

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Sarah Marsh
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Martin W. Schoppmeyer, Jr.
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
January 21, 2014**

A meeting of the Fayetteville City Council will be held on January 21, 2014 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

- 1. State of the City Address – Mayor Lioneld Jordan**
- 2. Presentation of the City of Fayetteville Martin Luther King Brotherhood Award – Kit Williams**

Agenda Additions:

A. Consent:

- 1. Approval of the January 07, 2014 City Council meeting minutes. APPROVED**

2. **Bid #13-59 NAFECO:** A resolution to award Bid #13-59 and to approve the purchase of wildland fire gear backpacks from NAFECO in the amount of \$22,319.64 and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 19-14

3. **Bid #13-59 Emergency Vehicle Specialists:** A resolution to award Bid #13-59 and to approve the purchase of wildland fire gear which includes helmets, goggles, gloves, shelters, coats and trousers from Emergency Vehicle Specialists in the amount of \$115,190.86.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 20-14

4. **Gulf State Distributors:** A resolution to approve the purchase of ammunition needed by the Fayetteville Police Department during 2014 from Gulf State Distributors in the amount of \$50,770.35 pursuant to the State of Arkansas ammunition contract.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 21-14

B. Unfinished Business:

1. **VAC 13-4516 (Brenda Drive, Court and Walton Street/University of Arkansas):** An ordinance to approve the University of Arkansas' petition to vacate Brenda Drive, Court Street, Walton Street and a thirty foot wide alley all within property owned by the University of Arkansas. *This ordinance was left on the Second Reading at the November 19, 2013 City Council meeting. This was left on the Second Reading and Tabled to the December 17, 2013 City Council meeting. This ordinance was left on the Third Reading at the December 17, 2013 City Council meeting and Tabled to the January 21, 2014 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5652

2. **Amend Chapter 178:** An ordinance to repeal §178.03 Sidewalk Vendors and enact a replacement §178.03 Sidewalk Vendors and Food Trucks and to repeal §178.04 Outdoor Mobile Vendors Located on Private Property and enact a replacement §178.04 Outdoor Mobile Vendors Located on Private Property. *This ordinance was left on the First Reading at the November 19, 2013 City Council meeting and tabled to the December 17, 2013 City Council meeting. This ordinance was left on the First Reading at the December 17, 2013 City Council meeting and Tabled to the January 21, 2014 City Council meeting.*

THIS ORDINANCE WAS TABLED TO THE FEBRUARY 18, 2014 CITY COUNCIL MEETING

C. New Business:

1. **ADM 13-4565 (UDC Amendment: Large Scale Development/Parkland Dedication Applicability):** An ordinance to amend the definition of Large Scale Development in §151.01, amend §157.02, §166.01 (D) and §166.02 (B)(2) and (3) and to repeal §94.06 Flammable and Combustible Liquids of the Fayetteville Code to clarify what developments are considered Large Scale Developments.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5653

2. **Amend §157.04:** An ordinance to amend §157.04 of the Unified Development Code to require notification for Planned Zoning District amendments.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5654

D. City Council Agenda Session Presentations:

1. **National League of Cities Report** presented by Alderman Sarah Marsh

E. City Council Tour:

F. Announcements:

Adjournment: 8:25 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

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

Old business and new business.

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

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

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

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

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

Subject:	Roll				
	Petty	✓			
	Tennant	✓			
	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Mayor Jordan	✓			

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Petty				
	Tennant				
	Schoppmeyer				
	Adams				
	Long				
	Gray				
	Marsh				
	Kinion				
	Mayor Jordan				

Subject:	Consent				
Motion To:		<i>Approve</i>			
Motion By:		<i>Long</i>			
Seconded:		<i>Adams</i>			
<u>Minutes Approved</u> 10-14 through 21-14	Petty	✓			
	Tennant	✓			
	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Mayor Jordan				

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Petty				
	Tennant				
	Schoppmeyer				
	Adams				
	Long				
	Gray				
	Marsh				
	Kinion				
	Mayor Jordan				

Subject:	VAC 13-4516 (Brenda Drive, Court and Walton Street/University of Arkansas)				
Motion To:		Amend remove motion vehicle entrance on exit to Hotz.		Pass	
Motion By:		Petty			
Seconded:		Adams			
B. 1 Unfinished Business <u>passed</u> 5052	Petty	✓		✓	
	Tennant	✓		✓	
	Schoppmeyer	✓		✓	
	Adams	✓		✓	
	Long	✓		✓	
	Gray	✓		✓	
	Marsh	✓		✓	
	Kinion	✓		✓	
	Mayor Jordan				

8-0

8-0

Subject:	Amend Chapter 178				
Motion To:		Table to Feb. 18th.			
Motion By:		Adams			
Seconded:		Long			
B. 2 Unfinished Business <u>Tabled to Feb. 18th</u>	Petty	✓			
	Tennant	✓			
	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Mayor Jordan				

8-0

Subject:	ADM 13-4565 (UDC Amendment: Large Scale Development/Parkland Dedication Applicability)				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Petty	Petty		
Seconded:		Tennant	Tennant		
C. 1 New Business <u>Passed</u> 5053	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Schoppmeyer	✓	✓	✓	
	Adams	✓	✓	✓	
	Long	✓	✓	✓	
	Gray	✓	✓	✓	
	Marsh	✓	✓	✓	
	Kinion	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	

Subject:	Amend §157.04				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Gray	Gray		
Seconded:		Long	Adams		
C. 2 New Business <u>passed</u> 5054	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Schoppmeyer	✓	✓	✓	
	Adams	✓	✓	✓	
	Long	✓	✓	✓	
	Gray	✓	✓	✓	
	Marsh	✓	✓	✓	
	Kinion	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan

THRU: Sondra Smith, City Clerk

FROM: Kit Williams, City Attorney

DATE: January 22, 2014

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of January 21, 2014

- 1. Bid #13-59 NAFECO:** A resolution to award Bid #13-59 and to approve the purchase of wildland fire gear backpacks from NAFECO in the amount of \$22,319.64 and to approve a budget adjustment.
- 2. Bid #13-59 Emergency Vehicle Specialists:** A resolution to award Bid #13-59 and to approve the purchase of wildland fire gear which includes helmets, goggles, gloves, shelters, coats and trousers from Emergency Vehicle Specialists in the amount of \$115,190.86.
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2. **Presentation of the City of Fayetteville Martin Luther King Brotherhood Award** – Kit Williams

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Left on the Third Reading.

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Left on the First Reading.

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Mayor Lioneld Jordan

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Aldermen

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**City of Fayetteville Arkansas
City Council Meeting Minutes
January 07, 2014**

A meeting of the Fayetteville City Council was held on January 07, 2014 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 Adella Gray, Sarah Marsh, Mark Kinion, Matthew Petty, Martin Schoppmeyer, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Justin Tennant and Rhonda Adams

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: N/A

City Council Meeting Presentations, Reports and Discussion Items:

Election of Vice Mayor

Alderman Gray moved to nominate Alderman Kinion as Vice Mayor. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

Alderman Mark Kinion was elected as Vice Mayor

Housing Authority Board of Commissioners – The Commission recommends the appointment of Carma Unruh term ending 12/28/18

Alderman Petty: I would like to thank the commission for continuing to maintain a resident advocate on the commission. I think it is important.

Alderman Gray moved to approve the appointment. Alderman Kinion seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

Firemen's Pension and Relief Fund and Policemen's Pension and Relief Fund Report to the Council – Mayor Lioneld Jordan

Mayor Jordan presented the report on the Firemen's and Policemen's Pension and Relief Fund.

City Attorney Kit Williams: I do not believe the city is currently responsible for any of the shortfalls from these closed pension plans. However, state law can change. There have been bills introduced in past legislatures that would have required the city to have the pension plans join with the state LOPFI plan which then would require the city to spend millions of dollars, because at that point we would become liable for those plans. We have been able, with the help of our state legislature representatives from Fayetteville and other places, to prevent those bills from becoming acts and becoming law. That is not to say in the future there might be a state law change which would then require the citizens of Fayetteville to spend money in order to make these funds more actuarially sound. At the current time I do not think that is the law. In advising the board it is my opinion they could reduce the benefits in order to save their trust funds. The Attorney General disagrees with me on that.

Paul Becker, Finance Director: I am not a financial advisor for the pension boards. The summary of what the Mayor said is in fact accurate. There are some severe problems. It is not a good situation for anybody. Other than a reduction of benefits, it's talking about a very large inflows of cash from the city which we currently can't afford. We would be in a position where we would have to look at reducing salaries or something large of that nature just to fund these additional costs. At this point in time the Fire Pension Board has not come to grips with a solution. There is no easy fix to the current status.

A copy of the report is attached.

Agenda Additions: N/A

Consent:

Approval of the December 17, 2013 City Council meeting minutes.

Approved

Water and Sewer Operations Facility Rain Garden: A resolution to approve and accept a grant of up to \$2,800.00 to pay for the installation of a rain garden at the City Water and Sewer Operations Facility and to approve the attached budget adjustment.

Resolution 01-14 as recorded in the office of the City Clerk

Rain Garden Project: A resolution to approve and accept six grant awards from the Rain Garden Project in the amount up to \$15,000.00 to pay for the installation of four rain gardens at the Noland Wastewater Plant and two rain gardens at the West Side Wastewater Plant and to approve the attached budget adjustment.

Resolution 02-14 as recorded in the office of the City Clerk

Stephens, Inc.: A resolution to approve a contract with Stephens, Inc. to approve bond underwriting and related services as needed through December 31, 2018.

Resolution 03-14 as recorded in the office of the City Clerk

Kutak Rock, LLP: A resolution to approve a contract with Kutak Rock, LLP to approve bond counsel services as needed through December 31, 2018.

Resolution 04-14 as recorded in the office of the City Clerk

Bid #14-02 Asphalt Striping Service, LLC: A resolution awarding Bid #14-02 and authorizing the purchase from Asphalt Striping Service, LLC of reflectorized paint markings in variable amounts for the Transportation Division as needed through the end of calendar year 2014.

Resolution 05-14 as recorded in the office of the City Clerk

Bid #14-03 Curb and Gutter Construction: A resolution to award Bid #14-03 and authorizing the purchase of curb and gutter construction from Sweetser Construction, Inc. as primary supplier and Fochtman Enterprises, Inc. as secondary supplier of variable amounts of curb and gutter construction and authorizing the use of other bidders based upon price and availability throughout 2014.

Resolution 06-14 as recorded in the office of the City Clerk

Bid #14-04 Hillside Gravel: A resolution awarding Bid #14-04 and authorizing the purchase of hillside gravel from Leming & Son Trucking, Inc. for materials picked up and Les Rogers, Inc. for materials delivered for variable unit prices and authorizing the use of other bidders based on price and availability as needed through the end of calendar year 2014.

Resolution 07-14 as recorded in the office of the City Clerk

Bid #14-05 Concrete: A resolution awarding Bid #14-05 and authorizing the purchase of concrete from Tune Concrete Company as a primary supplier and Beaver Lake Concrete, Inc. as

secondary supplier in variable amounts and authorizing the use of other bidders based on price and availability as needed through the end of calendar year 2014.

Resolution 08-14 as recorded in the office of the City Clerk

Bid #14-06 Truck Hauling Services: A resolution awarding Bid #14-06 and authorizing the purchase of truck hauling services from Les Rogers, Inc., as primary supplier and Leming & Son Trucking as secondary supplier for variable unit prices and authorizing the use of other bidders based on price and availability as needed through the end of calendar year 2014.

Resolution 09-14 as recorded in the office of the City Clerk

Bid #14-07 Aggregate Materials: A resolution awarding Bid #14-07 and authorizing the purchase of aggregate materials for varying unit prices from various vendors, as needed through the end of calendar year 2014.

Resolution 10-14 as recorded in the office of the City Clerk

Bid #14-09 Drainage Pipe: A resolution awarding Bid #14-09 and authorizing the purchase of drainage pipe for varying unit prices from various vendors, as needed through the end of calendar year 2014.

Resolution 11-14 as recorded in the office of the City Clerk

Bid #14-10 Crushed Rock Salt: A resolution awarding Bid #14-10 and authorizing the purchase of crushed rock salt from North American Salt Company in the amount of \$76.16 per ton, and authorizing the use of other bidders based on price and availability, as needed through the end of calendar year 2014.

Resolution 12-14 as recorded in the office of the City Clerk

Bid # 14-11 Topsoil: A resolution awarding Bid #14-11 and authorizing the purchase of topsoil from Les Rogers, Inc. in the amount of \$10.69 per cubic yard in variable amounts and authorizing the use of other bidders based on price and availability, as needed in calendar year 2014.

Resolution 13-14 as recorded in the office of the City Clerk

Arkansas Firewise Grant: A resolution to accept an Arkansas Firewise Grant for 2013 in the amount of \$500.00 to be used for minor equipment and to approve a budget adjustment.

Resolution 14-14 as recorded in the office of the City Clerk

Clinton Foundation's Building Retrofit Home Energy Affordability Loan Program: A resolution to approve a Memorandum of Understanding with and to pay \$5,000.00 to the Clinton

Foundation's Building Retrofit Home Energy Affordability Loan Program and to approve a budget adjustment.

Resolution 15-14 as recorded in the office of the City Clerk

Plante and Moran, PLLC: A resolution to approve a contract with Plante and Moran, PLLC for information technology services in the amount of \$101,400.00.

Resolution 16-14 as recorded in the office of the City Clerk

Amend Resolution No. 144-13 Hughmount Developers: A resolution to amend Resolution No. 144-13 which had approved an amended agreement with the Hughmount Developers to allow access to City of Fayetteville sewerage system in order to approve a second amended agreement.

Resolution 17-14 as recorded in the office of the City Clerk

ADM 13-4566 (3145 W. Salem Rd./Raven Lane Amendment): A resolution for ADM 13-4566 amending the Master Street Plan relocating Raven Lane, a collector street, approximately 150 feet to the east of the existing residence at 3145 Salem Road, as described and depicted in the attached map.

Resolution 18-14 as recorded in the office of the City Clerk

Alderman Gray moved to approve the Consent Agenda as read. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

Unfinished Business:

RZN 13-4538 (Razorback Road/Victory Commons): An ordinance rezoning that property described in rezoning petition RZN 13-4538, for approximately 5.09 acres, located at 731 S. Razorback Road from I-1, Heavy Commercial and Light Industrial, to UT, Urban Thoroughfare. ***This ordinance was left on the First Reading at the December 17, 2013 City Council meeting.***

Alderman Petty moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services: The applicant can't be here tonight and request this to be left for a meeting at least three weeks away.

Alderman Petty moved to table the ordinance to the February 4, 2014 City Council meeting. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

New Business:

2014 Asphalt Materials: An ordinance waiving the requirements of formal competitive bidding during calendar year 2014 for the purchase of asphalt materials for use by the Transportation Division, but requiring informal quarterly bids or quotes.

City Attorney Kit Williams read the ordinance.

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

Alderman Long moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Kinion seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Tennant and Adams were absent.

Ordinance 5644 as Recorded in the office of the City Clerk

Watershed Conservation Resource Center Memorandum of Understanding: An ordinance waiving the requirements of formal competitive bidding and approving a five year Memorandum of Understanding with the Watershed Conservation Resource Center to jointly seek funding and use such funding to design and construct stream restoration projects.

City Attorney Kit Williams read the ordinance.

Sarah Wrede, Staff Engineer gave a brief description of the ordinance.

Mayor Jordan: You all do wonderful work.

Sandi Formica, WCRC Executive Director: Thank you. You all are wonderful to work with too.

Alderman Kinion: The Water, Sewer, & Solid Waste Committee appreciates what you do to protect the watershed.

Sandi Formica: Thank you.

Alderman Kinion moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Alderman Marsh moved to suspend the rules and go to the third and final reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Tennant and Adams were absent.

Ordinance 5645 as Recorded in the office of the City Clerk

VAC 13-4544 (Harvey's Hill/Center and Duncan): An ordinance approving VAC 13-4544 submitted by McClelland Consulting Engineers for property located at the intersection of West Center Street and South Hill Avenue to vacate a utility easement.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff reviewed this with all city utility departments and franchise utilities. There were no objections. Planning Commission vote was 7-0 for approval.

Alderman Petty moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Tennant and Adams were absent.

Ordinance 5646 as Recorded in the office of the City Clerk

RZN 13-4546 (4377 Huntsville Rd./Baldwin Church of Christ): An ordinance rezoning that property described in rezoning petition RZN 13-4546, for approximately 2.07 acres, located at 4377 Huntsville Road from RSF-4, Residential Single-Family, 4 units per acre, to P-1, Institutional.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Planning Commission vote was 8-0 for approval. Staff is recommending approval for the rezoning.

Alderman Kinion moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Kinion, Schoppmeyer, Long, Gray Marsh and Mayor Jordan voting yes. Alderman Petty was absent during the vote. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Alderman Kinion moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Tennant and Adams were absent.

Ordinance 5647 as Recorded in the office of the City Clerk

RZN 13-4547 (MLK/Beechwood/Easton): An ordinance rezoning that property described in rezoning petition RZN 13-4547, for approximately 1.54 acres, located at 1541/1555/1561 Martin Luther King Boulevard from I-1, Heavy Commercial/Light Industrial, to CS, Community Services.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff is recommending approval.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Tennant and Adams were absent.

Ordinance 5648 as Recorded in the office of the City Clerk

RZN 13-4548 (McMillan Estates): An ordinance rezoning that property described in rezoning petition RZN 13-4548, for approximately 19.61 acres, located at the southeast corner of I-540 and Wedington Drive from C-2, Thoroughfare Commercial, to UT, Urban Thoroughfare.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff is recommending approval. Planning Commission voted 8-0 in favor of the request.

Justin Jorgensen, Jorgensen and Associates: I am representing the applicant.

Alderman Long: I am excited that people are looking at this land. It is an important piece of land to be developed in Fayetteville.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Tennant and Adams were absent.

Ordinance 5649 as Recorded in the office of the City Clerk

RZN 13-4552 (Park West): An ordinance rezoning that property described in rezoning petition RZN 13-4552, for approximately 25.90 acres, located at Hwy 112, north of Truckers Drive from R-PZD Park West, to CS, Community Services.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff is recommending approval. Planning Commission voted 8-0 in favor of the request.

Bo Wilkins, Engineering Services: I represent Legacy National Bank for the rezoning.

Alderman Gray moved to suspend the rules and go to the second reading. **Alderman Long** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Tennant** and **Adams** were absent.

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. **Alderman Gray** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Tennant** and **Adams** were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. **Alderman Tennant** and **Adams** were absent.

Ordinance 5650 as Recorded in the office of the City Clerk

RZN 13-4553 (Wedington Circle): An ordinance rezoning that property described in rezoning petition RZN 13-4553, for approximately 6.12 acres, located west of Wedington Drive and Garland Avenue from R-PZD Wedington Circle, to CS, Community Services.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff and Planning Commission recommended in favor of the rezoning request.

Clinton Bennett, Commercial Realtor: I am representing the owner.

Alderman Long moved to suspend the rules and go to the second reading. **Alderman Gray** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Tennant** and **Adams** were absent.

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Adams were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Tennant and Adams were absent.

Ordinance 5651 as Recorded in the office of the City Clerk

City Council Agenda Session Presentations:

Entertainment District/Spring Street Parking Deck Update: David Jurgens, Utilities Director

City Council Tour:

Announcements:

Don Marr, Chief of Staff: Due to the recent inclement weather, Solid Waste Services have been suspended. Services will resume tomorrow. We received notice of a second potential winter weather impact this Wednesday night and Thursday morning with a chance of freezing rain. If that happens it could impact further delays or scheduling of services. We participate in the National Weather Service notifications and our Transportation Division is watching that closely.

We are changing the name of the Solid Waste Division to Recycling and Trash Collection. We get numerous questions about how to get trash and recycling picked up. People don't associate the name of Solid Waste to be that service. Another change in the division this year is that we changed from a printed sticker program to an electronic tracking program. This will save the city \$17,000.00 in mailing and printing of extra bag stickers.

This is the last week of service for David Jurgens who is our Director of Utilities. David started with the city on November 2, 1992. He is going to work for the City of Chesapeake in Virginia as Director of Utilities. David has been instrumental here at the city. He has led our Water and Wastewater Utility. He took over the parking group as we rotate management. He has managed the Solid Waste Division as well as the Parking Enterprise Fund. He was the project manager on the West Side Wastewater Treatment Plant, which we all know the challenges we had with the project and the job that David did to complete that. On behalf of the city staff that work with David and the citizens who have worked with him, we want to thank him for his service. We

wish him luck in Virginia and he will be missed. We will be seeking to fill his role here at the city.

Alderman Marsh: The Historic and Heritage Resources Action Group will meet this Thursday, January 9, 2014 at 5:30 p.m. We will meet at the home of Nina Shirkey, 229 North Block Avenue.

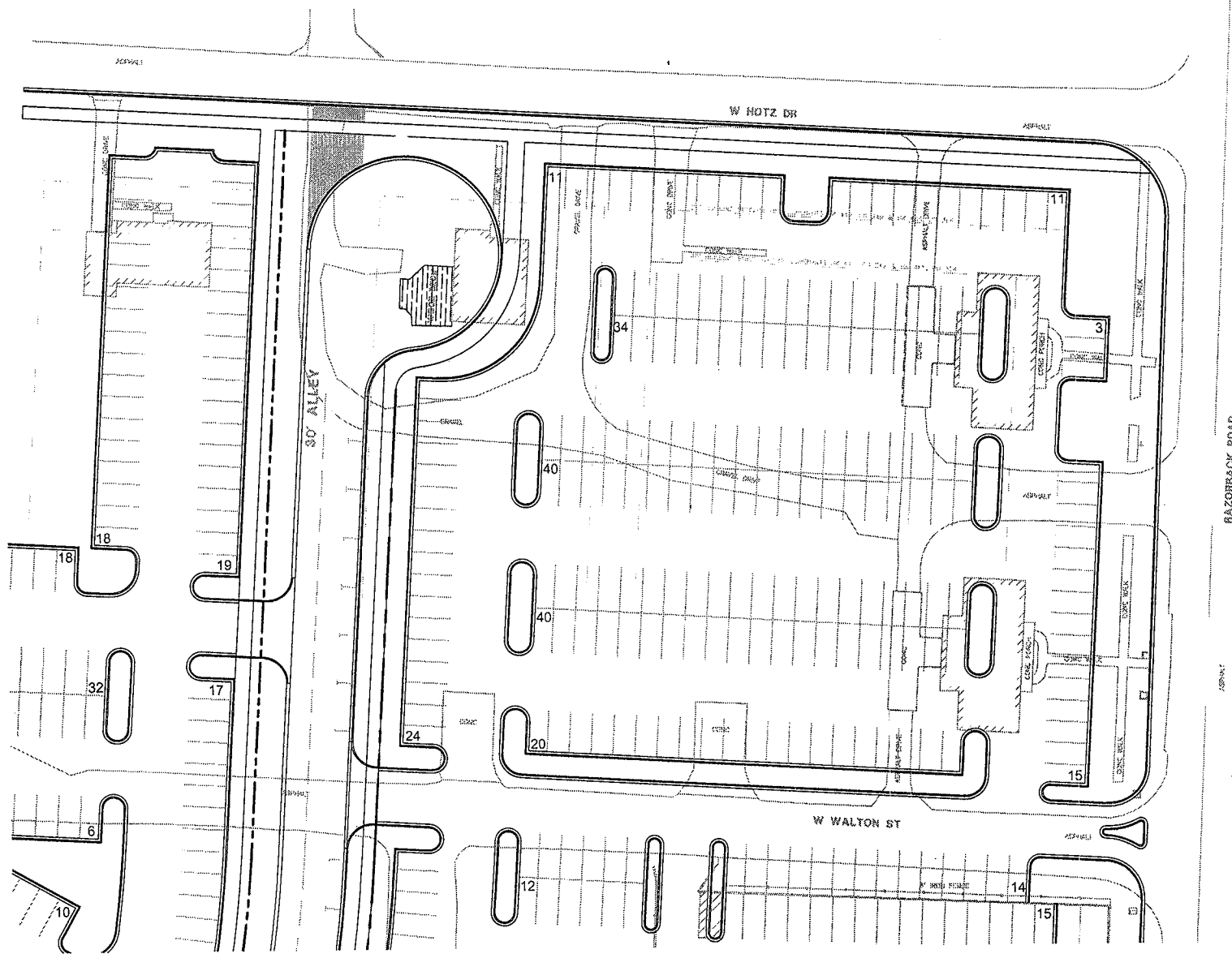
Alderman Gray: We will have a Ward 1 meeting on Thursday, January 23, 2014 at 6:00 p.m. at the Senior Center.

Adjournment: 6:57 p.m.

