



FAYETTEVILLE CITY COUNCIL  
AGENDA  
NOVEMBER 9, 2009  
7:00 P.M.  
City Hall Council Chamber

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**1.0 CALL TO ORDER**

**2.0 INVOCATION**

**3.0 PLEDGE OF ALLEGIANCE**

**4.0 APPROVAL OF AGENDA**

**5.0 ANNOUNCEMENTS AND RECOGNITIONS**

**6.0 PUBLIC FORUM**

- 6.1 The public forum is designed to invite citizen input and discussion. The public forum is held on the second Monday of every month and shall be the first item of business after the Approval of the Agenda. The public forum shall last no longer than 15 minutes. The Mayor shall have the discretion to extend the public forum up to 30 minutes. Each speaker shall have up to two (2) minutes to speak. Anyone desiring to speak may sign up in advance with the City Clerk located on the Second Floor, City Hall, 433 Hay Street, Fayetteville, N.C., by FAX at (910) 433-1980, or by e-mail at [Cityclerk@ci.fay.nc.us](mailto:Cityclerk@ci.fay.nc.us). If speakers provide the subject matter ahead of the meeting, the City staff can ensure that appropriate information is available at the meeting. This information, however, is not required.

**7.0 CONSENT**

- 7.1 **Approve Minutes:**
- **Appointment Committee Meeting Held on August 20, 2009**
  - **City Council Work Session Meeting Held on September 8, 2009**
  - **City Council Meeting Held on September 14, 2009**

**- Agenda Briefing Meeting Held on September 23, 2009**

**- City Council Meeting Held on September 28, 2009**

- 7.2 City Attorney - Approval of Settlements in *Wendy Murphy v. City of Fayetteville* and *U.S. Airways and Estate of Jesse Marquil King v. City of Fayetteville***
- 7.3 City Clerk - Accept the Certification of Results from the Cumberland County Board of Elections for the October 6, 2009 Municipal Primary Election for Mayor, City Council Districts 2, 4 and 6**
- 7.4 Community Development - Renewal of the Urban Progress Zone designation**
- 7.5 Engineering & Infrastructure - Bid Recommendation for Cape Seal Asphalt Surface Treatment and Joint Sealing**
- 7.6 Engineering & Infrastructure - Municipal Agreement with NCDOT for Bridge Inspections**
- 7.7 Engineering & Infrastructure - Bid Recommendation for the Purchase of One (1) Multi Terrain Loader and One (1) 11,000 Lb. Compact Excavator**
- 7.8 Finance - Special Revenue Fund Project Ordinance 2010-10 (COPS Technology Grant)**
- 7.9 Finance - Special Revenue Fund Project Ordinance 2010-11 (FY2008 Assistance to Firefighters Grant - Fire Prevention and Safety Grant Program)**
- 7.10 Finance - Capital Project Ordinance 2010-13 (Various Transportation and Railroad Crossing Safety Improvement Projects)**
- 7.11 Finance - Tax Refunds of Greater Than \$100**
- 7.12 Fire - Wireless Multi-Gas and Radiation Monitor**
- 7.13 Planning - Case No. P09-30F. The rezoning from C1 Commercial District to R6 Residential District for residential uses on property located on Bailey Street, behind 2521 Lone Pine Dr. Containing 1.01 acres more or less and being the property of Rollin and Jennie Raymes.**

- 7.14 **Planning - Case No. P09-31F. The rezoning from C1A Commercial District to R5 Residential District for residential uses on property located at 221 Old Wilmington Road. Containing 0.17 acres more or less and being the property of Fayetteville Metropolitan Housing Authority.**
- 7.15 **Planning - Case No. P09-32F. The rezoning from R5 Residential District to C3 Commercial District for Kentucky Fried Chicken and additional restaurant parking on property located at 612, 614, 616 Link Street and 613, 615, 617 School Street. Containing 31,864 square feet more or less and being the property of Paris and Potter, Constance Fasul Potter, Anna Sylvia Fasul and Katherine Fasul.**
- 7.16 **Planning - Special Sign Permit Request for up to 23 temporary event signs between November 10 and November 21 for the Greek Orthodox Spaghetti Fund Raiser at 614 Oakridge Avenue on November 18, 2009.**
- 7.17 **Planning - Special Sign Permit Request for 20 to 25 temporary event signs between November 10 and November 30 for the Heart of Christmas Show.**
- 7.18 **Police - Bid Recommendation for the Purchase of a Police Tactical Robot**
- 7.19 **PWC - Bid Recommendation – Cross Creek Water Reclamation Facility Plant Control System Replacement**
- 7.20 **PWC - Bid Recommendation – Water and Wastewater Chemicals**
- 7.21 **PWC - Financial Items: Capital Project Fund Resolutions and Budgets; Amendment #1 – Sewer Extension Funding Policy, Annexation, Phase V, Project #1; Amendment #1 to the PWC General Fund Budget**
- 7.22 **PWC - T-Mobile License Agreement and Memorandum of License Agreement**

## **8.0 PUBLIC HEARINGS**

- 8.1 **City Attorney - Authorization of the Issuance of Multifamily Revenue Bonds by the Fayetteville Metropolitan Housing Authority**

Presented By: R. Jonathan Charleston, Attorney for Fayetteville Metropolitan Housing Authority

**8.2 City Attorney - Consider Adoption of an Ordinance Prohibiting the Tethering of Dogs**

Presented By: Animal Control Ad Hoc Committee

**8.3 Police - Consideration of proposed ordinance revisions to Article VII, Wrecker & Tow Ordinance**

Presented By: Matthew Dow, Sergeant

**9.0 OTHER ITEMS OF BUSINESS**

**9.1 Appointment Committee - Presentation of Appointment Committee Recommendations to Fill Four (4) Board and Commission Vacancies**

Presented By: Bobby Hurst, City Council Member

**9.2 City Attorney - Consider Adoption of Resolution Authorizing Condemnation to Acquire Property for the Multi-Modal Transportation Center**

Presented By: Karen M. McDonald, City Attorney

**9.3 Planning - Request from the Cumberland County Planning Board regarding a sidewalk waiver for property along John B. Carter Road south of the intersection with Macedonia Church Road, within the Sewer Service Area.**

Presented By: Karen S. Hilton, Interim Planning Director

**9.4 City Manager's Office - FY 2010 Strategic Plan's Policy and Management Action Agenda- 1st Quarter Report**

Presented By: Doug Hewett, Assistant City Manager

**10.0 ADMINISTRATIVE REPORTS**

**10.1 City Clerk - Monthly Statement of Taxes for September 2009**

**10.2 City Clerk - Report for the City of Fayetteville Update Tax Levy for 2009-2010 Fiscal Year**

**10.3 Finance - Tax Refunds of Less Than \$100**

**11.0 ADJOURNMENT**



## **CLOSING REMARKS**

### **POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS**

Anyone desiring to address the Council on an item that is not a public hearing must present a written request to the City Manager by 10:00 a.m. on the Wednesday preceding the Monday meeting date.

### **POLICY REGARDING PUBLIC HEARING AGENDA ITEMS**

Individuals wishing to speak at a public hearing must register in advance with the City Clerk. The Clerk's Office is located in the Executive Offices, Second Floor, City Hall, 433 Hay Street, and is open during normal business hours. Citizens may also register to speak immediately before the public hearing by signing in with the City Clerk in the Council Chamber between 6:30 p.m. and 7:00 p.m.

### **POLICY REGARDING CITY COUNCIL MEETING PROCEDURES SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM**

Individuals who have not made a written request to speak on a nonpublic hearing item may submit written materials to the City Council on the subject matter by providing twenty (20) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

**COUNCIL MEETING WILL BE AIRED  
NOVEMBER 9, 2009 - 7:00 PM  
COMMUNITY CHANNEL 7**

**COUNCIL MEETING WILL BE RE-AIRED  
NOVEMBER 11, 2009 - 10:00 PM  
COMMUNITY CHANNEL 7**

***Notice Under the Americans with Disabilities Act (ADA):*** *The City of Fayetteville will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. Anyone who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in the City program, service, or activity, should contact the office of Ron McElrath, Acting ADA Coordinator, at [rmcelrath@ci.fay.nc.us](mailto:rmcelrath@ci.fay.nc.us), 910-433-1605 or 910-433-1696, or Rita Perry, City Clerk at [cityclerk@ci.fay.nc.us](mailto:cityclerk@ci.fay.nc.us), or 910-433-1989, as soon as possible but no later than 48 hours before the scheduled event.*

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Rita Perry, City Clerk  
**DATE:** November 9, 2009  
**RE:** **Approve Minutes :**  
- **Appointment Committee Meeting Held on August 20, 2009**  
- **City Council Work Session Meeting Held on September 8, 2009**  
- **City Council Meeting Held on September 14, 2009**  
- **Agenda Briefing Meeting Held on September 23, 2009**  
- **City Council Meeting Held on September 28, 2009**

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**THE QUESTION:**

Does City Council approve the draft minutes as the official record of the proceedings and actions of the associated meetings?

**RELATIONSHIP TO STRATEGIC PLAN:**

Greater Community Unity - Pride in Fayetteville; Objective 2: Goal 5: Better informed citizenry about the City and City government.

**BACKGROUND:**

The Fayetteville City Council conducted meeting(s) on the referenced date(s) during which they considered items of business as presented in the draft minutes.

**ISSUES:**

N/A

**OPTIONS:**

1. Approve the draft minutes as presented.
2. Revise the draft minutes and approve the draft minutes as revised.
3. Do not approve the draft minutes and provide direction to staff.

**RECOMMENDED ACTION:**

Approve the referenced draft minutes as presented.

**ATTACHMENTS:**

Approve Minutes - Appointment Committee  
Approve Minutes - City Council Work Session  
Approve Minutes - City Council Regular Minutes  
Approve Minutes - Agenda Briefing Minutes for September 23, 2009  
Approve Minutes - CC Regular Meeting Minutes for September 28, 2009

# DRAFT

FAYETTEVILLE CITY COUNCIL  
APPOINTMENT COMMITTEE MINUTES  
ST. AVOLD CONFERENCE ROOM  
AUGUST 20, 2009  
4:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Bobby Hurst, Chair (District 5);  
Valencia A. Applewhite (District 7); Wesley A. Meredith  
(District 9)

Others Present: Doug Hewett, Assistant City Manager  
Patricia Bradley, Assistant City Attorney  
Rob Anderson, Chief Development Officer  
Victor Sharpe, Community Development Director  
Michael Gibson, Parks & Recreations Director  
Karen Hilton, Assistant Planning Director  
David Steinmetz, Code Enforcement Administrator (Zoning)  
Greg Caison, Stormwater Manager  
Ron McElrath, Human Relations Specialist  
Rita Perry, City Clerk

Council Member Hurst called the meeting to order at 4:00 p.m.

**1. Approval of Agenda**

**MOTION:** Council Member Hurst moved to approve the agenda.  
**SECOND:** Council Member Applewhite  
**VOTE:** UNANIMOUS (4-0)

**2. Approval of Minutes from February 23, 2009 Meeting**

Council Member Hurst requested an update regarding Mayor Chavonne's suggestion to conduct applicant interviews for key boards and commissions. Assistant City Manager Doug Hewett informed the committee that a supplemental application for the Zoning Commission, Planning Commission, Public Works Commission, Personnel Review Board, Stormwater Advisory Board, and Board of Adjustment is forthcoming to provide more detailed aspects of an applicant's experience and/or qualifications to assist in future appointments.

**MOTION:** Mayor Pro Tem Meredith moved to approve the February 23, 2009 minutes.  
**SECOND:** Mayor Chavonne  
**VOTE:** UNANIMOUS (4-0)

**3. Recommendations for Appointment to City of Fayetteville Boards and Commissions**

Council Member Hurst requested to receive the Appointment Committee information approximately two weeks prior to the next scheduled meeting which Assistant City Manager Doug Hewett agreed.

**A. Airport Commission**

Council Member Hurst led a review of applications to fill three vacancies due to term expirations. By consensus, recommendation was for Dudley C. Miller to serve a second term to expire September 2011; for Roy B. Goforth to serve a second term to expire September 2011; and for Ralph P. Hamilton to serve a second term to expire September 2011.

**B. Board of Adjustment**

Council Member Hurst led a review of applications to fill five vacancies due to term expirations. By consensus, recommendation was for Colleen F. Astrike to serve a second term to expire September 2011; for Dennis G. Gould to serve a second term to expire September 2011; for Barbara Spigner to serve a second term to expire September

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2011; for William Jenkins to serve a first term to expire September 2011; and for Bruce Arnold to serve a first term to expire September 2011.

## C. Board of Appeals on Dwellings and Buildings

Council Member Hurst led a review of applications to fill three vacancies due to term expirations. By consensus, recommendation was for Edward David to serve a first term to expire September 2011; for Ronald Newman to serve a first term to expire September 2011; with one vacancy recommendation pending.

**September 4, 2009: Vacancy filled by Maxine McNeill to serve a first term to expire September 2012.**

## D. Fair Housing

Council Member Hurst led a review of applications to fill one vacancy due to removal. By consensus, recommendation was for Pollie M. Washington to serve a fill-in term to expire March 2011.

## E. Fayetteville Cumberland Human Relations Commission

Discussion ensued regarding making the applicants' information available to the staff liaisons for each Board/Commission. Assistant City Manager Doug Hewett informed the Committee that the staff liaisons were present to provide information and answer questions concerning the boards' duties.

Council Member Hurst led a review of applications to fill six vacancies due to three term expirations and three resignations. By consensus, recommendation was for Marvin Price, Jr., to serve a first term to expire September 2011; for Jane Jean-Barnard to serve a first term to expire September 2011; for Shannon Shurko to serve a first term to expire September 2011; for Cindy Lee Harrington to serve a first term to expire September 2011; for Milind Dongre to serve a fill-in term to expire September 2010; and for Robin Harris to serve a fill-in term to expire September 2010.

## F. Fayetteville Cumberland Parks and Recreation Advisory Committee

Council Member Hurst led a review of applications to fill one vacancy due to removal. By consensus following further applicants review, recommendation was for Steven Rogers to serve a fill-in term to expire September 2011.

## G. Fayetteville Finance Corporation

Based on City Attorney Karen McDonald's memorandum, City Manager Dale E. Iman, Chief Financial Officer Lisa Smith, William Brooks and Keith Love were recommended for reappointment to the Fayetteville Finance Corporation.

## H. Fayetteville Redevelopment Commission

Council Member Hurst led a review of applications to fill one vacancy due to resignation. By consensus following further applicants review, recommendation was for Brook Browning to serve a fill-in term to expire March 2010.

## I. Fayetteville Planning Commission

**MOTION:** Council Member Hurst moved to accept the late application submittal by Mark Ledgers due to the death of his mother.

**SECOND:** Mayor Pro Tem Meredith

**VOTE:** UNANIMOUS (4-0)

Council Member Hurst led a review of applications to fill five vacancies due to term expirations. By consensus, recommendation was for Mark Ledger to serve a second term to expire September 2011; for Charles H. Astrike to serve a second term to expire September 2011;

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for Sarah Bialeschki to serve a first term to expire September 2011; for Ronald Michael to serve a first term to expire September 2011; and for Bill J. Snuggs to serve a first term as an alternate to expire September 2011.

## **J. Fayetteville Zoning Commission**

Council Member Hurst led a review of applications to fill five vacancies due to two term expirations, one resignation, and two removals. By consensus following further applicants review, recommendation was for John Crawley to serve a second term to expire September 2011; for Peter A. Paoni to serve a second term to expire September 2011; for Marshall Isler to serve a first term to expire September 2011; for Martin Hendrix to serve a first term to expire September 2011; and for Steven Coe Mannell, Jr., to serve a first term to expire September 2011.

## **K. Historic Resources Commission**

Council Member Hurst led a review of applications to fill two vacancies due to one Category 6 (At-Large) resignation and one Category 3 (Realtor, Developer or General Contractor) removal. Following a brief discussion regarding the requirement of a Category 3 appointment, the consensus was no applicants met the criteria; therefore, a specialty announcement will be generated to obtain qualified applicants.

Following further review of applications to fill the Category 6 (At-Large) vacancy, consensus was to recommend Catherine M. Mansfield to serve a first term to expire September 2011.

**September 4, 2009: Vacancy filled by Neil Grant, Developer, to serve a first term to expire March 2011.**

## **L. Joint City and County Appearance Commission**

Council Member Hurst led a review of applications to fill three vacancies due to one term expiration and two removals. By consensus following further applicants review, recommendation was for Kamina Fitzgerald to serve a first term to expire September 2011; with one vacancy recommendation pending.

**September 4, 2009: Vacancy filled by George M. Dudley to serve a first term to expire September 2011.**

## **M. Joint Fayetteville-Cumberland County Senior Citizens Advisory Commission**

Council Member Hurst led a review of applications to fill six vacancies due to four term expirations and two resignations. By consensus following further applicants review, recommendation was for Arnold Williams to serve a second term to expire September 2011; for Catherine B. Van Sickle to serve a second term to expire September 2011; for John H. Hester to serve a first term to expire September 2011; for Lynn Legatski to serve a first term to expire September 2011; for Barbara Jennings to serve a first term to expire September 2011; and for Ronald Newman to serve a first term to expire September 2011.

## **N. Public Works Commission**

Council Member Hurst led a review of applications to fill one vacancy due to term expiration. By consensus following further applicants review, recommendation was for Wilson A. Lacy to serve a third term to expire September 2011.

## **O. Public Works Commission Supplemental Employees' Retirement Plan Board**

Council Member Hurst led a review of applications to fill one vacancy due to term expiration. By consensus following further

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applicants review, recommendation was for A. Johnson Chestnutt to serve a first term to expire September 2011.

## **P. Stormwater Advisory Board**

Council Member Hurst led a review of applications to fill five vacancies due to the establishment of this board in accordance with City Ordinance No. S2009-004, § 1,5-26-2009). By consensus following further applicants review, recommendation was for Charles A. Donnell to serve a first term of two years to expire September 2011; for Donald M. Stewart, Jr., to serve a first term of two years to expire September 2011; for Carolyn G. Mercer to serve a first term of two years to expire September 2011; for John R. Mattox to serve a first term of one year to expire September 2010; for Daniel Mark Harrington to serve a first term of one year to expire September 2010.

## **Q. Taxicab Review Board**

Council Member Hurst led a review of applications to fill three vacancies due to term expirations. By consensus following further applicants review, recommendation was for Victor Jay Crisco to serve a second term to expire September 2011; for Paul Burnette to serve a first term to expire September 2011; and for Joseph A. Robinson to serve a first term as an alternate to expire September 2011.

## **R. Transit Advisory Committee**

Council Member Hurst led a review of applications to fill three vacancies due to one Chamber of Commerce representative resignation, one Human Service Agency representative vacancy, and one bus rider representative vacancy. By consensus following further applicants review, recommendation was for Todd Lydon to serve a first term as a Chamber of Commerce representative to expire September 2011; for Michael Evans to serve a first term as a bus rider representative to expire September 2011; and to contact Cumberland County Department of Social Services for a Human Service Agency representative (tentative appointment - Crystal Black).

**September 4, 2009: Human Service Agency representative appointment filled by Crystal Black to serve a first term to expire September 2011.**

## **5. Adjournment**

There being no further business, the meeting adjourned at 5:20 p.m.

Respectfully submitted,

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RITA PERRY  
City Clerk

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ANTHONY G. CHAVONNE  
Mayor

082009

# DRAFT

FAYETTEVILLE CITY COUNCIL  
WORK SESSION MINUTES  
CITY HALL COUNCIL CHAMBER  
SEPTEMBER 8, 2009  
5:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3) (arrived at 5:30 p.m.); Darrell J. Haire (District 4); Council Member Bobby Hurst (District 5); William J. L. Crisp (District 6) (via telephone); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager  
Kristoff Bauer, Assistant City Manager  
Doug Hewett, Assistant City Manager  
Karen M. McDonald, City Attorney  
Jerry Dietzen, Director of Environmental Services  
Liz Burdock, Green Works Partners  
John Zinner, Green Works Partners  
Victor Sharpe, Community Development  
Marshall Isler, Consultant  
Tom Bergamine, Chief of Police  
Jami Sheppard, Downtown Development Manager  
Jackie Tuckey, Communications Manager/Public  
Information Officer  
Karen Hilton, Planner II  
Rita Perry, City Clerk  
Members of the Press

## CALL TO ORDER

Mayor Chavonne called the meeting to order at 5:00 p.m.

## INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Haire provided the invocation followed by the Pledge of Allegiance to the American Flag.

### 1. APPROVAL OF AGENDA

MOTION: Council Member Meredith moved to approve the agenda.  
SECOND: Council Member Bates  
VOTE: UNANIMOUS (10-0)

### 2. UPDATE ON THE DRAFT SUSTAINABILITY PLAN FOR THE CITY OF FAYETTEVILLE

Mr. Gerald Dietzen, Director of Environmental Services, introduced Liz Burdock and John Zinner from the consulting firm of Green Works Partners. Mrs. Burdock stated that when the stimulus package was passed in February it included a program under the US Department of Energy (DOE) called the Energy Efficiency and Conversation Block Grant Program which was a large allocation funding program offered to cities and states with a requirement that a plan be developed and submitted to DOE. She stated this presented a great opportunity and funding to create the Sustainability Master Plan in alignment with the Fayetteville Strategic Plan and the DOE Plan. She briefed Council on the triple bottom line of sustainability definition (People, Profit & Planet) and the process in drafting the plan, which included research of programs already implemented in the City and stakeholder interviews at the local, regional, and state levels. She summarized the process by which the collected information was used to make determinations, the format used to draft the plan, goals, definition, timeline and implementation and funding.

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Council Member Bates inquired whether the City's energy audit report was incorporated in the funding calculations and the receipt of grant money from the state to implement the audit recommendations. Mr. Iman informed Council the consultant had reviewed the energy audit report and the most expeditious payback results would be incorporated into the plan. He stated the Sustainability Master Plan was a prerequisite of obtaining the \$1.65 million earmarked for the City of Fayetteville. Mrs. Burdock stated additional funding would be forthcoming from the federal government through the State Energy Program. She stated the \$1.65 million was from the Department of Energy whereas the plan must be presented prior to the money being relinquished.

Mayor Chavonne questioned whether cities could address some of the issues themselves and if defining the carbon footprint of a city without county information was practical. Mr. Zinner responded the local carbon footprint was a starting point for city facilities and operations that the city controls. He stated the purpose was from a monitoring standpoint.

Mrs. Burdock and Mr. Zinner responded to questions regarding air quality, transportation improvement, the protection watershed and the public meetings' times, dates, and locations and funding timeline.

Mr. Iman informed Council of the necessity for this item to come back before Council prior to the October 17, 2009, deadline for submittal of the Sustainability Master Plan.

**MOTION:** Council Member Bates moved to continue the Draft Sustainability Master Plan process with the inclusion of the appropriate revisions, public input, and to bring the plan back to the City Council by the October 17, 2009, deadline.

**SECOND:** Council Member Mohn

**VOTE:** UNANIMOUS (10-0)

### 3. SECTION 6-226 (KEEPING HOGS WITHIN CORPORATE LIMITS) - PIA COMPLAINT

Mr. Kristoff Bauer, Assistant City Manager, presented this item and stated the request was for Council to recommend staff proceed with an Administrative Policy to address current and future issues. He provided a brief comparison of ordinances from other municipalities regarding this matter. He stated staff had responded to complaints regarding the existence of a pot-bellied pig within the City limits. He explained upon investigation it was not clear whether there was a violation and no citation was issued. He reviewed staff's analysis regarding service, psychiatric, and emotional support animals. He summarized Council's options as follows: (1) take no action, in which case staff would move forward to enforce the existing ordinance, which means if an animal that meets the definition of a hog is verified within city limits a notice of violation would be issued and the recipient would have 72 hours to remediate the violation or face potential penalties; (2) repeal the current ordinance by amendment or removal; or (3) implement an Administrative Accommodation Policy which would grant the City Manager the authority to implement a policy regarding an accommodation for animals not otherwise included.

Council Member Bates requested Mr. Iman to explain "Administrative Accommodation". Mr. Iman explained the Administrative Accommodation Policy would not issue an open approval for a pot-bellied pig without meeting certain requirements.

A question and answer period ensued regarding the Administrative Accommodation Policy's requirements, the current ordinance, federal guidelines, liability issues and the possibility of requiring the homeowners association's approval.



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**MOTION:** Council Member Bates moved to approve the authorization of City staff to proceed with implementing an Administrative Accommodation Policy.

**SECOND:** Council Member Evans

**FRIENDLY AMENDMENT:**

Council Member Evans requested to add the stipulation requiring Neighborhood Association approval or the submittal of a neighborhood approval petition prior to allowing this matter in a neighborhood.

**DECLINED:** Council Member Bates

**VOTE:** FAILED by a vote of 5 in favor (Council Members Chavonne, Bates, Evans, Haire, and Mohn) to 5 in opposition (Council Members Applewhite, Crisp, Hurst, Massey and Meredith)

#### 4. PRESENTATION ON THE MURCHISON REDEVELOPMENT FUNDING STRATEGY

Mr. Victor Sharpe, Community Development Director, stated staff was requesting guidance for funding regarding implementation of the Murchison Road corridor redevelopment. He stated the \$1 million anticipated from the sale of the property for the State Veteran's Park would have to be substituted in a future report.

Mayor Chavonne clarified the request was to bring the item back to Council to take action. Mr. Sharpe stated the request would be for Council to adopt the recommended funding policies. He stated each plan would require Council approval. Mr. Iman informed Council that under state statute all economic development incentives must have a Council presided public hearing.

Mr. Marshall Isler, Consultant, presented this item and provided an overview of proposed site plans (commercial complex, townhouses, and park); the City's role which consists of land acquisition, demolition, tenant relocation, recombination of parcels, developer recruitment, gap financing (2nd mortgage to developer), subsidized relocation assistance; and financing. He stated \$10 million was the total public participation and the City's portion was \$8.8 million.

Mayor Chavonne questioned whether taxable percentage calculations were performed and who would be the recipient of the proceeds from state acquisition of businesses affected by the removal of the Grove Street Bridge as it relates to the City assisting those same businesses in opting into the proposed complex. Mr. Isler responded in the affirmative regarding the taxable percentage calculations and stated the business owner was reimbursed by the State.

Council Member Applewhite requested clarification regarding the quantity of affordable housing units. Mr. Isler clarified the proposal was for a combined total of 54 affordable housing units, 24 units on Site One and 30 units on Site Three, and stated affordable housing was available to families who make less than 80 percent of the area's medium income.

Mr. Isler proceeded to provide the potential financing sources.

Mayor Chavonne questioned whether CDBG monies would be guaranteed in the future. Mr. Isler stated HUD would allow the pledges with the assumption that the program would be in existence and it was a strong program.

Council Member Bates questioned the impact on existing projects if future CDBG funds were pledged. Mr. Isler stated existing projects would not be affected. Mr. Sharpe explained the annual plan reporting process would track any debt services and described the HUD Section 108 funding process related to economic development in low-income areas.

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Council Member Applewhite questioned when Council would receive the City Manager's opinion as it relates to feasibility. Mr. Iman stated this proposal was a textbook example of what community development block grant funds were created. The economy and investors would indicate whether the time was right.

Mr. Isler concluded the funding strategy presentation.

A question and answer period ensued regarding second mortgages and rental subsidization. Mr. Isler explained the second mortgage and rent subsidizing processes.

**MOTION:** Council Member Haire moved to have Council hear this matter at a regular Council meeting with substantiating reports, funding revisions, and City Manager consensus.

**SECOND:** Council Member Massey

**VOTE:** PASSED by a vote of 8 in favor to 2 in opposition (Council Members Bates and Meredith)

## 5. UPDATE ON DOWNTOWN DEVELOPMENT ACTIVITIES

Mr. Dale Iman, City Manager, introduced Jami Sheppard, Downtown Development Manager. Ms. Sheppard presented an overview on how the downtown development program incorporates with the strategic plan and the methods utilized to encourage the progress of businesses and economic development in the downtown area.

Council Member Evans requested Mr. Iman to address the problems areas past the Market House such as near the bus station and hotel. Mr. Iman stated a new transfer station was forthcoming and there had been an increase of police presence in the area.

Council Member Meredith requested information regarding the radio show, downtown branding, and brochures mentioned in the presentation. Ms. Sheppard explained the marketing of downtown and the radio show of which downtown was the forum.

Following a brief discussion, consensus was for the downtown development program to continue and maintain records of the economic activity statistics for future comparison.

## 6. CONSIDER RECOMMENDATION FROM THE PLANNING COMMISSION TO ESTABLISH A TASKFORCE REGARDING EARLY CHILDHOOD DEVELOPMENT AS PART OF THE PROCESS FOR DEVELOPING DAYCARE REGULATIONS

Karen Hilton, Planner II, presented an overview on how the proposed task force evolved. She stated the Partnership for Children prepared an outline of the issues the proposed task force could address which included coordination of the different levels of government standards, zoning, and quality of daycares in the City. She informed Council of the following options: (1) Council establish the task force, (2) Council establish the task force focusing on the zoning aspect, or (3) Reject the request of a City Council-established taskforce and request the Planning Commission to recommend revised zoning regulations for daycares as previously outlined.

Council Member Applewhite requested Mrs. Eva Hansen, Partnership for Children, to explain what the staff's involvement would be on addressing the focus issues. Mrs. Hansen explained the Partnership would coordinate and facilitate a task force and ask Council to request the City Manager to designate a staff member to participate, at a broad scope, for a maximum of 120 days. She stated the staff member would be needed for approximately one hour a week.

**MOTION:** Council Member Applewhite moved for staff support from the City Planning Department to participate on a task force, established, organized and managed by the Partnership for Children, for a maximum period of 120 days.

**SECOND:** Council Member Hurst

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Questions and a brief discussion ensued.

**VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Bates and Evans)**

## 7. UPDATE ON COST TO MAINTAIN MANN STREET CEMETERY

Michael Gibson, Parks & Recreation Director, provided a summary of the history of this proposal. He presented a cost analysis of the maintenance for City-owned cemeteries, which consisted of seven parcels, totaling 99 acres. He stated the amount of available cemetery plots were limited and described the various levels of maintenance. He explained the repercussions of maintaining cemeteries that were not owned by the City.

Council Member Evans questioned where the parcels in question were located. Mr. Gibson referred Council to the map on page 86 of the agenda packet, Parcel 3 and Parcel 6.

**MOTION: Council Member Meredith moved for the Parks & Recreation Department to maintain only City-owned parcels located in the Mann Street Cemetery.**

**SECOND: Council Member Evans**

**VOTE: UNANIMOUS (10-0)**

## 8. CRIME STRATEGY REPORT

Tom Bergamine, Chief of Police, presented an update on the Community Wellness Plan. He detailed the purchases of two automated license plate readers that had been purchased with grants, the GPS tracking units, an alarm system maintained through the telephone system, and the palm reader system.

Council Member Haire requested an explanation of the GPS system. Chief Bergamine stated this would help alleviate the overcrowding of the detention center by utilizing the GPS tracking system as an alternative means of monitoring repeat offenders in conjunction with pretrial release and the district attorney's office. He explained the GPS system as an ankle bracelet which enables 24 hours tracking of an offender through the use of telephone lines.

Chief Bergamine briefed Council on operational efficiency and described the district policing and sector policing concepts. He provided status updates on the following items: new records management system; various departmental training; PERF (Police Executive Research Forum), which was an overall study of the department; case management; warrant specials; joint 911 communication center; recruitment; bike patrol; crime prevention; community watch; GREAT (Gang Resistant Education and Training) Program; community partnerships; community forums; jail diversion team; B Street Project; Police Foundation; full-service search warrants and domestic violence.

A question and answer period ensued.

## 9. UPDATE OF RESIDENTIAL RENTAL PROPERTY PROGRAMS

Doug Hewett, Assistant City Manager, reviewed the elements of the rental inspections program and the basis for implementing a residential rental property program. He provided descriptions and cost analysis of the following programs: (1) Rental Registration Program; (2) Rental Inspection Program; and (3) PROP (Probationary Rental Occupancy Permit) program.

A question and answer period ensued regarding the proposed programs.

**OPTION 1: City staff to implement a Rental Registration Program**

**VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council Members Applewhite, Bates and Haire)**

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OPTION 2: City staff to implement a Rental Inspection Program  
VOTE: FAILED by a vote of 4 in favor (Council Members Crisp, Evans, Massey and Mohn) to 6 in opposition

OPTION 3: City staff to implement a PROP Program  
VOTE: UNANIMOUS (10-0)

Consensus of Council was for staff to develop the Registration Program and PROP Program.

## 10. COUNCIL MEMBER REQUEST

### A. Soil Street paving policy

Mayor Chavonne requested to direct staff to look at the current soil street paving policy and present recommendations to Council.

Council Member Applewhite questioned why they were looking to change the policy since the City was at the end of the paving initiative. Mayor Chavonne responded there had been interest in changing the policy.

The consensus of Council was to direct staff to review the current policy and provide Council with recommendations.

### B. Limitation of Council Member Requests at work sessions

Council Member Applewhite requested to limit the Council Member requests at work sessions to one item per work session for a total of 12 yearly in an effort to balance the workload of staff.

Following discussion, consensus was not to limit the number of Council member requests at work sessions.

### C. Rezone all flood ways within Fayetteville to Conservation District (CD)

Council Member Mohn requested to make all of the City's existing floodway Conservation District. He stated storm water runoff was a problem. Mr. Iman informed Council development was not permitted in a floodway.

Following discussion, consensus of Council was not to proceed further with this item.

There being no further business, the meeting adjourned at 9:55 p.m.

Respectfully submitted,

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RITA PERRY  
City Clerk

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ANTHONY G. CHAVONNE  
Mayor

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FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
CITY HALL COUNCIL CHAMBER  
SEPTEMBER 14, 2009  
7:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager  
Kristoff Bauer, Assistant City Manager  
Karen M. McDonald, City Attorney  
Patricia C. Bradley, Assistant City Attorney  
Lisa Smith, Chief Financial Officer  
Jackie Tuckey, Communications Manager/Public Information Officer  
Rita Perry, City Clerk  
Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Senior Pastor Kenneth Boyd, Praise Fellowship Church of God, followed by the Pledge of Allegiance to the American Flag.

1. APPROVAL OF AGENDA

MOTION: Mayor Pro tem Meredith moved to amend the agenda by moving Item 3. Consent to Item 2. and replacing the bond orders under Item 6 and Item 7 with modified bond orders.

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

3. CONSENT:

Council Member Bates requested to pull Item 3.G. for discussion.

MOTION: Council Member Bates moved to approve the consent agenda with the exception of Item 3.G.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

A. City Attorney/Real Estate-Declare Real Property Surplus - Resolution# R2009-067

B. City Attorney/Real Estate-Land Acquisition

C. Community Development-Contract Award-Homeless Prevention and Rapid Re-Housing Program Grant

D. Finance-Special Revenue Project Ordinance 2010-8 [FY 2009 American Reinvestment and Recovery Act (ARRA) COPS Hiring Recovery Program Grant]

E. Finance-Tax Refunds of Greater than \$100.00.

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Carter, Rebecca Jernigan	2007	Corrected Assessment	\$105.42
TOTAL			<u>\$105.42</u>

F. Planning-Special Sign Permit for Event Signs from September 26 through October 4, 2009, at Six Locations, for the Home Builders' Parade of Homes

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G. Pulled for discussion by Council Member Bates

H. PWC-Annexation, Phase V, Project 2, Area 6 "South LaGrange to State Utility Contractors, Monroe, NC, the lowest responsive, responsible bidder in the total amount of \$1,310,744.93.

Bids were received as follows:

State Utility Contractors (Monroe, NC) .....	\$1,310,744.93
Triangle Grading & Paving (Burlington, NC) .....	\$1,392,982.00
ES&J Enterprises (Autryville, NC) .....	\$1,429,945.37
Utilities Plus (Linden, NC) .....	\$1,486,892.91
Hendrix-Barnhill (Smithfield, NC) .....	\$1,526,127.31
Billy Bill Grading (Fayetteville, NC) .....	\$1,666,129.00
T.A. Loving Co (Goldsboro, NC) .....	\$1,725,441.00
R.H. Moore Co. (Murrells Inlet, SC) .....	\$1,729,269.00

I. PWC-Annexation, Phase V, Project 2, Area 7 "Summerhill/Roundtree to ES&J Enterprises, Inc., Autryville, NC, the lowest responsive, responsible bidder in the total amount of \$1,973,196.70

Bids were received as follows:

ES&J Enterprises (Autryville, NC) .....	\$1,973,196.70
State Utility Contractors (Monroe, NC) .....	\$2,050,249.80
Hendrix-Barnhill (Smithfield, NC) .....	\$2,102,052.61
Billy Bill Grading (Fayetteville, NC) .....	\$2,120,247.00
T.A. Loving Co (Goldsboro, NC) .....	\$2,583,414.00
Triangle Grading & Paving (Burlington, NC) .....	\$1,856,552.00

J. Fire-Transfer Ownership of 1990 GMC Top Kick Service Unit to Grays Creek Volunteer Fire Dept., Station #24 - Resolution# R2009-068

G. Police - Wrecker Ordinance

Council Member Bates pulled this item for discussion.

MOTION: Council Member Bates moved to have this item presented at the October 5, 2009, work session meeting for additional information.

SECOND: Mayor Pro Tem Meredith

Council Member Haire questioned whether a public hearing would follow the work session meeting. Mayor Chavonne responded it was not required; however, Council could set a public hearing.

Council Member Bates requested a work session meeting date to be set. Mr. Dale Iman, City Manager, confirmed the October 5, 2009, work session meeting.

Council Member Evans inquired why this item was being sent back to a work session meeting. Council Member Bates explained there were questions regarding the proposed charges to towing companies for database access, on-street and off-street towing, and repossessions.

VOTE: UNANIMOUS (10-0)

2. PUBLIC FORUM:

Announcements and Recognition

Council Member Evans invited citizens to attend the ribbon cutting ceremony for the dedication of Lois B. Moses Media Center at G.B. Meyers Recreation Center at 12:00 p.m. on Saturday, September 19, 2009, preceded by a performance by the Westover Senior High School marching band.

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Mayor Chavonne and Council Member Haire, on behalf of the City Council and City of Fayetteville, presented Certificates of Recognition to the Fayetteville Fire Department Hazardous Materials team (Firefighters Scott Gonzales, Johnny Hartman, and John Rzycki and Lieutenants Justin Nobles and Patrick McArdle) for placing first in the 2009 State Haz Mat Challenge on August 22, 2009.

**B. Comment Period**

Mrs. Eileen Rettig, 108 Samuel Street, NC 28312, expressed concerns regarding the noise being emitted from Covenant Love Family Church's sound system at 420 Dunn Road.

Ms. Gwen York, 5703 Cypress Road, Fayetteville, NC 28304, stated she would like a domestic violence unit consisting of specially trained, certified officers within the Police Department.

Mrs. Linda Brown, 3031 Enterprise Avenue, Fayetteville, NC 28312, spoke regarding the reinstatement of Bus Route No. 8 and the F.A.S.T. Transportation Development Plan.

Mr. James Lacy, 2013 Blackfriars Road, Fayetteville, NC 28304, suggested Council lengthen the public forum time to three minutes. He also spoke regarding chickens and roosters as they relate to the City ordinance. He suggested to Council that a pig was not a suitable therapeutic should the pig issue come back in the future.

Mrs. Claire H. Carver-Lacy, 2013 Blackfriars Road, Fayetteville, NC 28304, spoke regarding graffiti, police driving patrol cars home, and police changing into uniforms upon arriving at work to be less noticeable.

**ITEM 4. APPOINTMENT COMMITTEE-PRESENTATION OF APPOINTMENT COMMITTEE RECOMMENDATIONS FOR BOARD/COMMISSION APPOINTMENTS**

Council Member Hurst, Appointment Committee Chair, provided highlights of the August 20, 2009, meeting of the Appointment Committee and called attention to recommendations for appointment.

**MOTION:** Council Member Hurst moved to approve Appointment Committee recommendations for appointments to various boards and commissions.

**SECOND:** Mayor Pro Tem Meredith

Council Member Massey questioned whether the application of Shirley Pillow, who expressed interest in the Airport Commission, was included in the Appointment Committee's packet. Council Member Hurst responded in the affirmative and stated the Airport Commission had been her first and only choice.

Council Member Crisp thanked the Appointment Committee and encouraged fellow Council members to observe the boards and commissions selection process.

**VOTE:** PASSED by a vote of 8 in favor to 2 in opposition (Council Members Bates and Evans)

**ITEM 5. CITY MANAGER-CITY OF FAYETTEVILLE: STATUS REPORT OF ECONOMIC INDICATORS**

Mr. Dale Iman, City Manager, briefed Council on pending bond issues and summarized the bond issuance process. He presented the City's population growth calculations, economic data comparisons with state and national statistics revealing that a strong local economy exists within the City of Fayetteville, various media reports, and the result of BRAC.



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Mayor Pro Tem Meredith inquired when Council would receive a bond update on the City's bond ratings. Mr. Iman deferred to Dwight Miller, PWC Financial Administrator.

**ITEM 6. FINANCE-BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE OF NOT TO EXCEED \$145,000,000 PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS - Resolution# R2009-069**

Mrs. Lisa Smith, Chief Financial Officer, presented this item. She explained the bond order was to refund the City's outstanding Public Works Commission Revenue Refunding Bonds, Series 2003A, and Public Works Commission Revenue Refunding Bonds, Series 2000A, and direct the authentication and delivery of the 2000A bonds to the underwriters. She stated recommendation was for Council to adopt the bond order.

Council Member Bates inquired if the combined total was for Items 6, 7, and 8. Mrs. Smith responded in the negative. She updated the estimated cost was \$116,000,000.

**MOTION: Mayor Pro Tem Meredith moved to adopt the bond order authorizing and approving the issuance and sale of not to exceed \$145,000,000 Public Works Commission Revenue Refunding Bonds, Series 2009A.**

**SECOND: Council Member Massey**

**VOTE: UNANIMOUS (10-0)**

**ITEM 7. FINANCE-BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE OF NOT TO EXCEED \$45,000,000 PUBLIC WORKS COMMISSION REVENUE BONDS - Resolution# R2009-070**

Mrs. Lisa Smith, Chief Financial Officer, presented this item and explained this bond order was for authorizing and approving the issuance and sale of not to exceed \$45,000,000 Public Works Commission Revenue Bonds, Series 2009B; to provide funds for various water and sewer capital improvements; and direct the authentication and delivery of the 2009 bonds to the underwriters. She stated this item represented the final action required of Council to issue these bonds. She stated this bond order was incorporated in the bond order referenced in Item 6 and recommendation was for Council to adopt the bond order.

Council Member Bates requested clarification of the bond amounts. Mrs. Smith provided a summary of the amounts and explained that she was presenting three separate series of bonds.

Council Member Mohn clarified on Page 95 of the agenda the \$45,000,000 specifically addressed the 2009B bonds.

**MOTION: Mayor Pro Tem Meredith moved to adopt the bond order authorizing and approving the issuance and sale of not to exceed \$45,000,000 Public Works Commission Revenue Refunding Bonds 2009B.**

**SECOND: Council Member Haire**

**VOTE: PASSED by a vote of 9 in favor to 1 in opposition (Council Member Bates)**

**ITEM 8. FINANCE-RESOLUTION PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$14,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2009 - Resolution# R2009-071**

Mrs. Lisa Smith, Chief Financial Officer, presented this item and stated this was a completely separate item from the Public Works Commission Revenue Bonds. She explained this was a resolution providing for the issuance of not to exceed \$14,000,000 general obligation Refunding Bonds, Series 2009, and stated recommendation was for Council to adopt the resolution.



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Mr. Dale Iman, City Manager, emphasized these were general obligation bonds and over the life of the bonds the City would save approximately \$800,000.00 because of this action. He stated this action was refinancing an old debt at a lower rate.

Council Member Mohn questioned if these bonds were fixed or variable rates. Mrs. Smith responded they were fixed rate and were being refunded with fixed rate bonds.

MOTION: Council Member Crisp moved to adopt the resolution providing for the issuance of not to exceed \$14,000,000 general obligation Refunding Bonds, Series 2009.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

ITEM 9. INFORMATION ITEMS

1. Monthly Statement of Taxes Collected for the Month of August 2009 from the Cumberland County Tax Administrator

2009 Taxes .....	\$1,640,675.59
2009 Vehicle Taxes .....	328,153.15
2009 Revit .....	1,591.73
2009 Vehicle Revit .....	306.03
2009 FVT .....	34,549.25
2009 Transit Tax .....	34,549.28
2009 Storm Water .....	88,482.46
2009 Fay Storm Water .....	176,964.80
2009 Recycle Fee .....	90,378.67
2008 Taxes .....	31,173.99
2008 Vehicle Taxes .....	101,426.54
2008 Revit .....	0.00
2008 Vehicle Revit .....	31.00
2008 FVT .....	12,382.61
2008 Transit Tax .....	10,930.80
2008 Storm Water .....	2,723.60
2008 Recycle .....	3,143.22
2008 Fay Storm Water .....	2,673.88
2008 Annex .....	( 10.53)
2007 Taxes .....	3,816.90
2007 Vehicle Taxes .....	4,324.06
2007 Revit .....	0.00
2007 Vehicle Revit .....	0.00
2007 FVT .....	788.13
2007 Storm Water .....	352.99
2007 Fay Storm Water .....	489.08
2007 Annex .....	0.00
2006 Taxes .....	930.72
2006 Vehicle Taxes .....	1,042.65
2006 Revit .....	0.00
2006 Vehicle Revit .....	0.00
2006 FVT .....	185.00
2006 Storm Water .....	58.24
2006 Annex .....	6,052.41
2005 and Prior Taxes .....	631.53
2005 and Prior Vehicle Taxes .....	1,427.80
2005 and Prior Revit .....	0.00
2005 and Prior Vehicle Revit .....	0.00
2005 and Prior FVT .....	407.53
2005 and Prior Storm Water .....	83.53
Interest .....	13,350.45
Interest (Revit) .....	2.26
Interest (Storm Water) .....	310.69
Interest (Fay Storm Water) .....	249.75

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Interest (Annex) ..... 677.70  
Interest (Fay Recycling) ..... 218.59  
  
Total Collections ..... \$2,595,526.08

- 2. Report of the City of Fayetteville Taxes for the 2009-2010 Fiscal Year from Cumberland County Tax Administrator
- 3. Report of Tax Refunds Less Than \$100

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Strickland, Michael A.	2008	Adjusted Value	\$15.75
TOTAL			<u>\$15.75</u>

There being no further business, the meeting adjourned at 7:50 p.m.

Respectfully submitted,

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RITA PERRY  
City Clerk

\_\_\_\_\_  
ANTHONY G. CHAVONNE  
Mayor

091409

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**FAYETTEVILLE CITY COUNCIL  
AGENDA BRIEFING MINUTES  
LAFAYETTE ROOM  
SEPTEMBER 23, 2009  
4:00 P.M.**

Present: Council Members Keith A. Bates, Sr. (District 1); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Theodore W. Mohn (District 8)

Absent: Mayor Anthony G. Chavonne; Council Members Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3); Valencia A. Applewhite (District 7); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager  
Karen M. McDonald, City Attorney  
Kristoff Bauer, Assistant City Manager  
Rob Anderson, Chief Development Officer  
Craig Harmon, Planner II  
Karen Hilton, Interim Planning Director

Planning staff gave an overview of the following items scheduled for the Fayetteville City Council's September 28, 2009 agenda:

**CONSENT AGENDA ITEMS:**

**G. Sign permit request by the Junior League for ten signs between October 6 and November 8 for the Holly Day Fair**

Ms. Karen Hilton, Interim Planning Director, wrote sign request.

**H. Community Street Banner Request by the Cape Fear Botanical Garden for banners along the service road, for 180 days**

Ms. Karen Hilton, Interim Planning Director, wrote banner request.

**I. Case P09-27F: The rezoning from R10 Residential District to R6 Residential District for the property located west of All American Expressway, northwest of the intersection with Santa Fe Dr. Containing 84.82 acres more or less and being the property of John and wife Margarete Koenig**

Mr. Craig Harmon showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He clarified Council's options of 1) approval or 2) set a public hearing. Mr. Harmon explained staff received a petition, which would be reviewed to determine its validity.

Council expressed concerns as to whether this would be multi-family. Mr. Rob Anderson, Chief Development Officer, clarified the issues were about the level of density and whether it was appropriate for this location.

**PUBLIC HEARINGS:**

**A. Amendment to the Code of Ordinances, Chapter, Article IV, Section 107 (10), to allow one employee not a resident of the home for an incidental home daycare occupation**

Ms. Karen Hilton, Interim Planning Director, showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mrs. Hilton stated the Zoning Commission recommended approval of the amendment.

**B. Economic Development Incentive - Property Tax Grantback for the Towers at Wood Valley Apartments**

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Mr. Rob Anderson, Chief Development Officer, provided an overview of this item. He reviewed the requirement to extend Preston Avenue. Mr. Anderson stated the development was consistent with the Murchison Road Corridor Plan and staff recommended approval.

- C. P09-23F: The rezoning from AG Agricultural District to R6/CZ Residential Conditional Zoning District for property located on Rim Road between Identity Road and Olted Road. Containing 14.9 acres more or less and being the property of Vance and Elizabeth Hall and the property of Alex and Catherine Hall

Mr. Craig Harmon, Planner II, showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Harmon reminded Council this case was previously pulled from the consent Agenda and set for public hearing.

- D. Case P09-28F: The rezoning from C1 Commercial District and R6 Residential District to C1/CZ Commercial Conditional Zoning District for a Military Christian Center on property located at 590 N. Reilly Rd. Containing 1.37 acres more or less and being the property of Missions to Military Inc.

Mr. Craig Harmon, Planner II, showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan.

Although Zoning Commission recommended denial, staff had recommended approval and continues to recommend to Council for approval with conditions limiting the depth of the rezoning and other features depicted on the site plan as well as the singular use as a community center. Staff also recommends the organization clearly define the scope of the overnight facilities component and their operation prior to approval.

- E. Case P09-29F: Special Use Permit (SUP). Consideration of an application for a SUP to allow a Daycare in a Residential District for property located at the corner of 5514 Ramshorn Dr and Santa Fe Dr. Containing .36 acres more or less and being the property of Harry Jefferson and Linda E. Jefferson

Mr. Craig Harmon, Planner II, showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Harmon stated staff does not make recommendations regarding Special Use Permit requests. He explained the possible conditions should Council approve the request.

Respectfully submitted,

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RITA PERRY  
City Clerk

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ANTHONY G. CHAVONNE  
Mayor

092809

**DRAFT**  
**FAYETTEVILLE CITY COUNCIL**  
**REGULAR MEETING MINUTES**  
**CITY HALL COUNCIL CHAMBER**  
**SEPTEMBER 28, 2009**  
**7:00 P.M.**

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2 - via telephone); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Council Member Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager  
Doug Hewett, Assistant City Manager  
Kristoff Bauer, Assistant City Manager  
Karen M. McDonald, City Attorney  
Rob Anderson, Chief Development Officer  
Craig Harmon, Planner II  
Karen Hilton, Interim Planning Director  
Victor Sharpe, Community Development Director  
Jackie Tuckey, Communications Manager/Public Information Officer  
Rita Perry, City Clerk  
Members of the Press

**INVOCATION - PLEDGE OF ALLEGIANCE**

The invocation was offered by Pastor Mark Rowden, Savannah Missionary Baptist Church, followed by the Pledge of Allegiance to the American Flag.

**RECOGNITIONS AND ANNOUNCEMENTS**

There were no recognitions or announcements.

**1. APPROVAL OF AGENDA**

**MOTION:** Mayor Pro Tem Meredith moved to approve the agenda.  
**SECOND:** Council Member Massey  
**VOTE:** UNANIMOUS (10-0)

**2. CONSENT:**

Council Member Haire requested to pull Item 2.I. for discussion.

Council Member Bates requested to pull Items 2.B. and 2.C. for discussion.

**MOTION:** Council Member Haire moved to approve the consent agenda with the exception of Items 2.B., 2.C., and 2.I.  
**SECOND:** Mayor Pro Tem Meredith  
**VOTE:** UNANIMOUS (10-0)

**A. Approve Minutes:**

1. City Council Meeting Held on August 3, 2009.
2. City Council Dinner and Discussion Meeting Held on August 10, 2009.
3. City Council Meeting Held on August 10, 2009.
4. Agenda Briefing Meeting Held on August 19, 2009.
5. City Council Meeting Held on August 24, 2009.
6. City Council Dinner and Discussion Meeting Held on August 24, 2009.
7. City Council Special Meeting Held on August 31, 2009.

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- B. Pulled for discussion by Council Member Bates.
- C. Pulled for discussion by Council Member Bates.
- D. Finance - Resolution to Accept the State Grant and Capital Project Ordinance 2010-11 (Rehabilitate Visual Navigational Aids Project)
- E. Finance - Capital Project Ordinance 2010-12 (Vegetation Management Project)
- F. Finance - Special Revenue Project Ordinance 2010-9 (FY2009 Justice Assistance Grant Program)
- G. Planning - Sign permit request by the Junior League for ten signs between October 6 and November 8 for the Holly Day Fair
- H. Planning - Community Street Banner Request by the Cape Fear Botanical Garden for banners along the service road, for 180 days
- I. Pulled for discussion by Council Member Haire.
- J. PWC - Bid Recommendation - Annexation, Phase V, Project 2, Area 6 "North LaGrange"

The Public Works Commission requested Council approve award of contract to Utilities Plus, Inc., Linden, NC, the lowest responsive, responsible bidder, in the amount of \$950,884.50.

Bids were received as follows:

Utilities Plus (Linden, NC) .....	\$950,884.50
State Utility Contractors (Monroe, NC) .....	\$984,926.00
Hendrix-Barnhill (Smithfield, NC) .....	\$995,619.90
Billy Bill Grading (Fayetteville, NC) .....	\$1,015,435.00
Step Construction (LaGrange, NC) .....	\$1,051,458.00
T.A. Loving (Goldsboro, NC) .....	\$1,201,500.00
ES&J Enterprises (Autryville, NC) .....	\$1,245,135.00
Triangle Grading & Paving .....	\$924,862.00

- K. PWC - Bid Recommendation - Water Main Rehabilitation Work

The Public Works Commission of the City of Fayetteville requested Council approve award of a one-year contract for water main rehabilitation work to Heitkamp, Inc., Watertown, CT, sole bidder, in the amount of \$686,726.42.

- B. Engineering & Infrastructure - Municipal Agreement with NCDOT and Aberdeen & Rockfish Railroad

Council Member Bates pulled this item for discussion.

MOTION: Mayor Pro Tem Meredith moved to approve the Municipal Agreement with NCDOT and Aberdeen & Rockfish Railroad.  
 SECOND: Council Member Haire  
 VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Bates and Crisp)

- C. Engineering & Infrastructure - Resolution Accepting State Revolving Loan for Skye Drive Drainage Improvement Project

Council Member Bates pulled this item for discussion and requested the City Manager to inform the citizens as to why the City was borrowing money for stormwater repairs when there was a general population assessment. Mr. Dale Iman, City Manager, stated the City received money from a stormwater project sponsored through a stimulus program developed as part of the Recovery Act. He explained the project cost was divided in half; one-half (\$272,930.00) being a grant with the balance of \$272,930.00 being a 0 percent interest loan over 20 years and the City's only cost being a 1 percent (\$5,000.00) origination fee.

Council Member Crisp questioned the progress and timeframe of the assessment for stormwater. Mr. Iman responded City staff continuously

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works on significant stormwater projects involving studies, which requires pre-approval from various agencies.

Council Member Massey questioned the method used in choosing this area given the City had other areas, particularly Rosehill Road, needing improvement. Mr. Jeffrey Brown, Engineering and Infrastructure Director, explained the guidelines for stimulus projects through ARRA (American Recovery and Reinvestment Act of 2009) funding, utilized in making the area selection, and a green project.

Council Member Haire inquired whether this item was a separate entity from the City's additional stormwater fee. Mr. Brown responded in the affirmative.

Council Member Evans requested the names of the areas receiving improvement, which Mr. Brown provided.

RESOLUTION OF THE FAYETTEVILLE CITY COUNCIL. RESOLUTION NO. R2009-072.

MOTION: Council Member Crisp moved to approve the resolution accepting the state revolving loan for Skye Drive Drainage Improvement Project.  
SECOND: Council Member Bates  
VOTE: PASSED by a vote of 9 in favor to 1 in opposition (Council Member Evans)

I. Planning - Case P09-27F: The rezoning from R10 Residential District to R6 Residential District for the property located west of All American Expressway, northwest of the intersection with Santa Fe Dr. Containing 84.82 acres more or less and being the property of John and wife Margarete Koenig

Council Member Haire pulled this item for discussion.

MOTION: Council Member Haire moved to set a public hearing.  
SECOND: Council Member Bates  
VOTE: UNANIMOUS (10-0)

3. PUBLIC HEARINGS:

A. Amendment to the Code of Ordinances, Chapter 30, Article IV, Section 107 (10), to allow one employee not a resident of the home for an incidental home daycare occupation

Ms. Karen Hilton, Interim Planning Director, defined incidental home daycares and daycare homes/centers and outlined the related operating standard.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:19 p.m.

The following persons appeared and spoke in favor of the ordinance amendment:

Mrs. Keziah Amoako 715 Dwain Drive, Fayetteville, NC 28305  
Mrs. Monique Brown 6457 Rutherglen Drive, Fayetteville, NC 28304  
Mrs. Regina Lassiter 5801 Falkirk Street, Fayetteville, NC 28304  
Mrs. Patricia Bradley 1024 Bunce Road, Fayetteville, NC 28314  
Mrs. Yolande Vickers 7742 Adrian Drive, Fayetteville, NC 28314

In opposition: Mr. Anthony Castillo, 106 Scott Avenue, Fayetteville, NC 28301, expressed concerns regarding child abuse in Cumberland County.

There being no one further to speak, the public hearing closed at 7:28 p.m.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 30, ZONING, ARTICLE IV, DISTRICT USE REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2009-007.

**DRAFT**

**MOTION:** Council Member Bates moved to approve the amendment to the Code of Ordinances, Chapter 30, Article IV, Section 107 (10), to allow one employee not a resident of the home for an incidental home daycare occupation allow the applicant to send this matter back to the Zoning Commission for Conditional Use.

**SECOND:** Council Member Haire

**VOTE:** UNANIMOUS (10-0)

**B. Economic Development Incentive - Property Tax Grantback for the Towers at Wood Valley Apartments**

**MOTION:** Mayor Pro Tem Meredith moved to be recused.

**SECOND:** Council Member Bates

Ms. Karen McDonald, City Attorney, clarified the recusal would be from the discussion and vote.

**VOTE:** UNANIMOUS (9-0)

Mr. Rob Anderson, Chief Development Officer, provided an overview of the Property Tax Grantback program. He reviewed the proposed project site plan and conditions, developer's cost estimate and projected tax revenue for the City.

This is the advertised public hearing set for this date and time. There being no one in favor or in opposition, the public hearing opened and closed at 7:31 p.m.

**MOTION:** Council Member Bates moved to deny the Property Tax Grantback Funding Agreement.

The motion died due to lack of a second.

Council Member Massey requested the developer to address Council.

Ms. Karen McDonald, City Attorney, clarified Council's policy regarding citizens speaking after the Public Hearing is closed.

Mr. Brian Hall, developer with Commonwealth Road Properties, thanked Council for the opportunity to develop this project in the community.

**MOTION:** Council Member Massey moved to approve the Property Tax Grantback Funding Agreement.

**SECOND:** Council Member Hurst

**VOTE:** PASSED by a vote of 8 in favor to 1 in opposition (Council Member Bates)

**C. Case P09-23F: The rezoning from AG Agricultural District to R6/CZ Residential Conditional Zoning District for property located on Rim Road between Identity Road and Olted Road. Containing 14.9 acres more or less and being the property of Vance and Elizabeth Hall and the property of Alex and Catherine Hall.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated the Zoning Commission and Planning staff recommended approval of R6/Conditional Zoning District. He summarized staff's findings for recommendation and related conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:40 p.m.

Mr. Scott Brown, Surveyor and Engineer Representative, 409 Chicago Drive, Suite 112, Fayetteville, NC 28306, appeared in favor. He clarified the exact number of units would be 162 and addressed previous traffic concerns expressed by Council.

Mr. Barry D. Hackett, Managing Member and General Contractor for Hackett Builders, 1152 Kearns-Hackett Road, Pleasant Garden, NC 27313, appeared in favor and reviewed traffic solutions.



