

**FAYETTEVILLE CITY COUNCIL  
AGENDA  
REGULAR MEETING  
JULY 27, 2009  
7:00 P.M.**

**VISION STATEMENT**

**The City of Fayetteville  
is a GREAT PLACE TO LIVE with  
a choice of DESIRABLE NEIGHBORHOODS,  
LEISURE OPPORTUNITIES FOR ALL,  
and BEAUTY BY DESIGN.**

**Our City has a VIBRANT DOWNTOWN,  
the CAPE FEAR RIVER to ENJOY, and  
a STRONG LOCAL ECONOMY.**

**Our City is a PARTNERSHIP of CITIZENS  
with a DIVERSE CULTURE and RICH HERITAGE,  
creating a SUSTAINABLE COMMUNITY.**

**FAYETTEVILLE CITY COUNCIL  
AGENDA  
JULY 27, 2009  
7:00 P.M.  
CITY HALL COUNCIL CHAMBER**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**RECOGNITIONS AND ANNOUNCEMENTS**

**ITEM 1. APPROVAL OF AGENDA**

**ITEM 2. CONSENT:**

**A. Approve Minutes:**

- 1. City Council Meeting Held on May 26, 2009  
PAGE: 10**
- 2. City Council Work Session Meeting Held on June 1, 2009  
PAGE: 20**
- 3. City Council Special Budget Work Session Meeting Held  
On June 17, 2009  
PAGE: 26**

**B. Approve the rezoning from C1P commercial district & C3 commercial district to MU/CZ mixed-use conditional zoning district for property located between Bragg Boulevard and Legend Avenue. Containing 12.41 acres more or less and being the property of TSM Property Ventures. Case Number P09-16F**

The applicant wishes to redevelop the property with a mix of residential, office, retail, parking and storage. The site includes 302 apartment units and townhouses, 23,000 square feet of office and retail use, 18,000 square feet of storage and two parking decks. There are four buildings ranging in height from three stories to five stories. The Zoning Commission and the planning staff concur with the applicant's request for mixed use conditional zoning in accordance with their site plan.

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The page numbers on this outline refer to the agenda packet of complete information for each item. This complete packet is available to you at the City web page, [www.cityoffayetteville.org](http://www.cityoffayetteville.org)

- C. Approve the rezoning from R5 residential district & C3 commercial district to C3/CZ commercial district/conditional zoning district for property located at 705 Robeson Street. Containing 0.36 acres more or less and being the property of Reas Williams. Case Number P09-20F**

The applicant wishes to rezone a vacant parcel next to his auto repair shop currently zoned R5 and rezone his auto repair shop currently zoned C3 to C3 conditional zoning allowing the use of the vacant parcel to house the vehicles at the shop. In exchange for changing the vacant parcel from residential to commercial the applicant will fence the vacant property using opaque fencing, plant landscaping to conceal the fenced area, paint the existing auto repair shop building a neutral color and place the cars within the fenced area. The Zoning Commission and the planning staff concur with the applicant's request and site plan.

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- D. Approve the rezoning from R5A residential district to C1 commercial district or to a more restrictive zoning classification for property located at 1828 Murchison Road. Containing 0.18 acres more or less and being the property of R. Peyton Gibson, Trustee. Case Number P09-21F**

Applicant wishes to rezone an existing nonconforming use to C1 commercial district in order to use the business for retail uses. The Zoning Commission concurred with the applicant's request. Although the Murchison Road Land Use Map recommends residential uses for this property, staff believes that P2 professional zoning is a better fit. With commercial activity next to and in front of this property, residential use is not a viable use. As such, the planning staff recommended P2 professional district for the site.

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- E. Approve sign permit for the 18<sup>th</sup> annual UMOJA Festival scheduled for Saturday, August 22, 2009.**

Fourteen signs in various locations near the festival site will be placed beginning July 28<sup>th</sup> through August 24<sup>th</sup>. The sign ordinance provides temporary signage for festivals and special events. The City Council has approved past sign requests for this event.

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- F. Bid award for purchase of Miscellaneous Inventory Hardware Items**

The Public Works Commission requests Council award bid for purchase of miscellaneous inventory hardware items to HD Supply, Wake Forest, NC

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**G. Authorize Advertisement of an Offer to Purchase Vacant City-Owned Lot for Upset Bids**

The Public Works Commission of the City of Fayetteville has received an offer from John M. Hall, Jr., to purchase an unused city-owned lot located on Boone Trail and further identified as Tax PIN. 0416-92-6643. The offering price is \$10,800.

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**H. Authorize Advertisement of an Offer to Purchase Vacant City-Owned Lot for Upset Bids**

The Public Works Commission of the City of Fayetteville has received an offer from Dan V. Kinlaw to purchase an unused city-owned lot on Old Wilmington Road and further identified as Tax PIN 0436-86-0645. The offering price is \$15,143.

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**I. The following properties are found to contribute to blight in the neighborhood. After notice to the owners and their failure to repair or demolish the properties themselves, this action authorizes the City to demolish the property and place a lien against the property for the cost of that action. Staff has reviewed these properties and they are not listed on the National Register, not local landmark properties, or in the historic district.**

**1. 932 Fleetwood Dr (PIN 0437-01-1217)**

Buelah M. Wallace  
c/o Carolyn D. Wallace

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**2. 513 Link St (PIN 0437-93-8844)**

Glenn Faircloth (aka Tony/Tyrone Faircloth)

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**3. 312 Maloney Ave (PIN 0437-95-9719)**

Otis Davis Jr and Annie Margaret Davis

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**4. 321 Maloney Ave (PIN 0437-96-8113)**

Cathy Carter McGhee

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**5. 1017 Rochester Dr (PIN 0427-90-4892)**

Sandra Joyce Williams Finley McKnight

Heirs of James E. Johnson

c/o James E. Johnson, Jr.

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**J. Adopt Special Revenue Ordinance 2010-2 (Appropriation of Federal Forfeiture and Controlled Substance Tax Funds for Law Enforcement Purposes)**

This ordinance will appropriate \$162,288 in controlled substance tax revenues and federal forfeiture funds to increase resources for law enforcement purposes. The Fayetteville Police Department has requested that \$81,144 be used for the Training Center, \$40,572 be used for equipment, and \$40,572 be used for training.

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**K. Adopt Special Revenue Ordinance 2010-3 (FY2009 Byrne Justice Assistance Grant (JAG) Program)**

The Justice Assistance Grant (JAG), totaling \$1,043,441 was awarded to the Fayetteville Police Department and Cumberland County Sheriff's Office. This special revenue project ordinance will appropriate the City's share of \$708,976 to be used for twelve months of personnel and fringe benefits for 4 new positions, police travel and training, the purchase of four vehicles, equipment, supplies, materials, and phone costs. The Cumberland County Sheriff's Office will receive the remaining portion of \$334,465.

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**L. Ramsey Street Project**

**1. Municipal Agreement with NCDOT for Ramsey Street Project**

Council is being asked to approve a Municipal Agreement with NCDOT for the Ramsey Street Project which consists of constructing raised median islands with directional crossovers from Law Road to Andrews Road. The City is responsible for the acquisition of any additional R/W and relocation of any utilities.

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**2. Adopt Capital Project Ordinance 2010-9 (Ramsey Street Transportation Improvement Project)**

This ordinance will establish a \$150,000 budget for the Ramsey Street Transportation Improvement Project. The source of funds for this ordinance is a \$150,000 transfer from the General Fund. The project funds the City's commitments for the NCDOT municipal agreement to construct raised median islands on Ramsey Street that appears on this agenda.

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**M. Adopt a Resolution Abandoning a Utility Easement on Land as Evidenced in Plat Book 33, Page 28.**

A request has been received from Thomas Gooden, PLS, on behalf of Simon Temple AME Zion Church for assistance in abandoning a vacant utility easement. The ten (10') wide utility easement is shown to run along the northern and western property lines of Lots 213, 214, 215 and 216 as shown on plat identified as Section 10, The Ponderosa and recorded in Plat Book 33, Page 28, Cumberland County Register of Deeds.

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**N. Approve submission of an application to the State of North Carolina for Homeless Prevention and Rapid Re-housing Program Grant funds through the American Reinvestment and Recovery Act of 2009.**

The State of North Carolina has received \$18 million in Homeless Prevention and Rapid Re-housing Program (HPRP) funds through the American Reinvestment and Recovery Act of 2009 (ARRA).

The State is making these funds available to local units of governments and nonprofit agencies through a competitive application process. It is proposed that the City apply for \$1.5 million, which will cover a three year period. The City will utilize these funds in conjunction with its HPRP funds in the amount of \$589,648 in which it will receive through the ARRA. The purpose of the HPRP is to provide homeless prevention assistance to households who would otherwise become homeless and to provide assistance to rapidly re-house people who are experiencing homelessness.

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**O. Revisions to Parking Ordinances 16-327, 16-329 and 16-331**

Council is asked to consider revisions to the ordinances that pertain to downtown parking collection enforcement ordinances.

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**P. Consider Adopting a Policy Regarding Council Member Requests**

In 2007, City Council revised its practices regarding Council member requests. The attached policy revision formalizes Council's current practice regarding Council Member requests.

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**ITEM 3. PUBLIC HEARINGS:**

**A. Consider Closing Three Unopened Streets Within the Hope VI Area**

A petition was received from the Fayetteville Metropolitan Housing Authority for the closure of a portion of McKethan Street, a portion of Ross Street, and Lafayette Street. These streets are all unopened streets within the Hope VI area. A public hearing is scheduled to receive comments on the closure.

**PRESENTED BY:** Jeffrey Brown, Interim Engineering & Infrastructure Director

**RECOMMENDED ACTION:** Adopt resolution closing the streets listed above.

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**B. Consider Approval of a Resolution Requiring the Paving Without Petition of Certain Soil Streets**

Following the public hearing on the matter, Council is being asked to adopt a Resolution requiring the paving without petition of: **Drexel Road** from Temple Avenue to Pennsylvania Avenue; **Greensboro Street** from Jasper Street to McLamb Drive; **Wilma Street** from Roosevelt Street 930 feet to a cul-de-sac; **Salisbury Street** from Wilma Street 298 feet to a cul-de-sac; **Quillan Street** from Bragg Boulevard 794 feet to a turn around; **Morgan Lane** from Park Street to Claremont Avenue and from Claremont Avenue 330 feet to a dead end.

**PRESENTED BY:** Jeffrey Brown, Interim Engineering & Infrastructure Director

**RECOMMENDED ACTION:** Adopt resolution approving the paving without petition.

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**C. Consider an application by Pegasus Tower Company for a Special Use Permit to allow a 195 foot telecommunications tower in a R15 residential district for property located adjacent to 3085 Strickland Bridge Road. Containing 40.12 acres more or less and being the property of Joseph Gillis. Case Number P09-18F**

Applicant wishes to construct a telecommunication tower at this location standing 195 feet.

**PRESENTED BY:** Craig Harmon, Planner II

**RECOMMENDED ACTION:** Zoning Commission recommends approval of the request with conditions

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**ITEM 4. CONSIDER THE REZONING FROM R6 RESIDENTIAL DISTRICT TO C1 COMMERCIAL DISTRICT OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION FOR PROPERTY LOCATED AT 2215 MURCHISON ROAD. CONTAINING 0.16 ACRES MORE OR LESS AND BEING THE PROPERTY OF JOHN AND MABLE COUNCIL. CASE NUMBER P09-19F**

Applicant wishes to use the property for non-residential uses. Although the Murchison Road Land Use Map recommends residential uses for this property, it is the Zoning Commission and staff's opinion that P2 professional is a better fit. The P2 zoning allows residential uses and that is consistent with the Murchison Road Study, but with commercial on two sides and in front of this property it is highly unlikely anyone would develop the property residentially. For these reasons, the planning staff recommended P2 professional district. The applicant at the Zoning Commission meeting on June 9<sup>th</sup> concurred with the planning staff's recommendation for P2 professional zoning.

**PRESENTED BY:** Craig Harmon, Planner II

**RECOMMENDED ACTION:** Zoning Commission recommends approval for P2 professional district

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**ITEM 5. FY 2008-09 STRATEGIC PLAN 4<sup>th</sup> QUARTER REPORT**

Each quarter staff prepares an update on the City's Strategic Plan to share with the City Council and the community. The purpose of the update is both to inform and seek direction from the City Council on items of interest contained in the Strategic Plan. This update covers the 4<sup>th</sup> quarter of FY2008-09 and includes updates on the Policy and Management action agendas.

**PRESENTED BY:** Doug Hewett, Assistant City Manager

**RECOMMENDED ACTION:** Receive and file report

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**INFORMATION ITEM:**

- 1. Confirmation of City of Fayetteville Taxes for the 2008-2009 Fiscal Year and Tax Levy for 2008-2009 from Cumberland County Tax Administrator**  
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**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 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 non-public 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  
JULY 27, 2009 - 7:00 PM  
COMMUNITY CHANNEL 7**

**COUNCIL MEETING WILL BE RE-AIRED  
JULY 28, 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 the 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.*

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FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
CITY HALL COUNCIL CHAMBER  
MAY 26, 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) (arrived via telephone after Item 2); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager  
Jeffrey Powell, Assistant City Manager  
Doug Hewett, Assistant City Manager  
Karen M. McDonald, City Attorney  
Lisa Smith, Chief Financial Officer  
Rob Anderson, Chief Development Officer  
Ben Major, Fire/Emergency Management Assistant Chief  
Victor Sharpe, Community Development Director  
Bobby Teague, Engineering and Infrastructure Director  
Tracey Broyles, Budget and Evaluation Manager  
Jeffrey Brown, City Engineer  
Jimmy Teal, Planning Director  
Karen Hilton, Assistant Planning Director  
Craig Harmon, Planner II  
Craig Hampton, Special Project Director  
Members of the Press

## INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Pastor John Adderley, Covenant Love Family Church, followed by the Pledge of Allegiance to the American Flag.

## RECOGNITIONS AND ANNOUNCEMENTS

Council Member Applewhite announced she had spoken at an Honors Award Ceremony for students who carried straight As during high school at Cape Fear High School. She extended congratulations to the school for their commitment to excellence.

Council Member Evans announced an invitation had been extended to the citizens to attend a public open house on June 4, 2009, from 6:00 to 8:00 p.m. at the Airborne and Special Operations Museum regarding the proposed designs of the first phase of Veterans Park.

Mayor Chavonne announced this would be the last meeting of City Clerk Candice White and extended appreciation on behalf of the Council and entire staff members for all her hard work.

## 1. APPROVAL OF AGENDA

City Manager Dale Iman requested to add as Item 6 Consideration of Budget Ordinance Amendment 2009-10 and Capital Project Ordinance 2009-24, funding for the Transit Multi-Modal Center land purchases.

**MOTION:** Mayor Pro Tem Meredith moved to approve the agenda with the addition of Item 6, Consideration of Budget Ordinance Amendment 2009-10 and Capital Project Ordinance 2009-24 (Funding for Transit Multi-Modal Center Land Purchases).

**SECOND:** Council Member Massey

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

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ITEM 2, A. 1.

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## 2. CONSENT:

**MOTION:** Council Member Bates moved to approve the consent agenda.  
**SECOND:** Mayor Pro Tem Meredith  
**VOTE:** UNANIMOUS (9-0)

The following items were approved:

### A. Approve Minutes:

1. City Council work session held on May 4, 2009.
2. City Council dinner and discussion meeting held on May 11, 2009.
3. City Council budget work session held on May 13, 2009.

### B. Adopt Capital Project Ordinance Amendment 2009-21 (adjustment of state grant and local match for the FY 2001 Transit Capital Grant).

Transit received a budget revision from NCDOT, which reduced the state portion of the FY 2001 Capital Grant to \$105,631.00. The City was required to provide an additional local match of \$12,025.00 to make up the difference. The funding for this amendment was available from remaining General Fund transfers to the Transit Capital Project Fund in previous fiscal years. The overall project budget, which was established to purchase vehicles and equipment for Transit, would not change and all financial transactions associated with this project would be completed by the end of this fiscal year.

### C. Adopt Capital Project Ordinance Amendment 2009-22 (Freedom Memorial Park).

This amendment would appropriate additional contributions of \$10,000.00 from private donors for the development of the Freedom Memorial Park project. The funds would be used for landscaping, paver engraving, and plaque installation. If this amendment were approved, the revised budget for the project would be \$482,175.00.

### D. Adopt Capital Project Ordinance 2009-23 (Fire Training Tower).

This ordinance would appropriate the budget for the design and construction of a new fire training tower in the amount of \$500,000.00. The source of funds for this ordinance would be a \$400,000.00 grant from the State of North Carolina, through Fayetteville State University, and a \$100,000.00 transfer from the General Fund. The General Fund transfer was available from funds remaining from the project budget for Fire Station 15 on Buhmann Drive. This action would be consistent with the capital improvement plan adopted by City Council.

### E. Request to transfer property to Fayetteville Metropolitan Housing Authority for the Hope VI Revitalization Project.

RESOLUTION DECLARING PROPERTY EXCESS TO CITY'S NEEDS AND CONVEY TITLE IN THE PROPERTY TO FAYETTEVILLE METROPOLITAN HOUSING AUTHORITY. RESOLUTION NO. R2009-040.

### F. Approve acquisition of property located at 214 Grady Street and 319 Maloney Avenue through the Acquisition-Demolition Program administered by the Community Development Department.

### G. Consider request for reimbursement of legal fees.

### H. Approve the rezoning from C1P Commercial District to C1 Commercial District for property located at 5953 Yadkin Road.

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Containing 0.41 acres more or less and being the property of Song Y Kim. Case No. P09-12F.

- I. Approve the rezoning from AR Residential/Agricultural District to R10 Residential District for property located at the southeast corner of Clinton Road and Burlington Drive. Containing 4.225 acres more or less and being the property of Floyd Properties and Development Company, Inc. Case No. P09-15F.

- J. The following properties are found to contribute to blight in the neighborhood. After notice to the owners and their failure to repair or demolish the properties themselves, this action authorizes the City to demolish the property and place a lien against the property for the cost of that action. Staff has reviewed these properties and they are not listed on the National Register, not local landmark properties, or in the historic district.

1. 1912 Armstrong Street (PIN 0428-84-6652) (R & A Homes, Inc.; Delton Creech, Registered Agent)

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA, REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2009-008B.

2. 2721 Colgate Drive (PIN 0426-35-5165) (Manos R. Dutton)

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA, REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2009-009.

3. 711 Ellis Street (PIN 0437-23-4098) (William Edward Murphy, Jr.)

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA, REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2009-010.

4. 233 McIver Street (PIN 0437-33-0884) (Raymond L. Anders, Heirs; Robert S. and Wanda R. Hawes; Freeman Hawes; Heirs of Mary Joe; Mattie L. Edwards; Heirs of Lula Harris; Heirs of Ernest Cunion; Helen Cunion)

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA, REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2009-011.

5. 412 McIver Street (PIN 0437-22-5909) (Irvin Broadie, Jr., Life Estate Only; Steven I. Broadie)

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA, REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2009-012.

6. 604 Wilma Street (PIN 0438-08-4157) (Eula Mae Graham; Willie Donnell Dancy; Lemon Jefferson Dancy)

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA, REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE

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## DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2009-013.

Council Member Crisp arrived at the meeting via telephone.

### 3. PUBLIC HEARINGS:

#### A. Consider public input on the Fiscal Year 2009-2010 Recommended Budget.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:07 p.m.

Ms. Wendy Michener, 223 Hillside Avenue, Fayetteville, NC 28301, appeared in favor and requested that Council think of the City when making a decision on the tax rate. She stated there were citizens who understand we have to pay to have good people in government.

Mr. Roderick McKeithan, 137 John Street, Fayetteville, NC 28305, appeared in opposition and expressed concern for the pay disparity between public safety employees.

Mr. Wade Fowler, 2242 Jenna Shane Drive, Fayetteville, NC 28306, appeared in opposition and expressed concern to a tax rate increase.

Mr. Anthony Castulo, 1707 Powatan Street, Fayetteville, NC 28301, appeared in opposition. He complimented the City in looking at extending the hours, including adding Sunday, for bus transportation.

Mr. Mark Ledger, 430 Lionshead Road, Fayetteville, NC 28311, appeared in opposition and expressed concern to a tax rate increase but also stressed that Council should guard the items in the budget that were crucial to BRAC.

Mr. L. A. Barner, 337 Rhew Street, Fayetteville, NC 28303, appeared in opposition and expressed concern to a tax rate increase.

There being no one further to speak, the public hearing closed at 7:24 p.m.

#### B. Consider adoption of amendments to Articles I and II in Chapter 23, Stormwater Management, of the City of Fayetteville Code of Ordinances.

Mr. Jeffrey Brown, City Engineer, presented a powerpoint presentation and provided a brief background. He stated DENR had given approval to the County in November 2008 to pull out of the permit for the joint utility with the City and on March 16, 2009, County Commissioners voted unanimously to opt out of the current storm water ordinance. Mr. Brown then presented information on the ordinance to be adopted, the Stormwater Advisory Board, and the Stormwater logo.

This is the advertised public hearing set for this date and time. There being no one present to speak either in favor or opposition, the public hearing opened and closed at 7:27 p.m.

## AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLES I AND II OF CHAPTER 23, STORMWATER MANAGEMENT, OF THE CITY OF FAYETTEVILLE CODE OF ORDINANCES. ORDINANCE NO. S2009-004.

**MOTION:** Council Member Bates moved to adopt the ordinance amendment, the resolution setting rates, and the schedule of fines and civil penalties, all with an effective date of July 1, 2009.

**SECOND:** Council Member Crisp

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

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- C. Consider the rezoning from P2 Professional District and R10 Residential District to MU/CZ Mixed Use/Conditional Zoning District for office and retail uses on property located at 503 Owen Drive and 504 Terry Circle. Containing 0.60 acres more or less and being the property of George J. Demetri, Jr. Case No. P09-13F.

Mr. Craig Harmon, Planner II, presented this item and showed a vicinity map. He gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated the applicant wished to construct a building for a medical office and retail space to include a snack bar or grill. He explained Planning staff recommended denial of the request based on the 2010 Land Use Plan and surrounding zoning and the Zoning Commission recommended approval of the mixed use/conditional zoning as requested by the applicant.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:34 p.m.

Mr. Bob Bennett, 1828 Conover Drive, Fayetteville, NC 28304, appeared in favor and stated the rezoning would allow the applicant to remove the houses currently on the properties and build a two-story mixed-use building. He provided information on the adjoining properties and advised the residential lot abutting the rear of the properties had a two-story residential building.

Dr. George Demetri, 3102 Hyman Place, Fayetteville, NC 28303, appeared in favor and provided a brief history of his practice and an explanation for his rezoning request.

Mr. Jerry Guin, 517 Terry Circle, Fayetteville, NC 28304, appeared in favor and stated he lived around the corner from the property and commended Dr. Demetri for trying to develop the property which would create jobs.

There being no one further to speak, the public hearing closed at 7:45 p.m.

A question and answer period ensued regarding egress and ingress of the property, traffic lights, parking, and traffic in the area.

Council Member Applewhite expressed concern for the buffer area and hours of operation. Dr. Demetri responded the plan would include a 6-foot masonry wall in the buffer area and the building would close at 6:00 p.m.

**MOTION:** Council Member Crisp moved to approve the rezoning of the property to mixed-use/conditional zoning.

**SECOND:** Council Member Massey

Council Member Bates expressed concern regarding the egress and ingress of the property.

**FRIENDLY AMENDMENT:**

Council Member Applewhite made a friendly amendment that the masonry fencing must be installed and to limit the hours of operation for the eatery by closing at the same time the doctor practice closes.

Council Member Bates accepted the friendly amendment.

Dr. Demetri agreed to the masonry fencing but expressed concern in requiring an eatery to close at 5:00 p.m. and felt 8:00 p.m. would be more realistic.

Mr. Rob Anderson, Chief Development Officer, stated the building itself would screen the neighborhood from activity in the evening and

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traffic activity after 5:00 p.m. would be less than during the day. He stated in order for the facility to be successful, they would not want to lessen the ability to market the facility.

Council Members Bates and Massey accepted the portion of the friendly amendment requiring the masonry fence.

## RESTATED MOTION:

Approve the rezoning of the property to mixed-use/conditional zoning and require the masonry fencing as outlined.

Concerns were expressed for the buffering, the possibility of the applicant not operating a business in the building and other businesses operating at the location resulting in parking and traffic problems, and parking lot lighting.

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

D. Consider the rezoning from R10 Residential District to P2 Professional District on property located at 1800 Fargo Drive. Containing 0.56 acres more or less and being the property of Loretta Toad. Case No. P09-14F.

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. He explained the applicant wished to rezone the property to professional in order to utilize the property for office use. He stated the Planning staff recommended denial based on the surrounding zoning and the Zoning Commission recommended approval of the P2 Professional zoning as requested by the applicant. He explained P2 would allow for office use but also maintain residential uses.

Mayor Pro Tem Meredith inquired if a land use study could be done of the area. Mr. Rob Anderson, Chief Development Officer, responded he would like to take a closer look at the area and come back with a plan.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:28 p.m.

Mr. Thomas Neville, 3610 Linden Road, Linden, NC 28356, appeared in favor and provided information on the surrounding properties and informed the Council that a majority of the property owners in the area were in favor of the rezoning.

Mr. Mike Todd, 1800 Fargo Drive, Fayetteville, NC 28304, appeared in favor and stated most of the properties in the area were not residential.

Dr. Sylvester Ejeh, 4523 Weaverhall Drive, Fayetteville, NC 28314, appeared in favor and explained he was interested in the use of the property because it was close to the hospital, but only if it were zoned P2.

There being no one further to speak, the public hearing closed at 8:40 p.m.

Mayor Pro Tem Meredith inquired if the fee could be waived if a motion were made to proceed with the rezoning and request a study. Mr. Anderson responded he felt Council had the authority to waive the fee and that a zone change was warranted.

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Mayor Chavonne inquired how long the study would take. Mr. Anderson responded two months.

City Attorney Karen McDonald informed Council only two options had been discussed. She clarified a third option would be to delay any action and direct staff to do the study and then Council could take action once the study comes back.

**MOTION:** Mayor Pro Tem Meredith moved to defer the rezoning for 60 days and direct staff to do a land use plan for the area.  
**SECOND:** Council Member Haire

Council Member Applewhite reminded Council that the City Manager had previously informed Council there were studies needed all over the City and expressed concern of a study when other locations needed studies. City Manager Dale Iman responded he felt they should have a comprehensive approach to rezoning such as a comprehensive master plan, which would be a large and costly undertaking at this point. He stated the Unified Development Ordinance would go a long way in solving some of the problems but changing circumstances needed to be reviewed through studies as they occur.

**SUBSTITUTE MOTION:**  
Council Member Evans moved to rezone to P2.  
**SECOND:** Council Member Massey  
**VOTE:** PASSED by a vote of 6 in favor to 4 in opposition (Council Members Mohn, Chavonne, Meredith, and Crisp)

City Attorney Karen McDonald advised this item would have to come back for a second reading.

**E. Consider extending the corporate limits of the City of Fayetteville for a petition-initiated contiguous annexation for Longhill Pointe, LLC. (Located on the northwest corner of Ramsey Street and McCloskey Road.)**

Mr. Craig Harmon, Planner II, explained the annexation petition was submitted in order to receive PWC water and sewer service consistent with City Council Policy No. 150.2. He stated recommendation was for adoption of the annexation ordinance effective May 26, 2009.

This is the advertised public hearing set for this date and time. There being no one present to speak either in favor or opposition, the public hearing opened and closed at 9:00 p.m.

Council Member Bates expressed opposition to the annexation and inquired what would happen if they did not approve the annexation. Mr. Harmon responded the construction project had already been approved through Cumberland County so the units would be built whether annexed or not.

**AN ANNEXATION ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NC. ANNEXATION ORDINANCE NO. 2009-05-512.**

**MOTION:** Council Member Bates moved to approve the annexation ordinance with an effective date of May 26, 2009.  
**SECOND:** Council Member Crisp  
**VOTE:** UNANIMOUS (10-0)



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4. Consider the initial zoning to R5A Residential District or to a more restrictive zoning classification for property located on the northwest corner of Ramsey Street and McCloskey Road. Containing 18.30 acres more or less and annexed by the City of Fayetteville. Case No. P08-57F.

Mr. Craig Harmon, Planner II, explained the property currently was zoned R5A in the County and the City Council policy was to initially zone property in the City as it was previously zoned in the County.

**MOTION:** Council Member Bates moved to rezone to R5A Residential District.  
**SECOND:** Council Member Crisp  
**VOTE:** UNANIMOUS (10-0)

5. Consideration of an amendment of the Consolidated Plan 2008-2009 Annual Action Plan for the Community Development Block Grant Program funds through the American Recovery and Reinvestment Act of 2009.

Mr. Victor Sharpe, Community Development Director, presented this item. He presented a powerpoint presentation and stated the substantial amendment to the 2008-2009 One-Year Action Plan for the Community Development Block Grant (CDBG) funds were for recovery and the City would receive an allocation of \$385,584.00 through the American Reinvestment and Recovery Act of 2009. He stated the CDBG recovery funds would be used for projects that were eligible under the CDBG program requirements in which the objectives were to benefit low-to moderate-income persons to aid in the prevention or elimination of blight. Mr. Sharpe presented the following funding sources:

<u>Proposed Activity</u>	<u>Budget</u>	<u>Goal</u>
Demolition Program	\$100,000.00	35 units demolished
Residential Façade Grant Program	\$250,000.00	50 units rehabilitated
Administration	\$35,584.00	Program administration

**MOTION:** Council Member Haire moved to approve the amendment.  
**SECOND:** Mayor Pro Tem Meredith  
**VOTE:** PASSED by a vote of 9 in favor to 1 in opposition (Council Member Bates)

6. Consideration of Budget Ordinance Amendment 2009-10 and Capital Project Ordinance 2009-24 (Funding for Transit Multi-Modal Center land purchases).

Mr. Doug Hewett, Assistant City Manager, presented this item and stated the budget ordinance amendment and capital project ordinance in the amount of \$500,000.00 was for the purchase of land to be used for the Transit Multi-Modal Center. He stated in late 2008 the Council approved the proposed site for the Multi-Modal Center in a City block in downtown bordered by Franklin, Robeson, Russell, and Winslow Streets. He stated two of the seven parcels were in the process of being sold and staff was ready to conduct final negotiations.

**MOTION:** Mayor Pro Tem Meredith moved to approve Budget Ordinance Amendment 2009-10 and Capital Project Ordinance 2009-24 and authorize the City Manager or designee to conduct final negotiations and execute all documents necessary to conduct the purchase.  
**SECOND:** Council Member Crisp

Council Member Mohn inquired if they would have to go into condemnation to acquire the other properties. Mr. Hewett responded there was one property owner who may not want to sell at this time or in the future and condemnation could be a possibility. He also

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informed Council that staff is working diligently to bring about a meeting of the minds.

Council Member Mohn inquired if there would be any liability to the City as to the ground contamination. Mr. Craig Hampton, Special Project Manager, responded the sites were currently under a voluntary cleanup program which was expected to take a couple of years and that there would be no future liability for the cleanup against the City.

Council Member Haire inquired if the City would help the property owners relocate. Mr. Hewett responded in the affirmative.

City Attorney Karen McDonald informed Council that if imminent domain were utilized to acquire any of the properties, it would come back to Council for authorization. She also clarified that the action taken tonight would in no way begin any type of imminent domain process for acquisition of any other properties.

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

## INFORMATION ITEMS:

### 1. Statement of taxes collected for the month of April 2009 from the Cumberland County Tax Administrator.

2008 Taxes .....	\$355,989.83
2008 Vehicle Taxes .....	399,640.10
2008 Revit .....	2,501.60
2008 Vehicle Revit .....	247.25
2008 FVT .....	42,341.35
2008 Transit Tax .....	35,626.09
2008 Storm Water .....	17,356.56
2008 Fay Storm Water .....	21,035.98
2008 Recycle Fee .....	23,048.87
2008 Annex .....	29.15
2007 Taxes .....	4,802.43
2007 Vehicle Taxes .....	16,878.78
2007 Revit .....	0.00
2007 Vehicle Revit .....	0.00
2007 FVT .....	2,408.53
2007 Storm Water .....	296.09
2007 Fay Storm Water .....	216.44
2007 Annex .....	0.00
2006 Annex .....	3,144.76
2006 Taxes .....	1,850.94
2006 Vehicle Taxes .....	1,583.43
2006 Revit .....	0.00
2006 Vehicle Revit .....	0.00
2006 FVT .....	387.51
2006 Storm Water .....	76.18
2005 Taxes .....	713.35
2005 Vehicle Taxes .....	540.93
2005 Revit .....	0.00
2005 Vehicle Revit .....	0.00
2005 FVT .....	137.19
2005 Storm Water .....	71.16
2004 and Prior Taxes .....	492.37
2004 and Prior Vehicle Taxes .....	2,594.51
2004 and Prior Revit .....	0.00
2004 and Prior Vehicle Revit .....	0.00
2004 and Prior FVT .....	512.83
2004 and Prior Stormwater .....	66.19

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Interest ..... 28,494.00  
Interest (Revit) ..... 106.07  
Interest (Storm Water) ..... 848.74  
Interest (Fay Storm Water) ..... 920.71  
Interest (Annex) ..... 231.32  
Interest (Fay Recycling) ..... 974.05

Total Collections ..... \$966,165.29

2. Tax refunds less than \$100.00.

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Maggio, Yong M.	2007	Clerical Error	<u>\$99.88</u>
Total			<u>\$99.88</u>

There being no further business, the meeting adjourned at 9:25 p.m.

Respectfully submitted,

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JENNIFER K. PENFIELD  
Deputy City Clerk

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ANTHONY G. CHAVONNE  
Mayor

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FAYETTEVILLE CITY COUNCIL  
WORK SESSION MINUTES  
CITY HALL COUNCIL CHAMBER  
JUNE 1, 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); 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  
Doug Hewett, Assistant City Manager  
Karen M. McDonald, City Attorney  
Stanley Victrum, Chief Information Officer  
Lisa Smith, Chief Financial Officer  
Tracey Broyles, Budget and Evaluation Manager  
Rob Anderson, Chief Development Officer  
Jimmy Teal, Planning Director  
Jackie Tuckey, Communications Manager/Public Information Officer  
Wilson Lacy, Public Works Commission  
Terri Union, Public Works Commission  
Luis J. Olivera, Public Works Commission  
Steven K. Blanchard, PWC CEO/General Manager  
Eva Hansen, Partnership for Children  
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: Mayor Pro Tem Meredith moved to approve the agenda.  
SECOND: Council Member Bates  
VOTE: UNANIMOUS (10-0)

### 2. CLOSED SESSION

MOTION: Mayor Pro Tem Meredith moved to go into closed session for consultation with attorney.  
SECOND: Council Member Bates  
VOTE: UNANIMOUS (10-0)

The regular session recessed at 5:05 p.m.

MOTION: Council Member Applewhite moved to reconvene into open session.  
SECOND: Mayor Pro Tem Meredith  
VOTE: UNANIMOUS (10-0)

The regular session reconvened at 5:50 p.m.

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## 3. Distribution of gross receipts taxes agreement.

Mr. Steven Blanchard, PWC CEO/General Manager, presented this item and explained they were evaluating whether PWC should continue with a partial requirements power supply agreement or go to full requirement to be effective 2012. He stated PWC power was currently being bought from Progress Energy for which PWC pays a gross receipts tax and 95 percent of those taxes were being rebated back to the City. He stated that PWC presently buys partial requirements with the balance of the power generated by the Butler-Warner Generation Plant. He stated a full requirements agreement would result in PWC paying a substantial increase in gross receipts taxes with the bulk of the power being furnished by a single supplier. He stated the plant would operate under a separate agreement and be dispatched by the supplier not by PWC and the City of Fayetteville would still own, operate, and maintain the plant.

A question and answer period ensued regarding the power being generated from the plant with Mr. Blanchard explaining Progress Energy would pay a reservation charge to dispatch power from the plant when needed for the total system. He stated it would be Progress Energy's responsibility to provide for surges during hot days.

Mr. Blanchard stated they were also working on an agreement for Progress Energy to handle streetlights in the western part of the City. He provided information estimating the cost allocations that would occur under the new agreement and the taxes that would be paid.

Consensus of Council was to move this item forward to the June 8, 2009, City Council meeting.

## 4. Public safety CAD and RMS replacement project for FY09-10.

Mr. Stanley Victrum, Chief Information Officer, presented this item and stated it was recommended that Council pursuant to general statutes authorize a waiver of the normal procurement procedures of a sealed bid. He stated in the FY 2009-2010 Capital Improvement Plan (CIP), public safety CAD and police RMS hardware and software replacements had been approved by Council. He stated the current CAD and RMS applications were approximately ten years old and based on demands of a growing population, it was felt it was time to make a change. He stated the procurement software would provide the City an opportunity to allow tighter integration with the Fire Department's firehouse application, provide features and functions towards public safety service delivery improvements such as CAD mapping for better public safety unit tracking, AVL for closest unit dispatching, crime link analysis, and CAD-to-CAD transfer of EMS-related calls. He informed Council that having the same software as Cumberland County would also facilitate transfer of calls. He stated the purchase of this software was estimated at \$2.8 million, which would be consistent with the actual prices that were budgeted in the CIP. He stated there was also an opportunity for an additional \$50,000.00 discount if approved by June 10, 2009.

