

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
October 01, 2013**

A meeting of the Fayetteville City Council will be held on October 01, 2013 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the September 3, 2013 and September 17, 2013 City Council meeting minutes. **APPROVED**
2. **Selective Traffic Enforcement Program Grant:** A resolution authorizing acceptance of a 2013-2014 Selective Traffic Enforcement Program (STEP) Grant award in the amount of \$100,500.00, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 200-13

3. **Equipment Resource Management, Inc.:** A resolution authorizing the purchase of one (1) Wirtgen W35DC mini milling machine from Equipment Resource Management, Inc. of Little Rock, pursuant to National Joint Powers Alliance Cooperative purchasing agreement, in the amount of \$132,134.00, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 201-13

4. **Community Services Division Budget Adjustment:** A resolution approving a budget adjustment in the total amount of \$5,103.00 representing CDBG program income received through a housing program lien payoff.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 202-13

5. **Trail Naming:** A resolution naming Clear Creek Trail and an extension of Scull Creek Trail.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 203-13

B. Unfinished Business:

1. **Fayetteville Government Channel's Mission Statement Amendment:** A resolution amending the Fayetteville Government Channel's Mission Statement, Goals Statement and Operating Policies, as approved by Resolution No. 180-10, to prohibit the recording or televising of meetings of the Nominating Committee of the City Council by the Fayetteville Government Channel. ***This resolution was Tabled at the September 03, 2013 City Council meeting to the October 01, 2013 City Council meeting.***

TABLED INDEFINITELY

2. **2013 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2013 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas. ***This ordinance was left on the Second Reading at the September 17, 2013 City Council meeting.***

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5621

3. **Amend §164.11 Height and Setback Regulations; Exceptions:** An ordinance to Amend §164.11 Height and Setback Regulations; Exceptions to enhance livability through appropriate transitions in building scale and to protect access to air and sunlight and to enact an emergency clause. ***This ordinance was left on the First Reading at the September 17, 2013 City Council meeting.***

LEFT ON THE SECOND READING

C. New Business:

1. **City of Johnson Rezoning:** A resolution pursuant to Arkansas Code Annotated § 14-56-306(b) agreeing to a change in zoning from Planned Unit Development to C-1, Light Commercial/Office for property located in the City of Johnson that adjoins the City of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 204-13

2. **PPL 13-4404 (Persimmon Street Master Street Plan Right-of-Way/Legacy IV Subdivision):** A resolution to approve the dedication of 70 feet of right of way for Persimmon Street along most of the owner's property as recommended by the Planning Commission.

TABLED TO OCTOBER 15, 2013 CITY COUNCIL MEETING

3. **RZN 13-4467 (Mount Comfort and Shiloh/Kum & Go):** An ordinance rezoning that property described in rezoning petition RZN 13-4467, for approximately 1.65 acres located at the northwest corner of Mount Comfort Road and Shiloh Drive from R-A, Residential Agricultural and RSF-4, Residential Single-Family, 4 units per acre, to C-1, Neighborhood Commercial.

LEFT ON THE FIRST READING

D. City Council Agenda Session Presentations:

E. City Council Tour:

F. Announcements:

Adjournment: 7:30 pm

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 Council Meeting:

October 1, 2013

Adjourn:

7:30 p.m.

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

90

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

Subject:	Consent				
Motion To:		<i>Approve</i>			
Motion By:		<i>Tennant</i>			
Seconded:		<i>Adams</i>			
<i>Minutes</i> <i>Sept 3, 2013</i> <i>Sept 17, 2013</i> <i>Approved</i> <i>Passed</i> <i>200-13 thru</i> <i>203-13</i>	Tennant	✓			
	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Mayor Jordan				

8-0

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

Subject:		Fayetteville Government Channel's Mission Statement Amendment			
Motion To:		<i>Tabled Indefinitely</i>			
Motion By:		<i>Gray</i>			
Seconded:		<i>Tennant</i>			
B. 1 Unfinished Business <i>Tabled Indefinitely</i>	Tennant	✓			
	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Mayor Jordan				

8-0

Subject:		2013 Millage Levy			
Motion To:		<i>3rd Read</i>	<i>Pass</i>		
Motion By:		<i>Long</i>			
Seconded:		<i>Gray</i>			
B. 2 Unfinished Business <i>passed</i>	Tennant	✓	✓		
	Schoppmeyer	✓	✓		
	Adams	✓	✓		
	Long	✓	✓		
	Gray	✓	✓		
	Marsh	<i>N</i>	✓		
	Kinion	✓	✓		
	Petty	✓	✓		
<i>5021</i>	Mayor Jordan				

7-1

8-0

Subject:		Amend §164.11 Height and Setback Regulations; Exceptions			
Motion To:					
Motion By:			<i>2nd Read</i>		
Motion By:			<i>Marsh</i>		
Seconded:			<i>Gray</i>		
B. 3 Unfinished Business <i>Left on</i> <i>the Second</i> <i>Reading</i>	Tennant	✓			
	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Mayor Jordan				

8.0

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

Subject:		City of Johnson Rezoning			
Motion To:			Approved		
Motion By:			Gray		
Seconded:			Long		
C. 1 New Business <u>Passed</u> 204-13	Tennant	✓			
	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Mayor Jordan				

80

Subject:		PPL 13-4404 (Persimmon Street Master Street Plan Right-of-Way/Legacy IV Subdivision):			
Motion To:			Table to Oct 15, 2013		
Motion By:			Gray		
Seconded:			Tennant		
C. 2 New Business Tabled to Oct. 15, 2013	Tennant	✓			
	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Mayor Jordan				

80

Subject:	RZN 13-4467 (Mount Comfort and Shiloh/Kum & Go)				
Motion To:					
Motion By:					
Seconded:					
C. 3 New Business <i>Left on the first Reading</i>	Tennant				
	Schoppmeyer				
	Adams				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Mayor Jordan				

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



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan

THRU: Sondra Smith, City Clerk

FROM: Jason Kelley, Assistant City Attorney

A handwritten signature in black ink, appearing to read "J. Kelley", written over the printed name.

DATE: October 2, 2013

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of October 1, 2013

- 1. Selective Traffic Enforcement Program Grant:** A resolution authorizing acceptance of a 2013-2014 Selective Traffic Enforcement Program (STEP) Grant award in the amount of \$100,500.00, and approving a budget adjustment.
- 2. Equipment Resource Management, Inc.:** A resolution authorizing the purchase of one (1) Wirtgen W35DC mini milling machine from Equipment Resource Management, Inc. of Little Rock, pursuant to National Joint Powers Alliance Cooperative purchasing agreement, in the amount of \$132,134.00, and approving a budget adjustment.
- 3. Community Services Division Budget Adjustment:** A resolution approving a budget adjustment in the total amount of \$5,103.00 representing CDBG program income received through a housing program lien payoff.
- 4. Trail Naming:** A resolution naming Clear Creek Trail and an extension of Scull Creek Trail.
- 5. 2013 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2013 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.
- 6. City of Johnson Rezoning:** A resolution pursuant to Arkansas Code Annotated § 14-56-306(b) agreeing to a change in zoning from Planned Unit Development to C-1, Light Commercial/Office for property located in the City of Johnson that adjoins the City of Fayetteville.

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
September 03, 2013**

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

A meeting of the Fayetteville City Council was held on September 03, 2013 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Adella Gray, Sarah Marsh, Mark Kinion, Matthew Petty, Justin Tennant, Martin Schoppmeyer, Rhonda Adams, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, Deputy City Clerk Lisa Branson, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions: None

Consent:

Approval of the August 20, 2013 City Council meeting minutes.

Approved

2013 Community Development Block Grant: A resolution approving a budget adjustment in the total amount of \$46,209.00 recognizing a 2013 Community Development Block Grant revenue increase.

Resolution 182-13 as recorded in the office of the City Clerk

Transportation Department Message Sign: A resolution approving a budget adjustment in the amount of \$14,500.00 for the purchase of a portable changeable message sign for the Transportation Department.

Resolution 183-13 as recorded in the office of the City Clerk

What My Eyes Have Seen Photography: A resolution awarding RFP #13-12 and authorizing a contract with What My Eyes Have Seen Photography for the provision of Parks and Recreation Department youth soccer and softball team and individual photographs.

Resolution 184-13 as recorded in the office of the City Clerk

Planet Footprint Utility Bill Management Software: A resolution approving a budget adjustment in the total amount of \$1,987.00 to allow purchase of Planet Footprint Utility Bill Management Software.

Resolution 185-13 as recorded in the office of the City Clerk

Bid #13-36 Mahoney's Equipment, LLC: A resolution awarding Bid #13-36 and authorizing the purchase of one (1) 3T Equipment Prowler Easement Machine with Doolittle Trailer from Mahoney's Equipment, LLC of Arnold, Missouri in the amount of \$48,536.00 for use by the Water and Sewer Division, and approving a budget adjustment.

Resolution 186-13 as recorded in the office of the City Clerk

Ozark Regional Transit Bench and Transit Shelter Pads: A resolution approving a memorandum of understanding with Ozark Regional Transit as a sub-grantee for a Federal Transit Administration Grant in the amount of \$154,315.08 to fund bench and transit shelter pads and sidewalks, and approving a budget adjustment.

Resolution 187-13 as recorded in the office of the City Clerk

Alderman Tennant moved to approve the Consent Agenda as read. Alderman Long seconded the motion. Upon roll call the motion passed unanimously 8-0.

Unfinished Business:

RZN 13-4410 (2468 N. Crossover Rd./Lynnwood Estates): An ordinance rezoning that property described in rezoning petition RZN 13-4410, for approximately 4.66 acres located at

2468 North Crossover Road from RSF-2, Residential Single-Family, 2 units per acre, to NS, Neighborhood Services subject to a Bill of Assurance. ***This ordinance was left on the First Reading at the August 6, 2013 City Council meeting. This ordinance was left on the Second Reading at the August 20, 2013 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance and stated that staff does not support the Neighborhood Services rezoning.

Ben Israel, 1501 Starr Drive spoke in favor of the ordinance.

Dennis Bailey spoke in opposition of the ordinance.

Alderman Tennant: Will there be a median cut in front of your house? If you have to go to Springdale, how will you get there?

Dennis Bailey: I will have to go right to Township and either turn left and take Candlewood or go right on Township and go to Old Missouri Road. There is no other way to go once the Highway Department closes that.

Paul Henry, 2885 East Township spoke in opposition of the ordinance.

John Waltz, President Candlewood Subdivision spoke in opposition of the ordinance.

Katy Cushman, 2401 North Covington Park Boulevard spoke in opposition of the ordinance.

Andrea Klaus, 2649 Firewood Drive in Candlewood spoke in opposition of the ordinance.

Leslie Cameron, 2733 East Mockernut spoke in opposition of the ordinance.

Jerry Jones, 2468 North Crossover Road owner of the property spoke in favor of the ordinance. This ordinance was not intended to hurt anyone. The Planning Commission supported this. There is nothing that would be placed on the property that would be detrimental to Fayetteville.

Alderman Long: Mr. Israel mentioned that this did match the 2030 Plan and Jeremy you said it did not match the 2030 Plan.

Jeremy Pate: To clarify that comment, the City Plan 2030 and Future Land Use Map which is adopted as a singular document is not an ordinance. It is a resolution adopted as policy by the council about how you view future land use development within the city. It is one tool utilized in zoning. You look at compatibility and traffic and a number of factors as part of any rezoning

request. It is a matter of opinion at times. The Planning Commission sometimes disagrees with staff as does the City Council. Staff does not agree that it complies with the City Plan 2030. In terms of the R-O zoning the Planning Commission disagreed with a 6-1 vote and they made that recommendation to you. You have a split recommendation from staff and the Planning Commission.

Alderman Petty made a brief statement why he approached the applicant to rezone to Neighborhood Services instead of Residential Office. He stated that he felt it was a good middle ground and that Township and Crossover should be a site for smaller scale node development.

Alderman Tennant: I don't like telling a land owner that he or she can't sell his property the way he wants to sell it as a taxpaying citizen. This landowner has done everything that he can to get this done. I have always talked about not overturning our commissions and committees. They put their effort into talking about a situation and who are we to over turn a decision. The fact of the matter is that the Planning Commission got this decision wrong. I watched the tape and they seemed to rush through their decision making. The statement that Jeremy made about the 2030 Plan is correct. It is a guiding item that we have, but it is not an ordinance.

The idea of nodes is a great example of Highway 265 and how it should stay. We need to keep the character of Highway 265. It doesn't have to become a commercial pocket lined street. It could become North College if we aren't careful. We need to create walkable areas. If this promoted a walkable place then I might change my mind. We do not have to rezone this.

Alderman Schoppmeyer: I am in agreement with Alderman Tennant and disappointed that this has come this far. When we made a site visit there was no doubt in my mind that it would be a bad idea to rezone. I also believe the Planning Commission got it wrong. This is about the safety of young children going to school everyday with a lot of traffic and I don't think we need to increase the burden for those children.

Alderman Marsh: This has been a difficult decision for me as a proponent of density and mixed use development. I would have never supported the Residential Office designation, but I was a little more attracted to Neighborhood Services. I thought it would be more conducive to creating a walkable neighborhood by permitting such uses as a coffee shop, daycare or a corner store but the Bill of Assurance prohibits all those things. I couldn't envision anything I would like to see there. I don't think development along that strip is inevitable.

Alderman Kinion: Looking at the historical activity in some of the older sections of town you can see what type of pressure comes into neighborhoods when you have the encroachment of a commercial rezoning. I see a well established neighborhood that has an identity, community and heart. They know what they want in their neighborhood and they want to protect it. This neighborhood expects this to be residential as it was residential when they purchased their homes in this area.

Alderman Gray: I live in this area and we do not need to do anything to increase traffic. I have a concern about all the empty store fronts in the area right now that could be used for exactly the thing Mr. Jones is saying he would like to put on that property. It doesn't seem like that is a very

wise decision to put in more businesses when we have open store fronts presently. I like to say if I don't own it I can't control it. This is different. There are established homes in that area and they have asked that we respect their wishes and keep this neighborhood.

Alderman Adams: I would have liked to see the applicant bring forth a PZD. This neighborhood seems to be a very knowledgeable and reasonable and I think they would have listened. We need a very compelling reason to change zonings because zonings are in place to protect people who bought their property with some assurances in place.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 1-7. Alderman Petty voting yes Aldermen Kinion, Tennant, Schoppmeyer, Adams, Long, Gray and Marsh voting no.

This ordinance failed.

New Business:

§72.73 Regulation of Wheel Clamps or Booting: An ordinance to enact **§72.73 Regulation of Wheel Clamps or Booting on private pay to park lots within the Entertainment District Parking Zone and the Downtown Business Parking District Zone** into the Fayetteville code.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: Mayor, as you know this has been a long time coming. We have struggled with problems on the private pay to park lots in the entertainment district for many years. The initial problems had to do with towing. The legislators had to enact a couple of different laws. One of them was sponsored by Lindsley Smith when she was down there. They gave us the power to enact nonconsensual towing regulations, which the City Council did and basically solved most of the problems we had with towing. Before this not only would people be facing a \$100 or more fee for a nonconsensual tow off these private pay to park lots but often times the car would end up in a place as far away as Pea Ridge. They would not only have to pay the towing cost but the extra cost for towing to a distant location and storage. There were many problems.

That was resolved a few years ago by regulating towing in the district. Then the private pay to park lots turned to wheel clamping. They need some way to enforce parking. They can not write tickets like the city can. The problem with wheel clamps is they were charging people over \$100 to remove the wheel clamps and there was a problem with the signs not being adequate to properly warn the parkers about what would happen. I don't think any of the signs ever mentioned that the wheel clamping removal fee was going to be \$100. City administration under Mayor Lioneld Jordan asked our representatives for help so we could have authority under state law to regulate wheel clamps. This last year members of our delegation helped to get this statute passed, which has just become effective. It gives us the power to regulation wheel clamps.

I prepared a new section of our code to do that. The Ordinance Review Committee heard this and felt like there was one pay to park lot that was not being covered, it is in the downtown business parking district so the Ordinance Review Committee wanted it extended to cover that lot. That lot has had several complaints. This ordinance would limit the fee to \$40. There has been some question as to how I came up with the \$40 that I recommended. When we did the towing ordinance limiting the towing fees we actually did a survey of towing companies and what they charge for nonconsensual tows, and the general amount they charge was in the \$45 to \$50 range. We felt like it may be more difficult with the nonconsensual tow so we said \$60 would be fair. We do not want to try to put anyone out of business but we want to be fair to visitors also. When I looked at \$60 for the nonconsensual limitation fee it takes much less capital or time to put a wheel clamp on and take a wheel clamp off than to call a tow truck and tow that vehicle. It requires more capital by the company if they tow. It tracks with our pay to park lots. If someone over parks in our pay to park lots it is a \$15 fine however if they do not pay the fine then a warrant fee can be added to that which is another \$25 so that their fee would be \$40 if they do not pay on time. I feel this is a fair amount but it is up to the City Council to determine what you feel is a proper amount. The Ordinance Review Committee made some other recommendations requiring ID's and uniforms for the employees. We also put a time limit in for the wheel clamp employees to respond and have the wheel clamps off.

David Jurgens, Utilities Director: The majority of complaints that we receive about parking in our Entertainment District relate to booting in non city owned parking lots. We receive very few complaints about city owned lots and how they are managed, but we receive weekly complaints about booting lots. The majority of the complaints are regarding lots in the entertainment district. We have received complaints about the lot on Mountain Street as well.

Don Marr, Chief of Staff: We gave you a sampling of the complaints. This is not only the documented ones; these are ones that give you an idea of the things that have been brought to our attention that are representative of many more complaints. We have many emails like this. One criticism that we are trying to resolve, as it relates to the city lots, is signage that is clear stating it is a city operated lot that doesn't tow or boot. This list is a representation of the kinds of things we hear complaints about.

City Attorney Kit Williams: One of the most important parts of the ordinance is that we require a specific sign that says private pay to park lot. It states if you over park your car can be booted and charged up to \$40.

Alderman Long: One thing that wasn't included in the ordinance that was discussed at the Ordinance Review Committee is that the Ordinance Review Committee would like to add background checks to the ordinance. People who have their cars booted at 2 a.m. need to know that the person coming to remove the boot is not a person who could cause them harm.

City Attorney Kit Williams: Did you want that identical with the solicitation ordinance. I have that prepared under subsection G, which will be adding a new G.

Alderman Long: That was the intent.

City Attorney Kit Williams: The reason I did not include that in my proposal is we have no such requirements for tow companies now. I felt people that come to your door created a more dangerous situation than people coming to your car in a parking lot.

Don Marr: We would like section G to state “provided to the parking department.” Planning has nothing to do with this item.

Alderman Long: At the Ordinance Review Committee meeting we discussed reviewing the towing ordinance in order to make the booting and towing ordinance match more closely. People get in a taxi cab on their own free will, they are not being booted consensually. I move we add background checks for people removing the booting and add it to the jurisdiction of the Parking Division.

Alderman Petty: I think it is a fine idea and the reasons are obvious. I won’t be able to support it unless it includes an exemption for nonviolent offenders. I don’t think people with a boot on their car have anything to fear from someone who’s committed a nonviolent offense. Anyone that is making an honest effort in that circumstance to correct the wrongs they have done in the past deserves a second chance.

Alderman Long: That was the discussion at the Ordinance Review Committee. It was nonviolent offenders. I should have clarified that.

Alderman Petty: The language that was discussed and presented says anyone who has committed any felony.

Alderman Marsh: I would be okay with removing the word theft. My primary concern is that if I leave an establishment at closing time and there is someone with a sexual offense holding my car hostage with a boot that is a situation that nobody wants to find themselves in.

Alderman Petty: We need clarification from the City Attorney because I read that as any felonies or any misdemeanors.

City Attorney Kit Williams: That is exactly correct.

Alderman Petty: I think people who have committed a theft shouldn’t be in this position.

A discussion followed about the proposed amendment. After discussion Alderman Long revised his motion to add, a person that has not been convicted of felonies or misdemeanors involving sexual offenses or violence.

Alderman Long moved to amend the ordinance to require a background check for the person removing the boot at the expense of the company that is doing the booting and add it to the jurisdiction of the Parking Department. No background check will be required for a person that has not been convicted of felonies or misdemeanors involving sexual offenses or violence. Alderman Marsh seconded the motion. Upon roll call the motion passed 8-0.

Pam Christian, Hawkeye Parking Enforcement: We monitor the east square, Depot and Campus Bookstore lots. We have uniforms and name tags for our employees. The newspaper and the media have been reporting that people have to pay with cash only and that is incorrect. We take cash, debit or credit and citizens get receipts with the company name and address on the receipt.

I know there are complaints. We get complained to every night and day that we work. In the Depot lot there are 154 parking spaces and there are 41 no free parking signs that state your vehicle will be booted for a minimum fee of \$100. Every time we boot people they say they did not see the sign and they will be parked directly in front of the sign.

A lot of the confusion with these parking lots is there was a statement made on the news that parking was free until 2:00 so people think it is free in the private lots until 2:00 as well. The complaints that you get are from people that their cars have been booted and 99% of those people are people that did not pay to park. Very few of the people that get booted are ones that have expired. We actually give a grace period of 30 minutes to an hour. We know that special events happen on Dickson Street and I do not expect anyone to leave an event to come and renew parking.

There are two of us that do this and we are the only two that do it. I do it during the day and at night on the weekends. The other lady does it at night. You do not hear how we spend 45 minutes standing at the pay booth helping people trying to pay or how people did not get booted because they paid for the wrong spot. If someone gets booted and they can not come up with money that fine is reduced. When we boot a vehicle we are in that parking lot. Whatever you hear about how long it takes us to remove a boot is incorrect. We tell people about the city parking lot across the street when we are helping them pay at the booth so they have the option to go over there. When they pay the machine tells you your car will be booted if you do not pay or if your time expires. We respond to these people in less than three minutes. In the Campus Bookstore parking lot there are two large signs. There is no way you can not read these signs. If they have a problem paying in these lots then they have a problem paying for city parking as well. We run reports about every 30 minutes. Those reports tell us what spots are paid for and what time those spots expire. Once in a while the machine will tell us that a spot is not paid for when it has been paid for. When that person brings us the receipt showing that they paid, the boot is removed. As far as reducing the fine to \$40, you have just cost us our job because they pay us an hourly wage to be in these lots.

Alderman Kinion: It sounds like to me that you are already meeting a lot of the requirements and your bottom line is the booting fee being reduced to \$40.00?

Pam Christian: Yes, because if the fee is lowered to \$40.00 then I lose my job because they will not be able to pay us an hourly wage for us being out there as long as we are.

Alderman Kinion: It seems like it would cost more to tow than to boot. I am trying to determine the inequity and the profitability. What is a fair price? \$100.00 seems like a lot.

Pam Christian: I do not know who came up with those fees. On all the signs it says you will be booted and charged a minimum of \$100.

Alderman Kinion: I certainly don't want to see anyone lose their job or anyone put out of business. When you see a Better Business Bureau rating of F on a company and see hundreds of complaints then it is our responsibility to help manage the situation. \$100 is a lot.

Pam Christian: I agree. I would be angry if I got booted for \$100.00. Our company talked about \$70.00 or \$80.00.

Alderman Kinion: You have two employees? It sounds like there are some guys.

Pam Christian: There used to be but they have been let go.

Alderman Kinion: It is not our intent to put anyone out of business. Everyone has the opportunity to manage their private property, have profitability and to do the best they can with what they have. It sounds like you are meeting most of the criteria, but the biggest problem you have is restricting it to the \$40.00 fee.

Pam Christian: Yes sir.

Alderman Kinion: I may offer an amendment to increase it to \$60.00 to make it equitable with towing as a conciliatory measure, but it would be up to the City Council to discuss that.

Pam Christian: I understand that there have been complaints about the east square parking lot with \$100 fines. We do not even do the east square parking lot in the evening time. The only time that is done is during lunch time and that is a \$30 fee.

Alderman Kinion: I know someone that got an evening ticket there and they were charged \$100. I guess it has changed.

Pam Christian: It may have been when the gentlemen were there. We no longer do it because our boss does not want us over there by ourselves in the evening time.

Mayor Jordan: So you do not do it any more.

Pam Christian: No sir. We have not done it since I have been here. We do not boot east square when Farmers Market is going on. We do not want to discourage people from using that lot for Farmers Market.

Aldermen Kinion moved to amend the price to \$60.00. The motion failed for lack of a second.

Alderman Gray: Do we have just one company that boots?

Don Marr, Chief of Staff: We do not know who the individual private lots contract with. There isn't any requirement to notify the city.

David Jurgens: There is at least one privately owned lot on Dickson that was not mentioned by Ms. Christian and so it is possible that there is another company that covers the Dickson parking deck.

Alderman Adams: Did the owner of your company tell you that you would lose your job if the fee changed?

Pam Christian: No.

City Attorney Kit Williams: I should note for the City Council that private pay to park lots have two revenue sources. You would think their primary revenue source would actually be people who pay to park as well as the penalty part.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: Years ago we did not have enabling legislation and citizens vehicles were being towed all the way to Pea Ridge. They would have to pay cash. I didn't think that was fair. We put a \$60.00 limit on towing thanks to the work of Lindsley Smith, City Attorney Kit Williams and the City Council at that time. Then the booting began and it was \$100.00 for every boot. I have received numerous complaints and it is always the same story, why is the city booting my car. I continuously said we do not tow unless the citizen is parked in an emergency parking space or across someone's driveway. We do not boot at all. We get hundreds of calls. We have to address booting as we did towing. I think the time has come and we have to take a position. I don't want to see anyone lose their job or go out of business, but I think the prices have been too steep and this needs to be addressed. It is not an easy task but something we need to do.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously 8-0.

Ordinance 5610 as recorded in the office of the City Clerk

Amend §72.70 Application of the Parking Regulations Chapter: An ordinance to amend §72.70 **Application of the Parking Regulations Chapter** of the Fayetteville Code to extend the application of Nonconsensual Towing Regulations for Private Pay to Park Lots to the Downtown Business District Parking Zone.

City Attorney Kit Williams read the ordinance.

Alderman Long gave a brief description of the ordinance.

City Attorney Kit Williams: I appreciate the comments from the Ordinance Review Committee. I had not realized we had so many problems with the other wheel clamp lot. If we are going to regulate wheel clamps, then we need to regulate non consensual towing. This extends the nonconsensual towing regulations only to the pay to park lots within the Downtown Business District which is where we have had problems.

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

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 unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I want to thank the Ordinance Review Committee for their work on these amendments.

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

Ordinance 5611 as recorded in the office of the City Clerk

§96.02 Unreasonable or Excessive Noise Prohibited: An ordinance to amend **§96.02 Unreasonable or Excessive Noise Prohibited; Exceptions** to restrict late night construction activity noises near residences.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. In unique situations we could issue a variance. This does not apply to public infrastructure projects. This is for private construction related projects. Staff is recommending approval.

Alderman Long: I would like to thank administration and staff for working on this. Kit, could we add an emergency clause to this?

Attorney Kit Williams: The problem with that is when you have a penalty provision, no fines can be enacted under an emergency clause. That is why I don't recommend this to have an emergency clause because of that restriction.

Alderman Marsh: I have worked in the construction field. There are times in the summer when the temperature exceeds 100 degrees where workers commonly start work at 5 a.m. in order to avoid the hazard of heat stroke. Will that still be possible?

Mayor Jordan: I brought that very point up with Jeremy.

Jeremy Pate: We did allow for that scenario. You do not have to prove a hardship for variance in these particular applications. We would factor in weather.

Alderman Tennant: It would be a case by case situation?

Mayor Jordan: Yes.

City Attorney Kit Williams: It is in section 96.07, the permit for variance, and it is the same thing the Mayor has been doing to allow the AMP to sometimes exceed the noise ordinance. I believe some of the construction activity will be just as important.

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

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 unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously 8-0.

Ordinance 5612 as recorded in the office of the City Clerk

§94.06 Flammable and Combustible Liquids: An ordinance amending **Section 94.06 Flammable and Combustible Liquids; Liquefied Petroleum Gases** of the Code of Fayetteville to permit above-ground propane and natural gas tanks for the exclusive purpose of fueling vehicles.

City Attorney Kit Williams read the ordinance.

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

Alderman Adams: This was presented at the Equipment Committee and it looked like a great deal. I appreciate staff being so careful with our public dollars and looking at ways to save.

Alderman Marsh: I want to commend Fleet and Transportation for the presentation that was made to the Environmental Action Committee about the propane pilot program. It is a great example how we can save money by investing in energy efficiency. We are seeing as little as a two year pay back period on some of these investments.

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: When I was reading through this particular ordinance there was a requirement within Chapter 94, which is the fire prevention code that all above ground storage fueling tanks goes through a large scale development. We do not know why that is part of the code and we do not think it is necessary. In my ten years here I have seen one of those come through for a tank at the Airport for fueling planes. It caused a lot of confusion for the Planning Commission as to why they were reviewing it because there are no standards for them to review for these types of developments. I am asking you to consider removing the requirement for large scale development from Chapter 94. It does not remove any of the standards by which the Fire Marshall reviews these applications on any of these storage tanks.

Attorney Kit Williams: Rather than trying to amend it now, I would rather pass this and bring that forward at the next meeting to be repealed. I agree with Mr. Pate that we don't need it.

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 unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I would like to thank the staff. This is going to save us a lot on energy and I am pleased with this.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously 8-0.

Ordinance 5613 as recorded in the office of the City Clerk

Revolving Fund for Interdepartmental Resource Efficiency Loans: A resolution to request the Fayetteville City Administration to investigate the feasibility and potential operational benefits of establishing a Revolving Fund for Interdepartmental Resource Efficiency Loans.

Alderman Petty and Alderman Marsh gave a brief description of the resolution.

Alderman Gray: When we had one of our budget talks earlier, I think this came forth as one of those things that were on our wish list.

Mayor Jordan: I think what is being asked of us is a resolution to study the feasibility. We are not committing any money right now until we look at it. It is like any other resolution, staff will look at it and bring you back some sort of plan and you can vote it in or vote it out.

Alderman Gray: I think it sounds great and what L'Oreal and Maybelline in Little Rock have done sounds fantastic. I want us to be careful about asking our staff to study too many things. It was an excellent move to hire our sustainability coordinator. I believe we are already doing some great things. I hope we don't overload our staff in studies.

Mayor Jordan: That is a point well taken Adella.

Alderman Petty: I also believe that is a point well taken. One of the reasons I think this is so important to do is when you look at the list of potential projects that we have, they really do run the gambit. There are projects that only benefit one ward or a pet project of a particular alderman and they campaigned on it and got elected on it. There are rare projects, ones that really stand out that benefit the entire city and save us money in the long run and this is one of those. This could give us the ability to pay for other projects on the list and that is something most of the projects on that list can't claim. You have to spend money to make money sometimes. If we can identify projects that save us money even if we have to contract the services out because we don't have the staff to get it done, I think that is fine if we are saving money in the long run.

Don Marr: I would like to make a comment from the staff perspective on this. We are supportive of this resolution. We are currently in the process of evaluating the HEAL Program that L'Oreal and the City of Little Rock did. We hope to bring something to the council as part of the budget discussion.

It is in line with our other practices of Lean Government Assessment. In many ways in talking with the staff that I work with regularly, we wish we had this in place because we have done a lot of these things that have created efficiencies and maybe not captured it in the detail to keep this running in total of numbers. We have done this through technology investments; we have been able to take online payments. This isn't an energy focus, but I am using it as an example that by investing in the technology and the programming to do that, we now collect over a half million dollars in our utilities online where before people that walked through required labor handling to do that.

We did LED lighting in our trails and we have a very specific example of having a bill that was reduced 90% on an actual utility bill. We think this is a good thing for us to look at and obviously for us what is important is the payback period because anything can have a payback. We are focused on short payback periods. We will look for your judgment as we continue to assess this is making sure we have the talent to do good assessments, because some of this requires some engineering analytical work that I'm not sure we have all those competencies today. We will need to prioritize the areas we identify. I'm guessing we will have more opportunity than we are going to have money.

Alderman Petty: There are multiple models of doing this and we talked about the HEAL Model. The simple way to do this is for the Mayor to order it to be done on all the division

managers' budgets. If we do the HEAL Model and we can get other industry leaders in Fayetteville to do it with us. With L'Oreal the average family was saving \$416 a year. If you have a 1000 families saving \$416 year, that is a \$416,000 economic impact to this community. Most of that money is going to be more local than it was whenever it was going out to the energy companies. To put that into perspective, that is about the equivalent to one high end retail business on the square. This isn't just about saving money at the city. If we can do the HEAL Model, saving money at the city is a bare minimum. The real opportunity is helping working families and the economy of our city.

Alderman Long: Alderman Marsh and Petty I would like to thank you for bringing this forward. I have read the studies and this works. I think the timing for bringing this forward is impeccable. We need to know if the city can afford to do this when we talk about the budget.

Alderman Adams: As far as a timeline, do you think staff will have some recommendations by the time we do our budget?

Alderman Petty: Not necessarily. I would expect not.

Alderman Petty moved to approve the resolution. Alderman Adams seconded the motion. Upon roll call the motion passed unanimously 8-0.

Resolution 188-13 as recorded in the office of the City Clerk

Fayetteville Animal Shelter Funding: A resolution to place within the 2014 Budget \$60,200.00 to provide funding for various improvements to the Fayetteville Animal Shelter.

Alderman Long gave a brief description of the resolution.

Alderman Kinion: I appreciate this coming from the Animal Services Committee, but I don't want it to set a precedent to start our budget process prematurely and maybe offer the perception that we are earmarking money in advance to our total budget review. I will support this because I know it is needed. This is a resolution, their wish list, their ideas, their visions and they are good. We can get out of control asking with these requests in advance to a total budget analysis whenever we are going forward in a couple of weeks with our budget. I wanted to voice my concern with requesting funds that may seemingly be earmarked and may not come to fruition once we get to the budget process. We have to look at the budget process as a whole.

Alderman Long: The reason I took it to Animal Services when I did is because I have accepted a new job and will be involved in job training for the next three months and I may not be here when this is discussed at budget time. I thought it was important that I do my due diligence in bringing it to the council now.

Alderman Petty: I do think you have done your due diligence on this, but in essence I see this as an attempt to get something in the budget before we have seen the budget. I very well may vote for a budget that contains this, but I won't be able to make that decision until I have seen the

rest of the budget. This is true of all projects and I am not singling this out. This is the first time I can remember where we have seen the council be asked to put something in the budget before we started budget talks. Our number one duty is our fiduciary responsibilities of the city and that is our statutory duty. I feel that if I were to vote for this before I see the budget I would be neglecting that responsibility. My preference is that we table this indefinitely and have the discussion when the budget talks start. I appreciate the research and I will be weighing all that whenever I see the full budget. I would move to table this indefinitely.

Alderman Long: My job is going to be flying me back here for each City Council meeting and that will be the schedule through an indefinite period of time for at least three to six months. I would greatly appreciate you not tabling this.

Alderman Tennant: I was out of town on business last week so I totally understand when you are flying back and forth all over the country or world. Are we changing our budget process? I brought a bunch of things that I would like to put in the budget so maybe I should make an amendment to this and start adding stuff. I know that is not our process.

Mayor Jordan: I have been in discussions with Chief of Staff and Paul Becker and we were intending on bringing improvements forward during the budget session. Alderman Long wanted to bring forward a resolution before he had to leave town.

Alderman Tennant: I think it is more prudent to table it than to put legislation forward that sets precedence.

Alderman Adams: I may support this down the road but I do not want to see us pull things out. We have all been in meetings where needs are talked about. As important as the Animal Shelter is we do not know everything that is coming up. I would like to see this tabled until we have a discussion as a group during the budget process. We could go into budget conversations now I guess.

Alderman Long: This is just a resolution. If everything does not come to fruition it does not come to fruition. Just previous to this \$60,000 request was a resolution for \$500,000 that was on the agenda and may not come to fruition. This does not make sense to me.

Alderman Marsh: I would like to commend Alderman Long for bringing this to our attention. The Animal Shelter is desperately in need of these items. They have done a lot of work to increase their adoption rate and reduce the kill rate. They need to equipment to help them do a better job. It is an important need that we have to address.

Alderman Petty moved to table the resolution indefinitely. Alderman Adams seconded the motion. Upon roll call the motion passed 7-1. Alderman Long voting no.

Fayetteville Government Channel's Mission Statement Amendment: A resolution amending the Fayetteville Government Channel's Mission Statement, Goals Statement and Operating Policies, as approved by Resolution No. 180-10, to prohibit the recording or televising of

meetings of the Nominating Committee of the City Council by the Fayetteville Government Channel.

Alderman Gray: As chairman of the Nominating Committee, I at first was open to the idea of recording. The more I have thought about it and talked to others about it and sat in the interview session last Wednesday night that was recorded, I saw the discomfort with several of the applicants. One of the things I was interested in finding out was why we have never recorded the Nominating Committee and it is real obvious to me now why we never have. It is the only time that we ask citizens to be in the “hot seat.” They have personal questions that we ask them and that term comes up several times every time we have an interview session. It is obvious to me why this committee has been exempt from this resolution through the years and I think it needs to stay that way.

I would like our City Attorney to clarify for us if this is a resolution or an ordinance. I have always been told that resolutions didn’t carry much weight. The City Attorney explained that there is a difference between resolution and resolution of intent.

City Attorney Kit Williams: There is a difference between an ordinance and a resolution. An ordinance must be read publicly three times or must suspend the rules if we don’t have it at three meetings. An ordinance is a law like when you amend the code and it is permanent.

A resolution can be either powerful or not very powerful. A resolution can approve million dollar contracts and I would say that is a very powerful resolution. You can have a resolution of intent which is basically the City Council expressing its intent, therefore not having any real operable effect. Resolutions are powerful and can make real change like approving big contracts or in this particular case the original mission statement, goals and operating policies of the Fayetteville Government Channel were adopted by a resolution.

To modify an ordinance you must have an ordinance, but to modify a resolution, you can do that by resolution. Ordinances are a little bit higher up in the power area. It does not mean resolutions are not powerful or effective. That is the primary way the City Council operates. You pass a lot more resolutions than ordinances. Every contract, if you are not waiving competitive bidding, is by resolution. One resolution can be amended by a later resolution. A previous City Council can’t bind the hands of a future City Council. Just because a resolution was passed in the past does not mean it can not be amended in the future in most cases. A resolution that authorizes the Mayor to sign a contract can’t be undone because the contract has been signed and contractual rights are done. Resolutions adopting policies can always be amended in the future.

Alderman Tennant: When someone wants to work for the city and they come in for an interview, do we film those?

Don Marr: No, we do not.

Alderman Tennant: Are there Human Resource laws against it?

Kit Williams: The Freedom of Information Act says that one of the rare exceptions for having something that's always open in the public is that you can have Executive Session for a personnel matter. The personnel matter deals with an employee such as hiring and firing. The City Council could in fact go into Executive Session where it would be only you and the employee, and maybe the supervisor. I don't get to go in and the press can't go in. The employee's rights are protected by having the City Council to have the ability to go in to Executive Session.

Alderman Petty: Is there a difference between an appointment and a hiring?

Kit Williams: There can be. The Freedom of Information Act talks about city officials as well as employees. My interpretation is that is not a volunteer to a citizen committee. Therefore the Freedom of Information Act would not allow the Nominating Committee to close their meetings or to go into Executive Session because these are citizen volunteers. It is very similar in many ways to a job applicant. This is just an applicant saying I would like to be on this committee and I will work for free. However, it is not specifically under the FOIA and therefore it must be a public meeting and no one can be excluded. It is a policy decision about whether or not you as a City Council want to televise it. You can or you don't have too, it is up to the City Council as to what they believe is the best policy for the city.

Alderman Petty: For commission members who are paid, are they still considered volunteers based on the description you just gave?

Kit Williams: Yes, I would say so. The Planning Commission is the only group that gets paid.

Alderman Kinion: Under the current situation where we have not recorded, I think it should be noted that these meetings have always been open. Anyone can come into the meeting and participate in the meeting and this meets the Freedom of Information Act guidelines. We have a community that has a reputation for being very engaged and the reason they are engaged is because we have a broad committee structure that offers a lot of opportunities for engagement. It was evident in our interviews this time that the interviewees were less comfortable because we told them we were filming. Can any alderman request a meeting to be filmed?

Kit Williams: Any alderman can make a request.

Don Marr: The current policy we operate under is resolution 180-10 passed in 2010 and the one prior to that was resolution 27-06 passed in 2006. In 2006 it didn't say specifically a particular meeting was going to be filmed. It gave priority in filming such as first level priority, second level priority, etc. Within that it said first level priority would be given to televising the City of Fayetteville governmental meetings. Governmental meetings are defined as governing bodies created by the City of Fayetteville including all committees, subcommittees, boards, commissions, task force and all bodies dealing with City of Fayetteville business. It wasn't a specific classification of committee that will be filmed. It did however allow any council member to request the filming of a meeting. In the 2010 resolution it gave more specific clarity to filming requirements. It says all City Council meetings and committee meetings will be recorded. It didn't require an alderman to request the filming.

Alderman Long: I would like to address Alderman Kinion. You made the comment that meetings have always been open. With all due respect, in August 2012 when I came to a Nominating Committee meeting during the election, I asked if I could enter the Nominating Committee room to watch the interview process and Alderman Gray told me no because it was a closed meeting.. They haven't always been open.

Alderman Gray: I don't remember that session and I don't think I would have said it because I know they are open. Two committee members that were there said they do not remember that happening. There was an instance where the husband of Alderman Adams was being interviewed and she chose to recuse herself and leave the room. I don't recall saying that and if I did, I apologize because that is incorrect.

Mayor Jordan: The point is you should be allowed because it is a public meeting.

Alderman Long: I have come since. It did actually happen.

Alderman Schoppmeyer: I have been through the Nominating Committee interviews and I think it is a bad idea to videotape when you are having interaction with citizens, based upon questions for them to become committee members. I wouldn't have cared for it when I was going through the process. It's an open meeting and if someone wants to attend they can attend. I don't think a drastic step like this should be taken because of one incident.

Alderman Schoppmeyer moved to approve the resolution. Alderman Gray seconded the motion. A vote was not taken.

Stephen Smith, Ward 2: You are to be commended for an open and accountable government. After taking office, Mayor Jordan passed the most extensive open government executive order of any city in the state of Arkansas and it exceeds the state Freedom of Information Act. I know that the City Clerk office and City Attorney office have responded well above times required by the Freedom of Information Act for numerous requests. This council has a long record dedicated to open government and the fact that the City of Fayetteville has the only city in the state that has three access channels, public, education and government. The government channel and the public access channel have improved vastly in recent years and part of that is because of the support of this council and funding. I am reluctant to speak against this. He spoke in opposition of the resolution.

Steven Kay, Ward 4: I have participated in the process for applying for various commissions over the last year. I attended the most recent Nominating Committee interviews that were recorded. I did not know where the camera was and felt comfortable in the room. I think it important that these meetings be recorded and to be put out there for the public to view. If someone is going to be afraid to be filmed during the interview process, it's only exponential when you are actually voting on real and tough issues and you have to be able to be open and have a government that is comfortable being in the limelight.

If we go backwards and start saying that this meeting can't be viewed by the public or can only be viewed if you show up in person, then we are affecting people with handicaps and disabilities

who can't get here. We can not allow a slippery slope and allow us to go backwards. Being able to view these meetings on television, even if a person can't be here in person, is important. You should not have to show up because they are not recorded. I participated in the interviews and I was told a week before when my time was. If they aren't going to be recorded and put on television, then we are going to have to post it and make sure the public knows when these meetings are. I think I have been to four or five meetings and there has never been a person there. Is that because no one wanted to come or no one knew when they were other than the people being interviewed? The public can't be there if they don't know when the interviews are. These are political appointments and important positions and to say that the process is going to be sheltered cast doubt on the rest of the process.

Alderman Tennant: You brought up the term slippery slope. What if I argued to you that the slippery slope could also go the other way? This is a public building and that restroom is a public building, let's put a camera in there.

