

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  
November 17, 2009**

A meeting of the Fayetteville City Council will be held on November 17, 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:**

**A. Consent:**

1. Approval of the November 3, 2009 City Council meeting minutes.

**APPROVED**

2. **Bid # 09-63 Landers Ford Lincoln Mercury of Benton:** A resolution to approve the lowest bid from Landers Ford, Lincoln, Mercury of Benton, Arkansas in the amount of \$29,128.00 for a heavy duty, regular cab, 4x4 pickup truck for use by the Parks Division.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 226-09**

3. **Bid # 09-64 Sweetser Construction, Inc.:** A resolution to approve an agreement between the City of Fayetteville and Sweetser Construction, Inc. for the construction of Doc Mashburn Park in the amount of \$64,199.00 plus a 15% contingency of \$9,630.00.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 227-09**

4. **Ferrara Fire Apparatus:** A resolution awarding bid and approving purchase of a fire pumper apparatus and related equipment from Ferrara Fire Apparatus in the amount of \$410,200.00 for use by the Fayetteville Fire Department; and approving a 12% contingency.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 228-09**

5. **Evans Construction and Remodeling, LLC:** A resolution approving a contract in the amount of \$24,895.00 with Evans Construction and Remodeling, LLC for rehabilitation of a CDBG eligible residence.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 229-09**

6. **2009-2010 (ICAC) Task Force Program Continuation Grant:** A resolution authorizing the Mayor to accept a non-matching 2009-2010 Internet Crimes Against Children (ICAC) Task Force Program Continuation Grant in the amount of \$30,000.00 from the Arkansas State Police; and approving a budget adjustment recognizing the grant revenue.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 230-09**

7. **AOS:** A resolution to approve the purchase of a fully redundant modular chassis switch for the Police Department from AOS pursuant to the state contract price of \$70,227.00 and to approve the attached budget adjustment.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 231-09**

8. **Municipal Parking Lot # 55:** A resolution to approve the attached budget adjustment recognizing \$6,500.00 in Parking Facility/Fees which will be used to replace deteriorated curb and gutter in Municipal Parking Lot # 55

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 232-09**

**Agenda Additions: None**

**B. Unfinished Business:**

1. **Old Wire Annexation Appeal:** An ordinance annexing that property described in annexation petition ANX 09-3409 (CC2009-4), for property located at 3231 North Old Wire Road, the northwest corner of Old Wire Road and Rom Orchard Road, containing approximately 39 acres. *This ordinance was left on the First Reading at the October 6, 2009 City Council meeting. This ordinance was left on the Second Reading at the October 20, 2009 City Council meeting. This ordinance was left on the Third Reading at the November 3, 2009 City Council meeting and Tabled to the November 17, 2009 City Council meeting.*

**THIS ORDINANCE WAS TABLED TO THE DECEMBER 1, 2009 CITY COUNCIL MEETING**

- 2. 2010 Annual Budget & Work Program:** A resolution adopting the 2010 Annual Budget and Work Program. *This resolution was Tabled at the November 3, 2009 City Council meeting to the November 17, 2009 City Council meeting.*

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 233-09**

**C. New Business:**

- 1. VAC 09-3444 (Ute Wilson):** An ordinance approving VAC 09-3444 submitted by Sawyer's Outdoor Solutions for property located at 2021 Ball Avenue to vacate a portion of a utility easement containing approximately 124 square feet.

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5284**

- 2. Amend Chapter 97:** An ordinance amending Title IX: General Regulations of the Code of the City of Fayetteville, to amend sections of Chapter 97: Parks and Recreation in order to permit special events at Lake Fayetteville that include a swimming component.

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5285**

- 3. CUP 09-3389 Barking Bed & Breakfast Appeal:** An appeal of the Planning Commission's decision to deny CUP 09-3389 Barking Bed and Breakfast located in the I-540 Design Overlay District (DOD) west of I-540 and Shiloh Drive on the north side of Old Farmington Road.

**THIS APPEAL FAILED**

- 4. Amend Chapter 117:** An ordinance to amend Chapter 117 of the Fayetteville Code to authorize the Fayetteville Town Center to manage the interior parking spaces of the Fayetteville Square during and for the Lights of the Ozarks and to pass an emergency clause.

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5286**

**Announcements:**

- 1. City Council Tour: November 16, 2009**

**Adjournment: 7:55 p.m.**

***NOTICE TO MEMBERS OF THE AUDIENCE***

***All interested parties may appear and be heard before the City Council. If you wish to address the City Council on an agenda item please queue behind the podium when the Chair asks for public comment. Once the chair recognizes you, go to the podium and give your name and***

*address. Address your comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate elected official, staff member or others for response. Please keep your comments brief, to the point and relevant to the agenda item being considered so that everyone has a chance to speak.*

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

*A copy of the City Council agenda is available at [accessfayetteville.org](http://accessfayetteville.org) or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.*



| Subject: | Roll         |        |  |  |  |
|----------|--------------|--------|--|--|--|
|          | Rhoads       | ✓      |  |  |  |
|          | Ferrell      | absent |  |  |  |
|          | Lucas        | ✓      |  |  |  |
|          | Lewis        | ✓      |  |  |  |
|          | Gray         | ✓      |  |  |  |
|          | Thiel        | ✓      |  |  |  |
|          | Cook         | ✓      |  |  |  |
|          | Petty        | ✓      |  |  |  |
|          | Mayor Jordan | ✓      |  |  |  |

7-0

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

|                                                              |                     |                  |  |  |  |
|--------------------------------------------------------------|---------------------|------------------|--|--|--|
| <b>Subject:</b>                                              | <b>Consent</b>      |                  |  |  |  |
| <b>Motion To:</b>                                            |                     |                  |  |  |  |
| <b>Motion By:</b>                                            |                     | Approve<br>Petty |  |  |  |
| <b>Seconded:</b>                                             |                     | Cook             |  |  |  |
| Minutes<br>approved<br><u>passed</u><br><br>226-09<br>232-09 | <b>Rhoads</b>       | ✓                |  |  |  |
|                                                              | <b>Ferrell</b>      | Absent           |  |  |  |
|                                                              | <b>Lucas</b>        | ✓                |  |  |  |
|                                                              | <b>Lewis</b>        | ✓                |  |  |  |
|                                                              | <b>Gray</b>         | ✓                |  |  |  |
|                                                              | <b>Thiel</b>        | ✓                |  |  |  |
|                                                              | <b>Cook</b>         | ✓                |  |  |  |
|                                                              | <b>Petty</b>        | ✓                |  |  |  |
|                                                              | <b>Mayor Jordan</b> |                  |  |  |  |

7-0

|                   |                     |  |  |  |  |
|-------------------|---------------------|--|--|--|--|
| <b>Subject:</b>   |                     |  |  |  |  |
| <b>Motion To:</b> |                     |  |  |  |  |
| <b>Motion By:</b> |                     |  |  |  |  |
| <b>Seconded:</b>  |                     |  |  |  |  |
|                   | <b>Rhoads</b>       |  |  |  |  |
|                   | <b>Ferrell</b>      |  |  |  |  |
|                   | <b>Lucas</b>        |  |  |  |  |
|                   | <b>Lewis</b>        |  |  |  |  |
|                   | <b>Gray</b>         |  |  |  |  |
|                   | <b>Thiel</b>        |  |  |  |  |
|                   | <b>Cook</b>         |  |  |  |  |
|                   | <b>Petty</b>        |  |  |  |  |
|                   | <b>Mayor Jordan</b> |  |  |  |  |

|                                                                                                |                                   |                   |  |  |  |
|------------------------------------------------------------------------------------------------|-----------------------------------|-------------------|--|--|--|
| <b>Subject:</b>                                                                                | <b>Old Wire Annexation Appeal</b> |                   |  |  |  |
| <b>Motion To:</b>                                                                              |                                   | Table for 2 weeks |  |  |  |
| <b>Motion By:</b>                                                                              |                                   | Thiel             |  |  |  |
| <b>Seconded:</b>                                                                               |                                   | Rhoads            |  |  |  |
| <b>B. 1</b><br><br><b>Unfinished</b><br><br><b>Business</b><br><br>Table to<br>Dec. 1,<br>2009 | <b>Rhoads</b>                     | ✓                 |  |  |  |
|                                                                                                | <b>Ferrell</b>                    | Absent            |  |  |  |
|                                                                                                | <b>Lucas</b>                      | ✓                 |  |  |  |
|                                                                                                | <b>Lewis</b>                      | ✓                 |  |  |  |
|                                                                                                | <b>Gray</b>                       | ✓                 |  |  |  |
|                                                                                                | <b>Thiel</b>                      | ✓                 |  |  |  |
|                                                                                                | <b>Cook</b>                       | N                 |  |  |  |
|                                                                                                | <b>Petty</b>                      | N                 |  |  |  |
|                                                                                                | <b>Mayor Jordan</b>               |                   |  |  |  |

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|                                                                                     |                                              |          |  |  |  |
|-------------------------------------------------------------------------------------|----------------------------------------------|----------|--|--|--|
| <b>Subject:</b>                                                                     | <b>2010 Annual Budget &amp; Work Program</b> |          |  |  |  |
| <b>Motion To:</b>                                                                   |                                              | Approved |  |  |  |
| <b>Motion By:</b>                                                                   |                                              | Thiel    |  |  |  |
| <b>Seconded:</b>                                                                    |                                              | Petty    |  |  |  |
| <b>B. 2</b><br><br><b>Unfinished</b><br><br><b>Business</b><br><br>Passed<br>233-09 | <b>Rhoads</b>                                | ✓        |  |  |  |
|                                                                                     | <b>Ferrell</b>                               | Absent   |  |  |  |
|                                                                                     | <b>Lucas</b>                                 | ✓        |  |  |  |
|                                                                                     | <b>Lewis</b>                                 | ✓        |  |  |  |
|                                                                                     | <b>Gray</b>                                  | ✓        |  |  |  |
|                                                                                     | <b>Thiel</b>                                 | ✓        |  |  |  |
|                                                                                     | <b>Cook</b>                                  | ✓        |  |  |  |
|                                                                                     | <b>Petty</b>                                 | ✓        |  |  |  |
|                                                                                     | <b>Mayor Jordan</b>                          |          |  |  |  |

7-0

|                                                          |         |                          |          |          |      |
|----------------------------------------------------------|---------|--------------------------|----------|----------|------|
| <b>Subject:</b>                                          |         | VAC 09-3444 (Ute Wilson) |          |          |      |
| <b>Motion To:</b>                                        |         |                          | 2nd Read | 3rd Read | Pass |
| <b>Motion By:</b>                                        |         |                          | Lucas    | Thiel    |      |
| <b>Seconded:</b>                                         |         |                          | Lewis    | Lewis    |      |
| C. 1<br>New<br>Business<br><br><u>Passed</u><br><br>5284 | Rhoads  | ✓                        | ✓        | ✓        |      |
|                                                          | Ferrell | <u>Absent</u>            |          |          |      |
|                                                          | Lucas   | ✓                        | ✓        | ✓        |      |
|                                                          | Lewis   | ✓                        | ✓        | ✓        |      |
|                                                          | Gray    | ✓                        | ✓        | ✓        |      |
|                                                          | Thiel   | ✓                        | ✓        | ✓        |      |
|                                                          | Cook    | ✓                        | ✓        | ✓        |      |
|                                                          | Petty   | ✓                        | ✓        | ✓        |      |
| Mayor Jordan                                             |         |                          |          |          |      |

|                                                          |         |                  |          |          |      |
|----------------------------------------------------------|---------|------------------|----------|----------|------|
| <b>Subject:</b>                                          |         | Amend Chapter 97 |          |          |      |
| <b>Motion To:</b>                                        |         |                  | 2nd Read | 3rd Read | Pass |
| <b>Motion By:</b>                                        |         |                  | Thiel    | Thiel    |      |
| <b>Seconded:</b>                                         |         |                  | Gray     | Gray     |      |
| C. 2<br>New<br>Business<br><br><u>Passed</u><br><br>5285 | Rhoads  | ✓                | ✓        | ✓        |      |
|                                                          | Ferrell | <u>Absent</u>    |          |          |      |
|                                                          | Lucas   | ✓                | ✓        | ✓        |      |
|                                                          | Lewis   | ✓                | ✓        | ✓        |      |
|                                                          | Gray    | ✓                | ✓        | ✓        |      |
|                                                          | Thiel   | ✓                | ✓        | ✓        |      |
|                                                          | Cook    | ✓                | ✓        | ✓        |      |
|                                                          | Petty   | ✓                | ✓        | ✓        |      |
| Mayor Jordan                                             |         |                  |          |          |      |

|                                                 |              |                                                       |  |                |  |
|-------------------------------------------------|--------------|-------------------------------------------------------|--|----------------|--|
| <b>Subject:</b>                                 |              | <b>CUP 09-3389 Barking Bed &amp; Breakfast Appeal</b> |  |                |  |
| <b>Motion To:</b>                               |              | Amend<br>Limit # of dogs outside to 15                |  | Approve Appeal |  |
| <b>Motion By:</b>                               |              | Lewis                                                 |  | Petty          |  |
| <b>Seconded:</b>                                |              | Thiel                                                 |  | Cook           |  |
| C. 3<br>New<br>Business<br><br>Appeal<br>Failed | Rhoads       | N                                                     |  | N              |  |
|                                                 | Ferrell      | Absent                                                |  | Absent         |  |
|                                                 | Lucas        | N                                                     |  | N              |  |
|                                                 | Lewis        | ✓                                                     |  | ✓              |  |
|                                                 | Gray         | N                                                     |  | N              |  |
|                                                 | Thiel        | N                                                     |  | N              |  |
|                                                 | Cook         | N                                                     |  | ✓              |  |
|                                                 | Petty        | N                                                     |  | ✓              |  |
|                                                 | Mayor Jordan |                                                       |  |                |  |

1-6

3-4

|                                                                       |              |                          |          |      |                  |
|-----------------------------------------------------------------------|--------------|--------------------------|----------|------|------------------|
| <b>Subject:</b>                                                       |              | <b>Amend Chapter 117</b> |          |      |                  |
| <b>Motion To:</b>                                                     |              | 2nd Read                 | 3rd Read | Pass | Emergency Clause |
| <b>Motion By:</b>                                                     |              | Petty                    | Petty    |      | Petty            |
| <b>Seconded:</b>                                                      |              | Thiel                    | Cook     |      | Cook             |
| C. 4<br>New<br>Business<br><br>Passed<br><br>Emergency Clause<br>5286 | Rhoads       | ✓                        | ✓        | ✓    | ✓                |
|                                                                       | Ferrell      | <del>Absent</del>        |          |      | Absent           |
|                                                                       | Lucas        | ✓                        | ✓        | ✓    | ✓                |
|                                                                       | Lewis        | ✓                        | ✓        | ✓    | ✓                |
|                                                                       | Gray         | ✓                        | ✓        | ✓    | ✓                |
|                                                                       | Thiel        | ✓                        | ✓        | ✓    | ✓                |
|                                                                       | Cook         | ✓                        | ✓        | ✓    | ✓                |
|                                                                       | Petty        | ✓                        | ✓        | ✓    | ✓                |
|                                                                       | Mayor Jordan |                          |          |      |                  |

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# 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

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

DATE: **November 18, 2009**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of November 17, 2009**

1. **Bid #09-63 Landers Ford Lincoln Mercury of Benton:** A resolution to approve the lowest bid from Landers Ford, Lincoln, Mercury of Benton, Arkansas in the amount of \$29,128.00 for a heavy duty, regular cab 4x4 pickup truck for use by the Parks Division;
2. **Bid #09-64 Sweetser Construction, Inc.:** A resolution to approve an agreement between the City of Fayetteville and Sweetser Construction, Inc. for the construction of Doc Mashburn Park in the amount of \$64,199.00 plus a 15% contingency of \$9,630.00;
3. **Ferrara Fire Apparatus:** A resolution awarding bid and approving purchase of a fire pumper apparatus and related equipment from Ferrara Fire Apparatus in the amount of \$410,200.00 for use by the Fayetteville Fire Department; and approving a 12% contingency;
4. **Evans Construction and Remodeling, LLC:** A resolution approving a contract in the amount of \$24,895.00 with Evans Construction and Remodeling, LLC for rehabilitation of a CDBG eligible residence;
5. **2009-2010 (ICAC) Task Force Program Continuation Grant:** A resolution authorizing the Mayor to accept a non-matching 2009-2010 Internet Crimes Against Children Task Force program continuation grant in the amount of \$30,000.00 from the Arkansas State Police; and approving a budget adjustment recognizing the grant revenue;

6. **AOS:** A resolution to approve the purchase of a fully redundant modular chassis switch for the police department form AOS pursuant to the State Contract price of \$70,227.00 and to approve the attached budget adjustment;

7. **Municipal Parking lot #55:** A resolution to approve the attached budget adjustment recognizing \$6,500.00 in parking facility/fees which will be used to replace deteriorated curb and gutter in Municipal Parking Lot #55;

8. **2010 Annual Budget & Work Program:** A resolution adopting the 2010 Annual Budget and Work Program;

9. **Amend Chapter 117:** An ordinance to amend Chapter 117 of the Fayetteville Code to authorize the Fayetteville Town Center to manager the interior parking spaces of the Fayetteville Square during and for the Lights of the Ozarks and to pass an emergency clause.

Mayor Lioneld Jordan  
City Attorney Kit Williams  
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**Roll Call**

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#### **Agenda Additions:**

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1. **Old Wire Annexation Appeal:** An ordinance annexing that property described in annexation petition ANX 09-3409 (CC2009-4), for property located at 3231 North Old Wire Road, the northwest corner of Old Wire Road and Rom Orchard Road, containing approximately 39 acres. *This ordinance was left on the First Reading at the October 6, 2009 City Council meeting. This ordinance was left on the Second Reading at the October 20, 2009 City Council meeting. This ordinance was left on the Third Reading at the November 3, 2009 City Council meeting and Tabled to the November 17, 2009 City Council meeting.*

#### **Left on the Third Reading**

2. **2010 Annual Budget & Work Program:** A resolution adopting the 2010 Annual Budget and Work Program. *This resolution was Tabled at the November 3, 2009 City Council meeting to the November 17, 2009 City Council meeting.*

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A. 5.

Handed out at Agenda Session 11-10-09

Evans Construction & Remodeling, LLC.

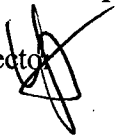
A. 5  
Evans Construction and  
Remodeling, LLC  
Page 1 of 2

**CITY COUNCIL AGENDA MEMO**

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**To:** Mayor and Council

**Thru:** Jeremy Pate, Director of Development Services X

**From:** Yolanda Fields, CS Director 

**Date:** November 10, 2009

**Subject:** Additional Information – CDBG Rehabilitation Project

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**Attachment:**

Affidavit of Publication – Bid Ad

**HUD Contractor Requirement (24 CFR Part 35) Lead Safe Home Rule**

All contractors working on CDBG Rehabilitation Projects must be trained and certified to work with lead-based paint. The last free training session was held in March 2008. CDBG staff contacted 50 local NWA contractors in reference to the training. Of those contacted 5 attended the training. The certified contractors are eligible to bid on current CDBG Rehabilitation projects.

# Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times  
Benton County Daily Record

P. O. BOX 1607  
FAYETTEVILLE, AR 72702  
PHONE: 479-571-6421

## AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County (Lowell) and Pulaski County, Arkansas and that from my own personal knowledge and reference to the files of said publication, the advertisement of:

**City of Fayetteville- CDBG- Bid-02123-09038**

Was inserted in the Statewide Editions on  
**September 20 & 27, 2009**

Publication Charge: \$ 107.50

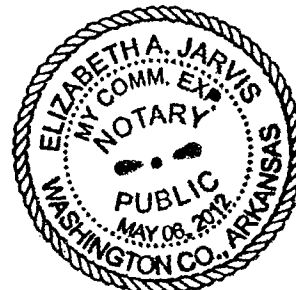
Signed: Cathy Wiles

Subscribed and sworn to before me  
This 30 day of September, 2009.

Notary Public Elizabeth A. Jarvis

My Commission Expires: May 6, 2012

Advertisement for Bids  
City of Fayetteville  
Community Development Block  
Grant Program  
Separate sealed bids for BID #  
02123-09038 Moderate Rehab of a  
Single Family Dwelling Bids will be  
received by: City of Fayetteville,  
Community Services Division 113 W.  
Mountain Street, Fayetteville, AR  
72701 until 4:00PM, Monday, October  
5, 2009. The information for bidders  
Form of Bid, Form of Contract, Spec-  
ification, and General Conditions may  
be picked up at the Community Ser-  
vices Office, 125 W. Mountain St.  
Fayetteville, AR 72701 or by calling  
479-575-0260. The owner reserves  
the right to reject any and all bids and  
to waive formalities deemed to be in  
the owner's best interest. The City of  
Fayetteville encourages participation  
of small, minority and women owned  
business enterprises in the procure-  
ment of goods, services, and con-  
struction, either as a general con-  
tractor or subcontractor.  
F58352866 Sept. 20 & 27, 2009



November 9, 2009

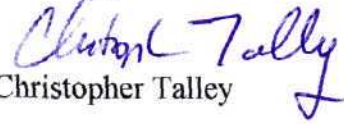
Fayetteville City Counsel  
113 West Mountain Street  
Fayetteville, Arkansas 72701

Re: CUP 09-3389 (Barking Bed & Breakfast -2650 Old Farmington Road)

Dear Ladies & Gentlemen:

As the owner and managing partner for the Microtel Inn and Suites in Bentonville, we are located approximately 175 feet from Doggie Days Day Care in Bentonville. This business has no adverse effect on our customers. I do not lose business because of Doggie Days Day Care. They have approximately 30 to 40 dogs a day at this facility. If anyone has any questions please do not hesitate to call me 479-271-6699.

Sincerely,

  
Christopher Talley

## Subject Property:

**Address** 1001 SE WALTON BLVD  
BENTONVILLE 72712  
**Owner** BENTONVILLE HOTEL DEVELOPERS  
LLC  
1001 SE WALTON BLVD  
BENTONVILLE 72712-5775  
**PID** 01-11943-000  
**County** Benton

## Reports

- Tax
- Parcels
- Air Photos
- Birds Eye
- Comparables
- Flood
- Neighbors
- Schools
- Demographics

## Do More...

- Print
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## Bird's Eye View

Click the "Bird's eye" on the dashboard to see the map.  
**Note:** Not all the locations have the Bird's eye views.

☐ Show Dashboard ☒ Show Boundaries



bing

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|  | House      | Neighbors | N      | W                   | S   | E    |            |           |  |
|--|------------|-----------|--------|---------------------|-----|------|------------|-----------|--|
|  | List Price | List Date | Status | Address             | PID | MLS# | Sold Price | Sold Date |  |
|  |            |           | Closed | 1001 SE WALTON BLVD | PID |      | \$800,000  | 5/23/2006 |  |

Data Subject to Errors, Omissions, Revisions - Not Warranted.  
(11/12/2009)

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Click the "Bird's eye" on the dashboard to see the map.

Note: Not all the locations have the Bird's eye views.

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C. 3  
CUP 09-3389 Barking Bed  
Breakfast Appeal  
Page 4 of 6

| List Price | List Date | Status | House                    | Neighbors | N | W | S | E | PID | MLS# | Sold Price | Sold Date |
|------------|-----------|--------|--------------------------|-----------|---|---|---|---|-----|------|------------|-----------|
|            |           | Closed | Address                  |           |   |   |   |   | PID |      | \$165,000  | 8/25/2005 |
|            |           |        | 2650 W OLD FARMINGTON RD |           |   |   |   |   |     |      |            |           |



November 12, 2009

To whom it may concern,

I am the General Manager at the La Quinta Inn & Suites in Bentonville and our property is located by a dog daycare, Dog Days. We are approximately 300 feet from this business. We have been open since November, 2005 and I have been here since opening.

I want to share with you how our relationship with Dog Days has gone since opening. We have not had any complaints regarding dog barking, excessive noise, or odor coming from Dog Days. They house approximately 30-40 dogs a day or more at this facility. We actually over the years have utilized their location to house animals for travelers while they were away for the day, as we are pet friendly. I don't foresee any concerns with having such a business next door to a hotel facility such as ours, as long as the business owner themselves carries regulations like bringing the animals in at a certain time of night. I have spoken with Ms. Melanie Chambers regarding this issue and she has regulations in place that would not hinder any need for concern of excessive noise.

If I can be of any additional assistance please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kim Eason'.

Kim Eason  
General Manager  
La Quinta Inn & Suites – Bentonville, AR  
479-271-7555  
Lq0790gm@laquinta.com

## Subject Property:

**Address** 200 SW Suburban LN, Bentonville  
72712

**PID** 01-05046-000

## Bird's Eye View

Click the "Bird's eye" on the dashboard to see the map.  
**Note:** Not all the locations have the Bird's eye views.

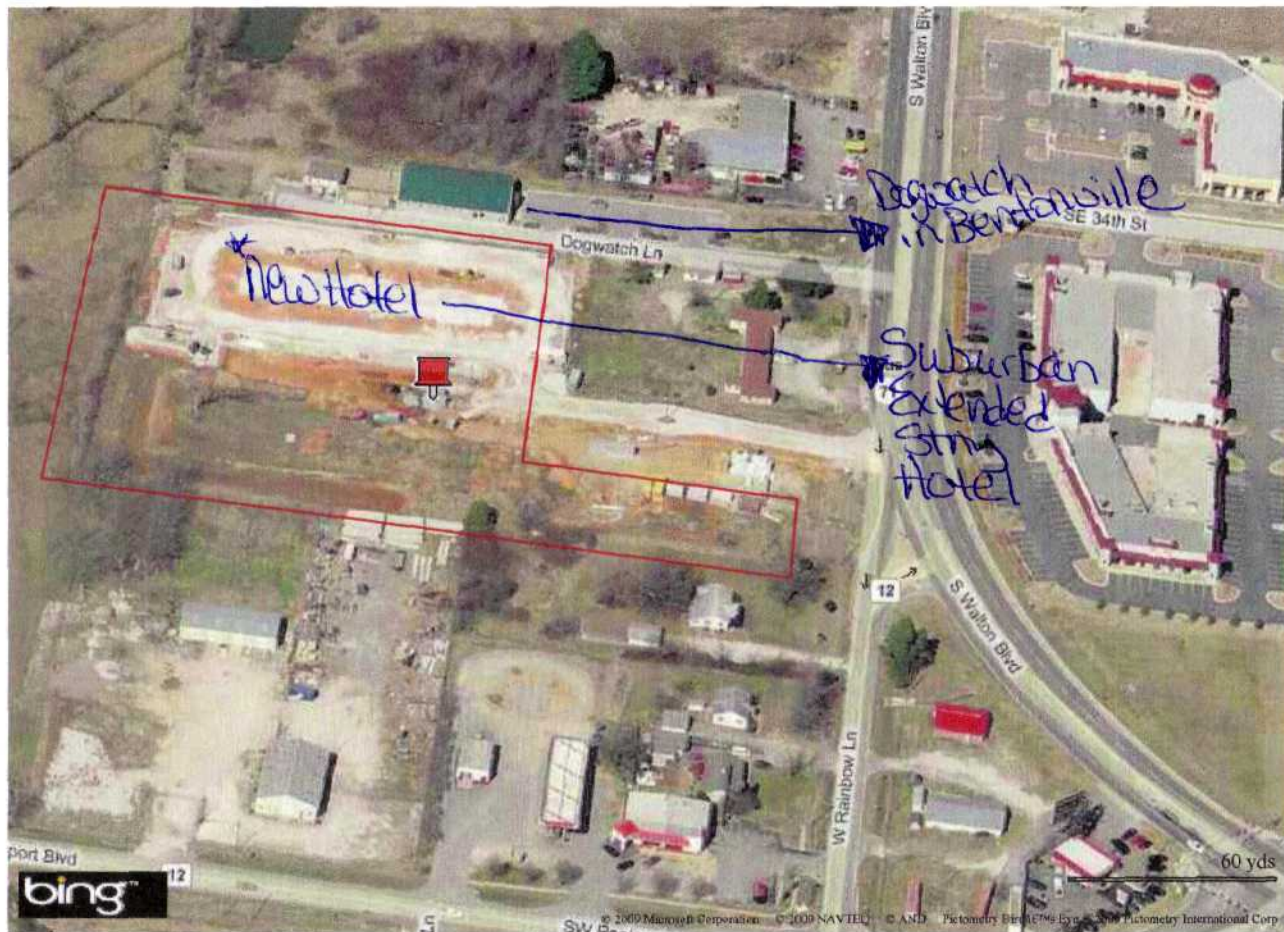
☐ Show Dashboard ☒ Show Boundaries

## Reports

- Tax
- Parcels
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- Comparables
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- Schools
- Demographics

## Do More...

- Print
- Email



|  | House      | Neighbors | N      | W                  | S   | E    |            |           |  |
|--|------------|-----------|--------|--------------------|-----|------|------------|-----------|--|
|  | List Price | List Date | Status | Address            | PID | MLS# | Sold Price | Sold Date |  |
|  |            |           | Closed | 200 SW SUBURBAN LN | PID |      | \$725,000  | 7/16/2007 |  |

Data Subject to Errors, Omissions, Revisions - Not Warranted.  
(11/12/2009)

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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  
November 3, 2009**

A meeting of the Fayetteville City Council was held on November 3, 2009 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Mayor Jordan called the meeting to order.**

**PRESENT: Alderman Gray, Thiel, Cook, Petty, Rhoads, Ferrell, Lucas, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.**

**Alderman Rhoads arrived at 6:05 p.m.**

**Pledge of Allegiance**

**Mayor's Announcements, Proclamations and Recognitions:**

**Mayor Jordan** announced that the City of Fayetteville was honored to receive two of twelve awards distributed at the 8<sup>th</sup> Annual Fayetteville Chamber of Commerce Construction and Developers Committee Banquet. He stated Waste Water System Improvement Project was a recipient of the Infrastructure Award. The City Trails System and the refurbished Fayetteville Square received the Legacy of Fayetteville Award. Mayor Jordan thanked City staff for their work on those projects and the City Council for providing the funding and approving the projects. He also thanked the people of Fayetteville for their dedication to making Fayetteville one of the best places to live or play in America.

**Mayor Jordan** honored Boy Scout Troop #142. He asked them to stand and be recognized. He thanked them for visiting his office and stated I was honored to be able to visit with 21 troop members and their scout masters today. They asked excellent and insightful questions. You all do a wonderful job and we thank you for all that you do for our community.

**Mayor Jordan** recognized three news reporting classes from the Walter J. Lempke Department of Journalism headed up by Gerald Jordan. He asked them to stand and be recognized.

### **Exchange Club Officer of the Year Award - Cory Roberts**

**Police Chief Greg Tabor:** Every year the Exchange Club gives an officer of the year award. It is not unusual for a Fayetteville Police Officer to win that award and this year is no exception. Officer Cory Roberts received the award for the work he has done over the past year. Chief Tabor summarized Cory's work history with the Fayetteville Police Department. He asked Cory to come forward and be recognized.

**Mayor Jordan** presented Cory Roberts with a certificate expressing the City's appreciation.

**Presentations, Reports and Discussion Items:** None

### **Consent:**

Approval of the October 20, 2009 City Council meeting minutes.

### ***Approved***

**2009 Bulletproof Vest Partnership Program:** A resolution authorizing the Mayor to accept a Bulletproof Vest Partnership (BVP) Grant in the amount of \$19,600.00 from the U.S. Department of Justice for replacement of bulletproof vests for police officers; and approving a budget adjustment recognizing the grant revenue.

***Resolution 218-09 as recorded in the office of the City Clerk.***

**Arkansas Democrat-Gazette, Inc.:** A resolution to approve a contract with Arkansas Democrat-Gazette, Inc. for retail and classified advertising.

***Resolution 219-09 as recorded in the office of the City Clerk.***

**Ozark Regional Transit:** A resolution to approve an agreement with Ozark Regional Transit to use \$387,500.00 for sidewalk, transit shelter and bench concrete pad construction and to approve a budget adjustment recognizing this revenue.

***Resolution 220-09 as recorded in the office of the City Clerk.***

**Fayetteville Animal Shelter Donation:** A resolution approving a 2009 budget adjustment in the donation revenue balance of the Fayetteville Animal Shelter in the amount of \$13,707.00.

***Resolution 221-09 as recorded in the office of the City Clerk.***

**Amend Police Department's Policies, Procedures & Rules Manual:** A resolution approving and adopting amendments to the Fayetteville Police Department's Policies, Procedures & Rules Manual. *This resolution was tabled at the October 6, 2009 City Council meeting to the October*

*20, 2009 City Council meeting. This resolution was tabled at the October 20, 2009 City Council meeting to the November 3, 2009 City Council meeting. **This item was moved from Unfinished Business to the Consent Agenda at the October 27, 2009 Agenda Session.***

**Resolution 222-09 as recorded in the office of the City Clerk.**

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

**Alderman Cook** announced the upcoming Board and Committee vacancies.

**Agenda Additions:** None

**Unfinished Business:**

**Old Wire Annexation Appeal:** An ordinance annexing that property described in annexation petition ANX 09-3409 (CC2009-4), for property located at 3231 North Old Wire Road, the northwest corner of Old Wire Road and Rom Orchard Road, containing approximately 39 acres. *This ordinance was left on the First Reading at the October 6, 2009 City Council meeting. This ordinance was left on the Second Reading at the October 20, 2009 City Council meeting.*

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

**City Attorney Kit Williams read the ordinance.**

**Jeremy Pate**, Development Services Director: The applicant is not able to be present tonight and has requested that this item be tabled for two weeks. I spoke with some of the neighbors and several of them are present to discuss their concerns. I would ask that we have public comment tonight.

**Jeff Dangeau**, resident at 3284 Rom Orchard Rd. just outside the city limits spoke in opposition to the ordinance. He asked the Council to focus their attention to the report submitted by the Planning Commission staff which concluded that annexation was not a good for this area.

**Peggy Hart**, resident of 521 E. Ash spoke on behalf of her parents Lyle and Charlene Smith who live at 3119 Rom Orchard Rd. outside the city limits. She expressed her concerns with the traffic in that area. She stated this will add more congestion to the area. She spoke in opposition to the ordinance.

**Cindy Knox**, a citizen stated the proposed subdivision is not a good fit for the area. She also expressed her concerns with the traffic. She spoke in opposition to the ordinance.

**Colleen Gaston**, resident of 3270 Rom Orchard Rd. just outside the city limits voiced her concerns with the density and zoning. She stated there is no rush to annex this into the city at this point. She spoke in opposition to the ordinance.

**Larry Floyd**, resident of 3162 Rom Orchard Rd. expressed his concerns with the traffic safety in that area. If this is annexed does that mean that sewer, sidewalks, and bike paths would be put in all the way to Highway 265?

**Jeremy Pate**: It is not likely that all the improvements would go all the way to Highway 265 but we would look at the development and usually those types of improvements occur along the property frontage. The City only has ability to require so much in any development.

**Larry Floyd**: In front of there that would be the only place there would be a sidewalk but it would go no where except to a pasture. It has been denied for annexation in the past. I just wanted to bring that to your attention.

**Terry Payton**, resident of 3845 Bridgewater expressed his concerns with the annexation. He stated my idea of how that should be developed and Mr. Broyles ideas are different.

**Roy Rom**, resident of 3098 Rom Orchard Rd. spoke in opposition to the ordinance. He stated there is no compelling reason to annex this land.

**Alderman Petty**: Jeremy, exactly what kind of power are we given over land that is in our planning area?

**Jeremy Pate**: We are given subdivision authority which allows the city to review a project anytime there is a subdivision of land. We are not given power over land use or the zoning in the County. That is entirely within the jurisdiction of Washington County.

**Alderman Ferrell**: Were there any other public comments that came from citizens inside the city limits?

No one came forward for public comment.

**Alderman Cook moved to table the ordinance to the November 17, 2009 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.**

***This ordinance was Tabled to the November 17, 2009 City Council meeting.***

### **Public Hearing:**

**Raze and Removal at 369 E. Center Street**: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Bobby E. York and located at 369 E. Center Street in the City of Fayetteville, Arkansas, and approving a budget adjustment.

**Yolanda Fields,** Community Services Director gave a brief description of the item. She referenced the pictures of the property and pointed out that the structure was in fact a safety hazard.

**Alderman Lewis:** Did you find anything out about reusing the materials?

**Yolanda Fields:** We did get the information from the Purchasing office on the company that did work with the Airport and we will add them to our bid list. As you can see in some of the pictures I do not believe that there would be anything reusable from this structure but we will be including them on the bid list from now on.

**Alderman Petty:** I am looking at the picture and there are reusable pieces, especially the rocks and things that make up the foundation. I am going to support this but I would really encourage that we do a little extra homework and contact some of the non-profits here.

**Yolanda Fields:** I will research with the City Attorney but we would be moving to do the raze and removal. As far as the City being able to give any of this to other agencies, it belongs to the property owner and I don't know what position that would put us in.

**City Attorney Kit Williams:** That is correct. Assuming that you all determine that this is an appropriate structure, that meets the requirements for raze and removal, then our only power is to raze and remove that not to provide materials to other groups. It is our hope that the owner normally steps forward and actually does this. Most of the cases that have come before us in the last decade the owners finally stepped in and did the right thing by getting rid of the structure. If that does not happen we will bid it out to be razed and removed. It is not in our power to give away materials because this is not a structure that we are trying to buy and then give to someone else. We are getting rid of a safety hazard.

**Alderman Petty:** So are you telling me that if it comes through and the owner doesn't step forward then we have the power to tear it down and put it in a landfill but we don't have the power to tear it down and give it to somebody who can use it?

**City Attorney Kit Williams:** That is probably correct. We have the power to raze and remove. That is what the statute gives us the right to do. We hire a contractor to do that. He explained the contractor's responsibilities. He stated if we do not follow the state law we are not going to be entitled to that lien and we are not going to be able to get our cost back.

**Alderman Petty:** That is disappointing that it is so restrictive. I would hope we could structure the bid in such a way that the appropriate use of the materials was required from the beginning. If the state does not allow that then we have to follow the law.

**Alderman Lucas:** It seems strange that we can tear something down and take it to a landfill but we could not utilize the things. We can look at that in the future.

**City Attorney Kit Williams:** The Legislature may want to take a look at that state law because we follow it exactly when it comes to this procedure.



**Alderman Lewis:** On something like this what is the point of view of the property owner?

**City Attorney Kit Williams** referenced page 7 in the packet and stated they have been notified.

**Yolanda Fields:** We have been working with the property owners since June and if you look at the picture we have posted signs in front of the property. They also received notification of this public hearing.

**Alderman Ferrell:** Kit would you seek an Attorney General's opinion on this? When we are ready to impose regulations we will just jump way out there but when we are trying to do something that seems to make sense we are stepping back. I agree with Matthew. If we are going to tear this to the ground it might be worth getting an Attorney General's opinion on this and then allow us to pass local legislation. It just doesn't sound logical to me.

**City Attorney Kit Williams:** We base everything on the state law. That is why we have done what we have in the past. I will be happy to ask the Attorney General for you.

**Alderman Ferrell:** If that doesn't work then maybe we can go to our legislative delegation. It is worth doing right.

**Alderman Thiel:** So you are not suggesting we hold this?

**Alderman Ferrell:** No.

**Alderman Thiel:** I don't know how much salvageable material you would find in an old wooden structure. I think it is problematic and I can see a lot of issues here.

**City Attorney Kit Williams** reminded the Council the purpose of a public hearing.

**Alderman Gray:** We are asking our attorney to find out if we can give it away. What is it that we are asking him to ask the Attorney General?

**Alderman Ferrell:** We have had incidents like this in the past and I think we will have some more in the future. If we are going to hold a public hearing and then pass legislation authorizing the City to raze and remove it would be logical and make sense to me that we could reuse material.

**Alderman Gray:** I agree completely. So we are asking for permission to reuse it in some way.

**Alderman Ferrell:** Yes.

**Alderman Gray:** That makes a lot of sense to me.

**Mayor Jordan opened the Public Hearing**

**Paula Marinoni**, a citizen spoke on the demolition process and sorting materials safely. She expressed her concerns on lead based paint materials being reused and asbestos issues.

**Alderman Lewis:** We bid this out to companies and that is their profession. They work with permitting.

**City Attorney Kit Williams:** I think that is correct and the bid would be all inclusive so that they would be responsible for razing it, demolishing the building, and removing the property safely which would include any recycling they want to do. Also removal of hazardous materials would all be a part of their contract.

**Yolanda Fields:** That's correct.

**Alderman Petty:** Could we write the bid such that companies are required to disclose what they plan to do with the materials?

**Yolanda Fields:** I don't see why not.

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

***Resolution 223-09 as recorded in the office of the City Clerk.***

**Mayor Jordan closed the Public Hearing**

**New Business:**

**Waste Management Contract, Bid #09-61:** A resolution awarding Bid #09-61 and approving a contract with Waste Management of Arkansas for hauling and disposal of municipal waste.

**David Jurgens**, Utilities Director gave a brief description of the bid process.

**Alderman Ferrell:** I certainly think it is a good idea to use a local business when we can but I have a question. The length of the contract that I am looking at is five years with a contingency to lengthen that if we need to. Are you aware of the possible development of some local technology that might help make this less expensive?

**David Jurgens:** Yes sir I am. We work with those organizations that are trying to experiment and find better ways to do business. They all have to be approved by ADEQ for that experimental process. It is rare that one of those can get approved in less than three years and that is only after they have started pilot programs. So the likelihood of being completed and ready to be permitted prior to this five year period is pretty slim. Given the price that we have on this contract compared to the #2 bidder we are getting a good deal right now. We will continue to try any other method that we can find in order to find alternative methods of getting rid of our trash.

**Alderman Ferrell:** We can proceed after five years?

**David Jurgens:** After this contract unless the City Council would decide that it is worth not following this contract and then we would talk to Waste Management at that time if such things come forward.

**Alderman Ferrell:** In your opinion how much would it be if we tried to make it four years instead of five? Could we keep the same price and they would go along with that?

**David Jurgens:** No sir. Waste Management has contacted me a couple of times trying to change the terms of the contract and I refused in every case because they saw how much money they left on the table. I do not want to change a word. I don't want to take any chance of losing this price.

**City Attorney Kit Williams:** I would like to warn the City Council that if we take action against the Cherokee Nation that we are under duty to mitigate our losses. If we did not accept the lowest contract price that we had then we would not be mitigating our losses and so the losses that would be above that would not be recoverable by the City.

**Alderman Ferrell:** Did you say if we take action against Cherokee Nation?

**City Attorney Kit Williams:** Yes, if we involve litigation with them.

**Alderman Ferrell:** What is our expectation now?

**City Attorney Kit Williams:** Sometimes before you file suit you can actually resolve issues and that is always our first effort to resolve it before you go to court.

**Alderman Ferrell:** So we are still in the possible resolution area which could lead to litigation.

**City Attorney Kit Williams:** Right now we are still trying to determine what our damages will be. This is a big part of our damages right here. Of course until this is approved we don't have any idea what our damages will be.

**David Jurgens:** We just got our first months operating costs in. We wanted to get that month completed before we continue those estimates for actual damages. One of the reasons you go to a five year contract is because this requires a fleet of seven tractors and trailers and you are talking about a million dollar expense or more. So in order to purchase the fleet in order to do the hauling for the trash takes a pretty high capital expense. So the term of contract on a case like this is normally set on a reasonable pay back of the capital expense that is expected in order to meet the mission.

**Don Marr,** Chief of Staff added if we are unable to work out a settlement with Cherokee Nation it is our intention to recover any loss to the City as a result of breach of contract.

**Alderman Ferrell:** Thank you. I was aware that we were trying to work things out before we go to litigation.

**Alderman Rhoads:** My law firm represents Cherokee Nation therefore I need to recuse myself from discussion and voting on this.

**Alderman Lewis:** The \$32.50 per ton is estimated to be \$1.7 million per year.

**David Jurgens:** Yes ma'am.

**Alderman Lewis:** Is that comparable to what other cities in the region pay?

**David Jurgens:** Yes ma'am. When we calculated the expenses and through the temporary solution that we are working right now this price is \$.15 higher than what we are paying through our temporary solution. It is in line with the best we were expecting to receive.

**Alderman Lewis:** So that \$1.7 million could change because if the amount of tonnage changes that could go down or up.

**David Jurgens:** Yes ma'am. That estimate was based on approximately 53,600 tons which is what we actually hauled in 2008. It is an estimate based off the tonnage.

**Alderman Lewis:** So we are buying trucks for this?

**David Jurgens:** No ma'am, we are doing this under contract so the contractor is buying the trucks.

**Alderman Lewis:** If people move to Fayetteville and there are more tons of trash then this will not go up. The rate stays the same over the five years but the total amount could increase.

**David Jurgens:** The rate stays the same and actually in the contract it stays fixed for three years and then there is a CPI based negotiation for the next two years for a change. The contract fix is not the total dollar amount.

**Alderman Lewis:** So on an annual basis there is an incentive to reduce the tonnage.

**David Jurgens:** Yes ma'am.

**Alderman Ferrell moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed 7-0. Alderman Rhoads recused.**

***Resolution 224-09 as recorded in the office of the City Clerk.***

**2010 Annual Budget & Work Program:** A resolution adopting the 2010 Annual Budget and Work Program.

**Paul Becker**, Finance Director encouraged the public to view the previous budget discussion on the Government Channel. He gave a brief overview of this year's budget.

**Alderman Cook:** I think the video is on our website too.

**Don Marr:** Yes it is and they can watch it at their convenience through Granicus on our website.

**Alderman Ferrell:** I would say we had a good meeting. We are headed in the right direction and I don't see any problems.

**Alderman Ferrell moved to table the resolution to the November 17, 2009 City Council meeting. Alderman Cook seconded the motion. Upon roll call the resolution passed unanimously.**

*This resolution was Tabled to the November 17, 2009 City Council meeting.*

**Community Access Television, Inc.:** A resolution approving a contract in the amount of \$93,000.00 with Community Access Television, Inc. to operate the public access television channel throughout 2010.

**Lindsley Smith**, Communications, Marketing, & Volunteer Services Department Director gave a brief description of the resolution. I think we have come out with a superior contract. It went before the Telecommunications Board and it was approved unanimously.

**Alderman Lewis:** I want to say I appreciate the relative ease with which this was put together and all the work that was put in.

**Lindsley Smith:** Thank you, we tried to do a lot of work on the front end to make your jobs easier.

**Alderman Ferrell:** I appreciate the prompt response that I got for my questions about the number of local productions. Thank you.

**Alderman Lewis:** If you would please mention the access points where people can see government action. There is a website and channel and tell people publicly what the contract states as far as where people can view their government.

**Lindsley Smith:** We have a television center in which we have two entities. One would be the Government Channel and then one would be Community Access Television. So we have Channel 16 and 18. You can also go to the website and view the Community Access Television which has the capability to have 24 hour streaming. The Government Channel primarily it is a City entity and the large focus on it is gavel to gavel; meaning we cover all the meetings and we also do public service announcements working to make sure that the people have 100% informed

information about their government. Community Access Television is not a government entity. It is a contractor of the City.

**Don Marr:** You might speak to the education channel.

**Lindsley Smith:** With the Education Channel we have the School District involved and also UATV. So you have the Public, Education, and the Government Channel. We are all out there to inform. It is the citizen's government and we all work for them. We make sure they know as much as possible about their government.

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

***Resolution 225-09 as recorded in the office of the City Clerk.***

**Announcements:**

**Meeting adjourned at 7:05 p.m.**

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**Lioneld Jordan, Mayor**

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**Sondra E. Smith, City Clerk/Treasurer**

**CONDITIONS OF APPROVAL:**  
**CUP 09-3389 Barking Bed & Breakfast**

Page 1 of 2

**Should the appeal be granted, the applicant shall be responsible for the following conditions of approval:**

1. **Use.** The Conditional Use Permit granted for Use Unit 43, a full-service animal boarding and care facility, shall be limited to the use as described within the application on file with the Planning Division, and to those conditions listed herein.
2. **Screen/Buffer.** To provide a visual screen and noise buffer from the proposed use and surrounding land uses, the applicant shall provide the following:
  - a) The entire outdoor dog play area shall be surrounded by a six-foot high wood board privacy fence and a dense planting of evergreen trees and evergreen shrubs adjacent to the outside of the fence, with the exception of the northern property line, where vegetative plantings are not recommended due to the adjacent tree preservation area.
  - b) The fence indicated along the eastern property line shall be moved approximately 12 feet west to allow adequate space for vegetative plantings between the fence and property line.
  - c) A wood board privacy fence or dense planting of vegetation is required between the building/parking lot and the western property line; to continue a buffer between the non-residential and residential uses.
  - d) To ensure that the vegetated buffer grows into an effective screen the vegetation shall be installed with an irrigation system, or the developer shall deposit a 3-year maintenance bond for the vegetated buffer prior to issuance of a certificate of occupancy. All vegetation shall be maintained in a live and healthy condition, and replaced immediately if it does not survive.
  - e) See the attached diagram with the staff recommended buffer/screening areas. The diagram does not indicate the number or type of buffers to be installed, only the location. Trees and shrubs shall be planted closely together, and shall be a combination of low, medium and tall plants.
3. **Noise ordinance.** The applicant shall comply with the noise ordinance. To further address potential noise nuisance issues from barking dogs from this business, if more than three dog barking complaints relative to this use have been verified by the Planning Division in coordination with the Fayetteville Police Department within one calendar year, this conditional use permit may be returned to the Planning Commission for further review, to include additional conditions or revocation of the permit.
4. **Hours of Operation.** The hours of operation for the public retail and animal drop-off and pick-up will be Monday – Friday 7 AM – 6 PM, Saturday 10 AM – 4 PM, and Sunday 12 PM – 4 PM. The hours for animal play in the outside yard will be between the hours of 10 AM – 6PM, every day.



**CONDITIONS OF APPROVAL:**  
**CUP 09-3389 Barking Bed & Breakfast**

Page 2 of 2

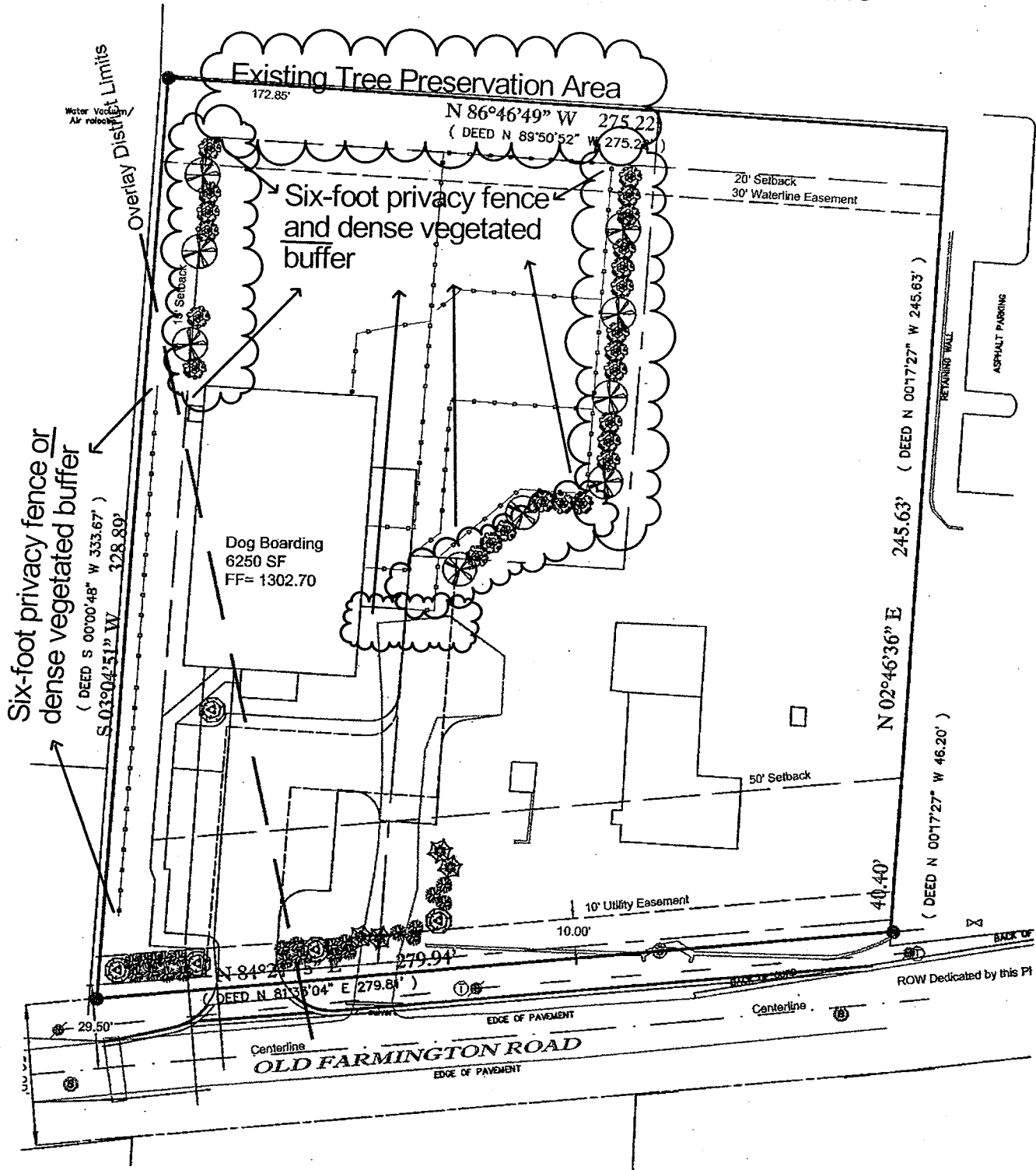
5. *Solid waste service:*

- a) Animal waste shall be disposed of in commercial dumpsters in accordance with City Solid Waste requirements. Animal waste is not permitted to be composted or stored on site.
- b) Trash service shall be coordinated with the Solid Waste Department with the location and the dimension of the dumpster enclosure approved prior to issuance of a building permit. A commercial dumpster shall be screened from the right-of-way and adjacent properties with a screen constructed of materials that are complimentary and compatible with the principal structure. Elevations of the proposed dumpster enclosure should be submitted for review prior to building permit.

6. Signage shall be permitted in accordance with the C-2, Thoroughfare Commercial zoning district.

7. A Certificate of Zoning Compliance shall be required prior to the start of operations of the business.

# STAFF RECOMMENDED BUFFER/SCREENING



**Clark Consulting**

CIVIL / ENVIRONMENTAL ENGINEERING

3715 Business Drive, Suite 202 Fayetteville, AR 72703 (479)444-8171

SCALE: NTS

DATE REVISED:

CHECKED BY:

DRAWN BY:

DATE: 10/19/09

JSC

jsc

Barking Bed and Breakfast

Fence and Vegetative Buffer Plan

1

1



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  
November 17, 2009**

A meeting of the Fayetteville City Council will be held on November 17, 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:**

**Mayor's Announcements, Proclamations and Recognitions:**

**Presentations, Reports and Discussion Items:**

**A. Consent:**

1. Approval of the November 3, 2009 City Council meeting minutes.
2. **Bid # 09-63 Landers Ford Lincoln Mercury of Benton:** A resolution to approve the lowest bid from Landers Ford, Lincoln, Mercury of Benton, Arkansas in the amount of \$29,128.00 for a heavy duty, regular cab, 4x4 pickup truck for use by the Parks Division.
3. **Bid # 09-64 Sweetser Construction, Inc.:** A resolution to approve an agreement between the City of Fayetteville and Sweetser Construction, Inc. for the construction of Doc Mashburn Park in the amount of \$64,199.00 plus a 15% contingency of \$9,630.00.

4. **Ferrara Fire Apparatus:** A resolution awarding bid and approving purchase of a fire pumper apparatus and related equipment from Ferrara Fire Apparatus in the amount of \$410,200.00 for use by the Fayetteville Fire Department; and approving a 12% contingency.
5. **Evans Construction and Remodeling, LLC:** A resolution approving a contract in the amount of \$24,895.00 with Evans Construction and Remodeling, LLC for rehabilitation of a CDBG eligible residence.
6. **2009-2010 (ICAC) Task Force Program Continuation Grant:** A resolution authorizing the Mayor to accept a non-matching 2009-2010 Internet Crimes Against Children (ICAC) Task Force Program Continuation Grant in the amount of \$30,000.00 from the Arkansas State Police; and approving a budget adjustment recognizing the grant revenue.
7. **AOS:** A resolution to approve the purchase of a fully redundant modular chassis switch for the Police Department from AOS pursuant to the state contract price of \$70,227.00 and to approve the attached budget adjustment.
8. **Municipal Parking Lot # 55:** A resolution to approve the attached budget adjustment recognizing \$6,500.00 in Parking Facility/Fees which will be used to replace deteriorated curb and gutter in Municipal Parking Lot # 55

#### **Agenda Additions:**

#### **B. Unfinished Business:**

1. **Old Wire Annexation Appeal:** An ordinance annexing that property described in annexation petition ANX 09-3409 (CC2009-4), for property located at 3231 North Old Wire Road, the northwest corner of Old Wire Road and Rom Orchard Road, containing approximately 39 acres. *This ordinance was left on the First Reading at the October 6, 2009 City Council meeting. This ordinance was left on the Second Reading at the October 20, 2009 City Council meeting. This ordinance was left on the Third Reading at the November 3, 2009 City Council meeting and Tabled to the November 17, 2009 City Council meeting.*

#### **Left on the Third Reading**

2. **2010 Annual Budget & Work Program:** A resolution adopting the 2010 Annual Budget and Work Program. *This resolution was Tabled at the November 3, 2009 City Council meeting to the November 17, 2009 City Council meeting.*

#### **C. New Business:**

1. **VAC 09-3444 (Ute Wilson):** An ordinance approving VAC 09-3444 submitted by Sawyer's Outdoor Solutions for property located at 2021 Ball Avenue to vacate a portion of a utility easement containing approximately 124 square feet.

2. **Amend Chapter 97:** An ordinance amending Title IX: General Regulations of the Code of the City of Fayetteville, to amend sections of Chapter 97: Parks and Recreation in order to permit special events at Lake Fayetteville that include a swimming component.
3. **CUP 09-3389 Barking Bed & Breakfast Appeal:** An appeal of the Planning Commission's decision to deny CUP 09-3389 Barking Bed and Breakfast located in the I-540 Design Overlay District (DOD) west of I-540 and Shiloh Drive on the north side of Old Farmington Road.
4. **Amend Chapter 117:** An ordinance to amend Chapter 117 of the Fayetteville Code to authorize the Fayetteville Town Center to manage the interior parking spaces of the Fayetteville Square during and for the Lights of the Ozarks and to pass an emergency clause.

**Announcements:**

1. **City Council Tour: November 16, 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](http://accessfayetteville.org) or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.***



## City of Fayetteville Staff Review Form

A. 2  
 Bid # 09-63 Landers Ford  
 Lincoln Mercury of Benton  
 Page 1 of 6

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

11/17/2009

**City Council Meeting Date  
 Agenda Items Only**

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

**Action Required:**

A resolution awarding Bid #09-63 to Landers Ford Lincoln Mercury of Benton, Arkansas in the amount of \$29,128 for the purchase of one heavy duty regular cab 4 x 4 pickup truck for use by Parks Division.

\$ 29,128.00

Cost of this request

\$ 348,000.00

Category / Project Budget

Light Utility Trucks

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 246,874.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02078.2009

Project Number

\$ 101,126.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Tony Z. Gully  
 Department Director

10/29/09  
 Date

Previous Ordinance or Resolution # \_\_\_\_\_

Original Contract Date: \_\_\_\_\_

K. Kasper  
 City Attorney

10-30-09  
 Date

Original Contract Number: \_\_\_\_\_

Paul A. Becker  
 Finance and Internal Services Director

11-2-2009  
 Date

Received in City  
 Clerk's Office



Don Mar  
 Chief of Staff

11-2-09  
 Date

Received in  
 Mayor's Office



Lionel Job  
 Mayor

11/8/09  
 Date

Comments:





**FLEET OPERATIONS**  
1525 S. Happy Hollow Road  
Fayetteville, AR 72701  
(479) 444-3495 FAX (479) 444-3425



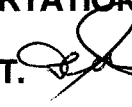
Landers Ford  
Lincoln Mercury of Benton

## **Interdepartmental Correspondence**

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**TO: MAYOR/CITY COUNCIL**

**THRU: TERRY GULLEY, DIRECTOR OF TRANSPORTATION**

**FROM: DENNIS PRATT, FLEET OPERATIONS SUPT.** 

**DATE: OCTOBER 27, 2009**

**SUBJECT: Purchase of one 4x4 Heavy duty Pickup**

**RECOMMENDATION:** That City Council approve the purchase of one heavy duty 4x4 pickup truck for use by Parks Division in the amount of \$29,128.00.

