT, APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$7,012.00, 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 #12-46 and authorizes a contract with Pavement Maintenance Unlimited, LLC for pavement rehabilitation and re-marking at Fayetteville Executive Airport-Drake Field in the amount of \$99,190.00.

Section 2. That the City Council of the City of Fayetteville, Arkansas further approves Change Order No. 1 to the contract with Pavement Maintenance Unlimited, LLC in the amount of \$22,050.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the application for and acceptance of grants from the Federal Aviation Administration and the Arkansas Department of Aeronautics to fund ninety-five percent (95%) of the project.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby approves a project contingency in the amount of \$7,012.00.

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A".

A. 2
Repeal Resolution No. 152-12
Drake Field Pavement Rehab &
Re-Marking Phase II Project
Page 9 of 10

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION	
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Project will rehabilitate the remaining taxiways and asphalt aircraft parking areas comprising asphalt rejuvenation sealer application and re-marking. Will extend the useful life of the existing pavements.

Prepared By: James Nicholson *kspringer*

Reference:

Budget & Research Use Only

Type: A B C D E P

General Ledger Date

Posted to General Ledger

Initial _____ Date _____

Checked / Verified

Initial _____ Date _____

tabbies®

EXHIBIT

A

City of Fayetteville Staff Review Form

A. 3
 2012-2013 Selective Traffic
 Enforcement Program (STEP) Grant
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

9/18/2012

City Council Meeting Date
 Agenda Items Only

Greg Tabor
 Submitted By

Patrol
 Division

Police
 Department

Action Required:

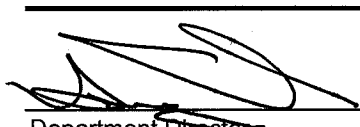
Approval of the 2012-2013 Selective Traffic Enforcement Program (STEP) grant award and budget adjustment in the amount of \$112,500.

\$ 112,500.00
 Cost of this request
 1010-2920-5120.00
 1010-2920-5210.00
 Account Number
 08067-1213
 Project Number

\$ -
 Category / Project Budget
 \$ -
 Funds Used to Date
 \$ -
 Remaining Balance

Police STEP Grant 2012-2013
 Program Category / Project Name
 Grant
 Program / Project Category Name
 General
 Fund Name

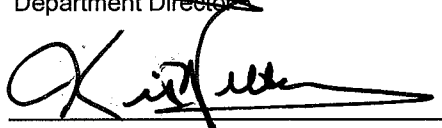
Budgeted Item ☐Budget Adjustment Attached ☒


 Department Director

8-31-12
 Date

Previous Ordinance or Resolution #

Original Contract Date:


 City Attorney

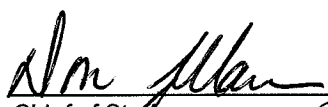
8-31-12
 Date

Original Contract Number:


 Finance and Internal Services Director

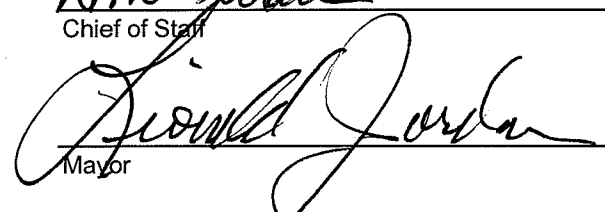
9-4-2012
 Date

08-31-12 A09:29 RCVD
 Received in City
 Clerk's Office


 Chief of Staff

9-4-12
 Date

Received in
 Mayor's Office


 Mayor

9/5/12
 Date



Comments:



Departmental Correspondence

To: Mayor Lioneld Jordan and City Council Members

From: Greg Tabor, Police Chief 

Date: August 31, 2012

Re: 2012-2013 Selective Traffic Enforcement Program (STEP) Grant Award

Background

The Fayetteville Police Department has participated in the Selective Traffic Enforcement Program (STEP) every year since its inception in 1998. For fifteen (15) years, we have partnered through grant funding with the Arkansas Highway Safety Office in an effort to reduce the total number of motor vehicle crashes, injuries and fatalities. Our primary strategy for reaching our mutual goals is through dedicated and diligent enforcement of occupant protection and DWI/DUI laws. This is accomplished by dedicating patrol officer(s) to monitor STEP activity for a given period of time in a known problem area. In addition to increased law enforcement, this grant funding allows us to participate in directed DWI Checkpoints, Click It or Ticket protection mobilizations, purchase additional equipment, provide child safety seat checkpoints, and a loaner child safety seat for those in need.

Discussion

The 2012-2013 STEP Grant Award is based on a one hundred percent (100%) local match of in-kind expenses and a request for \$99,000 in federal and \$13,500 in state grant funding. Local matching funds are only required on the federal funding portion. In-kind expenses are defined as on-duty regular shift hours dedicated to STEP activity; additionally, this grant will reimburse the City for overtime hours dedicated to STEP activity. The grant period for this award runs from October 1, 2012 to September 30, 2013. STEP is a very important program and funding source for the Fayetteville Police Department. Through dedicated STEP activity during our shift hours, our Department can meet the in-kind matching funds required of this grant award. Furthermore, the loss of this grant funding would have an adverse affect on community safety.

Recommendation

Due to the many positive results, Staff recommends approval of the 2012-2013 Selective Traffic Enforcement Program Grant Award and budget adjustment in the amount of \$112,500. If you should have any comments or question regarding this grant award, please contact me at extension 500.

Budget Impact

In-kind matching in the amount of \$99,000 are budgeted. Our salary expense will not increase; patrol officers will perform in-kind matching STEP activities while on duty.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE 2012-2013 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT AWARD IN THE AMOUNT OF \$112,500.00 AND TO APPROVE THE ATTACHED BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the 2012-2013 Selective Traffic Enforcement Program Grant Award in the amount of \$112,500.00 and approves the attached budget adjustment.

PASSED and APPROVED this 18th day of September, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 3 V11.0425
2012-2013 Selective Traffic
~~Enforcement Program (STEP) Grant~~
Adjustment Number

Establish budget for 2012-2013 Selective Traffic Enforcement Program grant award.

08067 . 1213

Willie Newman - Funding Amounts

From: Nick Collins <nick.collins@asp.arkansas.gov>
To: Willie Newman <wnewman@ci.fayetteville.ar.us>
Date: 8/30/2012 10:00 AM
Subject: Funding Amounts

Willie,

Below are the funding breakdowns that I have been given. If there is equipment, it is figured in to some of the categories and I don't know the breakdown on it yet.

402 OP (seat belt)	\$47,000
405 OP (sb mob)	\$ 9,000
402 SE (speed)	\$ 5,000
410 K8 (DWI)	\$38,000
Child Seats	\$13,500
 Total	 \$112,500

Nick Collins

Program Manager
Arkansas State Police Highway Safety Office
1 State Police Plaza Drive / Little Rock, Arkansas 72209
501-618-8137 / Fax 501-618-8124

City of Fayetteville Staff Review Form

A. 4
Riggs Cat
Page 1 of 6

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

9/18/2012

**City Council Meeting Date
Agenda Items Only**

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution approving the purchase of one Backhoe Loader off the State Contract from Riggs Cat of Springdale, AR in the amount of \$136,000 and approving a budget adjustment to move funds to the Fleet expense account.

\$ 136,000.00

Cost of this request

\$ 337,000.00

Category / Project Budget

Backhoes / Loaders

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 266,151.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02076.2012

Project Number

\$ 70,849.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☒

Tony J. Bulley
Department Director

8-25-12
Date

Previous Ordinance or Resolution #

Kurt
City Attorney

8-31-12
Date

Original Contract Date:

Original Contract Number:

Paul A. Bahr
Finance and Internal Services Director

9-4-2012
Date

Received in City 08-31-12 A11:46 RCVD
Clerk's Office

Ann Maw
Chief of Staff

9-4-12
Date

Received in
Mayor's Office

Frank Jordan
Mayor

9/5/12
Date

ENTERED
9/13/12
ATF

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TAG*

From: Dennis Pratt, Fleet Operations Supt.

Date: August 29, 2012

Subject: Purchase of one Backhoe Loader for Water & Sewer

PROPOSAL: That City Council approve the purchase of one Caterpillar Backhoe from Riggs Cat of Springdale, AR in the amount of \$136,000, and approve a budget adjustment to move funds for the upgrade to the Fleet expense account.

RECOMMENDATION: Water & Sewer backhoe #650 needs to be replaced as it has reached the end of its useful life and is no longer dependable for full time front line use. The replacement backhoe will be upgraded to a larger size as the existing backhoe is not strong enough to lift manholes – which is one of the new missions for the backhoe. With an upgraded backhoe, all missions for the backhoe will be met.

Water & Sewer operators demo'd the large Cat backhoe that is on the State Contract bid list to insure it will do the jobs required. This backhoe is heavy duty enough to perform all needed repairs including lifting manholes for sewer rehabilitation projects.

The quote for the demo'd unit is attached. It will cost \$10,000 less than a new 2012 unit. I recommend purchase of the demo unit from Riggs Cat of Springdale, AR in the amount of \$136,000.

This purchase was unanimously approved by the Equipment committee on August 28th, 2012.

BUDGET IMPACT: This replacement was budgeted for on both the capital and operating sides. As this unit is being upgraded to a larger size to enable it to lift 5,000 lb. manholes, a budget adjustment is attached to move funds for the upgrade from Water and Sewer Division to Fleet expense account per Fleet Policy FO-05 Replacements and Expansions.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE PURCHASE OF A BACKHOE LOADER PURSUANT TO THE STATE CONTRACT FROM RIGGS CAT IN THE AMOUNT OF \$136,000.00 PLUS ANY APPLICABLE SALES TAX AND TO APPROVE THE ATTACHED BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of a Backhoe Loader pursuant to the State Contract from Riggs Cat in the amount of \$136,000.00 plus any applicable sale tax and approves the attached budget adjustment.

PASSED and APPROVED this 18th day of September, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

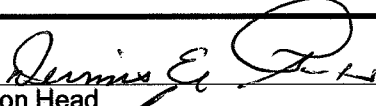
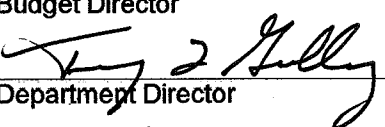
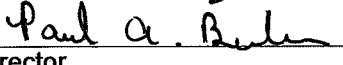
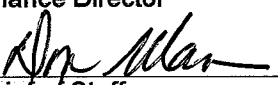
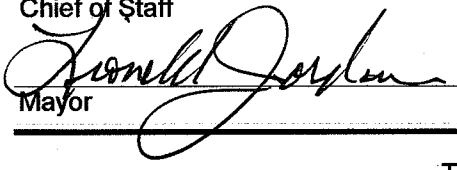
**City of Fayetteville, Arkansas
Budget Adjustment Form**

V12.0724 A. 4
Riggs Cat
Page 4 of 6

Budget Year 2012	Division: Water & Sewer Maintenance Department: Utilities Director	Request Date 8/10/2012	Adjustment Number
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BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

A BA is needed to transfer \$66,200 to Fleet for the replacement and upgrade of Unit #650-Water/Sewer 2004 Komatsu backhoe. The existing backhoe is not strong enough to lift manholes which is one of the missions for having the backhoe. Since the backhoe is to be replaced an upgraded backhoe will be purchased so that all the missions for using the equipment will be met. A decrease in the Sewer Rehabilitation Project is due to sewer maintenance doing more sewer rehabilitation in-house-which is a huge cost savings for the City. With the upgraded backhoe sewer maintenance will be able to lift the manholes for the sewer rehabilitation projects and do more rehab in-house instead of contracting the work out.

 Division Head	8-29-12 Date	Prepared By: Cheryl Partain <i>bolsen</i>
 Budget Director	9-4-12 Date	
 Department Director	8-29-12 Date	Reference: _____
 Finance Director	9-4-2012 Date	Budget & Research Use Only
 Chief of Staff	9-4-12 Date	Type: A B C D E P
 Mayor	9/5/12 Date	General Ledger Date _____
		Posted to General Ledger Initial _____ Date _____
		Checked / Verified Initial _____ Date _____

TOTAL BUDGET ADJUSTMENT

66,200 66,200

Increase / (Decrease)

Account Name	Account Number	Expense	Revenue	Project.Sub Number
Vehicles and equipment	9700.1920.5802.00	66,200	-	02076 . 2012
Trans from Water & Sewer	9700.0970.6602.40	-	66,200	02076 . 2012
ADDTransfer to Shop	5400.1840.7602.70	66,200		07032 . 2012
Sewer improvements	5400.5700.5815.00	(66,200)		02017 . 1
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				.



Quote 107520-01

July 25, 2012

CITY OF FAYETTEVILLE
1525 S HAPPY HOLLOW RD
FAYETTEVILLE, AR72701-7258

DEAR DENNIS,

WE ARE PLEASED TO QUOTE THE FOLLOWING FOR YOUR PURCHASE CONSIDERATION.

ONE (1) NEW 2012 CAT 450E BACKHOE LOADER WITH ALL STANDARD EQUIPMENT AND SPECIFICATIONS LISTED BELOW:

Sell Price	\$136,000.00
Ext Warranty	Included
Balance Before Taxes	\$136,000.00

WARRANTY

Standard Warranty: 12 Month/Unlimited Hours Full Machine
* All standard warranties include travel time & mileage for first three months.
Scheduled Oil sampling is required during entire warranty period.

Extended Warranty: GOV 36 MO / 5,000 HR Powertrain and Hydraulic Warranty

IF THERE ARE ANY QUESTIONS, PLEASE DO NOT HESITATE TO CONTACT ME.

SINCERELY,

STEVE SMITH
MACHINE SALES REPRESENTATIVE
RIGGS CAT

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

Vendor #: 11700 Vendor Name: JA RIGGS CAT

Address: _____

City: _____ State: _____

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 450E BACKHOE LOADER DEMO UNIT OFF 1 EA 136,000.00 \$136,000.00 9700.1920.5802.00 02076.2012

2 STATE CONTRACT, PER QUOTE AND \$0.00

3 SPECIFICATIONS LISTED ON QUOTE. TO BE \$0.00

4 UNIT #699, FIXED ASSET #700699 \$0.00 700699

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: \$136,000.00

Total: \$136,000.00

Approvals: Mayor: _____ Department Director: _____ Purchasing Manager: _____

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

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

City Council Agenda Items
and
Contracts, Leases or Agreements

9/18/2012

City Council Meeting Date
Agenda Items Only

Shannon Jones

Submitted By

Utilities Capital Projects

Division

Utilities

Department

Action Required:

Approval of Change Order 1 to the construction contract with Goodwin & Goodwin, Inc. for Water/Sewer relocations on Hwy. 112 (Garland Ave.), for \$105,125.00, retain a project contingency of \$50,000, and approve a Budget Adjustment.

\$ 105,125.00

Cost of this request

\$ 78,775

Category / Project Contingency

Garland Ave. W/S Relocations

Program Category / Project Name

5400-5600-5808.00

Account Number

\$ -

Funds Used to Date

Garland Ave. W&S

Program / Project Category Name

06035.2250

Project Number

\$ 78,775

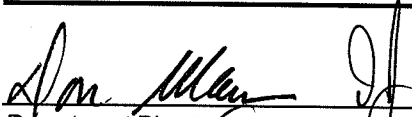
Remaining Balance

Water & Sewer

Fund Name

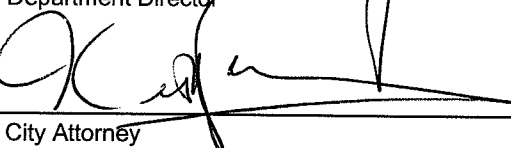
Budgeted Item ☐

Budget Adjustment Attached

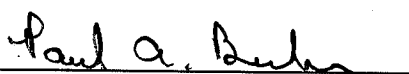
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 Department Director
8/31/12
Date

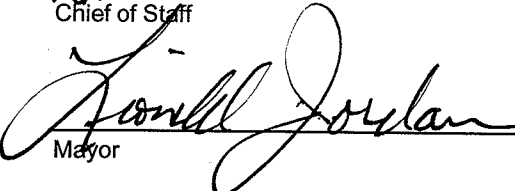
Previous Ordinance or Resolution # 86-12

Original Contract Date: 5/1/2012


 City Attorney
8/31/12
Date

Original Contract Number: 2247


 Finance and Internal Services Director
9-7-2012
DateReceived in City 08-31-12 P02:08 RCVD
Clerk's Office

 Chief of Staff
9-4-12
DateReceived in
Mayor's Office

 Mayor
9/5/12
Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff
David Jurgens, Utilities Director
Fayetteville Water and Sewer Committee

From: Shannon Jones, Utilities Engineer

Date: August 31, 2012

Subject: Approval of Changer Order 1 to the construction contract with Goodwin & Goodwin, Inc. for Water/Sewer relocations on Hwy. 112 (Garland Ave.), for \$105,125.00

RECOMMENDATION

City Administration recommends approval of Change Order 1 to the construction contract with Goodwin & Goodwin, Inc. for Water/Sewer relocations on Hwy. 112 (Garland Ave.), for \$105,125.00, retain a project contingency of \$50,000, and approve a Budget Adjustment.

BACKGROUND

Relocation of existing water and sewer lines is required in preparation for the combined Arkansas Highway Department (AHTD) and City widening of Hwy. 112 (Garland Ave.) from North Street to Janice Street. The majority of the existing water and sewer lines in this section of roadway are located within the AHTD right of way (ROW), so the City is bearing the majority of the expense to relocate these lines.

DISCUSSION

Several unanticipated changes have occurred during the project. The AHTD is requiring all open cut construction across the existing paved highway to be backfilled with flowable concrete fill instead of Class 7 gravel backfill that was originally approved. We do not want to install flowable fill on top of the new 24-inch water line crossing at Sycamore. We need to add steel encasement pipe to protect the water line before backfilling with flowable concrete fill. To reduce the disruption on traffic, we are adding a total of 8 sewer service line bores, with a subsequent reduction in the installation and restoration required by open cut reduction. The water line on Janice Street is currently a dead end. We are adding approximately 475 feet of 8-inch water line to close the loop.

The breakdown of the change order is as follows:

Total cost of change order	\$105,125
Reduction in approved contingency	\$ 28,775
Budget transfer from W/S fund	\$ 76,350

BUDGET IMPACT

This project is funded from several sources, including water and sewer revenue bonds, water and sewer funds, and transportation bond funds. The budget adjustment moves funds from the water and sewer capital fund into the project to cover the costs of a portion of the change order.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE CHANGE ORDER NO. 1 OF THE
CONSTRUCTION CONTRACT WITH GOODWIN AND GOODWIN, INC.
FOR AN ADDITIONAL \$105,125.00 AND TO APPROVE A BUDGET
ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves
Change Order No. 1 of the construction contract with Goodwin & Goodwin, Inc. for an
additional \$105,125.00, authorizes Mayor Jordan to sign this Change Order and approves the
attached budget adjustment.

PASSED and APPROVED this 18th day of September, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 5 V12.0724
Goodwin & Goodwin Change Order 1
Page 4 of 6

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION	
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<u>Don Man</u>	<u>8/31/12</u>	Prepared By: <u>Cheryl Partain</u>	
Division Head	Date		<i>cpartain</i>
<u>[Signature]</u>	<u>5-6-12</u>	Reference: _____	
Budget Director	Date	Budget & Research Use Only	
<u>[Signature]</u>	<u>4 Sept 12</u>	Type: A B C D E P	
Department Director	Date		
<u>Paul A. Bueh</u>	<u>9-4-2012</u>	General Ledger Date	_____
Finance Director	Date		
<u>Don Man</u>	<u>9-4-12</u>	Posted to General Ledger	_____
Chief of Staff	Date	Initial	Date
<u>Lionel Jordan</u>	<u>9/3/12</u>	Checked / Verified	_____
Mayor	Date	Initial	Date

[illegible]

Change Order No.	<u>1</u>	Page	<u>1</u>	of	<u>1</u>
City Contract #	<u>2247</u>	Schedule			
City Resoulution #	<u>86-12</u>	Date	<u>8/20/2012</u>		

Location: Fayetteville, AR
Contractor: Goodwin & Goodwin, Inc.
Address: 3543 Free Ferry Rd.
Fort Smith, AR 72903

ITEM #	DESCRIPTION	DECREASE	INCREASE
1	Flowable fill, 500 C.Y. @ \$70.00/C.Y.		\$35,000
2	Install 80' of 30" steel encasement pipe by open cut, L.S.		\$36,000
3	Additional concrete blocking for added bends at Sycamore		\$6,000
4	Sewer service line bores, 8 E.A. @ \$3,800		\$30,400.00
5	Increase bid item #7: 8" C-900 WL 475 L.F. @ \$35.00		\$16,625.00
6	Reduce bid item 53: Sewer service line 700 L.F. @ \$18.00	\$12,600	
7	Reduce bid item 64: "T" patch street repair 90 S.Y. @ \$70.00	\$6,300	
TOTAL DECREASE AMOUNT		\$18,900.00	
TOTAL INCREASE AMOUNT			\$124,025.00
NET CHANGE ORDER			\$105,125.00

<u>CHANGE TO CONTRACT AMOUNT:</u>	<u>TOTAL AMOUNT</u>	<u>ENGINEERS FINAL ELIGIBLE AMOUNT</u>
Original Contract Amount	<u>\$1,575,497.00</u>	<u>\$1,575,497.00</u>
Total Previous Change Order(s)	<u>\$0.00</u>	<u>\$0.00</u>
Net Amount This Change Order	<u>\$105,125.00</u>	<u>\$105,125.00</u>
TOTAL CONTRACT AMOUNT TO DATE	<u>\$1,680,622.00</u>	<u>\$1,680,622.00</u>

Original Completion Date	December 26, 2012	
Previous Adjusted Completion Date		
(Increase)(Decrease) This Change Order		Calendar Days
NEW CONTRACT COMPLETION DATE:	December 26, 2012	

Utilities Engineer
Title

8/23/12
Date

City Engineer 8/23/12
Title Date

President _____ 8-23-12
Title _____ Date _____

BY: _____
Signature

Mayor Title _____ Date _____

City of Fayetteville Staff Review Form

A. 6
 Bid 12-67 Second Nature
 Property Management, LLC
 Page 1 of 20

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

9/18/2012

**City Council Meeting Date
 Agenda Items Only**

<u>Megan Dale</u> <u>(MD)</u>	<u>Park Planning/Urban Forestry</u>	<u>Parks and Recreation</u>
Submitted By	Division	Department

Action Required:

A resolution awarding Bid #12-67 and approval of a contract with Second Nature Property Management, LLC in the amount of \$48,206 with a 10% project contingency of \$4,820.60 for a total project cost of \$53,026.60 for the planting and maintenance of trees for the Tree Escrow Fund.

\$ <u>53,026.60</u> Cost of this request	\$ <u>161,797.00</u> Category / Project Budget	Tree Escrow Funds Program Category / Project Name
<u>4470.9470.5315.00</u> Account Number	\$ <u>34,759.00</u>	Contract Services Program / Project Category Name
<u>08001.2-5</u> Project Number	\$ <u>127,038.00</u> Remaining Balance	Sales Tax/Tree Escrow Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

(in Connie's absence)

<u>Alison J. Nipper</u> Department Director	<u>8/31/12</u> Date	Previous Ordinance or Resolution # _____
<u>[Signature]</u> City Attorney	<u>9-4-12</u> Date	Original Contract Date: _____
		Original Contract Number: _____

Paul a. Butler 9-4-2012
 Finance and Internal Services Director Date

[Signature] 9-4-12
 Chief of Staff Date

[Signature] 9/5/12
 Mayor Date

Received in City Clerk's Office 12-67-12 P03:06 RCVD

Received in Mayor's Office



Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director
Alison Jumper, Park Planning Superintendent 

From: Megan Dale, Urban Forester 

Date: August 31, 2012

Subject: Bid # 12-67, Construction - 2012 Tree Planting Project
Agenda Request for September 18, 2012 Meeting

PROPOSAL:

Chapter 167 of the Unified Development Code requires developers to pay money in-lieu to the Tree Escrow Fund when it is not practical to meet minimum preservation requirements or plant mitigation trees at the time of final plat approval. Monies received must be spent within seven years. Trees must be planted within the street rights-of-way of the development. If the planting space is not adequate for trees, then the trees may be planted within a 1-mile radius of the development. If a proper planting space cannot be located within one mile, the trees must be planted within the associated Park Quadrant. Approximately \$36,522.00 must be spent by December 2012. This money will be used to plant trees and restore tree canopy in various sections of the city where canopy was removed by development.

The bid for the 2012 Tree Planting Project was advertised on August 15th and 22th and opened on August 29th. Two (2) vendors including B & A Property Maintenance and Second Nature Property Management, LLC submitted bids, with Second Nature Property Management, LLC being the low bid in the amount of \$48,206.

If approved, the trees will be planted by December 31, 2012.

RECOMMENDATION:

A resolution awarding Bid #12-67 and approval of a contract with Second Nature Property Management, LLC in the amount of \$48,206 with a 10% project contingency of \$4,820.60 for a total project cost of \$53,026.60 for the planting of trees for the Tree Escrow Fund.

BUDGET IMPACT:

The project is funded with Tree Escrow funds. Total project cost including a 10% project contingency is \$53,026.60.

Attachments:

Staff Review Form
Certified Bid Tab
Bid Submission- Second Nature Property Management, LLC
Contract Agreement Signed by Contractor
Purchase Requisition

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-67 AND AUTHORIZING A CONTRACT WITH SECOND NATURE PROPERTY MANAGEMENT, LLC IN THE AMOUNT OF \$48,206.00 FOR THE PLANTING AND MAINTENANCE OF TREES FROM THE TREE ESCROW FUND, AND APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-67 and authorizes a contract with Second Nature Property Management, LLC in the amount of \$48,206.00 for the planting and maintenance of trees from the Tree Escrow Fund.

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

PASSED and APPROVED this 18th day of September, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



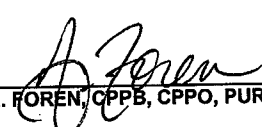
BID: 12-67
DATE: 08/29/12
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 12-67 Construction - 2012 Tree Planting

BIDDER	TOTAL BASE BID
1 B&A Property Maintenance	\$55,333.00
2 Second Nature Property Management, LLC	\$48,206.00

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

CERTIFIED:


A. FOREN, CPPB, CPPO, PURCHASING AGENT


WITNESS


DATE

8/29/2012



Project Check List

Bid 12-67, Construction - 2012 Tree Planting Project

This checklist is for the Bidder's use in preparing & submitting a bid. It is not intended to include all details necessary to prepare a bid and shall not be used as a substitute for the requirements of the bid documents. Information is shown below only as a matter of convenience. Use of this checklist does not relieve the Bidder from the responsibility of meeting all requirements of the Specifications concerning the preparation of an acceptable bid. Bidders are welcome to use this form as a coversheet for a sealed envelope; however, using this form itself is NOT a requirement.

- ☒ 5% Bid Bond of the amount bid accompanied by required documentation (Power of Attorney, etc.)
 - In lieu of a bid bond, the bidder may submit a cashier's check from a bank located in the State of Arkansas for at least five percent (5%) of the amount bid (inclusive of any deductive alternates). Cashiers checks shall be made payable to the City of Fayetteville, AR.
- ☒ All addenda shall be signed, acknowledged, and submitted on the appropriate forms (submitting the actual addendums or marking acknowledgement on other bid pages).
- ☒ All line items shall be appropriately filled out and extended to reveal the line item price as well as the total bid price. Total base bid should be calculated in the provided space.
- ☒ All bidders shall submit the following forms with each bid: Bid Form, Debarment Certification Form, & Statement of Disclosure.
- ☒ All pages provided with signature lines shall be appropriately signed, dated accordingly, and included with submitted bid documents.
- ☒ All bid documents shall be delivered in a sealed envelope to the address listed below before the stated deadline on the coversheet of the bid. All bids should be delivered with the name of the bidder (contractor) on the sealed envelope as well as the bidders Arkansas Contractors License Number.

City of Fayetteville, AR
Purchasing Division – Suite 306
113 W. Mountain
Fayetteville, AR 72702

CONTRACTOR NAME: SECOND NATURE PROPERTY MANAGEMENT, LLC
ARKANSAS CONTRACTOR'S LICENSE #: 0200/90313

Section 00 41 13

BID FORM

Item	Estimated	Unit	Description of Item	Nursery Source	Unit Price	Total Amount
1	1	Lump Sum	Mobilization - (not to exceed 5% of total bid) (1)	Sanders Nursery OKLAHOMA	\$/L.S. in figures	\$ 2,000 ⁰⁰ in figures
Total calculated amount written in words						
2	64	Each	Frontier Elm <i>Ulmus carpinifolia x parvifolia</i> 'Frontier' - Complete in place per specifications & details (2) (3)	Sanders Nursery OKLAHOMA	\$/EA. in figures	\$ 18,092 ⁰⁰ in figures
Total calculated amount written in words, for all 64 trees						
3	39	Each	American Smoketree <i>Cotinus obovatus</i> - Complete in place per specifications & details (2) (3)	Sanders Nursery OKLAHOMA	\$/EA. in figures	\$ 11,025 ⁰⁰ in figures
Total calculated amount written in words, for all 39 trees						
4	12	Each	Bur Oak <i>Quercus macrocarpa</i> - Complete in place per specifications & details (2) (3)	Sanders Nursery OKLAHOMA	\$/EA. in figures	\$ 3,392 ⁰⁰ in figures
Total calculated amount written in words, for all 12 trees						
5	19	Each	Shumard Oak <i>Quercus shumardii</i> - Complete in place per specifications & details (2) (3)	Sanders Nursery OKLAHOMA	\$/EA. in figures	\$ 5,371 ⁰⁰ in figures
Total calculated amount written in words, for all 19 trees						
6	17	Each	Red Maple <i>Acer rubrum</i> - Complete in place per specifications & details (2) (3)	Sanders Nursery OKLAHOMA	\$/EA. in figures	\$ 4,806 ⁰⁰ in figures
Total calculated amount written in words, for all 17 trees						
7	11	Each	Sweetgum <i>Liquidambar styraciflua</i> , Cultivar 'Rotundiloba' - Complete in place per specifications & details (2) (3)	Sanders Nursery OKLAHOMA	\$/EA. in figures	\$ 3,110 ⁰⁰ in figures
Total calculated amount written in words, for all 11 trees						
8	1	Lump Sum	Site Restoration (4) (5)	SITE RESTORATION	\$/L.S. in figures	\$ 410 ⁰⁰ in figures
Total calculated amount written in words						
TOTAL BASE BID						
Total calculated amount written in words						

BID FORM Continued

William H. King

Costs include a complete turn-key price for obtaining specified plant material and properly installing it in sites to include street rights-of-way, at locations provided by the Project Manager plus any site restoration required to return the site to its original form. All improvements listed above shall include applicable shipping, sales tax, and any other costs incurred to the City of Fayetteville.

All trees must be a minimum 2" caliper regardless of container or rootball size and meet minimum ANSI – Z60.1 standards. The Bidder shall designate the nursery source for each tree on the Bid Form. The City of Fayetteville reserves the right to reject the lowest bid based on quality concerns after inspection of the product.

The Bidder shall state the price bid in words and figures (written in ink or typed) for each pay item, and the total bid. In case of conflict between words and figures, the words, unless obviously incorrect, shall govern.

Bidder understands that the Owner reserves the right to award the total project, or to reject any or all bids and to waive any informalities in the bidding.

Bidder agrees that this Bid shall be good and will not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving bids.

Respectfully submitted,

Firm Name SECOND NATURE PROPERTY MANAGEMENT, LLC
By William L. Kins
Address 144 HARBESY LANE
City FAYETTEVILLE, AR 72703
** Arkansas State Contractor's License Number 20 0917052

**** A Contractor's License is required to bid this project. This project requires a five (5) percent bid bond at time of bid opening. After contract award, a one hundred (100) percent performance and payment bond is required along with proof of insurance before construction begins.**

End of Section 00 41 13

Section 00 21 17

**City of Fayetteville
Bid 12-67, 2012 Tree Planting Project
Statement of Disclosure (please submit with Bid)**

ATTENTION: Please submit this form with your bid.

DISCLOSURE STATEMENT:

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

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response.

This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

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

 X 1.) NO KNOWN RELATIONSHIP EXISTS

 2.) RELATIONSHIP EXISTS (Please explain)

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

- 1.) I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and
- 2.) My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

WILLIAM R. KIMBROUGH
Printed Name

William R. Kimbrough
Signed

Section 00 21 19

City of Fayetteville
Bid 12-67, 2012 Tree Planting Project

Certification of Debarment – THIS FORM NEEDS TO BE SUBMITTED WITH EVERY BID

ATTENTION: Please submit this form with your bid.

As A BIDDER on this project, you are required to provide debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Debarment:

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Your signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Questions regarding this form should be directed to the City of Fayetteville Purchasing Division.

NAME: WILLIAM H. KIMBROUGH
COMPANY: SECOND NATURE PROPERTY MANAGEMENT LLC
PHYSICAL ADDRESS: 1481 W. VAN ASHLE
MAILING ADDRESS: 144 ABBEY LANE
PHONE: 479 530 9191 FAX: 479
EMAIL: whkimbrough@cox.net
SIGNATURE: William H. Kimbrough
DATE: 8/29/12

THE
CINCINNATI INSURANCE COMPANY
CINCINNATI, OHIO

Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we Second Nature Property Management, LLC

as Principal, hereinafter called the Principal, and THE CINCINNATI INSURANCE COMPANY, 6200 S. Gilmore Road, Fairfield, Ohio 45014-5141,
a corporation duly organized under the laws of the State of Ohio, as Surety, hereinafter called the Surety, are held and firmly bound unto
CITY OF FAYETTEVILLE

as Oblige, hereinafter called the Oblige, in the sum of 5% of bid

Dollars (\$ 5% of bid),
for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors,
administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for

Planting 162 trees

NOW, THEREFORE, if the Oblige shall accept the bid of the Principal and the Principal shall enter into a Contract with the Oblige in accordance
with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient
surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in
the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Oblige the difference
not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Oblige may in good faith
contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force
and effect.

Signed and sealed this 29 day of August, 2012

Second Nature Property Management, LLC

Diana Bratcher
(Witness)

(Principal) (Seal)

By: William Kelly PRESIDENT
(Title)

Tracy Smith
(Witness)

THE CINCINNATI INSURANCE COMPANY

(Surety) (Seal)
By: Mike G. Jethell
Attorney

The Company executing this bond vouches that this document conforms to American Institute of Architects Document A310,
Edition.

THE CINCINNATI INSURANCE COMPANY

Fairfield, Ohio

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY, a corporation organized under the laws of the State of Ohio, and having its principal office in the City of Fairfield, Ohio, does hereby constitute and appoint

Mike A Luttrell, Kenneth L Galloway, Jacque Lindsey, Danny L Schneider, Billy Eugene Bennett, Jr., Adrian W Luttrell,

of Springdale, AR its true and lawful Attorney(s)-in-Fact to sign, execute, seal and deliver on its behalf as Surety, and as its act and deed, any and all bonds, policies, undertakings, or other like instruments, as follows:

Any such obligations in the United States,

Fifteen Million Dollars and 00/100 (\$15,000,000.00)

This appointment is made under and by authority of the following resolution passed by the Board of Directors of said Company at a meeting held in the principal office of the Company, a quorum being present and voting, on the 6th day of December, 1958, which resolution is still in effect:

RESOLVED, that the President or any Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 7th day of December, 1973.

RESOLVED, that the signature of the President or a Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS WHEREOF, THE CINCINNATI INSURANCE COMPANY has caused these presents to be sealed with its corporate seal, duly attested by its Vice President this 1st day of April, 2007.



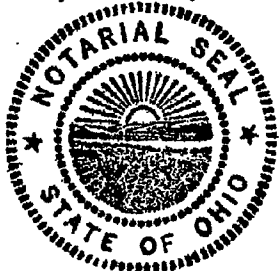
STATE OF OHIO) ss:
COUNTY OF BUTLER)

THE CINCINNATI INSURANCE COMPANY

Thomas H. Kelly

Vice President

On this 1st day of April, 2007, before me came the above-named Vice President of THE CINCINNATI INSURANCE COMPANY, to me personally known to be the officer described herein, and acknowledged that the seal affixed to the preceding instrument is the corporate seal of said Company and the corporate seal and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporation.



Mark J. Huller
MARK J. HULLER, Attorney at Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration
date. Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Secretary of THE CINCINNATI INSURANCE COMPANY, hereby certify that the above is a true and correct copy of the Original Power of Attorney issued by said Company, and do hereby further certify that the said Power of Attorney is still in full force and effect.

GIVEN under my hand and seal of said Company at Fairfield, Ohio.
this 27th day of August, 2012



Beggy J. Schlemmer

Secretary

BN-1005 (3/02)

AGREEMENT

BETWEEN CITY OF FAYETTEVILLE AND CONTRACTOR

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2012 by and between the City of Fayetteville, Arkansas (hereinafter called CITY OF FAYETTEVILLE) and Second Nature Property Management, LLC (herein after called CONTRACTOR).

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

Article 1. WORK.

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

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

Article 2. PROJECT MANAGER.

The Project is being managed by:

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

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

Article 3. CONTRACT TIME.

3.1. All trees must be installed no later than December 31, 2012.

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

(\$250.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

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

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

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

PAYMENT ITEMS

Bid 12-67 2012 Tree Planting Project

Second Nature Property Management, LLC					
ITEM #	DESCRIPTION	UNIT	EST. QTY.	UNIT PRICE	TOTAL
1	Mobilization (not to exceed 5% of project bid)	L.S.	1	\$2,000.00	\$2,000.00
2	Frontier Elm <i>Ulmus carpinifolia</i> x <i>parvifolia</i> 'Frontier' - Complete in place per specifications & details	E.A.	64	\$282.69	\$18,092.16
3	American Smoketree <i>Cotinus obovatus</i> - Complete in place per specifications & details	E.A.	39	\$282.69	\$11,024.91
4	Bur Oak <i>Quercus macrocarpa</i> - Complete in place per specifications & details	E.A.	12	\$282.69	\$3,392.28
5	Shumard Oak <i>Quercus shumardii</i> - Complete in place per specifications & details	E.A.	19	\$282.69	\$5,371.11
6	Red Maple <i>Acer rubrum</i> - Complete in place per specifications & details	E.A.	17	\$282.69	\$4,805.73
7	Sweetgum <i>Liquidambar styraciflua</i> 'Rotundiloba' - Complete in place per specifications & details	E.A.	11	\$282.69	\$3,109.59
8	Site Restoration	E.A.	1	\$410.00	\$410.00
TOTAL CONTRACT AMOUNT					\$48,205.78

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

Article 5. PAYMENT PROCEDURES

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

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

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

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

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

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

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

Article 6. CONTRACTOR'S REPRESENTATIONS.

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

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

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

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

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

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

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

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

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

Article 7. CONTRACT DOCUMENTS

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

- 7.1. This Agreement (pages 1 to 7, inclusive).
- 7.2. Performance and Payment Bonds, (Exhibits A and B respectively).
- 7.3. Certificates of Insurance, (Exhibit C).
- 7.4. Documentation submitted by CONTRACTOR prior to Notice of Selection (Exhibit D).
- 7.5. General Conditions (pages 1 to 42, inclusive).
- 7.6. Supplementary Conditions (pages 1 to 13 inclusive).
- 7.7. Specifications consisting of Divisions 1 through 32 as listed in table of contents thereof.
- 7.8. Addenda number 1, inclusive.
- 7.9. One set of drawings (not attached hereto) consisting of: a cover sheet and additional sheets numbered two through S4.1 with each sheet bearing the following general title: 2012 Tree Planting Project.
- 7.10. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:
 - 7.10.1. Notice to Proceed
 - 7.10.2 All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

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

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

Article 8. MISCELLANEOUS.

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

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

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

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

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

8.6. Freedom of Information Act. City contract and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, CONTRACTOR will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

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

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

This Agreement will be effective on _____, 2012 (which is the Effective Date of The Agreement).

CITY OF FAYETTEVILLE:

CONTRACTOR

By: _____
Mayor

By: 

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

*Attest _____

* If a Corporation, attest by the Secretary.

Address for giving notices

Address for giving notices

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

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

City Of Fayetteville - Purchase Order (PO) Request						Requisition No.:		Date:	
(Not a Purchase Order)						P.O Number:		8/31/2012	
All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)								Expected Delivery Date:	
All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us									
Vendor #: 21427		Vendor Name: Second Nature Property Management, LLC				Mail Yes: No:			
Address: 144 Abbey Lane				Fob Point:		Taxable Yes: No:		Quotes Attached Yes: No:	
City: Fayetteville		State: AR		Zip Code: 72703		Ship to code:		Division Head Approval: <i>[Signature]</i>	
Requester: Megan Dale, Urban Forester				Requester's Employee #: 3617		Extension: 470			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2012 Tree Planting Project NW Per Bid 12-67	1	LS	45,414.57	\$45,414.57	4470.9470.5315.00	08001.2		
2	2012 Tree Planting Project NE Per Bid 12-67	1	LS	688.88	\$688.88	4470.9470.5315.00	08001.3		
3	2012 Tree Planting Project SE Per Bid 12-67	1	LS	2,102.33	\$2,102.33	4470.9470.5315.00	08001.5		
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
*	Shipping/Handling		Lot		\$0.00				
Special Instructions:						Subtotal: \$48,205.78			
Tax is included in the bid price.						Tax: _____			
We do not have any trees being installed in the SW Quadrant; hence, the omission of Subproject # 08001.4.						Total: \$48,205.78			
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
 Razing and Removal Costs for
 1609 S. Duncan Avenue
 Page 1 of 20

City Council Agenda Items
 and
 Contracts, Leases or Agreements

9/18/2012

City Council Meeting Date
 Agenda Items Only

Yolanda Fields

Submitted By

Community Services

Division

Development Services

Department

Action Required:

A Resolution certifying to the Tax Collector of Washington County the costs of the Razing and Removal of a dilapidated and unsafe structure located at 1609 S. Duncan Ave. (WC Parcel # 765-09640-000)

\$ -

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

☐

James C. Baker
 Department Director

08-29-2012
 Date

Previous Ordinance or Resolution #

[Signature]
 City Attorney

8-29-12
 Date

Original Contract Date:

Original Contract Number:

Paul A. Becker
 Finance and Internal Services Director

8-29-2012
 Date

Received in City
 Clerk's Office

[Signature]
 Chief of Staff

8-31-12
 Date

Received in
 Mayor's Office

[Signature]
 Mayor

8/31/12
 Date

ENTERED
8/29/12
[Signature]

Comments: Staff recommends approval of the Resolution

This will be a "public hearing" etc

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Development Services Department Director 

From: Yolanda Fields, Community Services Director 

Date: August 27, 2012

Subject: A Resolution certifying to the Tax Collector of Washington County the costs of the Razing and Removal of a dilapidated and unsafe structure located at 1609 S. Duncan Ave. (WC Parcel # 765-09640-000)

RECOMMENDATION

Staff recommends imposing a lien against real property for the amount of \$3,676.20, plus a 10% penalty for collection.

BACKGROUND

On May 15, 2012, the City Council of the City of Fayetteville passed Resolution No. 107-12. The resolution ordered the razing and removal of a dilapidated and unsafe structure owned by Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess at 1609 S. Duncan Ave., Fayetteville, AR. On May 24, 2012, the property was posted with a letter stating Resolution 107-12 was passed. The letter also stated that our office would begin the Raze and Removal process on June 19, 2012. On July 3, 2012, the raze and removal process was completed. On August 1, 2012, the property owners were notified of the Public Hearing to consider this resolution.

DISCUSSION

The total costs incurred include the bid awarded to raze and remove in the amount of \$3,495.00, administrative costs in the amount of \$151.20 and \$30.00 in fees to file the lien.

BUDGET IMPACT

If passed, a lien will be placed on the parcel for the incurred costs, plus a 10% penalty for collection. Once paid, the moneys will return to the General Fund.

