

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
July 21, 2009**

A meeting of the Fayetteville City Council will be held on July 21, 2009 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

Presentations, Reports and Discussion Items:

1. Ambulance Authority July Report to the Council

A. Consent:

1. Approval of the June 16, 2009 City Council meeting minutes. **APPROVED.**
2. **Arkansas Emergency Telephone Services Board Training Expenses:** A resolution approving a budget adjustment recognizing the receipt of training reimbursements in an amount not to exceed \$10,000.00 as they are received from the Arkansas Emergency Telephone Services Board for dispatcher training expenses.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 153-09

3. **Mutual Aid Agreement:** A resolution approving a Mutual Aid Police Protection Agreement between the City of Fayetteville, Arkansas and the City of Springdale, Arkansas.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 154-09

4. **Animal Services Miscellaneous Donations:** A resolution approving budget adjustments totaling \$26,000.00 from Animal Services Miscellaneous Donations to meet increased supply and operational costs at the Fayetteville Animal Shelter.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 155-09

5. **McClelland Consulting Engineers Amendment No. 1:** A resolution approving Amendment No. 1 to the contract with McClelland Consulting Engineers in the amount of \$74,993.08 for construction phase services for the Township Street 36-inch Water Main Project; and approving a project contingency in the amount of \$15,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 156-09

6. **Seven Valleys Construction Company, Inc.:** A resolution approving a contract with Seven Valleys Construction Company, Inc. in the amount of \$1,757,232.00 for the construction of a 36-inch water main along Township Street to include approximately 4,462 feet of 36-inch ductile iron water main; and approving a project contingency in the amount of \$90,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 157-09

7. **Wastewater Collection and Treatment Services Amendment:** A resolution approving an amendment to the Wastewater Collection and Treatment Services Contract with the City of Farmington, Arkansas.

THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA AND PLACED IN NEW BUSINESS.

8. **Natural Resources Conservation Service (NRCS):** A resolution authorizing the Engineering Division to apply for and accept a grant through the Natural Resources Conservation Service (NRCS) in an amount not to exceed \$27,000.00 for debris removal from streams with flooding potential due to the January 2009 ice storm; and authorizing the Mayor to execute a project agreement with the NRCS and all other documents necessary to carry out the project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 158-09

9. **ADM 09-3333 (612 N. College Avenue ROW Variance):** A resolution approving a variance of the Unified Development Code Section 164.12 (F) Nonconforming Uses and Structures, Repairs and Maintenance, and Section 166.18 Master Street Plan Setbacks, allowing the existing structure located at 612 N. College Avenue to remain within the Master Street Plan right-of-way and to be improved greater than the 10% replacement cost allowed by code, within the existing limits of the structure.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 159-09

10. **Arkansas Level II Trauma Center:** A resolution to support the selection of Washington Regional Medical Center as an Arkansas Level II Trauma Center.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 160-09

11. **U.S. Marshal Service Reimbursement for Computer Equipment:** A resolution approving a budget adjustment for the Fayetteville Police Department in an amount not to exceed \$35,000.00 to recognize reimbursement from the U.S. Marshal Service for the purchase of computer equipment to support the U.S. Marshal's Western District Task Forces.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 161-09

B. Unfinished Business:

1. **RZN 09-3271 (Sale Barn/Campus Crest LLC, 562):** An ordinance rezoning that property described in rezoning petition RZN 09-3271, for approximately 8.87 acres, located at the old Washington County Sale Barn, north and east of 11th Avenue and Government Avenue from I-1, Heavy Commercial/Light Industrial, to DG, Downtown General. *This ordinance was left on the First Reading at the June 16, 2009 City Council meeting.*

This ordinance was left on the Second Reading at the July 7, 2009 City Council meeting.

THIS ITEM WAS TABLED TO THE AUGUST 18, 2009 CITY COUNCIL MEETING.

C. New Business:

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

Wastewater Collection and Treatment Services Amendment: A resolution approving an amendment to the Wastewater Collection and Treatment Services Contract with the City of Farmington, Arkansas.

THIS ITEM WAS TABLED TO THE AUGUST 4, 2009 CITY COUNCIL MEETING.

1. **Street Name Change:** A resolution changing the names of sections of West Salem Road and West Weir Road.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 162-09

2. **Amend Chapter 163 Use Conditions:** An ordinance to amend §163.15 Transit System Shelters of the Unified Development Code to allow transit shelters located within the Master Street Plan right-of-way and building setback lines.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5252

3. **Amend Chapter 111 Alcoholic Beverages:** An ordinance to amend §111.30 Retail of Chapter 111 Alcoholic Beverages of the Fayetteville Code to enact a new subsection (H) Restaurant Beer and Wine Permit.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5253

4. **RZN 09-3317 (Whitfield):** An ordinance rezoning that property described in rezoning petition RZN 09-3317, for approximately 9.91 acres, located on the west side of Crossover Road, approximately 0.50 mile north of Highway 16E, from RSF-4, Residential Single Family Four Units/Acre, to MSC, Main Street Center.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5254

5. **RZN 09-3318 (Happy Hollow School):** An ordinance rezoning that property described in rezoning petition RZN 09-3318, for approximately 32.53 acres, located on the west side of Crossover Road, approximately 0.50 mile north of Highway 16E, northeast of Happy Hollow Elementary School from RSF-4, Residential Single Family Four Units/Acre, to P-1, Institutional.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5255

- 6. R-PZD 09-3237 (Markham Hill Cottage Courts):** An ordinance establishing a residential planned zoning district titled R-PZD 09-3237, Markham Hill Cottage Courts, located north of Maine Street and west of Cross Avenue; containing approximately 2.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5256

- 7. VAC 09-3181 (Elsass/619 Rockcliff Road):** An ordinance approving VAC 09-3181 submitted by Kirk Elsass for property located at 619 North Rockcliff Road to vacate approximately 3,206 square feet of drainage easement on the subject property.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5257

- 8. VAC 09-3320 (Elsass/621 Rockcliff Road):** An ordinance approving VAC 09-3320 submitted by Alan Reid for property located at 621 Rockcliff Road to vacate a 12.5' utility and drainage easement and a 15' utility, drainage, and pedestrian easement containing a total of 3,794 square feet.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5258

- 9. VAC 09-3321 (Hubbard/Trails End Lane):** An ordinance approving VAC 09-3321 submitted by Tom Hubbard for property located at 4830 Trails End Lane to vacate a portion of a utility easement containing a total of 131.76 square feet.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5259

- 10. Amend Chapter 33 Departments, Boards, Commissions, and Authorities:** An ordinance to amend Article XI Environmental Concerns Committee of Title III of the Code of Fayetteville to rename it Environmental Action Committee.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5260

Agenda Additions:

Announcements:

- 1. City Council Tour: None**

Adjournment: Meeting adjourned at 7:46 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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

Agenda Session

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
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Ward 2 Position 1 – Kyle B. Cook
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Tentative Agenda City of Fayetteville Arkansas City Council Meeting July 21, 2009

A meeting of the Fayetteville City Council will be held on July 21, 2009 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

Agenda Session Presentations:

1. Audit Committee Report concerning the 2008 Comprehensive Annual Financial Report (CAFR) – Tony C. Uth, Jr., Chair of the Audit Committee

Mayor's Announcements, Proclamations and Recognitions

Presentations, Reports and Discussion Items:

A. Consent:

1. Approval of the June 16, 2009 and the July 7, 2009 City Council meeting minutes.
2. **Arkansas Emergency Telephone Services Board Training Expenses:** A resolution approving a budget adjustment recognizing the receipt of training reimbursements in an amount not to exceed \$10,000.00 as they are received from the Arkansas Emergency Telephone Services Board for dispatcher training expenses.

- NB#1
3. **Mutual Aid Agreement:** A resolution approving a Mutual Aid Police Protection Agreement between the City of Fayetteville, Arkansas and the City of Springdale, Arkansas.

4. **Street Name Change:** A resolution changing the names of sections of West Salem Road and West Weir Road.

5. **Animal Services Miscellaneous Donations:** A resolution approving budget adjustments totaling \$26,000.00 from Animal Services Miscellaneous Donations to meet increased supply and operational costs at the Fayetteville Animal Shelter.

6. **McClelland Consulting Engineers Amendment No. 1:** A resolution approving Amendment No. 1 to the contract with McClelland Consulting Engineers in the amount of \$74,993.08 for construction phase services for the Township Street 36-inch Water Main Project; and approving a project contingency in the amount of \$15,000.00.

7. **Seven Valleys Construction Company, Inc.:** A resolution approving a contract with Seven Valleys Construction Company, Inc. in the amount of \$1,757,232.00 for the construction of a 36-inch water main along Township Street to include approximately 4,462 feet of 36-inch ductile iron water main; and approving a project contingency in the amount of \$90,000.00.

8. **Wastewater Collection and Treatment Services Amendment:** A resolution approving an amendment to the Wastewater Collection and Treatment Services Contract with the City of Farmington, Arkansas.

9. **Natural Resources Conservation Service (NRCS):** A resolution authorizing the Engineering Division to apply for and accept a grant through the Natural Resources Conservation Service (NRCS) in an amount not to exceed \$27,000.00 for debris removal from streams with flooding potential due to the January 2009 ice storm; and authorizing the Mayor to execute a project agreement with the NRCS and all other documents necessary to carry out the project.

10. **ADM 09-3333 (612 N. College Avenue ROW Variance):** A resolution approving a variance of the Unified Development Code Section 164.12 (F) Nonconforming Uses and Structures, Repairs and Maintenance, and Section 166.18 Master Street Plan Setbacks, allowing the existing structure located at 612 N. College Avenue to remain within the Master Street Plan right-of-way and to be improved greater than the 10% replacement cost allowed by code, within the existing limits of the structure.

B. Unfinished Business:

1. **RZN 09-3271 (Sale Barn/Campus Crest LLC, 562):** An ordinance rezoning that property described in rezoning petition RZN 09-3271, for approximately 8.87 acres, located at the old Washington County Sale Barn, north and east of 11th Avenue and Government Avenue from I-1, Heavy Commercial/Light Industrial, to DG, Downtown General. *This ordinance was left on the First Reading at the June 16, 2009 City Council meeting.*

This ordinance was left on the Second Reading at the July 7, 2009 City Council meeting.

C. New Business:

1. **Amend Chapter 163 Use Conditions:** An ordinance to amend §163.15 Transit System Shelters of the Unified Development Code to allow transit shelters located within the Master Street Plan right-of-way and building setback lines.
2. **Amend Chapter 111 Alcoholic Beverages:** An ordinance to amend §111.30 Retail of Chapter 111 Alcoholic Beverages of the Fayetteville Code to enact a new subsection (H) Restaurant Beer and Wine Permit.
3. **RZN 09-3317 (Whitfield):** An ordinance rezoning that property described in rezoning petition RZN 09-3317, for approximately 9.91 acres, located on the west side of Crossover Road, approximately 0.50 mile north of Highway 16E, from RSF-4, Residential Single Family Four Units/Acre, to MSC, Main Street Center.
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5. **R-PZD 09-3237 (Markham Hill Cottage Courts):** An ordinance establishing a residential planned zoning district titled R-PZD 09-3237, Markham Hill Cottage Courts, located north of Maine Street and west of Cross Avenue; containing approximately 2.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.
6. **VAC 09-3181 (Elsass/619 Rockcliff Road):** An ordinance approving VAC 09-3181 submitted by Kirk Elsass for property located at 619 North Rockcliff Road to vacate approximately 3,206 square feet of drainage easement on the subject property.
7. **VAC 09-3320 (Elsass/621 Rockcliff Road):** An ordinance approving VAC 09-3320 submitted by Alan Reid for property located at 621 Rockcliff Road to vacate a 12.5' utility and drainage easement and a 15' utility, drainage, and pedestrian easement containing a total of 3,794 square feet.
8. **VAC 09-3321 (Hubbard/Trails End Lane):** An ordinance approving VAC 09-3321 submitted by Tom Hubbard for property located at 4830 Trails End Lane to vacate a portion of a utility easement containing a total of 131.76 square feet.
9. **Amend Chapter 33 Departments, Boards, Commissions, and Authorities:** An ordinance to amend Article XI Environmental Concerns Committee of Title III of the Code of Fayetteville to rename it Environmental Action Committee.

Agenda Additions:

Announcements:

1. City Council Tour: ^{NONE} ~~July 20, 2009~~

Adjournment:

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(c) Add: Trauma Center
(c) U.S. Marshall Service Grant
Computer Equipment

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **July 22, 2009**

A handwritten signature in black ink, appearing to be 'Kit Williams', written over a horizontal line.

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of July 21, 2009**

1. **AR Emergency Telephone Services Board Training Expenses:** A resolution approving a budget adjustment recognizing the receipt of training reimbursements in an amount not to exceed \$10,000.00 as they are received from the Arkansas Emergency Telephone Services Board for Dispatcher Training Expenses;
2. **Mutual Aid Agreement:** A resolution approving a Mutual Aid Police Protection Agreement between the City of Fayetteville and the City of Springdale;
3. **Animal Services Miscellaneous Donations:** A resolution approving budget adjustments totaling \$26,000.00 from Animal Services Miscellaneous Donations to meet increased supply and operational costs at the Fayetteville Animal Shelter;
4. **McClelland Consulting Engineers Amendment No. 1:** A resolution approving Amendment No. 1 to the Contract with McClelland Consulting Engineers in the amount of \$74,993.08 for construction Phase Services for the Township Street 36-inch water main project; and approving a project contingency in the amount of \$15,000.00;
5. **Seven Valleys Construction Company, Inc.:** A resolution approving a contract with Seven Valleys Construction Company, Inc. in the amount of \$1,757,232.00 for the construction of a 36-inch water main along Township street to include approximately 4,462 feet of 36-inch ductile iron water main; and approving a project contingency in the amount of \$90,000.00;
6. **Natural Resources Conservation Service:** A resolution authorizing the Engineering Division to apply for and accept a grant through the Natural Resources Conservation Service in an amount not to exceed \$27,000.00 for debris removal from

streams with flooding potential due to the January 2009 Ice Storm and authorizing the mayor to execute a project agreement with the NRCS and all other documents necessary to carry out the project;

7. AR Level II Trauma Center: A resolution to support the selection of WRMC as an Arkansas Level II Trauma Center;

8. U.S. Marshal Service Reimbursement for Computer Equipment: A resolution approving a budget adjustment in an amount not to exceed \$35,000.00 to recognize reimbursement from the U.S. Marshal Service for the purchase of computer equipment to support the U.S. Marshal's Western District Task Forces;

9. Street Name Change: A resolution changing the names of sections of West Salem Road and West Weir Road;

10. Amend §111.30 Alcoholic Beverages: An ordinance to amend §111.30 **Retail** of Chapter 111 **Alcoholic Beverages** of the Fayetteville Code to enact a new subsection (H) *Restaurant Beer and Wine Permit*;

11. Amend Chapter 33 Department, Boards, Commissions, and Authorities: An ordinance to amend Article XI **Environmental Concerns Committee** of Title III of the Code of Fayetteville to rename it Environmental Action Committee.

City Council Meeting:

July 21, 2009

Adjourn:

7:46 PM

Subject:	Roll				
Alderman Rhoads & Alderman Cook arrived at 6:05 PM.	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	Absent			
	Mayor Jordan	✓			

7-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Rhoads				
	Ferrell				
	Lucas				
	Lewis				
	Gray				
	Thiel				
	Cook				
	Petty				
	Mayor Jordan				

Subject:	Consent				
Motion To:		Removal of Approve	→ Item #7	removed from Consent	
Motion By:		Thiel	Removal of Wastewater Collection & Treatment Services Amendment		
Seconded:		Lucas	from Consent		
Removed from Consent for discussion	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	Absent			
	Mayor Jordan				

7-0

Subject:	Consent Agenda with Item #7 removed from				
Motion To:		Approve	Consent		
Motion By:					
Seconded:		Lewis			
Minutes Approved	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
Passed	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	Absent			
Item #7 removed.	Mayor Jordan				

153-09-

141-09

7-0

Subject:		RZN 09-3271 (Sale Barn/Campus Crest LLC, 562):			
Motion To:			3rd Read	Table to August 18, 2009	
Motion By:			Gray	Cook	
Seconded:			Cook	Lewis	
B. 1 Unfinished Business Table to August 18, 2009	Rhoads		✓	✓	
	Ferrell		✓	✓	
	Lucas		✓	✓	
	Lewis		✓	✓	
	Gray		✓	✓	
	Thiel		✓	✓	
	Cook		✓	✓	
	Petty		Absent	Absent	
	Mayor Jordan				

7-0

7-0

Subject:		Consent #7 Wastewater Collection & Treatment			
Motion To:			Table to August 4, 2009	Services Amendment	
Motion By:			Cook	This item was removed from the Consent Agenda	
Seconded:			Ferrell		
Table to August 4, 2009	Rhoads		✓		
	Ferrell		✓		
	Lucas		✓		
	Lewis		✓		
	Gray		✓		
	Thiel		✓		
	Cook		✓		
	Petty		Absent		
	Mayor Jordan				

7-0

Subject:		Street Name Change			
Motion To:		Approve			
Motion By:		Lucas			
Seconded:		Thiel			
C. 1 New Business <u>passed</u> 162-09	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	Absent			
Mayor Jordan					

7-0

Subject:		Amend Chapter 163 Use Conditions			
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Gray	Cook		
Seconded:		Lucas	Gray		
C. 2 New Business <u>passed</u> 5252	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	Absent	Absent	Absent	
Mayor Jordan					

7-0

7-0

7-0

Subject:		Amend Chapter 111 Alcoholic Beverages			
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Cook	Cook		
C. 3 New Business <u>Passed</u> 5253	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	Absent	Absent	Absent	
	Mayor Jordan				
		7-0	7-0	7-0	

Subject:		RZN 09-3317 (Whitfield)			
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Gray	Rhoads		
Seconded:		Ferrell	Gray		
C. 4 New Business <u>Passed</u> 5254	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	Absent	Absent	Absent	
	Mayor Jordan				

7-0

Subject:		R-PZD 09-3237 (Markham Hill Cottage Courts)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Lucas	Lucas	
Seconded:			Gray		
C. 6 New Business <u>passed</u> 5256	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	absent	absent	absent	
	Mayor Jordan				
		7-0	7-0	7-0	

Subject:		VAC 09-3181 (Elsass/619 Rockcliff Road)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Lewis	Gray	
Seconded:			Ferrell	Ferrell	
C. 7 New Business <u>Passed</u> 5257	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	Absent	Absent	Absent	
	Mayor Jordan				

Subject:		VAC 09-3320 (Elsass/621 Rockcliff Road)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Gray	Gray	
Seconded:			Lewis	Lucas	
C. 8 New Business <u>Passed</u> 5258	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	Absent	Absent	Absent	
	Mayor Jordan				

7-0

7-0

7-0

Subject:		VAC 09-3321 (Hubbard/Trails End Lane)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Thiel	Ferrell	
Seconded:			Ferrell	Gray	
C. 9 New Business <u>Passed</u> 5259	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	Absent	Absent	Absent	
		Mayor Jordan			
		7-0	7-0	7-0	

Subject:		Amend Chapter 33 Departments, Boards, Commissions, and Authorities			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Lucas	Cook	
Seconded:			Cook	Thiel	
C. 10 New Business <u>Passed</u> 5260	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	Absent	absent	absent	
		Mayor Jordan			
		7-0	7-0	7-0	

Mayor Lioneld Jordan
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Aldermen

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City Council Meeting
July 21, 2009**

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Presentations, Reports and Discussion Items:

1. Ambulance Authority July Report to the Council

A. Consent:

1. Approval of the June 16, 2009 City Council meeting minutes.
2. **Arkansas Emergency Telephone Services Board Training Expenses:** A resolution approving a budget adjustment recognizing the receipt of training reimbursements in an amount not to exceed \$10,000.00 as they are received from the Arkansas Emergency Telephone Services Board for dispatcher training expenses.
3. **Mutual Aid Agreement:** A resolution approving a Mutual Aid Police Protection Agreement between the City of Fayetteville, Arkansas and the City of Springdale, Arkansas.

4. **Animal Services Miscellaneous Donations:** A resolution approving budget adjustments totaling \$26,000.00 from Animal Services Miscellaneous Donations to meet increased supply and operational costs at the Fayetteville Animal Shelter.
5. **McClelland Consulting Engineers Amendment No. 1:** A resolution approving Amendment No. 1 to the contract with McClelland Consulting Engineers in the amount of \$74,993.08 for construction phase services for the Township Street 36-inch Water Main Project; and approving a project contingency in the amount of \$15,000.00.
6. **Seven Valleys Construction Company, Inc.:** A resolution approving a contract with Seven Valleys Construction Company, Inc. in the amount of \$1,757,232.00 for the construction of a 36-inch water main along Township Street to include approximately 4,462 feet of 36-inch ductile iron water main; and approving a project contingency in the amount of \$90,000.00.
7. **Wastewater Collection and Treatment Services Amendment:** A resolution approving an amendment to the Wastewater Collection and Treatment Services Contract with the City of Farmington, Arkansas.
8. **Natural Resources Conservation Service (NRCS):** A resolution authorizing the Engineering Division to apply for and accept a grant through the Natural Resources Conservation Service (NRCS) in an amount not to exceed \$27,000.00 for debris removal from streams with flooding potential due to the January 2009 ice storm; and authorizing the Mayor to execute a project agreement with the NRCS and all other documents necessary to carry out the project.
9. **ADM 09-3333 (612 N. College Avenue ROW Variance):** A resolution approving a variance of the Unified Development Code Section 164.12 (F) Nonconforming Uses and Structures, Repairs and Maintenance, and Section 166.18 Master Street Plan Setbacks, allowing the existing structure located at 612 N. College Avenue to remain within the Master Street Plan right-of-way and to be improved greater than the 10% replacement cost allowed by code, within the existing limits of the structure.
10. **Arkansas Level II Trauma Center:** A resolution to support the selection of Washington Regional Medical Center as an Arkansas Level II Trauma Center.
11. **U.S. Marshal Service Reimbursement for Computer Equipment:** A resolution approving a budget adjustment for the Fayetteville Police Department in an amount not to exceed \$35,000.00 to recognize reimbursement from the U.S. Marshal Service for the purchase of computer equipment to support the U.S. Marshal's Western District Task Forces.

B. Unfinished Business:

1. **RZN 09-3271 (Sale Barn/Campus Crest LLC, 562):** An ordinance rezoning that property described in rezoning petition RZN 09-3271, for approximately 8.87 acres, located at the old Washington County Sale Barn, north and east of 11th Avenue and Government Avenue from I-1, Heavy Commercial/Light Industrial, to DG, Downtown General. *This ordinance was left on the First Reading at the June 16, 2009 City Council meeting.*

This ordinance was left on the Second Reading at the July 7, 2009 City Council meeting.

C. New Business:

1. **Street Name Change:** A resolution changing the names of sections of West Salem Road and West Weir Road.
2. **Amend Chapter 163 Use Conditions:** An ordinance to amend §163.15 Transit System Shelters of the Unified Development Code to allow transit shelters located within the Master Street Plan right-of-way and building setback lines.
3. **Amend Chapter 111 Alcoholic Beverages:** An ordinance to amend §111.30 Retail of Chapter 111 Alcoholic Beverages of the Fayetteville Code to enact a new subsection (H) Restaurant Beer and Wine Permit.
4. **RZN 09-3317 (Whitfield):** An ordinance rezoning that property described in rezoning petition RZN 09-3317, for approximately 9.91 acres, located on the west side of Crossover Road, approximately 0.50 mile north of Highway 16E, from RSF-4, Residential Single Family Four Units/Acre, to MSC, Main Street Center.
5. **RZN 09-3318 (Happy Hollow School):** An ordinance rezoning that property described in rezoning petition RZN 09-3318, for approximately 32.53 acres, located on the west side of Crossover Road, approximately 0.50 mile north of Highway 16E, northeast of Happy Hollow Elementary School from RSF-4, Residential Single Family Four Units/Acre, to P-1, Institutional.
6. **R-PZD 09-3237 (Markham Hill Cottage Courts):** An ordinance establishing a residential planned zoning district titled R-PZD 09-3237, Markham Hill Cottage Courts, located north of Maine Street and west of Cross Avenue; containing approximately 2.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.
7. **VAC 09-3181 (Elsass/619 Rockcliff Road):** An ordinance approving VAC 09-3181 submitted by Kirk Elsass for property located at 619 North Rockcliff Road to vacate approximately 3,206 square feet of drainage easement on the subject property.

8. **VAC 09-3320 (Elsass/621 Rockcliff Road):** An ordinance approving VAC 09-3320 submitted by Alan Reid for property located at 621 Rockcliff Road to vacate a 12.5' utility and drainage easement and a 15' utility, drainage, and pedestrian easement containing a total of 3,794 square feet.
9. **VAC 09-3321 (Hubbard/Trails End Lane):** An ordinance approving VAC 09-3321 submitted by Tom Hubbard for property located at 4830 Trails End Lane to vacate a portion of a utility easement containing a total of 131.76 square feet.
10. **Amend Chapter 33 Departments, Boards, Commissions, and Authorities:** An ordinance to amend Article XI Environmental Concerns Committee of Title III of the Code of Fayetteville to rename it Environmental Action Committee.

Agenda Additions:

Announcements:

1. **City Council Tour: None**

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

Washington County Regional Ambulance Authority-Central EMS**Draft Budget Projections**

This document reflects the loss of the VA Contract revenue in the 2009 Revised column. For 2010, we have provided projections that reflect no VA Contract, essentially no increase in call volume and no new personnel position.

July 15, 2009

	2009		2010
Gross Sales	Original	Revised-No VA Contract	Projected
Patient Charges	\$ 8,717,490	\$ 7,899,659	8,294,642
Wheelchair Charges	122,160	165,247	173,509
VA Charges	895,711	324,439	15,000
Standby Charges	202,128	184,406	193,626
PAMP Dues Charged	66,744	68,146	67,000
Bad Debt Recovery	40,800	42,849	45,000
Mandatory Write Offs	(3,091,118)	(2,665,849)	(2,700,000)
PAMP Charges Written Off	(96,000)	(57,811)	(65,000)
PAMP Non Renewals	(3,420)	(3,230)	(3,250)
Washington County Assistance	561,000	561,001	561,001
Elkins	8,892	8,892	8,892
Farmington	14,420	14,420	14,420
Goshen	3,008	3,008	3,008
Greenland	4,904	4,904	4,904
Johnson	6,652	6,652	6,652
Lincoln	8,236	8,236	8,236
Prairie Grove	13,468	13,468	13,468
West Fork	8,168	8,168	8,168
CMRS	121,200	150,994	150,994
911 Dispatch Assistance	-	-	-
Fayetteville Assistance	268,632	269,886	269,886
Monetary Donations	-	-	-
In-Kind Donations	-	-	-
Grants	-	-	-
Miscellaneous Income	11,400	10,294	10,294
Interest Earned	4,800	3,375	3,375
	<u>\$ 7,889,275</u>	<u>\$ 7,021,154</u>	<u>7,083,826</u>
Operating Expense			
Buildings & Facilities	\$ 101,856.0	\$ 99,064.0	100,000
Medical Supplies & Equipment	239,786	248,974	265,000
Vehicle Maintenance & Fuel	268,308	165,093	165,000
Field Training	20,744	17,269	15,000
IT	9,000	-	-
Communications	69,684	72,171	70,000
Health & Safety	25,420	25,140	25,000
Business Office	92,580	91,542	90,000
Administration	267,640	257,538	260,000
Wages	3,654,252	3,583,213	3,550,000
Employer Taxes	288,868	283,116	280,000
Benefits	439,045	435,209	435,000
Other Expenses			
Bad Debt Expense	1,693,672	1,400,942	1,445,000
Depreciation Expense	396,000	342,942	344,000
Lot/Building Lease	39,000	39,000	39,000
Total Expenses	<u>\$ 7,605,855</u>	<u>\$ 7,061,213</u>	<u>7,083,000</u>
Total Income	\$ 7,889,275	\$ 7,021,154	7,083,826
Total Expenses	\$ 7,605,855	\$ 7,061,213	7,083,000
Gain (Loss)	\$ 283,420	\$ (40,059)	826

AGREEMENT
FOR AMBULANCE SERVICES

THIS INTERLOCAL AGREEMENT FOR AMBULANCE SERVICES (“Agreement”) is made and entered into by and between WASHINGTON COUNTY, ARKANSAS, (“County”) and the cities of ELKINS, FARMINGTON, FAYETTEVILLE, GOSHEN, GREENLAND, LINCOLN, PRAIRIE GROVE, WEST FORK, WINSLOW and JOHNSON (“Cities”).

WHEREAS, A.C.A. §14-14-910, A.C.A. §25-20-101, and A.C.A. §14-266-102 authorize cities and counties to enter into contracts to co-operate or join with each other to provide emergency and non-emergency medical services and to specify the responsibilities of all parties; and,

WHEREAS, all parties acknowledge that the continued provision of ambulance service is crucial for the continued health and safety of the residents of the named Cities and the County; and,

WHEREAS, the County and Cities mutually agree that the creation of an Ambulance Authority or similar entity as provided for in A.C.A. §14-14-910, A.C.A. §25-20-101 and A.C.A. §14-266-101 et. seq is in the best long-term interests of the parties; and,

WHEREAS, said Authority should consist of representatives of the above named Cities and the County; and,

WHEREAS, all parties acknowledge that the formation of such an Authority will demand close and continued cooperation of all parties.

NOW, THEREFORE, IT IS AGREED:

ARTICLE 1. AUTHORITY ORGANIZATION.

(a) One individual selected by each entity shall represent said entity on the Board of Directors of the Authority to be known as the Washington County Regional Ambulance Authority.

- (1) Each Board member shall serve a term of three (3) years and be eligible to serve two (2) consecutive terms.
- (2) The initial term of each Board member shall be determined by the drawing of lots or similar method so as to provide staggered terms.

(b) The Board shall meet on no less than on a quarterly basis to transact all business associated with the powers and responsibilities conferred upon it. However, the Board shall reserve to itself the right to meet on whatever basis it determines is appropriate.

(c) The Board shall employ an executive director to manage a regional ambulance system.

(d) In order to ensure maximum efficiency and effectiveness of the operation, an executive committee shall be formed to be charged with the oversight of the day-to-day operation of the system. The members of said executive committee shall be as follows:

- (1) The County board appointee who shall reside in the unincorporated service area.
- (2) The Fayetteville City Council appointee;
- (3) A second Fayetteville appointee (Both City Council appointees shall serve at the pleasure of the City Council and can be removed and replaced by different representatives by City Council Resolution.);
- (4) A small city appointee to be chosen by the aforestated cities, excluding the City of Fayetteville;
- (5) A Nursing Home or medical profession representative who shall reside in the City of Fayetteville to be chosen by the County appointee; the Fayetteville appointees, and the small city appointee.
- (6) A Hospital representative who shall reside in the City of Fayetteville to be chosen by the County appointee; the Fayetteville appointees, and the small city appointee.
- (7) A representative of the financial community residing in the service area to be chosen by the County appointee, the Fayetteville appointees and the small city appointee.

ARTICLE 2. PURPOSES, POWERS, RIGHTS, OBLIGATIONS AND RESPONSIBILITIES OF THE CREATED ENTITY.

(a) All parties acknowledge that the need to create an entity to own, operate and manage an ambulance service is necessary and appropriate.

(b) The Authority created herein shall have the following powers:

- (1) To provide advanced life support emergency ambulance service in the designated area;
- (2) To provide emergency medical dispatch including pre-arrival instructions in accordance with approved dispatch protocols;
- (3) To set ambulance user fees;
- (4) To own system revenues;
- (5) To provide exclusive emergency and non-emergency (within the cities only) ambulance service;

- (6) To enter into mutual aid and automatic aid agreements with neighboring ambulance services for emergency services;
- (7) Comprehensive regulatory powers over the ambulance system performance;
- (8) Ownership of or access to key components of the system infrastructure;
- (9) Centralize medical direction and clinical oversight of the ambulance system to the extent deemed necessary;
- (10) To promulgate rules and regulations to further effectuate the purposes of this agreement;
- (11) To own and dispose of real and personal property;
- (12) To adopt and oversee comprehensive system performance on an annual basis to include periodic revisions to comply with emerging technologies and changes in clinical and operational standards.

(c) Washington County Regional Ambulance Authority's Specific Duties.

The Authority created herein shall have the following specific duties and responsibilities **in addition to** the statutory and administrative requirements of §14-266-109, the Arkansas Medical Practices Act, and any other government or professional standards.

- (1) Minimum Standards Continue. The Authority shall continue to meet all existing minimum performance standards within Fayetteville as stated in the current City of Fayetteville Contract For Emergency Medical Transport Services with CEMS except as to quarterly reports to the City of Fayetteville. (A copy of this contract is attached as Exhibit A.)
- (2) Reporting Requirements.
 - (A) Fayetteville. On the third Tuesday of July each year, the Washington County Regional Ambulance Authority by the two Fayetteville representatives on the Executive Committee shall appear before the Fayetteville City Council to present:
 - (i) The written annual, audited report of the previous year's financial and response data reports;
 - (ii) A written report of the financial and response data for the first half of the current year;
 - (iii) Plans and projections to replace or enlarge capital property and equipment within the next 18 months;

(iv) Plans and justifications for any personnel increases within the next 18 months; and

(v) Revenue/expense projections for the next 18 months.

(B) Any Other Member Of This Authority. Upon written request by any other member of this Authority, the Board Member representing that entity shall provide the full written and oral report referred to in (A) to that City or to the County during its regular July or August meeting.

ARTICLE 3. FINANCING; TRAINING; COMPLIANCE WITH A.C.A. §20-13-301 ET. SEQ.

(a) All parties acknowledge that the need for a guaranteed revenue source independent of and in addition to fees for service is necessary in order to ensure the continued viability of said service.

(b) The annual regional ambulance service-funding source for all parties of this Agreement shall be based upon the most recent Federal Census including any special Census.

(1) All Cities shall pay \$4.00 per capita except that only those citizens of Johnson within CEMS's territory shall be counted for the per capita fees. The City of Fayetteville shall maintain at least its minimum annual contribution of \$270,000.00 through the end of 2011.

(2) Washington County shall pay \$15.50 per capital for the unincorporated population served by CEMS with at least a minimum annual contribution of \$550,000.00 through the end of 2011.

(c) The Authority shall continue to seek a sustainable funding source with the goal of reducing subsidies proportionately across the board.

(d) Except as stated above, no party to this Agreement may be financially obligated without the approval of its governing body.

(e) All governing bodies party to this agreement must approve any increases in subsidy.

(f) A percentage of these funds shall be set aside for replacement of capital items.

(g) The ambulance service owned or under contract with the Authority shall be required to provide, at no additional charge, the Arkansas Department of Health 24 hour basic refresher course to all EMT certified firefighters that act as first responders with said ambulance service.

(h) The financing provided by the parties hereto shall be from general revenues; furthermore, the financing and this agreement are contingent upon compliance with A.C.A. §20-13-301 et. seq. by the County and all the parties will cooperate to the

extent necessary in complying with such. The parties shall receive credit for payments already made to CEMS in 2008 for this year's annual subsidy commitment.

ARTICLE 4. TERM.

This initial term of this agreement shall be from the date that all parties have agreed to this interlocal agreement through December 31, 2011. This agreement shall be automatically renewed with possible changes to **Article 3 Financing** for an additional five-year term unless any party notifies the Authority in writing of its refusal to participate in the Authority and this Agreement by September 1, 2011. All parties agree to consider the effects of the 2010 Decennial Federal Census upon the division of the County Sales Tax between the County and the Cities and the proportional changes of the populations of the Cities and the unincorporated portions of Washington County and make any adjustment or amendments advisable and necessary to **Article 3** to ensure financial viability of the Authority and fairness for all parties. A second automatic renewal shall occur on December 31, 2016 unless any party notifies the Authority in writing of its refusal to participate in the Authority and this Agreement by September 1, 2016. A substantial review of the financial status of the Authority and all parties should occur in 2021 after the 2020 Federal Decennial Census and prior to further renewals of this Agreement.

Notwithstanding the above terms, all parties to this Agreement may withdraw from this agreement upon six months' written notice to the Authority and shall only be responsible to pay its per capita fee for that portion of the year.

ARTICLE 5. TRANSFER OF OWNERSHIP OF EQUIPMENT TO WASHINGTON COUNTY REGIONAL AMBULANCE AUTHORITY.

Property currently owned by any party that is transferred to the Washington County Regional Ambulance Authority shall be returned to that party or purchased from that party at its fair market value if such party terminates its membership from the Authority and withdraws from this Agreement by July 1, 2011, after giving its six month notice. All property and resources of the Washington County Regional Ambulance Authority purchased during its existence or owned by it on July 2, 2011, or thereafter shall remain the Authority's exclusive property throughout the Authority's existence.

ARTICLE 6. SEVERABILITY.

The provisions of this Agreement are declared to be severable. If any provision hereof shall be held to be invalid or to be inapplicable to any person or circumstance, such holdings shall not affect the ability or the applicability of the remainder hereof.

ARTICLE 7. EFFECTIVE DATE.

This Agreement shall not be effective until approved and signed by all parties in accordance with the law.

APPENDIX TO AGREEMENT

APPENDIX DEFINITION OF TERMS WHEN AND IF USED.

Ambulance Authority: Quasi-governmental entity created to oversee and deliver ambulance service in a specified geographical service area.

Ambulance Service: Means emergency and non-emergency transport services offered by the Authority, including management, supervision, mass gathering and community events.

Exclusivity: Sole provider emergency and non-emergency ambulance rights granted by ordinance or resolution by each party to the extent allowed by State Law.

Per Capita: Funding structure set forth by this Agreement based on population. Cities contribute at \$4.00 per capita due to the increased number of calls generated within their city limits. The County contributes at \$15.50 per capita due to the increased coverage area and decreased density of call volume in the unincorporated areas of the County. No reduction of any entity's gross subsidy shall occur during first term of this agreement.

Subsidy: Government funds requested by the Authority to provide ambulance service.

User Fees: Fees charged to patients treated or transported by the ambulance service, or fees charged to an individual or an organization for ambulance standby coverage.



March 7, 2009

To the Senior Management and
The Board of Directors
Central Emergency Medical Services, Inc.
Fayetteville, Arkansas

As part of our audit of the financial statements of Central Emergency Medical Services, Inc., as of and for the year ended December 31, 2008, we wish to communicate the following to you.

AUDIT SCOPE AND RESULTS

Auditor's Responsibility Under Auditing Standards Generally Accepted in the United States of America

An audit performed in accordance with auditing standard generally accepted in the United States of America is designed to obtain reasonable, rather than absolute, assurance about the financial statements. In performing auditing procedures, we establish scopes of audit tests in relation to the financial statements taken as a whole. Our engagement does not include a detailed audit of every transaction. Our engagement letter more specifically describes our responsibilities.

These standards require communication of significant matters related to the financial statement audit that are relevant to the responsibilities of those charged with governance in overseeing the financial reporting process. Such matters are communicated in the remainder of this letter or have previously been communicated during other phases of the audit. The standards do not require the auditor to design procedures for the purpose of identifying other matters to be communicated with those charged with governance.

An audit of the financial statements does not relieve management or those charged with governance of their responsibilities. Our engagement letter more specifically describes your responsibilities.

Qualitative Aspects of Significant Accounting Policies and Practices

Management is responsible for selection and use of appropriate accounting policies. In accordance with the terms of our engagement letter, we will advise management about the appropriateness of accounting policies and their application. These significant accounting policies are described in Note 1 of the financial statements. We noted no transactions entered into by the Organization during the year for which there is a lack of authoritative guidance or consensus. There are no significant transactions that have been recognized in the financial statements in a different period than when the transaction occurred.

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Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events.

The financial statements include adequate disclosures.

Difficulties Encountered In Performing the Audit

We encountered no significant difficulties in dealing with the board or management in performing and completing our audit.

Corrected and Unrecorded Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. We did not propose any adjusting journal entries.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a matter, whether or not resolved to our satisfaction that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated February 13, 2009.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Organization's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

INTERNAL CONTROL OVER FINANCIAL REPORTING

In planning and performing our audit of the financial statements of Central Emergency Medical Services, Inc. as of and for the year ended December 31, 2008, in accordance with auditing standards generally accepted in the United States of America, we considered the Organization's internal control over financial reporting (internal control) as a basis for designing our auditing

procedures for the purpose of expressing an opinion on the effectiveness of the Organization's internal control. Accordingly, we do not express an opinion on the effectiveness of the Organization's internal control. As such, our consideration of internal controls would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements of the Organization's financial statements on a timely basis. A control deficiency in design exists when a control necessary to meet a control objective is missing or an existing control is not properly designed so that, even if the control operates as designed, a control objective is not always met. A control deficiency in operation exists when a properly designed control does not operate as designed or when the person performing the control does not possess the necessary authority or qualifications to perform the control effectively.

A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the Organization's ability to initiate, authorize, record, process or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the Organization's financial statements that is more than inconsequential will not be prevented or detected by the Organization's internal controls.

A material weakness is a significant deficiency, or a combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the Organization's financial statements will not be prevented or detected by the Organization's internal controls.

Material Weaknesses

No matters are reportable.

Significant Deficiencies

No matters are reportable.

Other Control Deficiencies

No matters are reportable.

OTHER MATTERS

Other matters are not considered material weaknesses, significant deficiencies, or control deficiencies in internal control over financial reporting. We observed the following other matters and offer comments and suggestions with respect to those matters that came to our attention during the course of the audit of the financial statements. Our audit procedures are designed primarily to enable us to form an opinion on the financial statements. As such, all weaknesses in

administrative policies and internal control procedures may not become known to us during the audit process.

These comments are offered as constructive suggestions for the consideration of management as part of the ongoing process of modifying and improving policies and controls related to financial statement preparation and administrative processes.

Operating Entity

As of January 1, 2009, the Organization no longer operates as a non-profit but as a quasi-governmental unit. Because of this change the financial statements of the Organization will be subject to governmental accounting standards and would be considered a special district. These standards require that the financial statements be presented as an enterprise fund. The financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Under the accrual basis of accounting, revenues are recognized when earned and expenses are recognized when the liability is incurred or economic asset used. Revenues, expenses, gains, losses, assets and liabilities resulting from exchange and exchange-like transactions are recognized when the exchange takes place. The Organization will follow all pronouncements of the Governmental Accounting Standards Board, and follow Financial Accounting Standards Board pronouncements issued after November 30, 1989.

You will not see a dramatic difference in these financial statements as compared to the current financials. However, additional disclosure may be required under this model. Net assets will be reported in three categories: invested in capital assets, net of related debt; restricted net assets; and unrestricted net assets. Also, management will be required to present the Management's Discussion and Analysis. This analysis provides an objective and easily readable analysis of the entity's financial activity for the year and discusses the overall financial position and results of operations.

Organizational Structure

The size of the Organization's accounting and administrative staff precludes certain internal controls that would be preferred if the office staff were large enough to provide optimum segregation of duties. This situation dictates that the Board of Directors remains involved in the financial affairs of the Organization to provide oversight and independent review functions.

Accounts Receivable

We continue to encourage management to continue monitoring accounts receivable collections by type of claim, i.e. Medicaid/Medicare, Blue Cross, Other Insurance, etc. This type of analysis will help management develop a system to calculate the allowance for doubtful accounts based on the type of claim versus an overall calculation. This will also help in the monitoring of the

mandatory write-offs as required by the insurance contracts for any unusual or unexpected variations. We encourage the continued development of this analysis.

We will be pleased to discuss these comments in further detail at your convenience or to assist you in implementing the recommendations on these matters.

This information is intended solely for the use of the committee charged with governance, the Board of Directors, and management of Central Emergency Medical Services, Inc., and is not intended to be and should not be used by anyone other than these specified parties.

Very truly yours,

Ervin & Company

ERVIN AND COMPANY
Certified Public Accountants, P.A.

Financial Statements

**Central Emergency Medical Service, Inc.
Fayetteville, Arkansas
December 31, 2008 and 2007**

***CENTRAL EMERGENCY MEDICAL SERVICE, INC.
DECEMBER 31, 2008 and 2007***

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Independent Auditor's Report

**The Board of Directors
Central Emergency Medical Service, Inc.
Fayetteville, Arkansas**

We have audited the accompanying statements of financial position of Central Emergency Medical Service, Inc., (a non-profit organization), as of December 31, 2008 and 2007, and the related statements of activities, functional expenses, and cash flows for the years then ended. These financial statements are the responsibility of the Organization's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Central Emergency Medical Service, Inc., as of December 31, 2008 and 2007, and the results of its activities and its cash flows, for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

Ervin & Company

**ERVIN & COMPANY
Certified Public Accountants, P.A.**

**Fayetteville, Arkansas
March 7, 2009**

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Fayetteville, AR 72703

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CENTRAL EMERGENCY MEDICAL SERVICE, INC.
STATEMENTS OF FINANCIAL POSITION
DECEMBER 31, 2008 AND 2007

Ambulance Authority July Report
Page 16 of 32

ASSETS			
		2008	2007
Current Assets			
Cash	\$	143,231	\$ 213,077
Accounts Receivable - Net		1,342,187	1,043,982
Other Receivables		2,408	22,967
Inventory		8,250	8,250
Prepaid Expenses		9,862	14,671
Total Current Assets		<u>1,505,938</u>	<u>1,302,947</u>
Property and Equipment			
Property and Equipment		4,092,374	3,567,357
Less: Accumulated Depreciation		<u>(2,241,893)</u>	<u>(1,971,542)</u>
Net Property and Equipment		<u>1,850,481</u>	<u>1,595,815</u>
Total Assets	\$	<u><u>3,356,419</u></u>	<u><u>\$ 2,898,762</u></u>
LIABILITIES AND NET ASSETS			
Current Liabilities			
Accounts Payable	\$	81,354	\$ 56,141
Accrued Expenses		78,186	15,497
Accrued Vacation		70,767	62,856
Accrued Payroll		150,661	131,661
Current Portion of Long-Term Debt		<u>115,208</u>	<u>57,449</u>
Total Current Liabilities		496,176	323,604
Long-Term Debt, less Current Portion		<u>403,615</u>	<u>204,319</u>
Total Liabilities		<u>899,791</u>	<u>527,923</u>
Net Assets			
Unrestricted			
Designated by the Board for Equipment		22,631	3,200
Other		<u>2,433,997</u>	<u>2,367,639</u>
Total Unrestricted Net Assets		<u>2,456,628</u>	<u>2,370,839</u>
Total Liabilities and Net Assets	\$	<u><u>3,356,419</u></u>	<u><u>\$ 2,898,762</u></u>

See Notes to Financial Statements.

CENTRAL EMERGENCY MEDICAL SERVICE, INC.
STATEMENTS OF ACTIVITIES
FOR THE YEARS ENDED DECEMBER 31, 2008 AND 2007

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	<u>2008</u>	<u>2007</u>
Revenue and Support		
Revenue:		
Patient Fees	\$ 6,563,454	\$ 6,188,774
VA Charges	799,453	668,712
Wheelchair Charges	120,356	127,829
Less: Medicaid/Medicare Writedowns	<u>(2,047,323)</u>	<u>(1,786,688)</u>
Net Patient Revenue	5,435,940	5,198,627
911 Reimbursements	121,469	59,606
PAMP - Net	(20,756)	(7,254)
Bad Debt Recoveries	41,467	38,232
Standby Fees	199,308	163,800
Miscellaneous Income	<u>12,057</u>	<u>11,107</u>
Total Revenue	<u>5,789,485</u>	<u>5,464,118</u>
Support:		
City of Fayetteville	268,632	269,999
Washington County EMS Assistance	550,008	550,008
Small Town Assistance	67,748	68,008
Washington County Dispatch Assistance	25,000	21,734
Donations	150	16,115
Grants	<u>6,900</u>	<u>-</u>
Total Support	<u>918,438</u>	<u>925,864</u>
Total Revenue and Support	<u>6,707,923</u>	<u>6,389,982</u>
Expenses		
Administrative	417,128	449,418
Program	<u>6,196,341</u>	<u>5,768,033</u>
Total Expenses	<u>6,613,469</u>	<u>6,217,451</u>
Revenue and Support over (under) Expenses	<u>94,454</u>	<u>172,531</u>
Other Income (Expense)		
Interest Expense	(15,405)	(10,456)
Interest Income	6,648	1,768
Gain on Disposal of Assets	<u>92</u>	<u>8,140</u>
Total Other Income (Expense)	<u>(8,665)</u>	<u>(548)</u>
Increase in Unrestricted Net Assets	85,789	171,983
Net Assets, Beginning of Year	<u>2,370,839</u>	<u>2,198,856</u>
Net Assets, End of Year	<u>\$ 2,456,628</u>	<u>\$ 2,370,839</u>

See Notes to Financial Statements.

CENTRAL EMERGENCY MEDICAL SERVICE, INC.
STATEMENTS OF FUNCTIONAL EXPENSES
FOR THE YEARS ENDED DECEMBER 31, 2008 AND 2007

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	YEAR ENDED DECEMBER 31, 2008		
	Admin.	Program	Total
Salary and Wages	\$ 215,102	\$ 3,143,266	\$ 3,358,368
Payroll Taxes	16,455	245,864	262,319
Pension Expense	14,177	190,743	204,920
Employee Health Care and Benefits	16,256	187,547	203,803
Insurance	3,686	143,741	147,427
Vehicle Expenses	-	326,143	326,143
Medical Supplies	-	144,569	144,569
Utilities and Communications	8,649	164,339	172,988
Supplies	-	22,632	22,632
Office Expenses	70,387	4,497	74,884
Professional Fees	10,701	10,701	21,402
Depreciation	12,581	262,344	274,925
Parking Lot - Rental	150	20,850	21,000
Bad Debts	-	1,142,001	1,142,001
Repairs and Maintenance	26,633	94,553	121,186
Staff Training and Awards	7,992	42,362	50,354
Uniforms and Supplies	1,800	37,631	39,431
Public Education	12,559	12,558	25,117
Total	\$ 417,128	\$ 6,196,341	\$ 6,613,469

	YEAR ENDED DECEMBER 31, 2007		
	Admin.	Program	Total
Salary and Wages	\$ 244,679	\$ 2,784,696	\$ 3,029,375
Payroll Taxes	19,432	217,680	237,112
Pension Expense	21,488	167,058	188,546
Employee Health Care and Benefits	20,130	226,218	246,348
Insurance	4,264	166,280	170,544
Vehicle Expenses	-	243,561	243,561
Medical Supplies	-	105,294	105,294
Utilities and Communications	4,655	88,439	93,094
Supplies	-	20,617	20,617
Office Expenses	62,194	4,339	66,533
Professional Fees	6,055	6,054	12,109
Depreciation	15,205	252,895	268,100
Parking Lot - Rental	150	2,850	3,000
Bad Debts	-	1,346,878	1,346,878
Repairs and Maintenance	29,183	66,357	95,540
Staff Training and Awards	7,596	33,562	41,158
Uniforms and Supplies	1,423	22,291	23,714
Public Education	12,964	12,964	25,928
Total	\$ 449,418	\$ 5,768,033	\$ 6,217,451

See Notes to Financial Statements.

CENTRAL EMERGENCY MEDICAL SERVICE, INC.
STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED DECEMBER 31, 2008 AND 2007

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	<u>2008</u>	<u>2007</u>
Operating Activities		
Change in Net Assets	\$ 85,789	\$ 171,983
Adjustments to Reconcile Change in Net Assets to		
Net Cash Provided by Operating Activities:		
(Gain) Loss on Disposal of Assets	(92)	(8,140)
Depreciation	274,925	268,100
Changes in Operating Assets:		
Accounts Receivable	(298,205)	(19,901)
Other Receivables	20,559	38,190
Prepaid Expenses	4,809	(2,664)
Accounts Payable	25,213	5,583
Accrued Expenses	62,689	9,921
Accrued Vacation	7,911	(5,804)
Accrued Payroll	19,000	16,559
Net Cash Provided by Operating Activities	<u>202,598</u>	<u>473,827</u>
Investing Activities		
Purchase of Property and Equipment	(531,999)	(402,311)
Proceeds from Sale of Assets	<u>2,500</u>	<u>13,501</u>
Net Cash Used by Investing Activities	<u>(529,499)</u>	<u>(388,810)</u>
Financing Activities		
Increase (Decrease) in Line of Credit	-	(125,677)
Increase (Decrease) Checks in Excess of Cash in Bank	-	(8,031)
Proceeds from Long-Term Debt	315,000	287,244
Payment on Long-Term Debt	<u>(57,945)</u>	<u>(25,476)</u>
Net Cash Provided by Financing Activities	<u>257,055</u>	<u>128,060</u>
Increase (Decrease) in Cash	(69,846)	213,077
Cash - Beginning of Year	<u>213,077</u>	<u>-</u>
Cash - End of Year	<u>\$ 143,231</u>	<u>\$ 213,077</u>
Supplemental Disclosures		
Cash Paid for:		
Interest	<u><u>\$ 15,405</u></u>	<u><u>\$ 10,456</u></u>
Income Taxes	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>

See Notes to Financial Statements.

CENTRAL EMERGENCY MEDICAL SERVICE, INC.
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2008 AND 2007

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NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Nature of Business

Central Emergency Medical Service, Inc. (the Organization), an Arkansas non-profit corporation which commenced operations in 1980, provides emergency and nonemergency medical service to citizens of Washington County. The financial operations of the Organization are overseen by the Chief Financial Officer who reports to a voluntary Board of Directors.

Basis of Accounting

Revenues and expenses are recognized on the accrual basis of accounting. Revenue is recognized in the accounting period in which it becomes both available and measurable. Expenses are recognized in the accounting period in which the liability is incurred.

Cash

For purposes of the statement of cash flows, cash consists of cash on deposit at local banks and temporary investments with an original maturity of three months or less.

Accounts Receivable

Accounts receivables are stated at the amount management expects to collect from outstanding balances. Management provides for probable uncollectible amounts through a provision for bad debt expense and an adjustment to a valuation allowance based on its assessment of the current status of individual accounts and an estimated percentage of accounts receivable. Balances that are still outstanding after management has used reasonable collection efforts are written off. Refer to Note 2.

Inventory

Inventory is stated at the lower of cost (first-in, first-out basis) or market.

Property, Equipment, and Depreciation

Property and equipment are recorded at cost. Donated property and equipment are recorded at fair market value on the date contributed. It is the Organization's policy to capitalize expenditures for these items in excess of \$1,000. Lesser amounts are expensed. Depreciation is computed on the straight-line method for both financial and tax purposes. Repairs and maintenance which do not improve or extend the life of the asset are expensed currently.

Designation of Unrestricted Net Assets

In November, 2007, the Board of Directors of the Organization authorized an account to be established that is dedicated for the purchase capital equipment. A minimum of \$1,600 per month is to be deposited to this account. Balance of this account at December 31, 2008, was \$22,631.

CENTRAL EMERGENCY MEDICAL SERVICE, INC.
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2008 AND 2007

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NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, Continued

Use of Estimates

The preparation of financial statements in conformity with U. S. generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Income Taxes

Central Emergency Medical Service, Inc. is a tax exempt organization under Code 501(c)(3) of the Internal Revenue Code and a similar section under Arkansas Statutes.

Functional Expenses

The Organization, allocates its expenses on a functional basis as follows:

Administrative - the costs of managing and operating the Organization's offices, including gathering, processing, and maintaining financial and legal information.

Program - the costs of providing emergency medical service, including the 911 communications system, to the citizens of Washington County, Arkansas.

NOTE 2 - CONCENTRATIONS OF CREDIT RISK

Financial instruments, which potentially subject the Organization to concentrations of credit risk, consist principally of cash deposits and accounts receivable.

The Organization maintains cash accounts and temporary investments with financial institutions, in which the Organization's deposits are insured by the FDIC to \$250,000 for December 31, 2008. The Organization did not have any uninsured balances as of December 31, 2008.

For December 31, 2007, the Organization's deposits were insured by the FDIC to \$100,000. As of December 31, 2007, the uninsured balance is \$238,104.

The Organization believes it is not exposed to any significant credit risk on its cash balances.

The Organization extends unsecured credit to the patients it serves in the Washington County, Arkansas geographic area. Bad debts for the year ended December 31, 2008 and 2007, were \$1,142,001 and \$1,346,878, respectively. In order to control the accounts receivable write-offs, management reviews the accounts monthly and past-due accounts are sent to a collection agency. The allowance for doubtful accounts in the amount of \$519,000 and \$459,000 as of December 31, 2008 and 2007, respectively, represents approximately 28% and 31% of the outstanding accounts receivable at December 31, 2008 and 2007, respectively.

CENTRAL EMERGENCY MEDICAL SERVICE, INC.
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2008 AND 2007

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NOTE 2 - CONCENTRATIONS OF CREDIT RISK, Continued

Total receivable credit risk consists of the following:

	<u>2008</u>	<u>2007</u>
Accounts Receivable	\$ 1,861,187	\$ 1,502,982
Less Allowance for Doubtful Accounts	(519,000)	(459,000)
Net Accounts Receivable	<u>\$ 1,342,187</u>	<u>\$ 1,043,982</u>

NOTE 3 - OTHER RECEIVABLES

Other receivables at December 31 were as follows:

	<u>2008</u>	<u>2007</u>
Government Receivable	\$ -	\$ 21,875
Reimbursements Outstanding	-	589
Pamp Receivable	<u>2,408</u>	<u>503</u>
Total	<u>\$ 2,408</u>	<u>\$ 22,967</u>

Government receivable at December 31, 2008 and 2007, consists primarily of funds due from City of Fayetteville for dispatch and EMS assistance. The Organization expects the balance due to be collected in full.

NOTE 4 - PROPERTY AND EQUIPMENT

Property and equipment consist of the following at December 31, 2008:

	Method/ Rate	Cost	Current Deprec.	Accum. Deprec.
On-Board Equipment	SL 5-12	\$ 602,126	\$ 53,011	\$ 320,682
Vehicles	SL 5-12	1,760,777	151,169	995,690
Communication Equipment	SL 5-15	525,920	37,028	466,721
Maintenance Equipment	SL 7-12	51,538	2,180	46,068
Office Equipment	SL 5-7	203,244	12,581	169,430
Furniture	SL 7-10	29,376	916	25,892
Buildings	SL 39	809,598	18,040	217,410
Land	N/A	109,795	-	-
Total		<u>\$ 4,092,374</u>	<u>\$ 274,925</u>	<u>\$ 2,241,893</u>

CENTRAL EMERGENCY MEDICAL SERVICE, INC.
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2008 AND 2007

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NOTE 4 - PROPERTY AND EQUIPMENT, Continued

Property and equipment consist of the following at December 31, 2007:

	Method/ Rate	Cost	Current Deprec.	Accum. Deprec.
On-Board Equipment	SL 5-12	\$ 466,160	\$ 49,777	\$ 267,672
Vehicles	SL 5-12	1,378,087	135,091	844,521
Communication Equipment	SL 5-15	521,077	45,807	429,693
Maintenance Equipment	SL 7-12	51,538	2,744	43,887
Office Equipment	SL 5-7	201,372	15,205	161,069
Furniture	SL 7-10	29,730	1,144	25,329
Buildings	SL 39	809,598	18,332	199,371
Land	N/A	109,795	-	-
Total		<u>\$ 3,567,357</u>	<u>\$ 268,100</u>	<u>\$ 1,971,542</u>

NOTE 5 - LINE OF CREDIT

The Organization maintains a working capital line of credit for \$524,000 with a local financial institution. The working capital line of credit renews annually, bears interest at an adjustable rate, currently 7.5% and is secured by first mortgages on two real estate properties. The outstanding balance was \$0 at December 31, 2008 and 2007, respectively.

NOTE 6 - LONG-TERM DEBT

Long-Term Debt at December 31 consists of the following:

	2008	2007
5.124% note payable to Bank of Fayetteville, collateralized by equipment, due in monthly installments of \$5,447, including interest.	\$ 213,355	\$ 261,768
Three (3) 4.005% notes payable to Bank of Fayetteville, collateralized by equipment, due in monthly installments of \$1,937 each, including interest.	305,468	-
Total long-term debt	518,823	261,768
Less current portion	(115,208)	(57,449)
Net long-term debt	<u>\$ 403,615</u>	<u>\$ 204,319</u>

CENTRAL EMERGENCY MEDICAL SERVICE, INC.
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2008 AND 2007

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NOTE 6 – LONG-TERM DEBT, Continued

Long-Term debt maturities for each of the next five years are as follows:

Year ending December 31,

2009	\$ 115,208
2010	119,639
2011	125,204
2012	103,198
2013	55,574
Total	<u>\$ 518,823</u>

NOTE 7 - RETIREMENT PLAN

The Organization has a defined contribution money purchase pension plan; open to all employees who have been employed at least twelve months. The plan allows the employee to contribute up to the maximum allowable by law and the employer contributes 5%. If the employee contributes to the plan, then the maximum match by the employer is 10%. The expense for the years ended December 31, 2008 and 2007, amounted to \$204,920 and \$188,546, respectively.

The vesting schedule is as follows:

Under 2 years of service	0%
2 years	20%
3 years	40%
4 years	60%
5 years	80%
6 years	100%

NOTE 8 - CONCENTRATIONS

The Organization operates within the Northwest Arkansas geographic area.

NOTE 9 - RENTAL OBLIGATIONS

The Organization rents a parking lot adjacent to its main office building on a month-to-month basis for \$250 per month. The Organization also entered into a two-year lease agreement on August 1, 2008 for a building in Fayetteville with a security deposit of \$3,000 and monthly rent of \$3,000. Total rental expense was \$21,000 and \$3,000 for years ended December 31, 2008 and 2007, respectively.

CENTRAL EMERGENCY MEDICAL SERVICE, INC.
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2008 AND 2007

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NOTE 9 - RENTAL OBLIGATIONS, Continued

Future minimum lease payments under operating leases that have remaining terms in excess of one year as of December 31, 2008, are:

Year ending December 31,

2009	\$ 36,000
2010	<u>21,000</u>
Total	<u>\$ 57,000</u>

NOTE 10 - SUBSEQUENT EVENT

As of January 1, 2009, the Organization became the Washington County Regional Ambulance Authority. Washington County and various cities of the county entered into an Interlocal Agreement for Ambulance Services effective April 21, 2008, pursuant to Arkansas Code. Because of this agreement to provide emergency and non-emergency medical services and continued provision of ambulance services for the entities involved, the original purposes and needs of the Organization has been superseded. The assets of the Organization have been transferred to this Authority and the dissolution documents of the Organization state that the Organization is to remain dormant until July 1, 2011. At that time, if the interlocal agreement has been renewed and the assets have not been returned to the Organization, than the Organization shall be dissolved as of that date. The Organization will file a final Form 990 Information Return for the year ending December 31, 2008.

Summary of Financial Statements, June 2009

The income statement shows that revenue is about \$65,000 under budget for the year. This is due in large part due to the VA, for which there was virtually no revenue in June as well as somewhat lower-than-expected revenue for the five months before that. Patient revenues are also significantly below budget but that is offset to a large degree by the allowances being lower as well. We did receive a grant of about \$25,000 in June for the 12-lead EKG transmission project. Expenses were somewhat lower than budgeted for the month, mostly due to lower bad debt and fuel costs. For the year expenses are under budget mostly to those two items as well as lower-than-budgeted depreciation, (in the *Other Expenses* line item.) Gain for the year is at about \$301,000 versus the budgeted \$176,000.

The balance sheet shows about \$314,000 in the bank. This is an increase of about \$100,000 for the month and about \$170,000 for the year. Patient account receivable are up slightly for the month as well.

	Current Period				Year To Date			
	Actual	Budget	Variance	%	Actual	Budget	Variance	%
Revenues								
Grants	\$24,958.00	\$0.00	\$24,958.00	0.0%	\$24,958.00	\$0.00	\$24,958.00	0.0%
Patient Charges	687,439.85	724,640.00	(37,200.15)	(5.1)	3,976,951.25	4,305,062.00	(328,110.75)	(7.6)
Wheelchair Charges	14,595.06	10,180.00	4,415.06	43.4	85,109.09	61,080.00	24,029.09	39.3
VA Charges	1,068.16	74,266.00	(73,197.84)	(98.6)	331,898.40	432,055.00	(100,156.60)	(23.2)
Standby Charges	42,844.24	45,000.00	(2,155.76)	(4.8)	124,605.31	116,189.00	8,416.31	7.2
Membership Dues Charged	4,385.00	5,562.00	(1,177.00)	(21.2)	33,400.00	33,372.00	28.00	0.1
Bad Debt Recovery	1,494.36	3,400.00	(1,905.64)	(56.0)	19,593.60	20,400.00	(806.40)	(4.0)
Mandatory Allowances	(144,595.47)	(255,079.00)	110,483.53	(43.3)	(1,284,728.83)	(1,542,386.00)	257,657.17	(16.7)
Membership Non-Renewals	(190.00)	(285.00)	95.00	(33.3)	(1,410.00)	(1,710.00)	300.00	(17.5)
Membership Charges Written Off	(6,259.84)	(8,000.00)	1,740.16	(21.8)	(29,821.02)	(48,000.00)	18,178.98	(37.9)
Washington County Assistance	46,750.68	46,750.00	0.68	0.0	280,504.08	280,500.00	4.08	0.0
Small Town Assistance	0.00	0.00	0.00	0.0	33,874.00	33,874.00	0.00	0.0
CMRS Reimbursement	30,582.82	0.00	30,582.82	0.0	90,676.37	60,600.00	30,076.37	49.6
Fayetteville Assistance	22,500.00	22,386.00	114.00	0.5	134,886.00	134,316.00	570.00	0.4
Monetary Donations	0.00	0.00	0.00	0.0	20.00	0.00	20.00	0.0
Miscellaneous Income	2,247.02	950.00	1,297.02	136.5	5,715.24	5,700.00	15.24	0.3
Net Revenues	\$727,819.88	\$669,770.00	\$58,049.88	8.7%	\$3,826,231.49	\$3,891,052.00	\$(64,820.51)	(1.7)%
Program Expenses								
Bad Debt Expense	\$124,402.42	\$140,761.00	\$16,358.58	11.6%	\$704,774.33	\$835,675.00	\$130,900.67	15.7%
Administration	17,909.12	21,553.33	3,644.21	16.9	122,098.07	137,319.98	15,221.91	11.1
Benefits	38,992.82	37,789.00	(1,203.82)	(3.2)	231,561.22	235,328.00	3,766.78	1.6
Communications	15,360.72	3,672.00	(11,688.72)	(318.3)	31,823.12	22,032.00	(9,791.12)	(44.4)
Employer Taxes	22,314.10	20,824.00	(1,490.10)	(7.2)	144,398.79	144,282.00	(116.79)	(0.1)
Facilities	2,077.13	3,297.00	1,219.87	37.0	12,763.67	19,782.00	7,018.33	35.5
Health & Safety	409.17	2,085.00	1,675.83	80.4	11,079.04	9,570.00	(1,509.04)	(15.8)
Medical Supplies & Equipment	24,281.01	17,032.00	(7,249.01)	(42.6)	114,998.54	102,192.00	(12,806.54)	(12.5)
Business Office	8,220.50	7,540.00	(680.50)	(9.0)	43,912.21	45,240.00	1,327.79	2.9
Other Expenses	29,863.00	36,250.00	6,387.00	17.6	177,656.00	217,500.00	39,844.00	18.3
Training	2,679.46	1,728.00	(951.46)	(55.1)	19,294.14	11,218.00	(8,076.14)	(72.0)
Utilities	7,552.44	6,753.00	(799.44)	(11.8)	47,764.96	40,518.00	(7,246.96)	(17.9)
Vehicle Maintenance & Fuel	17,873.63	22,063.00	4,189.37	19.0	97,472.56	132,378.00	34,905.44	26.4
Wages	289,248.38	270,686.00	(18,562.38)	(6.9)	1,765,961.76	1,759,459.00	(6,502.76)	(0.4)
Total Program Expenses	\$601,183.90	\$592,033.33	\$(9,150.57)	(1.5)%	\$3,525,558.41	\$3,712,493.98	\$186,935.57	5.0%
Total Expenses	\$601,183.90	\$592,033.33	\$(9,150.57)	(1.5)%	\$3,525,558.41	\$3,712,493.98	\$186,935.57	5.0%
Income (Loss) from Operations	\$126,635.98	\$77,736.67	\$(48,899.31)	(62.9)%	\$300,673.08	\$178,558.02	\$(122,115.06)	(68.4)%
Other Income (Expense)								

CENTRAL EMS
Income Statement SubType
(Original Budget to Actual Comparison)
For the period of 6/1/2009 Through 6/30/2009

	Current Period				Year To Date			
	Actual	Budget	Variance	%	Actual	Budget	Variance	%
Interest Earned	\$35.99	\$(400.00)	\$(435.99)	(109.0)%	\$250.16	\$(2,400.00)	\$(2,650.16)	(110.4)%
Total Other Income (Expense)	\$35.99	\$(400.00)	\$(435.99)	(109.0)%	\$250.16	\$(2,400.00)	\$(2,650.16)	(110.4)%
Net Income (Loss)	\$126,671.97	\$77,336.67	\$(49,335.30)	(63.8)%	\$300,923.24	\$176,158.02	\$(124,765.22)	(70.8)%

CENTRAL EMS
Balance Sheet SubType
As of 6/30/2009

Assets

Current Assets

Cash in Bank	\$283,325.21	
Equipment Fund	30,654.26	
Patient Accounts Receivable	1,994,072.11	
Membership Dues Receivable	2,498.18	
Bad Debt Allowance	(519,000.00)	
Government Accounts Receivable	18,453.49	
Reimbursements Outstanding	(370.62)	
Prepaid Property/Liability Insurance	(1,637.08)	
Prepaid Workers' Comp Insurance	5,551.58	
Total Current Assets		\$1,813,547.13

Property, Plant & Equipment

Land	\$109,795.13	
Buildings	809,598.43	
Medical Equipment	711,135.89	
Vehicles	1,767,406.58	
Communications Equipment	525,919.90	
Maintenance Tools & Equipment	51,537.62	
Office Equipment	203,244.09	
Furniture & Appliances	29,376.32	
Parts & Supplies Inventory	8,250.00	
Accumulated Depreciation	(2,400,049.59)	
Total Property, Plant & Equipment		1,816,214.37

Total Assets

\$3,629,761.50

Liabilities and Net Assets

Current Liabilities

Vendor Accounts Payable	\$82,651.17	
Discounts Taken	86.00	
Wages Payable	150,660.83	
Federal Income Taxes Payable	13,087.80	
FICA Payable	(13,414.13)	
SIT Payable	(254.71)	
Accrued ESD Payable	1,338.16	
Workers' Comp Insurance Payable	15,617.00	
Pension Deductions Payable	36,520.45	
Employer Pension Payable	475.79	
Credit Union Deductions Payable	2,868.00	
Employee Health Club Payable	(385.39)	
Temporary Deductions Payable	10,596.05	
Other Employee Insurance Payable	4,018.19	
Accrued Vacation Year End	70,766.83	
Short Term Portion of Long Term Debt	115,207.50	
Refunds of Overpayments	35,422.64	
Membership Dues Refunded	(275.00)	
Total Current Liabilities		\$524,987.18

Long Term Liabilities

Long Term Debt	\$347,222.98	
Total Long Term Liabilities		347,222.98

Total Liabilities

\$872,210.16

Net Assets

Gain (Loss)	\$85,789.19	
Fund Balance	2,370,838.91	
Current Year Net Assets	300,923.24	
Total Net Assets		2,757,551.34

Total Liabilities and Net Assets

\$3,629,761.50

**Washington County Regional Ambulance Authority
Central EMS**

Performance Report

Jun-09

<u>Administration</u>	<u>2008</u>	<u>YTD 2009</u>
Collection Rate	81%	72%

Operations

Demand/Workload

	<u>1st QTR</u>	<u>Apr</u>	<u>May</u>	<u>June</u>	<u>2nd QTR</u>
Total Calls for Service-All Ambulance	3532	1207	1203	1115	3525
Total Calls for Service: Emergency	2277	739	763	840	2342
Emergency Transports	1495	485	514	541	1540
Emergency No Pick Up/Cancelled	693	254	249	299	802
Non-Emergency Transports	839	254	242	275	771
Wheelchair	1419	457	446	482	1385
VA	391	183	175	3	361
Standbys (hours)	198.75	126.5	208	362	696.5

Ambulance Call Types

(Fayetteville/All)

	<u>1st QTR</u>	<u>Apr</u>	<u>May</u>	<u>June</u>	<u>2nd QTR</u>
Cardiac-Respiratory Arrest	27/43	10/13	11/16	5/11	26/40
Cardiac-Respiratory Emergency	122/351	72/123	54/113	66/116	192/352
Other Medical	812/1163	244/364	282/386	301/423	827/1173
Traffic Accident	100/190	48/81	56/90	51/79	155/250
Trauma	235/322	98/137	88/139	97/170	283/446
Interfacility	1151/1243	399/469	353/436	262/301	1014/1206
Other	25/165	16/20	17/23	14/16	47/59

Key Result Areas

	<u>Goal</u>	<u>1st QTR</u>	<u>Apr</u>	<u>May</u>	<u>June</u>	<u>2nd QTR</u>
Average Response Time Fayetteville	8 min	6:28	6:38	6:31	6:18	6:32
Fractile Response Time Fayetteville	90%in 8:59 or less	84%	82%	81%	85%	83%
Fractile Response Time Small Towns	90%in 12:59 or less	80%	81%	83%	89%	85%
Fractile Response Time Washington County	90%in 20:59 or less	80%	84%	84%	79%	82%
UHU: Unit Hour Utilization-Responses	.20/.22	.19/.27	.19/.26	.20/.26	.20/.28	.20/.27
Out of Chute Time	< 2 min	1:25	1:12	1:10	1:12	1:11
Turn Around Time at Hospital	15 minutes	19:12	20:43	21:53	24:52	22:31
Cardiac Arrest Save Rate		33.3%	28.0%	30.0%	33.3%	25.0%

Communications

Demand/Workload

	<u>1st QTR</u>	<u>Apr</u>	<u>May</u>	<u>June</u>	<u>2nd QTR</u>
911 Calls Answered	11767	3673	3645	3348	10666
Other Calls	22879	10588	10738	10488	31814

Key Result Areas

	<u>Goal</u>	<u>1st QTR</u>	<u>Apr</u>	<u>May</u>	<u>June</u>	<u>2nd QTR</u>
Emergency Call Processing Time	< 2 min (120 sec)	38.9	41.2	48.2	48.8	47.1
Fractile Answer Time-911	<3 rings (6 sec) 90%	97.1%	97.7%	97.9%	97.5%	97.7%
Overall Center EMD Compliance	≥ 90%	99.3%	99.3%	98.7%	98.7%	99.0%

Training

	<u>Contact Hours</u>	<u>1st QTR</u>	<u>Apr</u>	<u>May</u>	<u>June</u>	<u>2nd QTR</u>
EMS		1928.5	62	280	368	710
Fire		2944	40	0	296	336
Community		195	25	66.5	1485	1576.5

Central Emergency Medical Service, Inc.

Performance Report

Dec-08

Administration

	2007	YTD
Collection Rate	75%	81%

Operations

Demand/Workload

	1st Qtr	2nd Qtr	3rd Qtr	Oct	Nov	Dec	4th Qtr	2008 Total
Total Calls for Service-All Ambulance	3234	3369	3268	1081	892	862	2835	12706
Total Calls for Service: Emergency	2291	2316	2269	812	684	676	2172	9048
Emergency Transports	1536	1514	1496	488	481	465	1434	5980
Emergency No Pick Up/Cancelled	758	802	773	324	203	211	738	3071
Non-Emergency Transports	403	450	621	178	136	124	438	1912
Wheelchair	741	736	777	255	248	263	766	3020
VA	450	510	463	162	117	102	381	1804
Standbys (hours)	208.25	507	122.75	246.25	161.75	62	470	1308

Key Result Areas

	Goal	1st Qtr	2nd Qtr	3rd Qtr	Oct	Nov	Dec	4th Qtr	2008 Total
Average Response Time Fayetteville	8 min	6:29	6:01	6:26	6:32	6:34	6:42	6:30	6:39
Fractile Response Time Fayetteville	90%in 8:59 or less	84%	87%	83%	82%	82%	87%	84%	85%
Fractile Response Time Small Towns	90%in 12:59 or less	90%	84%	82%	85%	82%	82%	84%	85%
Fractile Response Time Washington County	90%in 20:59 or less	87%	83%	85%	86%	84%	81%	84%	85%
UHU: Unit Hour Utilization-Responses	.20/.22	.18/.25	.19/.26	.18/.25	.17/.25	.16/.23	.16/.23	.16/.23	.17/.25
Out of Chute Time	< 2 min	1:11	1:24	1:20	1:22	1:31	1:35	1:38	1:34
Turn Around Time at Hospital	15 minutes	20:54	21:11	20:55	20:57	19:17	18:21	17:02	19:43
Cardiac Arrest Save Rate		29.40%	26.70%	30.60%	29.80%	66%			31.70%

Communications

Demand/Workload

	1st Qtr	2nd Qtr	3rd Qtr	Oct	Nov	Dec	4th Qtr	2008 Total
Total Calls Answered	n/a	30744	n/a	n/a	3138**	3391**	n/a	n/a

Key Result Areas

	Goal	1st Qtr	2nd Qtr	3rd Qtr	Oct	Nov	Dec	4th Qtr	2008 Total
Emergency Call Processing Time	< 2 min (120 sec)	34.8	35.4	34.5	33.6	40.2	39.1	38.8	37.8
Fractile Answer Time-911	<3 rings (6 sec) 90%	n/a	97.70%	97.70%	97.30%	97.90%	97.50%	97.60%	98.20%
Overall Center EMD Compliance	≥ 90%	98.70%	99.22%	99.20%	99.40%	99.00%	99.10%	99.30%	99%

*Note: Total calls and Fractile answer time were impacted by computer/software malfunctions.

