

Alderman Adella Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2



Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Alderman Justin Tennant
Ward 3 Position 1

Alderman Sarah Bunch
Ward 3 Position 2

Alderman John La Tour
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

**City of Fayetteville Arkansas
City Council Meeting
May 2, 2017**

A meeting of the Fayetteville City Council was held on May 2, 2017 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions

City Council Meeting Presentations, Reports, and Discussion Items.

1. CH2M Hill Engineers, Inc: Ten (10) Years Accumulative Safety Award.

Agenda Additions:

A. Consent:

1. Approval of the April 18, 2017 City Council Meeting Minutes.

Approved

2. **SOUTH DELTA AVIATION, INC. THREE YEAR LEASE AGREEMENT:** A resolution to approve a three year lease agreement with South Delta Aviation, Inc. for

the airport hangar at 4568 South School Avenue and office space in the airport terminal building at 4500 South School Avenue for rent in the amount of \$4,200.00 per month.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 97-17

3. **T-N-T, INC. CHANGE ORDER NO. 3:** A resolution to approve Change Order No. 3 to the contract with T-N-T, Inc. of Van Buren, Arkansas in the amount of \$21,096.00 for road and parking improvements at Wilson Park, and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 98-17

4. **FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS:** A resolution to approve a budget adjustment in the amount of \$30,000.00 recognizing revenue from the Court Automation Fund for upgrades to the access control and video surveillance systems used by the Fayetteville District Court.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 99-17

5. **HAWKINS-WEIR ENGINEERS, INC.:** A resolution to approve a professional engineering services agreement with Hawkins-Weir Engineers, Inc. in an amount not to exceed \$71,820.00 for engineering services related to the elimination of the masters sewer lift station, and to approve a project contingency in the amount of \$7,182.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 100-17

6. **WASHINGTON REGIONAL MEDICAL CENTER:** A resolution to waive and release all rights of First Refusal within paragraph 5.(c) of the Real Estate Conveyance Agreement of October 4, 2011 and the October 13, 2011 quit claim deed conveying the property to Washington Regional Medical Center.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 101-17

7. **UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT:** A resolution to approve a one year contract with the University of Arkansas - Razorback Transit with automatic renewals for up to four additional one year terms in an annual amount of \$250,000.00 for the provision of public transit services within the City of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 102-17

8. **CONDEMNATION LITIGATION SETTLEMENT AGREEMENT:** A resolution to authorize a settlement agreement with Drake Street Property, LLC; 1155 Properties, LLC; and RPM 1 Properties-Fayetteville, LLC A/K/A RPM1 Properties, LLC concerning condemnation litigation filed for the water and sewer relocations associated with Arkansas Highway and Transportation Department project BB0414 – Interstate 49 and Highway 112 interchange.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 103-17

B. Unfinished Business: NONE

C. New Business:

- 1. BILL OF ASSURANCE AMENDMENT (354 N. DOUBLE SPRINGS RD./PINNACLE BANK):** An ordinance to replace a Bill of Assurance to allow the development of the 9.7 acre parcel at 354 Double Springs Road with up to 9 attached dwellings units and 35 single-family detached houses.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5969

- 2. CULLERS SEWER EXTENSION:** A resolution to approve an extension of the city's sewerage system beyond the city limits to a proposed development near Hughmount Road and Lierly Lane.

THIS RESOLUTION WAS TABLED TO JUNE 6, 2017 CITY COUNCIL MEETING.

- 3. UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT:** A resolution to approve an agreement with the University of Arkansas to accept wastewater from the University's Southwest Experimental Fast Oxide Reactor Facility into the city's sanitary sewer system for treatment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 104-17

- 4. AMEND § 51.146 BACKFLOW PREVENTION:** An ordinance to amend § 51.146 backflow prevention of the Fayetteville Code to more closely conform to the latest American Water Works Association and Arkansas State Plumbing Code.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5970

- 5. RZN 17-5728 (1640 S. HANSHEW RD./WM. LINDSEY):** An ordinance to rezone that property described in rezoning petition RZN 17-5728 for approximately 1.25 acres located at 1640 S. Hanshaw Road from rsf-4, residential single-family, 4 units per acre to c-2, thoroughfare commercial.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5971

- 6. RZN 17-5733 (SE OF CROSSOVER RD. & HEARTHSTONE DR.):** An ordinance to rezone that property described in rezoning petition RZN 17-5733 for approximately 1.79 acres located at southeast corner of Crossover Road and Heathstone Drive from r-o, residential office, and rsf-4, residential single family, 4 units per acre to ns-g, neighborhood services, general.

THIS ORDINANCE WAS LEFT ON FIRST READING.

- 7. VAC 17-5753 (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES):** An ordinance to approve VAC 15-5753 for property located at southeast

corner of Crossover Road and Hearthstone Drive to vacate a portion of a drainage easement and a portion of a utility easement.

THIS ORDINANCE WAS LEFT ON FIRST READING.

- 8. FAYETTEVILLE COMMERCE PARK LAND SALE:** A resolution to sell about 5 acres of land in the commerce district to AR-Canna, LLC for \$75,000.00 contingent on AR-Canna, LLC receiving a medical marijuana cultivation facility license from the State of Arkansas.

THIS RESOLUTION WAS TABLED TO MAY 16, 2017 CITY COUNCIL MEETING.

D. City Council Agenda Session Presentations:

1. Agenda Session Presentation - Fayetteville Urban Forestry Advisory Board Annual Report.

E. City Council Tour:

F. Announcements:

Adjournment: 8:50 p.m.

City Council Meeting:

May 2, 2017

Adjourn: 8:50 pm

Subject:	Roll				
<i>Alderman Marsh & Petty were absent</i>	Bunch	✓			
	La Tour	✓			
	Long	✓			
	Gray	✓			
	Marsh	Absent			
	Kinion	✓			
	Petty	Absent			
	Tennant	✓			
	Mayor Jordan	✓			

7-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Bunch				
	La Tour				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:	Consent				
Motion To:					
Motion By:		<i>Approve</i>			
Seconded:		<i>Kinion</i>			
		<i>Tennant</i>			
A.1-A.8 <i>Approved</i> <i>97-17</i> <i>- 103-17</i>	Bunch	<i>✓</i>			
	La Tour	<i>✓</i>			
	Long	<i>✓</i>			
	Gray	<i>✓</i>			
	Marsh	<i>Absent</i>			
	Kinion	<i>✓</i>			
	Petty	<i>Absent</i>			
	Tennant	<i>✓</i>			
	Mayor Jordan				

6-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Bunch				
	La Tour				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:	NONE				
Motion To:					
Motion By:					
Seconded:					
Unfinished Business	Bunch				
	La Tour				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:					
Motion To:					
Motion By:					
Seconded:					
Unfinished Business	Bunch				
	La Tour				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:		BILL OF ASSURANCE AMENDMENT (354 N. DOUBLE SPRINGS RD./PINNACLE BANK)			
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Approve</i>	
Motion By:		<i>Long</i>	<i>Kinion</i>		
Seconded:		<i>Kinion</i>	<i>Tennant</i>		
C. 1 New Business <i>Approved</i> <i>5969</i>	Bunch	☒	☒	☒	
	La Tour	☒	☒	☒	
	Long	☒	☒	☒	
	Gray	☒	☒	☒	
	Marsh	<i>Absent</i>	<i>Absent</i>	<i>Absent</i>	
	Kinion	☒	☒	☒	
	Petty	<i>Absent</i>	<i>Absent</i>	<i>Absent</i>	
	Tennant	☒	☒	☒	
	Mayor Jordan				

Subject:		CULLERS SEWER EXTENSION			
Motion To:		<i>Table to June 6, 2017</i>			
Motion By:		<i>Kinion</i>			
Seconded:		<i>Bunch</i>			
C. 2 New Business <i>Table to June 6, 2017</i>	Bunch	☒			
	La Tour	☒			
	Long	☒			
	Gray	☒			
	Marsh	<i>Absent</i>			
	Kinion	☒			
	Petty	<i>Absent</i>			
	Tennant	☒			
	Mayor Jordan				

Subject:		UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT			
Motion To:		Approve			
Motion By:		Kinion			
Seconded:		Bunch			
C. 3 New Business <u>Approved</u> 104-17	Bunch	✓			
	La Tour	No			
	Long	No			
	Gray	✓			
	Marsh	Absent			
	Kinion	✓			
	Petty	Absent			
	Tennant	✓			
Mayor Jordan		✓			

5-2 Mayor Jordan
Voted

Subject:		AMEND § 51.146 BACKFLOW PREVENTION			
Motion To:		2nd Read	3rd Read	Approve	
Motion By:		Kinion	Kinion		
Seconded:		Gray	Gray		
C. 4 New Business <u>Approved</u> 5970	Bunch	✓	✓	✓	
	La Tour	N	N	N	
	Long	✓	✓	✓	
	Gray	✓	✓	✓	
	Marsh	Absent	Absent	Absent	
	Kinion	✓	✓	✓	
	Petty	Absent	Absent	Absent	
	Tennant	✓	✓	✓	
Mayor Jordan		✓	✓		

6-1
Mayor
Voted

6-1
Mayor
Voted

5-1

Subject:		RZN 17-5728 (1640 S. HANSHEW RD./WM. LINDSEY)			
Motion To:		2nd Read	3rd Read	Approve	
Motion By:		Tennant	Gray		
Seconded:		Gray	La Tour		
C. 5 New Business <i>Approved</i> 5941	Bunch	✓	✓	✓	
	La Tour	✓	✓	✓	
	Long	✓	✓	✓	
	Gray	✓	✓	✓	
	Marsh	Absent	Absent	Absent	
	Kinion	✓	✓	✓	
	Petty	Absent	Absent	Absent	
	Tennant	✓	✓	✓	
	Mayor Jordan				

6-0

6-0

6-0

Subject:		RZN 17-5733 (SE OF CROSSOVER RD. & HEARTHSTONE DR.)			
Motion To:		Approve Citizen Presentation			
Motion By:		Long			
Seconded:		La Tour			
C. 6 New Business <i>Left on the first Reading</i>	Bunch	✓			
	La Tour	✓			
	Long	✓			
	Gray	✓			
	Marsh	Absent			
	Kinion	✓			
	Petty	Absent			
	Tennant	✓			
	Mayor Jordan				

6-0

Subject:	VAC 17-5753 (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES)				
Motion To:					
Motion By:					
Seconded:					
C. 7 New Business <i>Left on</i> <i>the</i> <i>first</i> <i>Reading</i>	Bunch				
	La Tour				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:	FAYETTEVILLE COMMERCE PARK LAND SALE				
Motion To:		<i>Table to</i> <i>5-16-17</i>			
Motion By:		<i>Long</i>			
Seconded:		<i>Gray</i>			
C. 8 New Business <i>Tabled</i> <i>to</i> <i>5-16-17</i>	Bunch	<i>✓</i>			
	La Tour	<i>✓</i>			
	Long	<i>✓</i>			
	Gray	<i>✓</i>			
	Marsh	<i>Absent</i>			
	Kinion	<i>✓</i>			
	Petty	<i>Absent</i>			
	Tennant	<i>✓</i>			
	Mayor Jordan				



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Rhonda Lynch
Paralegal

TO: **Mayor Jordan**

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **May 3, 2017**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of May 2, 2017**

1. A resolution to approve a three-year lease agreement with South Delta Aviation, Inc. for the airport hangar at 4568 South School Avenue and office space in the airport terminal building at 4500 South School Avenue for rent in the amount of \$4,200.00 per month

2. A resolution to approve change order no. 3 to the contract with T-N-T, Inc. of Van Buren, Arkansas in the amount of \$21,096.00 for road and parking improvements at Wilson Park, and to approve a budget adjustment

3. A resolution to approve a budget adjustment in the amount of \$30,000.00 recognizing revenue from the Court Automation Fund for upgrades to the access control and video surveillance systems used by the Fayetteville District Court

4. A resolution to approve a professional engineering services agreement with Hawkins-Weir Engineers, Inc. in an amount not to exceed \$71,820.00 for engineering services related to the elimination of the Masters Sewer Lift Station, and to approve a project contingency in the amount of \$7,182.00

5. A resolution to waive and release all rights of first refusal within paragraph 5.(C) of the Real Estate Conveyance Agreement of October 4, 2011 and the October 13, 2011 quit claim deed conveying the property to Washington Regional Medical Center

6. A resolution to approve a one-year contract with the University of Arkansas - Razorback Transit with automatic renewals for up to four additional one-year terms in an annual amount of \$250,000.00 for the provision of public transit services within the City of Fayetteville

7. A resolution to authorize a settlement agreement with Drake Street Property, LLC; 1155 Properties, LLC; and RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC

concerning condemnation litigation filed for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Interstate 49 and Highway 112 Interchange

8. An ordinance to replace a bill of assurance to allow the development of the 9.7-acre parcel at 354 Double Springs Road with up to 9 attached dwellings units and 35 single-family detached houses

9. A resolution to approve an agreement with the University of Arkansas to accept wastewater from the University's Southwest Experimental Fast Oxide Reactor Facility into the City's sanitary sewer system for treatment

10. An ordinance to amend § 51.146 **Backflow Prevention** of the Fayetteville Code to more closely conform to the latest American Water Works Association and Arkansas State Plumbing Code

11. An ordinance to rezone that property described in rezoning petition RZN 17-5728 for approximately 1.25 acres located at 1640 S. Hanshew Road from RSF-4, Residential Single-Family, 4 units per acre to C-2, Thoroughfare Commercial

City of Fayetteville, Arkansas

*113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323*



Meeting Agenda - Final Agenda

Tuesday, May 2, 2017

5:30 PM

City Hall Room 219

City Council Meeting

*Adella Gray Ward 1
Sarah Marsh Ward 1
Mark Kinion Ward 2
Matthew Petty Ward 2
Justin Tennant Ward 3
Sarah Bunch Ward 3
John S. La Tour Ward 4
Alan Long Ward 4*

ELECTED OFFICIALS:

*Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith*

Call To Order**Roll Call****Pledge of Allegiance****Mayor's Announcements, Proclamations and Recognitions****City Council Meeting Presentations, Reports and Discussion Items:****1. [2017-0213](#)**

CH2M HILL ENGINEERS, INC: TEN (10) YEARS ACCUMULATIVE SAFETY AWARD

Attachments: [CH2M HILL ENGINEERS, INC: TEN \(10\) YEARS ACCUMULATIVE SAFETY AWARD](#)

Agenda Additions:**A. Consent:****A. 1 [2016-0574](#)**

APPROVAL OF THE APRIL 18, 2017 CITY COUNCIL MEETING MINUTES.

A. 2 [2017-0215](#)**SOUTH DELTA AVIATION, INC. THREE YEAR LEASE AGREEMENT:**

A RESOLUTION TO APPROVE A THREE YEAR LEASE AGREEMENT WITH SOUTH DELTA AVIATION, INC. FOR THE AIRPORT HANGAR AT 4568 SOUTH SCHOOL AVENUE AND OFFICE SPACE IN THE AIRPORT TERMINAL BUILDING AT 4500 SOUTH SCHOOL AVENUE FOR RENT IN THE AMOUNT OF \$4,200.00 PER MONTH

Attachments: [SOUTH DELTA AVIATION, INC.](#)

A. 3 [2017-0203](#)**T-N-T, INC. CHANGE ORDER NO. 3:**

A RESOLUTION TO APPROVE CHANGE ORDER NO. 3 TO THE CONTRACT WITH T-N-T, INC. OF VAN BUREN, ARKANSAS IN THE AMOUNT OF \$21,096.00 FOR ROAD AND PARKING IMPROVEMENTS AT WILSON PARK, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [T-N-T, INC. CHANGE ORDER NO. 3](#)
 [BA T-N-T, INC. CHANGE ORDER NO. 3](#)

A. 4 [2017-0209](#)**FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS:**

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$30,000.00 RECOGNIZING REVENUE FROM THE COURT AUTOMATION FUND FOR UPGRADES TO THE ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS USED BY THE FAYETTEVILLE DISTRICT COURT

Attachments: [FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS](#)
 [BA FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO SURVEILLANCE](#)
 [SYSTEMS](#)

A. 5 [2017-0183](#)**HAWKINS-WEIR ENGINEERS, INC.:**

A RESOLUTION TO APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC. IN AN AMOUNT NOT TO EXCEED \$71,820.00 FOR ENGINEERING SERVICES RELATED TO THE ELIMINATION OF THE MASTERS SEWER LIFT STATION, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$7,182.00

Attachments: [HAWKINS-WEIR ENGINEERS, INC.](#)

A. 6 [2017-0199](#)**WASHINGTON REGIONAL MEDICAL CENTER:**

A RESOLUTION TO WAIVE AND RELEASE ALL RIGHTS OF FIRST REFUSAL WITHIN PARAGRAPH 5.(C) OF THE REAL ESTATE CONVEYANCE AGREEMENT OF OCTOBER 4, 2011 AND THE OCTOBER 13, 2011 QUIT CLAIM DEED CONVEYING THE PROPERTY TO WASHINGTON REGIONAL MEDICAL CENTER

Attachments: [WASHINGTON REGIONAL MEDICAL CENTER](#)

A. 7 [2017-0216](#)**UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT:**

A RESOLUTION TO APPROVE A ONE YEAR CONTRACT WITH THE UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE YEAR TERMS IN AN ANNUAL AMOUNT OF \$250,000.00 FOR THE PROVISION OF PUBLIC TRANSIT SERVICES WITHIN THE CITY OF FAYETTEVILLE

Attachments: [UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT](#)

A. 8 [2017-0214](#)**CONDEMNATION LITIGATION SETTLEMENT AGREEMENT:**

A RESOLUTION TO AUTHORIZE A SETTLEMENT AGREEMENT WITH DRAKE STREET PROPERTY, LLC; 1155 PROPERTIES, LLC; AND RPM1 PROPERTIES-FAYETTEVILLE, LLC A/K/A RPM1 PROPERTIES, LLC CONCERNING CONDEMNATION LITIGATION FILED FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE

Attachments: [CONDEMNATION LITIGATION SETTLEMENT AGREEMENT](#)

B. Unfinished Business: None**C. New Business:**

C. 1 [2017-0217](#)**BILL OF ASSURANCE AMENDMENT (354 N. DOUBLE SPRINGS RD./PINNACLE BANK):**

AN ORDINANCE TO REPLACE A BILL OF ASSURANCE TO ALLOW THE DEVELOPMENT OF THE 9.7 ACRE PARCEL AT 354 DOUBLE SPRINGS ROAD WITH UP TO 9 ATTACHED DWELLINGS UNITS AND 35 SINGLE-FAMILY DETACHED HOUSES

Attachments: [AMENDMENT TO A BILL OF ASSURANCE \(354 N. DOUBLE SPRINGS RD./PINNACLE BANK\)](#)

C. 2 [2017-0218](#)**CULLERS SEWER EXTENSION:**

A RESOLUTION TO APPROVE AN EXTENSION OF THE CITY'S SEWERAGE SYSTEM BEYOND THE CITY LIMITS TO A PROPOSED DEVELOPMENT NEAR HUGHMOUNT ROAD AND LIERLY LANE

Attachments: [CULLERS SEWER EXTENSION](#)

C. 3 [2017-0201](#)**UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT:**

A RESOLUTION TO APPROVE AN AGREEMENT WITH THE UNIVERSITY OF ARKANSAS TO ACCEPT WASTEWATER FROM THE UNIVERSITY'S SOUTHWEST EXPERIMENTAL FAST OXIDE REACTOR FACILITY INTO THE CITY'S SANITARY SEWER SYSTEM FOR TREATMENT

Attachments: [UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT](#)

C. 4 [2017-0028](#)**AMEND § 51.146 BACKFLOW PREVENTION:**

AN ORDINANCE TO AMEND § 51.146 **BACKFLOW PREVENTION** OF THE FAYETTEVILLE CODE TO MORE CLOSELY CONFORM TO THE LATEST AMERICAN WATER WORKS ASSOCIATION AND ARKANSAS STATE PLUMBING CODE

Attachments: [BACKFLOW PREVENTION CODE REVISION](#)

C. 5 [2017-0205](#)**RZN 17-5728 (1640 S. HANSHEW RD./WM. LINDSEY):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 17-5728 FOR APPROXIMATELY 1.25 ACRES LOCATED AT 1640 S. HANSHEW ROAD FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE TO C-2, THOROUGHFARE COMMERCIAL

Attachments: [RZN 17-5728 \(1640 S. HANSHEW RD./WM. LINDSEY\)](#)

C. 6 [2017-0207](#)**RZN 17-5733 (SE OF CROSSOVER RD. & HEARTHSTONE DR.):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 17-5733 FOR APPROXIMATELY 1.79 ACRES LOCATED AT SOUTHEAST CORNER OF CROSSOVER ROAD AND HEARTHSTONE DRIVE FROM R-O, RESIDENTIAL OFFICE, AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO NS-G, NEIGHBORHOOD SERVICES, GENERAL

Attachments: [RZN 17-5733 \(SE OF CROSSOVER RD. & HEARTHSTONE DR.\)](#)

C. 7 [2017-0204](#)**VAC 17-5753 (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES):**

AN ORDINANCE TO APPROVE VAC 15-5753 FOR PROPERTY LOCATED AT SOUTHEAST CORNER OF CROSSOVER ROAD AND HEARTHSTONE DRIVE TO VACATE A PORTION OF A DRAINAGE EASEMENT AND A PORTION OF A UTILITY EASEMENT

Attachments: [VAC 17-5753 \(SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES\)](#)

C. 8 [2017-0211](#)**FAYETTEVILLE COMMERCE PARK LAND SALE:**

A RESOLUTION TO SELL ABOUT 5 ACRES OF LAND IN THE COMMERCE DISTRICT TO AR-CANNA, LLC FOR \$75,000.00 CONTINGENT ON AR-CANNA, LLC RECEIVING A MEDICAL MARIJUANA CULTIVATION FACILITY LICENSE FROM THE STATE OF ARKANSAS

Attachments: [FAYETTEVILLE COMMERCE PARK LAND SALE - AR-CANNA, LLC](#)

D. City Council Agenda Session Presentations:**D. 1** [2017-0212](#)

AGENDA SESSSION PRESENTATION - FAYETTEVILLE URBAN FORESTRY ADVISORY
BOARD ANNUAL REPORT

Attachments: [Urban Forestry Advisory Board 2017](#)

E. City Council Tour:**F. Announcements:****G. Adjournment****NOTICE TO MEMBERS OF THE AUDIENCE**

All interested persons may appear and address the City Council on Unfinished Business, New Business, and Public Hearings at City Council meetings. If you wish to address the City Council on an agenda item, please wait for the Mayor or Chair to request public comment then queue behind the podium. When the Mayor or Chair recognizes you, approach the podium and give your name and address. Comments are to be addressed to the Mayor or Chair. The Mayor or Chair will direct your comments to the appropriate elected officials, staff, or others for response. Keep your comments respectful, brief, to the point, and relevant to the agenda item being considered. Each speaker from the public will be allowed one turn at the microphone for discussion of an agenda item.

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. City staff, City Council members, and applicants may use electronic visual aids in the City Council meeting as part of the presentation of the agenda item.

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. A simple majority of the City Council members, present and voting, may authorize a representative of a Fayetteville citizens' group opposing the ordinance or resolution to present an electronic visual aid not to exceed five minutes, but no other electronic visual aid presentations will be allowed; however, 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's 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 Telecommunications Device for the Deaf (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 479-575-8330.

A copy of the complete City Council agenda is available on our website at www.fayetteville-ar.gov or in the office of the City Clerk, 113 W. Mountain, Fayetteville, Arkansas (479) 575-8323.

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



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0213

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Presentation

Agenda Number: 1.

CH2M HILL ENGINEERS, INC: TEN (10) YEARS ACCUMULATIVE SAFETY AWARD

TO: Mayor Jordan

THRU: Water, Sewer and Solid Waste Committee
Don Marr, Mayor's Chief of Staff

FROM: Tim Nyander, Utilities Director

DATE: April 14, 2017

SUBJECT: CH2M Safety Award Recognition

On January 17, 2017, the Arkansas Department of Labor and Arkansas Workers' Compensation Commission recognized the CH2M Fayetteville team with the 10-year Accumulative Years Safety Award. To achieve this milestone, the CH2M staff accumulated 10 years without a lost day away from work due to a work-related injury or illness between September 21, 2006 and September 21, 2016.

CH2M's adopted culture is achieved when their employees value the Health, Safety & Environment program and take responsibility for their own behavior and for the behavior of every employee around them. When an incident does occur, they seek continual improvement by evaluating the causes, implementing corrective actions, and learning from their mistakes.

The Fayetteville Project has a safety committee, which consists of employees and management, to execute the safety plan. The safety team meets monthly to discuss safety concerns and updates at the project, and often organizes training opportunities and celebrations to keep safety fun.

Congratulations to the CH2M Team for their outstanding commitment to Safety!



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2016-0574

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Minutes

Agenda Number: A. 1

APPROVAL OF THE APRIL 18, 2017 CITY COUNCIL MEETING MINUTES.



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0215

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 2

SOUTH DELTA AVIATION, INC. THREE YEAR LEASE AGREEMENT:

A RESOLUTION TO APPROVE A THREE YEAR LEASE AGREEMENT WITH SOUTH DELTA AVIATION, INC. FOR THE AIRPORT HANGAR AT 4568 SOUTH SCHOOL AVENUE AND OFFICE SPACE IN THE AIRPORT TERMINAL BUILDING AT 4500 SOUTH SCHOOL AVENUE FOR RENT IN THE AMOUNT OF \$4,200.00 PER MONTH

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 three year lease agreement with South Delta Aviation, Inc., a copy of which is attached to this Resolution and made a part hereof, for the airport hangar at 4568 South School Avenue and approximately 2,260.5 square feet of office space in the Airport Terminal Building for rent in the amount of \$4,200.00 per month.

City of Fayetteville Staff Review Form

2017-0215

Legistar File ID

5/2/2017

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Terry Gulley

4/14/2017

Aviation /
Transportation Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval and signature of the Mayor on a lease agreement with South Delta Aviation, Inc., 4248 South School Ave., Fayetteville, AR 72701 (479) 935-4891, for the corporate hangar at Drake Field known as 4568 South School Avenue, and for terminal office space.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF MAY 2, 2017

TO: Mayor Lioneld Jordan
Fayetteville City Council

THRU: Don Marr, Chief of Staff

FROM: Terry Gulley, Transportation Services Director

DATE: April 14, 2017

SUBJECT: South Delta Lease Agreement

RECOMMENDATION:

Staff recommends approval and signature of the Mayor on a lease agreement between the City of Fayetteville and South Delta.

BACKGROUND:

South Delta operates an aircraft brokering and repair business.

DISCUSSION:

South Delta currently leases two other corporate hangars on the field.

BUDGET/STAFF IMPACT:

This lease will provide \$50,400.00 in revenue to the airport per year.

Attachments:

SRF
SRM
Corporate Hangar Lease Agreement
Exhibit A-Corporate Hangar Layout

LEASE AGREEMENT

This **LEASE AGREEMENT** made this _____ day of _____, 2017, by and between the City of Fayetteville, Arkansas, hereinafter called "City", and **South Delta Aviation**, 4248 S. School Street, Fayetteville, AR 72701, 479-935-48910, hereinafter called "**South Delta**."

WHEREAS, City is the owner of an airport known as the Fayetteville Airport, Drake Field, herein referred to as the "Airport"; and

WHEREAS, City is the owner of an aircraft hangar and office space at the Airport; and

WHEREAS, **South Delta** desires to lease said corporate aircraft hangar and office space,

NOW, THEREFORE, the parties, in consideration of the mutual covenants contained herein, hereby agree as follows:

1. City leases to **South Delta**, and **South Delta** leases from City, the 18,750 sq. ft. corporate aircraft hangar located at 4568 S. School Ave., Fayetteville, Arkansas, and approximately 2260.5 sq. ft. of office space in the Terminal Building located at 4500 S. School Ave, Fayetteville, Arkansas, as reflected on "Exhibit A" attached hereto and made a part hereof.
2. **South Delta** is granted the use, in common with others similarly authorized, of the airport, together with all facilities, equipment, improvements, and services which have been, or may hereafter, be provided at, or in connection with the Airport from time to time including, but not limited to, the landing field, and any extensions hereof or additions thereto, roadways, runways, ramps, aprons, taxiways, flood lights, landing lights, beacons, control tower, signals, radio aids, and all other conveniences for flying, landings and take-offs.
3. **South Delta** shall have at all times the full and free right in ingress to and egress from the demised premises and facilities referred to herein for **South Delta**, its employees, customers, passengers, guests, and other invitees. Such rights shall also extend to persons or organizations supplying materials or furnishing services to **South Delta**.
4. Term: Subject to earlier termination as hereinafter provided, the initial term of this agreement shall be for THREE YRS (3) year(s) commencing on the 3rd day of May, 2017, and ending on the 2nd day of May, 2020.

This Lease Agreement may be terminated by either party with a sixty (60) day written notice.

5. Rent: **South Delta** agrees to pay the City for the use of the premises, facilities, rights, and

privileges granted hereunder the sum of: FOUR THOUSAND, TWO HUNDRED DOLLARS PER MONTH, (\$4,200.00) per month. Rent will increase in accordance with the CPI plus 1% after the first and second year(s).

The initial lease payment is due and payable upon execution of this Lease Agreement, and all subsequent monthly lease payments shall be payable in advance on, or before, the 1st day of each month. In addition to any remedy available to it hereunder, the City may impose as additional rentals a delinquency charge on all overdue payments, at the maximum rate allowed by law.

6. City shall maintain and keep in good repair so much of the Airport premises as are not under the exclusive control of **South Delta**. **South Delta** shall, at the termination, surrender or forfeiture of this lease, return said premises in same or better condition premises were at the beginning of the lease, normal wear and tear excepted.

7. **South Delta** shall provide for and supply at its expense all janitor service with respect to the demised premises, and shall pay for all utilities serving the demised premises, including, but not limited to heat, light, gas, electricity, and water, sewer and trash removal.

8. Improvements: **South Delta** shall bear the cost of all improvements or additions made to the interior or exterior of the building on the leased premises. No improvements or additions to any part of the leased premises shall be made by **South Delta** without the prior written approval of the Airport Manager, whose consent will not be unreasonably withheld. Any signs or antennas to be erected on or attached to the leased premises must have the prior written approval of the Airport Manager and conform to all City Ordinances.

9. Maintenance: The City shall be responsible only for major maintenance of the existing equipment, i.e. replacement of heating unit and other equipment in place in the facility which includes, roof, hangar door motors, exterior walls, exterior plumbing, paved ramp and paved parking lot. The City agrees that if the roof or any part of the exterior walls or exterior plumbing of said building thereof shall become defective or damaged at any time during the term due to ordinary wear and tear and not due to negligence of **South Delta**, or **South Delta**'s agents or invites, upon notice from **South Delta**, the City will immediately cause repairs to be made and restore the defective portions to good condition. If the damage is so extensive as to render such building untenable, the rent payable hereunder shall be proportionally paid up to the time of such damage and shall thenceforth cease until such time as the premises shall be fully restored. If the demised premises are completely destroyed, City may reconstruct the hangar at the City's own cost and the rent payable hereunder shall be adjusted as set forth above, or City may, at its option, cancel this agreement, such cancellation to be effective as of the date the hangar was destroyed, and the rent adjusted as set forth above. Routine maintenance of the hangar doors shall remain the responsibility of the City. **South Delta** shall not make any alterations to the controls of the hangar doors.

10. **South Delta** agrees to observe and obey City's Ordinances and Regulations with respect to use of the demised premises and Airport; provided, however, such Ordinances and Regulations shall be consistent with safety and with all city, county, and state rules, regulations, including all current

fire codes, and orders of the Federal Aviation Administration with respect to aircraft operations at the Airport, and provided further, such Ordinances and Regulations shall be consistent with the provisions of this agreement or the procedures prescribed or approved from time to time by the Federal Aviation Administration with respect to the operation of **South Delta**'s aircraft at the Airport.

"The Minimum Standards for Fayetteville Executive Airport, Drake Field" herein referred to as Airport Minimum Standards are made part of this lease by reference as if included word for word.

11. **South Delta** agrees that it shall use the premises for the implementation and conducting of an aeronautical business activity. **South Delta** agrees that it shall use the premises only for the storage of airplanes and materials and equipment necessarily related to the operation of said aeronautical business activity and that no other vehicles, equipment or supplies shall be stored on the premises unless expressly agreed to by the City. **South Delta** further agrees not to store any flammable material on the demised premises, other than a limited supply of oils and agents necessary for current aircraft maintenance and repair, or in any way endanger or violate the provisions of the City's standard commercially available property insurance policy or the requirements of same. Such violations shall constitute a material breach of this Agreement.

12. Hazardous Substance: **South Delta** shall not cause or permit any Hazardous Substance to be used or stored on or in the Leased Premises without first obtaining the City's written consent. If hazardous Substances are used, stored, generated, or disposed of on or in the Leased Premises or if the Leased Premises or any other Airport property becomes contaminated in any manner for which **South Delta** is responsible or legally liable, **South Delta** shall indemnify and hold harmless the City, its officers, directors, agents, servants, and employees from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses including all reasonable costs for investigation and defense thereof, (including but not limited to attorney's fees, court costs, and expert fees, and without limitation, decrease in value of the Lease Premises, damages caused by loss or restriction of rentable or usable space as a part of the Leased Premises arising during or after the term hereof and arising as a result of that contamination by **South Delta**, **South Delta** agents, employees, and invitees. This indemnification includes, without limitation, all cost incurred because of any investigation of the Airport or any cleanup, removal, or restoration mandated by a federal, state, local agency or political subdivision.

13. If the demised premises are partially damaged by fire or other casualty which is not due to the negligence or fault of **South Delta**, said premises shall be repaired with due diligence by City at City's expense. If the damage is so extensive as to render such building untenable, the rent payable hereunder shall be proportionally paid up to the time of such damage and shall thenceforth cease until such time as the premises shall be fully restored. If the demised premises are completely destroyed, City may reconstruct the hangar at the City's own cost and the rent payable hereunder shall be adjusted as set forth above, or City may, at its option, cancel this agreement, such cancellation to be effective as of the date the hangar was destroyed, and the rent adjusted as set forth above.

14. **South Delta** shall maintain in force during the Term and any extended term public liability

and property damage insurance in comprehensive form as reasonably may be required by the City and specified in the Airport Minimum Standards. The insurance shall be issued by an insurer licensed to do business in the State of Arkansas.

Concurrent with the execution of this Agreement, **South Delta** shall provide proof of insurance coverage by providing a Certificate of Lessee's Insurance coverage, a copy of the declarations page on the insurance policy, and a copy of all endorsements. The Certificates of Insurance, or endorsements attached thereto, shall provide that; (a) insurance coverage shall not be canceled, changed in coverage, or reduced in limits without at least thirty (30) days prior written notice to the City; (b) the City and the Airport and their trustees, agents, officers, servants, and employees are named as additional insured; (c) the policy shall be considered primary as regards to any other insurance coverage the City may possess, including any self-insured retention or deductible the City may have, and any other insurance coverage the City may possess shall be considered excess insurance only; (d) the limits of liability required therein are on an occurrence basis.

15. **South Delta** agrees to indemnify City against any and all liabilities, losses, suits, claims, judgments, fines, penalties, demands or expenses, including all reasonable costs for investigation and defense thereof, (including but not limited to attorney's fees, court costs, and expert fees, for injuries to persons or damage to property caused by **South Delta**'s use or occupancy of the lease premises; provided, however, that **South Delta** shall not be liable for any injury, damage or loss arising from the negligence of City or its agents or employees; and provided further, that each party shall give prompt and timely notice of any claim made or suit instituted which in any way directly or indirectly affects or might affect either party, and each party shall have the right to compromise and defend the same to the extent of its own interest. This clause shall not be construed to waive that tort immunity as set forth under Arkansas Law.

16. **South Delta** agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, creed, color, religion, national origin, sex, marital status, or handicap in the furnishing, or by refusing to furnish, to such persons the use of any facility, including any and all services, privileges, accommodations, and activities provided thereby. Nothing herein shall require the furnishing to the general public of the use of any facility customarily furnished by the City solely to tenants, their employees, customers, patients, client, guests, and invites.

17. Assigning, Subletting and Encumbering. **South Delta** shall not assign this Agreement in whole or in part, nor sublease all or any part of the Leased Premises, nor permit other persons to occupy said Leased Premises or any part thereof, not grant any license or concession for all or any part of said Leased Premises, without the prior written consent of the Airport Manager, which consent shall not be unreasonably withheld. Any consent by the Airport to an assignment or subletting of this Agreement shall not constitute a waiver of the necessity of obtaining that consent as to any subsequent assignment. Any assignment for the benefit of **South Delta**'s creditors or otherwise by operation of law shall not be effective to transfer or assign **South Delta**'s interest under this Agreement unless the Airport shall have first consented thereto in writing. Neither **South Delta**'s interest in this Agreement, nor any estate created hereby in **South Delta** nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided in the Bankruptcy Code.

If any of the corporate shares of stock of **South Delta** are transferred, or if any partnership interests of **South Delta** are transferred, by sale, assignment, bequest, inheritance, operation of law, or otherwise, so as to result in a change of the control, assets, value, ownership, or structure of **South Delta**, same shall be deemed an assignment for the purposes of this Section 17 and shall require the Airport's prior consent, and **South Delta** shall notify the Airport of any such change or proposed change.

18. On the expiration or other termination of this lease **South Delta**'s right to use the demised premises shall cease, and **South Delta** shall vacate the premises without unreasonable delay. All property installed, erected, or placed by **South Delta** in, on, or about the premises leased hereunder shall be deemed to be personal property and shall remain the property of **South Delta**. **South Delta** shall have the right at any time during the term of this agreement, or any renewal or extension hereof, and for an additional period of fourteen (14) days after the expiration or other termination of this agreement, to remove any or all of such property, subject, however, to **South Delta**'s obligation to repair all damage, if any, resulting from such removal. Any and all property not removed by **South Delta** prior to the expiration of the aforesaid fourteen (14) day period shall thereupon become a part of the land on which it is located and title hereto shall thereupon vest in City.

19. City may enter the premises leased to **South Delta** at any reasonable time for any purpose necessary or incidental to the performance of its obligations or **South Delta**'s obligations hereunder.

20. **South Delta** shall maintain the demised premises in a clean and orderly fashion at all times. **South Delta** shall be responsible for the upkeep and mowing of the leased property.

21. **South Delta** shall not start or operate aircraft engines within the aircraft hangar leased hereby and shall not allow such operations by any other person.

22. **South Delta** agrees that habitation of the hangar building or offices as a residence is prohibited.

23. Any notice or consent required by this Agreement shall be sufficient if sent by Certified Mail, return receipt requested, postage paid, to the following address:

CITY OF FAYETTEVILLE

Airport Administration Office
4500 S. School Avenue, Suite F
Fayetteville, Arkansas 72701

Phone: (479) 718 -7642

SOUTH DELTA AVIATION

South Delta
4248 South School Street
Fayetteville, Arkansas 72701

Phone: (479) 935-4891

24. This agreement shall be construed under the laws of the State of Arkansas.

25. All the covenants, conditions, and provisions under this agreement shall extend to and bind the legal representative, successors, and assigns of the respective parties hereof.

IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

ATTEST

By: _____
Sondra Smith, City Clerk and Treasurer

South Delta

By: _____
_____ *PRES.* _____
Title

ATTEST:

Title

Exhibit A





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0203

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 3

T-N-T, INC. CHANGE ORDER NO. 3:

A RESOLUTION TO APPROVE CHANGE ORDER NO. 3 TO THE CONTRACT WITH T-N-T, INC. OF VAN BUREN, ARKANSAS IN THE AMOUNT OF \$21,096.00 FOR ROAD AND PARKING IMPROVEMENTS AT WILSON PARK, AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Change Order No. 3 to the contract with T-N-T, Inc. of Van Buren, Arkansas in the amount of \$21,096.00 for additional road and parking improvements at Wilson Park.

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.

City of Fayetteville Staff Review Form

2017-0203

Legistar File ID

5/2/2017

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

Ken Eastin

4/12/2017

Parks & Recreation /
Parks & Recreation Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of Change Order #3 in the amount of \$21,096 to Contract #2016-00000014 with T-N-T, Inc. for the installation of additional select road base fill and a change in pavement surfacing from asphalt to fiber-reinforced concrete for extended durability, and approval of a budget adjustment.

Budget Impact:

2250.520.9255-5806.00

Park Development Fund

4470.900.9470-5819.00

Sales Tax Cap Imp

Account Number

Fund

13001.1601

Wilson Park Grant Match

16004.1

Park Paving Improvements

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 724,227.00

Funds Obligated \$ 583,598.00

Current Balance \$ 140,629.00

Does item have a cost? Yes

Item Cost \$ 21,096.00

Budget Adjustment Attached? Yes

Budget Adjustment \$ 30,777.00

Remaining Budget \$ 150,310.00

V20140710

Previous Ordinance or Resolution # 231-16

Original Contract Number: 2016-00000014

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor Lioneld Jordan

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

FROM: Ken Eastin, Park Planner II

DATE: April 10, 2017

SUBJECT: **Approval of Change Order #3 in the amount of \$21,096 to Contract #2016-00000014 with T-N-T, Inc. for the installation of additional structural select road base fill and a change in pavement surface materials for road and parking improvements at Wilson Park, and approval of a budget adjustment**

RECOMMENDATION:

Staff recommends approval of Change Order #3 in the amount of \$21,096 to Contract #2016-00000014 with T-N-T, Inc. for the installation of additional select road base fill and a change in pavement surfacing from asphalt to fiber-reinforced concrete for extended durability, and approval of a budget adjustment.

BACKGROUND:

The City of Fayetteville contracted with T-N-T, Inc. to construct new curb and gutter along both sides of the westernmost entry drive off Prospect Street at Wilson Park and along the northwesternmost edge of the parking lot. The contractor was also to remove the existing asphalt from the entry drive, compact the subsurface soils, install a 4" compacted gravel base, lay new asphalt surfacing, and construct a new van-accessible parking space adjacent to the playground.

Change Order #1 was requested to receive approval for a change in the contract scope in order to include grading of a drainage swale into the lawn area on the north side of the western end of the parking lot. This change was necessary to create a swale in the lawn that will contain and direct runoff into an existing storm inlet. This will prevent continuation of a situation where the drainage flows across Wilson Avenue and into a neighboring driveway and garage.

Change Order #2 was submitted after excavation of the existing asphalt drive began and subsurface continues were discovered. Upon removal of the old asphalt, extensive clay soils were encountered and the clay was totally saturated. Project specifications require compaction of the immediate subgrade to a depth of 24". Due to the clay soils and high moisture conditions, this compaction can not be accomplished. This has required complete removal of the existing clay and replacement with select fill that will hold compaction, for a minimum depth of 24".

DISCUSSION:

Change Order #3 is requesting approval for the following contract changes:

- 1) Unforeseen subsurface conditions and excessive moisture have required removal of a larger amount of encountered expansive clay, requiring replacement with a larger amount of select fill than originally anticipated plus an additional 9 SY of class 7 base (+ \$1,816).
- 2) Due to a change in the layout of the parking and driveway to protect trees and provide safe turning radius for buses, additional curb and gutter is required to complete the new design (+ \$1,425).
- 3) Change order #1 added scope for grading a drainage swale into the adjacent lawn area in order to prevent runoff from flowing across Wilson Avenue and into a neighboring garage. The site's regrading will now direct runoff into a stormwater drain inlet. Change order #1 included costs for the grading, but site restoration costs were not included. The regrading resulted in an increase of 3,130 SF of site restoration at a unit cost of \$4.00/ SF (+ \$12,520).
- 4) Poor subsurface conditions encountered resulted in a reevaluation of the pavement section. It has been determined that a fiber-reinforced concrete drive surface would better support the anticipated traffic loads than asphalt. The current contract specifies a 2" asphalt surface course atop a 3" asphalt binder course for a total surface thickness of 5". For the greater strength and durability, Parks requests a change from the 5" thick asphalt to a 6" thick fiber-reinforced concrete slab. This needed change will increase the project cost by + \$2,835)
- 5) Consideration of design alternatives resulting from the subsurface conditions encountered and Council approval of Change Order 3 has caused a delay in work. The contractor is requesting \$2,500 for remobilization fees (+\$2,500).

These changes are necessary to provide a firm and stable structural roadway subgrade combined with a strong, durable fiber-reinforced concrete surface that will not be subject to vertical pumping movement and subsequent cracking and accelerated deterioration from high levels of subsurface moisture. In addition, the positive drainage conditions which direct runoff into the existing storm drain preventing this drainage impact to neighboring properties.

BUDGET/STAFF IMPACT:

Total cost for Change Order #3 is \$21,096. Approximately \$218 currently remains in the contingency budget for this project making a budget adjustment necessary. Unrecognized Southwest Quadrant Park Land Dedication Funds in the amount of \$30,777 are available and being requested to be recognized. \$20,878 of this is required for the revised budget. The remaining \$9,899 is requested as contingency.

Attachments:

Change Order #3 Form
Resolution 231-16
Budget Adjustment Form



CHANGE ORDER NO. 3 Cost Plus _____ Pre-Agreed Unit Price X

Project Name and Number: Wilson Park Grant Match 13001.1601

Name of Contractor: TNT, Inc.

Address of Contractor: 4884 Alma Highway, Van Buren, AR 72956

Date of Contract: December 20, 2016

Original Contract Sum: \$97,560.00
Total Amount of All Previous Approved Change Orders: \$9,538.00
Contract Sum prior to this Change Order: \$107,098.00
Contract Sum increase this Change Order: (not to exceed) \$21,096.00
New Contract Sum including this Change Order: \$128,194.00

Subject and Reason for this Change Order: Staff is requesting approval for the following changes:

- 1) Unforeseen subsurface conditions and excessive moisture have required removal of a larger amount of encountered expansive clay, requiring replacement with a larger amount of select fill than originally anticipated plus an additional 9 SY of class 7 base (+ \$1,816).
- 2) Due to a change in the layout of the parking and driveway to protect trees and provide safe turning radius for buses, additional curb and gutter is required to complete the new design (+ \$1,425).
- 3) Change order #1 added scope for grading a drainage swale into the adjacent lawn area in order to prevent runoff from flowing across Wilson Avenue and into a neighboring garage. The site's regrading will now direct runoff into a stormwater drain inlet. Change order #1 included costs for the grading, but site restoration costs were not included. The regrading resulted in an increase of 3,130 SF of site restoration at a unit cost of \$4.00/ SF. \$12,520 us being requested.
- 4) Poor subsurface conditions encountered resulted in a reevaluation of the pavement section. It has been determined that a fiber-reinforced concrete drive surface would better support the anticipated traffic loads than asphalt. The current contract specifies a 2" asphalt surface course atop a 3" asphalt binder course for a total surface thickness of 5". For the greater strength and durability, Parks requests a change from the 5" thick asphalt to a 6" thick fiber-reinforced concrete slab. This needed change will increase the project cost by + \$2,835)
- 5) Consideration of design alternatives resulting from the subsurface conditions encountered and Council approval of Change Order 3 has caused a delay in work. The contractor is requesting \$2,500 for remobilization fees (+\$2,500).

These changes are recommended in order to provide:

- 1) A firm and stable structural roadway surface and subgrade combined with a strong, durable fiber-reinforced concrete surface that will not be subject to a vertical pumping movement and subsequent cracking and accelerated deterioration from high levels of subsurface moisture.
- 2) Positive drainage conditions which direct runoff into existing stormwater drains and prevents impacting neighboring properties.

Additional Time Requested: 21 Calendar Days* (*Period of time necessary for review of change order budget request)

Dated this 11th day of April, 2017

CITY OF FAYETTEVILLE
Parks & Recreation Department

By: _____

Ken Eastin, Park Planner II

CITY OF FAYETTEVILLE

T-N-T, Inc.
Contractor

By: _____

Title: President

By: _____

Mayor Lioneld Jordan

ATTEST:

ATTEST:

Eden Hill, Witness



113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Resolution: 231-16

File Number: 2016-0628

BID NO. 16-63 T-N-T, INC.:

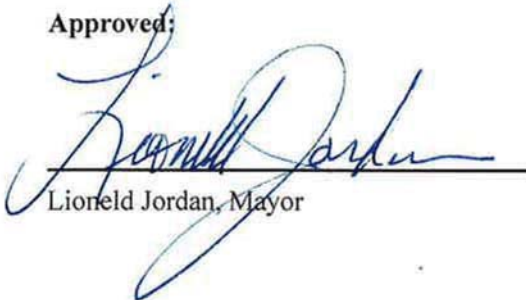
A RESOLUTION TO AWARD BID NO. 16-63 AND AUTHORIZE A CONTRACT WITH T-N-T, INC. OF VAN BUREN, ARKANSAS IN THE AMOUNT OF \$97,560.00 FOR CONSTRUCTION OF AN ACCESS DRIVE, CURB AND GUTTER, AND PARKING IMPROVEMENTS AT WILSON PARK, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$9,756.00.

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

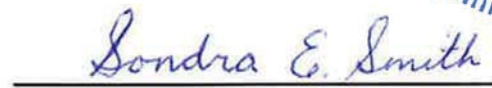
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards Bid No. 16-63 and authorizes a contract with T-N-T, Inc. of Van Buren, Arkansas in the amount of \$97,560.00 for construction of an access drive, curb and gutter, and parking improvements at Wilson Park, and further approves a project contingency in the amount of \$9,756.00.

PASSED and APPROVED on 12/20/2016

Approved:


Lioneld Jordan, Mayor

Attest:


Sondra E. Smith, City Clerk Treasurer



Budget Year	Division	Adjustment Number
2017	PARKS & RECREATION (520)	
	/Org2	
	Requestor: Alan Bearden	

To recognize Park Land Dedication (SW Quadrant) revenues received into the Wilson Park Grant Match subproject. This relates to Change Order #3 (T-N-T, Inc. contract #2016-00000014) and will be used for installation of additional select road base fill and for a change in pavement surfacing from asphalt to fiber-reinforced concrete for extended durability.

	COUNCIL DATE:	5/2/2017
	LEGISTAR FILE ID#:	2017-0203
	<i>Liz Hutchens</i> 4/14/2017 10:48 AM	
	Budget Director	Date
	TYPE:	
	DESCRIPTION:	
	GLDATE:	
	POSTED:	/
	RESOLUTION/ORDINANCE	

[illegible]



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0209

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 4

FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS:

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$30,000.00 RECOGNIZING REVENUE FROM THE COURT AUTOMATION FUND FOR UPGRADES TO THE ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS USED BY THE FAYETTEVILLE DISTRICT COURT

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 to this Resolution, in amount of \$30,000.00 recognizing revenue from the court automation fund for upgrades to the access control and video surveillance systems used by the Fayetteville District Court.

City of Fayetteville Staff Review Form

2017-0209

Legistar File ID

5/2/2017

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Dena Stockalper

4/11/2017

Fayetteville District Court /
General Government Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends authorizing the attached budget adjustment for the Fayetteville District Court in the amount of \$30,000.00 to recognize and appropriate revenue from the Court Automation Fund for technology upgrades to the Access Control and Video surveillance systems.

Budget Impact:

1010.040.0400-5210.00

General Fund

Account Number

Fund

39012.901

39012 District Court Automation

Project Number

Project Title

Budgeted Item? No

Current Budget \$ 7,058.56

Funds Obligated \$ -

Current Balance \$ 7,058.56

Does item have a cost? Yes

Item Cost \$ 28,116.43

Budget Adjustment Attached? Yes

Budget Adjustment \$ 30,000.00

Remaining Budget \$ 8,942.13

V20140710

Previous Ordinance or Resolution # 30-14

Original Contract Number:

Approval Date:

Comments:

TO: Mayor Jordan

THRU: William A. Storey, District Judge
Keith Macedo, Information Technology Director

FROM: Dena Stockalper, Chief Clerk
Brad Fulmer, Infrastructure Manager

DATE: April 11, 2017

SUBJECT: Budget Adjustment for Access Control and Video Surveillance

RECOMMENDATION:

Staff recommends authorizing the attached budget adjustment for the Fayetteville District Court in the amount of \$30,000.00 to recognize and appropriate revenue from the Court Automation Fund for technology upgrades to the Access Control and Video surveillance systems.

BACKGROUND:

The current access control and video surveillance systems are outdated and in need of replacement. The Access control upgrade will include the addition of 2 new doors and the replacement of 12 existing doors. The video surveillance upgrade will include 2 new cameras and the replacement of 9 existing cameras. Both systems will provide significant improvements in quality, visibility, access control, and overall security for the District Court facility.

DISCUSSION:

The Court Automation fund is supported by Arkansas Statue 16-13-704 which allows the Court to collect monies from installment payments. The Fund is to be used solely for the District Court for technology equipment, automation equipment, and related training.

BUDGET/STAFF IMPACT:

Funds are available within the Court Automation Fund to purchase the referenced access control and video surveillance systems.

Attachments:

Staff Review Form
Budget Adjustment Form
Arkansas Statute 16-13-704
Access Control Quote
Video Surveillance Quote

(ii) Expenditures may be made for indirect expenses related to implementation of new court-related technology, including overtime pay, personnel or travel expenses, and technology-related supplies.

(c) A defendant who has been authorized by the court to pay a fine by installments shall be considered to have irrevocably appointed the clerk of the court as his or her agent upon whom all papers affecting his or her liability may be served, and the clerk shall forthwith notify the defendant thereof by ordinary mail at his or her last known address.

(d) "Ability to pay" means that the resources of the defendant, including all available income and resources, are sufficient to pay the fine and provide the defendant and his or her dependents with a reasonable subsistence compatible with health and decency.

History. Acts 1995, No. 1262, § 3; 2001, No. 1809, § 13; 2003, No. 1185, § 94; 2003, No. 1765, § 10; 2005, No. 1934, § 7; 2009, No. 633, § 8.

Publisher's Notes. For text of section effective January 1, 2012, see the following version.

Amendments. The 2005 amendment added present (b)(1)(B), (b)(1)(C), (b)(2)(B), (b)(3)(B)(ii) and (b)(3)(D) and (b)(3)(E) and made related changes; inserted "circuit" twice in (b)(2)(A); substituted "16-13-712" for "6-13-712" in (b)(3)(A); in (b)(3)(B)(i), inserted "collected in district court" "of the city in which the district court is located" and "district" twice; and inserted "of the county in which the district court is located" in (b)(3)(C).

The 2009 amendment, in (b), inserted "on the first day of each month" in

(b)(1)(A), inserted "and shall be authorized ... technology related supplies" in (b)(2)(B)(i), deleted (b)(2)(B)(iii), which read: "All expenditures from the circuit court automation fund shall be authorized, pursuant to the county accounting law, by the quorum court," inserted (b)(3)(D)(ii) and (b)(2)(E)(ii), redesignated the remaining text of (b)(3)(D) and (b)(3)(E), and substituted "and paid, under state laws governing the appropriation and payment of county or municipal expenditures" for "pursuant to state accounting law" in (b)(31)(D)(i) and (b)(3)(E)(i); and made related and minor stylistic changes.

Effective Dates. Acts 2003, No. 1185, § 94: Jan. 1, 2005, by its own terms.

CASE NOTES

Right to Appeal.

City could not rely on the application of this section to claim that defendants' appeal had to be dismissed for the failure of defendants to pay an appeal bond because, even though the court had the right

to order installment payments, nothing in this section authorizes a district court to demand payment of the fine as a prerequisite for taking an appeal to circuit court. *Velek v. State*, 364 Ark. 531, 222 S.W.3d 182 (2006).

16-13-704. Installment payments. [Effective January 1, 2012.]

(a)(1) If the court concludes that the defendant has the ability to pay the fine, but that requiring the defendant to make immediate payment in full would cause a severe and undue hardship for the defendant and the defendant's dependents, the court may authorize payment of the fine by means of installment payments in accordance with this subchapter.

(2)(A) When a court authorizes payment of a fine by means of installment payments, it shall issue, without a separate disclosure

hearing, an order that the fine be paid in full by a date certain and that in default of payment, the defendant must appear in court to explain the failure to pay.

(B) In fixing the date of payment, the court shall issue an order which will complete payment of the fine as promptly as possible without creating a severe and undue hardship for the defendant and the defendant's dependents.

(b)(1)(A) In addition to the fine and any other assessments authorized by this subchapter, an installment fee of five dollars (\$5.00) per month shall be assessed on each person who is authorized to pay a fine on an installment basis.

(B) This fee shall be collected in full each month in which a defendant makes an installment payment.

(C) This fee shall accrue each month that a defendant does not make an installment payment and the fine has not been paid in full.

(2)(A)(i) One-half ($\frac{1}{2}$) of the installment fee collected in circuit court shall be remitted by the tenth day of each month to the Administration of Justice Funds Section of the Office of Administrative Services of the Department of Finance and Administration, on a form provided by that office, for deposit in the Judicial Fine Collection Enhancement Fund established by § 16-13-712.

(ii) The other half of the installment fee shall be remitted by the tenth day of each month to the county treasurer to be deposited in a fund entitled the circuit court automation fund to be used solely for circuit court-related technology.

(B)(i) Expenditures from the circuit court automation fund shall be approved by the administrative circuit judge of each judicial circuit.

(ii) Funds in each county in a judicial circuit may be pooled for expenditure pursuant to a circuit-wide technology plan approved by the administrative circuit judge.

(iii) All expenditures from the circuit court automation fund shall be authorized, pursuant to the county accounting law, by the quorum court.

(3)(A) One-half ($\frac{1}{2}$) of the installment fee collected in district court shall be remitted by the tenth day of each month to the Administration of Justice Funds Section, on a form provided by that section, for deposit in the Judicial Fine Collection Enhancement Fund established by § 16-13-712.

(B) The other half of the installment fee collected in district court shall be remitted by the tenth day of each month to the city treasurer of the city in which the district court is located to be deposited in a fund entitled the district court automation fund to be used solely for district court-related technology.

(C) In any district court which is funded solely by the county, the other half of this fee shall be remitted by the tenth day of each month to the county treasurer of the county in which the district court is located to be deposited in the district court automation fund to be used solely for district court-related technology.

(D) Expenditures from the district court automation fund shall be approved by a district judge and shall be authorized, pursuant to state accounting law, by the governing body or, if applicable, governing bodies which contribute to the expenses of a district court.

(c) Any defendant who has been authorized by the court to pay a fine by installments shall be considered to have irrevocably appointed the clerk of the court as his or her agent upon whom all papers affecting his or her liability may be served, and the clerk shall forthwith notify the defendant thereof by ordinary mail at his or her last known address.

(d) "Ability to pay" means that the resources of the defendant, including all available income and resources, are sufficient to pay the fine and provide the defendant and his or her dependents with a reasonable subsistence compatible with health and decency.

History. Acts 1995, No. 1262, § 3; 2001, No. 1809, § 13; 2003, No. 1185, § 94; 2003, No. 1765, § 10; 2005, No. 1934, § 7; 2007, No. 663, § 32.

Publisher's Notes. For text of section effective until January 1, 2012, see the preceding version.

Amendments. The 2007 amendment deleted "or city court" following "district court" in (b)(3)(A); deleted former (b)(3)(B)(ii) and (b)(3)(E); and made related changes.

Effective Dates. Acts 2007, No. 663, § 56, as amended by Acts 2009, No. 345, § 7, provided:

"(a) Sections 2 through 15 of this act are effective January 1, 2008.

"(b) Sections 16 through 50 and 52 through 55 of this act are effective January 1, 2012.

"(c) Section 51 of Act 663 of 2007 is effective January 1, 2012, except:

"(1) That portion of Section 51 of Act 663 of 2007 that is referred to in Act 663 of 2007 as 16-17-933, establishing the Cleburne County District Court and departments of that court, codified as § 16-17-936 is effective July 1, 2009; and

"(2) That portion of Section 51 of Act 663 of 2007 that is referred to in Act 663 of 2007 as 16-17-950, establishing the St. Francis County District Court and departments of that court, codified as § 16-17-954 is effective July 1, 2009."

CASE NOTES

Right to Appeal.

City could not rely on the application of this section to claim that defendants' appeal had to be dismissed for the failure of defendants to pay an appeal bond because, even though the court had the right

to order installment payments, nothing in this section authorizes a district court to demand payment of the fine as a prerequisite for taking an appeal to circuit court. *Velek v. State*, 364 Ark. 531, 222 S.W.3d 182 (2006).

16-13-705. Personal checks.

(a) The court shall accept personal checks drawn in the favor of a designated official, as provided in § 16-13-709, in payment of any fine or associated charge assessed by the court if the person issuing the check furnishes satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state.

(b)(1) If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check, not to exceed the actual costs incurred by the court or designated agency, may be imposed to recover processing and collection costs.



Date: 2-28-17

Customer: City of Fayetteville

To: Stefan Bachrodt

From: Billy York

PROJECT: District Court Building S2 Access and CCTV Upgrade

Access Control:

Scope of Work:

Takeover of a (12) existing doors of access and adding (2) Addition new doors of access at above location.

NOTE:

All existing door equipment and cable will be used except for prox readers which will be replaced

Purchase and installation of the following equipment:

- (1) S2 14 Door Network Node to replace existing Bosch panels
- (2) Altronix 8 Door Lock Power Supply to replace existing Bosch power supplies
- (13) HID RP40 Prox Readers for badge entry
- (1) HID RPK40 Prox Keypad Reader for badge entry
- (2) Sentrol ¾ inch recess door contacts for new doors
- (2) Bosch DS160 Request to Exit Motion Sensors for new doors
- (2) HES 5000 Series Strikes to install on new doors
- (300ft) Access Control Cable for new doors
- (1) S2 64 Portal Expansion license for existing Netbox Controller
- Commissioning
- Demo of old equipment
- Travel

Camera System:

Scope of work:

Installation of (2) new IP cameras at location, cameras will be added to existing NVR.

NOTE:

Installation only (NVR, cameras and Licenses) provided by owner.

Installation of the following equipment:

- (1) Indoor Dome Camera
- (1) Outdoor Dome Camera
- Misc. mounting material
- Cat6 Cabling to Cameras
- Programming/Focus
- Travel

Total Project Cost= \$16,450.00

S2 Solutions, Inc.
4531 E. 108th Street
Tulsa, OK 74137
1-855-573-7491
Oklahoma License #244553



S2 Solutions, Inc.
2828 NW 57th Street, Suite 211
Oklahoma City, OK 73112
405-570-1484
Oklahoma License # 244553

Assumptions

If required, management will provide all installation personnel with access badges, keys, and or escorts in order to perform the work in a timely manner.

Return trips for operational verification, of other vendor's equipment, will be at billable rates should there be no fault found with the cabling or device installation.

Any customer requested work and or materials beyond the original scope of work described in this proposal and or the "Proposal Attachment" is subject to additional charges.

Delays due to: closings, material availability, limited access or other events, which are the result of the customer, will be billed per hour for every hour the delay exists.

No electrical/conduit work is included in this proposal

Electrical power is to be supplied by others and will be available throughout the duration of this project.

“This pricing is valid for a period of “30” Calendar days from the date of this proposal”

Signature

Date

Printed Name

Title

***Thank you,
Billy York
Operations/Sales
(405) 200-3623
byork@s2-ok.com***

QUOTE CONFIRMATION



DEAR BRAD FULMER,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
1BQSYDY	4/3/2017	DISTRICT COURT CAMERAS	0915131	\$10,062.55

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Sony IPELA SNC-EP580 - network surveillance camera Mfg. Part#: SNCEP580 UNSPSC: 46171610	1	2531541	\$2,537.63	\$2,537.63
Sony IPELA SNC-EM632RC - E Series - network surveillance camera Mfg. Part#: SNCEM632RC UNSPSC: 46171610	1	3598799	\$778.04	\$778.04
Sony IPELA SNC-EM630 - network surveillance camera Mfg. Part#: SNCEM630 UNSPSC: 46171610	10	3180747	\$574.55	\$5,745.50

PURCHASER BILLING INFO	SUBTOTAL	\$9,061.17
Billing Address: CITY OF FAYETTEVILLE ACCTS PAYABLE 113 W MOUNTAIN ST FAYETTEVILLE, AR 72701-6083 Phone: (479) 575-8367 Payment Terms:	SHIPPING	\$107.43
	SALES TAX	\$893.95
	GRAND TOTAL	\$10,062.55
DELIVER TO	Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	
Shipping Address: CITY OF FAYETTEVILLE ATTN:STEFAN BACHRODT 113 W MOUNTAIN ST FAYETTEVILLE, AR 72701-6069 Phone: (479) 575-8367 Shipping Method: FEDEX Ground		

Need Assistance? CDW•G SALES CONTACT INFORMATION



Lena Pekaj

(866) 567-1653

lenapek@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at <http://www.cdwg.com/content/terms-conditions/product-sales.aspx>
For more information, contact a CDW account manager

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City of Fayetteville, Arkansas - Budget Adjustment Form (Legistar)

Budget Year 2017	Division /Org2 DISTRICT COURT (040) Requestor: Dena Stockalper	Adjustment Number
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BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Purchase technology upgrades to the Access Control System and Video surveillance system for the Fayetteville District Court. Move funds from the Court Automation project into the District Court minor equipment.

RESOLUTION/ORDINANCE	COUNCIL DATE: 5/2/2017
	LEGISTAR FILE ID#: 2017-0209
	<i>Liz Hutchens</i> 4/13/2017 3:20 PM
	Budget Director _____ Date _____
	TYPE: _____
	DESCRIPTION: _____
	GLDATE: _____
	POSTED: _____ / _____

TOTAL	30,000	30,000					v.20161220
Account Number	Increase / (Decrease)		Project.Sub#		AT	Account Name	
	Expense	Revenue	Project	Sub			
1010.040.0400-5210.00	30,000	-	39012	901	EX	Minor Equipment - :	
	-	-					
1010.900.0001-4900.00	-	30,000	39012	901	RE	Miscellaneous Revenue - base	
	-	-					
	-	-					
	-	-					
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	-	-					
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	-	-					
	-	-					



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0183

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 5

HAWKINS-WEIR ENGINEERS, INC.:

A RESOLUTION TO APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC. IN AN AMOUNT NOT TO EXCEED \$71,820.00 FOR ENGINEERING SERVICES RELATED TO THE ELIMINATION OF THE MASTERS SEWER LIFT STATION, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$7,182.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a professional engineering services agreement with Hawkins-Weir Engineers, Inc. in an amount not to exceed \$71,820.00 for engineering services related to the elimination of the Masters Sewer Lift Station, and further approves a project contingency in the amount of \$7,182.00.

City of Fayetteville Staff Review Form

2017-0183

Legistar File ID

5/2/2017

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

Tim Nyander

3/29/2017

Utilities Director /
Utilities Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A RESOLUTION APPROVING AN AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC. IN THE NOT-TO-EXCEED AMOUNT OF \$61,820.00 FOR ENGINEERING SERVICES, APPROVING A NOT-TO-EXCEED AMOUNT OF \$10,000.00 FOR REIMBURSABLE EXPENSES ASSOCIATED WITH THE ELIMINATION OF THE MASTERS SEWER LIFT STATION, AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$7,182.00

Budget Impact:

5400.720.5700-5815.00

Water and Sewer

Account Number

Fund

02017.1

Sanitary Sewer Rehabilitation

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 5,326,605.50

Funds Obligated \$ 124,000.92

Current Balance \$ 5,202,604.58

Does item have a cost? Yes

Item Cost \$ 79,002.00

Budget Adjustment Attached? No

Budget Adjustment \$ -

Remaining Budget \$ 5,123,602.58

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Water & Sewer Committee

FROM: Tim Nyander, Utilities Director

DATE: March 28, 2017

SUBJECT: Resolution approving an agreement with Hawkins-Weir Engineers, Inc. for professional engineering services and reimbursable expenses associated with the elimination of the Masters Sewer Lift Station

RECOMMENDATION:

Staff recommends a Resolution approving an agreement with Hawkins-Weir Engineers, Inc. in the not-to-exceed amount of \$ 61,820.00 for engineering services, approving a not-to-exceed amount of \$10,000 for reimbursable expenses associated with the elimination of the Masters Sewer Lift Station, and approval of a project contingency in the amount of \$7,182.00.

BACKGROUND:

The elimination of the Masters Lift Station (Sewer Lift Station 23) is a recommended 2017 CIP project in the Wastewater Collection System 2014 Master Plan Update.

Hawkins-Weir Engineers, Inc. was selected for this task in a formal engineering selection committee meeting on February 23, 2016, City of Fayetteville RFQ 16-01, Engineer and Architect - Selection #9. The contract scope the not to exceed costs and the reimbursable expenses were negotiated by City Utilities staff.

DISCUSSION:

The proposed engineering contract will provide the survey and design for a future construction project to eliminate the existing back yard lift station and force main by providing a future gravity sewer line from the lift station location to the east/northeast to an existing gravity sewer.

BUDGET/STAFF IMPACT:

Budgeted funds are available in Sanitary System Rehabilitation project.

Attachments:

Staff Review Form
Engineering Services Agreement
Vicinity Map

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And

HAWKINS-WEIR ENGINEERS, INC.

Masters Lift Station Elimination: Design of new gravity sewer from the Masters Lift Station to an existing gravity sewer near City Lake Road, and elimination of the Masters Lift Station.

THIS AGREEMENT is made as of _____, 20__, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and Hawkins-Weir Engineers, Inc. with offices located in Fayetteville, Arkansas; Van Buren, Arkansas; and Little Rock, Arkansas (hereinafter called ENGINEER).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the evaluation, planning, design, and/or construction administration of capital improvement projects. Therefore, CITY OF FAYETTEVILLE and ENGINEER in consideration of their mutual covenants agree as follows:

ENGINEER shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of ENGINEER's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field. If Construction Phase Services are to be provided by ENGINEER under this Agreement, the construction shall be executed under the observation of a professional engineer registered in the State of Arkansas in accordance with Arkansas Code Amended §22-9-101.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of ENGINEER.
- 1.2 Assignments from CITY OF FAYETTEVILLE to ENGINEER may include services described hereafter as Basic Services or as Additional Services of ENGINEER.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF ENGINEER

- 2.1 Perform professional design services in connection with the Project as hereinafter stated.
 - 2.1.1 The Scope of Services to be furnished by ENGINEER during this project is included in Appendix A attached hereto and made part of this Agreement.
- 2.2 ENGINEER shall coordinate their activities and services with the CITY OF FAYETTEVILLE. ENGINEER and CITY OF FAYETTEVILLE agree that ENGINEER has full responsibility for the engineering services.

SECTION 3 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

- 3.1 CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of ENGINEER:
 - 3.1.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.
 - 3.1.2 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

- 3.1.3 Assist ENGINEER in obtaining access to property reasonably necessary for ENGINEER to perform its services under this Agreement.
- 3.1.4 Examine all studies, reports, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by ENGINEER and render in writing decisions pertaining thereto.
- 3.1.5 The Utilities Director is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 3.1.6 CITY OF FAYETTEVILLE will review all documents and provide written comments to ENGINEER in a timely manner.

SECTION 4 - PERIOD OF SERVICE

- 4.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 4.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. ENGINEER will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.
- 4.3 ENGINEER shall provide a schedule of its services and include such schedule with the scope in Appendix A.

SECTION 5 - PAYMENTS TO ENGINEER

- 5.1 The maximum not-to-exceed amount authorized for the Basic Services of the Engineer (as defined by Section 2 of this Agreement) is **\$61,820.00**. The maximum not-to-exceed amount authorized for Reimbursable Expenses is \$10,000.00.

Reimbursable Expenses shall be limited to title and easement research, geotechnical investigation, ARKUPS utility locates, the Arkansas Department of Health review fee, and reproduction and printing costs.

- 5.2 The CITY OF FAYETTEVILLE shall compensate ENGINEER based upon a unit price or lump sum basis as described in Appendix A.

- 5.2.1 The maximum not-to-exceed amount authorized for this Agreement is based upon the estimated fee scope, hours, costs and expenses per phase. The estimated fee spreadsheets shall be included in Appendix A. The amount for any phase may be more or less than the estimate, however the maximum not-to-exceed amount shall not be exceeded without a formal contract amendment.

- 5.3 Statements

- 5.3.1 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE consistent with ENGINEER's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by ENGINEER and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project schedule. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the professional engineering services.

5.4 Payments

- 5.4.1 All statements are payable upon receipt and generally due within thirty (30) days. If a portion of ENGINEER's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise ENGINEER in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

5.5 Final Payment

- 5.5.1 Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, ENGINEER shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by ENGINEER to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against ENGINEER or ENGINEER's sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Insurance

- 6.1.1 During the course of performance of these services, ENGINEER will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

ENGINEER will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

6.1.2 CITY OF FAYETTEVILLE and ENGINEER waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of ENGINEER's services.

6.2 Professional Responsibility

6.2.1 ENGINEER will exercise reasonable skill, care, and diligence in the performance of ENGINEER's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices, CITY OF FAYETTEVILLE Standards, Arkansas State Law and the Rules and regulations of the Arkansas Board of Licensure For Professional Engineers and Professional Surveyors. CITY OF FAYETTEVILLE will promptly report to ENGINEER any defects or suspected defects in ENGINEER's services of which CITY OF FAYETTEVILLE becomes aware, so that ENGINEER can take measures to minimize the consequent of such defect. ENGINEER agrees not to seek or accept any compensation or reimbursements from the CITY OF FAYETTEVILLE for engineering work it performs to correct any errors, omissions or other deficiencies caused by ENGINEER's failure to meet customarily accepted professional engineering

practices. CITY OF FAYETTEVILLE retains all other remedies to recover for its damages caused by any negligence of ENGINEER.

6.2.2 In addition ENGINEER will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by ENGINEER's Commercial General Liability and Automobile Liability Insurance policies.

6.3 Cost Opinions and Projections

6.3.1 Cost opinions and projections prepared by ENGINEER relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on ENGINEER's experience, qualifications, and judgment as a design professional. Since ENGINEER has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, ENGINEER does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by ENGINEER.

6.4 Changes

6.4.1 CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of ENGINEER's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the duly authorized officer of ENGINEER.

6.5 Termination

6.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

6.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.1.2 An opportunity for consultation with the terminating party prior to termination.

6.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that ENGINEER is given:

6.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.2.2 An opportunity for consultation with the terminating party prior to termination.

6.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

6.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

6.5.3.2 Any payment due to ENGINEER at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of ENGINEER's default.

6.5.4 If termination for default is effected by ENGINEER, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination

settlement costs reasonably incurred by ENGINEER relating to commitments which had become firm prior to the termination.

6.5.5 Upon receipt of a termination action under Paragraphs 6.5.1 or 6.5.2 above, ENGINEER shall:

6.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),

6.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by ENGINEER in performing this Agreement, whether completed or in process.

6.5.6 Upon termination under Paragraphs 6.5.1 or 6.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

6.5.7 If, after termination for failure of ENGINEER to fulfill contractual obligations, it is determined that ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 6.5.4 of this clause.

6.6 Delays

6.6.1 In the event the services of ENGINEER are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond ENGINEER's reasonable control, ENGINEER shall be entitled to additional compensation and time for reasonable costs incurred by ENGINEER in temporarily closing down or delaying the Project.

6.7 Rights and Benefits

6.7.1 ENGINEER'S services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

6.8 Dispute Resolution

6.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and ENGINEER which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or ENGINEER in the performance of this Agreement, and disputes concerning payment.

6.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 6.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 6.8.3 and 6.8.4 have been complied with.

6.8.3 Notice of Dispute

6.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

6.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give ENGINEER written Notice at the address listed in Paragraph 6.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

6.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and ENGINEER shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of ENGINEER and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the

Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

6.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to ENGINEER for services rendered by ENGINEER.

6.10 Publications

6.10.1 Recognizing the importance of professional development on the part of ENGINEER's employees and the importance of ENGINEER's public relations, ENGINEER may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to ENGINEER's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to ENGINEER. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of ENGINEER's activities pertaining to any such publication shall be for ENGINEER's account.

6.11 Indemnification

6.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and ENGINEER from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

6.12 Ownership of Documents

6.12.1 All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and

data are and remain the property of CITY OF FAYETTEVILLE. ENGINEER may retain reproduced copies of drawings and copies of other documents.

6.12.2 The CITY OF FAYETTEVILLE acknowledges the ENGINEER's plans and specifications, including documents on electronic media ("delivered documents"), as instruments of professional services. Nevertheless, the delivered documents prepared under this Agreement shall be delivered to and become the property of the CITY OF FAYETTEVILLE upon completion of the services and payment in full of all monies due to ENGINEER. Except for the ENGINEER's services provided for by this Agreement as related to the construction and completion of the Project, the ENGINEER accepts no liability arising from any reuse of the delivered documents by the CITY OF FAYETTEVILLE, unless ENGINEER is retained by CITY OF FAYETTEVILLE to make modifications or otherwise reuse the delivered documents. Except where the CITY OF FAYETTEVILLE reuses the delivered documents subsequent to the completion of the Project, nothing contained in this paragraph shall alter the ENGINEER's responsibilities and obligations under this Agreement.

6.12.3 Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. ENGINEER makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

6.13 Notices

6.13.1 Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:
113 West Mountain
Fayetteville, AR 72701

ENGINEER's address:

438 East Milsap Road, Suite 107
Fayetteville, AR 72703

6.14 Successor and Assigns

6.14.1 CITY OF FAYETTEVILLE and ENGINEER each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor ENGINEER shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

6.15 Controlling Law

6.15.1 This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

6.16 Entire Agreement

6.16.1 This Agreement represents the entire Agreement between ENGINEER and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to ENGINEER a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by ENGINEER, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 7 - SPECIAL CONDITIONS

- 7.1 Additional Responsibilities of ENGINEER:
 - 7.1.1 CITY OF FAYETTEVILLE's or any Federal or State Agency's review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve ENGINEER of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's nor any Federal or State Agency's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
 - 7.1.2 ENGINEER shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by ENGINEER's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
 - 7.1.3 ENGINEER's obligations under this clause are in addition to ENGINEER's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against ENGINEER for faulty materials, equipment, or work.
- 7.2 Remedies
 - 7.2.1 Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and ENGINEER arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.
- 7.3 Audit: Access to Records
 - 7.3.1 ENGINEER shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date

of execution of this Agreement. ENGINEER shall also maintain the financial information and data used by ENGINEER in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. ENGINEER will provide proper facilities for such access and inspection.

7.3.2 Records under Paragraph 7.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

7.3.3 This right of access clause (with respect to financial records) applies to:

7.3.3.1 Negotiated prime agreements:

7.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

7.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

7.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of ENGINEER;

7.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

- 7.3.3.3 If the subagreement is terminated for default or for convenience.
- 7.4 Covenant against Contingent Fees
- 7.4.1 ENGINEER warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ENGINEER for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
- 7.5 Gratuities
- 7.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that ENGINEER or any of ENGINEER's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to ENGINEER terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.
- 7.5.2 In the event this Agreement is terminated as provided in Paragraph 7.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against ENGINEER as it could pursue in the event of a breach of the Agreement by ENGINEER. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten

times the costs ENGINEER incurs in providing any such gratuities to any such officer or employee.

7.6 Arkansas Freedom of Information Act

7.6.1 City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, ENGINEER will provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

7.6.2 Pursuant to Arkansas Code Ann. § 25-19-105(b)(20), the personal information of CITY OF FAYETTEVILLE water system customers must be treated as confidential information and shall not be made available for inspection except by ENGINEER's employees as required to fulfill the terms of this Agreement. Upon completion of ENGINEER's contractual duties and after approval of ENGINEER's documents, the ENGINEER agrees to destroy or return to CITY OF FAYETTEVILLE any copies of records containing information about CITY OF FAYETTEVILLE water system customers.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and ENGINEER, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor, Lioneld Jordan

ATTEST:
By: _____
City Clerk

HAWKINS-WEIR ENGINEERS, Inc.

By: Brett D. Peters

Title: President & CEO

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES



March 15, 2017

Mr. Jim Beavers, P.E.
Utilities Engineer
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Re: Masters Lift Station Elimination
HWEI Project No. 2017027

Dear Mr. Beavers:

We appreciate the opportunity to submit this proposal to perform engineering services associated with the Masters Lift Station Elimination Project for the City of Fayetteville, Arkansas.

Enclosed, please find a scope of services task list detailing the Basic Services proposed for this project. In summary, our services will consist of preparing a Preliminary Engineering Report, preparing Final Design Documents including detailed plans and specifications, and providing assistance during Bidding.

The scope of services for this project does not presently include any construction management services. We understand that construction management services will be negotiated during the latter portion of the bidding phase, and with the City's concurrence will be added by Amendment to our Contract.

Our fee for Basic Services will be invoiced based on our Standard Hourly Billing Rates as compensation for services and expenses of principals and employees of Hawkins-Weir Engineers. The not to exceed fee for these services is **\$61,820**, plus subconsultant fees and Reimbursable Expenses. Additional services will be provided only upon receipt of written authorization, and these additional services will be invoiced at our standard hourly rates. A copy of our Standard Hourly Billing Rate Structure is enclosed.

Reimbursable Expenses, including subconsultant fees, incurred in connection with all Basic and Additional Services will be charged based on their actual costs. We recommend that you budget **\$10,000** for the following reimbursable expenses: title and easement research, geotechnical investigation, ARKUPS utility locates, the Arkansas Department of Health (ADH) review fee, and reproduction and printing.

We will invoice you monthly for Basic Services and Reimbursable Expenses. Reimbursable Expenses will be invoiced in full as they are incurred.

110 So. 7th Street • P.O. Box 648 • Van Buren, AR 72957 • Ph: (479) 474-1227 • Fax: (479) 474-8531
211 Natural Resources Drive • Little Rock, AR 72205 • Ph: (501) 374-4846
438 East Millsap Road • Suite 107 • Fayetteville, AR 72703 • Ph: (479) 455-2206



Mr. Jim Beavers, P.E.

Page 2

March 15, 2017

We will commence this work immediately upon your approval of this proposal and authorization to proceed, and will complete the work through the completion of the bidding phase within 5-months. If there are changes in scope or protracted delays for reasons beyond our control, we would expect to negotiate with you an equitable adjustment of our compensation taking into consideration the impact of such changes and delays.

If this proposal is both acceptable and satisfactorily describes the project and the scope of services, we will prepare and execute a copy of the City's Standard Agreement for Engineering Services. If you have any questions, or require additional information, please do not hesitate to call.

Sincerely,

HAWKINS-WEIR ENGINEERS, INC.

Brett D. Peters, P.E.

BDP/jsd

Enclosures: Scope of Services

Standard Hourly Billing Rate Structure, effective August 21, 2016

cc: Lisa Huckelbury

Appendix A
Scope of Services
Masters Lift Station Elimination Project
City of Fayetteville, Arkansas
HWEI Project No. 2017027
March 15, 2017

Task Description

Task 1 – Preliminary Design Phase

1. Participate in project kickoff meeting with the Owner
2. Prepare a Preliminary Engineering Report
 - a. Evaluate gravity sewer line route options
 - b. Evaluate directional boring as an alternative method for the installation of steep gravity sewer lines.
 - c. Meet with City Staff to present the Preliminary Engineering Report
3. Manage title research for the selected route by our sub-consultant Waco Title
4. Prepare Land Descriptions for Rights of Entry
5. Survey the Selected Route
 - a. Coordinate utility locates through ARKUPS
6. Manage a geotechnical soils investigation of the selected route by our sub-consultant GTS, Inc.
7. Prepare a base drawing

Task 2 – Final Design Phase

1. Prepare final design drawings and construction details
 - a. Prepare and submit a 50% design review set of drawings, including a 50% cost estimate
 - i. Participate in a 50% design review meeting with the Owner and prepare meeting minutes
 - b. Prepare and submit a pre-final design review set of drawings, including a pre-final cost estimate
 - i. Participate in a pre-final design review meeting with the Owner and prepare meeting minutes
 - c. Prepare and submit a final set of drawings and construction details sealed by a Professional Engineer licensed in the State of Arkansas, including a final cost estimate
2. Prepare special conditions and bid documents. The City will provide front end documents and technical specifications. Format for specifications will be the City's Standard Specifications
3. Prepare Land Descriptions and exhibits for Easement Documents
 - a. Coordinate with the City Land Agent and prepare any required document revisions
4. Prepare the Arkansas Department of Environmental Quality (ADEQ) storm water pollution prevention plan (SWPPP)
5. Prepare the Arkansas Highway and Transportation Department (AHTD) utility permit
6. Perform quality assurance review of the design documents
7. Deliver one (1) reproducible full-size copy, two (2) half-size copies, and one (1) electronic copy of the plans and specifications to the City for their use and for reproduction

Task 3 – Advertising and Bidding Phase

1. Assist the City in advertising the project for bidding
2. Conduct a pre-bid conference with the Owner and prospective bidders
3. Prepare any necessary bidding addendums
4. Assist the City in receiving bids and preparing a certified bid tabulation
5. Review bids and prepare a recommendation to the City for the award of a Construction Contract
6. Assist in the preparation of Contract Documents for execution between the City and Contractor

Standard Billing Rate Structure
For Hourly Fee Based Contracts
Hawkins-Weir Engineers, Inc.
Effective January 1, 2017 through August 19, 2017

Engineer

Engineer VII	\$ 180 Per Hour
Engineer VI	\$ 165 Per Hour
Engineer V	\$ 150 Per Hour
Engineer IV	\$ 135 Per Hour
Engineer III	\$ 120 Per Hour
Engineer II	\$ 105 Per Hour
Engineer I	\$ 80 Per Hour

Engineering Technician

Designer II	\$ 100 Per Hour
Designer I	\$ 75 Per Hour
Technician III	\$ 85 Per Hour
Technician II	\$ 75 Per Hour
Technician I	\$ 50 Per Hour

Field Technician - Field Inspector

Inspector II	\$ 75 Per Hour
Inspector I	\$ 60 Per Hour

Field Surveying

GPS Survey	\$ 175 Per Hour
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Administrative

Business Manager	\$ 85 Per Hour
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Expert Witness

Preparation	At Engineer's Hourly Rate
Testimony, less than 1/2 day	\$1,000
Testimony, per Day	\$2,000

Expenses Reimbursable Expenses and upcharges are determined by the Client Agreement/Contract

Subconsultants/Outside Services		
Express Delivery, Field Supplies, Testing, Review/Filing Fees and Advertising		
Travel:	Hotel and meals	Actual Cost
	Vehicle	\$0.535 per mile effective 1/1/17* \$0.54 per mile for 2016*
Reproduction:	Outside printing service	Actual Cost
	In-house printing	
	Letter Copy - B&W	\$ 0.10 Per Copy
	Letter Copy - Color	\$ 0.75 Per Copy
	22 x 34 Size Copy - B&W	\$ 3.00 Per Copy
	22 x 34 Size Copy - Color	\$10.00 Per Copy
	11 x 17 Size Copy - B&W	\$ 1.50 Per Copy
	11 x 17 Size Copy - Color	\$ 5.00 Per Copy
	CD Copy	\$ 5.00 Per Copy
	Binding	\$ 1.00 Each

* To be adjusted periodically to current IRS mileage rate

All Billings are due upon receipt unless prior arrangements for payment have been made.

City of Fayetteville, Arkansas
Masters Lift Station Elimination Project
Hawkins-Weir Project No. 2017027
March 15, 2017

Task 1 - Preliminary Design Phase

Task	Engr VII \$180	Engr III \$120	Engr I \$80	GPS Survey \$175	Designer II \$100	Tech III \$85	Tech I \$50	Total Hours	Total Cost
1. Participate in a project kick-off meeting with the Owner	4	4						8	\$1,200
2. Prepare a Preliminary Engineering Report	4	8					4	16	\$1,880
a) Evaluate gravity sewer line route options		8				8		16	\$1,640
b) Evaluate directional boring as an alternative method for the installation of steep gravity sewer lines		8						8	\$960
c) Meet with City Staff to present the Preliminary Engineering Report	4	4						8	\$1,200
3. Manage title research for the selected route by our sub-consultant Waco Title		4				4		8	\$820
4. Prepare Land Descriptions for Rights of Entry		2			8			10	\$1,040
a) Survey the Selected Route		4		32	4			40	\$6,480
b) Coordinate utility locates through ARKUPS					4			4	\$400
6. Manage a geotechnical soils investigation of the selected route by our sub-consultant GTS, Inc.		4						4	\$480
7. Prepare a base drawing		2				24		26	\$2,280
TOTAL HOURS =	12	48	0	32	16	36	4	148	
SUBTOTAL COST =	\$2,160	\$5,760	\$0	\$5,600	\$1,600	\$3,060	\$200	----->	\$18,380

Task 2 - Final Design Phase

Task	Engr VII \$180	Engr III \$120	Engr I \$80	GPS Survey \$175	Designer II \$100	Tech III \$85	Tech I \$50	Total Hours	Total Cost
1. Prepare final design drawings and construction details		24	40			40	4	108	\$9,680
a) Prepare and submit a 50% design review set of drawings, including a 50% cost estimate	4	2	4					10	\$1,280
i. Participate in a 50% design review meeting with the Owner and prepare meeting minutes		8	24			24	4	60	\$5,120
b) Prepare and submit a pre-final design review set of drawings, including a pre-final cost estimate	4	2	4					10	\$1,280
i. Participate in a pre-final design review meeting with the Owner and prepare meeting minutes		8	16			24		48	\$4,280
c) Prepare and submit a final design set of drawings and construction details sealed by a Professional Engineer licensed in the State of Arkansas, including a final cost estimate									
2. Prepare special conditions and bid documents. The City will provide front end documents and technical specifications. Format for specifications will be the City's Standard Specifications	4	16	24				16	60	\$5,360
3. Prepare Land Descriptions and exhibits for Easement Documents		4			16	8	4	32	\$2,960
a) Coordinate with City Land Agent and prepare any required document revisions		4			8	8	2	22	\$2,060
4. Prepare the Arkansas Department of Environmental Quality (ADEQ) storm water pollution prevention plan (SWPPP)		4	4			4	2	14	\$1,240
5. Prepare the Arkansas Highway and Transportation Department (AHTD) utility permit		2				4	2	8	\$680
6. Perform quality assurance review of the design documents	4	4	4			8		20	\$2,200
7. Deliver one (1) reproducible full-size copy, two (2) half-size copies, and one (1) electronic copy of the plans and specifications to the City for their use and for reproduction		2					2	4	\$340
TOTAL HOURS =	16	80	120	0	24	120	36	396	
SUBTOTAL COST =	\$2,880	\$9,600	\$9,600	\$0	\$2,400	\$10,200	\$1,800	----->	\$36,480

City of Fayetteville, Arkansas
Masters Lift Station Elimination Project
Hawkins-Weir Project No. 2017027
March 15, 2017

Task 3 - Advertising and Bidding Phase

Task	Engr VII \$180	Engr III \$120	Engr I \$80	GPS Survey \$175	Designer II \$100	Tech III \$85	Tech I \$50	Total Hours	Total Cost
1. Assist the City in advertising the project for bidding		2						2	\$240
2. Conduct a pre-bid conference with the Owner and prospective bidders		2	4					8	\$920
3. Prepare any necessary bidding addendums		2	4		8		8	30	\$2,560
4. Assist the City in receiving bids and preparing a certified bid tabulation		2	4				2	8	\$940
5. Review bids and prepare a recommendation to the City for the award of a Construction Contract		4					2	6	\$580
6. Assist in the preparation of Contract Documents for execution between the City and Contractor		2	8				8	18	\$1,720
TOTAL HOURS =	8	24	12	0	0	8	20	72	
SUBTOTAL COST =	\$1,440	\$2,880	\$960	\$0	\$0	\$680	\$1,000	----->	\$6,960

Reimbursable Expenses and Subconsultant Fees

Item	Description	Total
1. Outside Services - Title Research	Waco Title - 15 Parcels @ \$200/parcel - Deed of record and Easement Research	\$3,000
2. Outside Services - Geotechnical Testing	GTS - Soils exploration, laboratory testing, and Geotechnical Engineering Report	\$5,000
3. Outside Service - Utility Locates	ARKUPS	\$1,000
4. ADH Review Fee	Review of plans and specifications	\$500
5. Reproduction & Printing	Copies of plans and specifications	\$500
Total Estimated Reimbursables		\$10,000

ENGINEERING SERVICES SUMMARY

	Engr VII \$180	Engr III \$120	Engr I \$80	GPS Survey \$175	Designer II \$100	Tech III \$85	Tech I \$50	Total Hours	Total Cost
1.0 Hours - Preliminary Design Phase	16	48	0	32	16	36	4	148	\$18,380
2.0 Hours - Final Design Phase	16	80	120	0	24	120	36	396	\$36,480
3.0 Hours - Advertising and Bidding Phase	8	24	12	0	0	8	20	72	\$5,960
Reimbursable Expenses and Subconsultant Fees									\$10,000
TOTAL HOURS =	40	152	132	32	40	164	60	620	
TOTAL COST =	\$7,200	\$18,240	\$10,560	\$5,600	\$4,000	\$13,940	\$3,000		\$71,820



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/22/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh Sponsored Programs a division of Marsh USA Inc. PO Box 14404 Des Moines IA 50306	CONTACT NAME: PHONE (A/C, No, Ext): 800-338-1391 FAX (A/C, No): 888-621-3173 E-MAIL ADDRESS: aceccclientrequest@marsh.com														
INSURED Hawkins-Weir Engineers, Inc. PO Box 648 Van Buren, AR 72957-0648	<table border="1"><thead><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A: Sentinel Insurance Company Ltd</td><td>11000</td></tr><tr><td>INSURER B: Hartford Insurance Co. of the Midwest</td><td>20605</td></tr><tr><td>INSURER C:</td><td></td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Sentinel Insurance Company Ltd	11000	INSURER B: Hartford Insurance Co. of the Midwest	20605	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER E:															
INSURER F:															

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

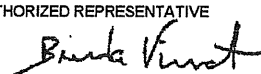
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC	Y	Y	84SBWZM2676 Prof. Liab. Excl.	11/01/2016	11/01/2017	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS	Y	Y	84UEGNM6289	11/01/2016	11/01/2017	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$10,000			84SBWZM2676	11/01/2016	11/01/2017	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☐ N/A	Y		84WEGPV0830	11/01/2016	11/01/2017	☒ WC STATUTORY LIMITS ☐ OTHER E.L. EACH ACCIDENT \$500,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: Job Name/Number: #2017027 Masters Lift Station Elimination Project
City of Fayetteville is included as additional insured when required by written contract.
Waiver of Subrogation is included when required by written contract.

CERTIFICATE HOLDER

CANCELLATION

City of Fayetteville Attn: Utilities Department 113 West Mountain Street Fayetteville, AR 72701	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
3/21/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER BancorpSouth Insurance Services, Inc. - LR PO Box 251510 Little Rock AR 72225-		CONTACT NAME: Ken Estes PHONE (A/C, No, Ext): 501-614-1572 E-MAIL ADDRESS: ken.estes@bxsi.com FAX (A/C, No):		
INSURED HAWKENG-01 Hawkins-Weir Engineers, Inc. P.O. Box 648 Van Buren AR 72957		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A: Navigators Insurance Company		42307
		INSURER B:		
		INSURER C:		
		INSURER D:		
		INSURER E:		
INSURER F:				

COVERAGES

CERTIFICATE NUMBER: 1855875583

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☐ N/A						PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			CM14DPL027028IV	7/11/2016	7/11/2017	Each Claim Limit \$1,000,000 Aggregate \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Description: Project #2017027, Masters Lift Station Elimination

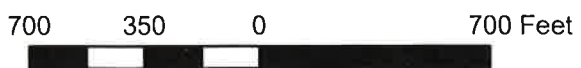
CERTIFICATE HOLDER

CANCELLATION

City of Fayetteville
113 West Mountain Street
Fayetteville AR 72701

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0199

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 6

WASHINGTON REGIONAL MEDICAL CENTER:

A RESOLUTION TO WAIVE AND RELEASE ALL RIGHTS OF FIRST REFUSAL WITHIN PARAGRAPH 5.(C) OF THE REAL ESTATE CONVEYANCE AGREEMENT OF OCTOBER 4, 2011 AND THE OCTOBER 13, 2011 QUIT CLAIM DEED CONVEYING THE PROPERTY TO WASHINGTON REGIONAL MEDICAL CENTER

WHEREAS, after years' long litigation, Washington Regional Medical Center and the City of Fayetteville prevailed and Washington Regional Medical Center's ownership of the former City Hospital property through its Quiet Title Action was affirmed by the Arkansas Supreme Court; and

WHEREAS, the City Council wishes to expedite the ability of the Fayetteville Public Library to purchase the property (which adjoins the Library) for its planned expansion by waiving and/or releasing all provisions within the Real Estate Conveyance Agreement and Quit Claim Deed that gave the City of Fayetteville a thirty or sixty day right of first refusal.

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 waives and releases all of its preemptive rights to purchase and rights of first refusal concerning the former City Hospital Property contained in the Real Estate Conveyance Agreement of October 4, 2011 and the Quit Claim Deed from the City to Washington Regional Medical Center filed on October 13, 2011.

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expressly agrees that Washington Regional Medical Center may sell the property described in the City's Quitclaim Deed of October 13, 2011 to the Fayetteville Public Library.

City of Fayetteville Staff Review Form

2017-0199

Legistar File ID

5/2/2017

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

Kit Williams

4/6/2017

City Attorney /
General Government Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A RESOLUTION TO WAIVE AND RELEASE ALL RIGHTS OF FIRST REFUSAL WITHIN PARAGRAPH 5.(C) OF THE REAL ESTATE CONVEYANCE AGREEMENT OF OCTOBER 4, 2011 AND THE OCTOBER 13, 2011 QUIT CLAIM DEED CONVEYING THE PROPERTY TO WASHINGTON REGIONAL MEDICAL CENTER

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

Legistar ID No.: _____

AGENDA REQUEST FORM

FOR: Council Meeting of May 2, 2017

FROM:

City Attorney Kit Williams

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

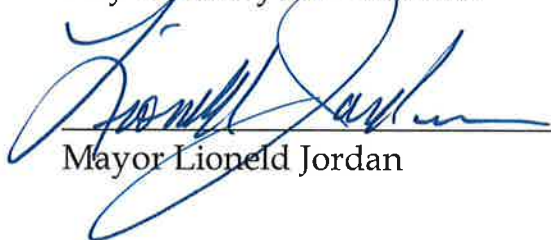
A RESOLUTION TO WAIVE AND RELEASE ALL RIGHTS OF FIRST REFUSAL WITHIN PARAGRAPH 5.(C) OF THE REAL ESTATE CONVEYANCE AGREEMENT OF OCTOBER 4, 2011 AND THE OCTOBER 13, 2011 QUIT CLAIM DEED CONVEYING THE PROPERTY TO WASHINGTON REGIONAL MEDICAL CENTER

APPROVED FOR AGENDA:



City Attorney Kit Williams

April 6, 2017
Date



Mayor Lioneld Jordan

4/6/17
Date



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: Mayor Jordan
City Council

CC: Don Marr, Chief of Staff
Paul Becker, Chief Financial Officer

FROM: Kit Williams, City Attorney

DATE: April 6, 2017

RE: Library's Purchase of City Hospital Land from Washington Regional Medical Center

Release of City's Preemptive Right to Purchase

Vince Chaddick, Fayetteville Public Library's attorney, has asked that the City formally waive or release our "Reservation of Preemptive Right to Purchase City (Hospital) Property," retained our Real Estate Conveyance Agreement approved by Resolution No. 178-11 of October 4, 2011. I have attached this Resolution and Agreement for your convenience.

This right at first refusal in this agreement expires automatically after sixty (60) days notice of the Library's offer to purchase the City Hospital land unless the City would meet such offer of purchase. In order to expedite the sale and transfer of the property to the Fayetteville Public Library, the Library has requested that the City formally waive or release its right to make such an offer to purchase as a right of first refusal. Accordingly, I have drafted a Resolution waiving and releasing the City's right of first referral so that the Fayetteville Public Library may purchase the property without any 60 day waiting period. This Resolution also waives and releases the same right of first refusal which was incorporated in the City's Quitclaim Deed to Washington Regional Medical Center (attached) which was approved by Resolution 67-11 of April 19, 2011 (attached).

I am still amazed that it took six years, four Court decision by 14 Judges and Justices (who all determined that the City acted properly and legally when we conveyed the former City Hospital property to Washington Regional Medical Center) to reach the point that Washington Regional can finally sell this property to the Fayetteville Public Library for it expansion.

On the bright side, I was able to research all the issues, prepare the Resolutions and agreement, draft all the pleadings, write all the motions and briefs to the Washington County Circuit Court, the Arkansas Court of Appeals and the Arkansas Supreme Court without employing any outside counsel nor incurring additional expense for the City of Fayetteville except for Appellee Brief printing and delivery costs. This is a far cry from the over a million dollars Fayetteville taxpayers had to pay to outside, private attorneys who unsuccessfully defended the City in the incinerator case in the early 1990's. Of course, the City then had to pay the attorneys who sued us and won 2.7 Million Dollars for their attorney fees.

RESOLUTION NO. 178-11

**A RESOLUTION TO APPROVE THE REAL ESTATE CONVEYANCE
AGREEMENT WITH WASHINGTON REGIONAL MEDICAL CENTER**

WHEREAS, on April 19, 2011, the Fayetteville City Council passed Resolution No. 67-11 which approved and authorized Mayor Jordan to sign a Quit Claim Deed conveying to Washington Regional Medical Center for the property donated to the City of Fayetteville by the Stones in 1906 and 1909 to be held by the City in trust until the location of the city hospital is changed and then "the entire proceeds of the above described premises shall constitute a trust fund to be devoted exclusively to the establishment and maintenance of" the newly designated successor hospital; and

WHEREAS, the City Council pursuant to Section 3 of Resolution No. 67-11 later appointed successor trustees or board members to the Stone City Hospital Board of Trustees, also known as the Fayetteville City Hospital Board of Directors; and

WHEREAS, the City Hospital Board of Trustees then met and designated Washington Regional Medical Center as the successor to the City Hospital thereby entitling WRMC to the land or proceeds of the City Hospital property; and

WHEREAS, Washington Regional Medical Center has prepared its Warranty Deed to the City of Fayetteville for the property needed for the roundabout and approved the City of Fayetteville's Quit Claim Deed conveying its interest in the City Hospital property to Washington Regional Medical Center as the successor city hospital.

**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 approves and authorizes Mayor Jordan to sign the attached Real Estate Conveyance Agreement to fulfill the City Council's commitment to convey the City Hospital property to Washington Regional Medical Center (WRMC) after the City Hospital Board had properly designated WRMC as the successor city hospital and to accept from WRMC by warranty deed the acreage needed to construct the roundabout near the hospital.

PASSED and APPROVED this 4th day of October, 2011.

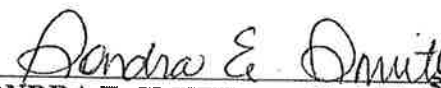
APPROVED:

ATTEST:

By:


LIONELD JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk/Treasurer



REAL ESTATE CONVEYANCE AGREEMENT

THIS REAL ESTATE CONVEYANCE AGREEMENT (the "Agreement") is made and entered into as of this 4th day of October, 2011 (the "Effective Date"), by and between the **CITY OF FAYETTEVILLE, ARKANSAS, a municipal corporation** (the "City"), and **WASHINGTON REGIONAL MEDICAL CENTER, an Arkansas nonprofit corporation** ("WRMC").

WHEREAS, the City is the legal owner in trust of Block 37 as designated on the plat of the original town of Fayetteville, Arkansas, which real property is physically located at 221 S. School Avenue, in the City of Fayetteville, Arkansas, the legal description for which is set forth on Exhibit A (the "City Property");

WHEREAS, the City Property has long been utilized to operate a nursing and skilled nursing facility known as Fayetteville City Hospital (the "Facility"), the City Property and Facility having been leased to Washington Regional Medicorp., an Arkansas nonprofit corporation and affiliate of WRMC, pursuant to the terms of a certain Assignment and Lease Agreement dated July 26, 1991 and made between the City, Washington Regional Medicorp, and Fayetteville City Hospital Board (the "Lease Agreement");

WHEREAS, WRMC is the owner of approximately 1.10 acres of real property situated at the southwest corner of the intersection of North Hills Boulevard and Futrall Drive in the City of Fayetteville, Arkansas, the legal description for which is set forth on Exhibit B (the "WRMC Property");

WHEREAS, the City and WRMC are desirous of the City constructing a traffic roundabout at the intersection of North Hills Boulevard and Futrall Drive in furtherance of the Fayetteville Expressway Economic Development Corridor, Project No. 06035-1700 (the "Project"), and to improve the traffic flow through this intersection for WRMC patients, staff and the community. The City requires fee simple ownership of the WRMC Property to obtain the additional right-of-way necessary to proceed with construction of the Project;

WHEREAS, WRMC is desirous of obtaining fee simple ownership of the City Property so as to facilitate the replacement of the Facility by WRMC or one or more of its affiliates;

WHEREAS, the City has determined that the health and welfare of the citizens of the City of Fayetteville would be advanced through the conveyance of the City Property to WRMC and that the City has the legal authority pursuant to Ark. Code Ann. §14-54-302 and other state law to convey the City Property in consideration for the public advantage of improved hospital and related health care services for Fayetteville citizens, to secure the continuing and increased economic benefit that inures to the City of Fayetteville and its citizens by aiding WRMC, Fayetteville's second largest employer and a vitally important economic resource for the City, in modernizing and expanding health care facilities and services within the City of Fayetteville, and to fulfill the City's fiduciary duties as were imposed upon the City under the terms of the original conveyance of the City Property to the City of Fayetteville to ensure the establishment and maintenance of a city hospital within the City of Fayetteville;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and conditions set forth in this Agreement, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Conveyance of the WRMC Property.** Subject to the terms, covenants and conditions set forth in this Agreement, WRMC hereby agrees to convey the WRMC Property to the City. The WRMC Property will be used as right-of-way for the construction of a traffic roundabout at the intersection of North Hills Boulevard and Futrall Drive.

2. **Consideration for the WRMC Property.**

(a) As consideration for the conveyance by WRMC of the WRMC Property to the City, the City agrees to construct the proposed roundabout as soon as possible to help alleviate the current traffic congestion in that intersection and to abide by all the terms, covenants and conditions set forth in this Agreement.

(b) As further consideration for the conveyance by WRMC of the WRMC Property to the City, the City will, at its sole cost and expense, plant such additional trees at such other location on WRMC's property that is contiguous to the WRMC Property identified on **Exhibit B** as may be mutually agreed upon by WRMC and the City as is necessary to replace any tree preservation area that the City determines has been lost to the WRMC property that is contiguous to the WRMC Property identified on **Exhibit B** as a result of the conveyance of the WRMC Property.

3. **Conveyance of the City Property**

Subject to the terms, covenants and conditions set forth in this Agreement, the City of Fayetteville agrees to convey the City Property to WRMC by quitclaim deed. The City Property will be utilized by WRMC exclusively in connection with the establishment and maintenance of hospital and related health care facilities and services within the City of Fayetteville.

4. **Consideration for the City Property.**

(a) Consideration for the conveyance of the City Property to WRMC shall include, but is not limited to, the public advantage to the citizens and City of Fayetteville of continuing and improved hospital and related health care facilities and services for Fayetteville citizens, the continuing and increasing economic benefit that inures to the City of Fayetteville and its citizens from assisting and supporting WRMC (which is the City's second largest employer and an extremely important and valuable economic resources for Fayetteville) in modernizing and expanding health care facilities and services within the City of Fayetteville, and the fulfillment of the City of Fayetteville's fiduciary duties as were imposed upon the City under the terms of the original conveyance of the City Property to the City of Fayetteville to ensure the establishment and maintenance of a city hospital within the City of Fayetteville.

(b) As further consideration for this conveyance, WRMC agrees and pledges that any proceeds realized from any future sale of the City Property by WRMC, shall be utilized by WRMC in the establishment and maintenance of hospital and related healthcare facilities and services within the City of Fayetteville or for any other purpose incidental or related to the provision of hospital or related healthcare services to the citizens of Fayetteville.

5. Title to the Real Properties.

(a) Title to the WRMC Property. At the Closing, WRMC shall convey to the City fee simple title to the WRMC Property by means of a corporate warranty deed to be executed by WRMC in substantially the form attached hereto as Exhibit C.

(b) Title to the City Property. At the Closing, the City shall convey to WRMC fee simple title to the City Property by means of a quitclaim deed to be executed by the City in substantially the form attached hereto as Exhibit D.

(c) Reservation of Preemptive Right to Purchase City Property. The quitclaim deed delivered by the City to WRMC and attached hereto as Exhibit D shall contain language reserving to the City a preemptive right to purchase the City Property in the event WRMC shall elect to sell all or any portion of the City Property to a third party, upon the occurrence of which condition the City shall have a right of first refusal to meet any such bona fide offer to purchase on the same terms and conditions as are set forth in such third party's bona fide offer to purchase. Upon the City's failure to tender to WRMC a written bona fide offer to meet such third party's bona fide offer of purchase within sixty (60) days after written notice thereof to the City from WRMC, WRMC shall be free to sell or convey the City Property or any portion thereof to such third party only in accordance with the terms and conditions of the third party's bona fide offer of sale as presented to the City.

(d) Resolutions of the City and FCH Regarding the City Property. At Closing, the City shall deliver to WRMC a certified copy of the Resolution of the Fayetteville City Council authorizing the execution of this Agreement and the conveyance of the City Property to WRMC in the form attached hereto as Exhibit E.

6. Closing.

(a) Closing Date. Provided that this Agreement has not been terminated, the closing shall take place on a mutually acceptable date or before the ____ day of October, 2011 (the "Closing").

(b) Deliverables at the Closing From WRMC. At the Closing, WRMC shall deliver the following:

(i) Corporate Warranty Deed. WRMC shall deliver to the City a fully executed Corporate Warranty Deed in the form set forth on Exhibit C with respect to the WRMC Property.

(c) **Deliverables at the Closing From the City.** At the Closing, the City shall deliver the following:

(i) **Quitclaim Deed.** The City shall deliver to WRMC a fully executed Quitclaim Deed in the form set forth on **Exhibit D** with respect to the City Property.

(ii) **Certified Resolution.** The City shall deliver to WRMC a certified original of the Resolution duly passed and approved by the Fayetteville City Council in the form attached hereto as **Exhibit E**.

7. **Representations and Warranties of WRMC.**

(a) **Organization.** WRMC is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of Arkansas and has all requisite power and authority to enter into and perform its obligations under this Agreement.

(b) **Authorization.** The execution, delivery and performance of this Agreement by WRMC and the consummation by WRMC of the transactions contemplated hereby have been duly authorized by all necessary action on the part of WRMC.

(c) **Validity.** This Agreement has been duly executed and delivered by WRMC and constitutes the legal, valid and binding obligation of WRMC, enforceable against WRMC in accordance with its terms.

(d) **No Consents.** No consent or approval of, or declaration, filing or registration with any governmental agency or other third party is, to WRMC's knowledge, required or otherwise necessary in connection with the execution, delivery or performance of this agreement by WRMC or with respect to the consummation by WRMC of the transactions contemplated hereby.

8. **Representations and Warranties of the City.**

(a) **Organization.** The City is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Arkansas and has all requisite power and authority to enter into and perform its obligations under this Agreement.

(b) **Authorization.** The execution, delivery and performance of this Agreement by the City and the consummation by the City of the transactions contemplated hereby have been duly authorized by all necessary action on the part of the City.

(c) **Validity.** This Agreement has been duly executed and delivered by the City and constitutes the legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms.

9. **Miscellaneous.**

(a) **Assignment.** No party may assign any of its rights, duties or obligations under this Agreement without the prior written consent of the other parties hereto.

(b) **Further Assurances.** The parties agree that from time to time hereafter, upon request, each of them will promptly execute, acknowledge, and deliver such further documents and instruments, and take such further action, as may be reasonably necessary to carry out the intent of this Agreement.

(c) **Modification.** No term or provision contained herein may be modified, amended or waived except by written agreement or consent signed by the party to be bound thereby.

(d) **Binding Effect and Benefit.** This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto, and their respective successors and permitted assigns. Otherwise, nothing in this Agreement, express or implied, is intended to confer upon any other person or entity any rights as a third party beneficiary.

(e) **Headings and Captions.** Subject headings and captions are included for convenience purposes only and shall not affect the interpretation of this agreement.

(f) **Notice.** All notices, requests, demands and other communications required or permitted hereunder shall be in writing and either (i) delivered in person (ii) sent by Express Mail or other overnight delivery service providing receipt of delivery (iii) mailed by Certified or Registered Mail, postage prepaid return receipt requested or (iv) sent by telecopy or other facsimile transmission as follows:

If to the City, addressed or delivered in person to:

The City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701
Attn: Mayor

With a copy to:

The City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701
Attn: City Attorney

If to WRMC, addressed or delivered in person to:

Washington Regional Medical Center

Attn: President & Chief Executive Officer
3215 N. North Hills Boulevard
Fayetteville, Arkansas 72703

With copy to:

Washington Regional Medical Center
Attn: General Counsel
P.O. Box 9687
Fayetteville, AR 72703-0030

or to such other address or number as a party may designate by written notice delivered in accordance with this Section.

Any such notice or communication, if properly given or made in accordance with the terms hereof, shall be deemed to have been made when actually received, but not later than three (3) business days after the same was properly posted or given to such express delivery service, and if made properly by telecopy or other facsimile transmission, such notice or communication shall be deemed to have been made at the time of dispatch.

(g) **Severability.** If any portion of this Agreement is held invalid, illegal, or unenforceable, such determination shall not impair the enforceability of the remaining terms or provisions hereof.

(h) **Waiver.** No waiver of a breach or violation of any provision of this Agreement shall operate or be construed as a waiver of any subsequent breach or limit or restrict any right or remedy otherwise available. Any waiver must be in writing.

(i) **Entire Agreement.** This document (including its Exhibits) constitutes the entire agreement of the parties, with respect to the subject matter contained herein, and supersedes any and all other prior agreements, oral or written, with respect to the subject matter contained herein. There are no representations or warranties between the parties with respect to this transaction other than those expressly set forth herein (and in the Exhibits).

(j) **Governing Law.** This Agreement shall be subject to and governed by the laws of the State of Arkansas.

(k) **Incorporation by Reference.** All exhibits referred to in this Agreement shall be incorporated herein by any reference thereto as if fully set out.

(l) **Multiple Counterparts; Facsimile or Electronic Execution.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute the same document. To facilitate the execution of this

Agreement, the parties agree that the facsimile, email, electronic or PDF signature of a party shall be sufficient to bind that party to this Agreement.

(m) Time of the Essence. Time is of the essence of each provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CITY OF FAYETTEVILLE, ARKANSAS

By: Lionel Jordan
Lionel Jordan, Mayor

Attest: Sondra E. Smith
Sondra E. Smith, City Clerk



WASHINGTON REGIONAL MEDICAL CENTER

By: William L. Bradley
William L. Bradley,
President & Chief Executive Officer

Witness: Nancy J. Mitchell
Signature
Nancy J. Mitchell
Printed name and title

RESOLUTION NO. 67-11

A RESOLUTION TO DESIGNATE THE LOCATION OF WASHINGTON REGIONAL MEDICAL CENTER AS THE NEW LOCATION OF AND THE SUCCESSOR HOSPITAL OF THE CITY HOSPITAL, TO APPROVE AND AUTHORIZE THE MAYOR TO EXECUTE A QUIT CLAIM DEED TO CONVEY THE CURRENT SITE OF THE CITY HOSPITAL TO WASHINGTON REGIONAL MEDICAL CENTER, ALL CONTINGENT UPON THE CONCURRENT ACTION OF THE BOARD OF TRUSTEES OF THE CITY HOSPITAL TO DESIGNATE WASHINGTON REGIONAL MEDICAL CENTER AS THE SUCCESSOR CITY HOSPITAL AND THE DONATION OF APPROXIMATELY 1.1 ACRES BY WASHINGTON REGIONAL MEDICAL CENTER FOR CONSTRUCTION OF THE ROUNDABOUT AT NORTH HILLS BOULEVARD AND FUTRALL DRIVE.

WHEREAS, Mr. S.K. Stone and Mrs. Amanda M. Stone very generously deeded to Fayetteville a city block of land "to be by the said city, held in trust and maintained as a city hospital," in deeds of 1906 and 1909; and

WHEREAS, the citizens of Fayetteville taxed themselves to construct the City Hospital soon after the property was conveyed to Fayetteville in trust and this hospital has served our citizens well for over a century; and

WHEREAS, Washington Regional Medical Center was established in Fayetteville and has served Fayetteville citizens well as our primary, full service hospital for many decades, first at College and North and now at its current location on North Hills Boulevard; and

WHEREAS, because of the age and condition of the facilities on the land donated in trust by the Stones to the City, it is appropriate to designate Washington Regional Medical Center at North Hills Boulevard as successor City Hospital which is entitled to the current City Hospital's premises in trust "to be devoted exclusively to the establishment and maintenance of" the successor City Hospital (WRMC).

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 designates Washington Regional Medical Center as the successor to the Stone City Hospital at its location on North Hills Boulevard in Fayetteville.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves and authorizes Mayor Jordan to execute a Quit Claim Deed to Washington Regional Medical Center of the property donated to the City of Fayetteville by the Stones in 1906 and 1909 to be held by the City in trust until the location of the city hospital is changed and then "the entire

proceeds of the above described premises shall constitute a trust fund to be devoted exclusively to the establishment and maintenance of" the newly designated successor city hospital.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby expresses its intent to rapidly appoint sufficient successor trustees to the board of trustees named in Stones' 1906 deed to establish at least a quorum so that the Board of Trustees can determine whether to designate Washington Regional Medical Center as the successor to the Stone City Hospital at Washington Regional's address on North Hills Boulevard in Fayetteville.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby gratefully agrees to accept Washington Regional Medical Center's generous donation of approximately 1.1 acres of land needed for the Roundabout at the North Hills Boulevard and Futrall Drive intersection to alleviate congestion and provide better traffic flow for Washington Regional Medical Center's staff and patients and for other Fayetteville citizens.

PASSED and **APPROVED** this 19th day of April, 2011.

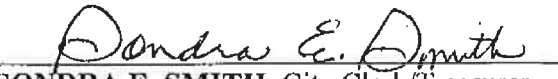
APPROVED:

ATTEST:

By:


LIONEL JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk/Treasurer



Parcel No. _____

QUITCLAIM DEED

Doc ID: 014250530001 Type: REL
Kind: QUITCLAIM DEED
Recorded: 10/13/2011 at 11:48:44 AM
Fee Amt: \$15.00 Page 1 of 1
Washington County, AR
Bette Stamps Circuit Clerk
File # 2011-00028645

BE IT KNOWN BY THESE PRESENTS:

THAT WE, the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTOR, for and in conformance with its duties pursuant to the deeds from S.K. Stone and Amanda M. Stone to the City of Fayetteville conveying their property, for the public advantage to the citizens and City of Fayetteville of continuing and improved hospital and related care for Fayetteville Citizens and economic benefit inuring to our citizens and city, and for other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, convey and quitclaim unto Washington Regional Medical Center, an Arkansas nonprofit corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, all of our right, title and interest, in and to the following described land situated in the County of Washington, State of Arkansas, to-wit:

Block Thirty-seven (37) on the original plat of the town (now City) of Fayetteville, Arkansas, as per plat on the file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, LESS AND EXCEPT easements of record and street right-of-way.

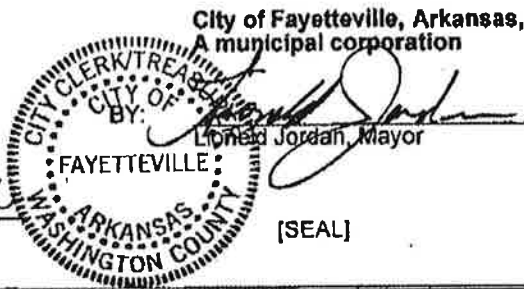
TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said grantee and grantee's successors and assigns, forever.

The City of Fayetteville shall have the right of first refusal to purchase the real estate hereby conveyed. Should the Washington Regional Medical Center elect to sell all or any portion of said real estate to a third party, the City of Fayetteville shall have the right of first refusal to meet any such bona fide offer to purchase on the same terms and conditions as are set forth in such third party's bona fide offer to purchase. Upon the Grantor's failure to meet such bona fide offer of purchase within thirty (30) days after written notice thereof to Grantor from Grantee, Washington Regional Medical Center shall be free to sell or convey the said real estate or any portion thereof to such third party only in accordance with the terms and conditions of the third party's bona fide offer of sale as presented to the Grantor.

IN TESTIMONY WHEREOF, the name of the Grantor is hereto affixed by its Mayor and its seal affixed by its City Clerk this 6th day of October, 2011.

ATTEST:

Sondra E. Smith
Sondra Smith, City Clerk



ACKNOWLEDGMENT

STATE OF ARKANSAS)

COUNTY OF WASHINGTON)

ss.

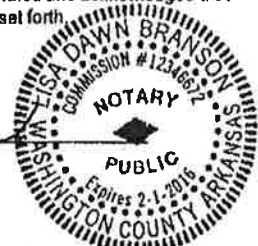
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Lionel Jordan and Sondra Smith, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the Mayor and City Clerk, respectively, of City of Fayetteville, Arkansas, a municipal corporation, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 6th day of October, 2011.

MY COMMISSION EXPIRES:

2-1-2016

Lisa Dawn Branson
Notary Public





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0216

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 7

UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT:

A RESOLUTION TO APPROVE A ONE YEAR CONTRACT WITH THE UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE YEAR TERMS IN AN ANNUAL AMOUNT OF \$250,000.00 FOR THE PROVISION OF PUBLIC TRANSIT SERVICES WITHIN THE CITY OF FAYETTEVILLE

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 one year contract, a copy of which is attached to this Resolution and made a part hereof, with the University of Arkansas - Razorback Transit with automatic renewals for up to four additional one year terms in an annual amount of \$250,000.00 for the provision of public transit services within the City of Fayetteville.

City of Fayetteville Staff Review Form

2017-0216

Legistar File ID

5/2/2017

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

Don Marr

4/14/2017

Chief of Staff

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a contract with the University of Arkansas (Razorback Transit) regarding public transit services within the City of Fayetteville including four additional one year renewals.

Budget Impact:

2100.410.4100-5728.00		Street	
Account Number		Fund	
40901.4005		Outside Agencies Funding	
Project Number		Project Title	
Budgeted Item?	Yes	Current Budget	\$ 250,000.00
		Funds Obligated	\$ 62,500.00
		Current Balance	\$ 187,500.00
Does item have a cost?	Yes	Item Cost	\$ 187,500.00
		Budget Adjustment	
Budget Adjustment Attached?	No	Remaining Budget	\$ -

V20140710

Previous Ordinance or Resolution # 101-12

Original Contract Number:

Approval Date:

Comments:

MEETING OF MARCH 21, 2017

TO: Mayor Lioneld Jordan and Fayetteville City Council

THRU: Mayor Lioneld Jordan
Kit Williams, City Attorney

FROM: Don Marr, Chief of Staff

DATE: Friday, April 14, 2017

SUBJECT: **Contract with the University of Arkansas, Fayetteville – Razorback Transit for fixed route public transit services within the City of Fayetteville**

RECOMMENDATION:

The City Staff and Administration recommend on behalf of the Mayor's Office that the City Council pass a resolution and approve the attached agreement for fixed route public services within the City of Fayetteville to be provided by the University of Arkansas, Fayetteville – Razorback Transit.

BACKGROUND:

The City of Fayetteville had a prior contract with the University of Arkansas, Fayetteville – Razorback Transit to provide fixed route public transit services within the city limits of Fayetteville that was last approved May 15, 2012 via City Council Resolution 101-12. Recently, the City became aware the current contract is expired and a new contract would be required in order to pay invoices for services in 2017. The City Council approved funding these services as part of the 2017 adopted budget (Resolution 218-16).

DISCUSSION:

This contract period will cover the period of January 01, 2017 through December 31, 2017 and the contract will automatically renew and extend for up to an additional four one-year terms if the City's budget containing funding for the service is approved by the City Council for the next year and the University of Arkansas Fayetteville agrees to continue the service.

The specific details of the contract including reporting and payment terms are included. This contract includes an item, originally added in 2012, which specifically states that should the University of Arkansas, Fayetteville or its transit unit receive new or additional funding from a local sales tax, both parties shall meet to determine whether this agreement should be mutually terminated or amended because of this new funding source. The City may elect to discontinue funding called for in this contract and terminate this contract without penalty if a new or additional local sales tax provides at least \$50,000 annualized funding to Razorback Transit.

BUDGET/STAFF IMPACT:

The City Council approved \$250,000 in the 2017 Budget for these services.

Attachments:

Staff Review Form

Staff Review Memo

Contract for Services between the University of Arkansas and City of Fayetteville

Resolution 101-12



Contract for Services
Between the City of Fayetteville, AR
And the University of Arkansas
Term: One year with four one year renewals

This agreement is entered into on this _____ day of _____, 2017 between the City of Fayetteville, hereinafter known as the "City" and the Board of Trustees of the University of Arkansas, acting for and on behalf of the University of Arkansas, Fayetteville — Razorback Transit, hereinafter known as "UAF", an Arkansas governmental unit.

WHEREAS, the City has determined that a public need exists for fixed route public transit services within the city limits of Fayetteville.

WHEREAS, UAF has developed a fixed route public transit service within the city limits.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and UAF agree as follows:

1. This agreement continues the previous contract entered into on January 15, 2008 and shall cover the period of January 1, 2017 through December 31, 2021 unless terminated or amended pursuant to ¶ 18.
2. UAF agrees to develop, operate and maintain a fixed route public transit system and allow Fayetteville residents free use of the same system. UAF reserves the right to refuse service to anyone for violation of transit service rules. UAF reserves the right to determine the route structure of the transit system.
3. UAF agrees to provide written annual reports to the City that describe the activities undertaken during the preceding period concerning its public transit system and also report on the following performance measure: estimated number of passengers by route. The annual reports to be submitted to the Project Coordinator as soon as practical after the end of the year. The data will be reported for the current year and prior year.
4. UAF agrees to make available all records pertaining to public transit fixed route and paratransit service, except those restricted by federal regulations, for review by the City and City auditors as requested. UAF agrees to comply with the Arkansas Freedom of Information Act as applicable.
5. For the purpose of the Agreement, the Project Coordinator for the City will be the Mayor or his/her designee. The Project Coordinator for UAF will be the UAF Transit and Parking Director or his/her designee. Communications pertaining to this agreement will be through the respective Project Coordinators for the City and UAF.
6. **Terms of performance.** The term of performance for this agreement will expire December 31, 2017 but will automatically be renewed and extended for up to an additional four one- year terms if the City's budget containing funding for the service is approved by the City Council for the next year and the UAF agrees to continue the service.
7. **Budget.** The City agrees to pay UAF and UAF agrees to accept as payment in full for its services \$250,000 for 2017. The amounts to be paid for services in future budget years are dependent on the amounts appropriated by City Council for each budget year. It is understood that a reduction in City funding may require a reduction in transit service. Payments shall be made on a quarterly basis.
8. UAF shall provide and maintain in force at all times during the term of the agreement, for its own employees, coverage for worker's compensation to the extent required by law.

9. UAF shall render to the City a Request for Payment at the end of each quarter and the City will pay the invoice within thirty (30) calendar days of receiving the invoice.
10. Notices. All notices required or permitted under this agreement will be submitted in writing to the other party in this agreement by personal delivery or the address below, or by certified mail, return receipt requested, in which case notice will be effective three (3) business days after deposit therein address to the following:

Mayor
City of Fayetteville, AR
113 Mountain
Fayetteville, AR 72701

Transit & Parking Director
University of Arkansas
155 S. Razorback Road ADSB 131
Fayetteville, AR 72701

11. Neither party may assign any of its rights or obligations under this agreement without the express written consent of the other, nor shall this agreement be construed to bestow any rights or benefits upon anyone other than UAF and the City.
12. The parties agree and understand that this Agreement is exclusive of any and all other agreements, and that it in no way alters, amends or abridges any rights, obligations or duties of the parties contained in such agreements.
13. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance and shall not be construed as a general waiver of any other breaches by either party.
14. This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this agreement shall be valid unless made in writing and signed by the duly authorized agents of UAF and the City.
15. Severability. Each paragraph of this agreement is severable from all other paragraphs. If any paragraph or subparagraph is found to be invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.
16. Interpretation. The contract shall be interpreted according to and enforced under the laws of the State of Arkansas, in Washington County.
17. **Non -Appropriation.** The parties recognize that performance of the Agreement by UAF may be dependent in whole or in part upon the appropriation of state or federal funds. If a state or federal legislative body fails to appropriate the necessary funds, then by written notice to City, UAF may cancel all or the remaining portion of the Agreement without further duty or obligation. In the event that this agreement must be terminated prior to the end of the term pursuant to this clause, the amounts due to UAF by City shall be prorated. The parties recognize and understand the appropriation is a legislative act and is beyond the control of UAF.
18. If the UAF or its transit unit receives new or additional funding from a local sales tax, both parties shall meet to determine whether this agreement should be mutually terminated or amended because of this new funding source. The City may elect to discontinue funding called for in this contract and terminate this contract without penalty if a new or additional local sales tax provides at least \$250,000.00 annualized funding to Razorback Transit.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

UNIVERSITY OF ARKANSAS

CITY OF FAYETTEVILLE, AR

By: 
VICE CHANCELLOR
FINANCE & ADMINISTRATION

By: _____
LIONELD JORDAN, MAYOR

Printed Name: Tim O'Donnell

ATTEST:

ATTEST:

By: _____

By: _____
Sondra E. Smith, City Clerk, Treasurer

Printed Name: _____

Title: _____

RESOLUTION NO. 101-12

A RESOLUTION APPROVING A CONTRACT WITH THE UNIVERSITY OF ARKANSAS (RAZORBACK TRANSIT) IN AN ANNUAL AMOUNT OF \$50,000.00 REGARDING PUBLIC TRANSIT SERVICES WITHIN THE CITY OF FAYETTEVILLE

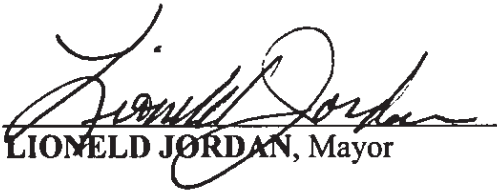
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a contract with the University of Arkansas (Razorback Transit), a copy of which is attached as Exhibit "A", in an annual amount of \$50,000.00 regarding public transit services within the City of Fayetteville.

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

APPROVED:

By:


LIONELD JORDAN, Mayor

ATTEST:

By:


SONDRA E. SMITH, City Clerk/Treasurer





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0214

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 8

CONDEMNATION LITIGATION SETTLEMENT AGREEMENT:

A RESOLUTION TO AUTHORIZE A SETTLEMENT AGREEMENT WITH DRAKE STREET PROPERTY, LLC; 1155 PROPERTIES, LLC; AND RPM1 PROPERTIES-FAYETTEVILLE, LLC A/K/A RPM1 PROPERTIES, LLC CONCERNING CONDEMNATION LITIGATION FILED FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE

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 Mayor Jordan to sign a settlement agreement with Drake Street Property, LLC; 1155 Properties, LLC; and RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC to include payment in the amount of \$876,153.00 as full and final settlement of condemnation litigation (City of Fayetteville v. Drake St Property, LLC, et al, Washington County Circuit Court Case No. CV-2016-2151-4) filed for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Interstate 49 and Highway 112 Interchange.

Section 2: That the City Council of the City of Fayetteville, Arkansas, in furtherance of the settlement, hereby approves the payment of an additional \$376,153.00, over and above the \$500,000.00 placed on deposit with the court.

City of Fayetteville Staff Review Form

2017-0214

Legistar File ID

5/2/2017

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

Kit Williams

4/14/2017

City Attorney /
General Government Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Authorize Mayor Jordan to sign settlement agreement in condemnation cases for utility relocations associated with the Arkansas Highway Department I-49/Fulbright Expressway Inter-Change Project. Total payments to property owners in the amount of \$876,153.00.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Don Marr**, Chief of Staff
Paul Becker, Chief Financial Officer

FROM: **Kit Williams**, City Attorney

DATE: **April 6, 2017**

RE: **Proposed Settlement of Condemnation Case to Secure Necessary
Property for Major Sewer Line**

When the Arkansas Highway and Transportation Department decided to make extensive and much needed improvements to the Highway 112, Interstate Highway 49 and Fulbright Expressway intersection, it needed to acquire large acreage from three properties south of this intersection from Neal Pendergraft-owned companies. The City of Fayetteville was informed that we were required to move our large sewer main which had adjoined the highway right-of-way, but now was in the way of the much-expanded highway. Initial negotiations by our Land Agents failed so the Fayetteville City Council authorized the City Attorney's Office to acquire possession of a general utility easement through eminent domain.

In early negotiations with the attorneys representing Neal Pendergraft, we agreed it would be best for their condemnation of a much larger parcel by the Highway Department be settled or tried to establish the most accurate value of the land that needed which adjoined the land being taken by the Highway Department. We later obtain possession (not ownership) after the Circuit Judge ordered that we pay \$500,000.00 into Court until a final valuation amount could be agreed to or a jury could value the property. With the City Council's permission, this amount was paid into the Court's registry.

Recently, Mr. Pendergraft and his attorneys worked out and agreed on a settlement with the Arkansas Highway Department which valued his property at \$8.06 per square foot for the highway right-of-way taking. This high valuation was probably influenced by the rezoning from Residential Agriculture to the far denser and more valuable Urban Thoroughfare granted by the City Council shortly before the highway improvement project began. Of major importance is the valuable location of this property adjoining the new I-49 intersection between Highway 112 and Gregg Street.

Fortunately, the vast majority of this general utility easement acquisition costs (over 87%) should be refunded to us by the Highway Department so the agreement to pay \$8.06 per square foot is a reasonable amount for us to recommend to the City Council. This will result in our payment of an additional \$376,153.00 to obtain deeds to our needed easement. Please see Pendergraft's attorney Woody Bassett's letter to me of April 5, 2017 explaining their settlement offer.

We have been informed by the Highway and Transportation Department that the Highway Department should refund 87.06% of this easement acquisition costs (copy of email attached). I compute this to be \$762,778.80 meaning that the City's final out-of-pocket costs would be \$113,374.20 for the necessary easement.

I recommend that the City Council approve and accept the settlement proposal for the three parcels of Neal Pendergraft's land pursuant to Woody Bassett's letter of April 5, 2017.

Williams, Kit

From: Pennington, Blake
Sent: Friday, April 14, 2017 9:33 AM
To: Williams, Kit
Subject: FW: BB0414 reimbursable agreement

--

Blake E. Pennington
Assistant City Attorney
Tele: (479) 575-8313
bpennington@fayetteville-ar.gov

From: Mashburn, Keith [<mailto:Keith.Mashburn@ahtd.AR.gov>]
Sent: Thursday, March 30, 2017 11:34 AM
To: Beavers, Jim <jbeavers@fayetteville-ar.gov>
Cc: Nyander, Tim <tnyander@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>
Subject: RE: BB0414 reimbursable agreement

Jim,

The 87.06% reimbursable percentage will apply to easement costs, as with all the various categories on our agreement. Can you provide a current estimate of your easement costs for this project?

Thanks,

Keith Mashburn
AHTD Utility Coordinator
501.569.2142

From: Beavers, Jim [<mailto:jbeavers@fayetteville-ar.gov>]
Sent: Wednesday, March 29, 2017 7:29 AM
To: Mashburn, Keith
Cc: Nyander, Tim; Pennington, Blake
Subject: BB0414 reimbursable agreement

Keith,

As our City Attorney negotiates, or goes to trial with the Pendergraft property easements, I have been asked to verify the reimbursable percentage.

I understand that the 87.06% reimbursement also includes all land and easements required for BB0414 water and sewer relocations. Such totals and reimbursements are greater than the agreement and agreement change order that we have on file.

Please confirm.

ARKANSAS STATE HIGHWAY COMMISSION
HIGHWAY - UTILITY CONSTRUCTION/RELOCATION AGREEMENT

State Job No BB0414 (Utilities) County Washington
Federal Aid Project BIM-STPF-B540(216) Route I-49 Section 28
Job Location Porter Rd. - Hwy. 112/71B Utility Owner City of Fayetteville
Widening & Intchng. Impvts. (F) Water and Sewer

THIS AGREEMENT, made and entered into this 16th day of June, 20 15, by and between the Arkansas State Highway Commission, acting by and through the duly authorized representatives of the Arkansas State Highway and Transportation Department, with headquarters at Little Rock, Arkansas, hereinafter referred to as the "Department," and the **City of Fayetteville Water and Sewer of Fayetteville, Arkansas** acting by and through its duly authorized representatives, hereinafter referred to as the "Owner" WITNESSETH:

The Department proposes to make highway improvements as specified under the above referenced job number and the Owner will adjust or relocate its existing facilities as set out in the attached plans and cost estimate.

The Department will participate in the cost of said adjustment/relocation to the extent that eligibility is hereinafter established.

Payment will be made on **actual cost** basis as mutually agreed between Owner and Department.

This agreement is governed by all applicable State and Federal laws, rules, and regulations including the Arkansas State Highway Commission Utility Accommodation Policy adopted by Commission Minute Order 2010-146 as amended and supplemented, the Federal Aid Program Guide on Utility Adjustments and Accommodation on Federal Aid Highway Projects as amended and supplemented, and the provisions of 23 CFR § 645 as amended and supplemented.

DESCRIPTION OF WORK: **See Exhibit A on Page 4**

The Department agrees that the required adjustment is **87.06%** eligible for reimbursement for the **actual cost** which is estimated to be **\$2,210,993.75** of which **\$1,924,891.16** is to be paid by the Department and **\$286,102.59** is to be borne by Owner.

Owner will not commence work until authorized by the Department, and will then endeavor to begin within **150 calendar** days and complete within **180 calendar** days thereafter.

On completion of said work, Owner is responsible for the cleanup and restoration of the work area including the disposal of surplus materials and debris.

Final billing must include all supporting detail. Owner shall also submit one (1) set of as-built drawings at this time.

Payment will be 100% of lump sum bills and actual cost bills, at the discretion of the Department a 10% retainage can be withheld and released upon completion of an audit review. All final bills for utility relocation are subject to review and audit by state and/or federal auditors.

Expenses incurred under an actual cost agreement may be billed to the Department monthly in increments of \$5,000.00 or more.

Owner must maintain cost records and accounts to support the agreed adjustment/relocation work. Said records to be retained and available for inspection for a period of three (3) years from date of final payment.

Owner shall be responsible for any and all hazards to persons, property, and traffic.

With respect to traffic control, owner shall adhere to the requirements of the Manual of Uniform Traffic Control Devices as amended and supplemented.