RESOLUTION NO. _____

A RESOLUTION CERTIFYING TO THE TAX COLLECTOR OF WASHINGTON COUNTY, ARKANSAS THE COSTS OF RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE UPON THE PROPERTY OWNED BY ADAM P. DYESS, PERRY J. DYESS AND CAROLYN A. DYESS LOCATED AT 1609 S. DUNCAN AVENUE IN THE CITY OF FAYETTEVILLE, ARKANSAS

WHEREAS, pursuant to the provisions of §§ 95.03 and 173.08 of the Code of Fayetteville, as authorized by Arkansas Code § 14-56-203, the City Council of the City of Fayetteville directed the owners of the property located at 1609 S. Duncan Avenue (Washington County Parcel No. 765-09640-000) to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property; and

WHEREAS, Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess, record owners of the property, failed to raze and remove the dilapidated, unsightly, and unsafe structure on their property; and

WHEREAS, the City of Fayetteville, in accordance with the above-cited ordinances and statute, entered upon the property and razed and removed the dilapidated, unsightly, and unsafe structure; and

WHEREAS, the City Council of the City of Fayetteville, Arkansas is required to determine the appropriate amount of the lien, and certify this amount to the Tax Collector of Washington County, Arkansas to be placed upon the tax books as delinquent taxes,

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

Section 1. That, by the authority granted pursuant to Arkansas Code §§ 14-56-203 & 14-54-901 *et seq.*, and in accordance with the provision of § 173.08 of the Code of Fayetteville, the City Council of the City of Fayetteville, Arkansas hereby determines the appropriate amount of the lien against the property located at 1609 S. Duncan Avenue (Washington County Parcel No. 765-09640-000) to be \$3,495.00.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby certifies this amount to the Tax Collector of Washington County, Arkansas so that this amount, plus ten percent (10%) penalty for collection, be placed on the tax books as delinquent taxes against the property located at 1609 S. Duncan Avenue (Washington County Parcel No. 765-09640-000).

PASSED and APPROVED this 18th day of September, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



July 27, 2012

Adam P., Perry J., and Carolyn A. Dyess
P.O. Box 501
Samson, AL 36477

RE: Resolution No. 107-12
Enforcement of Fayetteville Code 173.09, and 95.03
Arkansas Code Ann. 14-56-203 , 14-54-901

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. § 14-56-203, § 14-54-901, et seq. and § 173.09 and § 95.03 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to consider a Resolution certifying to the Tax Collector of Washington County the costs of the Razing and Removal of a dilapidated and unsafe structure located at **1609 S. Duncan Ave. (Parcel #765-09640-000)**. The amount of the asserted lien is \$3,676.20, plus a 10% penalty for collection.

You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 575-8260.

The hearing will be part of a regular City Council meeting on September 18, 2012 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (479-575-8323) for information confirming the date of the public hearing.

Sincerely,

Chad Ball
Community Services Coordinator

Cc: file

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

ADAM P, PERRY J, & CAROLYN A DYESS
PO BOX 501
SAMSON, AL 36477

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Carolyn A Dyess*

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Carolyn A Dyess

C. Date of Delivery

01/12

Address different from item 1? ☐ Yes
delivery address below: ☐ No

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number
(Transfer from service label)

7010 1870 0001 8413 9668

PS Form 3811, February 2004

Domestic Return Receipt AR 14384

102595-02-M-1540

U.S. Postal Service TM

CERTIFIED MAIL TM RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage

\$

Certified Fee

Return Receipt Fee
(Endorsement Required)

Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

\$

7/30/12

Postmark
Here

Sent To

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4

PS Form 3800, August 2006

See Reverse for Instructions

7010 1870 0001 8413 9668

M&M EXCAVATING ,LLC

Marcus Barker
377 Sulpher City Rd.
Fayetteville, AR 72701
479-643-3750

City Of Fayetteville

7/5/12

Raze and Removal
1609 S Duncan Ave.
Fayetteville, AR 72701

\$3,495.00

TOTAL DUE:

\$3,495.00

***** Thanks For Your Business*****







May 24, 2012

Adam P., Perry J., and Carolyn A. Dyess
P.O. Box 501
Samson, AL 36477

RE: Enforcement of Ordinance 173.09
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

On May 15, 2012, the Fayetteville City Council passed and approved Resolution No. 107-12. The resolution states that, by the authority granted pursuant to A.C.A. 14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess are hereby ordered to raze and remove the dilapidated, unsightly, and unsafe structure located on 1609 S. Duncan Avenue (Parcel #765-09640-000). The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

The resolution also says that if Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess do not comply with this order, the Mayor is hereby directed to cause the structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. 14-54-904, for the costs associated therewith.

**Our office will begin the Raze and Removal process of the
aforementioned real property on June 19, 2012.**

If you plan to remove anything from the structure, make arrangements before our process begins. Please contact the Code Compliance Office at (479) 575-8260 if you have any questions or updates concerning the property.

Sincerely,

Chad Ball
Community Services Coordinator

Cc:file

RESOLUTION NO. 107-12

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

WHEREAS, Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess are the record owners of the real property situated at 1609 S. Duncan Avenue, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-09640-000; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, the property owners, having been properly served with a Violation Notice via Certified Mail, Return Receipt Requested, and given thirty (30) days to correct said violation, has refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1: That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess are hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2: That, if Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess do not comply with this order, the Mayor is hereby directed to cause the dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

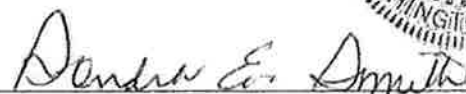
Section 3: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$3,495.00, a copy of which is attached as Exhibit "A".

PASSED and APPROVED this 15th day of May, 2012.

APPROVED:

ATTEST:

By: 
LIONELD JORDAN, Mayor

By: 
SONDRA E. SMITH, City Clerk/Treasurer





City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-575-8260

March 12, 2012

Adam P., Perry J., and Carolyn A. Dyess
P.O. Box 501
Samson, AL 36477

RE: Enforcement of Fayetteville Code 173.09
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-56-203 at 173.09 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at **1609 S. Duncan Ave. (Parcel #765-09640-000)**, should be Razed and Removed.

You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 575-8260.

The hearing will be part of a regular City Council meeting on May 15, 2012 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (479-575-8323) for information confirming the date of the public hearing.

Sincerely,

Chad Ball
Community Services Coordinator

Cc: file

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OFFICIAL USE

Postage \$	3-12-12 Postmark Here 14384
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	

Sent To _____
 Street, Apt. No., or PO Box No. _____
 City, State, ZIP+4 _____

PS Form 3800, August 2005 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece. ADAM P. PERRY J AND CAROLYN DYESS P.O. BOX 501 SAMSON, AL 36477	A. Signature x <i>Carolyn Dyess</i> ☐ Agent ☐ Addressee B. Received by (Printed Name) <i>Carolyn Dyess</i> C. Date of Delivery <i>3/22/12</i> Address different from Item 1? ☐ Yes Delivery address below: ☐ No
RECEIVED MAR 27 2012 CRCC	3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (Extra Fee) ☐ Yes
2. Article Number (Transfer from service label) 7010 2780 0001 9244 3158	
PS Form 3811, February 2004 Domestic Return Receipt 14384 LW 102595-02-M-1540	

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



A. 7
Razing and Removal Costs for
1609 S. Duncan Avenue
Page 15 of 20
Office of Code Compliance
Phone 479-575-8260
Fax 479-444-3445

VIOLATION NOTICE

September 19, 2011

Owner ADAM P., PERRY J., CAROLYN A. DYESS
P.O. BOX 501

SAMSON, AL 36477

RE: Property @ 1609 S DUNCAN AVE, Fayetteville, AR

WC Parcel # 765-09640-000

Case # 14384

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. **If you need clarification of this notice or advice on how to correct the problem, please call our office at (479)575-8237.**

Suspected Violation That Needs Correction:

§173.09 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

JOSHUA KNIGHT
Code Compliance Officer

Cc: file

7010 1670 0001 8408 0458

U.S. Postal Service TM	
CERTIFIED MAIL TM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 9.19.11
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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 14.383184
Postmark Here K	
Sent To	
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	
PS Form 3800, August 2006 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature x Carolyn R. Dyess ☐ Agent ☐ Addressee B. Received by (Printed Name) C. Date of Delivery 10-13-11 D. Is delivery address different from Item 1? ☐ Yes If YES, enter delivery address below: ☐ No
1. Article Addressed to: ADAM, CAROLYN & PERRY DYESS P.O. BOX 501 SAMSON, AL 36477	3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. ☐ Yes
2. Article (Trans)	Domestic Return Receipt ☒ 14383184 102595-02-M-1540



Code Compliance Program Unsafe Building Violation Determination

Address / Location: 1609 S. Duncan Ave.

WC Parcel # 765-09640-000

I have determined that the structure above has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.



I recommend the raze and removal of the structure.



I recommend securing the structure.

Building Official

16 Sep 11

Observations: Examination of the structure since my last inspection has had major dilapidation that repair would not be cost effective. The roof, floors, & ceiling have major damage and any repairs would require the structure be brought up to current Bldg Code R

I have determined that the structure above is not in violation of Subsection 173.09 (A) of the Fayetteville Code Of Ordinances.

Building Official

PLEASE RETURN THIS FORM TO CODE COMPLIANCE

Date Sent: September 15, 2011

SR# 112782

Date Received: 9/17/11

Case# 14384

Community Services Division Director

Record 1 of 1 Last Updated 08/26/12

Print Page

Parcel Number: **765-09640-000** Prev. Parcel Number: **143012-000-00** Type: **RI**Location: **1609 S DUNCAN AVE**Owner Name: **DYESS, ADAM P ; DYESS, PERRY J ;DYESS, CAROLYN A**Mailing Address: **PO Box 501 Samson AL 36477**Lot: **001**Block: **005**S-T-R: **21-16-30**Addition: **PARKSDALE ADD**School District: **FAYETTEVILLE SCH, FAY**Tax District: **011**City: **FAYETTEVILLE**Legal: **LOTS 1-2-3-4 BLOCK 5**

Current Year A79 Credit Status:

Last Appraised: **2010**

	Appraised Value	Taxable Value
Land	32,500	6,500
Improvement	35,100	7,020
Total	67,600	13,520

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit	A79 Status	Net Total Tax	Total Tax Paid	Payment Status
2011	13,520	\$726.70	\$0.00	\$0.00	\$0.00	\$0.00		\$726.70	\$0.00	
2010	13,520	\$733.46	\$0.00	\$0.00	\$0.00	\$0.00		\$733.46	\$733.46	PAID
2009	14,451	\$744.23	\$0.00	\$0.00	\$0.00	\$0.00		\$744.23	\$744.23	PAID
2008	13,339	\$686.96	\$0.00	\$0.00	\$0.00	\$0.00		\$686.96	\$686.96	PAID
2007	12,227	\$630.91	\$0.00	\$0.00	\$0.00	\$0.00		\$630.91	\$630.91	PAID
2006	11,115	\$585.76	\$0.00	\$0.00	\$0.00	\$0.00		\$585.76	\$585.76	PAID
2005	10,260	\$540.70	\$0.00	\$0.00	\$0.00	\$0.00		\$596.70	\$596.70	PAID
2004	9,405	\$487.74	\$0.00	\$0.00	\$0.00	\$0.00		\$487.74	\$487.74	PAID
2003	8,550	\$452.81	\$0.00	\$0.00	\$0.00	\$0.00		\$452.81	\$452.81	PAID
2002	8,550	\$444.26	\$0.00	\$0.00	\$0.00	\$0.00		\$444.26	\$444.26	PAID
2001	8,550	\$444.26	\$0.00	\$0.00	\$0.00	\$0.00		\$499.99	\$499.99	PAID
2000	7,900	\$414.75	\$0.00	\$0.00	\$0.00	\$0.00		\$414.75	\$414.75	PAID
1999	7,900	\$404.48	\$0.00	\$0.00	\$0.00	\$0.00		\$404.48	\$404.48	PAID
1998	7,900	\$405.27	\$0.00	\$0.00	\$0.00	\$0.00		\$405.27	\$405.27	PAID
1997	7,900	\$405.27	\$0.00	\$0.00	\$0.00	\$0.00		\$405.27	\$405.27	PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2010	60947	10/07/2011	\$733.46	\$0.00	\$0.00	\$0.00	\$0.00	\$733.46
2009	56047	10/06/2010	\$744.23	\$0.00	\$0.00	\$0.00	\$0.00	\$744.23
2008	61143	10/09/2009	\$686.96	\$0.00	\$0.00	\$0.00	\$0.00	\$686.96
2007	56439	10/07/2008	\$630.91	\$0.00	\$0.00	\$0.00	\$0.00	\$630.91
2006	110769	10/5/2007	\$585.76	\$0.00	\$0.00	\$0.00	\$0.00	\$585.76
2005	139675	10/23/2006	\$540.70	\$0.00	\$0.00	\$0.00	\$56.00	\$596.70
2004	95591	10/6/2005	\$487.74	\$0.00	\$0.00	\$0.00	\$0.00	\$487.74
2003	85462	10/5/2004	\$452.81	\$0.00	\$0.00	\$0.00	\$0.00	\$452.81

2002	113519	10/11/2003	\$444.26	\$0.00	\$0.00	\$0.00	\$0.00	\$444.26
2001	15795	12/9/2002	\$444.26	\$0.00	\$0.00	\$0.00	\$55.73	\$499.99
2000	16271	10/17/2001	\$414.75	\$0.00	\$0.00	\$0.00	\$0.00	\$414.75
1999	15478	10/11/2000	\$404.48	\$0.00	\$0.00	\$0.00	\$0.00	\$404.48
1998	17260	10/8/1999	\$405.27	\$0.00	\$0.00	\$0.00	\$0.00	\$405.27

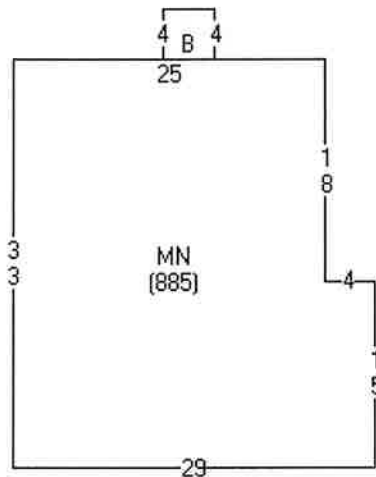
Deed History

Date	Deed Ref.	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
7/9/1999	<u>99-62517</u>	DYESS, ADAM P ; DYESS, PERRY J ;	DYESS, CAROLYN A	WD	0	0.00
LRR 99-62517 WD NO REV						
8/3/1994	<u>94-47408</u>	DYESS, ADAM P		WD	42,000	138.60
94/47409 WD NO REV						
1/1/1985	-	HAMILTON, FRED			0	0.00

Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Year Constructed	Basement Area
1	SF	FS	885	1175	1915	

Grade	Condition	Exterior Wall	Fireplace	Year Remodeled	Effective Age
5	A	ALUM.SIDNG			95

Sketch:



Out Buildings and Yard Improvements

Qty	Description	Size	Quality
1	Storm Shelter	12x12	

[Next Item](#) |
 [Previous Item](#) |
 [Ledger Card](#) |
 [Prev. Ledger Card](#) |
 [Plat](#) |
 [GIS Parcel Map](#) |
 [Return to Search Results](#) |
 [Modify Search](#) |
 [New Search](#)

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

8/21/2012

City Council Meeting Date
Agenda Items OnlyQuin Thompson
Submitted ByPlanning
DivisionDevelopment Services
Department**Action Required:**

RZN 12-4166: Rezone S. of Brookbury Crossing & E. of Candlewood SD, 294: Submitted by Engineering Services Inc. for property located South of BROOKBURY CROSSING and East of CANDLEWOOD developments. The Property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 20.99 acres. The request is to rezone the subject property to RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE. The Planning commission recommended the property be rezoned to RSF-.5, Single-family Residential, ONE HALF UNIT PER ACRE.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

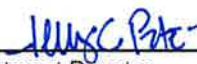
Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

 Department Director

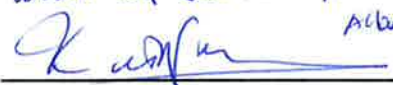
08.03.2012

Date

Previous Ordinance or Resolution #

1 would say one unit per 2 acres. We don't
 need half units to be built.

Original Contract Date:


 City Attorney

8-3-12

Date

Original Contract Number:


 Finance and Internal Services Director

8-3-2012

Date

Received in City
Clerk's Office

08-03-12 P01:30 RCVD


 Chief of Staff

8-3-12

Date

Received in
Mayor's Office

 Mayor

8/6/12

Date



Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Quin Thompson, Current Planner

Date: July 25, 2012

Subject: RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins)

RECOMMENDATION

The Planning Commission recommends approval of an ordinance to rezone the subject property from R-A, Residential Agricultural to RSF-.5, Single-Family Residential, one half unit per acre. The applicant originally requested that the property be re-zoned to RSF-4, Single-Family Residential, 4 units per acre. This item was discussed at the Planning Commission meeting on July 23, 2012.

BACKGROUND

The subject property is located south of Skillern Road and east of Highway 265. The property is an undeveloped pasture and woodland with Flynn Creek traversing north to south on the east boundary of the site. The overall parcel contains approximately 20.99 acres. The applicant proposes to rezone the 20.99 acres, in its entirety, from R-A, Residential Agricultural to RSF-4, Single-Family Residential, 4 units per acre.

DISCUSSION

This item was heard at the Planning Commission meeting July 23, 2012. Staff recommended in favor of the proposed zoning. This site is designated as Residential Neighborhood on City Plan 2030 Future Land Use Plan. The property is surrounded on three sides by existing neighborhoods currently zoned RSF-4, Single-Family Residential, 4 units per acre. In staff's opinion the requested zoning is compatible with surrounding land use & density.

After significant public comment, primarily in opposition to the density & accompanying traffic through the Brookbury neighborhood, the Planning Commission forwarded the request to City Council with a recommendation to re-zone the property to RSF-.5, Single-Family Residential, with a maximum density of 1 unit per two acres. This lower density is equivalent to the maximum density requirement of the current R-A zoning on the property, but removes certain of the existing agricultural rights that come with an R-A zone. The primary concern of the Planning Commission was the lack of a second point of access to this property, which would place all additional traffic load onto the Brookbury neighborhood and Skillern Road.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 12-4166, FOR APPROXIMATELY 20.99 ACRES, LOCATED TO THE SOUTH OF SKILLERN ROAD FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-0.5, ONE HALF SINGLE-FAMILY UNITS PER ACRE.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from R-A, Residential Agricultural to RSF-0.5, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and APPROVED this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

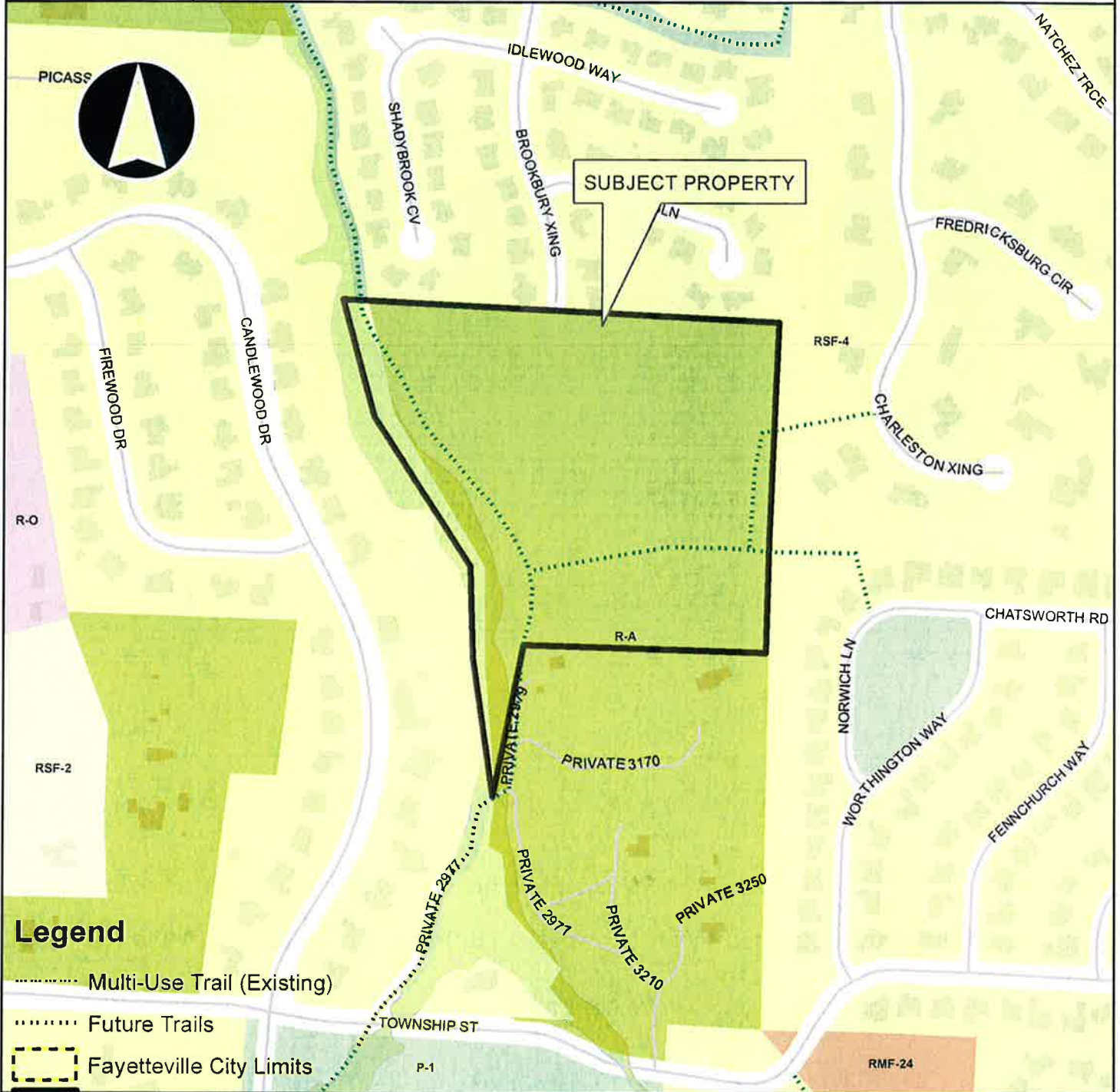
EXHIBIT "A"

B. 1
RZN 12-4166 (South of Brookbury
Crossing & East of Candlewood
Developments/Riggins)
Page 4 of 38

RZN12-4166

RIGGINS

Close Up View



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

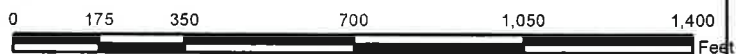


EXHIBIT "B"
RZN 12-4166

Legal Description to Accompany Rezoning Application for Parcel No. 765-13292-001

LEGAL DESCRIPTION - FROM DEED BOOK 94 PAGE 21919:

Part of the East Half (E 1/2), Southwest Quarter (SW 1/4) of Section Thirty-One (31), Township Seventeen North (T-17-N), Range Twenty-nine West (R-29-W), of the Fifth Principal Meridian in Washington County, Arkansas and being more particularly described as follows:

Commencing at the Southeast Corner of said East Half (E 1/2), Southwest Quarter (SW 1/4), thence North 01°14'02" East - 1,016.00 feet to the POINT OF BEGINNING, thence South 88°45'10" West - 658.17 feet, to the center of a road thence down the center of said road South 08°25'23" West - 420.00 feet to the center of a creek, thence along the center of said creek as follows: North 11°02'24" West - 381.44 feet, North 04°18'44" West - 246.70 feet, North 35°40'24" West - 480.96 feet, North 17°31'31" West - 330.46 feet, thence East - 1,179.15 feet, thence South 0°31'45" East - 596.50 feet, thence South 01°14'02" East - 300.00 feet to the POINT OF BEGINNING Containing 20.99 acres more or less subject to easements and rights-of-way of record.

HUGH JARRATT*
ATTORNEY AT LAW
1200 EAST JOYCE BLVD., 6TH FLOOR
FAYETTEVILLE, ARKANSAS 72703
TELEPHONE 479.521.6686 / FACSIMILE 479.527.8870

B. 1
RZN 12-4166 (South of Brookbury
Crossing & East of Candlewood
Developments/Riggins)
Page 6 of 38

RECEIVED
JUL 30 2012
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

* Licensed in Arkansas, Oklahoma
& Missouri

July 30, 2012

City of Fayetteville, Arkansas
ATTN: City Clerk
113 W. Mountain Street
Fayetteville, AR 72701

RE: RZN 12-4166
South of Brookbury Crossing

Dear City Clerk:

Please treat this letter as a formal request on behalf of the applicant, Riggins Contruction, to appeal the Fayetteville Planning Commission decision regarding RZN 12-4166, a rezoning south of Brookbury Crossing.

Please place RZN 12-4166 on the agenda for consideration by the Fayetteville City Council on the first available meeting.

If there are any additional materials or information which you require, please let me know.

Thank you.

Sincerely,


Hugh Jarratt,
Attorney at Law

cc: Client



PC Meeting of July 23, 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: Quin Thompson, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~July 12, 2012~~ *Updated July 25, 2012*

RZN 12-4166: Rezone S. of Brookbury Crossing & E. of Candlewood SD, 294: Submitted by Engineering Services Inc. for property located South of BROOKBURY CROSSING and East of CANDLEWOOD developments. The Property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 20.99 acres. The request is to rezone the subject property to RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE.

Planner: Quin Thompson

BACKGROUND:

Background and property description: The property is zoned Residential-Agricultural and contains 20.99 acres located south of Skillern Road and the Brookbury development. The site is undeveloped pasture and wooded lot with access from Brookbury Crossing. The surrounding zoning and land use is depicted in *Table 1*. The western portion of the property adjacent to the Candlewood development is bordered by Flynn Creek.

Surrounding land use and zoning is depicted in *Table 1*.

Table 1
Surrounding Zoning and Land Use

Direction	Land Use	Zoning
North	Single-family residential (Brookbury)	RSF-4
South	Single-family residential	R-A
East	Single-family residential (Savannah)	RSF-4
West	Single-family residential (Candlewood)	RSF-4

Proposal: The owners of the 20.99 acres propose to rezone from R-A (Residential-Agricultural) to RSF-4, Residential Single-family/4 units per acre.

Public Comment: Staff has received significant comment from residents of surrounding neighborhoods concerning the rezoning request as well as the presumed development of this property. A copy of all written comments and e-mails are attached to this report. Many of the comments concern the limited access to the property through existing neighborhoods & traffic/streets in the area.

RECOMMENDATION:

Staff recommends forwarding **RZN 12-4166** to the City Council with a recommendation for **approval** based on the findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>July 23, 2012</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <u>Pennington</u>	Second: <u>Hoskins</u>	Vote: <u>8-1-0 (Chesser voted 'no')</u>	
CITY COUNCIL ACTION: Required <u>YES</u>			
☐ Approved ☐ Denied			
Date: <u>August 7, 2012</u>			

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **Residential Neighborhood Area**. Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scales and context, including single-family, multifamily, and row-houses. It encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood.*

INFRASTRUCTURE:

Streets: The site has access to Brookbury Crossing. Brookbury Crossing is a fully improved two lane city street which accesses Skillern road and Highway 265. Based on current development patterns, Brookbury Crossing can easily accommodate additional traffic without further improvements. Skillern Rd is relatively unimproved between Brookbury Crossing and Highway 265. Highway 265 is currently being widened to a 5-lane section in this vicinity. Street improvements will be evaluated at the time of development, and may include off-site improvements or the provision of additional points of access.

Water: Public water is available to the property. There is an 8" water main along Brookbury Crossing on the north side of this location. Public water main improvements will be necessary to provide fire flow for domestic service for any proposed development.

- Sewer:** Sanitary sewer is available to the site. There is an 8" main along Brookbury Crossing on the north side of this property. Public sewer main improvements will be necessary to provide service for any proposed development.
- Drainage:** Standard improvements and requirements for drainage will be required for any development. This property is affected by the 100-year floodplain and the Streamside Protection Zones.
- Police:** The Police Department does not find that this rezoning will affect calls for service or response times. A copy of the Police Department memo is attached.
- Fire:** This property will be protected by Engine No. 5, located approximately 2 miles away at the intersection of Crossover and Old Wire roads. Response time is expected to be 3 minutes to the property. The anticipated development of the property with more than 30 single family homes will require separate and approved fire access roads. The Fire Marshal has expressed concern over the limited access to this property related to future development plans. A copy of the memo from the Fire Marshal is attached, explaining Fire Code requirements pertinent to future development phase for this site.

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: Although a higher density zoning such as RSF-8 could be appropriate within the Future Land Use designation of Residential Area on the property, staff find that RSF-4 is consistent with the existing and surrounding land uses and infrastructure, particularly given the difficulty in access for this property. The property is surrounded to the East, West, & North by neighborhoods with RSF-4 zoning. The zoning will allow the owners to develop the property to a density and with a pattern similar to surrounding developments, if adequate access can be provided.

A primary guiding principle in the City Plan 2030 for new neighborhood development is to provide 'complete, compact, and connected' neighborhoods. The most difficult of these to achieve for this property is for it to be adequately connected, which is a result of previous decisions to not provide 'stub-out' streets from other properties as they developed. In fact, this condition may make it more difficult for the development to achieve desired density and still meet City requirements for access.

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 in order for the property to be developed at the higher density requested by the applicant. It is not a reasonable expectation that this property remain with R-A zoning, allowing for typical agricultural uses, when surrounded on three sides by developed neighborhoods that are zoned RSF-4. In fact, staff finds the current agricultural zoning could become highly incompatible to surrounding neighborhoods if developed with many of the uses currently allowed in the R-A district. As discussed in Finding No. 1, the proposed zoning is justified as it is compatible with the surrounding zoning and land uses and consistent with the City's Future Land Use Plan.

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

Finding: The proposed rezone would not significantly increase traffic or congestion in the area. Highway 265 is currently being expanded to higher capacity. Skillern Road, which serves this property as primary access, is unimproved and currently experiences some congestion during peak periods. Improvements to this road would need to be evaluated with future development plans, so as not appreciably create or compound any dangerous traffic condition 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: 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 RSF-4 should have no discernable impact on public services as the site is directly adjacent to public infrastructure, however future development will require improvements to public infrastructure with potential requirements for off-site improvements.

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

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

Finding: Not applicable. Staff recommends in favor of the re-zoning request, with the understanding that development of this property is not being considered at this time. Concerns expressed both by the Fire Marshal and comments received from the public will be more appropriately considered during the [presumed] development phase to follow re-zoning, if the request is granted. It should be noted, specifically, that the single access point to the property may limit density to well below the four units per acre granted by the RSF-4 zoning district, due to safety & connectivity requirements.

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.

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)

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.*

Units per acre	One-half
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(D) *Bulk and area regulations.*

E) *Setback requirements.*

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required

setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5195, 11-6-08; Ord. 5238, 5-5-09; Ord. 5479, 2-7-12)



www.accessfayetteville.org



THE CITY OF FAYETTEVILLE, ARKANSAS

B. 1
RZN 12-4166 (South of Brookbury
Crossing & East of Candlewood
Development/Riggins)
Page 15 of 28
303 West Center Street
Fayetteville, AR 72701
P (479) 575-8365 F (479) 575-0471

Zoning Review

To: Quin Thompson
From: Harley Hunt, Fire Marshal
Date: July 17, 2012
Re: RZN 12-4166

This development will be protected by Engine 5 located at 2979 N. Crossover.
It is 2 miles from the station with an anticipated response time of 3 minutes to the beginning of the development.
The anticipated development of this property with more than 30 single family homes will require separate and approved fire apparatus roads as stated in AFC D107.1.
The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

If you have any questions please feel free to contact me.

Battalion Chief Harley Hunt
479-718-7639
Fayetteville Fire Department



THE CITY OF FAYETTEVILLE, ARKANSAS



B. 1
RZN 12-4166 (South of Brookbury
Crossing & East of Candlewood
Developments/Riggins)
Page 16 of 38
POLICE DEPARTMENT
100-A West Rock Street
Fayetteville, AR 72701
P (479) 587-3555 F (479) 587-3522

MEMORANDUM

To: Jeremy Pate
From: Captain Kenny Yates
Date: 7/13/12
Subject: RZN 12-4166

This document is in response to the request for comments on proposed RZN 12-4166 (S. of Brookbury Crossing / Riggins, 294) submitted by Engineering Services, Inc. for property located at south of Brookbury Crossing.

It is the opinion of the Fayetteville Police Department that this RZN (12-4166), will not substantially alter the population density. This RZN will not create an appreciable or undesirable increase in the load on police services and will not create an appreciable increase in traffic danger and congestion.

From: "Kathleen Leatherby" <dkleatherby@cox.net>
To: <qthompson@ci.fayetteville.ar.us>
CC: "Charlie Collins" <clcollins6@cox.net>, "Jerilyn Nicholson" <jernic3@att...
Date: 7/6/2012 7:14 AM
Subject: surrounding Density - Proposed Riggins Development

Quin -

In response to the question I asked by email on 7/1 concerning whether the city had done an actual density study on the neighborhoods surrounding the property that Riggins Construction would like to have rezoned and then develop (your answer was "no"), I have spent some time at the Circuit clerk's office researching plats filed with the city. Here is what I've discovered:

Brookbury - 1.96 homes / acre

Covington - 2.2 homes / acre

Savanna - 1.2 homes / acre (Phase II Plat shows zoned R-1)

Candlewood - 1 home / acre (Plat shows zoned R-1)

Point: Compatability with surrounding neighborhoods would seem logical to zone at RSF-2 rather than RSF-4 to ensure the developer is consistent with surrounding development.

I would greatly appreciate it if you would pass this information on the the Planning Commissioners as I think it makes a strong point.

Sincerely,

Kathleen Leatherby
Brookbury Woods POA Treasurer
2731 N. Brookbury Crossing
Fayetteville, AR 72703
(479) 444-6551 (h)

From: "Jerilyn Nicholson" <jernic3@att.net>
To: <qthompson@ci.fayetteville.ar.us>
CC: "Kathleen Leatherby" <dkleatherby@cox.net>, "Charlie Collins" <clcollins...
Date: 7/7/2012 12:01 PM
Subject: requested rezoning at end of Brookbury Crossing

Mr. Thompson, my husband and I are residents of Brookbury subdivision & would like to offer the following comments in opposition to the proposed rezoning adjoining our neighborhood with access provided through our neighborhood.

Zoning: There is a discrepancy in the initial information we received on the existing zoning of the surrounding neighborhoods. The information was that all adjoining neighborhoods were zoned RSF-4. The final plat for Candlewood shows the zoning is RSF-1. Regardless of the existing zoning, what is "on the ground" is far more significant. The following is the actual density of the surrounding neighborhoods:

Brookbury: 1.96 homes/acre
Covington: 2.2 homes/acre
Savanna: 1.2 homes/acre
Candlewood: 1 home/acre

As is apparent, the requested rezoning would more than double the surrounding densities. The developer could develop the property today as it is currently zoned and be compatible with the adjoining neighborhoods. No one is disputing the right to develop.

Traffic/Density: The proposed rezoning would permit up to 80 homes on this property. Using the nationally accepted statistics on average daily trips (ADT), 80 homes would generate an additional 800 trips per day onto Brookbury Crossing, to say nothing of the construction traffic that would result. If you look at a Brookbury plat or an aerial photograph, you will see that all of the streets in Brookbury take access into and out of the subdivision via Brookbury Crossing. Brookbury has 97 homes. Thus, what the proposed rezoning would allow comes very close to doubling the traffic count on Brookbury Crossing. You will further note by looking at our plat that Brookbury Crossing is a relatively straight street from the entry to the subdivision to its present termination point, a cul-de-sac, where access is proposed into the undeveloped 20 acre tract. The entry to Brookbury is a landscaped boulevard and the streets are only 13.9' wide. House setbacks in this area are fairly minimal with the exception of one. The boulevard intersects with Skillern, also a narrow street with sight distance problems.

Brookbury is a neighborhood filled with children, joggers, walkers and bicyclists. To add the amount of traffic which the proposed rezoning would allow is not only dangerous and disruptive but "boggles the mind" in terms of quality of planning.

Our Property Owners Association (POA) is diligent about reminding the membership via email to maintain a safe speed on Brookbury Crossing since it is such a straight street and makes high speeds very possible. We will have no influence on any traffic coming from this proposed development since it will not be a part of our POA and our internal communication system.

Infill Development and Higher Density: I understand from the City that its goal is to encourage infill development at higher densities. Encouraging infill development is certainly understandable although higher density infill development is normally focused on the inner city level and we are clearly in the suburbs. In the case of this proposed rezoning, this approach seems somewhat short sighted and ignores the impacts of such an approach. If such higher density development severely impacts an existing neighborhood, it runs the risk of destabilizing attractive and very viable areas such as Brookbury. I think that might be called, "shooting yourself in the foot". The City has also espoused "green goals" such as preservation of trees and encouragement of wildlife habitat. The proposed rezoning would allow up to 80 homes on this tract. Such density seems very incompatible with such green goals. The 20 acres will be all but denuded.

Thank you for your thoughtful attention. These are critical issues to those of us who live here and we trust that you can appreciate our strong objections to the proposed rezoning.

Richard and Jerilyn Nicholson
3101 E. Summershade Drive
Fayetteville, AR 72703

From: "Kathleen Leatherby" <dkleatherby@cox.net>
To: <qthompson@ci.fayetteville.ar.us>
CC: "Charlie Collins" <cicollins6@cox.net>, "Scott and Meggan Bell" <scottme...
Date: 7/5/2012 11:20 PM
Subject: Rezoning - Riggins development
Attachments: DSCN4731.JPG; DSCN4730.JPG; DSCN4729.JPG

Quin -

I am submitting the attached photos as documentation of what has happened in the past when large commercial vehicles enter onto Brookbury Crossing. Not only is the landscaping disturbed, but the sprinkler heads close to the street are easily broken when run over. The turn onto Brookbury Crossing from a large vehicle that is east bound on Skillern can be difficult because of the sharp turning radius. Skillern is a narrow 2-way road with no shoulder and steep drop offs in some areas. If there is oncoming traffic, it's impossible for a large vehicle to swing out into the other lane to gain the wider radius it needs. Once school starts, traffic is often backed up on Skillern headed west (towards Crossover/265) all the way to Brookbury Crossing. Many of the construction vehicles will be arriving each morning about this same time. I will address the traffic issue further in a separate email.

If the proposed rezoning request by Riggins Construction is passed (from RA to RSF-4) and construction begins using Brookbury Crossing as the access point; we expect a great deal more of this type of damage to the Brookbury POA landscaping for years to come. The Brookbury POA is not in a position financially to continually pay for repairs done by the ongoing construction of both the needed infrastructure and homes. It would be difficult to prove any damage done was associated with the ongoing Riggins construction unless we have an eye-witness each time that has the time to follow the vehicle to determine what it entered the neighborhood for. This then puts the financial burden on the POA. I am currently the Treasurer of the Brookbury POA and am the former Landscaping Chair so I'm familiar with all that is involved in both the landscaping and the financial end of maintaining our neighborhood.

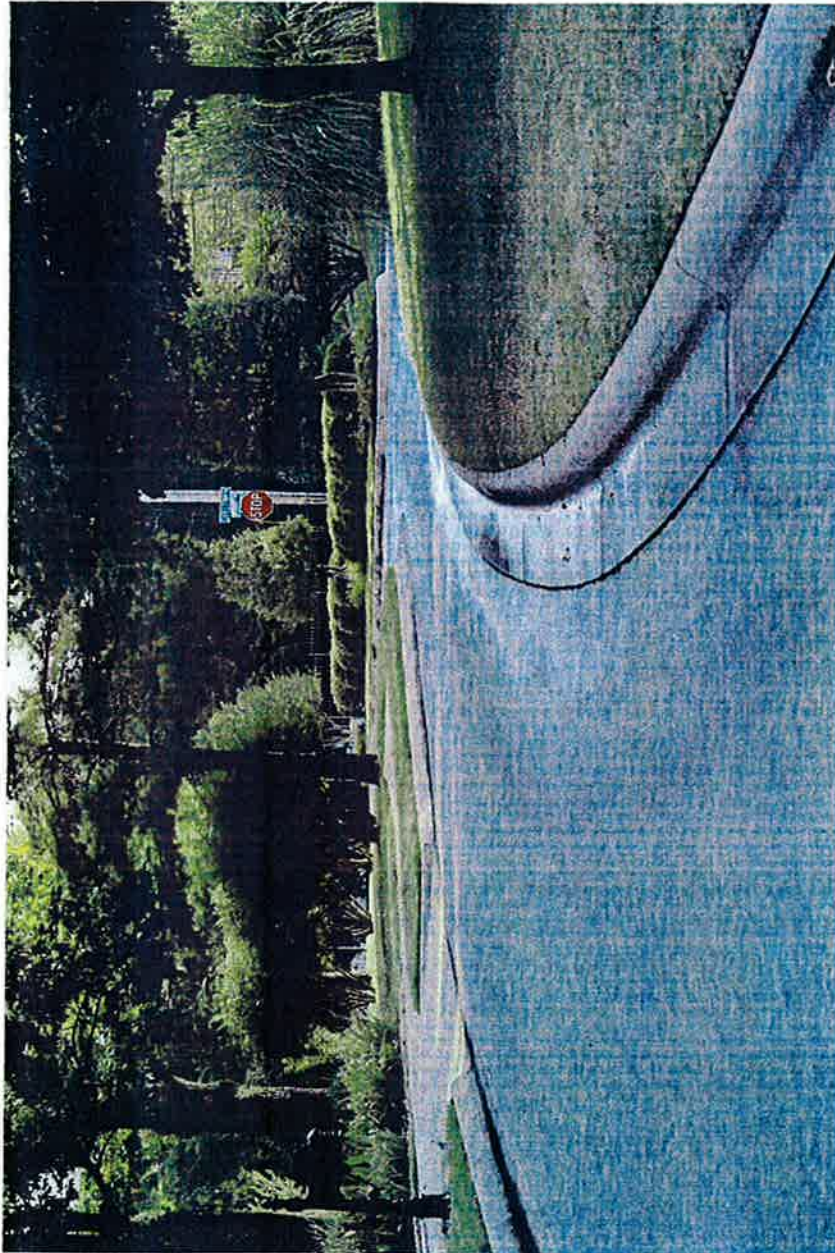
We hope the Planning Commission will take these concerns into consideration when considering the possible rezoning and development plans of Riggins.