**Note: This total reflects 911 calls only.

Handed out at
Agenda Session
7-14-09

FIRST AMENDMENT to FARMINGTON-FAYETTEVILLE SEWER SERVICES CONTRACT

The Sewer Contract (hereinafter "Contract") dated April 3, 2007 between the City of Fayetteville (hereinafter "Fayetteville") and City of Farmington (hereinafter "Farmington") shall be amended and modified by this amendment (hereinafter "Amendment") as follows:

WHEREAS:

Under the Contract, Fayetteville receives wastewater from Farmington and then transports and processes the wastewater in Fayetteville's wastewater treatment facility and discharges treated wastewater effluent under Fayetteville's National Pollution Discharge Elimination System permit; and

Fayetteville must ensure that this role does not place financial burdens on Fayetteville's retail customers for which Fayetteville's retail customers receive no benefit; and

Farmington must ensure that this role does not place financial burdens on Farmington's retail customers for which Farmington's retail customers receive no benefit; and

City of Fayetteville and City of Farmington desire to amend said Contract.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Fayetteville and Farmington do hereby agree to amend the Contract as follows:

The Contract and the terms and conditions therein shall remain unchanged except for the sections listed below:

1.9 Farmington Wastewater Collection System –

Farmington Publicly Owned Treatment Works including any device or system used in the collection, transportation, or treatment of municipal sewage or industrial wastes of a liquid nature that is owned by Farmington. This definition shall include, but is not limited to, the gravity sewer pipes, collector sewers, transmission mains, force mains, manholes, and all appurtenances within the corporate boundaries of Farmington, the Farmington Branch Interceptor, Lift Station #12 and relocated Lift Station #12; Lift Station #12 Force Main located within the corporate boundaries of Farmington and Fayetteville and all other appurtenances which are being financed and constructed. This will include appurtenances not yet constructed as of the date of this agreement. The Farmington Wastewater Collection System may connect to the Fayetteville Wastewater Collection System at multiple locations. Service laterals are generally the responsibility and ownership of the Retail Customer and are thus excluded from this definition.

3.3 Operational Capacity

The Parties further agreed that Farmington shall not be required to pay more \$480,000.00 in engineering fees and associated costs unless there was a change in cost of engineering due to scope of work change requested by Farmington. The parties acknowledge and agree that that additional engineering fees were required due to relocation of Lift Station #12 and phasing the construction of the Farmington Gravity Sewer; However, the Parties agree that Farmington shall not be required to pay more than \$550,000.00 in engineering fees and all associated engineering and survey cost as a result of relocating Life Station #12 and completing the construction of the Farmington Gravity Sewer System.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the _____ day of _____, 2009.

CITY OF FARMINGTON

CITY OF FAYETTEVILLE

Ernie Penn, Mayor

Lioneld Jordan, Mayor

ATTEST:

ATTEST:

Kelly Thomas, City Clerk

Sondra Smith, City Clerk

AGENDA REQUEST

FOR: COUNCIL MEETING OF JULY 21, 2009

FROM:

LIONELD JORDAN, MAYOR

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Support The Selection Of Washington Regional Medical Center As An
Arkansas Level II Trauma Center

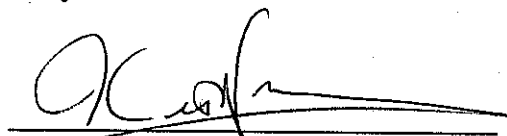
APPROVED FOR AGENDA:


Don Marr
Chief of Staff

7/14/09
Date


Lioneld Jordan
Mayor

7/14/09
Date

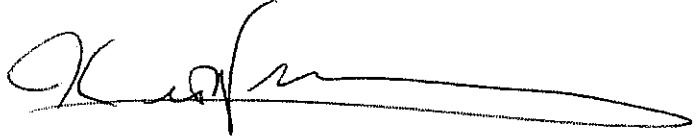

Kit Williams (as to form)
City Attorney

July 14, 2009
Date

TO: **Lioneld Jordan, Mayor**
City Council

CC: **Chief Tony Johnson**

FROM: **Kit Williams, City Attorney**



DATE: **July 14, 2009**

RE: **Washington Regional Medical Center should be one of Arkansas'
Level II Trauma Centers**

Chief Johnson and Mayor Jordan recommend that the City Council pass a Resolution supporting a bid by Washington Regional Medical Center to become a Level II Trauma Center. Our State Legislature enacted funding for trauma centers for Arkansas because we have one of the highest rates of motor vehicle crashes, traumatic brain injuries in children and serious fire related injuries in the country. Regional Level II Trauma Centers can often mean the difference between life and death of a traumatically injured person.

The modern and comprehensive facilities and equipment at Washington Regional Medical Center, as well as its large and competent professional staff would provide an excellent base of support for a Regional Level II Trauma Center. The large medical park surrounding Washington Regional houses numerous medical experts and specialists in many medical fields that are also vital to the proper functioning of a Level II Trauma Center.

Because of these many existing medical assets and Washington Regional Medical Center's central location and immediate access to I-540, Washington Regional Medical Center is uniquely positioned to best serve this whole region as the Level II Trauma Center. Accordingly, the City of Fayetteville should pledge its unqualified support to help make Washington Regional Medical Center a Level II Trauma Center.

RESOLUTION NO. _____

**A RESOLUTION TO SUPPORT THE SELECTION OF
WASHINGTON REGIONAL MEDICAL CENTER AS AN
ARKANSAS LEVEL II TRAUMA CENTER**

WHEREAS, the Arkansas Legislature enacted funding for a State Level II Trauma Center; and

WHEREAS, Washington Regional Medical Center located on I-540 is a logical and desirable location for such a Level II Trauma Center because Washington Regional Medical Center can best serve a substantial portion of the state population; and

WHEREAS, Washington Regional Medical Center has the capacity, equipment, and professional services to support and optimize such a Level II Trauma Center including room to expand if necessary; and

WHEREAS, the City Council strongly supports Washington Regional Medical Center's bid to be selected to become a State Level II Trauma Center and pledges to assist by development approval (if necessary) of facilities necessary to support a Level II Trauma Center at Washington Regional Medical Center.

**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 fully supports the selection of Washington Regional Medical Center as an Arkansas Level II Trauma Center, and pledges to assist by development approval (if necessary) of facilities necessary to support a Level II Trauma Center at Washington Regional Medical Center.

PASSED and APPROVED this 21st day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City Council Agenda Items
and
Contracts, Leases or Agreements

7/21/2009

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

Action Required:

Approval of a budget adjustment to accept reimbursement for the purchase of computer equipment for the Fayetteville Police Department and the U.S. Marshal's Western District's Task Forces from the U. S. Marshal Service. This computer equipment will be used to support the Task Forces and the Fayetteville Police Department at a cost not to exceed \$35,000.00.

\$ 35,000.00

Cost of this request

\$ -

Category / Project Budget

Police - US Marshal Service

Program Category / Project Name

1010-2920-5210.00

Account Number

\$ -

Funds Used to Date

Reimbursement

Program / Project Category Name

09020-0901

Project Number

\$ -

Remaining Balance

General

Fund Name

Budgeted Item

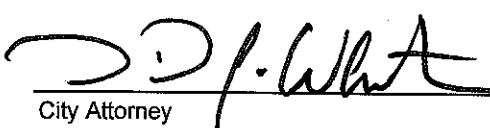
☐

Budget Adjustment Attached

☒

Department Director
7-14-09
Date

Previous Ordinance or Resolution #

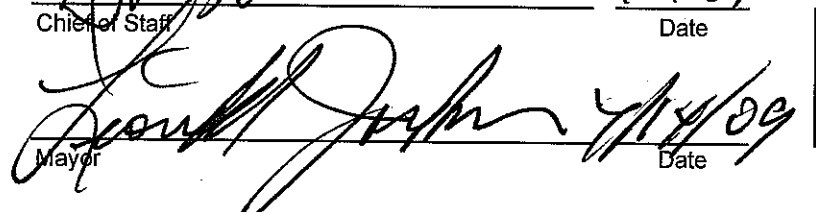

City Attorney
7/14/09
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director
7-14-2009
DateReceived in City
Clerk's OfficeENTERED
Ser

7/14/09


Chief of Staff
7-14-09
DateReceived in
Mayor's Office

Mayor
7/14/09
Date

Comments:

Departmental Correspondence

To: Mayor Lioneld Jordan and Members of the City Council

From: Greg Tabor, Police Chief 

Date: July 14, 2009

Re: **Approval of a Budget Adjustment for Reimbursement of Expenses from the U. S. Marshal Service**

Background

In October 2007, the Fayetteville Police Department joined nine other agencies including the U.S. Marshals Service to form the Northwest Arkansas Sex Offender and Violent Crime Task Force. We assigned one full time investigator and one part time investigator to participate in task force investigations. There is another task force working with the U.S. Marshal Service Western District, the River Valley Task Force in Fort Smith. As a result of the task force's activities, U.S. Marshal Richard O'Connell has asset forfeiture funds to distribute to the local task forces and local agencies. Mr. O'Connell also has federal funds that are meant to support local agencies and local task forces.

Discussion

In July 2009, the U. S. Marshal Service released \$35,000 of these funds for the Fayetteville Police Department and the U.S. Marshal's western district task forces for the purchase of computer equipment. These laptops, desktops and printers will be purchased by the Fayetteville Police Department and distributed to the task forces while retaining laptops for our Criminal Investigations Unit. These purchases will improve efficiencies for both the Western District Task Forces and the Fayetteville Criminal Investigations Division.

Recommendation

Staff recommends acceptance of these reimbursement funds and approval of a budget adjustment in the amount of \$35,000.

Budget Impact

None. This is a reimbursement of expenses incurred.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT FOR THE FAYETTEVILLE POLICE DEPARTMENT IN AN AMOUNT NOT TO EXCEED \$35,000.00 TO RECOGNIZE REIMBURSEMENT FROM THE U. S. MARSHAL SERVICE FOR THE PURCHASE OF COMPUTER EQUIPMENT TO SUPPORT THE U. S. MARSHAL'S WESTERN DISTRICT TASK FORCES.

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 for the Fayetteville Police Department in an amount not to exceed \$35,000.00 to recognize reimbursement from the U. S. Marshal Service for the purchase of computer equipment to support the U. S. Marshal's Western District task forces. A copy of the budget adjustment, marked Exhibit "A," is attached hereto and made a part hereof

PASSED and APPROVED this 21st day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

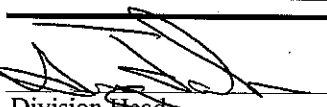
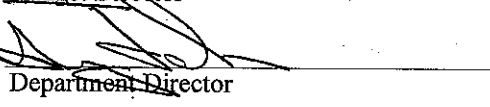
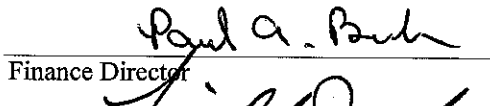
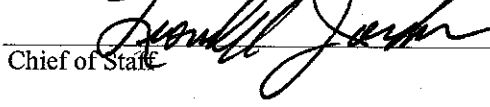
A. 11
U.S. Marshal Service
Reimbursement for Computer Equipment

Budget Year 2009	Department: Police Division: Police Program: Police/Animal Projects	Date Requested 7/14/2009	Page 4 of 6 Adjustment Number
--------------------------------	---	--	----------------------------------

Project or Item Added/Increased: Minor Equipment	Project or Item Deleted/Reduced: Increase Misc Revenue - Police Department
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Justification of this Increase: Equipment for technical support of Investigative operations of the U. S. Marshal Services task forces and the Fayetteville Police Department	Justification of this Decrease: Reimbursement of detective overtime expenses from the U. S. Marshal Service for investigative operations.
---	--

Increase Budget							
Account Name	Account Number				Amount	Project Number	
Minor Equipment	1010	2920	5210	00	35,000	09020	0901
Decrease Budget							
Account Name	Account Number				Amount	Project Number	
Miscellaneous Revenue - Police Department	1010	0001	4996	00	35,000	09020	0901

 Division Head  Budget Director  Department Director  Finance Director  Chief of Staff 7-14-09 7/14/09 7-14-09 7-14-2009 7/15/09	V.090403 Budget & Research Use Only Type: A B C D E Requested By General Ledger Date Posted to General Ledger Initial Date
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U.S. Department of Justice

A. 11
U.S. Marshal Service
Reimbursement for Computer Equipment
Page 5 of 6

United States Marshals Service

Western District of Arkansas

July 13, 2009

City of Fayetteville Police Department
Attn: Willie Newman
100A West Rock
Fayetteville, Arkansas 72701

Mr. Newman:

The United States Marshals Service requests the City of Fayetteville Police Department, as a member of the Northwest Arkansas Sex Offender & Violent Crime Task Force, purchase new Dell and Hewlett Packard computer and printer equipment totaling no more than \$35,000.00. This computer equipment would be used by our state and local task force members associated with the U. S. Marshals Service, Western Arkansas Fugitive Task Force.

The purchase would be paid by the City of Fayetteville, only to be reimbursed fully by the U. S. Marshals Service asset forfeiture funding. The purchase should be made through a state or federal contract, whereby the computer equipment would be discounted.

Please accept this letter as our request to seek your City Counsel's approval for this one time expenditure.

Regards,

B. Dewaine Allen,
Deputy U. S. Marshal
Western District of Arkansas
Fayetteville Division

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
July 21, 2009**

A meeting of the Fayetteville City Council will be held on July 21, 2009 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

Agenda Session Presentations:

1. Audit Committee Report concerning the 2008 Comprehensive Annual Financial Report (CAFR) – Tony C. Uth, Jr., Chair of the Audit Committee

Mayor's Announcements, Proclamations and Recognitions

Presentations, Reports and Discussion Items:

A. Consent:

1. Approval of the June 16, 2009 and the July 7, 2009 City Council meeting minutes.
2. **Arkansas Emergency Telephone Services Board Training Expenses:** A resolution approving a budget adjustment recognizing the receipt of training reimbursements in an amount not to exceed \$10,000.00 as they are received from the Arkansas Emergency Telephone Services Board for dispatcher training expenses.

3. **Mutual Aid Agreement:** A resolution approving a Mutual Aid Police Protection Agreement between the City of Fayetteville, Arkansas and the City of Springdale, Arkansas.
4. **Street Name Change:** A resolution changing the names of sections of West Salem Road and West Weir Road.
5. **Animal Services Miscellaneous Donations:** A resolution approving budget adjustments totaling \$26,000.00 from Animal Services Miscellaneous Donations to meet increased supply and operational costs at the Fayetteville Animal Shelter.
6. **McClelland Consulting Engineers Amendment No. 1:** A resolution approving Amendment No. 1 to the contract with McClelland Consulting Engineers in the amount of \$74,993.08 for construction phase services for the Township Street 36-inch Water Main Project; and approving a project contingency in the amount of \$15,000.00.
7. **Seven Valleys Construction Company, Inc.:** A resolution approving a contract with Seven Valleys Construction Company, Inc. in the amount of \$1,757,232.00 for the construction of a 36-inch water main along Township Street to include approximately 4,462 feet of 36-inch ductile iron water main; and approving a project contingency in the amount of \$90,000.00.
8. **Wastewater Collection and Treatment Services Amendment:** A resolution approving an amendment to the Wastewater Collection and Treatment Services Contract with the City of Farmington, Arkansas.
9. **Natural Resources Conservation Service (NRCS):** A resolution authorizing the Engineering Division to apply for and accept a grant through the Natural Resources Conservation Service (NRCS) in an amount not to exceed \$27,000.00 for debris removal from streams with flooding potential due to the January 2009 ice storm; and authorizing the Mayor to execute a project agreement with the NRCS and all other documents necessary to carry out the project.
10. **ADM 09-3333 (612 N. College Avenue ROW Variance):** A resolution approving a variance of the Unified Development Code Section 164.12 (F) Nonconforming Uses and Structures, Repairs and Maintenance, and Section 166.18 Master Street Plan Setbacks, allowing the existing structure located at 612 N. College Avenue to remain within the Master Street Plan right-of-way and to be improved greater than the 10% replacement cost allowed by code, within the existing limits of the structure.

B. Unfinished Business:

1. **RZN 09-3271 (Sale Barn/Campus Crest LLC, 562):** An ordinance rezoning that property described in rezoning petition RZN 09-3271, for approximately 8.87 acres, located at the old Washington County Sale Barn, north and east of 11th Avenue and Government Avenue from I-1, Heavy Commercial/Light Industrial, to DG, Downtown General. *This ordinance was left on the First Reading at the June 16, 2009 City Council meeting.*

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

**City of Fayetteville Arkansas
City Council Meeting Minutes
June 16, 2009**

A meeting of the Fayetteville City Council was held on June 16, 2009 at 6:00 PM 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, Thiel, Cook, Petty, Rhoads, Ferrell, Lucas, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

FHS Baseball Team Proclamation

Mayor Jordan read a proclamation honoring the Fayetteville High School Baseball Team for winning the State Championship.

Presentations, Reports and Discussion Items:

Nominating Committee Report

Alderman Cook read the Nominating Committee report. A copy of the report is attached.

Alderman Gray moved to approve the Nominating Committee Report. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

Consent:

Approval of the June 2, 2009 City Council meeting minutes.

Approved

Bid # 09-24 Downing Sales and Service: A resolution to award Bid # 09-24 to Downing Sales and Service to approve the purchase of a front load Solid Waste truck in the amount of \$220,890.00 and to approve a budget adjustment of \$36,000.00.

Resolution 121-09 as Recorded in the office of the City Clerk.

Bid # 09-28 Lewis Ford: A resolution approving the purchase of an additional compact 2x4 extended cab pickup truck under Bid # 09-28 from Lewis Ford in the amount of \$15,987.00 for use by the Meter Operations.

Resolution 122-09 as Recorded in the office of the City Clerk.

Bid # 09-36 Henard Utility Products: A resolution awarding Bid # 09-36 and approving the purchase of one (1) trailer mounted sewer cleaner from Henard Utility Products of Searcy in the amount of \$52,176.00 plus tax for use by the Water & Sewer Division; and approving a budget adjustment.

Resolution 123-09 as Recorded in the office of the City Clerk.

Bid # 09-37 Landers-McLarty Ford: A resolution awarding Bid # 09-37 and approving the purchase of one (1) cab & chassis with dump body from Landers-McLarty Ford of Bentonville in the amount of \$34,783.03 for use by the Parks, Recreation & Community Spaces Division.

Resolution 124-09 as Recorded in the office of the City Clerk.

Fourth Amendment to Articles of the Incorporation of the Walton Arts Center Foundation: A resolution to approve the Fourth Amendment to Articles of Incorporation of the Walton Arts Center Foundation, Inc.

Resolution 125-09 as Recorded in the office of the City Clerk.

Bid # 09-38 MHC Kenworth/Volvo: A resolution awarding Bid # 09-38 and approving the purchase of one (1) diesel powered tandem axle dump truck from MHC Kenworth/Volvo of Springdale in the amount of \$110,299.25 for use by the Water & Sewer Division; and approving a budget adjustment.

Resolution 126-09 as Recorded in the office of the City Clerk.

Bid # 09-39 MHC Kenworth/Volvo: A resolution awarding Bid # 09-39 and approving the purchase of one (1) diesel powered tandem axle dump truck with square body from MHC Kenworth/Volvo of Springdale in the amount of \$109,190.00 for use by the Transportation Division.

Resolution 127-09 as Recorded in the office of the City Clerk.

Bid # 09-40 Landers Ford Lincoln Mercury: A resolution to award Bid # 09-40 to Landers Ford Lincoln Mercury in the amount of \$32,745.00 for a ¾-Ton Pickup Truck.

Resolution 128-09 as Recorded in the office of the City Clerk.

Bid # 09-41 Dean Crowder Construction, Inc.: A resolution awarding Bid # 09-41 and approving a construction contract with Dean Crowder Construction, Inc. in the amount of \$1,360,185.43 for improvements to Township Street from Gregg Avenue to North College Avenue; and approving a 15% project contingency in the amount of \$204,028.00.

Resolution 129-09 as Recorded in the office of the City Clerk.

Bid # 09-43 Power Curbers, Inc.: A resolution to award Bid # 09-43 to Power Curbers, Inc. in the amount of \$25,017.08 plus tax for the purchase of a trimmer for the curber machine and approve the attached budget adjustment.

Resolution 130-09 as Recorded in the office of the City Clerk.

Bid # 09-44 Wheeler Lumber, LLC: A resolution awarding Bid # 09-44 and approving the purchase of one (1) prefabricated steel trail bridge from Wheeler Lumber, LLC in the amount of \$105,250.00 plus tax for the Lake Fayetteville Trail.

Resolution 131-09 as Recorded in the office of the City Clerk.

Mobile-Vision, Inc.: A resolution approving the purchase of five (5) additional in-car video systems from Mobile-Vision, Inc. in accordance with the continuing bid waiver granted by Ordinance No. 4551 of 2004, in the amount of \$30,500.71 for use by the Fayetteville Police Department.

Resolution 132-09 as Recorded in the office of the City Clerk.

2009 Bulletproof Vest Partnership Program Grant: A resolution to approve the 50% matching grant application for the bulletproof vest partnership with the Department of Justice in the amount of \$39,199.82 for 54 body armor vests.

Resolution 133-09 as Recorded in the office of the City Clerk.

Arkansas Department of Environmental Quality Recycling Grant: A resolution authorizing the Fayetteville Solid Waste & Recycling Division to accept an Arkansas Department of Environmental Quality Grant through Boston Mountain Solid Waste District in the amount of \$25,000.00 to fund the purchase of recycling containers for collection at Fayetteville Public Schools; and approving a budget adjustment recognizing the grant revenue.

Resolution 134-09 as Recorded in the office of the City Clerk.

American Recovery and Reinvestment Act (ARRA): A resolution authorizing the Fayetteville Fire Department to apply for an American Recovery and Reinvestment Act (ARRA) Assistance to Firefighters Station Construction Grant in the amount \$5,000,000.00 for the replacement and relocation of Fire Station # 2.

Resolution 135-09 as Recorded in the office of the City Clerk.

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

The following ordinance was added to the agenda.

Mayor Jordan: We have an addition to the Agenda. Is that correct?

City Attorney Kit Williams: We would ask that the City Council suspend the rules and place on the agenda for consideration, an ordinance that would amend the Unified Development Code by enacting a new Section 164.20 Approval of Vital Municipal Facility.

Alderman Cook moved to suspend the rules and add the item titled Amend Chapter 164: Supplementary Zoning Regulation to the agenda. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Amend Chapter 164: Supplementary Zoning Regulation: An ordinance to amend Chapter 164: Supplementary Zoning Regulation by enacting a new § 164.20 Approval of Vital Municipal Facility and to approve an emergency clause.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams stated in consultation with Jeremy Pate and the staff we determined that if there was going to be another potential location for the water tower to be located near the Hyland Park addition, the location which was presented to the homeowners would not fit the formal requirements of a normal lot split. He described the current requirements and why the ordinance needed to be approved.

Alderman Lewis: Does this change public notice on something like this?

City Attorney Kit Williams: It does not. There is no public notice required. There has to be a public hearing. The public will be notified as with any ordinance or resolution that comes before the City Council. There is not specifically public notice within this to notify every resident that is around it.

Alderman Lewis: But it has a public hearing?

City Attorney Kit Williams: It must have a public hearing. It has to have a two thirds vote which means it has to have six affirmative votes to pass which provides a little additional protection for the public interest.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Cook 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 5245 as Recorded in the office of the City Clerk.

City Attorney Kit Williams: We need a separate vote on the emergency clause. This one is clearly to protect the public health and safety so I recommend that you pass the emergency clause.

Alderman Ferrell moved to approve an Emergency Clause. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Hyland Park Phase II – Water Storage Tank: A resolution to accept and approve the City Council Sewer Committee's decision to begin construction plans for a 500,000 gallon water storage tower on Lot 22 of Hyland Park Phase II. *This resolution was tabled at the June 9, 2009 City Council meeting to the June 16, 2009 City Council meeting.*

Mayor Jordan: Since we last met Mr. Waselues came to the City with a proposal and I would like him to make that proposal to you now.

Jim Waselues presented his proposal to the City Council. He presented what he felt was the least intrusive option. He stated I negotiated with Mr. Combs for his Lot 7 of the John Smith

addition to offer him \$75,000 for Lot 7. Mr. Combs would in turn donate \$125,000 to the City because he considers the lot to be worth over \$200,000. I would give the City \$75,000 to make this transition happen and to release Lot 22 to myself in the Hyland Park addition. Upon completion of this transaction I would give the interest of Lot 22 to the Hyland Park Homeowner's Association.

City Attorney Kit Williams: The first contract is one that Mr. Waselues was able to obtain Mr. Combs signature on, that was for a two thirds of an acre lot. This is the same area that Mr. Jurgens has identified as an acceptable location for a water tower. It is somewhat more expensive to construct the tower on. The second contract is a contract where Mr. Waselues agrees to pay us \$75,000 and we agree to Quit Claim any of our interest in Lot 22 to him.

Mr. Williams explained the Quit Claim process. He stated the \$75,000 would be used to pay Mr. Combs and he would make a claim to the IRS that Lot 7 was worth \$125,000 more as his contribution to the City. We certify to the IRS that we received the property not the value of it.

Mayor Jordan: You can vote this up or down tonight or wait until the next Council meeting. We wanted to give you both options.

City Attorney Kit Williams: I redrafted a resolution if you want to go in Mr. Waselues's direction but that is probably premature until we hear public comment. There would be an amended resolution with the change in location.

Alderman Petty: Can we hear the opinion of Mr. Jurgens on this before public comment.

David Jurgens, Utilities Director: This is the same location that I recommended last week at the City Council meeting. I concur with this being an excellent choice.

Alderman Lucas: Is it correct that it would cost \$200,000 more?

David Jurgens: Yes Ma'am. The estimate was about \$230,000 more because the tower will have to be taller, the lot is sloped a little so there will have to be retaining walls. It is further off the paved road so there would have to be a longer driveway with asphalt and there is a little more piping involved.

Alderman Lucas: Where is the money going to come from if we decide to do this?

David Jurgens: The money would come out of the Water and Sewer fund. When we bid the project the intent would be to bid three different types of tank constructions and take the lowest of the three bids. At that time we will see if we have to bring forward a budget adjustment to come out of Water and Sewer funds or if we can do it within the budget. We have three different sources of budgeting. Most of this is out of impact fees, some is out of Water and Sewer funds, and then some is the developer match.

Alderman Petty: Could you tell us again how much is in the budget for this project.

David Jurgens: At this point we have about \$2.2 million in the budget plus the \$75,000 from the developer match.

Alderman Ferrell: Mr. Waselues what do you think the attitude of the POA is with this change that is being proposed?

Jim Waselues: I would hate to say. I really don't know.

Alderman Thiel: Since there was no comment from the other neighbors and we have a recommendation from David Jurgens that this is one of the best sites I feel like we should move forward.

William Mills, resident of 2448 Boston Mountain View: This would place it behind my house. There is an easement directly behind our lot and I am curious is that where the City is going to put the street?

David Jurgens: No. There is a 60 foot undedicated pathway or strip of land that was identified as a road right of way and we would intend to put the driveway within that. None of the construction would take place on any lot that is Hyland Park Phase II.

City Attorney Kit Williams: You said undedicated. Was it shown on the plat as an easement?

David Jurgens: There were parts of that 60 foot strip that were shown as an easement but most of it was shown as a void between two separate subdivisions.

City Attorney Kit Williams: Is the part where we would be building our driveway shown as an easement or was it just a blank area?

David Jurgens: It was part of the blank area.

City Attorney Kit Williams: I think it is premature for us to approve anything. I was assuming that the area was in fact a dedicated part of the plat. I think we will have cooperation from the individual that owns that. However I would hate to go forward with something unless we made it contingent upon getting access. I don't want us to get a lot and then not be able to reach it without having to buy a new access. If you wanted to go forward we could do it contingent upon receiving free access across that. As it was shown on the plats that I saw it looked like it was an un-built but not necessarily undedicated roadway so that concerns me a little bit.

David Jurgens: I don't want to swear that it is either of the above having not seen the plats either myself.

Alderman Ferrell: Kit said we could pass it and it would be contingent upon us having access. Although I am not crazy about spending \$200,000 more I think it displays the City's willingness to try and be flexible. Mr. Waselues has worked in trying to make this the least offensive.

Alderman Petty: I am amazed at how much energy that Mr. Waselues has put into this to try and find a solution. If we don't know the status of this easement I worry that even if we approve it with a contingency clause, if this comes back to us and we do not have the access the City is going to look like it has egg on its face. We have had so much difficulty with this already. So unless we are sure I am not sure I would want to move forward either.

City Attorney Kit Williams: What I would add is that "upon acquisition of access from Canterbury hereby determines" and go on from there. That would make the final determination contingent upon having obtaining the access from Canterbury that I think we can get. There has been assistance for Mr. Waselues from the individual that owns this. I think he would be in favor of granting access.

Alderman Gray: I just wanted to say that this is the best way to have things end so that maybe everyone is not totally satisfied but I think it is a good deal. I want to commend the staff, our attorney, and the homeowners for working together to find a feasible solution to this huge problem for a great number of citizens of the City of Fayetteville.

Alderman Cook moved to amend the resolution to state *"upon acquisition of access from Canterbury hereby determines"* as recommended by the City Attorney. Alderman Thiel seconded the motion.

Alderman Lewis: If we say yes and then there is not access that does not change our discussion next time either way right?

City Attorney Kit Williams: Yes, it would have to be brought back because the resolution would be ineffective because we could not get access and therefore the resolution would have to be reconsidered because it was not effective.

Alderman Lewis: So putting this in there, we would have the opportunity if it works out between now and then to move on.

City Attorney Kit Williams: At that point it would be effective and it would be finished. The access would be supplied to the City free of charge. That was always the understanding that if we were going to trade Lot 22 it was going to be of no charge to the City of Fayetteville.

Alderman Lucas: Is that in here somewhere?

City Attorney Kit Williams: That is what our agreement with Mr. Waselues says.

Alderman Lucas: In light of the problems over the legality of Lot 22 I think it needs to be spelled out completely on all of this.

City Attorney Kit Williams: It will be spelled out in the deeds that we will get from the parties.

Don Marr, Chief of Staff: I would like to ask that because you changed this resolution completely from what was published in the packet online that the City Attorney at least read what was handed out so the public will have that information.

City Attorney Kit Williams read the changed sections of the ordinance.

Alderman Lucas moved to amend the amendment to state *upon acquisition access from Canterbury at no cost to the City*. Alderman Ferrell seconded the motion.

City Attorney Kit Williams: I accept that as a friendly amendment and you do not have to vote.

Alderman Gray: In the fourth whereas it says that the \$125,000 will come from Lover's Lane, LLC and I thought it was coming from Mr. Combs.

City Attorney Kit Williams: He is the owner basically of that LLC.

Upon roll call the motion to amend passed unanimously.

Alderman Lucas: I am not happy about it costing the City more money but I think we need to move along and get this water tower up for fire safety. I appreciate all the efforts that were made by Mr. Waselues and the City. I will support it.

Mayor Jordan: I want to thank Kyle Cook and the Water and Sewer Committee for all their work on this too because they spent months on this last year.

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

Resolution 137-09 as Recorded in the office of the City Clerk.

The following resolution was added to the agenda.

City Attorney Kit Williams: There is one final step we need to make. It is a resolution to approve a lot split from Lot 7 of the John Smith addition and to approve the construction thereon of a 500,000 gallon water tower to serve the Mt. Sequoyah pressure plain. This needs to be passed under the ordinance that you just passed in order to authorize the construction of the water tower and authorize the lot split which must be conformed in this area.

Alderman Petty moved to amend the agenda and add John Smith addition Lot 7 lot split. Alderman Lucas seconded the motion.

Alderman Lucas: Is this contingent upon us obtaining access?

City Attorney Kit Williams: If we don't get access I will ask you to revoke this.

Upon roll call the motion passed unanimously.

John Smith Addition Lot 7 Lot Split: A resolution to approve a lot split from Lot 7 of the John Smith addition and to approve the construction thereon of a 500,000 gallon water tower to serve the Mt. Sequoyah Pressure Plane.

John Smith Addition Lot 7 Lot Split Public Hearing

Mayor Jordan opened the Public Hearing.

There was no Public Comment

Mayor Jordan closed the Public Hearing.

Alderman Lewis: If we move forward on the water tower and the lot split, they need to be tandem is that correct?

City Attorney Kit Williams: Yes we certainly cannot move forward with the water tower until there is a place to build it and that requires a lot split. You would be authorizing construction and that is why these two things are necessary in order for this project to move forward.

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

Resolution 136-09 as Recorded in the office of the City Clerk.

Hyland Park Phase II – Declaratory Judgment Action: A resolution to authorize the Fayetteville City Attorney to file a declaratory judgment action or other appropriate request for judicial relief concerning the ownership of Lot 22 of Hyland Park Phase II and the City's right to construct a water tower thereon. *This resolution was tabled at the June 9, 2009 City Council meeting to the June 16, 2009 City Council meeting.*

Alderman Petty: Would it be better if we tabled this indefinitely?

City Attorney Kit Williams: Yes, that is the appropriate thing to do.

Alderman Ferrell moved to table the resolution indefinitely. Alderman Lewis seconded the motion. Upon roll call the motion passed unanimously.

This item was tabled indefinitely.

Bid # 09-34 Runway Safety Area Improvement Project: A resolution awarding Bid # 09-34 and approving a contract with Sweetser Construction, Inc. in the amount of \$3,017,900.15 for construction of the Runway 16 Runway Safety Area Improvement Project. *This resolution was tabled at the May 5, 2009 City Council meeting to the May 19, 2009 City Council meeting. This resolution was tabled at the May 19, 2009 City Council meeting to the June 2, 2009 City Council meeting. This resolution was tabled at the June 2, 2009 City Council meeting to the June 16, 2009 City Council meeting.*

Ray Boudreaux, Aviation and Economic Development Director: I am happy to say that the grant has been approved and we are ready to award the contract for construction of the runway safety area improvement project.

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

Resolution 138-09 as Recorded in the office of the City Clerk.

McClelland Consulting Engineers, Inc.: A resolution to approve Task Order No. 1 for engineering services by McClelland Consulting Engineers for Runway 16 Safety Improvements in the amount of \$231,100.00 and to approve a budget adjustment of \$231,096.00. *This resolution was tabled at the May 19, 2009 City Council meeting to the June 2, 2009 City Council meeting. This resolution was tabled at the June 2, 2009 City Council meeting to the June 16, 2009 City Council meeting.*

Ray Boudreaux: We don't think we need the budget adjustment because we put all the grant money into a project budget.

Paul Becker, Finance and Internal Services Director: At the last Council meeting we approved the grant award for this project. When this resolution was originally placed on the agenda we anticipated that we would have to recognize part of that amount within this resolution to continue. However since we already accepted and appropriated the grant funding we no longer need the budget adjustment. I am asking that our reference to the budget adjustment be stricken from this resolution.

Alderman Thiel moved to amend the resolution to remove the budget adjustment. Alderman Lewis seconded the motion. Upon roll call the motion passed unanimously.

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

Resolution 139-09 as Recorded in the office of the City Clerk.

Utilities Department Positions: A resolution to amend the 2009 Budget to authorize and fund two full time employee positions for project design and management of Utilities Department

projects and to approve the attached budget adjustment to reduce the overall Water and Sewer Budget by \$250,000.00. *This resolution was tabled at the June 2, 2009 City Council meeting to the June 16, 2009 City Council meeting.*

David Jurgens gave a brief description of the positions and expressed the importance of the positions. He stated this was brought forward with a budget reduction because we have demonstrated through doing work in house we have been able to save consulting fees.

Alderman Cook: David's team has demonstrated their abilities and I have been happy with what they have done and what they are capable of doing. One thing I like about it is we are keeping it in house and reducing our cost on consultants. I think in the long run we are going to be better served to add these positions.

Alderman Ferrell: This says to serve as Operational Division Head for the Wastewater Treatment Division. How many direct report division managers will this make you?

David Jurgens: This would be three direct report division managers.

Alderman Ferrell: I am going to support this but when the economy changes and things pick up I am going to look at your department like you are two ahead so remember that.

Mayor Jordan: One thing that we need to do if this is passed is this time next year we look at the amount of savings that we have gotten by putting these two employees on and see if the \$250,000 savings is there.

Alderman Lewis: Can you describe what projects are planned?

David Jurgens gave a description of the planned projects.

Alderman Lucas: What is the total cost for these two positions?

David Jurgens: The cost for the six month period of this year was estimated at \$50,000 to \$60,000 and the other administrative costs were about \$7,000. Next year the cost would be about \$150,000. We will actually reimburse these positions out of the capital projects they are working on.

Alderman Lucas: I have a struggle hiring two people in this economy at this caliber. If we assess this in a year we are not going to let the people go so whether we save the money or not they are there.

Alderman Lewis: The projects that David mentions here are on going and many of them are required by entities beyond the city. The fact that we have skilled people already that know the City and the community it seems like a good investment.

Alderman Cook moved to approve the resolution. Alderman Petty seconded the motion. Upon roll call the resolution passed 7-1. Alderman Lucas voting no.

Resolution 140-09 as Recorded in the office of the City Clerk.

New Business:

Procter & Gamble: A resolution accepting a donation from Procter & Gamble in the amount of \$30,000.00 to fund a portion of the development costs for a Dog Park at Bryce Davis Park; and approving a budget adjustment recognizing the revenue.

Connie Edmonston, Parks and Recreation Director gave a brief description of the park.

Neelam Modi, representative of IAMS introduced his team members and expressed the importance of a Dog Park in Fayetteville.

Alderman Lucas thanked Proctor and Gamble for their donation. We are happy to have this nice park in Ward 4.

Alderman Cook asked what the schedule was like for when this will happen.

Neelam Modi: I think the details are still being worked on. We would like to break ground in the early part of next year and would like to have it open by spring time.

Alderman Petty: We were happy when Proctor and Gamble located in Fayetteville and we hope you never leave. Thank you so much.

Mayor Jordan thanked Proctor and Gamble on behalf of the City for their donation to this park. It is important to us.

Alderman Marr: On behalf of the staff we just want to say thank you to all of you.

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

Resolution 141-09 as Recorded in the office of the City Clerk.

VAC 09-3269 (Schmitt, 298): An ordinance approving VAC 09-3269 submitted by Jorgensen and Associates for property located at 2614 Timberglen Lane to vacate an 875 square foot portion of a utility easement along the west side of the subject property.

City Attorney Kit Williams read the ordinance.

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

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Petty seconded the motion. Upon roll call the motion passed 6-0. Alderman Cook and Lucas were absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Petty 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 5246 as Recorded in the office of the City Clerk.

VAC 09-3281 (Means/1661 Cypress Ln., 370): An ordinance approving VAC 09-3281 submitted by David Means for property located at 1661 East Cypress Lane to vacate an 84.4 square foot portion of a utility easement along the north side of the subject property.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Lewis: If it is sold and resold again does the water go through there?

Jeremy Pate: It is a utility easement but I am not sure that there are any utilities located within that area. Most of the utilities within this subdivision are located underneath the street and in the alley behind this development. Other utilities do have access to it but essentially what you would do with this approval would be vacating the rights to utilize the portion of the easement described in this area. We require the applicant to go to each one of the utility providers and get letters of consent. If we do not get consent letters we do not even recommend that the applicant come forward with the application.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5247 as Recorded in the office of the City Clerk.

VAC 09-3282 (U of A 20th Street, 601): An ordinance approving VAC 09-3282 submitted by Allen Young for property located at the University of Arkansas Research and Technology Park and South School Avenue to vacate approximately 86,684 square foot of right-of-way for 20th Street, lying within the subject property.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. He stated the Planning Commission voted 8-0 in favor of this item.

Alderman Lucas: Did you say the utility easements will stay?

Jeremy Pate: Yes ma'am. That is one of the conditions of approval.

Alderman Ferrell: Deeding this land to the University certainly helps us right now and in the future.

Allen Young with Development Consultants Inc. representing the University: I am happy to entertain any questions that you may have.

Alderman Cook moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Petty was absent during the vote.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5248 as Recorded in the office of the City Clerk.

Quitclaim Deed for 20th Street and Access Land: A resolution to approve two quitclaim deeds to the University of Arkansas to convey the vacated 20th Street and a second small area which had been retained for access.

City Attorney Kit Williams gave a brief description of the item. He stated this is to ensure that there are no questions about the University's full ownership of this property.

Alderman Lewis: You are saying the utilities are there. What happens if you have to tear it all up and fix the water line?

Jeremy Pate: The City would retain the rights with the utility easement regardless of whose property it is.

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

Resolution 142-09 as Recorded in the office of the City Clerk.

RZN 09-3271 (Sale Barn/Campus Crest LLC, 562): An ordinance rezoning that property described in rezoning petition RZN 09-3271, for approximately 8.87 acres, located at the old Washington County Sale Barn, north and east of 11th Avenue and Government Avenue from I-1, Heavy Commercial/Light Industrial, to DG Downtown General.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated the Planning Commission voted 6-1 on this particular site.

Alderman Lucas: What is the purple area that goes along School Street?

Jeremy Pate: That is Downtown General.

Alderman Thiel: What is the lighter green that is to the east on the Neighborhood Plan?

Jeremy Pate: That is P-1 Institutional which is where the park is located. The dark green north of Spout Spring Branch is Neighborhood Conservation.

Alderman Thiel: So it is adjacent to what we are looking at.

Jeremy Pate: Neighborhood Conservation in the downtown the uses are primarily single family and two family but it does include some nonresidential uses by virtue of the fact that they were already there.

Alderman Lewis: Are there lights being proposed at 11th Street, School Street, Government and Martin Luther King Jr.? I was thinking about the traffic. If you deny RMF-24 Downtown General would allow the same amount of density is that right?

Jeremy Pate: Yes, both allow residential uses. The Downtown General does not have a density limitation. It has height and lot use limitations.

Jeremy explained the Downtown General zoning and the density allowed in the zoning.

The City does not have any plans on signalizing those intersections. If a development comes through that is something that we always look at to see if signalization is warranted. We would expect a traffic study related to that specific development.

Bob Estes, representing Campus Crest stated the request is to downzone from I-1 to Downtown General. The applicant held a pre-submittal meeting with members of the Ward and held a neighborhood meeting as well. Upon a rezoning request the appropriate consideration and topic for discussion is land use. A discussion of permitted uses is not permissible at a rezoning only land use considerations are permissible. The requested Downtown General zoning is compatible with the surrounding properties and is consistent with the neighborhood area land use designation that you have established. The requested zoning is consistent with the City's adopted land use plan and with the City Plan 2025. The staff supports this request and the Planning Commission recommends that you pass this ordinance.

Mr. Estes explained the details of why the applicant is requesting the rezoning. He stated traffic is a consideration.

Randy Tobin with Peters and Associates stated we were hired to do a comprehensive traffic impact study related to the development as proposed. He gave the results of that study. He stated that traffic signals were not warranted for Martin Luther King Jr., Government, School Avenue and 11th Street.

Alderman Thiel: That was based on 500 students?

Randy Tobin: Yes ma'am.

Alderman Petty: With the current zoning being Industrial what is the potential for increasing traffic if we saw a maximum impact project built there?

Jeremy Pate: Generally we don't see a great volume of traffic associated with warehousing and industrial type uses. It is usually the type of traffic. Truck related is usually what you see. We have a lot of uses in I-1. A larger tract of I-1 would be utilized more for a smaller warehousing type use especially when it is not located at the corner of a very busy intersection. My anticipation is that it would be lower than a general mixed use or retail or residential type of use.

Mayor Jordan: We are discussing the rezoning, can we talk about a development or the density of a rezoning.

City Attorney Kit Williams: It is a fair zoning consideration to look at what could be built here if you rezoned. You should not discuss a particular project even if the project has been disclosed by the applicant to the neighborhood. You can look at what kind of projects could be built including a project that would have substantial density.

Mayor Jordan: When we do public comment I want you to focus on the rezoning. You can discuss density but a particular project being singled out would not be permissible. Traffic concerns can be discussed.

City Attorney Kit Williams: They can talk about what possible projects could be built but not a particular project.

Ron Butler, representative of the Regional National Cemetery Improvement Corporation spoke in opposition to the rezoning. We are opposed to any type of commercial development in that area. He stated we would like that piece of real estate to be added to the National Cemetery.

Alderman Petty: Ron, I understand this property has been offered to your group on several occasions for sale. Do you see that you would ever have the funding necessary to expand there?

Ron Butler: You can't rule us out. It has not been offered to us, there have been discussions with the property owner but I do not know the results of that discussion were. We have been successful in the past.

Otto Keller, a member of the NWA Honor Guard spoke in opposition to the rezoning. He asked the Council to not pass the rezoning and keep the ground holy and sacrificed.

Jim Buckner, a retired Lieutenant Colonel with the U.S Army spoke in opposition to the rezoning. He stated this is sacred and holy ground to us that plan on being buried there. He expressed his reasons of opposition and asked the Council to deny the rezoning. He stated anything that would be a disturbance to that holy ground would not be permissible therefore I urge you to deny this zoning.

Alderman Lucas: Are there any Korean veterans buried there?

Jim Buckner: Yes ma'am.

Alderman Lewis: Have you all been in contact with Boozman's office. I am trying to get an idea of the efforts to expand in that area.

Jim Buckner: I talked to Steve Gray today and he has been in conversation with Congressman Boozman today. They have urged that we try our best to stave off this rezoning to give us a chance to purchase this land. There are federal resources that can be brought to bear in this and it will take a little time but I believe we can raise the money that would purchase that land.

Kathy Kisida, resident of 1227 South West Avenue confirmed the Campus Crest were the ones requesting that it be rezoned.

Jeremy Pate confirmed that was correct.

Kathy Kisida spoke in opposition of the rezoning and stated that she wanted the neighborhood to remain a single family neighborhood. She stated she did not feel the neighborhood was compatible with the proposed project. She expressed her concerns with the current zoning, with a commercial zoning and RMF-24 zoning in this neighborhood. She requested that the Council consider zoning her neighborhood and the sale barn property to Neighborhood Conservation. She stated she would like to preserve the integrity of the neighborhood.

Alderman Petty: Is Campus Crest acting on behalf of Mr. Bartholomew in this case?

City Attorney Kit Williams: Sometimes there can be an offer to purchase that is contingent upon rezoning. They are either acting as an agent for them or else they have an offer to purchase that is contingent upon the rezoning.

Robert Reed, a member of American Legion Post #100 spoke in opposition of the rezoning. He expressed his concerns with the proposed zoning.

Leonard Schulte, resident of 1235 South West Avenue spoke in opposition of the rezoning. He stated he would like to see the whole neighborhood changed to Neighborhood Conservation.

Steve Bartholomew, representative of the sale barn stated I hope the rezoning is approved. I understand the veterans have an interest in our property but there has been no contact with us on a dollar amount of this property with those people. I am here to support rezoning it.

Alderman Ferrell: I have been told that your dad offered this property knowing the cemetery might want it some day. Do you have any knowledge of that?

Steve Bartholomew: I do know that they have talked but there has not been a dollar amount. We have been there a long time.

Robert Williams, resident of 957 South Hill spoke in opposition of this rezoning. He expressed his concerns with the proposed project.

Harold Harris, a veteran spoke in opposition of the rezoning and stated we need that as a cemetery.

A representative of the American Legion Foundation spoke in opposition of the rezoning and asked for more time to get donations to buy this lot.

Wanda Peterson: I live within two blocks of the sale barn. I would like to see the rezoning put off. I would like to see the cemetery expand to this property.

Bradley Warford: I think the current City zoning is inappropriate it does not match what is in the neighborhood. I hope the City does not try to cram too much stuff in that small area.

Dustin Bartholomew: My family is selling the property. The rezoning tonight is a down zoning from Industrial to Downtown General. The things that could be built there at this time would be a lot more damaging than what is being proposed. The sale barn has been the livelihood of my family for the last 70 years and now a lot depends on this sale going through.

Scott Test, Elks lodge representative. The economic impact that this can have on this area can hurt what is already there. Think about the impact this will have on people that have been here for years.

John Compton: My dad worked long and hard to help keep the National Cemetery open. I would urge the Council to think long and hard about what they do tonight and consider the interest of the people that live there and the interest of the people who no longer live but are there and consider the interest of the people who may need that place. I sympathize with the people that own the sale barn.

A person from the audience: I would appreciate you delaying this.

Aubrey Shepherd: This is on the National Registry of Historic places, it is an amazing place and it draws people here. It is incompatible with many different possible uses. We would like to see this zoned Neighborhood Conservation. There is also another cemetery by the National Cemetery. It is called the Oak Cemetery. I hope we can save this property for the National Cemetery.

Sarah Lewis: Do you know how many people visit the National Cemetery?

Aubrey Shepherd: On Memorial Day there were over 1,000 people. They have a count at the cemetery if they stop at the headquarters.

Rob Sharp: This is certainly a very difficult issue. I would hate to have to try to make a decision on whether to rezone this property. I would hope the developer and our Planning Department would come up with some kind of standard to where a development that we could be proud of could be part of our cemetery that could celebrate the cemetery rather than turn its back on it. Maybe there could be some comprised solution that could be offered by the purchaser of the property that would make us happy with what could be built there and could also protect the neighborhood and honor the cemetery.

Alderman Thiel: I would like to leave this on the first reading. We can only consider certain things but having an over 100 year National Cemetery it is hard to not consider that in a rezoning around it. I would like to think about this and hear more from the public.

Adella Gray: I agree. It is a very serious decision and we do not want to rush it.

Sarah Lewis: I want to say thank you to folks for coming out and sharing your point of view. This is a historic area and that needs to be considered. We have a neighborhood with single family around this property. This is a down zoning but yet it would be a zoning to match a really

wrong zoning all around it. It would hardly be considered a down zoning. The whole place needs to be down zoned again.

Matthew Petty: Those that would like to see the cemetery expand there I would urge you to do everything possible over the next few weeks to contact people. To the applicant I think you realize that Fayetteville insists that projects be more unique than what you have built around the country. I would urge you to be far more creative to help this go more smoothly.

This ordinance was left on the First Reading.

Box Avenue Appeal: An ordinance rezoning that property described in rezoning petition RZN 09-3280, for approximately 1.20 acres, located at the northwest corner of Mission Boulevard and Box Avenue from R-O, Residential Office, to C-1, Neighborhood Commercial.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: The applicant has requested this be left on this reading tonight.

This ordinance was left on the First Reading.

Oakbrooke Community Appeal: Appeal the City Engineers decision to deny a request to construct a retaining wall along the public right of way on all lots within the Oakbrooke Subdivision.

Chris Brown, City Engineer gave a brief summary of the appeal. The appeal is for the location of the retaining wall.

Alderman Ferrell: Did the other utilities sign off on this?

Chris Brown: Yes. All the other utilities are located elsewhere and not in the utility easement so they had no reason to deny this.

David Jurgens, Utility Department Director: With the 18 inch to two foot high wall I can't get behind the wall to do maintenance without taking the wall down in order to do maintenance on the pipe line.

Sarah Lewis: If there is damage and the City has to fix it who pays for the wall?

David Jurgens: We can make it a condition that the property owner who owns the wall is responsible to repair the wall. The challenge that we face when dealing with property owners is if we are fixing a line that services a lot across the street but we damage another owners wall the owner whose wall was damaged is not going to be happy.

David further explained the repair process.

Alderman Thiel: I have properties in the old part of town that have retaining walls and having utilities that run behind them is an issue.

Alderman Cook: How did it get designed like this?

David Jurgens: It is not uncommon to have the utilities behind the sidewalk. This has a very small yard area and it has a steeper slope.

Jeremy Pate: The location of the water lines and sewer lines are dedicated by the design engineers. It is the private developer and their design engineer that designed the location of that. In this development the utility easement was reduced because this was a planned zoning district.

Alderman Petty: The retaining wall looks better. Will moving the building set back farther allow a retaining wall to be built on the correct side of the utility?

Jeremy Pate: No I do not believe so. There are two separate issues. What you are considering tonight is an appeal of the City Engineers decision not to grant a wall within two feet of the right of way. David Jurgens was speaking of a separate issue that the City Council is not deciding.

Tracy Hoskins, developer: We hired an engineer to bring the project through and it was approved by Planning staff and Engineering. Typically the utilities are in the right of way. The fact that we have shorter front lots has nothing to do with this. The utilities could have been located within that right of way but for some reason they were not.

Tracy explained his reason for the walls. He stated there are ways to access these utilities without tearing the walls down.

Alderman Ferrell: What is the selling price of the houses?

Tracy Hoskins: The ones that we are building now range from \$190,000 to \$290,000. They are 1,700 square feet to 2,500 square feet.

Alderman Lucas: Tracy you are building a house with the garage sticking out in the front? I thought you were opposed to that type of house.

Tracy Hoskins: We are not building any house with the garage on the front.

Alderman Lucas: So the picture you gave us is not of the development.

Tracy Hoskins: I am not trying to represent the house I am trying to represent the terrain.

A discussion followed on the height of the walls, the possible placement of the walls, and the approval process.

Alderman Lewis moved to deny the appeal. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-2. Alderman Ferrell and Gray voting no.

This appeal was denied.

Willoughby Road Rezoning: An ordinance rezoning that property identified as Parcels 765-15560-000 and 765-15560-001, for approximately 15.2 acres, located south of Willoughby Road and 0.8 miles east of Highway 71B from I-2, General Industrial to R-A, Residential Agricultural.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief summary of the rezoning.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

City Attorney Kit Williams read the ordinance.

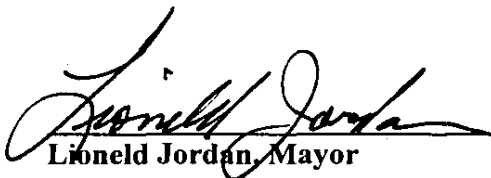
Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

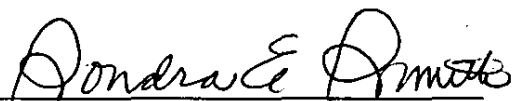
City Attorney Kit Williams read the ordinance.

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

Ordinance 5249 as Recorded in the office of the City Clerk.

The meeting adjourned at 9:55 PM


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer

Nominating Committee Report

Meeting: Monday, June 8, 2009

Room 326, City Hall 5:00 p.m.

Members Present – Kyle Cook, Robert Ferrell, Adella Gray, and Shirley Lucas

The Nominating Committee submits the following recommendations to the entire City Council for consideration:

Animal Services Advisory Board

- *Charlie Blomberg* - One veterinarian term
- *Emily Williams* - One business term
- *Carol Gerle* - One Washington County representative term
- *Richard Clehouse* - One finance term
- *Marcia Donley* - One nonprofit animal interest group term
- *Eva Madison* - One nonprofit animal interest group term
- *Lib Horn* - One citizen-at-large term
- *Lori Johnson* - One citizen-at-large term
- *Christina Mere* - One citizen-at-large term.

Board of Adjustment

- *Kristen Knight* - One unexpired term ending 03/31/11.

Environmental Concerns Committee

- *Angela Albright* - One citizen-at-large term ending 6/30/12
- *Nicole Hardiman* - One unexpired citizen-at-large term ending 12/31/10.

Fayetteville Arts Council

- *Jessica Minton* – One citizen-at-large term ending 6/30/12.

Historic District Commission

- *Ethel Goodstien-Murphee* – One term ending 6/30/12.

Parks and Recreation Advisory Board

- *Phillip Watson* – One unexpired term ending 12/31/09.

Telecommunications Board

- *Aubrey Shepherd* – One term ending 6/30/13
- *Justin Tennant* – One term ending 6/30/13
- *Don Bosseau* - One term ending 6/30/13
- *Mike Russell* – One unexpired term ending 6/30/10.

Walton Arts Center Council

- *Bill Waite* – One term ending 6/30/12.

Walton Arts Center Foundation

- *Eric Sales*– One Term ending 06/30/12.

This ordinance was left on the Second Reading at the July 7, 2009 City Council meeting.

C. New Business:

- 1. Amend Chapter 163 Use Conditions:** An ordinance to amend §163.15 Transit System Shelters of the Unified Development Code to allow transit shelters located within the Master Street Plan right-of-way and building setback lines.
- 2. Amend Chapter 111 Alcoholic Beverages:** An ordinance to amend §111.30 Retail of Chapter 111 Alcoholic Beverages of the Fayetteville Code to enact a new subsection (H) Restaurant Beer and Wine Permit.
- 3. RZN 09-3317 (Whitfield):** An ordinance rezoning that property described in rezoning petition RZN 09-3317, for approximately 9.91 acres, located on the west side of Crossover Road, approximately 0.50 mile north of Highway 16E, from RSF-4, Residential Single Family Four Units/Acre, to MSC, Main Street Center.
- 4. RZN 09-3318 (Happy Hollow School):** An ordinance rezoning that property described in rezoning petition RZN 09-3318, for approximately 32.53 acres, located on the west side of Crossover Road, approximately 0.50 mile north of Highway 16E, northeast of Happy Hollow Elementary School from RSF-4, Residential Single Family Four Units/Acre, to P-1, Institutional.
- 5. R-PZD 09-3237 (Markham Hill Cottage Courts):** An ordinance establishing a residential planned zoning district titled R-PZD 09-3237, Markham Hill Cottage Courts, located north of Maine Street and west of Cross Avenue; containing approximately 2.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.
- 6. VAC 09-3181 (Elsass/619 Rockcliff Road):** An ordinance approving VAC 09-3181 submitted by Kirk Elsass for property located at 619 North Rockcliff Road to vacate approximately 3,206 square feet of drainage easement on the subject property.
- 7. VAC 09-3320 (Elsass/621 Rockcliff Road):** An ordinance approving VAC 09-3320 submitted by Alan Reid for property located at 621 Rockcliff Road to vacate a 12.5' utility and drainage easement and a 15' utility, drainage, and pedestrian easement containing a total of 3,794 square feet.
- 8. VAC 09-3321 (Hubbard/Trails End Lane):** An ordinance approving VAC 09-3321 submitted by Tom Hubbard for property located at 4830 Trails End Lane to vacate a portion of a utility easement containing a total of 131.76 square feet.
- 9. Amend Chapter 33 Departments, Boards, Commissions, and Authorities:** An ordinance to amend Article XI Environmental Concerns Committee of Title III of the Code of Fayetteville to rename it Environmental Action Committee.

Agenda Additions:

Announcements:

- 1. City Council Tour: July 20, 2009**

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

City of Fayetteville Staff Review Form

A. 2
 Arkansas Emergency Telephone
 Services Board Training Expenses
 Page 1 of 4

City Council Agenda Items
 and
 Contracts, Leases or Agreements

7/21/2009

City Council Meeting Date
 Agenda Items Only

Greg Tabor, Acting Police Chief

Central Dispatch

Police

Submitted By

Division

Department

Action Required:

Accept training reimbursements from the Arkansas Emergency Telephone Services Board for training expenses for dispatch personnel and approve a budget adjustment increasing the dispatch travel and training account in the amount of these reimbursements as they are received not to exceed \$10,000.

\$ 10,000.00

Cost of this request

\$ 44,535.00

Category / Project Budget

Services and Charges

Program Category / Project Name

1010-2600-5304.00

Account Number

\$ 26,658.00

Funds Used to Date

Services and Charges

Program / Project Category Name

n/a

Project Number

\$ 17,876.12

Remaining Balance

General

Fund Name

Budgeted Item

Budget Adjustment Attached

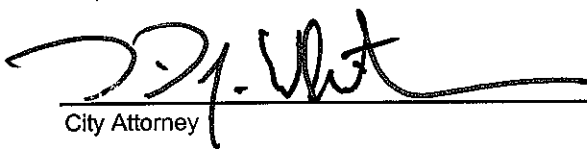
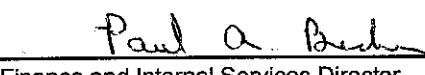
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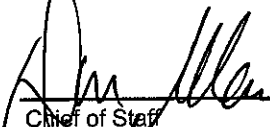

 Department Director
07/01/2009
Date

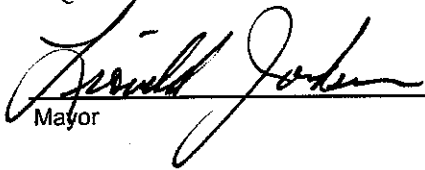
Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


 City Attorney
07/01/09
Date

 Finance and Internal Services Director
7-2-2009
DateReceived in City
Clerk's Office


 Chief of Staff
7/2/09
DateReceived in
Mayor's Office


 Mayor
7/2/09
Date

Comments:



FAYETTEVILLE

A. 2
Arkansas Emergency Telephone
Services Board Training Expenses
Page 2 of 4

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

TO: Mayor Lioneld Jordon and Members of the City Council

FROM: Greg Tabor, Acting Chief of Police 

DATE: June 29, 2009

SUBJECT: Training Reimbursement for Central Dispatch Personnel

Recommendation: The City Council accept all training reimbursements approved by the Arkansas Emergency Telephone service board for training expenses for dispatch personnel. Approve a budget adjustment increasing dispatch travel and training account not to exceed \$10,000.

Discussion: In 2008, the Arkansas Emergency Telephone Service Board notified us they would consider reimbursing travel and training expenses for dispatch personnel. The Central Dispatch center would like to take advantage of this reimbursement by sending the dispatchers to training we previously could not provide due to budget constraints.

Background: The Arkansas Emergency Telephone Services Board (AR ETS) previously known as "CMRS Board" receives funds collected by fees charged to wireless telephone subscribers. The Fayetteville Central Dispatch Center is a 9-1-1 wireless public safety answering point and is therefore eligible to receive funds from this board. The AR ETS Board manages and disburses funds as outlined under Arkansas Code 12-10-318 Emergency telephone service charges.

Budget Impact: There would be no impact to the budget but a budget adjustment increasing a revenue account and expense account would need to be approved administratively each time.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT
RECOGNIZING THE RECEIPT OF TRAINING
REIMBURSEMENTS IN AN AMOUNT NOT TO EXCEED
\$10,000.00 AS THEY ARE RECEIVED FROM THE ARKANSAS
EMERGENCY TELEPHONE SERVICES BOARD FOR
DISPATCHER TRAINING EXPENSES.

**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 recognizing the receipt of training
reimbursements in an amount not to exceed \$10,000.00 as they are received from
the Arkansas Emergency Telephone Services Board for dispatcher training
expenses.

PASSED and APPROVED this 21st day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

A. 2
Arkansas Emergency Telephone
Services Board Training Expenses
Adjustment Number
Page 4 of 4

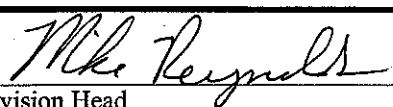
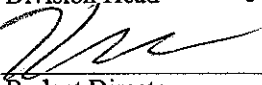
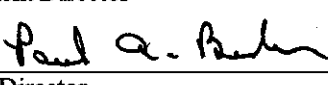
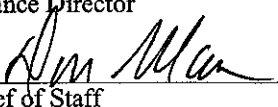
Budget Year 2009	Department: Police Division: Central Dispatch Program: Central Dispatch	Date Requested	
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Project or Item Added/Increased: Accept reimbursement for travel and training for dispatcher training	Project or Item Deleted/Reduced: No Project or Item was deleted or reduced
--	---

Justification of this Increase: The AR ETS board has offered to reimburse training for dispatchers and we would like to take advantage of this reimbursement by sending dispatchers to training they might not receive otherwise,	Justification of this Decrease: A decrease did not take place from this request
--	--

Increase Budget							
Account Name	Account Number				Amount	Project Number	
Travel & Training	1010	2600	5304	00	10,000		

Decrease Budget							
Account Name	Account Number				Amount	Project Number	
CMRS Reimbursement	1010	0001	4401	04	10,000		

 Division Head Date: 07/01/2009  Budget Director Date: 7-1-09  Department Director Date: 07/01/2009  Finance Director Date: 07/01/2009  Chief of Staff Date: 7/2/09 Mayor Date:	V.090403 Budget & Research Use Only Type: A B C <u>D</u> E Requested By _____ General Ledger Date _____ Posted to General Ledger Initial _____ Date _____ Posted to Project Accounting Initial _____ Date _____
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City Council Agenda Items
and
Contracts, Leases or Agreements

7/21/2009

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

Action Required:

Council approve a mutual aid police protection agreement with the City of Springdale, Arkansas.

\$0

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

\$

Account Number

Funds Used to Date

Program / Project Category Name

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Services Director

Date

Received in City
Clerk's Office

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date

Comments:



FAYETTEVILLE

A. 3
Mutual Aid Agreement
Page 2 of 8

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

To: Mayor Lioneld Jordan and City Council
From: Greg Tabor, Chief of Police 
Date: July 1st, 2009
Re: Mutual Aid Agreement

Recommendation:

Staff seeks approval to enter into a Mutual Aid Police Protection agreement with the City of Springdale, Arkansas.

Background:

The Fayetteville Police Department desires to obtain formal agreements with area law enforcement agencies regarding mutual aid for police protection.

Discussion:

A mutual aid agreement with other law enforcement agencies would be for times of emergency situations or temporary manpower shortages associated with special events. The Fayetteville Police Department recently entered into a similar agreement with the City of Fort Smith.

Budget Impact:

None

RESOLUTION NO. _____

A RESOLUTION APPROVING A MUTUAL AID POLICE PROTECTION AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE CITY OF SPRINGDALE, ARKANSAS.

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 Mutual Aid Police Protection Agreement between the City of Fayetteville, Arkansas and the City of Springdale, Arkansas. A copy of the Agreement is attached hereto as Exhibit "A," and made a part hereof.

PASSED and APPROVED this 21st day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Mutual Aid Police Protection Agreement

COPY

This Agreement, by and between the City of Springdale, Arkansas, and the City of Fayetteville, Arkansas, in accordance with A.C.A. § 16-81-106 et seq., to secure and provide for each adequate police protection through the use of properly trained and equipped police officers, mutual aid in police protection, and protection of life and property. It is agreed that:

I. Introduction

- A. The **City of Springdale** and the **City of Fayetteville** recognize and acknowledge that, at times, emergency situations or temporary manpower shortages associated with specific events arise that require additional manpower and resources beyond which the respective law enforcement agency for each City can provide. It is during such times that it may be prudent and necessary to request additional manpower or assistance from other law enforcement agencies.

II. Requests for the Springdale Police Department

- A. During natural or man-made disasters or temporary manpower shortages associated with specific events, the **City of Springdale** will provide assistance to the **City of Fayetteville** according to the guidelines as set forth in this **Mutual Aid Police Protection Agreement**. Requests for mutual aid must be made in writing by the **Fayetteville Police Department Chief of Police**, or by his or her authorized designee. Any request for aid under this Agreement will include a statement of the amount and type of equipment and personnel requested, and will specify the location to which the equipment and personnel are to be dispatched; however, the amount of and type of equipment and number of personnel to be furnished will be determined by the officer in charge of the responding organization.
- B. The **Springdale Police Department Chief of Police** will decide what resources are available to the requesting agency and will authorize the level of response to be provided, as well as the duration of aid to be provided. This response may include, but is not limited to, manpower, vehicles, equipment or other police resources. In the event that an exigent situation should arise within the jurisdiction of the **City of Springdale** that would necessitate such action, the **City of Springdale** reserves the right to refuse to respond to any request for mutual aid when, in the opinion of the City Administrator (Mayor) of **Springdale** or of its Chief of Police, responding to such a request would jeopardize municipal property or would endanger the lives or property of the citizens of the **City of Springdale**; additionally, the **City of Springdale** reserves the right to recall immediately any or all of the manpower, vehicles, equipment or other police resources on loan to another agency, if, in the opinion of the City Administrator (Mayor) of **Springdale** or its Chief of Police, that to do otherwise would jeopardize municipal property or would endanger the lives or property of the citizens of the **City of Springdale**.

- C. *The City of Fayetteville must sign or have previously signed a Mutual Aid Police Protection Agreement with the City of Springdale*

III. Supervision and Control of Officers on Loan to the City of Fayetteville

- A. Officers from the **Springdale Police Department** that are temporarily assigned to the **Fayetteville Police Department** under mutual aid police protection provisions are subject to the same rules, regulations, and supervisory commands as **Fayetteville Police Department** officers. They will possess the same powers, rights and immunities as **Fayetteville Police Department** officers.
- B. Personnel and administrative control, including compensation of **Springdale** officers, will be retained by the **City of Springdale** and the **Springdale Police Department**. **Springdale** police officers will be entitled to worker's compensation and other benefits to which they would be entitled were they functioning within the normal course and scope of the duties with the **Springdale Police Department**.

IV. Requests by the Springdale Police Department

- A. During natural or man-made disasters or temporary manpower shortages associated with specific events, the **City of Fayetteville** will provide assistance to the **City of Springdale** according to the guidelines as set forth in this **Mutual Aid Police Protection Agreement**. Requests for mutual aid must be made in writing by the **Springdale Department Chief of Police**, or by his or her authorized designee. Any request for aid under this Agreement will include a statement of the amount and type of equipment and personnel requested, and will specify the location to which the equipment and personnel are to be dispatched; however, the amount of and type of equipment and number of personnel to be furnished will be determined by the officer in charge of the responding organization.
- B. The **Fayetteville Police Department Chief of Police** will decide what resources are available to the requesting agency and will authorize the level of response to be provided, as well as the duration of aid to be provided. This response may include, but is not limited to, manpower, vehicles, equipment or other police resources. In the event that an exigent situation should arise within the jurisdiction of the **City of Fayetteville** that would necessitate such action, the **City of Fayetteville** reserves the right to refuse to respond to any request for mutual aid when, in the opinion of the Mayor of Fayetteville or of its Chief of Police, responding to such a request would jeopardize municipal property or would endanger the lives or property of the citizens of the **City of Fayetteville**; additionally, the **City of Fayetteville** reserves the right to recall immediately any or all of the manpower, vehicles, equipment or other police resources on loan to another agency, if, in the opinion of the Mayor of Fayetteville or of its Chief of Police, that to do otherwise would jeopardize municipal property or would endanger the lives or property of the citizens of the **City of Fayetteville**.
- C. *The City of Springdale must sign or have previously signed a Mutual Aid Police Protection Agreement with the City of Fayetteville.*

V. **Supervision and Control of Officers on Loan to the City of Springdale**

- A. Officers from the **Fayetteville Police Department** that are temporarily assigned to the **Springdale Police Department** under mutual aid police protection provisions are subject to the same rules, regulations, and supervisory commands as **Springdale Police Department** officers. They will possess the same powers, rights and immunities as Springdale Police Department officers.
- B. Personnel and administrative control, including compensation of **Fayetteville Police Department** officers, will be retained by the **City of Fayetteville** and the **Fayetteville Police Department**. Fayetteville police officers will be entitled to worker's compensation and other benefits to which they would be entitled were they functioning within the normal course and scope of the duties with the **Fayetteville Police Department**.

VI. **Mutual Aid Police Protection Agreement**

- A. Pursuant to Act 846 of 1989, codified at A.C.A. § 16-81-106 et. seq., the **City of Springdale** and the **City of Fayetteville**, having each created police departments and having employed police officers of these respective municipalities that are sworn to enforce the laws of this state and their individual jurisdictions, do hereby enter into this **MUTUAL AID POLICE PROTECTION AGREEMENT** as allowed by Act 846 and their individual municipal policies. This Mutual Aid Police Protection Agreement shall be construed to grant to Fayetteville Police Department officers and Springdale Police Department officers the statewide arrest powers authorized by A.C.A. § 16-81-106(c)(3) while working pursuant to this Agreement within the jurisdiction of the requesting city.
- B. *In the event of claims for injury or other loss said to be the result of acts or omissions by an officer, or officers, providing assistance pursuant to this Mutual Aid Police Protection Agreement, the agency and municipality providing such assistance shall provide a legal defense for and shall hold harmless the receiving agency, its officer(s), and municipality from and against all such claims. Both cities assert their sovereign immunity and neither waives it as a consequence of the above language. This hold harmless agreement is subject to the limitations of Arkansas law and such agreement is not intended to inure to the benefit of any third party nor should it be interpreted as a basis for municipal liability for which the municipality is otherwise immune under Arkansas law.*
- C. This **MUTUAL AID POLICE PROTECTION AGREEMENT** may be reviewed annually. Should any paragraph or part of this **MUTUAL AID POLICE PROTECTION AGREEMENT** be found unconstitutional or unlawful, the remainder shall remain in full force and effect.
- D. This Agreement is in effect from its date of approval by the governing bodies of each municipality, and will remain in effect until cancellation in writing by one or both parties.

- E. Either party may terminate this agreement upon ten (10) days' notice in writing to the other municipality through the Chief of each respective Police Department.

Witness our hands this _____ day of _____, 2009

City of Springdale
Springdale, Arkansas

By: _____

Mayor

City of Fayetteville
Fayetteville, Arkansas

By: _____

Mayor

Attest: City Clerk, Springdale

Denise Pearce

Attest: City Clerk, Fayetteville

City of Fayetteville Staff Review Form

A. 4
Street Name Change
Page 1 of 4

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

July 21st, 2009

City Council Meeting Date
Agenda Items Only

John Goddard

Information Technology

Submitted By

Division

Department

Action Required:

Approval of a resolution to change the name of a section of W Salem Road to Ruppel Road and change the name of a section of W Weir Road to Ruppel Road.

\$200.00

Cost of this request

\$

11,379.00

Category / Project Budget

Signs

Program Category / Project Name

2100.5315.5212.00

Account Number

\$

4,012.92

Funds Used to Date

Program / Project Category Name

\$

7,366.08

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

S. H. H. H.
Department Director

Date

6/30/09

Previous Ordinance or Resolution #

D. P. Whit
City Attorney

Date

7/1/09

Original Contract Date:

Original Contract Number:

Paul A. Bach
Finance and Internal Services Director

Date

7-2-2009

Received in City
Clerk's Office

ENTERED

6/30 GW

Ann Men
Chief of Staff

Date

7/2/09

Received in
Mayor's Office

ENTERED

7/1/09 PH

Frederick J. Jordan
Mayor

Date

7/2/09

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Don Marr, Chief of Staff
From: John Goddard, Information Technology Div.
Date: June 30, 2009

Subject: Approval of a resolution to change the name of a section of W Salem Road to Ruppel Road and change the name of a section of W Weir Road to Ruppel Road.

RECOMMENDATION

Staff recommends that several sections of existing roadway be changed to Ruppel Road. This is to solve the problem of this north-south corridor changing names four times with ½ mile.

BACKGROUND

As Ruppel Road will eventually extend north to Weir Road, it will create multiple street name changes within a short driving distance, creating potential E911 issues and confusion for delivery services. Currently there are only two existing residential addresses that will be affected by this change, whereas it may affect more addresses in the future as this area continues to grow.

BUDGET IMPACT

Approximately \$200.00 for the installation of new street signs.

RESOLUTION NO. _____

A RESOLUTION CHANGING THE NAMES OF SECTIONS OF WEST
SALEM ROAD AND WEST WEIR ROAD.

**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 changing the names of sections of West Salem Road and West Weir Road to North Ruppel Road., as depicted on the Map attached hereto as Exhibit "A," and made a part hereof.

PASSED and APPROVED this 21st day of July, 2009.