**DRAFT**

There being no one further to speak, the public hearing closed at 7:48 p.m.

**MOTION:** Council Member Applewhite moved to approve the rezoning from AG Agricultural District to R6/CZ conditions.

**SECOND:** Mayor Pro Tem Meredith

Council Member Mohn explained the staff recommendation on page 110 of the agenda stated 161 units whereas Council was informed the total was 162 units, as well as the Zoning Commission's minutes alluding to 162 units.

**AMENDED MOTION:**

Council Member Applewhite moved to approve the rezoning from AG Agricultural District to R6/CZ conditions modified to include 162 units.

Council Member Applewhite expressed the concerns of the impact of apartment developments on the community regarding traffic and schools and the need for Council to address these issues. Council Members Bates and Crisp concurred with Council Member Applewhite's sentiments.

**SECOND:** Mayor Pro Tem Meredith

**VOTE:** UNANIMOUS (10-0)

D. Planning - Case P09-28F: The rezoning from C1 Commercial District and R6 Residential District to C1/CZ Commercial Conditional Zoning District for a Military Christian Center on property located at 590 N. Reilly Rd. Containing 1.37 acres more or less and being the property of Missions to Military Inc.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated the Zoning Commission recommended denial based on incapability with surrounding land uses; however, the Planning staff recommended approval with conditions limiting the depth of rezoning and other features depicted on the site plan as well as the singular use as a community center. He stated staff also recommended the organization clearly define the scope and operation of the overnight facilities component prior to approval.

Discussion ensued regarding conditions listed on page 127 of the agenda, to which Mr. Harmon provided an overview of the proposed site plans and condition requirements.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:04.m.

Mr. John Adhern, Director of Missions to Military (Camp Lejeune, NC), 530 Shadowridge Road, Jacksonville, NC 28546, appeared in favor. He summarized the purpose of the proposed center and addressed the overnight guest issue.

Mr. John T. Sargent, Director of Missions to Military (Norfolk, Virginia), 3424 Sale Drive, Virginia Beach, VA 23464, appeared in favor.

Mr. Ross S. Olson, 5205 Balboa Drive, Virginia Beach, VA 23464, appeared in favor. He briefed Council on his 26 years of experience with Missions to Military, Inc.

Mr. Steve Brown, Military Chaplin, 5308 Summercrescent Drive, Virginia Beach, VA 23464, appeared in favor. He stated Missions to Military, Inc., was a positive experience for him during his military career.

Mr. Joe R. Yeargin, former Director of Missions to Military (Goldsboro, NC), 3501 E. Ash Street, Goldsboro, NC 27534, appeared in favor. He addressed concerns raised from adjacent property owners regarding disorderly conduct and alcohol and drug use, which are prohibited.

**DRAFT**

Pastor Keith Davey, 4713 Regal Court, Chesapeake, VA 23464, appeared in favor. He briefed Council on experiences with Missions to Military, Inc.

Mr. M. B. Gentry, Engineer, 169 Vance Drive, Goldsboro, NC 27534, appeared in favor.

Mrs. Sharon Valentine, 512 Dandridge Drive, Fayetteville, NC 28302, appeared in opposition. She emphasized the neighborhood options and the efforts to compromise with Missions of Military, Inc., regarding alternate sites, which they declined. She stated the three reasons for opposition as follows: (1) neighborhoods are struggling to contain commercial use to one lot depth along Reilly Road; (2) a 7,000 square foot building and parking lot in the center of the neighborhood would be a form of in-fill and (3) a non-profit would not add much to the property tax base but could devalue property.

Mr. Bobby Wrenn, 7246 Godfrey Drive, Fayetteville, NC 28303, appeared in opposition. He expressed support of the military but not the infringement of his property.

There being no one further to speak, the public hearing closed at 8:25 p.m.

Ms. Karen M. McDonald, City Attorney, informed Council of Council Member Evans' absence from the conference call due to illness and requested a motion to excuse.

**MOTION:** Council Member Bates moved to excuse Council Member Evans from the remainder of the meeting.

**SECOND:** Council Member Crisp

**VOTE:** UNANIMOUS (9-0)

**MOTION:** Mayor Pro Tem Meredith moved to approve the rezoning from AG Agricultural District to R6/CZ with the following conditions: No alcohol on the premises, follow Site plan as presented on Page 127 of the September 28, 2009 agenda, 1.37 acre depth limitation and single use for a community center.

**SECOND:** Council Member Bates

Discussion ensued regarding conditions listed on page 127 of the agenda, to which Mr. Harmon provided an overview of the proposed site plans and condition requirements.

Council Member Mohn stated previous and present Council has consistently heldfast to the one lot depth into a neighborhood for commercial; however, this case proposes a three lot depth for commercial development.

Council Member Crisp questioned the validity and qualifications of the counseling services the centers provide. Mr. Steve Brown stated the centers provide biblical based counseling.

**VOTE:** PASSED by a vote of 7 in favor to 2 in opposition (Council Members Crisp and Mohn)

**E. Case P09-29F: Special Use Permit (SUP). Consideration of an application for a SUP to allow a Daycare in a Residential District for property located at the corner of 5514 Ramshorn Dr and Santa Fe Dr. Containing .36 acres more or less and being the property of Harry Jefferson and Linda E. Jefferson**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated Zoning Commission recommended denial of the SUP based on the following reasons: (1) it would be detrimental to the surrounding area because of the traffic; (2) the ingress and egress and (3) it would cause additional hardship to other members of the neighborhood.

Discussion ensued regarding the number of daycares in the vicinity and City-wide statistics as it relates to meeting the daycare needs. Mr. Harmon explained Planning staff does not maintain those

**DRAFT**

statistics; however, the newly formed Daycare Taskforce might calculate those statistics in the future.

Council Member Applewhite asserted she would request the information from Mrs. Eva Hansen, President for the Partnership for Children.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:42 p.m.

There were no speakers in favor.

Mrs. Vivian W. Evans (adjacent property owner), 5512 Ramshorn Drive, Fayetteville, NC 28303, appeared in opposition. She stated the area already has a traffic congestion problem, the applicant does not reside in the property and expressed her disapproval of the proposed site plan as it relates to front yard paved parking.

Mr. Perry Evans (adjacent property owner), 5512 Ramshorn Drive, Fayetteville, NC 28303, appeared in opposition and conveyed his concerns regarding traffic.

Mr. Stanley Carter, 5504 Ramshorn Drive, NC 28303, appeared in opposition and urged Council to deny the request.

There being no one further to speak, the public hearing closed at 8:45 p.m.

**MOTION:** Council Member Haire moved to deny the request for a Special Use Permit.  
**SECOND:** Mayor Pro Tem Meredith  
**VOTE:** UNANIMOUS (9-0)

**4. MURCHISON ROAD REDEVELOPMENT FUNDING STRATEGY**

Mr. Victor Sharpe, Community Development Director, provided a summary of the revised funding strategy, which consists of the City investment of \$7.9 million. He stated conceptual actions require presentation to Council prior to proceeding.

A question and answer period ensued regarding funding sources, which Mr. Sharpe provided a synopsis of the available resources.

**MOTION:** Council Member Haire moved to approve the Murchison Road Redevelopment Plan and Concept.  
**SECOND:** Council Member Mohn

Council Member Applewhite requested further clarification of the term "concept". She questioned whether the terminology refers to work in progress with possible modifications in the future. Mr. Sharpe answered in the affirmative.

**VOTE:** PASSED by a vote of 7 in favor to 2 in opposition (Council Members Bates and Meredith)

**5. CONSIDER CREATION OF AN ETHICS COMMISSION**

Ms. Karen McDonald, City Attorney, presented an overview of the proposal to create an Ethics Commission to investigate and render advisory opinions regarding the conduct of City officials and employees. She defined the proposed Ethics Commission formation and procedures and briefed Council on the City Internal Auditor's utilization of the Code of Ethics Questionnaire.

A question and answer period ensued.

**MOTION:** Mayor Pro Tem Meredith moved to approve the proposal to create an Ethics Commission to include a penalty limitation no greater than \$1,000.00.  
**SECOND:** Council Member Bates  
**VOTE:** UNANIMOUS (9-0)

**DRAFT**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE IV, CODE OF ETHICS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE S2009-008.

**6. NC LEAGUE OF MUNICIPALITIES ANNUAL LEAGUE BUSINESS MEETING VOTING DELEGATES**

Mr. Dale Iman, City Manager, requested Council to designate one voting delegate and/or one alternate voting delegate to represent the City of Fayetteville at the NCLM Annual Business meeting.

**MOTION:** Mayor Pro Tem Meredith moved to designate Council Member Bates the voting delegate.

**SECOND:** Council Member Mohn

**MOTION:** Council Member Massey moved to designate Mayor Pro Tem Meredith the alternate voting delegate.

**SECOND:** Council Member Mohn

One vote was taken on both motions.

**VOTE:** UNANIMOUS (9-0)

**INFORMATION ITEM:**

**1. Report of Tax Refunds Less Than \$100**

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Strickland, Michael A.	2008	Adjusted Value	\$15.75
TOTAL			<u>\$15.75</u>

There being no further business, the meeting adjourned at 9:34 p.m.

Respectfully submitted,

\_\_\_\_\_  
RITA PERRY  
City Clerk

\_\_\_\_\_  
ANTHONY G. CHAVONNE  
Mayor

092809

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Karen M. McDonald, City Attorney  
**DATE:** November 9, 2009  
**RE:** **City Attorney - Approval of Settlements in *Wendy Murphy v. City of Fayetteville* and *U.S. Airways* and *Estate of Jesse Marquil King v. City of Fayetteville***

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**THE QUESTION:**

No question applicable to this item.

**RELATIONSHIP TO STRATEGIC PLAN:**

More Efficient City Government

**BACKGROUND:**

Settlements have been reached in the following cases and pursuant to the Open Meetings Law, the settlements are required to be entered into the minutes in an open session of Council:

1. ***Wendy Murphy v. City of Fayetteville and U.S. Airways.*** Ms. Murphy filed a lawsuit concerning injuries she allegedly suffered during a fall in the U.S. Air jetway at the airport. The City filed an answer and deposed Ms. Murphy and her mother. Mediation in this case was held on August 13, 2009, wherein the City agreed to settle its portion of the lawsuit for \$12,000.00. The City Council authorized settlement on August 24, 2009.
2. ***Estate of Jesse Marquil King v. City of Fayetteville.*** In August 2005, Mr. King was walking on Spruce Street when he disappeared. His body was later found in a storm drain on Spruce Street. The City was served with a lawsuit on July 26, 2007. The Court heard the City's Motion for Summary Judgment on the matter of governmental immunity and entered an order on October 13, 2008, denying the motion. The City appealed the judge's ruling to the Court of Appeals on October 13, 2008. The Court of Appeals affirmed the trial court's order denying summary judgment to the City and the City petitioned the Supreme Court for discretionary review of the Court of Appeals judgment. Recognizing that Mr. King lost his life and that there was some risk for potential liability, the parties agreed to settle this matter for \$150,000.00. The plaintiffs and their counsel have signed the settlement agreement and release and the City will tender payment to the plaintiffs in a few weeks.

**ISSUES:**

To be in compliance with the Open Meetings Law, settlements are required to be entered into the minutes in an open session of Council.

**OPTIONS:**

No options applicable to this item.

**RECOMMENDED ACTION:**

Accept this memorandum as record of settlements with the minutes of this meeting.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Rita Perry, City Clerk  
**DATE:** November 9, 2009  
**RE:** **City Clerk - Accept the Certification of Results from the Cumberland County Board of Elections for the October 6, 2009 Municipal Primary Election for Mayor, City Council Districts 2, 4 and 6**

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**THE QUESTION:**

Does City Council accept the Certification of Results from the Cumberland County Board of Elections regarding the October 6, 2009 Municipal Primary Election for Mayor, City Council Districts 2, 4 and 6?

**RELATIONSHIP TO STRATEGIC PLAN:**

Community Unity - Pride in Fayetteville; Objective 2: Goal 5: Better informed citizens about the City and City government.

**BACKGROUND:**

The Cumberland County Board of Elections having opened, canvassed and judicially determined the original returns of the election in the precincts in this county, held on October 6, 2009, certify that the attached Official Primary Results contains the number of legal ballots cast in each precinct for each office named, the name of each person voted for and the number of votes cast for each person for the office named.

**ISSUES:**

NA

**OPTIONS:**

NA

**RECOMMENDED ACTION:**

Accept the Certification of Results from the Cumberland County Board of Election as presented

**ATTACHMENTS:**

October 6, 2009 Fayetteville Municipal Primary Result

**FAYETTEVILLE MUNICIPAL PRIMARY**  
**OCTOBER 6, 2009**  
**ABSTRACT OF VOTES**  
**FOR**  
**CUMBERLAND COUNTY**  
**STATE OF NORTH CAROLINA**


**INSTRUCTIONS**

THREE COPIES are to be made. One copy is to be signed by the County Board of Elections and delivered by them, when the canvass is concluded, to the Clerk of Superior Court. One copy is to be retained by the County Board of Elections. One copy is to be mailed on canvass day to the Chairman of the State Board of Elections, Raleigh, North Carolina (GS 163-176).

**STATE OF NORTH CAROLINA**  
**COUNTY OF CUMBERLAND**


The County Board of Elections for said county, having opened, canvassed, and judicially determined the original returns of the election in the precincts in this county, held as above stated, do hereby certify that the above is a true abstract thereof, and contains the number of legal ballots cast in each precinct for each office named, the name of each person voted for, their party affiliation, and the number of votes cast for each person for the office named.

This is the 13<sup>th</sup> day of October, 2009

  
 \_\_\_\_\_  
 Sylvia S. Williams  
 \_\_\_\_\_  
 Clerk Hqs

This day personally appeared before me, Andrew N. McCall  
 Chairman of the County Board of Elections, who being duly sworn,  
 says the abstract of votes herein contained is true and correct, according  
 to the returns filed to said Board.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed  
 My Notarial seal this 13<sup>th</sup> day of October, 2009.

  
Andrew N. McCall  
 Chairman

My Commission (if any) Expires: 5-20-2012

REGISTRATION	STATISTICS		FAYETTEVILLE MAYOR										FAYETTEVILLE CC D2 2ND			FAYETTEVILLE CC D4 4TH			FAYETTEVILLE CC D6 6TH							
	VOTERS	REGS	TONY	CHAVE	RONNIE	CHARLES	EROMY	B. RAGAN	(MOHAMMED)	KADY	ANN	DAVID	DAVID	D. J.	DORIAN	F. HAMMON	RON HARRISON	BILL	CRISP	RICHARD	DEEVANS	WADE	FOWLERS	RENEE	WILSON	
AH49 ARRAN HILLS	3012	136	88	23	13	8	3	13																		
G5A ADMAN	4467	220	138	24	15	33	5	33																		
G5C BRENTWOOD	2670	93	68	10	5	1	9	1																		
CM57 CLIFFDALE WEST	5512	103	37	12	13	2	39	2																		
CC01 CROSS CREEK #01	2358	255	138	20	15	19	19	15																		
G1A CROSS CREEK #02	1556	200	122	15	7	10	40	7																		
CC03 CROSS CREEK #03	1343	45	29	8	1	3	4	1																		
CC04 CROSS CREEK #04	1119	149	118	13	1	2	9	13																		
CC05 CROSS CREEK #05	2261	198	99	16	10	19	19	10																		
CC06 CROSS CREEK #06	1334	153	105	21	5	1	18	5																		
CC07 CROSS CREEK #07	1227	99	85	6	4	0	3	4																		
CC08 CROSS CREEK #08	1358	244	209	12	3	2	18	2																		
G2A CROSS CREEK #09	3783	283	170	19	12	16	64	12																		
CC10 CROSS CREEK #10	1187	156	116	7	5	6	20	7																		
G3B CROSS CREEK #11	1149	117	86	8	7	0	14	7																		
CC12 CROSS CREEK #12	1650	190	160	18	2	0	10	2																		
CC13 CROSS CREEK #13	2593	200	78	27	10	36	32	10																		
CC14 CROSS CREEK #14	2784	246	208	24	0	4	10	0																		
CC15 CROSS CREEK #15	2565	192	155	18	6	3	10	6																		
CC16 CROSS CREEK #16	2255	277	166	24	9	15	55	9																		
CC17 CROSS CREEK #17	2870	154	70	10	12	19	42	12																		
CC18 CROSS CREEK #18	1652	165	149	7	2	0	7	2																		
CC19 CROSS CREEK #19	1242	114	60	6	5	12	21	5																		
G4B CROSS CREEK #20	1470	99	78	5	6	2	7	6																		
CC21 CROSS CREEK #21	3561	232	151	22	8	10	27	8																		
G2B CROSS CREEK #22	4390	162	107	23	5	7	20	5																		
G2C CROSS CREEK #23	4648	198	133	20	10	7	26	10																		
CC24 CROSS CREEK #24	1358	60	34	9	6	1	10	6																		
CC25 CROSS CREEK #25	2057	100	65	15	1	1	18	1																		
CC26 CROSS CREEK #26	3502	153	86	20	8	8	30	8																		
CC27 CROSS CREEK #27	4088	41	23	3	3	2	10	3																		
G5B CROSS CREEK #28	5389	129	77	10	3	2	37	3																		
CC29 CROSS CREEK #29	2666	81	55	3	4	3	16	4																		
G4A CROSS CREEK #30	1736	79	59	6	6	1	7	6																		
CC31 CROSS CREEK #31	2286	83	52	7	7	4	13	7																		
CC32 CROSS CREEK #32	1442	69	40	6	5	3	15	5																		
CC33 CROSS CREEK #33	2589	194	124	15	8	6	38	8																		
CC34 CROSS CREEK #34	1974	132	98	14	5	0	15	5																		



STATISTICS	FAYETTEVILLE MAYOR						FAYETTEVILLE CC D2 2ND				FAYETTEVILLE CC D4 4TH				FAYETTEVILLE CC D6 6TH			
	TONY CHAVONE	RONNIE L. PEELE	C. CHARLES	B. RAGAN	FRONNY	(MOHAMMED)	KADY ANN DAVY	E. EVANS	LEON GOLDSOHN	DAVID SOLIS	D. J. HARRISON	F. HAMMON	RON HERRISON	BILL CRISP	RICHARDSON	D. WADDE	RENEE WILSON	
G8B CUMBERLAND #1A	21	12	1	2	0	6								10	3	7	1	
G8C CUMBERLAND #2	105	70	10	7	3	15								47	21	17	18	
G8A CUMBERLAND #3	23	12	6	1	0	4								12	2	6	3	
G8A CUMBERLAND #4	66	39	10	4	1	12								52	3	6	5	
EO61-1 EASTOVER #1	40	1	0	0	0	0												
G1B JUDSON-VANDER	3	0	0	0	0	0												
LR63 LAKE RIM	3700	30	17	2	3	12												
G2D LONGHILL	529	14	8	0	0	4												
G11B MANCHESTER	4961	0	0	0	0	0												
MB62 MONTIBELLO	2100	32	19	2	4	3												
MR02 MORGANTON RD #2	2707	116	73	13	8	20												
G3A PEARCES MILL #2	59	0	0	0	0	0												
G3C PEARCES MILL #3	9	0	0	0	0	0												
G6A STEEDMAN	6	1	1	0	0	0												
G10C STONEY POINT #1	625	22	3	22	0	6								42	2	6	3	
G10A STONEY POINT #2	1523	54	47	2	1	4								41	8	3	2	
G2E WESTARBA	3840	147	75	19	8	31												
ABSENTEE	0	80	46	7	17	5												
PROVISIONAL	0	17	12	1	3	4												
ONE STOP PAPER	0	16	8	1	1	5												
TOTALS	121532	6624	4317	626	320	987	391	651	40	374	642	30	224	476	92	114	58	

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Victor D. Sharpe, Community Development Director  
**DATE:** November 9, 2009  
**RE:** **Community Development - Renewal of the Urban Progress Zone designation**

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**THE QUESTION:**

Will renewal of the Urban Progress Zones (UPZ) allow the continuation of economic incentives to encourage investment in Fayetteville?

**RELATIONSHIP TO STRATEGIC PLAN:**

Greater Tax Base Diversity – Strong Local Economy

**BACKGROUND:**

- The purpose of this request is to request renewal of the City's UPZ's 1 and 2 that are due to expire December 31, 2009.
- UPZ designations remain in effect for a 1 year period.
- Article 3J is a State tax credit program that provides three types of tax credits to eligible taxpayers that undertake qualifying activities in NC: credit for creating jobs, credit for investing in business property, and credit for investment in real property.
- The UPZ allows eligible businesses the opportunity to receive an enhanced tax credit of \$1,000 per job created.
- The City's UPZ 1 was initially designated in 2007 through December 31, 2008 and redesignated for an additional year in 2008 through December 31, 2009.
- The City's UPZ 2 was initially designated in 2008 through December 31, 2009. Upon approval the redesignation of UPZ 1 and 2 will be good through December 31, 2010.
- In 2008, 3,448 jobs were created generating \$16,579,572 in tax credits statewide using the Article 3J tax credit program according to the NC Department of Revenue.

**ISSUES:**

None

**OPTIONS:**

Approve action as recommended.  
Take no action which will allow the existing UPZ's to expire.

**RECOMMENDED ACTION:**

Approve adoption of resolution in support of the submission of an application for the renewal of Urban Progress Zone 1 and 2.

**ATTACHMENTS:**

Urban Progress Zones Renewal  
Map of Urban Progress Zone 1  
Map of Urban Progress Zone 2

**Resolution in Support of Urban Progress Zones**

**WHEREAS**, the City of Fayetteville’s Strategic Plan Identifies Greater Tax Base Diversity – Strong Local Economy as a goal; and

**WHEREAS**, the City of Fayetteville wishes to enhance economic development incentives for new investment and job creation within the municipal limits of Fayetteville, North Carolina by applying for a renewal of its two Urban Progress Zones; and

**WHEREAS**, the state of North Carolina has authorized the establishment of Urban Progress Zones by a local municipal government with a population of at least 10,000; and

**WHEREAS**, the purpose of Urban Progress Zones is to provide economic incentives to stimulate new investment and job creation in economically distressed urban areas; and

**WHEREAS**, the City of Fayetteville has identified Urban Progress Zone One consisting of qualifying areas of poverty including census tracts 10, 22, 23 and 24 (Block groups 1, 2, and 5) and Urban Progress Zone Two including census tracts 12 and 13; and

**WHEREAS**, the attached maps visibly identifies each proposed zone boundaries.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Fayetteville requests the North Carolina Department of Commerce to consider and approve the re-designation of its two Urban Progress Zones in Fayetteville, North Carolina and authorize the Mayor to execute documents pertaining to the Urban Progress Zones.

Respectfully submitted, this 9th day of November 2009.

CITY OF FAYETTEVILLE

(SEAL)

By:

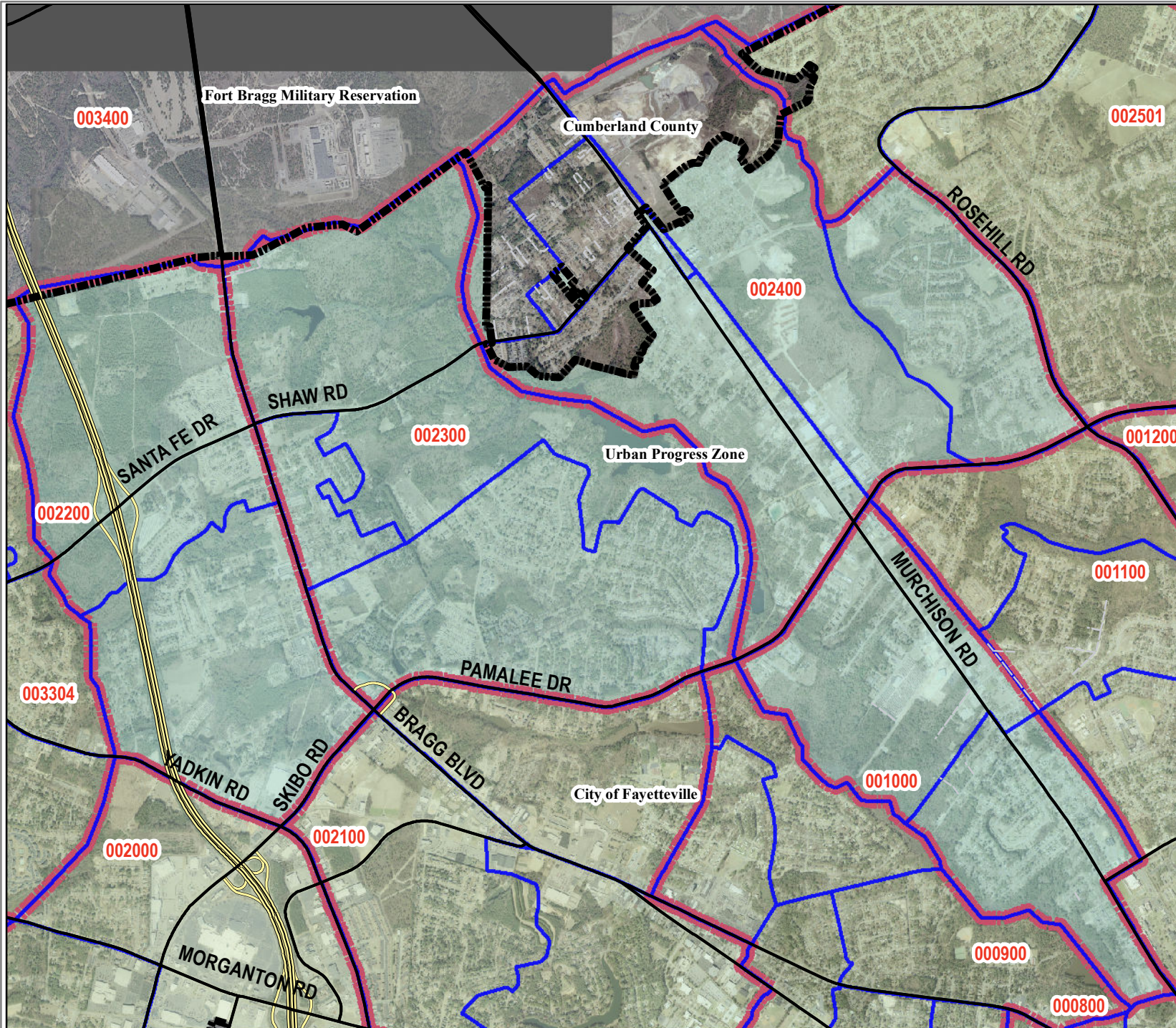
\_\_\_\_\_  
ANTHONY G. CHAVONNE, Mayor

ATTEST:

\_\_\_\_\_  
Rita Perry, City Clerk



# City of Fayetteville Urban Progress Zone



**Key to Features**

- Fayetteville City Limits
- Census Block Groups
- Census Tracts
- Urban Progress Zone
- Fort Bragg/Pope AFB

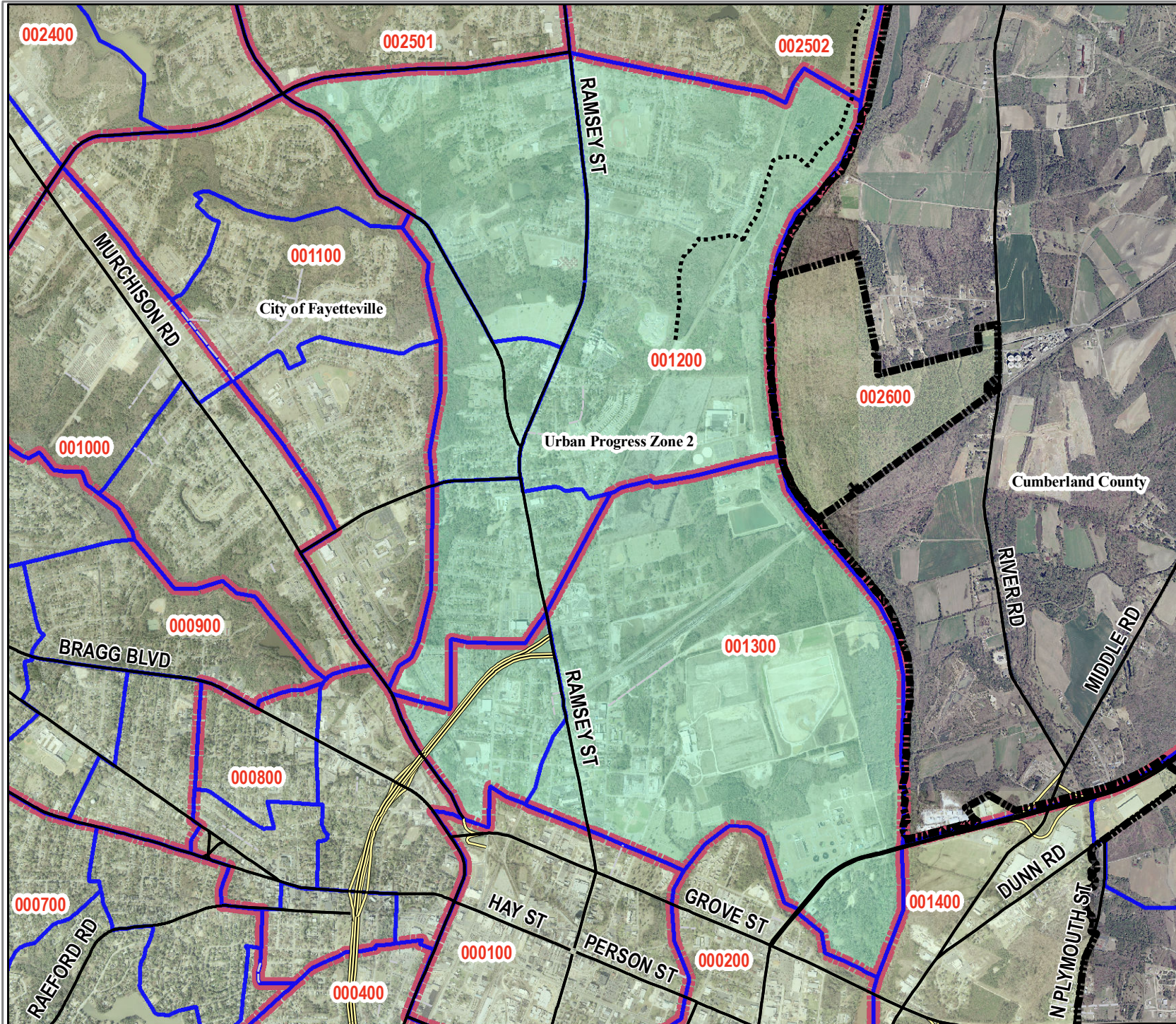


GIS Product  
May 17, 2007  
Urban\_Progress\_Zone\_MHaire\_small





0 0.125 0.25 0.5 0.75 Miles



# City of Fayetteville Urban Progress Zone 2



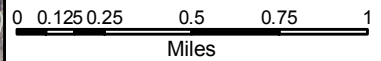
**Key to Features**

-  Fayetteville City Limits
-  Census Block Groups
-  Census Tracts
-  Urban Progress Zone 2



GIS Product  
February 8, 2008

Urban\_Progress\_Zone2\_MHaire\_small





**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Gloria B. Wrench, Purchasing Manager  
**DATE:** November 9, 2009  
**RE:** **Engineering & Infrastructure - Bid Recommendation for Cape Seal Asphalt Surface Treatment and Joint Sealing**

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**THE QUESTION:**

Staff requests approval to award a contract to Cape Seal (50) streets and Joint Seal (65) streets.

**RELATIONSHIP TO STRATEGIC PLAN:**

More Efficient City Government - Cost-Effective Service Delivery

**BACKGROUND:**

Bids were first advertised to be received at 10:00 a.m., Tuesday, October 6, 2009. Only two (2) bids were received on the first advertisement; therefore, in accordance with the North Carolina General Statutes, the bids were not opened and the project was re-advertised. The General Statutes require that three (3) bids be received on the first advertisement in order for bids to be opened. There is no statutory requirement that a certain number of bids be received on the second advertisement. On October 15, 2009, two (2) bids were received in response to the second advertisement. The bids received are as follows:

Slurry Pavers, Inc., Glen Allen, VA	\$708,112.20
Marvin Templeton & Sons, Inc., Lynchburg, VA	\$774,886.60

Slurry Pavers, Inc. will utilize minority subcontractors for approximately 10% of the work on this project.

**ISSUES:**

None.

**OPTIONS:**

(1) Award contract according to staff recommendation. (2) Reject bid and not award contract.

**RECOMMENDED ACTION:**

Award a contract to Slurry Pavers, Inc., Glen Allen, VA, the lowest responsible, responsive bidder, in the amount of \$708,112.20.

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Jeffery P. Brown, PE, Engineering & Infrastructure Director  
**DATE:** November 9, 2009  
**RE:** **Engineering & Infrastructure - Municipal Agreement with NCDOT for Bridge Inspections**

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**THE QUESTION:**

Council is being asked to approve a Municipal Agreement with NCDOT to allow NCDOT to employ a qualified private engineering firm to perform the inspection and analysis as well as prepare the required forms for submission to the Federal Highway Administration.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growing City, Livable Neighborhoods - A Great Place to Live

**BACKGROUND:**

- The Federal Transportation Act requires that the Department of Transportation assure that municipal bridges are inspected and analyzed every two years.
- The City of Fayetteville has 18 bridges/culverts that require inspection.
- These inspections will be conducted in the Spring of 2010.

**ISSUES:**

- The City is responsible for paying 20% of the total cost (approximately \$9,360) while the Federal Highway Administration pays the remaining 80%.
- Reimbursement to NCDOT shall be made within 60 days of the invoice date.

**OPTIONS:**

- Approve the attached Municipal Agreement.
- Not approve the Municipal Agreement.

**RECOMMENDED ACTION:**

Approve the attached Municipal Agreement with NCDOT-Bridge Maintenance Unit to allow the consultant hired by NCDOT to complete the required inspections.

**ATTACHMENTS:**

Bridge Inspection Municipal Agreement

North Carolina  
Cumberland County

North Carolina Department of Transportation and the City of Fayetteville  
Municipal Agreement  
Inspection of Bridges on the Municipal Street System  
F.A. Project BRZ-NBIS (15)

THIS AGREEMENT is made and entered into on the last date executed below, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of North Carolina, hereinafter referred to as the DEPARTMENT, and the City of Fayetteville, a municipal corporation hereinafter referred to as the MUNICIPALITY;

Witnesseth:

WHEREAS, 23 U.S.C. 144, Sections 1101, 1114 and 1805 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A legacy for Users (SAFETEA – LU), which require that federal funds be available for certain specified Federal-Aid Highway Bridge Replacement and Rehabilitation program; and

WHEREAS, the Highway Bridge Replacement and Rehabilitation portion of the law requires that all structures defined as bridges located on public roads must be inspected on a cycle, not to exceed two years in accordance with National Bridge Inspection Standards (NBIS); and

WHEREAS, the Municipality has requested the Department or a Consultant retained by the Department to inspect and analyze all public bridges located on its Municipal Street System in compliance with the National Bridge Inspection Standards; and

WHEREAS, the Department and the Municipality are authorized to enter into an agreement for such work under the provisions of G.S. 136-18(12), G.S. 136-41.3, and G.S. 136-66.1; and,

WHEREAS, the City Council of the Municipality has approved the herein above referenced inspections and has agreed to participate in certain costs thereof in the manner and to the extent as hereinafter set out.

NOW, THEREFORE, the Department and the Municipality agree as follows:

1. The Department or a Consulting Engineering firm retained by the Department shall inspect, analyze, and prepare the necessary inspection reports for all bridges on the Municipal Street System in accordance with the National Bridge Inspection Standards.
2. All work shall be done in compliance with the following documents.
  - a. National Bridge Inspection Standards (23 CFR, Chapter 1 Part 650)
  - b. AASHTO Manual for Bridge Evaluation-2008 including all Interim Revisions.
  - c. Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges – December, 1988
3. The Municipality shall be responsible for providing any required traffic control personnel during the work period.



4. The Municipality shall furnish all data in the possession of the Municipality that can be released that will help the Department or its Consultant in the accomplishment of the work including but not limited to appropriate municipal maps showing the location of the bridges, plans for the bridges when available, and any prior inspection reports.
5. During the inspection process, some repairs may be discovered that require immediate attention or repair, or a regulatory sign may be missing, damaged, or incorrect. A Critical Finding Notice, Priority Maintenance Notice or Regulatory Sign Notice will be issued in these cases. It is required that the Municipality resolve or notify the Department of their plans to resolve Regulatory Sign Notice within one hundred and twenty (120) days of issuance. Critical Findings require a response within seven (7) days.
6. The Municipality shall designate a responsible Municipal official with whom the Department or its Consultant will coordinate the work.
7. It is understood by the parties hereto that the Federal Highway Administration, through the Department, is to participate in the costs of the work to the extent of eighty (80) percent of actual costs, subject to compliance with all applicable federal policy and procedural rules and regulations. All costs not participated in by the Federal Highway Administration shall be borne by the Municipality.
8. Upon completion of the bridge inspection, and analysis work, the Department shall invoice the municipality for accumulated project costs not participated in by the Federal Highway Administration. Upon FHWA final audit, the Department shall invoice/refund the Municipality any differences in the amount previously invoiced and the actual costs not participated in by the Federal Highway Administration. Reimbursement shall be made by the Municipality within sixty (60) days of the invoice date. After the due date, a late payment penalty and interest shall be charged on any unpaid balance due in accordance with G.S. 147-86.23 and G.S. 105-241.21 (I).
9. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment hereinabove provided, the Municipality hereby authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by the General Statutes of North Carolina, Section 136-41.1, until such a time as the Department has received payment in full.
10. Upon completion of the work the Department shall maintain all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs incurred under this agreement. Further, the Department shall make such materials available at its office for five (5) years from the date of payment of the Final Voucher by the Federal Highway Administration under this agreement, for inspection and audit by the Federal Highway Administration, or any authorized representatives of the Federal Government.

IT IS UNDERSTOOD AND AGREED that the approval of the work by the Department is subject to the conditions of this agreement, and that no expenditure of funds on the part of the Department will be made until the terms of this agreement have complied with on the part of the Municipality.

L.S Attest

City of Fayetteville

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Mayor

Seal of Municipality

Date: \_\_\_\_\_

Approved by \_\_\_\_\_ of the \_\_\_\_\_ as the attested to by the

Signature of \_\_\_\_\_ Clerk of the \_\_\_\_\_ on

\_\_\_\_\_ (Date)

L.S. Attest

Department of Transportation

\_\_\_\_\_  
Secretary to the Board

\_\_\_\_\_  
State Highway Administrator

Board of Transportation Seal

Date: \_\_\_\_\_

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Gloria B. Wrench, Purchasing Manager  
**DATE:** November 9, 2009  
**RE:** **Engineering & Infrastructure - Bid Recommendation for the Purchase of One (1) Multi Terrain Loader and One (1) 11,000 Lb. Compact Excavator**

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**THE QUESTION:**

Staff requests approval to award a contract for purchase of one (1) Multi Terrain Loader and one (1) 11,000 Lb. Compact Excavator.

**RELATIONSHIP TO STRATEGIC PLAN:**

More Efficient City Government - Cost-Effective Service Delivery

**BACKGROUND:**

Bids were received on Thursday, October 22, 2009, at 2:00 p.m., for the purchase of one (1) Multi Terrain Loader and one (1) 11,000 Lb. Compact Excavator. The bids received are as follows:

**Loader:**

Southland Rental & Supply Co., Fayetteville, NC	\$52,813.00
R.W. Moore Equipment Company, Raleigh, NC	\$58,399.00
Gregory Poole Equipment Company, Hope Mills, NC	\$69,407.00

Southland Rental & Supply Company submitted the lowest responsible, responsive bid in the amount of \$52,813.00. The amount budgeted by the Street Maintenance Department for the Loader was \$84,00.00.

**Excavator:**

Southland Rental & Supply Co., Fayetteville, NC	\$47,553.00
ASC Construction Equipment, Garner, NC	\$53,975.00
Rob's Hydraulics Inc., Grimesland, NC	\$54,000.00
R.W. Moore Equipment Company, Raleigh, NC	\$57,290.00
Gregory Poole Equipment Company, Hope Mills, NC	\$59,581.00

Southland Rental & Supply Company submitted the lowest responsible, responsive bid in the amount of \$47,553.00. The amount budgeted by the Street Maintenance Department for the Excavator was \$75,000.00.

**ISSUES:**

NA

**OPTIONS:**

(1) Award contract according to staff recommendation. (2) Reject bid and not award contract.

**RECOMMENDED ACTION:**

Award a contract to Southland Rental & Supply Company, Fayetteville, NC for the purchase of one (1) Multi Terrain Loader in the amount of \$52,813.00 and one (1) 11,000 Lb. Compact Excavator in the amount of \$47,553.00.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Lisa Smith, Chief Financial Officer  
**DATE:** November 9, 2009  
**RE:** **Finance - Special Revenue Fund Project Ordinance 2010-10 (COPS Technology Grant)**

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**THE QUESTION:**

This ordinance will appropriate \$100,000 for the COPS Technology Grant to purchase portable radios.

**RELATIONSHIP TO STRATEGIC PLAN:**

Goal 1: Growing City, Livable Neighborhoods - A Great Place to Live  
Objective 1: Low Crime Rate and Reputation as a Safe Community

**BACKGROUND:**

- The Police Department has been awarded \$100,000 in federal funding to purchase 35 P-25 compliant dual mode (analog/digital) smart zone, omni link portable radios. This will assist in the department's move towards multijurisdictional interoperability.
- A local match is not required for this grant.

**ISSUES:**

None

**OPTIONS:**

- 1) Approve the Special Revenue Fund Project Ordinance.
- 2) Do not approve the Special Revenue Fund Project Ordinance.

**RECOMMENDED ACTION:**

Approve the Special Revenue Fund Project Ordinance.

**ATTACHMENTS:**

SRO 2010-10

SPECIAL REVENUE FUND PROJECT ORDINANCE  
ORD 2010-10

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following special revenue project ordinance is hereby adopted:

Section 1. The project authorized is for the funding of the 2009 COPS Technology Grant program for the purchase of radios and other purposes authorized in the grant.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various contract agreements executed with the Federal and State governments and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

U.S. Department of Justice	<u>\$ 100,000</u>
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Section 4. The following amounts are appropriated for the project:

Project Expenditures	<u>\$ 100,000</u>
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Section 5. Copies of this special revenue project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 9th day of November, 2009.

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Lisa Smith, Chief Financial Officer  
**DATE:** November 9, 2009  
**RE:** **Finance - Special Revenue Fund Project Ordinance 2010-11 (FY2008 Assistance to Firefighters Grant - Fire Prevention and Safety Grant Program)**

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**THE QUESTION:**

This ordinance appropriates a federal grant of \$30,400, awarded through the FY2008 Assistance to Firefighters Grant, and a required local match from the General Fund of \$7,600. The funds will be used to purchase smoke detectors, high visibility marking signs and additional materials to assist in promoting fire prevention.

**RELATIONSHIP TO STRATEGIC PLAN:**

Principle B: Desirable Neighborhoods - Neighborhoods where people are safe and secure.

**BACKGROUND:**

- Special Revenue Fund Project Ordinance 2010-11 will appropriate the budget for a grant awarded to the City's Fire Department from the U.S. Department of Homeland Security. The grant will be administered through FEMA. The total project is estimated to cost \$38,000.
- The project will be funded as follows:
- 80% federal funds (\$30,400) and 20% local match (\$7,600)
- The funds will be used to:
- Purchase 1,000 10-year lithium powered smoke detectors
- Purchase 500 high visibility marking signs to indicate the presence of vacant/dilapidated buildings
- Purchase additional materials to promote fire prevention

**ISSUES:**

None

**OPTIONS:**

- 1) Adopt the ordinance and proceed with the project.
- 2) Do not adopt the ordinance and do not proceed with the project.

**RECOMMENDED ACTION:**

Adopt Special Revenue Fund Project Ordinance 2010-11.

**ATTACHMENTS:**

SRO 2010-11

SPECIAL REVENUE FUND PROJECT ORDINANCE  
ORD 2010-11

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following special revenue project ordinance is hereby adopted:

Section 1. The project authorized is for the funding of the FY2008 Assistance to Firefighters grant awarded by the U.S. Department of Homeland Security and administered through FEMA.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various contract agreements executed with the Federal and State governments and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

Federal Emergency Management Agency	\$ 30,400
General Fund Transfer	<u>7,600</u>
	<u>\$ 38,000</u>

Section 4. The following amounts are appropriated for the project:

Project Expenditures	<u>\$ 38,000</u>
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Section 5. Copies of this special revenue project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 9th day of November, 2009.

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Lisa Smith, Chief Financial Officer  
**DATE:** November 9, 2009  
**RE:** **Finance - Capital Project Ordinance 2010-13 (Various Transportation and Railroad Crossing Safety Improvement Projects)**

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**THE QUESTION:**

This ordinance will establish a \$2,111,309 budget for various transportation and railroad crossing safety improvement projects committed under Municipal Agreements with North Carolina Department of Transportation.

**RELATIONSHIP TO STRATEGIC PLAN:**

Goal 4, Objective 1 – More Efficient City Government – Investing in the City's infrastructure, facilities and equipment.

**BACKGROUND:**

- The source of funds for this ordinance consists of a \$15,710 contribution from NC Department of Transportation and a \$2,095,599 Transfer from the General Fund.
- The General Fund budget for this transfer was approved by Council at the October 12 meeting.
- The funds will be used for various transportation and railroad crossing safety improvement projects committed under Municipal Agreements with North Carolina Department of Transportation.

**ISSUES:**

None

**OPTIONS:**

- 1) Adopt Capital Project Ordinance 2010-13.
- 2) Do not adopt Capital Project Ordinance 2010-13.

**RECOMMENDED ACTION:**

Adopt Capital Project Ordinance 2010-13.

**ATTACHMENTS:**

Capital Project Ordinance 2010 -13



CAPITAL PROJECT ORDINANCE  
ORD 2010-13

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, THAT TO SECTION 13.2 OF CHAPTER 159 OF THE GENERAL STATUTES OF NORTH CAROLINA, THE FOLLOWING PROJECT ORDINANCE IS HEREBY ADOPTED:

SECTION 1. THE AUTHORIZED PROJECT IS FOR THE FUNDING OF VARIOUS TRANSPORTATION AND SAFETY IMPROVEMENT PROJECTS COMMITTED UNDER MUNICIPAL AGREEMENTS WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION.

SECTION 2. THE PROJECT DIRECTOR IS HEREBY DIRECTED TO PROCEED WITH THE PROJECT WITHIN THE SCOPE OF THE VARIOUS AGREEMENTS EXECUTED AND WITHIN THE FUNDS APPROPRIATED HEREFOR.

SECTION 3. THE FOLLOWING REVENUES ARE ANTICIPATED TO BE AVAILABLE TO THE CITY TO COMPLETE THE PROJECT:

NC DEPARTMENT OF TRANSPORTATION	\$ 15,710
GENERAL FUND TRANSFER	2,095,599
	<u>\$ 2,111,309</u>

SECTION 4. THE FOLLOWING AMOUNTS ARE APPROPRIATED FOR THE PROJECT:

PROJECT EXPENDITURES	<u>\$ 2,111,309</u>
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SECTION 5. COPIES OF THIS CAPITAL PROJECT ORDINANCE SHALL BE MADE AVAILABLE TO THE PROJECT DIRECTOR AND THE FINANCE OFFICER FOR DIRECTION IN CARRYING OUT THIS PROJECT.

ADOPTED THIS 9TH DAY OF NOVEMBER, 2009.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Nancy Peters, Accounts Payable Supervisor through Lisa Smith, Chief Financial Officer  
**DATE:** November 9, 2009  
**RE:** **Finance - Tax Refunds of Greater Than \$100**

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**THE QUESTION:**

City Council approval is required to issue tax refund checks for \$100 or greater.

**RELATIONSHIP TO STRATEGIC PLAN:**

No Relationship

**BACKGROUND:**

Approved by the Cumberland County Special Board of Equalization for the month of September, 2009.

**ISSUES:**

None

**OPTIONS:**

Approve the refund.

**RECOMMENDED ACTION:**

Approval

**ATTACHMENTS:**

Finance- Tax Refunds of Greater Than \$100



November 9, 2009

**MEMORANDUM**

TO: Lisa Smith, Chief Financial Officer *LS*  
 FROM: Nancy Peters, Accounts Payable  
 RE: Tax Refunds of Greater Than \$100 *NIP*

The tax refunds listed below for greater than \$100 were approved by the Cumberland County Special Board of Equalization for the month of September, 2009.

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
Beasley FM Acquisition WZFX	3689658	2008	Corrected Assessment	1852.30
Eddie M. Evans	2599022	2008	Corrected Assessment	110.48
Five Riddle, III Inc.	4733477	2004-2008	Corrected Assessment	709.09
Old Dominion Freight Line, Inc.	1279658	2004-2007	Corrected Assessment	1056.54
<b>TOTAL</b>				<b>\$3728.41</b>

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Gloria B. Wrench Purchasing Manager  
**DATE:** November 9, 2009  
**RE:** **Fire - Wireless Multi-Gas and Radiation Monitor**

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**THE QUESTION:**

Staff requests approval to award a contract for the purchase of a Wireless Multi-Gas and Radiation Monitor.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growing City, Livable Neighborhoods - A Great Place to Live

**BACKGROUND:**

N.C.G.S. 143-129(e)(6) allows an exception to the bidding requirements for the purchase of apparatus, supplies, materials or equipment when a needed product is available from only one source of supply and when standardization and compatibility is the overriding consideration. The AreaRAE system is a wireless multi-gas and radiation monitor manufactured by RAE Systems, San Jose, California. RAE Systems is the sole source vendor for AreaRAE. The AreaRAE System is compatible with the AreaRAE System currently being used by the Hazardous Materials Team. A system by a different manufacturer would not be compatible with the current AreaRae system. This purchase will further enhance the City's capability to monitor large areas for hazardous materials.

**ISSUES:**

None

**OPTIONS:**

(1) Award contract according to staff recommendation. (2) Reject bid and not award contract.

**RECOMMENDED ACTION:**

Award a contract to RAE Systems, Inc., San Jose, California, in the amount of \$109,153.00, for the purchase of a Wireless Multi-Gas and Radiation Monitor.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, Planner II  
**DATE:** November 9, 2009  
**RE:** **Planning - Case No. P09-30F. The rezoning from C1 Commercial District to R6 Residential District for residential uses on property located on Bailey Street, behind 2521 Lone Pine Dr. Containing 1.01 acres more or less and being the property of Rollin and Jennie Raymes.**

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**THE QUESTION:**

Rezone from C1 Commercial to R6 Residential District

**RELATIONSHIP TO STRATEGIC PLAN:**

Growth and Development

**BACKGROUND:**

Owner: Rollin and Jennie Raymes  
Applicant: Jennie Raymes  
Requested Action: C1 to R6  
Property Address: Bailey St. (behind 2521 Lone Pine Dr).  
Size: +/- 1.01 acres  
Existing Land Use: Single family residential Adjoining  
Land Use & Zoning: North – R6 Residential, South – R6 Residential, East – R6 Residential, West – C1P Commercial  
2010 Land Use Plan: Medium Density Residential  
Letters Mailed: 78

**ISSUES:**

Case P02-16F rezoned this property to C1 from R6. The owner's son was to open his plumbing business on this lot. No commercial activity has taken place here.

**OPTIONS:**

Rezone the property to R6 Residential Zoning;  
Rezone to a more restrictive Zoning District;  
Deny the rezoning of this property.

**RECOMMENDED ACTION:**

The Zoning Commission and Staff Recommend Approval.

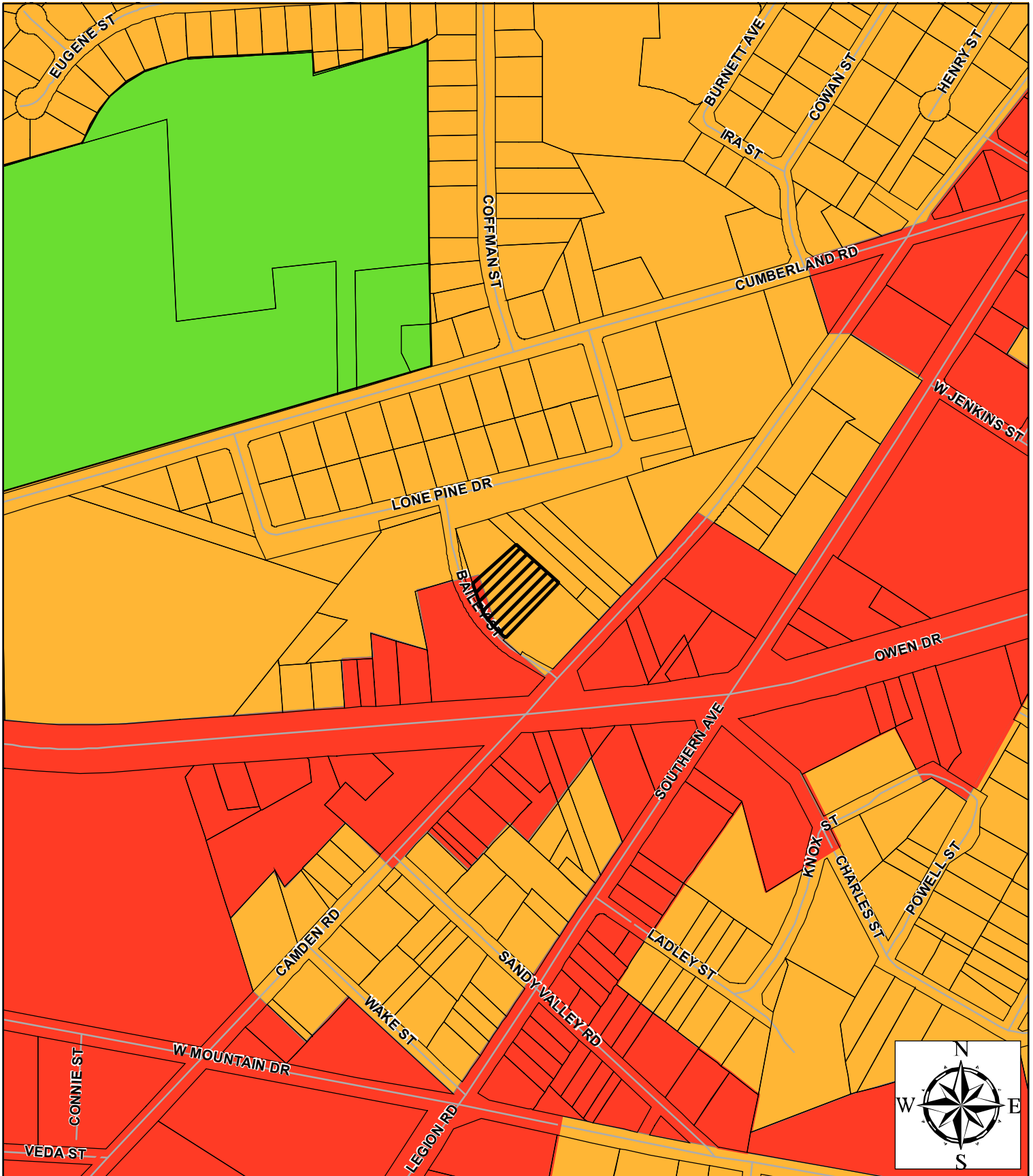
Move to approve the R6 Residential Zoning District based on the 2010 Land Use Plan recommendations for Medium Density Residential Zoning for this property and its adjacent to Medium Density (R6) residential on three sides.