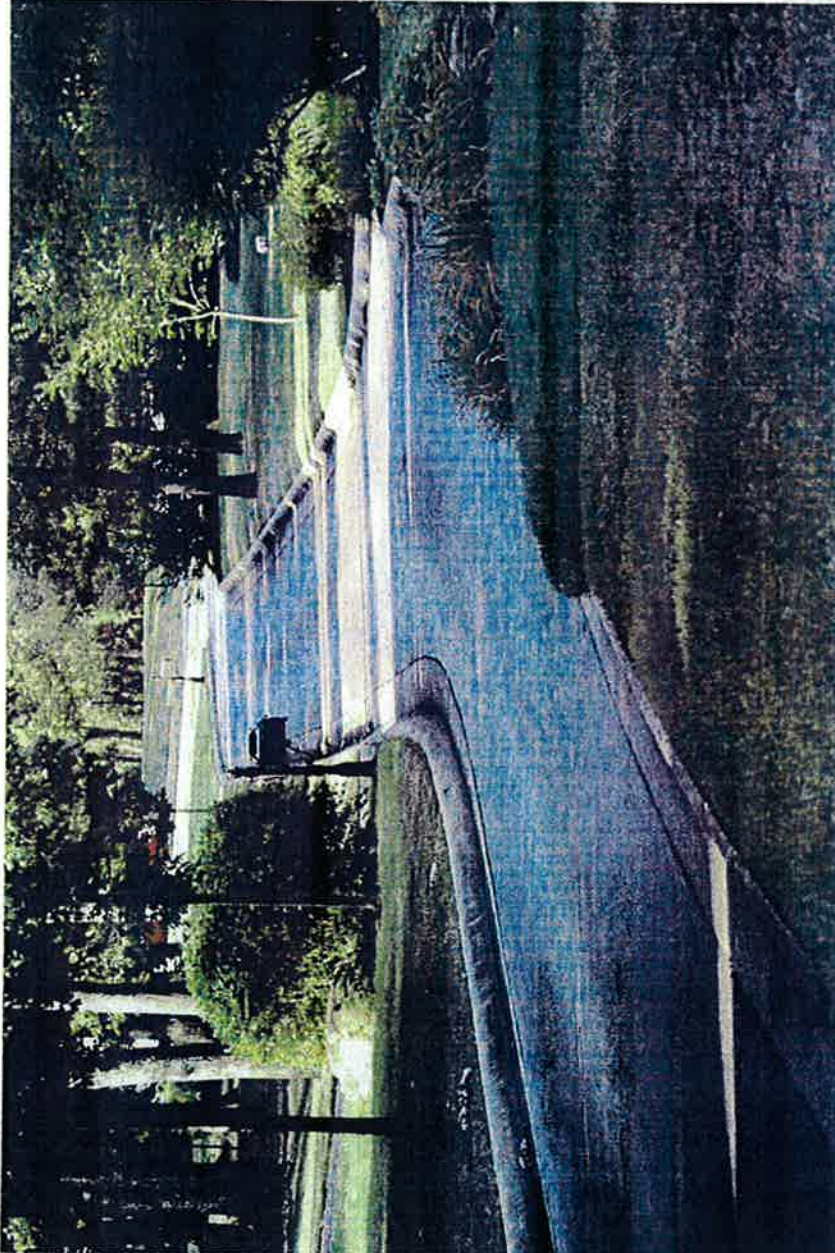
Kathleen Leatherby

Treasurer, Brookbury Woods POA

2731 N. Brookbury Crossing

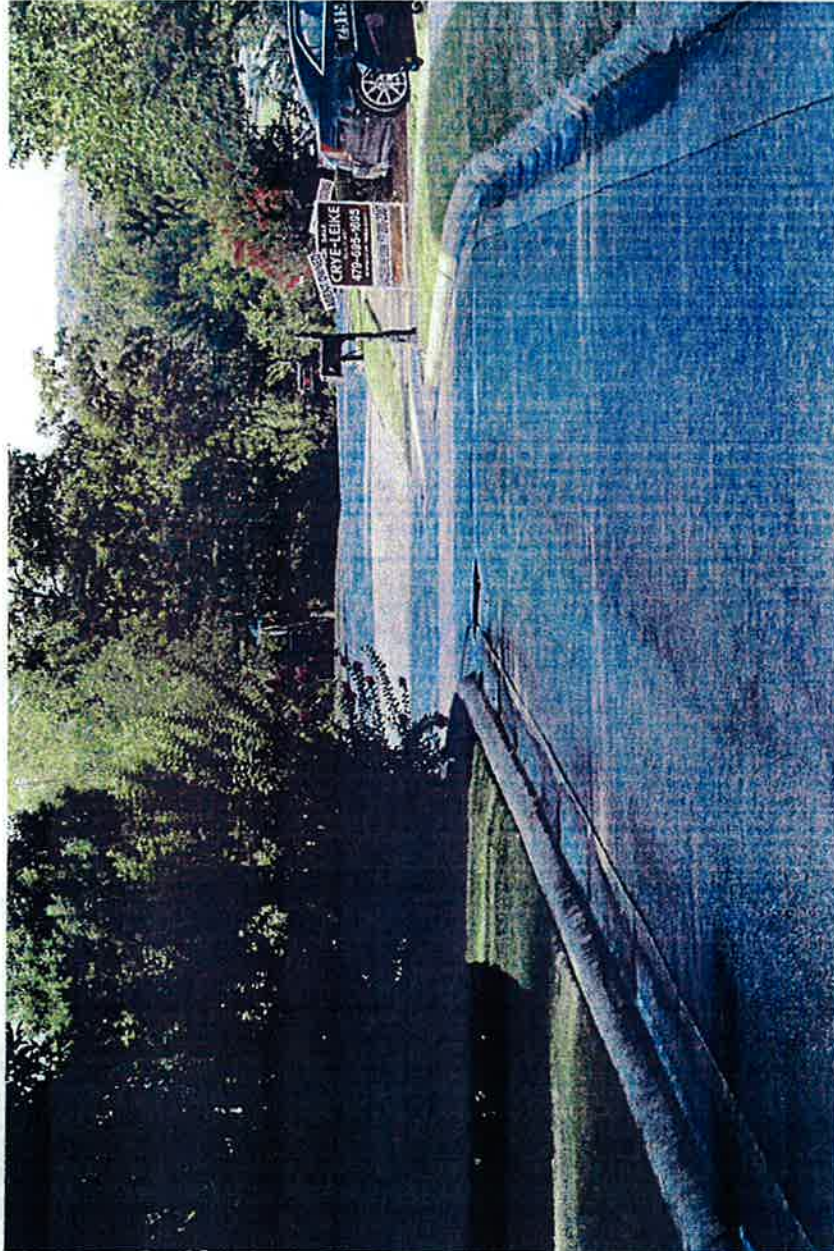












From: hogcrazy <hogcrazy_2000@yahoo.com>
To: <qthompson@ci.fayetteville.ar.us>
Date: 7/7/2012 7:36 AM
Subject: 20 acres Near Brookbury Subdivision

Dear Mr. Thompson:

As a landowner in Brookbury and one whose lot is right next to the 20 acres, I wanted to let you know of my thoughts.

As far as the zoning request for RSF-4, I realize the surrounding neighborhoods were zoned the same, this I was told, but they weren't built to those specifications. That is my concern. I would like this land to be developed in similar fashion to the surrounding neighborhoods. Both for continuity of the area and traffic concerns thru Brookbury.

I would like to let you know that I would be against RSF-4 zoning being approved and that a lower density zoning be approved instead. Why approve a zoning request that would allow up to 4 homes per acre when none of the surrounding neighborhoods were built to that density?

I also think the entrances to this area need to be addressed as Brookbury at this point will handle all the extra traffic.

Thank you very much.

Sincerely,

Linda Rogers

3285 E. Piper Glen

Fayetteville, AR 72703

From: "Kathleen Leatherby" <dkleatherby@cox.net>
To: "Quin Thompson" <qthompson@ci.fayetteville.ar.us>
Date: 7/8/2012 10:38 PM
Subject: Traffic back-up photo - Brookbury
Attachments: brookbury aerial.jpg; Brookbury-028.JPG; Brookbury-048.JPG; Brookbury-049.JPG; Brookbury-056.JPG; Brookbury-026.JPG

RE: Riggins rezoning request - South end of Brookbury Crossing

Quin -

As a member of the board of Directors for the Brookbury POA, I've had many neighbors share their concerns about the proposed rezoning and development at the south end of our neighborhood. One of the primary concerns that's been voiced is the volume of traffic that will be added - both from construction and the added homes. We have one entry / exit for the neighborhood that serves 96 homes. This one entry / exit presents a problem in the mornings once school starts. I have attached an aerial shot with the back-up of traffic at its worst highlighted in yellow. As you can see, it sometimes backs up all the way from Highway 265/Crossover to Brookbury Crossing. This makes it very difficult to get out of the neighborhood in the morning. If the RSF-4 zoning request is granted and Riggins is allowed to develop 70 additional homes (80 would be allowed but I'll be conservative given the need for easements, streets, etc.), based on the statistics you provided, this would add approximately 700 more trips per day on this single entry /exit. I have attached further photos to show the narrow split and curves at the entryway of Brookbury which add to the difficulty of seeing what's ahead (pedestrians, children, cars parked on the street, pets, etc.).

I've also had a neighbor share a story of having to wait over 10 minutes to exit Brookbury because of a large vehicle boxed in as it attempted to turn into Brookbury from Skillern without the proper turning radius. If this were an emergency situation, there is no alternative for a firetruck, ambulance or police.

We hope the Planning Commission will take all this into consideration when considering the number of homes that will be allowed to be built on the property in question and whether an alternative entry /exit is possible.

Sincerely,

Kathleen Leatherby

From: steve petruconis <srpconis@yahoo.com>
To: "cmonreal@ci.fayetteville.ar.us" <cmonreal@ci.fayetteville.ar.us>
CC: "qthompson@ci.fayetteville.ar.us" <qthompson@ci.fayetteville.ar.us>
Date: 7/1/2012 1:32 PM
Subject: Brookbury Crossing & Riggins Construction Land Development

Dear Ms. Monreal & Mr. Thompson:

Our names are Rosemary & Steve Petruconis and we reside at 2939 Brookbury Crossing, which is the third house on the west side of the boulevard as you enter the Brookbury development. We have learned that the City of Fayetteville will be considering changing the zoning status of the 21 acres of land immediately to the south of the Brookbury addition to allow Riggins Construction to develop homes under the RSF - 4 zoning designation. It is also our understanding that no entry/exit route is included in the proposed project other than the current Brookbury Crossing roadway.

Our primary concern is that Riggins would develop this property in a manner compatible with the adjoining neighborhoods and that it will consider adding an additional entry/exit route to help minimize the amount of traffic through our neighborhood. If an additional access route is not made a requirement in this project, all additional development traffic and residential owner traffic will pass directly in front of our home and others having an address on Brookbury Crossing. This will present a significant increase in the risk of potential motor vehicle accidents and personal injuries, in addition to wear and tear on the Brookbury Crossing roadway.

Brookbury Crossing is currently a very busy street because of only one entrance/exit route for the neighborhood. Adding potentially 80 more homes having one or more vehicles will unduly stress the current access route. We encourage you to require the additional or separate entry/exit route in this development if it is approved.

We thank you for your consideration of our request.

Sincerely,

Rosemary & Steve Petruconis
2939 N. Brookbury Crossing
Fayetteville, AR 72703

From: "Jerilyn Nicholson" <jernic3@att.net>
To: <qthompson@ci.fayetteville.ar.us>, <jpate@ci.fayetteville.ar.us>
Date: 7/19/2012 11:23 AM
Subject: rezoning request adjoining Brookbury Subdivision

I sent an email to Mr. Thompson a couple of weeks ago on this rezoning request, outlining some of my major concerns regarding this proposed rezoning. I wanted to get it to you early so that it would be included in the material given to the Planning Commissioners prior to the meeting. While I have contact information on the Planning Commissioners, there is only one person's email address listed and I hate to bother these folks by telephone with my added comments. Thus, I am sending this to you with the request that it be included in the information provided to the Commissioners, if there is still time to do so.

The feedback I am receiving from the city is that all of the issues that are of paramount concern to us will be addressed at the plat review stage if the requested RSF-4 zoning is approved. I would submit to you that the zoning dictates the parameters of the plat and should this rezoning be approved, the "die is cast". To not seriously consider the onerous effects this rezoning could have on Brookbury seems to be akin to putting one's head in the sand. I would add that the effects extend beyond Brookbury & include Skillern, Old Wire & Crossover. I would urge you and the Commissioners to face the issues head on now. I have always believed that it is better to be safe than sorry and I do indeed believe that such a rezoning, if approved, will provide ample opportunity to be sorry.

Thank you very much.

Jerilyn Nicholson
3101 E. Summershade

Public Comment for RZN 12-4166

Phone Message:

07-06-2012
Aaron Marooner
(479) 443-1997

Mr. Marooner(sp?), resident at Covington Park development stated that in his opinion the proposed rezone should be denied since the surrounding neighborhoods are not built to RSF-4 density.

Phone record:

07-07-2012
Manny Terminella
(479) 263-4749

Mr. Terminella had questions pertaining to city access requirements for new developments, specifically if the any future development on the subject property would be required to have more than one entry/exit. He owns property to the South and it would be necessary to cross his property if the developer wishes to have a South entry.

Staff responded that it is not a city requirement that a development have two entries/exits, but that once an entry/exit serves 80 homes, there are increased requirements according to fire code.

07-10-2012
Scott Stokenbury

Mr. Stokenbury is a resident of Brookbury development. He called with general questions regarding the re-zoning request.

07-18-2012
Christine Smith

Mrs. Smith called to voice opinion against the requested re-zone, citing concerns about increased traffic and the likelihood that existing problems with high traffic speeds on Brookbury Crossing will be made worse. She is concerned about already difficult conditions caused by congestion at Brookbury Crossing, Skillern Road, and Highway 265 during peak traffic times

RZN12-4166

Current Land Use

RIGGINS

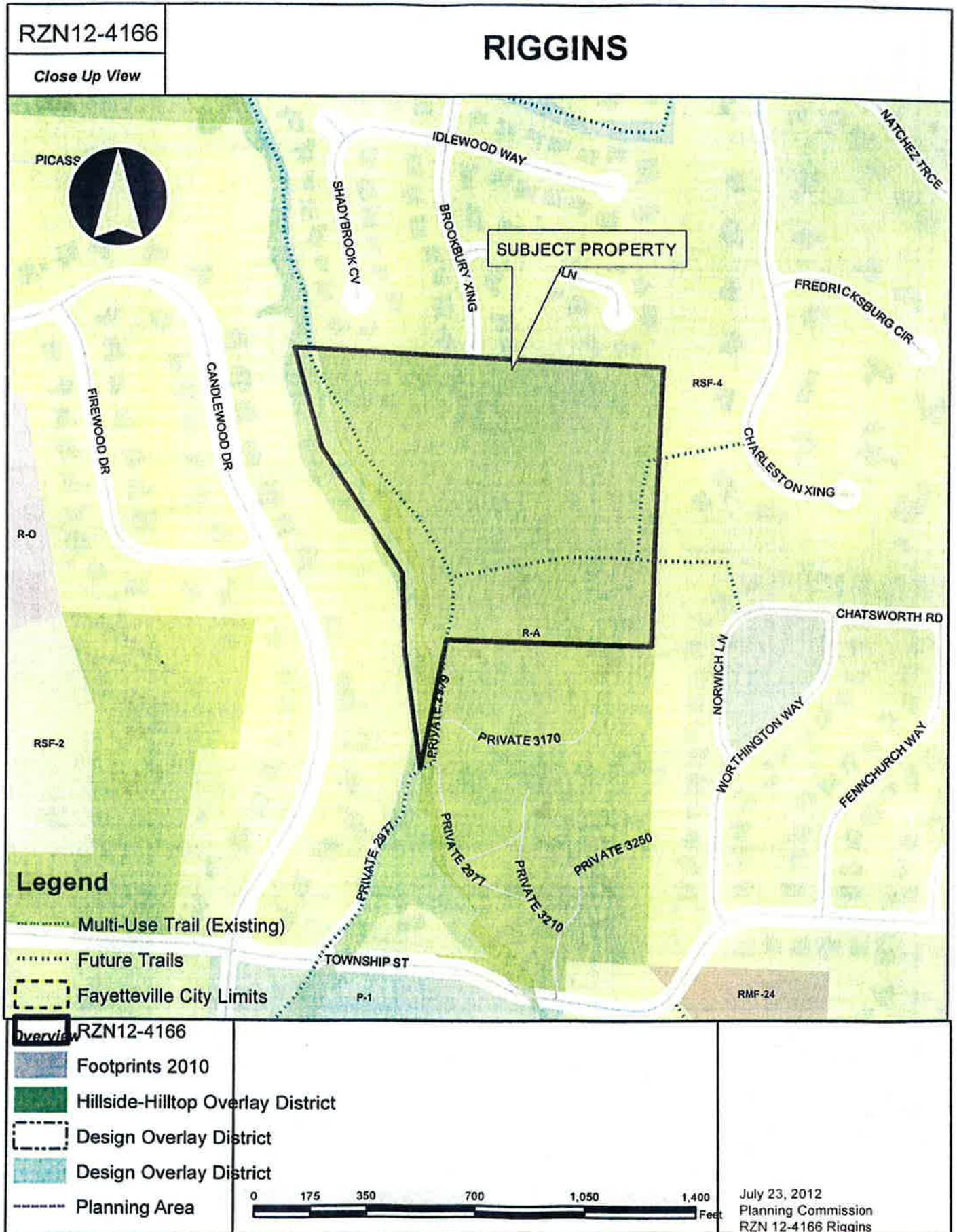


Overview RZN12-4166

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



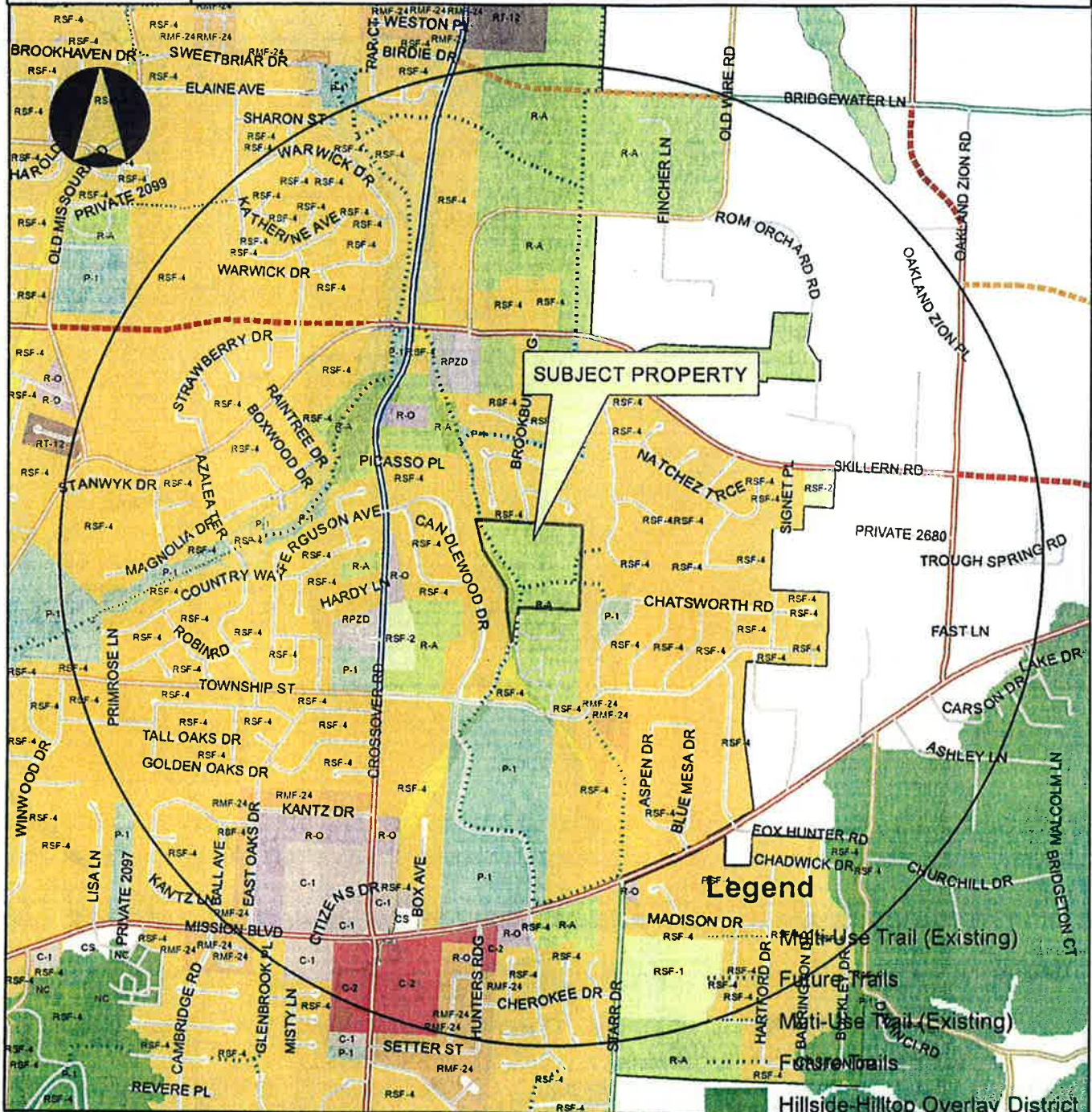
July 23, 2012
 Planning Commission
 RZN 12-4166 Riggins
 Agenda Item 10
 Page 26 of 28



RZN12-4166

RIGGINS COMMERCIAL CONSTRUCTION

One Mile View



Legend

- High-Use Trail (Existing)
- Future Trails
- Multi-Use Trail (Existing)
- Future Trails

Hillside-Hilltop Overlay District

Overview



Legend

- Subject Property
- RZN12-4166

Boundary

0 0.25 0.5

1

Miles

MINUTES OF THE PLANNING COMMISSION HEARING OF RZN 12-4166; JULY 23, 2012

RZN 12-4166: Rezone (S. OF BROOKBURY CROSSING/RIGGINS, 294): Submitted by ENGINEERING SERVICES, INC. for property located SOUTH OF BROOKBURY CROSSING. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 20.99 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE.

Andrew Garner, Senior Planner, gave the staff report.

Mickey Harrington, attorney for the property owner, agreed with staff's comments.

Commissioner Winston requested the City Attorney mention the items that were allowed to be considered and discussed by the Planning Commission for a rezoning.

Kit Williams, City Attorney, discussed the items that were allowed to be considered in a rezoning and referred to a memo that he had prepared and distributed.

Public Comment:

Eva Madison, Candlewood Subdivision, spoke for the neighborhood. She discussed the proposal was inconsistent with the surrounding neighborhoods. She discussed the old R-1 zoning that is different than the current RSF-4 zoning. The proposed RSF-4 zoning is different than the surrounding properties.

Charlie Collins, 3225 Pipers Glen, POA President of Brookbury, discussed that it is virtually unanimous regarding the opposition to this rezoning by the surrounding neighborhoods.

Christin Bellcamp, President of Brookbury, agreed with the comments by Eva Madison. We have obtained 96 signatures to downzone our neighborhood to RSF-2. She discussed Brookbury Crossing was the sole means of access. She discussed that zoning and development are tied together. She discussed traffic flow problems, fire safety problems, and issues with density and compatibility. Skillern Road has traffic and site distance issues. Brookbury would not meet the fire code today as it has 95 homes on a dead end street. Adding approximately 40 more additional homes on this site, even with sprinkler systems, would be a problem. The private interest should not override the public interest for safety.

James McGinty, President of Savannah, discussed support for the residents of Brookbury and Candlewood. He discussed traffic on Skillern Road. Savannah will also proposal to downzone to RSF-2.

Jimmy Roy, 3074 Brookbury, read an exert from the City Attorney's memo, "public opposition that is ogical and reasonable" can be considered. He also discussed that traffic is a problem. There are too many homes.

Christine Smith, Brookbury and Idlewood Way, Brookbury is already in a dangerous situation. Children ar all crossing in a blind area. It is a 25 mph speed limit but people exceed the limit. It will be worse if Brookbury is extended. She discussed a dangerous intersection in the Brookbury neighborhood.

Jason Fourie, 3475 Township, asked if the actual density was considered.

Laurie Covell, teacher at McNair, discussed traffic issues that occurred when a truck for a pool construction blocked the round backing up traffic in Brookbury.

No more public comment was presented.

Commissioner Hoskins asked about the property owner information.

Micky Harrington responded that the owner is requesting the rezoning.

Commissioner Hoskins discussed that the lack of a street connection is a problem. A full-fledged connection is needed. This could potentially have 80 residences or 800 average daily trips. He is pro smart-development and until a complete connection is made he can't support this.

Commissioner Winston discussed the R-A is not appropriate as it is surrounded by neighborhoods.

Kit Williams, City Attorney, discussed that the old R-1 zoning was almost identical to the current RSF-4 zoning. It allowed up to four units per acre.

Commissioner Hoskins discussed surrounding properties have RSF-2 type density. He discussed the lack of cross connection.

Commissioner Winston discussed the need to disconnect the two things.

Commissioner Chesser referred to the City Attorney's memo and whether this request meets or does not meet those criteria. He requested all of the neighborhood representatives to come back up and answer a question. Would you be opposed to this if there were a second street connection?

Eva Madison responded that their arguments were made based on density.

Jimmy Roy discussed that safety, density, and traffic are their biggest issues.

Charlie Collins discussed that if it were only an additional 10 homes it would not be dramatically worse.

Commissioner Chesser asked the applicant about the proposed density and zoning.

Micky Harrington discussed that there are other issues besides density that require the RSF-4 zoning such as lot dimensions and lot size.

Commissioner Chesser asked about a connection Township.

Brian Moore, Engineering Services Incorporated, discussed that yes a connection to the south is our intent with a stub-out.

Commissioner Honchell thanked everyone one for participating and being here. He discussed that he won't be able to support RSF-4.

Jeremy Pate, Development Services Director, discussed the differences between RSF-4 and RSF-

2. He also discussed that if Brookbury were rezoned to RSF-2 it would create nonconformities because very few of the lots are large enough to meet the RSF-2 requirements.

Commissioner Hoskins discussed a need for RSF-4 zoning because of bulk and area regulations. He also discussed that a Bill of Assurance would be an option for the applicant to limit the overall density. He would support a rezone to RSF-0.5.

Micky Harrington discussed that they would offer a Bill of Assurance to limit the density to two units per acre.

Kit Williams, City Attorney, discussed that the Planning Commission cannot require a Bill of Assurance and that one has not been offered. It would have to be offered in writing and notarized.

Commissioner Pennington discussed that the rezoning would not be incompatible, but public safety is a concern and he would be in support of RSF-0.5.

Motion:

Commissioner Pennington made a motion to forward **RZN 12-4166 to City Council with a recommendation for RSF-0.5.** **Commissioner Hoskins** seconded the motion.

Commissioner Hoskins asked if RSF-0.5 would be considered a spot-zone.

Kit Williams, City Attorney, discussed that did not think an RSF-0.5 could be considered a spot-zone.

Commissioner Winston asked about fire code issues.

Harley Hunt, Fire Marshall, discussed the rationale behind the enforcement of fire access roads to this property and the existing condition that is already in place.

Upon roll call the motion passed with a vote of 8-1-0, with Commissioner Chesser voting no.

City of Fayetteville Staff Review Form

C. 1
 VAC 12-4141 (555 W.
 Maple St./555 Maple)
 Page 1 of 24

City Council Agenda Items
 and
 Contracts, Leases or Agreements

9/18/2012

City Council Meeting Date
 Agenda Items Only

Jesse Fulcher

Submitted By

Planning

Division

Development Services

Department

Action Required:

VAC 12-4141: Vacation (555 W. MAPLE ST./555 MAPLE, 484): Submitted by MCCLELLAND CONSULTING ENGINEERS, INC. for property located at 555 WEST MAPLE STREET. The property is zoned DG, DOWNTOWN GENERAL. The request is to vacate a portion of the Lafayette Street right-of-way.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

 Department Director

Date

08-31-2012

Previous Ordinance or Resolution #

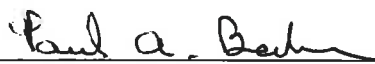
Original Contract Date:

Original Contract Number:


 City Attorney

Date

8-31-12


 Finance and Internal Services Director

Date

9-4-2012

Received in City Clerk's Office 08-31-12 A09:56 RCVD



 Chief of Staff

Date

9-4-12

Received in
 Mayor's Office


 Mayor

Date

9/5/12



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: Jesse Fulcher, Current Planner
Date: August 30, 2012
Subject: VAC 12-4141 (555 W. MAPLE ST./555 MAPLE)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to vacate a portion of Lafayette Street right-of-way.

BACKGROUND

The subject property is bounded by Maple Street, West Avenue and Lafayette Street, and is currently being developed with the Maple Street Apartments (555 Maple).

There is approximately 1,306q. ft. of remnant street right-of-way on the north side of Lafayette Street that has not been used for public purposes since approximately 1940, when Lafayette Street was realigned to allow for a railroad crossing (see attached plans). An additional area of right-of-way, containing approximately 436 square feet, is located adjacent to the building face and outside of the area required by the Master Street Plan. This area is being vacated to allow steps to be constructed from the public sidewalk to the building entrance, which is slightly elevated above the street.

The applicant's request is to vacate a portion of Lafayette Street right-of-way. There will still be at minimum 45' of right-of-way, the minimum requirement of the Master Street Plan (see Exhibit "A").

DISCUSSION

On June 25, 2012, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 9-0-0.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 12-4141 SUBMITTED BY MCCLELLAND CONSULTING ENGINEERS, INC. FOR PROPERTY LOCATED AT 555 WEST MAPLE STREET TO VACATE A PORTION OF LAFAYETTE STREET RIGHT-OF-WAY, A TOTAL OF 0.04 ACRES.

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 right-of-way is 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 right-of-way 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 "A"

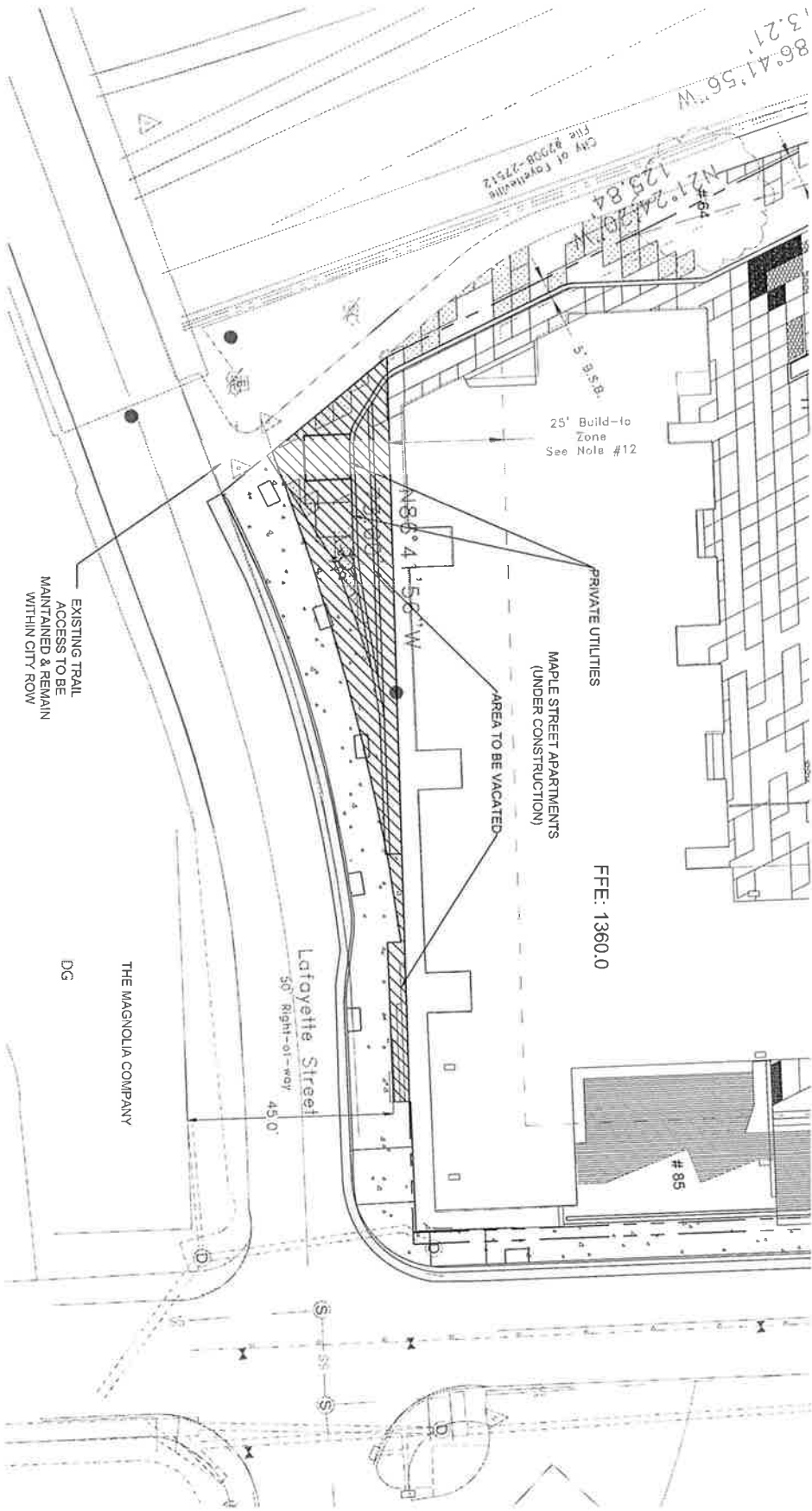
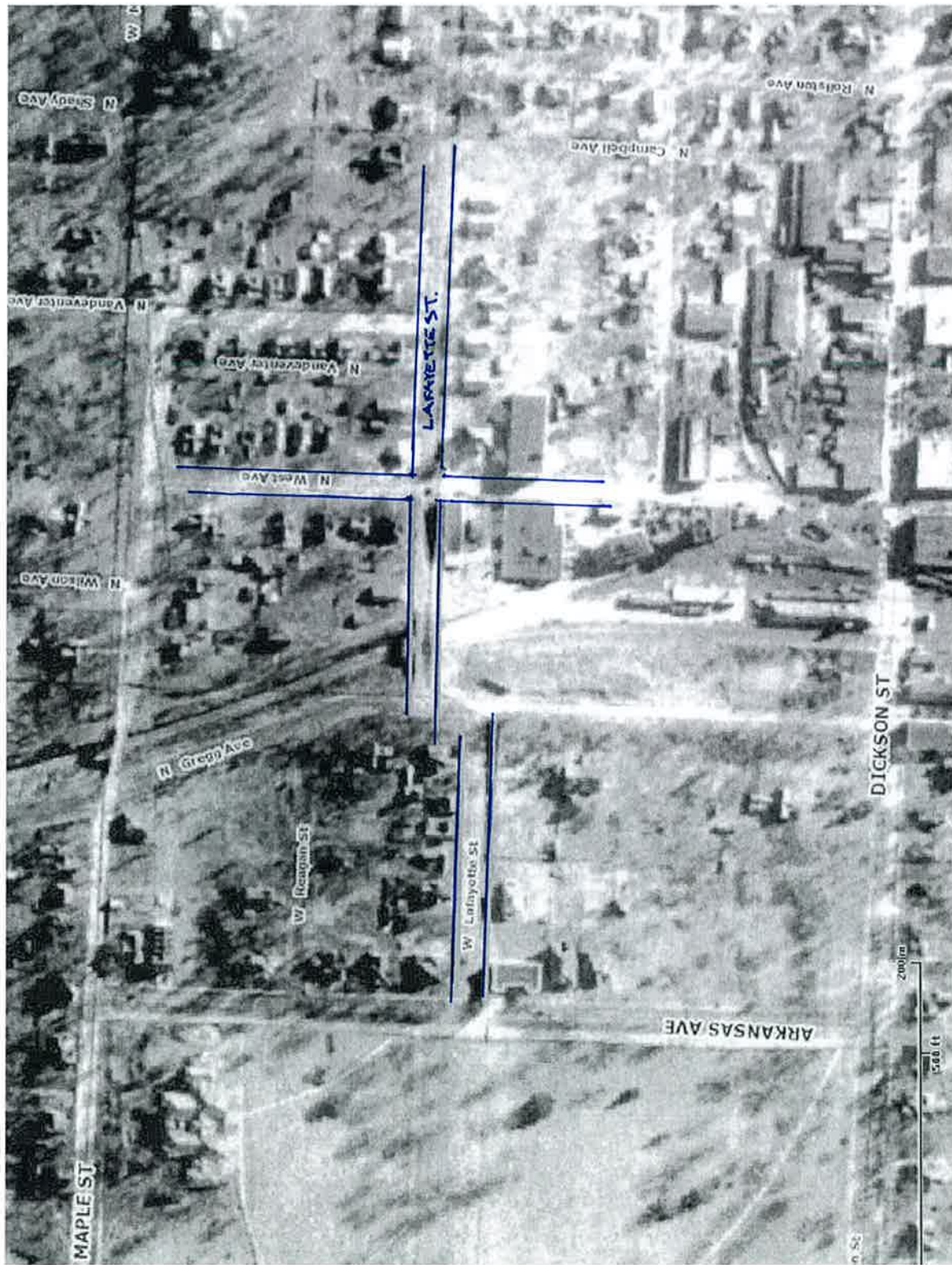


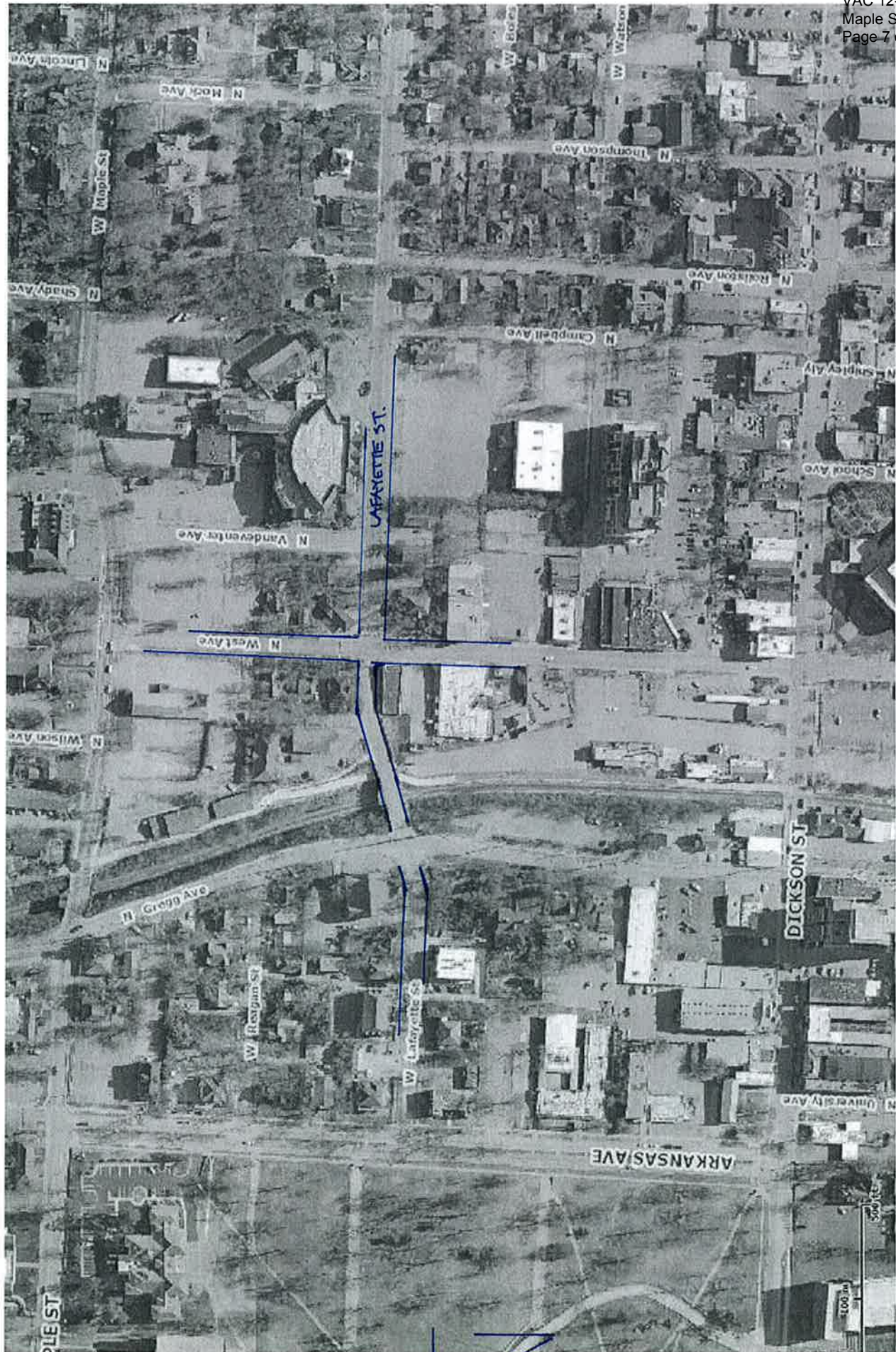
EXHIBIT "B"
VAC 12-4141

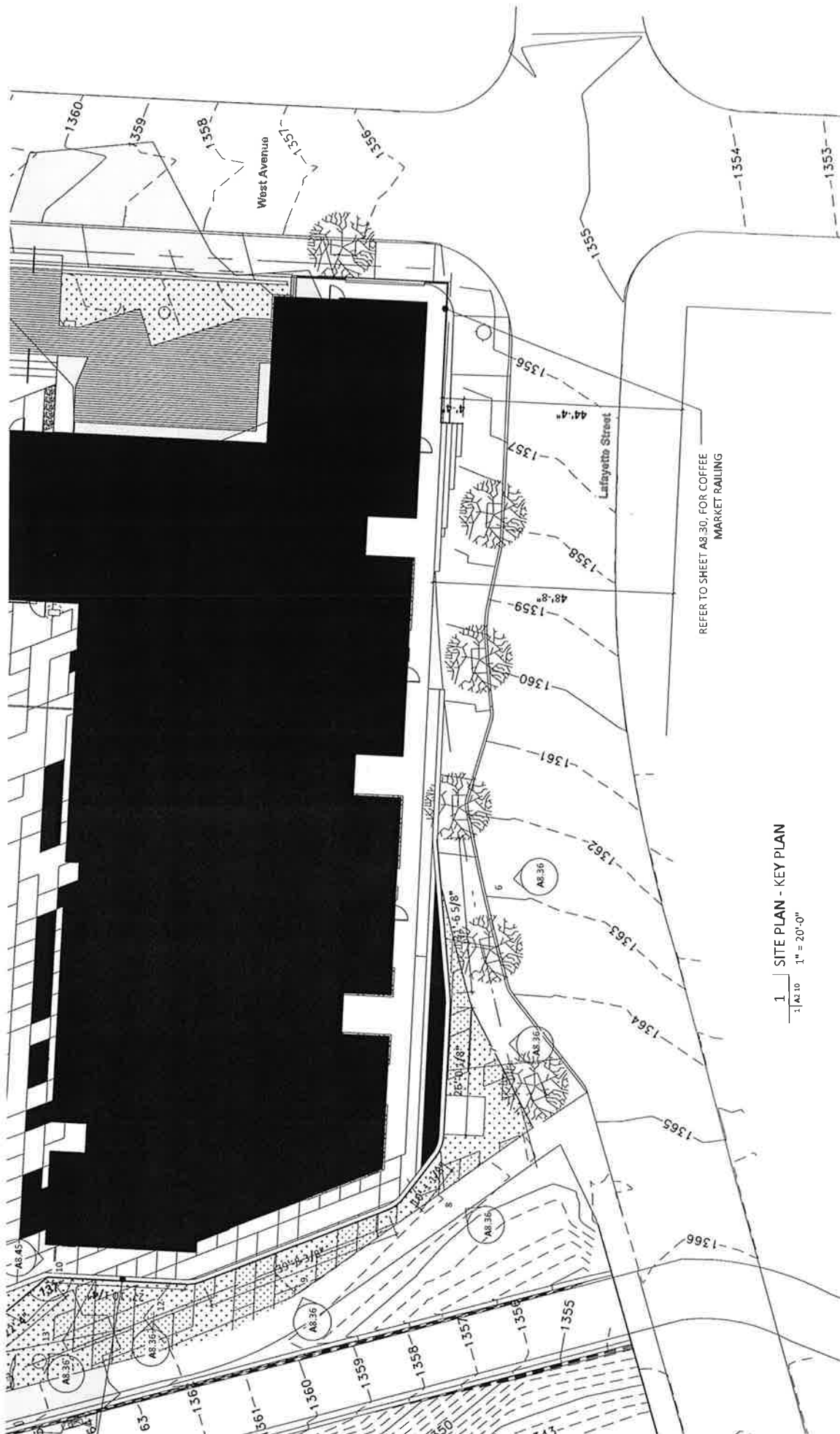
PROPERTY DESCRIPTION FOR ABANDONMENT

PART OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NW 1/4 OF SAID NE 1/4; THENCE SOUTH 02 DEGREES 39 MINUTES 13 SECONDS WEST A DISTANCE OF 52.59 FEET; THENCE SOUTH 74 DEGREES 47 MINUTES 55 SECONDS EAST A DISTANCE OF 115.08 FEET; THENCE SOUTH 82 DEGREES 17 MINUTES 48 SECONDS EAST A DISTANCE OF 62.79 FEET; THENCE SOUTH 86 DEGREES 41 MINUTES 56 SECONDS EAST A DISTANCE OF 184.18 FEET; THENCE SOUTH 02 DEGREES 48 MINUTES 42 SECONDS WEST A DISTANCE OF 429.62 FEET TO THE SOUTH LINE OF LOT 3, BLOCK 5 OF COUNTY COURT ADDITION; THENCE ALONG SAID SOUTH LINE NORTH 86 DEGREES 41 MINUTES 56 SECONDS WEST A DISTANCE OF 31.22 FEET TO THE POINT OF BEGINNING (P.O.B.); THENCE LEAVING SAID SOUTH LINE SOUTH 02 DEGREES 51 MINUTES 42 SECONDS WEST A DISTANCE OF 3.43 FEET; THENCE NORTH 87 DEGREES 08 MINUTES 18 SECONDS WEST A DISTANCE OF 35.00 FEET; THENCE NORTH 03 DEGREES 18 MINUTES 04 SECONDS EAST A DISTANCE OF 3.01 FEET TO A POINT OF CURVATURE; THENCE ALONG A NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 47.32 FEET, SAID CURVE HAVING A RADIUS OF 413.16 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 84 DEGREES 05 MINUTES 39 SECONDS WEST 47.29 FEET; THENCE LEAVING SAID CURVE, ALONG A NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 39.93 FEET, SAID CURVE HAVING A RADIUS OF 429.60 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 78 DEGREES 15 MINUTES 58 SECONDS WEST 39.91 FEET; THENCE LEAVING SAID CURVE, ALONG A NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 24.21 FEET, SAID CURVE HAVING A RADIUS OF 971.80 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 76 DEGREES 21 MINUTES 51 SECONDS WEST 24.21 FEET; THENCE LEAVING SAID CURVE NORTH 34 DEGREES 58 MINUTES 00 SECONDS WEST A DISTANCE OF 32.69 FEET TO THE SOUTH LINE OF LOT 3, BLOCK 5 OF COUNTY COURT ADDITION; THENCE ALONG SAID SOUTH LINE SOUTH 86 DEGREES 41 MINUTES 56 SECONDS EAST A DISTANCE OF 163.61 FEET TO THE POINT OF BEGINNING (P.O.B.), CONTAINING 1589 SQUARE FEET OR 0.04 ACRES.