To the extent applicable to this agreement, the Owner shall comply with the Buy America requirements (as specified in 23 U.S.C. 313 and 23 CFR 635.410). The Owner is not required to change its existing standards for materials as long as the Buy America requirements are met. Buy America requirements take precedence over regulations pertaining to the accommodation or regulation of the Owner's facilities (as specified in 23 CFR 645) on contracts and agreements involving Federal-Aid Highway Program funding and precedence over regulations which allow the Owner to furnish materials from company stock (as specified on 23 CFR 645.117(e)). Company Stock materials that do not meet Buy America requirements may not be permanently incorporated into a Federal-Aid Highway Program funded project. The Owner must provide a definitive statement that all products permanently incorporated into the project are covered under the Buy America requirements. This requirement is fulfilled via proper signature and submission of the statement of charges form. In some circumstances, a waiver of the Buy America requirements may be granted by the Federal Highway Administration, to be determined on a project-by-project basis.

Owner shall be responsible for and shall hold harmless the Arkansas State Highway Commission, the Department and their officers and employees from any and all claims, actions, causes of action, suits, damages, losses or liability whatsoever, arising out of Owner's performance of the work subject to this Agreement.

Notwithstanding anything hereinbefore written, neither the Owner nor the Department by execution of this Agreement waives or relinquishes any rights which either may legally have within the limits of the Law or Constitution, either State or Federal.

City of Fayetteville
Water and Sewer

ARKANSAS HIGHWAY COMMISSION
Acting By and Through The
ARKANSAS STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT

TIM NYANDER

Name (Typed or Printed)

DIRECTOR OF UTILITIES

Title



Signature

71-6018462

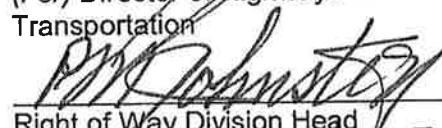
FEDERAL TAXPAYER IDENTIFICATION #

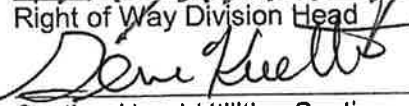
Name (Typed or Printed)

Title

Signature


(For) Director of Highways &
Transportation


Right of Way Division Head


Section Head-Utilities Section

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FAYETTEVILLE, ARKANSAS 72702-3618

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*ALSO LICENSED
IN OKLAHOMA

+ALSO LICENSED
IN MISSOURI

April 5, 2017

Re: City of Fayetteville, Arkansas vs.
Drake Street Property, LLC, et al
Case No. CV-2016-2151-4

Mr. Kit Williams
Fayetteville City Attorney
City Administration Building
113 W. Mountain Street, Suite 302
Fayetteville, AR 72701

Dear Kit:

Our client, Neal Pendergraft, is a longtime resident and citizen of Fayetteville. As you know, John Everett, James Graves and I represent the Pendergraft family in connection with the above-referenced condemnation case filed by the City of Fayetteville against three LLC's owned by Mr. Pendergraft. The real property at issue is located on the east side of the Interstate 49/Garland Avenue/Fulbright Expressway interchange near the ongoing road work being done by the Arkansas Highway Department. You and Blake Pennington are completely familiar with the background and relevant facts of this case. The purpose of this letter is to express our interest in resolving this case as soon as possible and to convey to you and other city officials our settlement demand.

You are aware that Mr. Pendergraft recently settled all three condemnation cases involving his property which had been filed by the Arkansas State Highway Commission and we have already provided you and Blake with a file-marked copy of the Consent Judgment in each of those cases. The three cases were settled for an average of \$8.06 per square foot for the property taken. That

Mr. Kit Williams
April 5, 2017
Page 2

number is arrived at by lumping in the damage to the remainder with the value of the property taken.

Our settlement demand is simple and straightforward. Mr. Pendergraft has authorized us to offer to settle this case with the City for \$8.06 per square foot which is the same average square foot value the Highway Commission paid to resolve its three condemnation cases against the LLC's owned by Mr. Pendergraft. According to our math, the total amount of property being taken by the City of Fayetteville in fee simple title is 108,704 square feet which at \$8.06 per square foot totals \$876,153. The City has already paid in \$500,000 earlier in the case so we are demanding that the City pay the additional sum of \$376,153 to our client to fully resolve this matter and conclude the litigation.

We are prepared to commence further discovery and get this case ready for trial but our preference is to settle it in the manner outlined above. We trust the City will agree that what we have proposed is fair, reasonable and sensible for all concerned. We will await the City's response to our offer. In the event you have any questions or need additional information, please contact either me or John Everett.

Sincerely,

BASSETT LAW FIRM LLP



Woody Bassett

WB:sg

cc: John Everett
James Graves
Neal Pendergraft

**IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
CIVIL DIVISION**

CITY OF FAYETTEVILLE, ARKANSAS,
an Arkansas municipal corporation

PLAINTIFF

v.

Case No. CV-2016-2151-4

**DRAKE ST PROPERTY, LLC;
1155 PROPERTIES, LLC;
RPM1 PROPERTIES-FAYETTEVILLE, LLC
A/K/A RPM1 PROPERTIES, LLC;
AND SIGNATURE BANK OF ARKANSAS**

DEFENDANTS

CONSENT ORDER AND JUDGMENT

Upon agreement of the Plaintiff, City of Fayetteville, Arkansas, an Arkansas municipal corporation, and Defendants Drake St Property, LLC; 1155 Properties, LLC; RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC, the Court finds and orders as follows:

1. Plaintiff, City of Fayetteville, is an Arkansas municipal corporation duly-organized under the laws of the State of Arkansas and is a city of the first class situated in Washington County, Arkansas.
2. Defendants, Drake St Property, LLC, 1155 Properties, LLC and RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC are the owners of real property located on the east side of the Interstate 49/Garland Avenue/Fulbright Expressway interchange in the City of Fayetteville, Washington County, Arkansas.
3. Defendant Signature Bank of Arkansas was named as a defendant because of its potential interest in the real property owned by Drake St Property, LLC by virtue of a mortgage filed for record in the Office of the Circuit Clerk and Ex-Officio Recorder for Washington County, Arkansas on June 24, 2013, as Document No. 2013-00021051. Signature Bank was served on

November 29, 2016 but has not filed an answer in this action and is in default; however, no relief is sought against Signature Bank, nor is any relief granted.

4. By virtue of the provisions of Ark. Code Ann. § 18-15-301, *et seq.* Plaintiff is granted the power of eminent domain to enter upon, take and condemn private property for lawful purposes.

5. Jurisdiction and venue lie properly before this Court.

6. The real property sought from the Defendants in this action is required for the relocation, construction, maintenance, repair and/or replacement of water and sewer pipelines and are necessary to allow the State of Arkansas to construct the Interstate 49/Garland Avenue/Fulbright Expressway interchange project in Fayetteville, Arkansas, a lawful public purpose.

7. The City of Fayetteville seeks and Drake St Property, LLC agrees to grant a general utility easement on real property owned by Defendant, Drake St Property, LLC, which is legally described as follows:

A part of the SE¼ of the NE¼ of Section 33, and a part of the SW¼ of the NW¼ of Section 34, all within Township 17 North, Range 30 West, and Washington County, Arkansas: Commencing at the Southwest corner of the NW¼ of said Section 34; thence N02°27'51"E a distance of 1247.42 feet along the West line of said SW¼ of the NW¼ of Section 34 to the POINT OF BEGINNING; thence S88°37'16"W a distance of 1.49 feet; thence N78°02'42"W a distance of 196.06 feet; thence S79°36'29"W a distance of 80.30 feet; thence S66°16'50"W a distance of 11.28 feet to the West property line as described in File 2013-00021050; thence N02°30'44"E a distance of 33.44 feet along said West property line to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way N79°36'29"E a distance of 89.73 feet; thence S78°02'42"E a distance of 198.48 feet; thence N88°37'16"E a distance of 209.73 feet to the East line of said property; thence along said East property line S02°27'41"W a distance of 30.16 feet; thence leaving said East property line N81°40'58"W a distance of 0.53 feet; thence S88°37'16"W a distance of 209.20 feet to the POINT OF BEGINNING, containing 14,952 square feet or 0.34 acres, more or less.

8. The City of Fayetteville seeks and 1155 Properties, LLC agrees to grant a general

utility easement on real property owned by Defendant, 1155 Properties, LLC, which is legally described as follows:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E 209.32 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2004-00000965; thence along said West property line N02°27'41"E 1261.87 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°27'41"E 30.16 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way S81°40'58"E 149.89 feet; thence S77°47'17"E 249.00 feet to the East line of said property; thence along said East property line S02°31'22"W 30.43 feet; thence leaving said East property line N77°47'17"W 253.10 feet; thence N81°40'58"W 145.80 feet to the POINT OF BEGINNING, containing 11,967 square feet or 0.27 acres, more or less.

ALSO:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E a distance of 602.51 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2004-00000965; thence along said West property line N02°31'22"E 1205.05 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°31'22"E 30.43 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S77°47'17"E 8.10 feet, S66°50'23"E 302.08 feet, S87°06'30"E 77.97 feet to the East line of said property; thence along said East property line S02°29'38"W 30.00 feet; thence leaving said East property line N87°06'30"W 83.54 feet; thence N66°50'23"W 304.56 feet; thence N77°47'17"W 0.11 feet to the POINT OF BEGINNING, containing 11,646 square feet or 0.27 acres, more or less.

9. The City of Fayetteville seeks and RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC agrees to grant a general utility easement on real property owned by Defendant, RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC, which is legally described as follows:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ and SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas. Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E a distance of 971.73 feet along the South line of said SW $\frac{1}{4}$ of the

NW ¼ to the West property line as described in File 2013-00000127; thence along said West property line N02°29'38"E a distance of 1097.61 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°29'38"E a distance of 30.00 feet to a point on the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S87°06'30"E a distance of 127.05 feet, N79°28'03"E a distance of 223.05 feet, N72°16'47"E a distance of 102.47 feet, N53°49'31"E a distance of 170.40 feet, N43°18'52"E a distance of 123.92 feet, N51°32'44"E a distance of 273.79 feet, N55°05'30"E a distance of 138.50 feet, N49°44'01"E a distance of 140.32 feet, N39°02'57"E a distance of 211.18 feet; thence leaving said Easterly right of way N38°31'42"E a distance of 243.33 feet; thence N20°15'19"E a distance of 195.51 feet to said Easterly right of way; thence along said Easterly right-of-way the following courses: N34°35'25"E a distance of 160.58 feet, N43°06'54"E a distance of 89.59 feet to a point on the South line of an existing 25 foot Water & Sewer easement described in Book 1045 Page 115; thence along said South line of an existing 25 foot Water & Sewer easement N69°01'00"E a distance of 68.68 feet; thence leaving said South line of an existing 25 foot Water & Sewer easement S43°06'54"W a distance of 149.13 feet; thence S34°35'25"W a distance of 154.57 feet; thence S20°15'19"W a distance of 196.57 feet; thence S38°31'32"W a distance of 247.05 feet; thence S39°02'57"W a distance of 215.37 feet; thence S49°44'01"W a distance of 144.53 feet; thence S55°05'30"W a distance of 138.98 feet; thence S51°32'44"W a distance of 114.91 feet; thence S45°15'53"W a distance of 45.70 feet; thence S51°32'44"W a distance of 110.00 feet; thence S43°18'52"W a distance of 124.62 feet; thence S53°49'31"W a distance of 179.30 feet; thence S72°16'47"W a distance of 110.04 feet; thence S86°17'59"W a distance of 41.70 feet; thence S79°28'03"W a distance of 187.69 feet; thence N87°06'30"W a distance of 130.37 feet to the POINT OF BEGINNING, containing 70,139 square feet or 1.61 acres, more or less.

10. The real property described in paragraphs 7, 8, and 9 is wholly located within Washington County, Arkansas, and needed by the City of Fayetteville, Arkansas for the relocation of utilities necessary to allow the State of Arkansas to construct the Interstate 49/Garland Avenue/Fulbright Expressway Interchange project.

11. The total amount of property being taken as general utility easements by the City of Fayetteville is 108,704 square feet. The parties agree that the value of the property being taken is \$8.06 per square foot and the total value of the property being taken by the City is \$876,153.00.

12. The total amount of \$500,000 was previously deposited into the Registry of the Court for the payment of estimated just compensation pursuant to an order of the Circuit Court on

November 15, 2016, so that the Plaintiff could enter upon and take possession of the lands described above for its utility relocation project.

13. Therefore, Plaintiff is ordered to deposit the additional sum of \$376,153.00 in the registry of the Court within fourteen days of the entry of this order.

14. The Clerk of the Court is hereby ordered and directed to disburse the additional funds deposited in this case, in full and final satisfaction of this Judgment, to the Defendant property owners in care of their attorney, John Everett, at Everett, Wales & Comstock, 1944 E. Joyce Boulevard, Fayetteville, Arkansas 72703-5162.

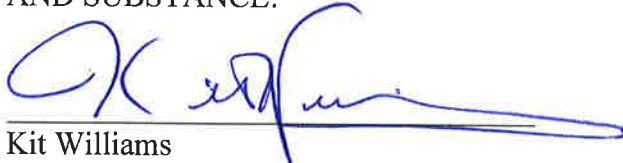
15. It is further ordered that the Properties shall execute general utility easement deeds for the lands described in paragraphs 7, 8 and 9 above in favor of the Plaintiff, City of Fayetteville within fourteen days of the City's payment to the registry of the Court.

IT IS SO ORDERED.

HONORABLE DOUG MARTIN
CIRCUIT JUDGE

DATE: _____

APPROVED AS TO FORM
AND SUBSTANCE:



Kit Williams

Fayetteville City Attorney
113 W. Mountain St., Suite 302
Fayetteville, Arkansas 72704



Woody Bassett
Attorney for 1155 Properties, LLC,
Drake St Property, LLC, and RPM1 Properties, LLC
P.O. Box 3618
Fayetteville, Arkansas 72702

**IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
CIVIL DIVISION**

CITY OF FAYETTEVILLE, ARKANSAS,
an Arkansas municipal corporation

PLAINTIFF

v.

Case No. CV-2016-2151-4

**DRAKE ST PROPERTY, LLC;
1155 PROPERTIES, LLC;
RPM1 PROPERTIES-FAYETTEVILLE, LLC
A/K/A RPM1 PROPERTIES, LLC;
AND SIGNATURE BANK OF ARKANSAS**

DEFENDANTS

SETTLEMENT AGREEMENT

WHEREAS, the Plaintiff, City of Fayetteville, Arkansas, an Arkansas municipal corporation, filed suit in this matter seeking condemnation of certain private property owned by Defendants Drake St Property, LLC; 1155 Properties, LLC; RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC (hereinafter "Properties"); and

WHEREAS, the purpose of the taking is for the relocation, construction, maintenance, repair and/or replacement of water and sewer pipelines which were necessary to allow the State of Arkansas to move forward with construction of the Interstate 49/Garland Avenue/Fulbright Expressway interchange project in Fayetteville, Arkansas, a lawful public purpose.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Settlement Agreement and other good and valuable consideration, the Parties do hereby expressly agree as follows:

1. The City and Defendant Properties agree to submit a consent order and judgment to the Court confirming the details of this settlement agreement.

2. Defendant, Drake St Property, LLC shall execute the General Utility Easement deed attached hereto as Exhibit A conveying the interest set forth therein to the City of Fayetteville to certain property legally described as follows:

A part of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 33, and a part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, all within Township 17 North, Range 30 West, and Washington County, Arkansas: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence N02°27'51"E a distance of 1247.42 feet along the West line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34 to the POINT OF BEGINNING; thence S88°37'16"W a distance of 1.49 feet; thence N78°02'42"W a distance of 196.06 feet; thence S79°36'29"W a distance of 80.30 feet; thence S66°16'50"W a distance of 11.28 feet to the West property line as described in File 2013-00021050; thence N02°30'44"E a distance of 33.44 feet along said West property line to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way N79°36'29"E a distance of 89.73 feet; thence S78°02'42"E a distance of 198.48 feet; thence N88°37'16"E a distance of 209.73 feet to the East line of said property; thence along said East property line S02°27'41"W a distance of 30.16 feet; thence leaving said East property line N81°40'58"W a distance of 0.53 feet; thence S88°37'16"W a distance of 209.20 feet to the POINT OF BEGINNING, containing 14,952 square feet or 0.34 acres, more or less.

3. Defendant, 1155 Properties, LLC shall execute the General Utility Easement deed attached hereto as Exhibit B conveying the interest set forth therein to the City of Fayetteville to certain property legally described as follows:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E 209.32 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2004-00000965; thence along said West property line N02°27'41"E 1261.87 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°27'41"E 30.16 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way S81°40'58"E 149.89 feet; thence S77°47'17"E 249.00 feet to the East line of said property; thence along said East property line S02°31'22"W 30.43 feet; thence leaving said East property line N77°47'17"W 253.10 feet; thence N81°40'58"W 145.80 feet to the POINT OF BEGINNING, containing 11,967 square feet or 0.27 acres, more or less.

ALSO:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E a distance of 602.51 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2004-00000965; thence along said West property line N02°31'22"E 1205.05 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°31'22"E 30.43 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S77°47'17"E 8.10 feet, S66°50'23"E 302.08 feet, S87°06'30"E 77.97 feet to the East line of said property; thence along said East property line S02°29'38"W 30.00 feet; thence leaving said East property line N87°06'30"W 83.54 feet; thence N66°50'23"W 304.56 feet; thence N77°47'17"W 0.11 feet to the POINT OF BEGINNING, containing 11,646 square feet or 0.27 acres, more or less.

4. Defendant, RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC shall execute the General Utility Easement deed attached hereto as Exhibit C conveying the interest set forth therein to the City of Fayetteville to certain property legally described as follows:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ and SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas. Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E a distance of 971.73 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2013-00000127; thence along said West property line N02°29'38"E a distance of 1097.61 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°29'38"E a distance of 30.00 feet to a point on the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S87°06'30"E a distance of 127.05 feet, N79°28'03"E a distance of 223.05 feet, N72°16'47"E a distance of 102.47 feet, N53°49'31"E a distance of 170.40 feet, N43°18'52"E a distance of 123.92 feet, N51°32'44"E a distance of 273.79 feet, N55°05'30"E a distance of 138.50 feet, N49°44'01"E a distance of 140.32 feet, N39°02'57"E a distance of 211.18 feet; thence leaving said Easterly right of way N38°31'42"E a distance of 243.33 feet; thence N20°15'19"E a distance of 195.51 feet to said Easterly right of way; thence along said Easterly right-of-way the following courses: N34°35'25"E a distance of 160.58 feet, N43°06'54"E a distance of 89.59 feet to a point on the South line of an existing 25 foot Water & Sewer easement described in Book 1045 Page 115; thence along said South line of an existing 25 foot Water & Sewer easement N69°01'00"E a distance of 68.68 feet; thence leaving said South line of an existing 25 foot Water & Sewer easement S43°06'54"W a distance of 149.13 feet; thence S34°35'25"W a distance of 154.57 feet; thence S20°15'19"W a distance of 196.57 feet; thence S38°31'32"W a distance of 247.05 feet; thence S39°02'57"W a distance of 215.37 feet; thence S49°44'01"W a distance of 144.53 feet; thence S55°05'30"W a distance of 138.98 feet; thence S51°32'44"W a distance of 114.91 feet; thence S45°15'53"W a distance of 45.70 feet; thence S51°32'44"W a distance of 110.00 feet; thence S43°18'52"W a distance of 124.62 feet; thence S53°49'31"W a distance of 179.30 feet; thence S72°16'47"W a distance of 110.04 feet; thence S86°17'59"W a distance of 41.70 feet; thence

S79°28'03"W a distance of 187.69 feet; thence N87°06'30"W a distance of 130.37 feet to the POINT OF BEGINNING, containing 70,139 square feet or 1.61 acres, more or less.

5. The total amount of property being taken as general utility easements by the City of Fayetteville pursuant to this Settlement Agreement is 108,704 square feet. The parties agree that the value of the property being taken is \$8.06 per square foot and the total value of the property being taken by the City is \$876,153.00.

6. The total amount of \$500,000.00 was previously deposited into the Registry of the Court for the payment of estimated just compensation pursuant to an order of the Court on November 15, 2016.

7. The City of Fayetteville agrees to deposit the additional sum of \$376,153.00 in the registry of the Court for disbursement to the Properties within fourteen days of the entry of the consent order.

8. The parties agree to present a Consent Order and Judgment to the Court confirming the terms of this agreement agree to forever release, acquit and discharge each other, their successors and assigns, from any and all possible actions, suits, damages, and liabilities of any kind or nature related to the acquisition of these general utility easements and the construction of the mains or other authorized facilities, as well as any attorney fees, costs, penalties or claims that the parties to this agreement may have.

9. The Properties agree to execute and deliver to the City the General Utility Easement deeds attached hereto within fourteen days of the City's deposit of the additional funds in the registry of the Court. The City agrees to pay the cost to record the deeds.

10. The parties expressly represent and warrant that the person signing this Settlement Agreement on behalf of that party has the authority and is legally empowered to sign this agreement and bind that party to the terms herein.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, we sign

below:

**DRAKE ST PROPERTY, LLC
1155 PROPERTIES, LLC; AND
RPM1 PROPERTIES-FAYETTEVILLE,
LLC A/K/A RPM1 PROPERTIES, LLC**



NEAL PENDERGRAFT
Authorized Member

Date: APRIL 13, 2017

**CITY OF FAYETTEVILLE,
ARKANSAS**

LIONELD JORDAN, Mayor

Date: _____

ATTEST:

SONDRA SMITH, City Clerk-Treasurer

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Drake ST Property, LLC**, an Arkansas limited liability company, hereinafter called GRANTOR, for and in consideration of the sum of One Hundred Twenty Thousand Five Hundred Thirteen Dollars (\$120,513.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas**, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of roadway, drainage, sidewalks, and general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: Deed Ref: 2013-00021050

Part of the East half of the Northeast Quarter of Section 33 and a part of the West half of the Northwest Quarter of Section 34, all in Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows, to-wit: beginning at an existing rebar on the North right of way of Arkansas HWY #180 which is S89°56'45"E 209.48' and N00°02'53"W 36.49' from the Southwest corner of the Northwest Quarter of said Section 34 and running thence along said right of way the following: N89°48'32"W 382.99', N61°20'32"W 118.80', N39°12'43"W 10.05', thence leaving said right of way North 1252.08' to the Southern right of way of Interstate 540, thence along said Southern right of way N65°33'03"E 111.21', thence continuing along said right of way N66°45'20"E 425.61', thence leaving said right of way S00°02'53"E 1532.12' to the point of beginning, containing 16.05 acres, more or less.

Subject to all easements and rights of way of record. LESS AND EXCEPT: Part of the East Half of the Northeast Quarter of Section 33 and part of the West Half of the Northwest Quarter of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a Half Inch Rebar found at the Quarter Corner of said Sections 33 and 34; thence North 02°27'51" East along the East Line of said Section 33 a distance of 1277.49 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job BB0414 for the POINT OF BEGINNING; thence North 78°02'42" West along said right of way line a distance of 198.48 feet to a point; thence South 79°36'29" West along said right of way line a distance of 89.73 feet to a point on the East line of Lot 6, Block 1, North Point Subdivision; thence North 02°30'44" East along said East line a distance of 65.79 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 9447; thence North 68°04'33" East along said right of way line a distance of 91.70 feet to a point; thence North 69°21'14" East along said right of way line a distance of 444.60 feet to a point; thence South 02°27'41" West a distance of 276.86 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job BB0414; thence South 88°37'16" West along said right of way line a distance of 209.73 feet to the POINT OF BEGINNING and containing 1.95 acres (84,765 sq. ft.) more or less as shown on AHTD plans referenced as Job BB0414.

PERMANENT EASEMENT DESCRIPTION:

A 30-foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414. Being more particularly described as follows: A part of the SE¼ of the NE¼ of Section 33, and a part of the SW¼ of the NW¼ of Section 34, all within Township 17 North, Range 30 West, and Washington County, Arkansas: Commencing at the Southwest corner of the NW¼ of said Section 34; thence N02°27'51"E a distance of 1247.42 feet along the West line of said SW¼ of the NW¼ of Section 34 to the POINT OF BEGINNING; thence S88°37'16"W a distance of 1.49 feet; thence N78°02'42"W a distance of 196.06 feet; thence S79°36'29"W a distance of 80.30 feet; thence S66°16'50"W a distance of 11.28 feet to the West property line as described in File 2013-00021050; thence N02°30'44"E a distance of 33.44 feet along said West property line to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way N79°36'29"E a distance of 89.73 feet; thence S78°02'42"E a distance of 198.48 feet; thence N88°37'16"E a distance of 209.73 feet to the East line of said property; thence along said East property line S02°27'41"W a distance of 30.16 feet; thence leaving said East property line N81°40'58"W a distance of 0.53 feet; thence S88°37'16"W a distance of 209.20 feet to the POINT OF BEGINNING, containing 14,952 square feet or 0.34 acres, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.



TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees no to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

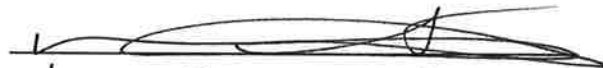
The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the 13 day of APRIL, 2017.

Drake ST Property, LLC, an Arkansas limited liability company

BY:


NEAL R. PENDERGRAFT, MGR
[Please print or type Name and Title]

ATTEST:


Woody Bassett
Attorney for Drake ST Property, LLC
[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

SS.

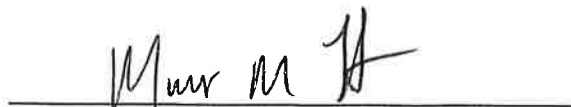
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared NEAL R. Pendergraft and Woody Bassett, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the Manager and Attorney, respectively, of **Drake ST Property, LLC, an Arkansas limited liability company**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 13th day of April, 2017.

MY COMMISSION EXPIRES

11/10/26





Notary Public

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **1155 Properties, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Hundred Ninety Thousand Three Hundred Twenty Dollars (\$190,320.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of roadway, drainage, sidewalks, and general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

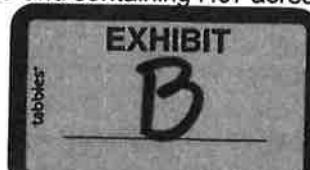
PROPERTY DESCRIPTION: Deed Ref: 2004-00000965

A part of Section 34, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Beginning at a point on the North Right-of-Way of State Highway No. 180, said point being 620.80 feet East of the West line of said Section 34 and running thence North 1,695.00 feet to the South Right-of-Way of US Highway No. 71 By-pass; thence S65°59'00"W along said Right-of-Way 446.90 feet; thence South 1,523.00 feet to the North Right-of-Way of State Highway No. 180; thence East along said Right-of-Way 411.33 feet to the point of beginning, containing 15.19 acres, more or less. LESS AND EXCEPT: A part of the NW¼ of the NW¼ of Section 34, T-17-N, R-30-W, Washington County, Arkansas, more particularly described as follows: Starting at the NW corner of the NW¼ of the NW¼ of Section 34; thence N88°34'00"E along the North line 964.00 feet to a point; thence S01°07'00"E 769.70 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass; thence S65°51'00"W along said existing Right-of-Way line 201.50 feet to the point of beginning; thence S01°05'00"E 106.20 feet to a point on the Southeasterly proposed Right-of-Way line of relocated U.S. Highway No. 71; thence S89°08'00"W along said proposed Right-of-Way line 171.80 feet to a point; thence S76°55'00"W along said Right-of-Way line a distance of 152.90 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass; thence N65°48'00"E 298.20 feet to the point of beginning, containing 0.33 acres, more or less. Subject to easements and rights of way of record, if any.

ALSO:

A part of Section 34, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Beginning at a point on the North Right-of-Way of State Highway No. 180, said point being 990.00 feet East of the West line of said Section 34 and running thence North 1,850.00 feet to the South Right-of-Way of US Highway No. 71 By-pass; thence S65°59'00"W along said Right-of-Way 401.14 feet; thence South 1,695.00 feet to the North Right-of-Way of State Highway No. 180; thence East along said Right-of-Way 369.20 feet to the point of beginning, containing 15.02 acres, more or less. LESS AND EXCEPT: A part of the NW¼ of the NW¼ of Section 34, T-17-N, R-30-W, Washington County, Arkansas, more particularly described as follows: Starting at the NW corner of the NW¼ of the NW¼ of Section 34; thence N88°34'00"E along the North line 964.00 feet to a point; thence S01°07'00"E 769.70 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass for the point of beginning; thence S01°07'00"E 264.70 feet to a point on the Southeasterly proposed Right-of-Way line of relocated U.S. Highway No. 71; thence S89°08'00"W along said proposed Right-of-Way line 368.40 feet to a point; thence N01°05'00"W 106.20 feet to a point on the Southeasterly Right of Way line of US Highway No. 71 By-Pass; thence N65°47'00"E along said Right-of-Way line 201.50 feet to a point; thence N65°51'00"E 198.80 feet to the point of beginning, containing 1.57 acres, more or less. Subject to easements and rights of way of record, if any.

LESS AND EXCEPT: Part of the West Half of the Northwest Quarter of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a Half Inch Rebar found at the Quarter Corner of Sections 33 and 34; thence North 02°27'51" East along the West line of Section 34 a distance of 1479.12 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 9447; thence North 69°21'14" East along said right of way line a distance of 227.50 feet to the POINT OF BEGINNING; thence continue North 69°21'14" East along said right of way line a distance of 79.97 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 1534 Section 1; thence North 80°30'22" East along said right of way line a distance of 152.85 feet to a point; thence South 87°16'41" East along said right of way line a distance of 540.24 feet to a point; thence South 02°29'38" West a distance of 503.64 feet to a point on the Southern Right of V/ay of Interstate 49 as established by AHTD Job BB0414; thence North 87°06'30" West along said right of way line a distance of 77.97 feet to a point; thence North 66°50'23" West along said right of way line a distance of 302.08 feet to a point; thence North 77°47'17" West along said right of way line a distance of 257.10 feet to a point; thence North 81°40'58" West along said right of way line a distance of 149.89 feet to a point; thence North 02°27'41" East a distance of 276.86 feet to the POINT OF BEGINNING and containing 7.07 acres (308,105 sq. ft.) more or less as shown on AHTD plans referenced as Job BB0414.



PERMANENT EASEMENT DESCRIPTION:

A 30 foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414, Being more particularly described as follows: A part of the SW¼ of the NW¼ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW¼ of said Section 34; thence S87°24'17"E 209.32 feet along the South line of said SW¼ of the NW¼ to the West property line as described in File 2004-00000965; thence along said West property line N02°27'41"E 1261.87 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°27'41"E 30.16 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way S81°40'58"E 149.89 feet; thence S77°47'17"E 249.00 feet to the East line of said property; thence along said East property line S02°31'22"W 30.43 feet; thence leaving said East property line N77°47'17"W 253.10 feet; thence N81°40'58"W 145.80 feet to the POINT OF BEGINNING, containing 11,967 square feet or 0.27 acres, more or less.

ALSO:

A 30 foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414, Being more particularly described as follows: A part of the SW¼ of the NW¼ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW¼ of said Section 34; thence S87°24'17"E a distance of 602.51 feet along the South line of said SW¼ of the NW¼ to the West property line as described in File 2004-00000965; thence along said West property line N02°31'22"E 1205.05 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°31'22"E 30.43 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S77°47'17"E 8.10 feet, S66°50'23"E 302.08 feet, S87°06'30"E 77.97 feet to the East line of said property; thence along said East property line S02°29'38"W 30.00 feet; thence leaving said East property line N87°06'30"W 83.54 feet; thence N66°50'23"W 304.56 feet; thence N77°47'17"W 0.11 feet to the POINT OF BEGINNING, containing 11,646 square feet or 0.27 acres, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees no to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the 13 day of APRIL, 2017.

1155 Properties, LLC, an Arkansas limited liability company

BY:

[Signature]
NEAL R. PENDERGRAFT, MGR
[Please print or type Name and Title]

ATTEST:

Woody Bassett
Attorney for 1155 Properties, LLC
[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

}

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared NEAL R. PENDERGRAFT and Woody Bassett, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the Manager and Attorney, respectively, of **1155 Properties, LLC, an Arkansas limited liability company**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 13th day of April, 2017.

MY COMMISSION EXPIRES:

1/10/26



[Signature]
Notary Public



GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **RPM1 Properties, LLC**, an Arkansas limited liability company, hereinafter called GRANTOR, for and in consideration of the sum of Five Hundred Sixty-Five Thousand Three Hundred Twenty Dollars (\$565,320.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of roadway, drainage, sidewalks, and general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: Deed Ref: 2013-00000127

Part of the Northwest Quarter (NW¼) of Section Thirty-four (34), Township Seventeen (17) North, Range Thirty (30) West, Washington County, Arkansas, described as follows, to-wit: Beginning at the Southeast corner of the said Northwest Quarter (NW¼) and running thence N00 Degrees 05'21"W 2565.78 feet to the South line of the Arkansas State Highway Commission Right of Way; thence along said Right of Way line S66 Degrees 33'41"W 145.31 feet, S45 Degrees 02'15"W 107.74 feet, S27 Degrees 28'44" W 517.93 feet, S43 Degrees 37'19" W 163.19 feet, S54 Degrees 22'38"W 256.17 feet, S79 Degrees 47'51"W 358.46 feet, S82 Degrees 53'50"W 364.0 feet, S89 Degrees 53'44"W 167.44 feet; thence leaving said Right of way line and running S00 Degrees 00'01"E 1588.21 feet; thence S89 Degrees 39'28"E 466.92 feet; thence N01 Degree 30'39"E 431.40 feet; thence N87 Degrees 37'53"E 383.01 feet; thence S01 Degree 58'26"E 450.30 feet; thence S89 Degrees 47'21"E 778.31 feet to the point of beginning, and being subject to easements and rights of way of record. LESS AND EXCEPT: Part of the Northwest Quarter of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a Half Inch Rebar found at the Quarter Corner of Sections 33 & 34; thence South 87°24'17" East along the South line of the Northwest Quarter of Section 34 a distance of 1317.66 feet to a point being used as the Center West Sixteenth Corner of said Section 34; thence North 02°25'01" East along the East line of the Southwest Quarter of the said Northwest Quarter a distance of 1,177.62 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 880414 and the POINT OF BEGINNING; thence South 79°28'03" West along said right of way line a distance of 223.05 feet to a point; thence North 87°06'30" West along said right of way line a distance of 127.05 feet to a point; thence North 02°29'38" East a distance of 503.64 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 1534 Section 1; thence South 87°16'41" East along said right of way line a distance of 167.50 feet to a point; thence North 85°21'44" East along said right of way line a distance of 364.01 feet to a point; thence North 82°17'31" East along said right of way line a distance of 359.03 feet to a point; thence North 57°00'34" East along said right of way line a distance of 255.98 feet to a point; thence North 45°59'17" East along said right of way line a distance of 163.48 feet to a point; thence North 29°53'39" East along said right of way line a distance of 518.56 feet to a point; thence North 47°36'56" East along said right of way line a distance of 107.70 feet to a point; thence North 69°00'43" East along said right of way line a distance of 71.89 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job BB0414; thence South 43°06'54" West along said right of way line a distance of 146.83 feet to a point; thence South 34°35'25" West along said right of way line a distance of 160.58 feet to a point; thence South 27°04'56" West along said right of way line a distance of 219.23 feet to a point; thence South 33°46'36" West along said right of way line a distance of 214.85 feet to a point; thence South 39°02'57" West along said right of way line a distance of 211.18 feet to a point; thence South 49°44'01" West along said right of way line a distance of 140.32 feet to a point; thence South 55°05'30" West along said right of way line a distance of 138.50 feet to a point; thence South 51°32'44" West along said right of way line a distance of 273.79 feet to a point; thence South 43°18'52" West along said right of way line a distance of 123.92 feet to a point; thence South 53°49'31" West along said right of way line a distance of 170.40 feet to a point; thence South 72°16'47" West along said right of way line a distance of 102.47 feet to the POINT OF BEGINNING and containing 9.21 acres (401,067 sq. ft.) more or less as shown on AHTD plans referenced as Job BB0414.

PERMANENT EASEMENT DESCRIPTION:

A 30-foot easement South and East of and adjacent to the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414. Being more particularly described as follows: A part of the SW ¼ of the NW ¼ and SE ¼ of the NW ¼ and NE ¼ of the NW ¼ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas. Commencing at the Southwest corner of the NW ¼ of said Section 34; thence S87°24'17"E a distance of 971.73 feet along the South line of said SW ¼ of the NW ¼ to the West property line as described in File 2013-00000127; thence along said West property line N02°29'38"E a distance of 1097.61 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°29'38"E a

distance of 30.00 feet to a point on the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S87°06'30"E a distance of 127.05 feet, N79°28'03"E a distance of 223.05 feet, N72°16'47"E a distance of 102.47 feet, N53°49'31"E a distance of 170.40 feet, N43°18'52"E a distance of 123.92 feet, N51°32'44"E a distance of 273.79 feet, N55°05'30"E a distance of 138.50 feet, N49°44'01"E a distance of 140.32 feet, N39°02'57"E a distance of 211.18 feet; thence leaving said Easterly right of way N38°31'42"E a distance of 243.33 feet; thence N20°15'19"E a distance of 195.51 feet to said Easterly right of way; thence along said Easterly right-of-way the following courses: N34°35'25"E a distance of 160.58 feet, N43°06'54"E a distance of 89.59 feet to a point on the South line of an existing 25 foot Water & Sewer easement described in Book 1045 Page 115; thence along said South line of an existing 25 foot Water & Sewer easement N69°01'00"E a distance of 68.68 feet; thence leaving said South line of an existing 25 foot Water & Sewer easement S43°06'54"W a distance of 149.13 feet; thence S34°35'25"W a distance of 154.57 feet; thence S20°15'19"W a distance of 196.57 feet; thence S38°31'32"W a distance of 247.05 feet; thence S39°02'57"W a distance of 215.37 feet; thence S49°44'01"W a distance of 144.53 feet; thence S55°05'30"W a distance of 138.98 feet; thence S51°32'44"W a distance of 114.91 feet; thence S45°15'53"W a distance of 45.70 feet; thence S51°32'44"W a distance of 110.00 feet; thence S43°18'52"W a distance of 124.62 feet; thence S53°49'31"W a distance of 179.30 feet; thence S72°16'47"W a distance of 110.04 feet; thence S86°17'59"W a distance of 41.70 feet; thence S79°28'03"W a distance of 187.69 feet; thence N87°06'30"W a distance of 130.37 feet to the POINT OF BEGINNING, containing 70,139 square feet or 1.61 acres, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees no to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the 13 day of APRIL, 2017.

RPM1 Properties, LLC, an Arkansas limited liability company

BY:


Neal R. Pendergraft, MGR
[Please print or type Name and Title]

ATTEST:


Attorney for RPM1 Properties, LLC
[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Neal E. Pennington and Woody Bassett, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the Manager and Attorney, respectively, of **RPM1 Properties, LLC, an Arkansas limited liability company**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 13th day of April, 2017.

MY COMMISSION EXPIRES:

1/10/26



Mary M Forrest
Notary Public



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0217

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 1

BILL OF ASSURANCE AMENDMENT (354 N. DOUBLE SPRINGS RD./PINNACLE BANK):

AN ORDINANCE TO REPLACE A BILL OF ASSURANCE TO ALLOW THE DEVELOPMENT OF THE 9.7 ACRE PARCEL AT 354 DOUBLE SPRINGS ROAD WITH UP TO 9 ATTACHED DWELLINGS UNITS AND 35 SINGLE-FAMILY DETACHED HOUSES

WHEREAS, on April 4, 2006, the City Council approved rezoning Ordinance No. 4852 subject to a Bill of Assurance; and

WHEREAS, this parcel never developed as conceived by its owner; and

WHEREAS, the new owner of this 9.7 acre zoned RSF-6 wishes to replace the Bill of Assurance; and

WHEREAS, this proposed change to the Bill of Assurance replaces many of the proposed duplexes with single family detached houses and would reduce the maximum allowed density of this development near the City's western border from 53 to 44 units; and

WHEREAS, the Planning Department recommends approval of the proposed replacement Bill of Assurance

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 repeals the existing Bill of Assurance and approves the replacement Bill of Assurance for the 9.7 acre parcel at 354 Double Springs Road attached to the Planning Department's Memo.

City of Fayetteville Staff Review Form

2017-0217

Legistar File ID

5/2/2017

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

Andrew Garner

4/14/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Amendment to a Bill of Assurance: (354 N. DOUBLE SPRINGS RD./PINNACLE BANK): Submitted by CRAFTON TULL for property at 354 N. DOUBLE SPRINGS RD. The property is zoned RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE, subject to a Bill of Assurance.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor, Fayetteville City Council

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

DATE: April 14, 2017

SUBJECT: **Amendment to a Bill of Assurance: (354 N. DOUBLE SPRINGS RD./PINNACLE BANK):** Submitted by CRAFTON TULL for property at 354 N. DOUBLE SPRINGS RD. The property is zoned RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE, subject to a Bill of Assurance.

RECOMMENDATION:

Planning staff recommend approval of an ordinance to amend the existing Bill of Assurance as described in exhibits A and B.

BACKGROUND:

On April 4, 2006, the City Council approved a rezoning of the subject property from R-A, Residential Agricultural, to RMF-6, Residential Multi-family, 6 Units per Acre, subject to a Bill of Assurance, by a vote of 7-1-0.

The subject property contains approximate 9.18 acres and is located on Double Springs Road, south of Persimmon Street. The property is bordered on two sides by property zoned RSF-4, with Silverthorne Subdivision to the west and Legacy Point Phase 4 to the east. The adjacent property to the north is zoned RSF-1, and has been developed as a storage unit business, while the properties to the south are zoned R-A and RSF-4, and remain largely undeveloped. The subject property along with the storage business to the north and the properties to the south are designated as Rural Areas by the City's Future Land Use Map, and the aforementioned subdivisions to the east and west are classified as Residential Neighborhood Areas.

Request: The request is to amend the approved Bill of Assurance, as shown in the attached Exhibits 'A' and 'B', to allow the applicant to develop the subject property with up to 9 attached dwellings units and 35 single-family dwellings, for a total density that is lower than that previously approved in the existing Bill of Assurance.

The proposed Bill of Assurance offers a density and development pattern that is consistent with the existing single-family residential development in the area. Under the existing Bill of Assurance, 58 dwellings are allowed and permitted to be distributed between 20 to 24 two-family townhomes and 3 to 6 single-family homes. Under the currently proffered Bill of Assurance, 44 units would be allowed with 35 detached single-family homes and up to 9 attached units.

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Exhibit A
- Exhibit B
- Proposed Preliminary Plat
- Ordinance 4852

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") _____ **Pinnacle Bank & DBS of NWA, LLC (Developer)**_____, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to the following: The petitioners assure the City the property will be developed as a residential subdivision, zoned RMF 6 and will consist of a combination of 35 single family detached residences, & up to 9 attached units.
2. Other restrictions including number and type of structures upon the property are limited to the following: The subdivision will contain maximum total number of units of 44. The maximum total number of structures will not exceed 38 total.

3. Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Pinnacle Bank & DBS of NWA, LLC (Developer) , as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

4/14/2017 9:22 AM CDT
Date

 Pinnacle Bank
Printed Name (owner)

[Signature]
Signature **AUTHORIZED AGENT**

 DBS of NWA, LLC
Printed Name (Developer)

DBS of NWA, LLC By Bleaux Barnes
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 14th day of April, 2017, appeared before me, *Raney Forbes*, a Notary Public, and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

[Signature]
NOTARY PUBLIC

Official Seal
My Commission Expires:
Raney B. Forbes
Notary Public
State of Arkansas
County of Washington
My Commission Expires: 05/02/2021
Commission: 12382170



Crafton Tull
architecture | engineering | surveying

1450 E. Zion Road, Suite 9
Fayetteville, AR 72703

479.455.2207

March 8, 2017

City of Fayetteville
Planning Department
ATTN: Director of Planning
125 W. Mountain Street
Fayetteville, AR 72701

RE: Emerald Point Subdivision
Parcel No. 765-24089-200

Dear Director,

This letter serves to designate Crafton Tull as an authorized person to act on the behalf of Pinnacle Bank for any items required for Planning Department approval for the referenced project site. The following person is hereby authorized:

Thomas A. Hennelly, PE
Vice President – Crafton Tull
1450 E. Zion Road, Suite 9
Fayetteville, AR 72703
479-878-2419

Sincerely,

David Bordovsky
President – Pinnacle Bank
4201 W. New Hope Road
Rogers, AR 72756



April 14, 2017

City of Fayetteville
Planning Department
113 West Mountain Street
Fayetteville, AR 72701

Attn: Jonathan Curth, Senior Planner
RE: Emerald Point Bill of Assurance

Jonathan,

When parcel 765-489-350 was originally rezoned, back in 2006, a bill of assurance was submitted in association with the rezoning request. The original bill of assurance (attached) specified the following:

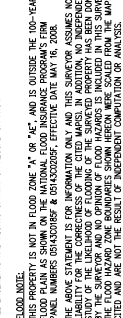
"The petitioners assure the City the property will be developed as a residential subdivision, zoned RMF-6 (with approved re-zoning application) and will consist of a combination of single family lots and two-unit townhome lots. The subdivision as a whole will meet or (sic) exceed the requirements of RMF-6 zoning. The subdivision will contain between 20-24 zero-lot-line townhome structures (2 units each) and between 3 to 6 single family dwellings. The maximum total number of structures will be between 26 to 30 structures totaling 46 to 53 dwelling units. The maximum number of units allowed by RMF-6 for this parcel would be 58. Single family units will be placed adjacent to existing single family developments so as to maintain consistent usage across property lines"

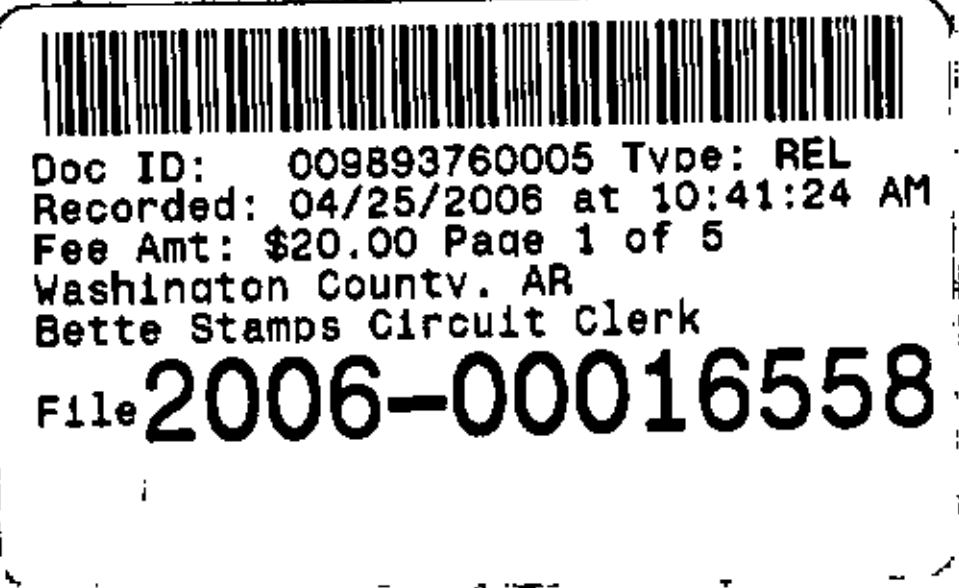
We are requesting to lower the maximum number of allowable dwelling units from 46 or 53, allowed in the original bill of assurance, to 44. These 44 units will consist of 35 single family detached homes and one lot containing a maximum of three triplexes (9 units).

Thank you for your consideration in this matter.

Sincerely,

Thomas A. Hennelly, PE
Vice President
Crafton Tull





ORDINANCE NO. 4852

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-1936, FOR APPROXIMATELY 9.70 ACRES, LOCATED AT 354 AND 370 DOUBLE SPRINGS ROAD, FROM R-A, RESIDENTIAL AGRICULTURAL TO RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE, SUBJECT TO A BILL OF ASSURANCE

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RMF-6, Residential Multi-Family, 6 units per acre, as shown on Exhibit "A" attached hereto and made a part hereof.

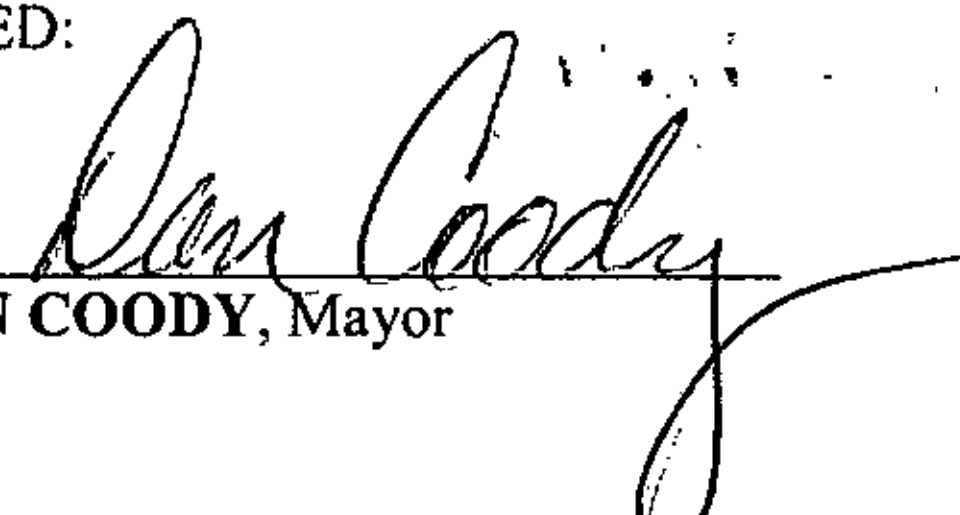
Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

Section 3: That the subject property will be subject to a Bill of Assurance attached hereto and made a part hereof as Exhibit "B" limiting the type and location of dwelling units on the property.

PASSED and APPROVED this 4th day of April, 2006.

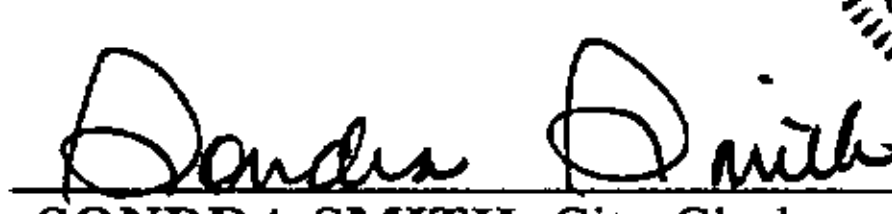
APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk

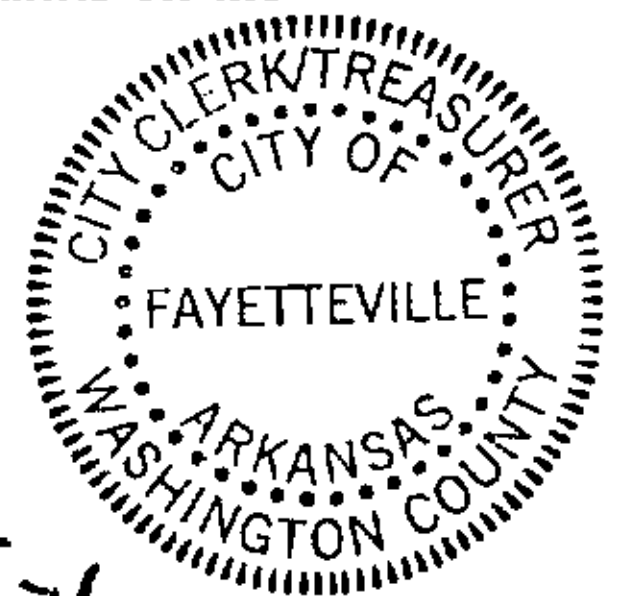


EXHIBIT "A"
RZN 06-1936

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

EXHIBIT "B"
RZN 06-1936

BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Fletcher Williams and Imogene Williams, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/ Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonable rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to the following:
The petitioners assure the City the property will be developed as a residential subdivision, zoned RMF-6 (with approved re-zoning application) and will consist of a combination of single family lots and two-unit townhome lots. The subdivision as a whole will meet or exceed the requirements of RMF-6 zoning. The subdivision will contain between 20 to 24 zero-lot-line townhome structures (2 units each) and between 3 to 6 single family dwellings. The maximum total number of structures will be between 26 to 30 structures totaling 46 to 53 dwelling units. The maximum number of units allowed by RMF-6 for this parcel would be 58. Single family units will be placed adjacent to existing single family developments so as to maintain consistent usage across property lines.

2. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Fletcher R Williams, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

2/15/06
Date

370 Double Springs Rd
Address

Fay Ar 72704

Fletcher R Williams
Printed Name

Fletcher R Williams
Signature

Imogene Williams
Printed Name

Imogene Williams
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 15 day of February, 2006 appeared before me, Fletcher Williams / Imogene Williams and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

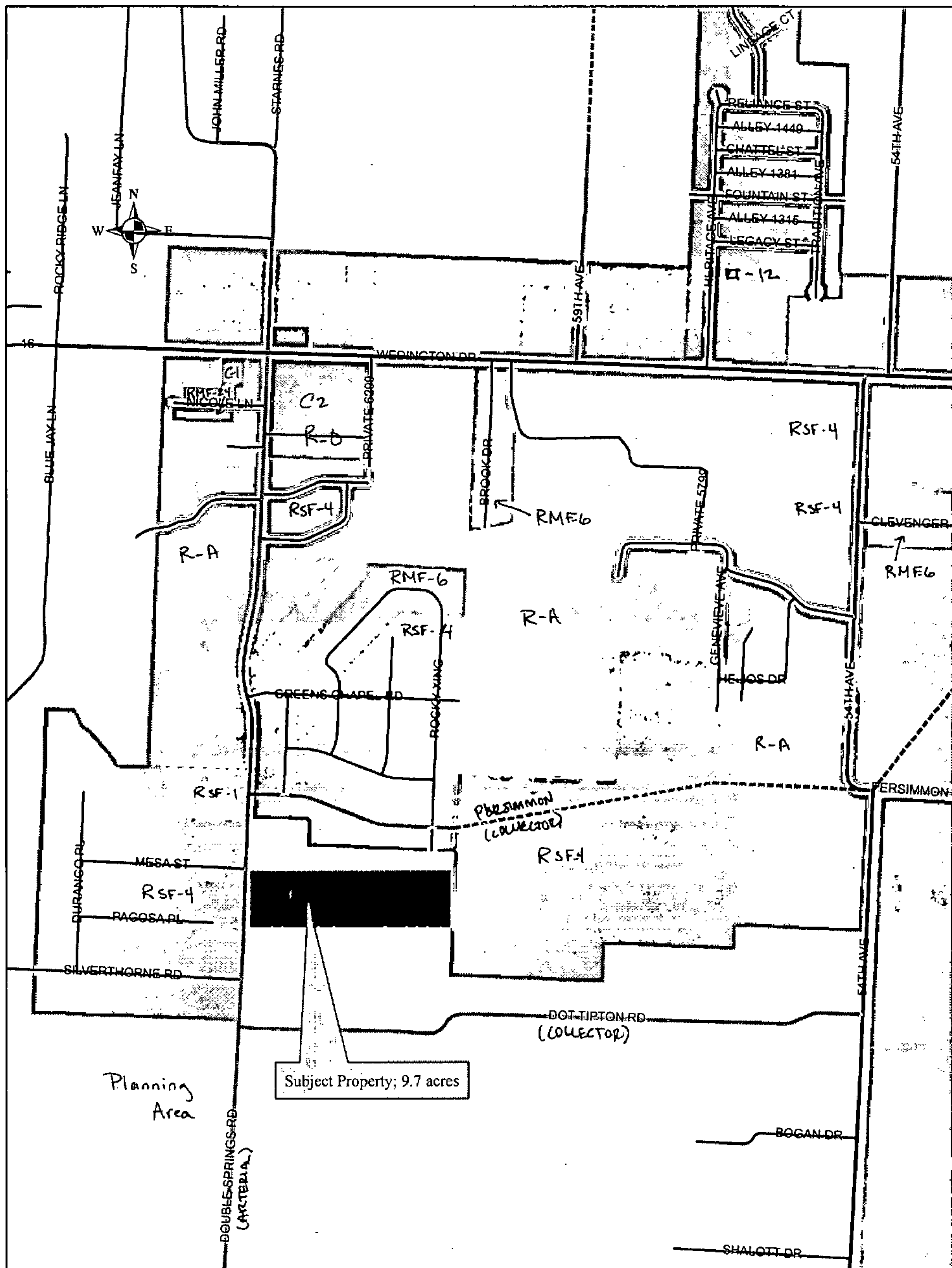
My Commission Expires
June 15/2014



Carolyn Boone
NOTARY PUBLIC

Washington County, AR
I certify this instrument was filed on
04/25/2006 10:41:24 AM
and recorded in Real Estate
File Number 2006-00016558
Bette Stamps - Circuit Clerk

by [Signature]



ORIP
4/4/06
4852
RZN 06-1936/
Fletcher Williams

March 1, 2006

City of Fayetteville-City Clerk's Office
113 W. Mountain St.
Fayetteville, AR. 72701

RE:ANX 06-1935
RZN 06-1936

This is to notify you of my intention to **Appeal** the denial by the City of Fayetteville Planning Commission on Monday, February 27, 2006, on the above mentioned items.

We would like to have these properties rezoned and annexed to build housing for Fayetteville. It is our understanding that the property south of subject property, owned by the Hays family, will be asking to be rezoned and/or annexed also. We feel like this would be a good housing project for Fayetteville.

Sincerely,



Fletcher Williams

RECEIVED

MAR 02 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Left on the second reading 3/21/06

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Jeremy C. Pate, Director of Current Planning

Date: February 28, 2006

Subject: Rezoning for Fletcher Williams (RZN 06-1936)

RECOMMENDATION

The Planning Commission recommended denial of the subject rezoning request from R-A to RMF-6 on approximately 9.70 acres of property located east of Double Springs Road, south of Persimmon Street. The applicant had submitted a Bill of Assurance limiting the type of development and maximum number of units allowed on the property. Planning Staff originally recommended approval of the requested rezoning to RMF-6 with the associated Bill of Assurance.

BACKGROUND

The subject property contains approximately 9.70 acres and is located on Double Springs Road, south of Persimmon Street. The property is bordered on two sides by property zoned RSF-4, with Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east. Two intervening properties lie between the subject property and the city limits to the north (Legacy Point Phase 1). Initially, these properties were developed for single-family use. In recent months, the adjacent owner north of the property has begun to develop a storage unit business on his property. Legacy Point Phase 1 is zoned both RSF-4 and RMF-6. The 2002 rezoning of 8.74 acres within Legacy Point, in close proximity to the current request, was the first property to be zoned RMF-6 within the City of Fayetteville, with a unanimous vote by the Planning Commission and a majority vote by City Council.

The applicant requests rezoning of 9.70 acres to allow for a two-family townhome and single-family development. The prospective buyer of the property developed several properties within the RMF-6 portion of Legacy Point and would like to duplicate this development on the subject property. The property owner has submitted a Bill of Assurance that limits the development of the property to a maximum 24 two-family townhomes and a minimum 3 single-family lots, with a maximum 54 dwelling units; a maximum 58 units is permitted at 6 units/acre. Additionally, the Bill of Assurance guarantees that single-family dwellings will be located adjacent to the existing RSF-4 zoning districts, that is along the east and west property lines (see attachment).

DISCUSSION

This item was heard at the regular Planning Commission on February 27, 2006. The Planning Commission voted 4-2-0 to recommend approval of this rezoning request to the City Council, with Commissioner Ostner and Anthes voting no. Therefore, the motion failed due to lack of five affirmative votes, and the application for rezoning into the City of Fayetteville was denied.

Those who voted against the motion discussed their concerns regarding zoning only a small parcel without understanding how adjacent properties, currently without zoning, will develop in the future.

Staff recommends approval of the proposed rezoning with the Bill of Assurance. The property is located adjacent to a Minor Arterial street and two nearby Collector streets; therefore, adjacent infrastructure, once improved to Master Street Plan standards, will be able to accommodate a greater traffic volume. Additionally, this property is in close proximity to other property zoned RMF-6.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-1936, FOR APPROXIMATELY 9.70 ACRES, LOCATED AT 354 AND 370 DOUBLE SPRINGS ROAD, FROM R-A, RESIDENTIAL AGRICULTURAL TO RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE, SUBJECT TO A BILL OF ASSURANCE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RMF-6, Residential Multi-Family, 6 units per acre, as shown on Exhibit "A" attached hereto and made a part hereof.

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

Section 3: That the subject property will be subject to a Bill of Assurance attached hereto and made a part hereof as Exhibit "B" limiting the type and location of dwelling units on the property.

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-1936

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Fletcher Williams and Imogene Williams, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/ Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonable rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to the following:
The petitioners assure the City the property will be developed as a residential subdivision, zoned RMF-6 (with approved re-zoning application) and will consist of a combination of single family lots and two-unit townhome lots. The subdivision as a whole will meet or exceed the requirements of RMF-6 zoning. The subdivision will contain between 20 to 24 zero-lot-line townhome structures (2 units each) and between 3 to 6 single family dwellings. The maximum total number of structures will be between 26 to 30 structures totaling 46 to 53 dwelling units. The maximum number of units allowed by RMF-6 for this parcel would be 58. Single family units will be placed adjacent to existing single family developments so as to maintain consistent usage across property lines.

2. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Fletcher R Williams, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

2/15/06
Date

370 Double Springs Rd
Address

Say Ar 72704

Fletcher R Williams
Printed Name

Fletcher R Williams
Signature

Imogene Williams
Printed Name

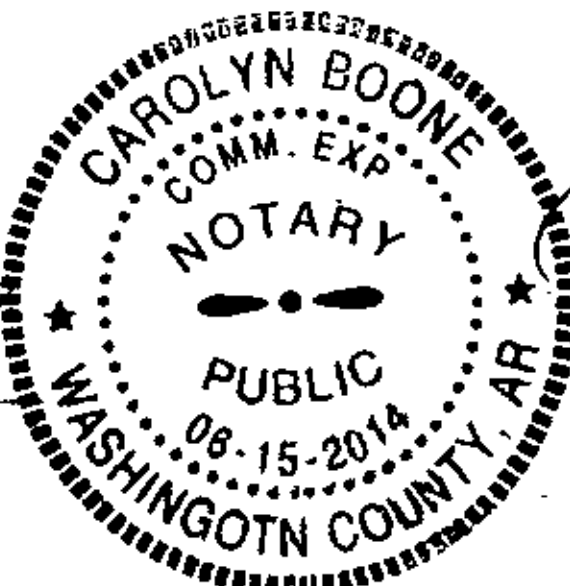
Imogene Williams
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 15 day of February, 2006 appeared before me, Fletcher Williams / Imogene Williams and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

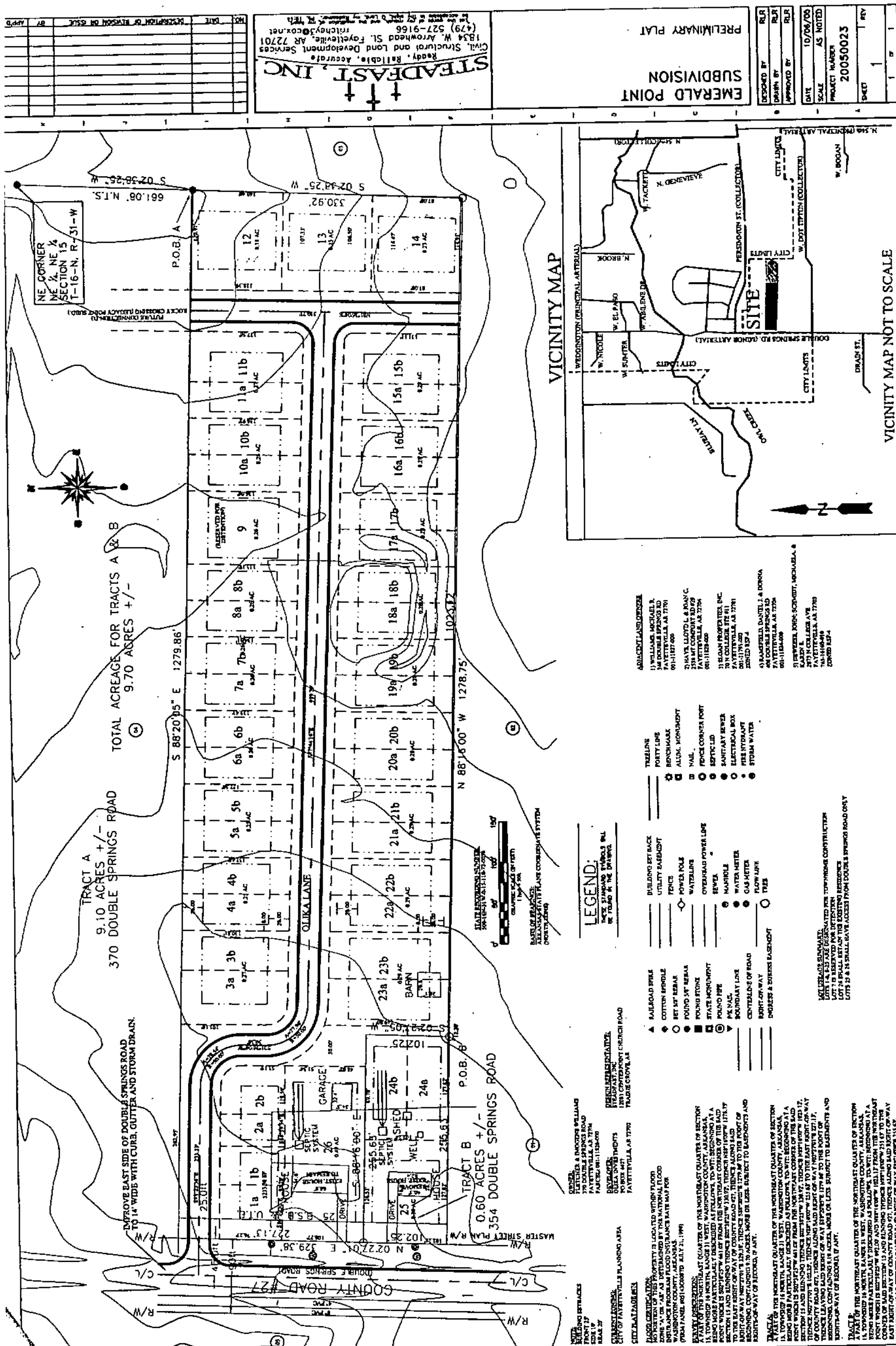
My Commission Expires
June 15/2014



Carolyn Boone
NOTARY PUBLIC

SURVEY DESCRIPTION:

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.



Draft / Preliminary Subdivision Drawing



PC Meeting of February 27, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: February 21, 2006

RZN 06-1936: (FLETCHER WILLIAMS, 474): Submitted by RANDY RITCHEY STEADFAST, INC. for property located at 370 DOUBLE SPRINGS RD. The property is zoned R-A, Residential Agricultural, and contains approximately 9.70 acres. The request is to rezone the subject property to RMF-6, Residential Multi-family, 6 units per acre.

Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested rezoning from R-A to RMF-6 with the Bill of Assurance submitted by the applicant.

PLANNING COMMISSION ACTION: Required <u>YES</u>	
☐ Forwarded ☒ Denied	
Date: <u>February 27, 2006</u>	Motion to recommend approval if ANX 06-1935 is approved by Allen.
CITY COUNCIL ACTION:	Second: ☐ Myres ☒ Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>March 21, 2006 (1st reading if recommended)</u>	

Vote: 4-2-0 w/ Antler & Oster voting no. Motion fails for lack of 5 affirmative votes.

Comments: _____

BACKGROUND:

Property description: The subject property contains approximately 9.70 acres and is located on Double Springs Road, south of Persimmon Street. The property is bordered on two sides by property zoned RSF-4, with Silverthorne Subdivision to the west and Legacy Point Phase 4

(under construction) to the east. Two intervening properties lie between the subject property and the city limits to the north (Legacy Point Phase 1). Initially, these properties were developed for single-family use. In recent months, the adjacent owner north of the property has begun to develop a storage unit business on his property. Legacy Point Phase 1 is zoned both RSF-4 and RMF-6. The 2002 rezoning of 8.74 acres within Legacy Point, in close proximity to the current request, was the first property to be zoned RMF-6 within the City of Fayetteville, with a unanimous vote by the Planning Commission and a majority vote by City Council.

Proposal: The applicant requests rezoning of 9.70 acres to allow for a two-family townhome and single-family development. The prospective buyer of the property developed several properties within the RMF-6 portion of Legacy Point and would like to duplicate this development on the subject property (see photos within packet). The property owner has submitted a Bill of Assurance that limits the development of the property to a maximum 24 two-family townhomes and a minimum 3 single-family lots, with a maximum 54 dwelling units; a maximum 58 units is permitted at 6 units/acre. Additionally, the Bill of Assurance guarantees that single-family dwellings will be located adjacent to the existing RSF-4 zoning districts, that is along the east and west property lines (see attachment).

Recommendation: Staff recommends approval of the proposed rezoning with the Bill of Assurance. The development of property at 6 units per acre with single-family lots adjacent to properties zoned RSF-4 will allow for transitional housing and a density of residences similar to nearby developments.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Storage Units & 2 Single family homes Single family homes	Planning Area RSF-4 & RMF-6 (Legacy Pt. Ph. 1)
South	Rural Single family homes	Planning Area
East	Vacant (under construction)	RSF-4
West	Silverthorne Subdivision	RSF-4

INFRASTRUCTURE:

Streets: The site has access to Double Springs Road. Improvements will be required to Double Springs Road which may include off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development. Dedication of right-of-way per the Master Street Plan is required.

Adjacent Streets:

North: Persimmon Street (Collector)

South: Dot Tipton Road (Collector)

West: Double Springs Road (Minor Arterial)

Water: Public water is adjacent to the site. There is an 8" water line that runs along Double Springs Road. A study of the water system shall be conducted by the developer. Substantial improvements to the water system may be required which includes other off-site improvements. Water service will need to be extended to and within the property at the time of development connecting within the proposed development.

Sewer: Sanitary sewer is located near the site. Substantial improvements to the sewer system will be required which includes off-site improvements. This development will be within the sewer assessment area. A study of the downstream system shall be conducted by the developer. Sewer service will need to be extended to and within the property at the time of development connecting within the proposed development

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire: These 9.70 acres are covered by Engine 7 located at 835 Ruppel Road. It is 3 miles from the station with an expected response time of 6 minutes to the entrance of this development. The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. Measured Hydrant Flow in this area is 1465 gallons per minute. The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 designates the site as Residential. Rezoning this property to RMF-6 with the proposed Bill of Assurance is compatible with the single-family and townhomes uses in the area.

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 is generally consistent with current land use planning objectives and policies for Residential Use in the area as indicated on the Future Land Use plan. The first rezoning of property to RMF-6 occurred

within the subdivision north of the subject property. The increase in density and type of development is compatible to the surrounding developments within the city. Additionally, the applicant proposes to develop single-family lots adjacent to the existing RSF-4 property (Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east).

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: For the property to develop in a manner consistent with adjacent properties, a zoning that would allow density greater than 1 unit per 2 acres (R-A) is required. The RSF-4 zoning is the most common in this area, though nearby property is zoned RMF-6 and property zoned R-O near the corner of Wedington Drive and Double Springs Rd is developed as a duplex subdivision. The applicant proposes an RMF-6 zoning with the intent to develop the property for two-family townhomes and some single-family dwellings. Staff finds that a zoning greater than R-A is justified in this area and an RMF-6 zoning with development subject to the proposed Bill of Assurance will be compatible with the surrounding developments.

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

Finding: It is expected that a rezoning from R-A to RMF-6 would create an increase in traffic compared with that allowed under the existing zoning. The property is situated near two Collector streets and adjacent to a Minor Arterial street. The existing infrastructure will be able to accommodate a 9.70 acre development of 6 units per acre (a maximum 58 units; 580 vehicle trips per day).

Police: It is the opinion of the Fayetteville Police department that an appreciable increase in traffic danger and congestion would not be created by this rezoning.

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 will increase population density from the zoning currently in place. The 9.70 acre tract under an R-A zoning designation would allow for a maximum 4 single family residential dwelling units. With the proposed RMF-6 designation, a maximum 58 single family dwelling units would be permitted. Staff finds that increasing the density limitations to 6 units per acre would alter the population density in the immediate vicinity, though not to the degree that it

undesirably increases the load on public services.

Increased load on public services was taken into consideration for the recommendations from Engineering, Police and Fire Department that are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.10 District Rmf-6, Residential Multi-Family – Six Units Per Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(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 11	Manufactured home park
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 6
----------------	--------

(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 and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

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
25 ft.	8 ft.	25 ft.

Cross reference(s)—Variances, Ch. 156.

(F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01)



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

February 17, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed annexation and rezoning ANX & RZN 06-1935 (Fletcher Williams, 474) submitted by Randy Ritchey Steadfast, Inc for property located at 370 Double Springs Rd. would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,


Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
From: Captain Dale Riggins
Date: February 21, 2006
Re: February 16, 2006 Zoning Review – Fire Department Comments

ANX 06-1935 (Fletcher Williams, 474)

RZN 06-1936 (Fletcher Williams, 474)

These 10 acres are covered by Engine 7 located at 835 Ruppel Road.

It is 3 miles from the station with an expected response time of 6 minutes to the entrance of this development.

The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measured Hydrant Flow in this area is 1465 gallons per minute.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

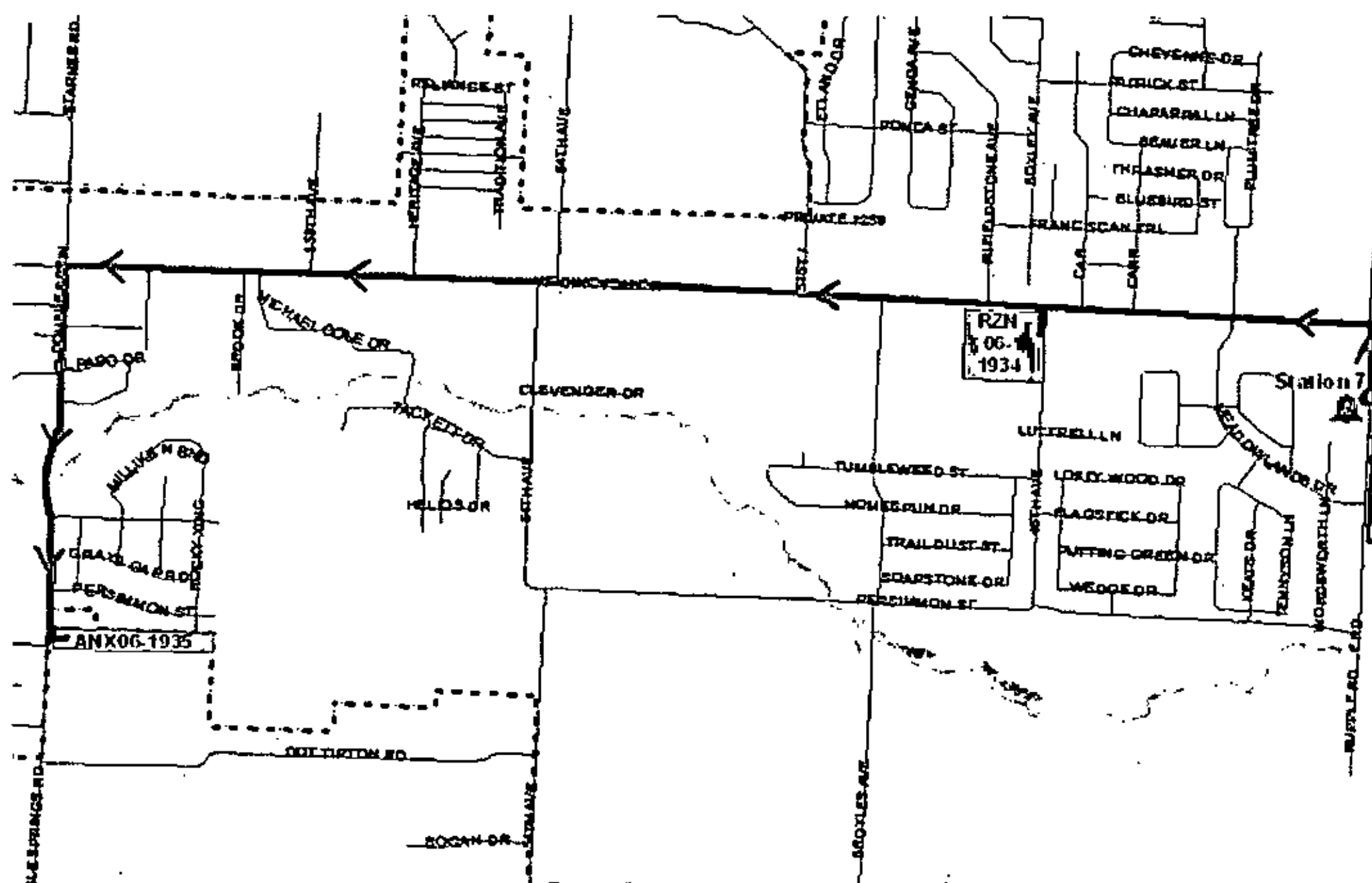
There should be no adverse effects on our call volume or response time to this development.

If you have any questions, please feel free to call or email me

Dale Riggins

Captain

Fayetteville Fire Department



ANX06-1935 RZN06-1936 Fletcher Williams 10 acres 6 Minute Response
 RZN06-1934 Broyles Commercial 10.06 Acres 2.25 Minute Response

REQUEST FOR REZONING

1/19/06

To whom it may concern,

Please accept this request for annexation and re-zoning of property situated adjacent to the City of Fayetteville. The property is located at 370 Double Springs Road in Fayetteville, AR 72704 and is owned by Fletcher and Imogene Williams. The property contains 9.70 acres and is contiguous with the City of Fayetteville on 2 sides. Mr. and Mrs. Williams wish to sell their property to Olike Investments, who then intends to develop a residential subdivision on the site.

The annexation and rezoning are requested so that the property can be used according to the RMF-6 zoning to accommodate the construction of townhomes.

The use of the property for townhome construction will be consistent with nearby developments as Legacy point contains a section of townhomes. The current conceptual plan proposes the construction of 26 townhomes, which is a total of 52 living units. We believe this development will not generate enough increased traffic to significantly impact the current traffic patterns. The type and style of construction and entry signage will closely match the existing construction in Legacy Point.

Water is available from an existing 8" water main both on the West and East sides of the property. Sewer is available from an existing 8" gravity main on the West side and a 4" pressure main on the East side.

PLEASE NOTE THAT ALL ADJOINING PROPERTY OWNERS EXCEPT ONE ARE
ALSO PETITIONING FOR ANNEXATION.

REQUEST FOR REZONING

1/19/06

To whom it may concern,

Please accept this request for annexation and re-zoning of property situated adjacent to the City of Fayetteville. The property is located at 370 Double Springs Road in Fayetteville, AR 72704 and is owned by Fletcher and Imogene Williams. The property contains 9.70 acres and is contiguous with the City of Fayetteville on 2 sides. Mr. and Mrs. Williams wish to sell their property to Olike Investments, who then intends to develop a residential subdivision on the site.

The annexation and rezoning are requested so that the property can be used according to the RMF-6 zoning to accommodate the construction of town homes.

The use of the property for town home construction will be consistent with nearby developments as Legacy point contains a section of town homes. The current conceptual plan proposes the construction of 46 to 53 living units. We believe this development will not generate enough increased traffic to significantly impact the current traffic patterns. The type and style of construction and entry signage will closely match the existing construction in Legacy Point.

Water is available from an existing 8" water main both on the West and East sides of the property. Sewer is available from an existing 8" gravity main on the West side and a 4" pressure main on the East side.

The proposed RMF-6 zoning is consistent with current land use planning ordinances and is consistent with current surrounding land use.

The re-zoning is needed because the assigned RA zoning does not allow construction of residential subdivisions as proposed for the property.

While the zoning would allow a maximum of 58 units, we are submitting a Bill of Assurance stating we will not build more than a maximum of 53 units. This is a density of 5 units per acre. We do not believe this subdivision will significantly impact the traffic danger or congestion.

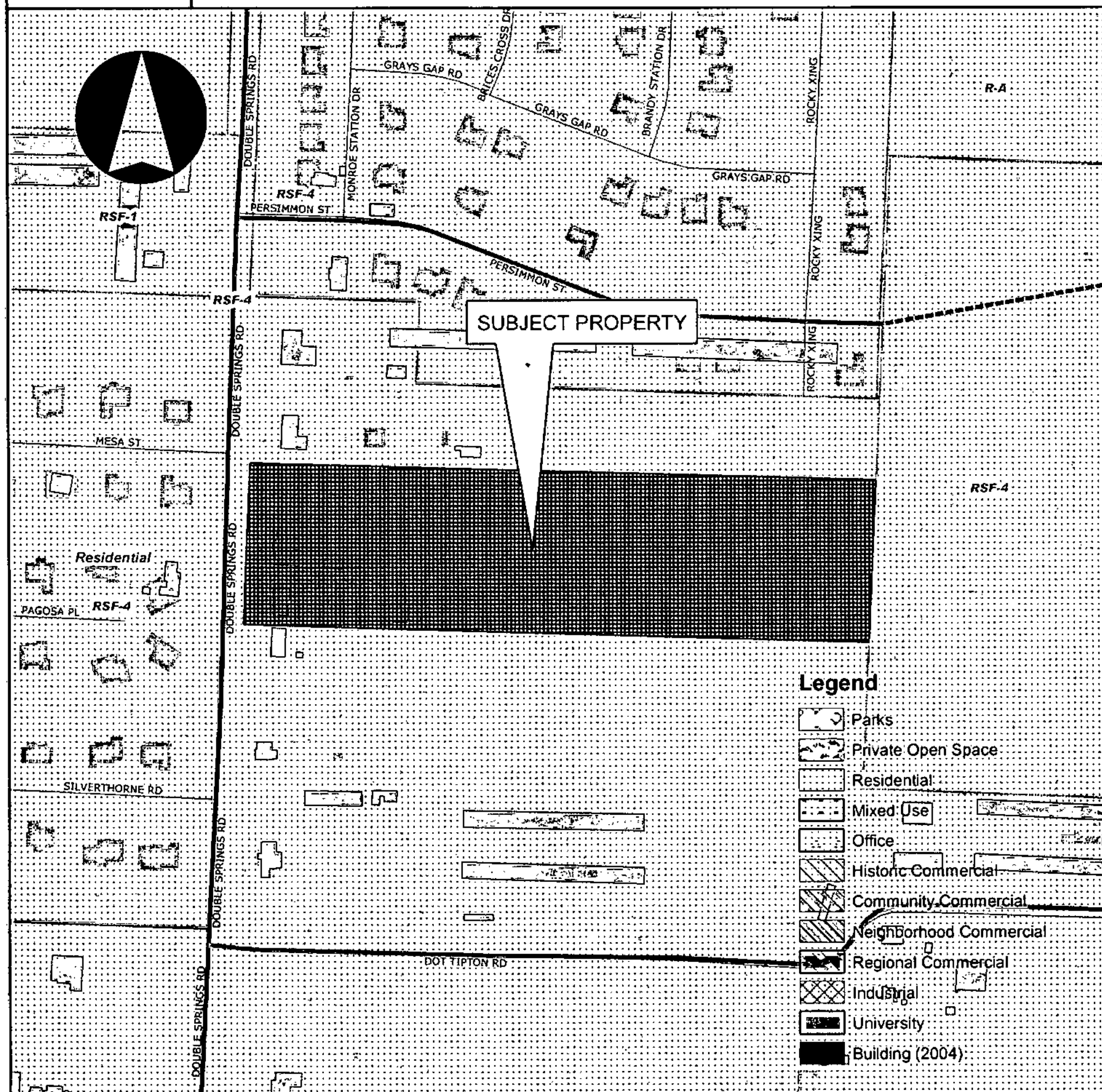
While any development will certainly affect the public services, this development is small in scale and should not add significant strain to the existing public services.

The assigned zoning of RA is impractical for developing the property as a subdivision.

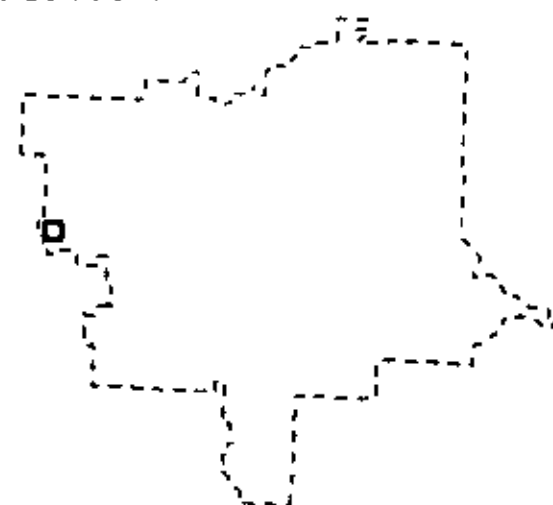
RZN06-1936

Future Land Use

FLETCHER WILLIAMS



Overview



Legend

Subject Property

RZN06-1936

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

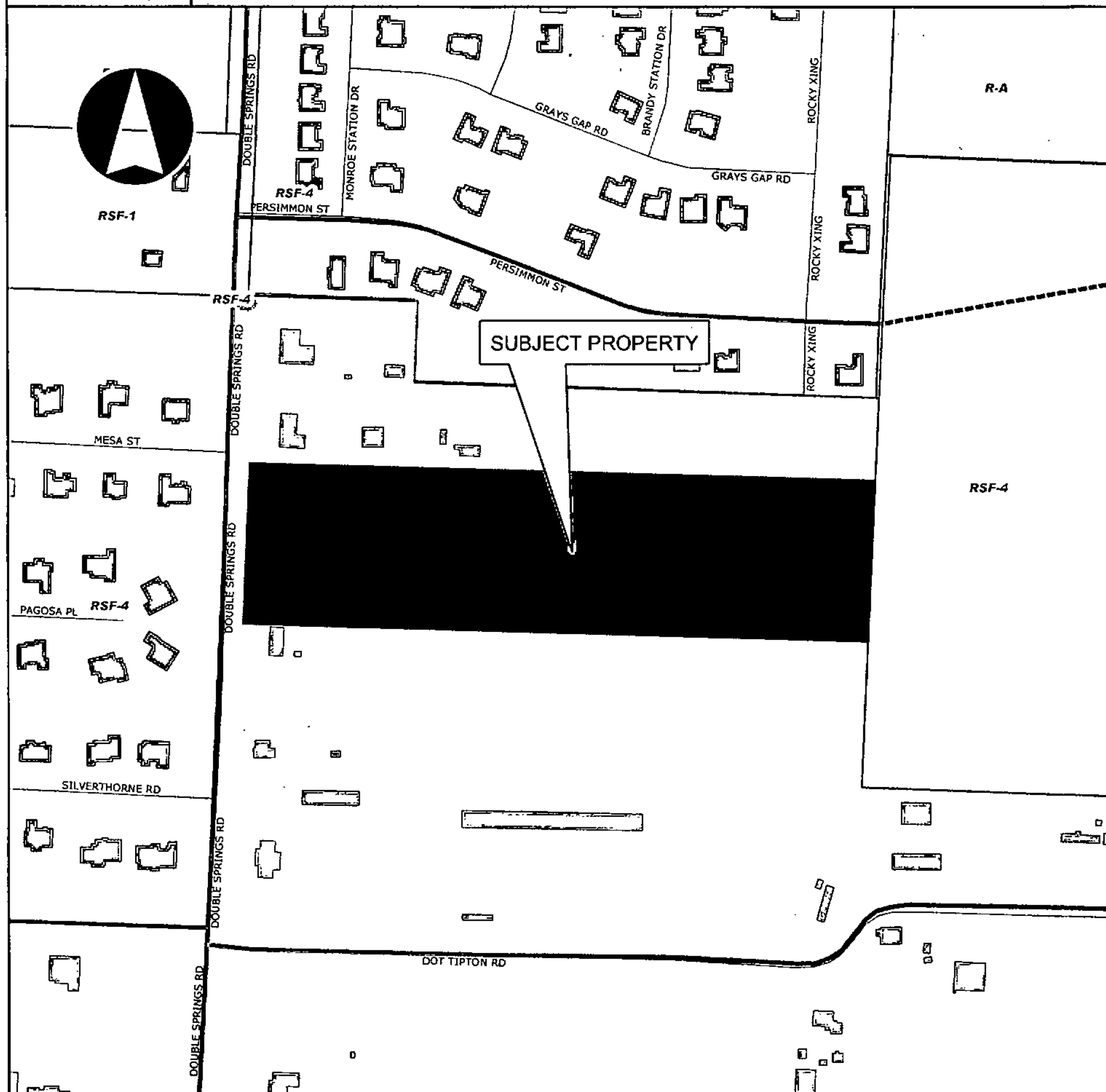
Legend



RZN06-1936

FLETCHER WILLIAMS

Close Up View



Legend

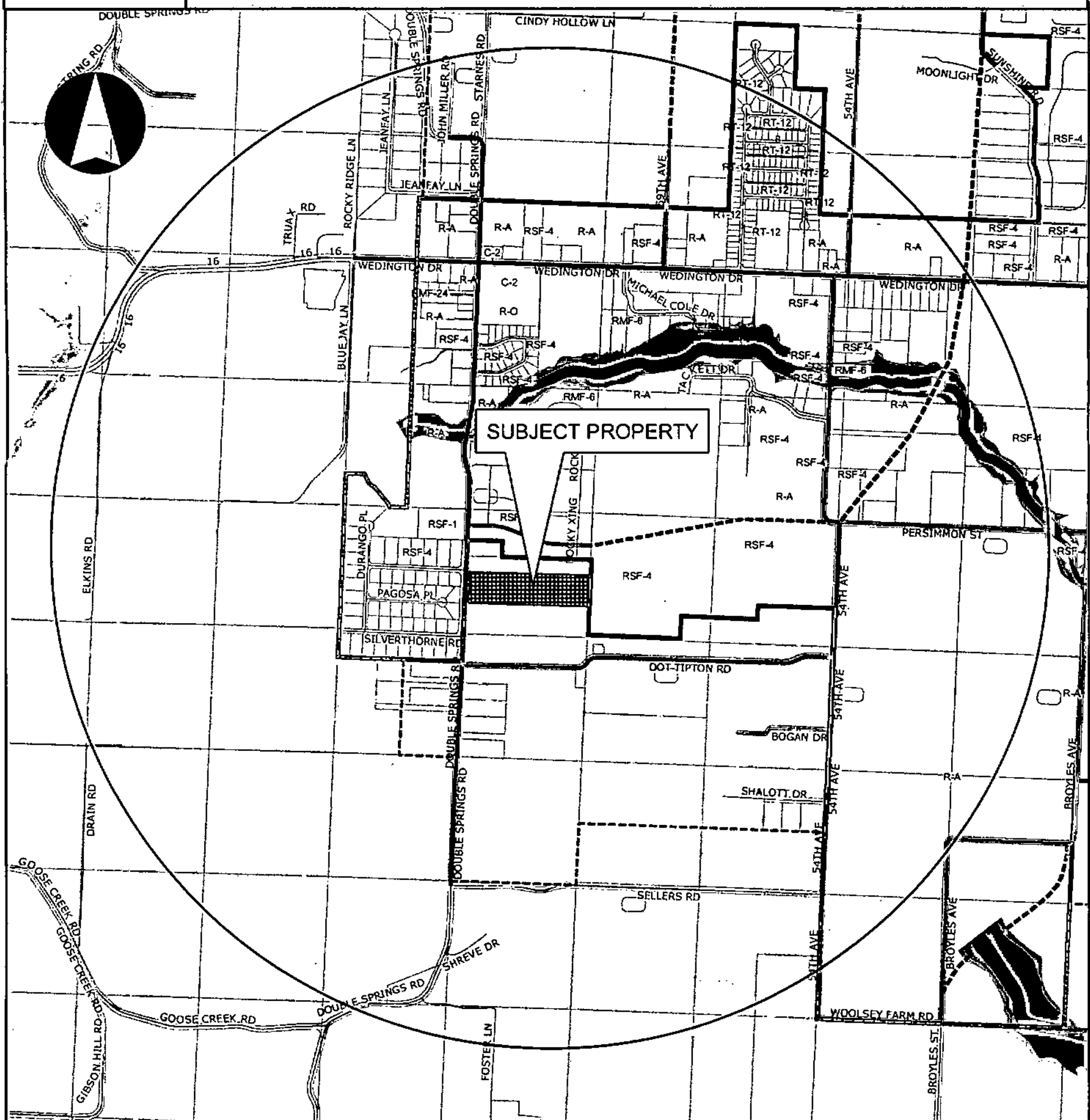
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- RZN06-1936
- vector.GDB.Footprint_2004

0 125 250 500 750 1,000 Feet

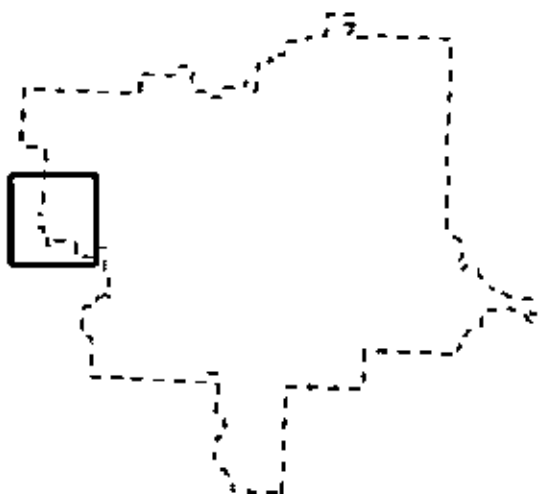
RZN06-1936

One Mile View

FLETCHER WILLIAMS



Overview



Legend

Subject Property

RZN06-1936

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

From: Clarice Pearman
To: Pate, Jeremy
Date: 4.7.06 4:24PM
Subject: Ords. 4849, 4850, 4851, 4852 & 4854

Jeremy,
Attached are the above ordinances passed by City Council, April 4, 2006 regarding various vacations, annexations, rezoning and waivers.
Thanks.
Clarice

CC: Bell, Peggy; Deaton, Vicki; GIS

Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record
P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6415

AFFIDAVIT OF PUBLICATION

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

ORDINANCE 4852

Was inserted in the Regular Editions:

April 13, 2006

Publication Charge: \$114.98

Subscribed and sworn to before me

This 13 day of April, 2006.

Notary Public

Sharlene D. Williams

Notary Public

State of Arkansas

My Commission Expires
October 18, 2014

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

RECEIVED

APR 17 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

ORDINANCE NO. 4852	
AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-1936, FOR APPROXIMATELY 9.70 ACRES, LOCATED AT 354 AND 370 DOUBLE SPRINGS ROAD, FROM R-A, RESIDENTIAL AGRICULTURAL TO RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE, SUBJECT TO A BILL OF ASSURANCE	
Fayetteville ARKANSAS	
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:	
Section 1: That the zone classification of the following described property is hereby changed as follows:	
From R-A, Residential Agricultural to RMF-6, Residential Multi-Family, 6 units per acre, as shown on Exhibit "A" attached hereto and made a part hereof.	
Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.	
Section 3: That the subject property will be subject to a Bill of Assurance attached hereto and made a part thereof as Exhibit "B", limiting the type and location of dwelling units on the property.	
PASSED and APPROVED this 4th day of April, 2006.	
APPROVED:	ATTEST:
By: DAN COODY, Mayor	By: SONDRA SMITH, City Clerk
EXHIBIT "A"	
RZN 06-1936	
A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.	
EXHIBIT "B" MAY BE VIEWED IN THE OFFICE OF THE CITY CLERK DURING NORMAL BUSINESS HOURS.	



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0218

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: C. 2

CULLERS SEWER EXTENSION:

A RESOLUTION TO APPROVE AN EXTENSION OF THE CITY'S SEWERAGE SYSTEM BEYOND THE CITY LIMITS TO A PROPOSED DEVELOPMENT NEAR HUGHMOUNT ROAD AND LIERLY LANE

WHEREAS, §51.113 **Sewer Service and Extension Policy** states that "the city's sewerage system shall not be extended outside the city's corporate limits except on the express approval of the City Council."

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 approves the request by Justin Cullers for an extension of the City's sewerage system beyond the city limits to a proposed development near Hughmount Road and Lierly Lane as shown on the maps attached to the City Council agenda memo.

City of Fayetteville Staff Review Form

2017-0218

Legistar File ID

5/2/2017

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

W/S Committee-Mark Kinion, Chair

4/14/2017

City Council /
General Government Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a Request to Extend Sewer Service Outside the City Limits

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item?

Current Budget

\$

-

Funds Obligated

\$

-

Current Balance

\$

-

Does item have a cost?

Item Cost

Budget Adjustment Attached?

Budget Adjustment

Remaining Budget

\$

-

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff

FROM: Tim Nyander, Utilities Director

CC: Chris Brown, City Engineer
Andrew Garner, Planning Director

DATE: April 14, 2017

SUBJECT: Request for Sewer Service Outside the City Limits

RECOMMENDATION:

The City Council Water and Sewer Committee recommends approval of a request to extend sewer service outside the City limits. The Committee voted 3-1 to forward the request to the Council for consideration, with a recommendation for approval.

BACKGROUND:

Justin Cullers, a representative for a proposed development located just outside the City limits, near Hughmount Road, contacted City staff recently regarding sewer service options. Andrew Garner, Planning Director, advised him that annexation, or extension of sewer would be in conflict with the City's stated growth policies, and that annexation would likely not be recommended by staff. Mr. Cullers also contacted the the Water and Sewer Committee and requested to be placed on the agenda to discuss this development.

DISCUSSION:

The Water and Sewer Committee heard the request at the April 11th meeting. Mr. Cullers presented his request to receive sewer service outside the City limits. It should be noted that extension of sewer service outside the City limits is not allowed, except by approval of the City Council, per Section 51.113 of City Code, which is provided below. Staff also discussed the City's policies related to growth and development on the fringes of the City, and that this proposed development would be in conflict with those policies. After discussion, the Committee voted to recommend approval of this request; the request is therefore presented to the City Council for consideration.

Attachments:

Vicinity and Layout Maps

City Code Reference:

51.113 - Sewer Service And Extension Policy

The policies of the city concerning and regarding the sewer system, shall be as follows:

(A) (1) It shall be the policy of the city to maintain and operate a municipal sewer system capable of collecting waste water from the city's sewer customers and treating such water for disposal into natural water courses.

(2)

To sustain and expand the municipal sewer system the city shall assume the expense of treating the waste water together with the operation and maintenance of the collection lines and appurtenances.

(3)

Construction of major collection lines shall be made in accordance with sewer system improvement and expansion programs and plans adopted by the City Council to better serve existing customers and to make the sewer system available to new customers and land development. Priorities for such improvement and extension shall be established by the City Council on the basis of need and the city's financial ability.

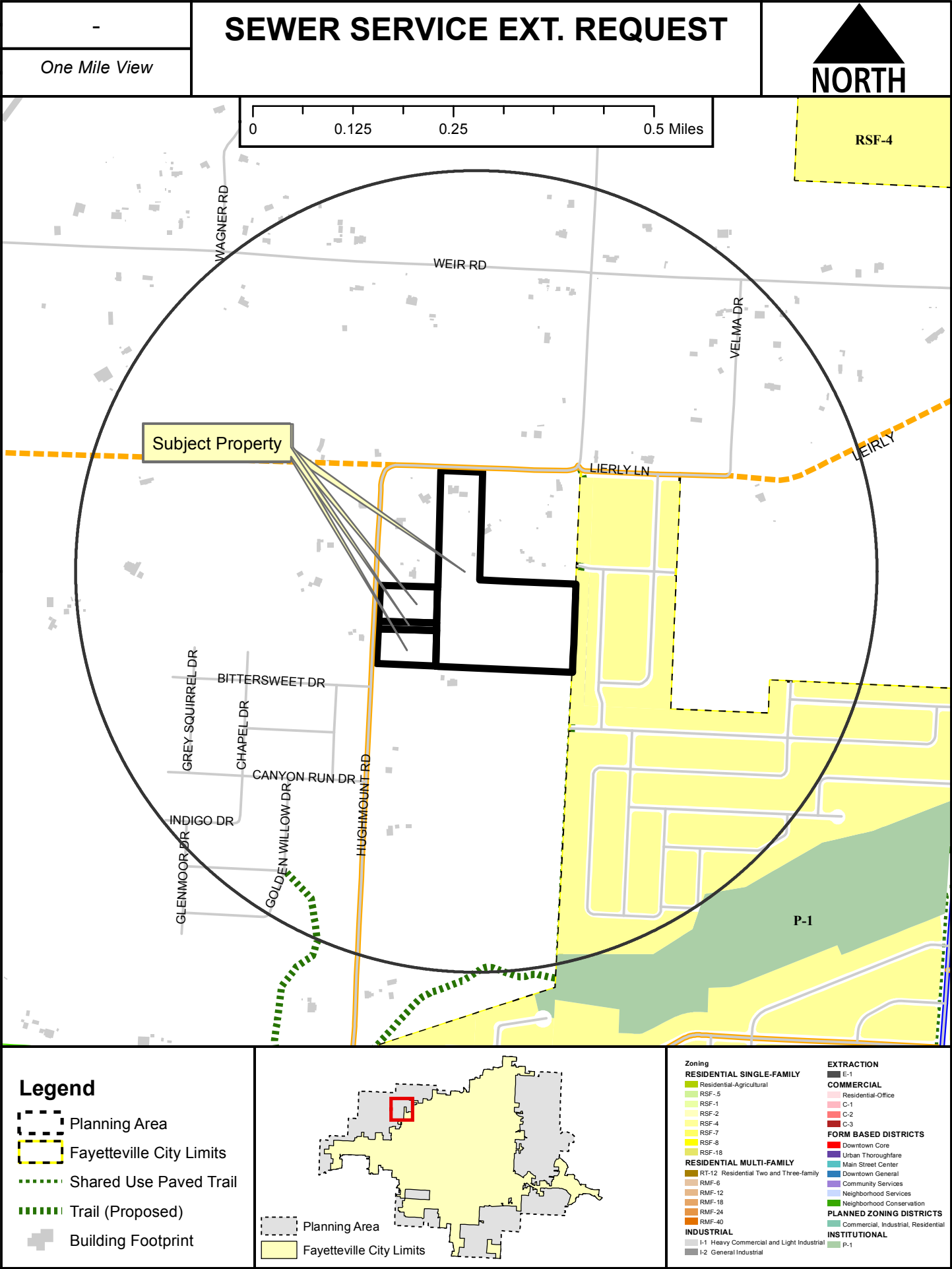
(B)

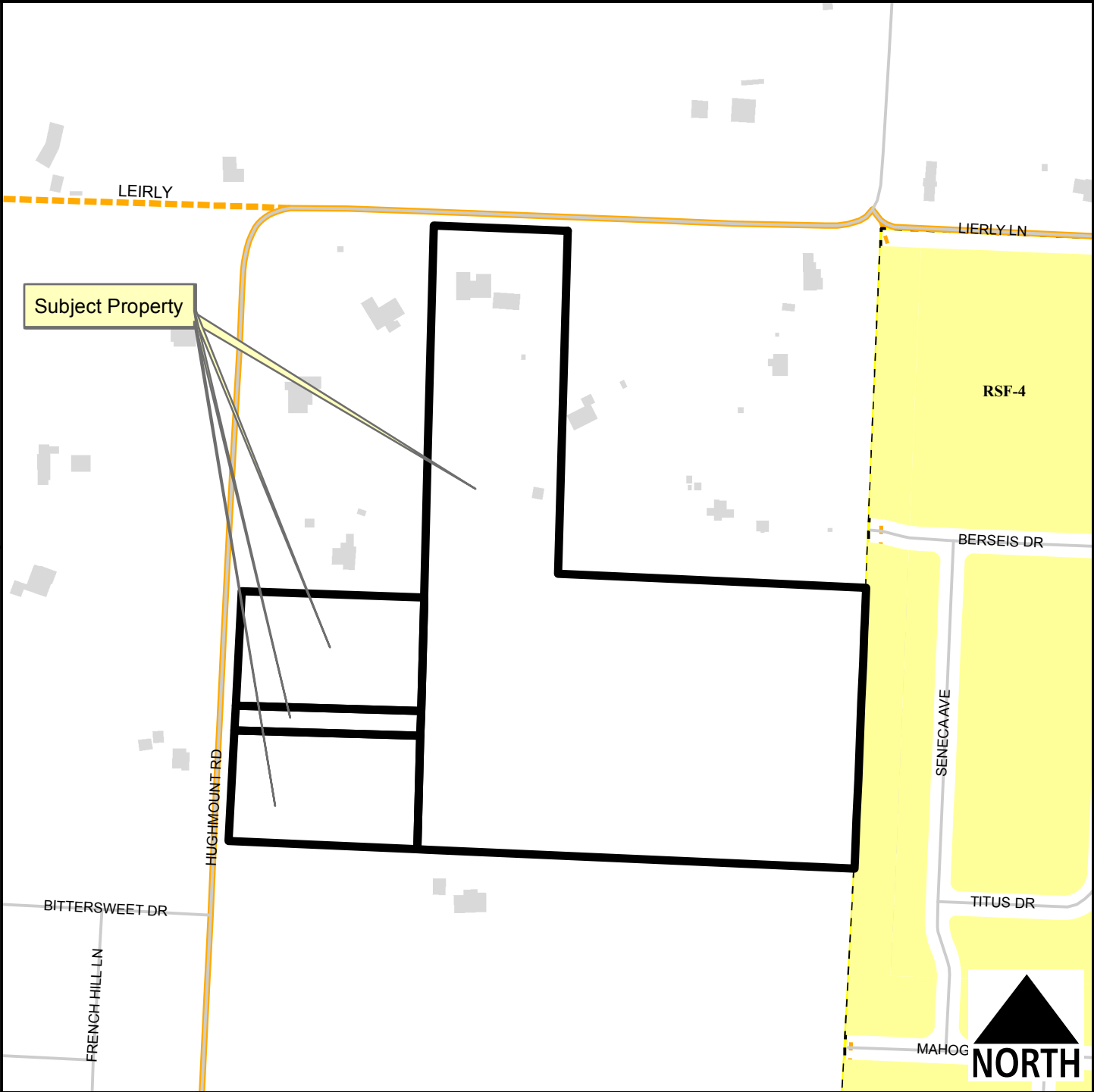
Extensions to and Within Subdivisions. The cost of extending sewer lines from existing mains to subdivisions and other land developments and the cost of constructing sewerage facilities within subdivisions as prescribed in subdivision regulations and according to specifications and location prescribed by the Water and Wastewater Director shall be the financial responsibility of the developer; however, the city shall pay the excess material cost of facilities of a size larger than required to serve subdivisions when such excess size is specified and required by the Water and Wastewater Director for the general benefit of the sewerage system. All sewer facilities financed by the developer shall become the property of the city after inspection and acceptance by the Water and Wastewater Director.

(C)

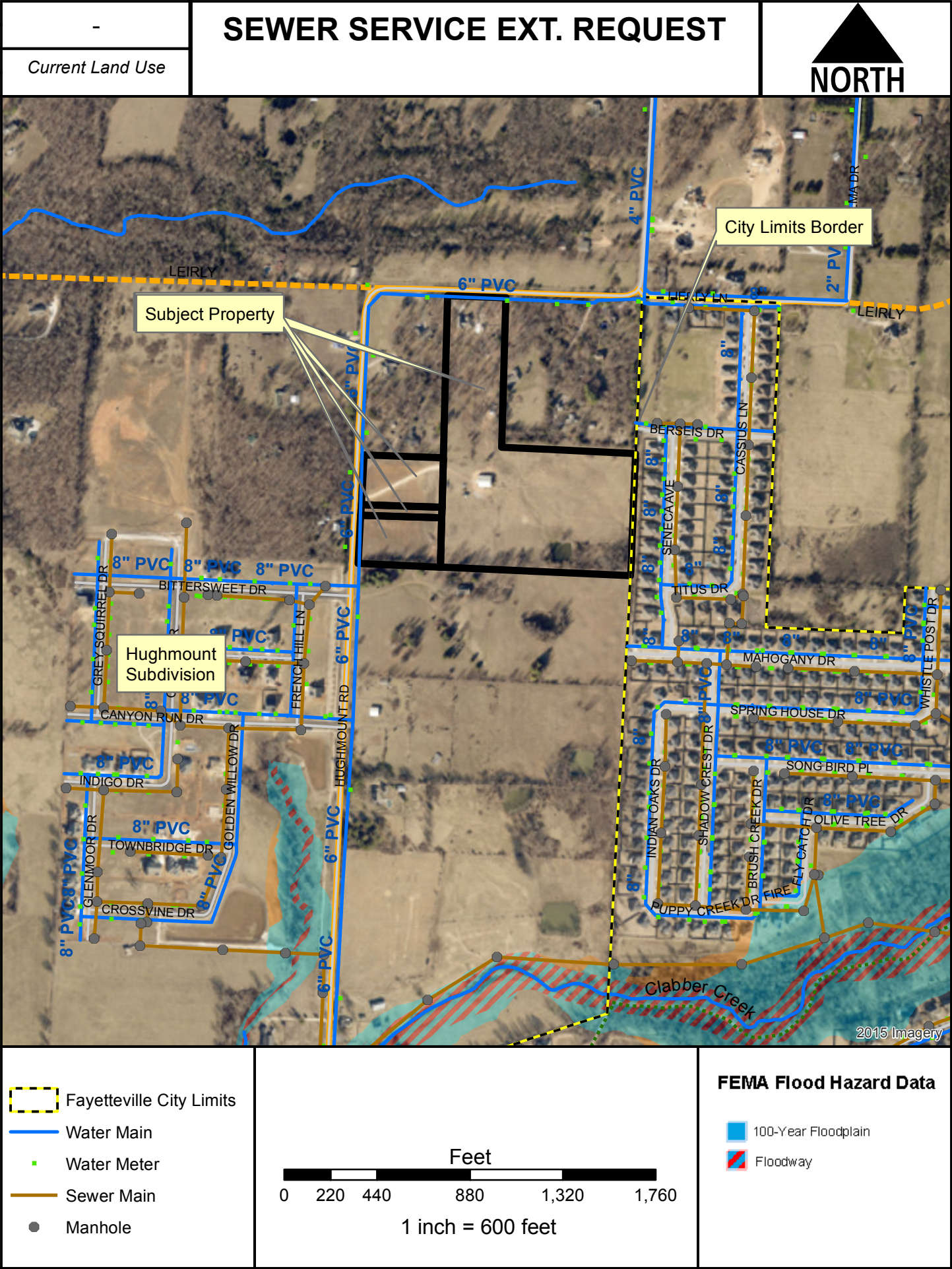
Sewer Extensions Outside the City. Except for facilities needed to serve property within the city's limits, such as major transmission lines and pump stations to deliver sewage to disposal sites, and except through contractual arrangements with other municipal corporations, the city's sewerage system shall not be extended outside the city's corporate limits except on the express approval of the City Council.

(Code 1965, §21-17; Ord. No. 1762, 9-9-70; Ord. No. 2896, 2-15-83; Code 1991, §51.113)





Legend - Planning Area - Fayetteville City Limits - Trail (Proposed) - Building Footprint	Feet 0 112.5 225 450 675 900 1 inch = 300 feet	RSF-4
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City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0201

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: C. 3

UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT:

A RESOLUTION TO APPROVE AN AGREEMENT WITH THE UNIVERSITY OF ARKANSAS TO ACCEPT WASTEWATER FROM THE UNIVERSITY'S SOUTHWEST EXPERIMENTAL FAST OXIDE REACTOR FACILITY INTO THE CITY'S SANITARY SEWER SYSTEM FOR TREATMENT

WHEREAS, the University of Arkansas owns the Southwest Experimental Fast Oxide Reactor (SEFOR) facility in Washington County; and

WHEREAS, during the process of decommissioning, dismantling and cleaning up the SEFOR facility, water containing small amounts of radioactive material and asbestos has accumulated in the basement of the facility; and

WHEREAS, in 2011, the City first agreed to accept and treat accumulated water from the facility and the University wishes to dispose of water that has accumulated since that time; and

WHEREAS, the wastewater has been certified by the Arkansas Department of Health as being unrestricted for proper release or disposal.

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 approves an agreement with the University of Arkansas to accept wastewater containing low levels of radioactive material and asbestos from the University's SEFOR facility into the City's sanitary sewer system for treatment.

City of Fayetteville Staff Review Form

2017-0201

Legistar File ID

5/2/2017

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

Tim Nyander

4/11/2017

Utilities Director /
Utilities Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A RESOLUTION APPROVING AN AGREEMENT WITH THE UNIVERSITY OF ARKANSAS TO ALLOW THE ACCEPTANCE OF WASTEWATER FROM THE SEFOR FACILITY INTO THE FAYETTEVILLE SANITARY SEWER SYSTEM.

Budget Impact:

N/A

N/A

Account Number

Fund

N/A

N/A

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

Item Cost \$ -

Budget Adjustment Attached? NA

Budget Adjustment \$ -

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Water & Sewer Committee

FROM: Tim Nyander, Utilities Director

DATE: April 11, 2017

SUBJECT: Resolution Approving an Agreement with the University of Arkansas Regarding Acceptance of Wastewater from the SEFOR Facility

RECOMMENDATION:

City Administration recommends a Resolution approving an agreement with the University of Arkansas regarding acceptance of wastewater from the SEFOR facility.

BACKGROUND:

The University of Arkansas owns the facility known as the Southwest Experimental Fast Oxide Reactor (SEFOR) in Washington County. In 2011, City of Fayetteville accepted water that had accumulated in the basement rooms because of roof leaks during Phase 1, the Initial Site Preparations and Development of Decommissioning Plan. The University has replaced one of the roofs, but water has again accumulated in the basements. To move forward with Phase 2, Demolition of the Operations Support Building and the Reactor Support Facility, the University needs to remove and properly dispose of the water that has accumulated in the basements. This water contains minute amounts of metals and radioactive material, and must thus be disposed of within specific federal and state guidelines. There will also be a small amount of water from asbestos abatement that will be treated for disposal. A wastewater treatment facility is the optimum disposal method.

DISCUSSION:

Under this agreement, the City will accept the water pumped out of the basement rooms of the University of Arkansas' SEFOR facility and the treated asbestos abatement water into our wastewater collection system. The water will be discharged by a hauler contracted by the University into the collection system via a manhole on University of Arkansas property on South Razorback Road. The discharge will be time phased to allow City wastewater treatment staff to track plant operations during the process. The wastewater has been tested by multiple laboratories, and meets all discharge requirements for being discharged into a wastewater system. The Arkansas Department of Health, who has primacy in Arkansas over radioactive materials, has approved the discharge of this water into our wastewater facilities (letter attached).

BUDGET/STAFF IMPACT:

None. The University will be charged based on the volume of wastewater discharged.

ATTACHMENTS:

Staff Review Form

Agreement

Letter from Arkansas Department of Health

AGREEMENT TO AUTHORIZE THE UNIVERSITY OF ARKANSAS TO USE THE FAYETTEVILLE SEWER SYSTEM TO DISPOSE OF SEFOR'S POLLUTED WATER

This agreement is entered into between the Board of Trustees of the University of Arkansas, acting for the University of Arkansas, Fayetteville (hereinafter "University") and the City of Fayetteville (hereinafter "Fayetteville") to authorize the University to use Fayetteville's sewer system including facilities to dispose of an amount not to exceed 100,000 gallons of water that has accumulated at the University's Southwest Experimental Fast Oxide Reactor (SEFOR) site that has become slightly polluted with very low levels of radioactivity and some with a small amount of asbestos.

The University of Arkansas agrees to:

1. Properly collect all such polluted water from its SEFOR site and transport it to an agreed location on the University of Arkansas campus and deposit it into Fayetteville's sanitary sewer system under supervision of Fayetteville Wastewater personnel.
2. The University of Arkansas agrees that prior to transporting any such water that has been contaminated with asbestos, it shall filter such water to remove all asbestos down to a 1 micron level and properly and legally dispose of such filtered asbestos. This properly filtered water may then be disposed of pursuant to the procedures in paragraph 1.
3. The University of Arkansas acknowledges that the City of Fayetteville does not have the capacity to treat or reduce the radioactivity in SEFOR's water or the one micron level of asbestos contamination which could remain in SEFOR's water and acknowledges the very low level of radioactivity and asbestos within the transported SEFOR water remains, to the extent permitted by law, the responsibility of the University rather than Fayetteville.

The City of Fayetteville agrees to:

1. Allow the University of Arkansas to utilize its sanitary sewer system from a location on the University of Arkansas campus to dispose of

SEFOR's water, as described above, even though such water contains very low levels of radioactivity and asbestos.

2. The City of Fayetteville agrees to allow the University of Arkansas to place such properly filtered water within the sanitary sewer system to flow to the wastewater plant so that the radioactive and asbestos particles will be combined with other wastewater before being released.

IN AGREEMENT with all the terms and conditions stated above, the Board of Trustees of the University of Arkansas acting for the University of Arkansas, Fayetteville and the City of Fayetteville have authorized their representatives to sign their names below on this ____ day of April, 2017.

**BOARD OF TRUSTEES OF THE
UNIVERSITY OF ARKANSAS,
Acting for the
UNIVERSITY OF ARKANSAS,
FAYETTEVILLE**

By: _____

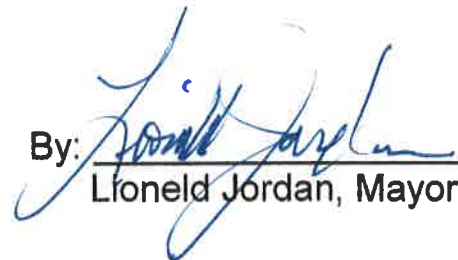


Timothy J. O'Donnell
VICE CHANCELLOR FOR
FINANCE & ADMINISTRATION

Name and Title

**CITY OF
FAYETTEVILLE, ARKANSAS**

By: _____



Lioneld Jordan, Mayor

Attest: _____

Sondra E. Smith, City Clerk



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Nathaniel Smith, MD, MPH, Director and State Health Officer

March 14, 2017

Michael R. Johnson, PE, F.ASCE, F.SAME
Associate Vice Chancellor for Facilities
University of Arkansas
521 South Razorback Road
Fayetteville, Arkansas 72701

RE: Tritium Water Samples V1-001 & V2-001

Dear Mr. Johnson,

The Department has received the above samples on February 28, 2017 for radiochemical analysis. These results are comparable with the results from Gel Laboratories as identified in their report dated February 22, 2017. These results are below the concentration limits for Tritium specified in RH-902 of the ASBH *Rules and Regulations for Control of Sources of Ionizing Radiation*.

Therefore, the contained water in the underground vaults is considered to be unrestricted for proper release or disposal.

We look forward to working with the University in completion of this decommissioning project.

If you have any questions or need further assistance with your radiation safety activities, please contact this office at 501-661-2173.

Sincerely,

Jared W. Thompson, Program Manager
Radioactive Materials Program

cc: Dean M. Wheeler, Project Director
SEFOR

Alberta Hires, Arkansas Department of Environmental Quality



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0028

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 5

AMEND § 51.146 BACKFLOW PREVENTION:

AN ORDINANCE TO AMEND § 51.146 **BACKFLOW PREVENTION** OF THE FAYETTEVILLE CODE TO MORE CLOSELY CONFORM TO THE LATEST AMERICAN WATER WORKS ASSOCIATION AND ARKANSAS STATE PLUMBING CODE

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends § 51.146 (B) (6) *Air Gap* by repealing it and enacting a new (6) *Air Gap* as shown below

“(6) *Air Gap (AG)* means a physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. The air gap shall be at least 2 ½ times the diameter of the supply pipe. In no case shall it be less than 1 inch.”

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends § 51.146 (C) Handbook by repealing the end of the sentence “from time to time hereafter be amended” and enacting a new end of the sentence: “and may be revised as needed.”

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby repeals § 51.146 (D) (1) and (2) and enacts the following replacement (1) and (2)

“(1) The requirements and standards set forth herein shall apply to residential establishments having in-ground irrigation systems, fire suppression systems, and/or pools and to industrial and commercial developments and buildings. These establishments, developments and buildings shall follow the requirements of the *Arkansas State Plumbing Code* and the *City of Fayetteville's CrossConnection Control Program: Handbook of Policies and Procedures*.

(2) Single-family residential dwelling units, unless involved in commercial operations, are exempt from the requirements of this section except for residential dwelling units having in-ground irrigation systems, fire suppression systems, pools or otherwise have a plumbing system that presents an unreasonable danger of contaminating the public water supply under the purview of the *Arkansas State Plumbing Code* or the *City of Fayetteville Cross Connection Control Program: Handbook of Policies and Procedures*.”

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby repeals all use of “Water

and Sewer Division” and enacts the replacement “Utilities Department” throughout § 51.146

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby amends § 51.146 (F) by repealing subsection (b), relettering all following subsections and repealing the current subsection (e) and enacting the following relettered subsection (d) as follows:

“(e) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete crossconnection survey, the public water system shall be protected by the installation of an a University of Southern California (USC) approved reduced-pressure principle backflow prevention assembly (RP) or an air gap at the service connection. These premises will be considered High Hazard.”

Section 6. That the City Council of the City of Fayetteville, Arkansas hereby repeals § 51.146 (K) Testing and maintenance and enacts a replacement (K) as follows:

“Testing and maintenance. The customer or the contractor responsible for the installation of the backflow prevention assembly will notify the Water and Sewer Division Utilities Department immediately after installation of the assembly so that it can be tested and inspected for inspection. The Water and Sewer Division will inspect and test. The customer or contractor shall have the backflow prevention assembly tested by a state certified testing technician within ten days of the installation date, and shall provide the Utilities Department with the proper test forms. and annually thereafter. The Customer shall be responsible for all testing annually thereafter. In instances where the Water and Sewer Division Utilities Department, the City of Fayetteville, and/or the plumbing inspector deems the hazard to be great enough, testing may be required at more frequent intervals. All costs of testing shall be paid by the customer. Any repairs required as a result of inspections or testing shall be arranged for and paid by the customer through private contract with a state certified assembly repair technician. Records of inspections, testing, and/or repairs to backflow preventers shall be kept by the Water & Sewer Department Utilities Department and/or the city and made available to the state health department upon request. All existing customer premises shall be in compliance with this section in accordance with the notification by the water utility.”

Section 6. That the City Council of the City of Fayetteville, Arkansas hereby repeals the last sentence in § 51.146 (L) *New Construction*.

City of Fayetteville Staff Review Form

2017-0028

Legistar File ID

5/2/2017

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

Tim Nyander

4/5/2017

Utilities Director /
Utilities Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

AN ORDINANCE TO AMEND § 51.146 BACKFLOW PREVENTION TO MORE CLOSELY CONFORM TO THE LATEST AWWA AND ARKANSAS STATE PLUMBING CODE STANDARDS

Budget Impact:

N/A

N/A

Account Number

Fund

N/A

N/A

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

Item Cost \$ -

Budget Adjustment Attached? NA

Budget Adjustment \$ -

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Water and Sewer Committee

FROM: Tim Nyander, Utilities Director *TN*

DATE: April 14, 2017

SUBJECT: An Ordinance to amend § 51.146 Backflow Prevention to more closely conform to the latest AWWA and Arkansas State Plumbing Code standards.

RECOMMENDATION:

Staff recommends approval of an Ordinance to amend § 51.146 Backflow Prevention to more closely conform to the latest AWWA and Arkansas State Plumbing Code standards.

BACKGROUND:

The Backflow Prevention section has not been revised in a number of years. The American Water Works Association (AWWA) and Arkansas State Plumbing Code (ASPC) have both been revised in recent years, and the City of Fayetteville Backflow and Cross Connection standards need to be amended to reflect those revisions and continue to protect the City of Fayetteville water supply.

DISCUSSION:

It is requested that the Backflow Prevention code be amended in the following ways:

- Definition of "Air gap" amended to reflect the size of air gap needed for compliance.
- Applicability Section amended to add residential, in-ground irrigation systems, fire suppression systems, and pools.
- Added to Section (D)(1) regarding residential, commercial and industrial applicability.
- Added to Section (D)(2) regarding single-family residential applicability.
- Deleted section (F)(4)(b).
- Section (F)(4)(e) amended to include "University of Southern California (USC) approved." Also, added "These premises will be considered High Hazard."
- Amended Section K to include "state" certified testing and "The customer shall be responsible for all testing annually thereafter."
- "Water & Sewer Division" changed to "Utilities Department" all throughout.

As it is written now, the code states that the City of Fayetteville tests all backflow assemblies annually, which is not the case. The code should state that the City of Fayetteville inspects the assemblies after installation, but that the customer or contractor shall be responsible for having the backflow assemblies tested after installation and annually.

BUDGET/STAFF IMPACT:

None.

ATTACHMENTS:

Staff Review Form

§ 51.146 Backflow Prevention with Markup

WT

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

51.146 Backflow Prevention

(A) *Purpose.* The purpose of this section is as follows:

- (1) To protect the public water supply of the city from the possibility of contamination or pollution from backflow into the public water system.
- (2) To promote the elimination or control of cross connections, actual or potential, between the customer's potable water system(s) and non-potable water systems, plumbing fixtures, and industrial piping systems.
- (3) To contain at the service connection any actual or potential pollution or contamination within the customer's premises.
- (4) To provide a continuous, systematic, and effective program of cross-connection control.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) *Backflow* shall mean a hydraulic condition, caused by a difference in pressures, in which non-potable water or other fluids flow into a potable water system.
- (2) *Backflow preventer (BFP)* shall mean a testable assembly to prevent backflow.
- (3) *Cross connection* means any actual or potential connection between the public water system and a source of contamination or pollution.
- (4) *Double-check valve assembly (DC)* means a complete assembly meeting AWWA Standard C510 and the requirements of the *Arkansas State Plumbing Code* consisting of two internally loaded, independently operating check valves between two tightly closing resilient-seated shutoff valves, with four properly placed resilient seated test cocks.
- (5) *Reduced-pressure principle backflow prevention assembly (RP)* means a complete assembly meeting AWWA Standard C511 and the requirements of the *Arkansas State Plumbing Code* consisting of a hydraulically operating, mechanically independent differential relief valve located between two independently operating, internally loaded check valves that are located between two tightly closing resilient seated shutoff valves, with four properly placed resilient-seated test cocks.
- (6) *Air gap (AG)* means a physical separation between ~~two piping systems~~ the free-flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. The air gap shall be at least 2 ½ times the diameter of the supply pipe. In no case shall it be less than 1 inch.

(C) *Handbook of Policies and Procedures.* There is hereby adopted by the City Council, by reference thereto, the provisions set forth in the *City of Fayetteville Cross-Connection Control Program: Handbook of Policies and Procedures*, as **and may be revised as needed**, ~~from time to time hereafter be amended~~.

(D) *Applicability.*

- (1) The requirements and standards set forth herein shall apply to **residential establishments having in-ground irrigation systems, fire suppression systems, and/or pools and to industrial and commercial developments and buildings. These establishments, developments and buildings shall follow the requirements of the Arkansas State Plumbing Code and the City of Fayetteville's Cross-Connection Control Program: Handbook of Policies and Procedures.**
- (2) Single-family residential dwelling units, unless involved in commercial operations, are exempt from the requirements of this section **except for residential dwelling units having in-ground irrigation systems, fire suppression systems, pools or otherwise have a plumbing system that presents an unreasonable danger of contaminating the public water supply** under the purview of the *Arkansas State Plumbing Code* or the *City of Fayetteville Cross-Connection Control Program: Handbook of Policies and Procedures*.
- (3) These standards are supplemental to and do not supersede or modify the *Arkansas State Plumbing Code (ASPC)* and its latest revisions under which the city operates.

(E) *Administration.* The ~~Water and Sewer Division~~ **Utilities Department** of the city shall be responsible for administration of this section and evaluating the hazards inherent in supplying a customer's water system.

(F) *Backflow prevention.*

- (1) *Evaluation of hazards.* ~~The Water and Sewer Division~~ **Utilities Department** shall determine whether solid, liquid, or gaseous pollutants or contaminants are, or may be, handled and/or used on the customer's premises in such a manner as to possibly contaminate the public water system.
- (2) *Customer installation of BFP.* When a hazard or potential hazard to the public water system is found on the customer's premises, the customer shall be required to install an approved backflow prevention assembly (BFP), or an air gap, at each public water service connection to the premises.
- (3) *Type of BFP.*
 - (a) The type of BFP required shall depend on the degree of hazard involved.
 - (b) Any backflow prevention assembly required herein shall be an approved type which is in compliance with requirements of the *City of Fayetteville's Cross-Connection Control Program: Handbook of Policies and Procedures*.
- (4) *Degree of hazard.* The degree of hazard shall be as determined as set forth in AWWA M-14 manual or as described below:
 - (a) In the case of any premises where there is an auxiliary water supply connected to the plumbing system, the public water system shall be protected from the

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

possibility of backflow by a reduced- pressure principle backflow prevention assembly (RP) at the service connection.

- (b) ~~In the case of any premises where substances are handled and/or used that are objectionable, but not hazardous to human health, and the likelihood exists of it being introduced into the public water system by virtue of a backflow occurrence, the public water system shall be protected by an air gap or approved double check valve assembly (DC).~~
- (c) In the case of any premises where there is any material hazardous to human health, which is handled and/or used in such a fashion as to create an actual or potential threat to the public water system by virtue of a backflow occurrence, the public water system shall be protected by an air gap or an approved reduced - pressure principle backflow prevention assembly (RP).
- (d) In the case of any premises where there are unprotected cross-connections, either actual or potential, the public water system shall be protected by an approved reduced-pressure principle backflow prevention assembly (RP) or an air gap at the service connection.
- (e) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey, the public water system shall be protected by the installation of an **a University of Southern California (USC)** approved reduced-pressure principle backflow prevention assembly (RP) or an air gap at the service connection. **These premises will be considered High Hazard.**
- (G) *Noncompliance/emergencies.*
- (1) *Violation/notice.* Upon discovery of any protective device required by this section which has not been installed, or is defective, or has been removed, or altered, or relocated, or bypassed, (except emergency situations), written notice shall be given to the customer. Such notice shall set forth the violation, the remedy required, and the time frame in which the violation shall be remedied.
- (2) *Water service discontinued.*
- (a) If violations are not corrected by the date and time as stated on the notice, the water supply will be discontinued by the ~~Water and Sewer Division~~ **Utilities Department**.
- (b) Discontinued water service shall not be resumed until conditions at the customer's premises have been abated or corrected to the satisfaction of the ~~Water and Sewer Division~~ **Utilities Department**.
- (3) *No water service connection.* No water service connection shall be installed on the premises of any customer unless the public potable water system is protected as required by this section.
- (4) *Emergency.* In emergency situations when the public potable water supply is being contaminated or is in immediate danger of contamination, the water service shall be discontinued by the ~~water and sewer division~~ **Utilities Department** immediately without notice.
- (H) *Right of entry.* For the purpose of making any inspections or discharging the duties imposed by this section, the ~~Water and Sewer Division~~ **Utilities Department** of the city, the state health department, and/or plumbing inspector shall have the right to enter upon the premises of any customer. Each customer, as a condition of the continued delivery to his premises of water from the public water supply, shall be considered as having stated his consent to the entry upon his premises by the ~~Water and Sewer Division~~ **Utilities Department** of the city, the state health department, and/or plumbing inspector for the purpose stated herein.
- (I) *Ownership.* Backflow prevention assemblies required by this section will be installed downstream of the water meter and are owned by, and are the responsibility of the customer of the water utility.
- (J) *Installation and costs.* Customers of the city water utility requiring backflow prevention assemblies shall pay all costs associated with installation of the appropriate size and type of backflow preventer under private contract. Backflow prevention assemblies shall be installed in accordance with the requirements of the city's *Cross-Connection Control Program: Handbook of Policies and Procedures*. ~~The Water and Sewer Division~~ **Utilities Department** shall review and approve all plans for placement of backflow preventers prior to installation. Backflow prevention assemblies not installed in accordance with the requirements of the city's *Cross-Connection Control Program: Handbook of Policies and Procedures* shall be corrected at the customer's expense.
- (K) *Testing and maintenance.* The customer or the contractor responsible for the installation of the backflow prevention assembly will notify the ~~Water and Sewer Division~~ **Utilities Department** immediately after installation of the assembly ~~so that it can be tested and inspected for inspection. The Water and Sewer Division will inspect and test. The customer or contractor shall have the backflow prevention assembly tested by a state certified testing technician within ten days of the installation date, and shall provide the Utilities Department with the proper test forms, and annually thereafter. The Customer shall be responsible for all testing annually thereafter.~~ In instances where the ~~Water and Sewer Division~~ **Utilities Department**, the City of Fayetteville, and/or the plumbing inspector deems the hazard to be great enough, testing may be required at more frequent intervals. All costs of testing shall be paid by the customer. Any repairs required as a result of inspections or testing shall be arranged for and paid by the customer through private contract with a **state** certified assembly repair technician. Records of inspections, testing, and/or repairs to backflow preventers shall be kept by the ~~Water & Sewer Department~~ **Utilities Department** and/or the city and made available to the state health department upon request. **All existing customer premises shall be in compliance with this section in accordance with the notification by the water utility.**
- (L) *New construction.* All new construction within the city shall be effected upon the passage of this section. ~~All existing customer premises shall be in compliance with this section in accordance with the notification by the water utility.~~
- (M) *Thermal expansion.* It is the responsibility of the customer to eliminate possible hazards caused by thermal expansion if a closed system has been created by the installation of a backflow assembly.



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0205

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 6

RZN 17-5728 (1640 S. HANSHEW RD./WM. LINDSEY):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 17-5728 FOR APPROXIMATELY 1.25 ACRES LOCATED AT 1640 S. HANSHEW ROAD FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE TO C-2, THOROUGHFARE 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 property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from RSF-4, Residential Single-Family, 4 Units per Acre to C-2, Thoroughfare Commercial.

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.

City of Fayetteville Staff Review Form

2017-0205

Legistar File ID

5/2/2017

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

Andrew Garner

4/14/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 17-5728: Rezone (1640 S. HANSHEW RD./WM. LINDSEY, 596): Submitted by WILLIAM LINDSEY for properties at 1640 S. HANSHEW RD. The properties are zoned RSF-4, RESIDENTIAL SINGLE FAMILY and contain approximately 1.25 acres. The request is to rezone the properties to C-2, COMMERCIAL THOROUGHFARE.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF MAY 2, 2017

TO: Mayor, Fayetteville City Council
THRU: Andrew Garner, Planning Director
FROM: Jonathan Curth, Senior Planner
DATE: April 14, 2017

SUBJECT: **RZN 17-5728: Rezone (1640 S. HANSHEW RD./WM. LINDSEY, 596):** Submitted by WILLIAM LINDSEY for properties at 1640 S. HANSHEW RD. The properties are zoned RSF-4, RESIDENTIAL SINGLE FAMILY and contain approximately 1.25 acres. The request is to rezone the properties to C-2, COMMERCIAL THOROUGHFARE.

RECOMMENDATION:

The City Planning staff and Planning Commission recommend approval of an ordinance to rezone the subject property to C-2, Thoroughfare Commercial, as shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The proposed rezoning request is for two parcels, totaling approximately 1.25 acres to the east of Hanshaw Road, just south of Martin Luther King Boulevard/Highway 62. The site is zoned RSF-4, Residential Single Family, 4 Units per Acre, and was annexed in to the City of Fayetteville in August of 1967 but never developed. Currently, and although zoned residentially, the property is being used in association with the property owner's business, Unique Creations by Billy, Inc. on the adjacent parcel to the north, and has been since 2011. In December of 2016, in response to a complaint, City staff identified several zoning violations on the subject property and its use related to the property owner's business to the north (included in the attached Planning Commission Staff Report). The owner expressed the desire to address these violations and to allow for a future expansion of his business by rezoning his property.

Request: The request is to rezone the subject property from RSF-4, Residential Single-family, 4 Units per Acre, to C-2, Thoroughfare Commercial, in order to expand an existing automotive business southward.

Land Use Compatibility: Given the existing land uses in the subject property's vicinity it is difficult to assess or uniformly declare compatibility of the proposed rezoning. On the one hand, the properties to the north and east are commercially-zoned with existing vehicle-oriented uses that would be consistent with the commercial activities permitted under the C-2 zoning district. On the other hand, to the south and west are properties that are largely undeveloped apart from a few large-lot residential dwellings. Given this, and with due consideration for the City Neighborhood Area land use designation in the area and recent rezonings to the west at the intersection of Martin Luther King Boulevard and Ruppel Road, it is likely that the intervening undeveloped land

will ultimately be rezoned and developed in to more intense uses more commonly found along corridors with comparable traffic volume.

Land Use Plan Analysis: The proposed zoning is generally consistent with the Future Land Use Map (FLUM) of the City Plan 2030, but not with goals laid out in City Plan 2030 itself. Among the goals of City Plan 2030 and the City Neighborhood Area designation are the encouragement of mixed-used development and development in a traditional town form. Rezoning the subject property to C-2 will not likely accomplish either of these objectives, as the C-2 zoning requires a suburban pattern of development, and does not permit most classifications of residential housing. However, extending the existing C-2 zoning designation southward will allow full utilization of property that has been used in association with the neighboring commercial business for several years. Additionally, this will generally mirror the depth of the C-2 zoning to the east that has been used as an auto salvage yard for many years.

The proposed rezoning to C-2 is needed as an early step to begin addressing zoning violations that have resulted from expansion of the property owner's business southward in to residentially-zoned parcels from the commercially-zoned property in the north. The property owner currently operates a vehicle repair and restoration business, and has an interest in being able to expand the business to his properties to the south.

DISCUSSION:

This item was discussed at the March 27, 2017 Planning Commission meeting. At that meeting several members of the public spoke in opposition to the rezoning. Primary items of concern were that the requested rezoning may allow other zoning violations to be resolved and that Hanshew Road is not currently adequate for existing traffic, much less increased intensity or activity. The Planning Commission discussed the value of businesses like the applicant's for City residents, but tabled the item pending more detailed information about the current zoning violations.

For the April 10, 2017 meeting, staff provided a detailed document of all current zoning violations, and possible means of resolution. Following public comment by a resident restating concern for the adequacy of Hanshew Road along with numerous residents and customers of the applicant attesting to his character and importance of his business, the Planning Commission forwarded the proposal to City Council with a recommendation for approval by a vote of 9-0-0.