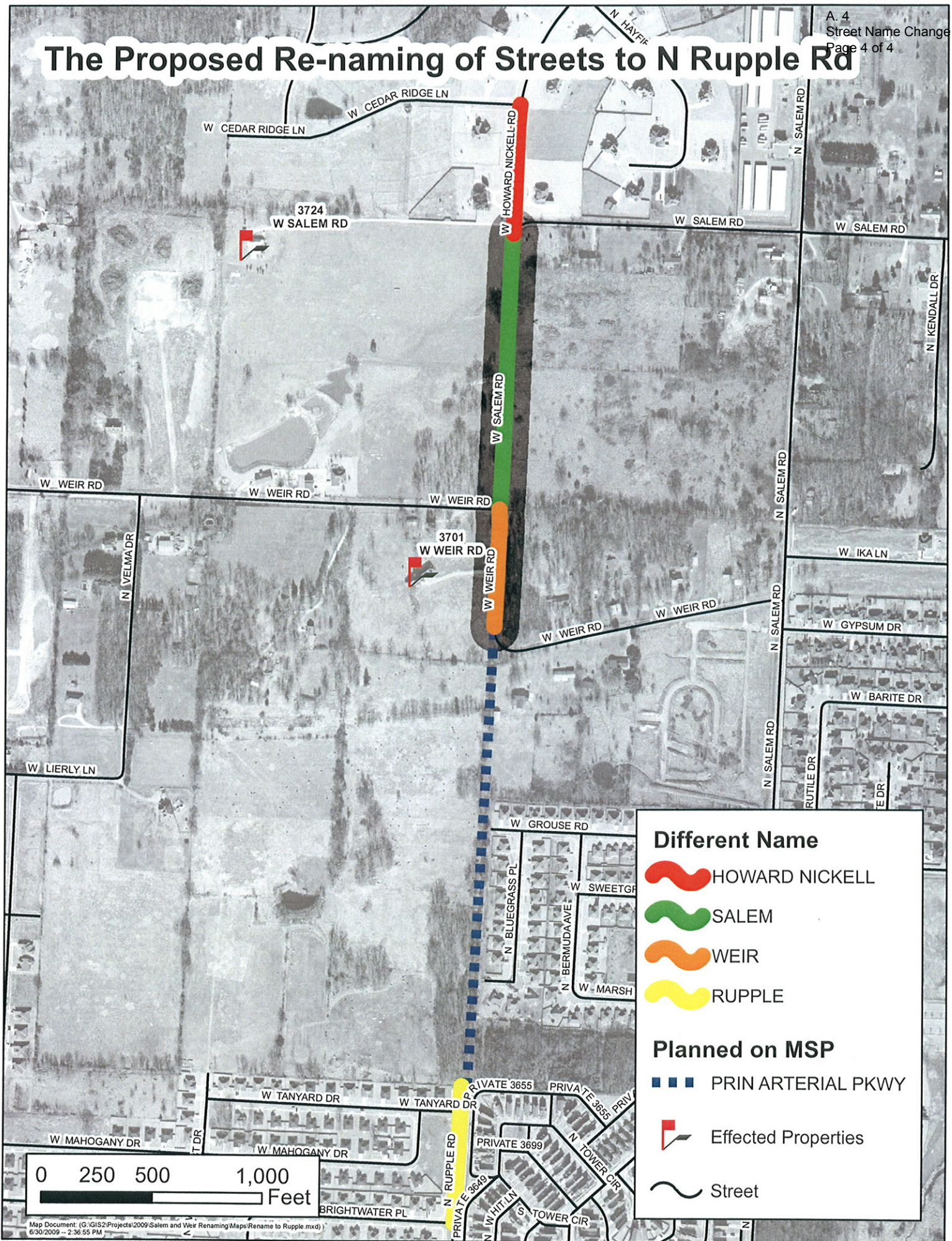
APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

The Proposed Re-naming of Streets to N Ruppel Rd



City of Fayetteville Staff Review Form

A. 5
Animal Services Miscellaneous Donations
Page 1 of 4

City Council Agenda Items
and
Contracts, Leases or Agreements

7/21/2009

City Council Meeting Date
Agenda Items Only

Jill Hatfield

Submitted By

Animal Services

Division

Community Services

Department

Action Required:

Request approval to recognize miscellaneous donations for expense accounts: Medical Supplies, Vet/Surgery Supplies, and Cleaning Supplies. Funds needed due to rising supply costs and insufficient operational funds.

Cost of this request	\$ 26,000.00	Program Category / Project Name
1010.0001.4808.00	Category / Project Budget	Animal Services Misc. Donations
Account Number	\$ -	Program / Project Category Name
03048.01	Funds Used to Date	General
Project Number	\$ 26,000.00	Fund Name
	Remaining Balance	

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Services Director

Date

Chief of Staff

Date

Mayor

Date

Received in City
Clerk's Office



Received in
Mayor's Office



Comments:

Departmental Correspondence

To: Mayor Lioneld Jordan and Fayetteville City Council

Thru: Jeremy Pate, Planning Director

From: Jill Hatfield, Animal Services Superintendent

Date: June 30, 2009

Re: Request approval to recognize miscellaneous donations for expense accounts

Recommendation

Staff requests approval to recognize miscellaneous donations for the following expense accounts: Medical Supplies, Vet/Surgical Supplies, and Cleaning Supplies.

Background

Due to the rising costs of needed supplies, the Animal Services Division is requesting recognizing \$26,000 from the Miscellaneous Donations revenue account to cover expenses in the above listed accounts. As in 2007, the 2008 operating budget for the listed accounts was \$17,837; actual expenses in 2008 were \$71,808.

Discussion

Due to the increase in costs this year, additional funds are needed to cover medical, surgical, and cleaning supply expenses.

Budget Impact

The miscellaneous donations received are given for the health, welfare and needs of the animals while in the shelter's care. Private citizens and organizations give to Animal Services so that all the animals are given the proper care they deserve.

RESOLUTION NO. _____

A RESOLUTION APPROVING BUDGET ADJUSTMENTS
TOTALING \$26,000.00 FROM ANIMAL SERVICES
MISCELLANEOUS DONATIONS TO MEET INCREASED
SUPPLY AND OPERATIONAL COSTS AT THE FAYETTEVILLE
ANIMAL SHELTER.

**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
budget adjustments totaling \$26,000.00 from Animal Services Miscellaneous Donations to meet
increased supply and operational costs at the Fayetteville Animal Shelter.

PASSED and APPROVED this 17th day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

A. 5

Animal Services Miscellaneous Donations
Page 4 Adjustment Number

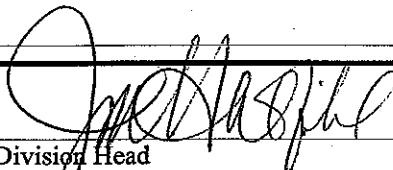
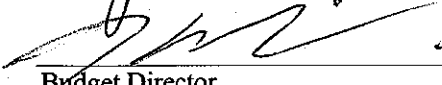
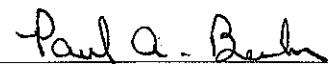
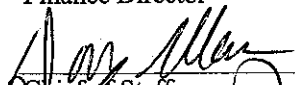
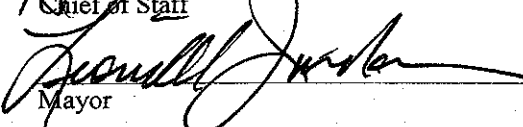
Budget Year 2009	Department: Police Community Services Division: Animal Services Program: Veterinarian/Clinic	Date Requested 6/30/2009
--------------------------------	--	--

Project or Item Added/Increased:	Project or Item Deleted/Reduced:

Justification of this Increase: Recognize miscellaneous donations for expense accounts Medical Supplies, Vet/Clinic Supplies, and Cleaning Supplies.	Justification of this Decrease: Miscellaneous donations given for the health and welfare of the animals that are cared for by the shelter by private citizens and organizations.
---	---

		Increase Budget					
Account Name	Account Number				Amount	Project Number	
Medical Supplies	1010	2740	5200	02	15,000	03048	1
Vet Supplies	100	2740	5200	03	5,000	03048	1
Cleaning Supplies	1010	2740	5203	00	6,000	03048	1

		Decrease Budget					
Account Name	Account Number				Amount	Project Number	
Donations - Animal Shelter	1010	0001	4808	00	26,000	03048	1

	6/30/09
Division Head	Date
	6/14/09
Budget Director	Date
Department Director	Date
	7-6-2009
Finance Director	Date
	7/7/09
Chief of Staff	Date
	7/7/09
Mayor	Date

V.090403

Budget & Research Use Only					
Type:	A	B	C	<u>D</u>	E
Requested By					
General Ledger Date					
Posted to General Ledger	Initial		Date		
Posted to Project Accounting	Initial		Date		

City of Fayetteville Staff Review Form

A. 6
McClelland Consulting Engineers
Amendment No. 1
Page 1 of 6

City Council Agenda Items
and
Contracts, Leases or Agreements

21-Jul-09

City Council Meeting Date
Agenda Items Only

Shannon Jones

Water/Sewer

Utilities

Submitted By

Division

Department

Action Required:

Approval of Amendment No. 1 to the engineering services agreement with McClelland Consulting Engineers in the amount of \$74,993.08, for construction phase services for the Township 36-inch Water Main project, and approval of a \$15,000 contingency.

\$ 89,993.08

Cost of this request

\$ 7,500,000.00

Category / Project Budget

W&S Relocations - 2009 Bond Proceeds

Program Category / Project Name

5400.5640.5314.00

Account Number

\$ -

Funds Used to Date

Water & Wastewater

Program / Project Category Name

09018.0903

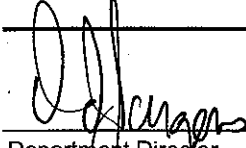
Project Number

\$ 7,500,000.00

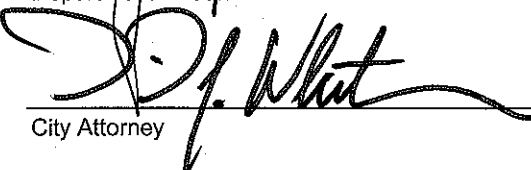
Remaining Balance

Water & Sewer

Fund Name

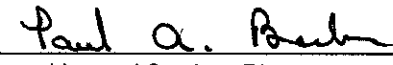
Budgeted Item ☒Budget Adjustment Attached ☐

Department Director
2 July 09
Date

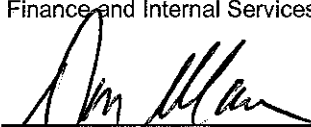
Previous Ordinance or Resolution # 234-08


City Attorney
7/8/09
Date

Original Contract Date: 12/16/2008

Original Contract Number: 2064


Finance and Internal Services Director
7-6-2009
DateReceived in City
Clerk's Office


Chief of Staff
7-7/09
DateReceived in
Mayor's Office


Mayor
7/7/09
Date

Comments:

CITY COUNCIL AGENDA

To: Fayetteville City Council

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

From: Shannon Jones, Water and Wastewater Engineer SJ

Date: 2 July 2009

Subject: Staff recommends approval of Amendment No. 1 to the engineering services agreement with McClelland Consulting Engineers in the amount of \$74,993.08, for construction phase services for the Township 36-inch Water Main project, and approval of a \$15,000 contingency.

RECOMMENDATION

Staff recommends approval of Amendment No. 1 to the engineering services agreement with McClelland Consulting Engineers in the amount of \$74,993.08, for construction phase services for the Township 36-inch Water Main project, and approval of a \$15,000 contingency.

BACKGROUND

The original design contract was awarded to McClelland Consulting Engineers in December, 2008 to design relocated water and sewer lines as a result of the combined Arkansas Highway Department (AHTD) and City widening of Crossover Road (Hwy 265) between Mission and Joyce, upsizing the existing pipes and connecting a 36" transmission line. Work will include installing a 36" and 24" transmission main along Crossover from Joyce to connect to the existing 24" main on Crossover at Mission and to connect to the existing 36" main on Old Wire Road. This work will complete the eastern portion of the loop that was initially constructed when the southern section of Crossover Road between Mission and Huntsville was widened by the AHTD. This contract did not include construction phase services.

DISCUSSION

This amendment covers construction phase engineering services that includes one full time construction observer, attending preconstruction conference, review of contractor's schedules, submittals, monthly progress meetings, reports to the City of Fayetteville, partial pay requests, intermittent site visits, change order processing, final inspection, final pay request review, and related activities.

BUDGET IMPACT

Funds are available within the W&S Relocations – 2009 Bond Proceeds project budget

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT No. 1 TO THE CONTRACT WITH McCLELLAND CONSULTING ENGINEERS IN THE AMOUNT OF \$74,993.08 FOR CONSTRUCTION PHASE SERVICES FOR THE TOWNSHIP STREET 36-INCH WATER MAIN PROJECT; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$15,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves Amendment No. 1 to the contract with McClelland Consulting Engineers in the amount of \$74,993.08 for construction phase services for the Township Street 36-Inch Water Main Project. A copy of Amendment No. 1, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Project Contingency in the amount of \$15,000.00.

PASSED and APPROVED this 21st day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDON, Mayor

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

AMENDMENT NO. 1
TO
AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
MCCLELLAND CONSULTING ENGINEERS, INC

The December 16, 2008 AGREEMENT between the CITY OF FAYETTEVILLE and McClelland Consulting Engineers, Inc., is hereby amended to include McClelland Consulting Engineers, Inc., providing Construction Phase Services for the Township Street 36-Inch Water Main Project. Said Construction Phase Services shall include:

1. Construction Phase Engineering Services to include attend preconstruction conference, review of contractor's schedules, submittals, monthly progress meetings, reports to the CITY OF FAYETTEVILLE, partial pay requests, intermittent site visits, change order processing, final inspection, final pay request review, and related activities.
2. Post Construction Phase Engineering Services to include assistance in startup, preparation of Record Drawings, warranty inspection services, and related activities.
3. Resident Services During Construction to include providing one full time resident construction observer for the 120 calendar days scheduled for completion of the Township Street 36-Inch Water Main for the purpose of maintaining job site records and completing field checks, to assist in determining that the Project is proceeding in accordance with the Contract Documents. Services proposed are based on 40 hours per week, 52 weeks per year, less 6 holidays. Overtime during week days, weekends or holidays shall be justification for additional compensation at the basic hourly rates listed in Attachment A.

Compensation for the Township Street 36-Inch Water Main construction phase services shall be made in accordance with the hourly rates listed in Attachment A, plus overhead factors and direct expenses as detailed in Attachment A. Compensation shall not exceed \$74,993.08, as listed in Attachment A, without prior written approval of the CITY OF FAYETTEVILLE.

All other provisions, covenants, recitals, terms and conditions of the Agreement, which are not expressly amended herein, shall remain in full force and effect.

This Amendment No. 1 does not cover construction phase services for the Highway 265 36"/24" water main project that is being bid separately from this Township Street 36-Inch Water Main Project. A separate amendment will be necessary for the Highway 265 project.

The parties hereby have executed this Amendment No. 1 on this date, the ____ day of ____, 2009.

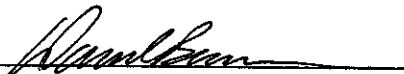
CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST

By: _____
City Clerk

McClelland Consulting Engineers, Inc.

By: 
Title: President

Changes, modifications or amendments in scope, price or fees to this Contract Amendment No. 1 shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

END OF AMENDMENT NO. 1

AMENDMENT NO. 1

ATTACHMENT A
FEE PROPOSAL

For

Construction Phase Engineering Services, Post Construction Phase Engineering Services and
Resident Services During Construction In Conjunction With The Township Street 36-Inch
Water Main
Fayetteville, Arkansas

Labor Classification	Hours	Labor Rate	Extended
Project Manager	140	\$44.57	\$6,239.80
Engineering Technician IV	24	\$26.25	\$630.00
Registered Land Surveyor	12	\$25.25	\$303.00
Chief Draftsman	9	\$21.00	\$189.00
Draftsman II	20	\$16.00	\$320.00
Construction Observer IV	16	\$26.00	\$416.00
Construction Observer III	700	\$19.50	\$13,650.00
Construction Observer II	32	\$15.50	\$496.00
Clerical	48	\$16.59	<u>\$796.32</u>
Direct Labor			\$23,040.12
Payroll Expenses 34.23%			<u>\$7,886.63</u>
Subtotal, Direct Payroll			\$30,926.75
Mileage, 800@\$0.50			\$400.00
Reproduction/Printing			\$80.00
Materials & Supplies			<u>\$60.00</u>
Subtotal, Direct Costs			\$31,466.75
Indirect Costs 112.79%			<u>\$35,491.35</u>
Subtotal, Direct & Indirect			\$66,958.10
Profit 12%			<u>\$8,034.97</u>
Total Construction Phase Cost			\$74,993.08

City Council Agenda Items
and
Contracts, Leases or Agreements

21-Jul-09

City Council Meeting Date
Agenda Items Only

Shannon Jones

Submitted By

Water/Sewer

Division

Utilities

Department

Action Required:

Approval of a construction contract with Seven Valleys Construction Co., Inc. in the amount of \$1,757,232.00, for the construction a 36-inch water main along Township Street, including approximately 4,462 feet of 36-inch ductile water main and approve an approximate 5% contingency of \$90,000.

\$ 1,847,232.00

Cost of this request

\$ 7,500,000.00

Category / Project Budget

W&S Relocations - 2009 Bond Proceeds

Program Category / Project Name

5400.5640.5808.00

Account Number

\$

Funds Used to Date

Water & Wastewater

Program / Project Category Name

09018.0903

Project Number

\$

7,500,000.00

Remaining Balance

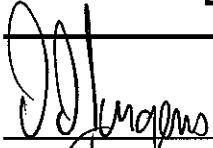
Water & Sewer

Fund Name

Budgeted Item

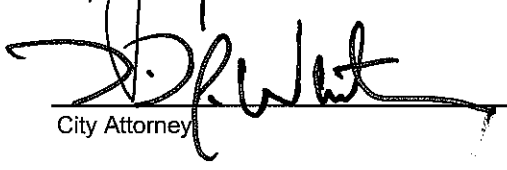
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Budget Adjustment Attached

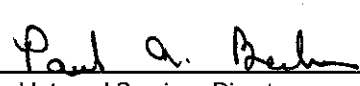
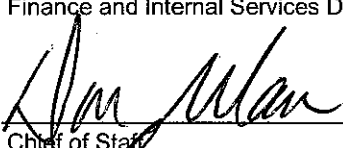

Department Director
2 July 09
Date

Previous Ordinance or Resolution #

Original Contract Date:


City Attorney
7/6/09
Date

Original Contract Number:


Finance and Internal Services Director
7-7-2009
DateReceived in City
Clerk's OfficeENTERED
7/2/09

Chief of Staff
7/7/09
DateReceived in
Mayor's OfficeENTERED
7/6/09

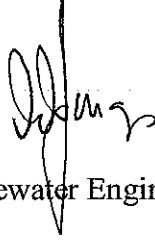
Mayor
7/7/09
Date

Comments:

CITY COUNCIL AGENDA

To: Fayetteville City Council

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



From: Shannon Jones, Water and Wastewater Engineer



Date: 2 July 2009

Subject: Approval of Bid #09-45 for a construction contract with Seven Valleys Construction Co. in the amount of \$1,757,232.00 with a contingency of \$90,000.00 for construction of Township Street 36-inch Water Main.

RECOMMENDATION

Staff recommends approval of Bid #09-45 for a construction contract with Seven Valleys Construction Co. in the amount of \$1,757,232.00 with a contingency of \$90,000.00 for construction of Township Street 36-inch Water Main.

BACKGROUND

The total project relocating water and sewer lines as a result of the combined Arkansas Highway Department (AHTD) and City widening of Crossover Road (Hwy 265) between Mission and Joyce, upsizing the existing pipes and connecting a 36" transmission line. Work will include installing a 36" and 24" transmission main along Crossover from Joyce to connect to the existing 24" main on Crossover at Mission and to connect to the existing 36" main on Old Wire Road. This work will complete the eastern portion of the loop that was initially constructed when the southern section of Crossover Road between Mission and Huntsville was widened by the AHTD.

This is the first phase of the project and includes the installation of approximately 4,462 feet of 36-inch ductile iron water main and related facilities along Township Street between Old Wire Road and Crossover Road.

DISCUSSION

The City received twelve responsive bids on July 2, 2009.

Contractor	Bid Amount	Contractor	Bid Amount
Seven Valleys Construction	\$1,757,232.00	Goodwin & Goodwin	\$2,151,930.00
Crossland Heavy Contractors	\$1,789,789.60	Henley Construction	\$2,284,960.00
Garney Companies	\$1,796,249.00	Coakley Company	\$2,289,259.00
S.J. Louis Construction	\$1,849,972.00	Redford Construction	\$2,294,232.00
Sweetser Construction	\$1,905,437.50	Fochtman Enterprises	\$2,444,670.00
Rosetta Construction	\$2,046,866.00	KAJACS Contractors	\$2,821,549.00

The Engineer's estimate was \$2,036,900.00. The bid has been reviewed by McClelland Consulting Engineers. MCE's letter of recommendation is attached.

BUDGET IMPACT

Funds are available within the W&S Relocations – 2009 Bond Proceeds project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH SEVEN VALLEYS CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF \$1,757,232.00 FOR THE CONSTRUCTION OF A 36-INCH WATER MAIN ALONG TOWNSHIP STREET TO INCLUDE APPROXIMATELY 4,462 FEET OF 36-INCH DUCTILE IRON WATER MAIN; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$90,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves a contract with Seven Valleys Construction Company, Inc. in the amount of \$1,757,232.00 for the construction of a 36-inch water main along Township Street to include approximately 4,462 feet of 36-inch ductile iron water main. A copy of the contract, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Project Contingency in the amount of \$90,000.00.

PASSED and APPROVED this 21st day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDON, Mayor

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

July 2, 2009

Mr. Shannon Jones, P.E.
Engineering Department
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Re: Bid Tabulation
Township Street 36-Inch Water Main

Dear Mr. Jones:

Bids were opened at 11:00 am, July 2, 2009 on the referenced project. Twelve bids were received, eleven of which appear to be in order, other than a few minor math errors. The high bidder listed the extended price in words, instead of the unit price. The low bidder was Seven Valleys Construction Co., of Cassville, Missouri, with a bid total of \$1,757,232. Our Engineer's estimate totaled \$2,036,900. Five of the bids were below our estimate and seven were above.

Seven Valleys recently completed a 24-inch water main project in Springdale for us. They were a subcontractor to McClinton-Anchor on this project. Their water and sewer main work totaled approximately \$2.8 million on this job. They also have completed a water sewer relocation project along Highway 72 in Bentonville for us. They were the prime contractor and the contract amount was approximately \$1,242,000 for this Bentonville project.

We have found Seven Valley's to be competent and cooperative, and recommend that the Contract be awarded to them in the amount of \$1,757,232.00.

Very Truly Yours,



Robert W. White, P.E.
Project Engineer

Encl: Bid Tabulation

BID TABULATION
City of Fayetteville
Township Street 36" Water Main
Fayetteville, Arkansas
MCE PROJECT # FY082146
July 2nd, 2009

A. 7
 Seven Valleys Construction Company, Inc.
 Page 5 of 24

Item #	Description	Qty.	Units	Seven Valleys Construction, Co.		Crossland Heavy Contractors		Garney Companies		SJ Louis Construction		Sweetser Construction	
				Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended
1	Act 291, 1993 Trench and Excavation Safety System	1	LS	\$36,000.00	\$36,000.00	\$56,000.00	\$56,000.00	\$10,000.00	\$10,000.00	\$6,700.00	\$6,700.00	\$8,000.00	\$8,000.00
2	36" Ductile Iron Pipe, Class 350 with Double Polywrap	3,778	LF	\$190.00	\$717,820.00	\$186.50	\$704,597.00	\$267.00	\$1,008,726.00	\$209.00	\$789,602.00	\$192.50	\$727,265.00
3	36" Restrained Joint Ductile Iron Pipe, Class 350 with Double Polywrap	684	LF	\$218.00	\$149,112.00	\$216.40	\$148,017.60	\$292.00	\$199,728.00	\$230.00	\$167,320.00	\$210.00	\$143,640.00
4	8" Ductile Iron, Class 350 with Double Polywrap	140	LF	\$30.00	\$4,200.00	\$97.00	\$13,580.00	\$50.00	\$7,000.00	\$95.00	\$13,300.00	\$45.00	\$6,300.00
5	8" Ductile Iron, Class 350 with Double Polywrap	90	LF	\$28.00	\$2,520.00	\$104.00	\$9,360.00	\$45.00	\$4,050.00	\$75.00	\$6,750.00	\$40.00	\$3,600.00
6	36" Class 150B Butterfly Valve with Box	7	EA	\$16,900.00	\$118,300.00	\$16,320.00	\$114,240.00	\$15,000.00	\$105,000.00	\$17,000.00	\$119,000.00	\$19,000.00	\$133,000.00
7	8" Gate Valve with Box	5	EA	\$1,469.00	\$7,345.00	\$1,255.00	\$6,275.00	\$1,200.00	\$6,000.00	\$1,500.00	\$7,500.00	\$2,150.00	\$10,750.00
8	6" Gate Valve with Box	9	EA	\$1,140.00	\$10,260.00	\$970.00	\$8,730.00	\$900.00	\$8,100.00	\$1,100.00	\$9,900.00	\$1,200.00	\$10,800.00
9	Three Way Fire Hydrant	8	EA	\$2,650.00	\$21,200.00	\$2,630.00	\$21,040.00	\$2,400.00	\$19,200.00	\$4,000.00	\$32,000.00	\$2,600.00	\$20,800.00
10	Salvage Existing Fire Hydrant	1	EA	\$1,000.00	\$1,000.00	\$2,630.00	\$2,630.00	\$300.00	\$300.00	\$1,000.00	\$1,000.00	\$500.00	\$500.00
11	Remove Existing Blowoff	1	EA	\$1,000.00	\$1,000.00	\$900.00	\$900.00	\$400.00	\$400.00	\$1,300.00	\$1,300.00	\$500.00	\$500.00
12	8" x 8" Tapping Sleeve, 8" Tapping Valve with Box	1	EA	\$2,800.00	\$2,800.00	\$4,850.00	\$4,850.00	\$3,000.00	\$3,000.00	\$4,500.00	\$4,500.00	\$4,000.00	\$4,000.00
13	8" x 8" Tapping Sleeve, 6" Tapping Valve with Box	1	EA	\$2,100.00	\$2,100.00	\$4,360.00	\$4,360.00	\$2,500.00	\$2,500.00	\$3,900.00	\$3,900.00	\$3,000.00	\$3,000.00
14	36" x 36" Connection	1	EA	\$5,000.00	\$5,000.00	\$3,065.00	\$3,065.00	\$5,000.00	\$5,000.00	\$24,500.00	\$24,500.00	\$5,500.00	\$5,500.00
15	Epoxy Coated Ductile Iron Fittings	16,100	LB	\$6.00	\$96,600.00	\$5.55	\$89,355.00	\$0.01	\$161.00	\$6.00	\$96,600.00	\$12.00	\$193,200.00
16	36" x 8" Outlet	4	EA	\$2,050.00	\$8,200.00	\$2,025.00	\$8,100.00	\$1,500.00	\$6,000.00	\$2,000.00	\$8,000.00	\$2,900.00	\$11,600.00
17	36" x 6" Outlet	4	EA	\$1,575.00	\$6,300.00	\$2,000.00	\$8,000.00	\$1,300.00	\$5,200.00	\$1,700.00	\$6,800.00	\$2,500.00	\$10,000.00
18	48" Bored Steel Casing	145	LF	\$1,017.00	\$147,465.00	\$1,145.00	\$166,025.00	\$1,100.00	\$159,500.00	\$500.00	\$72,500.00	\$1,100.00	\$159,500.00
19	48" Direct Bury Steel Casing	40	LF	\$220.00	\$8,800.00	\$220.00	\$8,800.00	\$250.00	\$10,000.00	\$300.00	\$12,000.00	\$250.00	\$10,000.00
20	16" Direct Bury Casing at Existing Sanitary Sewer	23	LF	\$60.00	\$1,380.00	\$80.00	\$1,840.00	\$125.00	\$2,875.00	\$120.00	\$2,760.00	\$90.00	\$2,070.00
21	Remove and Replace 26-ft of 6" VCP Sewer with 6" PVC Sewer, Connect 6" PVC Sewer to Existing Manhole	1	LS	\$2,560.00	\$2,560.00	\$2,000.00	\$2,000.00	\$1,500.00	\$1,500.00	\$2,900.00	\$2,900.00	\$1,700.00	\$1,700.00
22	Concrete Thrust Collar on 36" DIP	2	EA	\$2,750.00	\$5,500.00	\$6,900.00	\$13,800.00	\$2,500.00	\$5,000.00	\$2,300.00	\$4,600.00	\$4,500.00	\$9,000.00
23	8" Combination Air Valve Assembly Including Air Valve Vault, Piping, Outlet on 36" Main	1	EA	\$14,316.00	\$14,316.00	\$11,700.00	\$11,700.00	\$13,000.00	\$13,000.00	\$20,000.00	\$20,000.00	\$18,700.00	\$18,700.00
24	6" Combination Air Valve Assembly Including Air Valve Vault, Piping, Outlet on 36" Main	1	EA	\$10,600.00	\$10,600.00	\$9,300.00	\$9,300.00	\$11,000.00	\$11,000.00	\$16,000.00	\$16,000.00	\$14,700.00	\$14,700.00
25	Asphalt Surface Restoration	25	SY	\$90.00	\$2,250.00	\$330.00	\$8,250.00	\$75.00	\$1,875.00	\$80.00	\$2,000.00	\$113.50	\$2,837.50
26	Concrete Surface Restoration	5,350	SY	\$37.00	\$197,950.00	\$39.25	\$209,987.50	\$30.00	\$160,500.00	\$48.00	\$256,800.00	\$42.50	\$227,375.00
27	Concrete Sidewalk Restoration	45	SY	\$30.00	\$1,350.00	\$61.50	\$2,767.50	\$70.00	\$3,150.00	\$56.00	\$2,520.00	\$36.00	\$1,620.00
28	Curb and Gutter Restoration	3,120	LF	\$9.20	\$28,704.00	\$15.00	\$46,800.00	\$10.00	\$31,200.00	\$6.00	\$18,720.00	\$12.50	\$39,000.00
29	Granular Fill	8,400	TON	\$14.00	\$117,600.00	\$10.25	\$86,100.00	\$0.01	\$84.00	\$15.00	\$126,000.00	\$14.00	\$117,600.00
30	Trench Stabilization Materials	60	TON	\$50.00	\$3,000.00	\$17.00	\$1,020.00	\$20.00	\$1,200.00	\$25.00	\$1,500.00	\$18.00	\$1,080.00
31	Erosion Control	1	LS	\$26,000.00	\$26,000.00	\$18,300.00	\$18,300.00	\$5,000.00	\$5,000.00	\$23,000.00	\$23,000.00	\$7,800.00	\$7,800.00
Total Base Bid					1,757,232.00		1,789,789.60		1,796,249.00		1,849,972.00		1,905,437.50

Signature: Robert W. White
 Robert W. White, P.E., 4695

Date: 7/2/09

BID TABULATION
City of Fayetteville
Township Street 36" Water Main
Fayetteville, Arkansas
MCE PROJECT # FY082146
July 2nd, 2009

A. 7
 Seven Valleys Construction Company, Inc.
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Item #	Description	Qty.	Units	Rosetta Construction		Goodwin & Goodwin, Inc.		Henley Construction		Coakley Company		Redford Construction	
				Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended
1	Act 291, 1993 Trench and Excavation Safety System	1	LS	\$10,000.00	\$10,000.00	\$100,000.00	\$100,000.00	\$10,000.00	\$10,000.00	\$53,932.00	\$53,932.00	\$2,000.00	\$2,000.00
2	36" Ductile Iron Pipe, Class 350 with Double Polywrap	3,778	LF	\$276.00	\$1,042,728.00	\$195.00	\$736,710.00	\$235.00	\$887,830.00	\$251.00	\$948,278.00	\$314.00	\$1,186,292.00
3	36" Restrained Joint Ductile Iron Pipe, Class 350 with Double Polywrap	684	LF	\$307.00	\$209,988.00	\$275.00	\$188,100.00	\$300.00	\$205,200.00	\$309.00	\$211,356.00	\$350.00	\$239,400.00
4	8" Ductile Iron, Class 350 with Double Polywrap	140	LF	\$70.00	\$9,800.00	\$32.00	\$4,480.00	\$46.00	\$6,440.00	\$50.00	\$7,000.00	\$80.00	\$11,200.00
5	6" Ductile Iron, Class 350 with Double Polywrap	90	LF	\$60.00	\$5,400.00	\$30.00	\$2,700.00	\$43.00	\$3,870.00	\$47.00	\$4,230.00	\$70.00	\$6,300.00
6	36" Class 150B Butterfly Valve with Box	7	EA	\$15,000.00	\$105,000.00	\$17,500.00	\$122,500.00	\$19,000.00	\$133,000.00	\$17,715.00	\$124,005.00	\$16,000.00	\$112,000.00
7	8" Gate Valve with Box	5	EA	\$1,100.00	\$5,500.00	\$2,100.00	\$10,500.00	\$1,900.00	\$9,500.00	\$1,390.00	\$6,950.00	\$1,200.00	\$6,000.00
8	6" Gate Valve with Box	9	EA	\$800.00	\$7,200.00	\$1,300.00	\$11,700.00	\$1,550.00	\$13,950.00	\$1,025.00	\$9,225.00	\$900.00	\$8,100.00
9	Three Way Fire Hydrant	8	EA	\$2,500.00	\$20,000.00	\$3,300.00	\$26,400.00	\$6,000.00	\$48,000.00	\$2,577.00	\$20,616.00	\$3,000.00	\$24,000.00
10	Salvage Existing Fire Hydrant	1	EA	\$500.00	\$500.00	\$800.00	\$800.00	\$1,000.00	\$1,000.00	\$250.00	\$250.00	\$250.00	\$250.00
11	Remove Existing Blowoff	1	EA	\$500.00	\$500.00	\$800.00	\$800.00	\$500.00	\$500.00	\$350.00	\$350.00	\$250.00	\$250.00
12	8" x 8" Tapping Sleeve, 8" Tapping Valve with Box	1	EA	\$2,600.00	\$2,600.00	\$3,000.00	\$3,000.00	\$3,500.00	\$3,500.00	\$3,080.00	\$3,080.00	\$3,000.00	\$3,000.00
13	6" x 6" Tapping Sleeve, 6" Tapping Valve with Box	1	EA	\$2,200.00	\$2,200.00	\$2,500.00	\$2,500.00	\$3,000.00	\$3,000.00	\$2,535.00	\$2,535.00	\$2,800.00	\$2,800.00
14	36" x 36" Connection	1	EA	\$5,000.00	\$5,000.00	\$15,000.00	\$15,000.00	\$3,000.00	\$3,000.00	\$5,300.00	\$5,300.00	\$10,000.00	\$10,000.00
15	Epoxy Coated Ductile Iron Fittings	16,100	LB	\$6.00	\$96,600.00	\$7.00	\$112,700.00	\$8.00	\$128,800.00	\$7.65	\$123,165.00	\$4.60	\$74,060.00
16	36" x 8" Outlet	4	EA	\$2,500.00	\$10,000.00	\$3,000.00	\$12,000.00	\$6,000.00	\$24,000.00	\$5,500.00	\$22,000.00	\$1,600.00	\$6,400.00
17	36" x 6" Outlet	4	EA	\$2,000.00	\$8,000.00	\$2,500.00	\$10,000.00	\$5,900.00	\$23,600.00	\$5,200.00	\$20,800.00	\$1,500.00	\$6,000.00
18	48" Bored Steel Casing	145	LF	\$1,000.00	\$145,000.00	\$1,100.00	\$159,500.00	\$1,000.00	\$145,000.00	\$1,207.00	\$175,015.00	\$900.00	\$130,500.00
19	48" Direct Bury Steel Casing	40	LF	\$250.00	\$10,000.00	\$300.00	\$12,000.00	\$400.00	\$16,000.00	\$282.00	\$11,280.00	\$400.00	\$16,000.00
20	16" Direct Bury Casing at Existing Sanitary Sewer	23	LF	\$80.00	\$1,840.00	\$100.00	\$2,300.00	\$120.00	\$2,760.00	\$79.00	\$1,817.00	\$150.00	\$3,450.00
21	Remove and Replace 26-ft of 6" VCP Sewer with 6" PVC Sewer, Connect 6" PVC Sewer to Existing Manhole	1	LS	\$2,500.00	\$2,500.00	\$6,000.00	\$6,000.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$2,500.00	\$2,500.00
22	Concrete Thrust Collar on 36" DIP	2	EA	\$5,000.00	\$10,000.00	\$4,000.00	\$8,000.00	\$5,000.00	\$10,000.00	\$3,550.00	\$7,100.00	\$3,500.00	\$7,000.00
23	8" Combination Air Valve Assembly Including Air Valve Vault, Piping, Outlet on 36" Main	1	EA	\$14,000.00	\$14,000.00	\$25,000.00	\$25,000.00	\$18,000.00	\$18,000.00	\$18,000.00	\$18,000.00	\$12,000.00	\$12,000.00
24	6" Combination Air Valve Assembly Including Air Valve Vault, Piping, Outlet on 36" Main	1	EA	\$12,000.00	\$12,000.00	\$22,000.00	\$22,000.00	\$14,000.00	\$14,000.00	\$14,270.00	\$14,270.00	\$9,000.00	\$9,000.00
25	Asphalt Surface Restoration	25	SY	\$100.00	\$2,500.00	\$85.00	\$2,125.00	\$80.00	\$2,000.00	\$35.00	\$875.00	\$120.00	\$3,000.00
26	Concrete Surface Restoration	5,350	SY	\$45.00	\$240,750.00	\$65.00	\$347,750.00	\$50.00	\$267,500.00	\$50.00	\$267,500.00	\$48.00	\$256,800.00
27	Concrete Sidewalk Restoration	45	SY	\$40.00	\$1,800.00	\$65.00	\$2,925.00	\$70.00	\$3,150.00	\$50.00	\$2,250.00	\$50.00	\$2,250.00
28	Curb and Gutter Restoration	3,120	LF	\$13.00	\$40,560.00	\$17.00	\$53,040.00	\$18.00	\$56,160.00	\$14.00	\$43,680.00	\$14.00	\$43,680.00
29	Granular Fill	8,400	TON	\$1.00	\$8,400.00	\$17.00	\$142,800.00	\$24.00	\$201,600.00	\$20.50	\$172,200.00	\$12.00	\$100,800.00
30	Trench Stabilization Materials	60	TON	\$25.00	\$1,500.00	\$10.00	\$600.00	\$35.00	\$2,100.00	\$20.00	\$1,200.00	\$20.00	\$1,200.00
31	Erosion Control	1	LS	\$15,000.00	\$15,000.00	\$8,000.00	\$8,000.00	\$40,000.00	\$40,000.00	\$9,500.00	\$9,500.00	\$8,000.00	\$8,000.00
Total Base Bid					2,045,866.00		2,151,930.00		2,284,960.00		2,289,259.00		2,294,232.00

Signature: Robert W. White
 Robert W. White, P.E., 4695

Date: 7/2/09

BID TABULATION
City of Fayetteville
Township Street 36" Water Main
Fayetteville, Arkansas
MCE PROJECT # FY082146
July 2nd, 2009

A. 7
 Seven Valleys Construction Company, Inc.
 Page 7 of 24

Item #	Description	Qty.	Units	Fochtman Enterprises		KAJACS Contractors	
				Unit Cost	Extended	Unit Cost	Extended
1	Act 291, 1993 Trench and Excavation Safety System	1	LS	\$39,000.00	\$39,000.00	\$1,000.00	\$1,000.00
2	36" Ductile Iron Pipe, Class 350 with Double Polywrap	3,778	LF	\$307.00	\$1,159,846.00	\$353.00	\$1,333,634.00
3	36" Restrained Joint Ductile Iron Pipe, Class 350 with Double Polywrap	684	LF	\$366.00	\$250,344.00	\$385.00	\$249,660.00
4	8" Ductile Iron, Class 350 with Double Polywrap	140	LF	\$40.00	\$5,600.00	\$26.00	\$3,640.00
5	6" Ductile Iron, Class 350 with Double Polywrap	90	LF	\$36.00	\$3,240.00	\$24.00	\$2,160.00
6	36" Class 150B Butterfly Valve with Box	7	EA	\$14,000.00	\$98,000.00	\$18,000.00	\$126,000.00
7	8" Gate Valve with Box	5	EA	\$1,000.00	\$5,000.00	\$1,400.00	\$7,000.00
8	6" Gate Valve with Box	9	EA	\$800.00	\$7,200.00	\$1,000.00	\$9,000.00
9	Three Way Fire Hydrant	8	EA	\$5,700.00	\$45,600.00	\$3,500.00	\$28,000.00
10	Salvage Existing Fire Hydrant	1	EA	\$2,100.00	\$2,100.00	\$2,100.00	\$2,100.00
11	Remove Existing Blowoff	1	EA	\$1,100.00	\$1,100.00	\$200.00	\$200.00
12	8" x 8" Tapping Sleeve, 8" Tapping Valve with Box	1	EA	\$2,300.00	\$2,300.00	\$3,200.00	\$3,200.00
13	6" x 6" Tapping Sleeve, 6" Tapping Valve with Box	1	EA	\$2,100.00	\$2,100.00	\$2,600.00	\$2,600.00
14	36" x 36" Connection	1	EA	\$26,000.00	\$26,000.00	\$7,500.00	\$7,500.00
15	Epoxy Coated Ductile Iron Fittings	16,100	LB	\$8.00	\$128,800.00	\$9.00	\$144,900.00
16	36" x 8" Outlet	4	EA	\$2,100.00	\$8,400.00	\$2,300.00	\$9,200.00
17	36" x 6" Outlet	4	EA	\$1,900.00	\$7,600.00	\$2,000.00	\$8,000.00
18	48" Bored Steel Casing	145	LF	\$660.00	\$95,700.00	\$1,300.00	\$188,500.00
19	48" Direct Bury Steel Casing	40	LF	\$230.00	\$9,200.00	\$270.00	\$10,800.00
20	16" Direct Bury Casing at Existing Sanitary Sewer	23	LF	\$120.00	\$2,760.00	\$80.00	\$1,840.00
21	Remove and Replace 26-ft of 6" VCP Sewer with 6" PVC Sewer, Connect 6" PVC Sewer to Existing Manhole	1	LS	\$2,700.00	\$2,700.00	\$500.00	\$500.00
22	Concrete Thrust Collar on 36" DIP	2	EA	\$7,000.00	\$14,000.00	\$9,500.00	\$19,000.00
23	8" Combination Air Valve Assembly Including Air Valve Vault, Piping, Outlet on 36" Main	1	EA	\$17,000.00	\$17,000.00	\$16,500.00	\$16,500.00
24	6" Combination Air Valve Assembly Including Air Valve Vault, Piping, Outlet on 36" Main	1	EA	\$14,000.00	\$14,000.00	\$13,500.00	\$13,500.00
25	Asphalt Surface Restoration	25	SY	\$170.00	\$4,250.00	\$105.00	\$2,625.00
26	Concrete Surface Restoration	5,350	SY	\$58.00	\$299,600.00	\$62.00	\$331,700.00
27	Concrete Sidewalk Restoration	45	SY	\$38.00	\$1,710.00	\$68.00	\$3,060.00
28	Curb and Gutter Restoration	3,120	LF	\$11.00	\$34,320.00	\$10.50	\$32,760.00
29	Granular Fill	8,400	TON	\$16.00	\$134,400.00	\$27.25	\$228,900.00
30	Trench Stabilization Materials	60	TON	\$30.00	\$1,800.00	\$34.50	\$2,070.00
31	Erosion Control	1	LS	\$21,000.00	\$21,000.00	\$32,000.00	\$32,000.00
Total Base Bid					2,444,670.00		2,821,549.00

Signature: Robert W. White
 Robert W. White, P.E., 4695

Put in all extended prices for where the unit prices belong.

Date: 7/2/09

DOCUMENT 00300

BID FORM
UNIT PRICE

NOTE TO BIDDER: Please use BLACK ink for completing this Bid form.

To: The City of Fayetteville, Arkansas

Address: 113 West Mountain
Fayetteville, AR 72701

Project Title: Township Street 36-Inch Water Main

Engineer's
Project No.: FY082146

Arkansas Contractor's
License No.: 0047820410

Date: 7-2-09

Bidder: SEVEN VALLEY'S CONSTR. CO. INC.

Address: P.O. Box 88
CASSVILLE, MO. 65625

Contact Person for additional information on this Bid:

Name: BOBBY ENNES

Telephone: 417-847-2355

Fax: 417-847-5811

ADDENDA

The Bidder hereby acknowledges that he has received Addenda Numbers:

NO. 1 # NO. 2 # NO. 3 # to these Specifications.
(Bidder insert No. of each Addendum received.)

STATEMENT OF INTENT TO PAY PREVAILING WAGES

PROJECT: TOWNSHIP STREET - 36" WATER MAIN
FAYETTEVILLE, ARKANSAS
WASHINGTON COUNTY

This is to certify that we, the following listed contractors, are aware of the wage requirements of the Arkansas Prevailing Wage Law and by signature below indicate our intent to pay no less than the rates established by **Arkansas Prevailing Wage Determination Number 08-513** for work performed on the above noted public project. I understand that contractors who violate prevailing wage laws, i.e., incorrect classification/scope of work of workers, improper payments of prevailing wages, etc., are subject to fines and will be required to pay back wages due to workers.

Business Name	Address	Phone#	Signature and Title of Business Official
General/Prime Contractor			
Electrical Subcontractor			
Mechanical Subcontractor			
Plumbing Subcontractor			
Roofing/ Sheet Metal Subcontractor			

THE GENERAL/PRIME CONTRACTOR IS RESPONSIBLE FOR GETTING THIS FORM FILLED OUT AND RETURNING IT TO THE ARKANSAS DEPARTMENT OF LABOR **WITHIN 30 DAYS OF THE NOTICE TO PROCEED** FOR THIS PROJECT. RETURN COMPLETED FORM TO THE ARKANSAS DEPARTMENT OF LABOR, PREVAILING WAGE DIVISION, 10421 W. MARKHAM, LITTLE ROCK, ARKANSAS, 72205.

BIDDER'S DECLARATION AND UNDERSTANDING

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this Bid are those named herein, that this Bid is, in all respects, fair and without fraud, that it is made without collusion with any official of the Owner, and that the Bid is made without any connection or collusion with any person submitting another Bid on this Contract.

The Bidder further declares that he has carefully examined the Contract Documents for the construction of the project, that he has personally inspected the site, that he has satisfied himself as to the quantities involved, including materials and equipment, and conditions of work involved, including the fact that the description of the quantities of work and materials, as included herein, is brief and is intended only to indicate the general nature of the work and to identify the said quantities with the detailed requirements of the Contract Documents, and that this Bid is made according to the provisions and under the terms of the Contract Documents, which Documents are hereby made a part of this Bid.

The Bidder further agrees that he has exercised his own judgement and has utilized all data which he believes pertinent from the Engineer, Owner, and other sources in arriving at his own conclusions.

The Bidder states that he has experience in and is qualified to perform the work herein specified and, if he does not have craftsmen experienced and qualified in any phase of the work for which this Bid is offered, that he will subcontract the work under said phase to a contractor who does have the necessary experience and qualifications.

CONTRACT EXECUTION AND BONDS

The Bidder agrees that if this Bid is accepted, he will, within 15 days after notice of award, sign the Contract in the form annexed hereto, and will at that time, deliver to the Owner the Performance Bond and Payment Bond required herein, and will, to the extent of his Bid, furnish all machinery, tools, apparatus, and other means of construction and do the work and furnish all the materials necessary to complete all work as specified or indicated in the Contract Documents.

CERTIFICATES OF INSURANCE, PAYMENT BOND, AND PERFORMANCE BOND

The Bidder further agrees to furnish the Owner, before executing the Contract, the certificates of insurance, Payment Bond, and Performance Bond as specified in these Documents.

START OF CONSTRUCTION, CONTRACT COMPLETION TIME, AND LIQUIDATED DAMAGES

Start of Construction, Contract Completion Time, and Liquidated Damages are stated in Document 00500 - Contract.

SALES AND USE TAXES

The Bidder agrees that all federal, state, and local sales and use taxes are included in the stated bid prices for the work.

UNIT PRICE BASE BID

The Bidder agrees to accept as full payment for the work proposed herein the amount computed under the provisions of the Contract Documents and based on the following unit price amounts, it being expressly understood that the unit prices are independent of the exact quantities involved. The bidder agrees that the unit prices represent a true measure of the labor and materials required to perform the work, including all allowances for overhead and profit for each type and unit of work called for in the Contract Documents. The amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

BID SCHEDULE TOWNSHIP STREET 36" WATER MAIN					
ITEM NUMBER	EST QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
1	1	LS	Act 291, 1993 Trench and Excavation Safety System	(\$ 36,600. ⁰⁰)	(\$ 36,600. ⁰⁰)

THIRTY SIX THOUSAND Dollars/LS
Words

2	3,778	LF	36-Inch Ductile Iron Pipe, Class 350 with Double Polywrap	(\$ 190. ⁰⁰)	(\$ 717,820. ⁰⁰)
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ONE HUNDRED NINETY Dollars/LF
Words

3	684	LF	36-Inch Restrained Joint Ductile Iron Pipe, Class 350 with Double Polywrap	(\$ 218. ⁰⁰)	(\$ 149,112. ⁰⁰)
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TWO HUNDRED EIGHTEEN Dollars/LF
Words

4	140	LF	8-Inch Ductile Iron, Class 350 with Double Polywrap	(\$ 30. ⁰⁰)	(\$ 4,200. ⁰⁰)
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THIRTY Dollars/LF

5	90	LF	6-Inch Ductile Iron, Class 350 with Double Polywrap	(\$ 28. ⁰⁰)	(\$ 2,520. ⁰⁰)
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TWENTY EIGHT Dollars/LF
Words

BID SCHEDULE					
TOWNSHIP STREET 36" WATER MAIN					
ITEM NUBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL

6	7	EA	36" Class 150B Butterfly Valve with Box <u>NINE HUNDRED</u> <u>SIXTEEN THOUSAND</u> Dollars/EA Words	(\$ <u>16,900.00</u>)	(\$ <u>118,300.00</u>)
7	5	EA	8" Gate Valve with Box <u>FOURTEEN HUNDRED</u> <u>SIXTY NINE</u> Dollars/EA Words	(\$ <u>1,469.00</u>)	(\$ <u>7,345.00</u>)
8	9	EA	6" Gate Valve with Box <u>B.E.</u> <u>TWENTY SIX HUNDRED</u> <u>ELEVEN HUNDRED FORTY FIFTY</u> Dollars/EA Words	(\$ <u>1,140.00</u>) (\$ 2,650.00)	(\$ <u>10,260.00</u>) (\$ 24,200.00) B.E.
9	8	EA	Three Way Fire Hydrant <u>TWENTY SIX HUNDRED</u> <u>FIFTY</u> Dollars/EA Words	(\$ <u>2,650.00</u>)	(\$ <u>21,200.00</u>)
10	1	EA	Salvage Existing Fire Hydrant <u>ONE THOUSAND</u> Dollars/EA Words	(\$ <u>1,000.00</u>)	(\$ <u>1,000.00</u>)
11	1	EA	Remove Existing Blowoff <u>ONE THOUSAND</u> Dollars/EA Words	(\$ <u>1,000.00</u>)	(\$ <u>1,000.00</u>)
12	1	EA	8" x 8" Tapping Sleeve, 8" Tapping Valve with Box <u>TWENTY EIGHT</u> <u>HUNDRED</u> Dollars/EA Words	(\$ <u>2,800.00</u>)	(\$ <u>2,800.00</u>)
13	1	EA	6" x 6" Tapping Sleeve, 6" Tapping Valve with Box <u>TWENTY ONE</u> <u>HUNDRED</u> Dollars/EA Words	(\$ <u>2,100.00</u>)	(\$ <u>2,100.00</u>)
14	1	EA	36" x 36" Connection <u>FIVE THOUSAND</u> Dollars/EA Words	(\$ <u>5,000.00</u>)	(\$ <u>5,000.00</u>)

BID SCHEDULE					
TOWNSHIP STREET 36" WATER MAIN					
ITEM NUMBER	EST QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
15	16,100	LB	Epoxy Coated Ductile Iron Fittings	(\$ <u>6.00</u>)	(\$ <u>96,600.00</u>)
			<u>53X</u> Dollars/LB Words		
16	4	EA	36" x 8" Outlet	(\$ <u>2,050.00</u>)	(\$ <u>8,200.00</u>)
			<u>TWO THOUSAND FIFTY</u> Dollars/EA Words		
17	4	EA	36" x 6" Outlet	(\$ <u>1,575.00</u>)	(\$ <u>6,300.00</u>)
			<u>FIFTEEN HUNDRED SEVENTY FIVE</u> Dollars/EA Words		
18	145	LF	48-Inch Bored Steel Casing	(\$ <u>1,017.00</u>)	(\$ <u>147,465.00</u>)
			<u>ONE THOUSAND SEVENTEEN</u> Dollars/LF Words		
19	40	LF	48-Inch Direct Bury Steel Casing	(\$ <u>220.00</u>)	(\$ <u>8,800.00</u>)
			<u>TWO HUNDRED TWENTY</u> Dollars/LF Words		
20	23	LF	16-Inch Direct Bury Casing at Existing Sanitary Sewer	(\$ <u>60.00</u>)	(\$ <u>1,380.00</u>)
			<u>SIXTY</u> Dollars/LF Words		
21	1	LS	Remove and Replace 26-ft of 6" VCP Sewer with 6" PVC Sewer, Connect 6" PVC Sewer to Existing Manhole	(\$ <u>2,560.00</u>)	(\$ <u>2,560.00</u>)
			<u>TWENTY FIVE HUNDRED SIXTY</u> Dollars/LS Words		
22	2	EA	Concrete Thrust Collar on 36" DIP	(\$ <u>2,750.00</u>)	(\$ <u>5,500.00</u>)
			<u>TWENTY SEVEN HUNDRED FIFTY</u> Dollars/LF Words		
23	1	EA	8-Inch Combination Air Valve Assembly Including Air Valve Vault, Piping, Outlet on 36-Inch Main	(\$ <u>14,316.00</u>)	(\$ <u>14,316.00</u>)
			<u>FOURTEEN THOUSAND THREE HUNDRED SIXTY SEVEN</u> Dollars/EA Words		

BID SCHEDULE					
TOWNSHIP STREET 36" WATER MAIN					
ITEM NUMBER	EST QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
24	1	EA	6-Inch Combination Air Valve Assembly Including Air Valve Vault, Piping, Outlet on 36-Inch Main <u>TEN THOUSAND SIX HUNDRED</u> Dollars/EA Words	(\$ <u>10,600.⁰⁰</u>)	(\$ <u>10,600.⁰⁰</u>)
25	25	SY	Asphalt Surface Restoration <u>NINETY</u> Dollars/SY	(\$ <u>90.⁰⁰</u>)	(\$ <u>2,250.⁰⁰</u>)
26	5,350	SY	Concrete Surface Restoration <u>THIRTY SEVEN</u> Dollars/SY Words	(\$ <u>37.⁰⁰</u>)	(\$ <u>197,950.⁰⁰</u>)
27	45	SY	Concrete Sidewalk Restoration <u>THIRTY</u> Dollars/SY Words	(\$ <u>30.⁰⁰</u>)	(\$ <u>1,350.⁰⁰</u>)
28	3,120	LF	Curb and Gutter Restoration <u>NINE & 20/100</u> Dollars/LF Words	(\$ <u>9.20</u>)	(\$ <u>28,704.⁰⁰</u>)
29	8,400	TON	Granular Fill <u>FOURTEEN</u> Dollars/TON Words	(\$ <u>14.⁰⁰</u>)	(\$ <u>117,600.⁰⁰</u>)
30	60	TON	Trench Stabilization Materials <u>FIFTY</u> Dollars/TON Words	(\$ <u>50.⁰⁰</u>)	(\$ <u>3,000.⁰⁰</u>)
31	1	LS	Erosion Control <u>TWENTY SIX THOUSAND</u> Dollars/LS Words	(\$ <u>26,000.⁰⁰</u>)	(\$ <u>26,000.⁰⁰</u>)
TOTAL BID \$ <u>1,757,232.⁰⁰</u>					

BUY AMERICAN

The Bidder hereby acknowledges the Buy American requirements in SECTION 00100, INSTRUCTIONS TO BIDDERS, Paragraph 26.

DEDUCTIVE ALTERNATES

Not used.

BASIS OF AWARD

The Bidder understands that the Contract will be awarded to the responsive, responsible bidder with the lowest Base Bid.

MAJOR EQUIPMENT SCHEDULE

Not used.

PAYMENT SCHEDULE

Not used.

SUBCONTRACTORS

The Bidder further certifies that proposals from the following subcontractors were used in the preparation of this Bid; and if awarded a contract, Bidder agrees to not enter into contracts with others for these divisions of the Work without written approval from the Owner and Engineer.

BORING SUBCONTRACTOR

Arkansas Contractor License # 0091820409

HSH DIRECTIONAL BORING INC.

Name

1609 MALLY WAGNON RD FAYETTEVILLE, AR.

Street Address, City, State, Zip Code

PAVING SUBCONTRACTOR

Arkansas Contractor License # _____

Name

Street Address, City, State, Zip Code

SUBCONTRACTOR

Arkansas Contractor License # _____

Name _____

Street Address, City, State, Zip Code _____

PERFORMANCE OF WORK BY CONTRACTOR

The Bidder shall perform at least **70 percent** of the work with his own forces (refer to Paragraph 23, INSTRUCTIONS TO BIDDERS. Bids from so called "Brokerage Contractors" will not be considered.)

List below the items that the Bidder will perform with his own forces, if awarded this Contract, and fill in the blank showing the estimated total cost of these items.

PIPE WORK, CONCRETE, ASPHALT

Estimated total cost of the above items the Bidder states that will be performed with his own forces, if awarded Contract:

~~ONE MILLION SIX HUNDRED NINETY THOUSAND SEVEN HUNDRED~~ Dollars (\$ 1,609,767.⁰⁰)
(Words) SIXTY SEVEN

EXPERIENCE OF BIDDER

The Bidder states that he is an experienced Contractor and has completed similar projects within the last 5 years. (List similar projects, with types, names of clients, construction costs, and references with telephone numbers. Use additional sheets if necessary.)

SPRINGDALE WATER UTILITIES 3,000,000.⁰⁰ RICK POLVERENE

ROGER WATER UTILITIES 4,000,000.⁰⁰ MARK JOHNSON

BENTONVILLE WATER & SEWER 2,000,000.⁰⁰ MR. BUTTON

SURETY

If the Bidder is awarded a construction Contract on this Bid, the Surety who provides the Performance and Payment Bond will be:

RAMSEY, KRUG, FARRELL & LENSING

whose address is:

P.O. Box 251510 Little Rock, AR. 72225

Street, City, State, Zip, Code

INSURANCE

The Bidder acknowledges that he is familiar with the insurance requirements on this Project and, if awarded a construction contract, agrees to furnish the required insurance certificates within fifteen (15) days of the date the award is made.

BIDDER

The name of the Bidder submitting this Bid is:

SEVEN VALLEY'S CONSTR. CO. INC.

doing business at:

P.O. Box 88 Cassville, MO. 65625

Street, City, State, Zip, Code

which is the address to which all communications concerned with this Bid and with the Contract shall be sent.

The names of the principal officers of the corporation submitting this Bid, or of the partnership, or of all persons interested in this Bid as principals are as follows:

BOBBY ENNES PRES.

If Sole Proprietor or Partnership

IN WITNESS hereto the undersigned has set his (its) hand this _____ day of _____, 2009.

Signature of Bidder

Title

If Corporation

IN WITNESS WHEREOF the undersigned corporation has caused this instrument to be executed

and its seal affixed by its duly authorized officers this 2 day of JULY, 2009.

(SEAL)

SEVEN VALLEY'S CONSTR. CO. INC.

Name of Corporation

By Bahy T

Title PRES.

Attest Ann Ennes
Secretary

AIA Document A310

Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we

Seven Valleys Construction Co., Inc.
P.O. Box 88, Cassville, Missouri 65625

(Here insert full name and address or legal title of Contractor)

as Principal, hereinafter called the Principal, and
The Cincinnati Insurance Company
P.O. Box 145496, Cincinnati, Ohio 45250-5496

(Here insert full name and address or legal title of Surety)

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, Arkansas
113 W. Mountain Street, Fayetteville, Arkansas 72701

(Here insert full name and address or legal title of Owner)

as Oblige, hereinafter called the Oblige, in the sum of

Five Percent of Bid Amount Dollars (5%),

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

Township Street 36" Water Main

(Here insert full name, address and description of project)

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 30th day of June, 2009

Ann Ennes
(Witness)

Melissa B. [Signature]
(Witness)

Seven Valleys Construction Co., Inc.

(Principal) (Seal)
[Signature] PRES.
(Title)

The Cincinnati Insurance Company

(Surety) (Seal)
Dorena Wise
(Title) Attorney-In-Fact

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

Michael Halter; Kevin Bruick; Charles Allen; Rolfe Kennedy;
Sylvia A. Young; Dorena Wise and/or Carolyn Hunter

of Little Rock, Arkansas

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, up to

Ten Million and No/100 Dollars (\$10,000,000.00).

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 10th day of October, 2008.



STATE OF OHIO) ss:
COUNTY OF BUTLER)

THE CINCINNATI INSURANCE COMPANY

Thomas H. Kelly
Vice President

On this 10th day of October, 2008, 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 30 day of June 2009.



Bruce J. Schlemmer
Secretary

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the ____ day of _____, by and between
Seven Valleys Construction Co., Inc., herein called the
Contractor, and the City of Fayetteville, Arkansas, Owner:

WITNESSETH:

That the Contractor, for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville as follows:

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled Township Street 36-Inch Water Main, dated May 2009.

Advertisement for Bids
Instructions to Bidders
Bid and acceptance thereof
Performance Bond
Payment Bond

Maintenance Bond
General Conditions
Supplemental Conditions
Specifications
Drawings (See Sheet Index below)

SHEET INDEX

SHEET NO.	SHEET DESCRIPTION
1	Cover
2	Water Sheet Layout Plan, Index & Legend
PP-1	Water Main Plan and Profile, Sta. 0+00 to Sta. 11+00
PP-2	Water Main Plan and Profile, Sta. 11+00 to Sta. 21+00
PP-3	Water Main Plan and Profile, Sta. 21+00 to Sta. 32+00
PP-4	Water Main Plan and Profile, Sta. 32+00 to Sta. 43+00
PP-5	Water Main Plan and Profile, Sta. 43+00 to Sta. 44+82
AP-1	Water Main Aerial Photo Plan, Sta. 0+00 to Sta. 21+00
AP-2	Water Main Aerial Photo Plan, Sta 21+00 to Sta 43+00
WD-1	Water Details
WD-2	Water Details
WD-3	Water Details

2. That the City of Fayetteville hereby agrees to pay to the Contractor for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of:

3. The Work will be completed and ready for final payment in accordance with the General Conditions within **120** calendar days after the date when the Contract Time commences to run, as provided in the Notice to Proceed.
4. **Liquidated Damages:** The City of Fayetteville and Contractor recognize that time is of the essence of this Agreement and the City of Fayetteville will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City of Fayetteville **One Thousand Dollars (\$1,000.00)** for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.
5. That within 30 days of receipt of an approved payment request, the City of Fayetteville shall make partial payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville.
6. That upon submission by the Contractor of evidence satisfactory to the City of Fayetteville that all payrolls, material bills, and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by the Contractor of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at his expense, within 5 days after the receipt of notice from the City of Fayetteville, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville.
8. No additional work or extras shall be done unless the same shall be duly authorized by appropriate action by the City of Fayetteville in writing.
9. **Freedom of Information Act.** City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Arkansas 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 cost pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in three (3) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

SEAL:

WITNESSES:

CONTRACTOR

By _____

Secretary

President
Title

ATTEST:

CITY OF FAYETTEVILLE, ARKANSAS
OWNER

City Clerk

By _____
Mayor

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

Requisition No.:	Date: 7/2/2009
P.O Number:	Seven Valleys Construction Company, Inc. Expected Delivery Date: ASAP

Vendor #:	NEW	Vendor Name:	Seven Valleys Construction Co., Inc.		Mail Yes:___ No:___x
Address:		P.O. Box 88		Fob Point:	Taxable Yes:___ No:___x
				113 W Mountain; Fayetteville, AR	Quotes Attached Yes:___ No:___x
City:	Cassville	State:	MO	Zip Code:	65625
Requester:		Shannon Jones		Requester's Employee #:	2689
				Extension:	452

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Township Street 36" Water Main	1	ea	1,757,232.00	\$1,757,232.00	5400.5640.5808.00	9018.0903		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Bid 09-45

Subtotal:	\$1,757,232.00
Tax:	\$162,543.96
Total: *	\$1,919,775.96

Approvals:

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

Purchasing Manager: _____
IT Manager: _____
Other: CP

City of Fayetteville Staff Review Form

A. 8
Wastewater Collection and Treatment
Services Amendment
Page 1 of 6

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

7/21/2009

City Council Meeting Date
Agenda Items Only

David Jurgens
Submitted By

Water & Wastewater
Division

Utilities
Department

Action Required:

Approval of an amendment to the wastewater collection and treatment services contract between the Cities of Fayetteville and Farmington

\$		
Cost of this request	Category / Project Budget	Program Category / Project Name
		Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
		Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

David Jurgens
Department Director

2 July 09
Date

Previous Ordinance or Resolution # 61-07

Original Contract Date: 4/3/2007

Original Contract Number: _____

P. Whit
City Attorney

7/6/09
Date

Paul a. Bach
Finance and Internal Services Director

7-6-09
Date

Received in City
Clerk's Office



Don Man
Chief of Staff

7/7/09
Date

Received in
Mayor's Office



Donald Jordan
Mayor

7/7/09
Date

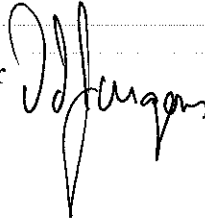
Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan
Fayetteville City Council

Thru: Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Fayetteville Sewer Committee



Date: July 2, 2009

Subject: Approval of an amendment to the wastewater collection and treatment services contract between the Cities of Fayetteville and Farmington

RECOMMENDATION

Fayetteville City Administration recommends approval of an Amendment to the wastewater collection and treatment services contract between the Cities of Fayetteville and Farmington.

BACKGROUND

Fayetteville and Farmington have a 32 year partnership in wastewater collection and treatment, the conditions for which have been agreed upon in three consecutive contracts. The current contract, adopted in April 2007, needs some minor modifications due to system upgrades, growth, construction changes, and ordinance updates. Over the last 3 years, the cities have worked together with unprecedented teamwork executing over \$7 million worth of joint work in the Farmington portion of the Wastewater System Improvement Project.

DISCUSSION

This amendment, developed cooperatively by staff and elected officials, and reviewed by the Water/Sewer Committee, updates several specific items within the 2007 contract. Key changes are:

(1) Changing from a single point of connection from the Farmington to the Fayetteville systems to multiple points of connection, allowing for multiple points of connection from Farmington's system to Fayetteville's. This allows for intelligent system design in current and potential future annexed areas.

(2) Farmington guarantees Fayetteville a set percentage of the operational capacity of Farmington's system (19.73% for WL-10 and WL-10a -gravity lines through Farmington- and 28.39% for WL-12 -lift station- based on the population breakdown from the original agreement and the cost share used in WSIP work.

(3) Impact fee changes including (a) Who pays impact fees from "new developments" to "new connections." This change is consistent with changes in the Fayetteville impact fee ordinance eliminating a loophole. (b) Eliminates the Farmington impact fee for new connections within Fayetteville that flow through the Farmington system where Fayetteville paid for its share of the construction. Fayetteville "owns" that capacity, so it is not appropriate for Fayetteville residents to pay the Farmington impact fee. Fayetteville residents could pay the Farmington impact fee if they someday tie to another portion of the Farmington system other than those lines where Fayetteville paid for its share of the work.

(4) Increases the amount Farmington will reimburse Fayetteville for engineering by \$70,000 from the original number of \$480,000 to the new number of \$550,000, due to the increased engineering costs associated with separating WL-10 and WL-10a gravity lines into two projects.

BUDGET IMPACT

The amendment acknowledges that Farmington is reimbursing up to an additional \$70,000 for the actual design and construction phase engineering costs incurred for Farmington WSIP work, for a total maximum engineering cost of \$550,000.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE
WASTEWATER COLLECTION AND TREATMENT SERVICES
CONTRACT WITH THE CITY OF FARMINGTON, ARKANSAS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby
approves an Amendment to the Wastewater Collection and Treatment Services Contract
between the City of Fayetteville and the City of Farmington, Arkansas. A copy of the
Amendment, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 21st day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

AMENDMENT 1 TO SEWER CONTRACT

The Sewer Contract (hereinafter "Contract") dated April 3, 2007 between the City of Fayetteville (hereinafter "Fayetteville") and City of Farmington (hereinafter "Farmington") shall be amended and modified by this amendment (hereinafter "Amendment") as follows:

WHEREAS:

Under the Contract, Fayetteville receives wastewater from Farmington and then transports and processes the wastewater in Fayetteville's wastewater treatment facility and discharges treated wastewater effluent under Fayetteville's National Pollution Discharge Elimination System permit; and

Fayetteville must ensure that this role does not place financial burdens on Fayetteville's retail customers for which Fayetteville's retail customers receive no benefit; and

Farmington must ensure that this role does not place financial burdens on Farmington's retail customers for which Farmington's retail customers receive no benefit; and

City of Fayetteville and City of Farmington desire to amend said Contract.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Fayetteville and Farmington do hereby agree to amend the Contract as follows:

The Contract and the terms and conditions therein shall remain unchanged except for the sections listed below:

1.9 Farmington Wastewater Collection System --

Farmington Publicly Owned Treatment Works including any device or system used in the collection, transportation, or treatment of municipal sewage or industrial wastes of a liquid nature that is owned by Farmington. This definition shall include, but is not limited to, the gravity sewer pipes, collector sewers, transmission mains, force mains, manholes, and all appurtenances within the corporate boundaries of Farmington, the Farmington Branch Interceptor, Lift Station #12 and relocated Lift Station #12; Lift Station #12 Force Main located within the corporate boundaries of Farmington and Fayetteville and all other appurtenances which are being financed and constructed. This will include appurtenances not yet constructed as of the date of this agreement. The Farmington Wastewater Collection System may connect to the Fayetteville Wastewater Collection System at multiple locations. Service laterals are generally the responsibility and ownership of the Retail Customer and are thus excluded from this definition.

3.3 Operational Capacity

Throughout the term of this contract, Farmington customers shall be granted 8.2% of the Operational Capacity of the Fayetteville West Side Wastewater Treatment Plant. Until such time as the construction of the West Side Wastewater Treatment Plant is completed, Farmington retail and industrial customers shall continue to utilize the Noland Wastewater Treatment Plant and present facilities. Throughout the term of this contract, Fayetteville customers shall be granted Operational Capacity in Farmington's Wastewater Collection System as defined in Paragraph 1.20 and further defined as 19.73% of WL-10 and WL-10A, and 28.39% of WL-11 and WL-12 and as set forth with Section 12.10 of the original contract dated April 3, 2007.

3.4 Farmington Connections to Fayetteville's Wastewater Collection System and Westside Treatment Plant.

Farmington is authorized multiple connections to Fayetteville's Wastewater System.

9.1 Fayetteville Wastewater Impact Fee

Change "development" to "connections".

9.2 Farmington Wastewater Impact Fee

Upon completion of the study referred to in Section 9, Farmington may adopt a development impact fee ordinance and shall assess and collect impact fees from new sewer connections within the corporate boundaries of Farmington. Farmington may also assess and collect impact fees from new sewer connections in areas of Fayetteville served by the Farmington Wastewater Collection System when Fayetteville's use of its guaranteed capacity exceeds the limits set forth in Paragraph 3.3 as measured by the Exhibits referenced in Paragraph 12.10. Fayetteville shall pass any necessary ordinance to ensure Farmington may legally collect this wastewater impact fee in the part of Fayetteville served by Farmington's sewer collection system.

9.4 Developments and Property Owners

The parties agree to provide each other, on a quarterly basis, a report that list new developments and new connections of individual property owners which utilize operational capacity granted to the other party.

10.2 Cost of Construction

The Parties agree that additional engineering fees were required due to relocation of Lift Station #12 and phasing the construction of the Farmington Gravity Sewer. The parties agree engineering fees, including the cost of additional engineering services shall not exceed a total of \$550,000.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the
_____ day of _____, 2009.

CITY OF FARMINGTON

CITY OF FAYETTEVILLE

Ernie Penn, Mayor

Lioneld Jordan, Mayor

ATTEST:

ATTEST:

Kelly Thomas, City Clerk

Sondra Smith, City Clerk

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

A. 9
Natural Resources Conservation
Service (NRCS)
Page 1 of 6

July 21, 2009

City Council Meeting Date

Chris Brown

Submitted By

Engineering

Division

Development Services

Department

Action Required:

A resolution to apply for and accept a grant through the Natural Resources Conservation Service (NRCS) for debris removal from streams with flooding potential due to the January ice storm and to authorize the mayor to execute a project agreement with NRCS and all other documents necessary for the project.

\$ 27,000.00

Cost of this request

\$ 5,250,005.00

Category / Project Budget

Ice Storm FEMA/Stream Debris

Program Category / Project Name

4270.9280.5315.00
~~5314.00~~

Account Number

\$ 4,642,941.79

Funds Used to Date

Ice Storm FEMA

Program / Project Category Name

09010.0908

Project Number

\$ 607,063.21

Remaining Balance

Replacement Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

07-02-09
Date

Previous Ordinance or Resolution #

City Attorney

7/8/09
Date

Original Contract Date:

Original Contract Number:

Finance and Internal Service Director

7-8-2009
Date

Received in City Clerk's Office

Chief of Staff

7/8/09
Date

Received in Mayor's Office

Mayor

Date

Comments:

CITY COUNCIL AGENDA

To: Mayor and City Council

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

From: Sarah Wrede, Staff Engineer *SW*

Date: July 1, 2009

Subject: A resolution to apply for and accept a grant through the Natural Resources Conservation Service (NRCS) for debris removal from streams with flooding potential due to the January ice storm and to authorize the mayor to execute a project agreement with NRCS and all other documents necessary for the project.

RECOMMENDATION

Staff recommends approval of a resolution to apply for and accept a grant through the Natural Resources Conservation Service for debris removal from streams with flooding potential due to the January ice storm in an amount not to exceed \$27,000.

BACKGROUND

The NRCS through the Emergency Watershed Protection Program can assist communities with clean up from natural disasters. The City sent a letter dated May 11, 2009 to Kalven Trice, State Conservationist, requesting federal assistance to remove ice storm debris from streams. NRCS has informally notified staff that funding is available for the cleanup.

The City submitted a list of ten sites to the NRCS who in turn evaluated each of these sites for eligibility in this program. The NRCS agreed that six of the sites meet their criteria which includes the potential for flood damage to roads or structures. The approved sites are:

- Missouri Creek, upstream of Rolling Hills Drive, 700 ft
- Hamestring Creek, from Porter Road to I-540, 900 ft
- Scull Creek, from Shiloh Drive to Van Asche Drive, 2000 ft
- Scull Creek, upstream of Poplar Street, 1320 ft
- Goose Creek, downstream of the wastewater treatment plant, 700 ft
- College Branch, north of 11th Street to 15th Street, 1900 ft

NRCS has estimated the project cost to be \$107,000. Federal funding will supply 75% of the funding and the City 25% of the funding. Therefore, the City's portion is \$27,000.

DISCUSSION:

The NRCS will be the contracting authority. They will prepare bid documents, submit for bids, and contract the work. The City is required to obtain "right of entry" documents from affected land owners and supply 25% of the funding for the work. There will be no work on the property of land owners who do not wish to participate.



City Council Meeting of July 21, 2009

Upon receipt of this resolution, NRCS will prepare bid documents, take bids and prepare the project agreement with the City for signature by the mayor.

BUDGET IMPACT

There are funds available in the Ice Storm/FEMA Replacement Fund to do this project. The City's cost will not exceed \$27,000 for this project.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ENGINEERING DIVISION TO APPLY FOR AND ACCEPT A GRANT THROUGH THE NATURAL RESOURCES CONSERVATION SERVICE (NRCS) IN AN AMOUNT NOT TO EXCEED \$27,000.00 FOR DEBRIS REMOVAL FROM STREAMS WITH FLOODING POTENTIAL DUE TO THE JANUARY 2009 ICE STORM; AND AUTHORIZING THE MAYOR TO EXECUTE A PROJECT AGREEMENT WITH THE NRCS AND ALL OTHER DOCUMENTS NECESSARY TO CARRY OUT THE PROJECT .

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Engineering Division to apply for a grant through the Natural Resources Conservation Service (NRCS) in an amount not to exceed \$27,000.00 for debris removal from streams with flooding potential due to the January 2009 ice storm.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to execute a project agreement with the NRCS and all other documents necessary to carry out the project.

PASSED and **APPROVED** this 21st day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



ENGINEERING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8206
Fax: (479) 575-8202

May 11, 2009

Mr. Kalven L. Trice
State Conservationist
Natural Resources Conservation Service
700 West Capitol Avenue
Room 3416, Federal Building
Little Rock, AR 72201

Dear Mr. Trice,

We request federal assistance from the Natural Resources Conservation Service, under provisions of the National Emergency Watershed Protection Program. Severe ice storm damage occurred in Washington County during January 26, 27, and 28, 2009. Washington County has been declared a disaster area by Arkansas Governor Mike Beebe and has been declared a Federal disaster area by President Obama.

We need assistance with debris removal in channels and streams. The debris is a result of the January ice storm. It has reduced channel capacity and will cause flooding and a threat to bridges, structures, and homes. There are not sufficient local funds available to fund the work.

We understand, as sponsors of an emergency watershed protection project, our responsibilities will include acquiring land rights and permits needed to construct, and if required, to operate and maintain the proposed measures. We are responsible to furnish the 25 percent local cost-share for the work.

Any assistance you can provide to assist in this time of disaster will be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Lioneld Jordan", is written over a horizontal line.

Lioneld Jordan
Mayor



City of Fayetteville Staff Review Form

A. 10
 ADM 09-3333 (612 N. College
 Avenue ROW Variance)
 Page 1 of 18

City Council Agenda Items
 and
 Contracts, Leases or Agreements

7/21/2009

City Council Meeting Date
 Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

ADM 09-3333: (612 N. College Avenue ROW Variance) Submitted by Bates and Associates for property located at 612 N. College Avenue requesting a variance of the Master Street Plan setback for 612 North College Avenue in the manner indicated to allow the existing building footprint to remain in its current location and be improved.