A question and answer period ensued regarding the availability of other compatible software with Mr. Victrum responding OSSI was the software provider and based upon research there was no one else other than OSSI to actually procure the software from.

Consensus of Council was to move this item forward to the June 8, 2009, City Council meeting.

## 5. Update on the proposed Airport Overlay District.

Council Member Crisp requested to recuse from discussion as he owned property in the overlay area.

Mr. Jimmy Teal, Planning Director, presented this item and showed a map of the proposed Airport Overlay District and surrounding areas.

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He stated Cumberland County and the Town of Hope Mills had adopted the Overlay District and had experienced no problems. He stated the Planning Commission held a public hearing and unanimously recommended approval. He stated they were recommending a public hearing be held on June 22, 2009, and informed Council there would be approximately 2,000 property owners notified of the public hearing.

Consensus of Council was to move forward with the public hearing on June 22, 2009.

## 6. Update on the 2030 Growth Vision Plan.

Mr. Jimmy Teal, Planning Director, presented this item and stated this was an effort to develop a Growth Vision Plan for the entire county. He stated Council had referred this item to the Planning Commission to review the Plan with the County Planning Board for possible changes. He stated the County had suggested changes and the City Planning Commission was recommending endorsement of the changes. He stated Council's options were to adopt the plan as originally submitted by the 2030 Growth Vision Plan Advisory Committee, adopt the plan as amended by the County, or make changes to the plan. He explained the Plan would be comprehensive and not require a public hearing but staff's recommendation was that a public hearing be held to allow public input since this would affect all the citizens. He further clarified that future ordinances adopted would be based on these guidelines.

Consensus of Council was to move forward with the public hearing on June 22, 2009.

## 7. Review of the proposed daycare ordinance.

Mr. Jimmy Teal, Planning Director, presented this item and explained a special use permit was required if someone wanted to use a structure for a daycare without someone living there and an incidental home occupation was a permitted use where you could have a daycare in your home provided guidelines were met. He stated currently the incidental home occupation daycare would not allow someone from outside the home to be an employee. He stated the group dealing with home occupation for daycares had expressed concern on how difficult this guideline was for them and were requesting that an amendment be made that would allow an employee not living at the home to operate and work at the daycare in addition to the person living at the home.

Council Member Applewhite inquired of the City Attorney if there was anything that would prohibit considering some type of monitoring on properties that had children there. City Attorney Karen McDonald introduced Eva Hansen, Partnership for Children for Children, who responded there was no problem with a city being more restrictive than the state guidelines in certain areas and would be glad to explore those. She stated the Partnership for Children was in support of the direction Council was going with the childcare centers and would like the opportunity to present suggestions before Council takes action.

Council Member Evans inquired if there was anything that would limit the number of daycares in a neighborhood. Mr. Teal responded in the negative but advised if Council desired this, it could be part of the provisions in the proposed ordinance.

Consensus of Council was to direct staff to draft an ordinance amendment to present to the Planning Commission for discussion and a public hearing and look into security cameras and limitation on daycares in neighborhoods.

## 8. Review of the proposed sign ordinance amendment.

Mr. Jimmy Teal, Planning Director, presented this item and provided background information. He presented a comparison of the proposed ordinance to the current ordinance as follows:

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	Proposed	Current
Pole Signs	Commercial and Industrial Zoning	Commercial, Industrial, and Professional Zoning
Maximum Height for Pole Sign	20 feet	25 feet
Maximum Copy Area for Pole Sign	81 square feet	150 square feet
Minimum Setback from Right-of-Way for Pole Sign	5 feet	5 feet
Maximum Height for Ground Sign	8 feet	8 feet
Maximum Copy Area for Ground Sign	64 square feet	150 square feet
Minimum Setback from Right-of-Way for Ground Sign	10 feet	10 feet
Maximum Copy Area for Wall Signs	1 square foot for each foot of building frontage; 1.5 square foot for each foot of building frontage for buildings with five tenants or more	1 square foot for each foot of building frontage
Billboards	Not allowed	Allowed in C3 and M2 zoning
Digital Signs	Limit the brightness and require a certain period of time before changing message	None
Maximum Copy Area for Political Signs	16 square feet	32 square feet
Maximum Height for Political Signs	5 feet	8 feet
Maximum Number of Political Signs per Parcel	1	No restrictions
Special Event Signs	Limit maximum to 10 for the area of the activity for only nonprofit events requiring a \$200.00 deposit	Unlimited
Amortization	Two-year amortization for all nonconforming signs under the current sign ordinance	None

Mr. Teal suggested providing the above comparison to the Planning Commission for review and discussion.

Council Member Bates expressed concerns regarding the limit on the number of political signs.

City Attorney Karen McDonald stated staff would research the permissibility of the proposed regulation as it pertains to political signs.

Consensus of Council was to move this item forward to the Planning Commission.

**9. FY 2009-10 Strategic Plan and narrative description adoption.**

Mr. Doug Hewett, Assistant City Manager, presented this item and provided an overview of the FY 2010 Strategic Plan, Policy Agenda, and Management Agenda. He explained that upon adoption by Council, the plan would become effective July 1, 2009, through June 30, 2010, with quarterly progress updates. He stated the Policy Agenda would cover items for which the City Council had significant policy decisions to make in order to advance those issues as follows:

**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

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## 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

Council Member Haire requested clarification as to top priority items. Mr. Hewett clarified the top priority items received the most votes from the City Council during the retreat.

Council Member Haire inquired if budget would be a consideration for top priority items. Mr. Hewett responded in the affirmative but also explained that budget would not need to be the main consideration because items could require multi-year commitment by Council.

Mr. Hewett responded to questions regarding items on the Policy Agenda and discussion ensued regarding removal of items. Mr. Hewett then proceeded to present the Management Agenda as follows:

## 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

Discussion ensued as to how the budget would impact the items with Mr. Hewett explaining that these items were directed to staff liaison to determine what levels of funding would be needed to accomplish the mission. He stated if funding were not available for an item, the narrative would change for that item but it would remain on the list as an interest. He informed Council that staff believed these items could be accomplished with existing resources.

Mr. Hewett stated they were requesting that Council adopt the Strategic Plan for FY 2009-2010 with staff providing quarterly updates to Council.

Consensus of Council was to move this item forward to the June 8, 2009, City Council meeting for adoption.

## 10. FY 2009-2010 budget wrap up.

City Manager Dale Iman presented this item and stated staff was requesting direction from Council on the Fiscal Year 2010 budget. He provided a brief history of the budget process, which included budget work sessions, public hearings, and the presentation of the budget. He stated staff had responded to more than 80 questions and the answers had been posted on the City web page for public review.

Mayor Chavonne provided an overview of the proposed budget which included suggested budget reductions of eliminating proposed salary increase; increasing budgeted vacancy rate to historic 4 percent; budgeting funding of 30 additional police officers (with future funding to 52 officers from Fund Balance); reducing street resurfacing to \$3.325 million; recognizing planned revenue from transit route



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enhancements; eliminating unidentified and miscellaneous expenses such as project consulting, economic development consulting, planning consulting, and Cumberland County Board of Elections costs; and delaying operating expenses such as citizens survey, Human Resources staff positions, and purchase of boom attachment.

Council members offered comments on the recommended budget and thanked Mr. Iman and staff for their work during the budget process.

**MOTION:** Mayor Chavonne moved to accept the budget as presented for staff consideration and bring back to the next City Council meeting for formal discussion and vote.  
**SECOND:** Council Member Meredith  
**VOTE:** PASSED by a vote of 8 in favor to 2 in opposition (Council Members Haire and Applewhite)

11. Council member requests:

A. Discussion of no parking signs.

Council Member Evans presented this item and stated it had been brought to his attention that in order for police officers to be able to ticket individuals in violation of no parking signs on streets, an ordinance would have to be adopted by Council for the streets the no parking signs were on. He expressed his desire for staff to find out if a blanket ordinance could be created to cover all no parking signs in the City instead of having to come before Council for each street.

Majority of Council expressed interest on this item.

There being no further business, the meeting adjourned.

Respectfully submitted,

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JENNIFER K. PENFIELD  
City Clerk

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ANTHONY G. CHAVONNE  
Mayor

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FAYETTEVILLE CITY COUNCIL  
SPECIAL BUDGET WORK SESSION MINUTES  
CITY HALL COUNCIL CHAMBER  
JUNE 17, 2009  
4:00 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  
Doug Hewett, Assistant City Manager  
Karen M. McDonald, City Attorney  
Patricia Bradley, Assistant City Attorney  
Lisa Smith, Chief Financial Officer  
Tracey Broyles, Budget and Evaluation Manager  
Benjamin Nichols, Fire Chief  
Ben Major, Fire/Emergency Management Assistant Chief  
Christina Morey, Fire/Emergency Management Assistant Chief  
Mike Hill, Battalion Commander  
Tom Bergamine, Chief of Police  
Fayetteville Police Department Staff  
Rob Anderson, Chief Development Officer  
Craig Hampton, Special Project Manager  
Terrie Hutaff, Human Resource Development Director  
Erica Hoggard, Human Resource Development Assistant Director  
Jackie Tuckey, Communications Manager/Public Information Officer  
Nathan Walls, Public Information Specialist  
Members of the Press

Mayor Chavonne called the meeting to order at 4:00 p.m. and led in the Pledge of Allegiance to the American Flag followed by the invocation being offered by Council Member Haire.

**Consider Fiscal Year 2009-2010 Budget.**

City Manager Dale Iman began by presenting information on the sales tax revenue adjustment and an update on the revenue-neutral tax rate. He then proceeded to review a power point presentation providing the following information:

**Sales Tax Revenue Adjustment**

- Original FY 2010 projection was \$33,492,325
  - 6 months of data through December 2008
  - Through December - statewide down 3%, local up 1.5%
- Current FY 2010 projection is \$32,375,771
  - 9 months of data through March 2009
  - June 15 distribution significantly impacted by deferred refunds to nonprofits
  - Through March - statewide down 8%, local down 5%

**Sales Tax Revenue Adjustment Budget Impact**

- Revenue Adjustments
  - Sales tax revenues (\$1,119,098)
  - Property tax revenue \$40,209

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ITEM 2.A.3.

- Expenditure Cuts
  - Sales tax reimbursements (\$216,165)
  - Street resurfacing (\$325,000)
  - Cap Police pay increase to 5% (\$154,224)
  - Maxwell Street streetscape (\$150,000)
  - Goodyear (\$100,000)
  - Police - various operating cuts (\$58,500)
  - BRAC (\$50,000)
  - Allocate portion of Downtown Manager to CBTD (\$25,000)

**Revenue-Neutral Tax Rate Update**

- Original projected neutral rate prepared in April.
- Actual personal property values now available.
- More complete information now available for motor vehicles, real property appeals, and exemptions.
- Revised neutral rate prepared as of June 17 based on latest date from the County Tax Office.

**Reappraisal and Property Tax Base**

Estimating the FY 2010 real property tax base:

	<u>Original</u>	<u>Current</u>
Original Real Property Notices	\$11,305,231,780	\$11,305,231,780
Est. Appeals Reduction	( 139,014,186)	( 226,438,579)
Existing Exemptions	( 118,734,801)	( 120,665,020)
Est. New Exemptions	( 156,480,974)	( 108,993,868)
<b>Total</b>	<b><u>\$10,891,001,819</u></b>	<b><u>\$10,849,134,313</u></b>

**Reappraisal and Property Tax Base**

Estimating the total FY 2010 tax base:

	<u>Original</u>	<u>Current</u>
Real Property	\$10,891,001,819	\$10,849,134,313
Personal Property	519,868,950	456,771,554
Motor Vehicles	1,097,787,249	1,042,936,876
Public Service Property	147,481,365	147,481,365
<b>Total Est. Taxable Property</b>	<b><u>\$12,656,139,383</u></b>	<b><u>\$12,496,324,108</u></b>

**Revenue-Neutral Tax Rate Analysis**

Est. FY 2009 taxable values	\$10,449,723,504
Est. FY 2009 levy at 53 cents	\$55,383,535
Plus 3.1% natural growth rate	\$57,100,424

	<u>Original</u>	<u>Current</u>
Est. FY 2010 taxable values	\$12,656,139,383	\$12,496,324,108
Revenue-neutral tax rate	45.1 cents	45.7 cents
Est. FY 2010 revenue-neutral levy	\$57,079,189	No Change

**Current Proposed Tax Rate**

Proposed Tax Rate	46.4 cents
Estimated FY 2010 Total Taxable Values	\$12,496,324,108
Estimated FY 2010 Levy	\$57,982,944
Estimated Additional Revenue Beyond Revenue-Neutral Rate (est. 97.35% collection rate)	\$851,563

**Current General Fund Budget Proposal**

- Proposed General Fund Budget is \$137,419,830
- Proposed tax rate - 46.4 cents per \$100 value
- Addressed sales tax reduction
- Added back 2% general employee performance pay

- Cut 3 police replacement vehicles to set aside operating funds needed if 21 additional grant positions are approved
- FY 2010 proposed budget is only 2.2% higher than FY 2009 original budget - Includes 51 additional police and fire positions an enhanced transit services

**Future Challenges and Issues**

- Uncertainty associated with recession
- Uncertainty associated with state budget
- Assume full funding for police and fire positions
- Fully implement pay for performance and achieve market competitive pay for all employees
- Adequately fund capital improvement needs
- Fund vehicle and technology replacements at proper levels

Mr. Iman and Ms. Lisa Smith, Chief Financial Officer, then proceeded to respond to questions from Council members regarding the sales tax revenue adjustments such as street resurfacing, the multi-modal center, and trains.

City Attorney Karen McDonald clarified there was a municipal agreement on the trains so the money would not be available. She also informed Council that there were options for four of the seven properties and that one was under contract.

Mr. Iman, Ms. Smith, and Ms. Tracey Broyles, Budget and Evaluation Manager, continued responding to questions regarding the sales tax revenue adjustment and reappraisal appeals.

Discussion then ensued regarding the tax rate and Mr. Iman informed Council that from information that was recently received 45.1 cents would not be revenue neutral and would not generate \$57 million in taxes. He stated that the proposed 46.4 cents tax rate would include the pay for performance raise and the current revenue-neutral tax rate is 45.7.

Several Council members expressed concern with raising the tax rate.

**MOTION:** Mayor Pro Tem Meredith moved to direct the City Manager to present a budget ordinance with a tax rate of 45.1 cents at the June 22, 2009, City Council meeting and to present any additional information for consideration in writing to Council by close of business June 19, 2009.

**SECOND:** Council Member Bates

**SUBSTITUTE MOTION:**

Council Member Applewhite moved to adopt the City Manager's recommendation of a proposed tax rate of 46.4 cents.

**SECOND:** Council Member Evans

Discussion ensued on the revenue neutral tax rate and the proposed tax rate.

**SUBSTITUTE MOTION VOTE:**

FAILED by a vote of 3 in favor (Council Members Applewhite, Evans, and Haire) to 7 in opposition

**FRIENDLY AMENDMENT TO ORIGINAL MOTION:**

Council Member Massey moved to revise the original motion from 45.1 cents to the revenue neutral rate of 45.7 cents.

The friendly amendment was not accepted.

ORIGINAL MOTION VOTE:

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

MOTION: Council Member Massey moved to direct the City Manager to bring back a budget reflecting the 45.7 cents revenue neutral tax rate.

SECOND: Council Member Haire

Discussion ensued on how the 45.7 tax rate would affect the City of Fayetteville with Mr. Iman informing Council they would have to reduce the present budget by \$851,000 which he felt could not include the pay raises for employees.

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

MOTION: Council Member Mohn moved to direct the City Manager to present a budget ordinance with a tax rate of 46.1 cents so they could try to get the employees a pay raise.

SECOND: Council Member Applewhite

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

MOTION: Council Member Bates moved to direct the City Manager to present a budget ordinance with a tax rate of 45.1 cents.

SECOND: Council Member Meredith

VOTE: PASSED by a vote of 6 in favor to 4 in opposition (Council Members Applewhite, Evans, Massey, and Mohn)

There being no further business, the meeting adjourned at 6:30 p.m.

Respectfully submitted,

---

KAREN M. MCDONALD  
City Attorney

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ANTHONY G. CHAVONNE  
Mayor

061709

# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of City Council

**From:** Craig M. Harmon, Planner II

**Date:** July 27, 2009

**Case No.** P09-16F

**THE QUESTION:** Rezone from C1P & C3 Commercial Districts to MU/CZ Mixed Use Conditional Zoning District to allow multi-family, retail & storage.

**RELATIONSHIP TO STRATEGIC PLAN:** Growth and Development

**BACKGROUND:**

Owner: Charles Manis / TSM Property Ventures LLC  
Applicant: Donald Edward, WE Architecture  
Council District: District 9 - Meredith  
Requested Action: Rezone from C1P & C3 to MU/CZ  
Existing Zoning: C1P & C3 Commercial Districts  
Status of Property: Choo Choo Homes and a Golf Driving Range.  
Size: +/- 12.41 acres  
Existing Land Use: Commercial  
Adjoining Land Use & Zoning: North – R5 Residential & C3 Commercial  
South – C1P Commercial  
East – C3 & C1P Commercial  
West – C3 & C1P Commercial  
2010 Land Use Plan: High Density Commercial  
Letters Mailed: 53

**SPECIAL INFORMATION:** This property is directly to the west across Bragg Blvd from a tract recently rezoned for a large apartment complex. The developer will be required to extend Blanton Dr. as part of this development.

This rezoning is subject to the attached site plan, elevation drawings and conditions offered by the developer.

**Public Utilities:**

Water: PWC  
Sanitary Sewer: PWC

**Transportation:**

Bragg Boulevard is a major thoroughfare. The average daily traffic count is 27,000 vehicles at the intersection with Swain Street and 25,000 vehicles at Sycamore Dairy Road. Legend Ave. has an average daily traffic count of 2,800 vehicles.

000030

ITEM 2. B.

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**OPTIONS:**

1. Rezone the property to MUCZ Mixed Use\Conditional Zoning in conformance with the site plan and any additions or changes accepted by the applicant subject to final revisions or development requirements established by the City and NCDOT;
2. Set a public hearing to consider other options.

**RECOMMENDATIONS:**

Zoning Commission & planning staff recommend approval of the rezoning:

1. Although the 2010 Land Use Plan recommends Heavy Commercial uses for this property, it is staff's opinion that a mix of High Density Residential & Retail is appropriate for this property;
2. Heavy Commercial borders this property and High Density Residential is in the surrounding area.
3. Rezoning to Mixed Use Conditional Zoning would be compatible with the surrounding uses and Zoning Districts;

**ATTACHMENTS:**

1. Application for Rezoning
2. Vicinity Map
3. Zoning Map
4. Current Land Use Map
5. Site Plan
6. Zoning Commission Minutes

APPLICATION FOR CONDITIONAL ZONING  
CITY OF FAYETTEVILLE

To the Zoning Commission and the City Council of the City of Fayetteville, North Carolina

I (We), the undersigned, do hereby respectfully make application and petition to the City Council to grant Conditional Zoning. In support of this application, the following facts are shown:

Location/Address of the Property: BETWEEN LEGEND AVE + BRAGG BLVD Zip \_\_\_\_\_  
Owner of the Property: TSM PROPERTY VENTURES LLC - CHARLES MAHIS  
Owner's Home Phone: 910-484-8999 Owner's Work Phone: 910-484-8999

A. Section and provision of the Zoning Ordinance from which the Conditional Zoning is requested:

*Deeds for all lots*  
B. The property sought for Conditional Zoning is owned by TSM PROPERTY VENTURES LLC as evidenced by deed, recorded in Deed Book 90, Page 153, Cumberland County Registry. (Attach a copy of (all) deed(s) as it appears in Registry.)

C. Tax Property Identification Number(s) (PIN#): 0418-54-2435

D. Acreage requested for Conditional Zoning: +/- 12.41 ACRES (27.67)

E. It is requested that the property be rezoned:

From: COMMERCIAL - C.1 P. & C3 To: MIXED USE CONDITIONAL ZONING

*6 additional site plans*  
F. It is proposed that the property will be put to the following use: (Describe proposed use/activity in detail to include hours of operation, screening, number of residential units or square footage of nonresidential uses, access points, phasing if applicable, parking and circulation pattern.)

300 APARTMENTS, 500 PARKING DECK, 26,000 SF RETAIL  
24,000 SF MINI STORAGE

*Architect*  
[Signature] DONALD M. EDWARDS  
Signature of Owner

520 COLLINS ALEXMAN DR. SUITE 104  
Address

CHARLOTTE NC 28262  
City State Zip Code

Home Phone: 704-519-5607

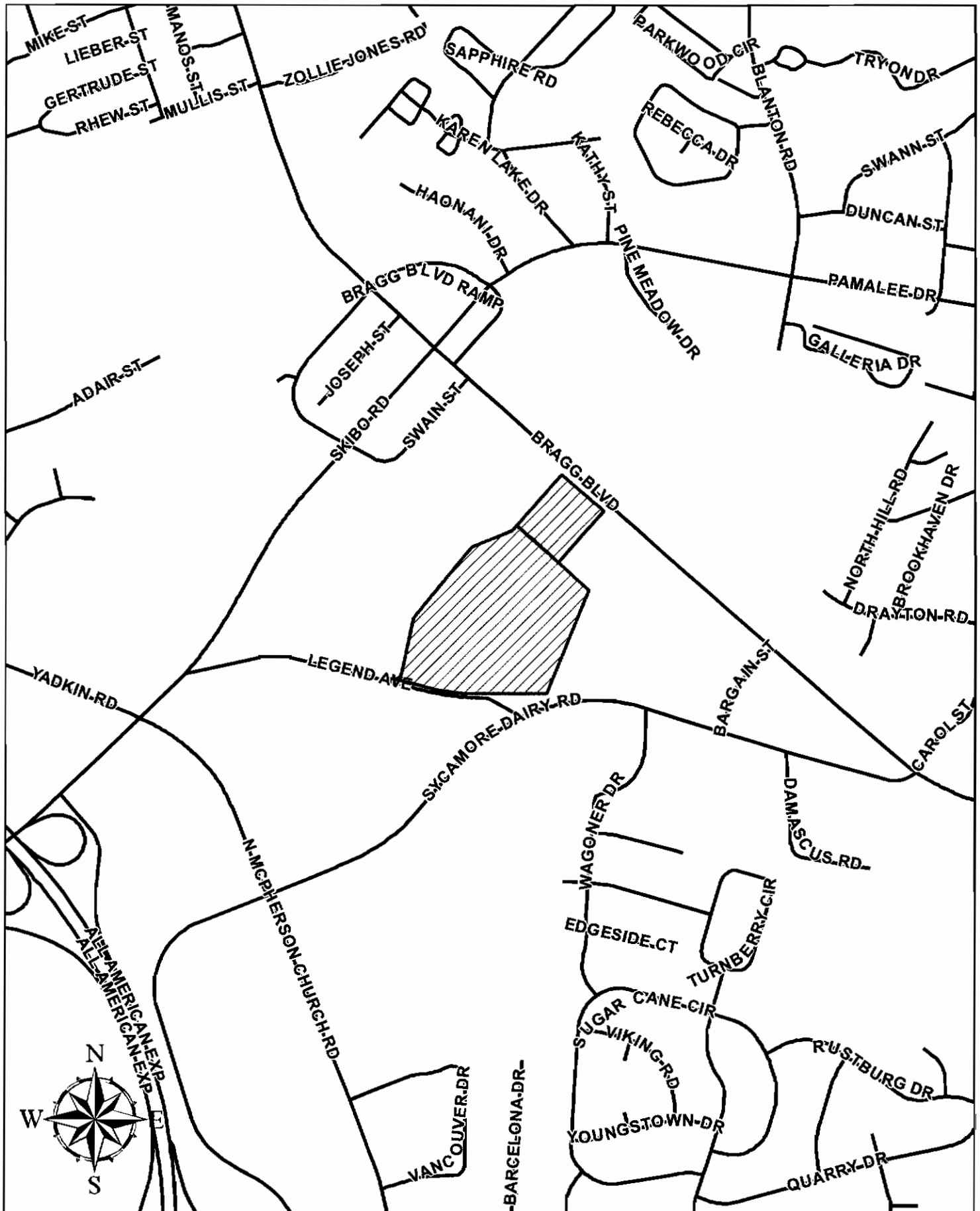
Work Phone: DON@WE-ARCH.COM

(for additional application forms: [www.cityoffayetteville.org](http://www.cityoffayetteville.org) then visit the Planning Dept. page)

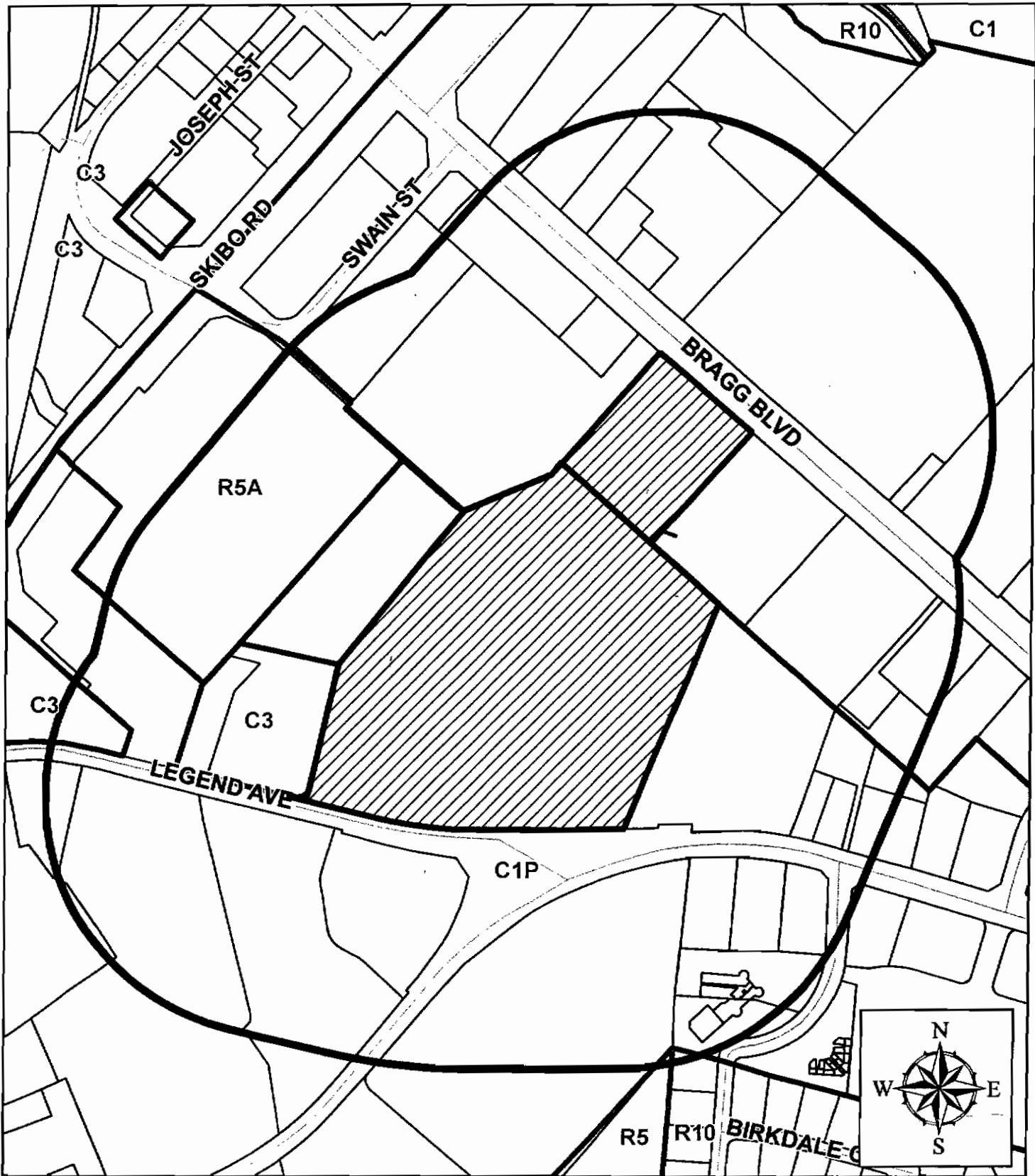


# Zoning Commission - Vicinity Map

Case No. P09-16F



ZONING COMMISSION  
CASE NO. P09-16F

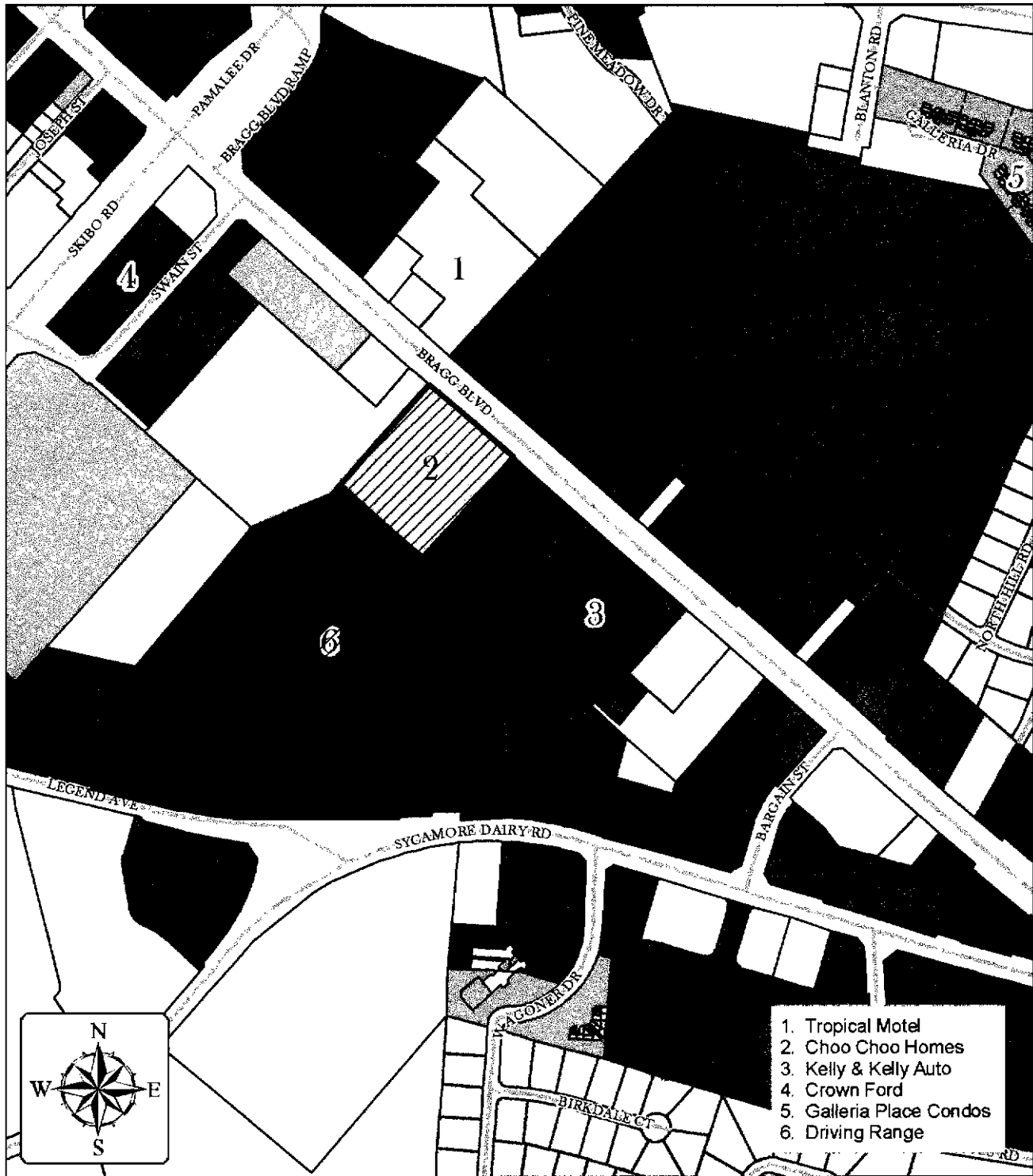


**Request:** C1P & C3 to MU-CZ  
**Location:** Between Legend Ave. & Bragg Blvd.  
**Acreage:** 12.41 +/- acres (of 27.67)

**Zoning Commission:** 6/9/2009    **Recommendation:** \_\_\_\_\_  
**City Council:** \_\_\_\_\_    **Final Action:** \_\_\_\_\_  
**Pin:** 0418-54-2435 & 0418-55-7140

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

Current Land Use  
P09-16F



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



**MINUTES  
CITY OF FAYETTEVILLE  
ZONING COMMISSION  
CITY COUNCIL CHAMBERS  
1ST FLOOR, CITY HALL  
JUNE 9, 2009- 7:00 P.M.**

**MEMBERS PRESENT**

Pete Paoni  
Richard West  
John Crawley

**MEMBERS ABSENT**

Jeannie Nelson  
Lockett Tally

**OTHERS PRESENT**

Jimmy Teal, Planning Director  
Craig Harmon, Planner  
Janet Smith, Asst. City Atty  
David Steinmetz, Inspections

The meeting was called to order at 7:02 p.m.

**I. APPROVAL OF AGENDA**

Mr. West made a motion to approve the agenda. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

**II. APPROVAL OF THE MINUTES FROM THE APRIL 14, 2009 MEETING**

Mr. West made a motion to approve the minutes from the April 14, 2009 meeting. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

**Mr. Paoni explained the Commission members job was to conduct public hearings, listening carefully to the testimony from both sides to make recommendations that would be forwarded to City Council for final action. Each side will be given fifteen (15) minutes, collectively, to speak and must be signed up prior to the meeting. Request for Special Use Permits is quasi-judicial and must be sworn it before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerks Office, located on the second floor of City Hall.**

**III. PUBLIC HEARINGS**

- A. Case No. P09-16F. The rezoning from C1P & C3 Commercial Districts to MU/CZ Mixed-Use Conditional Zoning District or to a more restrictive zoning classification for property located between Bragg Blvd and Legend Ave. Containing 12.41 acres more or less and being the property of TSM Property Ventures.**

Mr. Harmon gave an overview of the case. Mr. Harmon gave information about the surrounding land uses as well as the 2010 land use plan for the property. Mr. Harmon stated that 53 public hearing letters were mailed out to surrounding property owners. He stated there was plenty water and sewer available for the property. Mr. Harmon explained the site plan drawings to the Commission members. He asked if there were any questions.

Mr. West asked who would build Blanton Road. Mr. Harmon stated that the developer will participate on building the road.

Mr. Paoni opened the public hearing.

Mr. Donald Edward from WE Engineering spoke in favor of the project representing the property owner and developer. Mr. Edward provided an overview of the project. Mr. Edward and Mr. Harmon reviewed the front elevation of the storage building facing Bragg Boulevard. The frontage will have windows. Mr. Edward explained how the mini storage facility would be accessible in addition to the townhomes. He stated that the owner is going to keep the project "a very high end project" by using a lot of landscaping and fountains. Mr. Paoni asked if the project is across from Bragg Boulevard from the project recently rezoned by the City. Mr. Edward answered yes. He stated that everything would be rental and that the monthly residential rent would range between \$700 and \$1600.00 per tenant. Mr. Edward explained the material that would be use, stating that it would be concrete, steel and wood.

There was no one to speak in opposition of the project.

The public hearing was closed.

Mr. Harmon stated that staff recommendation for the project was approval of the Mixed Use/Conditional Zoning district. A mixed use of commercial and residential uses is appropriate for the area. He stated that the property was in a newly created incentive zone for development and redevelopment along Bragg Blvd and should be left as transition property in between with heavy commercial currently present in the area.

Mr. Harmon stated that with the conditional zoning you can ask for conditions of the developers and Mr. Harmon listed the following possibilities:

- 1) Extension of Blanton Road
- 2) Building must be built of brick, stucco, and stone.
- 3) Use of shielded lighting
- 4) The layout is conditioned to site plan submitted tonight
- 5) Monument signs as shown on the site plans.

Mr. Paoni asked about security of the property. Mr. Harmon stated that there is a drive that is gated which would serve as the only access to the storage facilities.

Mr. West addressed his concerned about Blanton Road. Mr. Harmon stated the proposal for Blanton Road is to stretch from Bragg Boulevard to Sycamore Dairy Road. It will cross Bragg Boulevard to serve the project recently rezoned by the City.

Mr. West asked how many people will be living in the development. Mr. Edward answered approximately 500 people.

Mr. Paoni asked if there were any questions for Mr. Harmon. There were none.

Mr. West made a motion to approve the request with the following conditions:

- 1) Developers agree to build of Blanton Road Extension from Sycamore Dairy Road to Bragg Blvd.
- 2) Use of shielded lighting
- 3) Monument signs as shown on site
- 4) Building must be build of brick, stucco and stone

Mr. Edward stated that the owner is acceptable to all the conditions.