BUDGET/STAFF IMPACT:

N/A

Attachments:

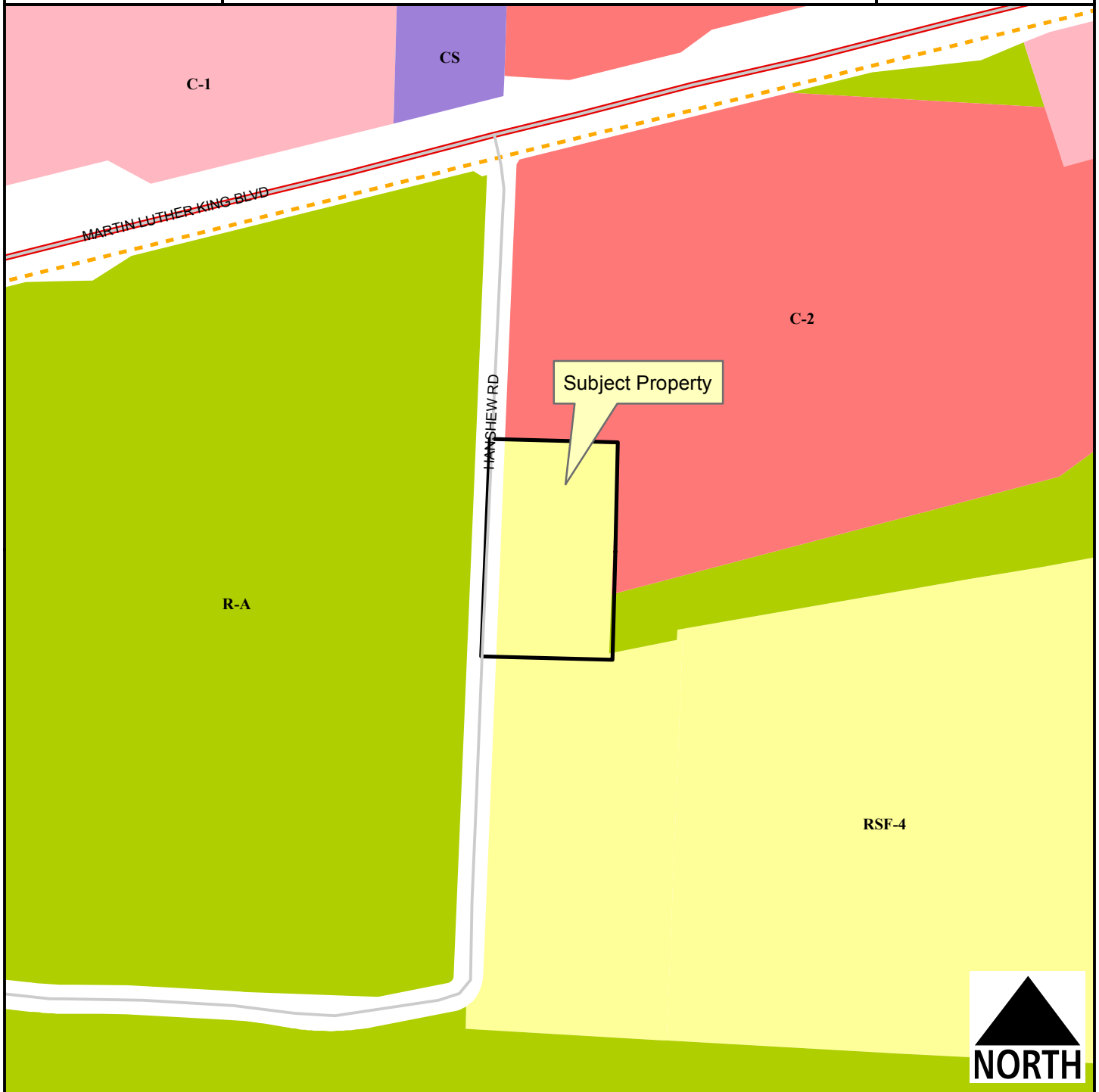
- Exhibit A
- Exhibit B
- Application
- Planning Commission Staff Report

RZN 17-5728

Close Up View

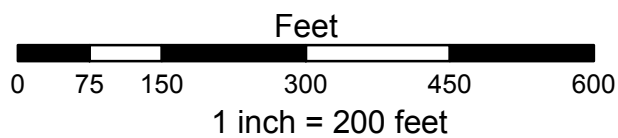
WM. LINDSEY

17-5728
EXHIBIT 'A'



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Building Footprint



- Residential-Agricultural
- RSF-4
- C-1
- C-2
- Community Services

17-5728
EXHIBIT 'B'

PARCEL #765-14810-000

A PART OF THE FRACTIONAL NORTHWEST QUARTER OF THE FRACTIONAL SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT WHICH IS N02°18'40"E 662.01' FROM THE SOUTHWEST CORNER OF SAID FRACIONAL FORTY ACRE TRACT, AND RUNNING THENCE NO2°18'40"E 150.79' TO A SET NAIL, THENCH S88°28'17"E 176.43' TO A FOUND IRON PIN, THENCE S01°28'20"W 150.78' TO A SET IRON PIN, THENCE N88°28'17"W 178.64' TO THE POINT OF BEGINNING. CONTAINING 0.62 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY, IF ANY.

PARCEL #765-14788-000

A PART OF THE FRACTIONAL NORTHWEST QUARTER OF THE FRACTIONAL SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT WHICH IS N02°18'40"E 513.17' FROM THE SOUTHWEST CORNER OF SAID FRACIONAL FORTY ACRE TRACT, AND RUNNING THENCE NO2°18'40"E 148.84', THENCH S88°28'17"E 178.64' TO A SET IRON PIN, THENCE S01°28'20"W 148.82' TO A SET IRON PIN, THENCE N88°28'17"W 180.81' TO THE POINT OF BEGINNING. CONTAINING 0.61 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY, IF ANY.

CITY OF FAYETTEVILLE, ARKANSAS

REZONING

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Case / Appeal Number:

Public Hearing Date:

5728

FEE: \$325.00

Sign Fee: \$5.00

S-T-R:

PP#:

Zone:

596

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):

Name:

William Lindsey

Address:

1640 S. Hanshew Rd.
Fayetteville, AR 72701

E-mail:

uniquecreationsbybilly@gmail.com

Phone:

(479) 466-9181 cell
(479) 521-8430 work

Fax:

(479) 521-8430 work

Representative (engineer, surveyor, realtor, etc.):

Name:

Address:

E-mail:

Phone:

Fax:

Site Address / Location: 1640 S. Hanshew Road, Fayetteville, AR 72701

Current Zoning District:

RSF-4

Requested Zoning District:

C2

Assessor's Parcel Number(s) for subject property:

765-14810-000 & 765-14788-000
1.25 Ac

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

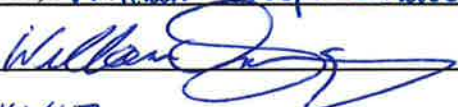
William Lindsey & City of Fayetteville

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made 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 on approval.

Name (printed): William Lindsey Date: 2/14/17
Signature: 

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):

Name (printed): <u>William Joseph Lindsey</u>	Address: <u>1640 S. Henshaw Rd.</u>
Signature: <u></u>	<u>Fayetteville, AR 72701</u>
Date: <u>2/14/17</u>	Phone: <u>(479) 466-9181</u>

Name (printed): _____	Address: _____
Signature: _____	_____
Date: _____	Phone: _____ ()

Rezoning Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
\$325.00 application fee
\$5.00 public notification sign fee
- (2) A legal description of the property to be rezoned. A survey may be required if the property description can not accurately be platted or if it is described by referring to other deeds.
- (3) CD containing a copy of the legal description in MS Word and all required submittal items should be also included on the CD in PDF format.
- (4) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

MEETING DATE: March 27, 2017 **(Updated with Planning Commission Results)**

SUBJECT: **RZN 17-5728: Rezone (1640 S. HANSHEW RD./WM. LINDSEY, 596):**
 Submitted by WILLIAM LINDSEY for properties at 1640 S. HANSHEW RD. The properties are zoned RSF-4, RESIDENTIAL SINGLE FAMILY and contain approximately 1.25 acres. The request is to rezone the properties to C-2, COMMERCIAL THOROUGHFARE.

RECOMMENDATION:

Staff recommends forwarding **RZN 17-5728** to the City Council with a recommendation of approval, based on the findings herein.

BACKGROUND:

March 27, 2017 Planning Commission Meeting: *The previous request by the applicant was to rezone the subject property to C-2, Thoroughfare Commercial, with an intention of expanding the property owner's business to the subject properties. This item was tabled at the March 27, 2017 Planning Commission meeting to give staff and the applicant to reassess existing zoning violations and outline the required steps to address the comments and concerns expressed by neighbors. The zoning violations have been detailed and are attached to this report.*

The proposed rezoning request is for two parcels, totaling approximately 1.25 acres to the east of Hanshew Road, just south of Martin Luther King Boulevard/Highway 62. The site is zoned RSF-4, Residential Single Family, 4 Units per Acre, and was annexed in to the City of Fayetteville in August of 1967 but never developed. Currently, and although zoned residentially, the property is being used in association with the property owner's business, Unique Creations by Billy, Inc. on the adjacent parcel to the north, and has been since 2011. In December of 2016, in response to a complaint, City staff identified several zoning violations (see attached) on the subject property and its use related to the property owner's business to the north. The owner expressed the desire to address these violations and to allow for a future expansion of his business by rezoning his property. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Vehicle Repair/Restoration;	C-2, Thoroughfare Commercial
South	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
East	Auto Salvage	C-2, Thoroughfare Commercial; R-A, Residential-Agricultural
West	Undeveloped	R-A, Residential-Agricultural

Request: The request is to rezone the subject property from RSF-4, Residential Single-family, 4 Units per Acre, to C-2, Thoroughfare Commercial, in order to expand an existing automotive business southward.

Public Comment from the March 27, 2017 Planning Commission meeting: Although staff only received inquiries about the rezoning prior to its public hearing, multiple residents spoke before the Planning Commission expressing frustration at the City's delay in addressing zoning violations on the property and communicating the process. Other concerns included the inadequacy of the Hanshew Road to handle increased traffic, much less the existing vehicle movements associated with the applicant's business.

Public Comment before the April 10, 2017 Planning Commission meeting: Staff was contacted and asked to consider safety concerns regarding the existing residential structure north of the property that is the subject of this rezoning.

INFRASTRUCTURE:

Streets: The subject parcels have access to Hanshew Road along their western boundary. Hanshew Road is an unimproved asphalt street, approximately 16 feet wide, with open ditches on each side. No curb/gutter, storm drainage, or sidewalks have been constructed. Any street improvements would be determined at the time of development proposal.

Water: Public water is available to the site. An existing 6-inch water main runs along the western side of Hanshew Road.

Sewer: Public sanitary sewer is available to the site. An existing 6-inch sewer main is located under Hanshew Road.

Drainage: Any additional improvements or requirements for drainage would be determined at the time of development. No portion of these parcels lie within the FEMA designated 100-yr floodplain or the HHOD. Hydric Soils have been identified on portions of these parcels and would require a wetlands determination to be provided at the time of development proposal.

Fire: The Fire Department did not express any concerns with this request.

Police: The Police Department did not express any concerns with this request.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates the properties within the proposed rezone as **City Neighborhood Area**.*

City Neighborhood 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.

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: *Land Use Compatibility:* Given the existing land uses in the subject property's vicinity it is difficult to assess or uniformly declare compatibility of the proposed rezoning. On the one hand, the properties to the north and east are commercially-zoned with existing vehicle-oriented uses that would be consistent with the commercial activities permitted under the C-2 zoning district. On the other hand, to the south and west are properties that are largely undeveloped apart from a few large-lot residential dwellings. Given this, and with due consideration for the City Neighborhood Area land use designation in the area and recent rezonings to the west at the intersection of Martin Luther King Boulevard and Ruppel Road, it is likely that the intervening undeveloped land will ultimately be rezoned and developed in to more intense uses more commonly found along corridors with comparable traffic volume.

Land Use Plan Analysis: The proposed zoning is generally consistent with the Future Land Use Map (FLUM) of the City Plan 2030, but not with goals laid out in City Plan 2030 itself. Among the goals of City Plan 2030 and the City Neighborhood Area designation are the encouragement of mixed-used development and development in a traditional town form. Rezoning the subject property to C-2 will not likely accomplish either of these objectives, as the C-2 zoning requires a suburban pattern of development, and does not permit most classifications of residential housing. However, extending the existing C-2 zoning designation southward will allow full utilization of property that has been used in association with the neighboring commercial business for several years. Additionally, this will generally mirror the depth of the C-2 zoning to the east that has been used as an auto salvage yard for many years.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed rezoning to C-2 is needed as an early step to begin addressing zoning violations that have resulted from expansion of the property owner's business southward from the commercially-zoned property to the north in to the residentially-zoned subject property. The property owner currently operates a vehicle repair and restoration business, and has an interest in being able to expand the business to his properties to the south in the future.

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

Finding: The site has access to Hanshew Road, an unimproved asphalt street, which connects northward to Martin Luther King Boulevard/Highway 62, a Principal Arterial. Given the size of the properties, the proposed rezoning is unlikely to cause an adverse increase in the amount of traffic over the existing RSF-4 zoning. Street improvements will be assessed at the time of development and depending on the scope of development, may be significant.

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: Provided the almost complete lack of permitted residential uses under the C-2 zoning district, rezoning the property from RSF-4 to C-2 would not increase the potential for density. However, a rezoning to C-2 could significantly increase the intensity of use, particularly given the range of permitted commercial activities, the allowed 75-foot building height, and a lack of bulk and area requirements. These could be marginally mitigated for by the combined 1.23 acre size of the two parcels and a property depth of less than 200 feet, but there remains the possibility of increased load on public services.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Staff recommends forwarding RZN 17-5728 to the City Council with a recommendation of approval, based on the findings discussed throughout this report.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>April 10, 2017</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Hoffman			
Second: Quinlan			
Vote: 9-0-0			
CITY COUNCIL ACTION: Required <u>YES</u>			
Date: <u>TBD</u>	☐ Approved	☐ Denied	

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - o §161.07, RSF-4, Residential Single-family, 4 Units per Acre
 - o §161.21, C-2, Thoroughfare Commercial
- Request letter
- Rezone exhibit
- Original Complaint, Current Zoning Violations and Outlined Solutions
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.07 - District RSF-4, Residential Single-Family - Four (4) 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	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet

Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	45 feet
-------------------------	---------

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.

(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. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. [5921](#), §1, 11-1-16)

161.21 - 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
Unit 44	Cluster Housing Development
Unit 45	Small scale production

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

(F) *Building Height Regulations.*

Building Height Maximum	75 feet*
-------------------------	----------

*Any building which exceeds the height of 20 feet shall be set back from a boundary line of any residential district a distance of 1 foot for each foot of height in excess of 20 feet.

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

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4727, 7-19-05; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. [5800](#), § 1(Exh. A), 10-6-15; Ord. No. [5921](#), §1, 11-1-16)

CUP 17-5728

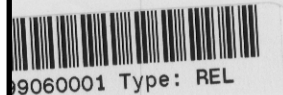
Request Letter

Rezoning Proposal

My name is William Lindsey, owner of 1640 S. Hanshew Road, which is located in Fayetteville. I am requesting a zoning change on two of the three parcels within this property. They are parcel number 765-14810-000 and 765-14788-000. They are currently zoned as RSF4 and I am requesting that they be rezoned to commercial C2 in efforts to comply with city ordinances pertaining to the number of vehicles allowed on RSF4 verses C2.

The parcels are adjacent to existing commercially zoned properties. I'd like to utilize these parcels to manage the vehicle overflow from my automotive repair business which is zoned C2 and one of the adjacent properties (1620 S. Hanshew Rd).

CUP 17-5734
Rezone Exhibit



2014 at 11:49:52 AM
Page 1 of 1
Washington County, AR
Kyle Sylvester Circuit Clerk
File 2014-00030675

SW CORNER
FRAC. NW 1/4, FRAC. SW 1/4
SECTION 19
T-16-N, R-30-W

SURVEYING NOTES

STATE RECORDING NUMBER:
500-16N-30W-019-340-72-1532

COMPLETED FIELD WORK:
MARCH 29, 2012

BASIS OF BEARING:
ARKANSAS STATE PLANE, NORTH ZONE, NAD83.

REFERENCE DOCUMENTS:

1. WARRANTY DEED FILED IN DEED BOOK 2011 AT PAGE 18667.
2. WARRANTY DEED FILED IN DEED BOOK 773 AT PAGE 115.
3. WARRANTY DEED FILED IN DEED BOOK 89 AT PAGE 488.
4. SURVEY PLAT FILED IN PLAT BOOK 2007 AT PAGE 38270.

FLOOD CERTIFICATION:

NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS.

PANEL #05143C0215F DATED 05/16/2008)

**Approximately 1.25 acres
proposed for rezoning to C-2,
Thoroughfare Commercial**

ADJACENT LAND OWNERS:

1. MOORMAN, BARBARA D REV TRUST
3450 W FINGER RD
FAYETTEVILLE, AR 72701
PARCEL #765-14827-000
ZONED: R-A

2. DUGGAR, JAMES R & MICHELLE A
REVOCABLE LIVING TRUST
548 ARBOR ACRES AVE
SPRINGDALE, AR 72762
PARCEL #765-16272-001
ZONED: R-A

3. LINDSEY, WILLIAM JOSEPH
1620 S HANSHEW RD
FAYETTEVILLE, AR 72701
PARCEL #765-14811-001
ZONED: C-2

4. HIGHWAY 62 AUTO SALVAGE & SALES, INC
3595 W MARTIN LUTHER KING BLVD
FAYETTEVILLE, AR 72704
PARCEL #765-22968-000
ZONED: C-2

5. COBB BROTHERS &
WESTPHAL PROPERTIES, LLC
109 N 6TH ST
FORT SMITH, AR 72901
PARCEL #765-22968-000
ZONED: RSF-4

CERTIFICATE OF OWNERSHIP & DEDICATION:
WE, THE UNDERSIGNED OWNERS, REPRESENTING ONE HUNDRED PERCENT (100%) OWNERSHIP OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE FOR PUBLIC OWNERSHIP, ALL STREETS AND ALLEYS AS SHOWN ON THIS PLAT FOR PUBLIC BENEFIT AS PRESCRIBED BY LAW. THE OWNERS ALSO DEDICATE TO WASHINGTON COUNTY AND TO THE PUBLIC UTILITY COMPANIES (INCLUDING ANY CABLE TELEVISION COMPANY HOLDING A FRANCHISE GRANTED BY WASHINGTON COUNTY) THE EASEMENTS AS SHOWN ON THIS PLAT FOR THE PURPOSE OF INSTALLATION OF NEW FACILITIES AND THE REPAIR OF EXISTING FACILITIES. ALSO ESTABLISHED HEREBY IS THE RIGHT OF INGRESS AND EGRESS TO SAID EASEMENTS, THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHIN SAID EASEMENTS.

11/5/14
DATE

OWNER

SW CORNER
FRAC. NW 1/4, FRAC. SW 1/4
SECTION 19
T-16-N, R-30-W
P.O.B. TRACT 1

STATE PLANE COORD.
FOUND IRON PIN
N: 630711.9588
E: 657922.1113

STATE PLANE COORD.
FOUND IRON PIN
N: 630704.7219
E: 658198.3878

CURRENT ZONING AND BUILDING SETBACKS:

RSF-4
FRONT: 15'
SIDE: 5'
REAR: 15'

APPROVED FOR RECORDATION
FAYETTEVILLE PLANNING
ADMINISTRATION

By: *[Signature]* Date 11/5/14

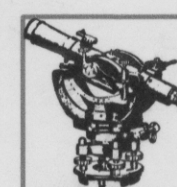
OWNER / DEVELOPER
LINDSEY, WILLIAM JOSEPH
1620 S HANSHEW RD
FAYETTEVILLE, AR 72701
PARCEL #765-14813-000
PARCEL #765-14788-000
PARCEL #765-14810-000
ZONED: RSF-4
CITY PLAT PAGE: 596

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT
TO THE BEST OF MY KNOWLEDGE AND BELIEF
ON THIS THE 29TH DAY OF MARCH, 2012.



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

0' 60' 120' 180'
1 inch = 60 feet



BLEW & ASSOCIATES
PROFESSIONAL LAND SURVEYORS
524 W. SYCAMORE ST. SUITE 4
FAYETTEVILLE, AR 72703
PH. (479) 443-4506 FAX (479) 582-1883
http://www.blewinc.com

FOR THE USE AND BENEFIT OF

WILLIAM LINDSEY

JOB # 12-151

DRAWN BY SCOTT

LOCATION: SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST

SURVEYED BY WES

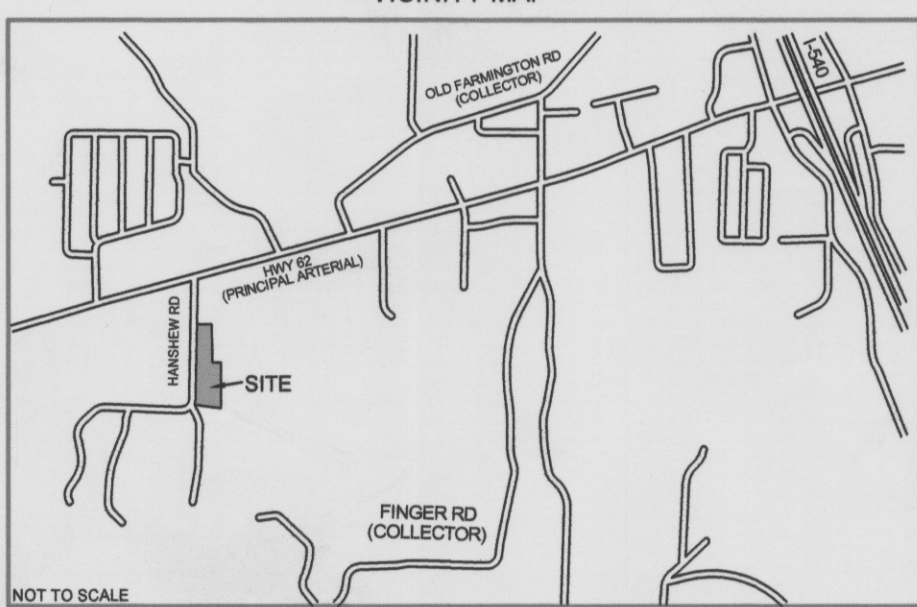
COUNTY/STATE: WASHINGTON COUNTY, ARKANSAS

DATE: 04/02/2012

STANDARD LEGEND

SURVEY FEATURES	SURVEYING SYMBOLS
BOUNDARY LINE	SET/FOUND 5/8" REBAR
FORTY LINE	SET/FOUND NAIL
CENTERLINE OF ROAD	FENCE CORNER POST
RIGHT-OF-WAY	FOUND STONE
TREE LINE	STATE MONUMENT
(M) FIELD MEASUREMENT	FOUND PIPE
(R) RECORDED MEASUREMENT	COMPUTED POINT
EASEMENTS	UTILITY SYMBOLS
INGRESS & EGRESS EASEMENT	SANITARY SEWER
BUILDING SET BACK	MANHOLE
UTILITY EASEMENT	POWER POLE
UTILITY LINES	WATER VALVE
WATER LINE	GAS METER
OVERHEAD POWER LINE	ELECTRICAL BOX
SEWER LINE	TELEPHONE PEDESTAL
FLOW LINE	WATER METER
GAS LINE	SEPTIC LID
FIBER OPTIC	FIRE HYDRANT
TELEPHONE LINE	STORM WATER
	LIGHT
	SURVEY FEATURE HATCHES
	ASPHALT
	CONCRETE
	POND
	GRAVEL
	FLOOD ZONE

VICINITY MAP



Zoning Complaint, Violations, & Solutions

Items of Original Complaint:

- Use of property as a campground for Bikes, Blues, and BBQ, including portable toilets;
- Use of property as a junk yard (including large shipping containers and inoperable vehicles); and
- Erection of a garage on the property.

Identified Violations:

1. The property owner has noted that he did have associates use his property for camping on the weekend of Bikes, Blues, and BBQ;
2. Residentially-zoned properties currently being used in conjunction with Unit 17: Transportation Trades and Services on adjacent commercially-zoned property (§161.07 and §162.01);
3. Parking of vehicles on an area not paved as a parking lot, or surfaced and screened as a storage yard; (§151 and §166.25);
4. Shipping containers on the property present for approximately one year (§173.09);
5. More than 4 vehicles parked on a lot on a property zoned for single-family use (§172.11);
6. Unlicensed vehicles on site (§164.05); and
7. Possibly inoperable vehicles on site in excess of 45 days (§164.05).

Outlined Solutions (in response to each enumerated violation):

1. The applicant is permitted to allow occasional, short-term camping as an accessory use to his primary residence. If there is any exchange of monetary compensation, long-term camping, or if camping becomes the primary use of the property, the activity is classified as a commercial campground and is only permitted as a conditional use under Unit 2: City Wide Uses by Conditional Use Permit. Any activities related to the camping must comply with other City ordinances related to litter, noise, and lighting.
2. Request a rezoning of those parcels intended for commercial use to a district that permits Unit 17: Transportation Trades and Services, or remove activities associated with Use Unit 17 from the property.
3. Submit plans to pave a parking area that meets the City's parking lot design standards, or to utilize gravel to create a vehicle storage yard with associated and required screening.
4. Remove the shipping containers from the property, or utilize and secure them in construction that complies with the City's adopted building and fire codes.
5. Remove in vehicles from the property that exceed the four allowed to be kept outdoors, or place in a garage or under a carport.
6. Remove any unlicensed vehicles from the property or submit them for proper registration and licensing.
7. Remove inoperable vehicles from the property if present in excess of 45 days.

With Denial of Rezoning Request:

-If the Commission is to deny the rezoning request, the applicant will be sent a Final Violation notice, and will be required to remove all vehicles and appurtenances related to his business

from the residentially-zoned properties. All other zoning violations may to be resolved according to the solutions outlined above, unless alternative solutions are found.

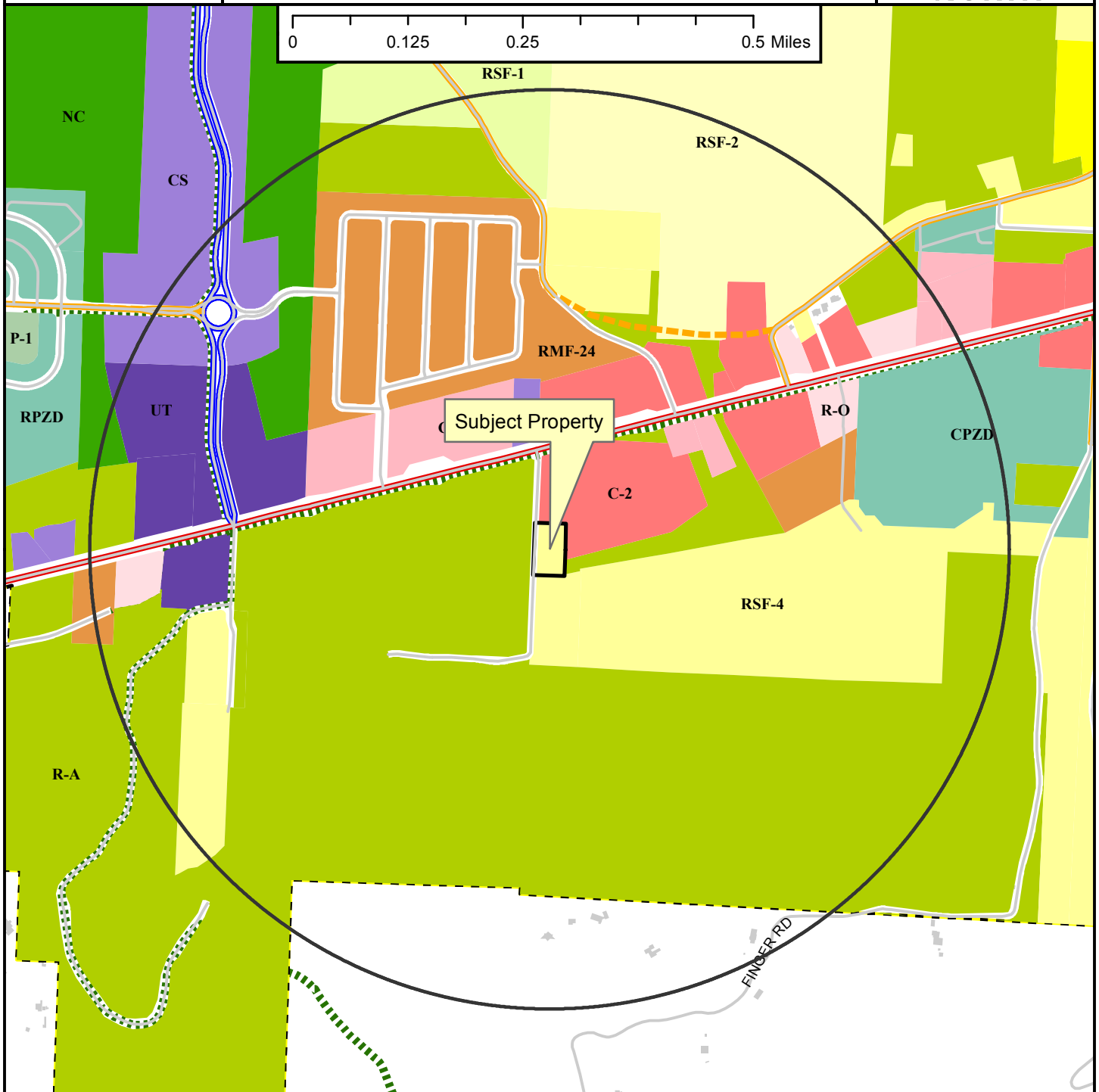
RZN 17-5728

WM. LINDSEY

One Mile View

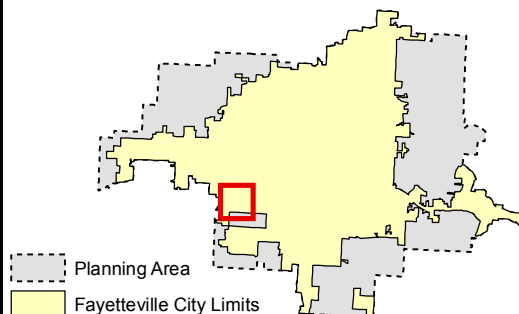


0 0.125 0.25 0.5 Miles



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



Zoning

RESIDENTIAL SINGLE-FAMILY

- RSF-5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY

- RT-12 Residential Two and Three-family
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL

- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION

E-1

COMMERCIAL

- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS

- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

PLANNED ZONING DISTRICTS

- Commercial, Industrial, Residential

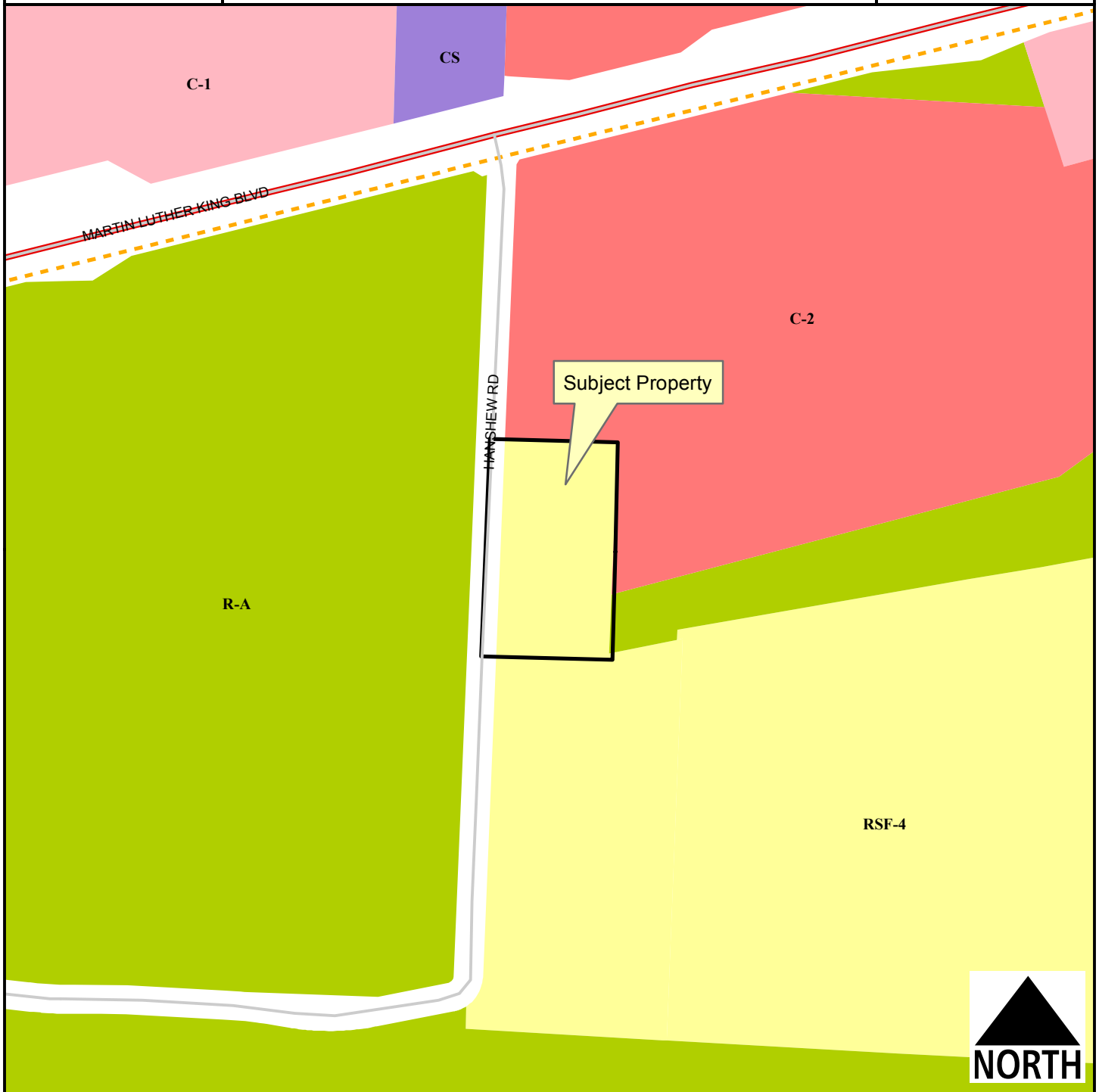
INSTITUTIONAL

- P-1

RZN 17-5728

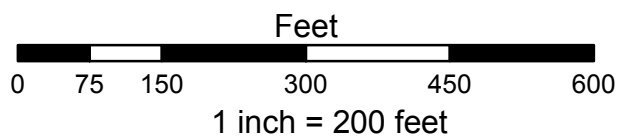
WM. LINDSEY

Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Building Footprint

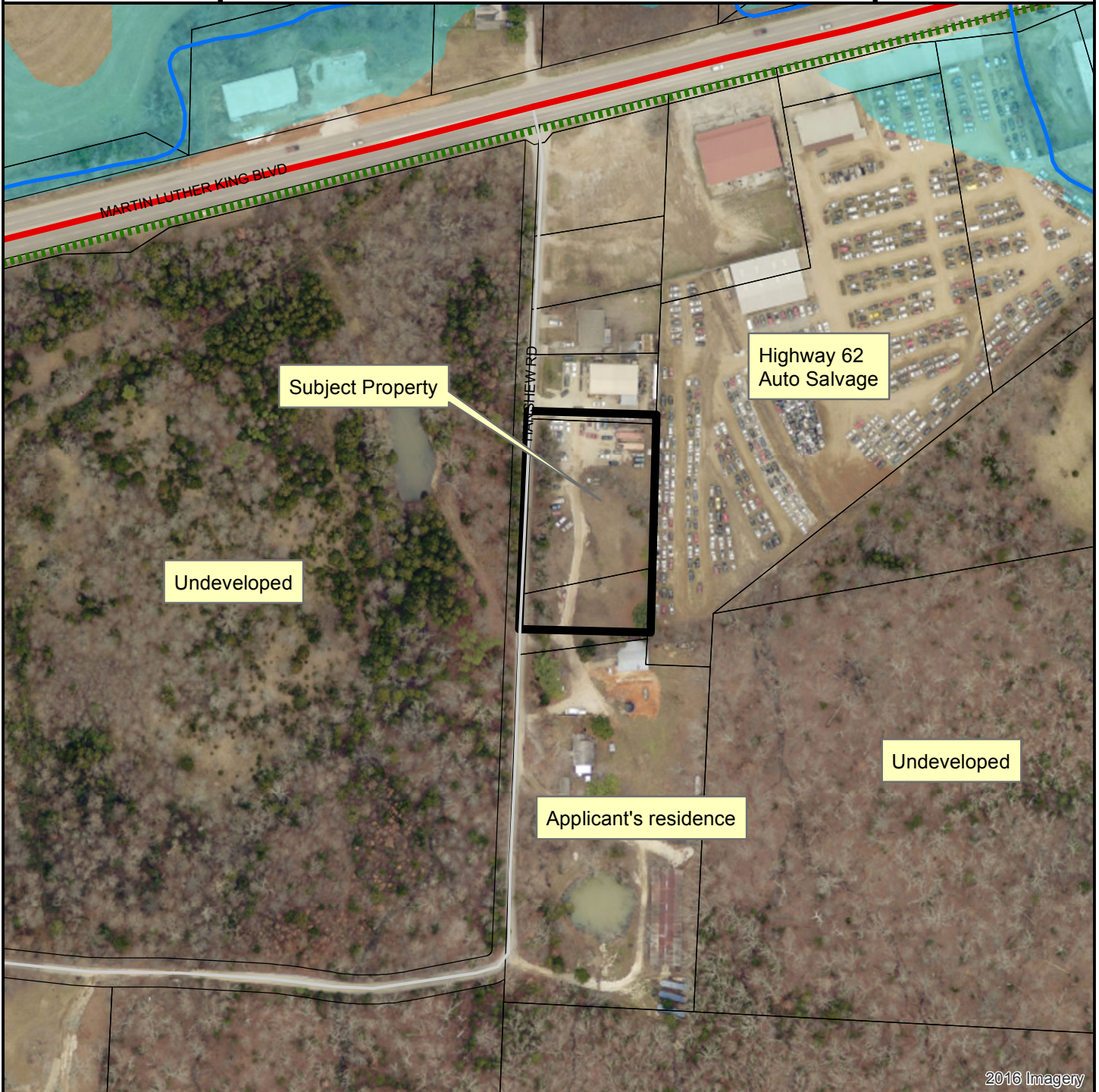


- Residential-Agricultural
- RSF-4
- C-1
- C-2
- Community Services

RZN 17-5728

Current Land Use

WM. LINDSEY



2016 Imagery

- PRINCIPAL ARTERIAL
- Street
- RZN17-5728
- Streams
- Trail (Proposed)
- County Parcels
- Planning Area
- Fayetteville City Limits

Feet

0 75 150 300 450 600

1 inch = 200 feet

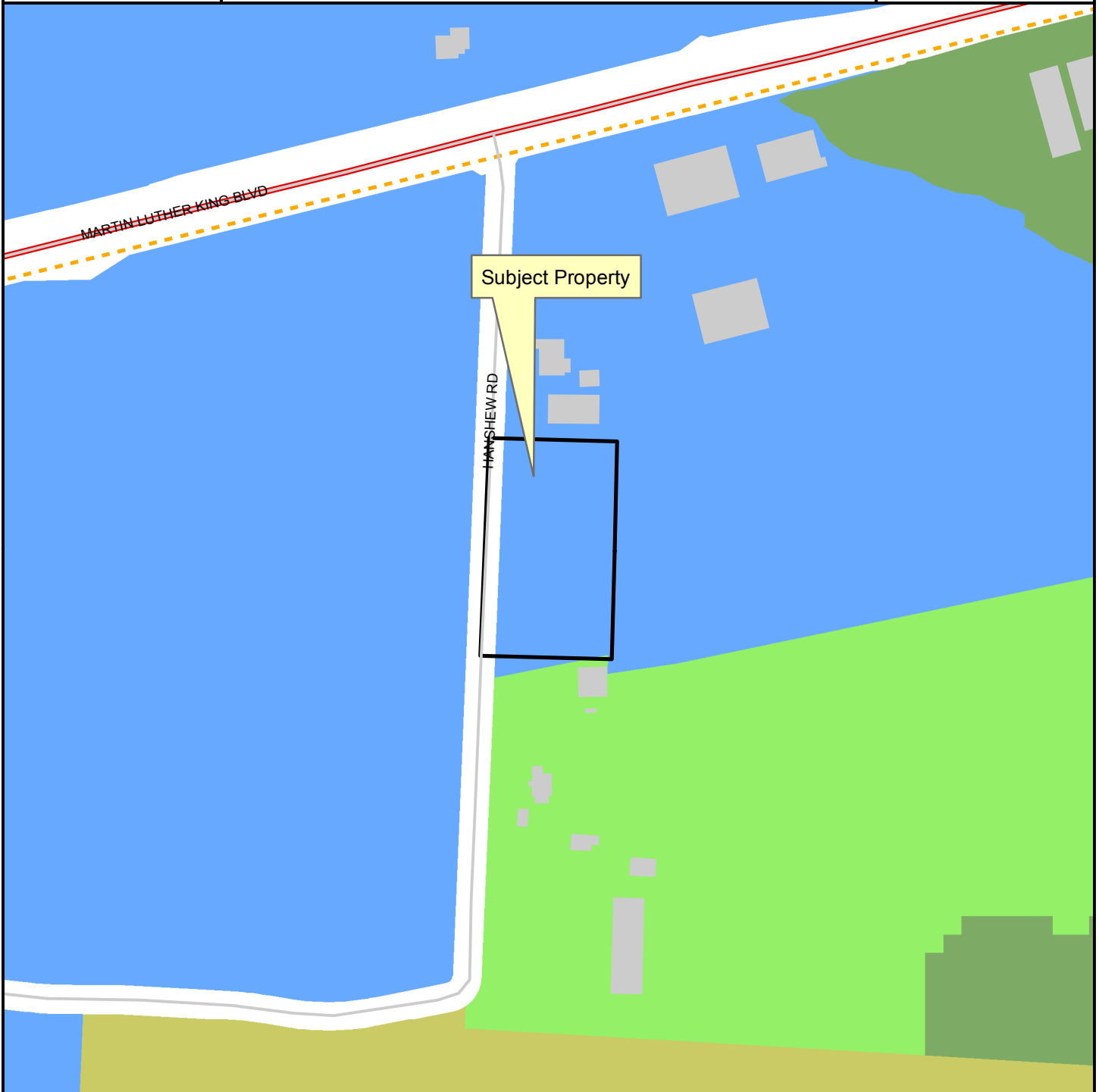
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

RZN 17-5728

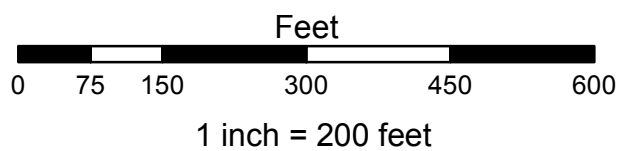
Future Land Use

WM. LINDSEY



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Building Footprint



FUTURE LAND USE 2030

- Natural Area
- Rural Area
- City Neighborhood Area
- Civic and Private Open Space/Parks



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0207

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 7

RZN 17-5733 (SE OF CROSSOVER RD. & HEARTHSTONE DR.):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 17-5733 FOR APPROXIMATELY 1.79 ACRES LOCATED AT SOUTHEAST CORNER OF CROSSOVER ROAD AND HEATHSTONE DRIVE FROM R-O, RESIDENTIAL OFFICE, AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO NS-G, NEIGHBORHOOD SERVICES, GENERAL

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 property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from R-O, Residential Office, and RSF-4, Residential Single Family to NS-G, Neighborhood Services, General.

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.

City of Fayetteville Staff Review Form

2017-0207

Legistar File ID

5/2/2017

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

Andrew Garner

4/14/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 17-5733: Rezone (SE OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099): Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The properties are zoned R-O, RESIDENTIAL OFFICE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 1.79 acres. The request is to rezone the properties to NS-G, NEIGHBORHOOD SERVICES, GENERAL.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	No	Item Cost	
Budget Adjustment Attached?	NA	Budget Adjustment	
		Remaining Budget	\$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor, Fayetteville City Council
THRU: Andrew Garner, Planning Director
FROM: Jonathan Curth, Senior Planner
DATE: April 14, 2017

SUBJECT: RZN 17-5733: Rezone (SE OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099): Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The properties are zoned R-O, RESIDENTIAL OFFICE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 1.79 acres. The request is to rezone the properties to NS-G, NEIGHBORHOOD SERVICES, GENERAL.

RECOMMENDATION:

The City Planning staff and Planning Commission recommend approval of an ordinance to rezone the subject property to NS-G, Neighborhood Services, General, as shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The proposed rezoning request is for two parcels, totaling approximately 1.79 acres to the south of Hearthstone Drive and east of Crossover Road/Highway 265. The properties are currently split-zoned, with the northern portion as R-O, Residential Office, and the southern portion as RSF-4, Residential Single-family, 4 Units per Acre. The subject property and approximately 500 acres of additional land largely paralleling Crossover Road were annexed in to the City of Fayetteville in November of 1977. Subsequently, the subject property was platted as part of the larger Stonewood Subdivision in 2001, which includes approximately 100 single-family lots and 14 lots intended for residential or office development. The subject property is among the latter, but remains undeveloped.

Request: The request is to rezone the property from RSF-4, Residential Single-family, 4 Units per Acre, and R-O, Residential-Office, to NS-G, Neighborhood Services, General, in order prepare the parcel for development.

Land Use Compatibility: The proposed zoning is compatible with surrounding land use patterns in this area, which include a mixture of suburban residential development to the east, office uses to the north, and a City park and botanical gardens to the west. The proposal of NS-G zoning on the corner of a largely-improved Local Street, and a high-volume, improved Principal Arterial can create a transitional area that may be developed in a commercial or mixed-use pattern that compliments both the existing adjacent uses and existing infrastructure. Furthermore, the NS-G

zoning requirements allow a lower density, generally smaller building size, and lower allowed building height than the existing R-O zoning district.

Land Use Plan Analysis: The proposed zoning is compatible with the Future Land Use Map (FLUM) and consistent with the Residential Neighborhood Area designation of the subject property and surrounding area. This location is consistent with the guidelines of City Plan 2030 for higher intensity non-residential use in corner locations and along connecting corridors. This is a corner property with a traffic signal on a busy arterial highway.

Among the goals in City Plan 2030, the proposed rezoning represents the potential for both infill development and development in a traditional urban form pattern. Although less than one mile from Fayetteville's northern city boundary with Springdale, and thereby not generally thought of as an infill site, commercial or mixed-use development on the subject property can take full advantage of City facilities at the adjacent City park and the existing utility and road infrastructure. Similarly, despite being on a state highway (Crossover Road), the subject property's proximity to both a significant City park and a single-family subdivision presents an opportunity to create a mix of uses where residents can live, work, and play all in the same neighborhood. The NS-G zoning district encourages patterns of development that result in realizing this goal, including an expectation that buildings will be located at the corner, creating an environment appealing to pedestrians and reducing the visual impact of parking areas, while also limiting permitted uses to those that are complementary to adjacent neighborhoods. A mixture of residential and commercial uses, which is permitted by the NS-G zoning district, is typical in a traditional urban form, with buildings addressing the street.

Lastly, this area of the City has many residents, with approximately 300 single-family homes accessing Crossover Road by way of Hearthstone Drive, but lacks non-residential goods and services within walking distance. This development pattern has resulted in residents being required to drive to meet any daily needs. The FLUM designation of this area as Residential Neighborhood recognizes this issue in encouraging appropriate non-residential uses, and the applicant's proposal for NS-G at this corner location could help alleviate the lack of services in the area.

The proposal appears to be well-justified from staff's point of view. The applicant has requested the zoning change to develop the property in manner that can serve the surrounding community, which is generally not as feasible under the existing RSF-4 and R-O zoning districts. The proposed NS-G, Neighborhood Services, General, zoning will encourage appropriate commercial or residential development on this corner parcel in an area that has seen limited, and largely-residential development over the last two decades. The NS-G zoning district is designed primarily to promote complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses.

DISCUSSION:

This item was discussed at the March 27, 2017 Planning Commission meeting, where the applicant had previously requested CS, Community Services. During the meeting a very large number of residents, predominantly from the adjacent Stonewood subdivision, spoke in opposition to the rezoning. Concern was expressed over the potential for noise, odor, and light intrusion on to their properties, in addition to the possibility of decreased property values along with increased crime and traffic through the subdivision. Others cited that home purchases were made under the guise of the existing zoning on the subject property, and what could be developed within its permitted residential, office, and small-scale retail uses. Following discussion about the public comment and opposition to some of the permitted uses under the CS zoning district, the Planning

Commission tabled the item in order to afford the applicant the opportunity to reconsider their request.

In response to Commission and resident feedback, the applicant revised the proposal on April 6, 2017 from CS, Community Services, to NS-G, Neighborhood Services, General. Large numbers of residents again spoke in opposition to the rezoning request, citing concerns similar to those shared at the March 27, 2017 meeting. The Planning Commission forwarded the applicant's request for NS-G to the City Council with a recommendation for approval by a vote of 8-1-0. Commissioner Brown voted 'no'.

BUDGET/STAFF IMPACT:

N/A

Attachments:

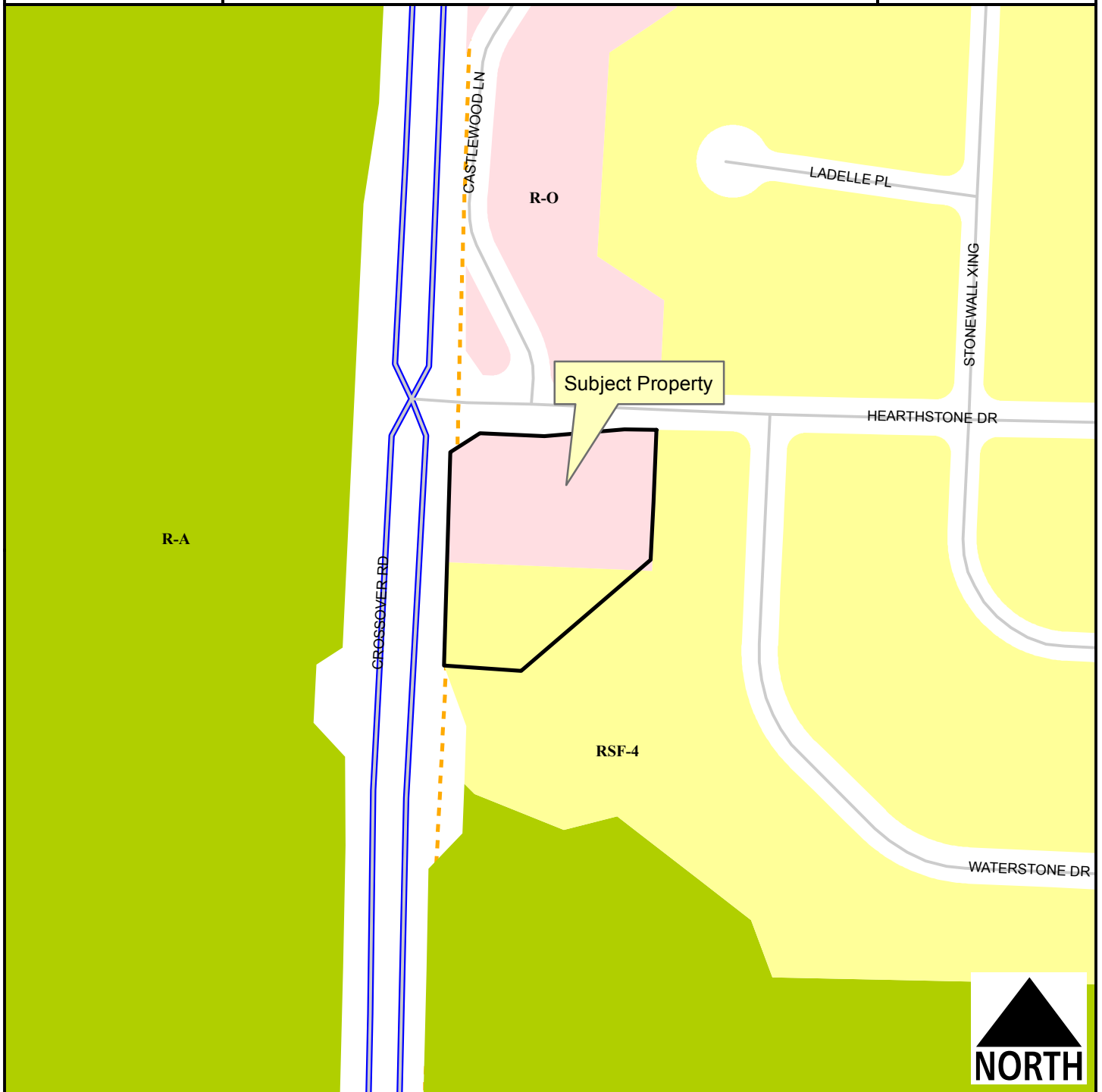
- Exhibit A
- Exhibit B
- Approved and Draft Planning Commission Meeting Minutes
 - o 3/27/2017 Planning Commission
 - o 4/10/2017 Planning Commission
- Application
- Planning Commission Staff Report

RZN 17-5733

Close Up View

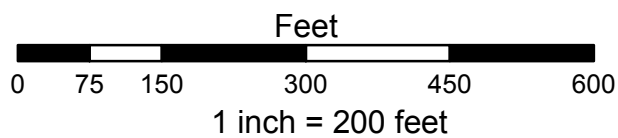
CP PROPERTIES

17-5733
EXHIBIT 'A'



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- Residential-Agricultural
- RSF-4
- Residential-Office

17-5733
EXHIBIT 'B'

LEGAL DESCRIPTION: (PROPOSED ZONING: CS)

Lots 1 & 2 of Final Plat of Stonewood Subdivision, Fayetteville, Arkansas, as per the recorded plat in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas. Subject to restrictions, easements and right-of-ways of record.

**Approved and Draft Planning Commission
Meeting Minutes**

**Approved Meeting Minutes from the
3/27/2017 Planning Commission Meeting**

RZN 17-5733: Rezone (SE OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099): Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The properties are zoned R-O, RESIDENTIAL OFFICE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 1.79 acres. The request is to rezone the properties to CS, COMMUNITY SERVICES.

Jonathan Curth, Senior Planner: Gave the staff report.

Blake Jorgensen, Applicant's Representative, Jorgensen & Associates: Recognizes that there is a significant amount of public comment incoming, and will strive to be brief. Notes that there is a vacation of easements proposed along Crossover and Hearthstone to ensure compliance with the zoning district's build-to-zone. Also notes that a Bill of Assurance is being considered.

Kit Williams, City Attorney: States that a Bill of Assurance is not open for discussion without a property owner's signature.

Public Comment:

Bob Anderson, Stonewood POA, Neighbor: Has been conducting a poll of residents in the Stonewood Subdivision about support to the rezoning. The commercial lots are unanimously supporting the rezoning while the residential properties are almost unanimously opposed. While this may look like a case of "not-in-my-backyard" it is not. Everyone who bought their homes in the subdivision understood that the properties on Crossover could be developed as office, and not retail or residential. Contends that the commercial property owners will not be at a loss if the rezoning does not go through.

Peter Thomason, Neighbor: While not a resident of Stonewood, lives in an adjacent subdivision. Attended the open house where the developer stated that a pizzeria was being proposed and that it would be of a high quality. Notes that an eatery is allowed by conditional use under the current zoning district. Goes on to note that the proposed CS zoning will allow for outdoor music which will remove many of the resident's property protections. States that there is nothing commercial about this area, and that it is not a commercial corridor. It is currently just grass and is compatible with the Botanical Gardens. The existing zoning does not attract a lot of traffic and does not create a lot of noise. Comments that restaurants have a high failure rate, with pizza restaurants being particularly prone to failure. Shares an article to this effect.

Kyle Cook, Commissioner: Notes that this is not a discussion of pizza restaurants.

Thomasson: Insists that this is important as the developer told the neighbors that this is what is proposed. Addresses that the existing location of the proposed pizza restaurant is adjacent to a liquor store and behind gas station pumps. Comments that the applicant told residents there would be a Bill of Assurance and it was not presented.

Williams: Comments that a Bill of Assurance has not been officially offered, but may be.

Thomasson: Questions the circumstances that a conditional use permit could be granted, noting that this may allow compatibility.

Andrew Garner, Planning Director: Notes that the conditions of a conditional use permit can be tailored to the request.

Thomasson: Outlines the requirements he feels would be appropriate in a conditional use permit, including utilizing similar architecture and not adversely affecting traffic. Shares that the families in this neighborhood have clearly made a decision to locate where they are, and are not interested in an urban form. Contends that no business within 2 miles is built to the street or corner. States that it is inconsistent visually and architecturally to encourage this type of development.

Paul Johnson, Neighbor: Has a question about traffic. Notes that traffic was re-routed through this neighborhood during construction of Crossover. Multiple times during this period there were safety concerns with children playing in the street. Knows that with this rezoning there will be a times when people utilize the neighborhood to travel through quickly and dangerously.

Heather Hutchins, Neighbor: Lives immediately adjacent to the subject property and has significant amounts of litter to deal with. States that she is also concerned about odor, noise, and light. Provides some examples of traffic issues, particularly when the Botanical Gardens has events and parking overflows on to Hearthstone.

Rosanna Zamora, Neighbor: Has serious concerns with litter on her property and there is only a fence between her land and the subject property, rather than a wall as is in place for some other adjacent properties.

Robert Stevens, Neighbor: Traffic is a concern as it is difficult to get on to Hearthstone sometimes. Notes that there are already sufficient amounts of commercial spaces on Joyce and in Springdale. The dynamics of the entire site will be changed despite what the developer told the neighbors. Is certain that property values will be harmed and does not understand why the developer cannot go elsewhere.

Jeff Canton, Neighbor: Wants to echo some of the same comments about noise, traffic, and congestion concerns. Notes that the existing signal at Hearthstone and Crossover is not highly visible and results in a lot of near accidents. Shares that he is allergic to garlic and would be negatively impacted by the smells of a restaurant. Repeats the previous residents' comments about why the developer does not go elsewhere. Suspects the developer is just looking to make money and it should not come at the loss of their property value. Property owners will not be compensated for their loss. Thinks property owners should have been consulted earlier.

Michael Brown, Neighbor: Is new to the neighborhood, and made much of their decision to buy in the subdivision on the existing uses.

Davis, Doris, Neighbor: Wants to draw the Commission's attention to the City's goals of creating an enduring green network, and that she feels this area ought to be protected along with the Botanical Gardens.

Joe Draper, Neighbor: Shares that in other cities where he lived this same thing happened, and it adversely impacted residents.

Carmen Tabor, Neighbor: Compares the displacement of families from the rezoning discussed earlier in the night to the current situation for neighbors. These residents may not have a lot of equity in their homes, and a loss of property value could be devastating.

Mike Parker, Owner: Owns several of the properties along Crossover along this subdivision, and is somewhat astonished that people are upset about this rezoning. Feels that adding services to this area would improve the community and the property values. Residents have to travel over a mile to reach any services. Feels that the quality of the proposal means it will be an improvement.

Zara Niederman, Resident: Although does not live in this neighborhood, he frequents the Botanical Gardens and feels that there is a value in offering services at this corner.

John Logan, Neighbor: Notes that placing a pizza restaurant across from the Botanical Gardens does not create continuity. It is his opinion that services are not needed in this neighborhood, and that people can go elsewhere for their needs.

Elizabeth Wilhelm, Botanical Gardens of the Ozarks representative: Appreciates the comments of residents. Notes that the Garden's events are large but do strive to end at a reasonable time. Her concerns with the proposed rezoning are with congestion. That said, guests and visitors often request coffee or restaurants and there are not a lot of options in this part of town. Moving forward, she sees a need for food in the area, but is not sure if the proposed rezoning will meet that need. In an effort to grow, they want to both serve visitors and be respectful of their neighbors to the east.

Clay Henry, Neighbor: Feels that the subject property may be appropriate for a smaller restaurant, but not one the size of what is proposed.

Max Parker, Owner: Notes that the property will eventually be developed, but as someone paying taxes on it, he would like to do something with it. Asks that the Commission consider this opportunity to rezone and develop the property in a way that accommodates City Plan 2030. At the same time, he wants to be conscientious of developing the property.

Ryan Parrish, Neighbor: Wants to note that a liquor store is located by the proposed pizza restaurant's other location. Also wants to know why staff says the R-O zoning district is "impractical."

Gary Huey, Neighbor: Has concerns with traffic and children playing in the street on Hearthstone.

Steve Val, Neighbor: Wants clarity where the access to the subject property will be. Although he is not adjacent to the subject property, he is concerned with utilizing the traffic signal at Hearthstone and Crossover. Developing the subject property will pull more vehicles on to this road, and if they cannot make their desired turns, they will travel in to the subdivision.

No More Public Comment was presented.

Leslie Belden, Commissioner: Notes that she lives in an urban setting, and chose to live there so she can walk to other locations. There is a part of her that assumes everyone wants that, and that makes this request difficult. While she feels that the subdivision would benefit from services and business, she also understands that people deliberately moved to this area to escape the

traffic of Crossover Road. Realizes that it's not appropriate to impose the Commission's values and preferences on the subdivision. Likes the CS zone but realizes that it is not appropriate in all locations. Is leaning more towards maintaining the R-O zoning, but wants to hear the comments of others. Supporting the CS would be turning the businesses back on the subdivision.

Ron Autry, Commissioner: Notes that any number of uses create odor, and all area have litter. Acknowledges traffic concerns, but this is a fact of being on a major route. The size of the property will limit the intensity of use. Any use is going to attract traffic. There are commercial uses all over town, and people contend with it everywhere. He cannot support this one community being protected from any development. Is not certain that development will result in the traffic concerns that residents fear. Will maintain an open mind in the meantime.

Matthew Hoffman, Commissioner: Expresses appreciation to the residents for coming. Feels that there are 2 outcomes for Highway 265, and neither will look like what it is. R-O will not protect the property from development under the enduring green network. The R-O district would place any buildings closer to the neighborhood, not further. One outcome can be that AHTD will see 265 as a highway, and not a City street, and will lead to a development pattern that will see a large sound wall built near their neighborhood. Alternatively, the CS zoning may prevent AHTD from widening 265 even more, and place a building at the corner, where it can be accessed by foot and by bike. The Lake Fayetteville trail is one of the most heavily trafficked in the City if not the area. Contends that placing the building at the corner will serve the Botanical Gardens, trail users, and even residents.

Tom Brown, Commissioner: Offers thanks to the residents who attended. Does support appropriately requested infill and form-based zoning requests. One tool to determine these is the neighborhood planning process. Residents can create a vision to help determine decisions like the current one. The Commission can take public comment like tonight's as a decision making tool. Contends that commercial areas are appropriate in certain nodes along major corridors. Offers a tutorial on the City's Future Land Use Map. Does not feel that CS zoning is appropriate in areas with residential neighborhood designations, but rather it should be NS, Neighborhood Services. Reiterates that he is supportive of the proper application of mixed-use zones, but perhaps not in this instance. Goes on to comment that this is the third rezoning case in this corridor that he has seen, and he is likely to vote against it too, rather than see another College Avenue.

Hoffman: Questions staff about other zoning options.

Garner: Responds that NS-G, Neighborhood Services-General, may be an option, but clarifies that it allows for only 8,000 square foot buildings for commercial business.

Kyle Cook, Commissioner: Asks if a Bill of Assurance is still being considered.

Jorgensen: It is, but was not finalized. The allowed uses under CS fit the goals of the developer. There are unfortunately not a lot of zoning districts that support the proposed uses at this location, including a pizza restaurant and a drive-thru coffee shop. They hope a Bill of Assurance can assuage concerns.

Tracy Hoskins, Commissioner: There is a lot that he agrees with and disagrees with. Notes that there is no assurance that services will devalue a property. It is often the exact opposite, with efforts to include residential and services in close to help neighborhoods along major

corridors. As far as having services on the corner, he sees that as a benefit, but there is a difference in the intensity. He would not however, support a drive-thru location. He has no problem with the uses, and thinks it would enhance the neighborhood. As far as the drive-thru, he would not support it. As far as music and noise, thinks he remembers that there is still a requirement for a conditional use permit.

Garner: Confirms that this is the case.

Brown: Follows up on his previous comments that the scale of allowed services be appropriate to the Future Land Use Plan. Reiterates his desire to see a neighborhood plan. Would support a neighborhood services zoning district typically, but after public comment, will likely not. Notes that the neighbors were told what they were buying in to, and the City should support that along with City Plan 2030.

Hoffman: Questions staff about the zoning requirements under R-O, and whether it could be an unlimited-size office.

Garner: Confirms that there are no building square footage requirements.

Hoffman: Also notes that it could be six stories. Expresses his support for a form-based zoning district and that it would lead to a much safer and attractive development.

Belden: Asks whether the item should be tabled.

Jorgensen: Is willing to be tabled to review other options.

Motion:

Commissioner Hoskins made a motion to **table RZN 17-5733** for two weeks. **Commissioner Selby** seconded the motion. **Upon roll call the motion passed with a vote of 8-0-0.**

Draft Meeting Minutes from the 4/10/2017 Planning Commission Meeting

RZN 17-5733: Rezone (SE OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099): Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The properties are zoned R-O, RESIDENTIAL OFFICE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 1.79 acres. The request is to rezone the properties to NS-G, NEIGHBORHOOD SERVICES, GENERAL.

Jonathan Curth, Senior Planner: Gave the staff report.

Blake Jorgensen, Applicant's Representative, Jorgensen & Associates: Acknowledges the concerns with the request, and after meeting with staff, the revised request to the NS-G zoning district seem to be the most appropriate, and will not necessitate a Bill of Assurance.

Max Parker, Property Owner: Thanks the Commission for the consideration and notes that the proposed rezoning was not available at the time of the area's development, and may have been advisable. Notes his bias as the property owner. Comments on the traffic volumes and the area features and amenities and that the property deserves a zoning that is appropriate for all residents.

Public Comment:

Bob Anderson, Neighbor: Notes that those who will benefit from the rezoning and development will be visitors, and not residents. They will bear the burden of any adverse effects. Recalls Commissioner Hoffman's comments about one of two futures for Highway 265, and states that most residents will still prefer that the highway be widened than this rezoning to occur. Also notes that if this is approved, the Commission will be obligated to rezone other properties along this area, resulting in the possibility of another College Avenue. Describes the Residential Neighborhood Area designation in City Pan 2030 and that it notes that noncommercial development "should" be encouraged, but not required. Goes on to cite Kit William's memo to the Commissioners about compatibility and rezoning decisions. Shares communications he subsequently had with Kit Williams that the subdivision's approval ought to represent a reassurance of what will be there. Summarizes the Attorney's memo with "if it doesn't fit, listen to Kit."

Peter Tonnessen, Neighbor: Notes that he has worked with staff in gaining information, and has several items he would like to enter in to the record, including photographs, and a spreadsheet outlining the proposed uses and districts. Has spent approximately 200 hours of research on the property owner and their transactions. Mister Parker and his brother own eleven of the fourteen properties that are adjacent to Crossover. Goes in to details on transactions of specific lots, and also in to the property owner's interactions with Jorgensen and Associates. Does not feel that it is accurate to review these two properties as discrete properties separate of the others. Shares that a possible tenant of the subject property does not even own their business' name. Shares that a more appropriate zoning district would likely be NS-L given the requirement that a restaurant have a conditional use permit. Cites the City's long-range plans and that they were well-created by staff's predecessors. Notes the size of Lake Fayetteville, and compares it to Central Park and its associated land values. Argues that the development

patterns over the last decades have created a framework where the subject properties and those around them had their uses established. Continues on to discuss legal history and the expectation of residents that the city will continue to maintain the current zoning.

Mark Scalise, Neighbor: Shares that he has lived in eight states and lived in many neighborhoods. He was very aware of what was allowed on the subject property at that time. Feels that what is allowed on the subject property is reasonable, and he has no problem with development under the R-O requirements. Notes that the property owners bought the land understanding what was allowed, and while he respects their desire to make a profit, he does not agree with “changing the rules.”

Dena Young, Neighbor: Notes her status as a new resident in the Stonewood subdivision. Shares that she chose the subdivision because it is quiet and has ready access to the park and trails. Moved to Fayetteville from Little Rock and Rogers, Arkansas. Notes that she was shocked to hear that the Commission was approving the request. Appreciates comments by other residents and the City’s Attorney. Is convinced that the restaurant will lead to lower property values in addition to increased crime and bad odors. Does not feel that a Commission should vote in the interest of other residents, but for those living adjacent to the subject property. States that there will be a decrease in the number of professionals living in the area. Researched the case law shared by the City’s Attorney, and feels that they indicate why the Commission should support the neighbors.

Robert Stevens, Neighbor: Among the first homeowners in the subdivision, he is concerned with late hours of business operation and traffic. Is concerned that traffic pulling in and the neighbors trying to leave the subdivision will create a potentially dangerous traffic condition. With regards to City Plan 2030, he does not feel that the revised request will serve the needs of the neighborhood, despite the developer’s contention. Given the overwhelming opposition, this shows the rezoning will not meet the needs of the neighborhood.

Andy Taylor, Neighbor: Has all his money tied up in to this property, and any land value decrease will hurt him. Suspects that people will travel through his neighborhood in Copper Creek from the east to access any services on the subject property.

Adaly Malone, Neighbor: Agrees with all previous comments, and notes that the residents bought in good faith. Rezoning this property would not be “right” and she requests that the Commission should do what is “right.” Situations like this are not appropriate where the property values of many people suffer to benefit a few, just because certain people know the “right” people.

Susan White, Neighbor: Notes that her family was one of the first in the subdivision. Shares that her parents recently moved to this subdivision and are elderly. Points out that there are several other elderly families and families with children. In response to the comment about the possibility of there being a six-story building, she disagrees, saying there is not enough room for parking.

Jeff Cantu, Neighbor: Introduces himself as the POA president for the Stonewood subdivision. Disagrees that the proposed rezoning is compatible with the City Plan. Feels that the R-O zoning is what homeowners bought in to. States that the Planning Commission needs to vote in harmony with the City’s plan, and that there is no overriding need to change the zoning. Lives 200-feet from the subject property and will not like the odors.

Karen Stevens, Neighbor: Spoke with potential homebuyers about noise in the neighborhood and said at the time that it was not bad. Believes that developing the property will create a lot of noise and hurt property values.

No More Public Comment.

Leslie Belden, Commissioner: Requests that Mr. Tonnessen's spreadsheet be shared on the screens for the public. Reads the provided description of the NS-G zoning district, noting that the request is effectively a down-zoning. Notes that if the subject property was zoned NS-G, she can understand why people are upset if the request was for R-O. The request to go from R-O to NS-G is actually a downzoning. Feels that the NS-G is better for the residents and more compatible, and is in support of the request.

Matthew Hoffman, Commissioner: Appreciates everyone coming out and discusses how when it comes down to it, everyone wants what is best for Fayetteville. Agrees with Commissioner Belden's comments. In addressing Mrs. Stevens comments about noise, contends that the buildings being placed near the street is the most effective way to block noise. Cites his site design experience noting that dumpsters are typically located near buildings, and with a form-based zone this will be at the street. The parking will then be the buffer. Also contends that this request is a down-zoning, and is increasing compatibility. One of the best ways to look at compatibility is to look at the bulk, size, and area of a building. The worst case scenario in R-O is unlimited floor area, where as in NS-G it is 8,000. Addresses the City Attorney's memo, and its comment about spot zoning. Almost all of the commercial lots on Highway 265 is undeveloped. A decision tonight will have an impact on development in the future, and where buildings will be placed. Does not understand how something can be spot zoning in an undeveloped area. Recognizes fears about continued development up highway 265, but notes that it is valuable for it to develop in a traditional town form pattern.

Allison Thurmond Quinlan, Commissioner: Appreciated comments from neighbors and other Commissioners. Notes that development will occur in this area and that traffic will continue grow given Highway 265's high capacity and low volume. Shares background of the NS-G zoning district's creation. Agrees with other Commissioners that this constitutes a down-zoning. Speaks to how R-O resulted from the 1970s and that NS-G is an improvement. Appreciates Mr. Tonnessen's spreadsheet graphic and agrees that NS-G has more favorable uses than either CS or the R-O districts. Is supportive of the request.

Tom Brown, Commissioner: Expresses appreciation to the neighbors for speaking. Disagrees somewhat with the differences stated between R-O and NS-G. Feels that many of the uses allowed in NS-G would generate more traffic than the R-O district. States that a lot more traffic would go to a location with the uses allowed under NS-G, and the business hours would likely be wider. At the same time, he feels that at this location, an office would develop at a lower intensity. Conceptually, he agrees that the Neighborhood Services zoning designations may be applicable on this property, but only if it does not have a negative effect on the functioning of Highway 265, existing neighborhood plans, and existing neighborhoods. Notes that the City's Master Transportation Plan call for factoring in traffic impacts in decisions. Shares data he has collected on traffic, and what amount of traffic it would take to result in a traffic. Compares College Avenue and Highway 265, noting that the number of vehicle trips before an accident occurs is much lower on College due to its intensity and number of curb cuts. Supporting rezonings that increase intensity will increase the number of traffic incidents. Shares that this is the third rezoning that he has considered for a commercial land use outside of the city Neighborhood designation. Counted 44 intersections on the highway corridor and only 11 were

in the City Neighborhood Area. If three more rezonings are approved a year with a curb cut on Highway 265 for each rezoning, it will lead to a new College Avenue.

Zara Niederman, Commissioner: Thanks residents for coming to speak. In response to Commission Brown's comments, he notes that there are indeed preferred locations to concentrate the curb cuts and developments but not all non-residential development has to be in certain nodes, and it is acceptable to have smaller nodes. Agrees with other Commissioners that the request is a down-zoning. Outlines some of the uses that are allowed in the existing and proposed zoning districts. Feels that the location across from the Botanical Garden also makes this more appropriate than other properties to the north and south. Rezoning the subject property would not necessarily result in other similar rezonings in this area. Inquires from staff about buffer requirements.

Andrew Garner, Planning Director: Informs the Commission that there are screening requirements between residential and commercial development. This is a typical standard.

Niederman: Asks what the setback is.

Garner: The typical buffer can be 10-12 feet wide with a fence and vegetation.

Niederman: Inquires that with the buildings being closer to Crossover, is it possible to require an additional buffer or screening.

Kit Williams, City Attorney: Clarifies that conditions may not be placed on a rezoning.

Quinlan: Asks staff about what access would be permitted on to the subject property at the time of development.

Garner: Responds that the access management ordinance requires that access to a property be by way of a lower classification street, but accessing the higher classification street may be permitted by Planning Commission variance.

Quinlan: Asks what form of development submittal this item will go through.

Garner: Is not certain, but due to this zoning district being form-based, development may come through as a Large Site Improvement Plan which may be approved administratively.

Quinlan: Questions whether any development will have to comply with the City's commercial design standards.

Garner: Responds that development in build-to-zones are subject to a higher degree of design guidelines, including for architectural articulation and glazing.

Quinlan: Moves to forward the item to the City Council.

Williams: Interjects that he wants to clarify that this may or may not be a downzoning. The current R-O zoning would only allow a eating place of 2,000 square feet, while the proposed NS-G zoning district will allow a building of 8,000 square feet. In the R-O zoning a duplex is allowed, while in the NS-G zoning, residential housing is allowed up to tri- and quad-plexes. Also shares the height setback requirements under R-O, and that it would be difficult to develop to the maximum allowed height, while NS-G's setbacks allow more height near a property line.

Understands that this vote may move forward, but wants it to be clear that he does not feel that this is a downzoning. Lastly, the intensity is classified as medium rather than low.

Garner: Due to the proposed zoning district being new and unfamiliar to some, clarifies that the NS-G zoning district only allows for a restaurant to fill 2,000 square feet of the 8,000 square feet non-residential building size permitted.

Brown: States he will not support this rezoning request as it will lead to commercial development outside the designated areas. Requests that the Future Land Use Map of City Plan 2030 be pulled up for discussion, as it may be valuable for the newer Commissioners. Notes that the Plan deliberately designated certain areas along Highway 265 to be City Neighborhood Area with non-residential uses, but designated the subject property as Residential Neighborhood Area. Also, cannot support the request due to traffic concerns along with the City Attorney's comments that the subdivision's approval constitutes a neighborhood plan. Furthermore, he notes that the existing R-O zoning district allows for limited commercial development with a conditional use permit that requires a developer to work with neighbors and the Planning Commission.

Hoffman: Appreciates the Director's clarification and comments about the NS-G zoning district. With regards to the comparison of districts, he will support the one that promotes smaller buildings further from homes. In response to Commissioner Brown's comments about traffic, he contends that the problems with traffic on College are a result of zoning at the time, more than the uses themselves. The type of development that occurred on College is a result of sprawl-oriented zoning districts like the existing R-O on the subject property.

Motion:

Commissioner Quinlan made a motion to **forward RZN 17-5733**. **Commissioner Hoffman** seconded the motion. **Upon roll call the motion passed with a vote of 8-1-0. Commissioner Brown voted 'no'.**

CITY OF FAYETTEVILLE, ARKANSAS

REZONING

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Case / Appeal Number:

Public Hearing Date:

FEE: \$325.00

Sign Fee: \$5.00

S-T-R:

PP#:

Zone:

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 X Representative

Applicant (person making request):

Name:

Max Parker
for CP Properties

Address: 1680 E. Shadowcreek Dr
Fayetteville Arkansas
72701

E-mail:

gm1x32@gmail.com

Phone:

(479) 799-6918
()

Fax:

()

Representative (engineer, surveyor, realtor, etc.):

Name: Blake Jorgensen

Jorgensen & Assoc.

Address: 124 W. Sunbridge Dr. Suite 5
Fayetteville, AR 72703

E-mail:

blake@jorgensenassoc.com

Phone:

() 479-442-9127

()

Fax:

() 479-582-4807

Site Address / Location: SE corner of Crossover Rd. & Hearthstone Dr.

Current Zoning District: R-O & RSF-4

Requested Zoning District: CS

Assessor's Parcel Number(s) for subject property: Parcel: 765-22244-000 & 765-22245-000

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

CP Properties

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made 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 on approval.

Name (printed): MAX PARKER / CP Properties Date: 2-14-17
Signature: Max Parker

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):

Name (printed): MAX PARKER Address: 1680 E. Shadowridge Dr
CP PROPERTIES, INC Fayetteville, AR 72701
Signature: Max Parker
Date: 2-14-17 Phone: (479) 799-6918

Name (printed): Philip Cameron Address: 1663 Viewpoint
Philip Cameron Fayetteville AR 72701
Signature: Philip Cameron
Date: 2-14-17 Phone: (479) 263-3815

Rezoning Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
\$325.00 application fee
\$5.00 public notification sign fee
- (2) A legal description of the property to be rezoned. A survey may be required if the property description can not accurately be platted or if it is described by referring to other deeds.
- (3) CD containing a copy of the legal description in MS Word and all required submittal items should be also included on the CD in PDF format.
- (4) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

MEETING DATE: April 10, 2017 (Updated with Planning Commission Results)

SUBJECT: **RZN 17-5733: Rezone (SE OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099):** Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The properties are zoned R-O, RESIDENTIAL OFFICE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 1.79 acres. The request is to rezone the properties to NS-G, NEIGHBORHOOD SERVICES, GENERAL.

RECOMMENDATION:

Staff recommends forwarding **RZN 17-5733** to the City Council with a recommendation of approval, based on the findings herein.

BACKGROUND:

March 27, 2017 Planning Commission Meeting: The previous request by the applicant was to rezone the subject property to CS, Community Services, with an intention to develop the area with a restaurant and drive-thru coffee shop. This item was tabled at the March 27, 2017 Planning Commission meeting to give the applicant time to reconsider and possibly revise their request according to comments and concerns expressed by both area residents and the Planning Commission. In order to address these concerns, the applicant is now proposing to rezone the property to NS-G, Neighborhood Services, General. The NS-G zoning district limits the size of commercial buildings to a maximum of 8,000 square feet and does not allow drive through restaurants.

The proposed rezoning request is for two parcels, totaling approximately 1.79 acres to the south of Hearthstone Drive and east of Crossover Road/Highway 265. The properties are currently split-zoned, with the northern portion as R-O, Residential Office, and the southern portion as RSF-4, Residential Single-family, 4 Units per Acre. The subject property and approximately 500 acres of additional land largely paralleling Crossover Road were annexed in to the City of Fayetteville in November of 1977. Subsequently, the subject property was platted as part of the larger Stonewood Subdivision in 2001, which includes approximately 100 single-family lots and 14 lots intended for residential or office development. The subject property is among the latter, but remains undeveloped. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped; Property Management Offices	R-O, Residential Office
South	Undeveloped	RSF-4, Residential Single-family, 4 Units per Acre
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Lake Fayetteville Park/ Botanical Garden of the Ozarks	R-A, Residential Agricultural

Request: The request is to rezone the property from RSF-4, Residential Single-family, 4 Units per Acre, and R-O, Residential-Office, to NS-G, Neighborhood Services, General, in order prepare the parcel for development.

Public Comment from the March 27, 2017 Planning Commission: The Planning Commission received numerous comments regarding the proposed rezoning, with the significant majority stating firm opposition to a rezoning. Those that contacted staff before the meeting, as well as those that spoke at the meeting cited concerns with litter, odor, noise, and lighting, including the prospect that a dangerous traffic condition could result and that crime would increase. Numerous individuals insisted that the rezoning would decrease the property values of the adjacent neighborhood, while the existing zoning districts were part of their decision to purchase homes in this area, and are perceived to have been a promise of the subdivision's developer.

Public Comment: Staff has continued to receive a significant number of comments in opposition to the rezoning request, although, given the very recent nature of the change in proposed zoning district, none have been directly in opposition to NS-G, Neighborhood Services, General. Some commentary in support of rezoning the property has also been received, stating a preference for the availability of services in closer proximity to their residential neighborhood.

INFRASTRUCTURE:

Streets: Both subject parcels have direct access to Hearthstone Drive, a two-lane, partially-improved Local street, with curb and storm drain. Sidewalks would be required to be constructed at the time of development.

The western of the two parcels also has access to Crossover Road, which is a fully-improved principal arterial and a state highway that is signalized at Hearthstone Drive. City access management requirements mandate that properties shall access a lower classification street when present, as Hearthstone Drive does in this instance.

Water: Public water is available to the site. An 8-inch water main runs along the property frontage of Hearthstone Drive.

Sewer: Public sewer is available to the site. An 8-inch sewer main runs along the property frontage of Hearthstone Drive.

Drainage: Any additional improvements or requirements for drainage would be determined at time of development. No portion of these parcels lie within the FEMA designated 100-yr floodplain or the Hillside-Hilltop Overlay District (HHOD). A protected stream, Hilton Creek, runs south of these parcels. Hydric Soils have been identified on portions of these parcels and would require a wetlands determination to be provided at the time of development proposal.

Fire: The Fire Department did not express any concerns with this request.

Police: The Police Department did not express any concerns with this request.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates the properties within the proposed rezone as **Residential Neighborhood Area**.*

Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single family, multifamily and row-houses. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced setbacks. *It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood, such as retail and offices, on corners and along connecting corridors.* This designation recognizes existing conventional subdivision developments which may have large blocks with conventional setbacks and development patterns that respond to features in the natural environment.

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: ***Land Use Compatibility:*** The proposed zoning is compatible with surrounding land use patterns in this area, which include a mixture of suburban residential development to the east, office uses to the north, and a City park and botanical gardens to the west. The proposal of NS-G zoning on the corner of a largely-improved Local Street, and a high-volume, improved Principal Arterial can create a transitional area that may be developed in a commercial or mixed-use pattern that compliments both the existing adjacent uses and existing infrastructure. Furthermore, the NS-G zoning requirements allow a lower density, smaller building size and lower height than the existing R-O zoning district.

Land Use Plan Analysis: The proposed zoning is compatible with the Future Land Use Map (FLUM) and consistent with the Residential Neighborhood Area designation of the subject property and surrounding area. This location is consistent with the guidelines of City Plan 2030 for higher intensity non-residential use in corner locations and along connecting corridors. This is a corner property with a traffic signal on a busy arterial highway. Among the goals in City Plan 2030, the proposed rezoning represents the potential for both infill development and development in a traditional urban form pattern. Although less than one mile from Fayetteville's northern city boundary with Springdale, and thereby not generally thought of as an infill site, commercial or mixed-use development on the subject property can take full advantage of City facilities at the adjacent City park and the existing utility and road infrastructure. Similarly, despite being on a state highway (Crossover Road), the subject property's proximity to both a significant City park and a single-family subdivision presents an opportunity to create a mix of uses where

residents can live, work, and play all in the same neighborhood. The NS-G zoning district encourages patterns of development that result in realizing this goal, including an expectation that buildings will be located at the corner, creating an environment appealing to pedestrians and reducing the visual impact of parking areas, while also limiting permitted uses to those that are complementary to adjacent neighborhoods. A mixture of residential and commercial uses, which is permitted by the NS-G zoning district, is typical in a traditional urban form, with buildings addressing the street.

Lastly, this area of the City has many residents, with approximately 300 single-family homes accessing Crossover Road by way of Hearthstone Drive, but lacks non-residential goods and services within walking distance. This development pattern has resulted in residents being required to drive to meet any daily needs. The FLUM designation of this area as Residential Neighborhood recognizes this issue in encouraging appropriate non-residential uses, and the applicant's proposal for NS-G at this corner location could help alleviate the lack of services in the area.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The applicant has requested the zoning change to develop the property in manner that can serve the surrounding community, which is generally not as feasible under the existing RSF-4 and R-O zoning districts. The proposed NS-G, Neighborhood Services, General zoning will encourage appropriate commercial or residential development on this corner parcel in an area that has seen limited, and largely-residential development over the last two decades. The NS-G zoning district is designed primarily to promote complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses.

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

Finding: A NS-G zoning allows a limited range of commercial activity and a residential density that is currently lower than that allowed under the R-O zoning district. Given the property's undeveloped state, any development would invariably create the potential for increased traffic in the area, but not necessarily greater than could result from the existing RSF-4 and R-O zoning districts. The property is located on the southeast corner of Crossover Road and Hearthstone Drive, a fully-improved Principal Arterial and partially-improved Local Street respectively. The intersection adjacent to the subject property is signalized, and includes pedestrian crosswalks. While there will be an appreciable increase in traffic with any development, Hearthstone Drive does not connect to any significant transportation routes to the east, and, as a result, any increase in vehicular movement will likely move westward through the existing traffic signal to Crossover Road. As such, traffic danger and congestion is not expected to increase appreciably.

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: Although the property is currently undeveloped, development under the current zoning or the proposed zoning will likely result in a comparable increase in the load on public services and may increase population density in the area. The NS-G zoning allows a range of commercial activity but a lower residential density than R-O. Despite this, the subject property has access to existing infrastructure, and is an area where development would not have significant adverse impacts on public services or facilities. Additionally, neither the Police nor Fire Departments have expressed objections to the proposal.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Staff recommends forwarding RZN 17-5733 to the City Council with a recommendation of approval, based on the findings discussed throughout this report.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>April 10, 2017</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Quinlan			
Second: Hoffman			
Vote: 8-1-0, Commissioner Brown voted 'no'.			
CITY COUNCIL ACTION:		Required	<u>YES</u>
Date: <u>May 2, 2017 (planned)</u>	☐ Approved	☐ Denied	

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - o §161.03, RSF-4, Residential Single-family, 4 Units per Acre
 - o §161.18, R-O, Residential-Office
 - o §161.20, NS-G, Neighborhood Services – General
 - o §162.01, Unit 12b, General Business
- Revised Request letter
- Public Comment
 - o Public Comment leading up to the March 27, 2017 Planning Commission meeting
 - o Public Comment leading up to the April 10, 2017 Planning Commission meeting
- Memo and Spreadsheet from Commissioner Brown
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.07 - District RSF-4, Residential Single-Family - Four (4) 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	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet

Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	45 feet
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Height Regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

(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. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. [5921](#), §1, 11-1-16)

161.18 - District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 25	Offices, studios, and related services
Unit 44	Cluster Housing Development

(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 11	Manufactured home park*
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities*
Unit 42	Clean technologies
Unit 45	Small scale production

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.* (Per dwelling unit for residential structures)

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	60 feet

Two (2) family	60 feet
Three (3) or more	90 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouses:	
Development	10,000 square feet
Individual lot	2,500 square feet
Single-family	6,000 square feet
Two (2) family	6,500 square feet
Three (3) or more	8,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured home	3,000 square feet
Townhouses & apartments:	
No bedroom	1,000 square feet
One bedroom	1,000 square feet
Two (2) or more bedrooms	1,200 square feet
Fraternity or Sorority	500 square feet per resident

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Front, in the Hillside Overlay District	15 feet
Side	10 feet

Side, when contiguous to a residential district	15 feet
Side, in the Hillside Overlay District	8 feet
Rear, without easement or alley	25 feet
Rear, from center line of public alley	10 feet
Rear, in the Hillside Overlay District	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	60 feet
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Height Regulations. 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 1 foot for each foot of height in excess of 20 feet.

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

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4726, 7-19-05; Ord. No. 4943, 11-07-06; Ord. No. 5079, 11-20-07; Ord. No. 5195, 11-6-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5735 1-20-15; Ord. No. [5800](#), § 1(Exh. A), 10-6-15; Ord. No. [5921](#), §1, 11-1-16)

161.19 - Neighborhood Services, General

(A) *Purpose.* The Neighborhood Services, General district is designed to serve as a mixed use area of medium intensity. Neighborhood Service, General 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 (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12b	General Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units
Unit 44	Cluster Housing Development

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 16	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
Unit 45	Small scale production

(C) *Density.* Eighteen (18) or less per acre.

(D) *Bulk and Area.*

(1) *Lot Width Minimum.*

All Dwellings	35 feet
All other uses	None

(2) *Lot Area Minimum.*

Single-family	4,000 square feet
Two (2) family or more	3,000 square feet per dwelling unit
All other uses	None

(E) *Setback Regulations.*

Front:	Side	Side-Zero Lot Line	Rear	Rear, when contiguous to a single-family residential district
A build-to-zone that is located between the front property line and a line 25 ft. from the front property line.	5 feet	A setback of less than five feet (zero lot line) is permitted on one interior side, provided a maintenance agreement is filed. The remaining side setback shall be 10 feet.	None	15 feet

(F) *Building height Regulations.*

Building Height Maximum	45 feet
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(G) *Minimum Buildable Street Frontage.* 50% of the lot width.

§162.01 – Establishment/Listing

(M) Unit 12b. General Business,

- (1) *Description.* Unit 12b consists of small-scale establishments offering commercial goods and services that are accessible for the convenience of individuals living in residential districts, while compatible in size, scale and appearance with the surrounding neighborhood. These uses shall be subject to the regulations in Chapter 164. All uses classified under Unit 12b must be within a building containing 8,000 square feet or less, excluding area dedicated to residential uses.

- (2) *Included Uses.*

Personal services	•Day Care
	• Dry cleaning
	• Salon/Barber shop
	• Tailoring
Retail	• Antique/home décor sales
	• Apparel
	• Art/Architectural supplies
	• Bakery/Pastry shops
	• Bicycle shop
	• Bookstore
	• Coffee shop
	• Delicatessen
	• Drugstore
	• Florists
	• Food specialty stores
	• Grocery
	• Hardware store
	• Health food store
	• Hobby/Craft shop
	• Ice cream
	• Meat market
	• Restaurant/Café
	• Small Appliance Repair

	• Stationary store
	• Toy store
	• Video rental
Professional Offices	• Accountant
	• Architect
	• Attorney
	• Broker
	• Business/Mgmt. Consultant
	• Doctor



JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying
Landscape Architecture Services

CUP 17-5733
Request Letter

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703

Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

April 6, 2017

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701
Attn: Development Services

Re: Hearthstone Properties Rezoning

To Planning Commission/Planning Staff

Please accept this request to alter the previous rezoning from Community Services (CS) to Neighborhood Services-General (NS-G). After meeting with staff and the owners of the property, we feel that this zoning classification is the optimal zoning request and that it is a downzone in regards to both CS as well as RO. This zoning classification would eliminate any concerns that have been brought up associated with the CS request in regards to gasoline service stations as well as drive through restaurants. This zoning classification would also have reduced building heights, as well as limit the by-right foot print of the building(s).

We appreciate both the community's and the staff's time and input on this matter and look forward to discussing this rezoning with the Planning Commission.

Jorgensen + Associates

**Public Comment
for 3/27/2017 Planning
Commission Meeting**

We, the undersigned owner and residents of Stonewood, are strongly inclined to support the requested zoning change from Max Parker. For decades we have enjoyed the higher property values and enhanced city services provided by Fayetteville's adherence to a strict policy of planned development. Evidenced by Fayetteville's repeated listings as one of the top ten places to live in the US...a distinction not awarded to our neighbors.

The stringent signage, greenspace, parking, etc. codes, requirements and ordinances have continued to make Fayetteville a desirable place to live although other cities in our area may be more attractive from a property price point view only.

We trust the planning commission and other regulatory bodies to allow only a tasteful commercial establishment that would enhance the neighborhood. We believe that an attractive, unobtrusive restaurant/coffee shop between our neighborhood and the Botanical Gardens would be very desirable.

As for the future risks, any business would require design, elevation and building permit approval. History has proven that Fayetteville protects both its residential and commercial areas by a policy considering aesthetical, environmental and service support availability.

Thank you,

Janet Watkins, Elizabeth Blackburn, Barbara George

Public Comment for RZN 17-5733 (CP Properties)

3/25/2017

Mr. Curth,

I understand there is a question of rezoning property that is at the front entrance of Stonewood from office, and the like, to one that would allow for the building of restaurants. In particular, there is the building of a pizza shop being currently considered. I would like to let you know that I, and my family, are strongly against this change. When property is purchased, there is an expectation of maintaining value and a level of comfort. Nuisances like this restaurant destroy that value and comfort. It materially alters the initial purchase agreement. The restaurant will produce noise, smells and dangers that were not presented to the current owners when they first agreed to purchase the property. In addition, there is a safety issue when you place a business in with homes. Business often request and received liquor licenses. In addition to provided this to there customers there is parking and increased traffic or congestion. The two combined can be dangerous to not only the people living in the neighborhood but visitors to the Botanical Garden across the street. Many people walk, bike and move back and forth across that intersection. I think you all should be on notice of these danger and nuisance issues when you are considering these zoning changes. Any changes you make and the consequences that might occur should be carefully considered. Thank you for your consideration of this matter,

Monika Szakasits
Resident of Stonewood Subdivision

3/26/2017

Hello Mr. Curth:

I'm a new resident to the Stonewall community. My property directly abuts the R-O zoned properties along Crossover.

Recently it has come to my attention that there is the potential for the R-O zoned lots in front of Stonewall to be rezoned to allow an eatery of some type.

While I like the convenience of another great food joint nearby, I certainly wouldn't welcome the lights, sounds and smells that would come along with it, staring right into my backyard.

I have voiced my opposition to our POA President, but thought it wouldn't hurt to let you know how I feel as well.

I am against the proposed rezoning.

Thanks for listening!

Vic Kennett
Founder / CEO



Phone: 870-423-6242

Web Site: www.kerusso.com

"One Team - One Mission!"

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3/27/2017

Mr. Curth:

I write this email to register my objection to the proposed rezoning of Lots 1 & 2 of Stonewood from R/O to CS. I understand that the planning commission will consider this rezoning request at their meeting at 5:30 this afternoon. I plan to attend. Thank you.

Stevan E. Vowell

Taylor Law Partners, LLP

303 E. Millsap

P. O. Box 8310

Fayetteville, AR 72703

(479) 443-5222

(479) 443-7842

svowell@taylorlawpartners.com

Dear sir,

As I understand the present proposal for the property on Hearthstone and 265 across from the Botanical Gardens there are positive aspects to the proposal. My concern is as planned another pizza parlor will be there. Should the council not take into consideration multiple ones in close proximity? I would hope the council would consider what is best for the community. In addition, a major reason I chose to purchase a home in Copper Creek subdivision was the location of the Botanical Gardens and the hiking trail. Another fast food place is not in concert with those amenities. If it is at all possible to take into consideration this great local asset and what would enhance rather than detract from it, I would sincerely recommend the council doing so.

Margret Walker

3441 Peppermill Place

Fayetteville, AR

Sent from my iPhone

Hello Mr. Curth,

I'm a resident of the Copper Creek neighborhood and will attend this hearing to learn more about the rezoning request. Would you please provide a copy of the comprehensive plan for this area?



I look forward to seeing the comprehensive plan.

My thanks,

~Susan Holmes

3404 Jasper Lane Fayetteville AR 72764

479-225-6175 susanholmes95@gmail.com

Dear Mr. Curth,

My husband and I would like to voice our opinions *against* the proposed rezoning for Stonewood Lots 1 and 2 (RZN 17-5733). One of the benefits of this neighborhood is privacy. Bringing commercial property to the front entrance of the neighborhood will undoubtedly bring increased traffic to the area. There are other downfalls as well, which will be shared by Stonewood POA. Thank you for your consideration.

Sincerely,

Jennifer & Michael Moffitt

4652 Stonewall Xing

Fayetteville, AR 72764

Jonathan,

Attached is a spreadsheet showing the responses to the proposed rezoning of Lots 1 and 2 in the Stonewood subdivision. As you will readily see, there are clearly two sides to this proposal. The developers are all for it, and the homeowners are almost 100% against it. I don't need to repeat the

reasons the homeowners oppose the rezoning - you've seen multiple emails from them already. I trust that you will include this spreadsheet information in the package that you provide to the Planning Commission.

Bob Anderson
Treasurer
Stonewood P.O.A.

The subject spreadsheet is attached to this packet of public comment.

Mr. Curth:

I am opposed to the rezoning of the 1.79 acres east of Crossover and south of Hearthstone.

My plan to attend tonight's meeting has been foiled. Therefore, here is why I am opposed to the rezoning from "Residential Office" to "Community Service."

1. Crossover's median prevents easy access.
2. Gridlock at Crossover and Hearthstone would be inevitable.
3. The Botanical Garden's beauty and purpose would be in jeopardy.
4. CS zoning will likely impact the existing residential environment and property values.

Honestly any savvy commercial/retail developer (independent or franchise) would see these same concerns and would not pursue this land in question.

Thank you for including my concerns in tonight's meeting and subsequent decision. Also, we really appreciate the work that you and the Planning Commission do to make Fayetteville a great place to live!

Best regards,

Daniel Hocklander
Past President
Copper Creek Homeowners' Association

TO: Jonathan Curth
Fayetteville City Planning Department

I am opposed to the rezoning of Lots 1 and 2 in the Stonewood Division for the proposed development of the lots.

Current property owners have bought lots and built their residents with the knowledge of the current written commercial zone guidelines (residential office building). I am also concerned about the effect this might open up for the other commercial zoned property fronting the Highway.

I would appreciate the planning board taking my opinion into consideration.

Stonewood Division property owner

Jo Ann Woodward

Stonewood Subdivision Responses to a POA Survey

Stonewood Subdivision Rezoning Proposal for Lots 1 & 2

Commercial Lots

92.9% Percentage of lots voting
13 For the rezoning
0 Against the rezoning

Homeowner Lots

72.4% Percentage of lots voting
1 For the rezoning
75 Against the rezoning

Lot	Parcel	Name	Address
1	22244	C P Properties, LLC	Crossover Road (Vacant Commercial Lot)
2	22245	C P Properties, LLC	Crossover Road (Vacant Commercial Lot)
3	22246	Kjune LLC	Crossover Road (Vacant Commercial Lot)
4	22247	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
5	22248	Parker Investments, LLC	Castlewood Ln. (Commercial Lot)
6	22249	Parker Investments, LLC	Castlewood Ln. (Commercial Lot)
7	22250	Parker Investments, LLC	4790 Castlewood Ln. (Commercial Lot)
8	22251	Fochtman, Earl & Gayle	Crossover Road (Vacant Commercial Lot)
9	22252	Fochtman, Earl & Gayle	Crossover Road (Vacant Commercial Lot)
10	22253	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
11	22254	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
12	22255	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
13	22256	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
14	22257	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
15	22258	Ellison, Frances Anita	4843 Lavendon Pl.
16	22259	Ingram, Justin & Andrea	4857 Lavendon Pl.
17	22260	Watson, Gaye F.	4869 Lavendon Pl.
18	22261	Olive Trust Joshua Hicks	4881 Lavendon Pl.
19	22262	Stevens, Robert & Karen	3116 High Meadows Dr.
20	22263	Liu, Pu & Li-Chuan Chang	3140 High Meadows Dr.
21	22264	Oswald, Robert & Anne	3162 High Meadows Dr.
22	22265	Roberts, Barbara	3186 High Meadows Dr.
23	22266	Szakasits, Monika	3200 High Meadows Dr.
24	22267	Nielson, Bradley & Michelle Roberts	3224 High Meadows Dr.
25	22268	Murphy, Rong Yan	3246 High Meadows Dr.
26	22269	Hicklin, Michael & Lynda	4884 Trails End Ln.
27	22270	Vowell, Stevan & Peggy	4868 Trails End Ln.
28	22271	Hopkins, Wade & Sharon	4856 Trails End Ln.
29	22272	Aldridge, Bret & Barbara	4842 Trails End Ln.
30	22273	Hubbard, Thomas & Shareinea	4830 Trails End Ln.
31	22274	Zimmerman, Brent & Cassandra	3229 High Meadows Dr.
32	22275	Woodward, Billy Ray & Joann	High Meadows Dr. (Vacant Lot)
33	22276	Scarbrough, Troy & Amy	3191 High Meadows Dr.
34	22277	Cox, Winfred M. & Clarice W.	3163 High Meadows Dr.
35	22278	Caldwell, Nelson & Terrie	3141 High Meadows Dr.
36	22279	Augustine, Merlin & Beverly	4862 Lavendon Pl.
37	22280	Anderson, Bob	4844 Lavendon Pl.
38	22281	Parker, Terry & Ellen	3142 Greystone Dr.
39	22282	McLaughlin, Gary & Susan	3164 Greystone Dr.
40	22283	Mitzel, Marvin & Christel	3190 Greystone Dr.
41	22284	Welker, Juanita M.	3204 Greystone Dr.
42	22285	White, Bryan & Susan F.	3228 Greystone Dr.
43	22286	Davis, Jerry & Brenda	4808 Trails End Ln.
44	22287	Marley, Mark & Cheryl	4792 Trails End Ln.

Stonewood Subdivison

Rezoning Proposal for Lots 1 & 2

Commercial Lots

92.9%	Percentage of lots voting
13	For the rezoning
0	Against the rezoning

Homeowner Lots

72.4%	Percentage of lots voting
1	For the rezoning
75	Against the rezoning

Lot	Parcel	Name	Address
45	22288	Mize, Andrew M. & Page Ann	4774 Trails End Ln.
46	22289	Salsbury, Randy & Shana	4758 Trails End Ln.
47	22290	Ashley, Larry & Martha	4749 Trails End Ln.
48	22291	Bunn, Richard & Margaret Werner	4773 Trails End Ln.
49	22292	Bradbury, Michael & Sharon Etchinson	4791 Trails End Ln.
50	22293	Glenn, Ryan & Maranda	4807 Trails End Ln.
51	22294	Wynne, Thomas B. & Marley M.	3203 Greystone Dr.
52	22295	Rigo, Gilson & Vania	3189 Greystone Dr.
53	22296	Basnett, Erin	4790 Stonewall Crossing
54	22297	Crawford, John & Beverly	4772 Stonewall Crossing
55	22298	Davis, Doris & Kim	4754 Stonewall Crossing
56	22299	Hughey, Gary & Sandra	4738 Stonewall Crossing
57	22300	Gillihan, Betty Kaye	3202 Hearthstone Dr.
58	22301	Jezewski, Jeffery & Jennifer	3226 Hearthstone Dr.
59	22302	Matthews, Andy & Cheryl	3244 Hearthstone Dr.
60	22303	Scalise, Mark & Jacqueline	3268 Hearthstone Dr.
61	22304	Malone, Noel & Ada Lee	3077 Greystone Dr.
62	22305	Smith, Virginia	3103 Greystone Dr.
63	22306	Mueller, Phuong & Ellen Gebhart-Mueller	3119 Greystone Dr.
64	22307	Mosby, Keith & Katherine	4807 Stonewall Crossing
65	22308	Stephens, George L. III	3144 Ladelle Pl.
66	22309	Alisha Sutton	3120 Ladelle Pl.
67	22310	LaGrone, Dean	3102 Ladelle Pl.
68	22311	Kennett, Vic & Melody	3078 Ladelle Pl.
69	22312	Flynn, Mike & Courtney	3063 Ladelle Pl.
70	22313	Henry, Clay & Jean Ann	3079 Ladelle Pl.
71	22314	Wright, Warren & Linda	3101 Ladelle Pl.
72	22315	Draper, Joe & Nancy	3145 Ladelle Pl.
73	22316	Draper, Joe & Nancy	3145 Ladelle Pl.
74	22317	Draper, Joe & Nancy	3145 Ladelle Pl.
75	22318	Draper, Joe & Nancy	3145 Ladelle Pl.
76	22319	Davis, Rick & Shawna	3100 Hearthstone Dr.
77	22320	Pianalto, Nick	3080 Hearthstone Dr.
78	22321	Hudgens, Patricia	3081 Hearthstone Dr.
79	22322	Ashby, Charles & Debbie	3033 Waterstone Dr.
80	22323	Busken, Gerard & Tammy	3057 Waterstone Dr.
81	22323-001	Collins, Craig & Bethany	3089 Waterstone Dr.
82	22324	Cantu, Jeffrey	3123 Hearthstone Dr.
83	22325	MacDade Properties LLC	3044 Waterstone Dr.
84	22326	Watkins, Janet & Catherine Vantine	3072 Waterstone Dr.
85	22327	Head, Steven & Hillary	3104 Waterstone Dr.
86	22328	Stancil, Jim & Susan	3130 Waterstone Dr.
87	22329	Forge, Maxine	3152 Waterstone Dr.
88	22330	Mazili, Christine A.	3186 Waterstone Dr.

Stonewood Subdivison

Rezoning Proposal for Lots 1 & 2

Commercial Lots

92.9%	Percentage of lots voting
13	For the rezoning
0	Against the rezoning

Homeowner Lots

72.4%	Percentage of lots voting
1	For the rezoning
75	Against the rezoning

Lot	Parcel	Name	Address
89	22331	Andrade, Juan & Ana	3208 Waterstone Dr.
90	22332	Levy, Lynn Revocable Trust	3224 Waterstone Dr.
91	22333	Green, Cynthia K.	4657 Stonewall Crossing
92	22334	Moore, Jennifer Paige	4665 Stonewall Crossing
93	22336	Young, Dena	4673 Stonewall Crossing
94	22335	Young, Alex Alden	4687 Stonewall Crossing
95	22337	Wilson, Hugh E. & Audrey A.	4695 Stonewall Crossing
96	22338	Serrano, Jose & Maria	3147 Hearthstone Dr.
97	22339	Porter, Kenneth B. & Andrea	3267 Hearthstone Dr.
98	22340	Zavaleta, Julio Cesar	3243 Hearthstone Dr.
99	22341	Taylor, Lawrence & Brandy	3225 Hearthstone Dr.
100	22342	Moore, Samuel & Margaret	3201 Hearthstone Dr.
101	22343	Collins, Randall	3185 Hearthstone Dr.
102	22344	Hardcastle, Andrea	4692 Stonewall Crossing
103	22345	Kyle & Caitlin Pennington	4664 Stonewall Crossing
104	22346	Bowlin, Philip & Brenda	4658 Stonewall Crossing
105	22347	Moffitt, Jennifer & Michael	4652 Stonewall Crossing
106	22348	Brown, Michael & Ana	4646 Leiston Pl.
107	22349	Demarest, Chris & Alicia	4640 Leiston Pl.
108	22350	Antoine, Ronald & Zenarea	4632 Leiston Pl.
109	22351	Rhodes, Amy S.	4624 Leiston Pl.
110	22352	Chamberlain, Carol Jean	3267 Waterstone Dr.
111	22353	Locey, Ryan & Monica	3245 Waterstone Dr.
112	22354	McCarley, Timothy	3223 Waterstone Dr.
113	22355	Morris, Nicholas & Lydia	3209 Waterstone Dr.
114	22355	Sandlin, James & Renee	3187 Waterstone Dr.
115	22355	Carrasco-Quezada, Erika	3165 Waterstone Dr.
116	22356	Black, Nancy	Waterstone Dr. (Vacant Lot)
117	22357	Mathias, David & Ashley	3129 Waterstone Dr.
118	22357-001	Siebert, Eric & Katlyn	2111 Waterstone Dr.
119	22358	Zamora, Rosanna	3352 Waterstone Dr.

Public Comment for 4/10/2017 Planning Commission Meeting

3/28/2017

Thank you for your response. We attended the planning meeting last night and were so disappointed the issue of rezoning our neighborhood was tabled instead of being voted down. We retired four years ago and moved to this area from NE Arkansas. One of our prime reasons for choosing this subdivision was because of its beauty and cleanliness. My husband is in bad health, so we felt the neighborhood afforded us safety with proximity to doctors and the hospital. We knew it was zoned R/O but believed office type buildings would be built in the frontage area with day hours, not a lot of congestion, or loud noise. With so many of the homeowners in Stonewood voting not to change the zone to CS, my prayer is that the planning commission will vote the will of the people. The fact that the 2030 goals of the city have this area marked to remain residential impressed me that the city felt it important to protect some residential areas and not turn everything into commercial. Thank you for your work. If my husband is able, we will attend the next meeting.

Sandy Hughey
4738 Stonewall Crossing

3/30/2017

Jonathan,

As I did at the hearing Monday night, I would like to again voice my opposition to the rezoning of Lots 1 and 2 in the Stonewood subdivision from R-O to CS or any other zoning designation other than what they have always been. I am disappointed that the Planning Department would recommend approval when the rezoning clearly doesn't fit the City's own master plan, Plan 2030. When you drive the length of Crossover within the city limits, you can clearly see the commercial areas at the intersections identified by Thomas Brown at the hearing. What you don't see when you drive north of Zion is anything resembling a commercial area, just as Plan 2030 indicates. Doesn't the Planning Department look at Plan 2030 when they are deciding to recommend approval for a rezoning?

Bob Anderson
Treasurer
Stonewood P.O.A.

Dear Jonathan,

Please accept this correspondence as a vehement objection to the proposed rezoning of the 2 lots adjacent to the Hearthstone Drive entrance. It was accepted when we all elected to build our homes, and invest substantial monies to do so, that **there would eventually be office buildings at the entrance**. That was the accepted deal. Be assured it **was an arrangement we were all aware of and accepted**. Why is this relevant? Because we were also aware of what was NOT allowed to be built at the entrance, namely convenience stores or fast food or any number of high traffic / high-volume business of those type.

If the deal when we build houses and moved to the neighborhood was that there would be a convenience store or McDonald or etc. at the entrance, MOST if not **ALL** of the present tenants would have elected to forego building or moving into Stonewood or Copper Creek, and would have established our homes and neighborhoods elsewhere. Myself absolutely! It was a **CONSCIOUS** decision, not something that had

not been considered until now! That is a fact. A rezoning would be an unfair change of rules mid-game. Not fair. Not equitable. It completely fails the "Do Right" rule!

It was NEVER part of the deal that those lots would be allowed to be rezoned in a manner that would allow fast food or convenience stores or any number of high traffic / high-volume businesses or retailers to clog the intersection and attract persons of every ilk to our neighborhood!! It is simply not acceptable to the residents who have made this neighborhood their home to suddenly allow it.

Please respect this request to deny the rezoning and request the opinions of the residents. Consider for a minute and **take into account the extremely negative impact this rezoning would have on a population of citizens that more than pulls its weight paying the taxes** which fund the activities and salaries of the employees of this city.

We trust you will pass along these sentiments to the Commissioners hearing this request.?! Your, and their **consideration in this regard would be greatly appreciated!!**

Best,
Mark Scalise

Mark N. Scalise
3268 Hearthstone Drive
Fayetteville, AR 72764
(479) 466-7712

Dear Jonathan, the letter you received from Mark Scalise is exactly what I wish to convey regarding my feelings about the rezoning of Stonewood property. My husband and I relocated here 2 years ago and we were assured the rezoning was for RO and told that was for office buildings. My husband had complete faith that this was the case. He passed away last year after a sudden illness but he loved living in Fayetteville. Please do the right thing and do not disappoint us. Thank you. Anita Ellison 4843 Lavendon Place. 870 919 5965 Sent from my iPhone

Mr. Curth:

My husband and I live in the Stonewood Subdivision on Trails End Lane. We are opposed to rezoning the lots in the front of our neighborhood from RO to CS. We have several concerns, most of which were addressed by our neighbors at the meeting on March 27. However, I do have a few comments I would like to make.

First of all, I cannot understand how the Commission can say that the addition of the proposed restaurant (which would be allowed under the CS zoning) would not increase the traffic in our neighborhood. I think it is logical and commonsense that if this establishment is successful, traffic will increase in our neighborhood. Steve Vowell told the Commission about the heavy traffic in the mornings trying to exit our neighborhood. What I don't think the Commission appreciates is that between the hours of 7 a.m. to 9 a.m. at many times there is a line of between 7 to 9 cars waiting to turn left (South) at the light at Hearthstone and 265. If you add a coffee shop with a drive thru at the location with the only entrance and exit to that coffee shop being on Hearthstone, it will create a traffic issue. I believe the busiest hours for

the coffee shop would also be between the hours of 7 a.m. and 9 a.m. I have no doubt that many of the people exiting the coffee shop will see the line of cars waiting to turn and decide to take a right onto Hearthstone to try to find a different and quicker exit. Since they are not familiar with our neighborhood, they will not know that the Hearthstone exit is the only exit from the neighborhood which allows you to exit and travel South. Those people will end up driving through the side streets until they realize their only exit is on Hearthstone.

The comment that the rezoning is needed so the restaurant can build on the street as opposed to a setback as required to keep AHTD from widening 265 further is ridiculous. AHTD has no plans in the foreseeable future to widen 265 to more than the four lanes it already has. Further widening is not on any of AHTD plans.

A major concern is the safety of the crosswalk at Hearthstone and 265. If the Commission wants to put in restaurants/shops, etc. to encourage people from the trail system to cross the road to visit those establishments, the crosswalk will need to somehow be made safer. We utilize the trail system regularly. It is one of the reasons we like our neighborhood so much is that we have convenient access. However, the crosswalk is not safe. I cannot tell you the number of times someone traveling South has run the red light. If a pedestrian is unfamiliar with the safety issues and simply steps out into the crosswalk thinking they have the right of way, the likelihood of someone getting injured is very high. Also, the traffic coming out of the BGO cannot see traffic or pedestrians because of the slope of the hill as they exit. They do not see anything until they get to the top of the hill and have started to make their turn. There have been several times that bicyclists have almost been hit by cars turning out of the BGO. Also, vehicles that stop in the crosswalk or beyond the cross walk far outnumber the vehicles the stop before the crosswalk. Plain and simple – to be safe, pedestrians at that crosswalk have to wait to make sure the vehicles are going to stop at the light, and also that they are not going to stop in or beyond the crosswalk.

When the current owners of the RO lots purchased them, they knew that they were zoned RO. When the people in the neighborhood bought their houses, they knew that the zoning was RO. It is completely unfair at this point to change the zoning from RO to CS so that the owners of those lots can sell them. The rezoning benefits the owners of the 14 RO lots to the detriment of the 105 owners of the houses in the Stonewood Subdivision. If the lots are going to be rezoned, a far more appropriate and fair rezoning would be to Neighborhood Services.

Thank you for your time.

Sharon Hopkins
Cox, Cox & Estes, PLLC
3900 Front Street, Suite 203
P. O. Box 9630
Fayetteville, AR 72703
P: 479-251-7900
F: 479-251-7910

Dear Mr. Curth :

We are owners in Stonewood. We were in attendance @ the City Planning meeting on Monday, 3/27/17. It was encouraging to note the civility & good order , especially in these times. There were some most tender issues addressed in a very respectful manner by you & the commissioners. It was nice to see. Thanks.

However, the commissioners seem to be much disposed to approve the above cited proposal to rezone & know what is to follow .This is not good.

And that persuasion, despite cogent & honest testimony by a multitude of residents to indicate the predictable harm rezoning will bring.

This includes, & is not limited to, increased commercial traffic, pedestrian adults & kids struck / injured by vehicles, trash, vermin, food odors, noxious, mephitic smells, dumpster drawbacks, decreased home & property value, reduction in the solace, comfort, & peace of the Stonewood home environment, general discontent, excessive unneeded transients passing through with the probable chance for increased crime in Stonewood & the area .

Folks did not buy there to be degraded & marginalized in such a way. The effort seems invidious .Land owners & developers on Lots 1 & 2 will benefit mightily; the merchants & beaneries that establish there may do OK ; the city will surely benefit from the lucre of more tax income , and development will creep on up the road & down it soiling all in its path . The 14th Amendment says a lot indeed.

Respectfully, it is venal, selfish ,biased, & improper to do this without equal consideration of Stonewood and sentient consideration of its position. A sense of decency here is hard to spot presently . The spirit & intent of the rezoning effort is surely incompatible with good citizenry & consideration of the decent people of Stonewood. I hope the commissioners do not share that view of us. We pay our bills, keep your city alluring , and dignify yourselves and Springdale as a fine place to be. Please do consider us.

Sad to say, at this juncture we are meat for your grinder.

And it's for a purpose that defiles the common good of the area, the common weal, and even yourselves as advocates for something which, in the long view , is detrimental for the surround & us.

It was somewhat surprising to hear the nice Nature Center spokeswoman's comments last Monday. "Neutrality" noted in her stance.

There is solid irony in favoring some beaneries to be close by , feeding their patrons after a healthy heart ramble in the Center . And knowing that these food places are established on , & adjacent to , clean salubrious neighborhoods that are being soiled by the enabling rezoning & planned development. These are juxtaposed to the healthiness & good stuff of her nature unit. Ugh. Well, opinions are that way, and no hypocrisy is suggested.

I am hopeful that all of you will put your political & mercenary hats aside to consider what you are doing to some of your very own good ones in this fine multicultural neighborhood. It is improper , & tends to do real harm. I trust Homo sapiens would never eat its own. We should all have that confidence.

Thank you.

Sincerely,

Albert Mac Dade
Owner- Stonewood

3/31/2017

WE HAVE LIVED IN STONEWOOD FROM DEVELOPING FIRST BEGAN. WE BOUGHT LOTS 72,73,74,75. WE MOVED HERE FROM THE KANSAS CITY AREA AND PREVIOUSLY TO THAT LIVED IN HOUSTON WITHIN BOTH NICE BEGINNING SUB-DIVISIONS. AFTER BEING IN EACH AREA FOR 21 AND 16 YEARS RESPECTIVELY, THEY WENT THROUGH A REZONING PROCESS FROM RO. THEY BUILT A ALDI FOOD STORE IN KANSAS CITY AND A CONVENIENCE STORE IN HOUSTON. BOTH SUB-DIVISIONS STARTED GOING DOWN HILL AND DEFINITELY DE-VALUED THE PROPERTIES. BY THE TIME WE SOLD AND MOVED.

WE WERE ON OUR WAY FROM KANSAS CITY TO TEXAS TO RELOCATE FROM RETIREMENT IN 2001. WE STOPPED IN FAYETTEVILLE AND AFTER LOOKING OVER THE AREA, DECIDED TO SETTLE HERE. WE CHOSE STONEWOOD WITH ALL THE PROMISES FROM THE DEVELOPER, MARK FOSTER, WHICH HE FAILED TO CARRY OUT. WE'D LIKE TO REMAIN IN STONEWOOD, BUT IF HOME VALUES START GOING DOWN, WE WON'T STAY. WE'VE BEEN THERE AND DONE THAT. WE KNOW WHAT CAN HAPPEN. I FEEL THE ENTIRE SUB-DIVISION FEELS THE SAME WAY. IF THAT HAPPENS, I CAN SEE FAYETTEVILLE HAVING A LOW CLASS HOUSING AREA WHICH COULD ALSO HURT THIS ENTIRE SIDE OF FAYETTEVILLE INCLUDING THE BOTANICAL GARDENS.

WE OPPOSE THE REZONING. HOPE THIS WILL BE PASSED ONTO THE CITY COMMISSIONERS. THANK YOU.
JOE DRAPER

Hi Jonathan,

I own property in the Stonewood Subdivision. There is no reason for commercial work or business to be on Crossover across from the Botanical Gardens. The strip that Mike Parker owned was always meant to be R/O. Please work to make that the case moving forward.

Nobody wants the Pizza Place.

Please do whatever you can to stop this rezoning and keep the area Residential / Office.

Thanks and let me know how I can help you. We are counting on you to help.

Regards,

Mike Flynn
Central Garden and Pet
Walmart Business Development Team
mflynn@central.com
479-268-7202 (O)
479-616-0707 (M)

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copies. Any views expressed herein are not necessarily those of the Company represented by this e-mail source. No contracts, agreements or legally binding understandings may be entered into solely by an e-mail communication.

Dear Jonathan,

Please accept this correspondence as a vehement objection to the proposed rezoning of the 2 lots adjacent to the Hearthstone Drive entrance. It was accepted when we all elected to build our homes, and invest substantial monies to do so, that **there would eventually be office buildings at the entrance**. That was the accepted deal. Be assured it **was an arrangement we were all aware of and accepted**. Why is this relevant? Because we were also aware of what was NOT allowed to be built at the entrance, namely convenience stores or fast food or any number of high traffic / high-volume business of those type.

If the deal when we build houses and moved to the neighborhood was that there would be a convenience store or McDonald or etc. at the entrance, MOST if not **ALL** of the present tenants would have elected to forego building or moving into Stonewood or Copper Creek, and would have established our homes and neighborhoods elsewhere. Myself absolutely! It was a **CONSCIOUS** decision, not something that had not been considered until now! That is a fact. A rezoning would be an unfair change of rules mid-game. Not fair. Not equitable. It completely fails the "Do Right" rule!

It was NEVER part of the deal that those lots would be allowed to be rezoned in a manner that would allow fast food or convenience stores or any number of high traffic / high-volume businesses or retailers to clog the intersection and attract persons of every ilk to our neighborhood!! It is simply not acceptable to the residents who have made this neighborhood their home to suddenly allow it.

Please respect this request to deny the rezoning and request the opinions of the residents. Consider for a minute and **take into account the extremely negative impact this rezoning would have on a population of citizens that more than pulls its weight paying the taxes** which fund the activities and salaries of the employees of this city.

We trust you will pass along these sentiments to the Commissioners hearing this request.?! Your, and their **consideration in this regard would be greatly appreciated!!**

Thanks,
Mike

Regards,

Mike Flynn
Central Garden and Pet
Walmart Business Development Team
mflynn@central.com
479-268-7202 (O)
479-616-0707 (M)

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4/3/2017

Mr. Curth,

I wish to comment on the meeting of 03/27/2017 concerning the rezoning of property and the intersection of Hearthstone and Crossover.

I will reiterate my opposition to permitting the rezoning of that property. Again, if the government decides to interfere with a contractual agreement between members of the public (who have not been under coercion or misinformation) there must be a substantial benefit to the citizen received from such interference. Even in takings of personal property, the public use benefit must be considerable.

The committee response did not assure anyone of a significant benefit from the zoning change. There is no benefit from rezoning as would be received from things like new roads to reduce traffic, signs for security, an easement for better infrastructure, or any other advantage. It will only help one person sell his property to the detriment of many homeowners.

It was repeatedly mentioned that a nice business or small shop would be permitted under current zoning for this property. This current zoning protects the owners of the property from nuisance. Smells, noise, order and other problems that might occur could be addressed under these ordinances. Changes would deprive owners of these protections from businesses that failed to keep up an amicable existence in the subdivision and negatively affect property values.

I understand the planning committee is a voice for business in Fayetteville. However, they are also a part of the city government and need to recognize and rights they would be compromising. I urge them to reconsider.

Monika
Resident of Stonewood Subdivision

I recently sent you an email stating that if certain assurances could not be met, my wife and I would be opposed to rezoning the front lots. In our opinion, those assurances can not be met. We want to go on record as specifically being opposed to the rezoning that is being proposed!

Samuel and Margaret Moore

4/5/2017

Mr. Curth,

Prior to your revised report that will be sent to the Planning Commission on 4/6, I wanted to reiterate my opposition to RZN 17-5733. Many concerns were well communicated and supported in the last planning meeting; however, I wanted to highlight only a few for continued consideration.

1. 74 of 75 Stonewood Residents are against rezoning according to a poll conducted by the Stonewood POA Treasurer. If Copper Creek and Embry Acre residents were polled, you would see the number of residents opposed increase significantly.
2. Both the developer and Stonewood homeowners bought property and adjacent properties with the understanding that the entrance to Stonewood would be zoned RO. I disagree with staff finding 5b in the original memo regarding this matter which states "It would be impractical to use the land for any of the uses permitted under its existing zoning classifications." The office park north of Hearthstone appears to be fully leased/owned, making this a practical development for RO zoning.
3. I fully support Commissioner Brown's comments that rezoning to CS does not support the 2030 Comprehensive Plan for this neighborhood.
4. I fully support Commissioner Hoskin's comment that the plan for an end use with a drive thru window application does not fit the adjacent properties and should not be considered.
5. I fully agree with the Commissioner's comments that in order to vote to rezone this property to CS the Commission would have to turn their backs on all the residents opposed to the rezoning.

Thank you for considering these points as to draft your revised report for the Planning Commission.

Best regards,
Ryan Parrish
Copper Creek Home Owner

My name is Joe Rocko, I am a resident of the Embry Acres/Stonewood/Copper Creek subdivision in Fayetteville, Arkansas. I think having local businesses in that area is a no brainer. It increases the value of the houses and can offer the neighborhood much needed restaurants. I can't begin to tell you how often our Facebook page shows people asking for more restaurants in the area. Personally that would be amazing. I also can't help but think that a pharmacy, restaurants, bike shop, or coffee shop would be amazing. A few of our neighbors seem to be upset by this possible rezoning. Honestly though what did they think would go there?

No one would buy that land to put a house on it. It's too close to 265 and it would be a bad spot for a small group of houses to be on. When thinking about this area I always thought about how great it would be to have local businesses within walking distances from the park and neighborhood.

Thank you for letting us speak out on this topic

Joe Rocko

Dear Mr. Curth,

My family and I live on Waterstone Drive in Copper Creek. We are **strongly opposed** to the rezoning of the SE Crossover Rd & Hearthstone Dr. We moved to this location to enjoy the lovely & quiet access to The Botanical Gardens as well as Lake Fayetteville, not to mention the feeling of "**Safety**" in our neighborhood. The proposed rezoning would create unwanted noise (live music into the late evenings @ MJ's Pizzeria) would you want to have to listen to this from your back yard or even inside your home when trying to relax after work or put your children/grandchildren to bed. I am actually wondering why would ANOTHER pizza place want to go in within such a small proximity to Jim's Razorback on corner of Joyce and Crossover, Marco's just down road at corner of Don Tyson and Crossover, then there is Papa Murphys a the next intersection of Hwy 412 and Crossover... seems like a possible front to me... once they get the rezoning they switch things up! This is not to mention the extra traffic and possible cut thrus

into the subdivision and create unwanted mischief. We are **ALL** (Copper Creek, Stonewood and Embry Acres) worried that this will cause many issues and unhappy residents. The current property's on Castlerwood Ln where Elder Management, Prime Real Estate & Development & the new office for financial planning are wonderful and welcome additions to the front of the neighborhoods! Please keep the areas zoned for businesses such as this in order to maintain the peaceful tranquility of the front of the subdivision as well as the lovely Botanical Gardens across the street.

Thank you for your time & consideration,

Renee Rogers
3373 Waterstone Drive
Fayetteville, AR 72764

Memo from Commissioner Brown

Fellow Commissioners

The Guiding Policies of the 2030 Master Transportation Plan encourage the Planning Commission to consider the impacts of land use decisions on the the transportation network.

Using 2011 to 2015 Average Daily Traffic Count Data supplied by the Arkansas State Highway and Transportation Department and 2011 to 2015 Traffic Accident data supplied by the Fayetteville Police Department through the City GIS, I have calculated the level of traffic volume needed to produce a traffic accident (see attached Traffic Volume and Accidents.xlsx) on the following two Principal Arterials:

- Crossover/Hwy265 - 39,815 vehicles.
- College Avenue/ 71B - 13,737 vehicles.

The lower Traffic Volume needed to produce an accident on College Avenue/71B compared to Crossover /Hwy265 is a result of land use, road design and the access management policy differences.

For example, College Avenue has more curb cuts, intersections and bordering retail commercial land uses than Crossover/Hwy265.

Therefore, reducing traffic accidents and insuring the effective functioning of this Principal Arterial should be a major reason why we need to avoid continually approving retail commercial land uses outside the designated City Neighborhood Areas within the Crossover/ Hwy265 Corridor and thereby setting precedence that may eventually result in another College Avenue along Crossover/Hwy265.

Tom Brown

Traffic Volume per Accident Calculation

Hwy71B/College Ave Corridor		Hwy71B/College Ave Corridor				
		Annual Ave Daily Traffic Est ¹				
Station		2011	2012	2013	2014	2015
304	283	18000	18000	18666	19332	20000
303	282	18000	18000	15000	17000	19000
302	281	16000	15000	13000	16000	18000
299	280	17000	17000	17000	19000	22000
298	279	18000	17000	17000	19000	22000
297	277	22000	22000	21000	24000	25000
296	276	19000	21000	21000	23000	22000
295	278	16000	17000	18000	16000	16000
Average		18000	18125	17583	19167	20500
		2011 thru 2015 Average				
		Annual Total Traffic Volume				
		18675				
		6816357				

Traffic Accidents ²		Traffic Accidents ²				
		2011	2012	2013	2014	2015
Total		154	167	161	180	194
		2011 thru 2015 Total				
		856				
		Average Accidents/ Year				
		171				

Traffic Volume/Accident	Traffic Volume/Accident
13737	39815
-0.65	Vehicles

- References:
- https://www.arkansashighways.com/System_Info_and_Research/traffic_info/traffic_map.aspx
 - Source: Fayetteville Police Department data reprocessed by GIS

Note: 27500 Missing data, used average of earlier year and later year.