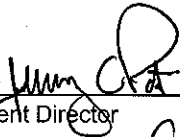
Cost of this request	\$ -	Category / Project Budget	Program Category / Project Name
Account Number	\$ -	Funds Used to Date	Program / Project Category Name
Project Number	\$ -	Remaining Balance	Fund Name

Budgeted Item

☐

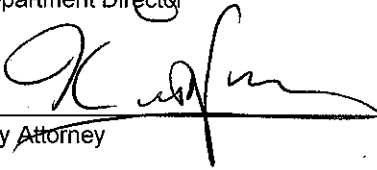
Budget Adjustment Attached

☐


 Department Director

06-25-09
 Date

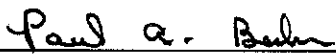
Previous Ordinance or Resolution #


 City Attorney

6-29-09
 Date

Original Contract Date:

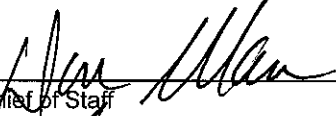
Original Contract Number:


 Finance and Internal Services Director

6-29-2009
 Date

Received in City
 Clerk's Office

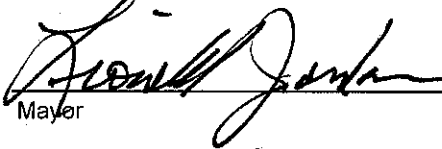



 Chief of Staff

6/30/09
 Date

Received in
 Mayor's Office




 Mayor

6/30/09
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Jeremy C. Pate, Development Services Director

Date: June 12, 2009

Subject: Right-of-way setback variance at 612 North College Avenue (ADM 09-3333)

RECOMMENDATION

Planning Staff recommends approval of a resolution allowing a variance of Unified Development Code Chapter 166.18 Master Street Plan setbacks for 612 North College Avenue in the manner indicated to allow the existing building footprint that encroaches into the Master Street Plan right-of-way to remain and be improved. Staff recommends that the improvements not expand the cubic content or original footprint of the building.

BACKGROUND

The applicant proposes to remodel the existing structure at 612 North College Avenue to utilize it for a skating rink. The building was constructed in 1950 according to Washington County parcel records, and been used for a variety of commercial uses over the years. A survey of the property indicated that the structure is located approximately 10.7 feet into the Master Street Plan right-of-way.

The Board of Adjustment on Monday, June 1, 2009 voted to approve a proposal to bring the non-conforming building setback into compliance. In addition to Board of Adjustment approval, a variance of the Master Street Plan setback ordinance is required to be approved by the Fayetteville City Council in order to permit the nonconforming structure that is located within the College Avenue Master Street Plan right-of-way to be improved more than 10% of its current replacement cost. Chapter 166.18 of the Unified Development Code does not permit the establishment of new structures or improvements within the Master Street Plan right-of-way.

BUDGET IMPACT

None.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Andrew Garner, Senior Planner

Date: June 29, 2009

Subject: Agreement to Dedicate Additional Right-of-way at 612 North College Avenue
(ADM 09-3333)

Attachment: Signed Warranty Deed from Property Owner at 612 North College Avenue

The subject property owner has drafted, signed, and notarized a warranty deed dedicating an additional three feet of right-of-way to the City along their College Avenue frontage. Staff is in the process of reviewing the warranty deed and will be working with the applicant to ensure the legal description and format is acceptable to the City prior to recordation.

It is staff's opinion that this signed and notarized warranty deed adequately documents the applicant's agreement to dedicate additional right-of-way in consideration of the City granting the subject variance request.

WARRANTY DEED

BE IT KNOWN BY THESE PRESENTS:

THAT Tiffany Anne & William Neil Caston, LLC,
hereinafter called GRANTOR(S), for and in consideration of the sum of One Dollar
(\$1.00) and other good and valuable consideration, the receipt of which is hereby
acknowledged, do hereby grant, bargain, sell and convey unto the **City of
Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE,
and unto Grantee's successors and assigns, the following described land situated in
the County of Washington, State of Arkansas, to-wit:

A PART OF LOT 1, BLOCK "A" IN MAPLEWOOD ADDITION TO THE CITY OF FAYETTEVILLE,
WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:
BEGINNING AT A POINT WHICH IS N02°50'25"E 500.00' AND S 87°20'30"E 30.00' FROM THE
SOUTHWEST CORNER OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND RUNNING
THENCE N02°50'25"E 200.00', THENCE S87°20'30"E 2.75', THENCE S02°33'08"W 200.00', THENCE
N87°20'30"W 3.75' TO THE POINT OF BEGINNING, CONTAINING 649.6 SQUARE FEET MORE OR LESS.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's
successors and assigns, forever. And the said Grantors, hereby covenant that they are lawfully seized of said lands and
premises; that the same is unencumbered, and that the Grantors will forever warrant and defend the title to the said lands
against all legal claims whatever.

WITNESS the execution hereof on this 23rd day of June, 2009.

[Signature]

ACKNOWLEDGMENT

STATE OF ARKANSAS)

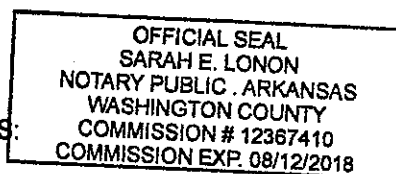
COUNTY OF WASHINGTON)

ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within
and for said County and State, personally appeared Tiffany Caston, to me well
known as the persons who executed the foregoing document, and who stated and acknowledged that he/she/they had so
signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 23rd day of June, 2009.

[Signature]
Notary Public



MY COMMISSION EXPIRES:

8/12/2018

RESOLUTION NO.

A RESOLUTION APPROVING A VARIANCE OF THE UNIFIED DEVELOPMENT CODE SECTION 164.12(F) NONCONFORMING USES AND STRUCTURES, REPAIRS AND MAINTENANCE, AND SECTION 166.18 MASTER STREET PLAN SETBACKS, ALLOWING THE EXISTING STRUCTURE LOCATED AT 612 N. COLLEGE AVENUE TO REMAIN WITHIN THE MASTER STREET PLAN RIGHT-OF-WAY AND TO BE IMPROVED GREATER THAN THE 10% REPLACEMENT COST ALLOWED BY CODE, WITHIN THE EXISTING LIMITS OF THE STRUCTURE.

WHEREAS, the Master Street Plan right-of-way for this portion of North College Avenue, a Principal Arterial, requires 48.5 feet from centerline and consequently bisects the existing structure resulting in a building that encroaches into the Master Street Plan right-of-way setback; and

WHEREAS, Section 166.18 of the Unified Development Code does not permit improvements to buildings that lie within the Master Street Plan right-of-way setback; and

WHEREAS, Section 164.12(F) of the Unified Development Code states that existing nonconforming structures may not be improved or repaired to any extent exceeding 10% of the current replacement cost of the non-conforming structure in any period of 12 consecutive months; and

WHEREAS, the existing structure on the subject property would have to be removed or substantially altered for redevelopment if required to comply with the current Master Street Plan; and

WHEREAS, the applicant and property owner wishes to improve the dilapidated structure to provide a commercial service to the area; and

WHEREAS, this section of North College Avenue is improved to four lanes and any needed future improvements could accommodate the existing building with some additional right-of-way; and

WHEREAS, in consideration for encroachment into the Master Street Plan right-of-way, the property owner agrees to dedicate an additional three (3) feet of right-of-way to the City along College Avenue to total an amount of thirty-three (33) feet from street centerline along the property frontage to accommodate future street improvements.

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 variance of Section 164.12(F) of the Unified Development Code, permitting the structure to be improved as needed so long as the cubic content or original footprint of the building is not expanded.

Page 2
Res.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a variance of Section 166.18 Master Street Plan Setbacks, permitting the existing structure to remain in its current location as depicted on Exhibit "A", provided that said approval in no way prohibits the City from obtaining right-of-way pursuant to the Master Street Plan in the future for widening of adjacent streets.

Section 3: That the approval is conditioned upon the property owner dedicating, by warranty deed, a total of 33 feet from centerline of College Avenue (approximately 3 additional feet) to the City in consideration of the variance requests.

PASSED and APPROVED this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Fayetteville Unified Development Code

164.12 Nonconforming Uses And Structures

(F) Repairs and maintenance.

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

166.18 Master Street Plan Setbacks

The city shall require the applicant/developer to establish a right-of-way setback line based on the right-of-way requirements for streets and highways designated by the Master Street Plan. Such setback line shall be considered the property line for such purpose of satisfying the requirements of the UDO. All building setbacks, required landscaping, parking lots, display areas, storage areas and other improvements and uses shall be located outside of such established setback area. The required width of setbacks, landscaped areas, buffers, and all other setback requirements shall be dimensioned from the established right-of-way setback line. The establishment of any new structure or other improvements within the right-of-way setback is prohibited.



BOA Meeting of June 01, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Board of Adjustment
 FROM: Andrew Garner, Senior Planner
 THRU: Jeremy Pate, Development Services Director
 DATE: May 27, 2009 Updated June 5, 2009

BOA 09-3303 (DEWITT GOFF / 612 N. COLLEGE, 446): Submitted by BATES & ASSOCIATES for property located at 612 N. COLLEGE, THE NE CORNER OF DAVIDSON ST. AND COLLEGE AVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.38 acres. The request is for a front building setback variance to bring an existing non-conforming structure into compliance. Planner: Andrew Garner

BACKGROUND:

Property Description: According to County records, the subject property was developed with a commercial building in approximately 1950. The existing building is located approximately 37 feet from the centerline of College Avenue, within the Master Street Plan right-of-way, which is 48.5 feet from the centerline of College Avenue.

SURROUNDING LAND USE AND ZONING

Direction from Site	Land Use	Zoning
North and West	Commercial	C-2
South	Commercial; Residential	C-2; RSF-4
East	Single-Family Residential	R-O; RSF-4

Proposal: The applicant is requesting a variance from the front setback requirement along College Avenue of 25 feet to bring the existing building into compliance with current setback requirements.

Variance Issue	Ordinance Requirement	Applicant's Request
Front Setback (College Avenue)	25'*	0' (a 25' variance)

**The front setback is reduced from 50' to 25' because there is no parking between the building and College Avenue.*

RECOMMENDATION:

Staff recommends approval of the requested front setback variance for the existing building as shown on the attached survey with the following conditions:

1. Future alterations or additions to the existing structure shall meet required building setback regulations from the Master Street Plan right-of-way, unless otherwise approved by the Board of Adjustments. Approval of this variance only applies to the existing structure, and no future expansions.
2. Prior to issuance of a building permit, a Master Street Plan right-of-way variance to reduce the College Avenue right-of-way for this property is required to be approved by City Council to allow for the existing building footprint to remain in the Master Street Plan right-of-way and be improved.
3. Any alteration or additions to the existing structures shall meet required regulations for improvements to nonconforming parking lots.
4. All required permits shall be granted prior to any construction or additions to the existing structures.

Additional Conditions/Comments:

BOARD OF ADJUSTMENT ACTION:	☒ Approved	☐ Denied
Motion: <u>Nickle, Bandy 2nd</u>	Vote: <u>4-0-0</u>	
Date: <u>June 01, 2009</u>		

The "CONDITIONS OF APPROVAL" listed in this report are accepted in total without exception by the entity requesting approval of this variance.	
Name: _____	Date: _____

CITY PLAN 2025 LAND USE DESIGNATION: City Neighborhood Area

FINDINGS:

City of Fayetteville Unified Development Code
Section 156.02 Zoning Regulations

Certain variances of the zoning regulations may be applied for as follows:

- A. **General Regulations/Application.** A variance shall not be granted unless and until an application demonstrates:

1. **Special Conditions.** That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district.

Finding: There are special conditions and circumstances that exist for this building. The existing structure was constructed in 1950, well prior to the adoption of the City's zoning ordinance. Consequently, the structure is located within the required building setback and Master Street Plan right-of-way, necessitating a setback variance to bring the building into compliance.

2. **Deprivation of Rights.** That literal interpretation of the provisions of the zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning regulations.

Finding: Literal interpretation of zoning regulations would greatly reduce the applicant's ability to improve or expand the existing structure on the property. The existing building could be retained on the property, but without a variance future improvements would be limited by Chapter 164.12. Thus, literal interpretation would deprive the applicant of rights commonly enjoyed by other properties in the same district.

3. **Resulting Actions.** That the special conditions and circumstances do not result from the actions of the applicant.

Finding: Special conditions or circumstances are not the result of the actions of applicant. The location of the existing structure was determined when the property was developed in 1950, prior to the adoption of the City's zoning regulations.

4. **No Special Privileges.** That granting the variance requested will not confer on the applicant any special privilege that is denied by Zoning, Chapters 160-165, to other lands, structures, or buildings in the same district.

Finding: Granting the requested setback variance will not confer special privileges on the applicant. The applicant is requesting approval to bring the existing structure into compliance in general, and to permit improvements to the existing nonconforming structure that was built prior to adoption of the zoning regulations.

5. **Nonconforming Uses.** No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

Finding: No other nonconformities were considered as a basis of the findings stated in this staff report.

Section 156.02 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.

Finding: A public hearing is scheduled for Monday, June 01, 2009.

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.

Finding: The requested setback variance is the minimum variance necessary to accommodate the existing structure on the subject property.

- 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 160-165, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Finding: Granting the variance will be in harmony with the general purpose and intent of zoning regulations, and will not be injurious to the neighborhood. The building has existed in its current condition for almost 60 years, which is consistent with many of the properties north of downtown and south of North Street, that were developed many decades ago prior current zoning regulations.

- c. Conditions and Safeguards.** In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the zoning regulations.

Finding: Staff has recommended conditions for this request which are stated on page one of this report.

- d. No Variance Allowed.** Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under Zoning in the district involved, or any use expressly or by implication prohibited by the terms of the zoning regulations in said district.

Finding: The use is permitted in the zoning district.

Bates & Associates, Inc.

Civil Engineering & Surveying

91 W. Colt Square Dr. / Suite 3 / Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350

A. 10
ADM 09-3333 (612 N. College
Avenue ROW Variance)
Page 13 of 18

May 8, 2009

Planning Staff
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Variance Request

Dear Planning Staff,

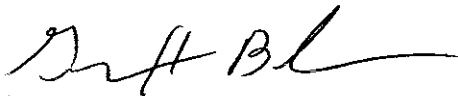
The proposed project is located at 612 N. College. Currently, this is a vacant building which has all City Utilities. The project consists of remodeling the inside of the building, and closing the drive onto College and onto E. Davidson Street. Dewitt Goff is the current property owner.

The property is zoned C-2 and has a building setback of 50'. As stated above, the building is existing and is located approximately eight (8') from the existing right of way. Therefore, my client would like to request a ²⁷48' setback variance.

If you have any questions or required additional information, please feel free to call.

Sincerely,

Bates & Associates, Inc.



Geoffrey H. Bates, P.E.
President of Engineering

Bates & Associates, Inc.

Civil Engineering & Surveying

91 W. Colt Square Dr. Suite 3 / Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350

A. 10
ADM 09-3333 (612 N. College
Avenue ROW Variance)
Page 14 of 18

May 8, 2009

Chairman of the Board
Board of Adjustments
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Variance for building setback

Dear Chairman,

This letter is to address item 7 on the variance application checklist. The proposed project is located at 612 N. College and is currently a vacant building with all City Utilities. The project consists of remodeling the inside of the building, and closing the drive onto College and onto E. Davidson Street. Dewitt Goff is the current property owner.

The property is zoned C-2 and has a building setback of 50'. As stated above, the building is existing and is located approximately eight (8') from the existing right of way. Therefore, my client would like to request a 48' setback variance.
2'

The following is the four criteria required by ordinance:

- a. This is an existing building that was zoned C-2. As is, the building is located in the setback.
- b. This is an existing building that was placed in the building setback due to the C-2 zoning designation.
- c. The circumstances result from it being an old existing building in a new C-2 zoning.
- d. This variance will not confer on the applicant any special privilege that has not already been granted to other property owners along 71B.

If you have any questions or required additional information, please feel free to call.

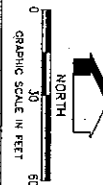
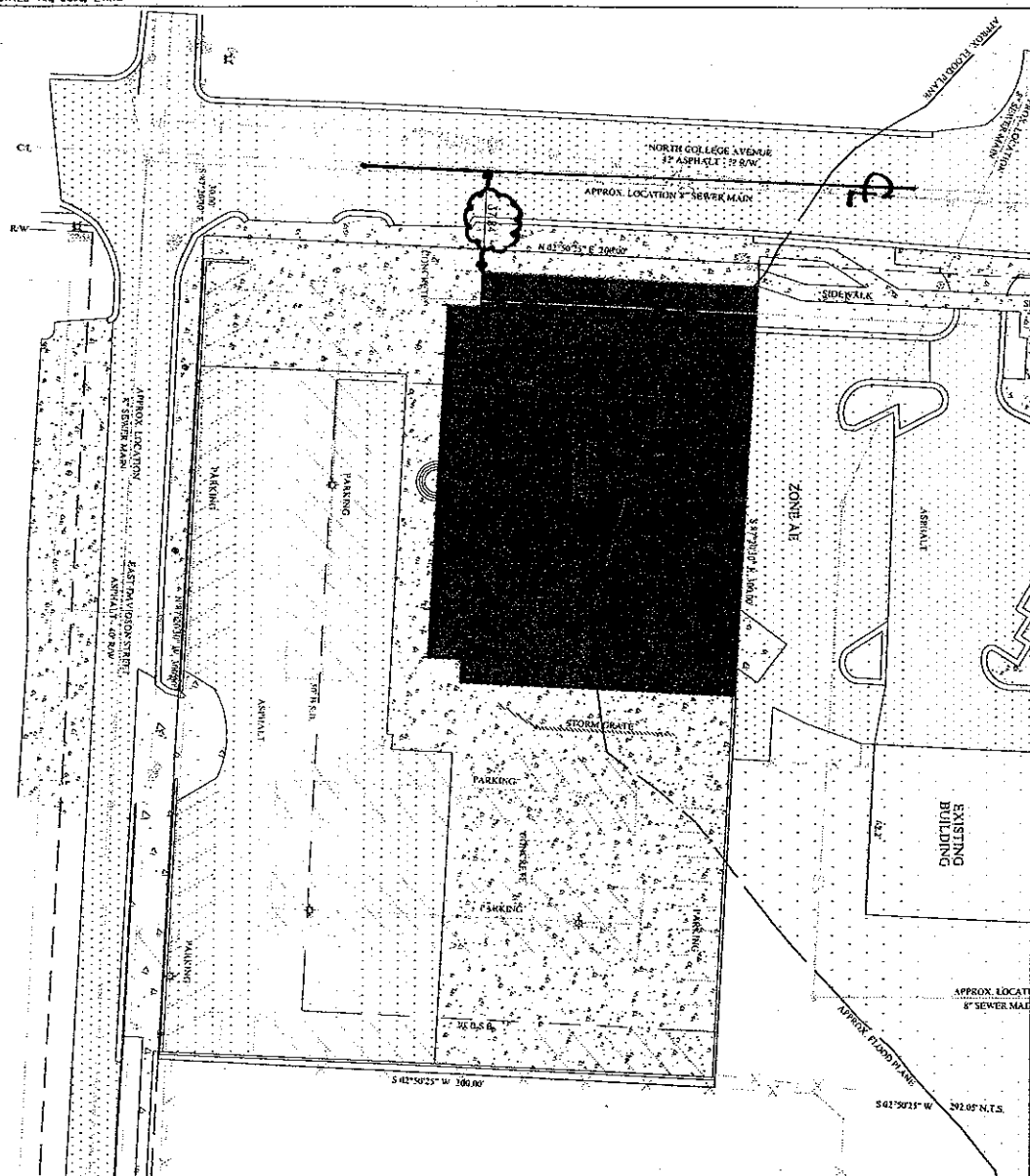
Sincerely,

Bates & Associates, Inc.



Geoffrey H. Bates, P.E.
President of Engineering

1. ALL OUTDOOR LIGHTING SHALL BE REVIEWED PRIOR TO BUILDING PERMIT APPROVAL FOR COMPLIANCE WITH THE OUTDOOR LIGHTING ORDINANCE.
2. ALL ELECTRICAL AND OUTDOOR EQUIPMENT LOCATED ON THE WALL OR GROUND SHALL BE SCREENED WITH A MINIMUM OF 12" OF NON-FLAMMABLE MATERIAL. EQUIPMENT SHALL BE SCREENED BY MICROPERFORATED ALUMINUM SCREENING AND THE STRUCTURE UTILITY EQUIPMENT OVER 30 INCHES IN HEIGHT SHALL BE BUILT WITH BUILDING FRAMEWORK. SMALLER GROUND MOUNTED EQUIPMENT MAY BE SCREENED WITH TALL GRASSES OR SHRUBS.
3. ALL EXISTING UTILITIES BELOW 120V SHALL BE RELOCATED UNDERGROUND. ALL INSTANT UTILITIES SHALL BE LOCATED UNDERGROUND.
4. ALL CONDUITS LAYED BY CONTRACTORS MUST HAVE 48" OF COVER AT FINAL GRADE AND MARKED WITH POSTS TO IDENTIFY THE ONE OR CONDUITS. THERE MUST BE A MINIMUM SEPARATION OF 12" BETWEEN CONDUITS FOR ELECTRIC AND CONDUITS FOR OTHER UTILITIES.
5. DAMAGE TO OR RELOCATION OF EXISTING UTILITIES SHALL BE AT THE DEVELOPERS EXPENSE.



PROJ. NO.	DATE REC.	REVISION
1		SYMBOL (ELECT.)
2		APPARATUS (WIRING AC)
3		BUILDING
4		BUILDING MATERIAL LINE
5		CHIEF TV (UNDERGROUND)
6		CHIEF TV (OVERGROUND)
7		CONCRETE (ROOF)
8		CONCRETE (SURFACE)
9		CONDUIT
10		CABLE & CABLE
11		DUCT
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NOTE: ANY WORK WITHIN THE STATE RIGHT OF WAY WILL REQUIRE A PERMIT FROM A.H.T.D.



Copyright © 2004 Bates & Associates, Inc.

DRAWN BY: J. YOUNG

ENGINEER: C. BATES

[illegible]

SKATING RINK
SITE IMPROVEMENT PLAN
SITE PLAN
FAYETTEVILLE, ARKANSAS

**Bates &
Associates, Inc.**
www.zwbatesinc.com **Civil Engineering & Surveying**

3561 N. College • Fayetteville, Arkansas 72701 • 479.442.9350 Fax 479.521.9350

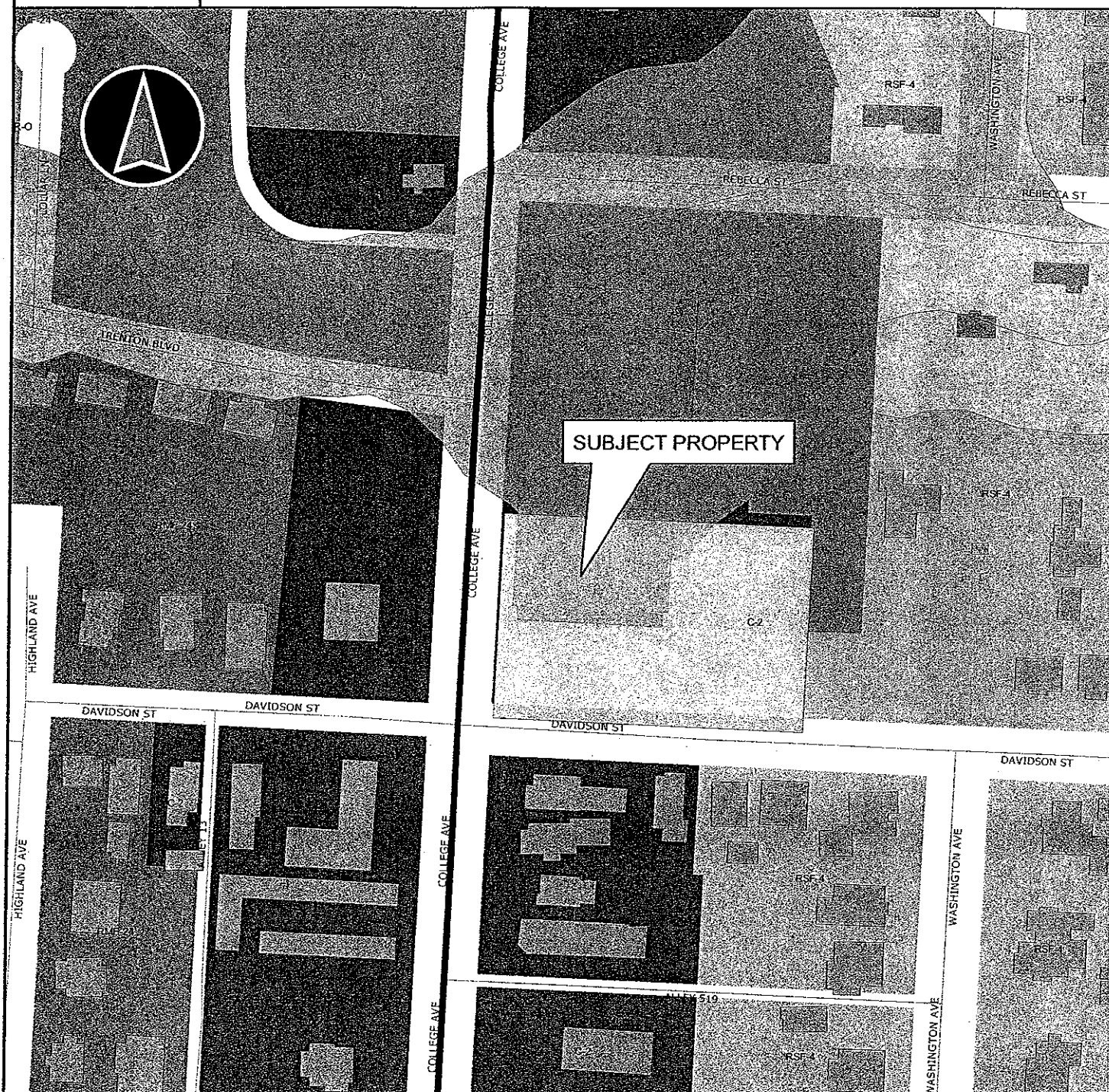
DRAWING NO.

PROJECT NO.
09-077

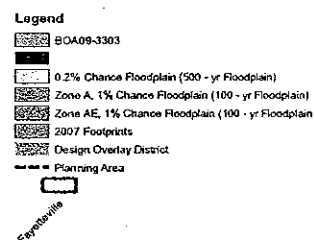
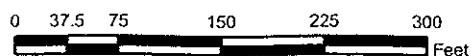
BOA09-3303

GOFF/612 N. COLLEGE AVE.

Close Up View



Overview



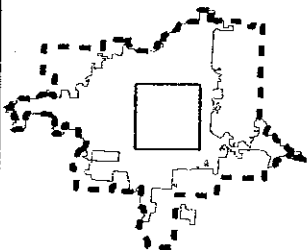
BOA09-3303

GOFF/612 N. COLLEGE AVE.

One Mile View



Overview



Legend

Subject Property

Boundary

0 0.375 0.75 1.5
Miles

City of Fayetteville Staff Review Form

B. 1
RZN 09-3271 (Sale Barn/Campus
Crest LLC, 562)
Page 1 of 28

City Council Agenda Items
and
Contracts, Leases or Agreements

6/16/2009

City Council Meeting Date
Agenda Items Only

Dara Sanders
Submitted By

Planning
Division

Development Services
Department

Action Required:

RZN 09-3271: (Sale Barn/Campus Crest LLC, 562): Submitted by Jorgensen & Associates for property located at the old Washington County Sale Barn, north and east of 11th Avenue and Government Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial, and contains approximately 8.87 acres. The request is to rezone the subject property to DG, Downtown General.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

05-29-09
Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

5-24-09
Date

Original Contract Number:

Finance and Internal Services Director

6-1-2009
Date

Received in City
Clerk's Office

ENTERED

Chief of Staff

6-1-09
Date

Received in
Mayor's Office

ENTERED

Mayor

6/1/09
Date

Comments:

Left on Second Reading 7/7/09 CC mtg.
Left on First Reading 6/16/09 CC mtg.
Revised January 15, 2009

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Director of Development Services

From: Dara Sanders, Current Planner

Date: May 28, 2009

Subject: Rezoning for Washington County Sale Barn (RZN 09-3271)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property, located at north of 11th Street and east of Government Avenue, from I-1, Heavy Commercial/Light Industrial to DG, Downtown General.

BACKGROUND

The subject property, located south of Martin Luther King Jr. Boulevard and west of South School, was developed in 1950 as the Washington County Sale Barn (see attached aerial imagery). The 8.87-acre tract has frontage onto 11th Street, Dunn Avenue, National Street, and Government Avenue.

Initially, the applicant proposed to rezone the property from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-family, 24 units/acre. Staff did not recommend in favor of the requested RMF-24 zoning district, finding that, while the multi-family use would be compatible with the surrounding uses and consistent with the City Neighborhood zoning district, the RMF-24 zoning district in this area would permit a development form that would be contrary to the City's adopted land use planning objectives and principles of City Plan 2025. City Plan 2025 encourages pedestrian-friendly buildings with entrances that address the street, utilizing principles of traditional residential urban design to create compatible, livable and accessible neighborhoods. This includes adequate transition to existing neighborhoods. The RMF-24 zoning district, when applied to large tracts of land, still permits the conventional, car-oriented development form that is clearly discouraged by the City's adopted goals and policies, and which would be inappropriate and incompatible with the form of development existing within this surrounding neighborhood.

The applicant submitted an official request for the Downtown General zoning district prior to the planning Commission meeting, and staff recommended that the Planning Commission forward the request to the City Council with a recommendation of approval.

The Downtown General zoning district, which allows by right the same residential uses as the RMF-24 zoning district, will more likely result in a development form that is consistent with the City's adopted land use planning objectives and principles of City Plan 2025. The build-to-zone and minimum building street frontage requirements of the Downtown General zoning district will ensure a traditional urban design and provide a

pedestrian friendly streetscape, while also providing the potential for low-intensity nonresidential uses that in this form would be compatible with the established single-family neighborhood to the south and the higher intensity non-residential uses to the north and east. Staff finds that down zoning the subject property from I-1, Heavy Commercial/Light Industrial to the Downtown General zoning district will result in an appropriate transition in scale and use from the commercial uses along Martin Luther King Jr. Boulevard and South School Street to the residential uses to the west and south, while providing the potential for low-intensity nonresidential uses that could serve the surrounding neighborhood.

DISCUSSION

This item was heard at the regular Planning Commission meeting on May 26, 2009. The Planning Commission voted 6-1-0 to forward this rezoning request to the City Council, with Commissioner Cabe voting "no".

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 09-3271, FOR APPROXIMATELY 8.87 ACRES, LOCATED AT THE OLD WASHINGTON COUNTY SALE BARN, NORTH AND EAST OF 11TH AVENUE AND GOVERNMENT AVENUE FROM I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL, TO DG, DOWNTOWN GENERAL

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From I-1, Heavy Commercial/Light Industrial to DG, Downtown General, as shown and described on attached exhibits "A" and "B".

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

PASSED and APPROVED this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

B. 1
RZN 09-3271 (Sale Barn/Campus
Crest LLC, 562)
Page 5 of 28

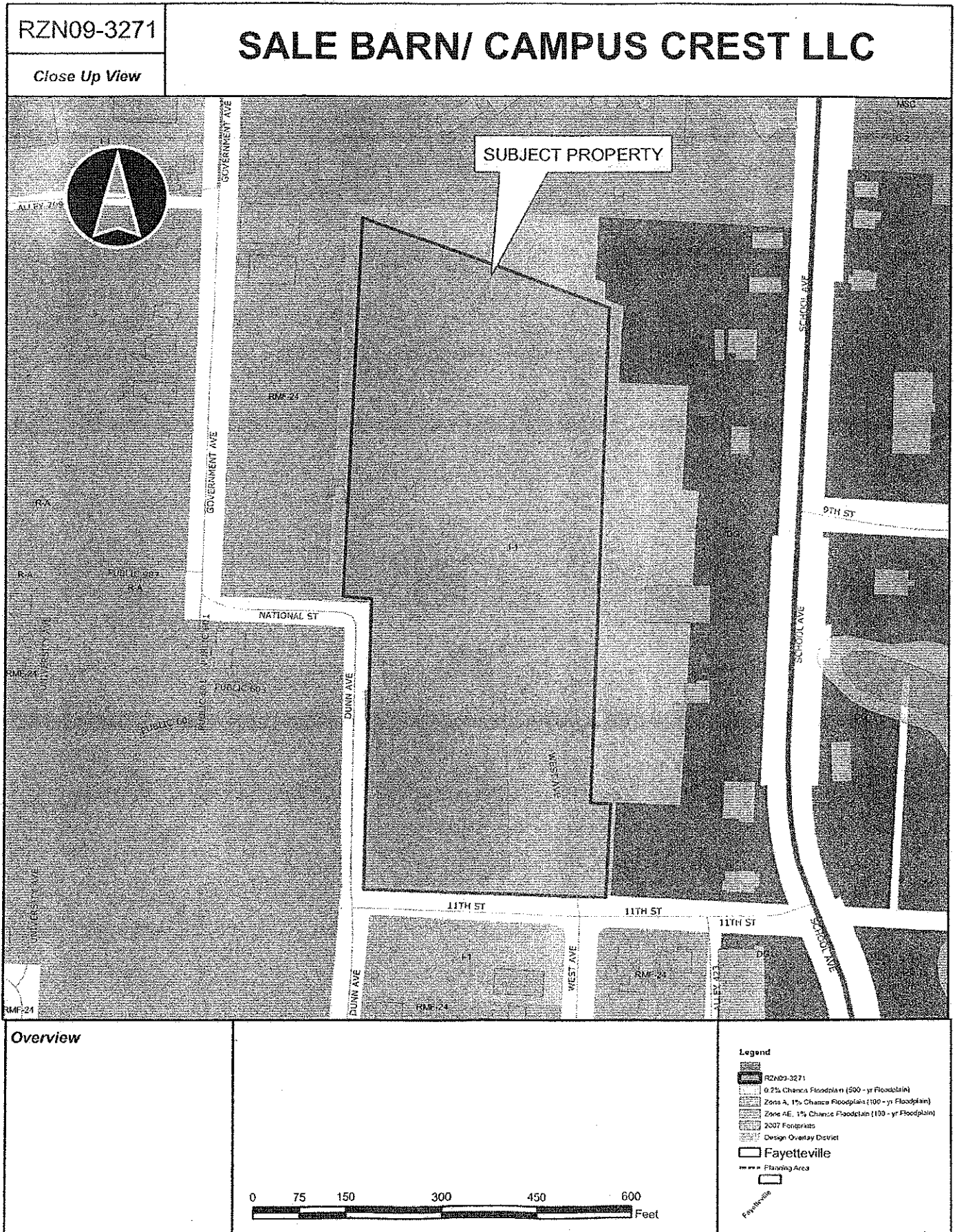


EXHIBIT "B"
RZN 09-3271

LEGAL DESCRIPTION: (I-1 TO DG)

A PART OF THE NW1/4 OF THE NE1/4 OF SECTION 21, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW1/4, NE1/4 THENCE S00°46'21"W 230.00 FEET, THENCE S71°53'27"E 18.86 FEET TO THE P.O.B., THENCE S71°53'27"E 414.70 FEET TO A POINT WHICH IS 16.00 FEET EAST OF THE NW CORNER OF BLOCK 16 OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, THENCE S00°07'02"E 795.21 FEET TO THE SOUTH LINE OF LOT 16, BLOCK 17 OF SAID FERGUSON'S ADDITION, THENCE S89°10'06"E 32.00 FEET, THENCE S00°49'54"W 149.32 FEET, THENCE S89°57'52"W 380.45 FEET, THENCE N00°49'05"W 465.04 FEET, THENCE N87°19'20"W 46.76 FEET, THENCE N00°46'21"E 607.00 FEET TO THE P.O.B.; CONTAINING 8.87 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

161.22 Downtown General.

(A) *Purpose.* *Downtown General* is a flexible zone, and it is not limited to the concentrated mix of uses found in the *Downtown Core* or *Main Street / Center*. *Downtown General* includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than *Neighborhood Conservation*. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the *Downtown General* district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities

Unit 40 Sidewalk Cafes

(C) *Density.* *None*

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types) 18 ft.

(2) *Lot area minimum.* *None.*

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, internal	None
Rear, without easement or alley	5 ft.
Rear, from center line of an easement or alley	12 ft.

(F) *Minimum buildable street frontage.* 50% of lot width.

(G) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

(H) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to-zone facing a public right of way.

LAW OFFICE OF BOB ESTES
ONE EAST CENTER STREET, SUITE 200, FAYETTEVILLE, AR 72701-5302
TELEPHONE (479) 521-4900
FAX (479) 587-0700
email bobestes@arkansas.net

May 22, 2009

Mr. Jeremy Pate
Development Services Department Director
125 West Mountain
Fayetteville, AR 72701

VIA E-MAIL
AND HAND DELIVERED

Re: RZN 09-3271 (Sale Barn/Campus Crest LLC 562)

Dear Director Pate:

As you know this attorney represents the applicant, Campus Crest LLC in the entitled rezoning request.

Please accept this letter as an amendment to the March 30, 2009 Rezoning Application to rezone that portion of the subject property that is now zoned I-1 to RMF-24 to a request to rezone that portion of the property to Downtown General.

Please accept this letter as my further request that this amendment be made a part of the March 30, 2009 Application, and be included in the Tuesday evening May 26, 2009 Staff Report to the Commission.

With warmest regards.

Yours truly,



Bob Estes

BE:skd

cc: Mr. Alex B. Eyssen
David L. Jorgensen, P.E.

VIA E-MAIL
VIA E-MAIL



PC Meeting of May 26, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~May 18, 2009~~ Update May 28, 2009

RZN 09-3271: (SALE BARN / CAMPUS CREST LLC, 562): Submitted by JORGENSEN & ASSOC for property located at THE OLD WASHINGTON COUNTY SALE BARN, N & E OF 11TH AVENUE AND GOVERNMENT AVENUE. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUST and contains approximately 8.87 acres. The request is to rezone the subject property to RMF-24, Residential Multi-family 24 units per acre.

Planner: Dara Sanders

BACKGROUND:

Property Description: The subject property, located south of Martin Luther King Jr. Boulevard and west of South School, was developed in 1950 as the Washington County Sale Barn (see attached aerial imagery). The 8.87-acre tract has frontage onto 11th Street, Dunn Avenue, National Street, and Government Avenue.

SURROUNDING LAND USE AND ZONING:

Direction from Site	Land Use	Zoning
North	Farmer's Cooperative	Main Street/Center
South	Residential	I-1, Light Industrial RMF-24, Residential Multi-family 24 units/acre
East	Offices, Restaurants	Downtown General
West	National Cemetery Residential	RMF-24, Residential Multi-family 24 units/acre R-A, Residential Agricultural

Proposal: The applicant proposes to rezone the property from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-family, 24 units/acre. Currently, a portion of the Sale Barn property is zoned RMF-24, Residential Multi-family, 24 units/acre.

Public Comment: Staff has received public comment in opposition of the proposed zoning district based on the type of development that is produced by the requested RMF-24 zoning district. Staff has not received opposition to the proposed multi-family use. The applicant did present this request at a neighborhood meeting.

Discussion: Staff finds that the residential uses permitted in the RMF-24 zoning district would be compatible with the surrounding properties that are zoned RMF-24 and Downtown General, and include various commercial businesses and the National Cemetery. Additionally, these uses would be consistent with the City Neighborhood Area land use designation, which encourages a denser and primarily residential urban fabric. However, it is staff's opinion that the RMF-24 zoning district in this area would permit a development form that would be contrary to the City's adopted land use planning objectives and principles of City Plan 2025. City Plan 2025 encourages pedestrian-friendly buildings with entrances that address the street, utilizing principles of traditional residential urban design to create compatible, livable and accessible neighborhoods. This includes adequate transition to existing neighborhoods. The RMF-24 zoning district, when applied to large tracts of land, still permits the conventional, car-oriented development form that is clearly discouraged by the City's adopted goals and policies, and which would be inappropriate and incompatible with the form of development existing within this surrounding neighborhood.

The Downtown General zoning district, however, which allows by right the same residential uses as the RMF-24 zoning district, will more likely result in a development form that is consistent with the City's adopted land use planning objectives and principles of City Plan 2025. The build-to-zone and minimum building street frontage requirements of the Downtown General zoning district will ensure a traditional urban design and provide a pedestrian friendly streetscape, while also providing the potential for low-intensity nonresidential uses that in this form would be compatible with the established single-family neighborhood to the south and the higher intensity non-residential uses to the north and east.

RECOMMENDATION:

Staff recommends denial of the requested RMF-24 zoning district (RZN 09-3271 Sale Barn) based on findings stated herein, but does find that the City's adopted policies and objectives of City Plan 2025 support a Downtown General zoning district on this property.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>May 26, 2009</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: _____	Second: _____	Vote: <u>6-1-0</u>	
CITY COUNCIL ACTION: Required <u>YES</u>			
☐ Approved ☐ Denied			
Date: _____			

INFRASTRUCTURE:

Streets: The site has access to National St, Dunn Ave. and 11th St. These are older partially

improved city streets. Street improvements will be evaluated with development submittal.

- Water:** Public water is available to the property. There is a 6" main along National St., Dunn Ave. and 11th St. The capacity of this main will need to be evaluated at the time of development to insure adequate flow for domestic and fire flows.
- Sewer:** Sanitary sewer is available to the site. There is a 6" public main along 11th St. The capacity of this line will need to be evaluated at the time of development.
- Drainage:** Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.
- Police:** It is the opinion of the Fayetteville Police Department that this RZN could substantially alter the population density, and will create an appreciable or undesirable increase in the load on police services. This RZN may create an appreciable increase in traffic danger and congestion. Concerns cited include an increase in traffic on these local streets and potential for accident/injury with the elevated traffic numbers.
- Fire:** This development will be protected by Engine 1 & Ladder 1 located at 303 W. Center. It is 1 mile from the station with an anticipated response time of 4 minutes to the beginning of the development. The Fire Department anticipates 39(25 EMS – 14 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 – 18 months, after the development is started, before maximum build-out and the service impact to occur. The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as **City Neighborhood Area**, which encourages a denser and primarily residential urban fabric within a complete, compact and connected neighborhood.*

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds that the residential uses permitted in the RMF-24 zoning district would be compatible with the surrounding properties that are zoned RMF-24 and Downtown General, which include various commercial businesses, single and small multi-family residential units and the National Cemetery. Additionally, these uses would be consistent with the City Neighborhood Area land use designation, which encourages a denser and primarily residential

urban fabric. However, it is staff's opinion that the RMF-24 zoning district on a relatively large tract of land would permit a development form that would be contrary to the City's adopted land use planning objectives and principles of City Plan 2025, specifically related to the surrounding established land uses.

City Plan 2025 outlines actions that will assist the City in achieving its goal to make site-sensitive, appropriate infill a priority. Action III, to develop and implement a form-based code, was taken when the City adopted the Downtown zoning districts in 2007, which were specifically designed to preserve and maintain the character of Fayetteville's older neighborhoods in and near the downtown area. Staff finds that the conventional development product of the RMF-24 zoning district will not reflect the existing community character of the surrounding neighborhood dating back to the 1930s, particularly in an area that is transitional in use, from higher intensity commercial along a busy arterial to a single-family neighborhood. The fact that the existing neighborhood are also zoned RMF complicates matters; however, it is clear that the conventional form of a multi-family development pattern is not desirable nor appropriate in this area, even if the use is.

Goal 2, to discourage suburban sprawl, and Goal 3, to make traditional town form the standard, refer specifically to the practice of separating uses. Staff finds that a rezoning action should consider the short-term as well as the long-term redevelopment potential of a property. Staff does not support utilizing a conventional zoning district that promotes the separation of uses on a property that is adjacent to the Downtown Master Plan area, the Main Street/Center zoning district, and the Downtown General zoning district.

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

Finding: Staff finds that a rezoning request for the subject property is justified and needed at this time, as the I-1 zoning designation is not consistent with the City Neighborhood Area land use designation for the subject property and permits uses that are not compatible with the adjacent properties. Furthermore, land use and development has shifted significantly since the 1950 development of the subject property for the sale of livestock. However, staff finds that an appropriate rezoning request for the subject property should result in a development form that is supported by City Plan 2025.

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

Finding: It is expected that the request could result in the potential for an increase in traffic compared with that allowed under the existing zoning. However, if the

rezoning request is approved, staff and the Planning Commission will review development of the site at the time of Large Scale Development request, during which the proposed request will be expected to meet the minimum Access Management requirements of Chapter 166.08 Development and to provide street improvements to alleviate any potential detrimental impact.

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

Finding: Staff finds that the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property. The change in zoning to RMF-24 would not adversely impact public services.

Increased load on public services were taken into consideration and recommendations from the Engineering, Fire, and Police Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: While staff finds that the uses permitted under the I-1, Light Industrial zoning district are not desirable in this location due to the surrounding residential uses, staff also finds that the development form resulting from the conventional bulk and area requirements permitted in the RMF-24 zoning district is not compatible with the existing neighborhood, platted in 1934 and developed over time with a mixture of small single- and multi-family residential types.

Adjacent to the subject property are the Downtown Master Plan Area and the Main Street/Center zoning district to the north and the Downtown General zoning district to the east. Staff finds that extending the adjacent Downtown General zoning district would be more appropriate for the redevelopment of the subject property and would be more consistent with City Plan 2025.

RZN 09-3271: Rezoning (SALE BARN / CAMPUS CREST LLC, 562): Submitted by JORGENSEN & ASSOCIATES for property located at THE OLD WASHINGTON SALE BARN, N & E OF 11TH AVENUE AND GOVERNMENT AVENUE. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL and contains approximately 8.87 acres. The request is to rezone the subject property to RMF-24, Residential Multi-Family 24 Units per Acre. Planner: Dara Sanders

Public water is available to the property. There is a 6" main along National St., Dunn Ave. and 11th St. The capacity of this main will need to be evaluated at the time of development to insure adequate flow for domestic and fire flows.

Sanitary sewer is available to the site. There is a 6" public main along 11th St. The capacity of this line will need to be evaluated at the time of development.

The site has access to National St, Dunn Ave. and 11th St. These are older partially improved city streets. Street improvements will be evaluated with development submittal.

Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain.



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

B. 1
RZN 09-3271 (Sale Barn/Campus
Crest LLC, 562)
Fayetteville

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
From: David Williams
Date: May 19, 2009
Re: RZN 09-3271: Rezoning (SALE BARN / CAMPUS CREST LLC, 562)

This development will be protected by Engine 1 & Ladder 1 located at 303 W. Center. It is 1 miles from the station with an anticipated response time of 4minutes to the beginning of the development.

The Fire Department anticipates 39(25 EMS – 14 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 – 18 months, after the development is started, before maximum build-out and the service impact to occur.

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.

Fire Marshal
Fayetteville Fire Department

Honor, Commitment, Courage;
Our people make the difference!

Date 5/19/09

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for comments on proposed R-PZD 09-3271 (Sale Barn / Campus Crest LLC, 562) Submitted by Jorgensen & Associates for property located at the old Washington County Sale Barn, N & E of 11th Street and Government Avenue.

It is the opinion of the Fayetteville Police Department that this RZN could substantially alter the population density, and will create an appreciable or undesirable increase in the load on police services. This RZN may create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

Captain William Brown
Fayetteville Police Department



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.

B. 1
RZN 09-3271 (Sale Barn/Campus
Crest LLC, 562)
Page 17 of 28

3/30/09

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

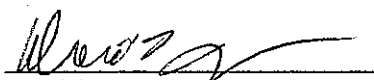
Attn: Planning Department
Re: Rezoning of Washington County Sale Barn

Attached please find the application and documents for the rezoning of a part of what is presently called the Washington County Sale Barn. This property is located east of Government Street and North 11th Street. A portion of this property is RMF-24 and the remainder is I-1 which is the portion that we are requesting to be rezoned to RMF-24. There is an existing 6" waterline on 11th Street, Dunn Avenue and Government Avenue. There is an existing 8" sewer on Government and also to the north there is an existing 8" sewer. Access to this property is by 11th Street, Dunn Avenue and Government Avenue. Property to the east is zoned Downtown General, to the south is I-1 and RMF-24, to the west is the National Cemetery (RMF-24) and to the north is MSC.

Please call concerning any questions you may have.

Thank you.

Sincerely;


David L. Jorgensen, P.E.

From: Andrew Garner
To: Sanders, Dara
CC: Monreal, Cindy
Date: 4/20/2009 1:18 PM
Subject: Fwd: [Form mail from AccessFayetteville] - Apartments/Student housing proposals

Dara,
Please print this comments and place in the RZN file for the sale barn.

Cindy,
Please respond to this comment and let the person know that we will review their comments and also share them with the Planning Commission when the requested rezoning on the property is heard at a public hearing.

Thanks,
Andrew

Andrew M. Garner
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

>>> Planning 4/16/2009 1:52 PM >>>

Hi Andrew,
I got this one and I know we do not handle this side of it, but was not sure how to answer it.
Could you advise?
Cin

>>> <haletownhill@yahoo.com> 4/15/2009 12:34 PM >>>

From: Scott Hill
Email: haletownhill@yahoo.com
To: planning@ci.fayetteville.ar.us
Subject: Apartments/Student housing proposals

Message:

Hello:

I am aware of the proposed "student housing" apartment complex for the site of the sale barn in south Fayetteville.

I am not opposed to student housing, or apartments, but I am opposed to the way they are built in Fayetteville.

Please take a look at the Cotton District which is adjacent to Mississippi State University in Starkville, Mississippi. Here is a link:
<http://www.thecottondistrict.net/photos.php>

Please take a look at this. It is so great. And its an example of how student oriented, studio and 1 and 2 br apartments can be made into a valued part of the community, rather than a walled-off, generic, depressing fortress.

The Cotton District has become so popular, that it is home to city festivals, art walks, etc.

http://www.tndtownpaper.com/Volume4/new_towns_cotton_district.htm

Google "Dan Camp" and "Cotton District" for research.

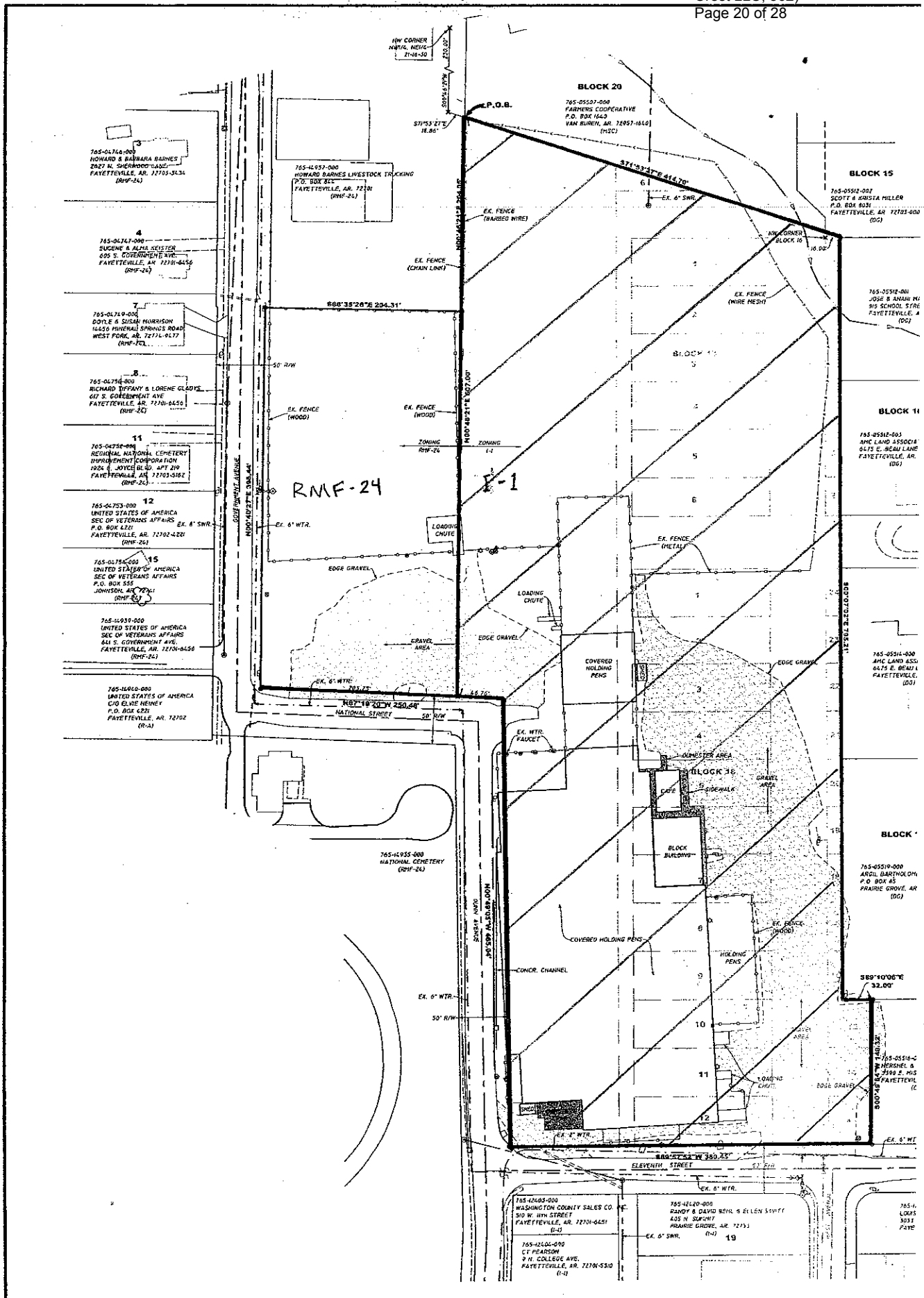
Public
Innment

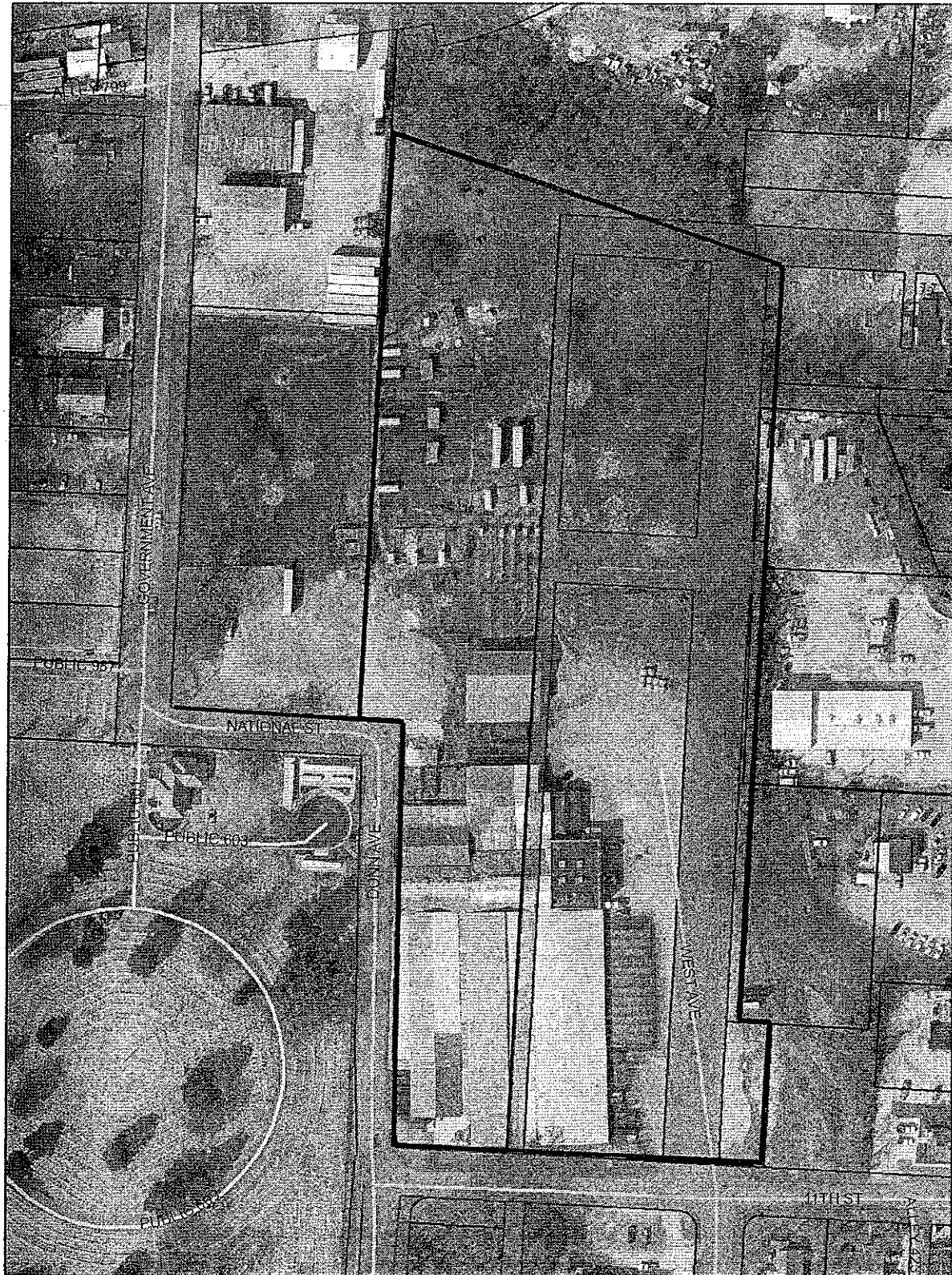
RZN 09-3271 (Sale Barn/Campus
Crest LLC, 562)
Page 19 of 28

I really see how the areas north of the campus, along Leverett, and the areas to the south could be transitioned into something wonderful like The Cotton District with the proper planning.

Thanks for your hard work to make our city better.

Scott





RZN 09-3271 (Sale Barn)

B. 1
RZN 09-3271 (Sale Barn/Campus
Crest LLC, 562)
Page 22 of 28



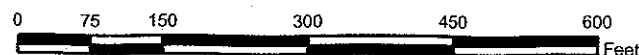
RZN09-3271

SALE BARN/ CAMPUS CREST LLC

Close Up View



Overview



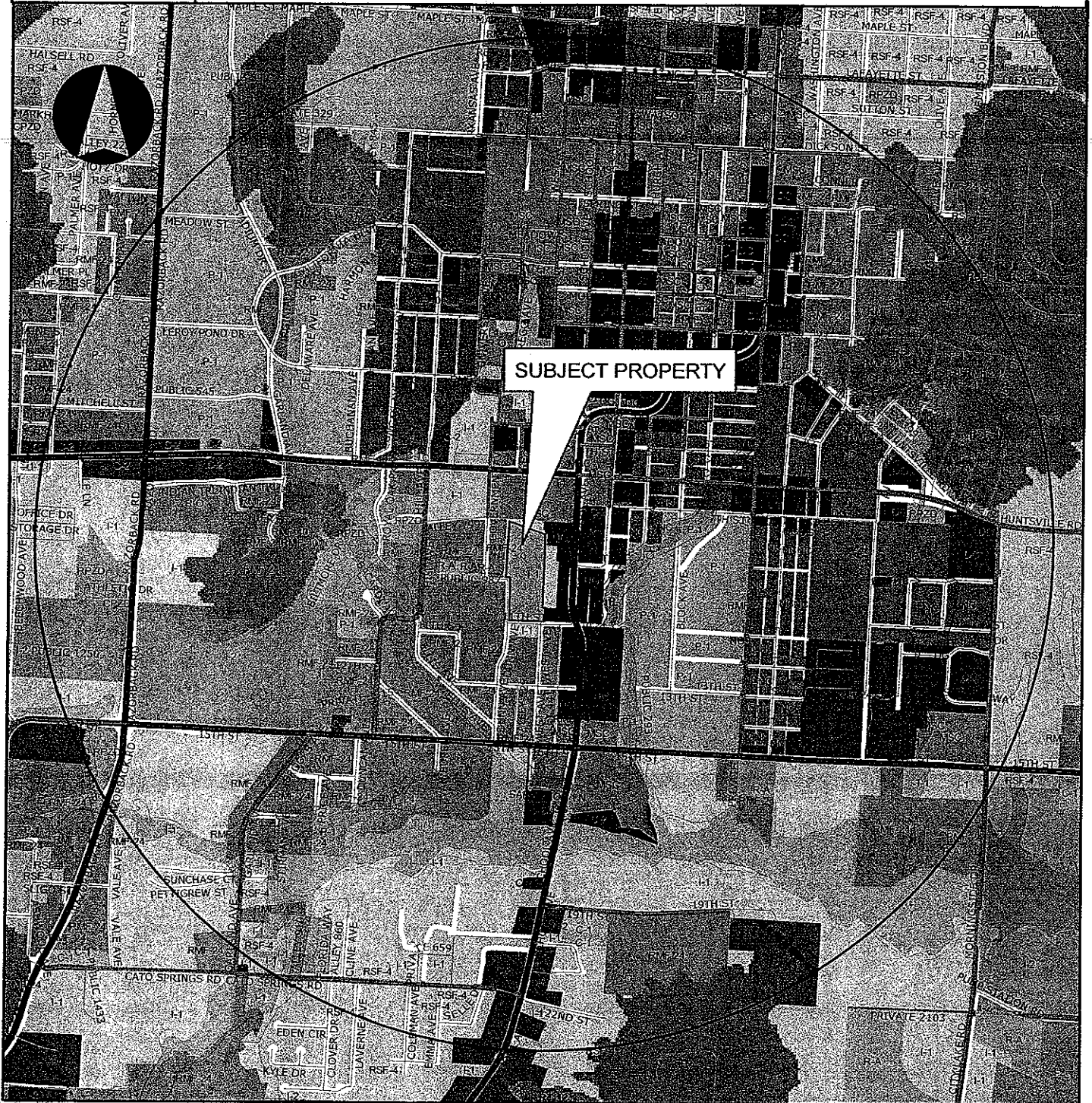
Legend

- RZN09-3271
- 0.2% Chance Floodplain (500 - yr Floodplain)
- Zone A, 1% Chance Floodplain (100 - yr Floodplain)
- Zone AE, 1% Chance Floodplain (100 - yr Floodplain)
- 2007 Footprints
- Design Overlay District
- Fayetteville
- Planning Area
- Fayetteville

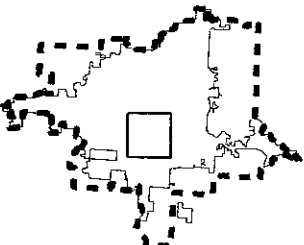
RZN09-3271

One Mile View

SALE BARN/ CAMPUS CREST LLC



Overview



Legend

Subject Property

RZN09-3271

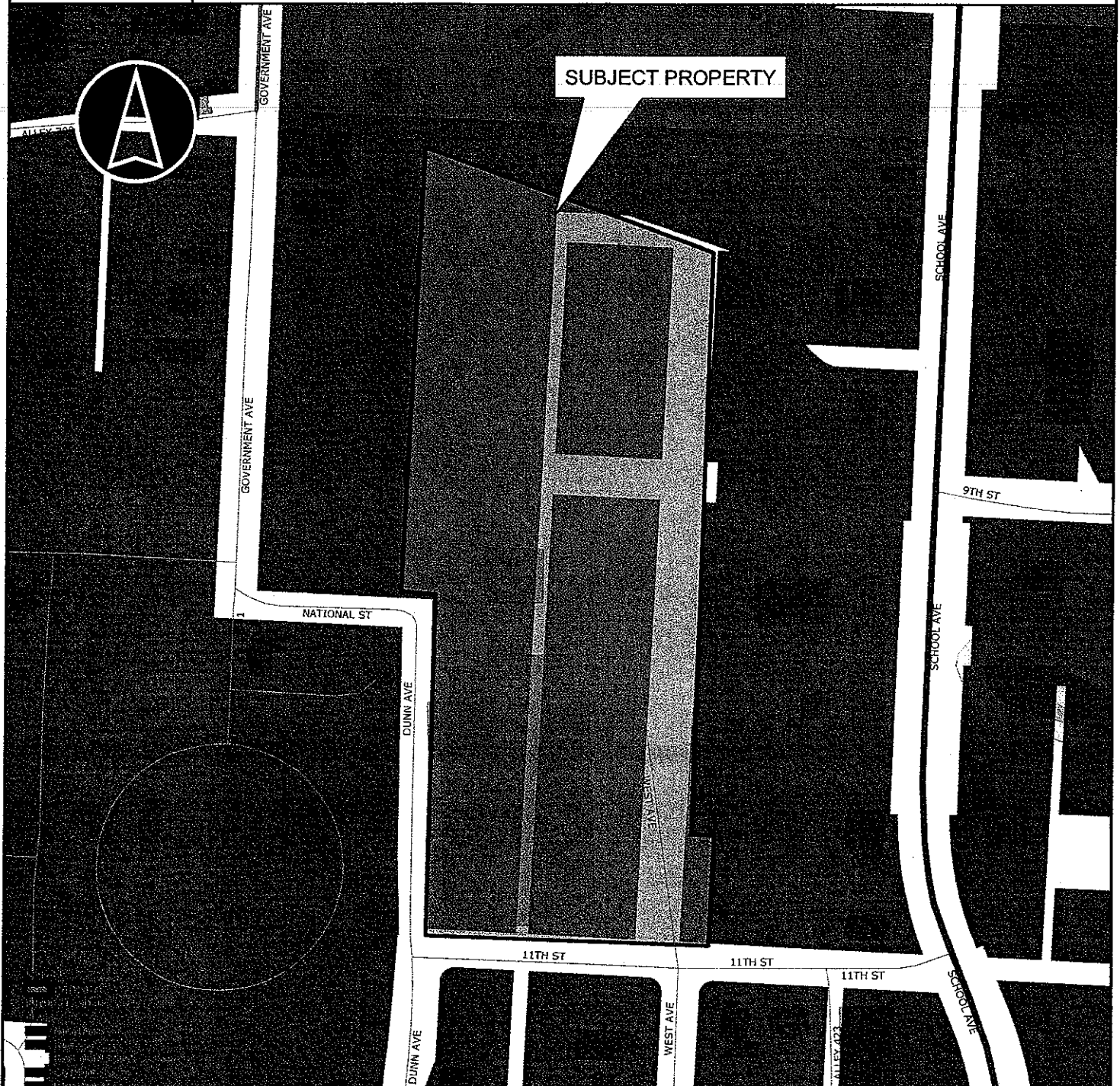
Boundary

0 0.25 0.5 1 Miles

RZN09-3271

SALE BARN/ CAMPUS CREST LLC

Future Land Use



- Overview**
- Industrial
 - Neighborhood Plan
 - Civic and Private Open Space/Parks
 - Civic Institutional
 - Non-Municipal Government
 - ROW
 - 0.2% Chance Floodplain (500 - yr Floodplain)
 - Zone A, 1% Chance Floodplain (100 - yr Floodplain)
 - Zone AE, 1% Chance Floodplain (100 - yr Floodplain)
 - 2007 Footprints
 - Design Overlay District
 - Planning Area
- Payetteville

0 75 150 300 450 600 Feet

City Clerk - Please do not vote for Downtown General zoning of sale-barnproperty next to cemeteries

From: Lauren Hawkins <ldhdesign@hotmail.com>
To: <adellag@cox.net>, <ward1_pos1@ci.fayetteville.ar.us>,
 <bthiel@cox.net>, <ward3_pos2@ci.fayetteville.ar.us>,
 <ward2_pos1@ci.fayetteville.ar.us>,
 <citycouncil@matthewpetty.org>, <rrhoads@hallestill.com>,
 <sarah@springlinegroup.com>, <sel01@uark.edu>,
 <sarah.lewis@spring-line.com>, <slucasward4@aol.com>,
 <ward4_pos1@ci.fayetteville.ar.us>, <city_clerk@ci.fayetteville.ar.us>
Date: 7/6/2009 12:49 AM
Subject: Please do not vote for Downtown General zoning of sale-barnproperty next to cemeteries

Dear members of the Fayetteville City Council:

I am a homeowner on the south side of Fayetteville — a field away from Pinnacle Foods, the train track, a neighborhood vest-pocket park and with the sale barn.

The blocks that separate me from the sale barn are mostly in the Fayetteville National Cemetery. The cemetery is one of only a few hundred across the country. It is on the National Register of Historic Places and now recognized as a National Shrine.

Many homes in this neighborhood were here when the sale barn was built. The cemetery was. My house was. Two close neighbor's houses were, though one was moved about 200 feet east by mules about the time sale barn was built. A house or two up the road were here to see the Butterfield stagecoach deliver mail. The rest of the neighborhood has grown up with the sale barn as its neighbor.

It is a quiet single-family neighborhood primarily, with a mix of light-industrial, agricultural, a few duplexes and a 12-unit single-story apartment building. The population includes a mix of young families, middle-aged and older folks living here.

This unique neighborhood is one that deserves to be preserved, as we see new developments attempt to emulate much of what we have.

The sale barn has met a few battles as Fayetteville grew up around it, I gather. Established use and preservation of a way of life have won its favor many a time.

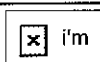
The only thing that makes a bit of sense is to rezone the whole area to neighborhood conservation. Period.

The proposal to rezone the parcel to allow such things as rent-by-the-room student apartments is simply incompatible with the surroundings. We owe our veterans' final resting place as much.

Present estimates of the Fayetteville National Cemetery are for capacity to meet demand for the next decade. Will we have our troops out of harm's way by then?

I urge the Fayetteville City Council to be good stewards and take the opportunity to rezone to neighborhood conservation and nothing less.

Lauren Hawkins



i'm

EMAILING FOR THE GREATER GOOD[Join me](#)

June 25, 2009

Chris B. Traxson

805 Riviera Dr.

Rogers, AR 72758

Attn: City Council

City of Fayetteville

113 W. Mountain St.

Fayetteville, AR 72701

Dear City Council:

I saw on KNWA news the evening of June 24, 2009 about proposed plans to build an apartment complex across from the National Veterans Cemetery in Fayetteville. I am absolutely opposed to building an apartment complex across from the sacred ground of the veteran's cemetery. Building an apartment complex would cheapen the land around the cemetery and is a slap in the face to the honorable men and women laid to rest there, and the families of these individuals.

I don't live in Fayetteville but I am a disabled veteran who was injured by a roadside bomb while fighting against terrorists in Iraq. I have a very good friend who rests in that cemetery and I oppose this development in his honor. It's a proven fact that where an apartment complex is built, crime increases. I don't want to see an increase in crime near the cemetery where the potential for vandalism of gravesites would increase. The noise around the cemetery would also increase which would take away from the serenity and peacefulness of visiting the cemetery.

As a show of respect for those resting forever in the cemetery, please oppose this plan and build somewhere else. Thanks for your time.

Respectfully,

Chris B. Traxson

Chris B. Traxson – USMC (ret.)

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

7/21/2009

City Council Meeting Date
Agenda Items Only

Leif Olson
Submitted By

Strategic Planning
Department

Action Required:

ADM 09-3288 (UDC Ch. 163.15 Transit System Shelters): An ordinance amending CH. 163.15 of the Unified Development Code to clarify the allowance of transit system shelters to be located within the Master Street Plan right-of-way and building setback lines.

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 ☐

Karen Minkul
Department Director

6/26/09
Date

Previous Ordinance or Resolution #

City Attorney

K. K. K.
City Attorney

6/26/09
Date

Original Contract Date:

Original Contract Number:

Paul A. Buler
Finance and Internal Services Director

6-29-09
Date

Received in City
Clerk's Office



Don M. M.
Chief of Staff

6-29-09
Date

Received in
Mayor's Office



Donnell Jordan
Mayor

6/29/09
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Development Services Director *JP*
Karen Minkel, Strategic Planning and Internal Consulting Director *K.M.*

From: Leif Olson, Associate Planner *LO*

Date: June 23, 2009

Subject: UDC Ch. 163.15 Transit System Shelter Amendments (ADM 09-3288)

RECOMMENDATION

Planning staff recommends amending the Unified Development Code Chapter 163.15 to permit transit system shelters to be located in the Master Street Plan right-of-way and within the building setback lines. Additionally, language has been added to address lighting and to allow administrative approval of unsheltered transit benches.

BACKGROUND

Ozark Regional Transit will receive funding from the federal government as a part of the 2009 Recovery and Reinvestment Act in order to locate transit shelters and benches in Washington and Benton Counties. Preliminary indications are that Fayetteville will receive 7 transit shelters and 6 benches.

Transit shelters are allowed by Conditional Use, and Ozark Regional Transit will soon come before the Planning Commission and City Council with a request to locate shelters in Fayetteville. In anticipation of this, Strategic Planning Staff is proposing amendments to Sections 163.15 Transit System Shelters in order to clarify that shelters may be located within the Master Street Plan right-of-way and also within the building setback line. This will eliminate a variance request from the applicant in order to place a shelter structure adjacent to the street, which is the most convenient location for the general public. The proposed ordinance adds language that also may exempt transit shelters from additional lighting requirements and enables transit providers to locate un-sheltered benches in locations approved administratively by the Development Services Director.

DISCUSSION

This item was heard at the regular Planning Commission meeting on June 22, 2009. The Planning Commission amended the ordinance by replacing the word "shall" with the word "may" in section 163.15(A)(3)(b) and then forward the ordinance by a vote of 7-0-0 with a recommendation for approval to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE TO AMEND §163.15 TRANSIT SYSTEM SHELTERS OF THE UNIFIED DEVELOPMENT CODE TO ALLOW TRANSIT SHELTERS LOCATED WITHIN THE MASTER STREET PLAN RIGHT-OF-WAY AND BUILDING SETBACK LINES

WHEREAS, in City Plan 2025 the City of Fayetteville identified the goal to “Create a Livable Transportation System”; and

WHEREAS, the City of Fayetteville recognizes that Ozark Regional Transit and Razorback Transit provide the community with multi-modal transportation options; and

WHEREAS, Ozark Regional Transit has received Federal funding from the 2009 Recovery and Reinvestment Act to install transit system shelters in the City of Fayetteville; and

WHEREAS, the City of Fayetteville recognizes that transit system shelters will often be located within the Master Street Plan right-of-way and building setback lines.

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 **§163.15 Transit System Shelters** by replacing subsection (A), as follows:

“(A) *Intent.* Transit System Operators may apply for a conditional use permit to allow for the location of bus shelters in, or adjacent to, the right of way of public streets subject to the following conditions and requirements. A variance is not required for transit system shelters located outside of the right-of-way but within the building setback. Transit system benches that are not sheltered from the elements may be located at bus stops with the approval of the Director of Development Services.”

Section 2: That the City Council of the City of Fayetteville, Arkansas, hereby amends **§163.15 Transit System Shelters**, by inserting and reordering subsection (A)(1) to add a new subsection (A)(1)(b), as follows:

“(A)(1)(b) A transit system shelter or structure shall not be required to meet the building or master street plan setback, as these structures are intended to be located in a convenient area for the use by the general public awaiting transit.”

Section 3: That the City Council of the City of Fayetteville, Arkansas, hereby amends **§163.15 Transit System Shelters**, by adding an additional sentence to subsection (A)(3)(b), as follows:

“(A)(3)(b) Transit system shelters located within 20 feet of an existing street or parking lot light may not have additional lighting requirements.”

Section 4: That the City Council of the City of Fayetteville, Arkansas, hereby amends **§163.15 Transit System Shelters**, by enacting a new subsection (A)(3)(d), as follows:

“(A)(3)(d) Transit system street furniture/benches that are not sheltered from the elements may be located at pre-approved transit stops with the approval of the Zoning and Development Administrator. Approval of any structure shall be subject to the findings found in section (A)(2) above.”

PASSED and **APPROVED** this 21st day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Proposed Amendments

163.15 Transit System Shelters

(A) *Intent.* Transit System Operators may apply for a conditional use permit to allow for the location of bus shelters in, or adjacent to, the right of way of public streets subject to the following conditions and requirements. A variance is not required for transit system shelters located outside of the right-of-way but within the building setback. Transit system benches that are not sheltered from the elements may be located at bus stops with the approval of the Director of Development Services.

(1) Requirements for locating, constructing and maintaining a transit system bus shelter are as follows;

(a) The bus shelter conditional use permit application shall require a site plan illustrating the location and dimensions of the proposed structure, the street right of ways and any existing utility easements.

(b) A transit system shelter or structure shall not be required to meet the building or master street plan setback, as these structures are intended to be located in a convenient area for the use by the general public awaiting transit.

(c) The City may require that the transit system provide a cash or security bond in an amount approved by the City sufficient to cover the cost of removing the transit systems facilities or improvements.

(d) The City may require that the transit system provide a provision authorizing the City to remove, without liability, any part of a facility for which a permit has been issued if there is a lawful need for the site or for access to the site.

(d) The City may require the transit system to provide public liability insurance.

(f) The City may require that the transit system provide and pay for any necessary or essential traffic and safety studies.

(2) The Planning Commission may issue a bus shelter conditional use permit based on the following findings;

(a) The improvement or facility will not be located, extend onto, or intrude on the roadway or the sidewalk to such an extent as to impede the area needed for vehicular traffic or pedestrian use.