Steven Kay: Those are not political actions going on in the bathroom.

Alderman Tennant: It's a personal issue and I don't think we should debate what a personal issue is for somebody.

Steven Kay: If I am applying for a public position, that is not personal anymore the minute I put my name in the ring for that appointment, and I ask for that. This is not them coming to me, this is me going to you saying I want this appointment and I am willing to do whatever it takes to get it, even if it means I have to be filmed in the public forum.

Alderman Tennant: The reason you can say that is because you are talented and don't mind standing up in front of people and don't mind saying what is on your mind and you are extremely intelligent. I absolutely disagree that most people feel that way. I think most people feel the opposite way and say, I would like to help my city, but I don't want people on live camera stating why I am or am not the proper person for a particular board or commission. We could very well use personality as part of it. I don't think that bothers you and that is great, but I think we need to do what is best for the majority of people and I don't agree that fits for the majority of people.

Steven Kay: I can assure you that standing up on stage and talking in front of a bunch of people is not my ideal role. In the interviews you are not asking personal questions. You are asking how I would view an issue, why it is important to me, and why am I there. Those are questions that citizens want to know. Why you want to serve on a board and commission. This meeting is already an open meeting and anyone can go there. This means questions are already being asked in a public forum and it needs to be available to all the public if they choose to view it. We need to see the transparency of government.

Alderman Kinion: I am for an open and transparent government. I am on this committee and I take this personal. To say that we have not published our meetings is an error. These meetings are always on the public calendar and the press is always notified and all the applicants are contacted. We have an open committee and open government. Our experience is to be open and

to be honest and to be transparent and this has been my experience for the past three years. There are some inaccuracies in what I heard. We are not sneaking around trying to get people on committees. I believe in open government. This is a paradigm shift because it has worked so well for so long for us. We encourage people to come in and watch the interviews. It is okay with me that we film the interviews, but it is going to make some people uncomfortable. I don't want any accusations cast on the committee that I have worked with for the past several years because it has been open, earnest and published. People know the times that we are meeting. We will probably be broadcasting. It will be a big change in the applicant pool and the comfort level that applicants have for applying to committees.

Alderman Gray: There is considerable follow up for the people who are not chosen. Every time someone is interviewed and they leave the room we say if you are not chosen this time please apply again. The clerk's office sends a letter to the people that were not accepted and to those who have been chosen. I take issue with this thing, that all of a sudden we are closing something, it has never been filmed. I spoke to former chair of the committee and former Alderman Kyle Cook and he said that it had never been filmed. I spoke to former Alderman Brenda Boudreaux and she was against the filming. We are not taking an action to change something. I have been on this board for seven years and never one time has my transparency been questioned. I am all about transparency, but first and foremost I am about meeting the needs of citizens. I have had citizens tell me this week that they won't be applying if the interviews are videoed. It is going to be a big disincentive. We have a published list of meetings that go out every week. These meetings are on that calendar. We are not trying to cover up something or do something that we do not want people to know.

Laura Chioldi: I recently just went through the interview process and I was the first person that was filmed. I was a little uncomfortable and I am not used to speaking publically. I think being in an interview and being filmed is different than being on a commission and being filmed, because it about me and just me. I don't think it is essential to people that my personal interview be filmed. I would rather not be filmed.

Alderman Petty: Were you asked any personal questions?

Laura Chioldi: No, it was about my personal interest.

Alderman Petty: Do you feel the questions were relevant to the position that you were applying for?

Laura Chioldi: Yes

Alderman Adams: During your interview, I remember what you did when Alderman Gray said that this is being recorded. No personal questions were asked, but there is personal awareness when you are being video taped than when you are not.

Alderman Petty: Are you certain that none of the other interviewees were asked personal questions?

Laura Chioldi: I had my interview and then I left the building.

Alderman Petty: If someone was selected for your position and then at a later date it was revealed that there was an incidence of corruption, would you like to know if anything was revealed in that interview?

Laura Chioldi: It makes sense to have it recorded on paper. I am not intense about my position, but I just wanted to say that Alderman Gray was right when she said that people are uncomfortable with recording.

Alderman Marsh: If you had known in advance that it was going to be recorded, would you have applied knowing that you were going to be filmed?

Laura Chioldi: When I walked in to the interview, I was told it was going to be filmed. If I had known in advance it would have been better.

Don Marr: I am speaking as a Ward 4 resident and not as Chief of Staff. I was the former Nominating Committee chair for five years of my term on City Council. We had open Nominating Committee meetings every time. In numerous occasions we would have the entire Library Board or Airport Board sit in and listen to interviews of candidates that we were considering.

One of the people I respect the most and think is one of the smartest people in the world is Steve Smith. I don't feel the process is flawed. If you look at the history in the City Manager and Council form of government, the Mayor and Council form of government, under Mayors Hanna, Coody and Jordan, I am not aware of a single appointment that has been challenged for a corrupt appointment. I am not aware of citizens who the council didn't feel was the best opportunity to serve on the committees. I interviewed for my very first time for a Planning Commissioner, I was actually selected as the first Planning Commissioner to be appointed over a Planning Commissioner who was up for reappointment and had traditionally always been reappointed. I was the first commissioner to have an article written about him which was maybe foresight at how difficult my political career would be. The article was about why I was picked over someone who was seated there. I think those were intense discussions about people that the council at the time was deciding whether the commissioners were aligned with their viewpoints. I remember being interviewed and it was not filmed. I was asked some very intense questions about my viewpoints on development. When I left the interview I was glad that they didn't ask my personal viewpoints for the possibility that it could have impacted my current employer or my job.

When I was chair of the Nominating Committee we had discussions about filming because you want to be open. I would not want someone to not apply for lack of confidence. I think it has unintended consequences. The unintended consequence is the person that you do not select. The person that goes through the process and has their life put on the table that you might not pick. It is an open meeting and anyone can attend it, but people have respected it for the process and the privacy of the discussion for the citizen applying. It is not going backwards because we do not do it today. It is about the risk of the applicant not the elected official. To participate in government

and provide input, advice, and testify you have to be here. It is not about openness but about broadcasting.

Alderman Long: You said the point is being here for the meetings and applicants have to be able to come to meetings.

Don Marr: I am saying when a disabled person wants to speak at a City Council meeting, they wouldn't be able to do it by viewing a broadcast, and they would have to actually attend this meeting to be a participant.

Alderman Long: Isn't the purpose of videoing so that people can watch it at home as if they were here.

Don Marr: Yes.

Alderman Petty: The fact that there is no evidence of past corruption isn't proof that there will not be corruption in the future and that is what policies are about. It may not be a step backwards but it is certainly a refusal to step forward. I don't think Fayetteville wants to be a community that is cemented into place. I am glad to confirm that the Nominating Committee doesn't make these things personal. I think that applicants' expectation of privacy, with respect to their qualifications and their opinions which are relevant to the position they are applying for, they lose that expectation of privacy. They should retain their expectation of privacy, for everything else is personal. It does not matter what our intentions are, it matters what the public perceives. People don't trust governments that do not make a good faith effort to involve them. Respectfully, Alderman Tennant said that we could very well use personality as part of our decisions and I know he was being facetious, but when the cameras are on, you can't. People should be able to comment on a selection and make an informed comment, not just a comment based on their personal relationship with someone. I am not on the Nominating Committee, but if someone wants to send me a comment about a nomination we are about to make, I would like it to be informed. This is about the letter of the law versus the spirit of the law and the spirit of the Freedom of Information Act is abundantly clear.

Alderman Marsh: Even though our Board and Committees are advisory, I place a lot of value on a committee's recommendation. These committee members are crafting and influencing public policy and the public deserves to be included on the interview process of these individuals. The public has the right to know the qualifications of the applicant. We are in government in Arkansas, a place that has a very poor reputation for back room deals and the good ole boy network. I think that it is upon us to show transparency and to demonstrate that we make appointments based on merit not personal relationships or other inappropriate criteria. The Nominating Committee should welcome daylight being shown on this process to prove that we are impartial and that we do have the public's best interest in mind in these appointments.

Alderman Tennant: I would like to expand on what Alderman Petty said and state that I have hired many more people in my life than you have. Some of these people make multimillion dollar decisions for my company. I owe it to my company in that interview to absolutely decide if that person will fit in with the team they are about to join. I do this on the Nominating

Committee as well. I owe it to the citizens to do it on the committee. For example, we have a good Historic District Commission and we have one spot open and five people applying. We don't want someone to join that commission when all they are going to do is drown it down into some inefficient worthless committee who never gets anything done. That doesn't serve the purpose of anybody in the city and if that happens to be a personality problem, then it's a personality problem. If their ability overrides everybody else on the commission and that person is an expert and they absolutely have to do it regardless of how they are going to drag it into the mud, then that is a decision making process too. It is all a factor. To not think that is a factor is ridiculous in my opinion. I wouldn't have a problem with filming the interviews. I have a problem with filming the discussion of the people themselves who are going to get on the committees and who are not going to get on the committees. I think that is when you are making the personal statements that could be misunderstood. Those are going to be filmed and archived forever.

The problem I have is when people use the umbrella of open government to bring what I think is a personal issue here. I don't know if it is true, but it sounds like it may be true and I think it is wrong. It has to help the majority of our citizens. Aldermen who choose to run for government should expect cameras in their face, but everyday citizens should not. If we film these meetings we are going to damage Fayetteville citizen's while satisfying a select few. I believe our applications will decline significantly. If I thought there were a whole bunch of people that were not afraid to stand in front of the camera and not afraid to say what is on their mind then maybe I would support filming it. But I don't think there are that many of them. We do not have enough people applying as it is. All these people want to do is help their city. We go beyond what we have to do already. We sacrifice the efficiency and productivity of government in the name of open government. We do not film our job applicants on city positions. I have gone through hours of HR training on why you do not do that. We want to throw all that away because somehow this is more important or the people are less important to treat with the same amount of respect. That is the message this sends to people in my opinion.

If we start filming these committee meetings, I will consider resigning from the Nominating Committee because it is absolutely the wrong this for us to do. We owe it to our citizens to give them as much empowerment to help their city as possible and this does the opposite. We need to make sure that we are not just grabbing at a cause which sounds, but does more harm to the most people than good to the few. I am surprised at any committee members that sit in there would want these filmed and certainly the discussion afterwards filmed.

Alderman Long: We are not excluding anyone; there will just be a camera in the room now. Alderman Petty and Marsh, I agree with everything you said. I think we should record every single thing in those committees. Valuable decisions are made in that room and four City Council members behind closed doors are making decisions on who is appointed to Boards and Commissions that make policy decisions for the City of Fayetteville. We use our Boards and Commissions that is where the groundwork starts for policy decisions in Fayetteville, we value that, either we value it or we don't. If we value that, we need transparency there.

Alderman Tennant: All that this does is water down the amount of people who apply and that means there will be less qualified and talented people on the commissions and everyone will be affected negatively.

Alderman Long: This question is for Alderman Gray. If I am unable to attend the Nominating Committee meeting, how do I know how to vote as a City Council member to approve your recommendation?

Alderman Gray: I think what you have to have is faith in the committee. When the Environmental Action Committee brings something forward, I know they have worked on it hard and I have faith in them. I don't question everything they bring forward just because I wasn't able to sit there and listen to them. Alderman Long, I would ask that you have faith in our decision or attend the interviews, which ever you would prefer.

Alderman Long: How many times do you interview each year?

Alderman Gray: We interview four times a year and we have lots of applicants and sometimes we are here until 11 p.m. and we may start at 4 p.m.

Alderman Adams: This personal issue that we are seeing here that one person could keep us here for three hours with accusations that something is going wrong is very insulting to me. I don't care if the interviews are filmed or not. It is apparent to me that we don't have a lot of people even running for City Council and many of us were unopposed. It is this very thing that causes people not to be, that one person can make people doubt our work and our integrity. If every time one person comes up here and decides that we need to change the way we do things and accuses us of not doing something right, or not doing something in the sunshine, many of us would probably not run again. When we vote on something for the City of Fayetteville we are voting on stewardship and it is public dollars and council energies.

Do you all know what the public wants? Every person that I have asked said they do not want it videoed. Maybe we need more public input on this issue before we make a decision. Our job is to do what the public wants and to be good stewards of public dollars. Are we supposed to watch every committee meeting before we vote on something? I move to table this.

Alderman Gray: We have large numbers of applicants. For an Alderman to say that people do not trust government I think we have a large number of citizens that do trust government. They trust when we ask them to come to an interview the right person is going to be chosen. If a person is disabled and can not get here we do phone interviews. We do not exclude anyone.

Alderman Kinion: I am not going to support the resolution because it is the right thing to have an open government and transparency. It breaks my heart for the person in the hot seat. I have respect for my colleagues that I have served with on this committee. They are individuals of the highest integrity.

Alderman Adams moved to table to the October 1, 2013 City Council meeting to receive more public input. Alderman Long seconded the motion and then withdrew his second. A vote was not taken.

A discussion followed about the tabling of the item.

Alderman Adams moved to table the resolution to the October 1, 2013 City Council meeting. Alderman Tennant seconded the motion. Upon roll call the motion passed 5-4. Aldermen Tennant, Schoppmeyer, Adams, Gray voting yes. Aldermen Kinion, Petty, Long and Marsh voting no. Mayor Jordan voted yes to table.

City Council Agenda Session Presentations:

City Council Tour:

Announcements:

Don Marr: The fall Ward cleanups will start Saturday, September 7, 2013.

Ward 1 cleanup will be on Saturday, September 7, 2013 at Shaver Foods parking lot at 1367 South Beechwood and the Solid Waste Recycling Facility at 1560 South Happy Hollow Road. The hours are from 7:00 a.m. to 2:00 p.m.

Ward 4 cleanup will be on October 5, 2013 in at Owl Creek School and Holcomb Elementary.

Ward 3 cleanup will be on October 26, 2013 at the Elks Lodge and Vandergriff Elementary.

Ward 2 cleanup will be on November 9, 2013 at Woodland Jr. High School and the Church of Christ parking lot.

We have a free electronics recycling event in Northwest Arkansas coming up at Arvest Ball Park in Springdale. The business drop off date will be Thursday, September 19, 2013 from 10:00 a.m. to 4:00 p.m. The residential drop off date will be Friday, September 20, 2013 from 10:00 a.m. to 4:00 p.m. and Saturday, September 21, 2013 from 9:00 a.m. to 12:00 p.m. The items that will be taken at the cleanup are computers, printers, faxes, copiers, phones, stereos, televisions, electronic cables, paper shredders, microwaves, VCR players, video game consoles, satellite receivers and ipods. Fayetteville citizens can receive coupons for discarding electronic products for no charge on any date through the remainder of the year.

First Thursday will be September 5, 2013 at the square and starts at 5:00 p.m.

The Walton Arts Center is seeking proposals for visual and performing artist for the 2014 Artosphere. November 1, 2013 is the deadline and decisions will be made by December 1, 2013.

Bikes, Blues and Barbeque will begin on September 18, 2013 through September 22, 2013.

Adjournment: 10:03 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

UNOFFICIAL

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
October 01, 2013**

A meeting of the Fayetteville City Council will be held on October 01, 2013 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the September 3, 2013 and September 17, 2013 City Council meeting minutes.
2. **Selective Traffic Enforcement Program Grant:** A resolution authorizing acceptance of a 2013-2014 Selective Traffic Enforcement Program (STEP) Grant award in the amount of \$100,500.00, and approving a budget adjustment.

3. **Equipment Resource Management, Inc.:** A resolution authorizing the purchase of one (1) Wirtgen W35DC mini milling machine from Equipment Resource Management, Inc. of Little Rock, pursuant to National Joint Powers Alliance Cooperative purchasing agreement, in the amount of \$132,134.00, and approving a budget adjustment.
4. **Community Services Division Budget Adjustment:** A resolution approving a budget adjustment in the total amount of \$5,103.00 representing CDBG program income received through a housing program lien payoff.
5. **Trail Naming:** A resolution naming Clear Creek Trail and an extension of Scull Creek Trail.

B. Unfinished Business:

1. **Fayetteville Government Channel's Mission Statement Amendment:** A resolution amending the Fayetteville Government Channel's Mission Statement, Goals Statement and Operating Policies, as approved by Resolution No. 180-10, to prohibit the recording or televising of meetings of the Nominating Committee of the City Council by the Fayetteville Government Channel. ***This resolution was Tabled at the September 03, 2013 City Council meeting to the October 01, 2013 City Council meeting.***
2. **2013 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2013 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas. ***This ordinance was left on the Second Reading at the September 17, 2013 City Council meeting.***

Left on the Second Reading

3. **Amend §164.11 Height and Setback Regulations; Exceptions:** An ordinance to Amend §164.11 Height and Setback Regulations; Exceptions to enhance livability through appropriate transitions in building scale and to protect access to air and sunlight and to enact an emergency clause. ***This ordinance was left on the First Reading at the September 17, 2013 City Council meeting.***

Left on the First Reading

C. New Business:

1. **City of Johnson Rezoning:** A resolution pursuant to Arkansas Code Annotated § 14-56-306(b) agreeing to a change in zoning from Planned Unit Development to C-1, Light Commercial/Office for property located in the City of Johnson that adjoins the City of Fayetteville.

2. **PPL 13-4404 (Persimmon Street Master Street Plan Right-of-Way/Legacy IV Subdivision):** A resolution to approve the dedication of 70 feet of right of way for Persimmon Street along most of the owner's property as recommended by the Planning Commission.
3. **RZN 13-4467 (Mount Comfort and Shiloh/Kum & Go):** An ordinance rezoning that property described in rezoning petition RZN 13-4467, for approximately 1.65 acres located at the northwest corner of Mount Comfort Road and Shiloh Drive from R-A, Residential Agricultural and RSF-4, Residential Single-Family, 4 units per acre, to C-1, Neighborhood Commercial.

D. City Council Agenda Session Presentations:

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.

RESOLUTION NO. _____

**A RESOLUTION NAMING CLEAR CREEK TRAIL AND AN EXTENSION
OF SCULL CREEK TRAIL**

**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 names a 2.25 mile long trail extending west from Lake Fayetteville along Clear Creek to Ball Street as "Clear Creek Trail".

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby names a .75 mile long trail extending north along Scull Creek and Mud Creek to its intersection with Clear Creek Trail near Ball Street as "Scull Creek Trail".

PASSED and APPROVED this 1st day of October, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray

Ward 1 Position 2 – 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

**City of Fayetteville Arkansas
City Council Meeting Minutes
September 17, 2013**

A meeting of the Fayetteville City Council was held on September 17, 2013 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Sarah Marsh, Mark Kinion, Matthew Petty, Justin Tennant, Martin Schoppmeyer, Rhonda Adams, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Adella Gray

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Advertising and Promotion Commission Appointment & Historic District Commission Appointment

The Advertising and Promotion Commission recommends the appointment of Tim Freeman term ending 03/31/16.

A copy of the report is attached.

The Mayor recommends the appointment Laura Chioldi to the Historic District Commission term ending 06/30/14 and Steven Kay 06/30/16.

A copy of the report is attached.

Alderman Kinion moved to approve the Advertising and Promotion Appointment and the Historic District Commission appointment. Alderman Adams seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Nominating Committee Report

Alderman Adams read the Nominating Committee Report and recommended the appointments as submitted.

A copy of the report is attached.

Alderman Petty moved to approve the Nominating Committee Report. Alderman Schoppmeyer seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Agenda Additions: None

Consent:

Approval of the September 03, 2013 City Council meeting minutes.

Removed from the agenda

Alderman Adams moved to remove the minutes from the agenda. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Bid #13-46 Fochtman Enterprises, Inc.: A resolution awarding Bid #13-46 and authorizing a contract with Fochtman Enterprises, Inc. in the amount of \$711,833.70 for water and sewer improvements along Razorback Road from Martin Luther King Jr. Boulevard to Nettleship Street, approving a project contingency of \$75,000.00, and approving a budget adjustment.

Resolution 189-13 as recorded in the office of the City Clerk

Sprint/Nextel Property Services Amendment No. 1: A resolution approving Amendment No. 1 to the communication site lease agreement with Sprint/Nextel Property Services for cell antenna space on the Markham Water Tank on Sang Avenue.

Resolution 190-13 as recorded in the office of the City Clerk

Bid #13-48 B & A Property Maintenance: A resolution awarding Bid #13-48 and authorizing a contract with B & A Property Maintenance in the amount of \$28,220.00 for tree planting and maintenance, and approving a ten percent (10%) project contingency.

Resolution 191-13 as recorded in the office of the City Clerk

2nd Quarter Animal Services Donation Revenue: A resolution approving a budget adjustment in the total amount of \$21,243.00 representing donation revenue to the Animal Services Division.

Resolution 192-13 as recorded in the office of the City Clerk

2013 Edward Byrne Memorial JAG Local Assistance Award: A resolution authorizing acceptance of the 2013 Edward Byrne Memorial JAG Local Assistance Award in the total amount of \$69,977.00, and approving a budget adjustment.

Resolution 193-13 as recorded in the office of the City Clerk

Hazmat Services Revenue: A resolution approving a budget adjustment in the total amount of \$6,610.00 to recognize hazmat services revenue through August 2013 and to increase the related expense budget.

Resolution 194-13 as recorded in the office of the City Clerk

Hazmat Services Revenue: A resolution approving a budget adjustment in the total amount of \$3,314.82 representing hazmat services revenue received through August 2013 and increasing the related expense budget.

Resolution 195-13 as recorded in the office of the City Clerk

Fayetteville Fire Department Administrative Operating Procedures: A resolution to approve and adopt the Fayetteville Fire Department Administrative Operating Procedures.

Resolution 196-13 as recorded in the office of the City Clerk

Solid Waste and Recycling Extension Agreements: A resolution to approve one year extension agreements with Deffenbaugh Industries, Hog Box, Waste Management of Northwest Arkansas, and Allied Waste Services of Bella Vista to haul and dispose of solid waste and recycling in Fayetteville in exchange for a franchise fee of 10% and to authorize or ratify Mayor Jordan's execution of such contracts.

Resolution 197-13 as recorded in the office of the City Clerk

Alderman Petty moved to approve the Consent Agenda as read with the minutes removed. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Unfinished Business: None

Public Hearing:

Public Facilities Resolution Ratification: A resolution ratifying the resolution of the Fayetteville Public Facilities Board which approved a Revenue Bond (Butterfield Trail Village Project), Series 2013 in a principal amount of not to exceed \$8,000,000; and prescribing other matters pertaining thereto.

Mayor Jordan opened the Public Hearing

City Attorney Kit Williams gave a brief description of the resolution.

Jim McCord, Fayetteville Public Facilities Board: The law requires a public hearing on the proposed bond issue before the City Council considers the resolution which would ratify the action taken by the Fayetteville Public Facilities Board on September 3, 2013, which was a resolution authorizing the issuance of \$8,000,000.00 in revenue bonds for improvements to Butterfield Trail Village.

Dennis Hunt, Stephens: We serve as the Financial Advisor to Butterfield Trail Village. We have been working with them for several months trying to put together financing. The financing will be ten years with Arvest Bank and Butterfield Trail will have to fulfill the debt obligation associated with it. The amount will be \$8,000,000.00 and there has been a loan commitment already agreed too by Arvest Bank.

Under the tax code, 501(c)(3) which Butterfield Trail is, they have to come to a governmental body and the governmental body has to approve that this is something of public benefit to our community. Butterfield Trail has helped a great number people in our community.

Mayor Jordan: You have to come to us for approval, but we have no financial responsibility? Is that correct?

Dennis Hunt: Yes, that is correct. You have to determine if there is some public benefit.

There was no public comment

Mayor Jordan closed the Public Hearing

Alderman Long moved to approve the resolution. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously 7-0. Alderman Gray was absent.

Resolution 198-13 as recorded in the office of the City Clerk

New Business:

RZN 13-4461 (123 E. Cleburn St./Stover): An ordinance rezoning the property described in rezoning petition RZN 13-4461, for approximately 0.20 acres, located at 123 E. Cleburn Street from C-2, Thoroughfare Commercial, to DG, Downtown General.

City Attorney Kit Williams read the ordinance.

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

Alderman Tennant moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5614 as recorded in the office of the City Clerk

VAC 13-4459 (201 W Mountain St.): An ordinance approving VAC 13-4459 submitted by William Rudasill for property located at 201 W Mountain Street, to vacate a portion of a right-of-way and utility easement, a total of 413 square feet.

City Attorney Kit Williams read the ordinance.

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

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5615 as recorded in the office of the City Clerk

VAC 13-4460 (423 Prairie Ave): An ordinance approving VAC 13-4460 submitted by Jacobs Newell Company for property located at 423 Prairie Street, to vacate an access easement, a total of 0.02 acres.

City Attorney Kit Williams read the ordinance.

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

Alderman Tennant moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5616 as recorded in the office of the City Clerk

Beaver Watershed Alliance: An ordinance waiving the requirement for bids by applying §34.23(F) Purchases and Contracts Not in Excess of \$20,000.00 of the Fayetteville Code of Ordinances and approving a contract with the Beaver Watershed Alliance in the amount of \$10,000.00 to assist in the improvement of water quality in the Beaver Lake Watershed.

City Attorney Kit Williams read the ordinance.

Chris Brown, City Engineer gave a brief description of the ordinance.

John Pennington, Executive Director of Beaver Watershed Alliance: We are the organization with the mission to look after Beaver Lake to proactively protect, enhance and sustain the quality of water at Beaver Lake through outreach, education, best management practice implementation, and scientific investigation. We have several projects that are of great value to everyone that drinks water from Beaver Lake. The programs are the West Fork Opportunity Assessment and War Eagle Outreach Program and these are our focus programs over the next year. We are looking to engage communities within the West Fork Watershed from Winslow to Fayetteville. We want to let people know what the issues are in the watershed and to make sure they understand. We would like to see what kind of input they can offer that will help us to identify the conservation opportunities in the watershed.

Land conservation is a very big best management practice in the watershed protection strategy that was developed by the Northwest Arkansas Council. We are hoping to find some willing landowners that would like to enter their land into conservation easements and we would also like to find some landowners that would like to have their streambank restored. We are partnering with the Arkansas Land Trust to carry out this program. They have unique expertise in land conservation and streambank restoration.

We are trying to increase awareness that Beaver Lake is the drinking water source of Northwest Arkansas. We had a survey last year and the results of the survey indicated that more than half of the residents that live in the watershed do not think that they can impact water quality. We need to overcome that thought with our educational programming. We need to monitor the water quality to make sure improvements are being made through time. We have to continue to reassess what we have done, how it worked and what we need to do better in order to achieve our goals for the benefit of Northwest Arkansas.

Alderman Adams: It has been exciting to hear John speak and to learn what we are able to do with a small amount of money. I know that a lot of us are hearing things right now at budget time on what we should spend money on. There is nothing more important that we could do than to protect our water supply. I appreciate the great work you are doing John and I have learned a lot.

Alderman Tennant: There aren't too many things that effect about every single one of our citizens and thank you.

Mayor Jordan: This is a very important program. A very wise environmentalist once told me that everything goes back to two sources and that is water and air. We need to protect them and that is what this program does.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5617 as recorded in the office of the City Clerk

Amend Chapter 34 Finance and Revenue: An ordinance amending Chapter 34: Finance and Revenue of the Fayetteville Code to enact §34.10 Temporary Cash Transfers Related to Reimbursable Grants to provide a cash flow mechanism for reimbursable grants.

City Attorney Kit Williams read the ordinance.

Marsha Hertweck, Accounting Director gave a brief description of the ordinance.

Alderman Long: Is there a limit on the amount of funds that can be transferred?

Marsha Hertweck: You could put a limit on it. If you want to put a limit on it, then we might have to come back to Council if we had a big grant and making big payments. This is probably unlikely. This is a \$200,000.00 grant and I am assuming the payments will be pretty regular and they wouldn't be large amounts, but if you want to do that we can.

Alderman Long: Have we made any efforts to change our terms with our vendors to accommodate this instead of doing temporary cash transfers?

Marsha Hertweck: No, we have not and we could pursue that too if you would like. On this particular NEA grant we have two vendors, the University of Arkansas and the Walton Arts Center. Those are the two vendors that we would be asking to wait four to six weeks for their payments.

Alderman Long: We have not asked them to change their terms at all, so we don't know if they would be willing to wait the four to six weeks?

Marsha Hertweck: That is correct.

Alderman Adams: Maybe the University and Walton Arts Center could wait, but I grew up in Fayetteville in the family of Bedford Camera and Video and we really couldn't wait on money sometimes. I remember moments when my father was really hoping that money would come very fast to pay the next bill. How many vendors might be in that position that does not have the

deep pockets like the University of Arkansas and do we have some businesses that need a quick turn around?

Marsha Hertweck: Yes, it is kind of unusual to have a grant that is the University and the Walton Arts Center. Many of our grants would be all kinds of small vendors that would probably need the cash flow a lot quicker.

Alderman Adams: This would be a vote in your opinion to support our small businesses?

Marsha Hertweck: Yes.

Don Marr, Chief of Staff: One of the reasons that this was brought forward was because historically we had put all the grants in the General Fund and we were able to make those kinds of cash flow movements. We are now doing our policy where grants are in a stand alone fund related only to that grant and because of that we need the ability to move the money from the General Fund into these stand alone grant funds to cover the short term cash flow issues. We are doing that to get greater accountability and transparency of the grant that we received and how we spent it and to assist us in the auditing and activity of those grants.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5618 as recorded in the office of the City Clerk

2013 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2013 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

City Attorney Kit Williams read the ordinance.

Marsha Hertweck, Accounting Director gave a brief description of the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Petty: I don't have any problem with the proposal, but it is just my policy to never vote to advance such a substantial budget item in one night.

Mayor Jordan: If you want, we can wait two weeks.

Alderman Long: I think we should wait.

City Attorney Kit Williams: We have had two readings, so we will be on the third for the next meeting.

Sales and Use Tax Capital Improvement Bonds, Series 2013: An ordinance authorizing the issuance and sale of the City's Sales and Use Tax Capital Improvement Bonds, Series 2013, for the purpose of financing a portion of the costs of certain street improvements; authorizing the execution and delivery of a Third Supplemental Trust Indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an official statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a bond purchase agreement providing for the sale of the bonds; authorizing the execution and delivery of a Continuing Disclosure Agreement; and prescribing other matters relating thereto.

City Attorney Kit Williams read the ordinance.

Marsha Hertweck, Accounting Director gave a brief description of the ordinance.

Dennis Hunt, Stephens: Do you have any specific questions I could answer? I think Mr. Becker explained it fully during Agenda Session and this is just a continuation of what voters approved in 2006.

Don Marr: This third phase bond issue that was authorized by voters is not the full remaining amount. The amount we are talking about today has been reduced in order for us to spend the proceeds, design the projects and have construction completed within a time period without having to get into an issue of refunding bonds. There could be an additional one done for any final projects and this addresses the question about why the amount is less than the remaining originally approved totals.

Fran Alexander: Would this be defined as a General Obligation Bond?

City Attorney Kit Williams: No, it is an obligation that is only satisfied by the sales and use tax.

Fran Alexander: I was wondering when it went to market how it was defined. I know it is not revenue. I thought it might be General Obligation, but it goes into sales and use and is that a category on its own?

City Attorney Kit Williams: I would like to defer to our bond counsel that is here tonight.

Gordon Wilbourn, Kutak Rock: I have been serving as bond counsel on this series of bonds and that is correct. It is kind of like a hybrid. It is not a Revenue Bond because taxes aren't revenues, but it is not a General Obligation to a special tax bonds secured only by the three quarter and the quarter cent.

Mayor Jordan: Does that answer your question?

Fran Alexander: It does in a way. The tax pledge is essentially coming from the citizens who would have voted on a General Obligation Bond. The City Council has the power to approve this kind of bond issue and so in a way it is a General Obligation.

City Attorney Kit Williams: No, it is not a General Obligation Bond which probably would be an obligation upon a General Fund. This money never really goes into the General Fund. It always goes to the trustee to pay off the bond and the city could not seize any of that money. Is that correct Gordon?

Gordon Wilbourn: That is correct. The voters approved a hundred and ten million of bonds in 2006 and these have been issued in series over time and this is a part of that.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5619 as recorded in the office of the City Clerk

Kum & Go, L.C.: A resolution to approve the Third Amendment to land sale agreement with Kum & Go, L.C. to extend the closing date to no later than February 12, 2014 and to agree to equally share the costs of a new traffic signal.

City Attorney Kit Williams gave a brief description of the resolution.

Alderman Marsh: I do think it is appropriate for us to extend the closing date since Kum & Go accommodated our extended demolition timeline. I voted against the sale publically and this gas station. I do not want any part of this decision and I will be abstaining from this vote.

Alderman Kinion moved to approve the resolution. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Marsh abstained. Alderman Gray was absent.

Resolution 199-13 as recorded in the office of the City Clerk

Economic Development Contract for Services Renewal: An ordinance to waive formal competitive bidding, to approve a two year Economic Development Services contract with the Fayetteville Chamber of Commerce in the total amount of \$330,000.00 and to approve a budget adjustment.

City Attorney Kit Williams read the ordinance.

Don Marr, Chief of Staff gave a brief description of the ordinance.

Steve Clark, Fayetteville Chamber of Commerce: We enjoy working for you and in partnership with you. A great deal of the success that has been credited to us is the direct result of your leadership by giving us the tools and the opportunity to go to the market and say to existing businesses there is a reason to expand and they have. We have contacted new businesses and stated there is a reason to locate here and they have. We would like to continue this relationship and we thank you for your support.

Fran Alexander stated she would like to encourage the Chamber of Commerce to put some of the Economic Development money to Green Infrastructure for the betterment of the community and not to think only about jobs, but about the quality of life here.

Alderman Marsh: I think we have seen a very good return on our investment and I appreciate the efforts the Chamber of Commerce has put into this. I know there has been emphasis on attracting clean living wage jobs and that is definitely part of the Economic Development Plan that they have outlined for the future.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Kinion: Seldom have we seen a return on the investment we have made in the community quite as impressive as this. I would like to commend the work that we have seen with our collaboration with the Chamber of Commerce and the impact that they have had in the Economic Development and the measurable impact of this investment.

Mayor Jordan: I would like to thank the Chamber of Commerce. Many of the jobs we have brought here have been green jobs. I have made that an emphasis since I've been in this office and they have worked with me very well. They have the Greenway Program for green businesses throughout the city and they have done many things. I hope to continue the great partnership that we have established.

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

Ordinance 5620 as recorded in the office of the City Clerk

Amend §164.11 Height and Setback Regulations; Exceptions: An ordinance to Amend §164.11 Height and Setback Regulations; Exceptions to enhance livability through appropriate transitions in building scale and to protect access to air and sunlight and to enact an emergency clause.

City Attorney Kit Williams read the ordinance.

Alderman Marsh gave a brief description of the ordinance and asked for the Council to take public comment and to leave the item on the First Reading.

Alderman Petty: What direction are you headed in?

Jeremy Pate: One of the things we recognize is that this particular proposal is a one size fits all and it doesn't really look at the scale. For instance, a two story walk up unit has the same standard applied as a large three to five acre six story building. A two story walk up unit may even be smaller in scale than the adjacent single family home. We want to look carefully at how those are applied, particularly on the smaller lots we see as the most impacted by a 15 foot setback. We have a number of 40 and 50 foot wide lots within our Downtown area some of which have single family adjacent, but also allow for different uses. We have identified cases where it would prohibit any kind of use except for single family development. This proposal is a

little too broad in context of overall encouragement of infill projects and we would like to take a look at that.

Alderman Marsh: We are looking at three general conditions. We are looking at small, medium and large scale and making sure that we are sensitive to all those needs.

Alderman Petty: Can you tell me how setbacks are applied, specifically the objects that get constructed ranging from buildings, parking lots, decks to outbuildings, including sheds or chicken coops?

Jeremy Pate stated that anything over 30 inches in height above the ground plane has to meet building setbacks and continued to list the different districts that essentially have a zero foot side setback and cases having a zero foot rear setback.

Alderman Petty: The bottom line is that it applies to everything constructed that is taller than 30 inches?

Jeremy Pate: Correct.

Alderman Petty: In most of our Mixed Use Zones we don't have a minimum lot width for any thing except for a Single Family District which I believe in many of our Form Based Zones is 18 feet for a single family home. If you walk down Dickson Street there are plenty of buildings that are less than 18 feet wide. Will this be addressed when this is amended and are you going to institute minimum lot widths? Is that going to be your proposal or are you going to try to allow development to still occur on small lots?

Jeremy Pate: We haven't got to that point of looking at changing any kind of lot widths.

Alderman Marsh: We want to specifically target lots that are directly adjacent to an occupied single family home. We absolutely wouldn't want to prohibit development in that circumstance.

Michael Carr: I live in the Wilson Park area. I moved back to Fayetteville a few years ago for family and because of the character of Fayetteville. I spent 16 years teaching architecture and historic preservation at the University of Oregon. I believe the city needs to densify and to grow up and not out as much as possible. This is the best way for a city to grow and also the most sustainable way to grow. From the preservation side this growth has to be managed to protect the heritage that we have and the character that defines this town.

Mr. Carr continued to voice his opinion and spoke in favor of the proposed ordinance.

Nina Shirkey: I addressed the Council on June 18, 2013 regarding my concern about the lack of setback requirements around my home. I would like to point out that it isn't just Block Street. It is also the area on Church Street and west of the Square which are some the oldest neighborhoods in Fayetteville and those houses are in the Downtown General Plan.

I would like to speak about one line in the opening paragraph in the ordinance that says helping to enrich our built environment by promoting the compatibility of new development with historic structures. I would suggest that the term be amended to say existing structures or historic and existing. The term historic can sometimes have a very strict definition and it wouldn't maybe apply to all the single family houses.

Alderman Petty: Your house is famous in Fayetteville and I was hoping you could tell us a little bit about the legacy. What has made it so special to the community and could you please tell us some of the events that have taken place there?

Nina Shirkey: There have been some mayoral candidate election parties, funerals, weddings, and my mother taught ballet there for 15 years. There have also been a lot of community events such as concerts, art shows and everything else you can think of. It is a really important space, but I think this amendment to the ordinance goes beyond my house and I think it really speaks to Fayetteville. I do think Fayetteville would be at a loss if my house was lost due to development.

Alderman Petty: Could you tell me about how many times back in the day the house was open to the public?

Nina Shirkey: I am not sure, but it was once a week at least. It is a single family residence and it would be continued to be used that way. It wouldn't be a business if that is what you are getting at.

Alderman Petty: It is and it seems that your structure is being used for more than just living for a generation at least.

Nina Shirkey: I was born and raised in the house and I plan on continuing to live there.

Fran Alexander voiced her opinion that a precedent needs to be set as to how high and how close the city wants buildings to be. She stated she was supporting the amendment in whatever final form it finally takes and hopes it is workable. She believes it is important to recognize the historic value of Fayetteville.

Kathy Voight, a new resident to Fayetteville stated she lives next door to a three story, six condo that was built with zero setbacks and knew that when she purchased her home. However, when she tries to back out of her driveway she needs to have someone standing in the street to help her. She would appreciate some thought towards the setback issue and is supportive to the amendment.

Mary Lowe lives by Wilson Park and stated she was at a City Council meeting 20 months ago and a developer was asking for a height variance for a complex on West Maple. She remembered them saying that the complex wouldn't block the view of Old Main, but would frame it. The complex brought 1,200 students and she knows that student housing is needed. She believes that in our glee of having more tax revenue we are letting developers come into Fayetteville and dramatically affect the quality and the nature of living here. She stated that developers are

squeezing every dollar they can get out of every square inch they buy without setback and height variances and believes that it is changing the quality of life in this town.

Mayor Jordan: We are going to leave this on the First Reading and we will look at it in two weeks.

Alderman Petty: I am glad to hear this amendment is going to continue to be worked on. There are many businesses currently in Fayetteville that wouldn't have been able to be built years ago by this proposed amendment. I know people are going to see me as against height limits. I am for height limits and they are important. When you don't have height limits and your town has a demand for 100 new housing units and one developer comes in and builds all 100 units and according to the market nobody else gets to build for the rest of the year or longer. This means there is a missing piece for our city that will never get filled in or may never get repaired and that is why height limits are important. When you don't have limits, extraordinarily tall buildings get built and take all the development potential away. The person who owns the vacant lot next to that development now thinks that their lot is worth that, but the market is gone for it so they hold out and speculation continues to reinforce that missing piece condition.

I am not for broad brushes and it makes me wonder if the justification for this is sunlight and fresh air. That is great and deserves our attention in a profound way, but what about a home that exists that has 50 foot setbacks already that sits on an acre in the middle of town? Does it need to be protected like this? I'm not sure that it does. Nationwide only 18% of households are going to have kids in 2030. In a college town the number is even less. Households with kids are the biggest driver for demand for single family homes. I think that begs the question, is this approach prejudicial against the other 80% of households. Don't renters deserve protection as well? I think they do. The way that this is written out it really takes the little guy out of the opportunity for Downtown development and this is already the case to build anything in most communities. You have to have access to out of state capital, huge contracting firms and you just can't really do it in most cases if you are a small family operated business that just wants to build in your community. This makes that situation worse. I am not saying zero lot line development is right, but I can't say that it is wrong. I don't have that kind of confidence with the issue so I hope when you work on this the next two weeks it is a totally different framework that still addresses the issues.

Alderman Marsh: I would like to thank the public and Alderman Petty for their comments. This is the kind of feedback we are looking for as we move forward with developing this ordinance.

This ordinance was left on the First Reading.

Cleveland Street Improvements Appeal: A resolution to grant the appeal of Alderman Alan Long concerning a recommendation of the City Council Transportation Committee concerning Cleveland Street Improvements.

Alderman Long moved to table the appeal indefinitely. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Council Agenda Session Presentations:

General Fund Budget Discussion –Paul Becker, Finance Director and Internal Services Director

City Council Tour:

Announcements:

Don Marr: There will be a Ward 1 meeting on Thursday, September 26, 2013 at 6:00 p.m. at YRCC.

Bikes, Blues and Barbeque will begin on Wednesday, September 18, 2013 and runs through Sunday, September 22, 2013. We encourage riders to ride quietly and enjoy their time here in town.

The City of Fayetteville, Washington County, AT & T and all of our public safety departments are encouraging you to join our “It Can Wait” campaign which is September 19, 2013 to pledge to not text and drive. If you are willing to take the pledge, we have stickers that you can add to your vehicles and they can be picked up around the community.

The next Town Hall meeting will be Monday, September 30, 2013 and will be a joint Mayor’s Town Hall meeting and a Ward 4 meeting for the month of September. It will be at St. James Missionary Baptist Church on the corner of Leverett and North Street.

The Ward 4 clean up is on October 5, 2013 and will be at Owl Creek on Ruppel Road and Holcomb Elementary on Salem Road.

On September 19, 2013 through September 21, 2013 is the Northwest Arkansas Electronic Recycling event taking place at the Arvest Ballpark in Springdale.

The new Marion Ortin recycling facility opens this week on North Street. We plan to have hours that are seasonal in nature. This will be a staffed site to help citizens.

We would like citizens to reserve the date for the Southeast Fayetteville Community Center 2nd Annual, Celebrate Our Kids Banquet on October 1, 2013. The program is called, Three Big Shots. U.S. Reed, Charles Balentine and Scotty Thurman will be the speakers at the event as well as Coach Nolan Richardson. This will benefit the Yvonne Richardson Community Center. It will

be at the Fayetteville Town Center with social hour starting at 6:00 p.m. and dinner with program beginning at 7:00 p.m.

Adjournment: 7:55 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

UNOFFICIAL

Handed out at the City Council Meeting
10-01-13 Amend 164.11 Height & Setback

DRAFT v.4

Building Height Amendment - General Description

There is no longer a single family use associated with the side or rear setback and building height amendment proposal, based on the current reasons stated for instituting these regulations, which are to provide transition in building scale to promote compatibility of new development and existing structures, to protect rights to sunlight and room for air and wind, to mitigate harmful effects such as mold and allow for trees and plants to grow, and to allow for solar access for alternative energy purposes. All of these same concerns, it could be argued, apply to office, commercial and other uses in addition to single family homes.