The motion was seconded by Mr. Crawley. A vote was taken and passed unanimously.

Mr. Teal stated that unless the recommendation is appealed the case will go before City Council on July 27, 2009 as a consent item. He stated that if it is appealed with go as a public hearing.

# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of City Council

**From:** Craig Harmon, Planner II

**Date:** July 27, 2009

**Case No.** P09-20F

**THE QUESTION:** Rezone From C3 Commercial & R5 Residential District to C3 Commercial\Conditional Zoning

**RELATIONSHIP TO STRATEGIC PLAN:** Growth and Development

**BACKGROUND:** Existing auto repair business wanting to expand operation.

**Owners:** Reas Williams  
**Requested Action:** Rezone to C3 Commercial\Conditional Zoning  
**Council District:** District 2 - Evans  
**Existing Zoning:** C3 & R5  
**Status of Property:** Conforming  
**Size:** .36 acres  
**Existing Land Use:** Auto Repair Shop & Vacant Property  
**Adjoining Land Use & Zoning:** North – Undeveloped Property, zoned M2  
South – Residential Developed Property, zoned R5  
East – Undeveloped Property, zoned R5  
West – Commercial Property, zoned C3  
Open Space  
**2010 Land Use Plan:** 35  
**Letters Mailed:**

**SPECIAL INFORMATION:** The applicant applied for rezoning of a vacant parcel zoned R5 residential to C3 in order to use the property for his auto repair business. The Zoning Commission tabled the action in order for the applicant to return with a conditional zoning application to include the vacant R5 property and the existing C3 property where his business is located.

**Public Utilities:**

**Water:** PWC  
**Sanitary Sewer:** PWC

**Transportation:**

This site is accessed by Robeson Street, which is a major thoroughfare. The average daily traffic count along this portion of Robeson Street is 30,000 vehicles at this location.

000039

**OPTIONS:**

1. Rezone the properties to C3 Commercial\Conditional Zoning as requested by the applicant  
(SEE ATTACHED LETTER & SITE PLAN);
2. Set a public hearing to consider other options.

**RECOMMENDATIONS:**

Zoning Commission & planning staff recommend approval of the C3 Commercial Zoning\Conditional Zoning as requested by the applicant based on the following:

1. The auto repair shop is located on C3 commercial property which permits auto repair shops;
2. The vacant R5 residential lot under consideration for rezoning would be used for vehicle storage in association with the auto repair shop;
3. The conditions submitted by the applicant include landscaping, fencing, the painting of the existing auto repair shop and limitation of signage.

Staff believes there are two viable options for this situation. One, approve the conditional rezoning requested by the applicant in order to expand his business with the improvements noted. The second option is to deny the request and initiate a rezoning of the C3 property to a less intensive use. A rezoning to a less intensive use would make the business non-conforming. The owner could continue to use the building for auto repair as a non-conforming use, but should it be damaged beyond 50% or close for one-year or more then the auto repair shop could not re-open at that location.

Given the two situations, the Zoning Commission and staff believe the first option to approve the conditional zoning with the improvements offered by the applicant presents the best outcome for the property owner and the City.

**ATTACHMENTS:**

1. Vicinity Map
2. Zoning Map
3. Current Land Use Map
4. Application
5. Site Plan
6. List of Conditions Offered by the Applicant
7. Zoning Commission Minutes



**APPLICATION FOR CONDITIONAL ZONING  
CITY OF FAYETTEVILLE**

To the Zoning Commission and the City Council of the City of Fayetteville, North Carolina

I (We), the undersigned, do hereby respectfully make application and petition to the City Council to grant Conditional Zoning. In support of this application, the following facts are shown:

Location/Address of the Property: 705 Robeson Street, Fayetteville Zip 28305

Owner of the Property: Reas Williams

Owner's Home Phone: 910-456-0210 Owner's Work Phone: 910-486-0210

A. Section and provision of the Zoning Ordinance from which the Conditional Zoning is requested:

Section 30-129

B. The property sought for Conditional Zoning is owned by Reas Williams as evidenced by deed, recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, Cumberland County Registry. (Attach a copy of (all) deed(s) as it appears in Registry.)

C. Tax Property Identification Number(s) (PIN#): 0437-10-6546 + 0437-10-6599

D. Acreage requested for Conditional Zoning: \_\_\_\_\_

E. It is requested that the property be rezoned:

From: C3 + R5 To: C3 Conditional Zoning

F. It is proposed that the property will be put to the following use: (Describe proposed use/activity in detail to include hours of operation, screening, number of residential units or square footage of nonresidential uses, access points, phasing if applicable, parking and circulation pattern. )

See Attached

Reas Williams  
Signature of Owner

705 Robeson Street

Address  
Fayetteville NC 28305

City State Zip Code

Home Phone: 910-456-0210

Work Phone: 910-486-0210

(for additional application forms: [www.cityoffayetteville.org](http://www.cityoffayetteville.org) then visit the Planning Dept. page)


April 23, 2009

Dear Fayetteville Zoning Commission:

I, Reas Williams, propose the following conditions regarding my application for C3 commercial zoning\conditional zoning for the properties located at 705 Robeson Street:

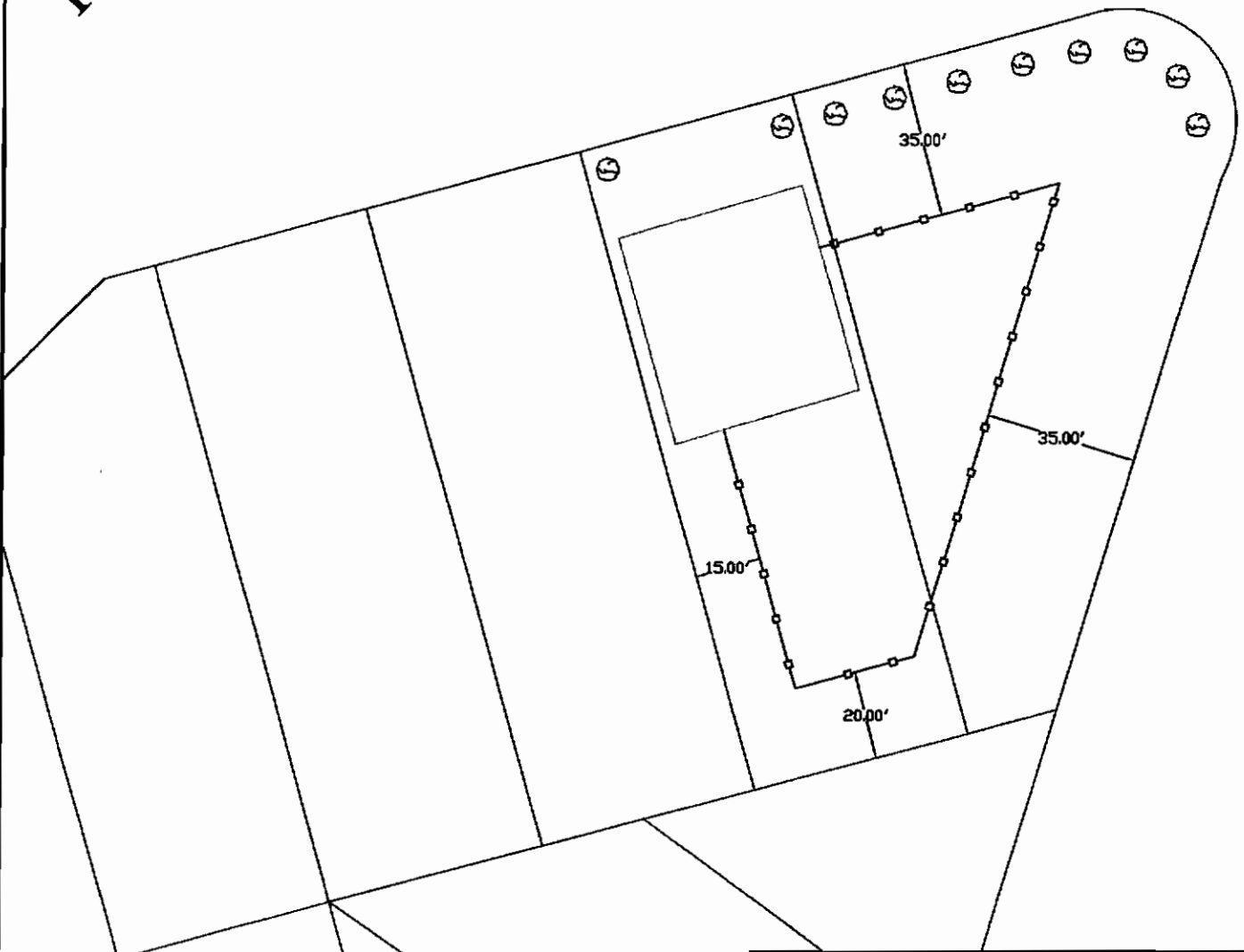
1. The use is restricted to a automotive repair shop;
2. I will recombine parcels 0437-10-6546 and 0437-10-6599 into one lot;
3. I will install a six-foot opaque fence on the property as shown on the site plan. The fence shall be 35 feet from Cook Street and Butler Street right-of-way lines, 20 feet from the rear property line and 15 feet from the side property line on the west side of the property;
4. I will plant vegetation measuring three feet in height when initially planted along the front of the property abutting Cook Street to screen the body shop with the exception of the access points into the property;
5. Parking in the front area of the building shall be restricted to customer parking only;
6. All vehicles being held overnight or being repaired shall be contained within the existing building or within the fenced in area. No storage of cars or work on cars shall occur outside the building or the fenced in area with the exception of the initial inspection of the vehicle;
7. The appearance of the exterior of the auto repair building shall be improved by painting the building a neutral color;
8. Signage shall be limited to only a wall sign. The dimension of such wall sign shall follow the requirements in the C3 zoning district;
9. Any exterior lighting shall be installed so as to prevent lighting encroaching on any neighboring property;
10. I will adhere to the attached site plan.

Sincerely,

  
Reas Williams

000042

ROBESON STREET



**Fayetteville** ENGINEERING & INFRASTRUCTURE DEPT.  
*Multi-Service* CIVIL ENGINEERING DIVISION  
 433 HAY ST. 28301  
 (910) 433-1656

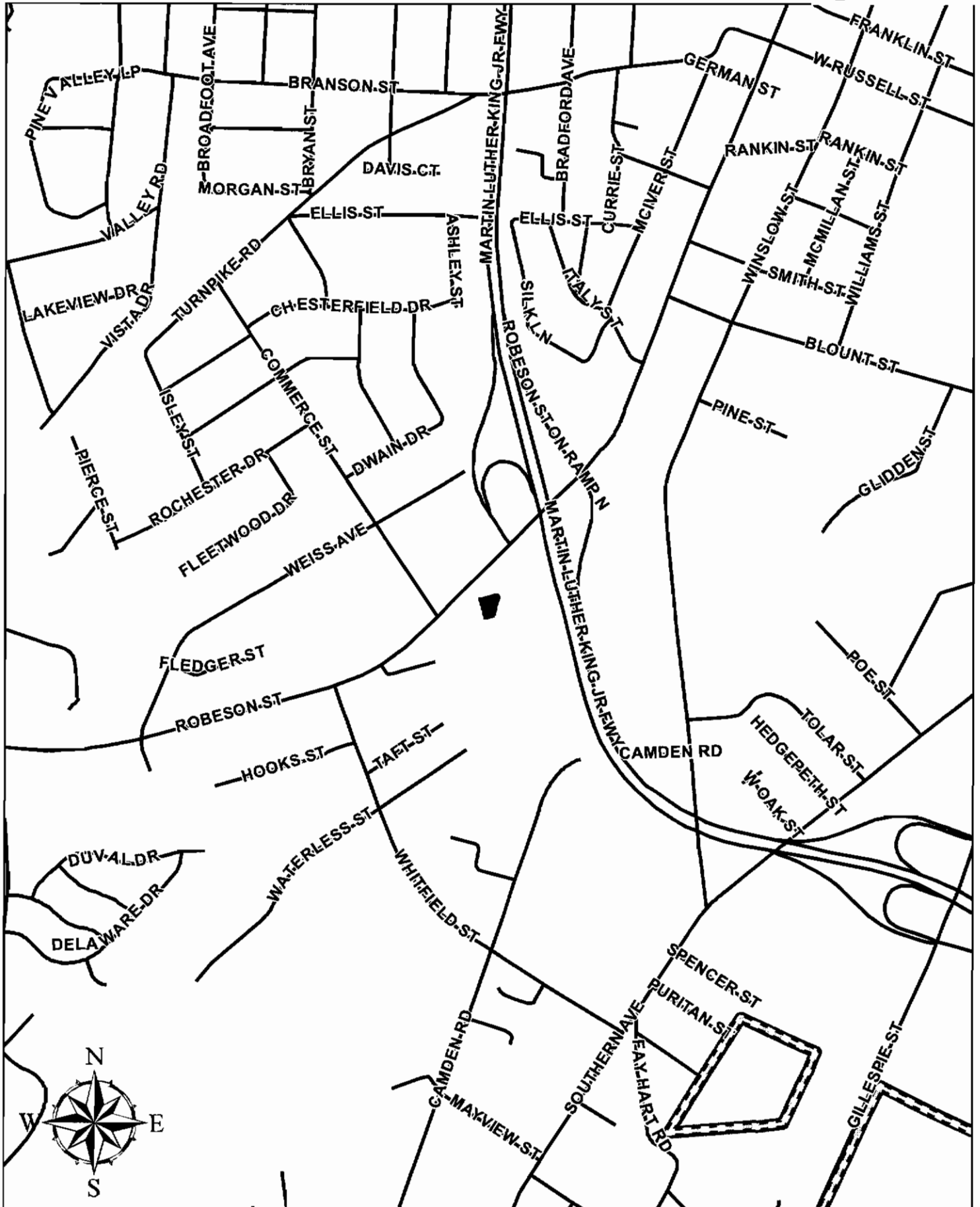
**COOK RIGHT OF WAY**

REVISION	REVISION	DATE	12/12/08	DRAWN BY	CSA
DATE	REVDATE	SCALE	N.T.S.	CK'D BY	CSA

CAD FILE:

# Zoning Commission - Vicinity Map

Case No. P09-20F



**ZONING COMMISSION  
CASE NO. P09-20F**



**Request:** C3 & R5 to C3-CZ  
**Location:** 705 Robeson St.  
**Acreage:** 0.36 +/- acres

**Zoning Commission:** 6/9/2009    **Recommendation:** \_\_\_\_\_  
**City Council:** \_\_\_\_\_    **Final Action:** \_\_\_\_\_  
**Pin:** 0437-10-6546 & 0437-10-6599

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

Current Land Use  
P09-20F



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



**MINUTES  
CITY OF FAYETTEVILLE  
ZONING COMMISSION  
CITY COUNCIL CHAMBERS  
1ST FLOOR, CITY HALL  
JUNE 9, 2009- 7:00 P.M.**

**MEMBERS PRESENT**

Pete Paoni  
Richard West  
John Crawley

**MEMBERS ABSENT**

Jeannie Nelson  
Lockett Tally

**OTHERS PRESENT**

Jimmy Teal, Planning Director  
Craig Harmon, Planner  
Janet Smith, Asst. City Atty  
David Steinmetz, Inspections

The meeting was called to order at 7:02 p.m.

**I. APPROVAL OF AGENDA**

Mr. West made a motion to approve the agenda. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

**II. APPROVAL OF THE MINUTES FROM THE APRIL 14, 2009 MEETING**

Mr. West made a motion to approve the minutes from the April 14, 2009 meeting. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

Mr. Paoni explained the Commission members job was to conduct public hearings, listening carefully to the testimony from both sides to make recommendations that would be forwarded to City Council for final action. Each side will be given fifteen (15) minutes, collectively, to speak and must be signed up prior to the meeting. Request for Special Use Permits is quasi-judicial and must be sworn to before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerks Office, located on the second floor of City Hall.

**III. PUBLIC HEARINGS**

- D. Case No. P09-20F. The rezoning from R5 Residential & C3 Commercial Districts to C3/CZ Commercial Conditional Zoning District or to a more restrictive zoning classification for property located at 705 Robeson St. Containing 0.36 acres more or less and being the property of Reas Williams.**

Mr. Harmon presented the case. He gave an overview of the request, the property and the surrounding area. He stated that the 2010 land use plan is for open space in that area. He stated that 35 public hearing letters were mailed out to surrounding property owners. He stated that the property was in the 100 year floodplain. He stated there is adequate water and sewer available for the property.

Mr. Harmon stated that the property was first cited from the Inspections Department about a year ago and the Planning Department has been working with the property owner trying to get the property within code. Mr. Harmon stated that Mr. Teal worked diligently with the owner on the site plan.

The public hearing was opened.

Mr. Williams spoke in favor of the request. Mr. Williams stated that he is willing to meet the list of conditions that were in the agenda to include painting, erecting a fence, signage and landscaping.

The public hearing was closed.

Mr. Harmon stated that planning staff recommends approval of the C3 Commercial Conditional Zoning district for the property. Mr. Harmon stated that this zoning would allow the shop to remain open and the vacant lot be used as storage.

Mr. West asked how long of a time table Mr. Williams would need for the conditions to be met. Mr. Williams replied six months.

Mr. West made a motion to approve the rezoning request to include the conditions listed in the agenda and the six month time frame to complete improvements to begin upon approval by the City Council.

Mr. Paoni seconded the motion. A vote was taken and passed unanimously.

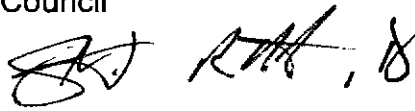
Mr. Teal stated that this item would go to City Council as a consent item for the Monday, July 27, 2009 meeting at 7:00pm



# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of City Council

**From:** Craig M. Harmon, Planner II



**Date:** July 27, 2009

**Case No.** P09-21F

**THE QUESTION:** Rezone from R5A Residential District to C1 Commercial District

**RELATIONSHIP TO STRATEGIC PLAN:** Growth and Development

**BACKGROUND:**

Owner:	R. Peyton Gibson, Trustee
Applicant:	James A. McLean, Attorney
Council District:	District 4 - Haire
Requested Action:	Rezone from R5A to C1
Existing Zoning	R5A Residential District
Status of Property:	Commercial (Non-Conforming Bar & Grill)
Size:	+/- 0.18 acres
Existing Land Use:	Currently closed, but building permit for improvements
Adjoining Land Use & Zoning:	North – C1 Commercial South – C1 Commercial East – R5A Residential West – C1 Commercial
2010 Land Use Plan:	High Density Commercial
Murchison Road Corridor Study	Residential
Letters Mailed:	140

**SPECIAL INFORMATION:**

The new Murchison Road Corridor Study recommends residential uses for this property. There is a business next to the property and the property sits on the corner of Murchison Road and Normal Avenue.

**Public Utilities:**

Water:	PWC
Sanitary Sewer:	PWC

**Transportation:**

Murchison Road is a major thoroughfare. The average daily traffic count is 15,000 vehicles at this location.

000049

ITEM 2. D.

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**OPTIONS:**

1. Rezone the property to C1 Commercial Zoning;
2. Set a public hearing to consider other options to include P2 professional zoning as proposed by staff or denial of the rezoning.
  - A. Approval of C1 commercial zoning changes the use of the property from non-conforming to conforming and allows office and retail uses;
  - B. Approval of P2 professional zoning allows the bar & grill to operate as a non-conforming use, but allows offices, residential uses and parking lots as permitted uses for the site;
  - C. Denial of the rezoning allows the bar & grill to operate as a non-conforming use and only allows residential uses as permitted uses for the site.

The City Council could request the applicant to consider resubmitting the application as a conditional zoning request. The conditional zoning allows the applicant to specify the exact use or uses they propose for the property as opposed to a standard rezoning option where all the uses in the district are allowed. The conditional zoning option requires the applicant to begin the process from the beginning. It is the applicant's choice whether to resubmit the application as a conditional zoning request.

**RECOMMENDATIONS:**

Planning Staff recommends P2 professional zoning:

1. Although the Murchison Road Land Use Map recommends residential uses for this property, it is staff's opinion that P2 professional zoning is a better fit. With commercial next to and in front of this property, residential use is not a viable use;
2. P2 professional zoning will serve as a transition district between heavy commercial and residential;
3. Although unlikely to occur at this location, the P2 zoning allows residential uses at this location;
4. The P2 professional zoning allows the owner to use the property for office use rather than limiting the non-residential use to only a bar & grill.

Zoning Commission recommends approval of the rezoning to C1 commercial as requested by the applicant:

1. The rezoning to C1 commercial allows greater use of the property by the applicant;
2. The property has been used for many years as a legal non-conforming use;
3. The property is located on a corner at Murchison Road and Normal Avenue and abuts commercial use.

**ATTACHMENTS:**

1. Application for Rezoning
2. Vicinity Map
3. Zoning Map
4. Current Land Use Map
5. Zoning Commission Minutes

CITY OF FAYETTEVILLE

To the Zoning Commission and the City Council of the City of Fayetteville, North Carolina

I (We), the undersigned, do hereby respectfully make application and petition to the City Council to amend the Zoning Ordinance and to change the Zoning Map of the City of Fayetteville as hereinafter requested, and in support of this application, the following facts are shown:

Location/Address of the Property: 1828 MURCHISON ROAD, FAYETTEVILLE, NC

Owner of the Property: R. PEYTON GIBSON, TRUSTEE

Address of the Owner: 343 W. HUDSON AVENUE, ENGLEWOOD, NJ Zip 07631

Owner's Home Phone: Owner's Work Phone:

A. The property sought for Rezoning is owned by R. PEYTON GIBSON, TRUSTEE as evidenced by deed, recorded in Deed Book 7798, Page 106, Cumberland County Registry. (Attach a copy of (all) deed(s) as it appears in the Registry.)

B. It is desired and requested that the foregoing property be rezoned:

From: R5A To: C1

Please describe the proposed use of the property requested for rezoning: GENERAL COMMERCIAL ON MURCHISON ROAD. IT HAS HAD GRANDFATHER COMMERCIAL USE FOR SEVERAL DECADES

C. Tax Property Identification Number (PIN#) of the property: 0428-94-3722-

D. Acreage to be rezoned: APPROX. .18

E. To the best of your knowledge, has an application for rezoning been filed for this property within the previous 5 years? (If yes, please indicate month and year of application.) NO

F. Existing use of the property (Specify any structures and respective uses): GRANDFATHER COMMERCIAL USE -ONE STRUCTURE

G. Existing and/or proposed water service (Specify if Community System): PWC

H. Existing and/or proposed sewer service (Specify if Community System): PWC

It is understood by the undersigned that the Zoning Map, as originally adopted and as subsequently amended, is presumed to be appropriate to the property involved and that the burden of proof for a zoning amendment rests with the applicant. It is further understood by the undersigned that the singling out of a small parcel(s) of land for exceptional zoning would likely constitute illegal "spot zoning" and in such cases a rezoning request and a public hearing are superfluous. Therefore, it is the responsibility of the applicant to submit a valid request not incompatible with existing neighborhood zoning patterns. The responsibility of securing additional properties to be included in the request lies with the undersigned.

R. PEYTON GIBSON, TRUSTEE  
Print or Type Name of Owner

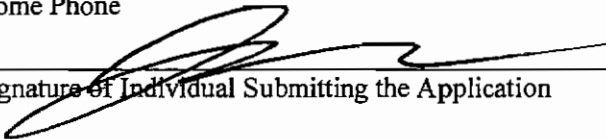
343 W. HUDSON AVENUE, ENGLEWOOD, NJ 07631  
Address of Owner

Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_

ATTORNEY JAMES A. MCLEAN, III  
Print or Type Name of Applicant

202 FAIRWAY DRIVE, FAYETTEVILLE, NC 28305  
Address of Applicant

Home Phone \_\_\_\_\_ 910-483-8104 \_\_\_\_\_  
Work Phone \_\_\_\_\_

  
Signature of Individual Submitting the Application

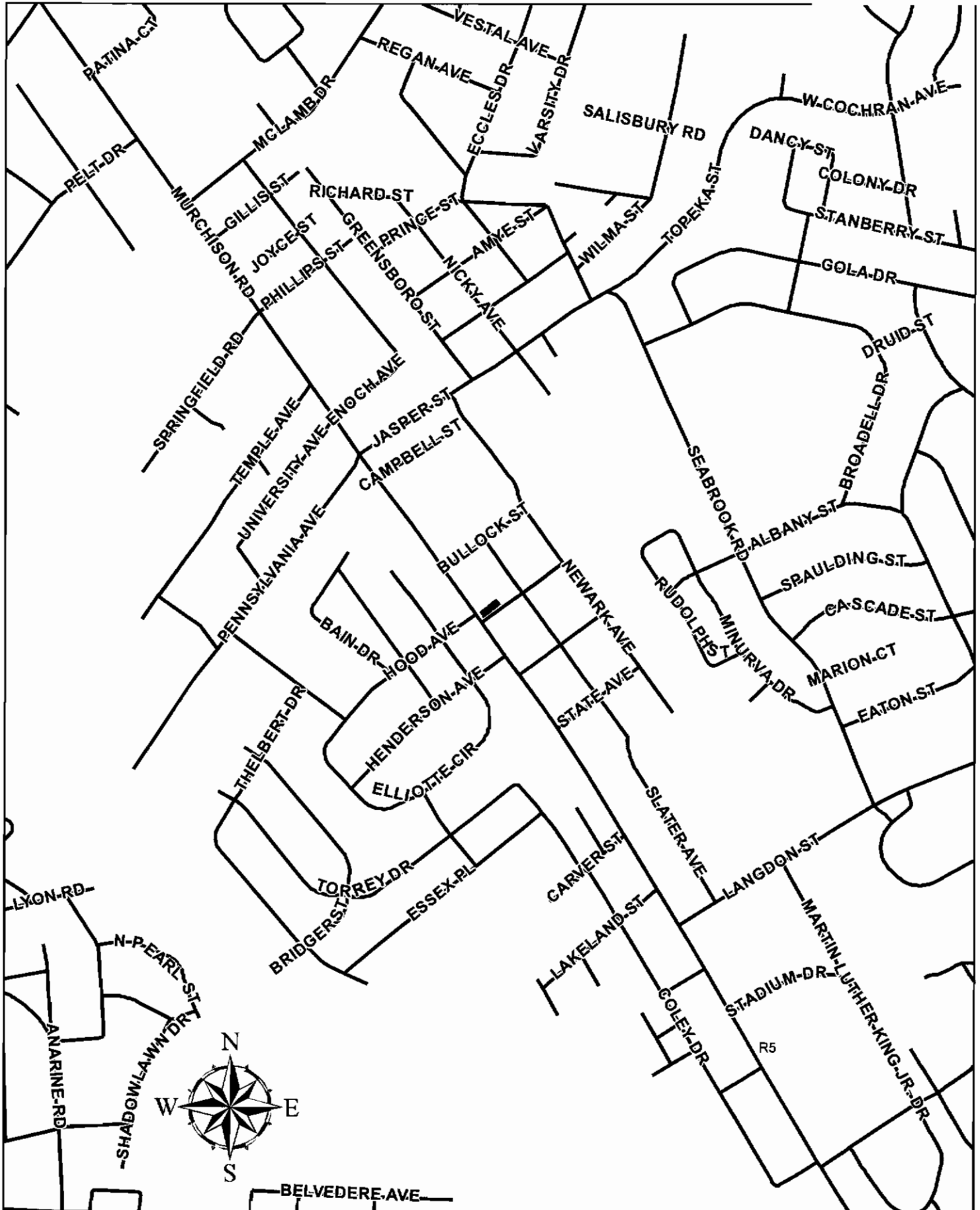
**City of Fayetteville Appeals Procedure:** Any person aggrieved by the recommendation of the Zoning Commission shall have the right to appeal the action of the Zoning Commission in writing to the Clerk of the City of Fayetteville within ten (10) calendar days of the action of the Zoning Commission. If an appeal is timely filed, then the City Council shall hold a public hearing on the case.

If the Zoning Commission's recommendation is to rezone the property, and no appeal is filed, then the City Council shall have the right to adopt the rezoning without further public hearing. If the Zoning Commission's recommendation is to deny the rezoning, and no appeal is filed, then the request will not be forwarded to City Council. There is a 1-year waiting period before any further rezoning request can be filed for this property.

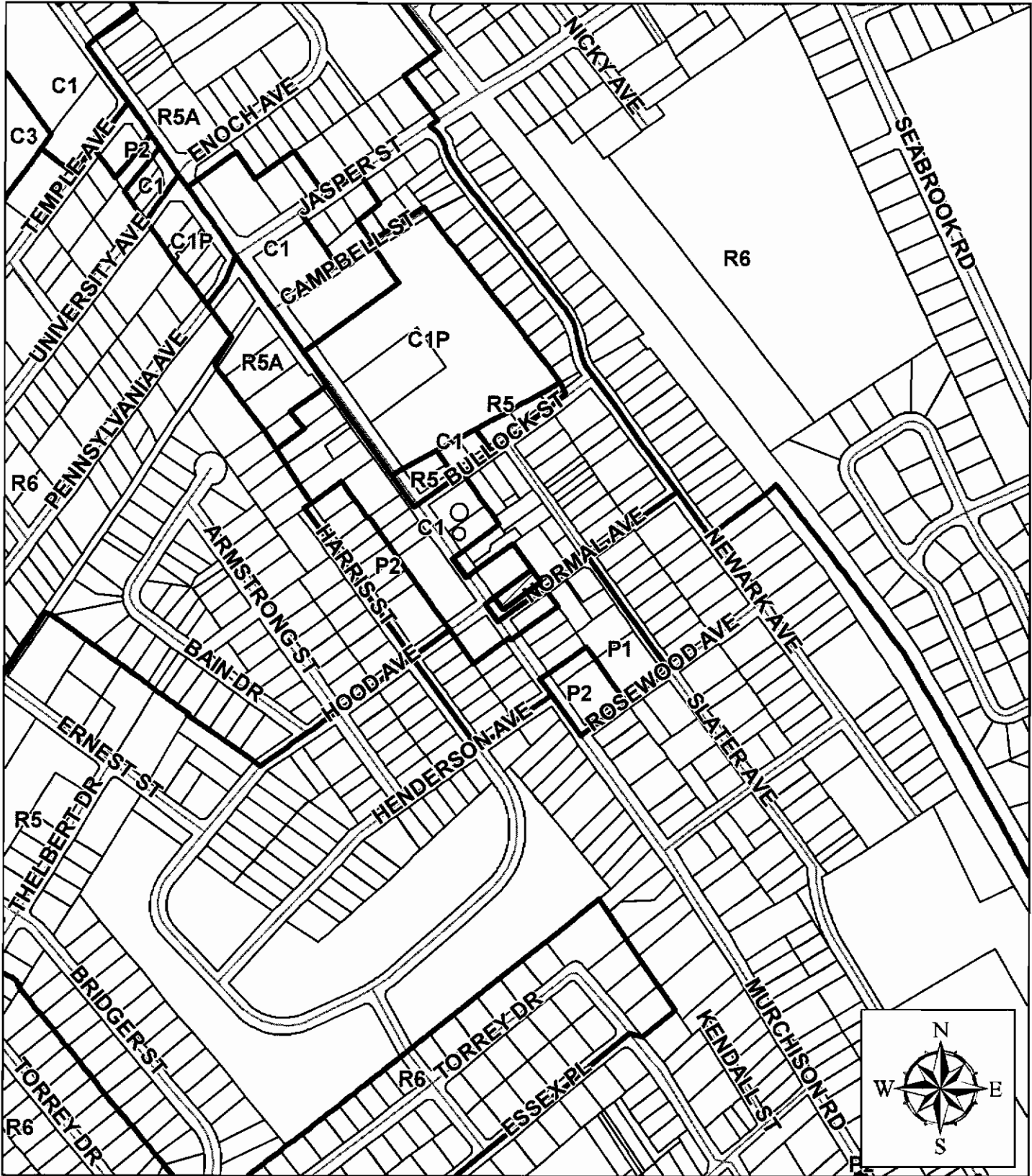
(for additional application forms: [www.cityoffayetteville.org](http://www.cityoffayetteville.org) then visit the Planning Dept. page)

# Zoning Commission - Vicinity Map

Case No. P09-21F



**ZONING COMMISSION  
CASE NO. P09-21F**



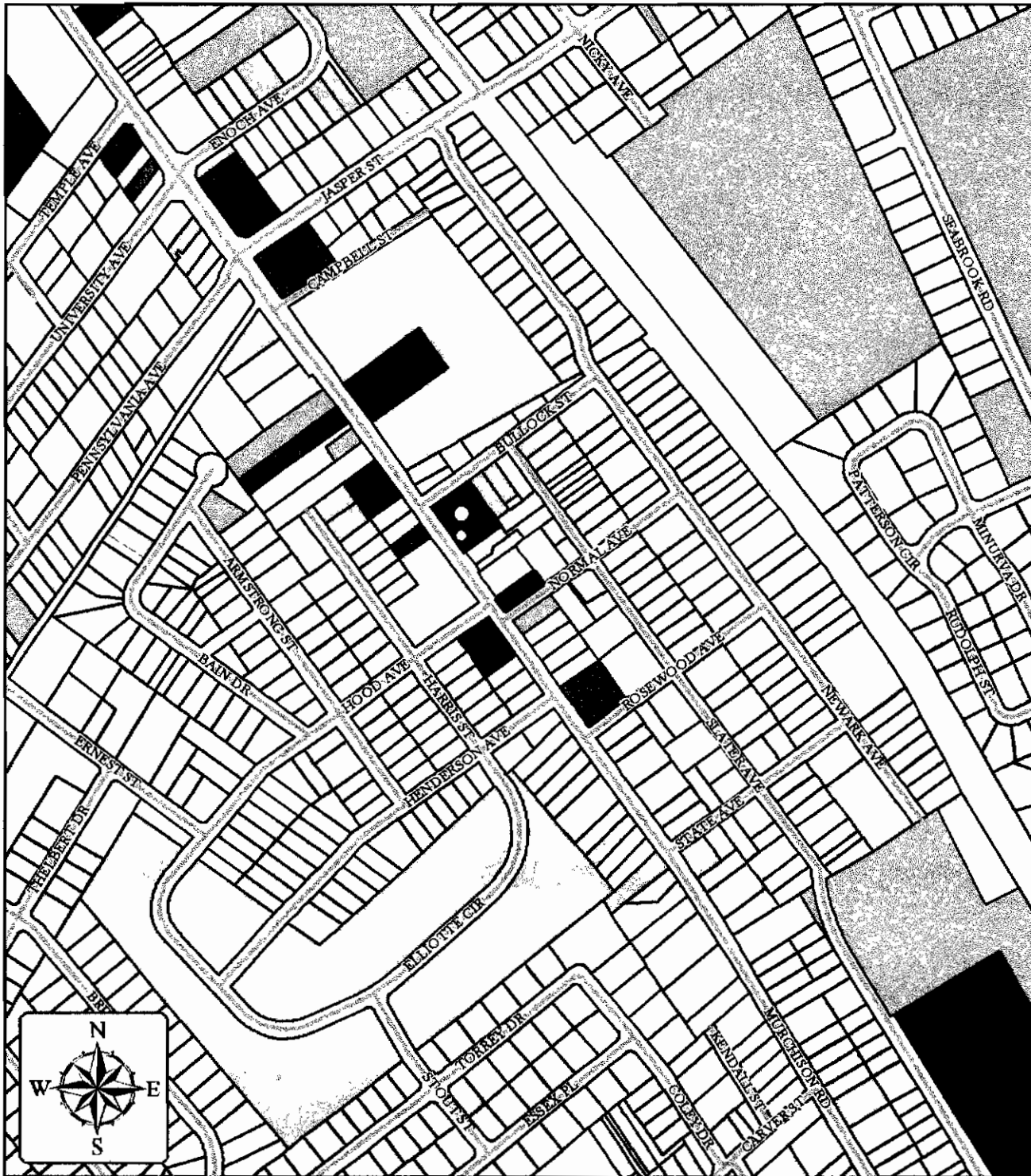
**Request:** R5A to C1  
**Location:** 1828 Murchison Rd.  
**Acres:** 0.18 +/- acres

**Zoning Commission:** 6/9/2009  
**City Council:** \_\_\_\_\_  
**Pin:** 0428-94-3722

**Recommendation:** \_\_\_\_\_  
**Final Action:** \_\_\_\_\_

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

**Current Land Use**  
**P09-21F**



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



**MINUTES  
CITY OF FAYETTEVILLE  
ZONING COMMISSION  
CITY COUNCIL CHAMBERS  
1ST FLOOR, CITY HALL  
JUNE 9, 2009- 7:00 P.M.**

**MEMBERS PRESENT**

Pete Paoni  
Richard West  
John Crawley

**MEMBERS ABSENT**

Jeannie Nelson  
Lockett Tally

**OTHERS PRESENT**

Jimmy Teal, Planning Director  
Craig Harmon, Planner  
Janet Smith, Asst. City Atty  
David Steinmetz, Inspections

The meeting was called to order at 7:02 p.m.