**BACKGROUND:** Bid #09-63 was opened on October 20<sup>th</sup>, 2009 for one heavy duty regular cab 4 x 4 pickup truck. Five bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Landers Ford Lincoln Mercury of Benton, Arkansas meets all specifications. I recommend acceptance of the bid from Landers Ford Lincoln Mercury in the amount of \$29,128.00.

This truck is a replacement for unit #275, a 1996 pickup that is worn out and no longer dependable for daily use. An Equipment Committee member went to the job sites with Parks and agreed a four wheel drive vehicle of this size was needed to accomplish the work at hand.

This purchase was unanimously approved by the Equipment Committee on June 30<sup>th</sup>.

This replacement was budgeted for and approved in the 2009 capital budget process. Funds for this purchase are available in Fleet project 02078 – Light Utility Trucks.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION TO APPROVE THE LOWEST BID FROM  
LANDERS FORD, LINCOLN, MERCURY OF BENTON,  
ARKANSAS IN THE AMOUNT OF \$29,128.00 FOR A HEAVY  
DUTY, REGULAR CAB, 4x4 PICKUP TRUCK FOR USE BY  
THE PARKS DIVISION

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves  
the lowest bid from Landers Ford, Lincoln, Mercury of Benton, Arkansas in the amount of  
\$29,128.00 for a heavy duty, regular cab 4x4 pickup truck for use by the Parks Division.

**PASSED and APPROVED** this 3<sup>rd</sup> day of November, 2009.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

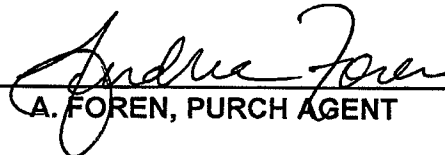


BID: 09-63  
10/20/2009  
2:00 PM  
CITY OF FAYETTEVILLE

### Bid 09-63, Regular Cab Heavy Duty 4x4 Pickup Truck

| BIDDER                         | Manufacturer   | Model                          | Total Price |
|--------------------------------|----------------|--------------------------------|-------------|
| 1 Everett Maxey Buick GMC      | GMC            | Sierra 2500 HD 4WD Reg Cab W/T | \$35,061.00 |
| 2 Landers Ford Lincoln Mercury | Ford           | F250                           | \$29,128.00 |
| 3 Lewis Ford Sales, Inc.       | Ford           | 2010 Ford F250 XLT             | \$31,987.00 |
| 4 Starr Motor Company          | Ford           | F250 Superduty                 | \$32,600.00 |
| 5 Whiteside Chevrolet, Inc.    | General Motors | Chev Silverado/GMC Sierra      | \$35,900.00 |

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

CERTIFIED:  A. FOREN, PURCH AGENT       WITNESS      10/20/09 DATE

# City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

Requisition No.: \_\_\_\_\_ Date: Bid # 09-63 Landers Ford  
 10/28/2009 Lincoln Mercury of Benton

P.O Number: \_\_\_\_\_ Expected Delivery Date: \_\_\_\_\_

Vendor #: 7582 Vendor Name: LANDERS FORD LINCOLN MERCURY

Mail Yes: \_\_\_\_\_ No: X

Address: \_\_\_\_\_ Fob Point: \_\_\_\_\_ Taxable Yes: \_\_\_\_\_ No: X Quotes Attached Yes: \_\_\_\_\_ No: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Ship to code: 50 Division Head Approval: 

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

| Item | Description                           | Quantity | Unit of Issue | Unit Cost | Extended Cost | Account Numbers   | Project/Subproject # | Inventory # | Fixed Asset # |
|------|---------------------------------------|----------|---------------|-----------|---------------|-------------------|----------------------|-------------|---------------|
| 1    | 2010 FORD F250 REGULAR CAB HEAVY DUTY | 1        | EA            | 29,128.00 | \$29,128.00   | 9700.1920.5802.00 | 02078.2009           |             |               |
| 2    | 4 X 4 PICKUP TRUCK, PER BID #09-63,   |          |               |           | \$0.00        |                   |                      |             |               |
| 3    | RESOLUTION # _____, TO BE UNIT        |          |               |           | \$0.00        |                   |                      |             |               |
| 4    | #2139, FIXED ASSET #702139            |          |               |           | \$0.00        |                   |                      |             |               |
| 5    |                                       |          |               |           | \$0.00        |                   |                      |             |               |
| 6    |                                       |          |               |           | \$0.00        |                   |                      |             |               |
| 7    |                                       |          |               |           | \$0.00        |                   |                      |             |               |
| 8    |                                       |          |               |           | \$0.00        |                   |                      |             |               |
| 9    |                                       |          |               |           | \$0.00        |                   |                      |             |               |
| 10   |                                       |          |               |           | \$0.00        |                   |                      |             |               |
| *    | Shipping/Handling                     |          | Lot           |           | \$0.00        |                   |                      |             |               |

Special Instructions:

Subtotal: \$29,128.00

Tax: EXEMPT

Total: \$29,128.00

Approvals:

Mayor: \_\_\_\_\_

Department Director: \_\_\_\_\_

Purchasing Manager: \_\_\_\_\_

Finance &amp; Internal Services Director: \_\_\_\_\_

Budget Manager: \_\_\_\_\_

IT Manager: \_\_\_\_\_

Dispatch Manager: \_\_\_\_\_

Utilities Manager: \_\_\_\_\_

Other: \_\_\_\_\_



City of Fayetteville Staff Review Form

A. 3  
 Bid # 09-64 Sweetser Construction, Inc.  
 Page 1 of 22

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

11/17/2009

City Council Meeting Date  
 Agenda Items Only

Carole Jones

Submitted By

Park Planning

Division

Parks and Recreation

Department

**Action Required:**

A resolution awarding Bid #09-64 and approval of a contract with Sweetser Construction, Inc. in the amount of \$64,199.00 with a 15.0% project contingency of \$9,630.00 for a total project cost of \$73,829.00 for the Construction of Doc Mashburn Park.

\$ 73,829.00

Cost of this request

\$ 150,000.00

Category / Project Budget

Neighborhood Park Dev.

Program Category / Project Name

2250.9255.5806.00

Account Number

\$ 242.08

Funds Used to Date

Doc Mashburn Park

Program / Project Category Name

02013.0901

Project Number

\$ 149,757.92

Remaining Balance

Parks Development

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

*Connie Edmonston*  
 Department Director

10-24-09  
 Date

Previous Ordinance or Resolution # 149-03, 106-09

*K. K. K.*  
 City Attorney

10-30-09  
 Date

Original Contract Date:

Original Contract Number:

*Paul A. Behr*  
 Finance and Internal Services Director

11-2-2009  
 Date

Received in City  
 Clerk's Office

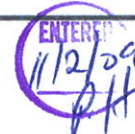


*Kim Johnson*

*Don M. M.*  
 Chief of Staff

11-2-09  
 Date

Received in  
 Mayor's Office



*Frederick Jordan*  
 Mayor

11/2/09  
 Date

Comments:

**CITY COUNCIL AGENDA MEMO**

---

**To:** Mayor Lioneld Jordan and City Council  
**Thru:** Don Marr, Chief of Staff  
Connie Edmonston, Parks and Recreation Director  
**From:** Carole Jones, Park Planner  
**Date:** October 30, 2009  
**RE:** Construction of Doc Mashburn Park

---

**RECOMMENDATION**

A resolution awarding Bid #09-64 and approval of a contract with Sweetser Construction, Inc. in the amount of \$64,199.00, with a 15.0% project contingency of \$9,630.00 for a total project cost of \$73,829.00 for the construction of Doc Mashburn Park.

**BACKGROUND**

Doc Mashburn Park contains 1.34 acres and is located at 1582 Fairlane Street east of Fairlane Apartments. The park land is situated in the southeast quadrant of town south of Huntsville Road and west of Happy Hollow Road. The park serves residents within a ½-mile radius. Two public meeting were conducted to involve the neighborhood and assess the community's needs and desires for amenities within the park. Based on the findings, a park master plan that included a walking trail around the park perimeter, a pavilion, a playground and a basketball court was designed by Park Staff and presented to the neighborhood (see attached Conceptual Plan). PRAB approved the application request on July 7, 2008. The plan was approved by the neighborhood and PRAB on August 4, 2008 (see attached PRAB minutes).

On August 5, 2008, the City Council passed Resolution Number 149-08 authorizing Parks and Recreation to apply for a grant from Arkansas Department of Parks and Tourism (see attached resolution). On May 19, 2009, the City Council passed Resolution Number 106-09 authorizing Parks and Recreation to accept a grant from Arkansas Department of Parks and Tourism in the amount of \$50,000 (see attached resolution).

The development of the park was also approved in the 2008 Capital Improvement Plan. Funding in the amount of \$100,000 was approved from Neighborhood Park Development funds. Because of the associated cost, the development of this park was phased. Phase I includes the construction and installation of playground equipment for children ages 2-5 years and 5-12 years, a pavilion with two picnic tables, a bicycle rack, and associated sidewalks.

**DISCUSSION**

The project was advertised on October 9 and October 16, and bids were opened on October 28, 2009. Eight vendors including Sweetser Construction, Inc. Goodwin & Goodwin, Inc., N.E.C., Inc., Alpha Building Corporation, Danny Robinson Construction, LLC, Benchmark Construction, Natural Builders, Inc., and Keith Capps Landscape & Excavation, Inc. submitted bids. Sweetser Construction, Inc. was the low bid in the

amount of \$64,199.00. If approved, the construction of the project is anticipated to begin in December 2009 and be completed in May 2010.

**BUDGET IMPACT**

This project is funded with Neighborhood Park Development funds (\$100,000) and Arkansas Department of Parks and Tourism Outdoor Recreation Grant funds (\$50,000). Total project cost including a 15.0 % contingency is \$73,829.00. The annual maintenance cost for the developed park (1.34 acres) is anticipated to be \$2,700.

**Attachments:**

Doc Mashburn Park (formerly called Fairlane Park Land) Conceptual Plan  
PRAB Minutes July 7, 2008  
PRAB Minutes August 4, 2008  
Resolution No. 149-08  
Resolution No. 106-09  
Bid Tabulation Sheet  
Contract Agreement Signed by Contractor  
Purchase Requisition



**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION TO APPROVE AN AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE AND SWEETSER CONSTRUCTION, INC. FOR THE CONSTRUCTION OF DOC MASHBURN PARK IN THE AMOUNT OF \$64,199.00 PLUS A 15% CONTINGENCY OF \$9,630.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an agreement between the City of Fayetteville and Sweetser Construction, Inc. for the construction of Doc Mashburn Park in the amount of \$64,199.00 plus a 15% contingency of \$9,630.00.

**PASSED and APPROVED** this 3<sup>rd</sup> day of November, 2009.

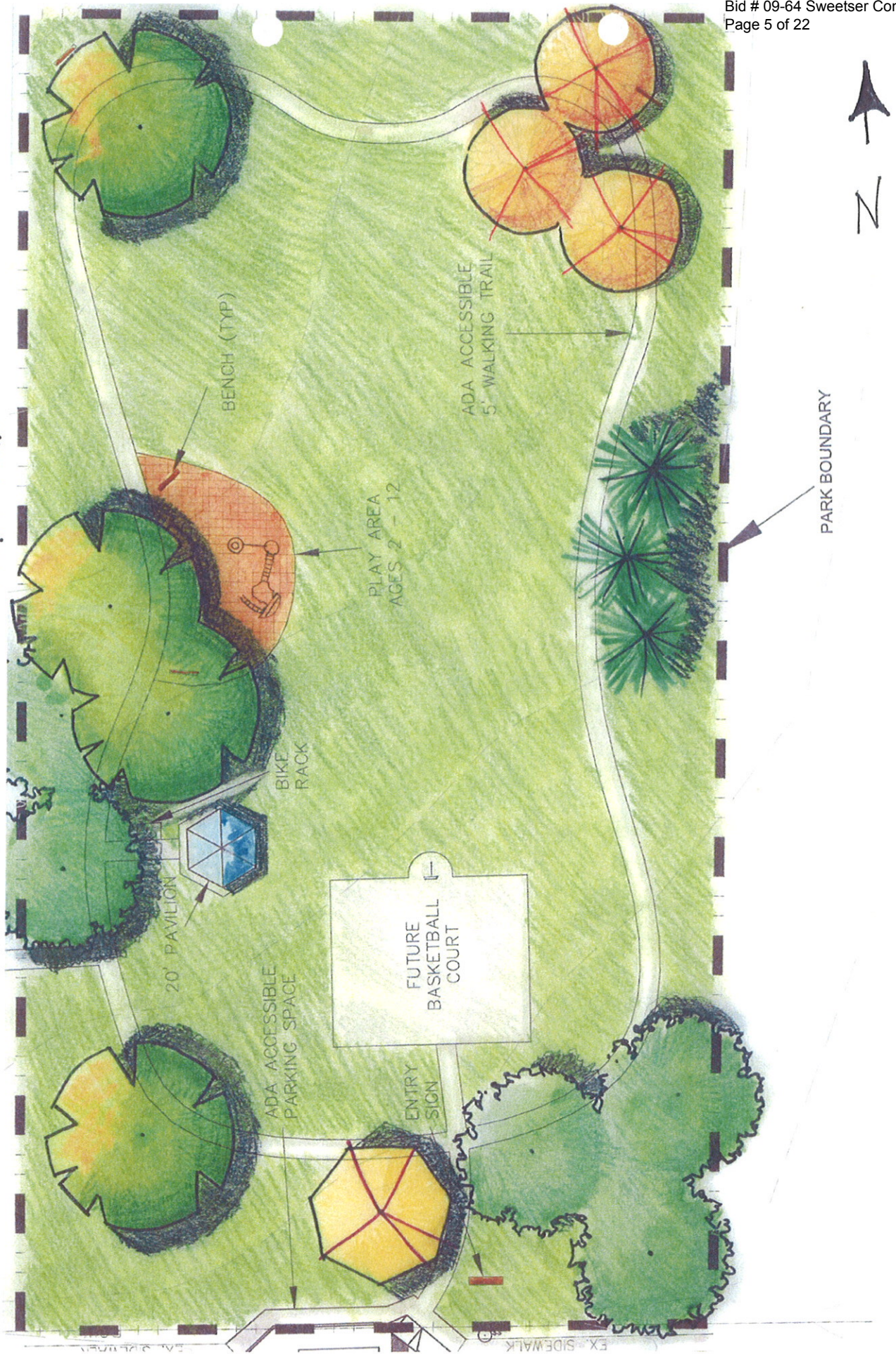
APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

# Doc MASHBURN Park Conceptual Plan



## AGREEMENT

### BETWEEN CITY OF FAYETTEVILLE AND CONTRACTOR

**THIS AGREEMENT** is dated as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2009 by and between the City of Fayetteville, Arkansas (hereinafter called CITY OF FAYETTEVILLE) and Sweetser Construction, Inc. (herein after called CONTRACTOR).

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

#### Article 1. WORK.

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

The work generally consists of the construction and installation of a 20' square pavilion with two picnic tables, one bike rack, an entry sign, sidewalks for ADA accessibility to the new amenities and one ADA parking space. Additionally, the project includes all associated site preparation, grading, drainage improvements and site restoration at **Doc Mashburn Park** and all items indicated in the Drawings and Specifications.

#### Article 2. ENGINEER.

The Project has been designed by:

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

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

#### Article 3. CONTRACT TIME.

3.1. The Work for Construction of Doc Mashburn Park shall be substantially completed within 90 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within 130 consecutive calendar days after the date when the Contract Time commences to run.

3.2. *Liquidated Damages.* CITY OF FAYETTEVILLE and CONTRACTOR recognize that time is of the essence of the Agreement and that CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, City of Fayetteville and



CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY OF FAYETTEVILLE, CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

#### Article 4. CONTRACT PRICE.

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

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

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

#### PAYMENT ITEMS

| Sweetser Construction, Inc.  |                                                                                                                                                                        |      |           |             |                    |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-----------|-------------|--------------------|
| ITEM#                        | DESCRIPTION                                                                                                                                                            | UNIT | EST. QTY. | UNIT PRICE  | TOTAL              |
| 1                            | Mobilization (not to exceed 5% of project bid)                                                                                                                         | L.S. | 1.00      | \$1,800.00  | \$1,800.00         |
| 2                            | Site Preparation - including erosion control, concrete washout and construction entrance                                                                               | L.S. | 1.00      | \$4,500.00  | \$4,500.00         |
| 3                            | Grading - including approx. 170 CY of excavation and all drainage improvements on west side of site                                                                    | L.S. | 1.00      | \$5,350.00  | \$5,350.00         |
| 4                            | Concrete Sidewalk (4" Thickness) - complete in place per details                                                                                                       | S.Y. | 161.00    | \$36.00     | \$5,796.00         |
| 5                            | Demolition, Disposal & Replacement of Existing Concrete ADA Ramp (approx. 3.5 SY) and Four Sections of Concrete Sidewalk (approx. 9 SY) - including detectable warning | L.S. | 1.00      | \$1,170.00  | \$1,170.00         |
| 6                            | Concrete Pavilion Slab (5" Thickness) - complete in place per details                                                                                                  | S.Y. | 55.00     | \$44.00     | \$2,420.00         |
| 7                            | 20' Square Pavilion - complete in place per manufacturer's instructions                                                                                                | E.A. | 1.00      | \$15,500.00 | \$15,500.00        |
| 8                            | 7' Picnic tables - complete in place per manufacturer's instructions                                                                                                   | E.A. | 2.00      | \$1,600.00  | \$3,200.00         |
| 9                            | Entry Sign - complete in place per details                                                                                                                             | L.S. | 1.00      | \$6,600.00  | \$6,600.00         |
| 10                           | Concrete ADA Accessible Parking Space - complete in place per details                                                                                                  | L.S. | 1.00      | \$8,323.00  | \$8,323.00         |
| 11                           | Bike Rack - complete in place per details and manufacturer's instructions                                                                                              | E.A. | 1.00      | \$600.00    | \$600.00           |
| 12                           | Site Restoration - including topsoil, fescue seed & straw                                                                                                              | A.C. | 1.15      | \$5,600.00  | \$6,440.00         |
| 13                           | Detention Area Restoration - including straw wattles and erosion matting                                                                                               | L.S. | 1.00      | \$2,500.00  | \$2,500.00         |
| <b>TOTAL CONTRACT AMOUNT</b> |                                                                                                                                                                        |      |           |             | <b>\$64,199.00</b> |

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

## Article 5. PAYMENT PROCEDURES

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

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

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

90 percent of Work completed (with the balance of 10 percent being retainage), If Work has been 50 percent completed as determined by the PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, and if the character and progress of the Work have been satisfactory to CITY OF FAYETTEVILLE and PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, CITY OF FAYETTEVILLE, on recommendation of PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

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

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

5.2. *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, CITY OF FAYETTEVILLE shall pay

the remainder of the Contract Price as recommended by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER as provided in said paragraphs 14.07.B & C.

#### **Article 6. CONTRACTOR'S REPRESENTATIONS.**

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

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

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

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

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

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

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

6.6. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the

Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

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

#### **Article 7. CONTRACT DOCUMENTS**

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

- 7.1. This Agreement (pages 1 to 7, inclusive).
- 7.2. Performance and Payment Bonds, (Exhibits A and B respectively).
- 7.3. Certificates of Insurance, (Exhibit C).
- 7.4. General Conditions (pages 1 to 42, inclusive).
- 7.5. Supplementary Conditions (pages 1 to 13 inclusive).
- 7.6. Specifications consisting of Divisions 1 through 31 as listed in table of contents thereof.
- 7.7. Addenda numbers 1 and 2, inclusive.
- 7.8. One set of drawings (not attached hereto) consisting of: a cover sheet and additional sheets numbered two through seven with each sheet bearing the following general title: **Construction of Doc Mashburn Park**.
- 7.9. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:
  - 7.9.1. Notice to Proceed
  - 7.9.2. All written amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

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

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

## **Article 8. MISCELLANEOUS.**

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

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

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

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

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

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



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

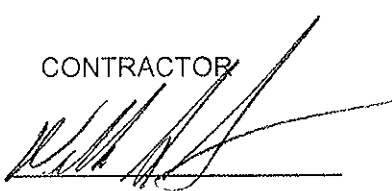
This Agreement will be effective on \_\_\_\_\_, 2009 (which is the Effective Date of The Agreement).

CITY OF FAYETTEVILLE:

By: \_\_\_\_\_  
Mayor

[CORPORATE SEAL]

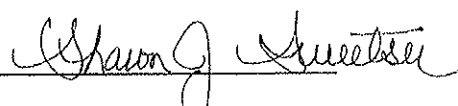
CONTRACTOR

By:  \_\_\_\_\_

[CORPORATE SEAL]

Attest \_\_\_\_\_

Address for giving notices

\*Attest  \_\_\_\_\_

\* If a Corporation, attest by the Secretary.

Address for giving notices

SWEETSER CONSTRUCTION, INC.  
590 W. POPLAR  
FAYETTEVILLE, AR 72703

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

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

CORPORATE RESOLUTION

OF

BOARD OF DIRECTORS

OF

SWEETSER CONSTRUCTION

I, Sharon Sweetser, certify that I am the secretary and treasurer of Sweetser Construction, a corporation legally organized and existing under and by virtue of the laws of the State of Arkansas, and that I am the custodian of the records and the seal of the corporation; that at a meeting of the board of directors of the corporation duly and legally called and held in accordance with the law and the bylaws of the corporation on the 27<sup>th</sup> day of December 2004, at which meeting a quorum of the board of directors of the corporation was present, the following resolutions were duly adopted by the board of directors of the corporation and are set forth in the minutes of the meeting, namely:

“BE IT RESOLVED, by the board of directors of this corporation that:

That Billy Sweetser as President of the Corporation and Sharon Sweetser as Secretary and Treasurer of the Corporation, are authorized to sign any and all contracts, deeds, assurances or any document which may be proper to effectuate the negotiations or transactions of the corporation.

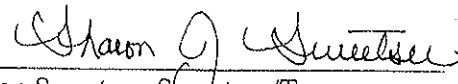
That Billy Sweetser as President of the Corporation and Sharon Sweetser as Secretary and Treasurer of the Corporation, any one or jointly are authorized to sign any and all contracts, deeds, assurances or any document which may be proper to effectuate the negotiations or transactions of the corporation from time to time on behalf of this Corporation.

The above resolution will continue in force until express written notice of its rescission or modification has been received.

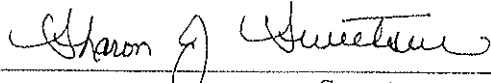
I further certify that the above resolutions have not been in any way altered, amended, or rescinded; they are not in contravention of or in conflict with any of the conditions or provisions of the bylaws or charter of the corporation; and they are now in force and effect.

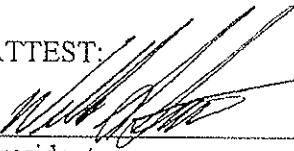
I further certify that the names of all presently qualified and acting officers of the corporation are as follows, and the genuine signature of those presently authorized to sign for the corporation pursuant to the above resolutions appears below, identified by their signature:

  
\_\_\_\_\_  
Billy Sweetser, President

  
\_\_\_\_\_  
Sharon Sweetser, Secretary/Treasurer

IN WITNESS WHEREOF, I have hereunto set my hand as Secretary of said corporation and have affixed hereto the official seal of the corporation this \_\_\_\_\_ day of Dec 27, 2004.

  
\_\_\_\_\_  
Secretary

ATTEST:  
  
\_\_\_\_\_  
President

# City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

|                                       |                                          |                  |                                             |
|---------------------------------------|------------------------------------------|------------------|---------------------------------------------|
| Vendor #: 56870                       | Vendor Name: Sweetser Construction, Inc. | Requestion No.:  | Date: 10/30/2009                            |
| Address: 590 West Poplar Street       | Fob Point:                               | P.O Number:      | Expected Delivery Date:                     |
| City: Fayetteville                    | State: AR                                | Mail Yes: No:    | Quotes Attached Yes: No:                    |
| Requester: Carole Jones, Park Planner | Zip Code: 72703                          | Taxable Yes: No: | Division Head Approval: <i>Carole Jones</i> |
| Item Description                      | Quantity                                 | Unit of Issue    | Extension: 472                              |

| Item | Description                       | Quantity | Unit of Issue | Unit Cost | Extended Cost | Account Numbers   | Project/Subproject # | Inventory # | Fixed Asset # |
|------|-----------------------------------|----------|---------------|-----------|---------------|-------------------|----------------------|-------------|---------------|
| 1    | Construction of Doc Mashburn Park | 1        | 1             | LS        | \$64,199.00   | 2250.9255.5806.00 | 02013.0901           |             |               |
| 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:

Tax is included in the bid price.

Subtotal: \$64,199.00  
Tax: \$64,199.00  
Total: \$64,199.00

Approvals:

Mayor: *Carole Jones* Department Director: *Carole Jones*

Finance & Internal Services Director: \_\_\_\_\_ Budget Manager: \_\_\_\_\_

Dispatch Manager: \_\_\_\_\_ Utilities Manager: \_\_\_\_\_

Purchasing Manager: \_\_\_\_\_

IT Manager: \_\_\_\_\_

Other: \_\_\_\_\_

**FAYETTEVILLE  
PARKS AND RECREATION ADVISORY BOARD**

Meeting Minutes July 7, 2008

**Opening:**

The regular meeting of the Parks and Recreation Advisory Board was called to order by Chairman Wade Colwell at 5:31 p.m. on July 7, 2008 in room 326 of the City Administration Building located at 113 West Mountain Street in Fayetteville, Arkansas.

**Present:**

Park and Recreation Advisory Board members Colwell, Biendara, P Jones, Waite, Mauritson, and Bitler were present for the first vote. Davidson and Hatfield came in immediately after that vote. Park Staff Edmonston, Humphry, Wright, Jumper, C Jones, Thomas, and the audience were in attendance.

**1. Request to apply for 2009 Arkansas Parks and Tourism 50/50 Outdoor Recreation Grant for the development of Fairlane subdivision park land:**

Parks staff hosted a Public Meeting at the 1.34 acre park land located at 1582 Fairlane Street to discuss priorities and needs for the 2009 Arkansas Parks & Tourism 50/50 Outdoor Recreation Grant. Citizens voted to apply for the grant to develop the park at Fairlane. The top three requested amenities were a walking trail around the park perimeter, a pavilion and a playground.

C Jones reported a public meeting has been held at the potential parkland on Fairlane. The majority attending wanted that piece of property for the future park. The number one request was a walking trail around the perimeter of the park. Staff is asking PRAB to approve the park area and grant.

Mauritson asked if the board was asking to approve the land and also the grant.

Edmonston said yes, it would be both.

Bitler wanted to know what was located east of the land.

Jumper said it was private land. Parks and Recreation talked to the owner a few years ago, and he was not interested in selling.

Bitler asked if any trees would be planted on the property.

C Jones said yes, trees would be included in the design of the park.

Mauritson asked what would happen if the grant isn't awarded to Fayetteville Parks and Recreation, or some other problem develops.

Edmonston said that we have met all regulations, so that shouldn't happen.

Colwell asked if the socioeconomic impact was considered.

Wright said yes. The points are awarded to municipalities when they are applying for a project in a low income area of the community.

**Staff Recommendation: Approval to apply for 2009 Arkansas Parks and Tourism 50/50 Outdoor Recreation Grant for the development of Fairlane subdivision park land.**

**PRAB Motion:** Mauritson motioned to accept Staff recommendation. Waite seconded it. Motioned passed 8-0-0 by voice vote.

2. **PRAB Term Proposal: Connie Edmonston, Parks & Recreation Director**  
Currently PRAB terms are for 2 years with 4 positions being renewed each year. In reviewing the terms of other City Council appointed commissions, boards and committees, many are for 3 years. After reviewing this issue with City Attorney, Kit Williams, he recommended that we should also consider having 9 members on PRAB in the event a tie needs to be broken by the PRAB Chair. This would need to go before City Council for an amendment to the current ordinance.

Mauritson asked if the existing terms would change, or would the changes happen as each term ran out.

Edmonston said a decision would have to be made but the City Council would make that decision based on current terms and where board members are in their terms.

Bitler asked why nine members were chosen instead of seven.

Edmonston said that the City was growing, and more representation makes the most sense. The City Attorney also thought nine was a good number. Another good thing would be that the Chairperson would cast a tiebreaker vote, if necessary.

Bitler said that to make sure he understood, the Chairperson would not vote on issues unless there was a tie that needed to be broken.

Edmonston said yes. The Chairperson could give his opinion, but could not vote unless there was a tie.

P Jones asked how the term change would happen.

Edmonston said that if PRAB approves this request, it then would go before City Council.

P Jones wanted to know if PRAB would have the final vote for recommendation.

## **FAYETTEVILLE PARKS AND RECREATION ADVISORY BOARD**

Meeting Minutes August 4, 2008

### **Opening:**

The regular meeting of the Parks and Recreation Advisory Board was called to order by Chairman Wade Colwell at 5:39 p.m. on August 4, 2008 in room 326 of the City Administration Building located at 113 West Mountain Street in Fayetteville, Arkansas.

### **Present:**

Parks and Recreation Advisory Board members Colwell, Biendara, Waite, Mauritson, and Hatfield were present. P Jones and Davidson were absent. Wright, C Jones, Jumper, Thomas and the audience were in attendance.

### **AGENDA:**

#### **1. Fairlane Park Land Master Plan: Carole Jones, Park Planner**

**Parks & Recreation Staff Recommendation:** Approval of the Fairlane Park Land Conceptual Master Plan for development in 2009.

C Jones reminded the board that they have already approved this land to be a future park. This vote will be for approval of the Fairlane Parkland Conceptual Master Plan for development in 2009.

Colwell said that the conceptual plan needed to be approved. The name of the park will be decided at a later date.

Mauritson asked if any names had been suggested.

Wright replied that Staff has suggested Fairlane Park, or Jefferson Park. Jefferson is the school that closed nearby. More suggestions are welcomed.

**PRAB Motion:** Mauritson motioned to accept the conceptual plan. Biendara seconded it. Motion passed by voice vote 5-0-0.

#### **2. Lake Recreation Committee: David Wright, Recreation Superintendent**

Parks Staff would like to form a Lake Recreation Committee to review the current fees and the Lake Sequoyah Boatdock. We need volunteers from PRAB as well as citizens to serve on this Review Committee.

Wright directed the board to the fee ordinance in their packets. He said that most of the complaints from citizens that utilize the lake pertain to the fee cost. The ordinance needs to be updated because there are activities at the lake that the ordinance does not cover. Wright asked for volunteers from the board to serve on the committee.

**RESOLUTION NO. 149-08**

A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AN ARKANSAS PARKS AND TOURISM OUTDOOR RECREATION GRANT IN THE AMOUNT OF \$150,000.00 FOR THE DEVELOPMENT OF THE PARK PROPERTY ON FAIRLANE DRIVE.

**WHEREAS**, the City of Fayetteville, Arkansas seeks to improve recreation facilities and wishes to seek grant funding assistance; and,

**WHEREAS**, in order to obtain the funds necessary to develop and/or improve the site for such a recreation area, it is necessary to obtain a 50/50 Matching Grant from the Arkansas Department of Parks and Tourism's Outdoor Recreation Grant Program; and,

**WHEREAS**, the plans for such recreation areas have been prepared and the price therefore has been established; and,

**WHEREAS**, the City Council of the City of Fayetteville, Arkansas understands the grantee and grantor will enter into a binding agreement which obligates both parties to the policies and procedures contained in the *Land and Water Conservation Fund Grants Manual* including, but not limited to the following: the park area defined by the project boundary map, submitted in the application, must remain in outdoor recreation use in perpetuity, regardless if the property is bought or developed with matching grant funds and; all present and future overhead utility lines within the project boundary must be routed away or placed underground and; the project area must remain open and available for use by the public at all reasonable times of the day and year; facilities can be reserved for special events, league play, etc. but cannot be reserved, leased, or assigned for exclusive use, and; the project area must be kept clean, maintained, and operated in a safe and healthful manner. The City Council of the City of Fayetteville, Arkansas is well aware and apprised of the above-mentioned project, and will provide the local portion of the development cost of the entire project.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to make application to the Arkansas Department of Parks and Tourism for assistance, in the amount of \$150,000.00, for the development of the park property on Fairlane Drive. Therefore, such application shall be submitted as expediently as possible.

**PASSED and APPROVED** this 5<sup>th</sup> day of August, 2008.

APPROVED:

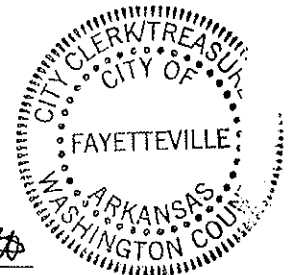
By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA E. SMITH, City Clerk/Treasurer





**RESOLUTION NO. 106-09**

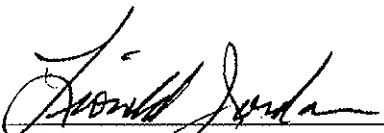
A RESOLUTION TO ACCEPT AN ARKANSAS PARKS AND  
TOURISM MATCHING GRANT IN THE AMOUNT OF  
\$50,000.00 FOR DEVELOPMENT OF DOC MASHBURN  
PARK AND TO APPROVE A BUDGET ADJUSTMENT TO  
RECOGNIZE THIS REVENUE

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

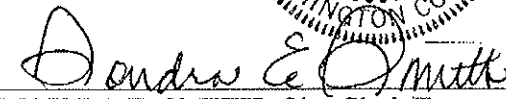
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby accepts an  
Arkansas Parks and Tourism Matching Grant in the amount of \$50,000.00 for development of  
Doc Mashburn Park and approves the attached budget adjustment to recognize this revenue.

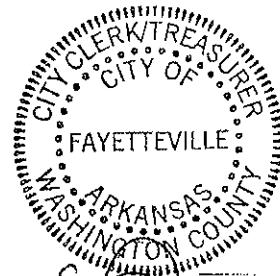
**PASSED and APPROVED** this 19<sup>th</sup> day of May, 2009.

APPROVED:

By:   
LIONELD JORDAN, Mayor

ATTEST:

By:   
SONDRA E. SMITH, City Clerk/Treasurer





BID: 09-64  
10/28/2009  
2:00 PM  
CITY OF FAYETTEVILLE

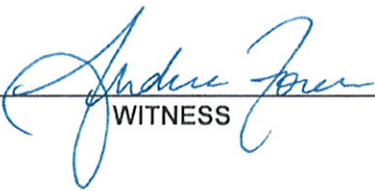
## Bid 09-64, Construction of Doc Mashburn Park

| BIDDER                                     | Total Base Bid                               |
|--------------------------------------------|----------------------------------------------|
| 1 Alpha Building Corporation               | \$97,841.00                                  |
| 2 Benchmark Construction                   | \$99,384.20                                  |
| 3 Danny Robinson Construction, LLC         | \$98,800.00                                  |
| 4 Goodwin & Goodwin, Inc.                  | \$68,543.00                                  |
| 5 Keith Capps Landscape & Excavation, Inc. | \$164,079.00                                 |
| 6 N.E.C., Inc.                             | \$71,262.00                                  |
| 7 Natural Builders, Inc.                   | \$116,048.89                                 |
| 8 Sweetser Construction, Inc.              | *\$64,199.00<br>*calculation correction made |

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

CERTIFIED:

  
P. VICE, PURCH MGR

  
WITNESS

10/29/09  
DATE



## City of Fayetteville Staff Review Form

A. 4  
 Ferrara Fire Apparatus  
 Page 1 of 8

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

November 17 2009

City Council Meeting Date  
 Agenda Items Only

Kyle Curry

Submitted By

Operations

Division

Fire Department

Department

## Action Required:

Council approval to accept bid from Ferrara Fire Apparatus for \$410,200 to purchase a fire pumper apparatus.

\$ 410,200.00

Cost of this request

\$ 500,000.00

Category / Project Budget

Fire apparatus purchases

Program Category / Project Name

4470.9470.5802.00

Account Number

\$ 95.00

Funds Used to Date

Fire improvements

Program / Project Category Name

03019

Project Number

\$ 499,905.00

Remaining Balance

Sales tax capital

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:





**The City of Fayetteville Fire Department**  
**303 W. Center St. Fayetteville, AR. 72701**

Phone (479) 575-8365 Fax (479) 575-0471

A. 4  
Ferrara Fire Apparatus  
Page 2 of 8

**Project Request**

Date: October 21, 2009

To: Mayor Jordan and  
The Fayetteville City Council

From: Bud Thompson, Assistant Chief *[Signature]*

Thru: Kyle Curry, Interim Fire Chief *[Signature]*

Subject: Recommendation for awarding bid 09-62 Fire Pumper Apparatus

---

**Recommendation**

I would like to recommend that you accept and approve the low bid submitted by Ferrara Fire Apparatus for one fire pumper apparatus in the amount of \$410,200.00. In a separate request, I would also like to have approved a contingency amount of \$72,224.00 for the separate purchase of necessary equipment that we have already received bids on. This equipment will be purchased after the delivery of the truck so a 12% contingency has been added to account for possible price adjustments after the first of the year. Typically, we can get a better price on loose equipment than most fire truck vendors can. This will bring the grand total for the project to \$482,424.00. The initial projection for the purchase was estimated at \$500,000.

The bidding process for the truck was accomplished by reverse auction. This is a "first" for the City of Fayetteville. All of the vendors were required to submit proposals based on specifications written by the Fayetteville Fire Department. After approval of submitted proposals, vendors were allowed to participate in the bidding process. I believe we have gotten the most competitive price possible. Other bids submitted were Jon's Mid America Fire Apparatus, (KME) \$410,440.00, Pro-Fire (Pierce) \$481,808.00, Sunbelt Fire Inc. (E-One) \$497,990.00.

**Justification**

This truck purchase is for a replacement front line fire pumper apparatus. The new truck will allow us to replace a thirteen year old reserve truck that has been increasingly costly to maintain and is showing evidence of requiring costly engine repairs in the near future. The new truck will have several new features that will make it a safer and easier piece of equipment for our personnel to work with. Some of those features are:

Honor, Commitment, Courage;  
Our people make the difference!



## The City of Fayetteville Fire Department

303 W. Center St. Fayetteville, AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

- Power ladder rack to make handling ladders easier
- Larger compartments to carry additional equipment and make equipment easier to work with
- Anti-lock brakes
- Electronic stability control
- Features to reduce loose equipment in the rider area

The proposed assignment of this truck will be at Station 5, 2979 N. Crossover. Engine 5 responds to a fairly sizable area of large, new homes. This truck will also respond on automatic aid assignments within designated areas of the Goshen community.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION AWARDDING BID AND APPROVING  
PURCHASE OF A FIRE PUMPER APPARATUS AND  
RELATED EQUIPMENT FROM FERRARA FIRE  
APPARATUS IN THE AMOUNT OF \$410,200.00 FOR USE BY  
THE FAYETTEVILLE FIRE DEPARTMENT; AND  
APPROVING A 12% CONTENGENCY

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards the  
bid and approves the purchase of a fire pumper apparatus and related equipment from Ferrara  
Fire Apparatus in the amount of \$410,200.00 for use by the Fayetteville Fire Department.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a  
contingency in an amount not to exceed 12% of the bid amount.

**PASSED** and **APPROVED** this 3<sup>rd</sup> day of November, 2009.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

BidBridge, LLC : Buyer Event Manager :Final Bid Submission Report

Page 1 of 1

**Final Bid Submission Report****Fire Apparatus**Started:10/21/200910:00AM  
Ended:10/21/200911:02AM**Fire Apparatus****Cost for One (1) New Fire Apparatus per Specifications.**

| Rank | Company                          | Value        | Date/Time            |
|------|----------------------------------|--------------|----------------------|
| 1    | Ferrara Fire Apparatus           | \$410,200.00 | 10/21/200910:58:53AM |
| 2    | Jon's Mid America Fire Apparatus | \$410,440.00 | 10/21/200910:59:35AM |
| 3    | Pro-Fire                         | \$481,808.72 | 10/21/200910:20:34AM |
| 4    | Sunbelt Fire, Inc.               | \$497,990.00 | 10/20/20091:54:58PM  |





## Event Summary Report

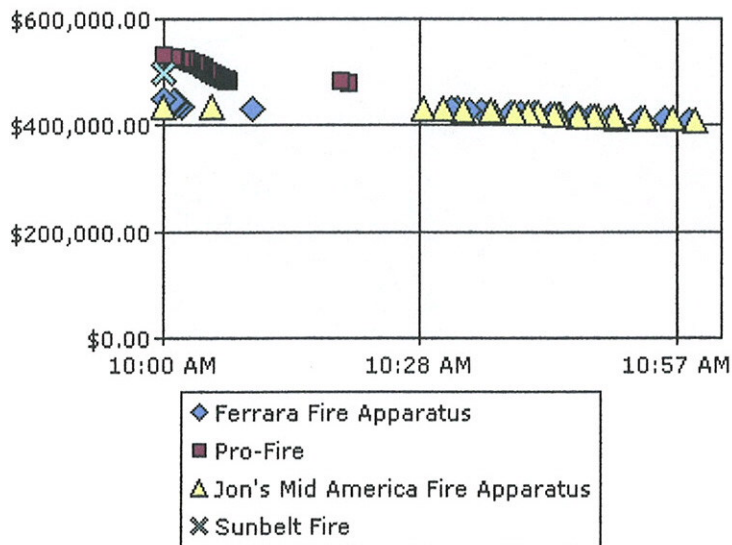
### Fire Apparatus

Started: 10/21/2009 10:00 AM  
 Ended: 10/21/2009 11:02 AM

#### Fire Apparatus

Cost for One (1) New Fire Apparatus per Specifications.

| Rank | Bidder                           | Initial Bid  | Final Bid    | # of Bids |
|------|----------------------------------|--------------|--------------|-----------|
| 1    | Ferrara Fire Apparatus           | \$449,000.00 | \$410,200.00 | 21        |
| 2    | Jon's Mid America Fire Apparatus | \$436,067.00 | \$410,440.00 | 21        |
| 3    | Pro-Fire                         | \$534,308.72 | \$481,808.72 | 29        |
| 4    | Sunbelt Fire, Inc.               | \$497,990.00 | \$497,990.00 | 1         |



|                            |            |
|----------------------------|------------|
| Number of Bids             | 72         |
| 1st Place TurnOvers        | 27         |
| Est. Bid Ceiling           | n/a        |
| Est. Bid Decrement         | \$1,000.00 |
| Avg. Bid Decrement         | \$1,274.09 |
| Avg. Time Between Bids     | 54secs     |
| High-Low Spread % 1st-2nd: | 0.06 %     |
| High-Low Spread % Total:   | 17.63 %    |
| Extension Count:           | 34         |

# 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](mailto:Purchasing@ci.fayetteville.ar.us)

|                                                       |  |                                                 |  |                                                                                          |  |                                                                                                  |
|-------------------------------------------------------|--|-------------------------------------------------|--|------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------|
| Requester:<br><b>Gerald Thompson</b>                  |  | Requester's Employee #: <b>191</b>              |  | Requestion No.:                                                                          |  | Date: <b>10/26/2009</b>                                                                          |
| Vendor #: <b>07-9508539740</b>                        |  | Vendor Name: <b>Ferrara Fire Apparatus Inc.</b> |  | P.O Number:                                                                              |  | Expected Delivery Date: <b>8/30/2010</b>                                                         |
| Address: <b>27855 James Chapel Road, P.O. Box 249</b> |  | Fob Point:                                      |  | Mail Yes: <input checked="" type="checkbox"/> No: <input checked="" type="checkbox"/>    |  | Quotes Attached Yes: <input checked="" type="checkbox"/> No: <input checked="" type="checkbox"/> |
| City: <b>Holden</b>                                   |  | State: <b>LA</b>                                |  | Taxable Yes: <input checked="" type="checkbox"/> No: <input checked="" type="checkbox"/> |  | Division Head Approval: _____                                                                    |
| Zip Code: <b>70744</b>                                |  | Ship to code:                                   |  | Project/Subproject # <b>03019</b>                                                        |  | Inventory #                                                                                      |
| Quantity <b>1</b>                                     |  | Unit of Issue                                   |  | Unit Cost <b>410,200.00</b>                                                              |  | Extended Cost <b>\$410,200.00</b>                                                                |
| Item Description                                      |  | Quantity                                        |  | Unit of Issue                                                                            |  | Unit Cost                                                                                        |
| 1 Fire Pumper Apparatus                               |  | 1                                               |  |                                                                                          |  |                                                                                                  |
| 2                                                     |  |                                                 |  |                                                                                          |  | \$0.00                                                                                           |
| 3                                                     |  |                                                 |  |                                                                                          |  | \$0.00                                                                                           |
| 4                                                     |  |                                                 |  |                                                                                          |  | \$0.00                                                                                           |
| 5                                                     |  |                                                 |  |                                                                                          |  | \$0.00                                                                                           |
| 6                                                     |  |                                                 |  |                                                                                          |  | \$0.00                                                                                           |
| 7                                                     |  |                                                 |  |                                                                                          |  | \$0.00                                                                                           |
| 8                                                     |  |                                                 |  |                                                                                          |  | \$0.00                                                                                           |
| 9                                                     |  |                                                 |  |                                                                                          |  | \$0.00                                                                                           |
| 10                                                    |  |                                                 |  |                                                                                          |  | \$0.00                                                                                           |
| * Shipping/Handling                                   |  |                                                 |  |                                                                                          |  | \$0.00                                                                                           |
| Special Instructions:                                 |  |                                                 |  |                                                                                          |  |                                                                                                  |
| Subtotal: <b>\$410,200.00</b>                         |  |                                                 |  |                                                                                          |  |                                                                                                  |
| Tax: <b>\$0.00</b>                                    |  |                                                 |  |                                                                                          |  |                                                                                                  |
| Total: <b>\$410,200.00</b>                            |  |                                                 |  |                                                                                          |  |                                                                                                  |

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



**City of Fayetteville Staff Review Form**

A. 5  
Evans Construction  
and Remodeling, LLC  
Page 1 of 28

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

11/17/2009

**City Council Meeting Date  
Agenda Items Only**

|                       |                           |                             |
|-----------------------|---------------------------|-----------------------------|
| <u>Yolanda Fields</u> | <u>Community Services</u> | <u>Development Services</u> |
| <b>Submitted By</b>   | <b>Division</b>           | <b>Department</b>           |

**Action Required:**

CDBG - (Res 71 - 09) Approval of P.O. for Moderate rehab project

|                                            |                                                  |                                           |
|--------------------------------------------|--------------------------------------------------|-------------------------------------------|
| <u>\$24,895.00</u><br>Cost of this request | <u>\$ 25,000.00</u><br>Category / Project Budget | _____<br>Program Category / Project Name  |
| <u>2180.4940.5315.00</u><br>Account Number | <u>\$ -</u><br>Funds Used to Date                | _____<br>Program / Project Category Name  |
| <u>02123 - 0903B</u><br>Project Number     | <u>\$ 25,000.00</u><br>Remaining Balance         | <u>Community Development</u><br>Fund Name |

Budgeted Item ☒

Budget Adjustment Attached ☐

*James C. Bets*      10-26-09  
Department Director      Date

*Jim Skell-*      10-28-09  
City Attorney      Date

Previous Ordinance or Resolution # \_\_\_\_\_

Original Contract Date: \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

*Paula A. Becker*      10-29-2009  
Finance and Internal Services Director      Date

*Don Mann*      10-29-09  
Chief of Staff      Date

Received in City Clerk's Office  


Received in Mayor's Office  


*Donnell Jordan*      10/29/09  
Mayor      Date

Comments: Staff recommends approval of P.O. for Rehabilitation Project

## **CITY COUNCIL AGENDA MEMO**

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**To:** Mayor and City Council

**Thru:** Jeremy Pate, Development Services Department Director 

**From:** Yolanda Fields, Community Services Director 

**Date:** October 26, 2009

**Subject:** CDBG Housing Program – Approval of PO for Rehabilitation Project

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### **RECOMMENDATION**

Staff recommends approval of Purchase Order for this Project.

### **BACKGROUND**

#### **2009 CDBG TIMELINE**

- **CDBG 2009 Action Plan Submitted to HUD November 15, 2008**
- **CDBG Award Letter from HUD - June 25, 2009**
- **Resolution 71-09 CDBG Grant Agreement Approval for \$649,821.00**
- **Resolution 183-09 CDBG Additional Grant Funding of \$13, 891.00**

#### **Project Specific**

The property owned and occupied by a husband and wife, meets program requirements. The homeowners fall within the 2009 Very Low - Mod Income guidelines that were established by Housing and Urban Development (HUD). The improvements needed are listed below.

- Install New Windows throughout home
- Remove and replace exterior doors
- Install Gutters, and a new Heating Unit
- Remove and replace existing Roof
- Minor Electrical, Siding. And Soffit & Fascia repairs

### **DISCUSSION**

The housing Program provides housing – related services to qualified low-to-moderate income families and individuals in order to preserve and improve their homes – creating a more livable home – environment while promoting housing that is safe, healthy, and energy – efficient.

### **BUDGET IMPACT**

Project cost is approximately \$24,895.00

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING A CONTRACT IN THE AMOUNT OF  
\$24,895.00 WITH EVANS CONSTRUCTION AND REMODELING,  
LLC FOR REHABILITATION OF A CDBG ELIGIBLE RESIDENCE**

**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 in the amount of \$24,895.00 with Evans Construction and Remodeling, LLC for rehabilitation of a CDBG eligible residence.

**PASSED and APPROVED** this 17<sup>th</sup> day of November, 2009.

**APPROVED:**

**ATTEST:**

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk**



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COMMUNITY SERVICES DIVISION

## Summary of Attachments

| <u>Document Identification Code</u> | <u>Document Name</u> |
|-------------------------------------|----------------------|
|-------------------------------------|----------------------|

- (A) Receipt Of Bids
- (B) Contractor's Requesting Bid Packets
- (C) Standard Bid Proposal Form
- (D) Bid Bond
- (E) Invitation To Bid
- (F) Moderate Housing Rehabilitation Project
- (G) Funding Approval Resolution No. 71 – 09
- (H) Additional Funding Approval Res. No. 183 - 09
- (I) 2009 Action Plan - Housing Program



COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

### RECEIPT OF BIDS

OWNER(S): \_\_\_\_\_

ADDRESS: \_\_\_\_\_ PROJECT No: 02123-0903B

PROJECT TITLE: Moderate Rehab of Single Family Dwelling

BID CLOSING DAY/DATE/TIME: Monday, 4:00 PM, October 5, 2009

CONTRACTOR: Evans Construction + Remodeling LLC  
2700 W Bishop Dr  
Rogers AR 72756  
BID AMOUNT: 24,895.00

CONTRACTOR: \_\_\_\_\_ BID AMOUNT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONTRACTOR: \_\_\_\_\_ BID AMOUNT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONTRACTOR: \_\_\_\_\_ BID AMOUNT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONTRACTOR: \_\_\_\_\_ BID AMOUNT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Certified by: Rachel Fields Date: 10/5/09

Witness: [Signature] Date: 10/5/09



B

### CONTRACTOR'S REQUESTING BID PACKETS

Owner(s) \_\_\_\_\_

Project Location: \_\_\_\_\_

Project Number & Title: 02123-0903B Moderate Rehab of Single Family Dwelling

Name: Joe Perme Construction

Address: 1874 S. Dorset Dr

City/State/Zip Code: Fayetteville AR 72707

Name: RSR DESIGN RECONSTRUCTION

Address: 1110 S. GREENWOOD AVE

City/State/Zip Code: Ft. Smith AR 72901

Name: Randy Evans

Address: 2700 W. Bishop Dr

City/State/Zip Code: Rogers AR 72756

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_



community resources  
CITY OF FAYETTEVILLE

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

STANDARD BID PROPOSAL FORM

PROJECT NUMBER: 02123-0903B

DATE ISSUED: 9/18/09

DATE AND TIME OF OPENING: Monday, 4:00 pm, October 5, 2009

OWNER'S NAME:

PROJECT ADDRESS:

\*In blanks below please quote price for each item and the total for project at the bottom.

A) Windows and Doors: 5,515

B) Roof: 5,290

C) Gutters: 850

D) Insulation: 1,160

E) Heating Unit: 3,370

F) Plumbing: 770

G) Electrical: 2,390

H) Siding, Soffit & Fascia: 4,200

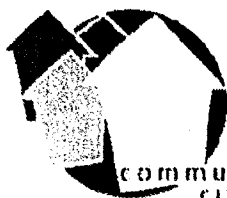
I) Lead Based Paint: 1,200

J) Clean Up: 150

K) Other: 0

MY TOTAL BID PRICE FOR THIS PROJECT IS \$ 24,895

Upon signing this Bid, the bidder certifies that they have viewed the property, read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent information regarding the articles being bid on, and agree to furnish these articles at the prices stated.



community resources  
CITY OF FAYETTEVILLE

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COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Complete Business Address:

Name of Firm: Evans Construction + Remodeling LLC Phone # (479) 530-0801

Street address or P O Box 2700 W. Bishop Dr.

City / State/ Zip Code Rogers AR 72756

Printed Name: Randall C Evans

Signature: Randall C Evans Title: President



# Western Surety Company

## BID BOND (Percentage)

Bond Number: 15360546

KNOW ALL PERSONS BY THESE PRESENTS, That we Evans Construction and Remodeling, LLC  
of  
2700 W. Bishop Dr., Rogers, AR 72756, hereinafter  
referred to as the Principal, and Western Surety Company  
as Surety, are held and firmly bound unto City of Fayetteville  
of 113 W. Mountain, Fayetteville, AR 72701  
hereinafter referred to as the Obligor, in the sum of Five (5 %) percent of the greatest  
amount bid, for the payment of which we bind ourselves, our legal representatives, successors and assigns,  
jointly and severally, firmly by these presents.

WHEREAS, Principal has submitted or is about to submit a proposal to Obligor on a contract for  
Moderate Rehab On Single Family Dwelling, Project #02123-0903

NOW, THEREFORE, if the said contract be awarded to Principal and Principal shall, within such time as may be  
specified, enter into the contract in writing and give such bond or bonds as may be specified in the bidding or  
contract documents with surety acceptable to Obligor; or if Principal shall fail to do so, pay to Obligor the  
damages which Obligor may suffer by reason of such failure not exceeding the penalty of this bond, then this  
obligation shall be void; otherwise to remain in full force and effect.

SIGNED, SEALED AND DATED this 18th day of September, 2009



Evans Construction and Remodeling, LLC  
(Principal)  
By [Signature] (Seal)

Western Surety Company  
(Surety)  
By [Signature] (Seal)  
TRACY LEE STEPHENS Attorney-in-Fact

# Western Surety Company

## POWER OF ATTORNEY - CERTIFIED COPY

Bond No. 15360546

Know All Men By These Presents, that WESTERN SURETY COMPANY, a corporation duly organized and existing under the laws of the State of South Dakota, and having its principal office in Sioux Falls, South Dakota (the "Company"), does by these presents make, constitute and appoint TRACY LEE STEPHENS

its true and lawful attorney(s)-in-fact, with full power and authority hereby conferred, to execute, acknowledge and deliver for and on its behalf as Surety, bonds for:

Principal: Evans Construction and Remodeling, LLC

Obligee: City of Fayetteville

Amount: \$500,000.00

and to bind the Company thereby as fully and to the same extent as if such bonds were signed by the Senior Vice President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said attorney(s)-in-fact may do within the above stated limitations. Said appointment is made under and by authority of the following bylaw of Western Surety Company which remains in full force and effect.

"Section 7. All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

All authority hereby conferred shall expire and terminate, without notice, unless used before midnight of December 18, 2009, but until such time shall be irrevocable and in full force and effect.

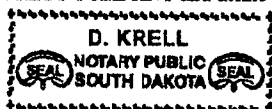
In Witness Whereof, Western Surety Company has caused these presents to be signed by its Senior Vice President, Paul T. Bruflat, and its corporate seal to be affixed this 18th day of September, 2009.



WESTERN SURETY COMPANY

Paul T. Bruflat, Senior Vice President

On this 18th day of September, in the year 2009, before me, a notary public, personally appeared Paul T. Bruflat, who being to me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of WESTERN SURETY COMPANY and acknowledged said instrument to be the voluntary act and deed of said corporation.



My Commission Expires November 30, 2012

Notary Public - South Dakota

I the undersigned officer of Western Surety Company, a stock corporation of the State of South Dakota, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable, and furthermore, that Section 7 of the bylaws of the Company as set forth in the Power of Attorney is now in force.

In testimony whereof, I have hereunto set my hand and seal of Western Surety Company this 18th day of September, 2009.

WESTERN SURETY COMPANY

Paul T. Bruflat, Senior Vice President

STATE OF Arkansas } ACKNOWLEDGMENT OF SURETY  
COUNTY OF Washington } (Attorney-in-Fact) Bond No. 15360546

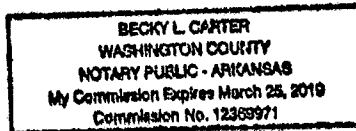
On this 18<sup>th</sup> day of September, 2009, before me, a notary public in and for said County, personally appeared TRACY LEE STEPHENS to me personally known and being by me duly sworn, did say, that he is the Attorney-in-Fact of WESTERN SURETY COMPANY, a corporation of Sioux Falls, South Dakota, created, organized and existing under and by virtue of the laws of the State of South Dakota, that the said instrument was executed on behalf of the said corporation by authority of its Board of Directors and that the said TRACY LEE STEPHENS acknowledges said instrument to be the free act and deed of said corporation and that he has authority to sign said instrument without affixing the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal at Fayetteville, Arkansas, the day and year last above written.

My commission expires 3/25, 2019

Becky L. Carter  
Notary Public

Form 106-4-2000





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COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

## INVITATION TO BID

**DATE ISSUED:** September 18, 2009

**RECEIPT OF BIDS:** Monday, 4:00 pm, October 5, 2009  
Community Services Division  
125 West Mountain Street  
Fayetteville AR 72701

**COMMUNITY DEVELOPMENT ADMINSTRATOR:**  
Ricky Williams  
CDBG Administrator  
113 West Mountain Street  
Fayetteville, Arkansas 72701  
Phone (479) 575-8270

**BRIEF SCOPE OF PROJECT:** Moderate rehab on single family dwelling.

**PROJECT NUMBER:** 02123-0903B

### PROJECT LOCATION:

**CITY OF FAYETTEVILLE:** The City of Fayetteville encourages participation of small, minority and women owned business enterprises in the procurements of goods, services, and construction, either as a general contractor or subcontractor. The City is an affirmative action / equal opportunity employer. Section 55.55 prohibits discrimination against qualified individuals because of their handicapped status.

**GENERAL:** A copy of the Housing Rehabilitation Specifications is available at the Community Resources Division's office.

### \*\*\*\*\* Attention! New Requirements! \*\*\*\*\*

- Any bid of \$20,000 or more must be accompanied by a certified check or bid bond in an amount not less than five percent (5%) of the amount bid.
- A one hundred percent (100%) performance and payment bond is required with a contract awarded amount of \$20,000 or more.
- A State of Arkansas Contractor's License is required for ALL bids.