**ATTACHMENTS:**







2010 Plan  
Current Landuse  
Vicinity Map  
Zoning Map

# 2010 Land Use Plan

## Case No. P09-30F

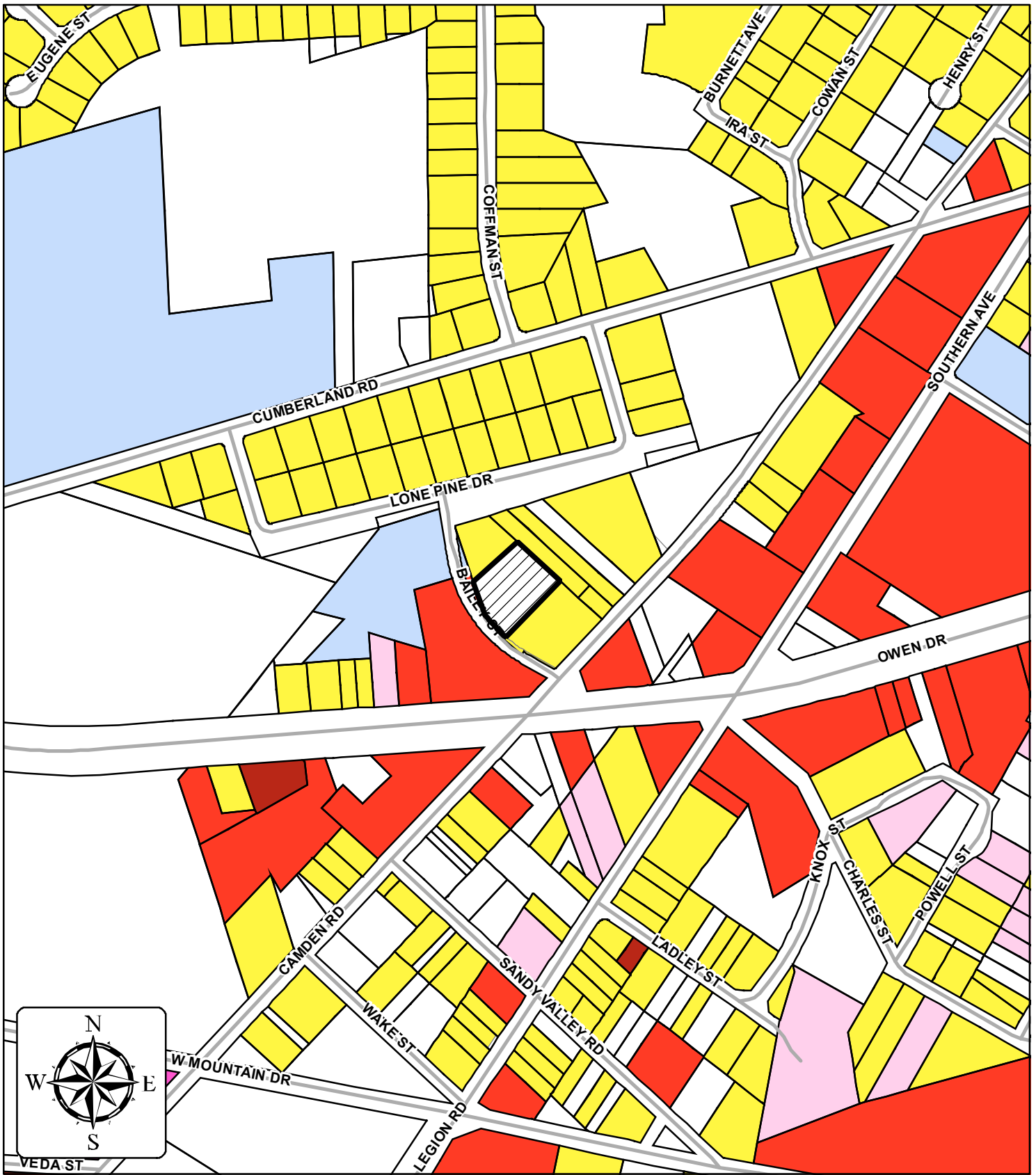


### Legend

- |  |  |   |
|--|--|---|
|  Medium Density Residential |  Office / Institutional |  Governmental            |
|  Downtown                   |  Heavy Commercial       |  Low Density Residential |

# Current Land Use

P09-30F

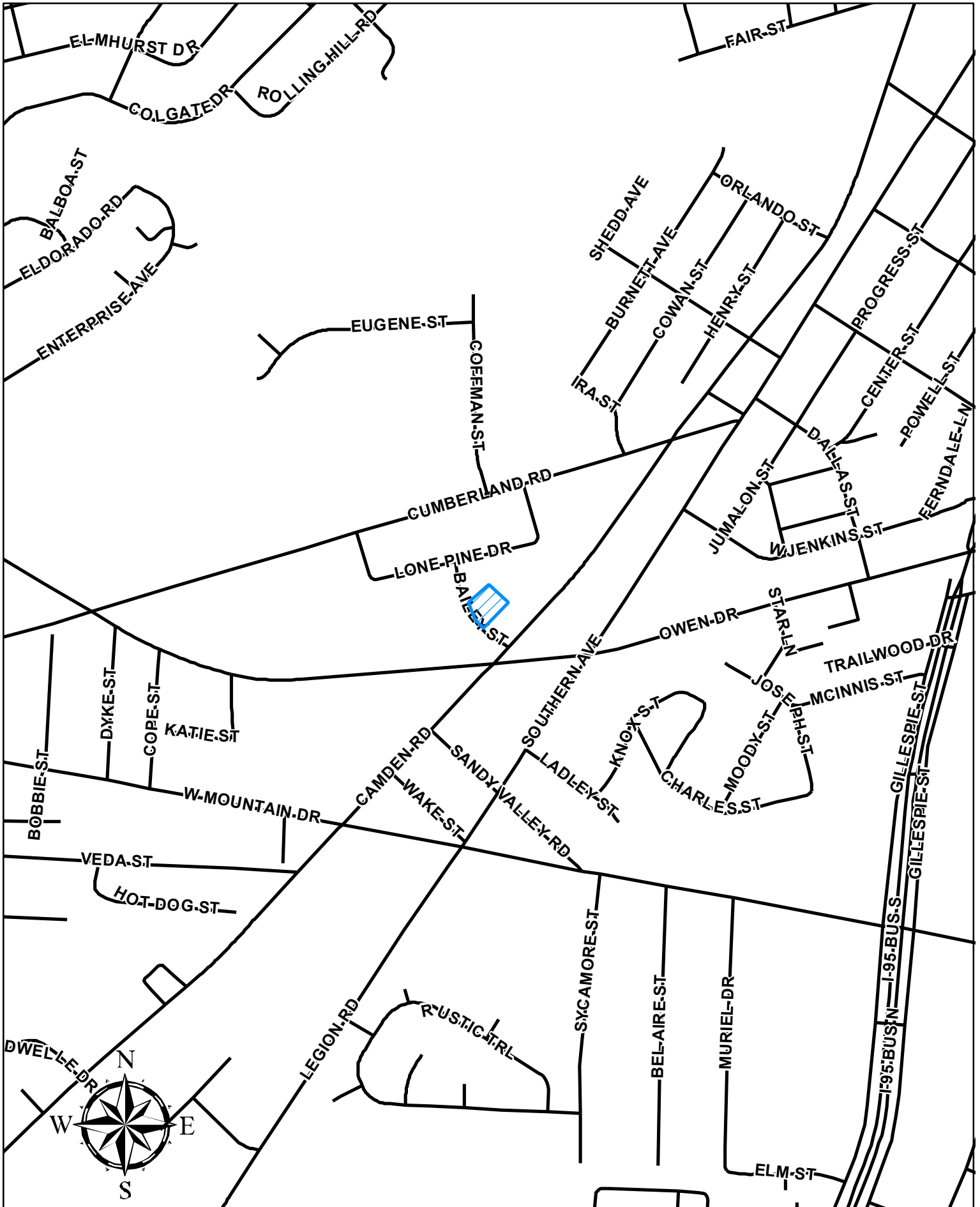


Legend

Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN

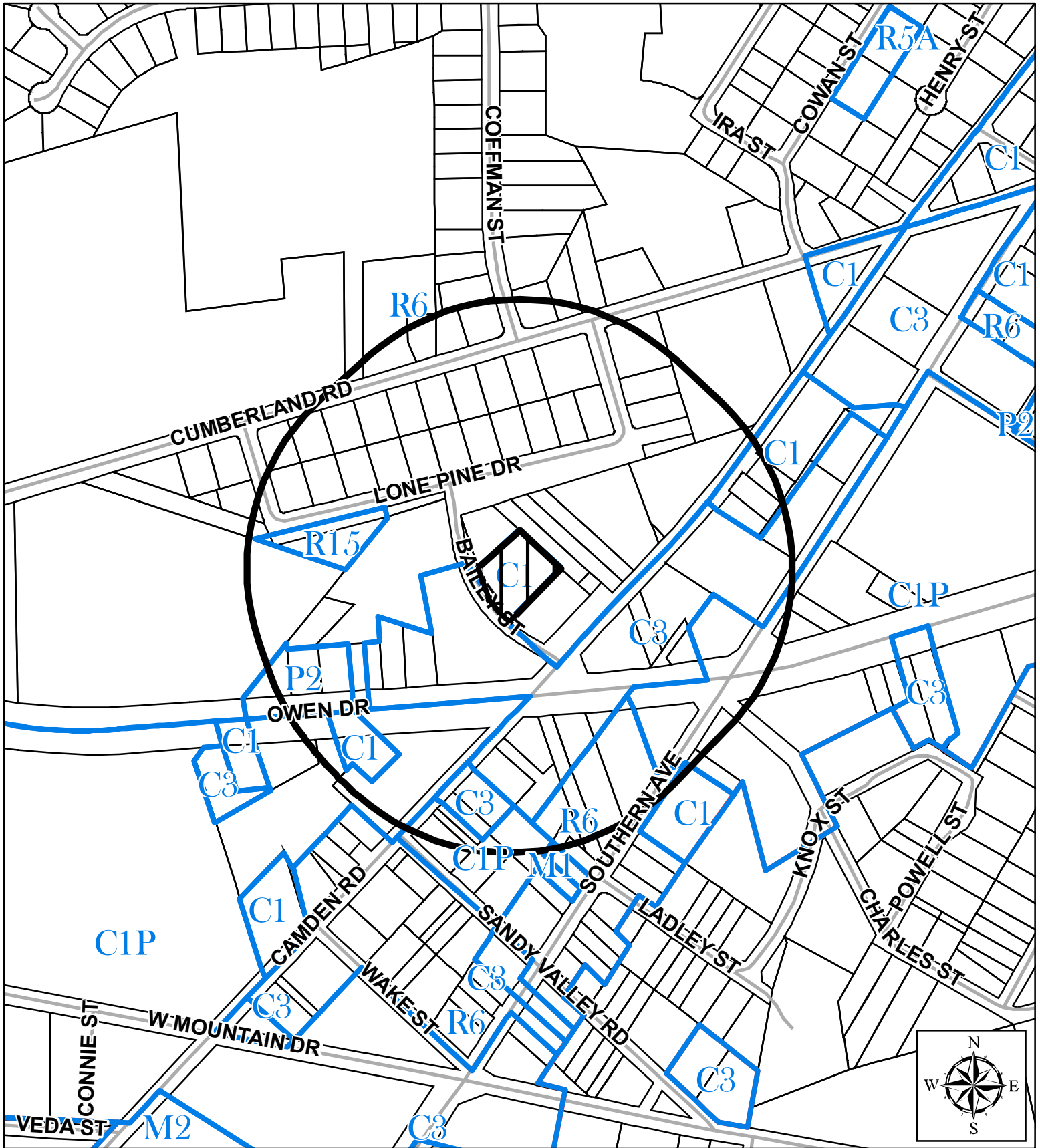
# Zoning Commission - Vicinity Map

Case No. P09-30F



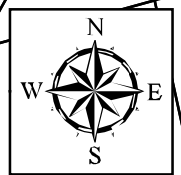


ZONING COMMISSION  
CASE NO. P09-30F



Request: C1 to R6  
Location: Bailey St.,  
behind 2521 Lone Pine Dr.  
Acreage: +/- 1.01

Zoning Commission: 9/09/2009    Recommendation: \_\_\_\_\_  
City Council: \_\_\_\_\_    Final Action: \_\_\_\_\_  
Pin: 0426-71-9992



Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, Planner II  
**DATE:** November 9, 2009  
**RE:** **Planning - Case No. P09-31F. The rezoning from C1A Commercial District to R5 Residential District for residential uses on property located at 221 Old Wilmington Road. Containing 0.17 acres more or less and being the property of Fayetteville Metropolitan Housing Authority.**

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**THE QUESTION:**

Rezone from C1A Commercial to R5 Residential District.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growth and Development

**BACKGROUND:**

Owner: Fayetteville Metropolitan Housing Authority  
Applicant: Fayetteville Metropolitan Housing Authority  
Requested Action: C1A to R5  
Property Address: 221 Old Wilmington Rd.  
Size: +/- 0.17 acres  
Existing Land Use: Vacant  
Adjoining Land Use & Zoning: North – R5 Residential, South – R5 Residential, East – R5 Residential, West – MU/CZ Mixed Use Conditional Zoning  
2010 Land Use Plan: Downtown  
Letters Mailed: 107

**ISSUES:**

Formally there was a small community store on this property.

**OPTIONS:**

Rezone the property to R5 Residential Zoning;  
Rezone to a more restrictive Zoning District;  
Deny the rezoning of this property.

**RECOMMENDED ACTION:**

The Zoning Commission and City Staff recommend Approval:

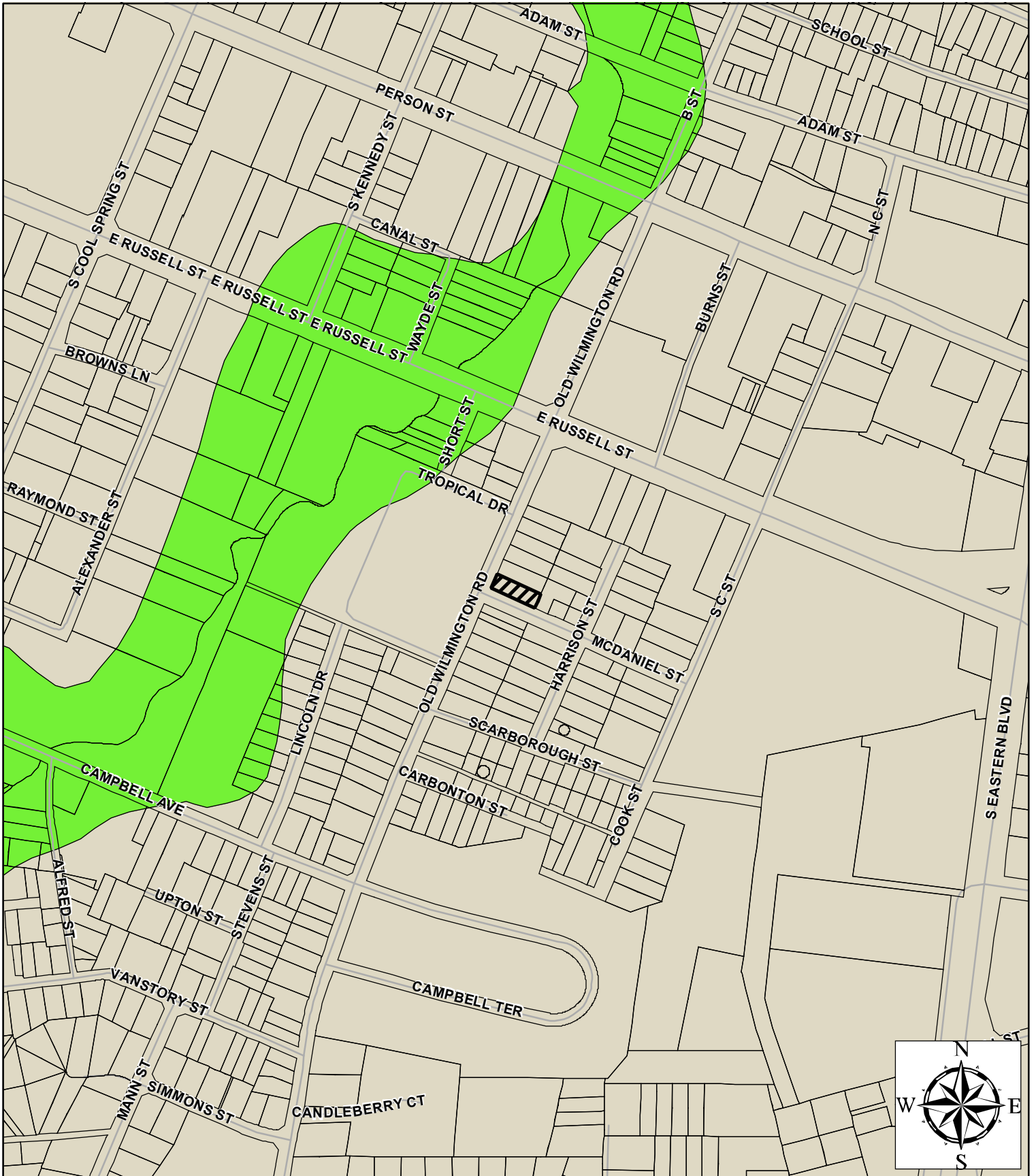
Move to approve R5 Residential Zoning District based on the 2010 Land Use Plan recommending Downtown Zoning for this property and R5 is the city's residential land use category for this type of activity. The property is adjacent to R-5 High Density residential on three sides;

**ATTACHMENTS:**







2010 Plan  
Current Landuse  
Vicinity Map  
Zoning Map

# 2010 Land Use Plan

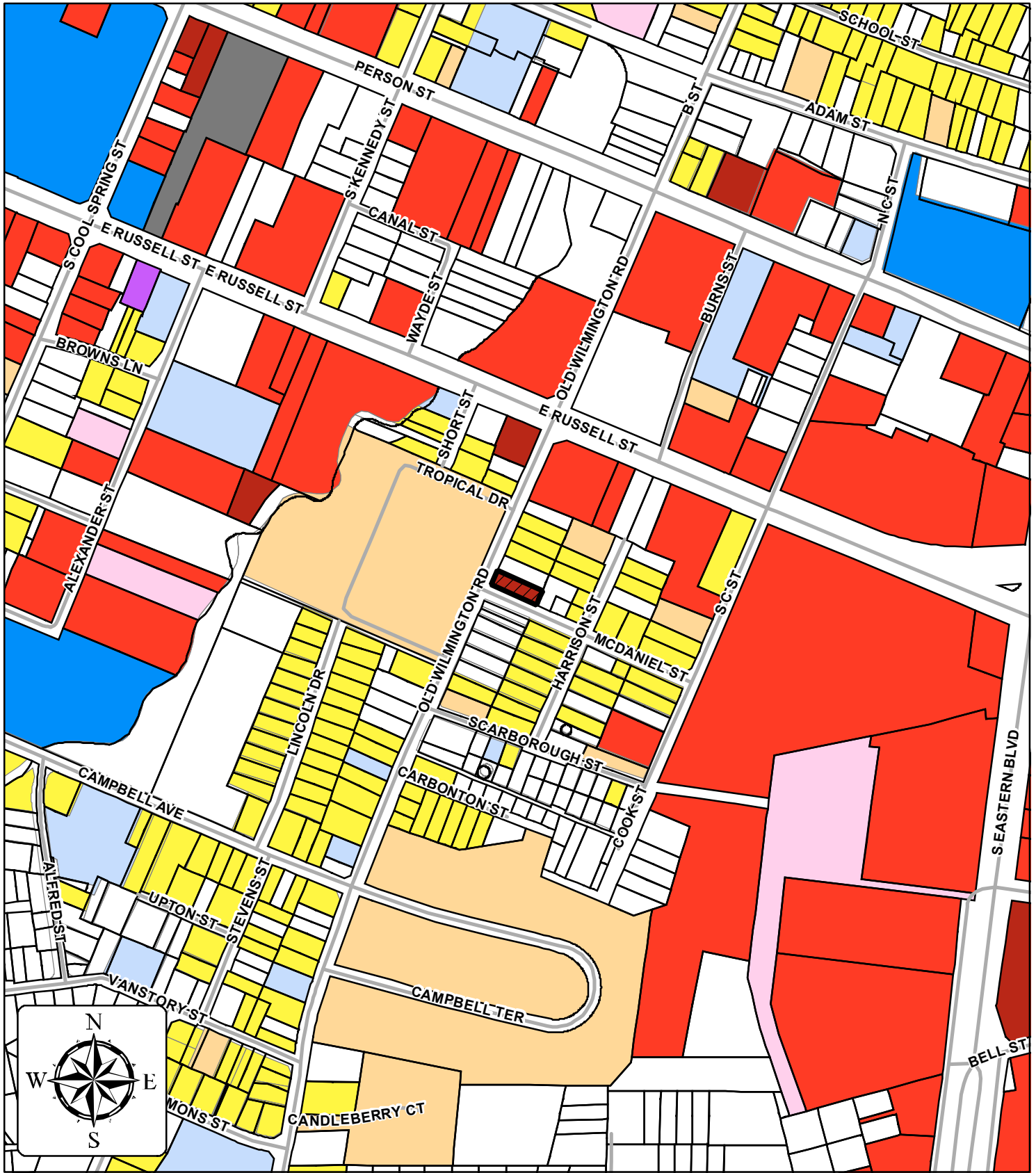
## Case No. P09-31F



### Legend

- |  |  |   |
|--|--|---|
|  Medium Density Residential |  Office / Institutional |  Governmental            |
|  Downtown                   |  Heavy Commercial       |  Low Density Residential |

Current Land Use  
P09-31F



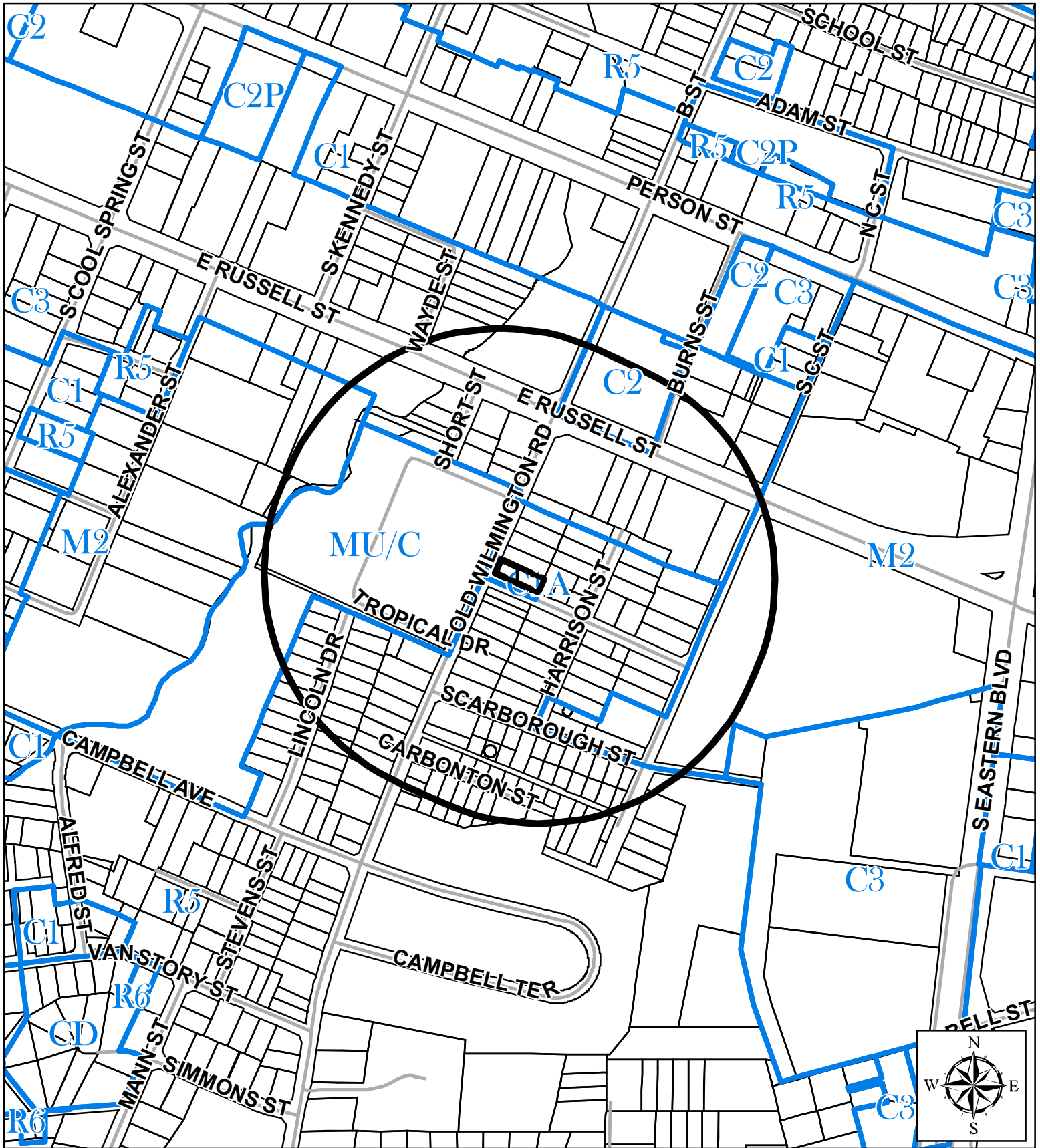
Legend

Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN





ZONING COMMISSION  
CASE NO. P09-31F



Request: C1A to R5  
Location: 221 Old Wilmington Rd.  
Acreage: +/- 0.17

Zoning Commission: 9/09/2009    Recommendation: \_\_\_\_\_  
City Council: \_\_\_\_\_    Final Action: \_\_\_\_\_  
Pin: 0437-81-6735

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, Planner II  
**DATE:** November 9, 2009  
**RE:** **Planning - Case No. P09-32F. The rezoning from R5 Residential District to C3 Commercial District for Kentucky Fried Chicken and additional restaurant parking on property located at 612, 614, 616 Link Street and 613, 615, 617 School Street. Containing 31,864 square feet more or less and being the property of Paris and Potter, Constance Fasul Potter, Anna Sylvia Fasul and Katherine Fasul.**

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**THE QUESTION:**

Rezone from R5 Residential to C3 Commercial District.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growth and Development

**BACKGROUND:**

Owner: Paris & Potter a partnership, Constance Fasul Potter, Anna Sylvia Fasul and Katherine Fasul; Applicant: Steve Paris  
Requested Action: R5 to C3  
Property Address: 612, 614, 616 Link St. & 613, 615, 617 School Rd.  
Size: +/- 31,864 square feet  
Existing Land Use: Commercial Restaurant – Kentucky Fried Chicken  
Adjoining Land Use & Zoning: North – M2 Industrial, South – R5 Residential & C3 Commercial, East – C3 Commercial, West – R5 Residential  
2010 Land Use Plan: Downtown  
Letters Mailed: 90

**ISSUES:**

The Kentucky Fried Chicken on Eastern Blvd. is being rebuilt and the parking lot re-arranged and expanded.

**OPTIONS:**

Rezone the property to C3 Commercial Zoning District;  
Rezone to a more restrictive Zoning District;  
Deny the rezoning of this property.

**RECOMMENDED ACTION:**

Zoning Commission and City Staff recommend Approval:

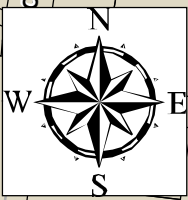
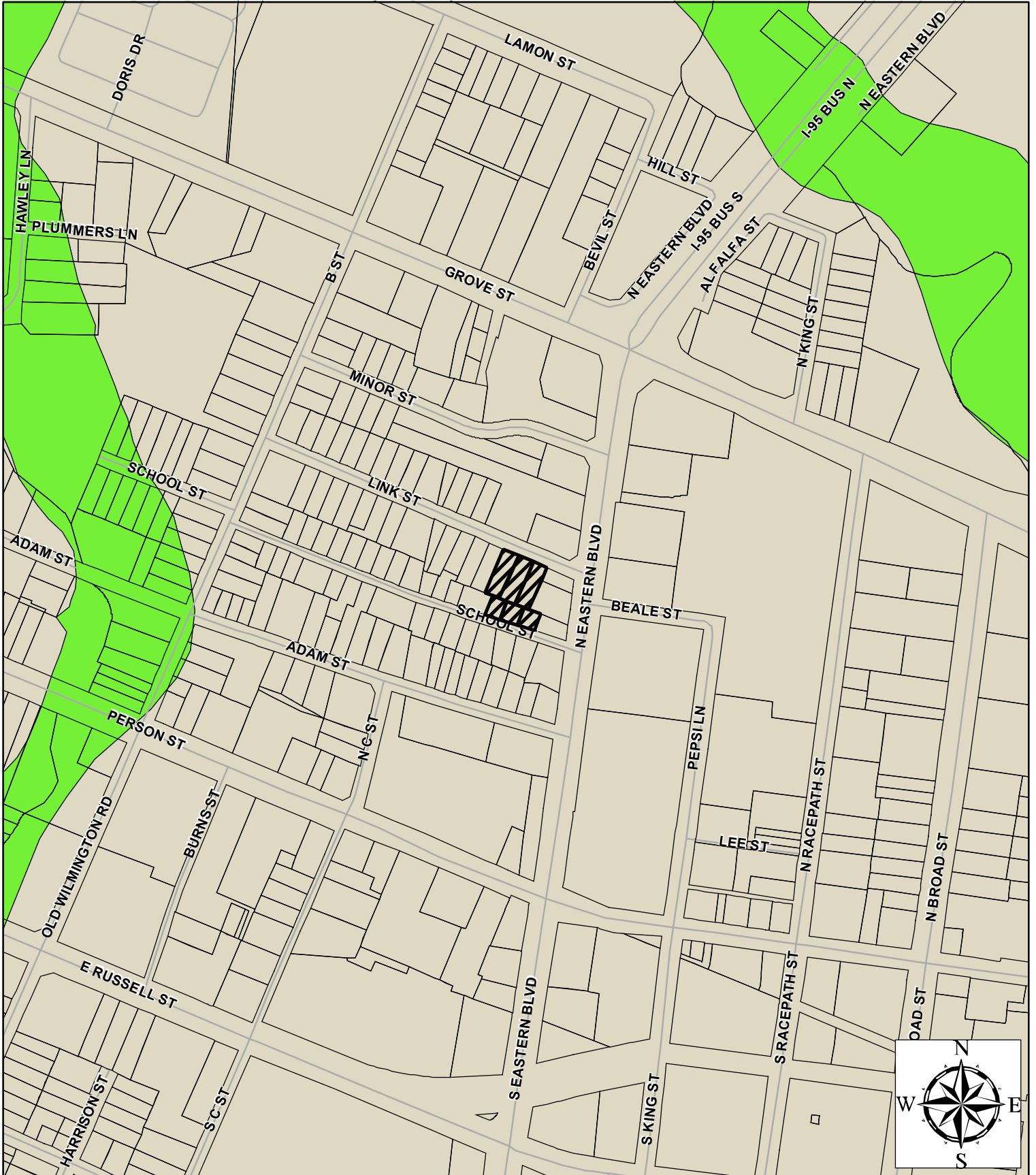
Move to approve C3 Commercial Zoning District based on the 2010 Land Use Plan recommending Downtown Zoning for this property and C3 is appropriate for that area and that the property is adjacent to High Density Commercial on three sides and that the property is an existing restaurant and is located on a major thoroughfare.

**ATTACHMENTS:**







2010 Plan  
Current Landuse  
Vicinity Map  
Zoning Map  
KFC Site Plan

# 2010 Land Use Plan

## Case No. P09-32F

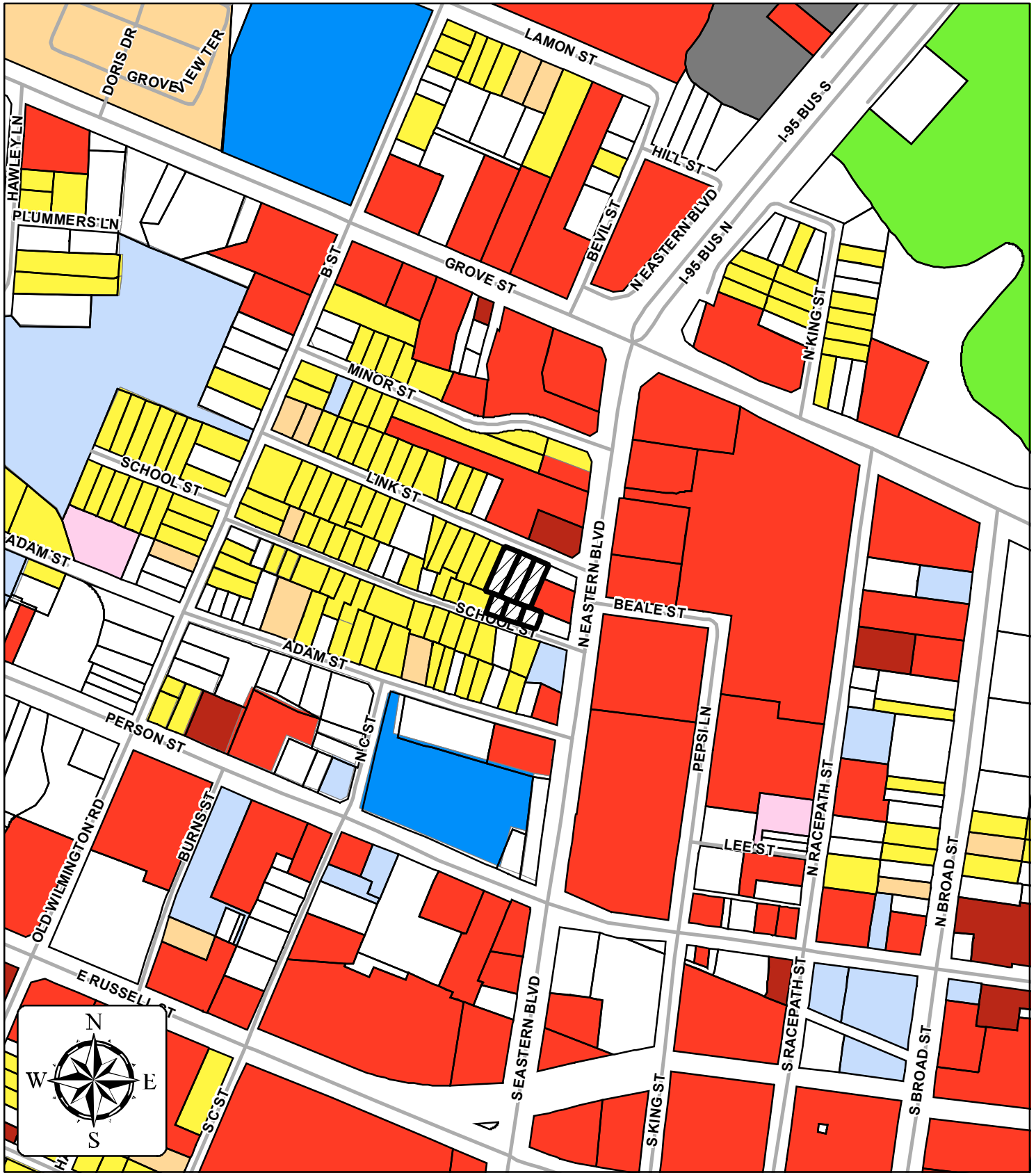


### Legend

- |  |  |   |
|--|--|---|
|  Medium Density Residential |  Office / Institutional |  Governmental            |
|  Downtown                   |  Heavy Commercial       |  Low Density Residential |



Current Land Use  
P09-32F

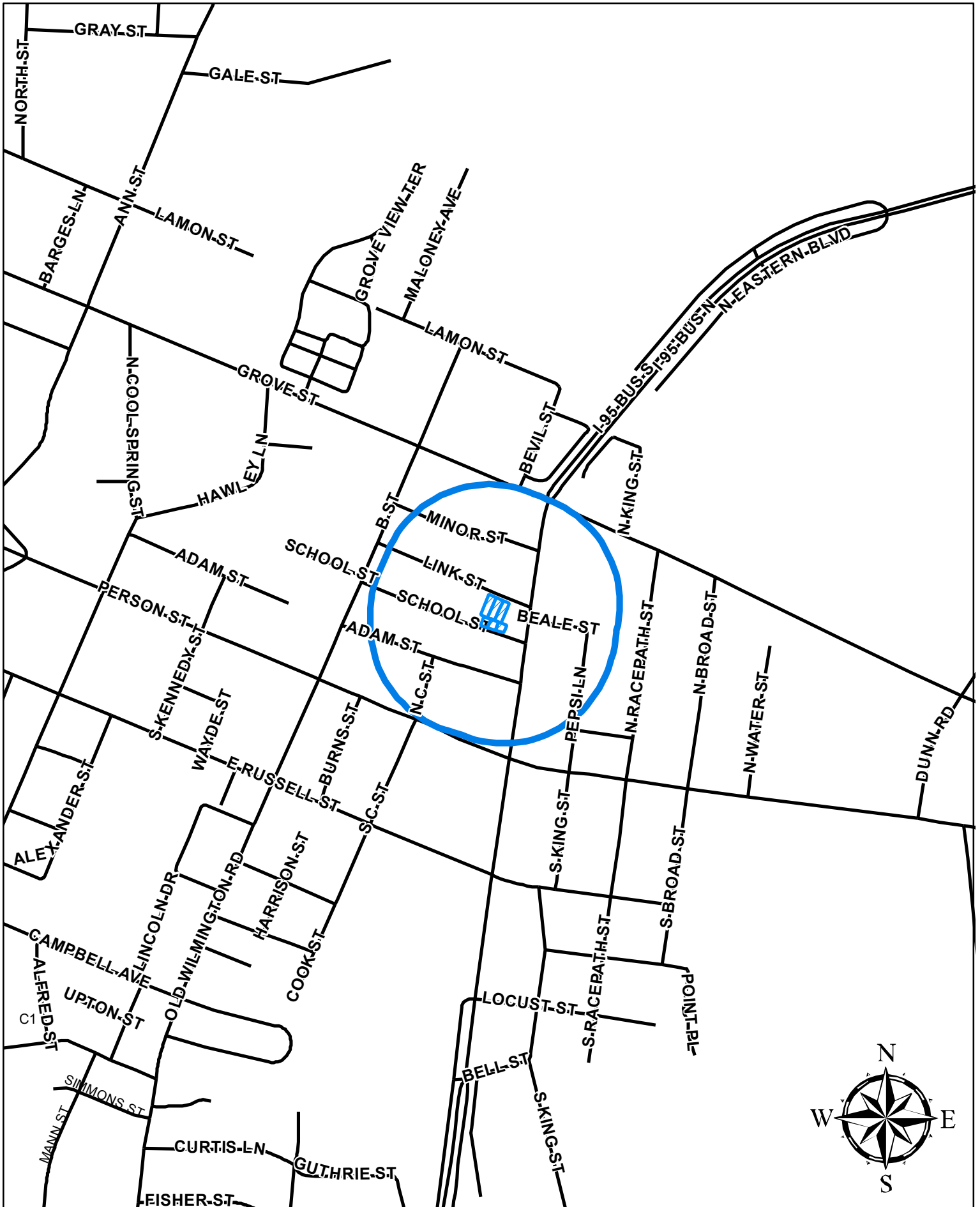


Legend

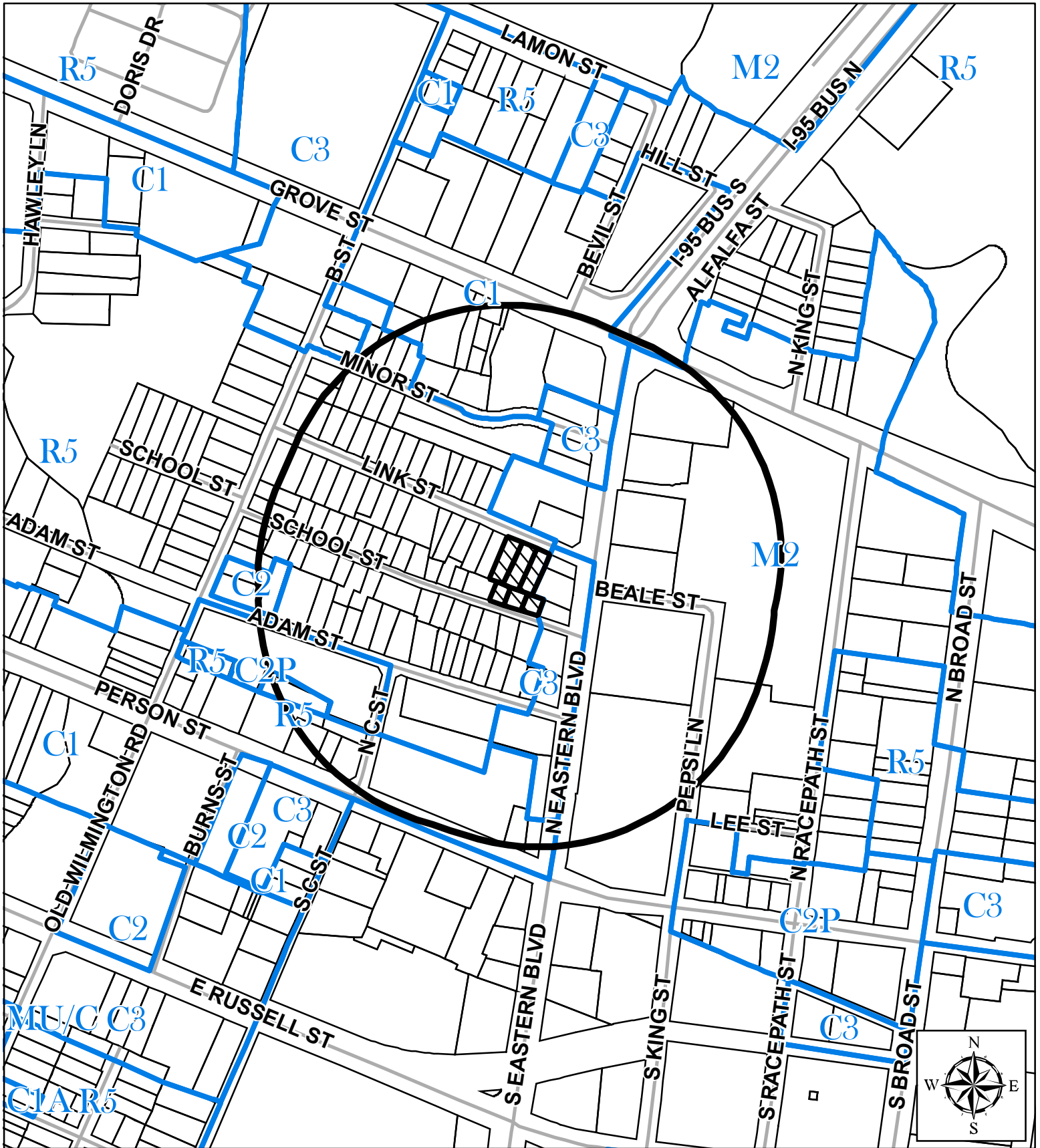
Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN

# Zoning Commission - Vicinity Map

Case No. P09-32F



**ZONING COMMISSION  
CASE NO. P09-32F**



**Request:** R5 to C3  
**Location:** 612, 614, 616 Link St. &  
 613, 615, 617 School St.  
**Acreage:** +/- 0.73

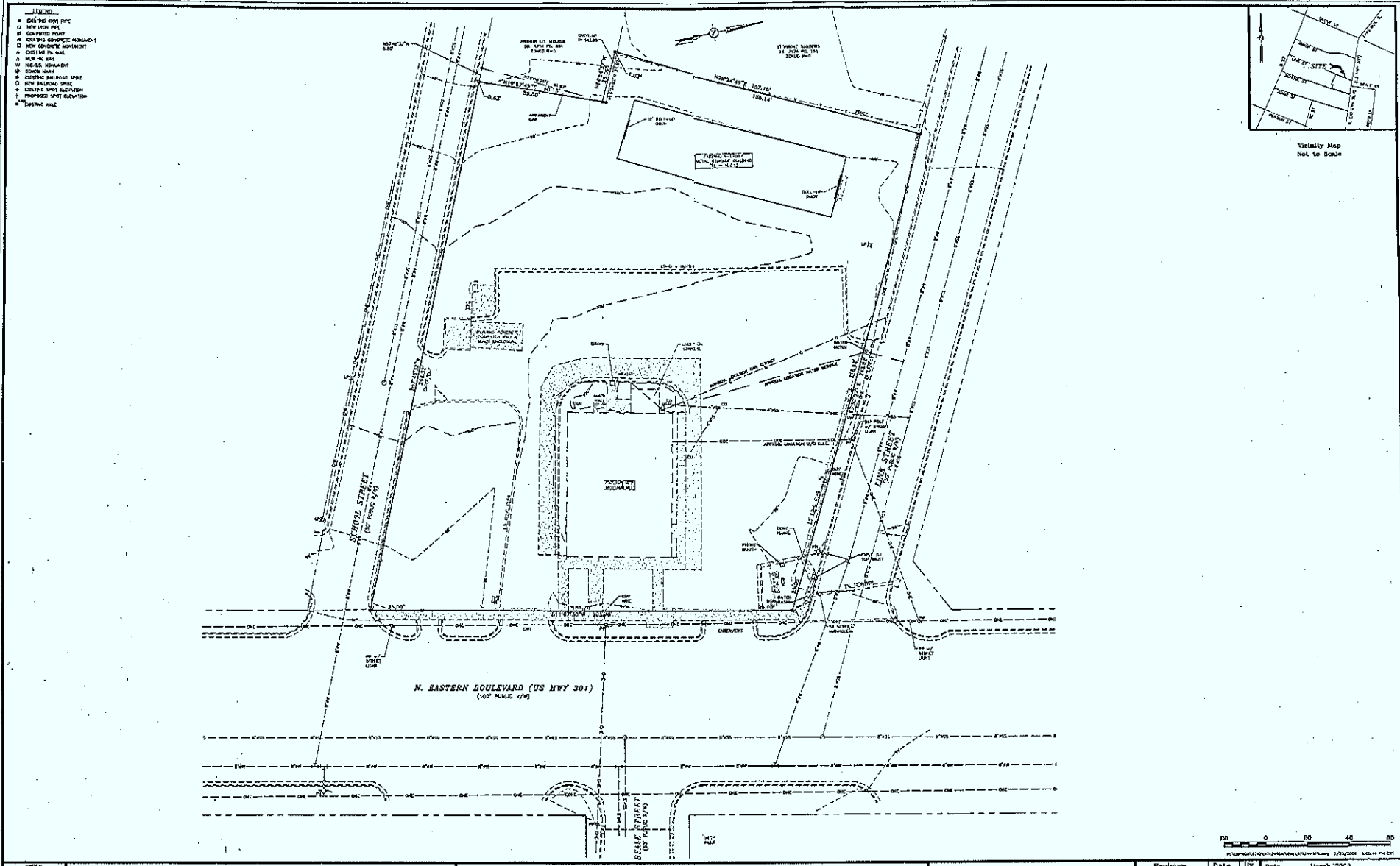
**Zoning Commission:** 9/09/2009    **Recommendation:** \_\_\_\_\_  
**City Council:** \_\_\_\_\_    **Final Action:** \_\_\_\_\_  
**Pin:** 0447-03-2418, 0447-03-2466, 0447-03-3414, 0447-03-2307,  
 0447-03-2355 & 0447-03-3303

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

7-15-5-1

301

301 KFC



	<b>Herring-Sutton &amp; Associates, P.A.</b> Engineers - Surveyors - Planners 2201 Nash Street NW, Wilson, North Carolina 27896 (252) 291-5587		<b>KFC</b> <b>Fayetteville, NC</b>		<b>Topographic Survey</b>		Revision: _____ Date: _____ BY: _____ Date: _____ Month: 2008	
							Scale: 1" = 20' Map No. 08-4712A Sheet No. 1 of 4	

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Karen S. Hilton, Interim Planning Director  
**DATE:** November 9, 2009  
**RE:** **Planning - Special Sign Permit Request for up to 23 temporary event signs between November 10 and November 21 for the Greek Orthodox Spaghetti Fund Raiser at 614 Oakridge Avenue on November 18, 2009.**

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**THE QUESTION:**

Approval of the special request for temporary event signs for the Greek Orthodox Spaghetti Fund Raiser.

**RELATIONSHIP TO STRATEGIC PLAN:**

Partnership of Citizens

**BACKGROUND:**

The Sign Ordinance contains a provision, Section 30-259, allowing special permits for temporary on and off premises signs for festivals and major events for the purposes of giving directions and information. The City Council must approve the request for these event signs, and may limit the number.

**ISSUES:**

The City Council has routinely approved similar requests for similar events for several years. The Spaghetti Fundraiser will be held November 18 at the Sts. Constantine and Helen Greek Orthodox Church at 614 Oakridge Ave. The signs are approximately six square feet each (2' x 3'). Applicant has provided a list of 23 locations along the major corridors in the area around the church. Typically signs are removed no more than 48 hours after the event.

**OPTIONS:**

1. Grant the special sign permit for up to 23 signs with removal by end of day Friday, November 20, 2009
2. Grant the special sign permit with limitations on the number or locations
3. Deny the special sign permit as requested

**RECOMMENDED ACTION:**

Option 1: Grant the special sign permit for up to 23 signs, to be removed by end of day Friday, November 20, 2009.

**ATTACHMENTS:**

Applicant request  
Sign locations

E-Mail Request for special sign permit:

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**From:** John Bantsolas - JNB Commercial Properties [mailto:john@jnbcommercial.com]  
**Sent:** Tuesday, November 03, 2009 3:09 PM  
**To:** Karen Hilton  
**Subject:** Temporary Signs - Greek Orthodox Spaghetti Fundraiser - Nov 18, 2009

Karen: Attached are the sign locations. Signs are 2' x 3' in size. Contact address & Telephone:

Sts Constantine & Helen Greek Orthodox Church      910-484-2010  
614 Oakridge Ave  
Fayetteville, NC 28305

John N. Bantsolas, CCIM  
Coldwell Banker Commercial  
United Realty  
3800 Raeford Road      910-483-9420  
Fayetteville, NC 28304  
[www.cbcur.com](http://www.cbcur.com)  
fax 910-223-7270

## **2009 Greek Spaghetti Sign Locations**

Fish & Chips, Bragg Blvd	BP Station, Morganton Rd (Hamont)
Hellenic Center, 614 Oakridge Avenue	Vick's Drive-In, Rowan St
Deno's Italian Restaurant, Grove St & Eastern Blvd	
Bar-B-Que Hut, Owen Dr	KFC, Southern Ave & Owen Dr
KFC, Raeford Rd	Baldinos, Bingham Dr (2 signs)
KFC, Morganton Rd (Cross Point Center)	Trophy House, Bragg Blvd
Miami Subs, McPherson Ch Rd (2 signs)	KFC, Reilly Road
Paris & Potter, Ramsey St	Pizza Palace, Hope Mills Rd
Superior Bakery, Hope Mills Rd	KFC, Hope Mills Rd & Cumberland Rd
Brick Oven, Ramsey St	George's Gyros, Yadkin Rd
Captain Jerry's, Reilly Rd	Monarch Cleaners, Ramsey St
KFC, Ramsey St	JK Deli – Owen Drive



## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Karen S. Hilton, Interim Planning Director  
**DATE:** November 9, 2009  
**RE:** **Planning - Special Sign Permit Request for 20 to 25 temporary event signs between November 10 and November 30 for the Heart of Christmas Show.**

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**THE QUESTION:**

Approval of the special request for temporary event signs for the Heart of Christmas Show.

**RELATIONSHIP TO STRATEGIC PLAN:**

Partnership of Citizens

**BACKGROUND:**

The Sign Ordinance contains a provision, Section 30-259, allowing special permits for temporary on and off premises signs for festivals and major events for the purposes of giving directions and information. The City Council must approve the request for these event signs, and may limit the number.

This is the 34th such Craftsmen's Christmas Festival, and these same 2' x 4' or similar wooden sandwich signs have been approved for the past several years. The applicant has provided a list of 45 locations where the signs will be placed (see attached). The signs will be placed between Monday, November 23rd through Monday, November 30.

**ISSUES:**

The City Council has routinely approved similar requests for this and similar events for several years. The 11th annual Heart of Christmas Show will be held November 28-29 at the Crown Theatre. The signs have a metal frame and are approximately six square feet each (2' x 3'). Applicant is requesting 20 to 25 signs. They will be placed throughout the city, generally around activity centers along the major corridors; staff will provide general guidance on location. Signs will be removed on December 1.

**OPTIONS:**

1. Grant the special sign permit as requested (up to 25 signs)
2. Grant the special sign permit with limitations on the number or locations
3. Deny the special sign permit as requested

**RECOMMENDED ACTION:**

Option 1: Grant the special sign permit as requested.

**ATTACHMENTS:**

Letter of Request for Signs for Heart of Christmas show



October 21, 2009

To: Karen Hilton, AICP

Re: SPECIAL SIGN PERMIT

To be requested at November 9, 2009 City Council Meeting

Thank you so much for your assistance! The information that you required for sign permits are as follows:

Name: The Heart of Christmas Show

Date: November 28<sup>th</sup> & 29<sup>th</sup> 2009

Location of event: Cumberland County Crown Theatre      Sponsored by: Community  
Businesses

Number of signs requested 20 to 25

Dimension of signs: 2ft by 3ft      Constructed of: Metal frame

Signage: The Heart of Christmas Show will be playing the weekend after Thanksgiving at the Crown Theatre.

Location of signs: Various locations across the city of Fayetteville

Signs will be placed on: November 1, 2009

Signs will be removed on: December 1, 2009

Contact Information: Charles Stevens

4532 Woodswallow Drive

Fayetteville, NC 28312

(910)-670-2814

Thank you again!

Laura Stevns

Director

Heart of Christmas Show

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of Council  
**FROM:** Gloria B. Wrench, Purchasing Manager  
**DATE:** November 9, 2009  
**RE:** **Police - Bid Recommendation for the Purchase of a Police Tactical Robot**

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**THE QUESTION:**

Staff requests approval to award a contract for the purchase of a Police Tactical Robot.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growing City, Livable Neighborhoods - A Great Place to Live

**BACKGROUND:**

Bids were received on Wednesday, September 2, 2009, at 3:00 p.m., for the purchase of a Police Tactical Robot. The bids received are as follows:

Mesa Robotics, Inc., Madison, AI	\$ 72,218.00
iRobot Corporation, Bedford, MA	\$100,168.00
Foster-Miller Inc., Waltham, MA	\$104,674.00

The bid submitted by Mesa Robotics, Inc. did not meet specifications; therefore, staff recommends award to iRobot Corporation, the lowest responsible, responsive bidder in the amount of \$100,168.00. This purchase is being funded by the 2009 Byrne Justice Assistance Grant. This robot will enhance the safety and effectiveness of the Emergency Response and Crisis Negotiation Teams.

**ISSUES:**

None.

**OPTIONS:**

(1) Award contract according to staff recommendation. (2) Reject bid and not award contract.

**RECOMMENDED ACTION:**

Award a contract to iRobot Corporation, Bedford, MA, in the amount of \$100,168.00 for the purchase of a Police Tactical Robot.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Steven K. Blanchard, PWC CEO/General Manager  
**DATE:** November 9, 2009  
**RE:** **PWC - Bid Recommendation – Cross Creek Water Reclamation Facility Plant Control System Replacement**

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**THE QUESTION:**

Public Works Commission of the City of Fayetteville requests Council approve bid award for the Cross Creek Water Reclamation Facility Plant Control System Replacement.

**RELATIONSHIP TO STRATEGIC PLAN:**

Quality Utility Services.

**BACKGROUND:**

The Public Works Commission, during their meeting of October 28, 2009 approved bid recommendation to award bid for Cross Creek Water Reclamation Facility Plant Control System Replacement to Barnes & Powell Electrical Co., Inc., Elm City, North Carolina, the lowest responsive, responsible bidder in the total amount of \$761,500.00 and forward to City Council for approval. This project was approved as WS 50 in the 2010 Capital Budget and is being funded by the 2009 Bond Fund (\$39,252,278 total issuance). The total project cost for WS 50 is slightly over what was budgeted, but well within the contingency amount provided for in the bond fund. Bids were received September 29, 2009 as follows:

<u>Bidders</u>	<u>Total Cost</u>
Barnes & Powell Electrical Co., Inc., Elm City, NC	\$761,500.00
Gaylor, Inc. of NC, Raleigh, NC	\$866,700.00
T. A. Loving Company, Goldsboro, NC	\$927,600.00

**ISSUES:**

Bids were solicited from seven contractors with three contractors responding.

A bid was received from Control Instruments, Inc., Smyrna, Georgia however, they failed to comply with the SDBE requirements of the bid by not submitting any of the required SDBE Affidavits. Therefore, the bid submitted by Control Instruments was determined to be non-responsive.

Barnes & Powell will utilize a woman-owned subcontractor for approximately 1.97% of the work on this project. PWC staff required documentation of the good faith efforts from Barnes & Powell to solicit minority/DBE participation and, upon review of that documentation, a determination was made that Barnes & Powell did meet the requirements for a good faith effort.

**OPTIONS:**

N/A

**RECOMMENDED ACTION:**

Award bid to Barnes & Powell Electrical Co., Inc., Elm City, NC as recommended by PWC.

**ATTACHMENTS:**

Bid Recommendation - Cross Creek Water Reclamation Facility Plant Control System

Bid history - Cross Creek Water Reclamation Facility Plant Control System

**PUBLIC WORKS COMMISSION  
ACTION REQUEST FORM**

**TO:** Steve Blanchard, CEO/General Manager                      **DATE:** October 21, 2009

**FROM:** Gloria Wrench, Purchasing Manager

.....  
**ACTION REQUESTED:** Award bid for Cross Creek Water Reclamation Facility Plant Control System Replacement

.....  
**BID/PROJECT NAME:** Cross Creek Water Reclamation Facility Plant Control System Replacement

**BID DATE:** September 29, 2009                      **DEPARTMENT:** Cross Creek WRF

**BUDGETED AMOUNT/FUNDING SOURCE:** This project was approved as WS 50 in the 2010 Capital Budget and is being funded by the 2009 Bond Fund (\$39,252,278 total issuance). The total project cost for WS 50 is slightly over what was budgeted, but well within the contingency amount provided for in the bond fund.

.....

BIDDERS	TOTAL COST
<u>Barnes &amp; Powell Electrical Co., Inc., Elm City, NC</u>	<u>\$761,500.00</u>
<u>Gaylor Inc. of NC, Raleigh, NC</u>	<u>\$866,700.00</u>
<u>T.A. Loving Company, Goldsboro, NC</u>	<u>\$927,600.00</u>

.....

**AWARD RECOMMENDED TO:** Barnes & Powell Electrical Co., Inc., Elm City, NC

**BASIS OF AWARD:** Low bidder meeting specifications and bid requirements

**AWARD RECOMMENDED BY:** Jeff Miller, PE, Black & Veatch; Joe Glass, and Gloria Wrench

.....  
**COMMENTS:** Seven (7) contractors requested plans and specifications with four (4) contractors responding. A bid was received from Control Instruments, Inc., Smyrna, GA, however, they failed to comply with the SDBE requirements of the bid by not submitting any of the required SDBE Affidavits. Therefore, the bid submitted by Control Instruments was determined to be non-responsive. The low bidder meeting specifications and all bid requirements is recommended.

.....  
**ACTION BY COMMISSION**

**APPROVED** \_\_\_\_\_ **REJECTED** \_\_\_\_\_  
**DATE** \_\_\_\_\_

**ACTION BY COUNCIL**

**APPROVED** \_\_\_\_\_ **REJECTED** \_\_\_\_\_  
**DATE** \_\_\_\_\_

## BID HISTORY

### CROSS CREEK WATER RECLAMATION FACILITY PLANT CONTROL SYSTEM REPLACEMENT

**BID DATE: SEPTEMBER 29, 2009**

#### Consulting Engineers

BLACK & VEATCH CARY, NC

#### List of Organizations Notified of Bid

1. NAACP FAYETTEVILLE BRANCH, FAYETTEVILLE, NC
2. NAWIC, FAYETTEVILLE, NC
3. N.C. INSTITUTE OF MINORITY ECONOMIC DEVELOPMENT, DURHAM, NC
4. CRIC, FAYETTEVILLE, NC
5. FAYETTEVILLE BUSINESS & PROFESSIONAL LEAGUE, FAYETTEVILLE, NC
6. SBTDC, FAYETTEVILLE, NC
7. FTCC SMALL BUSINESS CENTER, FAYETTEVILLE, NC
8. The Women's Center OF FAYETTEVILLE, FAYETTEVILLE, NC
9. FAYETTEVILLE AREA CHAMBER OF COMMERCE, FAYETTEVILLE, NC

#### List of Contractors Requesting Plans and Specifications

1. BARNES & POWELL ELECTRICAL CO, INC., ELM CITY, NC
2. CONTRL INSTRUMENTS, INC., SMYRNA, GA
3. T.A. LOVING, GOLDSBORO, NC
4. GAYLOR, INC. OF NC, RALEIGH, NC
5. TRIANGLE GRADING & PAVING, BURLINGTON, NC
6. CAPE FEAR ELECTRIC, WILMINGTON, NC
7. J.T. YATES ELECTRIC SERVICE, ROCKINGHAM, NC

#### DBE/MWBE Participation

BARNES & POWELL WILL UTILIZE A WOMAN-OWNED SUBCONTRACTOR FOR APPROXIMATELY 10% OF THE WORK ON THIS PROJECT. THE STAFF REQUIRED DOCUMENTATION OF THE GOOD FAITH EFFORTS FROM BARNES & POWELL TO SOLICIT MINORITY/DBE PARTICIPATION. UPON REVIEW OF THAT DOCUMENTATION A DETERMINATION WAS MADE THAT BARNES & POWELL DID MEET THE REQUIREMENTS FOR GOOD FAITH EFFORT.



**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Steven K. Blanchard, PWC CEO/General Manager  
**DATE:** November 9, 2009  
**RE:** **PWC - Bid Recommendation – Water and Wastewater Chemicals**

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**THE QUESTION:**

The Public Works Commission of the City of Fayetteville requests Council approve bid awards for one-year contracts, with option to extend contract for additional period(s) upon agreement of both parties for the purchase of water and wastewater chemicals.

**RELATIONSHIP TO STRATEGIC PLAN:**

Quality Utility Services

**BACKGROUND:**

During their meeting of October 28, 2009 the Public Works Commission approved the following bid recommendations for one-year contracts, with option to extend contract for additional period(s) upon agreement of both parties for the purchase of water and wastewater chemicals and forward to City Council for approval. Bids were received September 24, 2009 as follows:

**JCI Jones Chemicals, Charlotte NC**, low bidder in the amount of \$494,347.50 for the purchase of approximately 5,715,000 lbs. of Sodium Hypochlorite. Bids were solicited from forty-one (41) bidders with one (1) bidder responding as follows:

<u>Bidders</u>	<u>Total Cost</u>
JCI Jones Chemicals, Charlotte, NC	\$494,347.50

**Colonial Chemical Solutions, Savannah, Georgia**, low bidder in the amount of \$156,100.00 for purchase of approximately 1400 tons of 50% Caustic Soda. Bids were solicited from forty-one (41) bidders with five (5) bidders responding as follows:

<u>Bidders</u>	<u>Total Cost</u>
Colonial Chemical Solutions, Savannah, GA	\$156,100.00
Basic Chemical Solutions, Morrisville, PA	\$248,080.00
JCI Jones Chemicals, Charlotte, NC	\$250,600.00
Univar USA, Charlotte, NC	\$272,300.00
Key Chemical, Waxhaw, NC	\$470,400.00

**Water Elements, LLC, Lakeland, Florida**, low bidder in the amount of \$849,600.00 for purchase of approximately 6000 tons of Ferric Sulfate Liquid. Bids were solicited from forty-one (41) bidders with two (2) bidders responding as follows:

<u>Bidders</u>	<u>Total Cost</u>
Water Elements, LLC, Lakeland, FL	\$849,600.00
Kemira Water Solutions, Lawrence, KS	\$944,400.00

**ISSUES:**

The low bidders are not classified as DBE, minority or women owned businesses.

**OPTIONS:**

N/A

**RECOMMENDED ACTION:**

Award bid to the low bidders as follows:

**JCI Jones Chemicals, Charlotte NC**, in the amount of \$494,347.50 for the purchase of approximately 5,715,000 lbs. of Sodium Hypochlorite.

**Colonial Chemical Solutions, Savannah, Georgia**, in the amount of \$156,100.00 for purchase of approximately 1400 tons of 50% Caustic Soda.

**Water Elements, LLC, Lakeland, Florida**, in the amount of \$849,600.00 for purchase of approximately 6000 tons of Ferric Sulfate Liquid.

**ATTACHMENTS:**

Bid recommendation - Water/Wastewater Chemicals - Sodium Hypochlorite

Bid recommendation - Water/Wastewater Chemicals - Caustic Soda

Bid recommendation - Water/Wastewater Chemicals - Ferric Sulfate Liquid

Bid history - water/wastewater chemicals

**PUBLIC WORKS COMMISSION  
ACTION REQUEST FORM**

**TO:** Steve Blanchard, CEO/General Manager **DATE:** October 20, 2009

**FROM:** Gloria Wrench, Purchasing Manager

.....  
**ACTION REQUESTED:** Award contract for the purchase of approximately 5,715,000 lbs. of Sodium Hypochlorite over a one-year period (with the option to extend contract for additional period(s) upon the agreement of both parties).  
.....