**I. APPROVAL OF AGENDA**

Mr. West made a motion to approve the agenda. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

**II. APPROVAL OF THE MINUTES FROM THE APRIL 14, 2009 MEETING**

Mr. West made a motion to approve the minutes from the April 14, 2009 meeting. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

**Mr. Paoni explained the Commission members job was to conduct public hearings, listening carefully to the testimony from both sides to make recommendations that would be forwarded to City Council for final action. Each side will be given fifteen (15) minutes, collectively, to speak and must be signed up prior to the meeting. Request for Special Use Permits is quasi-judicial and must be sworn it before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerks Office, located on the second floor of City Hall.**

**III. PUBLIC HEARINGS**

- E. Case No. P09-21F. The rezoning from R5A Residential District to C1 Commercial District or to a more restrictive zoning classification for property located at 1828 Murchison Rd. Containing 0.18 acres more or less and being the property of R. Peyton Gibson, Trustee.**

Mr. Harmon presented the case. He gave an overview of the request, the property and the surrounding area. Mr. Harmon explained that the applicant is being represented by Mr. McLean. He stated that the 2010 land use plan is for all density commercial in that area and the Murchison Road Corridor study calls for the property to be single family residential. He stated that 140 public hearing letters were mailed out to surrounding property owners. Mr. Harmon gave the Commission brief history of the property because it lost the grandfathering status due to the length



the property had been abandoned. He stated that there is adequate water and sewer available to the property.

The public hearing was open.

Mr. Buxton appeared in favor of the request. He stated that he has talked to the neighbors and that are in favor of C1 because they do not want another restaurant type facility on the site. Mr. Buxton stated that having the property zoned C1 means that Ms. Gibson would have more options for the property to be able to choose what would go there.

Mr. McLean appeared in favor of the request. Mr. McLean stated that the owner of the property, Ms. Gibson wants a viable business on the property but does not want the property to be grandfathered in as a restaurant which is why she is requesting the rezoning. He stated that the grandfather clause has been a set back for Ms. Gibson. He addressed the Murchison Road Corridor study and the requested use of that property.

Mr. Paoni asked a question of Mr. Steinmetz about the requirements of staying residential as opposed to being rezoned to commercial to include setbacks and parking.

Mr. West asked about the surrounding properties and their zonings.

The public hearing was closed.

Mr. Harmon stated that the staff recommends approval for P2 professional district. Mr. Harmon stated the reasons for this zoning are Murchison Road Land Use Plan recommends single family residential and staff feels that P2 is a better fit for that area. He stated that the property could be used as a transition.

Mr. Harmon explained the Murchison Road Plan to the Zoning Commission.

Mr. West made a motion to approve the C1 Commercial request. Mr. Paoni seconded the motion. A vote was taken and passed unanimously.

Mr. Teal stated that this item would go to City Council as a consent item for the Monday, July 27, 2009 meeting at 7:00pm

**IV. OTHER**

**V. ADJOURNMENT**

Mr. Crawley made a motion to adjourn. It was seconded by Mr. Paoni.

The meeting was adjourned at 9:43 pm.

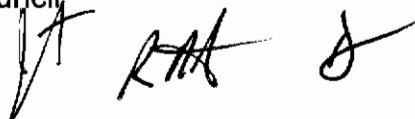
# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of City Council

**From:** Jimmy Teal, Planning Director

**Date:** July 27, 2009

**Re:** Sign Permit – UMOJA Festival



**THE QUESTION:** Approval of Sign Permit

**RELATIONSHIP TO STRATEGIC PLAN:** Partnership of Citizens

**BACKGROUND:**

The Sign Ordinance contains a provision allowing special signs for festivals and major events for the purpose of giving directions and information to include temporary on-premises and off-premises signs. These signs are subject to a special permit granted by City Council.

The UMOJA Group is conducting their 18<sup>th</sup> annual festival on Saturday, August 22, 2009. They are requesting a variety of signs announcing their event beginning July 28<sup>th</sup> through August 24<sup>th</sup>.

**ISSUES:**

The City Council has routinely approved similar requests and this one in particular for the last several years.

**OPTIONS:**

1. Grant the sign permit as requested.
2. Deny the request.

**RECOMMENDATIONS:**

Option 1 – Grant the permit.

000058

ITEM 2, E.

Signs: City Hall  
C/O Jimmy Teal

The UMOJA GROUP Inc., is requesting permission to place signs advertising the 18<sup>th</sup> annual UMOJA (unity)- African American Family and Cultural – FESTIVAL to be held at Seabrook Park on August 22, 2009 from noon to 7 p.m.

Signs will be put out approximately 4 weeks ( 7/8/09) before the event and taken down 8/24/09.

Proposed locations:

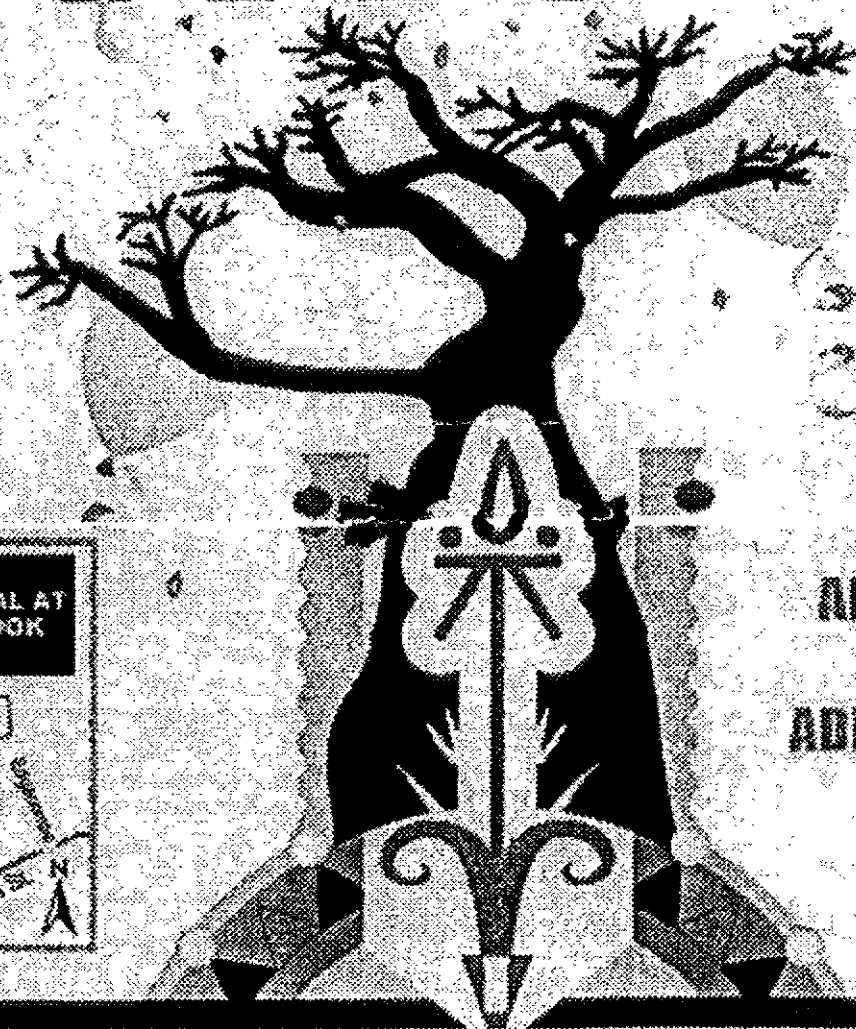
1. Langdon Street and Murchison Road (Mrs. L. Campbell's fence) 40" x 36"
2. Murchison Road at Rowan Street 36" x 36"
3. University Estates entrances 2' x 18"
3. Murchinson Road at Pamalee Drive – both sides 2' x 18"
4. Rosehill Rod entrance to Tiffany Pines 2' x 18" or standard
5. Rosehill Road across from entrance into North Hills 2' x 18"
6. Langdon Street at Ramsey Street both sides 2' x 18"
7. Murchison Road in front of Moses Best's Museum -standard size
8. Corner of Rosehill Road and Ramsey Street 2' by 36"
9. Langdon Street and Slater Avenue 2' x 18" or standard size
10. FSU tennis court - standard size
11. 1702 Seabrook (in front of Cassandra Standifer's home)
12. 3274 Rosehill Road ( AAERO- Insurance Company) 2' X 18 standard size
13. Shaw Road ( in front of African American Cultural Shop) – standard size
14. Murchison Road ( in front of Moses Best's Multi-cultural Museum) –standard size

UMOJA CORE MEMBERS are: Dr. Kwami Tuprah, Wanda Wesley, Ramon Huggins, Yawa Tupra, Cassandra Standifer and Dorothy Fielder

Submitted by Dorothy Fielder (910) 483 6153  
530 Spaulding Street  
Fayetteville, NC 28301

*Dorothy Fielder*  
6/18/09

# Umoja



ALL ARE WELCOME

ADMISSION IS FREE

FUN FOR THE  
ENTIRE FAMILY!

F • E • S • T • I • V • A • L

MUSIC • ATTRACTIONS • POOL • GAMES • FOOD • STORYTELLERS

**Saturday, August 22, 2009**

Seabrook Park, Fayetteville, NC

1520 Slater Avenue

12 noon – 7 p.m.

For More Information call (910) 488-7130



# CITY COUNCIL ACTION MEMO

To: Mayor and Members of Council

*Steven K. Blanchard*

From: Steven K. Blanchard, CEO/General Manager  
Public Works Commission of the City of Fayetteville

Date: July 8, 2009 (**Scheduled City Council Date: July 27, 2009**)

Re: Bid Recommendation – Miscellaneous Inventory Hardware Items

**THE QUESTION:** The Public Works Commission of the City of Fayetteville requests Council approve bid award for purchase of miscellaneous inventory hardware items necessary for pole line installations.

**RELATIONSHIP TO STRATEGIC PLAN:** Quality utility services.

## **BACKGROUND:**

During their regular meeting of July 8, 2009 the Public Works Commission approved bid recommendation to award bid for purchase of miscellaneous inventory hardware items necessary for pole line installations to HD Supply, Wake Forest, with the option to extend contract for additional one year periods, in the total amount of \$601,016.85 and to forward to City Council for approval. Bids were received May 21, 2009 as follows:

<u>Bidders</u>	<u>Total Cost</u>
HD Supply, Wake Forest, NC	\$601,016.85
WESCO, Raleigh, NC	\$612,932.00

This contract is to provide miscellaneous inventory hardware items needed for pole line installations over a one (1) year period, using quantities based on past usage. Award of an annual contract will decrease cost by reducing the amount of man-hours related to issuing bid requests and purchase orders. Quantities are not guaranteed, and PWC has the right to increase or decrease quantities based on actual need.

## **ISSUES:**

- Bids advertised in the Fayetteville Observer, Fayetteville, NC.
- Bids were solicited from four (4) vendors with four (4) vendors responding. The bids received from Stuart C. Irby and Shealy Electrical were not included in the bid recommendation since these companies did not submit bids on all items. The bid award was based on the total bid amount.

## **OPTIONS:**

N/A

## **RECOMMENDATIONS:**

Award bid to HD Supply, Wake Forest, NC as recommended by PWC.

000051

ITEM

2, F,

PUBLIC WORKS COMMISSION  
ACTION REQUEST FORM

TO: Steve Blanchard, CEO/General Manager DATE: July 1, 2009

FROM: Gloria Wrench, Purchasing Manager

ACTION REQUESTED: Award annual contract for the purchase of miscellaneous inventory hardware items necessary for pole line installations (with the option to extend contract for additional one-year period(s)).

BID/PROJECT NAME: Annual Contract - Miscellaneous Inventory Requirements

BID DATE: May 21, 2009 DEPARTMENT: Electric Inventory

BIDDERS	TOTAL COST
<u>HD Supply, Wake Forest, NC</u>	<u>\$601,016.85</u>
<u>WESCO, Raleigh, NC</u>	<u>\$612,932.00</u>

AWARD RECOMMENDED TO: HD Supply, Wake Forest, NC

BASIS OF AWARD: Low bidder

AWARD RECOMMENDED BY: Chris McKinney, Retha Morris and Gloria Wrench

COMMENTS: Bids were solicited from four (4) vendors with four (4) vendors responding. This contract is to provide miscellaneous inventory hardware items needed for pole line installations over a one (1) year period, using quantities based on past usage. Award of an annual contract will decrease cost by reducing the amount of man-hours related to issuing bid requests and purchase orders. Quantities are not guaranteed, and PWC has the right to increase or decrease quantities based on actual need. Bids were also received from Stuart C. Irby and Shealy Electrical, however, these two (2) companies did not submit bids on all items, therefore, their pricing is not included above. Attached is a bid tabulation showing all items bid and pricing from all bidders. As shown by the attached tabulation, neither Stuart C. Irby, nor Shealy Electrical submitted low bids on a majority of the items. Bid award was based on the total bid amount.

ACTION BY COMMISSION

APPROVED  REJECTED   
DATE 7-8-09

ACTION BY COUNCIL

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

CONSENT  
ITEM II - B

PUBLIC WORKS COMMISSION  
 BID FOR ANNUAL CONTRACT - MISC. INVENTORY REQUIREMENTS  
 MAY 21, 2009; 3:00 P.M.

	HD SUPPLY	WESCO	STUART C. IRBY	SHEALY
<u>1-415-100 (ANSHOR, SINGLE HELIX, 1.5" SQUARE SHFT.)</u> QTY: 300 LAST PURCHASE PRICE - \$70.80 EA. UNIT PRICE TOTAL PRICE	\$76.80 \$27,576.00	\$73.75 \$26,550.00	\$70.23 \$25,282.80	\$100.82 \$36,223.20
<u>1-415-100 (BRACKET, LUMINAIRE, WOOD POLE, 12" X 12" X 17')</u> QTY: 80 LAST PURCHASE PRICE - \$31.79 EA. UNIT PRICE TOTAL PRICE	\$29.00 \$6,700.00	\$31.79 \$9,537.00	\$44.77 \$13,431.00	\$35.20 \$10,560.00
<u>1-415-106 (BRACKET, LUMINAIRE, TAPERED, 12" X 12" X 17')</u> QTY: 80 LAST PURCHASE PRICE - \$68.31 EA. UNIT PRICE TOTAL PRICE	\$68.31 \$40,966.00	\$62.88 \$37,788.00	\$68.15 \$41,480.00	\$88.11 \$52,886.00
<u>1-415-120 (BRACKET, LUMINAIRE, WOOD POLE, 12" X 12" X 17')</u> QTY: 56 LAST PURCHASE PRICE - \$21.73 EA. UNIT PRICE TOTAL PRICE	\$14.68 \$1,384.60	\$15.15 \$1,439.25	\$17.33 \$1,648.35	\$18.50 \$1,597.50
<u>1-415-106 (BRACKET, FLOODLIGHT, WOOD POLE)</u> QTY: 36 LAST PURCHASE PRICE - \$26.39 EA. UNIT PRICE TOTAL PRICE	\$20.00 \$1,800.00	\$24.65 \$2,341.75	\$29.10 \$2,764.50	\$26.43 \$2,510.85
<u>1-415-100 (INSERT, LOAD-BREAK, BUSHING, 3/8", 20')</u> QTY: 100 LAST PURCHASE PRICE - \$28.00 EA. UNIT PRICE TOTAL PRICE	\$28.00 \$30,240.00	\$27.50 \$29,700.00	NO BID	\$28.80 \$31,104.00
<u>1-415-110 (INSERT, NON-LOAD-BREAK, BUSHING, 3/8", 20')</u> QTY: 60 LAST PURCHASE PRICE - \$33.95 EA. UNIT PRICE TOTAL PRICE	\$33.95 \$1,697.50	\$33.75 \$1,687.50	\$31.36 \$1,568.00	\$32.32 \$1,618.00
<u>1-415-148 (CLAMP, ALL STRAIGHT AUTOMATIC, D.E. 1/2")</u> QTY: 800 LAST PURCHASE PRICE - \$18.82 EA. UNIT PRICE TOTAL PRICE	\$14.96 \$6,976.00	\$14.73 \$5,836.00	\$15.78 \$9,488.00	\$15.95 \$9,570.00
<u>1-415-106 (COUPLING, 2" PVD)</u> QTY: 76 LAST PURCHASE PRICE - \$2.76 EA. UNIT PRICE TOTAL PRICE	\$2.76 \$2,070.00	\$2.73 \$2,047.50	\$8.11 \$4,582.50	NO BID
<u>1-415-106 (COUPLING, 2" ENGLON)</u> QTY: 80 LAST PURCHASE PRICE - \$1.28 EA. UNIT PRICE TOTAL PRICE	\$1.28 \$1,134.00	\$0.55 \$495.00	\$2.89 \$2,601.00	NO BID

	HD SUPPLY	WESCO	STUART C. IRBY	SHEALY
1-074-481 (SPACER, DUCT, 4", 8" SPACING) QTY: 2160 LAST PURCHASE PRICE - \$3.44 EA UNIT PRICE TOTAL PRICE	\$2.43 \$5,224.00	\$2.51 \$5,396.50	\$3.54 \$7,611.00	NO BID
1-074-484 (SPACER, DUCT, 6") QTY: 1200 LAST PURCHASE PRICE - \$3.78 EA UNIT PRICE TOTAL PRICE	\$3.31 \$3,972.00	\$3.39 \$4,086.00	\$4.75 \$5,700.00	NO BID
1-074-515 (COUPLING, PUSH-TYPE, HOSE, 2") QTY: 400 LAST PURCHASE PRICE - \$1.78 EA UNIT PRICE TOTAL PRICE	\$6.65 \$2,660.00	\$6.98 \$2,792.00	\$7.10 \$2,840.00	\$8.45 \$3,380.00
1-074-516 (CONNECTOR, PRL, CRV, COMP, #10, #2 CU) QTY: 1000 LAST PURCHASE PRICE - \$1.89 EA UNIT PRICE TOTAL PRICE	\$0.98 \$1,726.00	\$1.07 \$1,928.00	NO BID	NO BID
1-074-589 (CONNECTOR, AL, STD, 1/2 IN, 1/2 IN) QTY: 800 LAST PURCHASE PRICE - \$18.28 EA UNIT PRICE TOTAL PRICE	\$14.05 \$5,056.00	\$14.35 \$5,168.00	\$15.05 \$5,418.00	\$15.22 \$5,478.20
1-074-592 (CONNECTOR, AL, STD, 3/8 X 1/2 IN, 1/2 IN) QTY: 720 LAST PURCHASE PRICE - \$19.79 EA UNIT PRICE TOTAL PRICE	\$19.75 \$14,220.00	\$20.20 \$14,544.00	\$26.80 \$19,162.00	\$21.29 \$15,328.80
1-074-595 (CONNECTOR, AL, PBD, 2.5 IN X 1.5 IN, 1/2 IN) QTY: 96 LAST PURCHASE PRICE - \$14.88 EA UNIT PRICE TOTAL PRICE	\$13.53 \$1,285.35	\$13.69 \$1,300.55	\$14.31 \$1,359.45	\$14.15 \$1,344.25
1-074-644 (CONNECTOR, STEEL, COMPRESSION, #10 BOLD, AL) QTY: 40 LAST PURCHASE PRICE - \$42.7 EA UNIT PRICE TOTAL PRICE	\$5.08 \$1,221.60	\$4.88 \$1,195.00	NO BID	NO BID
1-074-648 (CONNECTOR, AL, COMP, 3/4 IN, 1/2 IN, 1/2 IN) QTY: 36 LAST PURCHASE PRICE - \$13.80 EA UNIT PRICE TOTAL PRICE	\$34.08 \$2,865.10	\$34.40 \$2,924.00	NO BID	\$35.93 \$3,054.05
1-074-520 (CONNECTOR, PBD, 1 1/2 IN, 1 1/2 IN, 1/2 IN) QTY: 400 LAST PURCHASE PRICE - \$16.47 EA UNIT PRICE TOTAL PRICE	\$10.47 \$4,197.40	\$10.65 \$4,273.00	\$7.05 \$2,861.00	\$11.05 \$4,641.00
1-074-534 (CONNECTOR, SUBMERS, 3/4 IN, 1/2 IN) QTY: 600 LAST PURCHASE PRICE - \$15.07 EA UNIT PRICE TOTAL PRICE	\$6.80 \$4,485.00	\$10.35 \$5,175.00	\$9.76 \$4,860.00	\$10.71 \$5,356.00





	HD SUPPLY	WESCO	STUART G. IRBY	SHEALY
1-104-18 BRACE, GROSSBAR, WOOD, 31 X 1 1/2" QTY: 60 LAST PURCHASE PRICE - \$6.50 EA UNIT PRICE TOTAL PRICE	\$6.30 \$3,780.00	\$6.26 \$3,756.00	NO BID	\$6.10 \$4,080.00
1-104-32 BRACE, GROSSBAR, WOOD, 60 X 30" QTY: 160 LAST PURCHASE PRICE - \$17.00 EA UNIT PRICE TOTAL PRICE	\$16.00 \$5,760.00	\$16.75 \$6,030.00	NO BID	\$25.90 \$9,324.00
1-104-42 PIN, CROSSBAR, 1" X 8 1/2" QTY: 160 LAST PURCHASE PRICE - \$3.00 EA UNIT PRICE TOTAL PRICE	\$3.60 \$5,928.00	\$3.80 \$5,928.00	\$4.43 \$8,910.00	\$4.14 \$6,458.40
1-104-48 PIN, POLE TOP, 8 1/2 X 1 1/2" QTY: 145 LAST PURCHASE PRICE - \$6.00 EA UNIT PRICE TOTAL PRICE	\$6.51 \$3,157.35	\$6.31 \$3,060.35	\$8.92 \$3,356.20	\$7.64 \$3,656.80
1-104-57 PIN, OFFSET POLE TOP, 31 X 1 1/2" QTY: 100 LAST PURCHASE PRICE - \$12.20 EA UNIT PRICE TOTAL PRICE	\$12.20 \$2,196.00	\$10.16 \$1,532.40	NO BID	NO BID
1-104-88 BUSH, 28X, 200 A LB., 100" QTY: 100 LAST PURCHASE PRICE - \$28.00 EA UNIT PRICE TOTAL PRICE	\$28.00 \$50,400.00	\$27.75 \$49,850.00	\$31.36 \$66,448.00	\$34.37 \$61,866.00
1-104-90 INSULATOR, P, SUSPENSION, CLASS E2-11 QTY: 160 LAST PURCHASE PRICE - \$6.50 EA UNIT PRICE TOTAL PRICE	\$7.22 \$2,595.20	\$7.95 \$2,628.00	NO BID	\$8.70 \$3,132.00
1-104-98 INSULATOR, ONE-PIECE DEAD-END, 28XV QTY: 74 LAST PURCHASE PRICE - \$10.40 EA UNIT PRICE TOTAL PRICE	\$10.40 \$7,488.00	\$10.95 \$7,684.00	\$14.05 \$10,116.00	\$13.00 \$9,360.00
1-104-98 INSULATOR, PINK-TYPE, ANS 66-4 QTY: 260 LAST PURCHASE PRICE - \$7.00 EA UNIT PRICE TOTAL PRICE	\$6.72 \$17,740.80	\$7.32 \$19,324.80	NO BID	NO BID
1-104-116 INSULATOR, FIBERGLASS GUY STRAIN, 24" QTY: 160 LAST PURCHASE PRICE - \$12.35 EA UNIT PRICE TOTAL PRICE	\$12.35 \$4,446.00	\$12.15 \$4,374.00	\$12.96 \$4,665.60	\$13.95 \$5,022.00



HD SUPPLY

WESCO

STUART C. IRBY

SHEALY

1-518-108 (BRUSHING PAVING, 28MA LOADBREAK)  
 QTY: 418  
 LAST PURCHASE PRICE - \$44.00 EA  
 UNIT PRICE  
 TOTAL PRICE

\$55.00  
 \$18,652.80

\$62.50  
 \$20,937.50

\$49.15  
 \$16,465.25

\$44.00  
 \$14,740.00

1-284-170 (ROD, GROUND, 6" X 1" CIRCULAR SECTIONAL)  
 QTY: 810  
 LAST PURCHASE PRICE - \$10.96 EA  
 UNIT PRICE  
 TOTAL PRICE

NO BID

\$12.61  
 \$10,592.40

\$10.96  
 \$9,223.20

\$8.75  
 \$8,190.00

1-281-111 (TERMINATOR, COLD SPRING, FOR 1/2 AL 28KV, OUTDOOR)  
 QTY: 48  
 LAST PURCHASE PRICE - \$46.00 EA  
 UNIT PRICE  
 TOTAL PRICE

NO BID

NO BID

\$76.10  
 \$3,652.80

\$33.00  
 \$1,584.00

1-418-080 (SPURCE, 2 STR 1/2 BOL, AL, CN, 28KV)  
 QTY: 210  
 LAST PURCHASE PRICE - \$38.84 EA  
 UNIT PRICE  
 TOTAL PRICE

NO BID

NO BID

\$30.50  
 \$7,320.00

\$30.30  
 \$7,272.00



## **BID HISTORY**

### **ANNUAL CONTRACT – MISCELLANEOUS INVENTORY REQUIREMENTS BID DATE: MAY 21, 2009**

#### **Advertisement**

1. The Fayetteville Observer, Fayetteville, NC 05/13/09

#### **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. 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. WESCO Distribution, Raleigh, NC
2. Stuart C. Irby Co., Rocky Mount, NC
3. HD Supply Utilities, Wake Forest, NC
4. Shealy Electrical, Greenville, SC

#### **DBE/MWBE Participation**

HD Supply is not classified as a SDBE, minority or woman-owned business.

# CITY COUNCIL ACTION MEMO

To: Mayor and Members of Council

*Steven K. Blanchard*

From: Steven K. Blanchard, CEO/General Manager  
Public Works Commission of the City of Fayetteville

Date: July 8, 2009 (**Scheduled City Council Date: July 27, 2009**)

Re: Receipt of Offer to Purchase Boone Trail Lots 18 and 19

**THE QUESTION:** How best to respond to an offer submitted to The Public Works Commission of the City of Fayetteville from John M. Hall, Jr., to purchase two (2) vacant City-Owned lots on Boone Trail.

**RELATIONSHIP TO STRATEGIC PLAN:** A Growing City – A Great Place to Live.

## **BACKGROUND:**

During their regular meeting of July 8, 2009 the Public Works Commission approved to declare two vacant lots (Boone Trail Lots 18 and 19, Block I Bordeaux, Section-5, Reference Pin No. 0416-92-6643) surplus and accepted the written offer to purchase the vacant lots from John M. Hall, Jr. dated April 29, 2009 for the 2009 tax value of \$10,800 and forward to City Council with the recommendation to accept the written offer by John M. Hall, Jr. subject to the general statute provisions and guidelines governing the disposal of public property. Subject lots were deeded to PWC by John Sandrock in December 1975 and PWC has no foreseeable use or need to retain these lots. A 100' wide CP&L power line easement cuts diagonally across the property which renders the lots unbuildable. Mr. Hall is aware of the CP&L easement and agrees to purchase the lots subject to the limitations and restrictions of the CP&L easement and any other easements or restrictions on record. Mr. Hall plans to use the lots for parking.

## **ISSUES:**

N/A

## **OPTIONS:**

- Authorize advertisement of the offer for upset bids.
- Reject the offer to purchase.

## **RECOMMENDATIONS:**

Authorize the City Attorney or her representative to advertise the offer for upset bids.

000069

ITEM

2.G.

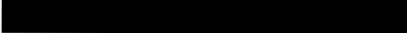



WILSON A. LACY, COMMISSIONER  
 TERRI UNION, COMMISSIONER  
 LUIS J. OLIVERA, COMMISSIONER  
 MICHAEL G. LALLIER, COMMISSIONER  
 STEVEN K. BLANCHARD, CEO/GENERAL MANAGER

**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



To: Steven K. Blanchard, General Manager  
 From: Joe Callis, Business Planning Manager   
 Subject: *Receipt of Offer to Purchase – Vacant Boone Trail Lots 18 & 19, Block-I Bordeaux, Section-5; Reference Pin No. 0416-92-6643*  
 Date: June 29, 2009

Mr. John M. Hall, Jr. has submitted a written offer to PWC to purchase the two vacant lots referenced above. The price offered for the property is the 2009 assessed value of \$10,800. There is a 100' wide CP&L power line easement cutting diagonally across the property which renders the lots unbuildable. Mr. Hall owns a rental house and lot adjoining this parcel and would like to use it for parking.

The subject lots were deeded to PWC by John Sandrock in December, 1975. Business Planning has confirmed with PWC Electrical Engineering/Construction and with Water Resources Engineering/Construction that there is no foreseeable use or need by PWC to retain these lots. Mr. Hall is aware of the CP&L easement and agrees to purchase the lots subject to the limitations and restrictions of the CP&L easement and any other easements or restrictions on record.

The subject parcel's assessed value is 30% of the full price of other residential lots along Boone Trail not encumbered by the power line easement. Although a formal appraisal has not been obtained by the city, considering the restrictions and limitations of use on the property due to the power line easement, the current assessed value is considered to represent fair market value of the property. It is, therefore, the recommendation of Business Planning to declare the subject parcel surplus and accept Mr. John Hall's written offer.

Thank you for placing this item for consideration on the next Commission Agenda and, if approved, forward to City Council with recommendation to accept the offer subject to the general statute provisions and guidelines governing the disposal of public property. If you have any questions or concerns, please let me know.

APPROVED:

PUBLIC WORKS COMMISSION

DATE: 7-8-09

CONSENT ITEM II-C

April 29, 2009

John M. Hall, Jr.  
3517 Boone Trail  
Fayetteville, NC 28306  
(910) 424-3773

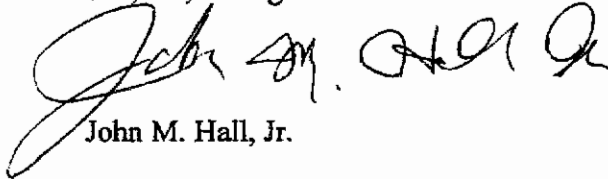
City of Fayetteville  
433 Hay Street  
Fayetteville, NC 28301-5537

To Whom It May Concern:

REF: VAC BOONE TRAIL LTS 18 & 19 BLK I BORDEAUX SEC 5  
Parcel ID: 0416-92-6643  
Tax Year: 2009 Value: 10,800.00  
100 Foot easement owned by CP&L known to be on property

Offer To Purchase

I agree to purchase the land from the city of Fayetteville for the 2009 tax value of \$10,800, and agree to easements and restrictions of record.




John M. Hall, Jr.

cc: Jim Autry  
Cynthia M. Preas  
File

01/15/09

1 of 1) ◀ ▶

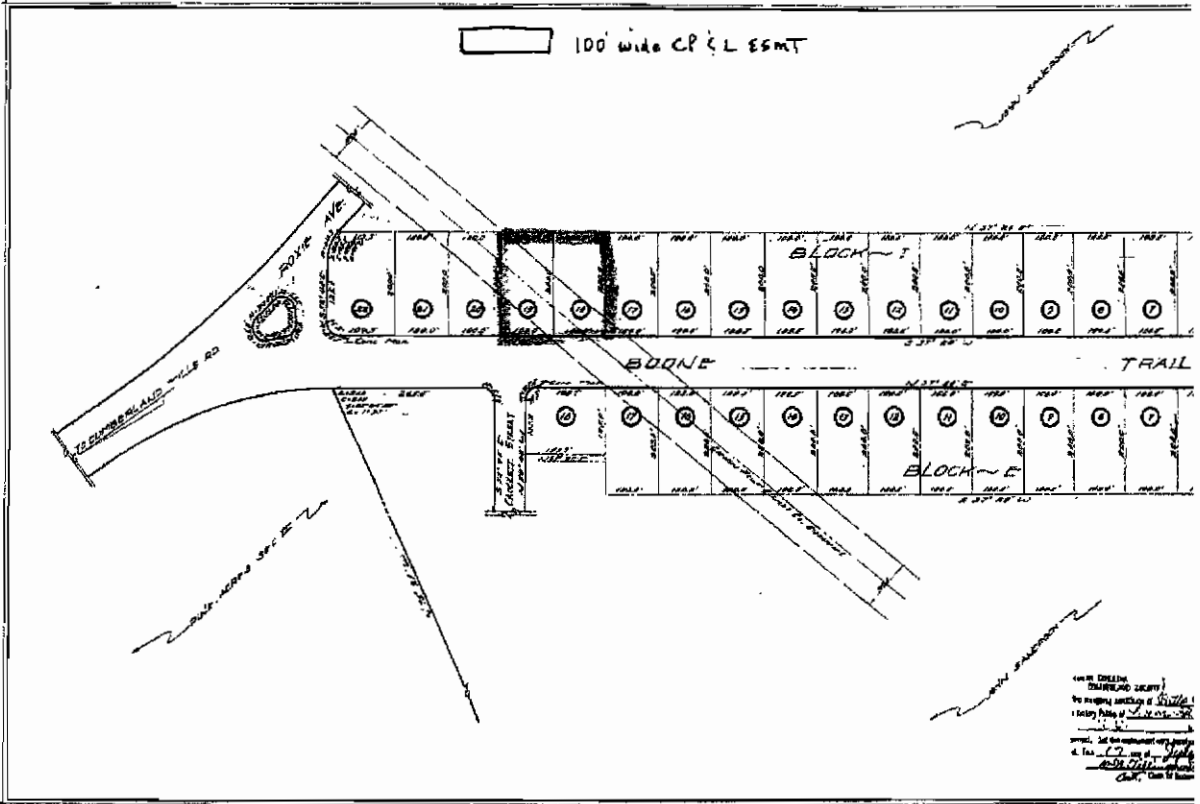
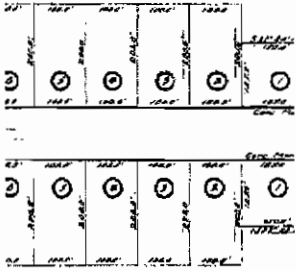


 Subject Parcel



Subject Lots  
City of Fayetteville

100' wide C.P. & L. ESMT



06 11  
17  
61  
C. C. Brown

STATE OF MISSISSIPPI  
COUNTY OF CLAY  
I, the undersigned, being a duly qualified and authorized surveyor, do hereby certify that the foregoing is a true and correct copy of the original plat of the same as the same appears in the office of the Surveyor General of the State of Mississippi.  
C. C. Brown  
Surveyor

THIS PLAN IS SUBJECT TO THE REVISIONS AND CORRECTIONS TO BE MADE BY THE SURVEYOR GENERAL OF THE STATE OF MISSISSIPPI.  
C. C. Brown  
Surveyor



COUNTY TAX ASSESSOR  
EMAIL

Property Information Mini-Sheet

[Click for Tax Sheet](#)

[Tax Records](#) | [General Info](#) | [Phone Numbers](#) | [Real Estate](#) | [Personal](#) | [County](#)

Date: 03/16/2009 COUNTY OF CUMBERLAND Tax Year: 2009 Time: 12:15:06

**Parcel ID:** 0416-92-6643- **TaxYear:** 2009

**Owner Name(s):** CITY OF FAYETTEVILLE

**Owner Address:** 433 HAY ST FAYETTEVILLE NC 28301-5537

**Situs Address:** 000000 BOONE TRL FAY

**Taxing District:** 1000 FAYETTEVILLE

**Tax Bill Number:** ARCHIVE

**Old Parcel ID:** 0416-92-5566-

**Property Class:** EXEMPT

**Neighborhood:** 0037

**Zoning:** R10 -RESIDENTIAL DIST

**Frontage:** 200.00 **Depth:** 200.00

**Map & Sheet:** 0416-16

**Plat Book & Page:** 0018 -0061

**Legal Description:** VAC BOONE TRAIL LTS 18 & 19 BLK I BORDEAUX SEC 5

**Parcel Taxable Value: (REVALUATION 2009)**

	Total	Land	Building	Misc.	Date
<b>Appraised:</b>	10,800.00	0.00	0.00	0.00	01/01/2003

**Land Assessment:**

Land Use	Land Units	Land Type	Land Rate	Land Value
RESIDENTIAL LOT	2.00	LT	18,000.00	10,800.00

(A max of 5 sales can be shown)

**Sale History Data:**

Deed Book	Deed Page	Sale Date	Sale Price
02524	0818	07/01/1984	1.00

(A max of 10 improvements can be shown)

**Miscellaneous Improvements:**

Description	Type	Unit	Number of Units
NO DATA FOND			

**Choose the Building to Display:** 00

[Get Building Info](#)

**Building #:** 00 **OF** 00 **# of Stry**

000074

**Improvement Type:** NO DATA FOUND  
**Quality Grade:**  
**Actual Year Built:**

**Foundation:** **Exterior:**  
**Heat Method:** **Heat Source:**  
**Roof Type:** **Cover:**  
**5-Fix Baths:** **4-Fix Baths:** **3-Fix Baths:** **2-Fix Baths:** **Extra Fix:**  
**Bedrooms:** **Fireplaces:** **Air Cond:** **Condition:**

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NO-FUNC

000075

Progress Energy Carolinas, Inc. (PEC)  
Transmission Line Right-of-Way Use Guidelines  
(Revised Feb. 6, 2001)

PEC's goal is to provide safe, reliable and economical electrical service to all customers. Keeping electricity reliable requires PEC unobstructed access for maintaining power lines, facilities and rights-of-way. The following list of right-of-way guidelines has been developed to provide owners with a guide for the use of PEC transmission line rights-of-way. Please contact a PEC right-of-way representative concerning any proposed plans. The customer must adhere to any and all Transmission Use Guidelines listed below.