(b) The improvement or facility will not create a hazardous condition or obstruction of vehicular or pedestrian travel on the street or sidewalk.

(c) The design and location of the facility includes all reasonable planning to minimize the potential for injury or interference to the public in the use of the municipal street or sidewalk.

(3) Additional bus shelter elements may be required to be installed and maintained by the Transit System Operator. These may include but shall not be limited to:

(a) A concrete pad on which to locate the shelter and accompanying street furniture.

(b) Pedestrian scaled street lighting meeting the requirements of Chapter 176 of the Unified Development Code of the City of Fayetteville (Outdoor Lighting Ordinance). Transit system shelters located within 20 feet of an existing street or parking lot light shall may not have additional lighting requirements.

(c) An integrated or detached "wayfinding totem" to identify location and bus routes.

(d) Transit system street furniture/benches that are not sheltered from the elements may be located at pre-approved transit stops with the approval of the Zoning and Development Administrator. Approval of any structure shall be subject to the findings found in section (A)(2) above.

(4) Signage. Only signage denoting the bus stop location, or language associated with city wayfinding shall be allowed on bus shelter structures.

(Ord. 4946, 11-21-06)



PC Meeting of June 22, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Leif Olson, Associate Planner
THRU: Karen Minkel, Strategic Planning and Internal Consulting Director
Jeremy Pate, Development Services Director
DATE: June 17, 2009

ADM 09-3288: (UDC AMENDMENT CH. 163: USE CONDITIONS): The request is to amend Chapter 163: Use Conditions of the Unified Development Code to clarify the allowance of transit system shelters to locate within the Master Street Plan right-of-way and building setback lines. Also, language has been added regarding additional lighting requirements and allowing administrative approval for the placement of un-sheltered bus benches.

Planner: Leif Olson

BACKGROUND

Ozark Regional Transit will receive funding from the federal government as a part of the 2009 Recovery and Reinvestment Act in order to locate transit shelters and benches at designated locations along it's routes in both Washington and Benton Counties. Preliminary indications are that Fayetteville will receive 7 transit shelters and 6 benches.

City staff and representatives of Ozark Regional Transit have identified the location for these transportation improvements using the following set of criteria:

- Number of riders using the route and major destinations and/or boarding locations.
- Ability to serve more than one transit provider (Razorback Transit) at a shared stop.
- Close proximity to senior and/or disabled housing or high volume uses.
- Close proximity to linkages with multi-modal transportation options such as the trail system and large employment centers.

Additional funds may be appropriated through New Freedom grant monies that will allow the City to partner with Ozark Regional Transit to improve and build sidewalks, curb cuts and bus shelter/bench pads.

Transit shelters are allowed by Conditional Use and Ozark Regional Transit will soon come before the Planning Commission with a request to locate shelters in Fayetteville. In

anticipation of this, Planning staff is proposing amendments to Sections 163.15 Transit System Shelters in order to clarify that shelters may be located within the Master Street Plan right-of-way and also within the building setback line. This will eliminate a variance request from the applicant in order to place a shelter structure adjacent to the street, which is the most convenient location for the general public. The proposed ordinance adds language that exempts transit shelters from additional lighting requirements if located within 20 feet of existing parking lot or street lighting. Additionally, staff proposes enabling transit providers to locate un-sheltered benches in locations approved administratively by the Development Services Director.

RECOMMENDATION

Planning Staff recommends approval of ADM 09-3288 to amend Chapter 163.15 of the UDC to permit transit system shelters within the Master Street Plan right-of-way and building setback lines.

Planning Commission Action:

☐ Denied

☐ Tabled

Motion: _____

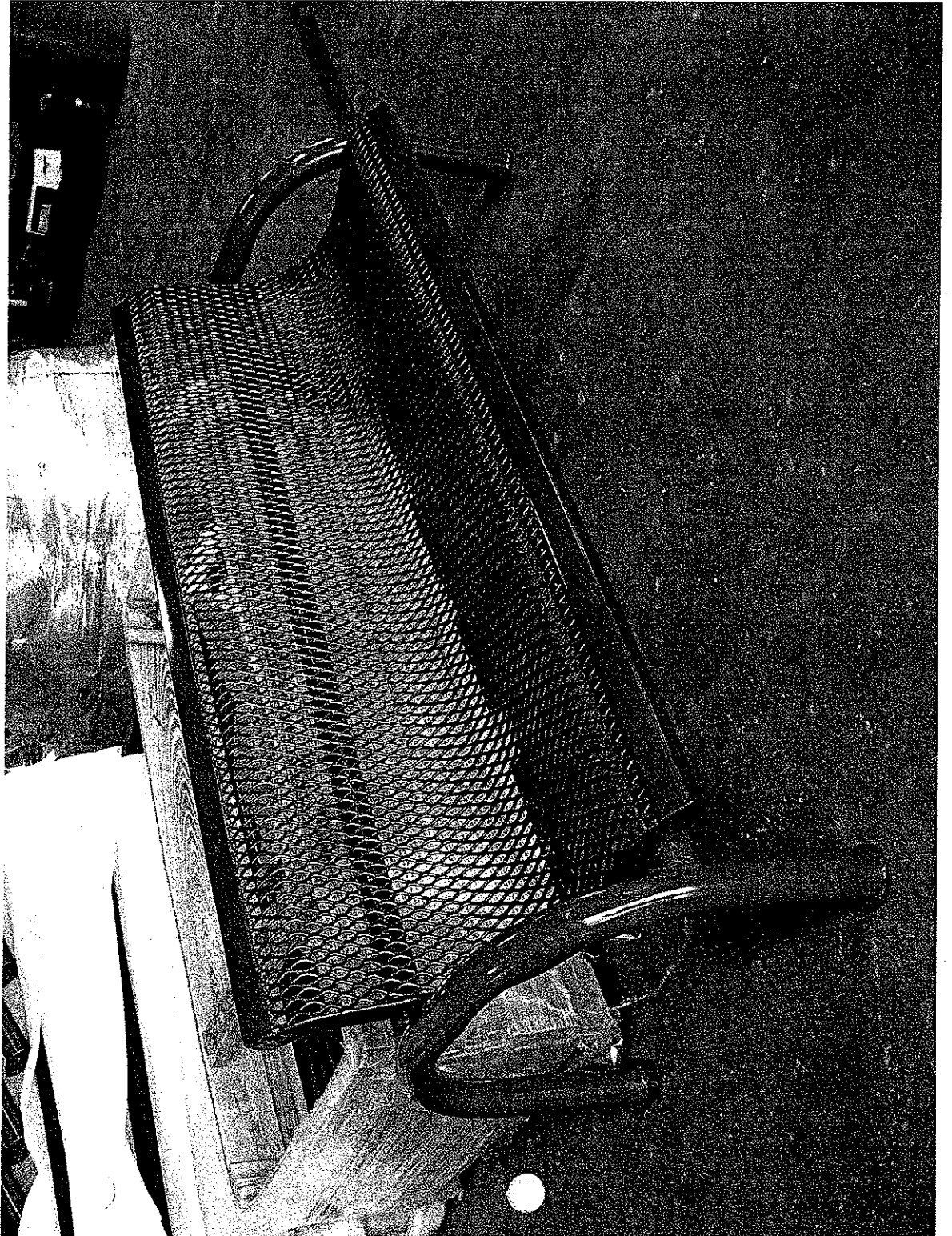
Second: _____

Vote: _____

Meeting Date: **June 22, 2009**

Comments: _____





AGENDA REQUEST

FOR: COUNCIL MEETING OF JULY 21, 2009

FROM:

**SHELLY TURBERVILLE, ACCOUNTING MANAGER and
KIT WILLIAMS, CITY ATTORNEY**

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

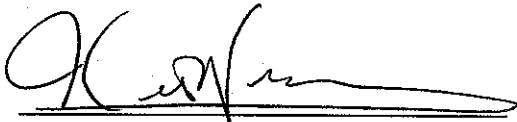
An Ordinance To Amend §111.30 **Retail** Of Chapter 111 **Alcoholic Beverages** Of The Fayetteville Code To Enact A New Subsection (H) *Restaurant Beer And Wine Permit*

APPROVED FOR AGENDA:


Shelly Turberville
Accounting Manager

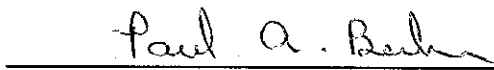
7/1/09
Date



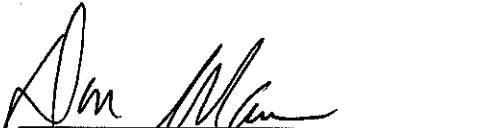

Kit Williams
City Attorney

7-1-09
Date




Paul Becker
Finance Director

7-2-2009
Date


Don Marr
Chief of Staff

7/2/09
Date


Lioneld Jordan
Mayor

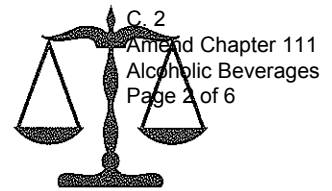
7/2/09
Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Lioneld Jordan, Mayor**
City Council

FROM: **Kit Williams, City Attorney**

DATE: **July 1, 2009**

RE: **Restaurant Beer and Wine Permit, A.C.A. §3-4-1001**

As I explained in my June 30, 2009 memo, I concur in the Police Department's recommendation that we establish a city Restaurant Beer and Wine Permit to comply with Act 294 and A.C.A. §3-4-1001's creation of this new permit. The permit fee cannot be charged until July 1, 2010, but normal taxation of alcoholic beverage sales should continue even if sold under this new permit.

Attached is the new proposed ordinance to enact a new subsection (H) *Restaurant Beer and Wine Permit* in our Alcoholic Beverage chapter of the Fayetteville Code. Also attached is a copy of the new state law (Section 11 of Act 294) establishing this new permit.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND §111.30 RETAIL OF CHAPTER 111
ALCOHOLIC BEVERAGES OF THE FAYETTEVILLE CODE TO
ENACT A NEW SUBSECTION (H) *RESTAURANT BEER AND WINE
PERMIT***

WHEREAS, Act 294 of 2009 created a new Restaurant Beer and Wine Permit.

**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 §111.30
Retail of the Fayetteville Code by enacting a new subsection (H) *Restaurant Beer and Wine Permit* as
follows:

“(H) Restaurant Beer and Wine Permit.

*“Authorizes a restaurant which has a valid state Restaurant Beer and
Wine Permit to obtain a City of Fayetteville Restaurant Beer and Wine
Permit for the retail sale of beer and wine pursuant to A.C.A. §3-9-301
and §3-4-1001, et seq.*

*“(1) Permit fee. There is hereby levied an annual permit fee beginning
July 1, 2010, of the same amounts and computed in the same manner
as the annual fees for retail beer and light wine off-premises and
on-premises permits in subsections (B) and (C) of this section.*

*“(2) Hours of operation. It shall be unlawful for any restaurant to sell
beer or wine through this permit beyond the hours established for the
Retail beer and light wine on-premises permit of subsection (C).”*

PASSED and APPROVED this 21st day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

ARKANSAS 2009 ACTS

Act 294

1 each and every year.

2

3 SECTION 9. Arkansas Code § 3-4-706(c)(3)(A), concerning the permit fee
4 for military service clubs, is amended to read as follows:

5 (c)(3)(A) The annual fee for each military service club
6 mixed drink permit shall be five hundred dollars (\$500) seven hundred fifty
7 dollars (\$750), and each fee the annual fee shall be due and collected in
8 the same manner as all other permit fees collected by the division.

9

10 SECTION 10. Arkansas Code § 3-4-902(b), concerning off-premises
11 caterer's permits, is amended to read as follows:

12 (b) The annual fee for a an off-premises caterer's permit shall be two
13 hundred dollars (\$200) five hundred dollars (\$500), and the off-premises
14 caterer's permit shall be renewed on an annual basis.

15

16 SECTION 11. Arkansas Code Title 3, Chapter 4 is amended to add a new
17 subchapter as follows:

18 Subchapter 10. Restaurant Beer and Wine Permit.

19

20 3-4-1001. Creation - Issuance - Expiration.

21 (a)(1) In addition to all other existing alcoholic beverage permits
22 authorized to be issued by the Alcoholic Beverage Control Division for the
23 retail sale of alcoholic beverages, there is hereby created a restaurant beer
24 and wine permit, which authorizes the sale of light beer, and wine as defined
25 in § 3-9-301(2) at restaurants as defined in § 3-9-301(4).

26 (2) The restaurant beer and wine permit is not subject to any
27 quota restrictions.

28 (b) The permit may be issued by the Alcoholic Beverage Control
29 Division to a qualified person.

30 (c) Each restaurant beer and wine permit shall be issued annually for
31 a fee of three hundred and fifty dollars (\$350) and shall expire on June 30
32 of each year.

33

34 3-4-1002. Rules.

35 The Alcoholic Beverage Control Division may adopt rules to carry out
36 this subchapter, to establish appropriate application forms, permit forms,

203

1 and procedures, and to do all other things necessary to implement this
2 subchapter.

3

New



Permit



From Police Department

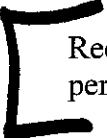
City Ordinance 111 Recommendations for Changes and Additions

Recommended Changes

Recommended Change #1: In Retail beer and light wine on-premises permit Hours of Operation p. 9, redefine hours of operation language and remove "on Sunday". (State law p. 2 now affords, "A person that holds a permit that allows the on-premises consumption of alcoholic beverages may operate on Sundays between the hours of 10:00 a.m. and 12:00 midnight".)

Recommended Change #2: In On-premises consumption-Hotel, motel or restaurant permit Hours of Operation p. 10, remove "on any Sunday", and remove "unless that establishment has a valid Sunday Sales permit issued by the ABC. If an establishment has a valid Sunday Sales permit, its hours of operation on Sunday shall be governed by state law (A.C.A §3-9-215)". (State law p. 2 now affords, "A person that holds a permit that allows the on-premises consumption of alcoholic beverages may operate on Sundays between the hours of 10:00 a.m. and 12:00 midnight".)

Recommended Additions



Recommended Addition #1: Creation of Restaurant Beer and Wine Permit to match new permit in state law (State law p. 9 creates state restaurant beer and wine permit).

Recommended Addition #2: Create off-premises caterer's permit to match the state off-premises caterer's permit. (This was a concern prior to this new state law in that the city's satellite caterer's permit language does not match the caterers' permits that have been issued by the state to several caterers operating in Fayetteville)

Recommended Addition #3: Consider adding additional hours of operation on Sundays that fall on New Year's Eve 10:00 a.m. to 2:00 a.m. (to match state law p. 15, extended hours on December 31st falling on Sunday)

City of Fayetteville Staff Review Form

C. 3
RZN 09-3317 (Whitfield)
Page 1 of 18

City Council Agenda Items
and
Contracts, Leases or Agreements

7/21/2009

City Council Meeting Date
Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

RZN 09-3317: (Whitfield, 527): Submitted by Crafton, Tull, Sparks and Associates for property located on the west side of Crossover Road, approximately 0.5 mile north of Highway 16E. The property is zoned RSF-4, Residential Single-Family, 4 units per acre, and contains approximately 9.91 acres. The request is to rezone the subject property to MSC, Main Street Center.

_____	\$ _____	_____
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. P.
Department Director

6-25-09
Date

Previous Ordinance or Resolution # _____

K. Crafton
City Attorney

6/26/09
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Becker
Finance and Internal Services Director

6-29-09
Date

Received in City
Clerk's Office

ENTERED
6/25/09
ad

Jim Mann
Chief of Staff

6/30/09
Date

Received in
Mayor's Office

ENTERED
6/26/09
JH

Frederick Jordan
Mayor

6/30/09
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Development Services Director

From: Andrew Garner, Senior Planner

Date: June 24, 2009

Subject: Rezoning for Whitfield (RZN 09-3317)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property from RSF-4, Residential Single-family to MSC, Main Street Center located on the west side of Crossover Road approximately 0.5 mile north of Highway 16E.

BACKGROUND

The subject property contains 9.31 acres on the west side of Crossover Road, approximately 0.5-mile north of Huntsville Road. The site is undeveloped with pasture and woodlands. There is a north-south trending stream/floodplain that traverses the property. The property is part of a larger 42.44 acre site, the western 32.53 acres is the potential site for the new Happy Hollow Elementary School. On June 11, 2009 the Subdivision Committee approved LSP 09-3315 (Happy Hollow School) to create three legal lots of record, including the interior elementary school lot and the subject property consisting of two lots totaling 9.31 acres along Crossover Road. The property is bordered by the Cliffs Apartments to the north, Eastside Baptist Church to the south, the undeveloped potential site of the Happy Hollow Elementary school to the west, and single family residential to the east.

The applicant proposes to rezone the property from RSF-4, Residential single-family to MSC, Main Street Center.

DISCUSSION

This item was heard at the regular Planning Commission meeting on June 22, 2009. One member of the public spoke in opposition of the rezoning discussing concern with commercial development creeping north along Crossover Road. The Planning Commission voted 6-0-1 (Kennedy recused) to forward this rezoning request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 09-3317, FOR APPROXIMATELY 9.91ACRES, LOCATED ON THE WEST SIDE OF CROSSOVER ROAD, APPROXIMATELY 0.50 MILE NORTH OF HIGHWAY 16E, FROM RSF-4, RESIDENTIAL SINGLE FAMILY FOUR UNITS/ACRE, TO MSC, MAIN STREET CENTER

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RSF-4, Residential Single Family Four Units/Acre to MSC, Main Street Center, as shown and described on attached exhibits "A" and "B".

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

PASSED and APPROVED this day of , 2009.

APPROVED:

ATTEST:

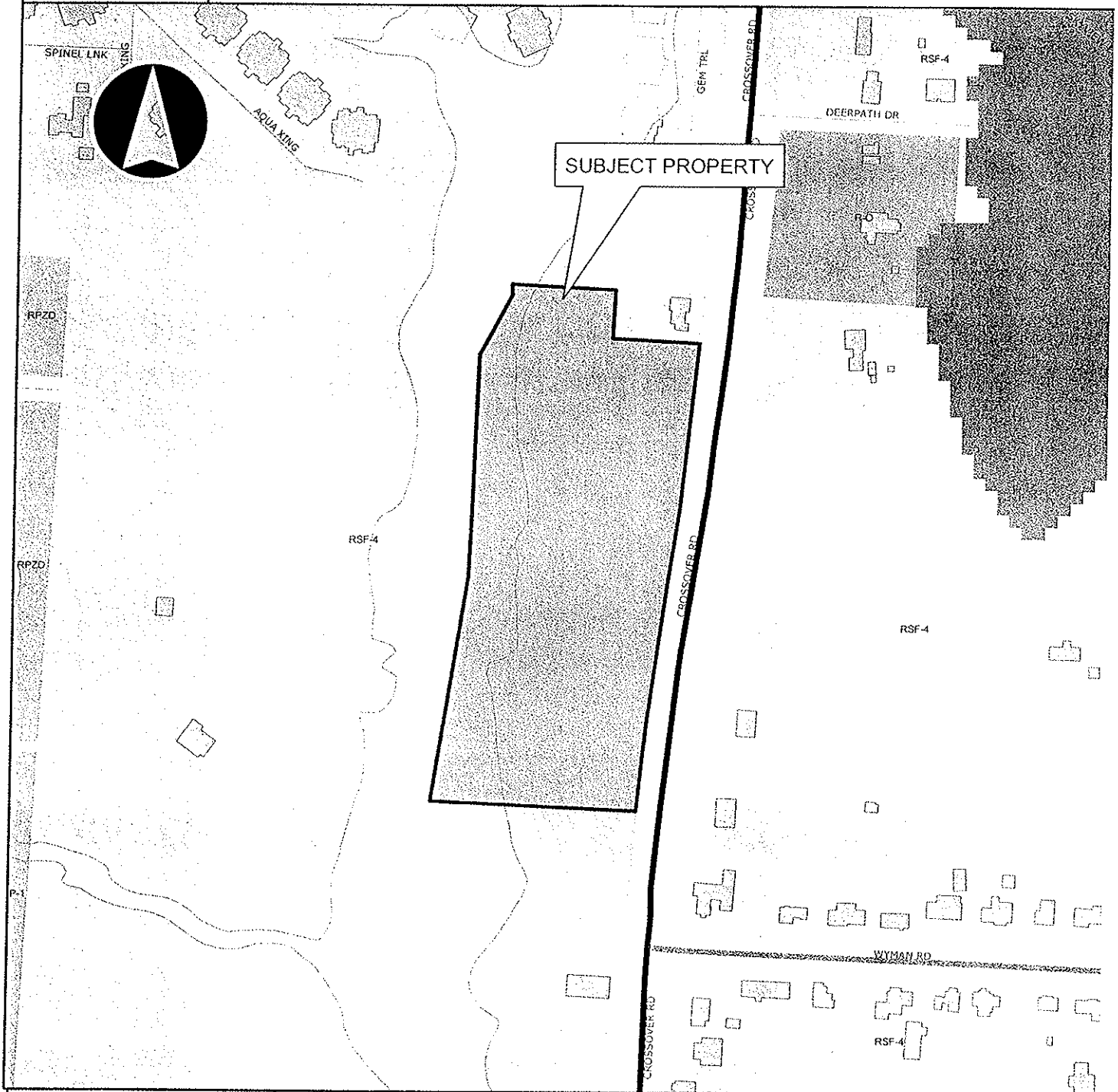
By: _____
LIONELD JORDAN, Mayor

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

RZN09-3317

WHITFIELD/ CROSSOVER RD.

Close Up View



Overview

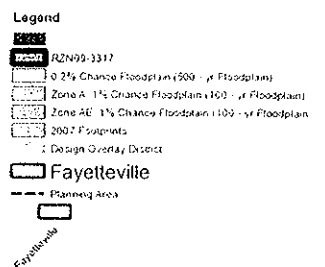
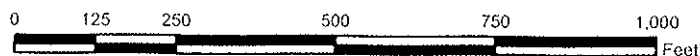


EXHIBIT "B"
RZN 09-3317

LEGAL DESCRIPTION: (RSF-4 TO MSC)

PART OF THE NW1/4 OF THE SE1/4 OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF SAID NW1/4 OF THE SE1/4, SAID POINT BEING AN EXISTING STONE MONUMENT;

THENCE ALONG THE NORTH LINE OF SAID NW1/4 OF THE SE1/4 S86°59'10"E 905.56 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID NORTH LINE S86°59'10"E 215.52 FEET;

THENCE DEPARTING SAID NORTH LINE S03°00'50"W 100.00 FEET;

THENCE S86°59'10"E 180.46 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF HIGHWAY 265 (CROSSOVER ROAD);

THENCE ALONG SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING FOUR COURSES:

S06°10'12"W 350.29 FEET;

S09°02'04"W 150.65 FEET;

S07°59'32"W 279.68 FEET;

S06°00'46"W 184.59 FEET TO A FOUND IRON REBAR PIN WITH A CAP STAMPED WITH BLEW PLS 1532; THENCE DEPARTING SAID WEST RIGHT-OF-WAY LINE, N87°24'11"W 424.18 FEET; THENCE N08°56'42"E 464.92 FEET; THENCE N02°21'05"E 128.21 FEET; THENCE N01°58'59"E 326.88 FEET; THENCE N28°06'59"E 139.04 FEET; THENCE N03°17'49"W 22.40 FEET TO THE POINT OF BEGINNING CONTAINING 431747 SQ. FT. OR 9.91 ACRES, MORE OR LESS.



PC Meeting of June 22, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~June 18, 2009~~ Updated June 24, 2009

RZN 09-3317: (WHITFIELD / CROSSOVER RD., 527): Submitted by CRAFTON, TULL, SPARKS & ASSOC. for property located at APPROXIMATELY 0.50 MILES N OF HWY 16E, W OF CROSSOVER ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 9.91 acres. The request is to rezone the subject property to MSC, Main Street Center. Planner: Andrew Garner

Property: The subject property contains 9.91 acres on the west side of Crossover Road, approximately 0.5-mile north of Huntsville Road. The site is undeveloped with pasture and woodlands. There is a north-south trending stream/floodplain that traverses the property. Surrounding land use and zoning is depicted on *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North	Multi-Family Residential (Cliffs Apartments)	RSF-4
South	Undeveloped pasture	RSF-4
East	Single Family Residential; Eastside Baptist Church	RSF-4
West*	Undeveloped Rural Residential	RSF-4

*Potential site for the new Happy Hollow Elementary School, proposed P-1, Institutional zoning.

The property is part of a larger 42.44 acre site, the western 33.13 acres is the potential site for the new Happy Hollow Elementary School. On June 11, 2009 the Subdivision Committee approved LSP 09-3315 (Happy Hollow School) to create three legal lots of record, including the interior elementary school lot and the subject property consisting of two lots along Crossover Road.

Proposal: The applicant originally requested a rezoning to C-2, Thoroughfare Commercial, on the subject property. After hearing staff's concerns with adding a strip commercial development pattern in this area, the applicant proposes to rezone the subject property from RSF-4 to MSC, Main Street Center to "discourage suburban sprawl" and allow for "traditional town form" along a Principal Arterial roadway consistent with City Plan 2025.

Public Comment: Staff has received some phone calls opposed to rezoning the property for commercial use.

INFRASTRUCTURE:

Streets: The site has access to Crossover Road. Crossover Road is a fully improved multi-lane state highway in this location. Street improvements will need to be evaluated at the time of development.

Water: Public water is available to the property. There is a 24" main along Crossover Road. Public water will need to be extended through the property to provide domestic and fire flow for any proposed development.

Sewer: Sanitary sewer is available to the site. There is a 10" running through this property. Public mains may need to be extended through the property to serve any proposed development.

Drainage: Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Fire: At the time of publication of this report no comments were provided from the Fire Department.

Police: It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density, create an undesirable increase in load on police services, or create an undesirable increase in traffic danger and congestion.

CITY PLAN 2025 FUTURE LAND USE PLAN: City Plan 2025 Future Land Use Plan designates a majority of this site as **City Neighborhood Area**. Rezoning this property to MSC along a Principal Arterial (Crossover Road/State Highway 265) is consistent with the City Neighborhood Area designation that encourages a dense urban fabric with mixed and low-intensity nonresidential uses. The MSC zoning is also consistent with City Plan 2025 Goal 2, "We will discourage suburban sprawl", and Goal 3, "We will make traditional town form the standard". The MSC center zoning does not permit a typical commercial strip-center development pattern with vast parking lots adjacent to the street that is common along many of the City's arterial streets, and is discouraged by the City's land use policies. Rather, the MSC zoning requires a compact and complete development pattern with buildings close to the street and a mix of uses. A small portion of this site associated with floodplain is designated as **Natural Area**. These sensitive areas will be reviewed in detail at the time of development to ensure that they are incorporated into the design of the project to minimize impacts.

RECOMMENDATION:

Staff recommends approval of the MSC rezoning based on findings stated herein. The traditional development pattern and mixed use allowed under this zoning are appropriate in this location on a principal arterial that is an extension of the City Neighborhood node around the major intersection of

two state highways (Crossover Road/Huntsville Road). The MSC zoning would encourage a traditional development pattern on the property, allowing this site to make a greater contribution to being a complete neighborhood by providing needed non-residential services and establishing the City's desired development pattern; rather than a single-use commercial zoning that has been typically proposed along the state highways bisecting Fayetteville. The benefit gained to the City of MSC zone over a C-2 zone is the form of the development that results on the site, which is a more desirable pattern of growth.

PLANNING COMMISSION ACTION:			Required	<u>YES</u>	
			☐ Approved	☒ Forwarded	☐ Denied
Motion: <u>Lack</u>			Second: <u>Zant</u> Vote: <u>6-0-1 (Kennedy recused)</u>		
Date: <u>June 22, 2009</u>					
CITY COUNCIL ACTION:			Required	<u>YES</u>	
			☐ Approved	☐ Denied	
Date: <u>July 21, 2009 (1st reading if recommended)</u>					

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: *Location.* The property is designated as City Neighborhood Area in the City Plan 2025 Future Land Use Plan. The proposed MSC zoning is consistent with the City's land use planning objectives, principles and policies to encourage complete, compact, and connected neighborhoods indicated by the City Neighborhood Area designation. The Guiding Policies for the City Neighborhood Area discuss that non-residential uses should be provided in areas that are accessible for the convenience of individuals living in residential districts. The subject property is located in the vicinity of a major intersection of two state highways (Crossover Road and Huntsville Road) providing north-south and east-west connection through Fayetteville. While the site is not considered a 'node', in the sense of a concentrated mixture of uses at a major intersection, this site is an extension of the City Neighborhood node associated with that intersection that has been planned to provide non-residential services to the numerous residents living in southeast Fayetteville, where there are limited amounts of non-residential uses and zonings. The City Council identified this site as a Controlled Growth Sector in City Plan 2025 and staff finds it is an appropriate location for mixed use along this busy state highway.

Development Pattern. With the adoption of City Plan 2025 in 2006, the City Council made a policy decision to change future development patterns from the post World War II suburban pattern with strict separation of uses to a "traditional town form" pattern. City Plan 2025 Goals 2 and 3 state, "We will

discourage suburban sprawl” and “We will make traditional town form the standard”. The MSC center zoning does not permit a typical commercial strip-center development that is common along the City’s arterial streets, and is now discouraged by the City’s land use policies. Rather, the MSC zoning requires a compact and complete development pattern with buildings close to the street, parking located behind, and a mix of uses, consistent with these goals. By introducing this form-based zoning along a major arterial the desired “traditional town form” pattern will be encouraged. This is a positive step towards meeting the goals of City Plan 2025 and a shift from the existing development pattern on the City’s other arterials such as College Avenue, Martin Luther King Jr. Boulevard, and Wedington Drive. In addition, the introduction of multiple uses adjacent to an arterial and other infrastructure takes advantage of the infrastructure improvements that have already occurred; this is a much more desirable practice of infill, as opposed to siting new areas on the edge of town, where infrastructure must be extended.

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 as the existing RSF-4 zoning would only allow for single family residences. This site fronts a busy highway with high-speed traffic. Much of the property is not feasible to be developed for single family residences in a typical RSF-4 fashion. The site has been identified as a Controlled Growth Sector in the City’s Future Land Use Plan and designated for higher intensity uses – the existing zoning does not accomplish the goals of the City for future use of the property. The proposed MSC zoning would allow the flexibility for mixed uses along this busy transportation corridor.

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

Finding: The proposed zoning has the potential to generate additional traffic on the surrounding street system over the existing RSF-4 zoning because of the commercial and multi-family uses that would be permitted. However, due to this site being located directly on an improved state highway and in the vicinity of a signalized intersection, the existing street infrastructure is adequate. Staff does not find that this rezoning would appreciably increase traffic danger or congestion. Access points would be reviewed in conformance with the Access Management Ordinance at the time of development to ensure safe ingress and egress; street improvements would also be evaluated and required at the time of development.

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

facilities.

Finding: The proposed zoning would increase the potential population density as the MSC zoning district does not have a maximum density, compared with four (4) units per acres under the RSF-4 zoning. This location directly on a major transportation corridor near a signalized intersection has adequate existing infrastructure and can accommodate high density.

Increased load on public services was taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. Significant adverse impacts to public services would not result with the incorporation of standard improvements as part of the development.

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

a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

Finding: It is impractical for all of the property to remain under the RSF-4 zoning classification for reasons discussed in Finding No. 2. This site has the potential to support a dense urban form of development in a traditional pattern, as previously identified by City Council with the identification of this site as a Controlled Growth Sector and City Neighborhood Area on the Future Land Use Plan. Staff finds that the proposal for MSC zoning on a major transportation corridor in this situation is appropriate. The site will utilize existing infrastructure and result in the potential for a traditional town form as opposed to suburban development pattern.

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 requested zoning.

161.21 Main Street/Center

(A) *Purpose.* A greater range of uses is expected and encouraged in the *Main Street / Center*. The *Center* is more spatially compact and is more likely to have some attached buildings than *Downtown General* or *Neighborhood Conservation*. Multi-story buildings in the Center are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the *Main Street/Center*. The *Center* is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street Center district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 18	Gasoline services stations and drive in restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
---------------------------	--------

(2) *Lot area minimum.* None.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, internal	None
Rear, without easement or alley	5 ft.
Rear, from center line of an easement or alley	12 ft.

(F) *Minimum buildable street frontage.* 75% of lot width.

(G) Height Regulations. A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 4 stories or 56 feet, whichever is less. A building or a portion of a building that is located 15 feet or greater from the front property line or any master street plan right-of-way line shall have a maximum height of 6 stories or 84 feet, which ever is less.

(H) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to-zone facing a public right of way.

(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07; Ord. 5042, 8-07-07; Ord. 5195, 11-6-08)

Police Department Comments

Date 6/1/09

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for comments on the proposed RZN-09-3317 (Happy Hollow / Crossover Rd) Submitted by Crafton, Tull, Sparks & Associates for property located approx. 0.5 miles N of Hwy 16E, W of Crossover Road.

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

Sincerely,

Captain William Brown
Fayetteville Police Department

**Crafton Tull Sparks**

architecture | engineering

Birmingham
Conway
Little Rock
Oklahoma City
Rogers
Russellville
Tulsa
Wichita

June 11, 2009

Planning Commission
City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72701

Dear Planning Commission:

This letter shall accompany the Rezone request for approximately 9.91 acres of land from RSF-4 (Residential Single Family – 4 units/ac) to MS/C (Main Street / Center). The subject property is located along the west side of Hwy. 265 (Crossover Road), approximately 0.5 miles north of the intersection between Hwy. 16 (Huntsville Road) and Hwy. 265 (Crossover Road). The rezone of this property shall be in conjunction with a tract split of the same property.

Current Ownership Information:

Currently the property is owned by Andrea Whitfield (166 Ivy Brook Lane, Collierville, TN 38017).

Reason (need) for requesting zoning change:

With the successful rezoning and sale of the property that is being proposed for Happy Hollow Elementary School. The remaining property will be perfectly suited for some form of mixed use or neighborhood service along Crossover Road. This property can bring support businesses to the community that do not exist and be situated for easy access by parents dropping off and picking up their children.

How will the property relate to surrounding properties in terms of landuse, traffic, appearance, and signage.

The adjacent property to the north consists of The Cliff's apartment complex. To the west is the proposed Happy Hollow property. The Eastside Missionary Baptist Church abuts the property along the south. Across Crossover Road is the Wymann/Stonebridge Subdivision.

Availability of water and sewer.

A large water main is located along the west side of Crossover Road. It is planned that once the school site develops; a connection will be made between the existing 8" stubout from the northwest and the existing main along Crossover Road. A Sanitary Sewer main is accessible along the Crossover Branch creek which runs along the east side of the property to be rezoned. This existing sewer line is 10" in diameter except for a small portion in the northwest corner of the site which is 20" in diameter.



The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

The 2025 Land Use Plan shows the property as City Neighborhood. The proposed Happy Hollow School, adjacent to the west is shown as Residential Neighborhood. The property to the south is shown as City Neighborhood also. We believe that the MS/C zoning fits within the guidelines of the 2025 plan and complements both the Residential Neighborhood and City Neighborhood planned areas.

Whether the proposed zoning is justified and/or needed at the time of the request.

The proposed zoning is needed at this time. With the purchase of the land due east by the Fayetteville School District the remaining land will be more likely to be developed. Without rezoning the property developers will be unwilling to purchase or consider this property for development. For this reason it is necessary at this point to rezone the property so that the property can be placed on the market and bring additional services to this area.

Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

This zoning change will not directly impact traffic or congestion on area streets. Once development begins a center turn lane will be added to Crossover Road to help maintain the flow of traffic.

Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

The proposed zoning should not have any adverse affect on public services and infrastructure.

Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

The current zoning is not necessarily an impractical use for this area. However, we feel that the proposed zoning is a complement to the current and surrounding zoning's.

Sincerely,

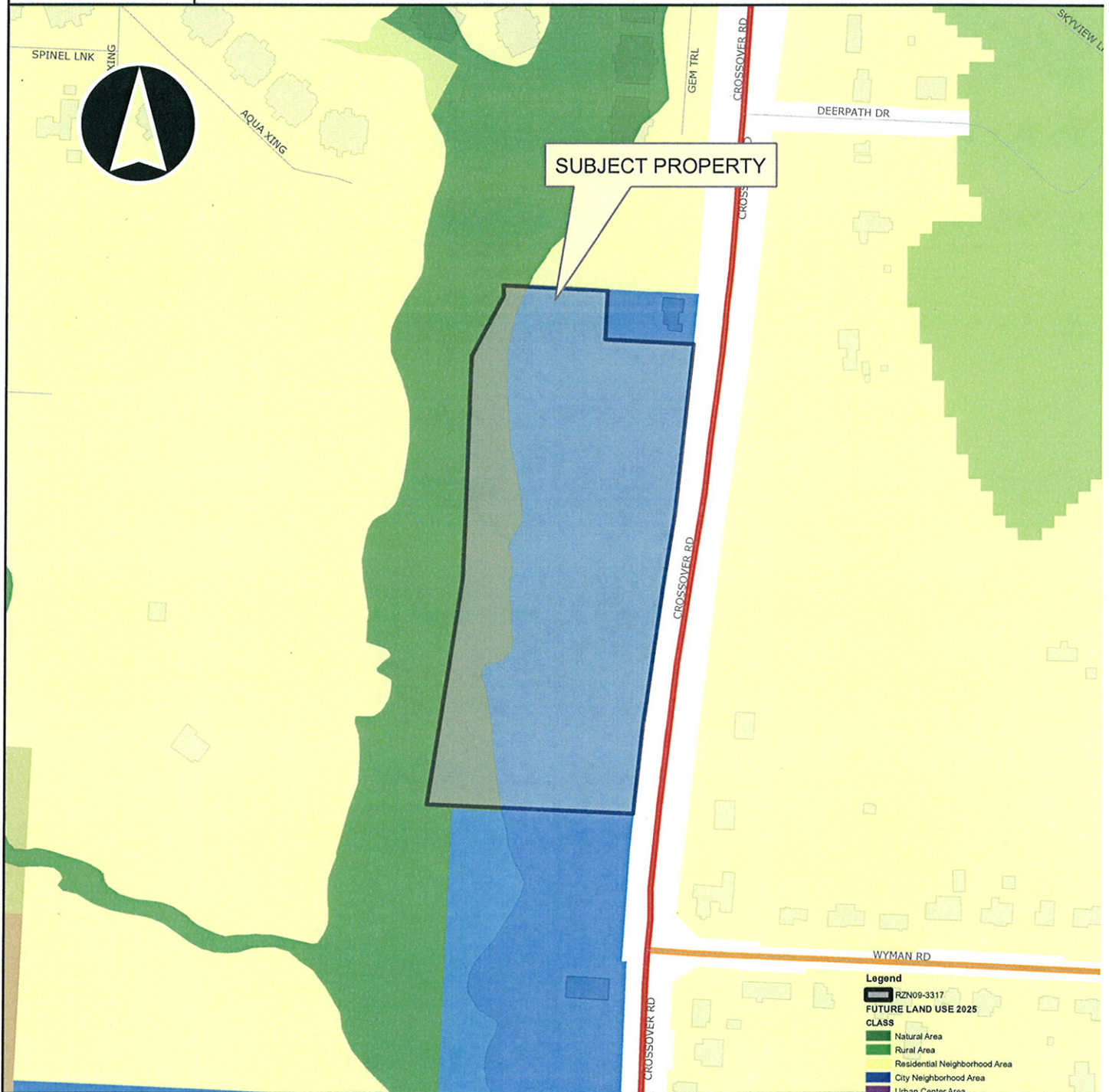
A handwritten signature in black ink, appearing to read "Jonathan Ely", written over a horizontal line.

Jonathan Ely, E.I., LEED® AP
Civil Engineering
Jonathan.Ely@craftontullsparks.com

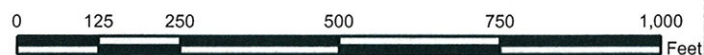
RZN09-3317

Future Land Use

WHITFIELD/ CROSSOVER RD.



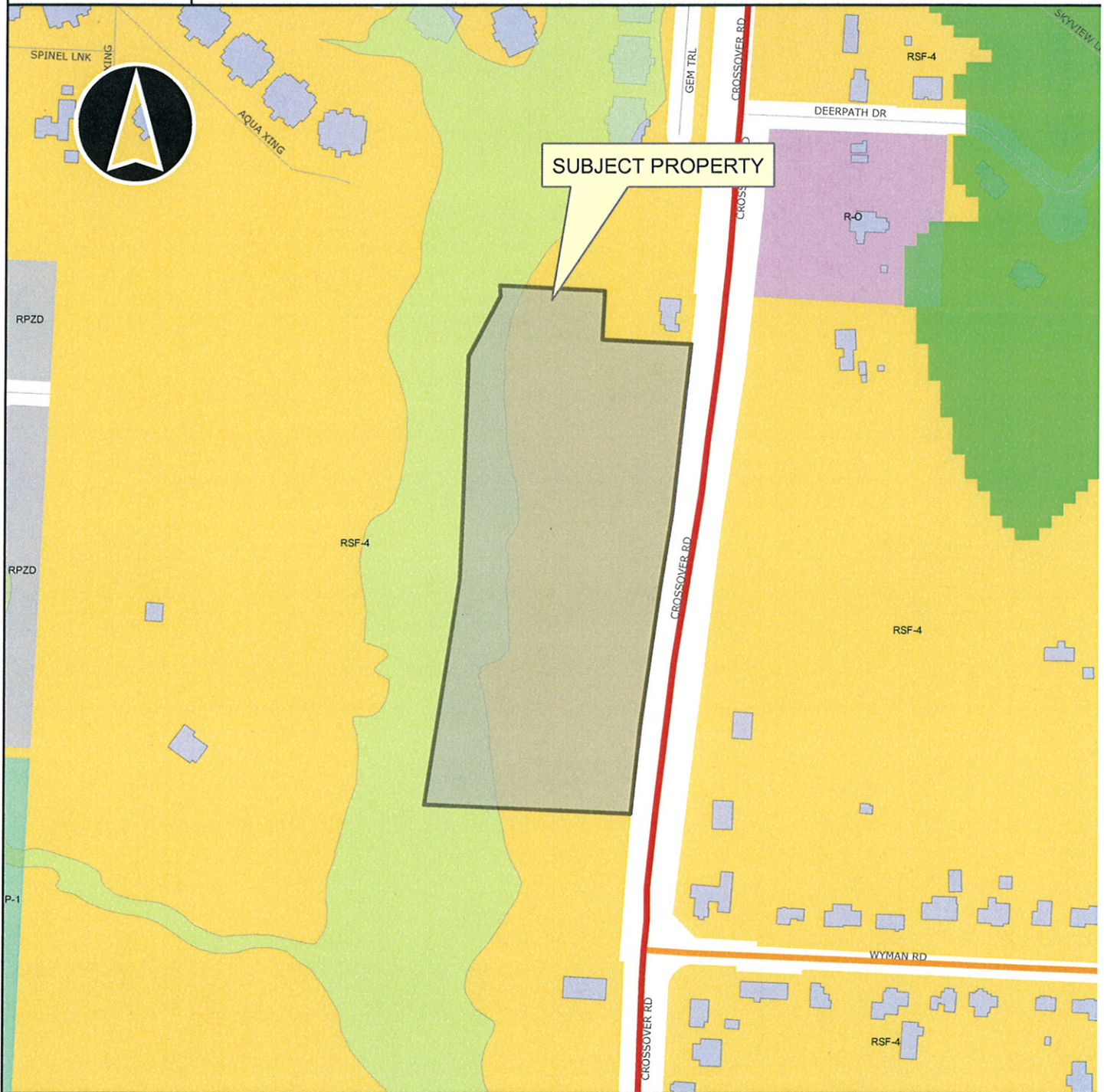
Overview



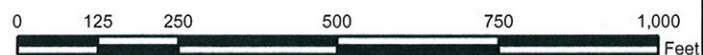
RZN09-3317

WHITFIELD/ CROSSOVER RD.

Close Up View



Overview



Legend

- RZN09-3317
- 0.2% Chance Floodplain (500 - yr Floodplain)
- Zone A, 1% Chance Floodplain (100 - yr Floodplain)
- Zone AE, 1% Chance Floodplain (100 - yr Floodplain)
- 2007 Footprints
- Design Overlay District
- Fayetteville
- Planning Area
- Fayetteville

RZN09-3317

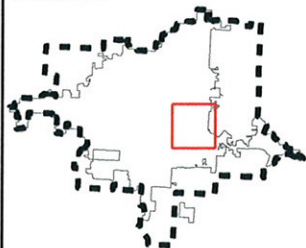
One Mile View

WHITFIELD/ CROSSOVER RD

C-3
RZN 09-3317 (Whitfield)
Page 18 of 18



Overview



Legend

Subject Property

 RZN09-3317

Boundary

0 0.25 0.5 1 Miles

City of Fayetteville Staff Review Form

C. 4
 RZN 09-3318 (Happy Hollow School)
 Page 1 of 18

City Council Agenda Items
 and
 Contracts, Leases or Agreements

7/21/2009

City Council Meeting Date
 Agenda Items Only

Andrew Garner
 Submitted By

Planning
 Division

Development Services
 Department

Action Required:

RZN 09-3318: (Happy Hollow School, 527): Submitted by Crafton, Tull, Sparks and Associates for property located on the west side of Crossover Road, approximately 0.5 mile north of Highway 16E, northeast of Happy Hollow Elementary. The property is zoned RSF-4, Residential Single-Family, 4 units per acre, and contains approximately 32.53 acres. The request is to rezone the subject property to P-1, Institutional.

_____	\$ _____	_____
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

06/25/09
 Date

Previous Ordinance or Resolution # _____

 City Attorney

June 26, 09
 Date

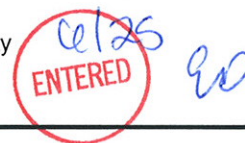
Original Contract Date: _____

Original Contract Number: _____

Paul A. Buehner
 Finance and Internal Services Director

6-29-2009
 Date

Received in City
 Clerk's Office



 Chief of Staff

6/30/09
 Date

Received in
 Mayor's Office



 Mayor

6/30/09
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Development Services Director

From: Andrew Garner, Senior Planner

Date: June 24, 2009

Subject: Rezoning for Happy Hollow Elementary (RZN 09-3318)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property from RSF-4, Residential Single-family to P-1, Institutional located on the west side of Crossover Road approximately 0.5 mile north of Highway 16E and northeast of Happy Hollow Elementary.

BACKGROUND

The subject property contains 32.53 acres on the west side of Crossover Road, approximately 0.5 mile north of Huntsville Road. The property is part of a larger 42.44 acre site; the subject 32.53 acres is the potential site for the new Happy Hollow Elementary School. On June 11, 2009 the Subdivision Committee approved LSP 09-3315 (Happy Hollow School) to create three legal lots of record, including the interior elementary school lot and the two lots totaling 9.31 acres along Crossover Road. The property is bordered by the Cliffs Apartments to the north, Eastside Baptist Church to the east, the Timber Trails Subdivision to the west, and single family residential to the east and south.

The applicant proposes to rezone the property from RSF-4, Residential single-family to P-1, Institutional for the development of the new Happy Hollow Elementary School.

DISCUSSION

This item was heard at the regular Planning Commission meeting on June 22, 2009. The Planning Commission voted 6-0-1 (Kennedy recused) to forward this rezoning request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 09-3318, FOR APPROXIMATELY 32.53 ACRES, LOCATED ON THE WEST SIDE OF CROSSOVER ROAD, APPROXIMATELY 0.50 MILE NORTH OF HIGHWAY 16E, NORTHEAST OF HAPPY HOLLOW ELEMENTARY SCHOOL FROM RSF-4, RESIDENTIAL SINGLE FAMILY FOUR UNITS/ACRE, TO P-1, INSTITUTIONAL.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RSF-4, Residential Single Family Four Units/Acre to P-1, Institutional, as shown and described on attached exhibits "A" and "B".

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

PASSED and APPROVED this day of , 2009.

APPROVED:

ATTEST:

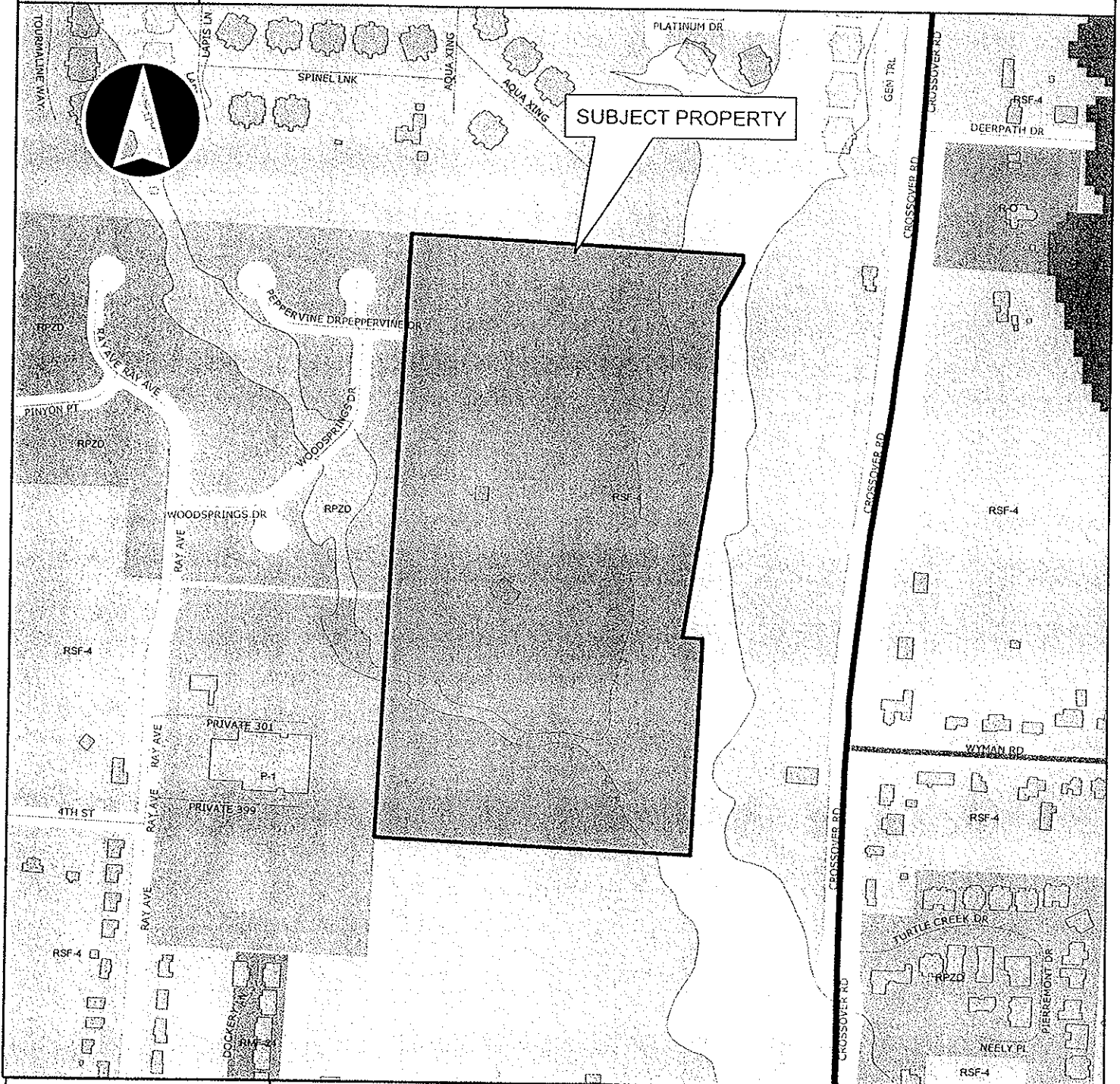
By: _____
LIONELD JORDAN, Mayor

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

RZN09-3318

HAPPY HOLLOW SCHOOL/ CROSSOVER RD

Close Up View



Overview

Legend

- RZN09-3318
- 0.2% Chance Floodplain (500 - yr Floodplain)
- Zone A, 1% Chance Floodplain (100 - yr Floodplain)
- Zone AE, 1% Chance Floodplain (100 - yr Floodplain)
- 2007 Footprints
- Design Overlay District
- Fayetteville
- Planning Area
- Fayetteville

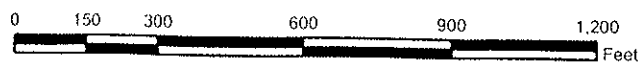


EXHIBIT "B"
RZN 09-3318

LEGAL DESCRIPTION: (RSF-4 TO P-1)

PART OF THE NW1/4 OF THE SE1/4 AND PART OF THE SW1/4 OF THE SE1/4 ALL IN SECTION 14, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF SAID NW1/4 OF THE SE1/4, SAID POINT BEING AN EXISTING STONE MONUMENT;
THENCE ALONG THE NORTH LINE OF SAID NW1/4 OF THE SE1/4 S86°59'10"E 905.56 FEET; THENCE DEPARTING SAID NORTH LINE S03°17'49"E 22.40 FEET;
THENCE S28°06'59"W 139.04 FEET; THENCE S01°58'59"W 326.88 FEET;
THENCE S02°21'05"W 128.21 FEET; THENCE S08°56'42"W 464.92 FEET;
THENCE S87°24'11"E 54.89 FEET; THENCE S02°35'49"W 595.29 FEET TO THE SOUTH LINE OF THE N1/4 OF SAID SW1/4 OF THE SE1/4; THENCE ALONG SAID SOUTH LINE N87°24'11"W 862.24 FEET TO THE WEST LINE OF SAID SE1/4;
THENCE ALONG SAID WEST LINE N02°49'46"E 1666.79 FEET TO THE POINT OF BEGINNING CONTAINING 1416964 SQ. FT. OR 32.53 ACRES, MORE OR LESS.



PC Meeting of June 22, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~June 17, 2009~~ Updated June 24, 2009

RZN 09-3318: (HAPPY HOLLOW SCHOOL / CROSSOVER RD., 527): Submitted by CRAFTON, TULL, SPARKS & ASSOC. for property located at 0.50 MILES N OF HWY 16E, W OF CROSSOVER ROAD, NE OF HAPPY HOLLOW SCHOOL. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 32.53 acres. The request is to rezone the subject property to P-1, Institutional. Planner: Andrew Garner

Property: The subject property contains 32.53 acres on the west side of Crossover Road, approximately 0.5-mile north of Huntsville Road. The site is largely undeveloped with the exception of an abandoned house and existing barn. There is a north-south trending stream/floodplain that traverses the property. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Multi-Family Residential (Cliffs Apartments)	RSF-4
South	Undeveloped pasture	RSF-4
East	Single Family Residential; Eastside Baptist Church	RSF-4
West	Happy Hollow Elementary School; Timber Trails Subdivision	P-1; R-PZD

The property is part of a larger 42.44 acre site, the subject 32.53 acres is the potential site for the new Happy Hollow Elementary School. On June 11, 2009 the Subdivision Committee approved LSP 09-3315 (Happy Hollow School) to create three legal lots of record, including the interior elementary school lot and the two lots totaling 9.31 acres along Crossover Road.

Proposal: The applicant proposes to rezone the subject property from RSF-4 to P-1, Institutional to allow for the development of the new Happy Hollow Elementary School.

Public Comment: Staff has received a couple of phone calls expressing concern regarding commercial zoning along Crossover Road, but has not received any objections to the P-1, Institutional zoning.

INFRASTRUCTURE:

Streets: The site has access to Peppervine Street and Crossover Road. Crossover Road is a fully improved multi-lane state highway in this location. Peppervine is an improved paved two lane city street at this property. Street improvements will need to be evaluated at the time of development.

Water: Public water is available to the property. There is a 24" main along Crossover Road. Public water will need to be extended through the property to provide domestic and fire flow for any proposed development.

Sewer: Sanitary sewer is available to the site. There is a 10" running through this property. Public mains may need to be extended through the property to serve any proposed development.

Drainage: Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Fire: At the time of publication of this report no comments were provided from the Fire Department.

Police: It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density, create an undesirable increase in load on police services, or create an undesirable increase in traffic danger and congestion.

CITY PLAN 2025 FUTURE LAND USE PLAN: City Plan 2025 Future Land Use Plan designates a majority of this site as **Residential Area**, which recognizes conventional subdivision development but encourages traditional neighborhood development that incorporates low-intensity non-residential uses. Rezoning this property to P-1 to permit the construction of a new elementary adjacent to the old elementary school is consistent with the Residential Area designation as an elementary school is a part of a complete residential neighborhood, and the existing Happy Hollow Elementary School is an established institutional use in this area. Floodplains traversing this property are identified as **Natural Area**. These sensitive areas will be reviewed in detail at the time of development to ensure that they are incorporated into the design of the project to minimize impacts.

RECOMMENDATION:

Staff recommends approval of the rezoning request RZN 09-3318 (Happy Hollow Elementary) to P-1, Institutional based on findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>		
☐ Approved	☒ Forwarded	☐ Denied
Motion: <u>Myres</u> Second: <u>Zant</u> Vote: <u>6-0-1 (Kennedy recused)</u>		
Date: <u>June 22, 2009</u>		
CITY COUNCIL ACTION: Required <u>YES</u>		
☐ Approved	☐ Denied	
Date: <u>July 21, 2009 (1st reading if recommended)</u>		

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed P-1 zoning is consistent with the City's Residential Neighborhood Area land use designation to encourage traditional neighborhood development that incorporates non-residential uses, including schools. Based on the City's adopted land use planning objectives and principles, staff finds that the subject property, with access to a Principal Arterial, Crossover Road, in close proximity to the major signalized intersection of Crossover Road/Happy Hollow Road, surrounded by multi-family, single family, and church uses, and adjacent to the existing Happy Hollow Elementary school, is an appropriate location for an institutional use, and would be a better location for a school than the existing Happy Hollow Elementary School because of direct access to Crossover Road that would be provided.

Staff finds that the request to rezone to P-1, Institutional is an appropriate designation for future development on the property.

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

Finding: Institutional uses provide a service to the citizens of Fayetteville and are a vital piece of a complete neighborhood. Rezoning this site to P-1, Institutional is needed in anticipation of a new elementary school being constructed on the property. The Fayetteville School District has identified a need to build a new elementary school to replace the existing Happy Hollow Elementary School. Staff finds that the proposed zoning is justified and needed to allow for the Fayetteville School District to adapt and continue serving the education needs in a growing community.

While the site could be developed for a school with a conditional use permit (Use Unit 4) under the existing RSF-4 zoning, staff finds that the rezoning request is

justified in order for the underlying zoning to accurately reflect the future land use and permit adequate signage, require increased building setbacks, etc., that would not be applicable under the RSF-4 zoning.

Staff recommends in favor of the rezoning request, finding that rezoning the property to P-1, Institutional, which allows city-wide uses (Use Unit 1), cultural and recreational facilities (Use Unit 4), and government facilities (Use Unit 5) would be compatible with surrounding land uses and zoning. Future development on the site under P-1 would be compatible under the City's standard development regulations.

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

Finding: The proposed zoning has the potential to generate a substantially greater amount of traffic on the surrounding street system over the existing RSF-4 zoning because of the school and other institutional uses that would be permitted. However, due to this site being located directly on an improved state highway and in the vicinity of a signalized intersection, the existing street infrastructure is adequate. Staff does not find that this rezoning would appreciably increase traffic danger or congestion. Access points would be reviewed in conformance with the Access Management Ordinance at the time of development to ensure safe ingress and egress. Street improvements and new street connections through the site would be evaluated and required at the time of development consistent with City ordinance. Further, by moving the existing Happy Hollow Elementary school to the proposed site, access and traffic flow would be improved with access off of a principal arterial, Crossover Road, and a secondary point of access off of Peppervine Street. The existing Happy Hollow Elementary School is accessed entirely off of local streets that become congested at peak hours.

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

Finding: Staff finds that the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property. The change in zoning to P-1 would not permit uses that would adversely impact public services.

Increased load on public services were taken into consideration and recommendations from the Engineering, Fire, and Police Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

Finding: It is possible for the property to remain under the RSF-4 zoning classification and still be developed for a new school. However, for reasons discussed in Finding No. 2 staff finds that the proposed rezoning is justified. This site has the potential to support an institutional use and is appropriate. The site will utilize existing water, sewer, and street infrastructure, with the likely addition of new streets, and infrastructure improvements at the time of development.

- 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 requested zoning.

161.26 District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	20 ft.
Side, when contiguous to a residential district	25 ft.
Rear	25 ft.
Rear, from center line of public alley	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 60 % of the total area of such lot.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5073, 11-06-07; Ord. 5195, 11-6-08)

Police Department Comments

Date 6/1/09

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for comments on the proposed RZN-09-3317 (Happy Hollow / Crossover Rd) Submitted by Crafton, Tull, Sparks & Associates for property located approx. 0.5 miles N of Hwy 16E, W of Crossover Road.

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

Sincerely,

Captain William Brown
Fayetteville Police Department


Crafton Tull Sparks

architecture | engineering

 Birmingham
 Conway
 Little Rock
 Oklahoma City
 Rogers
 Russellville
 Tulsa
 Wichita

May 12, 2009

 Planning Commission
 City of Fayetteville
 125 W. Mountain Street
 Fayetteville, AR 72701

Dear Planning Commission:

This letter shall accompany the Rezone request for approximately 32.53 acres of land from RSF-4 (Residential Single Family – 4 units/ac) to P-1 (Institutional). The subject property is located 500' west of Hwy. 265 (Crossover Road), approximately 0.5 miles north of the intersection between Hwy. 16 (Huntsville Road) and Hwy. 265 (Crossover Road). This property is adjacent to and immediately northeast of the existing Happy Hollow Elementary School. The rezone of this property shall be in conjunction with a tract split of the same property.

Current Ownership Information:

Currently the property is owned by Andrea Whitfield (166 Ivy Brook Lane, Collierville, TN 38017). A land agreement has been created between the current owner and the Fayetteville School District, whereas sale of the property is contingent upon successful rezoning of the property from RSF-4 to P-1.

Reason (need) for requesting zoning change:

This rezone is requested by a partnership between the current property owner and the Fayetteville School District. If successful in rezoning the property, the Fayetteville School District Plans to construct a new Elementary School to replace the existing Happy Hollow Elementary. Prior to purchasing the property, it is necessary for the Fayetteville School District to have the property zoned such that an Elementary School would be a permitted use.

How will the property relate to surrounding properties in terms of landuse, traffic, appearance, and signage.

All adjacent properties are currently zoned with some form of Residential with the exception of the existing Happy Hollow property to the southwest which is currently zoned P-1. The adjacent property to the north consists of The Cliff's apartment complex. To the west is duplex rental property, with the existing school site at the south west corner. No noticeable developments have been made to the adjacent property on the south side. The Eastside Missionary Baptist Church abuts the property along the southeast, but no other developments exist between the east side of the site and Crossover Road.



Availability of water and sewer.

Water has been stubbed out to the site at the northwest corner where the infrastructure for the adjacent subdivision ended. In addition, a large water main is located along the west side of Crossover Road. It is planned that once the school site develops; a connection will be made between the existing 8" stubout from the northwest and the existing main along Crossover Road. A Sanitary Sewer main is accessible along the Crossover Branch creek which runs along the east side of the property to be rezoned. This existing sewer line is 10" in diameter except for a small portion in the northeast corner of the site which is 20" in diameter.

The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

The 2025 Land Use Plan shows the property as Residential Neighborhood with City Neighborhood between the subject property and Crossover Road. The existing Happy Hollow school, adjacent to the southwest is shown as Civic Institutional use. We believe that the P-1 zoning fits within the guidelines of the 2025 plan and complements both the Residential Neighborhood and City Neighborhood planed areas.

Whether the proposed zoning is justified and/or needed at the time of the request.

The proposed zoning is needed at this time. It's not feasible for the Fayetteville School District to move forward and purchase property in which they are not 100% certain they will be able to use for development of school property. For this reason it is necessary at this point to rezone the property so that the property can be purchased by the school district, which would allow them to begin development plans of a new school.

Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

This zoning change will not directly impact traffic or congestion on area streets. Once a school is developed, it will have the potential to create traffic congestion. However, we believe that if the site is developed properly, traffic concerns can be minimized. It should also be noted that because the existing school is so close to this subject property, traffic would ultimately be contained in the same general vicinity as it is today with the existing school.

Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

The proposed zoning should not have any adverse affect on public services and infrastructure.



Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

The current zoning is not necessarily an impractical use for this area. However, we feel that the proposed zoning is a complement to the current and surrounding zoning's and will allow a permitted use by the Fayetteville School District to construct a new elementary school.

Sincerely,

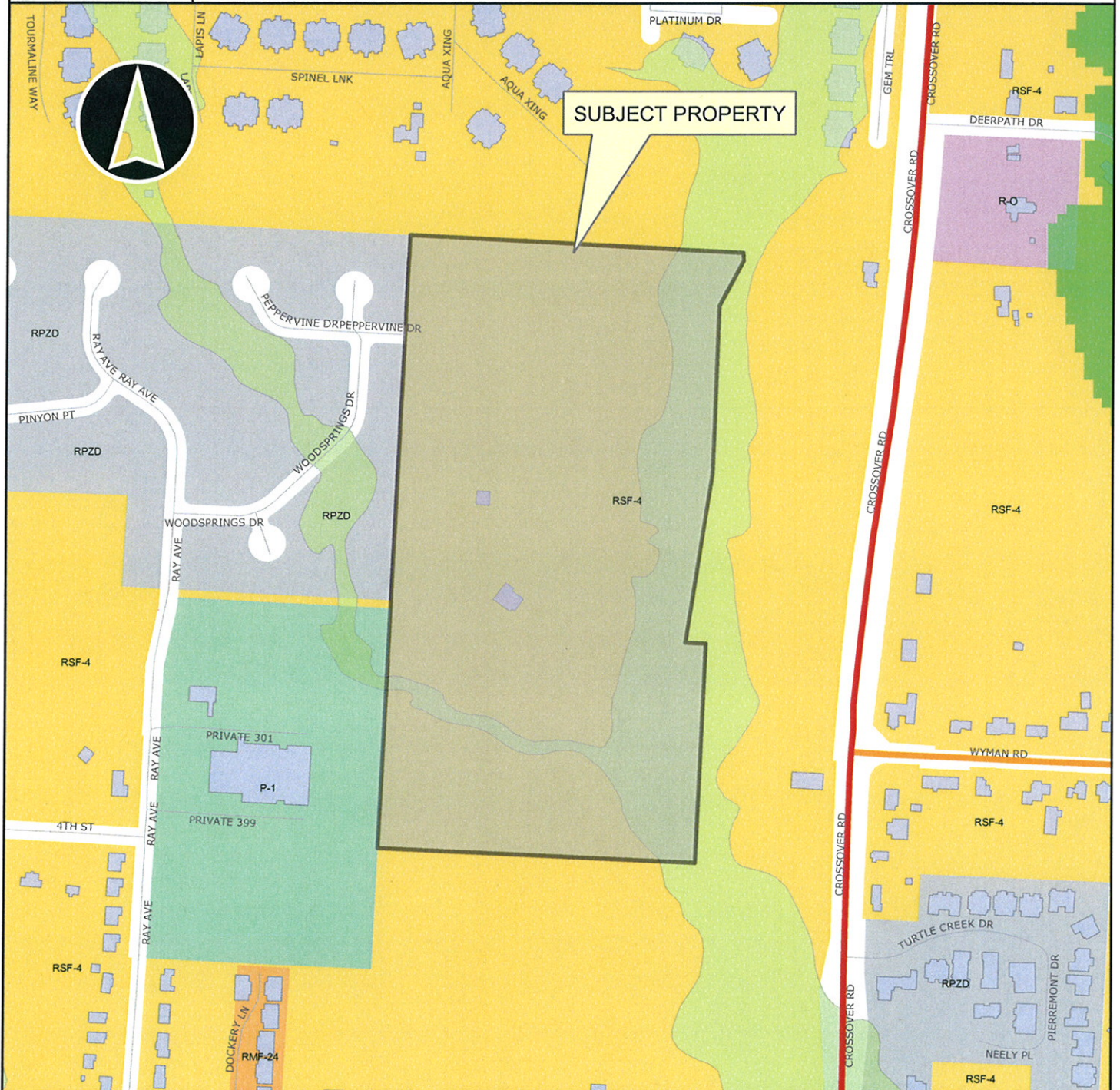
A handwritten signature in black ink that reads "Daniel P. Ellis". The signature is written in a cursive style with a large, stylized 'D'.

Daniel Ellis, P.E., CPESC
Vice President
Crafton Tull Sparks

RZN09-3318

HAPPY HOLLOW SCHOOL/ CROSSOVER RD

Close Up View



Overview



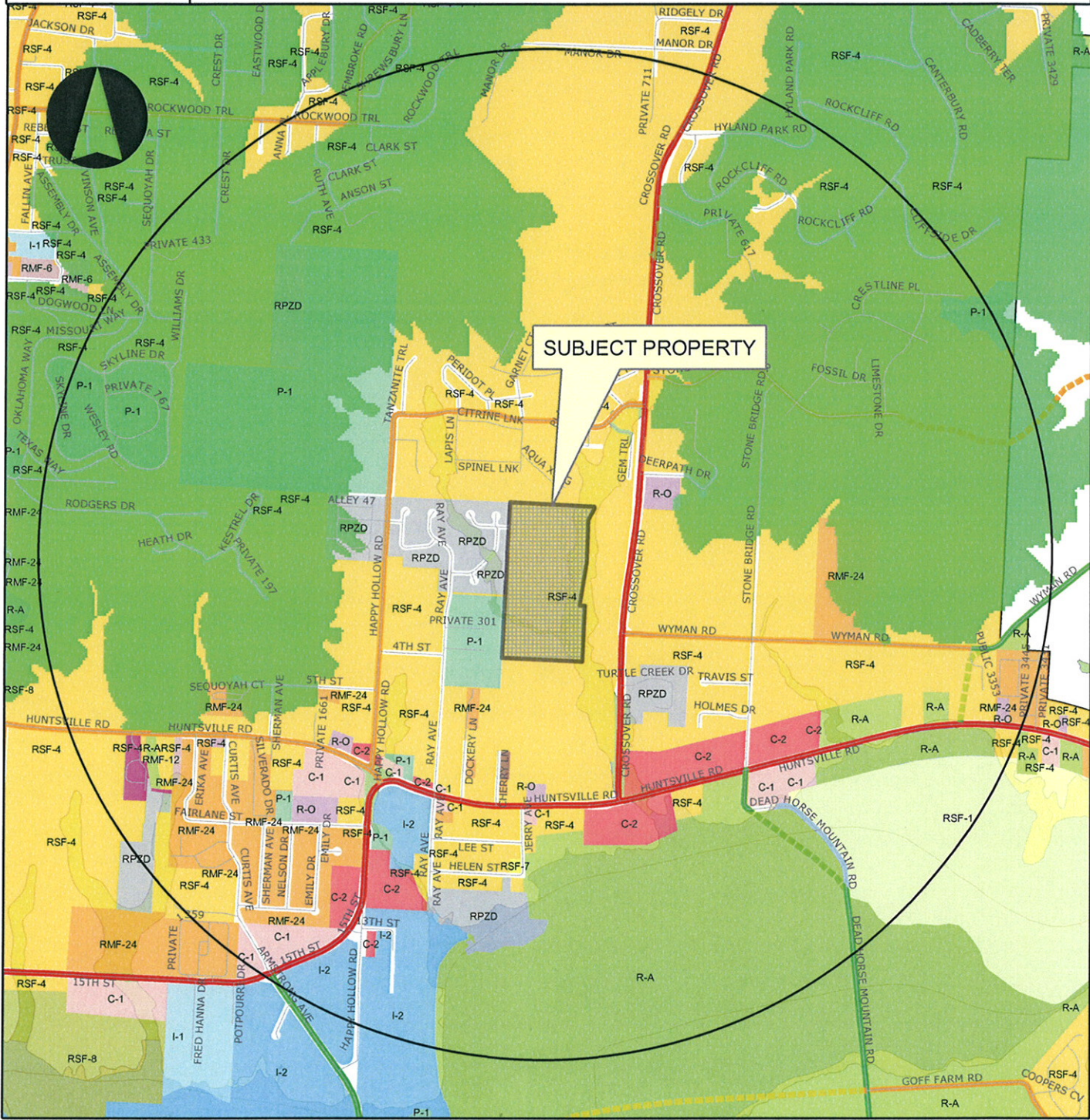
Legend

- RZN09-3318
- 0.2% Chance Floodplain (500 - yr Floodplain)
- Zone A, 1% Chance Floodplain (100 - yr Floodplain)
- Zone AE, 1% Chance Floodplain (100 - yr Floodplain)
- 2007 Footprints
- Design Overlay District
- Fayetteville
- Planning Area
- Fayetteville

RZN09-3318

HAPPY HOLLOW SCHOOL/ CROSSOVER RD

One Mile View



Overview

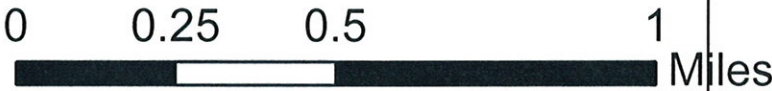


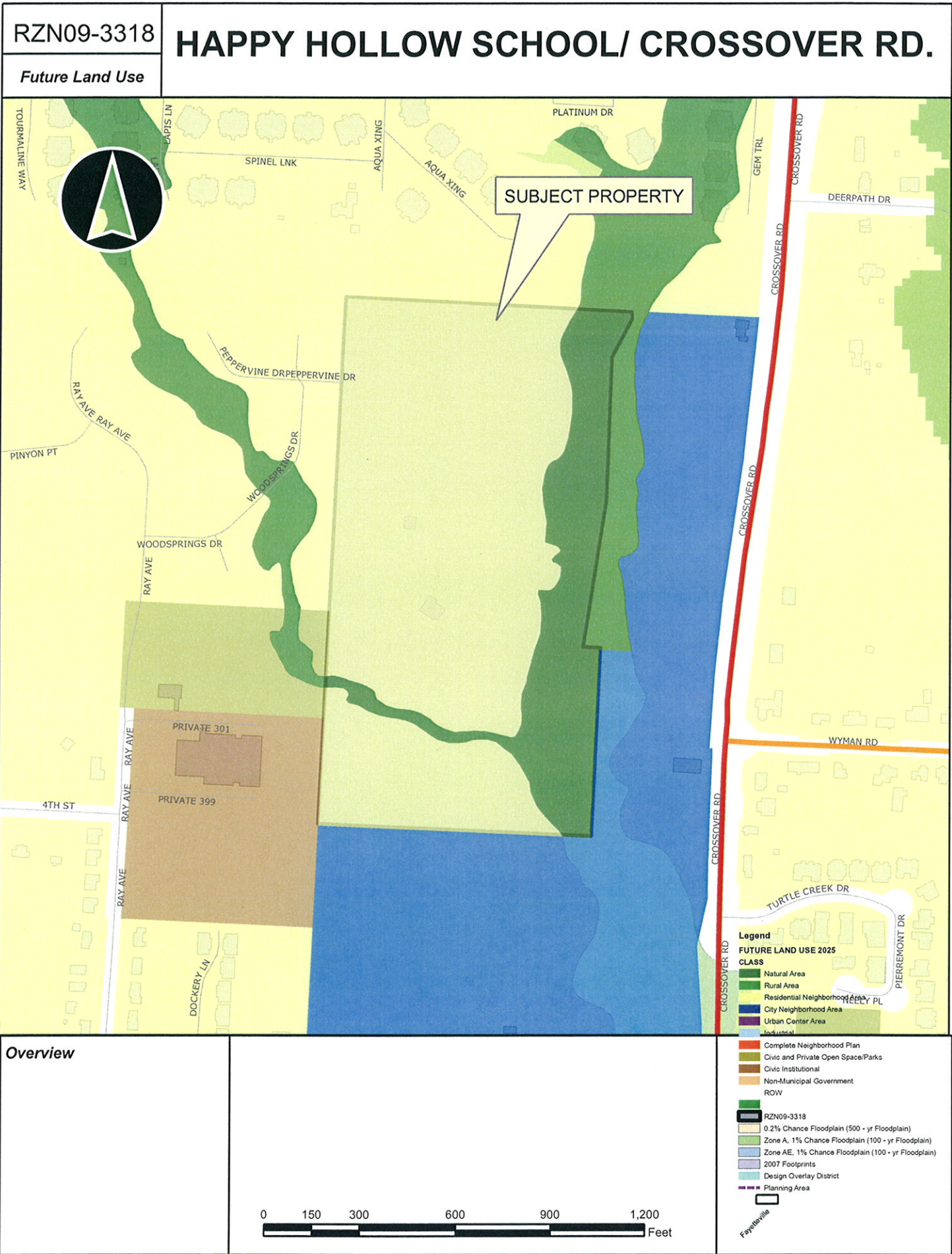
Legend

Subject Property

 RZN09-3318

Boundary





Overview

City of Fayetteville Staff Review Form

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R-PZD 09-3237
(Markham Hill Cottage Courts)
Page 1 of 66

City Council Agenda Items
and
Contracts, Leases or Agreements

7/21/2009

City Council Meeting Date
Agenda Items Only

Andrew Garner
Submitted By

Planning
Division

Development Services
Department

Action Required:

R-PZD 09-3237: (Markham Hill Cottage Courts, 520): Submitted by Rob Sharp for property located at the northwest corner of Cross and Maine Street. The property is zoned R-PZD, Residential Planned Zoning District and RMF-24, Residential Multi-Family 24 Units/Acre, and contains approximately 2.98 acres. The request is for Zoning, Land Use, and Development approval of a Residential Planned Zoning District with 18 single and 13 two-family residences.