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COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

**SPECIAL TERMS AND CONDITIONS**

1. All bids shall be submitted in a sealed envelope and must be submitted on forms provided by the city. No employees of the Community Services and Code Compliance Division are allowed to fill out bid sheets for Contractors.
2. The company or contractor name and project # shall be stated on the face of the sealed bid envelope.
3. Bidders shall include all applicable local, state, and federal sales tax in the bid. The responsibility of payment shall remain with the successful bidder.
4. Prices shall include all labor, materials, profit, insurance, etc., to cover the furnishing of the items of the bid.
5. Bids received after the date and time set for receiving bids will not be considered.
6. The Owner reserves the right to accept or reject any and all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the Owner. The Owner shall be able to purchase more or less than the quantity indicated subject to availability of funds.
7. The bid price shall remain good and firm for a period of thirty (30) calendar days from bid opening date; however, the prices may remain firm for a longer period of time if mutually agreeable between bidder and the Owner.
8. All products delivered shall comply with applicable standards of quality.
9. Any exceptions to the requirements of the City of Fayetteville must be noted on the Bid Form or on an attached form.
10. In the event of two or more identical low bids, the contract may be awarded arbitrarily or for any reason to any such bidders, at the discretion of the Owner.
11. **The Contractor is to supply the City with evidence of the following:**
  - 1) **Current and valid Certificate of Liability Insurance that includes coverage for**
    - a) **Workman's Compensation and Employer Liability in accordance with the laws of the State of Arkansas,**
    - b) **Commercial General Liability that covers public liability and property damage and**
    - c) **Automobile Liability, if applicable. All premiums and costs shall be paid by the Contractor. In no**





COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

**way will the Owner be responsible in case of accident.**

- 2) Current and valid license from the State of Arkansas Contractors Licensing Board.**
- 3) EPA/HUD Approved Lead Safety Training Program certification.**
12. Specifications furnished with this invitation are intended to establish a desired quality or performance level, or other minimum dimensions and capacities, which will provide the best product at the lowest possible price. Other than designated brands and/or models approved as equal to designated products shall receive equal consideration.
13. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
14. Quality, time and probability of performance may be factors in making an award.
15. Any ambiguity in any bid as a result of omission, error, lack of clarity or non-compliance by the bidder with specifications, instructions, and all conditions of bidding shall be construed in the light most favorable to the Owner.
16. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder.
17. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation of bid.
18. Bids must be hand delivered or received by mail in the Community Services Office, 125 West Mountain St. Fayetteville, and AR. 72701, on or before the time of closing listed on the Bid Form. Under no circumstances will faxed bids be allowed.
19. The successful bidder will be required to enter into a contract with the Owner and shall provide a certificate of insurance to the Community Services Division within ten (10) days of notice of bid award.
20. In the event a contract is entered into pursuant to the "Invitation to Bid", the bidder shall not discriminate against any qualified employee or qualified applicant for employment because of race, sex, color, creed, national origin, or ancestry. The bidder must include in any and all subcontracts a provision similar to the above.
21. The contractor must be prepared to commence work on start date per Notice to Proceed issued by the City Community Services Division, and must complete the work within Sixty (30)



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COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

calendar days. Exceptions as noted in the Rehabilitation Contract.

22. A Maximum of three payments may be made on each Housing Rehabilitation Project. Upon satisfactory completion of 40% of the work and submission of proper documentation, 30% of the contract amount may be released to the contractor with 10% being held as retainer. Upon satisfactory completion of 70% of the work and submission of proper documentation, 60% of the contract amount may be released to the contractor with 10% being held as retainer. Final payment shall be made after satisfactory completion and acceptance of the project. Retainers shall be released with the final payment.
23. A certificate of final inspection by the City of Fayetteville's Building Safety Division must be performed before the release of the final check.
24. Any construction material containing Lead-Based Paint (LBP) shall be removed by workers certified in LBP Interim Controls and with adherence to the current HUD Regulation on LBP Hazards.



COMMUNITY SERVICES DIVISION

## MODERATE HOUSING REHABILITATION PROJECT

**Scope of Project:** Install New Windows and Exterior Doors, Insulation, Gutters, Roof, Heating Unit, Minor Plumbing, Minor Electrical, Siding, Soffit & Fascia.

**Owner's Name:**

**Phone:**

**Project Location:**

**Project #** 02123 – 0903B

**Administrator:**

Ricky Williams

**Phone:** 575-8270

**Fax:** 444-3445

### Contractors Description of Work

Minimum requirement for bidder: Proof of current Arkansas Residential Contractor's license. Provided by the State of Arkansas Contractors Licensing Board, Certificate of Liability Insurance, & a Statement of Completion EPA / HUD Approved Lead Safety Training.

### GENERAL:

The contractor will be responsible for all aspects of the construction, installation and repairs - as stated in the Scope of Work - Fayetteville, Arkansas.

Each bidder will be responsible for a complete inspection of the property. All the distances, measurements, and listed materials should be verified before submitting your bid. The requirements listed here – in the description of work - are general requirements and it will be the responsibility of the winning bidder to assure the City of Fayetteville that the finished project is in compliance with all applicable codes and standards.

The contractor's duties include, but are not limited to, the following:

- 1) Purchasing of all materials.
- 2) Supervision of all employees and subcontractors.
- 3) Coordination with the City of Fayetteville CDBG Administrator, The City of Fayetteville Code Compliance Office and Owners
- 4) Project Design.
- 5) Clean up and restoration of all lawns, planters, walking and driving surfaces to their original condition.



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COMMUNITY SERVICES DIVISION

**SPECIFIC:**

**A: WINDOWS**

- A - 1 Remove the existing windows and doors.
- A - 2 Replace all the windows in the house with maintenance free, single hung (or sliders) double paned, insulated, solid vinyl windows with half screens. (18 Windows Total)

**Note: It will be the responsibility of the contractor to ensure that where required by code that at least 1 window in bedrooms without a separate exit meet emergency egress requirements.**

- A - 3 It will be the responsibility of the contractor to return the trim, interior and exterior surfaces back to their original condition.
- A - 4 Install New Front and Rear Doors and reframe the openings to accommodate the new doors if necessary.
- A - 5 The Front Door shall be a pre-hung 36" door similar in style and price to the ReliaBilt brand door. The door shall be a six panel, metal clad, insulated door bored for a lock set and dead bolt lock and include a security viewer.
- A - 6 The Rear Door shall be a pre-hung 32" door similar in style and price to the ReliaBilt brand door. The door shall be a six panel, metal clad, insulated door bored for a lock set and dead bolt lock.
- A - 7 A complete door installation will include an aluminum threshold, weather stripping, locks and hardware.
- A - 8 The contractor will be responsible for returning the door trim and interior and exterior surfaces back to their original condition.

**B: ROOF**

- B - 1 Make any needed repairs to the roof decking using either ¾ plywood or boards, similar in quality and dimension to the existing deck boards.
- B - 2 Cover the entire surface of the exposed decking with 15LB felt paper.



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COMMUNITY SERVICES DIVISION

- B – 3** Install a new roof covering using asphalt –fiberglass, three tab, self-sealing shingles with a 20 year or greater guarantee.
- B – 4** Install roof vents if needed.
- B – 5** The contractor will be responsible for replacing all of the roof flashings and drip edges.
- B – 6** All tree branches that overhang roof should be cut and removed from property.

The color of the shingles shall be determined in consultation with the homeowner. Lighter colors will be preferred over darker colors.

It will be the responsibility of the contractor to return to its original condition any interior or exterior surfaces damaged during the installation process.

**C: GUTTERS**

- C - 1** Install new 5” or 6” Aluminum Seamless Gutters.
- C - 2** Gutters should include downspouts and match the siding trim in color.

**D: INSULATION**

- D – 1** Install blown Insulation in N wall and W walls.
- D – 2** The minimum acceptable “R” value for the walls shall be R-13.
- D – 3** Install Batte Insulation in crawl space between floor joists.
- D – 4** Install Moisture Barrier in Crawl Space of house.

**E: HEATING UNIT**

- E – 1** Install a New Heating unit per code.
- E – 2** Minimum warranty on heating unit: one year labor, 5 years parts, and 20 years on the heat exchanger.



COMMUNITY SERVICES DIVISION

- E – 3 A complete load calculation shall be submitted when obtaining appropriate permit.
- E – 4 Repair/Replace any existing duct work and registers as needed.
- E – 5 All heating unit work will be performed under the supervision of a contractor or subcontractor holding a Class A and/or Class B Arkansas HVACR License.

**NOTE: It will be the responsibility of the contractor to replace any aluminum wires found in the branch circuits with copper wires. It will be the responsibility of the contractor to repair and bring back to their original conditions any interior or exterior surfaces damaged while installing or repairing any part of the electrical system. All electrical work shall be performed by an Arkansas State Licensed Electrician with adherence to the current National Electrical Code and all current codes adopted by the City of Fayetteville.**

**F: PLUMBING**

- F – 1 Install a new 40 Gallon Electric Water Heater with drip pan and vent as required by code.
- F – 2 Repair all clogged / blocked drains.
- F – 3 Install new Garbage disposal.
- F – 4 Replace any supply lines as needed.
- F – 5 Repair / Replace any damaged or leaking pipes, shutoffs, connections, or fittings as needed.
- F – 6 Check all drains for proper venting.
- F – 7 Repair any leaks underneath the house.
- F – 8 Check Toilet to make sure it is seated properly, replace wax ring, and repair rotten sub-floor if needed.

**G: ELECTRICAL**

- G – 1 Install GFCI outlets above the counter in the kitchen, and where required by code. Check existing GFCI outlets for proper installation.
- G – 2 Check and replace any outlets/receptacles/switches that are not working.



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COMMUNITY SERVICES DIVISION

- G - 3** The receptacles that serve the refrigerator, clothes dryer and hot water heater shall be on designated circuits.
- G - 4** Install smoke detectors as required by code.
- G - 5** In coordination with the HVAC contractor, the electrical upgrade will also include any wiring, disconnects, switches, circuits, receptacles in order to upgrade/install the furnace and condenser prep.
- G - 6** Check and replace any faulty/obsolete wiring.

**NOTE:** No junction boxes are to be used unless prior approval is obtained from the CDBG Administrator.

**NOTE:** It will be the responsibility of the contractor to replace any aluminum wires found in the branch circuits with copper wires. It will be the responsibility of the contractor to repair and bring back to their original conditions any interior or exterior surfaces damaged while installing or repairing any part of the electrical system. All electrical work shall be performed by an Arkansas State Licensed Electrician with adherence to the current National Electrical Code and all current codes adopted by the City of Fayetteville

**H: SIDING SOFFIT & FASCIA**

- H - 1** Install vinyl siding on house, repair/replace any damaged exterior surfaces prior to installation. Siding shall be Dutch lap dbl. 4 or 4.5" with a min. thickness of .042. Color to be determined by owner.
- H - 2** A complete siding install will include outside and inside corner trim, starter strip, J channel, F channel, window trim and any other related trim.
- H - 3** Repair/replace wood fascia around perimeter of house and wrap with aluminum coil metal.
- H - 4** Repair/replace soffit and cover with vinyl.

**I: LEAD BASED PAINT**

- I - 1** Address all lead base paint issues in report coded with (P).



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COMMUNITY SERVICES DIVISION

**J: CLEAN UP**

- J – 1** All new, used and excess construction materials related to the Scope of Work and any change order(s) belongs to the contractor and shall be removed from the property by the contractor as needed during the project.
- J – 2** The inside work shall be left “broom clean”.
- J – 3** All recyclable materials shall be recycled.

**K: OTHER**

- K – 1** All work shall be performed in a workmanlike manner according to common construction practices, according to the specifications set forth in the Community Services Program’s General Specification Manual and with adherence to City, State, and National Codes.
- K – 2** All work or materials which are not directly noted in the Scope of Work but are necessary for the proper carrying out of the obvious intentions thereof are to be understood as implied work and will be provided for by the contractor as if specifically described or drawn.
- K – 3** Any damage to the dwelling or property, caused by the contractor, his/her worker(s) or delivery person and or vehicles during the project shall be repaired to like new conditions.
- K – 4** All plumbing work shall be performed by a State Licensed Plumbing Contractor with adherence to the current Arkansas Plumbing Code.
- K – 5** All Electrical work shall be performed by a State Licensed Electrical Contractor with adherence to the current National Electrical Code.
- K – 6** All Heating and Cooling work shall be performed under the supervision of a licensed HVAC contractor.



G

**RESOLUTION NO. 71-09**

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT FOR 2009 IN THE ESTIMATED AMOUNT OF \$635,930.00.

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 authorizes the Mayor to execute the Community Development Block Grant (CDBG) Agreement in the estimated amount of \$635,930.00.00 for 2009, with allocation proposed as follows:

|                               |           |
|-------------------------------|-----------|
| ➤ Administration              | \$121,359 |
| ➤ Housing Rehabilitation      | \$279,998 |
| ➤ Fayetteville Public Library | \$3,000   |
| ➤ LifeSource                  | \$11,248  |
| ➤ NWAEDD                      | \$7,604   |
| ➤ Ozark Guidance              | \$5,000   |
| ➤ Peace at Home               | \$14,915  |
| ➤ YRCC (Services)             | \$28,233  |
| ➤ Taxi Program                | \$11,000  |
| ➤ Transportation Program      | \$9,000   |
| ➤ Code Compliance             | \$44,573  |
| ➤ YouCan!                     | \$15,501  |
| ➤ Youth Bridge                | \$62,651  |
| ➤ YRCC (Facilities)           | \$21,848  |

PASSED and APPROVED this 7<sup>th</sup> day of April, 2009.

APPROVED:

ATTEST:

By: Lionel Jordan  
LIONELD JORDAN, Mayor

By: Sondra E. Smith  
SONDRA E. SMITH, City Clerk/Treasurer



**RESOLUTION NO. 183-09**

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$13,891 TO RECOGNIZE THE REVENUE OF AN INCREASE IN THE 2009 COMMUNITY DEVELOPMENT BLOCK GRANT.

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

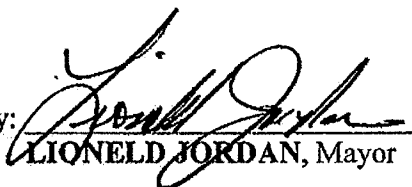
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$13,891 to recognize the revenue of an increase in the 2009 Community Development Block Grant.

**PASSED and APPROVED** this 1<sup>st</sup> day of September, 2009.

APPROVED:

ATTEST:

By:

  
LIONELD JORDAN, Mayor

By:

  
SONDRA E. SMITH, City Clerk/Treasurer



# **Community Development Block Grant**

## **2009 Action Plan**

Community Resources Division  
*Helping to Build a Better Community*

### **Community Resources Division**

Yolanda Fields, CGFM  
Community Resources Director  
125 W Mountain Street  
Fayetteville Arkansas 72701

Phone 479 575 8260

Fax 479 444 3445

[community\\_resources@ci.fayetteville.ar.us](mailto:community_resources@ci.fayetteville.ar.us)

## 2009 Consolidated Action Plan Housing & Community Development Needs

### HOUSING & COMMUNITY DEVELOPMENT NEEDS

#### HOUSING

The City of Fayetteville is committed to the development of programs which address the need for housing for Low and Moderate Income (LMI) persons and families. In response to priority needs revealed during the development of the City's five year Consolidated Plan in 2005, the City has focused on developing community partnerships with local entities with expertise in specialized housing activities. This cooperation will further the Attainable Housing effort in the City of Fayetteville. Attainable housing has become a topic of great concern for this division. Housing costs in Northwest Arkansas have increased at a considerable rate throughout the past 10 years according to the latest information from the 2000 Census. The cost of the median mortgage payment in the City of Fayetteville remains the highest in Northwest Arkansas at \$916, an increase of 45 percent. It is the highest median mortgage payment of any city in Northwest Arkansas and 24 percent higher than the state median of \$737.



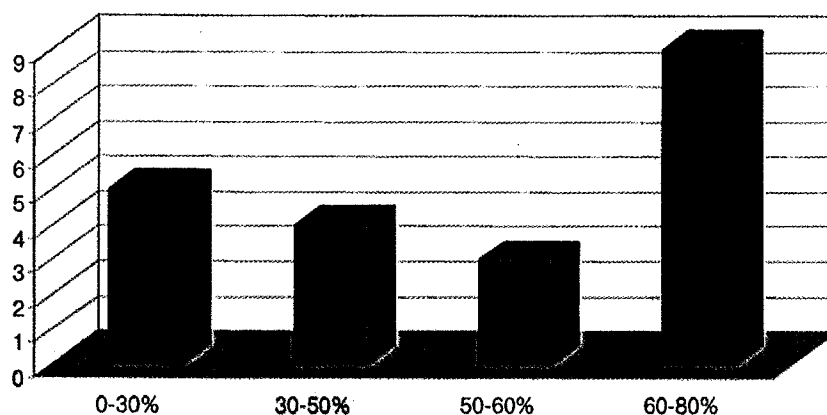
This home received housing rehabilitation with Community Development Block Grant funds. The moderate rehabilitation consisted of an upgrade in electrical, plumbing, and installation of new HVAC unit; removal and replacement of windows and doors; removal and replacement of all rotting and damaged soffit and fascia; replacement of porch ceiling; addressing of all lead-based paint issues; and painting of exterior surface.

#### REHABILITATION

The City of Fayetteville has been helping homeowners with rehabilitation of their homes for approximately 30 years. The funding has allowed homeowners to stay in their homes, and the improvements to their homes have acted as a catalyst for other, high quality renovations and new construction of housing in the project area. The majority of recipients have been very low income and or elderly households. These owners have little or no funds available to repay the loan and typically have the greatest amount of deferred maintenance. The chart below reflects the income levels from January 2008 - September 2008.

## 2009 Consolidated Action Plan Housing & Community Development Needs

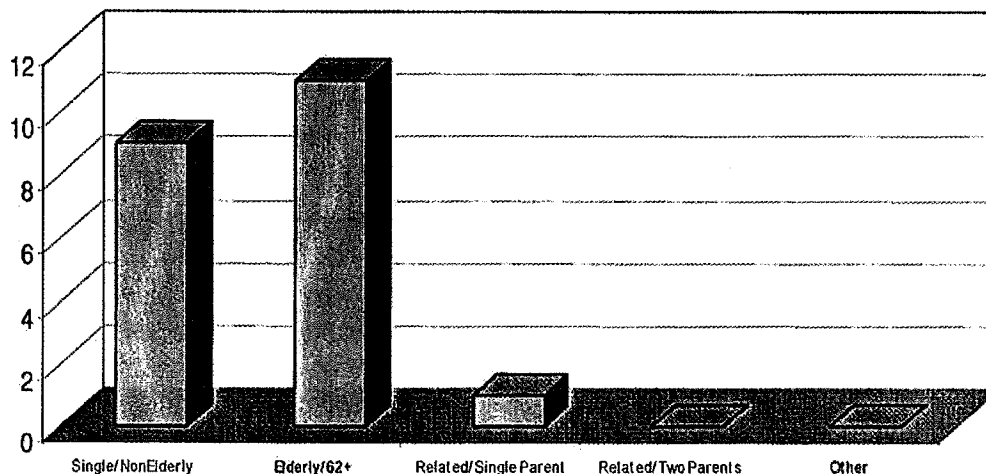
**Housing Projects Completed | Income Limits**



According to the U.S. Census Bureau approximately 7,722 homes were built prior to 1978 in the City of Fayetteville. Any rehabilitation activities on homes constructed prior to 1978 will have lead hazards identified and actions taken to remove the hazard. Lead-based paint hazards consist of any condition that causes exposure to lead. In 2008, the program conducted 8 Lead-Based Paint tests and removed hazards from the homes that tested positive.

Along with the Lead Based Paint need the U.S. Census Bureau reports that there are approximately 5,038 residents over the age of 65 in the City of Fayetteville. These homeowners are generally on a fixed income and cannot afford to make any repairs on their homes or address making their homes energy efficient. The program addresses both Lead-Based Paint issues and making the home energy efficient to allow the homeowners to remain in their homes for up to 10 years longer than expected. The charts below reflect the statistics on the participants that have been assisted in the past nine months of 2008. We have provided rehabilitation to 21 homes from January—September 2008.

**Housing Projects Completed | Head of Household**



## 2009 Consolidated Action Plan Administration | Housing | Redevelopment

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### ADMINISTRATION

Administration funds are used for the salary and benefits of the Community Development Director, administration staff, office supplies, travel and training costs, some Fair Housing activities, and other costs associated with administration of community development activities. CDBG funds allocated - \$121,359. Location: Community Planning & City Engineering Building, 125 West Mountain Street, Fayetteville, Arkansas 72701.

### HOUSING SERVICES

**RESIDENTIAL REHABILITATION** | This allocation provides forgivable loans to low and moderate income persons for rehabilitation of owner-occupied housing. The following services are offered:

- Minor Rehabilitation up to \$10,000
- Moderate Rehabilitation up to \$25,000

The program provides labor, materials, project management, Lead Based Paint (LBP) Hazard Control, and other associated costs to bring a home into compliance with State and City Housing Codes. Emphasis is placed on repairs that improve energy efficiency, those that alleviate deferred maintenance conditions, safety devices, and replacement of principal fixtures and components. CDBG funds allocated—\$279,998 and includes salary and program delivery costs for management and oversight of all housing programs. Fifty households to be served.

Location: Citywide, applicants are prioritized according to established criteria to give preference on the waiting list to those most in need of services. Priority criteria include: Very Low Income, Elderly, Disabled, Single-parent household, Lead-based paint hazards in homes, and homes located in the Target Area.

### REDEVELOPMENT PROGRAM

Program activities conducted in the target area include code compliance, clearance and demolition, and land acquisition for attainable housing. Twenty-five households to be served. CDBG fund allocated - \$44,573. Location: Community Planning & City Engineering Building, 125 West Mountain Street, Fayetteville, Arkansas 72701.



City of Fayetteville Staff Review Form

A. 6  
2009-2010 (ICAC) Task Force  
Program Continuation Grant  
Page 1 of 22

City Council Agenda Items  
and  
Contracts, Leases or Agreements

11/17/2009

City Council Meeting Date  
Agenda Items Only

G. Tabor  
Submitted By

Patrol  
Division

Police  
Department

Action Required:

Acceptance of the non-matching 2009-2010 Internet Crimes Against Children (ICAC) Task Force Program Continuation Grant award and approval of a budget adjustment in the amount of \$30,000.

\$ 30,000.00

Cost of this request

\$ 30,000.00

Category / Project Budget

ICAC Task Force

Program Category / Project Name

1010-2920-various

Account Number

\$ -

Funds Used to Date

Grant

Program / Project Category Name

06033-0910

Project Number

\$ 30,000.00

Remaining Balance

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

Date

Original Contract Number:

Finance and Internal Services Director

Date

Received in City  
Clerk's Office



10/27/09

Chief of Staff

Date

Received in  
Mayor's Office



Mayor

Date

Comments:





## **Departmental Correspondence**

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**To:** Lioneld Jordan, Mayor and City Council Members

**From:** Greg Tabor, Acting Chief of Police 

**Date:** October 22, 2009

**Re:** Acceptance of 2009-2010 Internet Crimes against Children Task Force  
Program Continuing Subgrant and budget adjustment

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### **Background**

The Arkansas State Police has awarded the Internet Crimes against Children Task Force Program Continuing Subgrant for 2009-2010. This grant award is based in part on population, program compliance, personnel commitment and crime/operational statistics. This grant does not require any local cash matching funds. The Fayetteville Police Department's Special Investigations Unit has received funding from the Arkansas State Police as part of its Internet Crimes against Children Task Force since 2006.

### **Discussion**

The Fayetteville Police Department is the leading member of the Arkansas State Police's Internet Crimes against Children Task Force (ICAC). As the leading ICAC member, the Fayetteville Police Department has been approved for the maximum amount available of \$30,000. This money will be utilized for training, equipment, supplies and overtime costs related to ICAC investigations. Please see the budget narrative worksheet for a complete listing of training, equipment, and supplies to be purchased.

### **Recommendation**

Staff recommends acceptance of the 2009-2010 Internet Crimes against Children Task Force Program Continuation Subgrant and approval of the attached budget adjustment in the amount of \$30,000 for training, equipment, supplies and overtime costs related to ICAC investigations. If you should have any comments or question regarding this grant award, please contact me at extension 500.

### **Budget Impact**

None

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A NON-MATCHING 2009-2010 INTERNET CRIMES AGAINST CHILDREN (ICAC) TASK FORCE PROGRAM CONTINUATION GRANT IN THE AMOUNT OF \$30,000.00 FROM THE ARKANSAS STATE POLICE; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE.

**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 Mayor to accept a non-matching 2009-2010 Internet Crimes Against Children (ICAC) Task Force Program Continuation Grant in the amount of \$30,000.00 from the Arkansas State Police.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment recognizing the grant revenue.

**PASSED** and **APPROVED** this 17<sup>th</sup> day of November, 2009.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

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

A. 6  
2009-2010 (ICAC) Task Force  
Program Continuation Grant

Page 4 of 22

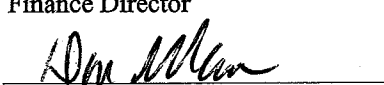
|                                |                                                                           |                                         |                   |
|--------------------------------|---------------------------------------------------------------------------|-----------------------------------------|-------------------|
| Budget Year<br><br><b>2009</b> | Department: Police<br>Division: Police<br>Program: Police/Animal Projects | Date Requested<br><br><b>11/17/2009</b> | Adjustment Number |
|--------------------------------|---------------------------------------------------------------------------|-----------------------------------------|-------------------|

|                                                                                                                                      |                                                                  |
|--------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| Project or Item Added/Increased:<br>2009-2010 Internet Crimes Against Children (ICAC)<br>Task Force Program Continuation Grant Award | Project or Item Deleted/Reduced:<br>Federal Grants - Operational |
|--------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|

|                                                                                                                                                                               |                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| Justification of this Increase:<br>Non-matching grant funds to be used for overtime reimbursement, purchase of minor equipment, and completion of technical training courses. | Justification of this Decrease:<br>Revenue from the 2009-2010 ICAC Task Force Program Continuation Grant |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|

| Increase Budget              |                |      |      |    |        |                |      |
|------------------------------|----------------|------|------|----|--------|----------------|------|
| Account Name                 | Account Number |      |      |    | Amount | Project Number |      |
| Personnel Services - Contra  | 1010           | 2920 | 5120 | 00 | 5,618  | 06033          | 0910 |
| Minor Equipment              | 1010           | 2920 | 5210 | 00 | 13,468 | 06033          | 0910 |
| Travel & Training            | 1010           | 2920 | 5304 | 00 | 10,914 | 06033          | 0910 |
| Decrease Budget              |                |      |      |    |        |                |      |
| Account Name                 | Account Number |      |      |    | Amount | Project Number |      |
| Federal Grants - Operational | 1010           | 0001 | 4309 | 01 | 30,000 | 06033          | 0910 |

V.090403

|                                                                                    |            |
|------------------------------------------------------------------------------------|------------|
| Division Head                                                                      | Date       |
|  | 10/30/09   |
| Budget Director                                                                    | Date       |
|  | 10-27-09   |
| Department Director                                                                | Date       |
| Paul a. Bahr                                                                       | 10-29-2009 |
| Finance Director                                                                   | Date       |
|  | 10-29-09   |
| Chief of Staff                                                                     | Date       |
| Mayor                                                                              | Date       |

| 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 |   |          |   |

**ARKANSAS STATE POLICE  
SUBGRANT AGREEMENT  
State of Arkansas**



**Mike Beebe**  
Governor

**ARKANSAS STATE POLICE**

1 State Police Plaza Drive Little Rock, Arkansas 72209-4822 www.asp.arkansas.gov

*"SERVING WITH PRIDE AND DISTINCTION SINCE 1935"*



**Winford E. Phillips**  
Director

**SubGrant Agreement**

SubGrant Number ICAC07-020 is entered into between the Arkansas State Police herein after referred to as the ASP and the Recipient as indicated below.

**I. RECIPIENT INFORMATION:**

**Name:** Fayetteville Police Department

**Address:** 100-A West Rock Street

**City:** Fayetteville **State:** AR **Zip Code:** 72701

**Employer Identification Number or Social Security Number:** 71-6018462

**AASIS Vendor #** \_\_\_\_\_ **Purchase Order #(s)** \_\_\_\_\_

**Recipient Contact Name, Title, & Phone:** Sgt. John Warren, 479-587-3530

**ASP Division/Office Contact Name, Title, & Phone:** Sgt. Hoyt Harness, 501- 618-8155

**II. GRANT PERIOD:**

This agreement will begin on June 1, 2009 and will end on May 30, 2010

In no event shall the initial term of the grant extend beyond the end of the current biennial period unless the General Assembly, prior to the expiration of the biennial period, makes an appropriation for such purpose.

**III. AMOUNT AND SOURCE OF FUNDS:**

Regardless of any other provision of this grant, or any costs or obligations of the Recipient, the liability of payment by the ASP to the Recipient under this grant shall be subject to the limits specified below:

| FUND    | FUND CENTER | COMMITMENT ITEM | COST CENTER | GENERAL LEDGER | WBS            | INTERNAL ORDER | AMOUNT    |
|---------|-------------|-----------------|-------------|----------------|----------------|----------------|-----------|
| FLA6300 | 521         | 510:00:04       | 456784      | 5100001000     | F.0960.ICAC-07 |                | 30,000.00 |
|         |             |                 |             |                |                |                |           |
|         |             |                 |             |                |                |                |           |

**Total Grant Amount: \$ 30,000.00**

**Method of Payment:** Reimbursement – Payment for allowable costs that have been paid for by the Recipient during the above grant period.

**Invoice forms and backup documentation are to be submitted to the ASP by the 10<sup>th</sup> of the subsequent month in which activities are completed and expenditures are incurred.**

## ARKANSAS STATE POLICE SUBGRANT AGREEMENT

### IV. OBJECTIVE AND SCOPE:

CFDA Number 16.543

Title of Grant Missing Children's Assistance

Grant Status: ☐ Discretionary

☒ Discretionary, but exempt

☐ Non-Discretionary

If Discretionary but exempt, indicate reason for exemption State Agency

#### Purpose of Grant:

To provide services with the Internet Crimes Against Children Task Force.

All parties agree that the following attachments contain the objective and scope and are hereby made a part of this grant. These attachments may not be altered or modified without a written amendment signed by all parties.

| Attachment No. | Description             |
|----------------|-------------------------|
| 1              | Memorandum of Agreement |
| 2              | Detailed Budget         |
| 3              | Budget Narrative        |
|                |                         |
|                |                         |

### V. CANCELLATION:

- A. The ASP and the Recipient agree that either party may cancel this agreement with or without cause at any time by giving the other party thirty (30) calendar days written notice, and delivering notice of cancellation either in person or by certified mail, return receipt requested, restricted delivery. Cancellation notices to the Arkansas State Police must be sent to the Fiscal Officer or the authorized representative designated herein.

### VI. PROGRAM COMPLIANCE:

- A. **STATE AND FEDERAL LAWS:** Performance of this grant by the Recipient and the ASP must comply with state and federal laws and regulations. If any statute or regulation is enacted which requires changes in this grant, the Recipient will receive notification of the required changes. This grant shall then be amended according to the procedures outlined in Section X.
- B. **FORCE MAJEURE:** Neither party will be held responsible for any delay or failure to perform any part of this grant when such delay or failure results from fire, flood, epidemic, war or insurrection, unusually severe weather, or the legal acts of public authorities.
- C. **COMPLIANCE WITH NONDISCRIMINATION LAWS:** It will comply, and all its contractors will comply, with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789(d), or Victims of Crime Act (as appropriate); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39.

Subgrantee is required to notify Arkansas State Police of any violations to the above.

## ARKANSAS STATE POLICE SUBGRANT AGREEMENT

- D. CERTIFICATION REGARDING LOBBYING:** The Recipient shall comply with Public Law 101-121, Section 319 (Section 1352 of Title 31 U.S.C.) by certifying that appropriated federal funds have not been or will not be used to pay any person to influence or attempt to influence a federal official/employee in connection with the awarding of any federal contract, grant, loan or cooperative agreement for an award in excess of \$100,000.00. This certification is included as Attachment \_\_\_\_\_ to this grant.

If the Recipient has paid or will pay for lobbying using funds other than appropriated federal funds, Standard Form-LLL (Disclosure of Lobbying Activities) shall be completed and included as Attachment \_\_\_\_\_ to this grant.

- E. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION:** The Recipient, as a lower tier recipient of federal funds, shall comply with Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions). By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

### **VII. PROGRAM OPERATION:**

- A. PURPOSE AND SCOPE:** The Recipient shall comply with the purpose and scope of this grant as specified in Attachment one (1).
- B. STATISTICAL AND FINANCIAL INFORMATION:** The Recipient shall certify and compile statistical and financial information. Financial information shall be maintained in accordance with generally accepted accounting principles.
- C. SUBCONTRACTING:** The Recipient shall be responsible for the performance of all obligations under this grant, including subcontracted services. The Recipient shall notify all subcontractors that the Department is not responsible for payments to the subcontractor and that all reimbursement for subcontracted services will be made by the Recipient.

### **VIII. INFORMATION AND RECORDS:**

- A. ACCESS TO RECORDS:** The Recipient shall grant access to its records upon request by duly authorized representatives of state or federal government entities. Access shall be given to any books, documents, papers or records of the Recipient which are related to any services performed under this agreement. The Recipient additionally consents that all sub-grants will contain adequate language to allow the same guaranteed access to the records of sub-grantees.
- B. RECORD RETENTION:** The Recipient will retain all books, records, and other documents relating to expenditures and services rendered under this grant for a period of three (3) years from the date this grant expires, or if an audit is pending at the end of the three-year period, until resolution of the audit..
- C. CONFIDENTIALITY OF CLIENT RECORDS:** The Recipient will maintain the confidentiality of all client records. This restriction does not apply to disclosures made with the informed, written consent of the client, or if the client is not a competent adult or is a minor, with such consent of the client's parent, guardian or legal representative.
- D. FREEDOM OF INFORMATION:** The Recipient shall comply with the Freedom of Information Act.

## ARKANSAS STATE POLICE SUBGRANT AGREEMENT

### IX. FISCAL PRACTICES

- A. **CLAIMS:** Only those claims for costs and services specifically authorized under this grant will be allowed by the ASP. Any work performed, material furnished, or costs incurred not covered by this grant shall be solely the responsibility of the Recipient.
- B. **NON-DUPLICATION OF PAYMENT:** Services provided or costs incurred under this grant shall not be allocated to or included as a cost of any other state or federally financed program.
- C. **BILLING:** Billing under this Agreement shall be in accordance with established ASP procedures. Payment method shall be as stated in Section III of this agreement.
- D. **LIMITATION OF THE ASP OBLIGATION TO PAY:** The ASP is not obligated to make payment under this grant if the ASP does not receive sufficient monies from the funding source(s) designated in this grant to fund said obligations and other obligations of the ASP, or is not given legal authority from the Arkansas Legislature to expend these funds. The ASP is not obligated to make payment if sufficient state or local matching money is not available at the time the bill is presented for payment.
- E. **PAYMENT FROM ASP CONSIDERED PAYMENT IN FULL:** Payment received from the ASP under this grant shall be payment in full for all services and/or costs covered by the payment. No fee or other charge shall be made against a client or a third party for these services and/or costs. This paragraph does not preclude allocation of costs among two or more funding sources, or payment of portions of a service and/or cost under different funding sources, so long as there is no duplication of payment.
- F. **AUDIT REQUIREMENT:** Recipient shall send two copies of the audit to the following address:
- Arkansas State Police  
Fiscal Section  
#1 State Police Plaza Drive  
Little Rock, Arkansas 72209
- G. **RECOVERY OF FUNDS:** The ASP shall seek to recover funds not utilized in accordance with the terms and conditions of this grant.

### X. AMENDMENT:

Any amendment to this agreement shall be valid only when in writing and when duly signed by the authorized representative(s) of the Recipient and the ASP. Recipient and ASP acknowledge that no verbal or written representations, other than those contained herein, have been made as an inducement to enter into this Agreement and that this writing constitutes their entire Agreement.

**ARKANSAS STATE POLICE  
SUBGRANT AGREEMENT**

**XI. CERTIFICATION AND SIGNATURE:**

**A. SIGNATURES:**

|                                                                                                                                                                      |              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| <b><u>Signature of Subgrant Agreement Recipient Authorized Representative</u></b>                                                                                    |              |
| <hr/>                                                                                                                                                                | <hr/>        |
| Signature of Recipient Authorized Representative                                                                                                                     | Date         |
| <u>Lioneld Jordan</u>                                                                                                                                                | <u>Mayor</u> |
| Printed Name of Recipient Authorized Representative                                                                                                                  | Title        |
| <p>In signing this document, I attest that I am authorized by the board of Directors or other governing authority to sign this grant on behalf of the Recipient.</p> |              |

|                                                                 |       |
|-----------------------------------------------------------------|-------|
| <b><u>Signature of ASP Agency Authorized Representative</u></b> |       |
| <hr/>                                                           | <hr/> |
| Signature of ASP Authorized Representative                      | Date  |
| <hr/>                                                           | <hr/> |
| Printed Name of ASP Authorized Representative                   | Title |

Program Agency (ASP)

Program Contact Person: Sgt. Hoyt Harness

Phone: (501) 618-8155

Fiscal Contact Person: Cathalene Purvis

Phone: (501) 618-8335



## CERTIFICATION REGARDING LOBBYING

### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### \* APPLICANT'S ORGANIZATION

Fayetteville Police Department

#### \* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Prefix:  \* First Name:  Middle Name:

\* Last Name:  Suffix:

\* Title:

\* SIGNATURE:  \* DATE:

---

CERTIFICATION REGARDING  
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION  
LOWER TIER COVERED TRANSACTIONS

---

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to whom this proposal is submitted.

**(BEFORE COMPLETING CERTIFICATION, READ ATTACHED INSTRUCTIONS)**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Lioneld Jordan, Mayor

---

Name and Title of Authorized Representative (please print or type)

---

Signature

Date

Name of Company: Fayetteville Police Department

Address: 100-a West Rock Street

Fayetteville, AR 72701

### **INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and /or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "voluntarily excluded", as used in this clause have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (202) 786-0688.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Arkansas State Police**  
**Internet Crimes Against Children**  
**Arkansas Region**  
**#1 State Police Plaza Drive**  
**Little Rock, AR 72209**

**MEMORANDUM OF UNDERSTANDING**

Effective for the duration of Cooperative Agreement #2007-MC-CX-K005

**PARTIES**

This Memorandum of Understanding (MOU) is entered into by and between the Arkansas State Police (ASP) and Fayetteville Police Department (FPD). ASP will hereinafter be referred to as the sponsor agency and FPD will hereinafter be referred to as the affiliate agency. Investigative personnel so assigned are referred to as Task Force Officers (TFO). The Internet Crimes Against Children Task Force – Arkansas Region (ICACTF-AR) will be administered by ASP as the sponsor agency for administrative, operational, and logistical management under direction of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and only to the extent required by the ICAC Cooperative Agreement referenced above.

**PURPOSE**

The purpose of this MOU is to delineate the responsibilities of the ICACTF-AR participants, maximize interagency cooperation, and formalize relationships between the agencies for policy guidance, planning, training, and media relations.

Violation of any portion of this MOU by the affiliate agency or its representatives is cause for cancellation of the agreement hereinafter contained and the termination all financial or other support by the sponsor agency.

The mission of ICACTF-AR is to provide a comprehensive multi-agency response to identify, investigate, apprehend, and successfully prosecute offenders who use the Internet, online communication systems, or other computer technologies to sexually exploit children and to provide proactive tools, resources, and

The affiliate agency must insure that:

1. Agency policy does not conflict with any portion of the latest published ICAC Operational and Investigative Standards, and
2. They must adopt as part of their agency policy those portions of the ICAC Operational and Investigative Standards that are relevant to their participation with IACTF-AR as well as their conduct of Internet child exploitation investigations in general.

The ICAC Operational and Investigative Standards is a published set of guidelines and best practices that have been developed through the national ICAC Working Group and adopted as requirements for all agencies participating in the program. The ICAC Working Group is a consortium of sponsor agency representatives from each of the Regional Task Forces. The ICAC Operational and Investigative Standards are nationally recognized and widely copied for law enforcement use outside of the ICAC program. The head of agency signature for the affiliate agency affixed to the bottom of this document affirms compliance with this requirement. If the execution of this document is the first one executed between the sponsor and the affiliate agency, the signature may denote that active steps are being taken to comply with the above requirements which must be completed in a timely manner.

The affiliate agency agrees to identify a supervisor assigned to their ICAC activities to represent the agency as part of the Regional Advisory Group for coordination and communications purposes. This Group is comprised of similar representatives from other affiliate agencies that are part of ICACTF-AR.

Statistical data pertinent to affiliate agency operations and conforming to established ICAC definitions and format as determined by the ICAC Working Group must be collected by the affiliate agency and submitted to the sponsor agency's ICAC Coordinator not later than the 10<sup>th</sup> day of each month. The data submitted should include all pertinent data collected during the previous month.

For example, data collected from March 1<sup>st</sup> through March 31<sup>st</sup> should be submitted in ICAC format not later than April 10<sup>th</sup>.

Other reports may be required from time to time by the sponsor agency, OJJDP, and/or other agencies in coordination with ICAC. These are to be considered required reports as well and the terms of timely and complete submission will be provided as necessary.

### TRAINING

The sponsor agency agrees to provide assistance for training at the national level and access to schools and courses taught or sponsored by the ICAC program and its national partners. Costs for training, instructors, and materials will be covered by ICAC funding. Lodging is also covered for the majority of ICAC sponsored training. In many cases, software and other tools are provided at no cost. All other expenses are the responsibility of the affiliate agency.

### COMMUNICATIONS

The sponsor agency will allow access to ICAC information and data systems by the affiliate agency for case deconfliction, information sharing, assistance requests, data archival/retrieval, and other purposes. This access will be coordinated and managed by the sponsor agency.

### REACTIVE/PROACTIVE INVESTIGATIONS

The affiliate agency must conduct reactive investigations at a minimum. Reactive investigations include CyberTipline Reports from the National Center for Missing and Exploited Children (NCMEC), referrals from the sponsor agency or other ICAC Task Forces, referrals from other agencies, citizen complaints, etc. Affiliate agencies can also conduct proactive investigations at their discretion based on jurisdictional need and/or compliance with the requirement to participate in national ICAC investigations. Proactive investigations may include one or more of the following: Peer-2-Peer (P2P) investigations, online chat, File Transfer Protocol (FTP), instant messenger, etc.

Proactive undercover investigations may only be conducted by sworn law enforcement personnel and those personnel must have successfully completed specific ICAC or approved national training for that purpose.

### OTHER AGENCY REFERRALS

The affiliate agency must respond in a timely manner to referrals and assistance requests from the sponsor agency, other affiliate agencies, ICAC Task Forces, and NCMEC. ICAC Regional Task Forces around the country place a very high priority on assistance requests made by sponsors and affiliates from other regions. ICACTF-AR affiliates consequently are also expected to view outside assistance requests from other task forces with the same high degree of prioritization and handling.

#### NATIONALLY COORDINATED INVESTIGATIONS

The affiliate agency must fully participate in all nationally coordinated ICAC investigations.

#### FORENSIC SUPPORT

The sponsor agency, in cooperation with existing affiliate agencies, will provide forensic support for investigations. All ICAC forensic services will conform to national ICAC best practices as identified from time to time by the national ICAC Working Group. Additional forensic services offered by the affiliate agency must likewise conform to these best practices.

In addition, the affiliate agency must submit all images/graphics/movie files/etc. to NCMEC's Child Victim Identification Program (CVIP) in every case forensically examined by them in accordance with NCMEC guidelines and procedures. This requirement only applies to cases actually examined by the undersigned affiliate, not to cases submitted elsewhere by the affiliate for examination. Forensic cases examined by the sponsor agency or existing affiliates will be submitted by those agencies, even if the case was submitted by the undersigned affiliate. There is no exception to this requirement.

#### COMMUNITY/AGENCY RESOURCE

The affiliate agency must serve as an ICAC resource and point-of-contact for all communities and agencies located within their jurisdiction or geographic area of responsibility. As a resource, the affiliate agency provides investigative assistance, public awareness information, and coordinates state and national ICAC assets in their area. As a point-of-contact, the affiliate agency represents the ICAC program in their jurisdiction.

### MEDIA

Media outreach on cases must be coordinated with the prosecutor to whom the case has been or will be referred in order to ensure compliance with applicable bar rules and other prosecutorial guidelines.

### DURATION

This MOU shall remain in full force and effect beginning on the date of signature and continuing for the duration of the current Cooperative Agreement period and all subsequent extensions.

Any affiliate agency may withdraw from ICACTF-AR at any time by written notification from the head of agency to the Director of the Arkansas State Police. This written notification must be received by ASP not later than thirty (30) days prior to withdrawal.

Upon withdrawal from ICACTF-AR, or termination of this MOU by the sponsor agency, all equipment provided to the sponsor agency will be returned to the former affiliate agency that supplied the equipment. All equipment provided to the affiliate agency or its employees will be returned to the sponsor agency in the absence of permanent legal transfers of property between state agencies as applicable.

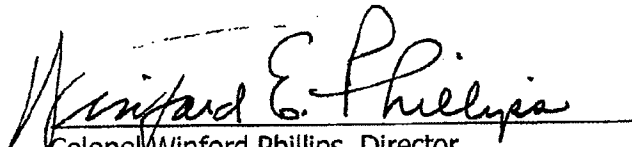
### MODIFICATIONS

This agreement may be modified at any time by written consent of the sponsor and affiliate agencies.

Modifications to this MOU shall have no force or effect unless such modifications are reduced to writing and signed by the head of agency for each participating agency.



SIGNATURES

  
Colonel Winford Phillips, Director  
Arkansas State Police

Date: 6 Feb 2008

  
Greg Tabor, Chief of Police  
Fayetteville Police Department

Date: 1-16-08

**BUDGET SUMMARY**

|                               |          |
|-------------------------------|----------|
| 06 Overtime                   | \$5,618  |
| 03 Fringe Benefits            | \$0      |
| 09 Travel and Training        | \$13,468 |
| 11 Capitol Outlay             | \$7,293  |
| 02 Maintenance and Operations | \$3,621  |

**Total Request    \$30,000**

## **Budget Narrative**

### **09 Travel and Training**

#### ***NW3C-Basic Data Recovery & Acquisition---\$2425***

This class will provide an introduction to computer forensic exams. The budgeted amount will allow two investigators to attend this training. This will be their first step in becoming forensic examiners.

#### ***NW3C-Basic Cell Phone Investigations---\$1513***

This is an introductory class to cell phone investigations, covering proper techniques for seizing and preserving evidence. The budgeted amount will allow two investigators to attend this training.

#### ***NW3C-Intermediate Data Recovery & Acquisition---\$2536***

This class will be the next step after Basic Data Recovery. The budgeted amount will allow the two investigators to attend who completed the Basic Data Recovery Training.

#### ***ICAC National Conference---\$2312***

The budgeted amount will allow two investigators to attend the national conference.

#### ***State ICAC Meeting---\$382***

The budgeted amount will allow for the local ICAC coordinator to attend a two day training session based upon approval for this grant.

#### ***ICAC Unit Supervisor---\$861***

The budgeted amount will allow for the local ICAC coordinator (the first line supervisor of this unit) to attend this training. Lodging is paid by ICAC T&TA Program.

#### ***Silicon Valley ICAC Conference---\$2382***

The budgeted amount will allow two investigators to attend the Silicon Valley conference.

#### ***NW3C-Fast CyberForensic Triage---\$1057***

This is an advanced class that specifically covers onsite forensic previews. The budgeted amount will allow our senior forensic examiner to attend this training.

### **TOTAL TRAVEL & TRAINING COSTS---\$13,468**

### **11 Capitol Outlay Items**

#### ***CelleBrite-Universal Forensic Extraction Device; Charging Tips---\$4773***

CelleBrite will allow for data extraction from cell phones and organization of the data into a manageable format for case files. This will allow us to expand our investigative abilities o cell phones.

***FTK 2 Standalone SMS---\$2520***

The budgeted amount will renew an existing license and will allow us free updates and online training seminars. FTK is utilized for our computer forensic exams.

**TOTAL EQUIPMENT COSTS---\$7,293**

**02 Maintenance and Operations Supply Items**

***20 8 GB Flash Drives---\$400***

Additional flash drives will assist in storage of data.

***Sony 60 GB Hard Drive Camcorder---\$400***

This item will be utilized during search warrants to document any information helpful to the case. This could include the setup of electronic evidence, any incriminating evidence in the vicinity, and onsite suspect interviews.

***3 Seagate 1.5 TB Hard Drives---\$392***

These hard drives will assist in evidence storage and will provide needed space for large case files.

***CD/DVD Inspector---\$659***

This item will assist in the search and extraction of data from CDs and DVDs.

***Paraben E-Mail Examiner---\$259***

This software will be utilized during forensic exams.

***Paraben Stronghold Bags---\$100***

This item will be used to secure wireless devices after seizure to prevent remote access.

***Apple MacBook 160 GB Model MC240LL/A---\$1000***

This item will be used for better compatibility and familiarity with the Apple system during forensic exams.

***UltraBlock Forensic Write Blocker w/ Cables & Power Supply---\$411***

This item will be used for searching media cards during forensic exams.

**TOTAL SUPPLIES COSTS---\$3,621**

**06 Overtime**

***Overtime Costs---\$5618***

This budgeted amount will be used for any overtime costs incurred during the course of ICAC investigations.

**TOTAL OVERTIME COSTS—\$5,618**

City of Fayetteville Staff Review Form

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AOS  
Page 1 of 6

City Council Agenda Items  
and  
Contracts, Leases or Agreements

11/17/2009

City Council Meeting Date  
Agenda Items Only

Greg Tabor  
Submitted By

Support Services  
Division

Police  
Department

Action Required:

Approve the replacement of eight (8) network switches to one (1) fully redundant chassis switch to meet all foreseeable needs of the Police Department and approval of a budget adjustment in the amount of \$70,227 to move project funds to the correct fixed asset account.

\$ 70,227.00  
Cost of this request

\$ 136,336.00

Police Technology Improvments  
Program Category / Project Name

4470-9470-5801.00  
Account Number

\$ 39,469.01  
Funds Used to Date

Fixed Asset  
Program / Project Category Name

06002-1  
Project Number

\$ 96,866.99  
Remaining Balance

Sales Tax Capital Improvements  
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

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:

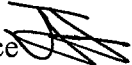


# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

**To:** Lioneld Jordan, Mayor and Fayetteville City Council

**From:** Greg Tabor, Acting Chief of Police 

**Date:** October 28, 2009

**Re:** Police Department Scheduled Network Switch Replacement

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## Background

Today, the PD's network fabric is comprised of 8 interconnected Cisco 3550 layer 3 switches with a 3550-12G Layer 3 switch serving as its core, which was purchased in December of 2003. The other switches vary in age from 5-7 years and all have served us well during this time with no hardware failures. This is a budgeted scheduled replacement of obsolete network equipment.

## Discussion

Replacement of individual switches would require replacement of our interconnect modules and cables because the current production switches do not support our existing hardware. Software updates have to be performed on each individual device, and would take the device out of service during the update. The proposed core switch has the ability to apply updates without the need to be restarted, eliminating network downtime usually associated with updates. More robust and flexible security configuration options available with the new core switch are needed to more easily comply with increasing CJIS requirements to permit access to the state and federal government's criminal justice networks. In a 24/7 criminal justice environment, there is simply no good time to take the network down for maintenance.

## Recommendation

Approve the state contract purchase of one fully redundant modular chassis switch to replace the PD's eight current obsolete switches. The purchase will allow the PD to meet all of our current switching needs and have the ability to accommodate needs for the foreseeable future, while having no annual maintenance costs until 2015.

## Budget Impact

CIP would be expensed 70,227.48

Maintenance coverage for 5 years is included in the price.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION TO APPROVE THE PURCHASE OF A FULLY REDUNDANT MODULAR CHASSIS SWITCH FOR THE POLICE DEPARTMENT FROM AOS PURSUANT TO THE STATE CONTRACT PRICE OF \$70,227.00 AND TO APPROVE THE ATTACHED BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of a fully redundant modular chassis switch for the Police Department from AOS pursuant to the state contract price of \$70,227.00 and approves the attached budget adjustment.

**PASSED and APPROVED** this 3<sup>rd</sup> day of November, 2009.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer



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

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AOS  
Page 4 of 6

|                            |                                                                                       |                                     |                   |
|----------------------------|---------------------------------------------------------------------------------------|-------------------------------------|-------------------|
| Budget Year<br><b>2009</b> | Department: Citywide<br>Division: Citywide<br>Program: Sales Tax Capital Improvements | Date Requested<br><b>11/17/2009</b> | Adjustment Number |
|----------------------------|---------------------------------------------------------------------------------------|-------------------------------------|-------------------|

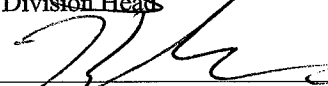
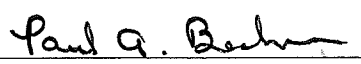
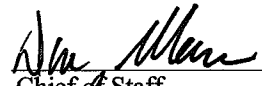
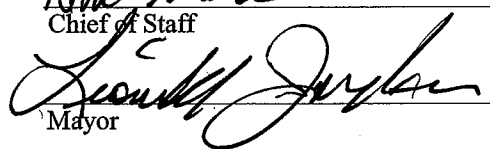
|                                                                    |                                                     |
|--------------------------------------------------------------------|-----------------------------------------------------|
| Project or Item Added/Increased:<br>Fully redundant chassis switch | Project or Item Deleted/Reduced:<br>Minor Equipment |
|--------------------------------------------------------------------|-----------------------------------------------------|

|                                                                                |                                                                                                                                     |
|--------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| Justification of this Increase:<br>Scheduled replacement of obsolete equipment | Justification of this Decrease:<br>Move budget to correct account for the purchase of technology improvements for Police Department |
|--------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|

| Increase Budget |                |      |      |    |        |                |   |
|-----------------|----------------|------|------|----|--------|----------------|---|
| Account Name    | Account Number |      |      |    | Amount | Project Number |   |
| Fixed Assets    | 4470           | 9470 | 5801 | 00 | 70,227 | 06002          | 1 |

| Decrease Budget |                |      |      |    |        |                |   |
|-----------------|----------------|------|------|----|--------|----------------|---|
| Account Name    | Account Number |      |      |    | Amount | Project Number |   |
| Minor Equipment | 4470           | 9470 | 5210 | 00 | 70,227 | 06002          | 1 |

|                                                                                     |                  |
|-------------------------------------------------------------------------------------|------------------|
|   | <u>10-30-09</u>  |
| Division Head                                                                       | Date             |
|   |                  |
| Budget Director                                                                     | Date             |
| Department Director                                                                 | Date             |
|  | <u>11-3-2009</u> |
| Finance Director                                                                    | Date             |
|   | <u>11-3-09</u>   |
| Chief of Staff                                                                      | Date             |
|   | <u>11/9/09</u>   |
| Mayor                                                                               | Date             |

V.090403

**Budget & Research Use Only**

Type:    A        B        C        D        E

Requested By \_\_\_\_\_

General Ledger Date \_\_\_\_\_

Posted to General Ledger \_\_\_\_\_

Posted to Project Accounting \_\_\_\_\_

|         |      |
|---------|------|
| Initial | Date |
| Initial | Date |

|                                                                                                                                                                    |                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                     |                |    |           |                |    |          |          |    |           |                     |    |        |                       |    |   |                  |    |           |                   |    |          |        |    |           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|----------------|----|-----------|----------------|----|----------|----------|----|-----------|---------------------|----|--------|-----------------------|----|---|------------------|----|-----------|-------------------|----|----------|--------|----|-----------|
| <b>City of Fayetteville</b><br>113 W Mountain<br>Fayetteville, AR                                                                                                  |                                                 | Account Manager: Brad Shepard<br>Phone Number: 479-899-6830<br>Email: brad.shepard@aos5.com<br>Design Consultant: Randy Miles<br>Phone Number: 479-899-6830<br>Email: randy.miles@aos5.com                                                                                                                                                                                                                                                                                                                                                                            |  |                |    |           |                |    |          |          |    |           |                     |    |        |                       |    |   |                  |    |           |                   |    |          |        |    |           |
| <b>Quote Number</b><br>20090929_FPD_001c<br><br><b>Project Name</b><br>Core Switching Infrastructure<br><br>ARKANSAS STATE CONTRACT #SP-09-0229, VENDOR #100161321 | Date Prepared: 10/8/2009<br>Valid To: 11/7/2009 | <table border="1"> <tr> <td>Hardware Total</td> <td>\$</td> <td>53,673.00</td> </tr> <tr> <td>Warranty Total</td> <td>\$</td> <td>9,972.00</td> </tr> <tr> <td>Subtotal</td> <td>\$</td> <td>63,645.00</td> </tr> <tr> <td>Shipping &amp; Handling</td> <td>\$</td> <td>636.45</td> </tr> <tr> <td>Professional Services</td> <td>\$</td> <td>-</td> </tr> <tr> <td>Project Total **</td> <td>\$</td> <td>64,281.45</td> </tr> <tr> <td>Taxes (Estimate):</td> <td>\$</td> <td>5,946.03</td> </tr> <tr> <td>Total:</td> <td>\$</td> <td>70,227.48</td> </tr> </table> |                                                                                     | Hardware Total | \$ | 53,673.00 | Warranty Total | \$ | 9,972.00 | Subtotal | \$ | 63,645.00 | Shipping & Handling | \$ | 636.45 | Professional Services | \$ | - | Project Total ** | \$ | 64,281.45 | Taxes (Estimate): | \$ | 5,946.03 | Total: | \$ | 70,227.48 |
| Hardware Total                                                                                                                                                     | \$                                              | 53,673.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                     |                |    |           |                |    |          |          |    |           |                     |    |        |                       |    |   |                  |    |           |                   |    |          |        |    |           |
| Warranty Total                                                                                                                                                     | \$                                              | 9,972.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                     |                |    |           |                |    |          |          |    |           |                     |    |        |                       |    |   |                  |    |           |                   |    |          |        |    |           |
| Subtotal                                                                                                                                                           | \$                                              | 63,645.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                     |                |    |           |                |    |          |          |    |           |                     |    |        |                       |    |   |                  |    |           |                   |    |          |        |    |           |
| Shipping & Handling                                                                                                                                                | \$                                              | 636.45                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                     |                |    |           |                |    |          |          |    |           |                     |    |        |                       |    |   |                  |    |           |                   |    |          |        |    |           |
| Professional Services                                                                                                                                              | \$                                              | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                     |                |    |           |                |    |          |          |    |           |                     |    |        |                       |    |   |                  |    |           |                   |    |          |        |    |           |
| Project Total **                                                                                                                                                   | \$                                              | 64,281.45                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                     |                |    |           |                |    |          |          |    |           |                     |    |        |                       |    |   |                  |    |           |                   |    |          |        |    |           |
| Taxes (Estimate):                                                                                                                                                  | \$                                              | 5,946.03                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                     |                |    |           |                |    |          |          |    |           |                     |    |        |                       |    |   |                  |    |           |                   |    |          |        |    |           |
| Total:                                                                                                                                                             | \$                                              | 70,227.48                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                     |                |    |           |                |    |          |          |    |           |                     |    |        |                       |    |   |                  |    |           |                   |    |          |        |    |           |

\*If the above address is not the shipping address, please provide the proper address.  
 \*\*Please reference the above Quote Number when sending in Customer PO.