Amend Ch. 161, Zoning Regulations

Setback

All of the following zoning districts with 0-foot side and rear setbacks are proposed to be amended to add a minimum 5-foot side and rear setback. There are a few exceptions to this rule, chiefly 1) if there is no building developed adjacent to the property being developed; 2) if an adjacent building is already within 5 feet of the common property line; and 3) if the same property owner owns the adjacent property on the common boundary line.

C-1 – Neighborhood Commercial
CS - Community Services
C-2 - Thoroughfare Commercial
UT - Urban Thoroughfare
C-3 – Central Commercial
DC – Downtown Core
MSC – Main Street Center
DG – Downtown General

Building Height

At the 5-foot setback from side and rear property lines (or between 0 and 5 feet, if the conditions allow for it), the maximum height is the height of the structure on the adjacent property or 36 feet, whichever is greater. This permits standard 12-foot floor to floor height dimensions utilized in commercial construction. Once the maximum height is achieved, there is a required additional 10-foot setback, for a total setback of 15 feet. This essentially creates an initial maximum height between 5-15 feet from the side/rear property line.

Past the 15-foot setback line, a building may go up to 60 feet in height, again based on 12-foot floor to floor heights that would allow 5 stories. Balconies, awnings, overhangs and other similar architectural features that protrude from the building façade are permitted to a depth of 6 feet into the side and rear setback zones.

The maximum height in all of these above zones is amended to 60 feet, with a caveat. For zones that reference heights above 60 feet, there are supplementary requirements that must be met. In each zone that permits this, there is a reference to §164.11 for the supplementary standards.

Amend Ch. 164.11 Height Regulations; Exceptions

This proposal attempts to regulate building height above the maximum 56 feet, requiring certain additional standards to be met. They include wider sidewalks based on the height of the building, creation of a 30-foot setback above 60 feet from all property lines, the provision of mixed-use,

requirement to build to LEED Gold, requirement to cover a parking garage with a liner building at street level, and some architectural embellishment when the side of a building is adjacent to a residence.

Amend Ch. 156.02 (F) Variances, Specific tests

A statement has been added that the Planning Division or Board of Adjustment may require the applicant to provide a visual impact analysis and/or a sun/shadow study, as needed, to determine if there is an adverse impact on neighboring properties, if there is a variance requested.

161.16 Neighborhood Services

(A) *Purpose.* The Neighborhood Services district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(B) *Uses*

(1) *Permitted uses*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Limited Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses*

Unit 2	City-wide uses by conditional use
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk cafes

(C) *Density.*

Units per acre	10 or less
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(D) *Bulk and Area*

(1) *Lot width minimum*

Single-family	35 feet
Two-family	70 feet
Three or more	90 feet
All other uses	None

(2) *Lot area minimum.*

Single-family	4,000 sq. ft.
Two-family or more	3,000 sq. ft. of lot area per dwelling unit
All other permitted and conditional uses	None

(E) *Setback regulations*

Front:	A build-to zone that is located between 10 and 25 feet from the front property line.
Side	5 feet
Rear	15 feet

(F) *Building height regulations.*

Building Height Maximum	45 ft.
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*Any building which exceeds the height of 20 feet shall be set back from a boundary line of any single family residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of the lot.

161.18 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 25	Offices, studios, and related services

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 16	Shopping goods
Unit 34	Liquor stores
Unit 35	Outdoor music establishments*
Unit 36	Wireless communications facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	15 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	None 5 feet
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Building height regulations.*

Building Height Maximum	56 60ft.*
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(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

*Any building which exceeds the height of 20 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

161.19 Community Services

(A) *Purpose.* The *Community Services* district is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood Shopping goods
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 24	Home occupations
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation, trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling	18 ft.
All others	None

(2) *Lot area minimum.* None

(E) *Setback regulations.*

Front:	A build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None 5 feet
Side or rear, when contiguous to a single-family residential district:	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	56 60 ft.
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A new building or portion of a building that is located between 5 and 15 feet from the side and rear property line shall have a maximum height of 36 feet or the height of the adjacent building, whichever is greater. This measurement shall be calculated parallel to each side and rear property line.

A new building or portion of a building that is constructed greater than 15 feet from the side or rear property line shall have a maximum height of 60 feet. Balconies, awnings, overhangs and other similar architectural projections 6 feet or less in depth are permitted forward of the side and rear building façade.

(G) *Minimum buildable street frontage.* 50% of the lot width.

161.20 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	15 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	None 5 feet
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.
All property lines	30 ft. for buildings over 60 ft. in height*

(F) *Building height regulations.*

Building Height Maximum	60/75 ft.*
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The maximum building height is 60 feet. Building height may be permitted up to 75 feet, pursuant to §164.11 *Height or Setback Regulations and Exceptions.*

*Any building which exceeds the height of 20 feet shall be set back from a boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

161.21 Urban Thoroughfare

(A) *Purpose.* The Urban Thoroughfare District is designed to provide goods and services for persons living in the surrounding communities. This district encourages a concentration of commercial and mixed use development that enhances function and appearance along major thoroughfares. Automobile-oriented development is prevalent within this district and a wide range of commercial uses is permitted. For the purposes of Chapter 96: Noise Control, the Urban Thoroughfare district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses.*

(1) *Permitted uses*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor store
Unit 41	Accessory Dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 33	Adult live entertainment club or bar
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 38	Mini-storage units

Unit 40	Sidewalk cafes
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None

(D) *Bulk and area regulations.*

(1) Lot width minimum

Single-family dwelling	18 feet
All other dwellings	None
Non-residential	None

(2) Lot area minimum. None

(E) *Setback regulations.*

Front:	A build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None 5 feet
Side or rear, when contiguous to a single-family residential district:	15 feet
All property lines	30 ft. for buildings over 60 ft. in height*

(F) *Building height regulations.*

Building Height Maximum	56 60/84 ft.*
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*A building or a portion of a building that is located between 10 and 15 ft. from the front property line or any master street plan right-of-way line shall have a maximum height of 56 feet. A building or portion of a building that is located greater than 15 feet from the master street plan right-of-way shall have a maximum height of 84 feet.

A new building or portion of a building that is located between 5 and 15 feet from the side and rear property line shall have a maximum height of 36 feet or the height of the adjacent building, whichever is greater. This measurement shall be calculated parallel to each side and rear property line.

A new building or portion of a building that is constructed greater than 15 feet from the side or rear property line shall have a maximum height of 60 feet. Balconies, awnings, overhangs and other similar architectural projections 6 feet or less in depth are permitted forward of the side and rear building façade.

The maximum building height is 60 feet. Building height may be permitted up to 84 feet, pursuant to §164.11 *Height or Setback Regulations and Exceptions*.

~~Any building that exceeds the height of 20 feet shall be set back from any boundary line of a single-family residential district, an additional distance of one foot for each foot of height in excess of 20 feet.~~

- (G) *Minimum buildable street frontage*. 50% of the lot width.

161.22 District C-3, Central Commercial

(A) *Purpose.* The Central Commercial District is designed to accommodate the commercial and related uses commonly found in the central business district, or regional shopping centers which provide a wide range of retail and personal service uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 17	Transportation trades and services
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None

(E) *Setback regulations.*

	Central Business District	Shopping Center
Front	5 ft.	25 ft.
Front, if parking is allowed between the right-of-way and the	50 ft.	50 ft.

building		
Side	None 5 feet	None
Side, when contiguous to a residential district	10 ft.	25 ft.
Rear, without easement or alley	15 ft.	25 ft.
Rear, from center line of a public alley	10 ft.	10 ft.
All property lines	30 ft. for buildings over 60 ft. in height*	30 ft. for buildings over 60 ft. in height*

(F) *Building height regulations.*

Building Height Maximum	56 60/84 ft.*
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*A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 56 60 feet. A building or a portion of a building that is located greater than 15 feet from the master street plan right-of-way line shall have a maximum height of 84 feet.

A new building or portion of a building that is located between 5 and 15 feet from the side and rear property line shall have a maximum height of 36 feet or the height of the adjacent building, whichever is greater. This measurement shall be calculated parallel to each side and rear property line.

A new building or portion of a building that is constructed greater than 15 feet from the side or rear property line shall have a maximum height of 60 feet. Balconies, awnings, overhangs and other similar architectural projections 6 feet or less in depth are permitted forward of the side and rear building façade.

The maximum building height is 60 feet. Building height may be permitted up to 84 feet, pursuant to §164.11 *Height or Setback Regulations and Exceptions.*

161.23 Downtown Core

(A) *Purpose.* Development is most intense, and land use is densest in this zone. The downtown core is designed to accommodate the commercial, office, governmental, and related uses commonly found in the central downtown area which provides a wide range of retail, financial, professional office, and governmental office uses. For the purposes of Chapter 96: Noise Control, the Downtown Core district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 29	Dance Halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	A build-to zone that is located between the front property line and a line 25 ft. from the front property line.
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Side	None 5 feet
Rear	5 ft.
Rear, from center line of an alley	12 ft.
All property lines	30 ft. for buildings over 60 ft. in height*

(F) *Minimum buildable street frontage.* 80% of lot width.

(G) *Building height regulations.*

Building Height Maximum	56-60/ 168 ft.*
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*A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 56 60 feet. A building or portion of a building that is located greater than 15 feet from the master street plan right-of-way shall have a maximum height of 168 feet.

A new building or portion of a building that is located between 5 and 15 feet from the side and rear property line shall have a maximum height of 36 feet or the height of the adjacent building, whichever is greater. This measurement shall be calculated parallel to each side and rear property line.

A new building or portion of a building that is constructed greater than 15 feet from the side or rear property line shall have a maximum height of 60 feet. Balconies, awnings, overhangs and other similar architectural projections 6 feet or less in depth are permitted forward of the side and rear building façade.

The maximum building height is 60 feet. Building height may be permitted up to 168 feet, pursuant to §164.11 *Height or Setback Regulations and Exceptions.*

161.24 Main Street/Center

(A) *Purpose.* A greater range of uses is expected and encouraged in the *Main Street/Center*. The *Center* is more spatially compact and is more likely to have some attached buildings than *Downtown General* or *Neighborhood Conservation*. Multi-story buildings in the *Center* are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the *Main Street/Center*. The *Center* is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street/Center district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
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(2) *Lot area minimum.* None.

(E) *Setback regulations.*

Front	A build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	None 5 feet
Rear	5 ft.
Rear, from center line of an alley	12 ft.
All property lines	30 ft. for buildings over 60 ft. in height*

(F) *Minimum buildable street frontage.* 75% of lot width.

(G) *Building height regulations.*

Building Height Maximum	56 60/84 ft.*
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*A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 56 60 feet. A building or a portion of a building that is located greater than 15 feet from the master street plan right-of-way line shall have a maximum height of 84 feet.

A new building or portion of a building that is located between 5 and 15 feet from the side and rear property line shall have a maximum height of 36 feet or the height of the adjacent building, whichever is greater. This measurement shall be calculated parallel to each side and rear property line.

A new building or portion of a building that is constructed greater than 15 feet from the side or rear property line shall have a maximum height of 60 feet. Balconies, awnings, overhangs and other similar architectural projections 6 feet or less in depth are permitted forward of the side and rear building façade.

The maximum building height is 60 feet. Building height may be permitted up to 84

feet, pursuant to §164.11 *Height or Setback Regulations and Exceptions*.

161.25 Downtown General

(A) *Purpose.* *Downtown General* is a flexible zone, and it is not limited to the concentrated mix of uses found in the *Downtown Core* or *Main Street / Center*. *Downtown General* includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than *Neighborhood Conservation*. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the *Downtown General* district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes

(C) *Density.* *None*

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
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(2) *Lot area minimum.* *None.*

(E) *Setback regulations.*

Front	A build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	None 5 feet
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Minimum buildable street frontage.* 50% of lot width.

(G) *Building height regulations.*

Building Height Maximum	56 60 ft.*
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A new building or portion of a building that is located between 5 and 15 feet from the side and rear property line shall have a maximum height of 36 feet or the height of the adjacent building, whichever is greater. This measurement shall be calculated parallel to each side and rear property line.

A new building or portion of a building that is constructed greater than 15 feet from the side or rear property line shall have a maximum height of 60 feet. Balconies, awnings, overhangs and other similar architectural projections 6 feet or less in depth are permitted forward of the side and rear building façade.

164.11 Height or Setback Regulations; Exceptions

- (A) The height limitations contained in the Zoning Regulation, Chapter 161, do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, stair towers, elevator shafts or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- (B) *Side Setbacks.* In zoning districts that permit two, three or other multi-family residential uses, side setbacks may be varied to permit common walls between single family attached / townhouse dwellings, subject to all applicable building and fire codes and the following standards:
- (1) The total number of dwelling units on the lot, prior to being subdivided into single family attached / townhouse lots, shall conform to the minimum bulk and area requirements of the underlying zoning district.
 - (2) The townhouse development shall conform to the zoning district density, exterior setback requirements, height regulations and all other applicable city ordinances.
 - (3) There shall be a minimum lot width of 18 feet for each dwelling unit.
 - (4) There shall be no minimum lot area requirement unless otherwise specified by the underlying zoning district.
- (C) *Side and rear setback.* All developments within zoning districts that require a 5-foot side and rear setback and an accompanying building height stepback may be permitted to reduce the side and/or rear setback to 0 feet in the following instances:
- (1) if there is no principal structure on the property directly adjacent to the common side and/or rear property line;
 - (2) if a principal structure that is adjacent to the common side and/or rear property line is already within 5 feet of said property line; or
 - (3) if the developing property owner owns the adjacent property on the common side and/or rear property line.
- (D) Any building over 36 feet in height utilizing urban streetscapes shall provide for a minimum 10-foot wide sidewalk adjacent to all streets on which a sidewalk is required to be replaced or constructed due to the development proposed.
- (E) The maximum building height for new construction in all zones in the city is 60 feet. For zones that refer to a higher building height potential than 60 feet, the following supplemental standards must be met for any building between 60 feet and the maximum height of the underlying zoning district to be considered for approval:
- (1) A minimum 12-foot wide sidewalk for projects utilizing urban streetscapes shall be constructed adjacent to all streets on which a sidewalk is required to be replaced or constructed.
 - (2) Any associated parking garage shall be screened from view at the street grade with a liner building.
 - (3) A mixture of commercial and residential uses shall be incorporated into any building that is permitted to be over 56 feet in height.
 - (4) Developers of buildings over 56 feet in height shall submit performance models and other applicable information, prior to obtaining a building permit, to indicate compliance with achieving USGBC LEED Gold or equivalent building standards. All projects shall show effort to achieve the Development Density and Community Connectivity credit, or equivalent.
 - (5) Any side of a building immediately adjoining a principal structure on an adjacent lot shall utilize materials, colors and other architectural features to provide relief, scale, and transition to the wall, similar to the front façade.

156.02 (F) Specific tests

(F) *Specific Tests.* The Board of Adjustment shall apply specific tests for the following variance requests:

- (1) *Height variances in all districts.* In addition to meeting all other normal requirements for a variance, an applicant seeking a height variance must establish the increased height of the proposed structure will not adversely affect adjoining or neighboring property owners, nor impair the beauty of Old Main, the historical churches on Dickson Street near East Avenue, nor otherwise impair the historic beauty and character of Fayetteville.
- (2) The Planning Division and/or Board of Adjustment may require an applicant to produce a viewshed analysis and/or a Sun/Shadow Study using industry-accepted methodologies to show the impact of a height variance proposal on neighboring streets and properties, in an effort to determine if there is an adverse impact caused by the proposal.

emailed to aldermen 10/1/13

From: "Parker, William A" <william.parker@zoetis.com>
To: "city_clerk@ci.fayetteville.ar.us" <city_clerk@ci.fayetteville.ar.us>
CC: "ward4_pos1@ci.fayetteville.ar.us" <ward4_pos1@ci.fayetteville.ar.us>, "...
Date: 10/1/2013 12:53 PM
Subject: Rezoning Mt. Comfort and Shiloh

I am in favor of the rezoning.

Drew Parker
884 N. Meadowlands Drive
Fayetteville, AR 72704

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
October 01, 2013**

A meeting of the Fayetteville City Council will be held on October 01, 2013 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the September 3, 2013 and September 17, 2013 City Council meeting minutes.
2. **Selective Traffic Enforcement Program Grant:** A resolution authorizing acceptance of a 2013-2014 Selective Traffic Enforcement Program (STEP) Grant award in the amount of \$100,500.00, and approving a budget adjustment.

3. **Equipment Resource Management, Inc.:** A resolution authorizing the purchase of one (1) Wirtgen W35DC mini milling machine from Equipment Resource Management, Inc. of Little Rock, pursuant to National Joint Powers Alliance Cooperative purchasing agreement, in the amount of \$132,134.00, and approving a budget adjustment.
4. **Community Services Division Budget Adjustment:** A resolution approving a budget adjustment in the total amount of \$5,103.00 representing CDBG program income received through a housing program lien payoff.
5. **Trail Naming:** A resolution naming Clear Creek Trail and an extension of Scull Creek Trail.

B. Unfinished Business:

1. **Fayetteville Government Channel's Mission Statement Amendment:** A resolution amending the Fayetteville Government Channel's Mission Statement, Goals Statement and Operating Policies, as approved by Resolution No. 180-10, to prohibit the recording or televising of meetings of the Nominating Committee of the City Council by the Fayetteville Government Channel. ***This resolution was Tabled at the September 03, 2013 City Council meeting to the October 01, 2013 City Council meeting.***
2. **2013 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2013 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas. ***This ordinance was left on the Second Reading at the September 17, 2013 City Council meeting.***

Left on the Second Reading

3. **Amend §164.11 Height and Setback Regulations; Exceptions:** An ordinance to Amend §164.11 Height and Setback Regulations; Exceptions to enhance livability through appropriate transitions in building scale and to protect access to air and sunlight and to enact an emergency clause. ***This ordinance was left on the First Reading at the September 17, 2013 City Council meeting.***

Left on the First Reading

C. New Business:

1. **City of Johnson Rezoning:** A resolution pursuant to Arkansas Code Annotated § 14-56-306(b) agreeing to a change in zoning from Planned Unit Development to C-1, Light Commercial/Office for property located in the City of Johnson that adjoins the City of Fayetteville.

2. **PPL 13-4404 (Persimmon Street Master Street Plan Right-of-Way/Legacy IV Subdivision):** A resolution to approve the dedication of 70 feet of right of way for Persimmon Street along most of the owner's property as recommended by the Planning Commission.
3. **RZN 13-4467 (Mount Comfort and Shiloh/Kum & Go):** An ordinance rezoning that property described in rezoning petition RZN 13-4467, for approximately 1.65 acres located at the northwest corner of Mount Comfort Road and Shiloh Drive from R-A, Residential Agricultural and RSF-4, Residential Single-Family, 4 units per acre, to C-1, Neighborhood Commercial.

D. City Council Agenda Session Presentations:

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 Staff Review Form

A. 2
 Selective Traffic Enforcement
 Program Grant
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City Council Agenda Items
 and
 Contracts, Leases or Agreements

10/1/2013

City Council Meeting Date
 Agenda Items Only

Greg Tabor
 Submitted By

Patrol
 Division

Police
 Department

Action Required:

Approval of the 2013-2014 Selective Traffic Enforcement Program (STEP) grant award and budget adjustment in the amount of \$100,500.

\$ 100,500.00
 Cost of this request
 1010-2920-5120.00
 1010-2920-5210.00
 Account Number
 38067-1314
 Project Number

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

Police STEP Grant 2013-2014
 Program Category / Project Name
 Grant
 Program / Project Category Name
 General
 Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

Capt K Vot
 Department Director 9/13/2013
 Date

Previous Ordinance or Resolution #

Ed Skelly
 City Attorney 9-13-13
 Date

Original Contract Date:

Original Contract Number:

Maria Hertweck
 Finance and Internal Services Director 9/13/13
 Date

Received in City 9-13-13 P03:05 RCVD
 Clerk's Office

Ann M...
 Chief of Staff 9/13/13
 Date

Received in
 Mayor's Office

ENTERED
 9/13/13 Bep

Leonard Jordan
 Mayor 9/16/13
 Date

Comments:

Departmental Correspondence

To: Mayor Lioneld Jordan and City Council Members

From: Greg Tabor, Police Chief

Date: September 13, 2013

Re: 2013-2014 Selective Traffic Enforcement Program (STEP) Grant Award

Background

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

Discussion

The 2013-2014 STEP Grant Award is based on a one hundred percent (100%) local match of in-kind expenses and an award of \$87,000 in federal and \$13,500 in state grant funding. Local in-kind matching funds are only required on the federal funding portion. In-kind expenses are defined as on-duty regular shift hours dedicated to STEP activity; additionally, this grant will reimburse the City for overtime hours dedicated to STEP activity. The grant period of this award runs from October 1, 2013 to September 30, 2014. STEP is a very important program and funding source for the Fayetteville Police Department. Through dedicated STEP activity during our shift hours, our Department can meet the in-kind matching funds required of this grant award. Furthermore, the loss of this grant funding would have an adverse affect on community safety.

Recommendation

Due to the many positive results, Staff recommends approval of the 2013-2014 Selective Traffic Enforcement Program Grant Award and budget adjustment in the amount of \$100,500. If you should have any comments or question regarding this grant award, please contact me at extension 500.

Budget Impact

In-kind matching in the amount of \$87,000 are budgeted. Our salary expense will not increase; patrol officers will perform in-kind matching STEP activities while on duty.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ACCEPTANCE OF A 2013-2014
SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT
AWARD IN THE AMOUNT OF \$100,500.00, AND APPROVING A BUDGET
ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of a 2013-2014 Selective Traffic Enforcement Program (STEP) grant award in the amount of \$100,500.00.

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

PASSED and APPROVED this 1st day of October, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

V11.0425 A. 2
Selective Traffic Enforcement
Program Grant
Adjustment Number
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Establish budget for 2013-2014 Selective Traffic Enforcement Program grant award.

1 of 1



Mike Beebe
Governor

State of Arkansas

ARKANSAS STATE POLICE

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

"SERVING WITH PRIDE AND DISTINCTION SINCE 1935"

A. 2
Selective Traffic Enforcement



Stan Witt
Director

September 11, 2013

ARKANSAS STATE POLICE COMMISSION

Jane Dunlap Christenson
Chairman
Harrison

Daniel "Woody" Futrell
Vice-Chairman
Nashville

Wallace Fowler
Secretary
Jonesboro

Frank Guinn, Jr.
Paragould

Dr. Lewis Shepherd
Arkadelphia

John Allison
Conway

Bob Burns
Little Rock

Captain William K. Brown
Project Coordinator
Fayetteville Police Dept.
100-A W. Rock St.
Fayetteville, AR 72701-6191

RE: OP-2014-03-02-09
SE-2014-13-01-09
K8-2014-08-06-09
M8DDLE-2014-08-02-09
Selective Traffic Enforcement Project (STEP)

Dear Captain Brown:

The above referenced FY 2014 Subgrant Agreement is enclosed for your review and signature. The Subgrant Agreement/Contract Terms and Common Rule for this program are made a part of this agreement and should be kept in your agency's file with your copy of the signed agreement. The agreement may not include all items presented in your proposal. Only those activities included in the agreement are eligible for reimbursement.

Please return the signed agreement (keep the enclosed Subgrant Agreement/Contract Terms and Common Rule) to our office by September 20, 2013. We will send you a copy of the fully executed agreement.

We look forward to working with your agency during this year.

Sincerely,

Bridget White
Administrator
Highway Safety Office

Enclosure
C: Agreement/Contract File



Mike Beebe
 Governor

State of Arkansas

ARKANSAS STATE POLICE

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

"SERVING WITH PRIDE AND DISTINCTION SINCE 1935"



Stan Witt
 Director

FY 2014 HIGHWAY SAFETY SUBGRANT AGREEMENT OCCUPANT PROTECTION PROGRAM ALCOHOL & OTHER DRUGS COUNTERMEASURES PROGRAM SPEED ENFORCEMENT PROGRAM DISTRACTED DRIVING INCENTIVE GRANT PROGRAM

RECIPIENT

Fayetteville Police Department
 100-A West Rock Street
 Fayetteville, Arkansas 72701

GOVERNMENTAL UNIT

City of Fayetteville
 100-A West Rock Street
 Fayetteville, Arkansas 72701

Telephone: (479) 587-3500

Fax: (479) 587-3522

PROJECT NO. OP-2014-03-02-09
 SE-2014-13-01-09
 M8DDLE-2014-08-02-09
 K8-2014-08-06-09

TYPE OF APPLICATION

Initial: _____
 Revision: _____
 Continuation: X

TAX ID NO. 71-6018462

PROJECT TITLE

Selective Traffic Enforcement Project

INITIAL PROJECT STARTING DATE

October 1, 1999

OPERATIONAL AREA OF PROJECT

City of Fayetteville

AMOUNT

<u>COST CATEGORY</u>	<u>FEDERAL</u>	<u>STATE</u>	<u>LOCAL</u>
Personal Services	\$87,000		\$73,500

Equipment

Maintenance &
 Operation

Other Direct Costs \$13,500

Indirect Cost

Administrative Costs

Total \$87,000 \$13,500 \$73,500

<u>PROJECT PERIOD</u>	<u>FUNDING PERIOD</u>
From: <u>10-1-2013</u>	From: <u>10-1-2013</u>

To: 9-30-2014 To: 9-30-2014

FUNDING

<u>SOURCE</u>	<u>AMOUNT</u>
Federal	\$87,000
State	13,500
Local	73,500
Total	<u>\$174,000</u>

ARKANSAS STATE POLICE HIGHWAY SAFETY SUBGRANT AGREEMENT

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AGREEMENT PREPARED BY:
 TITLE:
 ADDRESS:

Nick Collins
 Program Manager
 Arkansas State Police
 Arkansas Highway Safety Office
 1 State Police Plaza Drive
 Little Rock, AR 72209
 (501) 618-8137
 (501) 618-8124

PHONE:
 FAX:

ARKANSAS STATE POLICE HIGHWAY SAFETY SUBGRANT AGREEMENT

PROBLEM AND GOALS

BACKGROUND

The State of Arkansas is taking increased steps to address safety on the State's roadways as part of an effort to implement innovative strategies to reduce traffic fatalities throughout the State. The Arkansas Highway Safety Office (AHSO) considers safety issues by focusing on behavioral aspects at the driver level. The goal is to reduce highway fatalities by better identifying driver behaviors that cause fatal crashes, implementing programs to address those behaviors and targeting locations where fatal crashes occur.

Based on a five-year average (2007 – 2011), 593 people lose their lives each year on Arkansas roadways. In 2011, there were 549 total traffic fatalities compared to 571 the previous year. Over the same five years, alcohol-related fatalities (fatalities involving a driver or motorcycle operator with a BAC of .08 or greater) averaged 172 per year. There were 156 alcohol-related fatalities in 2011.

An additional area of concern is occupant protection where in 2011 there were 220 unrestrained passenger vehicle occupant fatalities. In 2011, Arkansas' safety belt use rate was 78.4%, while the National use rate stood at 85%. Arkansas' safety belt use rate dropped to 71.9% in 2012.

Also of concern are speed-related fatalities where in 2011, 86 people died as a result of speed-related crashes.

Strict enforcement of the State's traffic laws, through Selective Traffic Enforcement Projects (STEP), has been proven effective in reducing traffic crashes and fatalities. The State will continue to use this strategy to address its traffic safety problems.

PROBLEM STATEMENT

The city of Fayetteville is a community of 72,208 residents having a geographical size of 43.40 square miles. The city posted 33 traffic fatalities from 2007 through 2011, and of those, 14 were alcohol-related and 5 were speed-related. A seat belt use rate of 87% was recorded in 2012.

In October, 1998 the Fayetteville Police Department began a proactive approach to collision reduction which included implementation of the STEP through a grant with the AHSO. The Department wishes to continue to operate aggressive and sustained selective traffic enforcement, as well as, participate in the State's Impaired Driving, Seat Belt, Distracted Driving and Speed mobilizations/campaigns.

GOALS

The overall goal of this project is to reduce the number of traffic-related crashes and fatalities by conducting a Selective Traffic Enforcement Project in Fayetteville. The goal for each component of this project is as follows:

Alcohol Component (Section 410) - Reduce the annual number of alcohol-related crashes from 178 and alcohol-related fatalities from 4 as recorded in 2011.

Seat Belt Component (Section 402) - Increase seat belt use from 87% as recorded in 2012.

Speed Component (Section 402) - Reduce the annual number of speed-related crashes from 71 and maintain speed-related fatalities at zero as recorded in 2011.

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

A. 2
Selective Traffic Enforcement
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SCOPE OF WORK

SUMMARY OF PROJECT OBJECTIVES: This project's primary objectives are to achieve an average of three vehicle stops per hour per officer during seat belt enforcement (with an emphasis on enforcement of occupant restraint laws); three vehicle stops per officer during speed enforcement; and one DWI/DUI arrest per eight (8) hours per officer during alcohol enforcement and 3 stops per hour during Distracted Driving enforcement (emphasis on enforcement of texting and cell phone laws). A public information and education program will support these objectives.

METHOD OF EVALUATION BY ASP/HSO

ADMINISTRATIVE: X
IMPACT EVALUATION: X By achievement of performance standards.

REIMBURSEMENT - ACTUAL COST ONLY

 ASP/AHSO will reimburse the recipient an amount equal to % of all eligible cost.

 X ASP/AHSO will reimburse the recipient an amount equal to all eligible costs as identified in work statement.

REIMBURSEMENT LIMITS

1. Maximum amount eligible for reimbursement:

Federal Funds: \$87,000

State Funds: \$13,500

2. Only those orders placed and costs incurred during the following time period shall be eligible for reimbursement:

(Date) 10-1-2013 to (Date) 9-30-2014

3. The recipient must bear all costs not eligible for Federal reimbursement.

Federal and State regulations shall be the basis for determining eligibility of costs, as detailed in the General Provisions and Subgrant Agreement/Contract Terms.

This agreement may be amended only by written notice in advance and in accordance with ASP/AHSO policy. (See Subgrant Agreement/Contract Terms)

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

A. 2
Selective Traffic Enforcement
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CERTIFICATIONS AND ASSURANCES

Failure to comply with applicable Federal statutes, regulations and directives may subject Sub-grantee officials to civil or criminal penalties and/or place the Sub-grantee in a high risk grantee status in accordance with 49 CFR 18.12.

Each fiscal year the Sub-grantee by signing this agreement acknowledges all provisions of these Certifications and Assurances and that the Sub-grantee complies with all applicable Federal statutes, regulations, and directives in effect with respect to the periods for which it receives grant funding. Applicable provisions include, but not limited to, the following:

- 23 U.S.C. Chapter 4 - Highway Safety Act of 1966, as amended
- 49 CFR Part 18 - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 23 CFR part 1200 -- Uniform Procedures for State Highway Safety Programs

Federal Funding Accountability and Transparency Act (FFATA)

The State will comply with FFATA guidance, OMB Guidance on FFATA Subaward and Executive Compensation Reporting, August 27, 2010, https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf) by reporting to FSRS.gov for each sub-grant awarded:

- Name of the entity receiving the award;
- Amount of the award;
- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- A unique identifier (DUNS);
- The names and total compensation of the five most highly compensated officers of the entity if-- of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity;

(i) the entity in the preceding fiscal year received—

(I) 80 percent or more of its annual gross revenues in Federal awards; and (II) \$25,000,000 or more in annual gross revenues from Federal awards; and (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;

- Other relevant information specified by OMB guidance.

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

A. 2
Selective Traffic Enforcement
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CERTIFICATIONS AND ASSURANCES

Non-Discrimination

The Sub-grantee will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21); (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794) and the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*; PL 101-336), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27); (d) the Age Discrimination Act of 1975, as amended (42U.S.C. §§), which prohibits discrimination on the basis of age; (e) the Civil Rights Restoration Act of 1987 Pub. L. 100-259), which requires Federal-aid recipients and all sub recipients to prevent discrimination and ensure non-discrimination in all of their programs and activities (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970(Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse of alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601, *et seq.*) relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (k) the requirements of any other nondiscrimination statute(s) which may apply to the application.

BUY AMERICA ACT

The Sub-grantee will comply with the provisions of the Buy America Act (49 U.S.C. 5323(j)) which contains the following requirements:

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest; that such materials are not reasonably available and of a satisfactory quality; or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

POLITICAL ACTIVITY (HATCH ACT).

The Sub-grantee will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

CERTIFICATIONS AND ASSURANCES

CERTIFICATION REGARDING FEDERAL LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

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

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

RESTRICTION ON STATE LOBBYING

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

Instructions for Primary Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

CERTIFICATIONS AND ASSURANCES

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and coverage sections of 49 CFR Part 29. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

CERTIFICATIONS AND ASSURANCES

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

CERTIFICATIONS AND ASSURANCES

4. The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below)

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

A. 2
Selective Traffic Enforcement
Program Grant
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CERTIFICATIONS AND ASSURANCES

Policy on Seat Belt Use

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16 1997, the Grantee is encouraged to adopt and enforce on-the job seat belt use policies and programs for its employees when operating company-owned, rented, or personally owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information on how to implement such a program, or statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's website at www.Nhtsa.dot.gov. Additional resources are available from the Network of Employers and employees. NETS is prepared to provide technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 90 percent seat belt use. NETS can be contacted at 1 (888) 221-0045 or visit its website at www.trafficsafety.org.

POLICY TO BAN TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to:

- (1) Adopt and enforce workplace safety policies to decrease crashed caused by distracted driving including policies to ban text messaging while driving--
 - a. Company-owned or – rented vehicles, or Government-owned, leased or rented vehicles; or
 - b. Privately-owned when on official Government business or when performing any work on or behalf of the Government.
- (2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as –
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

ENVIRONMENTAL IMPACT

The authorizing official for this project has reviewed this agreement and hereby declares that no significant environmental impact will result from implementing this project. If, under a future revision, this project will be modified in such a manner that it would be instituted and could affect environmental quality to the extent that a review and statement would be necessary, this office is prepared to take the action necessary to comply with the National Environmental Policy Act of 1969 (42 USC 4321 et seq.) and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500-1517)

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

A. 2
Selective Traffic Enforcement
Program Grant
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CERTIFICATIONS AND ASSURANCES

Section 402 Requirements (as amended by Pub. L. 112-141)

The Governor is responsible for the administration of the State highway safety program through a State highway safety agency which has adequate powers and is suitably equipped and organized (as evidenced by appropriate oversight procedures governing such areas as procurement, financial administration, and the use, management, and disposition of equipment) to carry out the program (23 USC 402(b) (1) (A));

The political subdivisions of this State are authorized, as part of the State highway safety program, to carry out within their jurisdictions local highway safety programs which have been approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary of Transportation (23 USC 402(b) (1) (B));

At least 40 percent of all Federal funds apportioned to this State under 23 USC 402 for this fiscal year will be expended by or for the benefit of the political subdivision of the State in carrying out local highway safety programs (23 USC 402(b) (1) (C)), unless this requirement is waived in writing;

This State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks (23 USC 402(b) (1) (D));

The State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within the State as identified by the State highway safety planning process, and the Sub-grantee will support these activities including:

- National law enforcement mobilizations and high-visibility law enforcement mobilizations,
- Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits,
- An annual statewide safety belt use survey in accordance with criteria established by the Secretary for the measurement of State safety belt use rates to ensure that the measurements are accurate and representative,
- Development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources,
- Coordination of its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148)(a)).
(23 USC 402 (b)(1)(F));

Law enforcement agencies only- the Subgrantee is hereby encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect. (23 USC 402(j)).

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

A. 2
Selective Traffic Enforcement
Program Grant
Page 18 of 28

CERTIFICATIONS AND ASSURANCES

Other Federal Requirements

Cash drawdowns will be initiated only when actually needed for disbursement. 49 CFR 18.20

Cash disbursements and balances will be reported in a timely manner as required by NHTSA. 49 CFR 18.21.

The same standards of timing and amount, including the reporting of cash disbursement and balances, will be imposed upon any secondary recipient organizations. 49 CFR 18.41.

Failure to adhere to these provisions may result in the termination of drawdown privileges.

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs);

Equipment acquired under this agreement for use in highway safety program areas shall be used and kept in operation for highway safety purposes by the State; or the State, by formal agreement with appropriate officials of a political subdivision or State agency, shall cause such equipment to be used and kept in operation for highway safety purposes 23 CFR 1200.21. The Sub-grantee will comply with this provision.

The Subgrantee will comply with all applicable State procurement procedures and will maintain a financial management system that complies with the minimum requirements of 49 CFR 18.20;

amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; The Civil Rights Restoration Act of 1987, which provides that any portion of a state or local entity receiving federal funds will obligate all programs or activities of that entity to comply with these civil rights laws; and, (k) the requirements of any other nondiscrimination statute(s) which may apply to the application.

AUDIT REQUIREMENTS

The recipient will arrange for an organization-wide financial and compliance audit, if required by OMB Circular A-133, within the prescribed audit reporting cycle. The audit report must separately identify highway safety funds from other Federal funds. One (1) copy of the report will be furnished to the Arkansas State Police Highway Safety Office (ASP-HSO) within three months of the report date. Failure to furnish an acceptable audit as determined by the cognizant Federal audit agency may be a basis for denial and/or refunding of Federal funds. A copy of A-133 is available on request. The recipient has been made aware of audit requirements. **The recipient is required to inform the ASP-HSO if subject to A-133 audit requirements.**

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

WORK STATEMENT

- A. The recipient, Fayetteville Police Department in exchange for consideration offered by the Arkansas State Police Highway Safety Office, hereafter referred to as the Arkansas Highway Safety Office (AHSO), and in the interest of improving highway safety, hereby agrees to pursue the achievement of the following objectives:
1. Appoint a Project Coordinator to be a liaison between the recipient and the (AHSO) and to be responsible for coordinating selective enforcement activities and financial transactions associated with this subgrant agreement. Herein, give signature authorization for the Project Coordinator to request reimbursement and agreement change orders when applicable. Compensation for the Project Coordinator will be from local funds.
 2. Ensure that the Project Coordinator, or designee, has successfully completed the Arkansas Highway Safety Office Project Management Course if offered. This course will provide information and updates on State, Federal and Highway Safety Office policies and procedures. Travel, meals and lodging will be reimbursed for eligible participants. Participants will be notified of the specific dates and location of this course.
 3. Ensure that agency maintains an enforced seat belt policy and provides the AHSO a copy of any revisions to the policy.
 4. Conduct selective enforcement of the State's seat belt, driving while intoxicated (DWI)/driving under the influence (DUI), distracted driving (texting and cell phone use laws), speed limit, child passenger protection and motorcycle helmet laws. Officers are to ensure compliance with the State's seat belt and child restraint laws during all vehicle stops. Enforcement should target locations where fatal/serious injury crashes are occurring.
 5. **Seat belt enforcement** (from 6:00 a.m. until 9:00 p.m.) will emphasize enforcement of seat belt and child restraint laws (majority of vehicle stops and citations written should be for seat belt and/or child restraint violations. **Speed enforcement** (from 6:00 a.m. until 9:00 p.m.) will emphasize enforcement of speed limit laws and may only be worked during one speed mobilization referenced in Work Statement 7 on the next page. **DWI/DUI enforcement** will start no earlier than 9:00 p.m. and end no later than 6:00 a.m. any day of the week provided the performance standard in Work Statement 6 is met. **Distracted Driving enforcement** (from 6:00 a.m. until 9:00 p.m.) will emphasize enforcement of texting and cell phone laws and may only be conducted during the Distracted Driving mobilization referenced in Work Statement 7. The AHSO retains the right to limit or modify enforcement hours and days at its discretion and as necessary to meet performance compliance requirements. Officers working on the project are expected to enforce all the laws cited in this agreement during seat belt, speed, distracted driving and DWI/DUI enforcement. **Participating officers are expected to average two vehicle stops per hour when not actively processing a DWI arrest during DWI enforcement.**

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

WORK STATEMENT

6. Performance standards for the project and individual participating officers are as follows:

Seat Belt/Speed

**Average 3 stops per
hour per officer**

DWI/DUI

**Average 1 arrest per
8 hours per officer**

Distracted Driving

**Average 3 stops per
hour per officer**

7. Participate in three (3) Seat Belt, two (2) DWI/DUI, one (1) Distracted Driving, and one (1) combined Speed and DWI State/National enforcement mobilizations during the project period. Must participate in the public information and education (PI&E) activities (press conferences/news releases) in conjunction with the mobilization activities. An informal seat belt survey conducted by the agency will also precede and follow each seat belt mobilization for evaluation purposes.

The mobilizations dates are as follows:

- State Thanksgiving Seat Belt Mobilization - November 25 - December 1, 2013
- National Winter DWI Mobilization - December 13, 2013 - January 1, 2014
- State Seat Belt Mobilization - March 10 - 23, 2014
- State Distracted Driving Mobilization - April 14 - 27, 2014
- National Memorial Day Seat Belt Mobilization - May 19 - June 1, 2014
- State DWI/Speed Mobilization - June 28 - July 14, 2014
- National Labor Day DWI Mobilization - August 15 - September 1, 2014*

Note: Dates are subject to change.

*Conduct checkpoints and/or saturation patrols on at least four nights during the National DWI mobilizations.

Participation in all State and National Mobilizations is a required activity of this grant agreement. Project activity should be managed to ensure that sufficient funds are available to participate in these mobilizations. 405M8DD funds are designated exclusively for the Distracted Driving Mobilization and 402 SE funds are designated exclusively for the Speed Mobilization. Other funds may not be used to supplement the 405M8DD (Distracted Driving) and 402 SE (Speed) funding. Submit a mobilization report within 15 days after a mobilization period in accordance with the format provided by the AHSO. Agency is urged to participate in sobriety checkpoints and/or saturation patrols during all DWI/DUI mobilizations.

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

WORK STATEMENT

8. Conduct other PI&E activities to support the objectives of this project. These activities will include, but are not limited to, issuing a news release at the beginning of the project period to notify the community of the project activities, conducting a minimum of two media exposures for each mobilization e.g., news conferences, news releases, interview, reporter ride-along and participating in a minimum of two (2) other community activities e.g., community events, health fairs, booths, civic/school/employer presentations during the year.
9. The only costs eligible for reimbursement are selective enforcement (which includes officer pay and applicable benefits), child safety seats (see Work Statement 10) and pre-approved equipment (see Work Statement 11). Officers may also be compensated at the selective enforcement rate for hours spent conducting seat belt surveys associated with mobilizations and time spent working at clinics associated with the proper installation of child safety seats. Hours spent conducting seat belt surveys, participating in sobriety checkpoints, or working at child safety seat clinics will not be used when calculating enforcement performance and should be reported separately on the supplemental monthly report form. The recipient will be reimbursed for officers working selective traffic enforcement at a rate that does not exceed one and one-half times the officer's regular hourly rate. Reimbursement is limited to one officer per patrol vehicle. Officers compensated through this agreement shall work strictly within the scope of this project while performing duties in connection with and being funded by this agreement. Hours worked on and compensated through this agreement must not supplant (be a substitute for) regular officer hours and pay. Routine patrol functions, including crash investigations, will be assigned to personnel on regular duty. Should a project officer become involved in routine patrol functions while conducting selective enforcement, the officer will be compensated from other funds. ***No part-time personnel can be compensated through this agreement.*** **Note: Consistent with federal guidelines officers working Selective Enforcement should be compensated in accordance with recipient overtime policy and nothing in this agreement should be interpreted as authority to violate agency policy. Submit to the AHSO any revisions to agency overtime policy within 30 days of the effective date of the revision.**
10. If child safety seats are an approved budget line item on the invoice forms, purchase and loan child safety seats in accordance with AHSO policy. Seats must be purchased no later than February 28, 2014. Invoices for the seats must be submitted to the AHSO within 30 days of purchase. All purchases must be in compliance with local and state purchasing laws and regulations.
11. If equipment is an approved budget line item on the invoice forms, purchase the following equipment to assist with the enforcement effort: **None** at an estimated cost of **\$0.00** to be used during overtime traffic enforcement. Priority use of this equipment shall be given to those officers actively working STEP enforcement. Assurance is provided herein that throughout the life expectancy of this equipment, it will be used for the purposes expressed or implied in this agreement. All purchases must be in compliance with local and state purchasing laws and regulations and be listed on the National Highway Traffic Safety Administration's current Conforming Products List of Evidential Breath and Speed Measurement Devices.