1. **Structures (any man-made assembly), Equipment and Storage** - Under limited circumstances structures, equipment or storage may be allowed, with prior written approval from an authorized PEC representative, if they meet all of the following criteria:
  - a. Is temporary and is easily and immediately movable at owner's expense.
  - b. Does not restrict complete access and maintenance of line or right-of-way, or future use by PEC.
  - c. Does not adversely affect the safety of customer, company personnel or general public.
  - d. Is not located under and at least fifteen (15) feet beyond the outside conductor and does not exceed twelve (12) feet in height.Structures, equipment and storage include, **but are not limited to**, the following: buildings, sheds, storage facilities, trailers, billboards, signs, street or area lights, hunting stands, recreational facilities, dumpsters, satellite signal receiver systems, items within storage facilities, garbage, trash, uprooted stumps, boulders, rubble, flammable material, building material, and junk or inoperable vehicles. **Permanent or non-movable buildings, swimming pools, mobile homes and airstrips shall not be allowed within PEC rights-of-way.**
2. **Immovable Ground Facilities** - Under limited circumstances immovable ground facilities may be allowed, with prior written approval from an authorized PEC representative, if they meet all of the following criteria.
  - a. These facilities must cross the centerline of PEC's transmission line at angle of 45 degrees or greater and the edge of the item should be at least forty (40) feet from any PEC structure or anchor.
  - b. All underground facilities must be capable of bearing the weight of PEC maintenance vehicles.
  - c. **Manholes** must be thirty (30) or more inches above grade, unless in paved or graveled areas.
  - d. **Fire hydrants, utility pedestals, or any other above ground facilities shall not be allowed directly under conductors or within fifteen (15) feet of the outside conductor.**Immovable ground facilities include **but are not limited to**, the following: streets, roads, driveways, water and sewer lines, ditches and any underground facilities. If during the construction of facilities, customer cuts or damages counter poise/grounding grid, the customer shall reimburse PEC for cost of repairs. **Septic tanks and/or related drain fields, absorption pits, wells, burial grounds, and underground vaults shall not be allowed within PEC rights-of-way.**
3. **Parking Lots** may be constructed on PEC rights-of-way with prior written approval from an authorized PEC representative, and if they are in compliance with the following conditions:
  - a. A barrier adequate to protect the pole, tower or anchor shall be erected, by the party constructing the parking area, in such a manner as to restrict parking to at least five (5) feet from pole, tower or anchor.
  - b. Grading shall be approved by PEC.
  - c. Lighting facilities shall be approved by PEC.
  - d. Signs and other attachments to any PEC structure are prohibited.
4. **Grading** will not be allowed without prior written approval from an authorized PEC representative. Access to PEC facilities must be maintained at all times. Any grading that allows water to pond or to cause erosion around any pole, tower or anchor is prohibited. Grading within forty (40) feet of any PEC structure or anchor shall not be allowed. Slopes shall not exceed a one (1) foot rise/fall in elevation over four (4) feet horizontal distance (1:4 slope).
5. **Fences** shall be installed at least ten (10) feet away from poles or towers and shall not exceed eight (8) feet in height. Fences shall not be attached to PEC poles or towers. If PEC's ability to travel up and down the right-of-way is impeded, property owner must install a twelve (12) foot gate(s).
6. **Lakes, ponds, erosion control facilities and dams** may be allowed, with prior written approval from an authorized PEC representative, if they do not interfere with PEC's access and/or maintenance requirements.
7. **Trees, shrubs, bushes, hedges, low-growing evergreens, flowers, grasses, low-growing shrubs or gardens** planted within PEC rights-of-way shall not exceed a maximum height of twelve (12) feet at maturity, and may not interfere with PEC's access and/or maintenance requirements.
8. No item shall be allowed on PEC's rights-of-way that violates the National Electrical Safety Code.  
**No burning activities are allowed in rights of way.**

For additional information or clarification, please contact a PEC right-of-way representative. **Bruce Pait 919-219-9567.**

# CITY COUNCIL ACTION MEMO

To: Mayor and Members of Council

*Steven K. Blanchard*

From: Steven K. Blanchard, CEO/General Manager  
Public Works Commission of the City of Fayetteville

Date: July 8, 2009 (**Scheduled City Council Date: July 27, 2009**)

Re: Receipt of Offer to Purchase Lot 3, Brewington Estate

**THE QUESTION:** How best to respond to an offer from Dan V. Kinlaw to purchase the 0.48 acre vacant parcel (Lot 3, Brewington Estate, Old Wilmington Road, Reference Pin No. 0436-86-0645)

**RELATIONSHIP TO STRATEGIC PLAN:** A Growing City – A Great Place to Live

## **BACKGROUND:**

During their regular meeting of July 8, 2009 the Public Works Commission approved to declare the 0.48 acre vacant parcel (Lot 3, Brewington Estate, Old Wilmington Road, Reference Pin No. 0436-86-0645) surplus and accepted the written offer from Dan V. Kinlaw dated June 9, 2009 to purchase the 0.48 vacant parcel in the amount of \$15,143.00, which is the 2009 assessed value and to forward to City Council with the recommendation to accept the written offer from Dan V. Kinlaw subject to the general statute provisions governing the disposal of public property. The property is not located within the Hope VI project area. Other than an easement for drainage and utilities, there was no immediate need or foreseeable use of the property by PWC or the City. Mr. Kinlaw wishes to acquire the property to provide a separate driveway access off Old Wilmington Road to his property.

## **ISSUES:**

N/A

## **OPTIONS:**

- Authorize advertisement of the offer for upset bids.
- Reject the offer to purchase.

## **RECOMMENDATIONS:**

Authorize the City Attorney or her representative to advertise the offer for upset bids.

000077

ITEM 2. H.




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

To: Steven K. Blanchard, General Manager  
 From: Joe Callis, Business Planning Manager   
 Subject: **Receipt of Offer to Purchase – Lot-3 Brewington Estate (Old Wilmington Road); Reference Pin No. 0436-86-0645**  
 Date: June 24, 2009

Mr. Dan V. Kinlaw has submitted a written offer to PWC to purchase the vacant land parcel referenced above. The price offered for the .48 acre vacant parcel is the 2009 assessed value of \$15,143.00. Mr. Kinlaw owns the moving and storage facility adjacent to this property and wishes to acquire the City property in order to provide a separate driveway access off Old Wilmington Road to his property.

The assessed value offered equates to a land rate of \$.70 per square foot. As shown on the attached spreadsheet, the subject parcel's assessed value is in keeping with the assessed land rates of other similar parcel in the immediate area. Although a formal appraisal has not been obtained by the city, because of the parcel's small size and the development limitations placed on it due to the canal, it would be difficult to develop the property for any use other than access without assemblage with an adjoining property. Mr. Kinlaw agrees to purchase the property subject to the City reserving a 40' wide utility easement for drainage and utilities along the canal.

Business Planning staff consulted with PWC Operations and the City Real Estate and Engineering Departments on the disposition of this property. Other than an easement for drainage and utilities, there was no immediate need or foreseeable use of the property by PWC/City; therefore, it is the recommendation of Business Planning to declare the subject parcel surplus and accept the written offer subject to the general statute provisions governing the disposal of public property.

Thank you for placing this item for consideration on the next Commission Agenda and, if approved, forward to City Council with recommendation to accept the offer. If you have any questions or concerns, please let me know.

APPROVED:

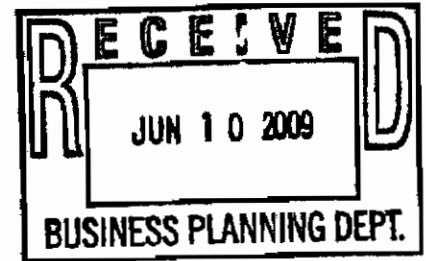
PUBLIC WORKS COMMISSION

DATE: 7-8-09

CONSENT ITEM II-D

000078

**Dan V. Kinlaw**  
P.O. Box 9099  
Fayetteville, N.C. 28301  
910-488-3101



June 9, 2009

Mr. Jim Autry  
Right of Way Supervision  
P.W.C.  
P.O.Box 1089  
Fayetteville, N.C. 28302

Dear Mr. Autry,

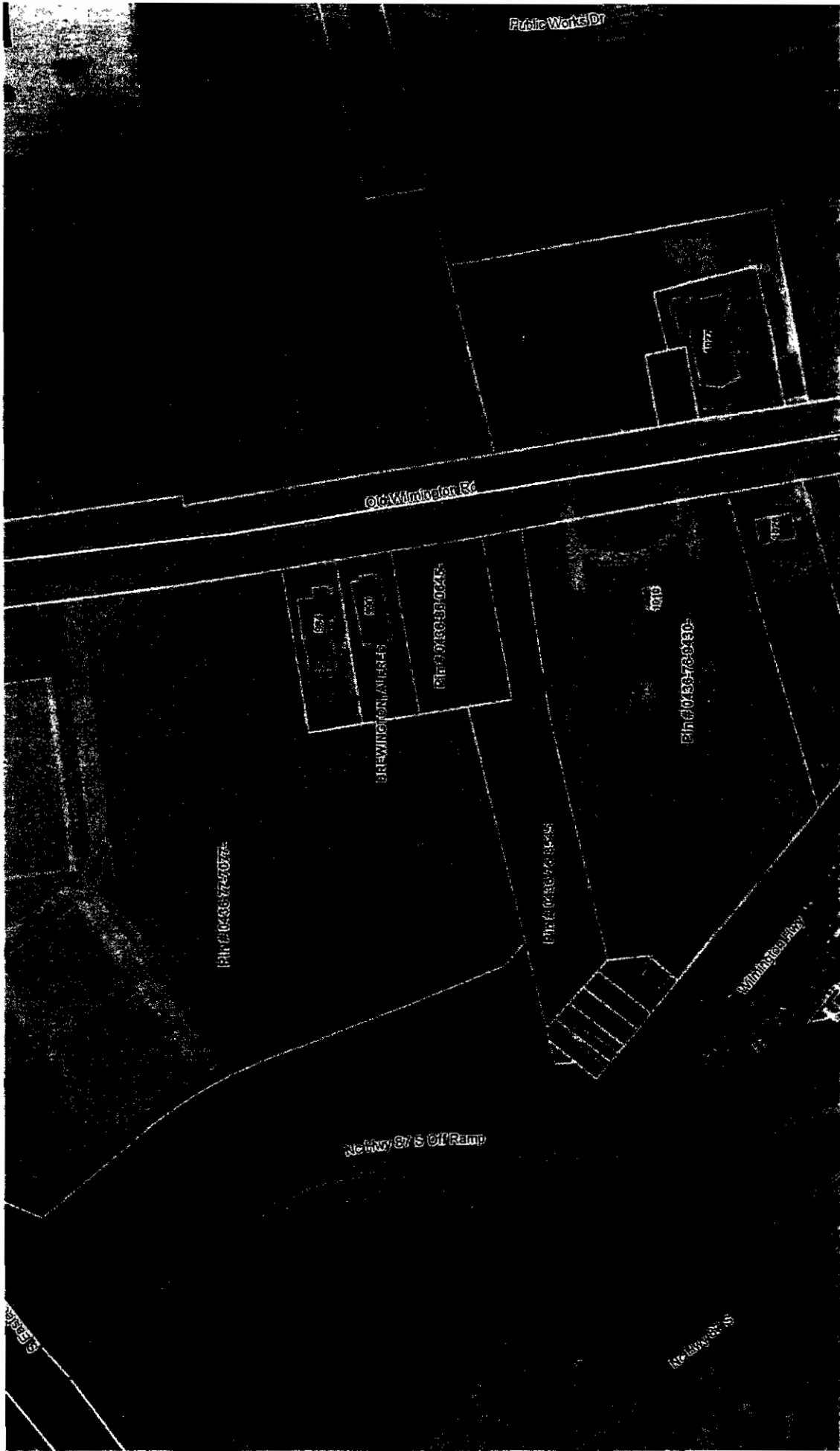
I would like to purchase the Lot 3, Brewington Est.  
(Plat attached) from the city in the amount of \$15,143.00. I  
understand that P.W.C. has a 40 foot easement on the lot for  
a canal.

Sincerely

A handwritten signature in black ink, appearing to read "D. Kinlaw".

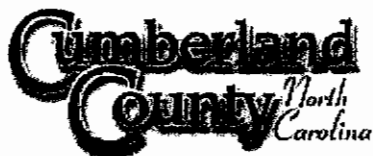
•Dan Kinlaw

000079



000030





COUNTY TAX ASSESSOR  
EMAIL

Property Information Mini-Sheet

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Date: 05/20/2009

COUNTY OF CUMBERLAND Tax Year: 2009

Time: 11:29:32

**Parcel ID:** 0436-86-0645- **TaxYear:**

**Owner Name(s):** CITY OF FAYETTEVILLE

**Owner Address:** 433 HAY ST FAYETTEVILLE NC 28301-5537

**Situs Address:** 001010 OLD WILMINGTON RD FAY

**Taxing District:** 1000 FAYETTEVILLE

**Tax Bill Number:** ARCHIVE

**Old Parcel ID:** 0436-76-9577-

**Property Class:** EXEMPT

**Neighborhood:** 8038

**Zoning:** M2 -HEAVY INDUST DIST

**Frontage:** 110.00 **Depth:** 197.00

**Map & Sheet:** 0436-12

**Plat Book & Page:** 0016 -0058

**Legal Description:** LOT 3 BREWINGTON EST (0.50 AC)

**Parcel Taxable Value:** (REVALUATION 2009)

	Total	Land	Building	Misc.	Date
<b>Appraised:</b>	15,143.00	0.00	0.00	0.00	04/14/2008

**Land Assessment:**

	Land Use	Land Units	Land Type	Land Rate	Land Value
COMMERCIAL SQ FOOTAG		21,780.00	SF	0.70	15,143.00

(A max of 5 sales can be shown)

**Sale History Data:**

Deed Book	Deed Page	Sale Date	Sale Price
02983	00209	03/01/1984	13,000.00
02903	0667	07/01/1984	1.00

(A max of 10 improvements can be shown)

**Miscellaneous Improvements:**

Description	Type	Unit	Number of Units
NO DATA FOND			

**Choose the Building to Display:**

[Get Building Info](#)

**Building Characteristics**

000041

<b>Building #:</b>	00 OF 00	<b># of Stry</b>
<b>Improvement Type:</b>	NO DATA FOUND	
<b>Quality Grade:</b>		
<b>Actual Year Built:</b>		
<b>Foundation:</b>	<b>Exterior:</b>	
<b>Heat Method:</b>	<b>Heat Source:</b>	
<b>Roof Type:</b>	<b>Cover:</b>	
<b>5-Fix Baths:</b>	<b>4-Fix Baths:</b>	<b>3-Fix Baths:</b>
<b>Bedrooms:</b>	<b>Fireplaces:</b>	<b>Air Cond:</b>
		<b>2-Fix Baths:</b>
		<b>Condition:</b>
		<b>Extra Fix:</b>

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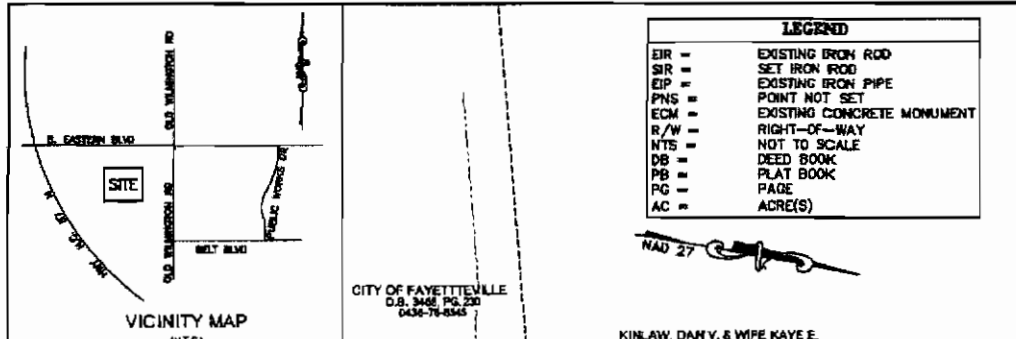
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**Disclaimer:**

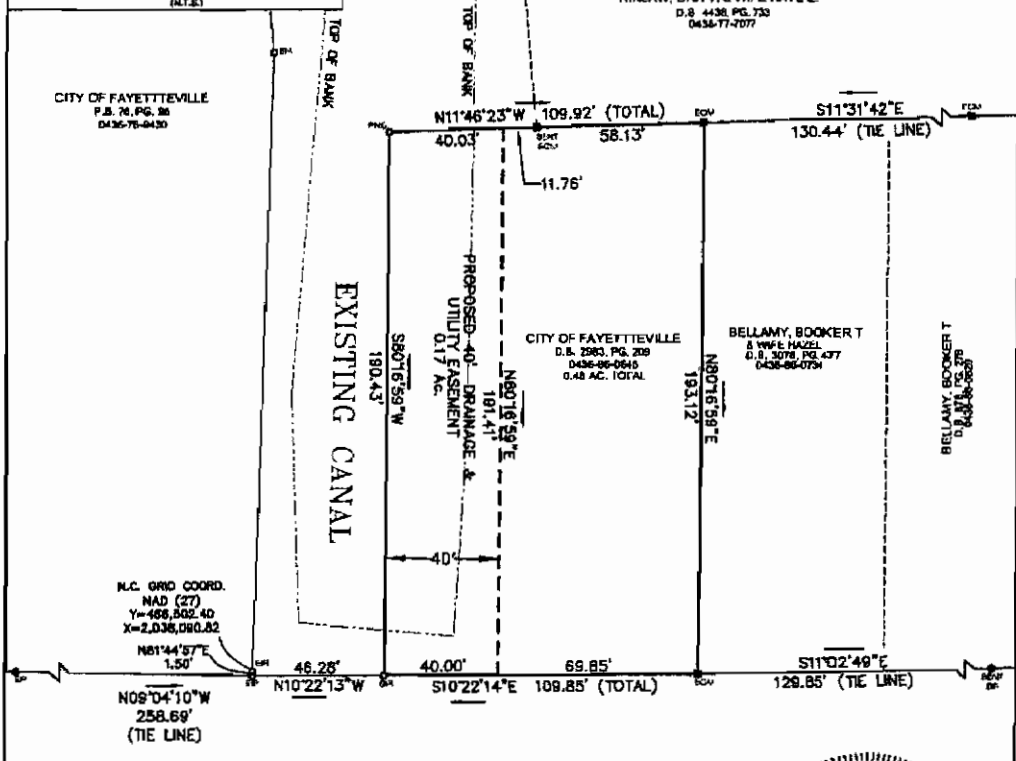
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NO-FUNC

0000~2



LEGEND	
EIR	EXISTING IRON ROD
SIR	SET IRON ROD
EIP	EXISTING IRON PIPE
PNS	POINT NOT SET
ECM	EXISTING CONCRETE MONUMENT
R/W	RIGHT-OF-WAY
NTS	NOT TO SCALE
DB	DEED BOOK
PB	PLAT BOOK
PG	PAGE
AC	ACRE(S)



**OLD WILMINGTON RD SR 2337**  
**90' R/W**



- NOTES:
- 1) THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.
  - 2) THIS MAP WAS PREPARED FROM RECORDED MAPS & DEEDS AND A PARTIAL SURVEY.
  - 3) THIS MAP HAS BEEN PREPARED FOR EASEMENT ACQUISITION ONLY.

CUMBERLAND COUNTY  
 NORTH CAROLINA

I, RODNEY G. MANESS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION. THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED BY BROKEN LINES; DEED DESCRIPTIONS AND OTHER INFORMATION ON RECORD ARE; ( AS SHOWN ON THIS PLAT.) THAT THE RATIO OF PRECISION AS CALCULATED IS 1 : 12,000 (COMPASS RULE). PREPARED IN ACCORDANCE WITH G.S.47-30, AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 11 DAY OF MARCH, 2009.

"BREWINGTON LOT"  
 PROPERTY OF CITY OF FAYETTEVILLE  
 EXHIBIT "A"



PROFESSIONAL LAND SURVEYOR  
 REGISTRATION NO. L-4594

<b>PUBLIC WORKS COMMISSION</b> 925 OLD WILMINGTON RD. FAYETTEVILLE, N.C. 28301 (910) 223-4730	SURVEY/GPS BY: PWC/COF	DATE: 03/09	REVISIONS	BY
	LAYOUT BY: C.W	DATE: 03/09		
	PLAN/PROF. BY: C.W			
	DESIGN REVIEW BY: W/R ENGR. DEPT			
	APPROVED BY:			
SCALE: HOR: 1"=50' VERT: 1"= N/A		SHT: 1 of 1 BREWINGTON LOT		

000083

1	0436-77-7077	Kinlaw, Dan V. & wife, Kaye E.	10.70 ac	\$93,871.00	\$2,441,977.00	\$213,973.00	\$2,749,821.00	0.20
2	0436-86-0820	Bellamy, Booker T.	.29 ac	\$9,038.00	\$25,577.00	\$0.00	\$34,615.00	0.72
3	0436-86-0734	Bellamy, Booker T.	.29 ac	\$9,038.00	\$10,018.00	\$0.00	\$19,056.00	0.72
4	0436-86-0645	City of Fayetteville	.50 ac	\$0.00	\$0.00	\$0.00	\$15,143.00	0.70
4A	0436-76-8545	City of Fayetteville	.95 ac	\$0.00	\$0.00	\$0.00	\$22,570.00	0.55
5	0436-76-9430	City of Fayetteville	3.13 ac	\$0.00	\$0.00	\$0.00	\$59,819.00	0.32
6	0436-86-0243	Huggins, Samuel O. Jr & wife	na	\$23,093.00	\$22,742.00	\$0.00	\$45,835.00	0.69
7	0436-86-1149	Council, Artice Lee	.21 ac	\$6,545.00	\$0.00	\$0.00	\$6,545.00	0.72
8	0436-86-0180	City of Fayetteville	.42 ac	\$0.00	\$0.00	\$0.00	\$11,987.00	0.42
9	0436-85-2907	Council, Artice Lee	.49 ac	\$12,986.00	\$0.00	\$0.00	\$12,986.00	0.49
9A	0436-86-1190	Council, Artice Lee	.25 ac	\$7,792.00	\$60,305.00	\$0.00	\$68,097.00	0.72
10	0436-86-3373	Mt. Carmel Baptist Church	na	\$0.00	\$0.00	\$0.00	\$141,461.00	0.72

prepared by Jennifer Crawford



### Old Wilmington Road

Created by Public on Monday, 4 May 2009



Map Zoom: 0.2515 mi

Map Scale: 1:2,266

000085



TO: Mayor  
 City Council Members  
 City Manager  
 City Attorney

*Q*

Under provisions of Chapter 14, titled Housing, Dwellings and Buildings of the Code of the City of Fayetteville, North Carolina, the Inspection Department is requesting the docket of the owner who has failed to comply with this Code, be presented to the City Council for action. All proceedings that are required by the Code, Section 14-61, have been complied with. We request the Council take action under the provisions of Chapter 14 of the Code and applicable NC General Statutes.

<b>Location</b>	932 Fleetwood Drive
<b>Property Owner(s)</b>	Buelah M Wallace, c/o Carolyn D Wallace, Fayetteville, NC
<b>Date of Inspection</b>	January 15, 2009
<b>Date of Hearing</b>	February 9, 2009
<b>Finding/Facts of Scheduled Hearing</b>	Notice to repair/demolish the structure within 60 days mailed February 11, 2009.
<b>Owner's Response</b>	None
<b>Appeal Taken (Board of Appeals)</b>	No
<b>Other</b>	Utilities disconnected since July 2002.
<b>Police Calls for Service (past 2 yrs)</b>	25

The Housing Inspector dispatched a letter to the owner(s) with information that the docket would be presented to the City Council for necessary action.

This is the 27th day of July, 2009.

Frank Lewis, Jr.  
 Sr. Code Enforcement Administrator (Housing)

ITEM 2.I. 1

**AN ORDINANCE OF THE CITY COUNCIL  
OF  
FAYETTEVILLE, NORTH CAROLINA**

**Requiring the City Building Inspector  
to correct conditions with respect to,  
or to demolish and remove a structure  
pursuant to the  
Dwellings and Buildings Minimum Standards  
Code of the City**

The City Council of Fayetteville, North Carolina, does ordain:

The City Council finds the following facts:

- (1) With respect to Chapter 14 of the Dwellings and Buildings Minimum Standards Code of the City, concerning certain real property described as follows:

932 Fleetwood Drive  
PIN 0437-01-1217

All of Lot Six (6), Block "T", of "Savoy Heights, Section III" as per survey and map of the same prepared by Sol C. Rose, Registered Surveyor, dated February, 1960, and recorded in Book of Plats 25, at page 8, in the office of the register of Deeds for Cumberland County, North Carolina.

And being a portion of the larger tract of land conveyed to J.V. Jessup Construction Co., Inc. by deed recorded in Book 814, page 264, Cumberland County Registry.

This conveyance is made subject to restrictions and reservations for easements as set forth in instrument dated August 28, 1961, and recorded in Book 883, page 552, Cumberland County Registry. This conveyance is made subject to electric utility easements to the City of Fayetteville recorded in Book 853, page 447, and Book 883, page 249, Cumberland County Registry.

This conveyance is made subject to any paving assessments assessed, or to be assessed, by the City of Fayetteville, and is made subject to City and County ad valorem taxes for the year 1963.

The owner(s) of and parties in interest in said property are:

Buelah M Wallace  
C/o Carolyn D Wallace  
521 Auburndale Drive  
Fayetteville, NC 28314-1602

0437

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before April 10, 2009.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.
- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:  
  
None.
- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$4,000.00 shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

#### SECTION 1

The Building Inspector is ordered forthwith to accomplish, with respect to said property, precisely and fully what was ordered by said Inspections Director as set forth fully above, except as modified in the following particulars:

This property is to be demolished and all debris removed from the premises, and the cost of said removal shall be a lien against the real property as described herein.

#### SECTION 2

The lien as ordered herein and permitted by NC General Statute 160A-443(6) shall be effective from and after the date the work is completed, and a record of the same shall be available in the office of the City of Fayetteville Finance Department, Collections Division, 2nd Floor - City, 433 Hay Street, Fayetteville, NC 28301.

#### SECTION 3

This ordinance shall be in full force and effect from and after its adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF FAYETTEVILLE

BY: \_\_\_\_\_  
Anthony Chavonne, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Penfield, Deputy City Clerk





TO: Mayor  
 City Council Members  
 City Manager  
 City Attorney

Under provisions of Chapter 14, titled Housing, Dwellings and Buildings of the Code of the City of Fayetteville, North Carolina, the Inspection Department is requesting the docket of the owner who has failed to comply with this Code, be presented to the City Council for action. All proceedings that are required by the Code, Section 14-61, have been complied with. We request the Council take action under the provisions of Chapter 14 of the Code and applicable NC General Statutes.

<b>Location</b>	513 Link Street
<b>Property Owner(s)</b>	Glen Faircloth (aka Tony/Tyrone Faircloth), Fayetteville, NC
<b>Date of Inspection</b>	February 6, 2008
<b>Date of Hearing</b>	February 11, 2009
<b>Finding/Facts of Scheduled Hearing</b>	Notice to repair/demolish the structure within 60 days mailed February 17, 2009
<b>Owner's Response</b>	None
<b>Appeal Taken (Board of Appeals)</b>	No
<b>Other</b>	Utilities disconnected since September 2003.
	Hearing was advertised in the Fayetteville Observer February 2009.
<b>Police Calls for Service (past 2 yrs)</b>	48

The Housing Inspector dispatched a letter to the owner(s) with information that the docket would be presented to the City Council for necessary action.

This is the 27th day of July, 2009.

Frank Lewis, Jr.  
 Sr. Code Enforcement Administrator (Housing)

000039

ITEM 2.I.2

**AN ORDINANCE OF THE CITY COUNCIL  
OF  
FAYETTEVILLE, NORTH CAROLINA**

**Requiring the City Building Inspector  
to correct conditions with respect to,  
or to demolish and remove a structure  
pursuant to the  
Dwellings and Buildings Minimum Standards  
Code of the City**

The City Council of Fayetteville, North Carolina, does ordain:

The City Council finds the following facts:

- (1) With respect to Chapter 14 of the Dwellings and Buildings Minimum Standards Code of the City, concerning certain real property described as follows:

513 Link Street  
PIN 0437-93-8844

Tract One:

Being all of Lot 11 per plat recorded in Book 204, Page 30, Cumberland County, North Carolina, Registry.

Being the same property as conveyed by deed dated May 1, 1992, by Tony Glenn Faircloth, Single, to Lacey DeWayne Faircloth, Divorced, and recorded in Book 3789, Page 719, Cumberland County, North Carolina, Registry.

Tract Two:

Beginning at a point in the Northern margin of Martin Street, which point is South 63 degrees 30 minutes East 325 feet from the intersection of the Northern margin of Martin Street 63 degrees 30 minutes east 50 feet; thence North 26 degrees 30 minutes East 128.6 feet to a stake in the ditch, the Northern line of the tract of which this is a part; thence with said Northern line North 65 degrees 30 minutes West 50 feet to a stake; thence South 26 degrees 30 minutes West, with the lie of Lot Number 31, 126.9 feet to the North margin of Martin Street, the beginning corner, and being Lot Number 30 in the subdivision of the Nannie Martin lands as surveyed and platted by C.C. Howard, Surveyor, in July 1941, plat of which survey is duly recorded in Play Book Number 10, Page 13, Office of the Register of Deeds for Cumberland County, North Carolina.

Tract Three:

Being all of Lot 29 in the subdivision of the Nannie Martin land as surveyed and platted by C.C. Howard, Surveyor in July 1941, plat of which survey is duly recorded in Plat Book 10, Page 13, Office of the Register of Deeds for Cumberland County, North Carolina.

Tracts Two and Three being the same properties as conveyed by Warranty Deed dated June 1, 1990, by James McNeill to Lacey Dewayne Faircloth, and recorded in Book 2585, Page 424, Cumberland County, North Carolina.

The owner(s) of and parties in interest in said property are:

Glenn Faircloth (aka Tony/Tyrone Faircloth)  
2133 Clinton Road  
Fayetteville, NC 28312-6158

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before April 12, 2009.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.
- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:  
  
None.
- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$2,600.00 shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

#### SECTION 1

The Building Inspector is ordered forthwith to accomplish, with respect to said property, precisely and fully what was ordered by said Inspections Director as set forth fully above, except as modified in the following particulars:

This property is to be demolished and all debris removed from the premises, and the cost of said removal shall be a lien against the real property as described herein.

#### SECTION 2

The lien as ordered herein and permitted by NC General Statute 160A-443(6) shall be effective from and after the date the work is completed, and a record of the same shall be available in the office of the City of Fayetteville Finance Department, Collections Division, 2nd Floor - City, 433 Hay Street, Fayetteville, NC 28301.

SECTION 3

This ordinance shall be in full force and effect from and after its adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF FAYETTEVILLE

BY: \_\_\_\_\_  
Anthony Chavonne, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Penfield, Deputy City Clerk



TO: Mayor  
 City Council Members  
 City Manager  
 City Attorney

Under provisions of Chapter 14, titled Housing, Dwellings and Buildings of the Code of the City of Fayetteville, North Carolina, the Inspection Department is requesting the docket of the owner who has failed to comply with this Code, be presented to the City Council for action. All proceedings that are required by the Code, Section 14-61, have been complied with. We request the Council take action under the provisions of Chapter 14 of the Code and applicable NC General Statutes.

<b>Location</b>	312 Maloney Avenue
<b>Property Owner(s)</b>	Otis Davis Jr. and Annie Margaret Davis
<b>Date of Inspection</b>	December 10, 2008
<b>Date of Hearing</b>	February 9, 2009
<b>Finding/Facts of Scheduled Hearing</b>	Notice to repair/demolish the structure within 60 days mailed February 11, 2009
<b>Owner's Response</b>	Permit issued to owner February 9, 2009, but no repairs were made.
<b>Appeal Taken (Board of Appeals)</b>	No
<b>Other</b>	Utilities disconnected since December 2008.
<b>Police Calls for Service (past 2 yrs)</b>	15

The Housing Inspector dispatched a letter to the owner(s) with information that the docket would be presented to the City Council for necessary action.

This is the 27th day of July, 2009.

Frank Lewis, Jr.  
 Sr. Code Enforcement Administrator (Housing)

000003

ITEM 2. I. 3.

**AN ORDINANCE OF THE CITY COUNCIL  
OF  
FAYETTEVILLE, NORTH CAROLINA**

**Requiring the City Building Inspector  
to correct conditions with respect to,  
or to demolish and remove a structure  
pursuant to the  
Dwellings and Buildings Minimum Standards  
Code of the City**

The City Council of Fayetteville, North Carolina, does ordain:

The City Council finds the following facts:

- (1) With respect to Chapter 14 of the Dwellings and Buildings Minimum Standards Code of the City, concerning certain real property described as follows:

312 Maloney Avenue  
PIN 0437-95-9719

Being Lots Numbers 19 and 20 in a map of a subdivision of Lots 26 and 27 of the Beville Estates, recorded in Book of Plats 11, page 37, Cumberland County Registry, more particularly described as follows: Beginning at a stake in the Eastern margin of Maloney Street at a point North 25 degrees 59 minutes East 355 feet from the Northern margin of Lamon Street and running thence South 64 degrees 1 minute East 170 feet to a stake; thence North 25 degrees 50 minutes East 60 feet to a stake; thence North 64 degrees 1 minute West 170 feet to a stake; thence South 25 degrees 59 minutes West 60 feet to the beginning and being a part of the lands described in deed recorded in Book 2581, Page 574, Cumberland County Registry.

The owner(s) of and parties in interest in said property are:

Otis Davis Jr. and Annie Margaret Davis  
1917 Southern Avenue  
Fayetteville, NC 28306

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before April 10, 2009.

- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.
- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:
- None.
- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$2,850.00 shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

SECTION 1

The Building Inspector is ordered forthwith to accomplish, with respect to said property, precisely and fully what was ordered by said Inspections Director as set forth fully above, except as modified in the following particulars:

This property is to be demolished and all debris removed from the premises, and the cost of said removal shall be a lien against the real property as described herein.

SECTION 2

The lien as ordered herein and permitted by NC General Statute 160A-443(6) shall be effective from and after the date the work is completed, and a record of the same shall be available in the office of the City of Fayetteville Finance Department, Collections Division, 2nd Floor - City, 433 Hay Street, Fayetteville, NC 28301.

SECTION 3

This ordinance shall be in full force and effect from and after its adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF FAYETTEVILLE

BY: \_\_\_\_\_  
Anthony Chavonne, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Penfield, Deputy City Clerk



TO: Mayor  
 City Council Members  
 City Manager  
 City Attorney

Under provisions of Chapter 14, titled Housing, Dwellings and Buildings of the Code of the City of Fayetteville, North Carolina, the Inspection Department is requesting the docket of the owner who has failed to comply with this Code, be presented to the City Council for action. All proceedings that are required by the Code, Section 14-61, have been complied with. We request the Council take action under the provisions of Chapter 14 of the Code and applicable NC General Statutes.

<b>Location</b>	321 Maloney Avenue
<b>Property Owner(s)</b>	Cathy Carter McGhee, Philadelphia, PA
<b>Date of Inspection</b>	December 10, 2008
<b>Date of Hearing</b>	March 2, 2009
<b>Finding/Facts of Scheduled Hearing</b>	Notice to repair/demolish the structure within 60 days mailed March 6, 2009
<b>Owner's Response</b>	None
<b>Appeal Taken (Board of Appeals)</b>	No
<b>Other</b>	Utilities disconnected since November 2007.
<b>Police Calls for Service (past 2 yrs)</b>	31

The Housing Inspector dispatched a letter to the owner(s) with information that the docket would be presented to the City Council for necessary action.

This is the 27th day of July, 2009.