2012





1 SITE PLAN - KEY PLAN
1" = 20'-0"

**CITY
PLAN
2030**

EXHIBIT B

9b ST 45 8/10/9

Design Service Volume:

Traffic Lanes:

Parking:

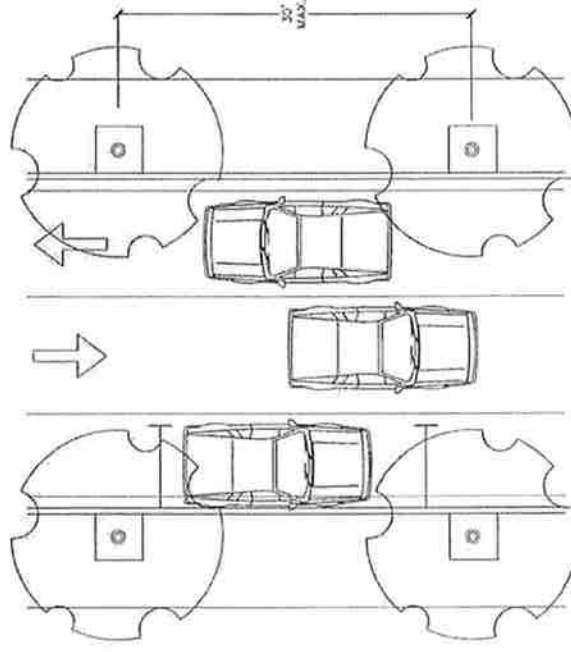
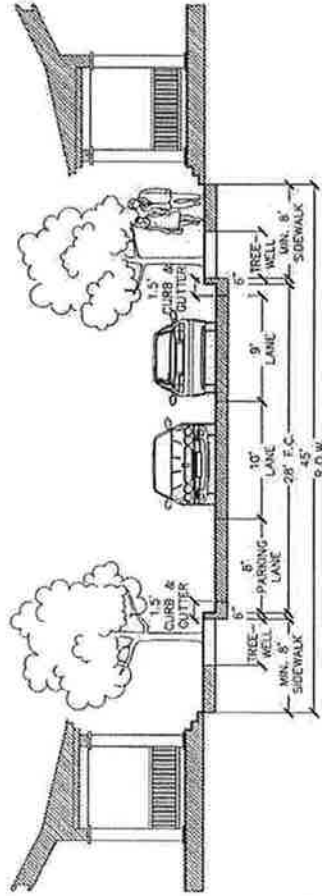
Paved Width:

Right of Way:

Sidewalks:

Greenspace:

< 300 vpd
One 10' lane,
one 9' lane
One 8' lane
28' from face of
curb
45'
Both sides of
street, min. 8'
wide with grated
tree wells against
curb
Both sides of
street, tree wells





PC Meeting of June 25, 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
THRU: Jeremy Pate, Development Services Director
DATE: ~~June 20, 2012~~ Updated June 28, 2012

VAC 12-4141: Vacation (555 W. MAPLE ST./555 MAPLE, 484): Submitted by MCCLELLAND CONSULTING ENGINEERS, INC. for property located at 555 WEST MAPLE STREET. The property is zoned DG, DOWNTOWN GENERAL. The request is to vacate a portion of Lafayette Street right-of-way. Planner: Jesse Fulcher

Findings:

Property Description and Background: The subject property is bounded by Maple Street, West Avenue and Lafayette Street, and is currently being developed with the Maple Street Apartments (555 Maple).

There is approximately 1,489 sq. ft. of remnant street right-of-way on the north side of Lafayette Street that has not been used for public purposes since approximately 1940, when Lafayette Street was realigned to allow for a railroad crossing (see attached plans). An additional area of right-of-way, containing approximately 436 square feet, is located adjacent to the building face and outside of the area required by the Master Street Plan. This area is being vacated to allow steps to be constructed from the public sidewalk to the building entrance, which is slightly elevated above the street.

Request: The applicant's request is to vacate a portion of Lafayette Street right-of-way. There will still be at minimum 45' of right-of-way, the minimum requirement of the Master Street Plan (see Exhibit "A").

Right-of-way Vacation Approval: The applicant has submitted the required right-of-way vacation notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

RESPONSE

Ozarks Electric

No Objections

Cox Communications

No Objections

Southwestern Electric Power Company No Objections

Arkansas Western Gas No Objections

AT&T No Objections

CITY OF FAYETTEVILLE: **RESPONSE**

Water/Sewer No Objections

Transportation No Objections

Solid Waste No Objections

Engineering No Objections

Public Comment: No public comment has been received.

Recommendation: Staff recommends forwarding **VAC 12-4141** to the City Council with a recommendation for approval subject to the following condition:

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: June 25, 2012

Motion: Chesser

Second: Cook

Vote: 9-0-0

Notes: _____

May 16, 2012

RE: Maple Street Apartments

555 Maple Street

Right Of Way Vacation

Dear Planning Commissioners & City Council Members,

Due to site constraints, it has become necessary to vacate a portion of existing City ROW at the southwestern corner of the Maple Street Apartment (555 Maple) site, north of Lafayette Street. This ROW vacation, due to its location, will have no impact on adjacent properties. Ample ROW, in accordance with the City's Master Street Plan, will remain after this area of ROW is vacated.

I have enclosed a reduced sized copy of the ALTA survey prepared by MCE that illustrates the location of this ROW vacation (.03 Acres). The hatched area located at the southwest corner of the site indicated as "Area of Tract 1 Lying South of the ROW Line of Lafayette Street", is the portion of ROW we seek to have vacated.

As required by the City, I have also enclosed executed Utility Approval Forms, as well as delivered notifications to all adjacent property owners.

If you should have any questions, concerns, or need any additional information regarding this ROW Vacation Application package, please don't hesitate to contact me.

Sincerely,

Leslie Tabor

ltabor@mcclelland-engrs.com

PETITION TO VACATE

PETITION TO VACATE (ROW) LOCATED IN (Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Frisco Addition, an Addition to the City of Fayetteville, Arkansas, and Lot 3 and Lot 4, Block 5, of the County Court Addition to the **CITY OF FAYETTEVILLE, ARKANSAS**

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

We, the undersigned, being all the owners of the real estate abutting **ROW** hereinafter sought to be abandoned and vacated, lying in Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Frisco Addition, an Addition to the City of Fayetteville, Arkansas, and Lot 3 and Lot 4, Block 5, of the County Court Addition to the **CITY OF FAYETTEVILLE, ARKANSAS**, a municipal corporation, petition to vacate **ROW** which is described as follows:

METES AND BOUNDS DESCRIPTION OF ROW TO BE VACATED

Part of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 16, Township 16 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows:
Commencing at the Northwest corner of the NW 1/4 of said NE 1/4; thence South 02 degrees 39 minutes 13 seconds West a distance of 52.59 feet; thence South 74 degrees 47 minutes 55 seconds East a distance of 115.08 feet; thence South 82 degrees 17 minutes 48 seconds East a distance of 62.79 feet; thence South 86 degrees 41 minutes 56 seconds East a distance of 184.18 feet; thence South 02 degrees 48 minutes 42 seconds West a distance of 429.62 feet to the south line of Lot 3, Block 5 of County Court Addition; thence along said south line North 86 degrees 41 minutes 56 seconds West a distance of 31.22 feet to the POINT OF BEGINNING (P.O.B.); thence leaving said south line South 02 degrees 51 minutes 42 seconds West a distance of 3.43 feet; thence North 87 degrees 08 minutes 18 seconds West a distance of 35.00 feet; thence North 03 degrees 18 minutes 04 seconds East a distance of 3.01 feet to a point of curvature; thence along a non-tangent curve to the left, an arc distance of 47.32 feet, said curve having a radius of 413.16 feet, and a chord bearing and distance of South 84 degrees 05 minutes 39 seconds West 47.29 feet; thence leaving said curve, along a non-tangent curve to the left, an arc distance of 39.93 feet, said curve having a radius of 429.60 feet, and a chord bearing and distance of South 78 degrees 15 minutes 58 seconds West 39.91 feet; thence leaving said curve, along a non-tangent curve to the left, an arc distance of 24.21 feet, said curve having a radius of 971.80 feet, and a chord bearing and distance of South 76 degrees 21 minutes 51 seconds West 24.21 feet; thence leaving said curve North 34 degrees 58 minutes 00 seconds West a distance of 32.69 feet to the south line of Lot 3, Block 5 of County Court Addition; thence along said south line South 86 degrees 41 minutes 56 seconds East a distance of 163.61 feet to the POINT OF BEGINNING (P.O.B.), containing 1589 square feet or 0.04 acres.

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

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

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

Dated this ____ day of _____, 20____.

Specialized Sterling Joint Venture I, LP
U of Ark, Inc
By: General Partner

Seth Mims
Printed Name

Signature



PLATES AND ROUND DESCRIPTION BY FACTUAL SURVEY

TRACT 1
 (part of Cow Properties)
 of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of section 16, Township 17 North, Range 30 West, Washington County, Arkansas, including more particularly described as follows:
 the Northwest corner of the NW 1/4 of said NE 1/4;

[illegible]

6303.54 square feet or 1.29 acres, as surveyed.

TRACT 2
Bingham Cow Proesertine)

Lots 3, 4, 5, 6, 7, 8, and the North Half of Lot 9 in the Frisco Addition, Fayetteville, Arkansas, as per the plat of said subdivision recorded in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas and being

ITY TITLE and CLOSING, LLC, Specialized Sterling Joint Venture 1, L.P., a Delaware limited partnership, and Specialized Sterling Joint Venture 2, L.P., a Delaware limited partnership, its successors and assigns, and Financial Corporation of Texas, a Texas corporation.

2001. *Philanthropic Corporation*, a Kansas corporation, has

This is to certify that this map or plot and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items:

13, 16, 17, 18, 19, 20 (a) of Table A thereof.

February 15, 2012

Paul Wilson, PLS #1414

11) The authors agree that the authors of the paper have not provided sufficient evidence to support their claim that the property is not within Flood Zone A or AE as shown on the map. The authors are advised to provide further evidence to support their claim.

1 This property is currently zoned DG (Downtown General).
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13) Building within regulations for Zone C2
The principal fronts of the building will be fronted with a multi-storey wall & located

13) Access to the property is gained on legitimate street or
back alleys and back street, all public streets

None

State

Roof: 5 feet
Floor: from the centerline of an alley; 12 feet

(1) Lot width minimum.
Dwelling (all types units) - 18 feet.

(2) Lot area minimum.
Minimum

Zone DG: Height regulations: minimum height is 4 stories or 55 feet, which ever is less.

Visual observations on this site show no evidence of a land waste dump, being in solitary level.

Visual observations on this site show no evidence of earth moving work.

1.6) Acreage summary: Tract 1 = 1.29 acres
Tract 2 = 3 acres
of way line of Lot 40 plus 30 ft. = 1.29 acres west of

2) Visual observations of this site show no exposed voids or cavity walls with underlying propylene.

10) Sediment and environmental conditions were analyzed by a Phase 1 Environmental Site Assessment by Environmental Technology Group, 10011 42nd Street, # 11-1015, 2006.

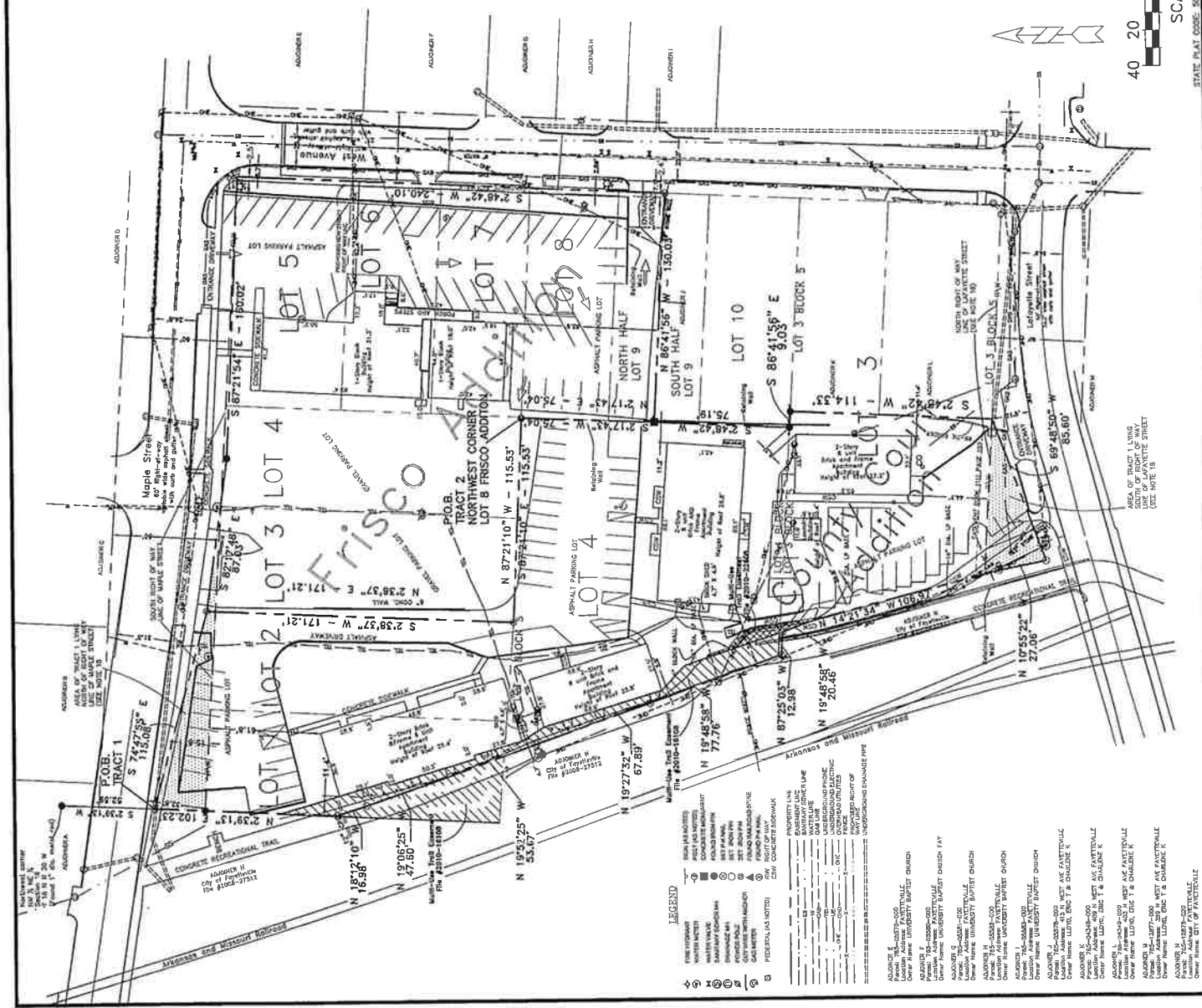
40	80	MFC McCLELLAND CONSULTING	ALTA/ACCS
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 ESTABLISHED 1827
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E: 1" = 40'

718-399-8160 • 110-1149 • 24-7 FAX

100



Age Group	Percentage
18-24	40%
25-34	20%
35-44	0%
45-54	20%
55-64	40%
65-74	80%
75-84	80%
85-94	80%

SCALE: 1" = 40'

STATE PLAY CODE: 500-17N-30W-0-16-140-72-1214 2000 W. Main St.

100

MCE McCLELLAND CONSULTING ENGINEERS, INC.	Little Rock, AR Fayetteville, AR Fort Smith, AR	4400 Hwy. 26W P.O. Box 250 Fayetteville, AR 72702	500 W. Main Street Little Rock, AR 72201	501-781-1218 • • • • •	501-781-1218 • • • • •
--	---	---	---	---------------------------	---------------------------

UTILITY APPROVAL FORM

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

DATE: 3/8/12

UTILITY COMPANY: SWEPCO

APPLICANT NAME: Leslie Tabor, representing 555 Maple APPLICANT PHONE: 479.443.2377
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**)

** 555 MAPLE FAYETTEVILLE, AR

(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:

Jim Dargatz
Signature of Utility Company Representative

ENGINEER I
Title

UTILITY APPROVAL FORM

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

DATE: 3/8/12

UTILITY COMPANY:

APPLICANT NAME: Leslie Tabor (representing 555 Maple) APPLICANT PHONE: 419.443.2317
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)**

555 MAPLE FAYETTEVILLE, AR

(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 Drake
Signature of Utility Company Representative
Field Coordinator
Title

UTILITY APPROVAL FORM

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

DATE: 3/8/12

UTILITY COMPANY:

APPLICANT NAME: Leslie Tabor (representing 555 Maple) APPLICANT PHONE: 419.443.2317
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)**

555 MAPLE FAYETTEVILLE, AR

(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:

All conduits are placed as requested by Cox Communications
and all relocations cost will be paid by developer.

Chad A. Hodge
Signature of Utility Company Representative

Chad A. Hodge
Title

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

DATE: 3/8/12

UTILITY COMPANY: AT&T

APPLICANT NAME: Leslie Tabor (representing 555 Maple) APPLICANT PHONE: 479.442.2317
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**)

555 MAPLE FAYETTEVILLE, AR

(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 OF OR DAMAGE TO ANY EXISTING ATT FACILITIES
WILL BE AT THE PROPERTY OWNER OR DEVELOPER'S EXPENSE

Leslie Tabor
Signature of Utility Company Representative

MANAGER - OSP ENGINEER
Title

UTILITY APPROVAL FORM

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

DATE: 3/8/12

UTILITY COMPANY: City of Fayetteville Water/Sewer

APPLICANT NAME: Ledie Tabor representing 555 Maple

REQUESTED VACATION (applicant must check all that apply):

APPLICANT PHONE: 479.442.2377

- ☐ 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**)

555 MAPLE FAYETTEVILLE, AR

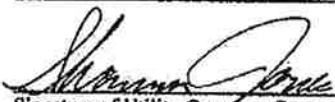
(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

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

Utilities Engineer

Title

UTILITY APPROVAL FORM

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

DATE: 3/8/12

UTILITY COMPANY: Solid Waste & Recycling

APPLICANT NAME: Leslie Taber (representing 555 Maple) APPLICANT PHONE: 419-443-2377
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)**

** 555 MAPLE FAYETTEVILLE, AR

(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 Dyer
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 3/8/12UTILITY COMPANY: CITY OF FAYETTEVILLE TRANSPORTATION DIVISIONAPPLICANT NAME: Leslie Taber representing 555 Maple APPLICANT PHONE: 479-443-2277
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**)

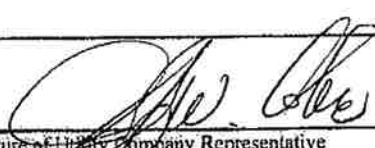
** 555 MAPLE FAYETTEVILLE, AR(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

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.)

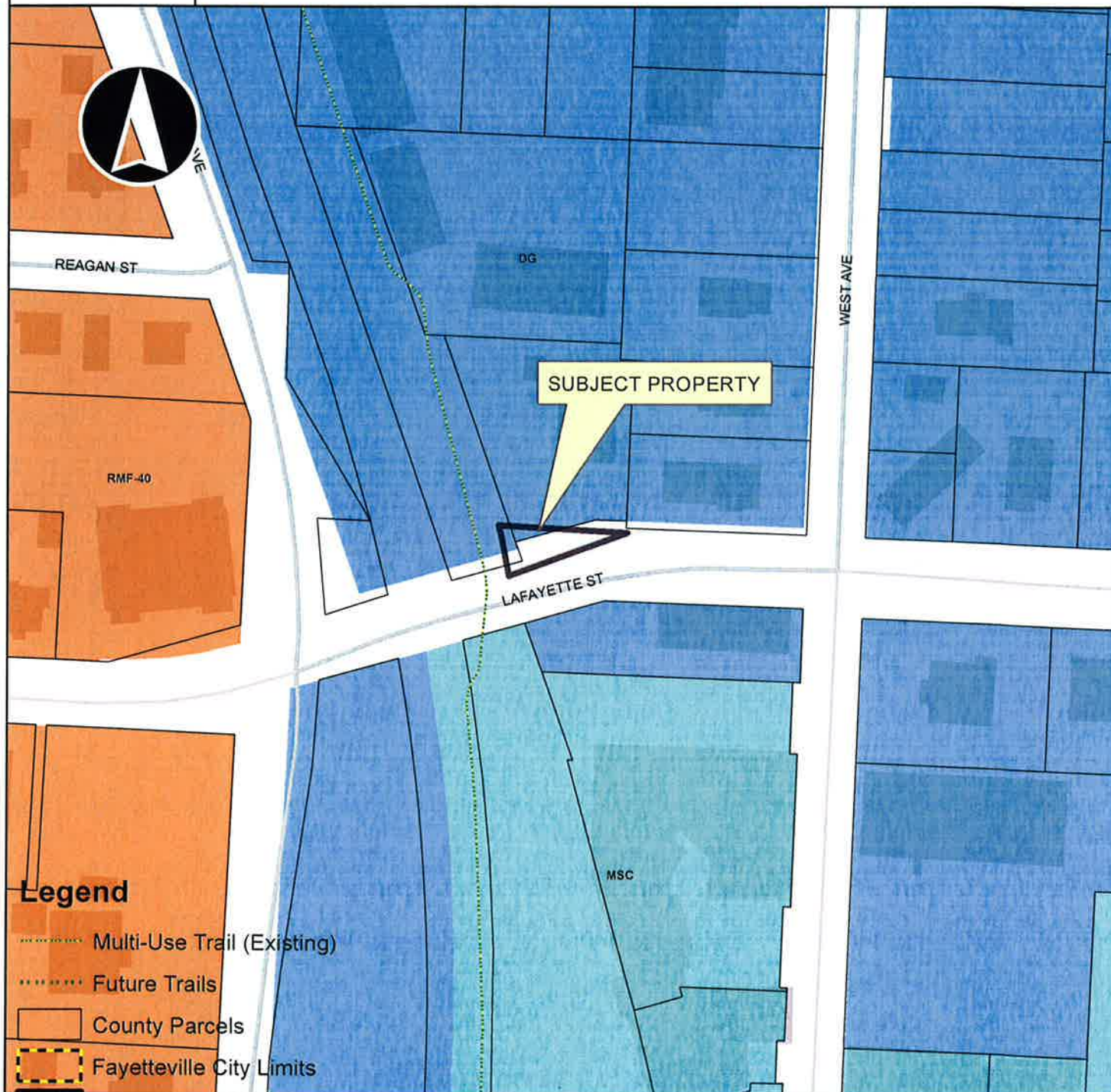
- ☐ No objections provided the following conditions are met:


Signature of Utility Company RepresentativeASSISTANT TRANSPORT MANAGER
Title
CITY OF FAYETTEVILLE

VAC12-4141

555 MAPLE

Close Up View



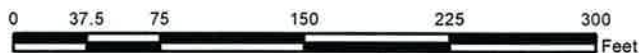
Legend

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

Overview

VAC12-4141

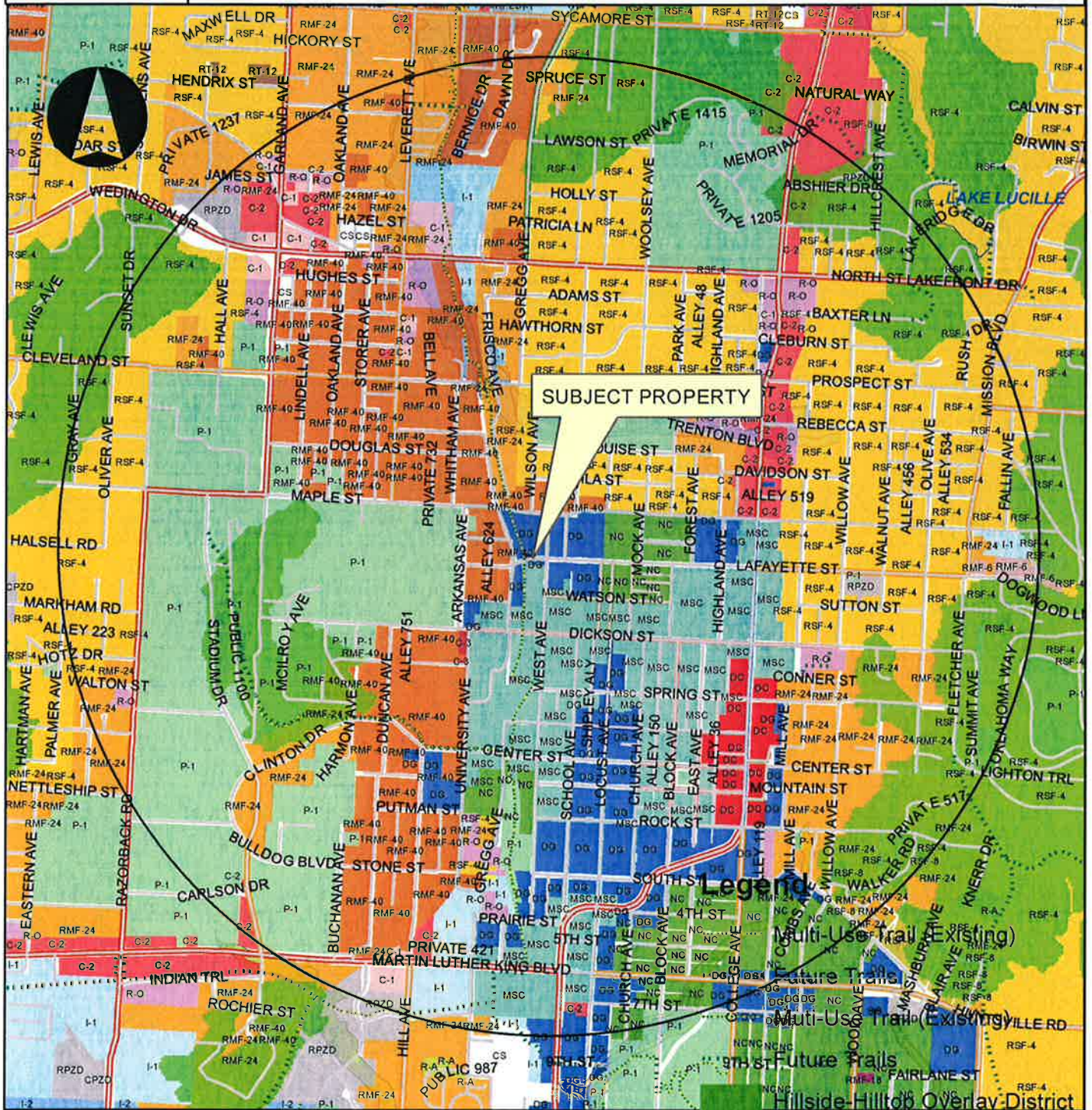
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



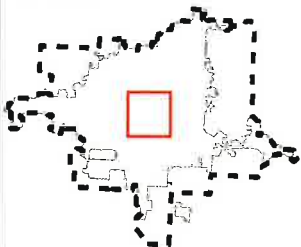
VAC12-4141

555 MAPLE

One Mile View



Overview



Legend

Subject Property

VAC12-4141

Boundary

0 0.25 0.5 1 Miles

- VAC12-4141
- Design Overlay District
- Planning Area
- Fayetteville

City of Fayetteville Staff Review Form

C. 2
 VAC 12-4201 Nantucket Phase IV
 Page 1 of 20

City Council Agenda Items
 and
 Contracts, Leases or Agreements

9/18/2012

City Council Meeting Date
 Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

VAC 12-4201: Vacation (NANTUCKET PHASE IV, 563): Submitted by CIVIL DESIGN ENGINEERING for property located WEST OF MORNINGSIDE DRIVE. The property is zoned DG, DOWNTOWN GENERAL. The request is to vacate a utility easement.

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

James C. Bate
 Department Director

Date

Previous Ordinance or Resolution #

Kim G.
 City Attorney

Date

Original Contract Date:

Original Contract Number:

Paul A. Bahr
 Finance and Internal Services Director

Date

Received in City
 Clerk's Office

Don M.
 Chief of Staff

Date

Received in
 Mayor's Office

Robert J. Fisher
 Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Andrew Garner, Senior Planner

Date: August 29, 2012

Subject: VAC 12-4201 (Nantucket IV)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to vacate portions of a utility easements.

BACKGROUND

The subject property contains approximately 3.76 acres on the west side of Morningside Drive and north of Chesapeake Way, adjacent to the existing Nantucket Phases I-III project which is a senior living development.

On April 12, 2012 the Fayetteville Subdivision Committee approved the Large Scale Development for Nantucket Phase 4 (LSD 12-4009) for 47 new multi-family dwellings on the subject property. The applicant's request is to vacate approximately 0.24 acres of utility easement located in the northern portion of the site in the location of the new proposed development.

DISCUSSION

On August 27, 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 12-4201 SUBMITTED BY CIVIL DESIGN ENGINEERING FOR PROPERTY LOCATED WEST OF MORNINGSIDE DRIVE (NANTUCKET PHASE IV) TO VACATE A UTILITY EASEMENT, A TOTAL OF 0.24 ACRES.

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 is 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 utility easement 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 following Condition of Approval and shall not be in effect until the condition is met:

1. New easements to serve the Nantucket IV development shall be dedicated by easement plat.

PASSED and APPROVED this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

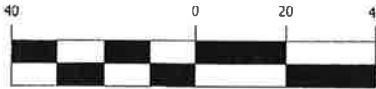
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

C. 2
VAC 12-4201 Nantucket Phase IV
Page 4 of 20

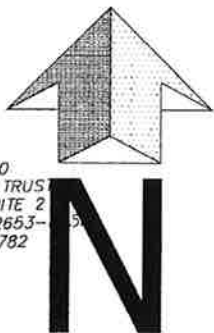
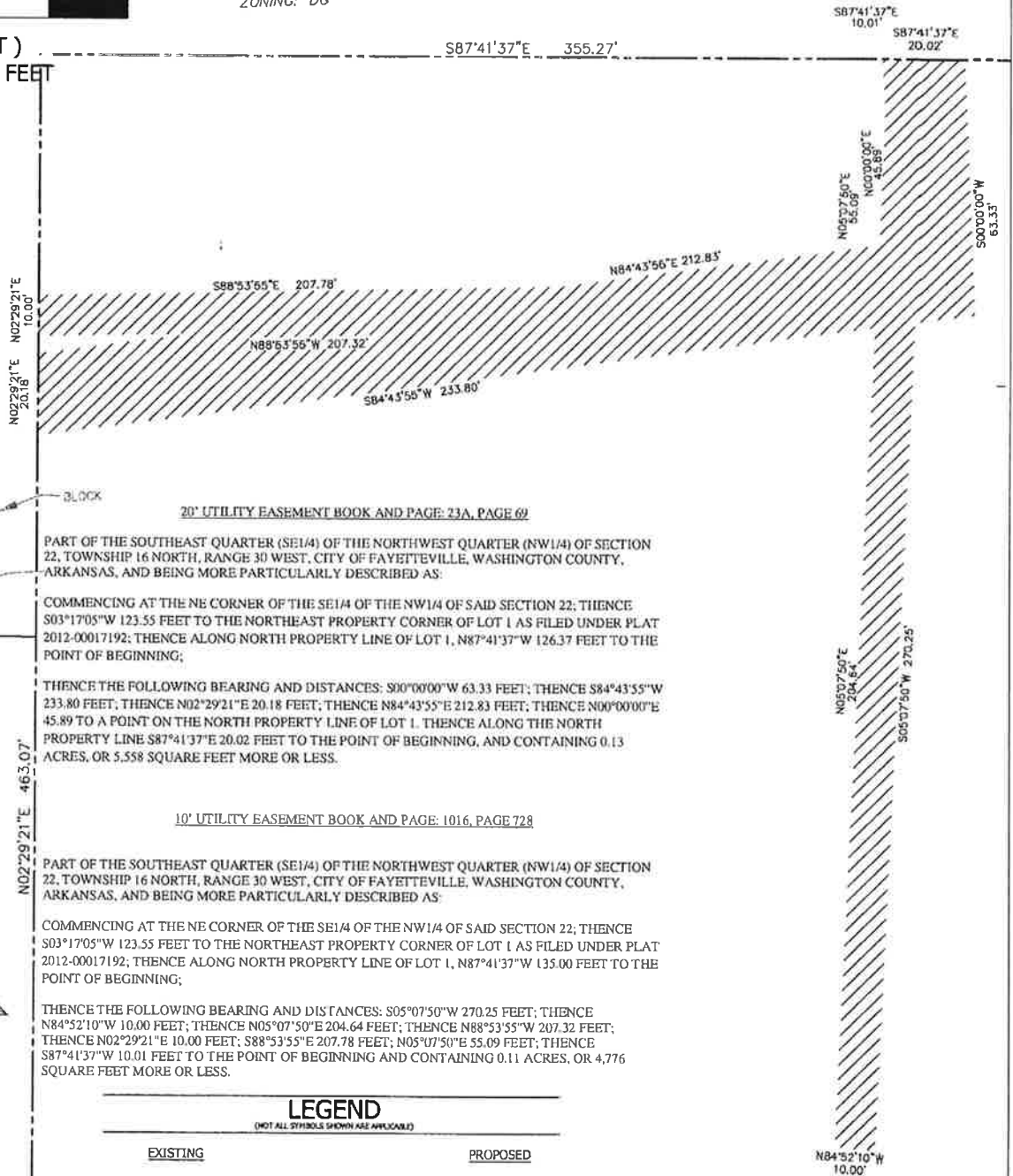
VAC 12-4201

GRAPHIC SCALE



(IN FEET)
1 INCH = 40 FEET

765-111-001
FAYETTEVILLE SENIOR CITIZEN APARTMENTS
351 E. 4TH ST, SUITE 1
MOUNTAIN HOME, AR 72653-3802
DEED #98-101716
ZONING: DG



5-000
BACH TRUST
T, SUITE 2
AR 72653-
4-32782

DG

LEGEND

(NOT ALL SYMBOLS SHOWN ARE APPLICABLE)

EXISTING

PROPOSED

PROPERTY LINE
EASEMENT LINE



NO.	DATE	REVISION	INIT

EXHIBIT - EASEMENT VACATION



CIVIL DESIGN ENGINEERS, INC.

4285 N. SHILOH DRIVE SUITE 110
FAYETTEVILLE, AR 72703

PHONE : (479) 856-6111

<http://www.civilde.com>

NANTUCKET PHASE 4

FAYETTEVILLE, AR

DRAWN BY: FERDI FOURIE	CHECKED BY: FERDI FOURIE
DWG: 1021EASEMENT.DWG	
SCALE: 1"=40'	DATE: AUGUST 1, 2012

EXHIBIT "B"
VAC 12-4201

20' UTILITY EASEMENT BOOK AND PAGE: 23A, PAGE 69

PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 22, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS:
COMMENCING AT THE NE CORNER OF THE SE1/4 OF THE NW1/4 OF SAID SECTION 22; THENCE S03°17'05"W 123.55 FEET TO THE NORTHEAST PROPERTY CORNER OF LOT 1 AS FILED UNDER PLAT 2012-00017192; THENCE ALONG NORTH PROPERTY LINE OF LOT 1, N87°41'37"W 126.37 FEET TO THE POINT OF BEGINNING; THENCE THE FOLLOWING BEARING AND DISTANCES: S00°00'00"W 63.33 FEET; THENCE S84°43'55"W 233.80 FEET; THENCE N02°29'21"E 20.18 FEET; THENCE N84°43'55"E 212.83 FEET; THENCE N00°00'00"E 45.89 TO A POINT ON THE NORTH PROPERTY LINE OF LOT 1. THENCE ALONG THE NORTH PROPERTY LINE S87°41'37"E 20.02 FEET TO THE POINT OF BEGINNING, AND CONTAINING 0.13 ACRES, OR 5,558 SQUARE FEET MORE OR LESS.

10' UTILITY EASEMENT BOOK AND PAGE: 1016, PAGE 728

PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 22, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS:
COMMENCING AT THE NE CORNER OF THE SE1/4 OF THE NW1/4 OF SAID SECTION 22; THENCE S03°17'05"W 123.55 FEET TO THE NORTHEAST PROPERTY CORNER OF LOT 1 AS FILED UNDER PLAT 2012-00017192; THENCE ALONG NORTH PROPERTY LINE OF LOT 1, N87°41'37"W 135.00 FEET TO THE POINT OF BEGINNING; THENCE THE FOLLOWING BEARING AND DISTANCES: S05°07'50"W 270.25 FEET; THENCE N84°52'10"W 10.00 FEET; THENCE N05°07'50"E 204.64 FEET; THENCE N88°53'55"W 207.32 FEET; THENCE N02°29'21"E 10.00 FEET; S88°53'55"E 207.78 FEET; N05°07'50"E 55.09 FEET; THENCE S87°41'37"W 10.01 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.11 ACRES, OR 4,776 SQUARE FEET MORE OR LESS.



PC Meeting of August 27, 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: ~~August 21, 2012~~ Updated August 28, 2012

12-4201: Vacation (NANTUCKET PH. IV, 563): Submitted by CIVIL DESIGN ENGINEERING for property located WEST OF MORNINGSIDE DRIVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 3.76 acres. The request is to vacate a utility easement. Planner: Andrew Garner

Findings:

Property: The subject property contains approximately 3.76 acres on the west side of Morningside Drive and north of Chesapeake Way, adjacent to the existing Nantucket Phases I-III project which is a senior living development. Surrounding land use and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North, South, West	Nantucket Senior Living Complex	DG, Downtown General
East	Undeveloped pasture	RSF-4

Background: On April 12, 2012 the Fayetteville Subdivision Committee approved the Large Scale Development for Nantucket Phase 4 (LSD 12-4009) for 47 new multi-family dwellings on the subject property.

Request: The applicant's request is to vacate approximately 0.24 acres of water and sewer easement and general utility easement located in the northern portion of the site in the location of the new proposed development.

Easement Vacation Approval: The applicant has submitted the required sewer easement notification forms to the City Utilities Department with no objections. At the time of publication of this report the applicant has not submitted responses from the other utility companies that have a right to the general utility easement.

UTILITIES

RESPONSE

Ozarks Electric	Not provided
Cox Communications	Not provided
Southwestern Electric Power Company	Not provided
Arkansas Western Gas	Not provided
AT&T	Not provided

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer	No objections
-------------	---------------

Public Comment: No public comment has been received.

Recommendation: Staff recommends forwarding **VAC 12-4201** to the City Council with a recommendation for approval subject to the following conditions:

1. The applicant shall provide all of the utility approval forms prior to staff submitting the City Council agenda request.
2. New easements to serve the Nantucket IV development shall be dedicated by easement plat prior to issuance of a building permit.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

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

Date: August 27 2012

Motion: Cook

Second: Cabe

Vote: 8-0-0

Notes: On consent agenda



August 1, 2012
City of Fayetteville Planning Commission
125 W. Mountain Street
Fayetteville, AR 72701
Phone (479) 575-8267
Fax (479) 575-8202

**Re: Request to Vacate Existing Easement
Nantucket Senior Citizen Residential Homes – Phase 4
Fayetteville, AR
CDE Project No. 1036**

Dear Planning Commission,

A request is hereby made to vacate an existing water and sewer easement at 1201 S. Morningside Drive, where the approved Large Scale Development for the Nantucket Phase 4 Senior Citizen Residential Homes is proposed. A part of the existing sewer line will be demolished as part of this project, and new easements will be recorded for the proposed public sewer line and other utilities under a new easement plat.

Please let me know if you have any questions.