**BID/PROJECT NAME:** Water and Wastewater Chemicals

**BID DATE:** September 24, 2009 **DEPARTMENT:** Water/Wastewater Treatment

.....

BIDDERS	TOTAL COST
<u>JCI Jones Chemicals, Charlotte, NC</u>	<u>\$494,347.50</u>

.....

**AWARD RECOMMENDED TO:** JCI Jones Chemicals, Charlotte, NC

**BASIS OF AWARD:** Low bidder

.....  
**COMMENTS:** Bids were solicited from forty-one (41) bidders with one (1) bidder responding. JCI Jones is the current supplier of this chemical to PWC and has bid the same price as they did last year.  
.....

**ACTION BY COMMISSION**

**APPROVED** \_\_\_\_\_ **REJECTED** \_\_\_\_\_  
**DATE** \_\_\_\_\_

**ACTION BY COUNCIL**

**APPROVED** \_\_\_\_\_ **REJECTED** \_\_\_\_\_  
**DATE** \_\_\_\_\_

**PUBLIC WORKS COMMISSION  
ACTION REQUEST FORM**

**TO:** Steve Blanchard, CEO/General Manager **DATE:** October 21, 2009

**FROM:** Gloria Wrench, Purchasing Manager

.....  
**ACTION REQUESTED:** Award contract for the purchase of approximately 1400 tons of 50% Caustic Soda over a one-year period (with the option to extend contract for additional period(s) upon the agreement of both parties).  
.....

**BID/PROJECT NAME:** Water and Wastewater Chemicals

**BID DATE:** September 24, 2009 **DEPARTMENT:** Water/Wastewater Treatment

.....

BIDDERS	TOTAL COST
<u>Colonial Chemical Solutions, Savannah, GA</u>	<u>\$156,100.00</u>
<u>Basic Chemical Solutions, Morrisville, PA</u>	<u>\$248,080.00</u>
<u>JCI Jones Chemicals, Charlotte, NC</u>	<u>\$250,600.00</u>
<u>Univar USA, Charlotte, NC</u>	<u>\$272,300.00</u>
<u>Key Chemical, Waxhaw, NC</u>	<u>\$470,400.00</u>

.....

**AWARD RECOMMENDED TO:** Colonial Chemical Solutions, Savannah, GA

**BASIS OF AWARD:** Low bidder

.....  
**COMMENTS:** Bids were solicited from forty-one (41) bidders with five (5) bidders responding. The low bidder is recommended.  
.....

**ACTION BY COMMISSION**

**APPROVED** \_\_\_\_\_ **REJECTED** \_\_\_\_\_  
**DATE** \_\_\_\_\_

**ACTION BY COUNCIL**

**APPROVED** \_\_\_\_\_ **REJECTED** \_\_\_\_\_  
**DATE** \_\_\_\_\_

**PUBLIC WORKS COMMISSION  
ACTION REQUEST FORM**

**TO:** Steve Blanchard, CEO/General Manager **DATE:** October 21, 2009

**FROM:** Gloria Wrench, Purchasing Manager

.....  
**ACTION REQUESTED:** Award contract for the purchase of approximately 6000 tons of Ferric Sulfate Liquid over a one-year period (with the option to extend contract for additional period(s) upon the agreement of both parties).  
 .....

**BID/PROJECT NAME:** Water and Wastewater Chemicals

**BID DATE:** September 24, 2009 **DEPARTMENT:** Water/Wastewater Treatment

BIDDERS	TOTAL COST
<u>Water Elements, LLC, Lakeland, FL</u>	<u>\$849,600.00</u>
<u>Kemira Water Solutions, Lawrence, KS</u>	<u>\$944,400.00</u>

.....  
**AWARD RECOMMENDED TO:** Water Elements, LLC, Lakeland, Florida

**BASIS OF AWARD:** Low bidder

.....  
**COMMENTS:** Bids were solicited from forty-one (41) bidders with two (2) bidders responding. The low bidder is recommended.  
 .....

**ACTION BY COMMISSION**

**APPROVED** \_\_\_\_\_ **REJECTED** \_\_\_\_\_  
**DATE** \_\_\_\_\_

**ACTION BY COUNCIL**

**APPROVED** \_\_\_\_\_ **REJECTED** \_\_\_\_\_  
**DATE** \_\_\_\_\_

## **BID HISTORY**

### **WATER AND WASTEWATER CHEMICALS BID DATE: SEPTEMBER 24, 2009**

#### **List of Organizations Notified of Bid**

1. NAACP FAYETTEVILLE BRANCH, FAYETTEVILLE, NC
2. NAWIC, FAYETTEVILLE, NC
3. N.C. INSTITUTE OF MINORITYECONOMIC DEVELOPMENT, DURHAM, NC
4. SEBEDP, FAYETTEVILLE, NC
5. FAYETTEVILLE BUSINESS & PROFESSIONAL LEAGUE
6. SBTDC, FAYETTEVILLE, NC
7. FTCC SMALL BUSINESS CENTER, FAYETTEVILLE, NC
8. The Women's Center of Fayetteville, Fayetteville, NC
9. FAYETTEVILLE AREA CHAMBER OF COMMERCE, FAYETTEVILLE, NC

#### **List of Prospective Bidders**

1. COLONIAL CHEMICAL SOLUTIONS, SAVANNAH, GA
2. JCI JONES CHEMICALS, CHARLOTTE, NC
3. LCI, LTD., JACKSONVILLE BEACH, FL
4. UNIVAR USA, GREENSBORO, NC
5. GEO SPECIALTYCHEMICALS, LITTLE ROCK, AR
6. KC INDUSTRIES, MULBERRY, FL
7. NICHEM COMPANY, IRVINGTON, NJ
8. BASIC CHEMICAL SOLUTIONS, MORRISVILLE, PA
9. CALABRIAN CORPORATION, LISLE, IL
10. TRINITYMANUFACTURING, HAMLET, NC
11. GREER LIME COMPANY, MORGANTOWN, WV
12. SOLVAYFLUORIDES, LLC, HOUSTON, TX
13. BRENNTAG SOUTHEAST, DURHAM, NC
14. SOUTHERN STATES CHEMICAL, WILMINGTON, NC
15. CARUS CHEMICAL, PERU, IL
16. CHEMICAL LIME COMPANY, RIPPLEMEAD, VA
17. CALCIQUEST, BELMONT, NC
18. CFS ENTERPRISES, CHARLOTTE, NC
19. TANNER INDUSTRIES, SOUTHAMPTON, PA
20. DLS ENTERPRISES, ALBEMARLE, NC
21. SWEETWATER TECHNOLOGIES, COLUMBIA, TN
22. PVS MINIBULK, HUNTERSVILLE, NC
23. DPC, MT MOURNE, NC
24. CARMEUSE LIME & STONE, PITTSBURG, PA
25. GENERAL CARBON, FAIR LAWN, NJ
26. SIEMENS WATER TECHNOLOGIES, SARASOTA, FL
27. SANDHILLS SOLUTIONS, HOPE MILLS, NC
28. PENCCO, SAN FELIPE, TX
29. KEYCHEMICAL, INC., WAXHAW, NC
30. HARCROS CHEMICALS, INC., THOMASVILLE, NC

31. OLD WORLD INDUSTRIES, NORTHBROOK, IL
32. KEMIRA WATER SOLUTIONS, LAWRENCE, KS
33. NORIT AMERICAS, MARSHALL, TX
34. C&S CHEMICALS, MARIETTA, GA
35. THE GATLIN GROUP, BELMONT, NC
36. PVS CHEMICAL SOLUTIONS, DETROIT, MI
37. SOUTHERN IONICS, WEST POINT, MS
38. STERLING WATER TECHNOLOGIES, COLUMBIA,
39. O-N MINERALS/CHEMSTONE, STRASBURG, VA
40. WATER ELEMENTS, LLC, LAKELAND, FL
41. PRAYON, INC., AUGUSTA, GA

**DBE/MWBE Participation**

NONE. THE LOW BIDDERS ARE NOT CLASSIFIED AS DBE, MINORITY OR WOMEN OWNED BUSINESSES.



## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Steven K. Blanchard, PWC CEO/General Manager  
**DATE:** November 9, 2009  
**RE:** **PWC - Financial Items: Capital Project Fund Resolutions and Budgets; Amendment #1 – Sewer Extension Funding Policy, Annexation, Phase V, Project #1; Amendment #1 to the PWC General Fund Budget**

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### **THE QUESTION:**

The Public Works Commission of the City of Fayetteville requests the City Council adopt the following PWC financial items: Capital Project Fund Resolutions and Budgets; Amendment #1 – Sewer Extension Funding Policy, Annexation, Phase V, Project #1; and Amendment #1 to the PWC General Fund Budget

### **RELATIONSHIP TO STRATEGIC PLAN:**

Quality Utility Services

### **BACKGROUND:**

During their regular meeting of October 28, 2009 the Public Works Commission considered and approved the following financial matters relating to the PWC Budget and to forward to City Council for adoption:

#### PWC Resolution 2009.15 Establishing the Series 2009B Revenue Bond Capital Project Fund and Budget

Adopted Resolution 2009.15 to establish the Series 2009B Capital Project Fund to account for the net construction proceeds of the bonds allocated to projects consisting of wastewater utility infrastructure in Areas 6 and 7 of Annexation Phase V and other water and wastewater system projects and adopted Series 2009B Revenue Bond Capital Fund Project Budget

#### PWC Resolution 2009.16 Establishing Annexation Phase V, Areas 6&7 Capital Project Fund and Budget

Adopted Resolution 2009.16 to establish the Annexation Phase V, Areas 6 & 7 Capital Project Fund to account for the installation of sewer services in this designated area and adopted the Annexation Phase V, Areas 6 & 7 Capital Project Fund Budget

#### Amendment #1 to the Original Sewer Extension Policy, Annexation, Phase V, Project Number 1

Adopted Amendment #1 amending the original Sewer Extension Funding Policy, Annexation Phase V - Project Number 1 to reduce the withholding from the Electric Fund transfer to the City from \$400,000 to \$385,200 due to the savings on the refunding of the General Obligation Bonds associated with the previous annexations.

#### Amendment #1 to the General Fund Budget

Adopted Amendment #1 to the General Fund Budget which mainly provides for the refunding of the Series 2003, 2003A Bonds and new revenue from the Series 2009A and 2009B Bonds.

### **ISSUES:**

N/A

**OPTIONS:**

N/A

**RECOMMENDED ACTION:**

Adopt the following as recommended by PWC: City Resolutions and Fund Budgets; Amendment #1 to the original Sewer Extension Funding Policy, Annexation, Phase V, Project Number 1; and Amendment #1 to the PWC General Fund Budget

**ATTACHMENTS:**

Financial Items Transmittal Letter from D. Miller

PWC Resolution 2009.15

City Resolution 2009B Revenue Bond Capital Project Fund

2009B Revenue Bond Capital Fund Project Budget

PWC Resolution 2009.16

Resolution - City - Annexation, Phase V, Areas 6&7

Annexation Phase V, Areas 6&7 Capital Project Fund Budget

Amendment #1 to Sewer Extension Funding Policy, Annexation, Phase V, Project Number 1

Original Sewer Funding Policy

Budget Amendment #1 - General Fund Budget



WILSON A. LACY, COMMISSIONER  
 TERRI UNION, COMMISSIONER  
 LUIS J. OLIVERA, COMMISSIONER  
 MICHAEL G. LALLIER, COMMISSIONER  
 STEVEN K. BLANCHARD, CEO/GENERAL MANAGER

**PUBLIC WORKS COMMISSION**  
 OF THE CITY OF FAYETTEVILLE  
**ELECTRIC & WATER UTILITIES**

955 OLD WILMINGTON RD  
 P.O. BOX 1089  
 FAYETTEVILLE, NORTH CAROLINA 28302 1089  
 TELEPHONE (AREA CODE 910) 483-1401  
 FAX (AREA CODE 910) 829-0207

OCTOBER 22, 2009

MEMO TO: STEVEN K. BLANCHARD, CEO

MEMO FROM: J. DWIGHT MILLER, CFO

SUBJECT: FINANCIAL ITEMS FOR THE OCTOBER 2009 COMMISSION MEETING

THE FOLLOWING FINANCIAL ITEMS ARE REQUESTED TO BE PLACED ON THE COMMISSION'S CONSIDERATION.

1. ESTABLISHING THE 2009B CAPITAL PROJECT FUND TO ACCOUNT FOR THE NET CONSTRUCTION OF THE BONDS ALLOCATED TO PROJECTS CONSISTING OF WASTEWATER UTILITY INFRASTRUCTURE 6 AND 7 OF ANNEXATION PHASE V AND OTHER WATER AND WASTEWATER SYSTEM PROJECTS.
  - A. REQUEST ADOPTION OF RESOLUTION PWC2009.15 TO ESTABLISH THE SERIES 2009B REVENUE BOND CAPITAL PROJECT FUND AND
  - B. REQUEST ADOPTION OF SERIES 2009B REVENUE BOND CAPITAL PROJECT FUND BUDGET FOR FISCAL YEARS 2010-2011
2. ESTABLISHING THE ANNEXATION PHASE V, AREA 6 & 7 CAPITAL PROJECT FUND TO ACCOUNT FOR THE INSTALLATION OF SEWER SERVICES IN THIS DESIGNATED AREA.
  - A. REQUEST ADOPTION OF RESOLUTION PWC2009.16 TO ESTABLISH THE ANNEXATION PHASE V – AREAS 6 AND 7 CAPITAL PROJECT FUND AND
  - B. REQUEST ADOPTION OF ANNEXATION PHASE V AND 7 CAPITAL PROJECT FUND FOR THE FISCAL YEARS-2010 BUDGET
3. AMENDING THE SEWER EXTENSION FUNDING POLICY, ANNEXATION PHASE V, ARTICLE 1; TO REDUCE THE WITHHOLDING FROM THE ELECTRIC FUND TRANSFER TO THE CITY FROM \$385,200 DUE TO THE SAVINGS ON THE REFUNDING OF THE GENERAL OBLIGATION BOND WITH THE PREVIOUS ANNEXATIONS. REQUEST ADOPTION OF AMENDMENT #1 TO THE POLICY.
4. ADOPT AMENDMENT #1 TO THE GENERAL FUND BUDGET; THE CHANGES MAINLY PROVIDE FOR THE REFUNDING OF SERIES 2003, 2003A BONDS AND NEW REVENUE FROM THE SERIES 2009B BONDS. OTHER CHANGES ARE HIGHLIGHTED BELOW:
  - A. ADDITIONAL CAPITAL REQUIREMENTS FOR THE CUSTOMER SERVICE ADDITIONAL SOFTWARE AND THE SERVICE LINK PROJECT THAT ARE MAINLY CARRYOVER

PREVIOUS FISCAL YEAR IN THE AMOUNT OF \$985,400 FOR BOTH ELECTRIC, W  
FMISF.

- B. INCREASING PURCHASED POWER AND ~~GENERATION~~ FOR ADDITIONAL TRANSMISSION COST.
- C. APPROPRIATION OF RESERVE FUNDS TO PHASE V OF \$650,000
- D. GENERAL AND ADMINISTRATIVE EXPENSES INCREASED DUE TO AN ADDITION NEEDED TO COMPLETE THE ADMINISTRATIVE WINDOW AND OUTSIDE BUILDING PROJECT
- E. THE TOTAL BUDGET INCREASES FROM \$266,716,085 TO \$448,721,525
- F. THE APPROPRIATION TO ELECTRIC NET ASSETS DECREASES FROM \$4,786,645 TO \$3
- G. THE APPROPRIATION TO WATER/WASTEWATER NET ASSETS INCREASE FROM \$1,628,302

STAFF REQUEST THAT THE COMMISSION ADOPT THE ABOVE FINANCIAL ITEMS AND FORWARD FOR ADOPTION AT THEIR NEXT MEETING ON NOVEMBER 9, 2009.

**RESOLUTION OF THE PUBLIC WORKS COMMISSION  
OF THE CITY OF FAYETTEVILLE NORTH CAROLINA  
ESTABLISHING THE SERIES 2009B REVENUE BOND  
CAPITAL PROJECT FUND**

**WHEREAS**, the Public Works Commission of the City of Fayetteville, NC (COMMISSION) and the City of Fayetteville, NC (CITY) issued the Series 2009B Revenue Bonds (BONDS) in the amount of \$36,710,000 (net construction proceeds of \$39,252,278) for the purposes of financing a portion of the costs 1) of installing wastewater utility infrastructure in Areas 6 and 7 of Annexation Phase V (PHASE V PROJECTS) and 2) of various water and wastewater system projects (2009B BOND PROJECTS); and

**WHEREAS**, the North Carolina Local Government Budget and Fiscal Control Act requires the use of a capital project fund for the proceeds of all bond issuances and debt instruments; and

**WHEREAS**, the COMMISSION and the CITY will establish a separate capital project fund for the PHASE V PROJECTS, and

**WHEREAS**, the COMMISSION desires to establish a capital project fund to account for the construction activity and use of bond proceeds associated with the 2009B BOND PROJECTS; and

**WHEREAS**, the net construction proceeds of the Bonds allocated to the 2009B BOND PROJECTS is approximately \$33,348,735; and

**NOW, THEREFORE**, be it resolved by the COMMISSION that:

Section 1. The COMMISSION establishes the Series 2009B Revenue Bond Capital Project Fund to account for and report the revenues and expenditures of the 2009B BOND PROJECTS.

Section 2. The COMMISSION will manage this fund to include the accounting and reporting, disbursements, and investment of funds. The COMMISSION also establishes and will maintain a budget of the expected sources and uses of funds (EXHIBIT A).

Section 3. The City Council of the CITY is hereby requested to adopt this resolution in the form presented above.

**ADOPTED**, this the 28th day of October 2009.

PUBLIC WORKS COMMISSION,

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

**RESOLUTION OF THE CITY OF FAYETTEVILLE NORTH  
CAROLINA ESTABLISHING THE SERIES 2009B  
REVENUE BOND CAPITAL PROJECT FUND**

**WHEREAS**, THE PUBLIC WORKS COMMISSION OF THE CITY OF FAYETTEVILLE, NC AND THE CITY OF FAYETTEVILLE, NC ISSUED THE SERIES 2009B REVENUE BONDS (BONDS) IN THE AMOUNT OF \$36,710,000 (NET CONSTRUCTION PROCEEDS OF \$39,252,278) FOR THE PURPOSES OF PORTION OF THE COSTS 1) OF INSTALLING WASTEWATER UTILITY INFRASTRUCTURE IN AREAS PHASE V (PHASE V PROJECTS) AND 2) OF VARIOUS WATER AND WASTEWATER SYSTEM PROJECTS (BOND PROJECTS); AND

**WHEREAS**, THE NORTH CAROLINA LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT PROVIDES FOR THE USE OF A CAPITAL PROJECT FUND FOR THE PROCEEDS OF ALL BOND ISSUANCES AND DEBT INSTRUMENTS;

**WHEREAS**, THE COMMISSION AND THE CITY WILL ESTABLISH A SEPARATE CAPITAL PROJECT FUND FOR THE PHASE V PROJECTS, AND

**WHEREAS**, THE CITY DESIRES TO ESTABLISH A CAPITAL PROJECT FUND TO ACCOUNT FOR CONSTRUCTION ACTIVITY AND USE OF BOND PROCEEDS ASSOCIATED WITH THE 2009B BOND PROJECTS;

**WHEREAS**, THE NET CONSTRUCTION PROCEEDS OF THE 2009B BOND PROJECTS IS APPROXIMATELY \$33,348,735; AND

**NOW, THEREFORE**, BE IT RESOLVED BY THE CITY THAT:

SECTION 1. THE CITY ESTABLISHES THE SERIES 2009B REVENUE BOND CAPITAL PROJECT FUND ACCOUNT FOR AND REPORT REVENUES AND EXPENDITURES OF THE BOND PROJECTS.

SECTION 2. THE COMMISSION WILL MANAGE THIS FUND TO INCLUDE THE ACCOUNTING, REPORTING, DISBURSEMENTS, AND INVESTMENT OF FUNDS. THE COMMISSION WILL MAINTAIN A BUDGET OF THE EXPECTED SOURCES AND USES OF FUNDS (E

**ADOPTED**, THIS THE 9TH DAY OF NOVEMBER 2009.

CITY OF FAYETTEVILLE

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

**PUBLIC WORKS COMMISSION OF THE CITY OF FAYETTEVILLE**  
**Series 2009B Revenue Bond Capital Project Fund**  
**For Fiscal Years 2010 - 2011**

**Initial Budget**

	<b>Prior Years</b>	<b>Proposed Initial Budget</b>	<b>Recommended Inception to Date Budget</b>
<b>Estimated Revenues and Other Funding Sources</b>			
Series 2009B Revenue Bonds proceeds (1)	\$ -	\$ 33,348,735	\$ 33,348,735
Interest Earnings	\$ -	\$ 166,744	\$ 166,744
<b>Total Revenues and Other Funding Sources</b>	<b>\$ -</b>	<b>\$ 33,515,479</b>	<b>\$ 33,515,479</b>
<b>Estimated Expenditures and Other Uses</b>			
Water and Wastewater Utility Project Costs	\$ -	\$ 33,515,479	\$ 33,515,479
<b>Total Expenditures and Other Uses</b>	<b>\$ -</b>	<b>\$ 33,515,479</b>	<b>\$ 33,515,479</b>

(1) Net of financing costs

ADOPTED BY COMMISSION  
 ADOPTED BY CITY COUNCIL

	October 28, 2009
<i>Proposed</i>	November 9, 2009



**RESOLUTION OF THE PUBLIC WORKS COMMISSION OF  
THE CITY OF FAYETTEVILLE, NORTH CAROLINA  
ESTABLISHING AN ANNEXATION PHASE V – AREAS 6 and 7  
CAPITAL PROJECT FUND**

**WHEREAS**, the Public Works Commission of the City of Fayetteville, NC (COMMISSION) and the City of Fayetteville, NC (CITY) adopted a policy (POLICY) on May 7, 2008 and May 12, 2008, respectively, concerning the funding of water and sewer installation for areas 6 through 34 within the City of Fayetteville that were annexed through the involuntary annexation process and designated as Phase V; and

**WHEREAS**, the North Carolina Local Government Budget and Fiscal Control Act requires the use of a capital project fund for the proceeds of all bond issuances and debt instruments; and

**WHEREAS**, areas 1 through 5 were funded under a separate agreement referred to as Annexation Phase V – Project 1; and

**WHEREAS**, the CITY adopted a Preliminary Assessment Resolution for Areas 6 and 7 of the Phase V Annexation (PROJECT) on March 23, 2009 and a Resolution Directing the Phase V Annexation Areas 6 and 7 Utility Improvement Projects be Undertaken on April 27, 2009; and

**WHEREAS**, the PROJECT has been designed, bid and are ready to construct; and

**WHEREAS**, the construction of the PROJECT will be funded with a portion of the proceeds of the Series 2009B Revenue Bonds totaling approximately \$5,903,543 which is in accordance with the POLICY; and

**WHEREAS**, the COMMISSION desires to establish a capital project fund to account for the construction activity and use of bond proceeds associated with the PROJECT; and

**NOW, THEREFORE**, be it resolved by the COMMISSION that:

**Section 1.** The COMMISSION hereby creates an Annexation Phase V- Area 6 and 7 Capital Project Fund (CPF) for the purpose of accounting for the installation of water and sewer utilities in said areas.

**Section 2.** The CPF will remain operational until the project areas are complete and all accounting transactions are finalized. Any remaining funds may be transferred to another appropriate fund to finance other water and wastewater projects as provided for in the Bond Order.

**Section 3.** The COMMISSION will manage this fund to include the accounting and reporting, disbursements, and investment of funds. The COMMISSION also establishes and will maintain a budget for the expected sources and uses of funds (EXHIBIT A).

**Section 4.** The City Council of the CITY is hereby requested to adopt this resolution in the form presented above.

**ADOPTED**, this the 28th day of October 2009.

PUBLIC WORKS COMMISSION,

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Chairman

Attest:

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Secretary

**RESOLUTION OF THE CITY OF FAYETTEVILLE, NORTH  
CAROLINA ESTABLISHING AN ANNEXATION PHASE V –  
AREAS 6 and 7 CAPITAL PROJECT FUND**

**WHEREAS,** THE PUBLIC WORKS COMMISSION OF THE CITY OF FAYETTEVILLE (COMMISSION) AND THE CITY OF FAYETTEVILLE, NC (CITY) ADOPTED A POLICY (POLICY) ON 7, 2008 AND MAY 12, 2008, RESPECTIVELY, CONCERNING THE FUNDING OF WATER AND SEWER FOR AREAS 6 THROUGH 34 WITHIN THE CITY OF FAYETTEVILLE THAT WERE ANNEXED THROUGH AN ANNEXATION PROCESS AND DESIGNATED AS PHASE V

**WHEREAS,** THE NORTH CAROLINA LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT REQUIRES THE USE OF A CAPITAL PROJECT FUND FOR THE PROCEEDS OF ALL BOND ISSUANCE INSTRUMENTS; AND

**WHEREAS,** AREAS 1 THROUGH 5 WERE FUNDED UNDER A SEPARATE AGREEMENT REVENUE BOND PROJECT 1; AND

**WHEREAS,** THE CITY ADOPTED A PRELIMINARY ASSESSMENT RESOLUTION FOR AREA 6 AND 7 OF THE PHASE V ANNEXATION (PROJECT) ON MARCH 23, 2009 AND A RESOLUTION DIRECTING THE PHASE V ANNEXATION AREAS 6 AND 7 UTILITY IMPROVEMENT PROJECTS BE UNDERTAKEN ON APRIL 1, 2009

**WHEREAS,** THE PROJECT HAS BEEN DESIGNED, BID AND ARE READY TO CONSTRUCT; AND

**WHEREAS,** THE CONSTRUCTION OF THE PROJECT WILL BE FUNDED WITH A PORTION OF THE PROCEEDS OF THE SERIES 2009B REVENUE BONDS TOTALING APPROXIMATELY \$5,903,543 IN ACCORDANCE WITH THE POLICY; AND

**WHEREAS,** THE CITY DESIRES TO ESTABLISH A CAPITAL PROJECT FUND TO ACCOUNT FOR THE CONSTRUCTION ACTIVITY AND USE OF BOND PROCEEDS ASSOCIATED WITH THE PROJECT; AND

**NOW, THEREFORE,** BE IT RESOLVED BY THE CITY THAT:

**Section 1.** THE CITY HEREBY CREATES AN ANNEXATION PHASE V- AREA 6 AND 7 CAPITAL PROJECT FUND (CPF) FOR THE PURPOSE OF ACCOUNTING FOR THE INSTALLATION OF WATER AND SEWER IN SAID AREAS.

**Section 2.** THE CPF WILL REMAIN OPERATIONAL UNTIL THE PROJECT AREAS ARE COMPLETE. ALL ACCOUNTING TRANSACTIONS ARE FINALIZED. ANY REMAINING FUNDS MAY BE TRANSFERRED TO AN APPROPRIATE FUND TO FINANCE OTHER WATER AND WASTEWATER PROJECTS AS PROVIDED IN THIS ORDER.

**Section 3.** THE COMMISSION WILL MANAGE THIS FUND TO INCLUDE THE ACCOUNTING, REPORTING, DISBURSEMENTS, AND INVESTMENT OF FUNDS. THE CITY ALSO ESTABLISHES AND THE COMMISSION WILL MAINTAIN A BUDGET FOR THE EXPECTED SOURCES AND USES OF FUNDS (CPFBUDGET)

**ADOPTED, THIS THE 9TH DAY OF NOVEMBER 2009.**

CITY OF FAYETTEVILLE

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MAYOR

ATTEST:

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CITY CLERK

**PUBLIC WORKS COMMISSION OF THE CITY OF FAYETTEVILLE**  
**Annexation Phase V - Areas 6 and 7 Capital Project Fund**  
**For Fiscal Years 2010- 2011**

**Initial Budget**

	<b>Prior Years</b>	<b>Proposed Initial Budget</b>	<b>Recommended Inception to Date Budget</b>
<b>Estimated Revenues and Other Funding Sources</b>			
Series 2009B Revenue Bond proceeds (1)	\$ -	\$ 5,903,543	\$ 5,903,543
Interest earnings	\$ -	\$ 29,518	\$ 29,518
<b>Total Revenues and Other Funding Sources</b>	<b>\$ -</b>	<b>\$ 5,933,061</b>	<b>\$ 5,933,061</b>
<b>Estimated Expenditures and Other Uses</b>			
Utility installation cost	\$ -	\$ 5,933,061	\$ 5,933,061
<b>Total Expenditures and Other Uses</b>	<b>\$ -</b>	<b>\$ 5,933,061</b>	<b>\$ 5,933,061</b>

(1) Net of financing costs

ADOPTED BY COMMISSION  
 ADOPTED BY CITY COUNCIL

*Proposed*

October 28, 2009
November 9, 2009

**Amendment #1**

**City of Fayetteville and Public Works Commission  
Sewer Extension Funding Policy  
Annexation Phase V – Project Number 1  
June 21, 2006**

The purpose of this amendment is to reduce the value of the FY2010 – FY2021 annual withholding from the Electric Fund transfer to the City’s General Fund from \$400,000 to \$385,200. The basis of this adjustment is to allocate the Series 2009 GO Refunding debt service savings of \$352,963 to the PWC and City based on the original proportionate share of the FY2009 – FY2021 debt service allocation upon which the original \$400,000 was based:

Part 4, paragraph 2, sentence 4 of this Sewer Extension Funding Policy is amended as follows:

*PWC will withhold \$400,000 from the Electric Fund transfer to the City’s General Fund in FY2009 and \$385,200 each fiscal year, beginning in FY2010 and ending in FY2021, and transfer that amount to the PWC Water Fund to offset a portion of the additional bond debt payments.*

This Amendment #1 to the Sewer Extension Funding Policy was approved by the Public Works Commission on October 28, 2009.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

This Amendment #1 to the Sewer Extension Funding Policy was approved by the Fayetteville City Council on November 9, 2009.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

(June 21, 2006)  
(Amended November 9, 2009)

**City of Fayetteville and Public Works Commission  
Sewer Extension Funding Policy  
Annexation Phase V – Project Number 1  
June 21, 2006**

This is a Policy adopted by both the City of Fayetteville and its Public Works Commission concerning the funding of water and sewer installation ordered by the City of Fayetteville for areas within the City of Fayetteville that were annexed through the involuntary annexation process and designated as Phase V – Project Number 1 and funding other annexation cost through Phase IV-B.

- 1) The City and PWC will establish a project fund to support the financial cost accounting of Phase V – Project Number 1.
- 2) Phase V – Project Number 1 will include the extension of sewer to approximately 1,117 lots in annexation areas 2-C and 1-A. PWC will manage all aspects of the implementation of this plan to include construction management, assessment administration and financing the construction of Project Number 1 as adopted by the City Council. All capital cost directly attributable to the project will be funded through the project fund. The City will assess \$5,000 per lot to each lot where sewer is extended. The assessment will have an 8% interest rate set by the City.
- 3) Over the next two (2) fiscal years (FY2007 and FY2008), PWC and the City will equally fund three (3) specific areas. They are as follows:
  - a) The cost of Annexation Phase V – Project Number 1 less proceeds available for construction based on the \$5,000 per lot assessment.
    - i) Estimated project cost is \$10,653,025.
    - ii) The PWC will issue bonds to cover the amount of the assessments; net bond proceeds are estimated to be \$5,007,933.
    - iii) The balance required to pay for construction is \$5,645,092.
  - b) City debt service for FY2007 and FY2008 for previous water and sewer annexation (\$2,189,377).
  - c) The City's balance of Phase IV-B annexation cost (estimated at \$2,000,000).

The total of these three areas is \$9,834,469. This equals \$2,458,617.25 per year for FY2007 and FY2008 for PWC and the City. These are the best estimates at this time and contributions by both the City and PWC will be adjusted to maintain the equal (50%-50%) split for the two-year period in order to fully fund the three areas.



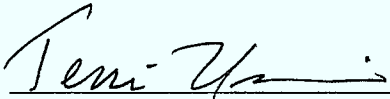
**Sewer Extension Funding Policy  
Annexation Phase V – Project Number 1  
Page 2**

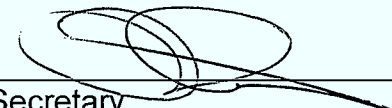
- 4) During FY2007, the City's water and sewer debt associated with previous annexations will be moved from the City's General Fund to the PWC Water Fund. The total debt service is estimated at \$12,510,115. How best to make this transition will be determined after consultation with appropriate bond team financial and legal advisors.

Debt service payments will be the responsibility of the City until the debt is successfully transferred to the PWC. PWC will then be responsible for debt service payments through maturity in FY 2021. The City and PWC will fund its share of the debt service for FY2007 and FY2008 as defined in number 3 above. PWC will withhold \$400,000 from the Electric Fund transfer to the City's General Fund each fiscal year, beginning in FY2009 and ending in FY2021, and transfer that amount to the PWC Water Fund to offset a portion of the additional bond debt payments. The present Electric Fund transfer is based on 5% of gross electric sales to residential, commercial and industrial customers, plus the transfer to pay for street light costs charged to the City.

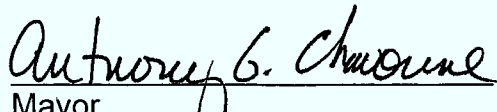
- 5) This Policy will be disclosed and referenced in all future bond issues that occur through FY2021.

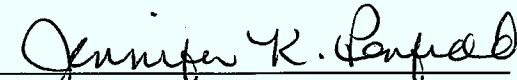
This Policy was approved by the Public Works Commission on June 21, 2006.

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Secretary

This Policy was approved by the Fayetteville City Council on June 26, 2006.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk

(June 21, 2006)

## ELECTRIC, W/WW & FLEET MNT INTERNAL SERVICE FUNDS SUMMARY

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DESCRIPTION	ADOPTED ORIGINAL BUDGET FY 2010	BUDGET AMENDMENT #1 FY 2010	PROPOSED AMENDED BUDGET FY 2010
ELECTRIC UTILITY OPERATING FUND	\$155,011,700	(\$121,300)	\$154,890,400
ELECTRIC CAPITAL OUTLAY	24,527,700	861,300	25,389,000
<b>TOTAL ELECTRIC FUND</b>	<b>\$179,539,400</b>	<b>\$740,000</b>	<b>\$180,279,400</b>
WATER & WASTEWATER UTILITIES OPERATING FUNDS	\$60,917,885	\$181,141,340	\$242,059,225
WATER & WASTEWATER CAPITAL OUTLAY	19,953,900	113,200	20,067,100
<b>TOTAL WATER &amp; WASTEWATER FUND</b>	<b>\$80,871,785</b>	<b>\$181,254,540</b>	<b>\$262,126,325</b>
<b>TOTAL ELECTRIC &amp; W/WW FUNDS</b>	<b>\$260,411,185</b>	<b>\$181,994,540</b>	<b>\$442,405,725</b>
FLEET MAINT INTERNAL SERVICE OPERATING FUND	\$6,304,900	\$0	\$6,304,900
FLEET MAINT INTERNAL SERVICE CAPITAL OUTLAY	0	10,900	10,900
<b>TOTAL FLEET MAINT INTERNAL SERVICE FUND</b>	<b>\$6,304,900</b>	<b>\$10,900</b>	<b>\$6,315,800</b>
<b>TOTAL BUDGET</b>	<b>\$266,716,085</b>	<b>\$182,005,440</b>	<b>\$448,721,525</b>

## ELECTRIC, W/WW & FMIS FUNDS SUMMARY

DESCRIPTION	ADOPTED	BUDGET	PROPOSED
	ORIGINAL BUDGET FY 2010	AMENDMENT #1 FY 2010	AMENDED BUDGET FY 2010
<b>ELECTRIC FUND:</b>			
REVENUES	\$176,375,200	\$0	\$176,375,200
CONTRIBUTIONS AND/OR GRANTS	2,640,000	0	2,640,000
REMITTANCES FROM CITY	24,200	0	24,200
APPR. FROM RATE STABILIZATION FUND	0	0	0
RESIDUAL EQUITY TRANSFER	0	0	0
CUSTOMER SERVICE CONSTR. RES.	500,000	740,000	1,240,000
APPR. FROM ELECTRIC NET ASSETS	0	0	0
<b>TOTAL REVENUES ELECTRIC</b>	<b>\$179,539,400</b>	<b>\$740,000</b>	<b>\$180,279,400</b>
EXPENDITURES	\$26,838,495	\$150,000	\$26,988,495
PURCHASED POWER & GENERATION	106,527,960	1,300,000	107,827,960
DEBT INTEREST EXPENSE	1,403,000	(264,000)	1,139,000
TRANSFER TO CITY	8,376,300	0	8,376,300
TRANSFER TO CITY - STREET LIGHTS	319,600	0	319,600
TRANSFER TO CITY - MLK	0	0	0
TRANSFER TO CITY - FREEDOM PARK	0	0	0
TRANSFER REDUCTIONS	0	0	0
CAPITAL EXPENDITURES	24,527,700	861,300	25,389,000
TOTAL DEBT RELATED PAYMENTS	1,759,700	47,550	1,807,250
PREPAID POWER SUPPLY ADJUSTMENTS	0	0	0
APPR. TO RATE STABILIZATION FUND	5,000,000	0	5,000,000
TRANSFER TO WATER & WASTEWATER FUND	0	0	0
APPR. TO NET ASSETS	4,786,645	(1,354,850)	3,431,795
<b>TOTAL EXPENDITURES ELECTRIC</b>	<b>\$179,539,400</b>	<b>\$740,000</b>	<b>\$180,279,400</b>
<b>WATER &amp; WASTEWATER FUND:</b>			
REVENUES	\$65,781,100	\$0	\$65,781,100
CONTRIBUTIONS AND/OR GRANTS	7,658,100	0	7,658,100
REMITTANCES FROM CITY	400,000	(14,800)	385,200
NOTE REC. - CUMBERLAND COUNTY	39,600	0	39,600
NCDOT PROJECT LOAN ADVANCE	0	0	0
W/S SERIES 2008 BOND PROCEEDS	0	166,875,730	166,875,730
RESIDUAL EQUITY TRANSFER	0	7,765,510	7,765,510
TRANSFER FROM ANNEX RESERVE FD	0	1,124,600	1,124,600
TRANSFER FROM IVB TO GENERAL FUND	0	4,853,500	4,853,500
TRANSFER FROM RIM ROAD CPF	0	0	0
TRANSFER FROM ELECTRIC FUND	0	0	0
RESERVE FOR NCDOT PROJECTS	740,600	0	740,600
RES. FOR WATER LG. DIAMETER CONST. FD.	4,565,300	0	4,565,300
RESERVE ANNEXATION PHASE V	0	650,000	650,000
APPR. FROM RATE STABILIZATION FUND	1,687,085	0	1,687,085
APPR. FROM W/WW NET ASSETS	0	0	0
<b>TOTAL REVENUES WATER &amp; WASTEWATER</b>	<b>\$80,871,785</b>	<b>\$181,254,540</b>	<b>\$262,126,325</b>

# ELECTRIC, W/WW & FMIS FUNDS SUMMARY

DESCRIPTION	ADOPTED	BUDGET	PROPOSED
	ORIGINAL BUDGET FY 2010	AMENDMENT #1 FY 2010	AMENDED BUDGET FY 2010
EXPENDITURES	\$38,344,285	\$0	\$38,344,285
DEBT INTEREST EXPENSE	7,340,600	(498,000)	6,842,600
BOND INTEREST EXPENSE - CITY ANNEX.	327,600	0	327,600
STATE LOAN INTEREST EXPENSE	496,800	0	496,800
PROPOSED 2010 BOND INTEREST	1,100,000	(1,100,000)	0
TRANSFER TO CITY - ANNEXATION SUPPORT	0	0	0
CAPITAL EXPENDITURES	19,953,900	113,200	20,067,100
DEBT RELATED PAYMENTS	8,915,300	302,500	9,217,800
BOND PRINCIPAL PAYMENTS - CITY ANNEX.	734,800	0	734,800
LOAN PRINCIPAL PAYMENTS	1,267,900	0	1,267,900
PROPOSED 2010 BOND PRINCIPAL PAYMENTS	300,000	(300,000)	0
BOND ISSUE COSTS - SERIES 2009	0	1,400,560	1,400,560
BOND ISSUE COSTS - SERIES 2009 - GO REFUNDING	0	90,290	90,290
BONDS REFUNDED	0	125,790,000	125,790,000
BONDS REFUNDED - GO REFUNDING	0	4,602,410	4,602,410
SWAP TERMINATION PAYMENT	0	9,323,000	9,323,000
TOTAL CONTRACTS PAYABLE PAYMENT	740,600	0	740,600
APPR. TO RATE STABILIZATION FUND	500,000	0	500,000
APPR. TO ANNEXATION PHASE V	850,000	650,000	1,500,000
SERIES 2009B TRANSFER TO ANNEX PH V - AREA 6 & 7	0	5,903,543	5,903,543
SERIES 2009B BOND PROCEEDS TRANSFER TO CPF	0	33,348,735	33,348,735
APPR. TO RIM ROAD	0	0	0
APPR. TO NET ASSETS	0	1,628,302	1,628,302
<b>TOTAL EXPEND. WATER &amp; WASTEWATER</b>	<b>\$80,871,785</b>	<b>\$181,254,540</b>	<b>\$262,126,325</b>
<b>TOTAL ELECTRIC &amp; W/WW</b>	<b>\$260,411,185</b>	<b>\$181,994,540</b>	<b>\$442,405,725</b>
<b>FLEET MAINTENANCE INTERNAL SERVICE FUND:</b>			
REVENUES	\$6,304,900	\$10,900	\$6,315,800
<b>TOTAL REVENUES FMISF</b>	<b>\$6,304,900</b>	<b>\$10,900</b>	<b>\$6,315,800</b>
EXPENDITURES	\$6,304,900	\$0	\$6,304,900
CAPITAL EXPENDITURES	0	10,900	10,900
<b>TOTAL EXPENDITURES FMISF</b>	<b>\$6,304,900</b>	<b>\$10,900</b>	<b>\$6,315,800</b>
<b>GRAND TOTAL ELECTRIC, W/WW &amp; FMISF</b>	<b>\$266,716,085</b>	<b>\$182,005,440</b>	<b>\$448,721,525</b>

# **FY 2010 AMENDMENT #1 BUDGET ORDINANCE**

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## **PUBLIC WORKS COMMISSION REVENUE**

### **Electric Fund**

Operating and Other Revenue	\$176,375,200
Customer Contributions	2,640,000
Transfer from City	24,200
Budgetary Appropriations	1,240,000

**Total Estimated Electric Fund Revenue \$180,279,400**

### **Water and Wastewater Fund**

Operating and Other Revenue	\$65,781,100
Customer Contributions	7,658,100
Transfer from City	385,200
Budgetary Appropriations	188,301,925

**Total Estimated Water and Wastewater Fund Revenue \$262,126,325**

### **Fleet Maintenance Internal Service Fund**

Operating Revenue and Other Revenue	\$6,315,800
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**Total Estimated Fleet Maintenance Internal Service Fund Revenue \$6,315,800**

## **TOTAL ESTIMATED PWC REVENUE**

**\$448,721,525**

## **PUBLIC WORKS COMMISSION EXPENDITURES**

### **Electric Fund**

Operating Expenses	\$137,762,705
Operating Capital	25,389,000
Transfers	
General Fund	8,376,300
General Fund - Street Lights	319,600
Appropriation to Rate Stabilization Fund	5,000,000
Appropriation to Net Assets	3,431,795

**Total Estimated Electric Fund Expenses \$180,279,400**

### **Water and Wastewater Fund**

Operating Expenses	\$199,178,645
Operating Capital	20,067,100
Transfers	
General Fund	0
Appropriation to Rate Stabilization Fund	500,000
Appropriation to Annexation Fund	1,500,000
Transfer to Series 2009B Annexation Phase V - Area 6 & 7	5,903,543
Transfer to Series 2009B Bond Proceeds CPF	33,348,735
Appropriation to Net Assets	1,628,302

**Total Estimated Water and Wastewater Fund Expenses \$262,126,325**

### **Fleet Maintenance Internal Service Fund**

**Total Estimated Fleet Maintenance Internal Service Fund Expenses \$6,315,800**

## **TOTAL PWC ELECTRIC, W/WW & FMISF EXPENSES**

**\$448,721,525**

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Steven K. Blanchard, Public Works Commission CEO/General Manager  
**DATE:** November 9, 2009  
**RE:** **PWC - T-Mobile License Agreement and Memorandum of License Agreement**

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**THE QUESTION:**

The Public Works Commission of the City of Fayetteville requests Council approve the T-Mobile License Agreement and Memorandum of License Agreement

**RELATIONSHIP TO STRATEGIC PLAN:**

Quality utility services.

**BACKGROUND:**

The Public Works Commission, during their meeting of October 14, 2009, approved the License Agreement and Memorandum of License Agreement with T-Mobile South, LLC for antenna attachment to the water tank located on the PWC Bedrock Drive property and to forward to City Council for approval. The initial annual rental rate is \$22,915, with an annual increase of 3% per year. The commencement date for this agreement will be November 9, 2009.

**ISSUES:**

N/A

**OPTIONS:**

N/A

**RECOMMENDED ACTION:**

Approve and execute License Agreement and Memorandum of License Agreement with T-Mobile South, LLC.

**ATTACHMENTS:**

Agreement Transmittal Letter  
License Agreement  
Memorandum of License Agreement



WILSON A. LACY, COMMISSIONER  
TERRI UNION, COMMISSIONER  
LUIS J. OLIVERA, COMMISSIONER  
MICHAEL G. LALLIER, COMMISSIONER  
STEVEN K. BLANCHARD, CEO/GENERAL MANAGER

**PUBLIC WORKS COMMISSION**  
OF THE CITY OF FAYETTEVILLE  
*ELECTRIC & WATER UTILITIES*

955 OLD WILMINGTON RD  
P.O. BOX 1089  
FAYETTEVILLE, NORTH CAROLINA 28302-1089  
TELEPHONE (AREA CODE 910) 483-1401  
FAX (AREA CODE 910) 829-0207

MEMORANDUM

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To: Steven K. Blanchard, General Manager  
From: Joe Callis, Business Planning Manager  
*Joe Callis*  
Subject: ***T-Mobile License Agreement for Bedrock Drive***  
Date: October 7, 2009

I am enclosing four original License Agreements and three original Memorandums of License Agreement with T-Mobile South, LLC for execution. Public Works Commission has completed negotiations with T-Mobile for antenna attachment to the water tank located on the PWC Bedrock Drive property. The commencement date for this agreement will be November 9, 2009 and will start at \$22,915 per year with an increase of 3% per year thereafter.

Thank you for including these items on our next Commission Agenda with staff's recommendation for approval. Please let me know if you have any questions.



STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLANDLICENSE AGREEMENT  
(Bedrock Drive Water Tower)

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by and between the City of Fayetteville, a North Carolina municipal corporation, acting by and through its Public Works Commission, a commission of the City, having an address at Post Office Drawer 1089, Fayetteville, North Carolina 28302-1089, (hereinafter referred to as "Licensor"), and T-Mobile South, LLC, a Delaware limited liability company, having an address of 7668 Warren Pkwy, Frisco, TX 54034 (hereinafter referred to as the "Licensee").

**WHEREAS**, Licensor owns that certain parcel of property located in the City of Fayetteville, Cumberland County, North Carolina (Site), that Licensor owns an elevated water storage tank or other structure erected on said Site (Tower), and Licensee desires to use certain designated space of the Site (Premises), certain designated space on the Tower and certain easements for utilities and access to a public road as follows:

1. **Premises.** Licensor does give a license to Licensee, and Licensee does accept from Licensor, for the term set forth below, the Premises and space on the Tower along with (1) an easement reasonably satisfactory to Licensor to its location, on, over, under, across, and through the Site, extending from the Premises to the nearest convenient public road and of standard vehicular width as shall be necessary for ingress and egress to and from the Premises, (2) an easement not to exceed 20 feet in width and located to the reasonable satisfaction of Licensor, on, over, under, across, and through the lands of Licensor as may be required by Licensee for the purpose of bringing electricity, gas, water, telephone, and any and all other utilities to the Premises; and (3) the right to park vehicles in an area or areas approved by Licensor on or about the Site during periods of construction, site inspection, and at times of necessary maintenance and repair work. All areas designated shall be shown on drawings to be provided on sites and initialed by a representative of both parties indicating approval thereof.

2. **Use.** Licensor, subject to the terms and conditions hereof, grants to Licensee the non-exclusive license to install, repair, replace, maintain, and operate communications equipment ("Equipment") on the elevated water storage tank and/or structures ("Tower") and the right to construct and use equipment cabinets ("Cabinets") located at Licensor's facility ("Premises"). Licensor, subject to the terms and conditions hereof, grants to Licensee the license to install, repair, replace, maintain, and operate communications equipment (Equipment) on the elevated water storage tank and/or structures (Tower) and the right to construct and use equipment cabinets (Cabinets) within the Premises. The Licensee shall submit to Licensor construction plans for the description, type, and location of the Cabinets, the Equipment, methods of attachment, cables, wires, conduits, and other attachments to the Equipment and shall obtain the written approval of the Licensor before beginning construction. If Licensor does not provide such approval or request for changes within ten (10) business days, Licensor shall be deemed to have approved the Plans. Licensor shall not be entitled to receive any additional consideration in exchange for reviewing or giving its approval of Licensee's Plans. The Licensee shall also attend a pre-construction conference with Licensor before beginning any construction activities at the site.

Licensor and Licensee agree that the primary function of the Tower is to provide water service to Licensor's water customers. Should Licensor determine, in its sole discretion, that the performance of this Agreement interferes with that primary function, Licensor may terminate this Agreement with six (6)

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months written notice to Licensee so long as such time frame is within the control of Licensor, or for such shorter time frame as may be required by governmental regulation or other similar requirement beyond the control of Licensor. Licensee shall have the right during said six (6) months or shorter period to cure the interference problem to the satisfaction of Licensor; provided, however, that if said cure is not achieved in the reasonable judgment of Licensor, Licensee must have completely vacated the Tower by the expiration of said six (6) months or shorter period. In the event Licensee must vacate the Tower, Licensee shall have the right to erect a temporary tower at the site (c.o.w. {cell on wheels}) for a period not to exceed six (6) months from the date Licensee must vacate the tower to allow Licensee to locate an alternative location subject to Licensee obtaining all necessary permits and approvals. In the event Licensee determines, in its sole judgment, that the operation of the Tower by Licensor is creating interference with Licensee's use and operation of its facilities at the Tower, Licensee may terminate this Agreement by giving Licensor ninety (90) days written notice. Licensor shall have the same rights to cure as does the Licensee as set forth above. Licensee's right to terminate this Agreement is subject to all terms hereof regarding Licensee's obligation to remove the Equipment and Cabinets at the expiration or termination of this Agreement.

**3. Term.** The initial term of this License shall be for a period of five (5) years commencing upon the Commencement Date of \_\_\_\_\_, 2009 and ending at Midnight on the last day of the month in which the fifth anniversary of the Commencement Date shall have occurred (Initial Term). Thereafter, the term of this Agreement shall be automatically extended for one (1) additional automatic (except as otherwise provided herein) term of five (5) years (Renewal Period). Provided that, Licensee may terminate this Agreement at the expiration of the Initial Term or at the expiration of any Renewal Period by giving Licensor not less than ninety (90) days prior written notice of its intent to terminate. The Renewal Period shall commence automatically without further action on the part of Licensor or Licensee. During the Initial Term and any Renewal Period, each annual License fee shall be three percent (3%) higher than the annual License Fee paid in the immediate prior year.

**4. Continuance of Agreement.** If either Licensor or Licensee has not given the other written notice of its desire that the term of this Agreement end at the expiration of the Renewal Period, then, upon the expiration of the Renewal Period, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of any such annual term. Monthly license fee during such annual terms shall be three percent (3.0%) higher than the license fee paid in the immediate prior year.

**5. License Fee.** (a) Each year during the Initial Term and each year during the Renewal Period, if any, Licensee shall pay to Licensor a non-cancelable license fee (hereinafter referred to as the License Fee) in the amounts set forth in Paragraph 5 (b) below. License Fee shall be paid in advance in twelve (12) equal consecutive monthly installments on the first day of each calendar month commencing on the Commencement Date. The first such installment shall be due and payable on the Commencement Date of the Initial Term and will include a prorated License Fee amount for the period from the Commencement Date to the first day of the next succeeding calendar month. All payments shall be made directly to the Public Works Commission of the City of Fayetteville and received by it no later than the tenth (10th) day of each month. Such payment should be mailed to the attention of Brenda Chester, Chief Accountant, Public Works Commission, P.O. Drawer 1089, Fayetteville, NC 28302. The check shall also include the site number on the check stub. Subject to the provisions of Paragraph 5 (c) hereof, the License Fee set forth above is exclusive of charges for the furnishing of any utilities such as, but not limited to, electricity, gas, water, sewer or telephone.

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(b) The non-cancelable license fees for the Initial Term and for the Renewal Periods, as applicable, the rental rate for each is as follows:

<u>INITIAL TERM</u>	<u>RENEWAL TERM</u>
Year 1: \$22,915.44	Year 6: \$26,565.28
Year 2: \$23,602.90	Year 7: \$27,362.23
Year 3: \$24,310.99	Year 8: \$28,183.10
Year 4: \$25,040.32	Year 9: \$22,028.59
Year 5: \$25,791.53	Year 10: \$29,899.45

(c) Licensee shall have a separate electric meter to measure Licensee's electric consumption and Licensee shall pay directly to the electric service provider all applicable costs associated with the installation of electric service and for any electricity used by Licensee's Equipment.

**6. Installation and Operation of Equipment.** (a) Licensee shall install and operate its Equipment during the term hereof in compliance with all present and future rules and regulations imposed by any local, state, or federal authority having jurisdiction with respect thereto including, without limitation, the rules and regulations of the Federal Communications Commission (hereinafter referred to as the "FCC"), the Federal Aviation Administration (hereinafter referred to as the "FAA"), and the Occupational Safety and Health Act (OSHA). Prior to installation of its Equipment, or making any modifications or changes to its Equipment, if any, Licensee shall comply with the following:

- (i) Licensee shall submit all plans for Licensor's review; and
- (ii) Prior to commencement of any work, Licensee shall obtain Licensor's written approval and required approvals of all Federal, state, and local agencies. Licensee shall promptly deliver to Licensor written proof of compliance with all applicable federal, state, and local laws, rules, and regulations in connection with any installations, changes, or modifications of Equipment; and
- (iii) All of the installations, modifications, or changes to Licensee's Equipment shall conform with Licensor's design specifications and Licensor's requirements, including weight and wind load requirements, and shall not interfere with any other radio communications system and equipment located in and upon the Site, provided that such equipment attachment predates the Licensee's Equipment attachment and shall be in compliance with all applicable local, state, and federal government requirements, including but not limited to zoning, FAA, FCC, and OSHA specifications; and
- (iv) All of Licensee's Equipment shall be clearly marked to show Licensee's name, address, telephone number and the name of the person to contact in case of emergency, FCC call sign, frequency(s) and location. All coaxial cable shall be identified in the same manner at the bottom and at the top of each transmission line.

(b) In all matters where Licensor's approval is required and Licensor should determine in its reasonable discretion that a possibility of a threat of interference or other disruption with the business of the Licensor or other existing licensees exists, Licensee shall obtain Licensor's prior consent not to be unreasonably withheld, conditioned, or denied.

(c) In the event that Licensee requires telephone service, Licensee, at its sole cost and expense, shall obtain such telephone service. Any work performed in connection with the telephone service shall comply with the provisions of subparagraph (a) hereof. Licensee hereby agrees that any telephone lines installed by Licensee

shall be located as reasonably directed by Licensor.

(d) In the event a zoning variance, special use permit, or other similar governmental approval is required in connection with installation or any proposed modification of Licensee's Equipment, Licensee shall be solely responsible for obtaining appropriate approval provided that Licensor agrees to reasonably cooperate with Licensee in obtaining any such permits or approvals at no cost to Licensor.

(e) In order to ensure Licensee's compliance with provisions of this Agreement, plans and specifications for Licensee's Equipment and any modifications thereto shall be submitted to Licensor for review and approval by Licensor or engineers/consultants selected by Licensor subject to the approval condition in section 2 of this Agreement. Licensee shall reimburse Licensor for Licensor's reasonable expenses incurred in connection with such review and approval. Such expenses reimbursable by Licensee shall not exceed \$2500.00. All work performed at this Site in connection with installation and modification of Licensee's Equipment shall be performed by contractors selected by Licensee and reasonably approved by Licensor at Licensee's expense. Licensee is responsible for incurring all expenses to include compliance with all local, State of North Carolina, and federal laws, rules, and regulations during installation of Licensee's equipment.

(f) Licensor acknowledges that if Licensee does not receive any of the approvals, consents, or access rights described above which Licensee determines are necessary for the initial installation or subsequent modification of its Equipment or Building, or if any such approvals, consents, or access rights are revoked, Licensee may terminate this Agreement by giving Licensor thirty (30) days prior written notice thereof.

7. **Equipment.** (a) The installation and operation of Licensee's Equipment shall not interfere electrically, or in any other manner whatsoever, with Licensor or any other party or Licensee operating and maintaining radio communications systems and other equipment at the Site as of the date of this Agreement. This License Agreement is initially limited to the attachment of no more than twelve (12) antennae with usual equipment and accessories necessary in connection therewith. Except as otherwise provided in subparagraph 7 (b) below, it is expressly understood and agreed that if the installation or operation of Licensee's Equipment shall interfere with other radio communications systems and equipment existing at the Site as of the date of this Agreement, Licensee shall upon request (verbal or otherwise), immediately suspend its operations and do whatever Licensor deems necessary to eliminate or remedy such interference. If it is determined that such interference cannot be rectified within a reasonable period of time but not less than 30 days, then Licensor may at its option immediately and without notice terminate this Agreement, or request remedy such interference at Licensee's cost and expense.

Licensor acknowledges and agrees that the foregoing obligation of Licensee to correct interference problems or remove its Equipment shall apply only to interference with Licensor's equipment, whenever it is installed at the Site, or equipment of any other Licensee at the Site as of the date of this Agreement. If interference problems occur with Licensee and equipment of any other Licensee occupying the Site after the date hereof, it shall be the obligation of said subsequent Licensee to adjust its equipment or operations to remedy the interference or remove its equipment. Licensee shall not be required to modify its Equipment or adjust its operations to correct interference problems resulting from a subsequent Licensee at the Site. The Licensee will be primarily responsible for enforcing its rights against other Licensees with appropriate assistance from Licensor.

(b) The installation and operation of Licensee's equipment shall not interfere, in any manner



whatsoever, with Licensor's use of Premises for its primary function of a water tower. During the term of this Agreement and subject to the terms hereof, Licensor agrees that Licensee or its agents shall have twenty-four (24) hours and seven (7) days a week free access to the Site at all times for purposes of operating, inspecting, maintaining, removing, repairing and replacing Licensee's Equipment. In an effort to prevent any and all unauthorized persons from being able to gain access to the Site, Licensor has constructed a chain link fence around it topped with barbed wire. The entrance gates are kept locked at all times. Licensee recognizes the absolute necessity to maintain the security of the Site at all times. Therefore, Licensee shall have a lock on the entrance gate to the Site in series with Licensor's lock. Licensee or its agents shall be absolutely certain to lock the entrance gate after entering the Site as well as upon leaving the Site. Before leaving the Site, Licensee or its agents shall be certain that no unauthorized persons have entered. A violation of these requirements by Licensee shall constitute default under the terms of this Agreement and Licensor, at its option, may immediately terminate this Agreement. Licensee agrees to release, discharge, indemnify, and save Licensor, the City of Fayetteville, their agents, employees, successors, and assigns harmless from any and all expenses, claims, demands, damages, action, or causes of action, including reasonable attorneys' fees, resulting from or which may result from injury, death, or property damage for failure of Licensee to comply with these requirements or any other requirements contained in this Agreement and which damages are caused by such failure of Licensee.