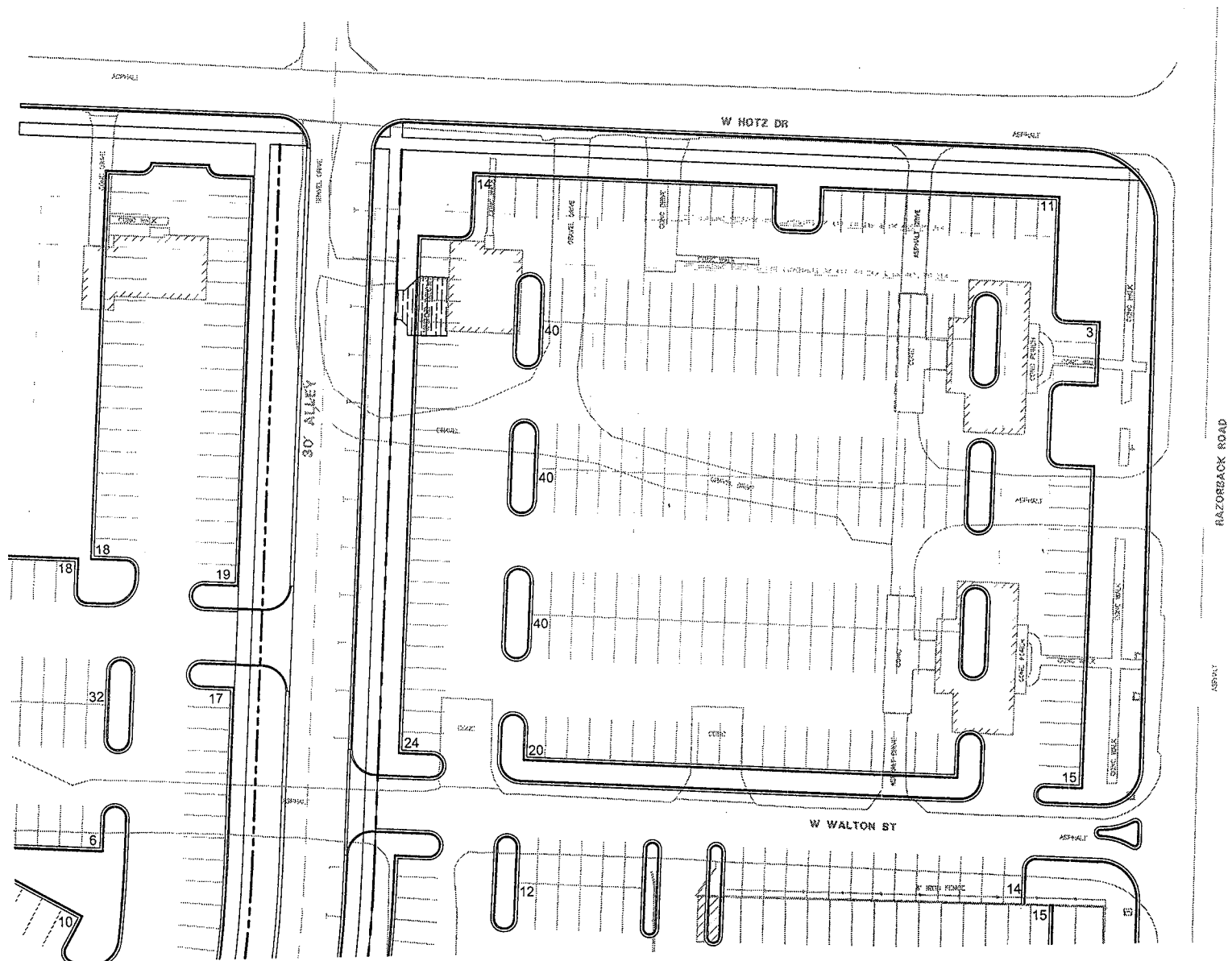
Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

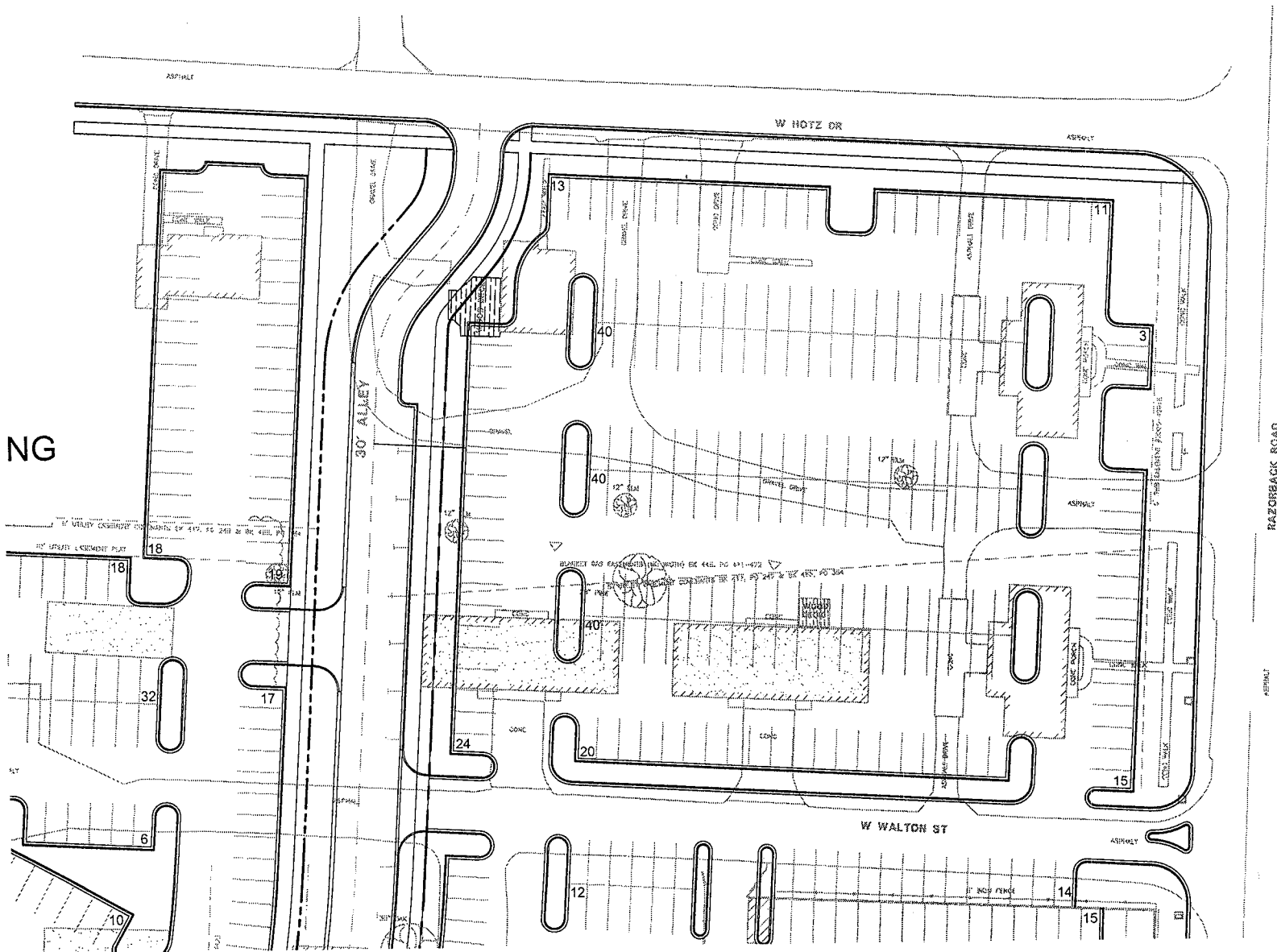
VAC 13-4516



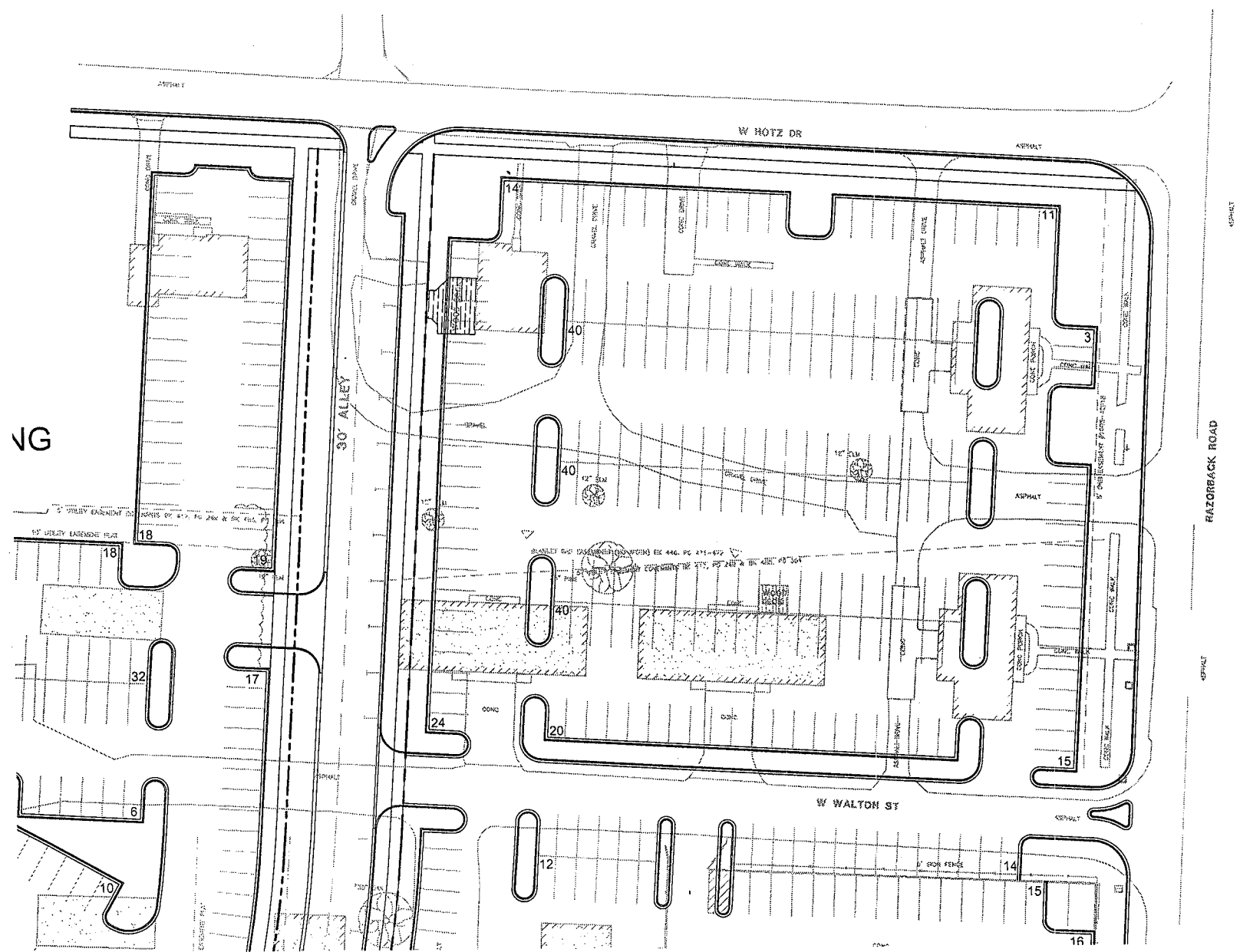
191 PARKING
SPACES



207 PARKING
SPACES



202 PARKING
SPACES



207 PARKING
SPACES

RAZORBACK ROAD

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Sarah Marsh
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Martin W. Schoppmeyer, Jr.
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
January 21, 2014**

A meeting of the Fayetteville City Council will be held on January 21, 2014 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

- 1. State of the City Address – Mayor Lioneld**
- 2. Presentation of the City of Fayetteville Martin Luther King Brotherhood Award – Kit Williams**

Agenda Additions:

A. Consent:

- 1. Approval of the January 07, 2014 City Council meeting minutes.**

2. **Bid #13-59 NAFECO:** A resolution to award Bid #13-59 and to approve the purchase of wildland fire gear backpacks from NAFECO in the amount of \$22,319.64 and to approve a budget adjustment.
3. **Bid #13-59 Emergency Vehicle Specialists:** A resolution to award Bid #13-59 and to approve the purchase of wildland fire gear which includes helmets, goggles, gloves, shelters, coats and trousers from Emergency Vehicle Specialists in the amount of \$115,190.86.
4. **Gulf State Distributors:** A resolution to approve the purchase of ammunition needed by the Fayetteville Police Department during 2014 from Gulf State Distributors in the amount of \$50,770.35 pursuant to the State of Arkansas ammunition contract.

B. Unfinished Business:

1. **VAC 13-4516 (Brenda Drive, Court and Walton Street/University of Arkansas):** An ordinance to approve the University of Arkansas' petition to vacate Brenda Drive, Court Street, Walton Street and a thirty foot wide alley all within property owned by the University of Arkansas. ***This ordinance was left on the Second Reading at the November 19, 2013 City Council meeting. This was left on the Second Reading and Tabled to the December 17, 2013 City Council meeting. This ordinance was left on the Third Reading at the December 17, 2013 City Council meeting and Tabled to the January 21, 2014 City Council meeting.***

Left on the Third Reading.

2. **Amend Chapter 178:** An ordinance to repeal §178.03 Sidewalk Vendors and enact a replacement §178.03 Sidewalk Vendors and Food Trucks and to repeal §178.04 Outdoor Mobile Vendors Located on Private Property and enact a replacement §178.04 Outdoor Mobile Vendors Located on Private Property. ***This ordinance was left on the First Reading at the November 19, 2013 City Council meeting and tabled to the December 17, 2013 City Council meeting. This ordinance was left on the First Reading at the December 17, 2013 City Council meeting and Tabled to the January 21, 2014 City Council meeting.***

Left on the First Reading.

C. New Business:

1. **ADM 13-4565 (UDC Amendment: Large Scale Development/Parkland Dedication Applicability):** An ordinance to amend the definition of Large Scale Development in §151.01, amend §157.02, §166.01 (D) and §166.02 (B)(2) and (3) and to repeal §94.06 Flammable and Combustible Liquids of the Fayetteville Code to clarify what developments are considered Large Scale Developments.
2. **Amend §157.04:** An ordinance to amend §157.04 of the Unified Development Code to require notification for Planned Zoning District amendments.

D. City Council Agenda Session Presentations:

1. National League of Cities Report presented by Alderman Sarah Marsh

E. City Council Tour:

F. Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

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

Old business and new business.

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

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

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

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

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

City of Fayetteville Item Review Form

2013-0252

Legistar File Number

1-21-2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

David Dayringer

Submitted By

Fire

Department

Action Required:

A resolution awarding Bid 13-59 and budget adjustment for the purchase of wildland fire gear backpacks from the vendor NAFECO in the amount of \$22,319.64

Does this item have a cost? ☒ Yes

\$22,319.64

Cost of this request

\$164,690.00

Category or Project Budget

Fire FEMA Grant-Wildland Fire Gear

Program or Project Name

1010.3020.5302.01

Account Number

\$142,369.96

Funds Used to Date

Fire Improvements

Program or Project Category

31303/1

Project Number

\$0.40

Remaining Balance

General

Fund Name

Budgeted Item? ☒ Yes

Budget Adjustment Attached? ☒ Yes

V20130812

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

[Signature] 1-3-14
Paul a. Butler 1-3-2014
[Signature] 1-3-14
Frank Jordan 1/6/14



CITY COUNCIL AGENDA MEMO

To: Mayor Jordan and City Council

From: David Dayringer, Fire Chief *CD*

Date: January 2, 2013

Subject A resolution awarding Bid 13-59 and budget adjustment for the purchase of wildland fire gear backpacks from the vendor NAFECO in the amount of \$22,319.64

PROPOSAL:

The procurement of this wildland firefighting gear will allow The Fayetteville Fire Department to meet all requirements of the NFPA 1977 Protective Clothing and Equipment for the work of Wildland Fire Fighting.

RECOMMENDATION:

Staff recommends a resolution awarding Bid 13-59-Fire Department Wildland Firefighting Gear to the vendor *NAFECO* who was the vendor to meet the specifications for the wildland gear backpacks and approving the purchase of wildland firefighting gear for a total price of \$22,319.64 including sales tax.

BUDGET IMPACT:

Funds for the purchase of the wildland firefighting gear have been budgeted in project #31303/1 as a result of the Federal Emergency Management Agency Assistance to Firefighters Grant Award of \$120,736.00 and matched with \$30,184.00 from Fire Department Act 833/46/Misc. Revenue. A budget adjustment utilizing additional Act 833 revenue is included to allow for the total funding to be available for the purchase of the wildland gear backpacks.

The \$22,319.64 purchase price will be paid as follows: \$6,840.03 of the remaining grant funds from FEMA matched with \$1,710.01 of Act 833 money which has been previously approved. The Budget Adjustment submitted will add an additional amount of \$13,770 of Act 833 revenue for the purchase amount of \$22,319.64. The Act 833 project is funded by the State Fire Protection Services Program—Act 833 of 1991 through a half of 1% premium tax on fire insurance policies.

RESOLUTION NO. _____

A RESOLUTION TO AWARD BID #13-59 AND TO APPROVE THE PURCHASE OF WILDLAND FIRE GEAR BACKPACKS FROM NAFECO IN THE AMOUNT OF \$22,319.64 AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #13-59, approves the purchase of wild land fire gear backpacks from NAFECO in the amount of \$22,319.64 and approves the attached budget adjustment.

PASSED and **APPROVED** this 21st day of January 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville, Arkansas
 Budget Adjustment Form

Budget Year BY 2014	Division: Fire Department Department: Fire Department	Request Date 1/21/2014	Adjustment Number
-------------------------------	--	----------------------------------	--------------------------

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Funds for the purchase of the wildland firefighting gear have been budgeted in project #31303/1 as a result of the Federal Emergency Management Agency Assistance to Firefighters Grant Award of \$120,736.00 and matched with \$30,184.00 from Fire Department Act 833/46/Misc. Revenue. A budget adjustment utilizing additional Act 833 revenue is included to allow for the total funding to be available for the purchase of the wildland gear backpacks from NAFECO. The \$22,319.64 purchase price will be paid as follows: \$6,840.03 of the remaining grant funds from FEMA matched with \$1,710.01 of Act 833 money which has been previously approved. The Budget Adjustment submitted will add an additional amount of \$13,770 of Act 833 revenue for the purchase amount of \$22,319.64.

CITY\kspringer 1/2/2014 11:01 AM Prepared By  Division Head  Budget Director	Legistar# / Date: 2013-0252 / 1/21/2014 Legistar Title <u>FEMA FIREWISE GRANT_NAFECO</u> Budget & Information Management Use Only Type: A B C D E P General Ledger Date _____ Posted to General Ledger _____ Checked / Verified _____	Initial _____ Date _____ Initial _____ Date _____
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TOTAL BUDGET ADJUSTMENT		13,770	13,770		
		Increase / (Decrease)			
Account Name	Account Number	Expense	Revenue	Project	Sub Number
Bunker Gear	1010.3020.5302.01	13,770		31303	1
Fire Act 833	1010.0001.4308.00		13,770	31303	1



BID: 13-59
 11/28/13
 3:00 PM
 CITY OF FAYETTEVILLE

Bid 13-59, Wildland Fire Gear

NOTES

BIDDER	Item #	DESCRIPTION	MANUFACTURER/MODEL	Quantity	Unit Price	TOTAL BID PRICE	
1 Casco Industries	1A	Helmet (Red)	NO BID	102		\$ -	
	1B	Helmet (White)	NO BID	8		\$ -	
	2	Wildland Goggles	NO BID	110		\$ -	
	3	Bandana Face Mask	NO BID	110		\$ -	
	4	Wildland Firefighter Gloves	Shelby5002	110	\$ 31.82	\$ 3,500.20	2
	5A	Forest Protection Shelters - Regular	NO BID	56		\$ -	
	5B	Forest Protection Shelters - Large	NO BID	54		\$ -	
	6	Backpack	NO BID	110		\$ -	
	7A	Tan Wildland Coat	NO BID	110		\$ -	
	7B	Name Plate	NO BID	110		\$ -	
8	Wildland Trousers	NO BID	110		\$ -		
					\$ 3,500.20		
2 Emergency Vehicle Specialists	1A	Helmet (Red)	Morning Pride/NP-WF	102	\$ 73.88	\$ 7,542.96	1
	1B	Helmet (White)	Morning Pride/NP-WF	8	\$ 73.88	\$ 591.04	1
	2	Wildland Goggles	MP Paulson/510-WEA	110	\$ 38.60	\$ 4,246.00	2
	3	Bandana Face Mask	Hot Shield/UB-V2	110	\$ 53.20	\$ 5,852.00	3
	4	Wildland Firefighter Gloves	Shelby5002	110	\$ 30.88	\$ 3,396.80	1
	5A	Forest Protection Shelters - Regular	Anchor Industries/145246	56	\$ 317.14	\$ 17,759.84	1
	5B	Forest Protection Shelters - Large	Anchor Industries/145246	54	\$ 371.88	\$ 20,071.28	1
	6	Backpack	Coaxsher/FS101	110	\$ 219.88	\$ 24,186.80	2
	7A	Tan Wildland Coat	Tecgen/Level 3	110	\$ 243.77	\$ 26,814.70	1
	7B	Name Plate	Included	110	\$ -	\$ -	-
**Sizes SM-XL	8	Wildland Trousers	Tecgen/Level 3	110	\$ 223.10	\$ 24,541.00	1
					\$ 134,994.10		
3 Kenco Fire Equipment Inc	1A	Helmet (Red)	Bullard/FH911HR	102	\$ 36.99	\$ 3,772.98	
	1B	Helmet (White)	Bullard/FH911HR	8	\$ 36.99	\$ 295.92	
	2	Wildland Goggles	NO BID	110	\$ -	\$ -	
	3	Bandana Face Mask	Hot Shield/UB-V2	110	\$ 42.90	\$ 4,719.00	1
	4	Wildland Firefighter Gloves	Glove Crafters/KW-226	110	\$ 25.50	\$ 2,805.00	
	5A	Forest Protection Shelters - Regular	NO BID	56	\$ -	\$ -	
	5B	Forest Protection Shelters - Large	NO BID	54	\$ -	\$ -	
	6	Backpack	NO BID	110	\$ -	\$ -	
	7A	Tan Wildland Coat	NO BID	110	\$ -	\$ -	
	7B	Name Plate	NO BID	110	\$ -	\$ -	
8	Wildland Trousers	NO BID	110	\$ -	\$ -		
					\$ 11,482.90		
4 NAFECO	1A	Helmet (Red)	BULLARD/FH911HR	102	\$ 40.28	\$ 4,128.56	3
	1B	Helmet (White)	Bullard/FH911HR	8	\$ 60.81	\$ 486.48	3
	2	Wildland Goggles	ESS/FirePro Wraparound740-0377	110	\$ 31.82	\$ 3,500.20	ESS Fire Pro wraparound 740-0377 do not meet specs because they don't have the dual lens
	3	Bandana Face Mask	Hot Shield/UB-V2	110	\$ 47.73	\$ 5,250.30	2
	4	Wildland Firefighter Gloves	Glove Crafters/KW-226	110	\$ 27.28	\$ 3,000.80	Their glove was low bid but didn't meet specs as it was cowhide and not pigskin
	5A	Forest Protection Shelters - Regular	New Generation	56	\$ 377.40	\$ 21,134.40	
	5B	Forest Protection Shelters - Large	New Generation	54	\$ 444.00	\$ 23,976.00	
	6	Backpack	Coaxsher/FS1 RANGER	110	\$ 184.88	\$ 20,336.80	1
	7A	Tan Wildland Coat	TecGen/XJT-Level 3	110	\$ 266.28	\$ 29,290.80	2
	7B	Name Plate	Included	110	\$ -	\$ -	
8	Wildland Trousers	TecGen/XPT3-Level 3	110	\$ 239.86	\$ 26,384.60	2	
					\$ 138,204.94		
5 The Supply Cache, Inc	1A	Helmet (Red)	Bullard/FH-911HR	102	\$ 37.60	\$ 3,825.00	
	1B	Helmet (White)	Bullard/FH-911HR	8	\$ 37.60	\$ 300.00	
	2	Wildland Goggles	Sellstrom/80221	110	\$ 25.60	\$ 2,805.00	
	3	Bandana Face Mask	Hot Shield/UB-V2	110	\$ 46.50	\$ 5,115.00	
	4	Wildland Firefighter Gloves	Northstar/2991	110	\$ 13.75	\$ 1,512.60	
	5A	Forest Protection Shelters - Regular	Anchor Ind/9003026	56	\$ 283.75	\$ 15,890.00	
	5B	Forest Protection Shelters - Large	Anchor Ind/9003027	54	\$ 335.25	\$ 18,103.50	
	6	Backpack	Coaxsher/FS-101	110	\$ 180.25	\$ 19,827.50	
	7A	Tan Wildland Coat	NO BID	110	\$ -	\$ -	
	7B	Name Plate	NO BID	110	\$ -	\$ -	
8	Wildland Trousers	NO BID	110	\$ -	\$ -		
					\$ 67,378.50		

DID NOT MEET SPEC
 DISQUALIFIED FOR NOT
 MEETING WARRANTY
 REQUIREMENTS

Certified: P Vice

Witness

Date

** Yellow indicates calculation error



To: Andrea Foren, Purchasing

From: Kevin Murray, Assistant Chief Fire

Re: Bid 13-59

Date: December 31, 2013

On November 26, 2013, Bid #13-59 – Wildland Gear was opened. Bids were submitted from Casco Industries, Emergency Vehicle Specialists (EVS), Kenco Fire Equipment, NAFECO, and The Supply Cache Inc. Upon completing the bid tabulation, the lowest to highest bidders in order were as follows:

Helmet – Kenco, The Supply Cache, Nafeco, EVS [Casco – No Bid]
Goggles – The Supply Cache, Nafeco, EVS, [Casco and Kenco – No Bid]
Bandana Face Mask – Kenco, The Supply Cache, Nafeco, EVS, [Casco – No Bid]
Gloves – The Supply Cache, Nafeco, Kenco, EVS, Casco
Shelters – The Supply Cache, EVS, Nafeco [Casco & Kenco – No Bid]
Backpack – The Supply Cache, Nafeco, EVS, [Casco & Kenco – No Bid]
Coat – Emergency Vehicle Specialists, Nafeco [Casco, Kenco, The Supply Cache – No Bid]
Trouser – Emergency Vehicle Specialists, Nafeco [Casco, Kenco, The Supply Cache – No Bid]

After reviewing the bids versus specifications, the following was determined:

The Supply Cache would not meet warranty specifications, therefore their bid was rejected on all items.

Kenco – The helmet did not meet specifications as it did not have an under brim shade. The gloves do not meet specs as they are cowhide and not pigskin, had no Nomex wristlet, no keystone thumb and no gunn cut. Their bandana face mask **did meet** specs.

Casco Industries – The only item in the bid that they bid on was the gloves and while they did meet specs, they were not low bidder.

Nafeco – While Nafeco was the next lowest bidder on the goggles, they did not meet specifications as they were single lens instead of dual lens therefore this portion of their bid was rejected. Their gloves also did not meet specifications as they were cowhide and not pigskin. Their coat and trouser did meet specifications however they were not the lowest bidder on these items. Their backpack **did meet** specifications and they were the lowest bidder after the rejection of the Supply Cache.

Emergency Vehicle Specialists – They were not the low bidder on the helmets however, their helmet did meet specifications. All other items they bid did meet specifications.