\*\*Plus Applicable Taxes, Travel, and Expenses

| Part Number                             | Description                                                  | Qty | List Price | Discount Price | Extended Price |
|-----------------------------------------|--------------------------------------------------------------|-----|------------|----------------|----------------|
| <b>HARDWARE / SOFTWARE</b>              |                                                              |     |            |                |                |
| <b>Chassis</b>                          |                                                              |     |            |                |                |
| WS-C4507R-E                             | Cat4500 E-Series 7-Slot Chassis, fan, no ps, Red Sup Capable | 1   | \$9,995    | \$5,997.00     | \$5,997.00     |
| PWR-C45-4200ACV                         | Catalyst 4500 4200W AC dual input Power Supply (Data + PoE)  | 1   | \$3,995    | \$2,397.00     | \$2,397.00     |
| PWR-C45-4200ACV/2                       | Catalyst 4500 4200W AC dual input Power Supply (Data + PoE)  | 1   | \$3,995    | \$2,397.00     | \$2,397.00     |
| S45EIPBK9-12240SG                       | Cisco CAT4500E IOS IP BASE SSH                               | 1   | \$0        | \$0.00         | \$0.00         |
| WS-X45-SUP6-E                           | Catalyst 4500 E-Series Sup 6-E, 2x10GE(X2) w/ Twin Gig       | 1   | \$19,995   | \$11,997.00    | \$11,997.00    |
| WS-X45-SUP6-E/2                         | Catalyst 45xxR E-Series Sup 6-E, 2x10GE(X2) w/ Twin Gig      | 1   | \$19,995   | \$11,997.00    | \$11,997.00    |
| WS-X4548-GB-RJ45V=                      | Catalyst 4500 PoE 802.3af 10/100/1000, 48-Ports (RJ45)       | 2   | \$7,495    | \$4,497.00     | \$8,994.00     |
| WS-X4648-RJ45V+E                        | Catalyst 4500 E-Series 48-Port PoE+ Ready 10/100/1000(RJ45)  | 2   | \$7,495    | \$4,497.00     | \$8,994.00     |
| GLC-SX-MM=                              | GE SFP, LC connector SX transceiver                          | 3   | \$500      | \$300.00       | \$900.00       |
|                                         | Subtotal:                                                    |     |            |                | \$53,673.00    |
| <b>MAINTENANCE / WARRANTY / SUPPORT</b> |                                                              |     |            |                |                |
| <b>Chassis</b>                          |                                                              |     |            |                |                |
| CON-SNT-C4507RE                         | SMARTNET 8X5XNBD WS-C4507R-E                                 | 1   |            | 2,770.00       | incl / 1 year  |
| CON-SNT-C4507RE                         | SMARTNET 8X5XNBD WS-C4507R-E (years 2-5 Smartnet)            | 4   |            | 2,493.00       | \$9,972.00     |
| <b>AOS PROFESSIONAL SERVICES</b>        |                                                              |     |            |                |                |

|  |  |
|--|--|
|  |  |
|--|--|

| <b>Terms and Conditions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>THIS DOCUMENT SERVES AS AN ADDENDUM TO THE AOS MASTER SERVICES AGREEMENT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <ul style="list-style-type: none"> <li>* A down payment of up to 50% may be required before the order can be processed.</li> <li>* All applicable state and local taxes, shipping charges (FOB customer dock), travel and associated expenses will be added to invoice.</li> <li>* ALL SALES ARE FINAL. No "opened" product may be returned. Return requests for unopened product must be:               <ol style="list-style-type: none"> <li>1) pre-approved by AOS</li> <li>2) contingent upon RMA approval from the supplier prior to return</li> <li>3) will be subject to a 20% restocking fee, if accepted.</li> </ol> </li> <li>* AOS is not responsible for configuration, compatibility or products requested per customer-provided specifications. Professional design consulting services are available to be quoted upon request.</li> <li>* Full payment for "flat rate" services is due upon completion.</li> <li>* Increased rates are charged for services performed after-hours, on weekends or holidays.</li> <li>* AOS will coordinate the ordering, delivery, warranties and maintenance agreements of all equipment and software components listed that are purchased through AOS.</li> <li>* AOS will only process orders signed by an agent of the company and a purchase order must be provided if required by your organization.</li> </ul> | <ul style="list-style-type: none"> <li>* Customer is responsible for returning all trade-in merchandise to the designated parties or issue a certificate of destruction if that is required. Failure to do so will result in a charge to the customer for the equipment not returned.</li> <li>* Hourly services are due upon delivery of services.</li> <li>* Non-solicitation of employees. Each party agrees not to hire or solicit for employment (or as an individual independent contractor) any employee of the other party until six (6) months after the date such person terminates employment with the other party. AOS further agrees not to hire or solicit for employment (or as an individual independent contractor) any other individual while he or she is performing services for Customer pursuant to a contract. If this paragraph is breached by the hiring of an employee of Customer or AOS, damages for such breach are agreed to be equal to the demonstrated cost of training a replacement for such individual. This paragraph does not apply to the hiring or solicitation of any individual who did not become known to the hiring or soliciting party as a result of the relationship between Customer and AOS created by this Agreement.</li> <li>* Block contracts must be paid in full prior to receiving the discounted rate on work Flat Rate and Hourly services subject to progress billing at the end of each AOS monthly billing cycle.</li> </ul> |

To accept this quotation, please sign and return to Alexander Open Systems:

|                                              |                       |
|----------------------------------------------|-----------------------|
| _____<br>Customer Signature of Authorization | _____<br>Printed Name |
| _____<br>Title                               | _____<br>Date         |



**City of Fayetteville Staff Review Form**

A. 8  
Municipal Parking Lot # 55  
Page 1 of 6

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

11/17/2009

**City Council Meeting Date  
Agenda Items Only**

Sharon Crosson  
**Submitted By**

Parking & Telecommunications  
**Division**

Transportation Services  
**Department**

**Action Required:**

A resolution approving a budget adjustment recognizing \$6,500 in Parking Facility Fees to replace deteriorated curb and gutter at Municipal Parking Lot #55.

\$ 6,500.00  
Cost of this request

\$ 91,492.00  
Category / Project Budget

Services & Charges  
Program Category / Project Name

2130.9130.5315.00  
Account Number

\$ 59,092.00  
Funds Used to Date

Off Street Parking Exp  
Program / Project Category Name

Project Number

\$ 32,400.00  
Remaining Balance

Off Street Parking  
Fund Name

**Budgeted Item** ☐

**Budget Adjustment Attached** ☒

Tony J. Bully 10/30/09  
Department Director Date

Previous Ordinance or Resolution # \_\_\_\_\_

K. Johnson 10/30/09  
City Attorney Date

Original Contract Date: \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

Paul A. Beck 11-4-2009  
Finance and Internal Services Director Date

Received in City Clerk's Office  
**ENTERED**  
10/30/09 Kim Johnson

Alan Mann 11-4-09  
Chief of Staff Date

Received in Mayor's Office  
**ENTERED**  
11/2/09 [Signature]

Leonell Jordan 11/4/09  
Mayor Date

Comments:

## **CONTRACT REVIEW MEMO**

---

TO: Mayor Lioneld Jordan

THRU: Terry Gulley, Transportation Services Director *TG*

FROM: Sharon Crosson, Parking & Telecom Manager *SC*

DATE: October 29, 2009

SUBJECT: Resolution Approving a Budget Adjustment Recognizing \$6,500.00 in Parking Facility Fees

---

## **RECOMMENDATION**

Staff recommends approving a resolution for a budget adjustment to recognize \$6,500.00 in Parking Facility Fees to replace deteriorated curb and gutter and adding eight (8) additional parking spaces in the Municipal Parking Lot #55. Lot 55 is a public parking lot located just off Dickson Street behind the Hog Haus Restaurant.

## **BACKGROUND**

In lieu fees were collected for on-site parking spaces per UDC Chapter 156.02 to be used for public parking facilities. These funds shall be expended for public parking facilities within the district it is collected within 10 years from the date it is collected.

## **BUDGET IMPACT**

Once these funds are used, the equivalent amount will be moved from the escrow account and credit the revenue account associated with the expense in the Off-Street Parking Fund.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION TO APPROVE THE ATTACHED BUDGET ADJUSTMENT  
RECOGNIZING \$6,500.00 IN PARKING FACILITY/FEES WHICH WILL BE  
USED TO REPLACE DETERIORATED CURB AND GUTTER IN MUNICIPAL  
PARKING LOT #55

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves  
the attached budget adjustment recognizing \$6,500.00 in parking facility/fees which will be used  
to replace deteriorated curb and gutter in Municipal Parking Lot #55.

**PASSED and APPROVED** this 3<sup>rd</sup> day of November, 2009.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**



A. 8  
Municipal Parking Lot # 55  
Page 5 of 6

### Replace deteriorated curb and gutter

[illegible]

**TOTAL ESTIMATED COST = \$6,405.78**







September 17, 2009

Jeremy Pate  
Development Services Director  
City of Fayetteville  
125 West Mountain Street  
Fayetteville, Arkansas 72701

Re: Old Wire Annexation - Appeal of Planning Commission denial

Mr. Pate:

On behalf of our client, we wish to appeal the September 14, 2009 City of Fayetteville Planning Commissions decision to deny ANX 09-3409 - Broyles/ 3231 N. Old Wire Road.  
We request that this item be place on the next available City Council meeting.

Respectfully,

A handwritten signature in black ink that reads "Todd Jacobs". The signature is written in a cursive, flowing style.

Todd Jacobs  
Director of Design  
Appian Centre for Design  
509 West Sprint Street, Suite 420  
Fayetteville, Arkansas 72701  
Office: 479-442-1444

Left on 3rd Reading @ 11/3/09 CC mtg.  
Left on 2nd Reading @ 10/20/09 CC mtg.  
Left on First Reading @ 10/6/09 CC mtg.

## **CITY COUNCIL AGENDA MEMO**

---

**To:** Mayor and City Council

**Thru:** Jeremy C. Pate, Development Services Director

**From:** Andrew Garner, Senior Planner

**Date:** September 16, 2009

**Subject:** Annexation for Broyles (ANX 09-3409)

---

### **RECOMMENDATION**

Staff and the Planning Commission recommend denial of annexing the subject 39.33-acre property, located at the northwest corner of Old Wire Road and Rom Orchard Road. The applicant has appealed the Planning Commission decision to deny this request to the City Council.

### **BACKGROUND**

Most of the property in this annexation request was included in annexation and rezoning requests that were heard by the Planning Commission on October 10, 2005 and again on May 8, 2006. Planning Staff recommended denial of all requests. The Planning Commission denied or tabled both the annexation and rezoning requests in 2005 and 2006, expressing concern about the extension of the city in this area, development patterns, density, and compatibility, and the resulting extension of the boundary. The meeting minutes from these previous Planning Commission meetings are attached to the staff report.

The applicant proposes to annex the subject 39.33 acres into the City. The applicant has stated an intent to propose a 200-acre master plan for a traditional neighborhood development, including the subject property.

### **DISCUSSION**

This item was heard at the regular Planning Commission meeting on September 16, 2009. The Planning Commission voted 5-4-0 (commissioners Winston, Graves, Kennedy, and Trumbo voting "no") to deny this rezoning request. Several neighbors in the area spoke against rezoning the subject property to RSF-4, however, the applicant has withdrawn the rezoning application. Written comments from the neighbors are attached to the staff report.

### **BUDGET IMPACT**

None.

**ORDINANCE NO.**

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 09-3409 (CC2009-4), FOR PROPERTY LOCATED AT 3231 NORTH OLD WIRE ROAD, THE NORTHWEST CORNER OF OLD WIRE ROAD AND ROM ORCHARD ROAD, CONTAINING APPROXIMATELY 39 ACRES.

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

Section 1: That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4: That the above-described property is hereby assigned to Ward No. Three.

**PASSED** and **APPROVED** this      of      , 2009.

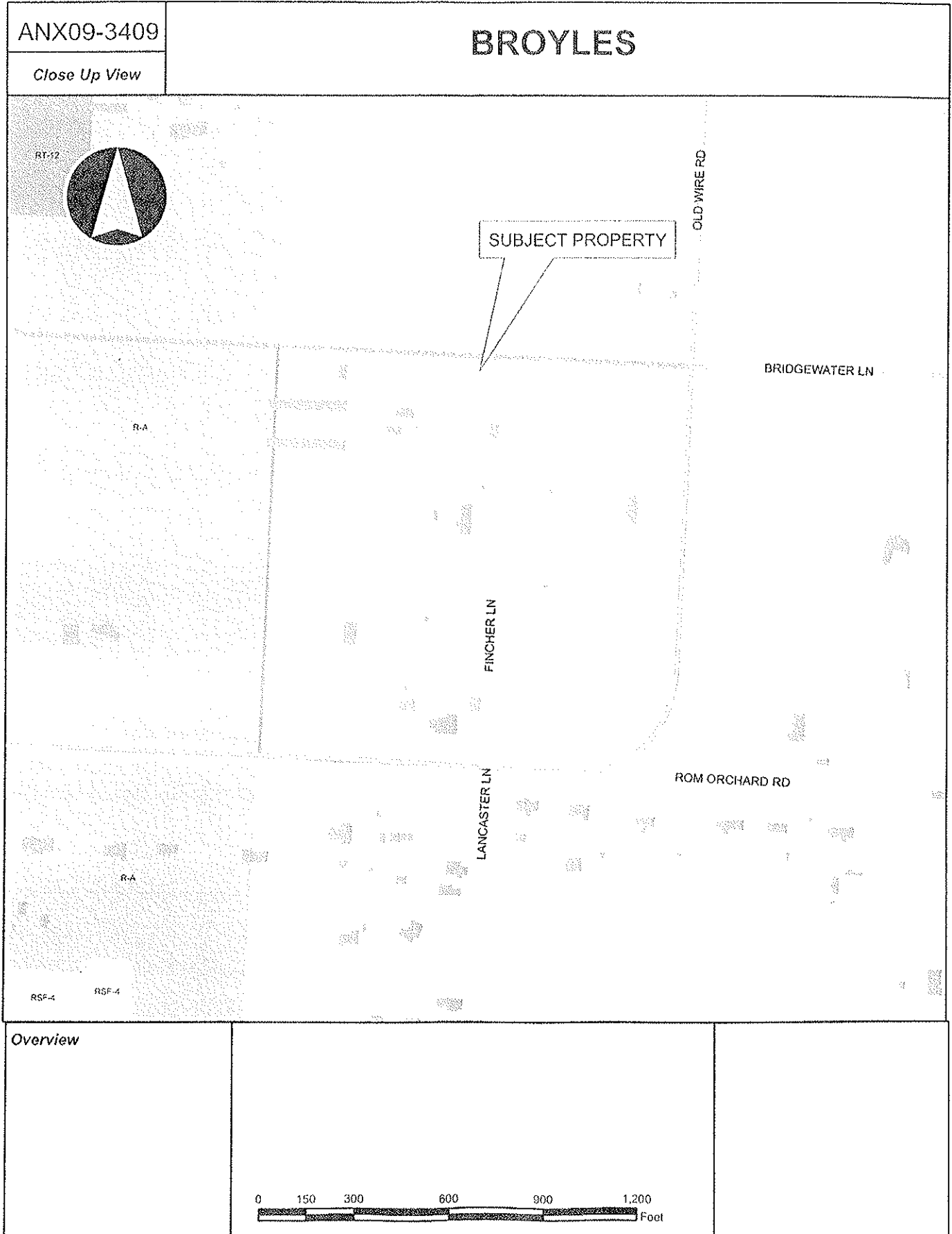
APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk

# EXHIBIT "A"



**EXHIBIT "B"**  
**ANX 09-3409**

DESCRIPTION (PARCEL NOS. 001-15604-000, 001-15605-000, 001-15606-000, 001-15608-000, 001-15608-001, 001-15609-000, AND 001-15610-000)

ALL OF THE LAND DESCRIBED IN THE DEEDS RECORDED AS FILE NUMBERS 93-3908, 2005-18120, 2005-18121, 2005-18122, 2005-18123, 2006-22924, AND 2009-9274 IN THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUNTY, ARKANSAS RESIDING IN THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 17 NORTH, RANGE 29 WEST OF THE FIFTH PRINCIPAL MERIDIAN BEING ALSO DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE ABOVE SAID SOUTHWEST 1/4; THENCE N02°26'06"E, ALONG THE WEST LINE OF THE ABOVE SAID SOUTHWEST 1/4, A DISTANCE OF 1315.03 FEET TO THE NORTHWEST CORNER OF THE ABOVE SAID SOUTHWEST 1/4; THENCE S87°16'13"E, ALONG THE NORTH LINE OF THE ABOVE SAID SOUTHWEST 1/4, A DISTANCE OF 1319.96 FEET TO THE NORTHEAST CORNER OF THE ABOVE SAID SOUTHWEST 1/4; THENCE S02°29'32"W, ALONG THE EAST LINE OF THE ABOVE SAID SOUTHWEST 1/4, A DISTANCE OF 1016.73 FEET; THENCE S18°21'47"W, LEAVING THE ABOVE SAID EAST LINE, A DISTANCE OF 116.92 FEET; THENCE S34°39'26"W, A DISTANCE OF 96.67 FEET; THENCE S52°01'42"W, A DISTANCE OF 94.13 FEET; THENCE S69°02'13"W, A DISTANCE OF 95.91 FEET; THENCE S86°30'36"W, A DISTANCE OF 46.95 FEET TO A POINT ON THE SOUTH LINE OF THE ABOVE SAID SOUTHWEST 1/4; THENCE N87°11'42"W, ALONG THE ABOVE SAID SOUTH LINE, A DISTANCE OF 1028.91 FEET TO THE POINT OF BEGINNING AND CONTAINING 1,713,107 SQUARE FEET OR 39.33 ACRES, MORE OR LESS.



## PC Meeting of September 14, 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: ~~September 8, 2009~~ *Updated September 16, 2009*

**ANX 09-3409: (BROYLES / 3231 N. OLD WIRE RD., 217):** Submitted by APPIAN CENTER FOR DESIGN for property located at 3231 N. OLD WIRE ROAD, NW CORNER OF OLD WIRE ROAD AND ROM ORCHARD ROAD. The property is in the Planning Area and contains approximately 39.33 acres. The request is to annex the subject property into the City of Fayetteville.

Planner: Andrew Garner

*Background:* Most of the property in this annexation request was included in annexation and rezoning requests that were heard by the Planning Commission on October 10, 2005 and again on May 8, 2006. Planning Staff recommended denial of all requests. The Planning Commission denied or tabled both the annexation and rezoning requests in 2005 and 2006. The meeting minutes from these previous Planning Commission meetings are attached to the staff report for the associated rezoning (RZN 09-3410 Broyles) also being heard at this planning commission meeting.

*Property:* The property is located northwest of the intersection of Old Wire Road and Rom Orchard Road. As depicted in *Table 1*, the site is surrounded by rural residential and undeveloped pasture, with unincorporated Washington County to the north, east, and south, and property zoned Residential Agricultural (R-A) in the City of Fayetteville to the west.

**Table 1**  
**Surrounding Land Use and Zoning**

| Direction from Site | Land Use                   | Zoning                                          |
|---------------------|----------------------------|-------------------------------------------------|
| North               | Rural residential; pasture | Planning Area                                   |
| South               | Rural residential; pasture | Planning Area                                   |
| East                | Rural residential; pasture | Planning Area                                   |
| West                | Rural residential; pasture | R-A, Residential Agricultural;<br>Planning Area |

The nearest developed subdivision is Paradise Valley Estates in the Planning Area, located approximately 1,600 feet east of the subject property and developed for single-family use with a density of approximately 1 unit per two acres.

*Proposal:* The applicant intends to annex and rezone this property and stated intent to develop a traditional neighborhood. If the annexation for this property is approved, the request is to rezone the property from R-A, Residential Agricultural to RSF-4, Residential Single-family, 4 units per acre. However, the applicant stated intent to propose a 200-acre master plan for a traditional neighborhood

development, including the subject property.

*Request:* The request is to annex the property into the City of Fayetteville

*Public Comment:* Staff has received several phone calls, emails, and letters in opposition to the proposed rezoning. The opposition cites concern that a density of four units per acre is not compatible with the surrounding rural residential character and would result in adverse impacts to traffic safety and property values.

## **INFRASTRUCTURE:**

**Streets:** Currently the site has access to Old Wire Road. With development, road improvements and dedication per the Master Street Plan would be required. Surrounding Master Street Plan Streets are shown on *Table 2*.

**Table 2**  
**Surrounding Master Street Plan Streets**

| <b>Direction from Site</b> | <b>Street Name</b> | <b>Master Street Plan Classification</b> |
|----------------------------|--------------------|------------------------------------------|
| South                      | Old Wire Road      | Collector Street                         |
| East                       | Old Wire Road      | Collector Street                         |
| Southeast                  | Rom Orchard Road   | Local Street                             |

**Water:** Public water is adjacent to the site. There is a four-inch waterline along the south side of Old Wire Road. Public water will need to be upgraded to the property to provide domestic and fire flow for any proposed development.

**Sewer:** Sanitary sewer is not adjacent to the site. The nearest sewer main an 18-inch public main about 2,500 feet west of the site at the intersection of Old Wire Road/Crossover Road. Public sewer mains may need to be extended to the property to serve any proposed development, depending on the nature and density of the development.

**Fire:** The subject property is located 1.5 miles from the Fire Station No. 5 at 2979 North Crossover Road. Projected response time at full development of this property is projected at 4 minutes to the beginning of this development.

**Police:** The Fayetteville Police Department stated concern that this application may cause substantial call volume increase and will effect traffic congestion in the area. The Police Department also commented that this annexation would result in one side of the road inside the city while the other side is outside the city. This may cause confusion among officers and residents living in the area as to which law enforcement agency to call in an emergency.

## **RECOMMENDATION:**

**Staff recommends denial of the requested annexation based on the findings included in this report.**



|                                                                      |  |                                                |                                                   |
|----------------------------------------------------------------------|--|------------------------------------------------|---------------------------------------------------|
| <b>PLANNING COMMISSION ACTION:</b>                                   |  | Required <u>YES</u>                            | B.1<br>Old Wire Annexation Appeal<br>Page 8 of 68 |
|                                                                      |  | <input type="checkbox"/> Forwarded             | <input checked="" type="checkbox"/> Denied        |
| Date: September 14, 2009                                             |  | Motion: <u>Myres</u>                           |                                                   |
|                                                                      |  | Second: <u>Zant</u>                            |                                                   |
|                                                                      |  | Vote: <u>5-4-0</u>                             |                                                   |
|                                                                      |  | (Graves, Winston, Kennedy, Trumbo voting "no") |                                                   |
| <b>CITY COUNCIL ACTION:</b>                                          |  | Required <u>YES</u>                            |                                                   |
|                                                                      |  | <input type="checkbox"/> Approved              | <input type="checkbox"/> Denied                   |
| Date: <u>October 6, 2009 (1<sup>st</sup> reading if recommended)</u> |  |                                                |                                                   |

**CITY PLAN 2025 FUTURE LAND USE PLAN:** City Plan 2025 Future Land Use Plan designates this site as **Rural Area**. Rural Areas consist of land in an open or cultivated state or sparsely settled. These areas only have infrastructure and public services to support low-density zoning. They do not have adequate transportation or public services to support urban development patterns at this time. This area encourages conservation and preservation in any development pattern. The Guiding Policies for Rural Areas also discuss that if developed, these areas should encourage alternative development patterns to achieve compatibility with surrounding rural areas.

This property is also identified as an **Intended Growth Sector** in City Plan 2025. Growth sector areas were initially identified during the City Plan 2025 charrette process by citizens as areas with potential for population growth in the future. After the initial data was compiled and growth sectors were identified, additional input and analysis was completed in order to prepare the future land use map. This involved analysis of the actual development potential and public meetings where desired development patterns were analyzed and discussed. The growth sector map was an aid in preparation of the future land use map, which was ultimately adopted by the City Council. This area was identified as a Rural Area.

## FINDINGS:

### 12.3.4 POTENTIAL ANNEXATION AREAS

The potential annexation areas should be identified by the City using the following criteria:

1. Areas that are already urban in character.

**Finding:** The subject property is surrounded on all sides by sparsely populated rural residential land uses. This area is not considered urban in character, and has not previously been identified by the City for annexation. The property is within the City's Planning Area.

2. Areas that can be developed at urban densities.

**Finding:** The subject property cannot be developed at urban densities at this time. The roads accessing the property are two-lane unimproved roads and sewer is not in the immediate vicinity (approximately 2,500 feet to the west). Unless significant improvements occur, the property and surrounding area will likely remain in a relatively low density state for some time, until and unless development occurs along

**Crossover Road and moves in an eastern direction.**

3. Immediate areas are those that are peninsulas or islands, where municipal services have already been extended.

**Finding:**

Municipal services that would accommodate future development have not been extended to this area. The proposed annexation would extend a peninsula of property approximately 1,300 feet into the county that is not served by city municipal services. The subject property and surrounding areas do not have adequate water or sewer service. There is an existing four-inch water line available to the subject site on the south side of Old Wire Road, however, the water line would have to be upgraded to provide domestic and fire flow for future development. Sewer service is not available and is located approximately 2,500 feet to the west and would have to be extended to serve development on the site. City police and fire service are provided to areas to the west.

4. Vacant lands that are subject to development pressure.

**Finding:** This site has been proposed to be annexed approximately three times since 2005 and a conceptual subdivision layout was proposed then withdrawn in that timeframe. These applications and the developer's communication with staff indicate that this area is under development pressure, though this is certainly questionable at this time, given the reduction in building permits and development projects, and vacant subdivisions in the region. The site is less than one mile from Crossover Road (State Highway 265), which is the major north-south transportation corridor on the east side of Fayetteville, also providing connection to Springdale. The site is relatively cleared of vegetation and flat, and is not in a floodplain, without natural constraints to development.

5. Areas where urban services are already provided.

**Finding:** Water, fire and police protection are currently provided in undeveloped areas to the west but not to the density to the proposed RSF-4 in this area. The subject property is not being served by city utilities that could support an urban development at this time. The level of service for this property may be reduced in comparison to surrounding subdivisions located in closer proximity to the more densely populated areas of the City. Also see Finding 12.3.5.a, and the attached comments from the Police Department expressing concerns with emergency service provision.

6. Areas where urban services are needed.

**Finding:** As discussed above in Finding No. 5, water, fire, and police service are provided adjacent to the west, however sewer service is unavailable to the subject property and surrounding areas. Sewer service would be needed to serve development on the

subject property. The subject property and surrounding area are largely undeveloped or rural residential, and do not currently need urban service for existing land uses.

### 12.3.5 ANNEXATION GUIDING POLICIES

#### BOUNDARIES

- 12.3.5.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

**Finding:** Annexation of the property will not create an island of unincorporated property. However, it will extend a peninsula of incorporated City approximately 1,300 feet. Creating a peninsula will extend the area of city property to which utilities and emergency response personnel must travel to benefit the future residents of the City. The Police Department commented that this annexation would result in one side of the road inside the city while the other side is outside the city. This may cause confusion among officers and residents living in the area as to which law enforcement agency to call in an emergency. Development in this area would also require the extension of sewer service to an area that is undeveloped or developed at low densities on septic systems. Extending sewer service would encourage leap-frog development of this site and the surrounding areas. Staff finds that this proposal is in direct conflict to the annexation policy direction of the City Council, and can therefore not recommend approval of this annexation.

Further, this application is in conflict with two of the primary goals of City Plan 2025 including Goal 1, “*We will make appropriate infill and revitalization our highest priorities.*”, and Goal 2, “*We will discourage suburban sprawl.*” The proposed annexation on the periphery of the City is not infill and would encourage sprawl, by spreading development across the natural landscape, and if this property is developed, making people solely dependent on the automobile, in conflict with these two goals.

- 12.3.5.b Proposed annexation area must be adjacent, or contiguous, to city limits.

**Finding:** The proposed annexation area is adjacent to the City Limits to the west.

- 12.3.5.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

**Finding:** The subject property is not a part of a platted subdivision.

- 12.3.5.d Boundaries for annexed areas should follow natural corridors.

**Finding:** Proposed boundaries follow property lines of the existing parcels and right-of-way.

12.3.5.e The provisions of services should be concurrent with development.

**Finding:** Public services will be required to be provided concurrent with development in accordance with Fayetteville Unified Development Code requirements. Currently adequate public services are not available to support an urban or suburban development.

#### **ENVIRONMENTALLY SENSITIVE AREAS**

12.3.5. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

**Finding:** There are no known environmentally sensitive areas that could be impacted by development, however, this site has been designated as a Rural Area on the City's Future Land Use Plan. The guiding policies for Rural Areas encourage conservation and preservation that would allow historical agricultural and related uses to continue to occur.

#### **EMERGENCY AND PUBLIC SERVICES**

12.3.5.g Public services must be able to be provided efficiently in newly annexed areas.

**Finding:** Public services are not able to be provided efficiently in the proposed annexation area. The four-inch water line would be required to be upgraded at the time of development and extension of the nearest sewer service is located approximately 2,500 feet west of the property. Response time to this location for emergency personnel is anticipated at four minutes. The Police Department commented that this annexation would result in one side of the road inside the city while the other side is outside the city. This may cause confusion among officers and residents living in the area as to which law enforcement agency to call in an emergency.

12.3.5.h Annexed areas should receive the same level of service of areas already in the city limits.

**Finding:** Fire and police service will be required to be provided to this area with the same level of response and service as other properties in this area, if annexed in the City of Fayetteville. This property is adjacent to rural residential areas to the west already being served by the city.

12.3.5.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

**Finding:** These factors were taken into consideration in the responses and recommendations included in this report.

## **INFRASTRUCTURE AND UTILITIES**

12.3.5.j Areas currently served by utilities and other public services should be annexed.

**Finding:** Water, fire and police protection are currently provided in undeveloped areas to the west but not to the density to the proposed RSF-4 in this area. The subject property is not being served by city utilities at this time. The level of service for this property may be reduced in comparison to surrounding subdivisions located in closer proximity to the more densely populated areas of the City.

12.3.5.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

**Finding:** Annexation and future development of this property will result in an increased demand on the existing infrastructure systems. Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.

12.3.5.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

**Finding:** The proposed annexation is not part of a phased annexation initiated by the City.

## **INTERGOVERNMENTAL RELATIONS**

12.3.5.m Promote long-range planning with adjacent jurisdictions.

**Finding:** N/A

12.3.5.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

**Finding:** N/A

## **ADMINISTRATION OF ANNEXATIONS**

12.3.5.o Develop a land use plan for annexation initiated by the city.

**Finding:** N/A

12.3.5.p Designate zoning districts for the property during the annexation process.

**Finding:** Annexations are automatically zoned R-A, Residential Agricultural. The property owners request annexation and rezoning of this property to RSF-4, Residential single family - 4 units/acre. Increased density on this property will increase the load on public infrastructure in this area and is significantly

**different than the surrounding density. The timing of development to urban densities is inconsistent with City policies in this area at this time.**

12.3.5.q           An annexation study should be completed on all annexation proposals.

**Finding:       Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property. Comments from each department have been provided herein.**

12.3.5.r           Development proposals require a separate review from the annexation proposals.

**Finding:       Development of this property was proposed within the past few years for a single family residential subdivision in the Planning Area, however that application was withdrawn.**

12.3.5.s           Residents should be fully informed of annexation activities.

**Finding:       Adjoining neighbors have been notified of the annexation request and a public notice sign has been placed on the property advertising that this request will be heard at the Planning Commission meeting.**

12.3.5.t           Encourage larger annexations to create acceptable boundaries.

**Finding:       Extending the city boundary to the east as proposed will create a peninsula of incorporated land. This is not consistent with the Annexation Policy and may create future problems at the time of development by requiring water, sewer, and street infrastructure upgrades. These upgrades would encourage leap-frog development in an area not suitable for urban or suburban development patterns. Staff does not recommend increasing the size of the proposed annexation by one or two adjacent parcels, but might be supportive of a much larger annexation that would create a more acceptable City boundary.**

12.3.5.u           Conduct a fiscal impact assessments on large annexations.

**Finding:       No fiscal impact assessment was conducted for this annexation of 39.33 acres.**



The City of Fayetteville Fire Department  
303 W. Center St. Fayetteville, AR. 72701  
Phone (479) 575-8365 Fax (479) 575-0471

**To:** Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher  
**From:** Mark Stevens  
**Date:** August 26, 2009  
**Re:** ANX 09-3409 and RZN 09-3410 (Broyles / 3231 N. Old Wire Rd, 217)

This development will be protected by Engine 5 located at 2979 North Crossover Road. It is 1.5 miles from the station with an anticipated response time of 4 minutes to the beginning of the development.

The Fire Department anticipates 34 (22 EMS - 12-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.

At this time there is not a water main near this property of sufficient size for firefighting. The closest fire hydrant is located next to Fire Station 5. Old Wire Road has a 4" PVC main providing water East to Rom Orchard; it is reduced to a 2" PVC line providing water North next to Fincher Lane. A minimum 6" to 8" water main will be required to provide water to fire hydrants for firefighting purposes. Refer to the GIS water system map.

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

Captain Mark Stevens  
Fayetteville Fire Department

Date 9/01/09

Jeremy Pate  
Development Services Director  
City of Fayetteville  
113 W. Mountain  
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request comments on the proposed ANX 09-3409 and RZN 09-3410: (BROYLES / 3231 N. OLD WIRE RD., 217): Submitted by APPIAN CENTER FOR DESIGN for property located at 3231 N. OLD WIRE ROAD, NW CORNER OF OLD WIRE ROAD AND ROM ORCHARD ROAD.

This rezoning, when built out, may cause any substantial call volume increase and will definitely have an effect on the traffic congestion in the area. The road is narrow and could be Improvements to the road

I also have some concern about the peninsula this annexation will cause. One side of the road inside the city while the other side of the road is outside the city may cause confusion among officers and residents living in the area as to which law enforcement agency to call in an emergency. There is a similar situation off Skillern Road almost immediately to the south. This small peninsula extends to Rom Orchard road and places one side of the road in the city and one side outside the city.

Sincerely,

Captain William Brown  
Fayetteville Police Department



*City Engineering Division Comments*

**ANX 09-3409: (BROYLES / 3231 N. OLD WIRE RD., 217):** Submitted by APPIAN CENTER FOR DESIGN for property located at 3231 N. OLD WIRE ROAD, NW CORNER OF OLD WIRE ROAD AND ROM ORCHARD ROAD. The property is in the Planning Area and contains approximately 39.33 acres. The request is to annex the subject property into the City of Fayetteville.

Planner: Andrew Garner

**RZN 09-3410: (BROYLES / 3231 N. OLD WIRE RD., 217):** Submitted by TODD JACOBS for property located at 3231 N. OLD WIRE ROAD, NW CORNER OLD WIRE ROAD AND ROM ORCHARD ROAD. The property contains approximately 39.33 acres. The request is to rezone the subject property to RSF-4, RESIDENTIAL SINGLE FAMILY 4 UNITS PER ACRE.

Planner: Andrew Garner

Public water is available to the property. There is a 4" main at on the south side of Old Wire Rd. Public water will need to be upgraded to the property to provide domestic and fire flow for any proposed development.

Sanitary sewer is not available to the site. There is a 18" public main at the intersection of Old Wire Rd. and Crossover about 2500' to the southwest of this property.. Public mains may need to be extended to the property to serve any proposed development.

The site has access to Old Wire Rd. Old Wire Rd. is a two lane paved city street in this location. 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.



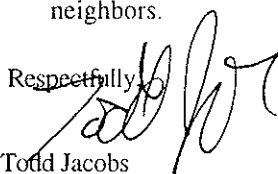
August 3, 2009

City of Fayetteville  
Planning Department  
125 West Mountain Street  
Fayetteville, AR 72701

**RE: Written Statement - Rezoning of 39.33 acres along Old Wire Road**

- a. The subject property is located in Intended Growth Sector area by the City Plan 2025. The 2025 Plan describes Intended Growth Sectors as, "areas where new development in the form of Traditional Neighborhood Development (TND) is to be centered." The development team has created a master plan framework in conjunction with the proposed Cambridge traditional neighborhood development that is consistent with land use planning, principles and policies of the 2025 plan. We believe the master plan for the Old Wire area and the TND form of Cambridge match the goals of the City Plan 2025.
- b. The property is currently being annexed. Rezoning the property to RSF-4 would be in line with the City of Fayetteville land use policies for an intended growth sector area.
- c. Old Wire Road is currently a two-way asphalt paved road with approximately nine feet lanes. The level of service along this road is good with few delays expected morning or evening. The primary flow of traffic from this development is expected to take Old Wire Road either north to Joyce Boulevard or south to Crossover Road, which is scheduled to be widened to a four-lane boulevard in the near future. At the intersection of Old Wire Road and Crossover Road, Old Wire is currently a three lane road with a turning lane, curb and gutter and shows an efficient level of service for traffic. The intersection of Joyce Boulevard and Old Wire Road to the north is currently a two lane stop sign intersection. There is a low volume of traffic at the intersection of Joyce and Old Wire and it should not prove to be problematic or affect a delay on travel times.
- d. The proposed rezoning to RSF-4 will not dramatically increase population density. The widening of Hwy 265 to a four-lane boulevard, the subject property and the neighboring properties to the east will see additional homes and businesses in the near future. The master plan shown in conjunction with this neighborhood will provide a structure of planned growth that will include short blocks, ample parkland, trails, sidewalks, and a mix of uses that will inherently provide amenities for the project – all ideals intended through the City's Plan 2025. There is a recently built sewer pump station to the east very near the proposed connection of water and sewer lines that the development will utilize. A newly remodeled elementary school and a recently-built middle school are located very close to the proposed development. There is also a proposed school site in the 200-acre master plan shown in conjunction with this development.
- e. A traditional neighborhood development would not be allowed to occur with a zoning of R-A. Additionally, the subject property has been designated by the City Plan 2025 as an Intended Growth Sector. The 2025 Plan describes Intended Growth Sectors as, "areas where new development in the form of Traditional Neighborhood Development is to be centered." R-A zoning is intended for use by one-acre homes, estate lots, or farmland. The property will be entirely single family to not change the land use in close proximity to the existing neighbors.

Respectfully,

  
Todd Jacobs  
Director of Design



August 5, 2009

City of Fayetteville  
Planning Department  
125 West Mountain Street  
Fayetteville, AR 72701

**RE: Rezoning Application - Written Description - 39.33 acres Old Wire Road**

Appian Centre for Design is requesting the rezoning of approximately 39.33 acres located on along Old Wire Road to RSF-4.

- a. Currents owners of the property are Hank Broyles (Old Wire Road LLC) and Thomas C. Lee and his wife Barbara Lee.
- b. The subject property is located in the City of Fayetteville planned growth area. It will be proposed as a Traditional Neighborhood Development designed in conjunction with a 200-acre Master Plan that will create a framework to accommodate long term growth in northeast Fayetteville. This framework is designed to preserve open space, tree canopy, stream corridors, create trail corridors, and link neighborhoods on the East side of town. The subject property is located in what the City Plan 2025 refers to as an Intended Growth Sector. City Plan 2025 describes them as, "areas where new development in the form of Traditional Neighborhood Development is to be centered." The development team is dedicated to creating a framework for an Old Wire Neighborhood that matches the city's goals.
- c. The property will be design as a Traditional Neighborhood Development. The surrounding properties are currently R-A with several single family homes to the south, however, a few hundred feet to the west all properties are RSF-4, with a large parcel to the northwest zoned as RT-12. The proposed development will be entirely single family with large green spaces or fields and small parks to blend in with surrounding pasture. Most lots at the proposed subdivision will be larger than typical TND neighborhood lots at seventy to eighty feet in width to better fit in with the surrounding homes. Architectural style will similar to surrounding homes as future elevations will show.  
  
Traffic from the proposed subdivision will initially utilize Old Wire Road to the south and east. The subdivision, however, will build the first extension of Bridgewater Lane, which will eventually connect west to Crossover Road. In the associated master plan this extension is proposed as a boulevard section and should connect well with the existing Crossover Road, slated to be widened to a four lane boulevard in 2011, forming a strong street axis for this section of northeast Fayetteville. Old Wire Road is currently a two-way asphalt paved road with no curb and gutter and approximately nine feet lanes. The level of service along this road is good with few delays expected morning or evening. Traffic from the subdivision is expected to be split north to Joyce Street and south to Crossover Road and not overburden the current system.
- d. Water and sewer lines are each located at the intersection of Old Wire Road and Skillern Road. The lines will be extended to the property where sewer and water will service homes in accordance with Fayetteville UDC.

Respectfully,

Todd Jacobs  
Director of Design

## **Correspondence Received (Letters of Opposition)**

Colene Gaston and Roger Montgomery  
3270 Rom Orchard Road  
Fayetteville, Arkansas 72703

September 9, 2009

Attention: Andrew Garner, Senior Planner: [agarner@ci.fayetteville.ar.us](mailto:agarner@ci.fayetteville.ar.us)

City of Fayetteville Planning Commission  
125 West Mountain Street  
Fayetteville, AR 72701

Re: Annexation and Rezoning at 3231 N. Old Wire Road

Dear City of Fayetteville Planning Commissioners:

We live one house back from the eastern boundary of the Old Wire Road property proposed simultaneously for annexation into the City of Fayetteville and for rezoning to Residential Single-Family, Four Units per Acre (RSF-4). We opposed previous requests to rezone and annex the property that were denied by the City. We also opposed the request for a Conditional Use that was denied by Washington County. Nothing has changed since those previous requests to alter our opposition to the proposal currently before the Planning Commission. If anything, we believe that there is now more reason to deny the requested rezoning as there clearly is no need for an RSF-4 subdivision in this area. There already are several subdivisions on Crossover Road and another on Skillern Road that have completed infrastructure but that remain all or mostly vacant lots.

The proposed rezoning would result in an isolated zone of RSF-4 that is surrounded by property zoned for agricultural or residential development with a maximum density of either one-half or one house per acre. In fact, the single family homes in the area generally are on lots of three to ten acres. Several of the properties have livestock or agricultural uses. Some of the acreage is protected from development in perpetuity by conservation easements held by the Ozark Regional Land Trust. Rezoning the subject property to RSF-4 would be incompatible with the surrounding area.

We recognize that Fayetteville will continue to grow and develop. We support infill in the City core and City policies that discourage sprawl. While some may argue that keeping this area rural supports sprawl, we think that's more the case if an RSF-4 development is permitted in the middle of stable, rural properties. We have lived in our house for fourteen years. In that time very few new homes have been built in the area. Most of our neighbors are committed to maintaining the rural character of the neighborhood. It is very unlikely that their properties would be densely developed, even if zoning restrictions were relaxed. In addition to benefitting our neighborhood (and we do think of it as a neighborhood even though it's rural), we believe that it benefits the entire community if some neighborhoods with a more rural character and open space are preserved. This also is in keeping with the City Plan 2025 for the subject property.

As a practical matter, the roads in the area are not adequate to handle development as intensive as four houses per acre. Old Wire Road has a blind curve just to the west of the development when traveling in either direction. There is a second dangerous curve that borders the subject property to the east. Numerous cars have failed to navigate this curve. Traffic

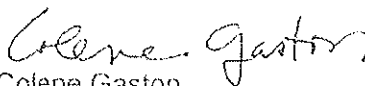
Comment to Fayetteville Planning Commission  
Re: Rezoning and Annexation Request for 3231 N. Old Wire Road  
September 9, 2009  
Page 2

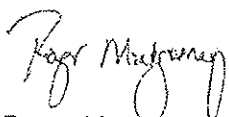
congestion already is significant at the intersections of Old Wire with Skillern Road and with Crossover Road.

We do not feel as strongly about the proposed annexation as we do about the proposed rezoning, so our inclination is to take into account the recommendation of the City's Planning Division before taking a firm position. The report of Planning Division is not yet publicly available. We note, however, that the proposed annexation would create a peninsula of land in the City that juts out into the County. And we do oppose any action that would facilitate or result in higher density development of the subject property.

Thank you for your consideration of these comments.

Sincerely,

  
Colene Gaston

  
Roger Montgomery

September 1, 2009

TO: Fayetteville Boards of Annexation and Rezoning  
RE: Property at Old Wire and Rom Orchard Rd  
Request for Annexation and Rezoning

To Whom it May Concern,

As 23 year residents of 3162 Rom Orchard Rd, Washington Co, Arkansas, we would like to publicly express strong disapproval for the proposed zoning and annexation requests for the above-mentioned property. This letter may be read at the September 14 public input meeting as well as copies given to each relevant board member in our absence. We will be out of state during the time of this hearing.

The following list gives some of the reasons that need to be seriously considered before this annexation and rezoning would ever be approved.

1. The character of this area is primarily rural and agricultural. Most landowners have property of three or more acres. The basic integrity of the area should not be altered to include multi-family use of the density requested.
2. The land is a peninsula jutting out into Old Wire Road for a large portion of its total size. Considering only the Old Wire Road lines of vision, either direction is dangerously blind around this peninsula. The entrance into or from Rom Orchard is a similar hazard. The traffic speed is too fast for safe entry and exit with the addition of the high number of vehicles involved in a large subdivision.
3. At the intersection of Skillern and Old Wire Roads, traffic from the west toward Hwy 265 has the right of way at this time. That is yet another very blind corner for those of us traveling toward that intersection. Traffic speed down Skillern is significantly more than would allow for ample yield time.
4. The morning commuting hours already present a difficult traffic issue with the number of cars continually going toward the light at Old Wire and Crossover Roads. It requires significant time to enter that stream of cars when traveling from the areas going north from the stop sign into Old Wire. A traffic count might be feasible to show how the problem we already face would be compounded many times over by adding ANY extra traffic each morning. It could only be dangerous as well as difficult.
5. To avoid the problem just mentioned, traffic from a new development would almost certainly go down Rom Orchard to get to Skillern to go with the unhindered route. Rom Orchard is quiet, SMALL and constructed of the chip and seal material not meant to withstand heavy traffic. Our road would be ruined.

6. The water treatment facility at the Old Wire/Crossover intersection has resulted in many days of unpleasant odors coming all the way to Rom Orchard and beyond. The area has homes serviced with septic tanks and the additional burden on the city sewer system would provide us with even more foul smelling air.

7. Most of us who oppose this high-density project would not object to housing that fits the area's use. Homes no less than one per acre would still be responsible for a traffic burden as well as difficulties in the previously-mentioned areas. It would be far better than the 3 home per acre ideas presented thus far.

Please add our names to the large number of rural residents of the Rom Orchard area who oppose the development of a small house-large population neighborhood in rural Washington County.

Sincerely,

Larry and Tanya Floyd  
3162 Rom Orchard Rd  
Fayetteville 72703



From: "Shelley Cassar" <shelley@blisscupcakecafe.com>  
To: <agarner@ci.fayetteville.ar.us>  
CC: "Stephen Cassar" <stephenc@ticketsage.com>, "Shelley Cassar" <shelley@bl...  
Date: 9/9/2009 3:58 PM  
Subject: Rezoning and annexation at 3231 N. Old Wire Rd

To Whom it May Concern:

We live at 2990 N. Rom Orchard Rd. We moved in to this house last year because of the quiet, country feel of the street and area. We were disturbed to hear talk of a subdivision being placed on the corner of our street. The roads in our neighborhood are very narrow and windy and not at all conducive to heavy traffic flow. Not to mention my children currently use these roads to ride bikes on and walk the dogs. The additional traffic would cause our kids to not be able to enjoy the country atmosphere we moved here for.

We are opposed to the rezoning and annexation at 3231 N. Old Wire Rd. The additional traffic and noise that a subdivision would create would no longer make our current residence desirable. Most of the homes, including ours are on 2plus acres, most being 4plus acres. A subdivision does not fit into this type environment. Please leave some of Fayetteville untouched by yet another subdivision.

Please consider this seriously as it would effect the lives of many families.

Kind Regards,  
Shelley and Stephen Cassar

September 9, 2009

City of Fayetteville Planning Commission  
125 West Mountain Street  
Fayetteville, AR 72701

Attention: Andrew Garner, Senior Planner: [agarner@ci.fayetteville.ar.us](mailto:agarner@ci.fayetteville.ar.us)

Re: Annexation and Rezoning at 3231 N. Old Wire Road

Dear City of Fayetteville Planning Commission:

It is my understanding that Mr. Hank Broyles is requesting annexation of the property located at 3231 North Old Wire Road into the City of Fayetteville and the rezoning of the property to Residential Single-Family, Four Units per Acre (RSF-4).

I oppose the requested action to the extent that it facilitates or results in higher density development of the property for the following reasons:

1. The proposed change in zoning from Residential-Agricultural (R-A), which allows one house per two acres, to RSF-4, which allows four houses per acre, is not compatible with the surrounding area;
2. The rezoning to RSF-4 will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood;
3. The rezoning to RSF-4 is incompatible with City Plan 2025, which designates the property as a Rural Area with infrastructure and public services adequate to support only low density zoning;
4. There is no need for an RSF-4 subdivision in the vicinity; and
5. The rezoning to RSF-4 will be detrimental to public safety.

The surrounding area is a mixture of residential and agricultural uses, with residential lots being generally three to five acres or more. A higher density subdivision, such as the one that would result from the rezoning, is clearly incompatible with the surrounding area and with City Plan 2025. It will also decrease the value of the larger lots in the area and be injurious to the normal use and enjoyment of these lots. There is no need for an RSF-4 subdivision in this area as there already are several nearby subdivisions with completed infrastructure on Skillem Road and on Crossover Road that remain all or mostly vacant lots.

The rezoning to RSF-4 single family would be detrimental to public safety by greatly increasing the traffic flow on Skillem Road, Old Wire Road, Rom Orchard Road, Bridgewater, and other roads in the vicinity. These roads are frequently used by joggers, bicyclers, and horses. Rom Orchard Road is a narrow, winding road that would be particularly hazardous to joggers, bicyclers and horses with increased automobile traffic. There are two dangerous curves in Old Wire Road that wrap around the south and southeast corner of the subject property. Vehicles frequently cross the center line when navigating these tight curves. Approximately once a year, automobiles fail to negotiate the southeast curve and crash through the fence on the west side of Old Wire Road.

For these reasons, I respectfully request that the requested action be denied.

Sincerely,

Signature

*I strongly disagree with rezoning request!*

*Susan Brisiel*

Address

*3150 N. Rom Orchard Rd*

Printed Name

*Susan Brisiel*

*Fayetteville AR 72703*

*The proposed rezoning is so totally opposite the current community of homes.*

September 9, 2009

City of Fayetteville Planning Commission  
125 West Mountain Street  
Fayetteville, AR 72701

Attention: Andrew Garner, Senior Planner: [agarner@ci.fayetteville.ar.us](mailto:agarner@ci.fayetteville.ar.us)

Re: Annexation and Rezoning at 3231 N. Old Wire Road

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1. The proposed change in zoning from Residential-Agricultural (R-A), which allows one house per two acres, to RSF-4, which allows four houses per acre, is not compatible with the surrounding area;
2. The rezoning to RSF-4 will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood;
3. The rezoning to RSF-4 is incompatible with City Plan 2025, which designates the property as a Rural Area with infrastructure and public services adequate to support only low density zoning;
4. There is no need for an RSF-4 subdivision in the vicinity; and
5. The rezoning to RSF-4 will be detrimental to public safety.

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For these reasons, I respectfully request that the requested action be denied.

Sincerely,

Signature

*Sharon Payton*

Address

*3845 Bridgewater*

Printed Name

*Sharon Payton*

*Fay. Ar. 72703*

*Mr. Garner, I strongly oppose this plan. I feel it will be very detrimental to our neighborhood.*

September 9, 2009

City of Fayetteville Planning Commission  
125 West Mountain Street  
Fayetteville, AR 72701

Re: Rezoning and Annexation at 3231 N. Old Wire Road

Dear Planning Commission:

It is my understanding that Mr. Hank Broyles is requesting annexation of the property located at 3231 North Old Wire Road into the City of Fayetteville and the rezoning of the property to Residential Single-Family, Four Units per Acre (RSF-4).

I oppose the requested action to the extent that it facilitates or results in higher density development of the property for the following reasons:

1. The proposed change in zoning from Residential-Agricultural (R-A), which allows one house per two acres, to RSF-4, which allows 4 houses per acre, is not compatible with the surrounding area;
2. The rezoning to RSF-4 will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood;
3. The rezoning to RSP-4 is incompatible with City Plan 2025, which designates the property as a Rural Area with infrastructure and public services adequate to support only low density zoning;
4. There is no need for an RSP-4 subdivision in the vicinity; and
5. The rezoning to RSF-4 will be detrimental to public safety.

The surrounding area is a mixture of residential and agricultural uses, with residential lots being generally three to five acres or more. A higher density subdivision, such as the one that would result from the rezoning, is clearly incompatible with the surrounding area and with City Plan 2025. It will also decrease the value of the larger lots in the area and be injurious to the normal use and enjoyment of these lots. There is no need for an RSF-4 subdivision in this area as there already are several nearby subdivisions with completed infrastructure on Skillern Road and on Crossover Road that remain all or mostly vacant lots.

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bicyclers, and horses. Rom Orchard Road is a narrow, winding road that would be particularly hazardous to joggers, bicyclers and horses with increased automobile traffic. There are two dangerous curves in Old Wire Road that wrap around the south and southeast corner of the subject property. Vehicles frequently cross the center line when navigating these tight curves. Approximately once a year, automobiles fail to negotiate the southeast curve and crash through the fence on the west side of Old Wire Road.

For these reasons, I respectfully request that the requested action be denied.

Sincerely,

Signature Paul H. Pannell

Printed Name PAUL H. PANSELL

Address 3287 ROM ORCHARD RD FAYETTEVILLE

72703

ON 3 ACRE w/1-RESIDENCE

MY INPUT: I'd agree to is one(1)

RESIDENCE PER. 1 1/2 ACRE, RHP

September 9, 2009

City of Fayetteville Planning Commission  
125 West Mountain Street  
Fayetteville, AR 72701  
Attention: Andrew Garner, Senior Planner: agarner@ci.fayetteville.ar.us

Re: Annexation and Rezoning at 3231 N. Old Wire Road

Dear City of Fayetteville Planning Commission:

It is my understanding that Mr. Hank Broyles is requesting annexation of the property located at 3231 North Old Wire Road into the City of Fayetteville and the rezoning of the property to Residential Single-Family, Four Units per Acre (RSF-4).

I oppose the requested action to the extent that it facilitates or results in higher density development of the property for the following reasons:

1. The proposed change in zoning from Residential-Agricultural (R-A), which allows one house per two acres, to RSF-4, which allows four houses per acre, is not compatible with the surrounding area;
2. The rezoning to RSF-4 will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood;
3. The rezoning to RSF-4 is incompatible with City Plan 2025, which designates the property as a Rural Area with infrastructure and public services adequate to support only low density zoning;
4. There is no need for an RSF-4 subdivision in the vicinity; and
5. The rezoning to RSF-4 will be detrimental to public safety.

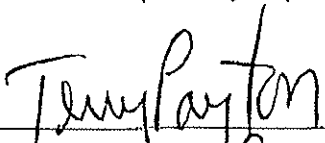
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For these reasons, I respectfully request that the requested action be denied.

Sincerely,

Signature

  
Terry Payton

Printed Name

Address

3845 Bridgewater Lane  
Fayetteville, AR  
72703

From: Susan Brisiel <susan.brisiel@fayar.net>  
To: <agarner@ci.fayetteville.ar.us>  
Date: 9/9/2009 2:47 PM  
Subject: Opposition to proposed rezoning on Old Wire Rd

Mr. Garner,

Please allow me to go on record as strongly opposing the proposed rezoning of property located on Old Wire Rd.

I live on Rom Orchard Rd, a nice quiet rural area with all the homes occupying at least 3 acres. The proposed 4 houses per acre is just totally at odds with the existing setting.

Letters in opposition have been faxed from Susan Brisiel and Sharon Payton.

Thank you for considering these letters in your discussion of the area.

Susan Brisiel

--

Please note email change: susan.brisiel@fayar.net

Susan Brisiel

Admin Asst

Vandergriff Elementary

479.527.3600 office

479.527.3603 fax

September 9, 2009

City of Fayetteville Planning Commission  
125 West Mountain Street  
Fayetteville, AR 72701

Re: Rezoning and Annexation at 3231 N. Old Wire Road

Dear Planning Commission:

It is our understanding that Mr. Hank Broyles is requesting annexation of the property located at 3231 North Old Wire Road into the City of Fayetteville and the rezoning of the property to Residential Single-Family, Four Units per Acre (RSF-4). We own 10 acres located at 3284 Rom Orchard Rd., which is adjacent to the subject property to the east, across Old Wire Rd.. Our property is adjacent to the subject property for 895 feet. We have lived at this location since 2000.

We oppose the requested action to the extent that it facilitates or results in higher density development of the property for the following reasons:

1. The proposed change in zoning from Residential-Agricultural (R-A), which allows one house per two acres, to RSF-4, which allows 4 houses per acre, is not compatible with the surrounding area;
2. The rezoning to RSF-4 will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood;
3. The rezoning to RSF-4 is incompatible with City Plan 2025, which designates the property as a Rural Area with infrastructure and public services adequate to support only low density zoning;
4. There is no need for an RSF-4 subdivision in the vicinity; and
5. The rezoning to RSF-4 will be detrimental to public safety.

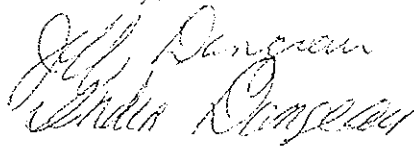
The surrounding area is a mixture of residential and agricultural uses, with residential lots being generally three to five acres or more. A higher density subdivision, such as the one that would result from the rezoning, is clearly incompatible with the surrounding area and with City Plan 2025. It will also decrease the value of the larger lots in the area and be injurious to the normal use and enjoyment of these lots. There is no need for an RSF-4 subdivision in this area as there already are several nearby subdivisions with completed infrastructure on Skillern Road and on Crossover Road that remain all or mostly vacant lots.



The rezoning to RSF-4 single family would be detrimental to public safety by greatly increasing the traffic flow on Skillern Road, Old Wire Road, Rom Orchard Road, Bridgewater, and other roads in the vicinity. These roads are frequently used by joggers, bicyclers, and horses. Rom Orchard Road is a narrow, winding road that would be particularly hazardous to joggers, bicyclers and horses with increased automobile traffic. There are two dangerous curves in Old Wire Road that wrap around the south and southeast corner of the subject property. Vehicles frequently cross the center line when navigating these tight curves. Approximately once a year, automobiles fail to negotiate the southeast curve and crash through the fence on the west side of Old Wire Road.

For these reasons, we respectfully request that the proposed action be denied.

Sincerely,

The block contains two handwritten signatures in cursive. The top signature is 'Jeff Dangeau' and the bottom signature is 'India Dangeau'. Both are written in dark ink.

Jeff & India Dangeau  
3284 Rom Orchard Rd.  
Fayetteville, AR 72702  
(479) 521-7416

September 9, 2009

City of Fayetteville Planning Commission  
125 West Mountain Street  
Fayetteville, AR 72701

Re: Rezoning and Annexation at 3231 N. Old Wire Road

Dear Planning Commission:

It is my understanding that Mr. Hank Broyles is requesting annexation of the property located at 3231 North Old Wire Road into the City of Fayetteville and the rezoning of the property to Residential Single-Family, Four Units per Acre (RSF-4).

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The surrounding area is a mixture of residential and agricultural uses, with residential lots being generally three to five acres or more. A higher density subdivision, such as the one that would result from the rezoning, is clearly incompatible with the surrounding area and with City Plan 2025. It will also decrease the value of the larger lots in the area and be injurious to the normal use and enjoyment of these lots. There is no need for an RSF-4 subdivision in this area as there already are several nearby subdivisions with completed infrastructure on Skillern Road and on Crossover Road that remain all or mostly vacant lots.

The rezoning to RSF-4 single family would be detrimental to public safety by greatly increasing the traffic flow on Skillern Road, Old Wire Road, Rom Orchard Road, Bridgewater, and other roads in the vicinity. These roads are frequently used by joggers,

RECEIVED

SEP 14 2009

CITY OF FAYETTEVILLE  
PLANNING DIVISION

bicyclers, and horses. Rom Orchard Road is a narrow, winding road that would be particularly hazardous to joggers, bicyclers and horses with increased automobile traffic. There are two dangerous curves in Old Wire Road that wrap around the south and southeast corner of the subject property. Vehicles frequently cross the center line when navigating these tight curves. Approximately once a year, automobiles fail to negotiate the southeast curve and crash through the fence on the west side of Old Wire Road.

For these reasons, I respectfully request that the requested action be denied.