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

WORK STATEMENT

12. Ensure that all officers working on this project have successfully completed the National Highway Traffic Safety Administration's approved courses on occupant protection usage and enforcement (OPUE) or traffic occupant protection strategies (TOPS) training and standardized field sobriety testing (SFST) during the project period.
13. Ensure that all officers working this project are familiar with Act 308 of 2009 (the amended mandatory seat belt law). Effective June 30, 2009, the Act makes a violation of the mandatory seat belt law a "primary" offense for enforcement purposes.
14. Ensure that all officers working on this project are familiar with Act 470 of 2001 (the amended "Child Passenger Protection Act"). Effective August 13, 2001, children under the age of fifteen (15) years must be restrained and any child under six (6) years of age and under sixty (60) pounds in weight must be restrained in a child safety seat. Violation of this Act is a primary offense, meaning that a vehicle may be stopped if there is probable cause to believe that the law is being violated.
15. Ensure that all officers working on this project are familiar with Act 561 of 2001 (the ".08 BAC law"). Persons arrested for violation of Arkansas Code Annotated 5-65-103 and 5-56-205 shall be determined to be DWI arrests. Youthful offenders arrested for violation of Arkansas Code Annotated 5-65-303 shall be determined to be DUI arrests.
16. Ensure that all officers working on this project are familiar with Acts concerning the use of the cell phone while driving: Act 181 of 2009, "Paul's Law" prohibiting the use of hand held cell phones for typing, texting, e-mail or accessing the internet while driving; Act 197 of 2009, limiting wireless telephone use by young drivers; Act 247 of 2009, prohibiting wireless telephone use by drivers under eighteen years of age and drivers who are at least eighteen but under twenty-one years of age from using handheld wireless telephones (allows drivers who are at least eighteen but under twenty one years of age to use hands-free wireless telephones or devices); and Act 37 of 2011, an act to improve the safety of highways and roads by prohibiting wireless telephone use in school zones and highway work zones.
17. Ensure department implements policies and internal controls to prevent fraud and misuse of grant funds.

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

WORK STATEMENT

18. Submit monthly reimbursement requests, local match reporting form and activity reports, including PI&E activities, along with a cover letter(s) by the 15th of the subsequent month in accordance with formats provided by the AHSO. Also include with the reimbursement requests as back-up supporting documentation, payroll summary sheets which accurately reflects payroll disbursed by the agency for STEP for the time period requested and invoices for any eligible items purchased i.e. child safety seats) along with proof of payment i.e. copy of the check. The summary sheets must record each officer who worked, dates they worked, number of hours worked for each date, regular and overtime pay rates, applicable fringe rates and be signed by both the project coordinator and an agency payroll or fiscal department representative. An Annual Project Activity Report will be submitted in accordance with the format provided by the AHSO. Include with the annual report a tabulation of local funds contributed (50% required) to this project. This annual report and the final reimbursement request are due within 30 days following the end of the project period. Final reimbursement will not be made until a satisfactory annual report is submitted.

19. Create a project file for maintaining the agreement and financial documents. The file will contain a copy of this agreement, agreement terms, related AHSO policies and procedures, policies or procedures of the recipient related to this project's activities, copies of monthly activity reports, AHSO STEP daily worksheets, reimbursement requests, payroll summary sheets outlined in Work Statement 18, other supporting financial documentation such as payroll printouts and invoices, a copy correspondence relating to the agreement, and documentation of public information activities. The file must be maintained in one location and is subject to review by State and Federal authorities responsible for oversight of this agreement. **Copies of time sheets and original AHSO STEP daily worksheets for all officers paid through this agreement must be kept in this file. Time sheets must have officer's and supervisor's signatures with attached supporting documents. AHSO STEP daily worksheets must be completed properly and have the officer's and a supervisor's signature to be eligible and approved for reimbursement.**

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

A. 2
Selective Traffic Enforcement
Program Grant
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WORK STATEMENT

- B. The Arkansas Highway Safety Office (AHSO) hereby agrees to perform the following activities:
1. Reimburse the recipient for all eligible costs incurred in accordance with provisions stated in the Subgrant Agreement/Contract Terms. An analysis of reimbursable costs is provided in the attached Sub-grantee Invoice Form.
 2. Provide reasonable consultative assistance to the recipient to aid in the achievement of project objectives.
 3. Conduct administrative and/or on-site evaluations to assess the effectiveness of the project. Evaluations will include, but are not limited to, a review of activity reports examining progress toward objectives stated in the work statement, reimbursement requests, fiscal management and on-site monitoring visits.



**Arkansas State Police
 Highway Safety Office
 Subgrantee Invoice Form
 FY 2014**



Selective Traffic Enforcement Program

SUBGRANT #:	OP-2014-03-02-09	AWARD PERIOD:	10/1/13 - 9/30/14
	SE-2014-13-01-09	CFDA TITLE:	State & Community Highway Safety
	M8DDLE-2014-08-02-09	AWARD AMOUNT:	\$52,000.00
	K8-2014-08-06-09	CFDA TITLE:	National Priority Safety Program
		AWARD AMOUNT:	\$5,000.00
EIN (Tax ID #): 71-6018462		CFDA TITLE:	Alcohol Traffic Safety and Drunk Driving Incentive Grants
		AWARD AMOUNT:	\$30,000.00
		TITLE:	Child Passenger Protection Fund (SCP)
		AWARD AMOUNT:	\$13,500.00
		CFDA#	N/A

Request Period:						
Project:	Selective Traffic Enforcement Project (STEP)					
Subgrantee Name:	City of Fayetteville			Telephone #:	479-587-3500	
Mailing Address:	100-A West Rock Street	Fayetteville	Arkansas		72701	
Budget Categories	Approved Budget	Revised Budget	Previous Expenditures	Expenditures This Period	Total Expenditures	Remaining Budget
PERSONAL SERVICES						
Seat Belt - 402 OP	\$47,000.00				-	\$47,000.00
Speed Mobilization - 402 SE	\$5,000.00				-	\$5,000.00
DWI - 410 K8	\$30,000.00				-	\$30,000.00
Distracted Mobilization-405 M8DDLE	\$5,000.00				-	\$5,000.00
OTHER DIRECT COSTS						
Child Safety Seats (State)	\$13,500.00				-	\$13,500.00
TOTAL	\$100,500.00		-	-	-	\$100,500.00

Must include all equipment acquisitions of low value (500.00 - 4,999.99) or capital (5,000.00 or greater) and submit subgrantee low value and capital equipment inventory form with invoice form.
 On behalf of the subgrantee listed above, I certify that the items for which payment is claimed were furnished under the authority of the law and in accordance with the terms of our grant with the Arkansas State Police, Highway Safety Program and that the charges are reasonable, proper, and no part of this claim has been paid.

Amount of this Request

Signature of Subgrantee:	Date:
Title: Project Coordinator	
Contact Person: Captain Robert Turberville	Ph.: 479-587-3500

ARKANSAS STATE POLICE USE ONLY				OUTLINE AGREEMENT #:	
VENDOR #:		AGENCY CODE:	0960	DOC#:	
PO #:		GOODS REC.#:		MATERIAL #:	10119381
				AMOUNT	
General Ledger #	Fund	Fund Center	Invoice / Reference #	Cost Center	IO/WBS
5100001000	SMP2003	1FJ		456708	F.0960.402-14-OP-001-S
5100001000	SMP2003	1FJ		456708	F.0960.402-14-SE-001-S
5100001000	SMP3021	1FJ		456729	F.0960.405-14-M8DDLE-S
5100001000	SMP2203	1FJ		456709	F.0960.410-14-K8-001-S
5100001000	SCP0000	1FD		456714	NA
					TOTAL

REVIEWED & APPROVED TO PAY BY:	DATE:
Attach Completed Line Item Detail Sheet and Mail To:	Arkansas State Police Highway Safety Office #1 State Police Plaza Drive Little Rock, Arkansas 72209
FAXED BILLS WILL NOT BE ACCEPTED	



**Arkansas State Police
 Highway Safety Office
 Line Item Details
 FY 2014
 Selective Traffic Enforcement Program**



Attach to Page 20

Project Name: Fayetteville Police Department
 Selective Traffic Enforcement Project (STEP)

	FOR THE PERIOD	Transfer Totals to Page 20
Overtime Selective Enforcement (402)		
Seat Belt 402 OP	_____	
Speed Mobilization 402 SE	_____	
Subtotal		_____
Overtime Selective Enforcement (410)		
DWI 410 K8	_____	
Subtotal		_____
Overtime Selective Enforcement (405)		
Distracted Driving Mobilization 405M8DDLE	_____	
Subtotal		_____
Child Safety Seats (State)		
Item 1	_____	
Item 2	_____	
Item 3	_____	
Subtotal		_____
	TOTAL BILLED	_____



**Arkansas State Police
 Highway Safety Office
 Subgrantee Local Match Form
 FY 2014**



Selective Traffic Enforcement Program

SUBGRANT #:	OP-2014-03-02-09	AWARD PERIOD:	10/1/13 - 9/30/14			
	SE-2014-13-01-09					
	M8DDLE-2014-08-02-09					
	K8-2014-08-06-09					
EIN (Tax ID #): 71-6018462						
Report Period:						
Project:	Selective Traffic Enforcement Project (STEP)					
Subgrantee Name:	City of Fayetteville		Telephone #:	479-587-3500		
Mailing Address:	100-A West Rock Street	Fayetteville	Arkansas	72701		
Budget Categories	Approved Budget	Revised Budget	Previous Expenditures	Expenditures This Period	Total Expenditures	Remaining Budget
Personal Services	\$50,715.00					\$50,715.00
Maintenance and Operations	\$22,785.00					\$22,785.00
Total	\$73,500.00		-	-		\$73,500.00

Amount of this Report

Signature of Subgrantee:	Date:	
Title: Project Coordinator		
Contact Person: Captain Robert Turberville	Ph.: 479-587-3500	

Arkansas State Police
 Highway Safety Office
 #1 State Police Plaza Drive
 Little Rock, Arkansas 72209

**ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT**

A. 2
Selective Traffic Enforcement
Program Grant
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ACCEPTANCE AND AUTHORIZATION TO PROCEED

It is understood and agreed by the undersigned that a subgrant received for this agreement is subject to the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU); Moving Ahead for Progress in the 21st Century (MAP-21); subsequent U.S. Department of Transportation funding reauthorization; and all administrative regulations governing this grant established by the U.S. Department of Transportation approved in accordance with 49 CFR Part 18 subject to the availability of Federal funds. It is further understood that any State funds utilized within are subject to all applicable State regulations and are likewise subject to their availability. It is expressly agreed that this agreement including the Appendix (Subgrant Agreement/Contract Terms and Attachment), constitute an official part of the State's Highway Safety Program and that said recipient will meet the requirements as set forth herein.

The recipient has appointed the following official representatives with legal authority to accept this subgrant agreement, acknowledge the certifications and assurances on pages 5 – 13 of this agreement, and provide such additional information as may be required.

A. SUBGRANT DIRECTOR

B. AUTHORIZING OFFICIAL

1. Signature: _____
2. Name: Greg Tabor
3. Title: Chief of Police
4. Date: _____

1. Signature: _____
2. Name: Honorable Lioneld Jordan
3. Title: Mayor
4. Date: _____

Approval to proceed, effective 10-1-2013 to 9-30-2014 with committed Federal funds of \$87,000 and State funds of \$13,500, given by the State Official responsible to the Governor for administration of the State Highway Safety Program:

Approved:

Director, Arkansas State Police
and
Governor's Highway Safety Representative

Date

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

10/1/2013

City Council Meeting Date
Agenda Items Only

Jesse Beeks / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution to purchase a Wirtgen W35DC Mini Milling Machine from Equipment Resource Management of Little Rock, AR off the NJPA Contract in the amount of \$132,134, and approval of a budget adjustment to move funds to the Fleet expense account.

\$ 132,134.00

Cost of this request

\$ 829,275.00

Category / Project Budget

Other Vehicles and Equipment

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 92,417.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02080.2013

Project Number

\$ 736,858.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Date

Received in City
Clerk's Office

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation

From: Jesse Beeks, Fleet Operations Superintendent

Date: September 11, 2013

Subject: Purchase of a small Milling Machine for Transportation Division

PROPOSAL: That City Council approve the purchase of one Wirtgen small milling machine from Equipment Resource Management off NJPA Contract in the amount of \$132,134, and approve a budget adjustment to move funds into the Fleet expense account.

RECOMMENDATION: Unit #744 is a 2006 International dump truck that is scheduled for replacement in 2014. Transportation has decided to replace it with a small milling machine to do profiling in areas where the current milling machine is too big to use easily (cul-de-sacs) or can't be used at all (around manholes.) Transportation has demo'd this machine and it does the job well. This milling machine is a Wirtgen W35DC with 14" cutting drum that is available immediately with no freight or delivery charges off the State contract for a total cost of \$132,134. Transportation wants to purchase this unit as the milling machine will be more useful to Transportation's present mission than the dump truck.

Fleet recommends purchasing a Wirtgen W35DC Milling machine off the NJPA contract from Equipment Resource Management of Little Rock, AR in the amount of \$132,134.

This was presented to the Equipment Committee at the September 10, 2013 meeting.

BUDGET IMPACT: As Fleet had budgeted to replace the truck in 2014, a Budget Adjustment is needed to move funds into the 2013 Fleet expense account. Transportation has budgeted for a replacement truck for #744 – the Motor Pool charges for 2014 for the milling machine will be \$973 higher for the year than for the truck and Transportation will provide those funds. Sufficient replacement funds have been collected for the purchase.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PURCHASE OF ONE (1) WIRTGEN W35DC MINI MILLING MACHINE FROM EQUIPMENT RESOURCE MANAGEMENT, INC. OF LITTLE ROCK, PURSUANT TO NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT, IN THE AMOUNT OF \$132,134.00, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the purchase of one (1) Wirtgen W35DC mini milling machine from Equipment Resource Management, Inc. of Little Rock, pursuant to a state procurement contract, in the amount of \$132,134.00.

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

PASSED and APPROVED this 1st day of October, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

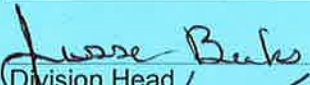
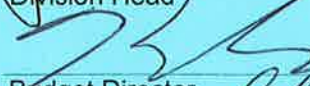
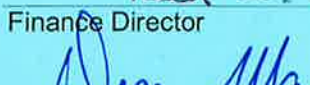
**City of Fayetteville, Arkansas
Budget Adjustment Form**

V12.0724 A. 3
Equipment Resource Management, Inc.
Page 4 of 8

Budget Year 2013	Division: Fleet Operations Department: Transportation Services	Request Date 8/23/2013	Adjustment Number
--------------------------------	---	--------------------------------------	--------------------------

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Funds are requested to purchase a Wirtgen W35DC Mini Milling Machine to replace #744 (TRAN_F029 - a 2006 International dump truck). Fleet budgeted to replace the truck in 2014, but the milling machine is available now off State contract and Transportation wants to purchase it now. The milling machine will be more useful to Transportation's mission than the dump truck.
Sufficient funds are available to meet City objectives.

 Division Head	8/29/13 Date	Prepared By: Barbara Olsen <i>bolsen</i>
 Budget Director	9-13-13 Date	Reference:
 Department Director	9/12/13 Date	Budget & Research Use Only
 Finance Director	9-13-2013 Date	Type: A B C D E P
 Chief of Staff	9-13-13 Date	General Ledger Date
 Mayor	9/16/13 Date	Posted to General Ledger Initial Date
		Checked / Verified Initial Date

TOTAL BUDGET ADJUSTMENT		132,400	132,400	
		Increase / (Decrease)		
Account Name	Account Number	Expense	Revenue	Project.Sub Number
Vehicles and equipment	9700.1920.5802.00	132,400	-	02080 . 2013
Use of fund balance	9700.0970.4999.99	-	132,400	.
				.
				.

NJPA VENDOR CONTRACT SUMMARY – WIRTGEN AMERICA, INC.

DATE July 19, 2011	RFP # 060311
AWARDED CONTRACT NUMBER 060311-WAI	NJPA RFP TITLE & CATEGORY Heavy Construction Equipment Together with Related Accessories, Supplies and Services Asphalt Milling/Recycling/Lay Down, Compaction, Concrete Slip Form Pavers, Materials Processing.
CONTRACT PERIOD July 19, 2011 through July 18, 2015	PRICING MODEL Percentage Discount from Catalog/List
DESCRIPTION Comprehensive lines of Asphalt Milling/Recycling/Lay Down, Compaction, Concrete Slipform Pavers, and Materials Processing Equipment from the Wirtgen, Vögele, and Hamm product families.	
VENDOR NAME AND ADDRESS Wirtgen America, Inc 6030 Dana Way Antioch, TN 37013	VENDOR CONTACT Brodie Hutchins 615-501-0600 bhutchins@wirtgenamerica.com

NJPA CONTRACTS CONSIST OF THE FOLLOWING DOCUMENTS Section 2.6 “Contract” as used herein shall mean cumulative documentation consisting of the RFP, and entire Bidder’s Response, and fully executed “Acceptance and Award”. • <u>Request for Proposal (RFP)</u> • <u>Bid Acceptance & Award</u> • <u>Pricing Discount Summary</u> • Bidder's Response and Pricing - Available upon request from the NJPA Contract Manager	RELATED CONTRACT DOCUMENTATION <u>Board Minutes</u> <u>Affidavit of Advertisement</u> <u>Bid Evaluation</u> <u>Bid Opening Witness Page</u> <u>Bid Comment & Review</u>
DOCUMENTATION OF CONTRACT MAINTENANCE <u>Contract Renewal 2013</u> <u>Contract Renewal 2012</u>	ADDITIONAL INFORMATION: • <u>Award Announcement</u>

NJPA INFORMATION

NJPA CONTACT Jeremy Schwartz	TITLE NJPA Contract Manager
PHONE 218-894-5488	EMAIL jeremy.schwartz@njpacoop.org
ADDRESS 202 12th Street NE, P.O. Box 219, Staples, MN 56479	WEBSITE www.njpacoop.org



August 15, 2013

MR. JOEY SMITH
MR. JESSE BEEKS

CITY OF FAYETTEVILLE
1525 SOUTH HAPPY HOLLOW RD.
FAYETTEVILLE, AR 72701

Gentlemen,

We are pleased to offer for your consideration the following **WIRTGEN Construction Equipment** product.

1 – WIRTGEN W35DC COLD MILLING MACHINE- Equipped As Follows:

- DEUTZ TCD2011 L04W DIESEL ENGINE 58 H.P.
- OPERATORS STATION INC. STAND-UP SEAT
- 14" WIDTH CUTTING DRUM
- 73 GALLON WATER SYSTEM INC. DRUM SPRAY BAR ARRANGEMENT
- SINGLE STAGE DETACHABLE DISCHARGE CONVEYOR OPTION
- 2-SPEED TRAVEL DRIVE /LOCKABLE TOOL BOX W/TOOLKIT
- OPERATING WEIGHT 10,250 LBS.

PRICE.F.O.B. Fayetteville, Ar.....\$ 146,815.00*
Less N.J.P.A. Fleet Discount.....\$ 14,681.50**
TOTAL NET PRICE.....\$ 132,133.50*

- Price does not include any applicable taxes ~~and inbound freight~~

Sincerely,

Britt Barnes
Equipment Resource Management, Inc.

** N.J.P.A. CONTRACT 060311-WAI

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 #:		12737		Requestion No.:		Date: 9/11/2013	
Address:		Fob Point:		P.O Number:		Expected Delivery Date:	
City:		State:		Mail Yes: ☐ No: ☒		Quotes Attached Yes: ☐ No: ☒	
Requester: BARBARA OLSEN		Ship to code: 50		Division Head Approval: <i>Barbara Olsen</i>		Extension: 485	
Item Description		Quantity		Unit of Issue		Unit Cost	
1 WIRTGEN W35DC MINI MILLING MACHINE PER		1		EA		132,134.00	
2 QUOTE OFF STATE CONTRACT. TO BE UNIT							
3 #9182, FIXED ASSET #709182							
4							
5							
6							
7							
8							
9							
10							
Shipping/Handling				Lot			
Special Instructions:							
Subtotal:				\$132,134.00			
Tax:				EXEMPT			
Total:				\$132,134.00			

Approvals:

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

City of Fayetteville Staff Review Form

A. 4
Community Services Division
Budget Adjustment
Page 1 of 4

City Council Agenda Items
and
Contracts, Leases or Agreements

10/1/2013

City Council Meeting Date
Agenda Items Only

Yolanda Field

Submitted By

Community Services

Division

Development Services

Department

Action Required:

Approval of Budget Adjustment recognizing CDBG program income received from a Housing Program Lien payoff in the amount of \$5,103.

Cost of this request	\$ -	Category / Project Budget	Program Category / Project Name
2180.4940.5315.00	\$ -	Funds Used to Date	Program / Project Category Name
Account Number			
Project Number	\$ -	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

W. C. R.
Department Director

09-03-2013
Date

Previous Ordinance or Resolution #

Original Contract Date:

J. Kelly
City Attorney

9-9-13
Date

Original Contract Number:

Paul A. Bech
Finance and Internal Services Director

9-10-2013
Date

09-03-13 P03:59 RCVD
Received in City
Clerk's Office

Don May
Chief of Staff

9-10-13
Date

Received in
Mayor's Office

Donald Jordan
Mayor

9/11/13
Date



Comments: Staff recommends approval of the Budget Adjustment.



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CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Jeremy Pate, Dir. Development Services 

From: Yolanda Fields, Dir. Community Services 

Date: 09/03/2013

Subject: Approval of Budget Adjustment for the Community Services Division

PROPOSAL:

The Community Development Block Grant Housing Program assists qualified low-moderate income homeowners in Fayetteville to be able to remain in their homes by providing home rehabilitation such as siding, roofing, doors, windows, electrical and plumbing upgrades. A forgivable lien is placed on rehabilitated homes that reflects the cost of the project. If the home is sold before the forgivable lien period expires, the balance of the lien must be repaid to the CDBG program as Program Income.

RECOMMENDATION:

Staff recommends approval of a budget adjustment to budget the CDBG Program Income.

BUDGET IMPACT:

Increase the Contract Services account for the CDBG Housing Program by \$5,103 as listed in the budget adjustment. The Housing Contract Services account is used to pay for housing rehabilitation for qualified low-moderate income homeowners in Fayetteville.

RESOLUTION NO. _____

**A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE TOTAL
AMOUNT OF \$5,103.00 REPRESENTING CDBG PROGRAM INCOME
RECEIVED THROUGH A HOUSING PROGRAM LIEN PAYOFF**

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A", in the total amount of \$5,103.00 representing CDBG program income received through a housing program lien payoff.

PASSED and APPROVED this 1st day of October, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

V12.0724 A. 4
Community Services Division
Budget Adjustment
Adjustment Number Page 4 of 4

Increase Housing Contract Services by \$5,103 to recognize CDBG Program Income from lien payoff.

Revenue	-
	5.103

City of Fayetteville Staff Review Form

A. 5
Trail Naming
Page 1 of 6City Council Agenda Items
and
Contracts, Leases or Agreements

October 1st 2013

City Council Meeting Date
Agenda Items Only

Matt Mihalevich

Submitted By

Engineering

Division

Development Services

Department

Action Required:

Staff requests City Council approval for official names of two new City Trails.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

9/13/13

Date

Previous Ordinance or Resolution #

City Attorney

9-13-13

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

9/13/13

Date

Received in City
Clerk's Office

09-13-13A11: 3 RCVD

Chief of Staff

9/13/13

Date

Received in
Mayor's OfficeENTERED
9/13/13 SEP

Mayor

9/16/13

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
Chris Brown, City Engineer

From: Matt Mihalevich, Trails Coordinator

Date: September 11th, 2013

Subject: Trail Naming Recommendation

RECOMMENDATION:

Staff requests City Council approval for official names of two new City trails.

PROPOSAL:

On July 10th, 2010 the Fayetteville Active Transportation Advisory Committee unanimously approved a motion to forward the trail names recommendations "***Clear Creek Trail***" and "***Scull Creek Trail***" to the Fayetteville Parks and Recreation Advisory Board for review and public comment according the park and trail facilities naming policy. The Parks and Recreation Advisory Board heard the trail names on August 5th, 2013 and tabled the item for 1 month to allow a public comment period. On September 9th, 2013 the Parks and Recreation Advisory Board voted unanimously to forward the trail name recommendations "***Clear Creek Trail***" and "***Scull Creek Trail***" to the City Council.

BACKGROUND:

New sections of the Razorback Regional Greenway located in north Fayetteville and Johnson will soon open to the public and official names for these trail sections are recommended as listed below.

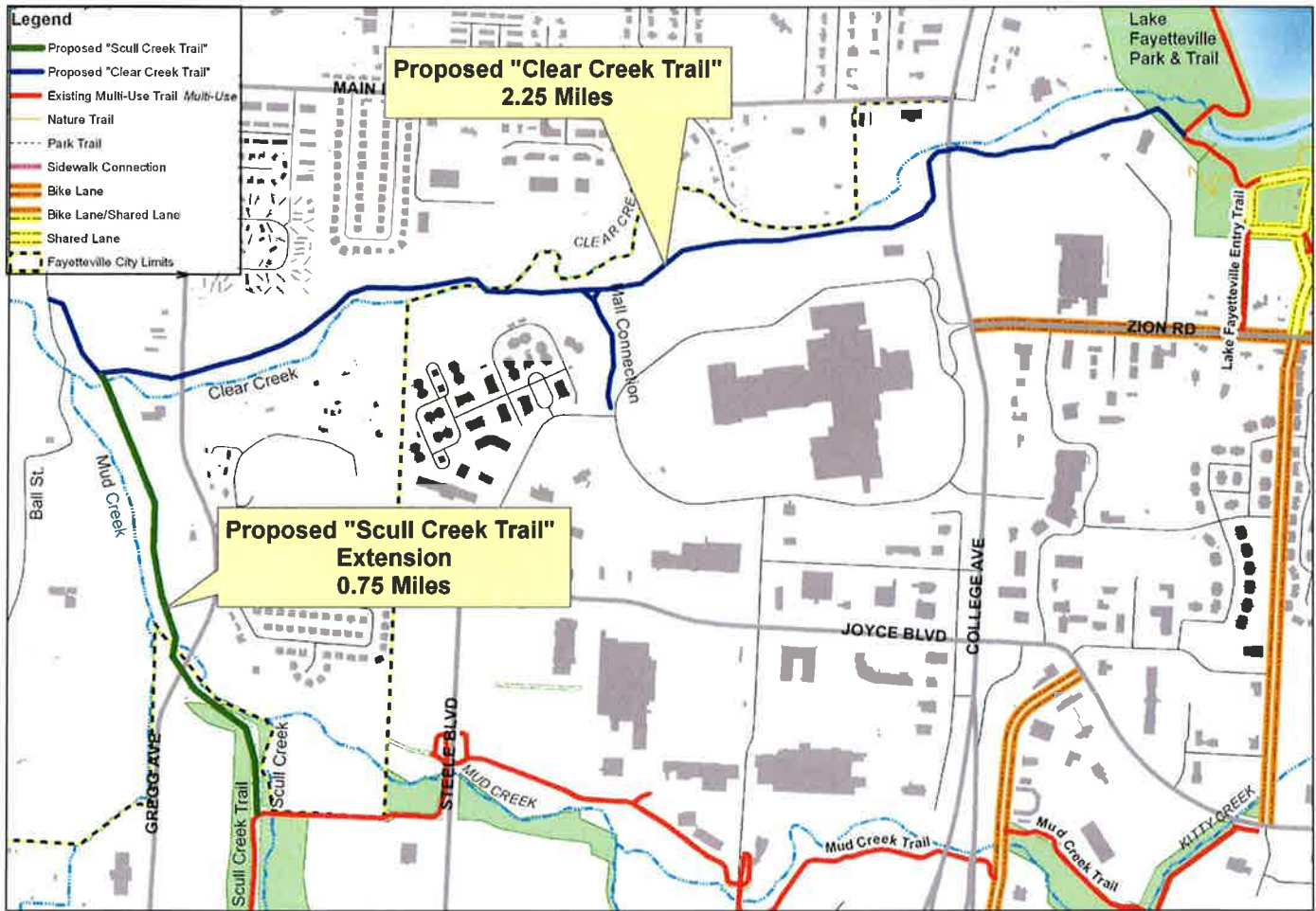
Clear Creek Trail

This 2.25 mile long trail will extend west from Lake Fayetteville along Clear Creek to Ball Street (see map below). In the future, this trail is planned to extend on west along Clear Creek to the Willow Creek Women's Hospital. The name "Clear Creek Trail" is consistent with the practice of naming trails after the creek which they follow.

Scull Creek Trail

This 3/4 mile long trail extends north along Scull Creek and Mud Creek to meet Clear Creek Trail near Ball St (see map below). The Active Transportation Advisory Committee and Parks and Recreation Advisory Board agreed that the name "Scull Creek Trail" should be extended north to Clear Creek Trail for continuity even though it will technically follow a section of Mud Creek before the confluence with Clear Creek. The continuation of the "Scull Creek Trail" name was favored to avoid confusion with the current "Mud Creek Trail" which extends east from Scull Creek Trail south of Joyce Blvd.

BUDGET IMPACT: None



Scully & Clear Creek Trails
3.0 Miles



Johnson Clear Creek Trails, Inc.
3111 Magnolia Place, Springdale, AR 72762 479.750.8664

Boulder Construction
General Contractors

Fayetteville
ARKANSAS

RESOLUTION NO. _____

**A RESOLUTION NAMING CLEAR CREEK TRAIL AND AN EXTENSION
OF SCULL CREEK TRAIL**

**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 names a 2.25 mile long trail extending west from Lake Fayetteville along Clear Creek to Ball Street "Clear Creek Trail", as shown in the

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby names a .75 mile long trail extending north along Scull Creek and Mud Creek to its intersection with Clear Creek Trail near Ball Street as "Scull Creek Trail".

PASSED and APPROVED this 1st day of October, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



FAYETTEVILLE PARKS AND RECREATION ADVISORY BOARD

Minutes for September 9, 2013

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order by Steve Meldrum at 5:30 p.m. in Room 326 at the City Administration Building at 113 West Mountain Street in Fayetteville, Arkansas.

Present:

Parks and Recreation Advisory Board members McKnight, Leonard, Meldrum, Lawson, Proffitt, Paul, Maxwell, and Watson were present. Lamb was absent. Staff members Edmonston, Humphry, Spann, Jumper, Mihalevich and Thomas were in attendance.

1. Tabled from August 5th Meeting:

Trail Naming for Clear Creek and Scull Creek Trails: Matt Mihalevich, Trails Coordinator

Staff Recommendation: To approve the proposed names of trail. According to the City's Facility Naming Policy, the item is tabled until the next PRAB meeting in order to allow for public input. If approved by PRAB, the naming of the trails will be presented to City Council for final approval.

PRAB Motion Tabled at August 5 Meeting: To table the naming of the trails until the September meeting to allow time for public input according to the Naming Parks and Trails Policy.

Mihalevich said that this was tabled from the August PRAB meeting to allow for public input for the names. He relayed the information about the trails and said that the proposed names are Scull Creek Trail and Clear Creek Trail.

PRAB Motion: Meldrum motioned to approve the names Scull Creek Trail and Clear Creek Trail, and Proffitt seconded it. Motion passed 8-0-0 by voice vote.



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

MEMO:

To: Fayetteville Parks and Recreation Advisory Board

From: Fayetteville Active Transportation Advisory Committee

Date: July 15, 2013

Subject: Trail Naming Request

On July 10th, 2013 the Fayetteville Active Transportation Advisory Committee unanimously approved a motion to forward the following trail name recommendations to the Fayetteville Parks and Recreation Advisory Board for review and public comment according to the park and trail facilities naming policy.

Clear Creek Trail

This 2.25 mile long trail will extend west from Lake Fayetteville along Clear Creek to Ball Street (see map below). The trail is planned to be completed by late 2013. In the future, this trail will likely extend on west along Clear Creek to the Willow Creek Women's Hospital. The name "Clear Creek Trail" is consistent with the practice of naming trails after the creek which they follow.

Scull Creek Trail

This 3/4 mile long trail extends north along Scull Creek and Mud Creek to meet Clear Creek Trail near Ball St (see map below). The Active Transportation Advisory Committee agreed that the name "Scull Creek Trail" should be extended north to Clear Creek Trail for continuity even though it will technically follow a section of Mud Creek before the confluence with Clear Creek. The continuation of the "Scull Creek Trail" name was favored to avoid confusion with the current "Mud Creek Trail" which extends east from Scull Creek Trail south of Joyce Blvd.

Alan Long

Active Transportation Advisory Committee Chair

Added at

Mynda Susan 8/27/13

AGENDA REQUEST

FOR: COUNCIL MEETING OF September 3, 2013

FROM:

**CITY COUNCIL MEMBER ADELLA GRAY
MAYOR JORDAN**

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution amending the Fayetteville Government Channel's mission statement, goals statement and operating policies, as approved by Resolution No. 180-10, to prohibit the recording or televising of meetings of the Nominating Committee of the City Council by the Fayetteville Government Channel

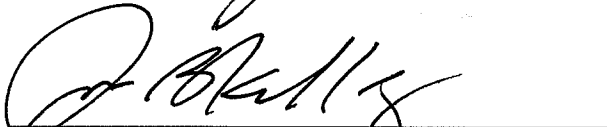
APPROVED FOR AGENDA:


City Council Member Adella Gray

8/27/13
Date


Mayor Jordan

8/27/13
Date


Assistant City Attorney Jason Kelley
(as to form)

8/27/13
Date

Tabled on the 9/3/13 CC meeting until the October 1, 2013 CC mtg.

RESOLUTION NO. _____

A RESOLUTION AMENDING THE FAYETTEVILLE GOVERNMENT CHANNEL'S MISSION STATEMENT, GOALS STATEMENT AND OPERATING POLICIES, AS APPROVED BY RESOLUTION NO. 180-10, TO PROHIBIT THE RECORDING OR TELEVISIONING OF MEETINGS OF THE NOMINATING COMMITTEE OF THE CITY COUNCIL BY THE FAYETTEVILLE GOVERNMENT CHANNEL

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 amends the Fayetteville Government Channel's Mission Statement, Goals Statement and Operating Policies, as approved by Resolution No. 180-10, by inserting at the end of page 11 thereof, the following:

"Notwithstanding any provision herein to the contrary, no meeting of the Nominating Committee of the City Council shall be recorded or televised by the Fayetteville Government Channel."

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

RESOLUTION NO. 180-10

A RESOLUTION TO ADOPT A NEW MISSION STATEMENT, GOALS STATEMENT AND OPERATING POLICIES FOR THE FAYETTEVILLE GOVERNMENT CHANNEL

WHEREAS, Government Channel Manager Fritz Gisler was requested by the Fayetteville Government Channel Policy Subcommittee to research best practices of government channel policies; and

WHEREAS, Fritz Gisler conducted such research and drafted a proposed new policy which was approved by the Fayetteville Communications Director and the Fayetteville Telecommunication Board.

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 adopts the Fayetteville Government Channel's **Mission Statement, Goals Statement and Operating Policies** as attached as Exhibit A to replace the existing policy which shall no longer be in effect upon the approval of this replacement policy.

PASSED and APPROVED this 19th day of October, 2010.

APPROVED:

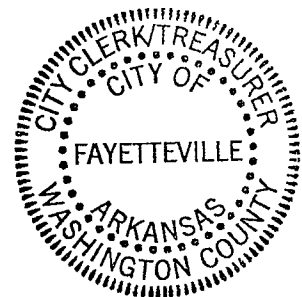
ATTEST:

By:


LIONELD JORDAN, Mayor

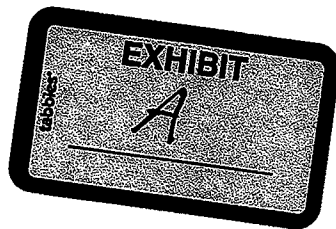
By:


SONDRA E. SMITH, City Clerk/Treasurer



The Fayetteville Government Channel

MISSION STATEMENT, GOALS STATEMENT & OPERATING POLICIES



OPERATING POLICIES

The Fayetteville Government Channel Manager is responsible for generating program ideas, and for implementing and overseeing their production, either directly, or by delegation. The Channel Manager reports directly to the Director of Communication. All operational, production and programming decisions are to be made by the Channel Manager according to these policies and guidelines.

Mission Statement

The mission of The Fayetteville Government Channel is to make Fayetteville government more accessible and understandable to the citizens of Fayetteville; to inform residents on City government, government services, and community life; and to facilitate the exchange of public information.

Goals

The Fayetteville Government Channel will accomplish its mission through the following goals:

1. To increase citizen access to City government meetings through live and recorded gavel-to-gavel televised coverage.
2. To inform citizens on the operations and activities of Fayetteville City government and its agencies.
3. To provide informative television programs of interest and value to residents which are not otherwise available or provided by other sources.
4. To provide programming that is fair, accurate, balanced and without regard to partisanship or ideology.
5. To cover public issues of concern to residents.
6. To develop professional quality programming for telecast on The Fayetteville Government Channel.
7. To provide programming through which the quality of community life may be improved and viewership of The Fayetteville Government Channel may be increased.
8. To provide services within reasonable accommodation to afford an individual with a disability an equal opportunity to participate in and enjoy the benefits of The Fayetteville Government Channel.
9. To provide residents a source of direct unfiltered information in emergency situations.
10. To create and maintain a library of programming for historical preservation.
11. To work with the local media to promote accurate, complete coverage of Fayetteville City Government.

Program Requests & Eligibility

1. All department heads, or their designee, and City government officials are eligible to request programs or air time within the scope of services provided by the Fayetteville Government Channel.
2. The Fayetteville Government Channel is not a public access channel provided for residents, organizations or civic groups. These requests will be referred to the public access entity.
3. The Fayetteville Government Channel shall not be used to produce video programming for private or commercial organizations.
4. The Fayetteville Government Channel may collaborate with other public agencies and similar organizations to develop programming that further serves the public interest, as determined by the Channel Manager. These organizations may include, but are not limited to, non-profit organizations, other government agencies and community organizations.
5. Requests for programming must be made in writing. Requests may be made via email. Requests for programming will be responded to within thirty (30) days of the request. Requests for regular meeting coverage only need be renewed once per year. City government departments and agencies requesting a video program must be willing to assist in producing the program if asked to do so. This may include providing financial assistance, furnishing necessary information, gathering together persons and props to be used in the program, and making on-air presentations as deemed necessary by the Channel Manager.

Programming

Production of quality, effective video programming requires experienced technical support. A goal of the Fayetteville Government Channel staff is to serve City of Fayetteville citizens and assist City government employees by producing high-quality, informative video programs about their local government.

- 1) New programming must meet at least one of the following criteria to be eligible for production:
 - a) The programming is about Fayetteville; the City, its residents, its employees, its elected officials, and/or its appointed officials.
 - b) The programming is a non-commercial public service to residents.
 - c) The programming serves to promote Fayetteville as a community.
 - d) The programming serves as communication from Fayetteville City employees to residents.
 - e) The programming helps to further a mission of a Fayetteville City government department or agency.
- 2) Programming will be denied if it does not meet all of the following criteria:
 - a) The programming shall not include slanderous, lewd, obscene, indecent or violent material or language. When questions arise as to the admissibility of material or language in this regard, the material will be reviewed subject to state and/or local law, and the FCC definition of "indecent" as "programming that describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards for a cable medium."
 - b) The programming shall not include any material that the Channel Manager determines to be potentially defamatory or slanderous.
 - c) The programming shall not coerce anyone to support or participate in religion or its exercise, or otherwise act in a way which "establishes a [state] religion or religious faith, or tends to do so."

- d) The programming shall not include paid advertising. The Fayetteville Government Channel is a noncommercial channel. Advertising is prohibited. Program underwriters shall only receive credit during the opening and/or closing credits of the program.
- e) The programming shall not include direct appeals to purchase commercial goods or services or promote activities of for-profit, commercial groups or organizations.
- f) The programming shall meet technical quality standards including, but not limited to:
 - i) Master Copies of programs and PSAs must be on one of the following media formats or an equivalent format: DVD, DVCam, or professional DV.
 - ii) Copies of programs or PSAs submitted for telecast on The Fayetteville Government Channel must be on DVD or a professional DV tape format.
 - iii) At the conclusion of each program or PSA there should be at least one (1) second of black.
 - iv) The video and audio levels on the program must meet professional technical standards.
- g) The programming shall be direct, non-editorial information regarding the operation of the City government, the deliberations of City government or events sponsored by City government, either directly or indirectly. The Fayetteville Government Channel shall not serve as a mechanism for building support for a particular policy, program or issue. This exclusion does not apply to the Mayor. As Chief Executive for the City government, the Mayor is exempt from requirements to address all sides of a particular issue.
- h) The programming shall not include declared candidates for elected office within the time frame of ninety (90) days preceding an election, and the period of time between a primary and general election. Candidates for elected office may not use the channel as a part of a campaign effort. This exclusion does not apply to persons who receive air time as part of official City government meeting coverage, special election coverage and coverage of the Mayor performing official duties, which warrant telecasting. The Channel Manager shall decide if equal time for opposing candidates is necessary to balance the coverage of an incumbent candidate's performance of official duties.
 - i) This exclusion shall not apply to candidates appearing within a program as interview sound bites to help explain a topic, as one of several people interviewed. This is considered to be "news coverage".
 - ii) This exclusion shall apply to candidates addressing the television audience directly in a produced segment or program.
 - iii) This exclusion does not apply to candidates speaking as part of a non-campaign press conference. This is considered coverage of a candidate's official duties as an elected official.
- i) The programming shall not include copyrighted materials unless written permission has been obtained from the copyright holder. Copyright permission must be obtained for all programs produced by outside sources that are telecast by The Fayetteville Government Channel.

Programs and Program-Series Content

1) Programming may include:

a) Public Meeting Coverage:

- i) The Fayetteville Government Channel is responsible for providing television coverage of official regularly scheduled City Council meetings held in Council Chambers.
- ii) Live coverage of regularly scheduled and special City Council meetings shall be the production and programming priority of The Fayetteville Government Channel. Program schedule adjustments will be made to accommodate irregular starting times and irregular run times of these meetings.
- iii) Coverage of regularly scheduled and special City Council Committee meetings shall be provided by and telecast by The Fayetteville Government Channel. Program schedule adjustments will be made to accommodate irregular starting times and irregular run times of these meetings.
- iv) Coverage of official meetings of other City of Fayetteville government boards, commissions and agencies will be at the discretion of the Channel Manager based upon staff and facility limitations and programming objectives. Regular coverage of these meetings will be established by written request to the Channel Manager by the City staff member who is liaison with each particular government board, commission or agency. Priority of coverage shall be established by the Director of Communication.
- v) Each year the Director of Communication and the Channel Manager shall review the list of coverage of regularly scheduled meetings. Continued coverage of each meeting shall be confirmed with the City staff member who is liaison with each particular government board, commission or agency.
- vi) Coverage of special call meetings shall be based upon staff and facility limitations. Requests for coverage of a special call meeting must be presented in writing to the Channel Manager as early as possible, but no less than 4 hours, before the scheduled meeting.
- vii) To cancel coverage of a regularly scheduled meeting, the cancellation notice must be presented in writing to the Channel Manager as early as possible before the scheduled meeting. The Channel Manager may provide notification on the Channel of the canceled meeting.
- viii) Coverage of public meetings will be gavel-to-gavel. The meetings will be replayed in their entirety. Any editing will only occur for the addition of title and credit graphics for telecasting of taped replay; graphics that are presented as part of the meeting; coverage lost due to technical considerations; and to reduce the length of extended breaks in official proceedings. This provision does not exclude the use of clips from meetings for an informational purpose separate from the meeting coverage. This provision does not exclude the use of clips or graphics presented at meetings for an informational purpose separate from the meeting coverage.
- ix) When a televised meeting goes into "closed session", the Fayetteville Government Channel meeting producer may display a message describing the current status of the meeting, remain on a wide shot of the room with no meeting room audio, or play taped segments during the break. When a televised meeting goes into "recess", the Fayetteville Government Channel meeting producer will follow the above procedure or continue live coverage of the meeting room during the break.
- x) The Fayetteville Government Channel is not required to cover meetings in which no official business may be conducted due to lack of quorum, agenda or any other factor.
- xi) Recordings of meetings are intended for telecasting purposes only and shall not be

considered the official record of the meetings.