(c) Licensee understands and agrees that Licensor will perform corrective maintenance and preventive maintenance on its Tower when required as reasonably determined by Licensor. If maintenance by the Licensor would cause interruption to the operation of Licensee's equipment, Licensor will give Licensee thirty (30) days written notice, and Licensee shall make adjustments as needed including removal of Licensee's equipment from the Tower on a temporary basis and will make every reasonable effort not to exceed 48 hours. In the event of emergency repairs by the Licensor to the Site or Tower, Licensee's operations may be interrupted without prior notice from Licensor provided, however, Licensor shall make every reasonable effort to make such emergency repairs in an expeditious manner allowing Licensee to restore its communication services within 48 hours of such interruption(s) or as soon as reasonably possible therewith. In the event such maintenance causes interruption to the operation of Licensee's equipment for a period of time exceeding 48 hours, Licensee shall have the right to install a temporary tower at the Site (c.o.w. {cell on wheels}) during such maintenance period. Once Licensor has completed the corrective or preventive maintenance, Licensee shall remove the c.o.w. (cell on wheels) within 30 days after receipt of written notice by Licensor. In the event Licensee has not removed the c.o.w. (cell on wheels) after the expiration of the 30 day period, there shall be a fine of \$200 per day fee imposed until the c.o.w. (cell on wheels) has been removed and the Equipment placed back on the Tower.

**8. Maintenance and Removal of Equipment.** (a) Licensee, at its own cost and expense, shall be responsible for maintenance of its Equipment and cabinets, if any, on the Site in accordance with all applicable laws, rules, and regulations and this Agreement. All maintenance work shall be performed by contractors licensed by the State of North Carolina. If the structural safety of the Tower is impaired as a result of the installation of Licensee's Equipment on the Tower, Licensee shall be responsible for making all necessary modifications and repairs at its expense. Notwithstanding the foregoing, Licensor shall have the right to replace or remove the Tower at any time during the term of this Agreement. The Licensor will give the Licensee as much advance notice as possible of the replacement or removal, but in no case less than six (6) months written notice. Licensee will be allowed and shall have the option to occupy the replacement tower under the terms of this Agreement, unless such use of the replacement tower would substantially interfere with the primary function of the tower as determined by the Licensor at its sole discretion. Further, Licensor agrees to allow Licensee to use a (c.o.w. {cell on wheels}) at the Site until the replacement is completed, provided it does not interfere with the construction process and all City of Fayetteville ordinances, such as the Zoning Ordinance, are complied with fully. In the event of removal of the Tower without intent of replacement, this Agreement shall terminate upon

the removal of Licensee's Equipment which shall occur no later than on the last day of the notice period. Licensor represents and warrants that its operation of the Water Tower, exclusive of Licensee's Equipment, including the lighting system, meets and will be maintained in accordance with all applicable laws, rules and regulations, including, without limitation, rules and regulations of the Federal Communications Commission, Federal Aviation Administration and all applicable local codes and regulations. The costs of maintaining the Water Tower, including painting of the exterior and finishing or painting the interior of the Water Tower, shall be borne by Licensor, with the exception of Licensee's antennae and Equipment. In the event damage is caused to Licensee's equipment or personal property by Licensor's agents, employees, contractors or subcontractors, the cost of repairing such damage shall be borne by Licensor who shall, upon due notice and acceptable proof of loss provided by Licensee, timely reimburse Licensee the cost of repairing such damage. Licensee shall maintain its antennae, transmission lines, equipment and equipment shelter in good operating condition. In the event damage is caused to the Water Tower by Licensee or Licensee's agents, employees, contractors or subcontractors, the cost of repairing such damage shall be borne by Licensee who shall, upon due notice and acceptable proof of loss provided by Licensor, timely reimburse Licensor the cost of repairing such damage. Upon termination or expiration of this License, Licensee shall remove its Equipment from the Water Tower and repair damage, if any, to the Water Tower caused by the removal of Licensee's Equipment, normal wear and tear excepted. Licensee's activities and operations and the Equipment shall not interfere with Licensor's maintenance, repair and operation of the Water Tower and its lighting system.

(b) Upon the expiration or earlier termination of this Agreement and upon the payment of the License Fee and all other sums due Licensor on such expiration or termination date, Licensee shall remove all Licensee Equipment no later than sixty (60) days after the Agreement has terminated. Any and all removal of Licensee's Equipment shall be performed by a contractor licensed by the State of North Carolina in a workmanlike manner, without any interference, damage or destruction to any other equipment, structures or operations at the Site or any other equipment of other licensees thereon. Any and all interference or damage caused to the Site or Equipment of other Licensees by such removal shall be immediately repaired or eliminated by Licensee. If Licensee fails to make such repairs at Licensee's sole cost and expense within three (3) days after the occurrence of such damage, injury or interference, Licensor may perform all the necessary repairs at Licensee's cost and expense and such sum shall be immediately due upon the rendering of an invoice as an additional fee hereunder.

**9. Miscellaneous Requirements.** (a) All improvements made to the Site by Licensee will be subject to the normal regulatory requirements of the City of Fayetteville and/or any other pertinent regulatory authority.

(b) Immediately upon completion of the improvements, Licensee shall restore any area disturbed by improvements to a condition equal to the original condition reasonable wear and tear excepted. This shall include painting of disturbed areas and may also require painting of coaxial cable and hardware if requested by Licensor.

(c) All equipment of the Licensee must operate so as to comply fully with the Noise Control Ordinance of the City of Fayetteville.

**10. Liability and Indemnity.** Licensee agrees to indemnify and hold Licensor harmless from all costs of any damage done to Licensor's or any other licensee's facilities or equipment maintained at the Site, which damage occurs as a result of the installation, operation, or maintenance of Licensee's Equipment or other improvements except for those costs and damages resulting from the negligence or willful misconduct of Licensor and/or other licensees. Licensee hereby assumes the risk of the inability to operate as a result of any power failure at the Site or any failure of Licensee or Licensee's Equipment for any reason whatsoever and agrees to indemnify and hold Licensor harmless from all damages and costs of defending any claim or suit for damages

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or any kind including business interruption (and attorneys' fees) asserted against Licensor by reason of such failure. Licensor shall indemnify and hold Licensee harmless from all claims (including attorneys' fees), costs and expenses of defending against such claims) arising from the negligence or willful misconduct of Licensor or Licensor's agents or employees in or about the Site or Tower provided that such claim, damages, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, but only to the extent caused in whole or in part by negligent acts or willful misconduct of Licensor or anyone directly employed by it or anyone for whose acts it may be liable.

**11. Damage or Destruction of the Site.** In the event the Site or any part thereof is damaged or destroyed by the elements or by any other cause, Licensor may elect to repair, rebuild, or restore the Site or any part thereof, to the same condition as it was immediately prior to such casualty. In such event, the payments required herein shall cease, as of the date of such casualty until the Site, in Licensee's reasonable opinion, is restored to a usable condition for Licensee's operation. If Licensor chooses not to repair, restore, or rebuild the Site, Licensor shall send to Licensee a notice of cancellation of this Agreement within thirty (30) days of such casualty. If Licensor fails to give Licensee notice of its intention to repair the Site within such 30-day period, or in the event that Licensor fails to repair the Site in full within ninety (90) days after the date of the casualty, Licensee may terminate this Agreement by giving written notice thereof to Licensor within five (5) days of the expiration of such 30-day or 90-day period, as the case may be. If this Agreement is canceled, the payments required herein shall terminate as of the date of such casualty. Licensor shall not be responsible or liable to Licensee for any loss, damage, or expense that may be occasioned by, through or in connection with, any acts or omissions of other licensees or Licensees occupying the Site, or for any structural or power failure or by the destruction of or damage to, the Site. Licensor agrees to allow Licensee to use a (c.o.w. {cell on wheels}) at the site until the replacement is completed provided it does not interfere with the construction process.

**12. Insurance.** (a) Licensee shall keep in full force and effect during the Initial Term and any Renewal Period of this Agreement a commercial general liability insurance policy, including blanket contractual and completed operations coverage with limits of liability of at least \$2,000,000.00 in respect to bodily injury, including death, arising from any one occurrence, and \$2,000,000.00 in respect of damage to property arising from any one occurrence. Said insurance policy shall be endorsed to include Licensor as an additional insured and shall provide that Licensee shall endeavor to give Licensor at least thirty (30) days prior written notice of any cancellation or reduction in the limits required herein in such insurance policy. Licensee shall, prior to the installation of the Equipment, furnish to Licensor a certificate of insurance confirming that the insurance coverage as specified herein is in full force and effect. Licensee shall indemnify and save Licensor harmless from and against any and all losses, costs, liabilities, damages, judgments, and expenses (including attorney fees), in connection with claims resulting from bodily injury or death of any person or from damage to any property sustained by any person, including Licensee, caused by or arising from, any operations at the Site by Licensee or Licensee's contractors, agents, invitees, visitors, servants or employees, including but not limited to, the installation, removal, and maintenance of the Equipment and other Improvements except for those costs and damages resulting from the negligence or willful misconduct of Licensor.

(b) Notwithstanding the foregoing insurance requirements, the insolvency, bankruptcy, or failure of any insurance company carrying insurance for Licensee, or the failure of any such insurance company to pay claims accruing, shall not be held to waive any of the provisions of this Agreement or relieve Licensee from any obligations under this Agreement.

**13. Taxes.** Licensee shall pay annually an amount equal to any increase in real estate taxes, if any,

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directly attributable to the addition of the Licensee's Facilities to the Site made by Licensee. If such tax is paid by Licensor, Licensee shall reimburse Licensor for the amount of any such tax payment within sixty (60) days of receipt of sufficient documentation indicating the amount paid and the calculation of Licensee's pro rata share; such documentation shall be deemed sufficient only if it definitively evidences that portion of the tax increase arising directly out of the addition of the Licensee's Facilities such as, by way of example, the relevant tax assessor's designation of the value of the addition of the Licensee's Facilities. Upon written request by Licensee, Licensor shall furnish evidence of payment of all taxes.

**14. End of Agreement - Equipment.** Licensor agrees that no part of the Equipment or improvements constructed, erected, or placed by Licensee on the Tower shall be considered as being affixed to or a part of the Tower and further agrees that all Equipment and improvements of every kind and nature constructed, erected, or placed by Licensee on the Tower shall be and remain the property of Licensee.

**15. Attachment of Equipment.** Licensee shall not affix any of its Equipment, cables, wires, conduits or other related equipment contemplated by this Agreement to Licensor's Tower in a permanent type attachment such as by welding or in such other manner which would affect the water tight integrity or structural integrity of the Tower or in any way make removal of such Equipment unreasonably difficult. Where reasonably possible, Licensee shall paint cables, brackets and other similar attachments to match that of the existing structure.

**16. Notices.** All notices required to be given hereunder shall be given in writing certified or registered mail, return receipt requested, or overnight mail at the respective addresses of the parties set forth herein or at such other address as may be designated in writing by either party. Notice given by mail shall be deemed given three days after the date of mailing thereof as follows:

Licensee's address for notice purposes is:

T-Mobile USA, Inc.  
12920 SE 38<sup>th</sup> Street  
Bellevue, WA 98006  
Attn: PCS Lease Administrator  
Attn: Legal Department

And:

T-Mobile South, LLC  
7668 Warren Pkwy,  
Frisco, TX 54034  
Attention: PCS Lease Administrator

With additional notice to:

T-Mobile South LLC  
185 Fairchild Street, Charleston, SC 29492,  
Attn. PCS Lease Administrator

Licensor's address for notice purposes is:

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Public Works Commission of the City of Fayetteville  
Post Office Drawer 1089  
Fayetteville, NC 28302-1089  
Attention: Chief Administrative Officer

**17. Default and Remedies.** In the event of Licensee's default hereunder, including but not limited to (i) the failure of payment of fees, additional fees, or other payments set forth herein when due, and Licensee's failure to cure same within ten (10) days after receipt of notice of such failure from Licensor; (ii) Licensee's failure to perform any other term or condition under this Agreement within forty-five (45) days after receipt of written notice from Licensor specifying the failure; (iii) abandonment of either the Equipment or that portion of the Site upon which the Equipment was installed; (iv) the filing of any case, proceeding, or other action under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to Licensee, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition, or other relief with respect to Licensee or its debts; or (v) the making by Licensee of an assignment or any other arrangement for the general benefit of creditors under any state statute, Licensor shall be entitled at Licensor's option to terminate this Agreement and to remove all of Licensee's Equipment, improvements, or personal property located at the Site at Licensee's cost and expense. In the event that Licensor should, as a result of Licensee's default, incur any costs or expenses on behalf of Licensee or in connection with Licensee's obligations hereunder, such sums shall be immediately due to Licensor, as an additional fee hereunder upon rendering of an invoice to Licensee.

**18. Regulations and Assignment by Licensee.** This Agreement is made subject to all local, State of North Carolina, and Federal laws, rules and regulations now or hereafter in force, and shall not be modified, extended, or terminated (other than as set forth herein) except by an instrument duly signed by Licensor and Licensee. Waiver of a breach of any provision hereof under any circumstances will not constitute a waiver of any subsequent breach of such provision, or of a breach of any other provision of this Agreement. This Agreement or any rights hereunder may not be assigned, transferred, or otherwise encumbered by Licensee without prior written consent of Licensor provided, however, that Licensee may assign this Agreement without consent of Licensor to its parent, any subsidiary or affiliate, or in connection with a sale of all or substantially all of the stock or assets of Licensee. As a condition to such assignment, however, such person or entity must agree in writing in a document reasonably satisfactory to Licensor to assume all of Licensee's obligations under this Agreement. Since the primary purpose of the Site is a Tower, the Licensor may refuse to allow an assignment in its sole discretion except as otherwise provided above. Notwithstanding anything to the contrary contained in this Agreement, Licensee may assign, mortgage, pledge, hypothecate or otherwise transfer without notice or consent its interest in this Agreement to any financing entity, or agent on behalf of any financing entity to whom Licensee (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

**19. Binding on Successors.** The covenants and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto.

**20. Governing Law.** The parties intend that this Agreement and the relationship of the parties shall be governed by the laws of the State of North Carolina.

**21. Entire Agreement.** All of the representations and obligations of the parties are contained herein, and no modification, waiver or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a party.

**22. Headings.** The headings of sections and subsections are for convenient reference only and shall not be deemed to limit, construe, affect, modify, or alter the meaning of such sections or subsections.

**23. Severability.** If any section, subsection, term, or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term, or provision of the Agreement or the application of same to parties or circumstances other than those to which it was held invalid or unenforceable, shall not be affected thereby and each remaining section, subsection, term, or provision of this Agreement shall be valid or enforceable to the fullest extent permitted by law.

**24. Further Assurances.** Each of the parties agree to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably require to consummate, evidence, or confirm this Agreement or any other agreement contained herein the manner contemplated hereby.

**25. Joinder of City of Fayetteville.** The City of Fayetteville joins in the execution of this Agreement for the purpose of evidencing the authority of its Public Works Commission, a Commission of the City of Fayetteville, to negotiate for it and to ratify this Agreement.

**26. Hazardous Substances.** To the best of its knowledge, Licensor represents and warrants to Licensee that Hazardous Substances (as defined below) have not been generated, stored, or disposed of at or on the Site nor have the same been transported to or over the Site. A Hazardous Substance shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state or local environmental law, regulation, or rule presently in effect or promulgated in the future such as, laws, regulations, or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death, or disease. Licensee will hold Licensor harmless from and indemnify Licensor against and from any damage, loss, expense, or liability resulting from Hazardous Substances generated, stored, disposed of or transported to, on or under the Site as a result of Licensee's use of the Site including all reasonable attorneys' fees and costs incurred as a result thereof. Licensor will hold Licensee harmless from and indemnify Licensee against and from any damage, loss, expense, or liability resulting from any breach of this representation and warranty including all reasonable attorneys' fees and costs incurred as a result thereof. This indemnity shall survive indefinitely any termination of this Agreement. Notwithstanding the foregoing, Licensee shall have the right to have any environmental audit performed, and, in the event that conditions exist which, in the opinion of Licensee, may adversely affect Licensee's use of the Site or Licensee's ability to obtain leasehold financing, Licensee shall have the right to terminate upon written notice to Licensor.

**27. Title and Quiet Enjoyment.** Licensor warrants that it has full right, power, and authority to execute this Agreement. Licensor further warrants that Licensee shall have the quiet enjoyment of the Site during the term of this Agreement or any renewal thereof.

**28. Waiver of Licensor's Lien.** (a) Licensor hereby waives any and all lien rights it may have statutory or otherwise, concerning the antennae, transmission links, and related communications equipment of

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Licensee or any portion thereof which shall be deemed personal property for the purposes of this Agreement, regardless of whether or not same is deemed real or personal property under applicable tax laws. (b) Licensor acknowledges that Licensee has entered into a financing arrangement including promissory notes and financial and security agreements for the financing of the Licensee Facilities (the "Collateral") with a third party financing entity (and may in the future enter into additional financing arrangements with other financing entities). In connection therewith, Licensor (i) consents to the installation of the Collateral; (ii) disclaims any interest in the Collateral, as fixtures or otherwise; and (iii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any Rent due or to become due and that such Collateral may be removed at any time without recourse to legal proceedings.


**29. Termination.** In addition to the other provisions of this Agreement that provide for termination, this Agreement may be terminated without further liability or penalty, by Licensee: (a) upon a default by Licensor of any covenant or term of this Agreement which is not cured within thirty (30) days of receipt of written notice of default or (b) upon ninety (90) days prior written notice if the Site is or becomes unacceptable under Licensee's design or engineering specifications for its use of Licensee's Equipment or (c) by Licensee if, after using its best efforts, Licensee is not able to obtain or maintain any license, permit or other approval necessary for the construction and operation of Licensee's Equipment, or (d) by Licensee if Licensee is unable to occupy and utilize the Premises due to an action of the FCC, including without limitation, a take back of channels or change in frequencies.

**30. Memorandum of Agreement.** Licensor acknowledges that a Memorandum of Agreement will be recorded by Licensee in the official records of the County where the Site is located. In the event the Site is encumbered by a mortgage or deed of trust, Licensor agrees to obtain and furnish to Licensee a non-disturbance and attornment instrument for each such mortgage or deed of trust, provided the terms of such instrument are reasonable within the discretion of Licensor.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

**LICENSEE:**

**T-MOBILE SOUTH, LLC, a Delaware limited liability company**

By:  (SEAL)  
Todd Wheeler, Area Director  
Network Engineering and Operations

9/24/09

**LICENSOR:**

**PUBLIC WORKS COMMISSION  
OF THE CITY OF FAYETTEVILLE**

By: \_\_\_\_\_ (SEAL)  
Wilson A. Lacy, Chairman

ATTEST:

5FA0050-A

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Luis J. Olivera, Secretary

**CITY OF FAYETTEVILLE**

---

Anthony G. Chavonne, Mayor

ATTEST:

---

~~Candice H. White, City Clerk~~

Rita Perry, City Clerk

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STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

I, \_\_\_\_\_, a Notary Public for said county and state, do hereby certify that Luis J. Olivera personally appeared before this day and acknowledged that he is the Secretary of the Public Works Commission, a Commission of the City of Fayetteville, and that by authority duly given and as an act of the Commission, the foregoing agreement was signed in its name by its Chairman, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

I, \_\_\_\_\_, a Notary Public for the County and State aforesaid, do hereby certify that Gandice H. White personally appeared before me this day and acknowledged that she is City Clerk for the City of Fayetteville, a municipal corporation, and that by authority duly given and as an act of the corporation, the foregoing agreement was signed in its name by its Mayor, sealed with its corporate seal and attested by her as its City Clerk.

Witness my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

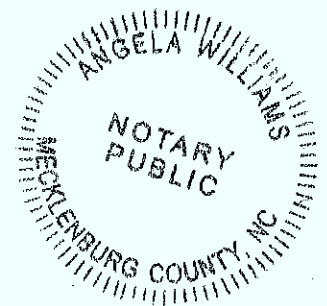
Mecklenburg County  
North Carolina COUNTY

I Angela Williams, a Notary Public of said County and State, do hereby certify that Todd Wheeler, member/manager of T-Mobile personally appeared before me this day and acknowledged that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official seal this 24 day of September, 2009.

Angela Williams  
\_\_\_\_\_  
Notary Public

My commission expires: 12/18/13





**LEGAL DESCRIPTION**

Property located in Cumberland, NC

**PARCEL I:**

Tank Lot--Northwestern corner of Dodge Drive and N. Platte Road; Seventy-First Township, near Fayetteville, Cumberland County, North Carolina.

BEING all of that lot belonging to Cumberland Water Company as shown on Addition to Section Five, The Ponderosa, as recorded in Plat Book 31, Page 49, Cumberland County Registry.

**PARCEL II:**

0.293 acre tract--Well #6 and overhead tank; The Ponderosa, Sec. 21; Seventy-First Township, near Fayetteville, Cumberland County, North Carolina.

BEGINNING at a point in the eastern margin of the tract of which this is a part, said point being North 05 degrees 21 minutes West 140.72 feet from the northeast corner of Lot 26 of The Ponderosa, Sec. 21 as recorded in Plat Book 38, Page 55, Cumberland County Registry; and running thence North 64 degrees 03 minutes West 97.87 feet to a point; thence South 32 degrees 30 minutes West 28.35 feet to a point; thence North 64 degrees 14 minutes West 30.60 feet to a point; thence North 25 degrees 46 minutes East 137.09 feet to a point in the northern margin of said tract of which this is a part; thence with the northern margin of said tract of which this is a part North 73 degrees 01 minutes East 61.06 feet to the northernmost corner of said tract of which this is a part; thence with the eastern margin of said tract of which this is a part South 05 degrees 21 minutes East 169.02 feet to the point and place of beginning, and containing 0.293 acres, more or less.

**EASEMENTS**

Together with the perpetual right, easement and privilege to build, construct, lay, install, maintain and operate water, sanitary sewer and storm sewer (any or all) lines, with such pipes, drains, connections, manholes, and other attachments, equipment and accessories necessary of desirable in connection therewith, to have full ingress and egress, thereto and therefrom, over adjoining lands, of Grantor, to partol, inspect, alter, improve, repair, relocate, remove and replace any of all of such lines, pipes, drains, connections, manholes, and other attachments, equipment and accessories, to cut and keep clear all trees and undergrowth (both on the described easement area and adjacent thereto) that may in any way endanger the proper use and enjoyment of this easement, and to have all rights and privileges necessary or convenient for the full enjoyment or use of this easement, in, on, under over, through and across certain land described as follows:

**EASEMENT PARCEL I:**

0.036 acre tract--10 foot wide easement--Well #6 and overhead tank, The Ponderosa, Sec. 21; Seventy-First Township, near Fayetteville, Cumberland County, North Carolina.

BEGINNING at a point, said point being the northeast corner of Lot 26 of The Ponderosa, Sec. 21 as recorded in Plat Book 38, Page 55, Cumberland County Registry; and running thence with the northern margin of said Lot 26 and Lot 27 of said The Ponderosa, Sec. 21 North 48 degrees 37 minutes West 158.61 feet to the northwest corner of said Lot 27; thence North 03 degrees 17 minutes West 14.06 feet to a point; thence South 48 degrees 37 minutes East 157.87 feet to a point in the eastern margin of the tract of which this is a part; thence with the eastern margin of said tract of which this is a part South 05

degrees 21 minutes East 14.59 feet to the point and place of Beginning, containing 0.036 acres, more or less, and being a 10 foot wide utility easement.

EASEMENT PARCEL II:

0.116 acre tract--utility easement and ingress and egress easement--Bedrock Drive, The Ponderosa, Sec. 21; Seventy-First Township, near Fayetteville, Cumberland County, North Carolina.

BEGINNING at a point in the northern margin of Bedrock Drive (60' right-of-way) said point being the southwest corner of Lot 27 of The Ponderosa, Sec. 21 as recorded in Plat Book 38, Page 55, Cumberland County Registry; and running thence with the northern margin of said Bedrock Drive North 48 degrees 37 minutes West 30.00 feet to a point; thence North 41 degrees 23 minutes East 130.47 feet to a point; thence North 03 degrees 17 minutes West 47.88 feet to a point; thence South 64 degrees 14 minutes East 24.41 feet to a point; thence South 03 degrees 17 minutes East 57.12 feet to the northwest corner of said Lot 27; thence with the western margin of said Lot 27 South 41 degrees 23 minutes West 130.00 feet to the point and place of beginning, containing 0.116 acres, more or less and being a utility easement and ingress and egress easement.

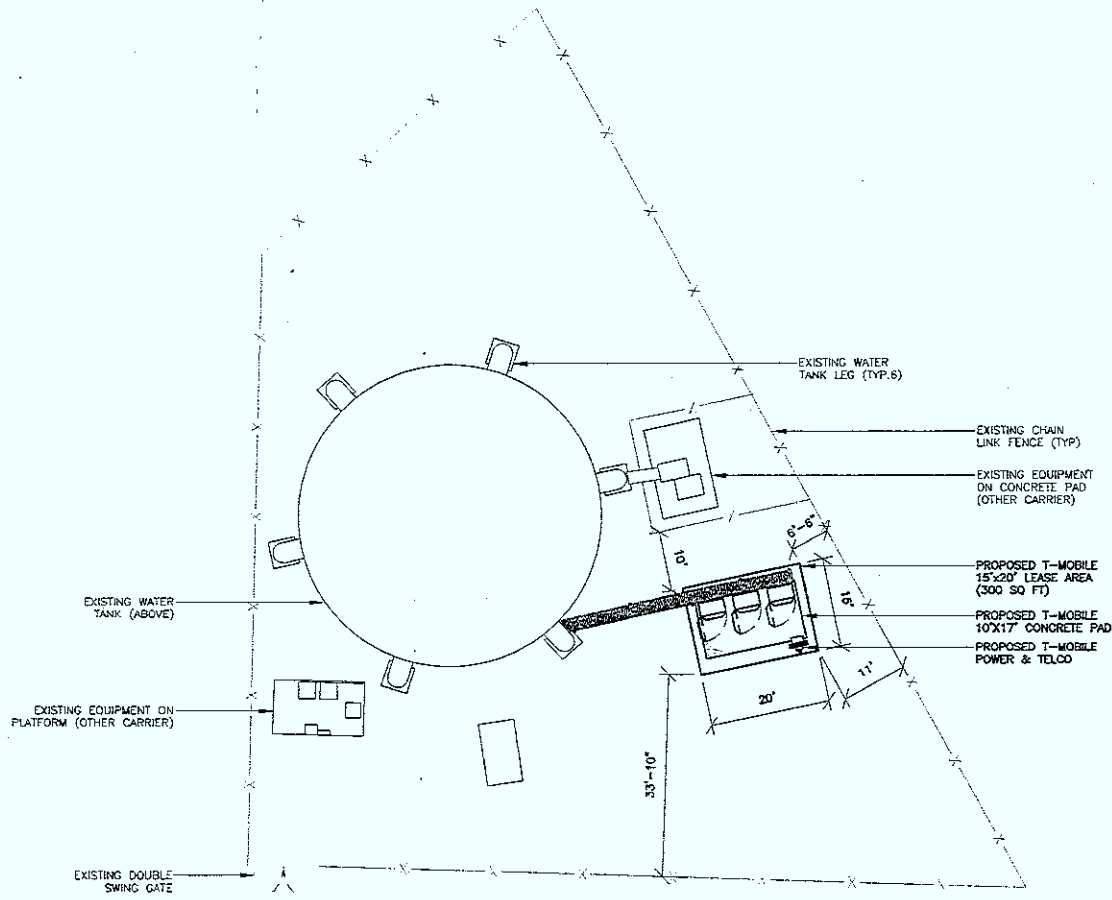
AND BEING the same property conveyed to The City of Fayetteville, a municipal corporation from Cumberland Water Company by North Carolina General Warranty Deed dated October 01, 1984 and recorded October 05, 1984 in Deed Book 3028, Page 247.

Tax Parcel No. 0408-38-8048





I:\Engineering\Projects\T-Mobile Project - Carolina\5FA0050A - Release Rev 1.0 - Construction Details\ALF



**SITE PLAN**  
SCALE: 1"=20'



TOWER OWNER APPROVAL:	DATE:
T-MOBILE APPROVAL:	DATE:

APPLICANT/OWNER:

**T-Mobile**

PREPARED BY:

**velocitel**  
complete wireless solutions  
Velocitel, Inc.  
2900 Roguesy Place, Suite 105  
Cary, NC 27519  
Office 919.355.4402  
Fax 919.355.4332

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SCALE:

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**

DATE: 4/16/09

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REV	DATE	DESCRIPTION	BY
A	4/6/09	ISSUED FOR REVIEW	PR
B	4/16/09	ISSUED FOR REVIEW	DSW
C	9/2/09	REVISED RE CONFIGURATION	DSW
D			
E			
F			
G			

PROJECT LOCATION:

**5FA0050A**

818 BEDROCK DR  
FAYETTEVILLE, NC 28303

DRAWN BY: PR

CHECKED BY: DSW

DATE: APRIL 6, 2009

VELOCITEL # 501A25FA0050A

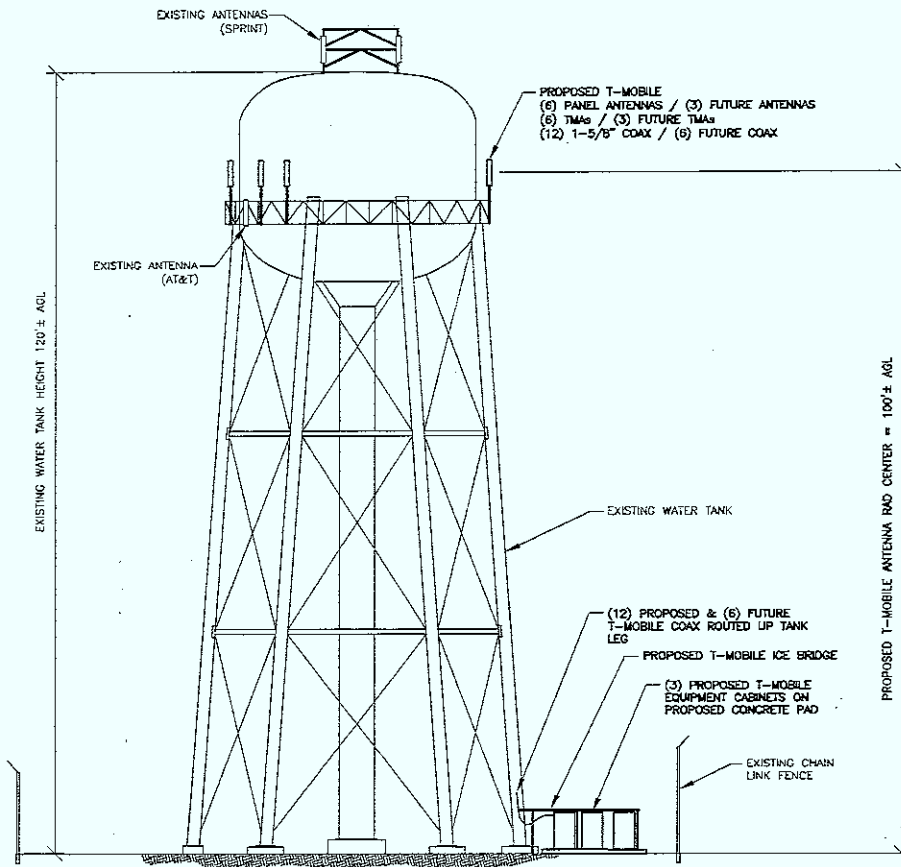
SITE NO.: 5FA0050A

DRAWING DESCRIPTION:

**SITE PLAN**

DRAWING NUMBER:

2 OF 4



**ELEVATION**  
NOT TO SCALE

TOWER OWNER APPROVAL:	DATE:
T-MOBILE APPROVAL:	DATE:

APPLICANT/OWNER

PREPARED BY:

complete wireless solutions  
Velocitel, Inc.  
2040 Regency Plaza, Suite 135  
Cary, NC 27519  
Office: 919.232.9492  
Fax: 919.234.0229

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SCALE

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**

DATE: 4/15/09

REVISIONS

REV	DATE	DESCRIPTION	BY
A	4/9/09	ISSUED FOR REVIEW	PR
B	4/15/09	ISSUED FOR REVIEW	DSW
C	9/2/09	REVISED RF CONFIGURATION	DSW
D			
1			
2			
3			
4			
5			
6			

PROJECT LOCATION

**5FA0050A**

818 BEDROCK DR  
FAYETTEVILLE, NC 28303

DRAWN BY: PR

CHECKED BY: DSW

DATE: APRIL 6, 2009

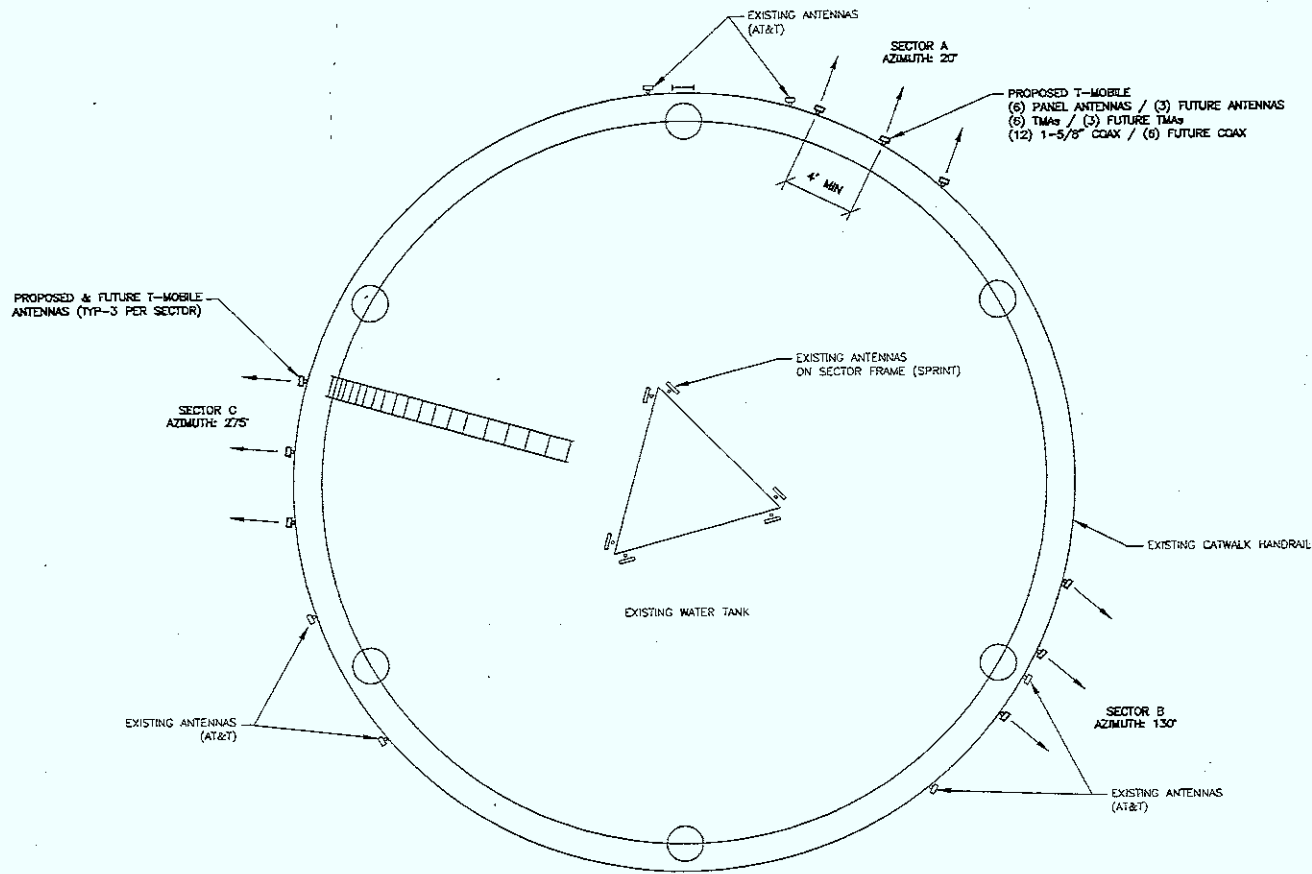
VELOCITEL #: 50155FA0050

SITE NO.: 5FA0050A

DRAWING DESCRIPTION:

**TOWER ELEVATION**

DRAWING NUMBER: 3 OF 4



**ANTENNA ORIENTATION PLAN**  
NOT TO SCALE

TOWER OWNER APPROVAL:	DATE:
T-MOBILE APPROVAL:	DATE:

APPLICANT/OWNER  
**T-Mobile**

PREPARED BY:  
**velocitel**  
complete wireless solutions  
Velocitel, Inc.  
2000 Regency Park, Suite 125  
Cary, NC 27518  
Office: 919.460.0012  
Fax: 919.460.4026

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SEAL

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**

DATE: 4/16/09

BY THE SIGNING OF THIS DRAWING, THE ENGINEER CERTIFIES THAT HE HAS CONDUCTED THE NECESSARY SURVEY AND INVESTIGATION TO THE BEST OF HIS KNOWLEDGE AND BELIEF AND THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF HIS KNOWLEDGE AND BELIEF.

REV	DATE	DESCRIPTION	BY
A	4/6/09	ISSUED FOR REVIEW	PR
B	4/16/09	ISSUED FOR REVIEW	DSW
C	9/2/09	REVISED FOR CONSTRUCTION	DSW
D			
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PROJECT LOCATION  
**5FA0050A**  
818 BEDROCK DR  
FAYETTEVILLE, NC 28303

DRAWN BY: PR  
CHECKED BY: DSW  
DATE: APRIL 6, 2009  
VELOCITEL # 501A5FAD050  
SITE NO.: 5FA0050A  
DRAWING DESCRIPTION:  
**ANTENNA PLAN**  
DRAWING NUMBER:  
4 OF 4

**After recording return to:**

**T-Mobile South LLC  
185 Fairchild Street  
Charleston, SC 29492  
Attn: Site Acquisition**

**For indexing purposes only:**

**Grantor: The City of Fayetteville  
Grantee: T-Mobile South LLC  
  
Tax Map Number: 0408-38-8048**

**MEMORANDUM OF LICENSE AGREEMENT**

**THIS MEMORANDUM OF LICENSE AGREEMENT** (the "Memorandum") is dated \_\_\_\_\_, 2009, and is made by and between **The City of Fayetteville, a North Carolina municipal corporation** ("Licensor"), and **T-Mobile South LLC** a Delaware limited liability company ("Licensee").

**WITNESSETH:**

Licensor and Licensee entered into a Site License Agreement dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2009 (the "Agreement"). Licensor has agreed to lease to Licensee a certain parcel of real property, including improvements and fixtures thereon and appurtenant rights thereto, located in the City of Fayetteville, County of Cumberland, State of NC, such Premises being part of Tax Parcel Number 0408-38-8048, Seed Deed Book 0328 Page 00247 in the Register of Deed's Office, County of Cumberland, State of NC (the "Clerk's Office"), more particularly described on Exhibit A attached hereto and made a part hereof (collectively, the "Premises") with grant of easement for unrestricted rights of access thereto and to electric and telephone facilities for a term of **five (5) years** commencing on \_\_\_\_\_. Said term is subject to **one (1) additional five (5) year extension** period by Licensee. Licensor and Licensee now desire to enter into this Memorandum, and to record such Memorandum in the aforesaid Clerk's Office to give record notice of the Agreement.

T-Mobile Site Name: Bonanza Dr  
T-Mobile Site # 5FA0050

Licensor's Site Name: Bedrock  
Licensor's Site #: n/a

IN WITNESS WHEREOF, each party hereto has caused this to be executed in its name and on its behalf by its duly authorized representative.

**LICENSOR:**

**PUBLIC WORKS COMMISSION  
OF THE CITY OF FAYETTEVILLE**

ATTEST:

By: \_\_\_\_\_ (SEAL)  
Wilson A. Lacy, Chairman

\_\_\_\_\_  
Luis J. Olivera, Secretary

**CITY OF FAYETTEVILLE**

ATTEST:

\_\_\_\_\_  
Anthony G. Chavonne, Mayor

\_\_\_\_\_  
Rita Perry, City Clerk

---

STATE OF NORTH CAROLINA -- COUNTY OF CUMBERLAND

I, \_\_\_\_\_, a Notary Public for said county and state, do hereby certify that Luis J. Olivera personally appeared before this day and acknowledged that he is the Secretary of the Public Works Commission, a Commission of the City of Fayetteville, and that by authority duly given and as an act of the Commission, the foregoing agreement was signed in its name by its Chairman, sealed with its corporate seal, and attested by himself as its Secretary. Witness my hand and official seal this day of \_\_\_\_\_, 2009.

My Commission expires: \_\_\_\_\_  
\_\_\_\_\_  
Notary Public

---

STATE OF NORTH CAROLINA -- COUNTY OF CUMBERLAND

I, \_\_\_\_\_, a Notary Public for the County and State aforesaid, do hereby certify that Rita Perry personally appeared before me this day and acknowledged that she is City Clerk for the City of Fayetteville, a municipal corporation, and that by authority duly given and as an act of the corporation, the foregoing agreement was signed in its name by its Mayor, sealed with its corporate seal and attested by her as its City Clerk. Witness my hand and official seal, this \_\_\_\_ day of \_\_\_\_\_, 2009.

My Commission expires: \_\_\_\_\_  
\_\_\_\_\_  
Notary Public

T-Mobile Site Name: Bonanza Dr  
T-Mobile Site # 5FA0050

Licensor's Site Name: Bedrock  
Licensor's Site #: n/a

**LESSEE:**  
T-Mobile South LLC, a Delaware limited liability company

Witness: A. Hultay

By: [Signature]

Name: Todd Wheeler  
Title: Area Director, Network Engineering & Operations

Witness: \_\_\_\_\_

Date: 9/24/09

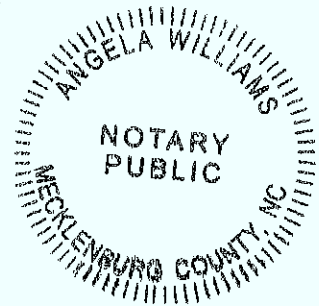
STATE OF North Carolina  
CITY/COUNTY OF Charlotte, Mecklenburg, to-wit:

On September 24, 2009, before me, the undersigned Notary Public in and for the State of North Carolina, personally appeared Todd Wheeler as Area Director, Network Engineering & Operations, on behalf of T-Mobile South LLC, a Delaware limited liability company, personally known to me to be the person whose name is subscribed to the within Instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the Instrument, on behalf of T-Mobile South LLC, executed the Instrument. He further acknowledged in due form of the law that he is authorized on behalf of said entity to execute all documents pertaining hereto and acknowledged to me the same as his voluntary act and deed on behalf of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed, my official seal at my office in said County and State on the day and year last above written.

[Signature] (SEAL)  
Notary Public

My commission expires: 12/8/13



T-Mobile Site Name: Bonanza Dr  
T-Mobile Site # 5FA0050

Lessor's Site Name: Bedrock  
Lessor's Site #: n/a

**Exhibit A**

The Leased Property is legally described as follows:

T-Mobile Site Name: Bonanza Dr  
T-Mobile Site # 5FA0050

Lessor's Site Name: Bedrock  
Lessor's Site #: n/a



**LEGAL DESCRIPTION**

Property located in Cumberland, NC

**PARCEL I:**

Tank Lot--Northwestern corner of Dodge Drive and N. Platte Road; Seventy-First Township, near Fayetteville, Cumberland County, North Carolina.

BEING all of that lot belonging to Cumberland Water Company as shown on Addition to Section Five, The Ponderosa, as recorded in Plat Book 31, Page 49, Cumberland County Registry.

**PARCEL II:**

0.293 acre tract--Well #6 and overhead tank; The Ponderosa, Sec. 21; Seventy-First Township, near Fayetteville, Cumberland County, North Carolina.

BEGINNING at a point in the eastern margin of the tract of which this is a part, said point being North 05 degrees 21 minutes West 140.72 feet from the northeast corner of Lot 26 of The Ponderosa, Sec. 21 as recorded in Plat Book 38, Page 55, Cumberland County Registry; and running thence North 64 degrees 03 minutes West 97.87 feet to a point; thence South 32 degrees 30 minutes West 28.35 feet to a point; thence North 64 degrees 14 minutes West 30.60 feet to a point; thence North 25 degrees 46 minutes East 137.09 feet to a point in the northern margin of said tract of which this is a part; thence with the northern margin of said tract of which this is a part North 73 degrees 01 minutes East 61.06 feet to the northernmost corner of said tract of which this is a part; thence with the eastern margin of said tract of which this is a part South 05 degrees 21 minutes East 169.02 feet to the point and place of beginning, and containing 0.293 acres, more or less.

**EASEMENTS**

Together with the perpetual right, easement and privilege to build, construct, lay, install, maintain and operate water, sanitary sewer and storm sewer (any or all) lines, with such pipes, drains, connections, manholes, and other attachments, equipment and accessories necessary of desirable in connection therewith, to have full ingress and egress, thereto and therefrom, over adjoining lands, of Grantor, to partol, inspect, alter, improve, repair, relocate, remove and replace any of all of such lines, pipes, drains, connections, manholes, and other attachments, equipment and accessories, to cut and keep clear all trees and undergrowth (both on the described easement area and adjacent thereto) that may in any way endanger the proper use and enjoyment of this easement, and to have all rights and privileges necessary or convenient for the full enjoyment or use of this easement, in, on, under over, through and across certain land described as follows:

**EASEMENT PARCEL I:**

0.036 acre tract--10 foot wide easement--Well #6 and overhead tank, The Ponderosa, Sec. 21; Seventy-First Township, near Fayetteville, Cumberland County, North Carolina.

BEGINNING at a point, said point being the northeast corner of Lot 26 of The Ponderosa, Sec. 21 as recorded in Plat Book 38, Page 55, Cumberland County Registry; and running thence with the northern margin of said Lot 26 and Lot 27 of said The Ponderosa, Sec. 21 North 48 degrees 37 minutes West 158.61 feet to the northwest corner of said Lot 27; thence North 03 degrees 17 minutes West 14.06 feet to a point; thence South 48 degrees 37 minutes East 157.87 feet to a point in the eastern margin of the tract of which this is a part; thence with the eastern margin of said tract of which this is a part South 05

degrees 21 minutes East 14.59 feet to the point and place of Beginning, containing 0.036 acres, more or less, and being a 10 foot wide utility easement.

EASEMENT PARCEL II:

0.116 acre tract--utility easement and ingress and egress easement--Bedrock Drive, The Ponderosa, Sec. 21; Seventy-First Township, near Fayetteville, Cumberland County, North Carolina.

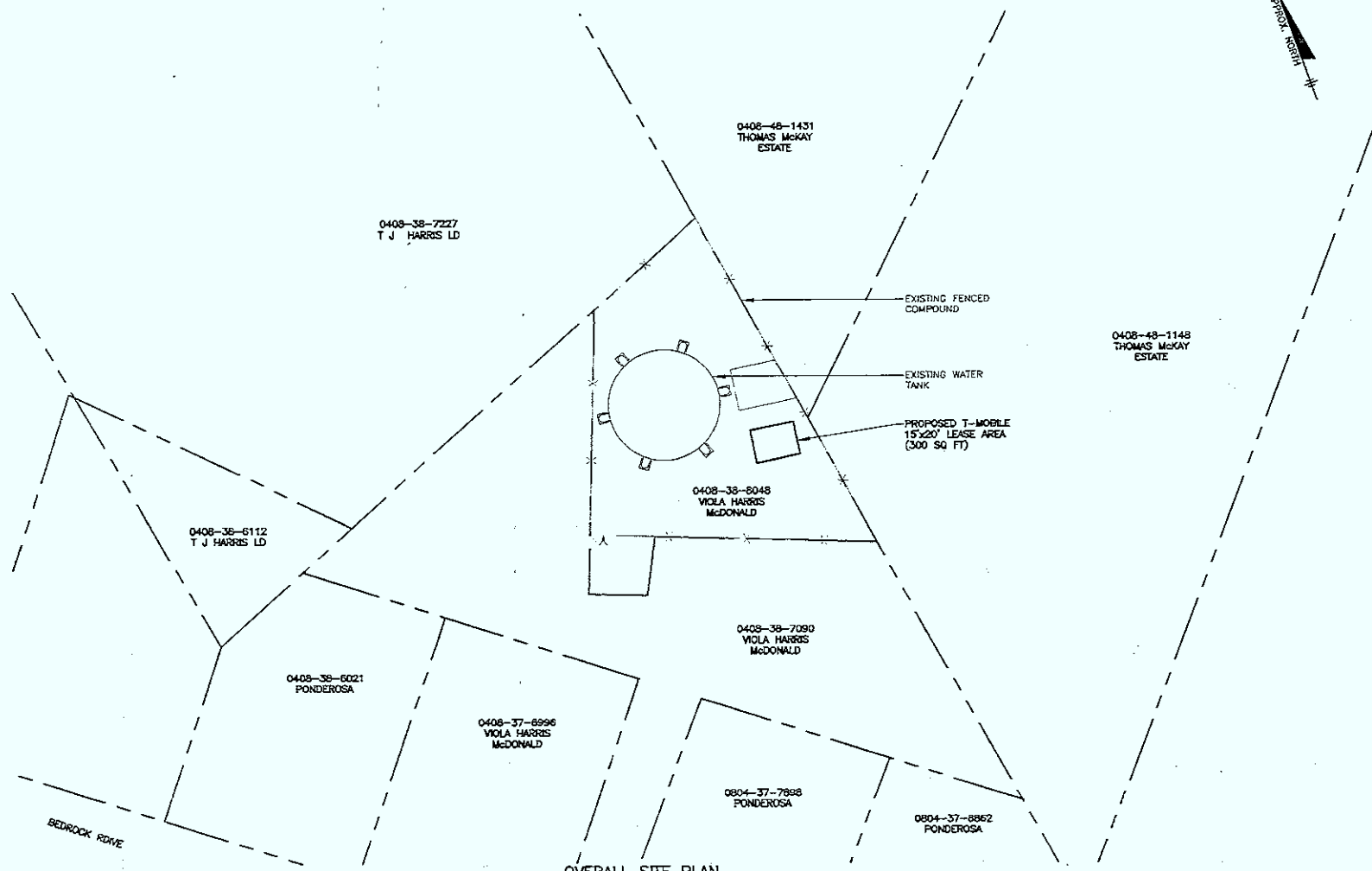
BEGINNING at a point in the northern margin of Bedrock Drive (60' right-of-way) said point being the southwest corner of Lot 27 of The Ponderosa, Sec. 21 as recorded in Plat Book 38, Page 55, Cumberland County Registry; and running thence with the northern margin of said Bedrock Drive North 48 degrees 37 minutes West 30.00 feet to a point; thence North 41 degrees 23 minutes East 130.47 feet to a point; thence North 03 degrees 17 minutes West 47.88 feet to a point; thence South 64 degrees 14 minutes East 24.41 feet to a point; thence South 03 degrees 17 minutes East 57.12 feet to the northwest corner of said Lot 27; thence with the western margin of said Lot 27 South 41 degrees 23 minutes West 130.00 feet to the point and place of beginning, containing 0.116 acres, more or less and being a utility easement and ingress and egress easement.

AND BEING the same property conveyed to The City of Fayetteville, a municipal corporation from Cumberland Water Company by North Carolina General Warranty Deed dated October 01, 1984 and recorded October 05, 1984 in Deed Book 3028, Page 247.

Tax Parcel No. 0408-38-8048

7-22-3-7

I:\Engineering\Projects\1-4000\PROJECT - 5000\Drawings\0 - Construction\0000.dwg

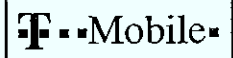


**OVERALL SITE PLAN**  
NOT TO SCALE

NOTE:  
THE PROPERTY INFORMATION PROVIDED ON  
THIS SHEET WAS TAKEN FROM THE  
CUMBERLAND COUNTY GIS WEBSITE.

TOWER OWNER APPROVAL:	DATE:
T-MOBILE APPROVAL:	DATE:

APPLICANT/OWNER:



PREPARED BY:



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SEAL

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**  
DATE: 4/16/09

IT IS A REPRESENTATIVE PLAN AND NOT A FINAL PLAN. THE USER OF THIS DOCUMENT SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS FROM THE LOCAL JURISDICTION WITHIN WHICH THIS PROJECT IS TO BE CONSTRUCTED.

**REVISIONS**

REV	DATE	DESCRIPTION	BY
A	4/6/09	ISSUED FOR REVIEW	PR
B	4/16/09	ISSUED FOR REVIEW	DSW
C	8/2/09	REVISED RF CONFIGURATION	DSW
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PROJECT LOCATION

**5FA0050A**

818 BEDROCK DR  
FAYETTEVILLE, NC 28303

DRAWN BY: PR

CHECKED BY: DSW

DATE: APRIL 6, 2009

VELOCITEL # 501A5FA0050

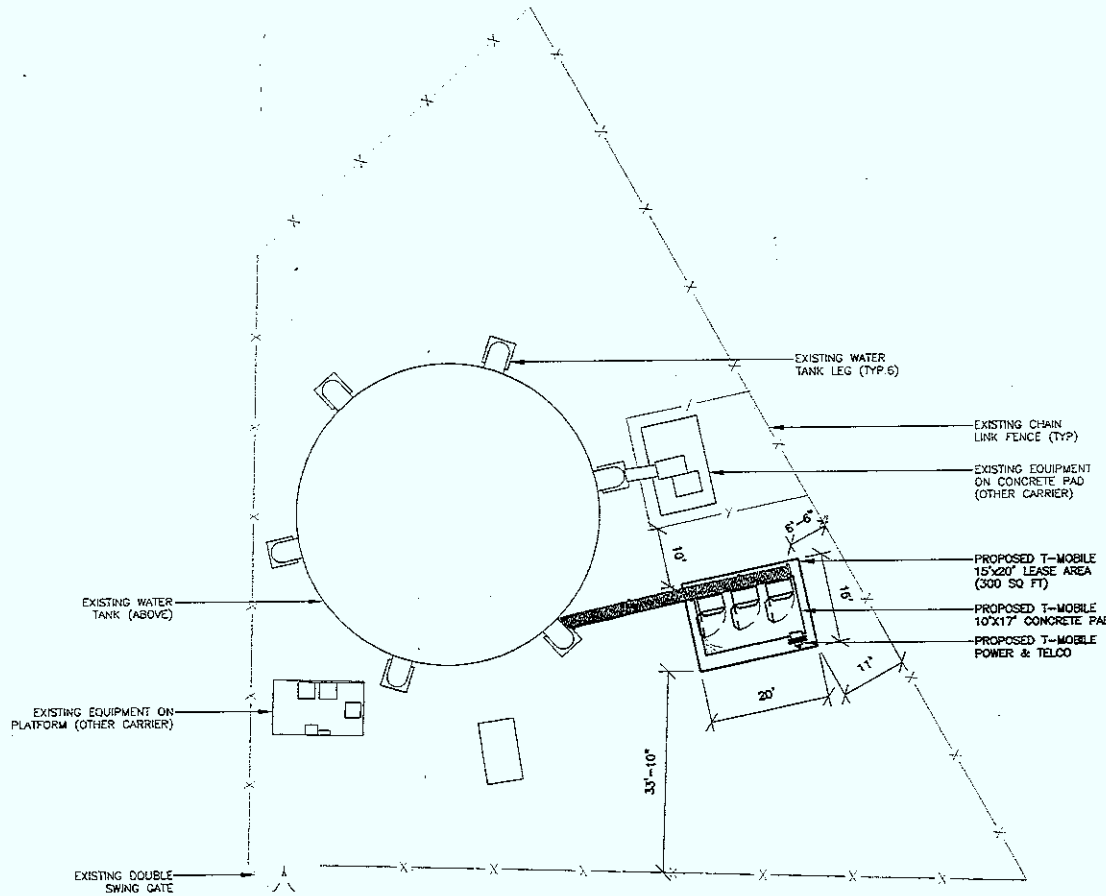
SITE NO.: 5FA0050A

DRAWING DESCRIPTION:

**OVERALL SITE PLAN**

DRAWING NUMBER:

1 OF 4



**SITE PLAN**

SCALE: 1"=20'



TOWER OWNER APPROVAL:	DATE:
T-MOBILE APPROVAL:	DATE:

APPLICANT/OWNER:



PREPARED BY:

**velocitel**  
complete wireless solutions  
Velocitel, Inc.  
2940 Ragsdale, Pkwy, Suite 135  
Cary, NC 27513  
Office 919-286-0482  
Fax 919-286-4238

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SCALE:

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**  
DATE: 4/16/09

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**REVISIONS**

REV	DATE	DESCRIPTION	BY
A	4/9/09	ISSUED FOR REVIEW	PR
B	4/15/09	ISSUED FOR REVIEW	DSW
C	9/2/09	REVISED RE CONSTRUCTION	DSW
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PROJECT LOCATION:

**5FA0050A**  
**818 BEDROCK DR  
FAYETTEVILLE, NC 28303**

DRAWN BY: PR

CHECKED BY: DSW

DATE: APRIL 6, 2009

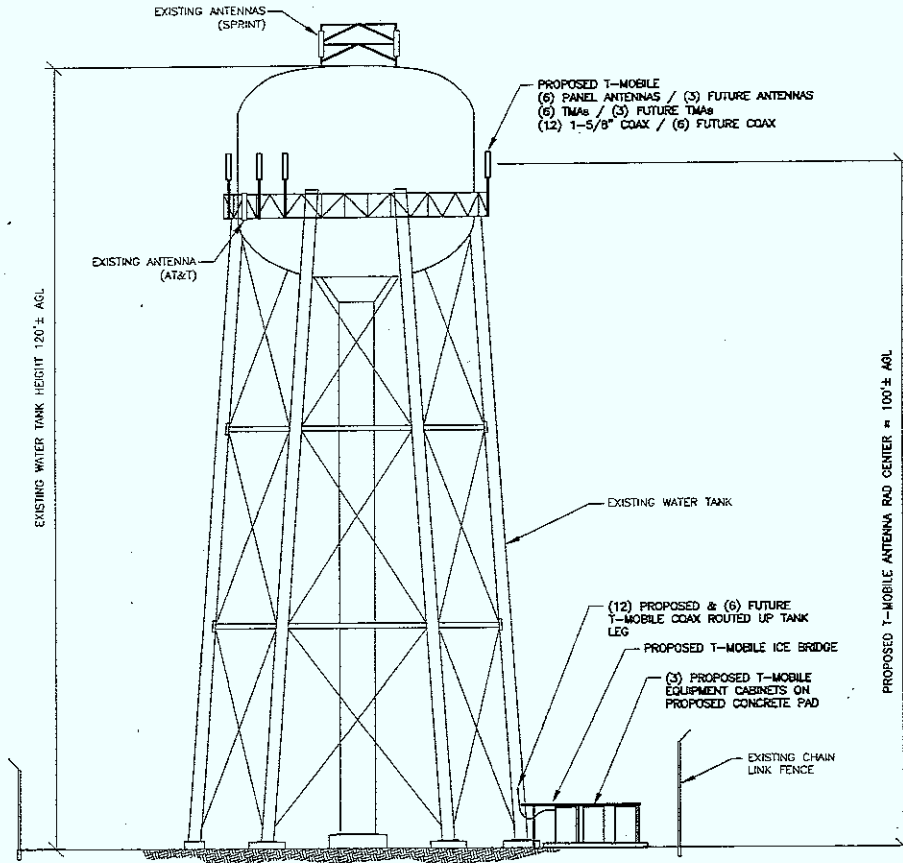
VELOCITEL # 501425FA0050A

SITE NO.: 5FA0050A

DRAWING DESCRIPTION:

**SITE PLAN**

DRAWING NUMBER:  
**2 OF 4**



**ELEVATION**  
NOT TO SCALE

TOWER OWNER APPROVAL:	DATE:
T-MOBILE APPROVAL:	DATE:

APPLICANT/OWNER:



PREPARED BY:



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SEAL

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**

DATE: 4/16/09

IT IS THE POLICY OF VELOCITEL, INC. TO OBTAIN AND MAINTAIN ALL NECESSARY PERMITS AND APPROVALS FOR THE CONSTRUCTION OF ANY TOWER OR ANTENNA. VELOCITEL, INC. SHALL BE RESPONSIBLE FOR OBTAINING AND MAINTAINING ALL NECESSARY PERMITS AND APPROVALS. THE USER OF THIS DOCUMENT SHALL BE RESPONSIBLE FOR OBTAINING AND MAINTAINING ALL NECESSARY PERMITS AND APPROVALS.