Sincerely,

Signature ROY C ROM

Printed Name ROY C. ROM

Address 3098 ROM ORCHARD RD 72103  
FAYETTEVILLE

September 9, 2009

City of Fayetteville Planning Commission  
125 West Mountain Street  
Fayetteville, AR 72701

Re: Rezoning and Annexation at 3231 N. Old Wire Road

Dear Planning Commission:

It is my understanding that Mr. Hank Broyles is requesting annexation of the property located at 3231 North Old Wire Road into the City of Fayetteville and the rezoning of the property to Residential Single-Family, Four Units per Acre (RSF-4).

I oppose the requested action to the extent that it facilitates or results in higher density development of the property for the following reasons:

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For these reasons, I respectfully request that the requested action be denied.

Sincerely,

Signature

Larry Floyd Tanya Floyd

Printed Name

Larry Floyd Tanya Floyd

Address

3162 Rom Orchard Rd

September 9, 2009

City of Fayetteville Planning Commission  
125 West Mountain Street  
Fayetteville, AR 72701

Re: Rezoning and Annexation at 3231 N. Old Wire Road

Dear Planning Commission:

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I oppose the requested action to the extent that it facilitates or results in higher density development of the property for the following reasons:

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For these reasons, I respectfully request that the requested action be denied.

Sincerely,

Signature Valerie E Fletcher

Printed Name VALERIE E. FLETCHER

Address 3281 Rom ORCHARD RD, FAYETTEVILLE, AR 72703

## **Planning Commission Minutes**

**October 10, 2005 (ANX Denied)**

**May 08, 2006 (ANX Denied)**

**September 14, 2009 (ANX Denied)**



*Planning Commission*

*October 10, 2005*

*Page 53*

**ANX 05-1626: (OLD WIRE INVESTORS, LLC, 217):** Submitted by FRIDAY, ELDREDGE & CLARK LLP for property located at THE NW INTERSECTION OF OLD WIRE AND ROM ORCHARD ROADS. The property is in the Planning Area and contains approximately 29.70 acres. The request is to annex the subject property into the City of Fayetteville.

Planner:

ANDREW GARNER

**RZN 05-1627: (OLD WIRE INVESTORS, LLC, 217):** Submitted by FRIDAY, ELDREDGE & CLARK LLP for property located at NW INTERSECTION OF OLD WIRE AND ROM ORCHARD ROADS. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 34.51 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Ostner: Our next item is another annexation for Old Wire Investors, ANX 05-1626.

Garner: These items, fifteen and sixteen on the agenda are also tandem items for an annexation and a rezoning. The property contains four parcels consisting of approximately 30 acres to be annexed and the applicant is also seeking to rezone approximately 35 acres which includes 5 acres located in the city currently and zoned R-A. The site is located northwest of the intersection of Old Wire Road and Rom Orchard Road. It is surrounded by rural residential and undeveloped pasture with unincorporated Washington County to the north, east and south and property that is zoned R-A and the City of Fayetteville to the west. There is also unincorporated areas of Washington County to the west of some of the property line. Staff has received public comment from adjacent property owners objecting to this annexation and rezoning and has discussed this with the applicant. The applicant has indicated that they have discussed this request with the surrounding property owners and haven't been able to gain support for the annexation and rezoning. Staff finds that annexation of the property will not create an island of unincorporated property but it will extend a peninsula with irregular property lines that contain some out parcels between the proposed annexation area and the city limits. We find that expanding the city limits in this configuration is not in compliance with the policies for annexation and would create undesirable boundaries and problems with creating a peninsula in this manner with regard to extending public services across county and into city boundaries and will create gaps of unincorporated property almost entirely surrounded by city limits. The site is currently utilized for rural residential uses and undeveloped pasture and the applicant anticipates subdividing the property for single family use and proposing a density of four units per acre. Staff finds that this proposed zoning is not compatible with adjacent and nearby agricultural and rural residential uses. The General Plan does designate this area for residential

land uses. However, this designation doesn't specify the density levels. Staff and the Planning Commission and City Council is charged with evaluating the surrounding land uses and this proposal's compatibility with these units. Staff finds that the proposed density is not consistent with density and surrounding zonings and existing land uses currently in this area. Engineering, Fire and Police Departments analyzed this proposed annexation and rezoning request and the Police Department found that the proposed annexation and rezoning would not substantially increase the load on police services. The Fire Department noted an adequate response time of seven minutes as well. The Engineering Division found that public water is adjacent to the site and sanitary sewer is not adjacent to the site with the nearest sewer main being approximately 2,500 feet to the west of this property and an off site sewer main extension would be required to serve the development. In summary, we find that the proposed configuration of this annexation would create an undesirable boundary and would create an undesirable peninsula and we find that rezoning is not compatible with the surrounding area. With that, we are recommending denial of both items.

Earnest: I'm Hugh Earnest representing Old Wire Investors. We find ourselves on the horns of a dilemma tonight. About a month ago after careful consideration of this annexation request with staff we pulled the item from the agenda and have attempted to contact a large number of people generally bounded by Rom Orchard Road. There is a hatched area where we sent out letters to 28 different individuals asking for their support of annexation, the request was not for the land that Old Wire Investors owns but rather, for the property adjacent. What we attempted to do to meet what I believe is a legitimate concern of staff is to bring in something that is larger. However, we were unable to secure unanimous support from those individuals so we have gone back and are now bringing forward to you the original annexation request that we had earlier voluntarily pulled from the agenda in order to try to meet the objections of staff and bring forward a larger piece. Let me also make the point, five acres of the area is already inside the city. This is adjacent, it is a peninsula, the developer is willing to install the 2,500 foot sewer line to the property and the water line also to the property in response to the information that we just received from Colleen Gaston, in the many conversations that I have had with David Jurgens there has never been concern about capacity short fall in this particular part of town with respect to the capacity of the plant. Such is not the case, as you well know, in west Fayetteville. In this particular case there has never been any concern expressed on that. As recently as this morning I had a conversation with Mr. Jurgens because he is a good planner and he was talking about how he would need to wrap the 4" line down Rom Orchard Road to get water pressure into the area. Mr. Jurgens, from his perspective, is certainly thinking about the necessary infrastructure improvements that the area would require for adequate

water in that particular area. The bottom line, and the developers should be commended, Mr. Spradling, as a developer of record, is here with me tonight, the density that is proposed is slightly in excess of two units per acre. That has already been turned into the city. That discussion has already occurred with city staff. The questions that Mrs. Allen continues to ask are valid questions about fire stations. In my time with the city we certainly were aware of the issues in that area. I commend the city for moving forward aggressively and deciding to put Fire Station #5 at the corner of Old Wire Road and Crossover is their first priority. I suspect that since the city has a template for building fire stations that the station will be done well in advance of the development of this area and I think that probably occurs for the other developers in this area because the template that was used in west Fayetteville I'm sure will be essentially the one that is used in this area. I doubt that there is going to be significant changes in the design. I think that pretty much covers the points that we wanted to make and we are certainly respective to answer any concerns that you may have with respect to this joint request for annexation and rezoning.

Ostner: At this point I will open it up for public comment if anyone would like to speak to this request please introduce yourself and give us your comments.

Parnell: I'm Paul Parnell, I seem to be the one right in the middle of this proposition. I don't necessarily object to the proposition. However, I feel that whoever is gaining from this transaction should defray any costs that we may have in connecting our residences to the sewer that may be established. We presently have perfectly good septic tanks and lateral fields that is not costing us anything to operate and we feel that we should be compensated by whomever is gaining from this endeavor because we don't consider ourselves gaining from this activity. We are very happy with what we have got. However, we are not opposed to developments and appreciate those things. However, fire protection, as just mentioned, is something that should be addressed at this time because we, at this particular month of October are to reconsider our contract with Goshen who has been providing us fire protection for many years. We need to have that addressed. In the event that we are annexed into the city, when does the city assume responsibility for fire protection for this area? Those are things that we feel are very important. Thank you very much. I live at 3287 Rom Orchard Road.

Floyd: My name is Larry Floyd, my wife and I live at 3162 Rom Orchard Road and I didn't get a letter about it but I saw the sign in the field and fixed it up there so everybody could see it and proceeded to see what was going on. The letter that you mentioned earlier is the letter from Colleen Gaston but she really said what we are saying in the neighborhood. I have a number of people here who are opposed to this and who agree with staff

on the recommendation that they made. She was unable to attend but she wrote this letter and she basically says that she is opposed to both annexation and rezoning. They are my neighbors on Rom Orchard Road. She talks about the wastewater treatment plant down at Old Wire and Crossover and the smell is unbelievable. Even when you are in your car with the windows up when you guy by there you can smell what is taking place down there. She says that there have been a number of actions to attempt to address this but it still persists. While there may be a need for additional housing in Fayetteville the question of adequate capacity may apply to development within the existing city limits and it does not seem prudent at this time to expand the land area to which the city must provide sewer service. The proposed rezoning is out of character with our neighborhood. If you have been out on Rom Orchard Road it is the greatest area in Washington County. It is agricultural. There are four of the neighbors that have large horses. I have a miniature horse farm on that road. There is an apple orchard, people stroll up and down it like you are back in the 50's and pick an apple and eat it on the way home. It is unbelievable, it is like going to the Apple Festival every day. It is just a wonderful area. There are people walking their dogs and their horses and everything else along there. Traffic is a big concern for us as well. The character of our neighborhood is 3-10 acre lots and a lot of it is livestock and agricultural use. The other thing, I mentioned the traffic, the blind curves at Old Wire Road, there are a couple of them. People frequently go off of that curve right by this development into the neighbor's fence. Their fence is being fixed all the time because of the traffic there. It is very dangerous. I'm concerned with the stop sign that was placed at Old Wire Road.

?: The tax base unless you are farming it forces you to do something or sell out and you need to take those things into consideration. I happen to farm my five acres and I'm making enough money that it is considered a farm by USDA standards. If I'm taken into the city I plan to try to stay agricultural because I plan to continue farming. I grow vegetables, my wife sells at farmers market. We are pleased with that and we are pleased with where we live. I don't have a great concern about this particular proposal here tonight but I do think that we are sticking our head in the sand when we oppose development because it is going to increase traffic. The main traffic on Old Wire Road is about 200 gravel trucks a day now. We are in between the gravel pit off of 412 and the asphalt pit in Springdale. You people have a difficult job and I appreciate your time. I didn't plan to talk tonight but I wanted you to know that not everybody is opposed to this annexation across the street from me.

Ostner: Is there any further public comment? We will come back to the applicant.

Dangio: My name is Jeff Dangio, I live at 3284 Rom Orchard Road. I am the guy with the cars going through the fence. We own a 10 acre tract directly east of the subject property and have a wood rail fence around it. There is a sharp curve to the north at the intersection of Rom Orchard Road and Old Wire. I guess more than once a year we have a vehicle come crashing through that fence. If we add a high density development in there you automatically increase the traffic. There is a safety concern that is kind of unique to our property. A lower density development would be better but if you do go with this proposal we would ask that you do something to improve the safety of that curve in some way. The good thing about the cars crashing through the fence is I may never have to pay to replace that fence. The insurance companies pay for a significant portion of it every year. The down side is if there are kids around and they happen to be at the wrong place at the wrong time we could have a bad situation. Thank you for your time.

Payton: My name is Terry Payton and I live on Bridgewater Lane about 600 yards east of the development. I just want to address the traffic concerns and make a couple of points that have not been made. In that section of Fayetteville the traffic from the east funnels to Crossover Road, you either go to Old Wire and Crossover or the Joyce and Crossover intersection. My main concern is the density that is being proposed. Tonight you approved the five acre subdivision that will be on Skillern Road from 11 up to 20. Bridgewater Estates has 22 or 24 lots and all of those lots have sold. There are only three houses there now. That is going to increase the traffic load and then if this subdivision goes in it will further increase by however many homes will end up there. The next time that you are out there and you see the Joyce Street Crossover intersection and the Old Wire Crossover intersection, both of those are backed up in the morning. That is my main point.

Elliot: My name is Don Elliot, I live at 3743 Bridgewater, just east of this development. I don't know much about zoning law. I don't care whether this area is annexed to the city or not, I don't have an objection to it being annexed to the city because I understand that that would give the city more authority to regulate it. I do have a big problem with the zoning. It is totally inconsistent with the lots in that area. The land that Terry and I live on and some of the other people, that started out as a 40 acre tract, and Mr. Stevenson sold it off and in the covenants, private covenants, there can't be any lots sold that are less than five acres. I live on 7 ½ and Terry lives on 8, there are a couple of 10 acre tracts and a 5 acre tract. These are all totally inconsistent with allowing four houses per acre. That is not just true of that land, it is also true of the other houses in there, I would guess that they are all one to five acre lots. To allow four houses on one acre is totally inconsistent with what is out there now. I don't care about the annexing but I do have a big problem with the zoning change. Thank you.

Ostner: If there is no further comment from the public I will close the public comment session and bring it back to the Commission.

Spradling: My name is Marcus Spradling, I am the developer. A couple of things that I ran into on the annexation was the majority of the people I talked to did not want to annex until they saw the sewer and water improvements, which is the same issue you get into with building a fire station or a Wal-Mart Super center where nobody lives, you don't do it. The people come and you bring the infrastructure to them. What we are trying to do is provide infrastructure to the area for water and sewer which eventually will lead to better fire protection for the people out there. You've got Fire Station #5 which is basically ready to go and should be built before we ever get there. The zoning, you have got one unit per acre or you've got four units per acre. There is no middle ground, there is no in between. We have handed in all of the Preliminary Plat information showing that we are just a little bit over two units per acre because we felt like that is what best fit in the neighborhood. We weren't going in there trying to put 65' wide lots with little houses in there and drop it in the middle of that market. It is an upscale subdivision and the houses that will be built in there are in the same area and the same price ranges as what is built out there now so the property values should increase. Our intent is not to devalue the property, it is to increase the value of the property. We are providing the water and sewer extension which will in turn allow people to tie into it. I don't know what other questions you may have. Anything we haven't covered?

Pate: I just want to call your attention to page 13, the citizens that did speak, numbers five, six, 13, 14 and 15 did speak tonight, just so you have an idea of where they were coming from.

Vaught: I guess my problem is as we were speaking of earlier, where the other one was a logical shape and extension, this one seems illogical to me with the chunks missing, the spur out and this one creates more of a peninsula hanging out there by itself. I know Mr. Earnest spoke to bringing a larger tract forward, can you repeat what you said?

Earnest: What we attempted to do at the request of staff, was to bring forward a larger more together area, if you will. There is a map in there that shows a hatched area bounded by Rom Orchard Road going back to the city limits. The hatched area shows the 28 property owners that we sent letters to. The majority of those individuals are in favor of annexation, but not all. One of the burdens that we have is unanimity is required for annexation. I understand that and support it, but that is an effort that we made to accommodate the criticisms that this does not cover a larger area.

Vaught: It just makes it hard for us and staff to support something like this.

Spradling: It is not that we have singled out a piece of property out in the middle of nowhere. 25% of this property is already in the city. We are trying to extend what we have in the city. We are already in the city, we are just trying to incorporate the balance of the property into the city. With us putting in the infrastructure the majority of the people that I talked to will come in but they are not going to allow their taxes to be raised and not get any benefits. They aren't buying in to raise my taxes and when you get ready to bring me sewer. They can't get it unless we bring it in there, and they are not willing to do something without seeing that they can tie onto it first. That is where the consumer is today.

Vaught: My concern is looking at the guiding policies, I counted six out of fifteen that this directly conflicts with. There is a peninsula issue, areas that exclude entire subdivision or neighborhoods or divide areas up, boundaries for annexation follow natural corridors. It doesn't follow natural corridors because there are bits and pieces here and there. You've got a couple of pieces of county that are kind of stuck out there in the middle of the city. It doesn't create islands but it comes close. Areas that are currently served by public services should be annexed. This is a 2,500 foot extension of sewer main, that is a pretty good chunk of sewer main to extend.

Spradling: That is because it follows the road. As a crow flies we are 1,320 feet from RSF-4.

Vaught: As for the engineering, I don't know if any additional lift stations would have to be constructed. I assume the one at the corner of Crossover and Old Wire would suffice?

O'Neal: That one is a substantial lift station, I believe it is a 24" forced main. There is not a capacity issue at that station at this time.

Vaught: While we are on it, can you address the smell of that lift station?

O'Neal: Due to the time that the sewer is retained in the station it smells bad. There are a lot of other items that can be done with lift stations, that is something that we can look at.

Pate: A lot of times when a lift station is large and a forced main is large and is not 50% or closer to capacity it sits there for a longer amount of time so that is why the smell is produced.

Vaught: So more development would help it. My main issue is about the annexation. I know that we are stuck in that spot where it is really



difficult but it is leaving a lot of gaps and holes in there and it is an area with a lot of development. Typically something like this I would be in support of but this one I'm having a hard time with those boundaries and how you are tying together. I know you are having a hard time with the neighbors and it is a chicken and egg kind of situation, but even if you run the sewer main down that line, they are not automatically connected, they are going to have a substantial expense to connect to it. We are not guaranteeing those people will even connect to it.

Spradling: No, but they will have the ability to connect to it and it increases their property values because now they have access to sewer that they didn't have before.

Vaught: Correct. You think that those people are going to come in and increase this area. That is what I am having trouble with.

Spradling: The consumer is just not willing to bet on the come. They want to see the baby.

Graves: I have the same concerns. If it was one of the guiding policies or two of the guiding policies it would be one thing because they are guiding policies and they are things, that as I said earlier, we use our common sense on. This one conflicts with a number of the guiding policies and just as I said the first one I didn't think was a peninsula, this looks like a peninsula to me. It looks much like the tail that is on the one mile map which is in the city, but I didn't vote for anything like that. This is a peninsula without question, it is long and oddly shaped and doesn't create nice boundaries for the city, it doesn't follow natural corridors and is not an area that is easily serviced in any way and these are some longer response times than what we saw with earlier items as well and I cannot support annexing this property the way it looks right now.

Spradling: I think the long response time was an issue and that is why the city is building a brand new fire station right next to it. Obviously, they know something that we may not know. They have headed off that problem and they are planning on the expansion being on the east side of town.

Graves: I'm not looking to argue with the applicant, I'm discussing with my fellow commissioners this item. If the chair recognizes the applicant, that is fine. I'm not looking to have an argument back and forth, I'm just making my comments to my fellow commissioners.

Spradling: I respect that, thank you.

Clark: The only reason I would be in favor of annexation is we can control how it develops. I'm not in favor of rezoning at all. If we annex it I will vote to



let it sit just like it is. Step systems scare me. Development within the county close to our borders scares me. That puts us on a horn, what do we do? I don't think it is bad to annex it but I think it would be very, very bad to rezone it. I am seeing a very eager developer so I'm more inclined to annex it.

Ostner: Just as a procedural issue, most developers withdraw their annexation requests if their rezonings are denied since they simply don't want to pay more taxes on land that they can't develop. Are there any motions?

Myres: I will make a motion that we deny ANX 05-1626 as recommended by staff.

Graves: I will second.

Ostner: Is there further discussion?

Vaught: My issue is mainly the boundaries and the way that this is drawn up and the gaps that it creates. I agree with staff's findings that we need a more logical boundary to create this annexation. It is an area of development, typically I would like to see this property annexed, because, like you said, there is a fire station coming in here. The way that this is coming in to me is not correct. We don't know when the stuff around it is going to come in. I would like to see a bigger picture in this and that is why I will be voting against it. Not because I don't think this is a right piece, but it just causes too many conflicts.

Ostner: Is there further discussion? Will you call the roll please?

**Roll Call:** Upon the completion of roll call the motion to deny ANX 05-1626 was approved by a vote of 8-0-0.

Thomas: The motion carries.

Ostner: Mr. Williams, is the same procedure in place to appeal our recommendation?

Williams: That is correct. At this point the petitioner would need to decide whether they want to withdraw the rezoning petition at this point in time or have that acted upon tonight also? You could ask to table the rezoning if you wanted to think about it or you could go ahead and ask for action to go forward.

Earnest: I think it is obvious that we will ask for it to be tabled.

Ostner: The applicant has requested the next item to be tabled. That is RZN 05-1627.

Clark: So moved.

Myres: Second.

Ostner: Would the applicant like to share anything before we vote? Would anyone from the public like to share anything on the rezoning request before we table it? I will close the public comment session and bring it back to the Commission. Will you call the roll please?

**Roll Call:** Upon the completion of roll call the motion to table RZN 05-1627 was approved by a vote of 8-0-0.

Thomas: The motion carries.

*Announcements*

*Subdivision Committee Appointment: Commissioner Trumbo to take Commissioner Graves' seat.*

**Meeting adjourned: 8:45 p.m.**

**ANX 06-2046: (OLD WIRE INVESTORS, 217):** Submitted by RAYMOND SMITH for property located at NW INTERSECTION OF OLD WIRE AND ROM ORCHARD ROAD. The property is in the Planning Area and contains approximately 30.70 acres. The request is to annex the subject property into the City of Fayetteville.

**RZN 06-2047: (OLD WIRE INVESTORS, 217):** Submitted by RAYMOND SMITH for property located at NW INTERSECTION OF OLD WIRE AND ROM ORCHARD ROAD. The property is in the Planning Area and contains approximately 35.51 acres. The request is to rezone the subject property to RSF-4, Residential Single-Family, 4 units per acre.

Garner: This property is located at the northwest intersection of Old Wire and Rom Orchard Road east of Fayetteville. I will summarize both the annexation and rezoning together and we can answer any specific questions you might have. Subject annexation property was included in an annexation request that came before the Planning Commission on October 2005. Staff recommended denial of the request at that time and annexation was denied unanimously. The applicants included an additional property owner and one acre parcel on the north side of Old Wire Road in the current request for annexation and rezoning. Additional background, in March 2006 the applicant submitted a preliminary plat to the City of Fayetteville for a subdivision with 77 residential single-family lots. This subdivision has been tabled until the type of sewer service can be determined. The property that can be annexed contains five parcels consisting of 31 acres. The rezoning application contains approximately 5 acre parcel as well as that within the city limits. There is a difference in the acres between the annexation and rezoning. The applicant proposes annexation of 31.00 acres into the city and rezone the property if it were annexed from Residential-Agricultural to RSF-4, Residential Single-Family, 4 units per acre. The current site has access to Old Wire Road. The site has water available and sanitary sewer is not adjacent to the site. The nearest sewer main is approximately 2,500' west of the site on Old Wire Road. The fire and police department responded, and did not have any adverse effects on their services noted. Other than that they did acknowledge that it would be a change in the population density in this area. Staff finds annexation of this property would be in contrast to the city's policy not to annex islands or peninsulas. Finding that the configuration of these parcels would create a peninsula that would be undesirable and would have potential to have city services extended to areas where it would provide some potential service problems. Staff has discussed with the applicant that we would be more in support of this request if they were able to get the support of some of the adjacent property owners and provide a more continuous parcel to be annexed in and rezoned. As far as response, they have been unsuccessful in obtaining support from neighbors. Staff finds that this annexation and rezoning in general would not be compatible with

this area. It is largely agricultural, rural residential at this time. The density proposed, 4 units per acre, would not be compatible with these land uses. The closest subdivision is west of Crossover Road or south of Skillern Road. Those are the main reasons why we recommend denial and we would be happy to answer any questions you might have.

Anthes: Would any member of the public would like to address either the annexation or rezoning for Old Wire Investors.

Gaston: Hello, my name is Colleen Gaston at 3270 Rom Orchard Road, which is one of the connector streets to this proposed subdivision. I definitely oppose the proposed rezoning. If you have looked at any of the attached maps to the staff report, you will see surrounding on all sides of this proposed annexation and rezoning land, the houses are on tracts of minimum 2 acres. More often, 3,4,5,6, and 10 acres. This falls completely out of character with this surrounding area. I'm not clear on the staff report on the traffic issue, exactly on what is being said. I guess there is a letter from the police department from Captain William Brown. It stated that the proposal would have negligible impact on the cost from police services and traffic congestion for the area. Elsewhere in the report, it talked about increasing the density of traffic from approximately 170 vehicles per day to 1,380 vehicle trips per day. To me this is not just a negligible increase, particularly at certain times of the day. The intersection of Old Wire and Crossover, at morning rush hour and evening, has traffic backed up at least a mile on Crossover. This will clearly add to that traffic problem, not to mention the fact that there are several blind curves associated with this project. I do, however, have mixed feelings about the annexation. Some of my neighbors share those same concerns. If there is going to be development in this area, and we all know there is going to be more development, we would like to see it on a sewer system. We think that it would be better for the city and those of us in the area. If this was developed with sewer as opposed to septic, if you're looking at 80 houses on 35 acres. Its sort of a catch twenty-two, I understand the staff recommendation for why they oppose the annexation. At the same time, I think there is some value to the city having property come in with sewer. Although, not as densely as proposed. The idea about this would be if this was annexed in as R-A, but allowed to have sewer. I think those are the main points. This did come up before the Planning Commission in October and I know that many of you were here at that time and heard a number of the neighbors talk about how this proposal was not in keeping with the area. This is an area that is going to be developed with a lot of subdivisions. The surrounding properties are pretty stable and are going to stay with very low density housing on it. This would be an island of very dense development and for that reason, I think I support the staff's recommendation that this not be rezoned RSF-4.

Anthes: Thank you Mrs. Gaston, would any other member of the public like to address this item? Seeing none, I will close the public comment section. Oh, in the back.

Elliot: My name is Don Elliot, I live at 3743 Bridgewater and I've spoken here once before, so I don't really want to repeat what I've already said. But I would like to join in with Mrs. Gaston said. The report from the senior planner states, this use is not compatible with adjacent land use or density in the surrounding area. We had to sell a 40 acre tract that had its own covenants and no lots less than 5 acres. That's the 40 acres just across the street, just east of this land. While there are closer houses nearby that are less than 5 acres, they are not even close to this dense. I don't know if you have looked at the traffic, but I've talked with Perry Franklin about this, who I think does a great job. If you are traveling west on Old Wire Road at Crossover, you will sit thru three lights minimum between 7:30am to 8:15 in the morning. Coming back, going east on Old Wire Road and Crossover, I was just there last week sitting there at 6'oclock sitting thru three lights. I don't know how much you look at the traffic, but the traffic at that intersection at those times of day, going those directions, is horrendous. I don't see what you would do, you would have to change the road out there. If you put in 77 units and expect them to get to work on time and get home at a decent hour. Anyway, this project is just not compatible in that area.

Anthes: Anyone else would like to speak on this item? Seeing none, I'll go ahead and close the public comment section and ask for the applicant's presentation.

Sloan: I'm Charlie Sloan, representing the applicant. I'm a developer in Fayetteville, as you know. I do not have any investment or interest in this project. This project came through back in October at a time that I brought a project through. There were three of us, Mark Spradlin, Tim Estes, and myself. The first project that came through was Skillern Drive behind Savanna. It created a peninsula; it stuck out. It wasn't as big as this one. But, then again, it did get passed. My project, second, I was surrounded on three sides by the City of Fayetteville, I was annexed in. Sitting outside, talking to my engineer afterwards, we found out that this project was denied on the annexation. Later on, I read in the paper where this had gone to the county and had taken a conceptual plat only, to the county. It was not a plat to be approved, but it had gone to the county. They did seem to like it, it was in the paper. They acted like they would develop this property. The problem is to me as a private citizen on this, is if there is a project going to happen out there, sewer is available to this property. I've contacted the developers, I didn't know them, but said why not run sewer out there. They said that they would be willing to go back

and run sewer, at least a couple 1000 feet of sewer. We are out the same amount of money whether we put this on the step system or we put it on a sewer system in the City of Fayetteville. That's the issue that got me involved. One of these days, this area will be annexed in out there and the citizens of Fayetteville will be paying for sewer out there. My problem is, why not let private dollars pay for something that will be a public utility, plus they will have to upgrade the sewer water system, if they put the subdivision in. There is a 4 inch water line going out there, they will be putting in an 8, the City will probably want to upgrade that. It will cost-share you to 12. So, those are the issues that got me involved in this, it's strictly not knowing the issues about the compatibility, the rezoning, or the lay out of the subdivision. Five acres of their property is already in the City. The rest of it, they are asking to come in. The big issue, I saw, was whether this comes into the city as an annexation or not, or if this plan is approved on the rezoning. Tell these people what the process is to go forward, to let them spend private dollars to take sewer out to this area, that I've felt like would eventually benefit everybody in that area. Some of the homes though developed on 5 acre lots, have covenants that will not allow them to ever break it down and develop smaller lots out there. Do you have a need for sewer? I don't know. Obviously, if there is a septic system working fine, it's working fine. I just hate to see a subdivision put on a step system that could be put on City sewer, even though it is a big expense to these people. This is a chance for us to let private dollars pay for it. That's the reason I ask to bring this forward, and try one more time. Ask if that is possible or maybe this is not the mechanism to go with it. Maybe they will get approved by the County and then come back in and request to be put on the City sewer system, which is fine with them. 122 lots, I believe is what the calculations are for 4 units per acre. They were proposing around 82-83 lots on their latest thing. We did talk with one of the neighbors for them, that I happen to know. They agreed to sale the one acre lot that was carved out of this, so it really made this an odd shape piece of property. It still creates a peninsula. We talked with the two other land owners, and they request not to come in. Cooper runs a business, landscaping business and he wishes at this time not to be in. He had a letter signed for me and his wife said he lost it. He didn't have it with him the other day when I chased him down. He did say that he did not wish, at this time, to come into the City of Fayetteville, because he is running a landscaping business. That is my two cents.

Clark: I have been told millions of times that not creating a peninsula is just a guideline. So, I'm asking for more clarification. If it's just a guideline, and 5 acres is already in the City, what is staff's rationale that the rest of the utilities are not available? What's unique about this one?

- Pate: With any annexation request, we look at all those guidelines and policies. If we feel it does not create a dangerous situation or there is some reason that, for instance, a request creates an island and we recommend it, the applicant has gone through every possible means to acquire that property or have that property come in. It's something we will evaluate each and every one of them on their own merit with every single request. The City Council has obviously gone against our recommendation, even recently with an annexation request in northwest Fayetteville. This particular request came before us 6-8 months ago, with very little difference. With the exception of the one acre lot, as Mr. Sloan mentioned. We made a recommendation last summer for the applicant to look at properties, look at page 16 and 20, south of this down to Skillern Road. The property owner, that you mention - Mr. Lee, of course did not what to come in, which is a large notch of his property, in an effort to support this application. That has not been able to be done, for whatever reason. Those property owners do not wish to come into the city limits and staff does not feel this particular request was warranted or meet our guiding policies at this time. With regard to the other utilities as part of our finding, are utilities readily available? No. A sewer line is 2500 feet away. The development of this property would be unique with the surrounding properties. As staff mentioned earlier, the closest property developed as RSF-4 is west of Crossover, as you can see on the same page, or south of Skillern. Those properties are developed more around 2 or 2 ½ units per acre. They are rather large lots in the area, even though you can see that they are much smaller than what's surrounding in the County. It was our rationale that it did not meet guiding policies for City Council and annexation.
- Graves: I have a question for staff as well. I'm testing my memory, I remember as Mr. Sloan does, that we saw several of these on one night and that I can see the Skillern Road on our one mile map here. I remember that we approved that one that night and didn't approve the other one. Partly based on staff recommendations, I believe, that staff recommended the one on Skillern Road for some reason. I don't remember what that was at this point.
- Pate: The one on Skillern Road was contiguous to an existing adjacent single family residential subdivision. If you look at that property, which those that were not here don't have the benefit of knowing, if you were on Skillern Road and how Natchez Trace curves around, it's directly to the east of that. It is a small portion of property, about 5 acres, I believe. It is much less and does not extend the city limits any further east of those properties surround that. There is an obvious peninsula zoned R-A [to the north] and within a conservation easement and that is not to be developed. That was annexed a number of years ago. The rest of the property is there,

you see, with the addition of the property just east of Township, which was just annexed in as well. This particular case, the city limit line from Skillern goes directly north without variation until you get quite a ways north and we felt it would not meet our guiding policies for this particular recommendation. As you mentioned, Planning Commission at that time, voted against the request to annex that property. We have found that nothing has changed since that particular request to warrant a recommendation.

Anthes: Any further discussion on the annexation request? A motion?

Clark: I'm kind of at a crossroads because I respect staff recommendations but I also know that with annexation comes development rights for the city. In other words, if somebody's going to develop this and put on a step system, since there is no zoning in the County, they can do that. I'd like some input from my fellow commissioners regarding annexing something that would go ahead and develop and not with a RSF-4 rezoning request. If you think it's too dense, there is no transition... I think its totally out of the norm for this area, but I'm not so sure that annexation is not a wise choice. Opposed to high density and septic system, so I'm interested on the feed back from the commissioners.

Graves: I tend to agree; I don't see anything that's changed from when we saw this in October. We did vote it down last time. By the same token, I understand and appreciate that this could develop that similar density to what's proposed on a step system, if it stays in the county. So, from that stand point, I can see its justification for annexing as requested. I know the density proposed is not appropriate against what's already out there. So, I would not be in favor of RSF-4 on the rezoning request.

Anthes: It seems we have this conversation every time we're looking at one of these rezoning and that is, sort of the threat of development without city streets sections, sewer systems, water sewer, etc... What I have never quite been clear about is whether this body is actually suppose to weigh the threat of what we do as a substandard infrastructure, when we are evaluating an annexation request.

Pate: Really, you should look at it as findings, and part of that are infrastructure and utilities. The findings that are listed there, areas currently served by utilities and other public services should be annexed. Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety. Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services. One of those is in the paper right now. I don't believe those services are currently



in this location. The threat of development is before us with every single annexation request we have anymore. There is always a potential to develop something that does not meet these standards. I think that's something that Commission and Council, ultimately the policy making body, has to take in consideration every time they vote on an annexation request.

Graves: I don't believe that this applicant has made a quote threat. I think we've heard some covert comments along those lines from other applicants before. This applicant would prefer be in the City or they wouldn't be here a second time asking to come into the City. They could have gone before us with a step system or whatever, before now, if they wanted to do that. My comment, I used the word threat, but I didn't mean threat by the applicant. I just meant along the lines of the City attaching some more rights on development oversight when it comes in. It's true on all annexations. This one is within shouting distance of existing city boundaries.

Williams: I certainly agree with Jeremy Pate on his analysis of annexation, but I would like to say that annexation is one of those issues where you have - especially City Council - has administrative discretion. The basic question is; do you want this property inside the city? I sure the guide lines will help you make the decision but it no small decision that you make on that level. You can recommend to the City Council an annexation even if maybe wouldn't meet all of the guidelines that we have for the 2020 or 2025 Plan. This is one place where you have tremendous amount of discretion. I just wanted to tell you that, because sometime you don't have any discretion, so this time you have a lot of discretion.

Anthes: Any further discussion?

Ostner: This is complicated and I'm glad I don't have to make the decision. I'm just going to recommend something to the others to make the discussion. The part two that Jeremy read us, 11.6.k: Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety. To me, that is a one of the statements that I can use. The property that we are considering is a long distance from sewer. 2,500 feet is a long way to go. Sewer mains are expensive and I think that is important. That changes things, the area adjacent to this is in the City, but is not served by sewer to that extent. I'm not sure I'm in favor of this annexation. I'm certainly against the RSF-4, I would see RSF-1 or even R.5 to be possible zoning district if the Council saw to annex this area. I'm not sure either, but I'll be inclined to be against the annexation.

Clark: The sewer was 500 ft?

Anthes: It is showing 2,500 ft.

Clark: Where is the sewer?

Sloan: Somewhere out there....laughter...He is not asking the City for the money, the developer is spending that money himself. They are willing to do that, to bring the sewer to them. They will be paying for that 2,500 ft to have the sewer come to them. It's not something the City would deliver to them, nor would water lines would be on them. All those expenses would be on them. I'm just saying, it's more than a wash for them. They probably will spend more money bringing sewer to them, than they would be putting a step system in. That's all I'm saying, I had a problem to see this go to a step system. Let the developers spend the money. He will bring the public utility out to that part of town. Let him spend the money to do it, he is willing to do that. That's the only reason I got involved with it, was over that issue that one of these days, that area is going to have to have service out there. Why not have private dollars pay for it now, rather than have the City pay for it later? That's the only reason why I got involved in this project, period.

Ostner: Madam Chair, I did not mean to insinuate that the City would have to pay for the 2,500 feet. My point was simply to consider that this piece of property is including in its proposal to extend that as Mr. Sloan stated. I think it changes things; that simply means this piece of property is not only willing to apply for rezoning but is willing to go the long distance. It just makes it clear to me that it's a stretch. That's all I'm saying, I'm not casting judgment, not that it's bad. I'm not trying to say that the City is going to be holding the bag, I'm just saying it's a stretch. Part of our charge is to keep development contiguous I believe. That is why we are only allowed to annex adjacent to the City limits, under the logic of continuity. We are contiguous to the City limits, but not contiguous to the development. It's fairly undeveloped or sparsely developed as evidence by the 2,500 ft link. That's what I'm trying to say, it's a stretch.

Anthes: Question for Mr. Williams, for as I can see here, the extension of the sewer line is a policy issue that an annexation, if we agree to accept property into the City, then we also agree to serve it with city services. What I'm wondering is, if this body recommended an annexation request, would we be requiring that the City would deliver City services to that site? Whereas, if the City Council chose to do so, they can negotiate with the applicant about extending those services...

- Williams: In reality, there are number of places within Fayetteville that do not have sewer service. You get sewer service if you have a sewer main close enough to your property to access it. If they wanted sewer service inside the City, they would have to extend the main 2,500 ft at the developer's cost, not at the City's cost. The same thing even with the water. We have number of City residences, which I found out at recent City Council meetings, that don't have City water because they are not close enough to a water main and chose not to extend the water main, so they can get City water. So, the city makes available these services but you have to develop or the developer has to extend the sewer main to the corner of your property and you put your own service line to it. So, this would not be guaranteeing them the sewer service, even if they were annexed.
- Harris: I did have a question for the applicant, Charlie, sorry. If we in fact, were to vote to approve the annexation but change the rezoning to a much less dense zone, would the applicant be amendable?
- Sloan: Well, I guess zone it the way you want it and then I'll have to check with them. I will give you my permission. They have numbers they have to run to a certain point on the property. We will have to discuss it with the land owners around there. It would be nice if you could keep everything 5 acres. That's not going to be the reality of it. I don't know if they might not come back with a PZD. The problem of the zoning is the minimums on the widths and stuff like that when you are trying to work a property around. It's almost like you can throw these things away and just say we approve the project or not based on the layout, we like it. Because that gets into a tough situation to make things fit, because you have certain minimums. For instance, my project out there by my house, we did 1 acre estate lots. I asked for RSF-2 and got RSF-1. Ya'll gave me RSF-4, but we did the one acre, because a couple of those lots don't quite make that 50-foot frontage, and didn't have the space to put it in there. So, we asked for RSF-2, still ended up going a little bit deeper, making our lots an acre depth. I can't speak for them; I'm not involved in that part of it. I was just trying to see if we could eliminate a step system out there, that's what I was trying to do with this. Compatibility is still yet another issue. I not sure if they would love to stay where they're at or somewhere in that range. All they can do is take your recommendation, maybe come back and switch it to a PZD. Something to allow them to guarantee to the neighbors what they are going be able to do to get some assurance. You know I'm a big fan of PZD's.
- Anthes: It seems to me that a lot of the discussion seems to be leaning towards possibility recommending annexation, but at a lower density zoning. I'm just looking at refact that this body made a unanimous recommendation awhile back and as staff has reported very little has actually changed in the

application between that time and now. In the interest of consistency and findings of the staff that the configuration is not in compliance with the policies for annexation, I make a motion to deny annexation request 06-2046.

Trumbo: Second.

Anthes: A motion by Commissioner Anthes and a second by Commissioner Trumbo. Is there further discussion? Will you call the roll?

Pate: What was the motion for?

Anthes: To deny.

**Roll Call: The motion to deny 06-2046 carries with a vote of 6-3-0.**

Anthes: As far as the rezoning request, it drops right? But do we still need to state our opinions?

Williams: In the past, you have gone ahead and recommended, if the City Council disagrees with you on the zoning. You would recommend what it would be.

Anthes: Well, we have had several Commissioners state that they thought the RSF-4 zoning district is too dense for the area. We have had one Commissioner state that he thought a RSF 0.5 or RSF-1 would be more in keeping in the area. Do we have any others thoughts on that?

Pate: RSF-.5, Residential Single-Family, ½ unit per acre, has a minimum size of two acres, basically 1 unit for every two acres. It just doesn't allow agricultural uses. We have RSF-1, Residential Single-Family, 1 unit per acre which has an 1 acre minimum. RSF-2, Residential Single-Family, 2 units per acre, and then RSF-4 and RSF-7.

Anthes: Mr. Williams, do we need to just state our preference? Or do you want a motion?

Williams: I think in the past, you voted on it. If I'm not mistaken.

Anthes: I'm thinking we did as well.

Williams: Why don't you go ahead? A conditional recommendation, if the City Council disagrees with you, assuming it is appealed, your recommendation would be...

- Ostner: I will start with a motion of approving the same piece of property, forwarding it to the City Council as RSF-.05, ½ a unit per acre or 1 unit sitting on 2 acres.
- Anthes: I'll second
- Trumbo: It seems to me, we will rezone RSF-4, which is pretty much standard in a residential neighborhood. The thing that concerns me is this is pretty close to being in the center of town. It has access to Hwy 265 and Old Wire. Just purely planning, standing back and taking a look at it, it appears to me that RSF-4 would be a more appropriate zone. Just where it's based in the City. Not considering what's already there, but the neighbors to the north and to the south. Everything else is just raw land. I'm not really stuck on RSF-4, but it doesn't seem way on the outskirts; a denser zoning would be appropriate right here, at some point in time. That's my only comments.
- Harris: I would agree, and echo Commissioner Trumbo's comments. The applicant may wish that they don't get annexed with this zoning. I'm not entirely sure which one, I'm not married to RSF-4 either, but I would like to think of more dense on what we are currently discussing.
- Anthes: Any further discussion? We have a motion by Commissioner Ostner and second by Commissioner Anthes for RSF-.5 as a conditional recommendation to City Council. Will you call roll.
- Roll Call: The motion for RSF-.5 as a conditional recommendation to City Council for 06-2047 carries with a vote of 5-4-0.**

**ANX 09-3409: (BROYLES / 3231 N. OLD WIRE RD., 217):** Submitted by APPIAN CENTER FOR DESIGN for property located at 3231 N. OLD WIRE ROAD, NW CORNER OF OLD WIRE ROAD AND ROM ORCHARD ROAD. The property is in the Planning Area and contains approximately 39.33 acres. The request is to annex the subject property into the City of Fayetteville.

**Andrew Garner**, Senior Planner, gave the staff report giving the background for the previous annexation requests for this property. Garner summarized the annexation findings, discussing that this property and the vicinity is not urban in character or able to be developed at urban densities, and would extend a peninsula of City property approximately 1,300 feet into the County. He discussed the public service challenges of this site as it is located approximately 2,500 feet from the nearest sewer line, approximately the same distance for water lines to ensure adequate fire flow for any development, and the configuration of the property line may cause confusion among emergency responders as one side of the road would be in the City and one side would be in the County. He also discussed that this application is in conflict with the two primary goals of City Plan 2025 to make infill and revitalization our highest priorities, and to discourage suburban sprawl. Staff recommends denial of the application.

**Hank Broyles**, applicant, stated that they are a new applicant. They have taken steps to smooth out the borders of the proposed annexation boundary and added additional property owners to the annexation. He discussed that if this annexation is approved they will propose an R-PZD for development, including a master plan extending all the way to Highway 265. Highway 265 is the major north-south transportation corridor on the east side of Fayetteville. State Highway 265 is only three blocks to the west, the City is investing 7.7 million dollars on State Highway 265 in this vicinity, and we can't expect there not to be any development in this area. Most of the new development in recent years has taken place west of I-540. However, many people work on Joyce, and other major commercial zones are in close proximity. We should have additional housing on the east side of town to have people be able to live closer to where they work. We need additional housing on this side of town. Infill is very difficult to make work. He discussed that City Plan 2025 encourages infill but that according to a search by Bassett-Mix Realty of this area of town, from Joyce to Lafayette, east of College to Highway 265, there were only four listings of two or more acres. Prices ranged from \$110,000 per acre to \$900,000 per acre. This is a piece of property, partially in the City limits, not on a mountain, few adjacent property owners, three blocks from the major north-south transportation corridor on the east side of Fayetteville.

**Todd Jacobs**, applicant, gave a PowerPoint presentation. He discussed the land use setting, that the areas east of Hwy 265 are rural in nature, but the site is only three blocks from Crossover Road. He discussed the lack of opportunity for infill development in this area, due to existing development patterns and slopes to the west of Hwy 265. He went over historical growth patterns in this area, showing areas of single and multi-family development. Historical development patterns follow transportation corridors. The area east of Hwy 265 has development potential because of lack of slopes and streams, floodplains. This is an opportunity to master plan this area for development. He discussed developable land on this side of town and discussed that the east side of Crossover is more developable than the west side, which has hills, creeks, and existing development. He discussed that this site was identified by citizens as a Growth Sector as part of the City Plan 2025 charrettes by citizens. Joyce has started to become a financial center. Development will fill in along the east side of Crossover over time. He showed and discussed various exhibits of developable area including slopes, existing development, and floodplains in the area. This site does not have those constraints. He reviewed the existing City limits and how they feel the area around this site will fill in over time. This area is prime for a City neighborhood area in a traditional town form. He discussed that our vision is a master plan for this area.

**Public Comment:**

**Peggy Hart**, representing her parents, Lyle and Charlene Smith who live on Rom Orchard, questioned the rationale behind this. This location is nice because it is out in the country but ten minutes from downtown. Why would you want to add houses on curvy roads with no sidewalks? Houses are generally on three-acre lots. It is already congested in this area at Old Wire/Crossover. We currently have undeveloped subdivisions on Skillern and Township. She is recommending denial.

**Colleen Gaston**, 3270 Rom Orchard Road, can see the property from her front porch. She is opposed to the rezoning anything less than Residential Agricultural. She thinks the annexation is premature. The comments from the developer about the development along the east side of Crossover are somewhat speculative. The applicant mentioned 200 acres but they are only annexing 40 acres. There is not reason to bring this into the City. There are several subdivisions in the City limits in this area of town that are vacant, very close to this area. Maybe the time will come to master plan for this area; however, this has been a very stable area, stayed rural in nature. From what I know of my neighbors no one is interested in selling or subdividing. I do not see this area being prime for development given the current economy. The annexation seems premature at this time.

**Terry Payton**, has nine acres, he was concerned with the rezoning application. But he agrees with Colleen's comments on the annexation. We are concerned with what the plans for the area are. He discussed congestion at the intersection of Old Wire Road/Crossover Road. He is opposed to a density of four units per acre.

**Jeff Dangeau**, 3284 Rom Orchard Road, adjacent neighbor to the east across Old Wire Road. Our main concern was with the rezoning. If this is annexed it would allow one house per two acres, which eases my concerns somewhat. He would feel better if a development plan were shown first.

**Public Comment Closed**

**Commissioner Myres** discussed that she agrees with staff's findings to recommend denial.

**Commissioner Zant** said that in his past experience annexations in other Cities have annex property based on guess of whether or not the annexation would benefit the City. We are fortunate here that the City of Fayetteville has a number of annexation policies and guidelines that are to be analyzed when making a decision. There would be a significant investment to meet the sewer requirement. As discussed by staff this application does not meet the adopted annexation policies and based on those findings he recommends denial.

**Commissioner Graves** discussed that he was on the planning commission when this application came through in previous years. Things have changed over the past 5-6 years. He looked at the old minutes and would still have concern with RSF-4 zoning today, similar to the past applications. However with the annexation, we previously had concerns with fire response that have been addressed now. The fire department now has a new station with a response time of four minutes to this property. He discussed that he would like to see more acreage involved in this annexation, to clean up the boundary. He mentioned the tail off of Skillern Road, not exactly clear how this came to be. This annexation is perhaps an opportunity to start to even up the eastern City boundary. This would leave a gap between this property and the tail off of Skillern Road. This does create a peninsula, but that is just one guideline, and these are just guidelines. He doesn't have as many qualms with this annexation that he had in previous years, now that the police and fire responses are better as opposed to 2005/2006. Development can make the roads better. I would be supportive of bringing it in and letting it be rezoned R-A, and seeing what the applicant proposes as a later time. He is okay with a Residential/Agricultural zoning on the property at this time.

**Commissioner Winston** asked about the issue of one side of the road being in the City and one side of the road being in the County.

**Jeremy Pate**, Development Services Director, discussed the potential problems that may occur if a vehicular accident or other emergency occurred on this road, and issues with which emergency responder should be called, Fayetteville Police versus Washington County Sheriff's, which was cited as a difficulty by the Police Department. He discussed the past annexations when the City annexed islands of unincorporated property that were surrounded by City property to correct this issue.

**Commissioner Winston** asked about Bridgewater Road, when it would be constructed.

**Pate** responded that it was just a line on the Master Street Plan map at this point, and would be constructed by the developer at the time of development.

**Commissioner Winston** asked about the improvements to Crossover Road, and if any improvements would be made to the intersection of Crossover Road/Old Wire Road.

**Pate** discussed that Crossover is a state highway and the improvements are a state highway project and in our transportation bond program, with the City having committed 7.7 million dollars to the project. However, the costs for the project have risen since the 7.7 million dollars were committed. The project is eminent and right-of-way is being obtained. Pate discussed that he is not sure about detailed of the planned improvements to Crossover Road/Old Wire Road, but anticipates that intersection would be improved.

**Commissioner Winston** asked about the City's responsibility to this property if it is annexed.

**Pate** responded that we have to provide emergency response and trash service immediately, and access for connection to City water and sewer. In almost every annexation application, there is some sort of development pressure, and the development would result in the required extensions or improvements to water and sewer.

**Commissioner Winston** discussed that there is a multi-use trail shown along Skillern Road, although the transportation plans show many trails outside the City. It seems like it may be appropriate now and will be appropriate in the future.

**Commissioner Zant** normally I wouldn't have any problem with any annexation, but he doesn't see any rationale for the application at this time. Ultimately this property will be annexed. But the findings all lead to a recommendation for denial at this time and I feel strongly that it should be denied at this time.

**Motion:**

**Commissioner Myres** made a motion to deny the request. **Commissioner Zant** seconded the motion. **Upon roll call the motion to deny passed with a vote of 5-4-0 (commissioners Graves, Winston, Kennedy, and Trumbo voting "no").**



ANX09-3409

Close Up View

# BROYLES



Overview

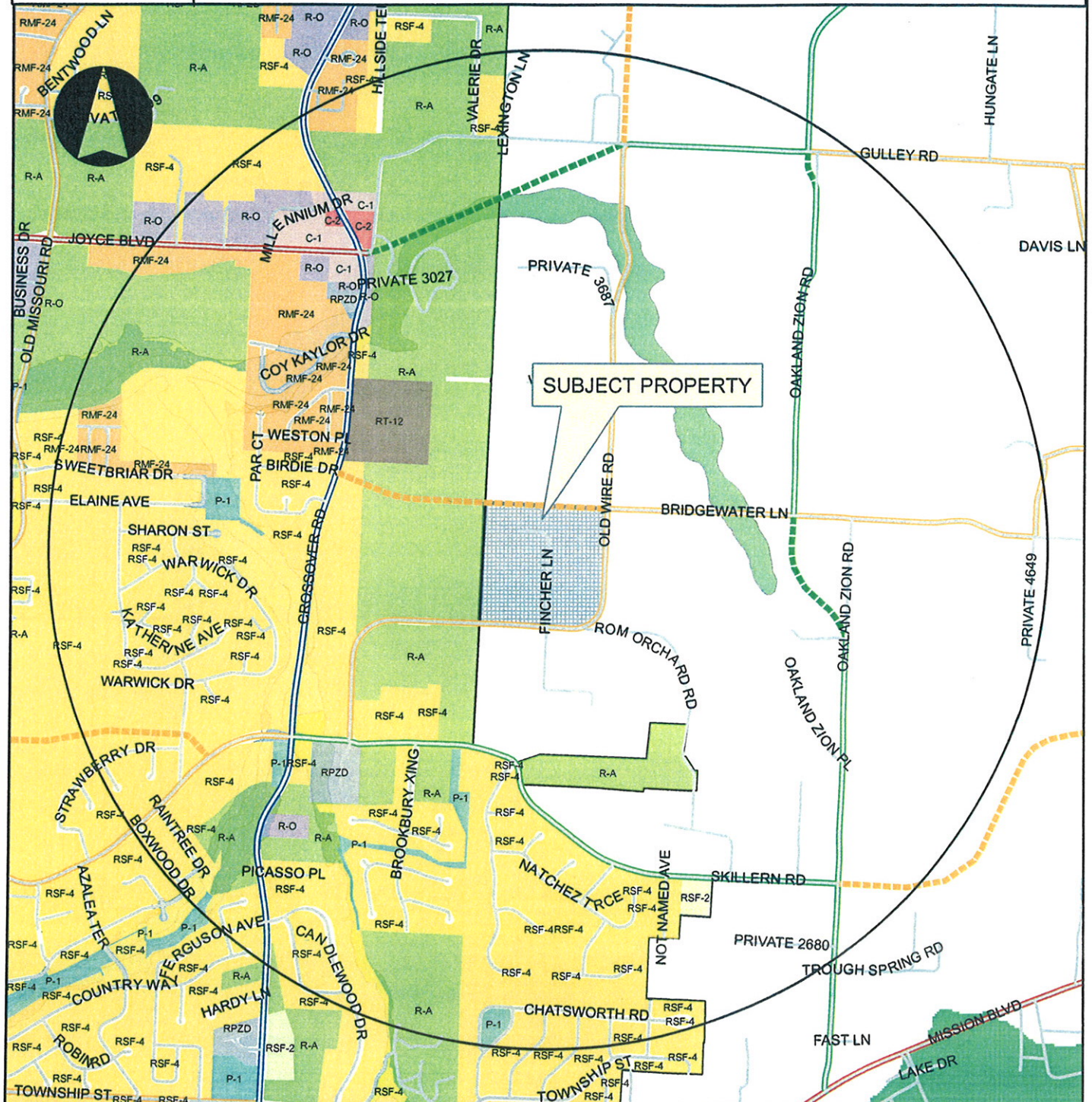




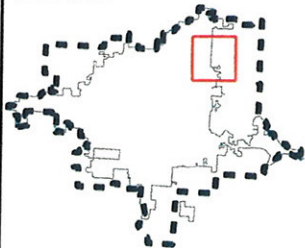
ANX09-3409

One Mile View

# BROYLES



Overview



Legend

Subject Property

 ANX09-3409

Boundary

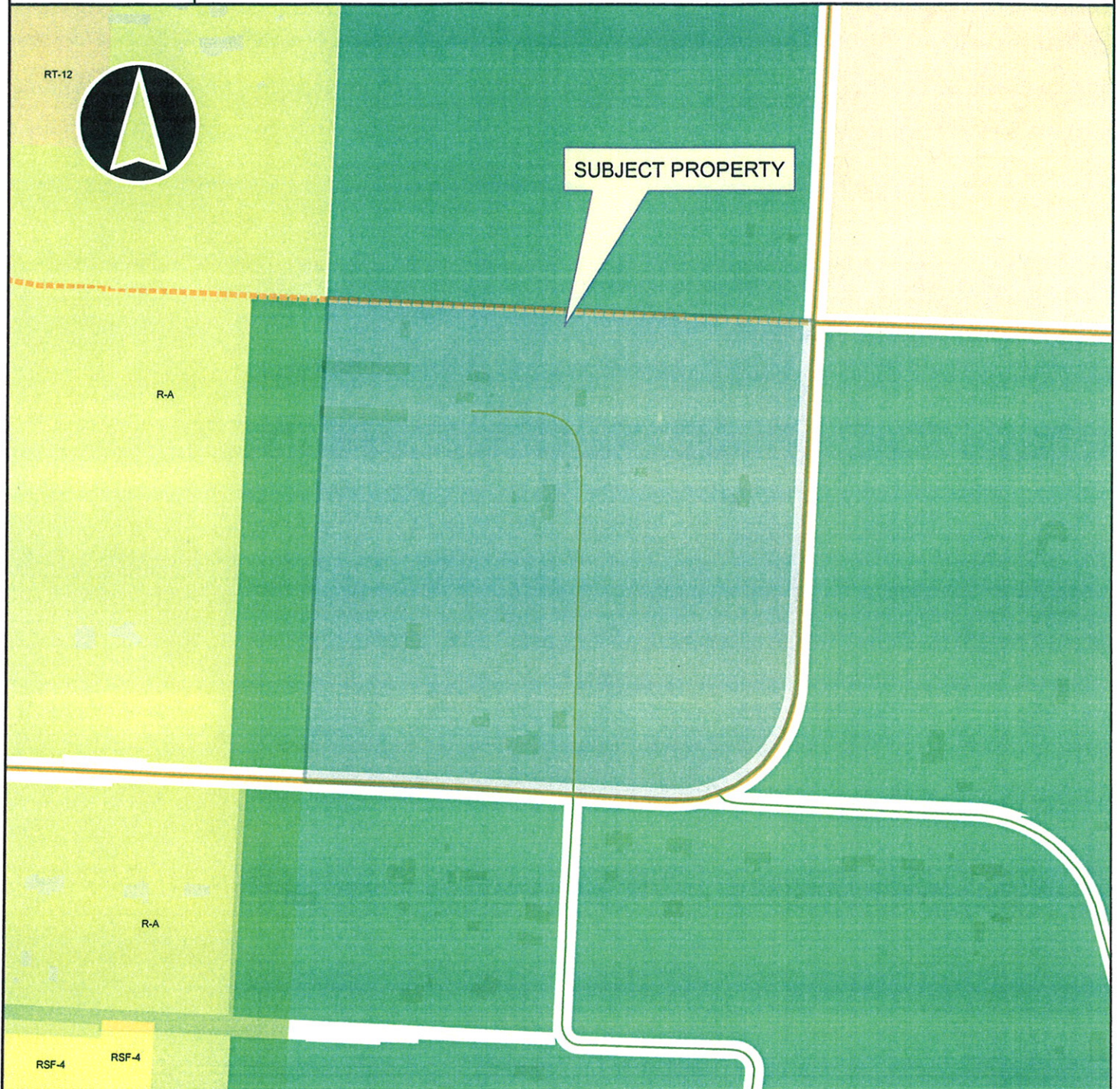
0 0.25 0.5 1 Miles



ANX09-3409

*Future Land Use*

# BROYLES



**Overview**

0 150 300 600 900 1,200  
Feet

## **Lisa Branson - Fwd: Old Wire Rd development**

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**From:** City Clerk  
**To:** Aldermen  
**Date:** 11/3/2009 7:12 PM  
**Subject:** Fwd: Old Wire Rd development

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City Clerk Division  
City of Fayetteville  
113 West Mountain  
Fayetteville, AR 72701  
(479)575-8323  
[city\\_clerk@ci.fayetteville.ar.us](mailto:city_clerk@ci.fayetteville.ar.us)

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

>>> <queencaptainmom@cox.net> 11/3/2009 3:57 PM >>>

We are opposed to the annexation of the Old Wire road development.

The roads are rural and our road which would be a "feeder" to Skillern is chip and seal and is used by bikes, horses and dog walks.

This type of development density would not be compatible with our farms in the area. There is no infrastructure at this site and it would cost the city considerable to bring utilities to the site.