(1) Provision of a copy of the meeting recording does not imply reliance on a complete or error-free duplication of the meeting.

(2) Staff shall not be held responsible of accidental erasure or loss of the meeting recordings.

b) Emergency Message Programming

- i) The channel may be used to facilitate communications with residents during a declared emergency.
- ii) Emergency programming will be subject to staff and facility limitations.

c) News Magazine Programs

- i) A magazine-format series shall be produced by Fayetteville Government Channel on a regular basis as a news and information program.
- ii) Programs will focus on local issues, special activities, events and City government services.

d) Documentaries

- i) Documentary-style programs may be produced by Fayetteville Government Channel.
- ii) These programs are to be more in-depth than the magazine-style programming.

e) Special Event Coverage

- i) Coverage of special events may be provided based upon staff and facility capabilities.
- ii) Special event coverage may include press conferences, special call meetings and other City government sponsored events.

f) News Conferences/Media Briefings

- i) Coverage of news conferences and media briefings may be provided by Fayetteville Government Channel, based upon staff and facility capabilities.
- ii) The Channel Manager shall work with the Mayor's Director of Communication to determine which mayoral news conferences and media briefings should be covered.
- iii) Press conferences/media briefings may be edited for content and replay.

g) Public Service Announcements (PSAs)

- i) PSAs for government activities and events may be produced for City government departments and agencies.
- ii) PSAs from other agencies or sources, including but not limited to nonprofit agencies and local municipalities, will be considered based upon The Fayetteville Government Channel operating policies and goals.
- iii) Requests for announcements should be received in writing at least 2 weeks in advance of the desired start date of airing. Requests may be submitted via electronic mail. Exceptions apply to messages of an emergency nature that affect residents' health and safety.
- iv) Efforts will be made to provide voice-over for all public service announcements.

h) Election Coverage

- i) The Fayetteville Government Channel may provide television programming pertaining to elections held in the Fayetteville – Washington County area. The scope and format of such coverage shall be determined by the Channel Manager. Any coverage shall place an emphasis on elections held to fill positions on the Fayetteville City Council and for City-wide elected officials.
 - ii) The Channel Manager may work with the County Clerk and Board of Elections to produce material announcing pre-election administration information.
 - iii) Election programming may include the following components:
 - (1) An interview program for candidates, including standardized questions and follow-up questions.
 - (2) An opportunity for candidates to make short statements on their candidacy.
 - (3) A debate-style program for candidates, organized by party affiliation and/or desired office.
 - (4) A program to allow residents to ask questions of the candidates.
 - iv) For programming featuring registered candidates, all registered candidates for that given office shall be invited to participate in the election coverage.
 - v) The Channel Manager shall ensure that any program featuring registered candidates is fairly balanced with programming featuring their opponents. In cases where one or more candidates in a given race choose not to be included, the participating candidates will receive balanced coverage in comparison to a similar race.
 - vi) For any programming pertaining to a ballot issue, all sides of the issue must be represented in a fair and equitable manner.
- i) Other
- i) Programs may be produced which do not fit into any existing program series. These programs will be considered "specials" and may be of any format. These programs must comply with the requirements for new programming on The Fayetteville Government Channel.
- j) Outside programming
- i) Programming may be acquired from organizations or entities other than Fayetteville City government. This programming must meet the following criteria:
 - (1) Meet the appropriate technical standards, as determined by Fayetteville Government Channel staff.
 - (2) Fit within the mission, goals and policies of The Fayetteville Government Channel.
 - (3) Be sponsored by a Fayetteville City official or agency (which may include Fayetteville Government Channel staff).
 - ii) Programming available at a cost less than \$500 may be paid for by Fayetteville Government Channel at the discretion of the Channel Manager. The following criteria will be evaluated in making a decision:
 - (1) The relevance of the program content to the overall goals of the City Council and Mayor.

- (2) The relevance of the program content to the mission and goals of The Fayetteville Government Channel.
 - (3) The impact of the program acquisition on the overall Fayetteville Government Channel budget.
- iii) If The Fayetteville Government Channel decides to not fund a program series, the request for the program will be held for consideration during the next budget cycle.
 - iv) Programming available at a cost of \$500 or more will be considered under a yearly review process established by the Channel Manager and the Director of Communication. Departments may submit requests for programming acquisition at any time. These requests will be held for consideration during the next review period.
 - v) Departments, agencies and elected officials of Fayetteville City government may elect to purchase programming and broadcast rights from their agency budgets to submit for consideration under these policies.
 - vi) The Channel Manager will determine the playback schedule of all acquired programming on The Fayetteville Government Channel in accordance with the playback schedule section of these policies. The replay and scheduling of acquired programming will be a lower priority than programming produced directly by The Fayetteville Government Channel. Programming produced by The Fayetteville Government Channel may preempt these replays at the discretion of the Channel Manager.
- 2) It is the goal of The Fayetteville Government Channel to produce series-type programming.
 - a) A program series is a group of television programs produced with the same primary communication objective.
 - b) The programs in a series should be produced on a regular basis.
 - c) The Channel Manager shall decide which programs to produce as a series, and shall supervise their production and regulate their format and frequency.
 - 3) Programming is not intended to be used as a mechanism for building exclusive support for a particular person, program or issue. Any topic of debate or controversy will be presented in a fair, balanced and accurate manner without regard to partisanship or ideology.
 - a) Coverage of all government meetings shall be telecast in their entirety without a requirement for balancing of an issue presented at that public meeting. Any person requesting for presentation of an opposing viewpoint will be directed to the appropriate meeting chair.
 - b) Coverage of mayoral press conferences and media briefings shall be telecast without a requirement for balancing of an issue presented. As Chief Executive for the City government, the Mayor is exempt from requirements to address all sides of a particular issue.
 - c) Programs covering a local issue or policy may be controversial both to the general public and among elected officials. The Channel Manager shall make every effort to ensure balance within a program.
 - d) Any requests for balancing of a particular program may be made in writing to the Channel Manager within ten (10) business days of its initial telecast. The Channel Manager will determine if balancing is required. An appeal to this decision may be made following the procedure for appeals outlined in these policies.
 - e) The Channel Manager may find it necessary to allow balancing of a particular program by allowing both proponents and opponents an opportunity to present both sides of the issue. Methods to balance an existing program may include, but not be limited to, the following:
 - i) Accepting unsolicited requests for telecast time from Fayetteville citizens or organizations

with opposing viewpoints. The request for presenting an opposing viewpoint must be made in writing to the Channel Manager. Upon affirmative action of the Channel Manager, an appointment time of fifteen (15) minutes or less will be scheduled with the requesting party to record a statement of no greater than two (2) minutes for telecast on The Fayetteville Government Channel.

Written copies of the commentaries must be submitted no later than 24 hours in advance of the recording time. Commentaries are subject to the programming requirements included in these policies. No supporting materials including, but not limited to, full-screen graphics and pre-recorded video will be added to the statement. The statement will be taped in a "head-and-shoulders" format.

- ii) Alternate methods may include, but are not limited to, a documentary program covering the opposing viewpoints, and solicitation of opposing viewpoints at the beginning and end of the program.
- f) The Channel Manager shall determine playtimes for commentaries or other programs designed to provide balance.
- 4) Opinions expressed on the channel may not necessarily reflect those of the City Council, the Mayor or City Government staff. A disclaimer stating such will air at random times on the channel.
- 5) Airtime may be provided to non-profit organizations serving the Fayetteville City area under the following guidelines. The level of service will be at the discretion of the Channel Manager based upon staff and facility limitations.
 - a) The non-profit agency must have current 501(c)3 non-profit status with the Internal Revenue Service.
 - b) The non-profit agency must receive funding from Fayetteville City government.
 - c) If Fayetteville City government funding is directed to a particular project, programming on Fayetteville Government Channel may be limited to that project.
 - d) The programming must meet all other criteria of the Fayetteville Government Channel Operating Policies.
- 6) Any department or agency using Fayetteville Government Channel resources bears sole responsibility for the content and material used in all programs produced by and for them, including but not limited to, obtaining necessary releases, obtaining copyright clearances and complying with Fayetteville Government Channel policies and procedures.
- 7) Programming produced for telecast on The Fayetteville Government Channel shall take precedence over the production of internal communication and training materials. The Fayetteville Government Channel may charge for the production of programming for internal use.

Programming/Telecast Schedule

- 1) The Channel Manager is responsible for determining the Fayetteville Government Channel Program Schedule in accordance with the following guidelines:
 - a) Programming is to be telecast 24-hours per day.
 - b) To maximize viewership of programs, they will be telecast in the following order of priority:
 - i) Announcements or programs concerning emergencies that affect the health or safety of residents of the City of Fayetteville
 - ii) Live coverage of public meetings
 - iii) Pre-recorded coverage of public meetings

- iv) Replayed coverage of public meetings
- v) Reoccurring program series
- vi) Press briefings
- vii) One-time special or non-regular informational programs.
- viii) Public service announcements
- ix) Programs of interest to area residents that are produced by persons, agencies, or groups outside of City government and are submitted by Fayetteville City departments

Program Underwriting

- 1) Underwriting may be obtained to help fund production and operating costs of The Fayetteville Government Channel and to increase the variety of programming provided.
- 2) Coverage of official meetings of Fayetteville City government may not receive corporate underwriting, except for the purpose of funding costs for closed captioning services.
- 3) Acknowledgements for underwriting are not commercial advertising. The acknowledgements shall not include qualitative or comparative language, price information, indications of value or savings, a call to action, or an endorsement or inducement to buy, sell, rent or lease a product or service.
- 4) The acknowledgement may include the name of the business and logo.
- 5) A total of fifteen (15) seconds of audio/video may be tagged at the beginning and end of the program. The voice-over announcement on the tags will contain the following: *"This program was made possible in part through the generous support the following: [company names]."* or equivalent language. The company(s) must have expressed permission for all material used in the acknowledgement.
- 6) Underwriting will not be accepted from any business, organization, or individual whose primary concern is, or is related to, businesses or activities including, but not limited to:
 - a) Promotion of political positions or candidates
 - b) Gambling, lotteries or gaming
 - c) Alcohol and/or tobacco related products
 - d) Adult entertainment or pornography
- 7) Fayetteville City government reserves the right to approve or deny all underwriters.

Program Copyright

- 1) The Fayetteville Government Channel and The Fayetteville City government shall hold the copyright on all programs produced primarily for programming on The Fayetteville Government Channel.
- 2) No programming produced by The Fayetteville Government Channel shall be used for commercial purposes of any kind.
- 3) All media used for production of television programs by the staff of The Fayetteville Government Channel shall remain the property of The Fayetteville Government Channel and The Fayetteville City government.

Duplication/Copy Orders

- 1) The Fayetteville Government Channel will provide copies of meetings aired on the channel pursuant to the Freedom of Information Act.
- 2) The Fayetteville Government Channel may provide copies of other programming aired on the channel upon request.
- 3) The Fayetteville Government Channel will determine legally collectible reproduction charges as allowed by the Arkansas Freedom of Information Act and may require such payment from persons or businesses requesting copies of meetings.
- 4) Copies will be provided on a first-come, first-served basis. Copies will be provided as soon as staff and facility time allows.
- 5) Upon request from local media, The Fayetteville Government Channel will strive to provide copies of meetings and other government events in exchange for a courtesy graphic identifying The Fayetteville Government Channel as the source of the video. The Channel Manager may waive the copy fee for media outlets.

Appeals/Complaints

- 1) The Channel Manager is responsible for all programming and operational decisions in accordance with these policies and mission statement. In the event an applicant or program requestor wishes to appeal the decision of the Channel Manager to deny a program request, a written appeal for review of the request may be made within ten (10) business days after the initial request has been denied to the Director of Communication with a copy to the Channel Manager.

A committee comprised of the Director of Communication, another City Department Director, a selected member of the Telecommunications Advisory Board and a selected member of the City Council will review the appeal. If such committee denies the appeal, further appeal may be made to the City Council as a whole for review. The appeal must be submitted by a member of the City Council selected by the appellant at the next scheduled City Council agenda session.

Amendments to Operating Policies

- 1) These policies may be amended through resolution of the Fayetteville City Council upon recommendation of the Mayor's Director of Communication and the Channel Manager, with input from the Telecommunications Advisory Board.

ADDENDUM A

Extract of

Telecommunications Board Meeting Minutes

September 16, 2010, 5:30pm

Room 219, City Administration

Chairman Aubrey Shepherd called the meeting to order.

Present were Aubrey Shepherd, Fred Cusanelli, and Blake Pennington. Mike Russell came in later. **Not present** were Justin Tennant and Don Bosseau. Also present were Fritz Gisler, the Government Channel Manager; Anne Shelley, Community Access Television Executive Director; Lindsley Smith, City Communications Director; David A. Young, CAT Board secretary; and Jim Bemis, citizen.

...

REVIEW OF GOVERNMENT CHANNEL POLICY

Russell and **Shepherd** brought the subject to the floor. **Jim Bemis** spoke his concerns and referenced Marvin Hilton's comments which were in the meeting packet. Bemis stated the following disapproval of the draft policy:

1. That complete discretionary authority to determine programming is given to the City/manager of the television Center.
2. He does not like the City's proposal of how to deal with complaints and appeals.
3. He does not think the draft reflects the intent of the Ordinance which defines the duties of the Telecommunications Board. He mentioned perhaps the Ordinance should be changed.

Bemis added that the policy which was studied in subcommittee for a total of 6 years was his preference.

Smith asked that Chief of Staff Don Marr's earlier testimony, that the law and what the Council has ruled over the years, be considered in this discussion. **Gisler** re-iterated Marr's concerns expressed in the July Telecommunications Board meeting about issues which will be problematic for the staff to support. The main issue was that words/policies which the City Council had removed have been put back in to the proposed policy.

Shepherd responded that the subcommittee desired to include the ability of residents and Council Members to request forums on Government issues. He said he didn't think it was fair to say that a lot of things had been removed and put back. He agreed with Bemis that this new approach strips the Council of any way of overseeing any aspect of the Government Channel operations.

Gisler answered that in the Staff supported policy there are very specific priorities of programming and very specific language of how that is established. He said it does not take any authority from City Council and that the document would have to be approved by City Council. **Gisler** added that in contrast the proposed 2009 policy takes the fiscal authority away from the City Administration and invests it in private citizens. He said programming priorities were vague in that document. **Gisler** re-iterated that Marr had previously pointed out the loss of fiscal control as an issue.

Shepherd, Gisler and Smith discussed the problem with the inclusion in the 2009 proposed policy about the physical performance by camera operators. Non-editorializing, objectivity and the first amendment were also discussed and **Gisler** emphasized that the draft proposal addresses these adequately and thoroughly.

Smith said that she supported the Staff supported policy and complimented **Gisler's** thorough research. **Smith** also stated that the physical camera operation policy was a problem and that she would speak against it at the City Council meeting.

Russell said that the Board should decide to send on to City Council either the current policy or the City's draft policy. He said he thought it best to take the opinion of those closest to the work. He proposed a vote on either of the two.

Shepherd said there was a third possibility. **Russell** said decide.

Pennington asked if the Board has to make a decision tonight or would the City staff move it forward without recommendation of the Board. **Gisler** said they had not discussed that.

Shepherd questioned how to describe the City staff statements of favor for the Draft policy and **Russell** said that they were telling their point of view. **Shepherd** talked about possible subcommittee meetings for considering the content of the draft policy.

Pennington said that City Council may take it up at any time in the future without Telecommunications Board approval or City Administration recommendation.

Russell again said no more debate. **Shepherd** said maybe never mention it again and maybe nothing has to change. **Pennington** added that City Council charged them to change it.

Russell again said the City staff is a competent group of leaders. He said he believes in less command and control but with oversight.

Cusanelli made the motion to approve the City Staff's version. Pennington seconded.

Bemis restated his concerns about the First Amendment and of complete programming discretion in the hands of City staff, without citizen input except in a small group to consider complaints and appeals and without the Telecommunications Board as a buffer. He stated he thinks all operational procedures should be developed from policies developed by this Board.

Russell asked **Gisler** to respond to Bemis. **Gisler** said the First Amendment rights are essential and that the channel strives to support Mayor Jordan's, Senior Staff's and City Council's commitment to make the City Government more open and accessible to the citizens of Fayetteville. **Gisler** said not one thing in the Staff supported document detracts from that. He said the channel wants the Telecommunications Board support in making the channel more forward moving and not mired in micromanaging by an old policy. He said the staff supported policy has a very specific appeals process. **Gisler** stated that he supports the Staff supported document which will need to grow and deal with things as they come along.

Smith stressed that nothing in the draft policy violates the First Amendment or any other law.

Shepherd and Russell talked about the public's access to knowing what the draft policy included. Russell said discussion in the Telecommunications meetings provided information.

The motion passed. 3 ayes. 1 nay (Shepherd)

City Clerk - Fwd: Fayetteville Citizen's Comments

From: "Tyler B. Clark" <tylerbclark@gmail.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 9/2/2013 2:40 PM
Subject: Fwd: Fayetteville Citizen's Comments

Sondra,

Could you please share my thoughts with all the alderman and administrative staff?

I cannot attend the City Council meeting on Tuesday, but I wanted to share my thoughts.

I have deep concerns and reservations about Fayetteville Government Channel's Mission Statement Amendment specifically televising of the nominating committee.

Let me first say, I am very supportive of a transparent government and proud of the information the channel provides. However, I do not support the proposal that would allow the broadcast of the nomination process and interviews. As a previous applicant to a city commission, I feel that this would be a **deterrent** for potential applicants. Additionally, I don't think that the discussion between aldermen about applicants and applications would be appropriate to broadcast. I hope you will consider this prospective when you make your vote.

Thank you,

Tyler Clark

Fayetteville Resident

--

Tyler B. Clark

iPhone: 479-841-7279

Chairman, Democratic Party of Washington County

PO Box 864 | Fayetteville, AR | 72702
about.me/tylerbclark | washcodemocrats.org

"A hero is no braver than an ordinary man, but he is brave five minutes longer." -Ralph Waldo Emerson

--

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City Council Agenda Items
and
Contracts, Leases or Agreements

9/17/2013

City Council Meeting Date
Agenda Items Only

Paul A. Becker

Submitted By

Finance & Internal Services

Division

Finance & Internal Services

Department

Action Required:

City Council is requested to adopt real and personal property tax rates for 2013 for the Policemen's Pension & Relief, the Firemen's Pension & Relief Funds, and the Fayetteville Public Library. The rate to be adopted for the Policemen's Pension & Relief Fund and the Firemen's Pension & Relief Fund is 0.4 mils for real property and 0.4 mils for personal property, the millage for the Fayetteville Public Library is 1.0 mil for real property and 1.0 mil for personal property. City Council is also requested to adopt real and personal property tax rates for 2013 for the City's General Fund. The rate requested for the City's General Fund is 1.3 mils for real property and 1.3 mils for personal property.

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

Budgeted Item ☐Budget Adjustment Attached ☐

<u>Paul A. Becker</u>	<u>8-29-2013</u>	Previous Ordinance or Resolution #	<u>5530</u>
Department Director	Date		
<u>[Signature]</u>	<u>8-29-13</u>	Original Contract Date:	_____
City Attorney	Date	Original Contract Number:	_____

<u>Paul A. Becker</u>	<u>8-29-2013</u>	Received in City Clerk's Office ENTERED 8/29/13
Finance and Internal Services Director	Date	
<u>[Signature]</u>	<u>8-30-13</u>	Received in Mayor's Office ENTERED 8/29/13
Chief of Staff	Date	
<u>[Signature]</u>	<u>8/30/13</u>	
Mayor	Date	

Comments:

This ordinance was left on the 2nd Reading at the 9/17/13 CC mtg

H:\Budget\PROJECTS\Property Tax\2013 Agenda Item\Agenda Request - 2013 Property Tax



THE CITY OF FAYETTEVILLE, ARKANSAS

www.accessfayetteville.org

TO: Mayor Lioneld Jordan and Fayetteville City Council

THRU: Don Marr, Chief of Staff

FROM: Paul A. Becker, Finance Director

DATE: August 29, 2013

SUBJECT: **2013 Millage Levy**

Recommendation:

City staff recommends that City Council approve the millage levy ordinance approving the 0.4 mils for the Policemen's Pension and Relief Fund, 0.4 mils for the Firemen's Pension and Relief Fund, 1.0 mils for the Fayetteville Public Library, and 1.3 mils for 2014 General Fund operations. This will continue the same millage as levied last year.

Background:

Each year the City must approve an ordinance to renew the levy of ad valorem taxes on real and personal property within the City. This request will provide for such levy on property assessed during 2013.

The total assessed value of real and personal property located within the city limits of Fayetteville, as of July 30, 2013, is approximately \$1.314 billion. The assessed valuation is before the Washington County Board of Equalization has made all the changes to the County Assessors Abstract. Based on the preliminary assessments, the growth in real property assessments is approximately 1.36% as of July 30, 2013.

Discussion:

A millage levy ordinance must be approved by City Council in order for the City to continue to collect property taxes for the Policemen's Pension and Relief Fund and the Firemen's Pension and Relief Fund. The millage levy for the Policemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils on personal property. The millage levy for the Firemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils on personal property as was approved by referendum.

A millage levy ordinance must be approved for the operation of the Fayetteville Public Library and that was approved by the voters on October 1, 2002. The millage levy for the Fayetteville Public Library is 1.0 mils for real property and 1.0 mils on personal property.

Finally, City staff is requesting that City Council approve a millage levy ordinance for General Fund operations in the amount of 1.3 mils for both real and personal property.

The 2014 proposed property tax revenue amount based on the 1.3 mil levy is estimated to bring in \$1,623,000 in General Fund revenue. Below is a proposed calendar of meetings during the months of September and October to discuss the millage levy.

Tuesday, September 10	Agenda Session
Tuesday, September 17	City Council Meeting
Tuesday, September 24	Agenda Session
Tuesday, October 1	City Council Meeting
Tuesday, October 8	Agenda Session
Tuesday, October 15	City Council Meeting

Budget Impact:

The 0.4 mils Police and 0.4 mils Fire is needed to fund the Pension plans for both. The 1.0 mils is used to fund the operation of the Fayetteville Public Library. The 1.3 mils will be used to fund General Fund operations.

Conclusion:

The millage levy must be at Washington County in time to be included in their consolidated levy ordinance which will be approved at the November 21, Quorum Court meeting. The deadline for receipt of the City's levy by the County is October 31. The City levy will be added to the levies by Washington County, the various school districts, improvement districts and other cities within the County when the Washington County Quorum Court adopts its millage levy for 2013.

The administration is requesting the same millage rate as was approved in 2012 as follows:

- 1.3 mils for General Fund Operations
- 1.0 mils for the Fayetteville Public Library
- 0.4 mils for the Police Pension Fund
- 0.4 mils for the Fire Pension Fund

If you have any questions concerning this agenda request please contact me at 575-8330.

City of Fayetteville
Property Tax Revenue per Mil
July 30, 2013

<u>Millage</u>	<u>Approximate Revenue</u>
0.10	\$ 125,000
0.20	\$ 250,000
0.30	\$ 375,000
0.40	\$ 499,000
0.50	\$ 624,000
0.60	\$ 749,000
0.70	\$ 874,000
0.80	\$ 999,000
0.90	\$ 1,124,000
1.00	\$ 1,248,000
1.20	\$ 1,498,000
1.30	\$ 1,623,000
2.00	\$ 2,497,000
2.10	\$ 2,622,000
2.60	\$ 3,246,000
3.10	\$ 3,870,000
3.60	\$ 4,494,000
4.10	\$ 5,118,000
4.60	\$ 5,743,000

The millage revenue reflected above is based on the Washington County Preliminary Report of County Assessments for the Year 2013 dated July 29, 2013 and includes real and personal property for Utilities. The City Council can approve up to 5.0 mils for operations. The table assumes a 95% collection rate. Total real and personal property assessments for 2014 amount to approximately \$1,289 million excluding real estate and personal property for utilities.

Property Tax Impact Illustration

	<u>Appraised Value</u>	<u>Assessed Value</u>	<u>1 Mil Tax / Year</u>
Single Family Home	\$ 75,000.00	\$ 15,000.00	\$ 15.00
Single Family Home	\$ 100,000.00	\$ 20,000.00	\$ 20.00
Single Family Home	\$ 150,000.00	\$ 30,000.00	\$ 30.00

ORDINANCE NO. _____

AN ORDINANCE LEVYING A TAX ON THE REAL AND PERSONAL PROPERTY WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE YEAR 2013 FIXING THE RATE THEREOF AT 1.3 MILLS FOR GENERAL FUND OPERATIONS, 0.4 MILLS FOR THE FIREMEN'S PENSION AND RELIEF FUND, 0.4 MILLS FOR THE POLICEMEN'S PENSION AND RELIEF FUND AND 1.0 MILL FOR THE FAYETTEVILLE PUBLIC LIBRARY; AND CERTIFYING THE SAME TO THE COUNTY CLERK OF WASHINGTON COUNTY, ARKANSAS

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

Section 1. That a tax is hereby levied on the real and personal property within the City of Fayetteville, Arkansas, for the year 2013 to be collected in 2014 for the following purposes at the following rates:

REAL AND PERSONAL PROPERTY

<u>Purpose</u>	<u>Levy</u>
General Fund-Operations	1.3 mills
Fayetteville Public Library	1.0 mills
Policemen's Pension and Relief Fund	0.4 mills
Firemen's Pension and Relief Fund	<u>0.4 mills</u>
TOTAL	3.1 mills

Section 2. That the real and personal property tax so levied and the rates provided therefor are hereby certified to the County Clerk of Washington County, Arkansas, to be placed in the tax book and collected in the same manner that the county and school district taxes are collected.

Section 3. The City Clerk is hereby authorized and directed to file certified copies of this Ordinance in the office of the County Recorder, County Clerk, County Assessor, and the County Tax Collector for Washington County, Arkansas.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

AGENDA REQUEST

FOR: COUNCIL MEETING OF September 17, 2013

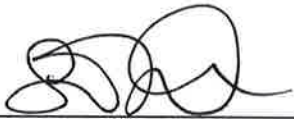
FROM:

CITY COUNCIL MEMBER SARAH MARSH

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An ordinance to amend § 164.11 **Height and Setback Regulations; Exceptions** to enhance livability through appropriate transitions in building scale and to protect access to air and sunlight and to enact an emergency clause

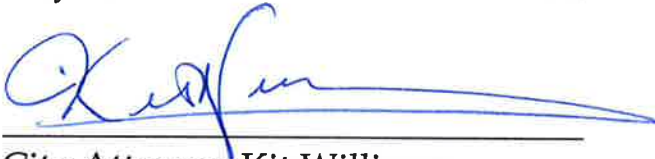
APPROVED FOR AGENDA:



City Council Member Sarah Marsh

9/4/2013

Date



City Attorney Kit Williams
(as to form)

9-3-13

Date

This Ordinance was left on the 1st Reading at the 9/17/13 CC mtg



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, Senior Planner-Current Planning

FROM: **Kit Williams**, City Attorney

DATE: **August 28, 2013**

RE: **Preservation of homeowners' rights to sunlight and air**

City Council Member Sarah Marsh has asked me to draft an amendment to § 164.11 **Height or Setback Regulations; Exceptions** within the **Supplementary Zoning Regulations** Chapter of the Unified Development Code to help preserve and protect historic homes and the historic nature of the Downtown and Entertainment areas of Fayetteville.

As many remember, the Downtown Master Plan recognized and sought to protect the livability of the single family homes within the Downtown Master Plan. The Mayor and City Council have sought to ensure the mixed use and walkable nature of the Downtown and Entertainment District by fostering the preservation of the many historic single family homes still used as residences. Unfortunately, the zero side setback and immediate 84 foot height of the building's wall which is permitted in Main Street Center threatens the livability of adjoining single family homes in our downtown area.

In order that homeowners be ensured sufficient sunlight and air for their homes to be livable and for homeowners to utilize solar energy, a minimum side and rear setback from new large and tall multifamily, commercial and mixed use buildings should be required. Preserving some sunlight is also necessary to protect existing trees and other plants to preserve the historic residential landscape within a more urban architectural setting.

I suggest a minimum side and rear setback of 15 feet which is not dissimilar to setbacks in traditional residential zoning districts and currently required in the Community Services Zoning District (copy attached). I further suggest an initial building height limitation of 30 feet at this setback location which is what is currently required in Residential Multifamily Districts (RMF-6, RMF-12, RMF-18 and RMF-24) for an additional 15 foot stepback (copy attached). At thirty (30) feet from the single family residence's property line, the new multifamily and commercial construction in Main Street Center and Urban Thoroughfare could jump to 84 feet and in Downtown General and Community Services could go up to its maximum of 56 feet.

Without such modest setback and stepback requirements, a developer could build an 84 foot wall for his building on the single family home's property line. A Downtown and Entertainment District homeowner who wanted to live in their home could find herself or himself surrounded by 84 foot high walls on both side property lines and on the rear property line. The home would then be stuck within a 84 foot deep cave without adequate sunlight for solar energy, trees and plants. Indeed, this walled in and almost constantly shaded house would be thrust into an unhealthy environment of mold and mildew.

These modest setbacks and stepbacks would at least provide some sunlight and air protection for existing homeowners without substantial loss of density for the developers. When these homes were built and zoned residential, they had substantial sunlight protection not only from setbacks, but because an adjoining house could only occupy less than half of the lot's area. There are no such protections in Main Street/Center, Downtown Core, or Downtown General. This ordinance would reinstate some sunlight protection and give the homeowner some protection from the 84 foot deep cave.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND § 164.11 HEIGHT AND SETBACK REGULATIONS; EXCEPTIONS TO ENHANCE LIVABILITY THROUGH APPROPRIATE TRANSITIONS IN BUILDING SCALE AND TO PROTECT ACCESS TO AIR AND SUNLIGHT AND TO ENACT AN EMERGENCY CLAUSE

WHEREAS, appropriate transitions in building scale enhance livability and architectural cohesion in mixed-use areas, helping to enrich our built environment by promoting the compatibility of new development with historic structures; and

WHEREAS, Fayetteville homeowners' rights to adequate sunlight and room for air and wind should be protected; and

WHEREAS, preservation of the many homeowners' single family residences used as homes in the Downtown Master Plan District and other areas with inadequate setback protection from large and tall buildings require that minimum side and rear setbacks and upper story setbacks be enacted to ensure adequate sunlight, wind and air for these homes to remain attractive and healthful places to live; and

WHEREAS, residential homeowners who wish to install solar panels or passive solar heat collectors, etc. must have enough protected access to sunlight for these ecological and green technology products to work effectively; and

WHEREAS, trees and other plants within the yards of homes also need adequate sunlight that reasonable setback and setback regulations can ensure.

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 § 164.11 **Height of Setback Regulations; Exceptions** by amending its title to be: "**Height of Setback Regulations; Exceptions and Home Protection Requirements**" and by enacting a new (C) *Home Protection Requirements* as shown below:

Page 2
Ordinance No.

“(C) Home Protection Requirements.

Regardless of any other setback or build-to zone regulations, new multifamily, commercial, or mixed use construction which adjoins or abuts a single family home being used as a residence must at a minimum be set back from the side or rear adjoining property line at least fifteen (15) feet. The maximum height of the new building from the fifteen foot setback shall be thirty (30) feet for an additional fifteen (15) foot stepback from the residence’s property line. These setback and stepback requirements are minimums so that, if larger setbacks or stepbacks are required by other zoning laws, the larger setback/stepbacks are controlling.”

Section 2. Emergency Clause. That the City Council of the City of Fayetteville, Arkansas hereby determines that preservation of access and right to sunlight and adequate room for air and wind are vital necessities for houses used for residential purposes and that large multifamily, commercial, or mixed use development projects planned or proposed to be built with zero setbacks next to existing homes threaten the peace, health and safety of Fayetteville citizens such that it is necessary for the public peace, health and safety that this ordinance shall become effective without delay.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Current law

Fayetteville Code of Ordinances

following the sale. Any such signs not so removed the following day, or located in public rights-of-way may be removed by city staff and for any such sign removed a collection fee shall be imposed.

(Code 1991, §160.103; Ord. No. 3970, § 3, 5-7-96; Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross-reference(s)--Signs, Ch. 174.

164.11 Height or Setback Regulations; Exceptions

(A) The height limitations contained in the Zoning Regulation, Chapter 161, do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(B) *Side Setbacks.* In zoning districts that permit two, three or other multi-family residential uses, side setbacks may be varied to permit common walls between single family attached / townhouse dwellings, subject to all applicable building and fire codes and the following standards:

(1) The total number of dwelling units on the lot, prior to being subdivided into single family attached / townhouse lots, shall conform to the minimum bulk and area requirements of the underlying zoning district.

(2) The townhouse development shall conform to the zoning district density, exterior setback requirements, height regulations and all other applicable city ordinances.

(3) There shall be a minimum lot width of 18 feet for each dwelling unit.

(4) There shall be no minimum lot area requirement unless otherwise specified by the underlying zoning district.

(Code 1965, App. A., Art. 8(6); Ord. No 1747, 6-29-70; Ord. No. 2555, 8-21-79; Code 1991, §160.113; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5225, 3-3-09; Ord. 5327, 6-1-10)

164.12 Nonconforming Structures, Uses And Lots

It is the intent of this section to regulate nonconforming structures, uses or lots that are created when zoning designations or regulations are created or changed such that an existing lawfully established structure, use, or lot no longer conforms

to the regulations of the Unified Development Code. It is also the intent of this section to permit nonconformities to continue as they exist presently and to guide future uses and development to be consistent with the City's planning policy and regulations.

(A) Nonconforming structures.

(1) Nonconforming structures are permitted to exist for continued and creative reuse to contribute to the surrounding character, diversity, and services in the neighborhood until such structures are removed.

(2) Repairs to nonconforming structures or portions thereof are permitted, so long as the nonconforming portion of the structure is not enlarged in volume, area or footprint.

(3) Reconstruction of nonconforming structures or portions thereof amounting to less than 50% of the existing square feet are permitted so long as the nonconforming portion of the structure is not enlarged in volume, area or footprint.

(4) Voluntary removal, damage or destruction of a nonconforming structure or portion thereof amounting to 50% or more of the existing square feet shall require either complete removal of the structure or its reconstruction in conformance with existing regulations.

(5) Involuntary damage to or destruction of a nonconforming structure (from fire, winds or other calamity) shall permit the owner to rebuild, reconstruct or restore the structure on the same footprint of the original structure plus any addition or expansion that is allowed by the underlying zoning district. Such reconstruction is permitted as long as it begins within 18 months of the loss and complies with all other applicable zoning, development and building codes.

(6) For nonconforming structures located in a zoning district utilizing conventional building setbacks, building additions/expansions are permitted so long as the addition is in compliance with all current setbacks, building area and building height requirements of the underlying zoning district, along with all other applicable zoning and development ordinances.

(7) For nonconforming structures located in zoning districts utilizing build-to zones and requirements for a minimum buildable street frontage, all new construction that increases the existing building(s) footprint or volume of habitable space by 50% or more shall

Add
(C) →

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse: Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) Land area per dwelling unit.

Manufactured Home	3,000 sq. ft.
Apartments: No bedrooms	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two or more bedrooms	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) Setback requirements.

Front	Side	Rear
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 ft.	25 ft.

Cross reference(s) --Variances, Ch. 156.

(F) Building height regulations.

Building Height Maximum	30/45 ft.*
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*A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 30 feet. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of 45 feet.

Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) Building area. None.

(H) Minimum buildable street frontage. 50% of the lot width.

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09; Ord. 5262, 8-4-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.14 District RMF-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) Purpose. The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) Uses.

(1) Permitted uses.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) Density.

Units per acre	24 or less
----------------	------------

(D) Bulk and area regulations.

(1) Lot width minimum.

Manufactured home park	100 ft.
Lot within a Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) Lot area minimum.

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses: Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.

any use of an adjacent single family lot in additional distance of one foot for each side in excess of 20 feet.

any use of an adjacent single family lot in additional distance of one foot for each side in excess of 20 feet.

any use of an adjacent single family lot in additional distance of one foot for each side in excess of 20 feet.

161.19 Community Services

The Neighborhood Commercial District is primarily to provide convenience and personal services for persons living in surrounding residential areas.

Permitted uses.

City-wide uses by right
Government Facilities
Eating places
Neighborhood shopping
Gasoline service stations and drive-through restaurants
Offices, studios, and related services

Additional uses.

City-wide uses by conditional use permit
Public protection and utility facilities
Cultural and recreational facilities
Shopping goods
Liquor stores
Outdoor music establishments*
Wireless communications facilities*
Sidewalk Cafes
Clean technologies

Other.

area regulations. None.

between the right-of-way and the building	
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) Building height regulations.

Building Height Maximum	56 ft.*
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*Any building which exceeds the height of 20 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) Building area. On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08; Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.19 Community Services

(A) Purpose. The Community Services district is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) Uses.

(1) Permitted uses.

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood Shopping goods
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 24	Home occupations

Set back when adjoining residence

Unit 2b 1 Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation, trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) Density. None

(D) Bulk and area regulations.

(1) Lot width minimum.

Dwelling	18 ft.
All others	None

(2) Lot area minimum. None

(E) Setback regulations.

Front:	A build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a single-family residential district:	15 feet

(F) Building Height Regulations.

Building Height Maximum	56 ft.
-------------------------	--------

(G) Minimum buildable street frontage. 50% of the lot width.

(Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.20 District C-2, Thoroughfare Commercial

(A) Purpose

(1)

(B) Use

Unit 1	
Unit 4	
Unit 5	
Unit 13	
Unit 14	
Unit 16	
Unit 17	
Unit 18	
Unit 19	
Unit 20	
Unit 25	
Unit 33	
Unit 34	

(2)

Unit 2	
Unit 3	
Unit 21	
Unit 28	
Unit 29	
Unit 32	
Unit 35	
Unit 36	
Unit 38	
Unit 40	
Unit 42	
Unit 43	

(C) Dens

(D) Bulk,

(E) Setba

Front	
Front, if p	
between t	
the buildin	
Side	
Side, whe	
a residenti	
Rear	

(F) Buildi

City of Fayetteville Staff Review Form

C. 1
City of Johnson Rezoning
Page 1 of 14

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

10/1/2013

**City Council Meeting Date
Agenda Items Only**

Jesse Fulcher
Submitted By

Planning
Division

Development Services
Department

Action Required:

The City of Johnson has notified the City of Fayetteville that it will seek rezoning of a couple of parcels of land in the City of Johnson adjoining some parcels within the City of Fayetteville.

Cost of this request

\$ -
Category / Project Budget

Program Category / Project Name

Account Number

\$ -
Funds Used to Date

Program / Project Category Name

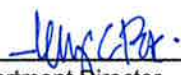
Project Number

\$ -
Remaining Balance

Fund Name

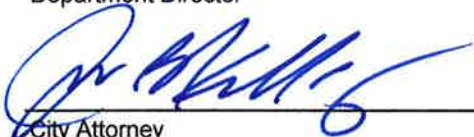
Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director

09-13-2013
Date

Previous Ordinance or Resolution #


City Attorney

9-13-13
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

9/13/13
Date

Received in City
Clerk's Office

09-13-13 P02:03 RCVD


Chief of Staff

9/13/13
Date

Received in
Mayor's Office

ENTERED
9/13/13 BOP


Mayor

9/16/13
Date

Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Jesse Fulcher, Current Planner

Date: September 13, 2013

Subject: Rezoning request for land abutting the City of Fayetteville
A.C.A. §14-56-306 Land Use in adjacent and contiguous cities to be compatible

RECOMMENDATION

The Planning Division staff finds that the proposed zoning of the lands in the City of Johnson will not adversely impact the adjoined land or property.

BACKGROUND

The City of Johnson has notified the City of Fayetteville (letter attached) that it will seek rezoning of a couple of parcels of land in the City of Johnson adjoining some parcels within the City of Fayetteville.

Pursuant to A.C.A. §14-56-306 (b):

“Adjoining lands within the boundary area shall remain zoned with a compatible land use until the governing body of each municipality which is adjacent and contiguous to the boundary area adopts a resolution agreeing to a change in the zoning of the lands or properties that adjoin one another and stating that the rezoning to a land use which is not compatible will not adversely impact the adjoined land or property.”

DISCUSSION

None.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION PURSUANT TO ARKANSAS CODE ANNOTATED § 14-56-306(b) AGREEING TO A CHANGE IN ZONING FROM PLANNED UNIT DEVELOPMENT TO C-1, LIGHT COMMERCIAL/OFFICE FOR PROPERTY LOCATED IN THE CITY OF JOHNSON THAT ADJOINS THE CITY OF FAYETTEVILLE

WHEREAS, Ark. Code Ann. § 14-56-306(b) requires that when adjoining land within a boundary area between two cities is sought to be rezoned, the city council of the city in which the adjoining property is located must agree to any such rezoning; and

WHEREAS, the City Council of the City of Fayetteville has determined that the rezoning from Planned Unit Development to C-1, Light Commercial/Office recommended by the City of Johnson Planning Commission will not adversely impact the adjoining land within the City of Fayetteville,

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 determines that the rezoning requested by the applicant, City of Johnson, as described in Exhibit "B" and as shown on the map attached as Exhibit "A", will not adversely impact the adjoining land within the City of Fayetteville and further hereby agrees to this proposed change in zoning of the applicant's lots.