Sincerely,

Ferdi Fourie, P.E.
Project Engineer
FF/FF

NOTES:

1. BASIS C WASHINGTON
2. DECLAR SURVEY, OR SUBSE
3. THIS S SEAL AND
4. THE P GENERAL ARKANSAS ARE AS F
5. SURVEY SEARCH F RESTRICTI OTHER FA COMMITTE

SURVEY D

PART OF NORTHWEST NORTH, R2 COUNTY, DESCRIBED

COMMENCE OF SAID: THE POINT THENCE S RIGHT-OF-WAY SAID NORTH THENCE N FEET TO SQUARE F TO ALL R COVENANT

SURVEY D

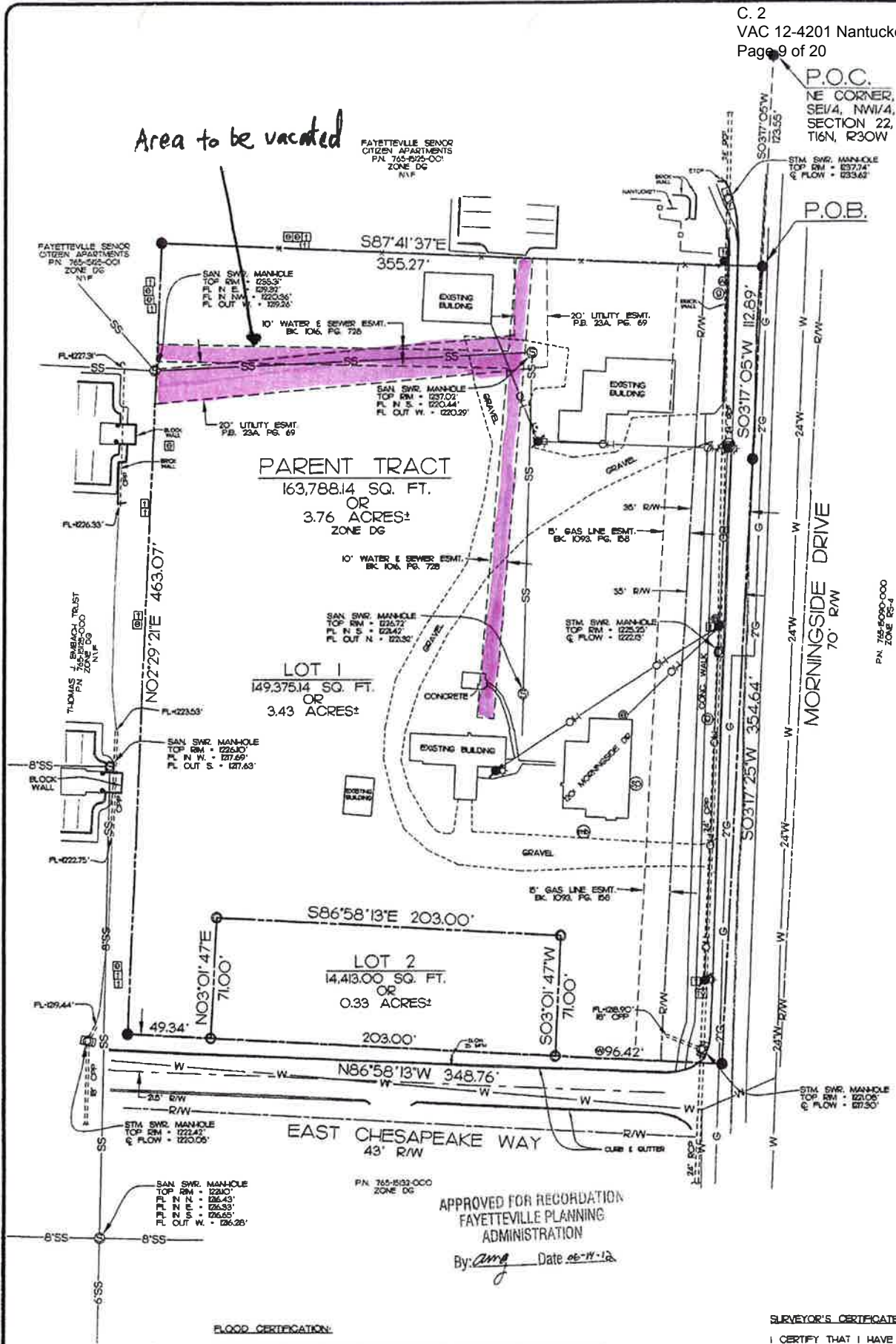
PART OF NORTHWEST NORTH, R2 COUNTY, DESCRIBED

COMMENCE OF SAID: THE POINT THENCE S RIGHT-OF-WAY SAID NORTH THENCE N 7100 FEET 503'01'47" OF E CH RIGHT-OF-WAY NO229'27E THE POINT OR 343 A RIGHTS-OF-RECORD C

SURVEY D

PART OF NORTHWEST NORTH, R2 COUNTY, DESCRIBED

COMMENCE OF SAID: THE POINT THENCE S RIGHT-OF-WAY SAID NORTH THE POINT NORTH R2 LEAVING S FEET, THE 7100 FEET SQUARE F TO ALL R COVENANT



FLOOD CERTIFICATION:

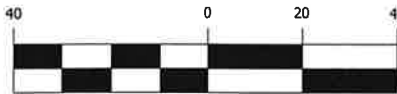
I CERTIFY THAT I HAVE EXAMINED THE FIA, OFFICIAL FLOOD INSURANCE HAZARD RATE MAP PANEL NO. 054800220F (EFFECTIVE DATE MAY 16, 2008) AND FOUND THE DESCRIBED PROPERTY HEREON LIES IN ZONE "X", AN AREA HAVING NO SPECIAL FLOOD HAZARD.

SURVEYOR'S CERTIFICATE:

I CERTIFY THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY LINES AND CORNERS OF THE PROPERTY AND TO THE BEST OF MY KNOWLEDGE AND ABILITY, CORRECTLY LOCATED THE PROPERTY LINES AND CORNERS. THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT AS SHOWN ON THIS SURVEY. THIS SURVEY MEETS THE CURRENT 'M' PROPERTY BOUNDARY SURVEYS, PER THE STATE OF ARKANSAS.

ROBERT J. CASTER, P.L.S. NO.870, ARKANSAS

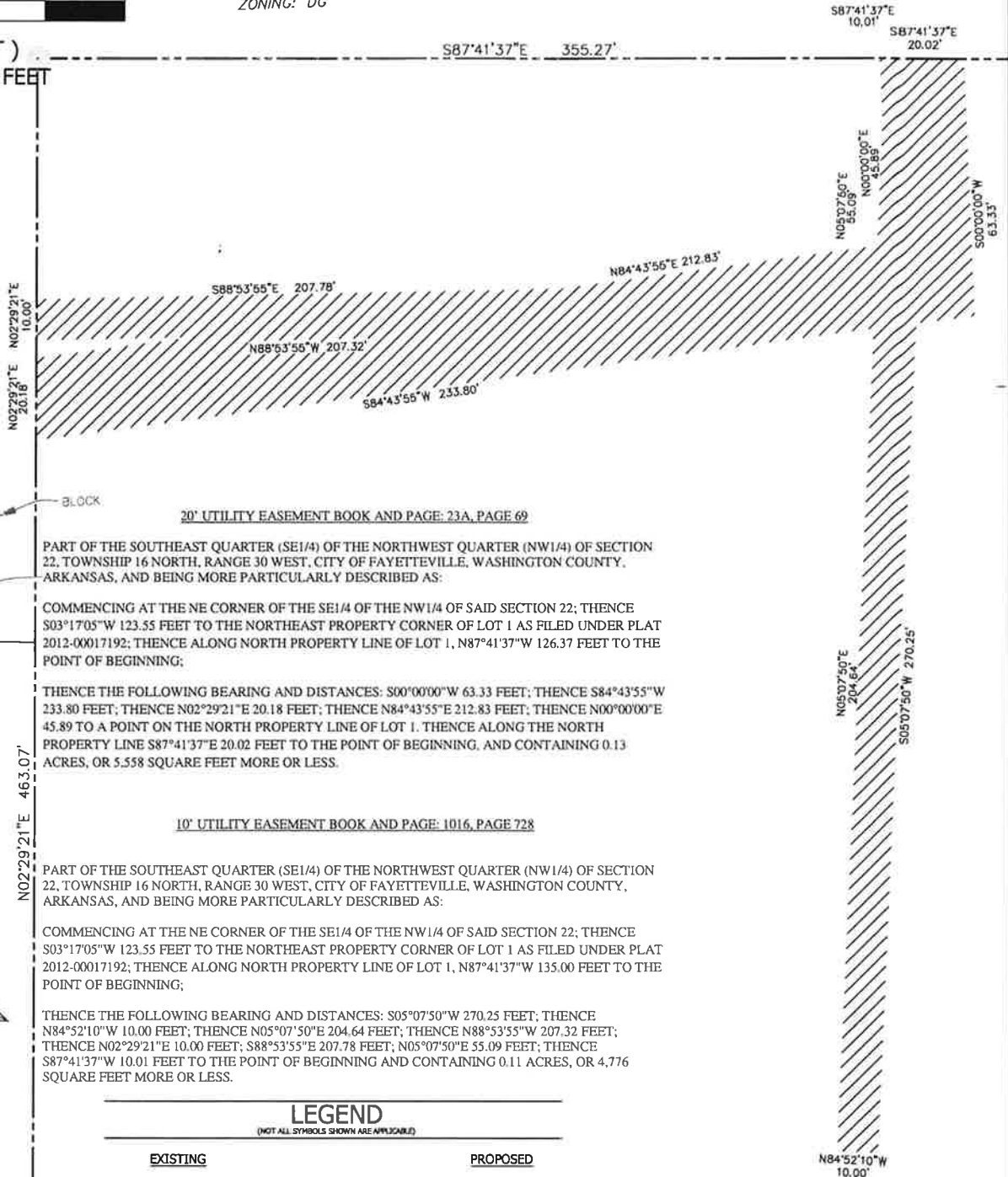
GRAPHIC SCALE



(IN FEET)
1 INCH = 40 FEET

765-15125-001
FAYETTEVILLE SENIOR CITIZEN APARTMENTS
351 E. 4TH ST, SUITE 1
MOUNTAIN HOME, AR 72653-3802
DEED #98-101716

ZONING: DG



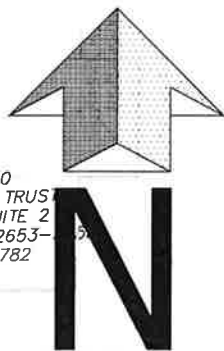
LEGEND

(NOT ALL SYMBOLS SHOWN ARE APPLICABLE)

EXISTING

PROPOSED

PROPERTY LINE
EASEMENT LINE



5-000
BACH TRUS
T, SUITE 2
AR 72653-
4-32782

DG



NO.	DATE	REVISION	INIT

SHEET:

EXHIBIT - EASEMENT VACATION



CIVIL DESIGN ENGINEERS, INC.

4285 N. SHILOH DRIVE SUITE 110
FAYETTEVILLE, AR 72703

PHONE : (479) 856-6111

<http://www.civilde.com>

NANTUCKET PHASE 4

FAYETTEVILLE, AR

DRAWN BY: FERDI FOURIE
CHECKED BY: FERDI FOURIE

DWG: 1021EASEMENT.DWG

SCALE: 1"=40'
DATE: AUGUST 1, 2012

**PETITION TO VACATE AN EASEMENT LOCATED AT 1149 and 1201 S. MORNINGSDRIVE DRIVE, CITY OF
FAYETTEVILLE, ARKANSAS**

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

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in 1149 and 1201 S. Morningside Drive, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

20' UTILITY EASEMENT BOOK AND PAGE: 23A, PAGE 69

PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 22, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE NE CORNER OF THE SE1/4 OF THE NW1/4 OF SAID SECTION 22; THENCE S03°17'05"W 123.55 FEET TO THE NORTHEAST PROPERTY CORNER OF LOT 1 AS FILED UNDER PLAT 2012-00017192; THENCE ALONG NORTH PROPERTY LINE OF LOT 1, N87°41'37"W 126.37 FEET TO THE POINT OF BEGINNING;

THENCE THE FOLLOWING BEARING AND DISTANCES: S00°00'00"W 63.33 FEET; THENCE S84°43'55"W 233.80 FEET; THENCE N02°29'21"E 20.18 FEET; THENCE N84°43'55"E 212.83 FEET; THENCE N00°00'00"E 45.89 TO A POINT ON THE NORTH PROPERTY LINE OF LOT 1. THENCE ALONG THE NORTH PROPERTY LINE S87°41'37"E 20.02 FEET TO THE POINT OF BEGINNING, AND CONTAINING 0.13 ACRES, OR 5,558 SQUARE FEET MORE OR LESS.

10' UTILITY EASEMENT BOOK AND PAGE: 1016, PAGE 728

PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 22, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE NE CORNER OF THE SE1/4 OF THE NW1/4 OF SAID SECTION 22; THENCE S03°17'05"W 123.55 FEET TO THE NORTHEAST PROPERTY CORNER OF LOT 1 AS FILED UNDER PLAT 2012-00017192; THENCE ALONG NORTH PROPERTY LINE OF LOT 1, N87°41'37"W 135.00 FEET TO THE POINT OF BEGINNING;

THENCE THE FOLLOWING BEARING AND DISTANCES: S05°07'50"W 270.25 FEET; THENCE N84°52'10"W 10.00 FEET; THENCE N05°07'50"E 204.64 FEET; THENCE N88°53'55"W 207.32 FEET; THENCE N02°29'21"E 10.00 FEET; S88°53'55"E 207.78 FEET; N05°07'50"E 55.09 FEET; THENCE S87°41'37"W 10.01 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.11 ACRES, OR 4,776 SQUARE FEET MORE OR LESS.

That the abutting real estate affected by said abandonment of the alley are at 1149 and 1201 S. Morningside Drive City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

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

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

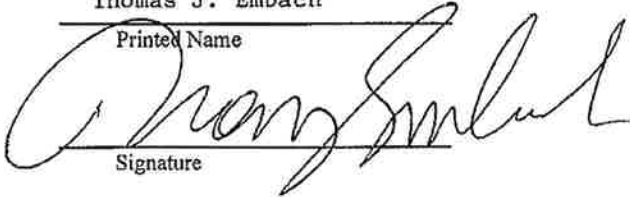
WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting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

Dated this 10 day of August, 2012.

Thomas J. Embach

Printed Name

Signature

A handwritten signature in cursive script, appearing to read "Thomas J. Embach", written over a horizontal line.

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

DATE: 10 August, 2012

UTILITY COMPANY: City Water and Sewer

APPLICANT NAME: Civil Design Engineers, Inc. APPLICANT PHONE: 479-856-6111

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**)

****** 1149 and 1201 S. Morningside Drive, Fayetteville, AR

(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

Utilities Engineer

Title

UTILITY APPROVAL FORM

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

DATE: 10 August, 2012

UTILITY COMPANY: Cox Communications

APPLICANT NAME: Civil Design Engineers, Inc.

APPLICANT PHONE: 479-856-6111

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**)

****1149 and 1201 S. Morningside Drive, Fayetteville, AR**

(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 to or relocation of existing facilities will be at
Owner/developers expense.

Chad S. P.
Signature of Utility Company Representative

Construction Planner II
Title

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

DATE: 10 August, 2012

UTILITY COMPANY: Ozarks Electric

APPLICANT NAME: Civil Design Engineers, Inc. APPLICANT PHONE: 479-856-6111
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**)

**** 1149 and 1201 S. Morningside Drive, Fayetteville, AR**

(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:

Greg McGee
Signature of Utility Company Representative

Lead Staking Tech
Title

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

DATE: 10 August, 2012

UTILITY COMPANY: City Solid Waste

APPLICANT NAME: Civil Design Engineers, Inc.

APPLICANT PHONE: 479-856-6111

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**)

****** 1149 and 1201 S. Morningside Drive, Fayetteville, AR

(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:

Ben Papp
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

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

DATE: 10 August, 2012

UTILITY COMPANY: Sourcegas

APPLICANT NAME: Civil Design Engineers, Inc. APPLICANT PHONE: 479-856-6111

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**)

****** 1149 and 1201 S. Morningside Drive, Fayetteville, AR

(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.)

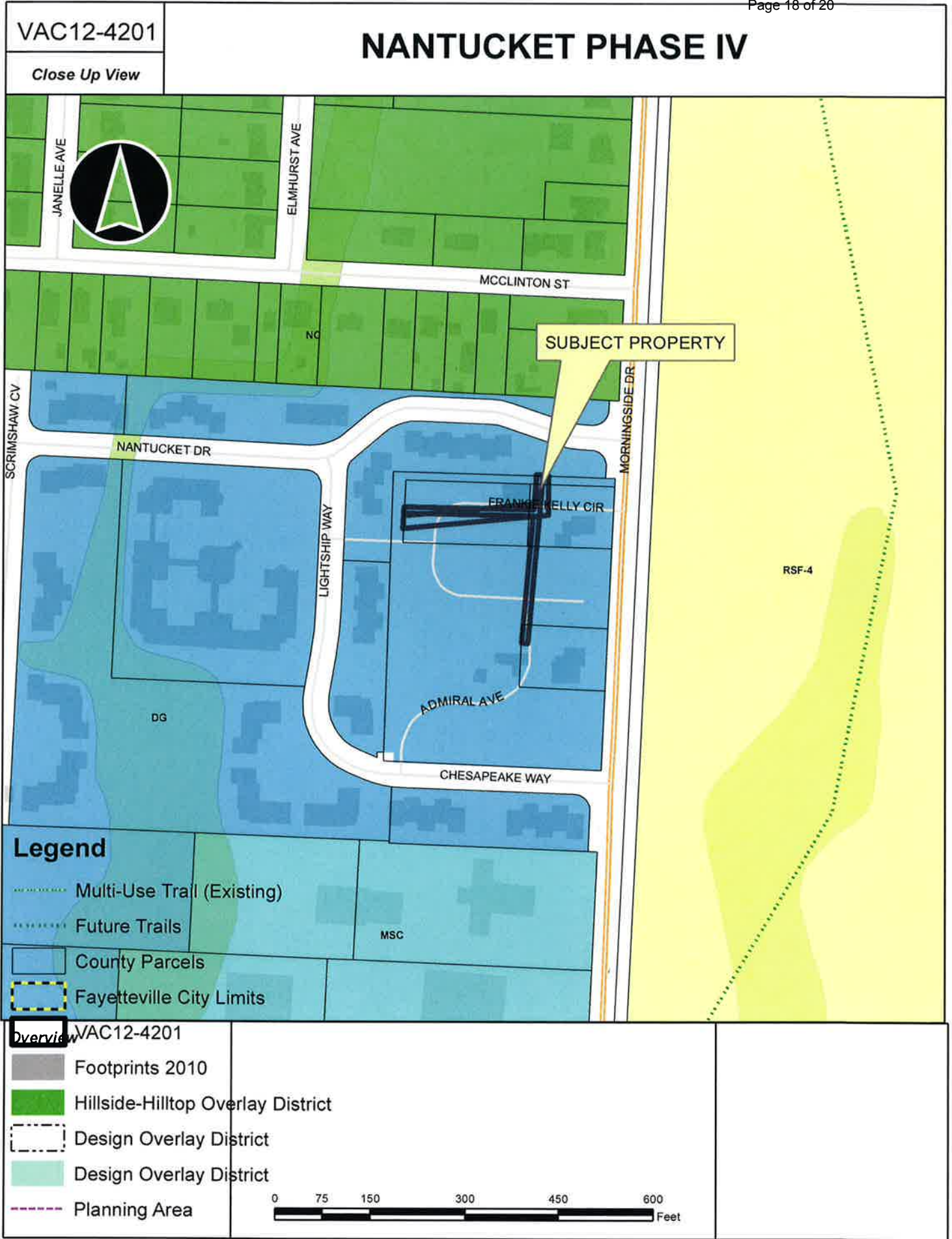
- No objections provided the following conditions are met:

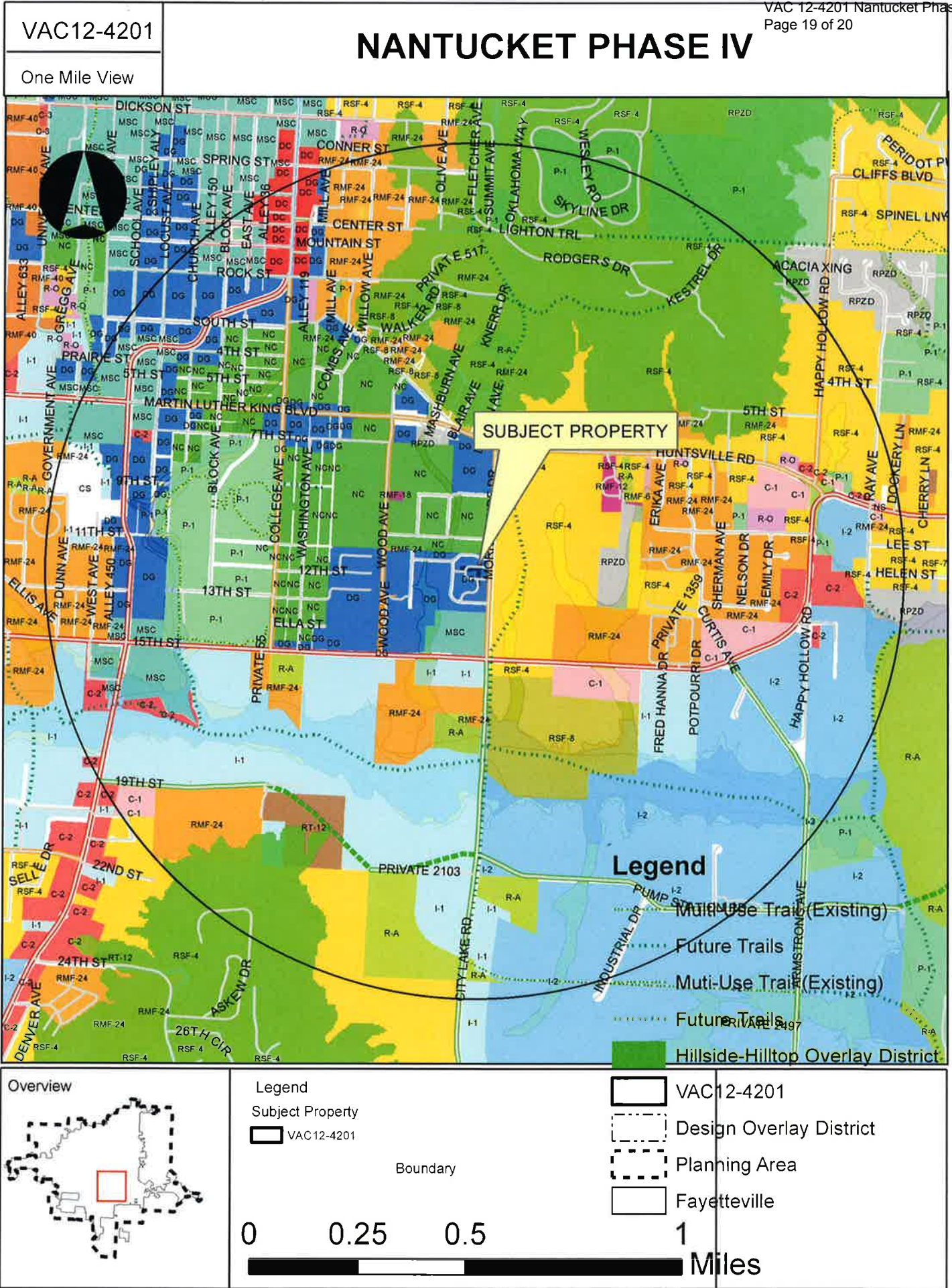


Signature of Utility Company Representative

Fayetteville Division Manager

Title





City Council Agenda Items
and
Contracts, Leases or Agreements

9/18/2012

City Council Meeting Date
Agenda Items Only

Jeremy Pate

Submitted By

Planning

Division

Development Services

Department

Action Required:

ADM 10-3554: I-540 Design Overlay District and Board of Adjustment Variance Findings. The request is to amend the Unified Development Code to repeal the I-540 Design Overlay District and consolidate certain related regulations into other sections of the UDC, and to amend the Board of Adjustment findings for variances to reflect state statutes.

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
08-30-2012
Date

Previous Ordinance or Resolution #


City Attorney
8-30-2012
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director
8-30-2012
DateReceived in City
Clerk's Office

Chief of Staff
8-31-12
DateReceived in
Mayor's Office

Mayor
9/4/12
Date

Comments:

Page left intentionally blank

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Jeremy Pate, Development Services Director *JP*

Date: August 27, 2012

Subject: ADM 10-3554: I-540 Design Overlay District and Board of Adjustment Variance Amendments

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance to consolidate the I-540 Design Overlay District requirements into other sections of the UDC, and eliminate requirements that are not consistent with current development regulations. The City Attorney has also worked with staff since the Planning Commission reviewed this proposal to fine-tune the language and to add amendments to the Board of Adjustment requirements for approving a variance, consistent with state statutes related to variances.

BACKGROUND

The City of Fayetteville adopted the Design Overlay District (I-540 Highway Corridor) in 1994 to protect and enhance the distinctive scenic quality for the I-540 Highway Corridor and to address traffic, safety, and environmental concerns. The regulations included in this district (I-540 DOD) for all nonresidential development have led to the adoption of other development regulations in subsequent years that are administered to all properties in the City of Fayetteville, including the Commercial Design and Development Standards, Street Design and Access Management Standards, Landscape Regulations, and pedestrian safety requirements in various sections of the Unified Development Code. The I-540 DOD served a valuable purpose for many years in a visible and environmentally sensitive area of the City until other sections of the Unified (UDC) were created or updated. Over the past decade or so new standards have left a majority of the I-540 DOD requirements redundant or outdated. Most of the I-540 DOD requirements are now covered in other sections of the UDC and apply throughout the City. However, some of the I-540 DOD requirements are slightly different than requirements in other areas of the City. In staff's opinion, this leads to inconsistent development requirements without substantial benefits. Some of these conflicts are:

- The curb cut distance requirements in the I-540 DOD are now addressed with a more comprehensive access management code (UDC 166.08);
- The 25-foot greenspace requirement adjacent to streets are now addressed under the consolidated landscape regulations (UDC 177) which require 15-foot greenspace;

- The 25% overall site greenspace requirement in the I-540 DOD is now addressed under the Commercial Design and Development Standards (UDC 166.14);
- Commercial Design and Development Standards (UDC 166.14) address the design of a commercial building's façade and site layout, and differ somewhat from the I-540 DOD;
- A consolidated sign ordinance (UDC 174) contains all free-standing and wall sign regulations in the city, with the exception of the I-540 DOD, which often leads to confusion for applicants; and
- Variances from the I-540 DOD have a different set of parameters than typical variances, and thus are a source of confusion when proposed

Staff recommends that the redundant I-540 DOD requirements be eliminated and the existing applicable standards included in select chapters of the UDC.

One I-540 DOD standard that remains important, in terms of the viewshed of the area, is the prohibition on tall pole signs. Staff recommends this regulation remain, but be moved to Chapter 174 *Signs*, a more appropriate location to find a sign ordinance requirement. In addition, staff recommends the re-organization of the Commercial Design Standards ordinance to reflect its true application to commercial, office and mixed-use development, and also to industrial development within the original I-540 overlay district boundary, an amendment made by the Planning Commission.

Since the time of the Planning Commission recommendation, the City Attorney has worked with staff to address some legal concerns related to the original draft ordinance. When approved by the Planning Commission, the Commercial Design Standards were drafted to also apply to institutional development, such as schools and churches, a practice that is common in the state and region. However, the City Attorney has stated concerns with applying an aesthetic design standard to public schools and churches; after several unsuccessful attempts to address these issues, staff has elected to present the City Attorney's recommended ordinance language.

Finally, Ch. 156 of the Unified Development Code pertaining to zoning variances has been completely rewritten by the City Attorney's office and included in this proposal. This amendment is simply to reflect current state statutes related to zoning variances, which is entirely controlled by those statutes, in terms of who may hear and decide zoning variances, and what factors may be considered in the final decision.

SUMMARY

The proposal to eliminate Chapter 161.28 Design Overlay District (I-540 Highway Corridor) and to include some requirements in other sections of the UDC is summarized below and attached in full to this staff report:

Chapter	Section	Description
151.01	Definitions	- Include the definition of the overlay district boundaries for signage purposes and to apply design standards to industrial developments within - Modify the definition for Principal Façade
156.02	Variances	- Strike the section I-540 DOD variance; remove Planning Commission consideration for any zoning related variances; rewrite zoning variance findings
161.31	Zoning Regulations	- Strike the I-540 DOD section
164.09	Fences, Walls,	- Relocate fence standards from commercial design

	Vegetation	standards to supplementary regulations
166.14	Commercial Design and Development Standards	- Move to 166.25, modify applicability, site coverage, and other standards as needed
174.08	Prohibited Signs	- Keep the I-540 DOD pole sign prohibition and relocate to the Sign chapter.
174.09	Sign Illumination	- Keep the indirect illumination requirement in the I-540 DOD

DISCUSSION

On April 26, 2010 the Planning Commission voted 5-3-0 in favor of a recommendation of approval for ADM 10-3554. The primary discussion point (and reason for the split vote) was the application of aesthetic design standards to churches and public schools. Based on the City Attorney's stated concerns, three of the Planning Commissioners were not in favor of applying aesthetic design standards to public schools and churches, while five felt that these uses could meet those tests. In the intervening time period, staff has worked with the City Attorney's office in an attempt to find a middle ground for application of some design standards for churches and public schools, so that they are treated equitably; many churches and schools are large in nature, and in prevalent locations, greatly impacting the City's appearance. Staff was unsuccessful at presenting a case for this application, and has made the attached proposal without standards for these institutional uses. This means that buildings that are constructed for public schools and churches will not be reviewed for aesthetic design considerations. Staff is recommending in favor of the changes herein.

BUDGET IMPACT

None.

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: August 30, 2012

RE: Church and School aesthetics

I would like to thank Planning Staff for considering my legal and constitutional concerns about trying to apply aesthetic judgments of the City of Fayetteville to the construction of public schools and churches.

By law, public school construction (and its aesthetics) are controlled not only by its elected school board, but also by the Arkansas Department of Education and its Academic Facilities Master Plan Program. A.C.A. §6-21-806. I believe it is inappropriate and possibly not statutorily allowed to attempt to "overrule" the decisions of the Fayetteville or Farmington School Board and the statutorily mandated Academic Facilities Master Plan Program by applying different City aesthetic standards for public school construction.

Freedom of religion and its expression is one of the constitutional bedrocks of the United States. Many churches, temples and mosques are instantly recognizable as the religious buildings they are. Thus, many religious buildings are the representation and symbol of the religious beliefs and faiths of their members. I believe, therefore, that the government should not place **aesthetic** requirements or limitations on such churches or other religious houses of worship. I believe that any government regulation or restriction about how a church should look would impose an improper government restriction on the religious freedom of expression of the church members.

The City remains empowered and authorized to enforce building permit requirements (plumbing, electrical, structural, etc.) grading, drainage, tree preservation, etc. for public school and church construction. It is only the **aesthetic** component for public schools and churches that I believe is legally or constitutionally suspect.

If anyone wishes to review my nine page memo on this subject citing cases and statutes, please ask me for a copy. I will certainly also try to answer any questions you might have relevant to my legal concerns about applying aesthetics considerations to churches and public schools.

I also agree with Jeremy and Planning about revising the Board of Adjustment code sections to more directly mirror state law for its powers and duties.

ORDINANCE NO.

AN ORDINANCE TO AMEND CHAPTERS 151, 156, 161, 164, 166, AND 174 OF THE UNIFIED DEVELOPMENT CODE TO REPEAL THE REQUIREMENTS OF THE I-540 DESIGN OVERLAY DISTRICT AND REVISE VARIOUS SECTIONS OF THE CODE ACCORDINGLY AND TO AMEND THE BOARD OF ADJUSTMENT FINDINGS FOR VARIANCES TO REFLECT STATE STATUTES

WHEREAS, in 1994 the City Council of the City of Fayetteville adopted Ordinance No. 3806, establishing the I-540 Design Overlay District, “to protect the distinctive scenic quality of the U.S. 71 Highway Corridor, to address issues of traffic and safety, to address environmental concerns and to preserve and enhance the economic value and viability of property within the corridor”; and

WHEREAS, the I-540 Design Overlay District created building and landscaping setbacks, greenspace, landscape standards and tree plantings in parking lots, aesthetic building design and appearance standards, sign regulations that only allow monument style signs and a prohibition on directly illuminated signs, curb cut separation requirements, screening of utility equipment and trash enclosures, and so forth; and

WHEREAS, the City of Fayetteville has, since 1994, adopted city-wide Commercial and Urban Residential Design Standards, comprehensive Landscape and Tree Preservation ordinances, Access Management regulations, and other codes that take the place of or improve upon the regulations set out in Ordinance No. 3806; and

WHEREAS, the usefulness of having a separate I-540 Design Overlay District in addition to the current Unified Development Code regulations has been exhausted and at times creates conflict or confusion with other applicable ordinances; and

WHEREAS, after a thorough analysis of the I-540 Design Overlay District Standards and current ordinances of the Unified Development Code, the Planning Staff, Planning Commission and City Attorney recommend the I-540 Design Overlay District be repealed for its original intended purpose and the requirements that should be retained to be inserted into the appropriate chapters of the Unified Development 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 amends §151 **Definitions** of the Unified Development Code as shown in Exhibit “A” attached hereto.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends §156 **Variances** of the Unified Development Code to repeal §156.02 Zoning Regulations and replace it with the language shown in Exhibit “B” attached hereto.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby repeals §161.31 **Design Overlay District (I-540 Highway Corridor)** of the Unified Development Code.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby amends §164 **Supplementary Zoning Regulations** of the Unified Development Code to repeal §164.09 Fences, Walls and Vegetation and replace it with the language shown in Exhibit “B” attached hereto.

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby repeals §166.14 **Commercial Design and Development Standards** and adopts §166.25 **Commercial, Office and Mixed-Use Design and Development Standards** as shown in Exhibit “D” attached hereto.

Section 6. That the City Council of the City of Fayetteville, Arkansas hereby amends §174.08 **Prohibited Signs** to add the following:

“(M) *I-540 Overlay District*. It shall be unlawful to erect any pole sign within the I-540 Overlay District. The only permitted free standing sign in the I-540 Overlay District shall be monument signs.”

Section 7. That the City Council of the City of Fayetteville, Arkansas hereby amends §174.09 **Sign Illumination** to add the following:

“(B) Only indirect illumination may be used for illumination of all signs within the I-540 Overlay District boundary.”

PASSED and **APPROVED** this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

CHAPTER 151: DEFINITIONS

I-540 Overlay District. The Overlay District encompasses all lands lying within 660 feet of each side of the right-of-way of I-540 from the intersection of I-540 and State Highway 471 (a/k/a 71B) north to the city limits of Fayetteville, (a/k/a the 71 Bypass and/or John Paul Hammerschmidt Expressway), and also that portion known as State Highway 471S described more fully as that portion of State Highway 471 which connects I-540 to State Highway 471 (a/k/a North College) and all future extensions of I-540 within the City of Fayetteville. Said boundaries are set out on the official plat pages along with a legal description of such boundaries located in the Planning Division.

Principal Façade. The front plane of a building that faces a public street including porches and balconies, but not including stoops, awnings or canopies (whether or not attached to the building).

CHAPTER 156: VARIANCES

156.02 Zoning Regulations

- (A) *General procedure.* Variances of all zoning regulations shall be considered and decided as shown below by the Board of Adjustment. There shall be no appeal to the City Council for zoning regulation variances.
- (B) *Requirements for variance approval.*
- (1) Where strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration;
 - (2) Where the applicant demonstrates that the granting of the variance will be in keeping with the spirit and intent of the zoning ordinance; and
- (C) *Minimum necessary variance.* The Board of Adjustment may only grant the minimum variance necessary to make possible the reasonable use of the applicant's land, building or structure.
- (D) *Special Conditions.* In granting a zoning regulation variance, the Board of Adjustment may impose whatever special conditions found necessary to ensure compliance and to protect adjacent property.
- (E) *Non-permitted Uses.* The Board of Adjustment may not grant, as a variance, any use in a zone that is not permitted under the zoning ordinance.
- (F) *Specific Tests.* The Board of Adjustment shall apply specific tests for the following variance requests:
- (1) *Height variances in all districts.* In addition to meeting all other normal requirements for a variance, an applicant seeking a height variance must establish the increased height of the proposed structure will not adversely affect adjoining or neighboring property owners, nor impair the beauty of Old Main, the historical churches on Dickson Street near East Avenue, nor otherwise impair the historic beauty and character of Fayetteville.

CHAPTER 164: SUPPLEMENTARY REGULATIONS

164.09 Fences, Walls, And Vegetation

- (A) Subject to the provisions of §166.12, fences, walls, and vegetation may be permitted in any required building setback or any required setback area, or along the edge of any setback, provided the fence, wall, or vegetation does not materially impede vision, as determined by the Zoning and Development Administrator, between vehicular or pedestrian traffic. In any required setback or any required setback area, nothing permanent over 2½ feet (30 inches) high may be installed which materially impedes vision between vehicular or pedestrian traffic.
- (B) *Fences.* Fences may be permitted for screening, security or for aesthetic purposes. The following types, height, and location of fences shall be prohibited for developments that are subject to the regulations within this chapter:
- (a) *Razor and/or barbed wire.* Razor and/or barbed wire fences are prohibited if visible from the street right-of-way or a residence, unless and except barbed wire fences that are used for agricultural purposes.
 - (b) *Chain link.* Chain link fence is prohibited if closer to the street than the front of the building. Single family residential uses outside the Downtown Design Overlay District are exempt from this requirement.
 - (c) *Height of fences in front of buildings.* Fences located in front of the principal façade of a building may be solid up to 30 inches in height. Any part of a fence which exceeds 30 inches in height shall not obstruct the view of the principal façade from the right-of-way.

(Code 1965, App. A., Art. 8(2); Ord. No. 1747, 6-29-70; Ord. No. 2380, 9-20-77; Code 1991, §160.111; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5271, 9-1-09)

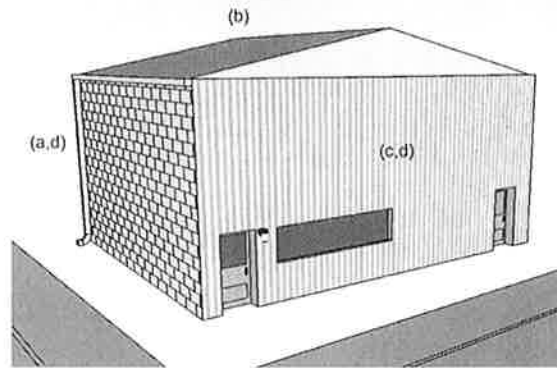
CHAPTER 166: DEVELOPMENT**166. 25 Commercial, Office and Mixed Use Design And Development Standards****(A) Purposes.**

- (1) To protect and enhance Fayetteville's appearance, identity, and natural and economic vitality.
- (2) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, and drainage.
- (3) To protect and preserve the scenic resources distributed throughout the city which have contributed greatly to its economic development, by attracting tourists, permanent part-time residents, new industries, and cultural facilities.
- (4) To preserve the quality of life and integrate the different zones and uses in a compatible manner.
- (5) To address the issues of traffic, safety, and crime prevention.
- (6) To preserve property values of surrounding property.
- (7) To provide good civic design and arrangement.

(B) Applicability. These design and development standards apply to commercial developments, office developments, those parts of a Planned Zoning District or other mixed use developments with commercial and office elements and to industrial developments within the I-540 Overlay District.

(C) Building Exterior Appearance and Design Standards. The following exterior development standards and design element guidelines shall be followed:

- (1) The elements to avoid or minimize include:
 - (a) Unpainted concrete precision block walls;
 - (b) Square "boxlike" structures;
 - (c) Metal siding which dominates the principal facade;
 - (d) Large blank, unarticulated wall surfaces;

Elements to Avoid

- (2) A development which contains more than one building should incorporate a recurring, unifying, and identifiable theme for the entire development site, without replicating the building multiple times.
- (3) A development should provide compatibility and transition between adjoining developments.
- (4) All structures shall be architecturally designed to have front facades facing all adjacent street and highway rights-of-way, and shall include at least one prominent entry-way on the principal façade(s).
- (5) All buildings should be constructed of wood, masonry, or other similar durable material.

(D) Site Development and Design Standards.

- (1) **Site coverage.** A maximum of 80% of the development site may be covered by the ground floor of any structure, parking lots, sidewalks, and private streets and drives or any other impermeable surface. Properties located within the Downtown Master Plan boundary are exempt from this requirement.
- (2) **Driveways.** Shared drives and cross access between properties shall be encouraged to adjacent developed and undeveloped properties.
- (3) Mechanical and utility equipment and refuse containers shall be screened if visible from the highway/street right-of-way or from residential property as set forth below:
 - (a) **Mechanical and utility equipment.**
 - (i) All mechanical and utility equipment located on the wall and/or on the ground shall be screened with

vegetation, by incorporating screening into the structure, or by utilizing paint schemes that complement the building and screen the equipment.

- (ii) All roof mounted utilities and mechanical equipment shall be screened by incorporating screening into the principal structure utilizing materials and colors compatible with the supporting building.
- (b) *Refuse containers.* Refuse containers shall be screened with materials that are compatible with and complementary to the principal structure, with access to the refuse containers not visible from the street. Containers may be screened from view by the principal structure; by a permanent walled or fenced enclosure; or with appropriate vegetation, planted at a density and size sufficient to be view obscuring immediately from the date of planting; so long as the screening is maintained and loose trash does not litter the ground or become an environmental nuisance.
- (4) Outdoor storage of material and equipment shall be screened if visible from the highway/street right-of-way or from residential property as set forth below:
 - (a) At the expense of the owner or lessee of the property, and in all zones, the following uses shall be completely surrounded by a view obscuring fence or by view obscuring vegetation, or a combination of the two, of sufficient height to prevent the view of the premises from vehicular and pedestrian traffic on adjacent streets: outdoor storage yards, including but not limited to, auto salvage yards, scrap metal yards, used furniture yard and garbage dumps.
 - (b) Where vegetation is used to meet the requirements of this subsection, the vegetation shall be planted at a density sufficient to become view obscuring within two years from the date of planting. If vegetation planted under this subsection does not become view-obscuring within two years, a view-obscuring fence shall be installed.
 - (c) *Exceptions:* The outdoor display of materials or equipment solely for sale or lease, such as automobiles, seasonal garden supplies, etc. shall not be required to be screened as set forth in subsection (a) above.
- (5) *Non-residential uses adjacent to residential uses.* The Planning Commission or Planning Division may require non-residential uses, including parking lots associated with said uses, to be screened from adjacent residential uses, as set forth below:
 - (a) A buffer strip, fence, or screen wall that is required shall be constructed and maintained on the zoning lot containing or proposed to contain such use, in accordance with provisions of this chapter.
 - (b) *Buffer Strip.* The purpose of the buffer strip is to provide separation and enclosure of uses. The landscaped buffer strip shall consist of a strip of land at least 8 feet wide adequately landscaped with approval of the Urban Forester, entirely on the zoning lot which is required to provide the buffer strip, and so located as to serve as an effective buffer between the use required to provide the buffer strip and other property for whose protection the buffer strip is required. The buffer strip should extend along the full length of the boundary separating the zoning lot from such other property, or from the street, as the case may be.
 - (c) *Fence required.* The purpose of the fence is to enclose uses. Required fences shall not be less than six (6) feet high, constructed of good, substantial material, of first-class workmanship, and so erected as to resist wind pressure, ensure public safety, and present a neat, attractive uniform appearance.
 - (d) *Screen required.* The purpose of the screen is to conceal uses. Screening shall mean a view obscuring fence, view obscuring berm, view obscuring architectural treatment, or view obscuring vegetation, or combination thereof, of sufficient height to prevent the view of the screened items from vehicular and pedestrian traffic on adjacent streets, and from residential property. Vegetation shall be planted at a density sufficient to become view obscuring within two years from the date of planting.
- (6) *Mini-storage.* At the expense of the owner of the property, all storage units and storage

yards for mini-storage created under Use Unit 38 shall be required to be screened by view obscuring vegetation when the storage yards or the storage units have common property lines with any residential use or zone and when they have frontage on any public street. Vegetation used for screening purposes shall be planted at a density sufficient to become view obscuring within two years from the date of planting and it shall be the responsibility of the property owner to maintain the screening throughout the life of the use of the property as mini-storage.

(E) *Design review.*

(1) *Submittals.* The following drawings, information, and plans shall be submitted to the Planning Commission or Planning Division for design review and approval with the associated development application, when applicable;

(a) *Elevations.* Color rendered elevation drawings of all building facades and a description of external building materials. Labels and dimensions, where applicable, shall accompany changes in texture, plane, material or color.

(b) *Materials sample.* A sample of exterior materials to be used for the proposed structure that indicates texture, color and type of materials.

(c) *Landscaping.* Proposed landscaping to be used as screening shall be shown on the tree preservation plan and landscape plan.

(2) *Build out.* Upon approval of a development, or issuance of a building permit, build-out of the project shall conform to the drawings, information, and plans approved.

(a) *Amendments.* Amendments to the drawings, information, and plans shall be submitted to the planning division. Amendments which are determined to be insignificant or minor may be approved by the Planning Division. Significant amendment shall be approved by the Planning Commission when approval was given through the large scale development process, or by the planning division when approval was given through the building permit process.

(b) *Review.* Amendments shall be considered using the same standards as the initial design approval.

(c) *Noncompliance.* Failure to build-out the project according to the approved drawings, information, and plans, or approved amendments thereto, shall render the large scale development approval, or the building permit approval void.