Larry and Tanya Floyd  
3162 Rom Orchard Rd  
Fayetteville, AR. 72703

**From:** Sharon Payton <sharon.payton@fayar.net>  
**To:** <city\_clerk@ci.fayetteville.ar.us>  
**Date:** 11/3/2009 1:36 PM  
**Subject:** Annexation and Rezoning at 3231 N. Old Wire Road

Dear Planning Commissioners,

My husband and I live at 3845 Bridgewater Lane. We are the second house on Bridgewater from Old Wire Road. We own approximately 10 acres. We have opposed each request to rezone and to annex the land located on 3231 Old Wire Road. In the beginning we were not as concerned about the annexation. However, after listening to the developers proposal, we are convinced that it would be detrimental. If you are familiar with our area, you know that there are many homes with acreage. Most of us have lived in our homes for 14 or more years. We are committed to maintaining the rural quality of our neighborhood. This benefits our neighborhood but also benefits the entire community. We believe that this is in keeping with the City Plan 2025 for the subject property. The proposed rezoning would result in an isolated zone of RSF-4 that is surrounded by property zoned for agricultural or residential development with a maximum density of one-half or one house per acre. Most of the homes in this area have anywhere from 3-10 acres. Several homes have livestock or agricultural uses. Some of the acreage is protected from development in perpetuity by conservation easements. Rezoning to RSF-4 would be incompatible with the surrounding area. We also feel that the roads are not equipped to handle the increase in traffic due to the dangerous curves in the area and to the congestion that is already occurring. As to the size of this proposed development, the developer continues to talk about his 200 acre development. When asked specifically where this extra acreage was coming from he stated that they did not own the land or expected too. So the development is now only limited to the original parcel. After speaking to Drs. Luke and Cindy Knox, the owners of the "extra acres", we were assured that they do not support this plan and have no intention of selling their land to anyone. They keep their horses on the pasture land and plan to continue doing that. If at all possible, I would hope that you would take a drive into our area and see how our area would be affected by this large of a development. We feel that by allowing the annexation just gives the developer a beginning to his project. My husband and I hope that you would oppose the annexation and the project. Thank you for your consideration on this matter.

Sincerely,  
Dr. Terry S. Payton  
Sheri S. Payton



City Council Agenda Items  
and  
Contracts, Leases or Agreements

11/3/2009

City Council Meeting Date  
Agenda Items Only

Kevin Springer

Submitted By

Budget &amp; Research

Division

Finance &amp; Internal Services

Department

## Action Required:

Approve a resolution adopting the Proposed 2010 Annual Budget &amp; Work Program.

N/A

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

\$

Account Number

Funds Used to Date

Program / Project Category Name

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Paul A. Buh

Department Director

10-16-2009

Date

Previous Ordinance or Resolution #

Original Contract Date:

J. B. Kelly

City Attorney

10-19-09

Date

Original Contract Number:

Paul A. Buh

Finance and Internal Services Director

10-19-2009

Date

Received in City  
Clerk's Office

Don Man

Chief of Staff

10-19-09

Date

Received in  
Mayor's Office

Lionel Jordan

Mayor

11/10/09

Date

Comments:



## **DEPARTMENTAL CORRESPONDENCE**

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TO: Mayor Jordan and City Council

THRU: Don Marr, Chief of Staff

FROM: Paul A. Becker, Finance Director  
Kevin Springer, Budget Director

DATE: October 16, 2009

SUBJECT: **Proposed 2010 Annual Budget & Work Program**

**Recommendation:**

Consider the Proposed 2010 Annual Budget & Work Program for adoption by the November 3, 2009 City Council meeting.

**Discussion:**

The Proposed 2010 Annual Budget & Work Program will be distributed to City Council on Tuesday, October 27, 2009. Listed below is a schedule of hearing dates for the Proposed 2010 Annual Budget & Work Program.

| <b>Date</b>                                           | <b>Budget Meeting/Location</b>                  |
|-------------------------------------------------------|-------------------------------------------------|
| Tuesday, October 27, 2009                             | <i>Distribution of the Proposed 2010 Budget</i> |
| Saturday, October 31, 2009                            | <i>Budget Discussion Meeting, Room 326</i>      |
| Tuesday, November 3, 2009                             | <i>City Council Meeting, Room 219</i>           |
| <i>Additional meetings to be scheduled if needed.</i> |                                                 |

If you have any questions concerning the Proposed 2010 Annual Budget & Work Program, please feel free to contact either Paul A. Becker at 575-8330 or Kevin Springer at 575-8226. Thank you for your attention to this matter.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION ADOPTING THE 2010 ANNUAL BUDGET  
AND WORK PROGRAM**

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

Section 1. The City Council of the City of Fayetteville, Arkansas hereby adopts the 2010 Annual Budget & Work Program. A copy of the Budget, marked Exhibit "A" is attached hereto and made a part hereof.

**PASSED and APPROVED** this 3<sup>rd</sup> day of November, 2009.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**





City of Fayetteville Staff Review Form

City Council Agenda Items  
and  
Contracts, Leases or Agreements

11/17/2009

City Council Meeting Date  
Agenda Items Only

Dara Sanders  
Submitted By

Planning  
Division

Development Services  
Department

Action Required:

VAC 09-3444: (Ute Wilson, 371): Submitted by Sawyer's Outdoor Solutions for property located at 2021 Ball Avenue. The property is zoned RSF-4, Single Family, 4 units per acre and contains approximately 0.33 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

10-28-2009  
Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

10-30-09  
Date

Original Contract Number:

Finance and Internal Services Director

11-2-2009  
Date

Received in City  
Clerk's Office



King Johnson

Chief of Staff

11-2-09  
Date

Received in  
Mayor's Office



Comments:

City Council Meeting of November 17, 2009  
Agenda Item Number

## **CITY COUNCIL AGENDA MEMO**

---

**To:** Mayor and City Council

**Thru:** Jeremy C. Pate, Director of Development Services

**From:** Dara Sanders, Current Planner

**Date:** October 28, 2009

**Subject:** Utility Easement (VAC 09-3444) 2021 North Ball Avenue

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### **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 at 2021 North Ball Avenue, at the northwest corner of Kantz Lane and Ball Avenue. There is a duplex located on the property, constructed in 1993. The applicant's request is to vacate a portion (124 square feet) of a utility easement to allow for the addition of a sunroom to the existing structure.

### **DISCUSSION**

This item was heard at the regular Planning Commission meeting on October 26, 2009. The Planning Commission voted 8-0-0 on the consent agenda to forward this vacation request to the City Council with a recommendation of approval.

### **BUDGET IMPACT**

None.

**ORDINANCE NO.**

AN ORDINANCE APPROVING VAC 09-3444 SUBMITTED BY SAWYER'S OUTDOOR SOLUTIONS FOR PROPERTY LOCATED AT 2021 BALL AVENUE TO VACATE A PORTION OF A UTILITY EASEMENT CONTAINING APPROXIMATELY 124 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 described 124 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 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:

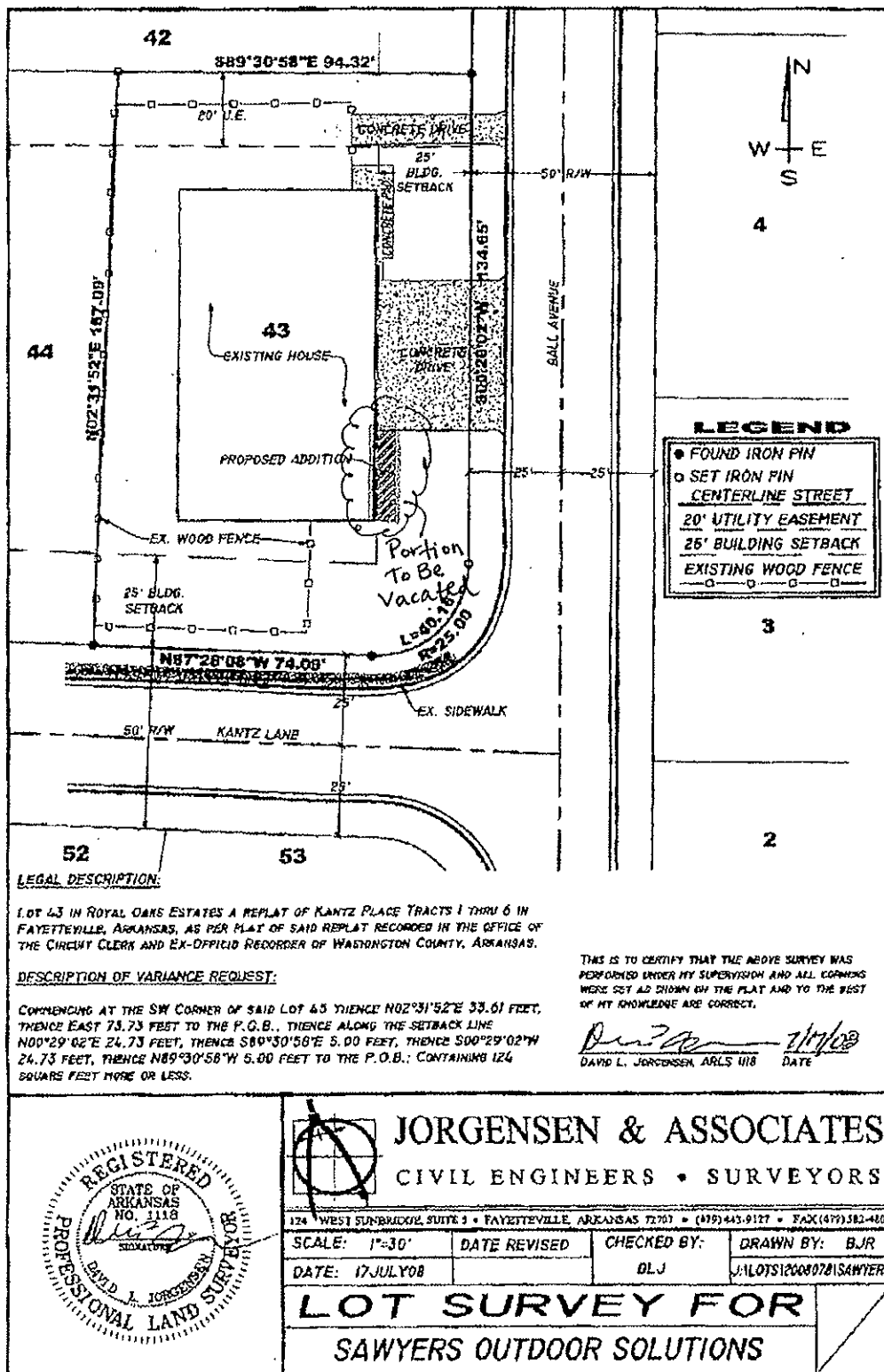
By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

# EXHIBIT "A"

2007 11:31 FAX 4795824007

JENSEN & ASSOC



**EXHIBIT "B"**  
**VAC 09-3444**

THE AREA UTE WILSON & SAWYER'S OUTDOOR SOLUTIONS ARE REQUESTING AN EASEMENT VACATION FOR THE PURPOSE OF ADDING A SUNROOM TO THE EXISTING HOME.

COMMENCING AT THE SW CORNER OF SAID LOT 43 THENCE N 02 DEGREES 31'52"E 33.61 FEET, THENCE EAST 73.73 FEET TO THE P.O.B., THENCE ALONG THE SETBACK LINE N 00 DEGREES 29'02" E 24.73 FEET, THENCE S 89 DEGREES 30' 58" E 5.00 FEET, THENCE S 00 DEGREES 29'02" W 24.73 FEET, THENCE N 89 DEGREES 30'58" W 5.00 FEET TO THE P.O.B.; CONTAINING 124 SQUARE FEET MORE OR LESS.



PC Meeting of October 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, Development Services Director  
DATE: October 19, 2009

**VAC 09-3444: (UTE WILSON / 2021 N. BALL AVE, 371):** Submitted by BUZZ SAWYER SAWYER'S OUTDOOR SOLUTIONS for property located at 2021 BALL AVENUE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS PER ACRE and contains approximately 0.33 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 at 2021 North Ball Avenue, at the northwest corner of Kantz Lane and Ball Avenue. There is a duplex located on the property, constructed in 1993. The duplex was approved as part of the Royal Oaks Estates Planned Unit Development (PUD).

**SURROUNDING LAND USE AND ZONING:**

| Direction from Site | Land Use                | Zoning                           |
|---------------------|-------------------------|----------------------------------|
| North               | Multi-family residence  | RSF-4, Residential Single-family |
| South               | Single family residence | RSF-4, Residential Single-family |
| East                | Multi-family residence  | RSF-4, Residential Single-family |
| West                | Two-family residence    | RSF-4, Residential Single-family |

*Request:* The applicant's request is to vacate a portion (124 square feet) of a utility easement to allow for the addition of a sunroom to the existing structure.

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 | No Objections |

Arkansas Western Gas No Objections

Southwestern Bell Telephone 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:** Finding that adequate easement for service will exist to serve existing utilities and provide for new utilities, staff recommends forwarding **VAC 09-3444** to the City Council with a recommendation of approval with the following conditions:

**Conditions of Approval:**

1. Any relocation of existing utilities shall be at the owner/developer's expense.

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**CITY COUNCIL ACTION: Required**

**PLANNING COMMISSION ACTION: Required**

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

**Date:** October 26, 2009

**Motion:** Graves

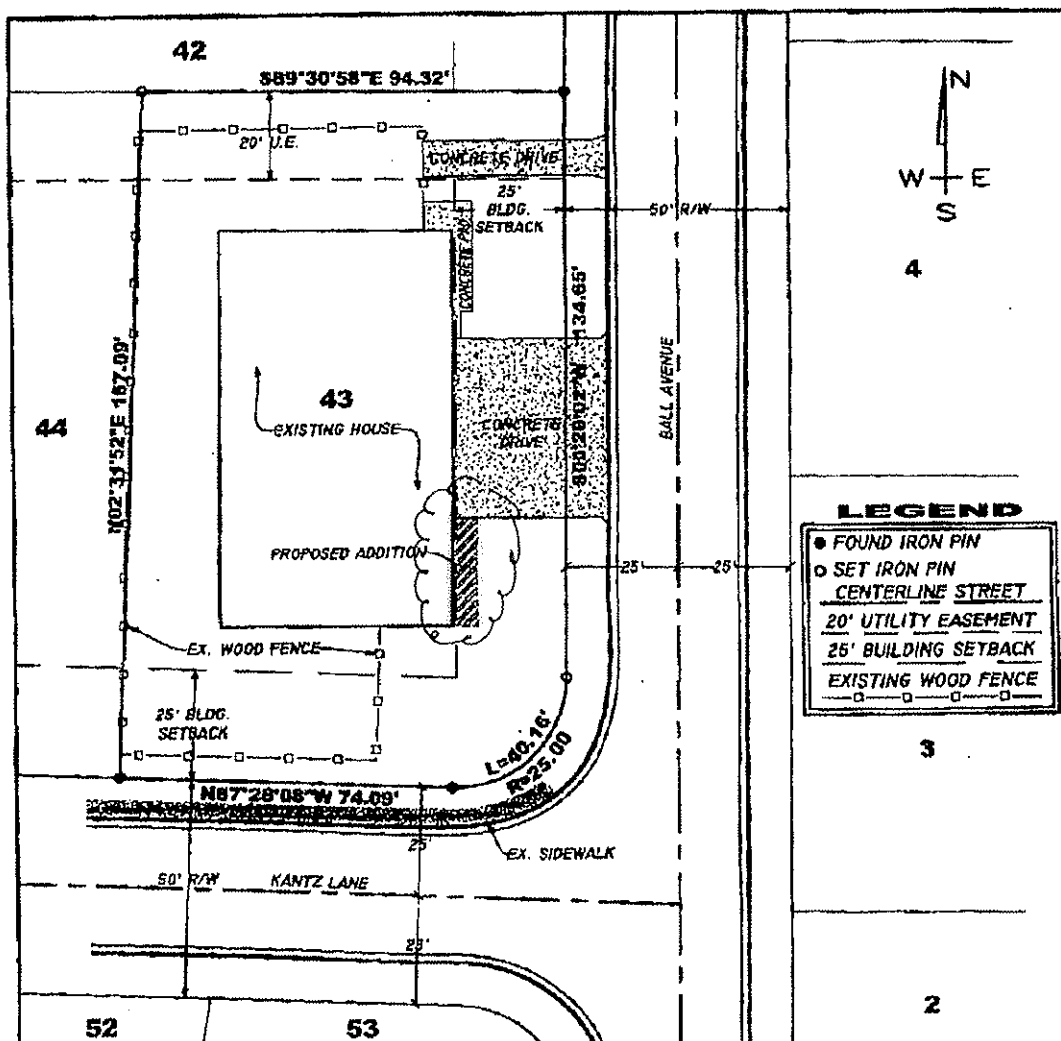
**Second:** Lack

**Vote:** 8-0-0



2007 11:31 FAX 4795824807

JENSEN & ASSOC



**LEGAL DESCRIPTION:**

LOT 43 IN ROYAL OAKS ESTATES A REPLAT OF KANTZ PLACE TRACTS 1 THRU 6 IN FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID REPLAT RECORDED IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

**DESCRIPTION OF VARIANCE REQUEST:**

COMMENCING AT THE SW CORNER OF SAID LOT 43 THENCE N02°31'52"E 33.61 FEET, THENCE EAST 73.73 FEET TO THE P.O.B., THENCE ALONG THE SETBACK LINE N00°29'02"E 24.73 FEET, THENCE S89°50'58"E 5.00 FEET, THENCE S00°29'02"W 24.73 FEET, THENCE N89°30'58"W 5.00 FEET TO THE P.O.B.: CONTAINING 124 SQUARE FEET MORE OR LESS.

THIS IS TO CERTIFY THAT THE ABOVE SURVEY WAS PERFORMED UNDER MY SUPERVISION AND ALL CORNERS WERE SET AS SHOWN ON THE PLAT AND TO THE BEST OF MY KNOWLEDGE ARE CORRECT.

*David L. Jorgensen* 7/17/08  
DAVID L. JORGENSEN, ARLS 118 DATE



**JORGENSEN & ASSOCIATES**  
CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 443-9127 • FAX (479) 582-4807

|                  |              |                 |                          |
|------------------|--------------|-----------------|--------------------------|
| SCALE: 1"=30'    | DATE REVISED | CHECKED BY: DLJ | DRAWN BY: BJR            |
| DATE: 17 JULY 08 |              |                 | J/LOTS 120080781 SAWYERS |

**LOT SURVEY FOR**  
**SAWYERS OUTDOOR SOLUTIONS**

June 27, 2008 .

Royal Oaks Homeowner's Association  
Board of Directors

To Whom It May Concern:

This letter is to acknowledge that the board of the Royal Oaks Homeowner's Association has no objections, and hereby grants permission to Bromo and Ute Wilson, located at 2021 North Ball Avenue in Royal Oaks subdivision, build a sunroom on the front of their home.

In the event any questions should arise, please feel free to contact Annie Langston, President or Kellie Whitehead, Treasurer, Royal Oaks Homeowner's Association.

Thank you,

Kellie Whitehead  
Annie Langston

water 16243

**PETITION TO VACATE  
AN EASEMENT LOCATED IN  
LOT 43 OF THE ROYAL OAKS SUBDIVISION,  
A RE-PLAT OF KANTZ PLACE,  
TRACTS 1-6 IN FAYETTEVILLE, ARKANSAS**

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

*WE*, the undersigned, being all the owners of the real estate abutting the easement, right-of-way hereinafter sought to be abandoned and vacated, lying in lot 43 in the Royal Oaks Estates A Re-plat of Kantz Place Tracts 1 thru 6, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement utility right-of-way. The portion of this utility easement and right of way we are requesting be vacated is described as follows:

COMMENCING AT THE SW CORNER OF SAID LOT 43 THENCE N 02 DEGREES 31' 52" E 33.61 FEET, THENCE EAST 73.73 FEET TO THE P.O.B., THENCE ALONG THE SETBACK LINE N 00 DEGREES 29' 02" E 24.73 FEET, THENCE S 89 DEGREES 30' 58" E 5.00 FEET, THENCE S 00 DEGREES 29' 02" W 24.73 FEET, THENCE N 89 DEGREES 30' 58" W 5.00 FEET TO THE P.O.B.; CONTAINING 124 SQUARE FEET MORE OR LESS.

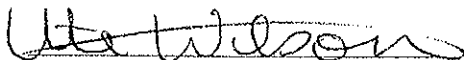
That the abutting real estate affected by said abandonment of the alley are Lot 43, of the Royal Oaks Estates a Re-Plat of Kantz Place Tracts 1 thru 6, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would NOT be adversely affected by the abandonment of the portion of the above described easement, right-of-way.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility 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 5<sup>th</sup> day of Dec., 2008.

  
Ute Wilson

**December 5, 2008**

**Ute Wilson, Home Owner & Applicant**  
**2021 North Ball Avenue**  
**Fayetteville, Arkansas 72703**

**RE:** *Petition to Vacate a Portion of an existing Utility Easement / Right-Of-Way on the above-mentioned property*

**Project Description:**

The applicant (*Ute Wilson*) proposes that a *portion* of the utility easement / right-of-way be vacated at 2021 N Ball Ave., Lot 43, Royal Oaks Estates, a Re-Plat of Kantz Place, Tracts 1-6. This property is located at 2021 N Ball Avenue, at the northwest corner of Kantz Lane and Ball Avenue. This request is being made to allow construction of a sunroom to the existing duplex, built in 1993. The total amount we are proposing to be vacated is 124 square feet, more or less.

**Proposed Use:**

Single Family Residential

**Zoning:**

RSF-4, Residential Single Family 4 units per acre

**Size:**

.33 acre

**Density/Intensity:**

1 residential unit will have a sunroom attached where existing front porch is located, extending an additional 5 feet, more or less.

**Public Hearings:**

**December 18, 2008** 113 West Mountain Street (City Administration Building Room 326) Fayetteville, AR 72701

**Property Owner:**

Ute Wilson (& the late William Bromo Wilson)  
Home: 479.521.1342, Cell: 479.283.8861

**Contractor:**

Sawyer's Outdoor Solutions, 479.582.4786

**Review Location:**

The project information is available for public review at the City of Fayetteville Planning Division, 125 West Mountain Street, Fayetteville, AR 72701 Monday-Friday 8AM-5PM; 479.575.8267.

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

Date: December 5, 2008

Utility Company: AT&T

Applicant: Ute Wilson - homeowner, & Sawyer's Outdoor Solutions - contractor

Applicant Phone: 479.283.8861, cell; Sawyer's phone: 479.582.4786

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: {2021 N. Ball Street, Fayetteville, Arkansas}  
COMMENCING AT THE SW CORNER OF SAID LOT 43 THENCE N 02 DEGREES 31' 52"  
E 33.61 FEET, THENCE EAST 73.73 FEET TO THE P.O.B., THENCE ALONG THE  
SETBACK LINE N 00 DEGREES 29' 02" E 24.73 FEET, THENCE S 89 DEGREES 30' 58"  
E 5.00 FEET, THENCE S 00 DEGREES 29' 02" W 24.73 FEET, THENCE N 89  
DEGREES 30' 58" W 5.00 FEET TO THE P.O.B.; CONTAINING 124 SQUARE FEET  
MORE OR LESS

UTILITY COMPANY COMMENTS:

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

☒ No objections provided the following conditions are met:

RELOCATION OF OR DAMAGE TO ANY EXISTING FACILITIES  
WILL BE @ THE OWNER'S EXPENSE - AREA TO BE  
VACATED IS SHOWN ON PLAT AS PROPOSED ADDITION

Lucretia K. Clouser  
Signature, Utility Company Representative

CSP DESIGN ENGINEER  
Title

**UTILITY APPROVAL FORM  
FOR RIGHT-OF-WAY, ALLEY, AND  
UTILITY EASEMENT VACATIONS**

**Date:** December 5, 2008

**Utility Company:** Ozarks Electric

**Applicant:** Ute Wilson -- homeowner, & Sawyer's Outdoor Solutions - contractor

**Applicant Phone:** 479.283.8861, cell; Sawyer's phone: 479.582.4786

**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

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**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:

I have NO objection provided that AEP/SWEPCO  
Approves Easement vacate. 2021 N. Ball AVE. IS IN  
AEP/SWEPCO SERVICE area.

[Signature]  
Signature, Utility Company Representative

Lead staking Tech  
Title

**UTILITY APPROVAL FORM  
FOR RIGHT-OF-WAY, ALLEY, AND  
UTILITY EASEMENT VACATIONS**

**Date:** December 5, 2008

**Utility Company:** Arkansas Western Gas

**Applicant:** Ute Wilson – homeowner, & Sawyer's Outdoor Solutions - contractor

**Applicant Phone:** 479.283.8861, cell; Sawyer's phone: 479.582.4786

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

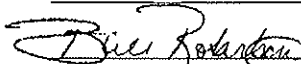
- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

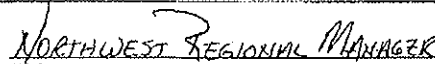
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**UTILITY COMPANY COMMENTS:**

- ☒ 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, Utility Company Representative

  
Title

**UTILITY APPROVAL FORM  
FOR RIGHT-OF-WAY, ALLEY, AND  
UTILITY EASEMENT VACATIONS**

**Date:** December 5, 2008

**Utility Company:** Cox Communications

**Applicant:** Ute Wilson – homeowner, & Sawyer’s Outdoor Solutions - contractor

**Applicant Phone:** 479.283.8861, cell; Sawyer’s phone: 479.582.4786

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

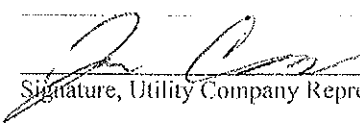
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**UTILITY COMPANY COMMENTS:**

- ☒ 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, Utility Company Representative

Field Engineer  
\_\_\_\_\_  
Title



**UTILITY APPROVAL FORM  
FOR RIGHT-OF-WAY, ALLEY, AND  
UTILITY EASEMENT VACATIONS**

Date: December 5, 2008

Utility Company: AEP/SWEPCO

Applicant: Ute Wilson – homeowner, & Sawyer’s Outdoor Solutions - contractor

Applicant Phone: 479.283.8861, cell; Sawyer’s phone: 479.582.4786

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

- ☐ Utility Easement
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**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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sally Winkler  
Signature, Utility Company Representative

RIGHT-OF-WAY AGENT  
Title

**UTILITY APPROVAL FORM  
FOR RIGHT-OF-WAY, ALLEY, AND  
UTILITY EASEMENT VACATIONS**

**Date:** December 5, 2008

**Utility Company:** City of Fayetteville Solid Waste (sanitation dept.)

**Applicant:** Ute Wilson - homeowner, & Sawyer's Outdoor Solutions - contractor

**Applicant Phone:** 479.283.8861, cell; Sawyer's phone: 479.582.4786

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

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**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 Papp  
Signature, Utility Company Representative

Waste Reduction Coordinator  
Title

**UTILITY APPROVAL FORM  
FOR RIGHT-OF-WAY, ALLEY, AND  
UTILITY EASEMENT VACATIONS****Date:** December 5, 2008**Utility Company:** City of Fayetteville Water & Sewer Department**Applicant:** Ute Wilson - homeowner, & Sawyer's Outdoor Solutions - contractor**Applicant Phone:** 479.283.8861, cell; Sawyer's phone: 479.582.4786**REQUESTED VACATION** (*applicant must check all that apply*):

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\*\*\*\*\*

**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 issues for the proposed addition size as indicated on  
Survey conducted by Jorgensen & Assoc. on 7-17-08

No objections provided the following conditions are met:

\_\_\_\_\_  
\_\_\_\_\_

T. Smith  
Signature, Utility Company Representative

WFS Ops Mgr.  
Title

**UTILITY APPROVAL FORM  
FOR RIGHT-OF-WAY, ALLEY, AND  
UTILITY EASEMENT VACATIONS****Date:** December 5, 2008**Utility Company:** City of Fayetteville - Transportation**Applicant:** Ute Wilson - homeowner, & Sawyer's Outdoor Solutions - contractor**Applicant Phone:** 479.283.8861, cell; Sawyer's phone: 479.582.4786**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.
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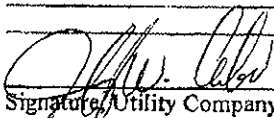
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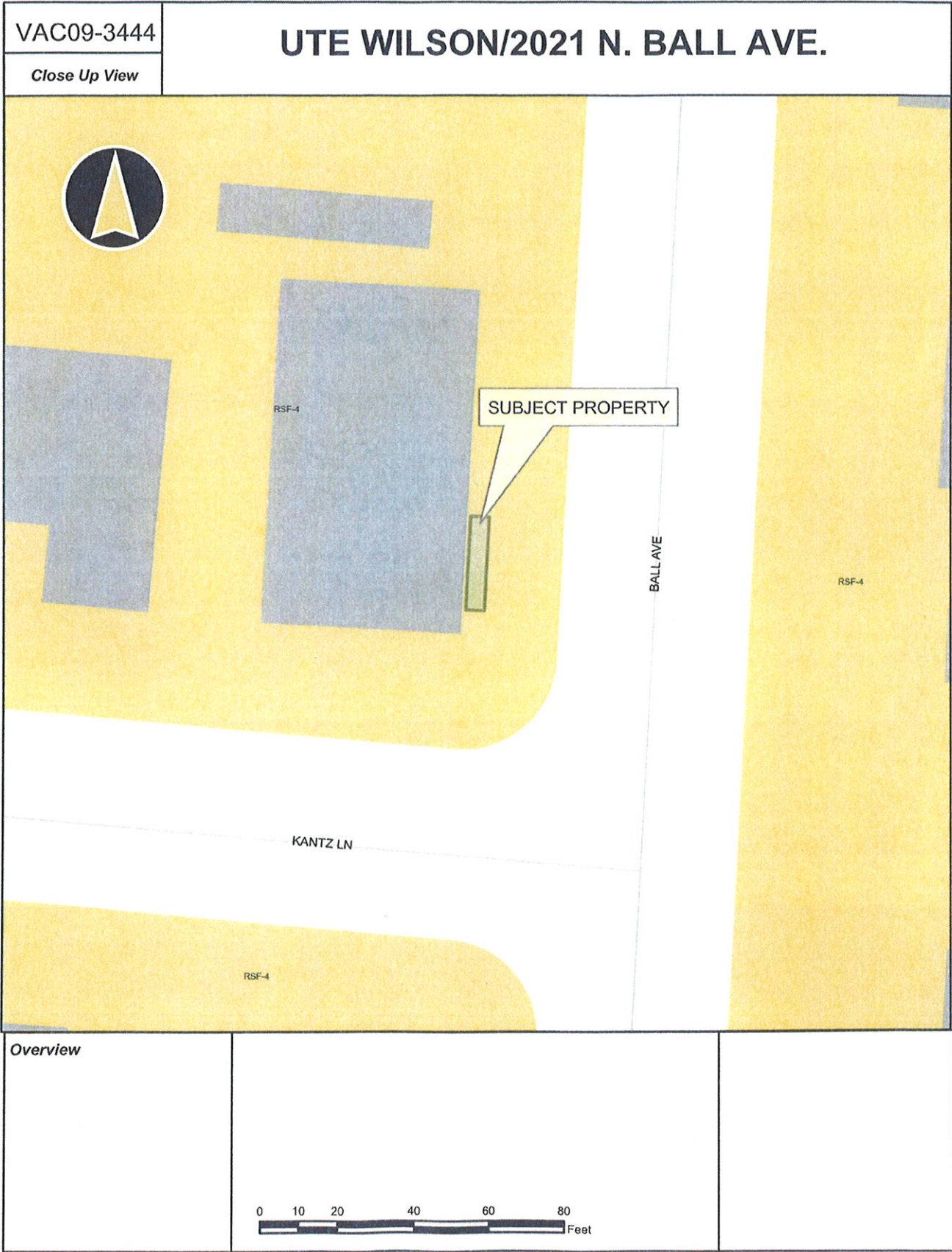
**UTILITY COMPANY COMMENTS:**

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- ☐ 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, Utility Company Representative

CITY OF FAYETTEVILLE - ASST. TRANSPORTATION MGR  
Title

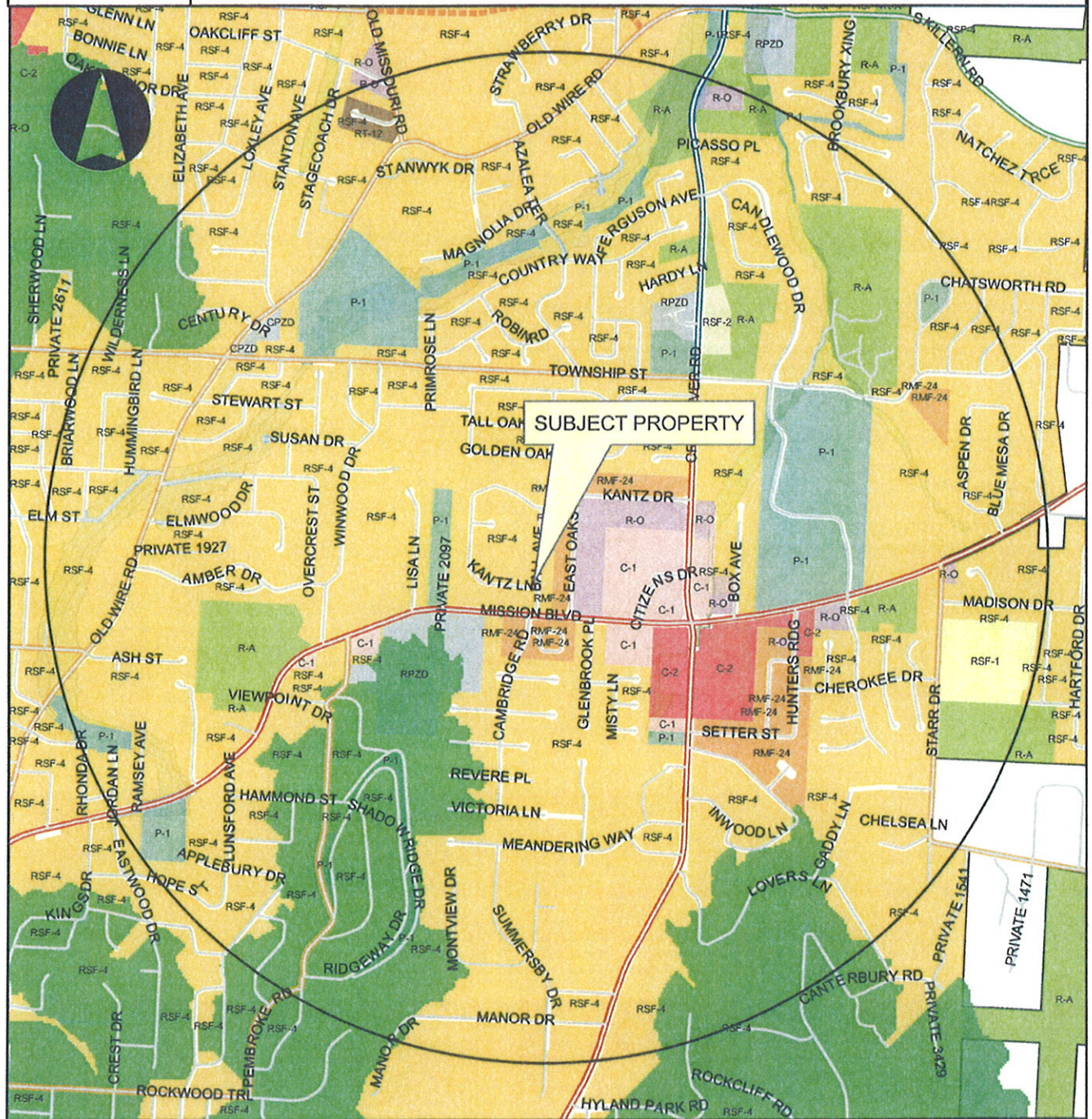




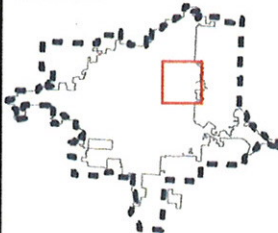
VAC09-3444

## UTE WILSON/2021 BALL AVE.

One Mile View



Overview



Legend

Subject Property

 VAC09-3444-OM

 Boundary

0 0.25 0.5 1 Miles



City of Fayetteville Staff Review Form

City Council Agenda Items  
and  
Contracts, Leases or Agreements

11/17/2009

City Council Meeting Date  
Agenda Items Only

Leif Olson  
Submitted By

Strategic Planning  
Department

Action Required:

ADM 09-3296: (Lake Fayetteville Special Events with a Swimming Component): Submitted by Strategic Planning Staff to amend Title IX: General Regulations of the Code of the City of Fayetteville Chapter 97: Parks and Recreation to allow special events at Lake Fayetteville that include a swimming component.

|                      |      |                           |                                 |
|----------------------|------|---------------------------|---------------------------------|
| 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 Mink*  
Department Director

10/30/09  
Date

Previous Ordinance or Resolution #

*K. Olson*  
City Attorney

11-2-09  
Date

Original Contract Date:

Original Contract Number:

*Paula A. Buehner*  
Finance and Internal Services Director

11-2-2009  
Date

Received in City  
Clerk's Office



*Don M. H. ...*  
Chief of Staff

11/3/09  
Date

Received in  
Mayor's Office



*Leif Olson*  
Mayor

11/3/09  
Date

Comments:



## **CITY COUNCIL AGENDA MEMO**

---

**To:** Mayor and City Council

**Thru:** Karen Minkel, Strategic Planning and Internal Consulting Director  
Connie Edmonston, Parks and Recreation Director

**From:** Leif Olson, Associate Planner

**Date:** October 29, 2009

**Subject:** Lake Fayetteville special events with a swimming component (ADM 09-3296).

### **RECOMMENDATION**

The Parks and Recreation Department and Strategic Planning and Internal Consulting Departments recommend amending Title IX: General Regulations of the Code of the City of Fayetteville Chapter 97: Parks and Recreation to allow special events that include a swimming component at Lake Fayetteville.

### **BACKGROUND**

Periodically, groups approach the Parks, Recreation and Open Spaces staff requesting permission to have group sponsored events at Lake Fayetteville that would include swimming. Typically, these are groups that are looking for parks space to hold large events such as triathlons where a swimming component is required. Strategic Planning staff was charged with developing multiple policy alternatives and providing a policy recommendation.

Strategic Planning staff researched the possible policy implications of permitting various recreational water activities on Lake Fayetteville. Currently the City allows canoeing, kayaking and fishing from the shore and boat docks. The City does not allow swimming in the lake. The primary concern is periodic and/or ongoing water quality issues related to bacterial contamination from septic systems located within the upper Clear Creek watershed.

Staff developed four policy alternatives that ranged from not allowing any swimming or full body contact with the water to developing a State Health Department approved swim beach. In the past, the City has not had the equipment necessary to do a full water quality assessment. The recent purchase of a coliform dry bath incubator by the lab at the Noland Wastewater Treatment Plant will enable the City to perform complete water quality analysis, including bacterial testing. A testing protocol will be established and baseline data will be collected and analyzed beginning in the fall of 2009.

### **DISCUSSION**

Staff presented the proposed ordinance amendments for Lake Fayetteville to the Parks and Recreation Advisory Board at their October 5, 2009 meeting where it was forwarded unanimously. On October 28, 2009 the City Council Ordinance Review Committee

reviewed the Lake Fayetteville ordinance amendments and it was forwarded to the City Council with a unanimous vote of 3-0-0 recommending approval.

**BUDGET IMPACT**

None.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE AMENDING TITLE IX: GENERAL REGULATIONS OF THE CODE OF THE CITY OF FAYETTEVILLE, TO AMEND SECTIONS OF CHAPTER 97: PARKS AND RECREATION IN ORDER TO PERMIT SPECIAL EVENTS AT LAKE FAYETTEVILLE THAT INCLUDE A SWIMMING COMPONENT.

**WHEREAS**, the City of Fayetteville periodically receives requests from citizens to allow swimming at Lake Fayetteville for special events such as a triathlon; and

**WHEREAS**, the City of Fayetteville has the equipment necessary to regularly test the water quality of Lake Fayetteville; and

**WHEREAS**, the City of Fayetteville has developed a protocol for the weekly testing of Lake Fayetteville for bacterial contamination and pollution; and

**WHEREAS**, the City of Fayetteville has developed a policy and protocol for allowing special events at Lake Fayetteville that include a swimming component,

**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 Title IX: General Regulations of the Code of the City of Fayetteville Chapter 97: Parks and Recreation §97.065(A) by adding the following sentence to the end of the existing paragraph:

§97.065(A) "Groups wishing to have a special event at Lake Fayetteville that includes swimming shall obtain a special use permit from the City Parks and Recreations staff, see section 97.071."

**Section 2.** That the City Council of the City of Fayetteville, Arkansas hereby amends Title IX: General Regulations of the Code of the City of Fayetteville Chapter 97: Parks and Recreation §97.070(E) by adding the following sentence to the end of the existing paragraph:

§97.070(E) "Boating may be closed to the public by the Parks and Recreation Department during a special event that includes swimming."

**Section 3.** That the City Council of the City of Fayetteville, Arkansas hereby amends Title IX: General Regulations of the Code of the City of Fayetteville Chapter 97: Parks and Recreation by enacting a new §97.071 with the following language:

**"§97.071 Fayetteville Special Use Permit for Events that Include a Swimming Component**

*A. Special events that include swimming.* Special events that include a swimming component, such as a triathlon, may be permitted at Lake Fayetteville with a special use permit issued by the Director of the City Parks and Recreation Department. Such

issuance will be at the sole discretion of the Director and should comply with the following:

- (1) A special event permit should be processed through the City Parks and Recreation Department at least 90 days prior to the event.
- (2) A water testing fee of \$250 and a special event fee in an amount sufficient to cover all City costs to administer the event shall be charged to the event organizer for the use of the Lake Fayetteville Park space and facilities. A further security deposit to ensure complete clean up or repair of any damage may be required. The Director may require an event organizer to obtain sufficient liability insurance and take measures to increase swimmers' safety.
- (3) The City does not warrant the safety or cleanliness of any lake for swimmers. Event organizers shall provide notice of the inherent danger of swimming in the lake to all persons requesting to swim and shall obtain waivers of liability and responsibility from the City of Fayetteville from all participants.
- (4) The City of Fayetteville reserves the right to allow swimming only in designated areas during the event and prohibit boating in these areas.
- (5) The City of Fayetteville reserves the right to cancel previously approved special events due to unacceptable water quality, inclement weather or other valid reason."

**PASSED** and **APPROVED** this the \_\_\_\_ day of \_\_\_\_, 2009.

APPROVED:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

ATTEST:

By: \_\_\_\_\_  
**SONDRA SMITH**, City Clerk

**Fayetteville Parks and Recreation**  
Programs and Special Events  
*Special Event/Tournament Reservation Form*



---

**GENERAL INFORMATION:**

Organization: \_\_\_\_\_

Event Description: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (work) \_\_\_\_\_ (home) \_\_\_\_\_

(fax) \_\_\_\_\_ (cell) \_\_\_\_\_

Email: \_\_\_\_\_

Outside Vendor Info (please list name, contact information, promoter reporting number, and products and services vendor intends to sell during the event, for each vendor.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

---

**FACILITIES REQUESTED FOR TOURNAMENT/SPECIAL EVENT:**

Dates: \_\_\_\_\_

Times: \_\_\_\_\_

Facilities Requested: \_\_\_\_\_

\_\_\_\_\_

Maintenance Request: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Estimated Number of Participants/Teams: \_\_\_\_\_

Amount of Participant/Team Entry Fee \_\_\_\_\_

Amount of Spectator Entry Fee \_\_\_\_\_

Will this event include participants/teams  
not currently participating in your league \_\_\_\_\_

---

NOTE: Parks and Recreation reserves the right to cancel any program that does not meet established rules and regulations, or when the requesting group is unable or unwilling to adequately perform all required duties and responsibilities related to the event, or for similar cause. **Please Fax Request to 479-521-7714**

## Ball Field Rental Information

According to Fayetteville Code of Ordinances 97.016, Fayetteville Parks and Recreation has established fees to defray the costs of maintenance, trash clean up and removal of equipment use, water and electricity. Fayetteville Parks and Recreation has soccer fields at Lewis, Asbell and Walker Parks. Softball fields are available at Lake Fayetteville, Gary Hampton, and Wilson Park. Baseball fields are available at Walker Park and White River Baseball Complex. Fees are as listed below:

### Rental Fees

| <u>Softball</u>   | <u># of Fields</u> | <u>Description</u>    | <u>Daily Rate*</u> | <u>Daily Rate w/Lights</u> |
|-------------------|--------------------|-----------------------|--------------------|----------------------------|
| Gary Hampton      | (4)                | 300' fields w/ lights | \$85               | \$115                      |
| Lake Fayetteville | (3)                | 275' fields w/lights  | \$85               | \$115                      |
| Wilson            | (1)                | Approx. 200' w/lights | \$40               | \$60                       |

\*Additional \$25 for extra fencing for softball fields

| <u>Soccer</u> | <u># of Fields</u> | <u>Description</u>         | <u>Daily Rate**</u> |
|---------------|--------------------|----------------------------|---------------------|
| Asbell        | (2)                | 2 Full Size                | \$75                |
|               | (1)                | 2 8v8 fields               |                     |
| Lewis         | (4)                | 4 Fields that make two 8v8 | \$75                |
| Walker Park   | (2)                | Full Size                  | \$75                |

\*\*\$75 covers field layout as is; different field layout requires additional \$25 fee/per field; Lights are not available on soccer fields.

| <u>Baseball</u> | <u># of Fields</u> | <u>Description</u>   | <u>Daily Rate***</u> | <u>Daily Rate w/Lights</u> |
|-----------------|--------------------|----------------------|----------------------|----------------------------|
| Walker Park     | (8)                | Teeball - 12 & Under | \$40                 | \$60                       |
| White River     | (2)                | 315' Fields          | \$70                 | \$85                       |

| <u>Tennis</u> | <u># of Courts</u> | <u>Daily Rate*</u> | <u>Daily Rate w/ lights</u> |
|---------------|--------------------|--------------------|-----------------------------|
| Wilson Park   | (6)                | \$20               | \$35                        |
| Walker Park   | (2)                | \$20               | \$35                        |

### What This Fee Includes

The Rental Fee includes field preparation for tournaments and/or games; equipment in desired locations; painted/chalked fields; use of restroom facilities; use of concession stand; and use of scoreboards (where available). If score panels are missing or broken, renter is responsible. **ALL FIELD RENTALS MUST BE PAID IN ADVANCE.**

### Additional Services

A renter requests for Parks and Recreation Staff to be on call during the reserved time, a \$30 fee is required.

An additional \$35 fee/hour is required, plus cost of supplies, should the renter request these services due to inclement weather conditions. The supplies include chalk/paint and quick dry.

### Additional Information

For availability of fields and/or to obtain additional information regarding field reservations, contact the following individuals.

| <u>Youth Softball</u>    | <u>Soccer</u>           | <u>Adult Softball</u>   |
|--------------------------|-------------------------|-------------------------|
| Kevin Kyzer              | Tiffany Gaulke          | James Morrow            |
| Recreation Programs Mgr. | Recreation Programs Mgr | Recreation Programs Mgr |
| (479) 444-3471 x 474     | (479) 444-3471 x 369    | (479) 444-3471 x 681    |

### Advertising/Banners in Parks

According to City of Fayetteville Ordinances, tournament/special event organizers are not permitted to hang banners, posters, flyers or other printed advertising materials prior to the event. Sponsors are permitted to hang banners or posters in areas pre-approved by Parks and Recreation on the day of the event. Any pre-approved banner may not be displayed until the morning the event begins and must be removed at the completion of the event.

## Special Events

Special Events are permitted in Fayetteville Public Parks, provided the following guidelines are followed:

1. Special Event forms must be completed and submitted to Parks and Recreation no later than 14 days prior to the event. **Organizations requesting special events located at Lake Fayetteville that include a swimming component should apply no later than 90 days prior to the event.** Events will be reviewed and permitted on a case by case basis based on many issues including, but not limited to:

- Park Schedule
- Type/Size of Event
- Number of participants
- Size of Park
- Size of Parking Lot/Number of Parking Spaces

2. Events may not be exclusive. Events utilizing public parks must allow any person or resident the ability to participate.

**3. Special events located at Lake Fayetteville that include a swimming component shall be subject to the following regulations and determinations:**

- **Special event forms should be submitted to the Parks and Recreation Department no later than 90 days prior to the requested swim event.**
- **A fee of \$250 is required to reserve the Lake Fayetteville Park for a special event with a swimming component. An additional security deposit fee to ensure clean up and maintenance may also be required.**
- **The City of Fayetteville may require the event organizer to furnish proof of adequate liability insurance in the amount of \$2,000,000.**
- **The City of Fayetteville reserves the right to cancel swim events up until the time of the event due to unacceptable water quality data or other valid reasons, such as inclement weather.**
- **The Parks and Recreation Department shall designate the specific area(s) of the Lake where swimming shall be allowed during the special event and may prohibit boating in this area.**
- **The Parks and Recreation Department may require scuba divers to inspect the swim area prior to the event and remove all dangerous obstacles.**
- **The Parks and Recreation Department may require the presence of safety boats with certified medical personnel during swim events in case of emergency.**
- **The Parks and Recreation Department may require an on-site ambulance to be available for emergency purposes throughout the course of the event.**
- **Any alterations to Lake Fayetteville Park or the Lake will require the approval of the Parks and Recreation Department Director and shall be paid for by the event organizer. These may include, but shall not be limited to; buoys, underwater debris removal, installation of sand or gravel, etc.**
- **If additional Parks Staff is required to work an event a fee may be charged to recover these costs.**
- **The City of Fayetteville shall not be liable to users employees, agents, invitees, licensee, visitors, or to any other person for injury to person or damage to property on premises cause by the negligence or misconduct of user, its agents, servant or employees, or of any other person entering upon the premises under express or implied invitation by user. The City of Fayetteville does not warrant that Lake Fayetteville is safe or sanitary for any swimming event and**

**affirmatively warns the event organizer and all participants that the lake is inherently dangerous for swimming. No City lifeguard will be on duty. All swimming will be done at swimmers own risk and all must waive any possible claims against the City. The event producers agrees to obtain waivers of liability for all participants before they are allowed to swim and to indemnify an hold harmless the City from any loss, attorney's fees, an expenses or claims arising out of any such damage or injury. The City reserves the right to revoke this application at any time.**

4. Fund-raising Events - As stated by City Ordinance, No person in a park shall expose or offer for sale any article or thing, nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under that authority and regulation of the city and nonprofit groups on an annual basis (Ordinance 97.086)

5. Events raising money for non-profit organizations must provide a letter from the organizations Executive Director, acknowledging the event and the organizations participation.

6. The size of the event can not exceed the number of parking spaces in the selected park facility. Vehicles can only be parked in designated areas. Overflow parking can only be allowed at special events where Parks and Recreation and is supervising the event.

7. If there is an exchange of money/registration fee, a facility rental fee will be required for the event sponsor. **Each event carries a \$200 cleaning deposit** that must accompany the Event Request Form. This deposit will be returned provided the park and surrounding parking lots are left clean, free of trash and no damage is done to structures, gardens or parking areas (Ordinance 97.086).

8. According to Fayetteville's Code of Ordinances, tournament/special event organizers are not permitted to hang banners, posters, flyers or other printed advertising materials prior to the event. Sponsors are permitted to hang banners and/or posters in areas pre-approved by the Parks and Recreation Department on the day of the event. Any pre-approved banner may not be displayed until the morning the event begins and must be removed at the completion of the event (Ordinance 97.087).

9. No person in a park shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit obtained from the city (Ordinance 97.036).

10. If your event requires a key to a lock being checked out from Fayetteville Parks and Recreation, a \$100 security deposit must be submitted. Any key checked out from Fayetteville Parks and Recreation must be turned in on the next business day. Once a key is turned in, the security deposit is returned.

11. Any marking on trails or sidewalks is strictly prohibited. Any painting or marking on athletic fields with out specific permission from Parks and Recreation is also prohibited.

12. **Hold Harmless Clause:** The City of Fayetteville shall not be liable to users employees, agents, invitees, licensee, visitors, or to any other person for injury to person or damage to property on premises cause by the negligence or misconduct of user, its agents, servant or employees, or of any other person entering upon the premises under express or implied invitation by user. The event producer agrees to indemnify and hold harmless the City from any loss, attorneys fees, and expenses or claims arising out of any such damage or injury. The City reserves the right to revoke this application at any time.

As a representative for the group and event requested on this from, I understand the regulations applying to the use of Parks and Recreation facilities. I will assume responsibility for the adherence to these regulations and policies if the request is approved.

- The observance of applicable laws and ordinances;
- Any stipulations or restrictions of the permit;
- Any stipulations or rules outlined in the Special Event Request Form Instructions/Rules;
- The applicant assumes all liabilities that may arise



Signature of Applicant

Date

\_\_\_\_\_  
Recreation Superintendent

\_\_\_\_\_  
Parks Maintenance Superintendent

Staff comments are optional and are meant to assist you in planning a successful event.

Park Staff Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I accept the above conditions: \_\_\_\_\_

Signature of Applicant

**Office use only**

Cleaning Deposit: \_\_\_\_\_ date pd \_\_\_\_\_ Key Deposit: \_\_\_\_\_ date pd \_\_\_\_\_ CLEANED yes / no

Field Rental Fee: \_\_\_\_\_ # of Fields: \_\_\_\_\_

Total Amount paid: \_\_\_\_\_ Amount of trash and/or key deposit returned: \_\_\_\_\_

Markup changes to Chapter 97: Parks and Recreation. New language is shown shaded and in bold.

## **ARTICLE V RECREATIONAL ACTIVITIES**

### **97.065 Bathing And Swimming; Bathhouses**

- (A) No person in a park shall swim, bathe, or wade in any waters or waterways in any park, except in such waters as are provided therefore and except during such hours of the day as shall be designated by the city. Nor shall any person frequent any waters or places customarily designated for the purpose of swimming or bathing, or congregate thereat when such activity is prohibited by the city upon a finding that such use of the water would be dangerous or otherwise inadvisable. **Groups wishing to have a special event at Lake Fayetteville that includes swimming shall obtain a special use permit from the City Parks and Recreations staff, see section 97.071.**

### **97.070 Recreational Activities At Lakes Fayetteville, Sequoyah And Wilson**

- (E) *Boating.* A boating permit for each boat must be purchased before its use on the lake. All boats must be docked at the boat landing at lake closing time. No boats except those used by lake employees will be docked at any other location on the lake. **Boating may be closed to the public by the Parks and Recreation Department during a special event that includes swimming.**

### **97.071 Lake Fayetteville Special Use Permit for Events that Include a Swimming Component**

#### **A. Special events that include swimming.**

Special events that include a swimming component, such as a triathlon, may be permitted at Lake Fayetteville with a special use permit issued by the Director of the City Parks and Recreation Department. Such issuance will be at the sole discretion of the Director and should comply with the following:

- (1) A special event permit should be processed through the City Parks and Recreation Department at least 90 days prior to the event.
- (2) A water testing fee of \$250 and a special event fee in an amount sufficient to cover all City costs to administer the event shall be charged to the event organizer for the use of the Lake Fayetteville Park space and facilities. A further security deposit to ensure complete clean up or repair of any damage may be required. The Director may require an event organizer to obtain sufficient liability insurance and take measures to increase swimmers' safety.
- (3) The City does not warrant the safety or cleanliness of any lake for swimmers. Event organizers shall provide notice of the inherent danger of swimming in the lake to all persons requesting to swim and shall obtain waivers of liability and responsibility from the City of Fayetteville from all participants.
- (4) The City of Fayetteville reserves the right to allow swimming only in designated areas during the event and prohibit boating in these areas.
- (5) The City of Fayetteville reserves the right to cancel previously approved special events due to unacceptable water quality, inclement weather or other valid reason.



Rec'd  
11-03-09  
Jes

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NOV 03 2009

CITY OF FAYETTEVILLE  
CITY CLERK'S OFFICE

C. 3  
CUP 09-3389 Barking  
Bed & Breakfast Appeal  
Page 1 of 50

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NOV 03 2009

CITY OF FAYETTEVILLE  
CITY CLERK'S OFFICE

November 2, 2009

City Clerks Office  
P.O. Box 9211  
Fayetteville, AR 72703

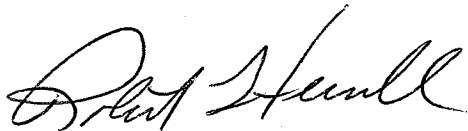
To Whom It May Concern:

Please accept this letter as notice to appeal the Planning Commission's decision regarding Conditional Use Permit (CUP 09-3389 Barking Bed & Breakfast).

Sincerely,

  
Melanie Chambers

Robert Ferrell

 11/02/09

Sarah Lewis

 11/03/09

Shirley Lucas



City Council Meeting of November 17, 2009  
Agenda Item Number

## **CITY COUNCIL AGENDA MEMO**

---

**To:** Mayor and City Council

**Thru:** Jeremy C. Pate, Director of Development Services 8

**From:** Andrew Garner, Senior Planner

**Date:** November 4, 2009

**Subject:** Planning Commission Appeal (CUP 09-3389) Barking Bed and Breakfast

---

### **BACKGROUND**

The subject property contains 1.94 acres and is located in the I-540 Design Overlay District (DOD) west of I-540 and Shiloh Drive on the north side of Old Farmington Road. Surrounding land uses include the Value Place Hotel to the north and east, office and duplexes to the south, and undeveloped wooded hillside zoned residential single family associated with future phases of the Mountain Ranch development to the west.

The applicant is appealing the Planning Commission's October 26, 2009 decision to deny CUP 09-3389 (Barking Bed and Breakfast). The conditional use permit request is to allow Use Unit 43 (Animal Boarding and Training) to allow for the construction of a 6,250 sq. ft. animal care facility including dog boarding, dog day care, pet grooming, pet portraits, animal behavior, and a small pet gift shop area. The development would accommodate a total of 80 dogs, three indoor play areas, large outdoor play areas, and 11 parking spaces. The hours of operation for the public retail and animal drop-off and pick-up would be Monday – Friday 7 AM – 6 PM; Saturday 10 AM – 4 PM; and Sunday 12 PM – 4 PM. The hours for animal play in the outside yard will be between the hours of 10 AM – 6PM.

### **RECOMMENDATION**

Staff recommends approval and the Planning Commission denied the request.

### **DISCUSSION**

This item was heard at the regular Planning Commission meeting on October 26, 2009. The Planning Commission voted 6-3-0 (commissioners Myres, Kennedy, and Cabe voting 'no') to deny the applicant's request. The main topic of discussion for the Planning Commission and a number of surrounding property and business owners was the potential adverse effects from dog barking in the outdoor dog play areas.

### **BUDGET IMPACT**

None.

Rec'd  
11-03-09  
Des

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NOV 03 2009

CITY OF FAYETTEVILLE  
CITY CLERK'S OFFICE

RECEIVED

NOV 03 2009

CITY OF FAYETTEVILLE  
CITY CLERK'S OFFICE

November 2, 2009

City Clerks Office  
P.O. Box 9211  
Fayetteville, AR 72703

To Whom It May Concern:

Please accept this letter as notice to appeal the Planning Commission's decision regarding Conditional Use Permit (CUP 09-3389 Barking Bed & Breakfast).

Sincerely,

  
Melanie Chambers

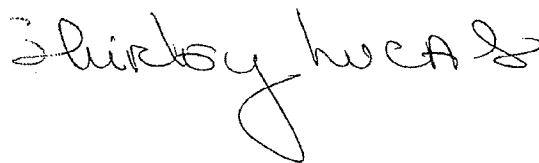
Robert Ferrell

 11/02/09

Sarah Lewis

 11/03/09

Shirley Lucas





PC Meeting of October 26, 2009

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: ~~October 20, 2009~~ Updated November 4, 2009

**CUP 09-3389: (M. CHAMBERS / BARKING BED & BREAKFAST, 558):** Submitted by STEVE CLARK for property located at 2650 OLD FARMINGTON ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.94 acres. The request is for Use Unit 43, Animal Boarding and Training, in the C-2, Thoroughfare Commercial, Zoning District.  
Planner: Andrew Garner

### BACKGROUND:

*October 26, 2009 Planning Commission:* This item was denied by the Planning Commission.

*Applicant Revisions for October 26, 2009 Planning Commission:* In response to the Planning Commission's request, the applicant has submitted schematic floor plans and interior photos, conducted a literature review and performed noise measurements and summarized the findings in a letter report to the Planning Commission. As a result of the study, the one proposed change by the applicant is to move the fence for the outdoor play area 80 feet from the west property line. Staff's findings and recommendations have not changed as a result of the new information presented by the applicant. This study has been attached to this report.