PASSED and APPROVED this 1st day of October, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT 'A'



EXHIBIT 'B'

05/29/2003 15 44 FAX 479501

JOHNSON CITY HALL

The Steps at Joyce Legal Descriptions

All of Lot Numbered 6, in Hendrix Heights, and as described on deed document # 2003-00018203, and also known as Washington County Tax Parcel # 785-18010-000, and also
Part of Lot Numbered 7, as described on deed document # 2007-00002662, and also known as Washington County Tax Parcel # 785-18020, and also
Part of Lot Numbered 7, as described on deed document # 2007-00002665, and also known as Washington County Tax Parcel # 785-18020-001 and also
Part of Lot Numbered 7, as described on deed document # 2007-00002664, and also known as Washington County Tax Parcel # 785-18020-002, and also
All of Lot Numbered 8, in Hendrix Heights, and as described on deed document # 2007-00009897, and as known as Washington County Tax Parcel # 785-18021-000, and also
Part of the Park Area of Hendrix Heights Subdivision, as described on deed document # 2007-00000182, and also known as Washington County Tax Parcel # 785-18135-000, and also
Part of the Park Area, Hendrix Heights Subdivision, as described on deed document # 2006-00048270 and also known as Washington County Tax Parcel # 785-18135-001
and said Lots, said Part of Lots, and said Park Area being more particularly described as follows:
Beginning at a found iron rod, said rod accepted and used as the Northeast corner of Lot 4, Hendrix Heights, a subdivision in the City of Johnson, Arkansas;
thence South 02 degrees 18 minutes 57 seconds West a distance of 363.30 feet to the northerly right of way of Joyce Boulevard and a found 5/8 inch diameter iron pin;
thence along said northerly right of way the following courses:
North 84 degrees 29 minutes 34 seconds West a distance of 284.15 feet to a found 5/8 inch diameter iron pin;
North 84 degrees 31 minutes 57 seconds West a distance of 266.09 feet to a found 5/8 inch diameter iron pin;
North 84 degrees 28 minutes 12 seconds West a distance of 203.05 feet to a found 5/8 inch diameter iron pin;
North 85 degrees 07 minutes 12 seconds West a distance of 34.50 feet to a point;
North 88 degrees 12 minutes 02 seconds West a distance of 80.58 feet to a point;
North 87 degrees 05 minutes 03 seconds West a distance of 48.10 feet to a point;
North 88 degrees 48 minutes 45 seconds West a distance of 81.32 feet to a point;
South 88 degrees 33 minutes 42 seconds West a distance of 51.68 feet to a found 5/8 inch diameter iron pin;
South 88 degrees 20 minutes 47 seconds West a distance of 81.82 feet to a point;
South 83 degrees 33 minutes 11 seconds West a distance of 85.09 feet to a point;
South 79 degrees 42 minutes 20 seconds West a distance of 54.95 feet to a point;
South 78 degrees 11 minutes 21 seconds West a distance of 8.31 feet to a point on the easterly right of way of Wilkerson Street;
thence along said easterly right of way North 31 degrees 28 minutes 00 seconds West a distance of 75.19 feet to a point;
thence leaving said easterly right of way
South 53 degrees 37 minutes 00 seconds East a distance of 42.35 feet to a point;
thence North 69 degrees 41 minutes 57 seconds East a distance of 57.84 feet to a point;
thence North 07 degrees 17 minutes 58 seconds East a distance of 63.00 feet to a point;
thence North 04 degrees 43 minutes 04 seconds West a distance of 197.24 feet;
thence North 14 degrees 31 minutes 58 seconds East a distance of 142.00 feet;
thence North 36 degrees 59 minutes 38 seconds East a distance of 92.21 feet;
thence North 86 degrees 38 minutes 34 seconds East a distance of 140.13 feet to the southwest corner of Lot 8, Hendrix Heights and a found 1" diameter pinched top pipe;
thence along the west line of said Lot 8 the following courses:
North 48 degrees 39 minutes 25 seconds West a distance of 413.43 feet to a found 1 inch diameter pinched top pipe;
North 02 degrees 24 minutes 44 seconds East a distance of 100.00 feet to the northwest corner of said Lot 8;
thence leaving said west line to and along the north line of said Lot 8
North 75 degrees 14 minutes 44 seconds East a distance of 620.68 feet to the northeast corner of said Lot 8 and also the northwest corner of Lot 7, Hendrix Heights;
thence leaving said north line to and along the north line of said Lot 7 the following courses:
North 77 degrees 43 minutes 48 seconds East a distance of 152.74 feet to a point;
North 60 degrees 43 minutes 42 seconds East a distance of 317.13 feet to the northeast corner of said Lot 7 and also the northwest corner of said Lot 8;
thence leaving said north line of Lot 7 to and along the north line of said Lot 6 the following courses:
North 71 degrees 34 minutes 39 seconds East a distance of 165.05 feet;
North 73 degrees 44 minutes 00 seconds East a distance of 78.02 feet to the northeast corner of said Lot 6 and a found 1" diameter iron pipe;
thence leaving said north line to and along the east line of said Lot 6
South 02 degrees 28 minutes 06 seconds West a distance of 347.30 feet to a found 1/2 inch diameter iron pin;
thence leaving said east line to and along the south line of said Lot 6
North 01 degrees 45 minutes 07 seconds West a distance of 85.89 feet to a found 1 inch diameter iron pipe;
thence leaving said south line to and along the southeast line of said Lot 6 South 72 degrees 33 minutes 43 seconds West a distance of 824.30 feet to the southeast corner of said Lot 6;
thence leaving said southeast line to and along the easterly line of the Park Area of Hendrix Heights the following courses:
South 61 degrees 19 minutes 27 seconds East a distance of 100.49 feet to a point;

EXHIBIT A
PAGE 1 OF 2

EXHIBIT 'B'

05/28/2008 15:45 FAX 470521: 78

JOHNSON CITY HALL

ANNY #K11H1

05/28/2008

South 08 degrees 29 minutes 40 seconds East a distance of 120.77 feet to the northwest corner of Lot 4, Hendrix Heights
and a found 1 inch diameter iron bar;
thence bearings said easterly line to and along the north line of said Lot 4
South 87 degrees 04 minutes 14 seconds East a distance of 289.92 feet to the POINT OF BEGINNING, containing in total
25.213 acres.
And being subject to any easements, rights of ways, covenants and restrictions of record. The basis of bearings for this
description is the City of Springdale, Arkansas, geographic information system.

EXHIBIT A
PAGE 2 OF 2

CITY OF JOHNSON, ARKANSAS REZONING

FOR STAFF USE ONLY		FEE: \$300.00
Date Application Submitted: _____	Planning Commission Action: _____	
Date Accepted as Complete: _____	City Council Action: _____	
Petition Number: _____	Zone: _____	
Public Hearing Date: _____		

Please fill out this form completely, supplying all necessary information and documentation to support your request.
Your application will not be placed on the Planning Commission agenda until this information is furnished.

Application:

Indicate one contact person for this request: _____ Applicant ☒ Representative
Applicant (person making request): _____ Representative (engineer, surveyor, realtor, etc.): _____

Name: City of Johnson

Name: _____

Address: PO BOX 563
Johnson, AR 72741

Address: _____

E-mail: _____

E-mail: _____

Phone: (479) 521-7291

Phone: () _____

Fax: () _____

Fax: () _____

Site Address / Location: The Steps @ Joyce / Hendrix Heights
See ordinance 2008-11

Current Zoning District: P.U.D.

Requested Zoning District: C-1

Assessor's Parcel Number(s) for Subject Property: see attached

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

APPLICANT/REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein and all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval. I understand that the City might not approve what I am applying for, or might set conditions of approval.

Name (printed): Buddy Curry - Mayor Date: 4-1-13

Signature: Mayor Buddy Curry

PROPERTY OWNER(S) / AUTHORIZED AGENT: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. (If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)

Property Owners of Record (attach additional info if necessary):

See attached

Name: (printed): _____

Address: _____

Signature: _____

Date: _____

Phone: () _____

Name: (printed): _____

Address: _____

Signature: _____

Date: _____

Phone: () _____

Checklist:

Attach the following items to this application:

1. Payment in full of applicable fees for processing the application - \$300.00
2. Correspondence in the form of a written letter to the City of Johnson describing the scope, nature and intent of the proposal.
3. Legal description and parcel number of property to be rezoned. A survey may be required if the property description can't accurately be platted or if it is described by referring to other deeds. *This legal description shall be separate from any plat or survey and must reflect only that area to be rezoned and signed by the property owner of record.*
4. A typed list of all adjacent property owners, including those lots across streets. List must include name and full address. (May be found in the County Assessor's office)
5. Proof of notification of adjacent property owners:
Each adjacent property owner must be notified by letter explaining your request, and given the date, time and place of the meeting. Each such property shall be notified by certified mail and a copy of the green certified mail receipt shall provide such proof. (Not to be sent until placement on the Planning Commission agenda - but no later than 15 days in advance of the meeting)
6. A copy of the plat on record in the county assessor's office. The owner's name and the parcel number for every adjacent property shall be shown on this plat (map).
7. A written description of this request addressing the following items:
 - a. Current ownership information and any proposed or pending property sales.
 - b. Reason (need) for requesting the zoning change.
 - c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance and signage.
 - d. Availability of utilities.
8. The Planning Commission is required to make specific findings with regard to the application. The applicant shall provide written statements addressing the following:
 - a. The degree to which the proposed zoning is consistent with land use planning objectives, principles, policies, land use and zoning plans.
 - b. Whether the proposed zoning is justified and/or needed at the time of the request.
 - c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.
 - d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water and sewer facilities.

KIT WILLIAMS
FAYETTEVILLE CITY ATTORNEY

JASON B. KELLEY
Assistant City Attorney

Judy Housley
Office Manager

Phone (479) 575-8313
FAX (479) 575-8315
TDD (479) 521-1316



113 W. Mountain, Suite 302
Fayetteville, AR 72701-6083

April 22, 2013

Hon. Danny Wright
Johnson City Attorney
P. O. Box 8203
Fayetteville, AR 72703

RE: Rezoning of land adjoining Fayetteville

Dear Danny:

Thank you for your letter of April 11, 2013. I believe that the City Council will be receptive to your landowner's request to agree to the rezoning approved by your City Council as they were recently on another parcel. Coincidentally, the Fayetteville City Council recently rezoned a parcel on Gregg Street adjoining your City's border for the new campus of Haas Hall. I have informed the property owners that they must secure your City Council's approval of this rezoning.

Please do have your property owner who is seeking approval of the rezoning to contact our Planning Department so that it can create the agenda item for the City Council (and possibly for our Planning Commission).

With kindest regards,

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

KIT WILLIAMS
Fayetteville City Attorney

cc: Jeremy Pate, Community Services Director
Andrew Garner, Senior Planner

Buddy Curry
Mayor



Jennifer Allen
Recorder/Treasurer

April 11, 2013

Hon. Kit Williams
City Attorney
City of Fayetteville
113 W. Mountain, Ste. 302
Fayetteville, AR 72701

Re: Johnson Rezoning Petition – Lands
on Joyce Street

Dear Kit:

I am requesting that Fayetteville's City Council pass a Resolution agreeing to a change in the zoning of property in Johnson that lays adjacent to your City.

I am enclosing a copy of the application for Rezoning, a map and the legal description of the Johnson property being considered for rezoning.

I don't know how much history or background you want or need. I will be glad to communicate directly with your Planning Department but thought I ought to go through your office on the initial contact.

Please let me know what my next step is in this process.

Sincerely,

Daniel Wright
DANIEL WRIGHT
City Attorney
DW/km

Cc: Mayor Buddy Curry

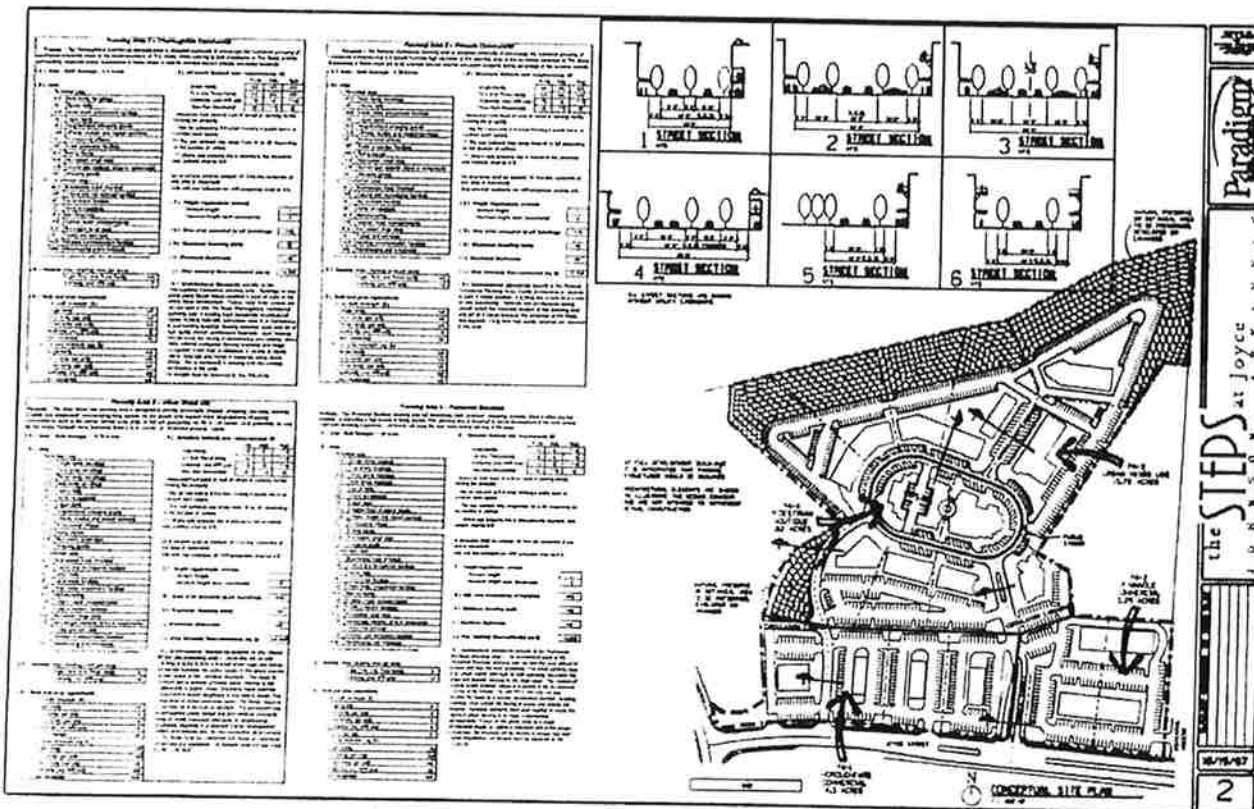
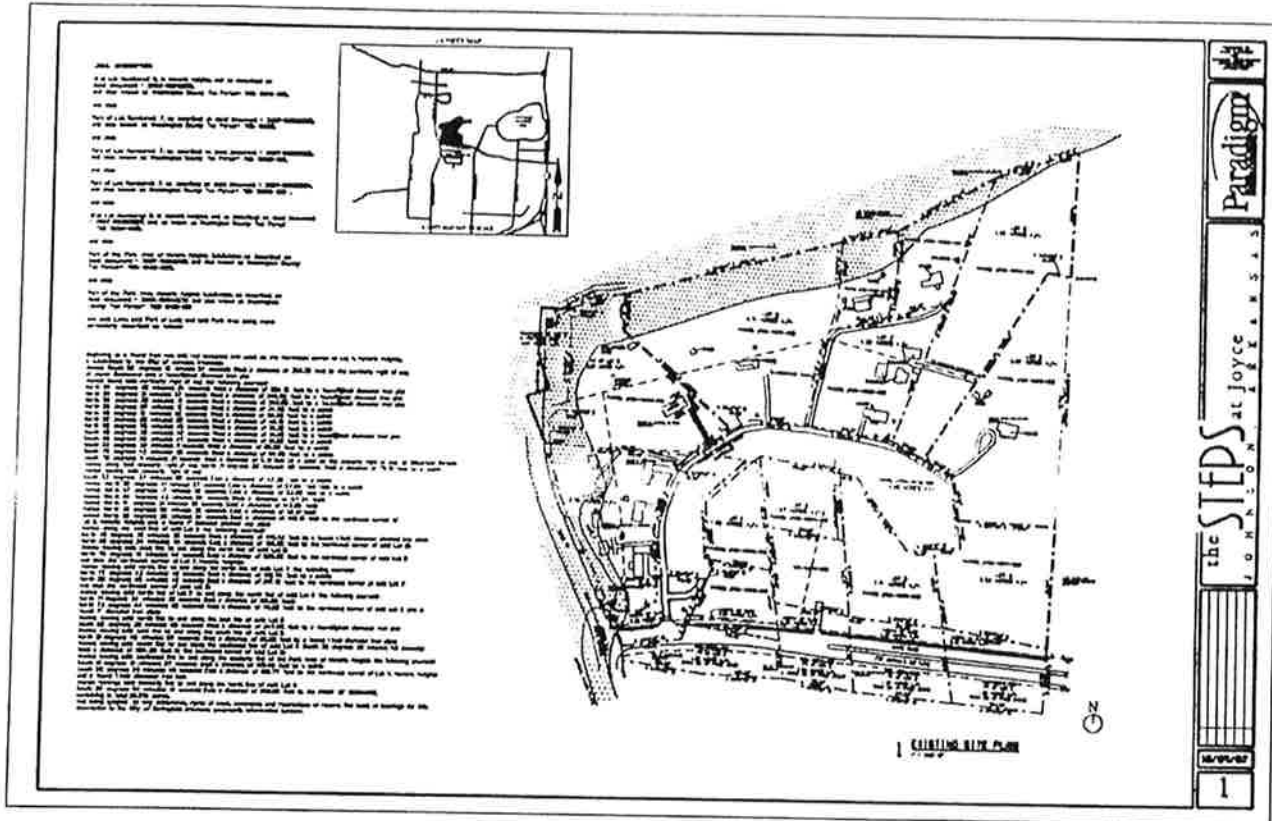
Dan Wright
521-3121

e. Why it would be impractical to use the land for any other uses permitted under its existing zoning.

9. Property owners applying for changes to the official zoning map shall present evidence or an affidavit, at least ten (10) days prior to the required public hearing, that all property owners within 100' have been notified of the proposed zoning change.

All applicants are encouraged to meet with the Building Official prior to completing a Rezoning application.

Appendix B – Copies of 24" x 36" Sheets



STEPS

1. **General Information**

1.1. Name: _____

1.2. Address: _____

1.3. City: _____ State: _____ Zip: _____

1.4. Date: _____

2. **Medical History**

2.1. Presenting Complaint: _____

2.2. Duration: _____

2.3. Onset: _____

2.4. Progression: _____

2.5. Associated Symptoms: _____

2.6. Previous Treatments: _____

2.7. Response to Treatment: _____

2.8. Family History: _____

2.9. Social History: _____

2.10. Allergies: _____

2.11. Current Medications: _____

2.12. Past Medical History: _____

2.13. Surgical History: _____

2.14. Anesthesia: _____

2.15. Blood and Urine Tests: _____

2.16. X-rays: _____

2.17. Other Tests: _____

2.18. Pathology: _____

2.19. Microbiology: _____

2.20. Immunology: _____

2.21. Hematology: _____

2.22. Biochemistry: _____

2.23. Radiology: _____

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2.274. Biochemistry: _____

2.



City Council Agenda Items
and
Contracts, Leases or Agreements

10/1/2013

City Council Meeting Date
Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

PPL 13-4404: PRELIMINARY PLAT (PERSIMMON STREET MASTER STREET PLAN RIGHT-OF-WAY/LEGACY IV SUBDIVISION, 475): Submitted by BATES AND ASSOCIATES for property located WEST OF 54TH STREET. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 108 acres. The request is for a lesser dedication of right-of-way for Persimmon Street within the Legacy IV subdivision.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

09.11.2013
Date

Previous Ordinance or Resolution #

City Attorney

9.16.13
Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

9/17/13
Date

Received in City Clerk's Office 9-12-13 10:27 RCVD

Chief of Staff

9/18/13
DateReceived in
Mayor's Office

Mayor

9/18/13
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Andrew Garner, Senior Planner

Date: September 10, 2013

Subject: PPL 13-4404 (Persimmon Street Master Street Plan Right-of-way Dedication)

RECOMMENDATION

The Planning Commission recommends approval of a resolution for a reduced right-of-way dedication for Persimmon Street through the Legacy IV Subdivision (PPL 13-4404). Planning Division staff recommends denial of the request.

BACKGROUND

The property is zoned RSF-4, Residential Single Family Four Units per Acre and contains 108 acres located in west Fayetteville, adjacent to 54th Street. The site was approved for a subdivision several years ago and portions of the streets were graded and some infrastructure installed. The property is designated as a Rural Residential Area on the Future Land Use Plan, and a portion of this site is located within the Enduring Green Network identified in City Plan 2030. The property has a relatively unusual configuration with access to 54th Street through narrow strips of land surrounded by existing single family homes not a part of the development. The applicant proposes a preliminary plat with 108 residential lots.

Persimmon Street is a Minor Arterial on the Master Street Plan and traverses east west through the property. This will provide the final linkage for Persimmon between the Legacy subdivision adjacent to the west and the existing street network to the east. 54th Street is a Collector Street adjacent to the eastern property line. Persimmon Street requires 77 feet of right-of-way in accordance with the Master Street Plan. This right-of-way is required to be dedicated with this subdivision pursuant to Fayetteville Unified Development Code Section 166.04(B)(3)(a).

REQUEST

The applicant requests a lesser dedication of the Master Street Plan right-of-way for Persimmon Street. The Master Street Plan requires 77 feet of right-of-way and the applicant proposes 70 feet. The applicant's justification for the request is provided in a letter attached to this packet, discussing they would match the right-of-way width for Persimmon Street in the adjacent subdivision to the west.

STAFF DISCUSSION

Staff does not recommend in favor of the request finding that there is not adequate justification. While Persimmon Street was constructed with a 70-foot right-of-way adjacent to the west, with the most recent update of the Master Street Plan in 2011 Persimmon was upgraded from a Collector to a Minor Arterial. There is still a long undeveloped stretch of Persimmon that would be extended another approximately 0.5-mile beyond the subject property and connecting to the existing improved section of Persimmon Street near the intersection of Broyles Avenue. Persimmon will provide a major east-west connection to this area of the city and, an alternative route to Wedington Drive upon its eventual completion. There are numerous homes west and southwest of this area that will likely use this roadway and staff feels the classification of Persimmon as a Minor Arterial and the 77 feet of right-of-way is the best plan for the ultimate build-out of the street in order to function as intended with four lanes of vehicles, bike lanes on both sides, greenspace, and sidewalks on both sides of the street. While the entire stretch of Persimmon will not be a consistent 77 feet of right-of-way, because of the large amount of undeveloped area to the east, staff feels it is important to maintain the integrity of the Master Street Plan cross section in this instance. It should be noted that staff supports a lesser dedication of right-of-way for the very easternmost section of Persimmon in this subdivision simply because the applicant's property is only approximately 54 feet wide at its narrowest point and staff does not feel that it would meet the rough proportionality test to require the applicant to acquire off-site right-of-way to meet the standard. This additional right-of-way would be dedicated at the time the adjacent property is developed or acquired by the city as part of a street improvement project. It should also be noted that the applicant proposes, and staff agrees, not to have the applicant construct the full Minor Arterial street section at this time with four lanes, and instead construct a cross section with two vehicular lanes and bike lanes, similar in width to a standard street.

DISCUSSION

On September 9, 2013, the Planning Commission approved preliminary plat (PPL 13-4404) with a condition of approval regarding the right-of-way for Persimmon Street. The Planning Commission recommended in favor of the applicant's request for a lesser dedication of right-of-way with a vote of 8-1-0 (Commissioner Chesser voted 'no'). There was no public comment.

BUDGET IMPACT

None.



12.2.5 MINOR ARTERIAL STREETS

MINOR ARTERIAL STREETS provide mobility throughout the city, encouraging multiple modes of transportation within the arterial network. Access should be limited to controlled intersections where possible. They have a moderate level of access management.

5 MINOR ARTERIAL:

Design Service Volume:

Desired Operating Speed:

Travel Lanes:

Bicycle Lanes:

Parking:

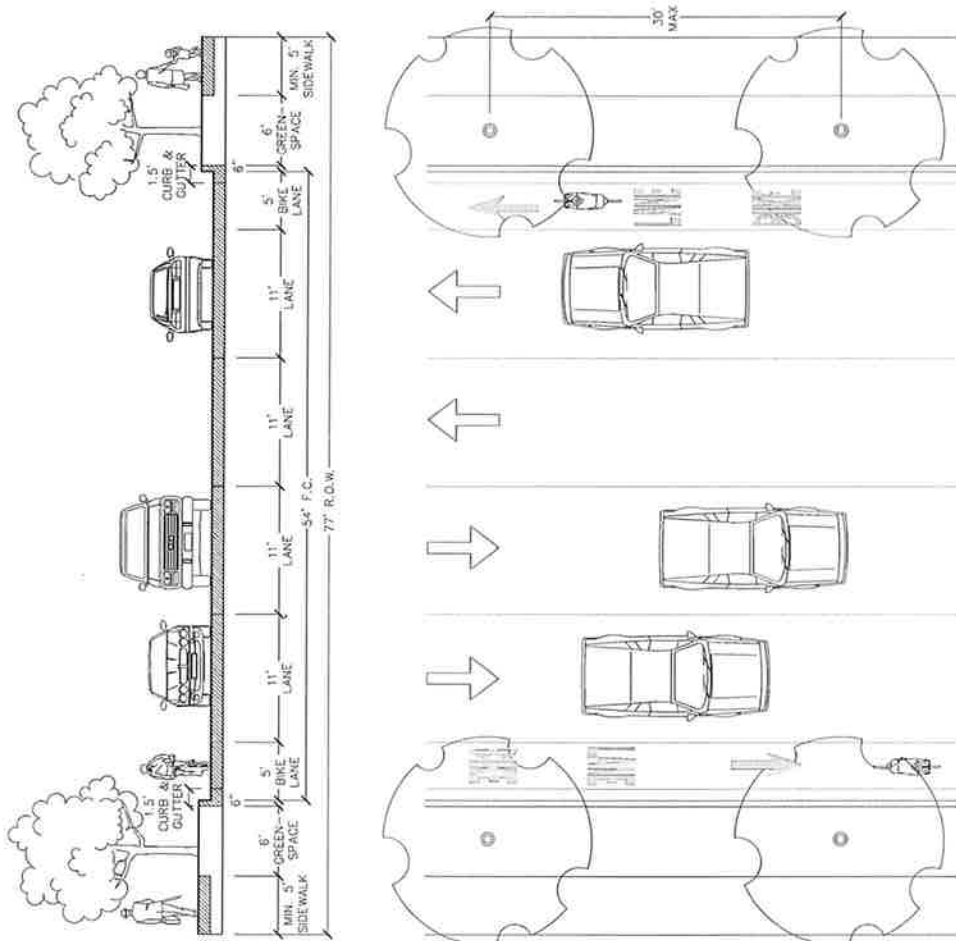
Paved Width:

Right of Way:

Sidewalks:

Greenspace:

- < 12,200 vpd
- 30-40 mph
- Four 11' lanes
- 5' wide, both sides of street
- next to curb
- None
- 54' from face of curb
- 77'
- Both sides of street, min.
- 5' wide, located in R.O.W. at R.O.W. line
- Both sides of street, min.
- 6' wide





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, Senior Planner-Current Planning
Jesse Fulcher, Planner-Current Planning
Quin Thompson, Planner-Current Planning

FROM: Kit Williams, City Attorney

DATE: September 16, 2013

RE: 70' rather than 77' dedication for Persimmon Street

The City of Fayetteville has for decades had a Master Street Plan (frequently amended and altered to meet changing needs) which not only includes existing streets, but the proposed general placement of future streets or extensions of existing, but incomplete streets. The Master Street Plan also includes changing right of way cross sections for streets and sometimes changes the classification for streets. For example, Persimmon was changed from collector to minor arterial. When a proposed collector or arterial street runs through a piece of developing property, the City needs to attempt to ensure such development does not block, but incorporates as much as feasible, the proposed collector or arterial. Indeed, our Unified Development Code requests such right of way dedication unless the Planning Commission recommends a "lesser dedication in the event of undue hardship or practical difficulties." § 166.4 (B)(3)(a) of the U.D.C.

The Planning Commission did recommend almost unanimously (Commissioner Chesser was the lone dissenter) the dedication of 70' instead of the Master Street Plan recommended 77' right of way for Persimmon as it runs through the development. "Such lesser dedication shall be subject to approval by the City Council." *Id.* This is the reason for this agenda item.

Please keep in mind that the City of Fayetteville can only require a developer/land owner to pay money, build infrastructure or dedicate land or right of way to the City if such exactions "**are roughly proportioned and bear a rational nexus to the impact of the development**" upon the City's infrastructure needs. § 166.04 (A)(3) of the U.D.C.

"The exaction is the concession sought by the government, or the condition upon which granting the permit depends. The government may seek land, money, or other concessions in return for the permit." *Garneau v. City of Seattle*, 147 F.3d 802, 809 (9th Cir. 1998).

This "rough proportionality" and "rational nexus" test would limit the City of Fayetteville's power to demand dedication of street right of way, construction of streets, sidewalks, water and sewer mains, etc. even if our Unified Development Code did not include such limitation. This is a **Constitutional limitation** upon our government's power based upon the Fifth Amendment of the United States Constitution as held by the United States Supreme Court.

"In addition to the requisite nexus, the (Supreme) Court went on to require that the city demonstrate that the degree of the exactions demanded in the condition bears "rough proportionality" to the projected impact of the applicant's request. This requirement ensures that the conditioning of a discretionary benefit does not force "some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole" in violation of the Just Compensation Clause." *Pennell v. City of San Jose*, 485 U.S. 1, 9 (1998) (citations omitted).

“According to the controlling Supreme Court decisions, the City can only require an owner to dedicate land or pay money in “rough proportionality” to the impact that construction of his project causes the City. *Dolan v. City of Tigard*, 512 U.S. 374, 114 S. Ct. 2309, 2320 (1994) (emphasis added).

“We think a term such as “rough proportionality” best encapsulates what we hold to be the requirement of the Fifth Amendment. No precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development.” *Id.*

I believe that there is no question that the requested Master Street Plan dedication is related “in nature” to this development which shall certainly use Persimmon as a primary connector to Fayetteville’s street network. **The “extent” of (or how much) dedication that the City can require to be dedicated is the issue.** The developer is already offering to dedicate 70 feet of right of way which is wider than a normal local street or even collector and is equal to the width of Persimmon to the West of this development.

When this land had been approved for development earlier and some street grading accomplished, Persimmon had been designated as the more narrow collector. After that initial development failed, Persimmon was upgraded to minor arterial which bumped up the desired right of way to 77 feet. When Persimmon is extended toward the East from this development, it is anticipated to have 77’ right of way.

The engineer for the developer informed the Planning Commission that increasing the right of way from 70 feet to 77 feet through the development would cost the developer several home building lots, an obviously large burden upon the owner.

The question is not whether the City would prefer a 77 foot wide right of way dedication so the desired minor arterial with four car lanes of travel, two bike lanes of travel, and green space and sidewalks on both sides of the street can be constructed. Of course, this is the preferred right of way width. **The question is whether this developer can be forced to give up this**

full 77 feet right of way width to the City for nothing and so bear the whole burden for a minor arterial's right of way which will obviously serve far more citizens than his future homeowners.

"The Fifth Amendment's guarantee...was designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole." *City of Monterey v. Del Monte Dunes*, 526 US 687, 703, 119 S.Ct. 1624 (1999); quoting *Armstrong v. United States*, 364 US. 40, 49 (1968).

The Constitution thus limits the amount of exactions that any government can demand for the issuance of a development permit. The Planning Commission and City Council should look at the total amount of street exactions being required to determine whether or not the right of way dedication and on and offsite street construction being demanded exceeds the rough proportionality of this development's impact upon Fayetteville's street infrastructure.

CONCLUSION

The need to build the internal residential streets within the subdivision is wholly caused by the development itself and will service primarily the new homeowners and their visitors. Therefore, their right of way dedication and street construction is properly the sole responsibility of the developer.

Persimmon's much larger right of way and the offsite street improvements on 54th will certainly also serve this development. However, these exactions (whether the right of way is 77 feet or 70 feet) will also serve many others as part of Fayetteville's backbone of arterial and collector streets.

Planning has properly not sought to require the developer to build Persimmon for a full minor arterial. Planning did recommend pursuant to a U.D.C. section to have the full 77' right of way now shown for minor arterials to be dedicated. The Planning Commission listened to Planning and the developer and decided that the offered 70 foot of right of way would be as much as could be demanded. Now it is the City Council's final decision.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE DEDICATION OF 70 FEET OF RIGHT OF WAY FOR PERSIMMON STREET ALONG MOST OF THE OWNER'S PROPERTY AS RECOMMENDED BY THE PLANNING COMMISSION

WHEREAS, "On and off-site improvements that are roughly proportional and bear a rational nexus to the impact of the development are required for all development" by § 166.04 (A)(3); and

WHEREAS, the Planning Commission voted 8-1 to recommend to the City Council that a lesser dedication of 70 feet instead of 77 feet be allowed to the owner/developer of Legacy Phase V if the developer also paid for improvements to 54th Street between Persimmon and a street to be built by the developer; and

WHEREAS, the City Council has determined that the dedication of 70 feet for Persimmon and the other on and off-site required street improvements are roughly proportional to the impact that construction of the development will cause Fayetteville.

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 confirms and adopts the Planning Commission's recommendation to accept the offered 70 feet of right of way dedication along most of Persimmon through the Legacy Phase V along with all other on and off-site street improvements required of the owner/developer.

PASSED and APPROVED this 1st day of October 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

RESOLUTION NO. _____

A RESOLUTION TO DISAPPROVE THE RECOMMENDATION OF THE PLANNING COMMISSION TO ALLOW THE DEDICATION OF 70 FEET OF RIGHT OF WAY FOR PERSIMMON STREET ALONG MOST OF THE OWNER'S PROPERTY AND REQUIRE DEDICATION OF 77 FEET

WHEREAS, "On and off-site improvements that are roughly proportional and bear a rational nexus to the impact of the development are required for all development" by § 166.04 (A)(3); and

WHEREAS, the Planning Commission voted 8-1 to recommend to the City Council that a lesser dedication of 70 feet instead of 77 feet be allowed to the owner/developer of Legacy Phase V if the developer also paid for improvements to 54th Street between Persimmon and a street to be built by the developer; and

WHEREAS, the City Council has determined that the dedication of 77 feet for Persimmon and the other on and off-site required street improvements are roughly proportional to the impact that construction of the development will cause Fayetteville.

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 rejects the Planning Commission's recommendation to accept the offered 70 feet of right of way dedication along most of Persimmon through the Legacy Phase V and instead requires the owner/developer to dedicate 77 feet of right of way for Persimmon along with all other on and off-site street improvements required of the owner/developer.

PASSED and APPROVED this 1st day of October 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Fayetteville Code of Ordinances

district an easement plat shall be filed of record in the office of the circuit clerk dedicating all required easements and rights-of- way.									
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**All plats should meet or exceed the most current State of Arkansas Standards of Practice for Property Boundary Surveys and Plats.*

***SIP = Large or Small Site Improvement Plan*

****PZD = Planned Zoning District*

(C) *Signatures required.* The final plat or concurrent plat may be signed by any officer of the Planning Commission.

(D) *Number of plats.* The Planning Division may require additional copies of plats if the amount required by this chapter is not sufficient for distribution to the various committee members.

(Code 1965, App. C., Art. III, §A(1); Ord. No. 2695, 1-20-81; Ord. No. 3080, 4-2-85; Ord. No. 3201, 8-5-86; Ord. No. 3315, 11-17-87; Code 1991, §§159.05, 159.30k.; Ord. No. 3578, 11-19-91; Ord. No. 3615, §1, 6-2-92; Ord. No. 3738, §1, 11-16-93; Ord. No. 3793, §1, 5-17-94; Ord. No. 3797, §1, 5-17-94; Ord. No. 4068, §1, 11-4-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4199, 11-2-99; Ord. No. 4454, 01-07-03; Ord. No. 4545, 02-17-04; Ord. 4725, 7-19-05; Ord. 4864, 05-02-06; Ord. 5152, 7-15-08; Ord. 5215, 1-20-09; Ord. 5271, 9-1-09; Ord. 5296, 12-15-09)

166.04 Required Infrastructure Improvements – Development in City Limits

(A) *Generally.* Required of developer.

(1) *On and off-site improvements.* On-site improvements are adjacent to or within a project site; such as widening the street along the project street frontage, constructing interior streets and utilities, etc. Off-site improvements are not adjacent to a project; such as the extension of an off-site sewer line to the property boundary, off-site storm drainage improvements, or an off-site intersection improvement, etc.

(2) *Standards applicable.* Any required on or off-site improvements in the city and within one mile of the city limits shall be installed according to the city's standards; provided on or off-site improvements to roads located outside one mile of the city limits shall be installed to the county's standards. The

developer shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the development.

(3) *Required Infrastructure Improvements.* On and off-site improvements that are roughly proportional and bear a rational nexus to the impact of the development are required for all development within the City of Fayetteville. The developer shall be required to install on and off-site improvements where the need for such improvements is created in whole or in part by the proposed development.

(4) *Planning Commission and Planning Division.* At the time the Planning Commission or Planning Division (where applicable for administrative approval) grants development approval, the Planning Commission or Planning Division shall determine whether the proposed development creates a need for off-site improvements and the portion of the cost of any needed off-site improvements which the developer shall be required to bear; provided, that portion of the cost of off-site improvements to roads located outside the city's corporate limits but within the city's planning area shall be determined by the county. In determining that portion of the cost of off-site improvements which the developer shall be required to bear, the Planning Commission or Planning Division (where applicable for administrative approval) shall consider the acreage within the proposed development as a percentage of all the acreage which, when fully developed, will benefit from the off-site improvements; provided, the Planning Commission or Planning Division may use a different method of measurement if it determines that use of the acreage standard will not result in the developer bearing that portion of the cost which bears a rational nexus to the needs created by the development.

(5) *Determining necessity for off-site improvements.*

(a) When a proposed development has access to paved streets or roads only by way of substandard or unimproved roads or streets leading from the development to the paved streets or roads, the developer shall be responsible for contributing this proportionate share of the cost of improving the substandard access roads or streets to existing city or county standards. The developer's

TITLE XV UNIFIED DEVELOPMENT CODE

proportionate share of said costs shall be determined by the Planning Commission or Planning Division (where applicable for administrative approval) in accordance with the provisions of 166.04 (A) above.

- (b) When a proposed development has direct access to, or fronts on an existing road or street, which is below current standards, the developer shall be responsible for contributing his/her proportionate share of the cost of improving said street or road to existing city or county standards. The Planning Commission or Planning Division (where applicable for administrative approval) shall determine the developer's proportionate share of said costs in accordance with the provisions of 166.04 (A) above.
- (c) Off-site drainage improvements shall be required whenever a proposed development causes the need for such improvements.
- (6) *Delayed Improvements.* The Planning Commission or Planning Division may determine a required on-site or off-site improvement shall be delayed or payment-in-lieu contributed instead in accordance with Chapter 158 of the UDC. **Cross reference(s)**--Bonds and Guarantees, Ch. 158.
- (7) *Variances.* A variance of off-site improvements may be granted in accordance with Chapter 156 Variances.
- (8) *State highways.* The developer shall be required to dedicate sufficient right-of-way to bring those state highways which the Master Street Plan shows to abut or intersect the proposed subdivision into conformance with the right-of-way requirements of the Master Street Plan. The developer shall be required to install a sidewalk adjacent to that portion of a state highway abutting the proposed development; and provided that the Planning Commission or Engineering Division (where applicable for administrative approval) may waive the sidewalk requirement prescribed by this subsection upon application by the developer and a determination by the Planning Commission or Engineering Division (where applicable for administrative approval) that the topography of the proposed development where it abuts a state highway is such that installation of a sidewalk is not practical. Any other improvements required of the developer by

the Planning Commission or Engineering Division (where applicable for administrative approval) shall be coordinated with the Arkansas Highway and Transportation Department.

- (B) *Minimum improvements by application type.* The property owner/developer shall be responsible for constructing the following minimum improvements.

- (1) *Property Line Adjustment.* No improvements are required unless the action would create or exacerbate a nonconforming infrastructure situation such as cutting off a lot from public water, sewer, or street frontage. In such case the property line adjustment may not be filed of record until the required infrastructure is first constructed to City specifications, or a variance or waiver is granted by the Planning Commission.

- (2) *Lot Split.*

- (a) *Dedication of right-of-way.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property into conformance with the right-of-way requirements of the Master Street Plan for said streets; provided, the Subdivision Committee or Planning Commission may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.

- (i) *Dedications.* The City Council accepts all streets and alleys located in Fayetteville that have been previously approved and accepted as dedications by the Fayetteville Planning Commission/Subdivision Committee. The City Council confirms the acceptance of all such streets and alleys dedicated by developers/owners to the city which have been approved by the Fayetteville Planning Commission/Subdivision Committee.

- (b) *Monuments and lot stakes.* The surveyor shall cause, preserve, and/or replace monuments and/or lot stakes marking the corners of a parcel to be set in accordance with Section 3.2, general procedures, of the Arkansas Minimum Standards for Property Boundary Surveys and Plats.

Fayetteville Code of Ordinances

- (c) *Water, sewer, or street frontage.* Any lot that is created shall have adequate street frontage or street access that meets the minimum requirements of the zoning code, and access to public water and sewer as required by city and state code. If a lot split would create or exacerbate a nonconforming situation (such as cutting off a lot from public water, sewer, street frontage, or street access), the lot split may not be filed of record until the required easement is dedicated and/or the infrastructure is first constructed to City specifications, or a variance or waiver is granted by the Planning Commission.
- (d) *Parkland dedication.* Parks fees shall be assessed for each new residential unit that is constructed on the additional lot(s) in accordance with the parkland dedication requirements outlined in Fayetteville Unified Development Code Chapter 166. Said fees shall be paid prior to issuance of a building permit for construction on the new lot.
- (3) *Preliminary/Final/Concurrent Plat; Large Scale Development; Large or Small Site Improvement Plan.*
- (a) *Dedication of right-of-way.*
- (i) *On-site.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property and new streets proposed interior to the property, into conformance with the right-of-way requirements of the Master Street Plan for said streets, shall be approved by the Planning Commission or Subdivision Committee; provided, the Planning Commission or Subdivision Committee may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.
- a. *Exemption.* Small Site Improvement Plan applications are exempt from this requirement.
- (ii) *Off-site.* Off-site right-of-way dedication may be required as needed to construct off-site street improvements that are required based on the rough proportionality and rational nexus of the impacts of the project.
- (iii) *Dedications.* The City Council accepts all streets and alleys located in Fayetteville that have been previously approved and accepted as dedications by the Fayetteville Planning Commission/Subdivision Committee. The City Council confirms the acceptance of all such streets and alleys dedicated by developers/owners to the city which have been approved by the Fayetteville Planning Commission/Subdivision Committee.
- (b) *Monuments and lot stakes.* The surveyor shall cause, preserve, and/or replace monuments and/or lot stakes marking the corners of a parcel to be set in accordance with Section 3.2, general procedures, of the Arkansas Minimum Standards for Property Boundary Surveys and Plats.
- (c) *Streets.*
- (i) *On-site.* Widening the street adjacent to the project frontage and construction of all interior streets to meet Master Street Plan standards. Street grading, base, and paving according to existing city standards and specifications as adopted by the City Council.
- (ii) *Off-site.* Street widening and/or new street construction off-site may be required to address traffic impacts based on the rough proportion and rational nexus of the impacts of the project. Street grading, base, and paving according to existing city standards and specifications as adopted by the City Council.
- (iii) *Private street name signs.* Where a structure is addressed on a private street or drive, the developer or property owner(s) shall be required to install, maintain, repair and replace all private street name signs. Any private street name sign existing at the time of passage of this ordinance shall be maintained, repaired and replaced as required by this section. Signs shall meet the standards of the Manual on Uniform



PC Meeting of September 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, Senior Planner
Glenn Newman, Staff Engineer
THRU: Jeremy Pate, Development Services Director
DATE: September 4, 2013 *Updated September 10, 2013*

PPL 13-4404: Preliminary Plat (W. OF N. 54TH ST. AND E. OF W. PERSIMMON ST./LEGACY PH V, 475): Submitted by BATES AND ASSOCIATES for property located WEST OF NORTH 54TH STREET AND EAST OF WEST PERSIMMON STREET. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 32.83 acres. The request is for a residential subdivision with 108 single family lots.
Planner: Andrew Garner

Findings:

Background: The property is zoned RSF-4, Residential Single Family Four Units per Acre and contains 108 acres located in west Fayetteville, adjacent to 54th Street. The site was approved for a subdivision several years ago and portions of the streets were graded and some infrastructure installed. A portion of this site is located within the Enduring Green Network identified in City Plan 2030. The property has a relatively unusual configuration with access to 54th Street through narrow strips of land surrounded by existing single family homes not a part of the development. The surrounding zoning and land uses are depicted in *Table 1*.

Table 1

Surrounding Zoning and Land Use

Direction from Site	Land Use	Zoning
North	Single family and undeveloped pasture	RSF-4, Residential Single-Family Four Units Per Acre
South	Single family and undeveloped pasture	RSF-1, Residential Single-Family One Unit Per Acre
East	Undeveloped pasture	RSF-8, Residential Single-Family Eight Units Per Acre
West	Single family residential (Legacy Heights subdivision)	RSF-4

Adjacent Master Street Plan Streets: Persimmon Street is a Minor Arterial on the Master Street Plan and traverses east west through the property, providing the final linkage for Persimmon between the Legacy subdivision adjacent to the west and the existing street network to the east. 54th Street is a Collector Street adjacent to the eastern property line.