*Frank Lewis, Jr.*

Sr. Code Enforcement Administrator (Housing)

000036

ITEM 2, I, 4,



**AN ORDINANCE OF THE CITY COUNCIL  
OF  
FAYETTEVILLE, NORTH CAROLINA**

**Requiring the City Building Inspector  
to correct conditions with respect to,  
or to demolish and remove a structure  
pursuant to the  
Dwellings and Buildings Minimum Standards  
Code of the City**

The City Council of Fayetteville, North Carolina, does ordain:

The City Council finds the following facts:

- (1) With respect to Chapter 14 of the Dwellings and Buildings Minimum Standards Code of the City, concerning certain real property described as follows:

321 Maloney Avenue  
PIN 0437-96-8113

Beginning at an iron stake in the Western margin of Maloney Avenue that is located North 25 degrees 59 minutes East 635 feet measured along the Western margin of Maloney Avenue from the point of intersection of the Western margin of Maloney Avenue with the Northern margin of Lamon Street, and runs thence along the Western margin of Maloney Avenue, North 25 degrees 59 minutes East 50.0 feet to an iron stake; and runs thence South 25 degrees 59 minutes West 50.0 feet to an iron stake; and runs thence South 64 degrees 01 minutes East 150.0 feet to an iron stake in the Western margin of Maloney Avenue, and being described in accordance with a physical survey and map prepared by Don B. Jessup, registered engineer, dated January 28, 1973, and being the Northern 20 feet of Lot 56 and all of Lot 57 as shown on Plat of "Map of Subdivision of Lots Nos. 26 and 27, of the Bevill Estate" prepared by F.M. Averitt, Surveyor, dated July, 1946, and recorded in Book of Plats 11, Page 37, Cumberland County Registry.

The owner(s) of and parties in interest in said property are:

Cathy Carter McGhee  
3940 Elsinore Street  
Philadelphia, PA 19124-5412

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before May 1, 2009.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.
- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:  
  
None.
- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$2,200.00 shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

#### SECTION 1

The Building Inspector is ordered forthwith to accomplish, with respect to said property, precisely and fully what was ordered by said Inspections Director as set forth fully above, except as modified in the following particulars:

This property is to be demolished and all debris removed from the premises, and the cost of said removal shall be a lien against the real property as described herein.

#### SECTION 2

The lien as ordered herein and permitted by NC General Statute 160A-443(6) shall be effective from and after the date the work is completed, and a record of the same shall be available in the office of the City of Fayetteville Finance Department, Collections Division, 2nd Floor - City, 433 Hay Street, Fayetteville, NC 28301.

#### SECTION 3

This ordinance shall be in full force and effect from and after its adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF FAYETTEVILLE

BY: \_\_\_\_\_  
Anthony Chavonne, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Penfield, Deputy City Clerk



TO: Mayor  
 City Council Members  
 City Manager  
 City Attorney

Under provisions of Chapter 14, titled Housing, Dwellings and Buildings of the Code of the City of Fayetteville, North Carolina, the Inspection Department is requesting the docket of the owner who has failed to comply with this Code, be presented to the City Council for action. All proceedings that are required by the Code, Section 14-61, have been complied with. We request the Council take action under the provisions of Chapter 14 of the Code and applicable NC General Statutes.

<b>Location</b>	<b>1017 Rochester Drive</b>
<b>Property Owner(s)</b>	Sandra Joyce Williams Finley McKnight, Fayetteville, NC & Heirs of James E. Johnson, Landsdowne, PA
<b>Date of Inspection</b>	January 15, 2009
<b>Date of Hearing</b>	February 11, 2009
<b>Finding/Facts of Scheduled Hearing</b>	Notice to repair/demolish the structure within 60 days mailed March 30, 2009
<b>Owner's Response</b>	None
<b>Appeal Taken (Board of Appeals)</b>	No
<b>Other</b>	Utilities disconnected since October 2008. Hearing was advertised in the Fayetteville Observer February 2009.
<b>Police Calls for Service (past 2 yrs)</b>	5

The Housing Inspector dispatched a letter to the owner(s) with information that the docket would be presented to the City Council for necessary action.

This is the 27th day of July, 2009.

*Frank Lewis, Jr.*

Sr. Code Enforcement Administrator (Housing)

000099

ITEM 2. I. 5.

**AN ORDINANCE OF THE CITY COUNCIL  
OF  
FAYETTEVILLE, NORTH CAROLINA**

**Requiring the City Building Inspector  
to correct conditions with respect to,  
or to demolish and remove a structure  
pursuant to the  
Dwellings and Buildings Minimum Standards  
Code of the City**

The City Council of Fayetteville, North Carolina, does ordain:

The City Council finds the following facts:

- (1) With respect to Chapter 14 of the Dwellings and Buildings Minimum Standards Code of the City, concerning certain real property described as follows:

1017 Rochester Drive  
PIN 0427-90-4892

Tract One:

Beginning at a stake in the eastern margin of Cook Avenue, said stake being located South 56 degs, 33 mins West 202 feet from the p.t. of the curve at the intersection of Cook Avenue, and Third Street, and running thence South 33 degs, 27 mins, East 200 feet to a stake; thence parallel with Cook Avenue, South 56 degrees, 33 mins West 50 feet to a stake; thence North 33 degs, 27 mins West 200 feet to a stake in the eastern margin of Cook Avenue; thence as Cook Avenue North 56 degs 33 mins East 50 feet to the Beginning and being part of Lots #309, and 311, of a plat entitled "Savoy Heights" this property was conveyed to the grantor by Savoy Realty Company, Book 579, page 299, Cumberland County Registry.

Tract Two:

3 Acres Branson Creek as recorded on Map 22, page 29, Deed Book 674, page 128, Cumberland County Registry. Cumberland County Parcel #62.4.2-M-8. Also recorded in Deed Book 3060, Page 233, Cumberland County Registry.

The owner(s) of and parties in interest in said property are:

Sandra Joyce Williams Finley McKnight

2944 Darien Drive  
Fayetteville, NC 28304-3719

Heirs of James E. Johnson  
C/o James E. Johnson, Jr.  
40 N Maple Avenue  
Landsdowne, PA 19050-2035

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before April 12, 2009.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.
- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:  
  
None.
- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$1,870.00 shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

#### SECTION 1

The Building Inspector is ordered forthwith to accomplish, with respect to said property, precisely and fully what was ordered by said Inspections Director as set forth fully above, except as modified in the following particulars:

This property is to be demolished and all debris removed from the premises, and the cost of said removal shall be a lien against the real property as described herein.

#### SECTION 2

The lien as ordered herein and permitted by NC General Statute 160A-443(6) shall be effective from and after the date the work is completed, and a record of the same shall be available in the office of the City of Fayetteville Finance Department, Collections Division, 2nd Floor - City, 433 Hay Street, Fayetteville, NC 28301.

SECTION 3

This ordinance shall be in full force and effect from and after its adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF FAYETTEVILLE

BY: \_\_\_\_\_  
Anthony Chavonne, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Penfield, Deputy City Clerk

# CITY COUNCIL ACTION MEMO

**To:** Mayor and City Council

**From:** Lisa Smith, Chief Financial Officer 

**Date:** July 27, 2009

**Re:** Special Revenue Ordinance Amendment 2010-2 (Appropriation of Federal Forfeiture and Controlled Substance Tax Funds for Law Enforcement Purposes)

**THE QUESTION:** This amendment will appropriate \$162,288 in controlled substance tax revenues and federal forfeiture funds to increase resources for law enforcement purposes.

**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 Fayetteville Police Department has specifically requested that \$81,144 be used for the Training Center, \$40,572 be used for equipment, and \$40,572 be used for training.
- All of the funds must be used for an authorized law enforcement purpose.

**ISSUES:** None

- OPTIONS:**
- 1) Approve the Special Revenue Ordinance Amendment.
  - 2) Do not approve the Special Revenue Ordinance Amendment.

**RECOMMENDATIONS:** Approve the Special Revenue Ordinance Amendment.

000103

ITEM 2. J.

SPECIAL REVENUE FUND PROJECT ORDINANCE AMENDMENT  
CHANGE 2010-2 (ORD 92-1)

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 change authorized is to the Special Revenue Project Ordinance 92-1, adopted on January 21, 1992, as amended, for Fayetteville Police Department utilizing Federal Forfeiture Funds and Controlled Substance Tax Revenue from the State.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various grant 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>Listed As</u>	<u>Amendment</u>	<u>Revised</u>
Controlled Substance Tax Revenue	\$ 682,620	\$ 78,432	\$ 761,052
Federal Forfeiture Funds	920,294	83,856	1,004,150
Sale of Assets/Auction Proceeds	625	-	625
Interest	49,183	-	49,183
	<u>\$ 1,652,722</u>	<u>\$ 162,288</u>	<u>\$ 1,815,010</u>

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

Project Expenditures	<u>\$ 1,652,722</u>	<u>\$ 162,288</u>	<u>\$ 1,815,010</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 27th day of July, 2009.



# CITY COUNCIL ACTION MEMO

**To:** Mayor and City Council

**From:** Lisa Smith, Chief Financial Officer 

**Date:** July 27, 2009

**Re:** Special Revenue Project Ordinance 2010-3 (FY2009 Byrne Justice Assistance Grant (JAG) Program)

**THE QUESTION:** The Justice Assistance Grant (JAG), totaling \$1,043,441 was awarded to the Fayetteville Police Department and Cumberland County Sheriff's Office. This Special Revenue Project Ordinance will appropriate the City's share of \$708,976 for the JAG program.

**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:**

- As the fiscal agent for the grant, Cumberland County filed the grant application on behalf of the City and County.
- A grant totaling \$1,043,441 was awarded to the City and County.
- The Police Department and the County Sheriff's Office will receive \$708,976 and \$334,465, respectively.
- A local match is not required.
- The Police Department will use their portion of the grant for the following:
  - twelve months of personnel and fringe benefits totaling \$179,777 to hire two additional forensic technicians and two additional crime prevention specialists
  - police travel and training totaling \$24,061
  - four vehicles associated with the new positions totaling \$100,800
  - a tactical robot at \$98,305; a prefabricated hut at \$74,000; a digital 3D laser scene scanner at \$60,000; a Nexlab system at \$38,730; an IBIS Shoot Tank at \$20,500; laptop computers at \$34,200; and various other equipment of \$54,334
  - supplies, materials and phone costs totaling \$24,269.

**ISSUES:** None

- OPTIONS:**
- 1) Adopt the Special Revenue Project Ordinance.
  - 2) Do not adopt the Special Revenue Project Ordinance.

**RECOMMENDATIONS:** Adopt the Special Revenue Project Ordinance.

0001-05

ITEM 2-K.

SPECIAL REVENUE FUND PROJECT ORDINANCE  
ORD 2010-3

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 FY2009 Byrne Justice Assistance Grant (JAG) Program, funded by the U.S. Department of Justice.

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>\$ 708,976</u>
----------------------------	-------------------

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

Project Expenditures	<u>\$ 708,976</u>
----------------------	-------------------

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 27th day of July, 2009.

# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of Council

**Thru:** Dale Iman, City Manager

**From:** Jeffery P. Brown, PE, Interim Engineering & Infrastructure Director

**Date:** July 27, 2009

**Re:** **Municipal Agreement with NCDOT for Ramsey Street Project**

## THE QUESTION:

- Council is being asked to approve a Municipal Agreement with NCDOT for the Ramsey Street Project which consists of constructing raised median islands with directional crossovers from Law Road to Andrews Road. The City is responsible for the acquisition of any additional RW and relocation of any utilities.

## RELATIONSHIP TO STRATEGIC PLAN:

- Growing City, Livable Neighborhoods – A Great Place to Live

## BACKGROUND:

- NCDOT held a public meeting in to discuss the construction of raised median islands with directional crossovers on August 28, 2008.
- This project is scheduled to be let by NCDOT on June 15, 2010.

## ISSUES:

- The City is responsible for the cost of acquiring additional RW and the cost of the relocation and/or adjustment of all utilities in conflict with the project.
- The City is responsible for removing all obstructions and encroachments of any kind or character.

## OPTIONS:

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

## RECOMMENDATION:

- Approve the attached Municipal Agreement with NCDOT that will make the City responsible for acquiring additional RW and relocation of utilities.

07/29/09

ITEM 2. L. 1

NORTH CAROLINA

**TRANSPORTATION IMPROVEMENT PROJECT  
-MUNICIPAL AGREEMENT**

CUMBERLAND COUNTY

DATE: 6/9/2009

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: W-5000

AND

WBS Elements: 40995.3.1

CITY OF FAYETTEVILLE

THIS MUNICIPAL AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the City of Fayetteville, a local government entity, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, the Department has plans to make certain street and highway constructions and improvements within the Municipality under Project W-5000, in Cumberland County; and,

WHEREAS, the Department and the Municipality have agreed that the municipal limits, as of the date of the awarding of the contract for the construction of the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the parties hereto for the purposes of this Agreement; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly, including but not limited to, the following legislation: General Statutes of North Carolina, Section 136-66.1, Section 160A-296 and 297, Section 136-18, and Section 20-169, to participate in the planning and construction of a Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and,

WHEREAS, the parties to this Agreement have approved the construction of said Project with cost participation and responsibilities for the Project as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

## **SCOPE OF THE PROJECT**

1. The Project consists of constructing raised median islands with directional crossovers on US 401 (Ramsey Street) from Law Road to SR 1611 (Andrews Road).

## **PLANNING, DESIGN AND RIGHT OF WAY**

2. The Department shall prepare the environmental and/or planning document, and obtain any environmental permits needed to construct the Project, and prepare the Project plans and specifications needed to construct the Project. All work shall be done in accordance with departmental standards, specifications, policies and procedures.
3. The Municipality, at no expense or liability whatsoever to the Department, shall be responsible for acquiring any needed right of way and/or permanent easements required for said Project. If the Project is not to be constructed within the existing right of way, the Municipality will be responsible for any additional right of way or easements. Acquisition of right of way shall be accomplished in accordance with applicable policies, guidelines, statutes and the North Carolina Department of Transportation Right of Way Manual.

The Municipality shall remove from said right of way all obstructions and encroachments of any kind or character (including hazardous and contaminated materials). The Municipality shall indemnify and save harmless the Department from any and all claims for damages that might arise on account of said right of way acquisition, and construction easements for the construction of said Project.

## **UTILITIES**

4. The Municipality, without any cost or liability whatsoever to the Department, shall relocate and adjust all utilities in conflict with the Project including all privately- or publicly-owned utilities.
  - A. Said work shall be performed in a manner satisfactory to the Department prior to the Department beginning construction of the Project. The Municipality shall make every effort to promptly relocate said utilities in order that the Department will not be delayed in the construction of the Project.
  - B. The Municipality shall make all necessary adjustments to house or lot connections or services lying within the right of way or construction limits, whichever is greater, of the Project.

## **CONSTRUCTION AND MAINTENANCE**

5. The Department shall construct, or cause to be constructed, the Project in accordance with the plans and specifications of said Project as filed with, and approved by, the Department. The Department shall administer the construction contract for said Project.
6. It is further agreed that upon completion of the Project, the Department shall be responsible for all traffic operating controls and devices which shall be established, enforced, and installed and maintained in accordance with the North Carolina General Statutes, the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, the latest edition of the "Policy on Street and Driveway Access to North Carolina Highways", and departmental criteria.
7. Upon completion of the Project, the improvement(s) shall be a part of the State Highway System and owned and maintained by the Department.

## **ADDITIONAL PROVISIONS**

8. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.
9. To the extent authorized by state and federal claims statutes, each party shall be responsible for its respective actions under the terms of this agreement and save harmless the other party from any claims arising as a result of such actions.
10. All terms of this Agreement are subject to available departmental funding and fiscal constraints.

IT IS UNDERSTOOD AND AGREED upon that the approval of the Project by the Department is subject to the conditions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

CITY OF FAYETTEVILLE

BY: \_\_\_\_\_ BY: \_\_\_\_\_

TITLE: \_\_\_\_\_ TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_ DATE: \_\_\_\_\_

Approved by \_\_\_\_\_ of the local governing body of the City of Fayetteville

as attested to by the signature of Clerk of said governing body on \_\_\_\_\_(Date)

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

BY: \_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number

\_\_\_\_\_

Remittance Address:

City of Fayetteville

\_\_\_\_\_

\_\_\_\_\_

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

APPROVED BY BOARD OF TRANSPORTATION ITEM O: \_\_\_\_\_(Date)

# CITY COUNCIL ACTION MEMO

**To:** Mayor and City Council

**From:** Lisa Smith, Chief Financial Officer



*Deputy Finance Officer*

**Date:** July 27, 2009

**Re:** Capital Project Ordinance 2010-9 (Ramsey Street Transportation Improvement Project)

**THE QUESTION:** This ordinance will establish a \$150,000 budget for the Ramsey Street Transportation Improvement Project.

**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 is a \$150,000 transfer from the General Fund.
- ❑ This project funds the City's commitments for the NCDOT municipal agreement to construct raised median islands on Ramsey Street that appears on this agenda.
- ❑ These funds will be used for right-of-way, utility relocation, and other associated expenditures.

**ISSUES:**

None.

**OPTIONS:**

- 1) Adopt Capital Project Ordinance 2010-9.
- 2) Do not adopt Capital Project Ordinance 2010-9.

**RECOMMENDATIONS:** Adopt Capital Project Ordinance 2010-9.

000112

ITEM

2.L.2.



CAPITAL PROJECT ORDINANCE  
ORD 2010-9

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 capital project ordinance is hereby adopted:

Section 1. The authorized project is for the funding of right-of-way acquisition, utility relocation, and other expenditures for the Ramsey Street Transportation Improvement Project.

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

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

General Fund Transfer	<u>\$ 150,000</u>
-----------------------	-------------------



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

Project Expenditures	<u>\$ 150,000</u>
----------------------	-------------------

Section 5. Copies of this capital project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 27th day of July, 2009.

# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of City Council  
**Thru:** Janet C. Smith, Assistant City Attorney   
**From:** Cindy Preas, Real Estate Manager   
**Date:** July 27, 2009  
**Re:** Adopt a Resolution Abandoning a Utility Easement on Land as Evidenced in Plat Book 33, Page 28

**THE QUESTION:** How to respond to a request from Thomas Gooden, PLS, on behalf of Simon Temple AME Zion Church for assistance in abandoning a vacant utility easement.

**RELATIONSHIP TO STRATEGIC PLAN:** Growing City – A Great Place to Live

**BACKGROUND:** A ten-foot (10') wide utility easement is shown to run along the northern and western property lines of Lots 213, 214, 215 and 216, as shown on plat identified as Section 10, The Ponderosa and recorded in Plat Book 33, Page 28, Cumberland County Register of Deeds. Said plat being dated July 1967.

**ISSUES:**

- There have been no utilities installed in the easement area and a check with the public utility agencies reveals no foreseeable need for the easement.
- The ten-foot wide utility easement now conflicts with development of these parcels.
- Additional recorded easements, to include those shown in Plat Book 111, Page 8 and Plat Book 122, Page 138, Cumberland County Registry, remain in full effect.
- The easement area has no value.

**OPTIONS:**

- Approve the request.
- Deny the request.

**RECOMMENDATIONS:** Adopt the attached resolution releasing the platted easement and conveying the City's interest to the owners of the land.

000114

ITEM 2. M.

**STATE OF NORTH CAROLINA**

**Resolution 2009 \_\_\_\_\_**

**RELEASE OF EASEMENT**

**COUNTY OF CUMBERLAND**

Prepared by and return to: Patricia Bradley, Assistant City Attorney

**THIS RELEASE OF EASEMENT** made and entered into this \_\_\_\_ day of July, 2009 by and between the **CITY OF FAYETTEVILLE**, a North Carolina municipal corporation, hereinafter referred to as GRANTOR, and **SIMON TEMPLE AME ZION CHURCH, INC.** hereinafter referred to as Grantee, whose mailing address is PO Box 11031, Fayetteville, NC, 28303;

**WITNESSETH:**

That said Grantors, acquired by dedication a certain ten-foot (10') utility easement across a portion of Lots 213, 214, 215 and 216 per plat entitled, "Section 10, THE PONDEROSA", said plat being duly recorded in Book of Plats 33, Page 28, Cumberland County Registry.

WHEREAS, SIMON TEMPLE AME ZION CHURCH, INC subsequently acquired title to aforementioned lots by deeds duly recorded in Book 8022, Page 402 and Book 6462, Page 286, Cumberland County Registry: and

WHEREAS, said easement as shown on Plat Book 33, Page 28, Cumberland County Registry is not needed by the City of Fayetteville and serves no public purpose: and

WHEREAS, the City of Fayetteville intends all additional recorded easements, to include those shown in Plat Book 111, Page 8 and Plat Book 122, Page 138, Cumberland County Registry, to remain in full effect:

NOW, THEREFORE, said party of the first part, by authority of the City Council of the City of Fayetteville, in a regular meeting on July 27 2009, does hereby give, grant and convey unto said parties of the second part a Release of that certain ten-foot (10') utility easement as shown on Lots 213, 214, 215 and 216, per plat entitled Section 10, The Ponderosa being duly recorded in Book of Plats 33, Page 28, Cumberland County Registry: and

NOW, THEREFORE, IT IS ORDERED AND DIRECTED:

THAT the above-described easements be released to SIMON TEMPLE AME ZION CHURCH, INC., as said easement is of no further value to the City of Fayetteville.

IN WITNESS WHEREOF, the City of Fayetteville has caused this instrument to be signed in its name by its Mayor, attested by its City Clerk and its corporate seal hereunto affixed, all by order of its City Council.

This \_\_\_\_\_ day of July, 2009.

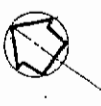
THE CITY OF FAYETTEVILLE, North Carolina

BY: \_\_\_\_\_

Anthony G. Chavonne, Mayor

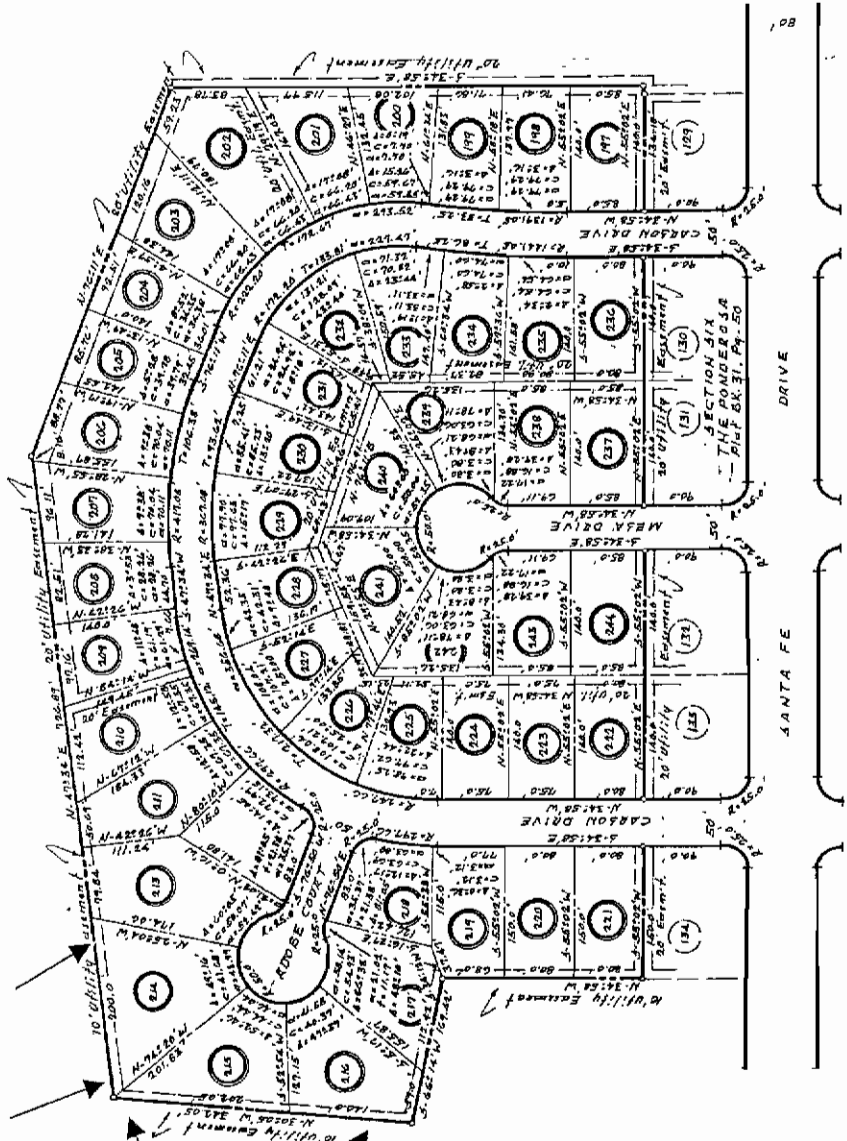
ATTEST:

\_\_\_\_\_  
Jennifer Penfield, Deputy City Clerk



Area to be released

Area to be released



SECTION TEN  
**THE PONDEROSA**  
 PROPERTY OF  
 RIDGLE-FLAYD CONSTRUCTION COMPANY  
 SEVENTY-FIRST TOWNSHIP  
 CUMBERLAND COUNTY  
 NEAR FAYETTEVILLE NORTH CAROLINA  
 SCALE: 1" = 100'  
 JULY, 1967  
 JOL C. ROSE  
 REG. SURVEYOR

STATE OF NORTH CAROLINA  
 COUNTY OF CUMBERLAND  
 I, JOL C. ROSE, Surveyor, do hereby certify that the above plat is a true and correct copy of the original plat on file in my office.  
 JOL C. ROSE  
 Surveyor  
 1967

North Carolina Cumberland County  
 - CUMBERLAND COUNTY  
 The foregoing plat of **Section Six of The Ponderosa**  
 recorded this day of **July** 1967, by **J. C. Rose**  
 Registered Day of **Platting** with my Seal.  
 J. C. ROSE  
 Surveyor  
 The foregoing plat of **Section Six of The Ponderosa**  
 a plat of **Section Six of The Ponderosa** County  
 is hereby returned to the  
 clerk of the Superior Court  
 at **Fayetteville**, North Carolina  
 this **19th** day of **July** 1967.  
 J. C. ROSE  
 Surveyor

BOOK-33-28

# CITY COUNCIL ACTION MEMO

**To:** Dale Iman, City Manager  
**From:** Victor D. Sharpe, Community Development Director *V. Sharpe*  
**Date:** July 27, 2009  
**Re:** Submission of an application to the State of North Carolina for Homeless Prevention and Rapid Re-housing Program (HPRP) funds.

**THE QUESTION:** Does the proposed submission of an application to the State for Homeless Prevention and Rapid Re-housing Program funds provide additional funds for homeless prevention and rapid re-housing?

**RELATIONSHIP TO STRATEGIC PLAN:** Growing City, Livable Neighborhoods – A Great Place To Live and Greater Community Unity, Pride in Fayetteville

**BACKGROUND:**

- The State of North Carolina has been allocated \$18 million for the Homeless Prevention and Rapid Re-housing Program through the American Reinvestment and Recovery Act of 2009.
- The State is making these funds available to local units of governments and nonprofit agencies through a competitive application process. It is proposed that the City apply for \$1.5 million, which will cover a three year period.
- The City will utilize these funds in conjunction with its HPRP funds in the amount of \$589,648 in which it will receive through the ARRA.
- The Community Development Department is coordinating the plans for submission with the 10-Year Plan To End Homelessness as required by the grant.
- The purpose of the HPRP is to provide homeless prevention assistance to households who would otherwise become homeless and to provide assistance to rapidly re-house people who are experiencing homelessness. Program activities will include financial assistance, housing relocation and stabilization services, data collection and administrative costs.
- Requests for proposals are being advertised for non-profit and other public agencies to provide eligible services under the requirement and rules of the program.
- Eligible individuals and households must be at or below 50 percent of area median income.

**ISSUES:**

Applications are due by August 7, 2009.

**OPTIONS:**

Approve submission of application.  
Modify submission of application.

**RECOMMENDATIONS:**

Approve the submission of a grant application to the State of North Carolina Homeless Prevention and Rapid Re-housing Program funds and authorize the Mayor and City Manager to execute documents pertaining to the application.

**ATTACHMENTS:**

None

# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of Council  
**Thru:** Dale Iman, City Manager  
**From:** Rusty Thompson, PE, City Traffic Engineer  
**Date:** July 27, 2009  
**Re:** Revisions to Parking Ordinances 16-327,16-329 and 16-331

## THE QUESTION:

- Council is asked to consider revisions to the ordinances that pertain to downtown parking collection enforcement ordinances

## RELATIONSHIP TO STRATEGIC PLAN:

- Downtown parking report

## BACKGROUND:

- Council recently approved ordinances 16-327 thru 16-332 in March of 2009
- We have identified the need for clarification to include late fees and penalties in the stated ordinances.

## ISSUES:

- Collections of delinquent payments and penalties will be reduced without the revisions.
- Revisions to the ordinances should include verbiage that references late fees and penalties.

## OPTIONS:

- Agree to the revisions
- Instruct staff to develop a modified version of the revisions
- Take no action

## RECOMMENDATION:

- Adopt the revisions as shown.

000119

ITEM 2.0.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE  
AMENDING VARIOUS SECTIONS OF CHAPTER 16, MOTOR VEHICLES AND  
TRAFFIC, ARTICLE X, PARKING, AND ARTICLE XI, ABANDONED, JUNKED, AND  
NUISANCE VEHICLES, OF THE CODE OF ORDINANCES OF THE CITY OF  
FAYETTEVILLE**

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Sections 16-327, 16-329 and 16-331 are inserted as follows:

Sec. 16-327. Immobilization and impoundment of certain vehicles.

The finance director or designee(s) may authorize to be immobilized by the use of wheel locks or may tow and impound any vehicle which is illegally parked and for which there are \$250.00 or more outstanding, unpaid and overdue parking tickets issued by the city, to include all delinquent payment penalties, which tickets have remained unpaid for a period of 90 days.

(Ord. No. 2009-001, § 11, 3-9-2009)

**Cross references:** Police-initiated tow service operations, § et seq.

Sec. 16-329. Release of immobilized/impounded vehicles.

Upon payment of all civil penalties to the parking contractor for unpaid and overdue parking tickets and penalties, and all other applicable charges authorized by this section including immobilization, towing and storage fees, the vehicle shall be released from impound to the owner or any other person entitled to claim possession of the vehicle by the parking contractor or his designee.

(Ord. No. 2009-001, § 11, 3-9-2009)

Sec. 16-331. Appeal of immobilization.

(a) The registered owner or person entitled to possession of any vehicle which has been immobilized or impounded pursuant to this article may submit a written request for a hearing to the city manager or designee by mail within seven days from the receipt of the notice provided for in subsection 16-328(b) above. If a request for a hearing is not made within the allotted time, the right to a hearing shall have been waived. If a hearing is requested, such hearing shall be commenced within seven days of receipt by the city manager or designee of the request for such hearing. Thereafter, an informal hearing will be conducted by the city manager or designee at a time and place designated by the city manager or designee.

(b) For the purpose of determining whether an illegally parked vehicle has \$250.00 or more overdue parking tickets and associated delinquent payment penalties which have remained unpaid for a period of 90 days, it shall be sufficient if the license plate number of the illegally parked vehicle and the license plate number of the vehicle appearing on the tickets are the same.

(Ord. No. 2009-001, § 11, 3-9-2009)



Section 2. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Fayetteville, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF FAYETTEVILLE

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

ATTEST:

\_\_\_\_\_  
JENNIFER K. PENFIELD,  
Deputy City Clerk

# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of City Council  
**From:** Karen M. McDonald, City Attorney  
**Date:** July 27, 2009  
**Re:** Consider Adopting a Policy Regarding Council Member Requests

**THE QUESTION:** Does the attached policy reflect Council's interest regarding City Council member requests?

**RELATIONSHIP TO STRATEGIC PLAN:** More Efficient City Government – Cost Effective Services Delivery

**BACKGROUND:** In 2007, City Council revised its practices regarding Council member requests. The consensus of Council was items of interest which required staff time would be presented at a work session. Council members would then have 5 minutes to present the item after which Council would vote on whether to have staff work on the item. Although Council has been using this approach since 2007, it is not formalized in a policy. The attached policy formalizes Council's current practice.

**ISSUES:** Is this policy consistent with Council's past practice?

**OPTIONS:**

- Accept the revision to the policy regarding Council member requests.
- Reject the revision and do not make any changes to the policy.
- Provide staff with additional direction regarding revision to the policy.

**RECOMMENDATIONS:** Consider the proposed revision to City Council Policy 120.2 and direct staff.

**2007 - MEETING MINUTES CITY OF FAYETTEVILLE NORTH CAROLINA / WORK SESSION APRIL 2, 2007 / 8. CITY COUNCIL REQUESTS**

**8. CITY COUNCIL REQUESTS**

Mayor Chavonne explained how items of interest and issues Council Members wanted to bring to the table for discussion would be addressed under a new Work Session agenda item. Proposed guidelines for the agenda item were discussed and developed. Consensus was that Council Members would have five minutes to discuss an item.

## PROPOSED AMENDMENT

<b>SUBJECT – CITY COUNCIL Hearings (Public and Non-Public)</b>	<b>Number 120.2</b>	<b>Revised 12-15-97 05-11-09</b>	<b>Effective Date 1-5-87</b>	<b>Page 1 of 2</b>
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The City Council of the City of Fayetteville, North Carolina, will apply the following Rules of Procedure at regular City Council meetings for citizens wishing to address the City Council:

A. Public Hearings

- (1) Individuals desiring to speak at a public hearing shall sign up with the City Clerk, by name and home address, before 7:00 p.m. on the date of the scheduled public hearing;
- (2) Fifteen minutes will be allowed for each side of the issue at a public hearing. The City Council in its discretion may extend the time. Individual speakers will be limited to 3 minutes each unless by previous arrangement a single spokesman is designated, in which case the spokesman may use the entire 15 minutes. Time used in response to a question from a Council member will not be counted against the allotted 15 minutes; and
- (3) No one in the audience will be permitted to speak during Council discussion and debate except in response to a question from a Council member recognized by the Chair.

B. Nonpublic Hearing Items

On nonpublic hearing items, the agenda shall indicate by whom the matter will be presented, and only members of staff, the presenter, or the presenter's designated representative shall be permitted to address the City Council. This paragraph is not subject to suspension under Roberts Rules of Order. 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 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.

## PROPOSED AMENDMENT

<b>SUBJECT – CITY COUNCIL Hearings (Public and Non-Public)</b>	<b>Number 120.2</b>	<b>Revised 12-15-97 05-11-09</b>	<b>Effective Date 1-5-87</b>	<b>Page 2 of 2</b>
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C. Announcements

All announcements not addressed by any particular agenda item shall be made at the end of the meeting, prior to adjournment, by the Mayor or the presiding officer, unless otherwise prearranged with the Mayor or presiding officer.

D. City Council Member Requests

Council Members who have items of interest that will require significant staff time shall submit a Council Member Request form to the City Manager's Office. The item shall be included on the next work session agenda. Council members shall be allowed five (5) minutes to present the item for consideration. Council shall then vote as to whether to have staff work on the item.

# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of Council

**Thru:** Dale Iman, City Manager

**From:** Jeffery P. Brown, PE, Interim Engineering and Infrastructure Director



**Date:** July 27, 2009

**Re:** **Public Hearing to Consider Closing Three Unopened Streets Within the Hope VI Area**

## **THE QUESTION:**

- A petition was received from the Fayetteville Metropolitan Housing Authority for the closure of a portion of McKethan Street, a portion of Ross Street, and Lafayette Street. These streets are all unopened streets within the Hope VI area. A public hearing is scheduled to receive comments on the closure.

## **RELATIONSHIP TO STRATEGIC PLAN:**

- Growing City – A Great Place to Live

## **BACKGROUND:**

- NCGSS160A-299 gives the authority and procedures for the City to close a city street or alley.
- A map of the proposed streets is attached.
- The Resolution and Order closing a portion of McKethan Street, a portion of Ross Street, and Lafayette Street is attached for adoption following the public hearing.

## **ISSUES:**

- Access to the abutting properties will not be denied as a result of the closures.
- Closing of these streets will allow these areas to be developed as part of the Hope VI Project.
- The City will reserve an all purpose underground and overhead utility easement for the portion of McKethan Street that is to be closed.
- The City will reserve a blanket easement for the portion of Ross Street and Lafayette Street that is to be closed.
- Notices of the Public Hearing were published and sent out as required.

## **OPTIONS:**

- Adopt resolution calling for a public hearing.
- Deny the request.

## **RECOMMENDATIONS:**

- Adopt the attached resolution and order the closing of a portion of McKethan Street, a portion of Ross Street, and Lafayette Street.