*October 12, 2009 Planning Commission:* This item was tabled by the Planning Commission in order for the applicant to provide more information regarding technical noise impacts from dogs barking associated with this development, would dog barking be audible at the property lines, the effectiveness of noise buffers/fences/vegetation to reduce the noise from the outdoor dog yards, and insulation/sound-proofing in the building to reduce dog barking noise outside the building. The Planning Commission also requested to see a floor plan or schematic of the building showing the indoor dog play areas, etc.

*Property:* The subject property contains 1.94 acres and is located in the I-540 Design Overlay District (DOD) west of I-540 and Shiloh Drive on the north side of Old Farmington Road. The site is developed with an old farmhouse and associated accessory structures and barns. The site has several trees scattered throughout the site and along the perimeter property lines. Surrounding land use and zoning is depicted on *Table 1*.

**Table 1**  
**Surrounding Land Use and Zoning**

| Direction from Site | Land Use                             | Zoning      |
|---------------------|--------------------------------------|-------------|
| North and East      | Value Place Hotel                    | C-2         |
| South               | Office; Duplexes on Greenpoint Trace | R-O; RMF-24 |
| West                | Undeveloped wooded hillside          | RSF-2       |

*Proposal:* The applicant is requesting a conditional use permit to allow Use Unit 43 (Animal Boarding and Training) to allow for the construction of a 6,250 sq. ft. animal care facility including dog boarding, dog day care, pet grooming, pet portraits, animal behavior, and a small pet gift shop area. The applicant is also proposing to subdivide this property and develop the animal care facility on the western approximately one-acre parcel. The development would accommodate a total of 80 dogs, three indoor play areas, large outdoor play areas, and 11 parking spaces. The hours of operation for the public retail and animal drop-off and pick-up would be Monday – Friday 7 AM – 6 PM; Saturday 10 AM – 4 PM; and Sunday 12 PM – 4 PM. The hours for animal play in the outside yard will be between the hours of 10 AM – 6PM.

*Public Comment:* Staff has received public comment from a several neighbors, property owners, and business owners in the vicinity objecting to this use discussing land use compatibility and adverse noise impacts to the surrounding commercial and residential uses. These comments have been attached to this report.

**RECOMMENDED MOTION:** Staff recommends approval of the requested conditional use for a full-service animal boarding and care facility (Use Unit 43) as proposed on the subject property with the following conditions:

1. **Planning Commission determination of compatibility of the proposed animal boarding and care facility.** *Staff finds that the proposed use is compatible with the following conditions of approval:*
  - a. Staff has concern that if a substantial visual and noise buffer is not in place, this proposed use, and in particular the outdoor play areas for dogs, could result in a major noise and visual nuisance for surrounding properties. In accordance with City ordinance, non-residential uses are required to be screened from residentially-zoned property, with the screening/buffer on the property that is being developed. In addition, with the recent adoption of Use Unit 43 Animal Boarding and Training, the code clearly states that this use may result in noise and aesthetic impacts without adequate buffers in place. The proposed property is adjacent to residentially-zoned property to the west. In accordance with code the western property line is required to be screened. A tree preservation area has been designated along a portion of the northern property line associated with the Value Place Hotel. This tree preservation area contains a stand of cedar trees. *To address compatibility issues staff recommends that:*



- *The entire outdoor dog play area be surrounded by a six-foot high wood board privacy fence and a dense planting of evergreen trees/tall evergreen shrubs adjacent to the outside of the fence, with the exception of the northern property line, where vegetative plantings are not recommended due to the adjacent tree preservation area. The fence along the eastern property line shall be moved approximately 12 feet off of the property line to allow adequate space for vegetative plantings. The wood board privacy fence is not required between the building/parking lot and the western property line; however, a dense planting of vegetation is required in this area to continue a buffer between the non-residential and residential uses. (See the attached diagram with the staff recommended buffer/screening.)*
  - *To ensure that the vegetated buffer grows into an effective screen the vegetation shall be installed with an irrigation system, or the developer shall deposit a 3-year maintenance bond for the vegetated buffer prior to issuance of a certificate of occupancy.*
  - b. *To further address potential noise nuisance issues from barking dogs from this business, if more than three dog barking complaints to the Fayetteville Police Department have been verified by the Planning Division within one calendar year, this conditional use permit may be returned to the Planning Commission for further review, to include additional conditions or revocation of the permit.*
- 2. The hours of operation for the public retail and animal drop-off and pick-up will be Monday – Friday 7 AM – 6 PM, Saturday 10 AM – 4 PM, and Sunday 12 PM – 4 PM. The hours for animal play in the outside yard will be between the hours of 10 AM – 6PM, every day.**
- 3. Solid waste service:**
- a. **In order to ensure that odors from animal waste of 80 dogs per day does not pose an odor problem to surrounding properties or result in environmental pollution, animal waste shall be disposed of in a commercial dumpsters in accordance with City Solid Waste requirements. Animal waste is not permitted to be composted or stored on site.**
  - b. **Trash service shall be coordinated with the Solid Waste Department with the location and dimension of the dumpster enclosure approved prior to issuance of a building permit. A commercial dumpster shall be screened from the right-of-way and adjacent properties with a screen constructed of materials that are complimentary and compatible with the principal structure. Elevations of the proposed dumpster enclosure should be submitted for review prior to building permit.**
- 4. Signage shall be permitted in accordance with the C-2, Thoroughfare Commercial zoning district.**

5. A Certificate of Zoning Compliance shall be required prior to the start of operations of the business.

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PLANNING COMMISSION ACTION: Required YES  
Planning Commission Action: ☐ Approved ☒ Denied ☐ Tabled  
Motion: Zant  
Second: Lack  
Vote: 6-3-0 (commissioners Myres, Kennedy and Cabe voting 'no')  
Meeting Date: October 26, 2009

Comments:

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The CONDITIONS OF APPROVAL listed in this report are accepted in total without exception by the entity requesting approval of this conditional use.

Name: \_\_\_\_\_

Date: \_\_\_\_\_

*Future Land Use Plan/City Plan 2025 Designation: City Neighborhood Area. A dense and primarily residential urban fabric. Mixed and low-intensity nonresidential uses are usually confined to corner locations. These areas have a wide range of residential building types. Guiding Policy A for City Neighborhood Areas states: Protect adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas with property mitigation measures that address scale, massing, traffic, noise, appearance, lighting, drainage, and effects on property values.*

**Sec 163.02. AUTHORITY; CONDITIONS; PROCEDURES.**

**B. Authority; Conditions.** The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

**C.** A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

**Finding:**     **The applicant has submitted a written application requesting a conditional use permit for Use Unit 43 within a C-2 zoning district.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

**Finding:**     **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:
  - (a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

**Finding:**     **The Planning Commission is empowered under § 161.18 (see attached) to grant the requested conditional use permit.**

- (b.) That the granting of the conditional use will not adversely affect the public interest.

**Finding:**     **The proposed full service animal care facility could result in adverse impacts to surrounding properties if appropriate measures are not in place. The main aspect of the business that could be adverse is the outdoor play area for the dogs. There are potentially sensitive surrounding property owners including low density residential zoning to the west, and commercially zoned property to the north, east, and south. In a facility of this size with a maximum of 80 dogs being boarded at one time, there will be a number of dogs playing outside and barking throughout the day. The applicant has indicated that a maximum of 25 supervised dogs will be allowed in the outdoor play area at one time. Dogs barking and unscreened outdoor animal play areas could pose adverse impacts in terms of noise, nuisance, odor, aesthetic, and property values to surrounding properties. This property is somewhat buffered from the Value Place Hotel to the north by a tree preservation area. In order to address adverse impacts staff recommends that the outdoor play areas be entirely screened with a six-foot wood board privacy fence, and that the fence be further screened and buffered with a dense vegetative planting of evergreen trees and tall shrubs on the outside of the fence. Along the north property line plantings are not recommended due to the existing preserved cedar trees on the adjacent property. The fence and plantings should**

thoroughly screen the view of the outdoor play area and the dogs from all surrounding property and the street right-of-way. This screen will not eliminate noise impacts, but should substantially muffle sounds and will visually screen views of the animal play yard.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

**Finding:** There are no specific rules governing this individual conditional use request.

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

**Finding:** Ingress and egress to the facility will be provided by a new driveway and parking lot. The existing curb cut for the residence on the adjacent lot to the east will be shared with the proposed business and placed within an access easement. The proposed driveway and access meet all City codes and should not pose any adverse impacts.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

**Finding:** Parking is proposed in accordance with City ordinance as indicated on the parking chart on the large scale development plans. As discussed in Finding 3.b., substantial screening and buffering of the outdoor dog play areas is recommended to ensure that adverse noise, visual, and ultimately economic effects on adjacent property are minimized to the extent practical. Glare should not be a problem to surrounding properties with compliance of the standard City lighting ordinance. Odors from animal waste disposal may pose an issue to adjacent properties if not disposed of properly. Staff has recommended a condition of approval that animal waste shall be disposed of in a commercial dumpster in accordance with City Solid Waste requirements and is not permitted to be composted or stored on site.

- (c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

**Finding:**     **The applicant shall coordinate with the Solid Waste Division for appropriate solid waste disposal.**

- (d.) Utilities, with reference to locations, availability, and compatibility;

**Finding:**     **Water and sewer service is currently available to the property.**

- (e.) Screening and buffering with reference to type, dimensions, and character;

**Finding:**     **As discussed in Finding 3.b., substantial screening and buffering of the outdoor dog play areas is recommended to ensure that adverse noise, visual, and ultimately economic effects on adjacent property are minimized to the extent practical. Staff recommends the entire outdoor dog play area be screened with a six-foot wood board privacy fence and a dense planting of evergreen trees and tall shrubs outside of the fence. Additionally, staff recommends the western property line where the proposed building and parking areas are located be screened from the adjacent residentially-zoned property with vegetative plantings, in accordance with ordinance screening residential and non-residential properties.**

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

**Finding:**     **Signs shall be permitted in accordance with the Thoroughfare Commercial, C-2, zoning district.**

- (g.) Required yards and other open space; and

**Finding:**     **N/A**

- (h.) General compatibility with adjacent properties and other property in the district.

**Finding:**     **Staff finds the building size and design similar to a barn is in keeping with the predominantly rural residential character of the site and neighborhood along Old Farmington Road. The proposed use for a full-service animal care**

facility will serve a community-wide or regional market due to the unique nature of the business. The location of this facility near a major transportation and commercial corridor provides relatively convenient access to an under undeveloped parcel that is somewhat screened with natural vegetation. The configuration of this site provides the opportunity to set the building and outdoor animal play areas away from the street. However, the nuisance noise that will be generated from a large number of dogs in the outdoor play areas every day is a concern and compatibility issue with the existing and future land uses. The adjacent use to the north is Value Place Hotel, which is an extended stay hotel. The noise from the proposed business could result in adverse impacts to this use where patrons chose a hotel for a quiet place to rest. To the west is undeveloped property zoned and planned for low-density single family residences as part of the Mountain Ranch Development. In the conceptual development plan for this area, large single family lots would have backyards adjacent to the western border of the proposed dog day care and outdoor dog play areas. To the immediate east is an existing single family residence that is currently being rented by the developer to a family. This property is zoned for commercial uses. To the south across Old Farmington Road are office uses and some nearby residential duplexes off of Green Point Trace. The proposed animal care facility could potentially conflict with all of these existing uses and future potential uses due to the nuisance noise from large numbers of dogs barking outside on a daily basis. To address this issue staff recommends that the existing fence row trees and brush be preserved, as generally indicated on the tree preservation plan. In addition to this natural buffer, staff recommends the outdoor dog play areas be surrounded by a six-foot wood board privacy fence, and a dense planting of evergreen trees and tall shrubs that will grow up to a height well above the fence. The combination of this natural and manmade buffer, and the natural location of this somewhat isolated site, would reduce the potential land use compatibility impacts to an acceptable level.

# **161.18 District C-2, Thoroughfare Commercial**

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

|         |                                                  |
|---------|--------------------------------------------------|
| Unit 1  | City-wide uses by right                          |
| Unit 4  | Cultural and recreational facilities             |
| Unit 5  | Government Facilities                            |
| Unit 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 18 | Gasoline service stations & drive-in restaurants |
| Unit 19 | Commercial recreation, small sites               |
| Unit 20 | Commercial recreation, large sites               |
| Unit 25 | Professional offices                             |
| Unit 33 | Adult live entertainment club or bar             |
| Unit 34 | Liquor store                                     |

(2) *Conditional uses.*

|         |                                            |
|---------|--------------------------------------------|
| Unit 2  | City-wide uses by conditional use permit   |
| Unit 3  | Public protection and utility facilities   |
| Unit 21 | Warehousing and wholesale                  |
| Unit 28 | Center for collecting recyclable materials |
| Unit 29 | Dance Halls                                |
| Unit 32 | Sexually oriented business                 |
| Unit 35 | Outdoor music establishments               |
| Unit 36 | Wireless communications facilities         |
| Unit 38 | Mini-storage units                         |
| Unit 40 | Sidewalk Cafes                             |
| Unit 42 | Clean technologies                         |
| Unit 43 | Animal boarding and training               |

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

|       |        |
|-------|--------|
| Front | 50 ft. |
|-------|--------|

|                                                 |        |
|-------------------------------------------------|--------|
| Side                                            | None   |
| Side, when contiguous to a residential district | 15 ft. |
| Rear                                            | 20 ft. |

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4727, 7-19-05; Ord. 4992, 3-06-07; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08; Ord. 5238, 5-5-09)

(QQ) *Unit 43. Animal Boarding and Training.*

(1) *Description.* Unit 43 consists of services such as animal boarding, training, kennels, outdoor animal daycare and related activities which have outdoor space for animal exercise and other activities and may therefore result in noise and aesthetic impacts and may pose compatibility issues when adjacent to commercial or residential uses without adequate buffers in place.

(2) *Included uses.*

|                               |
|-------------------------------|
| Animal boarding               |
| Animal training               |
| Kennels                       |
| Outdoor animal daycare        |
| Outdoor dog runs              |
| Other outdoor animal activity |

(Code 1965, App. A., Art. 6 (A), (F); Ord. No. 329, 10-1-85; Ord. No. 3165, 2-4-86; Ord. No. 3341, 3-15-88; Ord. No. 1747, 6-29-70; Code 1991, §§118.01, 160.055; Ord. No. 3546, 4-19-91; Ord. No. 3792, §§2, 3, 5-17-94; Ord. No. 3870, §1 (Ex. A), 2-21-95; Ord. No. 3909, §1, 7-18-95; Ord. No. 3971, §§3, 4, 5-21-96; Ord. No. 4024, §3, 3-18-97; Ord. No. 4034, §§1, 2, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4376, §5 (Ex. E), §6 (Ex. F), 3-5-02; Ord. No. 4423, §1 (Ex. A), 10-02-02, Ord. 4728, 7-19-05; Ord. 4913, 8-15-06; Ord. No. 4919, 09-05-06; Ord. 4930, 10-03-06; Ord. 4946, 11-21-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5203, 12-2-08; Ord. 5195, 11-6-08; Ord. 5226, 3-3-09; Ord. 5238, 5-5-09)

Cross reference(s)--Use Conditions, Ch. 163;  
Supplementary District Regulations, Ch. 164.



**CUP 09-3389 BARKING BED AND BREAKFAST**

**NOISE LETTER REPORT AND SCHEMATIC  
FLOOR PLANS**

**SUBMITTED BY  
APPLICANT FOR**

**OCTOBER 26, 2009 PLANNING COMMISSION**



J. STEVE CLARK, P.E.

CIVIL / ENVIRONMENTAL ENGINEERING

October 17, 2009

Fayetteville Planning Commission  
City of Fayetteville,  
Fayetteville , AR 72701

Re: Large Scale Development  
Barking Bed and Breakfast  
2650 Old Farmington Road  
Fayetteville, Arkansas

Dear Sirs:

As requested at the October 12, 2009 planning commission meeting, I have performed additional research on sound screening. The principal document used in this report is from the Federal Highway Administration website. The document was intended primarily for sound barriers along highways, but the science is applicable to sounds in general. I will summarize my findings in this report and will also provide data from personal measurements and calculations.

The amount of sound that is received by a receiver is dependent on several factors, including distance from the source, sound absorbed by the ground, sound blocked by barriers. Other factors have minor effects sound transmission but will not be covered in this report.

### Sound Reduction due to Distance

The biggest factor in the perception of noise is the distance from the sound source. As distance increases the sound levels decrease on a logarithmic scale. As you double the distance the sound decreases by 6 dB.

The reduction of sound due to distance is calculated by the following equation:

$$L_2 = L_1 + 20 \cdot \log_{10}(d_1/d_2) \text{ dB(A)}$$

where: L1 is the sound level at distance d1;  
and L2 is the sound level at distance d2.

### Sound Reduction due to Ground Effect

Research has shown that the ground surface can increase or decrease the perception of sound depending on whether the surface is capable of absorbing the sound or is reflective. Soft surfaces such as grass, dirt, and other vegetative surfaces tend to absorb sound at the rate of 1.5



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dB with each doubling of the distance. Hard surfaces are usually ignored in the calculations as they provide no reduction in value.

### Sound Reduction due to Barriers and Screens

Fences and vegetative buffers can provide a limited reduction the perception of noise. However the primary benefit seems to be psychological, ie. the noise source is not visible and therefore less distracting and objectionable. For constructed barriers to be effective they must solid and tall enough to shield the receiver from the sound.

Due to the nature of the sound waves a barrier is only effective for the receivers that are located within the "shadow" of the wall. As the distances from the wall increases the benefit of the barrier decreases. The other variable is the height of the sound source relative to the top of the wall. The lower the source the better the wall works, in the case of dogs close to the ground the walls are more effective than for taller sources.

Wood fences as constructed in most home yards provide limited benefit, due to the nature of the materials used in the construction. The wooden boards themselves are effective at blocking the sound waves, however as the boards shrink the gaps between them open allow the sound to pass around the boards. Additionally the height of the fences are such that by the time a receiver is 10 to 15 feet away from the fence, the sound waves have transmitted over the top and expanded to the receiver.

Vegetative screens will provide a reduction in sound transmission of approximately 5 dB if they are a minimum of 15 feet in height and completely obstruct the line of sight between the source and receiver. In the case of a greater width of vegetative buffer, up to 100 feet wide, a reduction of 10 dB is achievable.

### Results of Field Testing

I purchased a digital sound level meter to verify the information presented in the above section. I first tested the meter in my backyard using my neighbors dogs as a sound source. The peak sound levels at my back door from the barking dogs was 65 dB. It was obviously much higher at the property lines

#### Outside my House

|                 |             |              |
|-----------------|-------------|--------------|
| Sheltie Collie  | 98 dB @ 1'  | 76 dB @ 20'. |
| Pitbull/Lab Mix | 82 dB @ 10' | 65 dB @ 80'  |

These values correlated well with the predicted values in the literature and estimated by the equations.



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I also went to the Dog Party USA business in Tontitown, for sound measurements. Inside the kennel area the volume was rather loud. In order to achieve worst case measurements the owners and employees agitated the dogs to get as many barking at a time as possible.

I took measurements at the muzzle of the animals that were barking loudest and also general readings inside the kennel area and just outside the closed exterior metal door of the kennel area. There were 38 dogs inside the kennel, but there were only 6 to 10 dogs barking during the peaks levels of testing.

Kennel Measurements

|                |             |
|----------------|-------------|
| Muzzle of dog  | 118 dB @ 0' |
| Inside Kennel  | 106 dB      |
| Outside Kennel | 65 dB       |

I also observed the large dogs when they were taken outdoors to play. Upon initially exiting about half of the dogs stopped to urinate. Then they began to run around the play yard, surprisingly there was very little barking at first.. I was observing the dogs from approximately 100 feet separation.

After a few minutes of play one of the dogs noticed my presence and barked alerting the other dogs. They ran to my location and 5 or 6 barked and growled at me. After recording the sound levels I proceeded to agitate the dogs more and the sound levels increased.

After a few minutes most of the dogs became bored with me and the handlers called them away. I then recorded a few barks from dogs still alerting on me from a distance of 50 feet. As the dogs returned to play I could not obtain consistent maximum reading, beyond 100 feet, from the barking due to the proximity of Highway 112. The sound levels from the tires of passing vehicles was louder than the barks from the dogs.

Outside Kennel during Playtime

|                         |              |
|-------------------------|--------------|
| Alerted on Intruder     | 87 dB @ 10'  |
| Agitated by Intruder    | 98 dB @ 10'  |
| Alert Bark at Stranger  | 75 dB @ 50'  |
| Barking at Stranger     | 65 dB @ 50'  |
| Peak Barking at Play    | 60 dB @ 100' |
| Typical Barking at Play | 50 dB @ 100' |
| Loud Tires at 45 mph    | 87 dB @ 10'  |
| Typical Tires at 45 mph | 75 dB @ 10'  |
| Typical Tires at 45 mph | 65 dB @ 50'  |



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## Measured Sound Levels at Motels

The existing motels near the project have expressed concern that their customers might complain about excess noise that potentially could emanate from the dog play yard. The existing noise levels from the adjacent highway and frontage roads is significantly higher amplitude than the sound calculated to come from the dog play yard.

Measured values were identified as steady background levels. These were the values when the cars were traveling along the roadway and are typically the lowest range except when there is no traffic.. Average range is when a combination of cars and trucks or multiple vehicles passed by the measurement points. The loudest values were typically when two or more Semi's drove by. These are reported as maximum values

Measured sound levels at various points around the motels on a Sunday afternoon at 2:00 pm produced the following values:

| Motel                             | Steady | Average | Maximum |
|-----------------------------------|--------|---------|---------|
| Northeast Corner Travel Lodge     | 65 dB  |         | 84 dB   |
| Southeast Corner Travel Lodge     | 61 dB  | 65 dB   |         |
| West side of Regency 7            | 60 dB  | 70 dB   | 85 dB   |
| Southwest Corner of Value Place   | 55 dB  | 65 dB   | 75 dB   |
| West side Parking Lot Value Place | 55 dB  | 65 dB   | 75 dB   |
| Northwest Corner Comfort Inn      | 60 dB  | 70 dB   | 85 dB   |
| Front of Comfort Inn              | 60 dB  | 70 dB   | 80 dB   |

## Calculations of Anticipated Sound Levels

Based on the field measurements and using the equations for sound transmission I have estimated the sound levels at the motel exterior walls of dogs barking inside the fenced enclosures. The values reported have also been reduced by 5 dB for the ground absorption due to soft ground for 32 feet minimum between the fences and property lines. This is the worst case scenario for the Value Place. For all other motels the actual reduction is likely 10 dB or more due to the extensive yard area on the east side of the lot.

| Motel        | Distance from Fence | Sound Level | Average Highway Noise Level |
|--------------|---------------------|-------------|-----------------------------|
| Value Place  | 125 Feet            | 63 dB       | 65 dB                       |
| Travel Lodge | 250 Feet            | 57 dB       | 65 dB                       |
| Regency Inn  | 390 Feet            | 43 dB       | 70 dB                       |
| Comfort Inn  | 490 Feet            | 41 dB       | 70 dB                       |



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Residential neighbors

| Neighbor                                | Distance<br>from Fence | Sound Level<br>W/O Veg. Buffer | Sound Level<br>W/ Veg. Buffer |
|-----------------------------------------|------------------------|--------------------------------|-------------------------------|
| Future Residential<br>Neighbors to West | 80 feet                | 53 dB                          | 48 dB                         |
| Existing Neighbor<br>to West            | 654 Feet               | 36 dB                          | 36 dB                         |
| Existing Neighbor<br>to South           | 260 Feet               | 45 dB                          | 40 dB                         |

Conclusions and Recommendations

Based on the information obtained from literature, my field observations and measurements, it is my opinion that the only area that really needs a dense vegetative buffer is the west side of the play yard. This buffer will only be needed in the future after Mountain Ranch development is built and homes constructed adjacent to this project.

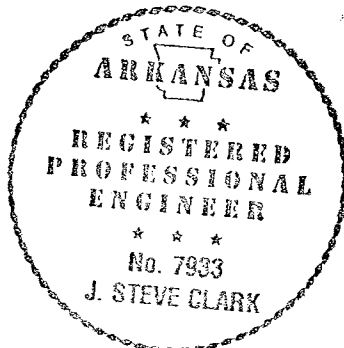
For the motels to the east the highway noise is louder than any of the barking noises that will be projected from the dog play yard.

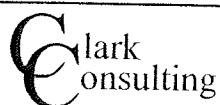
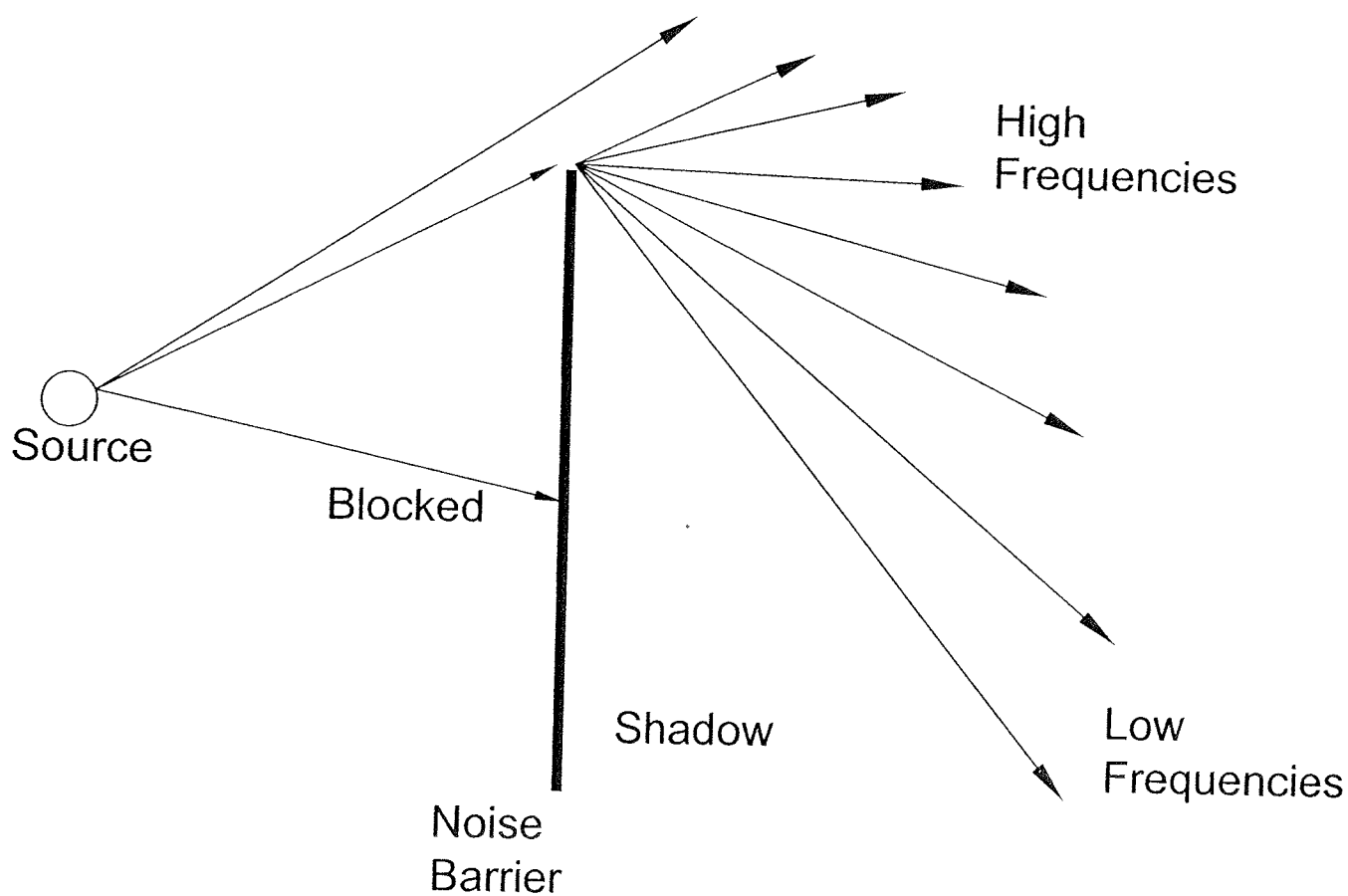
The one proposed change in this submittal is to relocate the west play yard fence to the east. The play yard fence will have a minimum separation distance from the west property line of 80 feet. This will be the small dog play yard. The large dog play yard will be separated by a minimum distance of 100 feet.

Sincerely,  
Clark Consulting

A handwritten signature in black ink, appearing to read 'J. Steve Clark'.

J. Steve Clark, P.E.





CIVIL / ENVIRONMENTAL ENGINEERING

3715 Business Drive, Suite 202 Fayetteville, AR 72703 (479)444-8171

SCALE: NTS

DATE REVISED:

CHECKED BY:

DRAWN BY:

DATE: 10/18/09

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JSC

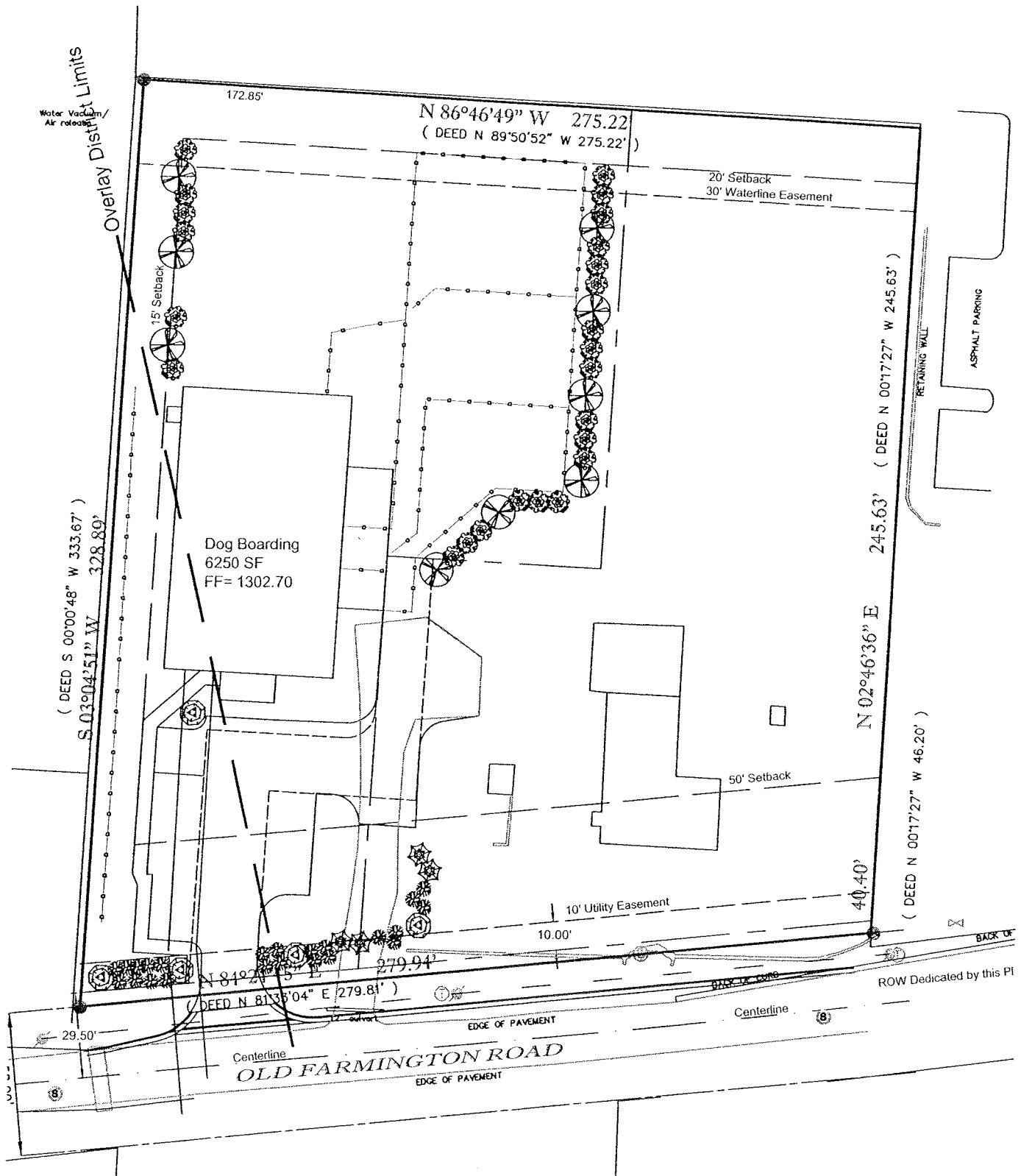
jsc

Barking Bed and Breakfast

Sound Barrier Graphic

1

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CIVIL / ENVIRONMENTAL ENGINEERING

3715 Business Drive, Suite 202 Fayetteville, AR 72703 (479)444-8171

SCALE: NTS

DATE REVISED:

CHECKED BY:

DRAWN BY:

DATE: 10/19/09

JSC

jsc

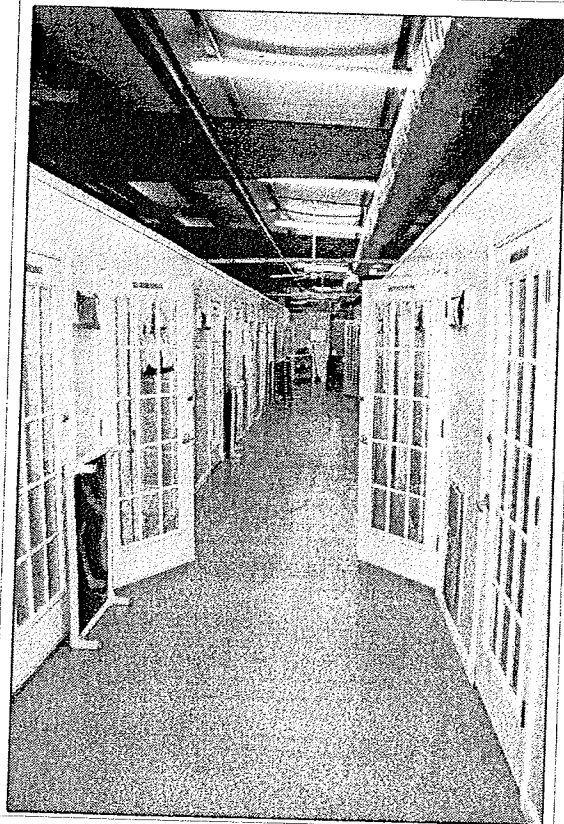
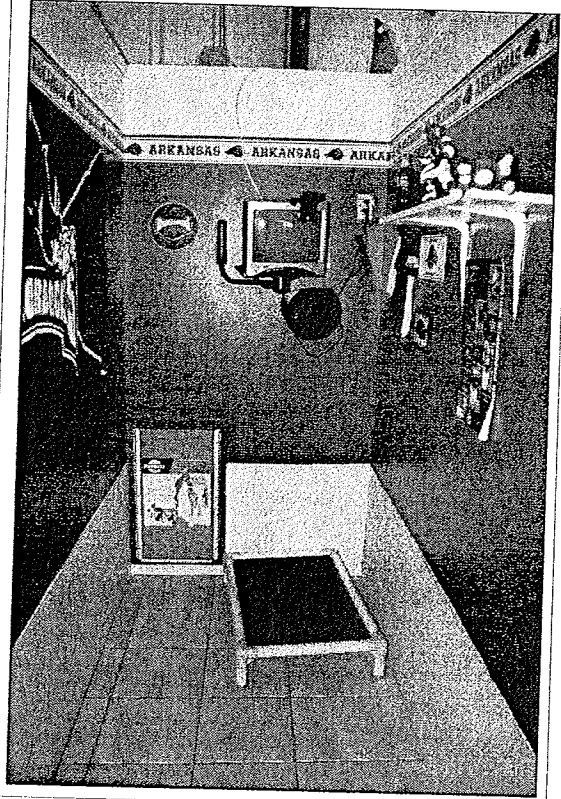
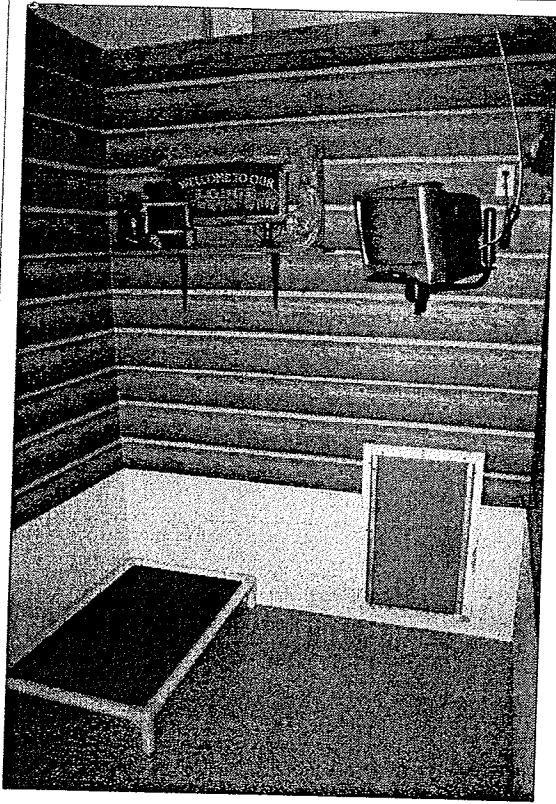
Barking Bed and Breakfast

Fence and Vegetative Buffer Plan

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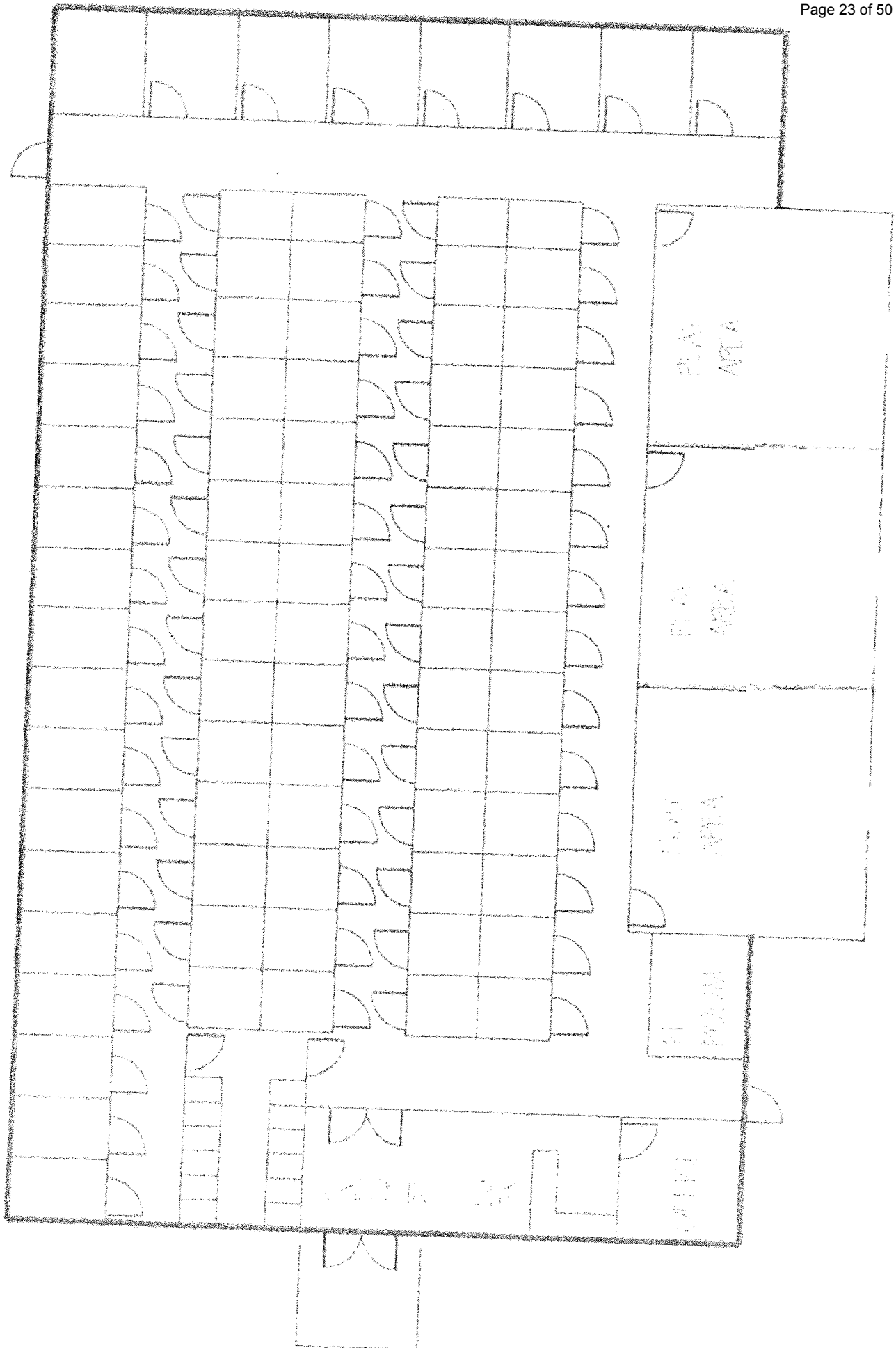
Civil Engineering, Environmental Engineering, & Planning

1705 Joye St  
 Springdale, Arkansas 72762

(479) 750 - 2407

|                           |              |            |          |
|---------------------------|--------------|------------|----------|
| SCALE: As Shown           | DATE REVISED | CHECKED BY | DRAWN BY |
| DATE: 10/18/09            | ----         | JSC        | ----     |
| Barking Bed and Breakfast |              |            |          |
| Photographs               |              |            |          |

1  
1



## CUP 09-3389 BARKING BED AND BREAKFAST

### WRITTEN PUBLIC COMMENT:

| Date of Correspondence | Author             | Address                              | Interest                                              |
|------------------------|--------------------|--------------------------------------|-------------------------------------------------------|
| 10/8/2009              | Jeff Hawkins       | 2824 W. Old Farmington Road          | Neighbor                                              |
| 10/12/2009             | Ramsay Ball        | 802 SE Plaza Ave., Bentonville       | Mountain Ranch Subdivision                            |
| 10/12/2009             | Evelyn Shaw        | 929 S. Maestri Rd., Springdale       | Neighbor of Dog Party USA                             |
| 10/15/2009             | Bhupendra G. Patel | 675 South Shiloh Drive, Fayetteville | Regency 7 Motel                                       |
| 10/15/2009             | Michael Sindelar   | 105 Palak Drive, Fayetteville        | Krushiker Hospitality Group                           |
| 10/15/2009             | Shirley Mills      | 915 Krupa, Fayetteville              | Hampton Inn (sales)                                   |
| 10/15/2009             | Donna Huff         | 915 Krupa, Fayetteville              | Hampton Inn (front desk manager)                      |
| 10/15/2009             | Susah Fisher       | 915 Krupa, Fayetteville              | Hampton Inn (general manager)                         |
| 10/23/2009             | Montine McNulty    | 603 South Pulaski, Little Rock       | Arkansas Hospitality Association (executive director) |

From: Jeff Hawkins <jeff\_l\_hawkins@hotmail.com>  
To: <agarner@ci.fayetteville.ar.us>  
CC: Fayetteville JeremyPate <jpate@ci.fayetteville.ar.us>  
Date: 10/8/2009 3:47 PM  
Subject: CUP Comments-Dog Boarding Facility

Andrew,

As you know, I live at 2824 W. Old Farmington Road, with one parcel of property (357') separating my property from the (2650 Old Farmington Rd.) property being considered for an 80-dog boarding facility with outdoor "play" areas. I can't emphasize enough how strongly I oppose the approval of a conditional use permit for this use.

I understand that conditional uses may or may not be appropriately located due to their unusual or unique characteristics of operation and external effects. And given their unique character, analysis and judgment of the consequences of each development and use must be given so as to provide for the prohibition of a particular use, or for reasonable conditions and protective restrictions as are deemed necessary to protect the character and integrity of the area in which such a use is proposed to be located. In my opinion, mitigating the noise that will be associated with this facility cannot realistically be achieved. Besides having a family member who medical specialists have said needs restful sleep, there are several noise sensitive uses in the area. In fact, there are 4 motels within 600' of this property, with hundreds of rooms that would be impacted by noise. In my opinion, an 80-dog boarding facility with outdoor "play" areas is not a compatible use for this area, and neither screening nor other conditions can make it compatible.

I believe the applicant mentioned Dog Party on Hwy. 112 in Tontitown as being a comparable facility. I was present when the owner of that facility asked for city approval that would have allowed them to expand their 40-dog facility. Others property owners in the area--some over 800' away--said that noise from barking dogs was already a serious problem, and urged the city not to do anything that would allow its expansion. As I recall, they said that "the level of noise and odor already exceeds maximum neighborhood tolerance levels."

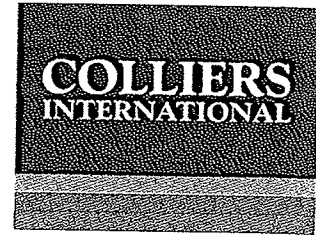
Besides the Hwy. 112 facility, I would hope that noise problems/complaints associated with other similar facilities would be considered as well. The boarding facility on Crossover may be another useful comparison. These type of facilities may be needed in NWA, but one at this particular location is ill-advised. It will adversely affect adjoining uses, property values, business operations, and will have detrimental consequences to the peace and tranquility of the area.

I plan to attend the planning commission meeting and will have additional comments at that time. If possible, please make this e-mail available to planning commission members. Thank you for your consideration.

Jeff Hawkins

2824 W. Old Farmington Road

Fayetteville, AR 72704



Commercial Real Estate Services  
802 SE Plaza Avenue  
Suite 104  
Bentonville, AR 72712  
Phone 479.636.9000  
FAX 479.254.3799  
[www.colliersarkansas.com](http://www.colliersarkansas.com)

October 12, 2009

Fayetteville Planning Commission

Ladies and Gentlemen,

I represent the owners of Mountain Ranch subdivision, located adjacent to the proposed dog kennel at 2650 Old Farmington Road.

We have reviewed this application and oppose it. The impact to a master-planned 460 acre development is substantial. Dog kennels create both noise and odor issues. I have direct experience with a kennel that impaired the sale of property adjacent to it and created a environmental and financial burden to the adjacent property owner,.

While I recognize the need for such facilities, kennels are more suited to rural or industrial locations, where noise and odor are not as critical to neighboring uses. They are not suitable adjacent to residential, commercial or office uses.

Please deny this application.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ramsay Ball". The signature is written in a cursive, somewhat stylized script.

Ramsay Ball

*Evelyn Shaw*

929 S MAESTRI RD SPRINGDALE, AR 72762  
TEL 479 3812811

evelynshaw@mac.com  
October 12, 2009

To: Members of the Fayetteville Planning Commission:

Because an applicant requesting approval of a doggie day care facility by the Fayetteville Planning Commission has cited the example of Dog Party USA on Highway 112 in Tontitown as the type of business they wish to establish in Fayetteville, I have been asked to provide you with information as to how it affects us having this business as neighbors. This type of business causes conflict with the residents who must live within proximity of the noise and the appearance that is created.

Dog Party has a license for 40 dogs and our property is located directly across the road. The closest point for our home is 425', with the farthest point from them in our yard about 1000' feet. We find the noise objectionable on a daily basis, both in terms of noise levels and duration. We hear the dogs barking beginning as they are let out each morning, with *our sliding doors and windows closed*. We hear the dogs barking throughout our entire yard.

To cite **specifics as to the problems** this business creates in our daily lives:

- We must keep our windows and sliding doors closed at all times throughout the daylight hours due to the noise levels. This means not only do we no longer enjoy the fresh air we believe to be healthy for us and our home, but the costs of always having to pay electricity for air conditioning is an additional expense we didn't have prior to the business coming to the neighborhood 4 years ago.
- We have spent \$7,000 dollars in an effort to mitigate the noise by building a recirculating waterfall to drown out the noise so we can enjoy our west deck at the most distant point from the business.
- We have spent over \$14,000 in an effort to build berms and plant vegetation to help absorb the noise...*not especially effective I might add.*
- The factors that others would not consider unless they lived here: ***The dogs bark every day of the year.*** That means that we hear them as we open our Christmas gifts as a family, we must endure the noise with summer swim activities with our children and grandchildren; our family dinners to celebrate birthdays, Mother's Day, Thanksgiving, Easter are always with the annoyance of this additional noise. We no longer enjoy going out to do the gardening we had always enjoyed previously. In short, the nuisance barking has diminished the joys of everyday living in this location.

We would never have purchased our property and located our home here or we would have sold 5 years ago had we known this nuisance barking was in our future. The possibilities of selling our property for any reasonable price seems dim, due to the noise. Most businesses, whether a drive through or sit down restaurant, a professional office, or even a used car lot would not wish to be here with these annoying sounds. Of course, we don't envision anyone ever wishing to buy our home to live here, which means property values have been severely compromised.

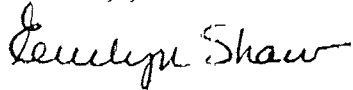
**I believe the most revealing picture I can paint is this:**

*When the business requested to expand with the Tontitown Planning Commission this past summer, not a single person residing in the area spoke up at the meeting in favor of this request. In fact, property owners representing 19 parcels representing some 200 acres asked that expansion be denied...which it was...unanimously.*

None of our objections have any basis in the personalities of the owners of this business, but solely relate to the impact of the type of business. As you make your decision, I feel it should be based upon whether this land use is compatible for those who have already invested their resources and their lives in their homes and businesses.

Because this type of business has been so objectionable to our lives, I believe you should consider the first hand experience we have had in a situation that sounds remarkably similar to the one you are being ask to evaluate.

Sincerely yours,



Evelyn Shaw

## *Regency 7 Motel*

*675 South Shiloh Drive  
Fayetteville, AR 72704*

---

To: Fayetteville Planning Commission Members

Regarding: CUP 09-3389 (Location: 2650 Old Farmington Road)

My name is Bhupendra G. Patel. I own and manage Regency 7 Motel located at 675 South Shiloh Drive. My property is located north of the proposed 80-dog boarding facility. I have owned and lived at this property for the past 4 years.

I, along with my fellow property owners and managers, highly oppose the facility. As a hotel owner, I would like to offer a pleasant and quiet experience for my customers. If this proposed facility is erected I will loose my business along with my fellow hoteliers. This facility will create intolerable nuisance for the surrounding area. As we all know, there is no way to diffuse the noise generated with the animals which will occupy the facility. These types of facility are needed but not near commercial and residential locations. I would highly encourage the owners of the dog facility to scout other locations possibly outside the city limits.

In conclusion, I greatly contest the proposed dog facility located near my property. I, along with my surrounding property owners, would be grateful if the dog facility proposal is denied.

Thank You,



Bhupendra G. Patel





October 15, 2009

Mr. Jerry Pate  
City Planning Division  
113 West Mountain Street  
Fayetteville, AR 72701

Dear Mr. Pate,

I am the Regional Operations Manager for the Hampton Inn located in Fayetteville, Arkansas. It has come to my attention, that a proposal for a planned dog kennel / boarding facility is currently being evaluated, and that it would be located very near to the Hampton Inn.

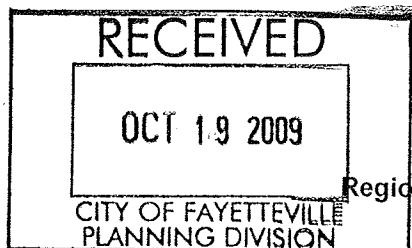
Please understand that I have some very serious concerns and reservations about a dog kennel / boarding facility of this nature and size being located so close to our hotel, and indeed, other lodging facilities in the same neighborhood. I anticipate that our hotel customers will be subjected to frequent, if not constant, dog barking noise from the facility... which obviously is not conducive to a good night's rest. To further validate my position, please be aware, the Hampton Inn corporate office (Hilton Worldwide, Memphis, TN) mandates that our hotel participate in their "100% Satisfaction Guarantee" program, which means that any hotel customer is entitled to a 100% refund of their lodging fees if they are not satisfied with any facet of their visit to our hotel. I can only imagine, that the continuous sound of multiple barking dogs, during all possible hours of the day and night, will generate a lot of potential complaints, and therefore a multitude of 100% refunds to be issued by our Hampton Inn.

It is my hope, that the Planning Commission will consider our situation when evaluating the potential impact of this dog kennel / boarding facility on the local community and business. It is my belief, that such a facility should be located in a more rural / isolated area.

Thank you for your consideration.

Sincerely,

Michael Sindelar  
Regional Operations Manager  
Email: msindelar.khg@gmail.com



Krushiker Hospitality Group, Inc.  
Regional Office: 1305 Palak Drive, Fayetteville, AR 72704  
Phone: 479.871.6355 Fax: 479.442.5005

Krushiker Hospitality Group, develops, owns and operates premium brand hotel properties.



Fayetteville Hampton Inn

915 Krupa Drive, Fayetteville, AR 72704

C. 3  
CUP 09-3389 Barking  
Bed & Breakfast Appeal  
Page 31 of 50

tel: **479.587.8300**  
fax: 479.587.8301

Oct.15, 2009

City Planning Division  
113 West Mountain Street  
Fayetteville, AR 72701

To Whom It May Concern:

This is in reference to the dog kennel\boarding facility that is planning to build in South Fayetteville.

I am the Director of Sales at the Hampton Inn in Fayetteville and I want to express my feelings of opposition to building a dog kennel\boarding facility in an area that is located close to a residential area and close to several existing Hotels. The noise of 80 dogs barking periodically throughout the day and night will certainly interrupt our guests that have come to our Hotel for quite rest and sleep. This will cause a lot of complaints and unfortunately cost our Hotel revenue since we have a 100% guarantee if our guests aren't completely satisfied.

Please take in consideration of the impact this would have on this area with the noise level it would create.

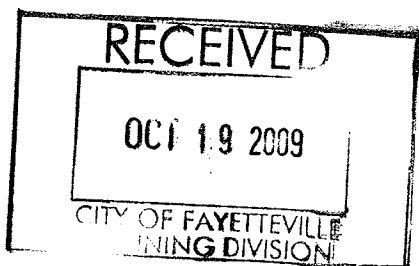
It is my belief a dog kennel\boarding facility of this capacity should be located in a rural area.

Thank you for your consideration of this issue.

Shirley Mills  
Director of Sales  
Fayetteville Hampton Inn

[shirley.mills@hilton.com](mailto:shirley.mills@hilton.com)

Fayetteville Hampton Inn  
915 Krupa  
Fayetteville, AR 72704  
479-587-8300 Fax 479-587-8301



USA  
official sponsor





Fayetteville Hampton Inn

915 Krupa Drive, Fayetteville, AR 72704

C. 3  
CUP 09-3389 Barking  
Bed & Breakfast Appeal  
Page 32 of 50

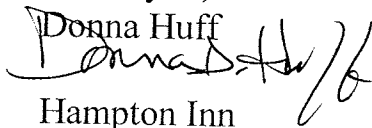
tel: **479.587.8300**  
fax: 479.587.8301

Jeff Pate  
City Of Fayetteville  
Planning Commission  
113 West Mountain Street  
Fayetteville, AR 72701

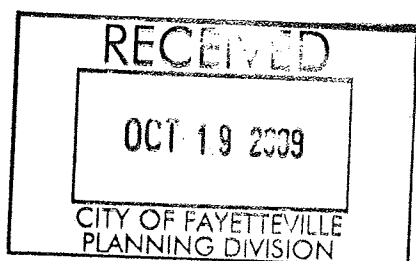
Dear Sirs,

I am Front Desk Manager at the Hampton Inn Fayetteville and I wish to say that I am opposed to the site for housing 80 dogs in our area. We are a business where the clients do not and will not take kindly to any untoward noise whatsoever. Our guest come for rest and relaxation after a hard days traveling and will not use our facility if they find themselves uncomfortable in any manner. In reference to our clientele, Hampton Inn has a 100% Satisfaction Guarantee Policy which they may invoke for any reason. I believe we will lose thousands in revenue if the kennel goes in as proposed.

Thank you,

Donna Huff  


Hampton Inn  
915 Krupa Drive  
Fayetteville, AR 72704  
(479) 587-8300



USA  
official sponsor





Fayetteville Hampton Inn

915 Krupa Drive, Fayetteville, AR 72704

C. 3  
CUP 09-3389 Barking  
Bed & Breakfast Appeal  
Page 33 of 50

tel: **479.587.8300**  
fax: 479.587.8301

Thursday, October 15, 2009

Fayetteville Planning Committee  
113 West Mountain St.  
Fayetteville, AR 72701

Dear Sirs;

I am the General Manager of the Hampton Inn Fayetteville, Arkansas. I understand the planning committee is evaluation plans for a dog kennel near our Hotel. I am very opposed to the kennel due to the noise level of 80 barking dogs. The motto of all Hampton Inn's is a Clean, **Quite**, Comfortable room or your money back. I do not think 80 barking dogs will be conducive to our pledge. I think a dog kennel is a great idea but not so close to a business where guests are sleeping at all times of the day or night.

I hope you will consider our position before you make a decision that will impact so many businesses on Shiloh Dr. I am sure there are other locations on the outskirts of our city.

Sincerely,

*Susan Fisher*  
Susan Fisher

General Manager

Hampton Inn

915 Krupa Dr.

Fayetteville, AR 72704

RECEIVED

OCT 19 2009

CITY OF FAYETTEVILLE  
PLANNING DIVISION

USA  
official sponsor



# Arkansas Hospitality Association

*Representing Arkansas Restaurant Association, Arkansas Lodging Association, and Arkansas Travel Council*

603 S. Pulaski • P.O. Box 3866 • Little Rock, AR 72203 • Phone (501) 376-2323 • Fax (501) 376-6517  
E-mail: [aha@arhospitality.org](mailto:aha@arhospitality.org) • Web Site: [www.arhospitality.org](http://www.arhospitality.org)

October 23, 2009

Fayetteville Planning Commission  
c/o City of Fayetteville  
113 West Mountain Street  
Fayetteville, Arkansas 72701

Re: CUP 09-3389 (Barking Bed & Breakfast - 2650 Old Farmington Road)

Dear Ladies & Gentlemen:

The Arkansas Hospitality Association is a non-profit advocacy organization representing the interests of the restaurant, lodging, travel, and tourism industries in the state. Among the organizations we represent are: the Arkansas Restaurant Association; the Arkansas Lodging Association; and the Arkansas Travel Council. The above referenced proposal, to locate an 80-dog boarding facility within a few hundred feet of several motels, is very concerning and presents the very real likelihood of creating serious adverse noise and odor impacts to these surrounding businesses. As such, we have reviewed information available on the city's website regarding this application.

We are acutely aware of the sensitivity motels have to the issue of nuisance noise, and that there is a significant difference between steady highway type noise, and the piercing intermittent type nuisance noise associated with barking dogs. Based upon the information available on-line, we believe that the representatives of the motels have every right and justification for expressing their concerns and objections to such a facility being located in such close proximity to their respective operations.

The applicant has not met their burden of demonstrating that compatibility can be achieved, and that potential noise and odor nuisances to the surrounding area can somehow be mitigated. The noise report that was subsequently submitted by the applicant's representative, who previously advised the planning commission that noise was not within his area of expertise, is insufficient in providing expert analysis or advice. There is a lack of supporting information, evidence, or studies that the suggested buffering would be adequate to address nuisance noise; odor considerations are largely unaddressed; an objective analysis by a true noise expert has not been performed; and there appears to be an absence of any comparisons of similar facilities and their impact on surrounding properties. As such, the burden of demonstrating compatibility is still unmet.

In our view, an 80-dog boarding facility, with outside play areas, is not a suitable use at this location. The fears of adverse effects on property values, and the potential loss of business for the surrounding area motels and hotels—particularly on potential return renters—are valid and well-founded concerns that have not been adequately addressed. Please support this important sector of the business community by denying this request.