Right-of-way to be dedicated: Right-of-way will be dedicated for the internal Local and Residential streets in the amount of 50 feet and 43 feet, respectively, as listed on the street table and indicated on the plat. Persimmon Street is a Minor Arterial traversing through the neighborhood and requires 77 feet of right-of-way in accordance with the Master Street Plan. The applicant requests a variance of the Master Street plan to dedicate 70 feet of right-of-way for Persimmon through the subdivision. Right-of-way shall be dedicated in the amount of 29.5 feet from centerline along the site's 54th Street frontage, a Collector Street.

Proposal: The applicant proposes a preliminary plat with 108 residential lots. The subdivision is proposed in four phases starting at the western side of subdivision and moving east as depicted on the phasing plan:

Phase A	26 lots
Phase B	22 lots
Phase C	22 lots
Phase D	29 lots

Variance Requests:

- Unified Development Code (UDC) Section 166.04(B)(3)(a). The applicant requests a lesser dedication of the Master Street Plan right-of-way for Persimmon Street. The Master Street Plan requires 77 feet of right-of-way and the applicant proposes 70 feet. The applicant's justification for the request is provided in a letter attached to this packet, discussing they would match the right-of-way width for Persimmon Street in the adjacent subdivision to the west. *Staff does not recommend in favor of the request finding that there is not adequate justification for the request. While Persimmon Street was constructed with a 70-foot right-of-way adjacent to the west, with the most recent update of the Master Street Plan in 2011 Persimmon was upgraded from a Collector to a Minor Arterial. There is still a long undeveloped stretch of Persimmon that would be extended another approximately 0.5-mile beyond the subject property and connecting to the existing improved section of Persimmon Street near the intersection of Broyles Avenue. Persimmon will provide a major east-west connection to this area of the city and, an alternative route to Wedington Drive upon its eventual completion. There are numerous homes west and southwest of this area that will likely use this roadway and staff feels the classification of Persimmon as a Minor Arterial and the 77 feet of right-of-way is the best plan for the ultimate build-out of the street in order to function as intended with four lanes of vehicles, bike lanes on both sides, greenspace, and sidewalks on both sides of the street. While the entire stretch of Persimmon will not be a consistent 77 feet of right-of-way, because of the large amount of undeveloped area to the east, staff feels it is important to maintain the integrity of the Master Street Plan cross section in this instance. It should be noted that staff supports a lesser dedication of right-of-way for the very easternmost section of Persimmon in this subdivision simply because the applicant's property is only approximately 54 feet wide at its narrowest point and staff does not feel that it would meet the rough proportionality test to require the applicant to acquire off-site right-of-way to meet the standard. This additional right-of-way would be dedicated at the time the adjacent property is developed or acquired by the city as part of a street improvement project.*

Access Management and Connectivity: The proposed subdivision meets the access management requirements for block length and connectivity. The development provides street connections in all four directions to 54th Street to the east, Persimmon Street to the west, and street stub-outs to the north and south.

Street improvements: Internal streets shall be constructed as indicated on the proposed site plan. Off-site street improvements shall be completed as follows prior to approval of final plat for Phase II:

- Because of the existing sight distance and traffic safety problems at the intersection of 54th Street and Persimmon that will be exacerbated by traffic from this development, the developer shall install signage converting the intersection into a three-way stop. This will likely include additional warning signage and pavement striping, the exact details to be approved by the City Engineering Division.
- Based on the impacts that this development will have to 54th Street, the western half of 54th Street shall be improved from Persimmon Street to the south property line as indicated on the preliminary plat with: 14 feet pavement from centerline, curb, gutter, storm drains, sidewalks, and streetlights.

Water and Sewer System: Water and sewer lines shall be extended through the development as required by the City Engineering Division.

Parks: On April 1, 2013, the Park and Recreation Advisory Board (PRAB) reviewed the project and recommended accepting money lieu because of the project's proximity to Harmony Pointe Park and Bundrick Park. Fees in the amount of \$99,360.00 are due for the proposed 108 single-family units and shall be paid prior to final plat. The fees may be phased as specified in the UDC.

Tree Preservation: Existing: 2.5%
Proposed: 1.3%
Required: 25%
Mitigation: 88 trees on-site mitigation

Public Comment: Staff has not received public comment.

Recommendation: Staff recommends approval of PPL 13-4404 subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council of a lesser dedication of right-of-way pursuant to UDC Section 166.04(B)(3)(a). The applicant requests a lesser dedication of the Master Street Plan right-of-way for Persimmon Street. The Master Street Plan requires 77 feet of right-of-way and the applicant proposes 70 feet. The applicant's justification for the request is provided in a letter attached to this packet. *Staff does not recommend in favor of the request for a majority of the street based on the*

findings included earlier in this report. Staff supports a lesser dedication of right-of-way for the very easternmost section of Persimmon in this subdivision simply because the applicant's property is only approximately 54 feet wide at its narrowest point and staff does not feel that it would meet the rough proportionality test to require the applicant to acquire off-site right-of-way to meet the standard.

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THE APPLICANT'S REQUEST FOR A LESSER DEDICATION OF RIGHT-OF-WAY (09-09-2013).

2. Planning Commission determination of street improvements. *Staff recommends the following:*
 - a. *All interior streets shall be constructed in conformance with the Master Street Plan requirements with the exception of Persimmon Street.*
 - b. *Persimmon Street through the neighborhood shall be constructed as a fully improved street as indicated on the preliminary plat with a 30-foot wide street, bike lanes and sidewalk on both sides. Staff does not feel that it meets the rough proportionality test for this development to construct the full Minor Arterial street section at this time with four vehicular travel lanes.*
 - c. *Street lights shall be installed at every intersection and with a maximum separation of 300 feet.*
 - d. *Sidewalks shall be constructed or guaranteed prior to final plat approval. Sidewalks along all commonly owned lots, and the off-site sidewalk connections to adjacent surrounding streets shall be constructed prior to final plat.*
 - e. *Off-site street improvements shall be completed as follows prior to approval of the final plat for Phase II:*
 - *Based on the impacts that this development will have to 54th Street, the western half of 54th Street shall be improved from Persimmon Street to the south property line as indicated on the preliminary plat with: 14 feet pavement, curb, gutter, storm drains, sidewalks, and streetlights. Because of a lack of existing right-of-way to complete these improvements, an assessment shall be paid for these improvements, the amount to be agreed upon with City Engineering staff and the applicant. If there is a disagreement on the assessment amount, this issue may be brought back before the Planning Commission for final determination.*
 - *Because of the existing site distance and traffic safety problems at the intersection of 54th Street and Persimmon that will be exacerbated by traffic from this development, the developer shall install signage converting the intersection into a three-way stop. This will likely include additional warning signage and pavement striping, the exact details to be approved by the City Engineering Division.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THE STREET IMPROVEMENTS AS RECOMMENDED BY STAFF, MODIFYING THE OFF-SITE IMPROVEMENTS AS NOTED ABOVE TO ACCEPT MONEY-IN-LIEU (09-09-2013).

3. Right-of-way shall be dedicated for the internal streets in the amounts as listed on the street table and indicated on the plat. Right-of-way shall be dedicated in the amount of

29.5 feet from centerline along the site's 54th Street frontage.

4. On April 1, 2013, the Park and Recreation Advisory Board (PRAB) reviewed the project and recommended accepting money lieu because of the project's proximity to Harmony Pointe Park and Bundrick Park. Fees in the amount of \$99,360.00 are due for the proposed 108 single-family units and shall be paid prior to final plat. The fees may be phased as specified in the UDC. The applicant shall remove the designation of Lot 33 as parkland from the plat.

THE PLANNING COMMISSION MODIFIED AND APPROVED THIS CONDITION AS NOTED (09/09/2013).

5. Conditions of approval from Engineering, Solid Waste, Urban Forester, and the Parks Departments are included in the official conditions of approval, attached herein.
6. Future street extensions signs shall be installed at all street stub-outs.
7. Any community club house or recreational facility requires approval by the Planning Commission as a conditional use permit.
8. An assessment shall be paid prior to final plat for the removal of temporary hammerheads. The applicant should provide a cost estimate for this assessment.
9. Comments from the 911 Coordinator on street names, attached herein, shall be addressed.
10. 'No Parking' areas will be identified with signage at the time of final plat as required by the City Fire Marshall, but the parallel parking spaces will not be striped.
11. Identify the offsite signage improvements at 54th and Persimmon.
12. Show the bike lane striping on Persimmon Street through the subdivision.

Standard Conditions of Approval:

13. All signage shall be reviewed and approved by the Planning Department prior to installation. Freestanding signage is not permitted within utility easements, unless otherwise approved by all utility companies.
14. All street names and addresses shall be approved by the 911 coordinator.
15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
16. Preliminary plat approval is valid for one year. All permits to complete construction of this preliminary plat are required to be obtained within one year, subject to extensions in accordance with the Unified Development Code.

17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
19. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
20. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.

Subdivision Committee Action: ☒ **Forwarded** ☐ **Denied** ☐ **Tabled**
Motion: Winston
Second: Autry
Vote: 3-0-0
Meeting Date: August 29, 2013
Note: Recommendation for approval

Planning Commission Action: ☒ **Approved** ☐ **Denied** ☐ **Tabled**
Motion: Winston
Second: Pennington
Vote: 8-1-0 (Commissioner Chesser voted 'no')
Meeting Date: September 9, 2013
Note:



**Bates &
Associates, Inc.**

Civil Engineering & Surveying

91 W. Colt Square Dr. Suite 3 / Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350

September 3, 2013

Planning Commissioners and Staff
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Legacy Subdivision Phase V – Variance Request

Dear Planning Staff,

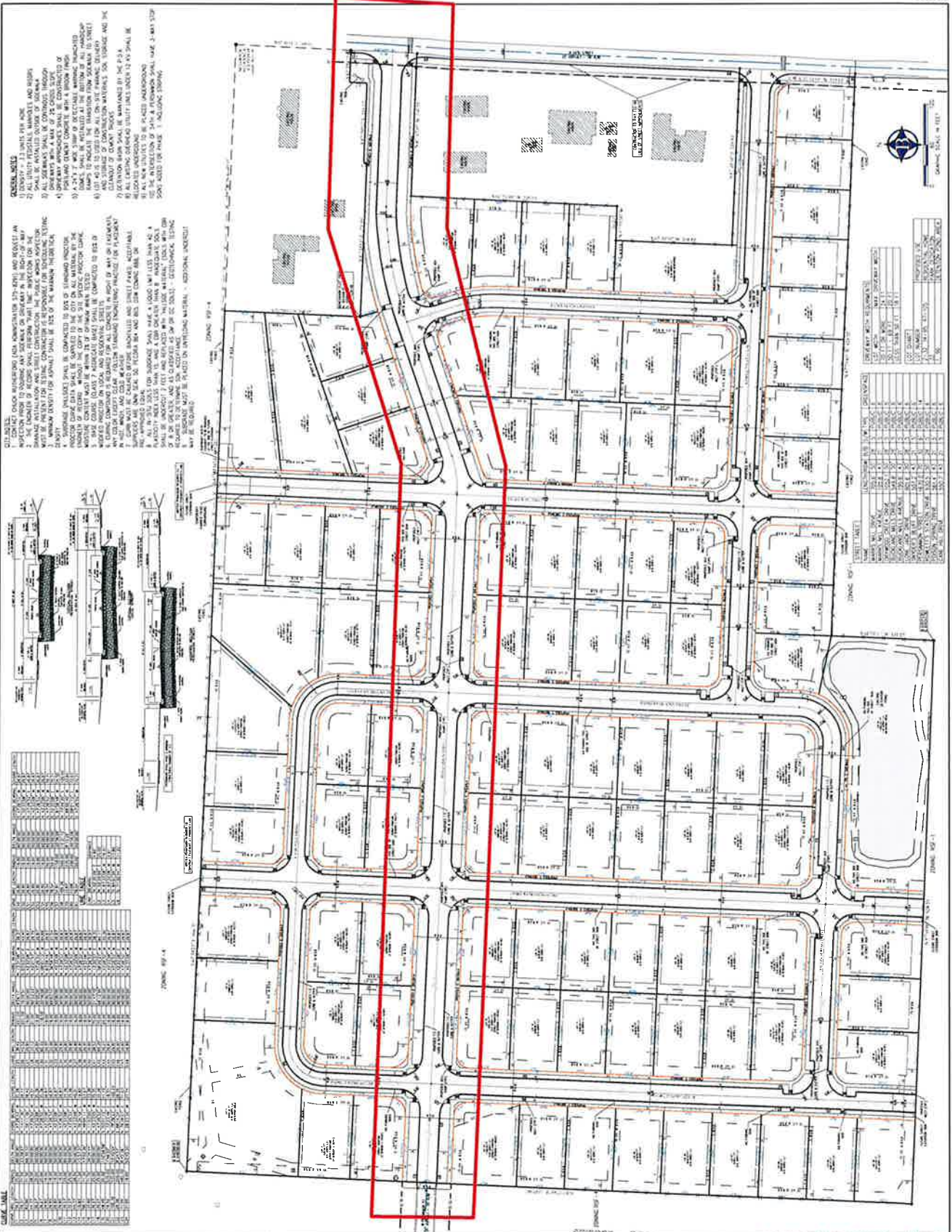
The developer would like to request the following variances:

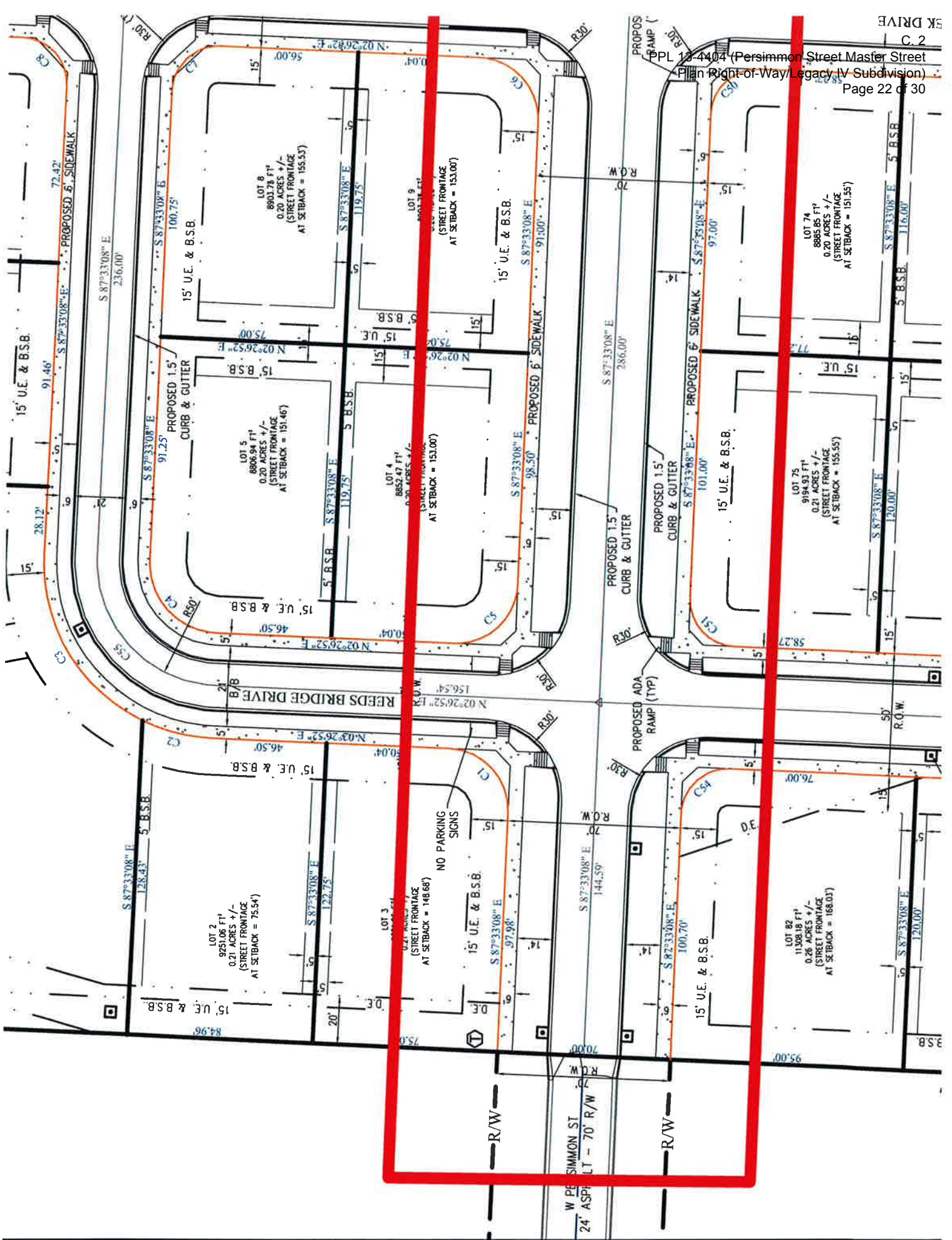
1. The existing right-of-way along Persimmon Drive to the west of the subject property is 70'. The existing right-of-way to the east is 65'. The property owner would like to request a variance to allow a 70' right-of-way in order that we are consistent with the property to the west and the majority of properties to the east. This property was previously approved for a grading permit, and the streets were cut for a 70' right-of-way, so much of this initial road grading is complete. In addition, the existing improved Persimmon to the east connecting to the frontage road along I-540 is 70'. It seems less useful to make this short stretch 77'. Naturally, we think this the best solution is to keep the stretch at 70'

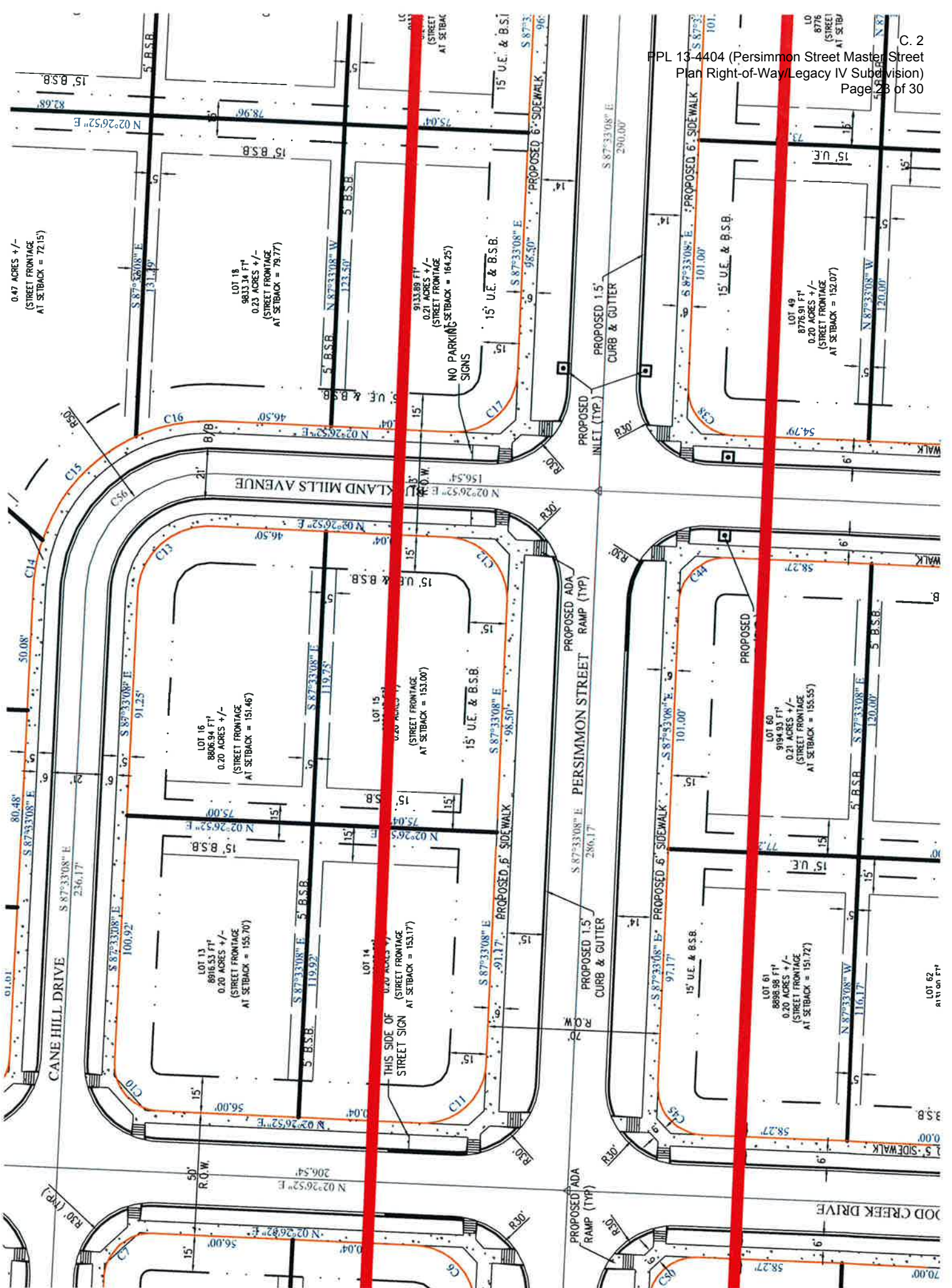
If you have any questions or require additional information, please feel free to contact me at your convenience.

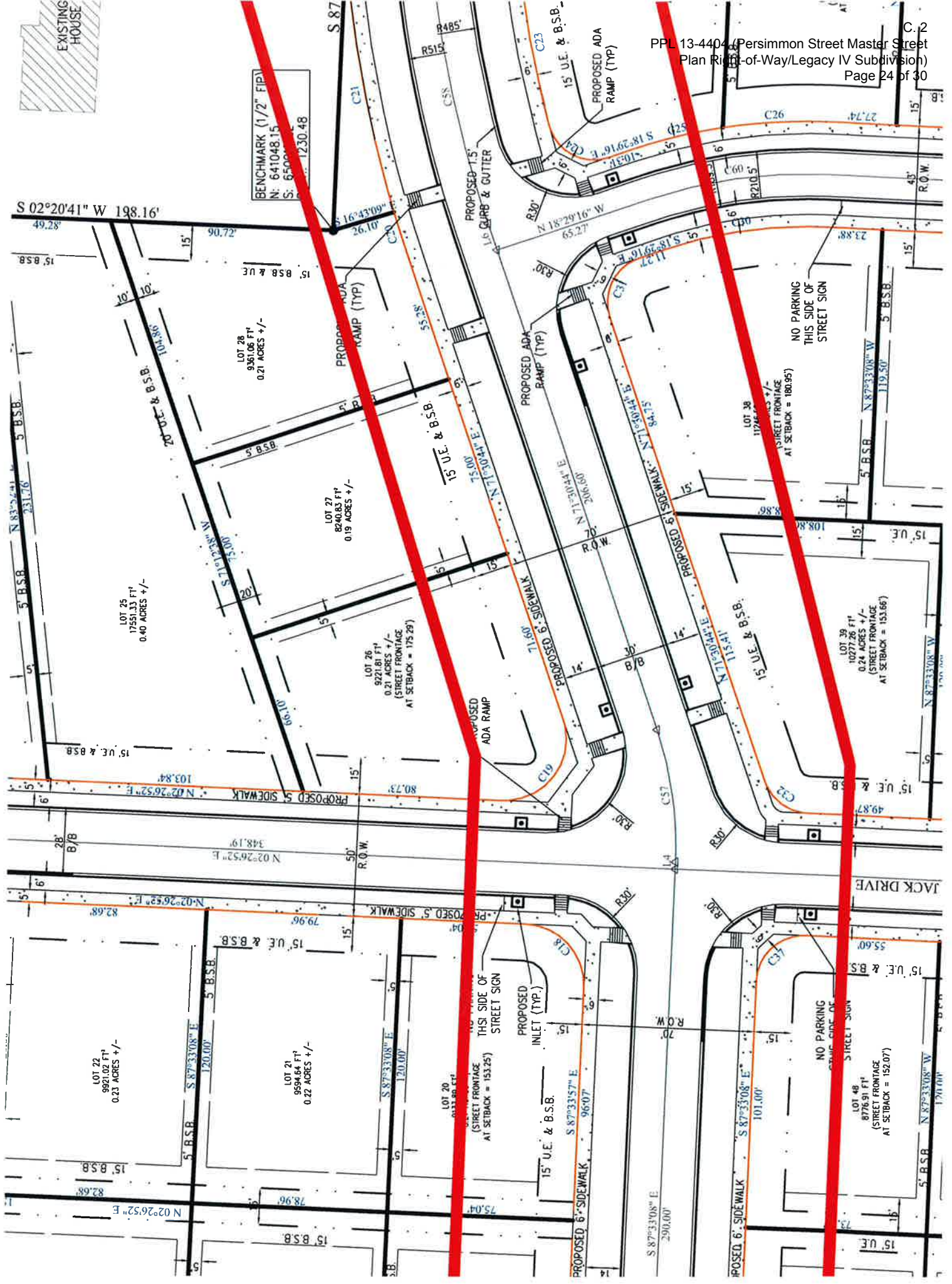
Sincerely
Bates & Associates, Inc.

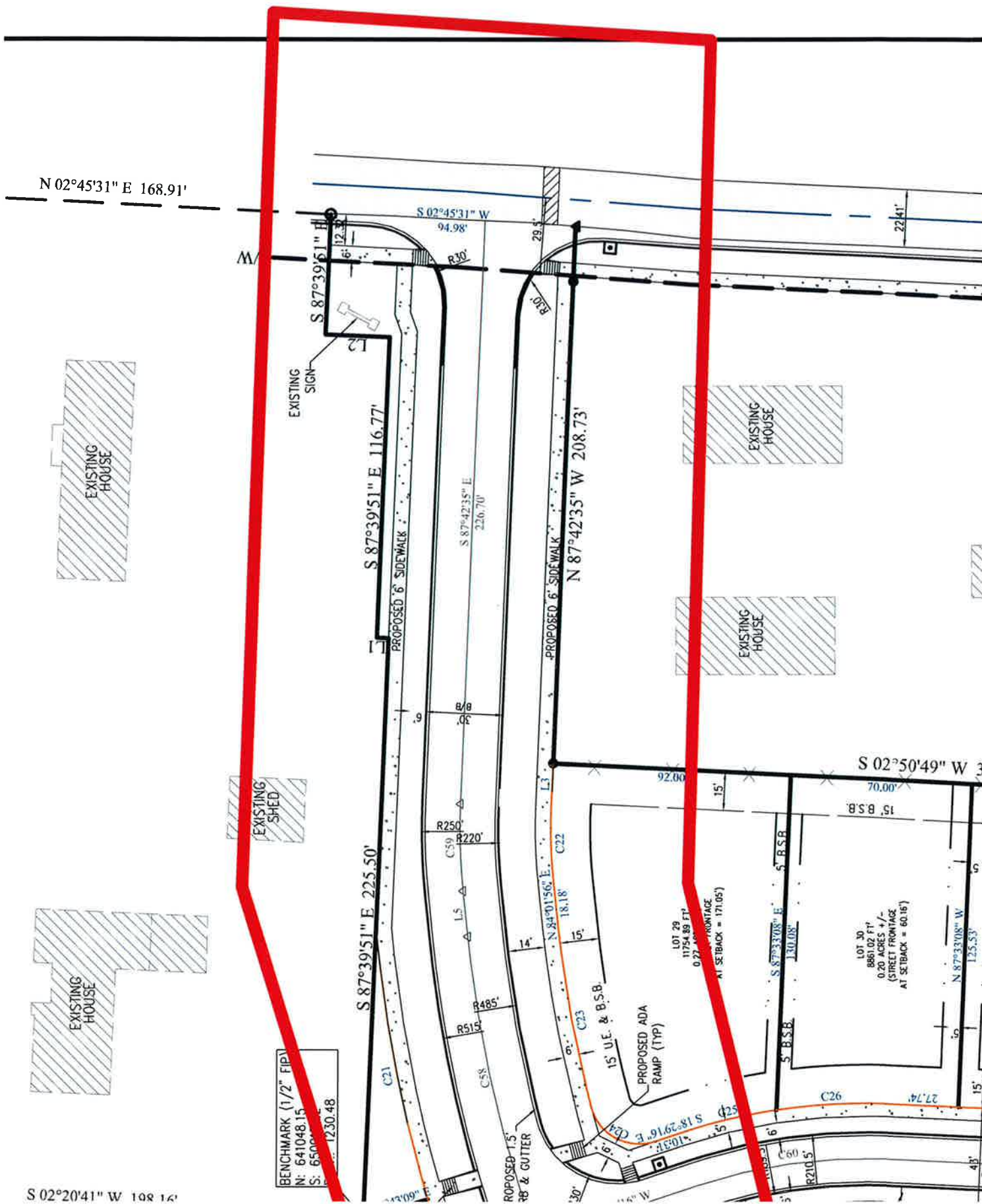
Geoffrey H. Bates, P.E.

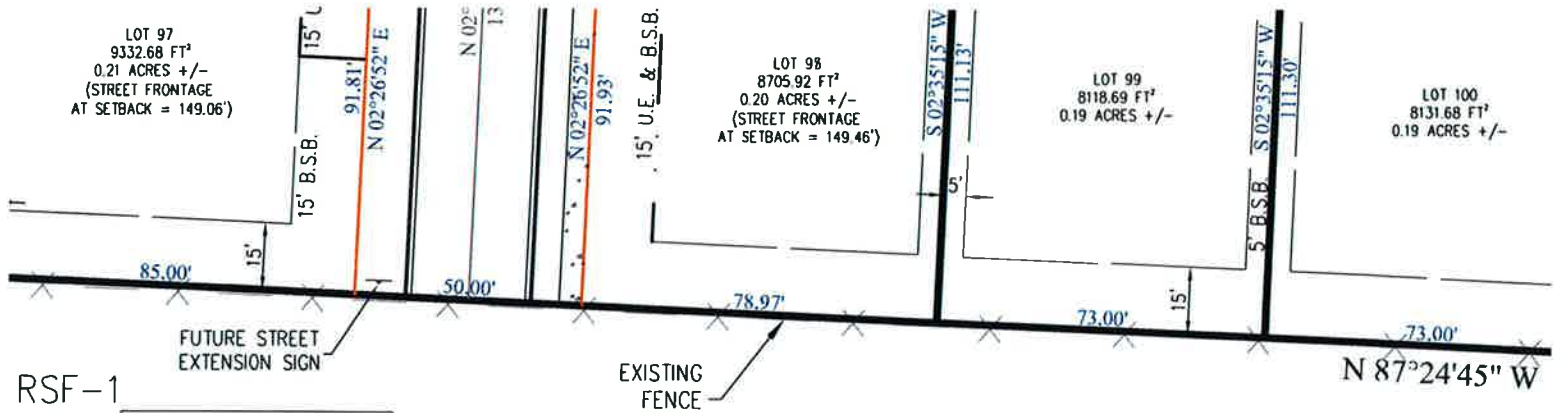












RSF-1

STREET TABLE

NAME	LENGTH	ROW	B/B	S/W	TYPE	GREENSPACE
MARKS MILL DRIVE	705.6'	50'	28'	5'	PUBLIC	6'
MARKS MILL AVENUE	195.8'	43'	21'	5'	PUBLIC	6'
DRYWOOD CREEK DRIVE	1052.1'	50'	28'	5'	PUBLIC	6'
BUCKLAND MILLS DRIVE	549.8'	50'	28'	5'	PUBLIC	6'
BUCKLAND MILLS AVENUE	195.8'	43'	21'	5'	PUBLIC	6'
LONE JACK DRIVE	901.6'	50'	28'	5'	PUBLIC	6'
SNYDER'S BLUFF DRIVE	507.2'	43'	21'	5'	PUBLIC	6'
PERSIMMON STREET	1670.0'	70'	30'	6'	PUBLIC	14'
ROWLETT'S STATION DRIVE	930.5'	50'	28'	5'	PUBLIC	6'
POISON SPRING DRIVE	561.4'	43'	21'	5'	PUBLIC	6'
CANE HILL DRIVE	550.7'	43'	21'	5'	PUBLIC	6'

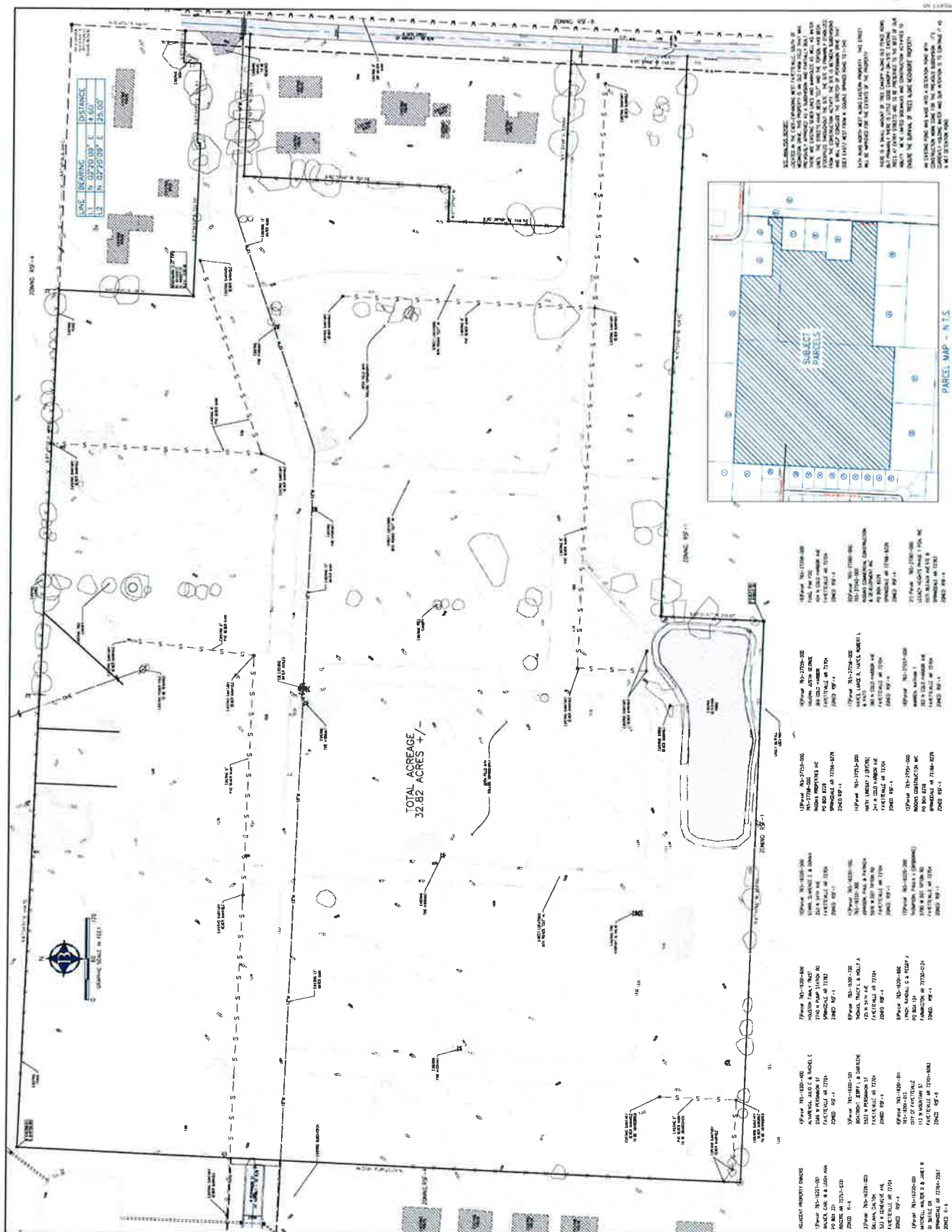
DRIVE
LOT W
70 FT
50 FT
LESS

LOT C
LOT N
2-32,
33
1, 96



Bates & Associates, Inc.
Civil Engineering & Surveying

LEGACY POINTE PHASE V
PRELIMINARY PLAT
EXISTING SITE & DEMOLITION PLAN
& ANALYSIS REPORT
FAYETTEVILLE, ARKANSAS

[illegible][illegible]



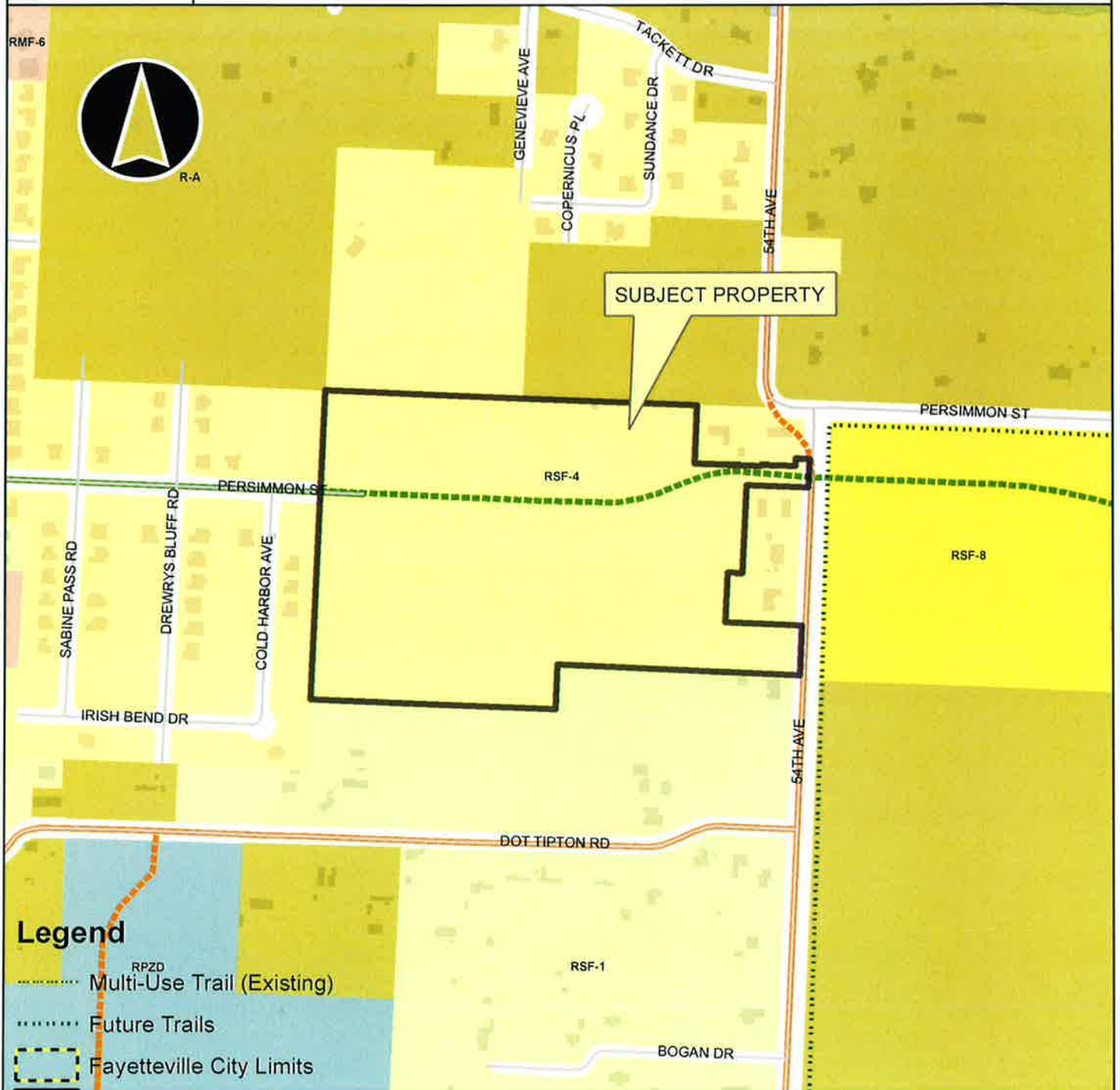
PPL 13-4404 (Persimmon Street Master Street
Plan Right-of-Way/Legacy Subdivision)

C. 2
1 inch = 667 Feet
0 175 350 700 1,050 1,400 Feet

PPL13-4404

LEGACY PHASE V

Close Up View



Legend

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

Overview PPL13-4404

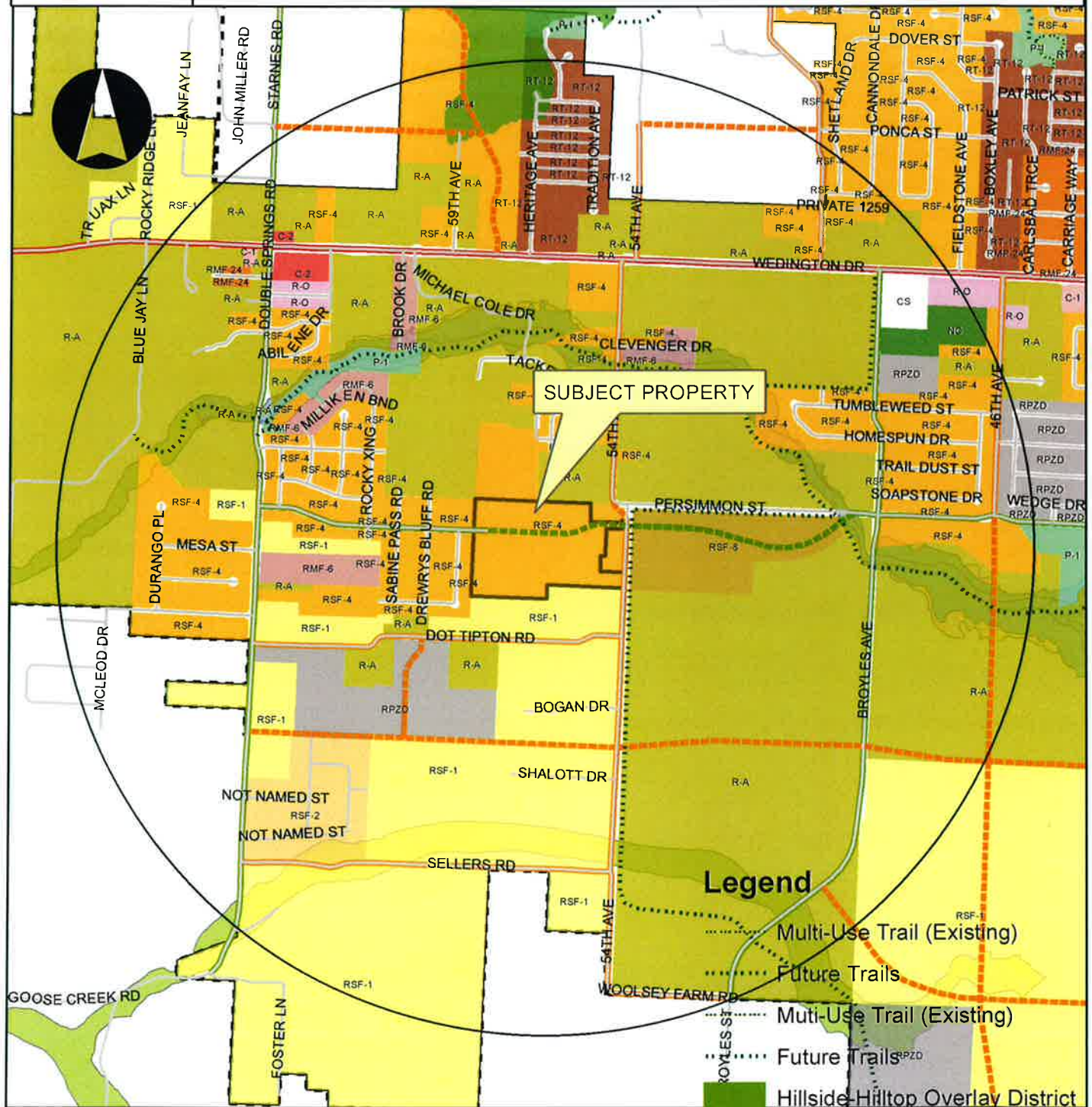
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



PPL13-4404

LEGACY PHASE V

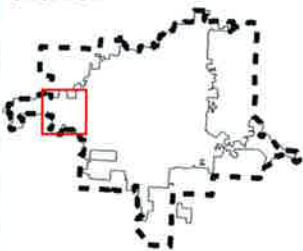
One Mile View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Multi-Use Trail (Existing)
- Future Trails
- Hillside-Hilltop Overlay District

Overview



Legend

- Subject Property
- PPL13-4404

Boundary



- PPL 13-4404
- Design Overlay District
- Planning Area
- Fayetteville

City of Fayetteville Staff Review Form

C. 3
RZN 13-4467 (Mount Comfort
and Shiloh/Kum & Go)
Page 1 of 22

City Council Agenda Items
and
Contracts, Leases or Agreements

10/1/2013

City Council Meeting Date
Agenda Items Only

Jesse Fulcher
Submitted By

Planning
Division

Development Services
Department

Action Required:

RZN 13-4467: Rezone (MOUNT COMFORT AND SHILOH/KUM & GO, 324): Submitted by CEI ENGINEERING for property located at THE NORTHWEST CORNER OF MOUNT COMFORT AND SHILOH. The property is zoned R-A, RESIDENTIAL AGRICULTURAL AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS/ACRE. and contains approximately 1.65 acres. The request is rezone the property to C-1, NEIGHBORHOOD COMMERCIAL.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

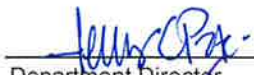
\$

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached


Department Director

9-11-2013
Date

Previous Ordinance or Resolution #


City Attorney

9-16-13
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

9/17/13
Date

Received in City
Clerk's Office


Chief of Staff

9/18/13
Date

Received in
Mayor's Office


Mayor

9/18/13
Date

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Jesse Fulcher, Current Planner

Date: September 13, 2013

Subject: RZN 13-4467 (Mount Comfort and Shiloh/Kum & Go)

RECOMMENDATION

The Planning Commission recommends approval of an ordinance to rezone the property to C-1, Neighborhood Commercial. Planning Division staff recommends denial of the request.