REVISIONS		
REV	DATE	DESCRIPTION
A	4/6/09	ISSUED FOR REVIEW
B	4/16/09	ISSUED FOR REVIEW
C	9/2/09	REVISED RF CONFIGURATION
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PROJECT LOCATION

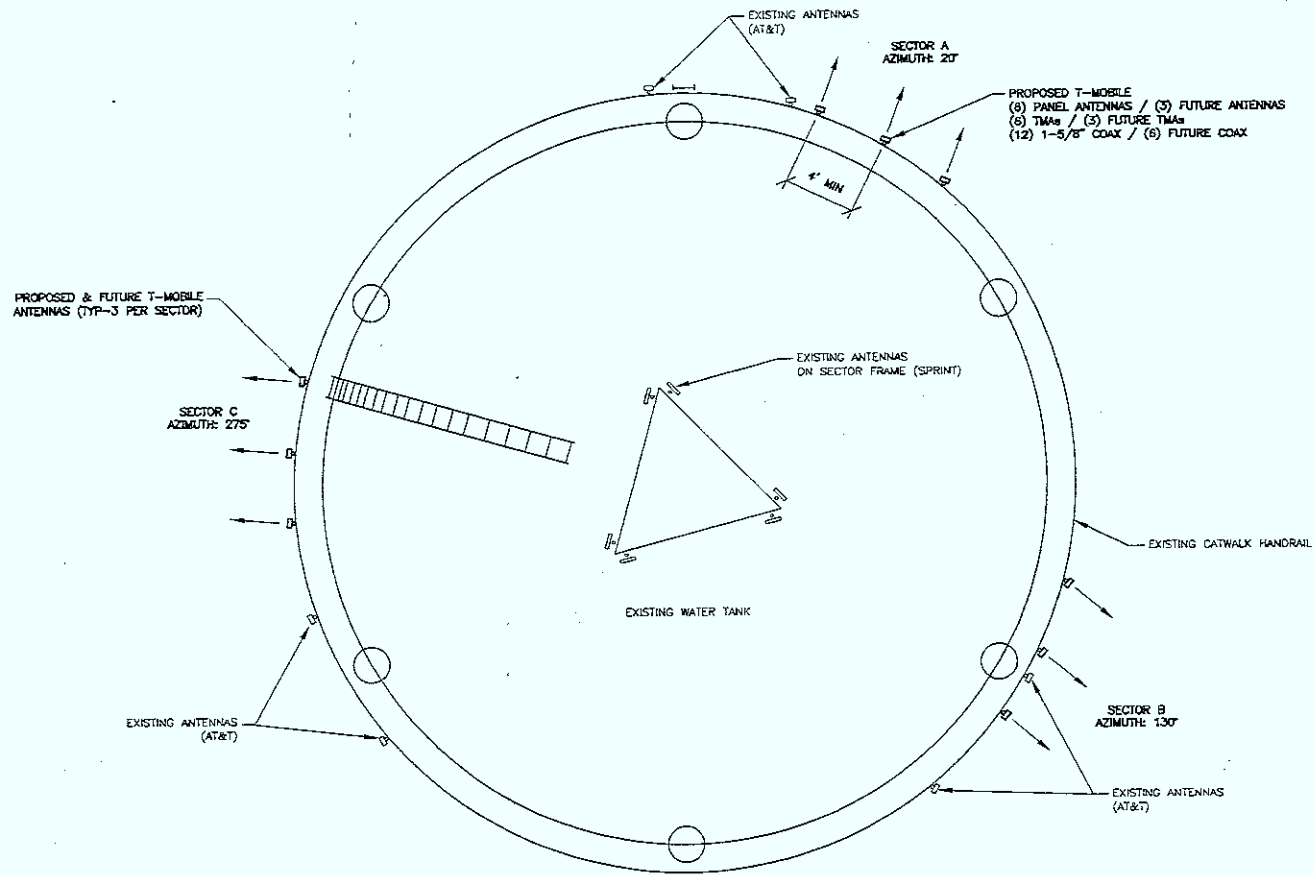
**5FA0050A**

818 BEDROCK DR  
FAYETTEVILLE, NC 28303

DRAWN BY: PR  
CHECKED BY: DSW  
DATE: APRIL 6, 2009  
VELOCITEL #: 501525FA0050A  
SITE NO.: 5FA0050A  
DRAWING DESCRIPTION:

**TOWER ELEVATION**

DRAWING NUMBER: 3 OF 4



**ANTENNA ORIENTATION PLAN**  
NOT TO SCALE

TOWER OWNER APPROVAL:	DATE:
T-MOBILE APPROVAL:	DATE:

APPLICANT/OWNER:



PREPARED BY:

**velocitel**  
Complete wireless solutions  
Velocitel, Inc.  
2000 Regency Plaza, Suite 170  
Cary, NC 27513  
Office: 919.251.4432  
Fax: 919.251.4433

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SCALE

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**  
DATE: 4/16/09

IF YOU ARE A CONTRACTOR OR ARCHITECT AND YOU ARE PROVIDING SERVICES TO THE CLIENT, YOU MUST OBTAIN THE NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AGENCIES BEFORE ANY CONSTRUCTION OR INSTALLATION OF THE ANTENNAS. YOU ARE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. VELOCITEL, INC. IS NOT RESPONSIBLE FOR ANY DELAYS OR COSTS INCURRED AS A RESULT OF YOUR FAILURE TO OBTAIN THE NECESSARY PERMITS AND APPROVALS.

**REVISIONS**

REV	DATE	DESCRIPTION	BY
A	4/6/09	ISSUED FOR REVIEW	PR
B	4/16/09	ISSUED FOR REVIEW	DSW
C	8/2/09	REMOVED BY CONSTRUCTION	DSW
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PROJECT LOCATION

**5FA0050A**  
818 BEDROCK DR.  
FAYETTEVILLE, NC 28303

DRAWN BY: PR

CHECKED BY: DSW

DATE: APRIL 6, 2009

VELOCITEL #: 501A5FA0050A

SITE NO.: 5FA0050A

DRAWING DESCRIPTION:

**ANTENNA PLAN**

DRAWING NUMBER:  
4 OF 4

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Karen M. McDonald, City Attorney  
**DATE:** November 9, 2009  
**RE:** **City Attorney - Authorization of the Issuance of Multifamily Revenue Bonds by the Fayetteville Metropolitan Housing Authority**

---

---

**THE QUESTION:**

Whether to authorize the issuance of the multifamily revenue bonds by the Fayetteville Metropolitan Housing Authority.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growing City, Livable Neighborhoods - A Great Place to Live

**BACKGROUND:**

Please see attached memorandum from the attorney for the Fayetteville Metropolitan Housing Authority for background information.

**ISSUES:**

Whether the Council has an interest in authorizing the issuance of the multifamily revenue bonds.

**OPTIONS:**

1. Upon conclusion of the public hearing, authorize the issuance of the multifamily revenue bonds and adopt the attached resolution.
2. Provide staff with additional direction regarding the bonds.

**RECOMMENDED ACTION:**

At the conclusion of the public hearing, consider authorizing the issuance of the multifamily revenue bonds and adopt the attached resolution.

**ATTACHMENTS:**

Memorandum from Attorney for FMHA  
Resolution - Approval of Issuance of Multifamily Revenue Bonds



THE CHARLESTON GROUP  
LAWYERS

R. JONATHAN CHARLESTON  
DIRECT DIAL: (910) 485-2500 EXT. 224  
jcharleston@tcglawyers.com

201 HAY STREET, SUITE 2000  
POST OFFICE BOX 1762  
FAYETTEVILLE, NC 28302-1762  
TELEPHONE: (910) 485-2500  
TELECOPIER: (910) 485-2599

**MEMORANDUM**

TO: Mayor and Members of City Council  
through the City Attorney

FROM: R. Jonathan Charleston, Esq.

DATE: October 28, 2009

RE: City's approval of the issuance of multifamily revenue bonds by the Fayetteville  
Metropolitan Housing Authority

cc: Calvin Poole  
Dawn Driggers  
Lisa Smith  
Victor Sharpe  
Bobby R. Mosely, Esq.  
Rudolph Smith, Esq.  
Mary Nash K. Rusher, Esq.

This memorandum is submitted to City Council through the City Attorney. The purpose of this memorandum is to provide City Council with background information regarding the action it is being requested to take regarding the approval of the issuance of multifamily revenue bonds. The Fayetteville Metropolitan Housing Authority (the "Authority") is seeking the City of Fayetteville's ("City") approval of the issuance of multifamily revenue bonds to finance two (2) low and moderate income housing developments with the proceeds of tax exempt bonds. These bonds are also known as qualified private activity bonds. *The City will have no liability whatsoever for the repayment of principal or interest on the bonds, and the faith and credit, and the taxing power of the city will not be pledged to support the bonds. These bonds will be payable solely from funds and revenues received by the Authority.*



The reason City Council's approval is required is discussed below.

Under North Carolina Law, the Authority has the power to provide for the construction, reconstruction, improvement, alteration or repair of any housing project and to borrow money upon its bonds, notes, debentures or other evidences of indebtedness and to secure the same by pledges of its revenues. Pursuant to the Hope VI grant award from the Department of Housing and Urban Development ("HUD") and the revitalization plan of the Old Wilmington Road neighborhood, the Authority has tentatively agreed to assist Curtis Lane Associates Limited Partnership, a North Carolina limited partnership, or an affiliated or related entity in the financing of the acquisition, construction and equipping of two low and moderate income multifamily residential rental projects to be known as (1) Curtis Lane Apartments and (2) Alfred Street Apartments located in Fayetteville, Cumberland County, North Carolina ("Developments") by the issuance of its multifamily housing revenue bonds.

As a pre-condition for the exclusion from gross income for federal income tax purposes of interest on all qualified private activity bonds, the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") requires, among other things, that the issuance of bonds be approved either by an elected official or body of elected officials of the applicable governmental entity after a public hearing (a "TEFRA hearing") following reasonable public notice (a "TEFRA notice"). Accordingly, although the bonds will be issued by and are the responsibility of the Authority, the law requires that any bonds issued by the Authority for the Developments may only be issued after approval of the plan of financing by the City Council following a public hearing with respect to such bonds.

The closing with respect to the Developments is scheduled to occur in November 2009, but in no event later than December 31, 2009 in order to meet certain financing conditions. Therefore, it is important for City Council to hold the TEFRA public hearing and authorize the issuance of the bonds at its November 9, 2009 meeting. Notice of the TEFRA public hearing has been published.

On behalf of the Fayetteville Metropolitan Housing Authority, thank you for your consideration of this request. If you have any additional questions or concerns, please do not hesitate to contact me.

RJC/brm

CITY COUNCIL  
OF THE  
CITY OF FAYETTEVILLE, NORTH CAROLINA

Extracts from Minutes of  
Meeting of November 9, 2009

Present: Mayor Anthony G. Chavonne presiding, and

Council Members \_\_\_\_\_

Absent: \_\_\_\_\_

\* \* \* \* \*

Council Member \_\_\_\_\_ introduced the following resolution, the title of which was read:

APPROVAL OF ISSUANCE OF MULTIFAMILY REVENUE  
BONDS BY THE FAYETTEVILLE METROPOLITAN  
HOUSING AUTHORITY TO FINANCE TWO LOW AND  
MODERATE INCOME HOUSING DEVELOPMENTS (CURTIS  
LANE APARTMENTS AND ALFRED STREET  
APARTMENTS) WITH THE PROCEEDS OF TAX EXEMPT  
BONDS

WHEREAS, The Fayetteville Metropolitan Housing Authority (the "Authority") is organized and operates pursuant to the North Carolina Housing Authorities Law, Article 1 of Chapter 157 of the General Statutes of North Carolina, as amended (the "Act"); and

WHEREAS, the Act in Section 157-9 gives the Authority the power to "provide for the construction, reconstruction, improvement, alteration or report of any housing project" and "to borrow money upon its bonds, notes, debentures or other evidences of indebtedness and to secure the same by pledges of its revenues;" and

WHEREAS, the Authority has tentatively agreed to assist Curtis Lane Associates Limited Partnership, a North Carolina limited partnership, or an affiliated or related entity (the "Borrower") in the financing of the acquisition, construction and equipping of two low and moderate income multifamily residential rental projects to be known as (1) Curtis Lane Apartments, consisting of 184 units to be located on approximately 15.68 acres at the intersection of Old Wilmington Road and Curtis Lane and (2) Alfred Street Apartments, consisting of 36 units for seniors on approximately 4.64 acres located at the intersection of Vanstory Street and Alfred Street (collectively, the "Developments"), in Fayetteville, Cumberland County, North Carolina by the issuance of its multifamily housing revenue bonds (Curtis Lane Project), Series 2009A in an amount not to exceed \$10,741,500 (the "Series 2009A

Bonds”) and its multifamily housing revenue bonds (Alfred Street Project), Series 2009B in an amount not to exceed \$2,258,500 (the “Series 2009B Bonds” and together with the Series 2009A Bonds, the “Bonds”); and

WHEREAS, the Bonds may be issued in the form of one or more loan agreements and promissory notes between the Authority and Fannie Mae or another lender;

WHEREAS, the Authority adopted an inducement resolution with respect to the financing of the Developments through the issuance of the Bonds on October 9, 2008; and

WHEREAS, the Bonds will be payable solely from funds and revenues received by the Authority, and the City of Fayetteville, North Carolina (the “City”) will have no liability whatsoever for the Bonds, and the faith and credit and the taxing power of the City will not be pledged to support the Bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), requires that any bonds issued by the Authority for the Developments may only be issued after approval of the plan of financing by the City Council following a public hearing with respect to such bonds; and

WHEREAS, notice of the public hearing held this day was published on October [23], 2009, and such hearing has been held by the City Council, as evidenced by the Certificate and Summary of Public Hearing attached hereto as Exhibit A; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF FAYETTEVILLE, NORTH CAROLINA:

1. The issuance of the Authority’s Multifamily Housing Revenue Bonds (Curtis Lane Project) Series 2009A in an amount not to exceed \$10,741,500 and its Multifamily Housing Revenue Bonds (Alfred Street Project) Series 2009B in an amount not to exceed \$2,258,500 to provide financing for the acquisition, construction and equipping of the Developments described above is hereby approved in principle.

2. The City Council hereby approves the plan of financing for the Developments and the issuance of the Bonds to the extent required by Section 147(f) of the Code.

Council Member \_\_\_\_\_ moved the passage of the foregoing resolution and Council Member \_\_\_\_\_ seconded the motion, and the resolution was passed by the following vote:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Not voting: \_\_\_\_\_

I, \_\_\_\_\_, Clerk to the City Council for the City of Fayetteville, North Carolina DO HEREBY CERTIFY that the foregoing is a true and complete copy of so much of the proceedings of the City Council for the City at a regular meeting duly called and held November 9, 2009, as it relates in any way to the resolution hereinabove set forth, and that such proceedings are recorded in Minute Book \_\_\_\_\_ of the minutes of such Council. Pursuant to state law, a current copy of a schedule of regular meetings of this Council is on file in my office.

WITNESS my hand and the common seal of the City, this \_\_\_\_ day of November, 2009.

\_\_\_\_\_  
Clerk to the City Council

(SEAL)

EXHIBIT A

CERTIFICATE AND SUMMARY

The undersigned Clerk of the City Council of the City of Fayetteville, North Carolina, hereby certifies:

1. Notice of a public hearing (the "Hearing") to be held on November 9, 2009, with respect to the issuance of bonds by the Fayetteville Metropolitan Housing Authority (the "Authority") for the benefit of Curtis Lane Associates Limited Partnership, or a related or affiliated entity (the "Partnership") was published on October [23], 2009, in *The Fayetteville Observer*.

2. The presiding officer of the Hearing was \_\_\_\_\_.

3. The following is a list of the names and addresses of all persons who spoke at the Hearing:

4. The following is a summary of the oral comments made at the Hearing:

IN WITNESS WHEREOF, my hand and the seal of the City of Fayetteville, North Carolina, this \_\_\_\_ day of November, 2009.

\_\_\_\_\_  
Clerk, City Council  
City of Fayetteville, North Carolina

(SEAL)

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Karen M. McDonald, City Attorney  
**DATE:** November 9, 2009  
**RE:** **City Attorney - Consider Adoption of an Ordinance Prohibiting the Tethering of Dogs**

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**THE QUESTION:**

Whether to adopt an ordinance prohibiting the tethering of dogs within the municipal limits of Fayetteville.

**RELATIONSHIP TO STRATEGIC PLAN:**

More Efficient City Government

**BACKGROUND:**

The Cumberland County Board of Commissioners at their February 2, 2009, meeting adopted the attached ordinance prohibiting the tethering of dogs with an effective date of August 1, 2009, for the unincorporated areas of the County. Animal Services Director Scottie Harris and Deputy County Attorney Harvey Raynor presented this item and answered questions regarding the ordinance at the Council's October 5, 2009, work session meeting. After discussion on the issue, Council directed staff to set a public hearing to receive comments on the ordinance prior to considering whether to adopt the ordinance.

**ISSUES:**

Whether the Council has an interest in adopting a similar ordinance for the municipal limits of Fayetteville.

**OPTIONS:**

1. Accept the ordinance and direct staff to place on a future agenda for approval.
2. Reject the ordinance.
3. Provide staff with additional direction regarding the ordinance.

**RECOMMENDED ACTION:**

Consider the comments during the public hearing and provide direction to staff regarding the ordinance.

**ATTACHMENTS:**

Cumberland County Ordinance

AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF  
COMMISSIONERS PROHIBITING TETHERING OF DOGS

WHEREAS, outdoor tethering of dogs can be cruel to the dogs, especially during inclement or severe weather conditions, and

WHEREAS, outdoor tethering of dogs threaten the welfare of those dogs through inadvertent choking, strangulation, or ensnaring of the dogs, and

WHEREAS, outdoor tethering of dogs can cause them to become aggressive or otherwise maladjusted and anti-social, increasing the risk of attacks on people or other animals, and thereby threatening the public health, safety and welfare, and

WHEREAS, outdoor tethering of dogs can make them easy targets for attacks by other animals, harassment from humans, and biting and stinging from insects, and

WHEREAS, outdoor tethering of dogs can cause unsanitary living conditions in a confined area from feces, urine and food waste,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CUMBERLAND COUNTY, N.C.:

Section 1. Section 3.5 of the Cumberland County Code, Definitions, is amended by inserting in appropriate alphabetical order, the following, and re-numbering the existing subsections:

“Tethered” or “tethering” means attaching an animal to a stationary object by means of a chain, cable, rope or similar device.

Section 2. Section 3-21 of the Cumberland County Code, “Keeping of animals; mistreatment, abandonment prohibited; care; restraining of dogs; exercise area for dogs” is amended by deleting subsection (H) and inserting in lieu thereof the following:

“(H) 1. No pet shall be tethered outdoors unless the keeper or owner of the pet is holding the tether.

2. It shall be an affirmative defense to a violation of subsection 1 above that the tethering is required to protect the safety or welfare of a person or the dog, if the keeper or owner of the dog remains with the dog throughout the period of tethering.

3. The provisions of subsection 1 above shall not apply to a temporary tether (a) during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity, or (b) to a keeper or owner walking a dog with a hand-held leash, or (c) during lawful hunting activities if reasonably necessary for the safety of the dog, or (d) while a dog is actively engaged in shepherding or herding livestock, or (e) when meeting the requirements of a camping or recreation facility, or (f) when the animal’s

caretaker is outside and within eyesight of the animal, or (g) after taking possession of a dog that appears to be a stray dog and after having advised the Animal Control Department of the stray.

4. The provisions of subsection 2 and 3 above shall apply only if (a) the tether is not placed directly around the dog's neck and is attached to a properly fitting collar or harness of nylon or leather worn by the dog, and (b) the weight of the tether does not exceed more than one-tenth of the dog's body weight, and (c) the tether is unlikely to become tangled or twisted, and (d) the tether is arranged to be free of any obstacles which may limit the moveable length of the tether, and (e) the dog is tethered in a manner that permits access to necessary shelter and water."

Section 3. This ordinance shall become effective August 1, 2009.

Adopted by the Cumberland County Board of Commissioners this 2nd day of February, 2009.

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JEANNETTE M. COUNCIL  
Chairman

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MARSHA FOGLE  
Clerk to the Board



**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Tom Bergamine, Chief of Police  
**DATE:** November 9, 2009  
**RE:** **Police - Consideration of proposed ordinance revisions to Article VII, Wrecker & Tow Ordinance**

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**THE QUESTION:**

Whether to approve the proposed ordinance revisions to Article VII, Wrecker & Tow Service of the Fayetteville City Code?

**RELATIONSHIP TO STRATEGIC PLAN:**

This action is requested based on Principle H of the Council's Strategic Plan, Partnership and Citizens, specifically, working together with citizens to solve problems. Additionally, this is also an initiative under the guiding principle of Operational Efficiency within the Police Department's Community Wellness Plan (Target for Action: Crime Reduction Strategy and Report).

**BACKGROUND:**

At the City Council meeting on October 5, 2009, the Police Department, by and through Sergeant Dow and Chief Bergamine, presented information regarding a new management system that will aid citizens in the recovery of towed vehicles and the management of the City's wrecker rotation list. During the presentation, the Council was also provided the proposed ordinance revisions that are necessary for the successful implementation of the new management system.

**ISSUES:**

Status of revised Wrecker Ordinance.

**OPTIONS:**

Approve all ordinance revisions; or approve some ordinance revisions; or decline to approve ordinance revisions.

**RECOMMENDED ACTION:**

Staff recommends approval of all proposed ordinance revisions.

**ATTACHMENTS:**

Revised Wrecker/Towing Ordinance

## ARTICLE VII. WRECKER AND TOW SERVICE

### Sec. 24-221. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means a person, firm, or corporation engaged in the business of, or offering the services of, a vehicle wrecker or towing service whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle manufactured and designed for the primary purpose of removing and towing disabled motor vehicles.

*Chief of police* means the executive head of the police department of the city or anyone designated by him.

*Licensee* means a person, firm or corporation, or employee, agent or contract agent of any person, firm or corporation issued a license under the terms of this article.

*Rollback* means a truck chassis having a minimum gross vehicle weight rating of 14,000 pounds, a minimum deck length of 16 feet, and being constructed of steel or aluminum. The deck must have a minimum load capacity of 7,000 pounds, a deck winch with a minimum capacity of 6,000 pounds, and a winch cable with a minimum diameter of three-eighths of an inch and a minimum length of 25 feet.

*Rotation list* means a list maintained by the police department containing the names of those wreckers licensed by the city to respond to requests made by the police department for the towing of vehicles.

*Wrecker* means a truck chassis having a minimum gross vehicle weight rating of 14,000 pounds, a boom assembly having a minimum lifting power of 16,000 pounds, a wheel lift having a minimum lifting power of 3,000 pounds retracted, as rated by the manufacturer. A wrecker must also have any additional safety equipment as specified by the chief of police and incorporated by reference as set forth in this article. Any licensee that is currently on the rotation list as of September 1, 2000, may meet the requirements set forth in section 24-223 by using the size requirement set forth in section 24-224 until such equipment is replaced.

**“Non-consent tow”** means a tow occurs without prior consent or authorization of the owner or operator of the motor vehicle that is to be towed. For purposes of this provision, a “non-consent tow” includes:

- (i) a repossession ;
- (ii) a city (county) initiated tow from public or private property;
- (iii) a law enforcement initiated tow from public property;
- or
- (iv) a tow of a vehicle initiated by a private party.

(Code 1961, § 20-164; Ord. No. S2001-004, §§ 1, 2, 2-5-2001)

**Cross references:** Definitions generally, § 1-2.

### **Sec. 24-222. Policy.**

In order to protect persons who operate motor vehicles inside the city, it is desirable and necessary to adopt this article to ensure licensing, storage, availability, and other controls over persons and firms licensed to provide wrecker service.

(Code 1961, § 20-165)

### **Sec. 24-223. Duties and requirements of licensees under this article.**

(a) The licensee shall provide a wrecker vehicle of sufficient size and weight as defined in section 24-221. The operator of such wrecker shall follow the manufacturer's operation manual in the operation of such wrecker. The wrecker operator shall not attempt to tow any vehicle that would reduce the weight of the front axles of the wrecker by 50 percent or more.

(b) All wreckers shall be equipped with warning lights required under state law. Wreckers shall operate all warning devices while on scene and while vehicle is in tow. Pursuant to North Carolina state law, all wreckers shall also have the name of the owner printed on both the sides of the vehicle in letters not less than three inches in height.

(c) The licensee shall provide continuous 24-hour-a-day service each day of the year, and there shall be an employee of the licensee, on duty at the storage lot, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday except for emergencies and wrecker service calls. The daytime calls at the daytime rate will be for calls received from 8:00 a.m. until 5:00 p.m. Monday through Friday. The nighttime call rate will be for calls received from 5:01 p.m. until 7:59 a.m. Monday through Friday. The night rate will be charged for all calls received on weekends and holidays.

(d) The licensee shall assume all liability and shall indemnify and save the city harmless from such liability for damages sustained by vehicles while being towed or stored and for all personal injuries occurring to any of the firm's employees or other persons and shall maintain the required insurance policies.

(e) The licensee shall not release any vehicle directly impounded by the city without authorization by the police department.

(f) The licensee shall charge for services such rates as may be fixed by the city council.

(g) Wrecker services shall perform towing service for the city on a rotation basis.

(h) No licensee or agent of the licensee shall intercept police calls by any means for the purpose of soliciting business.

- (i) No licensee or agent of the licensee shall engage in unfair and deceptive trade practices in the course and operation of its business.
- (j) Only wrecker drivers licensed by the State of North Carolina may respond to city rotation calls. Drivers licensed by states other than North Carolina are prohibited from responding to city rotation calls. Drivers with offenses involving moral turpitude or the offense of driving under the influence of an intoxicating liquor or drug, or who are habitual offenders of traffic laws, will not be authorized to respond to city rotation calls.
- (k) The licensee shall provide:
  - (1) Available space for properly accommodating and protecting a minimum of 15 disabled motor vehicles to be towed or otherwise removed from the place where they are disabled. Such storage space for vehicles shall be enclosed by a minimum six-foot chain link fence or a fence of similar strength and shall have all entrances and exits secure from public access;
  - (2) A storage vault or storage room on the storage lot or premises which is adequate to secure and protect personal property which may be left in vehicles towed to a private wrecker. An office space with proper signage identifying the business and telephone number
  - (3) The storage lot shall be located within the corporate limits of the City of Fayetteville. For the purpose of licensing, Licensees are prohibited from operating more than one business out of the same structure, including, but not limited to, buildings, warehouses, or garages. Similarly, licensees are prohibited from sharing any equipment that is subject to inspection with other licensees.
- (l) Licensees shall be held responsible for the actions of their employees. Failure to correct or prevent conduct that is in violation of this article that the Licensee had knowledge of, or should have had knowledge of by the exercise of due diligence, will result in action being taken against the Licensee, up to, and including, removal from the city rotation list.

(Code 1961, § 20-166)

#### **Sec. 24-224. Additional equipment authorized.**

- (a) After having met the requirement of subsection 24-223(a), an operator may have an additional wrecker of not less than 10,000 pounds GVW (one ton) with dual rear wheels. This wrecker must have at least a single cable with no smaller than a 5/16 inch in diameter, 100 feet in length and 6,000-pound winch and boom structure and a minimum of 3,000-pound wheel lift as rated by the manufacturer. All auxiliary equipment must be duplicated on this additional wrecker as required by the wrecker inspector for large wreckers.
- (b) After having met the requirement of subsection 24-223(a), an operator may have a rollback for the purpose of initial response to rotation calls. This rollback must have a minimum gross vehicle weight of 14,000 pounds, a minimum deck

length of 16 feet and be constructed of steel or aluminum. The deck winch must have a minimum capacity of 6,000 pounds and a winch cable with a minimum diameter of three-eighths of an inch and a minimum length of 25 feet. All auxiliary equipment must be duplicated on the rollback as required by the wrecker inspector for the primary rotation wrecker, except dollies.

(c) It is not the intent of this section to allow the wrecker defined in subsection (a) of this section to be used as a substitute for that required in subsection 24-223(a), in order to be eligible to be on the rotation list.

(Code 1961, § 20-167; Ord. No. S2001-004, § 3, 2-5-2001)

### **Sec. 24-225. Application for license.**

Any person desiring to be added to the city wrecker rotation list as a licensee for the city shall submit an "application for wrecker service license" in duplicate to the wrecker inspector. Applications shall be obtained from the office of the wrecker inspector. This application shall include:

- (1) The name, home and business address and telephone number of the applicant/owner, and name of the business if different from name of owner;
- (2) That the storage lot on which towed vehicles will be stored is located within the city limits and additional information concerning the size and security features of the lot;
- (3) The towing equipment available, its size and capacity;
- (4) A complete listing of the insurance policies, complying with section 24-229 and the carriers and agents the wrecker applicant would place into effect upon license approval;
- (5) A copy of a current city privilege license;
- (6) Copies of all valid North Carolina driver's licenses for its wrecker drivers.
  
- (7) Such other information as the wrecker inspector may find reasonably necessary to determine whether or not the requirements of this article will be complied with and that it is in the best interest of the public health, safety and welfare to issue a license to the applicant;

(Code 1961, § 20-168)

### **Sec. 24-226. Licensing.**

(a) Within a reasonable period, but no later than ninety (90) days after receiving an "application for wrecker service license," the wrecker inspector shall conduct an investigation to determine if the applicant has complied with the necessary standards and criteria of this article, and that it is in the best interest of the public

health, safety and welfare that a license shall be issued to the applicant after having complied with the provisions of section 24-223. If approved, the applicant's name shall be placed at the end of rotation list; provided, that if an applicant is refused a license by the wrecker inspector, the applicant shall have the right to appeal the denial to the wrecker review board for a determination concerning the issuance of license to such applicant. The appeal shall be in accordance with section 24-243.

- (b) After the initial approval of the licensing, the wrecker inspector shall conduct an annual inspection to ensure that the licensee maintains the necessary equipment and is otherwise in compliance with the requirements of this article.
- (c) The rotation list shall be limited to thirty wrecker companies. Prospective applications will be placed on a waiting list and considered for selection to the City wrecker rotation list in the order that the applications were received.

(Code 1961, § 20-169)

#### **Sec. 24-227. Mandatory refusal of application.**

If an applicant has been convicted, entered a plea of nolo contendere, or received a prayer continued for judgment within the last five years for any criminal offense as defined by Chapters 14 or 90 of the North Carolina General Statutes or the offense of driving under the influence of an intoxicating liquor or drug, or is an habitual offender of traffic laws, it is the finding of the city council that it is not in the best interest of the public health, safety or welfare to issue a license under this article to such applicant and therefore any such application shall be denied.

(Code 1961, § 20-170)

#### **Sec. 24-228. Conditions precedent to issuance of license.**

When an application is approved, a license will be issued when:

- (1) Insurance policies required by this article have been procured and a copy of each policy has been given to the wrecker inspector. Each policy shall be written by a company licensed to do business in North Carolina, and issued in the name of the licensee.
- (2) Each licensee must have its own insurance policy to insure its business, including, but not limited to, equipment, employees, real property and other personal property. Licensees are prohibited from including multiple licensees on one policy, or having licensees as additional insured on their respective policies.
- (3) The requirements of this article and all other governing laws and ordinances have been met, including that each licensee maintains a business with a business telephone listing within the city limits. This business will be at the same location as the storage lot.

(Code 1961, § 20-171)

**Sec. 24-229. Insurance.**

The following are the minimum insurance requirements to be kept and maintained by any licensee under this article at all times such license is in effect:

(1) *Garage liability policy.* A garage liability policy covering the operation of the licensee's business equipment, or other vehicles for any bodily injury or property damage. This policy shall be in the minimum of \$100,000.00 for any one person injured or killed and a minimum of \$300,000.00 for more than one person killed or injured in any accident and an additional \$50,000.00 for property damage.

(2) *Garage keeper's policy.* A garage keeper's legal liability policy for each storage premises covering fire, theft, windstorm, vandalism and explosion in the amount of \$100,000.00 (\$20,000.00 per claim per vehicle). This shall not be a requirements for open storage areas.

(3) *Notice of change.* Each policy required under this section must contain an endorsement by carriers providing ten days' notice to both the city and the insured in the event of any change in coverage under the policy.

(Code 1961, § 20-172)

**Sec. 24-230. Hold harmless provision.**

Any licensee shall indemnify, save and hold harmless the city, its officers, agents, and employees, from any and all claims, actions, defenses, suits, and proceedings arising out of any negligent, grossly negligent or intentional, willful or wanton misconduct on the part of a licensee, employee, or part-time employee of the licensee, which such misconduct is the proximate cause of damage to any vehicle towed or stored in a lot authorized under the terms of this article.

(Code 1961, § 20-173)

**Sec. 24-231. Wrecker inspector; office created.**

There is hereby created the office of wrecker inspector, who shall be appointed by the city manager.

(Code 1961, § 20-174)

**Sec. 24-232. Duties generally.**

The wrecker inspector shall be responsible for:

(1) The practical administration of the wrecker ordinances and regulations and the safety and welfare of the public in connection with the operation and use of rotation wreckers;

- (2) The inspection of wreckers;
- (3) Advising the chief of police, the city manager, and the wrecker review board with respect to matters governed or incidentally involved in the operation or administration of the wreckers and the rotation wrecker ordinance.
- (4) Making recommendations for submission to the city manager, wrecker review board, and to the city council with respect to the adequacy of wrecker service in the city to serve the public convenience and necessity;
- (5) Making such studies and recommendations as he may deem advisable looking towards more efficient operation of wreckers and rotation wreckers to the end that the public safety and welfare will be served and proper as adequate wrecker service to the general public will be promoted;
- (6) May collect data and statistics related to non-consent tow and release of vehicles.
- (7) The wrecker inspector may prescribe procedures for the reporting of information relating to the impound and recovery of non-consent tows and, consistent with law, operate a centralized data system for the tracking of this information.
- (8) All other duties as required by this article.

(Code 1961, § 20-175)

### **Sec. 24-233. Cost and inspections.**

- (a) Except as provided in section 24-234, all costs incident to towing and storage shall be paid by the owner, or person in charge or possession of the towed and stored vehicle, to the licensee, and a receipt for payment shall be issued to such person. The city shall assume no liability or responsibility for any vehicle removed from any place without the authority of the police department. Each licensee shall maintain approved records and claim check system to assure release of vehicles to the rightful owner or authorized person. Such records shall be open to the police department and/or the wrecker inspector for investigation of specific complaints, in writing, and for compiling surveys under this article. Any licensee shall permit any person appointed by the wrecker inspector to inspect his records, vault, security room, or storage area at such reasonable times as the wrecker inspector shall deem appropriate.
- (b) Any administrative costs due to the city, to include any service fee due for the operation and maintenance of a centralized electronic data reporting system, and imposed by this article shall be collected by the licensee at the same time



the cost incident to towing and storage are collected in subsection (a) of this section, and immediately paid to the City's Finance Department by the licensee.

(Code 1961, § 20-176)

**Sec. 24-234. Wreckers called by the police.**

The police department shall ensure that wreckers are called to the scene of an accident or to impound vehicles on a rotation basis, distributing the calls from the rotation list. The chief of police shall not call or cause to be called any wrecker not on the rotation list unless all such wreckers are unavailable, or unless the owner of the vehicle to be towed requests that a specific wrecker be called; any wrecker called by the police department not on the rotation list shall comply with statutory insurance requirements. In accordance with North Carolina General Statute 20-161(f), as may be periodically modified, it is specifically permitted for the police department to call a wrecker out of sequence where, due to the public's health, safety and welfare, or in an emergency or life-threatening situation, proximity to the wreck and estimated response time make it more necessary to do so. Out of sequence calls shall count as rotation calls.

(Code 1961, § 20-177)

**Sec. 24-235. Storage of vehicles.**

(a) It shall be the responsibility of any licensee to secure in a safe manner any vehicle or personal property contained in such vehicle that is placed in the custody of the licensee as a result of being called by the city police department to perform a tow. The area within which such vehicle and/or personal property shall be stored shall meet the minimum requirements of subsection 16-223(i). If at the time the vehicle was towed the storage area provided by the licensee is full, then the licensee shall secure the vehicle and/or personal property elsewhere as permitted by the police department. In the event that the vehicle or personal property placed in his custody is the subject of a police investigation for evidentiary purposes, and the storage area is full, then the licensee shall immediately contact the wrecker inspector or the desk sergeant on duty and make arrangements to secure the vehicle and/or personal property in a safe manner.

(b) Whenever a vehicle is impounded and held for evidentiary purposes as the result of a criminal arrest, the owner of the vehicle shall be reimbursed by the city for any towing and storage fees incurred during the period of time that the car is held for evidentiary purposes only upon the following conditions:

- (1) If the owner is not arrested with any crime arising out of the alleged criminal activity resulting in the impoundment; or
- (2) If the vehicle is returned pursuant to the provisions of G.S. 90-112.1;
- (3) If the owner is arrested, only if the charge is dismissal or there is a finding of no probable cause in district court.

(Code 1961, § 20-178)

Sec. 24-236 Electronic Reporting of Tow Information

(a) The City shall, consistent with state and local law, prescribe a form or other method for the electronic reporting of all non-consent tows in order to facilitate and expedite the recovery of a vehicle from a vehicle storage facility, as defined in this ordinance.

(b) The licensee shall provide to the City, within a reasonable time period, but no later than sixty (60) minutes, all necessary information required to assist the City in notifying the registered owner regarding the towing and release of their vehicle. This information includes, but is not limited to, the following:

- (1) the name and address of the registered owner of the vehicle.
- (2) the location of the stored vehicle;
- (3) a description of the stored vehicle, including the color, make, and model; and
- (4) motor vehicle registration information.

If applicable, the licensee shall also provide the following:

- (1) the owner's driver's license/identification number;
- (2) the date the vehicle was released from custody; and
- (3) the identity of the individual to whom the vehicle was released, to include the name, address and driver's license/identification number if different from that of the registered owner.

**Sec. 24-237. Fees.**

The city council, from time to time, upon the recommendation of the wrecker inspector, after having consulted with the licensees, shall establish a table of maximum fees and costs that may be charged by licensees under the provisions of this article, and establish any administrative fees to be charged per tow for the costs incurred in administering the provisions of this article, including the assessment of an administrative fee for all non-consent tows initiated under this ordinance.

(Code 1961, § 20-179)

**Sec. 24-238. Other regulations.**

The wrecker inspector, subject to approval by the city manager, shall establish and cause the enforcement of reasonable rules and regulations for licensees as from time to time he deems appropriate for the safety, well-being, and protection of citizens within his jurisdiction and their property. These rules and regulations, as approved by the city manager from time to time, shall be incorporated in this section by reference. A copy

of these rules and regulations shall be available for inspection in the office of the wrecker inspector at all times.

(Code 1961, § 20-180; Ord. No. S2001-004, § 4, 2-5-2001)

#### **Sec. 24-239. Solicitation of business.**

(a) It shall be unlawful for the operator of any wrecker or person acting on behalf of any wrecker or towing service, whether that vehicle or towing service is licensed under the provisions of this article or not, to stop or approach within 1,500 feet of a scene of an accident or disabled vehicle either for the purpose of soliciting an engagement for towing service, either directly or indirectly, or to contact the owner/operator or legal possessor of a disabled or wrecked vehicle, either directly or indirectly, or to solicit by phone, for the purpose of soliciting business or to furnish any towing service, unless the wrecker operator has been summoned to such scene by the owner/operator or legal possessor of a disabled or wrecked vehicle or has been requested to perform such service at the request of a law enforcement officer or agency pursuant to that agency's procedures. For purposes of this section, unlawful solicitation shall include the distributing of business cards, tokens or items of any kind bearing the name of a wrecker or towing firm within 1,500 feet of a scene of an accident or disabled vehicle by a licensee not summoned to such scene as provided in this section.

(b) It shall be unlawful for a city, county or state employee to solicit for any towing or wrecker service. For purposes of this section, unlawful solicitation shall include the distributing of business cards, tokens or items of any kind bearing the name of a wrecker or towing firm at anytime.

(Code 1961, § 20-181; Ord. No. S2001-004, § 5, 2-5-2001)

#### **Sec. 24-240. Suspension or revocation of license.**

(a) The following shall be grounds for suspension or revocation of a license issued under this article:

(1) The license was secured by fraud or by the concealment of a material fact by the licensee and such fact, if known, would have caused a refusal to issue a license;

(2) The licensee, or any employee, representative or agent of the licensee, is charged with any criminal offense as defined by Chapters 14 or 90 of the North Carolina General Statutes, or the offense of driving under the influence of an intoxicating liquor or drug.

(3) The licensee failed to procure insurance as provided in Sections 24-228 and 24-229.

(4) The licensee has violated any of the requirements of the regulations established by the wrecker inspector under this article;

- (5) Past services rendered by any licensee are shown to be detrimental to the public health, safety, and welfare, including overcharging of wrecker fees or false charging of items done by the wrecker business;
  - (6) The licensee paid in the form of a gratuity any third person for information as to the location of the accident;
  - (7) The licensee has violated the fee schedule by overcharge or false charges;
  - (8) Failure to operate the wreckers specified in such a manner as to serve the public adequately and efficiently;
  - (9) Failure to maintain recovery equipment, to include all vehicles used in towing, in good condition;
  - (10) Failure to pay the city privilege license fee imposed upon licensees;
  - (11) Failure to report accidents while towing city rotation call vehicles or to furnish such other records and reports as may be required by this chapter and/or the wrecker inspector;
  - (12) Failure to pay civil penalties issued pursuant to this ordinance;
  - (13) Failure to comply with any of the provisions of this chapter, ordinance or state laws relating to the operation of wreckers; and
  - (14) Failure to comply with the reporting requirements of this ordinance, as may be periodically modified.
- (b) If the wrecker inspector determines that any of the above violations have occurred, he shall have the authority to revoke or suspend a license as follows:
- (1) For violation of subsection (a)(1) through (a)(3) of this section, revocation;
  - (2) For a first time violation of subsections (a)(4) through (a)(14) of this section, suspension up to 30 days;
  - (3) For a second violation of subsections (a)(4) through (a)(14) of this section, within a period of two years from the date of the first suspension, suspension up to 60 days; and
  - (4) For a third violation of subsections (a)(4) through (a)(14) of this section, within a period of two years from the date of the first violation, revocation.
- (c) Any licensee who has his license revoked shall be eligible to apply for a new license one year from the date of the revocation. For purposes of this section, the date of suspension or date of revocation shall be the date of the notification by the wrecker inspector pursuant to section 24-240, or if an appeal is made, the date of the final action by the wrecker review board.

(Code 1961, § 20-182)

**Sec. 24-241. Notification of suspension or revocation by wrecker inspector.**

Such revocation or suspension shall be in writing and notify the licensee of the following:

- (1) The nature of the violation;
- (2) The wrecker inspector's recommendation as to whether the licensee should remain on the rotation wrecker list, should be suspended, or its license revoked;
- (3) That the licensee has a right to appeal such action to the wrecker review board.

(Code 1961, § 20-183)

### **Sec. 24-242. Wrecker review board.**

There is hereby established a wrecker review board whose function is to hear appeals from any decision of the wrecker inspector pursuant to this article. The board shall be composed of a chairman, two individuals selected by the licensees, and two individuals appointed by the chief of police. The chairman shall be selected by the city council, and shall be a disinterested person who is not a licensee, wrecker owner or operator, or a city employee. Two members of the wrecker review board shall be selected by the licensees by means of a vote of the licensees. The chief of police shall appoint two members of the police department who hold the rank of sergeant or higher to the wrecker review board. All members shall serve for a term of two years, and no member shall serve more than two consecutive terms. The wrecker inspector shall serve as a nonvoting advisor and to bring complaints to the wrecker review board.

The wrecker review board will meet on a quarterly basis irrespective of whether they receive any notices of appeals. All meetings, to include appeal hearings, will be governed by North Carolina's open meeting laws.

(Code 1961, § 20-184)

**Cross references:** Administration, ch. 2.

### **Sec. 24-243. Appeal to the wrecker review board.**

Whenever any provision of this article shall provide for an appeal of a decision of the wrecker inspector to the wrecker review board, the following procedure shall be followed:

- (1) The appellant shall give written notice of appeal to the city clerk within ten days of receiving the notice of the action he is appealing;
- (2) The wrecker review board shall hold a hearing on the appeal within 30 days of receipt of the written notice of appeal;
- (3) The written notice of appeal shall state whether or not the appellant wants an open or closed hearing before the wrecker review board. In the event of the failure to make such a request, such hearing shall be open.

(Code 1961, § 20-185)

**Sec. 24-244. Action pending appeal; lapse of time; waiver.**

(a) Whenever a provision of this article states a specific time within which an appeal must be taken, and regardless of the level of authority from which the appeal may be taken, if the appeal is not taken within the time prescribed, then the action of the wrecker inspector from which the appeal may have been taken is deemed to be final.

(b) The action of the wrecker inspector suspending or revoking the rights granted under the authority of this article shall be effective upon receipt of notice by the licensee; provided, that if the licensee files a timely appeal, then any right under this article heretofore existing shall continue in effect during the pendency of any appeal or 30 days, whichever is sooner.

(c) Any hearing may be continued upon 48 hours' written notice prior to the date of the hearing; provided, that if the new date for the hearing is more than 30 days from the date of the original notice of appeal, then the rights of the appellant pursuant to subsection (b) of this section may only be extended upon a showing of good cause.

(Code 1961, § 20-186)

**Sec. 24-245. Hearing; action of wrecker review board.**

(a) The purpose of the hearing before the wrecker review board shall be to determine whether or not the action of the wrecker inspector in suspending or revoking the rights and privileges of the appellant was in the best interests of the public health, safety, and welfare of the city. The appellant shall be permitted to present any evidence relevant to the subject matter of the appeal. The hearing shall be administrative in nature, and the action of the wrecker review board shall be final.

(b) If the action of the wrecker review board is to affirm the action of the wrecker inspector, then the effective date of the action shall be the date of the hearing. Any period of actual suspension as the result of a continuance prior to the hearing shall be counted toward any period of suspension approved by the wrecker review board.

(Code 1961, § 20-187)

**Sec. 24-246. Hearing procedures.**

Any hearing before the wrecker review board shall use the following procedures:

- (1) The hearing shall be open, unless specifically requested by the appellant prior to the hearing;

- (2) The appellant shall be entitled to make any statements either by an attorney or someone of his own choosing;
- (3) The appellant shall be entitled to make any statements or present any witnesses on his behalf that he desires;
- (4) The hearing shall be administrative in nature, there shall be a right of cross examination;
- (5) The appellant shall be entitled to transcribe the proceedings at his own cost.

(Code 1961, § 20-188)

### **Sec. 24-247. Applicability to previous licensees; noncompliance.**

Whenever this article is amended from time to time by the city council and such amendments shall render any current approved licensee in noncompliance with this article as amended, such noncomplying licensee shall have a period of one year from the effective date of the amendment of the article within which to comply.

(Code 1961, § 20-189)

### **Sec. 24-248. Persons prohibited from holding a license.**

No city council member, or employee directly involved with the administration of this article shall be permitted to hold a license under the terms of this article.

(Code 1961, § 20-190)

### **Sec. 24-249. Enforcement.**

(a) A violation of section 24-238, solicitation of business, by a licensee, shall submit the violator to a civil penalty in the nature of a debt in the sum of \$3,000.00 for each large rotation size tow and \$500.00 for each automobile rotation size tow. The civil penalty shall be imposed by a citation served personally or by registered mail to the violator by the wrecker inspector.

(b) Any violation of this article, other than section 24-238 by a licensee, shall submit the violator to a civil penalty in an amount in accordance with the fee schedule as adopted by the city council, as may be periodically modified. In addition, if a wrecker or towing service is in violation more than three times in one year for a violation of this article, the wrecker or towing service shall also be subject to removal from the rotation list for a period of one year. For purposes of removal and/or revocation, the violations can arise from the same incident, occur simultaneously and during the same incident.

(c) If a civil penalty issued under this section is not paid as set forth in the citation within thirty (30) days of receipt thereof, failure to pay shall result in the City instituting collection procedures to collect the debt. The licensee will be suspended from all City rotation lists until the civil penalty is satisfied.

(Code 1961, § 20-191; Ord. No. S2001-004, § 6, 2-5-2001)

Secs. 24-249--24-270. Reserve



**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Council Member Bobby Hurst - District 5  
**DATE:** November 9, 2009  
**RE:** **Appointment Committee - Presentation of Appointment Committee Recommendations to Fill Four (4) Board and Commission Vacancies**

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**THE QUESTION:**

Do the attached recommendations from the City Council's Appointment Committee meet the City Council's approval?

**RELATIONSHIP TO STRATEGIC PLAN:**

- Partnership of Citizens - Citizens Volunteering to help the City
- Greater Community Unity - Pride of Fayetteville
- Diverse Culture and Rich Heritage - Diverse people working together with a single vision and common goals

**BACKGROUND:**

At the September 14, 2009 City Council meeting and following the presentation, Council approved the Appointment Committee recommendations to fill existing board and commission vacancies.

Since Council's previous action, four (4) board and commission vacancies have occurred due to deployment, relocation and ineligibility. Subsequently, the Appointment Committee met on Wednesday, November 04, 2009, reviewed applications and prepared recommendations to fill the four (4) vacancies as indicated on the attachment.

**ISSUES:**

NA

**OPTIONS:**

1. Approve Appointment Committee recommendations to fill the four (4) board and commission vacancies as indicated on the attachment.
2. Approve Appointment Committee recommendations to fill some board and commission vacancies and provide further direction.
3. Do not approve Appointment Committee recommendations to fill the four (4) board and commission vacancies and provide further direction.

**RECOMMENDED ACTION:**

Approve Appointment Committee recommendations for board and commission appointments.

**ATTACHMENTS:**

Appointment Committee Recommendation

**FAYETTEVILLE CITY COUNCIL BOARD/COMMISSION APPOINTMENTS**  
*November 9, 2009*

<b>BOARDS/COMMISSIONS</b>		<b>RECOMMENDATION</b>
<b>1.</b>	<b>Board of Appeals on Building and Dwellings</b> ❖ 1 fill-in Appointment	Edward Kenneth Wells
<b>2.</b>	<b>Stormwater Advisory Board</b> ❖ 1 fill-in Appointment	Patricia L. Vaughn
<b>3.</b>	<b>Fayetteville Redevelopment Commission</b> ❖ 1 fill-in Appointment	Lynn R. Vick
<b>4.</b>	<b>Fayetteville- Cumberland Human Relations Commission</b> ❖ 1 fill-in Appointment	Crystal Moore-McNair

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Karen M. McDonald, City Attorney  
**DATE:** November 9, 2009  
**RE:** **City Attorney - Consider Adoption of Resolution Authorizing Condemnation to Acquire Property for the Multi-Modal Transportation Center**

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**THE QUESTION:**

Whether Council is willing to authorize acquisition of property located at 135 and 137 Robeson Street designated for the Multi-Modal Transportation Center through condemnation pursuant to North Carolina General Statute.

**RELATIONSHIP TO STRATEGIC PLAN:**

Revitalized Downtown - A Community Focal Point

**BACKGROUND:**

In 2004, the City began work on a development plan for the location of a Multi-Modal Transit Transfer Center utilizing federal grants (Multi-Modal Center). The City Council retained HGA Architects in September 2007 to analyze and identify sites for the Multi-Modal Center. In the Spring of 2008, several sites in the Downtown area were identified. After several public meetings, on December 8, 2008, the City Council approved the property bounded by Robeson, Franklin, Winslow, and West Russell Streets comprised of seven parcels for the location of the Multi-Modal Center. Thereafter, we began pursuing acquisition of the properties consistent with federal land procurement guidelines. Despite the City's designation of this site for the Multi-Modal Center, the property at 135 and 137 Robeson Street was recently sold. Consistent with the federal land procurement guidelines, the City has attempted to purchase the property from the new owners and has been unsuccessful.

**ISSUES:**

Negotiations to purchase the property at 135 and 137 Robeson Street have failed. Thus, the only way to acquire the property will be through condemnation.

**OPTIONS:**

1. Adopt the resolution authorizing acquisition of this property through condemnation.
2. Consider the property adjacent to the Amtrak Station that is currently owned by the City for the location of the Multi-Modal Center.
3. Provide additional direction to staff.

**RECOMMENDED ACTION:**

Provide direction to staff regarding acquisition of the property located at 135 and 137 Robeson Street.

**ATTACHMENTS:**

Resolution Authorizing Condemnation

**RESOLUTION AUTHORIZING CONDEMNATION TO ACQUIRE PROPERTY FOR THE MULTI-MODAL TRANSPORTATION CENTER**

WHEREAS, the City Council of the City of Fayetteville hereby determines that it is necessary and in the public interest to acquire certain property for the following public purposes:

Multi-modal public transportation facility and related public transportation improvements, commonly known as the "FAYETTEVILLE TRANSIT MULTIMODAL CENTER"

WHEREAS, the proper officials or representatives of the City of Fayetteville have been unable to acquire the needed interest in this property by negotiated conveyance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fayetteville that:

- 1. The City of Fayetteville shall acquire by condemnation, for the purposes stated above, the property and interest described as follows:

Parcel A  
 (On the east side of Robeson Street and south side of Pershing, or Franklin) BEGINNING at the intersection of the eastern margin of Robeson Street with the southern margin of Franklin Street, also called Pershing Street, and running thence with the southern margin of Franklin Street or Pershing Street, South 65 degrees East 96 feet to a stake; thence South 25 degrees West 66 feet to a stake; thence North 65 degrees West 96 feet to a stake in the eastern margin of Robeson Street; thence with the eastern margin of Robeson Street North 25 degrees East 66 feet to the beginning, as per survey by F.M. Averitt, Surveyor, in February, 1945, and being part of the property described in deed dated March 28, 1940, from State of North Carolina, and the University of North Carolina, to the said Lenox H. Bramble, of record in the office of the Register of Deeds for the Cumberland County, NC in Book 419, Page 456, and the same lot of land conveyed to the grantors herein by deed registered in Book 476, Page 106.

Parcel B  
 (On the east side of Robeson Street adjoining the above described lot) BEGINNING at a stake in the eastern margin of Robeson Street in the City of Fayetteville at a point South 25 degrees West 66 feet from the intersection of said street margin and the southern margin of Franklin Street said beginning point also being the southwest corner of a lot above described, and runs thence with the

southern boundary of said lot South 65 degrees East 111 feet to a stake in said line, the Northwest corner of the lot conveyed out of the lot of which this tract is a part of Lenox H. Bramble (see deed recorded in Book 438, Page 208, Cumberland County Registry) thence as Bramble's line South 25 degrees West 66 feet to a stake in the southern boundary of the lot of which this tract is a part, Bramble's southwest corner; thence with that line North 65 degrees West 111 feet to a stake in the eastern margin of Robeson Street; thence as said street margin North 25 degrees East 66 feet to the beginning.

Save and except that certain parcel thereof as conveyed by Henry A. Rankin, Jr. and wife, Christine H. Rankin by their attorney in fact Dorothy H. Rankin to the Department of Transportation dated July 9, 1999 and recorded in Book 5159, Page 573, Cumberland County Registry, North Carolina.

2. The City Attorney is directed to institute the necessary proceedings under North Carolina General Statute § 40A-40 to acquire the property herein described.

ADOPTED this the \_\_\_\_\_ day of November, 2009, by the City Council of the City of Fayetteville, North Carolina.

CITY OF FAYETTEVILLE

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ANTHONY G. CHAVONNE, Mayor

ATTEST:

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RITA PERRY, City Clerk

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Karen S. Hilton, Interim Planning Director  
**DATE:** November 9, 2009  
**RE:** **Planning - Request from the Cumberland County Planning Board regarding a sidewalk waiver for property along John B. Carter Road south of the intersection with Macedonia Church Road, within the Sewer Service Area.**

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**THE QUESTION:**

Consider a recommendation to the Cumberland County Planning Board regarding a sidewalk waiver for property along John B. Carter Road south of the intersection with Macedonia Church Road, within the Sewer Service Area

**RELATIONSHIP TO STRATEGIC PLAN:**

Growth and Development

**BACKGROUND:**

The Fayetteville City Council and the Cumberland County Board of Commissioners approved an agreement establishing a Municipal Influence Area (MIA) and Sewer Service Areas (SSA) in the unincorporated land surrounding the City. The agreement provides for certain development standards within the MIA to be the same as those used within the Fayetteville city limits. In the Sewer Service Areas, a petition for annexation is not required. The Agreement is attached.

This request is for a waiver of the standard requiring sidewalks on one side of any collector street. John B. Carter Road is a collector street. The waiver is for a five-lot subdivision proposed along John B. Carter Road (SR 2010). The tract being subdivided has approximately 1/2 mile of total road frontage (2,686') along John B. Carter, where the sidewalk would be required. Four new lots would be between 2 to 3.62 acres each. The balance of the tract would be 26.14 acres with over 1,500 feet frontage on John B. Carter Rd.

**ISSUES:**

The County has consistently denied the few requests over the past 15+ years for zoning more intense than 1 acre per unit. The nearest access to sewer and water is Cedar Creek Rd. about a mile to the south. Some low-lying areas further limit nearby development. However, there are no apparent physical obstacles to placing a sidewalk along John B. Carter. The area is characterized by farmland and scattered large lots.

**OPTIONS:**

1. Recommend denial of the sidewalk waiver.
2. Recommend approval of the sidewalk waiver. (NOTE: The County has no provisions for an in-lieu payment if sidewalk requirements are waived.)

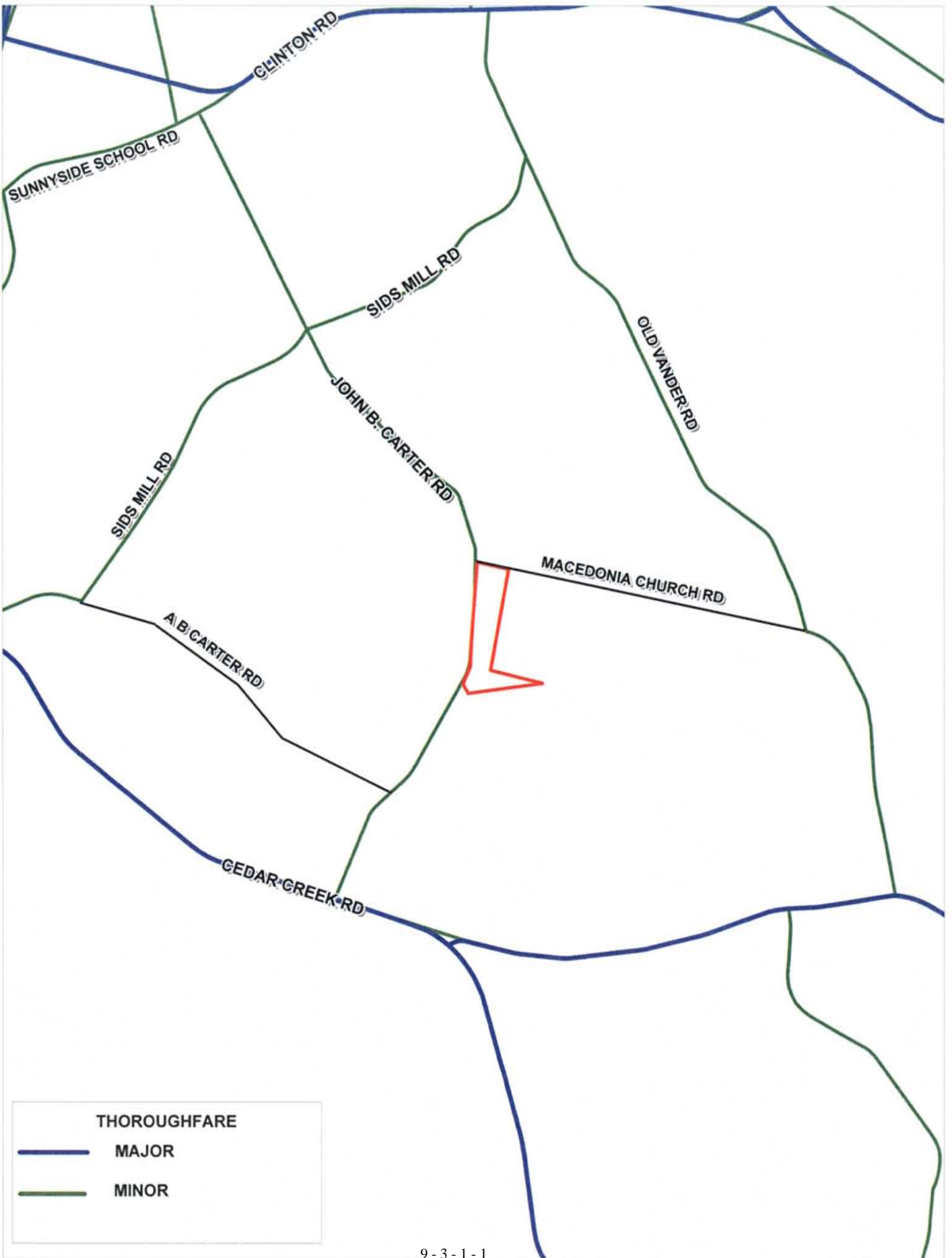
**RECOMMENDED ACTION:**

Option 2, approval of the sidewalk waiver, due to the large lot sizes, prevailing agricultural uses and no sewer or water service within a mile (estimated), and limited potential in the near- to mid-term for nearby development that would benefit from sidewalks.