It is requested that we award the following:

Helmet (both Red and White) – Emergency Vehicle Specialists

Goggles – Emergency Vehicle Specialists

Bandana Face Mask – Kenco Fire Equipment

Forest Protection Shelters – Emergency Vehicle Specialists

Backpack – NAFECO

Coat & Trouser – Emergency Vehicle Specialists

Gloves—Emergency Vehicle Specialists

City of Fayetteville Item Review Form

2013-0253

Legistar File Number

1-21-2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

David Dayringer

Submitted By

Fire

Department

Action Required:

A resolution awarding Bid 13-59 for the purchase of wildland fire gear-- helmets, goggles, gloves, shelters, coat, and trousers from the vendor EVS Emergency Vehicle Specialists in the amount of \$115,190.86

Does this item have a cost? ☒ Yes

\$115,190.86

Cost of this request

\$150,920.00

Category or Project Budget

Fire FEMA Grant-Wildland Fire Gear

Program or Project Name

1010.3020.5302.01

Account Number

\$22,000.00

Funds Used to Date

Fire Improvements

Program or Project Category

31303/1

Project Number

\$13,729.14

Remaining Balance

General

Fund Name

Budgeted Item? ☒ Yes

Budget Adjustment Attached? ☐ No

V20130812

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

K. Allen 1-3-14

Paul A. Butler 1-3-2014

Jim Allen 1-3-14
Franklin D. Butler 1/6/14

dmw



CITY COUNCIL AGENDA MEMO

To: Mayor Jordan and City Council

From: David Dayringer, Fire Chief 

Date: January 2, 2013

Subject A resolution awarding Bid 13-59 for the purchase of wildland fire gear-- helmets, goggles, gloves, shelters, coat, and trousers from the vendor EVS Emergency Vehicle Specialists in the amount of \$115,190.86

PROPOSAL:

The procurement of this wildland firefighting gear will allow The Fayetteville Fire Department to meet all requirements of the NFPA 1977 Protective Clothing and Equipment for the work of Wildland Fire Fighting.

RECOMMENDATION:

Staff recommends a resolution awarding Bid 13-59-Fire Department Wildland Firefighting Gear to the vendor *EVS Emergency Vehicle Specialists* who was the vendor to meet the specifications for the wildland gear helmets, goggles, gloves, shelters, coat, and trousers and approving the purchase of wildland firefighting gear for a total price of \$115,190.86 including sales tax.

BUDGET IMPACT:

Funds for the purchase of the wildland firefighting gear have been budgeted in project #31303/1 as a result of the Federal Emergency Management Agency Assistance to Firefighters Grant Award of \$120,736.00 and matched with \$30,184.00 from Fire Department Act 833/46/Misc. Revenue.

The \$115,190.86 purchase price will be paid as follows: \$92,152.69 of remaining grant funds from FEMA matched with \$23,038.17 of Act 833 money which has been previously approved for the purchase amount of \$115,190.86. The Act 833 project is funded by the State Fire Protection Services Program—Act 833 of 1991 through a half of 1% premium tax on fire insurance policies.

RESOLUTION NO. _____

A RESOLUTION TO AWARD BID #13-59 AND TO APPROVE THE PURCHASE OF WILDLAND FIRE GEAR WHICH INCLUDES HELMETS, GOGGLES, GLOVES, SHELTERS, COATS AND TROUSERS FROM EMERGENCY VEHICLE SPECIALISTS IN THE AMOUNT OF \$115,190.86

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #13-59 and approves the purchase of wildland fire gear which includes helmets, goggles, gloves, shelters, coats and trousers from Emergency Vehicle Specialists in the amount of \$115,190.86.

PASSED and **APPROVED** this 21st day of January 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

To: Andrea Foren, Purchasing

From: Kevin Murray, Assistant Chief Fire

Re: Bid 13-59

Date: December 31, 2013

On November 26, 2013, Bid #13-59 – Wildland Gear was opened. Bids were submitted from Casco Industries, Emergency Vehicle Specialists (EVS), Kenco Fire Equipment, NAFECO, and The Supply Cache Inc. Upon completing the bid tabulation, the lowest to highest bidders in order were as follows:

Helmet – Kenco, The Supply Cache, Nafeco, EVS [Casco – No Bid]
Goggles – The Supply Cache, Nafeco, EVS, [Casco and Kenco – No Bid]
Bandana Face Mask – Kenco, The Supply Cache, Nafeco, EVS, [Casco – No Bid]
Gloves – The Supply Cache, Nafeco, Kenco, EVS, Casco
Shelters – The Supply Cache, EVS, Nafeco [Casco & Kenco – No Bid]
Backpack – The Supply Cache, Nafeco, EVS, [Casco & Kenco – No Bid]
Coat – Emergency Vehicle Specialists, Nafeco [Casco, Kenco, The Supply Cache – No Bid]
Trouser – Emergency Vehicle Specialists, Nafeco [Casco, Kenco, The Supply Cache – No Bid]

After reviewing the bids versus specifications, the following was determined:

The Supply Cache would not meet warranty specifications, therefore their bid was rejected on all items.

Kenco – The helmet did not meet specifications as it did not have an under brim shade. The gloves do not meet specs as they are cowhide and not pigskin, had no Nomex wristlet, no keystone thumb and no gunn cut. Their bandana face mask **did meet** specs.

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Emergency Vehicle Specialists – They were not the low bidder on the helmets however, their helmet did meet specifications. All other items they bid did meet specifications.

It is requested that we award the following:

Helmet (both Red and White) – Emergency Vehicle Specialists

Goggles – Emergency Vehicle Specialists

Bandana Face Mask – Kenco Fire Equipment

Forest Protection Shelters – Emergency Vehicle Specialists

Backpack – NAFECO

Coat & Trouser – Emergency Vehicle Specialists

Gloves—Emergency Vehicle Specialists



BID: 13-59
 11/28/13
 3:00 PM
 CITY OF FAYETTEVILLE

Bid 13-59, Wildland Fire Gear

NOTES

BIDDER	Item #	DESCRIPTION	MANUFACTURER/MODEL	Quantity	Unit Price	TOTAL BID PRICE	
1 Casco Industries	1A	Helmet (Red)	NO BQ	102		\$ -	
	1B	Helmet (White)	NO BQ	8		\$ -	
	2	Wildland Goggles	NO BQ	110		\$ -	
	3	Bandana Face Mask	NO BQ	110		\$ -	
	4	Wildland Firefighter Gloves	Shelby/5002	110	\$ 31.82	\$ 3,500.20	2
	5A	Forest Protection Shelters - Regular	NO BQ	56		\$ -	
	5B	Forest Protection Shelters - Large	NO BQ	54		\$ -	
	6	Backpack	NO BQ	110		\$ -	
	7A	Tan Wildland Coat	NO BQ	110		\$ -	
2 Emergency Vehicle Specialists	7B	Name Plate	NO BQ	110		\$ -	
	8	Wildland Trouser	NO BQ	110		\$ -	
						\$ 3,500.20	
	1A	Helmet (Red)	Morning Pride/HP-WF	102	\$ 73.98	\$ 7,542.00	1
	1B	Helmet (White)	Morning Pride/HP-WF	8	\$ 73.98	\$ 591.80	1
	2	Wildland Goggles	MP Paulson/810-WEA	110	\$ 38.66	\$ 4,241.60	2
	3	Bandana Face Mask	Hot Shield/UB-V2	110	\$ 63.20	\$ 6,952.00	3
	4	Wildland Firefighter Gloves	Shelby/5002	110	\$ 30.88	\$ 3,394.80	1
	5A	Forest Protection Shelters - Regular	Anchor Industries/145248	56	\$ 317.14	\$ 17,769.84	1
3 Kenco Fire Equipment Inc	5B	Forest Protection Shelters - Large	Anchor Industries/145248	54	\$ 371.68	\$ 20,071.28	1
	6	Backpack	Coaxther/FS101	110	\$ 219.86	\$ 24,184.60	2
	7A	Tan Wildland Coat	Tecogen/Level 3	110	\$ 243.77	\$ 26,814.70	1
	7B	Name Plate	Included	110	\$ -	\$ -	-
	8	Wildland Trouser	Tecogen/Level 3	110	\$ 223.10	\$ 24,541.00	1
						\$ 134,994.10	
	1A	Helmet (Red)	Bullard/FH911HR	102	\$ 36.99	\$ 3,670.88	
	1B	Helmet (White)	Bullard/FH911HR	8	\$ 36.99	\$ 297.92	
	2	Wildland Goggles	NO BQ	110	\$ -	\$ -	
4 NAFECO	3	Bandana Face Mask	Hot Shield/UB-V2	110	\$ 42.00	\$ 4,719.00	1
	4	Wildland Firefighter Gloves	Glove Crafters/KW-226	110	\$ 26.50	\$ 2,805.00	
	5A	Forest Protection Shelters - Regular	NO BQ	56	\$ -	\$ -	
	5B	Forest Protection Shelters - Large	NO BQ	54	\$ -	\$ -	
	6	Backpack	NO BQ	110	\$ -	\$ -	
	7A	Tan Wildland Coat	NO BQ	110	\$ -	\$ -	
	7B	Name Plate	NO BQ	110	\$ -	\$ -	
	8	Wildland Trouser	NO BQ	110	\$ -	\$ -	
						\$ 11,482.80	
5 The Supply Cache, Inc	1A	Helmet (Red)	BULLARD/FH911HR	102	\$ 48.28	\$ 4,924.56	3
	1B	Helmet (White)	Bullard/FH911HR	8	\$ 50.81	\$ 406.48	3
	2	Wildland Goggles	ESS/FirePro Wraparound740-0377	110	\$ 31.82	\$ 3,500.20	
	3	Bandana Face Mask	Hot Shield/UB-V2	110	\$ 47.73	\$ 5,250.30	2
	4	Wildland Firefighter Gloves	Glove Crafters/KW-226	110	\$ 27.38	\$ 3,000.80	
	5A	Forest Protection Shelters - Regular	New Generation	56	\$ 377.40	\$ 21,134.40	2
	5B	Forest Protection Shelters - Large	New Generation	54	\$ 444.00	\$ 23,876.00	2
	6	Backpack	Coaxther/FS1 RANGER	110	\$ 184.89	\$ 20,336.80	1
	7A	Tan Wildland Coat	TecGen/XJT-Level 3	110	\$ 266.28	\$ 29,280.80	2
6 The Supply Cache, Inc	7B	Name Plate	Included	110	\$ -	\$ -	
	8	Wildland Trouser	TecGen/XPT3-Level 3	110	\$ 239.86	\$ 26,384.60	2
						\$ 138,204.94	
	1A	Helmet (Red)	Bullard/FH-911HR	102	\$ 37.50	\$ 3,825.00	
	1B	Helmet (White)	Bullard/FH-911HR	8	\$ 37.50	\$ 300.00	
	2	Wildland Goggles	Sellstrom/80221	110	\$ 25.50	\$ 2,805.00	
	3	Bandana Face Mask	Hot Shield/UB-V2	110	\$ 46.50	\$ 5,115.00	
	4	Wildland Firefighter Gloves	Northstar/2991	110	\$ 13.76	\$ 1,512.50	
	5A	Forest Protection Shelters - Regular	Anchor Ind/9003026	56	\$ 293.75	\$ 15,980.00	
7 The Supply Cache, Inc	5B	Forest Protection Shelters - Large	Anchor Ind/9003027	54	\$ 335.20	\$ 18,103.50	
	6	Backpack	Coaxther/FS-101	110	\$ 180.25	\$ 19,827.50	
	7A	Tan Wildland Coat	NO BQ	110	\$ -	\$ -	
	7B	Name Plate	NO BQ	110	\$ -	\$ -	
	8	Wildland Trouser	NO BQ	110	\$ -	\$ -	
						\$ 67,376.50	

DID NOT MEET SPEC
 DISQUALIFIED FOR NOT
 MEETING WARRANTY
 REQUIREMENTS

Certified: P Vice

Witness

Date:

** Yellow indicates calculation error

City of Fayetteville Item Review Form

A. 4
Gulf State Distributors
Page 1 of 6

2013-0255

Legistar File Number

01/21/2014

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Greg Tabor

Submitted By

Police

Department

Action Required:

Approval of the purchase of firearm ammunition from Gulf States Distributors via State Contract #SP-08-0169 in the amount of \$50,779.35.

Does this item have a cost? ☒ Yes

\$50,779.35

Cost of this request

\$52,000.00

Category or Project Budget

Uniform & Personal Equip

Program or Project Name

1010-2940-5302.00

Account Number

\$0.00

Funds Used to Date

Services & Charges

Program or Project Category

\$1,220.65

Remaining Balance

General

Fund Name

Budgeted Item? ☒ Yes

Budget Adjustment Attached? ☐ No

V20130812

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

101-03-14FC0059 RCVD

WJ



1-3-14

Paul a. Bush
Don Mann
Ronald Durbin



CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council Members

From: Greg Tabor, Chief of Police 

Date: January 03, 2014

Subject: Approve Purchase of Firearm Ammunition via State Contract

PROPOSAL:

The Fayetteville Police Department uses a large amount of firearm ammunition each year for training and duty use. The weapon systems used by the Fayetteville Police Department include .40 caliber pistols, .223/5.56 AR15 rifles, 12 gauge shotguns, and .308 rifles. Officers are required to qualify on their pistols four times a year. Certified operators of the other weapon systems are required to qualify once a year. Firearm training include pistol and shotgun familiarization for new officers, certification training for the AR15 rifle, in-service training for all officers bi-annually, Emergency Response Team (ERT) training monthly, ERT marksman training monthly, officer refresher training for all officers annually, remediation training when needed, and individual officer training when requested. Live fire training is necessary in law enforcement to prepare officers for situations they could encounter in the performance of their duty at any given time.

Ammunition is very difficult to acquire at this time. It could take more than a year to receive ordered ammunition from the manufacturer. Due to the unpredictable availability of ammunition, I am looking to make a one-time order in the dollar amount of \$50,770.36 for the 2014 year. This purchase would be made on the State of Arkansas Ammunition Contract number SP-08-0169. Attached is a detail listing of the ammunition to be purchased.

RECOMMENDATION:

Staff recommends approval of the purchase of ammunition from Gulf States Distributors via state contract #SP-08-0169 in the amount of \$50,770.35.

BUDGET IMPACT:

Budgeted funds are included in the approved 2014 Operating Budget.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE PURCHASE OF AMMUNITION
NEEDED BY THE FAYETTEVILLE POLICE DEPARTMENT DURING 2014
FROM GULF STATE DISTRIBUTORS IN THE AMOUNT OF \$50,770.35
PURSUANT TO THE STATE OF ARKANSAS AMMUNITION CONTRACT

**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 ammunition needed by the Fayetteville Police Department during 2014 from
Gulf State Distributors in the amount of \$50,770.35 pursuant to the State of Arkansas
ammunition contract.

PASSED and APPROVED this 21st day of January 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Fayetteville Police Department

Armorer Division

State of Arkansas Ammunition Contract #SP-08-0169

<u>Quantity (cs)</u>	<u>Description</u>	<u>Unit Price</u>	<u>Extended</u>
30	Federal P40HST1 .40 180gr HST HP	\$ 285.00	\$ 8,550.00
50	Federal AE40R1 .40 180gr FMJ	239.00	11,950.00
100	Federal AE223 .223 55gr FMJ	179.00	17,900.00
15	Federal GM308M .308 168gr BTHP	349.00	5,235.00
25	Federal LE132-00 12ga 9-pellet 00Buck	105.00	<u>2,625.00</u>
		Sutotal	\$ 46,260.00
		tax	<u>4,510.35</u>
		Total	<u>\$ 50,770.35</u>

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 #: 71290						Vendor Name: Gulf State Distributors		Requisition No.:		Date: 1/21/2013 Gulf State Distributors Page 5 of 6	
Address: P O Box 241387						Fob Point:		P.O Number:		Expected Delivery Date:	
City: Montgomery		State: AL		Zip Code: 36124-1387		Ship to code:		Mail Yes: ☒ No: ☒		Taxable Yes: ☒ No: ☐	
Requester: W Newman						Requester's Employee #: 2888		Extension: 3579		Quotes Attached Yes: ☐ No: ☐	
Item		Description		Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	.40 180gr HST HP		30	cs	285.00	\$8,550.00	1010-2940-5302.00				
2	.40 180gr FMJ		50	cs	239.00	\$11,950.00	1010-2940-5302.00				
3	.223 55gr FMJ		100	cs	179.00	\$17,900.00	1010-2940-5302.00				
4	.308 168gr BTHP		15	cs	349.00	\$5,235.00	1010-2940-5302.00				
5	12ga 9-pellet 00Buck		25	cs	105.00	\$2,625.00	1010-2940-5302.00				
6						\$0.00					
7						\$0.00					
8						\$0.00					
9						\$0.00					
10						\$0.00					
*	Shipping/Handling					\$0.00					
Special Instructions: State of Arkansas Ammunition Contract #SP-08-0169.								Subtotal: \$46,260.00			
								Tax: \$4,510.35			
								Total: \$50,770.35			
Approvals:											
Mayor: _____				Department Director: 				Purchasing Manager: _____			
Finance & Internal Services Director: _____				Budget Manager: _____				IT Manager: _____			
Dispatch Manager: _____				Utilities Manager: _____				Other: _____			

City of Fayetteville Item Review Form

2013-0151

Legistar File Number

11-19-2013

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jesse Fulcher

Submitted By

Planning

Department

Action Required:

VAC 13-4516: Vacation (BRENDA DRIVE, COURT AND WALTON STREET/UNIVERSITY OF ARKANSAS, 482): Submitted by DEVELOPMENT CONSULTANTS, INC. for property located WEST OF RAZORBACK ROAD AND NORTH OF CENTER STREET. The request is to vacate the right-of-way of Brenda Drive, Court and Walton Street, and a 30-foot wide alley off of Hotz Drive.

Does this item have a cost?

Cost of this request

Category or Project Budget

Program or Project Name

Account Number

Funds Used to Date

Program or Project Category

\$0.00

Project Number

Remaining Balance

Fund Name

Budgeted Item?

Budget Adjustment Attached?

V20130812

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

11-01-13P03:07 RCVD

Paul A. Babin 11-1-2013

Don Man 11-1-13

Arnold Jordan 11/2/13

This ordinance was tabled to the Jan. 21, 2014 City Council Meeting at the 12/17/13 City Council meeting. This ordinance was tabled to the 12/17/13 City Council meeting and left on the Second Reading 12/13/13. This ordinance was left on the Second Reading at the November 19, 2013 City Council Meeting.

ENTR 11/1/13 P/A



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Jeremy Pate, Development Services Director *JP*

From: Jesse Fulcher, Senior Planner

Date: October 31, 2013

Subject: VAC 13-4516 Vacation (BRENDA DRIVE, COURT STREET, WALTON STREET, ALLEY/UNIVERSITY OF ARKANSAS)

RECOMMENDATION

Staff recommends approval of an ordinance to vacate the right-of-way of Brenda Drive, Court Street, Walton Street, and a 30-foot wide alley off of Hotz Drive.

BACKGROUND

The subject properties consist of three developed public streets and an alley right-of-way that is utilized as a driveway for an adjacent house now owned by the University of Arkansas. All four right-of-ways are located between Razorback Road and Palmer Avenue, and Hotz Drive and Center Street. Every property directly adjacent to the four right-of-ways (23 total properties) is owned by the University. Most of the structures along these streets have already been removed and temporary parking lots have been installed.

The applicant's request is to vacate three developed public streets and an alley right-of-way that has been used as a driveway, as indicated on the depicted exhibit. All four right-of-ways are surrounding by property owned by the University, including the residential driveway.

Pursuant to Arkansas Code (A.C.A.), Title 14, Chapter 301 Municipal Streets Generally, cities and towns of the first and second class and incorporated towns are given power and authority to vacate public streets and alleys within the cities and towns under the conditions and in the manner herein provided.

In all cases where the owner of property within a city or town shall have dedicated, or may hereafter dedicate, a portion of the property to the public use as streets or alleys by platting the property and causing the plat to be filed for record, as provided by law, and any street or alley, or section thereof, shown on the plat so filed shall not have been actually used by the public as a street or alley for a period of five (5) years and in all cases where all property abutting any street or alley, or section thereof, is owned by any educational institution or college, whether the property shall have been actually used by the public as a street or alley for a period of five (5) years or not, the city or town council shall have power to vacate and abandon the street or alley, or any portion thereof, by proceeding the manner set forth in this subchapter.

In this particular case, all of the right-of-ways have been used by the public in the last five years, either by the residents who lived in the houses along the streets, or those attending University events. At this time, all of the houses have been removed and the property is used exclusively by the University for parking.

DISCUSSION

On October 28, 2013, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 8-0-0.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 13-4516 SUBMITTED BY DEVELOPMENT CONSULTANTS, INCORPORATED FOR PROPERTY LOCATED WEST OF RAZORBACK ROAD AND NORTH OF CENTER STREET TO VACATE THE RIGHT-OF-WAY OF BRENDA DRIVE, COURT STREET, WALTON STREET, AND A THIRTY FOOT WIDE ALLEY OFF OF HOTZ DRIVE.

WHEREAS, the City Council has the authority under A.C.A. § 14-301-301 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portions of the platted right-of-ways and alley are not required for corporate purposes; and

WHEREAS, all property abutting said right-of-ways are owned by the University of Arkansas.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described right-of-ways in Exhibit B (attached).

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached and labeled Exhibit A shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Condition of Approval and shall not be in effect until the condition is met.

1. Development of this site shall include the construction and dedication of two public streets as indicated in Exhibit "C" attached hereto.
2. All right-of-ways shall be retained as general utility easements.
3. Any relocation or, or damage to any existing utility facilities shall be repaired at the property owners expense.

PASSED and **APPROVED** this day of , 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

12-4-13



Departmental Correspondence



**LEGAL
DEPARTMENT**

www.accessfayetteville.org

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
Andrew Garner, City Planning Director

FROM: Kit Williams, City Attorney

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

DATE: December 4, 2013

RE: Possible vacation of Brenda Drive, Court Street, Walton Street and an alley

I needed to redraft the vacation ordinance to bring it more closely into conformity with A.C.A. § 14-301-304 **Ordinance vacating street or alley**. Attached is a newly drafted vacation ordinance which I believe is in substantial compliance with A.C.A. § 14-301-304 (attached).

14-301-304 LOCAL GOVERNMENT 66
History: Acts 1945, No. 17, § 4; A.S.A.
1947, § 19-3827.

CASE NOTES

Abutting Property Owners.

In litigation involving the closing of an alley where the procedure was instituted under this section, which necessitated the written consent of the owners of all abutting lots, while the written consent of those owners actually abutting the two ends of the alley had been obtained, from the practical standpoint upon both ends of the alley being closed, the entire alley would become closed, and therefore, all abutting property owners not having given their consent, the petitioners had to fail. *Roberts v. Pace*, 230 Ark. 280, 322 S.W.2d 75 (1959).

This section did not repeal § 14-54-104, and the failure of parties to secure the closing of an alley under the procedure set out in this section, requiring the consent of the abutting property owners, would not be res judicata of any future litigation between the same parties instigated under § 14-54-104, the procedure there involving the closing of an alley in order to better provide for the public welfare of the inhabitants of the city. *Roberts v. Pace*, 230 Ark. 280, 322 S.W.2d 75 (1959).
Cited: *Ellington v. Rummel*, 226 Ark. 569, 293 S.W.2d 452 (1956).

14-301-304. Ordinance vacating street or alley.

(a) If the council shall find by a majority vote of its members that the petition should be granted, either in whole or in part, the decision of the council shall be incorporated in an ordinance to that effect which shall be substantially as follows:

"Whereas, a petition was duly filed with the City (or Town) Council of the City (or Town) of Arkansas, on the day of 19...., asking the City (or Town) Council to vacate and abandon all that portion of the street (or alley) designated on the plat of the Addition to the City (or Town) now appearing of record in plat book page in the office of the recorder of County, beginning at and ending at

"Whereas, after due notice as required by law, the council has, at the time and place mentioned in the notice, heard all persons desiring to be heard on the question and has ascertained that the street (or alley) or the portion thereof, hereinbefore described, has heretofore been dedicated to the public use as a street (or alley) herein described; has not been actually used by the public generally for a period of at least five (5) years subsequent to the filing of the plat; that all the owners of the property abutting upon the portion of the street (or alley) to be vacated have filed with the council their written consent to the abandonment; and that public interest and welfare will not be adversely affected by the abandonment of the street (or alley).

"Now, therefore, be it ordained by the City (or Town) Council of the City (or Town) of Arkansas:

"Section 1. The City (or Town) of Arkansas, releases, vacates, and abandons all its rights, together with the rights of the public generally, in and to the street (or alley) designated as follows:

67 MUNICIPAL STREETS GENERALLY 14-301-305

"(Here will be designated the street or alley to be abandoned by reference to the official plat.)

"Section 2. A copy of the ordinance duly certified by the city clerk or town recorder shall be filed in the office of the recorder of the county and recorded in the deed records of the county.

"Section 3. This ordinance shall take effect and be in force from and after its passage."

History: Acts 1945, No. 17, § 5; A.S.A.
1947, § 19-3828.

CASE NOTES

Cited: *Ellington v. Rummel*, 226 Ark. 569, 293 S.W.2d 452 (1956).

14-301-305. Suit to reject ordinance — Evidence of consent.

(a) The determination, findings, and ordinance of the council shall be conclusive unless, within thirty (30) days after the passage of the ordinance, suit is brought to reject the ordinance in the chancery court of the county where the city or town is located.

(b) In determining whether all abutting property owners have consented to the abandonment, the equity and chancery court shall be limited by the record of deeds in the office of the recorder of the county and shall not consider unrecorded instruments.

History: Acts 1945, No. 17, § 6; A.S.A.
1947, § 19-3829.

CASE NOTES

ANALYSIS

Abutting property owners.

Nonabutting owners.

Ordinances upheld.

Res judicata.

Abutting Property Owners.

In litigation involving the closing of an alley where the procedure was instituted under § 14-301-303, which necessitated the written consent of the owners of all abutting lots, while the written consent of those owners actually abutting the two ends of the alley had been obtained, from the practical standpoint upon both ends of the alley being closed, the entire alley would become closed, and therefore, all abutting property owners not having given their consent, the petitioners had to fail. *Roberts v. Pace*, 230 Ark. 280, 322 S.W.2d 75 (1959).

Nonabutting Owners.

Where nonabutting owners could not show special and peculiar injury suffered in connection with the closing of a street in which city had only an easement, the nonabutting owners did not have standing to challenge city ordinance vacating and abandoning the street. *Freeze v. Jones*, 260 Ark. 193, 539 S.W.2d 425 (1976).

Ordinances Upheld.