Traffic Accident Variables	
Traffic Volume	Different per road
Weather Condition	Same for both roads
Vehicle Condition	Same for both roads
Driver Behavior	Same for both roads
Road Design	Different per road
Land Use	Different per road
Access Management Policy	Different per road

CUP 17-5733

Spreadsheet from

Commissioner Brown

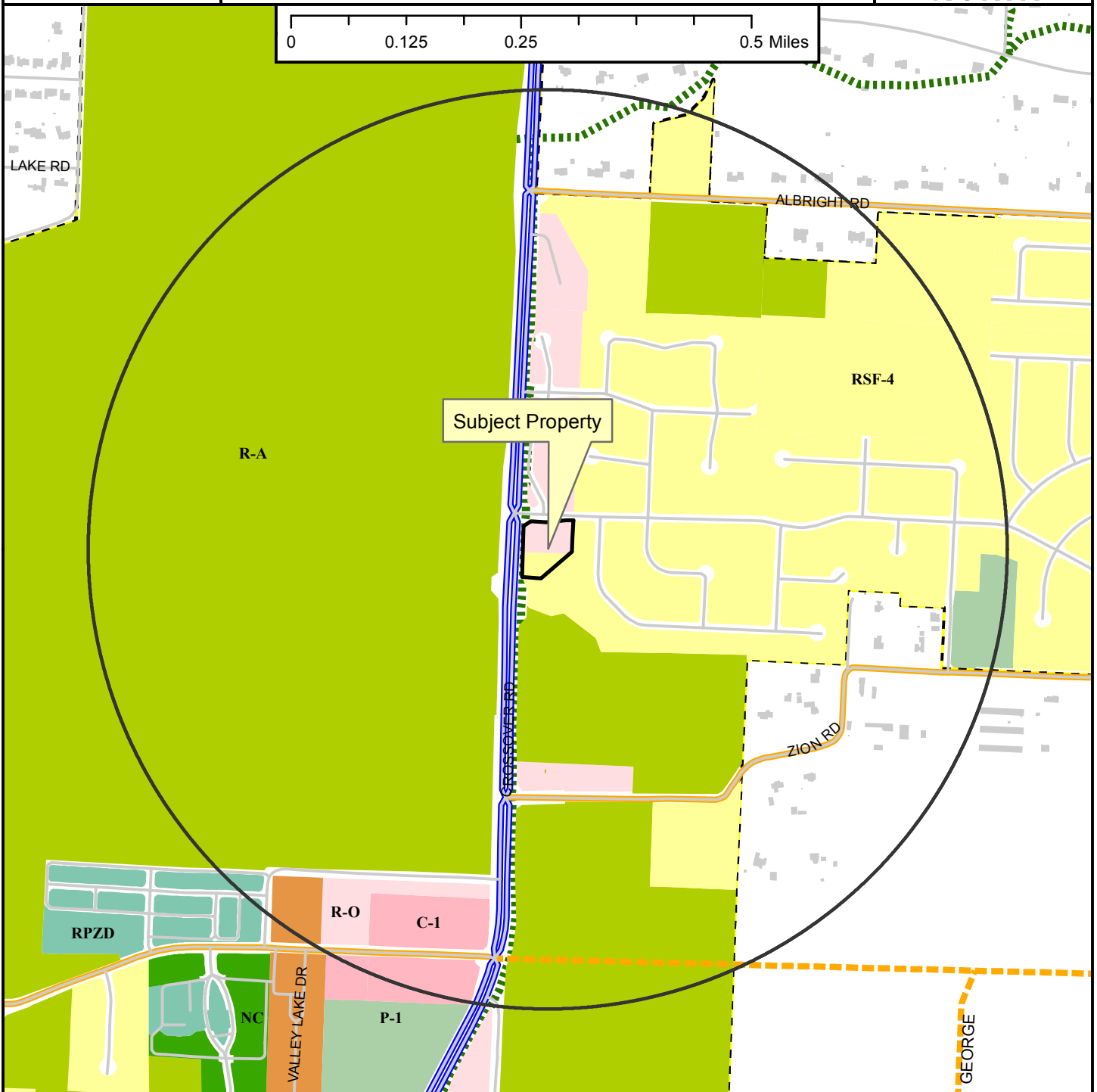
RZN 17-5733

One Mile View

CP PROPERTIES

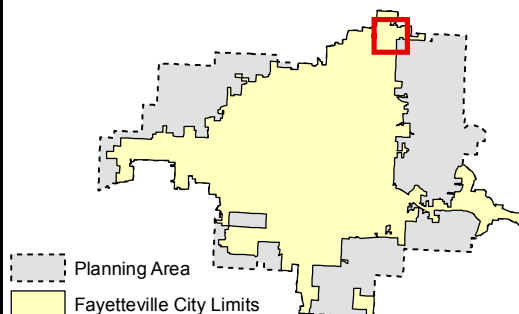


0 0.125 0.25 0.5 Miles



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint

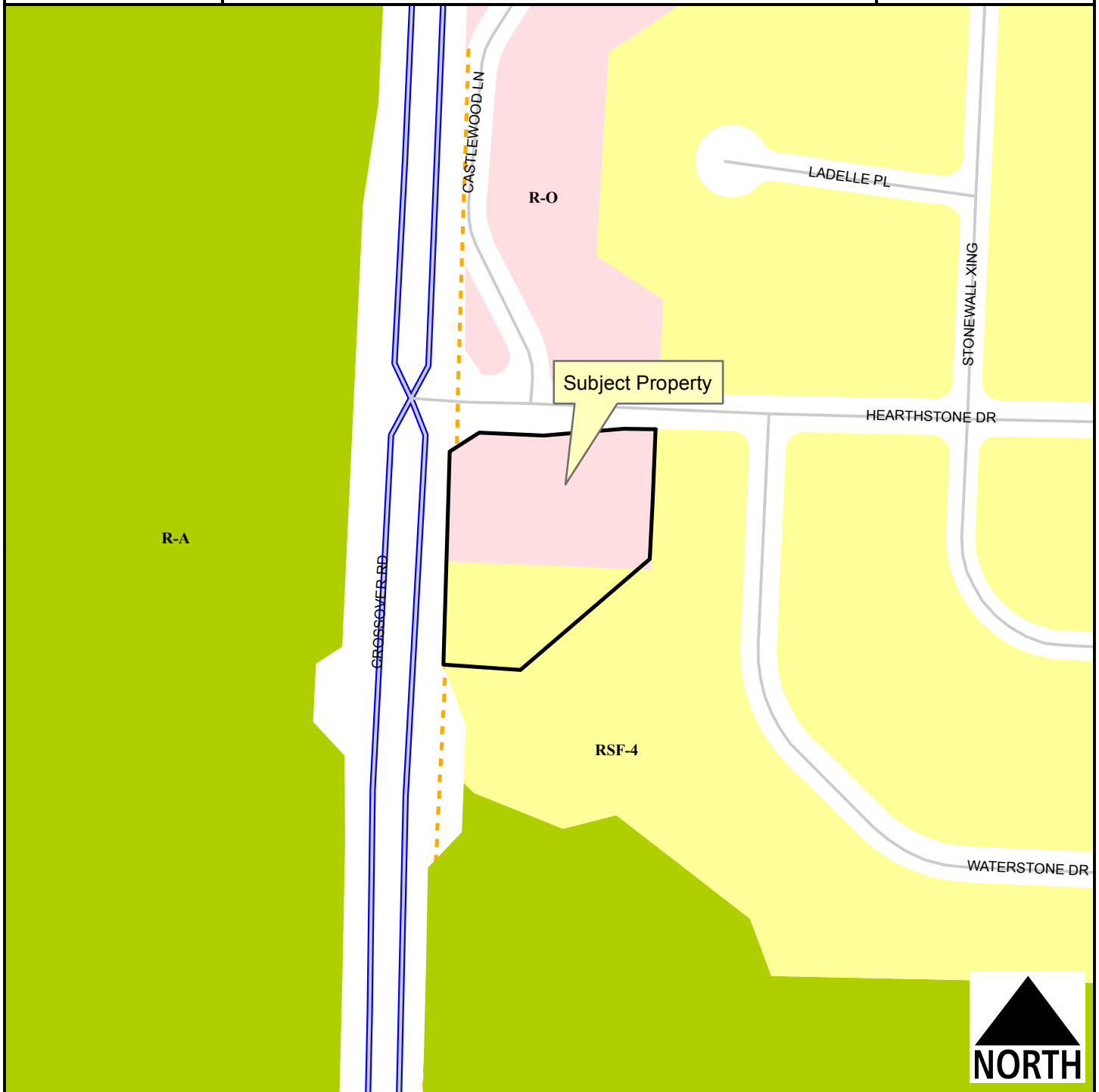


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RT-12 Residential Two and Three-family
 - RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial
- EXTRACTION**
- E-1
- COMMERCIAL**
- Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
- INSTITUTIONAL**
- P-1

RZN 17-5733

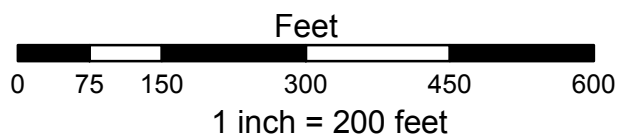
CP PROPERTIES

Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint

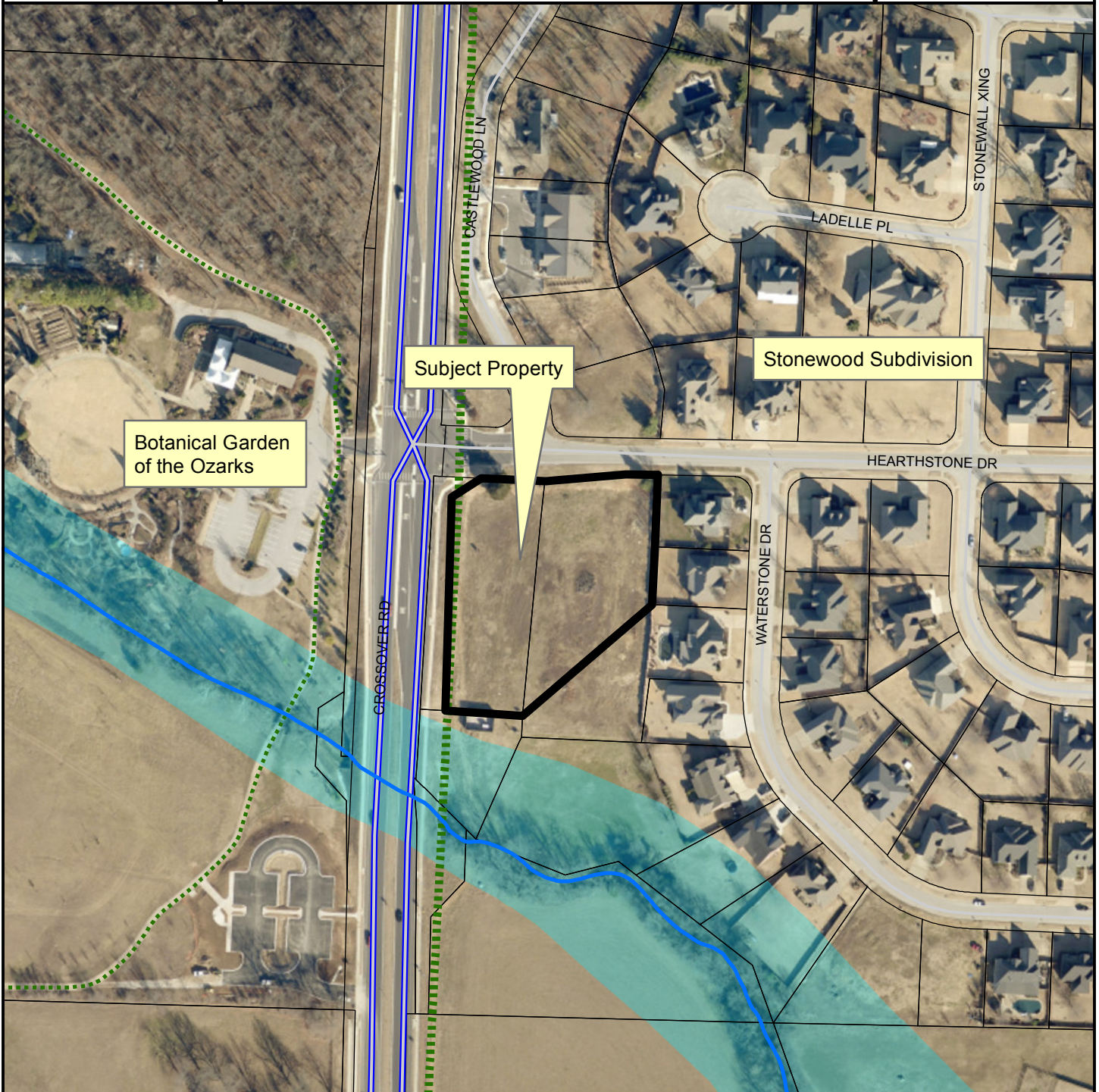


- Residential-Agricultural
- RSF-4
- Residential-Office

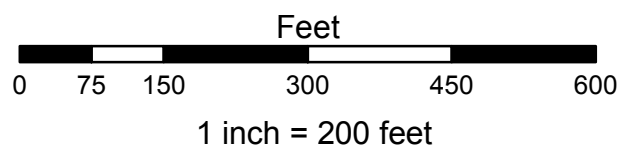
RZN 17-5733

Current Land Use

CP PROPERTIES



-  RZN17-5733
-  Streams
-  Street
-  PRIN ARTERIAL PKWY
-  Shared Use Paved Trail
-  Trail (Proposed)
-  County Parcels
-  Planning Area
-  Fayetteville City Limits



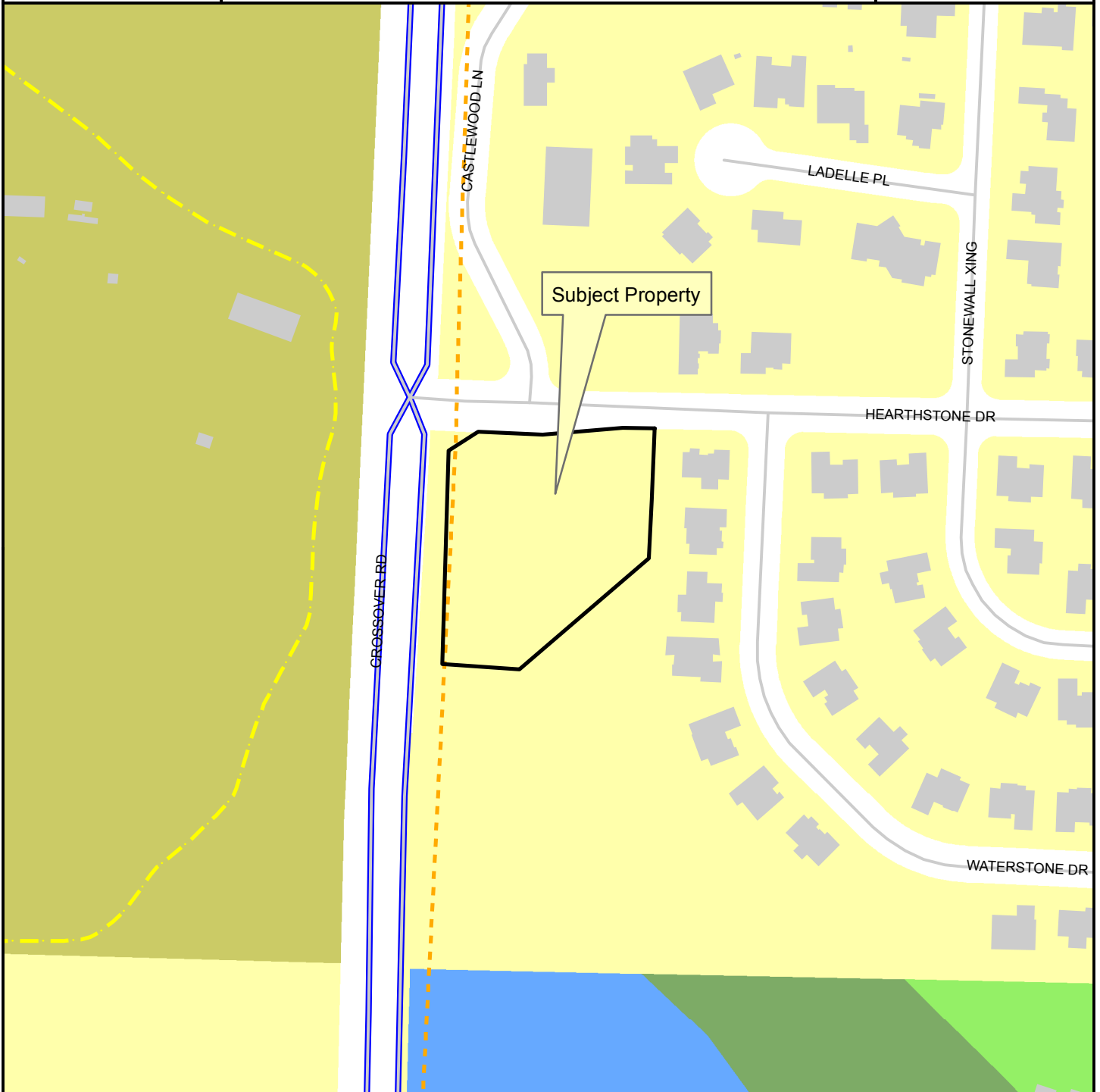
FEMA Flood Hazard Data

-  100-Year Floodplain
-  Floodway

RZN 17-5733

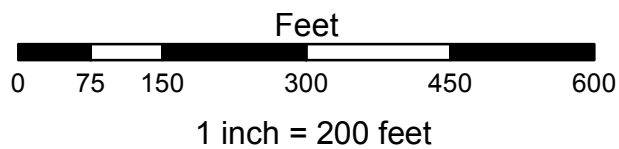
Future Land Use

CP PROPERTIES



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



FUTURE LAND USE 2030

- Natural Area
- Rural Area
- Residential Neighborhood Area
- City Neighborhood Area
- Civic and Private Open Space/Parks



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0204

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 8

VAC 17-5753 (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES):

AN ORDINANCE TO APPROVE VAC 15-5753 FOR PROPERTY LOCATED AT SOUTHEAST CORNER OF CROSSOVER ROAD AND HEARTHSTONE DRIVE TO VACATE A PORTION OF A DRAINAGE EASEMENT AND A PORTION OF A UTILITY EASEMENT

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of a drainage easement and a portion of a utility easement are not required for corporate purposes.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby vacates a portion of a drainage easement and a portion of a utility easement as described in Exhibit B attached to the Planning Department's memo.

Section 2. A copy of this Ordinance duly certified by the City Clerk along with the map attached as Exhibit A to the Planning Department's memo shall be filed in the office of the Washington County Circuit Clerk.

Section 3. This vacation approval is subject to the following condition:

1. Any relocation or damage to utilities and associated new easement dedication shall be at the owner/developer's expense.

City of Fayetteville Staff Review Form

2017-0204

Legistar File ID

5/2/2017

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

Andrew Garner

4/14/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

VAC 17-5753: Vacation (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099): Submitted by JORGENSEN & ASSOCIATES, INC. for property located at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The property is zoned R-O, RESIDENTIAL OFFICE, and RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 0.96 acres. The request is to vacate a portion of a drainage easement and a portion of a utility easement.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	No	Item Cost	
Budget Adjustment Attached?	NA	Budget Adjustment	
		Remaining Budget	\$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

DATE: April 14, 2017

SUBJECT: **VAC 17-5753: Vacation (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099):** Submitted by JORGENSEN & ASSOCIATES, INC. for property located at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The property is zoned R-O, RESIDENTIAL OFFICE, and RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 0.96 acres. The request is to vacate a portion of a drainage easement and a portion of a utility easement.

RECOMMENDATION:

Planning Division staff and the Planning Commission recommend approval of **VAC 17-5753** with the following condition:

Condition of Approval:

1. Any relocation or damage to utilities and associated new easement dedication shall be at the owner/developer's expense.

BACKGROUND:

The subject property contains two parcels totaling approximately 1.79 acres located at the southeast corner of Crossover Road and Hearthstone Drive. The property is currently undeveloped but is being considered for rezoning to a form-based district that requires structures be located near adjacent streets, which is currently unfeasible given the breadth of the existing easements.

Proposal: The applicant proposes vacation of a portion of utility easement and a drainage easement as depicted on the attached Exhibit 'A' and Exhibit 'B'.

DISCUSSION:

On April 10, 2017, the Planning Commission forwarded this item to the City Council with a recommendation for approval with a vote of 9-0-0.

BUDGET/STAFF IMPACT:

N/A

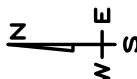
Attachments:

- Exhibit A
- Exhibit B
- Application
- Planning Commission Staff Report

[illegible]

FAYETTEVILLE, ARKANSAS

OWNER:
CP PROPERTIES LLC.
1663 VIEWPOINT
FAYETTEVILLE, AR. 72701



LEGAL DESCRIPTION: (BOUNDARY)

A part of Lot 1 and all of Lot 2 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

LEGAL DESCRIPTION: (UTILITY EASEMENT VACATION)

A part of Lot 1 and 2 of Stonewood Subdivision In Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said Lot 2, thence S82°00'00"W 50.02 feet, thence N88°34'14"W 10.00 feet to the POINT OF BEGINNING; thence N88°34'14"W 31.69 feet, thence S88°22'00"W 111.32 feet, thence N87°09'56"W 107.17 feet, thence N07°44'21"E 30.01 feet, thence S87°09'56"E 105.82 feet, thence N88°22'00"E 110.93 feet, thence S88°34'14"E 34.01 feet, thence S02°00'00"W 30.01 feet to the POINT OF BEGINNING; Containing 7,514.64 square feet or 0.1725 acres more or less.

LEGAL DESCRIPTION: (DRAINAGE EASEMENT VACATION)

A part of Lot 1 of Stonewold Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk of said and Ex-Oberlin Records of Washington County, Arkansas, and being described as follows: Commencing at the SE corner of said lot 1, then the line N86°22'25"N 95.38 feet to the POINT OF BEGINNING; thence N86°22'25"N 71.06 feet, thence N01°41'12"E 54.39 feet, thence S115°34'45"E 57.03 feet, thence N01°41'12"E 71.64 feet, thence S07°09'56"E 2.53 feet, thence S09°19'44"E 165.56 feet, thence S15°34'45"E 112.78 feet to the POINT OF BEGINNING; containing 3.878 acre, square feet of 0.1005 acres more or less.

LEGEND	
✕	CALCULATED POINT
⊙	FOUND ALUMINUM MONUMENT
⊙	SET IRON PIN & CAP
⊙	SEWER MANHOLE
⊙	TELEPHONE PEDESTAL
⊙	GAS METER
⊙	WATER METER
—	EXISTING 8" SEWER LINE
—	EXISTING GAS LINE
—	GAS
—	EXISTING 8" WATERLINE
—	EXISTING SEWER FORCE MAIN
—	STREET RIGHT OF WAY
—	EXISTING COX COMMUNICATION LINE
—	EXISTING AT&T LINE
—	EXISTING UNDERGROUND ELECTRIC
—	BUILDING SETBACK
—	CENTERLINE STREET
—	EXISTING STORM DRAIN
—	UTILITY EASEMENT

PROJECT TITLE: MJS PIZZA

LOCATION: FAYETTEVILLE, ARKANSAS
SHEET TITLE: UTILITY EASEMENT VACATION
DRAWN BY: BJR
SHEET SCALE: 1"=50'
DATE: FEBRUARY 28, 2017
PROJECT FILE: ZALSD/20170148/UE VACATION

**JORGENSEN
+ ASSOCIATES**
Civil Engineering + Surveying
124 W. Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com



17-5753
EXHIBIT 'B'

LEGAL DESCRIPTION: (UTILITY EASEMENT VACATION)

A part of Lot 1 and 2 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said Lot 2, thence S02°50'04"W 50.02 feet, thence N88°34'14"W 10.00 feet to the POINT OF BEGINNING; thence N88°34'14"W 31.69 feet, thence S85°23'06"W 111.32 feet, thence N87°09'56"W 107.17 feet, thence N01°41'21"E 30.01 feet, thence S87°09'56"E 105.82 feet, thence N85°23'06"E 110.95 feet, thence S88°34'14"E 34.01 feet, thence S02°50'04"W 30.01 feet to the POINT OF BEGINNING: Containing 7,514.64 square feet or 0.1725 acres more or less.

LEGAL DESCRIPTION: (DRAINAGE EASEMENT VACATION)

A part of Lot 1 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the SE Corner of said Lot 1, thence N86°22'25"W 99.58 feet to the POINT OF BEGINNING; thence N86°22'25"W 7.10 feet, thence N01°41'21"E 54.39 feet, thence N15°34'45"E 57.03 feet, thence N09°19'44"W 71.64 feet, thence N01°41'21"E 91.72 feet, thence S87°09'56"E 2.53 feet, thence S09°19'44"E 165.56 feet, thence S15°34'45"W 112.78 feet to the POINT OF BEGINNING: Containing 4,378.82 square feet or 0.1005 acres more or less.

CITY OF FAYETTEVILLE, ARKANSAS

Right-of-Way, Easement or Alley VACATION

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Project Number:

Public Hearing Date:

5153

FEE: \$200.00

Sign Fee: \$5.00

S-T-R:

PP#:

Zone: 099

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: Max Parker for CP Properties

Name: Blake Jorgensen

Jorgensen & Assoc.

Address: 1680 E. Shadowridge Dr.

Fayetteville, AR 72701

Address: 124 W. Sunbridge Dr. Suite 5

Fayetteville, AR 72703

Phone: (479) 799-6918

Email: gmax32@gmail.com

Phone: (479) 442-9127

Email: blake@jorgensenassoc.com

Fax: ()

Fax: (479) 442-9127

Site Address / Location: SE corner of Crossover Rd. & Hearthstone Dr.

Legal description of area to be vacated (attach separate sheet if necessary):

Current Zoning District: R-O & RSF-4

Assessors Parcel Number(s) for subject property: Parcel: 765-22244-000 & 765-22245-000

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

CP Properties

- (9) Petition to vacate street right-of-way, alley, or easement (sample petition is attached).
- (10) For applications to vacate an access easement, alley or right-of-way only: Written consent is required from all adjacent property owners and is required to be submitted with the application (example form is attached).
- (11) Comments from all utility companies concerning the street right-of-way, alley, or easement to be vacated and its relationship to existing or planned utilities with recommendations as to what action should be taken (an example comment form is attached) is required at application submittal.
- (12) The applicant is responsible for meeting the public notification requirements for a Vacation listed on the Notification Requirements pages in this application.

Utility Representatives for a Vacation Request *

Name	Company	Telephone	Email
Jeff Hamilton	AT&T	442-1967	jh5430@att.com
Chad Hodge	Cox Communications	365-2402	Chad.Hodge@cox.com
John Le	AEP/SWEPCO	973-2426	ttle@aep.com
Scott Stokes	Source Gas	435-0229	Scott.Stokes@sourcegas.com
Wes Mahaffey Or Mike Phipps	Ozarks Electric	684-4649 684-4696	wmahaffey@ozarksecc.com mphipps@ozarksecc.com

City Divisions:

Mark Rogers	Water and Sewer	575-8392	mrogers@fayetteville-ar.gov
Maury Nelson	Solid Waste	575-8397	mnelson@fayetteville-ar.gov
Terry Gulley	Transportation	444-3491	tgulley@fayetteville-ar.gov

***Solid Waste & Transportation sign off is required only when a ROW, Alley, or Drainage Easement Vacation is being requested.**

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made 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 on approval.

Name (printed): MAX PARKER / CP PROPERTIES Date: 2-15-17

Signature: Max Parker

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.)

Owners (attach additional info if necessary):

CP PROPERTIES
Name (printed): Max Parker

Signature: Max Parker

Date: _____

Address: 1680 E. Shadowridge DR
Fayetteville, AR 72701

Phone: (479) 799-6918

Name (printed): Philip Camrond

Signature: Phy Camrond

Date: 2-15-17

Address: 1663 Viewpoint
Fayetteville, AR 72701

Phone: (479) 263-3815

- Vacation Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
 - \$200.00 application fee
 - \$5.00 public notification sign fee
- (2) Metes and bounds legal description of the area to be vacated, not the entire property (this may be included on the survey plat).
- (3) Survey of the site depicting the perimeter property lines and area within the property to be vacated.
- (4) CD containing a copy of the legal description in MS Word and PDF copies of the signed application and all other items submitted with this project.
- (5) A surveyor should stake the area on the site to be vacated for utility company review on their site visit.
- (6) A letter addressed to the Planning Commission and City Council describing the scope, nature, and intent of the request.
- (7) Abstractor's Certificate of Ownership stating names of all owners of property adjacent to the street right-of-way, alley, or easement to be vacated (this document is obtained from a title company).
- (8) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

MEETING DATE: April 10, 2017 (Updated with Planning Commission Results)

SUBJECT: **VAC 17-5753: Vacation (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099):** Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. These properties are zoned R-O, RESIDENTIAL OFFICE, AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE, and contain approximately 1.79 acres. The request is to vacate portions of a drainage easement and a general utility easement.

RECOMMENDATION:

Staff recommends forwarding **VAC 17-5753** to City Council with a recommendation for approval with conditions.

BACKGROUND:

The subject property contains two parcels totaling approximately 1.79 acres located at the southeast corner of Crossover Road and Hearthstone Drive. The property is currently undeveloped but is being considered for rezoning to a form-based district that requires structures be located near adjacent streets, which is currently untenable given the breadth of the existing easements. Surrounding land use and zoning is depicted in *Table 1*.

Table 1
Surrounding Zoning and Land Use

Direction	Land Use	Zoning
North	Undeveloped; Property Management Offices	R-O, Residential Office
South	Undeveloped	RSF-4, Residential Single-family, 4 Units per Acre
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Lake Fayetteville Park/ Botanical Garden of the Ozarks	R-A, Residential Agricultural

Proposal: The applicant proposes vacation of a portion of utility easement to allow for construction of structures closer to the street right-of-way in compliance with the build-to-zone requirements of a proposed rezoning to a form-based zoning district.

DISCUSSION:

Vacation Approval: The applicant has submitted the required vacation forms to the City utility departments and applicable franchise utilities, with the following responses:

Utility

Cox Communications

AEP/SWEPCO

BlackHills Energy AR

AT&T

Ozarks Electric

Response

No objections

No objections

No objections

No objections

No objections

City of FayettevilleResponse

Water/Sewer

No objections

Solid Waste & Recycling

No objections

Transportation

No objections

Public Comment:

No public comment has been received.

RECOMMENDATION: Staff recommends forwarding **VAC 17-5753** to the City Council with a recommendation for approval subject to the following conditions:

Conditions of Approval:

1. Any relocation or damage to utilities and associated new easement dedication shall be at the owner/developer's expense.

Planning Commission Action:☐ Approved☒ Forwarded☐ Denied**Meeting Date:** April 10, 2017**Motion:** Hoffman**Second:** Belden**Vote:** 9-0-0

BUDGET/STAFF IMPACT:

None.

Attachments:

- Request Letter
- Petition to Vacate
- Utility Approvals
- Easement Vacation Exhibit
- One Mile Map
- Close Up Map
- Current Land Use Map



JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying
Landscape Architecture Services

CUP 17-5753
Request Letter

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703

Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

February 15, 2017

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Attn: Planning Department
Re: Parcel 765-22244-000 & 765-22245-000 VAC

To Whom It May Concern:

Please find the attached Vacation request for the property located at the southeast corner of Crossover Rd. & Hearthstone Dr. The main objective of this application is to vacate existing easements located along the road right-of-ways to allow for proposed structures to be located along the front of the property with parking located in the rear. To the best of our knowledge, there are no known utilities lying within these easements. Any public utilities found within the site that are in conflict with the proposed development will be relocated and new easements will be dedicated.

Please contact us with any questions or comments. We look forward to your assistance.

Sincerely;

Blake E. Jorgensen, P.E.



JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying
Landscape Architecture Services

CUP 17-5753

Petition to Vacate

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703

Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

PETITION TO VACATE EASEMENTS LOCATED IN LOTS 1 & 2 OF STONEWOOD SUBDIVISION, CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easements hereinafter sought to be abandoned and vacated, lying in Lots 1 & 2 of Stonewood Subdivision, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate easements which are described as follows:

UTILITY EASEMENT VACATION

A part of Lot 1 and 2 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said Lot 2, thence S02°50'04"W 50.02 feet, thence N88°34'14"W 10.00 feet to the POINT OF BEGINNING; thence N88°34'14"W 31.69 feet, thence S85°23'06"W 111.32 feet, thence N87°09'56"W 107.17 feet, thence N01°41'21"E 30.01 feet, thence S87°09'56"E 105.82 feet, thence N85°23'06"E 110.95 feet, thence S88°34'14"E 34.01 feet, thence S02°50'04"W 30.01 feet to the POINT OF BEGINNING: Containing 7,514.64 square feet or 0.1725 acres more or less.

DRAINAGE EASEMENT VACATION

A part of Lot 1 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the SE Corner of said Lot 1, thence N86°22'25"W 99.58 feet to the POINT OF BEGINNING; thence N86°22'25"W 7.10 feet, thence N01°41'21"E 54.39 feet, thence N15°34'45"E 57.03 feet, thence N09°19'44"W 71.64 feet, thence N01°41'21"E 91.72 feet, thence S87°09'56"E 2.53 feet, thence S09°19'44"E 165.56 feet, thence S15°34'45"W 112.78 feet to the POINT OF BEGINNING: Containing 4,378.82 square feet or 0.1005 acres more or less.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 8th day of March, 2017.

Max Parker
Printed Name

Max Parker
Signature

Philip Cameron
Printed Name

Philip Cameron
Signature

CUP 17-5753

Utility Approval Forms

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

DATE: 3/1/2017

UTILITY COMPANY: Cox Communications

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

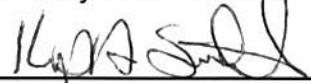
UTILITY COMPANY COMMENTS:

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

☒ No objections provided the following conditions are met:

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

We may have lines that are within the vacated area. Relocate will require 90^{days} once invoice is paid.



Signature of Utility Company Representative

Construction & Planning Manager

Title

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

DATE: 3/1/2017

UTILITY COMPANY: AEP/SWEPCO

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

☐ No objections provided the following conditions are met:

Truong Le
Signature of Utility Company Representative

Distribution Engineer
Title

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

DATE: 3/1/2017

UTILITY COMPANY: BlackHills Energy Ar

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

☐ No objections provided the following conditions are met:

Brian A. Deppert
Signature of Utility Company Representative

Supervisor - Gas Operations
Title

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

DATE: 3/1/2017

UTILITY COMPANY: AT&T

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

☒ No objections provided the following conditions are met:
**If AT&T facilities are required to be relocated due to the Easement Vacate will
be the responsibility of the owner/ developer.**

Signature of Utility Company Representative

MGR OSP PLNG & ENGRG DESIGN

Title

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

DATE: 3/1/2017

UTILITY COMPANY: Ozarks Electric

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

- ☐ No objections provided the following conditions are met:
-
-

Wesley Mahaffey
Signature of Utility Company Representative

Staking Tech. III
Title

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

DATE: 3/1/2017

UTILITY COMPANY: Water & Sewer

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

☐ No objections provided the following conditions are met:


Signature of Utility Company Representative

W&S OPERATIONS MANAGER
Title

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

DATE: 3/1/2017

UTILITY COMPANY: Solid Waste

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

☐ No objections provided the following conditions are met:



Signature of Utility Company Representative

Commercial Services Rep

Title

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

DATE: 3/1/2017

UTILITY COMPANY: Transportation

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

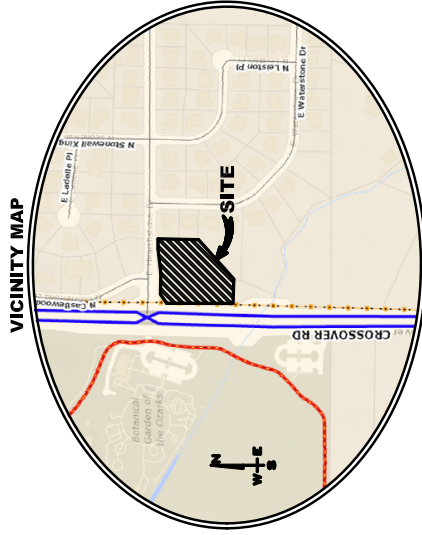
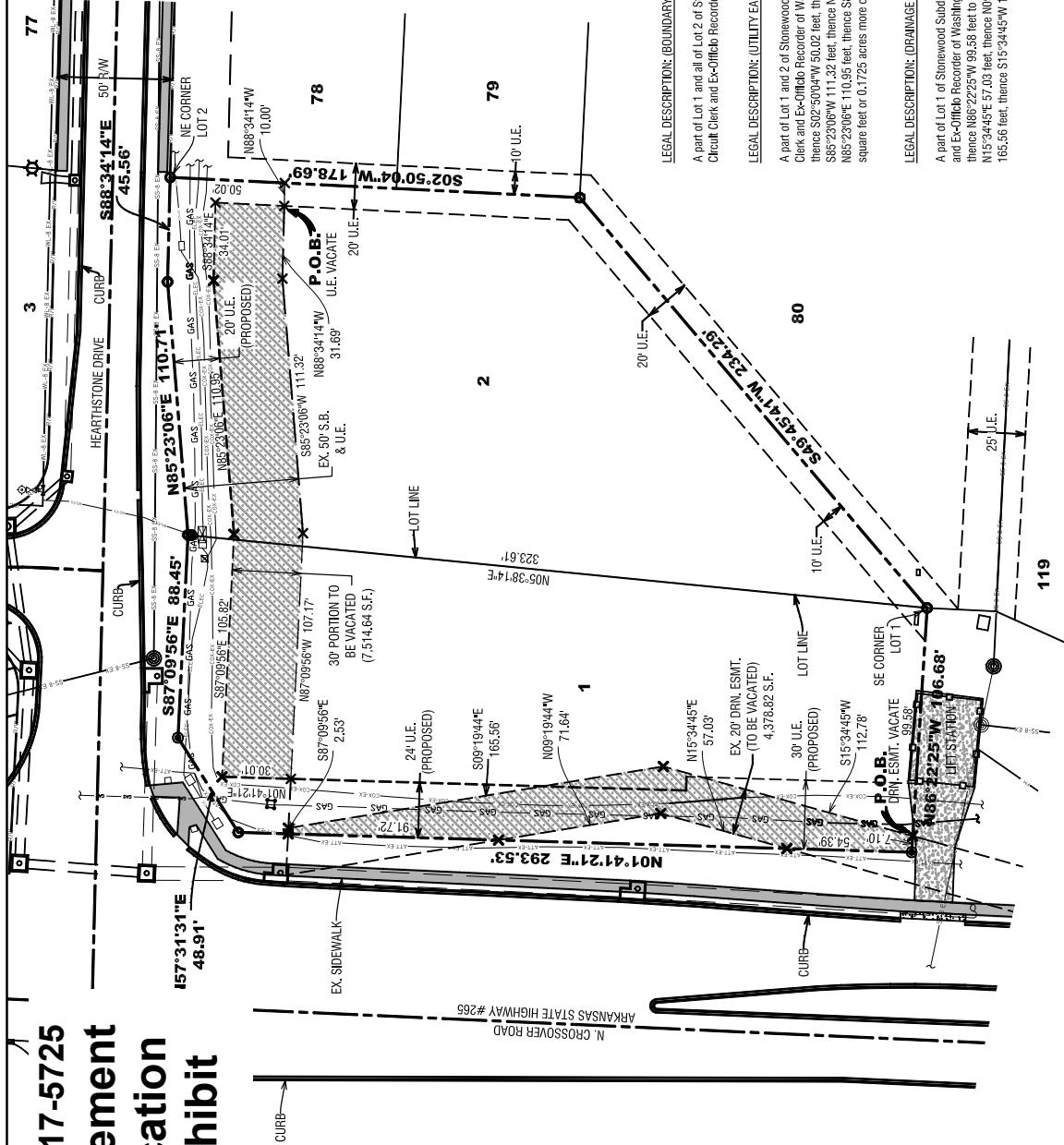
- ☒ No objections to the vacation(s) described above, and no comments.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

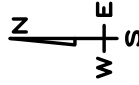
Joey Smith
Signature of Utility Company Representative

Asst. Transportation Manager
Title

CUP 17-5725 Easement Vacation Exhibit



FAYETTEVILLE, ARKANSAS



OWNER:
CP PROPERTIES LLC,
1663 MEADOWPOINT
FAYETTEVILLE, AR 72701

LEGAL DESCRIPTION: (BOUNDARY)

A part of Lot 1 and all of Lot 2 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

LEGAL DESCRIPTION: (UTILITY EASEMENT VACATION)

A part of Lot 1 and 2 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said Lot 2, thence S02°50'04\"/>

LEGAL DESCRIPTION: (DRAINAGE EASEMENT VACATION)

A part of Lot 1 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the SE Corner of said Lot 1, thence N86°22'25\"/>

LEGEND		EXISTING AT&T LINE		UTILITY EASEMENT	
☒ CALCULATED POINT	EXISTING 8" SEWER LINE	EXISTING UNDERGROUND ELECTRIC		BUILDING SETBACK	
☒ FOUND ALUMINUM MONUMENT	EXISTING GAS LINE	EXISTING SEWER FORCE MAIN		CENTERLINE STREET	
☒ SET IRON PIN & CAP	EXISTING 8" WATERLINE	STREET RIGHT OF WAY		EXISTING STORM DRAIN	
☒ SEWER MANHOLE	EXISTING 8" GAS				
☒ TELEPHONE PEDESTAL	EXISTING COX COMMUNICATION LINE				
☒ GAS METER	WATER METER				

JORGENSEN + ASSOCIATES
Civil Engineering + Surveying
124 W. Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

PROJECT TITLE: M.J'S PIZZA
LOCATION: FAYETTEVILLE, ARKANSAS
SHEET TITLE: UTILITY EASEMENT VACATION
DRAWN BY: BAR
SHEET SCALE: 1\"/>

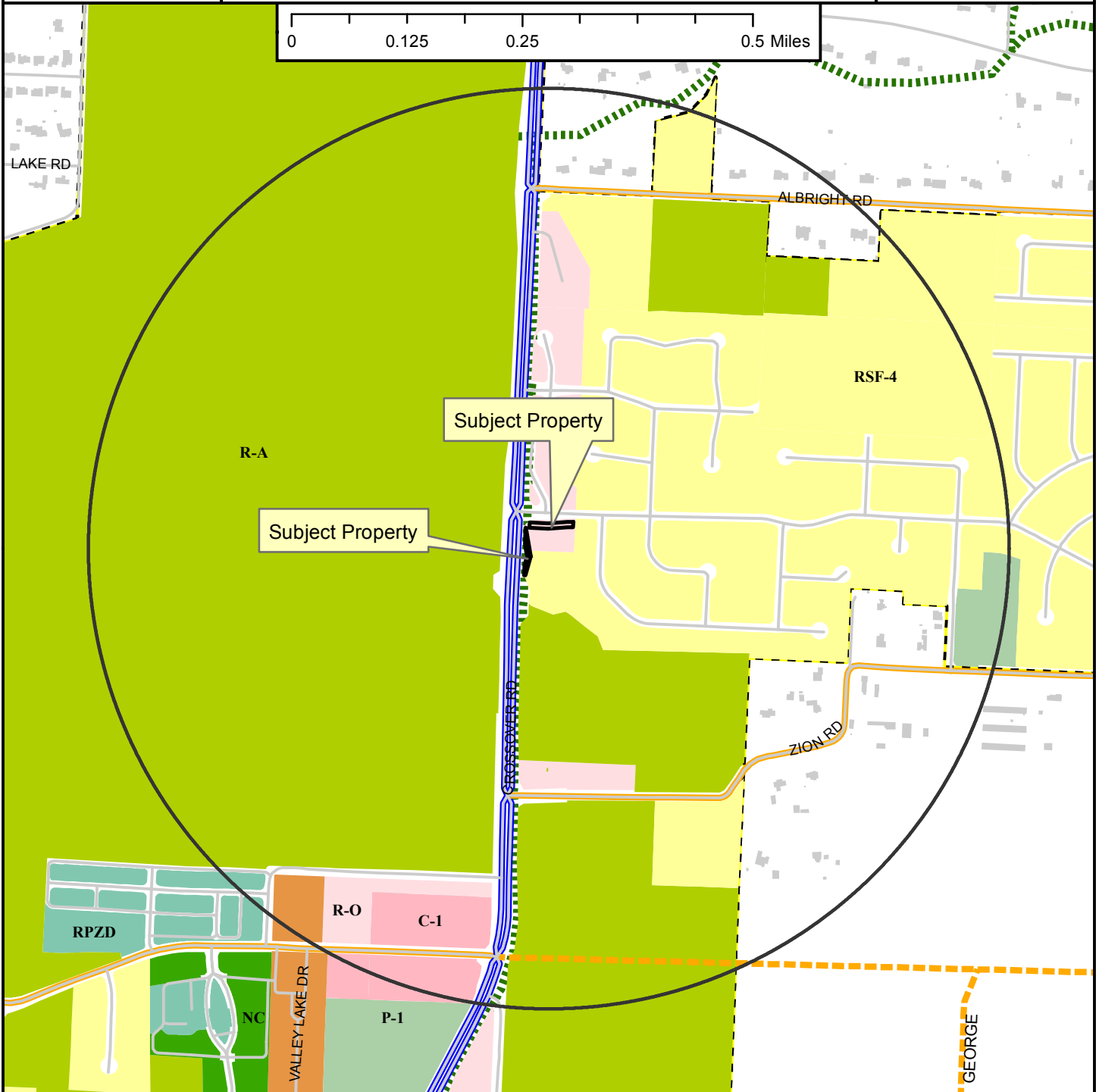
VAC 17-5753

One Mile View

CP PROPERTIES

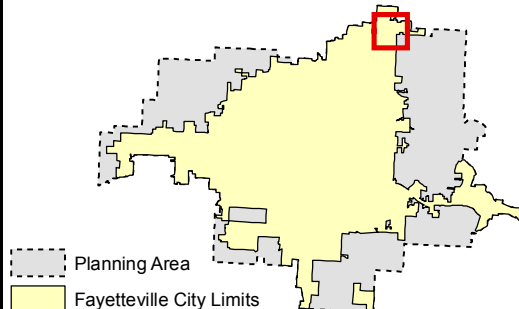


0 0.125 0.25 0.5 Miles



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



Zoning

RESIDENTIAL SINGLE-FAMILY

- Residential-Agricultural
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY

- RT-12 Residential Two and Three-family
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL

- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION

E-1

COMMERCIAL

- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS

- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

PLANNED ZONING DISTRICTS

- Commercial, Industrial, Residential

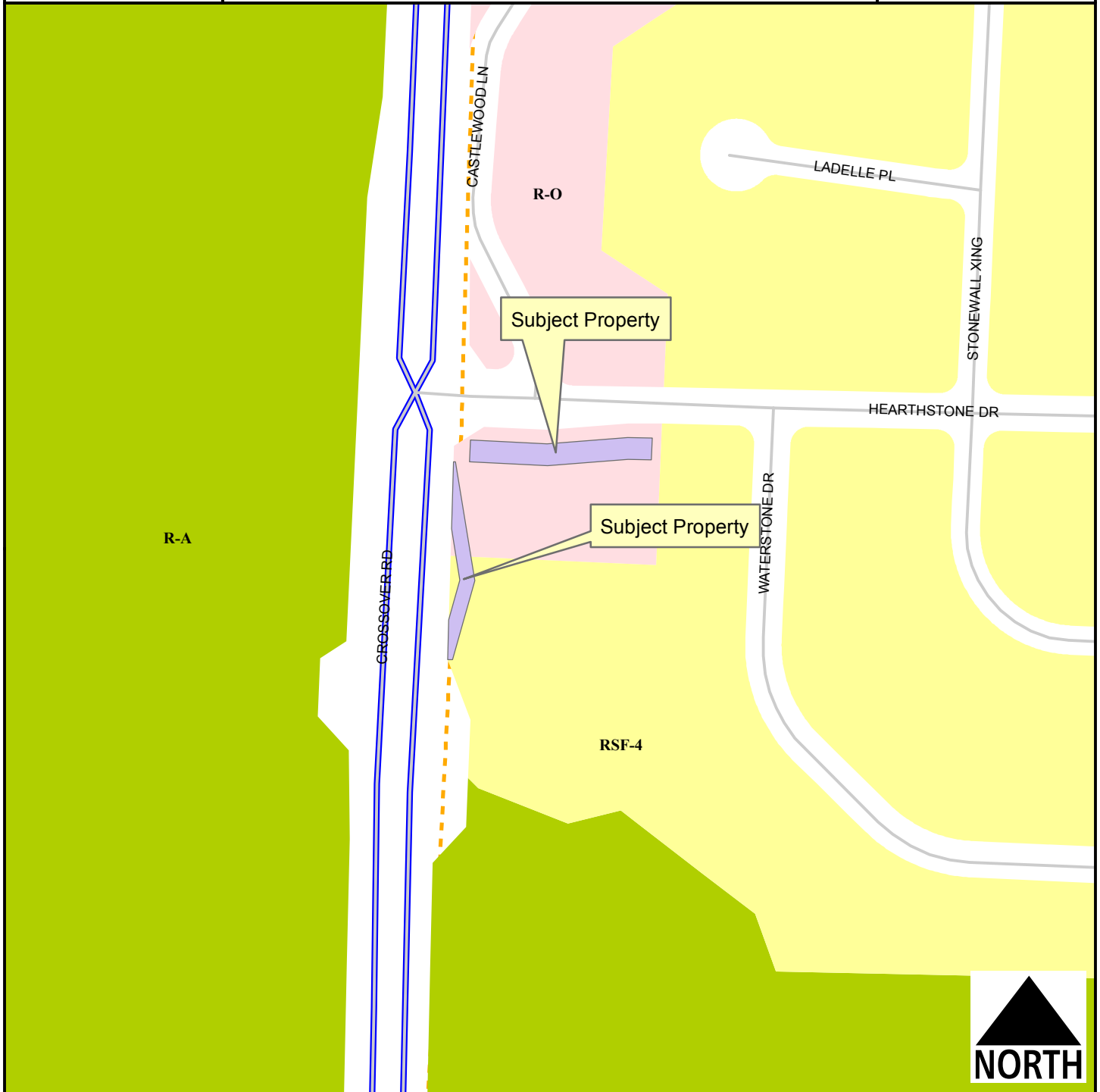
INSTITUTIONAL

- P-1

VAC 17-5753

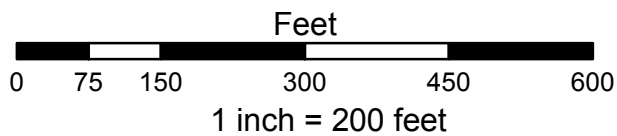
CP PROPERTIES

Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- Residential-Agricultural
- RSF-4
- Residential-Office

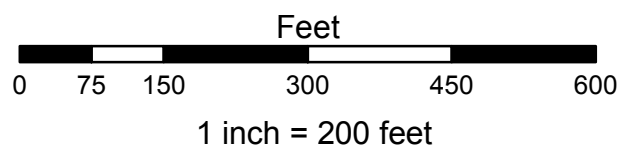
VAC 17-5753

Current Land Use

CP PROPERTIES



- Streams
- Street
- PRIN ARTERIAL PKWY
- Shared Use Paved Trail
- Trail (Proposed)
- VAC17-5751
- County Parcels
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0211

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: C. 9

FAYETTEVILLE COMMERCE PARK LAND SALE:

A RESOLUTION TO SELL ABOUT 5 ACRES OF LAND IN THE COMMERCE DISTRICT TO AR-CANNA, LLC FOR \$75,000.00 CONTINGENT ON AR-CANNA, LLC RECEIVING A MEDICAL MARIJUANA CULTIVATION FACILITY LICENSE FROM THE STATE OF ARKANSAS

WHEREAS, AR-Canna, LLC has offered to purchase approximately 5 acres in the Commerce District and plans to build a 30,000 square foot medical marijuana cultivation and processing facility and a 5,000 square foot office complex contingent upon receiving a license from the State of Arkansas; and

WHEREAS, the proposed project would lead to the hiring of workers with average wages above the state and national averages with a minimum annual payroll of \$1.2 million when fully operational, meets the Fayetteville First target sector of Entrepreneurship, and is supported by the Fayetteville Chamber of Commerce; and

WHEREAS, the City is selling this 5 acre parcel at a discount of about \$5,000.00 per acre from its normal selling price but the contract with AR-Canna, LLC includes a clawback provision that could allow the City to be paid back a portion of the discounted price in the event the property is sold within ten years.

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 approves the Land Sale Agreement (attached to this Resolution and made a part hereof) for the sale of about 5 acres to AR-Canna, LLC for \$75,000.00, contingent upon AR-Canna, LLC receiving a medical marijuana cultivation facility license from the State of Arkansas, and authorizes Mayor Jordan to sign the Land Sale Agreement, Warranty Deed and any other documents necessary to convey this 5 acre parcel.

City of Fayetteville Staff Review Form

2017-0211

Legistar File ID

5/2/2017

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

Andrew Garner

4/14/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a resolution to sell approximately 5 acres of land (part of parcel 765-16578-001) in the Fayetteville Commerce Park located east of 2435 S.Industrial Drive to Brian Faight, Executive Vice President of Adcomm for \$75,000.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution # 143-13

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff

FROM: Andrew Garner, City Planning Director

DATE: May 2, 2017

SUBJECT: Sale of 5 acres of land in the Commerce District to Brian Faught, Executive Vice President of Adcomm

RECOMMENDATION:

City Staff recommends approval of a contract with Brian Faught, Executive Vice President of Adcomm for the sale of approximately 5 acres of land owned by the City of Fayetteville east of 2435 Industrial Drive in the Fayetteville Commerce Park, for a purchase price of \$75,000.

BACKGROUND:

The property (part of parcel 765-16578-001) is located on an undeveloped parcel east of the City's Water and Sewer Building at 2435 Industrial Drive. The City was recently approached by Brian Faught to purchase this property. Mr. Faught is the Executive Vice President of Adcomm and intends to develop the property under his new company, AR-Canna, with a medical marijuana cultivation facility. The company's plans include the following:

- Construction of a 30,000 sq. ft. medical marijuana cultivation and processing plant, using local construction labor.
- Construction of a 5,000 sq. ft. office complex, using local construction labor.
- Hiring the following employees:
 - o 35-40 hourly employees at a starting wage of \$15.00 per hour.
 - o 3-5 managerial employees with an annual salary in the \$50,000-\$75,000 range.
 - o 2 senior managerial positions with an annual salary in the \$75,000-\$125,000 range.
- AR-Canna is using a Fayetteville architecture firm for the plans and construction drawings for both facilities.
- AR-Canna will hire a local contractor to oversee all aspects of the construction.
- Phase 1 is to build these two facilities now, and with the 5 acres there is room to build a second and third cultivation facility as the industry matures.

DISCUSSION:

The attached land sale agreement has been reached through negotiations between the City and Brian Faught, representing the entity purchasing the property. The proposal is to sell the property for approximately \$15,000 per acre, at a total price of \$75,000. This price represents a reduced rate from the currently advertised \$20,000 per acre of land in the Commerce District, but reflects the purchase price that the City Council approved for a nearby parcel in 2013 to Pacific Vet Group

when that company was looking to locate on the property. The Mayor's office is excited to welcome a new, clean industry to Fayetteville, meeting the goals of our Fayetteville First economic development plan, particularly in the Specialized Technologies sector offering competitive wages. The staff believes a development of this type on the property will increase property value, contribute to our tax base and overall have a positive economic impact for Fayetteville as the Commerce District continues to develop over time.

City Code §34.27 establishes requirements regarding public notice and procedure for the sale of real property owned by the City of Fayetteville. City staff has performed all necessary public notification procedures in compliance with this city ordinance (documentation attached). Additionally, the City Council must establish that this land is no longer needed for municipal purposes. As a purpose of the Commerce District is to encourage economic development that generates revenue for the City by providing new and expanded services, and finding that there is no identified use for the subject property for municipal purposes, this land is no longer needed for municipal purposes.

BUDGET/STAFF IMPACT:

\$75,000 in sale revenue will be paid to the fund that maintains ownership of the land.

Attachments:

- Land Sale Agreement
- Offer Letter
- Proof of Public Notice (sign, letter, and newspaper notice)
- Location Map(s)

LAND SALE AGREEMENT

This Land Sale Agreement is made and entered into by and between the City of Fayetteville, Arkansas, a municipal corporation of the State of Arkansas (hereinafter "City" or "Fayetteville") and AR-Canna LLC.

The City of Fayetteville agrees to sell a parcel of about 5 acres in the Fayetteville Commerce District to AR-Canna LLC for SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) and AR-Canna LLC's performance of all of the terms, conditions and promises set forth in this Agreement.

AR-Canna LLC agrees to pay to the City of Fayetteville SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) for this 5 acre parcel and to perform all of the terms, conditions and promises set forth later in this Agreement.

TERMS AND CONDITIONS

1. *Sale*

Subject to existing easements and rights of way and subject to the terms and conditions, mutual promises and covenants of this Agreement, the City of Fayetteville agrees to sell a parcel of about 5 acres (hereinafter the "**Development Site**") located in the Fayetteville Commerce District by warranty deed to AR-Canna LLC for the amount of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00). This Development Site is shown on the map attached as Exhibit A and shall be more particularly described in a survey obtained by AR-Canna LLC prior to closing.

The Development Site shall be located immediately the east of an 80 foot right of way to be reserved by the City that shall extend from the end of the existing South Industrial Drive to the southwest as shown in Exhibit A.

2. *Purchase*

Subject to the terms and conditions, mutual promises and covenants of this Agreement, AR-Canna LLC agrees to buy the Development Site for SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) to be paid to the City of Fayetteville on or before the Closing Date as follows:

A. Earnest money deposit: An earnest money deposit in the amount of TWO THOUSAND FIVE-HUNDRED DOLLARS (\$2,500.00) shall be paid by AR-Canna LLC to the City of Fayetteville at the time this Agreement, signed by AR-Canna LLC, is submitted to the City for approval. If the purchase and sale is consummated, this earnest money deposit shall be applied to the purchase price at closing. If the City or AR-Canna LLC exercises its option to terminate the Agreement pursuant to paragraphs 8, 9 or 10, this earnest money deposit shall be refunded in full. If the transaction is not consummated for any other reason, the earnest money deposit shall be refunded less the City's actual incurred costs, if any, of obtaining the owner's title policy and title commitment.

B. Balance: The remaining balance of the purchase price in the amount of SEVENTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$72,500.00) shall be paid to the City of Fayetteville on or before the Closing Date.

3. *Closing Date and Place*

Closing shall occur within 60 days following the date this Agreement has been executed by both parties unless extended by mutual agreement of the parties in writing. The Closing shall occur at 113 West Mountain Street, Fayetteville, Arkansas in a room supplied by the City of Fayetteville.

4. *Date of Possession*

Possession of the Development Site shall be delivered to AR-Canna LLC on the Closing date free of any tenancies or other third party possessory rights.

5. *Title Insurance*

The City of Fayetteville shall order a title commitment on the Development Site, as soon as practicable following the full execution of this Agreement, through a title insurance company selected by the City and acceptable to AR-Canna LLC. If the report on title, binder or commitment discloses any defects in title (other than liens or encumbrances of a definite or ascertainable amount which may be paid at closing), the City shall have thirty (30) days from the date of AR-Canna LLC's notice of such defects to make a good faith effort to cure such defects and to furnish a report showing the defects cured or removed. If such defects are not cured within thirty (30) days, AR-Canna LLC may terminate this agreement or may, at its election, take title subject to any such defects. The cost of the title commitment and the cost of the owner's title policy shall be borne by the City of Fayetteville. The cost of any lender's title policy and extended owner's title insurance coverage shall be borne by AR-Canna LLC.

6. *Deed and Other Documents*

At least seven days before the Closing date, AR-Canna shall obtain a survey at its sole cost containing a legal description of the Development Site as well as the legal description of future right of way 80 feet wide extending from the northwest corner of the Development Site southwest to the boundary of Parcel # 765-16578-001 as shown in the map attached as Exhibit A.

On the Closing date, the City of Fayetteville shall convey marketable and insurable title to the Development Site by general warranty deed, free and clear of all liens, restrictions, and encumbrances except as provided in this Agreement, subject only to current real estate taxes, if any (to be apportioned between the parties) and existing easements. AR-Canna LLC and the City of Fayetteville shall equally share the cost a reasonable closing fee imposed by the closing agent employed by parties provided however that AR-Canna LLC shall be responsible for any revenue

stamps resulting from this transaction and all recordings fees for the deed and other documents that need to be filed.

7. *Risk of Loss*

Risk of loss as to the Development Site shall remain with the City of Fayetteville until the Closing date.

8. *AR-Canna LLC's Due Diligence*

AR-Canna LLC may enter upon the Development Site to conduct any surveying, testing or inspection it deems necessary to ensure the Development Site will be appropriate for the construction and use for its facility. If AR-Canna LLC discovers any problems that would adversely impact its development and use of the Development Site for its facility, AR-Canna LLC shall notify the City which is granted sixty (60) days to remediate any problem. The City may also terminate this Agreement without penalty rather than remediating any problem or issue discovered by AR-Canna LLC. Likewise, if the City does not remediate the problem, AR-Canna LLC may terminate this Agreement without penalty, being entitled to a return of its earnest money, or proceed under this Agreement to accept the property without resolution of the problem.

9. *Large Scale Development Approval*

AR-Canna LLC shall, at its sole cost and expense, prepare a Large Scale Development plat of the Development Site and obtain any and all approvals necessary for AR-Canna LLC's intended use of the Development Site for its facility. The City shall reasonably cooperate with AR-Canna LLC in AR-Canna LLC's request for development approval of its facility. AR-Canna LLC must present its development proposal through the normal City process and follow the Unified Development Code requirements. AR-Canna LLC may defer Closing hereunder during such time as its Development plat and approvals are pending review by the City, and if such are not approved, AR-Canna LLC may terminate this Agreement without penalty, being entitled to a return of its earnest money, or proceed under this Agreement to accept the property without development plans approved by the City.

AR-Canna, LLC agrees to construct a road to the City's specifications from the cul-de-sac at the end of South Industrial Drive to a stub-out at the southwest corner of the Development Site. Construction of the road (including approval by the City) shall be completed prior to the issuance of a final certificate of occupancy. Any future road extension shall be the responsibility of the City or the future developer of the remaining property to the south.

10. *Cultivation Facility License Approval*

AR-Canna LLC may defer Closing hereunder during such time as cultivation facility license application is pending review by the State of Arkansas, and if such is not approved, AR-Canna LLC may terminate this Agreement without penalty, being entitled to a return of its earnest money, or proceed under this Agreement to accept the property without being approved by the

State.

11. *Compensation to City of Fayetteville if Development Site is Sold Within 10 Years*

AR-Canna LLC is aware that the Development Site is being sold by the City at a discount of approximately \$5,000.00 per acre below its normal selling price. If any portion of the land conveyed by this contract is sold by AR-Canna LLC within the first five years of the date of closing, an independent appraisal of the land's value shall be performed to segregate the actual sales price between that allocable to the raw land as acquired by AR-Canna LLC, and that allocable to the improvements subsequently added by AR-Canna LLC. AR-Canna LLC shall pay 75% of the increase in appraised value of the raw land (with prorated sales cost deducted) to the City of Fayetteville. AR-Canna LLC shall pay the City of Fayetteville 40% of the increase in appraised value of the land (with prorated sales costs deducted) for any sales after 5 years until 10 years from the closing date.

12. *Notices*

Notices required by this Agreement shall be in writing and shall be delivered to:

AR-Canna LLC
ATTN: Brian Faught
7B Tara Mount Drive
Jacksonville, AR 72706

City of Fayetteville
ATTN: Mayor's Office
113 W. Mountain Street
Fayetteville, AR 72701 72701-6083

13. *Authority*

Each of the undersigned individuals represent and warrant that they are authorized to enter into this Agreement on behalf of their respective entities and that execution hereof will bind the entities to this Agreement.

14. *Counterparts*

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.

15. *Facsimile*

For purposes of executing this Agreement, a facsimile signature shall be as effective as an actual signature.

16. *Applicable Law*

This Agreement shall be construed and enforced in accordance with the laws and public policies of the State of Arkansas.

17. *Survival*

The representations, warranties, and agreements of the parties contained herein shall survive the closing date.

18. *No Waivers*

The waiver by either party hereto of any condition or the breach of any term, covenant or conditions herein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or of any other term, covenant or condition herein contained.

19. *Time of Essence*

Time is of the essence in this Agreement.

20. *Invalidity*

If for any reason any term or provision of this Agreement shall be declared void and unenforceable by any court of law or equity, it shall only affect such particular term or provision of this Agreement and the balance of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto.

21. *Complete Agreement*

All understandings and agreements heretofore existing between the parties are merged into this Agreement that alone fully and completely expresses their agreement. This Agreement may be changed only in writing signed by both of the parties hereto and shall apply to and bind the successors and assigns of each of the parties hereto and shall not merge with the deed delivered to AR-Canna LLC at closing.

Date: 4-18-17

Date: _____

AR-CANNA LLC

CITY OF FAYETTEVILLE,

By: 

BRIAN FAUGHT, President

By: _____

LIONELD JORDAN, Mayor

and Chief Executive Officer

WITNESS:

By: Deborah Cabanis
Deborah Cabaniss

ATTEST:

By: _____
Sondra E. Smith, City Clerk



To: Fayetteville, AR City Council

4-4-17

From: Brian Faught, Executive VP, Adcomm

RE: Fayetteville Industrial Park Parcel 765 16578 001, 5 acres

Ladies and Gentlemen,

Adcomm and Brian Faught are planning on applying for a “Medical Marijuana Cultivation License” with the state of Arkansas, and upon receiving said license, plans to construct its facility in the Fayetteville Industrial Park. As you may know, “Medical Marijuana” was approved by the people of Arkansas in the most recent election, and our new company, AR-Canna, is committed to launching this new product in a safe and legal manner in NWA. Please note the attached land plot (5 acres) as the desired piece of property for this endeavor. AR-Canna’s plans include:

- Construction of a 30,000 sq ft cultivation and processing plant, using local construction labor.
- Construction of a 5000 sq ft office complex, also using local construction labor.
- Hiring 35-40 employees to run the facility.
- Starting wage of \$15.00 per hour.
- 3-5 Managerial Positions with pay in the \$50,000 - \$75,000 pay range.
- 2 Senior Managerial Positions in the \$75,000 - \$125,000 pay range.
- AR-Canna is using a Fayetteville architecture firm for the plans and construction drawings of both facilities.
- AR-Canna will also hire a local contractor to oversee all facets of the buildout.

- The plan is to build these two facilities now, and with the 5 acres, have room to build a second and third cultivation facility as the industry matures.

Adcomm and Brian Faught are prepared to offer \$75,000 for the attached 5 acre plot, with a \$2500.00 earnest money deposit, contingent upon AR-Canna being awarded the cultivation and processing license from the state of Arkansas. If AR-Canna is not awarded a license, the earnest money will be returned.

We truly believe that AR-Canna will be a welcome and productive member to the Fayetteville business community, and would like our offer to be considered by the city council in the upcoming April meeting.

Thanking you in advance for your time and consideration,

Sincerely,

Brian Faught, Executive VP Adcomm
501-993-0476



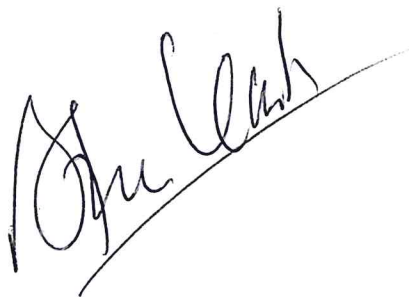
To: Mayor Lioneld Jordan
City of Fayetteville

CC: Don Marr, Chief of Staff

From: Steve Clark, CEO & President

Date: April 17, 2017

Subject: Recommendation to approve the sale of city-owned land, Parcel # 765-16578-001 to AR- Canna, LLC



AR-Canna, LLC is a new business set up by Brian Faught of Little Rock, Arkansas. The company is in the process of applying for a “Medical Marijuana Cultivation License” and the purchase of this piece of land helps in the said application. “Medical Marijuana” was approved by the people of Arkansas in the most recent election (2016) and AR-Canna is committed to launching this new product in a safe and legal manner in northwest Arkansas.

AR-Canna, LLC had looked at a few sites within the Fayetteville Commerce District with the assistance of the Fayetteville Chamber. After holding discussions and communications with the Chamber and the City, AR-Canna, LLC is now ready to offer to buy 5 acres of land owned by the city in the Fayetteville Commerce District. The 5 acres is a portion of the 24 acres, Parcel # 765-16578-000. Attached is the letter of offer from AR-Canna, LLC and a map of the property.

AR-Canna plans to construct a 30,000 SF cultivation and processing plant using local construction labor. There will also be a 5,000 SF office complex. When fully operational, AR-Canna is expected to hire 35-40 employees with starting wage of \$15 per hour for operational workers. Management positions fall within the range of \$50,000 to \$125,000 and the company plans to hire 5-7 managers. AR-Canna has retained a Fayetteville architecture firm to design the property and a local construction company is expected to be retained to help with the construction.

We recommend that the City leadership supports this project by approving the sale of the land to AR-Canna, LLC.

This project:

- 1) Meets the City's and State's goal of creating new jobs for Fayetteville and so the state of Arkansas
- 2) Contributes a minimum of annual payroll of \$1.2 million when fully operational
- 3) Meets the Fayetteville First's target sectors—Entrepreneurship

CERTIFICATE OF SIGN POSTING



I, Andrew Harrison,
attest that the above sign was posted on April 11, 2017 at the corner of Industrial &
Pump Station Rd. and a second sign was posted on the subject parcel east of 2435
Industrial Drive on April 11, 2017.

A handwritten signature in blue ink, appearing to read 'Andrew Harrison', written over a horizontal line.

(signature of person completing the sign posting)

City File No./Name: ADM 17-5787

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this 11th day of April, 2017, and

addressed as follows:

*Name: Matrix Investments, LLC
Street: 1197 Happy Hollow Rd.
City, State, Zip: Fayetteville, AR 72701*

*Name: Marshalltown Co.
Street: 2200 S. Industrial DR
City, State, Zip: Fayetteville AR 72701*

*Name: HFNWA, Inc.
Street: 1601 E. Pump Station Rd.
City, State, Zip: Fayetteville, AR 72701*

*Name: Bright Investments, LLC
Street: 2501 S. Armstrong Ave.
City, State, Zip: Fayetteville, AR 72701*

Andrew Harrison

(name of person completing the mailing)

Andrew Harrison

(signature of person completing the mailing)

City File No. /Name: _17-5787



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

CITY PLANNING DIVISION

125 West Mountain

Fayetteville, AR 72701

Phone (479) 444-3443

April 11, 2017

Name

Address

City, State, Zip

Re: Public Notice – Sale of municipally owned real property

Dear Property Owner:

Please be aware that the Fayetteville City Council will consider a Resolution and Contract to sell to Adcomm, Inc. about 5.0 acres (a portion of parcel 765-16578-001) it owns on S. Industrial Dr. for \$75,000. The property currently contains no structures. It is zoned I-2, General Industrial. Should the sale be approved, planned improvements include the development of a medical marijuana cultivation facility.

This possible sale will be considered by the City Council during its 5:30 p.m. meeting held on May 2, 2017 in Room 219 of City Hall, located 113 W. Mountain Street.

If you wish to learn more about this proposed sale, please contact Andrew Garner, Planning Director at 479-575-8262. You may also attend the May 2, 2017 City Council meeting and ask questions or make comments when this resolution is presented for City Council consideration.

Sincerely,

Andrew Garner
Planning Director
City of Fayetteville, Arkansas

NORTHWEST ARKANSAS Democrat Gazette

P.O. BOX 1607, FAYETTEVILLE, AR. 72702 • 479-442-1700 • FAX: 479-695-1118 • WWW.NWADG.COM

AFFIDAVIT OF PUBLICATION

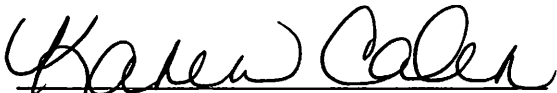
I Karen Caler, do solemnly swear that I am the Legal Clerk of the Northwest Arkansas Democrat-Gazette, printed and published in Washington County and Benton County, Arkansas, and of bona fide circulation, that from my own personal knowledge and reference to the files of said publication, the advertisement of:

CITY OF FAYETTEVILLE
City council meeting

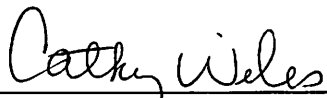
Was inserted in the Regular Edition on:

April 12, 2017

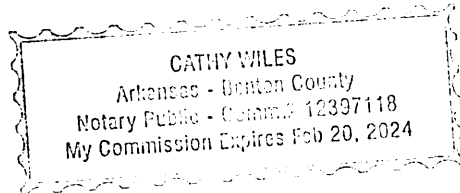
Publication Charges: \$ 54.60


Karen Caler

Subscribed and sworn to before me
This 13 day of Apr, 2017.



Notary Public
My Commission Expires:

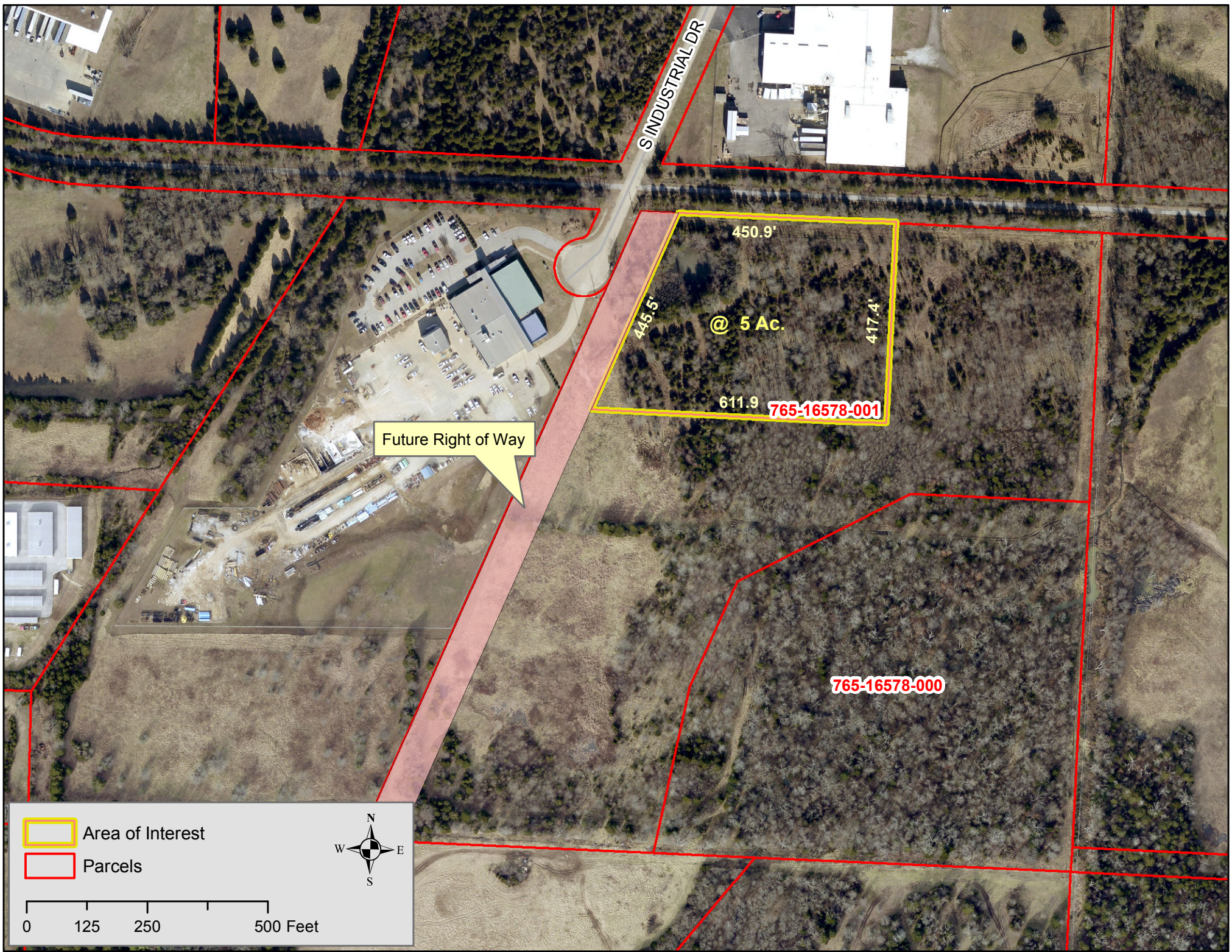


****NOTE****

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

NOTICE OF PUBLIC HEARING

A meeting of the City of Fayetteville City Council will be held on May 2, 2017 at 5:30 p.m., in room 219, Fayetteville Administration Building at 113 W. Mountain Street, Fayetteville, Arkansas, 72701. The following item is required to be published in the local newspaper pursuant to the Code of Ordinances of the City of Fayetteville and will be heard at the May 2, 2017 Fayetteville City Council meeting. 17-5787: SALE OF MUNICIPALLY OWNED REAL PROPERTY, 642): Submitted by CITY STAFF for property located EAST OF 2435 INDUSTRIAL DRIVE. The Fayetteville City Council is considering the sale of about 5 acres it owns EAST OF 2435 INDUSTRIAL DRIVE to Brian Faught, Executive Vice President of Adcomm, for \$75,000.00. The proposed use of the property is for a medical marijuana cultivation facility. This possible sale will be considered by the City Council during its May 2, 2017 meeting at 113 W. Mountain Street, Room 219.
74096442 April 12, 2017



ADM 17-5787

Current Land Use

CITY OWNED PROPERTY SALE



- Streams
- Street

Streets Planned

MSP Class

- MINOR ARTERIAL
- MINOR ARTERIAL
- Shared Use Paved Trail
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 180 360 720 1,080 1,440

1 inch = 500 feet

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0212

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Presentation

Agenda Number: D. 1

AGENDA SESSSION PRESENTATION - FAYETTEVILLE URBAN FORESTRY ADVISORY
BOARD ANNUAL REPORT



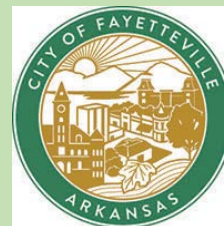
City of Fayetteville

Urban Forestry Advisory Board

Annual Report

State of the Urban Forest

The purpose of the Urban Forest Advisory Board is to advise City Council on Urban Forest and arboricultural issues.





In this presentation....

- Background and Establishment
- UFAB Responsibilities
- Meet the Board Members
- Importance of the Urban Forest
- 2016 Accomplishments
- The Future of Fayetteville's Urban Forest
- Positive Impacts in 2016

Background and Establishment

- The **Urban Forestry Advisory Board**, formerly known as the Tree and Landscape Advisory Committee, was **renamed** by Ordinance #5426 on **August 2, 2011**.
- The **Tree and Landscape Advisory Committee** was **originally created** by Ordinance #3699 on **April 20, 1993** and amended on June 16, 1998 by Ordinance #4099 which redefined the composition, powers and duties of the committee.



Responsibilities

Urban Forestry Advisory Board, in cooperation with the Urban Forestry staff shall:

- Advise the Mayor, City Council, and the Director(s) of the Department(s) managing the Urban Forestry program in issues related to urban forestry and arboriculture.
- Organize and administer an ongoing program of public education designed to increase public awareness of urban forestry and arboriculture.
- Advise the Urban Forester on all City tree planting projects on city rights-of-ways and/or medians.
- UFAB is responsible to review and recommend changes to code every three years





Meet the Board Members

Glenda Patterson- Chair
Community Citizen-at-Large
01-2014 through 12-2020

Alan Ostner
Tree Service Community
01-2017 through 12-2017

Damon Lipinski – Vice Chair
Community Citizen-at-Large
10-2014 through 12-2017

Audra Rogers
Community Citizen-at-Large
01-17 through 12-2018

Russell Dye
University Representative
01-2016 through 12-2017

Aubrey Shepherd
Land Development
01-2016 through 12-2017

Amy Jones
Community Citizen-at-Large
01-2017 through 12-2018



Urban Foresters
Lee Porter
John J. Scott

Importance of the Urban Forest



TREES WORK HARD!

- **Monetary Benefits** - Trees can reduce energy bills and increase property value.
- **Health Benefits** - Trees makes calm people and help hospital patients recover faster.
- **Family Benefits** - Trees help children concentrate, develop creativity, intelligence and promotes physical activity.
- **Community Benefits** - Trees lower crime rates, help people socialize, and downtown businesses see increased sales when trees planted by the store.
- **Environmental Benefits** - Trees clean ground water, store carbon, and help reduce ozone levels.

Trees are silent workhorses for the environment.

2017 Accomplishments

Celebration of Trees

826 trees given away at the annual event

Sustainable Landscape Competition

15 applicants

Plant Presentations

11 formal presentations on plants and arboricultural issues



18th Annual Celebration of Trees

826 trees given away for free to Fayetteville citizens

Arrowwood Viburnum – *Viburnum dentatum*

Black Walnut – *Juglans nigra*

Spicebush – *Lindera benzoin*

River Birch – *Betula nigra*

Southern Catalpa – *Catalpa bignonioides*

Bald Cypress – *Taxodium distichum*

Pond Cypress – *Taxodium ascendens*

French Mulberry – *Callicarpa Americana*

Winterberry – *Ilex verticillata*

Parsley Hawthorn – *Crataegus marshallii*

Sycamore – *Platanus occidentalis*

Buttonbush - *Cephalanthus occidentalis*

Pawpaw – *Asimina triloba*

Persimmon – *Diospyros virginiana*



2016 Sustainable Landscape Award Winners

3 Judges : Alan Ostner, Amy Jones, Judy Brittenum and (substitute judge) Amber Alexander



Best Restaurant Garden
Thep Thai



Best Commercial or Civic Garden
Tricycle Farms



Best Residential Garden
Calvin Bey

Ideas to Better the Future of Fayetteville's Urban Forest

Create Management Plan for Current Urban Forests

The current management plan is predominantly reactionary, rather than proactive.

Create Plan to Replace Mature Trees (as they fail)

Parks such as Wilson and Walker Park have the largest and oldest trees. We need establish plans for replacement as they fail.

Geriatric Tree Care

Better care needs to be taken of the largest and oldest trees in town. Similar to humans, they become susceptible to health issues as they age.

Urban Tree Well Design

Trees living in tree wells have a much shorter life span than trees planted in open lawn. Staff is researching new ways to design tree wells and require quality soil in the tree wells to help trees live a longer and healthier life.

Soil Health

Soil preservation, care and sampling are important for the health of urban forests.

Regular and Scheduled Pruning

Staff recently hired Ark-O-Mo Tree Service to prune all trees on City property in the Entertainment District. Regular pruning as such by a Certified Arborist will help to maintain tree health.

Canopy Assessment

Fayetteville's last tree canopy assessment was conducted in 2012. A follow up assessment will help identify what priorities Urban Forestry staff should be working on to increase and maintain urban forest health.



GIS Mapping / Tree Inventory

As technologies continue to develop, there are increasing amounts of tools available to track tree canopy. By using these new tools staff can better manage the urban forest.

Development in the City impacting Tree Canopy

In 2017, Urban Forestry staff began tracking annual removal numbers. Staff is researching the annual numbers to predict how the tree canopy will be impacted in the short term and long term.

Pest and Disease Management

Emerald Ash Borer will be in Fayetteville soon and a plan needs to be developed to cope with the upcoming changes. Currently, staff does not diagnose problems with local trees or have a plan for controlling pests and diseases.

Wildflower Median Installation and Maintenance

As City road construction occurs, Urban Forestry staff has proposed that medians be planted with wildflowers. Staff is working with other departments on procedures for the proper installation and maintenance of these areas which help reduce costs and maintenance in the long term.

Chapter 167 + 177 Changes

A part of UFAB responsibilities are to review the Tree Preservation and Landscape Code every three years. The last review was over three years ago and therefore staff is working on changes this year.



Positive Impacts in 2016

Annual Tree Preservation Numbers

In 2016, staff began recording Development Review tree preservation and mitigation amounts. With the information generated from these records, staff is able to produce annual data to show preservation and mitigation for 2016.

New Tree preservation and Landscape Manual

Staff updated the Tree Preservation and Landscape Manual to focus helping developers and engineers who are going through the Development and Construction Review process.

Public Outreach

Presenting information about Urban Forests and what Urban Foresters do for the City has been a new important focus for staff. Staff presented and spoke to several civic organization, professional organizations, peer round table discussions, conferences and elementary students.

2016 Tree Preservation Numbers

- **701** acres of development reviewed
- **294** acres of existing tree canopy
- **233** acres preserved
- **62** acres removed for new development
- **79% tree canopy preservation**
- **3,593** new trees planted to meet mitigation requirements

Staff is using these numbers to research Development Impact in the short term and long term for the cities canopy.

**Fayetteville was
declared a Tree City
USA for the 22nd
year in a row!**



Alderman Adella Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2



Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Alderman Justin Tennant
Ward 3 Position 1

Alderman Sarah Bunch
Ward 3 Position 2

Alderman John La Tour
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

**City of Fayetteville Arkansas
City Council Meeting
April 18, 2017**

A meeting of the Fayetteville City Council was held on April 18, 2017 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Adella Gray, Sarah Marsh, Mark Kinion, Matthew Petty, Justin Tennant, Sarah Bunch, John La Tour, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports, and Discussion Items: None

Agenda Additions:

Consent:

Approval of the April 4, 2017 City Council Meeting Minutes.

Approved

Steve Landers Toyota of Northwest Arkansas: A resolution to award Bid # 17-24 and authorize the purchase of three 2017 Toyota Tacomas from Steve Landers Toyota of Northwest Arkansas in the total amount of \$65,400.00 for use by the Water and Sewer Operations Division.

Resolution 84-17 as recorded in the office of the City Clerk

Arkansas Municipal Equipment, Inc.: A resolution to award Bid No. 17-23 and authorize the purchase of a Peterbilt 520 Front Load Refuse Truck with New Way Mammoth Body from Arkansas Municipal Equipment, Inc. in the amount of \$240,592.00 for use by the Recycling and Trash Collection Division.

Resolution 85-17 as recorded in the office of the City Clerk

Williams Tractor: A resolution to approve the purchase of six (6) Hustler Super Z mowers from Williams Tractor of Fayetteville in the total amount of \$62,345.00 pursuant to a state procurement contract for use by the Parks and Recreation Department.

Resolution 86-17 as recorded in the office of the City Clerk

Superior Automotive Group, Transportation Dept.: A resolution to award Bid #17-26 and authorize the purchase of five (5) 2017 Ford F-550 trucks from Superior Automotive Group of Siloam Springs, Arkansas in the total amount of \$313,256.00 for use by the Transportation Services Department.

Resolution 87-17 as recorded in the office of the City Clerk

Superior Automotive Group, Water & Sewer Dept.: A resolution to award Bid #17-26 and authorize the purchase of two (2) 2017 Ford F-550 diesel trucks and a Ford F-250 pickup truck from Superior Automotive Group of Siloam Springs, Arkansas in the total amount of \$149,375.00 for use by the Water and Sewer Operations Division.

Resolution 88-17 as recorded in the office of the City Clerk

Hilbilt Sales Corporation: A resolution to award Bid #17-29 and authorize the purchase of a Clement Starlite 3829 dump trailer from Hilbilt Sales Corporation of Benton, Arkansas in the amount of \$39,794.00 plus applicable taxes for use at the City Wastewater Treatment Facilities.

Resolution 89-17 as recorded in the office of the City Clerk

CH2M Hill Engineers, Inc.: A resolution to approve an out-of-scope agreement with CH2M Hill Engineers, Inc. in the amount of \$19,998.00 for design revisions to the access road and berms at the Lake Sequoyah Sediment Removal Project.

Resolution 90-17 as recorded in the office of the City Clerk

Watershed Conservation Resource Center: A resolution to approve Task Order No. 5 with the Watershed Conservation Resource Center in the amount of \$100,500.00 for continued native vegetation establishment efforts and minor adjustments to existing restoration areas to enhance stream channel stability.

Resolution 91-17 as recorded in the office of the City Clerk

Play By Design, Inc.: A resolution to award RFP No. 17-03 and authorize a contract with Play By Design, Inc. in the amount of \$299,990.91 for the construction of the Rotary Club of Fayetteville Playground at Kessler Mountain Regional Park, and to approve a project contingency in the amount of \$30,000.00.

Resolution 92-17 as recorded in the office of the City Clerk

Mitchell, Williams, Selig, Gates & Woodyard, PLLC: A resolution to approve Amendment No. 6 to the contract with Mitchell, Williams, Selig, Gates & Woodyard, PLLC in the amount of \$100,000.00 for additional legal services related to the White River water quality standards petition to the Arkansas Pollution Control and Ecology Commission, to approve a project contingency in the amount of \$20,000.00, and to approve a budget adjustment.

Resolution 93-17 as recorded in the office of the City Clerk

Alderman Marsh moved to accept the Consent Agenda as read. Alderman Kinion seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business: None

New Business:

Benchmark Construction of NWA, Inc.: A resolution to approve Change Order No. 2 to the contract with Benchmark Construction of NWA, Inc. in the amount of \$195,377.00 for the construction of a bathroom and storage building at the Fire Department Training Facility, to approve a project contingency in the amount of \$29,306.55, and to approve a budget adjustment.

David Dayringer, Fire Chief gave a brief description of the resolution.

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

Resolution 94-17 as recorded in the office of the City Clerk

Fayetteville Commerce Park, Peter O. Kohler, LLC: A resolution to sell about 14.9 acres of land in the Commerce District to Peter P. Kohler, LLC for \$223,500.00.

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

Chung Tan, Chamber of Commerce: We are pleased to bring this project before the City Council. It is one of the biggest developments for our Commerce District. We are excited that it is being started by a local individual. Dr. Kohler is an honorable person with high integrity. He is excited about bringing his business to Fayetteville. His project meets a lot of what we are wanting to do for Fayetteville. His team consists of members who have their own individual expertise, which will increase the chance of a startup being successful.

Mayor Jordan: This is a very exciting project for the city when looking at jobs that pay an average of \$50,000 a year. It goes along with our Fayetteville First Economic Development of specialized technologies.

Alderman Tennant: This is a great idea because I'm hearing things like technology based business, economic development, local individuals, and South Fayetteville. The only thing some people might question is that it is a startup business. I would argue that every great company started as a startup business. Thank you to the Chamber of Commerce and everybody involved. This is exactly the kind of thing that we need to promote.

Mayor Jordan: Thank you to the Chamber of Commerce and staff for their work on this.

Alderman Kinion moved to approve the resolution. Alderman Marsh seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 95-17 as recorded in the office of the City Clerk

VAC 17-5749 (495 W. Prairie St./Infill Group): An ordinance to approve VAC 17-5749 for property located at 423 West Prairie Street to vacate a portion of a drainage easement containing approximately 40 square feet.

City Attorney Kit Williams read the ordinance.

Andrew Garner, Planning Director gave a brief description of the ordinance. The Planning Commission voted in favor unanimously.

A discussion followed about correcting a scrivener error.

Alderman Petty: This is my project. I am going to recuse myself.

Alderman Kinion 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 Tennant, Bunch, La Tour, Long, Gray, Marsh, Kinion voting yes. Alderman Petty recused.

City Attorney Kit Williams read the ordinance.

Alderman Kinion moved to suspend the rules and go to the third and final reading. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Tennant, Bunch, La Tour, Long, Gray, Marsh, Kinion voting yes. Alderman Petty recused.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Tennant, Bunch, La Tour, Long, Gray, Marsh, Kinion voting yes. Alderman Petty recused.

Ordinance 5965 as Recorded in the office of the City Clerk

RZN 17-5734 (1722 N. Starr Dr./St. Joseph's School): An ordinance to rezone that property described in rezoning petition RZN 17-5734 for about 26.09 acres located at 1722 North Starr Drive from R-A, Residential Agricultural and RSF-4, Residential Single Family, 4 units per acre to P-1, Institutional.

City Attorney Kit Williams read the ordinance.

Andrew Garner, Planning Director gave a brief description of the ordinance. The Planning Commission voted in favor unanimously.

Tom Hennelly, Applicant requested for City Council to approve his rezoning request.

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

City Attorney Kit Williams read the ordinance.

Alderman Tennant 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 asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5966 as Recorded in the office of the City Clerk

RZN 17-5732 (1840 W. Poplar St./Poplar St. Mobile Home Park): An ordinance to rezone that property described in rezoning petition RZN 17-5732 for about 9.20 acres located at 1840 West Poplar Street from RMF-24, Residential Multi Family, 24 units per acre to CS, Community Services.

City Attorney Kit Williams read the ordinance.

Andrew Garner, Planning Director gave a brief description of the ordinance. Staff recommends approval. The Planning Commission recommends approval. He stated there were residents who lived in the mobile home park who voiced their concerns about being displaced when the apartment project is developed.

Evan Niehues, Applicant's Representative spoke briefly about the apartment housing plans and requested approval.

Alderman Long 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.

City Attorney Kit Williams: When this issue came up to the Planning Commission, there were several residents that were concerned about having to move their mobile homes. There is really nothing the city can do in this particular case. The land is owned by the landlord. If the lease is able to be terminated by the landlord, then that is the landlord's right.

Alderman Marsh 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 asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5967 as Recorded in the office of the City Clerk

Amend Ord. 3898, Botanical Garden and Fayetteville Schools Agreement: An ordinance to amend Ordinance 3898 by removing approximately 1.7 acres from the Lake Fayetteville Nature Study Center Reserve, to approve an amendment to the Joint Lease Agreement with the Fayetteville School District to reflect the removal of the 1.7 acres, to approve an amendment to the Botanical Garden Land Lease Agreement with the Botanical Garden Society of the Ozarks, Inc. to add approximately 1.7 acres to the leased premises, and to approve an amendment to the Botanical Garden of the Ozarks Master Plan to add an Operations Center on the additional acreage.

City Attorney Kit Williams read the ordinance.

Connie Edmonston, Parks & Recreation Director gave a brief description of the ordinance. She stated the Parks & Recreation Board unanimously approved the request.

Charlotte Taylor, Botanical Garden of the Ozarks Executive Director: The need for this land is to help us with our present site of the garden as well as the growth to the south of Hilton Creek.

We have a beautiful garden and we bursting at the seams. This October we will be celebrating our 10th anniversary and we want to continue to grow to bring people into the garden. This facility will help us grow our behind the scenes programs so that we can support our present garden and our future garden.

Alderman Long 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.

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

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: I was on the Council when we first walked around out there and thought about it. I can't believe how much you have been able to accomplish. You have really made a gem for the City of Fayetteville. It is great to see dreams come true.

Mayor Jordan: It was a privilege for me to be on the Council when we gave the first major funding for the Botanical Gardens.

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

Ordinance 5968 as Recorded in the office of the City Clerk

University of Arkansas, West Hotz Drive: A resolution pursuant to Ordinance No. 5652 to authorize motor vehicle access to West Hotz Drive from property owned by the University of Arkansas.

Chris Brown, City Engineer gave a brief historical description of the resolution. He stated the Transportation Committee sent this item to the City Council with no recommendation to approve this change or to leave it as is. He spoke about traffic counts and stated the counts indicate that there are very few vehicles coming out of these parking lots and turning back to the west to go through the neighborhood. He stated the majority of the traffic is exiting either to the south and then back to Razorback Road or continuing on south along Graham or just going directly out on Meadow to Razorback Road. He stated during the consideration of this originally, staff recommendation was for full access. The connectivity policy indicates that street connections should be made wherever possible. He stated the University of Arkansas did not request for this to be brought to the City Council. He stated it came from citizen request in the neighborhood.

Alderman Long spoke about the traffic count survey. He stated on November 2nd that five went into the parking lot.

Chris Brown: On November 2nd we took the 9:00 a.m. to 10:00 a.m. entering traffic. Five vehicles came from Palmer and then entered the parking lot. It would be entering traffic.

Alderman Long: When we talk about cars entering the neighborhood as cut a through from the parking lot, we should keep in context there is limited access to the neighborhoods from the parking lot, currently. It stands to reason there would be fewer cars entering the neighborhood through the parking lot.

Mayor Jordan: 3% is what I saw. Is that correct, Chris?

Chris Brown: That is a pretty good percentage, depending on what set of data you want to look at. In general it is less than 5%.

Alderman Long: The reason I brought this back to the Transportation Committee is because constituents requested that. The traffic survey shows 9% of the vehicles leaving the parking lot turn west onto Center Street and eight of those vehicles leaving the parking lot going west on Center Street turn onto Palmer from Hartman Avenue. Less than 3% of the total number of vehicles leaving the parking lot go onto Palmer. The intent when I brought it to Transportation Committee was to determine if there was data to support making a change. The reason I didn't support taking this to the City Council from Transportation is because the data doesn't support that.

Alderman La Tour: We are talking about quantity of numbers. The number of people leaving the parking lot going onto Center, then onto Palmer. There could be a qualitative analysis here also. Some of those cars in the parking lot going into the neighborhood actually live in the neighborhood.

Rebecca Loyd, 106 North Palmer: The one thing I want to emphasize about this analysis of traffic flow is if there's not a lot of traffic, then why was there an issue of closing up that street? Originally, that was the reason.

Mayor Jordan requested Alderman Long to reply to Ms. Loyd.

Alderman Long: I have the minutes from the meetings where that was discussed. At the City Council meeting, I pointed out that it was directly across from Thomas, which is a narrow and unsafe street that needs some adjustments. That is where it started.

Rebecca Loyd: The individuals in the neighborhood that are for the street staying closed off are saying it is because of the traffic that is going to be coming into the neighborhood. The only streets affected are Palmer, Hotz, and Thomas. It is hard for me because I live on Palmer. Anyone that lives on Hotz I can understand why they would want it closed. In the fairness of the neighborhood, I don't know how you can close one and not accommodate the other side.

Tom Bohannon, 48 South Palmer spoke about access and traffic issue to Razorback Road. He believes other issues need to be looked at other than a traffic count.

Allen Baker, 19 North Palmer gave a brief description of the streets in the area. He spoke about traffic counts, ingress and egress. He stated he doesn't see any fact that a decision can be based on to close off a perfectly good exit for the neighborhood and community at large.

Alderman Long: Did you realize that during the Council discussion when we closed the north end of Hotz from it being across from Thomas that the discussion was that at some point we would open Hotz when Thomas saw improvements?

Allen Baker: That is the first I have heard it. I've not heard it in any discussions here.

Alderman Long: It is in the agenda minutes.

Allen Baker spoke about the loss to the neighborhood and the University of Arkansas with Hotz being a closed street and not being used as an exit.

Biccy Hamilton, 1513 Markham stated the wrong decision was made allowing access out the other direction versus closing off just one side. She spoke about traffic counts and traffic flows during University of Arkansas events. She stated there is not a demand other than event parking and doesn't understand why Council would change it.

Lynn Loyd, 106 North Palmer spoke about the events at the U of A which creates traffic being backed up on Palmer. He spoke about pedestrian safety. He believes a north exit would be beneficial.

Tom Overbey, University Heights stated a lot of you were on this Council in 2014 and we are back a year after the parking lot is finished. He stated if you reverse engines, you are saying to the residents of Fayetteville that we will make a decision one day and then we will just change it pretty quick.

Rob Karas, 1666 Halsell stated that neighborhoods are being encroached on by traffic. He stated Palmer and Markham should be protected and traffic should be funneled out to Razorback Road. He commented that Alderman La Tour's child was hit by a car.

Alderman La Tour: Do we have sidewalks on Halsell?

Rob Karas: Halsell has some sidewalks.

Alderman La Tour: Any around your house?

Rob Karas: Yes.

Alderman La Tour: On your side of the street?

Rob Karas: No, not on my side.

Alderman La Tour: How serious was my son injured when he was hit by a car?

Rob Karas: Not bad, he flew off the top. The bike was no good, but he was fine.

Alderman La Tour: He didn't go to the hospital. It was a minor thing.

Rob Karas: By luck it was minor.

Teresa Turk, 1408 West Cleveland stated more information is needed than what was provided in the packet. She requested Council to work with the university to protect neighborhoods. She stated it has only been a year and wants the City Council to live up to their agreement.

Alderman Petty: I'm not saying what we did a year ago was the wrong decision. I hope we have a Council that when we make wrong decisions, they reverse them quickly. I voted for the current configuration for one reason only and that was because Alderman Long requested us too. The university didn't raise an objection. I did that out of deference to the Alderman representing the district. We are reconsidering this decision because the same Alderman has asked us too and I take that seriously. Otherwise, I don't believe we would be revisiting this. I hear from a lot of neighbors all over the city on a lot of different issues in ways that have a common theme. It is about the quality of their neighborhoods. I understand that, but I also want to be dedicated to addressing the business in front of us. The conversation about how to protect neighborhoods from the growth pressures on Fayetteville is one we should have, but tonight our business is merely about this parking lot. What I hadn't considered was crossing lanes of traffic to get onto or off of Razorback Road and needing to use that light. It is a habit I have developed when I go over there. It requires a longer route to see the people I want to see. We are forcing people to drive farther and pass more houses than they should have too. We are creating more traffic than is necessary. This helped me to make up my mind to support opening the north side. If there is an overt danger, the north route is safer for more people. In our packet we were provided a map of game day traffic exit routes. Right now Hotz is a dividing line. I will be voting to open it up.

Alderman Long: It was Alderman Rhonda Adams who was on the Transportation Committee with you who actually took that through the Transportation Committee, not myself. The other thing we looked at during that time was that going through Thomas is different than just comparing north and south into Palmer, which Palmer's not very long. If you go out through Thomas it leads to the possibility of going by hundreds of homes. There are many different routes. It is an opening point to the parking lots. The university can change the game day route traffic anytime they want too.

Alderman La Tour: stated he was concerned with traffic in the neighborhood, but the focus tonight needs to be on what we are talking about right now. He stated the Transportation Committee told him that speed bumps only work for houses who are right in front of the speed bump. He believes there are more effective ways to slow traffic down. He stated the argument against opening the north exit was inconsistent. He believes parking lots and streets should be connected to allow for ingress and egress. He stated there are ways to mitigate adverse effects of game day traffic. He spoke about fairness and wanting to treat everyone the same.

Alderman Long: What we are really dealing with is not just a parking lot. It is right across from Thomas and it looked like an unsafe situation and it still is. In this city we have a situation where

the University of Arkansas enrollment has grown. It is wonderful because it brings money into the city, but all of the campus edge properties are suffering because of cut through traffic. We haven't been able to keep up with infrastructure and we have to make up for that for the next several years. Pedestrian safety is one of the most important things to me when we speak about campus edge properties. At this specific spot, you have Center Street that goes from Razorback Road and that street connects all the way up to Ramay Junior High. You don't have another east or west collector street until you hit Cleveland. Besides Razorback Road, that is all there is. This is one of the things that has created this problem. We need another collector street on Center Street. Event day traffic is not easy to deal with. Thomas was one of the major things that started this discussion. Alderman La Tour you stated arguments weren't consistent and I would not agree with that. The arguments are multi-faceted. When we made the final decision to close it, we talked about Thomas being improved before we opened it. The Transportation Committee unanimously voted to close the opening at Hotz. Almost every member on the Council and the Transportation Committee had issues and concerns about pedestrian safety. We need to address concerns prior to opening the entrance. I know the Town & Gown Committee has to work through all the budgetary constraints and discussions that we do, but we should expect the same actions before we take actions that defeat the purposes of our original decisions.

Alderman Gray: I agree with Alderman Long. We do have a lot of needs and things we need to do. He sits on the Transportation Committee and we stretch the money as far as we can. We are doing a lot of good things in our city. The main reason I voted to close Thomas Street was because the Ward 4 Aldermen asked us to do that. I have learned a lot since then. People living close to the university have to take the bitter with the sweet. I don't think the problems we are having is anything unusual for a university town that has grown. I agree that we have a lot of streets that needs some improvements. I think people who are coming from out of town are saying, what in the world were those people thinking to put that in there and then close it off. We had hoped we could improve Thomas, but the money hasn't been there to do that. We should open it up for connectivity. Ingress and egress shouldn't be blocked off. I will be voting to open the north entrance to the parking lot.

Alderman Long: Alderman Gray, you mentioned we haven't had the money to fix Thomas. If we did have that money and we could hold off for six months until Thomas was repaired, Alderman La Tour told me the Mayor mentioned he could find the money. Is that correct?

Mayor Jordan: I said that I could find the money?

Alderman Long: That is what Alderman La Tour said.

Mayor Jordan: Alderman La Tour, did I tell you I could find the money?

Alderman La Tour: Mayor, I don't know what Alderman Long is recalling. I don't recall stating that.

Mayor Jordan: Thank you. I don't remember saying that.

Alderman Tennant: A yes vote opens it back up?

Mayor Jordan: Yes.

Alderman Marsh moved to approve the resolution. Alderman La Tour seconded the motion. Upon roll call the resolution passed 6-2. Alderman Tennant, Bunch, La Tour, Gray, Marsh, and Petty voting yes. Alderman Long and Kinion voting no.

Resolution 96-17 as recorded in the office of the City Clerk

Enact Article XXXI Equipment Committee and Article XXXII Substitution For Absent Fellow City Council Ward Member: An ordinance to Enact **Articles XXXI and XXXII** of the Fayetteville Code to codify membership and duties of the Equipment Committee and to provide for a City Council Member to substitute for an absent Ward Representative on a standing City Council Committee.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams gave a brief description of the ordinance. He stated Mayor Jordan would like to table the item indefinitely to allow more time for the Mayor and City Council to review.

Mayor Jordan requested more time to work on the item.

Alderman Gray: Until we do take some action, is it okay if we ask another person to sit in for us?

Mayor Jordan: No. Our ordinance does not allow you to do that right now.

Alderman Gray: I like the idea. I do not like to come to a meeting that doesn't have a quorum and not be able to take action. I encourage you to go forward with it.

Mayor Jordan: There are certain things that we get hung up in the system while we wait to get a quorum. I want to make sure we always have a quorum and all Wards are represented. I want more time to work on it.

Alderman Petty: A nice middle ground might be to allow members to designate their ward members a proxy, voluntarily.

Alderman Long: For some of the committee meetings it would be good if the agendas were sent to the right email addresses for dates. I don't use my official city email address. I have brought that up with staff on multiple occasions.

Mayor Jordan: Who does the mailing out?

City Clerk Sondra Smith: Different people. Sometimes a Department Director will send an agenda out. If they have already sent it out, we don't resend it. I think we have the correct email address for Alderman Long.

Mayor Jordan: We can fix that Alan. We will make sure everybody gets their agenda with the date.

Alderman Long moved to table the ordinance indefinitely. Alderman Marsh seconded the motion. Upon roll call the ordinance passed unanimously.

This ordinance was Tabled Indefinitely

Announcements:

Susan Norton, Communications & Marketing Director: Citizens and Council members can find announcements on the city website under alerts and notifications.

Tomorrow at the Senior Center between the hours of 2:00 p.m. to 4:00 p.m. the Community Resources staff will host a CDBG photo reception. It's intended for citizens to meet and greet with staff to learn more about services provided to low and moderate income families from the federal CDBG funding.

The East Joyce Boulevard lane closures from Old Missouri to Crossover are in effect. Those will go through April 28, 2017 for repaving. Work happens between 6:00 a.m. and 4:00 p.m. If the crews aren't working, the road will be open.

Summer sports registration is opening up with all kinds of sports events in our Parks & Recreation.

The City of Fayetteville Sustainability office received a platinum bicycle friendly designation.

Fayetteville is Wild about Earth Day. It is April 22, 2017 from 9:00 a.m. until noon for a volunteer trail and stream cleanup. It will kick off from the Marion Orton Recycling Center unless we have bad weather.

City Council Agenda Session Presentations: None

City Council Tour: None

Adjournment: 7:10 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk Treasurer

UNOFFICIAL

Smith, Sondra

From: CityClerk
Sent: Friday, April 28, 2017 7:22 AM
To: Alan Long (Longward4@gmail.com); Pennington, Blake; citycouncil@matthewpetty.org; Marr, Don; Eads, Gail; Roberts, Gina; Johnson, Kimberly; Williams, Kit; Branson, Lisa; Jordan, Lioneld; Lynch, Rhonda; Norton, Susan; Osborne, Donnie; Smith, Lorinda; Smith, Sondra; Gray, Adella; Marsh, Sarah; Kinion, Mark; Tennant, Justin; Bunch, Sarah; La Tour, John; Long, Alan
Cc: somename345@gmail.com
Subject: FW: Item C. 3

Please see email below regarding:

2017-0201 UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT: A RESOLUTION TO APPROVE AN AGREEMENT WITH THE UNIVERSITY OF ARKANSAS TO ACCEPT WASTEWATER FROM THE UNIVERSITY'S SOUTHWEST EXPERIMENTAL FAST OXIDE REACTOR FACILITY INTO THE CITY'S SANITARY SEWER SYSTEM FOR TREATMENT

From: Mary Shtakleff [mailto:somename345@gmail.com]
Sent: Thursday, April 27, 2017 7:51 PM
To: CityClerk <cityclerk@fayetteville-ar.gov>
Subject: REF: Item C. 3

REF: Item C.3: "Resolution Approving an Agreement with the University of Arkansas Regarding Acceptance of Wastewater from the SEFOR Facility

To whom it concerns,

I am writing in hopes that I may persuade you to not allow the University of Arkansas to dump any material into any river. Arkansas is known as the Natural State, let's keep it that way. Please do not allow unnatural materials to pollute our water.

Thank you

Mary Schtakleff
Resident of Fayetteville Arkansas 72704



Virus-free. www.avast.com

CityClerk

From: Bob Anderson <anderhog@yahoo.com>
Sent: Monday, May 01, 2017 4:10 PM
To: CityClerk
Subject: City Council Meeting 5-2-17
Attachments: Rezoning Proposal.xls

Attached is a spreadsheet that shows the property owners' votes concerning RZN 17-5733. Would you please see that this is included in the package of materials provided to the council members prior to the hearing Tuesday night. Thank you.

Bob Anderson
Treasurer
Stonewood P.O.A.

Stonewood Subdivison

Rezoning Proposal for Lots 1 & 2

Commercial Lots

92.9%	Percentage of lots voting
13	For the rezoning
0	Against the rezoning
100.0%	Percentage for rezoning

Homeowner Lots

83.8%	Percentage of lots voting
2	For the rezoning
86	Against the rezoning
1	In between
96.6%	Percentage opposed

Lot	Parcel	Name	Address
1	22244	C P Properties, LLC	Crossover Road (Vacant Commercial Lot)
2	22245	C P Properties, LLC	Crossover Road (Vacant Commercial Lot)
3	22246	Kjune LLC	Crossover Road (Vacant Commercial Lot)
4	22247	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
5	22248	Parker Investments, LLC	Castlewood Ln. (Commercial Lot)
6	22249	Parker Investments, LLC	Castlewood Ln. (Commercial Lot)
7	22250	Parker Investments, LLC	4790 Castlewood Ln. (Commercial Lot)
8	22251	Fochtman, Earl & Gayle	Crossover Road (Vacant Commercial Lot)
9	22252	Fochtman, Earl & Gayle	Crossover Road (Vacant Commercial Lot)
10	22253	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
11	22254	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
12	22255	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
13	22256	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
14	22257	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
15	22258	Ellison, Frances Anita	4843 Lavendon Pl.
16	22259	Ingram, Justin & Andrea	4857 Lavendon Pl.
17	22260	Watson, Gaye F.	4869 Lavendon Pl.
18	22261	Olive Trust Joshua Hicks	4881 Lavendon Pl.
19	22262	Stevens, Robert & Karen	3116 High Meadows Dr.
20	22263	Liu, Pu & Li-Chuan Chang	3140 High Meadows Dr.
21	22264	Oswald, Robert & Anne	3162 High Meadows Dr.
22	22265	Roberts, Barbara	3186 High Meadows Dr.
23	22266	Szakasits, Monika	3200 High Meadows Dr.
24	22267	Nielson, Bradley & Michelle Roberts	3224 High Meadows Dr.
25	22268	Murphy, Rong Yan	3246 High Meadows Dr.
26	22269	Hicklin, Michael & Lynda	4884 Trails End Ln.
27	22270	Vowell, Stevan & Peggy	4868 Trails End Ln.
28	22271	Hopkins, Wade & Sharon	4856 Trails End Ln.
29	22272	Aldridge, Bret & Barbara	4842 Trails End Ln.
30	22273	Hubbard, Thomas & Shareinea	4830 Trails End Ln.
31	22274	Zimmerman, Brent & Cassandra	3229 High Meadows Dr.
32	22275	Woodward, Billy Ray & Joann	High Meadows Dr. (Vacant Lot)
33	22276	Scarbrough, Troy & Amy	3191 High Meadows Dr.
34	22277	Cox, Winfred M. & Clarice W.	3163 High Meadows Dr.
35	22278	Caldwell, Nelson & Terrie	3141 High Meadows Dr.
36	22279	Augustine, Merlin & Beverly	4862 Lavendon Pl.
37	22280	Anderson, Bob	4844 Lavendon Pl.
38	22281	Parker, Terry & Ellen	3142 Greystone Dr.
39	22282	McLaughlin, Gary & Susan	3164 Greystone Dr.
40	22283	Mitzel, Marvin & Christel	3190 Greystone Dr.
41	22284	Welker, Juanita M.	3204 Greystone Dr.
42	22285	White, Bryan & Susan F.	3228 Greystone Dr.

Stonewood Subdivison

Rezoning Proposal for Lots 1 & 2

Commercial Lots

92.9%	Percentage of lots voting
13	For the rezoning
0	Against the rezoning
100.0%	Percentage for rezoning

Homeowner Lots

83.8%	Percentage of lots voting
2	For the rezoning
86	Against the rezoning
1	In between
96.6%	Percentage opposed

Lot	Parcel	Name	Address
43	22286	Davis, Jerry & Brenda	4808 Trails End Ln.
44	22287	Marley, Mark & Cheryl	4792 Trails End Ln.
45	22288	Mize, Andrew M. & Page Ann	4774 Trails End Ln.
46	22289	Salsbury, Randy & Shana	4758 Trails End Ln.
47	22290	Ashley, Larry & Martha	4749 Trails End Ln.
48	22291	Bunn, Richard & Margaret Werner	4773 Trails End Ln.
49	22292	Bradbury, Michael & Sharon Etchinson	4791 Trails End Ln.
50	22293	Glenn, Ryan & Maranda	4807 Trails End Ln.
51	22294	Wynne, Thomas B. & Marley M.	3203 Greystone Dr.
52	22295	Rigo, Gilson & Vania	3189 Greystone Dr.
53	22296	Basnett, Erin	4790 Stonewall Crossing
54	22297	Crawford, John & Beverly	4772 Stonewall Crossing
55	22298	Davis, Doris & Kim	4754 Stonewall Crossing
56	22299	Hughey, Gary & Sandra	4738 Stonewall Crossing
57	22300	Gillihan, Betty Kaye	3202 Hearthstone Dr.
58	22301	Jezewski, Jeffery & Jennifer	3226 Hearthstone Dr.
59	22302	Matthews, Andy & Cheryl	3244 Hearthstone Dr.
60	22303	Scalise, Mark & Jacqueline	3268 Hearthstone Dr.
61	22304	Malone, Noel & Ada Lee	3077 Greystone Dr.
62	22305	Smith, Virginia	3103 Greystone Dr.
63	22306	Mueller, Phuong & Ellen Gebhart-Mueller	3119 Greystone Dr.
64	22307	Mosby, Keith & Katherine	4807 Stonewall Crossing
65	22308	Stephens, Trey III	3144 Ladelle Pl.
66	22309	Alisha Sutton	3120 Ladelle Pl.
67	22310	LaGrone, Dean	3102 Ladelle Pl.
68	22311	Kennett, Vic & Melody	3078 Ladelle Pl.
69	22312	Flynn, Mike & Courtney	3063 Ladelle Pl.
70	22313	Henry, Clay & Jean Ann	3079 Ladelle Pl.
71	22314	Wright, Warren & Linda	3101 Ladelle Pl.
72	22315	Draper, Joe & Nancy	3145 Ladelle Pl.
73	22316	Draper, Joe & Nancy	3145 Ladelle Pl.
74	22317	Draper, Joe & Nancy	3145 Ladelle Pl.
75	22318	Draper, Joe & Nancy	3145 Ladelle Pl.
76	22319	Davis, Rick & Shawna	3100 Hearthstone Dr.
77	22320	Pianalto, Nick	3080 Hearthstone Dr.
78	22321	Hudgens, Patricia	3081 Hearthstone Dr.
79	22322	Ashby, Charles & Debbie	3033 Waterstone Dr.
80	22323	Busken, Gerard & Tammy	3057 Waterstone Dr.
81	22323-001	Collins, Craig & Bethany	3089 Waterstone Dr.
82	22324	Cantu, Jeffrey	3123 Hearthstone Dr.
83	22325	MacDade Properties LLC	3044 Waterstone Dr.
84	22326	Watkins, Janet & Catherine Vantine	3072 Waterstone Dr.

Stonewood Subdivison

Rezoning Proposal for Lots 1 & 2

Commercial Lots

92.9%	Percentage of lots voting
13	For the rezoning
0	Against the rezoning
100.0%	Percentage for rezoning

Homeowner Lots

83.8%	Percentage of lots voting
2	For the rezoning
86	Against the rezoning
1	In between
96.6%	Percentage opposed

Lot	Parcel	Name	Address
85	22327	Head, Steven & Hillary	3104 Waterstone Dr.
86	22328	Stancil, Jim & Susan	3130 Waterstone Dr.
87	22329	Forga, Maxine	3152 Waterstone Dr.
88	22330	Mazili, Christine A.	3186 Waterstone Dr.
89	22331	Andrade, Juan & Ana	3208 Waterstone Dr.
90	22332	Levy, Lynn Revocable Trust	3224 Waterstone Dr.
91	22333	Green, Cynthia K.	4657 Stonewall Crossing
92	22334	Moore, Jennifer Paige	4665 Stonewall Crossing
93	22336	Young, Dena	4673 Stonewall Crossing
1	22335	Young, Alex Alden	4687 Stonewall Crossing
95	22337	Wilson, Hugh E. & Audrey A.	4695 Stonewall Crossing
96	22338	Serrano, Jose & Maria	3147 Hearthstone Dr.
97	22339	Porter, Kenneth B. & Andrea	3267 Hearthstone Dr.
98	22340	Zavaleta, Julio Cesar	3243 Hearthstone Dr.
99	22341	Taylor, Lawrence & Brandy	3225 Hearthstone Dr.
100	22342	Moore, Samuel & Margaret	3201 Hearthstone Dr.
101	22343	Collins, Randall	3185 Hearthstone Dr.
102	22344	Hardcastle, Andrea	4692 Stonewall Crossing
103	22345	Kyle & Caitlin Pennington	4664 Stonewall Crossing
104	22346	Bowlin, Philip & Brenda	4658 Stonewall Crossing
105	22347	Moffitt, Jennifer & Michael	4652 Stonewall Crossing
106	22348	Brown, Michael & Ana	4646 Leiston Pl.
107	22349	Demarest, Chris & Alicia	4640 Leiston Pl.
108	22350	Antoine, Ronald & Zenarea	4632 Leiston Pl.
109	22351	Rhodes, Amy S.	4624 Leiston Pl.
110	22352	Chamberlain, Carol Jean	3267 Waterstone Dr.
111	22353	Locey, Ryan & Monica	3245 Waterstone Dr.
112	22354	McCarley, Timothy	3223 Waterstone Dr.
113	22355	Morris, Nicholas & Lydia	3209 Waterstone Dr.
114	22355	Sandlin, James & Renee	3187 Waterstone Dr.
115	22355	Carrasco-Quezada, Erika	3165 Waterstone Dr.
116	22356	Black, Nancy	Waterstone Dr. (Vacant Lot)
117	22357	Mathias, David & Ashley	3129 Waterstone Dr.
118	22357-001	Siebert, Eric & Katlyn	2111 Waterstone Dr.
119	22358	Zamora, Rosanna	3352 Waterstone Dr.

CityClerk

From: PETER TONNESSEN <ptt@prodigy.net>
Sent: Monday, May 01, 2017 3:40 PM
To: Curth, Jonathan; CityClerk; City_Attorney
Cc: Bob Anderson; svowell@taylorlawpartners.com; Mark Scalise; pete012639@yahoo.com
Subject: Rev. 8 and Rev. 9 of the HANDOUT (Spreadsheet), plus redacted copies of each
Attachments: POWERPOINT - ZONING DISTRICTS COMPARED with Excel Chart.pptx

Mr. Curth:

I am attaching PowerPoint slides of two Revisions (Rev. 8 and Rev. 9) of the HANDOUT (Spreadsheet), plus redacted copies of each, for use at the City Council Meeting tomorrow night. Please let me know if you have any problems downloading them so they can be available.

Sincerely,
Pete Tonnessen
3500 Hearthstone Drive
719-338-7329

Sent from my iPad

RZN 17-5733 & VAC 17-5753

Zoning Districts Compared:

NS-L		NS-G		R-O		CS
NS-L		R-O		NS-G		CS

	A	B	C	D	E
1	(Rev. 8, 4/28/17)	Neighborhood Services - Limited	Neighborhood Services - General	R-O Residential Office	CS Community Services
2					
3	Fayetteville AR UDC (Zoning) as amended by ORDINANCE 5945 approved 1/17/2017	(A) Purpose. designed to serve as a mixed use area of low intensity. ... 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.	(A) Purpose. ... designed to serve as a mixed use area of medium intensity. ... promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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.	(A) Purpose. ... designed primarily to provide area for offices without limitation to the nature or size of the office , together with community facilities, restaurants and compatible residential uses.	(A) Purpose. ... designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for 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.
4	(B) Uses.				
5	(1) PERMITTED Uses.		(1) PERMITTED Uses.		(1) PERMITTED Uses.
6	Unit 1 City-wide uses by right	City-wide uses by right	City-wide uses by right	City-wide uses by right	City-wide uses by right
7	Unit 4 Cultural and recreational facilities				Cultural and recreational facilities
8	Unit 5 Government facilities			Government facilities	Government facilities
9	Unit 8 Single-family dwellings	Single-family dwellings	Single-family dwellings	Single-family dwellings	Single-family dwellings
10	Unit 9 Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings
11	Unit 10 Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings		Three (3) and four (4) family dwellings
12	Unit 12a Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]		Limited Business [Eating <2000 sq ft]	
13	Unit 12b General Business [8000 square feet]		Unit 12b General Business [8000 square feet]		Eating places
14	Unit 13 Eating places				Neighborhood Shopping goods
15	Unit 15 Neighborhood shopping goods				Gasoline service stations and drive-in/drive-through restaurants
16	Unit 18 Gasoline service stations and drive-in/drive-through restaurants				Home occupations
17	Unit 24 Home occupations	Home occupations	Home occupations		Offices, studios and related services
18	Unit 25 Offices, studios and related services			Offices, studios and related services	Multi-family dwellings
19	Unit 26 Multi-family dwellings				Cluster Housing Development
20	Unit 41 Accessory dwelling units	Accessory dwelling units	Accessory Dwelling Units		Small scale production
21	Unit 44 Cluster Housing Development	Cluster Housing Development	Cluster Housing Development	Cluster Housing Development	
22	Unit 45 Small-scale production				(2) Conditional Uses.
23	(2) Conditional Uses.		(2) Conditional Uses.		
24	Unit 2 City-wide uses by conditional use permit	City-wide uses by conditional use [permit]	City-wide uses by conditional use permit	City-wide uses by conditional use permit	City-wide uses by conditional use permit
25	Unit 3 Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities
26	Unit 4 Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities
27	Unit 5 Government facilities	Government facilities	Government facilities		
28	Unit 11 Manufactured home parks*			Manufactured home park*	
29	Unit 13 Eating places	Eating places	Eating places	Eating places	
30	Unit 14 Retail, motel and amusement services				Retail, motel and amusement services
31	Unit 15 Neighborhood shopping goods	Neighborhood shopping goods		Neighborhood shopping goods	
32	Unit 16 Shopping goods		Shopping goods		Shopping goods
33	Unit 19 Commercial recreation, small sites	Commercial recreation, small sites	Commercial recreation, small sites		Restaurants, cafes and services
34	Unit 24 Home occupations			Home occupations	Commercial recreation, small sites
35	Unit 25 Offices, studios and related services	Offices, studios and related services	Offices, Studios and Related Services		
36	Unit 26 Multi-family dwellings	Multi-family dwellings	Multi-family dwellings	Multi-family dwellings	
37	Unit 28 Center for collecting recyclable materials				Center for collecting recyclable materials
38	Unit 34 Liquor stores				Liquor stores
39	Unit 35 Outdoor music establishments				Outdoor music establishments
40	Unit 36 Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*
41	Unit 40 Sidewalk cafes	Sidewalk cafes	Sidewalk cafes		Sidewalk cafes
42	Unit 42 Clean technologies		Clean technologies	Clean technologies	Clean technologies
43	Unit 45 Small scale production	Small-scale production	Small scale production	Small scale production	
44					

Zoning Districts in order per the City Code

	A	B	C	D	E
1	(Rev. 8, 4/28/17)	Neighborhood Services - Limited	Neighborhood Services - General	R-O Residential Office	CS Community Services
2	Fayetteville AR UDC (Zoning) as amended by ORDINANCE 5945 approved 1/17/2017	(A) Purpose. designed to serve as a mixed use area of low intensity. 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.	(A) Purpose. designed to serve as a mixed use area of medium intensity. promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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.	(A) Purpose. designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses .	(A) Purpose. designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for 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.
3					
4	(B) Uses.				
5	(1) PERMITTED Uses.		(1) PERMITTED Uses.		(1) PERMITTED Uses.
6	Unit 1 City-wide uses by right	City-wide uses by right	City-wide uses by right	City-wide uses by right	City-wide uses by right
7	Unit 4 Cultural and recreational facilities				Cultural and recreational facilities
8	Unit 5 Government facilities			Government facilities	Government facilities
9	Unit 8 Single-family dwellings	Single-family dwellings	Single-family dwellings	Single-family dwellings	Single-family dwellings
10	Unit 9 Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings
11	Unit 10 Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings		Three (3) and four (4) family dwellings
12	Unit 12a Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]		Limited Business [Eating <2000 sq ft]	
13	Unit 12b General Business [8000 square feet]		Unit 12b General Business [8000 square feet]		
14	Unit 13 Eating places				Eating places
15	Unit 15 Neighborhood shopping goods				Neighborhood Shopping goods
16	Unit 18 Gasoline service stations and drive in/drive through restaurants				Gasoline service stations and drive-in/drive-through restaurants
17	Unit 24 Home occupations	Home occupations	Home occupations		Home occupations
18	Unit 25 Offices, studios and related services			Offices, studios and related services	Offices, studios and related services
19	Unit 26 Multi-family dwellings				Multi-family dwellings
20	Unit 41 Accessory dwelling units	Accessory dwelling units	Accessory Dwelling Units		
21	Unit 44 Cluster Housing Development	Cluster Housing Development	Cluster Housing Development	Cluster Housing Development	Cluster Housing Development
22	Unit 45 Small-scale production				Small scale production
23	(2) Conditional Uses.		(2) Conditional Uses.		(2) Conditional Uses.
24	Unit 2 City-wide uses by conditional use permit	City-wide uses by conditional use [permit]	City-wide uses by conditional use permit	City-wide uses by conditional use permit	City-wide uses by conditional use permit
25	Unit 3 Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities
26	Unit 4 Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities
27	Unit 5 Government Facilities	Government Facilities	Government facilities		
28	Unit 11 Manufactured home parks*			Manufactured home park*	
29	Unit 13 Eating places	Eating places	Eating places	Eating places	
30	Unit 14 Hotel, motel and amusement services				Hotel, motel and amusement services
31	Unit 15 Neighborhood shopping goods	Neighborhood shopping goods		Neighborhood shopping goods	
32	Unit 16 Shopping goods		Shopping goods		Shopping goods
33	Unit 17 Transportation, trades and services				Transportation, trades and services
34	Unit 19 Commercial recreation, small sites	Commercial recreation, small sites	Commercial recreation, small sites		Commercial recreation, small sites
35	Unit 24 Home occupations			Home occupations	
36	Unit 25 Offices, studios and related services	Offices, studios and related services	Offices, Studios and Related Services		
37	Unit 26 Multi-family dwellings	Multi-family dwellings	Multi-family dwellings	Multi-family dwellings	
38	Unit 28 Center for collecting recyclable materials				Center for collecting recyclable materials
39	Unit 34 Liquor stores				Liquor stores
40	Unit 35 Outdoor music establishments				Outdoor music establishments
41	Unit 36 Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*
42	Unit 40 Sidewalk cafes	Sidewalk cafes	Sidewalk cafes		Sidewalk cafes
43	Unit 42 Clean technologies		Clean technologies	Clean technologies	Clean technologies
44	Unit 45 Small scale production	Small-scale production	Small scale production	Small scale production	

Zoning Districts by PERMITTED SQUARE FEET

	A	B	C	D	E
1	(Rev. 9, 4/29/17)	Neighborhood Services - Limited	R-O Residential Office	Neighborhood Services - General	CS Community Services
2	Fayetteville AR UDC (Zoning) as amended by ORDINANCE 5945 approved 1/17/2017	(A) Purpose. designed to serve as a mixed use area of low intensity. ... 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.	(A) Purpose. designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.	(A) Purpose. designed to serve as a mixed use area of medium intensity. ... 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.	(A) Purpose. ... designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for 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.
3					
4	(B) Uses.				
5	(1) PERMITTED Uses.			(1) PERMITTED Uses.	(1) PERMITTED Uses.
6	Unit 1 City-wide uses by right	City-wide uses by right	City-wide uses by right	City-wide uses by right	City-wide uses by right
7	Unit 4 Cultural and recreational facilities				Cultural and recreational facilities
8	Unit 5 Government facilities		Government facilities		Government facilities
9	Unit 8 Single-family dwellings	Single-family dwellings	Single-family dwellings	Single-family dwellings	Single-family dwellings
10	Unit 9 Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings
11	Unit 10 Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings		Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings
12	Unit 12a Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]	Unit 12b General Business [8000 square feet]	
13	Unit 12b General Business [8000 square feet]				Eating places
14	Unit 13 Eating places				Neighborhood Shopping goods
15	Unit 15 Neighborhood shopping goods				Gasoline service stations and drive-in/drive-through restaurants
16	Unit 18 Gasoline service stations and drive-in/drive-through restaurants				Home occupations
17	Unit 24 Home occupations	Home occupations		Home occupations	Offices, studios and related services
18	Unit 25 Offices, studios and related services		Offices, studios and related services		Multi-family dwellings
19	Unit 26 Multi-family dwellings				
20	Unit 41 Accessory dwelling units	Accessory dwelling units		Accessory Dwelling Units	Cluster Housing Development
21	Unit 44 Cluster Housing Development	Cluster Housing Development	Cluster Housing Development	Cluster Housing Development	Small scale production
22	Unit 45 Small-scale production				
23	(2) Conditional Uses.			(2) Conditional Uses.	(2) Conditional Uses.
24	Unit 2 City-wide uses by conditional use permit	City-wide uses by conditional use [permit]	City-wide uses by conditional use permit	City-wide uses by conditional use permit	City-wide uses by conditional use permit
25	Unit 3 Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities
26	Unit 4 Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities
27	Unit 5 Government facilities	Government facilities		Government facilities	
28	Unit 11 Manufactured home parks*		Manufactured home parks*		
29	Unit 13 Eating places	Eating places	Eating places	Eating places	
30	Unit 14 Hotel, motel and amusement services				Hotel, motel and amusement services
31	Unit 15 Neighborhood shopping goods	Neighborhood shopping goods	Neighborhood shopping goods		Shopping goods
32	Unit 16 Shopping goods			Shopping goods	
33	Unit 17 Drive-in/drive-through restaurants				Gasoline service stations and drive-in/drive-through restaurants
34	Unit 19 Commercial recreation, small sites	Commercial recreation, small sites		Commercial recreation, small sites	Commercial recreation, small sites
35	Unit 24 Home occupations		Home occupations		
36	Unit 25 Offices, studios and related services	Offices, studios and related services		Offices, Studios and Related Services	
37	Unit 26 Multi-family dwellings	Multi-family dwellings	Multi-family dwellings	Multi-family dwellings	
38	Unit 28 Center for collecting recyclable materials				Center for collecting recyclable materials
39	Unit 34 Liquor stores				Liquor stores
40	Unit 35 Outdoor music establishments				Outdoor music establishments
41	Unit 36 Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*
42	Unit 40 Sidewalk cafes	Sidewalk cafes		Sidewalk cafes	Sidewalk cafes
43	Unit 42 Clean technologies		Clean technologies	Clean technologies	Clean technologies
44	Unit 45 Small scale production	Small-scale production	Small scale production	Small scale production	

Neighborhood Services - Limited	Neighborhood Services - General	R-O Residential Office
(A) Purpose. designed to serve as a mixed use area of low intensity. ... 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 .	(A) Purpose. ... designed to serve as a mixed use area of medium intensity. . promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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 .	(A) Purpose. ... designed primarily to provide area for offices <i>without limitation to the nature or size of the office</i> , together with community facilities, restaurants and compatible residential uses .
(1) PERMITTED Uses.		
City-wide uses by right	City-wide uses by right	City-wide uses by right
Single-family dwellings	Single-family dwellings	Government facilities
Two (2) family dwellings	Two (2) family dwellings	Single-family dwellings
Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings	Two (2) family dwellings
Limited Business [Eating <2000 sq ft]	Unit 12b General Business [8000 square feet]	Limited Business [Eating <2000 sq ft]
Home occupations	Home occupations	
Accessory dwelling units	Accessory Dwelling Units	Offices, studios and related services
Cluster Housing Development	Cluster Housing Development	Cluster Housing Development
(2) Conditional Uses.		
City-wide uses by conditional use [permit]	City-wide uses by conditional use permit	City-wide uses by conditional use permit
Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities
Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities
Government Facilities	Government facilities	Manufactured home park*
Eating places	Eating places	Eating places
Neighborhood shopping goods	Shopping goods	Neighborhood shopping goods
Commercial recreation, small sites	Commercial recreation, small sites	
Offices, studios and related services	Offices, Studios and Related Services	Home occupations
Multi-family dwellings	Multi-family dwellings	Multi-family dwellings
Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*
Sidewalk cafes	Sidewalk cafes	
	Clean technologies	Clean technologies
Small-scale production	Small scale production	Small scale production

Neighborhood Services - Limited	R-O Residential Office	Neighborhood Services - General
(A) Purpose. designed to serve as a mixed use area of low intensity. ... 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 .	(A) Purpose. designed primarily to provide area for offices <i>without limitation to the nature or size of the office</i> , together with community facilities, restaurants and compatible residential uses .	(A) Purpose. ... designed to serve as a mixed use area of medium intensity. . promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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 .
(1) PERMITTED Uses.		
City-wide uses by right	City-wide uses by right	City-wide uses by right
	Government facilities	
Single-family dwellings	Single-family dwellings	Single-family dwellings
Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings
Three (3) and four (4) family dwellings		Three (3) and four (4) family dwellings
Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]	Unit 12b General Business [8000 square feet]
Home occupations		Home occupations
	Offices, studios and related services	
Accessory dwelling units		Accessory Dwelling Units
Cluster Housing Development	Cluster Housing Development	Cluster Housing Development
(2) Conditional Uses.		
City-wide uses by conditional use [permit]	City-wide uses by conditional use permit	City-wide uses by conditional use permit
Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities
Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities
Government Facilities		Government facilities
	Manufactured home park*	
Eating places	Eating places	Eating places
Neighborhood shopping goods	Neighborhood shopping goods	
		Shopping goods
Commercial recreation, small sites		Commercial recreation, small sites
	Home occupations	
Offices, studios and related services		Offices, Studios and Related Services
Multi-family dwellings	Multi-family dwellings	Multi-family dwellings
Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*
Sidewalk cafes		Sidewalk cafes
	Clean technologies	Clean technologies
Small-scale production	Small scale production	Small scale production

CityClerk

From: Peter Tonnessen <ptt@prodigy.net>
Sent: Monday, May 01, 2017 3:46 PM
To: Curth, Jonathan; CityClerk; City_Attorney
Cc: Bob Anderson; Stevan Vowell; Mark Scalise; pete012639@yahoo.com
Subject: FAYAR ZONING CODE 14 inch (Rev. 8, 4-28-17).xlsx
Attachments: FAYAR ZONING CODE 14 inch (Rev. 8, 4-28-17).xlsx

Mr. Curth:

Attached is the Excel version of the FAYAR ZONING CODE (Rev. 8) for tomorrow night. Again, please let me know if you have any problem downloading this.

Pete Tonnessen
3500 Hearthstone Drive
719-338-7329

Sent from my iPad

(Rev. 8, 4/28/17)

Fayetteville AR UDC
(Zoning) as amended
by ORDINANCE 5945
approved 1/17/2017

(B) Uses.

Neighborhood Services - Limited		Neighborhood Services - General	R-O Residential Office	CS Community Services
(A) Purpose. designed to serve as a mixed use area of <u>low intensity</u> promotes a <u>walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses</u> that are <u>compatible in scale, aesthetics, and use with surrounding land uses</u> . For the purpose of Chapter 96: <u>Noise Control</u> , the Neighborhood Services district is a <u>residential zone</u> .		(A) Purpose. . . . designed to serve as a <u>mixed use area of medium intensity</u> . . . promotes a <u>walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business that are compatible in scale, aesthetics, and use with surrounding land uses</u> . For the purpose of Chapter 96: <u>Noise Control</u> the Neighborhood Services district is a <u>residential zone</u> .	(A) Purpose. ... designed primarily to provide area for offices <u>without limitation to the nature or size of the office</u> , together with community facilities, restaurants and <u>compatible residential uses</u> .	(A) Purpose. ... designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for mixed use centers located along commercial corridors that connect denser development nodes. There is a <u>mixture</u> 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.
(1) PERMITTED Uses.		(1) PERMITTED Uses.		(1) PERMITTED Uses.
Unit 1 City-wide uses by right	City-wide uses by right	City-wide uses by right	City-wide uses by right	City-wide uses by right
Unit 4 Cultural and recreational facilities				Cultural and recreational facilities
Unit 5 Government facilities			Government facilities	Government facilities
Unit 8 Single-family dwellings	Single-family dwellings	Single-family dwellings	Single-family dwellings	Single-family dwellings
Unit 9 Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings
Unit 10 Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings		Three (3) and four (4) family dwellings
Unit 12a Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]		Limited Business [Eating <2000 sq ft]	
Unit 12b General Business [8000 square feet]		Unit 12b General Business [8000 square feet]		
Unit 13 Eating places				Eating places
Unit 15 Neighborhood shopping goods				Neighborhood Shopping goods
Unit 18 Gasoline service stations and drive-in/drive through restaurants				Gasoline service stations and drive-in/drive-through restaurants
Unit 24 Home occupations	Home occupations	Home occupations		Home occupations
Unit 25 Offices, studios and related services			Offices, studios and related services	Offices, studios and related services
Unit 26 Multi-family dwellings				Multi-family dwellings
Unit 41 Accessory dwelling units	Accessory dwelling units	Accessory Dwelling Units		
Unit 44 Cluster Housing Development	Cluster Housing Development	Cluster Housing Development	Cluster Housing Development	Cluster Housing Development
Unit 45 Small-scale production				Small scale production
(2) Conditional Uses.		(2) Conditional Uses.		(2) Conditional Uses.
Unit 2 City-wide uses by conditional use permit	City-wide uses by conditional use [permit]	City-wide uses by conditional use permit	City-wide uses by conditional use permit	City-wide uses by conditional use permit
Unit 3 Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities
Unit 4 Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities
Unit 5 Government Facilities	Government Facilities	Government facilities		
Unit 11 Manufactured home parks*			Manufactured home park*	
Unit 13 Eating places	Eating places	Eating places	Eating places	
Unit 14 Hotel, motel and amusement services				Hotel, motel and amusement services
Unit 15 Neighborhood shopping goods	Neighborhood shopping goods		Neighborhood shopping goods	
Unit 16 Shopping goods		Shopping goods		Shopping goods
Unit 17 Transportation, trades and services				Transportation, trades and services
Unit 19 Commercial recreation, small sites	Commercial recreation, small sites	Commercial recreation, small sites		Commercial recreation, small sites
Unit 24 Home occupations			Home occupations	
Unit 25 Offices, studios and related services	Offices, studios and related services	Offices, Studios and Related Services		
Unit 26 Multi-family dwellings	Multi-family dwellings	Multi-family dwellings	Multi-family dwellings	
Unit 28 Center for collecting recyclable materials				Center for collecting recyclable materials
Unit 34 Liquor stores				Liquor stores
Unit 35 Outdoor music establishments				Outdoor music establishments
Unit 36 Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*
Unit 40 Sidewalk cafes	Sidewalk cafes	Sidewalk cafes		Sidewalk cafes
Unit 42 Clean technologies		Clean technologies	Clean technologies	Clean technologies
Unit 45 Small scale production	Small-scale production	Small scale production	Small scale production	

CityClerk

From: Peter Tonnessen <ptt@prodigy.net>
Sent: Monday, May 01, 2017 3:54 PM
To: Curth, Jonathan; CityClerk; City_Attorney
Cc: Bob Anderson; Stevan Vowell; Mark Scalise; pete012639@yahoo.com
Subject: FAYAR ZONING COE 14 inch (Rev. 8, 4-28-17) REDACTED.xlsx
Attachments: FAYAR ZONING CODE 14 inch (Rev. 8) REDACTED.xlsx

Mr. Curth:

Attached is the Excel version of the FAYAR ZONING CODE (Rev. 8 REDACTED) for [tomorrow night](#). Again, please let me know if you have any problem downloading this.

Pete Tonnessen
3500 Hearthstone Drive
[719-338-7329](tel:719-338-7329)

Sent from my iPad

Neighborhood Services - Limited	Neighborhood Services - General	R-O Residential Office
(A) Purpose. designed to serve as a mixed use area of low intensity. ... promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neiighborhood 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 .	(A) Purpose. ... designed to serve as a mixed use area of medium intensity. . promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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 .	(A) Purpose. ... designed primarily to provide area for offices <i>without limitation to the nature or size of the office</i> , together with community facilities, restaurants and compatible residential uses .
(1) PERMITTED Uses.		
City-wide uses by right	City-wide uses by right	City-wide uses by right
Single-family dwellings	Single-family dwellings	Government facilities
Two (2) family dwellings	Two (2) family dwellings	Single-family dwellings
Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings	Two (2) family dwellings
Limited Business [Eating <2000 sq ft]		Limited Business [Eating <2000 sq ft]
Home occupations	Unit 12b General Business [8000 square feet]	
Accessory dwelling units	Home occupations	Offices, studios and related services
Cluster Housing Development	Accessory Dwelling Units	
	Cluster Housing Development	Cluster Housing Development
(2) Conditional Uses.		
City-wide uses by conditional use [permit]	City-wide uses by conditional use permit	City-wide uses by conditional use permit
Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities
Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities
Government Facilities	Government facilities	
Eating places	Eating places	Manufactured home park*
Neighborhood shopping goods		Eating places
	Shopping goods	Neighborhood shopping goods
Commercial recreation, small sites	Commercial recreation, small sites	
Offices, studios and related services	Offices, Studios and Related Services	Home occupations
Multi-family dwellings	Multi-family dwellings	Multi-family dwellings
Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*
Sidewalk cafes	Sidewalk cafes	
Small-scale production	Clean technologies	Clean technologies
	Small scale production	Small scale production

CityClerk

From: Peter Tonnessen <ptt@prodigy.net>
Sent: Monday, May 01, 2017 4:12 PM
To: Curth, Jonathan; CityClerk; City_Attorney
Cc: Bob Anderson; Stevan Vowell; Mark Scalise; pete012639@yahoo.com
Subject: FAYAR ZONING CODE 14 inch (Rev. 8, 4-29-17) PERMITTED sq ft.xlsx
Attachments: FAYAR ZONING CODE 14 inch (Rev. 9, 4-29-17) PERMITTED sq ft.xlsx

Mr. Curth:

Attached is the Excel version of the "FAYAR ZONING CODE (Rev. 9) PERMITTED sq ft" for [tomorrow night](#). Again, please let me know if you have any problem downloading this.

Pete Tonnessen
3500 Hearthstone Drive
[719-338-7329](tel:719-338-7329)

Sent from my iPad

(Rev. 9, 4/29/17)

Fayetteville AR UDC
(Zoning) as amended
by ORDINANCE 5945
approved 1/17/2017

(B) Uses.

(1) PERMITTED Uses.

Unit 1 City-wide uses by right	City-wide uses by right
Unit 4 Cultural and recreational facilities	
Unit 5 Government facilities	
Unit 8 Single-family dwellings	Single-family dwellings
Unit 9 Two (2) family dwellings	Two (2) family dwellings
Unit 10 Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings
Unit 12a Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]
Unit 12b General Business [8000 square feet]	
Unit 13 Eating places	
Unit 15 Neighborhood shopping goods	
Unit 18 Gasoline service stations and drive-in/drive through restaurants	
Unit 24 Home occupations	Home occupations
Unit 25 Offices, studios and related services	
Unit 26 Multi-family dwellings	
Unit 41 Accessory dwelling units	Accessory dwelling units
Unit 44 Cluster Housing Development	Cluster Housing Development
Unit 45 Small-scale production	

(2) Conditional Uses.

Unit 2 City-wide uses by conditional use permit	City-wide uses by conditional use [permit]
Unit 3 Public protection and utility facilities	Public protection and utility facilities
Unit 4 Cultural and recreational facilities	Cultural and recreational facilities
Unit 5 Government Facilities	Government Facilities
Unit 11 Manufactured home parks*	
Unit 13 Eating places	Eating places
Unit 14 Hotel, motel and amusement services	
Unit 15 Neighborhood shopping goods	Neighborhood shopping goods
Unit 16 Shopping goods	
Unit 17 Transportation, trades and services	
Unit 19 Commercial recreation, small sites	Commercial recreation, small sites
Unit 24 Home occupations	
Unit 25 Offices, studios and related services	Offices, studios and related services
Unit 26 Multi-family dwellings	Multi-family dwellings
Unit 28 Center for collecting recyclable materials	
Unit 34 Liquor stores	
Unit 35 Outdoor music establishments	
Unit 36 Wireless communication facilities*	Wireless communication facilities*
Unit 40 Sidewalk cafes	Sidewalk cafes
Unit 42 Clean technologies	
Unit 45 Small scale production	Small-scale production

Neighborhood Services -
Limited

(A) Purpose. designed to serve as a mixed use area of low intensity. ... 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.