_____	\$ _____	_____
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. Pate 06-25-09
Department Director Date

Previous Ordinance or Resolution # _____

Rob Sharp 6-26-09
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Barber 6-29-09
Finance and Internal Services Director Date

Received in City
Clerk's Office



6/25/09

Don Man 6/29/09
Chief of Staff Date

Received in
Mayor's Office



Frederick Jordan 6/29/09
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Development Services Director

From: Andrew Garner, Senior Planner

Date: June 24, 2009

Subject: Residential Planned Zoning District
Markham Hill Cottage Courts (R-PZD 09-3237)

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Markham Hill Cottage Courts, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a 44-unit residential development (18 single and 13 two-family units) on 2.98 acres.

BACKGROUND

The subject property is located north of Maine Street and west of Cross Avenue, less than 0.25-mile west of the University of Arkansas Campus. The property contains approximately 2.98 acres on the south slope of Markham Hill and is largely wooded and within the Hillside/Hilltop Overlay District. The property is surrounded by a mix of residential uses ranging from multi-family development to the west and east, single- and two-family residential to the south, and undeveloped wooded hillside to the north. Ramay Junior High School is approximately one block to the south. On August 19, 2008 the City Council approved R-PZD 08-2980 Markham Hill Cottage Courts for 18 single family and five two-family cottages (28 units total). Since that time the developer acquired additional property at the northwest corner of Maine Street/Cross Street increasing the site from 2.54 to 2.98 acres. The project layout has been modified and the overall number of units increased from 28 to 44. The development concept is similar to the previous project although the overall changes require a new PZD application, which has been submitted under the same project name.

The request is for rezoning, land use and large scale development approval for a residential development within an R-PZD zoning district on the subject property. Should the PZD be approved as proposed, it would result in immediate development approval of 31 detached cottages, 18 single and 13 two-family.

DISCUSSION

The Planning Commission voted 6-0-1 (Trumbo recused) in favor of this request on June 22, 2009. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL
PLANNED ZONING DISTRICT TITLED R-PZD 09-
3237, MARKHAM HILL COTTAGE COURTS,
LOCATED NORTH OF MAINE STREET AND WEST
OF CROSS AVENUE; CONTAINING
APPROXIMATELY 2.98 ACRES; AMENDING THE
OFFICIAL ZONING MAP OF THE CITY OF
FAYETTEVILLE; AND ADOPTING THE
ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the zone classification of the following described property is
hereby changed as follows:

From R-PZD 08-2980 and RMF-24 to R-PZD 09-
3237 as shown in Exhibit "A" and depicted in
Exhibit "B" attached hereto and made a part
hereof.

Section 2: That the change in zoning classification is based upon the
approved master development plan, development standards, statement of commitments
and the conditions of approval as submitted, determined appropriate and approved by the
City Council; further, that the conditions of approval shall be filed and available for
viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

Section 3: That this ordinance shall take effect and be in full force at such
time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas,
is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and **APPROVED** this day of , 2009.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

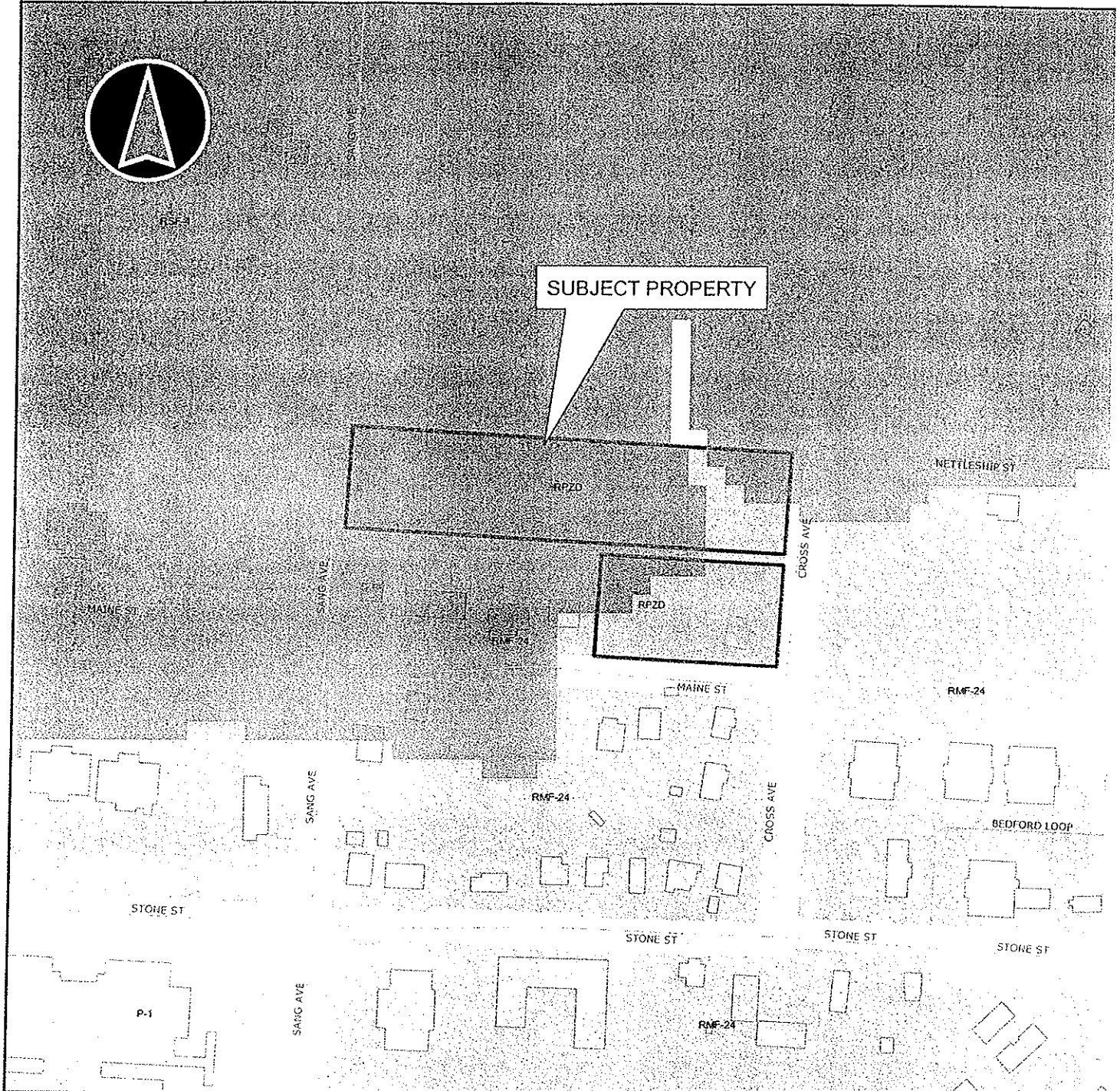
ATTEST:

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

RPZD09-3237

MARKHAM HILL COTTAGE COURTS

Close Up View



Overview

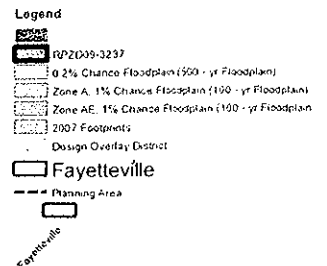
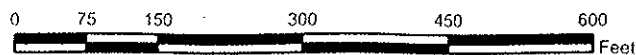


EXHIBIT "B"
R-PZD 09-3237

LOTS 14-18 AND LOTS 28 THRU 39 OF BLOCK NUMBER 1, OF WEST END
ADDITION, PLAT BOOK 4 AT PAGE 61 AND PLAT BOOK 5 AT PAGE 75,
FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

CONDITIONS OF APPROVAL:

R-PZD 09-3237

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R-PZD 09-3237
(Markham Hill Cottage Courts)
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Conditions of Approval for R-PZD 09-3237 (Markham Hill Cottage Courts)

1. The following street improvements shall be required:
 - a. A minimum pavement width of 14 feet from centerline (20 feet total minimum), curb, gutter, storm drain, and five-foot sidewalk on Maine Street and Cross Avenue along the project frontage;
 - b. Extension of storm drains off-site as necessary, determined by the City Engineer;
 - c. Widening the curve around Nettleship Street/Cross Avenue as indicated on the plans;
 - d. Street lights along Maine, Cross and Nettleship as required by code; and
 - e. Construction of a shared 12-foot multi-use trail and one-way concrete alley in the existing Sang Avenue right-of-way connecting the western edge of the new Sutherland Lane and Maine Street, as indicated on the plans. This shared trail/alley shall be marked with the “sharrow” symbols as coordinated with the City Trails Coordinator at the time of construction.
2. Determination of a variance of minimum street design standards:
 - a. The applicant requests a variance to allow different street cross section than required by the current Master Street Plan standard (UDC §166.06 (K)(10)(a) and 166.08(C)(14)). The applicant proposes on-street parallel parking on both sides of the street in the Hillside/Hilltop Overlay District, sidewalks on one side of the street, and right-of-way width of 39 feet for Sutherland Lane. The Master Street Plan does not have cross-sections in the design as proposed. Staff recommends approval of the requested street design standards finding they deal with a unique site allowing for reduced grading and pavement and increased tree preservation in the HHOD, and will result in safe ingress/egress into and out of the development.
 - b. A variance of UDC § 171.01 (A) to allow for the proposed Sutherland Lane vertical profile in an attempt to match the natural terrain and minimize grading and tree removal: Street grade of 16.86% for approximately 75 linear feet; crest vertical curve K-value of 7.42; sag vertical curve K-value of 7.78. Staff recommends approval of the requested variances.
 - c. A variance of UDC § 171.02 (C) to permit a 5-foot curb return radius at the intersection of the new Sutherland Lane and Cross Avenue, when a 30-foot curb return radius is required. The applicant has submitted a letter request and diagram discussed that they feel their proposal will provide for a safer environment both the pedestrian and the vehicle. City Engineering staff has submitted a memo recommending denial of this variance discussing a recommendation for landscape “bump-outs” with a 20-foot radius to decrease the length of the pedestrian crossing the street while effectively calming traffic.
 - d. A variance of UDC § 171.01(A) that requires a minimum of 100-foot tangent between horizontal curves. The west end of the proposed Sutherland Lane was unable to meet this requirement due to the narrow width (138 feet) of the property in this location. Staff recommends approval of this variance.
3. Determination of a variance of UDC § 172.02(B) to allow for gravel in the motor court areas

CONDITIONS OF APPROVAL:

R-PZD 09-3237

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when pavement or a paving system is required. The applicant proposes to provide a 3-year bond for paving of this area with asphalt or chip and seal pavement in the case of a failure of the gravel paving surface. The determination of failure of the gravel surface would be at the discretion of the City Engineer, and the developer would be required to pave the motor courts immediately, or the bond would be used to have the motor courts paved. Staff recommends in favor of this variance finding that the design of the motor court areas to drain away from the public right-of-way, combined with the installation of concrete aprons on the driveway approach should prevent gravel from being washed or pulled into the street. Further, the requirement of a bond to allow the City funds to pave the gravel areas provides assurance that if the gravel does not work effectively the City would have an enforcement measure to correct the problem. A cost estimate for the installation of pavement in the motor courts shall be submitted as part of the construction review for the individual motor courts. Payment of the bond shall occur immediately prior to issuance of construction permits for the individual motor courts. Homes and drives shall be constructed such that if parking in the motor courts is necessary, the drainage and elevation of structures would function effectively.

4. Determination of a variance of UDC § 172.02(D)(3)(iv) to permit an eight-foot (8') curb return radius into the motor courts when a 15-foot radius is required. The applicant's variance request discussed that since service vehicles are not required to enter the motor courts the intersections would still function properly, and the smaller curb return radius would reduce vehicle speeds creating a safer environment for both vehicles and pedestrians. Staff recommends approval of this proposed variance finding agreement with the applicant's justification with the requirement that signage be installed indicating "No Service Vehicles" in the motor courts.
5. Determination of the proposed phasing plan. This project is required to obtain all permits in accordance with the Phasing as listed and depicted in the PZD booklet and noted below. Extensions may be approved subject to the criteria in UDC Chapter 166 for extensions.
 - The applicant shall obtain all construction permits for construction of streets and all other public infrastructure within one year of City Council approval of the PZD.
 - The applicant shall obtain all building permits for all residential units and accessory structures within five years from City Council approval of the PZD.

Staff recommends the following requirements associated with the construction phasing:

- To prevent large areas of the site from being disturbed without homes being built, construction permits for the individual motor court/retaining wall areas shall not be permitted prior to application for building permits within those areas to be disturbed.
- Prior to issuance of a certificate of occupancy for any residence, construction of the common infrastructure and amenities for that area of the site around the residence including the motor courts, retaining walls, pedestrian paths, drainage, landscaping, etc. shall be required to be completed and inspected.

CONDITIONS OF APPROVAL:

R-PZD 09-3237

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6. The applicant shall dedicate right-of-way as follows by easement plat or separate document prior to building permit:
 - a. 25 feet from centerline along Maine Street and Cross Avenue.
 - b. 39 feet for the construction of Sutherland Lane.
 - c. 20 feet for the construction of the new two-way alley.
 - d. Local street stub-outs to the southern property line to allow for future street connection.
 - e. Adequate right-of-way to construct the improvements at the intersection/curve of Nettleship Street and Cross Avenue.
7. To ensure that the intent of the PZD is met and pedestrian trails are functional and do not result in erosion or safety issues, the pedestrian trails may be constructed of alternative materials rather than a typical concrete or asphalt sidewalk, but the material, such as crushed stone or brick, etc. should be installed with a "stabilizer". All materials and method of construction shall be reviewed and approved by the Trails Coordinator.
8. No parallel parking spaces are allowed within 30 feet of a stop sign (Fayetteville Code of Ordinance Section 72.03(G)). The applicant shall coordinate all striping of streets and parallel spaces with the Transportation Division and Fire Department, as the ultimate administrators of these code sections.
9. Solid Waste Service. All comments regarding solid waste service shall be addressed prior to building permit approval. Residential carts/recycle bins are anticipated to be utilized at common collection points.
10. A sign indicating a future street extension shall be installed at the Sutherland Lane stub-out on the western property line at the time of construction completion of the street, or as determined by Planning staff.
11. Off-site water and sewer, and drainage improvements shall be installed as determined necessary by the Engineering Division to provide domestic service and fire protection to the development, and to ensure the project meets all applicable drainage criteria.
12. Payment of Parks fees in lieu of parkland dedication in the amount of \$26,120 for 18 single family and thirteen two-family units shall be paid prior to issuance of a building permit for the first unit in this development.
13. As this development is within the HHOD, grading and drainage permits will be required prior to the issuance of any building permits.
14. Plat revisions. With the revisions submitted for City Council, indicate the location of the proposed recreational areas on the PZD and LSD plats including community gardens and children's play area, and any associated accessory structures, such as a potting shed. As this is a development level project, all of these details and grading/tree preservation impacts need to be shown; otherwise they may not be permitted in the future.

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R-PZD 09-3237

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15. The alley along the southern property line must be vacated prior to issuance of a building permit.

General

16. The small parks, community gardens, greenspace, footpaths, and other amenities as shown on the PZD and LSD plans shall be included as requirements of the project. These amenities shall be constructed prior to issuance of Certificate of Occupancy for the surrounding cottages, to be determined by Planning staff at the time of construction.
17. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements. Encroachment of structures or any portion of a structure shall comply with all applicable Building Codes unless otherwise and specifically approved by the City Council at the time of development.
18. Buildings shall be constructed to be consistent with the concepts depicted in the building elevations in the PZD booklet.
19. Prior to building permits, architectural elevations will be required to be submitted for review to ensure consistency with the elevations and renderings presented in the PZD booklet.
20. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential development.
21. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
22. All development shall meet applicable zoning and development criteria, unless specifically waived or varied by the Planning Commission as part of the PZD approval.

Landscape Plan

23. Before construction document approval, the landscape plan must be stamped by a Landscape Architect licensed within the state of Arkansas.
24. Please review the checklist above and address all comments marked with the letter "N".
25. Type of irrigation must be designated, automatic system or hose bibb located every 100ft. The tree well trees have note for automatic irrigation. There is no other reference to irrigation for tree not planted in tree wells.
26. Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester/Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected,

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at the time of Certificate of Occupancy.

27. All street trees planted with this development must have a surety/guarantee to be issued (bond/letter of credit/cash) for a 3 year term at time of certificate of occupancy
28. All street trees must be Large Species trees and selected from Appendix A of the Landscape Manual. Any deviation requires the approval of the Urban Forester. Provide species specification sheets for any species not on the approved list.
29. Note that all landscape trees planted to meet street tree, mitigation tree or landscape code requirements must be single stem, minimum 2" caliber trees. No double or tri-stem trees will be counted towards meeting requirements.

Tree Preservation

30. Grading, trenching or other ground disturbance is not allowed within the dripline of any preserved trees. Any tree with its trunk in a drainage easement can not have its canopy counted towards preservation.
31. Any walkways within the Tree Preservation Area shall be on grade including any substrate material. Staff also recommends that walkways within tree preserves be a type of mulch, gravel, permeable pavers, permeable concrete, and segmental concrete paving systems, Flexi-Paver or other previous materials. Any stairs within the Tree Preservation Area shall be of pier and lentil design to reduce slope penetration.
32. Any irrigation planned within the Tree Preservation area would need to be hand trenched in, air spaded in or bored in.
33. Root pruning will be extensively required on this site. Place a note on the Tree Preservation plan stating its requirement. At grading/building permit submit plans that actually detail the root pruning for the Urban Forester's review and approval. Specify that root pruning is to occur before any grade alteration or trenching.
34. Any garden placed under the tree canopy would need to be a shade garden. Additionally this garden would need to be in beds raised above the grade to protect tree roots.
35. The grouping of canopy areas will be placed in to a restrictive Tree Preservation Area on the final plat.
36. In accordance with Section 170.08 of the UDC, either the Developer, Property Owner, or Property Owner Association shall comply with the required maintenance responsibilities for storm water management as set forth under section (B)(5) and (B)(6).

Standard Conditions of Approval

37. Technical Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
38. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street.
39. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting

CONDITIONS OF APPROVAL:

R-PZD 09-3237

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buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.

40. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
41. All overhead utility lines under 12kv shall be relocated underground. All proposed utilities shall be located underground.
42. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.
43. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Easement plat that shall include all right-of-way, easements and the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Bonds in the amount of 150% of the construction cost for all public improvements will need to be submitted.
 - e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.



Planning Commission Meeting
June 22, 2009

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
Glenn Newman, Staff Engineer
THRU: Jeremy Pate, Development Services Director
DATE: ~~June 16, 2009~~ Updated June 24, 2009

R-PZD 09-3237: Planned Zoning District (MARKHAM HILL COTTAGE COURTS, 520):
Submitted by ROBERT SHARP for property located at THE NW CORNER OF CROSS & MAINE WEST TO SANG AVENUE. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT AND RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, and contains approximately 2.98 acres. The request is for Zoning, Land Use and Development approval of a Residential Planned Zoning District with 18 single and 13 two-family residences.
Planner: Andrew Garner

Findings:

Property Description and Setting: The subject property consists of approximately 2.98 acres located north of Maine Street and west of Cross Avenue, less than 0.25-mile west of the University of Arkansas Campus. The site is zoned R-PZD and RMF-24, and has not been previously developed except for two single family homes and associated accessory structures and driveways. The site is located on the south slope of Markham Hill and is largely wooded (65.97% tree canopy) and within the Hillside/Hilltop Overlay District.

As depicted in *Table 1*, the property is surrounded by a mix of residential uses ranging from undeveloped wooded hillside to the north, multi-family development to the west and east, single- and two- family residential to the south, and Ramay Junior High School approximately one block to the south.

Table 1
Surrounding Land Use/Zoning

Direction	Land Use	Zoning
North	Undeveloped wooded hillside	RSF-4
South	Single- and two- family residences	RMF-24
East	Bedford Apartments	RMF-24
West	Meadow Brook Apartments	RMF-24

Background and Proposal: On August 19, 2008 the City Council approved R-PZD 08-2980 Markham Hill Cottage Courts for 18 single family and five two-family cottages (28 units total). Since that time the developer acquired additional property at the northwest corner of Maine

Street/Cross Street increasing the site from 2.54 to 2.98 acres. The project layout has been modified and the overall number of units increased from 28 to 44. The development concept is similar to the previous project although the overall changes require a new PZD application, which has been submitted under the same project name.

The current request is for rezoning and large scale development approval for a Master Development Plan of a Residential Planned Zoning District with 31 detached cottages and amenities included a bocce court and pedestrian paths. This development is proposed under a horizontal property regime similar to a typical condominium ownership where the owner of the cottage does not own the land, but owns the unit. A property owner's association would own and maintain the property and amenities.

The proposed zoning criteria allows for a total of 44 single and two-family dwellings with a density of approximately 14.76 units/acre. The small 31 cottages are generally clustered around shared motor courts as opposed to individual curb cuts typically seen in a single family subdivision. All of the cottages would have the appearance of a detached single-family residence; however 13 of the cottages have a small apartment in the basement making those units two-family. This site layout and proposal is not allowed under any standard zoning criteria. One of the purposes for which the Planned Zoning District ordinance was created is to promote and encourage projects that meet the adopted goals and policies of the city, yet do not fit the mold of current development or zoning requirements; and to allow for surrounding property owners to see the project's product with the rezoning request, as opposed to a request for a blanket zoning district with few limitations. The proposed zoning criteria for this project is provided in the project booklet and on the plats. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Access and Connectivity: The main entry into this neighborhood is off of Cross Avenue with a new east-west street (Sutherland Lane) through the site. A secondary point of connectivity is from a new two-way alley that connects the extended Sutherland Lane south to Maine Street. A majority of the residences are accessed through shared motor courts with garages tucked into the hillside under the cottages. Several of the cottages will be provided with parallel parking on the new street or alley. Sutherland Lane will connect to the existing right-of-way for Sang Avenue at the western property line. Sang Avenue will be improved to a 12-foot alley and shared multi-use trail for a third point of access. The existing right-of-way for Sang Avenue would allow for future street connection to the west.

The proposed interior street is narrow with sidewalk on one side to eliminate unnecessary disturbance of tree canopy and the hillside, and for traffic calming. On-street parking is provided on both sides of Sutherland Lane and on one side of the two-way alley. A variance is requested for Sutherland Lane as it does not fit into the approved Master Street Plan cross-sections. Several other variances of the street design standards are requested to allow for a smaller curb return radius at street intersections and driveway entrances, and several other issues related to the steepness of the street.

Parking: Parking for the residences are proposed in garages, on-street parallel parking, and a few surface parking spaces in the motor courts and off of the two-way alley as depicted in *Table*

2. Proposed parking is atypical of standard parking lots or garages for single family residences. Several of the garages may require multiple point turns for ingress and egress and the overall parking and access will be very compact. Although not required by ordinance for single and two-family residences, in order to encourage alternative transportation and alleviate some vehicular parking demand, this development proposes some bicycle racks in some landscape areas between parallel parking spaces on the street to encourage a “shared street” design.

Phasing: The applicant anticipates construction of streets and infrastructure within one year of PZD approval. Building permits for all cottages and accessory structures shall be obtained within five years from City Council PZD approval. A one-year extension may be permitted, subject to Planning Commission approval. All infrastructure serving each unit must be installed and inspected prior to any occupancy for that respective dwelling unit.

Table 2
Off-Street Parking Requirements

<u>Use</u>	<u>Unit Amount</u>	<u>Parking Ratio</u>	<u>Parking Spaces Required</u>
One /Two-Family Residential	44	2 per unit	88
Baseline Parking Required by Ratio			88
Minimum Number of Parking Spaces Required (30% Under Ratio)			62
Total Number of Spaces Provided			87
Bicycle Racks Provided			3 provided (0 required)
Number of Off-street spaces required (18 single family units)*			36 minus 6 bike racks = 30
Number of Off-street Spaces Provided (garage and surface parking)			34

*Two-family units are permitted to count on-street parking spaces towards required parking. Three bicycle racks count for three required parking spaces in accordance with ordinance.

Water & Sewer: Water and sewer lines will be extended to serve the development.

Adjacent Master Street Plan Streets: Maine Street, Cross Avenue, and Sang Avenue (local streets).

Right-of-way Dedication: Right-of-way shall be dedicated in the following amounts by easement plat prior to building permits: 25 feet from centerline along Maine Street and Cross Avenue; 39 feet for the construction of Sutherland Lane; 20 feet for the construction of the new two-way alley, and street stub-outs to the southern property line to allow for future street connection. Sutherland Lane shall be constructed all the way to the western property line and a street stub-out sign installed. No additional right-of-way dedication is required for Sang Avenue and the new shared alley/multi-use trail.

Street Improvements: Maine Street and Cross Avenue shall be improved along the entire property frontage with 14-foot pavement from centerline to meet Master Street Plan standards for a local street (minimum 20-foot pavement total, curb and gutter, storm drains, and 5-foot sidewalks as depicted on the site plan.

Multi-Use Trail: A multi-use trail connection (Hotz Park Trail) is identified on the Fayetteville Trails Master Plan utilizing the Sang Avenue right-of-way adjacent to the western border of this site and connecting through this site to Cross Avenue, and ultimately to Hotz Park. This multi-use trail will be built with this development as a 12-foot wide concrete trail and shared one-way alley, connecting Sutherland Lane to Maine Street.

Parks: The Parks and Recreation Advisory Board (PRAB) recommended on March 3, 2008 to accept money in lieu of land. Fees in the amount of \$26,120 for 18 single and 13 two-family units will be assessed and are due prior to building permit.

Solid Waste Service: Solid waste collection for individual residential carts will be provided in designated collection points. The exact details to be determined prior to issuance of building permit.

<i>Tree Preservation:</i>	Existing Canopy:	65.97%
	Preserved Canopy:	30%
	Required Canopy:	30%
	Mitigation:	Not required.

Public Comment: One member of the public commented at the June 11, 2009 Subdivision Committee meeting discussing street connections and traffic.

Recommendation: Staff recommends that **R-PZD 09-3237** be forwarded to City Council with a recommendation of approval, with the following conditions:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends the following street improvements, based on the proportionality of the development's impact. The developer shall be responsible for the following:*
 - a. *A minimum pavement width of 14 feet from centerline (20 feet total minimum), curb, gutter, storm drain, and five-foot sidewalk on Maine Street and Cross Avenue along the project frontage;*
 - b. *Extension of storm drains off-site as necessary, determined by the City Engineer;*
 - c. *Widening the curve around Nettleship Street/Cross Avenue as indicated on the plans;*
 - d. *Street lights along Maine, Cross and Nettleship as required by code; and*
 - e. *Construction of a shared 12-foot multi-use trail and one-way concrete alley in the existing Sang Avenue right-of-way connecting the western edge of the new Sutherland Lane and Maine Street, as indicated on the plans. This shared trail/alley shall be marked with the "sharrow" symbols as coordinated with the City Trails Coordinator at the time of construction.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (06-22-09).

2. Planning Commission determination of a variance of minimum street design standards:

- a. The applicant requests a variance to allow different street cross section than required by the current Master Street Plan standard (UDC §166.06 (K)(10)(a) and 166.08(C)(14)). The applicant proposes on-street parallel parking on both sides of the street in the Hillside/Hilltop Overlay District, sidewalks on one side of the street, and right-of-way width of 39 feet for Sutherland Lane. The Master Street Plan does not have cross-sections in the design as proposed. *Staff recommends approval of the requested street design standards finding they deal with a unique site allowing for reduced grading and pavement and increased tree preservation in the HHOD, and will result in safe ingress/egress into and out of the development.*
- b. A variance of UDC § 171.01 (A) to allow for the proposed Sutherland Lane vertical profile in an attempt to match the natural terrain and minimize grading and tree removal: Street grade of 16.86% for approximately 75 linear feet; crest vertical curve K-value of 7.42; sag vertical curve K-value of 7.78. *Staff recommends approval of the requested variances.*
- c. A variance of UDC § 171.02 (C) to permit a 5-foot curb return radius at the intersection of the new Sutherland Lane and Cross Avenue, when a 30-foot curb return radius is required. The applicant has submitted a letter request and diagram discussed that they feel their proposal will provide for a safer environment both the pedestrian and the vehicle. *City Engineering staff has submitted a memo recommending denial of this variance discussing a recommendation for landscape "bump-outs" with a 20-foot radius to decrease the length of the pedestrian crossing the street while effectively calming traffic.*
- d. A variance of UDC § 171.01(A) that requires a minimum of 100-foot tangent between horizontal curves. The west end of the proposed Sutherland Lane was unable to meet this requirement due to the narrow width (138 feet) of the property in this location. *Staff recommends approval of this variance.*

PLANNING COMMISSION AGREED WITH STAFF'S RECOMMENDATIONS; FINDING IN FAVOR OF ALL VARIANCES EXCEPT FOR THE CURB RETURN VARIANCE AT SUTHERLAND/CROSS, CONDITION 2.C. (06-22-09).

3. Planning Commission determination of a variance of UDC § 172.02(B) to allow for gravel in the motor court areas when pavement or a paving system is required. The applicant proposes to provide a 3-year bond for paving of this area with asphalt or chip and seal pavement in the case of a failure of the gravel paving surface. The determination of failure of the gravel surface would be at the discretion of the City Engineer, and the developer would be required to pave the motor courts immediately, or the bond would be used to have the motor courts paved. *Staff recommends in favor of this variance finding that the design of the motor court areas to drain away from the public right-of-way, combined with the installation of concrete aprons on the driveway approach should prevent gravel from being washed or pulled into the street. Further, the requirement of a bond to allow the City funds to pave the gravel areas provides assurance that if the gravel does not work effectively the City would have an enforcement measure to correct the problem. A cost estimate for the installation of pavement in the motor courts shall be submitted as part of the construction review for the individual motor courts. Payment of*

the bond shall occur immediately prior to issuance of construction permits for the individual motor courts. Homes and drives shall be constructed such that if parking in the motor courts is necessary, the drainage and elevation of structures would function effectively. **PLANNING COMMISSION RECOMMENDED IN FAVOR (06-22-09).**

4. Planning Commission determination of a variance of UDC § 172.02(D)(3)(iv) to permit an eight-foot (8') curb return radius into the motor courts when a 15-foot radius is required. The applicant's variance request discussed that since service vehicles are not required to enter the motor courts the intersections would still function properly, and the smaller curb return radius would reduce vehicle speeds creating a safer environment for both vehicles and pedestrians. *Staff recommends approval of this proposed variance finding agreement with the applicant's justification with the requirement that signage be installed indicating "No Service Vehicles" in the motor courts.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (06-22-09).

5. Planning Commission determination of the proposed phasing plan. This project is required to obtain all permits in accordance with the Phasing as listed and depicted in the PZD booklet and noted below. Extensions may be approved subject to the criteria in UDC Chapter 166 for extensions.
 - The applicant shall obtain all construction permits for construction of streets and all other public infrastructure within one year of City Council approval of the PZD.
 - The applicant shall obtain all building permits for all residential units and accessory structures within five years from City Council approval of the PZD.

Staff recommends the following requirements associated with the construction phasing:

- *To prevent large areas of the site from being disturbed without homes being built, construction permits for the individual motor court/retaining wall areas shall not be permitted prior to application for building permits within those areas to be disturbed.*
- *Prior to issuance of a certificate of occupancy for any residence, construction of the common infrastructure and amenities for that area of the site around the residence including the motor courts, retaining walls, pedestrian paths, drainage, landscaping, etc. shall be required to be completed and inspected.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (06-22-09).

6. The applicant shall dedicate right-of-way as follows by easement plat or separate document prior to building permit:
 - a. 25 feet from centerline along Maine Street and Cross Avenue.
 - b. 39 feet for the construction of Sutherland Lane.
 - c. 20 feet for the construction of the new two-way alley.
 - d. Local street stub-outs to the southern property line to allow for future street

connection.

- e. Adequate right-of-way to construct the improvements at the intersection/curve of Nettleship Street and Cross Avenue.
7. To ensure that the intent of the PZD is met and pedestrian trails are functional and do not result in erosion or safety issues, the pedestrian trails may be constructed of alternative materials rather than a typical concrete or asphalt sidewalk, but the material, such as crushed stone or brick, etc. should be installed with a "stabilizer". All materials and method of construction shall be reviewed and approved by the Trails Coordinator.
8. No parallel parking spaces are allowed within 30 feet of a stop sign (Fayetteville Code of Ordinance Section 72.03(G)). The applicant shall coordinate all striping of streets and parallel spaces with the Transportation Division and Fire Department, as the ultimate administrators of these code sections.
9. Solid Waste Service. All comments regarding solid waste service shall be addressed prior to building permit approval. Residential carts/recycle bins are anticipated to be utilized at common collection points.
10. A sign indicating a future street extension shall be installed at the Sutherland Lane stub-out on the western property line at the time of construction completion of the street, or as determined by Planning staff.
11. Off-site water and sewer, and drainage improvements shall be installed as determined necessary by the Engineering Division to provide domestic service and fire protection to the development, and to ensure the project meets all applicable drainage criteria.
12. Payment of Parks fees in lieu of parkland dedication in the amount of \$26,120 for 18 single family and thirteen two-family units shall be paid prior to issuance of a building permit for the first unit in this development.
13. As this development is within the HHOD, grading and drainage permits will be required prior to the issuance of any building permits.
14. Plat revisions. With the revisions submitted for City Council, indicate the location of the proposed recreational areas on the PZD and LSD plats including community gardens and children's play area, and any associated accessory structures, such as a potting shed. As this is a development level project, all of these details and grading/tree preservation impacts need to be shown; otherwise they may not be permitted in the future.
15. The alley along the southern property line must be vacated prior to issuance of a building permit.

General

16. The small parks, community gardens, greenspace, footpaths, and other amenities as shown on the PZD and LSD plans shall be included as requirements of the project. These

amenities shall be constructed prior to issuance of Certificate of Occupancy for the surrounding cottages, to be determined by Planning staff at the time of construction.

17. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements. Encroachment of structures or any portion of a structure shall comply with all applicable Building Codes unless otherwise and specifically approved by the City Council at the time of development.
18. Buildings shall be constructed to be consistent with the concepts depicted in the building elevations in the PZD booklet.
19. Prior to building permits, architectural elevations will be required to be submitted for review to ensure consistency with the elevations and renderings presented in the PZD booklet.
20. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential development.
21. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
22. All development shall meet applicable zoning and development criteria, unless specifically waived or varied by the Planning Commission as part of the PZD approval.

Landscape Plan

23. Before construction document approval, the landscape plan must be stamped by a Landscape Architect licensed within the state of Arkansas.
24. Please review the checklist above and address all comments marked with the letter “N”.
25. Type of irrigation must be designated, automatic system or hose bibb located every 100ft. The tree well trees have note for automatic irrigation. There is no other reference to irrigation for tree not planted in tree wells.
26. Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester/Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
27. All street trees planted with this development must have a surety/guarantee to be issued (bond/letter of credit/cash) for a 3 year term at time of certificate of occupancy
28. All street trees must be Large Species trees and selected from Appendix A of the Landscape Manual. Any deviation requires the approval of the Urban Forester. Provide species specification sheets for any species not on the approved list.
29. Note that all landscape trees planted to meet street tree, mitigation tree or landscape code

requirements must be single stem, minimum 2" caliber trees. No double or tri-stem trees will be counted towards meeting requirements.

Tree Preservation

30. Grading, trenching or other ground disturbance is not allowed within the dripline of any preserved trees. Any tree with its trunk in a drainage easement can not have its canopy counted towards preservation.
31. Any walkways within the Tree Preservation Area shall be on grade including any substrate material. Staff also recommends that walkways within tree preserves be a type of mulch, gravel, permeable pavers, permeable concrete, and segmental concrete paving systems, Flexi-Paver or other previous materials. Any stairs within the Tree Preservation Area shall be of pier and lentil design to reduce slope penetration.
32. Any irrigation planned within the Tree Preservation area would need to be hand trenched in, air spaded in or bored in.
33. Root pruning will be extensively required on this site. Place a note on the Tree Preservation plan stating its requirement. At grading/building permit submit plans that actually detail the root pruning for the Urban Forester's review and approval. Specify that root pruning is to occur before any grade alteration or trenching.
34. Any garden placed under the tree canopy would need to be a shade garden. Additionally this garden would need to be in beds raised above the grade to protect tree roots.
35. The grouping of canopy areas will be placed in to a restrictive Tree Preservation Area on the final plat.
36. In accordance with Section 170.08 of the UDC, either the Developer, Property Owner, or Property Owner Association shall comply with the required maintenance responsibilities for storm water management as set forth under section (B)(5) and (B)(6).

Standard Conditions of Approval

37. Technical Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
38. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street.
39. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.
40. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat

review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

41. All overhead utility lines under 12kv shall be relocated underground. All proposed utilities shall be located underground.
42. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.
43. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Easement plat that shall include all right-of-way, easements and the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Bonds in the amount of 150% of the construction cost for all public improvements will need to be submitted.
 - e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action:

☐ Tabled ☒ Forwarded to P.C. (recommendation for approval) ☐ Denied

Motion: Winston

Second: Zant

Vote: 6-0-1 (Trumbo recused)

Meeting Date: June 22, 2008

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 09-3237 (Markham Hill Cottage Courts)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: The Future Land Use Map adopted as part of City Plan 2025 designated this site City Neighborhood Area. City Neighborhood Areas are intended to have a wide range of residential building types, encourage complete, compact and connected neighborhoods, provide non-residential uses that are accessible for the convenience of individuals living in residential districts, and encourage walkability as part of the street function. The development proposes a maximum of 31 detached cottages (18 single family and 13 two-family for a total of 44 units) with amenities including a bocce court, pedestrian paths, a and community gardens in a compact and connected community with meaningful open space. The site is located in central Fayetteville within walking distance of the University of Arkansas campus, Ramay Junior High School, and the Martin Luther King Junior Boulevard commercial corridor. The development meets the intent of the City Neighborhood Area designation.

The project complies with the overall main goals of City Plan 2025 as follows:

- | | |
|--|---|
| Goal 1: We will make appropriate infill and revitalization our highest priorities. | This project is an infill project in a well-developed area of Fayetteville. The relatively under-developed property is largely surrounded by existing development and infrastructure, with the exception of substandard streets. This infill development provides the City an opportunity to revitalize the existing infrastructure and street system in the immediate vicinity with contributions from the development. |
| Goal 2: We will discourage suburban sprawl. | By being an infill development, the project discourages suburban sprawl, and keeps greenfields green on the perimeter of the City. |
| Goal 3: We will make traditional town form the standard. | Due to its small size (2.98 acres) and location, this project can not provide a complete neighborhood with mixed uses. However, the design and layout of the residential cottages encourages pedestrian activity and an active public realm and contributes to the surrounding complete neighborhood environment. The small cottages will help provide a mix of housing types in the area, and the proximity of this site to non-residential services and employment centers is consistent with traditional town planning principles. |

- Goal 4: We will grow a livable transportation network. This project will provide an opportunity to improve the existing substandard street system on Maine Street and Cross Avenue. This project will also provide a connection for the Hotz Park Trail through the site, encouraging multi-modal transportation. By being an infill project within walking distance to many destinations, this development helps the City grow while minimizing impacts to the overall street system.
- Goal 5: We will assemble an enduring green network. This project has taken care to incorporate many of the existing significant trees into the design, and will provide several pockets of greenspace for public use throughout the development.
- Goal 6: We will create attainable housing. The small size of the cottages proposed by this development help provide variety to the overall housing market in the City and contribute to a mixed-income neighborhood.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow for a maximum of 31 small single and two-family detached cottages, maximum of 44 dwelling units. The proposed development pattern and density would be compatible with the surrounding multi- and single-family land uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The 2.98-acre property currently has two residences and accessory structures. The two main natural resources on the property include the steep topography and tree canopy. The majority of the site is steep and within the Hillside/Hilltop Overlay District, with 65.97% of the site covered in tree canopy. The street and site plan layout generally follow the contours and natural landform of the site. This project complies with the requirements of the Hillside/Hilltop Overlay District in terms of its development pattern. This project has incorporated the topography and many of the significant trees on the site

as environmental design features of the project, rather than mass grading the property. The tree preservation numbers are right at the 30% minimum. The natural environment is suitable for the type of development proposed, with the plans that are sensitive to that environment, as proposed.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed 44 units will impact the existing traffic conditions. Currently this development proposes three points of ingress and egress, one on Maine Street and one on Cross Avenue, and a third point of egress utilizing the existing Sang Avenue right-of-way along the western property line for a shared multi-use trail and one-way alley. Both of the adjacent roads are unimproved and very narrow with open ditch on both sides. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that the proposed development would not create traffic congestion or overburden the existing road network. Staff recommends that Main Street and Cross Avenue be improved to provide a minimum pavement width of 20', curb, gutter, storm drain, and sidewalk in this area and that the intersection/curve of Nettleship Street/Cross Avenue be widened as indicated to provide for a wider turning radius. Staff finds that with the recommended street improvements this development will not create traffic congestion or burden the existing road network. This development is also providing a multi-use trail connection through the site. Being an infill location and providing pedestrian improvements may encourage many to walk or bicycle through the site to utilize those services in the area, thereby decreasing the use of the vehicular network when compared to a typical greenfield development located away from public services and infrastructure.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The booklet and master development plans submitted provide for said unified development control.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building

locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: Markham Hill Cottage Courts proposes a unique form of single and two-family housing that is smaller and more compact than typical single family detached residences in the area. This project adds variety to the housing market and is compatible with the surrounding multi-family and single family residences.

The architectural style of the residences provides for well-articulated structures that present attractive façades to the street and a consistent and overriding theme. The integration of many significant trees into the design will help retain the overall character of the wooded hillside.

The infill location encourages a balance of people living and working in the same area reducing daily vehicle trips that rely on the regional road network. Several public spaces are proposed that will be a benefit to the neighborhood and provide meaningful open space in this compact residential community. Circulation is compact and connected and the inclusion of landscaping/mitigation trees will define the streets and replace removed canopy from the hillside. Also see Staff Findings No. 1 and No. 4.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: An evergreen hedgerow is proposed along perimeter property lines. Parking lot screening is not required as there are not large surface parking areas or other areas requiring screening facing streets. A landscape plan has been supplied, and trees along the frontages of all streets, both public and private, are required.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of one new public street and two new public alleys, as described earlier in this report, accessing Maine Street, Cross Avenue, and the existing un-built right-of-way of Sang Avenue that will be connect with Maine Street. The dwellings face onto greenspaces or streets, and are generally accessed off of shared driveways or motor courts, providing a hierarchy of circulation that encourages an efficient flow of traffic. Also see Staff Finding No. 6.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking for a majority of the residences is provided in garages; parking for a few of the units is provided on-street in accordance with City ordinance.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: This requirement has been met.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Public sidewalks are to be constructed on one side of the new internal public street and on Maine Street and Cross Avenue adjacent to the project. The development would also construct a multi-use trail connection from the proposed Nettleship Street through the existing Sang Avenue right-of-way, connecting south to Maine Street.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided adjacent to all public and private streets at a separation of no greater than 300 feet.

(8) *Water*. As required by §166.03.

FINDING: Public water lines are being extended in accordance with city codes.

(9) *Sewer*. As required by §166.03.

FINDING: Public sewer lines are being extended in accordance with city codes.

(10) *Streets and Drainage*. Streets within a residential PZD may be either public or private.

(a) *Public Streets*. Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets*. Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be

required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: Variances of the minimum street design standards are requested as the proposed street cross section and curb return radii do not meet the current Master Street Plan and parking lot standards. The proposed cross-sections and curb return radii are designed to calm traffic and encourage pedestrian comfort and activity throughout the site and they respond to unique site conditions that will enable greater tree preservation and less land disturbance. Staff recommends in favor of the variances for street and motor court design, with the exception of the variance at the intersection of Sutherland Lane/Cross Avenue, as discussed in the conditions of approval and in the memorandum and sketch from City Engineering staff.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight

building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein. Staff has recommended conditions of approval that specify that nonresidential facilities are required to be constructed prior to certificate of occupancy for the residences. Staff has also recommended conditions of approval regarding the project phasing to prevent large areas of the site from being disturbed without homes being built.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant has worked with the Urban Forester to bring forward a plan that accomplishes the City's goals for tree preservation. Staff is recommending approval of the tree preservation plan finding that the preservation numbers meet the minimum requirements and the intent of the ordinances.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: This PZD does not contain office or commercial structures.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: This site is located within the Hillside/Hilltop Overlay District (HHOD), and is visible from surrounding hillsides, residences, and distant streets. The development has complied with the building height requirements of the HHOD and has limited the heights for all structures to 45 feet. With compliance of the HHOD height requirements, existing views of this property and from this property will be adequately preserved.

- (E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
(a) *Building permit.* If no building permit has been issued within the time allowed.

- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission

together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
- (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.
 - (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
 - (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025 as discussed in Staff Finding No. 1, as well as the above ten criteria, including compatibility and harmony with existing surrounding land uses, provision of a variety of housing types and common open spaces.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The submitted development plats and Master Development Plan booklets, along with the conditions of approval found applicable and appropriate, are binding with the approval of the requested rezoning. Should the Planning Commission forward this item to the City Council; an ordinance will be drafted for consideration of rezoning this property in accordance with the submittal herein.

(C) *R – PZD, Residential Planned Zoning District.*

- (1) *Purpose and intent*. The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:
 - (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.
 - (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
 - (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending approval of this application, finding the proposed PZD meets the intent of the PZD ordinance as noted above.

- (2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

- (4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The residential uses on this property will be at least fifty-one percent of the gross floor area within the development.

(F) *Bulk and area regulations*

- (1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:
 - (a) The densities of surrounding development;
 - (b) the densities allowed under the current zoning;
 - (c) the urban development goals and other policies of the city's General Plan;
 - (d) the topography and character of the natural environment; and
 - (e) the impact of a given density on the specific site and adjacent properties.

FINDING: Surrounding development is solely residential and mixed in density and form, from an apartment complex, duplexes, various multi-family residences, to single family residences. The proposed project is a slight modification to the existing Markham Hill

Cottage Courts R-PZD zoning increasing the density from 11 units/acre to 15 units/acre, and a down-zoning on the portion of the site zoned RMF-24, reducing the allowable density from 24 units/acre to 15 units/acre. The impact of the proposed density on the site and adjacent properties would be less intensive than currently allowed by right. Also see Staff Findings Nos. (E)(1), (E)(4), (E)(5), and (B)(1).

- (2) *Lot area and setback requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

FINDING: Lot area minimums and setbacks are small on this project with structures oriented to the street or greenspaces and minimal front setbacks. This project provides for a variety of building footprints and unit types. Due to the unique nature of layout and type of structures being proposed, it is not possible to conform to existing standards for lot area minimums and setback requirements.

- (3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

FINDING: Building heights proposed for this project are typical of single family development in the surrounding area, and consistent with the height requirements of the HHOD.

- (4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

FINDING: The lot coverage or building area is consistent with the existing RMF-24 and R-PZD zoning on the property and in the surrounding vicinity.

***Required Findings for Rezoning Request.**

Land Use Plan: The City Plan 2025 Future Land Use Plan designates this site as a City Neighborhood Area. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for City Neighborhood Areas this proposal meets, and the six major goals of City Plan 2025 as discussed in Staff Finding No. (E)(1). Rezoning the property will accommodate the future land use plan for residential uses and allow for integration of a variety of housing types, sizes and development pattern, thus providing more choices for more citizens.

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

Finding: The property is zoned R-PZD and RMF-24 which allows for primarily residential use. The proposed density and site layout included with this rezoning is more appropriate than the existing R-PZD and RMF-24 zonings given the steep terrain and wooded nature of the site. The revisions to the R-PZD have reduced the amount of grading and impact to the natural landform, and added residential units at the corner of Maine/Cross, to create an inviting streetscape. The proposed PZD zoning allows flexibility to vary building setbacks, bulk and area requirements, to allow for a more organic design that integrates the topography and tree canopy into the development and still obtain a feasible number of units. Rezoning of this property as proposed is advisable.

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

Finding: Staff finds this proposal will not create or appreciably increase traffic danger and congestion, with the street improvements recommended.

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

Finding: The proposed PZD would reduce the population density from that allowed under the current RMF-24 zoning in the southeast portion of the site and increase the density for the portion of the site zoned R-PZD. The current zoning would allow for 11 units/acre under the R-PZD and 24 units/acre under the RMF-24 zoning and the proposed PZD would allow a maximum of 15 unit/acre. The development of this site with 44 units would create demand on public services. Staff finds, however, that the load created on public services is not an undesirable or detrimental impact, with the improvements as recommended by staff for this project.

Engineering: Public water is available to the property. There is a 24" along the west property line of this property. Water will need to be extended through the property at the time of development to provide domestic service and fire protection.

Sanitary sewer is available to the site. There is a 6" sewer main along Main Street. Sewer will need to be extended through the property at the time of development. The capacity of the existing main will need to be studied at the time of development.

The site has access to Main Street, Cross and Nettleship which are narrow unimproved two lane city streets. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter population density and will not create an undesirable increase on police services. The Police Department states that the rezoning may increase traffic danger and congestion.

Fire: The subject property is located 0.6 miles from the Station No. 6 located at 900 Hollywood with an expected response time of 3 minutes. No adverse impacts on call volume or response time are anticipated.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: Not applicable. Staff recommends approval of the proposed zoning.



THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Andrew Garner, Planner
FROM: Carole Jones, Park Planner
DATE: June 10, 2009
SUBJECT: Parks & Recreation Subdivision Committee Review Comments

Meeting Date: June 11, 2009
Item: R-PZD 09-3237 (Markham Hill Cottage Courts, 520)
Park District: SW
Zoned: RMF-24
Billing Name & Address: Homestead Homes, LLC
1370 South Old Missouri Road
Springdale, AR 72764

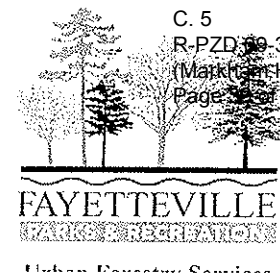
	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ 0.024 acre per unit = _____ acres	_____ @ \$960 per unit = _____
Multi Family	_____ @ 0.017 acre per unit = _____ acres	_____ @ \$680 per unit = _____

COMMENTS:

- PRAB recommended money in lieu of land on March 3, 2008 due to the small size of park land requirement.
- Fees in the amount of \$26,120 for 18 single family units and 13 multi-family units will be assessed and are due prior to issuance of building permits.



113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470



C. 5
R-PZD 09-3237
(Markham Hill Cottage Courts)
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THE CITY OF FAYETTEVILLE, ARKANSAS

LANDSCAPE REQUIREMENTS – Chapter 177

To: Fayetteville Subdivision Committee

CC: Andrew Garner, Senior Planner

From: Greg Howe, Urban Forester/Landscape Administrator

Date: June 10, 2009

Subject: R-PZD 09-3237: Markham Hill Cottages SC Review Comments

Applicable Requirements:

Y	Site Development & Parking Lot Standards
NA	I-540 Design Overlay
Y	Street Tree Planting Standards
NA	Stormwater Facilities

Plan Checklist:

Y= submitted by applicant

N=required by City Code but not included on submitted plan

NA= not applicable

Preliminary Submittal	Final Submittal	
		All Landscape Plans
N	NA	Irrigation notes either automatic or hose bib [177.03 (7)(g) & 177.04(B)(3)(a)]
Y	NA	Species of plant material identified [177.03(7)(d & e)]
Y	NA	Size of plant material at time of installation indicated minimum size 2' caliper for trees and 3 gal. shrubs [177.03(7)(b & c)]
Y	NA	Soil amendments notes include that soil is amended and sod removed [177.03(C)(6)(b)]
Y	NA	Mulch notes indicate organic mulching around trees and within landscape beds [177.03(C)(6)(c & d)]
Y	NA	LSD and Subdivisions plans stamped by a licensed Landscape Architect, others by Landscape Designer [177.03(B)]
Y	NA	Planting details according to Fayetteville's Landscape Manual [177.03(C)(6)(g)]
		Site Development & Parking Lot Standards
NA	NA	Wheel stops/ curbs [177.04(B)(1)]

Preliminary Submittal	Final Submittal	Site Development & Parking Lot Standards
NA	NA	Interior landscaping [177.04(C)] <i>Narrow tree lawn (8' min width, 37.5' min length/ 1 tree per 12 spaces)</i> OR <i>Tree island (8' min. width, 18.7' min. length/1 tree per 12 spaces)</i> <i>All parking lot trees must be deciduous</i> [177.04(C)(3)]
NA	NA	Placement of Trees [177.04(C)(2)] <i>Either side at points of access (entrance/exit)</i>
NA	NA	Perimeter landscaping [177.04(D)] <i>Side and rear property lines (5' wide landscaped)</i> <i>Front property line (15' wide landscape)</i> 177.04(D)(2)(a) <i>Shade trees planted on south and west sides of parking lots?</i> [177.04(D)(2)(e)] <i>Parking lot adjacent to R.O.W.- continuous row planting of shrubs-at least 8 per tree- and ground cover - 50% evergreen</i> [177.04(D)(4)(a)] <i>NOTE: Shade trees are described in street tree planting standards</i>
		Overlay District Requirements (177.04(D)(2)(b))
NA	NA	Greenspace adjacent to street R.O.W. (25' wide landscape)
NA	NA	Large street trees planted every 30' L.F. along R.O.W. (15' & 25' landscape areas, ≤25% of trees can be grouped) [177.04(D)(3)(a)]
NA	NA	25% of total site area left in greenspace (80% landscape)
NA	NA	Parking lots and outdoor storage screened with landscaping
		Street Tree Planting Standards (time of F.P. or permit) [177.05]
NA	NA	Residential Subdivisions- 1 large species shade tree/ lot tree planted within R.O.W. if possible
Y	NA	Nonresidential Subdivision- 1 large species shade tree/30 L.F. tree planted within 15-25' greenspace
Y	NA	Urban Tree Wells-urban streetscape only-10foot sidewalk , trees every 30 L.F. [177.05(B)(3)(a-f)]
Y	NA	Structural Soil-if urban wells are used, a note or detail of structural soil must be indicated on the landscape plan
Y	NA	Timing of planting indicated on plans (subdivisions only) [177.05(A)(4)]
Y	NA	Written description of the method for tracking plantings [177.05(A)(4)(e)]
Y	NA	Plan contains 3-year Maintenance and Monitoring Agreement [177.05(A)(2)(e)]
		Stormwater Facilities (time of F.P. or permit) [177.06(A - C)]
NA	NA	1 deciduous or evergreen tree/ 3000 square feet
NA	NA	4 large shrubs or small trees (3 gal) / 3000 square feet
NA	NA	6 shrubs or grasses (1 gal) / 3000 square feet
NA	NA	Ground cover unless seed or sod is specified
NA	NA	50% of facility planted with grass or grass like plants

LANDSCAPE REQUIREMENTS Comments:

1. Please review the checklist above and address all comments marked with the letter "N".

2. Type of irrigation must be designated, automatic system or hose bibb located every 100ft. The tree well trees have note for automatic irrigation. There is no other reference to irrigation for tree not planted in tree wells.
3. Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester/Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
4. All street trees planted with this development must have a surety/guarantee to be issued (bond/letter of credit/cash) for a 3 year term at time of certificate of occupancy
5. All street trees must be Large Species trees and selected from Appendix A of the Landscape Manual. Any deviation requires the approval of the Urban Forester. Provide species specification sheets for any species not on the approved list.
6. Note that all landscape trees planted to meet street tree, mitigation tree or landscape code requirements must be single stem, minimum 2" caliber trees. No double or tri-stem trees will be counted towards meeting requirements.



113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470



THE CITY OF FAYETTEVILLE, ARKANSAS

TREE PRESERVATION AND PROTECTION – Chapter 167

To: Fayetteville Subdivision Committee

CC: Andrew Garner, Senior Planner

From: Greg Howe, Urban Forester

Date: June 10, 2009

Subject: R-PZD 09-3237: Markham Hill Cottages Subdivision Committee Review
Comments

Requirements Submitted:

N	Initial Review with the Urban Forester
N	Site Analysis Map Submitted
N	Site Analysis Written Report Submitted
Y	Complete Tree Preservation Plan Submitted

Canopy Measurements: (New figures bringing it above 30% are being submitted)

Total Site Area	
acres	
square feet	
Existing Tree Canopy	
acres	
square feet	
percent of site area	%
Existing Tree Canopy Preserved	
acres	
square feet	
percent of total site area	%
Zoning Minimum Percent Canopy Required	30%

Mitigation:

Canopy Below Required	Preservation Priority/Type	Forestation Base Density (ft2)	Number of 2" caliper trees to be planted
0% (oft2)	High/Native Woodland Trees	218	
0% (oft2)	Mid/	290	
0% (oft2)	Low/Less Desirable Species	436	
Total Number of Mitigation Trees			0

Tree Escrow equivalent of approximately \$0

Prior Tree Removal: N/A

10% of Total Area (ft2)	Preservation Priority/Type	Forestation Base Density (ft2)	Number of 2" caliper trees to be planted
	High/Native Woodlands	218	

Tree Escrow equivalent of approximately \$0.00

The Urban Forester recommends approval of this development.

TREE PROTECTION PLAN REVIEW COMMENTS:

1. Grading, trenching or other ground disturbance is not allowed within the dripline of any preserved trees. Any tree with its trunk in a drainage easement can not have its canopy counted towards preservation.
2. Any walkways within the Tree Preservation Area shall be on grade including any substrate material. Staff also recommends that walkways within tree preserves be a type of mulch, gravel, permeable pavers, permeable concrete, and segmental concrete paving systems, Flexi-Paver or other previous materials. Any stairs within the Tree Preservation Area shall be of pier and lentil design to reduce slope penetration.
3. Any irrigation planned within the Tree Preservation area would need to be hand trenched in, air spaded in or bored in.
4. Root pruning will be extensively required on this site. Place a note on the Tree Preservation plan stating its requirement. At grading/building permit submit plans that actually detail the root pruning for the Urban Forester's review and approval. Specify that root pruning is to occur before any grade alteration or trenching.
5. Any garden placed under the tree canopy would need to be a shade garden. Additionally this garden would need to be in beds raised above the grade to protect tree roots.
6. The grouping of canopy areas will be placed in to a restrictive Tree Preservation Area on the final plat.

TREE PROTECTION CRITERIA: [Chapter 167.04 (B)]

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **High priority trees are being preserved.**

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Environmental degradation due to possible site erosion from lost tree root soil stability is a concern.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **Since this is a heavily forested site the impact of canopy lost will be observable on adjacent properties and neighborhood.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **This development has been through several designs trying to balance tree/natural area preservation and drainage requirements.**

Whether the size or shape of the lot reduces the flexibility of the design.

- **The shape of the lot does have a small affect on flexibility.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of these trees was determined to be mostly good with some fair.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **The removed canopy is due to placement of roadways, structures and other infrastructure easements.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **Utility easements will have an affect on preservation of trees.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **Topography places restriction on the site.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- N/A

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **Hilltop/Hillside Overlay District provides beneficial retention of natural resources but also causes conflicts with other code requirements**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- N/A

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Site engineering firm with need to coordinate with owner to re-design project.**

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

479-575-8206

To: Andrew Garner, Planner

June 9, 2009

From: Glenn E. Newman, Jr., P.E.
Staff Engineer

Re: Plat Review Comments (June 11, 2009 Subdivision Review Committee)

Development: **R-PZD 09-3237 Markham Hill Cottages**

Engineer: **Community by Design**

1. Engineering staff does not support the geometric design of the intersection of Sutherland Lane and Cross Avenue as proposed. The request to accept on-street parking on both sides of the roadway in the hillside is a variance request which widens the proposed intersection for a total of 34 ft. The applicant has requested that the intersection radius of 5 ft and tree plantings to create an effective turning radius of 30 ft. Engineering recommends adding islands with a 20 ft radius at the intersection to decrease the length the pedestrian crossing to 21 ft while effectively calming traffic by providing a narrower section street section directing traffic around the proposed landscape tree. (Please see the attached exhibit)

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

479-575-8206

To: Andrew Garner, Planner

June 10, 2009

From: Glenn E. Newman, Jr., P.E.
Staff Engineer

Re: Plat Review Comments (June 11, 2009 Subdivision Review Committee)

Development: **R-PZD 09-3237 Markham Hill Cottages**

Engineer: **Community by Design**

1. The applicant has requested a variance from the Minimum Street Standards (MSS) as described below:
 - a. Centerline profile of 16.86% which exceeds the MSS 3-6 Maximum Grades in hilly terrain by 1.86% for 75 ft.
 - b. Vertical Curve Coefficient (K values of 7.42 and 7.78) for Crest and Sag which exceeds the MSS 3-2 Alignment of 20 and 30 respectively for a 20 mph design speed.

For the reasons stated by the applicant and concessions necessary in the hilltop overlay district to obtain a relatively flat grade of 4% for 100 ft of the new intersection of Sutherland Lane and Cross Ave, which is also required in the MSS 3-3 Intersections, Engineering staff supports the vertical profile deviations from the Minimum Street Standards (MSS).

2. The applicant has requested a variance from the Minimum Street Standards (MSS) as described below:
 - a. Centerline horizontal alignment with a 0 tangent section between reverse curves which does not meet the 100 ft tangent section requirement is the MSS 3-2 Alignment.

For the reasons stated by the applicant and the design speed of the residential PZD anticipated at the intersection approach, Engineering staff supports the vertical profile deviations from the Minimum Street Standards (MSS).

Fayetteville Police Department

Date 6/1/09

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for comments on the proposed R-PZD 09-3237 (Markham Hill Cottage Courts) Submitted by Robert Sharp for property located the NW corner of Cross & Maine west to Sang Avenue.

It is the opinion of the Fayetteville Police Department that this R-PZD will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This R-PZD may create an increase in traffic danger and congestion in the area.

Sincerely,

Captain William Brown

From: Brian Pugh
To: Fulcher, Jesse; Garner, Andrew; Sanders, Dara
Date: 6/11/2009 8:34 AM
Subject: Subdivision Committee 6-11-09

PPL 09-3316 (Amberwood Place) Solid Waste and Recycling does not collect on private drives. Many areas in site plan are concerns to Solid Waste. Please contact Solid Waste to coordinate how the trash carts and recycling bins will be collected from the private drives.

R-PZD 09-3237 (Markham Hill Cottage Courts) Solid Waste staff thought the trash recycling pads for units 17 and 18 where to be moved further south closer to Sutherland Dr. to get the collection points away from the curve on Cross . This is a safety concern for when vehicles would be stopped making collections so close to the curve.

Brian Pugh
Waste Reduction Coordinator
Fayetteville Solid Waste and Recycling
479-718-7685
479-444-3478 Fax

June 15th, 2009
Via Hand Delivery

Mr. Andrew Garner
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: Markham Hill Cottages – R-PZD 09-3237
Variance Request UDC 171.02(C)
Conditional of Approval #3c

Mr. Garner,

I refer to the June 11, 2009 Subdivision Committee Meeting Condition of Approval #3c for Markham Hill Cottages PZD, I respectfully request that City staff please reconsider the recommendation for landscaping bulbouts at the proposed intersection of Sutherland and Cross Avenue.

Three different methods of configuring this intersection have been proposed.

Method #1 - By code with 30' curb return – see attached Exhibit #1

Method #2 - The traditional configuration with 5' curb return – see attached Exhibit #2

Method #3 - The landscape bulbout with 20' curb return recommended by City Engineering Dept. – see Exhibit #3

Before making a final recommendation for one of the above methods we ask that staff please consider the following factors:

- A. Traditional Development Patterns and Details
- B. Accommodating Emergency and Solid Waste Vehicles
- C. Safety
 - Vehicle Design Speed Through Intersection
 - Pedestrian Crossing Distance
 - Pedestrian View Angle

Traditional Development Patterns and Details - The intersection configuration found in Exhibit #2 is the traditional method of configuring the intersection. Community By Design is passionate about getting the details of building traditional town right.

Accommodating Emergency and Solid Waste Vehicles - Methods #1 and #2 accommodates emergency and solid waste vehicles, Method #3 does not.

Safety - When weighing the above bulleted items in regards to safety, in our opinion, Method #2 is the safest method for the pedestrian and the vehicle.

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F 479.444.0097

- In regards to vehicular speed through the intersection, Method #1 provides a 20 to 25 mph design speed, while methods #2 and #3 provide design speeds of 10 to 15 mph. The slower vehicular design speeds are considered safer through the intersection.
- In regards to the pedestrian crossing distance through the intersection, Method #1 provides a 60' crossing distance for the pedestrian, Method #2 provides a 33' crossing distance, while Method #3 provides a 22' crossing distance. Crossing time for the pedestrian for Method #1 = 16 seconds, Method #2 = 9 seconds, Method #3 = 6 seconds.
- In regards to the pedestrian view angle at the intersection, Method #1 provides a comfortable line of site for the pedestrian when looking for turning cars before crossing the intersection, Method #2 provides the same comfortable line of site, this is shown in Exhibit #4, Method #3 requires the pedestrian to look over his or her shoulder when looking for turning cars before crossing the intersection, as shown in Exhibit #5. With Method #3 the pedestrian has to remember to look over his shoulder before crossing. With Method #2, the pedestrian does not have to remember to look both ways, both potentially turning cars are already in the pedestrian's comfortable line of sight or peripheral vision, making this a much safer method, especially when considering children.

The following table has been provided to summarize safety factors while analyzing the different methods of the intersection configuration.

	Vehicle Design Speed (mph)	Pedestrian Crossing Distance (feet)	Pedestrian Crossing Time (seconds)	Pedestrian View Angle
Method #1	20 to 25	60	16	135
Method #2	10 to 15	33	9	135
Method #3	10 to 15	22	6	180

When weighing the above factors in regards to safety, Method #3 does provide a decreased crossing time for the pedestrian, however only by 3 seconds. When considering both pedestrian crossing time and the pedestrian view angle, Method #2 is the safest method for the pedestrian and the vehicle.

Community By Design feels that Method #2 is the appropriate solution when considering safety, emergency and solid waste vehicles, and traditional urban design.

Thank you for your consideration on this item, if you have any questions please feel free to contact the offices of Community By Design.

Sincerely,



Brian Teague, P.E., President
Community by Design, LLC.

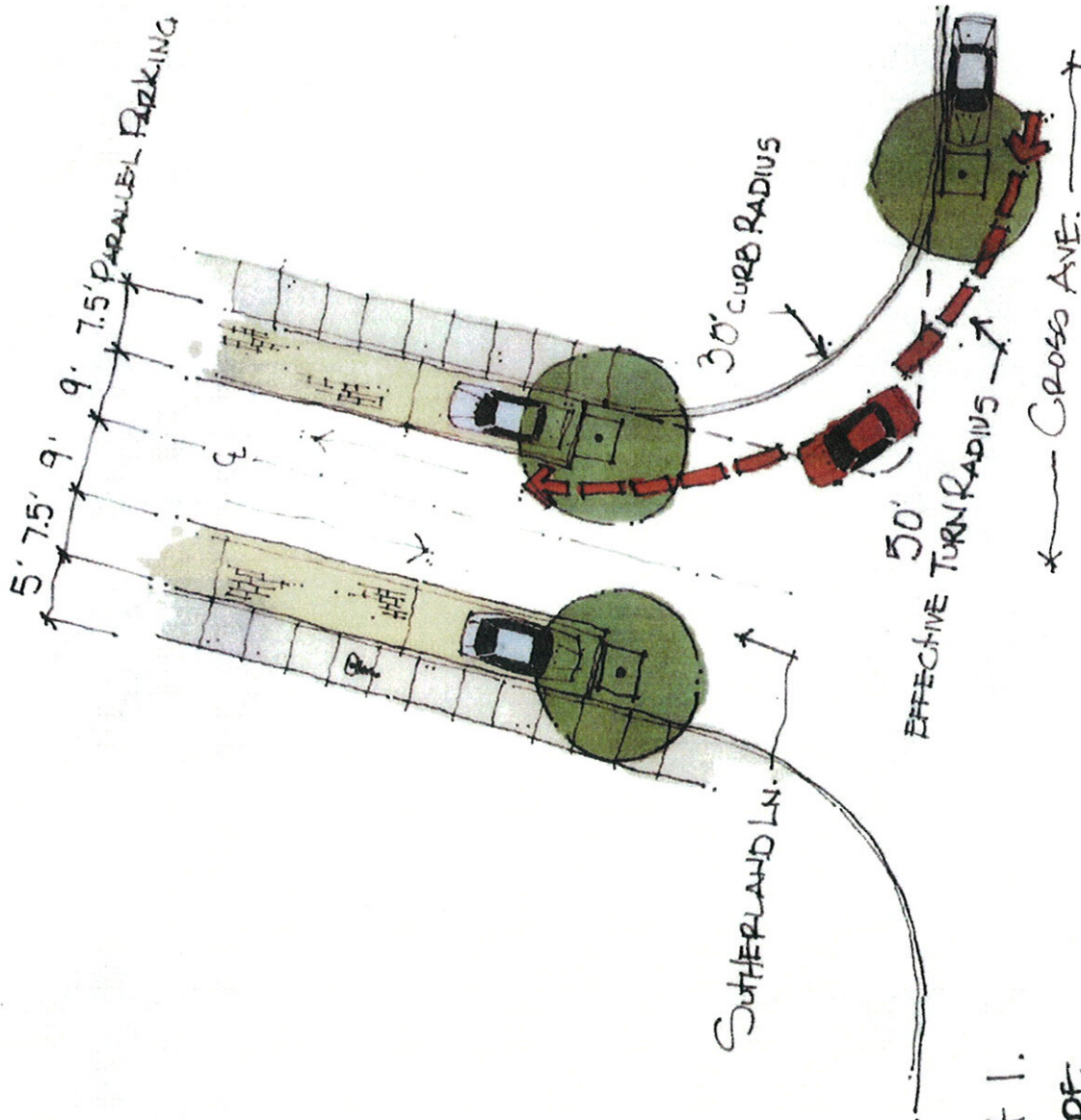


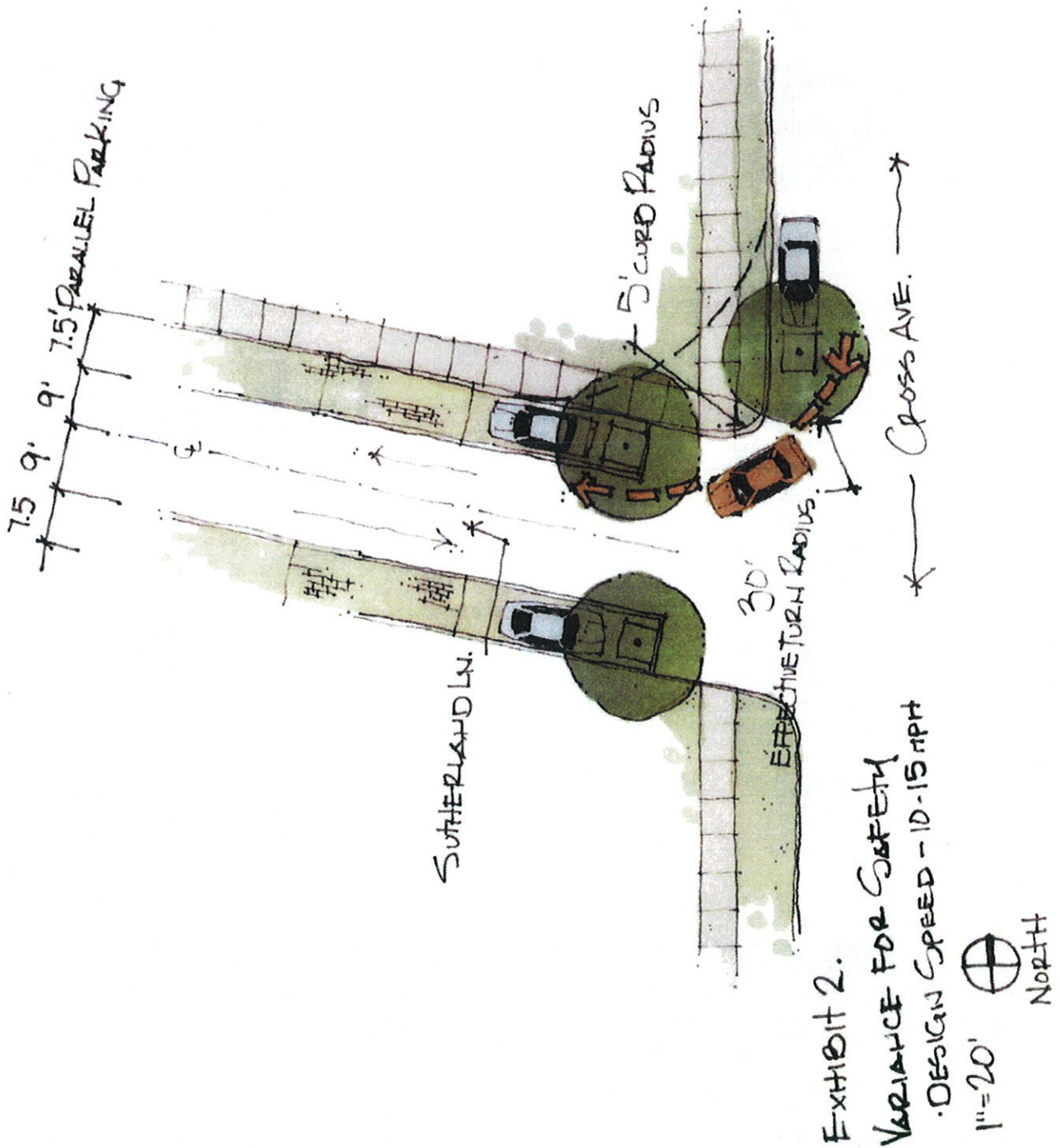
Exhibit 1.