Where city board of directors found that traffic on a portion of a street had declined and that closing of this portion of the street would not work a hardship on many people, and where owners of abutting property consented to closing of the street, an ordinance adopted by the board of directors vacating and abandoning the street was not ultra vires. *Freeze v. Jones*, 260 Ark. 193, 539 S.W.2d 425 (1976).

ORDINANCE NO. _____

AN ORDINANCE TO APPROVE THE UNIVERSITY OF ARKANSAS' PETITION TO VACATE BRENDA DRIVE, COURT STREET, WALTON STREET AND A THIRTY FOOT WIDE ALLEY ALL WITHIN PROPERTY OWNED BY THE UNIVERSITY OF ARKANSAS

WHEREAS, the City Council has the authority pursuant to A.C.A. § 14-301-301 et seq. to vacate streets where all property abutting said streets are owned by an educational institution; and

WHEREAS, a petition was duly filed by the University of Arkansas asking that the City vacate Brenda Drive, Court Street, Walton Street and an alley within this property; and

WHEREAS, after a public hearing was scheduled by Resolution, public notice of the public hearing was published for two consecutive weeks, and a public hearing was held on this vacation petition, the City Council has determined from the standpoint of public interest and welfare, the streets and alley should be vacated as proposed by the University of Arkansas subject to the conditions set forth below.

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 all of its rights together with the rights of the public generally (subject to the conditions set forth below) in and to Brenda Drive, Court Street, Walton Street and an alley within the University of Arkansas' property as described in Exhibit B (attached).

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby requests that the City Clerk certify this ordinance along with the map attached and labeled Exhibit A and then file these in the office of the recorder of the County and recorded in the deed records of the County.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby determines that this vacation approval is subject to the conditions of approval listed below and shall not be final nor in effect until all of the conditions are met:

1. Development of this University of Arkansas site shall include the construction and dedication of two public streets approximately as shown on Exhibit C (attached).

12-4-13

2. The vacated streets right of way shall be retained as general utility easements and shall be so dedicated to the City.
3. Any relocation or damage to any existing utility facilities shall be repaired at the University of Arkansas' expense.

PASSED and **APPROVED** this 17th day of December, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

B. 1
VAC 13-4516 (Brenda Drive, Court and
Walton Street/University of Arkansas)
Page 9 of 38

The map displays the Fayetteville City Limits, outlined in a dashed orange line. A north arrow is located in the top left corner. The city limits are divided into several colored zones: yellow (RSF-4), orange (R-O and RMF-24), and green (P-1). The subject property is highlighted in a yellow callout box and is located on the corner of Walton St and Thomas Ave. Other streets shown include Markham Rd, Alley 223, Hotz Dr, Sawyer Ln, Hartman Ave, Center St, Palmer Pl, Palmer Ave, Court St, Brenda Dr, Graham Ave, Nettleship St, Razonback Rd, and Meadow St. A multi-use trail (existing) is shown as a solid line, and future trails are shown as dashed lines. The map also includes a legend in the bottom left corner.

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

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

Planning Area

0 100 200



EXHIBIT "B"
VAC 13-4516

BRENDA DRIVE:

BRENDA DRIVE AS SHOWN ON THE OFFICIAL PLAT OF DILL ADDITION FILED FOR RECORD AT PLAT BOOK 1, PAGE 143 IN THE RECORDS OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 1 OF SAID DILL ADDITION; THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 105.2 FEET; THENCE AROUND THE CUL DE SAC ALONG THE EAST LINE OF SAID LOT 1 AND ALONG THE SOUTHEAST LINE OF LOT 2 AND ALONG THE SOUTHWEST LINE OF LOT 3 AND ALONG THE WEST LINE OF LOT 4 OF SAID DILL ADDITION ALONG A 37.5 FEET RADIUS CURVE TO THE RIGHT FOR A DISTANCE OF 193.4 FEET; THENCE SOUTHERLY ALONG THE WEST LINE OF SAID LOT 4, A DISTANCE OF 105.4 FEET TO THE SOUTHWEST CORNER OF SAID LOT 4; THENCE WESTERLY FOR A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

COURT STREET:

COURT STREET AS SHOWN ON THE OFFICIAL PLAT OF BLOCK 2 OF MCRAE ADDITION FILED FOR RECORD AT PLAT BOOK 3, PAGE 387 IN THE RECORDS OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 1 OF SAID BLOCK 2; THENCE NORTHERLY ALONG THE EAST LINE OF LOTS 1-3 OF SAID BLOCK 2, A DISTANCE OF 201.68 FEET TO THE POINT OF CURVATURE OF A 22 FEET RADIUS CURVE; THENCE NORTHWESTERLY ALONG THE EAST LINE OF SAID LOT 3 ALONG THE 22 FEET RADIUS CURVE TO THE LEFT FOR A DISTANCE OF 15.63 FEET TO THE POINT OF REVERSE CURVATURE FOR A 40 FEET RADIUS CURVE; THENCE AROUND THE CUL DE SAC ALONG THE EAST LINE OF SAID LOT 3 AND ALONG THE SOUTHEAST LINE OF LOT 4 AND ALONG THE SOUTH LINE OF LOT 5 AND ALONG THE SOUTHWEST LINE OF LOT 6 AND ALONG THE WEST LINE OF LOT 7 SAID BLOCK 2 ALONG THE 40 FEET RADIUS CURVE TO THE RIGHT FOR A DISTANCE OF 182.50 FEET TO THE POINT OF REVERSE CURVATURE FOR A 22 FEET RADIUS CURVE; THENCE SOUTHWESTERLY ALONG THE WEST LINE OF SAID LOT 7 ALONG THE 22 FEET RADIUS CURVE TO THE LEFT FOR A DISTANCE OF 15.63 FEET TO THE POINT OF TANGENCY; THENCE SOUTHERLY ALONG THE WEST LINE OF LOTS 7-9 OF SAID BLOCK 2, A DISTANCE OF 201.68 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE WESTERLY FOR A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

30' ALLEY:

THE 30 FEET WIDE ALLEY BETWEEN LOTS 18 AND 19 AND SOUTH OF LOT 19 OF HOTZ REVISED ADDITION AS SHOWN ON THE OFFICIAL PLAT OF HOTZ REVISED ADDITION FILED FOR RECORD AT PLAT BOOK 1, PAGE 213 IN THE RECORDS OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 18; THENCE SOUTHERLY ALONG THE WEST LINE OF SAID LOT 18, A DISTANCE OF 192.68 FEET TO THE SOUTHWEST CORNER OF SAID LOT 18; THENCE WESTERLY FOR A DISTANCE OF 58.64 FEET TO THE EAST LINE OF LOT 5 OF BLOCK 1 OF MCRAE ADDITION; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 5, A DISTANCE OF 30.00 FEET TO THE SOUTH LINE OF LOT 19 OF HOTZ REVISED ADDITION; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID LOT 19, A DISTANCE OF 29.12 FEET TO THE SOUTHEAST CORNER OF SAID LOT 19; THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 19, A DISTANCE OF 164.68 FEET TO THE NORTHEAST CORNER OF SAID LOT 19; THENCE EASTERLY FOR A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

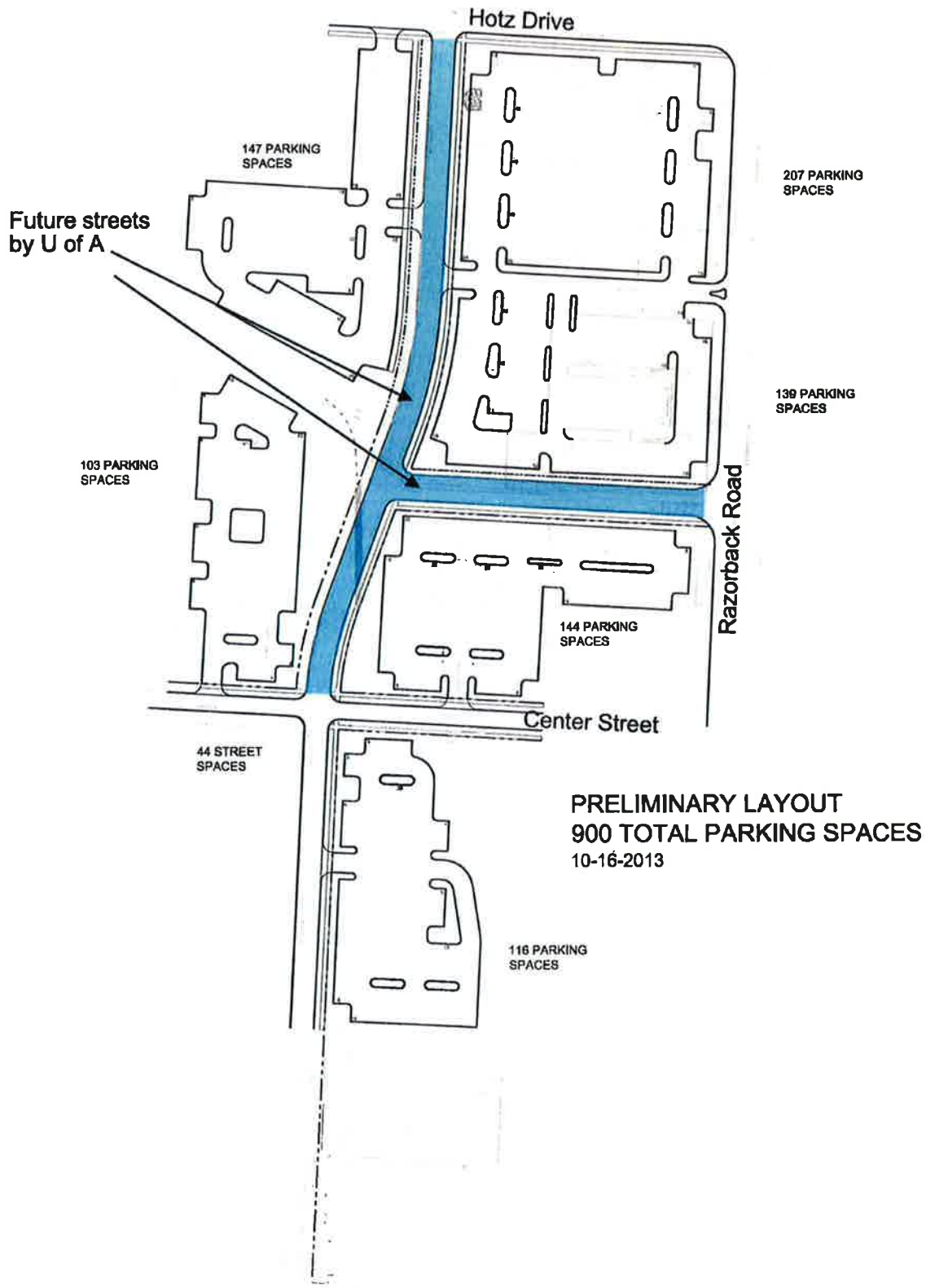
WALTON STREET:

1. WALTON STREET AS SHOWN ON THE OFFICIAL PLAT OF BLOCK 1 OF MCRAE ADDITION FILED FOR RECORD AT PLAT BOOK 3, PAGE 305 IN THE RECORDS OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 5 OF SAID BLOCK 1;
THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 48.45 FEET TO THE POINT OF CURVATURE OF A 22 FEET RADIUS CURVE; THENCE NORTHWESTERLY ALONG THE SOUTH LINE OF SAID LOT 5 ALONG THE 22 FEET RADIUS CURVE TO THE RIGHT FOR A DISTANCE OF 15.63 FEET TO THE POINT OF REVERSE CURVATURE FOR A 40 FEET RADIUS CURVE; THENCE AROUND THE CUL DE SAC ALONG THE SOUTH LINE OF SAID LOT 5 AND ALONG THE EAST LINES OF LOTS 3 & 4 AND ALONG THE NORTH LINES OF LOTS 1 & 2 OF SAID BLOCK 1 ALONG THE 40 FEET RADIUS CURVE TO THE LEFT FOR A DISTANCE OF 182.50 FEET TO THE POINT OF REVERSE CURVATURE FOR A 22 FEET RADIUS CURVE; THENCE NORTHEASTERLY ALONG THE NORTH LINE OF SAID LOT 1 ALONG THE 22 FEET RADIUS CURVE TO THE RIGHT FOR A DISTANCE OF 15.63 FEET TO THE POINT OF TANGENCY; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 48.45 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE NORTHERLY FOR A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

2. WALTON STREET AS DESCRIBED IN WARRANTY DEED 526, PAGE 558 IN THE RECORDS OF WASHINGTON COUNTY, ARKANSAS BEING A PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION SEVENTEEN (17) IN TOWNSHIP SIXTEEN (16) NORTH, OF RANGE THIRTY (30) WEST OF THE 5TH P.M., DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS FOUR HUNDRED SEVENTY FIVE AND TWELVE HUNDREDTHS (475.12) FEET NORTH AND TWENTY NINE (29) FEET WEST OF THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT, AND RUNNING THENCE WEST THREE HUNDRED EIGHTY-NINE (389) FEET; THENCE NORTH FIFTY (50) FEET; THENCE EAST THREE HUNDRED EIGHTY-NINE (389) FEET; THENCE SOUTH FIFTY (50) FEET TO THE PLACE OF BEGINNING, CONTAINING ONE-HALF OF AN ACRE, MORE OR LESS

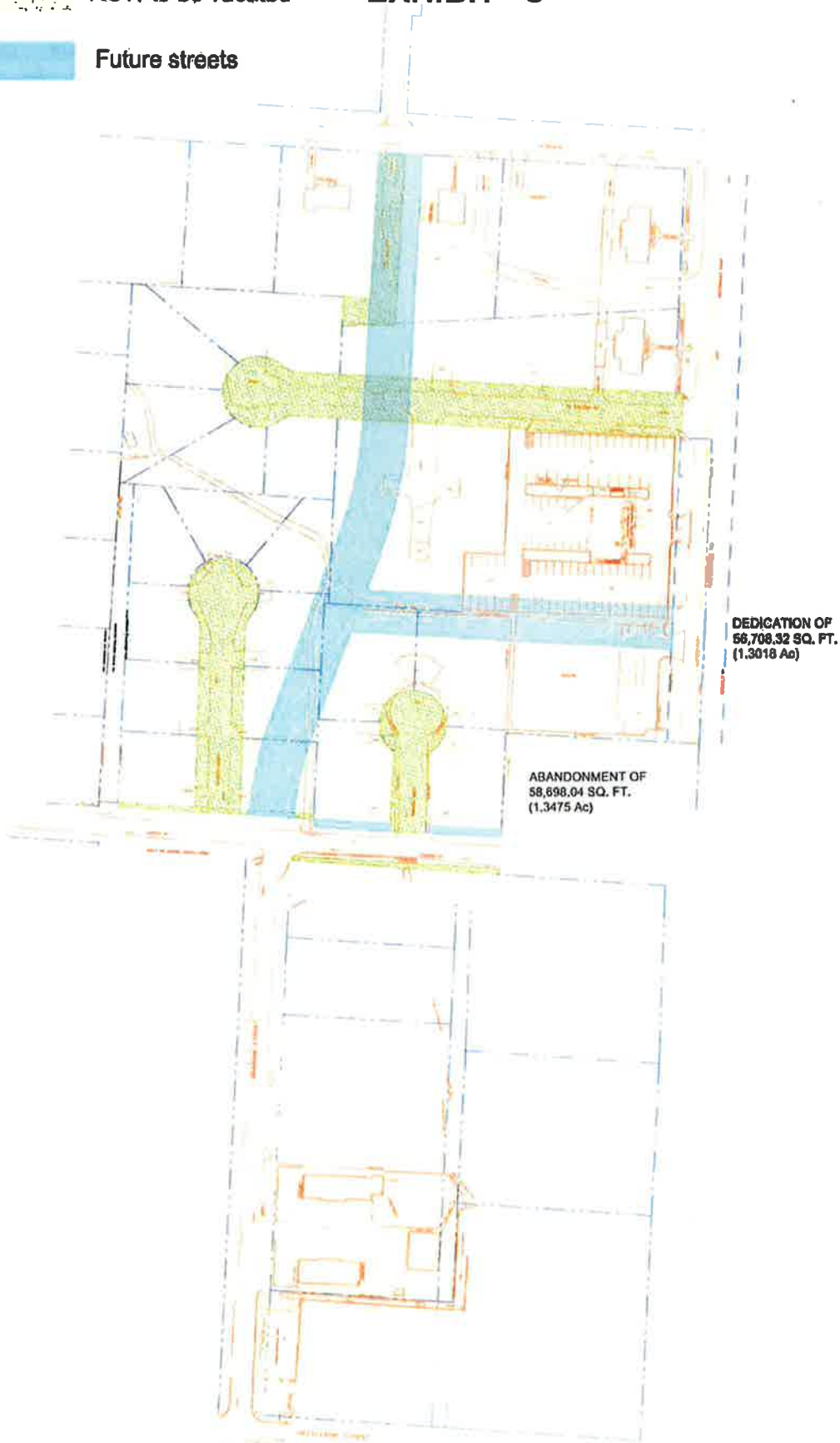
EXHIBIT "C"



ROW to be vacated

EXHIBIT "C"

Future streets





PC Meeting of October 28, 2013

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Senior Planner
THRU: Andrew Garner, City Planning Director
DATE: ~~October 22, 2013~~ Updated October 31, 2013

VAC 13-4516: Vacation (BRENDA DRIVE, COURT STREET, WALTON STREET, ALLEY/UNIVERSITY OF ARKANSAS, 482): Submitted by DEVELOPMENT CONSULTANTS, INC. for properties located WEST OF RAZORBACK ROAD AND NORTH OF CENTER STREET. The request is to vacate the right-of-way of Brenda Drive, Court Street, Walton Street, and a 30-foot wide alley off of Hotz Drive.

Planner: Jesse Fulcher

Findings:

Property and Background: The subject properties consist of three developed public streets and an alley right-of-way that is utilized as a driveway for an adjacent house now owned by the University of Arkansas. All four right-of-ways are located between Razorback Road and Palmer Avenue, and Hotz Drive and Center Street. Every property directly adjacent to the four right-of-ways (23 total properties) is owned by the University. Most of the structures along these streets have already been removed and temporary parking lots have been installed. Surrounding land use and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Single-family on Hotz Drive	RSF-4, Residential Single-Family 4 Units per Acre
South	Single/Multi-family on Center Street	RMF-24, Residential Multi-Family 24 Units per Acre
East	University of Arkansas buildings	RMF-24, Residential Multi-Family 24 Units per Acre
West	Single-family on Palmer Avenue	RSF-4, Residential Single-Family 4 Units per Acre

Request: The applicant's request is to vacate three developed public streets and an alley right-of-way that has been used as a driveway, as indicated on the depicted exhibit. All four right-of-ways are surrounding by property owned by the University, including the residential driveway.

Pursuant to Arkansas Code (A.C.A), Title 14, Chapter 301 Municipal Streets Generally, cities and towns of the first and second class and incorporated towns are given power and authority to vacate public streets and alleys within the cities and towns under the conditions and in the manner herein provided.

In all cases where the owner of property within a city or town shall have dedicated, or may hereafter dedicate, a portion of the property to the public use as streets or alleys by platting the property and causing the plat to be filed for record, as provided by law, and any street or alley, or section thereof, shown on the plat so filed shall not have been actually used by the public as a street or alley for a period of five (5) years *and in all cases where all property abutting any street or alley, or section thereof, is owned by any educational institution or college, whether the property shall have been actually used by the public as a street or alley for a period of five (5) years or not, the city or town council shall have power to vacate and abandon the street or alley, or any portion thereof, by proceeding the manner set forth in this subchapter.*

In this particular case, all of the right-of-ways have been used by the public in the last five years, either by the residents who lived in the houses along the streets, or those attending University events. At this time, all of the houses have been removed and the property is used exclusively by the University for parking.

Easement Vacation Approval: The applicant has submitted the required right-of-way vacation forms to the City Utilities Departments, franchise utilities, and adjacent property owners (the University of Arkansas) with no objections.

UTILITIES

RESPONSE

Ozarks Electric	No objections
Cox Communications	No objections
AEP/SWEPCO	No objections, but retain right-of-ways as easements.
Source Gas	No objections
AT&T	No objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer	No objections
Transportation	No objections
Solid Waste	No objections

ADJACENT PROPERTY OWNER:

RESPONSE

University of Arkansas	No objections
------------------------	---------------

Public Comment: No public comment has been received.

Recommendation: This is a unique request, in that the applicant is requesting to vacate public streets that have used by the public for many decades. Removing streets tends to reduce connectivity within a neighborhood, which is contrary to the City's adopted policies. However, in this particular case, all four of the right-of-ways dead-end into University property and provide no connectivity within the neighborhood. Further, it is the University's plan to redevelop this entire area, including constructing two new streets that will increase connectivity in the neighborhood. In staff's opinion, the long-term plan for this block of property will greatly increase connectivity for the neighborhood, University students, and those attending athletic events. Staff recommends forwarding **VAC 13-4516** to the City Council with a recommendation for approval with the following conditions:

1. **Development of this site shall include the construction and dedication of two public streets as indicated in Exhibit "C" attached hereto.**
2. **All right-of-ways shall be retained as general utility easements.**
3. **Any relocation or, or damage to any existing utility facilities shall be repaired at the property owners expense.**

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ **Forwarded** ☐ **Denied** ☐ **Tabled**

Date: October 28, 2013

Motion: Chesser

Second: Pennington

Vote: 8-0-0

Notes:



1450 E. Zion Road – Suite 7
Fayetteville, AR 72703

File No.: 13-3101

For the use and benefit of: **Development Consultants, Inc**

STATE OF ARKANSAS)
COUNTY OF WASHINGTON)

We the undersigned, being an employee of City Title & Closing LLC, do hereby certify that we have made due and diligent search of the Records in the Assessor's Office within and for Washington County, Arkansas, and find the adjacent owners, which touch the subject property, and addresses as shown in Exhibit "A".

IN-SO-FAR as the same affects the following described property, to-wit:

Brenda Drive, Court Street, West Walton Street and the 30' alley between Lots 18 and 19 and South of Lot 19 of Hotz Addition, in the City of Fayetteville, Washington County, Arkansas..

Dated September 10, 2013

City Title & Closing LLC
1450 E. Zion Road, Suite 7
Fayetteville, AR 72703
479-935-4177

A handwritten signature in black ink, appearing to read 'Jessica L. Wooten', is written over the printed name.

By:
Jessica L. Wooten, Authorized Signatory
Agency License No. 382820
Signing Agent No. 324795

****DISCLAIMER****

This report is being issued from the dates specified above and does not make any representation as to the status or validity of the title and the company assumes no liability by virtue of errors of omission and liability of the company shall not exceed the amount paid for the search.

Exhibit "A"

Parcel Nos.

765-06484-000	765-04742-000
765-06482-000	765-04741-000
765-06483-000	765-04740-000
765-14513-000	765-05219-000
765-08273-000	765-08281-000
765-08272-000	765-08280-000
765-08271-000	765-08279-000
765-08270-000	765-08278-000
765-08269-000	765-08277-000
765-14517-000	765-08276-000
765-14517-001	765-08275-000
765-14508-000	765-08274-000
765-04743-000	

**University of Arkansas
Board of Trustees
316 Administration Bldg
Fayetteville, AR 72701**

**Parcel No. 765-05227-000
Smith Revocable Trust
5835 E Estate View Road
Fayetteville, AR 72703**

****DISCLAIMER****

This report is being issued from the dates specified above and does not make any representation as to the status or validity of the title and the company assumes no liability by virtue of errors of omission and liability of the company shall not exceed the amount paid for the search.

**ADJACENT PROPERTY OWNER WRITTEN CONSENT FORM
FOR STREET AND ALLEY VACATION REQUEST**

Date: September 18, 2013

Location of Vacation: Brenda Drive, Court Street, Walton Street and the 30' Alley between Lots 18 & 19 and south of Lot 19 of Hotz Revised Addition, City of Fayetteville, Arkansas

Adjacent Property Owner: University of Arkansas
Adjacent Property Address: Various along Brenda Dr, Court St, Walton St, Hotz Dr, & Razorback Rd
Property: Lots 1-4 of Dill Addition, Lots 1-5 of Block 1 of McRae Addition, Lots 1-9 of Block 2 of McRae Addition, Lots 18-19 of Hotz Revised Addition and Parts of the SW1/4 NE1/4 Section 17, T16N, R30W all in the City of Fayetteville

REQUESTED VACATION:

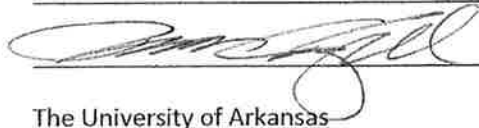
I have requested the petition and I consent to vacate the following streets and alley, as described on the attached legal description and as shown on the attached sketch:

In the matter of the vacation of the aforesaid streets and alley, Allen J. Young of Development Consultants, Inc is authorized to process the petition on my behalf.

Printed Name of Adjacent Owner:

Board of Trustees of The University of Arkansas

Signature of Adjacent Owner:



Applicant Name:

The University of Arkansas

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 9-16-2013

UTILITY COMPANY: AEP-SWEP CO

APPLICANT NAME: Allen J. Young, DCI, For UoFA APPLICANT PHONE: 479-444-7880
REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
☒ Alley
☒ Street right-of-way

I have been notified of the petition to vacate the following (alley), (easement), (right-of-way), described as follows:

General location/ Address (referring to attached document- must be completed**)

** Brenda Drive, Court Street, Walton Street, 30' Alley south from Hotel Dr.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

[See attached Legal Description, Survey and Exhibit Map.]

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)

Retain all of the right of ways and alleys as
utility easements.

- ☐ No objections provided the following conditions are met:

John Bayne
Signature of Utility Company Representative

Dist. Engineer
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 9-16-2013

UTILITY COMPANY: _____

APPLICANT NAME: Allen J. Young, DCI, For UoFA APPLICANT PHONE: 479-444-7880
REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
☒ Alley
☒ Street right-of-way

I have been notified of the petition to vacate the following (alley) easement (right-of-way), described as follows:

General location/ Address (referring to attached document- must be completed**)

** Brenda Drive, Court Street, Walton Street, 30' Alley south From Hotz Dr.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

[See attached Legal Description, Survey and Exhibit Map.]