R-O
Residential Office

(A) Purpose. designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

Neighborhood Services -
General

(A) Purpose. ... designed to serve as a mixed use area of medium intensity. . promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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.

CS
Community Services

(A) Purpose. ... designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for 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.

(1) PERMITTED Uses.

City-wide uses by right	City-wide uses by right
	Cultural and recreational facilities
	Government facilities
Single-family dwellings	Single-family dwellings
Two (2) family dwellings	Two (2) family dwellings
Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings
Unit 12b General Business [8000 square feet]	
	Eating places
	Neighborhood Shopping goods
	Gasoline service stations and drive-in/drive-through restaurants
	Home occupations
	Offices, studios and related services
	Multi-family dwellings
	Cluster Housing Development
	Small scale production

(2) Conditional Uses.

City-wide uses by conditional use permit	City-wide uses by conditional use permit
Public protection and utility facilities	Public protection and utility facilities
Cultural and recreational facilities	Cultural and recreational facilities
Government facilities	
Eating places	
	Hotel, motel and amusement services
Shopping goods	Shopping goods
	Transportation, trades and services
Commercial recreation, small sites	Commercial recreation, small sites
Offices, Studios and Related Services	
Multi-family dwellings	
	Center for collecting recyclable materials
	Liquor stores
	Outdoor music establishments
Wireless communication facilities*	Wireless communication facilities*
Sidewalk cafes	Sidewalk cafes
Clean technologies	Clean technologies
Small scale production	

CityClerk

From: Peter Tonnessen <ptt@prodigy.net>
Sent: Monday, May 01, 2017 4:18 PM
To: Curth, Jonathan; CityClerk; City_Attorney
Cc: Bob Anderson; Stevan Vowell; Mark Scalise; pete012639@yahoo.com
Subject: FAYAR ZONING CODE 14 inch (Rev. 9) PERMITTED sq ft REDACTED.xlsx
Attachments: FAYAR ZONING CODE 14 inch (Rev. 9) PERMITTED sq ft REDACTED.xlsx

Mr. Curth:

Attached is the Excel version of the FAYAR ZONING CODE (Rev. 9) PERMITTED sq ft REDACTED for [tomorrow night](#). Again, please let me know if you have any problem downloading this.

Pete Tonnessen
3500 Hearthstone Drive
[719-338-7329](tel:719-338-7329)

Sent from my iPad

Neighborhood Services - Limited	R-O Residential Office	Neighborhood Services - General
(A) Purpose. designed to serve as a mixed use area of low intensity. ... promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neiighborhood 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 .	(A) Purpose. ... designed primarily to provide area for offices <i>without limitation to the nature or size of the office</i> , together with community facilities, restaurants and compatible residential uses .	(A) Purpose. ... designed to serve as a mixed use area of medium intensity. . promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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 .
(1) PERMITTED Uses.		
City-wide uses by right	City-wide uses by right	City-wide uses by right
Single-family dwellings	Government facilities	Single-family dwellings
Two (2) family dwellings	Single-family dwellings	Two (2) family dwellings
Three (3) and four (4) family dwellings	Two (2) family dwellings	Three (3) and four (4) family dwellings
Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]	Unit 12b General Business [8000 square feet]
Home occupations	Offices, studios and related services	Home occupations
Accessory dwelling units	Cluster Housing Development	Accessory Dwelling Units
Cluster Housing Development		Cluster Housing Development
(2) Conditional Uses.		
City-wide uses by conditional use [permit]	City-wide uses by conditional use permit	City-wide uses by conditional use permit
Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities
Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities
Government Facilities	Manufactured home park*	Government facilities
Eating places	Eating places	Eating places
Neighborhood shopping goods	Neighborhood shopping goods	
		Shopping goods
Commercial recreation, small sites		Commercial recreation, small sites
	Home occupations	
Offices, studios and related services		Offices, Studios and Related Services
Multi-family dwellings	Multi-family dwellings	Multi-family dwellings
Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*
Sidewalk cafes		Sidewalk cafes
	Clean technologies	Clean technologies
Small-scale production	Small scale production	Small scale production

CityClerk

From: Peter Tonnessen <ptt@prodigy.net>
Sent: Tuesday, May 02, 2017 6:05 AM
To: CityClerk
Cc: City_Attorney; Bob Anderson; pete012639@yahoo.com
Subject: PHOTO EXHIBIT for RZN 17-5733 & VAC 17-5753

Categories: Forwarded

From: Peter Tonnesen
To: City Clerk
Cc: City Attorney; Bob Anderson; pete012629@yahoo.com
Subject: PHOTO EXHIBIT for RZN 17-5733 & VAC 17-5753
Date: Tuesday, May 02, 2017 6:04:53 AM

R-O Residential Office	Neighborhood Services - Limited	Neighborhood Services - General
(A) Purpose. ... designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.	(A) Purpose. designed to serve as a mixed use area of low intensity. ... 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.	(A) Purpose. ... designed to serve as a mixed use area of medium intensity. ... promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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.
(1) PERMITTED Uses.	(1) PERMITTED Uses.	(1) PERMITTED Uses.
City-wide uses by right Government facilities Single-family dwellings Two (2) family dwellings	City-wide uses by right Single-family dwellings Two (2) family dwellings Three (3) and four (4) family dwellings	City-wide uses by right Single-family dwellings Two (2) family dwellings Three (3) and four (4) family dwellings
Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]	Unit 12b General Business [8000 square feet]
Offices, studios and related services	Home occupations Accessory dwelling units Cluster Housing Development	Home occupations Accessory Dwelling Units Cluster Housing Development
(2) Conditional Uses.	(2) Conditional Uses.	(2) Conditional Uses.
City-wide uses by conditional use permit Public protection and utility facilities Cultural and recreational facilities	City-wide uses by conditional use [permit] Public protection and utility facilities Cultural and recreational facilities Government Facilities	City-wide uses by conditional use permit Public protection and utility facilities Cultural and recreational facilities Government facilities
Manufactured home park*	Eating places	Eating places
Eating places	Neighborhood shopping goods	Neighborhood shopping goods
Neighborhood shopping goods	Commercial recreation, small sites	Commercial recreation, small sites
Home occupations	Offices, studios and related services	Offices, Studios and Related Services
Multi-family dwellings	Multi-family dwellings	Multi-family dwellings
Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*
Clean technologies	Sidewalk cafes	Sidewalk cafes
Small scale production	Small-scale production	Small scale production

Sent from my iPad

CityClerk

From: Peter Tonnessen <ptt@prodigy.net>
Sent: Tuesday, May 02, 2017 6:11 AM
To: CityClerk
Cc: City_Attorney; Bob Anderson; pete012639@yahoo.com
Subject: PowerPoint Slide FAYAR ZONING CODE Spreadsheet (R-O NS-L NS-G)
Attachments: FAYAR ZONING CODE (Rev. 10) R-O NS-L NS-G.xlsx

Categories: Forwarded

Sent from my iPad

R-O Residential Office	Neighborhood Services - Limited	Neighborhood Services - General
(A) Purpose. ... designed primarily to provide area for offices <u>without limitation to the nature or size of the office</u> , together with community facilities, restaurants and compatible residential uses .	(A) Purpose. designed to serve as a mixed use area of low intensity. ... 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 .	(A) Purpose. ... designed to serve as a mixed use area of medium intensity. . promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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 .
(1) PERMITTED Uses.	(1) PERMITTED Uses.	(1) PERMITTED Uses.
City-wide uses by right Government facilities Single-family dwellings Two (2) family dwellings	City-wide uses by right Single-family dwellings Two (2) family dwellings Three (3) and four (4) family dwellings	City-wide uses by right Single-family dwellings Two (2) family dwellings Three (3) and four (4) family dwellings
Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]	Unit 12b General Business [8000 square feet]
Offices, studios and related services Cluster Housing Development	Home occupations Accessory dwelling units Cluster Housing Development	Home occupations Accessory Dwelling Units Cluster Housing Development
(2) Conditional Uses.	(2) Conditional Uses.	(2) Conditional Uses.
City-wide uses by conditional use permit Public protection and utility facilities Cultural and recreational facilities	City-wide uses by conditional use [permit] Public protection and utility facilities Cultural and recreational facilities Government Facilities	City-wide uses by conditional use permit Public protection and utility facilities Cultural and recreational facilities Government facilities
Manufactured home park*	Eating places	Eating places
Eating places	Neighborhood shopping goods	Neighborhood shopping goods
Home occupations	Commercial recreation, small sites	Shopping goods Commercial recreation, small sites
Multi-family dwellings Wireless communication facilities*	Offices, studios and related services Multi-family dwellings Wireless communication facilities*	Offices, Studios and Related Services Multi-family dwellings Wireless communication facilities*
Clean technologies Small scale production	Sidewalk cafes	Sidewalk cafes
	Small-scale production	Clean technologies Small scale production

CityClerk

From: Peter Tonnessen <ptt@prodigy.net>
Sent: Tuesday, May 02, 2017 6:45 AM
To: CityClerk
Cc: City_Attorney; Bob Anderson; pete012639@yahoo.com
Subject: RZN 17-3733 & VAC 17-5753 PHOTO EXHIBIT re FAYAR PLANNING CODE (Rev. 12)

Categories: Forwarded

From: [Peter Thompson](#)
To: [City Staff](#)
Cc: [City Attorney](#); [Rob Anderson](#); [peter12639@yahoo.com](#)
Subject: R2N 17-3728 & VAC 17-5753 PHOTO EXHIBIT re FAYAR PLANNING CODE (Rev. 12)
Date: Tuesday, May 02, 2017 6:44:43 AM

	A	B	C	D
1	(Rev. 12, 5/2/17)	R-O	Neighborhood Services -	Neighborhood Services -
2		Residential Office	Limited	General
3	Fayetteville AR UDC			
4	(Zoning) as amended			
5	by ORDINANCE 5945			
6	approved 1/17/2017			
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(A) Purpose. ... designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(A) Purpose. designed to serve as a mixed use area of **low** intensity. ... 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.

(A) Purpose. ... designed to serve as a **mixed use** area of **medium** intensity. . 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 5 Government facilities

Unit 8 Single-family dwellings

Unit 9 Two (2) family dwellings

Unit 10 Three (3) and four (4) family dwellings

Unit 12a Limited Business [Eating <2000 sq ft]

Unit 12b General Business [8000 square feet]

Unit 24 Home occupations

Unit 25 Offices, studios and related services

Unit 41 Accessory dwelling units

Unit 44 Cluster Housing Development

(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 parks*

Unit 13 Eating places

Unit 15 Neighborhood shopping goods

Unit 16 Shopping goods

Unit 19 Commercial recreation, small sites

Unit 24 Home occupations

Unit 25 Offices, studios and related services

Unit 26 Multi-family dwellings

Unit 36 Wireless communication facilities*

Unit 40 Sidewalk cafes

Unit 42 Clean technologies

Unit 45 Small scale production

City-wide uses by right

Government facilities

Single-family dwellings

Two (2) family dwellings

Three (3) and four (4) family dwellings

Limited Business [Eating <2000 sq ft]

Limited Business [Eating <2000 sq ft]

Home occupations

Offices, studios and related services

Cluster Housing Development

City-wide uses by conditional use permit

Public protection and utility facilities

Cultural and recreational facilities

Manufactured home park*

Eating places

Neighborhood shopping goods

Eating places

Neighborhood shopping goods

Commercial recreation, small sites

Offices, studios and related services

Multi-family dwellings

Wireless communication facilities*

Sidewalk cafes

Clean technologies

Small scale production

City-wide uses by right

Single-family dwellings

Two (2) family dwellings

Three (3) and four (4) family dwellings

Unit 12b General Business [8000 square feet]

Home occupations

Accessory Dwelling Units

Cluster Housing Development

(2) Conditional Uses.

City-wide uses by conditional use permit

Public protection and utility facilities

Cultural and recreational facilities

Government facilities

Eating places

Shopping goods

Commercial recreation, small sites

Offices, Studios and Related Services

Multi-family dwellings

Wireless communication facilities*

Sidewalk cafes

Clean technologies

Small scale production

Sent from my iPad

Sent from my iPad

CityClerk

From: Peter Tonnessen <ptt@prodigy.net>
Sent: Tuesday, May 02, 2017 6:49 AM
To: CityClerk
Cc: City_Attorney; Bob Anderson; pete012639@yahoo.com
Subject: RZN 17-5733 & VAC 17-5753 PowerPoint Slide FAYAR ZONING CODE 14-inch (Rev. 12, 5-2-17) R-O NSL-L NS-G
Attachments: FAYAR ZONING CODE 14-inch (Rev. 12, 5-2-17) R-O NS-L NS-G.xlsx
Categories: Forwarded

Sent from my iPad

(Rev. 12, 5/2/17)

Fayetteville AR UDC
(Zoning) as amended
by ORDINANCE 5945
approved 1/17/2017

(B) Uses.

(1) PERMITTED Uses.

Unit 1 City-wide uses by right
Unit 5 Government facilities
Unit 8 Single-family dwellings
Unit 9 Two (2) family dwellings
Unit 10 Three (3) and four (4) family dwellings

Unit 12a Limited Business [Eating <2000 sq ft]

Unit 12b General Business [8000 square feet]

Unit 24 Home occupations
Unit 25 Offices, studios and related services
Unit 41 Accessory dwelling units
Unit 44 Cluster Housing Development

(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 parks*

Unit 13 Eating places

Unit 15 Neighborhood shopping goods

Unit 16 Shopping goods

Unit 19 Commercial recreation, small sites
Unit 24 Home occupations
Unit 25 Offices, studios and related services
Unit 26 Multi-family dwellings
Unit 36 Wireless communication facilities*
Unit 40 Sidewalk cafes
Unit 42 Clean technologies
Unit 45 Small scale production

R-O
Residential Office

(A) Purpose. ... designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses .

City-wide uses by right
Government facilities
Single-family dwellings
Two (2) family dwellings

Limited Business [Eating <2000 sq ft]

Offices, studios and related services
Cluster Housing Development

City-wide uses by conditional use permit
Public protection and utility facilities
Cultural and recreational facilities
Manufactured home park*

Eating places

Neighborhood shopping goods

Home occupations
Multi-family dwellings
Wireless communication facilities*
Clean technologies
Small scale production

Neighborhood Services -
Limited

(A) Purpose. designed to serve as a mixed use area of low intensity. ... 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.

City-wide uses by right
Single-family dwellings
Two (2) family dwellings
Three (3) and four (4) family dwellings

Limited Business [Eating <2000 sq ft]

Home occupations
Accessory dwelling units
Cluster Housing Development

City-wide uses by conditional use [permit]
Public protection and utility facilities
Cultural and recreational facilities
Government Facilities

Eating places

Neighborhood shopping goods

Commercial recreation, small sites
Offices, studios and related services
Multi-family dwellings
Wireless communication facilities*
Sidewalk cafes
Small-scale production

Neighborhood Services -
General

(A) Purpose. ... designed to serve as a mixed use area of medium intensity. . promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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.

(1) PERMITTED Uses.

City-wide uses by right
Single-family dwellings
Two (2) family dwellings
Three (3) and four (4) family dwellings

Unit 12b General Business [8000 square feet]

Home occupations
Accessory Dwelling Units
Cluster Housing Development

(2) Conditional Uses.

City-wide uses by conditional use permit
Public protection and utility facilities
Cultural and recreational facilities
Government facilities

Eating places

Shopping goods

Commercial recreation, small sites
Offices, Studios and Related Services
Multi-family dwellings
Wireless communication facilities*
Sidewalk cafes
Clean technologies
Small scale production

CityClerk

From: Peter Tonnessen <ptt@prodigy.net>
Sent: Tuesday, May 02, 2017 6:52 AM
To: CityClerk
Subject: Fwd: CORR Subject: RZN 17-5733 & VAC 17-5753 PHOTO EXHIBIT re FAYAR ZONING CODE (Rev. 12, 5-2-17) R-O NS-L NS-G

Categories: Forwarded

Sent from my iPad

Begin forwarded message:

From: Peter Tonnessen <ptt@prodigy.net>
Date: May 2, 2017 at 6:44:31 AM CDT
To: cityclerk@fayetteville-ar.gov
Cc: city_attorney@fayetteville-ar.gov, Bob Anderson <anderhog@yahoo.com>, "pete012639@yahoo.com" <pete012639@yahoo.com>
Subject: RZN 17-3733 & VAC 17-5753 PHOTO EXHIBIT re FAYAR PLANNING CODE (Rev. 12)

From: [Peter Tonnessen](#)
To: [City Clerk](#)
Subject: RZN 17-5753 & VAC 17-5753 PHOTO EXHIBIT re FAYAR ZONING CODE (Rev. 12, 5-3-17) R/O NS-L NS-G
Date: Tuesday, May 02, 2017 8:51:43 AM

Sent from my iPad

Begin forwarded message:

From: Peter Tonnessen <ptt@prodigy.net>
Date: May 2, 2017 at 6:44:31 AM CDT
To: cityclerk@fayetteville-ar.gov
Cc: city_attorney@fayetteville-ar.gov, Bob Anderson <anderhogs@yahoo.com>, "peter012639@yahoo.com" <peter012639@yahoo.com>
Subject: RZN 17-3733 & VAC 17-5753 PHOTO EXHIBIT re FAYAR PLANNING CODE (Rev. 12)

	A	B	C	D
1	(Rev. 12, 5/2/17)	R-O	Neighborhood Services -	Neighborhood Services -
2		Residential Office	Limited	General
	Fayetteville AR UDC (Zoning) as amended by ORDINANCE 5945 approved 1/17/2017	(A) Purpose. ... designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.	(A) Purpose. designed to serve as a mixed use area of low intensity. ... 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.	(A) Purpose. ... designed to serve as a mixed use area of medium intensity. ... promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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.
3				
4	(B) Uses.			
5	(1) PERMITTED Uses.			(1) PERMITTED Uses.
6	Unit 1 City-wide uses by right	City-wide uses by right	City-wide uses by right	City-wide uses by right
7	Unit 5 Government facilities	Government facilities		
8	Unit 8 Single-family dwellings	Single-family dwellings	Single-family dwellings	Single-family dwellings
9	Unit 9 Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings	Two (2) family dwellings
10	Unit 10 Three (3) and four (4) family dwellings		Three (3) and four (4) family dwellings	Three (3) and four (4) family dwellings
11	Unit 12a Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]	Limited Business [Eating <2000 sq ft]	Unit 12b General Business [8000 square feet]
12	Unit 12b General Business [8000 square feet]			Home occupations
13	Unit 24 Home occupations		Home occupations	
14	Unit 25 Offices, studios and related services	Offices, studios and related services		
15	Unit 41 Accessory dwelling units		Accessory dwelling units	Accessory Dwelling Units
16	Unit 44 Cluster Housing Development	Cluster Housing Development	Cluster Housing Development	Cluster Housing Development
17	(2) Conditional Uses.			(2) Conditional Uses.
18	Unit 2 City-wide uses by conditional use permit	City-wide uses by conditional use permit	City-wide uses by conditional use [permit]	City-wide uses by conditional use permit
19	Unit 3 Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities	Public protection and utility facilities
20	Unit 4 Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities	Cultural and recreational facilities
21	Unit 5 Government Facilities		Government Facilities	Government facilities
22	Unit 11 Manufactured home parks*	Manufactured home park*		
23	Unit 13 Eating places	Eating places	Eating places	Eating places
24	Unit 15 Neighborhood shopping goods	Neighborhood shopping goods	Neighborhood shopping goods	
25	Unit 16 Shopping goods			Shopping goods
26	Unit 19 Commercial recreation, small sites		Commercial recreation, small sites	Commercial recreation, small sites
27	Unit 24 Home occupations	Home occupations		
28	Unit 25 Offices, studios and related services		Offices, studios and related services	Offices, Studios and Related Services
29	Unit 26 Multi-family dwellings	Multi-family dwellings	Multi-family dwellings	Multi-family dwellings
30	Unit 36 Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*	Wireless communication facilities*
31	Unit 40 Sidewalk cafes		Sidewalk cafes	Sidewalk cafes
32	Unit 42 Clean technologies	Clean technologies		Clean technologies
33	Unit 45 Small scale production	Small scale production	Small-scale production	Small scale production

Sent from my iPad

Sent from my iPad

Handed out at the 5-2-17
City Council meeting. C.6. RZN 17-5733 Heatherton

(Rev. 12, 5/2/17)

Fayetteville AR UDC (Zoning) as amended by ORDINANCE 5945 approved 1/17/2017

(B) Uses.

(1) PERMITTED Uses.

Unit 1 City-wide uses by right
Unit 5 Government facilities
Unit 8 Single-family dwellings
Unit 9 Two (2) family dwellings
Unit 10 Three (3) and four (4) family dwellings
Unit 12a Limited Business [Eating <2000 sq ft]
Unit 12b General Business [8000 square feet]
Unit 24 Home occupations
Unit 25 Offices, studios and related services
Unit 41 Accessory dwelling units
Unit 44 Cluster Housing Development

(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 parks*

Unit 13 Eating places
Unit 15 Neighborhood shopping goods
Unit 16 Shopping goods

Unit 19 Commercial recreation, small sites
Unit 24 Home occupations
Unit 25 Offices, studios and related services
Unit 26 Multi-family dwellings
Unit 36 Wireless communication facilities*
Unit 40 Sidewalk cafes
Unit 42 Clean technologies
Unit 45 Small scale production

R-O Residential Office

(A) Purpose. ... designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

City-wide uses by right
Government facilities
Single-family dwellings
Two (2) family dwellings
Limited Business [Eating <2000 sq ft]

Offices, studios and related services
Cluster Housing Development

City-wide uses by conditional use permit
Public protection and utility facilities
Cultural and recreational facilities
Manufactured home park*

Eating places
Neighborhood shopping goods

Home occupations
Multi-family dwellings
Wireless communication facilities*
Clean technologies
Small scale production

Neighborhood Services - Limited

(A) Purpose. designed to serve as a mixed use area of low intensity. ... 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.

City-wide uses by right

Single-family dwellings
Two (2) family dwellings
Three (3) and four (4) family dwellings
Limited Business [Eating <2000 sq ft]

Home occupations
Accessory dwelling units
Cluster Housing Development

City-wide uses by conditional use [permit]
Public protection and utility facilities
Cultural and recreational facilities
Government Facilities

Eating places
Neighborhood shopping goods

Commercial recreation, small sites
Offices, studios and related services
Multi-family dwellings
Wireless communication facilities*
Sidewalk cafes
Small-scale production

Neighborhood Services - General

(A) Purpose. ... designed to serve as a mixed use area of medium intensity. . promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood business 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.

(1) PERMITTED Uses.

City-wide uses by right

Single-family dwellings
Two (2) family dwellings
Three (3) and four (4) family dwellings
Unit 12b General Business [8000 square feet]
Home occupations
Accessory Dwelling Units
Cluster Housing Development

(2) Conditional Uses.

City-wide uses by conditional use permit
Public protection and utility facilities
Cultural and recreational facilities
Government facilities

Eating places
Shopping goods

Commercial recreation, small sites
Offices, Studios and Related Services
Multi-family dwellings
Wireless communication facilities*
Sidewalk cafes
Clean technologies
Small scale production

Handed out at the
5/2/17 City Council meeting
C.B. RZN 17-5733 Hawthorne

LOTS 1 & 2 RESTAURANT COMPS

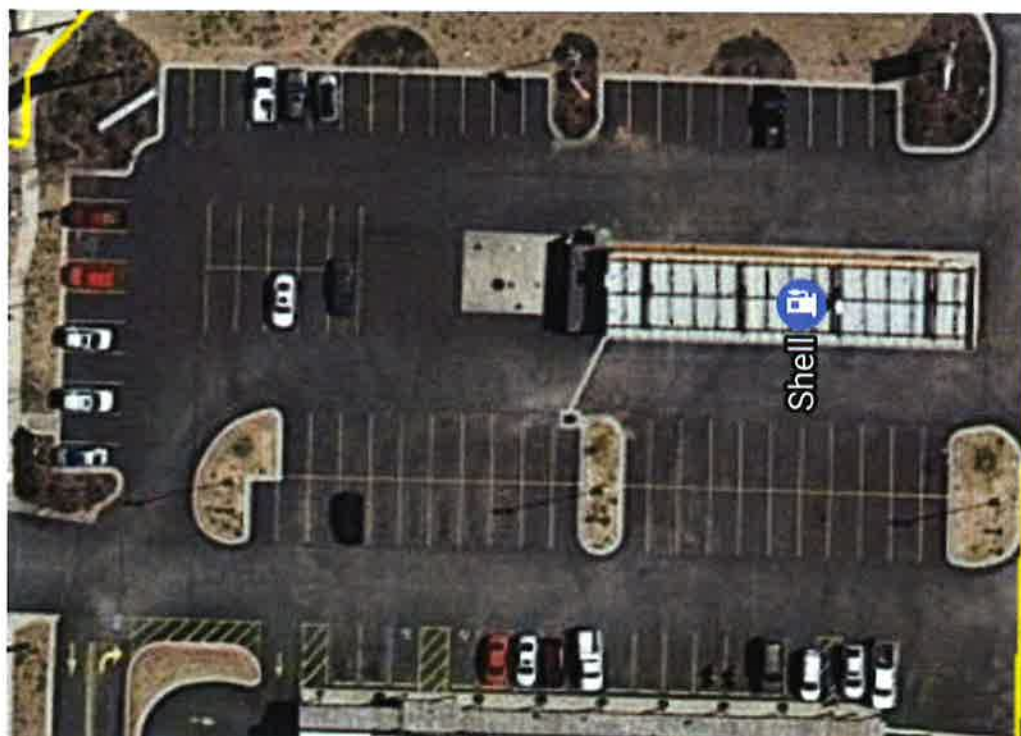
<u>Restaurant</u>	<u>Acreage</u>	<u>Building Area</u> <u>(sq. ft)</u>	<u>Designated</u> <u>Parking spaces</u>	<u>Paved Area</u> <u>(sq. ft)</u>
Lots 1 & 2 (MJ PIZZERIA ?) 89%	1.79	6,410	122	41,954
AVERAGE of Rows 9 : 19	1.99	7,202	137	47,140
Red Lobster	1.75	7,872	134	64,800
Colton's	1.95	7,274	152	44,879
Kobe Hibachi Grill & Sushi	1.82	7,202	107	39,840
Outback Steakhouse	1.47	6,985	121	38,000
Red Robin Gourmet Burgers	2.02	6,606	124	34,585
Chili's Grill & Bar	2.12	5,364	167	54,500
OG [Lot 1]	1.48		81	
OG [Lot 2]	<u>0.87</u>		<u>70</u>	
Olive Garden [TOTAL]	2.35	8,058	151	48,795
Logan's [Lot 1]	2.03			
Logan's [Lot 2]	<u>0.40</u>			
Logan's Roadhouse [TOTAL]	2.43	8,256	137	51,720

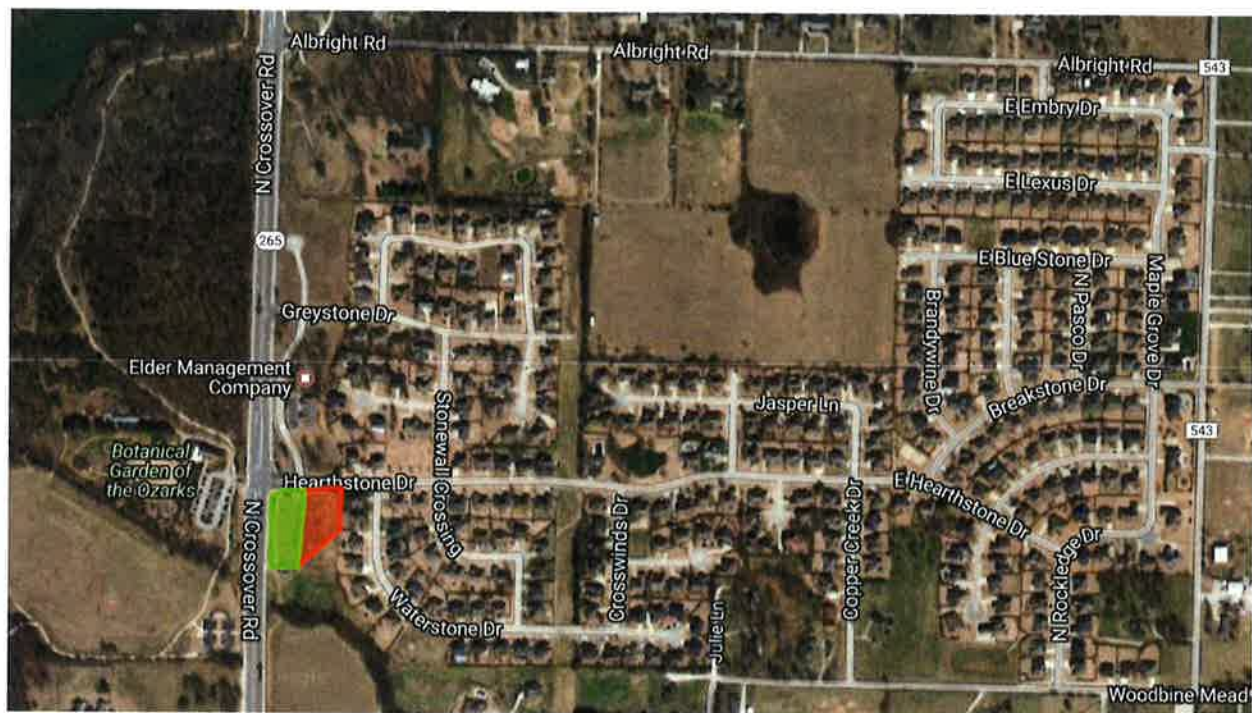
OFF-STREET PARKING COMPS

<u>PROPERTY</u>	<u>Designated Parking Spaces</u>	<u>Parking Location</u>	<u>Acreage</u>	<u>Paved Area (sq. ft)</u>
Lots 1 & 2	125	Rear	1.79	> min 34,500
Parking Spaces per Acre			70	
Paved Area per Acre				19,274
% Paved Area				44.25%
Copper Creek Pool & Park	6	Front (i.e., street-side)	1.80	2,520
Copper Creek Tennis Court	3	Front (i.e., street-side)	0.51	1,408
Lots 5/6 - Prime R/E & Dev, Inc.	14	Front (i.e., street-side)	0.58	6,633
Lot 7 - Elder Management Co.	6	Front (i.e., street-side)	0.46	3,230
	29		3.35	13,791
Community Average #	7		0.84	3,448
Parking Spaces per Acre			8.66	
Paved Area per Acre				4,117
% Paved Area				9.45%
Botanical Garden of the Ozarks	59	Front (i.e., street-side)	37.34	24,500
Fayetteville Park Public Parking	42	Front (i.e., street-side)	163.00	21,500
	101		200.34	46,000
Public Property Average #	51		100.17	
Parking Spaces per Acre			0.50	
Paved Area per Acre				230
% Paved Area				0.53%
Neighborhood Total	130		203.69	59,791
Neighborhood Average #				
Parking Spaces per Acre			0.64	
Paved Area per Acre				294
% Paved Area				0.67%









EXISTING STREETS



U of A Campus Master Plan



COLLECTOR



FREEWAY/EXPRESSWAY



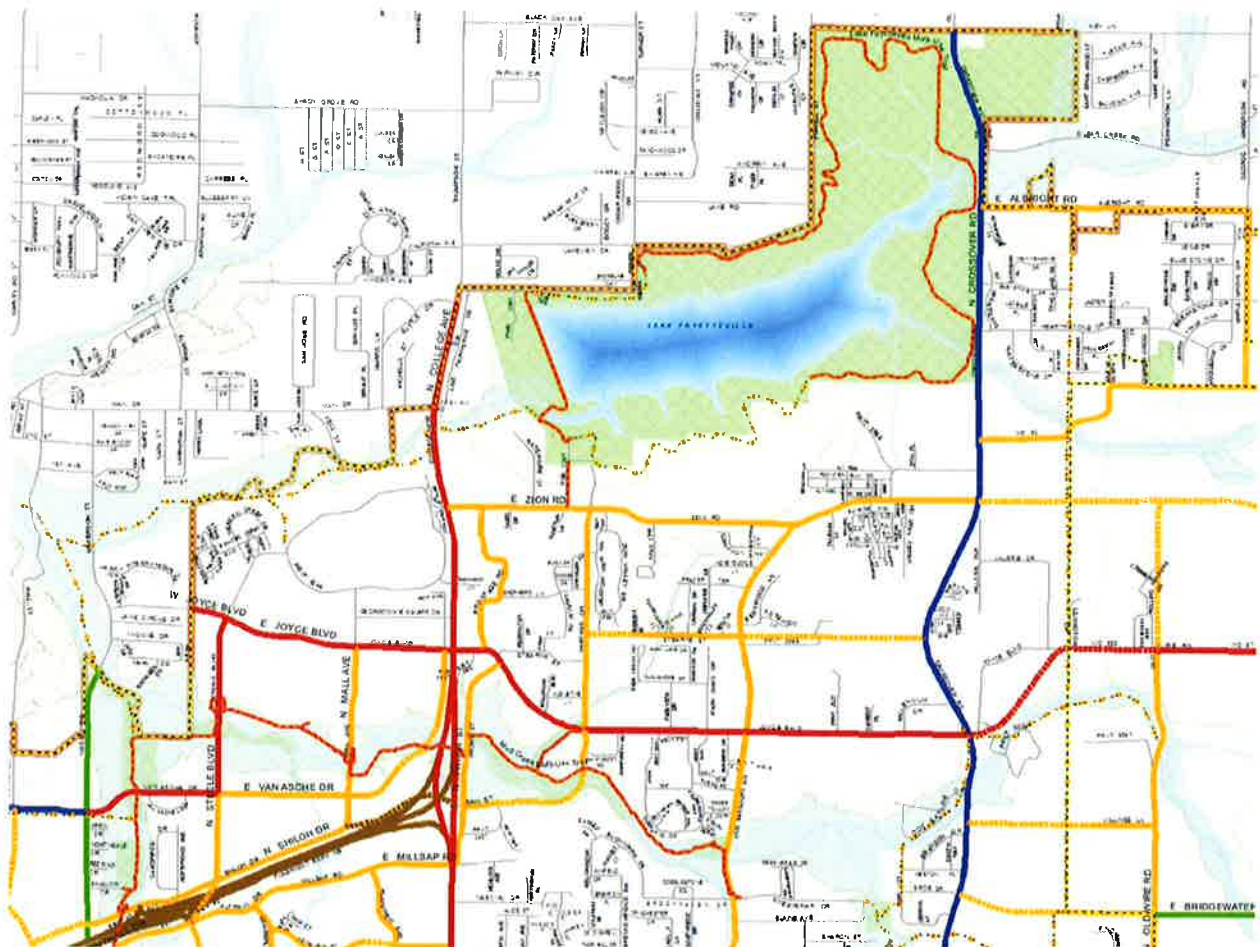
MINOR ARTERIAL



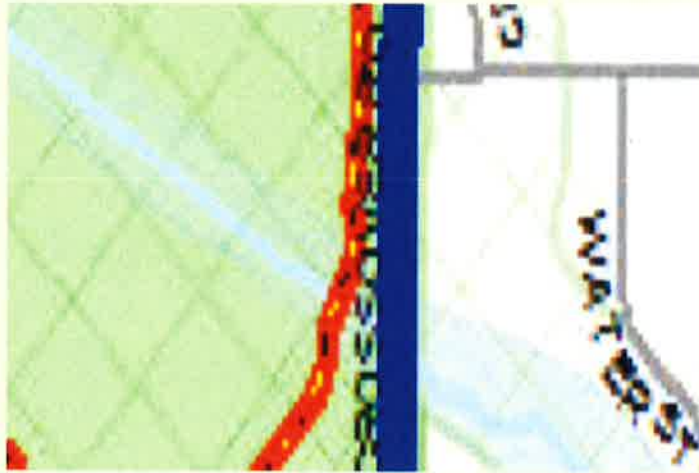
PRINCIPAL ARTERIAL



PRIN ARTERIAL PKWY



"PRINCIPAL ARTERIAL **PARKWAY**"



Crossover Road is a **PARKWAY**

- Crossover Road was planned, built and **landscaped** as a **PARKWAY**
- **TREES** are planted **every thirty (30) feet**
- 30 **trees** and 3 **shrubs** between Zion Road and Hilton Creek
- 39 **trees** and 3 **shrubs** from Hearthstone Drive to Albright Road
- 61 **trees** from Albright Road to **Ivey Lane**



**View across Crossover Road Parkway
towards the NE and Lots 1 & 2**



**View across Crossover Road Parkway
towards the SE and Hilton Creek**



**From Parkway median,
looking NNE towards Lots 1 & 2**





OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Rhonda Lynch
Paralegal

**TO: Mayor Jordan
City Council**

**CC: Don Marr, Chief of Staff
Andrew Garner, Planning Director
Jonathon Curth, Senior Planner**

FROM: Kit Williams, City Attorney

DATE: May 2, 2017

RE: Proposed Rezoning of Lots in Stonewood Subdivision

Planning staff has been making a reasonable and good faith effort to help the developer with his proposed project. They have presented some worthwhile discussion and relevant factors in support of their initial recommendation to approve the applicant's requested Community Services rezoning and now the applicant's requested Neighborhood Services - General rezoning. Reasonable minds may differ on rezoning issues. In recognition of the residential neighborhood's substantial opposition, let me present further analysis.

HISTORY OF STONEWOOD AND COPPER CREEK

The neighborhood master plan for the Stonewood Subdivision and the Copper Creek Subdivision was approved when they were zoned completely single family residential except for a buffer of Residential - Office lots along Highway 265 near its intersection with Hearthstone Drive by the Fayetteville City Council. The precise subdivision layout with streets and lot boundaries for this residential neighborhood was approved when the Fayetteville Planning Commission in 2001 approved its Preliminary and Final Plat. These rezonings and the Final Plats approving the neighborhood layout constitute a detailed master plan for this area. The question for this rezoning

request is whether this long-established neighborhood plan relied upon by hundreds of home buyers through the years should now be changed to allow much larger restaurants and other commercial developments to replace the small restaurants and stores allowed in the Residential - Office buffer along Highway 265. This request would also rezone for a possible commercial use a significant triangle of Residential Single Family zoned land.

After their zoning and development approval, the single-family house lots in the Stonewood and Copper Creek Subdivisions have been almost completely built out pursuant to this neighborhood plan. These residential subdivisions have become some of the more desirable and attractive neighborhoods in Fayetteville. Some of the Residential - Office Lots along Highway 265 have been developed with no complaint by the neighbors. However, the owner of a couple of the remaining vacant R-O and RSF - 4 lots now wishes to change the approved neighborhood master plan by inserting **medium** density commercial urban "form-based" zoning near Fayetteville's northern city limits and several miles from Fayetteville's urban core. A rezoning to Neighborhood Services - General which allows large retailers, restaurants and fourplexes as of right would significantly change the Residential - Office and RSF - 4 buffer upon which the neighbors relied when deciding to build or buy their homes in Stonewood or Copper Creek.

INITIAL REZONING REQUEST

The applicant/developer stated he initially wanted to rezone to Commercial Services in order to build a drive-through coffee shop. Such drive-through establishments do not appear compatible with the adjoining residences. A drive-through restaurant or coffee shop is described in the Unified Development Code as being "**significantly objectionable to nearby uses....**" § 162.01 (R) *Unit 18*. This "significantly objectionable" use would adjoin the backyards of several residences. Much of this "significantly objectionable" designation is tied to the substantially increased traffic generation of a drive-in/drive-through restaurant, donut or coffee shop compared to a small, non-drive-through restaurant or coffee shop which is allowed in Residential - Office. These commercial uses are not allowed in the RSF - 4 land that the applicant wants to rezone for possible commercial or fourplex uses. Although, Community Services was recommended for approval by the Planning Department, the applicant backed off slightly to

Neighborhood Services - General in the face of strong and reasoned objections of almost all of the neighbors.

URBAN ZONING vs. RESIDENTIAL OFFICE

Urban "form-based" zoning is especially inappropriate at this location because the rear of the lots adjoin the backyards of several houses. Pushing the large restaurant or other commercial building to the front of the lot (as required in a "form-based" zone) to hide the parking lot behind the building might shield the view of the parking lot from highway drivers, but it puts the parking lot in the face of the home owners and invades their privacy. A standard form zoning district like Residential - Office does not force the building to the front of the lot. Most small commercial developments that are allowed in R-O parcels would likely locate their parking lot in the front so that the come-and-go of cars would be buffered from the residential neighborhood by the restaurant or other limited business building itself. The proposed urban zoned districts would force the parking lots and traffic to the back of the lots causing all day and late at night noise and light disturbances for adjoining residences.

Neighborhood Services - General has a lot width requirement of thirty-five (35) feet and a minimum lot area of 4,000 square feet for a single family house. The single family residential lots in Stonewood and Copper Creek require a minimum lot width of seventy (70) feet and a minimum lot area of 8,000 square feet. Thus, single family lots in Neighborhood Services - General are only half those minimum requirements for the neighborhood. The current Residential - Office zoning requires a single family lot width and area 50% larger than Neighborhood Services - General and thus is much more compatible with the existing neighborhoods and the adjoining single family zoned lots along Highway 265. These urban, "form based" zoning districts may be fine in the denser downtown area, but are far from compatible with standard residential neighborhoods like Stonewood and Copper Creek built on Fayetteville's outskirts. That appears to be the almost unanimous opinion of the many homeowners who attended the Planning Commission's meeting to voice their opposition to this rezoning.

THIS IS NOT A DOWNZONING

The Planning Commission thought that this rezoning could be considered a "downzoning" and thus more compatible with the surrounding neighborhoods of Stonebridge and Copper Creek. The neighbors almost unanimously disagree.

While the overall residential density limitation might be somewhat higher, 24 as opposed to 18 units per acre in R - O, this density could only be achieved by apartments, which are not allowed except by Conditional Use which provides some protection for the neighbors. It is also theoretically possible to build a large office building fifteen feet higher in R - O than in Neighborhood Services - General. This has been possible for 16 years, but has not occurred.

The current office buildings constructed on other R- O lots in this subdivision are very compatible with these residential neighborhoods. Most offices keep fairly normal 9:00 a.m. - 5:00 p.m. hours and are thus "good neighbors" and good buffers for nearby homes. Large restaurants and commercial stores usually operate long into the evening hours with much more come and go traffic than offices. Large restaurants especially can be "significantly objectionable to nearby" homes.

Residential density should be measure by what is allowed by right in a zoning district. The current residential zoning of R - O allows only single family houses and duplexes. The existing RSF - 4 only allows single family homes. Neighborhood Services - General allows triplexes and fourplexes by right and single family houses on much smaller lots. That is increased density by right.

Single Family Residential, four units per acre allows no real commercial uses by right. Residential - Office allows only Limited Business which limits restaurants and most other commercial retail to 2,000 square feet. Neighborhood Services - General allows restaurants and other commercial retail up to an 8,000 square foot building. Allowing restaurants and commercial buildings four times the size is an "upzoning", not a "downzoning."

While the 2030 plan's description of Residential Neighborhood areas which was assigned to Stonewood and Copper Creek encourages "low intensity non-residential uses intended to serve the surrounding neighborhood." Neighborhood Services - General is "designed to serve as a mixed-use area of **medium intensity**." § 161.19(A). A 2,000 square foot low intensity restaurant, bakery or coffee shop would certainly be enough to serve the surrounding neighborhood of Stonewood and Copper Creek. An 8,000 square foot "medium intensity" restaurant would need to serve primarily Highway 265 users to be economically feasible. This is the reason the applicant is requesting this higher commercial intensity rezoning with higher residential density by right.

Pushing a form based, mixed-use (allowing 8,000 square foot commercial buildings) zoned district into large area zoned in Fayetteville's most traditional residential single family four units per acre, RSF-4 district would be a classic example of "spot zoning" which has been criticized by the Arkansas Supreme Court and property law authorities. "The need to maintain consistent zoning area, and not to set a precedent of spot zoning (T)he property was entirely surrounded by a residential area, and that the residents objected" Thomas Petroleum v. West Helena, 310 Ark. 682, 839 S.W. 2d 523, 525 (1992).

"Spot zoning has been defined by several authorities. It has been said that: 'Spot zoning, by definition, is invalid because it amounts to an arbitrary, capricious and unreasonable treatment of a limited area within a particular district. As such, it departs from the comprehensive treatment or privileges not in harmony with the other use classifications in the area and without any apparent circumstances which call for different treatment. Spot zoning almost invariably involves a single parcel or at least a limited area.' R. Wright and S. Webber, *Land Use* (1978)." Riddell v. City of Brinkley, 612 S.W. 2d 116, 117 (1981).

Finally, a proponent of a rezoning will often argue that he or she is entitled to a rezoning in order to put the property to its "highest and best use" from a monetary viewpoint. The benefit to the owner of a proposed rezoning may certainly be considered, "(h)owever, we have held that rezoning is not justified solely on the ground that it is necessary to put a particular tract to its most remunerative use." Tanner v. City of Green Forest, 302 Ark. 170, 788 S.W. 2d 727, 729 (1990). (emphasis added).

CONCLUSION

During my 16 years as Fayetteville City Attorney, I have often reminded the Planning Commission and City Council: **"Probably the most important factor and the underlying reason to have zoning in the first place is to promote COMPATIBILITY among neighboring parcels."** (City Attorney Memos of November 15, 2012; October 13, 2014; January 12, 2016; emphasis in original).

I have also informed the City Council: **"Substantial evidence of compatibility or lack of compatibility is found in the reasonable concerns and opinions of neighbors. *City of Lowell v. M&N Mobile Home Park* (1996); *Thomas Petroleum v. West Helena* (1992); and *Tanner v. City of Green Forest* (1990).... I remain convinced COMPATIBILITY with neighboring parcels must remain the lodestar in every rezoning consideration."** (City Attorney Memo of February 17, 2016; emphasis in original memo).

CityClerk

From: Pennington, Blake
Sent: Tuesday, May 02, 2017 3:28 PM
To: CityClerk
Cc: Marr, Don; Howland, Devin; Williams, Kit
Subject: AR-Canna Land Sale Agreement
Attachments: AR-Canna Land Sale Agreement revisions.pdf

Sondra,

Will you please forward the attached memo and revised land sale agreement with AR-Canna LLC to the Mayor and City Council? This item is on tonight's agenda.

Thank you,

Blake

--

Blake E. Pennington

Assistant City Attorney
113 W. Mountain St., Suite 302
Fayetteville, Arkansas 72701
Telephone: (479) 575-8313
bpennington@fayetteville-ar.gov



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DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Rhonda Lynch
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Don Marr**, Chief of Staff
Devin Howland, Director of Economic Vitality

FROM: **Blake Pennington**, Assistant City Attorney

DATE: **May 2, 2017**

RE: **AR-Canna LLC Land Sale Agreement**

Further discussions with Brian Faught, who is the President and Chief Executive Officer of AR-Canna LLC, and the Chamber of Commerce have led to some revisions to the land sale agreement for 5 acres in the Commerce District. At the Administration's direction, our office prepared the attached revised contract which has been signed by Mr. Faught. The material changes to the contract that was included in the agenda packet are as follows:

Section 1: (a) The City will no longer reserve an 80-foot right of way along the west side of the property. AR-Canna's proposed development site has been shifted west about 45 feet and will now abut a 35 foot gas easement. The City and future owners of property on the interior site will be granted a 30 foot access easement along the west property line of the development site; and (b) AR-Canna will have a right of first refusal to the property immediately east of the 5 acre development site. If the City receives an offer for the property, we will immediately transmit that to AR-Canna, which will then have 30 days to match the offer.

Section 6: AR-Canna is responsible for obtaining a survey within thirty days of the execution of the land sale agreement by the Mayor rather than 7 days before closing.

Section 9: AR-Canna will no longer be required to build to City street standards but will be required to build a driveway to the City's specifications within the access easement. If property to the south is purchased and the new owner is ready to develop before AR-Canna, that owner may, at its own cost, build the driveway from South Industrial Drive through the AR-Canna property to other property on the interior of this parcel.

Section 10: If AR-Canna has not received a medical marijuana cultivation facility license by December 31, 2017, the land sale agreement may be terminated by either party without penalty.

LAND SALE AGREEMENT

This Land Sale Agreement is made and entered into by and between the City of Fayetteville, Arkansas, a municipal corporation of the State of Arkansas (hereinafter "City" or "Fayetteville") and AR-Canna LLC.

The City of Fayetteville agrees to sell a parcel of about 5 acres in the Fayetteville Commerce District to AR-Canna LLC for SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) and AR-Canna LLC's performance of all of the terms, conditions and promises set forth in this Agreement.

AR-Canna LLC agrees to pay to the City of Fayetteville SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) for this 5 acre parcel and to perform all of the terms, conditions and promises set forth later in this Agreement.

TERMS AND CONDITIONS

1. *Sale*

Subject to existing easements and rights of way and subject to the terms and conditions, mutual promises and covenants of this Agreement, the City of Fayetteville agrees to sell a parcel of about 5 acres (hereinafter the "**Development Site**") located in the Fayetteville Commerce District by warranty deed to AR-Canna LLC for the amount of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00). This Development Site is shown on the map attached as Exhibit A and shall be more particularly described in a survey obtained by AR-Canna LLC prior to closing.

The Development Site shall be located immediately to the east of a 35-foot utility easement in favor of Arkansas Western Gas Company, now known as Black Hills Energy. The City shall retain ownership of the land subject to the utility easement and shall grant AR-Canna, LLC an easement for access at one point along South Industrial Drive. Access across the utility easement shall be subject to approval by Black Hills Energy or its successor.

The Development Site shall include access easements in favor of the City of Fayetteville, its successors and assigns, the general public, and any future owners of the remaining property identified in the Washington County land records as Parcel Nos. 765-16578-001, 765-15312-001 and 765-16578-000. A 30-foot access easement shall extend from the northwest corner of the Development Parcel to the southwest corner and a 15-foot access easement shall extend from the southwest corner to the southeast corner as shown in Exhibit A.

AR-Canna LLC shall have the right of first refusal with respect to the purchase of land owned by the City immediately east of the Development Site. The land subject to this right of first refusal is described as follows:

From the northeast corner of the Development Site then due south to the southeast corner of the Development Site then due east to the property line of Parcel No. 765-16578-001, then due north to the northeast corner of Parcel No. 765-16578-001, then due west to the point of beginning.

This right of first refusal must be exercised within thirty days of the City receiving an offer of purchase. The City shall immediately notify AR-Canna LLC of any offer received for this property. If AR-Canna LLC does not match the offer received by the City or exercise this right within thirty days of receiving notice of the offer, this right of first refusal shall terminate. If AR-Canna LLC exercises its right to purchase the property, it shall obtain a survey at its own cost prior to closing.

2. *Purchase*

Subject to the terms and conditions, mutual promises and covenants of this Agreement, AR-Canna LLC agrees to buy the Development Site for SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) to be paid to the City of Fayetteville on or before the Closing Date as follows:

A. Earnest money deposit: An earnest money deposit in the amount of TWO THOUSAND FIVE-HUNDRED DOLLARS (\$2,500.00) shall be paid by AR-Canna LLC to the City of Fayetteville at the time this Agreement, signed by AR-Canna LLC, is submitted to the City for approval. If the purchase and sale is consummated, this earnest money deposit shall be applied to the purchase price at closing. If the City or AR-Canna LLC exercises its option to terminate the Agreement pursuant to paragraphs 8, 9 or 10, this earnest money deposit shall be refunded in full. If the transaction is not consummated for any other reason, the earnest money deposit shall be refunded less the City's actual incurred costs, if any, of obtaining the owner's title policy and title commitment.

B. Balance: The remaining balance of the purchase price in the amount of SEVENTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$72,500.00) shall be paid to the City of Fayetteville on or before the Closing Date.

3. *Closing Date and Place*

Closing shall occur within 60 days following the date this Agreement has been executed by both parties unless extended by mutual agreement of the parties in writing. The Closing shall occur at 113 West Mountain Street, Fayetteville, Arkansas in a room supplied by the City of Fayetteville.

4. *Date of Possession*

Possession of the Development Site shall be delivered to AR-Canna LLC on the Closing date free of any tenancies or other third party possessory rights.

5. *Title Insurance*

The City of Fayetteville shall order a title commitment on the Development Site, as soon as practicable following the full execution of this Agreement, through a title insurance company selected by the City and acceptable to AR-Canna LLC. If the report on title, binder or commitment discloses any defects in title (other than liens or encumbrances of a definite or ascertainable amount

which may be paid at closing), the City shall have thirty (30) days from the date of AR-Canna LLC's notice of such defects to make a good faith effort to cure such defects and to furnish a report showing the defects cured or removed. If such defects are not cured within thirty (30) days, AR-Canna LLC may terminate this agreement or may, at its election, take title subject to any such defects. The cost of the title commitment and the cost of the owner's title policy shall be borne by the City of Fayetteville. The cost of any lender's title policy and extended owner's title insurance coverage shall be borne by AR-Canna LLC.

6. *Deed and Other Documents*

Within thirty days after execution of this contract by both parties, AR-Canna LLC shall obtain a survey at its sole cost containing a legal description of the Development Site as well as the legal description of the access easements described in Section 1 of this agreement as shown in the map attached as Exhibit A.

On the Closing date, the City of Fayetteville shall convey marketable and insurable title to the Development Site by general warranty deed, free and clear of all liens, restrictions, and encumbrances except as provided in this Agreement, subject only to current real estate taxes, if any (to be apportioned between the parties) and existing easements. AR-Canna LLC and the City of Fayetteville shall equally share the cost a reasonable closing fee imposed by the closing agent employed by parties provided however that AR-Canna LLC shall be responsible for any revenue stamps resulting from this transaction and all recordings fees for the deed and other documents that need to be filed.

7. *Risk of Loss*

Risk of loss as to the Development Site shall remain with the City of Fayetteville until the Closing date.

8. *AR-Canna LLC's Due Diligence*

AR-Canna LLC may enter upon the Development Site to conduct any surveying, testing or inspection it deems necessary to ensure the Development Site will be appropriate for the construction and use for its facility. If AR-Canna LLC discovers any problems that would adversely impact its development and use of the Development Site for its facility, AR-Canna LLC shall notify the City which is granted sixty (60) days to remediate any problem. The City may also terminate this Agreement without penalty rather than remediating any problem or issue discovered by AR-Canna LLC. Likewise, if the City does not remediate the problem, AR-Canna LLC may terminate this Agreement without penalty, being entitled to a return of its earnest money, or proceed under this Agreement to accept the property without resolution of the problem.

9. *Large Scale Development Approval*

AR-Canna LLC shall, at its sole cost and expense, prepare a Large Scale Development plat of the Development Site and obtain any and all approvals necessary for AR-Canna LLC 's intended use of the Development Site for its facility. The City shall reasonably cooperate with AR-Canna LLC

in AR-Canna LLC's request for development approval of its facility. AR-Canna LLC must present its development proposal through the normal City process and follow the Unified Development Code requirements. AR-Canna LLC may defer Closing hereunder during such time as its Development plat and approvals are pending review by the City, and if such are not approved, AR-Canna LLC may terminate this Agreement without penalty, being entitled to a return of its earnest money, or proceed under this Agreement to accept the property without development plans approved by the City.

AR-Canna, LLC agrees to construct a driveway to the City's specifications from the cul-de-sac at the end of South Industrial Drive along the western property line to a stub-out at the southwest corner of the Development Site. Construction of the driveway (including approval by the City) shall be completed prior to the issuance of a final certificate of occupancy. Any further driveway extension shall be the responsibility of the City or the future developer of the remaining property to the south.

Any future purchaser of property owned by the City to the south or east of the Development Parcel shall have the right to construct a driveway for access to their property through the access easement along the western property line of the Development Parcel. If the driveway has already been constructed at the time AR-Canna LLC is ready to proceed with its development, AR-Canna shall be responsible for any costs associated with constructing a curb cut to the City's specifications for access from the driveway to the interior of the Development Site or for additional improvements to the driveway. AR-Canna shall agree not to block or otherwise prevent access to the remaining property by the City or any future owner of property currently owned by the City.

10. *Cultivation Facility License Approval*

AR-Canna LLC may defer Closing hereunder during such time as cultivation facility license application is pending review by the State of Arkansas, and if such is not approved by December 31, 2017, AR-Canna LLC or the City may terminate this Agreement without penalty. If terminated because of the failure to obtain such a license, AR-Canna LLC shall be entitled to a return of its earnest money.

11. *Compensation to City of Fayetteville if Development Site is Sold Within 10 Years*

AR-Canna LLC is aware that the Development Site is being sold by the City at a discount of approximately \$5,000.00 per acre below its normal selling price. If any portion of the land conveyed by this contract is sold by AR-Canna LLC within the first five years of the date of closing, an independent appraisal of the land's value shall be performed to segregate the actual sales price between that allocable to the raw land as acquired by AR-Canna LLC, and that allocable to the improvements subsequently added by AR-Canna LLC. AR-Canna LLC shall pay 75% of the increase in appraised value of the raw land (with prorated sales cost deducted) to the City of Fayetteville. AR-Canna LLC shall pay the City of Fayetteville 40% of the increase in appraised value of the land (with prorated sales costs deducted) for any sales after 5 years until 10 years from the closing date.

12. *Notices*

Notices required by this Agreement shall be in writing and shall be delivered to:

AR-Canna LLC
ATTN: Brian Faught
7B Tara Mount Drive
Jacksonville, AR 72706

City of Fayetteville
ATTN: Mayor's Office
113 W. Mountain Street
Fayetteville, AR 72701 72701-6083

13. *Authority*

Each of the undersigned individuals represent and warrant that they are authorized to enter into this Agreement on behalf of their respective entities and that execution hereof will bind the entities to this Agreement.

14. *Counterparts*

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.

15. *Facsimile*

For purposes of executing this Agreement, a facsimile signature shall be as effective as an actual signature.

16. *Applicable Law*

This Agreement shall be construed and enforced in accordance with the laws and public policies of the State of Arkansas.

17. *Survival*

The representations, warranties, and agreements of the parties contained herein shall survive the closing date.

18. *No Waivers*

The waiver by either party hereto of any condition or the breach of any term, covenant or conditions herein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or of any other term, covenant or condition herein contained.

19. *Time of Essence*

Time is of the essence in this Agreement.

20. *Invalidity*

If for any reason any term or provision of this Agreement shall be declared void and unenforceable by any court of law or equity, it shall only affect such particular term or provision of this Agreement and the balance of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto.

21. *Complete Agreement*

All understandings and agreements heretofore existing between the parties are merged into this Agreement that alone fully and completely expresses their agreement. This Agreement may be changed only in writing signed by both of the parties hereto and shall apply to and bind the successors and assigns of each of the parties hereto and shall not merge with the deed delivered to AR-Canna LLC at closing.

Date: 5-2-17

Date: _____

AR-CANNA LLC

CITY OF FAYETTEVILLE,

By: 
BRIAN FAUGHT, President
and Chief Executive Officer

By: _____
LIONELD JORDAN, Mayor

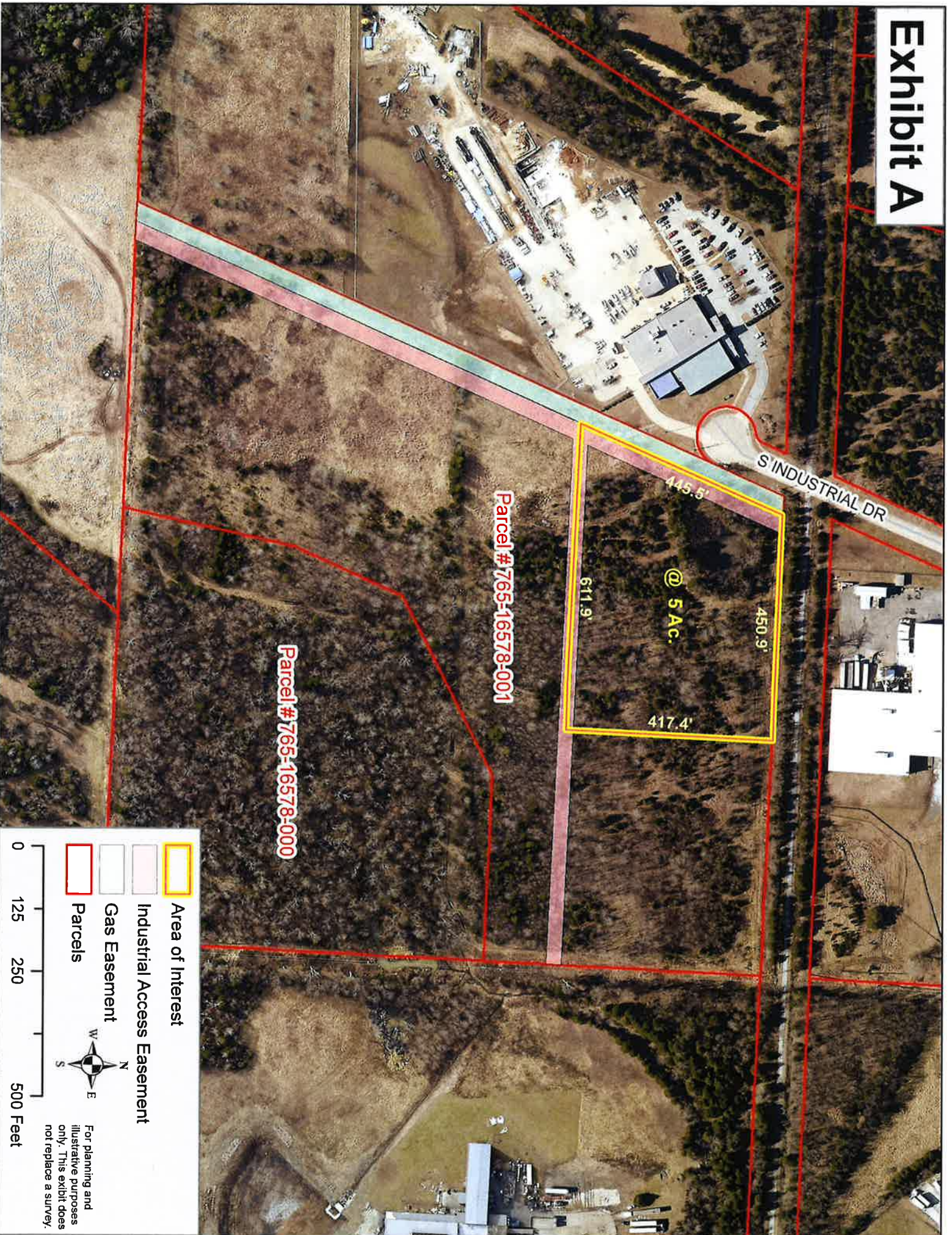
WITNESS:

ATTEST:

By: _____

By: _____
Sondra E. Smith, City Clerk

Exhibit A



City of Fayetteville, Arkansas

*113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323*



Meeting Agenda - Tentative Agenda

Tuesday, April 25, 2017

4:30 PM

City Hall Room 326

City Council Agenda Session

*Adella Gray Ward 1
Sarah Marsh Ward 1
Mark Kinion Ward 2
Matthew Petty Ward 2
Justin Tennant Ward 3
Sarah Bunch Ward 3
John S. La Tour Ward 4
Alan Long Ward 4*

ELECTED OFFICIALS:

*Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith*

Call To Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions

City Council Meeting Presentations, Reports and Discussion Items:

1. [2017-0213](#)

CH2M HILL ENGINEERS, INC: TEN (10) YEARS ACCUMULATIVE SAFETY AWARD

Attachments: [CH2M HILL ENGINEERS, INC: TEN \(10\) YEARS ACCUMULATIVE SAFETY AWARD](#)

Agenda Additions

A. Consent:

A. 1 [2016-0574](#)

APPROVAL OF THE APRIL 18, 2017 CITY COUNCIL MEETING MINUTES.

A. 2 [2017-0215](#)

SOUTH DELTA AVIATION, INC. THREE YEAR LEASE AGREEMENT:

A RESOLUTION TO APPROVE A THREE YEAR LEASE AGREEMENT WITH SOUTH DELTA AVIATION, INC. FOR THE AIRPORT HANGAR AT 4568 SOUTH SCHOOL AVENUE AND OFFICE SPACE IN THE AIRPORT TERMINAL BUILDING AT 4500 SOUTH SCHOOL AVENUE FOR RENT IN THE AMOUNT OF \$4,200.00 PER MONTH

Attachments: [SOUTH DELTA AVIATION, INC.](#)

A. 3 [2017-0203](#)**T-N-T, INC. CHANGE ORDER NO. 3:**

A RESOLUTION TO APPROVE CHANGE ORDER NO. 3 TO THE CONTRACT WITH T-N-T, INC. OF VAN BUREN, ARKANSAS IN THE AMOUNT OF \$21,096.00 FOR ROAD AND PARKING IMPROVEMENTS AT WILSON PARK, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [T-N-T, INC. CHANGE ORDER NO. 3](#)
 [BA_T-N-T, INC. CHANGE ORDER NO. 3](#)

A. 4 [2017-0209](#)**FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS:**

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$30,000.00 RECOGNIZING REVENUE FROM THE COURT AUTOMATION FUND FOR UPGRADES TO THE ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS USED BY THE FAYETTEVILLE DISTRICT COURT

Attachments: [FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO](#)
 [SURVEILLANCE SYSTEMS](#)
 [BA_FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO](#)
 [SURVEILLANCE SYSTEMS](#)

A. 5 [2017-0183](#)**HAWKINS-WEIR ENGINEERS, INC.:**

A RESOLUTION TO APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC. IN AN AMOUNT NOT TO EXCEED \$71,820.00 FOR ENGINEERING SERVICES RELATED TO THE ELIMINATION OF THE MASTERS SEWER LIFT STATION, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$7,182.00

Attachments: [HAWKINS-WEIR ENGINEERS, INC.](#)

A. 6 [2017-0199](#)**WASHINGTON REGIONAL MEDICAL CENTER:**

A RESOLUTION TO WAIVE AND RELEASE ALL RIGHTS OF FIRST REFUSAL WITHIN PARAGRAPH 5.(C) OF THE REAL ESTATE CONVEYANCE AGREEMENT OF OCTOBER 4, 2011 AND THE OCTOBER 13, 2011 QUIT CLAIM DEED CONVEYING THE PROPERTY TO WASHINGTON REGIONAL MEDICAL CENTER

Attachments: [WASHINGTON REGIONAL MEDICAL CENTER](#)

A. 7 [2017-0216](#)**UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT**

A RESOLUTION TO APPROVE A ONE YEAR CONTRACT WITH THE UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE YEAR TERMS IN AN ANNUAL AMOUNT OF \$250,000.00 FOR THE PROVISION OF PUBLIC TRANSIT SERVICES WITHIN THE CITY OF FAYETTEVILLE

Attachments: [UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT](#)

B. Unfinished Business: None**C. New Business:****C. 1** [2017-0214](#)**CONDEMNATION LITIGATION SETTLEMENT AGREEMENT:**

A RESOLUTION TO AUTHORIZE A SETTLEMENT AGREEMENT WITH DRAKE STREET PROPERTY, LLC; 1155 PROPERTIES, LLC; AND RPM1 PROPERTIES-FAYETTEVILLE, LLC A/K/A RPM1 PROPERTIES, LLC CONCERNING CONDEMNATION LITIGATION FILED FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE

Attachments: [CONDEMNATION LITIGATION SETTLEMENT AGREEMENT](#)

C. 2 [2017-0217](#)**BILL OF ASSURANCE AMENDMENT (354 N. DOUBLE SPRINGS RD./PINNACLE BANK):**

AN ORDINANCE TO REPLACE A BILL OF ASSURANCE TO ALLOW THE DEVELOPMENT OF THE 9.7 ACRE PARCEL AT 354 DOUBLE SPRINGS ROAD WITH UP TO 9 ATTACHED DWELLINGS UNITS AND 35 SINGLE-FAMILY DETACHED HOUSES

Attachments: [AMENDMENT TO A BILL OF ASSURANCE \(354 N. DOUBLE SPRINGS RD./PINNACLE BANK\)](#)

C. 3 [2017-0218](#)**CULLERS SEWER EXTENSION:**

A RESOLUTION TO APPROVE AN EXTENSION OF THE CITY'S SEWERAGE SYSTEM BEYOND THE CITY LIMITS TO A PROPOSED DEVELOPMENT NEAR HUGHMOUNT ROAD AND LIERLY LANE

Attachments: [CULLERS SEWER EXTENSION](#)

C. 4 [2017-0201](#)**UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT:**

A RESOLUTION TO APPROVE AN AGREEMENT WITH THE UNIVERSITY OF ARKANSAS TO ACCEPT WASTEWATER FROM THE UNIVERSITY'S SOUTHWEST EXPERIMENTAL FAST OXIDE REACTOR FACILITY INTO THE CITY'S SANITARY SEWER SYSTEM FOR TREATMENT

Attachments: [UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT](#)

C. 5 [2017-0028](#)**AMEND § 51.146 BACKFLOW PREVENTION:**

AN ORDINANCE TO AMEND § 51.146 **BACKFLOW PREVENTION** OF THE FAYETTEVILLE CODE TO MORE CLOSELY CONFORM TO THE LATEST AMERICAN WATER WORKS ASSOCIATION AND ARKANSAS STATE PLUMBING CODE

Attachments: [BACKFLOW PREVENTION CODE REVISION](#)

C. 6 [2017-0205](#)**RZN 17-5728 (1640 S. HANSHEW RD./WM. LINDSEY):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 17-5728 FOR APPROXIMATELY 1.25 ACRES LOCATED AT 1640 S. HANSHEW ROAD FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE TO C-2, THOROUGHFARE COMMERCIAL

Attachments: [RZN 17-5728 \(1640 S. HANSHEW RD./WM. LINDSEY\)](#)

C. 7 [2017-0207](#)**RZN 17-5733 (SE OF CROSSOVER RD. & HEARTHSTONE DR.):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 17-5733 FOR APPROXIMATELY 1.79 ACRES LOCATED AT SOUTHEAST CORNER OF CROSSOVER ROAD AND HEARTHSTONE DRIVE FROM R-O, RESIDENTIAL OFFICE, AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO NS-G, NEIGHBORHOOD SERVICES, GENERAL

Attachments: [RZN 17-5733 \(SE OF CROSSOVER RD. & HEARTHSTONE DR.\)](#)

C. 8 [2017-0204](#)**VAC 17-5753 (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES):**

AN ORDINANCE TO APPROVE VAC 15-5753 FOR PROPERTY LOCATED AT SOUTHEAST CORNER OF CROSSOVER ROAD AND HEARTHSTONE DRIVE TO VACATE A PORTION OF A DRAINAGE EASEMENT AND A PORTION OF A UTILITY EASEMENT

Attachments: [VAC 17-5753 \(SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES\)](#)

C. 9 [2017-0211](#)**FAYETTEVILLE COMMERCE PARK LAND SALE:**

A RESOLUTION TO SELL ABOUT 5 ACRES OF LAND IN THE COMMERCE DISTRICT TO AR-CANNA, LLC FOR \$75,000.00 CONTINGENT ON AR-CANNA, LLC RECEIVING A MEDICAL MARIJUANA CULTIVATION FACILITY LICENSE FROM THE STATE OF ARKANSAS

Attachments: [FAYETTEVILLE COMMERCE PARK LAND SALE - AR-CANNA, LLC](#)

D. City Council Agenda Session Presentations:**D.1** [2017-0212](#)

AGENDA SESSSION PRESENTATION - FAYETTEVILLE URBAN FORESTRY ADVISORY
BOARD ANNUAL REPORT

Attachments: [Urban Forestry Advisory Board 2017](#)

E. City Council Tour:**F. Announcements:****G. Adjournment****NOTICE TO MEMBERS OF THE AUDIENCE**

All interested persons may appear and address the City Council on Unfinished Business, New Business, and Public Hearings at City Council meetings. If you wish to address the City Council on an agenda item, please wait for the Mayor or Chair to request public comment then queue behind the podium. When the Mayor or Chair recognizes you, approach the podium and give your name and address. Comments are to be addressed to the Mayor or Chair. The Mayor or Chair will direct your comments to the appropriate elected officials, staff, or others for response. Keep your comments respectful, brief, to the point, and relevant to the agenda item being considered. Each speaker from the public will be allowed one turn at the microphone for discussion of an agenda item.

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. City staff, City Council members, and applicants may use electronic visual aids in the City Council meeting as part of the presentation of the agenda item.

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. A simple majority of the City Council members, present and voting, may authorize a representative of a Fayetteville citizens' group opposing the ordinance or resolution to present an electronic visual aid not to exceed five minutes, but no other electronic visual aid presentations will be allowed; however, 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's 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.



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0213

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Presentation

Agenda Number: 1.

CH2M HILL ENGINEERS, INC: TEN (10) YEARS ACCUMULATIVE SAFETY AWARD

TO: Mayor Jordan

THRU: Water, Sewer and Solid Waste Committee
Don Marr, Mayor's Chief of Staff

FROM: Tim Nyander, Utilities Director

DATE: April 14, 2017

SUBJECT: CH2M Safety Award Recognition

On January 17, 2017, the Arkansas Department of Labor and Arkansas Workers' Compensation Commission recognized the CH2M Fayetteville team with the 10-year Accumulative Years Safety Award. To achieve this milestone, the CH2M staff accumulated 10 years without a lost day away from work due to a work-related injury or illness between September 21, 2006 and September 21, 2016.

CH2M's adopted culture is achieved when their employees value the Health, Safety & Environment program and take responsibility for their own behavior and for the behavior of every employee around them. When an incident does occur, they seek continual improvement by evaluating the causes, implementing corrective actions, and learning from their mistakes.

The Fayetteville Project has a safety committee, which consists of employees and management, to execute the safety plan. The safety team meets monthly to discuss safety concerns and updates at the project, and often organizes training opportunities and celebrations to keep safety fun.

Congratulations to the CH2M Team for their outstanding commitment to Safety!



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2016-0574

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Minutes

Agenda Number: A. 1

APPROVAL OF THE APRIL 18, 2017 CITY COUNCIL MEETING MINUTES.



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0215

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 2

SOUTH DELTA AVIATION, INC. THREE YEAR LEASE AGREEMENT:

A RESOLUTION TO APPROVE A THREE YEAR LEASE AGREEMENT WITH SOUTH DELTA AVIATION, INC. FOR THE AIRPORT HANGAR AT 4568 SOUTH SCHOOL AVENUE AND OFFICE SPACE IN THE AIRPORT TERMINAL BUILDING AT 4500 SOUTH SCHOOL AVENUE FOR RENT IN THE AMOUNT OF \$4,200.00 PER MONTH

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 three year lease agreement with South Delta Aviation, Inc., a copy of which is attached to this Resolution and made a part hereof, for the airport hangar at 4568 South School Avenue and approximately 2,260.5 square feet of office space in the Airport Terminal Building for rent in the amount of \$4,200.00 per month.

City of Fayetteville Staff Review Form

2017-0215

Legistar File ID

5/2/2017

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Terry Gulley

4/14/2017

Aviation /
Transportation Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval and signature of the Mayor on a lease agreement with South Delta Aviation, Inc., 4248 South School Ave., Fayetteville, AR 72701 (479) 935-4891, for the corporate hangar at Drake Field known as 4568 South School Avenue, and for terminal office space.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF MAY 2, 2017

TO: Mayor Lioneld Jordan
Fayetteville City Council

THRU: Don Marr, Chief of Staff

FROM: Terry Gulley, Transportation Services Director

DATE: April 14, 2017

SUBJECT: South Delta Lease Agreement

RECOMMENDATION:

Staff recommends approval and signature of the Mayor on a lease agreement between the City of Fayetteville and South Delta.

BACKGROUND:

South Delta operates an aircraft brokering and repair business.

DISCUSSION:

South Delta currently leases two other corporate hangars on the field.

BUDGET/STAFF IMPACT:

This lease will provide \$50,400.00 in revenue to the airport per year.

Attachments:

SRF
SRM
Corporate Hangar Lease Agreement
Exhibit A-Corporate Hangar Layout

LEASE AGREEMENT

This **LEASE AGREEMENT** made this _____ day of _____, 2017, by and between the City of Fayetteville, Arkansas, hereinafter called "City", and **South Delta Aviation**, 4248 S. School Street, Fayetteville, AR 72701, 479-935-48910, hereinafter called "**South Delta**."

WHEREAS, City is the owner of an airport known as the Fayetteville Airport, Drake Field, herein referred to as the "Airport"; and

WHEREAS, City is the owner of an aircraft hangar and office space at the Airport; and

WHEREAS, **South Delta** desires to lease said corporate aircraft hangar and office space,

NOW, THEREFORE, the parties, in consideration of the mutual covenants contained herein, hereby agree as follows:

1. City leases to **South Delta**, and **South Delta** leases from City, the 18,750 sq. ft. corporate aircraft hangar located at 4568 S. School Ave., Fayetteville, Arkansas, and approximately 2260.5 sq. ft. of office space in the Terminal Building located at 4500 S. School Ave, Fayetteville, Arkansas, as reflected on "Exhibit A" attached hereto and made a part hereof.
2. **South Delta** is granted the use, in common with others similarly authorized, of the airport, together with all facilities, equipment, improvements, and services which have been, or may hereafter, be provided at, or in connection with the Airport from time to time including, but not limited to, the landing field, and any extensions hereof or additions thereto, roadways, runways, ramps, aprons, taxiways, flood lights, landing lights, beacons, control tower, signals, radio aids, and all other conveniences for flying, landings and take-offs.
3. **South Delta** shall have at all times the full and free right in ingress to and egress from the demised premises and facilities referred to herein for **South Delta**, its employees, customers, passengers, guests, and other invitees. Such rights shall also extend to persons or organizations supplying materials or furnishing services to **South Delta**.
4. Term: Subject to earlier termination as hereinafter provided, the initial term of this agreement shall be for THREE YRS (3) year(s) commencing on the 3rd day of May, 2017, and ending on the 2nd day of May, 2020.

This Lease Agreement may be terminated by either party with a sixty (60) day written notice.

5. Rent: **South Delta** agrees to pay the City for the use of the premises, facilities, rights, and

privileges granted hereunder the sum of: FOUR THOUSAND, TWO HUNDRED DOLLARS PER MONTH, (\$4,200.00) per month. Rent will increase in accordance with the CPI plus 1% after the first and second year(s).

The initial lease payment is due and payable upon execution of this Lease Agreement, and all subsequent monthly lease payments shall be payable in advance on, or before, the 1st day of each month. In addition to any remedy available to it hereunder, the City may impose as additional rentals a delinquency charge on all overdue payments, at the maximum rate allowed by law.

6. City shall maintain and keep in good repair so much of the Airport premises as are not under the exclusive control of **South Delta**. **South Delta** shall, at the termination, surrender or forfeiture of this lease, return said premises in same or better condition premises were at the beginning of the lease, normal wear and tear excepted.

7. **South Delta** shall provide for and supply at its expense all janitor service with respect to the demised premises, and shall pay for all utilities serving the demised premises, including, but not limited to heat, light, gas, electricity, and water, sewer and trash removal.

8. Improvements: **South Delta** shall bear the cost of all improvements or additions made to the interior or exterior of the building on the leased premises. No improvements or additions to any part of the leased premises shall be made by **South Delta** without the prior written approval of the Airport Manager, whose consent will not be unreasonably withheld. Any signs or antennas to be erected on or attached to the leased premises must have the prior written approval of the Airport Manager and conform to all City Ordinances.

9. Maintenance: The City shall be responsible only for major maintenance of the existing equipment, i.e. replacement of heating unit and other equipment in place in the facility which includes, roof, hangar door motors, exterior walls, exterior plumbing, paved ramp and paved parking lot. The City agrees that if the roof or any part of the exterior walls or exterior plumbing of said building thereof shall become defective or damaged at any time during the term due to ordinary wear and tear and not due to negligence of **South Delta**, or **South Delta**'s agents or invites, upon notice from **South Delta**, the City will immediately cause repairs to be made and restore the defective portions to good condition. If the damage is so extensive as to render such building untenable, the rent payable hereunder shall be proportionally paid up to the time of such damage and shall thenceforth cease until such time as the premises shall be fully restored. If the demised premises are completely destroyed, City may reconstruct the hangar at the City's own cost and the rent payable hereunder shall be adjusted as set forth above, or City may, at its option, cancel this agreement, such cancellation to be effective as of the date the hangar was destroyed, and the rent adjusted as set forth above. Routine maintenance of the hangar doors shall remain the responsibility of the City. **South Delta** shall not make any alterations to the controls of the hangar doors.

10. **South Delta** agrees to observe and obey City's Ordinances and Regulations with respect to use of the demised premises and Airport; provided, however, such Ordinances and Regulations shall be consistent with safety and with all city, county, and state rules, regulations, including all current

fire codes, and orders of the Federal Aviation Administration with respect to aircraft operations at the Airport, and provided further, such Ordinances and Regulations shall be consistent with the provisions of this agreement or the procedures prescribed or approved from time to time by the Federal Aviation Administration with respect to the operation of **South Delta**'s aircraft at the Airport.

“The Minimum Standards for Fayetteville Executive Airport, Drake Field” herein referred to as Airport Minimum Standards are made part of this lease by reference as if included word for word.

11. **South Delta** agrees that it shall use the premises for the implementation and conducting of an aeronautical business activity. **South Delta** agrees that it shall use the premises only for the storage of airplanes and materials and equipment necessarily related to the operation of said aeronautical business activity and that no other vehicles, equipment or supplies shall be stored on the premises unless expressly agreed to by the City. **South Delta** further agrees not to store any flammable material on the demised premises, other than a limited supply of oils and agents necessary for current aircraft maintenance and repair, or in any way endanger or violate the provisions of the City's standard commercially available property insurance policy or the requirements of same. Such violations shall constitute a material breach of this Agreement.

12. Hazardous Substance: **South Delta** shall not cause or permit any Hazardous Substance to be used or stored on or in the Leased Premises without first obtaining the City's written consent. If hazardous Substances are used, stored, generated, or disposed of on or in the Leased Premises or if the Leased Premises or any other Airport property becomes contaminated in any manner for which **South Delta** is responsible or legally liable, **South Delta** shall indemnify and hold harmless the City, its officers, directors, agents, servants, and employees from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses including all reasonable costs for investigation and defense thereof, (including but not limited to attorney's fees, court costs, and expert fees, and without limitation, decrease in value of the Lease Premises, damages caused by loss or restriction of rentable or usable space as a part of the Leased Premises arising during or after the term hereof and arising as a result of that contamination by **South Delta**, **South Delta** agents, employees, and invitees. This indemnification includes, without limitation, all cost incurred because of any investigation of the Airport or any cleanup, removal, or restoration mandated by a federal, state, local agency or political subdivision.

13. If the demised premises are partially damaged by fire or other casualty which is not due to the negligence or fault of **South Delta**, said premises shall be repaired with due diligence by City at City's expense. If the damage is so extensive as to render such building untenable, the rent payable hereunder shall be proportionally paid up to the time of such damage and shall thenceforth cease until such time as the premises shall be fully restored. If the demised premises are completely destroyed, City may reconstruct the hangar at the City's own cost and the rent payable hereunder shall be adjusted as set forth above, or City may, at its option, cancel this agreement, such cancellation to be effective as of the date the hangar was destroyed, and the rent adjusted as set forth above.

14. **South Delta** shall maintain in force during the Term and any extended term public liability

and property damage insurance in comprehensive form as reasonably may be required by the City and specified in the Airport Minimum Standards. The insurance shall be issued by an insurer licensed to do business in the State of Arkansas.

Concurrent with the execution of this Agreement, **South Delta** shall provide proof of insurance coverage by providing a Certificate of Lessee's Insurance coverage, a copy of the declarations page on the insurance policy, and a copy of all endorsements. The Certificates of Insurance, or endorsements attached thereto, shall provide that; (a) insurance coverage shall not be canceled, changed in coverage, or reduced in limits without at least thirty (30) days prior written notice to the City; (b) the City and the Airport and their trustees, agents, officers, servants, and employees are named as additional insured; (c) the policy shall be considered primary as regards to any other insurance coverage the City may possess, including any self-insured retention or deductible the City may have, and any other insurance coverage the City may possess shall be considered excess insurance only; (d) the limits of liability required therein are on an occurrence basis.

15. **South Delta** agrees to indemnify City against any and all liabilities, losses, suits, claims, judgments, fines, penalties, demands or expenses, including all reasonable costs for investigation and defense thereof, (including but not limited to attorney's fees, court costs, and expert fees, for injuries to persons or damage to property caused by **South Delta**'s use or occupancy of the lease premises; provided, however, that **South Delta** shall not be liable for any injury, damage or loss arising from the negligence of City or its agents or employees; and provided further, that each party shall give prompt and timely notice of any claim made or suit instituted which in any way directly or indirectly affects or might affect either party, and each party shall have the right to compromise and defend the same to the extent of its own interest. This clause shall not be construed to waive that tort immunity as set forth under Arkansas Law.

16. **South Delta** agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, creed, color, religion, national origin, sex, marital status, or handicap in the furnishing, or by refusing to furnish, to such persons the use of any facility, including any and all services, privileges, accommodations, and activities provided thereby. Nothing herein shall require the furnishing to the general public of the use of any facility customarily furnished by the City solely to tenants, their employees, customers, patients, client, guests, and invites.

17. Assigning, Subletting and Encumbering. **South Delta** shall not assign this Agreement in whole or in part, nor sublease all or any part of the Leased Premises, nor permit other persons to occupy said Leased Premises or any part thereof, not grant any license or concession for all or any part of said Leased Premises, without the prior written consent of the Airport Manager, which consent shall not be unreasonably withheld. Any consent by the Airport to an assignment or subletting of this Agreement shall not constitute a waiver of the necessity of obtaining that consent as to any subsequent assignment. Any assignment for the benefit of **South Delta**'s creditors or otherwise by operation of law shall not be effective to transfer or assign **South Delta**'s interest under this Agreement unless the Airport shall have first consented thereto in writing. Neither **South Delta**'s interest in this Agreement, nor any estate created hereby in **South Delta** nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided in the Bankruptcy Code.

If any of the corporate shares of stock of **South Delta** are transferred, or if any partnership interests of **South Delta** are transferred, by sale, assignment, bequest, inheritance, operation of law, or otherwise, so as to result in a change of the control, assets, value, ownership, or structure of **South Delta**, same shall be deemed an assignment for the purposes of this Section 17 and shall require the Airport's prior consent, and **South Delta** shall notify the Airport of any such change or proposed change.

18. On the expiration or other termination of this lease **South Delta**'s right to use the demised premises shall cease, and **South Delta** shall vacate the premises without unreasonable delay. All property installed, erected, or placed by **South Delta** in, on, or about the premises leased hereunder shall be deemed to be personal property and shall remain the property of **South Delta**. **South Delta** shall have the right at any time during the term of this agreement, or any renewal or extension hereof, and for an additional period of fourteen (14) days after the expiration or other termination of this agreement, to remove any or all of such property, subject, however, to **South Delta**'s obligation to repair all damage, if any, resulting from such removal. Any and all property not removed by **South Delta** prior to the expiration of the aforesaid fourteen (14) day period shall thereupon become a part of the land on which it is located and title hereto shall thereupon vest in City.

19. City may enter the premises leased to **South Delta** at any reasonable time for any purpose necessary or incidental to the performance of its obligations or **South Delta**'s obligations hereunder.

20. **South Delta** shall maintain the demised premises in a clean and orderly fashion at all times. **South Delta** shall be responsible for the upkeep and mowing of the leased property.

21. **South Delta** shall not start or operate aircraft engines within the aircraft hangar leased hereby and shall not allow such operations by any other person.

22. **South Delta** agrees that habitation of the hangar building or offices as a residence is prohibited.

23. Any notice or consent required by this Agreement shall be sufficient if sent by Certified Mail, return receipt requested, postage paid, to the following address:

CITY OF FAYETTEVILLE

Airport Administration Office
4500 S. School Avenue, Suite F
Fayetteville, Arkansas 72701

Phone: (479) 718 -7642

SOUTH DELTA AVIATION

South Delta
4248 South School Street
Fayetteville, Arkansas 72701

Phone: (479) 935-4891

24. This agreement shall be construed under the laws of the State of Arkansas.

25. All the covenants, conditions, and provisions under this agreement shall extend to and bind the legal representative, successors, and assigns of the respective parties hereof.

IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

ATTEST

By: _____
Sondra Smith, City Clerk and Treasurer

South Delta

By: _____
_____ *PRES.* _____
Title

ATTEST:

Title

Exhibit A





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0203

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 3

T-N-T, INC. CHANGE ORDER NO. 3:

A RESOLUTION TO APPROVE CHANGE ORDER NO. 3 TO THE CONTRACT WITH T-N-T, INC. OF VAN BUREN, ARKANSAS IN THE AMOUNT OF \$21,096.00 FOR ROAD AND PARKING IMPROVEMENTS AT WILSON PARK, AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Change Order No. 3 to the contract with T-N-T, Inc. of Van Buren, Arkansas in the amount of \$21,096.00 for additional road and parking improvements at Wilson Park.

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.

City of Fayetteville Staff Review Form

2017-0203

Legistar File ID

5/2/2017

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

Ken Eastin

4/12/2017

Parks & Recreation /
Parks & Recreation Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of Change Order #3 in the amount of \$21,096 to Contract #2016-00000014 with T-N-T, Inc. for the installation of additional select road base fill and a change in pavement surfacing from asphalt to fiber-reinforced concrete for extended durability, and approval of a budget adjustment.

Budget Impact:

2250.520.9255-5806.00	Park Development Fund
4470.900.9470-5819.00	Sales Tax Cap Imp
Account Number	Fund
13001.1601	Wilson Park Grant Match
16004.1	Park Paving Improvements
Project Number	Project Title
Budgeted Item? Yes	Current Budget \$ 724,227.00
	Funds Obligated \$ 583,598.00
	Current Balance \$ 140,629.00
Does item have a cost? Yes	Item Cost \$ 21,096.00
Budget Adjustment Attached? Yes	Budget Adjustment \$ 30,777.00
	Remaining Budget \$ 150,310.00

V20140710

Previous Ordinance or Resolution # 231-16

Original Contract Number: 2016-00000014

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor Lioneld Jordan

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

FROM: Ken Eastin, Park Planner II

DATE: April 10, 2017

SUBJECT: **Approval of Change Order #3 in the amount of \$21,096 to Contract #2016-00000014 with T-N-T, Inc. for the installation of additional structural select road base fill and a change in pavement surface materials for road and parking improvements at Wilson Park, and approval of a budget adjustment**

RECOMMENDATION:

Staff recommends approval of Change Order #3 in the amount of \$21,096 to Contract #2016-00000014 with T-N-T, Inc. for the installation of additional select road base fill and a change in pavement surfacing from asphalt to fiber-reinforced concrete for extended durability, and approval of a budget adjustment.

BACKGROUND:

The City of Fayetteville contracted with T-N-T, Inc. to construct new curb and gutter along both sides of the westernmost entry drive off Prospect Street at Wilson Park and along the northwesternmost edge of the parking lot. The contractor was also to remove the existing asphalt from the entry drive, compact the subsurface soils, install a 4" compacted gravel base, lay new asphalt surfacing, and construct a new van-accessible parking space adjacent to the playground.

Change Order #1 was requested to receive approval for a change in the contract scope in order to include grading of a drainage swale into the lawn area on the north side of the western end of the parking lot. This change was necessary to create a swale in the lawn that will contain and direct runoff into an existing storm inlet. This will prevent continuation of a situation where the drainage flows across Wilson Avenue and into a neighboring driveway and garage.

Change Order #2 was submitted after excavation of the existing asphalt drive began and subsurface continues were discovered. Upon removal of the old asphalt, extensive clay soils were encountered and the clay was totally saturated. Project specifications require compaction of the immediate subgrade to a depth of 24". Due to the clay soils and high moisture conditions, this compaction can not be accomplished. This has required complete removal of the existing clay and replacement with select fill that will hold compaction, for a minimum depth of 24".

DISCUSSION:

Change Order #3 is requesting approval for the following contract changes:

- 1) Unforeseen subsurface conditions and excessive moisture have required removal of a larger amount of encountered expansive clay, requiring replacement with a larger amount of select fill than originally anticipated plus an additional 9 SY of class 7 base (+ \$1,816).
- 2) Due to a change in the layout of the parking and driveway to protect trees and provide safe turning radius for buses, additional curb and gutter is required to complete the new design (+ \$1,425).
- 3) Change order #1 added scope for grading a drainage swale into the adjacent lawn area in order to prevent runoff from flowing across Wilson Avenue and into a neighboring garage. The site's regrading will now direct runoff into a stormwater drain inlet. Change order #1 included costs for the grading, but site restoration costs were not included. The regrading resulted in an increase of 3,130 SF of site restoration at a unit cost of \$4.00/ SF (+ \$12,520).
- 4) Poor subsurface conditions encountered resulted in a reevaluation of the pavement section. It has been determined that a fiber-reinforced concrete drive surface would better support the anticipated traffic loads than asphalt. The current contract specifies a 2" asphalt surface course atop a 3" asphalt binder course for a total surface thickness of 5". For the greater strength and durability, Parks requests a change from the 5" thick asphalt to a 6" thick fiber-reinforced concrete slab. This needed change will increase the project cost by + \$2,835)
- 5) Consideration of design alternatives resulting from the subsurface conditions encountered and Council approval of Change Order 3 has caused a delay in work. The contractor is requesting \$2,500 for remobilization fees (+\$2,500).

These changes are necessary to provide a firm and stable structural roadway subgrade combined with a strong, durable fiber-reinforced concrete surface that will not be subject to vertical pumping movement and subsequent cracking and accelerated deterioration from high levels of subsurface moisture. In addition, the positive drainage conditions which direct runoff into the existing storm drain preventing this drainage impact to neighboring properties.

BUDGET/STAFF IMPACT:

Total cost for Change Order #3 is \$21,096. Approximately \$218 currently remains in the contingency budget for this project making a budget adjustment necessary. Unrecognized Southwest Quadrant Park Land Dedication Funds in the amount of \$30,777 are available and being requested to be recognized. \$20,878 of this is required for the revised budget. The remaining \$9,899 is requested as contingency.

Attachments:

Change Order #3 Form
Resolution 231-16
Budget Adjustment Form



CHANGE ORDER NO. 3 Cost Plus _____ Pre-Agreed Unit Price X

Project Name and Number: Wilson Park Grant Match 13001.1601

Name of Contractor: TNT, Inc.

Address of Contractor: 4884 Alma Highway, Van Buren, AR 72956

Date of Contract: December 20, 2016

Original Contract Sum: \$97,560.00
Total Amount of All Previous Approved Change Orders: \$9,538.00
Contract Sum prior to this Change Order: \$107,098.00
Contract Sum increase this Change Order: (not to exceed) \$21,096.00
New Contract Sum including this Change Order: \$128,194.00

Subject and Reason for this Change Order: Staff is requesting approval for the following changes:

- 1) Unforeseen subsurface conditions and excessive moisture have required removal of a larger amount of encountered expansive clay, requiring replacement with a larger amount of select fill than originally anticipated plus an additional 9 SY of class 7 base (+ \$1,816).
- 2) Due to a change in the layout of the parking and driveway to protect trees and provide safe turning radius for buses, additional curb and gutter is required to complete the new design (+ \$1,425).
- 3) Change order #1 added scope for grading a drainage swale into the adjacent lawn area in order to prevent runoff from flowing across Wilson Avenue and into a neighboring garage. The site's regrading will now direct runoff into a stormwater drain inlet. Change order #1 included costs for the grading, but site restoration costs were not included. The regrading resulted in an increase of 3,130 SF of site restoration at a unit cost of \$4.00/ SF. \$12,520 us being requested.
- 4) Poor subsurface conditions encountered resulted in a reevaluation of the pavement section. It has been determined that a fiber-reinforced concrete drive surface would better support the anticipated traffic loads than asphalt. The current contract specifies a 2" asphalt surface course atop a 3" asphalt binder course for a total surface thickness of 5". For the greater strength and durability, Parks requests a change from the 5" thick asphalt to a 6" thick fiber-reinforced concrete slab. This needed change will increase the project cost by + \$2,835)
- 5) Consideration of design alternatives resulting from the subsurface conditions encountered and Council approval of Change Order 3 has caused a delay in work. The contractor is requesting \$2,500 for remobilization fees (+\$2,500).

These changes are recommended in order to provide:

- 1) A firm and stable structural roadway surface and subgrade combined with a strong, durable fiber-reinforced concrete surface that will not be subject to a vertical pumping movement and subsequent cracking and accelerated deterioration from high levels of subsurface moisture.
- 2) Positive drainage conditions which direct runoff into existing stormwater drains and prevents impacting neighboring properties.

Additional Time Requested: 21 Calendar Days* (*Period of time necessary for review of change order budget request)

Dated this 11th day of April, 2017

CITY OF FAYETTEVILLE
Parks & Recreation Department

By: _____

Ken Eastin, Park Planner II

CITY OF FAYETTEVILLE

T-N-T, Inc.
Contractor

By: _____

Title: President

By: _____

Mayor Lioneld Jordan

ATTEST:

ATTEST:

Edwin Hill, Witness



113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Resolution: 231-16

File Number: 2016-0628

BID NO. 16-63 T-N-T, INC.:

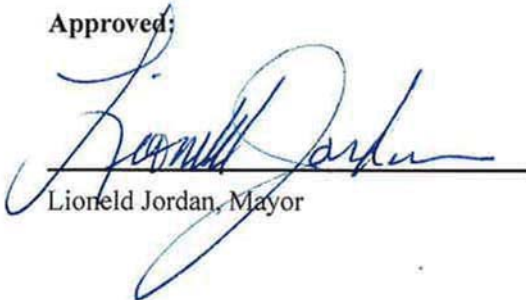
A RESOLUTION TO AWARD BID NO. 16-63 AND AUTHORIZE A CONTRACT WITH T-N-T, INC. OF VAN BUREN, ARKANSAS IN THE AMOUNT OF \$97,560.00 FOR CONSTRUCTION OF AN ACCESS DRIVE, CURB AND GUTTER, AND PARKING IMPROVEMENTS AT WILSON PARK, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$9,756.00.

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

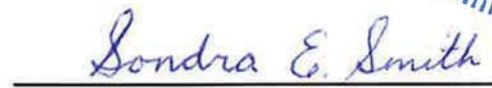
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards Bid No. 16-63 and authorizes a contract with T-N-T, Inc. of Van Buren, Arkansas in the amount of \$97,560.00 for construction of an access drive, curb and gutter, and parking improvements at Wilson Park, and further approves a project contingency in the amount of \$9,756.00.

PASSED and APPROVED on 12/20/2016

Approved:


Lioneld Jordan, Mayor

Attest:


Sondra E. Smith, City Clerk Treasurer



Budget Year	Division	Adjustment Number
2017	PARKS & RECREATION (520)	
	/Org2	
	Requestor: Alan Bearden	

To recognize Park Land Dedication (SW Quadrant) revenues received into the Wilson Park Grant Match subproject. This relates to Change Order #3 (T-N-T, Inc. contract #2016-00000014) and will be used for installation of additional select road base fill and for a change in pavement surfacing from asphalt to fiber-reinforced concrete for extended durability.

	COUNCIL DATE:	5/2/2017
	LEGISTAR FILE ID#:	2017-0203
	Liz Hutchens	
	4/14/2017 10:48 AM	
	Budget Director	Date
	TYPE:	
	DESCRIPTION:	
	GLDATE:	
	POSTED:	/
RESOLUTION/ORDINANCE		

[illegible]



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0209

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 4

FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS:

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$30,000.00 RECOGNIZING REVENUE FROM THE COURT AUTOMATION FUND FOR UPGRADES TO THE ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS USED BY THE FAYETTEVILLE DISTRICT COURT

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 to this Resolution, in amount of \$30,000.00 recognizing revenue from the court automation fund for upgrades to the access control and video surveillance systems used by the Fayetteville District Court.

City of Fayetteville Staff Review Form

2017-0209

Legistar File ID

5/2/2017

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Dena Stockalper

4/11/2017

Fayetteville District Court /
General Government Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends authorizing the attached budget adjustment for the Fayetteville District Court in the amount of \$30,000.00 to recognize and appropriate revenue from the Court Automation Fund for technology upgrades to the Access Control and Video surveillance systems.

Budget Impact:

1010.040.0400-5210.00

General Fund

Account Number

Fund

39012.901

39012 District Court Automation

Project Number

Project Title

Budgeted Item? No

Current Budget \$ 7,058.56

Funds Obligated \$ -

Current Balance \$ 7,058.56

Does item have a cost? Yes

Item Cost \$ 28,116.43

Budget Adjustment Attached? Yes

Budget Adjustment \$ 30,000.00

Remaining Budget \$ 8,942.13

V20140710

Previous Ordinance or Resolution # 30-14

Original Contract Number:

Approval Date:

Comments:

TO: Mayor Jordan

THRU: William A. Storey, District Judge
Keith Macedo, Information Technology Director

FROM: Dena Stockalper, Chief Clerk
Brad Fulmer, Infrastructure Manager

DATE: April 11, 2017

SUBJECT: Budget Adjustment for Access Control and Video Surveillance

RECOMMENDATION:

Staff recommends authorizing the attached budget adjustment for the Fayetteville District Court in the amount of \$30,000.00 to recognize and appropriate revenue from the Court Automation Fund for technology upgrades to the Access Control and Video surveillance systems.

BACKGROUND:

The current access control and video surveillance systems are outdated and in need of replacement. The Access control upgrade will include the addition of 2 new doors and the replacement of 12 existing doors. The video surveillance upgrade will include 2 new cameras and the replacement of 9 existing cameras. Both systems will provide significant improvements in quality, visibility, access control, and overall security for the District Court facility.

DISCUSSION:

The Court Automation fund is supported by Arkansas Statue 16-13-704 which allows the Court to collect monies from installment payments. The Fund is to be used solely for the District Court for technology equipment, automation equipment, and related training.

BUDGET/STAFF IMPACT:

Funds are available within the Court Automation Fund to purchase the referenced access control and video surveillance systems.

Attachments:

Staff Review Form
Budget Adjustment Form
Arkansas Statute 16-13-704
Access Control Quote
Video Surveillance Quote

(ii) Expenditures may be made for indirect expenses related to implementation of new court-related technology, including overtime pay, personnel or travel expenses, and technology-related supplies.

(c) A defendant who has been authorized by the court to pay a fine by installments shall be considered to have irrevocably appointed the clerk of the court as his or her agent upon whom all papers affecting his or her liability may be served, and the clerk shall forthwith notify the defendant thereof by ordinary mail at his or her last known address.

(d) "Ability to pay" means that the resources of the defendant, including all available income and resources, are sufficient to pay the fine and provide the defendant and his or her dependents with a reasonable subsistence compatible with health and decency.

History. Acts 1995, No. 1262, § 3; 2001, No. 1809, § 13; 2003, No. 1185, § 94; 2003, No. 1765, § 10; 2005, No. 1934, § 7; 2009, No. 633, § 8.

Publisher's Notes. For text of section effective January 1, 2012, see the following version.

Amendments. The 2005 amendment added present (b)(1)(B), (b)(1)(C), (b)(2)(B), (b)(3)(B)(ii) and (b)(3)(D) and (b)(3)(E) and made related changes; inserted "circuit" twice in (b)(2)(A); substituted "16-13-712" for "6-13-712" in (b)(3)(A); in (b)(3)(B)(i), inserted "collected in district court" "of the city in which the district court is located" and "district" twice; and inserted "of the county in which the district court is located" in (b)(3)(C).

The 2009 amendment, in (b), inserted "on the first day of each month" in

(b)(1)(A), inserted "and shall be authorized ... technology related supplies" in (b)(2)(B)(i), deleted (b)(2)(B)(iii), which read: "All expenditures from the circuit court automation fund shall be authorized, pursuant to the county accounting law, by the quorum court," inserted (b)(3)(D)(ii) and (b)(2)(E)(ii), redesignated the remaining text of (b)(3)(D) and (b)(3)(E), and substituted "and paid, under state laws governing the appropriation and payment of county or municipal expenditures" for "pursuant to state accounting law" in (b)(31)(D)(i) and (b)(3)(E)(i); and made related and minor stylistic changes.

Effective Dates. Acts 2003, No. 1185, § 94: Jan. 1, 2005, by its own terms.

CASE NOTES

Right to Appeal.

City could not rely on the application of this section to claim that defendants' appeal had to be dismissed for the failure of defendants to pay an appeal bond because, even though the court had the right

to order installment payments, nothing in this section authorizes a district court to demand payment of the fine as a prerequisite for taking an appeal to circuit court. *Velek v. State*, 364 Ark. 531, 222 S.W.3d 182 (2006).

16-13-704. Installment payments. [Effective January 1, 2012.]

(a)(1) If the court concludes that the defendant has the ability to pay the fine, but that requiring the defendant to make immediate payment in full would cause a severe and undue hardship for the defendant and the defendant's dependents, the court may authorize payment of the fine by means of installment payments in accordance with this subchapter.

(2)(A) When a court authorizes payment of a fine by means of installment payments, it shall issue, without a separate disclosure

hearing, an order that the fine be paid in full by a date certain and that in default of payment, the defendant must appear in court to explain the failure to pay.

(B) In fixing the date of payment, the court shall issue an order which will complete payment of the fine as promptly as possible without creating a severe and undue hardship for the defendant and the defendant's dependents.

(b)(1)(A) In addition to the fine and any other assessments authorized by this subchapter, an installment fee of five dollars (\$5.00) per month shall be assessed on each person who is authorized to pay a fine on an installment basis.

(B) This fee shall be collected in full each month in which a defendant makes an installment payment.

(C) This fee shall accrue each month that a defendant does not make an installment payment and the fine has not been paid in full.

(2)(A)(i) One-half ($\frac{1}{2}$) of the installment fee collected in circuit court shall be remitted by the tenth day of each month to the Administration of Justice Funds Section of the Office of Administrative Services of the Department of Finance and Administration, on a form provided by that office, for deposit in the Judicial Fine Collection Enhancement Fund established by § 16-13-712.

(ii) The other half of the installment fee shall be remitted by the tenth day of each month to the county treasurer to be deposited in a fund entitled the circuit court automation fund to be used solely for circuit court-related technology.

(B)(i) Expenditures from the circuit court automation fund shall be approved by the administrative circuit judge of each judicial circuit.

(ii) Funds in each county in a judicial circuit may be pooled for expenditure pursuant to a circuit-wide technology plan approved by the administrative circuit judge.

(iii) All expenditures from the circuit court automation fund shall be authorized, pursuant to the county accounting law, by the quorum court.

(3)(A) One-half ($\frac{1}{2}$) of the installment fee collected in district court shall be remitted by the tenth day of each month to the Administration of Justice Funds Section, on a form provided by that section, for deposit in the Judicial Fine Collection Enhancement Fund established by § 16-13-712.

(B) The other half of the installment fee collected in district court shall be remitted by the tenth day of each month to the city treasurer of the city in which the district court is located to be deposited in a fund entitled the district court automation fund to be used solely for district court-related technology.

(C) In any district court which is funded solely by the county, the other half of this fee shall be remitted by the tenth day of each month to the county treasurer of the county in which the district court is located to be deposited in the district court automation fund to be used solely for district court-related technology.

(D) Expenditures from the district court automation fund shall be approved by a district judge and shall be authorized, pursuant to state accounting law, by the governing body or, if applicable, governing bodies which contribute to the expenses of a district court.

(c) Any defendant who has been authorized by the court to pay a fine by installments shall be considered to have irrevocably appointed the clerk of the court as his or her agent upon whom all papers affecting his or her liability may be served, and the clerk shall forthwith notify the defendant thereof by ordinary mail at his or her last known address.

(d) "Ability to pay" means that the resources of the defendant, including all available income and resources, are sufficient to pay the fine and provide the defendant and his or her dependents with a reasonable subsistence compatible with health and decency.

History. Acts 1995, No. 1262, § 3; 2001, No. 1809, § 13; 2003, No. 1185, § 94; 2003, No. 1765, § 10; 2005, No. 1934, § 7; 2007, No. 663, § 32.

Publisher's Notes. For text of section effective until January 1, 2012, see the preceding version.

Amendments. The 2007 amendment deleted "or city court" following "district court" in (b)(3)(A); deleted former (b)(3)(B)(ii) and (b)(3)(E); and made related changes.

Effective Dates. Acts 2007, No. 663, § 56, as amended by Acts 2009, No. 345, § 7, provided:

"(a) Sections 2 through 15 of this act are effective January 1, 2008.

"(b) Sections 16 through 50 and 52 through 55 of this act are effective January 1, 2012.

"(c) Section 51 of Act 663 of 2007 is effective January 1, 2012, except:

"(1) That portion of Section 51 of Act 663 of 2007 that is referred to in Act 663 of 2007 as 16-17-933, establishing the Cleburne County District Court and departments of that court, codified as § 16-17-936 is effective July 1, 2009; and

"(2) That portion of Section 51 of Act 663 of 2007 that is referred to in Act 663 of 2007 as 16-17-950, establishing the St. Francis County District Court and departments of that court, codified as § 16-17-954 is effective July 1, 2009."

CASE NOTES

Right to Appeal.

City could not rely on the application of this section to claim that defendants' appeal had to be dismissed for the failure of defendants to pay an appeal bond because, even though the court had the right

to order installment payments, nothing in this section authorizes a district court to demand payment of the fine as a prerequisite for taking an appeal to circuit court. *Velek v. State*, 364 Ark. 531, 222 S.W.3d 182 (2006).

16-13-705. Personal checks.

(a) The court shall accept personal checks drawn in the favor of a designated official, as provided in § 16-13-709, in payment of any fine or associated charge assessed by the court if the person issuing the check furnishes satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state.

(b)(1) If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check, not to exceed the actual costs incurred by the court or designated agency, may be imposed to recover processing and collection costs.



Date: 2-28-17

Customer: City of Fayetteville

To: Stefan Bachrodt

From: Billy York

PROJECT: District Court Building S2 Access and CCTV Upgrade

Access Control:

Scope of Work:

Takeover of a (12) existing doors of access and adding (2) Addition new doors of access at above location.

NOTE:

All existing door equipment and cable will be used except for prox readers which will be replaced

Purchase and installation of the following equipment:

- **(1) S2 14 Door Network Node to replace existing Bosch panels**
- **(2) Altronix 8 Door Lock Power Supply to replace existing Bosch power supplies**
- **(13) HID RP40 Prox Readers for badge entry**
- **(1) HID RPK40 Prox Keypad Reader for badge entry**
- **(2) Sentrol ¾ inch recess door contacts for new doors**
- **(2) Bosch DS160 Request to Exit Motion Sensors for new doors**
- **(2) HES 5000 Series Strikes to install on new doors**
- **(300ft) Access Control Cable for new doors**
- **(1) S2 64 Portal Expansion license for existing Netbox Controller**
- **Commissioning**
- **Demo of old equipment**
- **Travel**

Camera System:

Scope of work:

Installation of (2) new IP cameras at location, cameras will be added to existing NVR.

NOTE:

Installation only (NVR, cameras and Licenses) provided by owner.

Installation of the following equipment:

- **(1) Indoor Dome Camera**
- **(1) Outdoor Dome Camera**
- **Misc. mounting material**
- **Cat6 Cabling to Cameras**
- **Programming/Focus**
- **Travel**

Total Project Cost= \$16,450.00

S2 Solutions, Inc.
4531 E. 108th Street
Tulsa, OK 74137
1-855-573-7491
Oklahoma License #244553



S2 Solutions, Inc.
2828 NW 57th Street, Suite 211
Oklahoma City, OK 73112
405-570-1484
Oklahoma License # 244553

Assumptions

If required, management will provide all installation personnel with access badges, keys, and or escorts in order to perform the work in a timely manner.

Return trips for operational verification, of other vendor's equipment, will be at billable rates should there be no fault found with the cabling or device installation.

Any customer requested work and or materials beyond the original scope of work described in this proposal and or the "Proposal Attachment" is subject to additional charges.

Delays due to: closings, material availability, limited access or other events, which are the result of the customer, will be billed per hour for every hour the delay exists.

No electrical/conduit work is included in this proposal

Electrical power is to be supplied by others and will be available throughout the duration of this project.

“This pricing is valid for a period of “30” Calendar days from the date of this proposal”

Signature

Date

Printed Name

Title

***Thank you,
Billy York
Operations/Sales
(405) 200-3623
byork@s2-ok.com***

QUOTE CONFIRMATION



DEAR BRAD FULMER,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
1BQSYDY	4/3/2017	DISTRICT COURT CAMERAS	0915131	\$10,062.55

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Sony IPELA SNC-EP580 - network surveillance camera Mfg. Part#: SNCEP580 UNSPSC: 46171610	1	2531541	\$2,537.63	\$2,537.63
Sony IPELA SNC-EM632RC - E Series - network surveillance camera Mfg. Part#: SNCEM632RC UNSPSC: 46171610	1	3598799	\$778.04	\$778.04
Sony IPELA SNC-EM630 - network surveillance camera Mfg. Part#: SNCEM630 UNSPSC: 46171610	10	3180747	\$574.55	\$5,745.50

PURCHASER BILLING INFO	SUBTOTAL	\$9,061.17
Billing Address: CITY OF FAYETTEVILLE ACCTS PAYABLE 113 W MOUNTAIN ST FAYETTEVILLE, AR 72701-6083 Phone: (479) 575-8367 Payment Terms:	SHIPPING	\$107.43
	SALES TAX	\$893.95
	GRAND TOTAL	\$10,062.55
DELIVER TO	Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	
Shipping Address: CITY OF FAYETTEVILLE ATTN:STEFAN BACHRODT 113 W MOUNTAIN ST FAYETTEVILLE, AR 72701-6069 Phone: (479) 575-8367 Shipping Method: FEDEX Ground		

Need Assistance? CDW•G SALES CONTACT INFORMATION



Lena Pekaj

(866) 567-1653

lenapek@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at <http://www.cdwg.com/content/terms-conditions/product-sales.aspx>
For more information, contact a CDW account manager

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City of Fayetteville, Arkansas - Budget Adjustment Form (Legistar)

Budget Year 2017	Division /Org2 DISTRICT COURT (040) Requestor: Dena Stockalper	Adjustment Number
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BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Purchase technology upgrades to the Access Control System and Video surveillance system for the Fayetteville District Court. Move funds from the Court Automation project into the District Court minor equipment.

RESOLUTION/ORDINANCE	COUNCIL DATE:	5/2/2017
	LEGISTAR FILE ID#:	2017-0209
	<i>Liz Hutchens</i> 4/13/2017 3:20 PM	
	Budget Director	Date
	TYPE:	
	DESCRIPTION:	
	GLDATE:	
	POSTED:	/

TOTAL	30,000	30,000					v.20161220
	Increase / (Decrease)		Project.Sub#				
Account Number	Expense	Revenue	Project	Sub	AT	Account Name	
1010.040.0400-5210.00	30,000	-	39012	901	EX	Minor Equipment - :	
	-	-					
1010.900.0001-4900.00	-	30,000	39012	901	RE	Miscellaneous Revenue - base	
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0183

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 5

HAWKINS-WEIR ENGINEERS, INC.:

A RESOLUTION TO APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC. IN AN AMOUNT NOT TO EXCEED \$71,820.00 FOR ENGINEERING SERVICES RELATED TO THE ELIMINATION OF THE MASTERS SEWER LIFT STATION, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$7,182.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a professional engineering services agreement with Hawkins-Weir Engineers, Inc. in an amount not to exceed \$71,820.00 for engineering services related to the elimination of the Masters Sewer Lift Station, and further approves a project contingency in the amount of \$7,182.00.

City of Fayetteville Staff Review Form

2017-0183

Legistar File ID

5/2/2017

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

Tim Nyander

3/29/2017

Utilities Director /
Utilities Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A RESOLUTION APPROVING AN AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC. IN THE NOT-TO-EXCEED AMOUNT OF \$61,820.00 FOR ENGINEERING SERVICES, APPROVING A NOT-TO-EXCEED AMOUNT OF \$10,000.00 FOR REIMBURSABLE EXPENSES ASSOCIATED WITH THE ELIMINATION OF THE MASTERS SEWER LIFT STATION, AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$7,182.00

Budget Impact:

5400.720.5700-5815.00

Water and Sewer

Account Number

Fund

02017.1

Sanitary Sewer Rehabilitation

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 5,326,605.50

Funds Obligated \$ 124,000.92

Current Balance \$ 5,202,604.58

Does item have a cost? Yes

Item Cost \$ 79,002.00

Budget Adjustment Attached? No

Budget Adjustment \$ -

Remaining Budget \$ 5,123,602.58

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Water & Sewer Committee

FROM: Tim Nyander, Utilities Director

DATE: March 28, 2017

SUBJECT: Resolution approving an agreement with Hawkins-Weir Engineers, Inc. for professional engineering services and reimbursable expenses associated with the elimination of the Masters Sewer Lift Station

RECOMMENDATION:

Staff recommends a Resolution approving an agreement with Hawkins-Weir Engineers, Inc. in the not-to-exceed amount of \$ 61,820.00 for engineering services, approving a not-to-exceed amount of \$10,000 for reimbursable expenses associated with the elimination of the Masters Sewer Lift Station, and approval of a project contingency in the amount of \$7,182.00.

BACKGROUND:

The elimination of the Masters Lift Station (Sewer Lift Station 23) is a recommended 2017 CIP project in the Wastewater Collection System 2014 Master Plan Update.

Hawkins-Weir Engineers, Inc. was selected for this task in a formal engineering selection committee meeting on February 23, 2016, City of Fayetteville RFQ 16-01, Engineer and Architect - Selection #9. The contract scope the not to exceed costs and the reimbursable expenses were negotiated by City Utilities staff.

DISCUSSION:

The proposed engineering contract will provide the survey and design for a future construction project to eliminate the existing back yard lift station and force main by providing a future gravity sewer line from the lift station location to the east/northeast to an existing gravity sewer.

BUDGET/STAFF IMPACT:

Budgeted funds are available in Sanitary System Rehabilitation project.

Attachments:

Staff Review Form
Engineering Services Agreement
Vicinity Map

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And

HAWKINS-WEIR ENGINEERS, INC.

Masters Lift Station Elimination: Design of new gravity sewer from the Masters Lift Station to an existing gravity sewer near City Lake Road, and elimination of the Masters Lift Station.

THIS AGREEMENT is made as of _____, 20__, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and Hawkins-Weir Engineers, Inc. with offices located in Fayetteville, Arkansas; Van Buren, Arkansas; and Little Rock, Arkansas (hereinafter called ENGINEER).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the evaluation, planning, design, and/or construction administration of capital improvement projects. Therefore, CITY OF FAYETTEVILLE and ENGINEER in consideration of their mutual covenants agree as follows:

ENGINEER shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of ENGINEER's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field. If Construction Phase Services are to be provided by ENGINEER under this Agreement, the construction shall be executed under the observation of a professional engineer registered in the State of Arkansas in accordance with Arkansas Code Amended §22-9-101.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of ENGINEER.
- 1.2 Assignments from CITY OF FAYETTEVILLE to ENGINEER may include services described hereafter as Basic Services or as Additional Services of ENGINEER.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF ENGINEER

- 2.1 Perform professional design services in connection with the Project as hereinafter stated.
 - 2.1.1 The Scope of Services to be furnished by ENGINEER during this project is included in Appendix A attached hereto and made part of this Agreement.
- 2.2 ENGINEER shall coordinate their activities and services with the CITY OF FAYETTEVILLE. ENGINEER and CITY OF FAYETTEVILLE agree that ENGINEER has full responsibility for the engineering services.

SECTION 3 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

- 3.1 CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of ENGINEER:
 - 3.1.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.
 - 3.1.2 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

- 3.1.3 Assist ENGINEER in obtaining access to property reasonably necessary for ENGINEER to perform its services under this Agreement.
- 3.1.4 Examine all studies, reports, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by ENGINEER and render in writing decisions pertaining thereto.
- 3.1.5 The Utilities Director is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 3.1.6 CITY OF FAYETTEVILLE will review all documents and provide written comments to ENGINEER in a timely manner.

SECTION 4 - PERIOD OF SERVICE

- 4.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 4.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. ENGINEER will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.
- 4.3 ENGINEER shall provide a schedule of its services and include such schedule with the scope in Appendix A.

SECTION 5 - PAYMENTS TO ENGINEER

- 5.1 The maximum not-to-exceed amount authorized for the Basic Services of the Engineer (as defined by Section 2 of this Agreement) is **\$61,820.00**. The maximum not-to-exceed amount authorized for Reimbursable Expenses is \$10,000.00.

Reimbursable Expenses shall be limited to title and easement research, geotechnical investigation, ARKUPS utility locates, the Arkansas Department of Health review fee, and reproduction and printing costs.

- 5.2 The CITY OF FAYETTEVILLE shall compensate ENGINEER based upon a unit price or lump sum basis as described in Appendix A.

- 5.2.1 The maximum not-to-exceed amount authorized for this Agreement is based upon the estimated fee scope, hours, costs and expenses per phase. The estimated fee spreadsheets shall be included in Appendix A. The amount for any phase may be more or less than the estimate, however the maximum not-to-exceed amount shall not be exceeded without a formal contract amendment.

- 5.3 Statements

- 5.3.1 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE consistent with ENGINEER's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by ENGINEER and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project schedule. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the professional engineering services.

5.4 Payments

- 5.4.1 All statements are payable upon receipt and generally due within thirty (30) days. If a portion of ENGINEER's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise ENGINEER in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

5.5 Final Payment

- 5.5.1 Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, ENGINEER shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by ENGINEER to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against ENGINEER or ENGINEER's sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Insurance

- 6.1.1 During the course of performance of these services, ENGINEER will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

ENGINEER will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

6.1.2 CITY OF FAYETTEVILLE and ENGINEER waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of ENGINEER's services.

6.2 Professional Responsibility

6.2.1 ENGINEER will exercise reasonable skill, care, and diligence in the performance of ENGINEER's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices, CITY OF FAYETTEVILLE Standards, Arkansas State Law and the Rules and regulations of the Arkansas Board of Licensure For Professional Engineers and Professional Surveyors. CITY OF FAYETTEVILLE will promptly report to ENGINEER any defects or suspected defects in ENGINEER's services of which CITY OF FAYETTEVILLE becomes aware, so that ENGINEER can take measures to minimize the consequent of such defect. ENGINEER agrees not to seek or accept any compensation or reimbursements from the CITY OF FAYETTEVILLE for engineering work it performs to correct any errors, omissions or other deficiencies caused by ENGINEER's failure to meet customarily accepted professional engineering

practices. CITY OF FAYETTEVILLE retains all other remedies to recover for its damages caused by any negligence of ENGINEER.

6.2.2 In addition ENGINEER will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by ENGINEER's Commercial General Liability and Automobile Liability Insurance policies.

6.3 Cost Opinions and Projections

6.3.1 Cost opinions and projections prepared by ENGINEER relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on ENGINEER's experience, qualifications, and judgment as a design professional. Since ENGINEER has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, ENGINEER does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by ENGINEER.

6.4 Changes

6.4.1 CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of ENGINEER's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the duly authorized officer of ENGINEER.

6.5 Termination

6.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

6.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.1.2 An opportunity for consultation with the terminating party prior to termination.

6.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that ENGINEER is given:

6.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.2.2 An opportunity for consultation with the terminating party prior to termination.

6.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

6.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

6.5.3.2 Any payment due to ENGINEER at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of ENGINEER's default.

6.5.4 If termination for default is effected by ENGINEER, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination

settlement costs reasonably incurred by ENGINEER relating to commitments which had become firm prior to the termination.

6.5.5 Upon receipt of a termination action under Paragraphs 6.5.1 or 6.5.2 above, ENGINEER shall:

6.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),

6.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by ENGINEER in performing this Agreement, whether completed or in process.

6.5.6 Upon termination under Paragraphs 6.5.1 or 6.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

6.5.7 If, after termination for failure of ENGINEER to fulfill contractual obligations, it is determined that ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 6.5.4 of this clause.

6.6 Delays

6.6.1 In the event the services of ENGINEER are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond ENGINEER's reasonable control, ENGINEER shall be entitled to additional compensation and time for reasonable costs incurred by ENGINEER in temporarily closing down or delaying the Project.

6.7 Rights and Benefits

6.7.1 ENGINEER'S services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

6.8 Dispute Resolution

6.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and ENGINEER which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or ENGINEER in the performance of this Agreement, and disputes concerning payment.

6.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 6.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 6.8.3 and 6.8.4 have been complied with.

6.8.3 Notice of Dispute

6.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

6.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give ENGINEER written Notice at the address listed in Paragraph 6.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

6.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and ENGINEER shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of ENGINEER and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the

Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

6.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to ENGINEER for services rendered by ENGINEER.

6.10 Publications

6.10.1 Recognizing the importance of professional development on the part of ENGINEER's employees and the importance of ENGINEER's public relations, ENGINEER may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to ENGINEER's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to ENGINEER. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of ENGINEER's activities pertaining to any such publication shall be for ENGINEER's account.

6.11 Indemnification

6.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and ENGINEER from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

6.12 Ownership of Documents

6.12.1 All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and

data are and remain the property of CITY OF FAYETTEVILLE. ENGINEER may retain reproduced copies of drawings and copies of other documents.

6.12.2 The CITY OF FAYETTEVILLE acknowledges the ENGINEER's plans and specifications, including documents on electronic media ("delivered documents"), as instruments of professional services. Nevertheless, the delivered documents prepared under this Agreement shall be delivered to and become the property of the CITY OF FAYETTEVILLE upon completion of the services and payment in full of all monies due to ENGINEER. Except for the ENGINEER's services provided for by this Agreement as related to the construction and completion of the Project, the ENGINEER accepts no liability arising from any reuse of the delivered documents by the CITY OF FAYETTEVILLE, unless ENGINEER is retained by CITY OF FAYETTEVILLE to make modifications or otherwise reuse the delivered documents. Except where the CITY OF FAYETTEVILLE reuses the delivered documents subsequent to the completion of the Project, nothing contained in this paragraph shall alter the ENGINEER's responsibilities and obligations under this Agreement.

6.12.3 Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. ENGINEER makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

6.13 Notices

6.13.1 Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:
113 West Mountain
Fayetteville, AR 72701

ENGINEER's address:

438 East Milsap Road, Suite 107
Fayetteville, AR 72703

6.14 Successor and Assigns

6.14.1 CITY OF FAYETTEVILLE and ENGINEER each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor ENGINEER shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

6.15 Controlling Law

6.15.1 This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

6.16 Entire Agreement

6.16.1 This Agreement represents the entire Agreement between ENGINEER and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to ENGINEER a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by ENGINEER, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 7 - SPECIAL CONDITIONS

- 7.1 Additional Responsibilities of ENGINEER:
 - 7.1.1 CITY OF FAYETTEVILLE's or any Federal or State Agency's review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve ENGINEER of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's nor any Federal or State Agency's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
 - 7.1.2 ENGINEER shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by ENGINEER's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
 - 7.1.3 ENGINEER's obligations under this clause are in addition to ENGINEER's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against ENGINEER for faulty materials, equipment, or work.
- 7.2 Remedies
 - 7.2.1 Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and ENGINEER arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.
- 7.3 Audit: Access to Records
 - 7.3.1 ENGINEER shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date

of execution of this Agreement. ENGINEER shall also maintain the financial information and data used by ENGINEER in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. ENGINEER will provide proper facilities for such access and inspection.

7.3.2 Records under Paragraph 7.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

7.3.3 This right of access clause (with respect to financial records) applies to:

7.3.3.1 Negotiated prime agreements:

7.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

7.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

7.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of ENGINEER;

7.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

- 7.3.3.3.3 If the subagreement is terminated for default or for convenience.
- 7.4 Covenant against Contingent Fees
- 7.4.1 ENGINEER warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ENGINEER for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
- 7.5 Gratuities
- 7.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that ENGINEER or any of ENGINEER's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to ENGINEER terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.
- 7.5.2 In the event this Agreement is terminated as provided in Paragraph 7.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against ENGINEER as it could pursue in the event of a breach of the Agreement by ENGINEER. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten

times the costs ENGINEER incurs in providing any such gratuities to any such officer or employee.

7.6 Arkansas Freedom of Information Act

7.6.1 City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, ENGINEER will provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

7.6.2 Pursuant to Arkansas Code Ann. § 25-19-105(b)(20), the personal information of CITY OF FAYETTEVILLE water system customers must be treated as confidential information and shall not be made available for inspection except by ENGINEER's employees as required to fulfill the terms of this Agreement. Upon completion of ENGINEER's contractual duties and after approval of ENGINEER's documents, the ENGINEER agrees to destroy or return to CITY OF FAYETTEVILLE any copies of records containing information about CITY OF FAYETTEVILLE water system customers.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and ENGINEER, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor, Lioneld Jordan

ATTEST:
By: _____
City Clerk

HAWKINS-WEIR ENGINEERS, Inc.

By: Brett D. Peters

Title: President & CEO

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES



March 15, 2017

Mr. Jim Beavers, P.E.
Utilities Engineer
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Re: Masters Lift Station Elimination
HWEI Project No. 2017027

Dear Mr. Beavers:

We appreciate the opportunity to submit this proposal to perform engineering services associated with the Masters Lift Station Elimination Project for the City of Fayetteville, Arkansas.

Enclosed, please find a scope of services task list detailing the Basic Services proposed for this project. In summary, our services will consist of preparing a Preliminary Engineering Report, preparing Final Design Documents including detailed plans and specifications, and providing assistance during Bidding.

The scope of services for this project does not presently include any construction management services. We understand that construction management services will be negotiated during the latter portion of the bidding phase, and with the City's concurrence will be added by Amendment to our Contract.

Our fee for Basic Services will be invoiced based on our Standard Hourly Billing Rates as compensation for services and expenses of principals and employees of Hawkins-Weir Engineers. The not to exceed fee for these services is **\$61,820**, plus subconsultant fees and Reimbursable Expenses. Additional services will be provided only upon receipt of written authorization, and these additional services will be invoiced at our standard hourly rates. A copy of our Standard Hourly Billing Rate Structure is enclosed.

Reimbursable Expenses, including subconsultant fees, incurred in connection with all Basic and Additional Services will be charged based on their actual costs. We recommend that you budget **\$10,000** for the following reimbursable expenses: title and easement research, geotechnical investigation, ARKUPS utility locates, the Arkansas Department of Health (ADH) review fee, and reproduction and printing.

We will invoice you monthly for Basic Services and Reimbursable Expenses. Reimbursable Expenses will be invoiced in full as they are incurred.

110 So. 7th Street • P.O. Box 648 • Van Buren, AR 72957 • Ph: (479) 474-1227 • Fax: (479) 474-8531
211 Natural Resources Drive • Little Rock, AR 72205 • Ph: (501) 374-4846
438 East Millsap Road • Suite 107 • Fayetteville, AR 72703 • Ph: (479) 455-2206



Mr. Jim Beavers, P.E.

Page 2

March 15, 2017

We will commence this work immediately upon your approval of this proposal and authorization to proceed, and will complete the work through the completion of the bidding phase within 5-months. If there are changes in scope or protracted delays for reasons beyond our control, we would expect to negotiate with you an equitable adjustment of our compensation taking into consideration the impact of such changes and delays.

If this proposal is both acceptable and satisfactorily describes the project and the scope of services, we will prepare and execute a copy of the City's Standard Agreement for Engineering Services. If you have any questions, or require additional information, please do not hesitate to call.

Sincerely,

HAWKINS-WEIR ENGINEERS, INC.

Brett D. Peters, P.E.

BDP/jsd

Enclosures: Scope of Services

Standard Hourly Billing Rate Structure, effective August 21, 2016

cc: Lisa Huckelbury

Appendix A
Scope of Services
Masters Lift Station Elimination Project
City of Fayetteville, Arkansas
HWEI Project No. 2017027
March 15, 2017

Task Description

Task 1 – Preliminary Design Phase

1. Participate in project kickoff meeting with the Owner
2. Prepare a Preliminary Engineering Report
 - a. Evaluate gravity sewer line route options
 - b. Evaluate directional boring as an alternative method for the installation of steep gravity sewer lines.
 - c. Meet with City Staff to present the Preliminary Engineering Report
3. Manage title research for the selected route by our sub-consultant Waco Title
4. Prepare Land Descriptions for Rights of Entry
5. Survey the Selected Route
 - a. Coordinate utility locates through ARKUPS
6. Manage a geotechnical soils investigation of the selected route by our sub-consultant GTS, Inc.
7. Prepare a base drawing

Task 2 – Final Design Phase

1. Prepare final design drawings and construction details
 - a. Prepare and submit a 50% design review set of drawings, including a 50% cost estimate
 - i. Participate in a 50% design review meeting with the Owner and prepare meeting minutes
 - b. Prepare and submit a pre-final design review set of drawings, including a pre-final cost estimate
 - i. Participate in a pre-final design review meeting with the Owner and prepare meeting minutes
 - c. Prepare and submit a final set of drawings and construction details sealed by a Professional Engineer licensed in the State of Arkansas, including a final cost estimate
2. Prepare special conditions and bid documents. The City will provide front end documents and technical specifications. Format for specifications will be the City's Standard Specifications
3. Prepare Land Descriptions and exhibits for Easement Documents
 - a. Coordinate with the City Land Agent and prepare any required document revisions
4. Prepare the Arkansas Department of Environmental Quality (ADEQ) storm water pollution prevention plan (SWPPP)
5. Prepare the Arkansas Highway and Transportation Department (AHTD) utility permit
6. Perform quality assurance review of the design documents
7. Deliver one (1) reproducible full-size copy, two (2) half-size copies, and one (1) electronic copy of the plans and specifications to the City for their use and for reproduction

Task 3 – Advertising and Bidding Phase

1. Assist the City in advertising the project for bidding
2. Conduct a pre-bid conference with the Owner and prospective bidders
3. Prepare any necessary bidding addendums
4. Assist the City in receiving bids and preparing a certified bid tabulation
5. Review bids and prepare a recommendation to the City for the award of a Construction Contract
6. Assist in the preparation of Contract Documents for execution between the City and Contractor

Standard Billing Rate Structure
For Hourly Fee Based Contracts
Hawkins-Weir Engineers, Inc.
Effective January 1, 2017 through August 19, 2017

Engineer

Engineer VII	\$ 180 Per Hour
Engineer VI	\$ 165 Per Hour
Engineer V	\$ 150 Per Hour
Engineer IV	\$ 135 Per Hour
Engineer III	\$ 120 Per Hour
Engineer II	\$ 105 Per Hour
Engineer I	\$ 80 Per Hour

Engineering Technician

Designer II	\$ 100 Per Hour
Designer I	\$ 75 Per Hour
Technician III	\$ 85 Per Hour
Technician II	\$ 75 Per Hour
Technician I	\$ 50 Per Hour

Field Technician - Field Inspector

Inspector II	\$ 75 Per Hour
Inspector I	\$ 60 Per Hour

Field Surveying

GPS Survey	\$ 175 Per Hour
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Administrative

Business Manager	\$ 85 Per Hour
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Expert Witness

Preparation	At Engineer's Hourly Rate
Testimony, less than 1/2 day	\$1,000
Testimony, per Day	\$2,000

Expenses Reimbursable Expenses and upcharges are determined by the Client Agreement/Contract

Subconsultants/Outside Services		
Express Delivery, Field Supplies, Testing, Review/Filing Fees and Advertising		
Travel:	Hotel and meals	Actual Cost
	Vehicle	\$0.535 per mile effective 1/1/17* \$0.54 per mile for 2016*
Reproduction:	Outside printing service	Actual Cost
	In-house printing	
	Letter Copy - B&W	\$ 0.10 Per Copy
	Letter Copy - Color	\$ 0.75 Per Copy
	22 x 34 Size Copy - B&W	\$ 3.00 Per Copy
	22 x 34 Size Copy - Color	\$10.00 Per Copy
	11 x 17 Size Copy - B&W	\$ 1.50 Per Copy
	11 x 17 Size Copy - Color	\$ 5.00 Per Copy
	CD Copy	\$ 5.00 Per Copy
	Binding	\$ 1.00 Each

* To be adjusted periodically to current IRS mileage rate

All Billings are due upon receipt unless prior arrangements for payment have been made.