**ATTACHMENTS:**

Sidewalk waiver maps  
Proposed Subdivision map

Application for Sidewalk Waiver  
County Staff Rpt on Subdiv Applic  
MIA Agreement





**LEE PROPERTY LOT 3  
SUBDIVISION REVIEW  
CASE NO. 09 - 105**

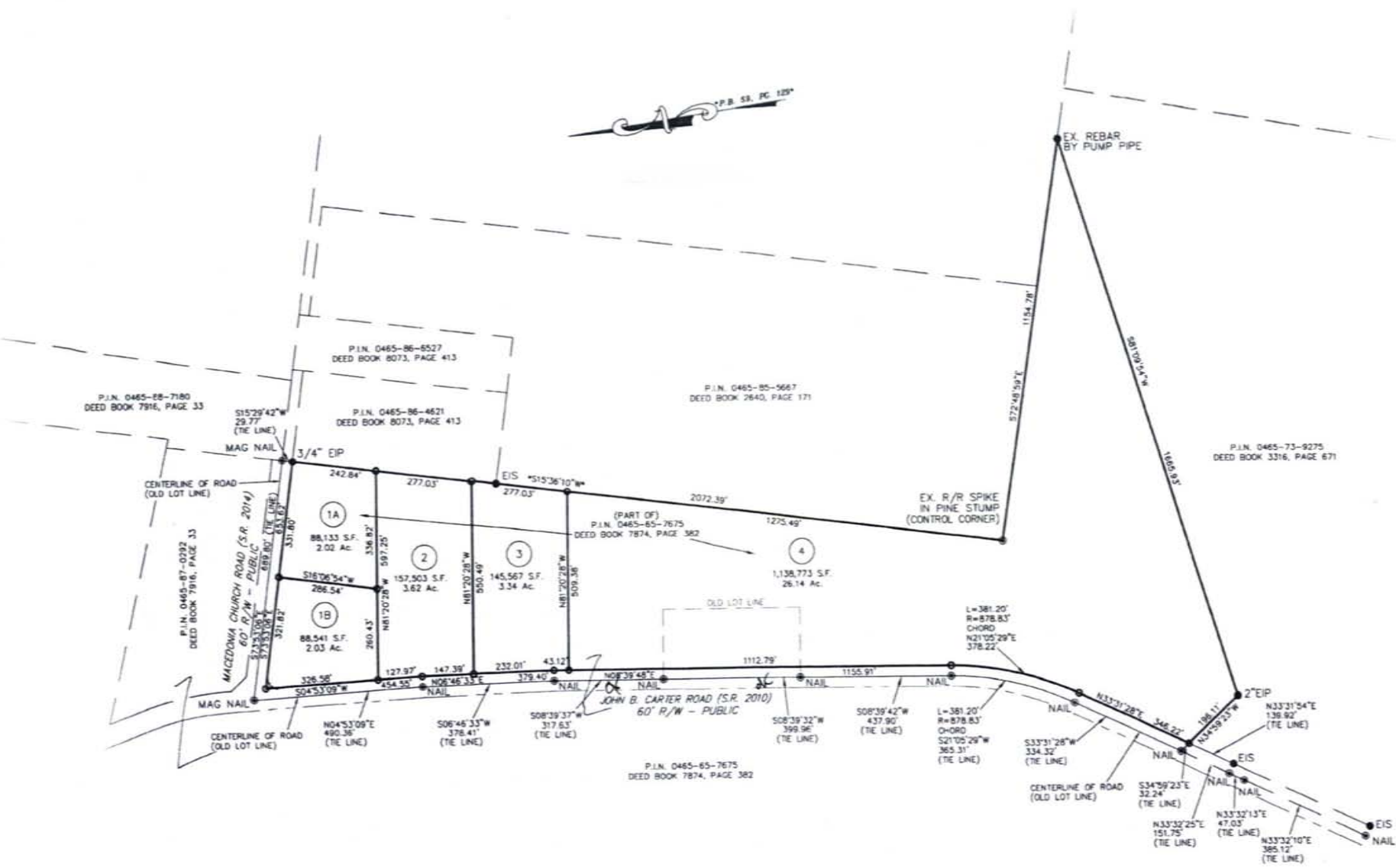


PIN(S): 0465-65-7675-  
Created by EMB - CCJPB  
OCTOBER 5, 2009

Map not to scale



P.B. 58, PG. 125



**LEE PROPERTY - LOT 3  
SUBDIVISION REVIEW  
REQUEST: A WAIVER FROM SECTION 2302.B. REGARDING SIDEWALKS  
CASE: 09-105 ACREAGE: 161.00 AC +/-  
ZONED: A1 SCALE: NTS**

\*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST





**AERIAL PHOTO  
CASE NO: 09-105**





Lori Epler,  
Chair  
Cumberland County

Roy Turner,  
Vice-Chair  
Cumberland County

Garland C. Hostetter,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman  
Patricia Hall,  
Town of Hope Mills  
Charles C. Morris,  
Town of Linden



Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Walter Clark,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin  
Wade, Falcon, & Godwin

## COUNTY of CUMBERLAND

### *Planning & Inspections Department*

October 8, 2009

#### **MEMORANDUM**

**TO:** Fayetteville City Council

**Thru:** Karen Hilton, Fayetteville Interim Planning Director

**FROM:** Edward M. Byrne, Land Use Codes

**SUBJECT:** CASE NO. 09-105. WAIVER REQUEST FOR THE LEE PROPERTY LOT 3, SUBDIVISION REVIEW; REQUEST FOR WAIVER FROM SECTION 2302.B "SEWER SERVICE AREA, COUNTY SUBDIVISION ORDINANCE, REGARDING DEVELOPMENT CRITERIA, SPECIFICALLY SIDEWALK INSTALLATION; ZONING: A1; TOTAL ACREAGE: 161.00 +/-; LOCATED AT THE SOUTHEAST QUADRANT OF SR 2010 (JOHN B. CARTER ROAD) & SR 2014 (MACEDONIA CHURCH ROAD). (SEWER SERVICE AREA)

The Cumberland County Planning & Inspection Department is requesting a recommendation from Fayetteville City Council on the above referenced case. The developer has requested a waiver from the Sewer Service Area (SSA) development criteria that requires a sidewalk along SR 2010 (John B. Carter Road). Since this development is located within the SSA, the interlocal agreement between the County Board of Commissioners and the City of Fayetteville applies, sidewalks on one side of collector streets and both sides of all thoroughfares in this area.

The proposed development is a five lot subdivision with four of the lot sizes ranging from two to three acres and one lot being 26.14 acres. The remaining parent tract will retain 123.85 acres across SR 2010 (John B. Carter Road).

Attached you will find the wavier application with additional information, conditions of approval, subdivision sketch plan, aerial photo, area thoroughfare map and vicinity map. If you have any questions, please contact me at 910-678-7609, email: [ebyrne@co.cumberland.nc.us](mailto:ebyrne@co.cumberland.nc.us) or Patti Speicher at 910-678-7605, email: [pspeicher@co.cumberland.nc.us](mailto:pspeicher@co.cumberland.nc.us).

cc: George Turner, Owner  
Averette Engineering, Surveyor  
Butch Raynor, Acting County Attorney  
Tom Lloyd, Director  
Patti Speicher, Land Use Codes



Date Request Submitted: \_\_\_\_\_

Planning Board Meeting Date: \_\_\_\_\_

Received by: \_\_\_\_\_

## Cumberland County Subdivision Ordinance

# *Request for Waiver*

Case No.: 09-105 Case Name: Lee Property - Lot 3

Related Ordinance Section Number(s): 4.1e 2302.B

Summary of Request: Request waiver of sidewalk

Section 6.1 of the County Subdivision Ordinance governs the Planning Board's authority to waiver provisions of the Subdivision Ordinance. This section reads as follows:

### *Section 6.1. Waivers*

*The Planning Board may waive the requirements of this Ordinance where it finds by resolution that:*

- a. Because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, problems of access, or the existence of other unusual physical conditions, strict compliance with the provisions of this ordinance would cause a special hardship to the property owner and be inequitable, and*
- b. The public purposes of the Subdivision Ordinance and the Zoning Ordinance would be served to an equal or greater degree, and*
- c. The property owner would not be afforded a special privilege denied to others.*

*In granting waivers, the Planning Board may require such conditions as will secure, in so far as practicable, the objectives of the requirements waived. Any waiver, thus granted, is required to be entered in writing in the minutes of the Planning Board and the reasoning upon which departure was justified set forth.*

The applicant is strongly encouraged to read the above provisions and relate the written waiver request as closely as possible to the criteria contained within. All supporting documentation for the request shall be submitted along with this request for waiver. For example, if the request is based on topography or soils, the applicant is the responsible

party to submit as evidence 'topo' and/or soils maps or if the request is based on the "condition or nature of adjoining property", the applicant will be required to submit evidence supporting this as basis for the request.

My request should receive favorable consideration by the Planning Board based on the following summary of the basis for this request:

1. Because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, problems of access, or the existence of other unusual physical conditions (at least one of the preceding basis must be addressed in this request), strict compliance with the provisions of this Ordinance would cause a special hardship to the property owner and be inequitable, due to:

The frontage of this property is 2686ft. The proposed subdivision has 5 lots (4 of which have the frontage on John B. Carter Rd.). The cost of the sidewalk would be  $2,686' \times \$22/ft = \$59,092$  or  $\$14,773$  per lot (4 lots). This would be a sidewalk to nowhere. No adjoining areas have sidewalk (incl. nearby subdivisions) + thus is a rural area of the county, Zoned A1, where sidewalks are not required.

2. The public purposes of the County Subdivision and County Zoning Ordinances would be served to an equal or greater degree and the applicant agrees to:

Subdivide this property according to Zoning Requirements + the County's Land Use Plan without constructing a sidewalk that does not benefit the property owners or the public citizens of Cumberland County.

3. The property owner would not be afforded a special privilege denied to others, because:

Adjacent properties + developed subdivisions do not have sidewalks.

This is a rural area + sidewalks would serve no purpose to the residents of this subdivision or to the public. This property is Zoned A1 + is rural.

By signing this request, the applicant is signifying that all statements contained within this request are accurate and true to the best of their knowledge.

Charles D. Averette

Printed Name of Applicant/Agent

910-488-5656

Daytime Phone Number

Charles D. Averette

Signature of Applicant/Agent

10-1-09

Date Signed





PICTURES OF LEE PROPERTY 09-30-09



PICTURE #1



PICTURE #2



PICTURE #3



PICTURE #4





PICTURE #5

Lori Epler,  
Chair  
Cumberland County

Roy Turner,  
Vice-Chair  
Cumberland County

Garland C. Hostetter,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman  
Patricia Hall,  
Town of Hope Mills  
Charles C. Morris,  
Town of Linden



**COUNTY of CUMBERLAND**  
*Planning and Inspections Department*

Thomas J. Lloyd,  
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Walter Clark,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin  
Wade, Falcon, & Godwin

(Revised: 9-28-09)

STAFF REVIEW: 09-21-09 PLANNING BOARD DECISION: N/A

CASE NO: 09-105 NAME OF DEVELOPMENT: LEE PROPERTY, LOT 3

MIA: N/A (W/IN SSA) SUBDIVISION REVIEW

LOCATION: AT THE SOUTHEAST QUADRANT OF SR 2010 (JOHN B. CARTER ROAD) & SR 2014 (MACEDONIA CHURCH ROAD) ZONING: A1

PIN: 0465-65-7675-

OWNERS / DEVELOPER: GEORGE TURNER ENGINEER OR DESIGNER: AVERITTE ENGINEERING

PLANNING & INSPECTIONS DEPARTMENT ACTION:

- PRELIMINARY
- EXTENSION       REVISION
- APPROVED CONDITIONALLY
- DENIED

PLANNING BOARD DECISION:

- PRELIMINARY
- EXTENSION       REVISION
- APPROVED CONDITIONALLY
- DENIED

The development plat/plan you submitted to this office is conditionally approved. Your approval is subject to the following conditions:

**Permit-Related:**

1. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
2. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision Ordinance)
3. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.
4. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are



required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.

5. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
6. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.

**Site-Related:**

7. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the A1 zoning district must be complied with, as applicable.
8. All corner lots and lots fronting more than one street must provide front yard setbacks from each street.
9. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources' (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2306 D, County Subdivision Ordinance)
10. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
11. This review does not constitute a "subdivision" approval by NC Department of Transportation (NCDOT). A separate submittal to NCDOT will be required prior to consideration for addition to the system of any street within this development.
12. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
13. Turn lanes may be required by the NC Department of Transportation (NCDOT).

**Plat-Related:**

14. The remaining parent tract must be numbered and the remaining acreage be reflected on the final plat.
15. Prior to submission for final plat approval, a concrete sidewalk is required to be constructed along SR 2010 (John B Carter Rd). (Per Interlocal Agreement between County Board of Commissioners and the City of Fayetteville – Sewer Service Area.) Contact Randy Lane, City Engineering regarding sidewalk specifications.
16. Prior to final plat approval of any portion of this development, the developer is required to submit a check or cash in the amount of \$141.77 (\$35.44 per lot/4 lots) payable to "Cumberland County". This condition is in accordance with Section 2308, Parks, Recreation and Open Space, County Subdivision Ordinance, which requires every residential dwelling unit to provide a portion of land, in certain instances, or pay a fee in lieu of dedication, for the purposes of providing park, recreation and open space areas. (Park District # 2)
17. Any/All easements must be reflected on the final plat and labeled as to type of easement, reference number for document creating the easement, and the name of the agency, individual, etc. who holds the easement.
18. The NC Department of Transportation (NCDOT) most likely will not allow a driveway for each individual lot and, if required, the joint driveways must be reflected on the final plat.
19. A 25' right-of-way radius is required at all intersections and must be reflected on the final plat. (Section 2304.10.c, Street Design, County Subdivision Ordinance) (Note: Lot 1B must be revised to reflect the 25 foot radius on the final plat.)
20. The NC Department of Transportation (NCDOT) stamp must be affixed to the final plat prior to submission for final plat approval by Land Use Codes.

21. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the final plat when submitted for final approval. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision Ordinance)
22. The developer is reminded that the improvements must be in place or that final plat approval will only be granted in accordance with Section 2502 B, C, or D, Final Plat – Guarantees of Improvements, Subdivision Ordinance. (Note: Once the improvements are in place, the developer is responsible for contacting Jeff Barnhill to schedule an inspection of the improvements.)
23. The final plat must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.

**Plat-Required Statements:**

24. Since this development does not have public water/sewer, the following disclosure statement is required to be provided on the final plat (Section 2504 C, On-Site Water and/or Sewer Discloser, County Subdivision Ordinance):

“The individual lots in this development do not have public sewer and/or water services available, and no lots have been approved by the Health Department for on-site sewer services or been deemed acceptable for private wells at the date of this recording.”

25. All structures shall be shown on the final plat or the final plat shall reflect the following statement (Section 2504 D, County Subdivision Ordinance):

“Nonconforming structures have not been created by this subdivision.”

**Advisories:**

26. The applicant is advised to consult an expert on wetlands before proceeding with any development.
27. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.

**Other Relevant Conditions:**

28. The owner/developer be aware that every deed created for a lot being served by an on-site water and/or sewer system must contain the following disclosure when filed with the County Register of Deeds:

“Public water and/or sewer services are not available as of the date of the recording of this deed. On-site sewer disposal systems must be approved by the County Health Department.”

**If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605; otherwise, contact the appropriate agency at the contact numbers below.**

**Contact Information (Area Code is 910 unless otherwise stated):**

Improvements Inspections:	Jeff Barnhill	678-7765
Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
Fayetteville Engineer (Sidewalks):	Randy Lane	433-1661
County Public Utilities/NORCRESS:	Tom Cooney	678-7682
Corp of Engineers (wetlands):	Ronnie Smith	(910) 251-4829
NCDENR (E&S):	Sally McKinney	433-3300
E911 Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549

NCDOT (driveways/curb-cuts):  
N.C. Division of Water Quality:

Gary Burton  
Mike Randall

486-1496  
(919) 733-5083 ext. 545

cc: Marsha Bryant, City of Fayetteville

**OFFICIAL PRELIMINARY STAMP**  
CUMBERLAND COUNTY  
CASE NO: **09-105**  
Revised: 9-28-09

THIS PLAN APPROVED BY THE CUMBERLAND COUNTY PLANNING &  
INSPECTION DEPARTMENT ON: 09-21-09

COMMENTS: SUBJECT TO CONDITIONS

I CERTIFY THAT THIS PLAN HAS BEEN APPROVED BY THE CUMBERLAND  
COUNTY PLANNING & INSPECTIONS DEPARTMENT AS DRAWN HEREON  
AND MAY BE USED FOR ANY OFFICIAL PURPOSE AS PERMITTED BY LAW.  
THIS APPROVAL IS VALID UNTIL: 12-21-12

*Patricia S. Speicher*  
\_\_\_\_\_  
EMB  
SUPERVISOR, LAND USE CODES



**STATE OF NORTH CAROLINA**

**INTERLOCAL AGREEMENT**

**COUNTY OF CUMBERLAND**

THIS INTERLOCAL AGREEMENT, made and entered into on the 9th day of June, 2008, by and between the CITY OF FAYETTEVILLE, a North Carolina municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter "CITY"), and the COUNTY OF CUMBERLAND, a North Carolina body politic, organized and existing under the laws of the State of North Carolina (hereinafter "COUNTY"). (Collectively, the City and the County are the "Parties.")

**WITNESSETH:**

WHEREAS, the CITY and the COUNTY desire to enter into an agreement providing for a Municipal Influence Area (hereinafter "MIA") pursuant to the COUNTY's Zoning and Subdivision Ordinances, a Sewer Service Area Policy, and a Joint Planning Commission; and

WHEREAS, the governing bodies of the COUNTY and the CITY have by resolution duly approved and recorded this Interlocal Agreement (hereinafter the "Agreement") in their respective minutes.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and of the mutual benefits resulting from the Agreement, the Parties agree as follows:

**AGREEMENT**

This Agreement consists of this Interlocal Agreement, and Exhibit 1 delineating an MIA for the CITY and-delineating a Sewer Service Area.

**Municipal Influence Area Established**

The COUNTY Board of Commissioners approves, establishes, and designates an MIA for the CITY as shown in Exhibit 1. The CITY and the COUNTY shall review the CITY's MIA boundary every five (5) years and agree on its adjustment as appropriate. The first such review shall occur, after review and comment by the Municipal/County Planning Commission, by April 20, 2013 to take effect as of July 1, 2013.

The CITY's minimum standards of design (but not zoning) as addressed in Exhibit 1 to Section 3.20.2 of the County Subdivision Ordinance shall apply within the CITY's MIA, provided that the more stringent public street design standard, whether per the City Code or North Carolina DOT standards, shall apply.

The CITY shall create and adopt zoning districts substantially in conformance with the COUNTY's Mixed Use and Density Development Conditional Use Districts. On collector streets

in Density Development Conditional Use Districts within the CITY's MIA sidewalks shall be required only on one side of those collector streets.

For those zoning, subdivision, design, and/or development standards not addressed in this Agreement, the COUNTY standards, ordinances, small area plans and comprehensive plan shall be followed.

### **Sewer Service Area**

1. The Sewer Service Area delineated in Exhibit 1 (or as expanded pursuant to the provisions of this Agreement) sets forth an area within which the parties contemplate that developments should be served by sanitary sewer. An annexation petition shall not be required for extension of sanitary sewer in this area.

2. No sewer should be provided or programmed outside the Sewer Service Area except sewer may be provided outside of the Sewer Service Area for areas served by a regional lift station if approved for installation as follows:

(a) The CITY Planning Board and the COUNTY's Joint Planning Board, meeting either separately or together as the Municipal/County Planning Commission provided for below, shall each review a request for expansion of the Sewer Service Area to be served by PWC. Each board by a separate vote, and PWC, shall then make a recommendation to the COUNTY's Board of Commissioners. The COUNTY's Board of Commissioners shall approve or disapprove that request. If approved with sewer service to be provided by PWC, the area to be served by the regional lift station would then become part of the Sewer Service Area. Whether or not to provide sewer service shall be within the discretion of PWC according to its usual and customary policies and procedures.

(b) The COUNTY's Joint Planning Board shall review a request for expansion of the Sewer Service Area to be served by a sewer service provider other than PWC. The COUNTY's Joint Planning Board and that sewer service provider shall then each make a recommendation to the COUNTY Board of Commissioners. The COUNTY Board of Commissioners shall approve or disapprove that request. If approved with sewer service to be provided by that sewer service provider, the area to be served by the regional lift station would then become part of the appropriate Sewer Service Area. Whether or not to provide sewer service shall be within the discretion of the sewer service provider according to its usual and customary policies and procedures.

(c) The foregoing procedure shall not be required for or apply to any request for sanitary sewer service outside of the Sewer Service Area for economic development projects receiving incentives from the COUNTY Board of Commissioners or the Fayetteville/Cumberland County Chamber of Commerce. Each sewer service provider shall review such requests in accordance with its customary policies and procedures.



3. Within the Sewer Service Area, the development standards set forth below shall apply. Zoning District references are to those districts as described in the COUNTY's Code of Ordinances ("County Code"), as applicable.

More specifically,

- a. Sewer Service. Sewer Service (hereinafter "Sewer") shall be required when density is greater than 2.2 units per acre. Sewer will not be required when density is 2.2 units per acre or less, provided, however, this Agreement shall not be deemed to, or applied to, downzone or decrease allowable densities of properties as zoned as of April 30, 2008.
- b. Water Service. Water Service (hereinafter "Water") shall be required when density is 2.2 units per acre or greater, provided, however, this Agreement shall not be deemed to, or applied to, downzone or decrease allowable densities of properties as zoned as of April 30, 2008.
- c. Sidewalks. Sidewalks shall be required on one side of collector streets and along both sides of all thoroughfares. A thoroughfare is a major street in the street system that serves as an avenue for the circulation of traffic into, out, or around the community and carries high volumes of traffic. A collector is a street whose principal function is to carry traffic between local streets and thoroughfares and that also may provide direct access to abutting properties. It serves or is designed to serve (at build out), directly or indirectly, at least 100 dwelling units.
- d. Public Streets. The more stringent standard public street design standard, whether per the City Code or North Carolina DOT standards, shall apply.
- e. If the CITY's MIA boundary is subsequently extended to include an area formerly in the Sewer Service Area, a project in that area which has been approved for development in phases in the Sewer Service Area but which is thereafter brought into the CITY's MIA any phase undeveloped as of the date it is brought into the CITY's MIA may nevertheless be completed under COUNTY standards, regulations and ordinances if the developer obtains zoning permits for such phase and incurs substantial expenditures on reliance on that zoning permit within two years of the date the MIA boundary is extended to include that project.

#### **Municipal/County Planning Established**

1. The COUNTY and the CITY establish Municipal/County Planning for the purpose of addressing and making recommendations on inter-jurisdictional planning and related issues, examples of which may include, but are not limited to, transportation, air quality, parks, economic development (e.g., business park location siting), utility extensions, new school locations, military (e.g., housing, buffers, support areas), as well as small area plans that are in the MIA.



2. Municipal/County Planning shall be comprised of the City of Fayetteville Planning Commission and the Cumberland County Planning Board meeting in joint session. The City of Fayetteville Planning Commission and the Cumberland County Joint Planning Board shall meet quarterly, or more often as necessary or desirable to further the purposes of this Agreement, for Municipal/County Planning. The Chairperson from time to time of the City Planning Commission and of the Joint Planning Board shall alternate from year to year as Presiding Officer for Municipal/County Planning. The COUNTY and CITY planning staffs shall cooperate to provide staff and logistical support as appropriate for Municipal/County Planning.

#### Duration and Termination

1. This Agreement shall continue through December 31, 2030, except that either party may by resolution of its governing board terminate this Agreement on six months prior notice.

2. This Agreement may be amended by resolution of the City Council and COUNTY's Board of Commissioners.

IN WITNESS WHEREOF, the parties hereto have executed this Interlocal Agreement as of the date first above written.

#### COUNTY OF CUMBERLAND

By:   
J. BREEDEN BLACKWELL, Chairman

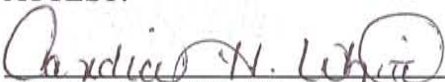
ATTEST:

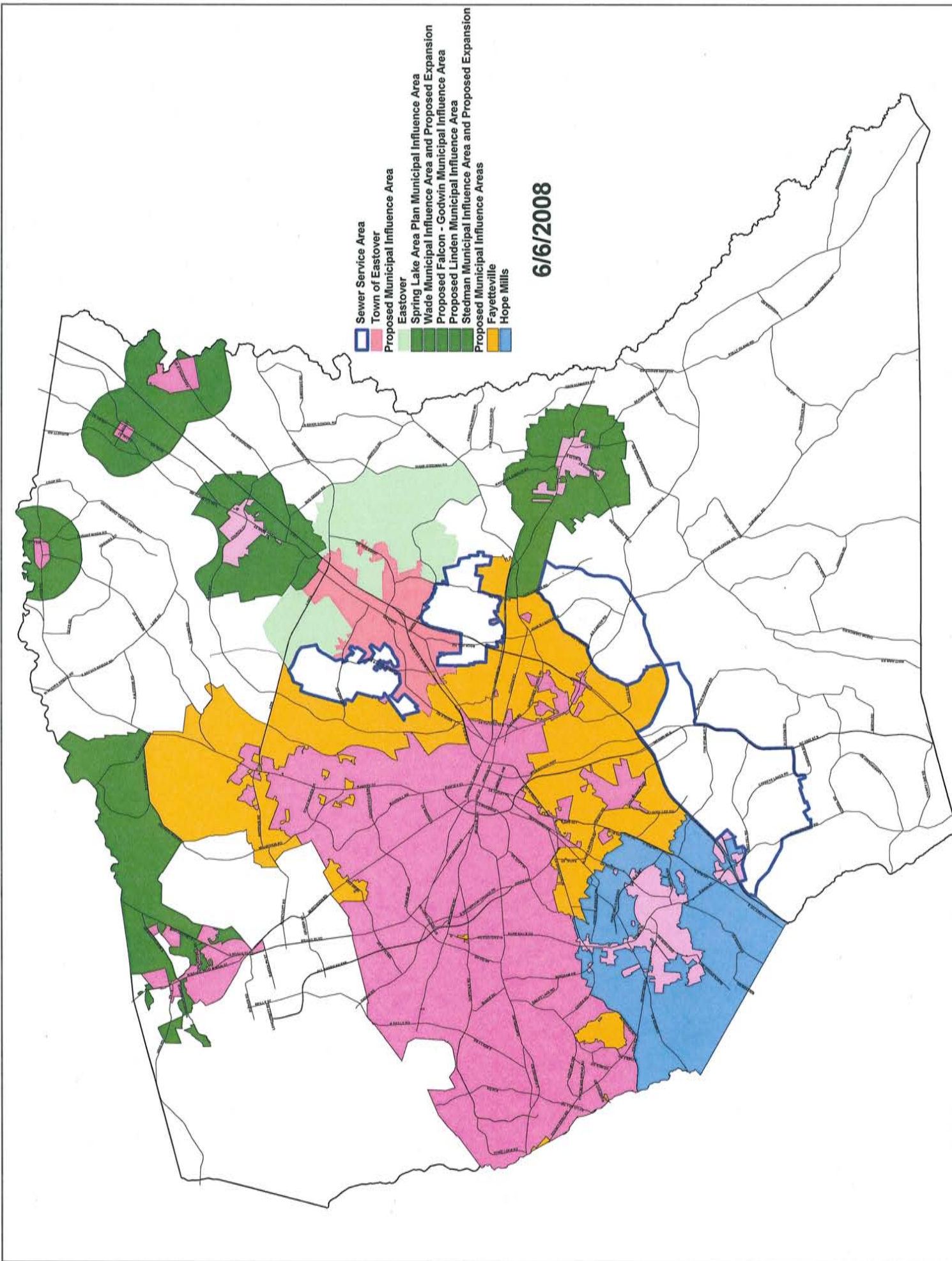
  
MARSHA FOGLE, Clerk to the Board

#### CITY OF FAYETTEVILLE

By:   
ANTHONY G. CHAVONNE, Mayor

ATTEST:

  
CANDICE H. WHITE, City Clerk



- Sewer Service Area
- Town of Eastover
- Proposed Municipal Influence Area
- Eastover
- Spring Lake Area Plan Municipal Influence Area
- Wade Municipal Influence Area and Proposed Expansion
- Proposed Falcon - Godwin Municipal Influence Area
- Proposed Linden Municipal Influence Area
- Stedman Municipal Influence Area and Proposed Expansion
- Proposed Municipal Influence Areas
- Fayetteville
- Hope Mills

6/6/2008

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Doug Hewett, Assistant City Manager  
**DATE:** November 9, 2009  
**RE:** **City Manager's Office - FY 2010 Strategic Plan's Policy and Management Action Agenda- 1st Quarter Report**

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**THE QUESTION:**

Has City Council's interest been met in staff's advancement of the policy and management action agenda for the 1st quarter? The attached reports are provided to detail progress made during the 1st quarter of this fiscal year, so that City Council members can either concur that the actions meet their interests or direct staff to modify their course.

**RELATIONSHIP TO STRATEGIC PLAN:**

This report, like previous reports, reinforces and clarifies Council's vision for our community, which is the foundation of the City's Strategic Plan.

**BACKGROUND:**

The City's Strategic Plan has three main areas:

- A vision 2023 statement that describes the type of community the Council would like to facilitate through its and staff's work efforts;
- Five-year goals that provide an intermediate focus for the work of staff and further outlines; the activities Council believes are necessary to realize the vision; and
- A one-year action agenda that identifies issues that Council needs to address by providing policy direction and/or necessary actions that the City staff should complete during the current fiscal year. The attached report focuses on this one-year action plan

**ISSUES:**

Do the 1st quarter work efforts reflect the overall direction articulated by the City Council in the FY 2010 Strategic Plan? Does the progress highlighted in this report move the community closer to the desired vision previously identified by the City Council?

**OPTIONS:**

- Accept the report as provided with guidance to the City Manager/staff on areas of interest
- Request additional information on items listed in the report
- Modify/clarify interests in report and Strategic Plan

**RECOMMENDED ACTION:**

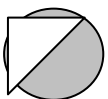
Receive and file this report.

**ATTACHMENTS:**

FY 2010 Strategic Plan's Policy and Management Action Agenda- 1st Quarter Report



***FY 2010 Strategic Plan  
Policy and Management Agenda  
Narratives***



# **Policy Agenda**

## **Top Priority**

Unified Development Ordinance  
Murchison Road Corridor Redevelopment  
Parks and Recreation Service  
Annexation Policy  
Workforce Development  
Recycling Program for Multifamily and Commercial

## **High Priority**

County Jail Capacity  
Air Quality Non-Attainment  
Emergency Medical Transport Performance Report  
Tree Preservation Ordinance  
Building Demolition  
Property Revaluation and Tax Rate  
Legislative Agenda and Lobby Strategy

# **Management Agenda**

## **Top Priority**

Crime Reduction Strategy and Report  
FAST Improvements  
Community Report Card  
Community Watch Expansion  
Economic Development

## **High Priority**

Reclaiming Neighborhoods Strategy  
Police Staffing  
Non-Stop Air Service to Washington, D.C.  
Telling the City's Positive Story  
Northwest Gateway Project

# Policy Agenda - Top

## Unified Development Ordinance (UDO)

This target for action seeks to follow the creation of the new Unified Development Ordinance. Revisions of the zoning and development regulations need to take place in order to implement the 2010 Plan, the anticipated 2030 Growth Vision Plan, and to help implement the City's Strategic Plan. The City's existing development ordinances have not been comprehensively revised since 1961. City regulations are functional but disjointed, hard to use, occasionally contradictory, often outdated, and lack internal focus or coordination to help achieve community goals.

In FY '07-08 Clarion Associates was selected as consultant for the 16-month project to create a new Unified Development Ordinance. Input provided by the Vision Plan, other current adopted plans, and from stakeholders guided the process. Clarion prepared a Diagnosis and Annotated Outline assessing the current ordinances and proposing how to revise these regulations.

Funding was approved in FY09 budget for the remaining elements. The process continues with final adoption considered in November-December 2009.

The City departments will need to continue to dedicate staff time to research, continue community discussions, and review of specific standards and procedures throughout the process. Significant changes to the standards for signs, street design, or certain overlays would be the responsibility of City staff or other consultant efforts.

This target for action also entails significant administrative changes (forms, staff responsibilities, internal procedures, fees, record-keeping, and so forth). The process of mapping the new zoning districts is required before the new UDO is fully effective. These tasks would require the allocation of additional funds for consultant assistance.

A new UDO modernizes the zoning districts, establishes minimum development standards, and encourages high-quality physical development. The zoning and subdivision codes would be unified into one document. All portions of the code would be coordinated and focused in ways that help achieve all community goals expressed in Fayetteville's comprehensive plans and its Strategic Plan goals.

**This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live and goal #3 MORE ATTRACTIVE CITY-Clean and beautiful**

- Objectives:
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
  - Neighborhoods connected by sidewalks, trails and bike lanes
  - Higher development standards
  - Preserve and sustain natural resources, increasing green spaces
  - Cleaner community with less visible blight
  - Improve signage
- Measure of success:
  - Success is measured with adoption and implementation of a new Unified Development Code that is more "user-friendly" and that incorporates best practices

Staff Liaison: Rob Anderson

Email Address: randerson@ci.fay.nc.us

Phone Number: 910-433-1701

Team Members: Primarily Planning and Zoning Staff in collaboration with the Technical Review Committee

<b>Action Plan</b>	<b>Estimated Completion</b>
Complete assessment and review	Feb 2010
Final Draft of Ordinance, Administrative Manual, Zoning Map	May 2010
Ordinance adoption	Jun 2010
Transition to Implementation	June - Oct 2010
Effective Date of Ordinance and Zoning Map	Nov 1, 2010

First Quarter Update:

- Testing phase: Module 1 & 2 (evaluating impact of new code, as compared to current code for current and upcoming projects)
- Stakeholder committee reviews: 6 meetings (reviewing test cases; reviewing specific portions of Module 3; 3-hour work session with Clarion Associates)
- Review of Module 3
- Working with development community: UDO is development friendly, creating predictability and certainty, without compromising development standards
- Council update on Sept. 14<sup>th</sup>
- Developing administrative procedure manual.

Upcoming Activities:

- Continued working sessions with Stakeholder Advisory Group
- Present reports to Council on progress
- Preliminary mapping of new districts
- Flow charting of operations
- Drafting of Administrative Manual
- Base Zoning Map translation from old code to new Zoning classifications of entire city – a labor intensive activity
- Adoption of new Zoning Map along with adoption of new UDO
- Adoption of UDO and Implementation Transition (training, publication, VIC coding, and guidance for development community etc.)
- Periodic follow up meetings with development community for troubleshooting and refinement of code and procedures as necessary.



# Policy Agenda - Top

## Murchison Road Corridor Redevelopment

The City hired LandDesign, Inc. and Basile Baumann Prost Cole & Associates, Inc. to develop the Land Use and Economic Development Plan for the Murchison Road Corridor. The Murchison Road Corridor runs from Rowan Street to the south, to the intersection of the planned Outer Loop or Fort Bragg to the north. The plan was approved by City Council in June 2008.

The Land Use and Economic Development Plan identified nine catalyst sites to jump-start the redevelopment process. The City subsequently hired Marshall Isler to prepare an "Implementation Feasibility Analysis" as a follow up to the Land Use and Economic Development Plan for the Murchison Road Corridor. The Implementation Feasibility Analysis addresses catalyst three of the nine catalyst sites identified in the Land Use and Economic Development Plan. It defines specific development concepts based on the recommendations of the Land Use and Economic Development Plan and discussions with major land and business owners; demonstrates the economic feasibility of the recommended concepts; and defines public economic incentives necessary to make the proposed development attractive to developers.

It is recommended that the City play the role of land developer, provide subordinate development loans for gap financing, rent subsidies and create affordable housing.

**This target for action is linked to City goal #2: GREATER TAX BASE DIVERSITY- Strong local economy**

- Objectives:
  - More jobs with higher wages
  - Retain and grow businesses
  - Attract military business
- Measure of success:
  - The adoption of an action plan that outlines the City's participation in order to execute projects

Staff Liaison: Victor Sharpe

Email Address: vsharpe@ci.fay.nc.us

Phone Number: 910-433-1933

Team Members: Special Projects Director, Planning Dept

<b>Action Plan</b>	<b>Estimated Completion</b>
Complete development of the funding strategy report	July 2009
Present funding strategy plan to City Council for adoption or policy guidance	Sept 2009
Prepare a detailed outline of activities necessary to implement phase 1 of the plan	Nov 2009
Research the HUD Section 108 Guarantee Loan Program for the first source of funding	Dec 2009
Update City Council on the status of implementation of funding strategies	Feb 2010

First Quarter Update:

- City Council presentation was held on the Sept 8<sup>th</sup> work session: Direction and policy guidance
- Funding strategy was formally presented to City Council on September 14, 2009
- City Council adopted a funding strategy for the redevelopment of the Murchison Road Corridor on September 28, 2009.

Upcoming Activities:

- Staff will explore options to further the plan implementation of phase I of the Murchison Road Corridor Plan
- Staff will prepare a detailed outline of activities necessary to implement phase 1 of the plan
- Staff will begin research on the process for the HUD Section 108 Guarantee Loan to fund phase of the project.

# Policy Agenda - Top

## Parks and Recreation Service

Maintain a funding source within the City and County Parks and Recreation areas that adequately provides a level of practical, useful, dynamic and affordable leisure activities that add value to the citizens' quality of life. Further to achieve in great detail an organization that responds to its community's lifestyle by developing and training employees that produce activities for that outcome.

**This target for action is linked to City goal #4: MORE EFFICIENT CITY GOVERNMENT-  
Cost effective service delivery**

- Objectives:
  - Investing in City's infrastructure, facilities and equipment
  - Greater accountability for performance & results
  - Higher level of customer satisfaction
- Measure of success:
  - The presentation of a comprehensive report to Council on the purpose, history, successes and future of the Cumberland County and Fayetteville's parks and recreation department.

Staff Liaison: Michael Gibson

Email Address: mgibson@ci.fay.nc.us

Phone Number: 910-433-1557

Team Members: Human Resource Director, Finance Manager, Assistant City Manager

Action Plan	Estimated Completion
Prepare comprehensive report	Dec 2009
Present findings to City Manager	Jan 2010
Present report to City Council for policy direction	Feb 2010

First Quarter Update:

- Staff research

Upcoming Activities:

- Continued support with process

# Policy Agenda - Top

## Annexation Policy

The City of Fayetteville's growth management strategy influences development in the community and diversifies the City's tax base. This target for action seeks to provide City Council with a recommendation on annexation strategies that ensure efficient delivery of City services and fiscally sound decisions. The goal is to grow the community in an orderly, logical manner while recognizing our obligation to existing residents. In addition, making strategic choices for growth based on sound principals for urban planning and development, environmental considerations (reduction of septic systems and domestic wells) and a balanced, full service, fiscally responsible community.

In an effort to devise a policy for guiding annexation decisions, staff will continue to examine the impact of various annexation scenarios in the context of changing State of North Carolina legislation. We will take a look at the legal obstacles, financial implications and service delivery challenges and opportunities associated with each possible annexation site in the Municipal Influence Area on our periphery.

It is anticipated that several working sessions with the City Council will be required during FY 2009 – 2010 for staff to receive guidance on policy directions. We expect to be prepared to complete our analysis and begin dialogue with Council by early to mid-winter.

Staff will continue to participate in the Joint Committee on Municipal Annexation to formulate numerous recommendations for the North Carolina General Assembly. Success for this target for action will be achieved when we have a clearly defined policy adopted by City Council to be used as a decision tool when considering the annexation of land into the City of Fayetteville.

### **This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live**

- Objectives:
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
- Measure of success:
  - The presentation of a comprehensive report to Council on the purpose, history, successes and future of Fayetteville's growth management strategy

Staff Liaison: Rob Anderson

Email Address: randerson@ci.fay.nc.us

Phone Number: 910-433-1701

Team Members: Planning Staff, City Manager and Assistant City Manager

<b>Action Plan</b>	<b>Estimated Completion</b>
Staff research and evaluation	Nov 2009
Prepare annexation policy recommendation and present to Council	Feb 2010
Staff support of Joint Committee on Municipal Annexation	March 2010
Present report to City Council for policy direction	April 2010

First Quarter Update:

- Staff researched non-incorporated areas on our periphery, including enclaves
- Ongoing evaluation of infrastructure, legislation and development continues
- Staff continues to support the Joint Committee on Municipal Annexation to guide and impact NC legislation
- Staff attended legislative hearings in Raleigh
- Numerous planning division staff meetings on the topic and two meetings with the city manager and assistant city managers to discuss policies, priorities, strategies, impediments and opportunities.

Upcoming Activities:

- Continued evaluations of case studies to test the feasibility of a variety of courses of action in an effort to prepare a well informed policy report to Council in the spring of 2010.

# Policy Agenda - Top

## Workforce Development

The Cumberland County workforce has a number of challenges related to knowledge, skills and abilities as identified in a study commissioned by the Chamber of Commerce. In order to grow the local economy, a collaborative effort is needed to meet the challenges in the current workforce.

The City has partnered with the Chamber of Commerce to address workforce development in FY 09. This target for action seeks to continue this partnership through FY10. The City is currently in contract negotiations with the Chamber and is developing the performance objectives specific to workforce development. Success would consist of fostering a collaborative environment with multiple partners to set the conditions to meet the workforce development challenges and evolve into a high quality community workforce.

**This target for action is linked to City goal #2: GREATER TAX BASE DIVERSITY- Strong local economy**

- Objectives:
  - More jobs with higher wages
  - Retain and grow businesses including those associated with the military
  - Have an available, competent local workforce
- Measure of success:
  - Contract execution
  - Support, evaluate and report the City's participation in workforce development efforts

Staff Liaison: Victor Sharpe

Email Address: vsharpe@ci.fay.nc.us

Phone Number: 910-433-1933

Team Members: Human Resource Director, Fayetteville-Cumberland County Chamber of Commerce

Action Plan	Estimated Completion
Fall into Work Job Fair	Oct 2009
Construction of sanitary sewer and utility improvements for the Military Business Park	Nov 2009
Supporting the efforts of the Women's Center of Fayetteville	Continuous
Supporting the efforts of Economic Development Incentive Programs and Neighborhood Resource Center offered through Community Development Programs	Continuous
Supporting the efforts of Fayetteville-Cumberland County Chamber of Commerce	Continuous

### First Quarter Update:

- Executed contract with Fayetteville-Cumberland County Chamber of Commerce
- Started computer classes and medical terminology classes in the Neighborhood Resource Center. The NRCs provide facilities for job training opportunities in low-moderate income neighborhoods
- Offered Economic Development Incentive Programs, utilizing CDBG funds designed to create jobs (Downtown Loan, Business Assistance Program and Façade Grant Program)
- Executed a contract with the Women's Center of Fayetteville to provide assistance to small businesses for start up or expansion (counseling & business plans) which would lead to the creation of jobs
- Partnered with the County Workforce Development to provide temporary employment for youths through the summer youth work program
- The City continued its recruitment efforts through the Police Department's BLET program.
- The Fire Department graduated 24 trainees through the Fire Recruiting Academy which were hired through the SAFER grant program.

### Upcoming Activities:

- Quarterly Report presentation by the Fayetteville-Cumberland County Chamber of Commerce
- Fall into Work Job Fair scheduled for October 8, 2009
- Coordination of work force development activities with the Fayetteville-Cumberland County Chamber of Commerce
- Construction of the Military Business Park continues.



# Policy Agenda - Top

## Recycling Program for Multifamily and Commercial

This target for action seeks to expand our successful curbside recycling program to multifamily and commercial customers. The staff must first meet with and obtain feedback from the stakeholders to include Homeowners Association representatives, waste haulers and the material recovery facility manager to discuss service alternatives. A determination of the type of collection containers needed at multifamily and commercial establishments is based upon size of complex, type of commercial establishment and space available. Once this is decided, a method of collection will need to be determined. This will be done by considering the maximum diversion rates and costs of optional service possibilities.

In order to accomplish these tasks, staff intends to partner with Sustainable Sandhills to collect necessary data and formulate alternate methods of collection. Types, sizes, and the cost of dumpsters and carts will be analyzed. Recommendations are based upon size and type of multifamily developments and businesses. Staff will then estimate collection service costs to include dumpsters, carts, collection and hauling, advertisements and educational materials.

**This target for action is linked to City goal #3 MORE ATTRACTIVE CITY-Clean and beautiful**

- Objectives:
  - Preserve natural resources
  - Cleaner community
- Measure of success:
  - Program recommendation presentation to Management and City Council in FY10

Staff Liaison: Jerry Deitzen  
Email Address: gdietzen@ci.fay.nc.us  
Phone Number: 910-433-1329  
Team Members: Environmental Services Director, Analyst & Superintendent, Sustainable Sandhills staff members, Special Project Manager, Finance department

First Quarter Update:

Action Plan	Estimated Completion
Meet with stakeholders	Nov 2009
Develop plan and estimate costs	Feb 2010
Present plan to Council for approval	Mar 2010

- Met with Cumberland County Apartment Association and presented information on multifamily recycling benefits and needs. CCAA was very receptive to the implementation to a recycling program
- Met with Sustainable Sandhills to discuss options and share ideas for meeting with stake

holders. Sustainable Sandhills has agreed to sponsor the stakeholder meetings and gather input.

Upcoming Activities:

- Stakeholder meetings to gather information and to stress the importance of recycling at multifamily developments
- Development of options for ordinances and programs for management review
- Presentation to City Council on items the state has banned from landfills in North Carolina.

# Policy Agenda - High

## County Jail Capacity

The Fayetteville Police Department is very assertive in arresting individuals within our community as a result of an investigation, and/or warrants issued by the court or other law enforcement agencies. More often than not, recidivists are not receiving bonds that require jail time. The Cumberland County Sheriff's Office (CCSO) is directly responsible for providing these services for **ALL** citizens and jurisdictions within Cumberland County. The City of Fayetteville is directly impacted by the lack of adequate bed space within the jail, which does not fall under the purview of the Fayetteville Police Department or local government. The funding of additional 190 jail bed spaces exceeds \$11 Million for construction with an additional \$1 Million each year to sustain the operation. Jail overcrowding is one of many issues that local criminal justice entities must address, and while the CCSO is responsible, it is not their issue alone.

County-wide solutions must be developed to address the lack of adequate jail space and other issues that habitually impact every law enforcement agency such as involuntary mental commitments, juvenile issues, magistrate and court issues, grant coordination and logistical and consolidation endeavors. The Fayetteville Police Department, Methodist University and Fayetteville State University have taken the lead in developing a Criminal Justice Coordinating Council (CJCC) to address the aforementioned needs of our community.

Currently, representatives from these organizations have been holding regularly scheduled meetings in developing this initiative. The concept was presented and supported by the CCSO. The next phase will be to meet with our District Attorney, Senior Superior Court and Senior District Court Judges.

The development of the CJCC is currently unfunded and will eventually need dedicated staff. However, Methodist University, Fayetteville State University and personnel from the Fayetteville Police have volunteered their time on this project. Graduate assistants, intern and other volunteers will also be utilized based upon availability and need for the project.

The development of the CJCC is contingent upon the cooperation from each and every criminal justice stakeholder. The CJCC will develop partnerships whereas we can move forward as one on a consensus.

### **This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live**

- Objectives:
  - Low crime rate, safe streets, responsible neighborhoods connected with sidewalks that are well-organized, expand and upgrade parks
- Measure of success:
  - Develop a proposed plan (funding and actions) which will directly impact the lack of adequate bed space within the jail
  - Team members from the separate criminal justice entities commit to develop and participate in a Criminal Justice Coordinating Council

Staff Liaison: Tom Bergamine

Email Address: tbergamine@ci.fay.nc.us

Phone Number: 910-433-1819

Team Members: Team Captain/Captain Bridgeman, Police Chief, Methodist University, District Attorney, and Cumberland County Sheriff

<b>Action Plan</b>	<b>Estimated Completion</b>
Cumberland County Commissioners presentation on jail capacity and expansion issues	Sept 2009
Meet with team members and stakeholders to develop plan of action to address jail capacity; advocate for solution	Continuous
Initiate, develop and implement the Criminal Justice Coordinating Council	June 2010

First Quarter Update:

**CRIMINAL JUSTICE COORDINATING COUNCIL**

- Formed a core group: Police Department/Sheriff's Office/District Attorney's Office/Methodist University and Fayetteville State University
- Met with stakeholders to identify possible options for increasing jail capacity
- Met with team members to develop a mission, goals and vision statement for the Criminal Justice Coordinating Council
- Established framework for guiding principles.

**JAIL CAPACITY**

- Met with Mr. Grannis & Sheriff Butler to provide information on arrests and repeat offenders
- Funding is the main topic of concern
- Articles appeared in the newspaper on September 9 & September 11 on the presentation made to Cumberland County Board of Commissioners
- Planning Committee has asked the County Manager for a follow-up report on this issue in 60 days.
- Alternate detention plans (bracelets worn by repeat offenders) if they violate, they go back to jail)

Upcoming Activities:

- Discuss at community meetings
- Continue to provide data on repeat offenders currently in the detention facility
- Report from County Manager

# Policy Agenda - High

## Air Quality Non-Attainment

Recently Fayetteville met the air quality attainment standards set by EPA as part of the “early action compact” agreement. However, the air quality standards will be incrementally strengthened. Fayetteville will be required to meet a more stringent air quality level. If we do not meet the new requirement, Fayetteville will be considered a “non-attainment” area requiring mandatory changes for new and expanding industry and it will be necessary to follow the “State Implementation Plan”.

We will consult with professionals and work with our Municipal Planning Organization in order to better understand the implications of not meeting the new air quality standards and to better plan for the future. Once a local plan of action is outlined, staff will meet with stakeholders and make recommendations for necessary ordinance changes. Air quality standards may not be attainable in the short term; therefore, the recommendations to meet attainment may be difficult and costly for business and local governments.

**This target for action is linked to City goal #2 MORE ATTRACTIVE CITY-Clean and beautiful**

- Objectives:
  - Preserve natural resources
  - Cleaner community
- Measure of success:
  - Program recommendation presentation to Management and City Council in FY10

Staff Liaison: Jerry Deitzen  
Email Address: gdietzen@ci.fay.nc.us  
Phone Number: 910-433-1329  
Team Members: Sustainable Sandhills, Fort Bragg Air Team, Fayetteville Area Metropolitan Planning Organization (FAMPO), NCDENR Division of Air Quality and a number of other key air quality stakeholders in Cumberland, Hoke and Harnett Counties.

Action Plan	Estimated Completion
Consult with professionals in the Air Quality industry concerning reinstatement of EPA’s Early Action Compact (EAC)	Oct. 2009
Meet with stake holders to explain potential impacts to local industry to meet “Lowest Achievable Emissions Rate” – Begin community education	Dec. 2009
Develop action plan with DENR and MPO to meet “Lowest Achievable Emission Rate”	March 2010
Identify realistic clean-air strategies to assist in Air Quality attainment	April 2010
Estimate costs to City budget and timelines for complying with new strategies	May 2010

### First Quarter Update:

- Attended Combined Air Team meeting (COMBAT) with local stake holders on September 15th 2009
- Transit Connection to the Fort Bragg Heritage Village: Two van pools are now operating for this function
- Fossil-fueled engine and motor sources: Sustainable Sandhills Project number 3. 'No Idle' Policies in Local School Districts – No idle zones have been identified and signed at schools in the Cumberland County area for the 2009 -10 school year
- Green Business Program: Sustainable Sandhills Project number 5. Businesses are certified based on a checklist modeled after several successful programs across the country. There are currently 43 businesses certified under this new program with 32 in progress of certification
- Innovative Education and Outreach programs on sustainable practices: A series of 4 evening films on sustainability with open discussions have taken place during the quarter
- Alternate Fuel Vehicle Stimulus Grant Award: DOE grant funds were awarded to the Triangle Clean Cities Coalition, which Fayetteville is a part of. The grant funds will be used to offset the difference between the cost of a regular fuel vehicle and the cost of a hybrid vehicle.

### Upcoming Activities:

- Green Living and Design Tour: Sustainable Sandhills Project number 4 – November 7th is the tentative date for this event that tours local homes and businesses to display green living and design principals
- Regional Park-and-Ride: Sustainable Sandhills Project number 1 –This will be collaboration between all regional stake holders to discuss and develop park-and-ride options and to provide a summary for possible local action
- Green Buildings and Development: Linking green building techniques with affordable housing initiatives.

# Policy Agenda - High

## Emergency Medical Transport Performance Report

The City of Fayetteville partners with Cumberland County for provisions in public safety systems. This target for action focuses on the area of emergency medical transport (ambulance service) in the Fayetteville community. Emergency medical transport is currently provided by Cumberland County and managed through Cape Fear Valley Hospital System. Based on recent concerns about ambulatory response times, the City Council has asked for a review of the entire public safety system. In an effort to improve emergency medical transport performance within the City of Fayetteville, municipal and county managers and their representatives are engaged in a Public Safety Work Group.

This work group will conduct a review of the public safety system, specifically fire service, communications and EMS. The group was charged to make recommendations for system design improvements, and to provide final report with recommendations by December 2009.

**This target for action is linked to City goal #4: MORE EFFICIENT CITY GOVERNMENT- Cost effective service delivery**

- Objectives:
  - Investing in City's infrastructure, facilities and equipment
  - Greater accountability for performance & results
  - Services delivered in a cost-effective manner
  - High level of customer satisfaction
- Measure of success:
  - Participate in a Public Safety Work Group
  - Review of the entire public safety system
  - Present recommendations for service improvements within the City

Staff Liaison: Benny Nichols, Fire Chief

Email Address: bnichols@ci.fay.nc.us

Phone Number: 910-433-1111

Team Members: Fire Chief Town of Hope Mills Fire Department, Cumberland County Fire Chief's Association President, Cumberland County Emergency Services Director, Cape Fear Valley EMS Chief, Fire Chief Wade Community Fire Department, Fire Chief Town of Spring Lake Fire Department, Fire Chief Fort Bragg Fire Department, and Fire Chief City of Fayetteville Fire/Emergency Management Department

Action Plan	Estimated Completion
Participation in Public Safety Work Group: Review and Evaluate services	Dec 2009
The Task Force will present report	Jan 2010
Present findings to Council and receive policy preference and direction	April 2010
Include resources in FY11 budget request, consistent with Council direction	May 2010



### First Quarter Update:

- Group discussions and activities have facilitated operational changes in the system - process and procedure improvements
  - Ambulances now pre-stationed at fire stations- report decrease in response times
  - Contracted with funeral homes to transport deceased patients
  - Implementation of Omega Codes-(shifts non-emergency transports to alternate agency)
  - Taxi vouchers being issued by CCEMS paramedics to patients for non-emergency transport to medical facilities
- Reported average response times for emergency calls have been reduced by approximately 50%
- FFD has realized a significant reduction in wait times for CCEMS arrival.

### Upcoming Activities:

- New CAD migration will further improve system efficiency and reduce response times for EMS calls
- City communications personnel attending Emergency Medical Dispatch (EMD) Training
- Continued participation in Systems Improvement Task Force meetings with presentation to be given to Council/Commissioners in January 2010
- Continued participation in North Carolina E911 Study Group (Chief Nichols)
- Continued exploration of EMS transport to be provided by FFD (cost-benefit analysis).

# Policy Agenda - High

## Tree Preservation Ordinance

This target for action seeks to clarify tree preservation ordinances and pursues policy guidance on this initiative. Tree ordinances are meant to help build a healthy and sustainable community forest. They define how to manage and care for public and/or privately owned trees and demonstrate commitment to the community forest. A tree preservation ordinance may be developed to address such matters as establishing municipal authority over public trees, setting standards for tree planting, maintenance and management, outlining enforcement, fees and fines, and defining nuisance conditions on private trees. A tree ordinance has economic, environmental, and social benefits to the city.

A tree preservation ordinance can serve many purposes from beautification to preservation to protection. These purposes can be singular or comprehensive in nature. In addition, tree preservation ordinances can be components of city land use plans. It is possible that administration costs and revenue from fees will be associated with a tree ordinance.

The developing Unified Development Ordinance (UDO) includes tree preservation standards. We recommend continued policy and administrative procedure research on this issue. A final report and recommendation will be presented to City Council in FY 10. Success for this target for action is a program that will preserve a significant tree canopy in the community without excessively infringing on property rights. In addition, the program is focused and easy to administer.

**This target for action is linked to City goal #3 MORE ATTRACTIVE CITY-Clean and beautiful**

- Objectives:
  - Higher development standards
  - Preserve natural resources and increase green spaces
- Measure of success:
  - Adoption of tree preservation ordinance or inclusion in adopted UDO

Staff Liaison: Michael Gibson

Email Address: mgibson@ci.fay.nc.us

Phone Number: 910-433-1557

Team Members: Planning department, UDO stakeholders

Action Plan	Estimated Completion
Review, evaluate and test tree preservation standards contained in UDO	Dec 2009
Consult with stakeholders and team member for modifications	March 2010
Present ordinance recommendation to Council for adoption	June 2010

First Quarter Update:

- Draft tree preservation standards are contained within module 3 of the UDO
- Review and evaluation of the standards.

Upcoming Activities:

- Continue to review, evaluate and modify
- Collaboration with stakeholders and team members for modifications.

# Policy Agenda - High

## Building Demolition

There are a number of challenges associated with any municipal code enforcement/building demolition programs. The two most prominent are the lengthy procedural requirements of state law and the limited funds available for demolition as compared to the number of buildings that fit the profile as candidates for removal.

At the same time, there are several factors that contribute to the need for public involvement in building demolition. These factors are mainly economic and market changes but also include the investment or disinvestment patterns of property owners – especially those of rental properties.

In the fiscal year 2009 – 2010 the general fund budget request of \$175,966 for Contract Services is similar to the 2008 – 2009 Contract Services funded at \$175,000. This is the line item which we use for building demolition, weed cutting, trash and debris clean-up and the securing of vacant buildings open to trespass. Because this is a small number relative to the need in the community, we must prioritize the use of these funds to achieve the greatest impact.

In fiscal year 2008 – 2009 the Community Development Department initiated an Acquisition/Demolition program with the allocation of \$70,000 in CDBG funding. Through collaboration between Community Development and Inspections as of late April 2009, we have begun to utilize some of those CDBG funds to expand our financial ability to carry out demolitions when needed. As of this writing, 10 buildings have been demolished using the federal CDBG funds. In addition, the Community Development Department has proposed to increase the funding of this program by recommending the allocation of \$100,000 in CDBG Economic Recovery funds for this purpose.

The Code Enforcement process sometimes results in private property owners paying for demolition of their dilapidated properties. In effect, the efforts of the Inspections Code Enforcement activities have a greater impact than is represented by the City funded demolition numbers. Other than privately funded renovation of basically sound structures, this is the most desirable outcome – property owners taking responsibility for their property.