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

☐ No objections provided the following conditions are met:



Signature of Utility Company Representative

Division Manager

Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 9-16-2013

UTILITY COMPANY: _____

APPLICANT NAME: Allen J. Young, DCI, For UoFA APPLICANT PHONE: 479-444-7880
REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following (alley), easement, (right-of-way), described as follows:

General location/ Address (referring to attached document- must be completed**)

** Brenda Drive, Court Street, Walton Street, 30' Alley south from Home Dr.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

[See attached Legal Description, Survey and Exhibit Map.]

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

Greg McGee

Signature of Utility Company Representative

Lead Staking Tech

Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 9-16-2013

UTILITY COMPANY: _____

APPLICANT NAME: Allen J. Young, DCI, For UoFA APPLICANT PHONE: 479-444-7880
REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
☒ Alley
☒ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location/ Address (referring to attached document- must be completed**)

** Brenda Drive, Court Street, Walton Street, 30' Alley south from Hotz Dr.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

[See attached Legal Description, Survey and Exhibit Map.]

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

☒ No objections provided the following conditions are met:

Any damage to or relocation of existing facilities will be at owners/developers expense.

Chad L. J. Y.
Signature of Utility Company Representative

Construction Planner III NWA
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 9-16-2013

UTILITY COMPANY: _____

APPLICANT NAME: Allen J. Young, DCI, For UoFA APPLICANT PHONE: 479-444-7880
REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
☒ Alley
☒ Street right-of-way

I have been notified of the petition to vacate the following (alley) easement, (right-of-way), described as follows:

General location/ Address (referring to attached document- must be completed**)

** Brenda Drive, Court Street, Walton Street, 30' Alley south from Hotz Dr.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

[See attached Legal Description, Survey and Exhibit Map.]

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 AT/SUBST FACILITIES
WILL BE CARED FOR BY THE PROPERTY OWNER'S EXPENSE

Susan K. Clouser
Signature of Utility Company Representative

OSP DESIGN ENGINEER
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 9-16-2013

UTILITY COMPANY: City of Fayetteville - Water/Sewer

APPLICANT NAME: Allen J. Young, D.C.I., For UoA APPLICANT PHONE: 479-444-7880
REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location/ Address (referring to attached document- must be completed**)

** Brenda Drive, Court Street, Walton Street, 30' Alley south from Hotel Dr.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

[See attached Legal Description, Survey and Exhibit maps.]

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:

Shannon Jones

Signature of Utility Company Representative

Utilities Engineer

Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 9-16-2013

UTILITY COMPANY: _____

APPLICANT NAME: Allen J. Young, DCI, For UoA APPLICANT PHONE: 479-444-7880
REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☒ Alley
☒ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location/ Address (referring to attached document- must be completed**) _____

** Brenda Drive, Court Street, Walton Street, 30' Alley south from Horz Dr.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

[See attached Legal Description, Survey and Exhibit Map.]

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

☐ No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

ASSISTANT TRANSPORTATION MANAGER
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 9-16-2013

UTILITY COMPANY: _____

APPLICANT NAME: Allen J. Young, DCI, For UoFA APPLICANT PHONE: 479-444-7880
REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location/ Address (referring to attached document- must be completed**)

** Brenda Drive, Court Street, Walton Street, 30' Alley south from Hotel Dr.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

[See attached Legal Description, Survey and Exhibit Maps.]

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 Paul

Signature of Utility Company Representative

Waste Reduction Coordinator

Title

Street and Alley Vacation Legal Descriptions

Brenda Drive:

Brenda Drive as shown on the official plat of Dill Addition filed for record at Plat Book 1, Page 143 in the records of Washington County, Arkansas, being more particularly described as follows: Beginning at the southeast corner of Lot 1 of said Dill Addition; Thence northerly along the east line of said Lot 1, a distance of 105.2 feet; Thence around the cul de sac along the east line of said Lot 1 and along the southeast line of Lot 2 and along the southwest line of Lot 3 and along the west line of Lot 4 of said Dill Addition along a 37.5 feet radius curve to the right for a distance of 193.4 feet; Thence southerly along the west line of said Lot 4, a distance of 105.4 feet to the southwest corner of said Lot 4; Thence westerly for a distance of 40.00 feet to the Point of Beginning.

Court Street:

Court Street as shown on the official plat of Block 2 of McRae Addition filed for record at Plat Book 3, Page 387 in the records of Washington County, Arkansas, being more particularly described as follows: Beginning at the southeast corner of Lot 1 of said Block 2; Thence northerly along the east line of Lots 1-3 of said Block 2, a distance of 201.68 feet to the point of curvature of a 22 feet radius curve; Thence northwesterly along the east line of said Lot 3 along the 22 feet radius curve to the left for a distance of 15.63 feet to the point of reverse curvature for a 40 feet radius curve; Thence around the cul de sac along the east line of said Lot 3 and along the southeast line of Lot 4 and along the south line of Lot 5 and along the southwest line of Lot 6 and along the west line of Lot 7 said Block 2 along the 40 feet radius curve to the right for a distance of 182.50 feet to the point of reverse curvature for a 22 feet radius curve; Thence southwesterly along the west line of said Lot 7 along the 22 feet radius curve to the left for a distance of 15.63 feet to the point of tangency; Thence southerly along the west line of Lots 7-9 of said Block 2, a distance of 201.68 feet to the southwest corner of said Lot 9; Thence westerly for a distance of 50.00 feet to the Point of Beginning.

30' Alley:

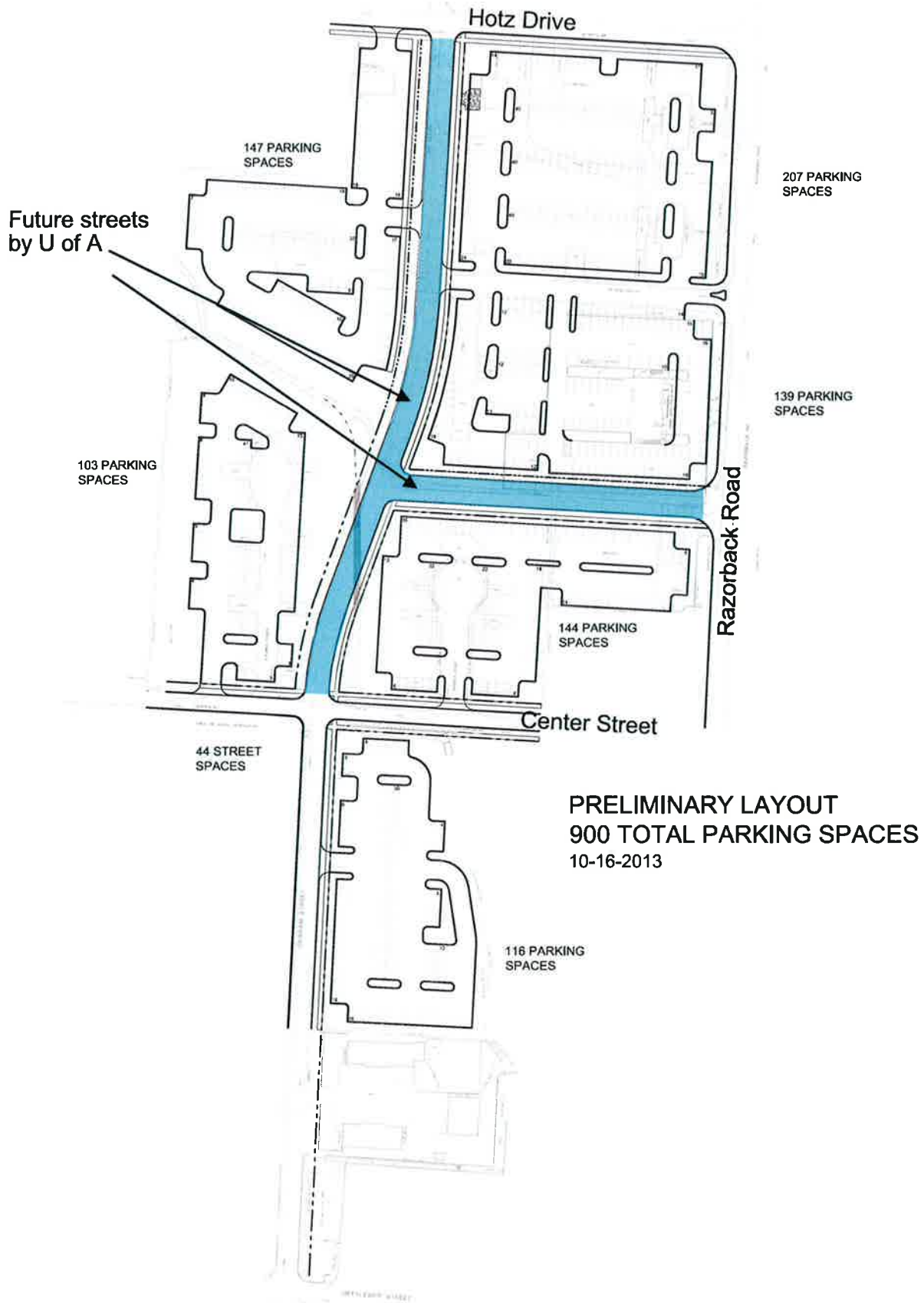
The 30 feet wide Alley between Lots 18 and 19 and south of Lot 19 of Hotz Revised Addition as shown on the official plat of Hotz Revised Addition filed for record at Plat Book 1, Page 213 in the records of Washington County, Arkansas, being more particularly described as follows: Beginning at the northwest corner of said Lot 18; Thence southerly along the west line of said Lot 18, a distance of 192.68 feet to the southwest corner of said Lot 18; Thence westerly for a distance of 58.64 feet to the east line of Lot 5 of Block 1 of McRae Addition; Thence northerly along the west line of said Lot 5, a distance of 30.00 feet to the south line of Lot 19 of Hotz Revised Addition; Thence easterly along the south line of said Lot 19, a distance of 29.12 feet to the southeast corner of said Lot 19; Thence northerly along the east line of said Lot 19, a distance of 164.68 feet to the northeast corner of said Lot 19; Thence easterly for a distance of 30.00 feet to the Point of Beginning.

Walton Street:

1. Walton Street as shown on the official plat of Block 1 of McRae Addition filed for record at Plat Book 3, Page 305 in the records of Washington County, Arkansas, being more particularly described as follows: Beginning at the southeast corner of Lot 5 of said Block 1;

Thence westerly along the south line of said Lot 5, a distance of 48.45 feet to the point of curvature of a 22 feet radius curve; Thence northwesterly along the south line of said Lot 5 along the 22 feet radius curve to the right for a distance of 15.63 feet to the point of reverse curvature for a 40 feet radius curve; Thence around the cul de sac along the south line of said Lot 5 and along the east lines of Lots 3 & 4 and along the north lines of Lots 1 & 2 of said Block 1 along the 40 feet radius curve to the left for a distance of 182.50 feet to the point of reverse curvature for a 22 feet radius curve; Thence northeasterly along the north line of said Lot 1 along the 22 feet radius curve to the right for a distance of 15.63 feet to the point of tangency; Thence easterly along the north line of said Lot 1, a distance of 48.45 feet to the northeast corner of said Lot 1; Thence northerly for a distance of 50.00 feet to the Point of Beginning.

2. Walton Street as described in Warranty Deed 526, Page 558 in the records of Washington County, Arkansas being a Part of the Southwest quarter of the Northeast quarter of Section seventeen (17) in Township sixteen (16) North, of Range thirty (30) west of the 5th P.M., described as follows, to-wit: Beginning at a point which is four hundred seventy five and twelve hundredths (475.12) feet North and twenty nine (29) feet West of the Southeast corner of said forty acre tract, and running thence West three hundred eighty-nine (389) feet; thence North fifty (50) feet; thence East three hundred eighty-nine (389) feet; thence south fifty (50) feet to the place of beginning, containing one-half of an acre, more or less.





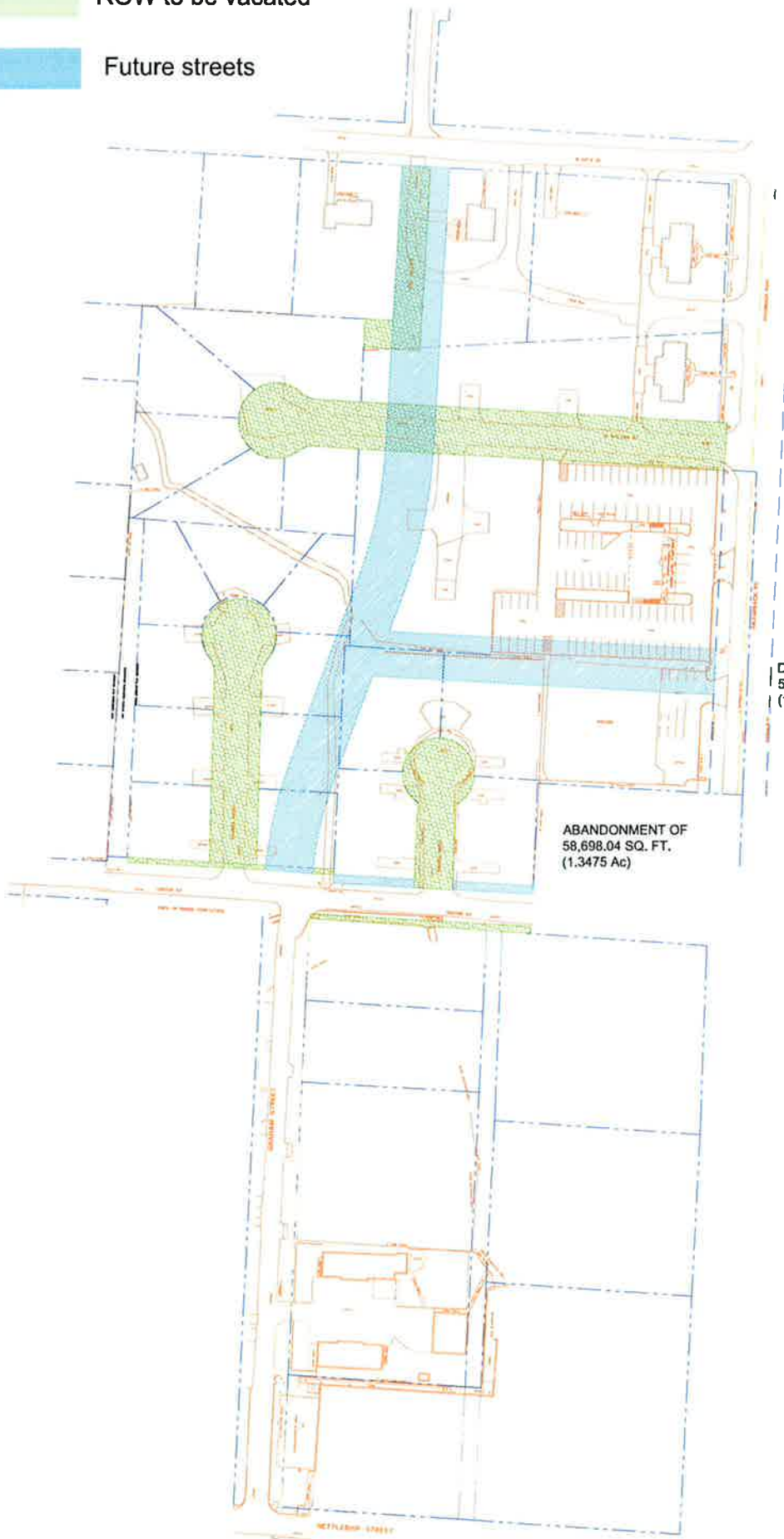
ROW to be vacated



Future streets

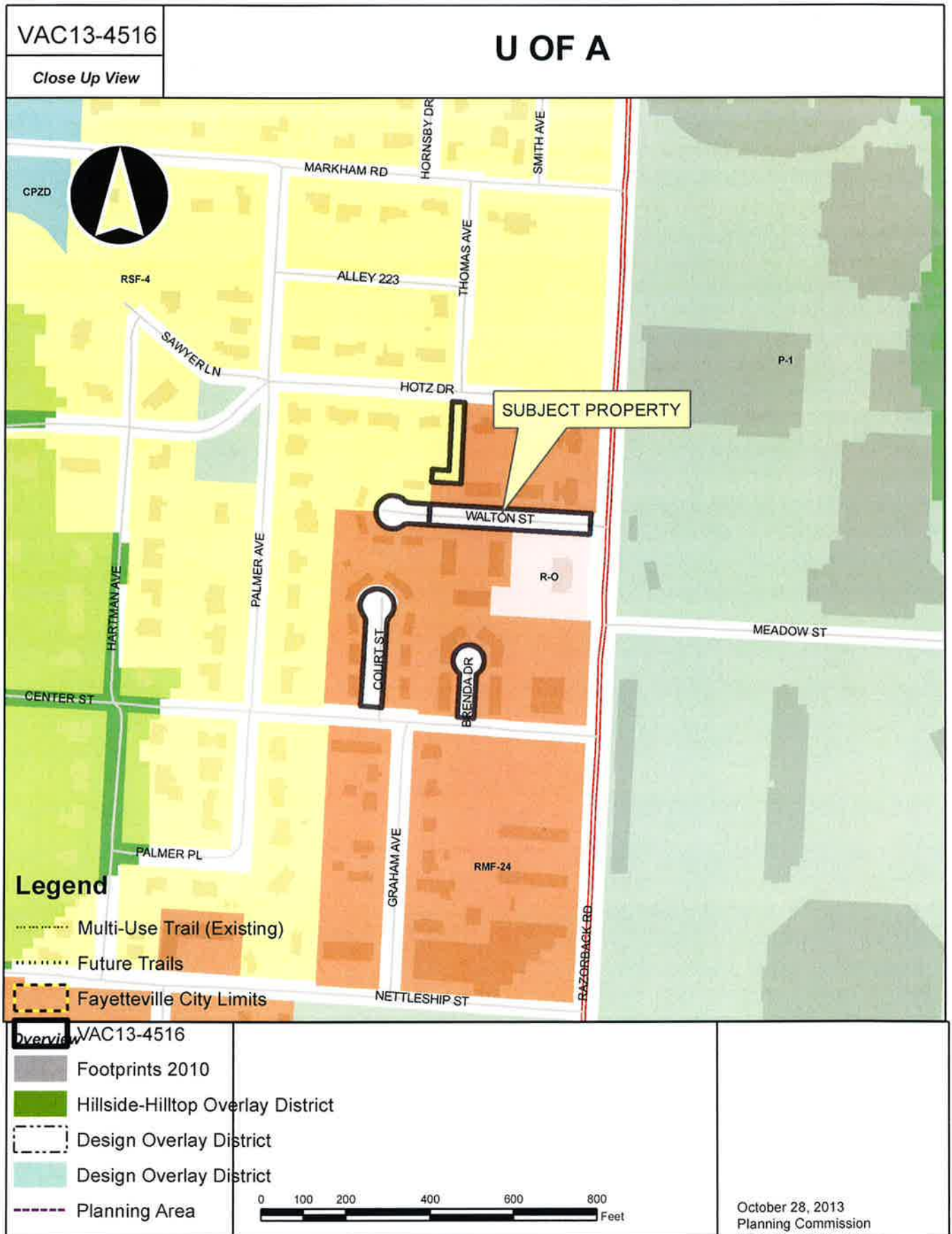
B. 1

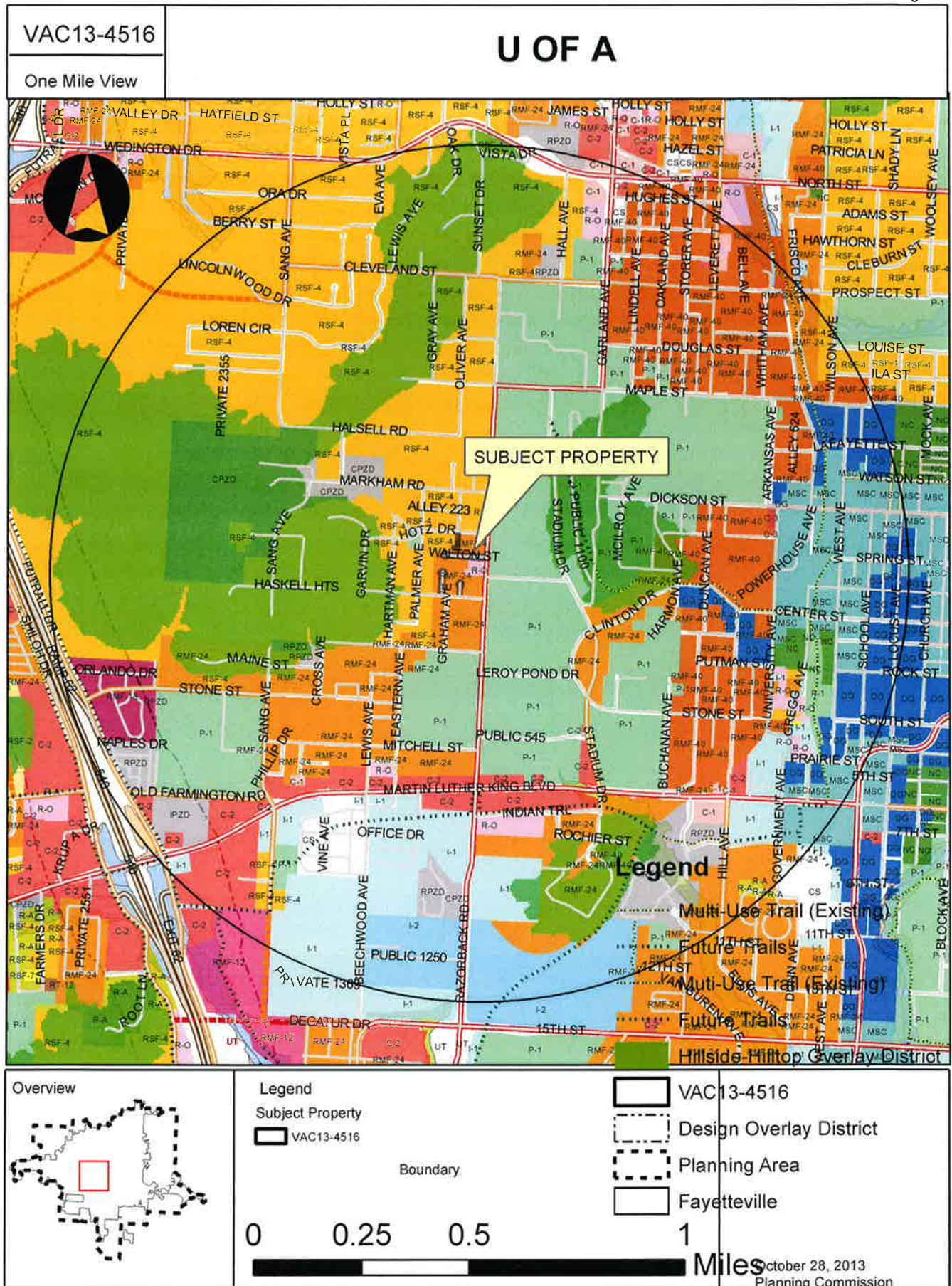
VAC 13-4516 (Brenda Drive, Court and
Walton Street/University of Arkansas)
Page 31 of 38



DEDICATION OF
56,708.32 SQ. FT.
(1.3018 Ac)

ABANDONMENT OF
58,698.04 SQ. FT.
(1.3475 Ac)







Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
Sondra Smith, City Clerk/Treasurer
Jeremy Pate, Development Services Director

FROM: **Kit Williams**, City Attorney

DATE: **November 26, 2013**

RE: **Vacation of street pursuant to A.C.A. § 14-301-301**

I think we need to more closely follow the statutory procedures set forth in A.C.A. § 14-301-302 and 303 prior to vacating the streets as requested by the U of A. Our power to vacate streets stated in A.C.A. § 14-301-301 ends: "the city or town council shall have the power to vacate and abandon the street or alley, or any portion thereof, **by proceeding in the manner set forth in this subchapter.**" (emphasis added).

The next section requires the owners of the property abutting to file a petition requesting vacation. I assume our vacation application may suffice for this statutorily required petition. However, the City Council at its next meeting is supposed to "by resolution fix a day for the hearing of the petition" We need to present a Resolution fulfilling this requirement. Then "the city clerk . . . (needs) to give notice of the meeting by publication once a week for two (2) consecutive weeks in some newspaper . . . having a general circulation in the city"

We can still go forward to vacate the streets pursuant to our power in A.C.A. § 14-54-104 although at least our Appellate Court has held that an existing street should be vacated under A.C.A. § 14-301-301 instead of A.C.A. § 14-54-104.

MUNICIPAL STREETS GENERALLY

§ 14-301-301

Note 1

Library References

Municipal Corporations Ⓒ521.
Westlaw Key Number Search: 268k521.
C.J.S. Municipal Corporations §§ 1396, 1404.

SUBCHAPTER 3—VACATING STREETS AND ALLEYS FOR PUBLIC USE GENERALLY

§ 14-301-301. Vacating authority

(a) Cities of the first and second class and incorporated towns are given power and authority to vacate public streets and alleys within the cities and towns under the conditions and in the manner herein provided.

(b) In all cases where the owner of property within a city or town shall have dedicated, or may hereafter dedicate, a portion of the property to the public use as streets or alleys by platting the property and causing the plat to be filed for record, as provided by law, and any street or alley, or section thereof, shown on the plat so filed shall not have been actually used by the public as a street or alley for a period of five (5) years and in all cases where all property abutting any street or alley, or section thereof, is owned by any educational institution or college, whether the property shall have been actually used by the public as a street or alley for a period of five (5) years or not, the city or town council shall have power to vacate and abandon the street or alley, or any portion thereof, by proceeding in the manner set forth in this subchapter.

Acts of 1945, Act 17, §§ 1, 2; Acts of 1947, Act 88, § 1; Acts of 1949, Act 98, § 1.

Formerly A.S.A. 1947, §§ 19-3824, 19-3825.

Cross References

Vacation of public utility easements, see § 14-199-103.

Library References

Municipal Corporations Ⓒ657(2).
Westlaw Key Number Search: 268k657(2).
C.J.S. Municipal Corporations §§ 1432 to 1435, 1443.