(F) *Variances. (See Chapter 156.)*

(Code 1991, §160.124; Ord. No. 4004, §1, 10-15-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4917, 9-05-06; Ord. 4930, 10-03-06; Ord. 5028, 6-19-07; Ord. 5271, 9-1-09)

Cross reference(s)--Specific Districts
 §161.13

Planning Commission Minutes

New Business:

ADM 10-3554: Administrative Item (UDC AMENDMENT CH. 160.28, I-540 CORRIDOR DESIGN OVERLAY DISTRICT): Submitted by CITY PLANNING STAFF for revisions to Fayetteville Unified Development Code Section 161.28, I-540 Design Overlay District. The proposed code changes consolidate the I-540 Design Overlay District requirements into other sections of the UDC, and eliminate requirements that are not consistent with current development regulations.

Dara Sanders, Current Planner, gave the staff report. She discussed the background for the I-540 Design Overlay District. The proposed code changes address conflicting areas in the code including curb cuts, 25-foot greenspace, and 25% greenspace. All of these exceed the requirements in other chapters. Staff proposes to keep pole sign restrictions. Sanders reviewed the changes to the proposal since the agenda session including the requirement that industrial buildings are not exempt from commercial design standards in the I-540 DOD. Sanders summarized the overall proposal as listed in the chart in the staff report.

There was no public comment.

Commissioner Chesser asked about commercial design standards being vague. He went through the design standards currently in the code.

Commissioner Lack discussed that this conversation is beyond the scope of this project.

Andrew Garner, Senior Planner suggested that if the commissioners wish, staff could look at evaluating and potentially changing the commercial design standards as part of a different code amendment in the future.

Commissioner Hoskins inquired about an industrial building next to a commercial building.

Sanders stated that industrial uses in the I-540 DOD are subject to commercial design standards and that the proposal before the planning commission would not change that.

Kit Williams, City Attorney, discussed concerns with the legal reaches of applying design standards to public schools and churches. He discussed religious expression in the design of buildings and aesthetics. He recommends we do not include churches in design standards. He also recommends that public schools not be included either.

Commissioner Lack stated with churches, looking at the five criteria of commercial design standards, he has trouble seeing any of the commercial design standards limiting expression of faith, only regulating a few issues.

Williams went through some of the other standards listed in the commercial design standards besides the five criteria. It's just a fundamental problem when we regulate the design of churches. Traditionally the state has not regulated aesthetics of a church.

Commissioner Lack asked Williams if our downtown design overlay district (DDOD) results in the same issue as churches have to comply.

Williams answered yes. He stated that he had concerns when the DDOD went through. He doesn't think we should regulate aesthetics.

Commissioner Lack asked about whether there are legal issues where churches are required to a conditional use permit and the design of a church is determined to be compatible with surrounding uses.

Williams responded that churches in a residential district may not be appropriate. He discussed further the purpose of aesthetics in the construction a church.

Commissioner Lack asked about proposed subsection (2)(d) that discusses that facades adjacent to a street need to be designed with elements similar to a front façade. If a building faces a street, would that requirement also apply to the sides of the building that are visible from the street?

Sanders explained that it would apply to the façade directly facing the street, and wouldn't apply to the sides of the structure. This requirement wouldn't preclude back of house activities such as loading docks or back doors, however it may require wrapping a similar color or pilaster from the front façade around to the other side of the building that faces a second street frontage.

Commissioner Lack stated that he would like to see the commercial design standards apply to all facades when visible from street, not just when the façade directly faces the street.

Commissioner Hoskins asked about chapter 166.14(2) referring to similar buildings to the left and right.

Williams stated that staff is proposing to expand the commercial design standards from the current standards.

Commissioner Chesser asked if that architecturally designed meant that it had to be designed by an architect?

Sanders said that an architect is not required.

Commissioner Chesser asked if a Jehovah's Witness wanted to build and their standard design is without windows was in violation.

Sanders said that churches would be able to ask for variances if they don't meet the design standards.

Williams stated they must show a hardship on the site in order to be granted a variance.

Commissioner Cabe said that a lack of windows doesn't necessarily mean that it is a blank façade;

there could be other elements that articulate the facade. Churches are built differently nowadays and are not the typical traditional church building anymore. He is real comfortable with the way the code is proposed. He is okay applying the code to churches and schools.

Commissioner Winston stated that there is a variance process and discussed that the variance process could be set up where a variance could be permitted when aesthetic issues would create a religious hardship.

Commissioner Chesser stated that he feels we should really consider legal council's advice.

Garner discussed that the overall intent of this proposal from staff was to eliminate the redundant and unnecessary items in the I-540 DOD; the design standards for churches and schools was a secondary item that was folded into proposal. If the design standard for churches and schools is the only issue the commission is struggling with, and can't agree on, staff would prefer to move this item forward and leave out the design standard for churches and schools, and address that at a later time.

Commissioner Cabe would appreciate memos and cases from legal council on this topic.

Commissioner Lack discussed again that he doesn't see why the five elements in commercial design standards discriminate against a church, and would like to see that as well from the City attorney.

Motion #1:

Commissioner Chesser made a motion to forward to City Council, striking the changes from commercial to non-residential, and discussing that we can take up the issue regarding churches and schools at a later date. **The motion was not seconded and was withdrawn after commission and staff discussion.**

Motion #2:

Commissioner Cabe made a motion to forward to City Council as recommended by staff, **Commissioner Earnest** seconded the motion.

Commissioner Kennedy had a question about "architecturally" designed.

Commissioner Cabe amended his motion to strike "architecturally" from Chapter 166.14 2.d **Commissioner Earnest** seconded the change.

Commissioner Winston asked if a school has design standards.

Williams said that, no, the school board approves plans that are designed by an architect.

Upon roll call the motion to forward to City Council passed with a vote of 5-3-0 with Commissioners Lack, Bunch and Chesser voting "no".

Ordinance No. 3806
Original I-540 Design Overlay District
June 28, 1994

ORDINANCE NO. 3806

AN ORDINANCE ESTABLISHING A DESIGN OVERLAY DISTRICT FOR THE U.S. 71 HIGHWAY CORRIDOR; AND AMENDING CHAPTER 160, ZONING CODE, OF THE FAYETTEVILLE CODE OF ORDINANCES TO ADD REGULATIONS AND STANDARDS FOR THE DESIGN OVERLAY DISTRICT FOR THE U.S. 71 HIGHWAY CORRIDOR.

FILED FOR RECORD
94 JUL 15 AM 8 04
WASHINGTON CO AR
A. KOLLMAYER

WHEREAS, the City Council recognizes the distinctive scenic importance of the U.S. 71 Highway Corridor; and,

WHEREAS, the City Council wishes to address the impact of the rapid growth along the U.S. 71 Highway Corridor upon the health, safety and welfare of the general public; and,

WHEREAS, the City Council wishes to protect the environment and the natural resources located along the U.S. 71 Highway Corridor.

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

Section 1. There is hereby established a Design Overlay District for the U.S. 71 Highway Corridor.

Section 2. That Chapter 160, Zoning Code, of the Fayetteville Code of Ordinances shall be amended to add the following:

§160.045
DESIGN OVERLAY DISTRICT.

A. **Purpose.** The purpose of establishing a Design Overlay District for the U.S. 71 Highway Corridor is as follows:

1. To protect and enhance the distinctive scenic quality of the U.S. 71 Highway Corridor by providing for non-residential developments which will maximize preservation and enhancement of the natural, rural, and open character of the terrain and foliage.
2. To address the issues of traffic and safety.
3. To address environmental concerns which include but are not limited to, soil erosion, vegetation preservation, drainage and heat islands.
4. To preserve and enhance the economic value and viability of property within and near the overlay district for the U. S. 71 Highway corridor.



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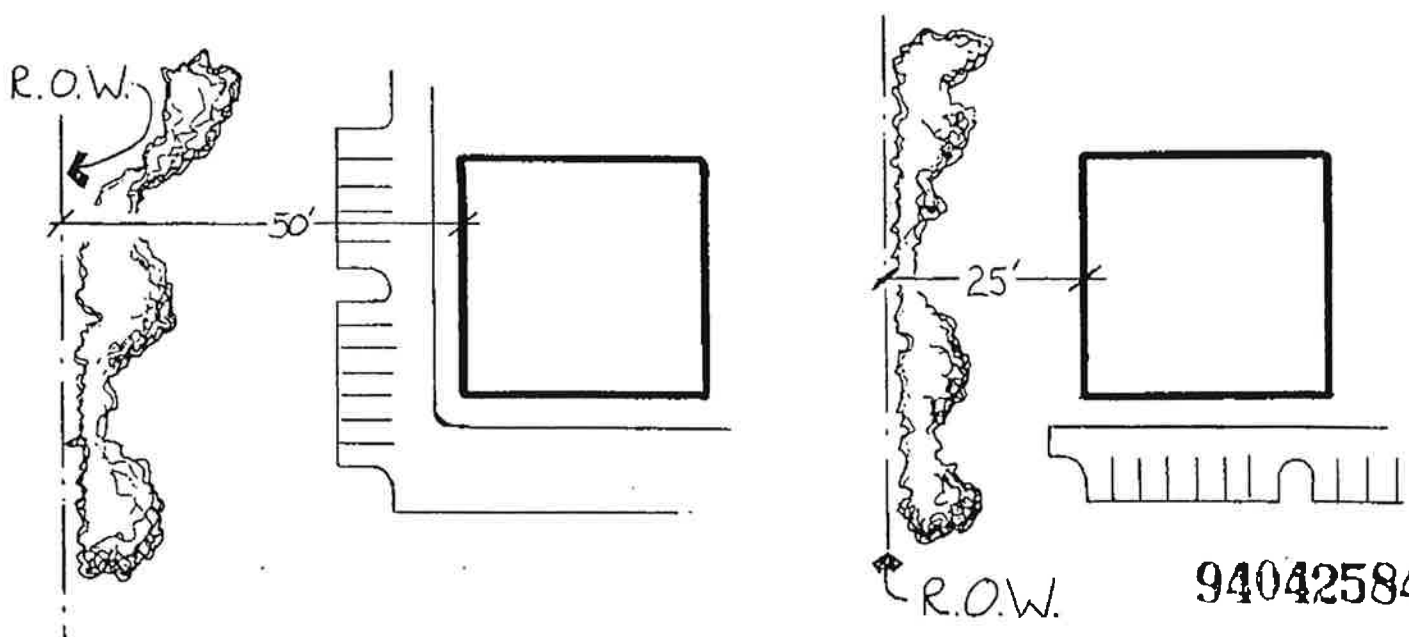
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B. Overlay District Boundaries. The overlay district encompasses all lands lying within 660' of each side of the right-of-way of U.S. Highway 71 from the intersection of U.S. Highway 71 and State Highway 471 (a/k/a 71B) north to the City limits of Fayetteville, (a/k/a the 71 Bypass and/or John Paul Hammerschmidt Expressway), and also that portion know as State Highway 471S described more fully as that portion of State Highway 471 which connects U.S. Highway 71 to State Highway 471 (a/k/a North College) and all future extensions of U.S. Highway 71 within the City of Fayetteville. Said boundaries are set out on the official plat pages along with a legal description of such boundaries located in the Planning Office.

C. Application of Overlay District Regulations and Standards. The regulations and standards contained herein shall apply to all non-residential properties, (including but not limited to new development, redevelopment and expansions of existing development), located within the Overlay District boundaries. Such regulations and standards shall be in addition to and shall overlay all other ordinance regulations and standards, including but not limited to non-residential zoning district and signage regulations and standards. Should the regulations and standards of the underlying and overlay districts conflict, the overlay district regulations and standards shall control.

D. Non-Residential Site Design and Development Standards.

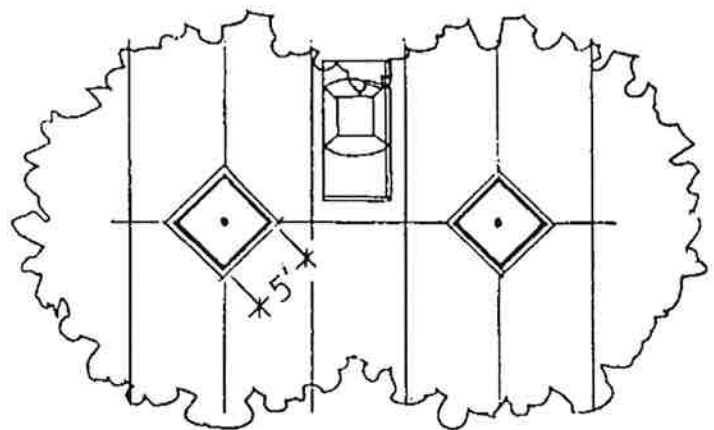
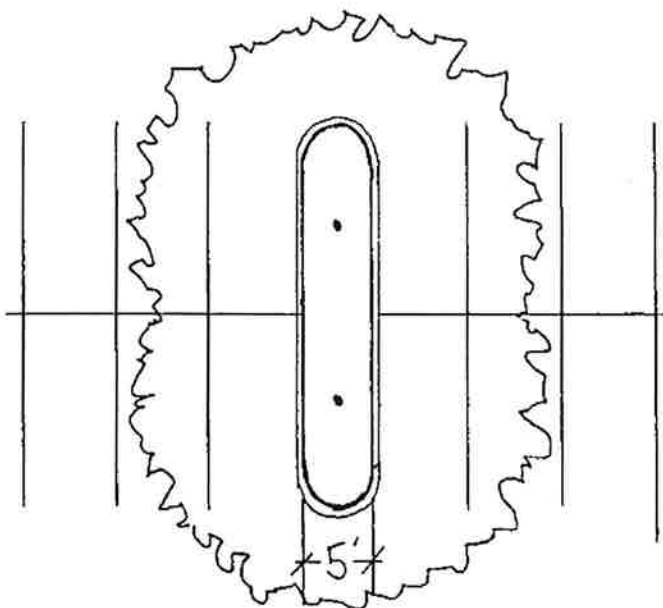
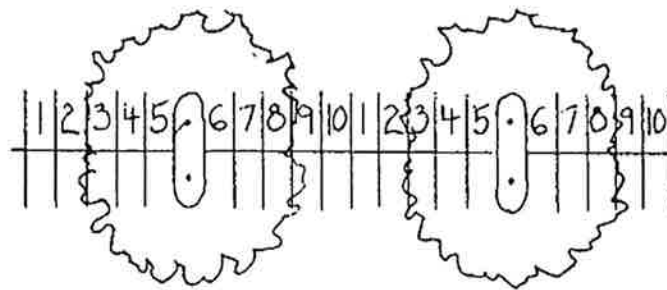
1. Setback From Right-of-Way. All principal and accessory non-residential structures shall have a 50 foot building setback from the highway or street right-of-way. Non-residential uses may reduce their building setback to 25 feet if parking is not located between the structure and highway or street right-of-way.



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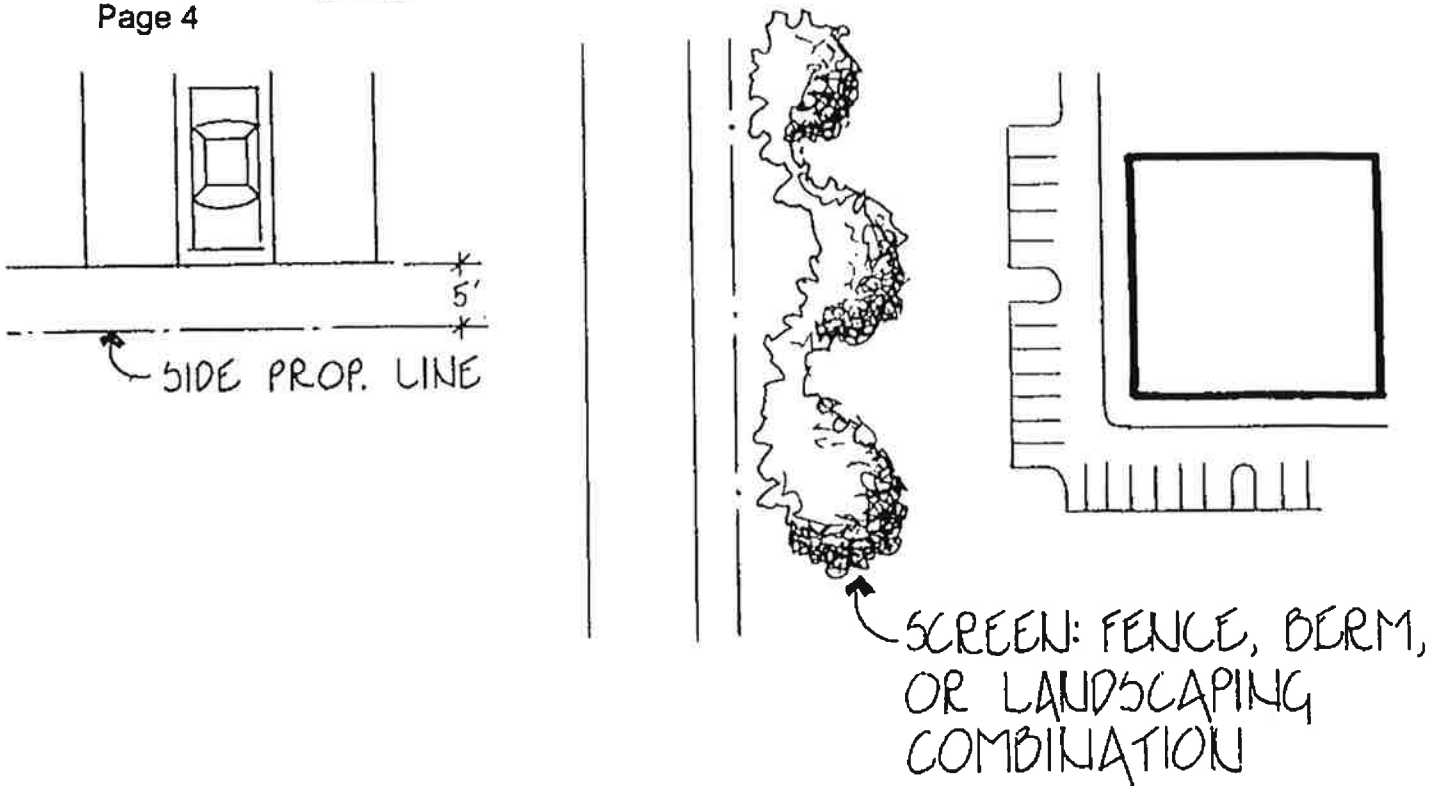
2. Green Space. A minimum of 25 feet of landscaped green space exclusive of right-of-way shall be provided along the highway right-of-way and any public street to which the development has frontage. Parking lots shall not encroach into the green space and shall be screened when abutting a required green space area. Trees shall be planted at the interval of one tree per 30 linear feet of green space area when practicable.

3. Parking Lots. All parking lots for non-residential development shall have 1 tree per 10 parking spaces. Trees shall be placed uniformly within the parking lot or in islands within the lot providing a minimum of 25 square feet of unpaved area per tree. Parking lots shall be set back a minimum of five feet from any side property line.

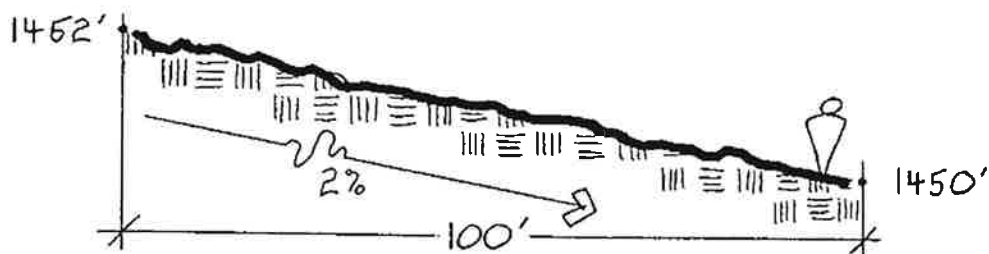


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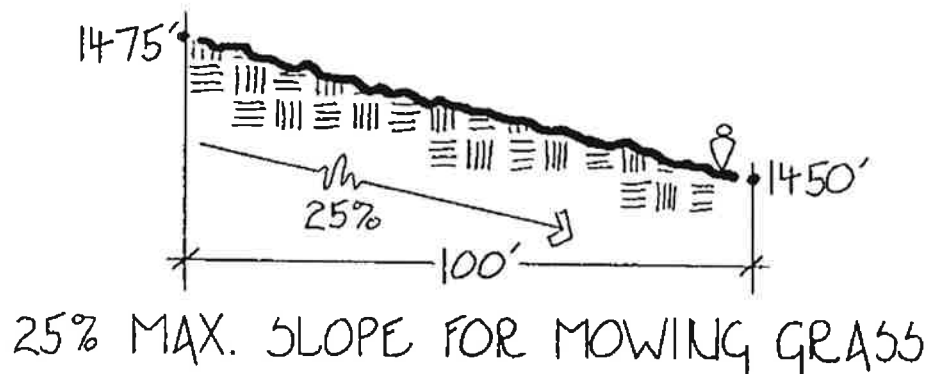
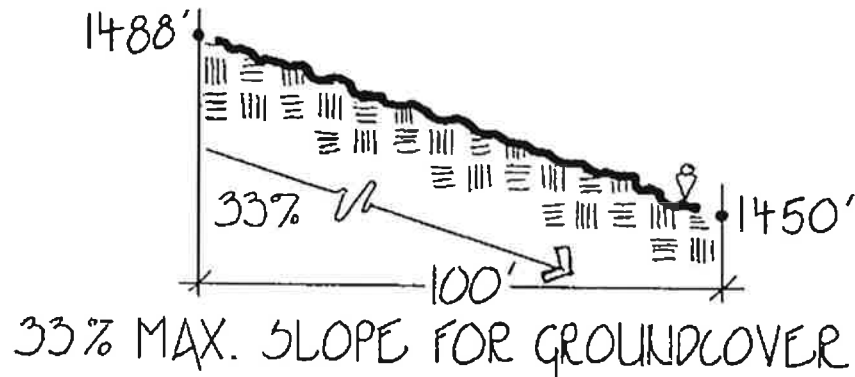
4. Landscaping Treatment. Landscaping shall be required which is sufficient to provide soil stability and promote suitable drainage. Landscaping shall be primarily living plants and shall attempt to incorporate existing on-site trees and shrubbery into the landscaping scheme and the landscaping plans shall indicate such incorporation.



2% MIN. SLOPE FOR GRASS DRAINAGE

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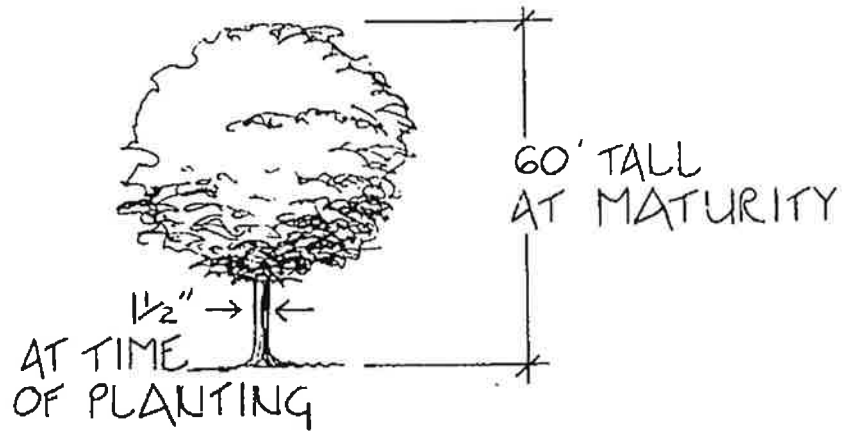


a. Any required landscaping that dies or is damaged shall be replaced by the current owner of the property. Where possible, native vegetation should be used in order to minimize the amount of watering required. The City shall require replacement vegetation if it is not maintained.

b. Tree species planted within these corridors should be consistent with other species present, preferably native. Trees shall be 1½" DBH at planting with an expected height of 60' or more at maturity. Species selection shall be at the discretion of the developer but if root or branching habits of plant material should be a nuisance, (for example: roots breaking through the sidewalk, messy fruit, etc.), plant materials shall be replaced at the owner's expense.

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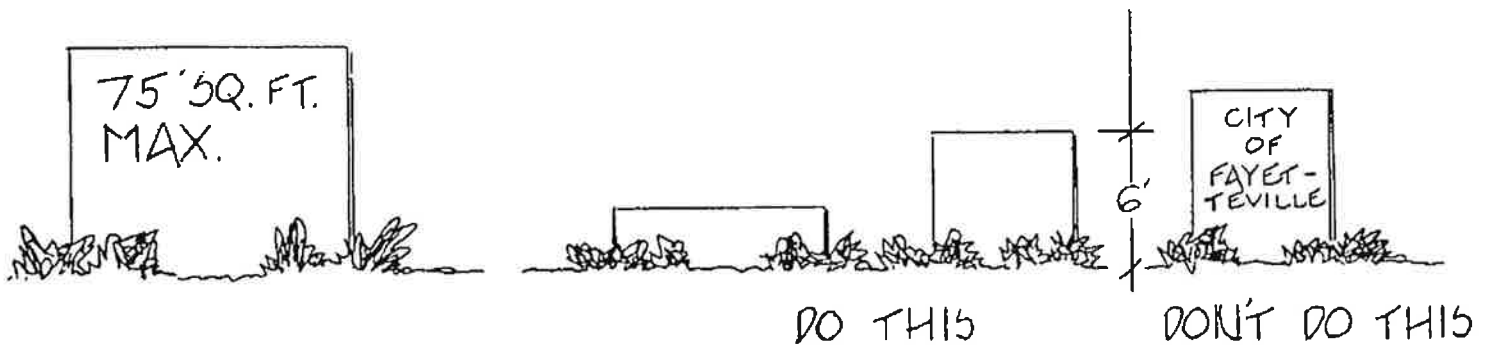
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5. Signage.

a. Non-Residential Free Standing Signs.

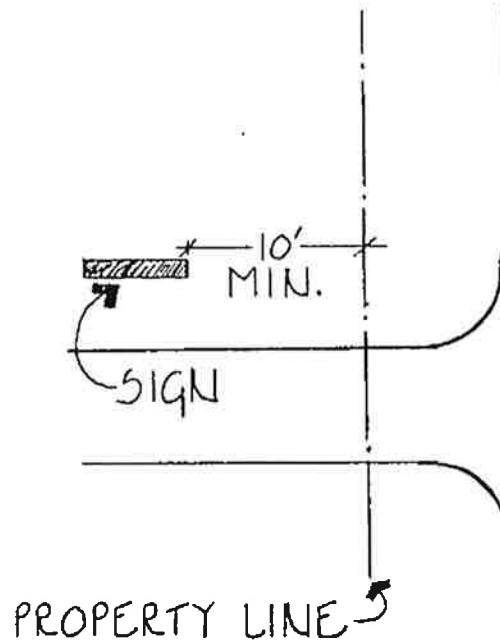
1) Each separate non-residential lot will be allowed a single ground-mounted (monument) sign located on the building site. In the case of lots with double frontage, two ground-mounted (monument) signs shall be allowed.



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2) The sign shall be a maximum of 6 feet high, 75 square feet in area, and set back a minimum of 10 feet from the property line.



b. Wall Signs. One wall sign may be installed per business. Sign area shall not exceed 20% of that wall area or 200 square feet, whichever is less. A second sign may be allowed if it is determined that the structure has more than one front facing a street or highway right-of-way.

c. Illumination. Only indirect lighting may be used for illumination of all signs.

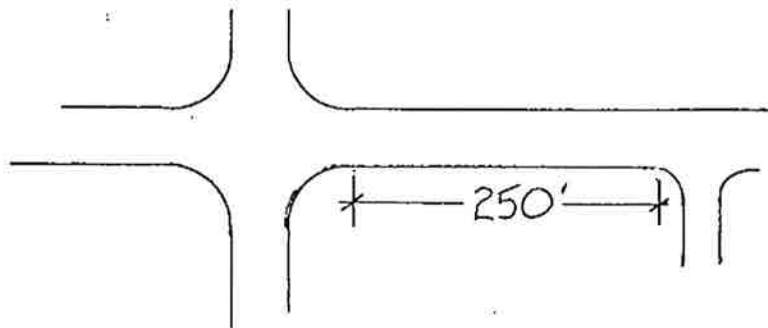
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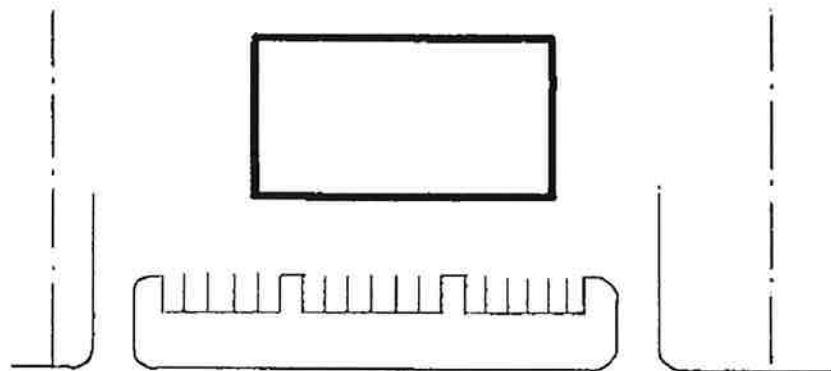
d. Multiple Tenants. The owner of the building shall be responsible for the provision of one monument sign with sign area for multiple tenants.

e. Sign Content. Content of monument and wall signs shall be limited to the name of the business. Advertising shall not be permitted on the structure, wall sign or monument.

6. Curb Cuts. One curb cut shall be allowed per 200 feet of frontage. No curb cuts shall be allowed within 250 feet of any intersection.



CURB CUTS MUST BE
AT LEAST 250' FROM
INTERSECTIONS



ONE CURB CUT PER 200' FRONTAGE

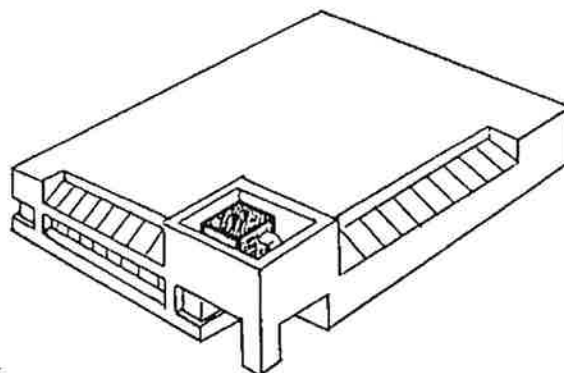
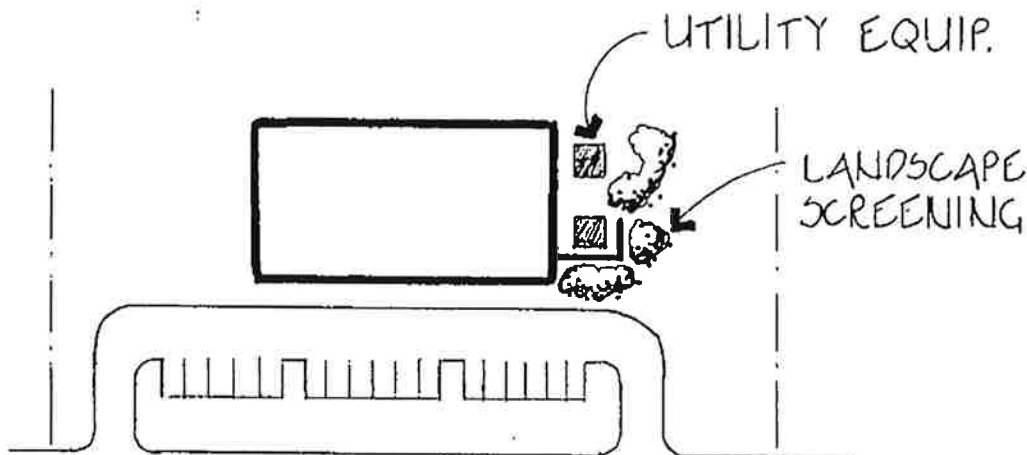
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7. Lighting. Parking lot lighting shall be designed and located in such a manner to preserve the scenic appearance of the corridor. Lighting shall be shielded and directed downward to the parking lot and light spread shall not reflect into the adjacent neighborhood. Lighting shall not exceed 35 feet in height and shall utilize sodium lighting fixtures.

8. Screening. All mechanical and utility equipment, trash enclosures, and parking lots shall be screened in the following manner:

a. All mechanical and utility equipment on the side of the building and/or on the ground shall be screened by fencing and/or vegetation if visible from the highway/street right-of-way or residential property. Screening of roof-mounted utilities shall be incorporated into the structure, utilizing materials compatible with the supporting building.

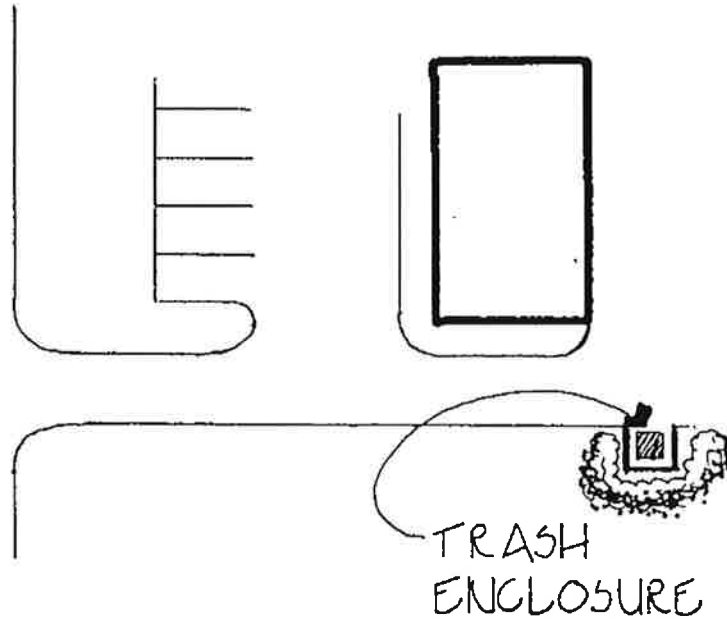


SCREEN ROOF-MOUNTED
UTILITIES

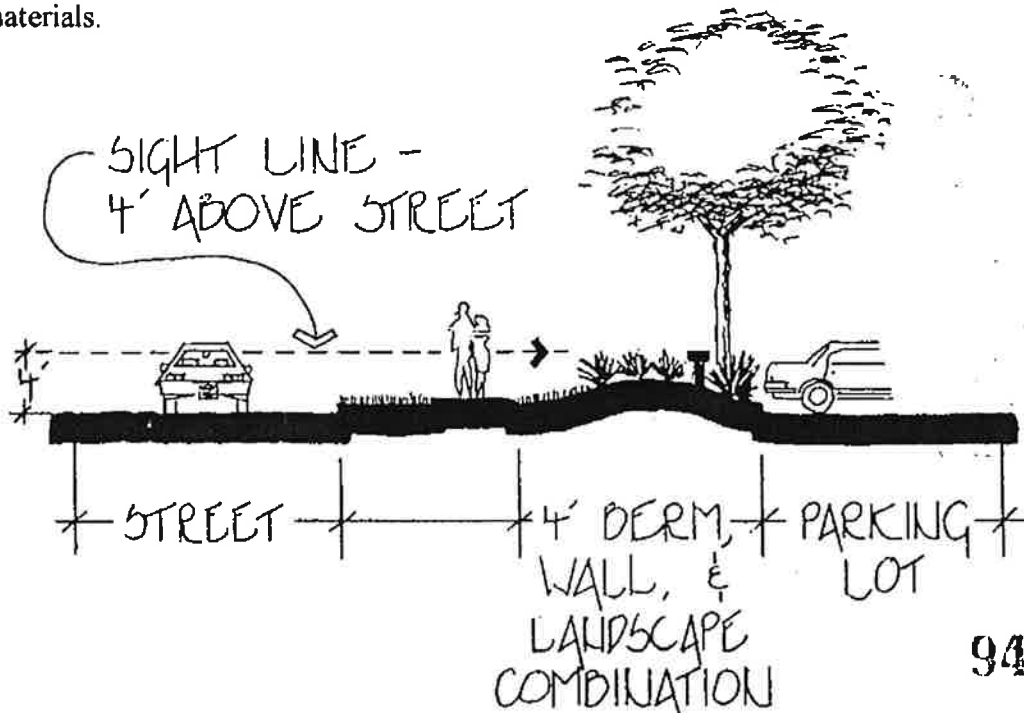
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b. Trash enclosures shall be screened on three sides with the access not visible from the street.

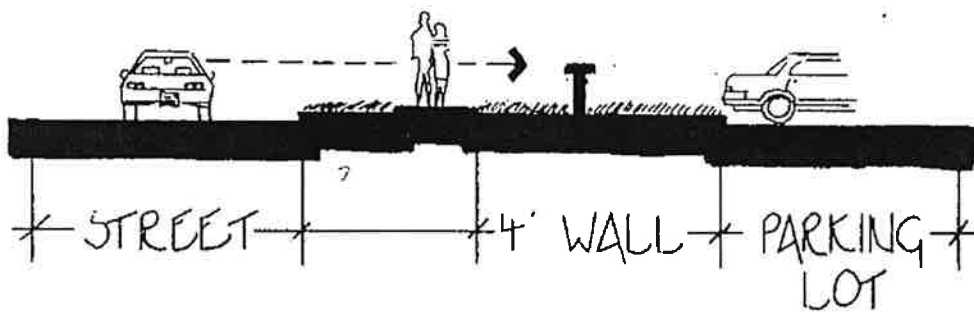
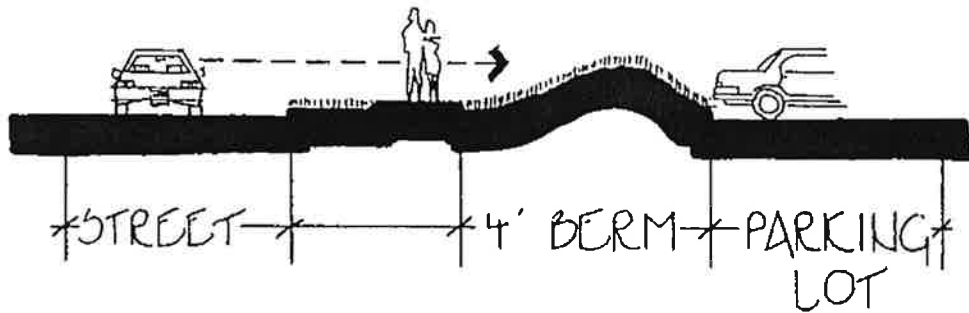
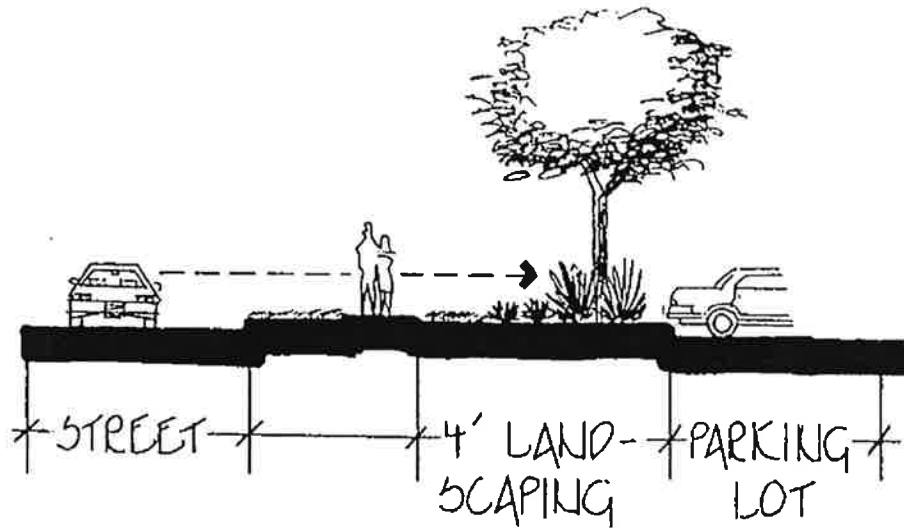


c. Parking lots shall be screened by a four-foot high view-obscuring landscaped berm, wall, landscaping, or combination of berm/wall and/or landscaping. If view obscuring walls are utilized, they shall be set back a minimum of 5 feet from the property line with landscaping located between the wall and property line. All walls shall be constructed of wood, masonry, or natural-looking materials.



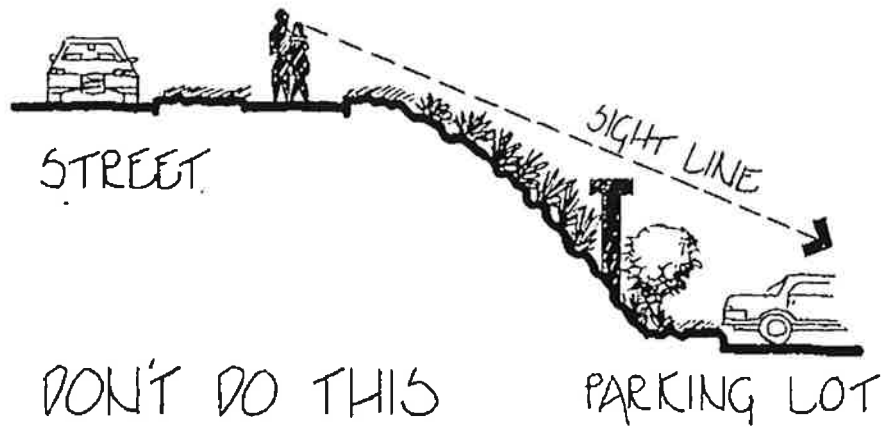
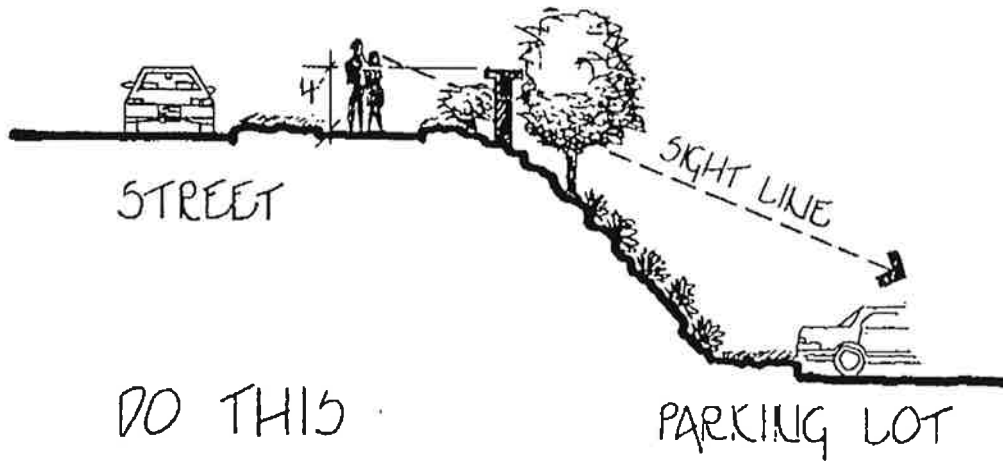
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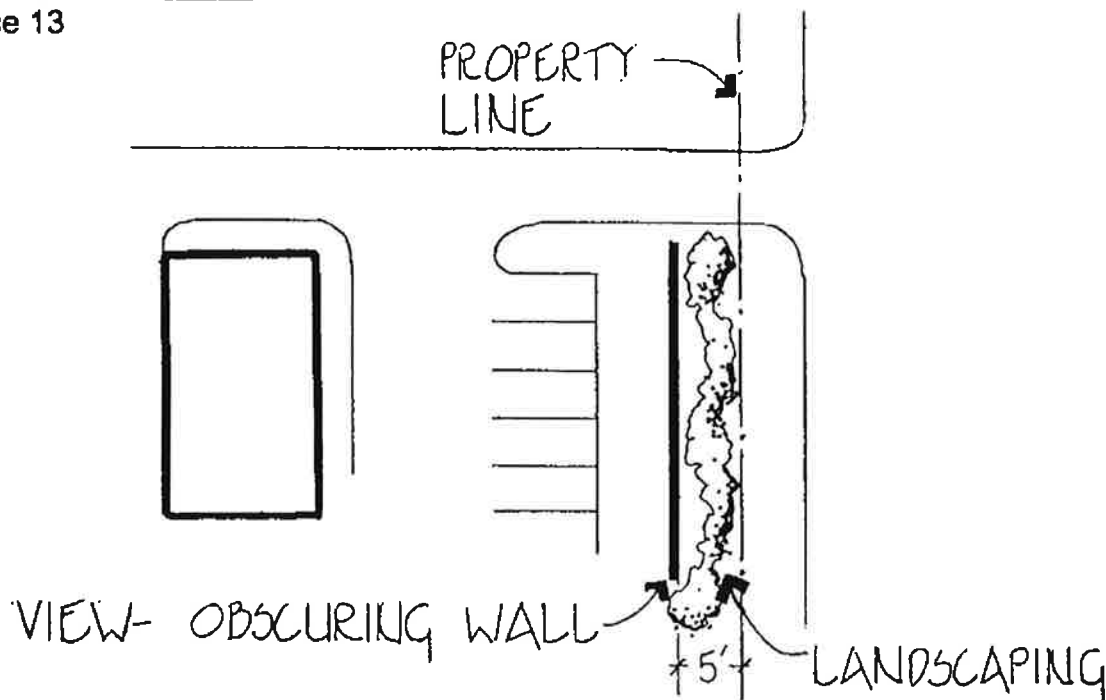
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9. Exterior Appearance. All structures shall be architecturally designed to have front facades facing all street and highway right-of-way. An elevation drawing shall be submitted for each side of the building that faces a street or highway.