City of Fayetteville, Arkansas
Masters Lift Station Elimination Project
Hawkins-Weir Project No. 2017027
March 15, 2017

Task 1 - Preliminary Design Phase

Task	Engr VII \$180	Engr III \$120	Engr I \$80	GPS Survey \$175	Designer II \$100	Tech III \$85	Tech I \$50	Total Hours	Total Cost
1. Participate in a project kick-off meeting with the Owner	4	4						8	\$1,200
2. Prepare a Preliminary Engineering Report	4	8					4	16	\$1,880
a) Evaluate gravity sewer line route options		8				8		16	\$1,640
b) Evaluate directional boring as an alternative method for the installation of steep gravity sewer lines		8						8	\$960
c) Meet with City Staff to present the Preliminary Engineering Report	4	4						8	\$1,200
3. Manage title research for the selected route by our sub-consultant Waco Title		4				4		8	\$820
4. Prepare Land Descriptions for Rights of Entry		2			8			10	\$1,040
a) Survey the Selected Route		4		32	4			40	\$6,480
b) Coordinate utility locates through ARKUPS					4			4	\$400
6. Manage a geotechnical soils investigation of the selected route by our sub-consultant GTS, Inc.		4						4	\$480
7. Prepare a base drawing		2				24		26	\$2,280
TOTAL HOURS =	12	48	0	32	16	36	4	148	
SUBTOTAL COST =	\$2,160	\$5,760	\$0	\$5,600	\$1,600	\$3,060	\$200	----->	\$18,380

Task 2 - Final Design Phase

Task	Engr VII \$180	Engr III \$120	Engr I \$80	GPS Survey \$175	Designer II \$100	Tech III \$85	Tech I \$50	Total Hours	Total Cost
1. Prepare final design drawings and construction details		24	40			40	4	108	\$9,680
a) Prepare and submit a 50% design review set of drawings, including a 50% cost estimate	4	2	4					10	\$1,280
i. Participate in a 50% design review meeting with the Owner and prepare meeting minutes		8	24			24	4	60	\$5,120
b) Prepare and submit a pre-final design review set of drawings, including a pre-final cost estimate	4	2	4					10	\$1,280
i. Participate in a pre-final design review meeting with the Owner and prepare meeting minutes		8	16			24		48	\$4,280
c) Prepare and submit a final design set of drawings and construction details sealed by a Professional Engineer licensed in the State of Arkansas, including a final cost estimate									
2. Prepare special conditions and bid documents. The City will provide front end documents and technical specifications. Format for specifications will be the City's Standard Specifications	4	16	24				16	60	\$5,360
3. Prepare Land Descriptions and exhibits for Easement Documents		4			16	8	4	32	\$2,960
a) Coordinate with City Land Agent and prepare any required document revisions		4			8	8	2	22	\$2,060
4. Prepare the Arkansas Department of Environmental Quality (ADEQ) storm water pollution prevention plan (SWPPP)		4	4		4	4	2	14	\$1,240
5. Prepare the Arkansas Highway and Transportation Department (AHTD) utility permit		2				4	2	8	\$680
6. Perform quality assurance review of the design documents	4	4	4			8		20	\$2,200
7. Deliver one (1) reproducible full-size copy, two (2) half-size copies, and one (1) electronic copy of the plans and specifications to the City for their use and for reproduction		2					2	4	\$340
TOTAL HOURS =	16	80	120	0	24	120	36	396	
SUBTOTAL COST =	\$2,880	\$9,600	\$9,600	\$0	\$2,400	\$10,200	\$1,800	----->	\$36,480

City of Fayetteville, Arkansas
Masters Lift Station Elimination Project
Hawkins-Weir Project No. 2017027
March 15, 2017

Task 3 - Advertising and Bidding Phase

Task	Engr VII \$180	Engr III \$120	Engr I \$80	GPS Survey \$175	Designer II \$100	Tech III \$85	Tech I \$50	Total Hours	Total Cost
1. Assist the City in advertising the project for bidding		2						2	\$240
2. Conduct a pre-bid conference with the Owner and prospective bidders		2	4					8	\$920
3. Prepare any necessary bidding addendums		2	4			8	8	30	\$2,560
4. Assist the City in receiving bids and preparing a certified bid tabulation		2	4				2	8	\$940
5. Review bids and prepare a recommendation to the City for the award of a Construction Contract		4					2	6	\$580
6. Assist in the preparation of Contract Documents for execution between the City and Contractor		2	8				8	18	\$1,720
TOTAL HOURS =	8	24	12	0	0	8	20	72	
SUBTOTAL COST =	\$1,440	\$2,880	\$960	\$0	\$0	\$680	\$1,000	----->	\$6,960

Reimbursable Expenses and Subconsultant Fees

Item	Description	Total
1. Outside Services - Title Research	Waco Title - 15 Parcels @ \$200/parcel - Deed of record and Easement Research	\$3,000
2. Outside Services - Geotechnical Testing	GTS - Soils exploration, laboratory testing, and Geotechnical Engineering Report	\$5,000
3. Outside Service - Utility Locates	ARKUPS	\$1,000
4. ADH Review Fee	Review of plans and specifications	\$500
5. Reproduction & Printing	Copies of plans and specifications	\$500
Total Estimated Reimbursables		\$10,000

ENGINEERING SERVICES SUMMARY

	Engr VII \$180	Engr III \$120	Engr I \$80	GPS Survey \$175	Designer II \$100	Tech III \$85	Tech I \$50	Total Hours	Total Cost
1.0 Hours - Preliminary Design Phase	16	48	0	32	16	36	4	148	\$18,380
2.0 Hours - Final Design Phase	16	80	120	0	24	120	36	396	\$36,480
3.0 Hours - Advertising and Bidding Phase	8	24	12	0	0	8	20	72	\$5,960
Reimbursable Expenses and Subconsultant Fees									\$10,000
TOTAL HOURS =	40	152	132	32	40	164	60	620	
TOTAL COST =	\$7,200	\$18,240	\$10,560	\$5,600	\$4,000	\$13,940	\$3,000		\$71,820



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/22/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh Sponsored Programs a division of Marsh USA Inc. PO Box 14404 Des Moines IA 50306	CONTACT NAME: PHONE (A/C, No, Ext): 800-338-1391 FAX (A/C, No): 888-621-3173 E-MAIL ADDRESS: aceccclientrequest@marsh.com														
INSURED Hawkins-Weir Engineers, Inc. PO Box 648 Van Buren, AR 72957-0648	<table border="1"><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A: Sentinel Insurance Company Ltd</td><td>11000</td></tr><tr><td>INSURER B: Hartford Insurance Co. of the Midwest</td><td>20605</td></tr><tr><td>INSURER C:</td><td></td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Sentinel Insurance Company Ltd	11000	INSURER B: Hartford Insurance Co. of the Midwest	20605	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

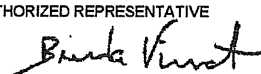
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC	Y	Y	84SBWZM2676 Prof. Liab. Excl.	11/01/2016	11/01/2017	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS	Y	Y	84UEGNM6289	11/01/2016	11/01/2017	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$10,000			84SBWZM2676	11/01/2016	11/01/2017	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☐ N/A	Y		84WEGPV0830	11/01/2016	11/01/2017	☒ WC STATUTORY LIMITS ☐ OTHER E.L. EACH ACCIDENT \$500,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: Job Name/Number: #2017027 Masters Lift Station Elimination Project
City of Fayetteville is included as additional insured when required by written contract.
Waiver of Subrogation is included when required by written contract.

CERTIFICATE HOLDER

CANCELLATION

City of Fayetteville Attn: Utilities Department 113 West Mountain Street Fayetteville, AR 72701	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
3/21/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER BancorpSouth Insurance Services, Inc. - LR PO Box 251510 Little Rock AR 72225-		CONTACT NAME: Ken Estes PHONE (A/C, No, Ext): 501-614-1572 E-MAIL ADDRESS: ken.estes@bxsi.com FAX (A/C, No):		
INSURED HAWKENG-01 Hawkins-Weir Engineers, Inc. P.O. Box 648 Van Buren AR 72957		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A : Navigators Insurance Company		42307
		INSURER B :		
		INSURER C :		
		INSURER D :		
		INSURER E :		
		INSURER F :		

COVERAGES

CERTIFICATE NUMBER: 1855875583

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC OTHER:						EACH OCCURRENCE	\$
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
							MED EXP (Any one person)	\$
							PERSONAL & ADV INJURY	\$
							GENERAL AGGREGATE	\$
							PRODUCTS - COMP/OP AGG	\$
								\$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	UMBRELLA LIAB ☐ EXCESS LIAB ☐ DED ☐ RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE	OTH-ER
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
A	Professional Liability			CM14DPL027028IV	7/11/2016	7/11/2017	Each Claim Limit	\$1,000,000
							Aggregate	\$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Description: Project #2017027, Masters Lift Station Elimination

CERTIFICATE HOLDER

City of Fayetteville
113 West Mountain Street
Fayetteville AR 72701

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



700 350 0 700 Feet



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0199

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 6

WASHINGTON REGIONAL MEDICAL CENTER:

A RESOLUTION TO WAIVE AND RELEASE ALL RIGHTS OF FIRST REFUSAL WITHIN PARAGRAPH 5.(C) OF THE REAL ESTATE CONVEYANCE AGREEMENT OF OCTOBER 4, 2011 AND THE OCTOBER 13, 2011 QUIT CLAIM DEED CONVEYING THE PROPERTY TO WASHINGTON REGIONAL MEDICAL CENTER

WHEREAS, after years' long litigation, Washington Regional Medical Center and the City of Fayetteville prevailed and Washington Regional Medical Center's ownership of the former City Hospital property through its Quiet Title Action was affirmed by the Arkansas Supreme Court; and

WHEREAS, the City Council wishes to expedite the ability of the Fayetteville Public Library to purchase the property (which adjoins the Library) for its planned expansion by waiving and/or releasing all provisions within the Real Estate Conveyance Agreement and Quit Claim Deed that gave the City of Fayetteville a thirty or sixty day right of first refusal.

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 waives and releases all of its preemptive rights to purchase and rights of first refusal concerning the former City Hospital Property contained in the Real Estate Conveyance Agreement of October 4, 2011 and the Quit Claim Deed from the City to Washington Regional Medical Center filed on October 13, 2011.

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expressly agrees that Washington Regional Medical Center may sell the property described in the City's Quitclaim Deed of October 13, 2011 to the Fayetteville Public Library.

City of Fayetteville Staff Review Form

2017-0199

Legistar File ID

5/2/2017

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

Kit Williams

4/6/2017

City Attorney /
General Government Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A RESOLUTION TO WAIVE AND RELEASE ALL RIGHTS OF FIRST REFUSAL WITHIN PARAGRAPH 5.(C) OF THE REAL ESTATE CONVEYANCE AGREEMENT OF OCTOBER 4, 2011 AND THE OCTOBER 13, 2011 QUIT CLAIM DEED CONVEYING THE PROPERTY TO WASHINGTON REGIONAL MEDICAL CENTER

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

Legistar ID No.: _____

AGENDA REQUEST FORM

FOR: Council Meeting of May 2, 2017

FROM:

City Attorney Kit Williams

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

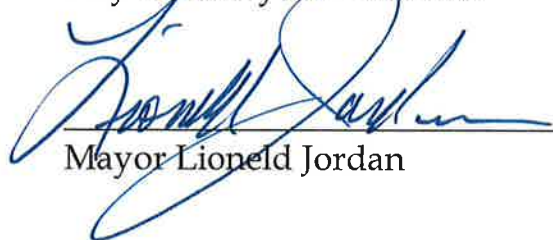
A RESOLUTION TO WAIVE AND RELEASE ALL RIGHTS OF FIRST REFUSAL WITHIN PARAGRAPH 5.(C) OF THE REAL ESTATE CONVEYANCE AGREEMENT OF OCTOBER 4, 2011 AND THE OCTOBER 13, 2011 QUIT CLAIM DEED CONVEYING THE PROPERTY TO WASHINGTON REGIONAL MEDICAL CENTER

APPROVED FOR AGENDA:



City Attorney Kit Williams

April 6, 2017
Date



Mayor Lioneld Jordan

4/6/17
Date



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: Mayor Jordan
City Council

CC: Don Marr, Chief of Staff
Paul Becker, Chief Financial Officer

FROM: Kit Williams, City Attorney

DATE: April 6, 2017

RE: Library's Purchase of City Hospital Land from Washington Regional Medical Center

Release of City's Preemptive Right to Purchase

Vince Chaddick, Fayetteville Public Library's attorney, has asked that the City formally waive or release our "Reservation of Preemptive Right to Purchase City (Hospital) Property," retained our Real Estate Conveyance Agreement approved by Resolution No. 178-11 of October 4, 2011. I have attached this Resolution and Agreement for your convenience.

This right at first refusal in this agreement expires automatically after sixty (60) days notice of the Library's offer to purchase the City Hospital land unless the City would meet such offer of purchase. In order to expedite the sale and transfer of the property to the Fayetteville Public Library, the Library has requested that the City formally waive or release its right to make such an offer to purchase as a right of first refusal. Accordingly, I have drafted a Resolution waiving and releasing the City's right of first referral so that the Fayetteville Public Library may purchase the property without any 60 day waiting period. This Resolution also waives and releases the same right of first refusal which was incorporated in the City's Quitclaim Deed to Washington Regional Medical Center (attached) which was approved by Resolution 67-11 of April 19, 2011 (attached).

I am still amazed that it took six years, four Court decision by 14 Judges and Justices (who all determined that the City acted properly and legally when we conveyed the former City Hospital property to Washington Regional Medical Center) to reach the point that Washington Regional can finally sell this property to the Fayetteville Public Library for it expansion.

On the bright side, I was able to research all the issues, prepare the Resolutions and agreement, draft all the pleadings, write all the motions and briefs to the Washington County Circuit Court, the Arkansas Court of Appeals and the Arkansas Supreme Court without employing any outside counsel nor incurring additional expense for the City of Fayetteville except for Appellee Brief printing and delivery costs. This is a far cry from the over a million dollars Fayetteville taxpayers had to pay to outside, private attorneys who unsuccessfully defended the City in the incinerator case in the early 1990's. Of course, the City then had to pay the attorneys who sued us and won 2.7 Million Dollars for their attorney fees.

RESOLUTION NO. 178-11

**A RESOLUTION TO APPROVE THE REAL ESTATE CONVEYANCE
AGREEMENT WITH WASHINGTON REGIONAL MEDICAL CENTER**

WHEREAS, on April 19, 2011, the Fayetteville City Council passed Resolution No. 67-11 which approved and authorized Mayor Jordan to sign a Quit Claim Deed conveying to Washington Regional Medical Center for the property donated to the City of Fayetteville by the Stones in 1906 and 1909 to be held by the City in trust until the location of the city hospital is changed and then "the entire proceeds of the above described premises shall constitute a trust fund to be devoted exclusively to the establishment and maintenance of" the newly designated successor hospital; and

WHEREAS, the City Council pursuant to Section 3 of Resolution No. 67-11 later appointed successor trustees or board members to the Stone City Hospital Board of Trustees, also known as the Fayetteville City Hospital Board of Directors; and

WHEREAS, the City Hospital Board of Trustees then met and designated Washington Regional Medical Center as the successor to the City Hospital thereby entitling WRMC to the land or proceeds of the City Hospital property; and

WHEREAS, Washington Regional Medical Center has prepared its Warranty Deed to the City of Fayetteville for the property needed for the roundabout and approved the City of Fayetteville's Quit Claim Deed conveying its interest in the City Hospital property to Washington Regional Medical Center as the successor city hospital.

**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 approves and authorizes Mayor Jordan to sign the attached Real Estate Conveyance Agreement to fulfill the City Council's commitment to convey the City Hospital property to Washington Regional Medical Center (WRMC) after the City Hospital Board had properly designated WRMC as the successor city hospital and to accept from WRMC by warranty deed the acreage needed to construct the roundabout near the hospital.

PASSED and APPROVED this 4th day of October, 2011.

APPROVED:

ATTEST:

By:


LIONELD JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk/Treasurer



REAL ESTATE CONVEYANCE AGREEMENT

THIS REAL ESTATE CONVEYANCE AGREEMENT (the "Agreement") is made and entered into as of this 4th day of October, 2011 (the "Effective Date"), by and between the **CITY OF FAYETTEVILLE, ARKANSAS, a municipal corporation** (the "City"), and **WASHINGTON REGIONAL MEDICAL CENTER, an Arkansas nonprofit corporation** ("WRMC").

WHEREAS, the City is the legal owner in trust of Block 37 as designated on the plat of the original town of Fayetteville, Arkansas, which real property is physically located at 221 S. School Avenue, in the City of Fayetteville, Arkansas, the legal description for which is set forth on Exhibit A (the "City Property");

WHEREAS, the City Property has long been utilized to operate a nursing and skilled nursing facility known as Fayetteville City Hospital (the "Facility"), the City Property and Facility having been leased to Washington Regional Medicorp., an Arkansas nonprofit corporation and affiliate of WRMC, pursuant to the terms of a certain Assignment and Lease Agreement dated July 26, 1991 and made between the City, Washington Regional Medicorp, and Fayetteville City Hospital Board (the "Lease Agreement");

WHEREAS, WRMC is the owner of approximately 1.10 acres of real property situated at the southwest corner of the intersection of North Hills Boulevard and Futrall Drive in the City of Fayetteville, Arkansas, the legal description for which is set forth on Exhibit B (the "WRMC Property");

WHEREAS, the City and WRMC are desirous of the City constructing a traffic roundabout at the intersection of North Hills Boulevard and Futrall Drive in furtherance of the Fayetteville Expressway Economic Development Corridor, Project No. 06035-1700 (the "Project"), and to improve the traffic flow through this intersection for WRMC patients, staff and the community. The City requires fee simple ownership of the WRMC Property to obtain the additional right-of-way necessary to proceed with construction of the Project;

WHEREAS, WRMC is desirous of obtaining fee simple ownership of the City Property so as to facilitate the replacement of the Facility by WRMC or one or more of its affiliates;

WHEREAS, the City has determined that the health and welfare of the citizens of the City of Fayetteville would be advanced through the conveyance of the City Property to WRMC and that the City has the legal authority pursuant to Ark. Code Ann. §14-54-302 and other state law to convey the City Property in consideration for the public advantage of improved hospital and related health care services for Fayetteville citizens, to secure the continuing and increased economic benefit that inures to the City of Fayetteville and its citizens by aiding WRMC, Fayetteville's second largest employer and a vitally important economic resource for the City, in modernizing and expanding health care facilities and services within the City of Fayetteville, and to fulfill the City's fiduciary duties as were imposed upon the City under the terms of the original conveyance of the City Property to the City of Fayetteville to ensure the establishment and maintenance of a city hospital within the City of Fayetteville;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and conditions set forth in this Agreement, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Conveyance of the WRMC Property.** Subject to the terms, covenants and conditions set forth in this Agreement, WRMC hereby agrees to convey the WRMC Property to the City. The WRMC Property will be used as right-of-way for the construction of a traffic roundabout at the intersection of North Hills Boulevard and Futrall Drive.

2. **Consideration for the WRMC Property.**

(a) As consideration for the conveyance by WRMC of the WRMC Property to the City, the City agrees to construct the proposed roundabout as soon as possible to help alleviate the current traffic congestion in that intersection and to abide by all the terms, covenants and conditions set forth in this Agreement.

(b) As further consideration for the conveyance by WRMC of the WRMC Property to the City, the City will, at its sole cost and expense, plant such additional trees at such other location on WRMC's property that is contiguous to the WRMC Property identified on **Exhibit B** as may be mutually agreed upon by WRMC and the City as is necessary to replace any tree preservation area that the City determines has been lost to the WRMC property that is contiguous to the WRMC Property identified on **Exhibit B** as a result of the conveyance of the WRMC Property.

3. **Conveyance of the City Property**

Subject to the terms, covenants and conditions set forth in this Agreement, the City of Fayetteville agrees to convey the City Property to WRMC by quitclaim deed. The City Property will be utilized by WRMC exclusively in connection with the establishment and maintenance of hospital and related health care facilities and services within the City of Fayetteville.

4. **Consideration for the City Property.**

(a) Consideration for the conveyance of the City Property to WRMC shall include, but is not limited to, the public advantage to the citizens and City of Fayetteville of continuing and improved hospital and related health care facilities and services for Fayetteville citizens, the continuing and increasing economic benefit that inures to the City of Fayetteville and its citizens from assisting and supporting WRMC (which is the City's second largest employer and an extremely important and valuable economic resources for Fayetteville) in modernizing and expanding health care facilities and services within the City of Fayetteville, and the fulfillment of the City of Fayetteville's fiduciary duties as were imposed upon the City under the terms of the original conveyance of the City Property to the City of Fayetteville to ensure the establishment and maintenance of a city hospital within the City of Fayetteville.

(b) As further consideration for this conveyance, WRMC agrees and pledges that any proceeds realized from any future sale of the City Property by WRMC, shall be utilized by WRMC in the establishment and maintenance of hospital and related healthcare facilities and services within the City of Fayetteville or for any other purpose incidental or related to the provision of hospital or related healthcare services to the citizens of Fayetteville.

5. Title to the Real Properties.

(a) Title to the WRMC Property. At the Closing, WRMC shall convey to the City fee simple title to the WRMC Property by means of a corporate warranty deed to be executed by WRMC in substantially the form attached hereto as Exhibit C.

(b) Title to the City Property. At the Closing, the City shall convey to WRMC fee simple title to the City Property by means of a quitclaim deed to be executed by the City in substantially the form attached hereto as Exhibit D.

(c) Reservation of Preemptive Right to Purchase City Property. The quitclaim deed delivered by the City to WRMC and attached hereto as Exhibit D shall contain language reserving to the City a preemptive right to purchase the City Property in the event WRMC shall elect to sell all or any portion of the City Property to a third party, upon the occurrence of which condition the City shall have a right of first refusal to meet any such bona fide offer to purchase on the same terms and conditions as are set forth in such third party's bona fide offer to purchase. Upon the City's failure to tender to WRMC a written bona fide offer to meet such third party's bona fide offer of purchase within sixty (60) days after written notice thereof to the City from WRMC, WRMC shall be free to sell or convey the City Property or any portion thereof to such third party only in accordance with the terms and conditions of the third party's bona fide offer of sale as presented to the City.

(d) Resolutions of the City and FCH Regarding the City Property. At Closing, the City shall deliver to WRMC a certified copy of the Resolution of the Fayetteville City Council authorizing the execution of this Agreement and the conveyance of the City Property to WRMC in the form attached hereto as Exhibit E.

6. Closing.

(a) Closing Date. Provided that this Agreement has not been terminated, the closing shall take place on a mutually acceptable date or before the ____ day of October, 2011 (the "Closing").

(b) Deliverables at the Closing From WRMC. At the Closing, WRMC shall deliver the following:

(i) Corporate Warranty Deed. WRMC shall deliver to the City a fully executed Corporate Warranty Deed in the form set forth on Exhibit C with respect to the WRMC Property.

(c) **Deliverables at the Closing From the City.** At the Closing, the City shall deliver the following:

(i) **Quitclaim Deed.** The City shall deliver to WRMC a fully executed Quitclaim Deed in the form set forth on **Exhibit D** with respect to the City Property.

(ii) **Certified Resolution.** The City shall deliver to WRMC a certified original of the Resolution duly passed and approved by the Fayetteville City Council in the form attached hereto as **Exhibit E**.

7. **Representations and Warranties of WRMC.**

(a) **Organization.** WRMC is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of Arkansas and has all requisite power and authority to enter into and perform its obligations under this Agreement.

(b) **Authorization.** The execution, delivery and performance of this Agreement by WRMC and the consummation by WRMC of the transactions contemplated hereby have been duly authorized by all necessary action on the part of WRMC.

(c) **Validity.** This Agreement has been duly executed and delivered by WRMC and constitutes the legal, valid and binding obligation of WRMC, enforceable against WRMC in accordance with its terms.

(d) **No Consents.** No consent or approval of, or declaration, filing or registration with any governmental agency or other third party is, to WRMC's knowledge, required or otherwise necessary in connection with the execution, delivery or performance of this agreement by WRMC or with respect to the consummation by WRMC of the transactions contemplated hereby.

8. **Representations and Warranties of the City.**

(a) **Organization.** The City is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Arkansas and has all requisite power and authority to enter into and perform its obligations under this Agreement.

(b) **Authorization.** The execution, delivery and performance of this Agreement by the City and the consummation by the City of the transactions contemplated hereby have been duly authorized by all necessary action on the part of the City.

(c) **Validity.** This Agreement has been duly executed and delivered by the City and constitutes the legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms.

9. **Miscellaneous.**

(a) **Assignment.** No party may assign any of its rights, duties or obligations under this Agreement without the prior written consent of the other parties hereto.

(b) **Further Assurances.** The parties agree that from time to time hereafter, upon request, each of them will promptly execute, acknowledge, and deliver such further documents and instruments, and take such further action, as may be reasonably necessary to carry out the intent of this Agreement.

(c) **Modification.** No term or provision contained herein may be modified, amended or waived except by written agreement or consent signed by the party to be bound thereby.

(d) **Binding Effect and Benefit.** This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto, and their respective successors and permitted assigns. Otherwise, nothing in this Agreement, express or implied, is intended to confer upon any other person or entity any rights as a third party beneficiary.

(e) **Headings and Captions.** Subject headings and captions are included for convenience purposes only and shall not affect the interpretation of this agreement.

(f) **Notice.** All notices, requests, demands and other communications required or permitted hereunder shall be in writing and either (i) delivered in person (ii) sent by Express Mail or other overnight delivery service providing receipt of delivery (iii) mailed by Certified or Registered Mail, postage prepaid return receipt requested or (iv) sent by telecopy or other facsimile transmission as follows:

If to the City, addressed or delivered in person to:

The City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701
Attn: Mayor

With a copy to:

The City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701
Attn: City Attorney

If to WRMC, addressed or delivered in person to:

Washington Regional Medical Center

Attn: President & Chief Executive Officer
3215 N. North Hills Boulevard
Fayetteville, Arkansas 72703

With copy to:

Washington Regional Medical Center
Attn: General Counsel
P.O. Box 9687
Fayetteville, AR 72703-0030

or to such other address or number as a party may designate by written notice delivered in accordance with this Section.

Any such notice or communication, if properly given or made in accordance with the terms hereof, shall be deemed to have been made when actually received, but not later than three (3) business days after the same was properly posted or given to such express delivery service, and if made properly by telecopy or other facsimile transmission, such notice or communication shall be deemed to have been made at the time of dispatch.

(g) **Severability.** If any portion of this Agreement is held invalid, illegal, or unenforceable, such determination shall not impair the enforceability of the remaining terms or provisions hereof.

(h) **Waiver.** No waiver of a breach or violation of any provision of this Agreement shall operate or be construed as a waiver of any subsequent breach or limit or restrict any right or remedy otherwise available. Any waiver must be in writing.

(i) **Entire Agreement.** This document (including its Exhibits) constitutes the entire agreement of the parties, with respect to the subject matter contained herein, and supersedes any and all other prior agreements, oral or written, with respect to the subject matter contained herein. There are no representations or warranties between the parties with respect to this transaction other than those expressly set forth herein (and in the Exhibits).

(j) **Governing Law.** This Agreement shall be subject to and governed by the laws of the State of Arkansas.

(k) **Incorporation by Reference.** All exhibits referred to in this Agreement shall be incorporated herein by any reference thereto as if fully set out.

(l) **Multiple Counterparts; Facsimile or Electronic Execution.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute the same document. To facilitate the execution of this

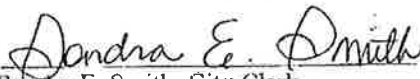
Agreement, the parties agree that the facsimile, email, electronic or PDF signature of a party shall be sufficient to bind that party to this Agreement.

(m) Time of the Essence. Time is of the essence of each provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CITY OF FAYETTEVILLE, ARKANSAS

By: 
Lioneld Jordan, Mayor

Attest: 
Sondra E. Smith, City Clerk



WASHINGTON REGIONAL MEDICAL CENTER

By: 
William L. Bradley,
President & Chief Executive Officer

Witness: 
Signature
Nancy J. Mitchell
Printed name and title

RESOLUTION NO. 67-11

A RESOLUTION TO DESIGNATE THE LOCATION OF WASHINGTON REGIONAL MEDICAL CENTER AS THE NEW LOCATION OF AND THE SUCCESSOR HOSPITAL OF THE CITY HOSPITAL, TO APPROVE AND AUTHORIZE THE MAYOR TO EXECUTE A QUIT CLAIM DEED TO CONVEY THE CURRENT SITE OF THE CITY HOSPITAL TO WASHINGTON REGIONAL MEDICAL CENTER, ALL CONTINGENT UPON THE CONCURRENT ACTION OF THE BOARD OF TRUSTEES OF THE CITY HOSPITAL TO DESIGNATE WASHINGTON REGIONAL MEDICAL CENTER AS THE SUCCESSOR CITY HOSPITAL AND THE DONATION OF APPROXIMATELY 1.1 ACRES BY WASHINGTON REGIONAL MEDICAL CENTER FOR CONSTRUCTION OF THE ROUNDABOUT AT NORTH HILLS BOULEVARD AND FUTRALL DRIVE.

WHEREAS, Mr. S.K. Stone and Mrs. Amanda M. Stone very generously deeded to Fayetteville a city block of land "to be by the said city, held in trust and maintained as a city hospital," in deeds of 1906 and 1909; and

WHEREAS, the citizens of Fayetteville taxed themselves to construct the City Hospital soon after the property was conveyed to Fayetteville in trust and this hospital has served our citizens well for over a century; and

WHEREAS, Washington Regional Medical Center was established in Fayetteville and has served Fayetteville citizens well as our primary, full service hospital for many decades, first at College and North and now at its current location on North Hills Boulevard; and

WHEREAS, because of the age and condition of the facilities on the land donated in trust by the Stones to the City, it is appropriate to designate Washington Regional Medical Center at North Hills Boulevard as successor City Hospital which is entitled to the current City Hospital's premises in trust "to be devoted exclusively to the establishment and maintenance of" the successor City Hospital (WRMC).

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 designates Washington Regional Medical Center as the successor to the Stone City Hospital at its location on North Hills Boulevard in Fayetteville.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves and authorizes Mayor Jordan to execute a Quit Claim Deed to Washington Regional Medical Center of the property donated to the City of Fayetteville by the Stones in 1906 and 1909 to be held by the City in trust until the location of the city hospital is changed and then "the entire

proceeds of the above described premises shall constitute a trust fund to be devoted exclusively to the establishment and maintenance of" the newly designated successor city hospital.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby expresses its intent to rapidly appoint sufficient successor trustees to the board of trustees named in Stones' 1906 deed to establish at least a quorum so that the Board of Trustees can determine whether to designate Washington Regional Medical Center as the successor to the Stone City Hospital at Washington Regional's address on North Hills Boulevard in Fayetteville.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby gratefully agrees to accept Washington Regional Medical Center's generous donation of approximately 1.1 acres of land needed for the Roundabout at the North Hills Boulevard and Futrall Drive intersection to alleviate congestion and provide better traffic flow for Washington Regional Medical Center's staff and patients and for other Fayetteville citizens.

PASSED and **APPROVED** this 19th day of April, 2011.

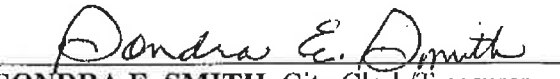
APPROVED:

ATTEST:

By:


LIONEL JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk/Treasurer



Parcel No. _____

QUITCLAIM DEED

Doc ID: 014250530001 Type: REL
Kind: QUITCLAIM DEED
Recorded: 10/13/2011 at 11:48:44 AM
Fee Amt: \$15.00 Page 1 of 1
Washington County, AR
Bette Stamps Circuit Clerk
File # 2011-00028645

BE IT KNOWN BY THESE PRESENTS:

THAT WE, the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTOR, for and in conformance with its duties pursuant to the deeds from S.K. Stone and Amanda M. Stone to the City of Fayetteville conveying their property, for the public advantage to the citizens and City of Fayetteville of continuing and improved hospital and related care for Fayetteville Citizens and economic benefit inuring to our citizens and city, and for other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, convey and quitclaim unto Washington Regional Medical Center, an Arkansas nonprofit corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, all of our right, title and interest, in and to the following described land situated in the County of Washington, State of Arkansas, to-wit:

Block Thirty-seven (37) on the original plat of the town (now City) of Fayetteville, Arkansas, as per plat on the file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, LESS AND EXCEPT easements of record and street right-of-way.

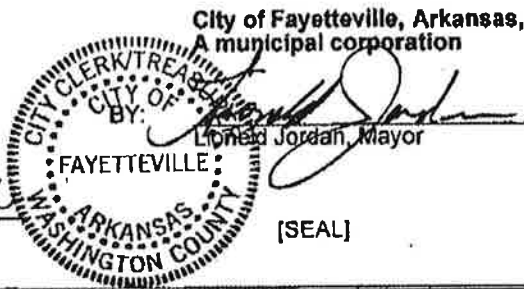
TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said grantee and grantee's successors and assigns, forever.

The City of Fayetteville shall have the right of first refusal to purchase the real estate hereby conveyed. Should the Washington Regional Medical Center elect to sell all or any portion of said real estate to a third party, the City of Fayetteville shall have the right of first refusal to meet any such bona fide offer to purchase on the same terms and conditions as are set forth in such third party's bona fide offer to purchase. Upon the Grantor's failure to meet such bona fide offer of purchase within thirty (30) days after written notice thereof to Grantor from Grantee, Washington Regional Medical Center shall be free to sell or convey the said real estate or any portion thereof to such third party only in accordance with the terms and conditions of the third party's bona fide offer of sale as presented to the Grantor.

IN TESTIMONY WHEREOF, the name of the Grantor is hereto affixed by its Mayor and its seal affixed by its City Clerk this 6th day of October, 2011.

ATTEST:

Sondra E. Smith
Sondra Smith, City Clerk



ACKNOWLEDGMENT

STATE OF ARKANSAS)

COUNTY OF WASHINGTON)

ss.

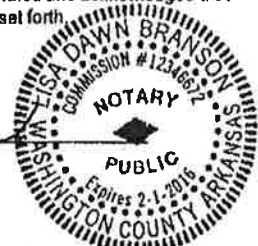
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Lionel Jordan and Sondra Smith, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the Mayor and City Clerk, respectively, of City of Fayetteville, Arkansas, a municipal corporation, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 6th day of October, 2011.

MY COMMISSION EXPIRES:

2-1-2016

Lisa Dawn Branson
Notary Public





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0216

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 7

UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT

A RESOLUTION TO APPROVE A ONE YEAR CONTRACT WITH THE UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE YEAR TERMS IN AN ANNUAL AMOUNT OF \$250,000.00 FOR THE PROVISION OF PUBLIC TRANSIT SERVICES WITHIN THE CITY OF FAYETTEVILLE

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 one year contract, a copy of which is attached to this Resolution and made a part hereof, with the University of Arkansas - Razorback Transit with automatic renewals for up to four additional one year terms in an annual amount of \$250,000.00 for the provision of public transit services within the City of Fayetteville.

City of Fayetteville Staff Review Form

2017-0216

Legistar File ID

5/2/2017

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

Don Marr

4/14/2017

Chief of Staff

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a contract with the University of Arkansas (Razorback Transit) regarding public transit services within the City of Fayetteville including four additional one year renewals.

Budget Impact:

2100.410.4100-5728.00		Street	
Account Number		Fund	
40901.4005		Outside Agencies Funding	
Project Number		Project Title	
Budgeted Item?	Yes	Current Budget	\$ 250,000.00
		Funds Obligated	\$ 62,500.00
		Current Balance	\$ 187,500.00
Does item have a cost?	Yes	Item Cost	\$ 187,500.00
Budget Adjustment Attached?	No	Budget Adjustment	
		Remaining Budget	\$ -

V20140710

Previous Ordinance or Resolution # 101-12

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF MARCH 21, 2017

TO: Mayor Lioneld Jordan and Fayetteville City Council

THRU: Mayor Lioneld Jordan
Kit Williams, City Attorney

FROM: Don Marr, Chief of Staff

DATE: Friday, April 14, 2017

SUBJECT: **Contract with the University of Arkansas, Fayetteville – Razorback Transit for fixed route public transit services within the City of Fayetteville**

RECOMMENDATION:

The City Staff and Administration recommend on behalf of the Mayor's Office that the City Council pass a resolution and approve the attached agreement for fixed route public services within the City of Fayetteville to be provided by the University of Arkansas, Fayetteville – Razorback Transit.

BACKGROUND:

The City of Fayetteville had a prior contract with the University of Arkansas, Fayetteville – Razorback Transit to provide fixed route public transit services within the city limits of Fayetteville that was last approved May 15, 2012 via City Council Resolution 101-12. Recently, the City became aware the current contract is expired and a new contract would be required in order to pay invoices for services in 2017. The City Council approved funding these services as part of the 2017 adopted budget (Resolution 218-16).

DISCUSSION:

This contract period will cover the period of January 01, 2017 through December 31, 2017 and the contract will automatically renew and extend for up to an additional four one-year terms if the City's budget containing funding for the service is approved by the City Council for the next year and the University of Arkansas Fayetteville agrees to continue the service.

The specific details of the contract including reporting and payment terms are included. This contract includes an item, originally added in 2012, which specifically states that should the University of Arkansas, Fayetteville or its transit unit receive new or additional funding from a local sales tax, both parties shall meet to determine whether this agreement should be mutually terminated or amended because of this new funding source. The City may elect to discontinue funding called for in this contract and terminate this contract without penalty if a new or additional local sales tax provides at least \$50,000 annualized funding to Razorback Transit.

BUDGET/STAFF IMPACT:

The City Council approved \$250,000 in the 2017 Budget for these services.

Attachments:

Staff Review Form

Staff Review Memo

Contract for Services between the University of Arkansas and City of Fayetteville

Resolution 101-12



Contract for Services
Between the City of Fayetteville, AR
And the University of Arkansas
Term: One year with four one year renewals

This agreement is entered into on this _____ day of _____, 2017 between the City of Fayetteville, hereinafter known as the "City" and the Board of Trustees of the University of Arkansas, acting for and on behalf of the University of Arkansas, Fayetteville — Razorback Transit, hereinafter known as "UAF", an Arkansas governmental unit.

WHEREAS, the City has determined that a public need exists for fixed route public transit services within the city limits of Fayetteville.

WHEREAS, UAF has developed a fixed route public transit service within the city limits.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and UAF agree as follows:

1. This agreement continues the previous contract entered into on January 15, 2008 and shall cover the period of January 1, 2017 through December 31, 2021 unless terminated or amended pursuant to ¶ 18.
2. UAF agrees to develop, operate and maintain a fixed route public transit system and allow Fayetteville residents free use of the same system. UAF reserves the right to refuse service to anyone for violation of transit service rules. UAF reserves the right to determine the route structure of the transit system.
3. UAF agrees to provide written annual reports to the City that describe the activities undertaken during the preceding period concerning its public transit system and also report on the following performance measure: estimated number of passengers by route. The annual reports to be submitted to the Project Coordinator as soon as practical after the end of the year. The data will be reported for the current year and prior year.
4. UAF agrees to make available all records pertaining to public transit fixed route and paratransit service, except those restricted by federal regulations, for review by the City and City auditors as requested. UAF agrees to comply with the Arkansas Freedom of Information Act as applicable.
5. For the purpose of the Agreement, the Project Coordinator for the City will be the Mayor or his/her designee. The Project Coordinator for UAF will be the UAF Transit and Parking Director or his/her designee. Communications pertaining to this agreement will be through the respective Project Coordinators for the City and UAF.
6. **Terms of performance.** The term of performance for this agreement will expire December 31, 2017 but will automatically be renewed and extended for up to an additional four one- year terms if the City's budget containing funding for the service is approved by the City Council for the next year and the UAF agrees to continue the service.
7. **Budget.** The City agrees to pay UAF and UAF agrees to accept as payment in full for its services \$250,000 for 2017. The amounts to be paid for services in future budget years are dependent on the amounts appropriated by City Council for each budget year. It is understood that a reduction in City funding may require a reduction in transit service. Payments shall be made on a quarterly basis.
8. UAF shall provide and maintain in force at all times during the term of the agreement, for its own employees, coverage for worker's compensation to the extent required by law.

9. UAF shall render to the City a Request for Payment at the end of each quarter and the City will pay the invoice within thirty (30) calendar days of receiving the invoice.
10. Notices. All notices required or permitted under this agreement will be submitted in writing to the other party in this agreement by personal delivery or the address below, or by certified mail, return receipt requested, in which case notice will be effective three (3) business days after deposit therein address to the following:

Mayor
City of Fayetteville, AR
113 Mountain
Fayetteville, AR 72701

Transit & Parking Director
University of Arkansas
155 S. Razorback Road ADSB 131
Fayetteville, AR 72701

11. Neither party may assign any of its rights or obligations under this agreement without the express written consent of the other, nor shall this agreement be construed to bestow any rights or benefits upon anyone other than UAF and the City.
12. The parties agree and understand that this Agreement is exclusive of any and all other agreements, and that it in no way alters, amends or abridges any rights, obligations or duties of the parties contained in such agreements.
13. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance and shall not be construed as a general waiver of any other breaches by either party.
14. This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this agreement shall be valid unless made in writing and signed by the duly authorized agents of UAF and the City.
15. Severability. Each paragraph of this agreement is severable from all other paragraphs. If any paragraph or subparagraph is found to be invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.
16. Interpretation. The contract shall be interpreted according to and enforced under the laws of the State of Arkansas, in Washington County.
17. **Non -Appropriation.** The parties recognize that performance of the Agreement by UAF may be dependent in whole or in part upon the appropriation of state or federal funds. If a state or federal legislative body fails to appropriate the necessary funds, then by written notice to City, UAF may cancel all or the remaining portion of the Agreement without further duty or obligation. In the event that this agreement must be terminated prior to the end of the term pursuant to this clause, the amounts due to UAF by City shall be prorated. The parties recognize and understand the appropriation is a legislative act and is beyond the control of UAF.
18. If the UAF or its transit unit receives new or additional funding from a local sales tax, both parties shall meet to determine whether this agreement should be mutually terminated or amended because of this new funding source. The City may elect to discontinue funding called for in this contract and terminate this contract without penalty if a new or additional local sales tax provides at least \$250,000.00 annualized funding to Razorback Transit.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

UNIVERSITY OF ARKANSAS

CITY OF FAYETTEVILLE, AR

By: 
VICE CHANCELLOR
FINANCE & ADMINISTRATION

By: _____
LIONELD JORDAN, MAYOR

Printed Name: Tim O'Donnell

ATTEST:

ATTEST:

By: _____

By: _____
Sondra E. Smith, City Clerk, Treasurer

Printed Name: _____

Title: _____

RESOLUTION NO. 101-12

A RESOLUTION APPROVING A CONTRACT WITH THE UNIVERSITY OF ARKANSAS (RAZORBACK TRANSIT) IN AN ANNUAL AMOUNT OF \$50,000.00 REGARDING PUBLIC TRANSIT SERVICES WITHIN THE CITY OF FAYETTEVILLE

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

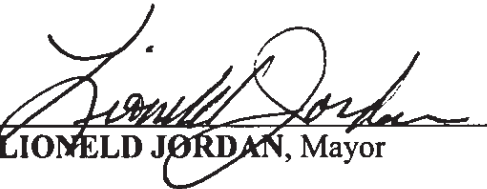
Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a contract with the University of Arkansas (Razorback Transit), a copy of which is attached as Exhibit "A", in an annual amount of \$50,000.00 regarding public transit services within the City of Fayetteville.

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

APPROVED:

ATTEST:

By:


LIONELD JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk/Treasurer





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0214

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: C. 1

CONDEMNATION LITIGATION SETTLEMENT AGREEMENT:

A RESOLUTION TO AUTHORIZE A SETTLEMENT AGREEMENT WITH DRAKE STREET PROPERTY, LLC; 1155 PROPERTIES, LLC; AND RPM1 PROPERTIES-FAYETTEVILLE, LLC A/K/A RPM1 PROPERTIES, LLC CONCERNING CONDEMNATION LITIGATION FILED FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE

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 Mayor Jordan to sign a settlement agreement with Drake Street Property, LLC; 1155 Properties, LLC; and RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC to include payment in the amount of \$876,153.00 as full and final settlement of condemnation litigation (City of Fayetteville v. Drake St Property, LLC, et al, Washington County Circuit Court Case No. CV-2016-2151-4) filed for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Interstate 49 and Highway 112 Interchange.

Section 2: That the City Council of the City of Fayetteville, Arkansas, in furtherance of the settlement, hereby approves the payment of an additional \$376,153.00, over and above the \$500,000.00 placed on deposit with the court.

City of Fayetteville Staff Review Form

2017-0214

Legistar File ID

5/2/2017

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

Kit Williams

4/14/2017

City Attorney /
General Government Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Authorize Mayor Jordan to sign settlement agreement in condemnation cases for utility relocations associated with the Arkansas Highway Department I-49/Fulbright Expressway Inter-Change Project. Total payments to property owners in the amount of \$876,153.00.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Don Marr**, Chief of Staff
Paul Becker, Chief Financial Officer

FROM: **Kit Williams**, City Attorney

DATE: **April 6, 2017**

RE: **Proposed Settlement of Condemnation Case to Secure Necessary
Property for Major Sewer Line**

When the Arkansas Highway and Transportation Department decided to make extensive and much needed improvements to the Highway 112, Interstate Highway 49 and Fulbright Expressway intersection, it needed to acquire large acreage from three properties south of this intersection from Neal Pendergraft-owned companies. The City of Fayetteville was informed that we were required to move our large sewer main which had adjoined the highway right-of-way, but now was in the way of the much-expanded highway. Initial negotiations by our Land Agents failed so the Fayetteville City Council authorized the City Attorney's Office to acquire possession of a general utility easement through eminent domain.

In early negotiations with the attorneys representing Neal Pendergraft, we agreed it would be best for their condemnation of a much larger parcel by the Highway Department be settled or tried to establish the most accurate value of the land that needed which adjoined the land being taken by the Highway Department. We later obtain possession (not ownership) after the Circuit Judge ordered that we pay \$500,000.00 into Court until a final valuation amount could be agreed to or a jury could value the property. With the City Council's permission, this amount was paid into the Court's registry.

Recently, Mr. Pendergraft and his attorneys worked out and agreed on a settlement with the Arkansas Highway Department which valued his property at \$8.06 per square foot for the highway right-of-way taking. This high valuation was probably influenced by the rezoning from Residential Agriculture to the far denser and more valuable Urban Thoroughfare granted by the City Council shortly before the highway improvement project began. Of major importance is the valuable location of this property adjoining the new I-49 intersection between Highway 112 and Gregg Street.

Fortunately, the vast majority of this general utility easement acquisition costs (over 87%) should be refunded to us by the Highway Department so the agreement to pay \$8.06 per square foot is a reasonable amount for us to recommend to the City Council. This will result in our payment of an additional \$376,153.00 to obtain deeds to our needed easement. Please see Pendergraft's attorney Woody Bassett's letter to me of April 5, 2017 explaining their settlement offer.

We have been informed by the Highway and Transportation Department that the Highway Department should refund 87.06% of this easement acquisition costs (copy of email attached). I compute this to be \$762,778.80 meaning that the City's final out-of-pocket costs would be \$113,374.20 for the necessary easement.

I recommend that the City Council approve and accept the settlement proposal for the three parcels of Neal Pendergraft's land pursuant to Woody Bassett's letter of April 5, 2017.

Williams, Kit

From: Pennington, Blake
Sent: Friday, April 14, 2017 9:33 AM
To: Williams, Kit
Subject: FW: BB0414 reimbursable agreement

--

Blake E. Pennington
Assistant City Attorney
Tele: (479) 575-8313
bpennington@fayetteville-ar.gov

From: Mashburn, Keith [<mailto:Keith.Mashburn@ahtd.AR.gov>]
Sent: Thursday, March 30, 2017 11:34 AM
To: Beavers, Jim <jbeavers@fayetteville-ar.gov>
Cc: Nyander, Tim <tnyander@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>
Subject: RE: BB0414 reimbursable agreement

Jim,

The 87.06% reimbursable percentage will apply to easement costs, as with all the various categories on our agreement. Can you provide a current estimate of your easement costs for this project?

Thanks,

Keith Mashburn
AHTD Utility Coordinator
501.569.2142

From: Beavers, Jim [<mailto:jbeavers@fayetteville-ar.gov>]
Sent: Wednesday, March 29, 2017 7:29 AM
To: Mashburn, Keith
Cc: Nyander, Tim; Pennington, Blake
Subject: BB0414 reimbursable agreement

Keith,

As our City Attorney negotiates, or goes to trial with the Pendergraft property easements, I have been asked to verify the reimbursable percentage.

I understand that the 87.06% reimbursement also includes all land and easements required for BB0414 water and sewer relocations. Such totals and reimbursements are greater than the agreement and agreement change order that we have on file.

Please confirm.

ARKANSAS STATE HIGHWAY COMMISSION
HIGHWAY - UTILITY CONSTRUCTION/RELOCATION AGREEMENT

State Job No BB0414 (Utilities) County Washington
Federal Aid Project BIM-STPF-B540(216) Route I-49 Section 28
Job Location Porter Rd. - Hwy. 112/71B Utility Owner City of Fayetteville
Widening & Intchng. Impvts. (F) Water and Sewer

THIS AGREEMENT, made and entered into this 16th day of June, 20 15, by and between the Arkansas State Highway Commission, acting by and through the duly authorized representatives of the Arkansas State Highway and Transportation Department, with headquarters at Little Rock, Arkansas, hereinafter referred to as the "Department," and the **City of Fayetteville Water and Sewer of Fayetteville, Arkansas** acting by and through its duly authorized representatives, hereinafter referred to as the "Owner" WITNESSETH:

The Department proposes to make highway improvements as specified under the above referenced job number and the Owner will adjust or relocate its existing facilities as set out in the attached plans and cost estimate.

The Department will participate in the cost of said adjustment/relocation to the extent that eligibility is hereinafter established.

Payment will be made on **actual cost** basis as mutually agreed between Owner and Department.

This agreement is governed by all applicable State and Federal laws, rules, and regulations including the Arkansas State Highway Commission Utility Accommodation Policy adopted by Commission Minute Order 2010-146 as amended and supplemented, the Federal Aid Program Guide on Utility Adjustments and Accommodation on Federal Aid Highway Projects as amended and supplemented, and the provisions of 23 CFR § 645 as amended and supplemented.

DESCRIPTION OF WORK: **See Exhibit A on Page 4**

The Department agrees that the required adjustment is **87.06%** eligible for reimbursement for the **actual cost** which is estimated to be **\$2,210,993.75** of which **\$1,924,891.16** is to be paid by the Department and **\$286,102.59** is to be borne by Owner.

Owner will not commence work until authorized by the Department, and will then endeavor to begin within **150 calendar** days and complete within **180 calendar** days thereafter.

On completion of said work, Owner is responsible for the cleanup and restoration of the work area including the disposal of surplus materials and debris.

Final billing must include all supporting detail. Owner shall also submit one (1) set of as-built drawings at this time.

Payment will be 100% of lump sum bills and actual cost bills, at the discretion of the Department a 10% retainage can be withheld and released upon completion of an audit review. All final bills for utility relocation are subject to review and audit by state and/or federal auditors.

Expenses incurred under an actual cost agreement may be billed to the Department monthly in increments of \$5,000.00 or more.

Owner must maintain cost records and accounts to support the agreed adjustment/relocation work. Said records to be retained and available for inspection for a period of three (3) years from date of final payment.

Owner shall be responsible for any and all hazards to persons, property, and traffic.

With respect to traffic control, owner shall adhere to the requirements of the Manual of Uniform Traffic Control Devices as amended and supplemented.

To the extent applicable to this agreement, the Owner shall comply with the Buy America requirements (as specified in 23 U.S.C. 313 and 23 CFR 635.410). The Owner is not required to change its existing standards for materials as long as the Buy America requirements are met. Buy America requirements take precedence over regulations pertaining to the accommodation or regulation of the Owner's facilities (as specified in 23 CFR 645) on contracts and agreements involving Federal-Aid Highway Program funding and precedence over regulations which allow the Owner to furnish materials from company stock (as specified on 23 CFR 645.117(e)). Company Stock materials that do not meet Buy America requirements may not be permanently incorporated into a Federal-Aid Highway Program funded project. The Owner must provide a definitive statement that all products permanently incorporated into the project are covered under the Buy America requirements. This requirement is fulfilled via proper signature and submission of the statement of charges form. In some circumstances, a waiver of the Buy America requirements may be granted by the Federal Highway Administration, to be determined on a project-by-project basis.

Owner shall be responsible for and shall hold harmless the Arkansas State Highway Commission, the Department and their officers and employees from any and all claims, actions, causes of action, suits, damages, losses or liability whatsoever, arising out of Owner's performance of the work subject to this Agreement.

Notwithstanding anything hereinbefore written, neither the Owner nor the Department by execution of this Agreement waives or relinquishes any rights which either may legally have within the limits of the Law or Constitution, either State or Federal.

City of Fayetteville
Water and Sewer

ARKANSAS HIGHWAY COMMISSION
Acting By and Through The
ARKANSAS STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT

TIM NYANDER

Name (Typed or Printed)

DIRECTOR OF UTILITIES

Title



Signature

71-6018462

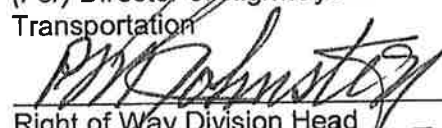
FEDERAL TAXPAYER IDENTIFICATION #

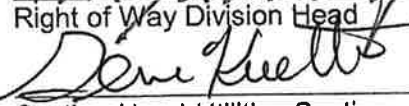
Name (Typed or Printed)

Title

Signature


(For) Director of Highways &
Transportation


Right of Way Division Head


Section Head-Utilities Section

BASSETT LAW FIRM LLP
ATTORNEYS AT LAW
P.O. Box 3618
FAYETTEVILLE, ARKANSAS 72702-3618

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TOD C. BASSETT
WM. ROBERT STILL, JR. +
WALKER DALE GARRETT +
CURTIS L. NEBBEN +
EARL BUDDY CHADICK
J. DAVID WALL* + (1987-2008)
JAMES M. GRAVES*+
SCOTT E. WRAY*
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GRACE K. JOHNSON +

221 NORTH COLLEGE AVENUE

TELEPHONE (479) 521-9998

FACSIMILE (479) 521-9800

www.bassettlawfirm.com

*ALSO LICENSED
IN OKLAHOMA

+ALSO LICENSED
IN MISSOURI

April 5, 2017

Re: City of Fayetteville, Arkansas vs.
Drake Street Property, LLC, et al
Case No. CV-2016-2151-4

Mr. Kit Williams
Fayetteville City Attorney
City Administration Building
113 W. Mountain Street, Suite 302
Fayetteville, AR 72701

Dear Kit:

Our client, Neal Pendergraft, is a longtime resident and citizen of Fayetteville. As you know, John Everett, James Graves and I represent the Pendergraft family in connection with the above-referenced condemnation case filed by the City of Fayetteville against three LLC's owned by Mr. Pendergraft. The real property at issue is located on the east side of the Interstate 49/Garland Avenue/Fulbright Expressway interchange near the ongoing road work being done by the Arkansas Highway Department. You and Blake Pennington are completely familiar with the background and relevant facts of this case. The purpose of this letter is to express our interest in resolving this case as soon as possible and to convey to you and other city officials our settlement demand.

You are aware that Mr. Pendergraft recently settled all three condemnation cases involving his property which had been filed by the Arkansas State Highway Commission and we have already provided you and Blake with a file-marked copy of the Consent Judgment in each of those cases. The three cases were settled for an average of \$8.06 per square foot for the property taken. That

Mr. Kit Williams
April 5, 2017
Page 2

number is arrived at by lumping in the damage to the remainder with the value of the property taken.

Our settlement demand is simple and straightforward. Mr. Pendergraft has authorized us to offer to settle this case with the City for \$8.06 per square foot which is the same average square foot value the Highway Commission paid to resolve its three condemnation cases against the LLC's owned by Mr. Pendergraft. According to our math, the total amount of property being taken by the City of Fayetteville in fee simple title is 108,704 square feet which at \$8.06 per square foot totals \$876,153. The City has already paid in \$500,000 earlier in the case so we are demanding that the City pay the additional sum of \$376,153 to our client to fully resolve this matter and conclude the litigation.

We are prepared to commence further discovery and get this case ready for trial but our preference is to settle it in the manner outlined above. We trust the City will agree that what we have proposed is fair, reasonable and sensible for all concerned. We will await the City's response to our offer. In the event you have any questions or need additional information, please contact either me or John Everett.

Sincerely,

BASSETT LAW FIRM LLP



Woody Bassett

WB:sg

cc: John Everett
James Graves
Neal Pendergraft

**IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
CIVIL DIVISION**

CITY OF FAYETTEVILLE, ARKANSAS,
an Arkansas municipal corporation

PLAINTIFF

v.

Case No. CV-2016-2151-4

**DRAKE ST PROPERTY, LLC;
1155 PROPERTIES, LLC;
RPM1 PROPERTIES-FAYETTEVILLE, LLC
A/K/A RPM1 PROPERTIES, LLC;
AND SIGNATURE BANK OF ARKANSAS**

DEFENDANTS

CONSENT ORDER AND JUDGMENT

Upon agreement of the Plaintiff, City of Fayetteville, Arkansas, an Arkansas municipal corporation, and Defendants Drake St Property, LLC; 1155 Properties, LLC; RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC, the Court finds and orders as follows:

1. Plaintiff, City of Fayetteville, is an Arkansas municipal corporation duly-organized under the laws of the State of Arkansas and is a city of the first class situated in Washington County, Arkansas.
2. Defendants, Drake St Property, LLC, 1155 Properties, LLC and RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC are the owners of real property located on the east side of the Interstate 49/Garland Avenue/Fulbright Expressway interchange in the City of Fayetteville, Washington County, Arkansas.
3. Defendant Signature Bank of Arkansas was named as a defendant because of its potential interest in the real property owned by Drake St Property, LLC by virtue of a mortgage filed for record in the Office of the Circuit Clerk and Ex-Officio Recorder for Washington County, Arkansas on June 24, 2013, as Document No. 2013-00021051. Signature Bank was served on

November 29, 2016 but has not filed an answer in this action and is in default; however, no relief is sought against Signature Bank, nor is any relief granted.

4. By virtue of the provisions of Ark. Code Ann. § 18-15-301, *et seq.* Plaintiff is granted the power of eminent domain to enter upon, take and condemn private property for lawful purposes.

5. Jurisdiction and venue lie properly before this Court.

6. The real property sought from the Defendants in this action is required for the relocation, construction, maintenance, repair and/or replacement of water and sewer pipelines and are necessary to allow the State of Arkansas to construct the Interstate 49/Garland Avenue/Fulbright Expressway interchange project in Fayetteville, Arkansas, a lawful public purpose.

7. The City of Fayetteville seeks and Drake St Property, LLC agrees to grant a general utility easement on real property owned by Defendant, Drake St Property, LLC, which is legally described as follows:

A part of the SE¼ of the NE¼ of Section 33, and a part of the SW¼ of the NW¼ of Section 34, all within Township 17 North, Range 30 West, and Washington County, Arkansas: Commencing at the Southwest corner of the NW¼ of said Section 34; thence N02°27'51"E a distance of 1247.42 feet along the West line of said SW¼ of the NW¼ of Section 34 to the POINT OF BEGINNING; thence S88°37'16"W a distance of 1.49 feet; thence N78°02'42"W a distance of 196.06 feet; thence S79°36'29"W a distance of 80.30 feet; thence S66°16'50"W a distance of 11.28 feet to the West property line as described in File 2013-00021050; thence N02°30'44"E a distance of 33.44 feet along said West property line to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way N79°36'29"E a distance of 89.73 feet; thence S78°02'42"E a distance of 198.48 feet; thence N88°37'16"E a distance of 209.73 feet to the East line of said property; thence along said East property line S02°27'41"W a distance of 30.16 feet; thence leaving said East property line N81°40'58"W a distance of 0.53 feet; thence S88°37'16"W a distance of 209.20 feet to the POINT OF BEGINNING, containing 14,952 square feet or 0.34 acres, more or less.

8. The City of Fayetteville seeks and 1155 Properties, LLC agrees to grant a general

utility easement on real property owned by Defendant, 1155 Properties, LLC, which is legally described as follows:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E 209.32 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2004-00000965; thence along said West property line N02°27'41"E 1261.87 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°27'41"E 30.16 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way S81°40'58"E 149.89 feet; thence S77°47'17"E 249.00 feet to the East line of said property; thence along said East property line S02°31'22"W 30.43 feet; thence leaving said East property line N77°47'17"W 253.10 feet; thence N81°40'58"W 145.80 feet to the POINT OF BEGINNING, containing 11,967 square feet or 0.27 acres, more or less.

ALSO:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E a distance of 602.51 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2004-00000965; thence along said West property line N02°31'22"E 1205.05 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°31'22"E 30.43 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S77°47'17"E 8.10 feet, S66°50'23"E 302.08 feet, S87°06'30"E 77.97 feet to the East line of said property; thence along said East property line S02°29'38"W 30.00 feet; thence leaving said East property line N87°06'30"W 83.54 feet; thence N66°50'23"W 304.56 feet; thence N77°47'17"W 0.11 feet to the POINT OF BEGINNING, containing 11,646 square feet or 0.27 acres, more or less.

9. The City of Fayetteville seeks and RPM1 Properties-Fayetteville, LLC a/k/a RPM1

Properties, LLC agrees to grant a general utility easement on real property owned by Defendant, RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC, which is legally described as follows:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ and SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas. Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E a distance of 971.73 feet along the South line of said SW $\frac{1}{4}$ of the

NW ¼ to the West property line as described in File 2013-00000127; thence along said West property line N02°29'38"E a distance of 1097.61 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°29'38"E a distance of 30.00 feet to a point on the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S87°06'30"E a distance of 127.05 feet, N79°28'03"E a distance of 223.05 feet, N72°16'47"E a distance of 102.47 feet, N53°49'31"E a distance of 170.40 feet, N43°18'52"E a distance of 123.92 feet, N51°32'44"E a distance of 273.79 feet, N55°05'30"E a distance of 138.50 feet, N49°44'01"E a distance of 140.32 feet, N39°02'57"E a distance of 211.18 feet; thence leaving said Easterly right of way N38°31'42"E a distance of 243.33 feet; thence N20°15'19"E a distance of 195.51 feet to said Easterly right of way; thence along said Easterly right-of-way the following courses: N34°35'25"E a distance of 160.58 feet, N43°06'54"E a distance of 89.59 feet to a point on the South line of an existing 25 foot Water & Sewer easement described in Book 1045 Page 115; thence along said South line of an existing 25 foot Water & Sewer easement N69°01'00"E a distance of 68.68 feet; thence leaving said South line of an existing 25 foot Water & Sewer easement S43°06'54"W a distance of 149.13 feet; thence S34°35'25"W a distance of 154.57 feet; thence S20°15'19"W a distance of 196.57 feet; thence S38°31'32"W a distance of 247.05 feet; thence S39°02'57"W a distance of 215.37 feet; thence S49°44'01"W a distance of 144.53 feet; thence S55°05'30"W a distance of 138.98 feet; thence S51°32'44"W a distance of 114.91 feet; thence S45°15'53"W a distance of 45.70 feet; thence S51°32'44"W a distance of 110.00 feet; thence S43°18'52"W a distance of 124.62 feet; thence S53°49'31"W a distance of 179.30 feet; thence S72°16'47"W a distance of 110.04 feet; thence S86°17'59"W a distance of 41.70 feet; thence S79°28'03"W a distance of 187.69 feet; thence N87°06'30"W a distance of 130.37 feet to the POINT OF BEGINNING, containing 70,139 square feet or 1.61 acres, more or less.

10. The real property described in paragraphs 7, 8, and 9 is wholly located within Washington County, Arkansas, and needed by the City of Fayetteville, Arkansas for the relocation of utilities necessary to allow the State of Arkansas to construct the Interstate 49/Garland Avenue/Fulbright Expressway Interchange project.

11. The total amount of property being taken as general utility easements by the City of Fayetteville is 108,704 square feet. The parties agree that the value of the property being taken is \$8.06 per square foot and the total value of the property being taken by the City is \$876,153.00.

12. The total amount of \$500,000 was previously deposited into the Registry of the Court for the payment of estimated just compensation pursuant to an order of the Circuit Court on

November 15, 2016, so that the Plaintiff could enter upon and take possession of the lands described above for its utility relocation project.

13. Therefore, Plaintiff is ordered to deposit the additional sum of \$376,153.00 in the registry of the Court within fourteen days of the entry of this order.

14. The Clerk of the Court is hereby ordered and directed to disburse the additional funds deposited in this case, in full and final satisfaction of this Judgment, to the Defendant property owners in care of their attorney, John Everett, at Everett, Wales & Comstock, 1944 E. Joyce Boulevard, Fayetteville, Arkansas 72703-5162.

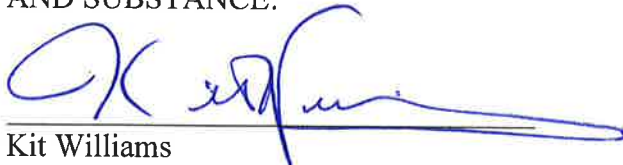
15. It is further ordered that the Properties shall execute general utility easement deeds for the lands described in paragraphs 7, 8 and 9 above in favor of the Plaintiff, City of Fayetteville within fourteen days of the City's payment to the registry of the Court.

IT IS SO ORDERED.

HONORABLE DOUG MARTIN
CIRCUIT JUDGE

DATE: _____

APPROVED AS TO FORM
AND SUBSTANCE:



Kit Williams

Fayetteville City Attorney
113 W. Mountain St., Suite 302
Fayetteville, Arkansas 72704



Woody Bassett
Attorney for 1155 Properties, LLC,
Drake St Property, LLC, and RPM1 Properties, LLC
P.O. Box 3618
Fayetteville, Arkansas 72702

**IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
CIVIL DIVISION**

CITY OF FAYETTEVILLE, ARKANSAS,
an Arkansas municipal corporation

PLAINTIFF

v.

Case No. CV-2016-2151-4

**DRAKE ST PROPERTY, LLC;
1155 PROPERTIES, LLC;
RPM1 PROPERTIES-FAYETTEVILLE, LLC
A/K/A RPM1 PROPERTIES, LLC;
AND SIGNATURE BANK OF ARKANSAS**

DEFENDANTS

SETTLEMENT AGREEMENT

WHEREAS, the Plaintiff, City of Fayetteville, Arkansas, an Arkansas municipal corporation, filed suit in this matter seeking condemnation of certain private property owned by Defendants Drake St Property, LLC; 1155 Properties, LLC; RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC (hereinafter "Properties"); and

WHEREAS, the purpose of the taking is for the relocation, construction, maintenance, repair and/or replacement of water and sewer pipelines which were necessary to allow the State of Arkansas to move forward with construction of the Interstate 49/Garland Avenue/Fulbright Expressway interchange project in Fayetteville, Arkansas, a lawful public purpose.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Settlement Agreement and other good and valuable consideration, the Parties do hereby expressly agree as follows:

1. The City and Defendant Properties agree to submit a consent order and judgment to the Court confirming the details of this settlement agreement.

2. Defendant, Drake St Property, LLC shall execute the General Utility Easement deed attached hereto as Exhibit A conveying the interest set forth therein to the City of Fayetteville to certain property legally described as follows:

A part of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 33, and a part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, all within Township 17 North, Range 30 West, and Washington County, Arkansas: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence N02°27'51"E a distance of 1247.42 feet along the West line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34 to the POINT OF BEGINNING; thence S88°37'16"W a distance of 1.49 feet; thence N78°02'42"W a distance of 196.06 feet; thence S79°36'29"W a distance of 80.30 feet; thence S66°16'50"W a distance of 11.28 feet to the West property line as described in File 2013-00021050; thence N02°30'44"E a distance of 33.44 feet along said West property line to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way N79°36'29"E a distance of 89.73 feet; thence S78°02'42"E a distance of 198.48 feet; thence N88°37'16"E a distance of 209.73 feet to the East line of said property; thence along said East property line S02°27'41"W a distance of 30.16 feet; thence leaving said East property line N81°40'58"W a distance of 0.53 feet; thence S88°37'16"W a distance of 209.20 feet to the POINT OF BEGINNING, containing 14,952 square feet or 0.34 acres, more or less.

3. Defendant, 1155 Properties, LLC shall execute the General Utility Easement deed attached hereto as Exhibit B conveying the interest set forth therein to the City of Fayetteville to certain property legally described as follows:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E 209.32 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2004-00000965; thence along said West property line N02°27'41"E 1261.87 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°27'41"E 30.16 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way S81°40'58"E 149.89 feet; thence S77°47'17"E 249.00 feet to the East line of said property; thence along said East property line S02°31'22"W 30.43 feet; thence leaving said East property line N77°47'17"W 253.10 feet; thence N81°40'58"W 145.80 feet to the POINT OF BEGINNING, containing 11,967 square feet or 0.27 acres, more or less.

ALSO:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E a distance of 602.51 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2004-00000965; thence along said West property line N02°31'22"E 1205.05 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°31'22"E 30.43 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S77°47'17"E 8.10 feet, S66°50'23"E 302.08 feet, S87°06'30"E 77.97 feet to the East line of said property; thence along said East property line S02°29'38"W 30.00 feet; thence leaving said East property line N87°06'30"W 83.54 feet; thence N66°50'23"W 304.56 feet; thence N77°47'17"W 0.11 feet to the POINT OF BEGINNING, containing 11,646 square feet or 0.27 acres, more or less.

4. Defendant, RPM1 Properties-Fayetteville, LLC a/k/a RPM1 Properties, LLC shall execute the General Utility Easement deed attached hereto as Exhibit C conveying the interest set forth therein to the City of Fayetteville to certain property legally described as follows:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ and SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas. Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E a distance of 971.73 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2013-00000127; thence along said West property line N02°29'38"E a distance of 1097.61 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°29'38"E a distance of 30.00 feet to a point on the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S87°06'30"E a distance of 127.05 feet, N79°28'03"E a distance of 223.05 feet, N72°16'47"E a distance of 102.47 feet, N53°49'31"E a distance of 170.40 feet, N43°18'52"E a distance of 123.92 feet, N51°32'44"E a distance of 273.79 feet, N55°05'30"E a distance of 138.50 feet, N49°44'01"E a distance of 140.32 feet, N39°02'57"E a distance of 211.18 feet; thence leaving said Easterly right of way N38°31'42"E a distance of 243.33 feet; thence N20°15'19"E a distance of 195.51 feet to said Easterly right of way; thence along said Easterly right-of-way the following courses: N34°35'25"E a distance of 160.58 feet, N43°06'54"E a distance of 89.59 feet to a point on the South line of an existing 25 foot Water & Sewer easement described in Book 1045 Page 115; thence along said South line of an existing 25 foot Water & Sewer easement N69°01'00"E a distance of 68.68 feet; thence leaving said South line of an existing 25 foot Water & Sewer easement S43°06'54"W a distance of 149.13 feet; thence S34°35'25"W a distance of 154.57 feet; thence S20°15'19"W a distance of 196.57 feet; thence S38°31'32"W a distance of 247.05 feet; thence S39°02'57"W a distance of 215.37 feet; thence S49°44'01"W a distance of 144.53 feet; thence S55°05'30"W a distance of 138.98 feet; thence S51°32'44"W a distance of 114.91 feet; thence S45°15'53"W a distance of 45.70 feet; thence S51°32'44"W a distance of 110.00 feet; thence S43°18'52"W a distance of 124.62 feet; thence S53°49'31"W a distance of 179.30 feet; thence S72°16'47"W a distance of 110.04 feet; thence S86°17'59"W a distance of 41.70 feet; thence

S79°28'03"W a distance of 187.69 feet; thence N87°06'30"W a distance of 130.37 feet to the POINT OF BEGINNING, containing 70,139 square feet or 1.61 acres, more or less.

5. The total amount of property being taken as general utility easements by the City of Fayetteville pursuant to this Settlement Agreement is 108,704 square feet. The parties agree that the value of the property being taken is \$8.06 per square foot and the total value of the property being taken by the City is \$876,153.00.

6. The total amount of \$500,000.00 was previously deposited into the Registry of the Court for the payment of estimated just compensation pursuant to an order of the Court on November 15, 2016.

7. The City of Fayetteville agrees to deposit the additional sum of \$376,153.00 in the registry of the Court for disbursement to the Properties within fourteen days of the entry of the consent order.

8. The parties agree to present a Consent Order and Judgment to the Court confirming the terms of this agreement agree to forever release, acquit and discharge each other, their successors and assigns, from any and all possible actions, suits, damages, and liabilities of any kind or nature related to the acquisition of these general utility easements and the construction of the mains or other authorized facilities, as well as any attorney fees, costs, penalties or claims that the parties to this agreement may have.

9. The Properties agree to execute and deliver to the City the General Utility Easement deeds attached hereto within fourteen days of the City's deposit of the additional funds in the registry of the Court. The City agrees to pay the cost to record the deeds.

10. The parties expressly represent and warrant that the person signing this Settlement Agreement on behalf of that party has the authority and is legally empowered to sign this agreement and bind that party to the terms herein.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, we sign

below:

**DRAKE ST PROPERTY, LLC
1155 PROPERTIES, LLC; AND
RPM1 PROPERTIES-FAYETTEVILLE,
LLC A/K/A RPM1 PROPERTIES, LLC**



NEAL PENDERGRAFT
Authorized Member

Date: APRIL 13, 2017

**CITY OF FAYETTEVILLE,
ARKANSAS**

LIONELD JORDAN, Mayor

Date: _____

ATTEST:

SONDRA SMITH, City Clerk-Treasurer

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Drake ST Property, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Hundred Twenty Thousand Five Hundred Thirteen Dollars (\$120,513.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of roadway, drainage, sidewalks, and general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: Deed Ref: 2013-00021050

Part of the East half of the Northeast Quarter of Section 33 and a part of the West half of the Northwest Quarter of Section 34, all in Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows, to-wit: beginning at an existing rebar on the North right of way of Arkansas HWY #180 which is S89°56'45"E 209.48' and N00°02'53"W 36.49' from the Southwest corner of the Northwest Quarter of said Section 34 and running thence along said right of way the following: N89°48'32"W 382.99', N61°20'32"W 118.80', N39°12'43"W 10.05', thence leaving said right of way North 1252.08' to the Southern right of way of Interstate 540, thence along said Southern right of way N65°33'03"E 111.21', thence continuing along said right of way N66°45'20"E 425.61', thence leaving said right of way S00°02'53"E 1532.12' to the point of beginning, containing 16.05 acres, more or less.

Subject to all easements and rights of way of record. LESS AND EXCEPT: Part of the East Half of the Northeast Quarter of Section 33 and part of the West Half of the Northwest Quarter of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a Half Inch Rebar found at the Quarter Corner of said Sections 33 and 34; thence North 02°27'51" East along the East Line of said Section 33 a distance of 1277.49 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job BB0414 for the POINT OF BEGINNING; thence North 78°02'42" West along said right of way line a distance of 198.48 feet to a point; thence South 79°36'29" West along said right of way line a distance of 89.73 feet to a point on the East line of Lot 6, Block 1, North Point Subdivision; thence North 02°30'44" East along said East line a distance of 65.79 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 9447; thence North 68°04'33" East along said right of way line a distance of 91.70 feet to a point; thence North 69°21'14" East along said right of way line a distance of 444.60 feet to a point; thence South 02°27'41" West a distance of 276.86 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job BB0414; thence South 88°37'16" West along said right of way line a distance of 209.73 feet to the POINT OF BEGINNING and containing 1.95 acres (84,765 sq. ft.) more or less as shown on AHTD plans referenced as Job BB0414.

PERMANENT EASEMENT DESCRIPTION:

A 30-foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414. Being more particularly described as follows: A part of the SE¼ of the NE¼ of Section 33, and a part of the SW¼ of the NW¼ of Section 34, all within Township 17 North, Range 30 West, and Washington County, Arkansas: Commencing at the Southwest corner of the NW¼ of said Section 34; thence N02°27'51"E a distance of 1247.42 feet along the West line of said SW¼ of the NW¼ of Section 34 to the POINT OF BEGINNING; thence S88°37'16"W a distance of 1.49 feet; thence N78°02'42"W a distance of 196.06 feet; thence S79°36'29"W a distance of 80.30 feet; thence S66°16'50"W a distance of 11.28 feet to the West property line as described in File 2013-00021050; thence N02°30'44"E a distance of 33.44 feet along said West property line to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way N79°36'29"E a distance of 89.73 feet; thence S78°02'42"E a distance of 198.48 feet; thence N88°37'16"E a distance of 209.73 feet to the East line of said property; thence along said East property line S02°27'41"W a distance of 30.16 feet; thence leaving said East property line N81°40'58"W a distance of 0.53 feet; thence S88°37'16"W a distance of 209.20 feet to the POINT OF BEGINNING, containing 14,952 square feet or 0.34 acres, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.



TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees no to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

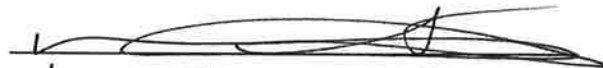
The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the 13 day of APRIL, 2017.

Drake ST Property, LLC, an Arkansas limited liability company

BY:


NEAL R. PENDERGRAFT, MGR
[Please print or type Name and Title]

ATTEST:


Woody Bassett
Attorney for Drake ST Property, LLC
[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared NEAL R. Pendergraft and Woody Bassett, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the Manager and Attorney, respectively, of **Drake ST Property, LLC, an Arkansas limited liability company**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 13th day of April, 2017.

MY COMMISSION EXPIRES

11/10/26





Notary Public

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **1155 Properties, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Hundred Ninety Thousand Three Hundred Twenty Dollars (\$190,320.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of roadway, drainage, sidewalks, and general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

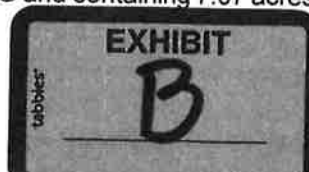
PROPERTY DESCRIPTION: Deed Ref: 2004-00000965

A part of Section 34, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Beginning at a point on the North Right-of-Way of State Highway No. 180, said point being 620.80 feet East of the West line of said Section 34 and running thence North 1,695.00 feet to the South Right-of-Way of US Highway No. 71 By-pass; thence S65°59'00"W along said Right-of-Way 446.90 feet; thence South 1,523.00 feet to the North Right-of-Way of State Highway No. 180; thence East along said Right-of-Way 411.33 feet to the point of beginning, containing 15.19 acres, more or less. LESS AND EXCEPT: A part of the NW¼ of the NW¼ of Section 34, T-17-N, R-30-W, Washington County, Arkansas, more particularly described as follows: Starting at the NW corner of the NW¼ of the NW¼ of Section 34; thence N88°34'00"E along the North line 964.00 feet to a point; thence S01°07'00"E 769.70 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass; thence S65°51'00"W along said existing Right-of-Way line 201.50 feet to the point of beginning; thence S01°05'00"E 106.20 feet to a point on the Southeasterly proposed Right-of-Way line of relocated U.S. Highway No. 71; thence S89°08'00"W along said proposed Right-of-Way line 171.80 feet to a point; thence S76°55'00"W along said Right-of-Way line a distance of 152.90 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass; thence N65°48'00"E 298.20 feet to the point of beginning, containing 0.33 acres, more or less. Subject to easements and rights of way of record, if any.

ALSO:

A part of Section 34, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Beginning at a point on the North Right-of-Way of State Highway No. 180, said point being 990.00 feet East of the West line of said Section 34 and running thence North 1,850.00 feet to the South Right-of-Way of US Highway No. 71 By-pass; thence S65°59'00"W along said Right-of-Way 401.14 feet; thence South 1,695.00 feet to the North Right-of-Way of State Highway No. 180; thence East along said Right-of-Way 369.20 feet to the point of beginning, containing 15.02 acres, more or less. LESS AND EXCEPT: A part of the NW¼ of the NW¼ of Section 34, T-17-N, R-30-W, Washington County, Arkansas, more particularly described as follows: Starting at the NW corner of the NW¼ of the NW¼ of Section 34; thence N88°34'00"E along the North line 964.00 feet to a point; thence S01°07'00"E 769.70 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass for the point of beginning; thence S01°07'00"E 264.70 feet to a point on the Southeasterly proposed Right-of-Way line of relocated U.S. Highway No. 71; thence S89°08'00"W along said proposed Right-of-Way line 368.40 feet to a point; thence N01°05'00"W 106.20 feet to a point on the Southeasterly Right of Way line of US Highway No. 71 By-Pass; thence N65°47'00"E along said Right-of-Way line 201.50 feet to a point; thence N65°51'00"E 198.80 feet to the point of beginning, containing 1.57 acres, more or less. Subject to easements and rights of way of record, if any.

LESS AND EXCEPT: Part of the West Half of the Northwest Quarter of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a Half Inch Rebar found at the Quarter Corner of Sections 33 and 34; thence North 02°27'51" East along the West line of Section 34 a distance of 1479.12 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 9447; thence North 69°21'14" East along said right of way line a distance of 227.50 feet to the POINT OF BEGINNING; thence continue North 69°21'14" East along said right of way line a distance of 79.97 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 1534 Section 1; thence North 80°30'22" East along said right of way line a distance of 152.85 feet to a point; thence South 87°16'41" East along said right of way line a distance of 540.24 feet to a point; thence South 02°29'38" West a distance of 503.64 feet to a point on the Southern Right of V/ay of Interstate 49 as established by AHTD Job BB0414; thence North 87°06'30" West along said right of way line a distance of 77.97 feet to a point; thence North 66°50'23" West along said right of way line a distance of 302.08 feet to a point; thence North 77°47'17" West along said right of way line a distance of 257.10 feet to a point; thence North 81°40'58" West along said right of way line a distance of 149.89 feet to a point; thence North 02°27'41" East a distance of 276.86 feet to the POINT OF BEGINNING and containing 7.07 acres (308,105 sq. ft.) more or less as shown on AHTD plans referenced as Job BB0414.



PERMANENT EASEMENT DESCRIPTION:

A 30 foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414, Being more particularly described as follows: A part of the SW¼ of the NW¼ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW¼ of said Section 34; thence S87°24'17"E 209.32 feet along the South line of said SW¼ of the NW¼ to the West property line as described in File 2004-00000965; thence along said West property line N02°27'41"E 1261.87 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°27'41"E 30.16 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way S81°40'58"E 149.89 feet; thence S77°47'17"E 249.00 feet to the East line of said property; thence along said East property line S02°31'22"W 30.43 feet; thence leaving said East property line N77°47'17"W 253.10 feet; thence N81°40'58"W 145.80 feet to the POINT OF BEGINNING, containing 11,967 square feet or 0.27 acres, more or less.

ALSO:

A 30 foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414, Being more particularly described as follows: A part of the SW¼ of the NW¼ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW¼ of said Section 34; thence S87°24'17"E a distance of 602.51 feet along the South line of said SW¼ of the NW¼ to the West property line as described in File 2004-00000965; thence along said West property line N02°31'22"E 1205.05 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°31'22"E 30.43 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S77°47'17"E 8.10 feet, S66°50'23"E 302.08 feet, S87°06'30"E 77.97 feet to the East line of said property; thence along said East property line S02°29'38"W 30.00 feet; thence leaving said East property line N87°06'30"W 83.54 feet; thence N66°50'23"W 304.56 feet; thence N77°47'17"W 0.11 feet to the POINT OF BEGINNING, containing 11,646 square feet or 0.27 acres, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees no to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the 13 day of APRIL, 2017.

1155 Properties, LLC, an Arkansas limited liability company

BY:

[Signature]
NEAL R. PENDERGRAFT, MGR
[Please print or type Name and Title]

ATTEST:

Woody Bassett
Attorney for 1155 Properties, LLC
[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

}

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared NEAL R. PENDERGRAFT and Woody Bassett, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the Manager and Attorney, respectively, of **1155 Properties, LLC, an Arkansas limited liability company**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 13th day of April, 2017.

MY COMMISSION EXPIRES:

1/10/26



[Signature]
Notary Public



GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **RPM1 Properties, LLC**, an Arkansas limited liability company, hereinafter called GRANTOR, for and in consideration of the sum of Five Hundred Sixty-Five Thousand Three Hundred Twenty Dollars (\$565,320.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of roadway, drainage, sidewalks, and general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: Deed Ref: 2013-00000127

Part of the Northwest Quarter (NW¼) of Section Thirty-four (34), Township Seventeen (17) North, Range Thirty (30) West, Washington County, Arkansas, described as follows, to-wit: Beginning at the Southeast corner of the said Northwest Quarter (NW¼) and running thence N00 Degrees 05'21"W 2565.78 feet to the South line of the Arkansas State Highway Commission Right of Way; thence along said Right of Way line S66 Degrees 33'41"W 145.31 feet, S45 Degrees 02'15"W 107.74 feet, S27 Degrees 28'44" W 517.93 feet, S43 Degrees 37'19" W 163.19 feet, S54 Degrees 22'38"W 256.17 feet, S79 Degrees 47'51"W 358.46 feet, S82 Degrees 53'50"W 364.0 feet, S89 Degrees 53'44"W 167.44 feet; thence leaving said Right of way line and running S00 Degrees 00'01"E 1588.21 feet; thence S89 Degrees 39'28"E 466.92 feet; thence N01 Degree 30'39"E 431.40 feet; thence N87 Degrees 37'53"E 383.01 feet; thence S01 Degree 58'26"E 450.30 feet; thence S89 Degrees 47'21"E 778.31 feet to the point of beginning, and being subject to easements and rights of way of record. LESS AND EXCEPT: Part of the Northwest Quarter of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a Half Inch Rebar found at the Quarter Corner of Sections 33 & 34; thence South 87°24'17" East along the South line of the Northwest Quarter of Section 34 a distance of 1317.66 feet to a point being used as the Center West Sixteenth Corner of said Section 34; thence North 02°25'01" East along the East line of the Southwest Quarter of the said Northwest Quarter a distance of 1,177.62 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 880414 and the POINT OF BEGINNING; thence South 79°28'03" West along said right of way line a distance of 223.05 feet to a point; thence North 87°06'30" West along said right of way line a distance of 127.05 feet to a point; thence North 02°29'38" East a distance of 503.64 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 1534 Section 1; thence South 87°16'41" East along said right of way line a distance of 167.50 feet to a point; thence North 85°21'44" East along said right of way line a distance of 364.01 feet to a point; thence North 82°17'31" East along said right of way line a distance of 359.03 feet to a point; thence North 57°00'34" East along said right of way line a distance of 255.98 feet to a point; thence North 45°59'17" East along said right of way line a distance of 163.48 feet to a point; thence North 29°53'39" East along said right of way line a distance of 518.56 feet to a point; thence North 47°36'56" East along said right of way line a distance of 107.70 feet to a point; thence North 69°00'43" East along said right of way line a distance of 71.89 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job BB0414; thence South 43°06'54" West along said right of way line a distance of 146.83 feet to a point; thence South 34°35'25" West along said right of way line a distance of 160.58 feet to a point; thence South 27°04'56" West along said right of way line a distance of 219.23 feet to a point; thence South 33°46'36" West along said right of way line a distance of 214.85 feet to a point; thence South 39°02'57" West along said right of way line a distance of 211.18 feet to a point; thence South 49°44'01" West along said right of way line a distance of 140.32 feet to a point; thence South 55°05'30" West along said right of way line a distance of 138.50 feet to a point; thence South 51°32'44" West along said right of way line a distance of 273.79 feet to a point; thence South 43°18'52" West along said right of way line a distance of 123.92 feet to a point; thence South 53°49'31" West along said right of way line a distance of 170.40 feet to a point; thence South 72°16'47" West along said right of way line a distance of 102.47 feet to the POINT OF BEGINNING and containing 9.21 acres (401,067 sq. ft.) more or less as shown on AHTD plans referenced as Job BB0414.

PERMANENT EASEMENT DESCRIPTION:

A 30-foot easement South and East of and adjacent to the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414. Being more particularly described as follows: A part of the SW ¼ of the NW ¼ and SE ¼ of the NW ¼ and NE ¼ of the NW ¼ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas. Commencing at the Southwest corner of the NW ¼ of said Section 34; thence S87°24'17"E a distance of 971.73 feet along the South line of said SW ¼ of the NW ¼ to the West property line as described in File 2013-00000127; thence along said West property line N02°29'38"E a distance of 1097.61 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°29'38"E a

distance of 30.00 feet to a point on the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S87°06'30"E a distance of 127.05 feet, N79°28'03"E a distance of 223.05 feet, N72°16'47"E a distance of 102.47 feet, N53°49'31"E a distance of 170.40 feet, N43°18'52"E a distance of 123.92 feet, N51°32'44"E a distance of 273.79 feet, N55°05'30"E a distance of 138.50 feet, N49°44'01"E a distance of 140.32 feet, N39°02'57"E a distance of 211.18 feet; thence leaving said Easterly right of way N38°31'42"E a distance of 243.33 feet; thence N20°15'19"E a distance of 195.51 feet to said Easterly right of way; thence along said Easterly right-of-way the following courses: N34°35'25"E a distance of 160.58 feet, N43°06'54"E a distance of 89.59 feet to a point on the South line of an existing 25 foot Water & Sewer easement described in Book 1045 Page 115; thence along said South line of an existing 25 foot Water & Sewer easement N69°01'00"E a distance of 68.68 feet; thence leaving said South line of an existing 25 foot Water & Sewer easement S43°06'54"W a distance of 149.13 feet; thence S34°35'25"W a distance of 154.57 feet; thence S20°15'19"W a distance of 196.57 feet; thence S38°31'32"W a distance of 247.05 feet; thence S39°02'57"W a distance of 215.37 feet; thence S49°44'01"W a distance of 144.53 feet; thence S55°05'30"W a distance of 138.98 feet; thence S51°32'44"W a distance of 114.91 feet; thence S45°15'53"W a distance of 45.70 feet; thence S51°32'44"W a distance of 110.00 feet; thence S43°18'52"W a distance of 124.62 feet; thence S53°49'31"W a distance of 179.30 feet; thence S72°16'47"W a distance of 110.04 feet; thence S86°17'59"W a distance of 41.70 feet; thence S79°28'03"W a distance of 187.69 feet; thence N87°06'30"W a distance of 130.37 feet to the POINT OF BEGINNING, containing 70,139 square feet or 1.61 acres, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees no to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the 13 day of APRIL, 2017.

RPM1 Properties, LLC, an Arkansas limited liability company

BY:


Neal R. Pendergraft, MGR
[Please print or type Name and Title]

ATTEST:


Attorney for RPM1 Properties, LLC
[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Neal E. Pennington and Woody Bassett, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the Manager and Attorney, respectively, of **RPM1 Properties, LLC, an Arkansas limited liability company**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 13th day of April, 2017.

MY COMMISSION EXPIRES:

1/10/26



Mary M Forrest
Notary Public



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0217

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 2

BILL OF ASSURANCE AMENDMENT (354 N. DOUBLE SPRINGS RD./PINNACLE BANK):

AN ORDINANCE TO REPLACE A BILL OF ASSURANCE TO ALLOW THE DEVELOPMENT OF THE 9.7 ACRE PARCEL AT 354 DOUBLE SPRINGS ROAD WITH UP TO 9 ATTACHED DWELLINGS UNITS AND 35 SINGLE-FAMILY DETACHED HOUSES

WHEREAS, on April 4, 2006, the City Council approved rezoning Ordinance No. 4852 subject to a Bill of Assurance; and

WHEREAS, this parcel never developed as conceived by its owner; and

WHEREAS, the new owner of this 9.7 acre zoned RSF-6 wishes to replace the Bill of Assurance; and

WHEREAS, this proposed change to the Bill of Assurance replaces many of the proposed duplexes with single family detached houses and would reduce the maximum allowed density of this development near the City's western border from 53 to 44 units; and

WHEREAS, the Planning Department recommends approval of the proposed replacement Bill of Assurance

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 repeals the existing Bill of Assurance and approves the replacement Bill of Assurance for the 9.7 acre parcel at 354 Double Springs Road attached to the Planning Department's Memo.

City of Fayetteville Staff Review Form

2017-0217

Legistar File ID

5/2/2017

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

Andrew Garner

4/14/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Amendment to a Bill of Assurance: (354 N. DOUBLE SPRINGS RD./PINNACLE BANK): Submitted by CRAFTON TULL for property at 354 N. DOUBLE SPRINGS RD. The property is zoned RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE, subject to a Bill of Assurance.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	No	Item Cost	
Budget Adjustment Attached?	NA	Budget Adjustment	
		Remaining Budget	\$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor, Fayetteville City Council

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

DATE: April 14, 2017

SUBJECT: **Amendment to a Bill of Assurance: (354 N. DOUBLE SPRINGS RD./PINNACLE BANK):** Submitted by CRAFTON TULL for property at 354 N. DOUBLE SPRINGS RD. The property is zoned RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE, subject to a Bill of Assurance.

RECOMMENDATION:

Planning staff recommend approval of an ordinance to amend the existing Bill of Assurance as described in exhibits A and B.

BACKGROUND:

On April 4, 2006, the City Council approved a rezoning of the subject property from R-A, Residential Agricultural, to RMF-6, Residential Multi-family, 6 Units per Acre, subject to a Bill of Assurance, by a vote of 7-1-0.

The subject property contains approximate 9.18 acres and is located on Double Springs Road, south of Persimmon Street. The property is bordered on two sides by property zoned RSF-4, with Silverthorne Subdivision to the west and Legacy Point Phase 4 to the east. The adjacent property to the north is zoned RSF-1, and has been developed as a storage unit business, while the properties to the south are zoned R-A and RSF-4, and remain largely undeveloped. The subject property along with the storage business to the north and the properties to the south are designated as Rural Areas by the City's Future Land Use Map, and the aforementioned subdivisions to the east and west are classified as Residential Neighborhood Areas.

Request: The request is to amend the approved Bill of Assurance, as shown in the attached Exhibits 'A' and 'B', to allow the applicant to develop the subject property with up to 9 attached dwellings units and 35 single-family dwellings, for a total density that is lower than that previously approved in the existing Bill of Assurance.

The proposed Bill of Assurance offers a density and development pattern that is consistent with the existing single-family residential development in the area. Under the existing Bill of Assurance, 58 dwellings are allowed and permitted to be distributed between 20 to 24 two-family townhomes and 3 to 6 single-family homes. Under the currently proffered Bill of Assurance, 44 units would be allowed with 35 detached single-family homes and up to 9 attached units.

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Exhibit A
- Exhibit B
- Proposed Preliminary Plat
- Ordinance 4852

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") _____ **Pinnacle Bank & DBS of NWA, LLC (Developer)**_____, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to the following: The petitioners assure the City the property will be developed as a residential subdivision, zoned RMF 6 and will consist of a combination of 35 single family detached residences, & up to 9 attached units.
2. Other restrictions including number and type of structures upon the property are limited to the following: The subdivision will contain maximum total number of units of 44. The maximum total number of structures will not exceed 38 total.

3. Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Pinnacle Bank & DBS of NWA, LLC (Developer) , as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

4/14/2017 9:22 AM CDT
Date

 Pinnacle Bank
Printed Name (owner)

[Signature]
Signature **AUTHORIZED AGENT**

 DBS of NWA, LLC
Printed Name (Developer)

DBS of NWA, LLC By Bleaux Barnes
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 14th day of April, 2017, appeared before me, *Raney Forbes*, a Notary Public, and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

[Signature]
NOTARY PUBLIC

Official Seal
My Commission Expires:
Raney B. Forbes
Notary Public
State of Arkansas
County of Washington
My Commission Expires: 05/02/2021
Commission: 12382170



Crafton Tull
architecture | engineering | surveying

1450 E. Zion Road, Suite 9
Fayetteville, AR 72703

479.455.2207

March 8, 2017

City of Fayetteville
Planning Department
ATTN: Director of Planning
125 W. Mountain Street
Fayetteville, AR 72701

RE: Emerald Point Subdivision
Parcel No. 765-24089-200

Dear Director,

This letter serves to designate Crafton Tull as an authorized person to act on the behalf of Pinnacle Bank for any items required for Planning Department approval for the referenced project site. The following person is hereby authorized:

Thomas A. Hennelly, PE
Vice President – Crafton Tull
1450 E. Zion Road, Suite 9
Fayetteville, AR 72703
479-878-2419

Sincerely,

David Bordovsky
President – Pinnacle Bank
4201 W. New Hope Road
Rogers, AR 72756



April 14, 2017

City of Fayetteville
Planning Department
113 West Mountain Street
Fayetteville, AR 72701

Attn: Jonathan Curth, Senior Planner
RE: Emerald Point Bill of Assurance

Jonathan,

When parcel 765-489-350 was originally rezoned, back in 2006, a bill of assurance was submitted in association with the rezoning request. The original bill of assurance (attached) specified the following:

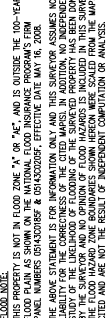
"The petitioners assure the City the property will be developed as a residential subdivision, zoned RMF-6 (with approved re-zoning application) and will consist of a combination of single family lots and two-unit townhome lots. The subdivision as a whole will meet or (sic) exceed the requirements of RMF-6 zoning. The subdivision will contain between 20-24 zero-lot-line townhome structures (2 units each) and between 3 to 6 single family dwellings. The maximum total number of structures will be between 26 to 30 structures totaling 46 to 53 dwelling units. The maximum number of units allowed by RMF-6 for this parcel would be 58. Single family units will be placed adjacent to existing single family developments so as to maintain consistent usage across property lines"

We are requesting to lower the maximum number of allowable dwelling units from 46 or 53, allowed in the original bill of assurance, to 44. These 44 units will consist of 35 single family detached homes and one lot containing a maximum of three triplexes (9 units).

Thank you for your consideration in this matter.

Sincerely,

Thomas A. Hennelly, PE
Vice President
Crafton Tull



Doc ID: 009893760005 Type: REL
Recorded: 04/25/2006 at 10:41:24 AM
Fee Amt: \$20.00 Page 1 of 5
Washington County, AR
Bette Stamps Circuit Clerk
File **2006-00016558**

ORDINANCE NO. 4852

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-1936, FOR APPROXIMATELY 9.70 ACRES, LOCATED AT 354 AND 370 DOUBLE SPRINGS ROAD, FROM R-A, RESIDENTIAL AGRICULTURAL TO RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE, SUBJECT TO A BILL OF ASSURANCE

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RMF-6, Residential Multi-Family, 6 units per acre, as shown on Exhibit "A" attached hereto and made a part hereof.

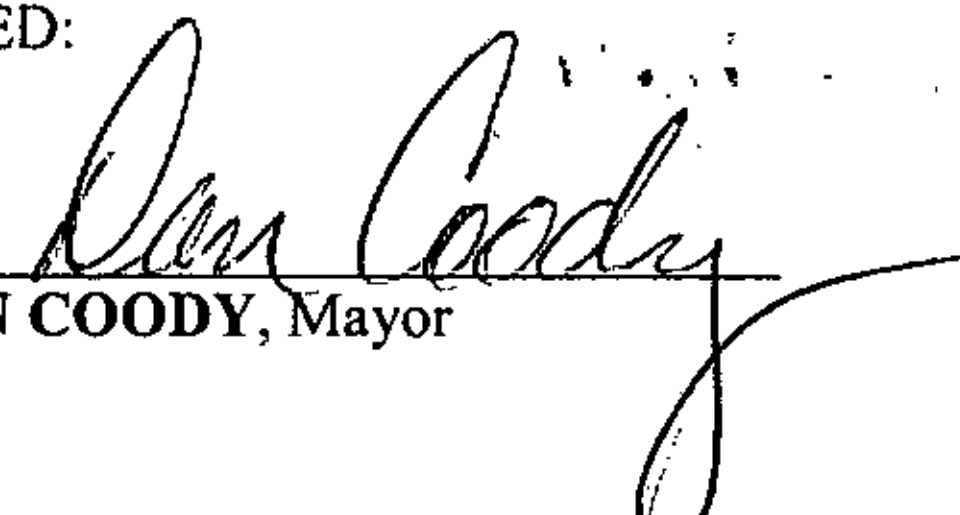
Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

Section 3: That the subject property will be subject to a Bill of Assurance attached hereto and made a part hereof as Exhibit "B" limiting the type and location of dwelling units on the property.

PASSED and APPROVED this 4th day of April, 2006.

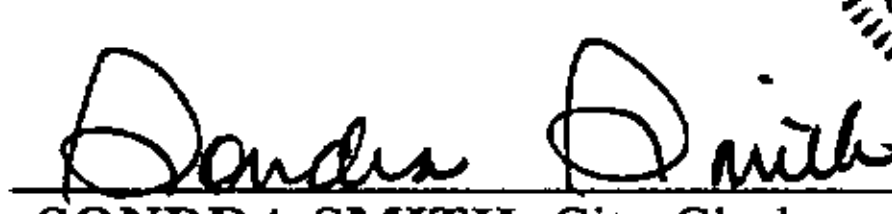
APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk

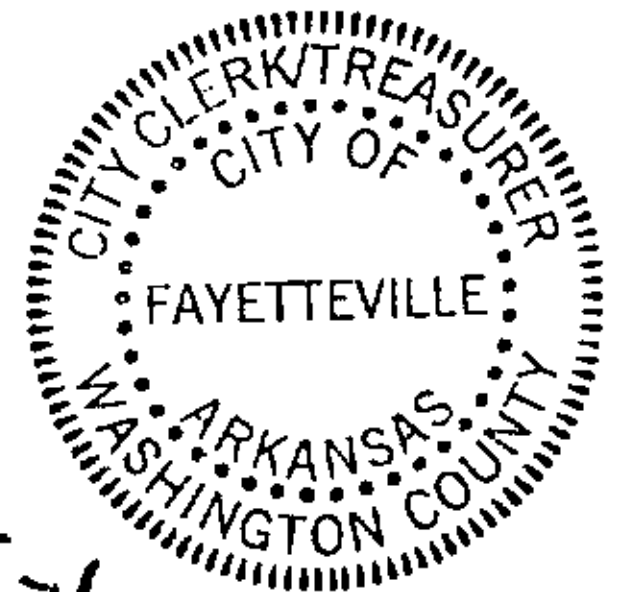


EXHIBIT "A"
RZN 06-1936

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

EXHIBIT "B"
RZN 06-1936

BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Fletcher Williams and Imogene Williams, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/ Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonable rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to the following:
The petitioners assure the City the property will be developed as a residential subdivision, zoned RMF-6 (with approved re-zoning application) and will consist of a combination of single family lots and two-unit townhome lots. The subdivision as a whole will meet or exceed the requirements of RMF-6 zoning. The subdivision will contain between 20 to 24 zero-lot-line townhome structures (2 units each) and between 3 to 6 single family dwellings. The maximum total number of structures will be between 26 to 30 structures totaling 46 to 53 dwelling units. The maximum number of units allowed by RMF-6 for this parcel would be 58. Single family units will be placed adjacent to existing single family developments so as to maintain consistent usage across property lines.

2. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Fletcher R Williams, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

2/15/06
Date

370 Double Springs Rd
Address

Fay Ar 72704

Fletcher R Williams
Printed Name

Fletcher R Williams
Signature

Imogene Williams
Printed Name

Imogene Williams
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 15 day of February, 2006 appeared before me, Fletcher Williams / Imogene Williams and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

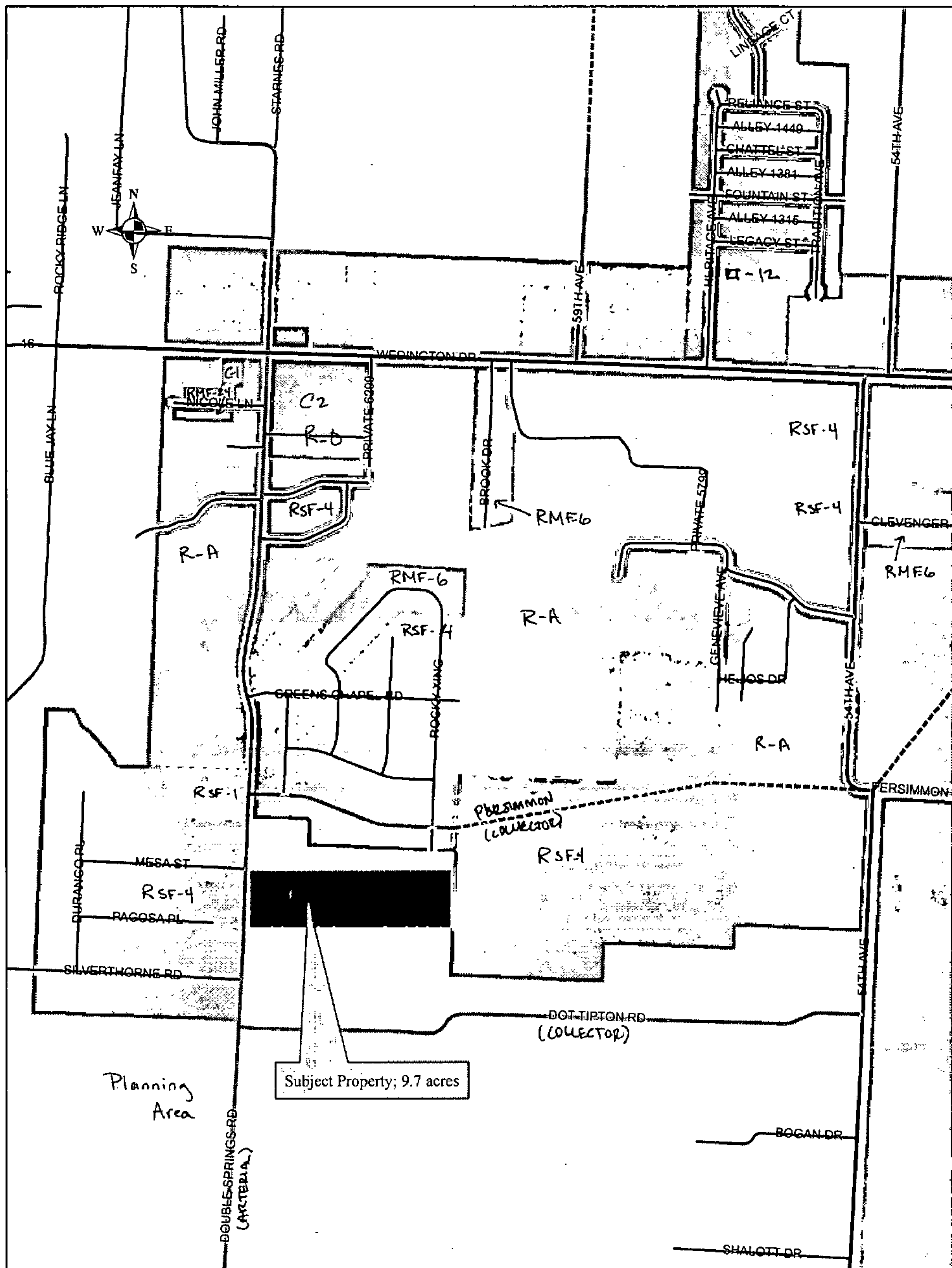
My Commission Expires
June 15/2014



Carolyn Boone
NOTARY PUBLIC

Washington County, AR
I certify this instrument was filed on
04/25/2006 10:41:24 AM
and recorded in Real Estate
File Number 2006-00016558
Bette Stamps - Circuit Clerk

by [Signature]



ORIP
4/4/06
4852
RZN 06-1936/
Fletcher Williams

March 1, 2006

City of Fayetteville-City Clerk's Office
113 W. Mountain St.
Fayetteville, AR. 72701

RE:ANX 06-1935
RZN 06-1936

This is to notify you of my intention to **Appeal** the denial by the City of Fayetteville Planning Commission on Monday, February 27, 2006, on the above mentioned items.

We would like to have these properties rezoned and annexed to build housing for Fayetteville. It is our understanding that the property south of subject property, owned by the Hays family, will be asking to be rezoned and/or annexed also. We feel like this would be a good housing project for Fayetteville.

Sincerely,



Fletcher Williams

RECEIVED

MAR 02 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

left on the second reading 3/21/06

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Jeremy C. Pate, Director of Current Planning

Date: February 28, 2006

Subject: Rezoning for Fletcher Williams (RZN 06-1936)

RECOMMENDATION

The Planning Commission recommended denial of the subject rezoning request from R-A to RMF-6 on approximately 9.70 acres of property located east of Double Springs Road, south of Persimmon Street. The applicant had submitted a Bill of Assurance limiting the type of development and maximum number of units allowed on the property. Planning Staff originally recommended approval of the requested rezoning to RMF-6 with the associated Bill of Assurance.

BACKGROUND

The subject property contains approximately 9.70 acres and is located on Double Springs Road, south of Persimmon Street. The property is bordered on two sides by property zoned RSF-4, with Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east. Two intervening properties lie between the subject property and the city limits to the north (Legacy Point Phase 1). Initially, these properties were developed for single-family use. In recent months, the adjacent owner north of the property has begun to develop a storage unit business on his property. Legacy Point Phase 1 is zoned both RSF-4 and RMF-6. The 2002 rezoning of 8.74 acres within Legacy Point, in close proximity to the current request, was the first property to be zoned RMF-6 within the City of Fayetteville, with a unanimous vote by the Planning Commission and a majority vote by City Council.

The applicant requests rezoning of 9.70 acres to allow for a two-family townhome and single-family development. The prospective buyer of the property developed several properties within the RMF-6 portion of Legacy Point and would like to duplicate this development on the subject property. The property owner has submitted a Bill of Assurance that limits the development of the property to a maximum 24 two-family townhomes and a minimum 3 single-family lots, with a maximum 54 dwelling units; a maximum 58 units is permitted at 6 units/acre. Additionally, the Bill of Assurance guarantees that single-family dwellings will be located adjacent to the existing RSF-4 zoning districts, that is along the east and west property lines (see attachment).

DISCUSSION

This item was heard at the regular Planning Commission on February 27, 2006. The Planning Commission voted 4-2-0 to recommend approval of this rezoning request to the City Council, with Commissioner Ostner and Anthes voting no. Therefore, the motion failed due to lack of five affirmative votes, and the application for rezoning into the City of Fayetteville was denied.

Those who voted against the motion discussed their concerns regarding zoning only a small parcel without understanding how adjacent properties, currently without zoning, will develop in the future.

Staff recommends approval of the proposed rezoning with the Bill of Assurance. The property is located adjacent to a Minor Arterial street and two nearby Collector streets; therefore, adjacent infrastructure, once improved to Master Street Plan standards, will be able to accommodate a greater traffic volume. Additionally, this property is in close proximity to other property zoned RMF-6.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-1936, FOR APPROXIMATELY 9.70 ACRES, LOCATED AT 354 AND 370 DOUBLE SPRINGS ROAD, FROM R-A, RESIDENTIAL AGRICULTURAL TO RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE, SUBJECT TO A BILL OF ASSURANCE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RMF-6, Residential Multi-Family, 6 units per acre, as shown on Exhibit "A" attached hereto and made a part hereof.

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

Section 3: That the subject property will be subject to a Bill of Assurance attached hereto and made a part hereof as Exhibit "B" limiting the type and location of dwelling units on the property.

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-1936

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Fletcher Williams and Imogene Williams, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/ Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonable rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

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The petitioners assure the City the property will be developed as a residential subdivision, zoned RMF-6 (with approved re-zoning application) and will consist of a combination of single family lots and two-unit townhome lots. The subdivision as a whole will meet or exceed the requirements of RMF-6 zoning. The subdivision will contain between 20 to 24 zero-lot-line townhome structures (2 units each) and between 3 to 6 single family dwellings. The maximum total number of structures will be between 26 to 30 structures totaling 46 to 53 dwelling units. The maximum number of units allowed by RMF-6 for this parcel would be 58. Single family units will be placed adjacent to existing single family developments so as to maintain consistent usage across property lines.

2. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Fletcher R Williams, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

2/15/06
Date

370 Double Springs Rd
Address

Gay Ar 72704

Fletcher R Williams
Printed Name

Fletcher R Williams
Signature

Imogene Williams
Printed Name

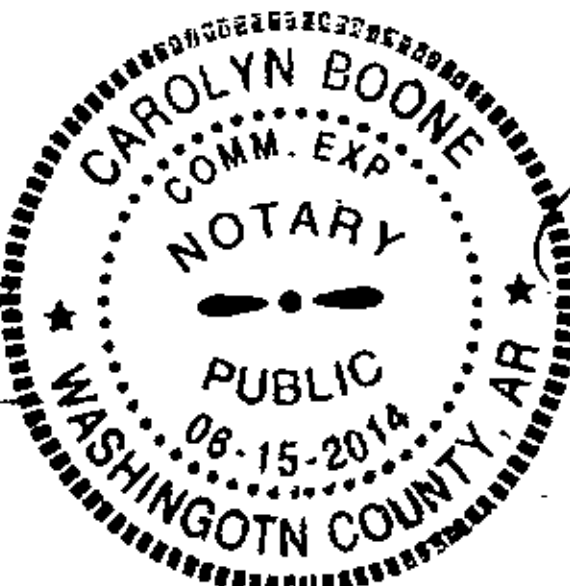
Imogene Williams
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 15 day of February, 2006 appeared before me, Fletcher Williams / Imogene Williams and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

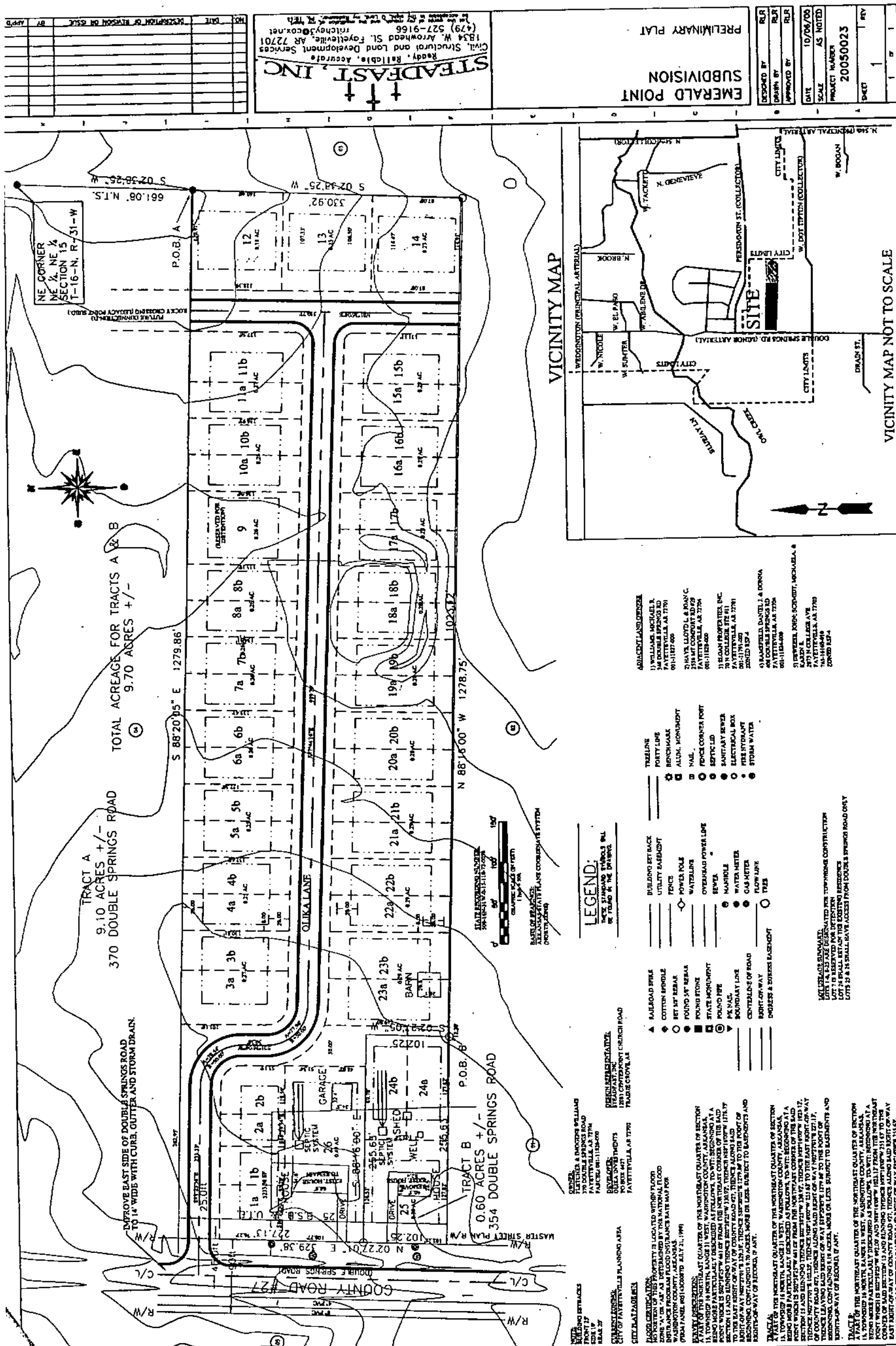
My Commission Expires
June 15/2014



Carolyn Boone
NOTARY PUBLIC

SURVEY DESCRIPTION:

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.



Draft / Preliminary Subdivision Drawing



PC Meeting of February 27, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: February 21, 2006

RZN 06-1936: (FLETCHER WILLIAMS, 474): Submitted by RANDY RITCHEY STEADFAST, INC. for property located at 370 DOUBLE SPRINGS RD. The property is zoned R-A, Residential Agricultural, and contains approximately 9.70 acres. The request is to rezone the subject property to RMF-6, Residential Multi-family, 6 units per acre.

Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested rezoning from R-A to RMF-6 with the Bill of Assurance submitted by the applicant.

PLANNING COMMISSION ACTION: Required <u>YES</u>	
☐ Forwarded ☒ Denied	
Date: <u>February 27, 2006</u>	Motion to recommend approval if ANX 06-1935 is approved by Allen.
CITY COUNCIL ACTION:	Second: ☐ Myres ☒ Required <u>YES</u>
	Vote: 4-2-0 w/ Antler & Oster voting no. Motion fails for lack of 5 affirmative votes.
☐ Approved ☐ Denied	
Date: <u>March 21, 2006 (1st reading if recommended)</u>	

Comments: _____

BACKGROUND:

Property description: The subject property contains approximately 9.70 acres and is located on Double Springs Road, south of Persimmon Street. The property is bordered on two sides by property zoned RSF-4, with Silverthorne Subdivision to the west and Legacy Point Phase 4

(under construction) to the east. Two intervening properties lie between the subject property and the city limits to the north (Legacy Point Phase 1). Initially, these properties were developed for single-family use. In recent months, the adjacent owner north of the property has begun to develop a storage unit business on his property. Legacy Point Phase 1 is zoned both RSF-4 and RMF-6. The 2002 rezoning of 8.74 acres within Legacy Point, in close proximity to the current request, was the first property to be zoned RMF-6 within the City of Fayetteville, with a unanimous vote by the Planning Commission and a majority vote by City Council.

Proposal: The applicant requests rezoning of 9.70 acres to allow for a two-family townhome and single-family development. The prospective buyer of the property developed several properties within the RMF-6 portion of Legacy Point and would like to duplicate this development on the subject property (see photos within packet). The property owner has submitted a Bill of Assurance that limits the development of the property to a maximum 24 two-family townhomes and a minimum 3 single-family lots, with a maximum 54 dwelling units; a maximum 58 units is permitted at 6 units/acre. Additionally, the Bill of Assurance guarantees that single-family dwellings will be located adjacent to the existing RSF-4 zoning districts, that is along the east and west property lines (see attachment).

Recommendation: Staff recommends approval of the proposed rezoning with the Bill of Assurance. The development of property at 6 units per acre with single-family lots adjacent to properties zoned RSF-4 will allow for transitional housing and a density of residences similar to nearby developments.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Storage Units & 2 Single family homes Single family homes	Planning Area RSF-4 & RMF-6 (Legacy Pt. Ph. 1)
South	Rural Single family homes	Planning Area
East	Vacant (under construction)	RSF-4
West	Silverthorne Subdivision	RSF-4

INFRASTRUCTURE:

Streets: The site has access to Double Springs Road. Improvements will be required to Double Springs Road which may include off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development. Dedication of right-of-way per the Master Street Plan is required.

Adjacent Streets:

North: Persimmon Street (Collector)

South: Dot Tipton Road (Collector)

West: Double Springs Road (Minor Arterial)

Water: Public water is adjacent to the site. There is an 8" water line that runs along Double Springs Road. A study of the water system shall be conducted by the developer. Substantial improvements to the water system may be required which includes other off-site improvements. Water service will need to be extended to and within the property at the time of development connecting within the proposed development.

Sewer: Sanitary sewer is located near the site. Substantial improvements to the sewer system will be required which includes off-site improvements. This development will be within the sewer assessment area. A study of the downstream system shall be conducted by the developer. Sewer service will need to be extended to and within the property at the time of development connecting within the proposed development

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire: These 9.70 acres are covered by Engine 7 located at 835 Ruppel Road. It is 3 miles from the station with an expected response time of 6 minutes to the entrance of this development. The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. Measured Hydrant Flow in this area is 1465 gallons per minute. The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 designates the site as Residential. Rezoning this property to RMF-6 with the proposed Bill of Assurance is compatible with the single-family and townhomes uses in the area.

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 is generally consistent with current land use planning objectives and policies for Residential Use in the area as indicated on the Future Land Use plan. The first rezoning of property to RMF-6 occurred

within the subdivision north of the subject property. The increase in density and type of development is compatible to the surrounding developments within the city. Additionally, the applicant proposes to develop single-family lots adjacent to the existing RSF-4 property (Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east).

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: For the property to develop in a manner consistent with adjacent properties, a zoning that would allow density greater than 1 unit per 2 acres (R-A) is required. The RSF-4 zoning is the most common in this area, though nearby property is zoned RMF-6 and property zoned R-O near the corner of Wedington Drive and Double Springs Rd is developed as a duplex subdivision. The applicant proposes an RMF-6 zoning with the intent to develop the property for two-family townhomes and some single-family dwellings. Staff finds that a zoning greater than R-A is justified in this area and an RMF-6 zoning with development subject to the proposed Bill of Assurance will be compatible with the surrounding developments.

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

Finding: It is expected that a rezoning from R-A to RMF-6 would create an increase in traffic compared with that allowed under the existing zoning. The property is situated near two Collector streets and adjacent to a Minor Arterial street. The existing infrastructure will be able to accommodate a 9.70 acre development of 6 units per acre (a maximum 58 units; 580 vehicle trips per day).

Police: It is the opinion of the Fayetteville Police department that an appreciable increase in traffic danger and congestion would not be created by this rezoning.

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 will increase population density from the zoning currently in place. The 9.70 acre tract under an R-A zoning designation would allow for a maximum 4 single family residential dwelling units. With the proposed RMF-6 designation, a maximum 58 single family dwelling units would be permitted. Staff finds that increasing the density limitations to 6 units per acre would alter the population density in the immediate vicinity, though not to the degree that it

undesirably increases the load on public services.

Increased load on public services was taken into consideration for the recommendations from Engineering, Police and Fire Department that are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.10 District Rmf-6, Residential Multi-Family – Six Units Per Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(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 11	Manufactured home park
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 6
----------------	--------

(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 and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

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
25 ft.	8 ft.	25 ft.

Cross reference(s)—Variances, Ch. 156.

(F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01)



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

February 17, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed annexation and rezoning ANX & RZN 06-1935 (Fletcher Williams, 474) submitted by Randy Ritchey Steadfast, Inc for property located at 370 Double Springs Rd. would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,


Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
From: Captain Dale Riggins
Date: February 21, 2006
Re: February 16, 2006 Zoning Review – Fire Department Comments

ANX 06-1935 (Fletcher Williams, 474)

RZN 06-1936 (Fletcher Williams, 474)

These 10 acres are covered by Engine 7 located at 835 Ruppel Road.

It is 3 miles from the station with an expected response time of 6 minutes to the entrance of this development.

The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measured Hydrant Flow in this area is 1465 gallons per minute.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

There should be no adverse effects on our call volume or response time to this development.

If you have any questions, please feel free to call or email me

Dale Riggins

Captain

Fayetteville Fire Department



ANX06-1935 RZN06-1936 Fletcher Williams 10 acres 6 Minute Response
RZN06-1934 Broyles Commercial 10.06 Acres 2.25 Minute Response

REQUEST FOR REZONING

1/19/06

To whom it may concern,

Please accept this request for annexation and re-zoning of property situated adjacent to the City of Fayetteville. The property is located at 370 Double Springs Road in Fayetteville, AR 72704 and is owned by Fletcher and Imogene Williams. The property contains 9.70 acres and is contiguous with the City of Fayetteville on 2 sides. Mr. and Mrs. Williams wish to sell their property to Olike Investments, who then intends to develop a residential subdivision on the site.

The annexation and rezoning are requested so that the property can be used according to the RMF-6 zoning to accommodate the construction of townhomes.

The use of the property for townhome construction will be consistent with nearby developments as Legacy point contains a section of townhomes. The current conceptual plan proposes the construction of 26 townhomes, which is a total of 52 living units. We believe this development will not generate enough increased traffic to significantly impact the current traffic patterns. The type and style of construction and entry signage will closely match the existing construction in Legacy Point.

Water is available from an existing 8" water main both on the West and East sides of the property. Sewer is available from an existing 8" gravity main on the West side and a 4" pressure main on the East side.

PLEASE NOTE THAT ALL ADJOINING PROPERTY OWNERS EXCEPT ONE ARE
ALSO PETITIONING FOR ANNEXATION.

REQUEST FOR REZONING

1/19/06

To whom it may concern,

Please accept this request for annexation and re-zoning of property situated adjacent to the City of Fayetteville. The property is located at 370 Double Springs Road in Fayetteville, AR 72704 and is owned by Fletcher and Imogene Williams. The property contains 9.70 acres and is contiguous with the City of Fayetteville on 2 sides. Mr. and Mrs. Williams wish to sell their property to Olike Investments, who then intends to develop a residential subdivision on the site.

The annexation and rezoning are requested so that the property can be used according to the RMF-6 zoning to accommodate the construction of town homes.

The use of the property for town home construction will be consistent with nearby developments as Legacy point contains a section of town homes. The current conceptual plan proposes the construction of 46 to 53 living units. We believe this development will not generate enough increased traffic to significantly impact the current traffic patterns. The type and style of construction and entry signage will closely match the existing construction in Legacy Point.

Water is available from an existing 8" water main both on the West and East sides of the property. Sewer is available from an existing 8" gravity main on the West side and a 4" pressure main on the East side.

The proposed RMF-6 zoning is consistent with current land use planning ordinances and is consistent with current surrounding land use.

The re-zoning is needed because the assigned RA zoning does not allow construction of residential subdivisions as proposed for the property.

While the zoning would allow a maximum of 58 units, we are submitting a Bill of Assurance stating we will not build more than a maximum of 53 units. This is a density of 5 units per acre. We do not believe this subdivision will significantly impact the traffic danger or congestion.

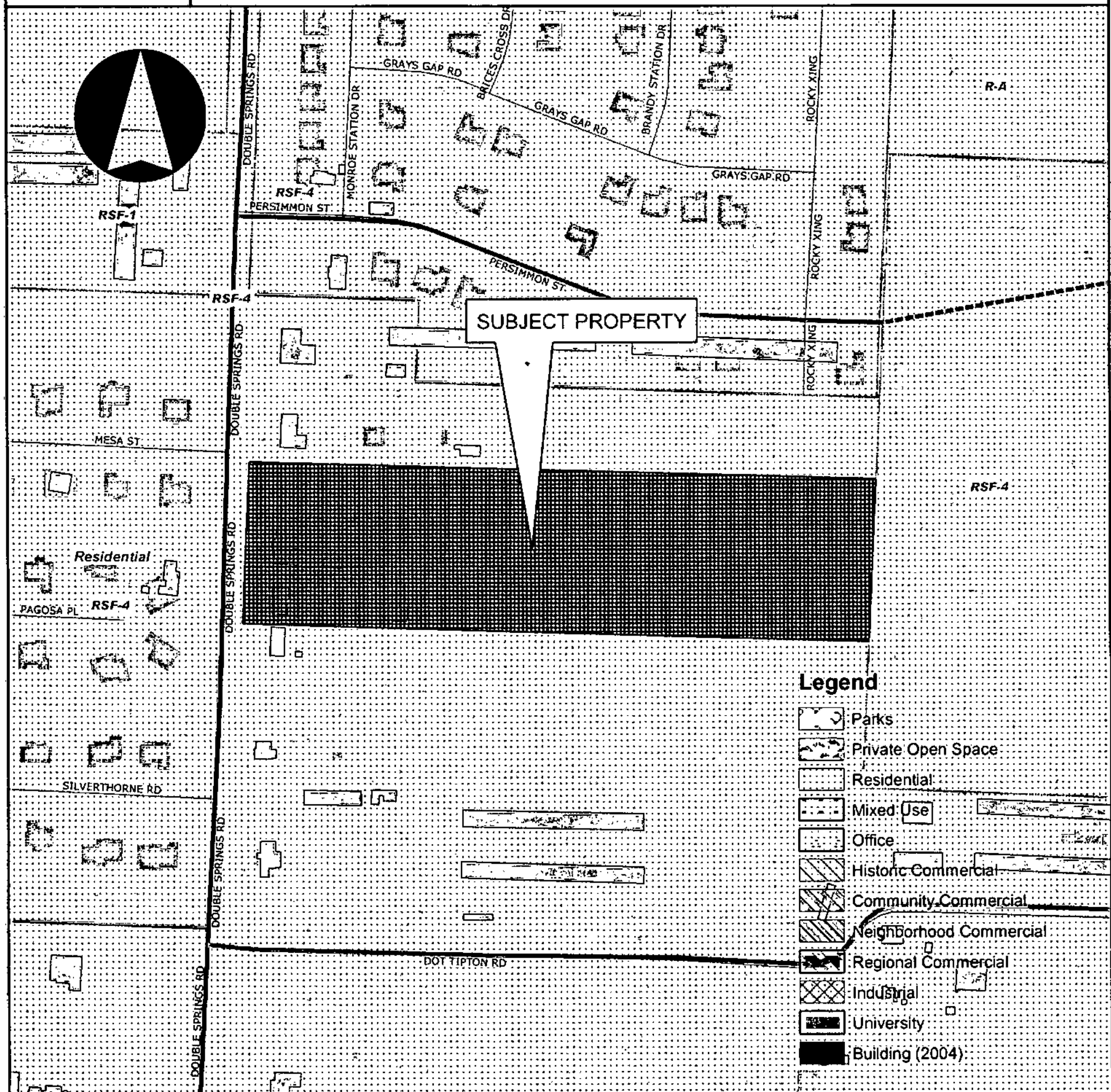
While any development will certainly affect the public services, this development is small in scale and should not add significant strain to the existing public services.

The assigned zoning of RA is impractical for developing the property as a subdivision.

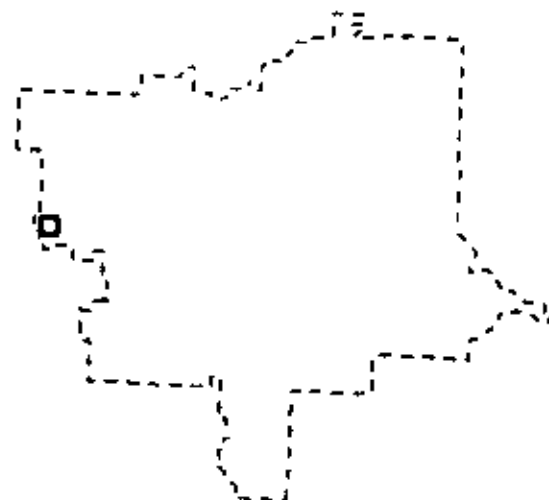
RZN06-1936

Future Land Use

FLETCHER WILLIAMS



Overview



Legend

Subject Property

RZN06-1936

Streets

Existing
Planned

Boundary

Planning Area
Overlay District
Outside City

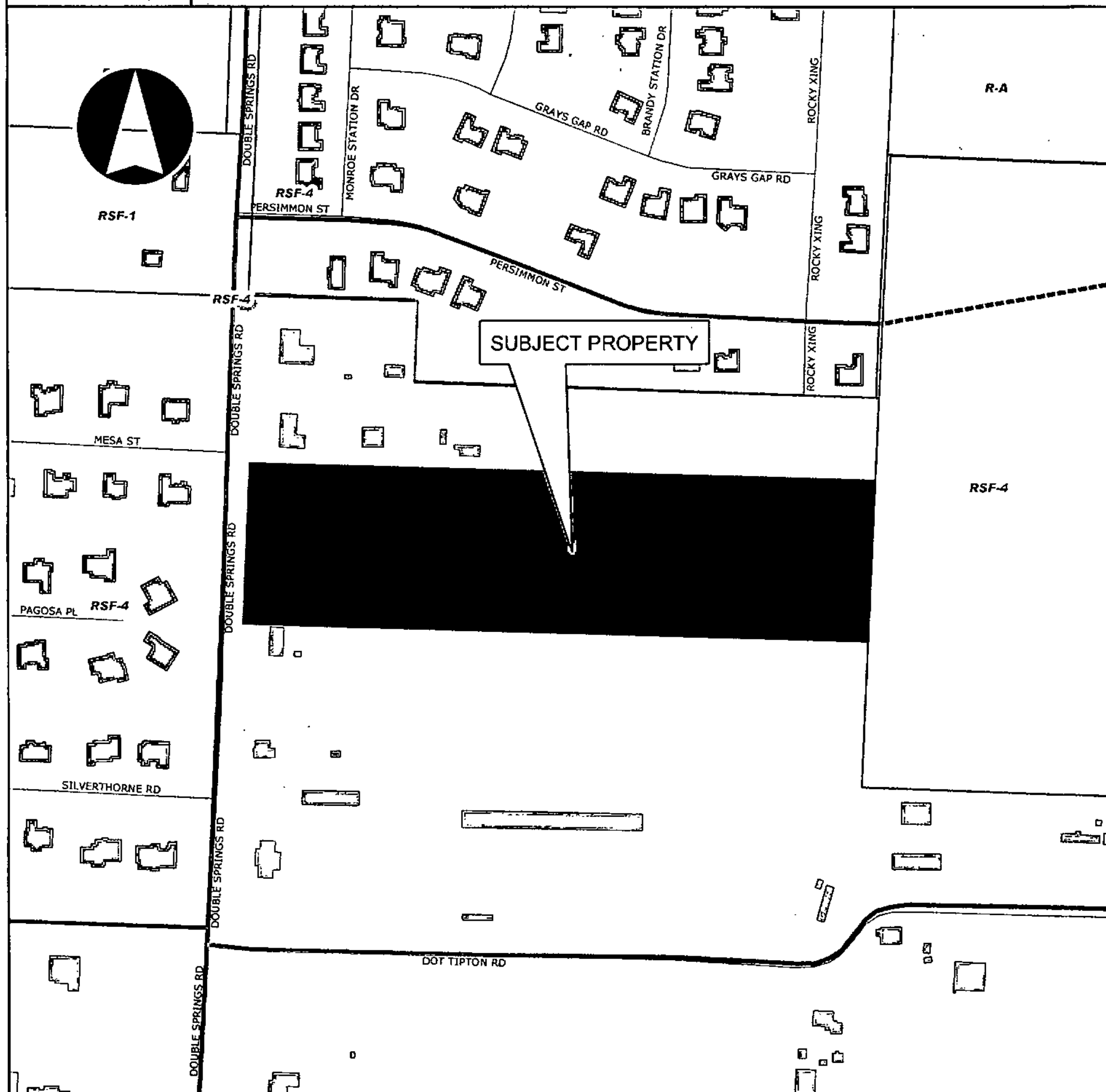
Legend

0 100 200 400 600 800 Feet

RZN06-1936

FLETCHER WILLIAMS

Close Up View



Legend

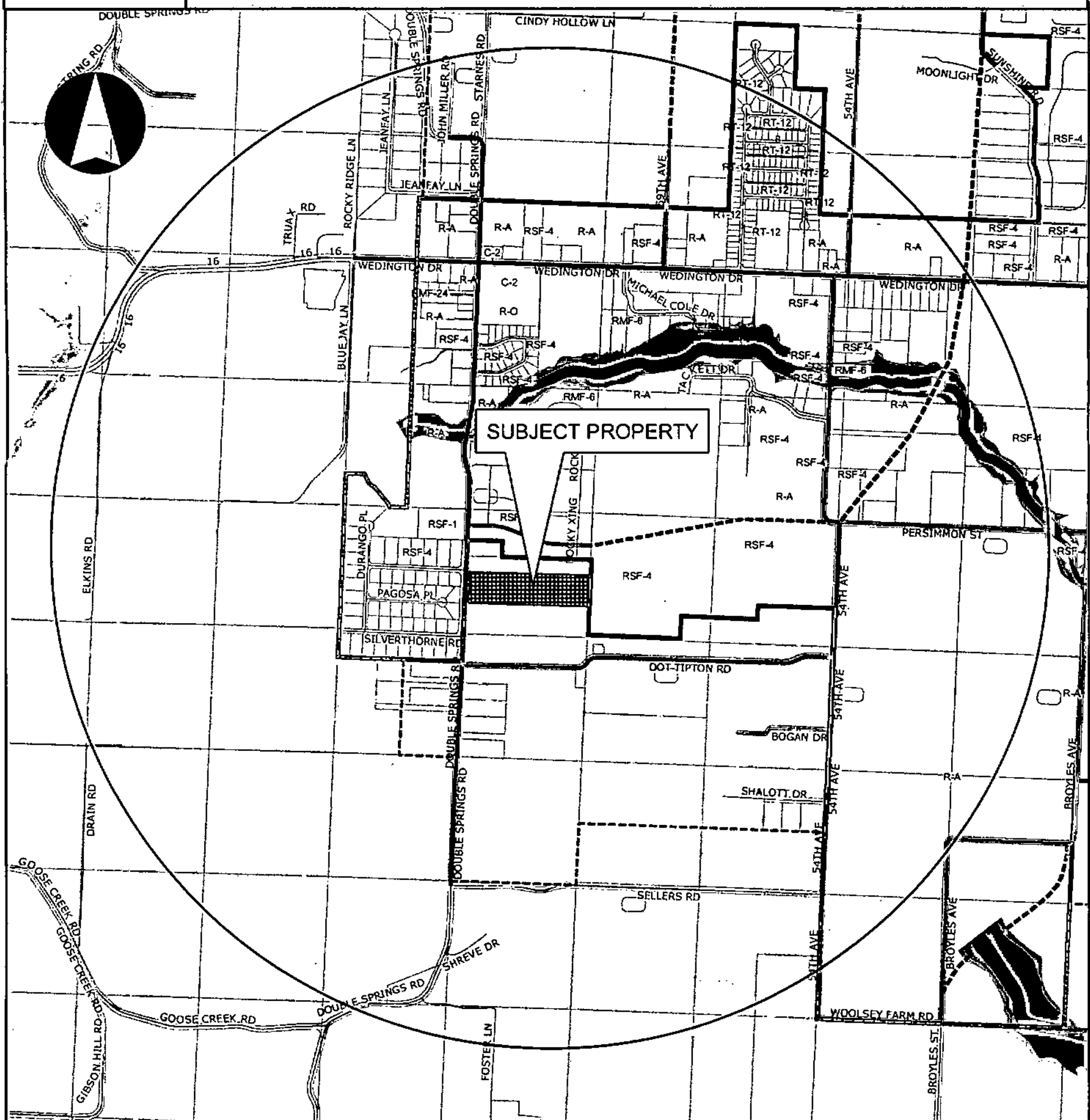
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- RZN06-1936
- vector.GDB.Footprint_2004

0 125 250 500 750 1,000 Feet

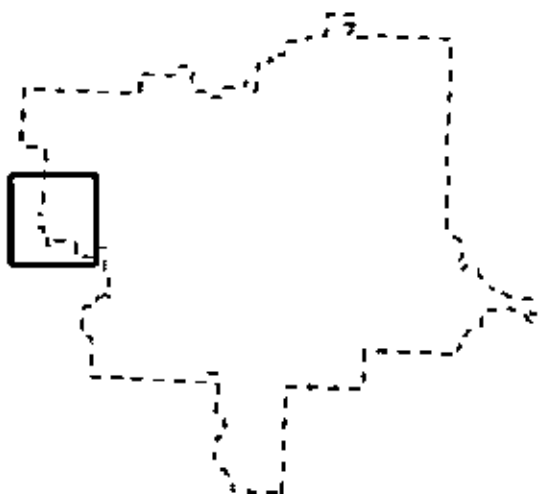
RZN06-1936

One Mile View

FLETCHER WILLIAMS



Overview



Legend

Subject Property

RZN06-1936

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

From: Clarice Pearman
To: Pate, Jeremy
Date: 4.7.06 4:24PM
Subject: Ords. 4849, 4850, 4851, 4852 & 4854

Jeremy,
Attached are the above ordinances passed by City Council, April 4, 2006 regarding various vacations, annexations, rezoning and waivers.
Thanks.
Clarice

CC: Bell, Peggy; Deaton, Vicki; GIS

Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record
P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6415

AFFIDAVIT OF PUBLICATION

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

ORDINANCE 4852

Was inserted in the Regular Editions:

April 13, 2006

Publication Charge: \$114.98

Subscribed and sworn to before me

This 13 day of April, 2006.