Notes of Decisions

In general 1
Abandonment or nonuse 4
Consent of landowners 8
Construction and application 2
Construction with other laws 3
Conveyances 9
Educational institutions 5
Improvement districts 6
Injunctions 10
Limitations of actions 11
Questions of fact 12

Rights of individual property owners 7

1. In general

A city has the power to vacate a portion of a street not needed for corporate purposes. Ark. Stats. § 19-2304. *City of Sherwood v. Dupree Co.*, 1978, 263 Ark. 442, 565 S.W.2d 425. Municipal Corporations Ⓒ 657(2)

If determination is made that street is not needed for corporate purposes, city is not prohibited either from conveying streets to only abutting owner or from vacating street for benefit of abutting owner. Ark. Stats. § 19-2304. *Freeze v. Jones*, 1976, 260 Ark. 193, 539 S.W.2d

RESOLUTION NO. _____

A RESOLUTION TO FIX THE DATE FOR HEARING THE UNIVERSITY OF ARKANSAS' REQUEST TO VACATE BRENDA DRIVE, COURT STREET AND WALTON STREET ON DECEMBER 17, 2013 AT 6:00 P.M. IN THE CITY COUNCIL CHAMBERS, ROOM 219 OF THE CITY ADMINISTRATION BUILDING

WHEREAS, City Clerk Sondra Smith is requested to publish notice of the hearing date on the petition of the University of Arkansas to vacate Brenda Drive, Court Street and Walton Street once a week for two weeks pursuant to A.C.A. § 14-301-302.

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 fixes the date for hearing the University of Arkansas' request to vacate Brenda Drive, Court Street and Walton Street on December 17, 2013 at 6:00 p.m. in the City Council chambers, Room 219 of the City Administration building.

PASSED and **APPROVED** this 3rd day of December 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

NORTHWEST ARKANSAS NEWSPAPERS LLC

212 NORTH EAST AVENUE, FAYETTEVILLE, ARKANSAS 72701 | P.O. BOX 1607, 72702 | 479-442-1700 | WWW.NWANNEWS.COM

NORTHWEST ARKANSAS DEMOCRAT-GAZETTE
THE MORNING NEWS OF SPRINGDALE
THE MORNING NEWS OF ROGERS
NORTHWEST ARKANSAS TIMES
BENTON COUNTY DAILY RECORD

B. 1
VAC 13-4516 (Brenda Drive, Court and
Walton Street/University of Arkansas)
Page 37 of 38

RECEIVED

DEC 26 2013

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

AFFIDAVIT OF PUBLICATION

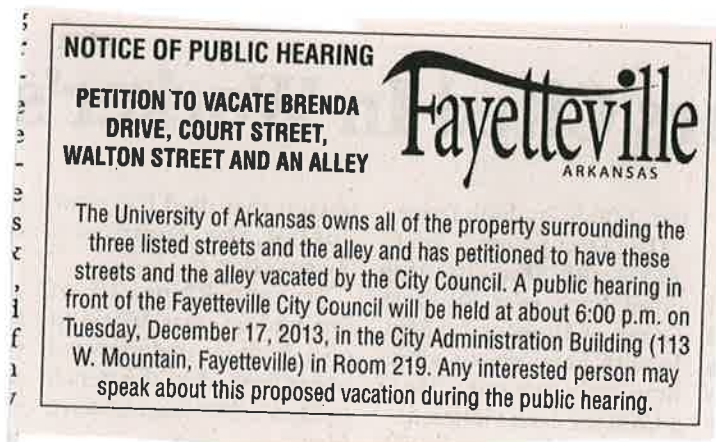
I, Holly Andrews, do solemnly swear that I am the Legal Clerk of the Northwest Arkansas Newspapers, LLC, printed and published in Washington and Benton County, Arkansas, bona fide circulation, that from my own personal knowledge and reference to the files of said publication, the advertisement of:

City of Fayetteville-
Public Hearing Notice

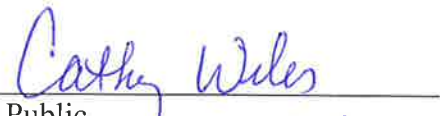
Was inserted in the Regular Editions on:
December 5, 2013

Publication Charges: \$ 51.88


Holly Andrews



Subscribed and sworn to before me
This day of , 2013.


Notary Public
My Commission Expires: 2/20/2014



****NOTE****

Please do not pay from Affidavit. Invoice will be sent.

DEC 26 2013

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICENORTHWEST ARKANSAS
NEWSPAPERS LLC

212 NORTH EAST AVENUE, FAYETTEVILLE, ARKANSAS 72701 | P.O. BOX 1607, 72702 | 479-442-1700 | WWW.NWANNEWS.COM

AFFIDAVIT OF PUBLICATION

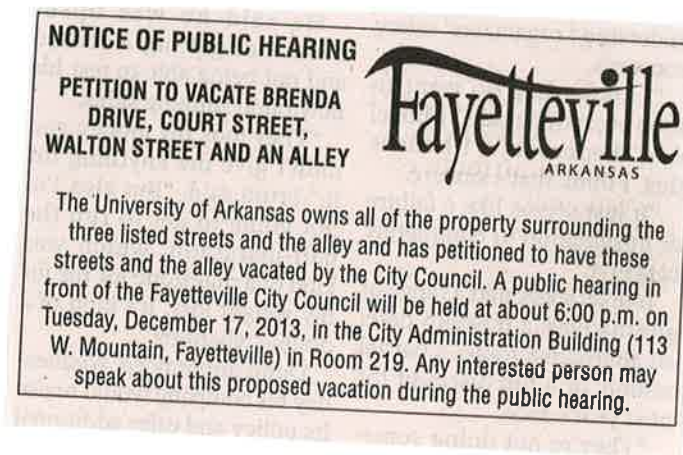
I, Holly Andrews, do solemnly swear that I am the Legal Clerk of the Northwest Arkansas Newspapers, LLC, printed and published in Washington and Benton County, Arkansas, bona fide circulation, that from my own personal knowledge and reference to the files of said publication, the advertisement of:

City of Fayetteville-
Public Hearing Notice

Was inserted in the Regular Editions on:
December 12, 2013

Publication Charges: \$ 51.88

Holly Andrews



Subscribed and sworn to before me
This 18 day of Dec, 2013.

Cathy Wiles

Notary Public

My Commission Expires: 2/20/2014



****NOTE****

Please do not pay from Affidavit. Invoice will be sent.

City of Fayetteville Item Review Form

2013-0153
Legistar File Number

11/19/13

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Peter Nierengarten

Submitted By

Sustainability and Strategic Planning

Department

Action Required:

Staff recommends approval of an ordinance amending the Unified Development Code Chapter 178: Outdoor Vendors to clarify existing regulations, create a short and long term permit process and to allow for mobile food trucks to operate daily on private property.

Does this item have a cost? ☐ No

Cost of this request

Category or Project Budget

Program or Project Name

Account Number

Funds Used to Date

Program or Project Category

\$0.00

Project Number

Remaining Balance

Fund Name

Budgeted Item? ☐

Budget Adjustment Attached? ☐

V20130812

Previous Ordinance or Resolution # 5498

Original Contract Number: _____

Comments:

Paul A. Becker 11-3-2013

Don Mar 11-4-13

Donald Jordan 11/4/13

11-01-13A11:42 RCVD



This ordinance was tabled to the January 21, 2014 City Council mtg at the 12/17/13 City Council meeting. This ordinance was left on the first Reading and tabled to the December 17, 2013 City Council meeting at the November 19, 2013 City Council meeting.



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

CC: Jeremy Pate, Development Services Director

From: Peter Nierengarten, Sustainability & Strategic Planning Director *PN*

Date: October 30, 2013

Subject: ADM 13-4486 Outdoor Mobile Vendor Ordinance Amendments

RECOMMENDATION:

Staff recommends approval of an ordinance amending the Unified Development Code Chapter 178: Outdoor Vendors to clarify existing regulations, create a short and long term permit process and to allow for mobile food trucks to operate daily on private property.

BACKGROUND:

The City Council adopted the Outdoor Vendor Chapter in the Unified Development Code in 2008. Previously, the City administered vendor licensing through a Transient Merchant License. Since 2008 the section of this code that deals with outdoor mobile vendors operating on private property has been amended twice in order to expedite the process and to allow vendors to locate in the same place for time periods longer than the original 90 day limitation.

Recently Planning Staff and Alderman Petty have discussed a number of amendments to this code. The first would be to create an extended permitting process that would allow vendors to get a permit to set up and operate in the same location for a calendar year. Additionally, staff has extended the temporary permit from 90 days to 6 months. And finally, staff is proposing to rename the sidewalk vendor section and add a new section that would permit mobile food trucks to operate on private property on a daily basis. The following bullet points highlight the proposed amendments to the existing Outdoor Mobile Vendor code:

- Mobile vendors shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed mobile vendor location.
- All permits would be granted to the property owner and the outdoor mobile vendor operator jointly. This will place the responsibility of compliance with the ordinance on both the mobile vendor operator and the property owner.
- A temporary permit would be extended from the current 90 days to six months. This will allow for a longer "season" for seasonal operators such as snow cone businesses which typically operate for five months. Staff also feels that six months allows a vendor to adequately test and evaluate their business model at a specific location.
- The temporary permit requirement to move locations after six months would allow for relocation within ¼ mile instead of the current ½ mile.

- The “Variance” section has been renamed as an “Annual Permit” and shall be limited to one year. Annual permits will be granted by the Planning Commission which may impose conditions and restrictions on the mobile vendor business or the property owner such as landscape improvements, parking lot improvements or permanent restroom facilities, etc. The mobile vendor may continue to request extended permits for the same location year after year. Mobile vendor courts will be able to form through the use of the annual permit process.
- Mobile vendors seeking a temporary (6 month) permit are approved administratively after meeting the requirements of the ordinance. Outdoor mobile vendors seeking an annual permit shall provide a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.
- A number of existing business operations that are regulated by other codes would be exempted from this chapter including; special events, fireworks sales, etc.
- A list of prohibited conduct is included and a section outlining the process for suspending or revoking the permit is added.
- Outdoor mobile vendors shall comply with the Federal Americans with Disability Act (ADA) requirements if the public has access to the interior of any mobile vending unit.

The following bullet points highlight the proposed amendments to the existing sidewalk vendor ordinance adding a new section regulating food trucks located on private property:

- A food truck is a motorized and operational self contained vehicle equipped with facilities for cooking and selling food that is removed daily from the property on which it vends food. Food trucks may be permitted to locate on private property on an annual basis through and administrative process when all conditions of the ordinance have been met.
- Food truck permits would be granted to the property owner and the outdoor mobile vendor operator jointly.
- The food truck shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed food truck location.
- Food truck permits are good for only one location, but food trucks may hold permits for multiple locations.

DISCUSSION

The Planning Commission heard this item at their October 15, 2013 meeting and proposed minor changes to the code. The Planning Commission forwarded this item to the City Council with a recommendation of approval for the amended version with a 7-2-0 vote. Staff supports Planning Commission’s amendments and has included their recommended language in the ordinance.

BUDGET IMPACT:

None

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL § 178.03 SIDEWALK VENDORS AND ENACT A REPLACEMENT § 178.03 SIDEWALK VENDORS AND FOOD TRUCKS AND TO REPEAL § 178.04 OUTDOOR MOBILE VENDORS LOCATED ON PRIVATE PROPERTY AND ENACT A REPLACEMENT § 178.04 OUTDOOR MOBILE VENDORS LOCATED ON PRIVATE PROPERTY

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals § 178.03 **Sidewalk Vendors** and enacts a replacement § 178.03 **Sidewalk Vendors and Food Trucks** as shown on Exhibit A attached hereto.

Section 2. That the City Council of the City of Fayetteville, Arkansas repeals § 178.04 **Outdoor Mobile Vendors Located on Private Property** and enacts § 178.04 **Outdoor Mobile Vendors Located on Private Property** as shown on Exhibit B attached hereto.

PASSED and APPROVED this 19th day of November, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

178.03 Sidewalk Vendors and Food Trucks

(A) *Purpose.*

(1) *Sidewalk Vendors.* 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. This ordinance is designed to regulate open air vending of goods on public rights-of-way.

(2) *Food Trucks.* The City of Fayetteville encourages a diversity of business opportunities and support entrepreneurship by establishing ordinances designed to allow mobile food trucks to flourish in the city. Food trucks may be permitted to locate on private property on an annual basis through an administrative approval process. Food trucks may also be permitted to operate on public property temporarily if approved through a special event permit process administered by the City. In all cases, food trucks shall be removed daily from the property on which they were vending.

(B) *Sidewalk Vendor and Food Truck Authorization.* The Zoning and Development Administrator may issue a permit for a sidewalk vendor or food truck to use a specific sidewalk, plaza location or private property 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.
- (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 sidewalk vendor or food truck permit shall be accompanied by a \$100 application and permit fee. Food truck permits shall be accompanied by the \$100 permit fee for each location requested for approval. All 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 or food truck permit shall include the following items in a format acceptable to the Zoning and Development Administrator:

- (a) Name, address and contact information of the owner and operator of the mobile device as well as the contact information of the property owner if applicable.
- (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 vehicle or pushcart.
- (g) A detailed scale drawing, picture or diagram and material specifications of the vehicle or pushcart to be used.

(2) The permit issued shall not be transferable in any manner.

(3) The sidewalk vending or food truck permit is good for one location only.

Sidewalk vendors and food trucks may hold permits for multiple locations.

(D) *Permitted Vending Products and Goods.*

- (1) *Sidewalk Vendors.* The City of Fayetteville permits the following types of goods for sidewalk vending in approved locations:

- (a) Cut Flowers
- (b) Food and Beverage
- (c) Arts and Crafts: Only objects of art or craft produced and sold by a local artist or craft person may be sold by sidewalk vendors.

- (2) *Food Trucks.* The City of Fayetteville permits only food and/or beverage items to be sold from food trucks.

- (3) All goods being sold from sidewalk vendors and food trucks 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 or vehicular traffic on the sidewalk or street.
- (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) *Sidewalk Vendor 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 sidewalk vending is allowed as a permitted use are:

- (1) North and West sidewalks in front of the Walton Arts Center. Sidewalk vendors may 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) *Sidewalk Vendor 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 sidewalk 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, with the exception that the applicant may request that the cart, and/or operating area, may be larger than the dimension required in this chapter. An increase in cart size or operating area may be considered by the Planning Commission as a variance and does not require conditional use permit review. The determination of a larger cart size and/or operation area shall be subject to the variance criteria in Chapter 156.03(C).
- (2) The number of permits issued for the sidewalk 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) *Sidewalk Vendor Operation 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 cart shall not exceed 7 feet, including the cart's trailer tongue or hitch that is not removed or collapsible, and any propane tanks or other attachments to the mobile device. The width shall not exceed 4 feet, including the carts wheel wells or tires, and any accessory components of the cart such as retractable or collapsible sinks or shelves.
- (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) Sidewalk 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) Prior to final approval, Planning Staff shall inspect the sidewalk vendor set up in the proposed location. The applicant shall make an appointment between the hours of 8 a.m. to 5 p.m. in which Planning Staff will inspect the cart and all proposed accessories such as coolers, trash receptacle, chairs, etc. that the applicant is proposing for the site. Upon approval, 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) Sidewalk vendors are required to provide a trash receptacle for public use located within their permitted operating space. 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.
 - (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) *Food Truck Location and Operation Requirements.* Food trucks may be permitted administratively on an annual basis for multiple locations subject to the

following determinations made by the Zoning and Development Administrator:

- (1) The property is zoned to allow for food and beverage uses and the location meets all applicable zoning requirements of the underlying zoning district. The property owner for each location must provide a written statement giving the food truck operator permission to operate on the property. A site plan shall be provided by the applicant for each proposed site upon which the food truck would like to temporarily locate.
 - (2) The food truck shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed food truck location, unless the food truck predates the aforementioned permanent businesses.
 - (3) The parking requirement for the food truck and any operating businesses on the property is met.
 - (4) The applicant has provided the City with documentation of approval from the Arkansas Department of Health and Human Services for food related establishments. A copy of this permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied annually upon permit renewal.
 - (5) Food trucks may operate between the hours of 5 a.m. and 3 a.m. Food trucks shall be removed daily from the property on which they were vending and the applicant shall demonstrate that they have a permanent location to appropriately store their food truck when it is not in operation.
 - (6) Food trucks are required to provide a trash receptacle for public use located adjacent to their operation.
- (I) *Signage Requirements.* Sidewalk vendors and food trucks shall obtain a sign permit from the Planning Division prior to the issuance of a permit to operate. Sidewalk vendors and food trucks are permitted a total of one (1) A-frame sandwich/menu board subject to Ch. 174 Signs regulating these types 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.
 - (J) *Revocation of the Sidewalk Vendor or Food Truck Permit.* The Zoning and Development Administrator is authorized to revoke a sidewalk vendor or food truck permit if it is determined that a violation of the requirements of the Unified Development Code has occurred.



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178.04 Outdoor Mobile Vendors Located On Private Property

- (A) *Purpose.* This section's purpose is to facilitate and control the ability of outdoor mobile vendors to operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely affect nearby businesses, fosters an aesthetically appealing streetscape and does not create or worsen a dangerous traffic condition.
- (B) *Outdoor Mobile Vendor Temporary Permit for a Single Location.* Outdoor mobile vendors are allowed on a temporary basis for a maximum of six months in one location during a calendar year. Outdoor mobile vendors utilizing a temporary permit may request to relocate to a different site at least one quarter mile (1,320 feet) from the original location after this six month period has expired. However, a new outdoor mobile vendor application shall be reviewed and approved by the Planning Division for every new location. All temporary permits shall expire a maximum of six months from the date issued and the mobile vending unit shall be removed from the property.
- (1) A temporary permit for an outdoor mobile vendor business in a single location may be approved and issued administratively by the Planning Division after making the following determinations:
- (a) All of the requirements of 178.04(D) have been met.
 - (b) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
 - (c) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent business.
- (C) *Outdoor Mobile Vendor Annual Permit for a Single Location.* Outdoor mobile vendors may request an annual permit from the Planning Commission to operate for a one year time period in the same location subject to the following standards:
- (1) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.
 - (2) All of the requirements of 178.04(D) have been met.
 - (3) In granting an annual permit, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance, such as; restroom facilities or shared use agreements, landscaping improvements, parking lot improvements, sidewalk improvements, etc.
 - (4) Annual permits shall expire on December 31st. A new permit request shall be submitted to the Planning Commission for each subsequent year that an outdoor mobile vendor wishes to locate on the same property.
 - (5) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
 - (6) Outdoor mobile vendors seeking an annual permit shall provide a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.
- (D) *Permit Requirements.* All outdoor mobile vendors located on private property shall meet the following requirements and submittals prior to approval:
- (1) *Permit Application Fee.* Each application to conduct an outdoor mobile vendor business shall be accompanied by a \$100 permit review and processing fee. Outdoor mobile vendor permits shall be issued to the property owner and the outdoor mobile vendor operator jointly.
 - (2) *Temporary and Annual Permit Application Requirements.* Application for a permit to conduct an outdoor mobile vendor business shall include the

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following items in a format acceptable to the Zoning and Development Administrator:

- (a) Name, address, contact information and signature of both the property owner and the outdoor mobile vendor requesting to locate on private property.
 - (b) A valid copy of all necessary permits required by State and County health authorities which shall be conspicuously displayed at all times during the operation of the business.
 - (c) Proof of application for remittance of HMR tax to the City of Fayetteville, when applicable.
 - (d) A written description of the vehicle or structure to be used in conducting business and a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.
 - (e) A detailed site plan drawn to scale showing the location of the property lines, each outdoor mobile vendor location, building setback lines, vehicle parking spaces, the sidewalk location and any proposed outdoor dining or sitting areas.
 - (f) Written authorization, signed by the property owner or legal representative of record, stating that the outdoor mobile vendor is permitted to operate on the subject property for a specified period of time.
- (3) The permit issued shall not be transferable in any manner.
 - (4) The permit shall be conspicuously displayed at all times during the operation of the outdoor mobile vending business.
 - (5) The proposed use must be a permitted use-by-right within the underlying zoning district.
 - (6) Outdoor mobile vendors shall maintain compliance with parking lot requirements for the existing business and the proposed outdoor mobile

vendor business. The number of required parking spaces is determined by the use and size of the proposed outdoor mobile vendor business and by the use and size of the existing business. The property where the outdoor mobile vendor is located should be paved in order to be utilized. The use of parking for an outdoor mobile vendor may not reduce the number of spaces below the minimum required for other uses occurring on the property. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.

- (7) Outdoor mobile vendors shall comply with the Federal Americans with Disability Act (ADA) requirements if the public has access to the interior of any mobile vending unit.
- (8) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.

(E) *Exemptions.* The provisions of the ordinance do not apply to:

- (1) The placing and maintenance of unattended stands or sales devices for the sale or display of newspapers, magazines, periodicals and paperbound books.
- (2) The distribution of free samples of goods, wares and merchandise by any individual from his person.
- (3) Special events authorized by a Special Event Permit from the City of Fayetteville Parking Management Division.
- (4) Fireworks sales.
- (5) Children's lemonade stands.
- (6) Temporary tent sales that operate for less than 3 days. A tent permit from the Planning Division and Fire Marshal inspection is required.

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- (7) Temporary sales for non-profit entities that operate for less than 5 consecutive days.
 - (8) Non-profit organizations that prepare and donate or give away food for free.
- (F) *Prohibited Conduct.* The following conduct is prohibited for outdoor mobile vendors:
- (1) Obstruct pedestrian or vehicular traffic flow.
 - (2) Obstruct traffic signals or regulatory signs.
 - (3) Use of any device that produces a loud and raucous noise or operate any loudspeaker, light or light system, public address system, radio, sound amplifier, or similar device to attract public attention.
 - (7) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
 - (8) Use or display any signage that is not in compliance with the Unified Development Code Chapter 174: Signs.
- (G) *Suspension and Revocation of Permit.* Any permit issued under these regulations may be suspended or revoked by the Development Services Director for any of the following reasons:
- (1) Fraud, misrepresentation or knowingly false statement contained in the application for the permit or during presentations to the Planning Commission.
 - (2) Conducting the business of vending in a manner contrary to the conditions of the permit.
 - (3) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or interfere with the rights of abutting property owners.
- (4) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations, or;
 - (5) Failure of the property owner to implement improvements required by the Planning Commission as conditions of an annual permit approval.
- (H) *Notification of Suspension or Revocation.* The Development Services Director shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation and notifying the vendor of his/her right to appeal. Such notice shall be personally delivered, posted upon the outdoor mobile vendors' premises or mailed to both the address of the property owner and the address of the outdoor mobile vendor shown on the permit holder's application by certified mail, return receipt requested.

178.03 Sidewalk Vendors and Food Trucks

(A) Purpose.

- (1) **Sidewalk Vendors.** 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. This ordinance is designed to regulate open air vending of goods on public rights-of-way.

- (2) **Food Trucks.** The City of Fayetteville encourages a diversity of business opportunities and support entrepreneurship by establishing ordinances designed to allow mobile food trucks to flourish in the city. Food trucks may be permitted to locate on private property on an annual basis through an administrative approval process. Food trucks may also be permitted to operate on public property temporarily if approved through a special event permit process administered by the City. In all cases, food trucks shall be removed daily from the property on which they were vending.

- (B) **Sidewalk Vendor and Food Truck Authorization.** The Zoning and Development Administrator may issue a permit for a sidewalk vendor or food truck to use a specific sidewalk, or plaza location or private property 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 vendor or food truck permit shall be accompanied by a \$100 application and permit fee. Food truck permits shall be accompanied by the \$100 permit fee for each location requested for approval. All 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 or food truck permit shall include the following items in a format acceptable to the Zoning and Development Administrator:

- (a) Name, address and contact information of the owner and operator of the mobile device as well as the contact information of the property owner if applicable.

- (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, vehicle or pushcart.

- (g) A detailed scale drawing, picture or diagram and material specifications of the device vehicle 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.~~

(3) The sidewalk vending or food truck permit is good for one location only. Sidewalk vendors and food trucks may hold permits for multiple locations.

(D) *Permitted Vending Products and Goods.*

- (1) **Sidewalk Vendors.** The City of Fayetteville permits the following types of goods for **street sidewalk** vending in approved locations:

- (a) Cut Flowers
- (b) Food and Beverage
- (c) Arts and Crafts: Only objects of art or craft produced and sold by a local artist or craft person may be sold by **street sidewalk** vendors.

(2) Food Trucks. The City of Fayetteville permits only food and/or beverage items to be sold from food trucks.

- (3) All goods being sold from sidewalk vendors **and food trucks** 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 **or vehicular** traffic on the sidewalk **or street**.
- (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) **Sidewalk Vendor 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 sidewalk** vending is allowed as a permitted use are:

- (1) North and West sidewalks in front of the Walton Arts Center. Sidewalk vendors may 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) **Sidewalk Vendor 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 sidewalk** 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, with the exception that the applicant may request that the cart, and/or operating area, may be larger than the dimension required in this chapter. An increase in cart size or operating area may be considered by the Planning Commission as a variance and does not require conditional use permit review. The determination of a larger cart size and/or operation area shall be subject to the variance criteria in Chapter 156.03(C).
- (2) The number of permits issued for the **street sidewalk** 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) Sidewalk Vendor Operation 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 cart shall not exceed 7 feet, including the cart's trailer tongue or hitch that is not removed or collapsible, and any propane tanks or other attachments to the mobile device. The width shall not exceed 4 feet, including the carts wheel wells or tires, and any accessory components of the cart such as retractable or collapsible sinks or shelves.
- (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 Sidewalk** 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) Prior to final approval, Planning Staff shall inspect the sidewalk vendor set up in the proposed location. The applicant shall make an appointment between the hours of 8 a.m. to 5 p.m. in which Planning Staff will inspect the cart and all proposed accessories such as coolers, trash receptacle, chairs, etc. that the applicant is proposing for the site. Upon approval, 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) Sidewalk vendors are required to provide a trash receptacle for public use located within their permitted operating space. 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.
- (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) Food Truck Location and Operation Requirements. Food trucks may be permitted administratively on an annual basis for multiple locations subject to the following determinations made by the Zoning and Development Administrator:

- (1) The property is zoned to allow for food and beverage uses and the location meets all applicable zoning requirements of the underlying zoning district. The property owner for each location must provide a written statement giving the food truck operator permission to operate on the property. A site plan shall be provided by the applicant for each proposed site upon which the food truck would like to temporarily locate.
- (2) The food truck shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed food truck location, unless the food truck predates the aforementioned permanent businesses.
- (3) The parking requirement for the food truck and any operating businesses on the property is met.
- (4) The applicant has provided the City with documentation of approval from the Arkansas Department of

Health and Human Services for food related establishments. A copy of this permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied annually upon permit renewal.