After recording return to: City Attorney's Office, City of Fayetteville, 433 Hay Street,  
Fayetteville NC 28301-5537

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**STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND  
CITY OF FAYETTEVILLE**

**Resolution R2009-\_\_\_\_\_**

**RESOLUTION AND ORDER CLOSING LAFAYETTE STREET  
AND A PORTION OF  
MCKETHAN STREET (FORMERLY KNOWN AS SPRING STREET)  
AND ROSS STREET (FORMERLY KNOWN AS PEARL STREET)**

**WHEREAS**, under authority of N.C.G.S. 160A-299, a public hearing before the City Council of the City of Fayetteville, North Carolina, was advertised as required by law, and duly held on the 27<sup>th</sup> day of July, 2009, in accordance with the notice calling for said public hearing, and all adjoining property owners having been notified by certified mail of the time, place and purpose of said meeting, the purpose of which was to determine whether Lafayette Street and a portion of McKethan Street (formerly known as Spring Street) and Ross Street (formerly known as Pearl Street) located in the City of Fayetteville, North Carolina, as shown on Plat Book 7, Page 62 , Cumberland County Registry, more particularly identified on attached Exhibit A, should be permanently closed as a street/alley; and a notice of said hearing having been posted on said street/alley for four weeks prior to the holding of said hearing;

E/Real Estate/Shared Files/Streets/Closing/Lafayette

000127

**WHEREAS**, during the said public hearing all interested citizens were invited to comment and state any objections they may have to the permanent closing of Lafayette Street and a portion of McKethan Street (formerly known as Spring Street) and a portion of Ross Street (formerly known as Pearl Street) as shown on Plat Book 7, Page 62, more particularly identified on attached Exhibit A; and

**WHEREAS**, the City Council, following such public hearing, after considering all the facts, has determined that the permanent closing of Lafayette Street and a portion of McKethan Street (formerly known as Spring Street) and a portion of Ross Street (formerly known as Pearl Street) located in the City of Fayetteville, North Carolina, as shown on Plat Book 7, Page 62, Cumberland County Registry, more particularly identified on attached Exhibit A, is not contrary to the public interest and that no individual owning property in the vicinity of said street will thereby be deprived of reasonable means of ingress and egress to his or her property;

***NOW THEREFORE, IT IS ORDERED AND DIRECTED:***

That Lafayette Street and a portion of McKethan Street (formerly known as Spring Street) and Ross Street (formerly known as Pearl Street) located in the City of Fayetteville, North Carolina, as shown on Plat Book 7, Page 62, Cumberland County Registry, more particularly identified on attached Exhibit A, be permanently closed as a street/alley under the following terms and conditions:

1. The City of Fayetteville reserves an all-purpose, underground and overhead utility easement in and over that portion of McKethan Street (formerly known as Spring Street) area.
2. The City of Fayetteville further reserves a blanket easement for the remaining area to be closed, to include Lafayette Street and a portion of Ross Street (formerly known as Pearl Street).
3. That a copy of this ORDER be recorded in the office of the Register of Deeds of Cumberland County



**IN WITNESS WHEREOF**, the City of Fayetteville has caused this instrument to be signed in its name by its Mayor, attested by its City Clerk, and its corporate seal hereto affixed, all by order of its City Council.

**ADOPTED** this 27<sup>th</sup> day of July, 2009 by the City Council of the City of Fayetteville, North Carolina

**CITY OF FAYETTEVILLE**

(SEAL)

By: \_\_\_\_\_  
Anthony G. Chavonne, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer K. Penfield, Deputy City Clerk

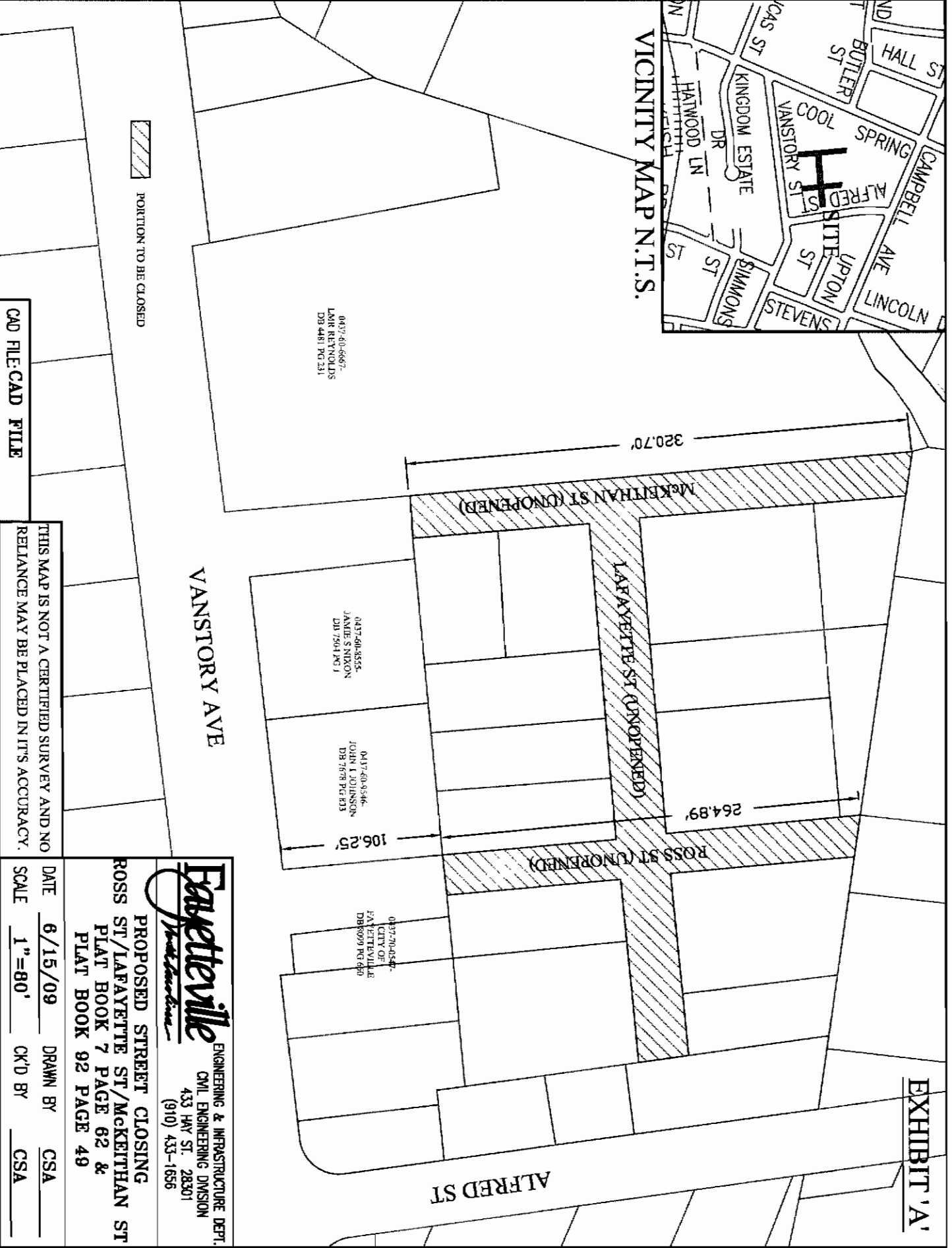


EXHIBIT 'A'

VICINITY MAP N.T.S.

PORTION TO BE CLOSED

CAD FILE: CAD FILE

THIS MAP IS NOT A CERTIFIED SURVEY AND NO RELIANCE MAY BE PLACED IN ITS ACCURACY.

0417-60-6667-  
LARRY REYNOLDS  
DB 4461 PG 211

0417-60-8555-  
JANIE S NIXON  
DA 7504 PG 1

0417-60-9346-  
JOHN T JOHNSON  
DB 7678 PG R33

0437-70-0542-  
CITY OF  
VANETTEVILLE  
DB 8099 PG 680

VANSTORY AVE

ALFRED ST

McKEITHAN ST (UNOPENED)

LAFAYETTE ST (UNOPENED)

ROSS ST (UNOPENED)

**Fayetteville** ENGINEERING & INFRASTRUCTURE DEPT.  
CIVIL ENGINEERING DIVISION  
433 HAY ST. 28301  
(910) 433-1656

PROPOSED STREET CLOSING  
ROSS ST/LAFAYETTE ST/McKEITHAN ST  
PLAT BOOK 7 PAGE 62 &  
PLAT BOOK 92 PAGE 49

DATE 6/15/09 DRAWN BY CSA  
SCALE 1"=80' CK'D BY CSA

# CITY COUNCIL ACTION MEMO

To: Mayor and Members of Council

Thru: Dale Iman, City Manager

From: Jeffery P. Brown, PE, Interim Engineering & Infrastructure Director

Date: July 27, 2009

Re: **Consider Approval of a Resolution Requiring the Paving Without Petition of Certain Soil Streets**

## THE QUESTION:

- Following the public hearing on the matter, Council is being asked to adopt a Resolution requiring the paving without petition of: **Drexel Road** from Temple Avenue to Pennsylvania Avenue; **Greensboro Street** from Jasper Street to McLamb Drive; **Wilma Street** from Roosevelt Street 930 feet to a cul-de-sac; **Salisbury Street** from Wilma Street 298 feet to a cul-de-sac; **Quillan Street** from Bragg Boulevard 794 feet to a turn around; **Morgan Lane** from Park Street to Claremont Avenue and from Claremont Avenue 330 feet to a dead end.

## RELATIONSHIP TO STRATEGIC PLAN:

- Livable Neighborhoods, Paved Streets

## BACKGROUND:

- In 2007 Council established a program to pave remaining soil streets over a three year period.
- The soil streets listed above will complete this process with the streets that staff recommends to be paved with an estimated cost of \$784,854.
- All of these streets are proposed to be paved including concrete curb & gutter (\$25.00 assessment rate).

## ISSUES:

- Chapter 160A, Article 10 of the North Carolina General Statutes outlines the procedure for special assessments for street paving.
- The public hearing was advertised in the local newspaper on July 10<sup>th</sup>.
- The property owners abutting these streets have been notified via regular mail.
- Property owners who qualify can receive assistance from the Community Development Department for the assessment cost.

## OPTIONS:

- Adopt the attached Resolution requiring the Paving of Soil Streets without Petition.
- Do not adopt the resolution.

## RECOMMENDATION:

- Adopt the attached Resolution Requiring the Paving of Soil Streets without Petition.

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ITEM

3.B.

**FINAL RESOLUTION REQUIRING THE PAVING  
WITHOUT PETITION OF:**

**Drexel Road from Temple Avenue to Pennsylvania Avenue; Greensboro Street from McLamb Drive to Jasper Street; Morgan Lane from Park Street to end of City maintenance; Quillian Street from Bragg Boulevard to end of City maintenance; Salisbury Street from Wilma Street 311.82 feet to a turn-around; and Wilma Street from Roosevelt Drive 932.89 feet.**

After careful study and consideration of the matter and all pertinent facts and circumstances, including engineering and planning studies and advice, and in the exercise of its best legislative judgment, the City of Fayetteville, North Carolina finds as fact that:

1. The public interest, safety, convenience and general welfare requires the paving and other below described improvements of:

**Drexel Road from Temple Avenue to Pennsylvania Avenue; Greensboro Street from McLamb Drive to Jasper Street; Morgan Lane from Park Street to end of City maintenance; Quillian Street from Bragg Boulevard to end of City maintenance; Salisbury Street from Wilma Street 311.82 feet to a turn-around; and Wilma Street from Roosevelt Drive 932.89 feet.**

AND

2. THE RESOLUTION AND ORDER adopted at its meeting on the 22<sup>nd</sup> day of June, 2009, by the City Council of the City of Fayetteville, North Carolina, entitled PRELIMINARY RESOLUTION RQUIRING THE PAVING WITHOUT PETITION OF:

**Drexel Road from Temple Avenue to Pennsylvania Avenue; Greensboro Street from McLamb Drive to Jasper Street; Morgan Lane from Park Street to end of City maintenance; Quillian Street from Bragg Boulevard to end of City maintenance; Salisbury Street from Wilma Street 311.82 feet to a turn-around; and Wilma Street from Roosevelt Drive 932.89 feet.**

Having been duly published on the 10<sup>th</sup> day of July, 2009, in the Fayetteville Observer-Times, a newspaper published in the City of Fayetteville, North Carolina, giving notice of a meeting of the City Council to be held on the 27th day of July, 2009, at 7:00 P.M. in the Council Chamber at City Hall of Fayetteville, North Carolina, when all objections to the legality of making the proposed improvement were to be made in writing, signed in person or by Attorney, filed with the Clerk of the City of Fayetteville, at or before said time, and that any such objections not so made would be waived, and objections to the legality, as well as to the policy or expediency, of the making of said improvements not having been filed or made, or having been filed or made, with objections were duly considered by said City Council, and none of said objections were sustained.

3. The property abutting on said streets to be so paved and improved will be benefited by such pavement and improvement to the extent of the part of the cost thereof to be assessed, as stated below, against such abutting property.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, DOES ORDER THAT:**

Drexel Road from Temple Avenue to Pennsylvania Avenue; Greensboro Street from McLamb Drive to Jasper Street; Morgan Lane from Park Street to end of City maintenance; Quillian Street from Bragg Boulevard to end of City maintenance; Salisbury Street from Wilma Street 311.82 feet to a turn-around; and Wilma Street from Roosevelt Drive 932.89 feet shall be paved, the cost of such improvements (exclusive of so much of said cost as is incurred at street intersections) to be specially assessed in an amount not to exceed *TWENTY-FIVE DOLLARS* (\$25.00) thereof upon the lots and parcels of land abutting upon said improved street portions according to the extent of the respective frontage thereon by an equal rate per foot of such frontage, to be paid after completion of such work and within thirty (30) days after notice of assessment, in cash with no interest, or in ten (10) equal annual installments, bearing annual interest at a rate not to exceed eight percent (8%), payable annually.

**ADOPTED** this 27<sup>th</sup> day of July 2009 by the City Council of the City of Fayetteville, North Carolina.

**CITY OF FAYETTEVILLE**

(SEAL)

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

ATTEST:

\_\_\_\_\_  
Jennifer K. Penfield, Deputy City Clerk

**CITY COUNCIL ACTION  
MEMO**

**To:** Mayor and Members of City Council

**From:** Craig Harmon, Planner II



**Date:** July 27, 2009

**Case No.** P09-18F

**THE QUESTION:** Approval for a telecommunication tower – Special Use Permit

**RELATIONSHIP TO STRATEGIC PLAN:** Strong Local Economy/Livable Communities

**BACKGROUND:**

Owner:	James D. Gillis & ETAL
Applicant:	Harold Timmons\Pegasus Tower Company
Council District:	District 6 - Crisp
Requested Action:	SUP – Telecommunication Tower with a height of 195 feet
Existing Zoning	R10
Status of Property:	Conforming
Size:	+/- .25 acres for tower site
Existing Land Use:	Vacant
Adjoining Land Use & Zoning:	North – Vacant & zoned R10 South – Vacant & zoned R10 East – House & zoned AR West – House & zoned AR
2010 Land Use Plan:	Activity Node for the Outer Loop & Residential
Letters Mailed:	73

**SPECIAL INFORMATION:**

**Public Utilities:**

Water:	PWC
Sanitary Sewer:	PWC

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ITEM 3, C.

Case No.: P09-18F

Location: Southern side of Strickland Bridge Road

Page: 2

**ATTACHMENTS:**

1. Vicinity Map
2. Zoning Map
3. Current Land Use Map
4. Application
5. City Zoning Ordinance,
6. North Carolina Senate Bill 831
7. Summary of Senate Bill 831
8. City Council Policy of Sitting of Telecommunication
9. Site Plan
10. Zoning Commission Minutes

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**Transportation:**

The proposed telecommunication tower location is south of Strickland Bridge Road. The area is near the I-295 corridor. Attached within the back-up material is correspondence from Sam St. Clair of the North Carolina Department of Transportation Roadway Design Unit indicating the necessary property fall zone of 195 feet from the cell tower base is outside the right-of-way for the I-295 corridor.

**OPTIONS:**

1. Approve the SUP with no additional conditions other than those required under Section 30-107(17);
2. Approve the SUP with additional conditions with Section 30-107(17);
3. Deny the request

**RECOMMENDATIONS:**

Due to the quasi-judicial nature of the proceedings, planning staff makes no recommendation for approval or denial for special use permits because decisions are based on testimony given during the public hearing.

Section 30-107(17) requires the findings of fact must be found before granting the special use permit.

In addition to the findings located in the City's Zoning Ordinance, Section 30-107(17), information is attached regarding the North Carolina General Assembly bill regulating telecommunication towers, a summary of the law that came into effect on December 1, 2007 and the City Council policy for the siting of telecommunication towers.

The Zoning Commission and the Appearance Commission recommends approval of the request in accordance with Section 30-107(17) with the following conditions:

1. Prior to issuing a building permit, written confirmation there is an agreement that one or more providers will use the tower once built;
2. Prior to issuing a building permit, written confirmation from the North Carolina Department of Transportation that the tower is outside the right-of-way of I-295 and any right-of-way acquired by DOT provides a distance from the base of the tower to the new right-of-way a distance equal to or greater than the height of the tower;
3. The Special Use Permit becomes null and void if a building permit is not issued after two years from the date of approval of the request;
4. The plantings include Carolina Safire Cyprus or a similar Cyprus tree rather than Leland Cyprus.



APPLICATION FOR SPECIAL USE PERMIT  
CITY OF FAYETTEVILLE

To the Zoning Commission and the City Council of the City of Fayetteville, North Carolina

I (We), the undersigned, do hereby respectfully make application and petition to the City Council to grant a Special Use Permit as required in the Zoning Ordinance. In support of this application, the following facts are shown:

Location/Address of the Property: Strickland Bridge Road, Fayetteville, NC 28302  
Owner of the Property: Joseph Gillis  
Address of the Owner: 9010 Stony Point Rd, Fayetteville, NC Zip: 28304  
Owner's Home Phone: 910 868 5472 Owner's Work Phone: 910 309 2001

A. Section and provision of the Zoning Ordinance from which a Special Use Permit is requested:

Chapter 30 # 17

B. The property sought for a Special Use Permit is owned by \_\_\_\_\_ as evidenced by deed, recorded in Deed Book 2820, Page 65, Cumberland County Registry. (Attach a copy of (all) deed(s) as it appears in the Registry.)

C. Tax Property Identification Number (PIN#) of the property: 9485-97-2594

D. Acreage requested for a Special Use Permit: ~ 0.25 Acres

E. It is proposed that the property will be put to the following use: (Describe proposed use/activity in detail to include hours and days of operation, number of employees, number of clients, etc.)

Communication Tower - 24 hr ADA 7 Day a week.

F. To the best of your knowledge, has an application for a special use permit or rezoning been filed for this property within the previous 5 years? (If yes, please indicate month and year.)

no

[Signature] Agent of DEXUS Tower Company  
Signature of Applicant

139 Steelsburg Hwy  
Address of Applicant

Cedar Bluff VA 24609  
City State Zip Code

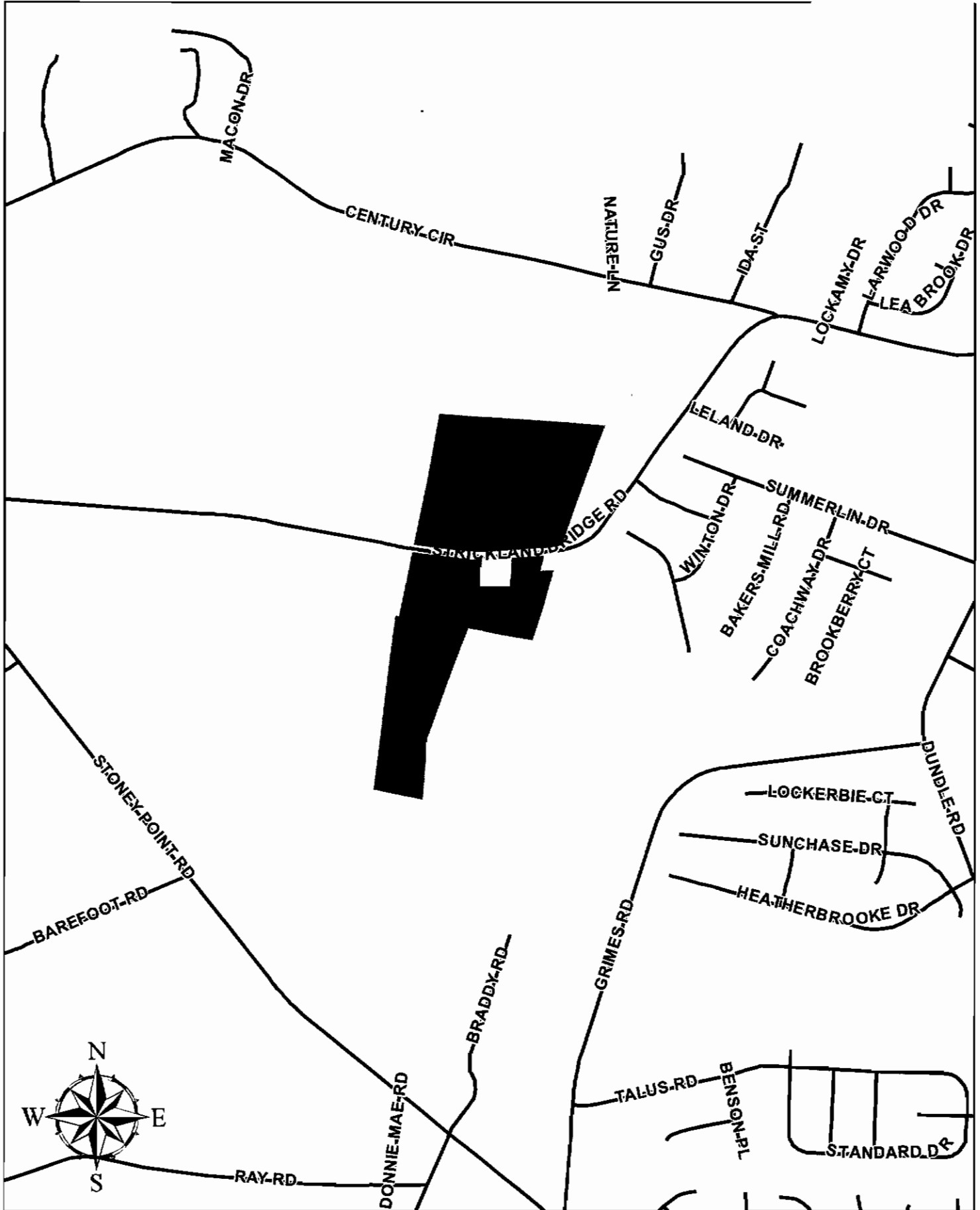
Home Phone: \_\_\_\_\_

Work Phone: 276 964 7416

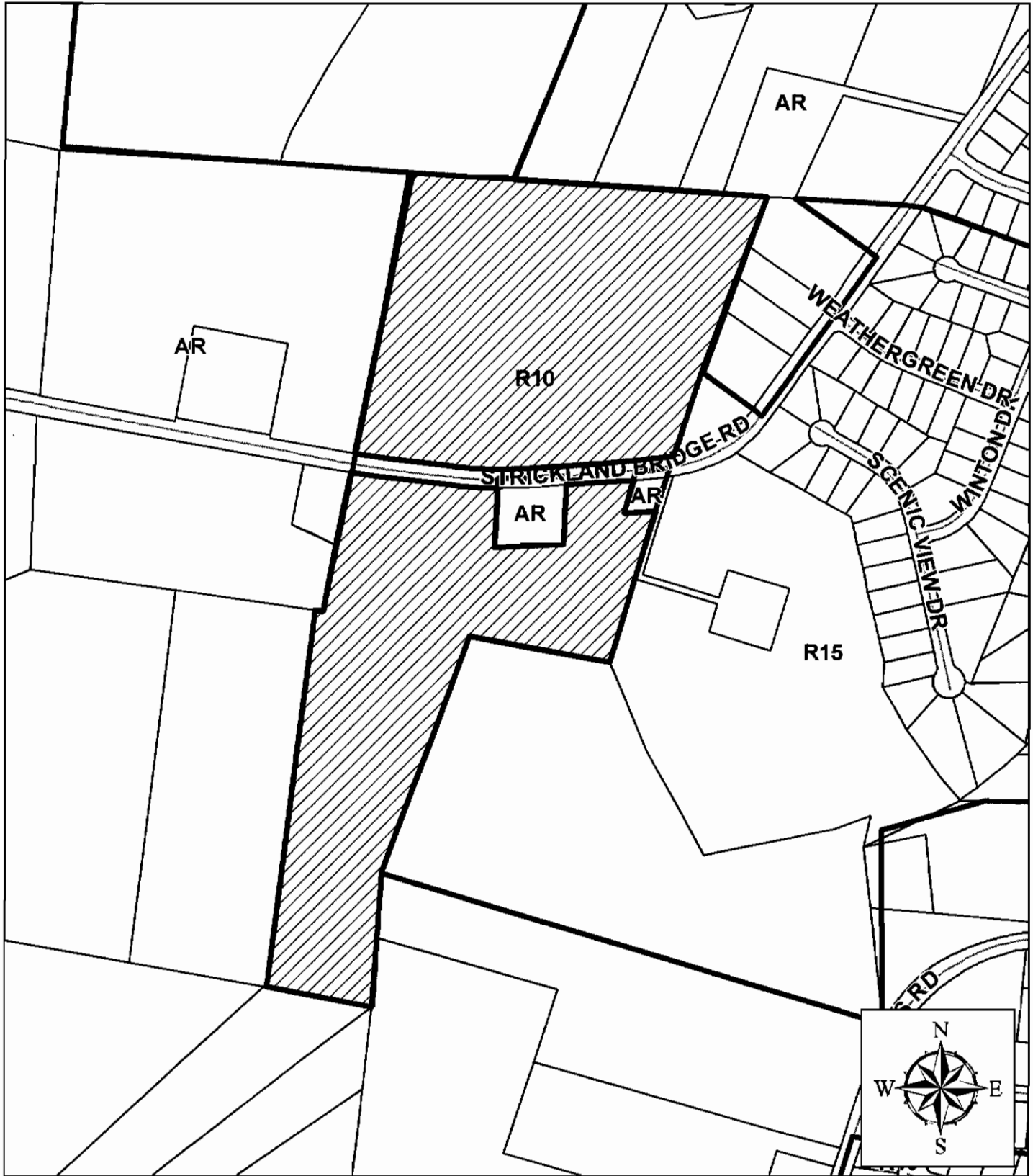
(for additional application forms: [www.cityoffayetteville.org](http://www.cityoffayetteville.org) then visit the Planning Dept. page)

# Zoning Commission - Vicinity Map

Case No. P09-18F



**ZONING COMMISSION**  
**CASE NO. P09-18F**



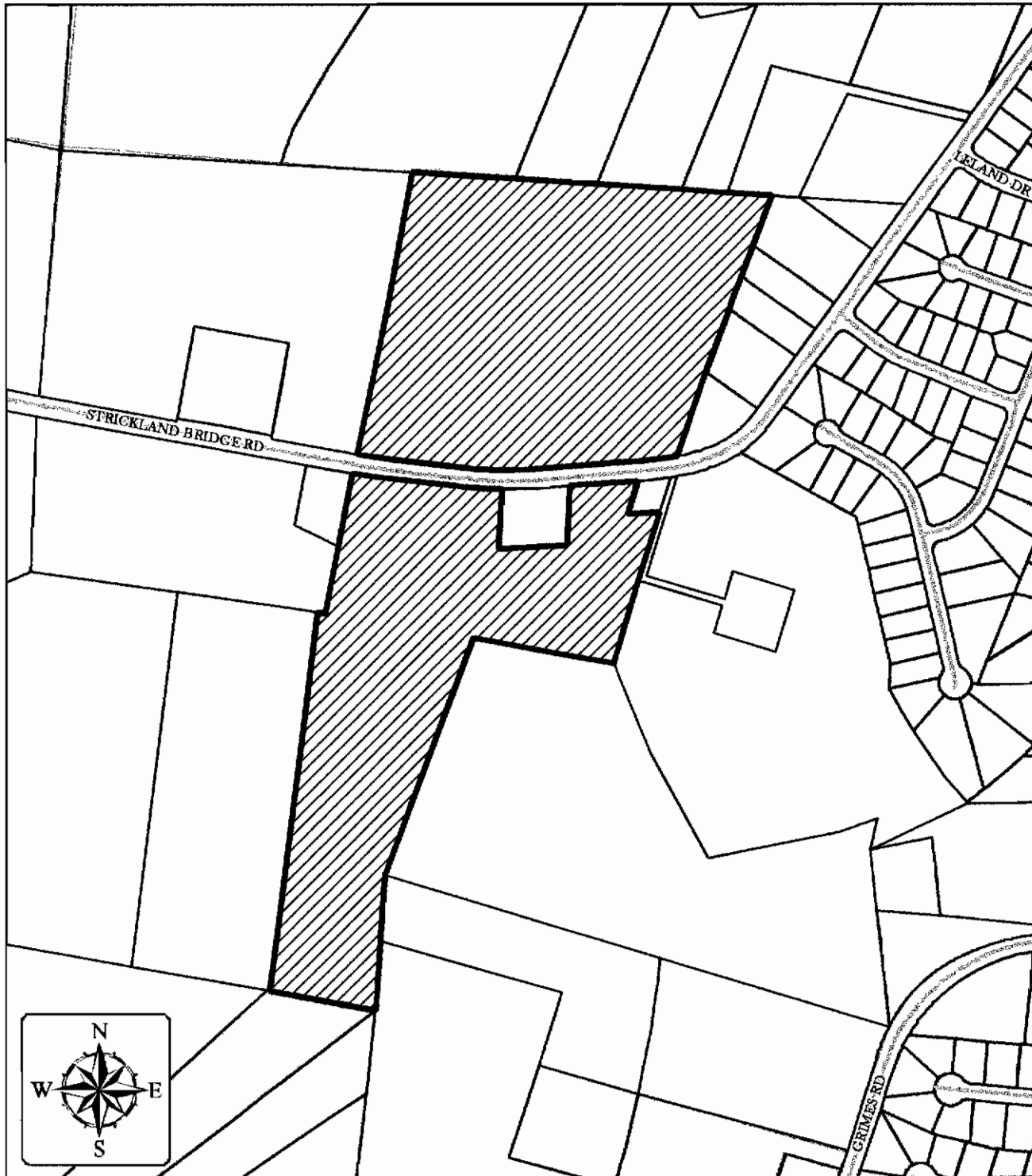
**Request: Special Use Permit - Cell Tower**  
**Location: Strickland Bridge Rd.**  
**Acreage: 0.25 +/- acres**

**Zoning Commission: 6/9/2009**  
**City Council: \_\_\_\_\_**  
**Pin: 0437-50-7062**

**Recommendation: \_\_\_\_\_**  
**Final Action: \_\_\_\_\_**

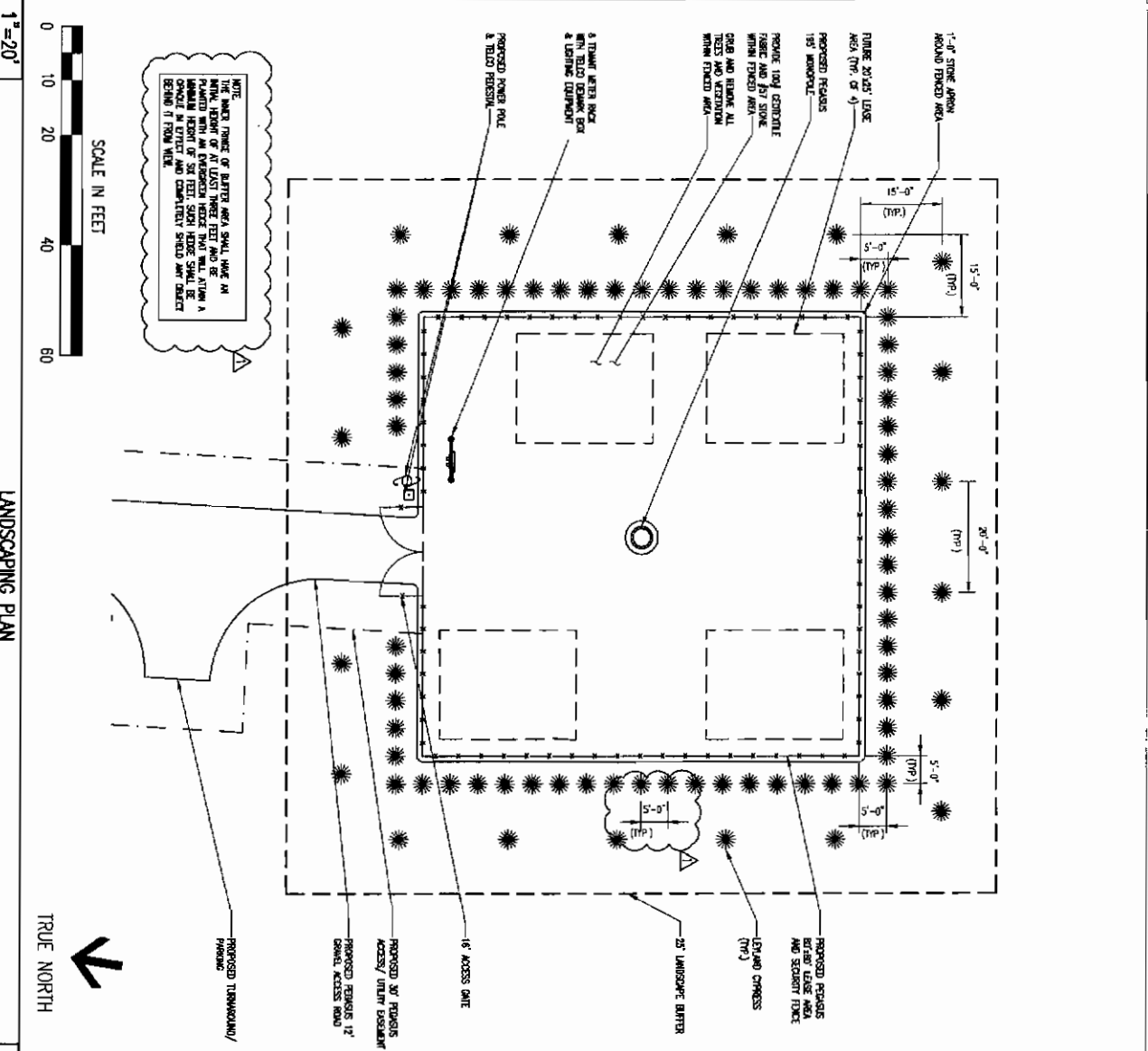
Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

**Current Land Use**  
**P09-18F**

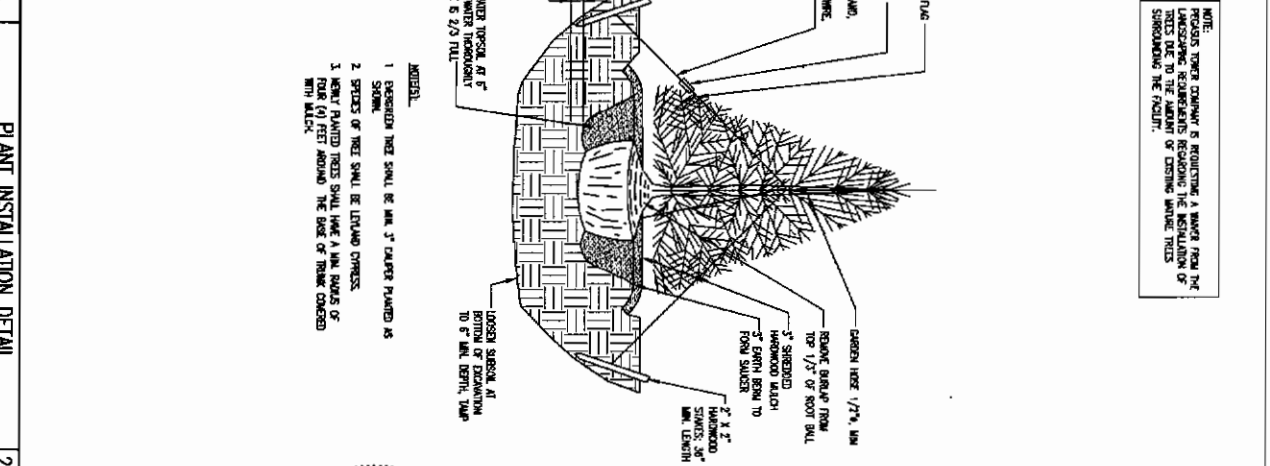


Legend

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



1 N.T.S.



NOTE: PROPOSED CONDUIT IS PROTECTING A NERVE FROM THE LANDSCAPING REQUIREMENTS REGARDING THE INSTALLATION OF TREES DUE TO THE AMOUNT OF EXISTING UTILITY TREES SURROUNDING THE FACILITY.

THESE DRAWINGS AND/OR THE ACCOMPANYING SPECIFICATIONS SHALL BE CONSIDERED TO BE THE EXCLUSIVE PROPERTY OF PEGASUS POWER CO. LTD. ANY AND ALL RIGHTS RESERVED. NO PART OF THESE DRAWINGS OR SPECIFICATIONS SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF PEGASUS POWER CO. LTD. PEGASUS POWER CO. LTD. SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION AND DATA CONTAINED HEREIN AND SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS OF THESE DRAWINGS.