**This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live and goal #3 MORE ATTRACTIVE CITY-Clean and beautiful**

- Objectives:
  - Low crime rate and reputation as a safe community
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
  - Higher development standards
  - Preserve natural resources which increases green spaces
  - Cleaner community with less trash and visible blight
  - More buildings and homes meeting codes and requirements
- Measure of success:
  - Increasing the number of demolitions through creative financing such as the CDBG programs
  - Utilizing other programs such as the “B” Street Model and a possible rental inspections program to reverse the trend for disinvestment for the long term

Staff Liaison: Rob Anderson

Email Address: randerson@ci.fay.nc.us

Phone Number: 910-433-1701

Team Members: Code Enforcement Staff, Community Development Department

<b>Action Plan</b>	<b>Estimated Completion</b>
Collaborating with State agencies to ensure compliance with regulations	Continuous
Attend Neighborhood Reclaiming Strategy meetings and support the effort through demolition program	Monthly
Strategic utilization of funding resources to achieve as many demolitions as possible	Continuous

First Quarter Update:

- Working with the NC Department of Environment and Natural Resources (NC DENR) to ensure our new procedures are consistent with their requirements for asbestos testing and abatement for residential demolition
- Working to resolve differences in procedural requirements from the NC DENR and Health Hazards Control Unit in Raleigh to resolve any gaps or conflicts in their policies
- We received revised policies from Community Development which modified guidelines to allow for funding of testing and removal of asbestos
- Community Development was awarded \$100,000 in demolition acquisition funding through the American Recovery and Reinvestment Act
- Demolitions
  - 3 completed demolitions in the first quarter: As part of the “B” St. pilot program we had two structures demolished that were continual problems. One of these was done by a private property owner at no cost to the city.
- Staff is prioritizing blighted structures in the demolition program, utilizing Federal funds when circumstances allow.

Upcoming Activities:

- Staff continues to collaborate with the police and other departments to maximize our opportunities to positively impact our neighborhoods to support the Reclaiming Neighborhood Strategy Target for Action
- Continue to monitor property maintenance problem cases throughout the community and prioritize candidates for demolition
- Continue to explore funding opportunities to expand our ability to remove problem properties.

# Policy Agenda - High

## Property Revaluation and Tax Rate

Cumberland County completed property tax revaluation in the fall of 2008. This target for action seeks to evaluate what the revenue neutral tax rate would be for the FY10 budget. The team will gather historical property value data as well as estimated property values for FY2010 to determine a revenue neutral tax rate. In addition, the City Manager, assisted by the team, will develop the FY2010 recommended budget and tax rate. City Council will set the tax rate in June 2009 for FY2010.

**This target for action is linked to City goal #4: MORE EFFICIENT CITY GOVERNMENT- Cost effective service delivery**

- Objectives:
  - Investing in City's future infrastructure, facilities and equipment
  - Greater accountability for performance & results
  - Services delivered in a cost-effective manner
  - Producing results following the strategic plan and budget
- Measure of success:
  - Adoption of the FY2010 City of Fayetteville budget

Staff Liaison: Lisa Smith, Chief Finance Officer

Email Address: lsmith@ci.fay.nc.us

Phone Number: 910-433-1682

Team Members: Budget and Evaluation Manager, City Manager

Action Plan	Estimated Completion
Gather historical property value data and estimated property values for FY10	May 2009
Determine revenue neutral tax rate	June 2009
Adopt FY 2010 budget	June 2009

### First Quarter Update:

- Council adopted the FY2010 budget June 22, 2009 with a revenue neutral rate of 45.6 cents

### Upcoming Activities:

- No further action is required

## Policy Agenda - High

### Legislative Agenda and Lobbying Strategy

The City, County of Cumberland, and Fayetteville-Cumberland County Chamber of Commerce have partnered with the Ferguson Group to develop a community-wide federal legislative agenda. The federal agenda is based on projects/issues for which the partners have identified as priorities for our community, and for which our delegation and lobbyist feel we can successfully acquire federal assistance. This partnership has returned more than \$22 Million in federal assistance to the community since its inception. In order to continue those successful efforts, the partners have developed a 2009 federal agenda for submission to our federal legislative delegation. This agenda was approved by the City Council on February 23, 2009. Funds are included in the FY10 budget for the continuation of the Ferguson Group contract.

Additionally staff is proactively responding to the American Recovery and Reinvestment Act. Every tool at the City's disposal will be applied to ensure that Fayetteville positions itself to take full advantage and emerge as a stronger, healthier community. The federal dollars received will be spent on worthwhile projects and bring jobs to the city and surrounding communities. We continue to analyze the stimulus package and the possible funding opportunities in more than 75 Federal programs. Also, we continue to develop and refine the City's ready to go project list. As projects are prioritized and opportunities are identified, we match projects to Federal programs and funding delivery methods. Staff is aggressively applying for eligible projects and collaborating with other organizations to leverage opportunities for the community. In an effort to promote transparency and to ensure the City is responsive and accountable to the public, we are developing a stimulus tracker portal on the City's website which will launch during the first quarter of FY 10.

**This target for action is linked to City goal #4: MORE EFFICIENT CITY GOVERNMENT-  
Cost effective service delivery**

- Objectives:
  - Investing in City's future infrastructure, facilities and equipment
  - Greater accountability for performance and results and transparency
  - Producing results following the strategic plan and budget
  - High level of customer satisfaction with City services
- Measure of success:
  - Continuation of the Ferguson Group contract in collaboration with County of Cumberland, and Fayetteville-Cumberland County Chamber of Commerce
  - Continued proactive response to Stimulus funding

Staff Liaison: Doug Hewett, Assistant City Manager

Email Address: dhewett@ci.fay.nc.us

Phone Number: 910-433-1978

Team Members: Management Analyst, Stimulus Response Team

<b>Action Plan</b>	<b>Estimated Completion</b>
Develop and launch the Stimulus Tracker	Sept 2009
Continued proactive response to Stimulus funding, including bimonthly meetings	Continuous
Collaborating with lobbying group and partners to monitor, evaluate and respond to impending legislation	Continuous

First Quarter Update:

- More than \$10 million in Stimulus funds allocated or awarded to the City of Fayetteville
- Bimonthly Stimulus Response Team meetings
- Developed and published Stimulus website
- Monitoring, evaluating and responding to the impact of the State’s budget cuts on the City’s revenue stream (beer and wine tax)
- Monitoring, evaluating and responding to the State legislation impacting the City’s operations (Ethics panel requirement and smoke free legislation)
- Collaborating with lobbying group and partners to respond to the Water Resource Development Act

Upcoming Activities:

- Continued proactive response to Stimulus funding, including bimonthly meetings
- Collaborating with lobbying group and partners to monitor, evaluate and respond to impending legislation
- Legislative Agenda Development meetings in November



# Management Agenda - Top

## Crime Reduction Strategy and Report

On April 6, 2009, Chief Bergamine presented to City Council the Fayetteville Police Department Community Wellness Plan. The comprehensive report contains 26 planned actions for the coming year. This target for action seeks to follow the implementation of those actions through the coming year. Success would consist of the following measures:

- Increase in community participation
- Reduction in overall crime
- Reduction in violent crime
- Reduction in crimes committed by youth offenders
- Reduction in related traffic injuries and deaths
- Increase in recruiting and retaining qualified applicants

The Police Department's mission statement affirms that they are committed to leading the community problem-solving efforts that improve the quality of life for all citizens of Fayetteville. The Police Department will work assertively with the community to address the underlying conditions that lead to crime and disorder. The Police Department's core values include: all people, community involvement, integrity, professionalism, innovation, our employees, the Police code of ethics, the laws of the city, state, and country; and accountability.

At the core of our community policing efforts are the guiding principles that articulate our common organizational values, which serve as a basis for integrated decision-making and underlie the Department's strategic vision and mission. These principles are: Intelligence Led Policing, Community Partnerships, Crime Prevention, and Operational Efficiency.

We know from past experience that through prevention, education and enforcement, we can be very effective in reducing crime. We believe the challenges for fighting crime in our community are opportunities to identify more effective ways for our department to operate and to work hand-in-hand with other city departments, providing a holistic approach to creating a healthier city.

Resources needed include:

- Grant applied for and if passed: City would be responsible for the salaries for:
  - 35 additional police officer positions \$1,411,641
  - 4 additional Forensic Technicians, \$ 35,400
  - 2 additional Crime Prevention Specialists. \$ 61,920

We would also look to establish partnerships between Police Department and other city departments, county agencies, government entities, academic institutions, District Attorney's Office, and citizen participation.

### **This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live**

- Objectives:
  - Low crime rate and reputation as a safe community
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
  - Safe streets with vehicles traveling at the posted limits

- Measure of success:
  - The presentation of a comprehensive report to Council on the Community Wellness Plan
  - Implementation of approved elements of the Community Wellness Plan

Staff Liaison: Tom Bergamine, Police Chief

Email Address: tbergamine@ci.fay.nc.us

Phone Number: 910-433-1819

Team Members: All City Departments, Cumberland County agencies, academic institutions, and citizen participation

Action Plan	Estimated Completion
Council presentation on Community Wellness Plan and “Police Strategy”	Sept 2009
Discuss Wellness Plan at community meetings and Community Watch Group meetings to educate through Public Service Announcements and updates to website	Continuous
Continue to implement approved elements of the Community Wellness plan through aggressive prevention, education and enforcement initiatives	Continuous

First Quarter Update:

**INTELLIGENCE LED POLICING**

- GPS bracelets (tracking): Met with pre-trial to enhance efforts; partnering with Probation & Parole regarding repeat offenders
- Scout System (Alarms): Purchased, installed, and trained detectives
- License Plate Readers: Purchased, installed, and operational
- Palm Reader Technology: Purchased, installed and currently entering 30,000 prints into database.

**OPERATIONAL EFFICIENCY**

- Sector Policing: Implemented in both patrol districts
- Warrant Specials: Conducted each month
- Bicycle Patrol: Officers in both patrol districts and OSB cross-trained
- Records Management System: Purchased, and coordinating with IT for installation
- Case Management cases are reviewed monthly
- Joint 911 Center: Work group has met with the manager, meeting with County Manager is scheduled
- Full Service Search Warrants: Team approach with County resources to permanently rid neighborhoods of narcotics activity; City Inspections looks at a residence to ensure code compliance, Animal Control ensures that canines that are vicious and/or do not have the proper documentation are removed from the residence, DSS ensures the safety and well being of the children at the residence
- Police Executive Research Forum (PERF): Data downloaded, interviews with personnel have been conducted. Preliminary report to be received in October.

## COMMUNITY PARTNERSHIPS

- Police Foundation: Was started to increase the involvement of the community with the Police Department; accomplished with donations that allows for annual Police Awards Banquet in May; sponsored the 1<sup>st</sup> annual National Night Out event at Festival Park on August 1; started Grant Process of \$500 each to support Community Watch Groups
- Rental Inspection Program: Work in progress to develop policies and procedures necessary to register rental property to bring substandard rental property into compliance
- Badges for Baseball: Mentoring of youth through athletic programs
- Greater Fayetteville United: Attend meetings each month, members took a tour to view areas affected by the "Broken Windows" concept
- Community Forums: Patrol districts alternate months and meetings are held each month.

## CRIME PREVENTION

- Addition of two Crime Prevention Specialist positions (grant funded) for a total of six (three for each patrol district; Crime Prevention Specialists conduct residential and business security surveys, safety presentations, and work with Community Watch Groups
- G.R.E.A.T.: (Grant Resistance Education and Training) training completed at New Life Christian Academy; currently training at Berean Baptist Academy
- Operation ID: purchased 30 engravers for citizens to use to mark their property
- Property Manager Network: three new properties on board with this program

## Upcoming Activities:

- Lectures at educational/academic facilities
- Community Meetings
- Continued research on best practices

# Management Agenda - Top

## FAST Improvements

The Fayetteville Area System of Transit (F.A.S.T.) has a mission to provide safe, efficient, reliable, courteous, and innovative public transportation to the citizens of Fayetteville. To that end, the City hired a consultant to perform a Transportation Development Plan (TDP). The TDP addresses the public transportation systems in the City of Fayetteville needs now and in the future. The preliminary results/alternatives of this study were shared with the City management team and the City Council in May 2009. The final presentation to the City Council will follow a Public Hearing and the recommended alternatives. The Transit team will then prepare a plan of action that would take into account the approved recommendations from this plan.

The City Council has also pledged to get F.A.S.T to the state-wide funding level of other comparable NC cities within three years. Consistent with that goal and the findings in the TDP, the following actions are planned for this fiscal year:

- Replacement of the bus fleet continues – three new units (35') in July 2009, and four LTVs in June and August
- Five new hybrid electric buses will be ordered in the 1st Quarter of FY2010 via stimulus funding (arrival will be December 2010 – January 2011)
- Replacement of the ADA van fleet continues – four new LTVs in June and August 2009
- Evaluate the study results and present to the citizens via public hearings regarding future changes to the transit system
- Implement the approved alternatives to the F.A.S.T. system.

### **This target for action is linked to City goal #4: MORE EFFICIENT CITY GOVERNMENT- Cost effective service delivery**

- Objectives:
  - Investing in City's infrastructure, facilities and equipment
  - Greater accountability for performance & results
  - Services delivered in a cost-effective manner
  - Producing results following strategic plan and budget
  - High level of customer satisfaction
- Measure of success:
  - Implementation of TDP elements approved by City Council
  - Increased ridership from 989,000 to > 1,000,000 riders in FY10

Staff Liaison: Ron Macaluso

Email Address: rmacaluso@ci.fay.nc.us

Phone Number: 910-433-1011

Team Members: Transit Department staff and representatives from the Transportation Advisory Committee

<b>Action Plan</b>	<b>Estimated Completion</b>
TDP Council presentation and adoption	Sept 2009
Arrival of the last two LTV vehicles	Oct. 2009
Implement expansion of services: 3 route expansion & system extended hours	Nov. 2009
Transfer station replacement	Nov. 2009
Installation of new bus stop signs and route schedules	Dec 2009
Renovation of FAST offices on Grove Street	Mar. 2010

First Quarter Update:

- The Transportation Development Plan (TDP) was presented to Council and adopted in August 2009
- Vehicle Replacement plan is 50% complete – Eight 35’ HD Transit vehicles have been replaced as of July 2009
- The ARRA Stimulus grant was executed and funds encumbered for the 5 diesel-electric hybrid buses. Delivery is expected in early 2011
- Bus Blast II was held to introduce the new 25’ LTV units for the fixed route service and 20’ LTV
- Rebranded the Paratransit service – “FASTtrac”

Upcoming Activities:

- The extended hours and new route will be initiated early November 2009
- The Transfer Center building replacement is planned to happen during November 2009
- F.A.S.T. will install new bus stop signs and route schedule holders at each stop – target is to have completed by the end of December 2009
- The bids have been received for the renovation of the Transit Admin Staff portion of the 455 Grove St. facility. Work is expected to start in the October 2009 timeframe.

# Management Agenda - Top

## Community Report Card

The city continues to seek improvement in the delivery of services to its citizens. To that end, development of a community report card begins in FY 2009-2010. The community report card provides transparency, accountability, and measures results of fiscal resources. The intent behind the community report card is to evaluate city services and guide policy and management decisions in pursuit of the city's strategic goals.

The community report card consists of four components: strategic plan, citizen input, city department business plans, and standards of performance measurement. The City possesses a current strategic plan, which defines the vision and goals for our City. In FY 2009-2010, the city has allocated \$18,400 to conduct a citizen survey. The survey will seek to gain resident's feedback on delivery of city services and the goals defined in the strategic plan.

Other components that will be explored in developing a community report card could be multi-year in nature. They will require a significant change in organizational processes and are not included in the FY10 budget request. One such component is the development of department level business plans in support of the strategic plan. The business plans will infuse results based objectives into department operations and resources. Finally, the city will continue to pursue standards for performance measurement.

The North Carolina Local Government Performance Measurement Project at the UNC School of Government is an existing program that could accelerate the community report card process. The program assists cities in compiling numerous performance measures. The standardized data allows for comparison among peer cities in North Carolina. However, participation in this project carries a fiscal and human resource cost and it does not cover the entire spectrum of existing city services. Yet, it is the fastest and simplest performance measurement system to implement.

The Community Report Card target for action will provide the opportunity for staff to explore in detail all options and resources needed for implementation and to present a final report to Council on recommendations. Following adoption of the recommendations, an estimated initial publishing date for a community report card would be FY 2012.

### **This target for action is linked to the city goal #5: Greater Community Unity- Pride in Fayetteville**

- Objectives:
  - Increase trust and confidence in City government
  - Better inform citizenry about the City and City government
  - Increase community dialog on major issues
- Measure of success:
  - Present Council a recommended multiyear plan that shapes the four components of the community report card: strategic plan, citizen survey, departmental business plans and performance measures.

Staff Liaison: Doug Hewett

Email Address: dhewett@ci.fay.nc.us

Phone Number: 910-433-1978

Team Members: Management Analyst, Organization and Development Manager, Budget and Evaluation Manager

<b>Action Plan</b>	<b>Estimated Completion</b>
Research options for community report card	Sept 2009
Present findings to City Manager	Dec 2009
Present report to City Council and gauge interest in development	Jan 2010
Include program costs in FY11 budget request	Feb 2010

First Quarter Update:

- Citizen Survey was not included in the adopted budget
- Researched options and resources needed for the four elements of the community report card including innovating the strategic plan integration, developing performance measures, performing a citizen survey and developing and integrating departmental business plans
- Prepared and delivered presentation to the Assistant City Manager

Upcoming Activities:

- Team meeting to develop recommendations and present to City Manager
- Present a report to City Council to gauge interest and provide direction
- Develop a program budget for FY11

# Management Agenda - Top

## Community Watch Expansion

Community Watch is a philosophy and strategy that allows law enforcement and citizens to work together to solve crime and social problems associated with crime. The City is currently approximately 148 square miles (after Fort Bragg annexation) and there are many new neighborhoods being developed. Active Community Watch groups meet regularly to discuss crime and community needs. This target for action seeks to expand the number of new Community Watch groups as well as to revive the inactive groups.

We have learned in the past that as quickly as Community Watch groups are started, they falter. Sustainability is the key to keeping groups active. Crime problems start groups, but when crime problem goes away, so does participation. Information from the community flows to law enforcement which determines the method of patrol needed in the community. Continuous communication is the key to successful information to/from the Zone Officer and the Community Watch Coordinator. Zone Officers will contact Community Watch Coordinators on a regular basis.

**This target for action is linked to the city goal #5: Greater Community Unity- Pride in Fayetteville**

- Objectives:
  - Increase trust and confidence in City government
  - Better inform citizenry about the City and City government
  - Increase community dialog on major issues
  - Developing and maintaining collaborative working relationships
- Measure of success:
  - Sustainability for Community Watch Groups
  - Two-way Communication and Community participation: Increase in reports leading to arrest which are initiated by CW groups.
  - Increased Community Watch training, staff support and education

Staff Liaison: Tom Bergamine, Police Chief

Email Address: tbergamine@ci.fay.nc.us

Phone Number: 910-433-1819

Team Members: Cross Creek Patrol District Commander, Crime Prevention Specialists, Community Watch Groups



Action Plan	Estimated Completion
Active Community Watch List Evaluation	Sept 2009
Initiate and staff community meetings	Monthly
Public education campaign: Public Service Announcements, ensuring crime prevention presence at community events utilizing opportunities to educate public in CW groups and crime prevention, updating Police website	Continuous
Training for CW coordinators	Quarterly

First Quarter Update:

- Evaluated the CW list and found we had 108 active CW groups Sept 30, 2009
- During the quarter 8 groups activated including one in the B Street area. Crime prevention specialists have been contacting inactive groups to regenerate an interest
- Community meetings are being held monthly in an attempt to educate residents about crime trends in the community. Police Dept. initiates these meetings based on crime trends to solicit advice, suggestions and provide information to citizens. Meetings rotate between bureaus/patrol districts. This quarter they were centered in Ramsey St. area
- Public Service Announcements with crime trend information and safety tips are sent out to the public through Community Watch Leaders, newspapers, radio, TV and Police Web Site
- Continuing to provide crime prevention presence at community events such as National Night Out Kick off event where CW groups around the world celebrate crime prevention by turning on porch lights. We held the event at Festival Park with Police Band Roll'RZ, displays, info, & prize drawings and three Cease Fire Movie Nights where crime prevention provides information on starting a CW group
- Two new Crime Prevention Specialist positions (ARRA grant) are in training for a total of 6
- Several CW coordinators and members have been enrolling in the Citizen's Police Academy, Citizens on Patrol Academy, and the City Citizen's Academy.

Upcoming Activities:

- Continuing the efforts listed in the action plan
- Continuing to provide crime prevention presence at community events including:
  - October 2: Celebrate Safe Communities, in conjunction with Operation Ceasefire Movie Night. Hosting an "open house" display of all areas within the Police Department prior to the movie being shown
  - October 3: Supporting the Reclaiming Neighborhood Strategy/B Street Model - "Drug Free Streets Rally". The event will be held on the grounds of Praise Fellowship Church of God, 510 Adam Street with health screenings & substance abuse counseling
  - October 8: Community Awareness Series, part 2. Crime Prevention Specialists will participate in a series of educational opportunities for the community.
  - October 10: Fall Safety Day
  - October 30: Trunk or Treat.

# Management Agenda - Top

## Economic Development

Effective municipal economic development programs generally have at their core several elements. First, strong partnerships with the existing business community, state institutions and a non-governmental agency focused on the daily functions of traditional economic development activities. The purpose of a non-governmental agency as a partner is to enable confidential interaction with investors and businesses as they evaluate alternatives for their location and investment decisions.

Second, it is important to know your community along many dimensions and to be able to demonstrate in writing the attributes that investors and businesses consider before making investment decisions. These attributes range from infrastructure location and size to utility costs, and workforce availability and characteristics. Further issues of local educational, housing and cultural opportunities, the availability of land and buildings, financial resources and economic incentive programs and general demographics all are important factors. When successful, that results in a quality of life experience that promotes even further economic expansion.

The third major element of an effective municipal economic development program is a fiscally responsible municipal government with strong services, a policy climate that promotes a healthy sustainable balance between citizen, corporate citizen, and a local economy that is rooted in both the present and the future.

With these principles in mind, the city will contract with the Fayetteville/Cumberland County Chamber of Commerce for traditional economic development services. The contract is the tool by which we define our expectations for the traditional activities we need them to carry out on our behalf. In addition, we will work closely with them as they strive to expand existing businesses while targeting opportunities to bring new jobs, retail, and industry to Fayetteville. We will collaborate on evaluating policies and strategies for state, national and international marketing programs as well as opportunities to foster an environment of success for appropriate, balanced economic expansion.

### **This target for action is linked to City goal #2: GREATER TAX BASE DIVERSITY- Strong local economy**

- Objectives:
  - Retain and grow businesses including those associated with the military
  - Increased Industrial tax base; More jobs with higher wages
- Measure of success:
  - The expansion of our capacity to promote the City of Fayetteville and provide informational and support services to investors considering Fayetteville.
  - Drafting, adoption and implementation of new economic development tools to promote job creation and the types and location of investment deemed desirable by the community and depicted in the Vision 2030 Plan.
  - Identifying number, size, and qualitative characteristics of businesses choosing to locate or expand in Fayetteville.

Staff Liaison: Rob Anderson

Email Address: randerson@ci.fay.nc.us

Phone Number: 910-433-1701

Team Members: Chamber, Community Development Department

<b>Action Plan</b>	<b>Estimated Completion</b>
Chamber Contract execution	July 2009
Evaluation of current economic incentive programs	Jan 2010
Support economic development efforts of the Chamber	Continuous
Council Presentation: Recommendations for modifications to programs (refine the tools)	Feb 2010

First Quarter Update:

- Chamber contract has been executed and operations have begun
- The procedures, application process and contract format for implementation of the Economic Incentive program Property Tax Grantback have been established and are in place.
- Two development projects have been approved through the Property Tax Grantback program representing approximately \$40 million in investment in multi-family housing facilities.

Upcoming Activities:

- Develop recommendations for modifications to existing economic development policy and procedures.
- Develop recommendations for an economic incentive tool to attract at least one four star, full service hotel/conference/hospitality facility to Fayetteville.

# Management Agenda - High

## Reclaiming Neighborhoods Strategy

In September of 2008 an initiative was developed to improve working relationships between business owners, residents and various Departments of the City. The model was developed to form a holistic approach to be implemented to rehabilitate an area that has seriously declined. The goal of the project is: to increase citizen involvement, provide beautification opportunities, identify resources for the repair of owner occupied properties that are below minimum housing standards, and to support these efforts using a cross section of city resources in an attempt to bring this community together and increase overall wellness.

The B Street area was originally identified as an area between the boundaries of Grove Street and Person Street, and Eastern Blvd. to B Street. The area has been expanded to include Maloney Avenue, Lamon St. and Person Street from Eastern Blvd. to the hotel located on 333 Person Street where continuous illegal activity occurs. This entire area has been rampant with crime for over thirty years and is a classic case of “broken windows.” The police have responded over the years using reactive and proactive strategies. This response was a band-aid approach that only served to provide temporary relief through arrests and landlords evicting tenants.

The process for identifying an action plan developed through information exchanged and suggestions by all department representatives during monthly meetings. Each department identifies strategies the group could employ to increase success in this area and each month accomplishments are discussed and next steps are identified. After several B Street Workgroup meetings, additional meetings were scheduled with the business community, churches and residents. During these meetings the group described the initiative and what the team was hoping to accomplish. The B Street model is intended to be a flexible model that may be adjusted based upon community response. It is anticipated that this model could be used for other areas of the City by adopting specific actions that address conditions inherent to those specific areas. This model was developed in an effort to provide a long-term strategy to increase the likelihood of permanent improvement in the area. This target for action seeks to measure the long-term success of the initiative in the B street area as well as to identify reclaimable activities and extend them to other areas in the community.

### **This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live**

- Objectives:
  - Low crime rate and reputation as a safe community
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
  - Safe streets with vehicles traveling at the posted limits
- Measure of success:
  - Increased community governance and establishment of a formal active community watch group
  - Reduction in overall crime/violent crime/crime committed by youth offenders in the area
  - Observable beautification efforts of community through community assistance programs and stakeholder participation
  - Support for rental inspection program

- Increased collaboration of City departments in a holistic approach to neighborhood reclamation

Staff Liaison: Tom Bergamine, Police Chief

Email Address: tbergamine@ci.fay.nc.us

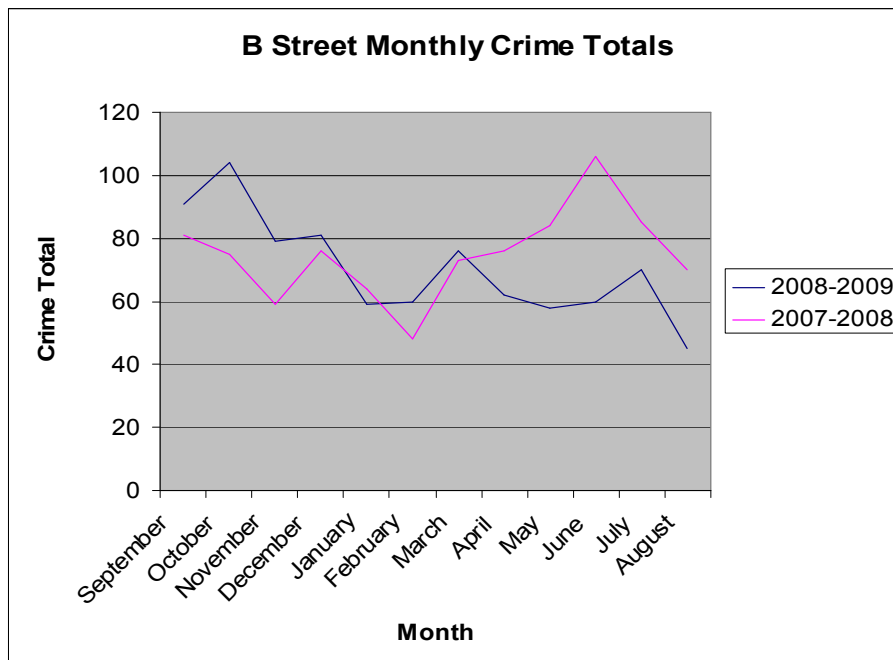
Phone Number: 910-433-1819

Team Members: Police, Inspections, Community Development, Solid Waste, Community Relations, Fire, PWC

Action Plan	Estimated Completion
Departmental workgroup meetings for stakeholder departments	Monthly
Identification of maintenance plan for B Street target area	Nov 2009
Identification of area and work group stakeholders for new focus area	Dec 2009
Development & implementation of action plan for new focus area	Feb 2010
Council presentation on strategy and applicable target area update	June 2010

First Quarter Update:

- Implemented area specific police strategy which increased presence and over time the community experienced a noticeable reduction in crime:



- Police Dept spear headed monthly departmental workgroup meetings for B street with high attendance and participation
- Community Watch Group established – Crime prevention specialists worked with Community Development Dept to lead this initiative. The CW meeting was sponsored by Fayetteville Emanuel Holiness Church on Minor Street. Approximately 21

residents/business owners attended. Pizza Palace provided complimentary spaghetti dinners for the group.

- Marked improvements in area beautification with respect to housing/vacant lots:  
Inspections: 2 demolitions; Community Development: Beautification and renovation



513 School St.  
Before/after photo

- Solid Waste hand delivered recycling booklet, which covers city ordinances concerning the collection of yard waste, household garbage, and bulky collection, provided residents trash bags, got residents involved in cleanup efforts, and promoted ownership of residential areas
- Parks and Recreation provided the workers and equipment for clearing the area overtaken by bamboo



604 Link St.  
Before/after photo

- Fire assisted with the trash cleanup in the area during Fayetteville Beautiful
- PWC conducted additional lighting assessments in the Person St. and Eastern Blvd areas and released work order in June 09 to install additional lights and completed the installation

#### Upcoming Activities:

- Workgroup identification of transition plan for maintenance of B Street
- Complete detailed report for B Street area reference successes/challenges
- Identify new focus area for strategy implementation
- Rental inspections program analysis support

# Management Agenda - High

## Police Staffing

Effective police recruiting and retention is a core fundamental objective for the success of any Police Department. Recruiting qualified applicants ensures that the department can effectively police the community it serves. It is very important that the City's Police Department attracts and retains qualified officers. Our agency is aggressively working to fill our current vacancies. We are expecting 20 plus in our academy starting on July 13, 2009.

**This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live**

- Objectives:
  - Low crime rate and reputation as a safe community
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
  - Safe streets with vehicles traveling at the posted limits
- Measure of success:
  - Attain and sustain full strength capacity
  - Increased effective recruitment strategies
  - Decrease turnover rate
  - Increase partnerships with BLET program

Staff Liaison: Tom Bergamine, Police Chief

Email Address: tbergamine@ci.fay.nc.us

Phone Number: 910-433-1819

Team Members: Support Service Division Commander, Human Resource Department

Action Plan	Estimated Completion
Continually evaluating police recruiting strategy to respond to the changing environment	Continuous
Develop new approaches for improvements in recruiting, hiring and training processes	Continuous
Monitoring the authorized positions and vacancy rate for effective response	Continuous

### First Quarter Update:

- Attained full strength staffing of sworn police officers during the month of August. This is a moving target and is adjusted daily
- At the end of the quarter we had approximately 380 authorized sworn positions with a vacancy rate of approximately 7% which includes the 17 additional positions from the ARRA grant award
- BLET class began in July with 24 students

- Partnering with FTCC for additional BLET class spaces
- Evaluating new radio ad campaign effectiveness. The radio ad campaign did not yield enough response to continue
- Testing new strategy termed, “Personal recruiting approach” in an effort to humanize the agency. Police recruiter makes multiple individual follow up contacts with potential applicants to engage in a personal relationship rather than simply requesting the applicant to submit inquiries. Recently, experienced an increase in the applicant pool.

Upcoming Activities:

- Continually evaluating Police recruiting strategy to respond to the changing environment
- Develop new approaches for improvements in recruiting, hiring and training processes.



## Management Agenda - High

### Non-Stop Air Service to Washington, D. C.

This target for action is to investigate and secure direct air service from Fayetteville/Fort Bragg to the DC area primarily for military use, but also to include the civilian market demand. BRAC RTF has agreed to co-sponsor this investigation with the Fayetteville Regional Airport. The work tasks include: selection of a national Aviation consultant with experience in data collection and analysis of point-to-point service.

A request for proposal was issued April 29, 2009 and responses are due May 29, 2009. Final selections are expected during the month of June. A timetable for completion of the study is part of the response process and will be coordinated upon selection. It is anticipated that this study will conclude near the mid-point of the 2009-2010 Strategic plan year. The study is anticipated to provide guidance and recommendations that will support direct air service from Fayetteville/Fort Bragg to the DC area as well as aiding in the development of negotiations for potential service providers.

**This target for action is linked to City goal #2: GREATER TAX BASE DIVERSITY- Strong local economy**

- Objectives:
  - Retain and grow businesses including those associated with the military
  - Increased Industrial tax base
  - More jobs with higher wages
- Measure of success:
  - Contract execution
  - Support, evaluate and report on the City's participation in RTF Comprehensive Regional Growth Plan

Staff Liaison: Bradley Whited

Email Address: bwhited@ci.fay.nc.us

Phone Number: 910-433-1160

Team Members: Assist. Airport Director, Deputy Director BRAC-RTF

Action Plan	Estimated Completion
Contract execution	July 2009
Completion of Air Service Market Study	Dec 2009
Alternatives study complete in May 2010 (general aviation alternatives)	May 2010
Support, evaluate and report on the City's participation in RTF Comprehensive Regional Growth Plan	Continuous

First Quarter Update:

- Executed contract for Air Service Market Study

- Funding for study: Total= \$50,000, \$25,000 from BRAC RTF, requested \$25,000 from NCDOT Aviation (approval pending)
- September 1, 2009 start date for Air Service Market study

Upcoming Activities:

- Response from NCDOT on funding request
- Completion of Air Service Market Study December 2009
- Alternative study complete in May 2010 (general aviation alternatives)

# Management Agenda - High

## Telling the City's Positive Story

The City continues to provide a communications network to its internal and external customers about the services it provides. The efforts will raise the levels of understanding about City government, how it works, impacts on the city residents, and how the Strategic Plan integrates all departments and their goals.

The partnership between the media, local civic and government organizations, PWC, advertising agencies and our committed, dedicated City employees brings a greater degree of visibility to the City. Continuation of the award-winning Kaleidoscope, Fayetteville Focus e-newsletter, employee newsletter, and excellent service delivery campaigns enhances our abilities to bring current and transparent news to the community. The redesigned web site delivers information to citizens as it happens.

Good-will events and exposure in the community also brings visibility to our excellent programs and services.

### **This target for action is linked to the city goal #5: Greater Community Unity- Pride in Fayetteville**

- Objectives:
  - Increase trust and confidence in City government
  - Better inform citizenry about the City and City government
  - Increase community dialog on major issues
  - Marketing City
- Measure of success:
  - Increased positive media exposure; positive responses from citizens

Staff Liaison: Doug Hewett

Email Address: dhewett@ci.fay.nc.us

Phone Number: 910-433-1978

Team Members: PIO, City Communications Team

<b>Action Plan</b>	<b>Estimated Completion</b>
Up & Coming City page development and launch newly designed website	Dec 2009
Revamp Communications Team and Radio show feasibility study	Jan 2010
Production of annual report and development of media training sessions for staff	June 2010

### First Quarter Update:

- Publicity on Transit improvements: Assisted with new web site, media conference on new vehicles for Para-transit, materials for rebranding Para-transit Division
- Recognized with 5 awards this calendar year:
  - NC3C - First Place - Employee Newsletter "Inside Track"
  - NC3C - First Place - Citizen E-Newsletter "Fayetteville Focus"
  - NC3C - First Place - Service Delivery "Fayetteville Recycles"

- NC3C - Second Place - 2008 Annual Report
- 3CMA - Third Place - Environmental Services booklet "Fayetteville Recycles and Other Environmental Services"
- Phase II of broadcast upgrades completed
- Developed and launched new City of Fayetteville Stimulus Website
- Launched new FAST website
- Increased media response to newsworthy items such as Linear Park, economic indicators, Sustainability Plan, Parks & Recreation partnership with Ft. Bragg for recreation for wounded soldiers & families, Transit improvements, upgrade in bond ratings
- Interviews of three departments on WFSS radio: Transit, Environmental Services and Traffic
- Citizens' Academy started second session
- City information table at Folk Festival.

Upcoming Activities:

- Launch of redesigned web site
- Revamp of Communications Team.

# Management Agenda - High

## Northwest Gateway Project

The Northwest Gateway Project is the convergence of three separate projects involving the City of Fayetteville Community Development Department, the Special Projects Director and the State Department of Transportation in conjunction with our City Traffic Engineer. The synergy that will spring from the three key activities that make up the Gateway project goes beyond their physical proximity. The trio of core actions is as follows:

The Community Development Department is working to fund and implement a significant redevelopment effort on Murchison Road from Fort Bragg to its terminus at Rowan Street on the edge of downtown Fayetteville. One targeted phase of this plan involves redevelopment of the land which will be northeast of the intersection of Bragg Boulevard and Rowan Street.

The City's Special Project Director is coordinating the design and development of the North Carolina Veterans' Park behind ASOM, along Cross Creek to the northwestern edge of the downtown area. A significant element of this effort is to extend Freedom Trail along Bragg Boulevard from Hay Street to Rowan.

The State Department of Transportation (DOT) is preparing to replace the Rowan Street Bridge which spans across a primary rail line. The replacement of this bridge calls for locating the span in a new location that will open up several acres for a second phase of Veterans' Park on the northeast side of Cross Creek. The city will take this opportunity to make improvements to automobile, pedestrian and bicycle facilities in this area.

The graphic included in this report depicts the juxtaposition of these activities. The balance between extraordinary park development on both sides of Bragg Blvd (including the Freedom Trail), major improvements to the transportation infrastructure and mixed use development is ideal to create a whole new experience entering the downtown from this Northwest Gateway location.

(Narrative update 9.30.09)

### **This target for action is linked to the city goal #6: Revitalize Downtown- A Community Focal Point**

- Objectives:
  - Adequate access to downtown
  - Develop world class NC Veteran's Park
  - More private investment in downtown
  - Make downtown a viable neighborhood with services available
  - Enhance utility services and upgrade quality of streets
  - Increase unity among factions and stakeholders
  
- Measure of success:
  - Continued staff support and collaboration of the three projects involving the City of Fayetteville Community Development Department, the Special Projects Director and the State Department of Transportation in conjunction with our City Traffic Engineer
  - Support for the redevelopment effort on Murchison Road
  - Coordinating the design and development of the North Carolina Veterans' Park and Freedom Trail
  - Rowan Street Bridge replacement

Staff Liaison: Rob Anderson

Email Address: randerson@ci.fay.nc.us

Phone Number: 910-433-1701

Team Members: Community Development, Special Projects Director and City Traffic Engineering



<b>Action Plan</b>	<b>Estimated Completion</b>
Community Development Department is working to fund and implement a significant redevelopment effort on Murchison Road	Continuous
City's Special Project Director: Coordinating the design & development of the NC Veterans' Park & Freedom Trail	Continuous
City Traffic Engineer staff support for replacement of Rowan Street Bridge	Continuous
Development Services (planning) for all three components	Continuous

First Quarter Update:

- The Special Projects Director issued a Request for Proposals for the old hotel redevelopment site on Bragg Boulevard across from the ASOM facility and the NC Veteran's Park site. The City only received one proposal which was later withdrawn due to the condition of financial markets.
- The Special Projects Director has coordinated an aggressive series of meetings for pre-development activities associated with the NC Veteran's Park. The Freedom Trail component will go to bid in the second quarter with construction to be completed by the end

of the fiscal year.

- The Community Development Department in conjunction with their redevelopment consultant made two presentations to the City Council to prioritize which actions to pursue in this fiscal year. The Council also provided concurrence on the exploration of funding sources to initiate implementation. This item can be followed through the Murchison Road Redevelopment target for action.
- The State Department of Transportation has determined that the new intersection to be formed by the relocation of the Rowan Street Bridge and improvements to Bragg Boulevard and Murchison Road will not be suitable for the roundabout the City originally envisioned. It will be designed as a traditional signalized intersection.

Upcoming Activities:

- Continued staff support and collaboration of three projects involving the City of Fayetteville Community Development Department, the Special Projects Director and the State Department of Transportation in conjunction with the City Traffic Engineer.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Rita Perry, City Clerk  
**DATE:** November 9, 2009  
**RE:** **City Clerk - Monthly Statement of Taxes for September 2009**

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**THE QUESTION:**

For information only.

**RELATIONSHIP TO STRATEGIC PLAN:**

Greater Tax Base Diversity - Strong Local Economy

**BACKGROUND:**

Attached is the report that has been furnished to the Mayor and City Council by the Cumberland County Tax Administrator for the month of September 2009

**ISSUES:**

N/A

**OPTIONS:**

N/A

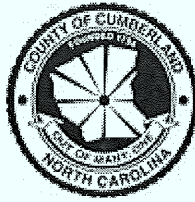
**RECOMMENDED ACTION:**

For information only

**ATTACHMENTS:**

Monthly Statement of Taxes for September 2009





OFFICE OF THE TAX ADMINISTRATOR

117 Dick Street, 5<sup>th</sup> Floor, New Courthouse • PO Box 449 • Fayetteville, North Carolina • 28302  
Phone: 910-678-7507 • Fax: 910-678-7582 • [www.co.cumberland.nc.us](http://www.co.cumberland.nc.us)

MEMORANDUM

TO: Fayetteville City Clerk

FROM: Aaron Donaldson, Tax Administrator *AD*

DATE: October 1, 2009

RE: MONTHLY STATEMENT OF TAXES

Attached hereto is the report that has been furnished to the Mayor and governing body of your municipality for the month of September, 2009. This report separates the distribution of real property and personal property from motor vehicle property taxes, and provides detail for the current and delinquent years.

Should you have any questions regarding this report, please contact me at 678-7587.

AD/sn  
Attachments

*Celebrating Our Past...Embracing Our Future*

*EASTOVER - FALCON - FAYETTEVILLE - GODWIN - HOPE MILLS - LINDEN - SPRING LAKE - STEDMAN - WADE*

1999-2009

DATE	REPORT #	REMITTED TO FINANCE	2009 CC	2009 VEHICLE	2009 REVIT	2009 VEHICLE REVIT	2009 FVT	2009 TRANSIT TAX	2009 STORM WATER	2009 FAY STORM WATER
09/01/09	2009-044	145,048.55	103,236.47	12,419.98	63.87	11.09	1,301.27	1,301.28	3,031.32	6,062.59
09/02/09	2009-045	229,028.42	177,399.49	9,830.25	3.26	4.49	1,080.00	1,080.00	7,325.52	14,651.01
09/03/09	2009-046	319,821.54	231,577.09	26,842.52	107.03	23.69	3,274.14	3,274.15	11,288.44	22,576.86
09/04/09	2009-047	136,032.43	93,644.24	11,561.46	128.73	9.14	1,385.00	1,385.00	4,013.82	8,027.59
09/07/09	2009-048	<b>HOLIDAY</b>	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
09/08/09	2009-049	440,126.49	302,261.12	44,405.68	227.38	18.39	4,916.94	4,916.94	16,763.21	33,526.33
09/09/09	2009-050	135,331.98	96,152.87	11,731.56	169.63	0.00	1,328.21	1,328.21	3,967.31	7,934.56
09/10/09	2009-051	180,932.46	133,739.58	17,580.97	986.51	17.74	1,920.00	1,920.00	4,286.13	8,572.21
09/11/09	2009-052	216,534.69	158,502.16	17,769.44	99.07	32.06	1,907.75	1,907.77	6,249.84	12,499.67
09/14/09	2009-053	303,325.61	214,115.96	25,466.99	830.34	35.46	2,625.00	2,625.00	13,335.56	26,671.10
09/15/09	2009-054	92,078.22	54,676.74	9,618.90	99.69	0.00	962.79	962.80	3,259.48	6,518.98
09/16/09	2009-055	122,304.97	87,679.58	13,545.77	168.75	0.00	1,481.24	1,481.23	2,686.58	5,373.11
09/17/09	2009-056	189,380.46	140,635.23	12,894.61	6,498.00	18.29	1,335.00	1,335.00	5,405.90	10,811.80
09/18/09	2009-057	135,389.94	92,942.01	14,698.34	102.73	0.00	1,391.65	1,391.66	4,029.84	8,059.67
09/21/09	2009-058	210,490.22	154,891.86	24,401.15	42.90	56.40	2,420.00	2,420.00	4,780.01	9,559.98
09/22/09	2009-059	40,103.45	22,965.54	6,092.40	378.71	31.42	585.00	585.00	757.78	1,515.57
09/23/09	2009-060	127,827.88	86,335.93	16,425.67	966.51	0.00	1,640.00	1,640.00	3,708.92	7,417.83
09/24/09	2009-061	137,964.40	96,956.02	11,962.97	232.36	0.00	1,354.93	1,354.93	4,760.50	9,521.02
09/25/09	2009-062	170,624.56	117,226.39	13,902.65	404.30	0.00	1,351.59	1,351.59	5,868.73	11,737.47
09/28/09	2009-063	173,825.90	109,539.08	30,496.55	158.66	0.00	2,901.79	2,901.79	3,681.86	7,363.70
09/29/09	2009-064	81,514.87	55,867.31	10,135.45	109.63	0.00	1,050.00	1,050.00	1,443.18	2,886.32
09/30/09	2009-065	179,174.66	119,720.12	20,813.08	24.07	0.00	2,090.33	2,090.33	5,392.08	10,784.13
<b>TOTALS</b>		3,766,861.70	2,650,064.79	362,596.39	11,802.13	258.17	38,302.63	38,302.68	116,036.01	232,071.50

TRUE

MACC: MONTHLY ACCOUNTING (TOTALS COLLECTED FOR MONTH)

FVT: FAYTTEVILLE VEHICLE TAX (\$5.00)

CC: INCLUDES REAL & PERSONAL, LATE LIST, & PUBLIC SERVICE

10-1-1-2

1999-2009

2009 RECYCLE FEE	2008 CC	2008 VEHICLE	2008 REVIT	2008 VEHICLE REVIT	2008 FVT	2008 TRANSIT TAX	2008 STORM WATER	2008 RECYCLE	2008 FAY STORM WATER	2008 ANNEX	2007 CC	2007 VEHICLE
6,027.13	2,235.94	6,008.87	0.00	12.91	748.19	665.14	66.51	106.76	61.01	0.00	35.14	446.38
6,933.45	1,687.45	4,614.00	0.00	0.00	528.50	460.00	105.39	212.41	121.38	0.00	396.44	303.44
11,616.71	2,448.49	3,555.16	0.00	0.00	485.00	440.00	69.87	118.56	67.75	0.00	26.34	260.88
5,756.38	747.46	6,027.61	0.00	0.00	730.00	660.00	129.97	323.62	119.59	0.00	35.56	152.30
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
13,943.37	2,639.69	5,797.72	0.00	0.00	839.77	764.79	134.96	181.28	103.59	0.00	69.38	(15.22)
5,455.63	1,044.90	4,120.61	0.00	0.00	495.86	475.85	46.10	19.51	11.16	0.00	126.50	132.09
6,048.69	929.31	3,169.16	0.00	0.00	370.52	345.64	73.59	111.98	63.99	0.00	12.66	97.69
7,593.15	938.51	5,537.52	0.00	0.00	740.52	655.52	29.07	22.53	12.87	0.00	65.33	378.96
7,300.98	1,499.23	5,480.63	125.38	0.00	683.30	608.31	77.83	20.42	59.67	0.00	156.84	192.73
6,521.73	1,474.15	4,359.23	0.00	0.00	580.30	540.31	71.66	46.27	26.44	4.91	11.95	194.51
4,865.25	951.22	2,603.67	0.00	0.00	360.00	335.00	16.68	58.36	33.35	0.00	13.95	(146.97)
3,620.71	920.32	3,685.19	0.00	0.00	497.85	432.86	96.00	84.00	48.00	0.00	3.86	166.88
4,021.15	870.94	5,369.89	0.00	7.76	576.99	526.98	53.08	143.81	82.18	0.00	0.00	102.96
5,788.67	406.58	3,733.65	16.26	2.78	494.51	424.51	12.00	0.00	0.00	0.00	1.92	105.66
2,019.65	493.22	2,624.74	0.00	0.00	350.60	335.60	36.00	84.00	48.00	0.00	0.00	107.09
3,612.89	278.18	3,791.31	0.00	0.00	452.99	422.98	26.15	0.00	0.00	0.00	3.76	161.60
4,320.95	515.66	3,852.25	0.00	73.78	450.00	420.00	36.00	42.00	24.00	0.00	31.82	154.87
2,244.33	6,818.41	5,418.04	0.00	0.00	630.00	575.00	468.00	126.00	816.00	0.00	0.00	77.52
5,085.20	1,150.21	7,188.00	0.00	0.00	865.10	810.09	47.55	124.42	47.10	0.00	0.00	287.78
2,785.50	319.15	2,837.03	0.00	0.00	374.97	339.97	75.41	0.00	24.00	0.00	282.37	262.92
6,791.18	463.35	7,491.13	0.00	0.00	886.16	806.16	76.41	32.95	27.41	41.16	25.28	152.91
<b>122,352.70</b>	<b>28,832.37</b>	<b>97,265.41</b>	<b>141.64</b>	<b>97.23</b>	<b>12,141.13</b>	<b>11,044.71</b>	<b>1,748.23</b>	<b>1,858.88</b>	<b>1,797.49</b>	<b>46.07</b>	<b>1,299.10</b>	<b>3,576.98</b>

10-1-1-3

FAYETTEVILLE MACC LEDGER  
1999-2009

2007 REVIT	2007 VEHICLE REVIT	2007 FVT	2007 STORM WATER	2007 FAY STORM WATER	2007 ANNEX	2006 CC	2006 VEHICLE	2006 REVIT	2006 VEHICLE REVIT	2006 FVT	2006 STORM WATER	2006 ANNEX	2005 CC & PRIOR
0.00	0.00	70.00	0.00	0.00	0.00	0.00	25.17	0.00	0.00	10.00	0.00	0.00	37.96
0.00	0.00	45.87	24.00	24.00	0.00	396.44	2.58	0.00	0.00	5.00	12.00	0.00	396.44
0.00	0.00	60.00	12.00	0.00	0.00	131.41	(6.42)	0.00	0.00	5.00	18.13	402.99	29.04
0.00	0.00	40.00	24.00	0.00	0.00	0.00	58.15	0.00	0.00	10.00	12.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	20.00	12.00	0.00	0.00	0.00	93.66	0.00	0.00	15.00	0.00	715.18	4,294.57
0.00	0.00	32.03	11.81	0.00	0.00	0.00	26.40	0.00	0.00	10.00	0.00	102.84	13.27
0.00	0.00	25.00	0.00	0.00	0.00	0.00	(9.19)	0.00	0.00	0.00	0.00	192.68	0.00
0.00	0.00	85.00	0.00	0.00	0.00	0.00	87.01	0.00	0.00	25.00	0.00	491.25	72.19
0.00	0.00	50.00	0.00	0.00	0.00	0.00	67.10	0.00	0.00	15.00	0.00	158.20	34.67
0.00	0.00	65.00	0.00	0.00	0.00	25.36	45.30	0.00	0.00	20.00	0.00	1,067.73	0.00
0.00	0.00	2.63	12.00	0.00	0.00	0.00	22.37	0.00	0.00	15.00	0.00	268.97	4.87
0.00	0.00	35.00	12.00	0.00	0.00	0.00	34.17	0.00	0.00	10.00	0.00	25.25	0.00
0.00	0.00	25.00	0.00	0.00	0.00	30.80	(16.56)	0.00	0.00	5.00	0.00	100.36	31.43
0.00	0.00	22.97	0.00	0.00	0.00	0.00	91.76	0.00	0.00	25.00	0.00	19.87	0.00
0.00	0.00	45.00	0.00	0.00	0.00	439.06	24.09	0.00	0.00	5.00	0.00	0.00	0.00
0.00	0.00	30.39	0.00	0.00	0.00	0.00	61.32	0.00	0.00	25.00	0.00	53.18	30.86
0.00	0.00	20.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,239.57	21.84
0.00	0.00	30.00	0.00	0.00	0.00	33.47	44.00	0.00	0.00	15.00	0.00	0.00	0.00
0.00	0.00	35.00	0.00	0.00	0.00	9.77	50.36	0.00	0.00	10.00	0.00	0.00	0.00
0.00	0.00	33.83	10.68	1.20	0.00	362.52	76.27	0.00	0.00	20.00	32.69	305.43	115.09
0.00	0.00	40.00	0.00	0.00	0.00	17.94	51.91	0.00	0.00	5.00	0.00	0.00	83.05
0.00	0.00	812.72	118.49	25.20	0.00	1,446.77	829.45	0.00	0.00	250.00	74.82	5,143.50	5,165.28

10-1-1-4

1999-2009

2005 VEHICLE & PRIOR	2005 REVIT & PRIOR	2005 VEHICLE REVIT & PRIOR	2005 FVT & PRIOR	2005 & PRIOR STORM WATER	INTEREST	REVIT INTEREST	STORM WATER INTEREST	FAY STORM WATER INTEREST	ANNEX INTEREST	FAY RECYCLE INTEREST	TOTAL TAX & INTEREST
72.99	0.00	0.00	17.17	0.00	957.57	0.99	4.11	3.90	0.00	6.84	145,048.55
194.81	0.00	0.00	30.00	12.00	1,105.27	0.00	18.34	11.64	0.00	13.55	229,028.42
248.67	0.00	0.00	40.00	0.00	795.37	0.00	10.08	3.94	11.75	6.90	319,821.54
55.14	0.00	0.00	25.00	48.00	840.98	0.00	41.04	11.20	0.00	29.45	136,032.43
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
44.31	0.00	0.00	5.00	0.00	3,308.14	0.00	14.06	7.89	87.54	13.82	440,126.49
13.85	0.00	0.00	10.00	0.00	565.77	0.00	3.31	0.50	0.77	0.87	135,331.98
(57.11)	0.00	0.00	0.00	0.00	516.25	0.20	5.21	4.22	1.44	7.39	180,932.46
31.55	0.00	0.00	5.00	0.00	693.38	0.68	1.96	0.00	99.93	0.00	216,534.69
153.19	0.00	0.00	30.00	0.00	879.11	10.07	6.30	4.03	6.90	0.31	303,325.61
77.24	0.00	0.00	40.00	0.00	648.03	0.00	5.83	3.88	142.20	6.81	92,078.22
47.75	0.00	0.00	5.00	0.00	377.08	0.00	3.19	2.08	33.62	3.64	122,304.97
71.87	0.00	0.00	25.00	0.00	593.48	0.00	9.60	3.88	63.93	6.78	189,380.46
69.36	0.00	0.00	20.00	0.00	717.88	0.85	5.02	7.57	8.33	13.26	135,389.94
160.54	0.00	0.00	30.00	0.00	576.93	1.71	1.01	0.00	1.59	0.00	210,490.22
94.51	0.00	0.00	30.00	2.27	436.64	0.63	3.31	4.59	0.00	8.03	40,103.45
124.72	0.00	0.00	38.03	0.00	575.41	0.00	1.86	0.00	2.39	0.00	127,827.88
4.44	0.00	0.00	0.00	0.00	398.57	2.58	2.91	1.94	205.11	3.38	137,964.40
190.44	0.00	0.00	40.00	0.00	1,142.36	0.00	37.65	65.42	0.00	10.20	170,624.56
94.46	0.00	0.00	43.56	0.00	910.13	0.00	4.79	5.65	0.00	13.30	173,825.90
165.17	0.00	0.00	33.49	0.00	496.42	0.00	10.43	2.89	4.16	1.39	81,514.87
58.85	0.00	0.00	20.00	0.00	1,178.35	0.00	6.39	0.88	3.29	0.76	179,174.66
1,916.75	0.00	0.00	487.25	62.27	17,713.12	17.71	196.40	146.10	672.95	146.68	3,766,861.70

10-1-1-5

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Rita Perry, City Clerk  
**DATE:** November 9, 2009  
**RE:** **City Clerk - Report for the City of Fayetteville Update Tax Levy for 2009-2010 Fiscal Year**

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**THE QUESTION:**

For information only.

**RELATIONSHIP TO STRATEGIC PLAN:**

Greater Tax Base Diversity - Strong Local Economy

**BACKGROUND:**

Attached is the updated tax levy report that has been furnished to the Mayor and City Council by the Cumberland County Tax Administration for the 2009-2010 fiscal year.

**ISSUES:**

None.

**OPTIONS:**

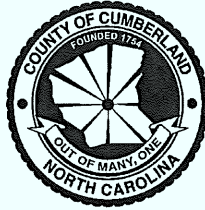
N/A

**RECOMMENDED ACTION:**

N/A

**ATTACHMENTS:**

City Clerk-Report for the City of Fayetteville Update Tax Levy for 2009-2010 Fiscal Year



OFFICE OF THE TAX ADMINISTRATOR

117 Dick Street, 5<sup>th</sup> Floor, New Courthouse • PO Box 449 • Fayetteville, North Carolina • 28302  
Phone: 910-678-7507 • Fax: 910-678-7582 • [www.co.cumberland.nc.us](http://www.co.cumberland.nc.us)

October 14, 2009

Mr. Anthony Chavonne  
Mayor of Fayetteville  
433 Hay Street  
Fayetteville, NC 28301

RE: City of Fayetteville  
Levy for 2009-2010 Fiscal Year

Dear Mr.Chavonne:

Please find attached an updated copy of the 2009-2010 levy for the City of Fayetteville. The Public Service levy was added October 10, 2009.

If you have any questions regarding this information, please call me at 678-7587.

Sincerely,

Sandra Napier  
Financial Tax Coordinator

cc: Dale Iman – City Manager  
Dena Dail – Finance Director  
City Clerk

Enclosure

*Celebrating Our Past...Embracing Our Future*

*EASTOVER - FALCON - FAYETTEVILLE - GODWIN - HOPE MILLS - LINDEN - SPRING LAKE - STEDMAN - WADE*



**CITY OF FAYETTEVILLE  
2009-2010  
TAX LEVY**

City of Fayetteville:	No. of Accts.	Real Value	Personal Value	***Exempt Value	Taxable Value
Real Property w/Personal	91,522	11,107,924,973	556,134,064	113,659,561	11,550,399,476
*Public Service	40	162,847,740	-	-	162,847,740
<b>Total:</b>	<b>91,562</b>	<b>11,270,772,713</b>	<b>556,134,064</b>	<b>113,659,561</b>	<b>11,713,247,216</b>
<b>Description:</b>					
		<b>Taxes</b>	<b>Late List</b>	<b>Total:</b>	
Real Property w/Personal		52,667,185.52	47,550.38	52,714,735.90	
*Public Service		742,585.67	49.86	742,635.53	
<b>Total:</b>		<b>53,409,771.19</b>	<b>47,600.24</b>	<b>53,457,371.43</b>	

Revitalization:	No. of Accts.	Real Value	Personal Value	***Exempt Value	Taxable Value
Real Property w/Personal	777	108,038,003	12,677,943	-	120,715,946
*Public Service	5	3,420,900	-	-	3,420,900
<b>Total:</b>	<b>782</b>	<b>111,458,903</b>	<b>12,677,943</b>	<b>-</b>	<b>124,136,846</b>
<b>Taxes</b>					
		<b>Taxes</b>	<b>Late List</b>	<b>Total:</b>	
Real Property w/Personal		120,716.26	199.15	120,915.41	
*Public Service		3,420.91	-	3,420.91	
<b>Total:</b>		<b>124,137.17</b>	<b>199.15</b>	<b>124,336.32</b>	

***EXEMPT:	
REAL	111,810,830
PERSONAL	1,848,731
<b>TOTAL:</b>	<b>113,659,561</b>

***EXEMPT:REVIT	
REAL	0
PERSONAL	0
<b>TOTAL:</b>	<b>0</b>

<b>Fayetteville Storm Water:</b>	<b>3,405,072.00</b>
<b>Fayetteville Recycling:</b>	<b>2,257,998.00</b>
<b>Storm Water:</b>	<b>1,702,140.00</b>

*\*10-14-09: Public Service added 10-10-09*



**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Nancy Peters, Accounts Payable Supervisor through Lisa Smith, Chief Finance Officer  
**DATE:** November 9, 2009  
**RE:** **Finance - Tax Refunds of Less Than \$100**

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**THE QUESTION:**

None

**RELATIONSHIP TO STRATEGIC PLAN:**

No relationship

**BACKGROUND:**

Approved by the Cumberland County Special Board of Equalization for the month of September, 2009.

**ISSUES:**

None

**OPTIONS:**

N/A

**RECOMMENDED ACTION:**

Information only. No action required.

**ATTACHMENTS:**

Finance-Tax Refunds of Less Than \$100



November 9, 2009

TO: Lisa Smith, Chief Financial Officer *LS*

FROM: Nancy Peters, Accounts Payable *NP*

RE: Tax Refunds of Less Than \$100

The tax refunds listed below for less than \$100 were approved by the Cumberland County Special Board of Equalization for the month of September, 2009.

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
Semenza, Rose Mary	4780491	2008	Corrected Assessment	11.04
<b>TOTAL</b>				<b>\$11.04</b>