- (5) Food trucks may operate between the hours of 5 a.m. and 3 a.m. Food trucks shall be removed daily from the property on which they were vending and the applicant shall demonstrate that they have a permanent location to appropriately store their food truck when it is not in operation.
 - (6) Food trucks are required to provide a trash receptacle for public use located adjacent to their operation.
- (I) **Signage Requirements.** Sidewalk vendors and food trucks shall obtain a sign permit from the Planning Division prior to the issuance of a permit to operate. Sidewalk vendors and food trucks are permitted a total of one (1) A-frame sandwich/menu board subject to Ch. 174 Signs regulating these types 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.
- (J) **Revocation of the Sidewalk Vendor or Food Truck Permit.** The Zoning and Development Administrator is authorized to revoke a sidewalk vendor or food truck permit if it is determined that a violation of the requirements of the Unified Development Code has occurred.

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**178.04 Outdoor Mobile Vendors
Located On Private Property**

(A) *Purpose.* This section's purpose is to facilitate and control the ability of outdoor mobile vendors to temporarily operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely affect nearby businesses, fosters an aesthetically appealing streetscape and does not create or worsen a dangerous traffic condition.

(B) *Requirements. Outdoor Mobile Vendor Temporary Permit for a Single Location.* Outdoor mobile vendors are allowed on a temporary basis (90 days) for a maximum of six months by nature of their temporary occupancy in one location over a one year (twelve month) timeframe during a calendar year. Outdoor mobile vendors utilizing a temporary permit may request to move relocate to a different location site at least one half quarter mile (1,320 feet) from the original location after this 90- six month day period has expired. However, a new outdoor mobile vendor application will have to shall be reviewed and approved by the Planning Division for a every new location. All temporary permits shall expire a maximum of six months from the date issued and the mobile vending unit shall be removed from the property.

(1) A temporary permit for an outdoor mobile vendor business in a single location may be approved and issued administratively by the Planning Division after making the following determinations:

(a) All of the requirements of 178.04(D) have been met.

(b) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(c) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed

outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.

(C) *Variances. Outdoor Mobile Vendor Annual Permit for a Single Location.* Outdoor mobile vendors may request a variance an annual permit from the Planning Commission to operate for a one year time period for an extended period of time, not to exceed twelve consecutive months in the same location subject to the following standards:

(1) A vendor may request a variance from the 90 day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.

(1) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

(3) A variance may be granted by the Planning Commission if the following findings have been met:

a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape.

b) That the outdoor mobile vendor's presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.

(2) All of the requirements of 178.04(D) have been met.

(3) In granting the variance an annual permit, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance, such as; restroom facilities or shared use agreements, landscaping improvements, parking lot improvements, sidewalk improvements, etc.

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- (4) Annual permits shall expire on December 31st. A new permit request shall be submitted to the Planning Commission for each subsequent year that an outdoor mobile vendor wishes to locate on the same property.
- (5) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
- (6) Outdoor mobile vendors seeking an annual permit shall provide a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.
- (D) **Permit Requirements.** All outdoor mobile vendors located on private property shall meet the following requirements and submittals prior to approval:
- (1) **Permit Application Fee.** Each application for a permit to conduct an outdoor mobile vendor business shall be accompanied by a \$50 \$100 permit review and processing fee. **Outdoor mobile vendor permits shall be issued to the property owner and the outdoor mobile vendor operator jointly.**
- (2) **Temporary and Annual Permit Application Requirements.** Application for a permit to conduct an outdoor mobile vendor business shall include the following items in a format acceptable to the Zoning and Development Administrator:
- (a) Name, address, contact information and signature of both the property owner and the outdoor mobile vendor requesting to locate on private property.
- (b) A valid copy of all necessary permits required by State and County health authorities which shall be conspicuously displayed at all times during the operation of the business.
- (c) Proof of application for remittance of HMR tax to the City of Fayetteville, when applicable.
- (d) Means A written description of the vehicle or structure to be used in conducting business and a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location, including but not limited to a description of any mobile device to be used for transport or to display approved items or services.
- (e) A detailed site plan and written description illustrating the type, location, and dimensions of the mobile vendor business including parking.
- (e) A detailed site plan drawn to scale showing the location of the property lines, each outdoor mobile vendor location, building setback lines, vehicle parking spaces, the sidewalk location and any proposed outdoor dining or sitting areas.
- (f) Written authorization, signed by the property owner or legal representative of record, stating that the transient merchant business outdoor mobile vendor is permitted to operate on the subject property for a specified period of time.
- (3) The permit issued shall not be transferable in any manner.
- (4) The permit is valid for one mobile vendor location only shall be conspicuously displayed at all times during the operation of the outdoor mobile vending business.
- (5) The proposed use must be a permitted use-by-right within the underlying zoning district, in order to be permitted.
- (6) Outdoor mobile vendors be-in shall maintain compliance with parking lot requirements for any the existing business and the proposed outdoor mobile vendor business. The number of required parking spaces is determined by the use and size of the proposed transient merchant outdoor mobile vendor business and by the use and size of the existing business. Parking spaces on The property where

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the outdoor mobile vendor is located ~~shall~~ **should** 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~~ **below the minimum required** 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 by Planning Division upon review of the site plan.

- (7) Outdoor mobile vendors shall comply with the Federal Americans with Disability Act (ADA) requirements if the public has access to the interior of any mobile vending unit.
- (8) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.

(F) **Exemptions.** The provisions of the ordinance do not apply to:

- (1) The placing and maintenance of unattended stands or sales devices for the sale or display of newspapers, magazines, periodicals and paperbound books.
- (2) The distribution of free samples of goods, wares and merchandise by any individual from his person.
- (3) Special events authorized by a Special Event Permit from the City of Fayetteville Parking Management Division.
- (4) Fireworks sales.
- (5) Children's lemonade stands.
- (6) Temporary tent sales that operate for less than 3 days. A tent permit from the Planning Division and Fire Marshal inspection is required.

(7) Temporary sales for non-profit entities that operate for less than 5 consecutive days.

(8) Non-profit organizations that prepare and donate or give away food for free.

(F) **Prohibited Conduct.** The following conduct is prohibited for outdoor mobile vendors:

(1) Obstruct pedestrian or vehicular traffic flow.

(2) Obstruct traffic signals or regulatory signs.

(3) Use of any device that produces a loud and raucous noise or operate any loudspeaker, light or light system, public address system, radio, sound amplifier, or similar device to attract public attention.

(7) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

(8) Use or display any signage that is not in compliance with the Unified Development Code Chapter 174: Signs.

(G) **Suspension and Revocation of Permit.** Any permit issued under these regulations may be suspended or revoked by the Development Services Director for any of the following reasons:

(1) Fraud, misrepresentation or knowingly false statement contained in the application for the permit or during presentations to the Planning Commission.

(2) Conducting the business of vending in a manner contrary to the conditions of the permit.

(3) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or

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interfere with the rights of abutting property owners.

- (4) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations, or;
 - (5) Failure of the property owner to implement improvements required by the Planning Commission as conditions of an annual permit approval.
- (H) *Notification of Suspension or Revocation.*
The Development Services Director shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation and notifying the vendor of his/her right to appeal. Such notice shall be personally delivered, posted upon the outdoor mobile vendors' premises or mailed to both the address of the property owner and the address of the outdoor mobile vendor shown on the permit holder's application by certified mail, return receipt requested.

178.05 Transient Merchants

~~All transient merchants are subject to regulations and registration under Arkansas state statutes. Any criteria established herein shall not relieve the applicant from meeting applicable criteria relative to transient merchants. "Transient merchant" means any person, firm, corporation, partnership, or other entity that engages in, does, or transacts any temporary or transient business in the state, either in one (1) locality or in traveling from place to place in the state, offering for sale or selling goods, wares, merchandise, or services~~

(Ord. 5185, 10-7-08)

Amend Chapter 151: Definitions by adding the following definitions.

***Food Truck.* A motorized and operational self contained vehicle equipped with facilities for cooking and selling food that is removed daily from the property on which it vends food.**

***Mobile Vending Unit.* A commercial establishment designed to be readily moveable.**

178.03 Sidewalk Vendors and Food Trucks

(A) Purpose.

- (1) *Sidewalk Vendors.* 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. This ordinance is designed to regulate open air vending of goods on public rights-of-way.
- (2) *Food Trucks.* The City of Fayetteville encourages a diversity of business opportunities and support entrepreneurship by establishing ordinances designed to allow mobile food trucks to flourish in the city. Food trucks may be permitted to locate on private property on an annual basis through an administrative approval process. Food trucks may also be permitted to operate on public property temporarily if approved through a special event permit process administered by the City. In all cases, food trucks shall be removed daily from the property on which they were vending.

(B) *Sidewalk Vendor and Food Truck Authorization.* The Zoning and Development Administrator may issue a permit for a sidewalk vendor or food truck to use a specific sidewalk, plaza location or private property 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.
- (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 sidewalk vendor or food truck permit shall be accompanied by a \$100 application and permit fee. Food truck permits shall be accompanied by the \$100 permit fee for each location requested for approval. All 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 or food truck permit shall include the following items in a format acceptable to the Zoning and Development Administrator:
 - (a) Name, address and contact information of the owner and operator of the mobile device as well as the contact information of the property owner if applicable.
 - (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 vehicle or pushcart.
 - (g) A detailed scale drawing, picture or diagram and material specifications of the vehicle or pushcart to be used.
- (2) The permit issued shall not be transferable in any manner.
- (3) The sidewalk vending or food truck permit is good for one location only.

Sidewalk vendors and food trucks may hold permits for multiple locations.

(D) *Permitted Vending Products and Goods.*

- (1) *Sidewalk Vendors.* The City of Fayetteville permits the following types of goods for sidewalk vending in approved locations:

- (a) Cut Flowers
- (b) Food and Beverage
- (c) Arts and Crafts: Only objects of art or craft produced and sold by a local artist or craft person may be sold by sidewalk vendors.

- (2) *Food Trucks.* The City of Fayetteville permits only food and/or beverage items to be sold from food trucks.

- (3) All goods being sold from sidewalk vendors and food trucks 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 or vehicular traffic on the sidewalk or street.
- (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) *Sidewalk Vendor 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 sidewalk vending is allowed as a permitted use are:

- (1) North and West sidewalks in front of the Walton Arts Center. Sidewalk vendors may 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) *Sidewalk Vendor 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 sidewalk 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, with the exception that the applicant may request that the cart, and/or operating area, may be larger than the dimension required in this chapter. An increase in cart size or operating area may be considered by the Planning Commission as a variance and does not require conditional use permit review. The determination of a larger cart size and/or operation area shall be subject to the variance criteria in Chapter 156.03(C).
- (2) The number of permits issued for the sidewalk 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) *Sidewalk Vendor Operation 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 cart shall not exceed 7 feet, including the cart's trailer tongue or hitch that is not removed or collapsible, and any propane tanks or other attachments to the mobile device. The width shall not exceed 4 feet, including the cart's wheel wells or tires, and any accessory components of the cart such as retractable or collapsible sinks or shelves.
- (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) Sidewalk 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) Prior to final approval, Planning Staff shall inspect the sidewalk vendor set up in the proposed location. The applicant shall make an appointment between the hours of 8 a.m. to 5 p.m. in which Planning Staff will inspect the cart and all proposed accessories such as coolers, trash receptacle, chairs, etc. that the applicant is proposing for the site. Upon approval, 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) Sidewalk vendors are required to provide a trash receptacle for public use located within their permitted operating space. 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.
 - (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) *Food Truck Location and Operation Requirements.* Food trucks may be permitted administratively on an annual basis for multiple locations subject to the

following determinations made by the Zoning and Development Administrator:

- (1) The property is zoned to allow for food and beverage uses and the location meets all applicable zoning requirements of the underlying zoning district. The property owner for each location must provide a written statement giving the food truck operator permission to operate on the property. A site plan shall be provided by the applicant for each proposed site upon which the food truck would like to temporarily locate.
 - (2) The food truck shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed food truck location, unless the food truck predates the aforementioned permanent businesses.
 - (3) The parking requirement for the food truck and any operating businesses on the property is met.
 - (4) The applicant has provided the City with documentation of approval from the Arkansas Department of Health and Human Services for food related establishments. A copy of this permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied annually upon permit renewal.
 - (5) Food trucks may operate between the hours of 5 a.m. and 3 a.m. Food trucks shall be removed daily from the property on which they were vending and the applicant shall demonstrate that they have a permanent location to appropriately store their food truck when it is not in operation.
 - (6) Food trucks are required to provide a trash receptacle for public use located adjacent to their operation.
- (I) *Signage Requirements.* Sidewalk vendors and food trucks shall obtain a sign permit from the Planning Division prior to the issuance of a permit to operate. Sidewalk vendors and food trucks are permitted a total of one (1) A-frame sandwich/menu board subject to Ch. 174 Signs regulating these types 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.
 - (J) *Revocation of the Sidewalk Vendor or Food Truck Permit.* The Zoning and Development Administrator is authorized to revoke a sidewalk vendor or food truck permit if it is determined that a violation of the requirements of the Unified Development Code has occurred.

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**178.04 Outdoor Mobile Vendors
Located On Private Property**

(A) *Purpose.* This section's purpose is to facilitate and control the ability of outdoor mobile vendors to operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely affect nearby businesses, fosters an aesthetically appealing streetscape and does not create or worsen a dangerous traffic condition.

(B) *Outdoor Mobile Vendor Temporary Permit for a Single Location.* Outdoor mobile vendors are allowed on a temporary basis for a maximum of six months in one location during a calendar year. Outdoor mobile vendors utilizing a temporary permit may request to relocate to a different site at least one quarter mile (1,320 feet) from the original location after this six month period has expired. However, a new outdoor mobile vendor application shall be reviewed and approved by the Planning Division for every new location. All temporary permits shall expire a maximum of six months from the date issued and the mobile vending unit shall be removed from the property.

(1) A temporary permit for an outdoor mobile vendor business in a single location may be approved and issued administratively by the Planning Division after making the following determinations:

(a) All of the requirements of 178.04(D) have been met.

(b) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(c) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent business.

(C) *Outdoor Mobile Vendor Annual Permit for a Single Location.* Outdoor mobile vendors

may request an annual permit from the Planning Commission to operate for a one year time period in the same location subject to the following standards:

(1) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

(2) All of the requirements of 178.04(D) have been met.

(3) In granting an annual permit, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance, such as; restroom facilities or shared use agreements, landscaping improvements, parking lot improvements, sidewalk improvements, etc.

(4) Annual permits shall expire on December 31st. A new permit request shall be submitted to the Planning Commission for each subsequent year that an outdoor mobile vendor wishes to locate on the same property.

(5) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(6) Outdoor mobile vendors seeking an annual permit shall provide a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.

(D) *Permit Requirements.* All outdoor mobile vendors located on private property shall meet the following requirements and submittals prior to approval:

(1) *Permit Application Fee.* Each application to conduct an outdoor mobile vendor business shall be accompanied by a \$100 permit review and processing fee. Outdoor mobile vendor permits shall be issued to the property owner and the outdoor mobile vendor operator jointly.

(2) *Temporary and Annual Permit Application Requirements.* Application for a permit to conduct an outdoor mobile vendor business shall include the

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following items in a format acceptable to the Zoning and Development Administrator:

- (a) Name, address, contact information and signature of both the property owner and the outdoor mobile vendor requesting to locate on private property.
 - (b) A valid copy of all necessary permits required by State and County health authorities which shall be conspicuously displayed at all times during the operation of the business.
 - (c) Proof of application for remittance of HMR tax to the City of Fayetteville, when applicable.
 - (d) A written description of the vehicle or structure to be used in conducting business and a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.
 - (e) A detailed site plan drawn to scale showing the location of the property lines, each outdoor mobile vendor location, building setback lines, vehicle parking spaces, the sidewalk location and any proposed outdoor dining or sitting areas.
 - (f) Written authorization, signed by the property owner or legal representative of record, stating that the outdoor mobile vendor is permitted to operate on the subject property for a specified period of time.
- (3) The permit issued shall not be transferable in any manner.
 - (4) The permit shall be conspicuously displayed at all times during the operation of the outdoor mobile vending business.
 - (5) The proposed use must be a permitted use-by-right within the underlying zoning district.
 - (6) Outdoor mobile vendors shall maintain compliance with parking lot requirements for the existing business and the proposed outdoor mobile

vendor business. The number of required parking spaces is determined by the use and size of the proposed outdoor mobile vendor business and by the use and size of the existing business. The property where the outdoor mobile vendor is located should be paved in order to be utilized. The use of parking for an outdoor mobile vendor may not reduce the number of spaces below the minimum required for other uses occurring on the property. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.

- (7) Outdoor mobile vendors shall comply with the Federal Americans with Disability Act (ADA) requirements if the public has access to the interior of any mobile vending unit.
 - (8) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.
- (E) *Exemptions.* The provisions of the ordinance do not apply to:
- (1) The placing and maintenance of unattended stands or sales devices for the sale or display of newspapers, magazines, periodicals and paperbound books.
 - (2) The distribution of free samples of goods, wares and merchandise by any individual from his person.
 - (3) Special events authorized by a Special Event Permit from the City of Fayetteville Parking Management Division.
 - (4) Fireworks sales.
 - (5) Children's lemonade stands.
 - (6) Temporary tent sales that operate for less than 3 days. A tent permit from the Planning Division and Fire Marshal inspection is required.

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- (7) Temporary sales for non-profit entities that operate for less than 5 consecutive days.
 - (8) Non-profit organizations that prepare and donate or give away food for free.
- (F) *Prohibited Conduct.* The following conduct is prohibited for outdoor mobile vendors:
- (1) Obstruct pedestrian or vehicular traffic flow.
 - (2) Obstruct traffic signals or regulatory signs.
 - (3) Use of any device that produces a loud and raucous noise or operate any loudspeaker, light or light system, public address system, radio, sound amplifier, or similar device to attract public attention.
 - (7) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
 - (8) Use or display any signage that is not in compliance with the Unified Development Code Chapter 174: Signs.
- (G) *Suspension and Revocation of Permit.* Any permit issued under these regulations may be suspended or revoked by the Development Services Director for any of the following reasons:
- (1) Fraud, misrepresentation or knowingly false statement contained in the application for the permit or during presentations to the Planning Commission.
 - (2) Conducting the business of vending in a manner contrary to the conditions of the permit.
 - (3) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or interfere with the rights of abutting property owners.
- (4) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations, or;
 - (5) Failure of the property owner to implement improvements required by the Planning Commission as conditions of an annual permit approval.
- (H) *Notification of Suspension or Revocation.* The Development Services Director shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation and notifying the vendor of his/her right to appeal. Such notice shall be personally delivered, posted upon the outdoor mobile vendors' premises or mailed to both the address of the property owner and the address of the outdoor mobile vendor shown on the permit holder's application by certified mail, return receipt requested.

178.03 Sidewalk Vendors and Food Trucks

(A) *Purpose.*

(1) **Sidewalk Vendors.** 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. This ordinance is designed to regulate open air vending of goods on public rights-of-way.

(2) **Food Trucks.** The City of Fayetteville encourages a diversity of business opportunities and support entrepreneurship by establishing ordinances designed to allow mobile food trucks to flourish in the city. Food trucks may be permitted to locate on private property on an annual basis through an administrative approval process. Food trucks may also be permitted to operate on public property temporarily if approved through a special event permit process administered by the City. In all cases, food trucks shall be removed daily from the property on which they were vending.

(B) **Sidewalk Vendor and Food Truck Authorization.** The Zoning and Development Administrator may issue a permit for a sidewalk vendor or food truck to use a specific sidewalk, or plaza location or private property 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 vendor or food truck permit shall be accompanied by a \$100 application and permit fee. Food truck permits shall be accompanied by the \$100 permit fee for each location requested for approval. All 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 or food truck permit shall include the following items in a format acceptable to the Zoning and Development Administrator:

(a) Name, address and contact information of the owner and operator of the mobile device as well as the contact information of the property owner if applicable.

(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, vehicle or pushcart.

(g) A detailed scale drawing, picture or diagram and material specifications of the device vehicle 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.~~

(3) The sidewalk vending or food truck permit is good for one location only. Sidewalk vendors and food trucks may hold permits for multiple locations.

(D) *Permitted Vending Products and Goods.*

- (1) **Sidewalk Vendors.** The City of Fayetteville permits the following types of goods for **street sidewalk** vending in approved locations:

- (a) Cut Flowers
- (b) Food and Beverage
- (c) Arts and Crafts: Only objects of art or craft produced and sold by a local artist or craft person may be sold by **street sidewalk** vendors.

(2) Food Trucks. The City of Fayetteville permits only food and/or beverage items to be sold from food trucks.

- (3) All goods being sold from sidewalk vendors **and food trucks** 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 **or vehicular** traffic on the sidewalk **or street**.
- (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) **Sidewalk Vendor 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 sidewalk** vending is allowed as a permitted use are:

- (1) North and West sidewalks in front of the Walton Arts Center. Sidewalk vendors may 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) **Sidewalk Vendor 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 sidewalk** 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, with the exception that the applicant may request that the cart, and/or operating area, may be larger than the dimension required in this chapter. An increase in cart size or operating area may be considered by the Planning Commission as a variance and does not require conditional use permit review. The determination of a larger cart size and/or operation area shall be subject to the variance criteria in Chapter 156.03(C).
- (2) The number of permits issued for the **street sidewalk** 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) Sidewalk Vendor Operation 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 cart shall not exceed 7 feet, including the cart's trailer tongue or hitch that is not removed or collapsible, and any propane tanks or other attachments to the mobile device. The width shall not exceed 4 feet, including the carts wheel wells or tires, and any accessory components of the cart such as retractable or collapsible sinks or shelves.
- (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 Sidewalk** 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) Prior to final approval, Planning Staff shall inspect the sidewalk vendor set up in the proposed location. The applicant shall make an appointment between the hours of 8 a.m. to 5 p.m. in which Planning Staff will inspect the cart and all proposed accessories such as coolers, trash receptacle, chairs, etc. that the applicant is proposing for the site. Upon approval, 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) Sidewalk vendors are required to provide a trash receptacle for public use located within their permitted operating space. 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.
- (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) Food Truck Location and Operation Requirements. Food trucks may be permitted administratively on an annual basis for multiple locations subject to the following determinations made by the Zoning and Development Administrator:

- (1) The property is zoned to allow for food and beverage uses and the location meets all applicable zoning requirements of the underlying zoning district. The property owner for each location must provide a written statement giving the food truck operator permission to operate on the property. A site plan shall be provided by the applicant for each proposed site upon which the food truck would like to temporarily locate.
- (2) The food truck shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed food truck location, unless the food truck predates the aforementioned permanent businesses.
- (3) The parking requirement for the food truck and any operating businesses on the property is met.
- (4) The applicant has provided the City with documentation of approval from the Arkansas Department of

Health and Human Services for food related establishments. A copy of this permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied annually upon permit renewal.

- (5) Food trucks may operate between the hours of 5 a.m. and 3 a.m. Food trucks shall be removed daily from the property on which they were vending and the applicant shall demonstrate that they have a permanent location to appropriately store their food truck when it is not in operation.
 - (6) Food trucks are required to provide a trash receptacle for public use located adjacent to their operation.
- (I) **Signage Requirements.** Sidewalk vendors and food trucks shall obtain a sign permit from the Planning Division prior to the issuance of a permit to operate. Sidewalk vendors and food trucks are permitted a total of one (1) A-frame sandwich/menu board subject to Ch. 174 Signs regulating these types 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.
- (J) **Revocation of the Sidewalk Vendor or Food Truck Permit.** The Zoning and Development Administrator is authorized to revoke a sidewalk vendor or food truck permit if it is determined that a violation of the requirements of the Unified Development Code has occurred.

TITLE XV UNIFIED DEVELOPMENT CODE

**178.04 Outdoor Mobile Vendors
Located On Private Property**

(A) *Purpose.* This section's purpose is to facilitate and control the ability of outdoor mobile vendors to temporarily operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely affect nearby businesses, fosters an aesthetically appealing streetscape and does not create or worsen a dangerous traffic condition.

(B) *Requirements. Outdoor Mobile Vendor Temporary Permit for a Single Location.* Outdoor mobile vendors are allowed on a temporary basis (90 days) for a maximum of six months by nature of their temporary occupancy in one location over a one-year (twelve month) timeframe during a calendar year. Outdoor mobile vendors utilizing a temporary permit may request to move relocate to a different location site at least one half quarter mile (1,320 feet) from the original location after this 90- six month day period has expired. However, a new outdoor mobile vendor application will have to shall be reviewed and approved by the Planning Division for a every new location. All temporary permits shall expire a maximum of six months from the date issued and the mobile vending unit shall be removed from the property.

(1) A temporary permit for an outdoor mobile vendor business in a single location may be approved and issued administratively by the Planning Division after making the following determinations:

- (a) All of the requirements of 178.04(D) have been met.
- (b) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(c) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed

outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.

(C) *Variances. Outdoor Mobile Vendor Annual Permit for a Single Location.* Outdoor mobile vendors may request a variance an annual permit from the Planning Commission to operate for a one year time period for an extended period of time, not to exceed twelve consecutive months in the same location subject to the following standards:

(1) A vendor may request a variance from the 90 day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.

(1) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

(3) A variance may be granted by the Planning Commission if the following findings have been met:

a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses will foster an aesthetically appealing streetscape.

b) That the outdoor mobile vendor's presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.

(2) All of the requirements of 178.04(D) have been met.

(3) In granting the variance an annual permit, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance, such as; restroom facilities or shared use agreements, landscaping improvements, parking lot improvements, sidewalk improvements, etc.