10. Building Material. Buildings shall be constructed of wood, masonry, or natural looking materials. No structures shall be allowed that have metal side walls unless such metal siding is similar in appearance to wood, masonry or natural looking material.

11. Site Coverage. Twenty five percent (25%) of the site shall be left in open space. Eighty percent (80%) of the open space shall be landscaped which may include ponds and fountains.

12. Utilities. Above ground utilities may be located at the rear property line. In the event it is not feasible to place utilities at the rear property line, utilities shall be placed underground.

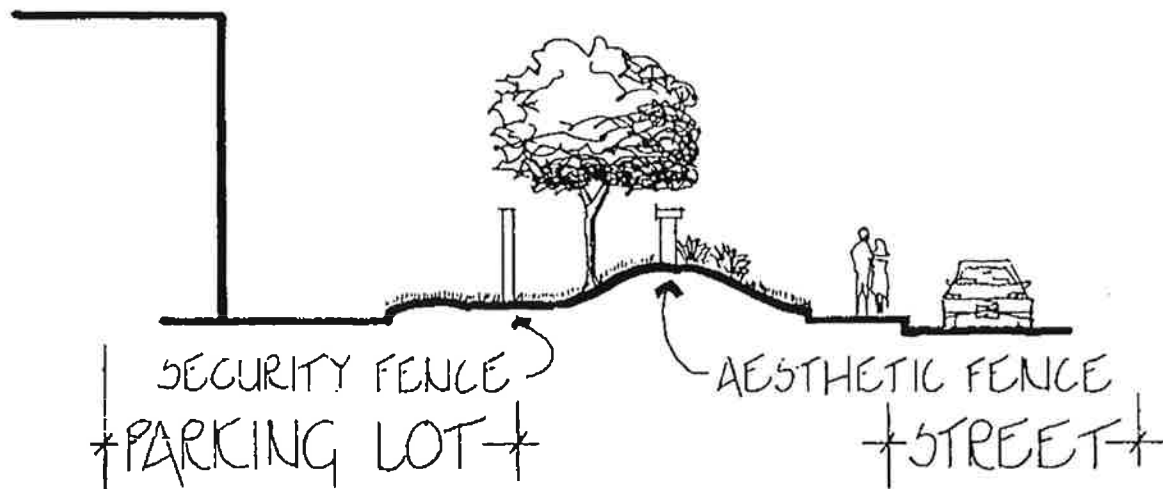
13. Optional Fencing. All fencing shall be constructed of wood, masonry, or natural-looking materials. No optional fencing shall be located within the green space required by section D-2. No metal fencing shall be allowed except in the following cases:

- a. Wrought iron fencing.

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b. If other types of metal fencing are necessary for security purposes, they may be used if the area is first fenced off with a view-obscuring natural or natural-looking fencing material. The metal fencing shall be placed inside the view-obstructing fencing, and the view-obscuring fencing shall be at least the height of the metal fencing.



14. Outdoor Storage of Material and Equipment. All outdoor storage of material and equipment shall be screened with natural vegetation.

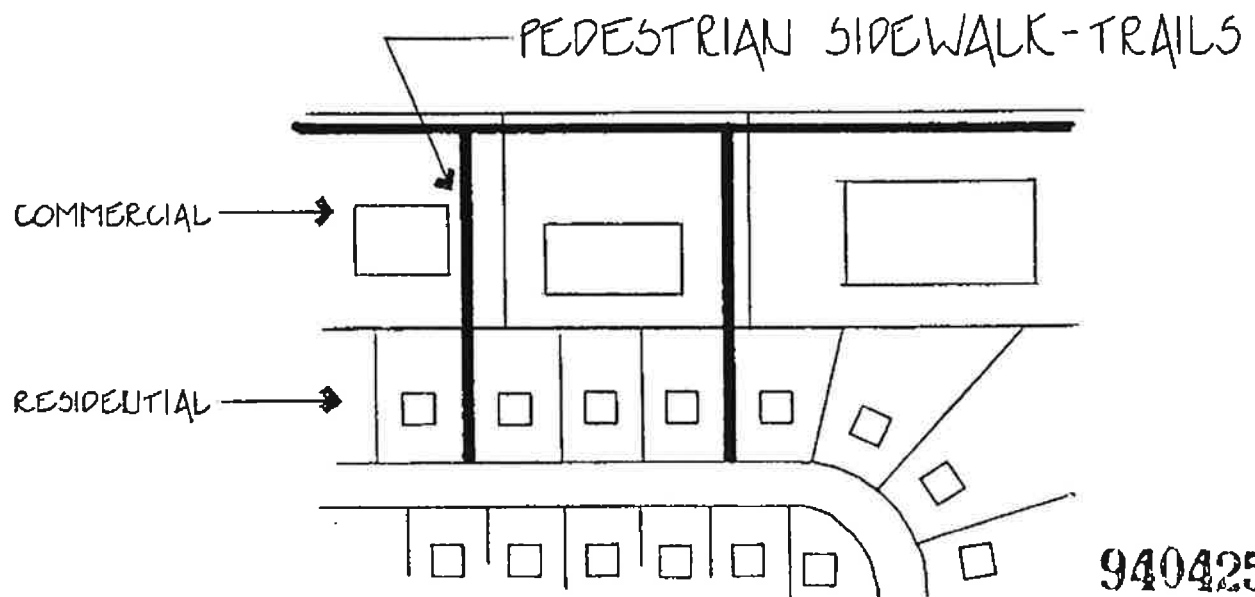
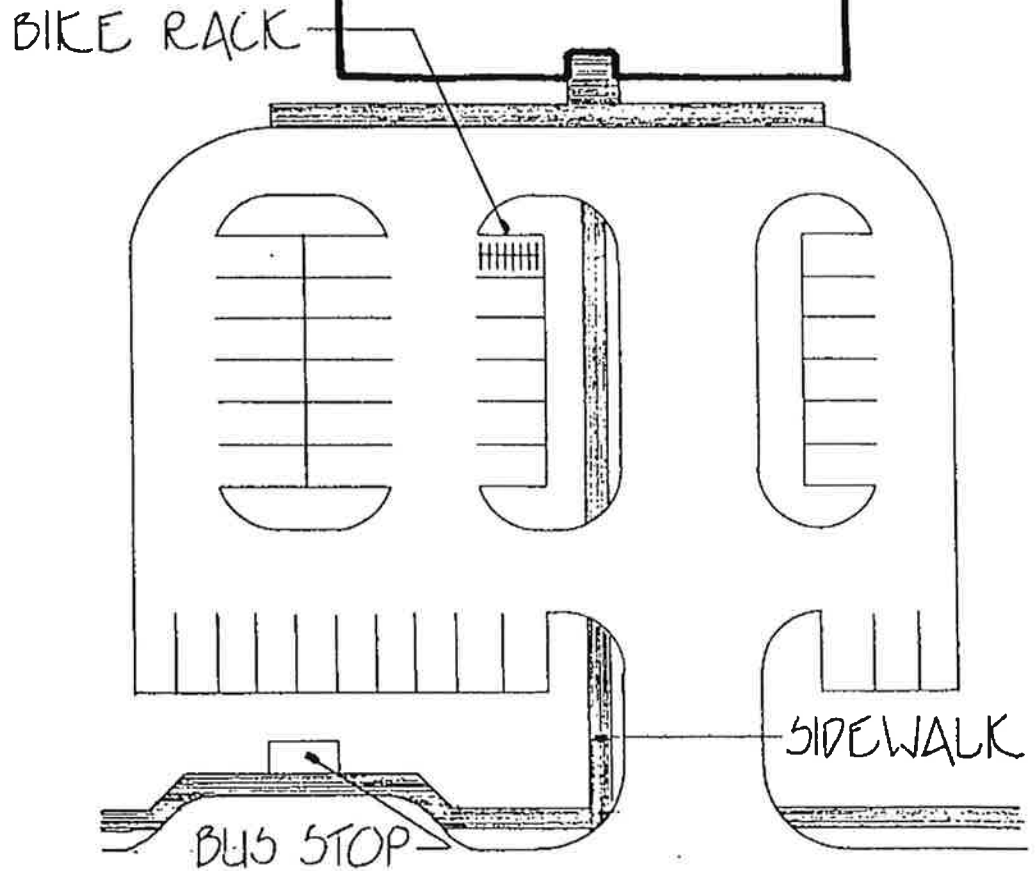
15. Access.

a. Pedestrian access shall be provided from the street to the entrance of the structure by way of a designated trail or sidewalk.

b. Multi-modal access may be required on non-residential sites within the Design Overlay District. (for example: the provision of bus stops, bicycle racks, parking stalls for car pools, and bicycle and pedestrian walks and trails).

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LINK DIFFERENT ZONES WITH TRAILS

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16. Plans/Drawings Required. The following plans and drawings shall be submitted prior to large scale development review and approval.

- a. Landscaping plan.
- b. Screening elevation.
- c. Front facade elevation.
- d. Monument sign elevation.
- e. Scaled drawings of signage.
- f. Large scale development plan.

Drawings, plans and elevations may be combined when possible.

E. Non-Residential Developments and Multiple Building Sites.

In the case of non-residential development involving multiple building sites, whether on one or more platted lots, the above described regulations shall apply to the development as an entire tract rather than to each platted lot.

F. Large Scale Development.

All non-residential development within the Design Overlay District shall be reviewed through the Large Scale Development procedure and shall meet all those requirements regulating Large Scale Developments regardless of the size of the tract.

G. Variances; Conditions Governing Applications; Procedures.

1. The purpose of this section is to authorize upon appeal in specific cases such variances from the regulations of this design overlay district as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Planning Commission unless and until:

- a. The applicant provides in writing from what section of the Design Overlay District a variance is requested. This shall be submitted along with the large scale development plan demonstrating:

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1) That special conditions and circumstances exist which are peculiar to the land, structure, building, and/or lot configuration involved and which are not applicable to other lands, structures or building in the same district;

2) That literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

3) That the special conditions and circumstances do not result from the actions of the applicant;

b. The Planning Commission shall make the following findings:

1) No nonconforming use of neighboring lands, structures, or building in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

2) The Planning Commission shall make findings that the requirements of this section have been met by the applicant for a variance;

3) The Planning Commission shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;

4) The Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

2. The granting of any variance requested will not confer on any other land any special privilege that is denied by this ordinance.

3. In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.

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Section 3. SEVERABILITY. Should any paragraph, section, clause, phrase or part of this ordinance, for any reason, be held invalid, such decision shall not affect the validity of the remaining provisions of this ordinance and the application of those provisions to any person or circumstance shall not be affected thereby.

Section 4. EMERGENCY CLAUSE. The City Council hereby finds and declares that as a result of the current development pressures along U.S. 71 Highway corridor, that in order to protect the health, safety and welfare of the citizens of the City, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 28th day of June, 1994.

APPROVED:

By: 
Fred Hanna, Mayor

ATTEST:

By: 
Sherry L. Thomas, City Clerk



94042600

I, Alma Kollmeyer, Circuit Clerk and
Ex-officio Recorder for Washington County,
Arkansas, do hereby certify that this in-
strument was filed for record in my office
as indicated herein and the same is now
duly recorded in the acknowledgment
and certificate of record book and
Page as indicated hereon.

IN WITNESS WHEREOF, I have hereunto
set my hand and affixed the seal of said
Court on the date indicated hereon.

Alma Kollmeyer
Circuit Clerk and
Ex-officio Recorder

by 

Ordinance Mark-up

CHAPTER 151: DEFINITIONS

I-540 Overlay District. The Overlay District encompasses all lands lying within 660 feet of each side of the right-of-way of I-540 from the intersection of I-540 and State Highway 471 (a/k/a 71B) north to the city limits of Fayetteville, (a/k/a the 71 Bypass and/or John Paul Hammerschmidt Expressway), and also that portion known as State Highway 471S described more fully as that portion of State Highway 471 which connects I-540 to State Highway 471 (a/k/a North College) and all future extensions of I-540 within the City of Fayetteville. Said boundaries are set out on the official plat pages along with a legal description of such boundaries located in the Planning Division.

Principal Façade. The front plane of a building that faces a public street including porches and balconies, but not including stoops, awnings or canopies (whether or not attached to the building).

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CHAPTER 156: VARIANCES

156.02 Zoning Regulations

(A) *General procedure.* Variances of all zoning regulations shall be considered and decided as shown below by the Board of Adjustment. There shall be no appeal to the City Council for zoning regulation variances.

(B) *Requirements for variance approval.*

- (1) Where strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration;
- (2) Where the applicant demonstrates that the granting of the variance will be in keeping with the spirit and intent of the zoning ordinance; and

(C) *Minimum necessary variance.* The Board of Adjustment may only grant the minimum variance necessary to make possible the reasonable use of the applicant's land, building or structure.

(D) *Special Conditions.* In granting a zoning regulation variance, the Board of Adjustment may impose whatever special conditions found necessary to ensure compliance and to protect adjacent property.

(E) *Non-permitted Uses.* The Board of Adjustment may not grant, as a variance, any use in a zone that is not permitted under the zoning ordinance.

(F) *Specific Tests.* The Board of Adjustment shall apply specific tests for the following variance requests:

- (1) *Height variances in all districts.* In addition to meeting all other normal requirements for a variance, an applicant seeking a height variance must establish the increased height of the proposed structure will not adversely affect adjoining or neighboring property owners, nor impair the beauty of Old Main, the historical churches on Dickson Street near East Avenue, nor otherwise impair the historic beauty and character of Fayetteville.

~~(B) *Consideration by the Planning Commission.* Applications for variances of the following shall be considered by the Planning Commission.~~

~~(1) *Design Overlay District.*~~

- ~~(a) *Special conditions.* The purpose of this section is to authorize in specific cases such variances from the regulations of~~

~~the Design Overlay District as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the Design Overlay District regulations would result in unnecessary hardship.~~

~~(b) *Variance requested.* A variance from the terms of the Design Overlay District regulations shall not be granted by the Planning Commission unless and until the applicant provides from what section a variance is requested. This shall be submitted along with the large scale development plan.~~

~~(c) *Findings.* The Planning Commission shall make the following findings:~~

~~(i) *Requirements met.* That the requirements of §156.02.(A) have been met by the applicant for a variance.~~

~~(ii) *Minimum variance.* That the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.~~

~~(iii) *Harmony with general purpose.* That the granting of the variance will be in harmony with the general purpose and intent of the Design Overlay District, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.~~

~~(d) *Conditions and safeguards.* In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this section.~~

~~(1) *Access to structure.* The Planning Commission shall have the authority to waive the requirement that every building hereafter erected or moved shall be located on a lot which has frontage on a public street when the property owner provides safe and convenient access for fire protection and sanitation vehicles.~~

~~(2) *Building height variance in all zoning districts.*~~

~~(a) The Planning Commission shall have the authority to grant a variance to allow a proposed structure to exceed building~~

height limits in all Zoning Districts in those instances where, owing to special conditions and circumstances, literal enforcement of the building height restrictions would result in unnecessary hardship or the applicant can show that the additional height requested will not adversely affect adjoining or neighboring property owners.

- (b) The Planning Commission may prescribe appropriate conditions and safeguards to ensure any variance will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

~~(3) Building height variance in the C-3 District.~~

- (a) The Planning Commission shall have the authority to grant a variance to allow a proposed structure to exceed a height of 84 feet or six stories in the C-3 District in those instances where, owing to special conditions and circumstances, literal enforcement of the building height restrictions would result in unnecessary hardship or the applicant can show that the additional height requested will not adversely affect adjoining or neighboring property owners or impair the beauty of Old Main, the historical churches on Dickson Street near East Avenue, or the historical character of Fayetteville.

~~(C) Consideration by the Board of Adjustment.~~

- (1) ~~Bulk and area.~~ Applications for variances of bulk and area requirements shall be considered by and may be approved by the Board of Adjustment.

- (2) ~~Public hearing.~~ A public hearing shall be held.

- (3) ~~Findings.~~ The Board of Adjustment shall make the following findings:

- (a) ~~Minimum variance.~~ That the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

- (b) ~~Harmony with general purpose.~~ The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of zoning, Chapters 160 through 165, and will not

be injurious to the neighborhood, or otherwise detrimental to the public welfare.

- (c) ~~Conditions and safeguards.~~ In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the zoning regulations.

- (d) ~~No variance allowed.~~ Under no circumstances shall the Board of Adjustment grant a variance to allow use not permissible under zoning in the district involved, or any use expressly, or implication prohibited by the terms of the zoning regulations in said district.

- (4) ~~Action.~~ The Board of Adjustment may take the following actions:

- (a) ~~Reverse or affirm, wholly or partly; or~~

- (b) ~~May modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning and Development Administrator from who the appeal is taken.~~

- (5) ~~Vote.~~ The concurring vote of a majority of the members present shall be necessary to reverse any order, requirement, decision or determination of the Zoning and Development Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass or to effect any variation in the application.

(Code 1965, App. A. 5 (VII) (a)); Ord. No. 2148, 10-7-75; Ord. No. 2351, 6-21-77; Ord. No. 2362, 8-2-77; Ord. No. 1747, 6-29-70; Code, 1991, §160.038(E); Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4293, 2-20-01; Ord. 4858, 4-18-06; Ord. 4863, 05-02-06; Ord. 5296, 12-15-09)

CHAPTER 161: ZONING DISTRICTS

161.31 Design Overlay District (I-540 Highway Corridor Reserved)

(A) *Purpose.* The purpose of establishing a Design Overlay District for the I-540 Highway Corridor is as follows:

- (1) To protect and enhance the distinctive scenic quality of the I-540 Highway Corridor by providing for nonresidential developments which will maximize preservation and enhancement of the natural, rural, and open character of the terrain and foliage.
- (2) To address the issues of traffic and safety.
- (3) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, drainage and heat islands.
- (4) To preserve and enhance the economic value and viability of property within and near the Overlay District for the I-540 Highway Corridor.

(B) *Overlay District boundaries.* The Overlay District encompasses all lands lying within 660 feet of each side of the right-of-way of I-540 from the intersection of I-540 and State Highway 471 (a/k/a 71B) north to the city limits of Fayetteville, (a/k/a the 71 Bypass and/or John Paul Hammerschmidt Expressway), and also that portion known as State Highway 471S described more fully as that portion of State Highway 471 which connects I-540 to State Highway 471 (a/k/a North College) and all future extensions of I-540 within the City of Fayetteville. Said boundaries are set out on the official plat pages along with a legal description of such boundaries located in the Planning Division.

(C) *Application of Overlay District: Regulations and standards.* The regulations and standards contained herein shall apply to all nonresidential properties, (including, but not limited to new development), located within the Overlay District boundaries. Such regulations and standards shall be in addition to and shall overlay all other ordinance regulations and standards, including, but not limited to nonresidential zoning district and signage regulations and standards. Should the regulations and standards of the underlying and Overlay District conflict, the Overlay District regulations and standards shall control.

(D) *Nonresidential site design and development standards.*

(1) *Greenspace.* A minimum of 25 feet of landscaped greenspace exclusive of right-of-way shall be provided along the highway right-of-way and any public street to which the development has frontage. Parking lots shall not encroach into the greenspace and shall be screened when abutting a required greenspace area. Trees shall be planted at the interval of one tree per 30 linear feet of greenspace area when practicable.

(2) *Signs*

(a) The only permitted free standing signs shall be monument signs. Only indirect lighting may be used for illumination of all signs.

(b) All signs shall otherwise comply with Chapter 174 Signs and any variance shall be considered pursuant to § 156.06 of the Unified Development Code.

(3) *Exterior appearance.* All structures shall be architecturally designed to have front facades facing all street and highway right-of-way. An elevation drawing shall be submitted for each side of the building that faces a street or highway.

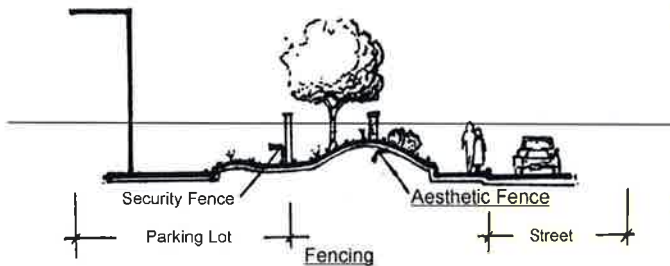
(4) *Building material.* Buildings shall be constructed of wood, masonry, or natural looking materials. No structures shall be allowed that have metal side walls UNLESS such metal siding is similar in appearance to wood, masonry, or natural-looking material.

(5) *Site coverage.* Twenty-five percent (25%) of the site shall be left in open space. Eighty percent (80%) of the open space shall be landscaped which may include ponds and fountains.

(6) *Optional fencing.* All fencing shall be constructed of wood, masonry, or natural looking materials. No optional fencing shall be located within the greenspace required by Section (D)(1). No metal fencing shall be allowed except in the following cases:

(a) Wrought iron fencing.

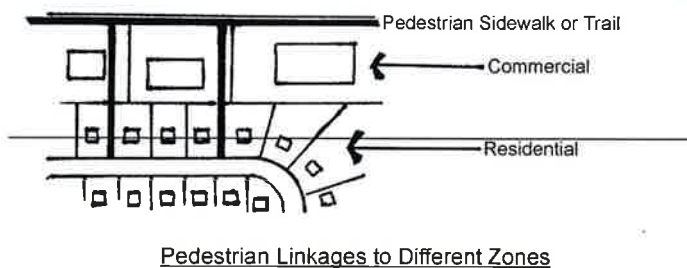
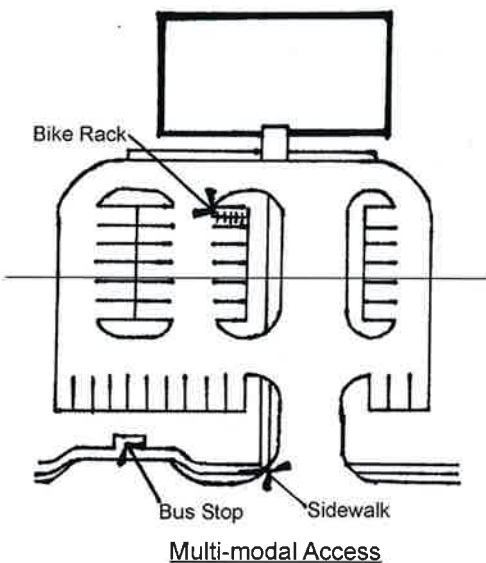
(b) If other types of metal fencing are necessary, for security purposes, they may be used if the area is first fenced off with a view obscuring natural or natural looking fencing material. The metal fencing shall be placed inside the view obscuring fencing, and the view obscuring fencing shall be at least the height of the metal fencing.



(7) Outdoor storage of material and equipment.
 All outdoor storage of material and equipment shall be screened with natural vegetation.

(8) Access.

(a) Multi-modal. Multi-modal access may be required on nonresidential sites within the Design Overlay District. (For example: The provision of bus stops, bicycle racks, parking stalls for car pools, and bicycle and pedestrian walks and trails).



(E) Nonresidential developments and multiple building sites. In the case of nonresidential development involving multiple building sites, whether on one or more platted lots, the above-described regulations shall apply to the development as an entire tract rather than to each platted lot.

(F) Exemptions.

(1) Undeveloped or partially developed lots in nonresidential subdivisions lying within the Design Overlay District for I-540 Highway Corridor which have received preliminary or final approval as nonresidential subdivisions prior to June 28, 1994, are hereby exempt from compliance with Ordinance No. 3806 (§ 161.21).

(2) Owners of lots within nonresidential subdivisions which obtained preliminary or final approval as nonresidential subdivisions prior to June 28, 1994, and not included in the specifically exempted properties may apply for an exemption to the Fayetteville Zoning and Development Administrator. The Zoning and Development Administrator shall respond to the application in writing within 10 working days of the receipt of the application.

(3) Completed development upon property subject to such exemption not in compliance with the standards set forth in Ordinance No. 3806 (§ 161.21) shall be considered pre-existing conforming structures.

(4) Nothing contained herein shall limit or prohibit property owners from utilizing the variance provisions contained in Ordinance No. 3806 (§ 161.21).

(Code 1991, §160.048; Ord. No. 3821, §1, 3-5-8-9-94; Ord. No. 38-06, 6-28-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4128, §1, 12-15-98; Ord. 4725, 7-19-05; Ord. 4784, 10-18-05; Ord. 5312, 4-20-10)

Cross reference(s) Appeals, Ch. 155; Variances, Ch. 156.

CHAPTER 164: SUPPLEMENTARY ZONING REGULATIONS

164.09 Fences, Walls, And Vegetation

- (A) Subject to the provisions of §166.12, fences, walls, and vegetation may be permitted in any required **building** setback or any required setback area, or along the edge of any setback, provided the fence, wall, or vegetation does not materially impede vision, as determined by the Zoning and Development Administrator, between vehicular or pedestrian traffic. In any required setback or any required setback area, nothing permanent over 2½ feet (30 inches) high may be installed which materially impedes vision between vehicular or pedestrian traffic.
- (B) *Fences.* Fences may be permitted for screening, security or for aesthetic purposes. The following types, height, and location of fences shall be prohibited for developments that are subject to the regulations within this chapter:
- (a) *Razor and/or barbed wire.* Razor and/or barbed wire fences are prohibited if visible from the street right-of-way or a residence, unless and except barbed wire fences that are used for agricultural purposes.
 - (b) *Chain link.* Chain link fence is prohibited if closer to the street than the front of the building. Single family residential uses outside the Downtown Design Overlay District are exempt from this requirement.
 - (c) *Height of fences in front of buildings.* Fences located in front of the principal **façade of a building** ~~primary structure~~ may be solid up to 30 inches in height. Any part of a fence which exceeds 30 inches in height shall not obstruct the view of the **principal façade** from the right-of-way.

(Code 1965, App. A., Art. 8(2); Ord. No. 1747, 6-29-70; Ord. No. 2380, 9-20-77; Code 1991, §160.111; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5271, 9-1-09)

CHAPTER 166: DEVELOPMENT

166.14 25 Commercial, Office and Mixed Use Design And Development Standards

(A) Purposes.

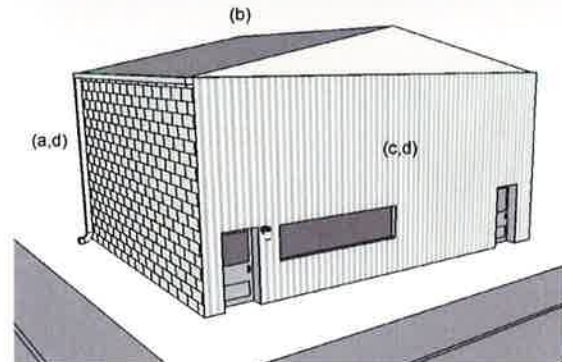
- (1) To protect and enhance Fayetteville's appearance, identity, and natural and economic vitality.
- (2) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, and drainage.
- (3) To protect and preserve the scenic resources distributed throughout the city which have contributed greatly to its economic development, by attracting tourists, permanent part-time residents, new industries, and cultural facilities.
- (4) To preserve the quality of life and integrate the different zones and uses in a compatible manner.
- (5) To address the issues of traffic, safety, and crime prevention.
- (6) To preserve property values of surrounding property.
- (7) To provide good civic design and arrangement.

(B) **Applicability.** These design and development standards apply to commercial developments, office developments, those parts of a Planned Zoning District or other mixed use developments with commercial and office elements and to industrial developments within the I-540 Overlay District.

(C) **Building Exterior Appearance and Design Standards.** The following exterior development standards and design element guidelines shall be followed:

- (1) The elements to avoid or minimize include:
 - (a) Unpainted concrete precision block walls;
 - (b) Square "boxlike" structures;
 - (c) Metal siding which dominates the main principal facade;
 - (d) Large blank, unarticulated wall surfaces;
 - (e) Large out of scale signs with flashy colors.

Elements to Avoid



- (2) A commercial development which contains more than one building should incorporate a recurring, unifying, and identifiable theme for the entire development site, without replicating the building multiple times.
- (3) A development should provide compatibility and transition between adjoining developments.
- (4) All structures shall be architecturally designed to have front facades facing all adjacent street and highway rights-of-way, and shall include at least one prominent entry-way on the principal façade(s).
- (5) All buildings should be constructed of wood, masonry, or other similar durable material.

(D) Site Development and Design Standards.

- (1) **Site coverage.** A maximum of 80% of the development site may be covered by the ground floor of any structure, parking lots, sidewalks, and private streets and drives or any other impermeable surface. ~~Zoning districts C-3, DC, MSC, and DG, and the I-540 Design Overlay District Properties located within the Downtown Master Plan boundary are exempt from this requirement.~~
- (2) **Driveways.** Shared drives and cross access between properties shall be encouraged to adjacent developed and undeveloped properties.
- (3) ~~**Setback reduction.** Required building setbacks may be reduced in accordance with the following table where no off-street parking is provided in the remaining front setback. One-way drive aisles may be permitted within the setback.~~

C-1, C-2, and I-1 zones	From 50 feet to 25 feet
R-O zone	From 30 feet to 25 feet
I-2 zone	From 100 feet to 50 feet

(4) ~~Maintenance of vegetation.~~ Vegetation required under the provisions of this section shall be continuously maintained to conform to the requirements of this section.

(3) ~~Fences.~~ The following types, height, and location of fences shall be prohibited:

(a) ~~Razor and/or barbed wire.~~ Razor and/or barbed wire fences are prohibited if visible from the street right-of-way or a residence, unless and except barbed wire fences that are used for agricultural purposes.

(b) ~~Chain link.~~ Chain link fence is prohibited if closer to the street than the front of the building. Residential uses are exempt from this requirement.

(c) ~~Height of fences in front buildings.~~ Fences located in front of the primary structure may be solid up to 30 inches in height. Any part of a fence which exceeds 30 inches in height shall not obstruct the view of the primary structure from the right-of-way.

(3) Mechanical and utility equipment and ~~trash enclosures~~ refuse containers shall be screened if visible from the highway/street right-of-way or from residential property as set forth below:

(a) ~~Mechanical and utility equipment.~~

(i) All mechanical and utility equipment located on the wall and/or on the ground shall be screened with vegetation, by incorporating screening into the structure, or by utilizing paint schemes that complement the building and screen the equipment.

(ii) All roof mounted utilities and mechanical equipment shall be screened by incorporating screening into the principal structure utilizing materials and colors compatible with the supporting building. Mechanical and utility equipment over 30 inches in height shall meet building setbacks.

(b) ~~Trash enclosures~~ Refuse containers. Trash enclosures—Refuse containers shall be screened with materials that are

compatible with and complementary to the principal structure, with access to the refuse containers not visible from the street. Containers may be screened from view by the principal structure; by a permanent walled or fenced enclosure; or with appropriate vegetation, planted at a density and size sufficient to view obscuring immediately from the date of planting; so long as the screening is maintained and loose trash does not litter the ground or become an environmental nuisance.

(4) Outdoor storage of material and equipment shall be screened if visible from the highway/street right-of-way or from residential property as set forth below:

(a) At the expense of the owner or lessee of the property, and in all zones, the following uses shall be completely surrounded by a view obscuring fence or by view obscuring vegetation, or a combination of the two, of sufficient height to prevent the view of the premises from vehicular and pedestrian traffic on adjacent streets: outdoor storage yards, including but not limited to, auto salvage yards, scrap metal yards, used furniture yard and garbage dumps.

(b) Where vegetation is used to meet the requirements of this subsection, the vegetation shall be planted at a density sufficient to become view obscuring within two years from the date of planting. If vegetation planted under this subsection does not become view-obscuring within two years, a view-obscuring fence shall be installed.

(c) ~~Exceptions:~~ The outdoor display of materials or equipment solely for sale or lease, such as automobiles, seasonal garden supplies, etc. shall not be required to be screened as set forth in subsection (a) above.

(5) ~~Non-residential uses adjacent to residential zones—uses.~~ The Planning Commission or Planning Division may require non-residential uses, including parking lots associated with said uses, to be screened from adjacent residential uses, as set forth below:

(a) A buffer strip, fence, or screen wall that is required shall be constructed and maintained on the zoning lot containing or proposed to contain such use, in

accordance with provisions of this chapter.

- (b) ~~Landscaped area Buffer Strip.~~ The purpose of the buffer strip is to provide separation and enclosure of uses. The landscaped buffer strip shall consist of a strip of land at least 42 8 feet wide ~~which shall be~~ adequately landscaped with approval of the Urban Forester, entirely on the zoning lot which is required to provide the buffer strip, and so located as to serve as an effective buffer between the use required to provide the buffer strip and other property for whose protection the buffer strip is required. The buffer strip ~~should~~ **shall** extend along the full length of the boundary separating the zoning lot from such other property, or from the street, as the case may be.
- (c) *Fence required.* The purpose of the fence ~~shall be~~ is to enclose uses. Required fences shall ~~of a wood or chain link type (barbed wire not permitted)~~ not be less than six (6) feet high, constructed of good, substantial material, of first-class workmanship, and so erected as to resist wind pressure, ensure public safety, and present a neat, attractive uniform appearance.
- (d) *Screen required.* The purpose of the screen ~~shall be~~ is to conceal uses. Screening shall mean a view obscuring fence, view obscuring berm, view obscuring architectural treatment, or view obscuring vegetation, or combination thereof, of sufficient height to prevent the view of the screened items from vehicular and pedestrian traffic on adjacent streets, and from residential property. Vegetation shall be planted at a density sufficient to become view obscuring within two years from the date of planting.
- (6) *Mini-storage.* At the expense of the owner of the property, all storage units and storage yards for mini-storage created under Use Unit 38 shall be required to be screened by view obscuring vegetation when the storage yards or the storage units have common property lines with any residential use or zone and when they have frontage on any public street. Vegetation used for screening purposes shall be planted at a density sufficient to become view obscuring within two years from the date of planting and it shall be the responsibility of the property owner to maintain the screening throughout

the life of the use of the property as mini-storage.

(E) *Design review.*

- (1) *Submittals.* The following drawings, information, and plans shall be submitted to the Planning Commission or Planning Division for design review and approval with ~~large scale development the associated development application, when applicable; or, submitted to the Planning Division for design review and approval with, or prior to, building permit applications for non-large scale development.~~
- (a) *Elevations.* Color rendered elevation drawings of all building facades ~~showing adjoining context~~ and a description of external building materials. Labels and dimensions, where applicable, shall accompany changes in texture, plane, material or color.
- (b) *Materials sample.* A sample of exterior materials to be used for the proposed structure that indicates texture, color and type of materials.
- (c) *Landscaping.* Proposed landscaping to be used as screening shall be shown on the tree preservation plan and landscape plan.
- (2) *Build out.* Upon approval of a ~~large scale~~ development, or issuance of a building permit, build-out of the project shall conform to the drawings, information, and plans approved.
 - (a) *Amendments.* Amendments to the drawings, information, and plans shall be submitted to the planning division. Amendments which are determined to be insignificant or minor may be approved by the Planning Division. Significant amendment shall be approved by the Planning Commission when approval was given through the large scale development process, or by the planning division when approval was given through the building permit process.
 - (b) *Review.* Amendments shall be considered using the same standards as the initial design approval.
 - (c) *Noncompliance.* Failure to build-out the project according to the approved drawings, information, and plans, or approved amendments thereto, shall

render the large scale development approval, or the building permit approval void.

(Code 1991, §160.124; Ord. No. 4004, §1, 10-15-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4917, 9-05-06; Ord. 4930, 10-03-06; Ord. 5028, 6-19-07; Ord. 5271, 9-1-09)

(F) *Variances. (See Chapter 156.)*

Cross reference(s)--Specific Districts
§161.13

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CHAPTER 174: SIGNS

174.08 Prohibited Signs

- (A) *Spot lights and beacons.* It shall be unlawful for any person to continue in operation or erect any attraction device or sign which contains a beacon of any type and/or contains a spot light providing direct illumination to the public.
- (B) *Fluctuating illumination.* It shall be unlawful for any person to erect additional attraction devices or signs or to continue in operation an attraction device or sign which flashes, blinks, or is animated. Illumination of attraction devices or signs located in the city that fluctuates in light intensity shall be prohibited. Electronic message boards using flashing, intermittent or moving light or lights are prohibited, provided, however, that electronic message boards displaying only time and/or temperature for periods of not less than 30 seconds are permitted. Electronic message boards may change their message every three hours without violating the prohibition of flashing or blinking.
- (C) *Portable swinger or temporary attraction sign boards.* It shall be unlawful for any person to continue to display or erect any portable swinger, "A" frame, sandwich, or temporary attraction sign board in the city, except under the following conditions:
- (1) One (1) freestanding, "A" frame sandwich / menu board for a single permitted eating establishment may be permitted on a commercially zoned lot or on the adjacent public or private sidewalk in front of the respective business for the duration of the business' hours of operation. The temporary sign shall be removed and placed inside after business hours.
 - (2) The sign shall be placed such that the sidewalk remains ADA compliant, and for signs located on the public sidewalk there shall be a minimum of five feet of the total sidewalk width free and clear, to provide adequate and unobstructed pedestrian movement.
 - (3) The permitted sign shall only advertise for the adjacent eating establishment, and is to be utilized for display of menu items or advertised specials. The sign may not be utilized for product placement or to advertise for other commercial or business establishments.
 - (4) The size of the sign shall be limited to 36" tall by 24" wide.
 - (5) No sign may be displayed or erected that swings, rotates, flashes, fluctuates, or is illuminated, or in any other manner that would violate the provisions of §174.08.
- (D) *Revolving, rotating, or moving signs.* It shall be unlawful for any person to erect or to continue using any sign on the exterior of which revolves, rotates or otherwise moves, in whole or part.
- (E) *Windblown signs.* It shall be unlawful for any person to display any windblown sign; provided, windblown signs may be displayed on a lot, at a shopping center, or at a mall one time per year for a period not to exceed 72 hours if a temporary sign permit is first obtained from the Planning Division upon payment of the appropriate fee; provided further, one company flag shall be permitted to be flown in conjunction with the United States Flag or Arkansas Flag or both on a lot, at a shopping center, or mall.
- (F) *Signs that constitute a traffic hazard.* No sign or other advertising structure as regulated by this chapter shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the wording, position, shape, or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device.
- (G) *Use of vehicle as sign.* It shall be unlawful to use a vehicle or a trailer as a sign in circumvention of this chapter.
- (H) *Off-Site Signs.* It shall be unlawful to erect any off-site sign.
- (I) *Roof Signs.* Roof signs shall not be permitted.
- (J) *Placing signs on private property.* No signs shall be placed on any private property without the consent of the owner thereof.
- (K) *Placing signs on trees.* No signs shall be placed or painted on any tree within the city's right-of-way or property.
- (L) *Placing signs on utility poles.* No signs shall be placed on any utility pole except for utility identification or similar purposes.
- (M) *I-540 Overlay District.* It shall be unlawful to erect any pole sign within the I-540 Overlay District. The only permitted free standing sign in the I-540 Overlay District shall be monument signs.

174.09 Sign Illumination

- (A) Direct illumination by incandescent light bulbs shall be restricted to light bulbs rated at 150 watts or less.
- (B) Only indirect illumination may be used for illumination of all signs within the I-540 Overlay District boundary.

DRAFT

AGENDA REQUEST

FOR: COUNCIL MEETING OF SEPTEMBER 18, 2012

FROM:

JEREMY PATE, DEVELOPMENT SERVICES DIRECTOR
KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §163.13 **Wireless Communication Facilities** Of The Unified Development Code To Clarify Height Limitations For Antennas Placed Upon Existing Structures, To Empower The Zoning And Development Administrator To Grant A Variance In Appropriate Circumstances And To Declare An Emergency

APPROVED FOR AGENDA:



Department Director

08.31.2012

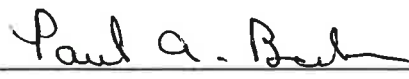
Date



City Attorney

8/31/2012

Date



Finance Director

9.4.2012

Date

09-04-12 P05:05 RCVD

Kim G.



Chief of Staff

9/5/12

Date



Mayor

9/5/12

Date

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: August 31, 2012

RE: Amending §163.13 (C) to provide authority to grant height variance for antennas mounted on a building's roof

KNWA is moving to the Dickson Building and needs to install two dish antennas on its parking deck for its television programming. The station will then be able to remove their dish antennas installed above the parking lot west of the Campbell Bell Building which had housed its current television station. In order to preserve parking and ensure drive-aisle safety, the two new dish antennas would slightly exceed the twenty-foot limit of §163.13 (C)(1).

Jeremy and I met with Scott Broadbent of pb2 Architecture & Engineering (which is doing the engineering for KNWA's move) about this problem. We concluded that this section would be improved if the Zoning and Development Administrator could grant a slight height variance as long as the placement of the antennas and any additional necessary screening would limit the visual impact on the building's silhouette (which is the purpose for the height limitation). Thus, we have drafted the attached ordinance which amends §163.13 (C)(1) and authorizes Jeremy to grant a height variance of up to an additional 10 feet for functionality and safety concerns. KNWA will probably only need an additional 2-3 feet, but I felt we should give our Administrator discretion to grant up to 10 feet if necessary in another context as long as (D) is accomplished. (D) requires appropriate screening and placement of any antenna to conceal or limit the visual impact of the antennas from streets.

I placed an Emergency Clause with the ordinance because of the time constraints to install these antennas to ensure proper continuous functioning of Fayetteville's TV station so that it can continue its public service by broadcasting news and weather alerts as needed for the safety and peace of our citizens.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §163.13 WIRELESS COMMUNICATION FACILITIES OF THE UNIFIED DEVELOPMENT CODE TO CLARIFY HEIGHT LIMITATIONS FOR ANTENNAS PLACED UPON EXISTING STRUCTURES, TO EMPOWER THE ZONING AND DEVELOPMENT ADMINISTRATOR TO GRANT A VARIANCE IN APPROPRIATE CIRCUMSTANCES AND TO DECLARE AN EMERGENCY

WHEREAS, for well over a decade, the City's express and clear policy is to encourage co-location of new antennas on existing towers and structures; and

WHEREAS, reasonable height limitations for antennas placed upon structures are necessary to assure reduced adverse visual impact to the building's silhouette and to preserve aesthetics, but should have a variance procedure to authorize the Zoning and Development Administrator to allow slightly taller antennas in appropriate circumstances with appropriate screening or other safeguards; and

WHEREAS, KNWA needs to have its dish antennas installed promptly at the right height to ensure traffic safety on the drive-aisle under the dish antenna so it can continue to transmit news and weather reports to ensure the peace and safety of our citizens.