By Code

DESIGN SPEED - 20-30 MPH

11=20





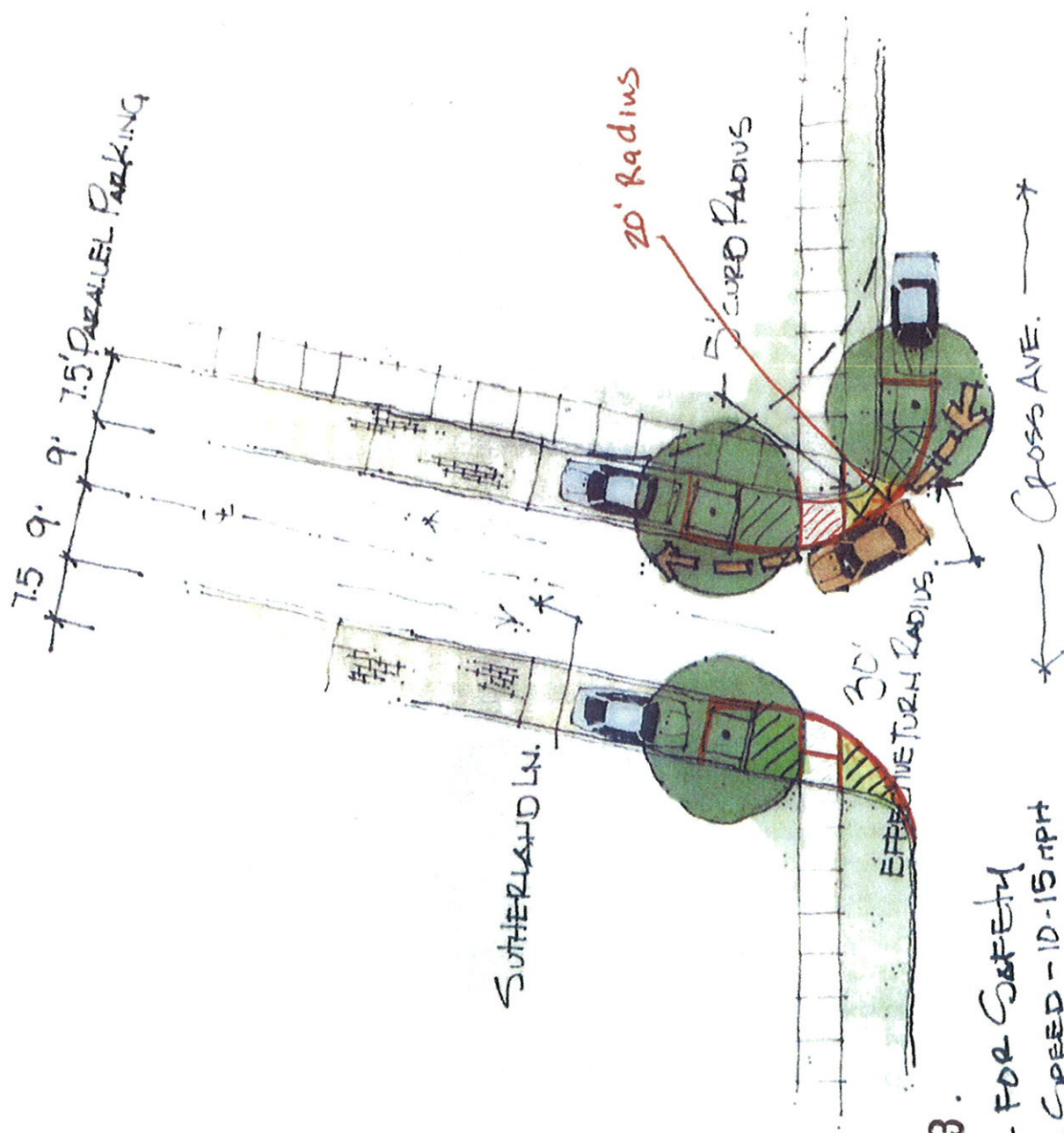
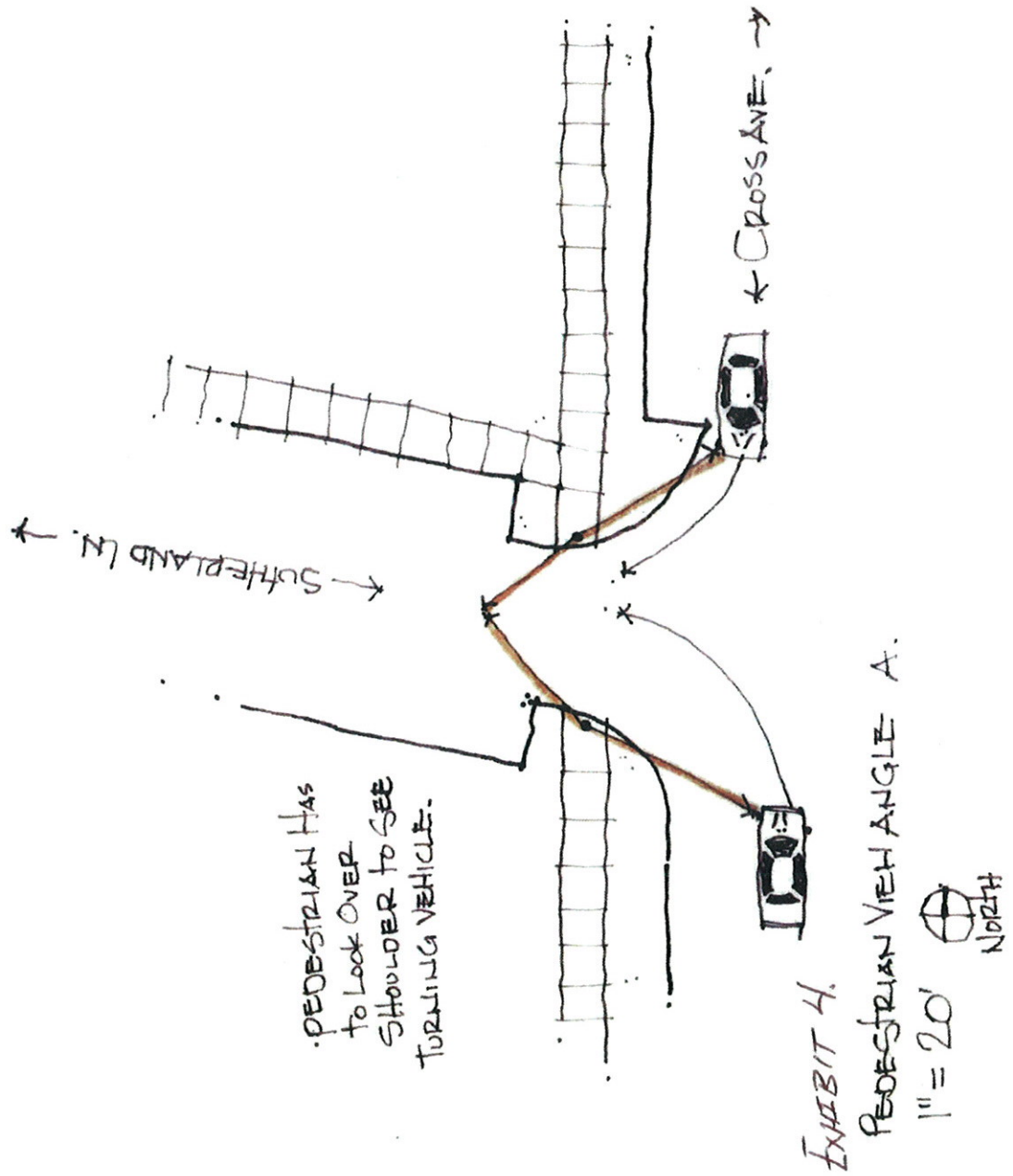


EXHIBIT 3.
VARIANCE FOR SAFETY
DESIGN SPEED - 10-15 MPH

1"=20'

NORTH

Recommended
by
Engineering



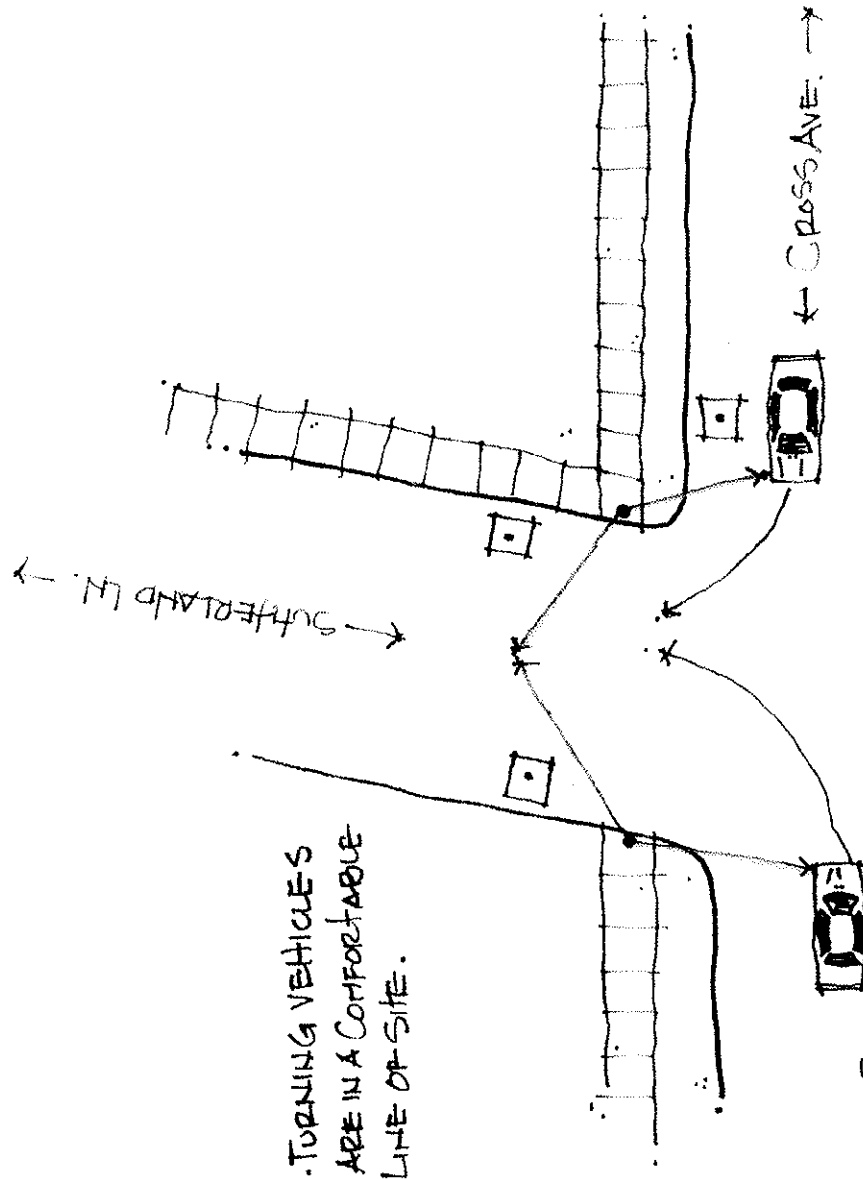
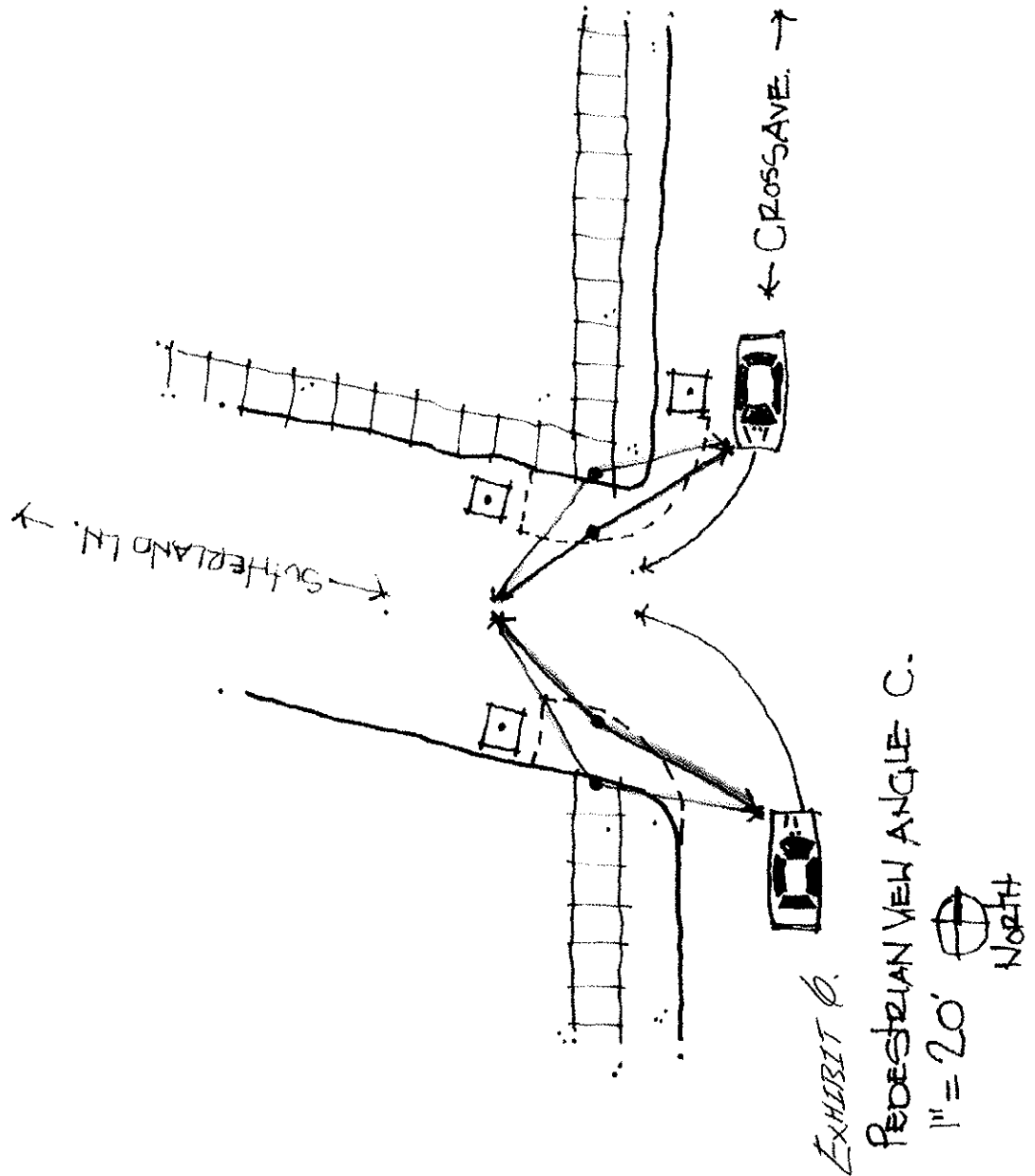


EXHIBIT 5.

PEDESTRIAN VIEW ANGLE - P.

1" = 20'





June 15th, 2009
Via Hand Delivery

Mr. Andrew Garner
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: Markham Hill Cottages – R-PZD 09-3237
Subdivision Committee Conditions of Approval

Mr. Garner,

After reading through the staff report and conditions of approval in more detail I had the following minor concerns:

1. Condition of Approval 1b – From previous meetings with the engineering department I assume this condition is in reference to possible storm sewer improvements along Markham Hill property frontage on Cross and Maine, along the proposed trail in the Sang ROW, and also in the vicinity of the Sang and Maine Intersection. In the meetings we have discussed the possibility of improvements to the storm sewer pipes at the intersection of Sang and Maine if post developed drainage from Markham Hills exceeds the capacity of the existing pipes.
2. Condition of Approval 3e – We feel we are providing adequate ROW to construct the improvements at the intersection / curve of Nettleship Street and Cross Avenue. It appears that the City may be requiring more than what we are proposing which is a 50' ROW on Cross. We do not anticipate providing more than 50' of ROW along Cross.
3. The conditions of approval do not mention the requested variance for the proposed driveway approach from motor court three onto Cross Avenue, UDC 172.02(D)(3)(iv). Also, after conversations with the engineering department on June 12th, 2009, it may be that we need the same variance for our proposed alley intersection configurations at Sutherland and Maine, and for our proposed driveway apron configurations that access motor courts 2 and 3. If so please advise so we might meet to discuss.
4. Condition of Approval 9 – Offsite drainage improvements would possibly include those mentioned in Condition of Approval 1a. We do not anticipate the City requiring any other offsite drainage improvements other than those listed in item 1.

Proposed offsite sanitary sewer improvements include an 8" PVC sewer main along the Markham Hills property frontage along Cross. We have provided a sanitary sewer capacity analysis of the existing 6" sanitary sewer line extending south along Cross from the Cross / Maine Intersection. The analysis shows that increased flows from the proposed Markham Hill development will not exceed the capacity of this existing 6" sanitary sewer line on Cross. We do not anticipate the City to require the upgrade the existing 6" sewer main on Cross or on Maine or any other offsite sanitary sewer improvements other than those mentioned above.

Proposed offsite water improvements include extending an 8" water main along Cross from the Cross / Maine intersection north to the Cross / Nettleship curve. We do not anticipate the City to require the upgrade of the existing 1" water main along Maine or any other offsite water improvements other than those mentioned above.

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Thank you for your consideration on these items, if you have any questions please feel free to contact the offices of Community By Design.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brian Teague', with a long horizontal flourish extending to the right.

Brian Teague, P.E., President
Community by Design, LLC.

Cc Via Hand Delivery: Glenn E. Newman, Jr., P.E. - City of Fayetteville Staff Engineer



June 3rd, 2009
Via Hand Delivery

Mr. Andrew Garner
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: Markham Hill Cottages – R-PZD 09-3237

Mr. Garner,

Please find the following list of variances or waivers that may be needed for the above referenced project:

1. For the proposed Sutherland Lane, Community By Design requests a variance from the Hillside Local Street Cross Section found in the City of Fayetteville Master Street Plan. The variance would be to allow parallel parking on both sides of street as an alternative to only one side. This would increase the required right of way from 33' to 39' to accommodate the additional parking.
2. According to City Plan 2025, the Hillside Hilltop Street Cross Sections are designed in order to minimize grading disturbance and tree removal. Also according to the City Plan 2025, the Hillside Residential Street should be designed with a desired operating speed of 15-20mph. Designing streets for operating speeds of 15-20 mph will tremendously help to minimize grading disturbance and tree removal as well as provide safer environments for both the pedestrian and the vehicle. This is contrary to the City of Fayetteville Minimum Street Standards which was written prior to City Plan 2025 and which call for design speeds of 25 to 30 mph for all residential streets.

A variance is requested for the proposed Sutherland Lane vertical profile which was designed in an effort to match the natural terrain and minimize grading and tree removal. The variance would be to allow the proposed Sutherland Lane vertical profile and thus reduce disturbance of the existing hillside. In accordance with this proposed profile Community By Design requests the following variances from the City of Fayetteville Minimum Street Standards:

- a. Street grade of 16.86% for approximately 75 linear feet.
 - b. Crest vertical curve K-value of 7.42
 - c. Sag vertical curve K-value of 7.78
3. In an effort to eliminate unreasonably large effective turning radii at intersections and in effect calm/reduce traffic speeds through the intersection, Community By Design requests a variance from providing a minimum 30' curb return radii at street intersections, UDC 171.02(C). As an alternative Community By Design proposes to provide an effective turning radii of at least 30' at all street intersections with no limitation on the minimum radius of the actual curb return.

Analyzing each intersection's turning movements in this manner will provide a safer environment for both the pedestrian and the vehicle. Please see the attached Exhibit #1 which hopefully illustrates this concept at the proposed intersection of Cross and Sutherland.

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4. Community By Design requests a variance for the proposed driveway approach from motor court three onto Cross Avenue, UDC 172.02(D)(3)(iv). The variance would be to allow a 8' radius as an alternative to a 15' radius.

Since service vehicles are not required to enter this motor court, the intersection would still function properly, but would however function at reduced vehicular speeds creating a safer environment for both the pedestrian and the vehicle. Signs would be posted to denote that access by service vehicles is not provided for.

5. In order to minimize drainage runoff from the site, Community By Design is proposing a gravel paving surface for the three motor court areas found on the Markham Hill site plan. This would be a variance from the UDC 172.02(B).

As an alternative from this requirement Community By Design proposes to use a gravel paving surface and provide a 3-year bond for paving of this area with asphalt or chip and seal pavement in the case of a failure of the gravel paving surface. The failure of the gravel paving surface would be at the discretion of the City Engineer, at that time, the bond would be used to pay to have the motor courts paved.

The gravel motor courts have been graded to nearly flat grades to prevent erosion. Furthermore, a low point or sump drainage situation has been proposed for each motor court to prevent gravel from escaping the motor courts onto the City street ROW.

6. Community By Design requests a waiver from the City of Fayetteville Minimum Street Standard's requirement to provide a minimum of a 100' tangent between horizontal curves. This waiver is requested for the west end of the proposed Sutherland Lane alignment. The proposed alignment was unable to meet this requirement due to the narrow width (138') of the property in this location.
7. Community By Design requests a variance from the UDC requirement of a 10' minimum retaining wall height. Community By Design has proposed the following wall heights in the motor courts. Some of the wall heights exceed the 10' minimum requirement in order to minimize tree removal.

Motor Court One

- 15 linear feet of wall ranging from 10 to 13 feet in height.

Motor Court Two

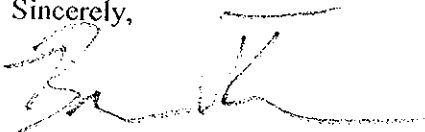
- 25 linear feet of wall ranging from 11 to 14 feet in height.
- 10 linear feet of wall 14' in height

Motor Court Three

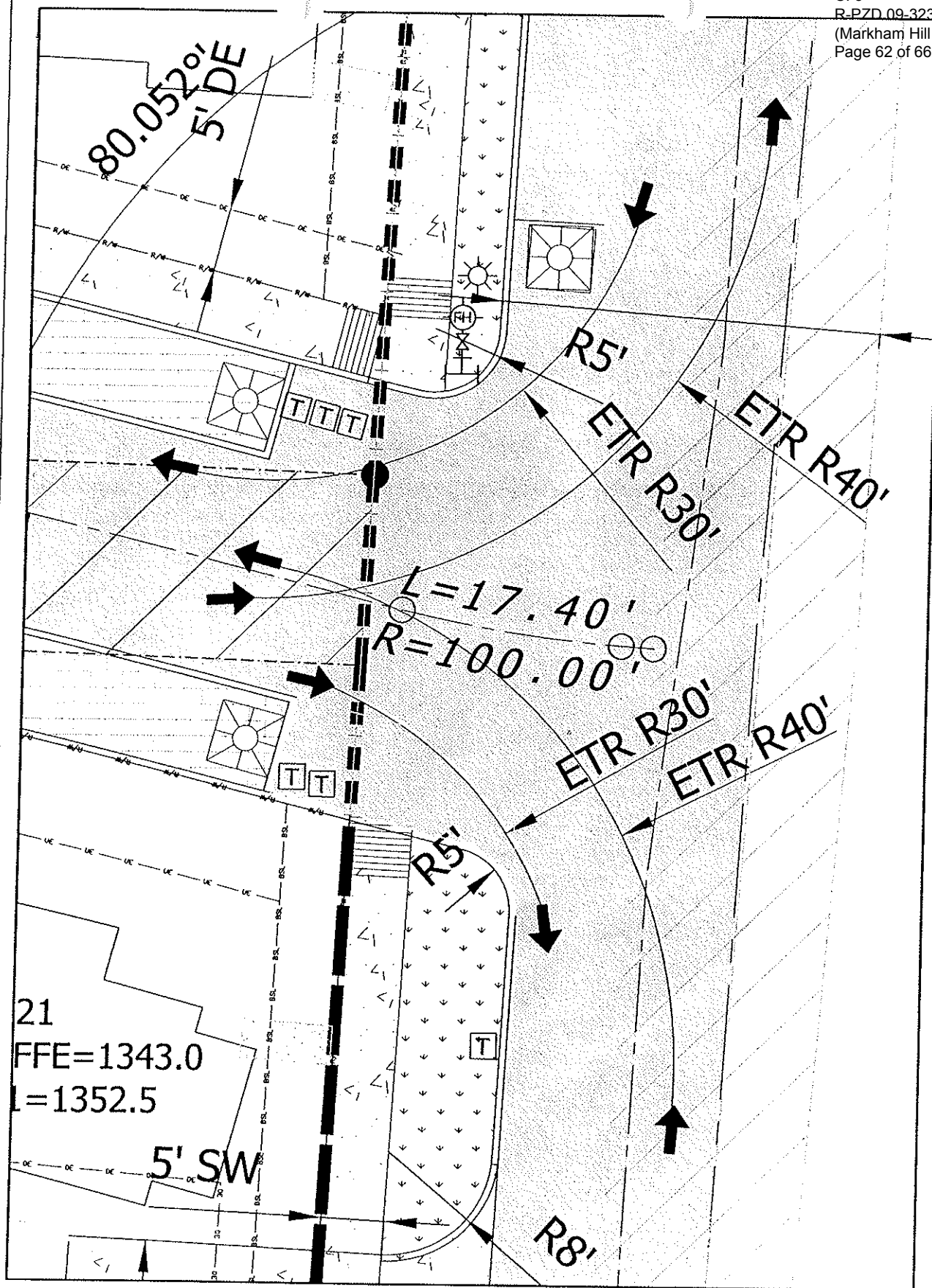
- 45 linear feet of wall ranging from 10 to 12 feet in height.

Thank you for your consideration on these items, if you have any questions please feel free to contact the offices of Community By Design.

Sincerely,



Brian Teague, P.E., President
Community by Design, LLC.



COMMUNITY BY DESIGN, LLC.
311 west spring street
FAYETTEVILLE, AR 72701
Phone: 479 444-0095 Fax: 479 444-0097

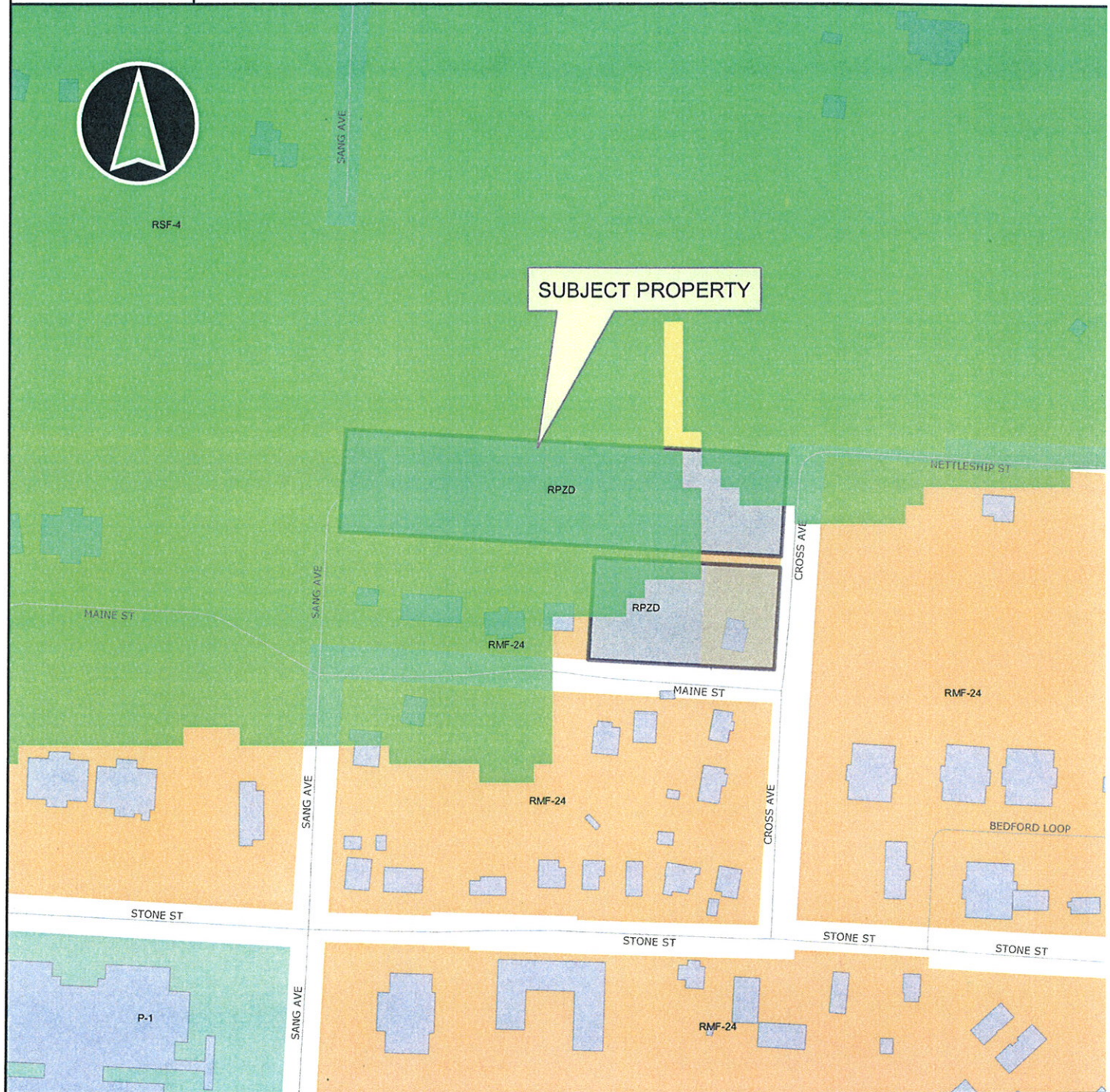
EXHIBIT - 1
SUTHERLAND/CROSS
INTERSECTION DETAIL
N.T.S.

ENGINEER: JBT	REVISION 1
DRAWN BY: NH	1 OF 1
SCALE: NTS	
DATE: 6/4/09	

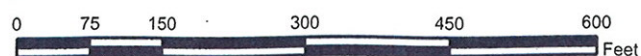
RPZD09-3237

Close Up View

MARKHAM HILL COTTAGE COURTS



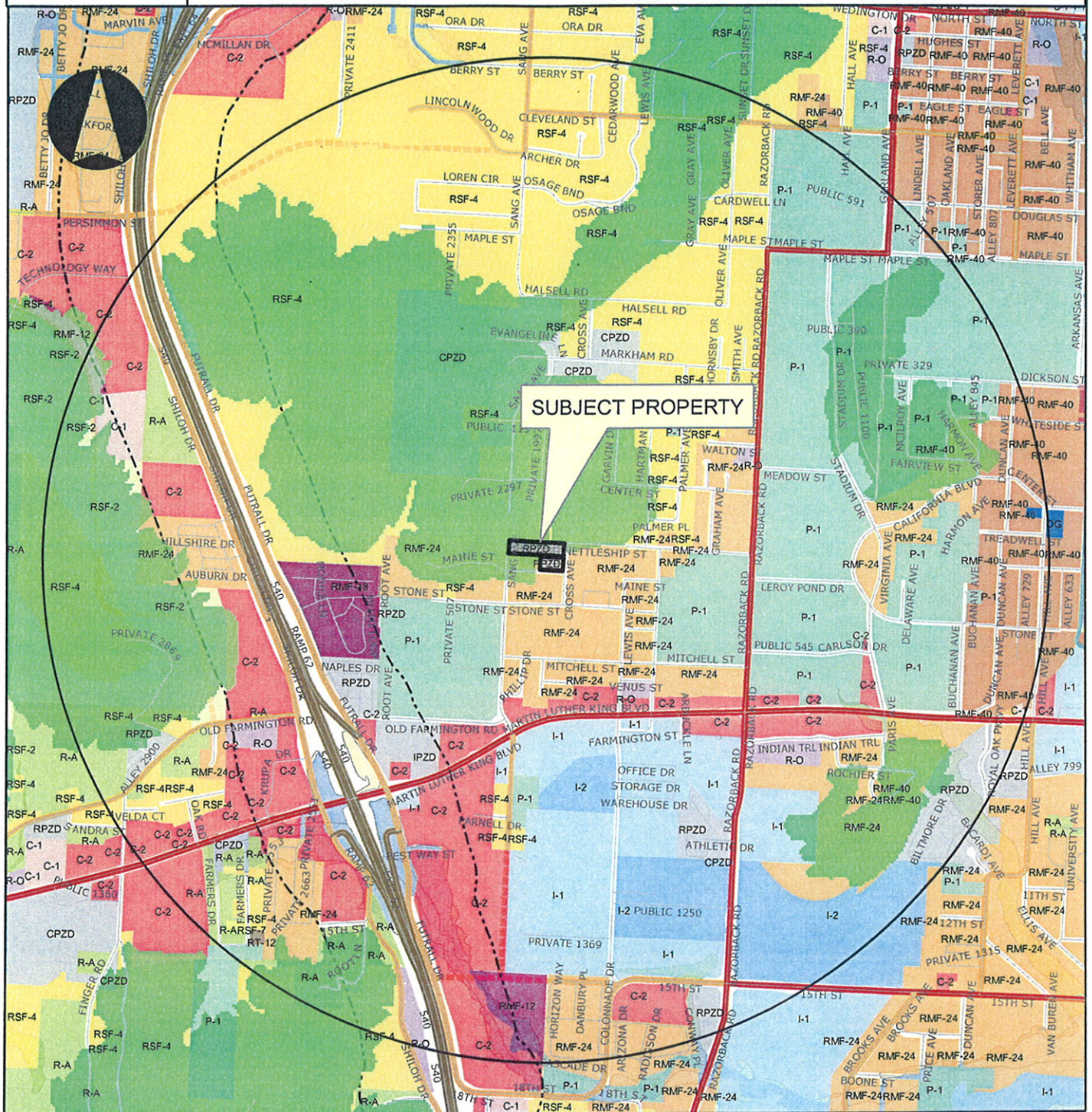
Overview



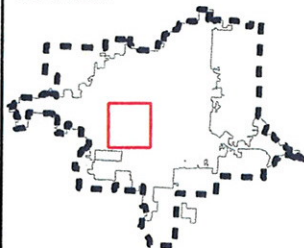
RPZD09-3237

MARKHAM HILL COTTAGE COURTS

One Mile View



Overview



Legend

Subject Property

RPZD09-3237

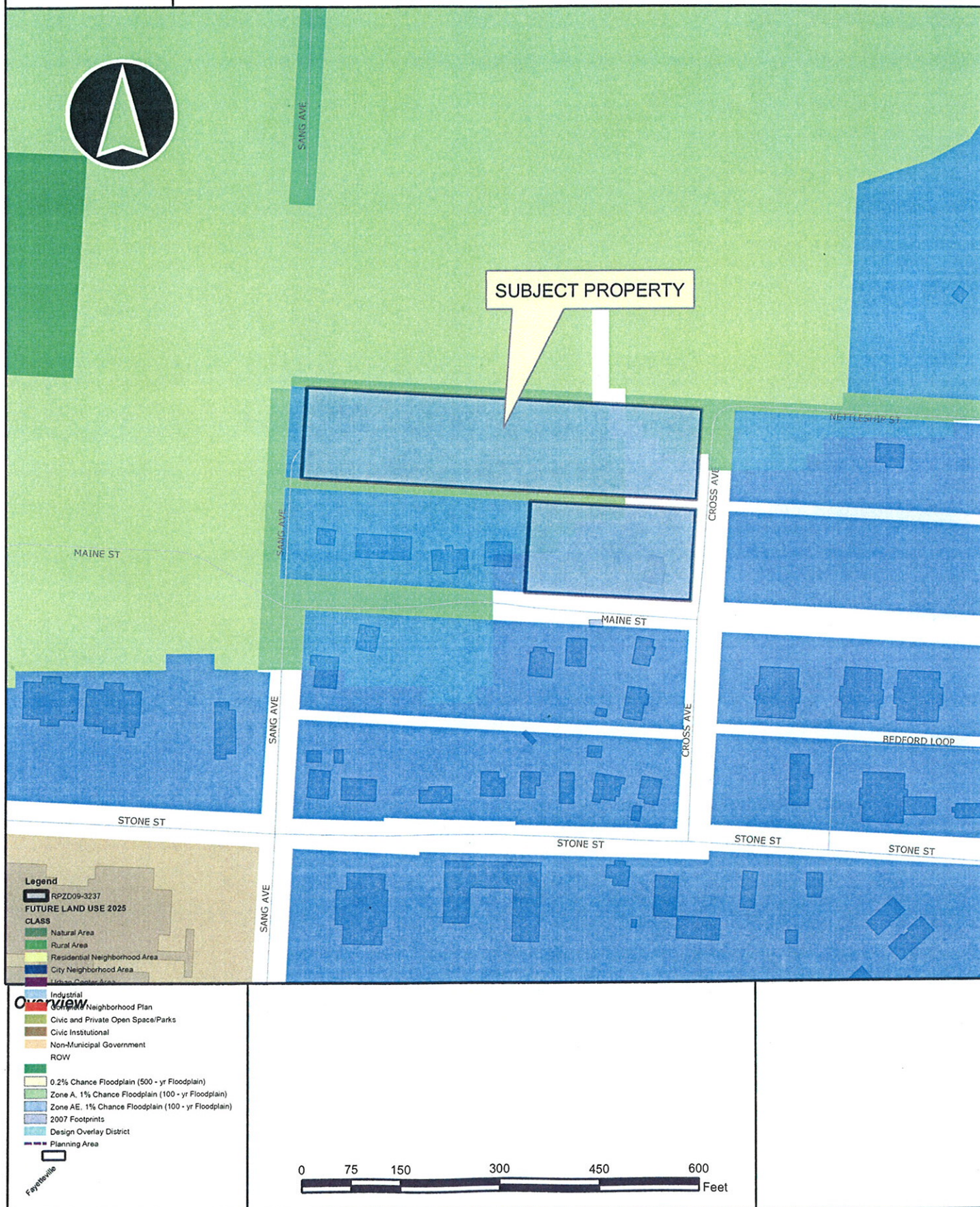
Boundary

0 0.25 0.5 1 Miles

RPZD09-3237

MARKHAM HILL COTTAGE COURTS

Future Land Use



City of Fayetteville Staff Review Form

C. 6
 VAC 09-3181
 (Elsass/619 Rockcliff Road)
 Page 1 of 28

City Council Agenda Items
 and
 Contracts, Leases or Agreements

7/21/2009

City Council Meeting Date
 Agenda Items Only

Jesse Fulcher

Planning

Development Services

Submitted By

Division

Department

Action Required:

09 619
 VAC 08-3181: (ELSASS / 619 ROCKCLIFF ROAD, 449): Submitted by KIRK ELSASS for property located at 619 N. ROCKCLIFF ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.27 acres. The request is to vacate a drainage easement on the subject 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 ☐

Jesse C. Fulcher
 Department Director

06-25-09
 Date

Previous Ordinance or Resolution #

Kirk Elsass
 City Attorney

6-26-09
 Date

Original Contract Date:

Original Contract Number:

Paul A. Beech
 Finance and Internal Services Director

6-29-09
 Date

Received in City
 Clerk's Office



Don Man
 Chief of Staff

6/29/09
 Date

Received in
 Mayor's Office



Frederick Jordan
 Mayor

6/29/09
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Director of Development Services

From: Jesse Fulcher, Current Planner

Date: June 24, 2009

Subject: Vacation for Elsass/Rockcliff Road (VAC 09-3181)

RECOMMENDATION

Staff and the Planning Commission recommend approval of vacating an existing drainage easement on the subject property.

BACKGROUND

The subject properties are located at 619 and 621 Rockcliff Road and zoned RSF-4. The properties were platted as part of Hyland Park Phase I (Lot 16) and Phase V (Lot 1). Lot 16 has been previously developed with a single-family home; however, Lot 1 is encumbered by several existing drainage and utility easements.

In an effort to create sufficient area for a new single-family home on Lot 1, that applicant is proposing to adjust the property line between the two lots, relocate a telephone and sewer service line, vacate several drainage and utility easements and dedicate new easements as necessary.

The applicant's request is to vacate the existing drainage easement and to plat a drainage easement over the true location of the drainage path.

DISCUSSION

This item was heard at the regular Planning Commission meeting on June 22, 2009. The Planning Commission voted 7-0-1 to forward this rezoning request to the City Council with a recommendation of approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 09-3181 SUBMITTED
BY KIRK ELSASS FOR PROPERTY LOCATED AT 619
NORTH ROCKCLIFF ROAD TO VACATE APPROXIMATELY
3,206 SQUARE FEET OF DRAINAGE EASEMENT ON THE
SUBJECT PROPERTY

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 3,206.3 square foot portion of the platted drainage 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 3,206 square feet of drainage easement as described in Exhibit B (attached).

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

Section 3: That this vacation approval is subject to the Conditions of Approval as follows, and shall not be in effect until all conditions are met.

1. The applicant shall submit a revised grading plan indicating the existing natural drainage channel shall remain undisturbed except to allow for the installation of the sewer service line. Silt fencing and/or tree preservation fencing shall be installed and inspected by City staff prior to any land disturbance.
2. A new 20' drainage easement shall be dedicated prior to building permit approval.
3. Any relocation of existing utilities shall be at the owner/developer's expense.

Page 2
Ord.

PASSED and **APPROVED** this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

2	S66°36'29"E	76.07'
4	N58°01'23"W	17.47'
5	N01°51'18"E	2.54'
5	N32°23'47"W	147.42'
7	S32°23'47"E	147.55'

VAC 08-3181

765-06726-000
DALE & SUZAN BUCHANAN
624 N. ROCKCLIFF ROAD
FAYETTEVILLE, AR. 72701
ZONING: RSF-4

765-96728-000
KEE, LLC
1200 V/A 00993481
FAYETTEVILLE, AR. 72703
ZONING (E-655/619 Rockcliff Road)
Page 5 of 28

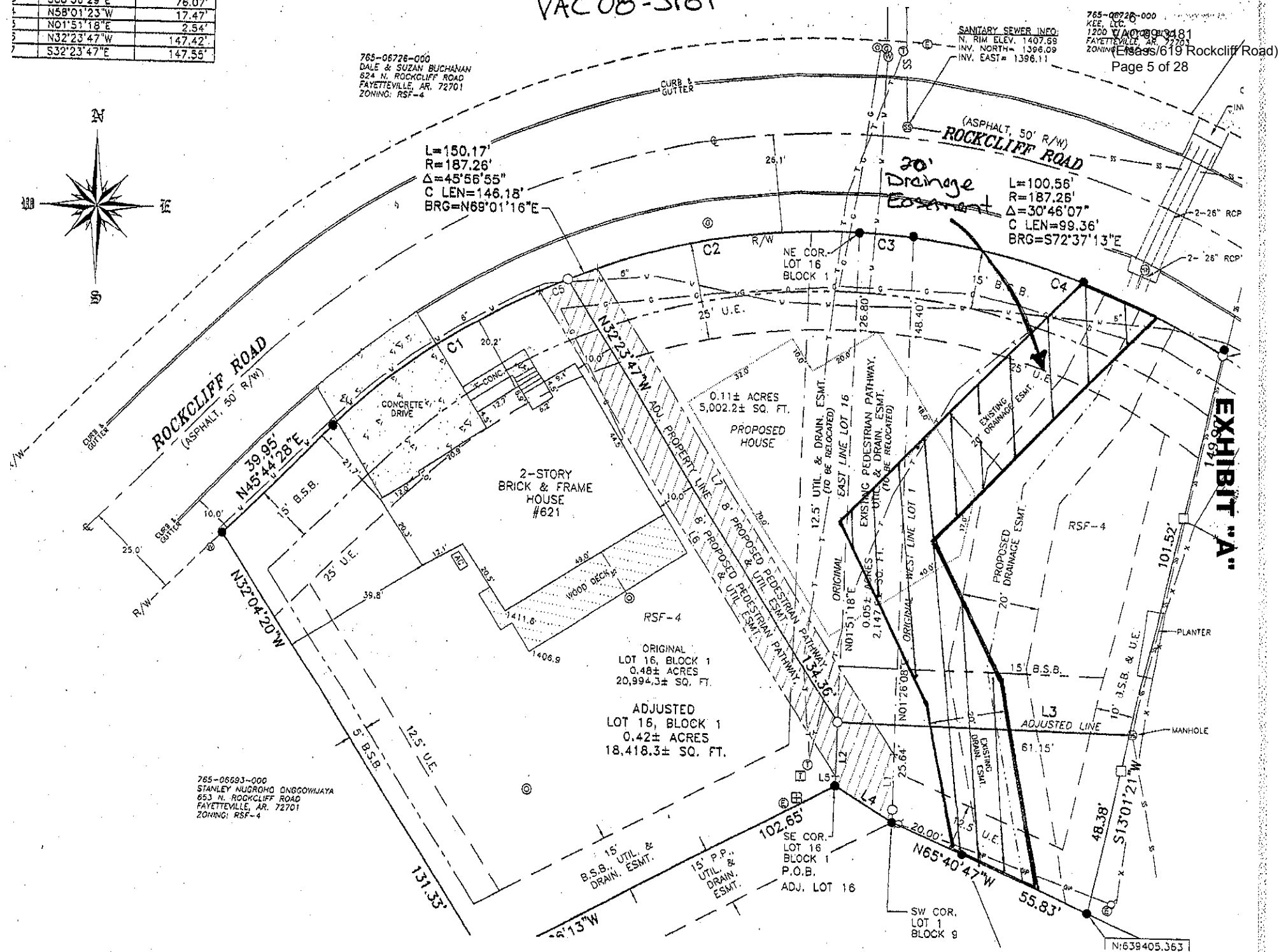
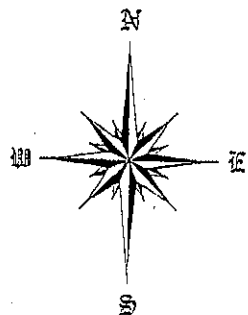


EXHIBIT A

EXHIBIT "B"
VAC 09-3181

20' DRAINAGE EASEMENT TO BE VACATED - LOT 1 A TWENTY (20) FOOT WIDE DRAINAGE EASEMENT, SAID EASEMENT BEING SHOWN ON LOT NUMBERED ONE (1), BLOCK NUMBERED NINE (9) OF THE REPLAT OF BLOCKS EIGHT (8) AND NINE (9) OF HYLAND PARK, PHASE FIVE (5), TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID SUBDIVISION FILED IN PLAT BOOK 9 AT PAGE 87 IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT ONE (1), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N65°40'47"W 14.30 FEET ALONG THE SOUTH LINE OF SAID LOT ONE (1) TO A POINT ON THE EAST LINE OF SAID EASEMENT FOR THE TRUE POINT OF BEGINNING; THENCE N65°40'47"W 24.29 FEET TO A POINT ON THE WEST LINE OF SAID EASEMENT; THENCE N09°55'08"W 39.51 FEET ALONG THE WEST LINE OF SAID EASEMENT TO A POINT; THENCE N26°31'15"W 17.46 FEET ALONG THE WEST LINE OF SAID EASEMENT TO A POINT ON THE WEST BOUNDARY OF SAID LOT ONE (1); THENCE N01°26'08"E 47.52 FEET ALONG THE WEST LINE OF SAID LOT ONE (1) TO A POINT; THENCE LEAVING THE WEST LINE OF SAID LOT ONE (1), N44°30'22"E 65.06 FEET ALONG THE WEST LINE OF SAID EASEMENT TO A POINT ON THE NORTH LINE OF SAID LOT ONE (1), SAID POINT BEING ON A 187.26 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE SOUTHEASTERLY 21.44 FEET ALONG SAID CURVE, THE CHORD FOR WHICH BEING S66°30'51"E 21.43 FEET TO A POINT ON THE EAST LINE OF SAID EASEMENT; THENCE LEAVING THE NORTH LINE OF SAID LOT ONE (1), S44°30'22"W 82.04 FEET ALONG THE EAST LINE OF SAID EASEMENT TO A POINT; THENCE S26°31'15"E 40.43 FEET ALONG THE EAST LINE OF SAID EASEMENT TO A POINT; THENCE S09°55'08"E 56.04 FEET TO THE POINT OF BEGINNING.



PC Meeting of June 22, 2009

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
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Development Services Director
DATE: June 10, 2009

VAC 08-3181: (KIRK ELSASS / ROCKCLIFF RD.): Submitted by KIRK ELSASS for property located at 619 N. ROCKCLIFF ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.08 acres. The request is to vacate a drainage easement on the subject property.

Planner: Jesse Fulcher

Findings:

Property Description: The subject properties are located at 619 and 621 Rockcliff Road and zoned RSF-4. The properties were platted as part of Hyland Park Phase I (Lot 16) and Phase V (Lot 1). Lot 16 has been previously developed with a single-family home; however, Lot 1 is encumbered by several existing drainage and utility easements. Additionally, an existing drainage channel is located outside of the existing drainage easements. In an effort to create sufficient area for a new single-family home on Lot 1, that applicant is proposing to adjust the property line between the two lots, relocate a telephone and sewer service line, vacate several drainage and utility easements and dedicate new easements as necessary.

Request: The applicant's request is to vacate the existing drainage easement and to plat a drainage easement over the true location of the drainage path.

The applicant originally proposed to pipe and fill the existing drainage way; however, staff recommended a different approach due to the amount of grading and tree removal that would have been necessary for this option.

The applicant has submitted the required 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	Not applicable.
Arkansas Western Gas	No Objections.
Southwestern Bell Telephone	No Objections. Relocation of any

existing facilities shall be at the owner/developers expense.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections.

Transportation

No Objections.

Solid Waste

No Objections.

Engineering

No Objections. Dedication of a new 20' drainage easement over the current drainage path shall occur prior to building permit approval. Additionally, not grading shall occur within the existing drainage channel.

Public Comment: The adjacent property owners have indicated no objections to the proposed drainage easement vacation; however, a resident of the subdivision has objected to the proposal to reconstruct the existing drainage corridor.

Recommendation: Based on a 1973 drainage plan that was produced for the Hyland Park development, it appears that the drainage through Lot 1, and the surrounding area, has changed very little in the past 35 years. With the exception of storm pipes that were installed to allow water to flow under the streets, the natural drainage paths have been preserved. If the drainage easement was incorrectly platted, or if the drainage path has shifted since the easement was dedicated, then the existing easement should be vacated and reestablished in the correct location. However, staff does not support a plan that will fill in the existing drainage channel, or remove much of the existing canopy. The applicant has resubmitted the proposal indicating that a home can be constructed on the property without disturbing the existing drainage channel. Therefore, staff recommends forwarding (VAC 08-3181) the request to the City Council with a recommendation of approval with the following conditions:

Conditions of Approval:

1. The applicant shall submit a revised grading plan indicating the existing natural drainage channel shall remain undisturbed except to allow for the installation of the sewer service line. Silt fencing and/or tree preservation fencing shall be installed and inspected by City staff prior to any land disturbance.
2. A new 20' drainage easement shall be dedicated prior to building permit approval.
3. Any relocation of existing utilities shall be at the owner/developer's expense.

CITY COUNCIL ACTION: Required PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☐ Forwarded ☐ Denied ☐ Tabled

Date: June 22, 2009

Motion:

Second:

Vote:

DRAINAGE EASEMENT VACATION PETITION

C. 6
VAC 09-3181
(Elsass/619 Rockcliff Road)
Page 9 of 28

PETITION TO VACATE A DRAINAGE EASEMENT LOCATED IN LOT 1, BLOCK 9, HYDE PARK PHASE 5, 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 drainage easement hereinafter sought to be abandoned and vacated, lying in Lot 1, Block 9, Hyde Park Phase 5, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a drainage easement which is described as follows:

EXISTING DRAINAGE EASEMENT (TO BE VACATED)

A PART OF LOT 1, BLOCK 9, HYLAND PARK PHASE 5 SUBDIVISION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF SAID LOT 1, SAID CORNER BEING ON THE SOUTH RIGHT OF WAY LINE OF ROCKCLIFF ROAD, THENCE ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE RIGHT 46.00 FEET, SAID CURVE HAVING A RADIUS OF 187.26 FEET, A CHORD BEARING OF S81°54'44"E, AND A CHORD LENGTH OF 45.89 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE RIGHT 21.31 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE S38°27'22"W 82.23 FEET; THENCE S32°34'14"E 40.43 FEET; THENCE S15°58'07"E 63.18 FEET TO A POINT ON THE SOUTH PROPERTY LINE OF SAID LOT 1; THENCE ALONG SAID PROPERTY LINE N65°40'47"W 26.22 FEET; THENCE LEAVING SAID PROPERTY LINE N15°58'07"W 43.31 FEET; THENCE N32°34'14"W 20.42 FEET TO A POINT ON THE WEST PROPERTY LINE OF SAID LOT 1; THENCE ALONG SAID WEST PROPERTY LINE N03°48'36"W 44.09 FEET; THENCE LEAVING SAID WEST PROPERTY LINE N38°27'22"E 66.76 FEET TO THE POINT OF BEGINNING, CONTAINING 0.08 ACRES, MORE OR LESS.

That the abutting real estate affected by said abandonment of the drainage easement in the 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, *right* described drainage 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 29 day of August, 2008.

Printed Name

Kirk Elsass

Signature

[Handwritten Signature]

Printed Name

Signature

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

DATE: 8/27/08

UTILITY COMPANY: OZARKS ELECTRIC

APPLICANT NAME: KIRK ELSASS APPLICANT PHONE: WORK-(479) 521-4883
REQUESTED VACATION (applicant must check all that apply): 841-4321
KIRK ELSASS@AOL.COM

- ☒ Utility Easement (DRAINAGE)
- ☐ 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**)

**** 619 N. ROCKCLIFF ROAD, FAYETTEVILLE, AR 72701**

(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.)

THIS IS NOT IN OZARKS SERVICE AREA
PLEASE CONTACT AEP/SWEPCO

- ☐ No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative
Lead Staking Tech
Title

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

DATE: 8/27/08

UTILITY COMPANY: Cox Communications

APPLICANT NAME: KIRK ELSASS APPLICANT PHONE: WORK-(479) 574-2222
REQUESTED VACATION (applicant must check all that apply): 841-4321
Kirk.Elsass@AOL.com

- ☒ Utility Easement (DRAINAGE)
- ☐ 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**)

**** 619 N. ROCKCLIFF ROAD, FAYETTEVILLE, AR 72701**

(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]
Signature of Utility Company Representative

Field Engineer
Title

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

DATE: 8/27/08

UTILITY COMPANY: AEP/SWEPCO

APPLICANT NAME: KIRK ELSASS APPLICANT PHONE: WORK-(479) 521-1813
REQUESTED VACATION (applicant must check all that apply): 841-4321

- ☒ Utility Easement (DRAINAGE) KIRK ELSASS @ AOL.COM
- ☐ 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**)

**** 619 N. ROCKCLIFF ROAD, FAYETTEVILLE, AR 72701**

(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:

Sammy Winkler
Signature of Utility Company Representative

R/W AGENT
Title

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

DATE: 8/27/08

UTILITY COMPANY: ARKANSAS WESTERN GAS

APPLICANT NAME: KIRK ELSASS APPLICANT PHONE: 800K-(411) 543-0833

REQUESTED VACATION (applicant must check all that apply):

☒ Utility Easement (DRAINAGE)

891-4321
Kirk.Elsass@AGL.com

☐ 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**)

** 619 N. ROCKCLIFF ROAD, FAYETTEVILLE, AR 72701

(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]
Signature of Utility Company Representative

Assistant Operations Manager
Title

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

C. 6
VAC 09-3181
(Elsass/619 Rockcliff Road)
Page 14 of 28

DATE: 9/26/08

UTILITY COMPANY: SWB/Sue Clouser

APPLICANT NAME: KIRK ELASS

APPLICANT PHONE: 602K-(474) 541-1321

REQUESTED VACATION (applicant must check all that apply):

☒ Utility Easement (DRAINAGE)

KIRKELASS@aol.com

☐ 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**)

** 619 N. ROCKCLIFF ROAD, FAYETTEVILLE, AR 72701

(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 EXISTING FACILITIES WILL BE AT THE OWNER OR DEVELOPER'S EXPENSE

Sue K. Clouser
Signature of Utility Company Representative

OSP DESIGN ENG. AT&T
Title

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

DATE: 8/27/08

UTILITY COMPANY: Fayetteville City Water & Sewer

APPLICANT NAME: KIRK ELASS APPLICANT PHONE: WORK- (419) 544-4321
REQUESTED VACATION (*applicant must check all that apply*):

☒ Utility Easement (DRAINAGE)

KIRK ELASS @ AOL.COM

☐ 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**)

**** 619 N. ROCKCLIFF ROAD, FAYETTEVILLE, AR 72701**

(*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]
Signature of Utility Company Representative

W & S OPS Mgr
Title

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

DATE: 8/27/08

UTILITY COMPANY: Fayetteville City Transportation

APPLICANT NAME: KIRK ELSASS

APPLICANT PHONE: 501-479-5713

REQUESTED VACATION (applicant must check all that apply):

☒ Utility Easement (DRAINAGE)

Kirk.Elsass@AOL.com

891-4321

☐ 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**)

**** 619 N. ROCKCLIFF ROAD, FAYETTEVILLE, AR 72701**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

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

☐ No objections provided the following conditions are met:


Signature of Utility Company Representative

ASSISTANT TRANSPORTATION MANAGER
Title

FROM LINDSEY ASSOCIATES

(THU) SEP 18 2008

14:32/No: 682578648 P. 2

(Elsass/619 Rockcliff Road)
Page 17 of 28FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE:

8/27/08

UTILITY COMPANY:

Fayetteville City Solid Waste

APPLICANT NAME: KIRK ELASS

APPLICANT PHONE: 606-479-5433

REQUESTED VACATION (applicant must check all that apply):

Kirk ELASS@AOL.com

☒ Utility Easement (DRAINAGE)☐ 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**)

** 619 N. ROCKCLIFF ROAD, FAYETTEVILLE, AR 72701

(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

Title

DALE B. + SUZAN B. BUCHANAN

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY, ALLEY, AND
EASEMENT VACATION REQUESTS

Date: 8/28/08
Address / location of vacation: 619 N ROCKCLIFF ROAD LOT 1, BLOCK 9
Adjacent property address: 624 N. ROCKCLIFF ROAD
Lot: ☐ Block: ☐ Subdivision: ☐

REQUESTED VACATION:

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

(Include legal description and graphic representation of what is being vacated)

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

Dale B Buchanan Suzan B. Buchanan
Name of Adjacent Property Owner (printed)
Dale B Buchanan Suzan B. Buchanan
Signature of Adjacent Property Owner
Kirk Elsass 479-841-4321 C211
Applicant Name

CHEN PING WANG + L. J. Lu

ADJACENT PROPERTY OWNER NOTIFICATION FORM

**FOR RIGHT- OF- WAY, ALLEY, AND
EASEMENT VACATION REQUESTS**

Date: 8/28/08

Address / location of vacation: 619 N ROCKCLIFF ROAD LOT 1, BLOCK 9

Adjacent property address: 2702 E. WOODCLIFF ROAD

Lot: ☐ Block: ☐ Subdivision: ☐ _____

REQUESTED VACATION:

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

(Include legal description and graphic representation of what is being vacated)

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

Kelvin C.P. Wang
Name of Adjacent Property Owner (*printed*)

[Signature] 10-1-08
Signature of Adjacent Property Owner

KIRK ELSASS 479-841-4321
Applicant Name

JANET A. FLACCUS
BRUCE L. DIXON

ADJACENT PROPERTY OWNER NOTIFICATION FORM

**FOR RIGHT- OF- WAY, ALLEY, AND
EASEMENT VACATION REQUESTS**

Date: 8/28/08

Address / location of vacation: 619 N ROCKCLIFF ROAD LOT 1, BLOCK 9

Adjacent property address: 618 N ROCKCLIFF ROAD

Lot: ☐ Block: ☐ Subdivision: ☐ _____

REQUESTED VACATION:

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

(Include legal description and graphic representation of what is being vacated)

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

Bruce Dixon Janet Flaccus
Name of Adjacent Property Owner (printed)

[Signature]
Signature of Adjacent Property Owner

KIRK ELASS
Applicant Name

PATRICK N. + DIANNE I. MCGEE

ADJACENT PROPERTY OWNER NOTIFICATION FORM

**FOR RIGHT-OF-WAY, ALLEY, AND
EASEMENT VACATION REQUESTS**

Date: 8/28/08

Address / location of vacation: 619 N ROCKCLIFF ROAD LOT 1, BLOCK 9

Adjacent property address: 2704 E. WOODCLIFF RD.

Lot: ☐ Block: ☐ Subdivision: ☐ _____

REQUESTED VACATION:

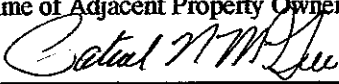
I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

(Include legal description and graphic representation of what is being vacated)

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

PATRICK N. McGee
Name of Adjacent Property Owner (printed)


Signature of Adjacent Property Owner

KIRK ELSASS 479-841-4321 Cell
Applicant Name

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT- OF- WAY, ALLEY, AND EASEMENT VACATION REQUESTS

Date: 9/26/8

Address / location of vacation: 619 N ROCKCLIFF ROAD LOT 1, BLOCK 9

Adjacent property address: ~~624 N. ROCKCLIFF ROAD~~ 617 N. Rockcliff Rd

Lot: ☐ Block: ☐ Subdivision: ☐ _____

REQUESTED VACATION:

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

(Include legal description and graphic representation of what is being vacated)

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

Karen McIndosh
Name of Adjacent Property Owner (*printed*)

Matt McIndosh
Signature of Adjacent Property Owner

KIRK ELSSASS 479-841-4321
Applicant Name

McKEEHAN ENGINEERING, INC.

213 WEST MONROE, SUITE F
LOWELL, ARKANSAS 72745
(479) 770-0121
FAX (479) 770-6207

C. 6
VAC 09-3181
(Elsass/619 Rockcliff Road)
Page 23 of 28

August 27, 2008

Cindy Monreal
City of Fayetteville
125 West Mountain
Fayetteville, Arkansas 72701

RE:

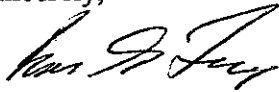
**Drainage Easement Vacation
Hyland Park Phase 5, Block 9, Lot 1
619 Rivercliff Road
Fayetteville, Arkansas**

Dear Ms. Monreal:

We respectfully submit the following Drainage Easement Vacation Request for the existing drainage easement located on Hyland Park Phase 5, Block 9, Lot 1. The outlet flow from the existing flow from the crossing pipes across Rockcliff Road has created a washed out channel that deviates from the originally platted drainage easement on the west side of Lot 1. We will be submitting a Vacation Application for the existing drainage easement, and we will be dedicating a new drainage easement that will follow our proposed storm drain pipe.

Please feel free to call me if you have any questions.

Sincerely,



Kevin Fox

Copy: File, 08-014 Hyland Park Block 9, Lot 1

EXISTING DRAINAGE EASEMENT (TO BE VACATED)

A PART OF LOT 1, BLOCK 9, HYLAND PARK PHASE 5 SUBDIVISION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF SAID LOT 1, SAID CORNER BEING ON THE SOUTH RIGHT OF WAY LINE OF ROCKCLIFF ROAD, THENCE ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE RIGHT 46.00 FEET, SAID CURVE HAVING A RADIUS OF 187.26 FEET, A CHORD BEARING OF S81°54'44"E, AND A CHORD LENGTH OF 45.89 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE RIGHT 21.31 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE S38°27'22"W 82.23 FEET; THENCE S32°34'14"E 40.43 FEET; THENCE S15°58'07"E 63.18 FEET TO A POINT ON THE SOUTH PROPERTY LINE OF SAID LOT 1; THENCE ALONG SAID PROPERTY LINE N65°40'47"W 26.22 FEET; THENCE LEAVING SAID PROPERTY LINE N15°58'07"W 43.31 FEET; THENCE N32°34'14"W 20.42 FEET TO A POINT ON THE WEST PROPERTY LINE OF SAID LOT 1; THENCE ALONG SAID WEST PROPERTY LINE N03°48'36"W 44.09 FEET; THENCE LEAVING SAID WEST PROPERTY LINE N38°27'22"E 66.76 FEET TO THE POINT OF BEGINNING, CONTAINING 0.08 ACRES, MORE OR LESS.

PROPOSED DRAINAGE EASEMENT (TO BE DEDICATED)

A PART OF LOT 1, BLOCK 9, HYLAND PARK PHASE 5 SUBDIVISION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NE CORNER OF SAID LOT 1, SAID CORNER BEING ON THE SOUTH RIGHT OF WAY LINE OF ROCKCLIFF ROAD, THENCE ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE LEFT 17.12 FEET, SAID CURVE HAVING A RADIUS OF 187.26 FEET, TO THE TRUE POINT OF BEGINNING;

THENCE S04°27'39"W 95.83 FEET; THENCE S44°31'04"W 39.22 FEET; THENCE S15°58'07"E 30.33 FEET TO THE SOUTH PROPERTY LINE OF SAID LOT 1; THENCE ALONG SAID PROPERTY LINE N65°40'47"W 26.22 FEET; THENCE LEAVING SAID PROPERTY LINE N15°58'07"W 19.29 FEET; THENCE N44°31'04"E 48.24 FEET; THENCE N04°27'39"E 95.72 FEET TO THE SOUTH RIGHT OF WAY LINE OF ROCKCLIFF ROAD; THENCE ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE RIGHT 15.93 FEET, SAID CURVE HAVING A RADIUS OF 187.26 FEET, TO THE POINT OF BEGINNING, CONTAINING 0.06 ACRES, MORE OR LESS.

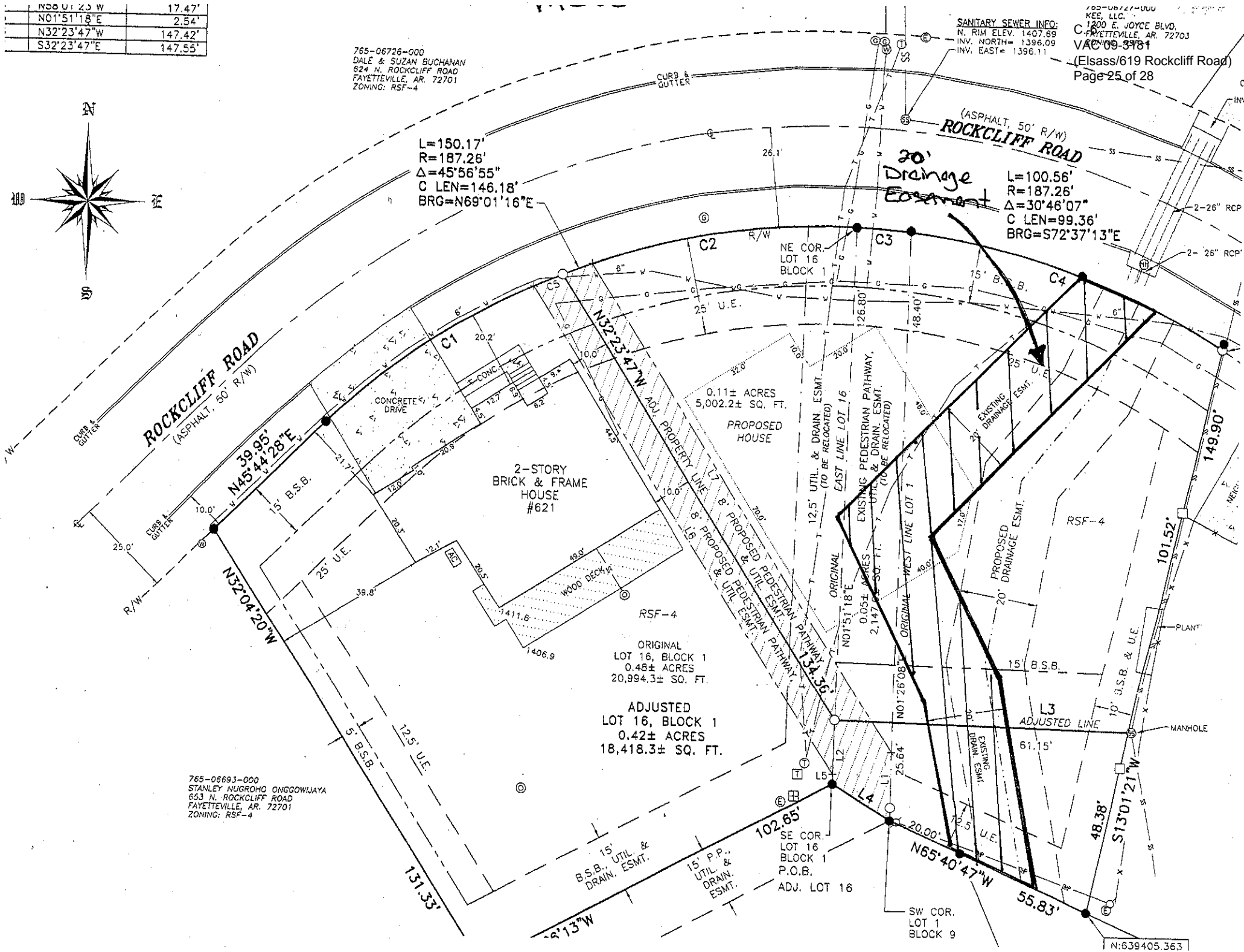
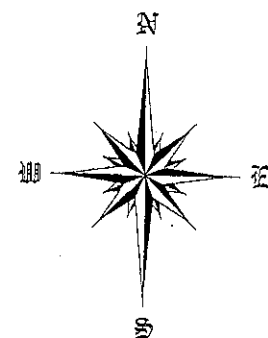
N00°01'23"W	17.47'
N01°51'18"E	2.54'
N32°23'47"W	147.42'
S32°23'47"E	147.55'

765-06726-000
DALE & SUZAN BUCHANAN
624 N. ROCKCLIFF ROAD
FAYETTEVILLE, AR. 72701
ZONING: RSF-4

SANITARY SEWER INFO:
N. RIM ELEV. 1407.69
INV. NORTH = 1396.09
INV. EAST = 1396.11

765-06727-000
KEE, LLC.
1200 E. JOYCE BLVD.
FAYETTEVILLE, AR. 72703
VAC 09-3781

(Elsass/619 Rockcliff Road)
Page 25 of 28



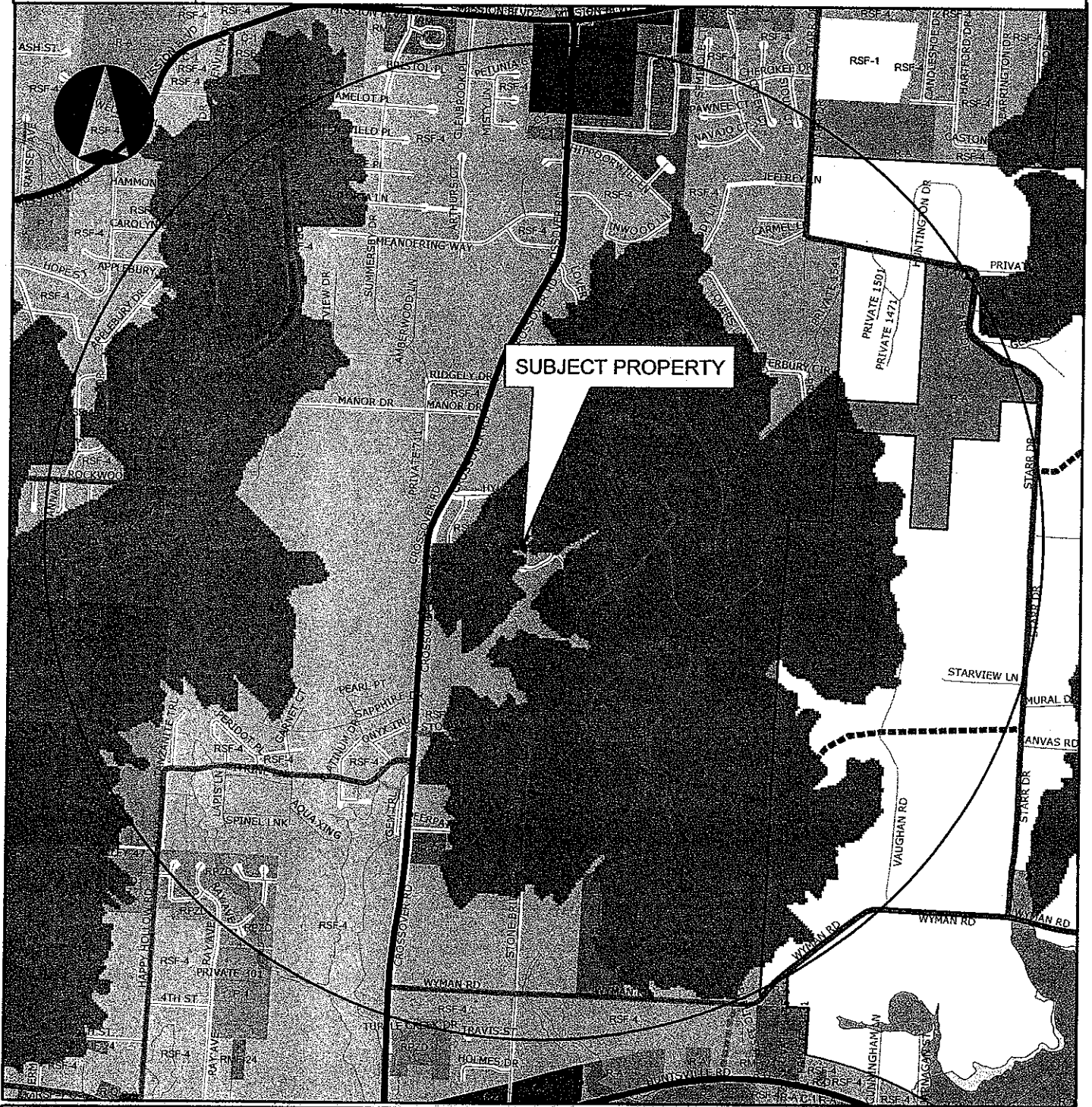
765-06693-000
STANLEY NUGROHO ONGGOWIJAYA
653 N. ROCKCLIFF ROAD
FAYETTEVILLE, AR. 72701
ZONING: RSF-4

N:639405.363

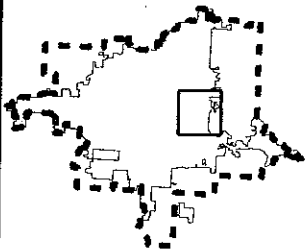
VAC08-3181

ELSASS/ 621 ROCKCLIFF

One Mile View



Overview



Legend

Subject Property

VAC08-3181

Boundary

0 0.25 0.5 1 Miles

City of Fayetteville Staff Review Form

C. 7
 VAC 09-3320
 (Elsass/621 Rockcliff Road)
 Page 1 of 28

City Council Agenda Items
 and
 Contracts, Leases or Agreements

7/21/2009

City Council Meeting Date
 Agenda Items Only

Jesse Fulcher
 Submitted By

Planning
 Division

Development Services
 Department

Action Required:

VAC 09-3320: (ELSASS / 621 ROCKCLIFF ROAD, 449): Submitted by ALAN REID for property located at 621 ROCKCLIFF ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.71 acres. The request is to vacate two utility and drainage easements on the subject 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 ☐

Jesse Fulcher
 Department Director

6-25-09
 Date

Previous Ordinance or Resolution #

Alan Reid
 City Attorney

6-26-09
 Date

Original Contract Date:

Original Contract Number:

Paul A. Becher
 Finance and Internal Services Director

6-29-09
 Date

Received in City
 Clerk's Office



Don Man
 Chief of Staff

6-29-09
 Date

Received in
 Mayor's Office



David Jones
 Mayor

6/29/09
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Director of Development Services

From: Jesse Fulcher, Current Planner

Date: June 24, 2009

Subject: Vacation for Elsass/621 Rockcliff Road (VAC 09-3320)

RECOMMENDATION

Staff and the Planning Commission recommend approval of vacating an existing utility and drainage easement and a utility, drainage and pedestrian easement on the subject property.

BACKGROUND

The subject properties are located at 619 and 621 Rockcliff Road and zoned RSF-4. The properties were platted as part of Hyland Park Phase I (Lot 16) and Phase V (Lot 1). Lot 16 has been previously developed with a single-family home; however, Lot 1 is encumbered by several existing drainage and utility easements.

In an effort to create sufficient area for a new single-family home on Lot 1, that applicant is proposing to adjust the property line between the two lots, relocate a telephone and sewer service line, vacate several drainage and utility easements and dedicate new easements as necessary.

DISCUSSION

This item was heard at the regular Planning Commission meeting on June 22, 2009. The Planning Commission voted 7-0-1 to forward this rezoning request to the City Council with a recommendation of approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 09-3320 SUBMITTED BY ALAN REID FOR PROPERTY LOCATED AT 621 ROCKCLIFF ROAD TO VACATE A 12.5' UTILITY AND DRAINAGE EASEMENT AND A 15' UTILITY, DRAINAGE, AND PEDESTRIAN EASEMENT CONTAINING A TOTAL OF 3,794 SQUARE FEET

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 3,794 square foot portion of the platted utility, drainage, and pedestrian easements are not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the 3,794 square feet of the utility, drainage, and pedestrian easements as described in Exhibit B (attached).

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

Section 3: That this vacation approval is subject to the Conditions of Approval as follows, and shall not be in effect until all conditions are met.

1. As indicated on the attached survey, the applicant shall dedicate a new 16' wide utility and pedestrian easement, centered on the property line between Lots 1 and 16.
2. All existing utility lines with the easement being vacated shall be relocated to new easements at the owner/developer's expense.
3. A building permit for 619 Rockcliff (Lot 1) shall not be issued until the existing sewer service line for 621 Rockcliff has been relocated.
4. The associated property line adjustment shall be filed of record prior to installing the new sewer service line for 621 Rockcliff.

Page 2
Ord.

PASSED and **APPROVED** this day of , 2009.