Notary Public

Sharlene D. Williams

Notary Public

State of Arkansas

My Commission Expires
October 18, 2014

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

RECEIVED

APR 17 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

ORDINANCE NO. 4852	
AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-1936, FOR APPROXIMATELY 9.70 ACRES, LOCATED AT 354 AND 370 DOUBLE SPRINGS ROAD, FROM R-A, RESIDENTIAL AGRICULTURAL TO RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE, SUBJECT TO A BILL OF ASSURANCE	
Fayetteville ARKANSAS	
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:	
Section 1: That the zone classification of the following described property is hereby changed as follows:	
From R-A, Residential Agricultural to RMF-6, Residential Multi-Family, 6 units per acre, as shown on Exhibit "A" attached hereto and made a part hereof.	
Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.	
Section 3: That the subject property will be subject to a Bill of Assurance attached hereto and made a part thereof as Exhibit "B", limiting the type and location of dwelling units on the property.	
PASSED and APPROVED this 4th day of April, 2006.	
APPROVED:	ATTEST:
By: DAN COODY, Mayor	By: SONDRA SMITH, City Clerk
EXHIBIT "A"	
RZN 06-1936	
A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.	
EXHIBIT "B" MAY BE VIEWED IN THE OFFICE OF THE CITY CLERK DURING NORMAL BUSINESS HOURS.	



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0218

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: C. 3

CULLERS SEWER EXTENSION:

A RESOLUTION TO APPROVE AN EXTENSION OF THE CITY'S SEWERAGE SYSTEM BEYOND THE CITY LIMITS TO A PROPOSED DEVELOPMENT NEAR HUGHMOUNT ROAD AND LIERLY LANE

WHEREAS, §51.113 **Sewer Service and Extension Policy** states that "the city's sewerage system shall not be extended outside the city's corporate limits except on the express approval of the City Council."

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 approves the request by Justin Cullers for an extension of the City's sewerage system beyond the city limits to a proposed development near Hughmount Road and Lierly Lane as shown on the maps attached to the City Council agenda memo.

City of Fayetteville Staff Review Form

2017-0218

Legistar File ID

5/2/2017

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

W/S Committee-Mark Kinion, Chair

4/14/2017

City Council /
General Government Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a Request to Extend Sewer Service Outside the City Limits

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item?

Current Budget

\$

-

Funds Obligated

\$

-

Current Balance

\$

-

Does item have a cost?

Item Cost

Budget Adjustment Attached?

Budget Adjustment

Remaining Budget

\$

-

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff

FROM: Tim Nyander, Utilities Director

CC: Chris Brown, City Engineer
Andrew Garner, Planning Director

DATE: April 14, 2017

SUBJECT: Request for Sewer Service Outside the City Limits

RECOMMENDATION:

The City Council Water and Sewer Committee recommends approval of a request to extend sewer service outside the City limits. The Committee voted 3-1 to forward the request to the Council for consideration, with a recommendation for approval.

BACKGROUND:

Justin Cullers, a representative for a proposed development located just outside the City limits, near Hughmount Road, contacted City staff recently regarding sewer service options. Andrew Garner, Planning Director, advised him that annexation, or extension of sewer would be in conflict with the City's stated growth policies, and that annexation would likely not be recommended by staff. Mr. Cullers also contacted the the Water and Sewer Committee and requested to be placed on the agenda to discuss this development.

DISCUSSION:

The Water and Sewer Committee heard the request at the April 11th meeting. Mr. Cullers presented his request to receive sewer service outside the City limits. It should be noted that extension of sewer service outside the City limits is not allowed, except by approval of the City Council, per Section 51.113 of City Code, which is provided below. Staff also discussed the City's policies related to growth and development on the fringes of the City, and that this proposed development would be in conflict with those policies. After discussion, the Committee voted to recommend approval of this request; the request is therefore presented to the City Council for consideration.

Attachments:

Vicinity and Layout Maps

City Code Reference:

51.113 - Sewer Service And Extension Policy

The policies of the city concerning and regarding the sewer system, shall be as follows:

(A) (1) It shall be the policy of the city to maintain and operate a municipal sewer system capable of collecting waste water from the city's sewer customers and treating such water for disposal into natural water courses.

(2)

To sustain and expand the municipal sewer system the city shall assume the expense of treating the waste water together with the operation and maintenance of the collection lines and appurtenances.

(3)

Construction of major collection lines shall be made in accordance with sewer system improvement and expansion programs and plans adopted by the City Council to better serve existing customers and to make the sewer system available to new customers and land development. Priorities for such improvement and extension shall be established by the City Council on the basis of need and the city's financial ability.

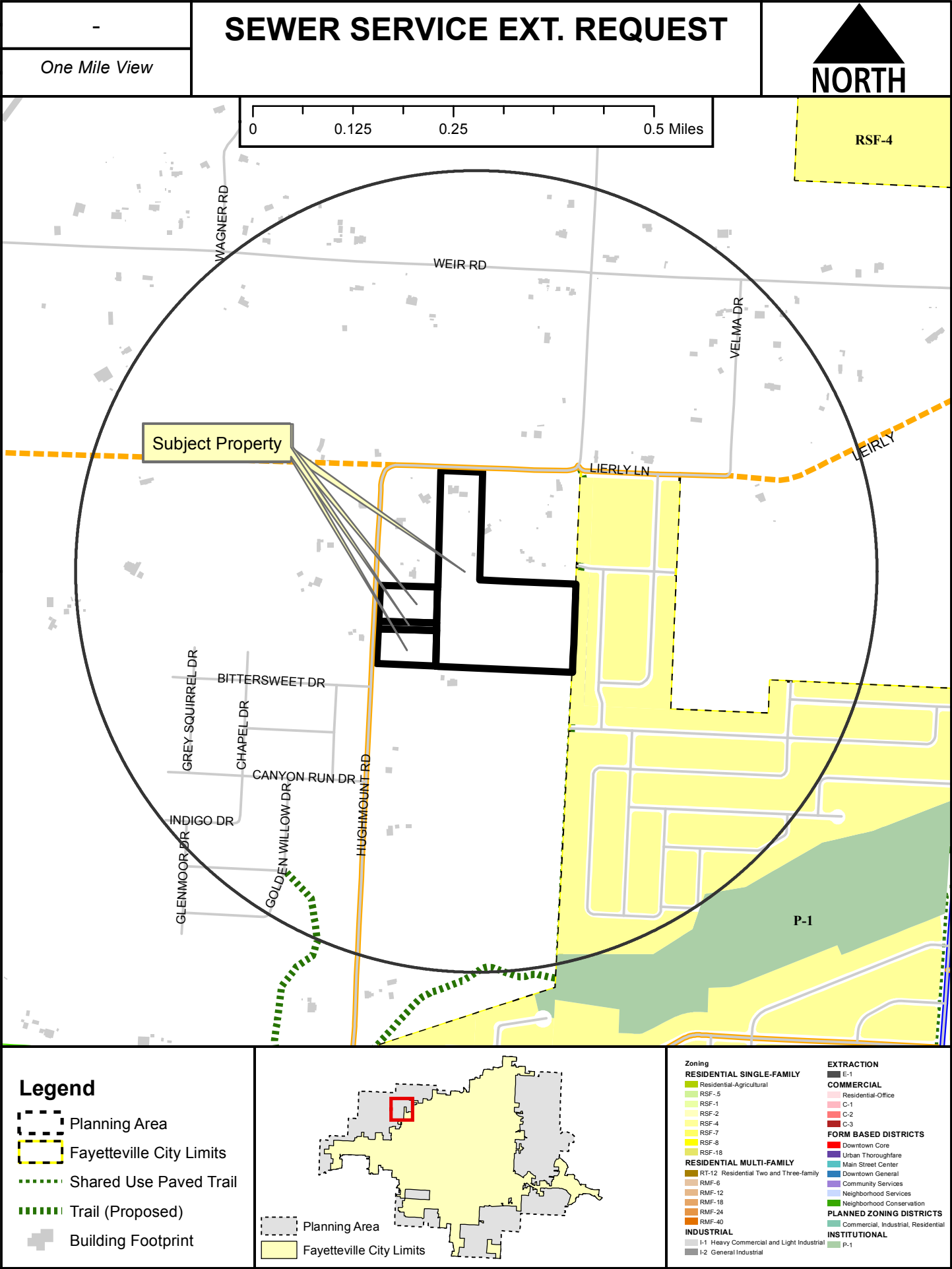
(B)

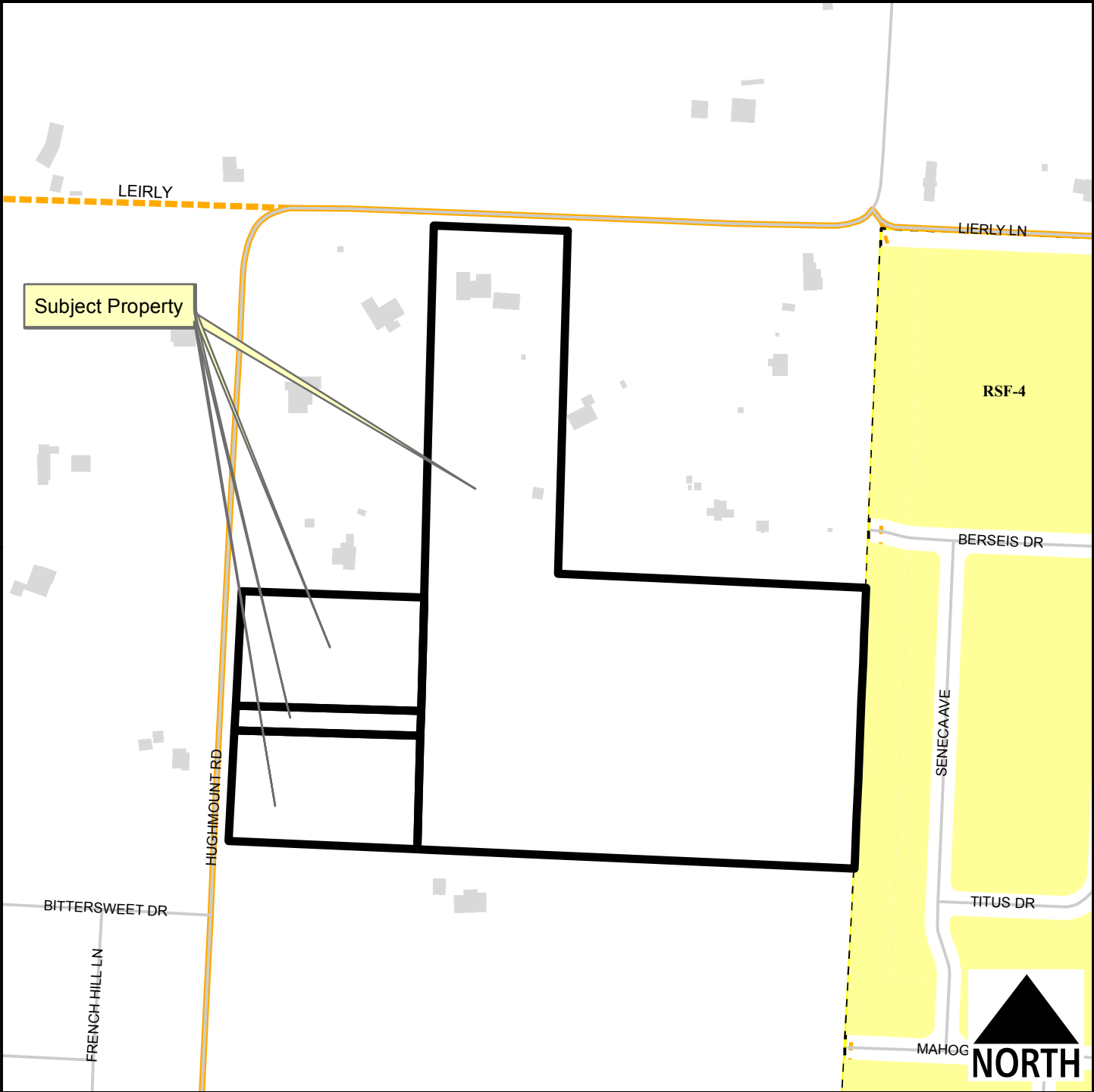
Extensions to and Within Subdivisions. The cost of extending sewer lines from existing mains to subdivisions and other land developments and the cost of constructing sewerage facilities within subdivisions as prescribed in subdivision regulations and according to specifications and location prescribed by the Water and Wastewater Director shall be the financial responsibility of the developer; however, the city shall pay the excess material cost of facilities of a size larger than required to serve subdivisions when such excess size is specified and required by the Water and Wastewater Director for the general benefit of the sewerage system. All sewer facilities financed by the developer shall become the property of the city after inspection and acceptance by the Water and Wastewater Director.

(C)

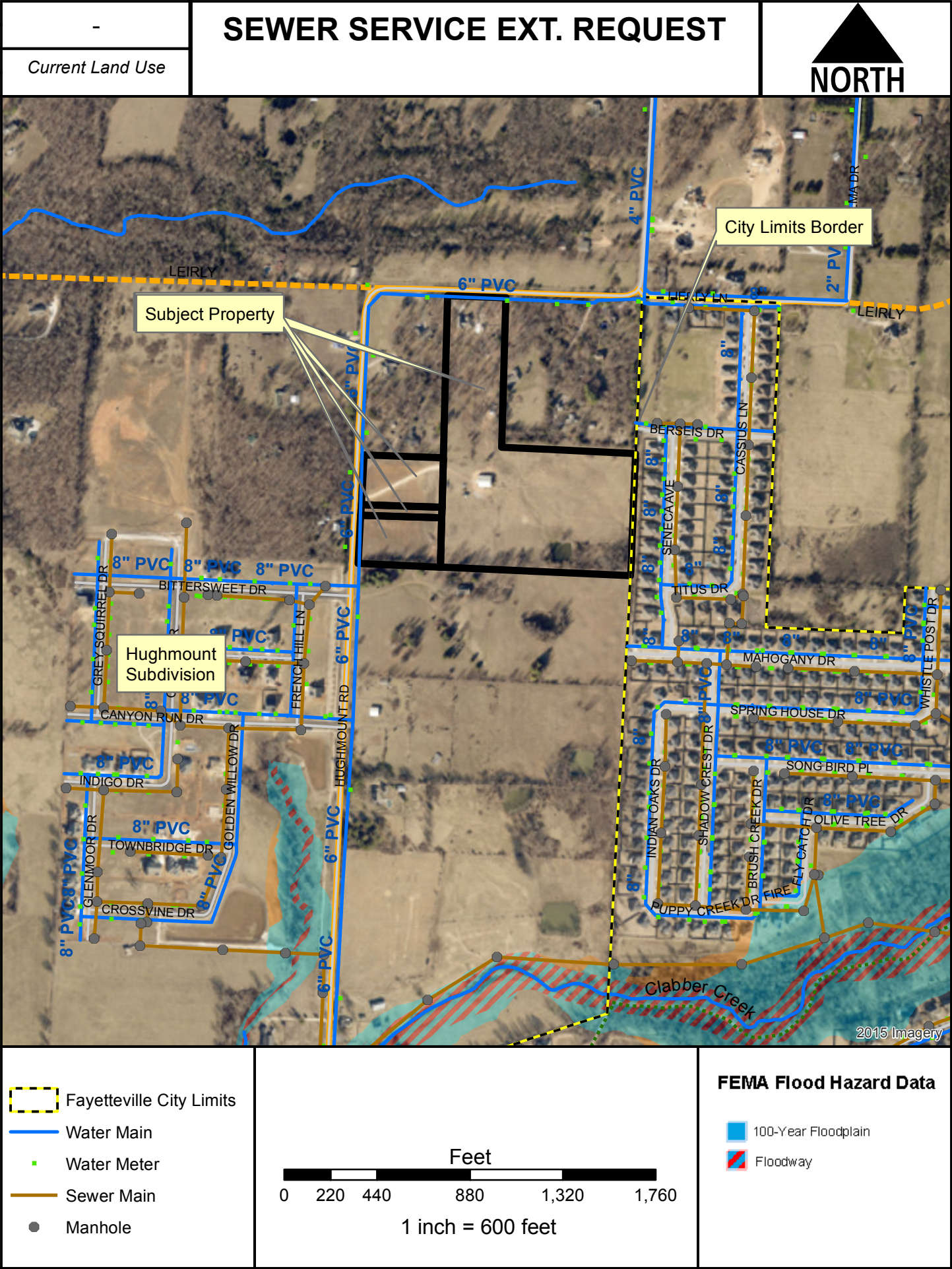
Sewer Extensions Outside the City. Except for facilities needed to serve property within the city's limits, such as major transmission lines and pump stations to deliver sewage to disposal sites, and except through contractual arrangements with other municipal corporations, the city's sewerage system shall not be extended outside the city's corporate limits except on the express approval of the City Council.

(Code 1965, §21-17; Ord. No. 1762, 9-9-70; Ord. No. 2896, 2-15-83; Code 1991, §51.113)





Legend - Planning Area - Fayetteville City Limits - Trail (Proposed) - Building Footprint	Feet 0 112.5 225 450 675 900 1 inch = 300 feet	RSF-4
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City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0201

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: C. 4

UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT:

A RESOLUTION TO APPROVE AN AGREEMENT WITH THE UNIVERSITY OF ARKANSAS TO ACCEPT WASTEWATER FROM THE UNIVERSITY'S SOUTHWEST EXPERIMENTAL FAST OXIDE REACTOR FACILITY INTO THE CITY'S SANITARY SEWER SYSTEM FOR TREATMENT

WHEREAS, the University of Arkansas owns the Southwest Experimental Fast Oxide Reactor (SEFOR) facility in Washington County; and

WHEREAS, during the process of decommissioning, dismantling and cleaning up the SEFOR facility, water containing small amounts of radioactive material and asbestos has accumulated in the basement of the facility; and

WHEREAS, in 2011, the City first agreed to accept and treat accumulated water from the facility and the University wishes to dispose of water that has accumulated since that time; and

WHEREAS, the wastewater has been certified by the Arkansas Department of Health as being unrestricted for proper release or disposal.

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 approves an agreement with the University of Arkansas to accept wastewater containing low levels of radioactive material and asbestos from the University's SEFOR facility into the City's sanitary sewer system for treatment.

City of Fayetteville Staff Review Form

2017-0201

Legistar File ID

5/2/2017

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

Tim Nyander

4/11/2017

Utilities Director /
Utilities Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A RESOLUTION APPROVING AN AGREEMENT WITH THE UNIVERSITY OF ARKANSAS TO ALLOW THE ACCEPTANCE OF WASTEWATER FROM THE SEFOR FACILITY INTO THE FAYETTEVILLE SANITARY SEWER SYSTEM.

Budget Impact:

N/A

N/A

Account Number

Fund

N/A

N/A

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

Item Cost \$ -

Budget Adjustment Attached? NA

Budget Adjustment \$ -

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Water & Sewer Committee

FROM: Tim Nyander, Utilities Director

DATE: April 11, 2017

SUBJECT: Resolution Approving an Agreement with the University of Arkansas Regarding Acceptance of Wastewater from the SEFOR Facility

RECOMMENDATION:

City Administration recommends a Resolution approving an agreement with the University of Arkansas regarding acceptance of wastewater from the SEFOR facility.

BACKGROUND:

The University of Arkansas owns the facility known as the Southwest Experimental Fast Oxide Reactor (SEFOR) in Washington County. In 2011, City of Fayetteville accepted water that had accumulated in the basement rooms because of roof leaks during Phase 1, the Initial Site Preparations and Development of Decommissioning Plan. The University has replaced one of the roofs, but water has again accumulated in the basements. To move forward with Phase 2, Demolition of the Operations Support Building and the Reactor Support Facility, the University needs to remove and properly dispose of the water that has accumulated in the basements. This water contains minute amounts of metals and radioactive material, and must thus be disposed of within specific federal and state guidelines. There will also be a small amount of water from asbestos abatement that will be treated for disposal. A wastewater treatment facility is the optimum disposal method.

DISCUSSION:

Under this agreement, the City will accept the water pumped out of the basement rooms of the University of Arkansas' SEFOR facility and the treated asbestos abatement water into our wastewater collection system. The water will be discharged by a hauler contracted by the University into the collection system via a manhole on University of Arkansas property on South Razorback Road. The discharge will be time phased to allow City wastewater treatment staff to track plant operations during the process. The wastewater has been tested by multiple laboratories, and meets all discharge requirements for being discharged into a wastewater system. The Arkansas Department of Health, who has primacy in Arkansas over radioactive materials, has approved the discharge of this water into our wastewater facilities (letter attached).

BUDGET/STAFF IMPACT:

None. The University will be charged based on the volume of wastewater discharged.

ATTACHMENTS:

Staff Review Form

Agreement

Letter from Arkansas Department of Health

AGREEMENT TO AUTHORIZE THE UNIVERSITY OF ARKANSAS TO USE THE FAYETTEVILLE SEWER SYSTEM TO DISPOSE OF SEFOR'S POLLUTED WATER

This agreement is entered into between the Board of Trustees of the University of Arkansas, acting for the University of Arkansas, Fayetteville (hereinafter "University") and the City of Fayetteville (hereinafter "Fayetteville") to authorize the University to use Fayetteville's sewer system including facilities to dispose of an amount not to exceed 100,000 gallons of water that has accumulated at the University's Southwest Experimental Fast Oxide Reactor (SEFOR) site that has become slightly polluted with very low levels of radioactivity and some with a small amount of asbestos.

The University of Arkansas agrees to:

1. Properly collect all such polluted water from its SEFOR site and transport it to an agreed location on the University of Arkansas campus and deposit it into Fayetteville's sanitary sewer system under supervision of Fayetteville Wastewater personnel.
2. The University of Arkansas agrees that prior to transporting any such water that has been contaminated with asbestos, it shall filter such water to remove all asbestos down to a 1 micron level and properly and legally dispose of such filtered asbestos. This properly filtered water may then be disposed of pursuant to the procedures in paragraph 1.
3. The University of Arkansas acknowledges that the City of Fayetteville does not have the capacity to treat or reduce the radioactivity in SEFOR's water or the one micron level of asbestos contamination which could remain in SEFOR's water and acknowledges the very low level of radioactivity and asbestos within the transported SEFOR water remains, to the extent permitted by law, the responsibility of the University rather than Fayetteville.

The City of Fayetteville agrees to:

1. Allow the University of Arkansas to utilize its sanitary sewer system from a location on the University of Arkansas campus to dispose of

SEFOR's water, as described above, even though such water contains very low levels of radioactivity and asbestos.

2. The City of Fayetteville agrees to allow the University of Arkansas to place such properly filtered water within the sanitary sewer system to flow to the wastewater plant so that the radioactive and asbestos particles will be combined with other wastewater before being released.

IN AGREEMENT with all the terms and conditions stated above, the Board of Trustees of the University of Arkansas acting for the University of Arkansas, Fayetteville and the City of Fayetteville have authorized their representatives to sign their names below on this ____ day of April, 2017.

**BOARD OF TRUSTEES OF THE
UNIVERSITY OF ARKANSAS,
Acting for the
UNIVERSITY OF ARKANSAS,
FAYETTEVILLE**

By: _____



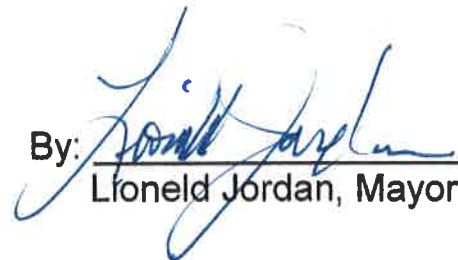
Timothy J. O'Donnell

VICE CHANCELLOR FOR
FINANCE & ADMINISTRATION

Name and Title

**CITY OF
FAYETTEVILLE, ARKANSAS**

By: _____



Lioneld Jordan, Mayor

Attest: _____

Sondra E. Smith, City Clerk



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Nathaniel Smith, MD, MPH, Director and State Health Officer

March 14, 2017

Michael R. Johnson, PE, F.ASCE, F.SAME
Associate Vice Chancellor for Facilities
University of Arkansas
521 South Razorback Road
Fayetteville, Arkansas 72701

RE: Tritium Water Samples V1-001 & V2-001

Dear Mr. Johnson,

The Department has received the above samples on February 28, 2017 for radiochemical analysis. These results are comparable with the results from Gel Laboratories as identified in their report dated February 22, 2017. These results are below the concentration limits for Tritium specified in RH-902 of the ASBH *Rules and Regulations for Control of Sources of Ionizing Radiation*.

Therefore, the contained water in the underground vaults is considered to be unrestricted for proper release or disposal.

We look forward to working with the University in completion of this decommissioning project.

If you have any questions or need further assistance with your radiation safety activities, please contact this office at 501-661-2173.

Sincerely,

Jared W. Thompson, Program Manager
Radioactive Materials Program

cc: Dean M. Wheeler, Project Director
SEFOR

Alberta Hires, Arkansas Department of Environmental Quality



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0028

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 5

AMEND § 51.146 BACKFLOW PREVENTION:

AN ORDINANCE TO AMEND § 51.146 **BACKFLOW PREVENTION** OF THE FAYETTEVILLE CODE TO MORE CLOSELY CONFORM TO THE LATEST AMERICAN WATER WORKS ASSOCIATION AND ARKANSAS STATE PLUMBING CODE

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends § 51.146 (B) (6) *Air Gap* by repealing it and enacting a new (6) *Air Gap* as shown below

“(6) *Air Gap (AG)* means a physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. The air gap shall be at least 2 ½ times the diameter of the supply pipe. In no case shall it be less than 1 inch.”

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends § 51.146 (C) Handbook by repealing the end of the sentence “from time to time hereafter be amended” and enacting a new end of the sentence: “and may be revised as needed.”

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby repeals § 51.146 (D) (1) and (2) and enacts the following replacement (1) and (2)

“(1) The requirements and standards set forth herein shall apply to residential establishments having in-ground irrigation systems, fire suppression systems, and/or pools and to industrial and commercial developments and buildings. These establishments, developments and buildings shall follow the requirements of the *Arkansas State Plumbing Code* and the *City of Fayetteville's CrossConnection Control Program: Handbook of Policies and Procedures*.

(2) Single-family residential dwelling units, unless involved in commercial operations, are exempt from the requirements of this section except for residential dwelling units having in-ground irrigation systems, fire suppression systems, pools or otherwise have a plumbing system that presents an unreasonable danger of contaminating the public water supply under the purview of the *Arkansas State Plumbing Code* or the *City of Fayetteville Cross Connection Control Program: Handbook of Policies and Procedures*.”

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby repeals all use of “Water

and Sewer Division” and enacts the replacement “Utilities Department” throughout § 51.146

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby amends § 51.146 (F) by repealing subsection (b), relettering all following subsections and repealing the current subsection (e) and enacting the following relettered subsection (d) as follows:

“(e) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete crossconnection survey, the public water system shall be protected by the installation of an a University of Southern California (USC) approved reduced-pressure principle backflow prevention assembly (RP) or an air gap at the service connection. These premises will be considered High Hazard.”

Section 6. That the City Council of the City of Fayetteville, Arkansas hereby repeals § 51.146 (K) Testing and maintenance and enacts a replacement (K) as follows:

“*Testing and maintenance.* The customer or the contractor responsible for the installation of the backflow prevention assembly will notify the Water and Sewer Division Utilities Department immediately after installation of the assembly so that it can be tested and inspected for inspection. The Water and Sewer Division will inspect and test. The customer or contractor shall have the backflow prevention assembly tested by a state certified testing technician within ten days of the installation date, and shall provide the Utilities Department with the proper test forms. and annually thereafter. The Customer shall be responsible for all testing annually thereafter. In instances where the Water and Sewer Division Utilities Department, the City of Fayetteville, and/or the plumbing inspector deems the hazard to be great enough, testing may be required at more frequent intervals. All costs of testing shall be paid by the customer. Any repairs required as a result of inspections or testing shall be arranged for and paid by the customer through private contract with a state certified assembly repair technician. Records of inspections, testing, and/or repairs to backflow preventers shall be kept by the Water & Sewer Department Utilities Department and/or the city and made available to the state health department upon request. All existing customer premises shall be in compliance with this section in accordance with the notification by the water utility.”

Section 6. That the City Council of the City of Fayetteville, Arkansas hereby repeals the last sentence in § 51.146 (L) *New Construction*.

City of Fayetteville Staff Review Form

2017-0028

Legistar File ID

5/2/2017

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

Tim Nyander

4/5/2017

Utilities Director /
Utilities Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

AN ORDINANCE TO AMEND § 51.146 BACKFLOW PREVENTION TO MORE CLOSELY CONFORM TO THE LATEST AWWA AND ARKANSAS STATE PLUMBING CODE STANDARDS

Budget Impact:

N/A

N/A

Account Number

Fund

N/A

N/A

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

Item Cost \$ -

Budget Adjustment Attached? NA

Budget Adjustment \$ -

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Water and Sewer Committee

FROM: Tim Nyander, Utilities Director *TN*

DATE: April 14, 2017

SUBJECT: An Ordinance to amend § 51.146 Backflow Prevention to more closely conform to the latest AWWA and Arkansas State Plumbing Code standards.

RECOMMENDATION:

Staff recommends approval of an Ordinance to amend § 51.146 Backflow Prevention to more closely conform to the latest AWWA and Arkansas State Plumbing Code standards.

BACKGROUND:

The Backflow Prevention section has not been revised in a number of years. The American Water Works Association (AWWA) and Arkansas State Plumbing Code (ASPC) have both been revised in recent years, and the City of Fayetteville Backflow and Cross Connection standards need to be amended to reflect those revisions and continue to protect the City of Fayetteville water supply.

DISCUSSION:

It is requested that the Backflow Prevention code be amended in the following ways:

- Definition of "Air gap" amended to reflect the size of air gap needed for compliance.
- Applicability Section amended to add residential, in-ground irrigation systems, fire suppression systems, and pools.
- Added to Section (D)(1) regarding residential, commercial and industrial applicability.
- Added to Section (D)(2) regarding single-family residential applicability.
- Deleted section (F)(4)(b).
- Section (F)(4)(e) amended to include "University of Southern California (USC) approved." Also, added "These premises will be considered High Hazard."
- Amended Section K to include "state" certified testing and "The customer shall be responsible for all testing annually thereafter."
- "Water & Sewer Division" changed to "Utilities Department" all throughout.

As it is written now, the code states that the City of Fayetteville tests all backflow assemblies annually, which is not the case. The code should state that the City of Fayetteville inspects the assemblies after installation, but that the customer or contractor shall be responsible for having the backflow assemblies tested after installation and annually.

BUDGET/STAFF IMPACT:

None.

ATTACHMENTS:

Staff Review Form

§ 51.146 Backflow Prevention with Markup

WT

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

51.146 Backflow Prevention

(A) *Purpose.* The purpose of this section is as follows:

- (1) To protect the public water supply of the city from the possibility of contamination or pollution from backflow into the public water system.
- (2) To promote the elimination or control of cross connections, actual or potential, between the customer's potable water system(s) and non-potable water systems, plumbing fixtures, and industrial piping systems.
- (3) To contain at the service connection any actual or potential pollution or contamination within the customer's premises.
- (4) To provide a continuous, systematic, and effective program of cross-connection control.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) *Backflow* shall mean a hydraulic condition, caused by a difference in pressures, in which non-potable water or other fluids flow into a potable water system.
- (2) *Backflow preventer (BFP)* shall mean a testable assembly to prevent backflow.
- (3) *Cross connection* means any actual or potential connection between the public water system and a source of contamination or pollution.
- (4) *Double-check valve assembly (DC)* means a complete assembly meeting AWWA Standard C510 and the requirements of the *Arkansas State Plumbing Code* consisting of two internally loaded, independently operating check valves between two tightly closing resilient-seated shutoff valves, with four properly placed resilient seated test cocks.
- (5) *Reduced-pressure principle backflow prevention assembly (RP)* means a complete assembly meeting AWWA Standard C511 and the requirements of the *Arkansas State Plumbing Code* consisting of a hydraulically operating, mechanically independent differential relief valve located between two independently operating, internally loaded check valves that are located between two tightly closing resilient seated shutoff valves, with four properly placed resilient-seated test cocks.
- (6) *Air gap (AG)* means a physical separation between ~~two piping systems~~ the free-flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. The air gap shall be at least 2 ½ times the diameter of the supply pipe. In no case shall it be less than 1 inch.

(C) *Handbook of Policies and Procedures.* There is hereby adopted by the City Council, by reference thereto, the provisions set forth in the *City of Fayetteville Cross-Connection Control Program: Handbook of Policies and Procedures*, as **and may be revised as needed**, ~~from time to time hereafter be amended~~.

(D) *Applicability.*

- (1) The requirements and standards set forth herein shall apply to **residential establishments having in-ground irrigation systems, fire suppression systems, and/or pools and to industrial and commercial developments and buildings. These establishments, developments and buildings shall follow the requirements of the Arkansas State Plumbing Code and the City of Fayetteville's Cross-Connection Control Program: Handbook of Policies and Procedures.**
- (2) Single-family residential dwelling units, unless involved in commercial operations, are exempt from the requirements of this section **except for residential dwelling units having in-ground irrigation systems, fire suppression systems, pools or otherwise have a plumbing system that presents an unreasonable danger of contaminating the public water supply** under the purview of the *Arkansas State Plumbing Code* or the *City of Fayetteville Cross-Connection Control Program: Handbook of Policies and Procedures*.
- (3) These standards are supplemental to and do not supersede or modify the *Arkansas State Plumbing Code (ASPC)* and its latest revisions under which the city operates.

(E) *Administration.* The ~~Water and Sewer Division~~ **Utilities Department** of the city shall be responsible for administration of this section and evaluating the hazards inherent in supplying a customer's water system.

(F) *Backflow prevention.*

- (1) *Evaluation of hazards.* ~~The Water and Sewer Division~~ **Utilities Department** shall determine whether solid, liquid, or gaseous pollutants or contaminants are, or may be, handled and/or used on the customer's premises in such a manner as to possibly contaminate the public water system.
- (2) *Customer installation of BFP.* When a hazard or potential hazard to the public water system is found on the customer's premises, the customer shall be required to install an approved backflow prevention assembly (BFP), or an air gap, at each public water service connection to the premises.
- (3) *Type of BFP.*
 - (a) The type of BFP required shall depend on the degree of hazard involved.
 - (b) Any backflow prevention assembly required herein shall be an approved type which is in compliance with requirements of the *City of Fayetteville's Cross-Connection Control Program: Handbook of Policies and Procedures*.
- (4) *Degree of hazard.* The degree of hazard shall be as determined as set forth in AWWA M-14 manual or as described below:
 - (a) In the case of any premises where there is an auxiliary water supply connected to the plumbing system, the public water system shall be protected from the

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

possibility of backflow by a reduced- pressure principle backflow prevention assembly (RP) at the service connection.

- (b) ~~In the case of any premises where substances are handled and/or used that are objectionable, but not hazardous to human health, and the likelihood exists of it being introduced into the public water system by virtue of a backflow occurrence, the public water system shall be protected by an air gap or approved double check valve assembly (DC).~~
- (c) In the case of any premises where there is any material hazardous to human health, which is handled and/or used in such a fashion as to create an actual or potential threat to the public water system by virtue of a backflow occurrence, the public water system shall be protected by an air gap or an approved reduced - pressure principle backflow prevention assembly (RP).
- (d) In the case of any premises where there are unprotected cross-connections, either actual or potential, the public water system shall be protected by an approved reduced-pressure principle backflow prevention assembly (RP) or an air gap at the service connection.
- (e) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey, the public water system shall be protected by the installation of an **a University of Southern California (USC)** approved reduced-pressure principle backflow prevention assembly (RP) or an air gap at the service connection. **These premises will be considered High Hazard.**
- (G) *Noncompliance/emergencies.*
- (1) *Violation/notice.* Upon discovery of any protective device required by this section which has not been installed, or is defective, or has been removed, or altered, or relocated, or bypassed, (except emergency situations), written notice shall be given to the customer. Such notice shall set forth the violation, the remedy required, and the time frame in which the violation shall be remedied.
- (2) *Water service discontinued.*
- (a) If violations are not corrected by the date and time as stated on the notice, the water supply will be discontinued by the ~~Water and Sewer Division~~ **Utilities Department**.
- (b) Discontinued water service shall not be resumed until conditions at the customer's premises have been abated or corrected to the satisfaction of the ~~Water and Sewer Division~~ **Utilities Department**.
- (3) *No water service connection.* No water service connection shall be installed on the premises of any customer unless the public potable water system is protected as required by this section.
- (4) *Emergency.* In emergency situations when the public potable water supply is being contaminated or is in immediate danger of contamination, the water service shall be discontinued by the ~~water and sewer division~~ **Utilities Department** immediately without notice.
- (H) *Right of entry.* For the purpose of making any inspections or discharging the duties imposed by this section, the ~~Water and Sewer Division~~ **Utilities Department** of the city, the state health department, and/or plumbing inspector shall have the right to enter upon the premises of any customer. Each customer, as a condition of the continued delivery to his premises of water from the public water supply, shall be considered as having stated his consent to the entry upon his premises by the ~~Water and Sewer Division~~ **Utilities Department** of the city, the state health department, and/or plumbing inspector for the purpose stated herein.
- (I) *Ownership.* Backflow prevention assemblies required by this section will be installed downstream of the water meter and are owned by, and are the responsibility of the customer of the water utility.
- (J) *Installation and costs.* Customers of the city water utility requiring backflow prevention assemblies shall pay all costs associated with installation of the appropriate size and type of backflow preventer under private contract. Backflow prevention assemblies shall be installed in accordance with the requirements of the city's *Cross-Connection Control Program: Handbook of Policies and Procedures*. ~~The Water and Sewer Division~~ **Utilities Department** shall review and approve all plans for placement of backflow preventers prior to installation. Backflow prevention assemblies not installed in accordance with the requirements of the city's *Cross-Connection Control Program: Handbook of Policies and Procedures* shall be corrected at the customer's expense.
- (K) *Testing and maintenance.* The customer or the contractor responsible for the installation of the backflow prevention assembly will notify the ~~Water and Sewer Division~~ **Utilities Department** immediately after installation of the assembly ~~so that it can be tested and inspected for inspection. The Water and Sewer Division will inspect and test. The customer or contractor shall have the backflow prevention assembly tested by a state certified testing technician within ten days of the installation date, and shall provide the Utilities Department with the proper test forms, and annually thereafter. The Customer shall be responsible for all testing annually thereafter.~~ In instances where the ~~Water and Sewer Division~~ **Utilities Department**, the City of Fayetteville, and/or the plumbing inspector deems the hazard to be great enough, testing may be required at more frequent intervals. All costs of testing shall be paid by the customer. Any repairs required as a result of inspections or testing shall be arranged for and paid by the customer through private contract with a **state** certified assembly repair technician. Records of inspections, testing, and/or repairs to backflow preventers shall be kept by the ~~Water & Sewer Department~~ **Utilities Department** and/or the city and made available to the state health department upon request. **All existing customer premises shall be in compliance with this section in accordance with the notification by the water utility.**
- (L) *New construction.* All new construction within the city shall be effected upon the passage of this section. ~~All existing customer premises shall be in compliance with this section in accordance with the notification by the water utility.~~
- (M) *Thermal expansion.* It is the responsibility of the customer to eliminate possible hazards caused by thermal expansion if a closed system has been created by the installation of a backflow assembly.



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0205

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 6

RZN 17-5728 (1640 S. HANSHEW RD./WM. LINDSEY):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 17-5728 FOR APPROXIMATELY 1.25 ACRES LOCATED AT 1640 S. HANSHEW ROAD FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE TO C-2, THOROUGHFARE 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 property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from RSF-4, Residential Single-Family, 4 Units per Acre to C-2, Thoroughfare Commercial.

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.

City of Fayetteville Staff Review Form

2017-0205

Legistar File ID

5/2/2017

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

Andrew Garner

4/14/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 17-5728: Rezone (1640 S. HANSHEW RD./WM. LINDSEY, 596): Submitted by WILLIAM LINDSEY for properties at 1640 S. HANSHEW RD. The properties are zoned RSF-4, RESIDENTIAL SINGLE FAMILY and contain approximately 1.25 acres. The request is to rezone the properties to C-2, COMMERCIAL THOROUGHFARE.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	No	Item Cost	
Budget Adjustment Attached?	NA	Budget Adjustment	
		Remaining Budget	\$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF MAY 2, 2017

TO: Mayor, Fayetteville City Council
THRU: Andrew Garner, Planning Director
FROM: Jonathan Curth, Senior Planner
DATE: April 14, 2017

SUBJECT: **RZN 17-5728: Rezone (1640 S. HANSHEW RD./WM. LINDSEY, 596):** Submitted by WILLIAM LINDSEY for properties at 1640 S. HANSHEW RD. The properties are zoned RSF-4, RESIDENTIAL SINGLE FAMILY and contain approximately 1.25 acres. The request is to rezone the properties to C-2, COMMERCIAL THOROUGHFARE.

RECOMMENDATION:

The City Planning staff and Planning Commission recommend approval of an ordinance to rezone the subject property to C-2, Thoroughfare Commercial, as shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The proposed rezoning request is for two parcels, totaling approximately 1.25 acres to the east of Hanshaw Road, just south of Martin Luther King Boulevard/Highway 62. The site is zoned RSF-4, Residential Single Family, 4 Units per Acre, and was annexed in to the City of Fayetteville in August of 1967 but never developed. Currently, and although zoned residentially, the property is being used in association with the property owner's business, Unique Creations by Billy, Inc. on the adjacent parcel to the north, and has been since 2011. In December of 2016, in response to a complaint, City staff identified several zoning violations on the subject property and its use related to the property owner's business to the north (included in the attached Planning Commission Staff Report). The owner expressed the desire to address these violations and to allow for a future expansion of his business by rezoning his property.

Request: The request is to rezone the subject property from RSF-4, Residential Single-family, 4 Units per Acre, to C-2, Thoroughfare Commercial, in order to expand an existing automotive business southward.

Land Use Compatibility: Given the existing land uses in the subject property's vicinity it is difficult to assess or uniformly declare compatibility of the proposed rezoning. On the one hand, the properties to the north and east are commercially-zoned with existing vehicle-oriented uses that would be consistent with the commercial activities permitted under the C-2 zoning district. On the other hand, to the south and west are properties that are largely undeveloped apart from a few large-lot residential dwellings. Given this, and with due consideration for the City Neighborhood Area land use designation in the area and recent rezonings to the west at the intersection of Martin Luther King Boulevard and Ruppel Road, it is likely that the intervening undeveloped land

will ultimately be rezoned and developed in to more intense uses more commonly found along corridors with comparable traffic volume.

Land Use Plan Analysis: The proposed zoning is generally consistent with the Future Land Use Map (FLUM) of the City Plan 2030, but not with goals laid out in City Plan 2030 itself. Among the goals of City Plan 2030 and the City Neighborhood Area designation are the encouragement of mixed-used development and development in a traditional town form. Rezoning the subject property to C-2 will not likely accomplish either of these objectives, as the C-2 zoning requires a suburban pattern of development, and does not permit most classifications of residential housing. However, extending the existing C-2 zoning designation southward will allow full utilization of property that has been used in association with the neighboring commercial business for several years. Additionally, this will generally mirror the depth of the C-2 zoning to the east that has been used as an auto salvage yard for many years.

The proposed rezoning to C-2 is needed as an early step to begin addressing zoning violations that have resulted from expansion of the property owner's business southward in to residentially-zoned parcels from the commercially-zoned property in the north. The property owner currently operates a vehicle repair and restoration business, and has an interest in being able to expand the business to his properties to the south.

DISCUSSION:

This item was discussed at the March 27, 2017 Planning Commission meeting. At that meeting several members of the public spoke in opposition to the rezoning. Primary items of concern were that the requested rezoning may allow other zoning violations to be resolved and that Hanshew Road is not currently adequate for existing traffic, much less increased intensity or activity. The Planning Commission discussed the value of businesses like the applicant's for City residents, but tabled the item pending more detailed information about the current zoning violations.

For the April 10, 2017 meeting, staff provided a detailed document of all current zoning violations, and possible means of resolution. Following public comment by a resident restating concern for the adequacy of Hanshew Road along with numerous residents and customers of the applicant attesting to his character and importance of his business, the Planning Commission forwarded the proposal to City Council with a recommendation for approval by a vote of 9-0-0.

BUDGET/STAFF IMPACT:

N/A

Attachments:

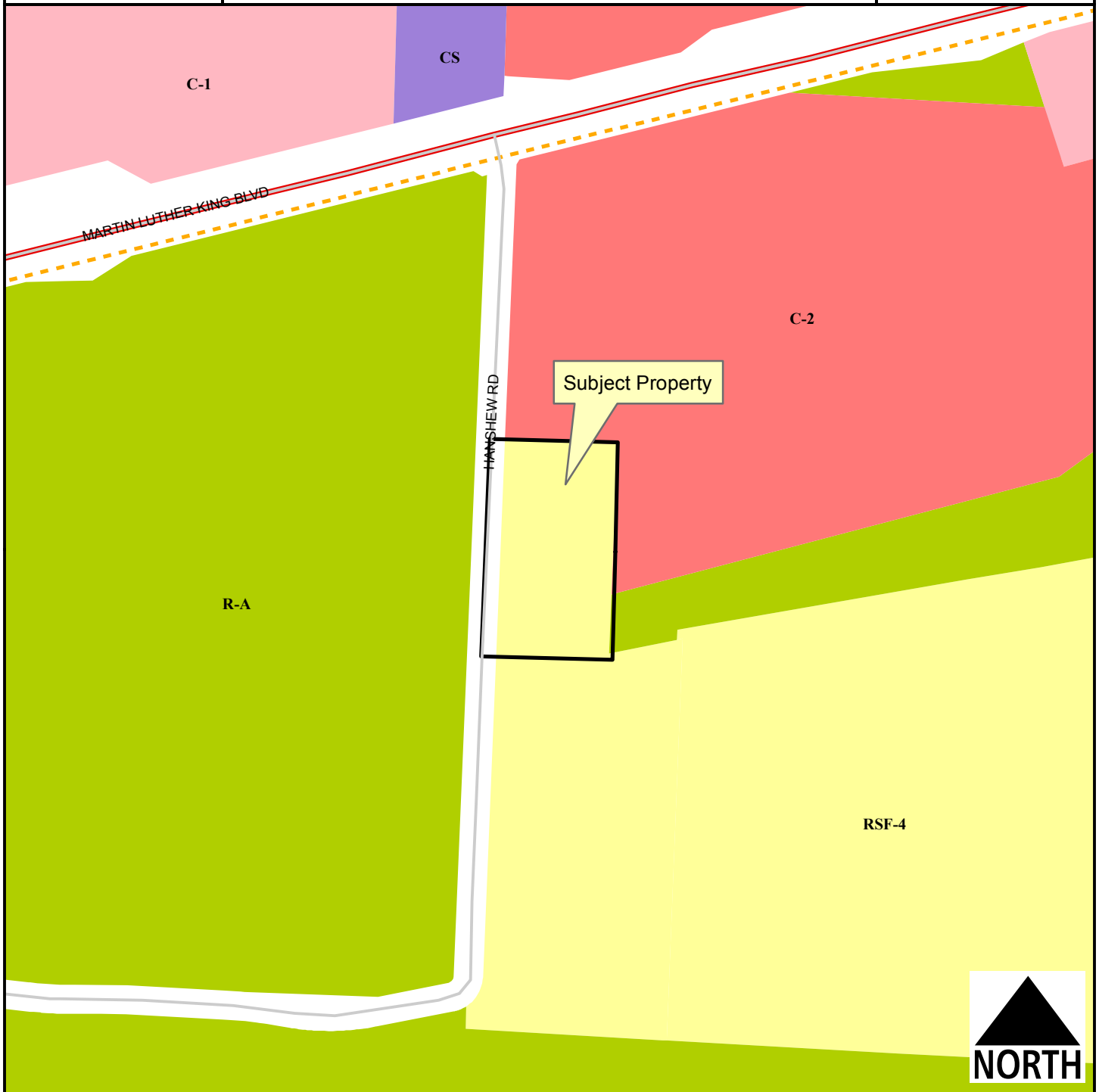
- Exhibit A
- Exhibit B
- Application
- Planning Commission Staff Report

RZN 17-5728

Close Up View

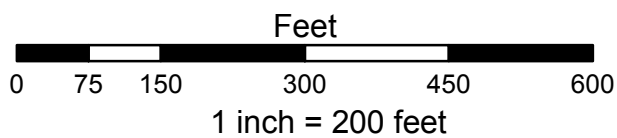
WM. LINDSEY

17-5728
EXHIBIT 'A'



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Building Footprint



- Residential-Agricultural
- RSF-4
- C-1
- C-2
- Community Services

17-5728
EXHIBIT 'B'

PARCEL #765-14810-000

A PART OF THE FRACTIONAL NORTHWEST QUARTER OF THE FRACTIONAL SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT WHICH IS N02°18'40"E 662.01' FROM THE SOUTHWEST CORNER OF SAID FRACIONAL FORTY ACRE TRACT, AND RUNNING THENCE NO2°18'40"E 150.79' TO A SET NAIL, THENCH S88°28'17"E 176.43' TO A FOUND IRON PIN, THENCE S01°28'20"W 150.78' TO A SET IRON PIN, THENCE N88°28'17"W 178.64' TO THE POINT OF BEGINNING. CONTAINING 0.62 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY, IF ANY.

PARCEL #765-14788-000

A PART OF THE FRACTIONAL NORTHWEST QUARTER OF THE FRACTIONAL SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT WHICH IS N02°18'40"E 513.17' FROM THE SOUTHWEST CORNER OF SAID FRACIONAL FORTY ACRE TRACT, AND RUNNING THENCE NO2°18'40"E 148.84', THENCH S88°28'17"E 178.64' TO A SET IRON PIN, THENCE S01°28'20"W 148.82' TO A SET IRON PIN, THENCE N88°28'17"W 180.81' TO THE POINT OF BEGINNING. CONTAINING 0.61 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY, IF ANY.

CITY OF FAYETTEVILLE, ARKANSAS

REZONING

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Case / Appeal Number:

Public Hearing Date:

5728

FEE: \$325.00

Sign Fee: \$5.00

S-T-R:

PP#:

Zone:

596

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):

Name: William Lindsey

Address: 1640 S. Hanshew Rd.
Fayetteville, AR 72701

E-mail: uniquecreationsbybilly@gmail.com

Phone: (479) 466-9181 cell
(479) 521-8430 work

Fax: (479) 521-8430 work

Representative (engineer, surveyor, realtor, etc.):

Name: _____

Address: _____

E-mail: _____

Phone: _____
() _____
() _____

Fax: _____
() _____

Site Address / Location: 1640 S. Hanshew Road, Fayetteville, AR 72701

Current Zoning District: RSF-4

Requested Zoning District: C2

Assessor's Parcel Number(s) for subject property: 765-14810-000 & 765-14788-000
1.25 Ac

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

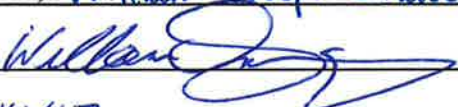
William Lindsey & City of Fayetteville

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made 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 on approval.

Name (printed): William Lindsey Date: 2/14/17
Signature: 

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):

Name (printed): <u>William Joseph Lindsey</u>	Address: <u>1640 S. Henshaw Rd.</u>
Signature: <u></u>	<u>Fayetteville, AR 72701</u>
Date: <u>2/14/17</u>	Phone: <u>(479) 466-9181</u>

Name (printed): _____	Address: _____
Signature: _____	_____
Date: _____	Phone: _____

Rezoning Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
\$325.00 application fee
\$5.00 public notification sign fee
- (2) A legal description of the property to be rezoned. A survey may be required if the property description can not accurately be platted or if it is described by referring to other deeds.
- (3) CD containing a copy of the legal description in MS Word and all required submittal items should be also included on the CD in PDF format.
- (4) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

MEETING DATE: March 27, 2017 **(Updated with Planning Commission Results)**

SUBJECT: **RZN 17-5728: Rezone (1640 S. HANSHEW RD./WM. LINDSEY, 596):**
 Submitted by WILLIAM LINDSEY for properties at 1640 S. HANSHEW RD. The properties are zoned RSF-4, RESIDENTIAL SINGLE FAMILY and contain approximately 1.25 acres. The request is to rezone the properties to C-2, COMMERCIAL THOROUGHFARE.

RECOMMENDATION:

Staff recommends forwarding **RZN 17-5728** to the City Council with a recommendation of approval, based on the findings herein.

BACKGROUND:

March 27, 2017 Planning Commission Meeting: *The previous request by the applicant was to rezone the subject property to C-2, Thoroughfare Commercial, with an intention of expanding the property owner's business to the subject properties. This item was tabled at the March 27, 2017 Planning Commission meeting to give staff and the applicant to reassess existing zoning violations and outline the required steps to address the comments and concerns expressed by neighbors. The zoning violations have been detailed and are attached to this report.*

The proposed rezoning request is for two parcels, totaling approximately 1.25 acres to the east of Hanshew Road, just south of Martin Luther King Boulevard/Highway 62. The site is zoned RSF-4, Residential Single Family, 4 Units per Acre, and was annexed in to the City of Fayetteville in August of 1967 but never developed. Currently, and although zoned residentially, the property is being used in association with the property owner's business, Unique Creations by Billy, Inc. on the adjacent parcel to the north, and has been since 2011. In December of 2016, in response to a complaint, City staff identified several zoning violations (see attached) on the subject property and its use related to the property owner's business to the north. The owner expressed the desire to address these violations and to allow for a future expansion of his business by rezoning his property. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Vehicle Repair/Restoration;	C-2, Thoroughfare Commercial
South	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
East	Auto Salvage	C-2, Thoroughfare Commercial; R-A, Residential-Agricultural
West	Undeveloped	R-A, Residential-Agricultural

Request: The request is to rezone the subject property from RSF-4, Residential Single-family, 4 Units per Acre, to C-2, Thoroughfare Commercial, in order to expand an existing automotive business southward.

Public Comment from the March 27, 2017 Planning Commission meeting: Although staff only received inquiries about the rezoning prior to its public hearing, multiple residents spoke before the Planning Commission expressing frustration at the City's delay in addressing zoning violations on the property and communicating the process. Other concerns included the inadequacy of the Hanshew Road to handle increased traffic, much less the existing vehicle movements associated with the applicant's business.

Public Comment before the April 10, 2017 Planning Commission meeting: Staff was contacted and asked to consider safety concerns regarding the existing residential structure north of the property that is the subject of this rezoning.

INFRASTRUCTURE:

Streets: The subject parcels have access to Hanshew Road along their western boundary. Hanshew Road is an unimproved asphalt street, approximately 16 feet wide, with open ditches on each side. No curb/gutter, storm drainage, or sidewalks have been constructed. Any street improvements would be determined at the time of development proposal.

Water: Public water is available to the site. An existing 6-inch water main runs along the western side of Hanshew Road.

Sewer: Public sanitary sewer is available to the site. An existing 6-inch sewer main is located under Hanshew Road.

Drainage: Any additional improvements or requirements for drainage would be determined at the time of development. No portion of these parcels lie within the FEMA designated 100-yr floodplain or the HHOD. Hydric Soils have been identified on portions of these parcels and would require a wetlands determination to be provided at the time of development proposal.

Fire: The Fire Department did not express any concerns with this request.

Police: The Police Department did not express any concerns with this request.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates the properties within the proposed rezone as **City Neighborhood Area**.*

City Neighborhood 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.

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: *Land Use Compatibility:* Given the existing land uses in the subject property's vicinity it is difficult to assess or uniformly declare compatibility of the proposed rezoning. On the one hand, the properties to the north and east are commercially-zoned with existing vehicle-oriented uses that would be consistent with the commercial activities permitted under the C-2 zoning district. On the other hand, to the south and west are properties that are largely undeveloped apart from a few large-lot residential dwellings. Given this, and with due consideration for the City Neighborhood Area land use designation in the area and recent rezonings to the west at the intersection of Martin Luther King Boulevard and Ruppel Road, it is likely that the intervening undeveloped land will ultimately be rezoned and developed in to more intense uses more commonly found along corridors with comparable traffic volume.

Land Use Plan Analysis: The proposed zoning is generally consistent with the Future Land Use Map (FLUM) of the City Plan 2030, but not with goals laid out in City Plan 2030 itself. Among the goals of City Plan 2030 and the City Neighborhood Area designation are the encouragement of mixed-used development and development in a traditional town form. Rezoning the subject property to C-2 will not likely accomplish either of these objectives, as the C-2 zoning requires a suburban pattern of development, and does not permit most classifications of residential housing. However, extending the existing C-2 zoning designation southward will allow full utilization of property that has been used in association with the neighboring commercial business for several years. Additionally, this will generally mirror the depth of the C-2 zoning to the east that has been used as an auto salvage yard for many years.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed rezoning to C-2 is needed as an early step to begin addressing zoning violations that have resulted from expansion of the property owner's business southward from the commercially-zoned property to the north in to the residentially-zoned subject property. The property owner currently operates a vehicle repair and restoration business, and has an interest in being able to expand the business to his properties to the south in the future.

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

Finding: The site has access to Hanshew Road, an unimproved asphalt street, which connects northward to Martin Luther King Boulevard/Highway 62, a Principal Arterial. Given the size of the properties, the proposed rezoning is unlikely to cause an adverse increase in the amount of traffic over the existing RSF-4 zoning. Street improvements will be assessed at the time of development and depending on the scope of development, may be significant.

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: Provided the almost complete lack of permitted residential uses under the C-2 zoning district, rezoning the property from RSF-4 to C-2 would not increase the potential for density. However, a rezoning to C-2 could significantly increase the intensity of use, particularly given the range of permitted commercial activities, the allowed 75-foot building height, and a lack of bulk and area requirements. These could be marginally mitigated for by the combined 1.23 acre size of the two parcels and a property depth of less than 200 feet, but there remains the possibility of increased load on public services.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Staff recommends forwarding RZN 17-5728 to the City Council with a recommendation of approval, based on the findings discussed throughout this report.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>April 10, 2017</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Hoffman			
Second: Quinlan			
Vote: 9-0-0			
CITY COUNCIL ACTION: Required <u>YES</u>			
Date: <u>TBD</u>	☐ Approved	☐ Denied	

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - o §161.07, RSF-4, Residential Single-family, 4 Units per Acre
 - o §161.21, C-2, Thoroughfare Commercial
- Request letter
- Rezone exhibit
- Original Complaint, Current Zoning Violations and Outlined Solutions
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.07 - District RSF-4, Residential Single-Family - Four (4) 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	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet

Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	45 feet
-------------------------	---------

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.

(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. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. [5921](#), §1, 11-1-16)

161.21 - 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
Unit 44	Cluster Housing Development
Unit 45	Small scale production

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

(F) *Building Height Regulations.*

Building Height Maximum	75 feet*
-------------------------	----------

*Any building which exceeds the height of 20 feet shall be set back from a boundary line of any residential district a distance of 1 foot for each foot of height in excess of 20 feet.

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

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4727, 7-19-05; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. [5800](#), § 1(Exh. A), 10-6-15; Ord. No. [5921](#), §1, 11-1-16)

CUP 17-5728

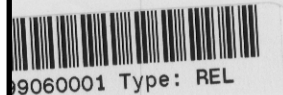
Request Letter

Rezoning Proposal

My name is William Lindsey, owner of 1640 S. Hanshew Road, which is located in Fayetteville. I am requesting a zoning change on two of the three parcels within this property. They are parcel number 765-14810-000 and 765-14788-000. They are currently zoned as RSF4 and I am requesting that they be rezoned to commercial C2 in efforts to comply with city ordinances pertaining to the number of vehicles allowed on RSF4 verses C2.

The parcels are adjacent to existing commercially zoned properties. I'd like to utilize these parcels to manage the vehicle overflow from my automotive repair business which is zoned C2 and one of the adjacent properties (1620 S. Hanshew Rd).

CUP 17-5734
Rezone Exhibit



2014 at 11:49:52 AM
Page 1 of 1
Washington County, AR
Kylie Sylvester Circuit Clerk
File 2014-00030675

SW CORNER
FRAC. NW 1/4, FRAC. SW 1/4
SECTION 19
T-16-N, R-30-W

SURVEYING NOTES

STATE RECORDING NUMBER:
500-16N-30W-019-340-72-1532

COMPLETED FIELD WORK:
MARCH 29, 2012

BASIS OF BEARING:
ARKANSAS STATE PLANE, NORTH ZONE, NAD83.

REFERENCE DOCUMENTS:

1. WARRANTY DEED FILED IN DEED BOOK 2011 AT PAGE 18667.
2. WARRANTY DEED FILED IN DEED BOOK 773 AT PAGE 115.
3. WARRANTY DEED FILED IN DEED BOOK 89 AT PAGE 488.
4. SURVEY PLAT FILED IN PLAT BOOK 2007 AT PAGE 38270.

FLOOD CERTIFICATION:

NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS.

PANEL #05143C0215F DATED 05/16/2008)

**Approximately 1.25 acres
proposed for rezoning to C-2,
Thoroughfare Commercial**

ADJACENT LAND OWNERS:

1. MOORMAN, BARBARA D REV TRUST
3450 W FINGER RD
FAYETTEVILLE, AR 72701
PARCEL #765-14827-000
ZONED: R-A

2. DUGGAR, JAMES R & MICHELLE A
REVOCABLE LIVING TRUST
548 ARBOR ACRES AVE
SPRINGDALE, AR 72762
PARCEL #765-16272-001
ZONED: R-A

3. LINDSEY, WILLIAM JOSEPH
1620 S HANSHEW RD
FAYETTEVILLE, AR 72701
PARCEL #765-14811-001
ZONED: C-2

4. HIGHWAY 62 AUTO SALVAGE & SALES, INC
3595 W MARTIN LUTHER KING BLVD
FAYETTEVILLE, AR 72704
PARCEL #765-22968-000
ZONED: C-2

5. COBB BROTHERS &
WESTPHAL PROPERTIES, LLC
109 N 6TH ST
FORT SMITH, AR 72901
PARCEL #765-22968-000
ZONED: RSF-4

CERTIFICATE OF OWNERSHIP & DEDICATION:
WE, THE UNDERSIGNED OWNERS, REPRESENTING ONE HUNDRED PERCENT (100%) OWNERSHIP OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE FOR PUBLIC OWNERSHIP, ALL STREETS AND ALLEYS AS SHOWN ON THIS PLAT FOR PUBLIC BENEFIT AS PRESCRIBED BY LAW. THE OWNERS ALSO DEDICATE TO WASHINGTON COUNTY AND TO THE PUBLIC UTILITY COMPANIES (INCLUDING ANY CABLE TELEVISION COMPANY HOLDING A FRANCHISE GRANTED BY WASHINGTON COUNTY) THE EASEMENTS AS SHOWN ON THIS PLAT FOR THE PURPOSE OF INSTALLATION OF NEW FACILITIES AND THE REPAIR OF EXISTING FACILITIES. ALSO ESTABLISHED HEREBY IS THE RIGHT OF INGRESS AND EGRESS TO SAID EASEMENTS, THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHIN SAID EASEMENTS.

11/5/14
DATE

OWNER

SW CORNER
FRAC. NW 1/4, FRAC. SW 1/4
SECTION 19
T-16-N, R-30-W
P.O.B. TRACT 1

STATE PLANE COORD.
FOUND IRON PIN
N: 630711.9588
E: 657922.1113

STATE PLANE COORD.
FOUND IRON PIN
N: 630704.7219
E: 658198.3878

CURRENT ZONING AND BUILDING SETBACKS:

RSF-4
FRONT: 15'
SIDE: 5'
REAR: 15'

APPROVED FOR RECORDATION
FAYETTEVILLE PLANNING
ADMINISTRATION

By: *[Signature]* Date 11/5/14

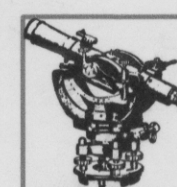
OWNER / DEVELOPER
LINDSEY, WILLIAM JOSEPH
1620 S HANSHEW RD
FAYETTEVILLE, AR 72701
PARCEL #765-14813-000
PARCEL #765-14788-000
PARCEL #765-14810-000
ZONED: RSF-4
CITY PLAT PAGE: 596

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT
TO THE BEST OF MY KNOWLEDGE AND BELIEF
ON THIS THE 29TH DAY OF MARCH, 2012.



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

0' 60' 120' 180'
1 inch = 60 feet



BLEW & ASSOCIATES
PROFESSIONAL LAND SURVEYORS
524 W. SYCAMORE ST. SUITE 4
FAYETTEVILLE, AR 72703
PH. (479) 443-4506 FAX (479) 582-1883
http://www.blewinc.com

FOR THE USE AND BENEFIT OF

WILLIAM LINDSEY

JOB # 12-151

DRAWN BY SCOTT

LOCATION: SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST

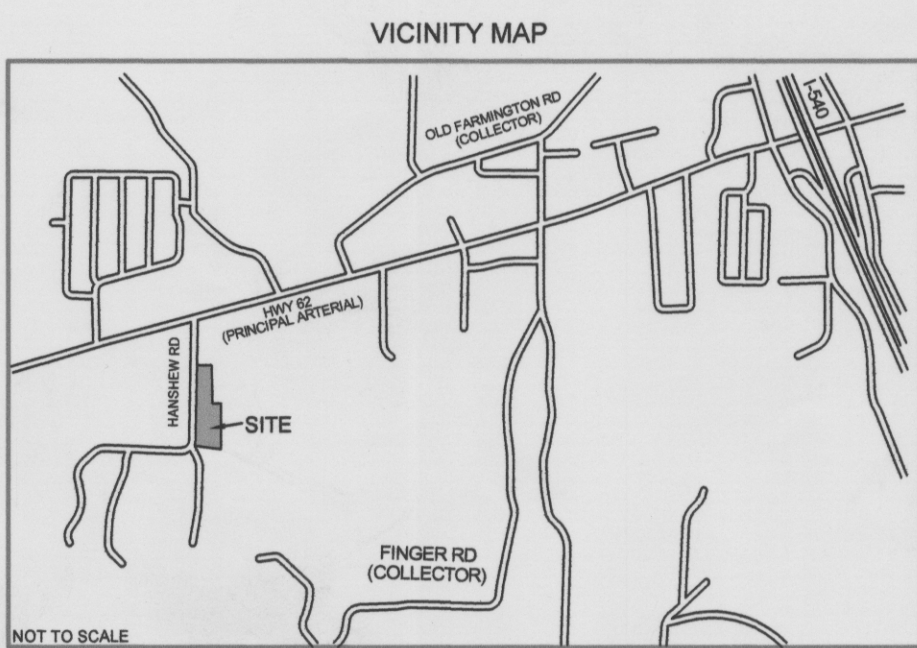
SURVEYED BY WES

COUNTY/STATE: WASHINGTON COUNTY, ARKANSAS

DATE: 04/02/2012

STANDARD LEGEND

SURVEY FEATURES	SURVEYING SYMBOLS
BOUNDARY LINE	SET/FOUND 5/8" REBAR
FORTY LINE	SET/FOUND NAIL
CENTERLINE OF ROAD	FENCE CORNER POST
RIGHT-OF-WAY	FOUND STONE
TREE LINE	STATE MONUMENT
(M) FIELD MEASUREMENT	FOUND PIPE
(R) RECORDED MEASUREMENT	COMPUTED POINT
EASEMENTS	UTILITY SYMBOLS
INGRESS & EGRESS EASEMENT	SANITARY SEWER
BUILDING SET BACK	MANHOLE
UTILITY EASEMENT	POWER POLE
UTILITY LINES	WATER VALVE
WATER LINE	GAS METER
OVERHEAD POWER LINE	ELECTRICAL BOX
SEWER LINE	TELEPHONE PEDESTAL
FLOW LINE	WATER METER
GAS LINE	SEPTIC LID
FIBER OPTIC	FIRE HYDRANT
TELEPHONE LINE	STORM WATER
	LIGHT
	SURVEY FEATURE HATCHES
	ASPHALT
	CONCRETE
	POND
	GRAVEL
	FLOOD ZONE



Zoning Complaint, Violations, & Solutions

Items of Original Complaint:

- Use of property as a campground for Bikes, Blues, and BBQ, including portable toilets;
- Use of property as a junk yard (including large shipping containers and inoperable vehicles); and
- Erection of a garage on the property.

Identified Violations:

1. The property owner has noted that he did have associates use his property for camping on the weekend of Bikes, Blues, and BBQ;
2. Residentially-zoned properties currently being used in conjunction with Unit 17: Transportation Trades and Services on adjacent commercially-zoned property (§161.07 and §162.01);
3. Parking of vehicles on an area not paved as a parking lot, or surfaced and screened as a storage yard; (§151 and §166.25);
4. Shipping containers on the property present for approximately one year (§173.09);
5. More than 4 vehicles parked on a lot on a property zoned for single-family use (§172.11);
6. Unlicensed vehicles on site (§164.05); and
7. Possibly inoperable vehicles on site in excess of 45 days (§164.05).

Outlined Solutions (in response to each enumerated violation):

1. The applicant is permitted to allow occasional, short-term camping as an accessory use to his primary residence. If there is any exchange of monetary compensation, long-term camping, or if camping becomes the primary use of the property, the activity is classified as a commercial campground and is only permitted as a conditional use under Unit 2: City Wide Uses by Conditional Use Permit. Any activities related to the camping must comply with other City ordinances related to litter, noise, and lighting.
2. Request a rezoning of those parcels intended for commercial use to a district that permits Unit 17: Transportation Trades and Services, or remove activities associated with Use Unit 17 from the property.
3. Submit plans to pave a parking area that meets the City's parking lot design standards, or to utilize gravel to create a vehicle storage yard with associated and required screening.
4. Remove the shipping containers from the property, or utilize and secure them in construction that complies with the City's adopted building and fire codes.
5. Remove in vehicles from the property that exceed the four allowed to be kept outdoors, or place in a garage or under a carport.
6. Remove any unlicensed vehicles from the property or submit them for proper registration and licensing.
7. Remove inoperable vehicles from the property if present in excess of 45 days.

With Denial of Rezoning Request:

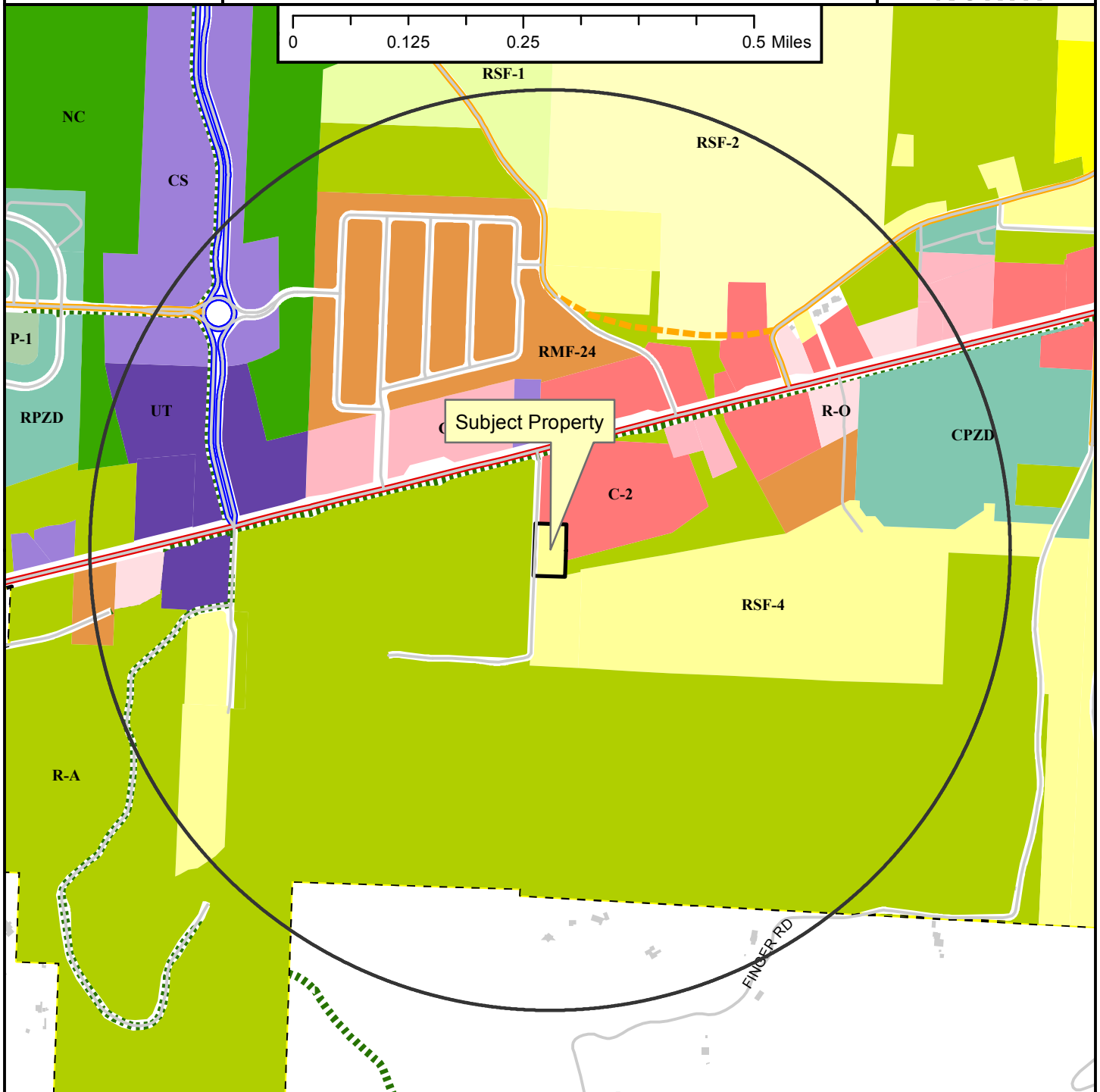
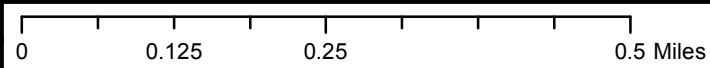
-If the Commission is to deny the rezoning request, the applicant will be sent a Final Violation notice, and will be required to remove all vehicles and appurtenances related to his business

from the residentially-zoned properties. All other zoning violations may to be resolved according to the solutions outlined above, unless alternative solutions are found.

RZN 17-5728

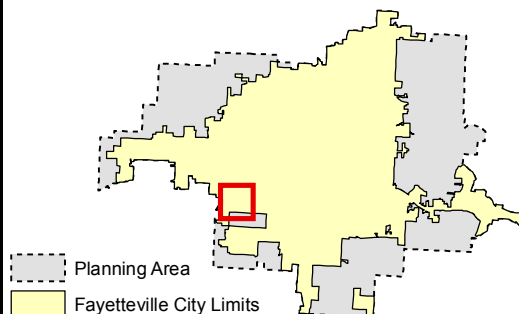
WM. LINDSEY

One Mile View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



Zoning

RESIDENTIAL SINGLE-FAMILY

- RSF-5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY

- RT-12 Residential Two and Three-family
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL

- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION

E-1

COMMERCIAL

- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS

- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

PLANNED ZONING DISTRICTS

- Commercial, Industrial, Residential

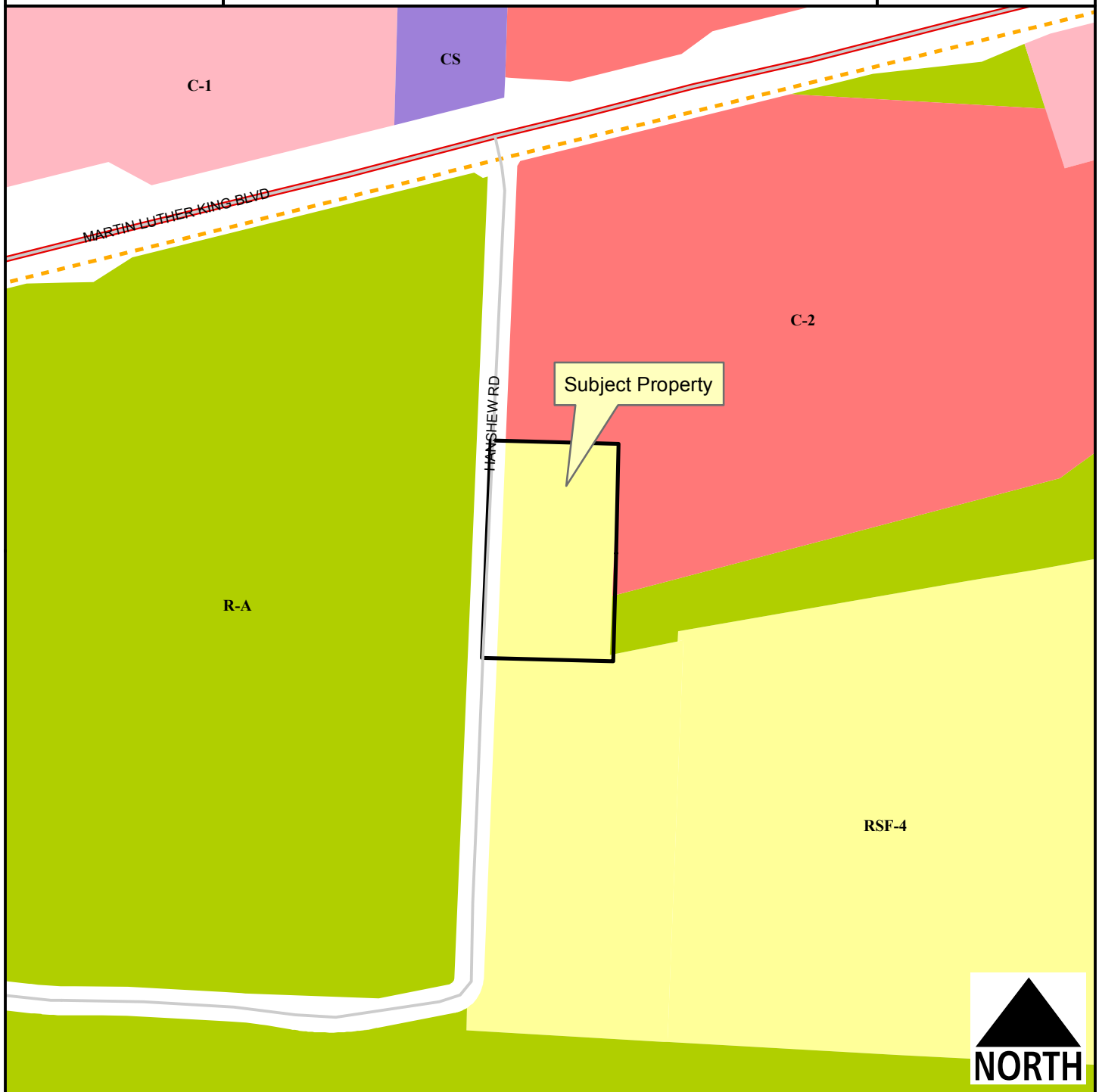
INSTITUTIONAL

- P-1

RZN 17-5728

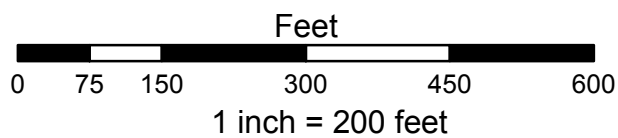
WM. LINDSEY

Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Building Footprint

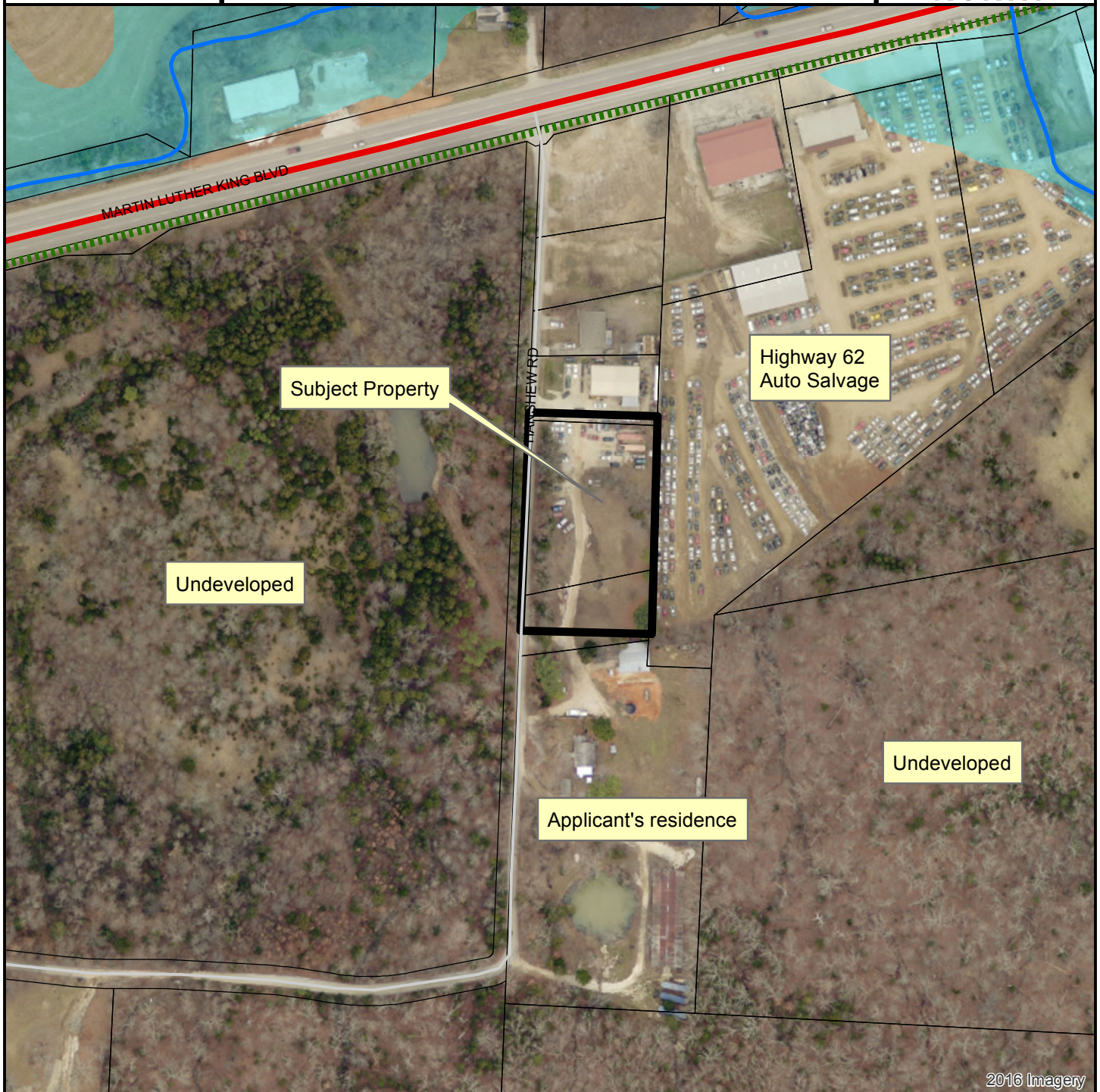


- Residential-Agricultural
- RSF-4
- C-1
- C-2
- Community Services

RZN 17-5728

Current Land Use

WM. LINDSEY



2016 Imagery

- PRINCIPAL ARTERIAL
- Street
- RZN17-5728
- Streams
- Trail (Proposed)
- County Parcels
- Planning Area
- Fayetteville City Limits

Feet

0 75 150 300 450 600

1 inch = 200 feet

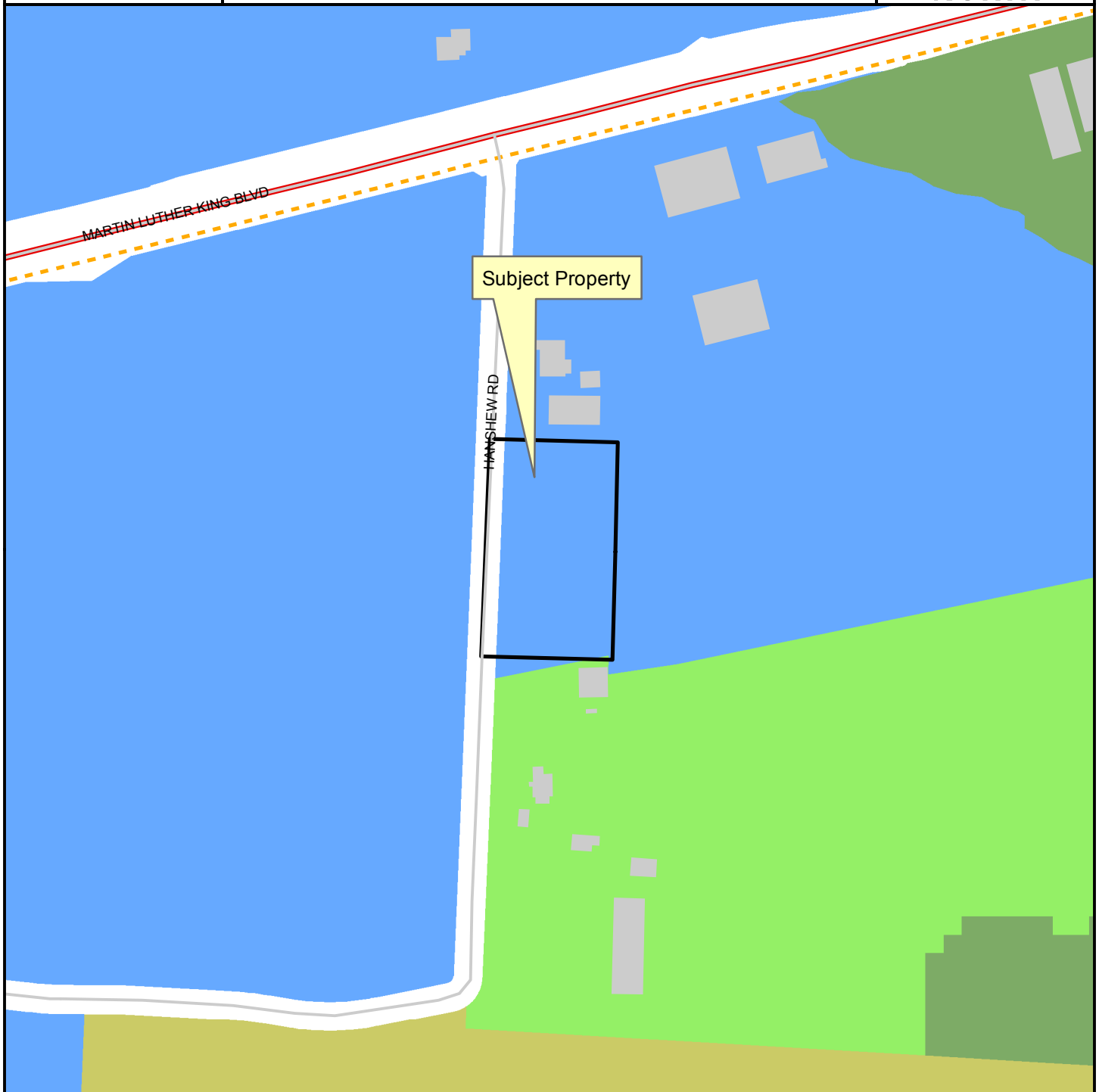
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

RZN 17-5728

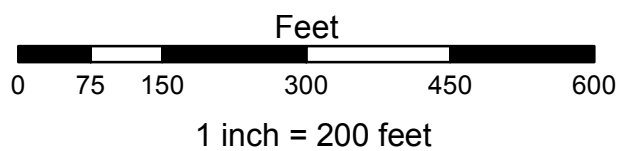
Future Land Use

WM. LINDSEY



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Building Footprint



FUTURE LAND USE 2030

- Natural Area
- Rural Area
- City Neighborhood Area
- Civic and Private Open Space/Parks



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0207

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 7

RZN 17-5733 (SE OF CROSSOVER RD. & HEARTHSTONE DR.):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 17-5733 FOR APPROXIMATELY 1.79 ACRES LOCATED AT SOUTHEAST CORNER OF CROSSOVER ROAD AND HEATHSTONE DRIVE FROM R-O, RESIDENTIAL OFFICE, AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO NS-G, NEIGHBORHOOD SERVICES, GENERAL

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 property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from R-O, Residential Office, and RSF-4, Residential Single Family to NS-G, Neighborhood Services, General.

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.

City of Fayetteville Staff Review Form

2017-0207

Legistar File ID

5/2/2017

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

Andrew Garner

4/14/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 17-5733: Rezone (SE OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099): Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The properties are zoned R-O, RESIDENTIAL OFFICE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 1.79 acres. The request is to rezone the properties to NS-G, NEIGHBORHOOD SERVICES, GENERAL.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	No	Item Cost	
Budget Adjustment Attached?	NA	Budget Adjustment	
		Remaining Budget	\$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor, Fayetteville City Council
THRU: Andrew Garner, Planning Director
FROM: Jonathan Curth, Senior Planner
DATE: April 14, 2017

SUBJECT: RZN 17-5733: Rezone (SE OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099): Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The properties are zoned R-O, RESIDENTIAL OFFICE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 1.79 acres. The request is to rezone the properties to NS-G, NEIGHBORHOOD SERVICES, GENERAL.

RECOMMENDATION:

The City Planning staff and Planning Commission recommend approval of an ordinance to rezone the subject property to NS-G, Neighborhood Services, General, as shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The proposed rezoning request is for two parcels, totaling approximately 1.79 acres to the south of Hearthstone Drive and east of Crossover Road/Highway 265. The properties are currently split-zoned, with the northern portion as R-O, Residential Office, and the southern portion as RSF-4, Residential Single-family, 4 Units per Acre. The subject property and approximately 500 acres of additional land largely paralleling Crossover Road were annexed in to the City of Fayetteville in November of 1977. Subsequently, the subject property was platted as part of the larger Stonewood Subdivision in 2001, which includes approximately 100 single-family lots and 14 lots intended for residential or office development. The subject property is among the latter, but remains undeveloped.

Request: The request is to rezone the property from RSF-4, Residential Single-family, 4 Units per Acre, and R-O, Residential-Office, to NS-G, Neighborhood Services, General, in order prepare the parcel for development.

Land Use Compatibility: The proposed zoning is compatible with surrounding land use patterns in this area, which include a mixture of suburban residential development to the east, office uses to the north, and a City park and botanical gardens to the west. The proposal of NS-G zoning on the corner of a largely-improved Local Street, and a high-volume, improved Principal Arterial can create a transitional area that may be developed in a commercial or mixed-use pattern that compliments both the existing adjacent uses and existing infrastructure. Furthermore, the NS-G

zoning requirements allow a lower density, generally smaller building size, and lower allowed building height than the existing R-O zoning district.

Land Use Plan Analysis: The proposed zoning is compatible with the Future Land Use Map (FLUM) and consistent with the Residential Neighborhood Area designation of the subject property and surrounding area. This location is consistent with the guidelines of City Plan 2030 for higher intensity non-residential use in corner locations and along connecting corridors. This is a corner property with a traffic signal on a busy arterial highway.

Among the goals in City Plan 2030, the proposed rezoning represents the potential for both infill development and development in a traditional urban form pattern. Although less than one mile from Fayetteville's northern city boundary with Springdale, and thereby not generally thought of as an infill site, commercial or mixed-use development on the subject property can take full advantage of City facilities at the adjacent City park and the existing utility and road infrastructure. Similarly, despite being on a state highway (Crossover Road), the subject property's proximity to both a significant City park and a single-family subdivision presents an opportunity to create a mix of uses where residents can live, work, and play all in the same neighborhood. The NS-G zoning district encourages patterns of development that result in realizing this goal, including an expectation that buildings will be located at the corner, creating an environment appealing to pedestrians and reducing the visual impact of parking areas, while also limiting permitted uses to those that are complementary to adjacent neighborhoods. A mixture of residential and commercial uses, which is permitted by the NS-G zoning district, is typical in a traditional urban form, with buildings addressing the street.

Lastly, this area of the City has many residents, with approximately 300 single-family homes accessing Crossover Road by way of Hearthstone Drive, but lacks non-residential goods and services within walking distance. This development pattern has resulted in residents being required to drive to meet any daily needs. The FLUM designation of this area as Residential Neighborhood recognizes this issue in encouraging appropriate non-residential uses, and the applicant's proposal for NS-G at this corner location could help alleviate the lack of services in the area.

The proposal appears to be well-justified from staff's point of view. The applicant has requested the zoning change to develop the property in manner that can serve the surrounding community, which is generally not as feasible under the existing RSF-4 and R-O zoning districts. The proposed NS-G, Neighborhood Services, General, zoning will encourage appropriate commercial or residential development on this corner parcel in an area that has seen limited, and largely-residential development over the last two decades. The NS-G zoning district is designed primarily to promote complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses.

DISCUSSION:

This item was discussed at the March 27, 2017 Planning Commission meeting, where the applicant had previously requested CS, Community Services. During the meeting a very large number of residents, predominantly from the adjacent Stonewood subdivision, spoke in opposition to the rezoning. Concern was expressed over the potential for noise, odor, and light intrusion on to their properties, in addition to the possibility of decreased property values along with increased crime and traffic through the subdivision. Others cited that home purchases were made under the guise of the existing zoning on the subject property, and what could be developed within its permitted residential, office, and small-scale retail uses. Following discussion about the public comment and opposition to some of the permitted uses under the CS zoning district, the Planning

Commission tabled the item in order to afford the applicant the opportunity to reconsider their request.

In response to Commission and resident feedback, the applicant revised the proposal on April 6, 2017 from CS, Community Services, to NS-G, Neighborhood Services, General. Large numbers of residents again spoke in opposition to the rezoning request, citing concerns similar to those shared at the March 27, 2017 meeting. The Planning Commission forwarded the applicant's request for NS-G to the City Council with a recommendation for approval by a vote of 8-1-0. Commissioner Brown voted 'no'.

BUDGET/STAFF IMPACT:

N/A

Attachments:

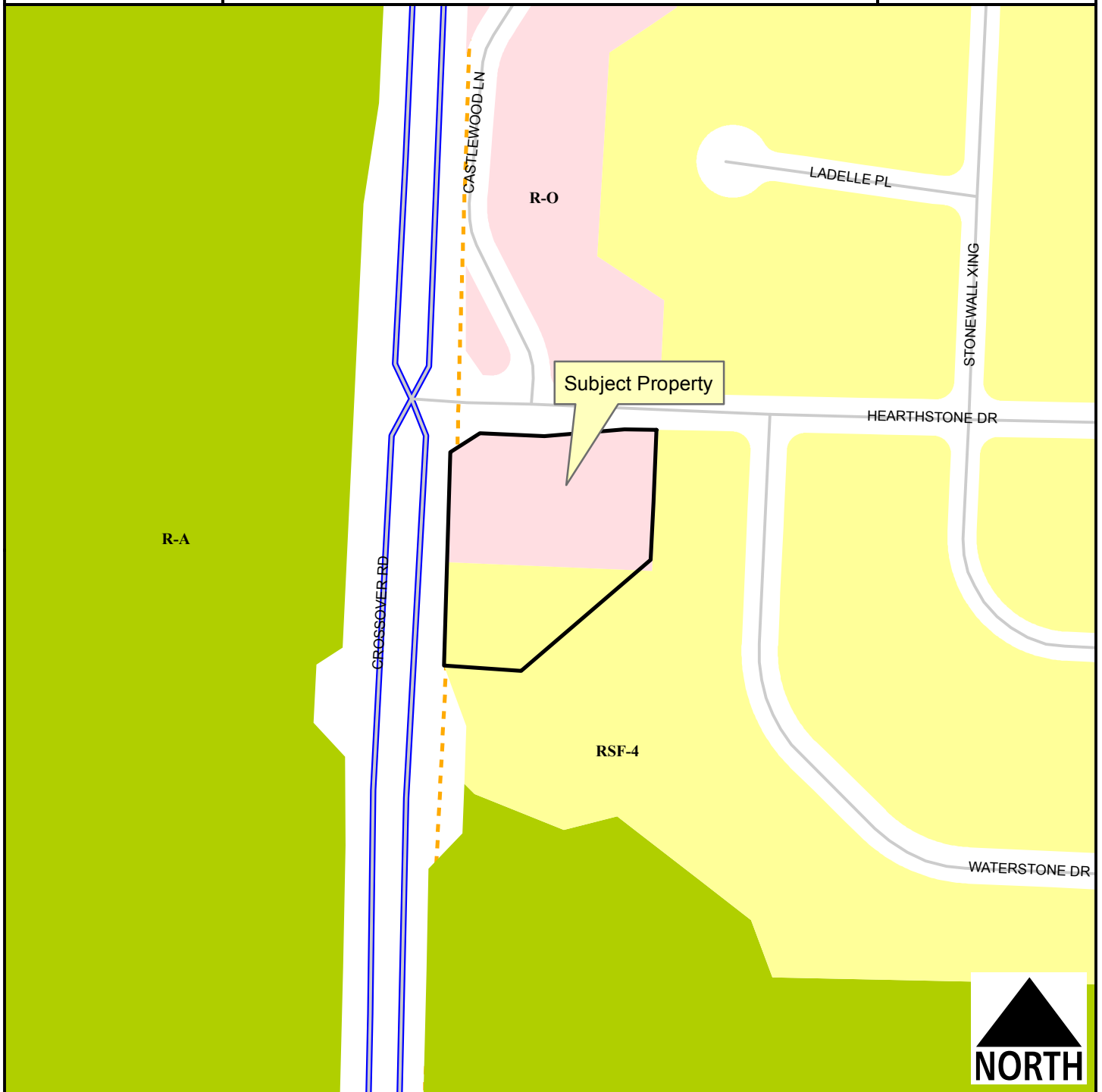
- Exhibit A
- Exhibit B
- Approved and Draft Planning Commission Meeting Minutes
 - o 3/27/2017 Planning Commission
 - o 4/10/2017 Planning Commission
- Application
- Planning Commission Staff Report

RZN 17-5733

Close Up View

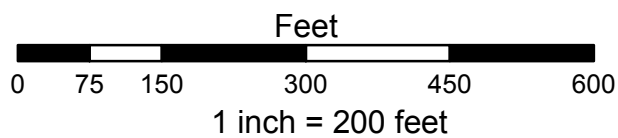
CP PROPERTIES

17-5733
EXHIBIT 'A'



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- Residential-Agricultural
- RSF-4
- Residential-Office

17-5733
EXHIBIT 'B'

LEGAL DESCRIPTION: (PROPOSED ZONING: CS)

Lots 1 & 2 of Final Plat of Stonewood Subdivision, Fayetteville, Arkansas, as per the recorded plat in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas. Subject to restrictions, easements and right-of-ways of record.

**Approved and Draft Planning Commission
Meeting Minutes**

**Approved Meeting Minutes from the
3/27/2017 Planning Commission Meeting**

RZN 17-5733: Rezone (SE OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099): Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The properties are zoned R-O, RESIDENTIAL OFFICE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 1.79 acres. The request is to rezone the properties to CS, COMMUNITY SERVICES.

Jonathan Curth, Senior Planner: Gave the staff report.

Blake Jorgensen, Applicant's Representative, Jorgensen & Associates: Recognizes that there is a significant amount of public comment incoming, and will strive to be brief. Notes that there is a vacation of easements proposed along Crossover and Hearthstone to ensure compliance with the zoning district's build-to-zone. Also notes that a Bill of Assurance is being considered.

Kit Williams, City Attorney: States that a Bill of Assurance is not open for discussion without a property owner's signature.

Public Comment:

Bob Anderson, Stonewood POA, Neighbor: Has been conducting a poll of residents in the Stonewood Subdivision about support to the rezoning. The commercial lots are unanimously supporting the rezoning while the residential properties are almost unanimously opposed. While this may look like a case of "not-in-my-backyard" it is not. Everyone who bought their homes in the subdivision understood that the properties on Crossover could be developed as office, and not retail or residential. Contends that the commercial property owners will not be at a loss if the rezoning does not go through.

Peter Thomason, Neighbor: While not a resident of Stonewood, lives in an adjacent subdivision. Attended the open house where the developer stated that a pizzeria was being proposed and that it would be of a high quality. Notes that an eatery is allowed by conditional use under the current zoning district. Goes on to note that the proposed CS zoning will allow for outdoor music which will remove many of the resident's property protections. States that there is nothing commercial about this area, and that it is not a commercial corridor. It is currently just grass and is compatible with the Botanical Gardens. The existing zoning does not attract a lot of traffic and does not create a lot of noise. Comments that restaurants have a high failure rate, with pizza restaurants being particularly prone to failure. Shares an article to this effect.

Kyle Cook, Commissioner: Notes that this is not a discussion of pizza restaurants.

Thomasson: Insists that this is important as the developer told the neighbors that this is what is proposed. Addresses that the existing location of the proposed pizza restaurant is adjacent to a liquor store and behind gas station pumps. Comments that the applicant told residents there would be a Bill of Assurance and it was not presented.

Williams: Comments that a Bill of Assurance has not been officially offered, but may be.

Thomasson: Questions the circumstances that a conditional use permit could be granted, noting that this may allow compatibility.

Andrew Garner, Planning Director: Notes that the conditions of a conditional use permit can be tailored to the request.

Thomasson: Outlines the requirements he feels would be appropriate in a conditional use permit, including utilizing similar architecture and not adversely affecting traffic. Shares that the families in this neighborhood have clearly made a decision to locate where they are, and are not interested in an urban form. Contends that no business within 2 miles is built to the street or corner. States that it is inconsistent visually and architecturally to encourage this type of development.

Paul Johnson, Neighbor: Has a question about traffic. Notes that traffic was re-routed through this neighborhood during construction of Crossover. Multiple times during this period there were safety concerns with children playing in the street. Knows that with this rezoning there will be a times when people utilize the neighborhood to travel through quickly and dangerously.

Heather Hutchins, Neighbor: Lives immediately adjacent to the subject property and has significant amounts of litter to deal with. States that she is also concerned about odor, noise, and light. Provides some examples of traffic issues, particularly when the Botanical Gardens has events and parking overflows on to Hearthstone.

Rosanna Zamora, Neighbor: Has serious concerns with litter on her property and there is only a fence between her land and the subject property, rather than a wall as is in place for some other adjacent properties.

Robert Stevens, Neighbor: Traffic is a concern as it is difficult to get on to Hearthstone sometimes. Notes that there are already sufficient amounts of commercial spaces on Joyce and in Springdale. The dynamics of the entire site will be changed despite what the developer told the neighbors. Is certain that property values will be harmed and does not understand why the developer cannot go elsewhere.

Jeff Canton, Neighbor: Wants to echo some of the same comments about noise, traffic, and congestion concerns. Notes that the existing signal at Hearthstone and Crossover is not highly visible and results in a lot of near accidents. Shares that he is allergic to garlic and would be negatively impacted by the smells of a restaurant. Repeats the previous residents' comments about why the developer does not go elsewhere. Suspects the developer is just looking to make money and it should not come at the loss of their property value. Property owners will not be compensated for their loss. Thinks property owners should have been consulted earlier.

Michael Brown, Neighbor: Is new to the neighborhood, and made much of their decision to buy in the subdivision on the existing uses.

Davis, Doris, Neighbor: Wants to draw the Commission's attention to the City's goals of creating an enduring green network, and that she feels this area ought to be protected along with the Botanical Gardens.

Joe Draper, Neighbor: Shares that in other cities where he lived this same thing happened, and it adversely impacted residents.

Carmen Tabor, Neighbor: Compares the displacement of families from the rezoning discussed earlier in the night to the current situation for neighbors. These residents may not have a lot of equity in their homes, and a loss of property value could be devastating.

Mike Parker, Owner: Owns several of the properties along Crossover along this subdivision, and is somewhat astonished that people are upset about this rezoning. Feels that adding services to this area would improve the community and the property values. Residents have to travel over a mile to reach any services. Feels that the quality of the proposal means it will be an improvement.

Zara Niederman, Resident: Although does not live in this neighborhood, he frequents the Botanical Gardens and feels that there is a value in offering services at this corner.

John Logan, Neighbor: Notes that placing a pizza restaurant across from the Botanical Gardens does not create continuity. It is his opinion that services are not needed in this neighborhood, and that people can go elsewhere for their needs.

Elizabeth Wilhelm, Botanical Gardens of the Ozarks representative: Appreciates the comments of residents. Notes that the Garden's events are large but do strive to end at a reasonable time. Her concerns with the proposed rezoning are with congestion. That said, guests and visitors often request coffee or restaurants and there are not a lot of options in this part of town. Moving forward, she sees a need for food in the area, but is not sure if the proposed rezoning will meet that need. In an effort to grow, they want to both serve visitors and be respectful of their neighbors to the east.

Clay Henry, Neighbor: Feels that the subject property may be appropriate for a smaller restaurant, but not one the size of what is proposed.

Max Parker, Owner: Notes that the property will eventually be developed, but as someone paying taxes on it, he would like to do something with it. Asks that the Commission consider this opportunity to rezone and develop the property in a way that accommodates City Plan 2030. At the same time, he wants to be conscientious of developing the property.

Ryan Parrish, Neighbor: Wants to note that a liquor store is located by the proposed pizza restaurant's other location. Also wants to know why staff says the R-O zoning district is "impractical."

Gary Huey, Neighbor: Has concerns with traffic and children playing in the street on Hearthstone.

Steve Val, Neighbor: Wants clarity where the access to the subject property will be. Although he is not adjacent to the subject property, he is concerned with utilizing the traffic signal at Hearthstone and Crossover. Developing the subject property will pull more vehicles on to this road, and if they cannot make their desired turns, they will travel in to the subdivision.

No More Public Comment was presented.

Leslie Belden, Commissioner: Notes that she lives in an urban setting, and chose to live there so she can walk to other locations. There is a part of her that assumes everyone wants that, and that makes this request difficult. While she feels that the subdivision would benefit from services and business, she also understands that people deliberately moved to this area to escape the

traffic of Crossover Road. Realizes that it's not appropriate to impose the Commission's values and preferences on the subdivision. Likes the CS zone but realizes that it is not appropriate in all locations. Is leaning more towards maintaining the R-O zoning, but wants to hear the comments of others. Supporting the CS would be turning the businesses back on the subdivision.

Ron Autry, Commissioner: Notes that any number of uses create odor, and all area have litter. Acknowledges traffic concerns, but this is a fact of being on a major route. The size of the property will limit the intensity of use. Any use is going to attract traffic. There are commercial uses all over town, and people contend with it everywhere. He cannot support this one community being protected from any development. Is not certain that development will result in the traffic concerns that residents fear. Will maintain an open mind in the meantime.

Matthew Hoffman, Commissioner: Expresses appreciation to the residents for coming. Feels that there are 2 outcomes for Highway 265, and neither will look like what it is. R-O will not protect the property from development under the enduring green network. The R-O district would place any buildings closer to the neighborhood, not further. One outcome can be that AHTD will see 265 as a highway, and not a City street, and will lead to a development pattern that will see a large sound wall built near their neighborhood. Alternatively, the CS zoning may prevent AHTD from widening 265 even more, and place a building at the corner, where it can be accessed by foot and by bike. The Lake Fayetteville trail is one of the most heavily trafficked in the City if not the area. Contends that placing the building at the corner will serve the Botanical Gardens, trail users, and even residents.

Tom Brown, Commissioner: Offers thanks to the residents who attended. Does support appropriately requested infill and form-based zoning requests. One tool to determine these is the neighborhood planning process. Residents can create a vision to help determine decisions like the current one. The Commission can take public comment like tonight's as a decision making tool. Contends that commercial areas are appropriate in certain nodes along major corridors. Offers a tutorial on the City's Future Land Use Map. Does not feel that CS zoning is appropriate in areas with residential neighborhood designations, but rather it should be NS, Neighborhood Services. Reiterates that he is supportive of the proper application of mixed-use zones, but perhaps not in this instance. Goes on to comment that this is the third rezoning case in this corridor that he has seen, and he is likely to vote against it too, rather than see another College Avenue.

Hoffman: Questions staff about other zoning options.

Garner: Responds that NS-G, Neighborhood Services-General, may be an option, but clarifies that it allows for only 8,000 square foot buildings for commercial business.

Kyle Cook, Commissioner: Asks if a Bill of Assurance is still being considered.

Jorgensen: It is, but was not finalized. The allowed uses under CS fit the goals of the developer. There are unfortunately not a lot of zoning districts that support the proposed uses at this location, including a pizza restaurant and a drive-thru coffee shop. They hope a Bill of Assurance can assuage concerns.

Tracy Hoskins, Commissioner: There is a lot that he agrees with and disagrees with. Notes that there is no assurance that services will devalue a property. It is often the exact opposite, with efforts to include residential and services in close to help neighborhoods along major

corridors. As far as having services on the corner, he sees that as a benefit, but there is a difference in the intensity. He would not however, support a drive-thru location. He has no problem with the uses, and thinks it would enhance the neighborhood. As far as the drive-thru, he would not support it. As far as music and noise, thinks he remembers that there is still a requirement for a conditional use permit.

Garner: Confirms that this is the case.

Brown: Follows up on his previous comments that the scale of allowed services be appropriate to the Future Land Use Plan. Reiterates his desire to see a neighborhood plan. Would support a neighborhood services zoning district typically, but after public comment, will likely not. Notes that the neighbors were told what they were buying in to, and the City should support that along with City Plan 2030.

Hoffman: Questions staff about the zoning requirements under R-O, and whether it could be an unlimited-size office.

Garner: Confirms that there are no building square footage requirements.

Hoffman: Also notes that it could be six stories. Expresses his support for a form-based zoning district and that it would lead to a much safer and attractive development.

Belden: Asks whether the item should be tabled.

Jorgensen: Is willing to be tabled to review other options.

Motion:

Commissioner Hoskins made a motion to **table RZN 17-5733** for two weeks. **Commissioner Selby** seconded the motion. **Upon roll call the motion passed with a vote of 8-0-0.**

Draft Meeting Minutes from the 4/10/2017 Planning Commission Meeting

RZN 17-5733: Rezone (SE OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099): Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The properties are zoned R-O, RESIDENTIAL OFFICE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 1.79 acres. The request is to rezone the properties to NS-G, NEIGHBORHOOD SERVICES, GENERAL.

Jonathan Curth, Senior Planner: Gave the staff report.

Blake Jorgensen, Applicant's Representative, Jorgensen & Associates: Acknowledges the concerns with the request, and after meeting with staff, the revised request to the NS-G zoning district seem to be the most appropriate, and will not necessitate a Bill of Assurance.

Max Parker, Property Owner: Thanks the Commission for the consideration and notes that the proposed rezoning was not available at the time of the area's development, and may have been advisable. Notes his bias as the property owner. Comments on the traffic volumes and the area features and amenities and that the property deserves a zoning that is appropriate for all residents.

Public Comment:

Bob Anderson, Neighbor: Notes that those who will benefit from the rezoning and development will be visitors, and not residents. They will bear the burden of any adverse effects. Recalls Commissioner Hoffman's comments about one of two futures for Highway 265, and states that most residents will still prefer that the highway be widened than this rezoning to occur. Also notes that if this is approved, the Commission will be obligated to rezone other properties along this area, resulting in the possibility of another College Avenue. Describes the Residential Neighborhood Area designation in City Pan 2030 and that it notes that noncommercial development "should" be encouraged, but not required. Goes on to cite Kit William's memo to the Commissioners about compatibility and rezoning decisions. Shares communications he subsequently had with Kit Williams that the subdivision's approval ought to represent a reassurance of what will be there. Summarizes the Attorney's memo with "if it doesn't fit, listen to Kit."

Peter Tonnessen, Neighbor: Notes that he has worked with staff in gaining information, and has several items he would like to enter in to the record, including photographs, and a spreadsheet outlining the proposed uses and districts. Has spent approximately 200 hours of research on the property owner and their transactions. Mister Parker and his brother own eleven of the fourteen properties that are adjacent to Crossover. Goes in to details on transactions of specific lots, and also in to the property owner's interactions with Jorgensen and Associates. Does not feel that it is accurate to review these two properties as discrete properties separate of the others. Shares that a possible tenant of the subject property does not even own their business' name. Shares that a more appropriate zoning district would likely be NS-L given the requirement that a restaurant have a conditional use permit. Cites the City's long-range plans and that they were well-created by staff's predecessors. Notes the size of Lake Fayetteville, and compares it to Central Park and its associated land values. Argues that the development

patterns over the last decades have created a framework where the subject properties and those around them had their uses established. Continues on to discuss legal history and the expectation of residents that the city will continue to maintain the current zoning.

Mark Scalise, Neighbor: Shares that he has lived in eight states and lived in many neighborhoods. He was very aware of what was allowed on the subject property at that time. Feels that what is allowed on the subject property is reasonable, and he has no problem with development under the R-O requirements. Notes that the property owners bought the land understanding what was allowed, and while he respects their desire to make a profit, he does not agree with “changing the rules.”

Dena Young, Neighbor: Notes her status as a new resident in the Stonewood subdivision. Shares that she chose the subdivision because it is quiet and has ready access to the park and trails. Moved to Fayetteville from Little Rock and Rogers, Arkansas. Notes that she was shocked to hear that the Commission was approving the request. Appreciates comments by other residents and the City’s Attorney. Is convinced that the restaurant will lead to lower property values in addition to increased crime and bad odors. Does not feel that a Commission should vote in the interest of other residents, but for those living adjacent to the subject property. States that there will be a decrease in the number of professionals living in the area. Researched the case law shared by the City’s Attorney, and feels that they indicate why the Commission should support the neighbors.

Robert Stevens, Neighbor: Among the first homeowners in the subdivision, he is concerned with late hours of business operation and traffic. Is concerned that traffic pulling in and the neighbors trying to leave the subdivision will create a potentially dangerous traffic condition. With regards to City Plan 2030, he does not feel that the revised request will serve the needs of the neighborhood, despite the developer’s contention. Given the overwhelming opposition, this shows the rezoning will not meet the needs of the neighborhood.

Andy Taylor, Neighbor: Has all his money tied up in to this property, and any land value decrease will hurt him. Suspects that people will travel through his neighborhood in Copper Creek from the east to access any services on the subject property.

Adaly Malone, Neighbor: Agrees with all previous comments, and notes that the residents bought in good faith. Rezoning this property would not be “right” and she requests that the Commission should do what is “right.” Situations like this are not appropriate where the property values of many people suffer to benefit a few, just because certain people know the “right” people.

Susan White, Neighbor: Notes that her family was one of the first in the subdivision. Shares that her parents recently moved to this subdivision and are elderly. Points out that there are several other elderly families and families with children. In response to the comment about the possibility of there being a six-story building, she disagrees, saying there is not enough room for parking.

Jeff Cantu, Neighbor: Introduces himself as the POA president for the Stonewood subdivision. Disagrees that the proposed rezoning is compatible with the City Plan. Feels that the R-O zoning is what homeowners bought in to. States that the Planning Commission needs to vote in harmony with the City’s plan, and that there is no overriding need to change the zoning. Lives 200-feet from the subject property and will not like the odors.

Karen Stevens, Neighbor: Spoke with potential homebuyers about noise in the neighborhood and said at the time that it was not bad. Believes that developing the property will create a lot of noise and hurt property values.

No More Public Comment.

Leslie Belden, Commissioner: Requests that Mr. Tonnessen's spreadsheet be shared on the screens for the public. Reads the provided description of the NS-G zoning district, noting that the request is effectively a down-zoning. Notes that if the subject property was zoned NS-G, she can understand why people are upset if the request was for R-O. The request to go from R-O to NS-G is actually a downzoning. Feels that the NS-G is better for the residents and more compatible, and is in support of the request.

Matthew Hoffman, Commissioner: Appreciates everyone coming out and discusses how when it comes down to it, everyone wants what is best for Fayetteville. Agrees with Commissioner Belden's comments. In addressing Mrs. Stevens comments about noise, contends that the buildings being placed near the street is the most effective way to block noise. Cites his site design experience noting that dumpsters are typically located near buildings, and with a form-based zone this will be at the street. The parking will then be the buffer. Also contends that this request is a down-zoning, and is increasing compatibility. One of the best ways to look at compatibility is to look at the bulk, size, and area of a building. The worst case scenario in R-O is unlimited floor area, where as in NS-G it is 8,000. Addresses the City Attorney's memo, and its comment about spot zoning. Almost all of the commercial lots on Highway 265 is undeveloped. A decision tonight will have an impact on development in the future, and where buildings will be placed. Does not understand how something can be spot zoning in an undeveloped area. Recognizes fears about continued development up highway 265, but notes that it is valuable for it to develop in a traditional town form pattern.

Allison Thurmond Quinlan, Commissioner: Appreciated comments from neighbors and other Commissioners. Notes that development will occur in this area and that traffic will continue grow given Highway 265's high capacity and low volume. Shares background of the NS-G zoning district's creation. Agrees with other Commissioners that this constitutes a down-zoning. Speaks to how R-O resulted from the 1970s and that NS-G is an improvement. Appreciates Mr. Tonnessen's spreadsheet graphic and agrees that NS-G has more favorable uses than either CS or the R-O districts. Is supportive of the request.

Tom Brown, Commissioner: Expresses appreciation to the neighbors for speaking. Disagrees somewhat with the differences stated between R-O and NS-G. Feels that many of the uses allowed in NS-G would generate more traffic than the R-O district. States that a lot more traffic would go to a location with the uses allowed under NS-G, and the business hours would likely be wider. At the same time, he feels that at this location, an office would develop at a lower intensity. Conceptually, he agrees that the Neighborhood Services zoning designations may be applicable on this property, but only if it does not have a negative effect on the functioning of Highway 265, existing neighborhood plans, and existing neighborhoods. Notes that the City's Master Transportation Plan call for factoring in traffic impacts in decisions. Shares data he has collected on traffic, and what amount of traffic it would take to result in a traffic. Compares College Avenue and Highway 265, noting that the number of vehicle trips before an accident occurs is much lower on College due to its intensity and number of curb cuts. Supporting rezonings that increase intensity will increase the number of traffic incidents. Shares that this is the third rezoning that he has considered for a commercial land use outside of the city Neighborhood designation. Counted 44 intersections on the highway corridor and only 11 were

in the City Neighborhood Area. If three more rezonings are approved a year with a curb cut on Highway 265 for each rezoning, it will lead to a new College Avenue.

Zara Niederman, Commissioner: Thanks residents for coming to speak. In response to Commission Brown's comments, he notes that there are indeed preferred locations to concentrate the curb cuts and developments but not all non-residential development has to be in certain nodes, and it is acceptable to have smaller nodes. Agrees with other Commissioners that the request is a down-zoning. Outlines some of the uses that are allowed in the existing and proposed zoning districts. Feels that the location across from the Botanical Garden also makes this more appropriate than other properties to the north and south. Rezoning the subject property would not necessarily result in other similar rezonings in this area. Inquires from staff about buffer requirements.

Andrew Garner, Planning Director: Informs the Commission that there are screening requirements between residential and commercial development. This is a typical standard.

Niederman: Asks what the setback is.

Garner: The typical buffer can be 10-12 feet wide with a fence and vegetation.

Niederman: Inquires that with the buildings being closer to Crossover, is it possible to require an additional buffer or screening.

Kit Williams, City Attorney: Clarifies that conditions may not be placed on a rezoning.

Quinlan: Asks staff about what access would be permitted on to the subject property at the time of development.

Garner: Responds that the access management ordinance requires that access to a property be by way of a lower classification street, but accessing the higher classification street may be permitted by Planning Commission variance.

Quinlan: Asks what form of development submittal this item will go through.

Garner: Is not certain, but due to this zoning district being form-based, development may come through as a Large Site Improvement Plan which may be approved administratively.

Quinlan: Questions whether any development will have to comply with the City's commercial design standards.

Garner: Responds that development in build-to-zones are subject to a higher degree of design guidelines, including for architectural articulation and glazing.

Quinlan: Moves to forward the item to the City Council.

Williams: Interjects that he wants to clarify that this may or may not be a downzoning. The current R-O zoning would only allow a eating place of 2,000 square feet, while the proposed NS-G zoning district will allow a building of 8,000 square feet. In the R-O zoning a duplex is allowed, while in the NS-G zoning, residential housing is allowed up to tri- and quad-plexes. Also shares the height setback requirements under R-O, and that it would be difficult to develop to the maximum allowed height, while NS-G's setbacks allow more height near a property line.

Understands that this vote may move forward, but wants it to be clear that he does not feel that this is a downzoning. Lastly, the intensity is classified as medium rather than low.

Garner: Due to the proposed zoning district being new and unfamiliar to some, clarifies that the NS-G zoning district only allows for a restaurant to fill 2,000 square feet of the 8,000 square feet non-residential building size permitted.

Brown: States he will not support this rezoning request as it will lead to commercial development outside the designated areas. Requests that the Future Land Use Map of City Plan 2030 be pulled up for discussion, as it may be valuable for the newer Commissioners. Notes that the Plan deliberately designated certain areas along Highway 265 to be City Neighborhood Area with non-residential uses, but designated the subject property as Residential Neighborhood Area. Also, cannot support the request due to traffic concerns along with the City Attorney's comments that the subdivision's approval constitutes a neighborhood plan. Furthermore, he notes that the existing R-O zoning district allows for limited commercial development with a conditional use permit that requires a developer to work with neighbors and the Planning Commission.

Hoffman: Appreciates the Director's clarification and comments about the NS-G zoning district. With regards to the comparison of districts, he will support the one that promotes smaller buildings further from homes. In response to Commissioner Brown's comments about traffic, he contends that the problems with traffic on College are a result of zoning at the time, more than the uses themselves. The type of development that occurred on College is a result of sprawl-oriented zoning districts like the existing R-O on the subject property.

Motion:

Commissioner Quinlan made a motion to **forward RZN 17-5733**. **Commissioner Hoffman** seconded the motion. **Upon roll call the motion passed with a vote of 8-1-0. Commissioner Brown voted 'no'.**

CITY OF FAYETTEVILLE, ARKANSAS

REZONING

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Case / Appeal Number:

Public Hearing Date:

FEE: \$325.00

Sign Fee: \$5.00

S-T-R:

PP#:

Zone:

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 X Representative

Applicant (person making request):

Name:

Max Parker
for CP Properties

Address: 1680 E. Shadowcreek Dr
Fayetteville Arkansas
72701

E-mail:

gm1x32@gmail.com

Phone:

(479) 799-6918

Fax:

()

Representative (engineer, surveyor, realtor, etc.):

Name: Blake Jorgensen

Jorgensen & Assoc.

Address: 124 W. Sunbridge Dr. Suite 5
Fayetteville, AR 72703

E-mail: blake@jorgensenassoc.com

Phone:

() 479-442-9127

()

Fax:

() 479-582-4807

Site Address / Location: SE corner of Crossover Rd. & Hearthstone Dr.

Current Zoning District: R-O & RSF-4

Requested Zoning District: CS

Assessor's Parcel Number(s) for subject property: Parcel: 765-22244-000 & 765-22245-000

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

CP Properties

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made 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 on approval.

Name (printed): MAX PARKER / C P Properties Date: 2-14-17
Signature: Max Parker

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):

Name (printed): MAX PARKER Address: 1680 E. Shadowridge Dr
C P PROPERTIES, INC Fayetteville, AR 72701
Signature: Max Parker
Date: 2-14-17 Phone: (479) 799-6918

Name (printed): Philip Cameron Address: 1663 Viewpoint
Philip Cameron Fayetteville AR 72701
Signature: Philip Cameron
Date: 2-14-17 Phone: (479) 263-3815

Rezoning Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
\$325.00 application fee
\$5.00 public notification sign fee
- (2) A legal description of the property to be rezoned. A survey may be required if the property description can not accurately be platted or if it is described by referring to other deeds.
- (3) CD containing a copy of the legal description in MS Word and all required submittal items should be also included on the CD in PDF format.
- (4) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

MEETING DATE: April 10, 2017 (Updated with Planning Commission Results)

SUBJECT: **RZN 17-5733: Rezone (SE OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099):** Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The properties are zoned R-O, RESIDENTIAL OFFICE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 1.79 acres. The request is to rezone the properties to NS-G, NEIGHBORHOOD SERVICES, GENERAL.

RECOMMENDATION:

Staff recommends forwarding **RZN 17-5733** to the City Council with a recommendation of approval, based on the findings herein.

BACKGROUND:

March 27, 2017 Planning Commission Meeting: The previous request by the applicant was to rezone the subject property to CS, Community Services, with an intention to develop the area with a restaurant and drive-thru coffee shop. This item was tabled at the March 27, 2017 Planning Commission meeting to give the applicant time to reconsider and possibly revise their request according to comments and concerns expressed by both area residents and the Planning Commission. In order to address these concerns, the applicant is now proposing to rezone the property to NS-G, Neighborhood Services, General. The NS-G zoning district limits the size of commercial buildings to a maximum of 8,000 square feet and does not allow drive through restaurants.

The proposed rezoning request is for two parcels, totaling approximately 1.79 acres to the south of Hearthstone Drive and east of Crossover Road/Highway 265. The properties are currently split-zoned, with the northern portion as R-O, Residential Office, and the southern portion as RSF-4, Residential Single-family, 4 Units per Acre. The subject property and approximately 500 acres of additional land largely paralleling Crossover Road were annexed in to the City of Fayetteville in November of 1977. Subsequently, the subject property was platted as part of the larger Stonewood Subdivision in 2001, which includes approximately 100 single-family lots and 14 lots intended for residential or office development. The subject property is among the latter, but remains undeveloped. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped; Property Management Offices	R-O, Residential Office
South	Undeveloped	RSF-4, Residential Single-family, 4 Units per Acre
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Lake Fayetteville Park/ Botanical Garden of the Ozarks	R-A, Residential Agricultural

Request: The request is to rezone the property from RSF-4, Residential Single-family, 4 Units per Acre, and R-O, Residential-Office, to NS-G, Neighborhood Services, General, in order prepare the parcel for development.

Public Comment from the March 27, 2017 Planning Commission: The Planning Commission received numerous comments regarding the proposed rezoning, with the significant majority stating firm opposition to a rezoning. Those that contacted staff before the meeting, as well as those that spoke at the meeting cited concerns with litter, odor, noise, and lighting, including the prospect that a dangerous traffic condition could result and that crime would increase. Numerous individuals insisted that the rezoning would decrease the property values of the adjacent neighborhood, while the existing zoning districts were part of their decision to purchase homes in this area, and are perceived to have been a promise of the subdivision's developer.

Public Comment: Staff has continued to receive a significant number of comments in opposition to the rezoning request, although, given the very recent nature of the change in proposed zoning district, none have been directly in opposition to NS-G, Neighborhood Services, General. Some commentary in support of rezoning the property has also been received, stating a preference for the availability of services in closer proximity to their residential neighborhood.

INFRASTRUCTURE:

Streets: Both subject parcels have direct access to Hearthstone Drive, a two-lane, partially-improved Local street, with curb and storm drain. Sidewalks would be required to be constructed at the time of development.

The western of the two parcels also has access to Crossover Road, which is a fully-improved principal arterial and a state highway that is signalized at Hearthstone Drive. City access management requirements mandate that properties shall access a lower classification street when present, as Hearthstone Drive does in this instance.

Water: Public water is available to the site. An 8-inch water main runs along the property frontage of Hearthstone Drive.

Sewer: Public sewer is available to the site. An 8-inch sewer main runs along the property frontage of Hearthstone Drive.

Drainage: Any additional improvements or requirements for drainage would be determined at time of development. No portion of these parcels lie within the FEMA designated 100-yr floodplain or the Hillside-Hilltop Overlay District (HHOD). A protected stream, Hilton Creek, runs south of these parcels. Hydric Soils have been identified on portions of these parcels and would require a wetlands determination to be provided at the time of development proposal.

Fire: The Fire Department did not express any concerns with this request.

Police: The Police Department did not express any concerns with this request.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates the properties within the proposed rezone as **Residential Neighborhood Area**.*

Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single family, multifamily and row-houses. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced setbacks. *It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood, such as retail and offices, on corners and along connecting corridors.* This designation recognizes existing conventional subdivision developments which may have large blocks with conventional setbacks and development patterns that respond to features in the natural environment.

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: ***Land Use Compatibility:*** The proposed zoning is compatible with surrounding land use patterns in this area, which include a mixture of suburban residential development to the east, office uses to the north, and a City park and botanical gardens to the west. The proposal of NS-G zoning on the corner of a largely-improved Local Street, and a high-volume, improved Principal Arterial can create a transitional area that may be developed in a commercial or mixed-use pattern that compliments both the existing adjacent uses and existing infrastructure. Furthermore, the NS-G zoning requirements allow a lower density, smaller building size and lower height than the existing R-O zoning district.

Land Use Plan Analysis: The proposed zoning is compatible with the Future Land Use Map (FLUM) and consistent with the Residential Neighborhood Area designation of the subject property and surrounding area. This location is consistent with the guidelines of City Plan 2030 for higher intensity non-residential use in corner locations and along connecting corridors. This is a corner property with a traffic signal on a busy arterial highway. Among the goals in City Plan 2030, the proposed rezoning represents the potential for both infill development and development in a traditional urban form pattern. Although less than one mile from Fayetteville's northern city boundary with Springdale, and thereby not generally thought of as an infill site, commercial or mixed-use development on the subject property can take full advantage of City facilities at the adjacent City park and the existing utility and road infrastructure. Similarly, despite being on a state highway (Crossover Road), the subject property's proximity to both a significant City park and a single-family subdivision presents an opportunity to create a mix of uses where

residents can live, work, and play all in the same neighborhood. The NS-G zoning district encourages patterns of development that result in realizing this goal, including an expectation that buildings will be located at the corner, creating an environment appealing to pedestrians and reducing the visual impact of parking areas, while also limiting permitted uses to those that are complementary to adjacent neighborhoods. A mixture of residential and commercial uses, which is permitted by the NS-G zoning district, is typical in a traditional urban form, with buildings addressing the street.

Lastly, this area of the City has many residents, with approximately 300 single-family homes accessing Crossover Road by way of Hearthstone Drive, but lacks non-residential goods and services within walking distance. This development pattern has resulted in residents being required to drive to meet any daily needs. The FLUM designation of this area as Residential Neighborhood recognizes this issue in encouraging appropriate non-residential uses, and the applicant's proposal for NS-G at this corner location could help alleviate the lack of services in the area.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The applicant has requested the zoning change to develop the property in manner that can serve the surrounding community, which is generally not as feasible under the existing RSF-4 and R-O zoning districts. The proposed NS-G, Neighborhood Services, General zoning will encourage appropriate commercial or residential development on this corner parcel in an area that has seen limited, and largely-residential development over the last two decades. The NS-G zoning district is designed primarily to promote complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses.

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

Finding: A NS-G zoning allows a limited range of commercial activity and a residential density that is currently lower than that allowed under the R-O zoning district. Given the property's undeveloped state, any development would invariably create the potential for increased traffic in the area, but not necessarily greater than could result from the existing RSF-4 and R-O zoning districts. The property is located on the southeast corner of Crossover Road and Hearthstone Drive, a fully-improved Principal Arterial and partially-improved Local Street respectively. The intersection adjacent to the subject property is signalized, and includes pedestrian crosswalks. While there will be an appreciable increase in traffic with any development, Hearthstone Drive does not connect to any significant transportation routes to the east, and, as a result, any increase in vehicular movement will likely move westward through the existing traffic signal to Crossover Road. As such, traffic danger and congestion is not expected to increase appreciably.

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: Although the property is currently undeveloped, development under the current zoning or the proposed zoning will likely result in a comparable increase in the load on public services and may increase population density in the area. The NS-G zoning allows a range of commercial activity but a lower residential density than R-O. Despite this, the subject property has access to existing infrastructure, and is an area where development would not have significant adverse impacts on public services or facilities. Additionally, neither the Police nor Fire Departments have expressed objections to the proposal.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Staff recommends forwarding RZN 17-5733 to the City Council with a recommendation of approval, based on the findings discussed throughout this report.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>April 10, 2017</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Quinlan			
Second: Hoffman			
Vote: 8-1-0, Commissioner Brown voted 'no'.			
CITY COUNCIL ACTION:		Required	<u>YES</u>
Date: <u>May 2, 2017 (planned)</u>	☐ Approved	☐ Denied	

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - o §161.03, RSF-4, Residential Single-family, 4 Units per Acre
 - o §161.18, R-O, Residential-Office
 - o §161.20, NS-G, Neighborhood Services – General
 - o §162.01, Unit 12b, General Business
- Revised Request letter
- Public Comment
 - o Public Comment leading up to the March 27, 2017 Planning Commission meeting
 - o Public Comment leading up to the April 10, 2017 Planning Commission meeting
- Memo and Spreadsheet from Commissioner Brown
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.07 - District RSF-4, Residential Single-Family - Four (4) 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	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet

Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	45 feet
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Height Regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

(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. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. [5921](#), §1, 11-1-16)

161.18 - District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 25	Offices, studios, and related services
Unit 44	Cluster Housing Development

(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 11	Manufactured home park*
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities*
Unit 42	Clean technologies
Unit 45	Small scale production

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.* (Per dwelling unit for residential structures)

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	60 feet

Two (2) family	60 feet
Three (3) or more	90 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouses:	
Development	10,000 square feet
Individual lot	2,500 square feet
Single-family	6,000 square feet
Two (2) family	6,500 square feet
Three (3) or more	8,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured home	3,000 square feet
Townhouses & apartments:	
No bedroom	1,000 square feet
One bedroom	1,000 square feet
Two (2) or more bedrooms	1,200 square feet
Fraternity or Sorority	500 square feet per resident

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Front, in the Hillside Overlay District	15 feet
Side	10 feet

Side, when contiguous to a residential district	15 feet
Side, in the Hillside Overlay District	8 feet
Rear, without easement or alley	25 feet
Rear, from center line of public alley	10 feet
Rear, in the Hillside Overlay District	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	60 feet
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Height Regulations. 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 1 foot for each foot of height in excess of 20 feet.

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

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4726, 7-19-05; Ord. No. 4943, 11-07-06; Ord. No. 5079, 11-20-07; Ord. No. 5195, 11-6-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5735 1-20-15; Ord. No. [5800](#), § 1(Exh. A), 10-6-15; Ord. No. [5921](#), §1, 11-1-16)

161.19 - Neighborhood Services, General

(A) *Purpose.* The Neighborhood Services, General district is designed to serve as a mixed use area of medium intensity. Neighborhood Service, General 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 (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12b	General Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units
Unit 44	Cluster Housing Development

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 16	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
Unit 45	Small scale production

(C) *Density.* Eighteen (18) or less per acre.

(D) *Bulk and Area.*

(1) *Lot Width Minimum.*

All Dwellings	35 feet
All other uses	None

(2) *Lot Area Minimum.*

Single-family	4,000 square feet
Two (2) family or more	3,000 square feet per dwelling unit
All other uses	None

(E) *Setback Regulations.*

Front:	Side	Side-Zero Lot Line	Rear	Rear, when contiguous to a single-family residential district
A build-to-zone that is located between the front property line and a line 25 ft. from the front property line.	5 feet	A setback of less than five feet (zero lot line) is permitted on one interior side, provided a maintenance agreement is filed. The remaining side setback shall be 10 feet.	None	15 feet

(F) *Building height Regulations.*

Building Height Maximum	45 feet
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(G) *Minimum Buildable Street Frontage.* 50% of the lot width.

§162.01 – Establishment/Listing

(M) Unit 12b. General Business,

- (1) *Description.* Unit 12b consists of small-scale establishments offering commercial goods and services that are accessible for the convenience of individuals living in residential districts, while compatible in size, scale and appearance with the surrounding neighborhood. These uses shall be subject to the regulations in Chapter 164. All uses classified under Unit 12b must be within a building containing 8,000 square feet or less, excluding area dedicated to residential uses.

- (2) *Included Uses.*

Personal services	•Day Care
	• Dry cleaning
	• Salon/Barber shop
	• Tailoring
Retail	• Antique/home décor sales
	• Apparel
	• Art/Architectural supplies
	• Bakery/Pastry shops
	• Bicycle shop
	• Bookstore
	• Coffee shop
	• Delicatessen
	• Drugstore
	• Florists
	• Food specialty stores
	• Grocery
	• Hardware store
	• Health food store
	• Hobby/Craft shop
	• Ice cream
	• Meat market
	• Restaurant/Café
	• Small Appliance Repair

	• Stationary store
	• Toy store
	• Video rental
Professional Offices	• Accountant
	• Architect
	• Attorney
	• Broker
	• Business/Mgmt. Consultant
	• Doctor



JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying
Landscape Architecture Services

CUP 17-5733
Request Letter

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703

Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

April 6, 2017

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701
Attn: Development Services

Re: Hearthstone Properties Rezoning

To Planning Commission/Planning Staff

Please accept this request to alter the previous rezoning from Community Services (CS) to Neighborhood Services-General (NS-G). After meeting with staff and the owners of the property, we feel that this zoning classification is the optimal zoning request and that it is a downzone in regards to both CS as well as RO. This zoning classification would eliminate any concerns that have been brought up associated with the CS request in regards to gasoline service stations as well as drive through restaurants. This zoning classification would also have reduced building heights, as well as limit the by-right foot print of the building(s).

We appreciate both the community's and the staff's time and input on this matter and look forward to discussing this rezoning with the Planning Commission.

Jorgensen + Associates

**Public Comment
for 3/27/2017 Planning
Commission Meeting**

We, the undersigned owner and residents of Stonewood, are strongly inclined to support the requested zoning change from Max Parker. For decades we have enjoyed the higher property values and enhanced city services provided by Fayetteville's adherence to a strict policy of planned development. Evidenced by Fayetteville's repeated listings as one of the top ten places to live in the US...a distinction not awarded to our neighbors.

The stringent signage, greenspace, parking, etc. codes, requirements and ordinances have continued to make Fayetteville a desirable place to live although other cities in our area may be more attractive from a property price point view only.

We trust the planning commission and other regulatory bodies to allow only a tasteful commercial establishment that would enhance the neighborhood. We believe that an attractive, unobtrusive restaurant/coffee shop between our neighborhood and the Botanical Gardens would be very desirable.

As for the future risks, any business would require design, elevation and building permit approval. History has proven that Fayetteville protects both its residential and commercial areas by a policy considering aesthetical, environmental and service support availability.