Sincerely,



Montine McNulty  
Executive Director

MONTINE McNULTY, CAE  
*Executive Director*

JED BULLOCK  
*President, Arkansas Lodging Association*

CHAIRMAN OF THE BOARD  
TODD GOLD  
*President, Arkansas Restaurant Association*

CHRIS SNODGRASS  
*President, Arkansas Travel Council*

**From:** "Paul Selig" <pselig@ISIEQUIP.COM>  
**To:** <dsanders@ci.fayetteville.ar.us>  
**Date:** 11/3/2009 8:26 AM  
**Subject:** 805 Bel Air, rezoning

Ms. Sanders,

My name is Paul Selig, I own a house at 913 Bel Air. I am writting to voice my opposition of the rezoning of the above mentioned property. I believe the neighborhood would be better left to single family residences as zoned 4 per acre. The apartments and multi-family residences have been overbuilt and are contributing to the decay of the neighborhood. The two blocks West of Leverett starting at Bel Air and going south is the only pocket of single family residences remaining in the area. I think it should stay that way. The lot at 805 is not large enough to support multifamily housing therefore the applicant will have to request rezoning of adjacent property to make the demolition and construction of apartments profitable.

The overbuilding of apartments and multifamily units needs to stop somewhere. I request that you stop it at Bel Air.

Thank you for your consideration.

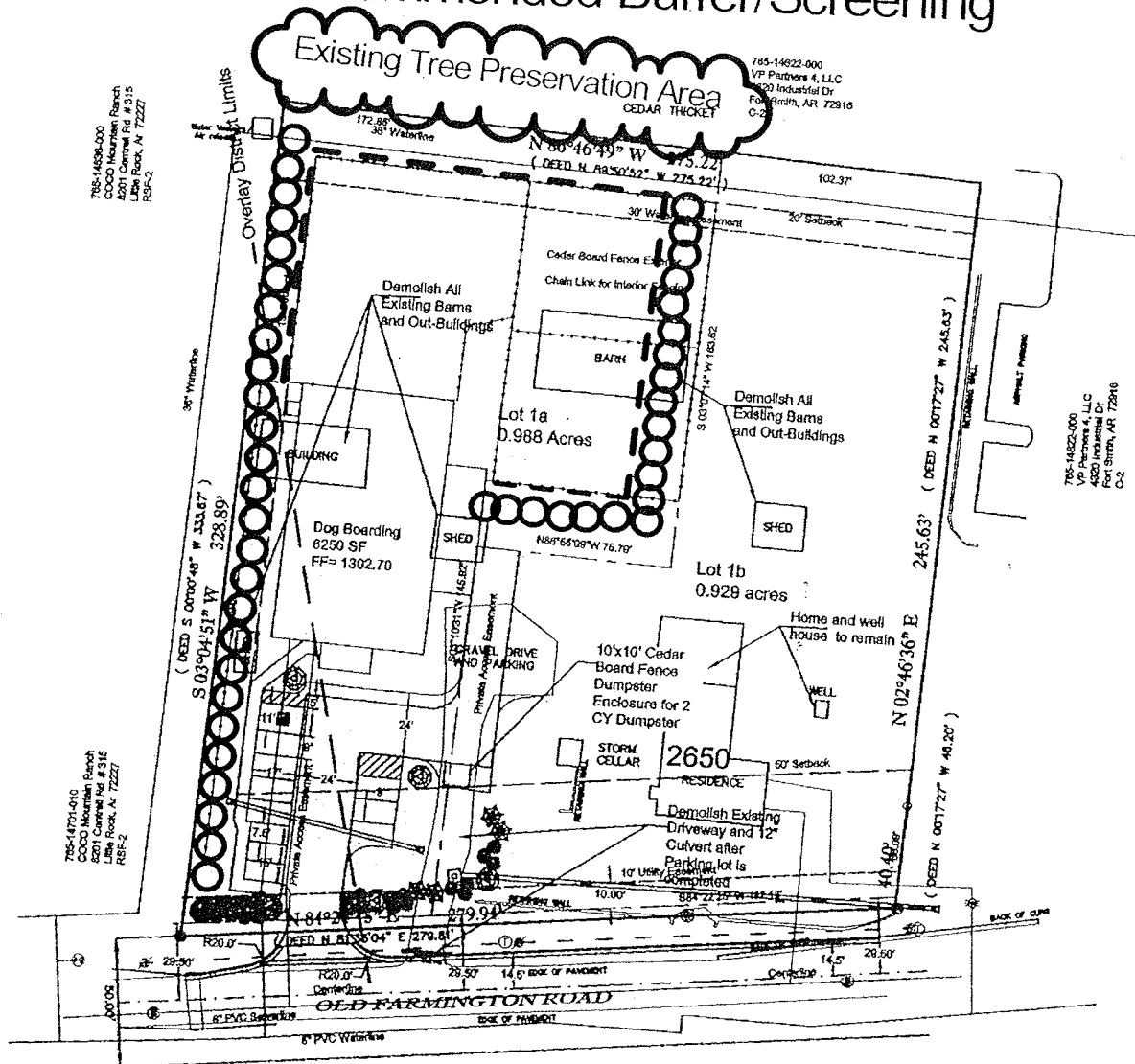
Paul Selig

104 Farr Shores Cove

Hot Springs, Arkansas 71913

501-262-4965

# Staff Recommended Buffer/Screening



785-20330-000  
Mike and Brenda Price  
6688 Wheeler Road  
Fayetteville, AR 72704  
RM-24

785-14658-000  
Matthew and Odessa Merced  
2743 Old Farmington Road  
Fayetteville, AR 72704  
R-O

785-14659-000  
Century of NW Arkansas  
C/O Duff & Phelps, LP  
P.O. Box 260865  
Plano, TX 75026  
R-O

## INSPECTIONS AND TESTING PROCEDURE:

- 1) All field tests required for a project shall be witnessed by the City of Fayetteville in the presence of the Engineer and Contractor, or their representative.
- 2) The City of Fayetteville will require 48 hour notice on all tests. Tests to be performed by the City of Fayetteville for the purpose of testing test items shall be made by 10:00 a.m. Tests delayed by weather or other factors will be rescheduled on the same date.
- 3) It is the responsibility of the Engineer and Contractor to coordinate the scheduling of such tests with the City of Fayetteville.
- 4) All equipment, materials, and labor required for testing shall be furnished by the Contractor at his expense.
- 5) Prior to final acceptance by the City of Fayetteville, this project shall be subject to a final inspection by a designated representative of the City of Fayetteville Engineer's Office, a representative of the Fayetteville Water and Sewer Maintenance Department, the Engineer of record for the project, and the Contractor.

## LEGAL DESCRIPTION:

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, AND PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 18, ALL IN TOWNSHIP 18 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER OF THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 18; THENCE N 07°43'31" E 245.53'; THENCE N 80°46'17" W 275.22'; THENCE S 03°04'51" W 328.89'; THENCE S 03°04'51" W 328.89'; THENCE S 03°04'51" W 328.89'; TO THE POINT OF BEGINNING AND CONTAINING 1.943 ACRES.

## CONTACT INFORMATION

**City of Fayetteville Planning Dept.**  
Jeremy Pate  
125 West Mountain  
Fayetteville, AR 72701  
(479) 575-8287

**Arkansas Western Gas**  
Randy Drake  
1001 W. Main  
Fayetteville, AR 72701  
(479) 582-0783

**Ozarks Electric Cooperative**  
Mike Prince  
(479) 521-2000

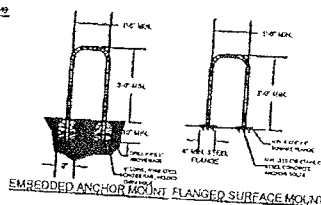
**City of Fayetteville Eng. Dept.**  
Matt Casey  
113 West Mountain  
Fayetteville, AR 72701  
(479) 575-8228

**SBC**  
Sue Clouser  
627 White Rd.  
Springdale, AR 72754  
(479) 442-3107

**AEP**  
Jim Sargent  
(479) 973-2320

**City of Fayetteville Water Dept.**  
David Argue  
113 West Mountain  
Fayetteville, AR 72701  
(479) 575-8383

**Cox Communications**  
John Combs  
4801 S. 48th Street  
Springdale, AR 72762  
(479) 871-3475



Bike Rack Detail  
NTS

## NOTES:

1. THE LENGTH OF THE RAIL THE SLOPE DOES NOT EXCEED.
2. THE NORMAL GUTTER SLOPE THROUGH THE AREA OF THE RAIL.
3. THE MINIMUM THICKNESS OF LANDING SHALL BE 4".
4. Contact Chuck Rutherford 575-8281 prior to pouring within the right of way.
5. See plans for ramp apron.



J. STEVE CLARK, P.E.

CIVIL / ENVIRONMENTAL ENGINEERING

July 15, 2009

Mr. Jeremy Pate,  
Director Current Planning  
City of Fayetteville,  
Fayetteville, AR 72701

Re: Conditional Use Application  
Barking Bed and Breakfast  
2650 Old Farmington Road  
Fayetteville, Arkansas

Dear Mr. Pate:

The owner desires to construct a 6250 square foot dog grooming, doggie day care, and kennel facility on the west half of the referenced property. We are proposing to construct a total of 12 parking spaces to meet the anticipated requirements.

The proposed hours of operation will be 7:00 am to 6:00 pm. With a maximum of three employees working on any shift. We expect to provide services to 50 dogs on an average busy day and as many as 75 dogs on holidays.

All outdoor lighting will comply with full cutoff standards. There will be pole lights in the front parking lot and a limited number of building mounted security lights illuminating the building it self.

There should not be any problems with noise issues as the dogs will be monitored and barking animals will be addressed by staff. The site will be screened as required by ordinance. However the yard areas where the dogs will be exercised will be away from any occupied areas on the adjacent properties.

There will be limited trash generated by the facility and we anticipate using roll out type trash containers that will be placed at the curb for pick up.

As part of this development the access point onto Old Farmington Road will be relocated to the western lot. The residential access will be through the business parking lot, with an access easement to be dedicated as part of the lot split.

The proposed use as a dog day care facility should not create any compatibility issues for adjacent properties. The property to the north and east is a motel and the property to the west is mostly undeveloped and heavily wooded. The property across Old Farmington Road is Residential Office and there are no known compatibility issues.

Sincerely,  
Clark Consulting

A handwritten signature in black ink, appearing to read 'J. Steve Clark'.

J. Steve Clark, P.E.



Barking Bed & Breakfast is a full-service animal care facility dedicated to providing high excellent service, quality pet care, and furnishing a fun, clean, enjoyable atmosphere.

For customer convenience, in addition to day care, Barking Bed & Breakfast will include overnight care, pet grooming, animal behavior, pet portraits, gift and pet specialty products, and special requests, all at one facility.

Hours will be Monday thru Friday 7AM-6PM and Saturday 10AM- 4PM, Sunday 12PM-4PM. Play hours outside will be supervised and sporadic throughout the day between the hours of 10AM-6PM depending on the weather. We limit the number of dogs playing outside at a time to 25.

Our business atmosphere will be clean, friendly and upscale where customers will be comfortable leaving their pets. We will offer a personal touch, such as birthday cards and a daily report card for each pet that is registered with Barking Bed & Breakfast.

### *Company Summary*

Barking Bed & Breakfast is a new company that will provide high-level animal care and customer service in the following categories:

- Overnight care.
- Day care.
- Pet grooming.
- Pet portraits.
- Gift shop.
- Special events.
- Special requests.

What will set Barking Bed & Breakfast apart from the competition is our commitment to provide these services in one convenient location.



J. STEVE CLARK, P.E.

CIVIL / ENVIRONMENTAL ENGINEERING

July 15, 2009

Mr. Jeremy Pate,  
Director Current Planning  
City of Fayetteville,  
Fayetteville , AR 72701

Re: Large Scale Development  
Barking Bed and Breakfast  
2650 Old Farmington Road  
Fayetteville, Arkansas

Dear Mr. Pate:

The owner desires to construct a 6250 square foot dog grooming and kennel facility on the west half of the referenced property. The development will include a lot split to allow separate mortgages for the business and the residential house.

As part of this development the access point onto Old Farmington Road will be relocated to the western lot. The residential access will be through the business parking lot, with an access easement to be dedicated as part of the lot split. Existing utilities are currently available along Old Farmington Road, so no extensions will be required.

Sincerely,  
Clark Consulting

A handwritten signature in black ink, appearing to read 'J. Steve Clark'.

J. Steve Clark, P.E.

**From:** Brian Pugh  
**To:** Fulcher, Jesse; Garner, Andrew; Sanders, Dara  
**Date:** 9/28/2009 4:13 PM  
**Subject:** Subdivision Committee 10-1-09

LSD 09-3388 (Chambers / Dog Park) - Plans do not show provisions for Solid Waste collection. Please show dumpster enclosure to service site. Enclosure should be built 15' wide clear opening and 12' deep. Please contact Solid Waste if any questions.

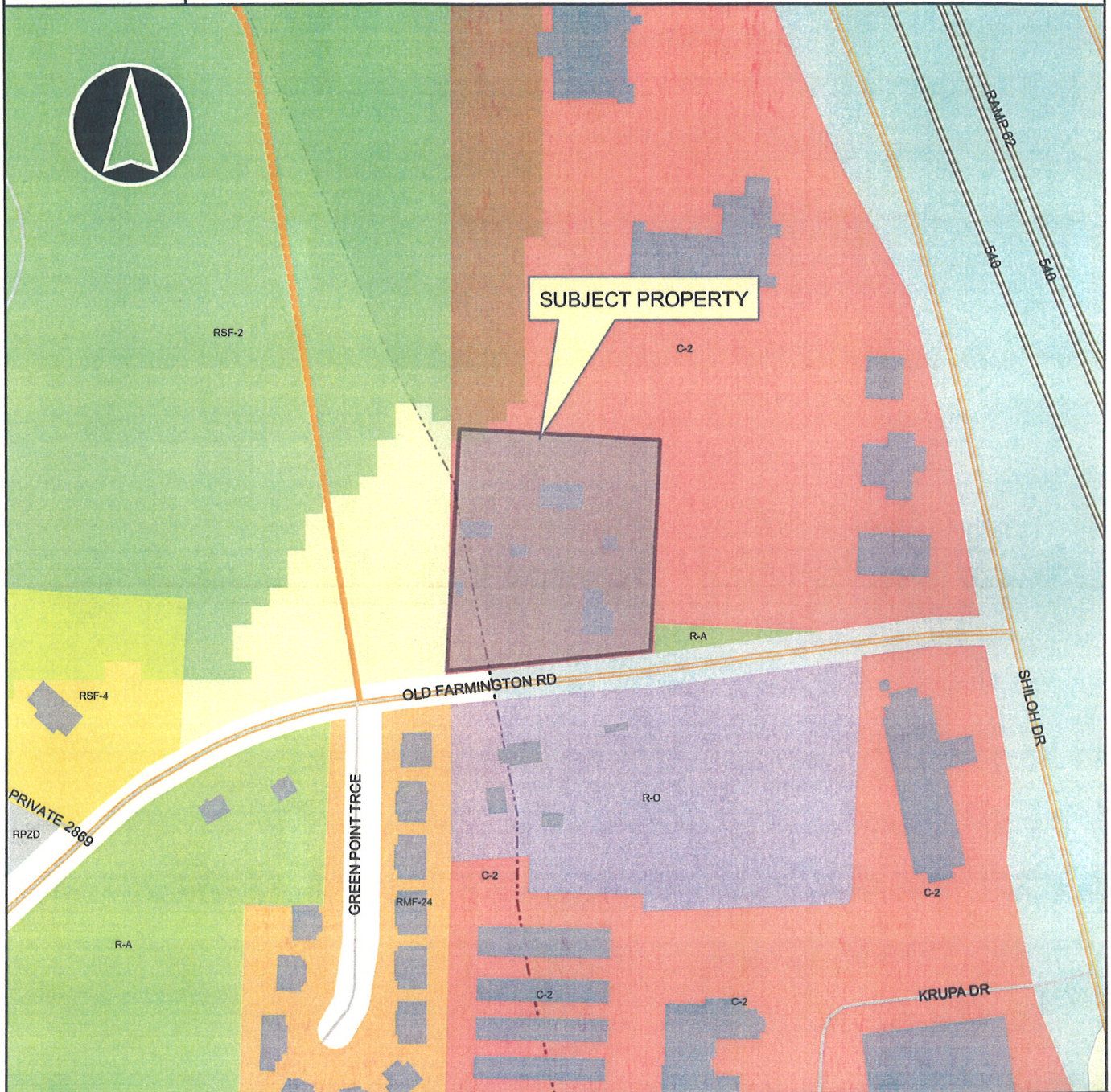
Brian Pugh  
Waste Reduction Coordinator  
Fayetteville Solid Waste and Recycling  
479-718-7685  
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CUP09-3389

## M. CHAMBERS/BARKING BED & BREAKFAST

Close Up View



Overview

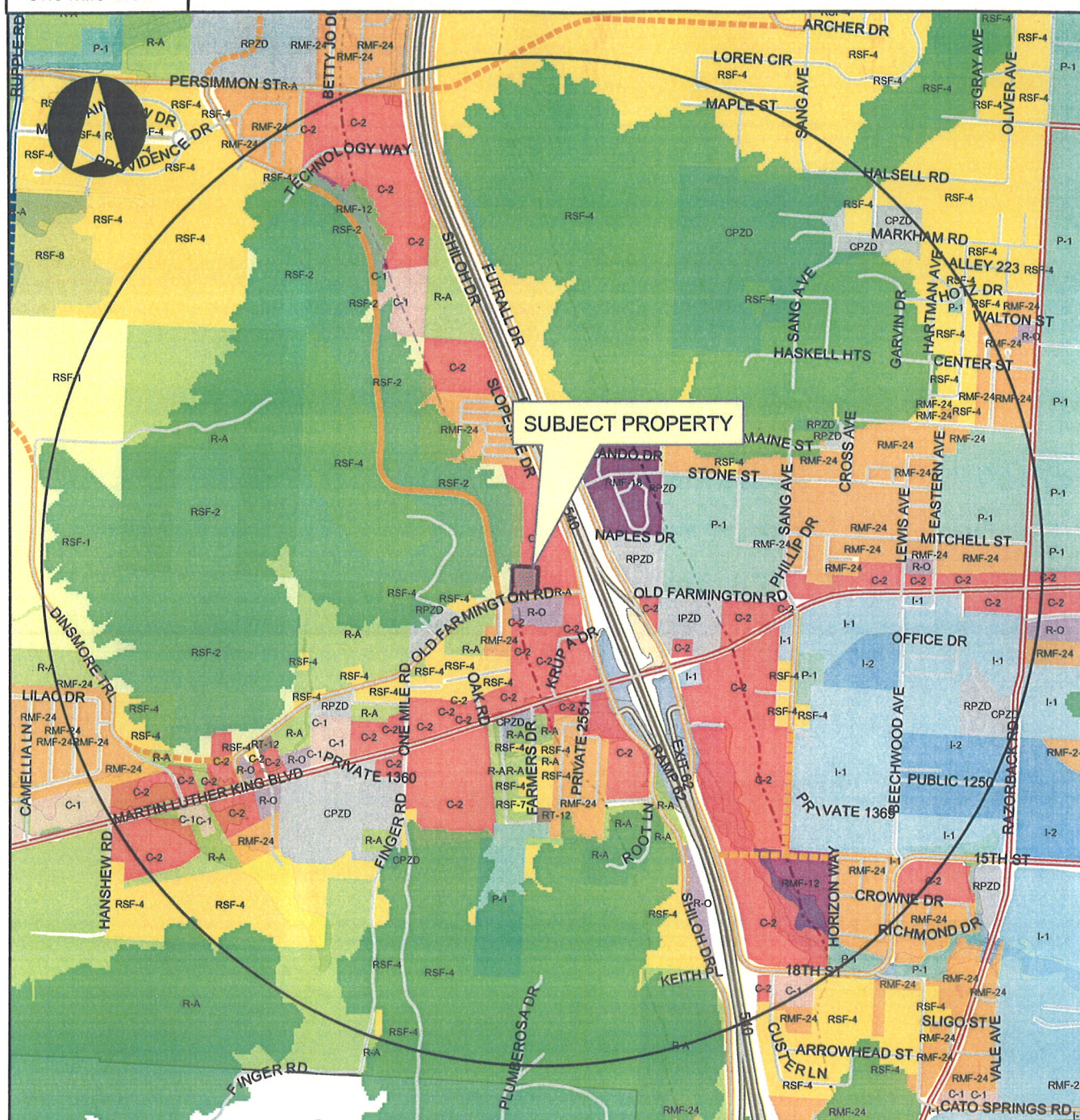
0 75 150 300 450 600 Feet



CUP09-3389

## M. CHAMBERS/BARKING BED & BREAKFAST

## One Mile View



## Overview



### Legend

Subject Property

 CUP09-3389

## Boundary

0

0.25

0.5

1

Miles



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October 12, 2009  
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*(St. Pughman Commission mtg  
(Trumbo))*

***New Business:***

**CUP 09-3389: (M. CHAMBERS / BARKING BED & BREAKFAST, 558):** Submitted by STEVE CLARK for property located at 2650 OLD FARMINGTON ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.94 acres. The request is for Use Unit 43, Animal Boarding and Training, in the C-2, Thoroughfare Commercial, Zoning District.

**LSD 09-3388: (M. CHAMBERS / BARKING BED & BREAKFAST, 558):** Submitted by STEVE CLARK for property located at 2650 OLD FARMINGTON ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.94 acres. The request is for a 6,250 s.f. dog grooming/dog day care facility and associated parking.

**Andrew Garner**, Senior Planner, gave the staff report for the conditional use permit and large scale development describing the proposed animal care facility. He discussed that a couple of additional public comments in opposition of this use were submitted to staff after the publication of the staff report. He gave some background on the changes in the Fayetteville Unified Development code this past year to permit animal boarding in the C-2 zoning district as a conditional use. He described the site and surrounding area and discussed that staff recommends in favor of this use with conditions to for a substantial buffer to screen the outside dog play areas.

**Steve Clark** (applicant) discussed agreement with all of staff's recommended conditions with the exception of the buffer. He agrees that the buffer is needed on the west side, however, on the east and south sides it is a suitable distance not requiring additional screening.

**Commissioner Trumbo** explained, for the applicant's sake, that a conditional use permit may be revoked.

**Public Comment:**

**Kall Gendii (Quality Inn)** discussed that he is the owner of the hotel down the road and the proposed business would be a nuisance for the hotel with 80 dogs. Guests want a peaceful place to stay. He objects to the project.

**Mike Price** discussed that he owns 24 duplexes across the street. There are 50-60 people across the street, some work nights. The proposed business may be needed, but this is not the appropriate location. He recommends denial.

**Inaudible name (Regency 7 Motel)** discussed that he was against this use.

**Inaudible name (Comfort Inn)** discussed that the proposed 80 dogs would be bothersome to his customers.

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*October 12, 2009*  
*Page 6 of 10*

**Jeff Hawkins** (2824 Old Farmington Road) discussed that he is a planner and appreciates challenges with conditional uses where there may be differing opinions. Uses need to be analyzed and consequences of the uses analyzed. He discussed the comparison of Dog Party USA, a similar business in Tontitown, and discussed a letter written by an adjacent property owner to the Planning Commission about this business. He asked about the City policy for mitigation of adverse impacts and asked about the policies in the chosen location for the City animal shelter. This would create a nuisance. It would adversely affect adjoining uses. He recommends denial.

**Public comment was closed.**

**Commissioner Zant** asked the applicant if they had ever managed these types of facilities.

**Melanie Chambers** (applicant) discussed that she had managed these types of facilities with a total of 15 dogs and under.

**Commissioner Zant** asked about the hours of operation in the outdoor play area from 10 AM – 6 PM.

**Melanie Chambers** (applicant) discussed that the dogs won't be out in the play area continuously, but only in designated time for play.

**Commissioner Zant** discussed that the critical issue is noise. He is looking for references to decibel noise, the American Kennel Association recommendations, and how much noise buffer the proposed wood fence would help with, etc.

**Steve Clark**(applicant) responded that he is not an acoustics engineer. He does not have answers. He discussed that a maximum of 25 dogs would be let out at one time.

**Commissioner Trumbo** asked the City attorney how a conditional use permit may be revoked.

**Kit Williams** (City Attorney) discussed that it may be revoked if any of the conditions of approval are violated.

**Commissioner Cabe** asked about condition of approval No. 1.c., how would the noise complaint be verified.

**Garner** responded that if a noise complaint were reported the police department would respond to the complaint and if it were verified as violating the noise ordinance it would be considered a verified complaint.

**Commissioner Kennedy** asked the applicant if they had a back-up plan if the dogs bark and violations get reported.

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**Melanie Chambers** (applicant) responded that there are three indoor play areas and that dogs will play inside as well as outside. She also responded that dogs will be in by 6 p.m. and will not affect hotel owners. The commercial decibel level is 70 dB so my property already has great white noise. She discussed that the dogs in this facility are not kennel dogs that get left alone and bark, these dogs are people's babies.

**Commissioner Zant** discussed that the noise generated by this business is a technical item that can be analyzed and dealt with but there is inadequate information. He stated that he can't support this with the information before him.

**Commissioner Lack** discussed that he had concerns with this use initially but after looking how strictly staff had conditioned this in their recommendation he started to feel more comfortable with it. However, the likelihood of this business violating one of the conditions seems great and he can't support it.

**Commissioner Trumbo** asked if the applicant understood that even after this is built, if the conditions are violated it could be revoked and the business shut down. He is not ready to vote in favor.

**Steve Clark** (applicant) requested the item to be tabled in order for them to be able to provide more technical noise information.

**Commissioner Myres** asked about outdoor music decibels.

**Garner** responded that the maximum permitted by the noise ordinance is 70 DB at the property line. However, dog barking is not measured in decibels according to the noise ordinance as it is an intermittent, nuisance noise.

**Commissioner Myres** discussed the difference between a nuisance and what a condition of living near other people is. She is willing to give the applicant the benefit of the doubt and is willing to support the request, she is also willing to table.

**Motion:**

**Commissioner Zant** made a motion to table CUP 09-3389 for two weeks. **Commissioner Myres** seconded the motion.

**Commissioner Winston** asked about noise from the building and disposal of dog waste.

**Steve Clark** (applicant) discussed that animal waste is not allowed in sewer system so it is being disposed by the Solid Waste Division.

**Commissioner Honchell** asked the applicant if they had 80 clients waiting.

**Melanie Chambers** (applicant) stated no, not now. The 80 dogs is only a possible maximum that might be obtained around the holidays.



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**Commissioner Honchell** asked how long the dogs would be let outdoors.

**Melanie Chambers** (applicant) stated she is not sure but that it will be supervised.

**Commissioner Honchell** asked about the enforcement of the noise ordinance with this business and the growth of the vegetated buffer.

**Garner** discussed that the enforcement of the noise ordinance would be the same as for any other dog barking complaint. He also discussed that the vegetative buffer would not be as effective when it is first installed, and that our codes require the buffer to be view-obscuring within 2.5 years.

**Commissioner Honchell** asked the hotel if people stay for weeks, and whether some clients sleep during the day.

**Inaudible (Hotel Owner)** responded that, yes, some of their clients stay in their rooms during the day and do work, and some do sleep during the day.

**Commissioner Cabe** asked why would our typical buffer not work for this business and what is the purpose of the buffer, it wouldn't be able to totally eliminate dog barking noise.

**Garner** responded that this is not a typical commercial business, such as a Walgreen's store next to a residential district where a standard privacy fence would work. The unique nature of this business would generate noise from a large number of dogs barking outside which requires an additional buffer. The intent of the buffer is to muffle the noise, it is understood that all noise would not be eliminated. The intent is also to screen the outdoor dog play areas from view from surrounding properties.

**Commissioner Cabe** responded that the interstate noise will help drown out the dog barking. He fully supports this business and encourages the other Commissioners to have an open mind about it.

**Commissioner Trumbo** stated that he doesn't know what 25 dogs will sound like. He discussed concerns with approving this use for the sake of the neighbors and also to protect the applicant.

**Commissioner Winston** asked if berms and vegetation are not sufficient what types of additional conditions would be proposed? He also asked the applicant to present floor plans, schematics of the building so the commissioners can begin to understand the business better.

↑  
**Upon roll call the motion to table CUP 09-3389 passed with a vote of 8-0-0.**

**Motion:**

**Commissioner Winston** made a motion to table LSD 09-3388 to the October 26, 2009 Planning Commission meeting. **Commissioner Cabe** seconded the motion to table.

**Upon roll call the motion to table LSD 09-3388 passed with a vote of 8-0-0.**

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October 26, 2009

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2<sup>nd</sup> PLANNING COMMISSION MTG  
(DENIED)

**CUP 09-3389: (M. CHAMBERS / BARKING BED & BREAKFAST, 558):** Submitted by STEVE CLARK for property located at 2650 OLD FARMINGTON ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.94 acres. The request is for Use Unit 43, Animal Boarding and Training, in the C-2, Thoroughfare Commercial, Zoning District.

**LSD 09-3388: (M. CHAMBERS / BARKING BED & BREAKFAST, 558):** Submitted by STEVE CLARK for property located at 2650 OLD FARMINGTON ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.94 acres. The request is for a 6,250 s.f. dog grooming/dog day care facility and associated parking.

**Andrew Garner**, Senior Planner, discussed that this item was tabled at the previous Planning Commission meeting as the Planning Commissioners requested additional technical information on noise impacts from dog barking. The additional information presented by the applicant has not resulted in a change in staff's findings or recommendation for approval.

**Steve Clark**, applicant, discussed his research and the noise report he prepared. He discussed that buffers can be effective if there are no gaps. Buffers work as long as the area that needs to be buffered is within the shadow of the noise wall. He discussed that Dog Party USA has no buffering. He went over the methodology for his noise measurements and discussed that photos of the interior of the building were submitted and indicate that each dog will be in a separate finished space.

**Public Comment:**

**Marilyn Heifner**, Executive Director of Fayetteville Advertising and Promotion Commission, objects to the request. If people have poor stays in hotels because of dog barking it will greatly affect the hotels business. She discussed the new car wash next to Days Inn on College Avenue where the new car wash caused the hotel to be unable to lease certain suites because of the noise. She also discussed concerned with odor.

**Jeff Hawkins**, 2824 Old Farmington Road, discussed that the staff report referenced potential for nuisance, but not verifiable information that it will not be a nuisance. He discussed the City location for the animal shelter away from commercial businesses and residences. Mr. Hawkins referenced the letter from a neighbor of Dog Party USA that was already in the Planning Commissioner's packets. The proposed expansion of the Dog Party USA was mentioned and the neighbor's discussed that the odor and noise exceeds a tolerable level with a maximum of 40 dogs. Odor is not adequately addressed in the staff report. The applicant's noise report was paid for by the applicant. He discussed that just because you can't see noise does not mean that it is not a nuisance. This application has not adequately addressed noise and odor concerns.

**Mike Castle**, applicant's boy friend, discussed that the dogs would be outside from 10 AM – 6 PM and any dog barking should not affect the hotels' business. There have not been any complaints about odor from cows on surrounding pastures. The neighbor across from Dog Party USA has placed some dirt piles in front of their property which did not cost very much.

*Planning Commission  
October 26, 2009  
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**Public comment was closed.**

**Commissioner Trumbo** asked the applicant about the noise report and 125 decibels, how many dogs created that noise.

**Steve Clark**, applicant, responded that the reading of 118 decibels at the property line was from approximately 6-10 dogs barking, although there were approximately 30 dogs outside.

**Commissioner Lack** stated that the noise report was clear and helpful. He discussed that this use feels too intense, given the proximity to hotels and residents. Highway noise is understood for hotels because the highway brings customers to the hotels and the noise is expected; dog barking is not expected. He is not comfortable with the buffering as being sufficient. In this area there is a high potential for nuisance and there is a high risk for the applicant that this conditional use permit could be revoked after investment and construction of the business by the applicant.

**Commissioner Zant** also stated that the noise report from the applicant was helpful and thanked the applicant. What troubled him was that this type of use has a high risk of intrusiveness. With the outdoor dog play areas dog barking will be heard. The buffers proposed by the applicant could have been more substantial. He discussed that he checks in to hotels at 3 PM and dog barking would be an issue. He can't support this application.

**Commissioner Graves** discussed concerns with the ability of this use to fit in with the surrounding areas. We don't want to set something up for failure. The neighbors are clearly opposed, and may pose issues in the future. There was a veterinary clinic recently approved at the intersection of Township/Old Wire Road. However, it was a much smaller scale where a dog may occasionally be taken outside. This application is proposed in the midst of businesses. The perception of dog use/dog barking is a real concern. Sometimes perception is reality and if customers see a dog business next to a hotel it may hurt the hotel business. He has difficulty saying that this use is compatible in this hospitality area. He is concerned with the existing businesses and will vote against this use.

**Commissioner Myres** discussed that she has never stayed in a hotel room where the windows would open. Noise in hotels comes from inside the walls and halls. You can't typically hear noise from outside. She will vote for this.

**Commissioner Trumbo** discussed his concerns with reported noise complaints that may result after this business opens. They this would already be built and we are back here at the commission trying to resolve the nuisance after the applicant has made a substantial investment. He discussed concern that we are creating a nuisance.

*Planning Commission*  
*October 26, 2009*  
*Page 7 of 10*

**Motion:**

**Commissioner Zant** made a motion to deny CUP 09-3389. **Commissioner Lack** seconded the motion.

Upon roll call the motion to deny CUP 09-3389 passed with a vote of 6-3-0 with commissioners Myres, Kennedy, and Cabe voting 'no'.





## AGENDA REQUEST

**FOR: COUNCIL MEETING OF NOVEMBER 17, 2009**

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**FROM:**

**TERRY GULLEY, TRANSPORTATION DIRECTOR**

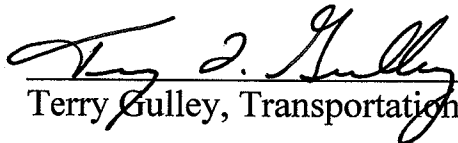
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**ORDINANCE OR RESOLUTION TITLE AND SUBJECT:**

An Ordinance To Amend Chapter 117 Of The Fayetteville Code To Authorize The Fayetteville Town Center To Manage The Interior Parking Spaces Of The Fayetteville Square During And For The Lights Of The Ozarks And To Pass An Emergency Clause

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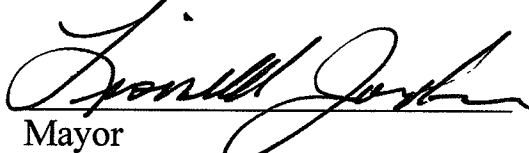
**APPROVED FOR AGENDA:**

  
Terry Gulley, Transportation Director

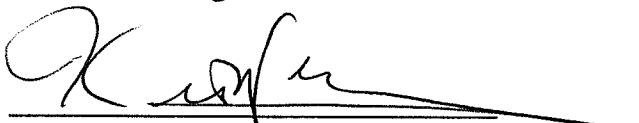
11/4/09  
Date

  
Chief of Staff

11/4/09  
Date

  
Mayor

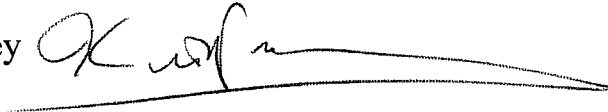
11/4/09  
Date

  
City Attorney  
(as to form)

11/4/09  
Date

TO: **Lioneld Jordan**, Mayor  
**Don Marr**, Chief of Staff  
**Terry Gulley**, Transportation Director  
**Sharon Crosson**, Parking & Telecommunications Manager

FROM: **Kit Williams**, City Attorney



DATE: **November 4, 2009**

RE: **Lights of the Ozarks management**

City Staff has requested that the City formalize the working relationship they have established with the A & P Commission and Fayetteville Town Center staff to manage the vendors on the Square during lights of the Ozarks. Accordingly, I drafted an ordinance to enact a new code section in the Fayetteville Code that is very similar to 114.02 **Farmers' Market**.

This proposed new section 117.93 **Lights of the Ozarks** would empower the A & P Commission and Fayetteville Town Center staff to manage the vendors in the same areas (plus the Town Center Plaza) as where the Farmers' Market manages its vendors. This would be during the period after the end of the Farmers' Market through January 1.

Please review this proposed ordinance and let me know of any changes needed. This should go on the agenda for the November 17th meeting to be effective for this year's Lights of the Ozarks.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND CHAPTER 117 OF THE FAYETTEVILLE CODE TO AUTHORIZE THE FAYETTEVILLE TOWN CENTER TO MANAGE THE INTERIOR PARKING SPACES OF THE FAYETTEVILLE SQUARE DURING AND FOR THE LIGHTS OF THE OZARKS AND TO PASS AN EMERGENCY CLAUSE

**WHEREAS**, the Lights of the Ozarks has become a well-attended, impressive, and beautiful annual event on the Fayetteville Square for Fayetteville citizens and tourists; and

**WHEREAS**, vendors with pony rides, camel rides, carriages, etc. have been licensed to operate in the general area of the Square during Lights of the Ozarks pursuant to City Council ordinances; and

**WHEREAS**, to better manage these and other vendors around the Square during Lights of the Ozarks, City Staff recommends authorizing the Advertising and Promotion Commission and the Fayetteville Town Center staff to manage this area in similar fashion to how the Farmers' Market manages this same area during warm weather.

**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 Chapter 117: Vehicle-Related Businesses by enacting Article VIII **Lights of the Ozarks** as follows:

**"Article VIII Lights of the Ozarks**

**"117.93 Lights of the Ozarks**

**"(A) *Establishment, location and parking restrictions.*** The Lights of the Ozarks celebration is hereby established in the city as an annual celebration beginning after the end of Farmers' Market (around Thanksgiving) and running through January 1 of the next year. This event shall be located on those interior parking spaces (adjoining the old post office) of the downtown square and on the sidewalks adjoining those parking spaces as well as those portions of the Town Center Plaza needed for this event's success. The block of East Avenue between Mountain Street and Center Street may be



restricted to horse-drawn carriages, pony rides, or other event vendors. No vendor shall obstruct pedestrian traffic on public sidewalks nor shall more parking spaces be utilized for vendors than absolutely necessary. The Fayetteville Advertising and Promotion Commission and Fayetteville Town Center staff are empowered to manage and administer all vendors operating on the Fayetteville Square during Lights of the Ozarks.

“(B) *Hours of operations.* Vendors for the Lights of the Ozarks shall be managed by the Fayetteville Town Center staff such that active operation of pony rides, carriage rides, etc. shall not commence, nor shall East Street be impeded from normal traffic prior to 6:00 P.M. nor obstructed later than midnight except for New Years when such use will be extended one hour until 1:00 a.m. on New Year’s Day.

“(C) *Sanitation.* At the close of each Lights of the Ozarks business evening, each vendor must ensure that the area in which the vendor was located or operating is completely clean, sanitary and free of trash, debris, manure, etc. Failure to properly clean up shall be grounds to revoke that vendor’s license or permission to operate during Lights of the Ozarks.

“(D) *Vendors and licenses.* Any vendors operating within the area of the Lights of the Ozarks shall have all proper, necessary and valid licenses applicable to the vendor’s business and keep all such licenses available for inspection and in good standing while operating during Lights of the Ozarks. Any event or other reasonable fee charged by the Town Center Staff or the City of Fayetteville to defray costs to manage Lights of the Ozarks must be paid or the vendor shall be prohibited from operating in this event.

“(E) *Sidewalk vendors.* Sidewalk vendors must comply with §178.03 of the Unified Development Code and obtain proper permits from the Zoning and Development Administrator as well as the Fayetteville Town Center staff {which shall constitute compliance with §178.03(E)(2)}.”

Section 2: *Emergency Clause.* That the City Council of the City of Fayetteville, Arkansas hereby determines that in order to preserve the peace, health and safety of its citizens enjoying the Lights of the Ozarks which begins in a few days, the City Council finds that an emergency situation has occurred such that this ordinance providing for the proper and safe management of the lights of the Ozarks event by the Town Center Staff should and will take effect immediately to preserve the peace, health and safety of the Fayetteville Citizens.

**PASSED and APPROVED** this 17<sup>th</sup> day of November, 2009.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

FAYETTEVILLE CODE OF ORDINANCES  
TITLE XI BUSINESS REGULATIONS

**CHAPTER 114: FOOD SALES**

**114.01 Drive-In Restaurants**

(A) A drive-in restaurant, within the meaning of this chapter, shall be deemed to be any restaurant where meals, sandwiches, ice cream, or other food, is served directly to or is permitted to be consumed by patrons in automobiles, motorcycles, or other vehicles parked on the premises.

(B) Prohibited Acts.

- (1) It shall be unlawful for any person, while on or adjacent to the premises of a drive-in restaurant, to race the motor of any car, to suddenly start or stop any car, or to make or cause to be made, any other loud or unseemly noise.
- (2) It shall also be unlawful for any other person parked on the premises of such restaurant, to blow or cause to be blown any automobile horn or motorcycle horn at any time while so parked.
- (3) It shall be unlawful for any patron or other person on the premises of a drive-in restaurant, whether in or out of an automobile, to drink any intoxicating beverage of any nature.
- (4) It shall be unlawful for a group of three or more persons to congregate and linger at any location on the premises of a drive-in restaurant. Persons so congregating and lingering shall be deemed guilty of loitering. No person shall drive a motor vehicle on to the premises of a drive-in restaurant and then from said premises without parking such motor vehicle, unless there is no unoccupied parking space available on said premises.
- (5) It shall be unlawful for any person to leave any unoccupied motor vehicle on any drive-in restaurant parking lot and to leave the premises thereof, except with the knowledge and consent of the operator of the restaurant.

(Code 1965, §§7A-1, 7A-3, 7A-4; Ord. No. 1706, 10-6-69; Code 1991, §114.01)

Cross reference(s)--Penalty, §114.99(A).

**114.02 Farmer's Market**

(A) *Establishment, location, and parking restrictions.* A farmer's market is hereby established in the city.

This marketplace shall be located on the interior parking spaces (those parking spaces adjoining the Old Post Office) of the downtown square and on the sidewalks adjoining these parking spaces. In addition, on Saturday's only, parking spaces on the east side of the East Street on the downtown square shall be available for vendors by closing the street to through traffic. Vendors shall be permitted to park their vehicles at right angles to street curbs provided, no vehicle shall be permitted to extend into the street in such a manner as to obstruct the free flow of traffic; and no vehicle shall be parked within 15 feet of any fire plug. No vendor shall obstruct pedestrian traffic on the public sidewalks of the marketplace.

- (B) *Days and hours.* The marketplace established hereby may be opened on Tuesdays, Thursdays, and Saturdays, but shall not be open on any other day. This marketplace shall open no earlier than 6:00 a.m. and shall close no later than 1:00 p.m.
- (C) *Articles permitted to be sold.* The following articles may be sold at the marketplace established hereby: vegetables, honey, raw juices, molasses, fruit, and other produce grown by the vendor thereof, plants, art work, craft work, and other processed farm products produced by the vendor thereof. All products sold at the marketplace must be produced in compliance with all applicable regulations of the State Department of Health.
- (D) *Sanitation.* At the close of each market day, each vendor shall be required to leave the marketplace in a clean and sanitary condition, free from debris and insects.
- (E) *Fee.* The fee to be paid by each vendor for the use of the marketplace shall be \$5.00 per year plus ten percent of gross proceeds realized by the vendor from sales at the marketplace.
- (F) *Use of public streets for business prohibited; exception.* It shall be unlawful for any person to use any public street, public parking place, or public sidewalk, as a place of business except as authorized by this section; provided, any merchant whose building is adjacent to a public sidewalk may conduct business thereon if pedestrian traffic is not obstructed thereby; provided further, the City Council may approve temporary use of a public street, place, or sidewalk as a marketplace where such use is part of an event, activity, or celebration of general public interest. The City Council may impose reasonable conditions on such use as are necessary to safeguard the public health, safety,

CD114:3

TITLE XV UNIFIED DEVELOPMENT CODE

**CHAPTER 178: SIDEWALK CAFES**

**178.01 Purpose**

It is the purpose of this chapter to promote and encourage open air retail environments, while preserving and protecting the health, safety and welfare of citizens by promoting opportunities and regulations for the creation of said exceptions within the City.

(Ord. 5185, 10-7-08)

**178.02 Sidewalk Cafes**

(A) Public rights-of-way are designed for free and unobstructed travel. However, the City of Fayetteville recognizes that certain developed and developing areas in a traditional town form are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety. This ordinance is designed to encourage pedestrian activity and make the urban environment more attractive.

(B) Sidewalk Café Authorization. The Planning Commission may issue a conditional use permit allowing a sidewalk café on part of a specified sidewalk after the applicant has notified adjoining property owners. In addition to the general conditional use requirements, the Planning Commission shall ensure that no conditional use permit is granted, unless:

- (1) The proposed sidewalk café will not unduly impact or impede the public's ability to travel upon or use the sidewalk and any other affected public right-of-way, including public utility easements.
- (2) Any necessary costs to relocate a utility or widen the existing sidewalk to accommodate the proposed sidewalk café must be paid by the sidewalk café applicant.
- (3) The sidewalk café applicant may be required to post a surety bond or letter of credit sufficient to cover the cost of removing the sidewalk café if necessary for the city or utility company to access pipes, lines, or other facilities.
- (4) The sidewalk café applicant must consent that the city or utility company may remove, without liability or compensation, part or all of the sidewalk café, if necessary, to get access to a utility facility or improvement.

(C) Requirements: Sidewalk cafés shall meet the following requirements in order to be approved:

- (1) Applicants requesting a license must provide a detailed site plan and written description illustrating the type, location and dimensions of all furniture to be placed in the public right-of-way. Sidewalk cafes may not be enclosed by fixed walls or other permanent structures.
- (2) Sidewalk cafes must be open to the air, except that an awning or canopy conforming to requirements established by the Unified Development Code and Building Code may be constructed over the sidewalk café. In order to provide sufficient pedestrian clearance, umbrellas must have 7 feet of free and clear space from the sidewalk surface to the lower edge of the umbrella.
- (3) Property shall be kept clean and free of refuse with no permanent trash containers placed on the premises.
- (4) All furnishings and fixtures must be of a temporary nature and shall be removed from the public right-of-way and stored inside during non-operational times.
- (5) For sidewalk cafes using City right-of-way for operation, there shall be a minimum of five feet or 50% of the total sidewalk width for clearance, whichever is greater, to provide adequate and unobstructed pedestrian movement.
- (6) If at any time the sidewalk café is determined to impede travel or interfere with the public safety, as determined by the Planning Division, the sidewalk cafe shall be removed.
- (7) One A-frame sandwich/menu board is permitted within the sidewalk cafes' border during hours of operation, subject to the applicable regulations in Ch. 174: Signs for the same.

(Ord. 5185, 10-7-08)

**178.03 Sidewalk Vendors**

(A) Purpose. Public rights-of-way are designed for free and unobstructed travel. However, the City of Fayetteville recognizes that certain development patterns with wide sidewalks are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety.

Fayetteville Code of Ordinances

This ordinance is designed to regulate open air vending of goods on public rights-of-way.

(B) Sidewalk Vendor Authorization. The Zoning and Development Administrator may issue a permit for a sidewalk vendor to use a specific sidewalk or plaza location for specified hours to sell specified goods for up to a one year period. In addition to the general use requirements, the Zoning and Development Administrator shall ensure that no permit is granted unless:

- (1) The applicant has obtained all necessary permits from State or County authorities, including any Transient Merchant permit requirements.
- (2) The applicant has submitted a sales and use tax number, sales tax remittance forms and an affidavit that the applicant has fully paid all sales and use taxes during the previous twelve months, if applicable.
- (3) The applicant has filed a HMR tax remittance form with the City of Fayetteville, when applicable.
- (4) The applicant has notified all adjacent property owners, by certified mail, of the application.

(C) Permit Application. Each application for a permit to conduct business on a sidewalk shall be accompanied by a \$100 application and permit fee. Permits issued after July 1st shall be accompanied by a \$50 application and permit fee. Each permit will expire at 3 a.m. on January 1st following the year issued. The permit fee shall be collected prior to issuance of the permit

(1) Application for a sidewalk vendor permit shall include the following items in a format acceptable to the Zoning and Development Administrator:

- (a) Name, address and contact information.
- (b) Type of items sold or services rendered.
- (c) A valid copy of all necessary permits required by State and County health authorities.
- (d) Proof of application for remittance of HMR tax to the City of Fayetteville.
- (e) Means to be used in conducting business, including but not limited to, a description of any mobile container or device to be used for transport or to display approved items or services.

(f) A site plan indicating the location and dimensions of the proposed use and device or pushcart.

(g) A detailed scale drawing, picture or diagram and material specifications of the device or pushcart to be used.

(2) The permit issued shall not be transferable in any manner.

(3) The permit is valid for one sidewalk vending location only.

(D) Permitted Vending Products and Goods.

(1) The City of Fayetteville permits the following types of goods for street vending in approved locations:

(a) Cut Flowers

(b) Food and Beverage

(2) All goods being sold from sidewalk vendors shall:

(a) Be located within the permitted area and be attended at all times. Sidewalk vendors shall not conduct transactions with vehicular traffic located in the right-of-way.

(b) Not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk.

(c) Involve a short transaction period to complete the sale or render the service.

(d) Not cause undue noise or offensive odors.

(e) Be easily carried by pedestrians.

(E) Location Requirements. Sidewalk vendors are permitted in specific locations in Fayetteville as a use by right. These locations have been determined by the City Council to have adequate sidewalk width, pedestrian traffic flow, and they minimize potential conflicts with existing businesses. Sidewalk vendors are not permitted to operate on days / times associated with special events, unless they have been approved and granted a Special Events Permit from the organization coordinating the special event. Maps of approved locations are available in the Planning Division. The locations where street vending is allowed as a permitted use are:

(1) North and West sidewalks in front of the Walton Arts Center. Sidewalk vendors may

## TITLE XV UNIFIED DEVELOPMENT CODE

locate along West Avenue and Dickson St. in front of the Walton Arts Center

- (2) Inside of the Fayetteville Square. Sidewalk vendors may locate along sidewalks on all sides of the interior of the downtown Fayetteville Square. On days / times that the Farmers' Market or other special events operate, sidewalk vendors shall only be permitted if approved through the Farmers' Market or Special Event Permit process.
- (F) Conditional Use Permit. If an applicant wishes to operate as a sidewalk vendor in a location other than those specifically approved by the City Council, a conditional use permit must be obtained. Upon receipt of a conditional use permit application, the Planning Commission shall review the proposed permit operating area to determine if the said area is suitable for street vending in accordance with this chapter. In making this determination, the Planning Commission shall consider the following criteria:
- (1) The application meets all other criteria established herein for a sidewalk vendor.
  - (2) The number of permits issued for the street vending location shall not exceed the capacity of the area in terms of maintaining the use of the sidewalk as a public right-of-way. The Planning Commission shall consider the width of sidewalk, the proximity and location of existing street furniture, including, but not limited to: signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, as well as the presence of bus stops, truck loading zones, or taxi stands to determine whether the proposed use would result in pedestrian or street congestion.
- (G) Requirements. Sidewalk vendors conducting business on the sidewalks of the City of Fayetteville with a valid permit issued under this Chapter may transport and/or display approved goods upon the approved mobile device or pushcart, under or subject to the following conditions:
- (1) The operating area shall not exceed 40 square feet of sidewalk, which shall include the area of the mobile device, operator and trash receptacle. The Planning Division will provide a map of approved vendor locations.
  - (2) The length of the mobile device or pushcart shall not exceed 6 feet and the width shall not exceed 3 feet.
  - (3) The height of the mobile device or pushcart, excluding canopies, umbrellas, or transparent enclosures, shall not exceed 5 feet.
- (4) No permanent hardware shall be affixed to the sidewalk or adjacent buildings.
- (5) Mobile generators are prohibited.
- (6) No sidewalk vendor may conduct business on a sidewalk in any of the following places:
- (a) Within 10 feet of the intersection of the sidewalk with any other sidewalk. Sidewalk intersections shall be kept clear for pedestrian safety.
  - (b) Within 10 feet of any handicapped parking space, or access ramp.
  - (c) Within 15 feet of a fire hydrant.
  - (d) Within 15 ft. of an entrance to a building.
- (7) Street vending facilities shall be removed from the public right-of-way when not in use. Sidewalk vendors are only allowed to operate between the hours of 5 a.m. and 3 a.m. All carts shall be removed from the public right-of-way during non-operational hours.
- (8) Sidewalk vendors shall display in a prominent and visible manner the permit issued by the Planning Division.
- (9) The Fire Marshal shall inspect and approve any food and beverage pushcart to assure the conformance of all cooking or heating apparatus with the provisions of the City Fire Code.
- (10) Sidewalk vendors who sell food and beverage are required to be permitted, and receive approval, through the Arkansas Department of Health and Human Services for food related establishments. A copy of the permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied to the Planning Division prior to Planning Division approval.
- (11) All sidewalk vendors must pick up and properly dispose of all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) within the sidewalk area assigned to the vendor within thirty minutes of the end of daily operations. Failure to completely remove all such litter from the authorized sidewalk location shall constitute a violation of the permit approval.

Fayetteville Code of Ordinances

- (12) No sidewalk vendor shall solicit, berate or make any noise of any kind by vocalization or otherwise, for the purpose of advertising or attracting attention to his wares. No audible amplified music shall be permitted.
- (H) Signage. Sidewalk vendors shall obtain a sign permit from the Planning Division prior to the issuance of a permit to operate. Sidewalk vendors are permitted a total of one (1) A-frame sandwich/menu board subject to Ch. 174 Signs regulating these type of signs. The menu board shall list the products and prices for the items being vended. Only products or services available at the vending location shall be displayed.
- (I) Revocation of the Sidewalk Vendor Permit. The Zoning and Development Administrator is authorized to revoke a sidewalk vendor's permit if it is determined that a violation of the requirements of the Unified Development Code has occurred.
- (Ord. 5185, 10-7-08)

**178.04 Outdoor Mobile Vendors Located On Private Property**

- (A) Purpose. To permit outdoor mobile vendors, also known as transient merchants, to operate on private property while preserving and protecting the health, safety and welfare of citizens.
- (B) Requirements. Transient merchants located on private property shall meet the following requirements and submittals prior to approval:
- (1) Permit Application. Each application for a permit to conduct a transient merchant business shall be accompanied by a \$50 permit review and processing fee.
  - (2) Application for a permit to conduct a transient merchant business shall include the following items in a format acceptable to the Zoning and Development Administrator:
    - (a) Name, address and contact information.
    - (b) Type of items sold or services rendered. A change in product or service will require a new permit to be issued.
    - (c) A valid copy of all necessary permits required by State and County health authorities.
    - (d) Proof of application for remittance of HMR tax to the City of Fayetteville.
  - (3) The permit issued shall not be transferable in any manner.
  - (4) The permit is valid for one mobile vendor location only.
  - (5) The proposed use shall be a permitted use-by-right within the underlying zoning district in order to be permitted.
  - (6) A Temporary Certificate of Zoning Compliance (90 days) shall be approved by the Planning Division.
  - (7) Outdoor mobile vendors are allowed on a temporary basis (90 days), by nature of their temporary occupancy, in one location over a one-year (twelve month) timeframe. Outdoor mobile vendors may move to a different location after this 90-day period has expired. However, a new Outdoor Mobile Vendor Application will have to be reviewed and approved by the Planning Division for a new location.
  - (8) Outdoor mobile vendors shall be in compliance with parking lot requirements for any existing and the proposed business. The number of required parking spaces is determined by the use and size of the proposed transient merchant business, and by the use and size of the existing business. Parking spaces on the property where the outdoor mobile vendor is located shall be paved and striped in order to be utilized. The use of parking for an outdoor mobile vendor may not reduce the number of spaces necessary for other uses occurring on the property. An adequate number of parking spaces for the existing businesses and the outdoor mobile vendor must be provided onsite. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined



*Agenda Session November 10, 2009*

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  
November 17, 2009**

A meeting of the Fayetteville City Council will be held on November 17, 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:**

**Mayor's Announcements, Proclamations and Recognitions:**

**Presentations, Reports and Discussion Items:**

**A. Consent:**

1. Approval of the November 3, 2009 City Council meeting minutes.
2. **Bid # 09-63 Landers Ford Lincoln Mercury of Benton:** A resolution to approve the lowest bid from Landers Ford, Lincoln, Mercury of Benton, Arkansas in the amount of \$29,128.00 for a heavy duty, regular cab, 4x4 pickup truck for use by the Parks Division.
3. **Bid # 09-64 Sweetser Construction, Inc.:** A resolution to approve an agreement between the City of Fayetteville and Sweetser Construction, Inc. for the construction of Doc Mashburn Park in the amount of \$64,199.00 plus a 15% contingency of \$9,630.00.



4. ✓ **Ferrara Fire Apparatus:** A resolution awarding bid and approving purchase of a fire pumper apparatus and related equipment from Ferrara Fire Apparatus in the amount of \$410,200.00 for use by the Fayetteville Fire Department; and approving a 12% contingency.
5. ✓ **Evans Construction and Remodeling, LLC:** A resolution approving a contract in the amount of \$24,895.00 with Evans Construction and Remodeling, LLC for rehabilitation of a CDBG eligible residence.
6. ✓ **2009-2010 (ICAC) Task Force Program Continuation Grant:** A resolution authorizing the Mayor to accept a non-matching 2009-2010 Internet Crimes Against Children (ICAC) Task Force Program Continuation Grant in the amount of \$30,000.00 from the Arkansas State Police; and approving a budget adjustment recognizing the grant revenue.
7. ✓ **AOS:** A resolution to approve the purchase of a fully redundant modular chassis switch for the Police Department from AOS pursuant to the state contract price of \$70,227.00 and to approve the attached budget adjustment.
8. ✓ **Municipal Parking Lot # 55:** A resolution to approve the attached budget adjustment recognizing \$6,500.00 in Parking Facility/Fees which will be used to replace deteriorated curb and gutter in Municipal Parking Lot # 55

#### **Agenda Additions:**

#### **B. Unfinished Business:**

1. ✓ **Old Wire Annexation Appeal:** An ordinance annexing that property described in annexation petition ANX 09-3409 (CC2009-4), for property located at 3231 North Old Wire Road, the northwest corner of Old Wire Road and Rom Orchard Road, containing approximately 39 acres. *This ordinance was left on the First Reading at the October 6, 2009 City Council meeting. This ordinance was left on the Second Reading at the October 20, 2009 City Council meeting. This ordinance was left on the Third Reading at the November 3, 2009 City Council meeting and Tabled to the November 17, 2009 City Council meeting.*

#### **Left on the Third Reading**

2. ✓ **2010 Annual Budget & Work Program:** A resolution adopting the 2010 Annual Budget and Work Program. *This resolution was Tabled at the November 3, 2009 City Council meeting to the November 17, 2009 City Council meeting.*

#### **C. New Business:**

1. ✓ **VAC 09-3444 (Ute Wilson):** An ordinance approving VAC 09-3444 submitted by Sawyer's Outdoor Solutions for property located at 2021 Ball Avenue to vacate a portion of a utility easement containing approximately 124 square feet.

2. **Amend Chapter 97:** An ordinance amending Title IX: General Regulations of the Code of the City of Fayetteville, to amend sections of Chapter 97: Parks and Recreation in order to permit special events at Lake Fayetteville that include a swimming component.
3. **CUP 09-3389 Barking Bed & Breakfast Appeal:** An appeal of the Planning Commission's decision to deny CUP 09-3389 Barking Bed and Breakfast located in the I-540 Design Overlay District (DOD) west of I-540 and Shiloh Drive on the north side of Old Farmington Road.
4. **Amend Chapter 117:** An ordinance to amend Chapter 117 of the Fayetteville Code to authorize the Fayetteville Town Center to manage the interior parking spaces of the Fayetteville Square during and for the Lights of the Ozarks and to pass an emergency clause.

**Announcements:**

1. City Council Tour: November 16, 2009 (CUP 09-3389 Barking Bed & Breakfast Appeal)

**Adjournment:**

**NOTICE TO MEMBERS OF THE AUDIENCE**

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Pre-Agenda Meeting 11-4-09

Aldermen

Mayor Lioneld Jordan  
City Attorney Kit Williams  
City Clerk Sondra Smith



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**Presentations, Reports and Discussion Items:**

- Moved to 1st meeting Dec.*
- ① Third Quarter 2009 Report of Financial Condition of the City – City Clerk

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