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 §163.13 **Wireless Communication Facilities** (c) *Co-location* by repealing (1) *Locating on existing structures* and enacting a replacement (1) *Locating on existing structures* as shown below:

“(1) *Locating on existing structures.* Installation of an antenna or antenna array on an existing structure other than a tower (such as a building, light pole, electric transmission tower, water tank, or other free-standing non-residential structure) provided the antenna or antenna array and its support are not more than 20 feet in height. The Zoning and Development Administrator may grant a variance of up to 10 additional feet in height when such additional

height is necessary for improved functionality or safety and where the requirements of (D) have been accomplished.”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby declares that, pursuant to the need for traffic safety and the need for KNWA’s continued public service for news and weather reports and warnings, an emergency is declared so that this ordinance shall take effect immediately and be in full force and effect upon its passage by the City Council and execution by Mayor Jordan.

PASSED and **APPROVED** this 18th day of September, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

TITLE XV. UNIFIED DEVELOPMENT CODE

- (3) *Fall zone.* The minimum distance from the base of any tower to any residential dwelling unit shall be the lower height or required setback, whichever is greater, unless all persons owning said residence or the land on which said residences are located consent in a sign writing to the construction of said tower. This setback is considered a "fall zone." In the event that an existing structure is proposed as a mount for a wireless communication facility, a fall zone shall not be required.
- (4) *Camouflaging or stealth technology for new towers.* If the applicant demonstrates that it is not feasible to locate on an existing structure, towers shall be designed to be camouflaged to the greatest extent possible including, but not limited to, use of compatible building materials and colors, screening, landscaping, and placement within trees.
- (5) *Color of towers.* To the extent that any antenna extending above the height of the vegetation immediately surrounding it, they shall be a neutral color, painted or unpainted, unless the FAA requires otherwise.
- (6) *Information required to process new tower requests.*
- (a) Provide a map of the geographic area that your project will serve;
 - (b) Provide a map that shows other existing or planned facilities that will be used by the wireless communication service provider who is making the application;
 - (c) Provide a map that shows other potential stand alone locations for your facility that have been explored;
 - (d) Provide a scaled site plan containing information showing the property boundaries, proposed tower, existing land use, surrounding land uses and zoning, access road(s) location and surface material, existing and proposed structures and topography. The plan shall indicate proposed landscaping, fencing, parking areas, location of any signage and specifications on proposed lighting of the facility;
 - (e) Describe why the proposed location is superior, from a community perspective, to other potential locations. Factors to consider in the community perspective should include: visual aspects, setbacks, and proximity of single-family residences;
- (f) Describe your efforts to co-locate your facility on one of the poles or towers that currently exists, or is under construction. The applicant should demonstrate a good faith effort to co-locate with other carriers. The Planning Commission may deny a permit to an applicant that has not demonstrated a good faith effort to provide for co-location. Such good faith effort includes:
- (i) A survey of all existing structures that may be feasible sites for co-locating wireless communications facilities;
 - (ii) Contact with all other wireless communications facilities;
 - (iii) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location; and
 - (iv) Letter from tower owner stating why co-location is not feasible.
- (g) Describe how you will accommodate other antenna arrays that could co-locate on your facility. Describe how this accommodation will impact both your pole or tower, and your ground mounted facilities. Provide documentation of your provider's willingness to accommodate other providers who may be able to co-locate on your facility.
- (7) *Required (after condition) balloon test and crane test photographs.* The proposed tower shall be photographed from four locations taken 90° apart and 300 feet from the center of the tower. The proposed tower shall be superimposed on the photographs. A balloon or crane test shall be performed to illustrate the height of the tower and photographed from the same four locations. The time period, not to exceed one week, within which the test will be performed, shall be advertised in a newspaper of general circulation in the city at least 14 days, but not more than 21 days prior to the test. The four locations shall be approved by the Zoning and Development Administrator.
- (8) *Sight line representation.* A sight line representation shall be drawn from four points 90° apart and 100 feet from the proposed tower. Each sight line shall be depicted in profile, drawn at one inch equals

CO-Location
encouraged
←

Fayetteville Code of Ordinances

40 feet. The profiles shall show all intervening trees and buildings.

(9) *Structural integrity and inspections of towers.*

(a) The applicant shall provide a certification letter that states the tower meets or exceeds design criteria and all local, state, and federal requirements regarding the construction, maintenance, and operation of the tower.

(b) If a tower fails to comply with the requirements and criteria above and constitutes a danger to persons or property, then upon written notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such requirements and criteria. If the owner fails to bring such tower into compliance within 30 days, the city may terminate the owner's conditional use permit and/or cause the removal of such tower (at the owner's expense).

(c) By making application hereunder, the applicant agrees to regularly maintain and keep in a reasonably safe and workmanlike manner all towers, antenna arrays, fences and outbuildings owned by applicant which are located in the city. The applicant further agrees to conduct inspections of all such facilities not less frequently than every 12 months. The applicant agrees that said inspections shall be conducted by one or more designated persons holding a combination of education and experience so that they are reasonably capable of identifying functional problems with the facilities.

(10) *Security fencing and anti-climbing device.*

Through the use of security fencing, towers and equipment shall be enclosed by wood board fencing not less than six feet in height. The tower shall also be equipped with an appropriate anti-climbing device. The facility shall place signs indicating "No Trespassing," "High Voltage," or other pertinent information on the outside of the fence, unless it is decided that the goals of this ordinance would be better served by waiving this provisions in a particular instance. Barbed wire fencing or razor wire shall be prohibited.

(11) *Vegetative screening requirements.*

Wireless communications facilities shall be surrounded by buffers of dense tree growth

and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both.

(12) *Setbacks from property lines.* Wireless communication facilities shall meet current setbacks as required by zoning.(C) *Co-location.*

The Zoning and Development Administrator, following an administrative review without the requirement of an issuance of conditional use permit, may approve the following antenna installation.

(1) *Locating on existing structures.* Installation of an antenna on an existing structure other than a tower (such as a building, sign, light pole, electric transmission tower and similarly scaled public utilities/facilities, water tower, or other free-standing nonresidential structure), provided that the addition of the antenna does not add more than 20 feet of height to the original structure.

(2) *Locating on existing tower not previously approved through §163.14 of the U.D.C.* Existing towers that do not have cell antennas or arrays may not add such capability without securing a conditional use. Antennas may be replaced by similar antennas at the same height and for the same basic usage as the antennas being replaced.

(3) *Locating on existing towers previously approved through §163.14.* Additional antennas may be placed upon any tower already approved through §163.14 of the U.D.C. so long as such additional antenna would not violate any requirements of the conditional use permit or other provisions of §163.14.

(4) *For the purpose of co-location,* the applicant must submit information from a licensed professional engineer certifying the capacity of the tower for additional providers and a letter of intent from the applicant indicating their intent to share space.

(D) *Other requirements.*

(1) *Wireless communications facilities placed on top of buildings.* When a wireless communications facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing

section
to be
Amended

Screening
requirements

TITLE XV. UNIFIED DEVELOPMENT CODE

architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.

- (2) *Wireless communications facilities placed on sides of buildings.* Antennas which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

(E) *Exemptions.*

- (1) *Personal use.* Towers for personal use which, including the height of all antenna arrays, do not extend more than 80 feet from the ground and shall meet the current setbacks as required by zoning.
- (2) *Temporary structures.* Temporary structures designed to be used for not more than 14 days in connection with a special event or for any reasonable period of time in and immediately following an emergency, including without limitation those towers which are identified as "C.O.W.s" or "Cellular on Wheels."
- (3) *Existing towers.* All existing towers may be replaced with the same type and height of lower structure as currently exists. All replacement towers shall comply with §163.14(A) and (B) regarding color of towers, structural integrity and inspections of towers, security fencing and anti-climbing device, and vegetative screening requirements. All existing guyed towers shall also be subject to the following conditions:
- (a) A demolition permit shall be issued prior to a building permit being issued for the replacement tower;
 - (b) The demolition permit shall expire within 90 days and shall require the existing tower to be demolished within 90 days from issuance of the building permit for the replacement tower;
 - (c) The new tower shall be constructed as close as technically feasible to the existing tower;
 - (d) The replacement structure may be increased in width to a maximum of 36 inches. Existing guyed towers over 36 inches shall not be increased in width with a replacement tower.

- (4) *Emergency and utility towers and antennas.* Towers and antennas under 35 feet in height used for 9-1-1 services and utility monitoring (gas, water, sewer, traffic lights, etc.).

- (5) *Emergency services pole antennas and microwave dish antennas.*

- (a) *Mayoral determination.* If sufficient information concerning gaps in vital emergency services radio coverage or microwave relay capability and the lack of any reasonable alternative is presented to the Mayor who concludes an exemption to the 150 foot height limitation or to a requirement that antennas must be within a permitted cell tower should be made to ensure public safety, the Mayor may grant the following exemptions.

- (b) *Emergency services antenna.* The Mayor may authorize the placement or extension of an emergency services pole antenna affixed to the top of a permitted cell phone tower as long as the top of this antenna does not exceed 155 feet above the ground, nor has a diameter larger than four inches.

- (c) *Emergency services microwave dish antenna.* The Mayor may authorize the placement of an emergency services microwave dish antenna on the outside of a permitted cell phone tower as long as this dish antenna does not have a diameter more than four feet.

- (F) *Municipal profits from towers.* The City of Fayetteville should actively market its own property and existing structures as suitable co-location sites. As noted above, the review process is shortened and simplified when co-location on city property is submitted by applicant. An annual lease amount should be charged according to the fair market value of the location. In cases where the company no longer needs the tower, the city may require it to be removed. Applicants can provide co-location space for city-owned antenna.

- (G) *Abandoned antennas and towers.* At such time that a licensed carrier abandons or discontinues operation of a wireless communication facility, such carrier will notify the city of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that licensed carrier fails to give such notice, the wireless communications facility shall be considered abandoned upon such

City of Fayetteville Staff Review Form

C. 5
Amend §36.01 Initiative Petitions;
When to be Filed
Page 1 of 6

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

9/18/2012

City Council Meeting Date
Agenda Items Only

Sondra E. Smith

City Clerk

City Clerk

Submitted By

Division

Department

Action Required:

36.01 Initiative Petitions; When To Be Filed Change the time to file an initiative petition with the City of Fayetteville from at least 60 days to at least 90 days.

All initiative petitions under Amendment 7 to the Constitution of the State of Arkansas must be filed with the City Clerk at least 90 days before the regular municipal election at which the proposed measure is to be voted upon.

\$ _____	\$ _____	_____
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 ☐

Sondra E. Smith
Department Director

8/29/12
Date

Previous Ordinance or Resolution # _____

Kim G.
City Attorney

8-30-2012
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Buh
Finance and Internal Services Director

8-30-2012
Date

Received in City
Clerk's Office

08-29-12 P05:00 RCVD

Jim Man
Chief of Staff

8-31-12
Date

Received in
Mayor's Office

ENTERED
8/30/12
JH

Lionell Jordan
Mayor

8/31/12
Date

Comments:



C. 5
Amend \$36.01 Initiative Petitions;
Office of the City Clerk/Treasurer
Sondra E Smith, City Clerk/Treasurer
Lisa Branson, Deputy City Clerk
Phone: (479) 575-8323
Fax: (479) 718-7695
city_clerk@ci.fayetteville.ar.us

Departmental Correspondence

To: Mayor Lioneld Jordan
City Council

CC: City Attorney Kit Williams
Chief of Staff Don Marr

From: Sondra Smith, City Clerk/Treasurer *Sondra E. Smith*

Date: August 29, 2012

RE: Initiative Petitions

County Clerk Karen Pritchard has requested that we discuss changing City Code **36.01 Initiative Petitions; When to be Filed**. The current code is as follows:

36.01 Initiative Petitions; When To Be Filed

All initiative petitions under Amendment 7 to the Constitution of the State of Arkansas must be filed with the City Clerk at least 60 days before the regular municipal election at which the proposed measure is to be voted upon.

The proposal is to change the date to file initiative petitions to ninety (90) days before the regular municipal election at which the proposed measure is to be voted upon.

The deadline for the County Clerk to have ballots printed and sent to service people is forty five (45) days before the election. Once the City Clerk receives an initiative petition the signatures on the petition must be checked which could take one week or longer. This does not give the County Clerk time to get the information from the City and get the ballots proofed and printed before the forty five (45) days ballots must be sent to service people.

The County Election Commission has a deadline of seventy (70) days before an election to receive items for the ballot. Washington County has established ninety (90) to one hundred and twenty (120) days for their deadline. Changing our initiative petition deadline will assist everyone with the process and ensure correct and timely ballots.

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

CHAPTER 36: ELECTIONS

**ARTICLE I
GENERAL PROVISIONS**

36.01 Initiative Petitions; When To Be Filed

All initiative petitions under Amendment 7 to the Constitution of the State of Arkansas must be filed with the City Clerk at least 60 days before the regular municipal election at which the proposed measure is to be voted upon.

(Code 1965, §2-22.1; Ord. No. 2472, 10-3-78; Code 1991, §36.01)

State law reference(s)—Form of initiative petition-sufficiency of signatures, A.C.A. §7-9-104.

36.02-36.14 Reserved

**ARTICLE II
REFERENDUMS**

36.15 When Petition To Be Filed

All referendum petitions under Amendment 7 to the Constitution of the State of Arkansas must be filed with the City Clerk within 31 days after the passage of the ordinance to which it relates.

(Code 1965, §2-19; Ord. No. 588, 12-21-25; Code 1991, §36.15)

State law reference(s)—Form of referendum petition-sufficiency of signatures, A.C.A. §7-9-105(a).

36.16 – 36.99 Reserved

*Current
Code*

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §36.01 **INITIATIVE PETITIONS; WHEN TO BE FILED** TO CHANGE 60 DAYS BEFORE THE GENERAL ELECTION TO BETWEEN 90 DAYS AND 83 DAYS BEFORE THE GENERAL ELECTION TO FACILITATE BALLOT PRINTING FOR EARLY VOTING

WHEREAS, early voting especially for armed service members stationed overseas require ballots to be prepared early enough to ensure our citizens have the right to vote; and

WHEREAS, the *Arkansas Constitution* provides that a city may choose when initiative petitions must be filed anywhere between 90 days and 60 days before the election; and

WHEREAS, to help ensure the City Clerk has sufficient time to inspect an initiative petition and allow the petitioner sufficient time to correct minor mistakes or obtain replacement signatures, the period of time for filing initiative petitions should be extended to be from 83 to 90 days before the election.

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 §36.01 **Initiative Petitions; When To Be Filed** by repealing the current language and enacting new language under the same title:

“All municipal initiative petitions shall be filed pursuant to *Amendment 7* of the *Constitution of the State of Arkansas* found in *Article 5 §1* of the *Arkansas Constitution*. These initiative petitions shall be filed no earlier than 90 days nor later than 83 days before the general election date.”

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

voters of each municipality and county as to all local, special and municipal legislation of every character in and for their respective municipalities and counties, but no local legislation shall be enacted contrary to the Constitution or any general law of the State, and any general law shall have the effect of repealing any local legislation which is in conflict therewith.

Municipalities may provide for the exercise of the initiative and referendum as to their local legislation. General laws shall be enacted providing for the exercise of the initiative and referendum as to counties. Fifteen per cent of the legal voters of any municipality or county may order the referendum, or invoke the initiative upon any local measure. In municipalities the number of signatures required upon any petition shall be computed upon the total vote cast for the office of mayor at the last preceding general election; in counties upon the office of circuit clerk. In municipalities and counties the time for filing an initiative petition shall not be fixed at less than sixty days nor more than ninety days before the election at which it is to be voted upon for a referendum petition at not less than thirty days nor more than ninety days after the passage of such measure by a municipal council; nor less than ninety days when filed against a local or special measure passed by the General Assembly.

Every extension, enlargement, grant, or conveyance of a franchise or any rights, property, easement, lease, or occupation of or in any road, street, alley or any part thereof in real property or interest in real property owned by municipalities, exceeding in value three hundred dollars, whether the same be by statute, ordinance, resolution, or otherwise, shall be subject to referendum and shall not be subject to emergency legislation.

GENERAL PROVISIONS

Definition. The word "measure" as used herein includes any bill, law, resolution, ordinance, charter, constitutional amendment or legislative proposal or enactment of any character.

No Veto. The veto power of the Governor or mayor shall not extend to measures initiated by or referred to the people.

Amendment and Repeal. No measure approved by a vote of the people shall be amended or repealed by the General Assembly or by any city council, except upon a ye and nay vote on roll call of two-thirds of all the members elected to each house of the General Assembly, or of the city council, as the case may be.

Election. All measures initiated by the people whether for the State, county, city or town, shall be submitted only at the regular elections, either State, congressional or municipal, but referendum petitions may be referred to the people at special elections to be called by the proper official, and such special elections shall be called when fifteen per cent of the legal voters shall petition for such special election, and if the referendum is invoked as to any measure passed by a city or town council, such city or town council may order a special election.

City Council Agenda Items
and
Contracts, Leases or Agreements

9/18/2012

City Council Meeting Date
Agenda Items OnlyPaul A. Becker
Submitted ByFinance & Internal Services
DivisionFinance & Internal Services
Department

Action Required:

City Council is requested to adopt real and personal property tax rates for 2012 for the Policemen's Pension & Relief, the Firemen's Pension & Relief Funds, and the Fayetteville Public Library. The rate to be adopted for the Policemen's Pension & Relief Fund and the Firemen's Pension & Relief Fund is 0.4 mils for real property and 0.4 mils for personal property, the millage for the Fayetteville Public Library is 1.0 mil for real property and 1.0 mil for personal property. City Council is also requested to adopt real and personal property tax rates for 2012 for the City's General Fund. The rate requested for the City's General Fund is 1.3 mils for real property and 1.3 mils for personal property.

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

Budgeted Item ☐Budget Adjustment Attached ☐

Paul A. Becker
Department Director

8-30-2012
Date

Previous Ordinance or Resolution # 5447

Kurt M.
City Attorney

8-31-12
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Becker
Finance and Internal Services Director

9-4-2012
Date

Received in City 08-31-12 P03:06 RCVD
Clerk's Office

Don Man
Chief of Staff

9-4-12
Date

Received in
Mayor's Office

Lionel Jordan
Mayor

9/3/12
Date

ENTERED
9/4/12
PH

Comments:

TO: Mayor Lioneld Jordan and Fayetteville City Council

THRU: Don Marr, Chief of Staff

FROM: Paul A. Becker, Finance Director

DATE: August 27, 2012

SUBJECT: **2012 Millage Levy**

Recommendation:

City staff recommends that City Council approve the millage levy ordinance approving the 0.4 mils for the Policemen's Pension and Relief Fund, 0.4 mils for the Firemen's Pension and Relief Fund, 1.0 mils for the Fayetteville Public Library, and 1.3 mils for 2013 General Fund operations. This will continue the same millage as levied last year.

Background:

Each year the City must approve an ordinance to renew the levy of ad valorem taxes on real and personal property within the City. This request will provide for such levy on property assessed during 2012.

The total assessed value of real and personal property located within the city limits of Fayetteville, as of August 3, 2012, is approximately \$1.307 billion. The assessed valuation is before the Washington County Board of Equalization has made all the changes to the County Assessors Abstract. Based on the preliminary assessments, the growth in real property assessments is approximately 1.36% as of August 3, 2012.

Discussion:

A millage levy ordinance must be approved by City Council in order for the City to continue to collect property taxes for the Policemen's Pension and Relief Fund and the Firemen's Pension and Relief Fund. The millage levy for the Policemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils on personal property. The millage levy for the Firemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils on personal property as was approved by referendum.

A millage levy ordinance must be approved for the operation of the Fayetteville Public Library and that was approved by the voters on October 1, 2002. The millage levy for the Fayetteville Public Library is 1.0 mils for real property and 1.0 mils on personal property.

Finally, City staff is requesting that City Council approve a millage levy ordinance for General Fund operations in the amount of 1.3 mils for both real and personal property.

The 2013 proposed property tax revenue amount based on the 1.3 mil levy is estimated to bring in \$1,614,000 in General Fund revenue. Below is a proposed calendar of meetings during the months of September and October to discuss the millage levy.

Tuesday, September 11	Agenda Session
Tuesday, September 18	City Council Meeting
Tuesday, September 25	Agenda Session
Tuesday, October 2	City Council Meeting
Tuesday, October 9	Agenda Session
Tuesday, October 16	City Council Meeting

Budget Impact:

The 0.4 mils Police and 0.4 mils Fire is needed to fund the Pension plans for both. The 1.0 mils is used to fund the operation of the Fayetteville Public Library. The 1.3 mils will be used to fund General Fund operations.

Conclusion:

The millage levy must be at Washington County in time to be included in their consolidated levy ordinance which will be approved at the November 8, Quorum Court meeting. The deadline for receipt is set by the County. Last year that deadline was November 1. The City levy will be added to the levies by Washington County, the various school districts, improvement districts and other cities within the County when the Washington County Quorum Court adopts its millage levy for 2012.

The administration is requesting the same millage rate as was approved in 2011 as follows:

- 1.3 mils for General Fund Operations
- 1.0 mils for the Fayetteville Public Library
- 0.4 mils for the Police Pension Fund
- 0.4 mils for the Fire Pension Fund

If you have any questions concerning this agenda request please contact me at 575-8330.

**City of Fayetteville
Property Tax Revenue per Mil
August 3, 2012**

<u>Millage</u>	<u>Approximate Revenue</u>
0.10	\$ 124,000
0.20	\$ 248,000
0.30	\$ 373,000
0.40	\$ 497,000
0.50	\$ 621,000
0.60	\$ 745,000
0.70	\$ 869,000
0.80	\$ 994,000
0.90	\$ 1,118,000
1.00	\$ 1,242,000
1.20	\$ 1,490,000
1.30	\$ 1,614,000
2.00	\$ 2,484,000
2.10	\$ 2,608,000
2.60	\$ 3,229,000
3.10	\$ 3,850,000
3.60	\$ 4,471,000
4.10	\$ 5,092,000
4.60	\$ 5,713,000

The millage revenue reflected above is based on the Washington County Preliminary Summary Report of County Assessments for the Year 2012 dated August 3, 2012 and includes real and personal property for Utilities. The City Council can approve up to 5.0 mils for operations. The table assumes a 95% collection rate. Total real and personal property assessments for 2013 amount to approximately \$1,307 million excluding real estate and personal property for utilities.

Property Tax Impact Illustration

	<u>Appraised Value</u>	<u>Assessed Value</u>	<u>1 Mil Tax / Year</u>
Single Family Home	\$ 75,000.00	\$ 15,000.00	\$ 15.00
Single Family Home	\$ 100,000.00	\$ 20,000.00	\$ 20.00
Single Family Home	\$ 150,000.00	\$ 30,000.00	\$ 30.00

ORDINANCE NO. _____

AN ORDINANCE LEVYING A TAX ON THE REAL AND PERSONAL PROPERTY WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE YEAR 2012 FIXING THE RATE THEREOF AT 1.3 MILLS FOR GENERAL FUND OPERATIONS, 0.4 MILLS FOR THE FIREMEN'S PENSION AND RELIEF FUND, 0.4 MILLS FOR THE POLICEMEN'S PENSION AND RELIEF FUND AND 1.0 MILL FOR THE FAYETTEVILLE PUBLIC LIBRARY; AND CERTIFYING THE SAME TO THE COUNTY CLERK OF WASHINGTON COUNTY, ARKANSAS

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

Section 1: That a tax is hereby levied on the real and personal property within the City of Fayetteville, Arkansas, for the year 2012 to be collected in 2013 for the following purposes at the following rates:

REAL AND PERSONAL PROPERTY

<u>Purpose</u>	<u>Levy</u>
General Fund – Operations	1.3 mills
Fayetteville Public Library	1.0 mills
Policemen's Pension Fund	0.4 mills
Firemen's Pension Fund	<u>0.4 mills</u>
TOTAL	3.1 mills

Section 2: That the real and personal property tax so levied and the rates provided therefore are hereby certified to the Clerk of Washington County, Arkansas, to be placed in the tax book by the County Clerk and collected in the same manner that the county and school district taxes are collected.

Section 3: The City Clerk is hereby authorized and directed to file certified copies of this ordinance in the office of the County Recorder, County Clerk, County Assessor, and the County Tax Collector for Washington County, Arkansas.

PASSED and **APPROVED** this 18th day of September, 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
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**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
September 18, 2012**

A meeting of the Fayetteville City Council will be held on September 18, 2012 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

1. **Advertising and Promotion Commission Appointment** – The Commission recommends the appointment of Ching Mong
2. **Nominating Committee Report** – Alderman Adella Gray

Agenda Additions:

A. Consent:

1. Approval of the September 4, 2012 City Council meeting minutes.

2. **Repeal Resolution No. 152-12 Drake Field Pavement Rehab & Re-Marking Phase II Project:** A resolution repealing Resolution No. 152-12 rescinding an unneeded budget adjustment.
3. **2012-2013 Selective Traffic Enforcement Program (STEP) Grant:** A resolution to approve the 2012-2013 Selective Traffic Enforcement Program Grant award in the amount of \$112,500.00 and to approve the attached budget adjustment.
4. **Riggs Cat:** A resolution to approve the purchase of a backhoe loader pursuant to the state contract from Riggs Cat in the amount of \$136,000.00 plus any applicable sales tax and to approve the attached budget adjustment.
5. **Goodwin & Goodwin Change Order 1:** A resolution to approve Change Order No. 1 of the construction contract with Goodwin & Goodwin, Inc. for an additional \$105,125.00 and to approve a budget adjustment.
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7. **Razing and Removal Costs for 1609 S. Duncan Avenue:** A resolution certifying to the Tax Collector of Washington County, Arkansas the costs of razing and removal of a dilapidated and unsafe structure upon the property owned by Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess located at 1609 S. Duncan Avenue in the City of Fayetteville, Arkansas.

B. Unfinished Business:

1. **RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins):** An ordinance rezoning that property described in rezoning petition RZN 12-4166, for approximately 20.99 acres, located to the south of Skillern Road from R-A, Residential Agricultural to RSF-0.5, One Half Single-Family Units Per Acre. *This ordinance was left on the First Reading at the August 21, 2012 City Council meeting and Tabled to the September 18, 2012 City Council meeting.*

Left on the First Reading.

C. New Business:

1. **VAC 12-4141 (555 W. Maple St./555 Maple):** An ordinance approving VAC 12-4141 submitted by McClelland Consulting Engineers, Inc. for property located at 555 West Maple Street to vacate a portion of Lafayette Street right-of-way, a total of 0.04 acres.
2. **VAC 12-4201 Nantucket Phase IV:** An ordinance approving VAC 12-4201 submitted by Civil Design Engineering for property located west of Morningside Drive (Nantucket Phase IV) to vacate a utility easement, a total of 0.24 acres.

3. **ADM 10-3554 I-540 Design Overlay District and Board of Adjustment Variance Findings:** An ordinance to amend Chapters, 151, 156, 161, 164, 166, and 174 of the Unified Development Code to repeal the requirements of the I-540 Design Overlay District and revise various sections of the code accordingly and to amend the Board of Adjustment findings for variances to reflect state statutes.
4. **Amend 163.13 Wireless Communication Facilities:** An ordinance to amend §163.13 Wireless Communication Facilities of the Unified Development Code to clarify height limitations for antennas placed upon existing structures, to empower the zoning and development administrator to grant a variance in appropriate circumstances and to declare an emergency.
- New resolution* { 5. **Amend §36.01 Initiative Petitions; When to be Filed:** An ordinance to amend §36.01 Initiative Petitions; when to be filed to change 60 days before the general election to between 90 days and 83 days before the general election to facilitate ballot printing for early voting.
6. **2012 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2012 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

D. City Council Agenda Session Presentations:

1. Discussion of General Fund Budget for 2013 – Paul Becker

City Council Tour:

Announcements:

Adjournment:

*Add: 92.01 Definitions of the Animals Chapter
§ 92.35 Managed Care of Feral Cats*

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Pre Agenda Meeting 9/5/12

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith



Aldermen

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- ✓ **Amend 163.13 Wireless Communication Facilities:** An ordinance to amend §163.13 Wireless Communication Facilities of the Unified Development Code to clarify height limitations for antennas placed upon existing structures, to empower the zoning and development administrator to grant a variance in appropriate circumstances and to declare an emergency.

- Remove* ⑤ **Amend Chapter 115 Pawnbrokers:** An ordinance amending sections 115.01 through 115.05 of Chapter 155: Pawnbrokers of the Code of Fayetteville, and renaming the chapter to Chapter 155: Pawnbrokers and Secondhand Dealers, to provide licensing and reporting requirements for dealers in certain secondhand goods.

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Handed out at Agenda
Session 9-11-12

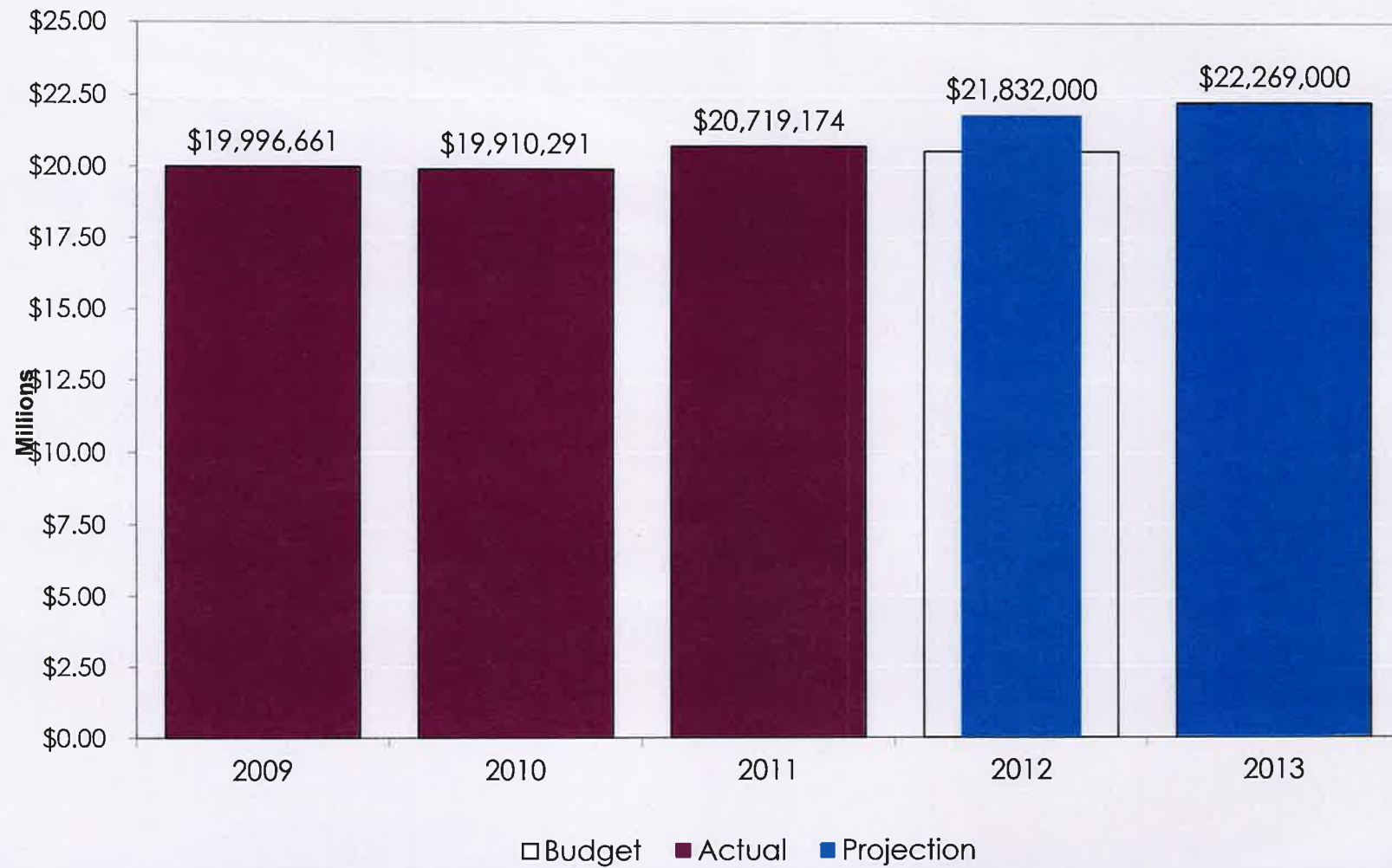


General Fund 2013 Budget Summary

September 11, 2012

2013 Revenue Outlook

Combined General Fund Sales Tax - 5 Year Projection



2013 General Fund Proposed Budget – Revenue Highlights

Revenue Source	Actual 2011	Estimated 2012	Budgeted 2013	Change Between 2013/2012	
Sales Tax Revenue	\$ 20,719,174	\$ 21,832,000	\$ 22,269,000	437,000	2.0%
Property Tax Revenue	1,602,851	1,592,000	1,614,000	22,000	1.4%
Franchise Fees	4,961,645	5,137,500	5,141,700	4,200	0.1%
Building Permits	569,245	895,000	645,000	(250,000)	-27.9%
All Other Revenue	7,368,124	6,688,400	6,346,400	(342,000)	-5.1%
Investment Earnings	47,071	48,100	40,900	(7,200)	-15.0%
Transfers In	1,000,065	-	-	-	0.0%
Total	\$ 36,268,175	\$ 36,193,000	\$ 36,057,000	\$ (136,000)	-0.4%

- Sales tax for 2013 is 7.4% over 2011 actual revenue and up over 2012 estimated collections.
- Property tax for 2013 is projected to be up 1.4% compared to the estimated 2012 collections. This estimate is based on assessed value.
- Franchise fees are projected to be relatively flat compared to the 2012 estimate.
- Building permits are projected to be lower compared to the 2012 estimate.
- Investment earnings are projected to be lower compared to the 2012 estimate.
- All other revenue is projected to be lower compared to 2012 estimated revenue and includes Federal and State grants and related funding.

2013 General Fund Summary

Changes Between Adopted 2012 & Proposed 2013 Expenses

2012 General Fund Budget - Adopted **\$ 34,139,200**

Additions:

Personnel	\$ 808,737
Salary Contingency	400,000
Health Insurance	182,457
LOPFI Pension	157,504
Outside Agencies	100,000
Jail Contract	58,365
Motorpool	50,672
Software Maintenance	29,220
Radio Maintenance	29,045
Utilities/Telephone	25,322
Fuel	17,772
Other - Additions	150,625
	<u>2,009,719</u>

Reductions:

Unemployment Insurance	(25,000)
Election Cost	(30,000)
Other - Reductions	(36,919)
	<u>(91,919)</u>

2013 General Fund Budget - Proposed **\$ 36,057,000**

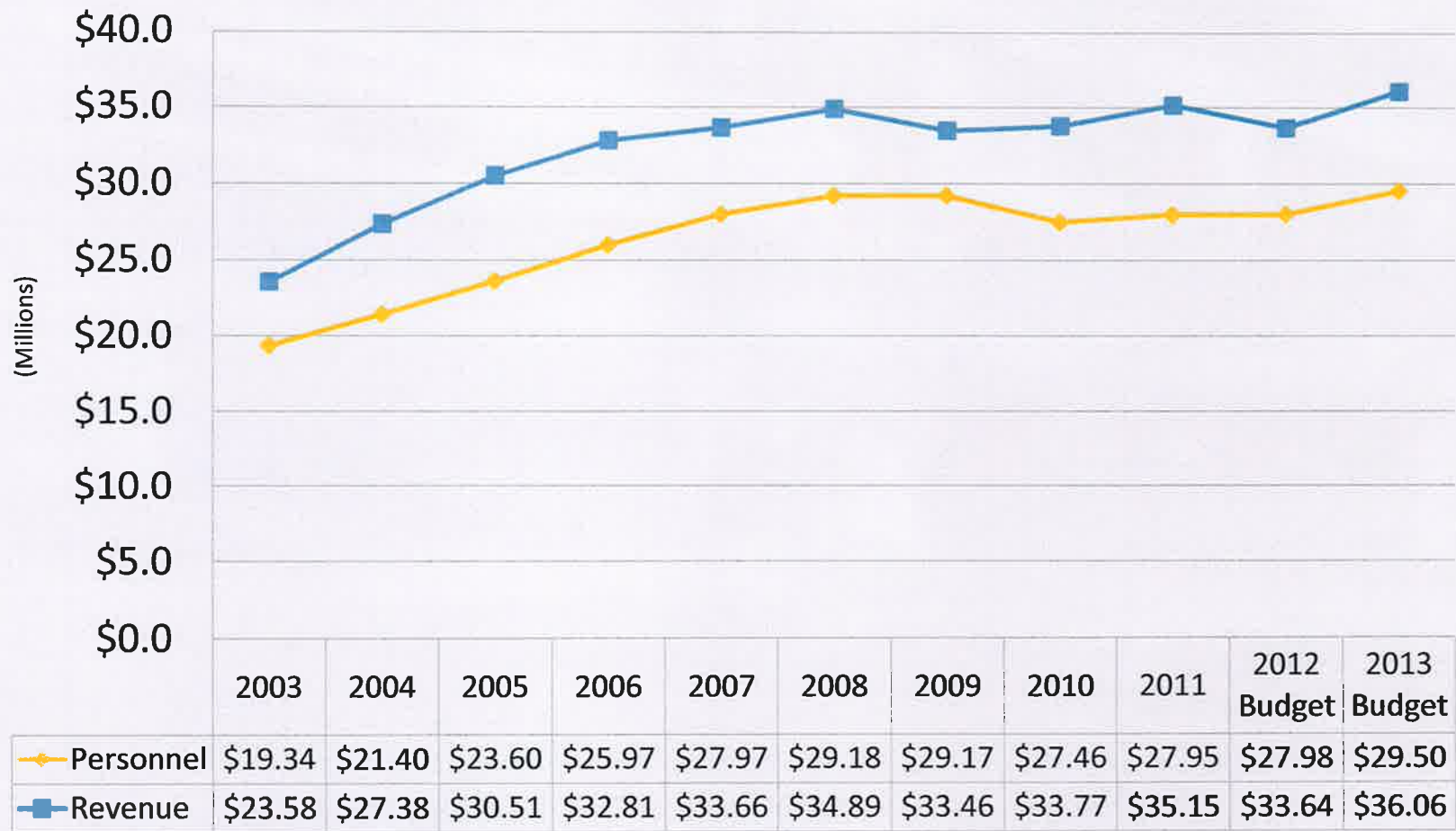
2013 Proposed General Fund Budget:

Outside Agencies

Outside Agency	Adopted 2012	% Total	Proposed 2013	% Total	Change 2013-2012	% Chg
Public Access Provider (Your Media)	93,000	13.9%	105,000	14.5%	\$ 12,000	12.9%
Boys & Girls Club	205,350	30.8%	205,350	28.4%	-	0.0%
Council On Aging	53,350	8.0%	53,350	7.4%	-	0.0%
Ozarks Regional Transit	254,000	38.0%	296,000	40.9%	42,000	16.5%
Razorback Transit	50,000	7.5%	50,000	6.9%	-	0.0%
Arkansas Air & Military Museum	12,000	1.8%	14,500	2.0%	2,500	20.8%
Total	\$ 667,700	100.0%	\$ 724,200	100.0%	\$ 56,500	8.5%

Personnel Services As a Portion of Total Revenue

General Fund Revenue vs. Personnel Services Expenses (2003-2013)



2013 Proposed General Fund Budget

Summary by Category (% of Total)

Budget by Category	Adopted 2009	Adopted 2010	Adopted 2011	Adopted 2012	Proposed 2013
Personnel Services	82.6%	84.4%	82.2%	82.0%	81.8%
Materials and Supplies	3.4%	3.0%	3.2%	3.2%	3.1%
Services and Charges	7.7%	7.6%	7.6%	7.8%	7.7%
Motorpool Charges	2.5%	1.1%	2.5%	2.6%	2.6%
Cost allocation	-6.4%	-6.7%	-6.8%	-6.8%	-6.4%
Maintenance	2.8%	3.0%	2.9%	2.8%	2.9%
Transfers To Outside Entities	6.7%	6.9%	7.6%	7.5%	7.4%
Capital	0.0%	0.0%	0.0%	0.0%	0.0%
Contingency/Savings	0.0%	0.0%	0.1%	0.1%	0.1%
Operating Transfers	0.7%	0.7%	0.7%	0.7%	0.6%
	100.0%	100.0%	100.0%	100.0%	100.0%

General Fund Sales Tax Revenue vs. Personnel Services Expenses (2003-2013)



2013 Proposed General Fund Budget

Budget by Activity

Budget by Activity	Adopted 2012	% Total	Proposed 2013	% Total	Change 2013-2012	% Chg
General Government Activity	\$ 3,162,394	9.3%	\$ 3,265,506	9.1%	\$ 103,112	3.3%
- Outside Agencies	978,169	2.9%	1,034,669	2.9%	56,500	5.8%
- Salary Contingency	94,000	0.3%	494,000	1.4%	400,000	425.5%
- Personnel Services Turnover	(258,200)	-0.8%	-	0.0%	258,200	-100.0%
- Fayetteville Public Library	1,607,919	4.7%	1,652,458	4.6%	44,539	2.8%
- Cost Reimbursements	(2,304,002)	-6.7%	(2,304,002)	-6.4%	-	0.0%
Finance & Internal Services Activity	4,475,770	13.1%	4,624,253	12.8%	148,483	3.3%
Police Activity	11,880,029	34.8%	12,330,883	34.2%	450,854	3.8%
Fire Activity	8,537,202	25.0%	8,790,855	24.4%	253,653	3.0%
Community Planning & Engineering	3,562,114	10.4%	3,687,659	10.2%	125,545	3.5%
Transportation/Utility/Parking Activity	417,608	1.2%	435,105	1.2%	17,497	4.2%
Parks and Recreation Activity	1,753,197	5.1%	1,812,614	5.0%	59,417	3.4%
Transfer to Drug Grant	233,000	0.7%	233,000	0.6%	-	0.0%
Total	\$ 34,139,200	100.0%	\$ 36,057,000	100.0%	\$ 1,917,800	5.6%

General Fund Unreserved/Unassigned Fund Balance



	2008	2009	2010	2011
Fund Balance	\$9,019,659	\$8,780,748	\$10,080,826	\$12,151,014

Summary of Administration Recommendations

- 1) To keep the millage rate for the General Fund at the current 1.3 mil level.

Sondra Smith - Fwd: Brookbury Crossing Rezone RZN 12-4166

From: Andrew Garner
To: Pate, Jeremy; Smith, Sondra
Date: 9/14/2012 9:06 AM
Subject: Fwd: Brookbury Crossing Rezone RZN 12-4166

FYI - The applicant is requesting this item be tabled again at the 09/18/2012 City Council meeting.

—
Andrew M. Garner, AICP
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701
Tel.479.575.8262
Fax.479.575.8202
agarner@ci.fayetteville.ar.us
www.accessfayetteville.org

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

>>> Quin Thompson 9/13/2012 3:22 PM >>>
see below:

>>> "Hugh Jarratt" <hugh.jarratt@lindseymanagement.com> 9/13/2012 3:20 PM >>>
Jeremy & Quin:

On behalf of the proposed developer of the 20 acres located south of Brookbury Crossing, please treat this email as formal notice that the developer will request that this item be tabled for an additional two week period. I just received a draft copy of our traffic report and the traffic report will not be in final form in time for City Staff to adequately study the information contained therein prior to the City Council meeting.

Also, the developer is determining the feasibility and/or availability of a secondary access from the 20 acre parcel south to Township Road. This determination will require further information that will not be able to be put together prior to the City Council meeting.

If you have any questions, please let me know.

Thank you.

Hugh Jarratt