Thank you,

Janet Watkins, Elizabeth Blackburn, Barbara George

Public Comment for RZN 17-5733 (CP Properties)

3/25/2017

Mr. Curth,

I understand there is a question of rezoning property that is at the front entrance of Stonewood from office, and the like, to one that would allow for the building of restaurants. In particular, there is the building of a pizza shop being currently considered. I would like to let you know that I, and my family, are strongly against this change. When property is purchased, there is an expectation of maintaining value and a level of comfort. Nuisances like this restaurant destroy that value and comfort. It materially alters the initial purchase agreement. The restaurant will produce noise, smells and dangers that were not presented to the current owners when they first agreed to purchase the property. In addition, there is a safety issue when you place a business in with homes. Business often request and received liquor licenses. In addition to provided this to there customers there is parking and increased traffic or congestion. The two combined can be dangerous to not only the people living in the neighborhood but visitors to the Botanical Garden across the street. Many people walk, bike and move back and forth across that intersection. I think you all should be on notice of these danger and nuisance issues when you are considering these zoning changes. Any changes you make and the consequences that might occur should be carefully considered. Thank you for your consideration of this matter,

Monika Szakasits
Resident of Stonewood Subdivision

3/26/2017

Hello Mr. Curth:

I'm a new resident to the Stonewall community. My property directly abuts the R-O zoned properties along Crossover.

Recently it has come to my attention that there is the potential for the R-O zoned lots in front of Stonewall to be rezoned to allow an eatery of some type.

While I like the convenience of another great food joint nearby, I certainly wouldn't welcome the lights, sounds and smells that would come along with it, staring right into my backyard.

I have voiced my opposition to our POA President, but thought it wouldn't hurt to let you know how I feel as well.

I am against the proposed rezoning.

Thanks for listening!

Vic Kennett
Founder / CEO



Phone: 870-423-6242

Web Site: www.kerusso.com

"One Team - One Mission!"

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3/27/2017

Mr. Curth:

I write this email to register my objection to the proposed rezoning of Lots 1 & 2 of Stonewood from R/O to CS. I understand that the planning commission will consider this rezoning request at their meeting at 5:30 this afternoon. I plan to attend. Thank you.

Stevan E. Vowell

Taylor Law Partners, LLP

303 E. Millsap

P. O. Box 8310

Fayetteville, AR 72703

(479) 443-5222

(479) 443-7842

svowell@taylorlawpartners.com

Dear sir,

As I understand the present proposal for the property on Hearthstone and 265 across from the Botanical Gardens there are positive aspects to the proposal. My concern is as planned another pizza parlor will be there. Should the council not take into consideration multiple ones in close proximity? I would hope the council would consider what is best for the community. In addition, a major reason I chose to purchase a home in Copper Creek subdivision was the location of the Botanical Gardens and the hiking trail. Another fast food place is not in concert with those amenities. If it is at all possible to take into consideration this great local asset and what would enhance rather than detract from it, I would sincerely recommend the council doing so.

Margret Walker

3441 Peppermill Place

Fayetteville, AR

Sent from my iPhone

Hello Mr. Curth,

I'm a resident of the Copper Creek neighborhood and will attend this hearing to learn more about the rezoning request. Would you please provide a copy of the comprehensive plan for this area?



I look forward to seeing the comprehensive plan.

My thanks,

~Susan Holmes

3404 Jasper Lane Fayetteville AR 72764

479-225-6175 susanholmes95@gmail.com

Dear Mr. Curth,

My husband and I would like to voice our opinions *against* the proposed rezoning for Stonewood Lots 1 and 2 (RZN 17-5733). One of the benefits of this neighborhood is privacy. Bringing commercial property to the front entrance of the neighborhood will undoubtedly bring increased traffic to the area. There are other downfalls as well, which will be shared by Stonewood POA. Thank you for your consideration.

Sincerely,

Jennifer & Michael Moffitt

4652 Stonewall Xing

Fayetteville, AR 72764

Jonathan,

Attached is a spreadsheet showing the responses to the proposed rezoning of Lots 1 and 2 in the Stonewood subdivision. As you will readily see, there are clearly two sides to this proposal. The developers are all for it, and the homeowners are almost 100% against it. I don't need to repeat the

reasons the homeowners oppose the rezoning - you've seen multiple emails from them already. I trust that you will include this spreadsheet information in the package that you provide to the Planning Commission.

Bob Anderson
Treasurer
Stonewood P.O.A.

The subject spreadsheet is attached to this packet of public comment.

Mr. Curth:

I am opposed to the rezoning of the 1.79 acres east of Crossover and south of Hearthstone.

My plan to attend tonight's meeting has been foiled. Therefore, here is why I am opposed to the rezoning from "Residential Office" to "Community Service."

1. Crossover's median prevents easy access.
2. Gridlock at Crossover and Hearthstone would be inevitable.
3. The Botanical Garden's beauty and purpose would be in jeopardy.
4. CS zoning will likely impact the existing residential environment and property values.

Honestly any savvy commercial/retail developer (independent or franchise) would see these same concerns and would not pursue this land in question.

Thank you for including my concerns in tonight's meeting and subsequent decision. Also, we really appreciate the work that you and the Planning Commission do to make Fayetteville a great place to live!

Best regards,

Daniel Hocklander
Past President
Copper Creek Homeowners' Association

TO: Jonathan Curth
Fayetteville City Planning Department

I am opposed to the rezoning of Lots 1 and 2 in the Stonewood Division for the proposed development of the lots.

Current property owners have bought lots and built their residents with the knowledge of the current written commercial zone guidelines (residential office building). I am also concerned about the effect this might open up for the other commercial zoned property fronting the Highway.

I would appreciate the planning board taking my opinion into consideration.

Stonewood Division property owner

Jo Ann Woodward

Stonewood Subdivision Responses to a POA Survey

Stonewood Subdivision Rezoning Proposal for Lots 1 & 2

Commercial Lots

92.9% Percentage of lots voting
13 For the rezoning
0 Against the rezoning

Homeowner Lots

72.4% Percentage of lots voting
1 For the rezoning
75 Against the rezoning

Lot	Parcel	Name	Address
1	22244	C P Properties, LLC	Crossover Road (Vacant Commercial Lot)
2	22245	C P Properties, LLC	Crossover Road (Vacant Commercial Lot)
3	22246	Kjune LLC	Crossover Road (Vacant Commercial Lot)
4	22247	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
5	22248	Parker Investments, LLC	Castlewood Ln. (Commercial Lot)
6	22249	Parker Investments, LLC	Castlewood Ln. (Commercial Lot)
7	22250	Parker Investments, LLC	4790 Castlewood Ln. (Commercial Lot)
8	22251	Fochtman, Earl & Gayle	Crossover Road (Vacant Commercial Lot)
9	22252	Fochtman, Earl & Gayle	Crossover Road (Vacant Commercial Lot)
10	22253	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
11	22254	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
12	22255	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
13	22256	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
14	22257	Parker Investments, LLC	Crossover Road (Vacant Commercial Lot)
15	22258	Ellison, Frances Anita	4843 Lavendon Pl.
16	22259	Ingram, Justin & Andrea	4857 Lavendon Pl.
17	22260	Watson, Gaye F.	4869 Lavendon Pl.
18	22261	Olive Trust Joshua Hicks	4881 Lavendon Pl.
19	22262	Stevens, Robert & Karen	3116 High Meadows Dr.
20	22263	Liu, Pu & Li-Chuan Chang	3140 High Meadows Dr.
21	22264	Oswald, Robert & Anne	3162 High Meadows Dr.
22	22265	Roberts, Barbara	3186 High Meadows Dr.
23	22266	Szakasits, Monika	3200 High Meadows Dr.
24	22267	Nielson, Bradley & Michelle Roberts	3224 High Meadows Dr.
25	22268	Murphy, Rong Yan	3246 High Meadows Dr.
26	22269	Hicklin, Michael & Lynda	4884 Trails End Ln.
27	22270	Vowell, Stevan & Peggy	4868 Trails End Ln.
28	22271	Hopkins, Wade & Sharon	4856 Trails End Ln.
29	22272	Aldridge, Bret & Barbara	4842 Trails End Ln.
30	22273	Hubbard, Thomas & Shareinea	4830 Trails End Ln.
31	22274	Zimmerman, Brent & Cassandra	3229 High Meadows Dr.
32	22275	Woodward, Billy Ray & Joann	High Meadows Dr. (Vacant Lot)
33	22276	Scarbrough, Troy & Amy	3191 High Meadows Dr.
34	22277	Cox, Winfred M. & Clarice W.	3163 High Meadows Dr.
35	22278	Caldwell, Nelson & Terrie	3141 High Meadows Dr.
36	22279	Augustine, Merlin & Beverly	4862 Lavendon Pl.
37	22280	Anderson, Bob	4844 Lavendon Pl.
38	22281	Parker, Terry & Ellen	3142 Greystone Dr.
39	22282	McLaughlin, Gary & Susan	3164 Greystone Dr.
40	22283	Mitzel, Marvin & Christel	3190 Greystone Dr.
41	22284	Welker, Juanita M.	3204 Greystone Dr.
42	22285	White, Bryan & Susan F.	3228 Greystone Dr.
43	22286	Davis, Jerry & Brenda	4808 Trails End Ln.
44	22287	Marley, Mark & Cheryl	4792 Trails End Ln.

Stonewood Subdivison

Rezoning Proposal for Lots 1 & 2

Commercial Lots

92.9%	Percentage of lots voting
13	For the rezoning
0	Against the rezoning

Homeowner Lots

72.4%	Percentage of lots voting
1	For the rezoning
75	Against the rezoning

Lot	Parcel	Name	Address
45	22288	Mize, Andrew M. & Page Ann	4774 Trails End Ln.
46	22289	Salsbury, Randy & Shana	4758 Trails End Ln.
47	22290	Ashley, Larry & Martha	4749 Trails End Ln.
48	22291	Bunn, Richard & Margaret Werner	4773 Trails End Ln.
49	22292	Bradbury, Michael & Sharon Etchinson	4791 Trails End Ln.
50	22293	Glenn, Ryan & Maranda	4807 Trails End Ln.
51	22294	Wynne, Thomas B. & Marley M.	3203 Greystone Dr.
52	22295	Rigo, Gilson & Vania	3189 Greystone Dr.
53	22296	Basnett, Erin	4790 Stonewall Crossing
54	22297	Crawford, John & Beverly	4772 Stonewall Crossing
55	22298	Davis, Doris & Kim	4754 Stonewall Crossing
56	22299	Hughey, Gary & Sandra	4738 Stonewall Crossing
57	22300	Gillihan, Betty Kaye	3202 Hearthstone Dr.
58	22301	Jezewski, Jeffery & Jennifer	3226 Hearthstone Dr.
59	22302	Matthews, Andy & Cheryl	3244 Hearthstone Dr.
60	22303	Scalise, Mark & Jacqueline	3268 Hearthstone Dr.
61	22304	Malone, Noel & Ada Lee	3077 Greystone Dr.
62	22305	Smith, Virginia	3103 Greystone Dr.
63	22306	Mueller, Phuong & Ellen Gebhart-Mueller	3119 Greystone Dr.
64	22307	Mosby, Keith & Katherine	4807 Stonewall Crossing
65	22308	Stephens, George L. III	3144 Ladelle Pl.
66	22309	Alisha Sutton	3120 Ladelle Pl.
67	22310	LaGrone, Dean	3102 Ladelle Pl.
68	22311	Kennett, Vic & Melody	3078 Ladelle Pl.
69	22312	Flynn, Mike & Courtney	3063 Ladelle Pl.
70	22313	Henry, Clay & Jean Ann	3079 Ladelle Pl.
71	22314	Wright, Warren & Linda	3101 Ladelle Pl.
72	22315	Draper, Joe & Nancy	3145 Ladelle Pl.
73	22316	Draper, Joe & Nancy	3145 Ladelle Pl.
74	22317	Draper, Joe & Nancy	3145 Ladelle Pl.
75	22318	Draper, Joe & Nancy	3145 Ladelle Pl.
76	22319	Davis, Rick & Shawna	3100 Hearthstone Dr.
77	22320	Pianalto, Nick	3080 Hearthstone Dr.
78	22321	Hudgens, Patricia	3081 Hearthstone Dr.
79	22322	Ashby, Charles & Debbie	3033 Waterstone Dr.
80	22323	Busken, Gerard & Tammy	3057 Waterstone Dr.
81	22323-001	Collins, Craig & Bethany	3089 Waterstone Dr.
82	22324	Cantu, Jeffrey	3123 Hearthstone Dr.
83	22325	MacDade Properties LLC	3044 Waterstone Dr.
84	22326	Watkins, Janet & Catherine Vantine	3072 Waterstone Dr.
85	22327	Head, Steven & Hillary	3104 Waterstone Dr.
86	22328	Stancil, Jim & Susan	3130 Waterstone Dr.
87	22329	Forge, Maxine	3152 Waterstone Dr.
88	22330	Mazili, Christine A.	3186 Waterstone Dr.

Stonewood Subdivison

Rezoning Proposal for Lots 1 & 2

Commercial Lots

92.9%	Percentage of lots voting
13	For the rezoning
0	Against the rezoning

Homeowner Lots

72.4%	Percentage of lots voting
1	For the rezoning
75	Against the rezoning

Lot	Parcel	Name	Address
89	22331	Andrade, Juan & Ana	3208 Waterstone Dr.
90	22332	Levy, Lynn Revocable Trust	3224 Waterstone Dr.
91	22333	Green, Cynthia K.	4657 Stonewall Crossing
92	22334	Moore, Jennifer Paige	4665 Stonewall Crossing
93	22336	Young, Dena	4673 Stonewall Crossing
94	22335	Young, Alex Alden	4687 Stonewall Crossing
95	22337	Wilson, Hugh E. & Audrey A.	4695 Stonewall Crossing
96	22338	Serrano, Jose & Maria	3147 Hearthstone Dr.
97	22339	Porter, Kenneth B. & Andrea	3267 Hearthstone Dr.
98	22340	Zavaleta, Julio Cesar	3243 Hearthstone Dr.
99	22341	Taylor, Lawrence & Brandy	3225 Hearthstone Dr.
100	22342	Moore, Samuel & Margaret	3201 Hearthstone Dr.
101	22343	Collins, Randall	3185 Hearthstone Dr.
102	22344	Hardcastle, Andrea	4692 Stonewall Crossing
103	22345	Kyle & Caitlin Pennington	4664 Stonewall Crossing
104	22346	Bowlin, Philip & Brenda	4658 Stonewall Crossing
105	22347	Moffitt, Jennifer & Michael	4652 Stonewall Crossing
106	22348	Brown, Michael & Ana	4646 Leiston Pl.
107	22349	Demarest, Chris & Alicia	4640 Leiston Pl.
108	22350	Antoine, Ronald & Zenarea	4632 Leiston Pl.
109	22351	Rhodes, Amy S.	4624 Leiston Pl.
110	22352	Chamberlain, Carol Jean	3267 Waterstone Dr.
111	22353	Locey, Ryan & Monica	3245 Waterstone Dr.
112	22354	McCarley, Timothy	3223 Waterstone Dr.
113	22355	Morris, Nicholas & Lydia	3209 Waterstone Dr.
114	22355	Sandlin, James & Renee	3187 Waterstone Dr.
115	22355	Carrasco-Quezada, Erika	3165 Waterstone Dr.
116	22356	Black, Nancy	Waterstone Dr. (Vacant Lot)
117	22357	Mathias, David & Ashley	3129 Waterstone Dr.
118	22357-001	Siebert, Eric & Katlyn	2111 Waterstone Dr.
119	22358	Zamora, Rosanna	3352 Waterstone Dr.

Public Comment for 4/10/2017 Planning Commission Meeting

3/28/2017

Thank you for your response. We attended the planning meeting last night and were so disappointed the issue of rezoning our neighborhood was tabled instead of being voted down. We retired four years ago and moved to this area from NE Arkansas. One of our prime reasons for choosing this subdivision was because of its beauty and cleanliness. My husband is in bad health, so we felt the neighborhood afforded us safety with proximity to doctors and the hospital. We knew it was zoned R/O but believed office type buildings would be built in the frontage area with day hours, not a lot of congestion, or loud noise. With so many of the homeowners in Stonewood voting not to change the zone to CS, my prayer is that the planning commission will vote the will of the people. The fact that the 2030 goals of the city have this area marked to remain residential impressed me that the city felt it important to protect some residential areas and not turn everything into commercial. Thank you for your work. If my husband is able, we will attend the next meeting.

Sandy Hughey
4738 Stonewall Crossing

3/30/2017

Jonathan,

As I did at the hearing Monday night, I would like to again voice my opposition to the rezoning of Lots 1 and 2 in the Stonewood subdivision from R-O to CS or any other zoning designation other than what they have always been. I am disappointed that the Planning Department would recommend approval when the rezoning clearly doesn't fit the City's own master plan, Plan 2030. When you drive the length of Crossover within the city limits, you can clearly see the commercial areas at the intersections identified by Thomas Brown at the hearing. What you don't see when you drive north of Zion is anything resembling a commercial area, just as Plan 2030 indicates. Doesn't the Planning Department look at Plan 2030 when they are deciding to recommend approval for a rezoning?

Bob Anderson
Treasurer
Stonewood P.O.A.

Dear Jonathan,

Please accept this correspondence as a vehement objection to the proposed rezoning of the 2 lots adjacent to the Hearthstone Drive entrance. It was accepted when we all elected to build our homes, and invest substantial monies to do so, that **there would eventually be office buildings at the entrance**. That was the accepted deal. Be assured it **was an arrangement we were all aware of and accepted**. Why is this relevant? Because we were also aware of what was NOT allowed to be built at the entrance, namely convenience stores or fast food or any number of high traffic / high-volume business of those type.

If the deal when we build houses and moved to the neighborhood was that there would be a convenience store or McDonald or etc. at the entrance, MOST if not **ALL** of the present tenants would have elected to forego building or moving into Stonewood or Copper Creek, and would have established our homes and neighborhoods elsewhere. Myself absolutely! It was a **CONSCIOUS** decision, not something that had

not been considered until now! That is a fact. A rezoning would be an unfair change of rules mid-game. Not fair. Not equitable. It completely fails the "Do Right" rule!

It was NEVER part of the deal that those lots would be allowed to be rezoned in a manner that would allow fast food or convenience stores or any number of high traffic / high-volume businesses or retailers to clog the intersection and attract persons of every ilk to our neighborhood!! It is simply not acceptable to the residents who have made this neighborhood their home to suddenly allow it.

Please respect this request to deny the rezoning and request the opinions of the residents. Consider for a minute and **take into account the extremely negative impact this rezoning would have on a population of citizens that more than pulls its weight paying the taxes** which fund the activities and salaries of the employees of this city.

We trust you will pass along these sentiments to the Commissioners hearing this request.?! Your, and their **consideration in this regard would be greatly appreciated!!**

Best,
Mark Scalise

Mark N. Scalise
3268 Hearthstone Drive
Fayetteville, AR 72764
(479) 466-7712

Dear Jonathan, the letter you received from Mark Scalise is exactly what I wish to convey regarding my feelings about the rezoning of Stonewood property. My husband and I relocated here 2 years ago and we were assured the rezoning was for RO and told that was for office buildings. My husband had complete faith that this was the case. He passed away last year after a sudden illness but he loved living in Fayetteville. Please do the right thing and do not disappoint us. Thank you. Anita Ellison 4843 Lavendon Place. 870 919 5965 Sent from my iPhone

Mr. Curth:

My husband and I live in the Stonewood Subdivision on Trails End Lane. We are opposed to rezoning the lots in the front of our neighborhood from RO to CS. We have several concerns, most of which were addressed by our neighbors at the meeting on March 27. However, I do have a few comments I would like to make.

First of all, I cannot understand how the Commission can say that the addition of the proposed restaurant (which would be allowed under the CS zoning) would not increase the traffic in our neighborhood. I think it is logical and commonsense that if this establishment is successful, traffic will increase in our neighborhood. Steve Vowell told the Commission about the heavy traffic in the mornings trying to exit our neighborhood. What I don't think the Commission appreciates is that between the hours of 7 a.m. to 9 a.m. at many times there is a line of between 7 to 9 cars waiting to turn left (South) at the light at Hearthstone and 265. If you add a coffee shop with a drive thru at the location with the only entrance and exit to that coffee shop being on Hearthstone, it will create a traffic issue. I believe the busiest hours for

the coffee shop would also be between the hours of 7 a.m. and 9 a.m. I have no doubt that many of the people exiting the coffee shop will see the line of cars waiting to turn and decide to take a right onto Hearthstone to try to find a different and quicker exit. Since they are not familiar with our neighborhood, they will not know that the Hearthstone exit is the only exit from the neighborhood which allows you to exit and travel South. Those people will end up driving through the side streets until they realize their only exit is on Hearthstone.

The comment that the rezoning is needed so the restaurant can build on the street as opposed to a setback as required to keep AHTD from widening 265 further is ridiculous. AHTD has no plans in the foreseeable future to widen 265 to more than the four lanes it already has. Further widening is not on any of AHTD plans.

A major concern is the safety of the crosswalk at Hearthstone and 265. If the Commission wants to put in restaurants/shops, etc. to encourage people from the trail system to cross the road to visit those establishments, the crosswalk will need to somehow be made safer. We utilize the trail system regularly. It is one of the reasons we like our neighborhood so much is that we have convenient access. However, the crosswalk is not safe. I cannot tell you the number of times someone traveling South has run the red light. If a pedestrian is unfamiliar with the safety issues and simply steps out into the crosswalk thinking they have the right of way, the likelihood of someone getting injured is very high. Also, the traffic coming out of the BGO cannot see traffic or pedestrians because of the slope of the hill as they exit. They do not see anything until they get to the top of the hill and have started to make their turn. There have been several times that bicyclists have almost been hit by cars turning out of the BGO. Also, vehicles that stop in the crosswalk or beyond the cross walk far outnumber the vehicles the stop before the crosswalk. Plain and simple – to be safe, pedestrians at that crosswalk have to wait to make sure the vehicles are going to stop at the light, and also that they are not going to stop in or beyond the crosswalk.

When the current owners of the RO lots purchased them, they knew that they were zoned RO. When the people in the neighborhood bought their houses, they knew that the zoning was RO. It is completely unfair at this point to change the zoning from RO to CS so that the owners of those lots can sell them. The rezoning benefits the owners of the 14 RO lots to the detriment of the 105 owners of the houses in the Stonewood Subdivision. If the lots are going to be rezoned, a far more appropriate and fair rezoning would be to Neighborhood Services.

Thank you for your time.

Sharon Hopkins
Cox, Cox & Estes, PLLC
3900 Front Street, Suite 203
P. O. Box 9630
Fayetteville, AR 72703
P: 479-251-7900
F: 479-251-7910

Dear Mr. Curth :

We are owners in Stonewood. We were in attendance @ the City Planning meeting on Monday, 3/27/17. It was encouraging to note the civility & good order , especially in these times. There were some most tender issues addressed in a very respectful manner by you & the commissioners. It was nice to see. Thanks.

However, the commissioners seem to be much disposed to approve the above cited proposal to rezone & know what is to follow .This is not good.

And that persuasion, despite cogent & honest testimony by a multitude of residents to indicate the predictable harm rezoning will bring.

This includes, & is not limited to, increased commercial traffic, pedestrian adults & kids struck / injured by vehicles, trash, vermin, food odors, noxious, mephitic smells, dumpster drawbacks, decreased home & property value, reduction in the solace, comfort, & peace of the Stonewood home environment, general discontent, excessive unneeded transients passing through with the probable chance for increased crime in Stonewood & the area .

Folks did not buy there to be degraded & marginalized in such a way. The effort seems invidious .Land owners & developers on Lots 1 & 2 will benefit mightily; the merchants & beaneries that establish there may do OK ; the city will surely benefit from the lucre of more tax income , and development will creep on up the road & down it soiling all in its path . The 14th Amendment says a lot indeed.

Respectfully, it is venal, selfish ,biased, & improper to do this without equal consideration of Stonewood and sentient consideration of its position. A sense of decency here is hard to spot presently . The spirit & intent of the rezoning effort is surely incompatible with good citizenry & consideration of the decent people of Stonewood. I hope the commissioners do not share that view of us. We pay our bills, keep your city alluring , and dignify yourselves and Springdale as a fine place to be. Please do consider us.

Sad to say, at this juncture we are meat for your grinder.

And it's for a purpose that defiles the common good of the area, the common weal, and even yourselves as advocates for something which, in the long view , is detrimental for the surround & us.

It was somewhat surprising to hear the nice Nature Center spokeswoman's comments last Monday. "Neutrality" noted in her stance.

There is solid irony in favoring some beaneries to be close by , feeding their patrons after a healthy heart ramble in the Center . And knowing that these food places are established on , & adjacent to , clean salubrious neighborhoods that are being soiled by the enabling rezoning & planned development. These are juxtaposed to the healthiness & good stuff of her nature unit. Ugh. Well, opinions are that way, and no hypocrisy is suggested.

I am hopeful that all of you will put your political & mercenary hats aside to consider what you are doing to some of your very own good ones in this fine multicultural neighborhood. It is improper , & tends to do real harm. I trust Homo sapiens would never eat its own. We should all have that confidence.

Thank you.

Sincerely,

Albert Mac Dade
Owner- Stonewood

3/31/2017

WE HAVE LIVED IN STONEWOOD FROM DEVELOPING FIRST BEGAN. WE BOUGHT LOTS 72,73,74,75. WE MOVED HERE FROM THE KANSAS CITY AREA AND PREVIOUSLY TO THAT LIVED IN HOUSTON WITHIN BOTH NICE BEGINNING SUB-DIVISIONS. AFTER BEING IN EACH AREA FOR 21 AND 16 YEARS RESPECTIVELY, THEY WENT THROUGH A REZONING PROCESS FROM RO. THEY BUILT A ALDI FOOD STORE IN KANSAS CITY AND A CONVENIENCE STORE IN HOUSTON. BOTH SUB-DIVISIONS STARTED GOING DOWN HILL AND DEFINITELY DE-VALUED THE PROPERTIES. BY THE TIME WE SOLD AND MOVED.

WE WERE ON OUR WAY FROM KANSAS CITY TO TEXAS TO RELOCATE FROM RETIREMENT IN 2001. WE STOPPED IN FAYETTEVILLE AND AFTER LOOKING OVER THE AREA, DECIDED TO SETTLE HERE. WE CHOSE STONEWOOD WITH ALL THE PROMISES FROM THE DEVELOPER, MARK FOSTER, WHICH HE FAILED TO CARRY OUT. WE'D LIKE TO REMAIN IN STONEWOOD, BUT IF HOME VALUES START GOING DOWN, WE WON'T STAY. WE'VE BEEN THERE AND DONE THAT. WE KNOW WHAT CAN HAPPEN. I FEEL THE ENTIRE SUB-DIVISION FEELS THE SAME WAY. IF THAT HAPPENS, I CAN SEE FAYETTEVILLE HAVING A LOW CLASS HOUSING AREA WHICH COULD ALSO HURT THIS ENTIRE SIDE OF FAYETTEVILLE INCLUDING THE BOTANICAL GARDENS.

WE OPPOSE THE REZONING. HOPE THIS WILL BE PASSED ONTO THE CITY COMMISSIONERS. THANK YOU.
JOE DRAPER

Hi Jonathan,

I own property in the Stonewood Subdivision. There is no reason for commercial work or business to be on Crossover across from the Botanical Gardens. The strip that Mike Parker owned was always meant to be R/O. Please work to make that the case moving forward.

Nobody wants the Pizza Place.

Please do whatever you can to stop this rezoning and keep the area Residential / Office.

Thanks and let me know how I can help you. We are counting on you to help.

Regards,

Mike Flynn
Central Garden and Pet
Walmart Business Development Team
mflynn@central.com
479-268-7202 (O)
479-616-0707 (M)

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Dear Jonathan,

Please accept this correspondence as a vehement objection to the proposed rezoning of the 2 lots adjacent to the Hearthstone Drive entrance. It was accepted when we all elected to build our homes, and invest substantial monies to do so, that **there would eventually be office buildings at the entrance**. That was the accepted deal. Be assured it **was an arrangement we were all aware of and accepted**. Why is this relevant? Because we were also aware of what was NOT allowed to be built at the entrance, namely convenience stores or fast food or any number of high traffic / high-volume business of those type.

If the deal when we build houses and moved to the neighborhood was that there would be a convenience store or McDonald or etc. at the entrance, MOST if not **ALL** of the present tenants would have elected to forego building or moving into Stonewood or Copper Creek, and would have established our homes and neighborhoods elsewhere. Myself absolutely! It was a **CONSCIOUS** decision, not something that had not been considered until now! That is a fact. A rezoning would be an unfair change of rules mid-game. Not fair. Not equitable. It completely fails the "Do Right" rule!

It was NEVER part of the deal that those lots would be allowed to be rezoned in a manner that would allow fast food or convenience stores or any number of high traffic / high-volume businesses or retailers to clog the intersection and attract persons of every ilk to our neighborhood!! It is simply not acceptable to the residents who have made this neighborhood their home to suddenly allow it.

Please respect this request to deny the rezoning and request the opinions of the residents. Consider for a minute and **take into account the extremely negative impact this rezoning would have on a population of citizens that more than pulls its weight paying the taxes** which fund the activities and salaries of the employees of this city.

We trust you will pass along these sentiments to the Commissioners hearing this request.?! Your, and their **consideration in this regard would be greatly appreciated!!**

Thanks,
Mike

Regards,

Mike Flynn
Central Garden and Pet
Walmart Business Development Team
mflynn@central.com
479-268-7202 (O)
479-616-0707 (M)

Disclaimer: This communication and any attachments contain private, confidential, privileged and/or proprietary information intended solely for the Recipient(s) named above. If you are not the intended Recipient, any use, dissemination, distribution or copying of the communication is strictly prohibited. If received in error, we apologize and ask that you please notify the Sender by returning this e-mail and

permanently deleting this communication from your computer, including destruction of any printed copies. Any views expressed herein are not necessarily those of the Company represented by this e-mail source. No contracts, agreements or legally binding understandings may be entered into solely by an e-mail communication.

4/3/2017

Mr. Curth,

I wish to comment on the meeting of 03/27/2017 concerning the rezoning of property and the intersection of Hearthstone and Crossover.

I will reiterate my opposition to permitting the rezoning of that property. Again, if the government decides to interfere with a contractual agreement between members of the public (who have not been under coercion or misinformation) there must be a substantial benefit to the citizen received from such interference. Even in takings of personal property, the public use benefit must be considerable.

The committee response did not assure anyone of a significant benefit from the zoning change. There is no benefit from rezoning as would be received from things like new roads to reduce traffic, signs for security, an easement for better infrastructure, or any other advantage. It will only help one person sell his property to the detriment of many homeowners.

It was repeatedly mentioned that a nice business or small shop would be permitted under current zoning for this property. This current zoning protects the owners of the property from nuisance. Smells, noise, order and other problems that might occur could be addressed under these ordinances. Changes would deprive owners of these protections from businesses that failed to keep up an amicable existence in the subdivision and negatively affect property values.

I understand the planning committee is a voice for business in Fayetteville. However, they are also a part of the city government and need to recognize and rights they would be compromising. I urge them to reconsider.

Monika
Resident of Stonewood Subdivision

I recently sent you an email stating that if certain assurances could not be met, my wife and I would be opposed to rezoning the front lots. In our opinion, those assurances can not be met. We want to go on record as specifically being opposed to the rezoning that is being proposed!

Samuel and Margaret Moore

4/5/2017

Mr. Curth,

Prior to your revised report that will be sent to the Planning Commission on 4/6, I wanted to reiterate my opposition to RZN 17-5733. Many concerns were well communicated and supported in the last planning meeting; however, I wanted to highlight only a few for continued consideration.

1. 74 of 75 Stonewood Residents are against rezoning according to a poll conducted by the Stonewood POA Treasurer. If Copper Creek and Embry Acre residents were polled, you would see the number of residents opposed increase significantly.
2. Both the developer and Stonewood homeowners bought property and adjacent properties with the understanding that the entrance to Stonewood would be zoned RO. I disagree with staff finding 5b in the original memo regarding this matter which states "It would be impractical to use the land for any of the uses permitted under its existing zoning classifications." The office park north of Hearthstone appears to be fully leased/owned, making this a practical development for RO zoning.
3. I fully support Commissioner Brown's comments that rezoning to CS does not support the 2030 Comprehensive Plan for this neighborhood.
4. I fully support Commissioner Hoskin's comment that the plan for an end use with a drive thru window application does not fit the adjacent properties and should not be considered.
5. I fully agree with the Commissioner's comments that in order to vote to rezone this property to CS the Commission would have to turn their backs on all the residents opposed to the rezoning.

Thank you for considering these points as to draft your revised report for the Planning Commission.

Best regards,
Ryan Parrish
Copper Creek Home Owner

My name is Joe Rocko, I am a resident of the Embry Acres/Stonewood/Copper Creek subdivision in Fayetteville, Arkansas. I think having local businesses in that area is a no brainer. It increases the value of the houses and can offer the neighborhood much needed restaurants. I can't begin to tell you how often our Facebook page shows people asking for more restaurants in the area. Personally that would be amazing. I also can't help but think that a pharmacy, restaurants, bike shop, or coffee shop would be amazing. A few of our neighbors seem to be upset by this possible rezoning. Honestly though what did they think would go there?

No one would buy that land to put a house on it. It's too close to 265 and it would be a bad spot for a small group of houses to be on. When thinking about this area I always thought about how great it would be to have local businesses within walking distances from the park and neighborhood.

Thank you for letting us speak out on this topic

Joe Rocko

Dear Mr. Curth,

My family and I live on Waterstone Drive in Copper Creek. We are **strongly opposed** to the rezoning of the SE Crossover Rd & Hearthstone Dr. We moved to this location to enjoy the lovely & quiet access to The Botanical Gardens as well as Lake Fayetteville, not to mention the feeling of **"Safety"** in our neighborhood. The proposed rezoning would create unwanted noise (live music into the late evenings @ MJ's Pizzeria) would you want to have to listen to this from your back yard or even inside your home when trying to relax after work or put your children/grandchildren to bed. I am actually wondering why would ANOTHER pizza place want to go in within such a small proximity to Jim's Razorback on corner of Joyce and Crossover, Marco's just down road at corner of Don Tyson and Crossover, then there is Papa Murphys a the next intersection of Hwy 412 and Crossover... seems like a possible front to me... once they get the rezoning they switch things up! This is not to mention the extra traffic and possible cut thrus

into the subdivision and create unwanted mischief. We are **ALL** (Copper Creek, Stonewood and Embry Acres) worried that this will cause many issues and unhappy residents. The current property's on Castlerwood Ln where Elder Management, Prime Real Estate & Development & the new office for financial planning are wonderful and welcome additions to the front of the neighborhoods! Please keep the areas zoned for businesses such as this in order to maintain the peaceful tranquility of the front of the subdivision as well as the lovely Botanical Gardens across the street.

Thank you for your time & consideration,

Renee Rogers
3373 Waterstone Drive
Fayetteville, AR 72764

Memo from Commissioner Brown

Fellow Commissioners

The Guiding Policies of the 2030 Master Transportation Plan encourage the Planning Commission to consider the impacts of land use decisions on the the transportation network.

Using 2011 to 2015 Average Daily Traffic Count Data supplied by the Arkansas State Highway and Transportation Department and 2011 to 2015 Traffic Accident data supplied by the Fayetteville Police Department through the City GIS, I have calculated the level of traffic volume needed to produce a traffic accident (see attached Traffic Volume and Accidents.xlsx) on the following two Principal Arterials:

- Crossover/Hwy265 - 39,815 vehicles.
- College Avenue/ 71B - 13,737 vehicles.

The lower Traffic Volume needed to produce an accident on College Avenue/71B compared to Crossover /Hwy265 is a result of land use, road design and the access management policy differences.

For example, College Avenue has more curb cuts, intersections and bordering retail commercial land uses than Crossover/Hwy265.

Therefore, reducing traffic accidents and insuring the effective functioning of this Principal Arterial should be a major reason why we need to avoid continually approving retail commercial land uses outside the designated City Neighborhood Areas within the Crossover/ Hwy265 Corridor and thereby setting precedence that may eventually result in another College Avenue along Crossover/Hwy265.

Tom Brown

Traffic Volume per Accident Calculation

Hwy71B/College Ave Corridor		Hwy71B/College Ave Corridor				
		Annual Ave Daily Traffic Est ¹				
Station		2011	2012	2013	2014	2015
304	283	18000	18000	18666	19332	20000
303	282	18000	18000	15000	17000	19000
302	281	16000	15000	13000	16000	18000
299	280	17000	17000	17000	19000	22000
298	279	18000	17000	17000	19000	22000
297	277	22000	22000	21000	24000	25000
296	276	19000	21000	21000	23000	22000
295	278	16000	17000	18000	16000	16000
294						
293						
292						
291						
290						
289						
234						
Average		18000	18125	17583	19167	20500
		2011 thru 2015 Average				
		Annual Total Traffic Volume				
		18675				
		6816357				

Traffic Accidents ²		Traffic Accidents ²				
		2011	2012	2013	2014	2015
Total		154	167	161	180	194
		2011 thru 2015 Total				
		856				
		Average Accidents/ Year				
		171				

Traffic Volume/Accident	Traffic Volume/Accident	Traffic Volume/Accident
13737	39815	39815

- References:
- https://www.arkansashighways.com/System_Info_and_Research/traffic_info/traffic_map.aspx
 - Source: Fayetteville Police Department data reprocessed by GIS

Note: 27500 Missing data, used average of earlier year and later year.

Traffic Accident Variables	
Traffic Volume	Different per road
Weather Condition	Same for both roads
Vehicle Condition	Same for both roads
Driver Behavior	Same for both roads
Road Design	Different per road
Land Use	Different per road
Access Management Policy	Different per road

CUP 17-5733

Spreadsheet from
Commissioner Brown

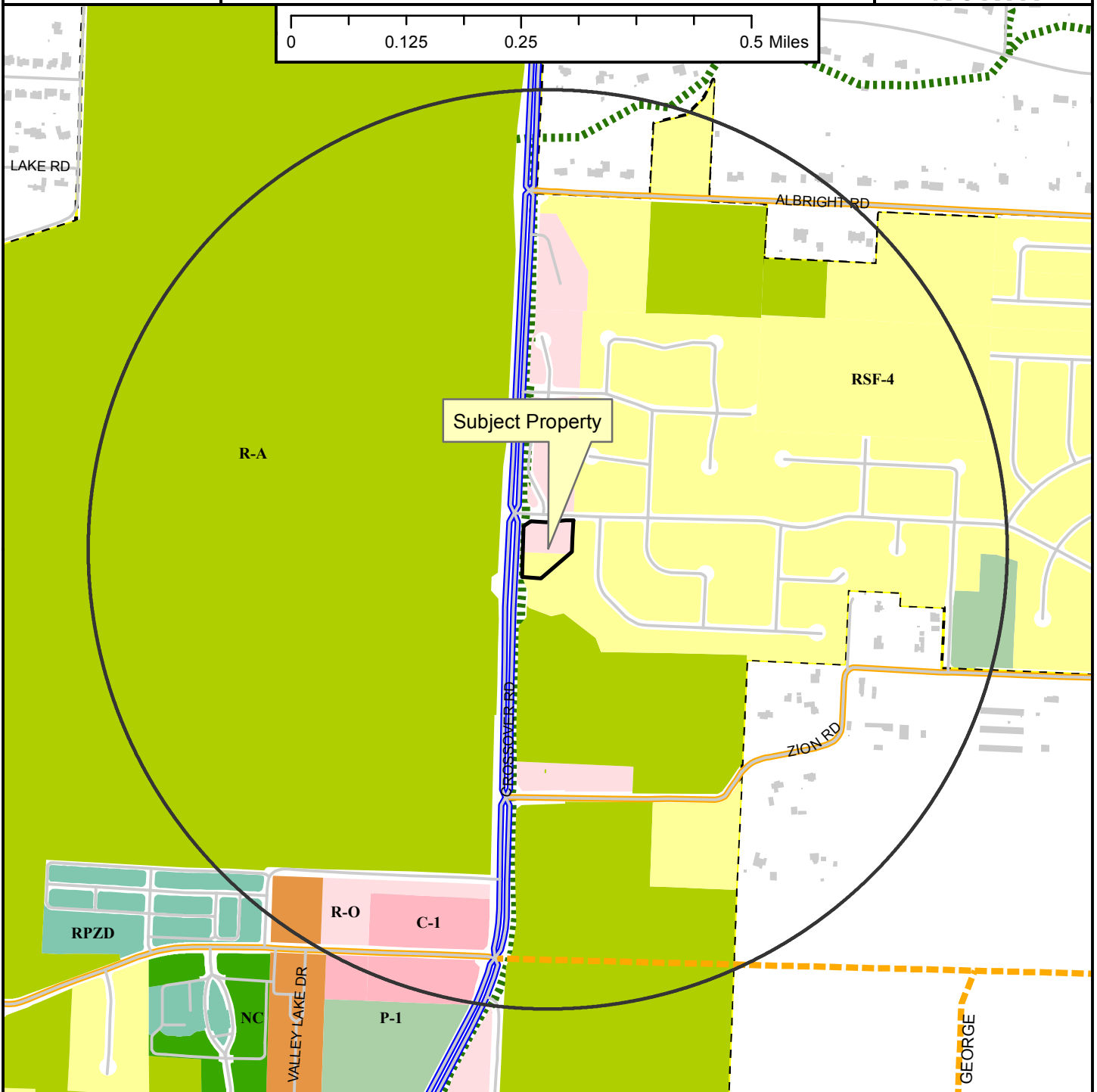
RZN 17-5733

One Mile View

CP PROPERTIES

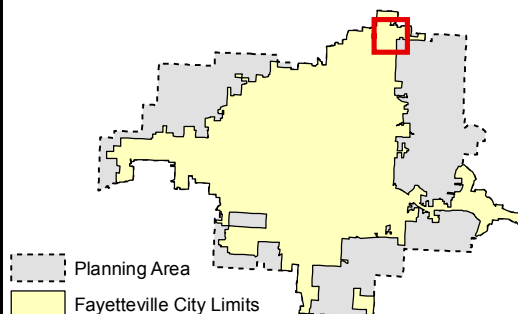


0 0.125 0.25 0.5 Miles



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint

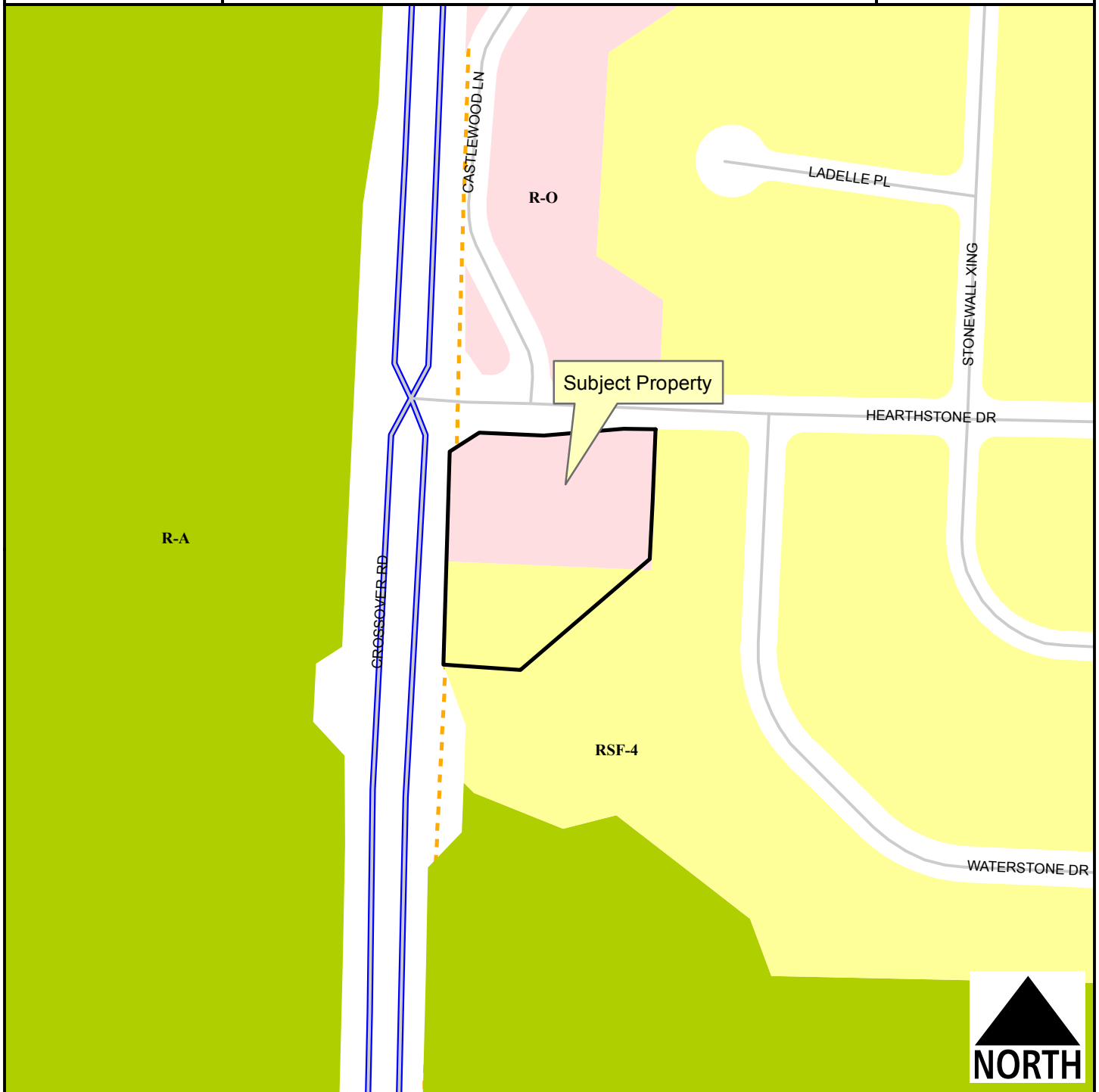


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RT-12 Residential Two and Three-family
 - RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial
- EXTRACTION**
- E-1
- COMMERCIAL**
- Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
- INSTITUTIONAL**
- P-1

RZN 17-5733

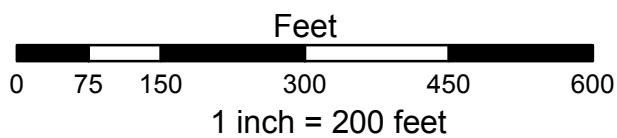
Close Up View

CP PROPERTIES



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint

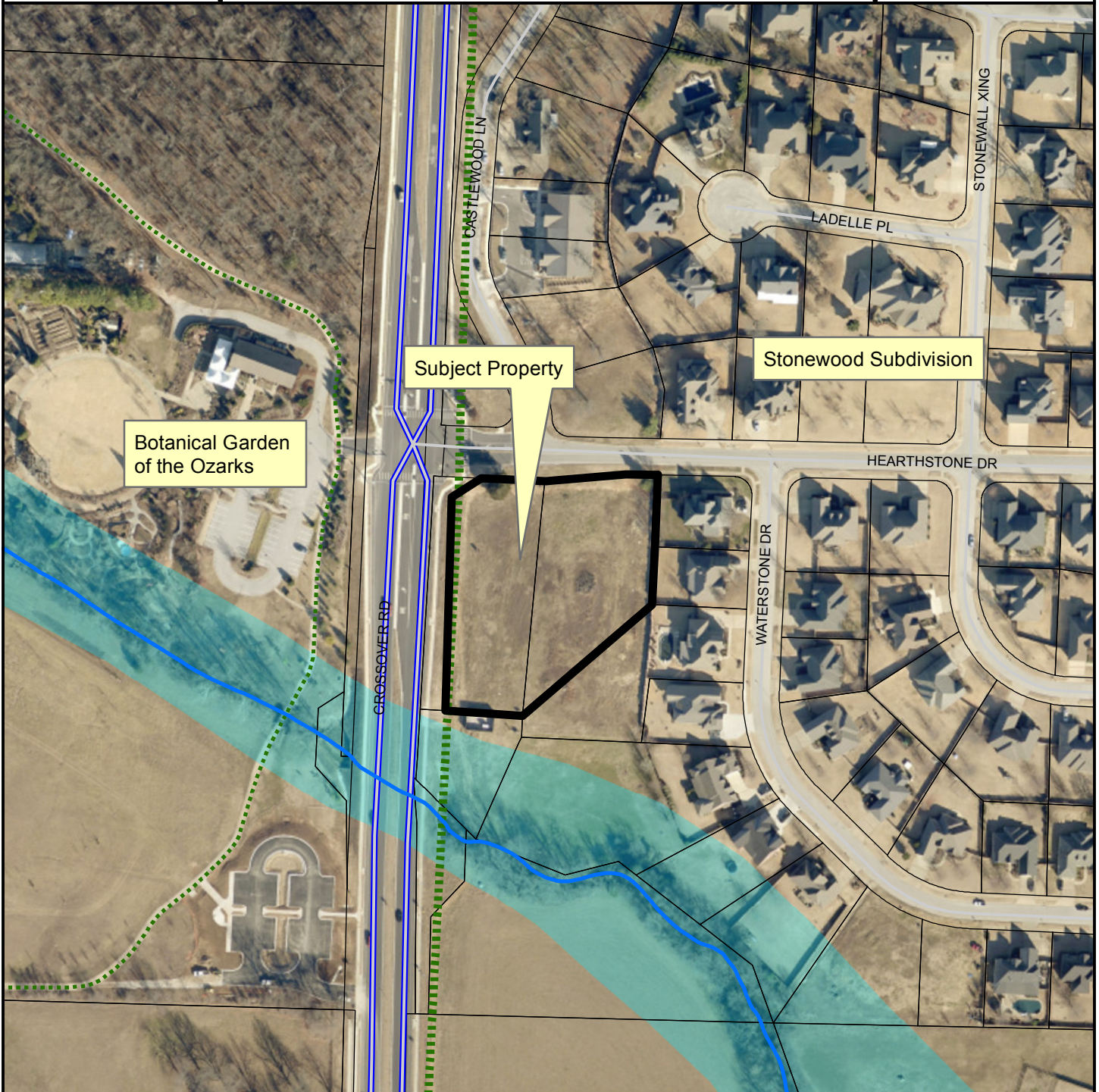


- Residential-Agricultural
- RSF-4
- Residential-Office

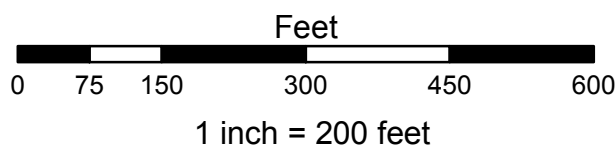
RZN 17-5733

Current Land Use

CP PROPERTIES



- RZN17-5733
- Streams
- Street
- PRIN ARTERIAL PKWY
- Shared Use Paved Trail
- Trail (Proposed)
- County Parcels
- Planning Area
- Fayetteville City Limits



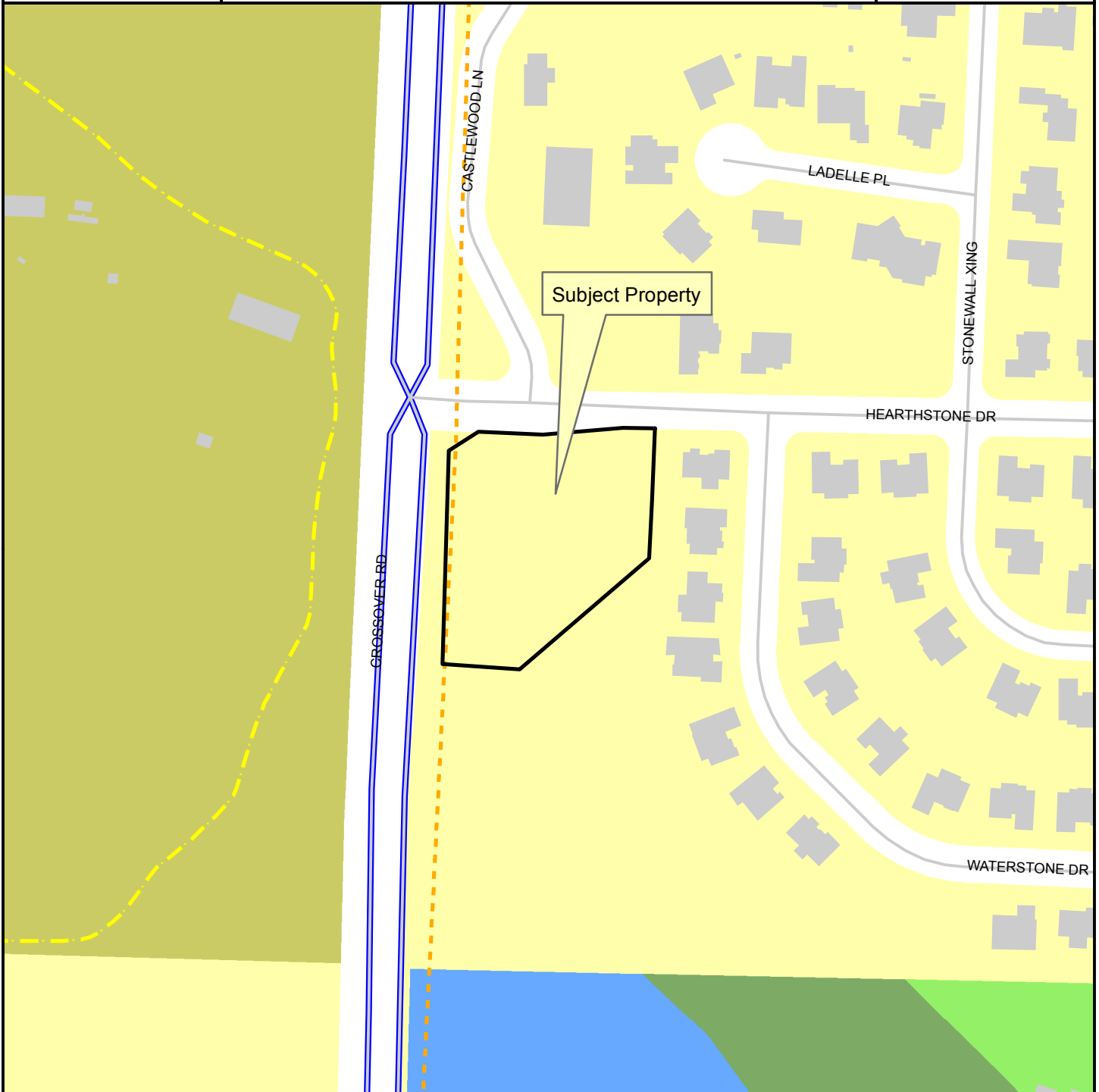
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

RZN 17-5733

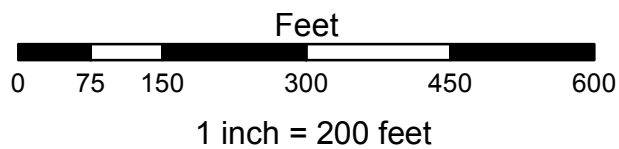
Future Land Use

CP PROPERTIES



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



FUTURE LAND USE 2030

- Natural Area
- Rural Area
- Residential Neighborhood Area
- City Neighborhood Area
- Civic and Private Open Space/Parks



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0204

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 8

VAC 17-5753 (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES):

AN ORDINANCE TO APPROVE VAC 15-5753 FOR PROPERTY LOCATED AT SOUTHEAST CORNER OF CROSSOVER ROAD AND HEARTHSTONE DRIVE TO VACATE A PORTION OF A DRAINAGE EASEMENT AND A PORTION OF A UTILITY EASEMENT

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of a drainage easement and a portion of a utility easement are not required for corporate purposes.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby vacates a portion of a drainage easement and a portion of a utility easement as described in Exhibit B attached to the Planning Department's memo.

Section 2. A copy of this Ordinance duly certified by the City Clerk along with the map attached as Exhibit A to the Planning Department's memo shall be filed in the office of the Washington County Circuit Clerk.

Section 3. This vacation approval is subject to the following condition:

1. Any relocation or damage to utilities and associated new easement dedication shall be at the owner/developer's expense.

City of Fayetteville Staff Review Form

2017-0204

Legistar File ID

5/2/2017

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

Andrew Garner

4/14/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

VAC 17-5753: Vacation (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099): Submitted by JORGENSEN & ASSOCIATES, INC. for property located at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The property is zoned R-O, RESIDENTIAL OFFICE, and RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 0.96 acres. The request is to vacate a portion of a drainage easement and a portion of a utility easement.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	No	Item Cost	
Budget Adjustment Attached?	NA	Budget Adjustment	
		Remaining Budget	\$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

DATE: April 14, 2017

SUBJECT: **VAC 17-5753: Vacation (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099):** Submitted by JORGENSEN & ASSOCIATES, INC. for property located at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. The property is zoned R-O, RESIDENTIAL OFFICE, and RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 0.96 acres. The request is to vacate a portion of a drainage easement and a portion of a utility easement.

RECOMMENDATION:

Planning Division staff and the Planning Commission recommend approval of **VAC 17-5753** with the following condition:

Condition of Approval:

1. Any relocation or damage to utilities and associated new easement dedication shall be at the owner/developer's expense.

BACKGROUND:

The subject property contains two parcels totaling approximately 1.79 acres located at the southeast corner of Crossover Road and Hearthstone Drive. The property is currently undeveloped but is being considered for rezoning to a form-based district that requires structures be located near adjacent streets, which is currently unfeasible given the breadth of the existing easements.

Proposal: The applicant proposes vacation of a portion of utility easement and a drainage easement as depicted on the attached Exhibit 'A' and Exhibit 'B'.

DISCUSSION:

On April 10, 2017, the Planning Commission forwarded this item to the City Council with a recommendation for approval with a vote of 9-0-0.

BUDGET/STAFF IMPACT:

N/A

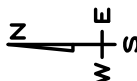
Attachments:

- Exhibit A
- Exhibit B
- Application
- Planning Commission Staff Report

[illegible]

FAYETTEVILLE, ARKANSAS

OWNER:
CP PROPERTIES LLC.
1663 VIEWPOINT
FAYETTEVILLE, AR. 72701



LEGAL DESCRIPTION: (BOUNDARY)

A part of Lot 1 and all of Lot 2 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

LEGAL DESCRIPTION: (UTILITY EASEMENT VACATION)

A part of Lot 1 and 2 of Stonewold Subdivision In Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said Lot 2, thence S82°00'00"W 50.02 feet, thence N88°34'14"W 10.00 feet to the POINT OF BEGINNING; thence N88°34'14"W 31.69 feet, thence S88°22'00"W 111.32 feet, thence N87°09'56"W 107.17 feet, thence N07°44'21"E 30.01 feet, thence S87°09'56"E 105.82 feet, thence N88°22'00"E 110.93 feet, thence S88°34'14"E 34.01 feet, thence S02°00'00"W 30.01 feet to the POINT OF BEGINNING; Containing 7,514.64 square feet or 0.1725 acres more or less.

LEGAL DESCRIPTION: (DRAINAGE EASEMENT VACATION)

A part of Lot 1 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and an Ex-Orgin Record of Washington County, Arkansas, and being described as follows: Commencing at the SE corner of said lot 1, then the line N86°22'25"N 95.38 feet to the POINT OF BEGINNING; thence N86°22'25"N 71.06 feet, thence N01°41'12"E 54.39 feet, thence S15°34'45"E 57.03 feet, thence N09°19'44"W 71.64 feet, thence N01°41'12"E 91.72 feet, thence S07°09'56"E 2.53 feet, thence S09°19'44"E 165.56 feet, thence S15°34'45"W 112.78 feet to the POINT OF BEGINNING; containing 3.878 acre, square feet of 0.1005 acres less.

X	CALCULATED POINT	EXISTING 8" SEWER LINE - 65' 1.0' - 75' 0.0'	EXISTING AT&T LINE - 11' 0.0' - 11' 0.0'	UTILITY EASEMENT
(O)	FOUND ALUMINUM MONUMENT	EXISTING GAS LINE - 65' 1.0' - 75' 0.0'	EXISTING UNDERGROUND ELECTRIC	BUILDING SETBACK
(S)	SET IRON PIN & CAP	GAS	EXISTING SOWER FORCE MAIN	CENTERLINE STREET
(W)	SEWER MANHOLE	EXISTING 8" WATERLINE - 14' 0.0' - 14' 0.0'	EXISTING STORM DRAIN	EXISTING STORM DRAIN
(P)	TELEPHONE PEDESTAL		STREET RIGHT OF WAY	

LEGEND

- ☒ GAS METER
- ☒ GAS COMMUNICATION LINE
- ☒ WATER METER

PROJECT TITLE: MJS PIZZA

LOCATION: FAYETTEVILLE, ARKANSAS
SHEET TITLE: UTILITY EASEMENT VACATION
DRAWN BY: BJR
SHEET SCALE: 1"=50'
DATE: FEBRUARY 28, 2017
PROJECT FILE: ZALSD/20170148/UE VACATION

**JORGENSEN
+ ASSOCIATES**
Civil Engineering + Surveying
124 W. Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

Civil Engineering + Surveying
www.jorgensenassoc.com
Fax: 473.362.4307

17-5753
EXHIBIT 'B'

LEGAL DESCRIPTION: (UTILITY EASEMENT VACATION)

A part of Lot 1 and 2 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said Lot 2, thence S02°50'04"W 50.02 feet, thence N88°34'14"W 10.00 feet to the POINT OF BEGINNING; thence N88°34'14"W 31.69 feet, thence S85°23'06"W 111.32 feet, thence N87°09'56"W 107.17 feet, thence N01°41'21"E 30.01 feet, thence S87°09'56"E 105.82 feet, thence N85°23'06"E 110.95 feet, thence S88°34'14"E 34.01 feet, thence S02°50'04"W 30.01 feet to the POINT OF BEGINNING: Containing 7,514.64 square feet or 0.1725 acres more or less.

LEGAL DESCRIPTION: (DRAINAGE EASEMENT VACATION)

A part of Lot 1 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the SE Corner of said Lot 1, thence N86°22'25"W 99.58 feet to the POINT OF BEGINNING; thence N86°22'25"W 7.10 feet, thence N01°41'21"E 54.39 feet, thence N15°34'45"E 57.03 feet, thence N09°19'44"W 71.64 feet, thence N01°41'21"E 91.72 feet, thence S87°09'56"E 2.53 feet, thence S09°19'44"E 165.56 feet, thence S15°34'45"W 112.78 feet to the POINT OF BEGINNING: Containing 4,378.82 square feet or 0.1005 acres more or less.

CITY OF FAYETTEVILLE, ARKANSAS

Right-of-Way, Easement or Alley VACATION

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Project Number:

Public Hearing Date:

5153

FEE: \$200.00

Sign Fee: \$5.00

S-T-R:

PP#:

Zone: 099

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: Max Parker for CP Properties

Name: Blake Jorgensen

Jorgensen & Assoc.

Address: 1680 E. Shadowridge Dr.

Fayetteville, AR 72701

Address: 124 W. Sunbridge Dr. Suite 5

Fayetteville, AR 72703

Phone: (479) 799-6918

Email: gmax32@gmail.com

Phone: (479) 442-9127

Email: blake@jorgensenassoc.com

Fax: ()

Fax: (479) 442-9127

Site Address / Location: SE corner of Crossover Rd. & Hearthstone Dr.

Legal description of area to be vacated (attach separate sheet if necessary):

Current Zoning District: R-O & RSF-4

Assessors Parcel Number(s) for subject property: Parcel: 765-22244-000 & 765-22245-000

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

CP Properties

- (9) Petition to vacate street right-of-way, alley, or easement (sample petition is attached).
- (10) For applications to vacate an access easement, alley or right-of-way only: Written consent is required from all adjacent property owners and is required to be submitted with the application (example form is attached).
- (11) Comments from all utility companies concerning the street right-of-way, alley, or easement to be vacated and its relationship to existing or planned utilities with recommendations as to what action should be taken (an example comment form is attached) is required at application submittal.
- (12) The applicant is responsible for meeting the public notification requirements for a Vacation listed on the Notification Requirements pages in this application.

Utility Representatives for a Vacation Request *

Name	Company	Telephone	Email
Jeff Hamilton	AT&T	442-1967	jh5430@att.com
Chad Hodge	Cox Communications	365-2402	Chad.Hodge@cox.com
John Le	AEP/SWEPCO	973-2426	ttle@aep.com
Scott Stokes	Source Gas	435-0229	Scott.Stokes@sourcegas.com
Wes Mahaffey Or Mike Phipps	Ozarks Electric	684-4649 684-4696	wmahaffey@ozarksecc.com mphipps@ozarksecc.com

City Divisions:

Mark Rogers	Water and Sewer	575-8392	mrogers@fayetteville-ar.gov
Maury Nelson	Solid Waste	575-8397	mnelson@fayetteville-ar.gov
Terry Gulley	Transportation	444-3491	tgulley@fayetteville-ar.gov

***Solid Waste & Transportation sign off is required only when a ROW, Alley, or Drainage Easement Vacation is being requested.**

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made 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 on approval.

Name (printed): MAX PARKER / CP PROPERTIES Date: 2-15-17

Signature: Max Parker

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.)

Owners (attach additional info if necessary):

CP PROPERTIES
Name (printed): Max Parker

Signature: Max Parker

Date: _____

Address: 1680 E. Shadowridge DR
Fayetteville, AR 72701

Phone: (479) 799-6918

Name (printed): Philip Camrond

Signature: Phy Camrond

Date: 2-15-17

Address: 1663 Viewpoint
Fayetteville, AR 72701

Phone: (479) 263-3815

- Vacation Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
 - \$200.00 application fee
 - \$5.00 public notification sign fee
- (2) Metes and bounds legal description of the area to be vacated, not the entire property (this may be included on the survey plat).
- (3) Survey of the site depicting the perimeter property lines and area within the property to be vacated.
- (4) CD containing a copy of the legal description in MS Word and PDF copies of the signed application and all other items submitted with this project.
- (5) A surveyor should stake the area on the site to be vacated for utility company review on their site visit.
- (6) A letter addressed to the Planning Commission and City Council describing the scope, nature, and intent of the request.
- (7) Abstractor's Certificate of Ownership stating names of all owners of property adjacent to the street right-of-way, alley, or easement to be vacated (this document is obtained from a title company).
- (8) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

MEETING DATE: April 10, 2017 (Updated with Planning Commission Results)

SUBJECT: **VAC 17-5753: Vacation (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES, 099):** Submitted by JORGENSEN & ASSOCIATES, INC. for properties at the SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR. These properties are zoned R-O, RESIDENTIAL OFFICE, AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE, and contain approximately 1.79 acres. The request is to vacate portions of a drainage easement and a general utility easement.

RECOMMENDATION:

Staff recommends forwarding **VAC 17-5753** to City Council with a recommendation for approval with conditions.

BACKGROUND:

The subject property contains two parcels totaling approximately 1.79 acres located at the southeast corner of Crossover Road and Hearthstone Drive. The property is currently undeveloped but is being considered for rezoning to a form-based district that requires structures be located near adjacent streets, which is currently untenable given the breadth of the existing easements. Surrounding land use and zoning is depicted in *Table 1*.

Table 1
Surrounding Zoning and Land Use

Direction	Land Use	Zoning
North	Undeveloped; Property Management Offices	R-O, Residential Office
South	Undeveloped	RSF-4, Residential Single-family, 4 Units per Acre
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Lake Fayetteville Park/ Botanical Garden of the Ozarks	R-A, Residential Agricultural

Proposal: The applicant proposes vacation of a portion of utility easement to allow for construction of structures closer to the street right-of-way in compliance with the build-to-zone requirements of a proposed rezoning to a form-based zoning district.

DISCUSSION:

Vacation Approval: The applicant has submitted the required vacation forms to the City utility departments and applicable franchise utilities, with the following responses:

Utility

Cox Communications

AEP/SWEPCO

BlackHills Energy AR

AT&T

Ozarks Electric

Response

No objections

No objections

No objections

No objections

No objections

City of FayettevilleResponse

Water/Sewer

No objections

Solid Waste & Recycling

No objections

Transportation

No objections

Public Comment:

No public comment has been received.

RECOMMENDATION: Staff recommends forwarding **VAC 17-5753** to the City Council with a recommendation for approval subject to the following conditions:

Conditions of Approval:

1. Any relocation or damage to utilities and associated new easement dedication shall be at the owner/developer's expense.

Planning Commission Action:☐ Approved☒ Forwarded☐ Denied**Meeting Date:** April 10, 2017**Motion:** Hoffman**Second:** Belden**Vote:** 9-0-0

BUDGET/STAFF IMPACT:

None.

Attachments:

- Request Letter
- Petition to Vacate
- Utility Approvals
- Easement Vacation Exhibit
- One Mile Map
- Close Up Map
- Current Land Use Map



JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying
Landscape Architecture Services

CUP 17-5753
Request Letter

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703

Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

February 15, 2017

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Attn: Planning Department
Re: Parcel 765-22244-000 & 765-22245-000 VAC

To Whom It May Concern:

Please find the attached Vacation request for the property located at the southeast corner of Crossover Rd. & Hearthstone Dr. The main objective of this application is to vacate existing easements located along the road right-of-ways to allow for proposed structures to be located along the front of the property with parking located in the rear. To the best of our knowledge, there are no known utilities lying within these easements. Any public utilities found within the site that are in conflict with the proposed development will be relocated and new easements will be dedicated.

Please contact us with any questions or comments. We look forward to your assistance.

Sincerely;

Blake E. Jorgensen, P.E.



JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying
Landscape Architecture Services

CUP 17-5753

Petition to Vacate

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703

Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

PETITION TO VACATE EASEMENTS LOCATED IN LOTS 1 & 2 OF STONEWOOD SUBDIVISION, CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easements hereinafter sought to be abandoned and vacated, lying in Lots 1 & 2 of Stonewood Subdivision, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate easements which are described as follows:

UTILITY EASEMENT VACATION

A part of Lot 1 and 2 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said Lot 2, thence S02°50'04"W 50.02 feet, thence N88°34'14"W 10.00 feet to the POINT OF BEGINNING; thence N88°34'14"W 31.69 feet, thence S85°23'06"W 111.32 feet, thence N87°09'56"W 107.17 feet, thence N01°41'21"E 30.01 feet, thence S87°09'56"E 105.82 feet, thence N85°23'06"E 110.95 feet, thence S88°34'14"E 34.01 feet, thence S02°50'04"W 30.01 feet to the POINT OF BEGINNING: Containing 7,514.64 square feet or 0.1725 acres more or less.

DRAINAGE EASEMENT VACATION

A part of Lot 1 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the SE Corner of said Lot 1, thence N86°22'25"W 99.58 feet to the POINT OF BEGINNING; thence N86°22'25"W 7.10 feet, thence N01°41'21"E 54.39 feet, thence N15°34'45"E 57.03 feet, thence N09°19'44"W 71.64 feet, thence N01°41'21"E 91.72 feet, thence S87°09'56"E 2.53 feet, thence S09°19'44"E 165.56 feet, thence S15°34'45"W 112.78 feet to the POINT OF BEGINNING: Containing 4,378.82 square feet or 0.1005 acres more or less.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 8th day of March, 2017.

Max Parker
Printed Name

Max Parker
Signature

Philip Cameron
Printed Name

Philip Cameron
Signature

CUP 17-5753

Utility Approval Forms

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

DATE: 3/1/2017

UTILITY COMPANY: Cox Communications

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

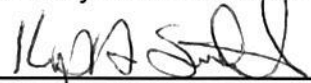
UTILITY COMPANY COMMENTS:

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

☒ No objections provided the following conditions are met:

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

We may have lines that are within the vacated area. Relocate will require 90^{days} once invoice is paid.



Signature of Utility Company Representative

Construction & Planning Manager

Title

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

DATE: 3/1/2017

UTILITY COMPANY: AEP/SWEPCO

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

☐ No objections provided the following conditions are met:

Truong Le
Signature of Utility Company Representative

Distribution Engineer
Title

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

DATE: 3/1/2017

UTILITY COMPANY: BlackHills Energy Ar

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

☐ No objections provided the following conditions are met:

Brian A. DePant
Signature of Utility Company Representative

Supervisor - Gas Operations
Title

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

DATE: 3/1/2017

UTILITY COMPANY: AT&T

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

☒ No objections provided the following conditions are met:
**If AT&T facilities are required to be relocated due to the Easement Vacate will
be the responsibility of the owner/ developer.**

Signature of Utility Company Representative

MGR OSP PLNG & ENGRG DESIGN

Title

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

DATE: 3/1/2017

UTILITY COMPANY: Ozarks Electric

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

- ☐ No objections provided the following conditions are met:
-
-

Wesley Mahaffey
Signature of Utility Company Representative

Staking Tech. III
Title

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

DATE: 3/1/2017

UTILITY COMPANY: Water & Sewer

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

☐ No objections provided the following conditions are met:


Signature of Utility Company Representative

W&S OPERATIONS MANAGER
Title

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

DATE: 3/1/2017

UTILITY COMPANY: Solid Waste

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

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

☐ No objections provided the following conditions are met:



Signature of Utility Company Representative

Commercial Services Rep

Title

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

DATE: 3/1/2017

UTILITY COMPANY: Transportation

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 479-443-9127

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address SE Corner of N. Crossover Rd. & Hearthstone Drive

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

UTILITY COMPANY COMMENTS:

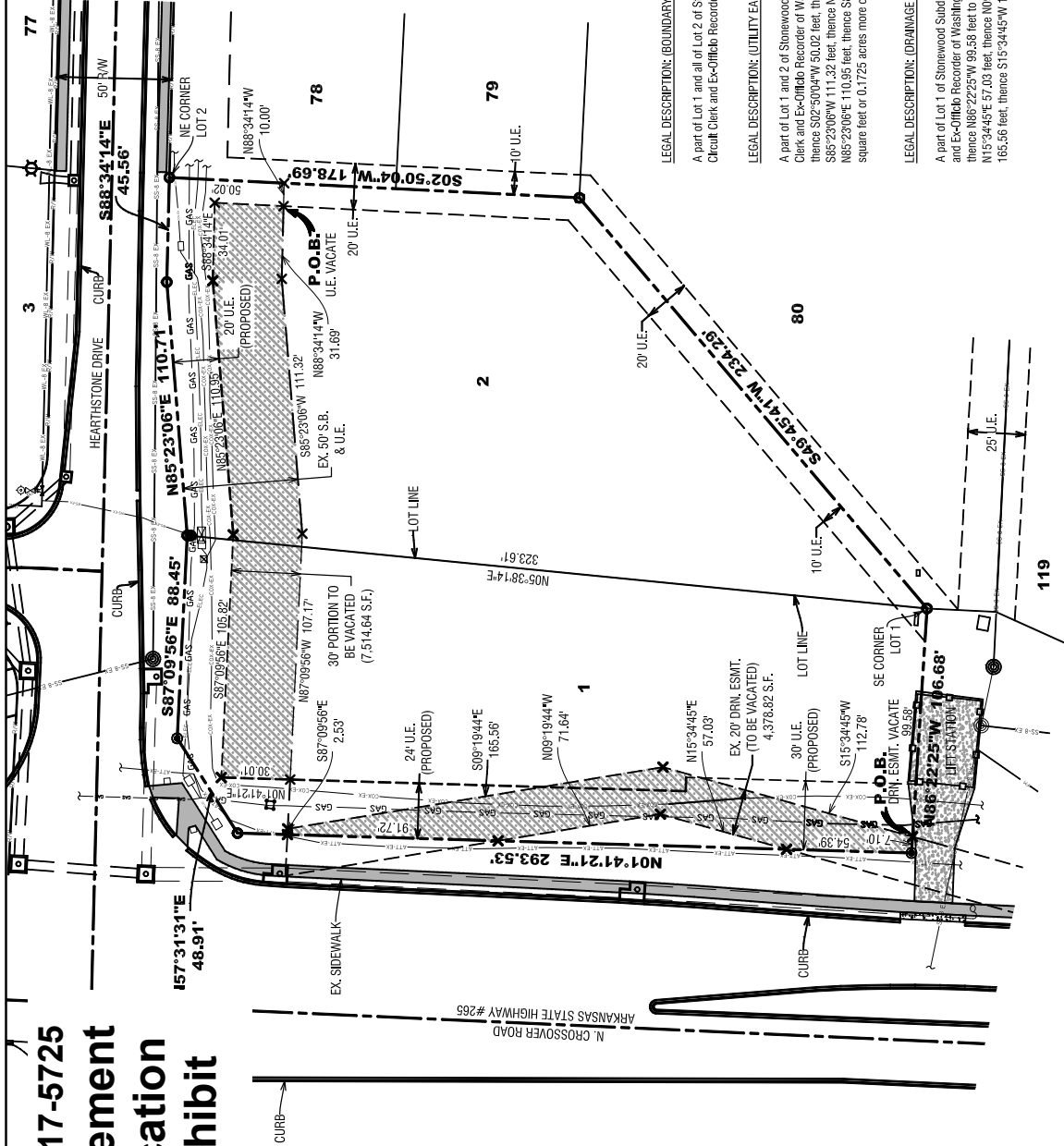
- ☒ No objections to the vacation(s) described above, and no comments.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

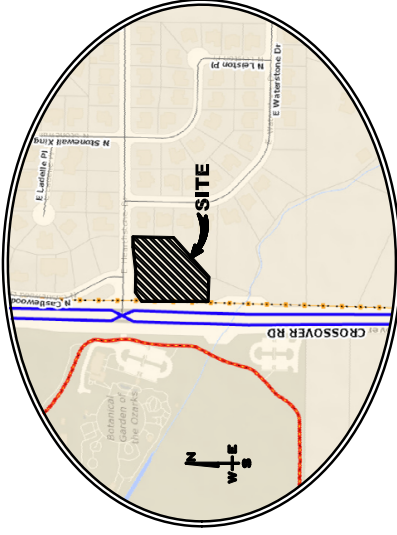
Joey Smith
Signature of Utility Company Representative

Asst. Transportation Manager
Title

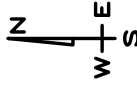
CUP 17-5725 Easement Vacation Exhibit



VICINITY MAP



FAYETTEVILLE, ARKANSAS



OWNER:
CP PROPERTIES LLC,
1663 MEADOWPOINT
FAYETTEVILLE, AR 72701

LEGAL DESCRIPTION: (BOUNDARY)

A part of Lot 1 and all of Lot 2 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

LEGAL DESCRIPTION: (UTILITY EASEMENT VACATION)

A part of Lot 1 and 2 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said Lot 2, thence S02°50'04\"/>

LEGAL DESCRIPTION: (DRAINAGE EASEMENT VACATION)

A part of Lot 1 of Stonewood Subdivision in Fayetteville, Arkansas, as per plat of said subdivision recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Commencing at the SE Corner of said Lot 1, thence N86°22'25\"/>

LEGEND	EXISTING 8\"/>
--------	----------------

JORGENSEN + ASSOCIATES
Civil Engineering + Surveying
www.jorgensenassociates.com

124 W. Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
Fax: 479.582.4807

PROJECT TITLE: M.J'S PIZZA
LOCATION: FAYETTEVILLE, ARKANSAS
SHEET TITLE: UTILITY EASEMENT VACATION
DRAWN BY: BAR
SHEET SCALE: 1\"/>

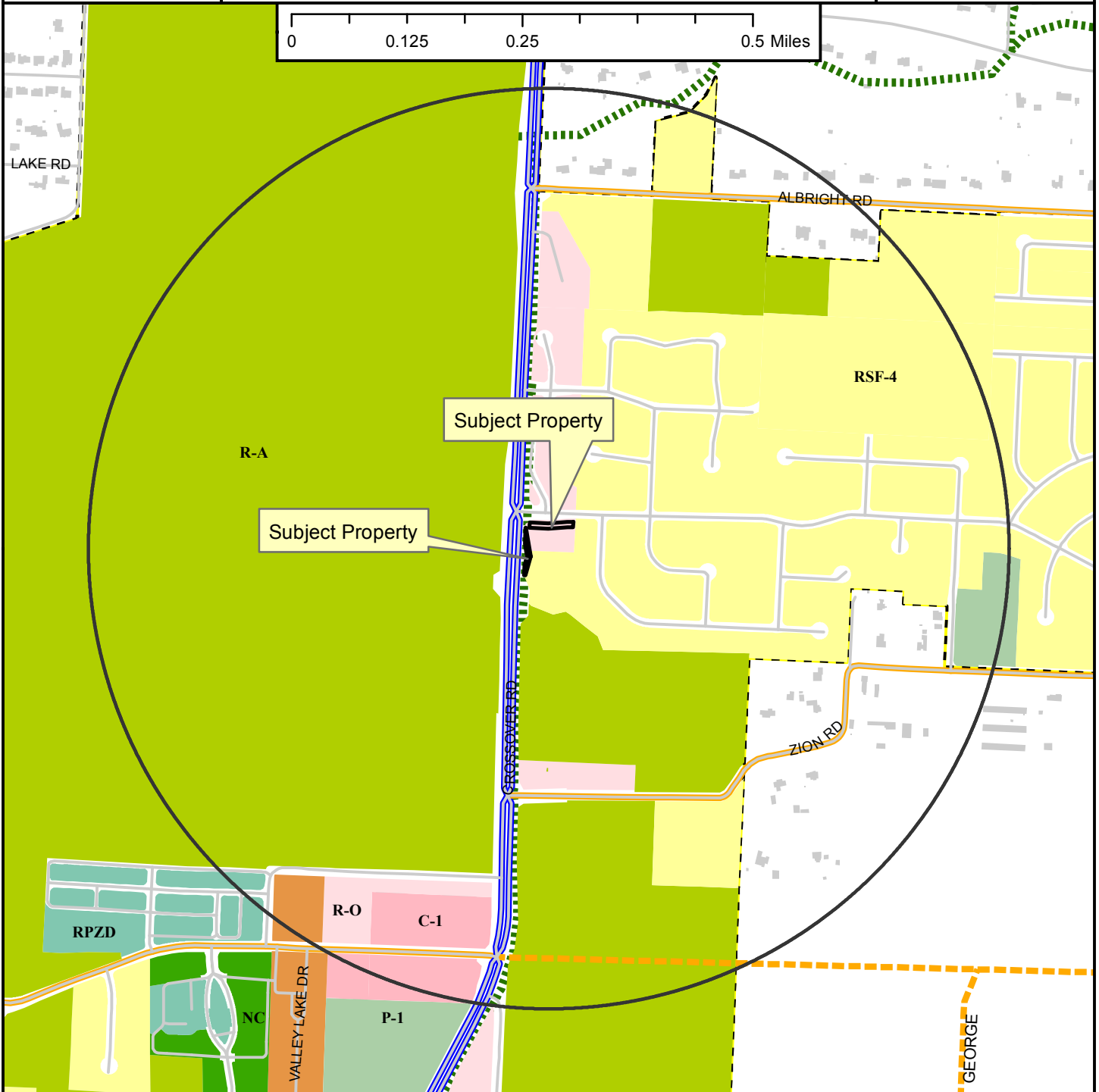
VAC 17-5753

One Mile View

CP PROPERTIES

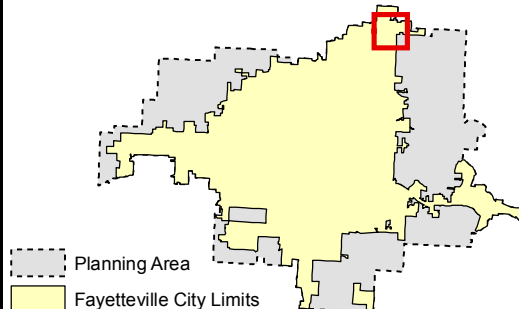


0 0.125 0.25 0.5 Miles



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint

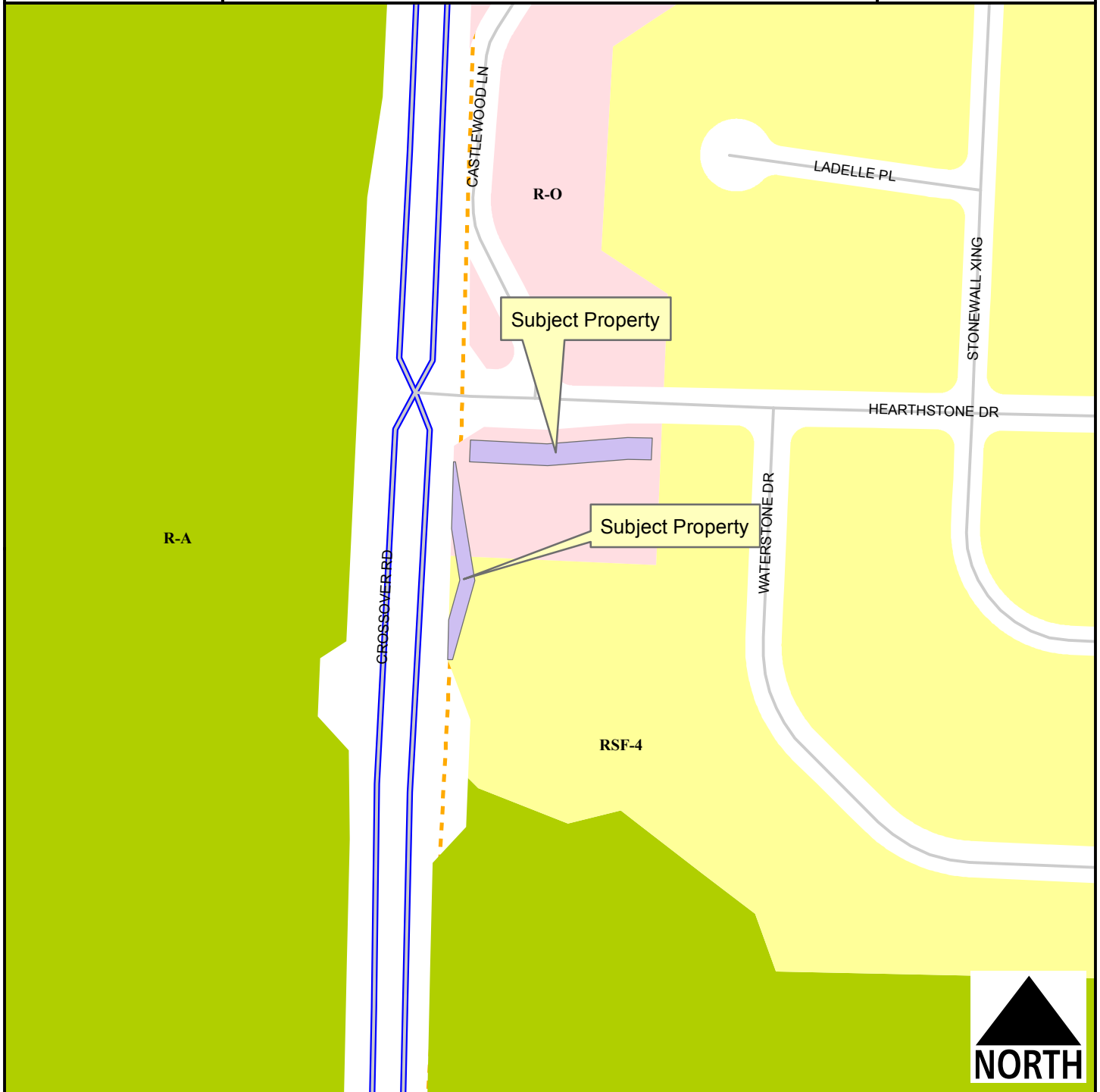


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- Residential-Agricultural
 - RSF-.5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RT-12 Residential Two and Three-family
 - RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial
- EXTRACTION**
- E-1
- COMMERCIAL**
- Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
- INSTITUTIONAL**
- P-1

VAC 17-5753

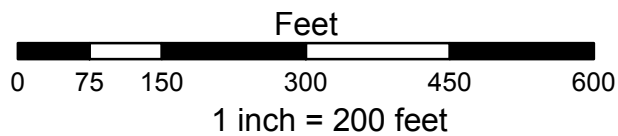
CP PROPERTIES

Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- Residential-Agricultural
- RSF-4
- Residential-Office

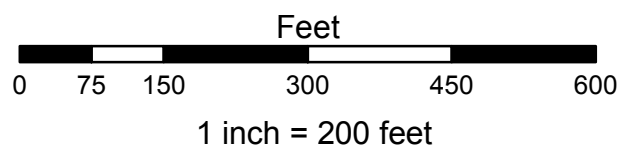
VAC 17-5753

Current Land Use

CP PROPERTIES



- Streams
- Street
- PRIN ARTERIAL PKWY
- Shared Use Paved Trail
- Trail (Proposed)
- VAC17-5751
- County Parcels
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0211

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: C. 9

FAYETTEVILLE COMMERCE PARK LAND SALE:

A RESOLUTION TO SELL ABOUT 5 ACRES OF LAND IN THE COMMERCE DISTRICT TO AR-CANNA, LLC FOR \$75,000.00 CONTINGENT ON AR-CANNA, LLC RECEIVING A MEDICAL MARIJUANA CULTIVATION FACILITY LICENSE FROM THE STATE OF ARKANSAS

WHEREAS, AR-Canna, LLC has offered to purchase approximately 5 acres in the Commerce District and plans to build a 30,000 square foot medical marijuana cultivation and processing facility and a 5,000 square foot office complex contingent upon receiving a license from the State of Arkansas; and

WHEREAS, the proposed project would lead to the hiring of workers with average wages above the state and national averages with a minimum annual payroll of \$1.2 million when fully operational, meets the Fayetteville First target sector of Entrepreneurship, and is supported by the Fayetteville Chamber of Commerce; and

WHEREAS, the City is selling this 5 acre parcel at a discount of about \$5,000.00 per acre from its normal selling price but the contract with AR-Canna, LLC includes a clawback provision that could allow the City to be paid back a portion of the discounted price in the event the property is sold within ten years.

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 approves the Land Sale Agreement (attached to this Resolution and made a part hereof) for the sale of about 5 acres to AR-Canna, LLC for \$75,000.00, contingent upon AR-Canna, LLC receiving a medical marijuana cultivation facility license from the State of Arkansas, and authorizes Mayor Jordan to sign the Land Sale Agreement, Warranty Deed and any other documents necessary to convey this 5 acre parcel.

City of Fayetteville Staff Review Form

2017-0211

Legistar File ID

5/2/2017

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

Andrew Garner

4/14/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a resolution to sell approximately 5 acres of land (part of parcel 765-16578-001) in the Fayetteville Commerce Park located east of 2435 S.Industrial Drive to Brian Faught, Executive Vice President of Adcomm for \$75,000.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution # 143-13

Original Contract Number:

Approval Date:

Comments:

MEETING OF MAY 2, 2017

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff

FROM: Andrew Garner, City Planning Director

DATE: May 2, 2017

SUBJECT: Sale of 5 acres of land in the Commerce District to Brian Faught, Executive Vice President of Adcomm

RECOMMENDATION:

City Staff recommends approval of a contract with Brian Faught, Executive Vice President of Adcomm for the sale of approximately 5 acres of land owned by the City of Fayetteville east of 2435 Industrial Drive in the Fayetteville Commerce Park, for a purchase price of \$75,000.

BACKGROUND:

The property (part of parcel 765-16578-001) is located on an undeveloped parcel east of the City's Water and Sewer Building at 2435 Industrial Drive. The City was recently approached by Brian Faught to purchase this property. Mr. Faught is the Executive Vice President of Adcomm and intends to develop the property under his new company, AR-Canna, with a medical marijuana cultivation facility. The company's plans include the following:

- Construction of a 30,000 sq. ft. medical marijuana cultivation and processing plant, using local construction labor.
- Construction of a 5,000 sq. ft. office complex, using local construction labor.
- Hiring the following employees:
 - o 35-40 hourly employees at a starting wage of \$15.00 per hour.
 - o 3-5 managerial employees with an annual salary in the \$50,000-\$75,000 range.
 - o 2 senior managerial positions with an annual salary in the \$75,000-\$125,000 range.
- AR-Canna is using a Fayetteville architecture firm for the plans and construction drawings for both facilities.
- AR-Canna will hire a local contractor to oversee all aspects of the construction.
- Phase 1 is to build these two facilities now, and with the 5 acres there is room to build a second and third cultivation facility as the industry matures.

DISCUSSION:

The attached land sale agreement has been reached through negotiations between the City and Brian Faught, representing the entity purchasing the property. The proposal is to sell the property for approximately \$15,000 per acre, at a total price of \$75,000. This price represents a reduced rate from the currently advertised \$20,000 per acre of land in the Commerce District, but reflects the purchase price that the City Council approved for a nearby parcel in 2013 to Pacific Vet Group

when that company was looking to locate on the property. The Mayor's office is excited to welcome a new, clean industry to Fayetteville, meeting the goals of our Fayetteville First economic development plan, particularly in the Specialized Technologies sector offering competitive wages. The staff believes a development of this type on the property will increase property value, contribute to our tax base and overall have a positive economic impact for Fayetteville as the Commerce District continues to develop over time.

City Code §34.27 establishes requirements regarding public notice and procedure for the sale of real property owned by the City of Fayetteville. City staff has performed all necessary public notification procedures in compliance with this city ordinance (documentation attached). Additionally, the City Council must establish that this land is no longer needed for municipal purposes. As a purpose of the Commerce District is to encourage economic development that generates revenue for the City by providing new and expanded services, and finding that there is no identified use for the subject property for municipal purposes, this land is no longer needed for municipal purposes.

BUDGET/STAFF IMPACT:

\$75,000 in sale revenue will be paid to the fund that maintains ownership of the land.

Attachments:

- Land Sale Agreement
- Offer Letter
- Proof of Public Notice (sign, letter, and newspaper notice)
- Location Map(s)

LAND SALE AGREEMENT

This Land Sale Agreement is made and entered into by and between the City of Fayetteville, Arkansas, a municipal corporation of the State of Arkansas (hereinafter "City" or "Fayetteville") and AR-Canna LLC.

The City of Fayetteville agrees to sell a parcel of about 5 acres in the Fayetteville Commerce District to AR-Canna LLC for SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) and AR-Canna LLC's performance of all of the terms, conditions and promises set forth in this Agreement.

AR-Canna LLC agrees to pay to the City of Fayetteville SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) for this 5 acre parcel and to perform all of the terms, conditions and promises set forth later in this Agreement.

TERMS AND CONDITIONS

1. *Sale*

Subject to existing easements and rights of way and subject to the terms and conditions, mutual promises and covenants of this Agreement, the City of Fayetteville agrees to sell a parcel of about 5 acres (hereinafter the "**Development Site**") located in the Fayetteville Commerce District by warranty deed to AR-Canna LLC for the amount of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00). This Development Site is shown on the map attached as Exhibit A and shall be more particularly described in a survey obtained by AR-Canna LLC prior to closing.

The Development Site shall be located immediately the east of an 80 foot right of way to be reserved by the City that shall extend from the end of the existing South Industrial Drive to the southwest as shown in Exhibit A.

2. *Purchase*

Subject to the terms and conditions, mutual promises and covenants of this Agreement, AR-Canna LLC agrees to buy the Development Site for SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) to be paid to the City of Fayetteville on or before the Closing Date as follows:

A. Earnest money deposit: An earnest money deposit in the amount of TWO THOUSAND FIVE-HUNDRED DOLLARS (\$2,500.00) shall be paid by AR-Canna LLC to the City of Fayetteville at the time this Agreement, signed by AR-Canna LLC, is submitted to the City for approval. If the purchase and sale is consummated, this earnest money deposit shall be applied to the purchase price at closing. If the City or AR-Canna LLC exercises its option to terminate the Agreement pursuant to paragraphs 8, 9 or 10, this earnest money deposit shall be refunded in full. If the transaction is not consummated for any other reason, the earnest money deposit shall be refunded less the City's actual incurred costs, if any, of obtaining the owner's title policy and title commitment.

B. Balance: The remaining balance of the purchase price in the amount of SEVENTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$72,500.00) shall be paid to the City of Fayetteville on or before the Closing Date.

3. *Closing Date and Place*

Closing shall occur within 60 days following the date this Agreement has been executed by both parties unless extended by mutual agreement of the parties in writing. The Closing shall occur at 113 West Mountain Street, Fayetteville, Arkansas in a room supplied by the City of Fayetteville.

4. *Date of Possession*

Possession of the Development Site shall be delivered to AR-Canna LLC on the Closing date free of any tenancies or other third party possessory rights.

5. *Title Insurance*

The City of Fayetteville shall order a title commitment on the Development Site, as soon as practicable following the full execution of this Agreement, through a title insurance company selected by the City and acceptable to AR-Canna LLC. If the report on title, binder or commitment discloses any defects in title (other than liens or encumbrances of a definite or ascertainable amount which may be paid at closing), the City shall have thirty (30) days from the date of AR-Canna LLC's notice of such defects to make a good faith effort to cure such defects and to furnish a report showing the defects cured or removed. If such defects are not cured within thirty (30) days, AR-Canna LLC may terminate this agreement or may, at its election, take title subject to any such defects. The cost of the title commitment and the cost of the owner's title policy shall be borne by the City of Fayetteville. The cost of any lender's title policy and extended owner's title insurance coverage shall be borne by AR-Canna LLC.

6. *Deed and Other Documents*

At least seven days before the Closing date, AR-Canna shall obtain a survey at its sole cost containing a legal description of the Development Site as well as the legal description of future right of way 80 feet wide extending from the northwest corner of the Development Site southwest to the boundary of Parcel # 765-16578-001 as shown in the map attached as Exhibit A.

On the Closing date, the City of Fayetteville shall convey marketable and insurable title to the Development Site by general warranty deed, free and clear of all liens, restrictions, and encumbrances except as provided in this Agreement, subject only to current real estate taxes, if any (to be apportioned between the parties) and existing easements. AR-Canna LLC and the City of Fayetteville shall equally share the cost a reasonable closing fee imposed by the closing agent employed by parties provided however that AR-Canna LLC shall be responsible for any revenue

stamps resulting from this transaction and all recordings fees for the deed and other documents that need to be filed.

7. *Risk of Loss*

Risk of loss as to the Development Site shall remain with the City of Fayetteville until the Closing date.

8. *AR-Canna LLC's Due Diligence*

AR-Canna LLC may enter upon the Development Site to conduct any surveying, testing or inspection it deems necessary to ensure the Development Site will be appropriate for the construction and use for its facility. If AR-Canna LLC discovers any problems that would adversely impact its development and use of the Development Site for its facility, AR-Canna LLC shall notify the City which is granted sixty (60) days to remediate any problem. The City may also terminate this Agreement without penalty rather than remediating any problem or issue discovered by AR-Canna LLC. Likewise, if the City does not remediate the problem, AR-Canna LLC may terminate this Agreement without penalty, being entitled to a return of its earnest money, or proceed under this Agreement to accept the property without resolution of the problem.

9. *Large Scale Development Approval*

AR-Canna LLC shall, at its sole cost and expense, prepare a Large Scale Development plat of the Development Site and obtain any and all approvals necessary for AR-Canna LLC's intended use of the Development Site for its facility. The City shall reasonably cooperate with AR-Canna LLC in AR-Canna LLC's request for development approval of its facility. AR-Canna LLC must present its development proposal through the normal City process and follow the Unified Development Code requirements. AR-Canna LLC may defer Closing hereunder during such time as its Development plat and approvals are pending review by the City, and if such are not approved, AR-Canna LLC may terminate this Agreement without penalty, being entitled to a return of its earnest money, or proceed under this Agreement to accept the property without development plans approved by the City.

AR-Canna, LLC agrees to construct a road to the City's specifications from the cul-de-sac at the end of South Industrial Drive to a stub-out at the southwest corner of the Development Site. Construction of the road (including approval by the City) shall be completed prior to the issuance of a final certificate of occupancy. Any future road extension shall be the responsibility of the City or the future developer of the remaining property to the south.

10. *Cultivation Facility License Approval*

AR-Canna LLC may defer Closing hereunder during such time as cultivation facility license application is pending review by the State of Arkansas, and if such is not approved, AR-Canna LLC may terminate this Agreement without penalty, being entitled to a return of its earnest money, or proceed under this Agreement to accept the property without being approved by the

State.

11. *Compensation to City of Fayetteville if Development Site is Sold Within 10 Years*

AR-Canna LLC is aware that the Development Site is being sold by the City at a discount of approximately \$5,000.00 per acre below its normal selling price. If any portion of the land conveyed by this contract is sold by AR-Canna LLC within the first five years of the date of closing, an independent appraisal of the land's value shall be performed to segregate the actual sales price between that allocable to the raw land as acquired by AR-Canna LLC, and that allocable to the improvements subsequently added by AR-Canna LLC. AR-Canna LLC shall pay 75% of the increase in appraised value of the raw land (with prorated sales cost deducted) to the City of Fayetteville. AR-Canna LLC shall pay the City of Fayetteville 40% of the increase in appraised value of the land (with prorated sales costs deducted) for any sales after 5 years until 10 years from the closing date.

12. *Notices*

Notices required by this Agreement shall be in writing and shall be delivered to:

AR-Canna LLC
ATTN: Brian Faught
7B Tara Mount Drive
Jacksonville, AR 72706

City of Fayetteville
ATTN: Mayor's Office
113 W. Mountain Street
Fayetteville, AR 72701 72701-6083

13. *Authority*

Each of the undersigned individuals represent and warrant that they are authorized to enter into this Agreement on behalf of their respective entities and that execution hereof will bind the entities to this Agreement.

14. *Counterparts*

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.

15. *Facsimile*

For purposes of executing this Agreement, a facsimile signature shall be as effective as an actual signature.

16. *Applicable Law*

This Agreement shall be construed and enforced in accordance with the laws and public policies of the State of Arkansas.

17. *Survival*

The representations, warranties, and agreements of the parties contained herein shall survive the closing date.

18. *No Waivers*

The waiver by either party hereto of any condition or the breach of any term, covenant or conditions herein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or of any other term, covenant or condition herein contained.

19. *Time of Essence*

Time is of the essence in this Agreement.

20. *Invalidity*

If for any reason any term or provision of this Agreement shall be declared void and unenforceable by any court of law or equity, it shall only affect such particular term or provision of this Agreement and the balance of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto.

21. *Complete Agreement*

All understandings and agreements heretofore existing between the parties are merged into this Agreement that alone fully and completely expresses their agreement. This Agreement may be changed only in writing signed by both of the parties hereto and shall apply to and bind the successors and assigns of each of the parties hereto and shall not merge with the deed delivered to AR-Canna LLC at closing.

Date: 4-18-17

Date: _____

AR-CANNA LLC

CITY OF FAYETTEVILLE,

By: 

BRIAN FAUGHT, President

By: _____

LIONELD JORDAN, Mayor

and Chief Executive Officer

WITNESS:

By: Deborah Cabanis
Deborah Cabaniss

ATTEST:

By: _____
Sondra E. Smith, City Clerk



Future Right of Way

@ 5 Ac.

765-16578-001

765-16578-000

Area of Interest

Parcels

0 125 250 500 Feet



Exhibit A

To: Fayetteville, AR City Council

4-4-17

From: Brian Faught, Executive VP, Adcomm

RE: Fayetteville Industrial Park Parcel 765 16578 001, 5 acres

Ladies and Gentlemen,

Adcomm and Brian Faught are planning on applying for a “Medical Marijuana Cultivation License” with the state of Arkansas, and upon receiving said license, plans to construct its facility in the Fayetteville Industrial Park. As you may know, “Medical Marijuana” was approved by the people of Arkansas in the most recent election, and our new company, AR-Canna, is committed to launching this new product in a safe and legal manner in NWA. Please note the attached land plot (5 acres) as the desired piece of property for this endeavor. AR-Canna’s plans include:

- Construction of a 30,000 sq ft cultivation and processing plant, using local construction labor.
- Construction of a 5000 sq ft office complex, also using local construction labor.
- Hiring 35-40 employees to run the facility.
- Starting wage of \$15.00 per hour.
- 3-5 Managerial Positions with pay in the \$50,000 - \$75,000 pay range.
- 2 Senior Managerial Positions in the \$75,000 - \$125,000 pay range.
- AR-Canna is using a Fayetteville architecture firm for the plans and construction drawings of both facilities.
- AR-Canna will also hire a local contractor to oversee all facets of the buildout.

- The plan is to build these two facilities now, and with the 5 acres, have room to build a second and third cultivation facility as the industry matures.

Adcomm and Brian Faught are prepared to offer \$75,000 for the attached 5 acre plot, with a \$2500.00 earnest money deposit, contingent upon AR-Canna being awarded the cultivation and processing license from the state of Arkansas. If AR-Canna is not awarded a license, the earnest money will be returned.

We truly believe that AR-Canna will be a welcome and productive member to the Fayetteville business community, and would like our offer to be considered by the city council in the upcoming April meeting.

Thanking you in advance for your time and consideration,

Sincerely,

Brian Faught, Executive VP Adcomm
501-993-0476



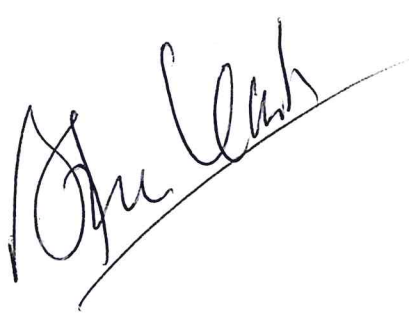
To: Mayor Lioneld Jordan
City of Fayetteville

CC: Don Marr, Chief of Staff

From: Steve Clark, CEO & President

Date: April 17, 2017

Subject: Recommendation to approve the sale of city-owned land, Parcel # 765-16578-001 to AR- Canna, LLC



AR-Canna, LLC is a new business set up by Brian Faught of Little Rock, Arkansas. The company is in the process of applying for a “Medical Marijuana Cultivation License” and the purchase of this piece of land helps in the said application. “Medical Marijuana” was approved by the people of Arkansas in the most recent election (2016) and AR-Canna is committed to launching this new product in a safe and legal manner in northwest Arkansas.

AR-Canna, LLC had looked at a few sites within the Fayetteville Commerce District with the assistance of the Fayetteville Chamber. After holding discussions and communications with the Chamber and the City, AR-Canna, LLC is now ready to offer to buy 5 acres of land owned by the city in the Fayetteville Commerce District. The 5 acres is a portion of the 24 acres, Parcel # 765-16578-000. Attached is the letter of offer from AR-Canna, LLC and a map of the property.

AR-Canna plans to construct a 30,000 SF cultivation and processing plant using local construction labor. There will also be a 5,000 SF office complex. When fully operational, AR-Canna is expected to hire 35-40 employees with starting wage of \$15 per hour for operational workers. Management positions fall within the range of \$50,000 to \$125,000 and the company plans to hire 5-7 managers. AR-Canna has retained a Fayetteville architecture firm to design the property and a local construction company is expected to be retained to help with the construction.

We recommend that the City leadership supports this project by approving the sale of the land to AR-Canna, LLC.

This project:

- 1) Meets the City's and State's goal of creating new jobs for Fayetteville and so the state of Arkansas
- 2) Contributes a minimum of annual payroll of \$1.2 million when fully operational
- 3) Meets the Fayetteville First's target sectors—Entrepreneurship

CERTIFICATE OF SIGN POSTING



I, Andrew Harrison,
attest that the above sign was posted on April 11, 2017 at the corner of Industrial &
Pump Station Rd. and a second sign was posted on the subject parcel east of 2435
Industrial Drive on April 11, 2017.

A handwritten signature in blue ink, appearing to read 'Andrew Harrison', written over a horizontal line.

(signature of person completing the sign posting)

City File No./Name: ADM 17-5787

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this 11th day of April, 2017, and

addressed as follows:

*Name: Matrix Investments, LLC
Street: 1197 Happy Hollow Rd.
City, State, Zip: Fayetteville, AR 72701*

*Name: Marshalltown Co.
Street: 2200 S. Industrial DR
City, State, Zip: Fayetteville AR 72701*

*Name: HFNWA, Inc.
Street: 1601 E. Pump Station Rd.
City, State, Zip: Fayetteville, AR 72701*

*Name: Bright Investments, LLC
Street: 2501 S. Armstrong Ave.
City, State, Zip: Fayetteville, AR 72701*

Andrew Harrison

*_____
(name of person completing the mailing)*

Andrew Harrison

*_____
(signature of person completing the mailing)*

City File No. /Name: _17-5787



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

CITY PLANNING DIVISION

125 West Mountain

Fayetteville, AR 72701

Phone (479) 444-3443

April 11, 2017

Name

Address

City, State, Zip

Re: Public Notice – Sale of municipally owned real property

Dear Property Owner:

Please be aware that the Fayetteville City Council will consider a Resolution and Contract to sell to Adcomm, Inc. about 5.0 acres (a portion of parcel 765-16578-001) it owns on S. Industrial Dr. for \$75,000. The property currently contains no structures. It is zoned I-2, General Industrial. Should the sale be approved, planned improvements include the development of a medical marijuana cultivation facility.

This possible sale will be considered by the City Council during its 5:30 p.m. meeting held on May 2, 2017 in Room 219 of City Hall, located 113 W. Mountain Street.

If you wish to learn more about this proposed sale, please contact Andrew Garner, Planning Director at 479-575-8262. You may also attend the May 2, 2017 City Council meeting and ask questions or make comments when this resolution is presented for City Council consideration.

Sincerely,

Andrew Garner
Planning Director
City of Fayetteville, Arkansas

NORTHWEST ARKANSAS Democrat Gazette

P.O. BOX 1607, FAYETTEVILLE, AR. 72702 • 479-442-1700 • FAX: 479-695-1118 • WWW.NWADG.COM

AFFIDAVIT OF PUBLICATION

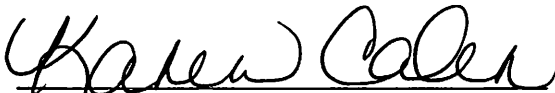
I Karen Caler, do solemnly swear that I am the Legal Clerk of the Northwest Arkansas Democrat-Gazette, printed and published in Washington County and Benton County, Arkansas, and of bona fide circulation, that from my own personal knowledge and reference to the files of said publication, the advertisement of:

CITY OF FAYETTEVILLE
City council meeting

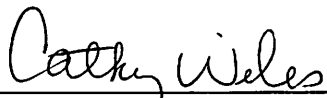
Was inserted in the Regular Edition on:

April 12, 2017

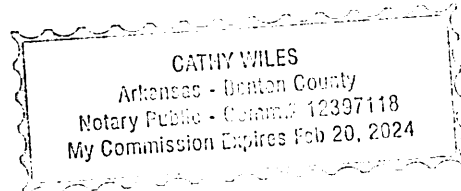
Publication Charges: \$ 54.60


Karen Caler

Subscribed and sworn to before me
This 13 day of Apr, 2017.



Notary Public
My Commission Expires:

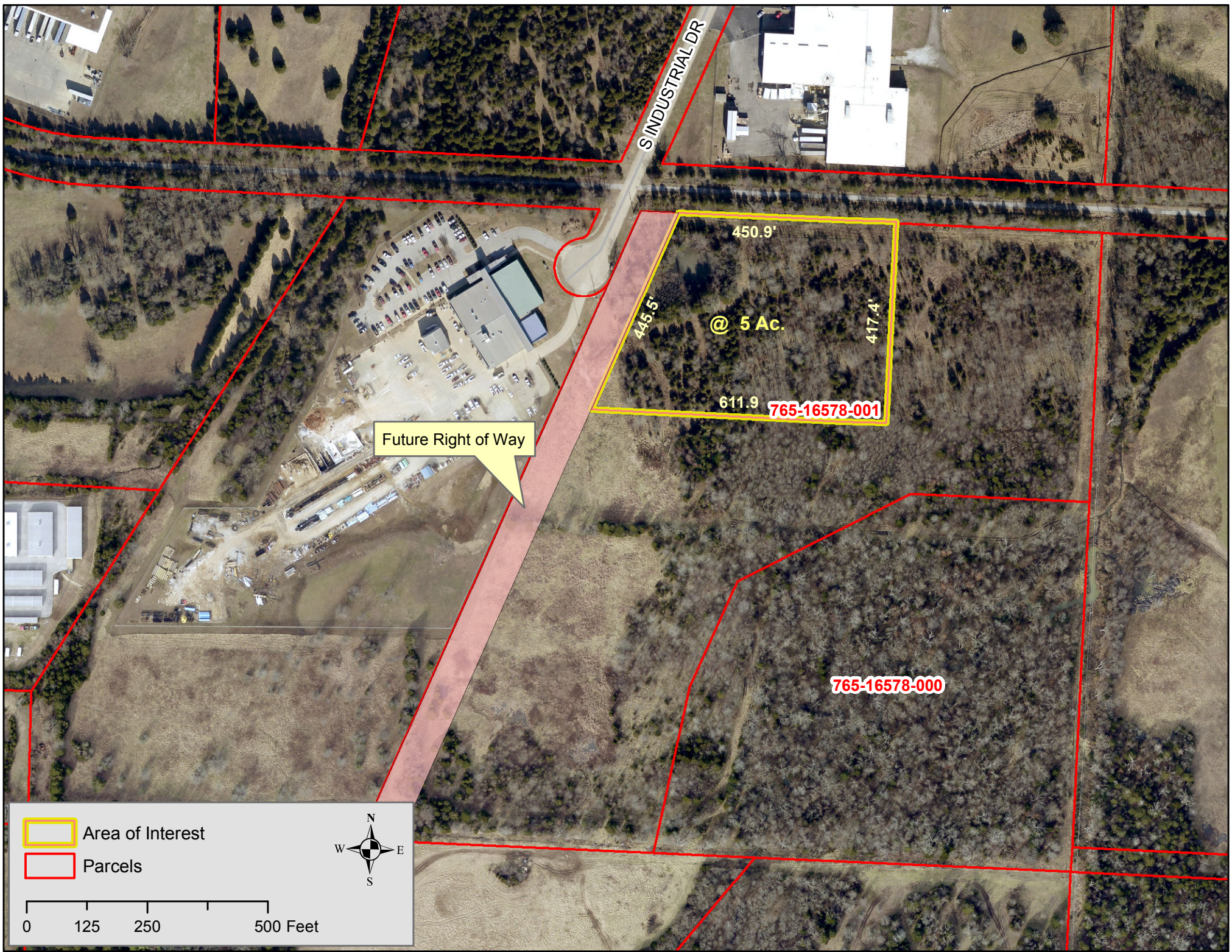


****NOTE****

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

NOTICE OF PUBLIC HEARING

A meeting of the City of Fayetteville City Council will be held on May 2, 2017 at 5:30 p.m., in room 219, Fayetteville Administration Building at 113 W. Mountain Street, Fayetteville, Arkansas, 72701. The following item is required to be published in the local newspaper pursuant to the Code of Ordinances of the City of Fayetteville and will be heard at the May 2, 2017 Fayetteville City Council meeting. 17-5787: SALE OF MUNICIPALLY OWNED REAL PROPERTY, 642): Submitted by CITY STAFF for property located EAST OF 2435 INDUSTRIAL DRIVE. The Fayetteville City Council is considering the sale of about 5 acres it owns EAST OF 2435 INDUSTRIAL DRIVE to Brian Faught, Executive Vice President of Adcomm, for \$75,000.00. The proposed use of the property is for a medical marijuana cultivation facility. This possible sale will be considered by the City Council during its May 2, 2017 meeting at 113 W. Mountain Street, Room 219.
74096442 April 12, 2017



S INDUSTRIAL DR

450.9'

@ 5 Ac.

417.4'

445.5'

611.9'

765-16578-001

765-16578-000

Future Right of Way

Area of Interest

Parcels



0 125 250 500 Feet

ADM 17-5787

Current Land Use

CITY OWNED PROPERTY SALE



Streams
Street

Streets Planned

MSP Class

- MINOR ARTERIAL
- MINOR ARTERIAL
- Shared Use Paved Trail
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 180 360 720 1,080 1,440

1 inch = 500 feet

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2017-0212

Agenda Date: 5/2/2017

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Presentation

Agenda Number: D. 1

AGENDA SESSSION PRESENTATION - FAYETTEVILLE URBAN FORESTRY ADVISORY
BOARD ANNUAL REPORT



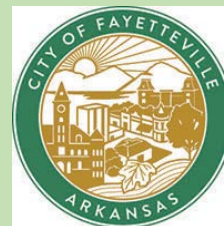
City of Fayetteville

Urban Forestry Advisory Board

Annual Report

State of the Urban Forest

The purpose of the Urban Forest Advisory Board is to advise City Council on Urban Forest and arboricultural issues.





In this presentation....

- Background and Establishment
- UFAB Responsibilities
- Meet the Board Members
- Importance of the Urban Forest
- 2016 Accomplishments
- The Future of Fayetteville's Urban Forest
- Positive Impacts in 2016

Background and Establishment

- The **Urban Forestry Advisory Board**, formerly known as the Tree and Landscape Advisory Committee, was **renamed** by Ordinance #5426 on **August 2, 2011**.
- The **Tree and Landscape Advisory Committee** was **originally created** by Ordinance #3699 on **April 20, 1993** and amended on June 16, 1998 by Ordinance #4099 which redefined the composition, powers and duties of the committee.



Responsibilities

Urban Forestry Advisory Board, in cooperation with the Urban Forestry staff shall:

- Advise the Mayor, City Council, and the Director(s) of the Department(s) managing the Urban Forestry program in issues related to urban forestry and arboriculture.
- Organize and administer an ongoing program of public education designed to increase public awareness of urban forestry and arboriculture.
- Advise the Urban Forester on all City tree planting projects on city rights-of-ways and/or medians.
- UFAB is responsible to review and recommend changes to code every three years





Meet the Board Members

Glenda Patterson- *Chair*
Community Citizen-at-Large
01-2014 through 12-2020

Alan Ostner
Tree Service Community
01-2017 through 12-2017

Damon Lipinski – *Vice Chair*
Community Citizen-at-Large
10-2014 through 12-2017

Audra Rogers
Community Citizen-at-Large
01-17 through 12-2018

Russell Dye
University Representative
01-2016 through 12-2017

Aubrey Shepherd
Land Development
01-2016 through 12-2017

Amy Jones
Community Citizen-at-Large
01-2017 through 12-2018



Urban Foresters
Lee Porter
John J. Scott

Importance of the Urban Forest



TREES WORK HARD!

- **Monetary Benefits** - Trees can reduce energy bills and increase property value.
- **Health Benefits** - Trees makes calm people and help hospital patients recover faster.
- **Family Benefits** - Trees help children concentrate, develop creativity, intelligence and promotes physical activity.
- **Community Benefits** - Trees lower crime rates, help people socialize, and downtown businesses see increased sales when trees planted by the store.
- **Environmental Benefits** - Trees clean ground water, store carbon, and help reduce ozone levels.

Trees are silent workhorses for the environment.

2017 Accomplishments

Celebration of Trees

826 trees given away at the annual event

Sustainable Landscape Competition

15 applicants

Plant Presentations

11 formal presentations on plants and arboricultural issues



18th Annual Celebration of Trees

826 trees given away for free to Fayetteville citizens

Arrowwood Viburnum – *Viburnum dentatum*

Black Walnut – *Juglans nigra*

Spicebush – *Lindera benzoin*

River Birch – *Betula nigra*

Southern Catalpa – *Catalpa bignonioides*

Bald Cypress – *Taxodium distichum*

Pond Cypress – *Taxodium ascendens*

French Mulberry – *Callicarpa Americana*

Winterberry – *Ilex verticillata*

Parsley Hawthorn – *Crataegus marshallii*

Sycamore – *Platanus occidentalis*

Buttonbush - *Cephalanthus occidentalis*

Pawpaw – *Asimina triloba*

Persimmon – *Diospyros virginiana*



2016 Sustainable Landscape Award Winners

3 Judges : Alan Ostner, Amy Jones, Judy Brittenum and (substitute judge) Amber Alexander



Best Restaurant Garden
Thep Thai



Best Commercial or Civic Garden
Tricycle Farms



Best Residential Garden
Calvin Bey

Ideas to Better the Future of Fayetteville's Urban Forest

Create Management Plan for Current Urban Forests

The current management plan is predominantly reactionary, rather than proactive.

Create Plan to Replace Mature Trees (as they fail)

Parks such as Wilson and Walker Park have the largest and oldest trees. We need establish plans for replacement as they fail.

Geriatric Tree Care

Better care needs to be taken of the largest and oldest trees in town. Similar to humans, they become susceptible to health issues as they age.

Urban Tree Well Design

Trees living in tree wells have a much shorter life span than trees planted in open lawn. Staff is researching new ways to design tree wells and require quality soil in the tree wells to help trees live a longer and healthier life.

Soil Health

Soil preservation, care and sampling are important for the health of urban forests.

Regular and Scheduled Pruning

Staff recently hired Ark-O-Mo Tree Service to prune all trees on City property in the Entertainment District. Regular pruning as such by a Certified Arborist will help to maintain tree health.

Canopy Assessment

Fayetteville's last tree canopy assessment was conducted in 2012. A follow up assessment will help identify what priorities Urban Forestry staff should be working on to increase and maintain urban forest health.



GIS Mapping / Tree Inventory

As technologies continue to develop, there are increasing amounts of tools available to track tree canopy. By using these new tools staff can better manage the urban forest.

Development in the City impacting Tree Canopy

In 2017, Urban Forestry staff began tracking annual removal numbers. Staff is researching the annual numbers to predict how the tree canopy will be impacted in the short term and long term.

Pest and Disease Management

Emerald Ash Borer will be in Fayetteville soon and a plan needs to be developed to cope with the upcoming changes. Currently, staff does not diagnose problems with local trees or have a plan for controlling pests and diseases.

Wildflower Median Installation and Maintenance

As City road construction occurs, Urban Forestry staff has proposed that medians be planted with wildflowers. Staff is working with other departments on procedures for the proper installation and maintenance of these areas which help reduce costs and maintenance in the long term.

Chapter 167 + 177 Changes

A part of UFAB responsibilities are to review the Tree Preservation and Landscape Code every three years. The last review was over three years ago and therefore staff is working on changes this year.



Positive Impacts in 2016

Annual Tree Preservation Numbers

In 2016, staff began recording Development Review tree preservation and mitigation amounts. With the information generated from these records, staff is able to produce annual data to show preservation and mitigation for 2016.

New Tree preservation and Landscape Manual

Staff updated the Tree Preservation and Landscape Manual to focus helping developers and engineers who are going through the Development and Construction Review process.

Public Outreach

Presenting information about Urban Forests and what Urban Foresters do for the City has been a new important focus for staff. Staff presented and spoke to several civic organization, professional organizations, peer round table discussions, conferences and elementary students.

2016 Tree Preservation Numbers

- **701** acres of development reviewed
- **294** acres of existing tree canopy
- **233** acres preserved
- **62** acres removed for new development
- **79% tree canopy preservation**
- **3,593** new trees planted to meet mitigation requirements

Staff is using these numbers to research Development Impact in the short term and long term for the cities canopy.

**Fayetteville was
declared a Tree City
USA for the 22nd
year in a row!**



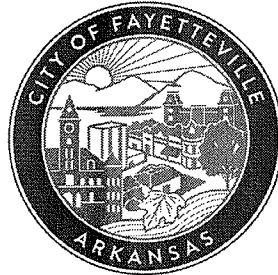
Agenda Session

4-25-17

(1 Change)

City of Fayetteville, Arkansas

*113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323*



Meeting Agenda - Tentative Agenda

Tuesday, April 25, 2017

4:30 PM

City Hall Room 326

City Council Agenda Session

*Adella Gray Ward 1
Sarah Marsh Ward 1
Mark Kinion Ward 2
Matthew Petty Ward 2
Justin Tennant Ward 3
Sarah Bunch Ward 3
John S. La Tour Ward 4
Alan Long Ward 4*

ELECTED OFFICIALS:

*Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith*

Call To Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions

City Council Meeting Presentations, Reports and Discussion Items:

1. 2017-0213

CH2M HILL ENGINEERS, INC: TEN (10) YEARS ACCUMULATIVE SAFETY AWARD

Attachments: CH2M HILL ENGINEERS, INC: TEN (10) YEARS ACCUMULATIVE SAFETY AWARD

Agenda Additions

A. Consent:

A. 1 2016-0574

APPROVAL OF THE APRIL 18, 2017 CITY COUNCIL MEETING MINUTES.

A. 2 2017-0215

SOUTH DELTA AVIATION, INC. THREE YEAR LEASE AGREEMENT:

A RESOLUTION TO APPROVE A THREE YEAR LEASE AGREEMENT WITH SOUTH DELTA AVIATION, INC. FOR THE AIRPORT HANGAR AT 4568 SOUTH SCHOOL AVENUE AND OFFICE SPACE IN THE AIRPORT TERMINAL BUILDING AT 4500 SOUTH SCHOOL AVENUE FOR RENT IN THE AMOUNT OF \$4,200.00 PER MONTH

Attachments: SOUTH DELTA AVIATION, INC.

A. 3 2017-0203**T-N-T, INC. CHANGE ORDER NO. 3:**

A RESOLUTION TO APPROVE CHANGE ORDER NO. 3 TO THE CONTRACT WITH T-N-T, INC. OF VAN BUREN, ARKANSAS IN THE AMOUNT OF \$21,096.00 FOR ROAD AND PARKING IMPROVEMENTS AT WILSON PARK, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: T-N-T, INC. CHANGE ORDER NO. 3
 BA T-N-T, INC. CHANGE ORDER NO. 3

A. 4 2017-0209**FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS:**

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$30,000.00 RECOGNIZING REVENUE FROM THE COURT AUTOMATION FUND FOR UPGRADES TO THE ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS USED BY THE FAYETTEVILLE DISTRICT COURT

Attachments: FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO
 SURVEILLANCE SYSTEMS
 BA_FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO
 SURVEILLANCE SYSTEMS

A. 5 2017-0183**HAWKINS-WEIR ENGINEERS, INC.:**

A RESOLUTION TO APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC. IN AN AMOUNT NOT TO EXCEED \$71,820.00 FOR ENGINEERING SERVICES RELATED TO THE ELIMINATION OF THE MASTERS SEWER LIFT STATION, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$7,182.00

Attachments: HAWKINS-WEIR ENGINEERS, INC.

A. 6 2017-0199**WASHINGTON REGIONAL MEDICAL CENTER:**

A RESOLUTION TO WAIVE AND RELEASE ALL RIGHTS OF FIRST REFUSAL WITHIN PARAGRAPH 5.(C) OF THE REAL ESTATE CONVEYANCE AGREEMENT OF OCTOBER 4, 2011 AND THE OCTOBER 13, 2011 QUIT CLAIM DEED CONVEYING THE PROPERTY TO WASHINGTON REGIONAL MEDICAL CENTER

Attachments: WASHINGTON REGIONAL MEDICAL CENTER

A. 7 2017-0216**UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT**

A RESOLUTION TO APPROVE A ONE YEAR CONTRACT WITH THE UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE YEAR TERMS IN AN ANNUAL AMOUNT OF \$250,000.00 FOR THE PROVISION OF PUBLIC TRANSIT SERVICES WITHIN THE CITY OF FAYETTEVILLE

Attachments: UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT

B. Unfinished Business: None**C. New Business:** C. 1 2017-0214**CONDEMNATION LITIGATION SETTLEMENT AGREEMENT:**

A RESOLUTION TO AUTHORIZE A SETTLEMENT AGREEMENT WITH DRAKE STREET PROPERTY, LLC; 1155 PROPERTIES, LLC; AND RPM1 PROPERTIES-FAYETTEVILLE, LLC A/K/A RPM1 PROPERTIES, LLC CONCERNING CONDEMNATION LITIGATION FILED FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE

Attachments: CONDEMNATION LITIGATION SETTLEMENT AGREEMENT

C. 2 2017-0217**BILL OF ASSURANCE AMENDMENT (354 N. DOUBLE SPRINGS RD./PINNACLE BANK):**

AN ORDINANCE TO REPLACE A BILL OF ASSURANCE TO ALLOW THE DEVELOPMENT OF THE 9.7 ACRE PARCEL AT 354 DOUBLE SPRINGS ROAD WITH UP TO 9 ATTACHED DWELLINGS UNITS AND 35 SINGLE-FAMILY DETACHED HOUSES

Attachments: AMENDMENT TO A BILL OF ASSURANCE (354 N. DOUBLE SPRINGS RD./PINNACLE BANK)

C. 3 2017-0218**CULLERS SEWER EXTENSION:**

A RESOLUTION TO APPROVE AN EXTENSION OF THE CITY'S SEWERAGE SYSTEM BEYOND THE CITY LIMITS TO A PROPOSED DEVELOPMENT NEAR HUGHMOUNT ROAD AND LIERLY LANE

Attachments: CULLERS SEWER EXTENSION

C. 4 2017-0201**UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT:**

A RESOLUTION TO APPROVE AN AGREEMENT WITH THE UNIVERSITY OF ARKANSAS TO ACCEPT WASTEWATER FROM THE UNIVERSITY'S SOUTHWEST EXPERIMENTAL FAST OXIDE REACTOR FACILITY INTO THE CITY'S SANITARY SEWER SYSTEM FOR TREATMENT

Attachments: UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT

C. 5 2017-0028**AMEND § 51.146 BACKFLOW PREVENTION:**

AN ORDINANCE TO AMEND § 51.146 **BACKFLOW PREVENTION** OF THE FAYETTEVILLE CODE TO MORE CLOSELY CONFORM TO THE LATEST AMERICAN WATER WORKS ASSOCIATION AND ARKANSAS STATE PLUMBING CODE

Attachments: BACKFLOW PREVENTION CODE REVISION

C. 6 2017-0205**RZN 17-5728 (1640 S. HANSHEW RD./WM. LINDSEY):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 17-5728 FOR APPROXIMATELY 1.25 ACRES LOCATED AT 1640 S. HANSHEW ROAD FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE TO C-2, THOROUGHFARE COMMERCIAL

Attachments: RZN 17-5728 (1640 S. HANSHEW RD./WM. LINDSEY)

C. 7 2017-0207**RZN 17-5733 (SE OF CROSSOVER RD. & HEARTHSTONE DR.):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 17-5733 FOR APPROXIMATELY 1.79 ACRES LOCATED AT SOUTHEAST CORNER OF CROSSOVER ROAD AND HEARTHSTONE DRIVE FROM R-O, RESIDENTIAL OFFICE, AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO NS-G, NEIGHBORHOOD SERVICES, GENERAL

Attachments: RZN 17-5733 (SE OF CROSSOVER RD. & HEARTHSTONE DR.)

C. 8 2017-0204**VAC 17-5753 (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES):**

AN ORDINANCE TO APPROVE VAC 15-5753 FOR PROPERTY LOCATED AT SOUTHEAST CORNER OF CROSSOVER ROAD AND HEARTHSTONE DRIVE TO VACATE A PORTION OF A DRAINAGE EASEMENT AND A PORTION OF A UTILITY EASEMENT

Attachments: VAC 17-5753 (SE CORNER OF CROSSOVER RD. & HEARTHSTONE DR./CP PROPERTIES)

C. 9 2017-0211**FAYETTEVILLE COMMERCE PARK LAND SALE:**

A RESOLUTION TO SELL ABOUT 5 ACRES OF LAND IN THE COMMERCE DISTRICT TO AR-CANNA, LLC FOR \$75,000.00 CONTINGENT ON AR-CANNA, LLC RECEIVING A MEDICAL MARIJUANA CULTIVATION FACILITY LICENSE FROM THE STATE OF ARKANSAS

Attachments: FAYETTEVILLE COMMERCE PARK LAND SALE - AR-CANNA, LLC

D. City Council Agenda Session Presentations:**D. 1 2017-0212**

AGENDA SESSSION PRESENTATION - FAYETTEVILLE URBAN FORESTRY ADVISORY
BOARD ANNUAL REPORT

Attachments: Urban Forestry Advisory Board 2017

E. City Council Tour:**F. Announcements:****G. Adjournment****NOTICE TO MEMBERS OF THE AUDIENCE**

All interested persons may appear and address the City Council on Unfinished Business, New Business, and Public Hearings at City Council meetings. If you wish to address the City Council on an agenda item, please wait for the Mayor or Chair to request public comment then queue behind the podium. When the Mayor or Chair recognizes you, approach the podium and give your name and address. Comments are to be addressed to the Mayor or Chair. The Mayor or Chair will direct your comments to the appropriate elected officials, staff, or others for response. Keep your comments respectful, brief, to the point, and relevant to the agenda item being considered. Each speaker from the public will be allowed one turn at the microphone for discussion of an agenda item.

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

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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.

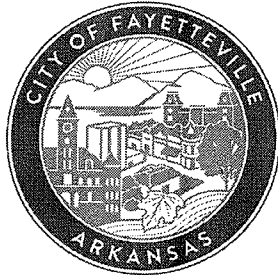
Old Business and New Business: Presentations by Staff and Applicants: Agenda items shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, etc.) may present its proposal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

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. A simple majority of the City Council members, present and voting, may authorize a representative of a Fayetteville citizens' group opposing the ordinance or resolution to present an electronic visual aid not to exceed five minutes, but no other electronic visual aid presentations will be allowed; however, 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's 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.

Pre Agenda Meeting 4-19-17

City of Fayetteville, Arkansas

*113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323*



Meeting Agenda - Tentative Agenda

Tuesday, April 25, 2017

4:30 PM

City Hall Room 326

City Council Agenda Session

*Adella Gray Ward 1
Sarah Marsh Ward 1
Mark Kinion Ward 2
Matthew Petty Ward 2
Justin Tennant Ward 3
Sarah Bunch Ward 3
John S. La Tour Ward 4
Alan Long Ward 4*

ELECTED OFFICIALS:

*Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith*

Call To Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions

City Council Meeting Presentations, Reports and Discussion Items:

✓ 2017-0213

CH2M HILL ENGINEERS, INC: TEN (10) YEARS ACCUMULATIVE SAFETY AWARD

Attachments: CH2M HILL ENGINEERS, INC: TEN (10) YEARS ACCUMULATIVE SAFETY AWARD

Agenda Additions

A. Consent:

✓ A.1 2016-0574

✓ APPROVAL OF THE APRIL 18, 2017 CITY COUNCIL MEETING MINUTES.

✓ A.2 2017-0215

SOUTH DELTA AVIATION, INC. THREE YEAR LEASE AGREEMENT:

A RESOLUTION TO APPROVE A THREE YEAR LEASE AGREEMENT WITH SOUTH DELTA AVIATION, INC. FOR THE AIRPORT HANGAR AT 4568 SOUTH SCHOOL AVENUE AND OFFICE SPACE IN THE AIRPORT TERMINAL BUILDING AT 4500 SOUTH SCHOOL AVENUE FOR RENT IN THE AMOUNT OF \$4,200.00 PER MONTH

Attachments: SOUTH DELTA AVIATION, INC.

✓
A/3 2017-0203

T-N-T, INC. CHANGE ORDER NO. 3:

A RESOLUTION TO APPROVE CHANGE ORDER NO. 3 TO THE CONTRACT WITH T-N-T, INC. OF VAN BUREN, ARKANSAS IN THE AMOUNT OF \$21,096.00 FOR ROAD AND PARKING IMPROVEMENTS AT WILSON PARK, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: T-N-T, INC. CHANGE ORDER NO. 3
 BA_T-N-T, INC. CHANGE ORDER NO. 3

✓
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FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO SURVEILLANCE SYSTEMS:

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Attachments: FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO SURVEILLANCE
 SYSTEMS
 BA_FAYETTEVILLE DISTRICT COURT ACCESS CONTROL AND VIDEO SURVEILLANCE
 SYSTEMS

✓
A/5 2017-0183

HAWKINS-WEIR ENGINEERS, INC.:

A RESOLUTION TO APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC. IN AN AMOUNT NOT TO EXCEED \$71,820.00 FOR ENGINEERING SERVICES RELATED TO THE ELIMINATION OF THE MASTERS SEWER LIFT STATION, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$7,182.00

Attachments: HAWKINS-WEIR ENGINEERS, INC.

AV6 2017-0199

WASHINGTON REGIONAL MEDICAL CENTER:

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Attachments: WASHINGTON REGIONAL MEDICAL CENTER

B. Unfinished Business: None**C. Public Hearing:**

CM 2017-0214

CONDEMNATION LITIGATION SETTLEMENT AGREEMENT:

A RESOLUTION TO AUTHORIZE A SETTLEMENT AGREEMENT WITH DRAKE STREET PROPERTY, LLC; 1155 PROPERTIES, LLC; AND RPM1 PROPERTIES-FAYETTEVILLE, LLC A/K/A RPM1 PROPERTIES, LLC CONCERNING CONDEMNATION LITIGATION FILED FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE

Attachments: CONDEMNATION LITIGATION SETTLEMENT AGREEMENT

D. New Business:

DM 2017-0218

CULLERS SEWER EXTENSION:

A RESOLUTION TO APPROVE AN EXTENSION OF THE CITY'S SEWERAGE SYSTEM BEYOND THE CITY LIMITS TO A PROPOSED DEVELOPMENT NEAR HUGHMOUNT ROAD AND LIERLY LANE

Attachments: CULLERS SEWER EXTENSION

DV2 2017-0201

UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT:

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Attachments: UNIVERSITY OF ARKANSAS SEFOR SEWER AGREEMENT

DV3 2017-0028

AMEND § 51.146 BACKFLOW PREVENTION:

AN ORDINANCE TO AMEND § 51.146 **BACKFLOW PREVENTION** OF THE FAYETTEVILLE CODE TO MORE CLOSELY CONFORM TO THE LATEST AMERICAN WATER WORKS ASSOCIATION AND ARKANSAS STATE PLUMBING CODE

Attachments: BACKFLOW PREVENTION CODE REVISION

DV4 2017-0205

RZN 17-5728 (1640 S. HANSHEW RD./WM. LINDSEY):

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DV5 2017-0207

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Attachments: RZN 17-5733 (SE OF CROSSOVER RD. & HEARTHSTONE DR.)

D. 6

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D. 7

2017-0211**FAYETTEVILLE COMMERCE PARK LAND SALE:**

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Attachments: FAYETTEVILLE COMMERCE PARK LAND SALE - AR-CANNA, LLC

D. 8

2017-0216**UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT**

Consent
A RESOLUTION TO APPROVE A ONE YEAR CONTRACT WITH THE UNIVERSITY OF ARKANSAS - RAZORBACK TRANSIT WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE YEAR TERMS IN AN ANNUAL AMOUNT OF \$250,000.00 FOR THE PROVISION OF PUBLIC TRANSIT SERVICES WITHIN THE CITY OF FAYETTEVILLE

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Attachments: AMENDMENT TO A BILL OF ASSURANCE (354 N. DOUBLE SPRINGS RD./PINNACLE BANK)

E. City Council Agenda Session Presentations:

E. 1 2017-0212

AGENDA SESSION PRESENTATION - FAYETTEVILLE URBAN FORESTRY ADVISORY BOARD ANNUAL REPORT

Attachments: Urban Forestry Advisory Board 2017

F. City Council Tour:

G. Announcements:

H. Adjournment

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