BACKGROUND

The subject property is located at the northwest corner of Mount Comfort Road and Shiloh Drive. The overall property contains approximately 23.50 acres, with 0.30 acres zoned RSF-4, Residential Single-family and 23.20 acres zoned Residential Agricultural. The property is developed with a single-family home and some type of vehicle and trailer storage yard.

The applicant has submitted an application to rezone 1.65 acres of the property from R-A, Residential Agricultural and RSF-4, Residential Single-family to C1, Neighborhood Commercial. The property is under contract by Kum & Go L.C., according to the applicant.

CITY PLAN 2030 FUTURE LAND USE MAP: *City Plan 2030 Future Land Use Plan designates this site as City Neighborhood Area.* These areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types. Non-residential uses range in size, variety and intensity from grocery stores and offices to churches, and are typically located at corners and along connecting corridors.

COMPATIBILITY: This property serves as a transition from the sounds and traffic volumes of I-540 and the residential characteristics of the Mount Comfort Road corridor. The C-1 development pattern, in staff's opinion, does not support an appropriate transition into a neighborhood, but rather extends a highway commercial form along the corridor. Further, the C-1 zoning district does not support the guiding policies of the City Neighborhood Area designation, including: protecting adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas with proper mitigation measures that address scale, massing, traffic, noise, appearance, lighting, drainage, and effects on property values; encourage walkability as part of the street function; encourage pedestrian friendly, mixed-use buildings through the use of transparent glass and building entrances that address the street; and encourage properties to develop in an urban form.

DISCUSSION

On September 9, 2013, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 8-1-0 (Commissioner Chessser voted 'no').

BUDGET IMPACT

None.



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

FROM: Kit Williams, City Attorney

A handwritten signature in blue ink, appearing to read "Kit Williams", written over a horizontal line.

DATE: September 16, 2013

**RE: Rezoning request of Kum & Go for Neighborhood Commercial of
the corner of Mount Comfort and Shiloh**

The Planning Commission almost unanimously (Commissioner Chesser being the sole dissenter) recommended that the City Council approve Kum & Go's request for Neighborhood Commercial for a 1.65 acre parcel on the corner of Mount Comfort Road and Shiloh Drive which is primarily zoned Residential Agriculture (R-A) now. The Planning Commission rejected the Planning Department's advice to deny Kum & Go's request and just leave this parcel primarily R-A.

R-A zones may be used for:

(1) "Agriculture" which includes egg and truck farms, and smoking, curing and selling poultry and livestock;

(2) "Animal husbandry" which includes animal breeding farms, farms with livestock, animal hospitals, rodeo grounds, and rifle ranges;

- (3) "Manufactured homes"; and
- (4) "Animal boarding and training."

The first purpose of Residential-Agricultural pursuant to the U.D.C. is "to protect agricultural land until an orderly transition to urban development has been accomplished...."

Kum & Go's requested zoning district is Neighborhood Commercial whose purpose "is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas."

The Planning Commissioners pointed out that Kum & Go's convenience store/gas station would be the first place where the surrounding neighborhoods on Mount Comfort could purchase groceries and convenience goods or buy gas. Kum & Go's convenience store seems designed "to provide convenience goods . . . for person living in the surrounding neighborhoods."

The 2030 Future Land Use Map shows this area to be a City Neighborhood Area which the Planning Division writes should supply a mix of nonresident uses including grocery stores "typically located at corners and along connecting corridors." Grocery stores are not allowed in R-A, but they are allowed in Neighborhood Commercial as requested by Kum & Go for its proposed corner lot on the Mount Comfort corridor which the City has just improved to four lanes.

The City Council has wide discretion about whether or not to rezone property. However, before the City Council would vote not to approve the rezoning almost unanimously recommended by your Planning Commission, you should be able to articulate specific reasons why the uses allowed in R-A will better protect adjoining properties and property values than the recommended Neighborhood Commercial which allows the types of services that the Planning Department affirms that the City Neighborhood Area of Mount Comfort in the 2030 Plan calls for and which are not allowed in the current R-A.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 13-4467, FOR APPROXIMATELY 1.65 ACRES LOCATED AT THE NORTHWEST CORNER OF MOUNT COMFORT ROAD AND SHILOH DRIVE FROM R-A, RESIDENTIAL AGRICULTURAL AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE, TO C-1, NEIGHBORHOOD COMMERCIAL.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from R-A, Residential Agricultural and RSF-4, Residential Single-Family, 4 units per acre to C-1, Neighborhood Commercial, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and APPROVED this day of , 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

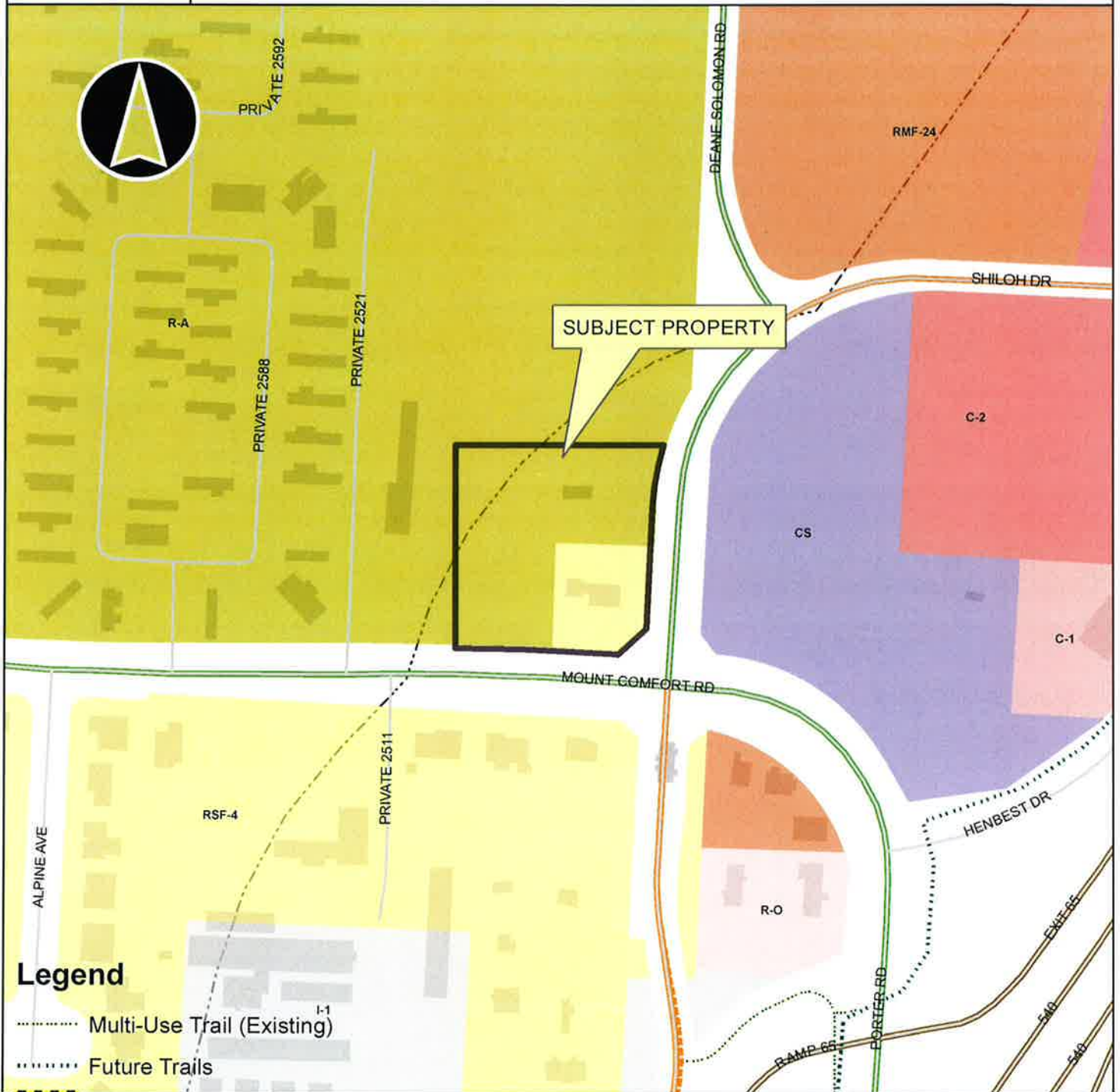
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT 'A'

RZN13-4467

KUM AND GO

Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails

Overview Fayetteville City Limits

- RZN13-4467
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Planning Area



EXHIBIT "B"
RZN 13-4467

A TRACT OF LAND BEING A PORTION OF INSTRUMENT NO. 2005-45625 AMONG THE PUBLIC RECORDS OF WASHINGTON COUNTY, ARKANSAS, LAYING IN THE FRACTIONAL NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 30 WEST, FIFTH PRINCIPAL MERIDIAN, AND BEING DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A FOUND 3" BRASS CAP AT THE SOUTHEAST CORNER OF SAID QUARTER PER CERTIFIED LAND CORNER RESTORATION – PERPETUATION AND RESTORATION RECORD BOOK CRI, PAGE 333 FILED AT ARKANSAS STATE SURVEYORS OFFICE; THENCE ALONG THE SOUTH LINE OF SAID QUARTER, NORTH 87°07'17" WEST, A DISTANCE OF 368.01 FEET; THENCE DEPARTING SAID LINE, NORTH 2°35'29" EAST, A DISTANCE OF 55.29 FEET TO THE EXISTING NORTH RIGHT-OF-WAY OF WEST MOUNT COMFORT ROAD PER INSTRUMENT NO. 2009-15429 AND THE **POINT OF BEGINNING**;

THENCE ALONG SAID RIGHT-OF-WAY, NORTH 86°51'55" WEST, A DISTANCE OF 88.00 FEET TO THE NORTHWEST CORNER OF SAID INSTRUMENT NO. 2009-15429, BEING ALSO THE NORTHEAST CORNER OF INSTRUMENT NO. 2009-15427; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY, THE FOLLOWING TWO (2) COURSES:

- 1.) NORTH 86°51'55" WEST, A DISTANCE OF 41.86 FEET;
- 2.) NORTH 89°07'24" WEST, A DISTANCE OF 88.48 FEET;

THENCE DEPARTING SAID RIGHT-OF-WAY, NORTH 00°00'00" EAST, A DISTANCE OF 275.59 FEET;

THENCE NORTH 90°00'00" EAST, A DISTANCE OF 282.20 FEET TO THE WEST RIGHT-OF-WAY OF SHILOH DRIVE PER INSTRUMENT NO. 2009-15427;

THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING FOUR (4) COURSES:

- 1.) 86.33 FEET ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 14°07'57", A RADIUS OF 350.00 FEET, A LONG CHORD THAT BEARS SOUTH 09°56'14" WEST, AND A CHORD DISTANCE OF 86.11 FEET;
- 2.) SOUTH 02°52'18" WEST, A DISTANCE OF 164.52 FEET;



PC Meeting of September 9, 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, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Development Services Director
DATE: ~~September 4, 2013~~ Updated September 13, 2013

RZN 13-4467: Rezone (MOUNT COMFORT AND SHILOH/KUM & GO, 324): Submitted by CEI ENGINEERING for property located at THE NORTHWEST CORNER OF MOUNT COMFORT AND SHILOH. The property is zoned R-A, RESIDENTIAL AGRICULTURAL AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS/ACRE. and contains approximately 1.65 acres. The request is rezone the property to C-1, NEIGHBORHOOD COMMERCIAL.

Planner: Jesse Fulcher

BACKGROUND:

The subject property is located at the northwest corner of Mount Comfort Road and Shiloh Drive. The overall property contains approximately 23.50 acres, with 0.30 acres zoned RSF-4, Residential Single-family and 23.20 acres zoned Residential Agricultural. The property is developed with a single-family home and some type of vehicle and trailer storage yard. Surrounding land uses are shown in Table 1.

Table 1: Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Undeveloped	R-A, Residential Agricultural
South	Single-family residential	RSF-4, Residential Single-family 4 Units/ Acre
East	Undeveloped	CS, Community Services
West	Single-family residential	R-A, Residential Agricultural

Proposal: The applicant has submitted an application to rezone 1.65 acres of the property from R-A, Residential Agricultural and RSF-4, Residential Single-family to C1, Neighborhood Commercial. The property is under contract by Kum & Go L.C., according to the applicant.

Public Comment: Staff received a phone call inquiring about this rezoning from a resident in the area concerned with commercial development encroaching down the more residential areas of Mount Comfort Road.

PLANNING COMMISSION ACTION:

Date: September 9, 2013 ☐ Tabled ☒ Forwarded ☐ Denied

Motion: Winston **Second:** Hoskins **Vote:** 8-1-0 (Chesser voting 'no')

CITY COUNCIL ACTION:

Date: October 1, 2013 ☐ Approved ☐ Denied

RECOMMENDATION:

Staff recommends **denial** of **RZN 13-4467**. It is staff's opinion that development under the C-1 zoning district will result in a conventional commercial development pattern with design components that promote vehicle/pedestrian conflicts that ultimately discourage pedestrian activities. This development pattern does not encourage walkability or accessibility for residents in surrounding neighborhoods. Furthermore, the proposed zoning does not support the land use policies adopted with City Plan 2030, including Goal 3: We will make traditional town form the standard, or the policies of the City Neighborhood Area designation. City Neighborhood Areas encourage design elements that support pedestrian friendly, mixed-use developments that are sensitive to surrounding residential uses and utilize principals of traditional urban design.

INFRASTRUCTURE:

- Streets:** The site has access to Mount Comfort Road and Shiloh Drive. Both streets were improved by the City of Fayetteville. Any remaining street improvements will be evaluated at the time of development.
- Water:** Public water is available to the property. There is a 12" water main along Mount Comfort Road.
- Sewer:** Sanitary sewer is available to the site. There is an 8" sewer main along Mount Comfort Road. The capacity of the existing main will need to be evaluated at the time of development of this property.
- Drainage:** Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain or the Streamside Protection Zone.
- Police:** The Fayetteville Police Department has not objected to this request.
- Fire:** This development will be protected by Fire Station 7 located at 835 N Ruppel Road. It is 3 miles from the station with an anticipated response time of 4 minutes to this location. The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **City Neighborhood Area**.* These areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types. Non-residential uses range in size, variety and intensity from grocery stores and offices to churches, and are typically located at corners and along connecting corridors.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed rezoning to C-1 is not consistent with land use planning objectives, principles, and policies. The Future Land Use Map designation for the property is City Neighborhood Area. These areas support a wide variety of land uses and densities depending on the context of each property. This particular property serves as a transition from the sounds and traffic volumes of I-540 and the residential characteristics of the Mount Comfort Road corridor. The C-1 development pattern, in staff's opinion, does not support an appropriate transition into a neighborhood, but rather extends highway commercial form along the corridor. Further, the C-1 zoning district does not support the guiding policies of the City Neighborhood Area designation, including: protecting adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas with proper mitigation measures that address scale, massing, traffic, noise, appearance, lighting, drainage, and effects on property values; encourage walkability as part of the street function; encourage pedestrian friendly, mixed-use buildings through the use of transparent glass and building entrances that address the street; and encourage properties to develop in an urban form.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: In staff's opinion, the C-1 zoning district is not justified as this time. This zoning district does not fulfill or support many of the policies of the City Neighborhood Area designation, nor does it provide an appropriate transition into a residential district. The importance of a transition is even more evident, since the property to the east was recently rezoned to CS, Community Services. This form-based commercial zoning district allows a wide variety of residential and commercial uses, including all uses permitted in the C-1 zoning district, but prescribes a traditional development pattern, encouraged by the City Neighborhood Designation. Rezoning the subject property to C-1, when it is nearer to the residential districts along Mount Comfort, would create an incompatible development pattern in close proximity to residences, and diminish a necessary

transition between commercial and residential districts.

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

Finding: **Rezoning the property to C-1 will increase traffic volumes over existing conditions. In staff's experience, high traffic generators along busy street corridors can create increased congestion and traffic danger if improperly designed. The Unified Development Code contains a number of access management requirements that can mitigate traffic conflicts, if they are implemented in the site design.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The proposed zoning should not substantially alter the population density in the area. Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. Staff does not anticipate any adverse impacts to provision of public services that would result from this rezoning.**

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

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

Finding: **N/A**

- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

TITLE XV UNIFIED DEVELOPMENT CODE

161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District,

provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

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

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cottage Housing Development

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
-------	------	------

15 ft.	5 ft.	15 ft.
--------	-------	--------

(F) *Building height regulations.*

Building Height Maximum	45 ft.
-------------------------	--------

Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11)

161.18 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 25	Offices, studios, and related services

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 16	Shopping goods
Unit 34	Liquor stores
Unit 35	Outdoor music establishments*
Unit 36	Wireless communications facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	15 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Building height regulations.*

Building Height Maximum	56 ft.*
-------------------------	---------

*Any building which exceeds the height of 20 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08; Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

FIRE DEPARTMENT
303 West Center Street
Fayetteville, AR 72701
P (479) 575-8365 F (479) 575-0471**OFFICE OF THE FIRE MARSHAL**

Zoning Review

To: Jesse Fulcher
From: Battalion Chief H. Hunt
Date: August 12, 2013
Re: RZN 13-4467 (Mount Comfort and Shiloh/Kum & Go)

This development will be protected by Fire Station 7 located at 835 N. Ruppel.
It is 3 miles from the station with an anticipated response time of 4 minutes to this location.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

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

Battalion Chief H. Hunt
Fire Marshal
479-718-7639



ENGINEERS ■ SURVEYORS ■ PLANNERS
LANDSCAPE ARCHITECTS ■ ENVIRONMENTAL SCIENTISTS

3108 SW Regency Parkway, Suite 2
Bentonville, AR 72712
(479) 273-9472 Fax (479) 273-0844

www.ceieng.com

July 29, 2013

Development Services Department
City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72701

RE: Request for Rezoning: Kum & Go #419, NWC of Mt. Comfort Rd & Shiloh Dr.

Dear Development Services,

Pursuant to the City of Fayetteville's Rezoning Application, the following information is provided to satisfy Item 5, sub-items a through I of the Rezoning Checklist.

5a. Current ownership information and any proposed or pending property sales.

The current owner of the land is Joan C. Hays, 2556 Mt. Comfort Rd #29, Fayetteville, AR 72704. The land is under contract by Kum & Go L.C., 6400 Westown Parkway, West Des Moines, IA 50266. Successful rezoning of the property is a contract contingency.

5b. Reason (need) for requesting zoning change.

The current zoning is RA (Residential Agriculture) which does not allow for the proposed use of a convenience store. A zoning change to C1 (Neighborhood Commercial) is requested to accommodate the applicant's land use.

5c. Statement of how the proposed rezoning will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

The site is on the northwest corner of the signalized intersection of Mt. Comfort Rd. and Shiloh Dr. Both roads have recently been upgraded to create the 4 travel lanes on Mt. Comfort and the new traffic signal at the intersection with Shiloh Dr. The proposed land use is in compliance with the land use patterns as prescribed by the Future Land Use Map. Being that Kum & Go generally utilizes "pass-by" traffic for its customer base, and is not a "destination" land use, the proposed use will not generate an increase in traffic to the corridor. The site has adequate frontage on both Mt. Comfort Rd. and Shiloh Dr. to safely accommodate ingress and egress from the adjacent roadways. Kum & Go has developed an aesthetic brand for both the appearance and signage for their stores, and their brand will not be a visual distraction along the Mt. Comfort corridor.

5d. Availability of water and sewer (state size of lines).

Water – A 12" line exists on the south side of the property (north side of Mt. Comfort).
Sewer – An 8" line exists on the south side of the property (north side of Mt. Comfort).

5e. The degree to which the proposed zoning is consistent with the land use planning objectives, principles and policies, and with land use and zoning plans.

Providing Consolidated Land Development Services

CALIFORNIA ■ TEXAS ■ ARKANSAS ■ MINNESOTA ■ GEORGIA ■ PENNSYLVANIA

The proposed zoning is consistent with the City Plan 2030 and the guiding policies of the City Neighborhood Areas in that the proposed use would serve the residents of Fayetteville rather than a regional population. Additionally it would provide a use that is accessible for the convenience of residents living in the adjacent residential districts.

5f. Whether the proposed zoning is justified and/or needed at the time of the request.

The proposed zoning is justified by the locations viability as a convenience store on the corner of two connecting corridors. The location would be utilized to provide convenience goods to residents that would reduce the length and number of vehicular trips generated by residents living to the west and south of the site; a large residential area which is devoid of commercial services.

5g. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

The proposed zoning should not create, or considerably increase, traffic danger and congestion since the site has frontage on both Mt. Comfort Rd. and Shiloh Dr., both of which have been recently upgraded to the city's master street plan. This section of the corridor has good site distances and is not developed with regional destination type of land uses.

5h. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

The proposed zoning should not alter the population density. It is a commercial land use, and as such will not foster any population increase.

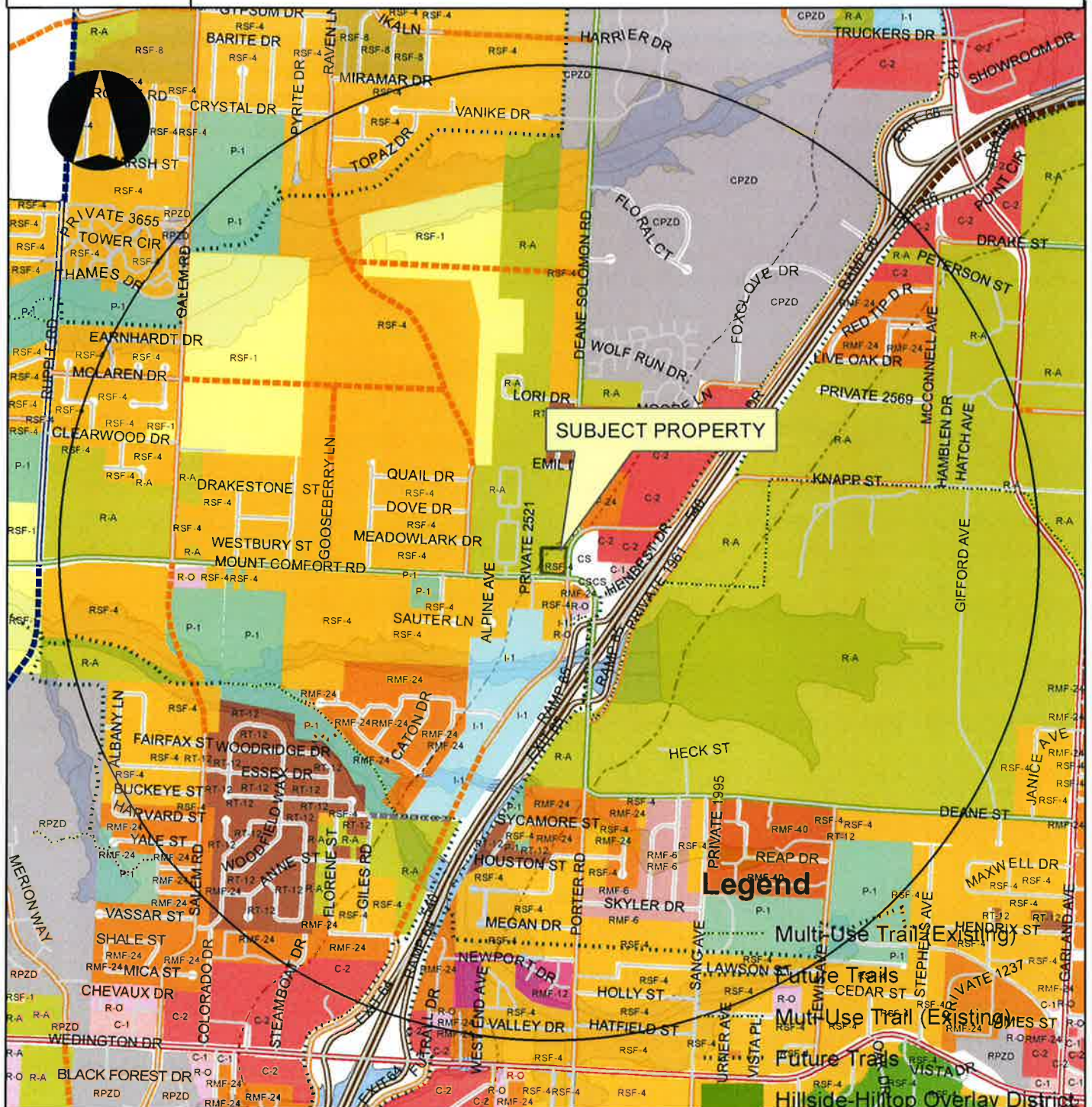
5i. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

The area surrounding this property that is currently zoned Residential Agriculture is transitioning to urban development. Rezoning the property would help prevent urban sprawl. The proposed land use would help to fill a need for commercial/retail services in the corridor. The closest commercial services are located 1.5 miles to the north at the I-540 and Garland Ave intersection, and 1.3 miles to the south at the I-540 and Weddington Dr. intersection.

RZN13-4467

KUM AND GO

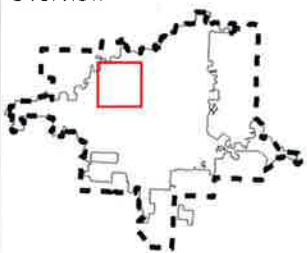
One Mile View



Legend

Multi-Use Trails Existing
 Future Trails
 Multi-Use Trail (Existing)
 Future Trails
 Hillside-Hilltop Overlay District

Overview



Legend

Subject Property
 RZN13-4467

Boundary

0 0.25 0.5

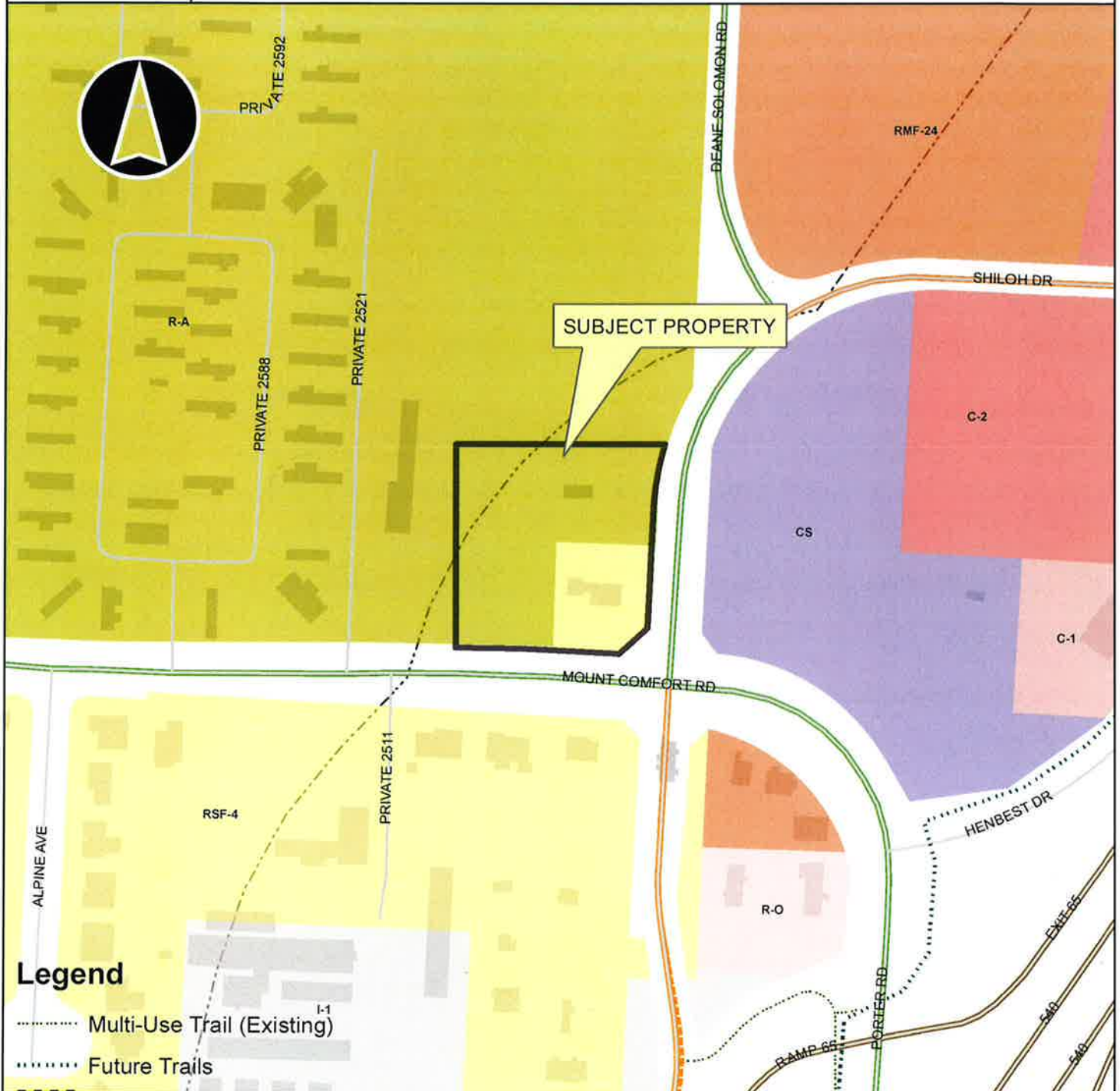
1 Miles

RZN13-4467
 Design Overlay District
 Planning Area
 Fayetteville

RZN13-4467

KUM AND GO

Close Up View

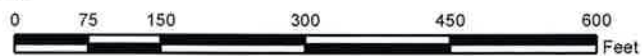


Legend

- Multi-Use Trail (Existing)
- Future Trails

Overview Fayetteville City Limits

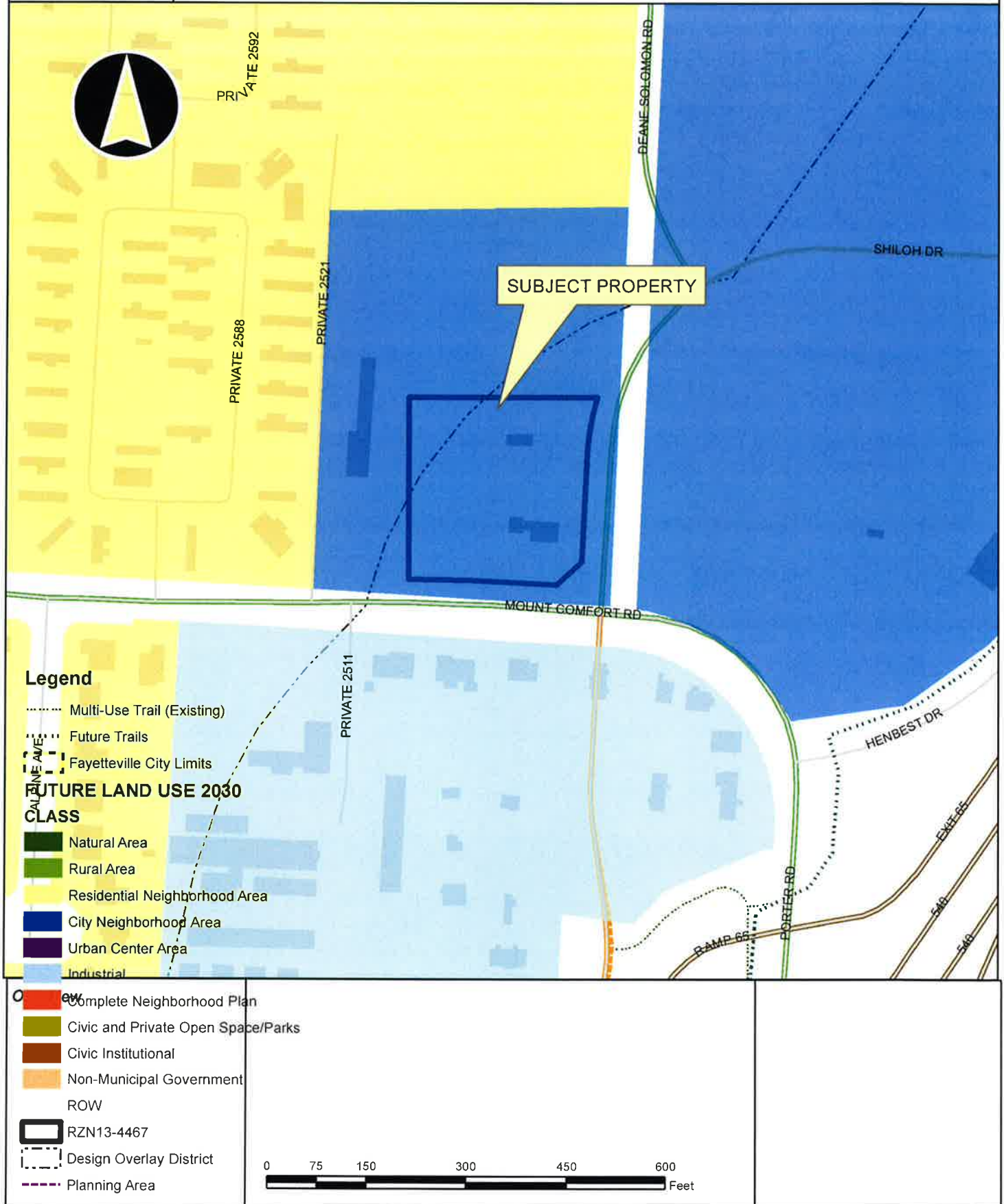
- RZN13-4467
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Planning Area



RZN13-4467

KUM AND GO

Future Land Use



RZN13-4467

Current Land Use

KUM AND GO



Overview Fayetteville City Limits

- RZN13-4467
- Footprints 2010
- Hillside-Hilltop Overlay District
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0 75 150 300 450 600
Feet

Agenda Session

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 October 01, 2013

A meeting of the Fayetteville City Council will be held on October 01, 2013 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the September 3, 2013 and September 17, 2013 City Council meeting minutes.
2. **Selective Traffic Enforcement Program Grant:** A resolution authorizing acceptance of a 2013-2014 Selective Traffic Enforcement Program (STEP) Grant award in the amount of \$100,500.00, and approving a budget adjustment.

3. **Equipment Resource Management, Inc.:** A resolution authorizing the purchase of one (1) Wirtgen W35DC mini milling machine from Equipment Resource Management, Inc. of Little Rock, pursuant to National Joint Powers Alliance Cooperative purchasing agreement, in the amount of \$132,134.00, and approving a budget adjustment.
4. **Community Services Division Budget Adjustment:** A resolution approving a budget adjustment in the total amount of \$5,103.00 representing CDBG program income received through a housing program lien payoff.
5. **Trail Naming:** A resolution naming Clear Creek Trail and an extension of Scull Creek Trail.

B. Unfinished Business:

1. **Fayetteville Government Channel's Mission Statement Amendment:** A resolution amending the Fayetteville Government Channel's Mission Statement, Goals Statement and Operating Policies, as approved by Resolution No. 180-10, to prohibit the recording or televising of meetings of the Nominating Committee of the City Council by the Fayetteville Government Channel. *This resolution was Tabled at the September 03, 2013 City Council meeting to the October 01, 2013 City Council meeting.*
2. **2013 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2013 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas. *This ordinance was left on the Second Reading at the September 17, 2013 City Council meeting.*

Left on the Second Reading

3. **Amend §164.11 Height and Setback Regulations; Exceptions:** An ordinance to Amend §164.11 Height and Setback Regulations; Exceptions to enhance livability through appropriate transitions in building scale and to protect access to air and sunlight and to enact an emergency clause. *This ordinance was left on the First Reading at the September 17, 2013 City Council meeting.*

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C. New Business:

1. **City of Johnson Rezoning:** A resolution pursuant to Arkansas Code Annotated § 14-56-306(b) agreeing to a change in zoning from Planned Unit Development to C-1, Light Commercial/Office for property located in the City of Johnson that adjoins the City of Fayetteville.

2. ✓ **PPL 13-4404 (Persimmon Street Master Street Plan Right-of-Way/Legacy IV Subdivision):** A resolution to approve the dedication of 70 feet of right of way for Persimmon Street along most of the owner's property as recommended by the Planning Commission.
3. ✓ **RZN 13-4467 (Mount Comfort and Shiloh/Kum & Go):** An ordinance rezoning that property described in rezoning petition RZN 13-4467, for approximately 1.65 acres located at the northwest corner of Mount Comfort Road and Shiloh Drive from R-A, Residential Agricultural and RSF-4, Residential Single-Family, 4 units per acre, to C-1, Neighborhood Commercial.

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E. City Council Tour:

F. Announcements:

Adjournment:

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Pre Agenda Meeting 9/18/13

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www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
BUDGET & RESEARCH DIVISION
113 West Mountain Street
Fayetteville, AR 72701
P (479) 575-8347

TO: Mayor Lioneld Jordan and Members of the City Council
Don Marr, Chief of Staff

FROM: Paul A. Becker, Finance Director

DATE: September 23, 2013

SUBJECT: **July Sales Taxes Received In August 2013 by the State**

The following key points need to be communicated regarding sales tax collections:

FAYETTEVILLE SALES TAX ACTIVITY

1. Sales tax collections remitted for sales tax subject to the 1 cent City tax in August, 2013 were down \$1,277 / -0.09% as compared to the same month prior year. These collections represent July, 2013 sales.
2. Sales tax collections remitted to the City for the City's share of County tax collections in August, 2013 were up \$39,192 / 4.18% as compared to the same month prior year. These collections represent July, 2013 sales.
3. When compared to budget for the month, sales tax collections were down a total of \$63,266 / -2.53%. The 2012 year to date budget impact for the eight months is up a total of \$277,110 / 1.42%.

1% City / 1% County (Combined)	Budget	Actual	\$ Difference	% Difference
December, 2012	\$ 2,747,000	\$ 2,838,087	\$ 91,087	3.32%
January, 2013	2,217,100	2,346,246	129,146	5.82%
February, 2013	2,305,100	2,280,569	(24,531)	(1.06%)
March, 2013	2,406,600	2,441,285	34,685	1.44%
April, 2013	2,407,700	2,397,283	(10,417)	(0.43%)
May, 2013	2,432,400	2,494,023	61,623	2.53%
June, 2013	2,441,700	2,500,484	58,784	2.41%
July, 2013	2,505,200	2,441,934	(63,266)	(2.53%)
August, 2013				
September, 2013				
October, 2013				
November, 2013				
YTD Budget to Actual	\$ 19,462,800	\$ 19,739,910	\$ 277,110	1.42%

Funding Source	Budget	Actual	\$ Difference	% Difference
General Fund: 1% City (60% Split)	\$ 7,081,300	\$ 7,169,499	\$ 88,199	1.25%
1% County	7,660,500	7,790,745	130,245	1.70%
	\$ 14,741,800	\$ 14,960,244	\$ 218,444	1.48%
ST Capital: 1% City (40% Split)	\$ 4,721,000	\$ 4,779,666	\$ 58,666	1.24%
Total General/ST Capital Funds:	\$ 19,462,800	\$ 19,739,910	\$ 277,110	1.42%

NWA REGION SALES TAX ACTIVITY - JULY 2013 COLLECTIONS

4. July, 2013 1% City Sales Tax collections as compared to the surrounding areas were as follows:

City Sales Tax Collections:		July 2012	July 2013	\$ Difference	% Difference
1% City:	Fayetteville	\$ 1,466,887	\$ 1,465,610	\$ (1,277)	(0.09%)
	Springdale	\$ 830,681	\$ 901,976	\$ 71,295	8.58%
	Bentonville	\$ 764,486	\$ 844,390	\$ 79,904	10.45%
	Rogers	\$ 1,094,479	\$ 1,118,067	\$ 23,588	2.16%

5. July, 2013 1% County Sales Tax collections as compared to the surrounding areas were as follows:

County Sales Tax Collections:		July 2012	July 2013	\$ Difference	% Difference
Washington	Fayetteville	\$ 937,131	\$ 976,324	\$ 39,192	4.18%
Washington	Springdale	\$ 811,845	\$ 845,798	\$ 33,953	4.18%
Benton	Bentonville	\$ 440,564	\$ 489,876	\$ 49,312	11.19%
Benton	Rogers	\$ 698,443	\$ 776,619	\$ 78,176	11.19%

6. July, 2013 countywide collections for the combined Washington and Benton Counties were as follows:

County Sales Tax Collections:		July 2012	July 2013	\$ Difference	% Difference
Washington County		\$ 2,586,281	\$ 2,694,444	\$ 108,163	4.18%
Benton County		2,762,358	3,071,547	309,189	11.19%
		<u>\$ 5,348,639</u>	<u>\$ 5,765,991</u>	<u>\$ 417,352</u>	<u>7.80%</u>

NWA REGION SALES TAX ACTIVITY - YEAR-TO-DATE (EIGHT MONTHS) COLLECTIONS

7. Year-to-Date (eight months) collections as compared to the surrounding areas were as follows:

City Sales Tax Collections:		(Eight Months) YTD 2012	(Eight Months) YTD 2013	\$ Increase (Decrease)	% Increase (Decrease)
1% City:	Fayetteville	\$ 11,564,298	\$ 11,949,165	\$ 384,867	3.33%
	Springdale	\$ 6,788,038	\$ 7,000,641	\$ 212,603	3.13%
	Bentonville	\$ 6,305,433	\$ 7,156,407	\$ 850,974	13.50%
	Rogers	\$ 8,749,430	\$ 9,531,468	\$ 782,037	8.94%

8. Year-to-Date (eight months) for the combined Washington and Benton Counties, sales were up \$3,222,236 / 7.48%.

Sales Tax Collections:		(Eight Months) YTD 2012	(Eight Months) YTD 2013	\$ Increase (Decrease)	% Increase (Decrease)
Washington County		\$ 20,601,224	\$ 21,500,783	\$ 899,559	4.37%
Benton County		22,465,863	24,788,540	2,322,677	10.34%
		<u>\$ 43,067,087</u>	<u>\$ 46,289,323</u>	<u>\$ 3,222,236</u>	<u>7.48%</u>