APPROVED:

ATTEST:

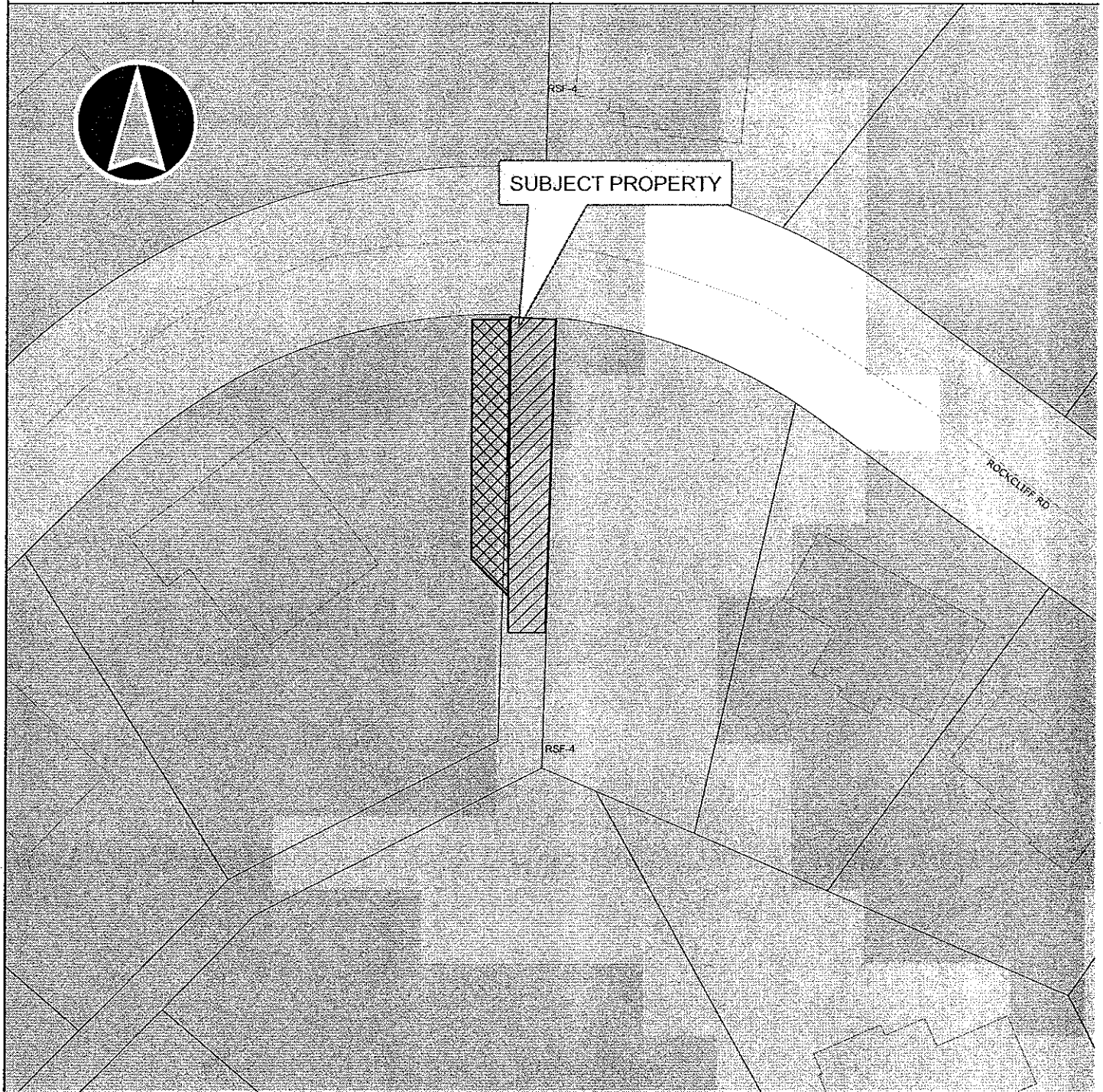
By: _____
LIONELD JORDAN, Mayor

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

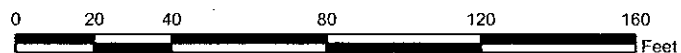
VAC09-3320

EXHIBIT "A"

Close Up View



Overview



- Legend**
- xxxWash Co Parcels (Fayetteville)
 - 0.2% Chance Floodplain (500 - yr Floodplain)
 - Zone A, 1% Chance Floodplain (100 - yr Floodplain)
 - Zone AE, 1% Chance Floodplain (100 - yr Floodplain)
 - 2007 Footprints
 - Design Overlay District
 - Planning Area
 - Fayetteville

EXHIBIT "B"
VAC 09-3320

15' PEDESTIRIAN PATHWAY AND UTILITY AND DRAINAGE EASEMENT TO BE VACATED

A PART OF BLOCK NUMBERED NINE (9) OF THE REPLAT OF BLOCKS EIGHT (8) AND NINE (9) OF HYLAND PARK, PHASE FIVE (5), TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID SUBDIVISION FILED IN PLAT BOOK 9 AT PAGE 87 IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF LOT NUMBERED ONE (1) OF SAID BLOCK NINE (9), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N58°01'23"W 17.47 FEET TO AN EXISTING IRON REBAR AT THE SOUTHEAST CORNER OF LOT SIXTEEN (16) OF BLOCK ONE (1) OF HYLAND PARK, PHASE ONE (1), SAID POINT BEING ON THE WEST BOUNDARY OF A FIFTEEN (15) FOOT WIDE PEDESTRIAN PATHWAY; THENCE N01°51'18"E 143.55 FEET ALONG THE WEST LINE OF SAID PATHWAY TO AN EXISTING IRON REBAR ON THE NORTH LINE OF SAID BLOCK NINE (9), SAID POINT BEING THE SOUTH RIGHT-OF-WAY LINE OF ROCKCLIFF ROAD AND ALSO BEING ON A 187.26 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE SOUTHEASTERLY 14.01 FEET ALONG SAID RIGHT-OF-WAY LINE AND CURVE, THE CHORD FOR WHICH BEING S85°51'39"E 14.01 FEET, TO AN EXISTING IRON REBAR AT THE NORTHWEST CORNER OF SAID LOT ONE (1); THENCE LEAVING SAID RIGHT-OF-WAY LINE AND CURVE, S01°26'08"W 151.77 FEET TO THE POINT OF BEGINNING, CONTAINING 2147.6 SQUARE FEET, MORE OR LESS.

12.5 FOOT UTILITY EASEMENT TO BE VACATED - LOT 16

A TWELVE AND ONE-HALF (12.5) FOOT WIDE UTILITY AND DRAINAGE EASEMENT, SAID EASEMENT LYING WEST OF AND IMMEDIATELY ADJACENT TO THE EAST BOUNDARY OF LOT NUMBERED SIXTEEN (16), BLOCK NUMBERED ONE (1) OF HYLAND PARK, PHASE ONE (1), TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID SUBDIVISION FILED IN PLAT BOOK 6 AT PAGE 605 IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT SIXTEEN (16), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N01°51'18"E 2.54 FEET ALONG THE EAST LINE OF SAID LOT SIXTEEN (16) TO THE TRUE POINT OF BEGINNING; THENCE N32°23'47"W 22.21 FEET; THENCE N01°51'18"E 122.27 FEET TO A POINT ON THE NORTH LINE OF SAID LOT SIXTEEN (16), SAID POINT BEING ON A 187.26 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE SOUTHEASTERLY 12.51 FEET ALONG SAID CURVE, THE CHORD FOR WHICH BEING S89°55'05"E 12.51 FEET TO AN EXISTING IRON AT THE NORTHEAST CORNER OF SAID LOT SIXTEEN (16); THENCE S01°51'18"W 141.01 FEET TO THE POINT OF BEGINNING.



PC Meeting of June 22, 2009

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
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Development Services Director
DATE: June 10, 2009

VAC 09-3320: (ELSASS / 621 ROCKCLIFF ROAD, 449): Submitted by ALAN REID for property located at 621 ROCKCLIFF ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.06 acres. The request is to vacate a 12.5' wide utility and drainage easement, and to vacate a 15' wide utility, drainage and pedestrian easement on the subject property. Planner: Jesse Fulcher

Findings:

Property Description: The subject properties are located at 619 and 621 Rockcliff Road and zoned RSF-4. The properties were platted as part of Hyland Park Phase I (Lot 16) and Phase V (Lot 1). Lot 16 has been previous developed with a single-family home; however, Lot 1 is encumbered by several existing drainage and utility easements. In an effort to create sufficient area for a new single-family home on Lot 1, that applicant is proposing to adjust the property line between the two lots, relocate a telephone and sewer service line, vacate several drainage and utility easements and dedicate new easements as necessary.

Request: The applicant's request is to vacate the existing 12.5' utility and drainge easement on the east boundary of Lot 16 Phase I and the existing 15' utility, drainage and pedestrian easement on the west boundary of Lot 1 Phase V of Hyland Park.

The applicant has submitted the required 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. Any damage or relocation of existing services shall be at the owner/developers expense.

Southwestern Electric Power Company

Not applicable.

Arkansas Western Gas

No Objections. The existing easement parallel to Rockcliff shall be retained.

Southwestern Bell Telephone

C. 7
VAC 09-3320
(Elsass/619 Rockcliff Road)
Page 8 of 28
No Objections. The existing utility line(s) shall be relocated at the owner/developer's expense, into a newly dedicated easement as indicated on the plat.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections. The existing sewer service line for 621 Rockcliff shall be relocated prior to building permit approval for 619 Rockcliff.

Transportation

No Objections.

Solid Waste

No Objections.

Engineering

No Objections.

Public Comment: Staff has not received any comments regarding the subject vacation requests.

Recommendation: Staff recommends forwarding (VAC 08-3320) the request to the City Council with the following conditions of approval:

Conditions of Approval:

1. As indicated on the attached survey, the applicant shall be dedicate a new 16' wide utility and pedestrian easement, centered on the property line between Lots 1 and 16.
2. All existing utility lines with the easement being vacated shall be relocated to new easements at the owner/developer's expense.
3. A building permit for 619 Rockcliff (Lot 1) shall not be issued until the existing sewer service line for 621 Rockcliff has been relocated.
4. The associated property line adjustment shall be filed of record prior to installing the new sewer service line for 621 Rockcliff.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☐ Forwarded ☐ Denied ☐ Tabled

Date: June 22, 2009

Motion:

Second:

Vote:

PETITION TO VACATE A UTILITY AND DRAINAGE EASEMENT LOCATED IN TO THE 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 utility easement herein
sought to be abandoned and vacated, lying in LOT 16 , BLOCK 1, HYLAND PARK , PHASE 1 , to the City
of Fayetteville, Arkansas, a municipal corporation, petition to vacate a portion of an easement which is
described as follows:

A TWELVE AND ONE-HALF (12.5) FOOT WIDE UTILITY EASEMENT, SAID EASEMENT
LYING WEST OF AND IMMEDIATELY ADJACENT TO THE EAST BOUNDARY OF LOT
NUMBERED SIXTEEN (16), BLOCK NUMBERED ONE (1) OF HYLAND PARK, PHASE
ONE (1), TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID
SUBDIVISION FILED IN PLAT BOOK 6 AT PAGE 605 IN THE OFFICE OF THE CIRCUIT
CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

That the abutting real estate affected by said abandonment of the utility easement is Lot 16 of Block 1
of Hyland Park, Phase 1 and an existing pedestrian pathway, utility, and drainage easement lying East
of said Lot 16, and that the public interest and welfare would not be adversely affected by the
abandonment of the above described portion of the utility easement.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of
Fayetteville, Arkansas, abandon and vacate the above described portion of the utility easement.

Dated this 14 day of MAY, 2009

Kirk ELASS
Printed name

[Signature]
Signature

Printed name

Signature

PETITION TO VACATE A UTILITY AND DRAINAGE EASEMENT LOCATED IN TO THE 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 utility and drainage
easement herein sought to be abandoned and vacated, lying in BLOCK NINE (9) OF THE REPLAT OF
BLOCKS EIGHT (8) AND NINE (9), HYLAND PARK, PHASE 5, to the City of Fayetteville, Arkansas, a
municipal corporation, petition to vacate a portion of an easement which is described as follows:

A PART OF BLOCK NUMBERED NINE (9) OF THE REPLAT OF BLOCKS EIGHT (8) AND NINE (9) OF
HYLAND PARK, PHASE FIVE (5), TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID
SUBDIVISION FILED IN PLAT BOOK 9 AT PAGE 87 IN THE OFFICE OF THE CIRCUIT CLERK AND EX-
OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED
AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF LOT NUMBERED ONE (1) OF SAID
BLOCK NINE (9), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N58°01'23"W 17.47 FEET TO
AN EXISTING IRON REBAR AT THE SOUTHEAST CORNER OF LOT SIXTEEN (16) OF BLOCK ONE (1) OF
HYLAND PARK, PHASE ONE (1), SAID POINT BEING ON THE WEST BOUNDARY OF A FIFTEEN (15) FOOT
WIDE PEDESTRIAN PATHWAY; THENCE N01°51'18"E 143.55 FEET ALONG THE WEST LINE OF SAID
PATHWAY TO AN EXISTING IRON REBAR ON THE NORTH LINE OF SAID BLOCK NINE (9), SAID POINT
BEING THE SOUTH RIGHT-OF-WAY LINE OF ROCKCLIFF ROAD AND ALSO BEING ON A 187.26 FOOT
RADIUS CURVE CONCAVE TO THE SOUTH; THENCE SOUTHEASTERLY 14.01 FEET ALONG SAID RIGHT-
OF-WAY LINE AND CURVE, THE CHORD FOR WHICH BEING S85°51'39"E 14.01 FEET, TO AN
EXISTING IRON REBAR AT THE NORTHWEST CORNER OF SAID LOT ONE (1); THENCE LEAVING SAID
RIGHT-OF-WAY LINE AND CURVE, S01°26'08"W 151.77 FEET TO THE POINT OF BEGINNING,
CONTAINING 2147.6 SQUARE FEET, MORE OR LESS.

That the abutting real estate affected by said abandonment of the drainage easement is Lot 1 & 6 of
Block 9 of the replat of Blocks 8 & 9 in Hyland Park, Phase 5 and Lot 16, Block 1, Hyland Park, Phase
1, and that the public interest and welfare would not be adversely affected by the abandonment of the
above described portion of the utility easement.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of
Fayetteville, Arkansas, abandon and vacate the above described portion of the utility easement.

Dated this 14 day of MAY, 2009

Kirk S. SASS
Printed name

[Signature]
Signature

Printed name

Signature

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 4-16-09UTILITY COMPANY: Ozarks ElectricAPPLICANT NAME: Kirk Elsass APPLICANT PHONE: 891-4321
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:

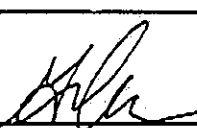
General location / Address (referring to attached document- must be completed**)

Lot 1 Block 9 Phase 5 Highland Park, Fay, 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 RepresentativeLead Staking Tech
Title

UTILITY APPROVAL FORM

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

DATE: 4-12-09

UTILITY COMPANY: Cox

APPLICANT NAME: Kirk Elsass APPLICANT PHONE: 841-4321
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**).

**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

Any Damage or relocation of existing services
will be at the developer's expense.

[Signature]
Signature of Utility Company Representative

Planner
Title

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

DATE: 4-16-09

UTILITY COMPANY: AEP/SWEP CO

APPLICANT NAME: Kirk Elsass APPLICANT PHONE: 841-4321
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**)

**

(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:

Sammy Winkler
Signature of Utility Company Representative

R/W AGENT
Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 4-16-09UTILITY COMPANY: ARK WESTERN GASAPPLICANT NAME: Kirk Elsass APPLICANT PHONE: 841-4321
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**)

** LOT 1 BLOCK 9 PHASE S HYLAND PARK

(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.)

RELEASE UTILITY EASEMENT ALONG WEST SIDE OF LOTRETAIN EXISTING UTILITY EASEMENT ALONG ROCKCLIFF RD

- No objections provided the following conditions are met:



Signature of Utility Company Representative

NORTHWEST REGIONAL MANAGER
Title

DATE: 4-16-09

APPLICANT NAME: Kirk ELIAS APPLICANT PHONE: 841-4321
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)**

** Lot 1 Bldg 9 Hyland Dr.

(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: A NEW 16' UTILITY EASEMENT- 8' EITHER SIDE OF ADJUSTED PROPERTY LINE WILL NEED TO BE DEDICATED AND RECORDED

THE DEVELOPER WILL NEED TO HAVE EXISTING SWBT FACILITIES RELOCATED BY ATI/SWBT AT THEIR (OWNER/DEVELOPERS) OWN EXPENSE, INTO THE NEWLY DEDICATED EASEMENT AFTER COMPLETION OF THESE ITEMS. ATI/SWBT WILL RELEASE AND VACATE EASEMENT

Susan Chouser

Signature of Utility Company Representative

06-01-2009

Title

Fax
(479) 527-8035

UTILITY APPROVAL FORM

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

DATE: 4-16-09

UTILITY COMPANY: City of Fayetteville, Tom Hubbard

APPLICANT NAME: Kirk Elsass APPLICANT PHONE: 841-4321

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**)

**

(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:

Owner must have Sewer Service for 621 Rockcliff relocated
on his property. See Note page #1 and #2. Owner might be able to
deduct lower part of Vacant lot to 621 Rockcliff for Sewer Service.

[Signature]
Signature of Utility Company Representative

Water & Sewer Ops Mgr
Title

UTILITY APPROVAL FORM

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

DATE: 4-16-09

UTILITY COMPANY: City of Fayetteville, Terry Bulley

APPLICANT NAME: Kirk Lass APPLICANT PHONE: 841-4321

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**)

**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

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

- ☐ No objections provided the following conditions are met:



Signature of Utility Company Representative

ASSISTANT TRANSPORTATION MANAGER

Title

Fax to: 479-527-8835

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

DATE: 4-16-

UTILITY COMPANY: City of Fayetteville, Brian Pugh

APPLICANT NAME: Kirk Elsass APPLICANT PHONE: 841-4321
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**)

** Lot 1 Block 9 Phase 5 Holland Park

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

- ☐ No objections provided the following conditions are met:

Brian Pugh

Signature of Utility Company Representative

Waste Reduction Coordinator
Title

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT- OF- WAY, ALLEY, AND EASEMENT VACATION REQUESTS

Date: 4-16-09

Address / location of vacation: Lot 1 B/K 9 Hyland PK

Adjacent property address: 2809 E. Hyland Park

Lot: 1 Block: 8 Subdivision: Hyland PK

REQUESTED VACATION:

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

SEE PLAT

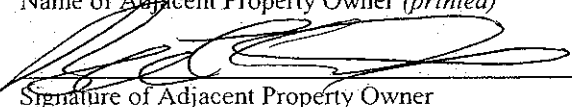
(Include legal description and graphic representation of what is being vacated)

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

Project Name

Bruce L. Orr
Name of Adjacent Property Owner (printed)


Signature of Adjacent Property Owner

Kirk Elsass
Applicant Name

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT- OF- WAY, ALLEY, AND EASEMENT VACATION REQUESTS

Date: 4-16-09

Address / location of vacation: Lot 1 Blk 9 Highland PK

Adjacent property address: 2704 E. Woodcliff Rd

Lot: 5 Block: 9 Subdivision: Highland PK

REQUESTED VACATION:

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

(Include legal description and graphic representation of what is being vacated)

ADJACENT PROPERTY OWNERS COMMENTS:

- ☒ I have been notified of the requested vacation and decline to comment.
- ☐ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

Project Name

Name of Adjacent Property Owner (*printed*)

Carol M. Lee 4/22/09

Signature of Adjacent Property Owner

Kirk Elsass

Applicant Name

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT- OF- WAY, ALLEY, AND EASEMENT VACATION REQUESTS

Date: 4-16-09

Address / location of vacation: Lot 1 Blk 9, Highland PK

Adjacent property address: 617 Rockcliff

Lot: 8 Block: 4 Subdivision: Hyland PK

REQUESTED VACATION:

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

(Include legal description and graphic representation of what is being vacated)

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

Project Name

Karen McIntosh / Matt McIntosh

Name of Adjacent Property Owner (*printed*)

Karen McIntosh / Matt McIntosh

Signature of Adjacent Property Owner

Dick Elsass

Applicant Name

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY, ALLEY, AND
EASEMENT VACATION REQUESTS

Date: 5-29-09 619 Rockcliff
Address/Location of vacation: Lot 1 Highland Park Fayetteville
Adjacent property address: 2195 E Wolf Creek Dr, Fayetteville, AR
Lot: 6
Block: 9
Subdivision: Highland Park

REQUESTED VACATION:

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:
(Include legal description and graphic representation of what is being vacated)

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
☒ I do not object to the vacation described above.
☐ I do object to the requested vacation because:

[Signature]
Name of Adjacent Property Owner (printed)

Signature of Adjacent Property Owner
[Signature]
Applicant Name

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT- OF- WAY, ALLEY, AND EASEMENT VACATION REQUESTS

Date: 4-16-09

Address / location of vacation: Lot 1 Bldg 9 Hyland PK

Adjacent property address: 624 Rockcliff Rg

Lot: 2 Block: 9 Subdivision: Hyland PK

REQUESTED VACATION:

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

(Include legal description and graphic representation of what is being vacated)

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

Project Name

Dale B Buchanan

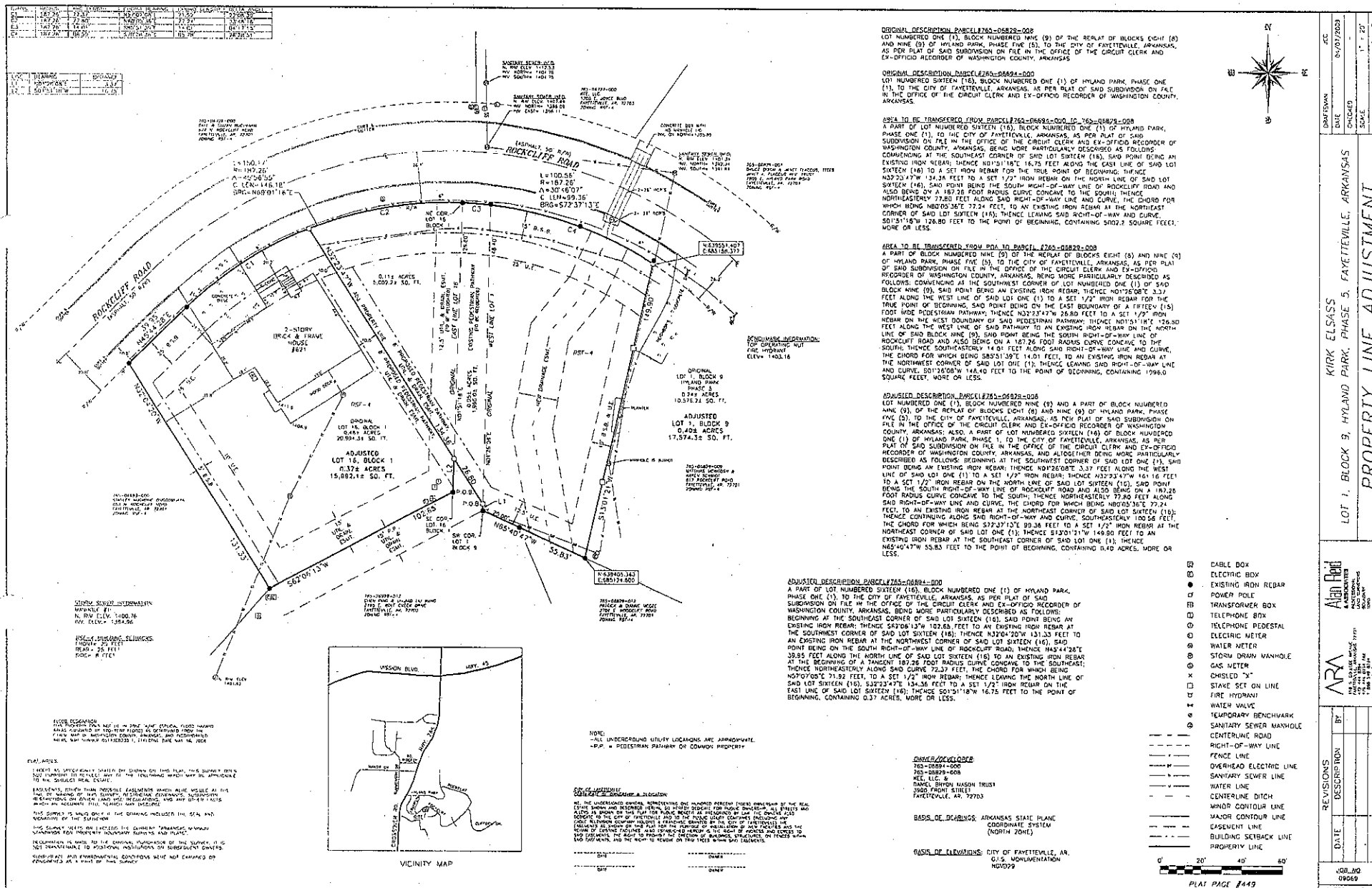
Name of Adjacent Property Owner (printed)

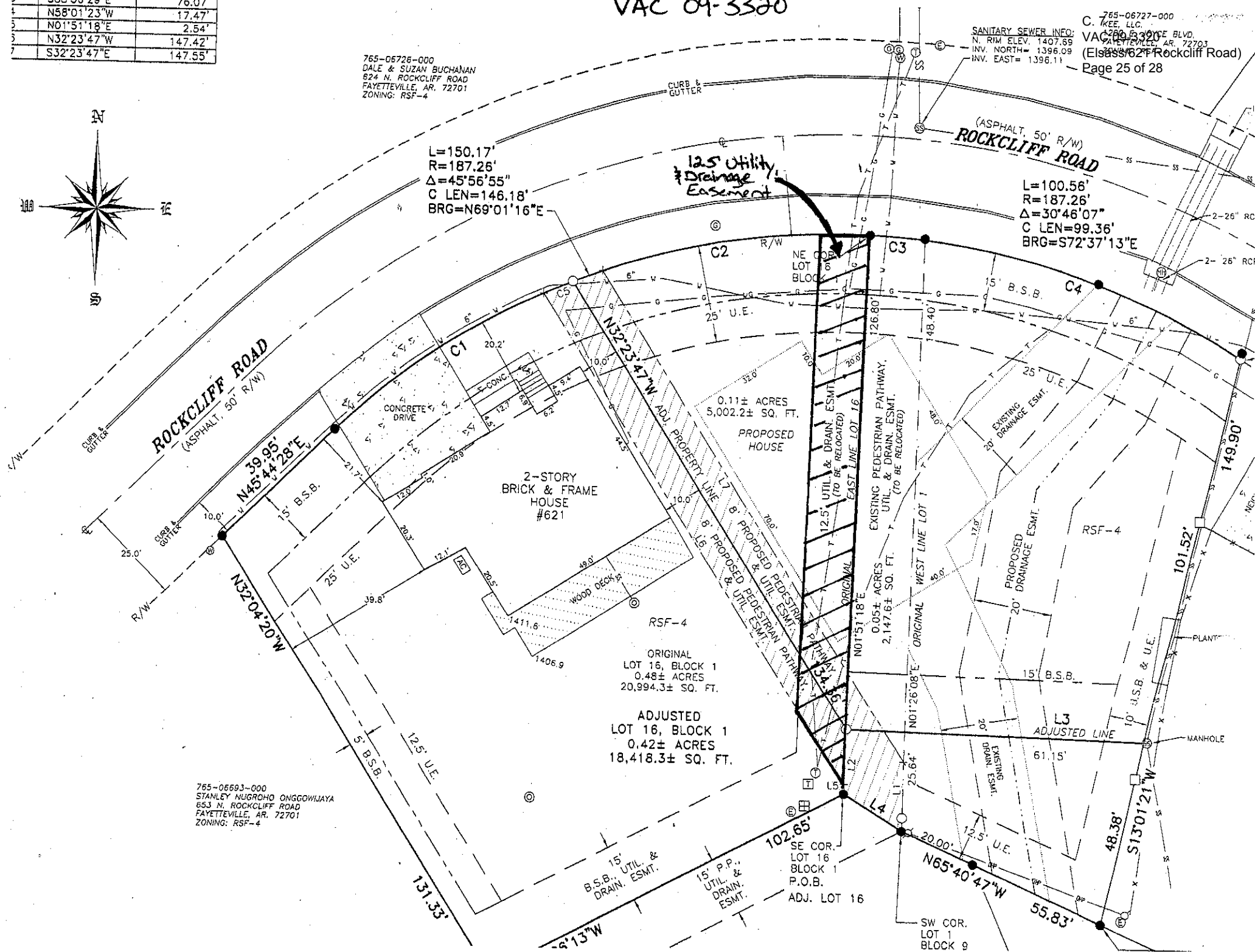
Dale B Buchanan

Signature of Adjacent Property Owner

Kirk Elsass

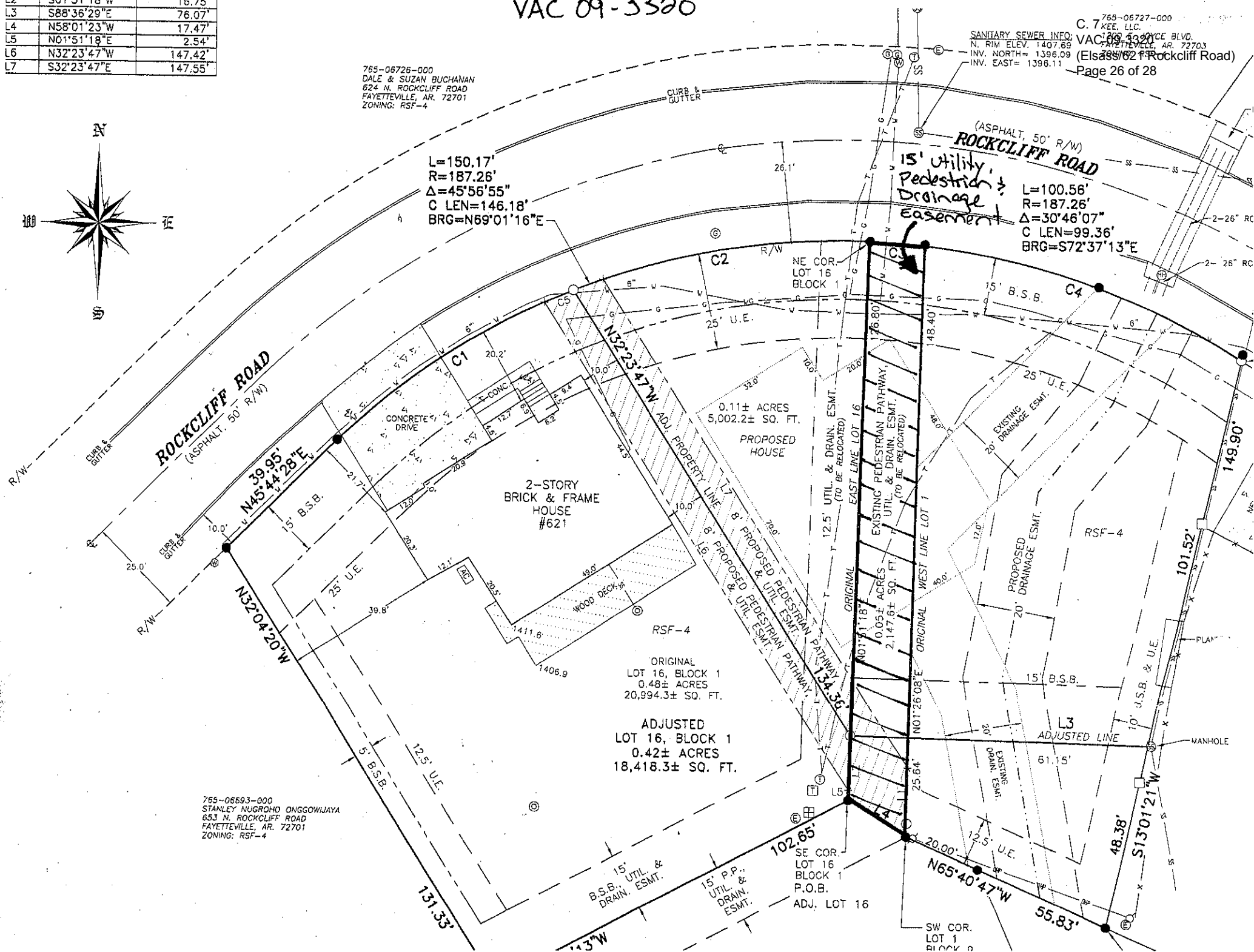
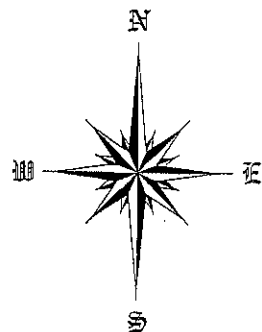
Applicant Name





VAC 09-3520

765-06727-000
C. 7 KEE, LLC.
1209 S. DOYCE BLVD.
VAC-09 5320 FAYETTEVILLE, AR. 72703
9 208/832-1500
9 (Elsass/621 Rockcliff Road)
Page 26 of 28



VAC09-3320

ELSASS/ 621 ROCKCLIFF RD.

Close Up View

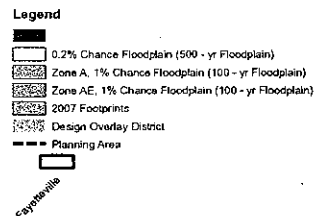
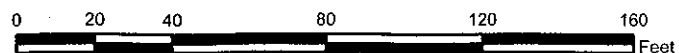


SUBJECT PROPERTY



RSF-4

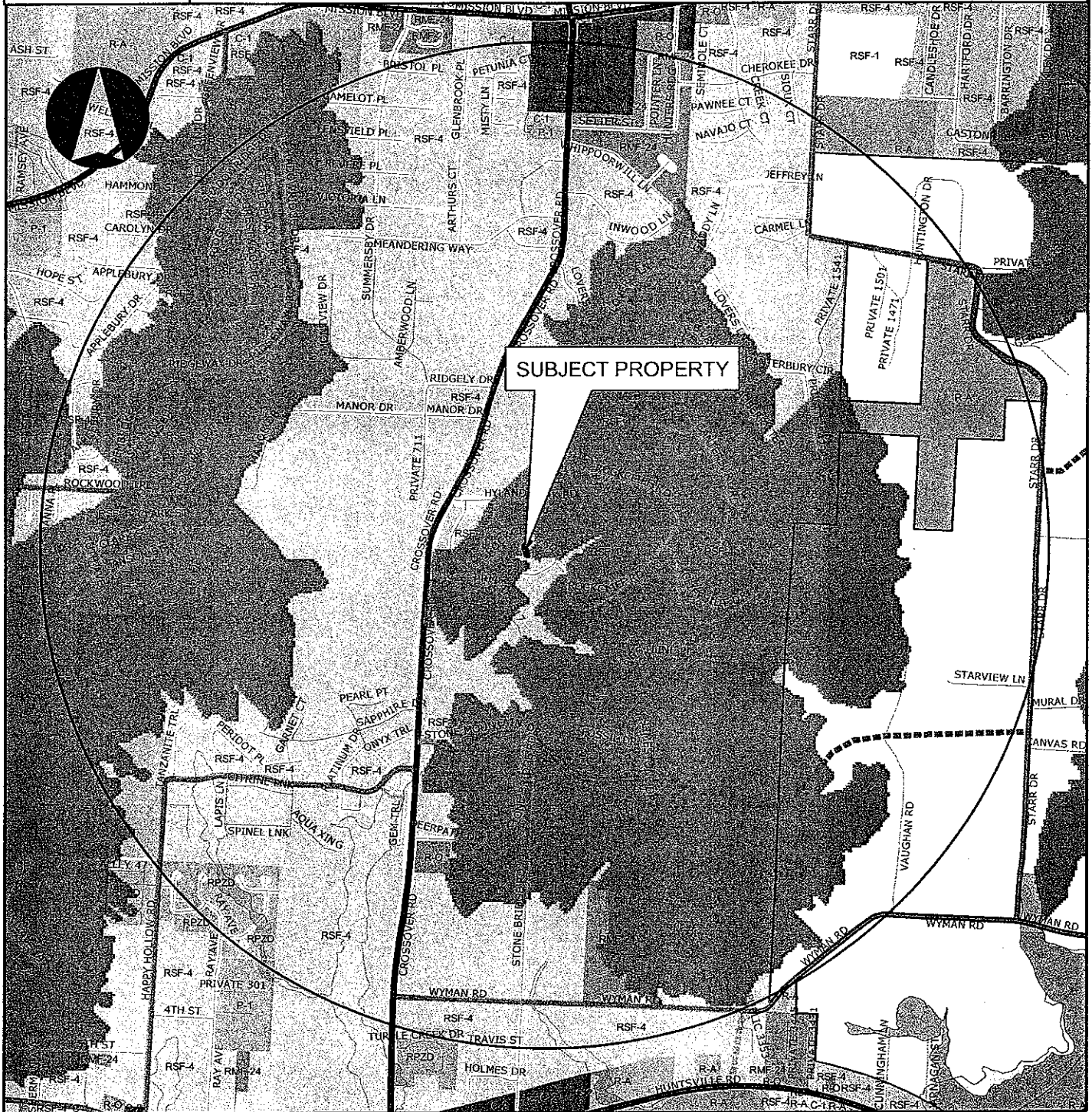
Overview



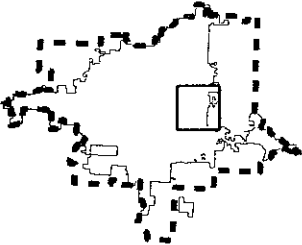
VAC09-3320

ELSASS/ 621 ROCKCLIFF

One Mile View



Overview



Legend

Subject Property

 VAC09-3320

Boundary

0 0.25 0.5 1 Miles

City of Fayetteville Staff Review Form

C. 8
 VAC 09-3321
 (Hubbard/Trails End Lane)
 Page 1 of 20

City Council Agenda Items
 and
 Contracts, Leases or Agreements

7/21/2009

City Council Meeting Date
 Agenda Items Only

Jesse Fulcher
 Submitted By

Planning
 Division

Development Services
 Department

Action Required:

VAC 09-3321: (HUBBARD / TRAILS END LANE, 060): Submitted by TOM HUBBARD for property located at 4830 TRAILS END, STONEWOOD S/D. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.24 acres. The request is to vacate a portion of a utility easement on the subject 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

☐

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

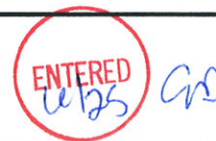
Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Date

Received in City
 Clerk's Office



Chief of Staff

Date

Received in
 Mayor's Office



Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Director of Development Services

From: Dara Sanders, Current Planner

Date: June 24, 2009

Subject: Vacation for Hubbard (VAC 09-3321)

RECOMMENDATION

Staff and the Planning Commission recommend approval of vacating a portion of an existing utility easement on the subject property.

BACKGROUND

The subject property is located in the Stonewood Subdivision, east of Crossover Road and north of Zion Road. The property contains a single-family structure that was constructed in 2002. The 0.24-acre lot contains dedicated utility easements on the east, south, and west property lines, significantly reducing the amount of buildable area by approximately 2,020 square feet, not including the setbacks required by the underlying RSF-4 zoning district.

The applicant requests to vacate a portion of a utility easement to allow for the addition of a deck on the subject property.

DISCUSSION

This item was heard at the regular Planning Commission meeting on June 22, 2009. The Planning Commission voted 7-0-1 on the consent agenda to forward this rezoning request to the City Council with a recommendation of approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 09-3321 SUBMITTED BY TOM HUBBARD FOR PROPERTY LOCATED AT 4830 TRAILS END LANE TO VACATE A PORTION OF A UTILITY EASEMENT CONTAINING A TOTAL OF 131.76 SQUARE FEET.

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 131.76 square-foot 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 portion of utility easement as described in Exhibit B (attached).

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

Section 3: This vacation approval is subject to the owner's continuing agreement that any necessary relocation of existing utilities caused by this vacation will be at the expense of the owner.

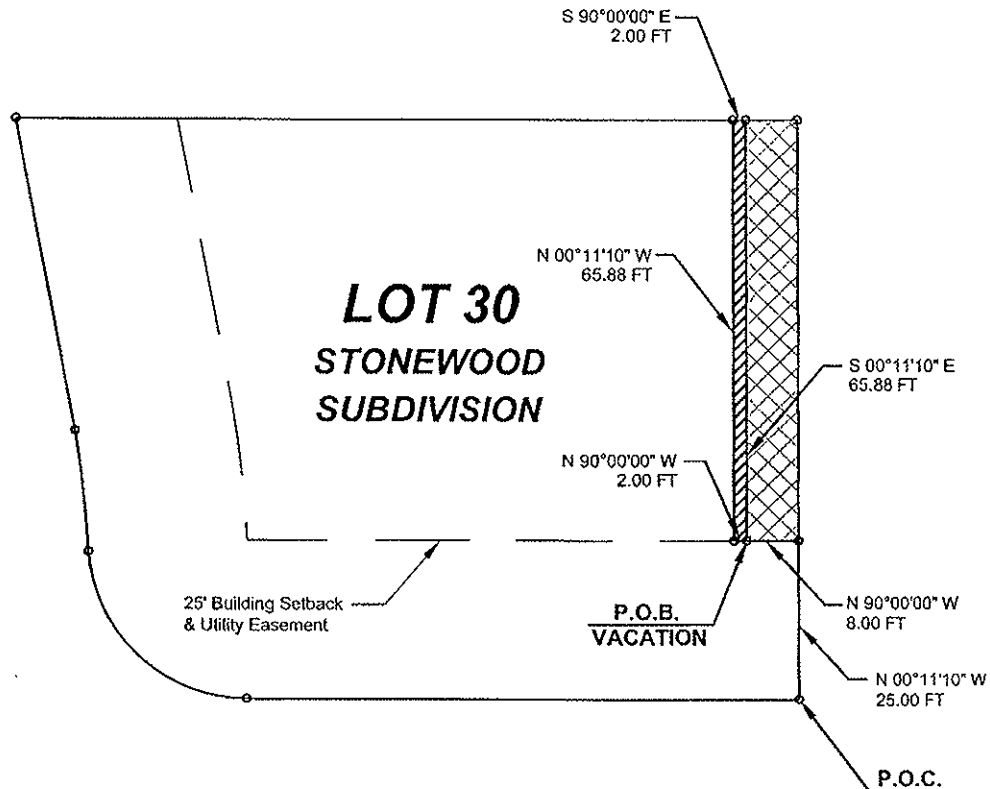
PASSED and **APPROVED** this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



UTILITY EASEMENT TO BE VACATED

Commencing at the Southeast corner of Lot 30 of the Stonewood Subdivision; thence North 00°11'10" West 25.00 feet; thence North 90°00'00" West 8.00 feet to the Point Of Beginning; thence continuing North 90°00'00" West 2.00 feet to a Point; thence North 00°11'10" West 65.88 feet to a Point; thence South 90°00'00" East 2.00 feet to a Point; thence South 00°11'10" East 65.88 feet to the Point of Beginning; Now known as the west 2 feet of the existing 10 foot utility easement as platted; containing 131.76 square feet more or less.

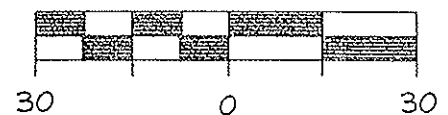


EXHIBIT "B"
VAC 09-3321

EASEMENT VACATION DESCRIPTION:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 30 OF THE STONEWOOD SUBDIVISION; THENCE NORTH 00°11'10" WEST 25.00 FEET; THENCE NORTH 90°00'00" WEST 8.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 90°00'00" WEST 2.00 FEET TO A POINT; THENCE NORTH 00°11'10" WEST 65.88 FEET TO A POINT; THENCE SOUTH 00°11'10" EAST 65.88 FEET TO THE POINT OF BEGINNING; NOW KNOWN AS THE WEST 2 FEET OF THE EXISTING 10 FOOT UTILITY EASEMENT AS PLATTED; CONTAINING 131.76 SQUARE FEET MORE OR LESS.



PC Meeting of June 22, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: June 16, 2009

VAC 09-3321: (HUBBARD / TRAILS END LANE, 060): Submitted by TOM HUBBARD for property located at 4830 TRAILS END, STONEWOOD S/D. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.24 acres. The request is to vacate a portion of a utility easement on the subject property. Planner: Dara Sanders

Findings:

Property Description: The subject property is located in the Stonewood Subdivision, east of Crossover Road and north of Zion Road. The property contains a single-family structure that was constructed in 2002. The 0.24-acre lot contains dedicated utility easements on the east, south, and west property lines, significantly reducing the amount of buildable area by approximately 2,020 square feet, not including the setbacks required by the underlying RSF-4 zoning district.

Request: The applicant's request is to vacate a portion of a utility easement to allow for the addition of a deck on the subject property.

The applicant has submitted the required 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
Arkansas Western Gas	No Objections
ATT	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 09-3321** to the City Council with a recommendation of approval with the following conditions:

Conditions of Approval:

1. Any damage or relocation of existing utilities shall be at the owner/developer's expense.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

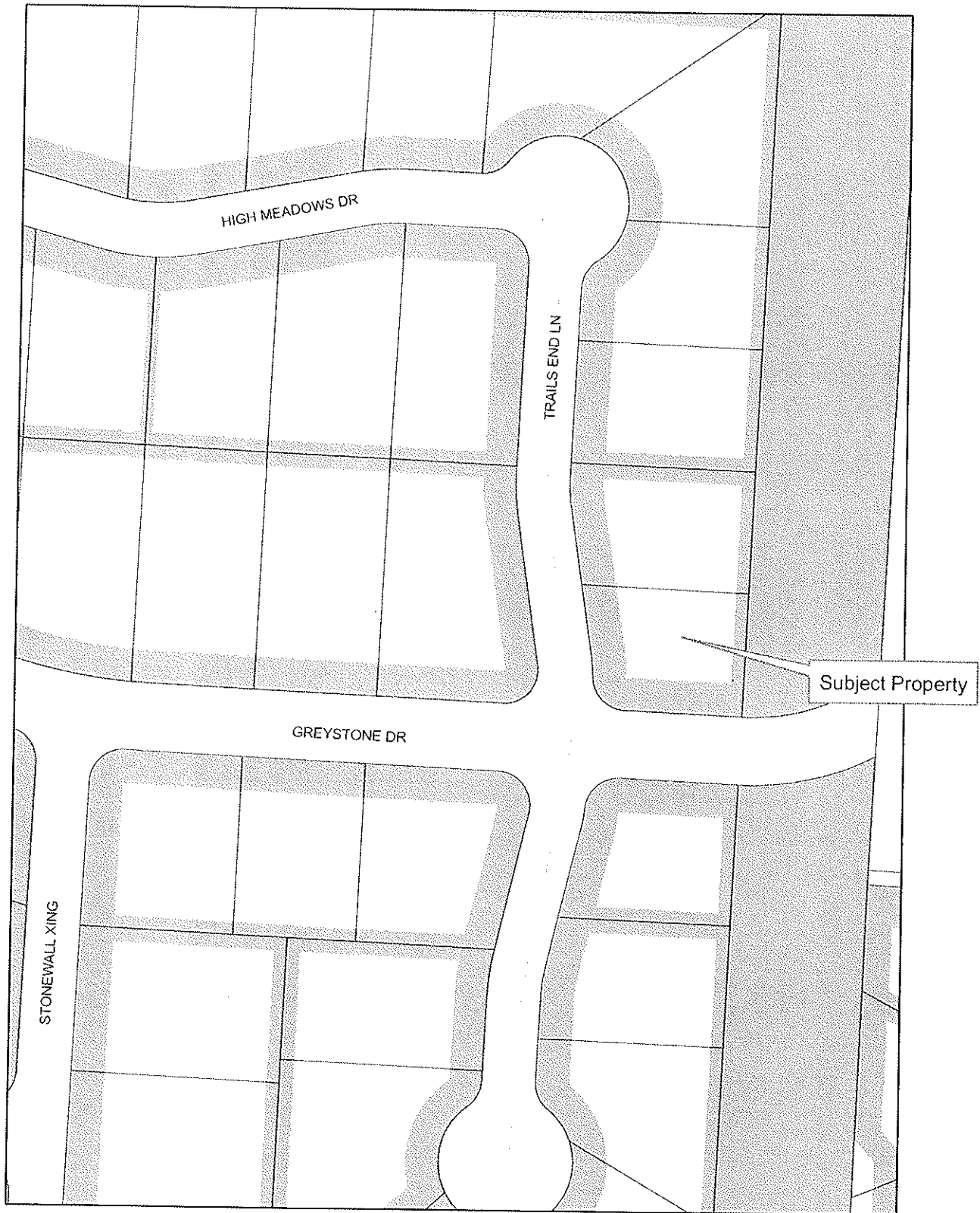
Planning Commission Action: ☐ Forwarded ☐ Denied ☐ Tabled

Date: June 22, 2009

Motion:

Second:

Vote:



From: Tom Hubbard
To: Gambill, Jan
Date: 5/19/2009 3:56 pm
Subject: Re: a letter, too

Jan,

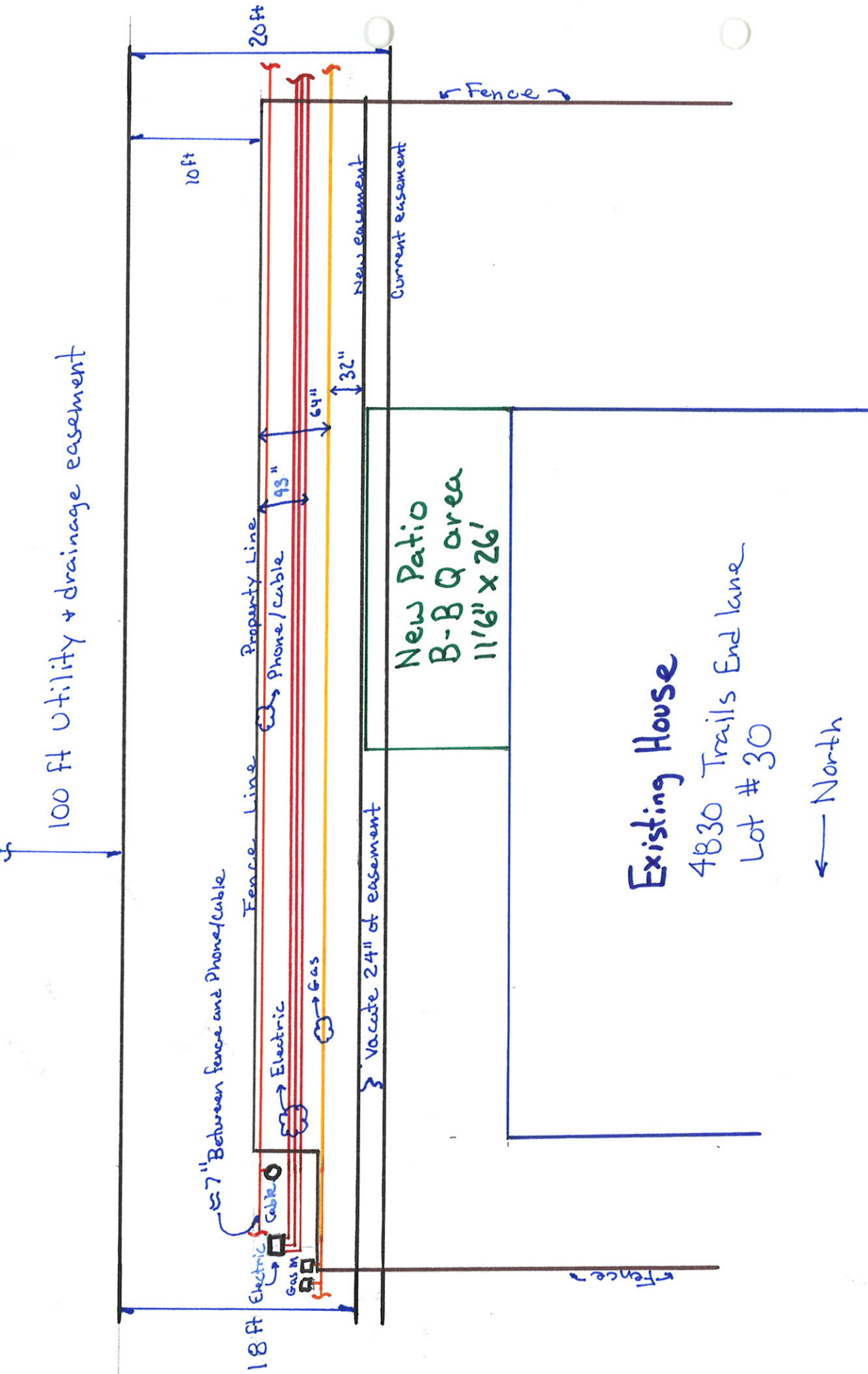
The 24 inch easement vacation is requested so I can construct a patio. The 24 inch area lets me install corner posts for the patio pergola and cover. The area will be used for entertainment of friends and family, such as barbeque and relaxation.

Tom Hubbard

>>> Jan Gambill 5/19/2009 2:58 PM >>>

I forgot: you need to send me a letter describing "scope, nature and intent" of your request. J(what you're wanting to do and why you need this vacation of an easement.)

Jan Gambill
Senior Planning Clerk
City of Fayetteville
Planning Division
125 W. Mountain Street
Fayetteville AR 72701
479-575-8263
jgambill@ci.fay.ar.us



**UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

DATE: ~~5-11-05~~ 5-18-09UTILITY COMPANY: Ozark Electric

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: Back yard of 4830 Trails end lane, Stonebrook Sub div.
24" of 20 ft easement to be vacated for new patio Lot 30

(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

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

Any relocate of existing lines that
fall inside the area vacated will be at
OWNER'S expense.

5-11-05, [Signature] 5-18-09
Signature of Utility Company Representative

System Staking Tech
Title

From: <Jason.Combs@cox.com>
To: <dasanders@ci.fayetteville.ar.us>
Date: 5/19/2009 4:35 PM
Subject: RE: Easement Vacation Request

Dara,

We are still good with the vacate.

Thanks,
Jason Combs
Field Engineer

Cox Communications
479-871-3475

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

From: Dara Sanders [mailto:dasanders@ci.fayetteville.ar.us]
Sent: Monday, May 18, 2009 10:12 AM
To: ljwinkler@aep.com; sc9783@att.com; Brian Pugh; Terry Gulley; Combs, Jason (CCI-Johnson); gmcgee@ozarksecc.com; james_boyd@swm.com
Subject: Fwd: Easement Vacation Request

Attaching the attachment would help...

Dara Sanders
City of Fayetteville
Current Planning and
Historic Preservation

>>> Dara Sanders 5/18/2009 10:10 AM >>>
Good morning, everyone!

The Fayetteville Planning Division has received a vacation application to vacate a portion of a utility easement for property located at 4830 Trails End Lane. All utility representatives previously signed the approval form with no objection in 2005. For the sake of caution, I hope that you could take a look at this request again. I've attached the previously signed forms and site plan. If you still have no objections, please strike through the 2005 date and write in and initial the current date. If you do object, please send your concerns to me.

Let me know if you have any questions!

Dara Sanders
City of Fayetteville
Current Planning and
Historic Preservation

UTILITY APPROVAL FORM

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

DATE: 5-11-05

UTILITY COMPANY: Cox Communications

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: 4830 Trails End Lane, Stone Wood Subdiv Lot 30,
Vacate 24" of 20 Ft easement for new Patio

(*Include legal description and graphic representation of what is being vacated*)

UTILITY COMPANY COMMENTS:

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

Any Relocation of Existing Facilities will be
Owners Expense

[Signature]
Signature of Utility Company Representative

Planning Supervisor
Title

UTILITY APPROVAL FORM

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

DATE: 5-10-05

UTILITY COMPANY: Arkansas Western Gas

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

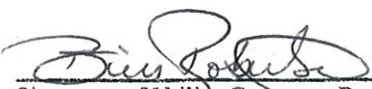
I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address: Back yard of 4830 Trails End lane, Stonewood
Subdivision lot 30, vacate 24" of 20 ft easement for new patio

(*Include legal description and graphic representation of what is being vacated*)

UTILITY COMPANY COMMENTS:

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


Signature of Utility Company Representative

Northwest Regional Manager
Title

t. Hubbard
c 8
VAC 09-1321
(Hubbard/Trails End Lane)
Page 15 of 20
PC.

From: "STROUD, LARRY M (ATTSWBT)" <ls7001@att.com>
To: <dasanders@ci.fayetteville.ar.us>
Date: 6/1/2009 11:51 AM
Subject: FW: FW: Easement Vacation Request
Attachments: 3600_1.pdf; STROUD LARRY M (ATTSWBT).vcf

Dara,

Per our conversation, I have looked over the drawings from the 2005 easement vacation and looked at AT&T's updated cable records of the same lot 30, 4830 Trails End Ln. Our facilities are the same as was in 2005 and no new cables have been buried on the properties utility easement. I agree with the previous Utility Approval form and have no objections to the vacation described on the 2005 form. Please call if you need any other information.

THANK YOU

Larry M. Stroud
(479)442-1977

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

From: CLOUSER, SUSAN K (ATTSWBT)
Sent: Friday, May 29, 2009 3:26 PM
To: STROUD, LARRY M (ATTSWBT)
Subject: FW: FW: Easement Vacation Request

Larry,

Can you please get an answer back to the city of Fayetteville please Thanks Sue

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

From: Dara Sanders [mailto:dasanders@ci.fayetteville.ar.us]
Sent: Friday, May 29, 2009 2:36 PM
To: STROUD, LARRY M (ATTSWBT); CLOUSER, SUSAN K (ATTSWBT); Terry Gulley;
james_boyd@swn.com
Cc: Jan Gambill
Subject: Re: FW: Easement Vacation Request

Good afternoon all!

See email below. Could you please take a look at this request and respond ASAP? A reply to this email to verify your consent to the requested easement vacation will suffice.

Thanks!

Dara Sanders
City of Fayetteville
Current Planning and
Historic Preservation

*Fayetteville is a Preserve America Community

>>> Dara Sanders 5/18/2009 10:10 AM >>>

Good morning, everyone!

UTILITY APPROVAL FORM

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

DATE: 5-10-05 18 MAY 09 *JD*

UTILITY COMPANY: City of Fayetteville Water and Sewer

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: Backyard of 4830 Trails End Lane, Stone Wood
Subdivision

(*Include legal description and graphic representation of what is being vacated*)

UTILITY COMPANY COMMENTS:

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

JD Images
Signature of Utility Company Representative

WATER/SEWER MAINT SUFF
Title

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

Tom HUBBARD
4830 TRAILS END LN
FAYETTEVILLE
927-3699

DATE: 5-11-05

UTILITY COMPANY: City of Fayetteville - Street dept

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

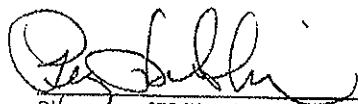
I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address: Back yard of 4830 Trails End Lane, Stone wood Sub div
Lot 30 Vacate 24" of 24 ft easement for new patio

(*Include legal description and graphic representation of what is being vacated*)

UTILITY COMPANY COMMENTS:

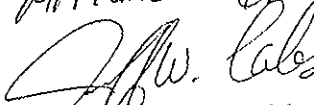
- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)



Signature of Utility Company Representative

Transportation Supt
Title
Operations Department
Transportation Division
City of Fayetteville

5/13/05

Affirmed 6/5/09

ASST-TRANSPORTATION MGR

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

DATE: 5-11-05

UTILITY COMPANY: City of Fayetteville Sanitation

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: Back yard of 4830 Trails End Lane, Stonewood Subdiv.
Lot 30, Vacate 24" of 20 ft easement for new patio

(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

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

A. J. [Signature]
Signature of Utility Company Representative

Approved Brian [Signature]

5-18-09

Solid Waste Rep.
Title

Waste Reduction Coordinator

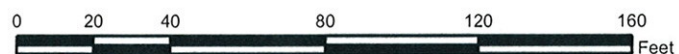
VAC09-3321

HUBBARD/ TRAILS END LANE

Close Up View



Overview



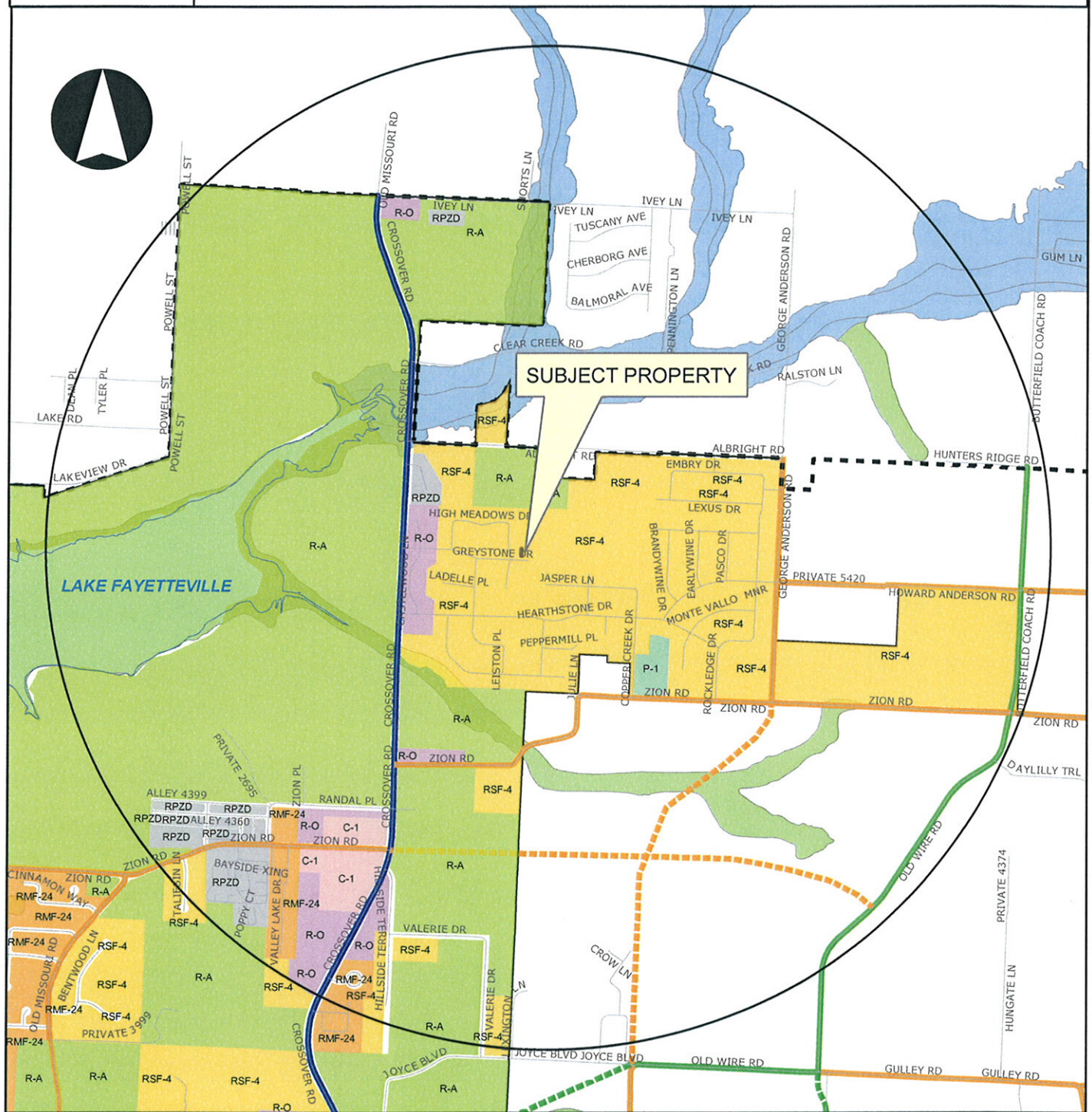
Legend

- VAC09-3321
- 0.2% Chance Floodplain (500 - yr Floodplain)
- Zone A, 1% Chance Floodplain (100 - yr Floodplain)
- Zone AE, 1% Chance Floodplain (100 - yr Floodplain)
- 2007 Footprints
- Design Overlay District
- Fayetteville
- Planning Area
- Fayetteville

VAC09-3321

One Mile View

HUBBARD/ TRAILS END LN



Overview



Legend

Subject Property

VAC09-3321

Boundary

0 0.25 0.5 1 Miles

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

7/21/2009

City Council Meeting Date
Agenda Items Only

John Coleman
Submitted By

Division

Sustainability
Department

Action Required:

Approve amendment of ordinance #4462 to change name of Environmental Concerns Committee to Environmental Action Committee.

\$ -
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

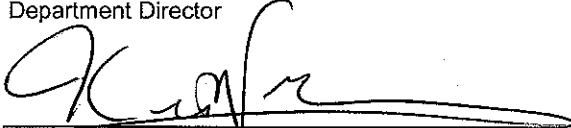
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐


Department Director

6/23/09
Date

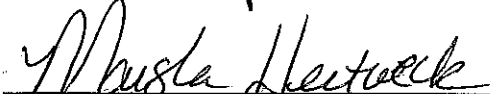
Previous Ordinance or Resolution #


City Attorney

6/23/09
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

6/23/09
Date

Received in City
Clerk's Office

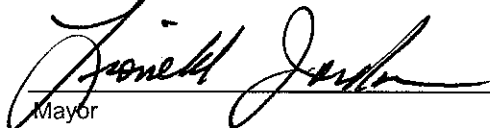



Chief of Staff

6/23/09
Date

Received in
Mayor's Office




Mayor

Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8272
Telecommunications Device
for Deaf: (479) 521-1316

CORRESPONDENCE

TO: Kit Williams, City Attorney
FROM: John Coleman, Sustainability Director
DATE: May 22, 2009
SUBJECT: Name Change - Environmental Action Committee

The Environmental Concerns Committee is seeking to become more active in the Fayetteville community through aggressive education programs and greater input on policy decisions related to the local environment.

These efforts come in the form of a new watershed education program that began June 17th. The program will consist of monthly luncheons targeting 50 residents of the Fayetteville community. The luncheons will be led by local watershed experts and focus on the economic benefits of watershed protection.

Committee members are also seeking to improve dialogue between themselves and elected officials in order to become a sounding board on important environmental issues pertaining to the Fayetteville community.

With this in mind, the Committee voted to amend ordinance #4462 to change the name from Environmental Concerns Committee to Environmental Action Committee.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND ARTICLE XI ENVIRONMENTAL
CONCERNS COMMITTEE OF TITLE III OF THE CODE OF
FAYETTEVILLE TO RENAME IT ENVIRONMENTAL ACTION
COMMITTEE**

**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 Article XI **Environmental Concerns Committee** of Title III of the Code of Fayetteville to rename it Environmental Action Committee and to replace all references to "Environmental Concerns Committee" with the new name: "Environmental Action Committee" throughout Article XI of Title III of the Fayetteville Code.

PASSED and APPROVED this 21st day of July, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

C. 9
Amend Chapter 3 Departments,
Boards, Commissions, and Authorities
Page 4 of 6



LEGAL DEPARTMENT

TO: **Lioneld Jordan, Mayor**
City Council

FROM: **Kit Williams, City Attorney**

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

DATE: **June 24, 2009**

RE: **Environmental Concerns Committee renaming**

Attached is Article XI **Environmental Concerns Committee** with all of the places noted that will be changed to "Environmental Action Committee" if the proposed ordinance is adopted.

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

by neglect because it is deteriorating, or if its condition is contributing to deterioration, the Director of Long Range Planning shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owner and/or other parties in interest therein an order to repair within a time to be specified in the written decision those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated.

- (b) Complaints or orders issued by the City shall be served upon persons either personally or by certified mail. If the whereabouts of such persons are unknown and the same cannot be ascertained by reasonable diligence, City staff shall make an affidavit to that effect, stating the steps taken to determine and locate the persons in interest, then the serving of such complaint or order may be made by publishing the same once each week for two (2) successive weeks in a newspaper of general circulation within the City. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

33.237 Appeals

- (A) Any applicant aggrieved by the determination of the Commission may appeal the determination of the Commission to the Circuit Court of Washington County, Arkansas, in accordance with Rule 9 of the Arkansas District Court Rules.

33.238 Enforcement

- (A) In the event that work being performed is found not to be in accordance with the Certificate of Appropriateness or upon notification of such fact by the Historic District Commission and/or City staff, the building inspector shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. Stop work orders and penalties for non-compliance with such will be enforced according

to other applicable laws. A decision shall be made by the Commission concerning the stop work order within five (5) business days.

- (B) Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined ten dollars (\$10) to five hundred dollars (\$500) per day after a 30-day period in which the person may correct the violation, in accordance with the Arkansas Historic Districts Act. Each day that a violation continues to exist constitutes a separate offense.

(Ord. 5177, 9-16-08)

**ARTICLE XI
ENVIRONMENTAL CONCERNS
COMMITTEE**

33.239 Established; Meetings

The City Council hereby establishes a committee to be known as the Environmental Concerns Committee which shall meet a minimum of six times per year.

33.240 Purpose And Duties

- (A) The purpose of the committee shall be as follows:

- (1) To address environmental concerns.
- (2) Promote a safe and healthy environment.
- (3) Maintain the natural beauty of the environment within the city.

- (B) The Environmental Concerns Committee shall make recommendations to other city committees and to the City Council on matters concerning the environment.

33.241 Membership; Terms

- (A) Membership:

- (1) Such Committee membership shall be composed of the following:

- One (1) City Council Member
- One (1) Member from Local Industry
- One (1) Member from a science discipline
- Six (6) citizens-at-large

- (B) Terms of Membership:

CD33:22

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

- (1) The City Council member shall be appointed by the Mayor and shall serve until replaced.
- (2) Terms of all other members shall be three years and shall be staggered so that each year either two or three of the members' terms shall be available for appointment by the Nominating Committee.
- (3) Members of the Environmental Concerns Committee serving at the time of the adoption of this ordinance shall continue to serve their terms (or a shortened term) without needing to be reappointed by the Nominating Committee due to enactment of this ordinance.

33.242 Conduct Of Meetings

The Environmental Concerns Committee shall promulgate rules and regulations necessary for the conduct of committee meetings and other business.

33.243-33.249 Reserved

(Ord. No. 3922, §1(D), (E), 9-5-95; Code 1991; Ord. No. 4462, 2-04-03; Ord. 5177, 9-16-08)

**ARTICLE XII
BOARD OF ADJUSTMENT**

33.250 Composition; Membership

The Board of Adjustment shall consist of seven members with its members to be appointed by the City Council, each for a term of five years. Appointments shall be staggered. A majority of the membership of the Board of Adjustment shall constitute a quorum. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by resolution of the City Council for the unexpired term of the member affected.

(Code 1965, App. A, Art. 12(1); Ord. No. 1747, 6-29-70; Code 1991, §160.170; Ord. No. 4099, §1, 6-16-98)

33.251 Proceedings Of Board Of Adjustment

- (A) The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of the unified development ordinance. Meetings shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine.

The chairperson, or in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

- (B) The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating the fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the city planner.

(Code 1965, App. A, Art. 10(i); Ord. No. 1747, 6-29-70; Code 1991, §160.174; Ord. No. 4099, 6-16-98)

33.252 Administrative Review

The Board of Adjustment shall hear and decide appeals where it is alleged there is error or ambiguity in any order, requirement, decision, interpretation, or determination made by the city planner in the enforcement of Zoning, Chapters 160 through 164.

(Ord. No. 4099, 6-16-98)

Cross reference(s)--Appeals, Ch.155; Variances, Ch. 156.

33.253-33.259 Reserved

**ARTICLE XIII
PLAT REVIEW COMMITTEE**

33.260 Composition; Membership

The Plat Review Committee shall consist of the following City Division Heads or their representatives:

- Building Safety Director;
- Transportation Manager;
- City Engineer;
- Solid Waste Operations Supervisor;
- Fire Chief;
- Transportation Superintendent;
- Zoning and Development Administrator;
- City Planning Consultant;
- All affected utility companies may send representatives.

The Plat Review Committee shall have advisory capacity only. Its duty shall be to advise the developer of technical problems, to recommend solutions of such problems, and to advise the developer of mandatory requirements.

(Ord. No. 4099, 6-16-98)

CD33:23

Agenda Session

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

Tentative Agenda City of Fayetteville Arkansas City Council Meeting July 21, 2009

A meeting of the Fayetteville City Council will be held on July 21, 2009 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

Agenda Session Presentations:

1. Audit Committee Report concerning the 2008 Comprehensive Annual Financial Report (CAFR) – Tony C. Uth, Jr., Chair of the Audit Committee

Mayor's Announcements, Proclamations and Recognitions

Presentations, Reports and Discussion Items:

A. Consent:

1. Approval of the June 16, 2009 and the July 7, 2009 City Council meeting minutes.
2. **Arkansas Emergency Telephone Services Board Training Expenses:** A resolution approving a budget adjustment recognizing the receipt of training reimbursements in an amount not to exceed \$10,000.00 as they are received from the Arkansas Emergency Telephone Services Board for dispatcher training expenses.

- NB#1
3. **Mutual Aid Agreement:** A resolution approving a Mutual Aid Police Protection Agreement between the City of Fayetteville, Arkansas and the City of Springdale, Arkansas.

4. **Street Name Change:** A resolution changing the names of sections of West Salem Road and West Weir Road.

5. **Animal Services Miscellaneous Donations:** A resolution approving budget adjustments totaling \$26,000.00 from Animal Services Miscellaneous Donations to meet increased supply and operational costs at the Fayetteville Animal Shelter.

6. **McClelland Consulting Engineers Amendment No. 1:** A resolution approving Amendment No. 1 to the contract with McClelland Consulting Engineers in the amount of \$74,993.08 for construction phase services for the Township Street 36-inch Water Main Project; and approving a project contingency in the amount of \$15,000.00.

7. **Seven Valleys Construction Company, Inc.:** A resolution approving a contract with Seven Valleys Construction Company, Inc. in the amount of \$1,757,232.00 for the construction of a 36-inch water main along Township Street to include approximately 4,462 feet of 36-inch ductile iron water main; and approving a project contingency in the amount of \$90,000.00.

8. **Wastewater Collection and Treatment Services Amendment:** A resolution approving an amendment to the Wastewater Collection and Treatment Services Contract with the City of Farmington, Arkansas.

9. **Natural Resources Conservation Service (NRCS):** A resolution authorizing the Engineering Division to apply for and accept a grant through the Natural Resources Conservation Service (NRCS) in an amount not to exceed \$27,000.00 for debris removal from streams with flooding potential due to the January 2009 ice storm; and authorizing the Mayor to execute a project agreement with the NRCS and all other documents necessary to carry out the project.

10. **ADM 09-3333 (612 N. College Avenue ROW Variance):** A resolution approving a variance of the Unified Development Code Section 164.12 (F) Nonconforming Uses and Structures, Repairs and Maintenance, and Section 166.18 Master Street Plan Setbacks, allowing the existing structure located at 612 N. College Avenue to remain within the Master Street Plan right-of-way and to be improved greater than the 10% replacement cost allowed by code, within the existing limits of the structure.

B. Unfinished Business:

1. **RZN 09-3271 (Sale Barn/Campus Crest LLC, 562):** An ordinance rezoning that property described in rezoning petition RZN 09-3271, for approximately 8.87 acres, located at the old Washington County Sale Barn, north and east of 11th Avenue and Government Avenue from I-1, Heavy Commercial/Light Industrial, to DG, Downtown General. *This ordinance was left on the First Reading at the June 16, 2009 City Council meeting.*

This ordinance was left on the Second Reading at the July 7, 2009 City Council meeting.

C. New Business:

1. **Amend Chapter 163 Use Conditions:** An ordinance to amend §163.15 Transit System Shelters of the Unified Development Code to allow transit shelters located within the Master Street Plan right-of-way and building setback lines.
2. **Amend Chapter 111 Alcoholic Beverages:** An ordinance to amend §111.30 Retail of Chapter 111 Alcoholic Beverages of the Fayetteville Code to enact a new subsection (H) Restaurant Beer and Wine Permit.
3. **RZN 09-3317 (Whitfield):** An ordinance rezoning that property described in rezoning petition RZN 09-3317, for approximately 9.91 acres, located on the west side of Crossover Road, approximately 0.50 mile north of Highway 16E, from RSF-4, Residential Single Family Four Units/Acre, to MSC, Main Street Center.
4. **RZN 09-3318 (Happy Hollow School):** An ordinance rezoning that property described in rezoning petition RZN 09-3318, for approximately 32.53 acres, located on the west side of Crossover Road, approximately 0.50 mile north of Highway 16E, northeast of Happy Hollow Elementary School from RSF-4, Residential Single Family Four Units/Acre, to P-1, Institutional.
5. **R-PZD 09-3237 (Markham Hill Cottage Courts):** An ordinance establishing a residential planned zoning district titled R-PZD 09-3237, Markham Hill Cottage Courts, located north of Maine Street and west of Cross Avenue; containing approximately 2.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.
6. **VAC 09-3181 (Elsass/619 Rockcliff Road):** An ordinance approving VAC 09-3181 submitted by Kirk Elsass for property located at 619 North Rockcliff Road to vacate approximately 3,206 square feet of drainage easement on the subject property.
7. **VAC 09-3320 (Elsass/621 Rockcliff Road):** An ordinance approving VAC 09-3320 submitted by Alan Reid for property located at 621 Rockcliff Road to vacate a 12.5' utility and drainage easement and a 15' utility, drainage, and pedestrian easement containing a total of 3,794 square feet.
8. **VAC 09-3321 (Hubbard/Trails End Lane):** An ordinance approving VAC 09-3321 submitted by Tom Hubbard for property located at 4830 Trails End Lane to vacate a portion of a utility easement containing a total of 131.76 square feet.
9. **Amend Chapter 33 Departments, Boards, Commissions, and Authorities:** An ordinance to amend Article XI Environmental Concerns Committee of Title III of the Code of Fayetteville to rename it Environmental Action Committee.

Agenda Additions:

Announcements:

1. City Council Tour: ^{NONE.} ~~July 20, 2009~~

Adjournment:

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(c) Add: Trauma Center
(c) U.S. Marshall Service Grant
Computer Equipment

Pre-Agenda Meeting

Aldermen

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



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Ward 1 Position 2 – Brenda Thiel
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*Ambulance Authority July Report
Added at the City Council Meeting 7/21/09*

Comparison of Charges 2004-2009

Central EMS Charges	2004	2005	2006	2007	2008	2009
Emergency Base Rates	\$ 545.50	\$ 573.00	\$ 595.92	\$ 625.72	\$ 689.93	\$ 724.43
Non-Emergency Base Rates	\$ 394.00	\$ 414.00	\$ 430.56	\$ 452.09	\$ 498.42	\$ 523.34
Mileage	\$ 8.09	\$ 8.50	\$ 8.84	\$ 9.28	\$ 10.23	\$ 10.74

Percent Increase Over Previous Year

Emergency Base Rates	16%	5%	4%	5%	5%	5%
Non-Emergency Base Rates	16%	5%	4%	5%	5%	5%
Mileage	16%	5%	4%	5%	5%	5%

Sondra Smith - FW: Campus Crest Application

From: "Bob Estes" <bobestes@arkansas.net>
To: "Sondra Smith" <:ssmith@ci.fayetteville.ar.us>
Date: 7/13/2009 4:08 PM
Subject: FW: Campus Crest Application

Bob Estes
One East Center Street, Suite 200
Fayetteville, AR 72701-5302
Phone 479-521-4900
Facsimile 479-587-0700
email bobestes@arkansas.net

NOTICE:

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Thank you.

From: Chris Russ [mailto:chris.russ@campuscrest.com]
Sent: Monday, July 13, 2009 2:44 PM
To: Bob Estes
Cc: alex@browningeyssen.com
Subject: Campus Crest Application

Please let this serve as our request to have our re-zone application postponed from the July 21, 2009 City Council meeting to the next regularly scheduled meeting. Thank you for your assistance.

Regards,
Chris Russ, PE



Chris Russ, PE
Development Manager

Chris.Russ@campuscrest.com

GoGrove

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