TITLE XV UNIFIED DEVELOPMENT CODE

- (4) Annual permits shall expire on December 31st. A new permit request shall be submitted to the Planning Commission for each subsequent year that an outdoor mobile vendor wishes to locate on the same property.
- (5) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
- (6) Outdoor mobile vendors seeking an annual permit shall provide a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.
- (D) **Permit Requirements.** All outdoor mobile vendors located on private property shall meet the following requirements and submittals prior to approval:
- (1) **Permit Application Fee.** Each application for a permit to conduct an outdoor mobile vendor business shall be accompanied by a \$60 \$100 permit review and processing fee. **Outdoor mobile vendor permits shall be issued to the property owner and the outdoor mobile vendor operator jointly.**
- (2) **Temporary and Annual Permit Application Requirements.** Application for a permit to conduct an outdoor mobile vendor business shall include the following items in a format acceptable to the Zoning and Development Administrator:
- (a) Name, address, contact information and signature of both the property owner and the outdoor mobile vendor requesting to locate on private property.
- (b) A valid copy of all necessary permits required by State and County health authorities which shall be conspicuously displayed at all times during the operation of the business.
- (c) Proof of application for remittance of HMR tax to the City of Fayetteville, when applicable.
- (d) Means A written description of the vehicle or structure to be used in conducting business and a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location, including but not limited to a description of any mobile device to be used for transport or to display approved items or services.
- (e) A detailed site plan and written description illustrating the type, location, and dimensions of the mobile vendor business including parking.
- (e) A detailed site plan drawn to scale showing the location of the property lines, each outdoor mobile vendor location, building setback lines, vehicle parking spaces, the sidewalk location and any proposed outdoor dining or sitting areas.
- (f) Written authorization, signed by the property owner or legal representative of record, stating that the transient merchant business outdoor mobile vendor is permitted to operate on the subject property for a specified period of time.
- (3) The permit issued shall not be transferable in any manner.
- (4) The permit is valid for one mobile vendor location only shall be conspicuously displayed at all times during the operation of the outdoor mobile vending business.
- (5) The proposed use must be a permitted use-by-right within the underlying zoning district, in order to be permitted.
- (6) Outdoor mobile vendors be-in shall maintain compliance with parking lot requirements for any the existing business and the proposed outdoor mobile vendor business. The number of required parking spaces is determined by the use and size of the proposed transient merchant outdoor mobile vendor business and by the use and size of the existing business. Parking spaces on The property where

TITLE XV UNIFIED DEVELOPMENT CODE

the outdoor mobile vendor is located shall ~~should~~ 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 below the minimum required 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 by Planning Division upon review of the site plan.

- (7) Outdoor mobile vendors shall comply with the Federal Americans with Disability Act (ADA) requirements if the public has access to the interior of any mobile vending unit.
- (8) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.

(F) *Exemptions.* The provisions of the ordinance do not apply to:

- (1) The placing and maintenance of unattended stands or sales devices for the sale or display of newspapers, magazines, periodicals and paperbound books.

- (2) The distribution of free samples of goods, wares and merchandise by any individual from his person.

- (3) Special events authorized by a Special Event Permit from the City of Fayetteville Parking Management Division.

- (4) Fireworks sales.

- (5) Children's lemonade stands.

- (6) Temporary tent sales that operate for less than 3 days. A tent permit from the Planning Division and Fire Marshal inspection is required.

- (7) Temporary sales for non-profit entities that operate for less than 5 consecutive days.

- (8) Non-profit organizations that prepare and donate or give away food for free.

(F) *Prohibited Conduct.* The following conduct is prohibited for outdoor mobile vendors:

- (1) Obstruct pedestrian or vehicular traffic flow.

- (2) Obstruct traffic signals or regulatory signs.

- (3) Use of any device that produces a loud and raucous noise or operate any loudspeaker, light or light system, public address system, radio, sound amplifier, or similar device to attract public attention.

- (7) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

- (8) Use or display any signage that is not in compliance with the Unified Development Code Chapter 174: Signs.

(G) *Suspension and Revocation of Permit.* Any permit issued under these regulations may be suspended or revoked by the Development Services Director for any of the following reasons:

- (1) Fraud, misrepresentation or knowingly false statement contained in the application for the permit or during presentations to the Planning Commission.

- (2) Conducting the business of vending in a manner contrary to the conditions of the permit.

- (3) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or

TITLE XV UNIFIED DEVELOPMENT CODE

interfere with the rights of abutting property owners.

(4) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations, or;

(5) Failure of the property owner to implement improvements required by the Planning Commission as conditions of an annual permit approval.

(H) *Notification of Suspension or Revocation.*
The Development Services Director shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation and notifying the vendor of his/her right to appeal. Such notice shall be personally delivered, posted upon the outdoor mobile vendors' premises or mailed to both the address of the property owner and the address of the outdoor mobile vendor shown on the permit holder's application by certified mail, return receipt requested.

~~178.05 Transient Merchants~~

~~All transient merchants are subject to regulations and registration under Arkansas state statutes. Any criteria established herein shall not relieve the applicant from meeting applicable criteria relative to transient merchants. "Transient merchant" means any person, firm, corporation, partnership, or other entity that engages in, does, or transacts any temporary or transient business in the state, either in one (1) locality or in traveling from place to place in the state, offering for sale or selling goods, wares, merchandise, or services~~

(Ord. 5185, 10-7-08)

City of Fayetteville Item Review Form

2013-0231

Legistar File Number

January 7, 2014

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Andrew Garner

Submitted By

Development Services

Department

Action Required:

ADM 13-4565: Administrative Item (UDC AMENDMENT: LARGE SCALE DEVELOPMENT/PARKLAND DEDICATION APPLICABILITY): Submitted by CITY PLANNING AND PARKS DEPARTMENT STAFF for revisions to the Unified Development Code, Chapters 151, 166 and the City Code §94.06 to amend the definition of and applicability for parkland dedication for certain large scale development applications.

Does this item have a cost? ☐ No

Cost of this request

Category or Project Budget

Program or Project Name

Account Number

Funds Used to Date

Program or Project Category

\$0.00

Project Number

Remaining Balance

Fund Name

Budgeted Item? ☐

Budget Adjustment Attached? ☐

V20130812

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

WMS/CPA

K. [Signature] 12-19-13

Paul A. Becher for Don Mann

Paul A. Becher 12-20-2013

[Signature] 1/3/14

12-20-2013





www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Andrew Garner, City Planning Director 

Date: December 16, 2013

Subject: ADM 13-4565 (UDC Amendment: Large Scale Development/Parkland Dedication Applicability)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to amend the definition of and applicability for parkland dedication for certain large scale development application.

BACKGROUND

The Fayetteville Unified Development Code Section 166.04 (L) currently requires certain development proposals to dedicate land or contribute money in lieu for City Parks, to offset the impact of new residents on the park system. The determination of acceptance of land or money is determined by the Planning Commission upon recommendation from the Parks and Recreation Advisory Board.

These types of developments, as defined by Chapter 151 and 166 of the Unified Development Code, are generally more than one acre in size. With the continued growth of the University of Arkansas and general population, there are many more infill projects, particularly in the downtown area, that are on smaller lots and are more dense and vertical, than the more sprawling suburban development patterns seen in the past. These projects have a significant impact on the park system increasing wear and tear on existing facilities and increasing demand for new facilities. Currently, if a project is less than one acre, it is not reviewed for Park Land Dedication requirements.

For example, a project was recently reviewed through the planning process that proposed to build 152 units on 0.98 acres. This project was not required to be reviewed for Park Land Dedication requirements due to its size of less than one acre; however it will add significant demand on the park system. Wilson Park is the closest park to this development and already experiences heavy use, wear and tear. If another residential project were proposing the same number of units on a 1.1 acre parcel, it would have to pay \$85,120 or dedicate 2.13 acres of land. These funds could be used to replace and/or add new amenities to the park that serves the residents.

As the City continues to see and encourage urban infill, these types of developments will likely increase and potentially add hundreds of new residents to the city and, specifically, the downtown area. The Parks and Recreation Department prides itself on providing the the best facilities possible; however they will be at a disadvantage if these types of development continue to be exempt from the ordinance.

PROPOSAL

Staff proposes changes to the Fayetteville Unified Development code as follows:

- Change the definition of Large Scale Development in UDC Chapter 151 and Chapter 166.01 to include, "...the construction of a multi-family building or buildings with 24 or more units..." as a Large Scale Development.
- Clarify the public notification and development review process in UDC Chapters 157 Public Notification and 166.02 for developments that are subject to administrative approval. Certain types of developments in form-based zoning districts are currently exempted from the Large Scale Development review, but with this proposal are now considered Large Scale Developments. This proposal specifies that Large Scale Developments subject to administrative approval shall follow the same public notification and development review process as a Large Site Improvement Plan, but will now be subject to the parkland requirements. This will still exempt these types of projects in certain form-based zoning districts from the Subdivision Committee and Planning Commission review. This exemption was intended to encourage the use of traditional/urban development patterns over suburban development patterns in accordance with the City's adopted General Plan (City Plan 2030) and associated land use policies.

Staff also proposes to change City Code Chapter 94: Fire Prevention as follows:

- Remove an outdated requirement that the installation of all aboveground storage tanks for flammable and combustible liquids be required to go through the Large Scale Development process. This code change is not related to the park land requirements, but is simply outdated because our current building permit process requires these types of developments to obtain a building permit that is reviewed and approved by the Fire Department and other applicable City Divisions.

DISCUSSION

On November 4, 2013 the Parks and Recreation Advisory Board recommended in favor of this request and on December 9, 2013 the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 8-0-0.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE DEFINITION OF LARGE SCALE DEVELOPMENT IN § 151.01, AMEND § 157.02, § 166.01 (D) AND § 166.02 (B)(2) AND (3) AND TO REPEAL § 94.06 **FLAMMABLE AND COMBUSTIBLE LIQUIDS** OF THE FAYETTEVILLE CODE TO CLARIFY WHAT DEVELOPMENTS ARE CONSIDERED LARGE SCALE DEVELOPMENTS

WHEREAS, § 94.06 **Flammable and Combustible Liquids** needlessly requires that installation of storage tanks for these liquids always be processed as Large Scale Developments; and

WHEREAS, the recent adoption of high or even unlimited residential density districts have permitted apartment buildings with extremely high numbers of apartments to be constructed upon less than one acre and so avoid paying parkland fees despite bringing in hundreds of new residents who will need access to city parks and should pay their fair share of park fees to purchase and develop such parks.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends § 151.01 **Definitions** of the Unified Development Code so that the definition of Large Scale Development shall read as follows:

“Large Scale Development. (Development) The development of a lot or parcel one acre or greater in size or the construction of a multi-family building or buildings with 24 or more units. The term development shall include, but shall not be limited to, the construction of a new improvement, the construction of an addition to an existing improvement, or a parceling which results in the need for access and utilities.”

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends § 157.02 **Development** by enacting a new subsection (D) as shown below:

“(D) Large Scale Development applications that are subject to administrative approval are exempt from the notification requirements of this code subsection, however, they are subject to and shall complete the public notification requirements for a Large Site Improvement Plan application.”

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby amends § 166.01 **Development Categories (D) Large Scale Development** so that it will read as follows:

“(D) *Large Scale Development.* A Large Scale Development is generally intended for, but not limited to, a non-residential, mixed use, or multi-family development on a site of one acre or greater in size, or the construction of a multi-family building or buildings with 24 units where subdivisions of land is not proposed.”

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby amends § 166.02 **Development Review Process (B) Public Meetings (2) Subdivision Committee** and (3) *Planning Commission* so that these subsections shall read as follows:

“(2) *Subdivision Committee.* The following development applications are required to be reviewed by the Subdivision Committee: Large Scale Development, Planned Zoning District with Development, Preliminary Plat, and Concurrent Plat. From these applications, the Subdivision Committee may approve only Large Scale Developments. Large Scale Development applications that are subject to administrative approval shall not be required to be reviewed by the Subdivision Committee.

(3) *Planning Commission.* The following development applications are required to be reviewed by the Planning Commission. Preliminary Plat, Concurrent Plat, and Planned Zoning District with Development. The Planning Commission may approve, deny, table, or approve development applications with conditions. A Planned Zoning District cannot be approved by the Planning Commission, but may be forwarded to City Council. Large Scale Development applications that are subject to administrative approval shall not be required to be reviewed by the Planning Commission.”

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby repeals in its entirety § **94.06 Flammable and Combustible Liquids; Liquefied Petroleum Gases** of the Fayetteville Code.

PASSED and APPROVED this 7th day of January, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



PC Meeting of December 9, 2013

THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Andrew Garner, City Planning Director
Alison Jumper, Park Planning Superintendent
DATE: December 4, 2013
ATT: Code changes shown in ~~strikeout~~-underline
Memorandum from the Parks and Recreation Division

ADM 13-4565: Administrative Item (UDC AMENDMENT: LARGE SCALE DEVELOPMENT/PARKLAND DEDICATION APPLICABILITY): Submitted by CITY PLANNING AND PARKS DEPARTMENT STAFF for revisions to the Unified Development Code, Chapters 151, 166 and the City Code §94.06 to amend the definition of and applicability for parkland dedication for certain large scale development applications.

City Planner: Andrew Garner

Park Planning: Alison Jumper

BACKGROUND

The Fayetteville Unified Development Code Section 166.04 (L) currently requires certain development proposals to dedicate land or contribute money in lieu for City Parks, to offset the impact of new residents on the park system. The determination of acceptance of land or money is determined by the Planning Commission upon recommendation from the Parks and Recreation Advisory Board.

These types of developments, as defined by Chapter 151 and 166 of the Unified Development Code, are generally more than one acre in size. With the continued growth of the University of Arkansas and general population, there are many more infill projects, particularly in the downtown area, that are on smaller lots and are more dense and vertical, than the more sprawling suburban development patterns seen in the past. These projects have a significant impact on the park system increasing wear and tear on existing facilities and increasing demand for new facilities. Currently, if a project is less than one acre, it is not reviewed for Park Land Dedication requirements.

For example, a project was recently reviewed through the planning process that proposed to build 152 units on 0.98 acres. This project was not required to be reviewed for Park Land Dedication requirements due to its size of less than one acre; however it will add significant demand on the park system. Wilson Park is the closest park to this development and already experiences heavy use, wear and tear. If another residential project were proposing the same number of units on a 1.1 acre parcel, it would have to pay \$85,120 or dedicate 2.13 acres of land. These funds could be used to replace and/or

add new amenities to the park that serves the residents.

As the City continues to see and encourage urban infill, these types of developments will likely increase and potentially add hundreds of new residents to the city and, specifically, the downtown area. The Parks and Recreation Department prides itself on providing the the best facilities possible; however they will be at a disadvantage if these types of development continue to be exempt from the ordinance.

City Parks Department staff discussed the idea of including these smaller development as being subject to the land dedication or money in lieu for parkland requirements with the Parks and Recreation Advisory Board on November 4, 2013 and received a recommendation for approval.

PROPOSAL

Staff proposes changes to the Fayetteville Unified Development code as follows:

- Change the definition of Large Scale Development in UDC Chapter 151 and Chapter 166.01 to include, "...the construction of a multi-family building or buildings with 24 or more units..." as a Large Scale Development.
- Clarify the public notification and development review process in UDC Chapters 157 Public Notification and 166.02 for developments that are subject to administrative approval. Certain types of developments in form-based zoning districts are currently exempted from the Large Scale Development review, but with this proposal are now considered Large Scale Developments. This proposal specifies that Large Scale Developments subject to administrative approval shall follow the same public notification and development review process as a Large Site Improvement Plan, but will now be subject to the parkland requirements. This will still exempt these types of projects in certain form-based zoning districts from the Subdivision Committee and Planning Commission review. This exemption was intended to encourage the use of traditional/urban development patterns over suburban development patterns in accordance with the City's adopted General Plan (City Plan 2030) and associated land use policies.

Staff also proposes to change City Code Chapter 94: Fire Prevention as follows:

- Remove an outdated requirement that the installation of all aboveground storage tanks for flammable and combustible liquids be required to go through the Large Scale Development process. This code change is not related to the park land requirements, but is simply outdated because our current building permit process requires these types of developments to obtain a building permit that is reviewed and approved by the Fire Department and other applicable City Divisions.

These code changes are shown in ~~strikeout~~underline in the attached document.

RECOMMENDATION

Staff recommends that the Planning Commission forward **ADM 13-4565** to the City Council with a recommendation for approval.

Planning Commission Action: ☒ **Forwarded** ☐ **Denied** ☐ **Tabled**

Motion: Chesser

Second: Pennington

Vote: 8-0-0

Meeting Date: December 9, 2013

TITLE XV UNIFIED DEVELOPMENT CODE

CHAPTER 151: DEFINITIONS

Large-scale development. (Development) The development of a lot or parcel one acre or greater in size or the construction of a multi-family building or buildings with 24 or more units. The term development shall include, but shall not be limited to, the construction of a new improvement, the construction of an addition to an existing improvement, or a parceling which results in the need for access and utilities.

CHAPTER 157: NOTIFICATION AND PUBLIC HEARINGS

157.02 Development

Notification of public hearings for development applications shall occur as follows:

- (A) Public hearing required. A public hearing shall be held at the meeting of the Subdivision Committee and/or Planning Commission, in accordance with the Unified Development Code the established bylaws of the Planning Commission.
- (B) Applicability: Development applications include, for the purpose of notification, preliminary plats, concurrent plats, and large scale developments. If an application does not require a public hearing, notification is not required.
- (C) Notice of public hearing. The applicant shall provide the following notice:
 - (1) Who gets notice. Notice of the proposed development shall be given to all adjacent landowners.
 - (2) Methods of notice. Notice shall be provided by the following methods, as required by this chapter:
 - (a) Written notice. Written notice shall be provided at least seven (7) days prior to Subdivision Committee and at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (b) Posted Notice. The applicant shall post notice at least seven (7) days prior to Subdivision Committee and at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
- (D) Large Scale Development applications that are subject to administrative approval are exempt from the notification requirements of this code subsection, however, they are subject to and shall complete the public notification requirements for a Large Site Improvement Plan application.

CHAPTER 166: DEVELOPMENT

166.01 Development Categories

- (D) *Large Scale Development.* A Large Scale Development is generally intended for, but not limited to, a non-residential, mixed use, or multi-family development on a site of one acre or greater in size, or the construction of a multi-family building or buildings with 24 or more units where subdivision of land is not proposed.

166.02 Development Review Process

- (B) *Public Meetings.* Development applications are required to be processed through the Technical Plat Review Committee, Subdivision Committee, and Planning Commission as follows:

- (1) *Technical Plat Review Committee.* The following development applications are required to be reviewed by the Technical Plat Review Committee: Lot Split, Small Site Improvement Plans, Large Site Improvement Plans, Large Scale Development, Planned Zoning District, Preliminary Plat, Final Plat, and Concurrent Plat. After the Technical Plat Review Committee meeting staff may administratively approve Lot Splits, Final Plats, Small Site Improvement Plans, and Large Site Improvement Plans after review for compliance with all applicable codes subject to UDC 166.02(C).
- (2) *Subdivision Committee.* The following development applications are required to be reviewed by the Subdivision Committee: Large Scale Development, Planned Zoning District with Development, Preliminary Plat, and Concurrent Plat. From these applications, the Subdivision Committee may approve only Large Scale Developments. Large Scale Development applications that are subject to administrative approval shall not be required to be reviewed by the Subdivision Committee.
- (3) *Planning Commission.* The following development applications are required to be reviewed by the Planning Commission: Preliminary Plat, Concurrent Plat, and Planned Zoning District with Development. The Planning Commission may approve, deny, table, or approve development applications with conditions. A Planned Zoning District cannot be approved by the Planning Commission, but may be forwarded to City Council. Large Scale Development applications that are subject to administrative approval shall not be required to be reviewed by the Planning Commission.

TITLE IX GENERAL REGULATIONS

CHAPTER 94: FIRE PREVENTION

94.06 Flammable And Combustible Liquids; Liquefied Petroleum Gases

~~(J) Review process.~~

- ~~(1) All proposals for the installation of permanent aboveground storage tanks for flammable and Class II combustible liquids shall go through the large scale development process of the City of Fayetteville.~~

ALDERMAN AGENDA REQUEST FORM

C. 2
Amend §157.04
Page 1 of 4

FOR: COUNCIL MEETING OF January 21, 2014

FROM: Rhonda Adams

ORDINANCE TITLE AND SUBJECT:

Planned Zoning District Notification Process

An ordinance to amend §157.04 Planned Zoning District, to add a notification requirement for applicants that bring forward amendments to existing PZDs.

APPROVED FOR AGENDA:

Council Member **Rhonda Adams**

Date

Approved as to form:



Kit Williams

City Attorney

12-30-2013

Date

Packet Prepared by:



Jeremy Pate

Director of Development Services

12-26-2013

Date



THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Jeremy Pate, Development Services Director 

Date: January 07, 2014

Subject: Planned Zoning District Notification Process

RECOMMENDATION

City staff recommends in favor of the proposal by City Council member Rhonda Adams to add a notification requirement for all applicants that bring forward amendments to a Planned Zoning District.

PROPOSAL

Council Member Adams is sponsoring an ordinance to add a requirement for applicants to provide notification of a Planning Commission meeting when an amendment to a Planned Zoning District is proposed. Currently, most – but not all - applicants are required to notify neighbors of upcoming Planning Commission meetings at which a PZD amendment is set to be discussed. Depending upon the type of amendment, at times the final decision is made by the Planning Commission and other times by the City Council. This amendment would result in neighbors most affected by a proposed PZD amendment and others that are interested to be consistently notified of any upcoming changes.

DISCUSSION

Staff has discussed the proposal with Council Member Adams and agrees that the change would be beneficial and meets with the City's overall policy of open communication.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE TO AMEND §157.04 OF THE UNIFIED DEVELOPMENT CODE TO REQUIRE NOTIFICATION FOR PLANNED ZONING DISTRICT AMENDMENTS.

WHEREAS, Planned Zoning Districts are considered legislative zoning actions by the City Council and amendments thereto should be adequately published; and

WHEREAS, currently notification requirements for amendments to Planned Zoning Districts are only required in certain situations for Planning Commission meetings; and

WHEREAS, adjoining and nearby neighbors most affected by rezoning actions and amendments thereof should be adequately notified;

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 §157.04 *Planned Zoning District* of the Unified Development Code to add the following subsection "D":

"(D) *Amendments.* Amendments to a Planned Zoning District or portion of a Planned Zoning District that require Planning Commission and/or City Council approval shall follow the notification requirements as set forth above."

PASSED and **APPROVED** this day of , 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

157.04 Planned Zoning District

Notification of public hearings for planned zoning district applications shall occur as follows:

- (A) Public hearing required. A public hearing shall be held at the meeting of the Subdivision Committee and the Planning Commission at which the Planned Zoning District is to be considered, or as set forth in the procedures of the Planned Zoning District ordinance.
- (B) Notice of public hearing. The applicant shall provide the following notice:
 - (1) Who gets notice. Notice of the proposed PZD shall be given by the applicant to all landowners within 100 feet of the perimeter of a PZD.
 - (2) Methods of notice. Notice shall be provided by the following methods, as required by this chapter:
 - (a) Written notice. Written notice shall be provided at least seven (7) days prior to Subdivision Committee and at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (b) Posted Notice. The applicant shall post notice at least seven (7) days prior to Subdivision Committee and at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (c) Published Notice. Notice of public hearing shall be given by the city by publishing a notice in a newspaper of general circulation in the city, at least one time, at least fifteen (15) days prior to Planning Commission.
- (C) Planned Zoning District applications that are not considered at the Subdivision Committee are not required to provide notice for that meeting.
- (D) Amendments. Amendments to a Planned Zoning District or portion of a Planned Zoning District that require Planning Commission and/or City Council approval shall follow the notification requirements as set forth above.

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Sarah Marsh
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Martin W. Schoppmeyer, Jr.
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
January 21, 2014**

No Changes

A meeting of the Fayetteville City Council will be held on January 21, 2014 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

1. State of the City Address – Mayor Lioneld
2. Presentation of the City of Fayetteville Martin Luther King Brotherhood Award – Kit Williams

Agenda Additions:

A. Consent:

1. Approval of the January 07, 2013 City Council meeting minutes.

2. **Bid #13-59 NAFECO:** A resolution to award Bid #13-59 and to approve the purchase of wildland fire gear backpacks from NAFECO in the amount of \$22,319.64 and to approve a budget adjustment.
3. **Bid #13-59 Emergency Vehicle Specialists:** A resolution to award Bid #13-59 and to approve the purchase of wildland fire gear which includes helmets, goggles, gloves, shelters, coats and trousers from Emergency Vehicle Specialists in the amount of \$115,190.86.
4. **Gulf State Distributors:** A resolution to approve the purchase of ammunition needed by the Fayetteville Police Department during 2014 from Gulf State Distributors in the amount of \$50,770.35 pursuant to the State of Arkansas ammunition contract.

B. Unfinished Business:

1. **VAC 13-4516 (Brenda Drive, Court and Walton Street/University of Arkansas):** An ordinance to approve the University of Arkansas' petition to vacate Brenda Drive, Court Street, Walton Street and a thirty foot wide alley all within property owned by the University of Arkansas. *This ordinance was left on the Second Reading at the November 19, 2013 City Council meeting. This was left on the Second Reading and Tabled to the December 17, 2013 City Council meeting. This ordinance was left on the Third Reading at the December 17, 2013 City Council meeting and Tabled to the January 21, 2014 City Council meeting.*

Left on the Third Reading.

2. **Amend Chapter 178:** An ordinance to repeal §178.03 Sidewalk Vendors and enact a replacement §178.03 Sidewalk Vendors and Food Trucks and to repeal §178.04 Outdoor Mobile Vendors Located on Private Property and enact a replacement §178.04 Outdoor Mobile Vendors Located on Private Property. *This ordinance was left on the First Reading at the November 19, 2013 City Council meeting and tabled to the December 17, 2013 City Council meeting. This ordinance was left on the First Reading at the December 17, 2013 City Council meeting and Tabled to the January 21, 2014 City Council meeting.*

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C. New Business:

1. **ADM 13-4565 (UDC Amendment: Large Scale Development/Parkland Dedication Applicability):** An ordinance to amend the definition of Large Scale Development in §151.01, amend §157.02, §166.01 (D) and §166.02 (B)(2) and (3) and to repeal §94.06 Flammable and Combustible Liquids of the Fayetteville Code to clarify what developments are considered Large Scale Developments.
2. **Amend §157.04:** An ordinance to amend §157.04 of the Unified Development Code to require notification for Planned Zoning District amendments.

D. City Council Agenda Session Presentations:

- 1. National League of Cities Report** presented by Alderman Sarah Marsh

E. City Council Tour:

F. Announcements:

Adjournment:

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Old business and new business.

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