**BC**  
architects  
engineers  
and planners  
1000 EASTMAN DRIVE, SUITE 100  
DALLAS, TEXAS 75240  
TEL: (214) 871-4200  
FAX: (214) 871-4200

SHEET REVISION BY DATE  
NO. 1: TREE SPECIES (SEE SHEET 24-25)  
2: TREE SPECIES (SEE SHEET 24-25)  
3: TREE SPECIES (SEE SHEET 24-25)  
4: TREE SPECIES (SEE SHEET 24-25)

SITE NUMBER: NCCUD1  
SITE NAME: GILLIS

SITE ADDRESS:  
3154 STRANDBERG DRIVE  
FARMVILLE, NC 27531

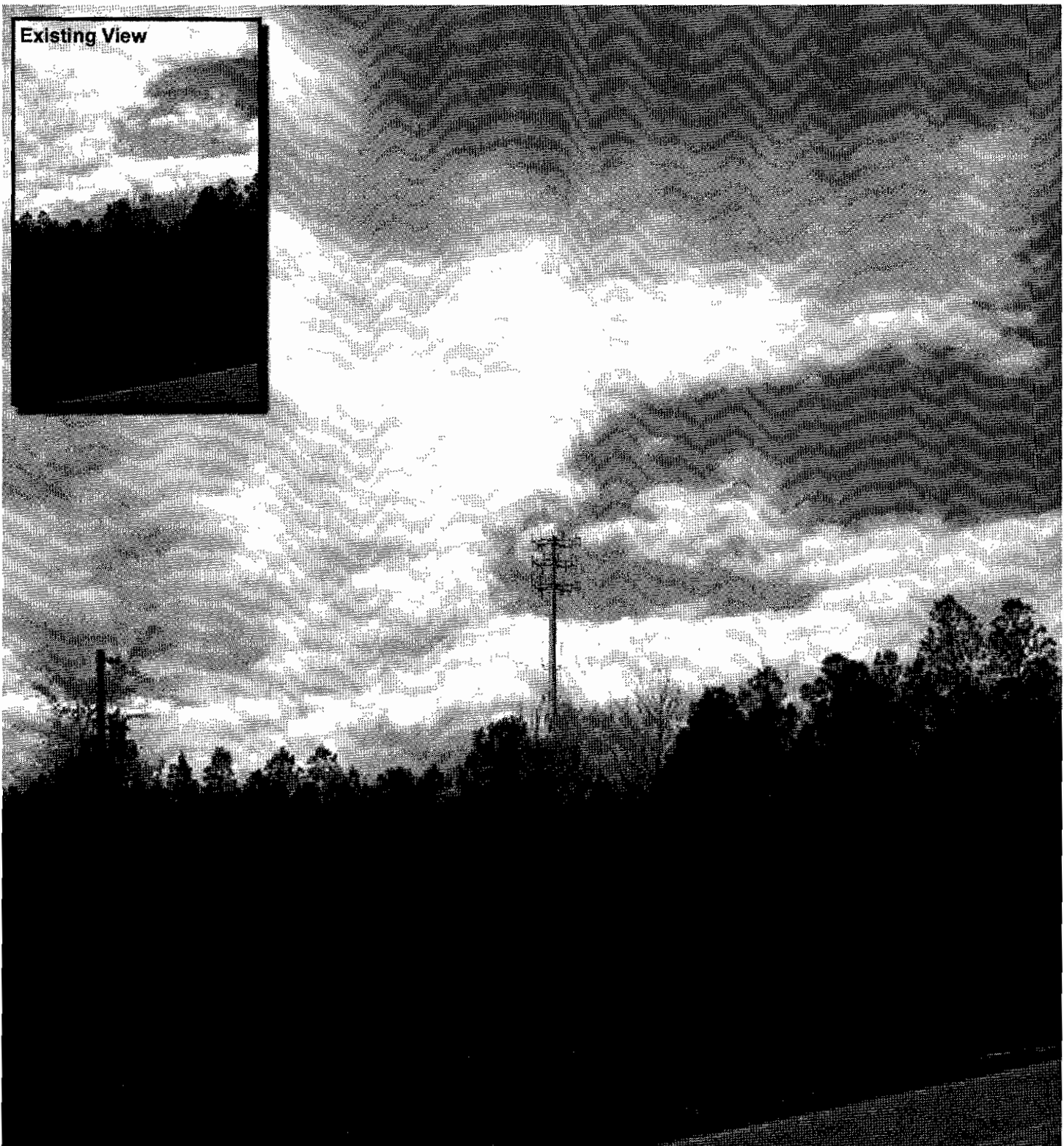
STAMP: FERTILIZATION NORTH CAROLINA PROFESSIONAL ENGINEER CHRIS MORIN 0024902

DESIGN BY: AMZ  
CHECKED BY: GDM  
DATE DRAWN: 04-09-09  
DESIGNER: ZONNG

SHEET TITLE: LANDSCAPING PLAN

SHEET NUMBER: L-1 REV: 1

Existing View



# Gillis NCCU01

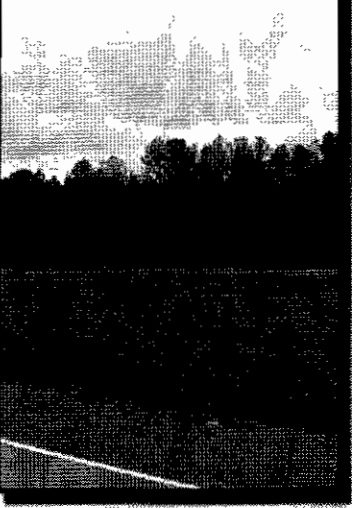
3151 Strickland Bridge Rd., Fayetteville, NC 28302

## 195ft. Monopole Simulations

View from Strickland Bridge Road  
approximately 700ft. northeast of site

PEGASUSTOWER

**Existing View**



**Gillis NCCU01**

3151 Strickland Bridge Rd., Fayetteville, NC 28302

**195ft. Monopole  
Simulations**

View from Strickland Bridge Road  
approximately 1,075ft. northwest of site  
**PEGASUS TOWER**



Existing View



# Gillis NCCU01

3151 Strickland Bridge Rd., Fayetteville, NC 28302

## 195ft. Monopole Simulations

View from Strickland Bridge Road  
approx. 700ft. north-northwest of site

PEGASUSTOWER1





MINUTES  
CITY OF FAYETTEVILLE  
ZONING COMMISSION  
CITY COUNCIL CHAMBERS  
1ST FLOOR, CITY HALL  
JUNE 9, 2009- 7:00 P.M.

**MEMBERS PRESENT**  
Pete Paoni  
Richard West  
John Crawley

**MEMBERS ABSENT**  
Jeannie Nelson  
Lockett Tally

**OTHERS PRESENT**  
Jimmy Teal, Planning Director  
Craig Harmon, Planner  
Janet Smith, Asst. City Atty  
David Steinmetz, Inspections

The meeting was called to order at 7:02 p.m.

**I. APPROVAL OF AGENDA**

Mr. West made a motion to approve the agenda. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

**II. APPROVAL OF THE MINUTES FROM THE APRIL 14, 2009 MEETING**

Mr. West made a motion to approve the minutes from the April 14, 2009 meeting. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

Mr. Paoni explained the Commission members job was to conduct public hearings, listening carefully to the testimony from both sides to make recommendations that would be forwarded to City Council for final action. Each side will be given fifteen (15) minutes, collectively, to speak and must be signed up prior to the meeting. Request for Special Use Permits is quasi-judicial and must be sworn to before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerks Office, located on the second floor of City Hall.

**III. PUBLIC HEARINGS**

**B. Case No. P09-18F. Consideration of an application by Pegasus Tower Company for a Special Use Permit to allow a Communications Tower in a R15 Residential District for property located adjacent to 3085 Strickland Bridge Rd. Containing 0.25 acres more or less and being the property of Joseph Gillis.**

Mr. Paoni called all the speakers related to the case to come forward. Staff and citizens were sworn in.

Mr. Paoni stated that the Commission is to look to see if the applicant brings evidence to show that the use will fit within the character of the area in which such use it to be located and that the use is not detrimental to the surrounding area. He stated that those in opposition of the request bring

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evidence to show that the use will not fit within the character of the area in which such use is to be located and that the use is detrimental to the surrounding area.

Ms. Smith stated that the findings of fact in the agenda need to be taken into consideration by the board in making a decision tonight.

Mr. Harmon presented the case. He gave an overview of the property and the request. Mr. Harmon stated that the SUP was for a telecommunications tower, height 195 feet, on Mr. Gillis' property. Mr. Harmon stated that the property is currently vacant and is surrounded by both agricultural and residential properties. Mr. Harmon gave information on the 2010 land use plan. He stated that 73 public hearing notices were mailed out to surrounding property owners. Mr. Harmon reminded the Commission that due to the quasi-judicial nature of the hearings staff would make no recommendations to either approve or deny the special use permit request. Mr. Harmon mentioned several things the Commission needed to take into consideration about the request. He then asked if there were any questions. There were none.

Mr. Terrell spoke on behalf of the Pegasus Tower Company. Mr. Terrell stated that cell towers are utilities and have become a requirement in today's society. Mr. Terrell stated that the tower will not change the character of the area.

Mr. Timmons spoke as a consultant for Pegasus Tower Company. Mr. Timmons gave an overview of the proposal. He stated that the tower would allow co-location for five service providers. He stated that the tower would be located approximately 450 feet into the property. He stated that it has been designed to have a fall area radius of 65 feet. Mr. Timmons stated that they are constructing on a smaller footprint and that plans for landscaping have been submitted. He stated that there are no lighting plans for the structure unless the City of Fayetteville requires lights. He stated that there are no requirements for color so it will remain grey as received from the manufacturer.

Mr. Timmons stated that the 195 foot structure will provide better coverage than the 150 foot structure recommended by city policy. He stated that this tower will be able to co-locate five carriers and the taller tower will provide better coverage. A 150-foot tall tower will place the fifth carrier in the 90-foot range and could impede service or eliminate a service carrier. He stated that in the long run the higher tower will be beneficial in the demand of coverage in the future.

Mr. West asked about the design of the tower and was there anything to conceal the tower. Mr. Timmons explained the tower is a monopole and not a guyed wire or lattice structure. Mr. Timmons stated they could place the equipment on the tower basically in a flush position rather than having the equipment hanging outward from the pole. It gives the structure a slimmer profile. Mr. West asked about the break point of the tower. Mr. Timmons stated that in the information that has been provided a break point location has not been provided but that it will be below the last co-locator at the 150 foot mark.

Mr. West asked if there was any guide wires on the structure. Mr. Timmons stated that it was a self supporting structure.

Mr. Paoni asked what the wind limit on the structure. Mr. Timmons stated that the wind criteria for the area would be met. Mr. Paoni asked if the tower would interfere with television reception. Mr. Timmons stated that it would not.

Mr. West mentioned the tower located less than two miles away from the proposal site of the proposed site and asked how many towers are needed in an area. Mr. Timmons stated that he could not state how many are needed but that he knows that gaps between towers in growing smaller and smaller.

Mr. West asked Mr. Terrell how the City of Fayetteville would benefit from the tower being constructed. Mr. Terrell answered in the quality of life. Mr. Paoni stated that he wants to know how Fayetteville can benefit from this tower. Mr. Terrell stated that the city needs to have a viable adequate wireless infrastructure. He stated that businesses require it and without it you will lose business.

Mr. West asked if the tower would be viable in ten years. Mr. Terrell stated that it will still be usable by changing the components of the tower not the tower itself.

Mr. West discussed the potential need for additional coverage out in that area with Mr. Terrell. Mr. Terrell explained the three levels of coverage.

Mr. Teal explained the requirements for the tower separation and buffer area. He stated the requirement is one foot for every one foot in height. He explained that a 195 foot tower requires a clear zone minus the tower equipment of 195 feet from the base of the tower in all directions.

Mr. Asbornsen spoke in opposition of the request. He mentioned that the tower will be visible over the tree line and the houses of the surrounding neighborhoods. He addressed his concern about the value of the properties of the area. He stated that he has not lost a phone call out in the area and doesn't see the need for another tower.

Mr. Asbornsen asked if this is the only location for the tower or could it moved on another location on Mr. Gillis' property. Mr. Asbornsen provided a petition from his neighborhood from six residents who opposed the tower.

Mr. Strother spoke in opposition of the request. He addressed his concerned whether a carrier will be housed in the tower when built or if there will be a tower for some point in time with no carrier.

Mr. Terrell stated in response to Mr. Asbornsen's concerns stating that the towers are not arbitrarily put in the ground: he stated that it requires a lot of research to determine where it should be placed where the weakest signals are located. Mr. Terrell stated in response to Mr. Strother's concern that there are two companies are interested in the tower.

Mr. Timmons addressed the citizens concerned about there being a light atop the tower. He stated that he is fairly confident is stating that there will not be a light on top of the tower due to the fact that the tower is lower than the required FAA height for required lighting.

Mr. John Gillis spoke in favor of the request. He stated that he knows there is a need for service out in that area.

Mr. Joe Gillis spoke in favor of the request. He stated that they did not approach the company to build this tower, the company came to them. He stated that they tried to move it as far away from everyone as possible, taking into consideration everyone's feeling.

Mr. West made a motion to recommend approval based on the requirements of 30-107.17 and the following conditions be met prior to issue of a building permit:

- 1) Written confirmation that one or more providers will use the tower once built.
- 2) Written confirmation from DOT that
  - a. the tower is outside the right of way of I-295; and
  - b. any right of way acquired by DOT provides a distance from the base of the tower to the new right of way a distance equal to or greater than the height of the tower which would be a minimum of 195 feet.
- 3) Special Use Permit becomes null and void if a building permit is not issued after two years from the date of the approval of the request.

Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

Mr. Teal stated that this item would go to City Council as a public hearing item for Monday, July 27, 2009 meeting at 7:00pm.

April 3, 2009

**Craig Harmon, AICP**  
**Planner II**  
**City of Fayetteville**  
Department of Planning  
433 Hay Street  
Fayetteville, North Carolina 28301

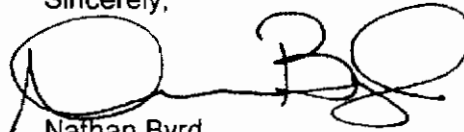
**Transmittal Letter for Proposed Tower on Gillis Property**

Dear Mr. Harmon:

With this statement Pegasus Tower Company, LLC certifies that should the communication tower request submitted for a tower on the Gillis property be granted approval by the City of Fayetteville, North Carolina, Pegasus Tower Company will construct the approved tower in accordance with all applicable local, state and federal standards for communication tower construction.

Should you need any additional information or clarification regarding this request, please feel free to contact me on 276.971.7416.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nathan Byrd', with a stylized flourish at the end.

Nathan Byrd  
Technical Services Manager  
Pegasus Tower Company

April 3, 2009

**Craig Harmon, AICP**  
**Planner II**  
**City of Fayetteville**  
Department of Planning  
433 Hay Street  
Fayetteville, North Carolina 28301

**Existing Structures and Map**

Dear Mr. Harmon:

This statement is provided on behalf of Pegasus Tower Company, LLC and its desire to construct a new monopole communication tower request on the James D. Gillis ETAL property. In accordance with the Zoning Ordinance requirements regarding new communication towers, Pegasus Tower Company provides this statement and attached map as evidence that there are no existing communication towers/structures located within 1500 feet of the proposed tower location. The closest existing tower/structure was found to be located 1.58 miles northwest of the Gillis property. There is one other structure located within 2 miles of the proposed location and it is located 1.61 miles to the east of the Gillis property.

Should you need any additional information or clarification regarding this request, please feel free to contact me on 276.971.7416.

Sincerely,

*Harold Timmons*

Harold Timmons  
Consultant to  
Pegasus Tower Company

April 3, 2009

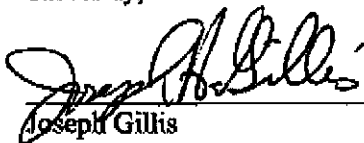
Jimmy Teal  
City of Fayetteville  
Planning Department  
433 Hay Street  
Fayetteville, NC 28301

**Authorization to file Special Use Permit**

Dear Mr. Teal:

I, **Joseph Gillis**, with this document give authorization to Pegasus Tower Company, its representatives and agents, to file a request for a Special Use Permit with the City of Fayetteville to construct a communication tower on the land that I own and referred to in tax records as **Map/Parcel number 9485-97-2594** and located on Strickland Bridge Road, Fayetteville, NC 28304.

Sincerely,


 April 3, 2009  
Joseph Gillis Date

**PEGASUS TOWER COMPANY**

**STATEMENT OF INTENT TO ALLOW TOWER SHARING**

Pegasus Tower Company, a Virginia based company, states and agrees to actively seek additional co-locators/tenants on all towers we own and/or manage. Our staff is committed to actively marketing and promoting our structures to a wide variety of telecommunication companies at fair and competitive rates. In keeping with the spirit of this letter of intent Pegasus Tower Company seek to offer use of our structures at fair and competitive market rental rates. In evaluating rental rates to charge wireless carriers for use of our structures we agree to (1) survey the surrounding market area and the corresponding rental rate range for that area in order to provide a sampling of market rates; (2) perform a financial analysis of each site we develop to determine the revenue that is needed for providing the ability to meet project financial return hurdle rates; and (3) discuss with the parties our rate expectations and actively negotiate rates with the prospective tower user.

PEGASUS TOWER COMPANY, LTD.

By:  Date: April 6, 2009  
Nathan Byrd, (Title)

Title: Pegasus Tower Company, Ltd.



# ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID N2  
PEGAS-1

DATE (MM/DD/YYYY)  
03/04/09

<b>PRODUCER</b>  Trustpoint Ins - Richlands 2343 Front Street Richlands VA 24641 Phone: 276-963-1021 Fax: 276-964-6067	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
<b>INSURED</b>  Pegasus Tower Company Ltd. Pegasus Tower Services, LTD P. O. Box 233 Richlands VA 24641	INSURER A: <b>2nd Customer Service Center</b>	
	INSURER B: <b>The Hanover Insurance Group</b>	<b>22292</b>
	INSURER C: <b>Citizens Ins. Co. Of America</b>	
	INSURER D: <b>Almerica Fin Benefit</b>	<b>10212</b>
	INSURER E:	

**COVERAGES**

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

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
C		<b>GENERAL LIABILITY</b>	<b>ZBR-4882682-00</b>	<b>01/26/09</b>	<b>01/26/10</b>	EACH OCCURRENCE: <b>\$ 1,000,000</b>
		<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				DAMAGE TO RENTED PREMISES (Ea occurrence): <b>\$ 100000</b> MED EXP (Any one person): <b>\$ 5000</b> PERSONAL & ADV INJURY: <b>\$ 1,000,000</b> GENERAL AGGREGATE: <b>\$ 2,000,000</b> PRODUCTS - COMP/OP AGG: <b>\$ 2,000,000</b> Emp Ben.: <b>1,000,000</b>
D		<b>AUTONOBILE LIABILITY</b>	<b>AWR4882682-00</b>	<b>01/26/09</b>	<b>01/26/10</b>	COMBINED SINGLE LIMIT (Ea accident): <b>\$ 1,000,000</b>
		<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per person): \$ BODILY INJURY (Per accident): \$ PROPERTY DAMAGE (Per accident): \$
		<b>GARAGE LIABILITY</b>				AUTO ONLY - EA ACCIDENT: \$ OTHER THAN AUTO ONLY: EA ACC: \$ AGG: \$
B		<b>EXCESS/UMBRELLA LIABILITY</b>	<b>UHR-4882642-00</b>	<b>01/26/09</b>	<b>01/26/10</b>	EACH OCCURRENCE: <b>\$ 5,000,000</b> AGGREGATE: <b>\$ 5,000,000</b> DEDUCTIBLE: \$ RETENTION: <b>\$ 10,000</b>
A		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	<b>200800-66-17-06-2</b>	<b>01/14/09</b>	<b>01/14/10</b>	W.C. STATUTORY LIMITS: \$ OTHER: \$ E.L. EACH ACCIDENT: <b>\$ 100000</b> E.L. DISEASE - EA EMPLOYEE: <b>\$ 100000</b> E.L. DISEASE - POLICY LIMIT: <b>\$ 500000</b>
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

<b>CERTIFICATE HOLDER</b>  INSURED  INSUREDS COPY	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>10</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  AUTHORIZED REPRESENTATIVE John Marco Warner <i>John Marco Warner</i>
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# Ken Patterson

**Airspace Consulting, Inc.**

[www.airspace-ken.com](http://www.airspace-ken.com)

Site ID: Gillis/NCCU01

March 28, 2009

To Whom It May Concern:

On March 28, 2009, I personally conducted an evaluation of a proposed telecommunications site for OnPoint. The study was to determine if the proposed structure would create any adverse effect on navigable airspace. The site is located near Fayetteville, North Carolina at 35° 00' 16.27" North and 79° 02' 14.81" West (NAD 83). The site elevation is 213' above mean sea level (AMSL). The proposed structure height is 199' above ground level (AGL) or 412' AMSL. Part 77 of the Federal Air Regulations and Part 17 of the FCC Rules and Regulations were used as the primary reference for this evaluation.

The closest public use or DOD landing surface is Runway 10 at Fayetteville Regional Airport. The distance to the runway is 7.42 nautical miles on a true bearing of 277.79° from the runway.

The proposed 199' AGL (412' AMSL) structure would not exceed any FAR Part 77 or FCC Part 17 notice requirement and, therefore, notice to the FAA is not required for this structure. If filed, the 199' AGL structure should be approved by the FAA.

Normally, structures that do not require notice to the FAA do not require marking and/or lighting. Private use landing facilities and AM broadcast stations are not a factor for this study.

For additional information or questions about this study, contact my office anytime.

Sincerely,



Ken Patterson

KP14518

141 Massengale Road, Brooks, GA 30205  
(770) 461-0563 FAX (501) 638-5264 [kpac0@bellsouth.net](mailto:kpac0@bellsouth.net)

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V-COMM Telecommunications Engineering, L.L.C. (V-COMM) is an engineering consulting company, providing engineering design, analysis, testing, and solutions to the wireless community. My own credentials include over eighteen years as a radio frequency (RF) engineer in the wireless industry. During this time, I supported the design of hundreds of radio transmission facilities and structures and reviewed these sites versus FCC and RF safety regulations on a case by case basis. I hold a Bachelor of Science in Electrical Engineering received in 1988 from Villanova University in Villanova, PA.

V-COMM has been commissioned to review the potential risk or hazard of RF or electromagnetic exposure which would result from the Pegasus Tower facility and any PCS radio communication equipment to be located at the facility. Currently Cingular Wireless (Cingular) is planning to collocate their equipment at the Pegasus facility.

Per FCC regulations regarding Human Exposure and Electromagnetic Radiation levels, the limit for prolonged, extended, or continuous exposure to RF at PCS frequencies is set at 1000 microwatts per square centimeter for public applications. This value represents the amount of power in microwatts, which reaches a surface area of one square centimeter. The FCC limit is the most stringent of limits established by public and professional organizations and has the highest margin of safety of all limits. In establishing these limits, standards bodies add significant safety margins such that systems could operate at the limit and still are 1000% or more below risk levels. This is done to ensure public safety.

RF exposure levels for the Pegasus facility with a typical single channel/sector, 3-sector Cingular Wireless facility collocated will be less than 1 microwatt per square centimeter at a distance of 180' from the antennas. This distance corresponds to the height of the proposed Cingular PCS facility. This is the closest distance to the antennas where the public would be exposed to the highest levels of RF energy. At this distance, the RF levels are over 1000 times below the FCC regulated limits for RF exposure of approximately 1000 microwatts per square centimeter.

Electromagnetic energy at PCS frequencies is in the Non-Ionizing Electromagnetic Radiation (NIER) range. Ionizing frequency ranges damage human tissue. Non-ionizing frequency ranges do not damage human tissue.

Thousands of extensive studies have been conducted on exposure to RF energy. To date, no studies have indicated that PCS frequencies have a detrimental effect on human health. The results of these studies are public knowledge and are independent of Pegasus Tower and any wireless carrier's own interests.

The Telecommunications Act of 1996 stipulates that RF exposure and safety is a non-issue at PCS frequencies and power levels. Further, the FCC website states the following:

*"Calculations corresponding to a "worst-case" situation (all transmitters operating simultaneously and continuously at the maximum licensed power) show that, in order to be exposed to RF levels near the FCC's guidelines, an individual would essentially have to remain in the main transmitting beam and within a few feet of the antenna for several minutes or longer. Thus, the possibility that a member of the general public could be exposed to RF levels in excess of the FCC guidelines is extremely remote."<sup>1</sup>*

In conclusion, the Pegasus facility does not represent an increased health risk to the immediate community. Furthermore, the Pegasus facility with Cingular collocated will operate at 1000 times below the most stringent of RF safety limits for public exposure and meets FCC requirements regarding RF exposure and safety.

Please feel free to contact me with any issues or concerns at (610) 684-1000 x235.

Sincerely,

*James H. Shelton, Jr.*

James H. Shelton, Jr.  
RF Engineering Manager  
V-COMM, L.L.C.

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<sup>1</sup> Source = <http://www.fcc.gov/cgb/consumerfacts/rfexposure.html>



A Division of Sabre Industries, Inc.

Guyed Towers Self-Supporting Towers Monopoles Concealment Structures Turnkey Installations

April 3, 2009

Ms. Roberta Young  
Pegasus Tower Company, Ltd.  
139 Steelsburg Highway  
Cedar Bluff, VA 24609

Ref: Proposed 195 ft Sabre 5-carrier Monopole for Gillis, Cumberland County, NC

Dear Ms. Young,

The Sabre monopole will be designed for a maximum Basic Wind Speed of 80 mph with ½ inch radial ice, in accordance with the Electronic Industries Alliance Standard EIA/TIA-222-F, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures." It will also meet the requirements of the 2006 International Building Code.

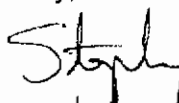
When designed according to these standards, the wind pressures and steel strength capacities include several safety factors, resulting in an overall minimum safety factor of 25%. Therefore, it is highly unlikely that the monopole will fail structurally in a wind event where the design wind speed is exceeded within the range of the built-in safety factors.

Should the wind speed increase beyond the capacity of the built-in safety factors, to the point of failure of one or more structural elements, the most likely location of the failure would be within one of the monopole shaft sections. This would result in a buckling failure mode, where the steel shaft would bend beyond its elastic limit (beyond the point where the shaft would return to its original shape upon removal of the wind load).

Therefore, it is likely that the overall effect of an extreme wind event would be localized buckling of the monopole shaft. Assuming that the wind pressure profile is similar to that used to design the monopole, the shaft will buckle at the location of the highest combined stress ratio in the upper portion of the monopole. This is likely to result in the portion of the monopole above "folding over" onto the portion below. **Please note that this letter only applies to a monopole designed and manufactured by Sabre Towers & Poles.** In the unlikely event of total separation, this, in turn, would result in collapse of that portion to the ground within a radius of 65 ft from the base of the monopole.

Please let me know if you have any questions or require additional information.

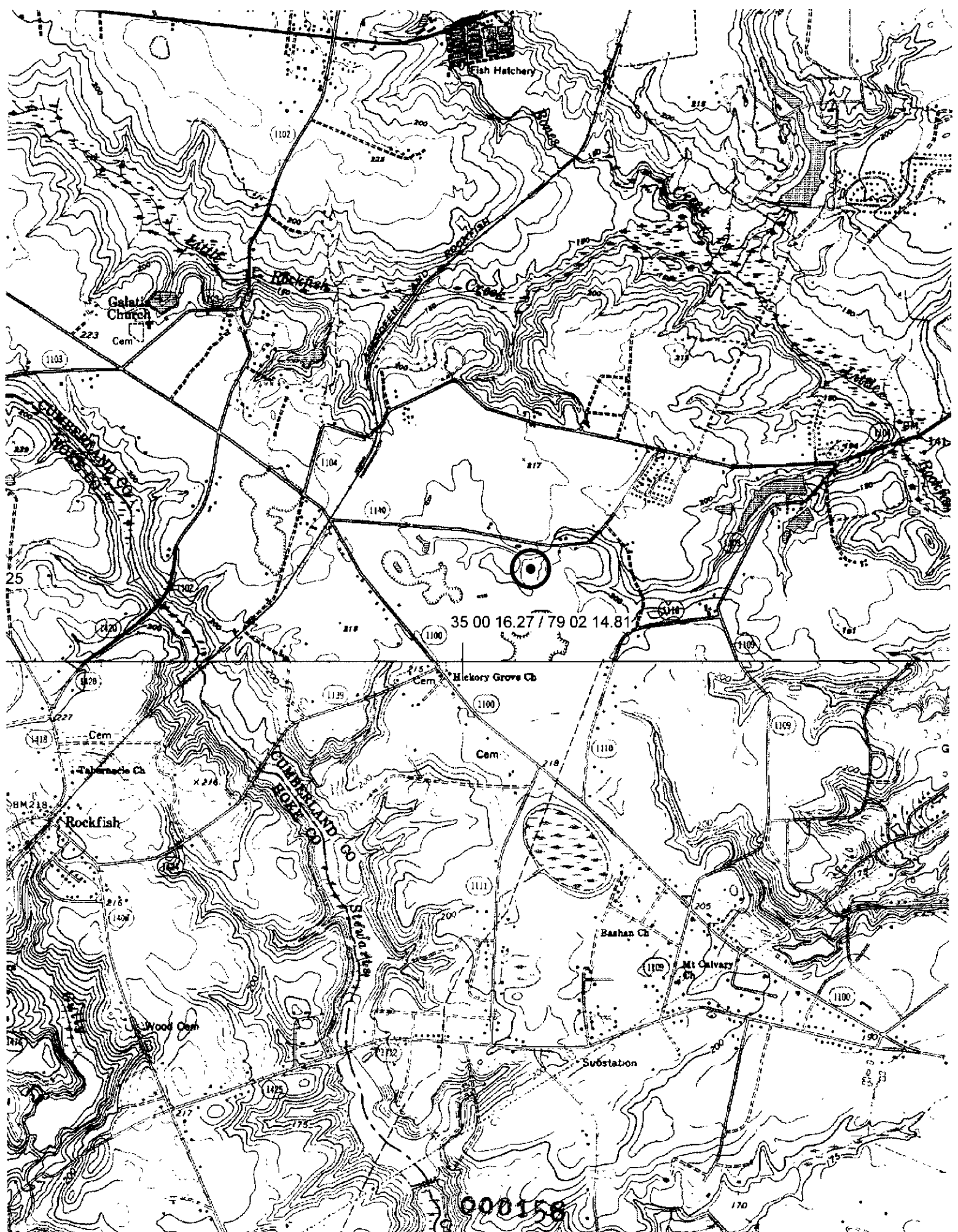
Sincerely,

  
4/3/09

Stephen Yeo, P.E.  
VP, Development Services



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35 00 16.27 79 02 14.81

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- (17) Towers upon and after obtaining a special use permit to be issued by the city council upon recommendation of the zoning agency after public hearings as required for amendment to this chapter. Such special use permits shall be issued only after a

finding is made that such use shall fit in with the character of the area in which such use is to be located and such use is not detrimental to the surrounding neighborhood, including, but not limited to, subsections (17)a through y of this section. All applications for a special use permit shall be accompanied by an appropriate plot plan detailing such pertinent data as may be required by the zoning agency staff and this Code. The city appearance commission shall review and approve the site plan concurrently with the zoning agency prior to city council review. The plot plan and application shall indicate that the following minimum conditions can be met:

- a. Setbacks:
  1. Residential/professional zoned area: When a tower is constructed and its height is less than 300 feet, it shall be set back from all adjacent property lines a distance equal to the height of the tower. When the tower exceeds 300 feet, it shall be set back, measured from its base, from property/lease lines a distance equal to the height of the tower.
  2. Commercial/industrial zoned area: When a tower is constructed and its height is less than 300 feet, it shall be set back, measured from its base, from adjacent property lines a distance equal to one foot for every two feet of height, but never less than 50 feet. When a tower exceeds 300 feet in height, it shall be set back, measured from its base, from property/lease lines a distance equal to one foot for every two feet of height, but never less than 50 feet.
- b. That the tower base be enclosed in a chainlink fence with a minimum height of ten feet and such fence be a minimum of ten feet from the base of the tower.
- c. That a buffer area 25 feet wide be provided around the perimeter of the tower compound to shield all structures, including guyed wires or anchors. Such buffer area shall be planted with evergreen trees that will attain a minimum height of 25 feet. Such trees shall have a minimum caliper of three inches upon planting. Such trees to be on a maximum 20-foot spacing. The inner fringe of such buffer area shall have an initial height of at least three feet and be planted with an evergreen hedge that will attain a minimum height of six feet. Such hedge shall be opaque in effect and completely shield any object behind it from view.
- d. Certification by applicant that the proposed tower will be constructed and operated in accordance with all applicable local, state, and federal laws and ordinances, including, but not limited to, all Federal Communications Commission and Federal Aviation Administration rules and guidelines.
- e. Prior to obtaining a building permit, applicant must submit engineering drawings for the tower, sealed by a licensed engineer, which state that the tower will meet all applicable local, state, and federal building codes and structural standards.
- f. Radio or television or similar reception for adjoining residentially zoned properties will not be disturbed or diminished.



- g. The height of the tower does not exceed 450 feet. Where towers are located on buildings/structures, the height of the tower and building/structure combined shall not exceed 450 feet.
- h. The exterior appearance of all building structures located in a residential zoning district look like a residential dwelling including, without limitation, pitched roof and frame or brick veneer construction.
- i. Associated building structures located in residential zoning districts may not be used as an employment center for any worker. This provision does not prohibit periodic maintenance, inspection, and periodic monitoring of equipment and instruments or renovation of the facility.
- j. The use will not be detrimental to the surrounding neighborhood.
- k. That no tower outside a tower overlay district, or tower overlay district may be constructed closer than 1,500 feet to any other tower or tower overlay district. No separation is required within a tower overlay district. Concealed towers defined in section 30-62 are exempt from separation requirements.
- l. In order to protect the public from unnecessary exposure to electromagnetic radiation, the tower owner shall provide documentation indicating that the power density levels do not exceed federally approved levels or American National Standards Institute standards, whichever provides the stricter requirements.
- m. Lighting shall meet or exceed the Federal Aviation Administration standards if lighting is required by the Federal Aviation Administration. To the extent allowed by the Federal Aviation Administration, strobes shall not be used for night time lighting. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with Federal Aviation Administration requirements. Prior to issuance of a building permit, the applicant shall be required to submit documentation from the Federal Aviation Administration that the lighting is the minimum lighting required by the Federal Aviation Administration.
- n. That towers which are not used for a period of six months or more shall be removed by the owner within 90 days of notification to the owner from the department of inspections. To assure the removal of towers which do not meet requirements for use or maintenance, a statement of financial responsibility to the city inspections department shall be submitted for each tower over 75 feet. Removal costs shall be charged to the tower owner.
- o. The entity/owner seeking approval of the special use permit shall submit every two years a statement signed and sealed by the applicant's engineer and from an outside independent registered and licensed engineer on the sixth year as to the structural soundness of the tower. If a tower is determined not to be structurally sound, the entity receiving approval shall have the burden of any repairs and such repairs must be completed within 60 days.

- p. That the applicant show willingness to camouflage the tower with the surrounding area, e.g., paint, incorporation into architectural design/structure, or other means.
- q. That no outside storage be allowed on site.
- r. That in the C2, C2P, C2S districts towers are only allowed on buildings/structures and will be subject to approval by the city historic resources commission.
- s. In addition to the foregoing, all applications shall provide documentation to show compliance with the following conditions:
  - 1. Identification of the intended users of the tower.
  - 2. Collocation on existing towers is required where available, before additional ground-build towers can be constructed. The applicant shall provide documentation that no suitable existing structures or facilities within the coverage area are available for collocation. Documentation may include maps, letters from nearby tower owners, or calculations. Facilities include other towers, or other buildings or structures.
  - 3. All the requirements of this chapter and chapter 25 must be met.
- t. The following shall be exempt from the provisions of this section: Telecommunication facilities are allowed with inspection department approval on existing towers and on other existing buildings or structures whose height exceeds 50 feet; provided that on such other existing buildings or structures the telecommunication facility may not extend above 20 percent of the height of the existing buildings or structure. Towers located within a tower overlay district do not require a special use permit. Towers within a tower overlay district require a site plan review to include items from this subsection (17) to be submitted for staff review prior to obtaining a building permit.
- u. Photo imagery to superimpose the facility onto the existing site of the proposed tower site shall be submitted with application and/or site plan.
- v. All towers shall be monopole in construction, except TV, radio, or those so designated by city council. Documentation shall be provided by a registered engineer that the tower has sufficient structural integrity to accommodate three times the capacity (carriers) of intended use in order that secondary users could lease the balance of the tower capacity. Applicants cannot be denied space on a tower unless mechanical, structural or regulatory factors prevent sharing, or the applicant refuses to pay a fair market rental as determined by the industry as of the date of the application. In determining the fair market rental, the owner of the tower proposed for collocation shall not be required to take into consideration rent being paid by a current collocator under a swapping arrangement. The tower shall be galvanized or painted.
- w. To reduce the need for additional towers, existing towers may be replaced with a tower that increases its present number of collocators, but shall not exceed 199

feet or 115 percent of the height of the old tower, whichever is less, with site plan approval. Replacement of nonconforming towers shall require only site plan approval if the new tower will be within 100 feet of the tower to be replaced, and meets conditions of this subsection (17).

- x. Upon submission of an application for a special use permit, a map, preferably in digital format, shall be supplied to the planning department indicating all existing and proposed tower and collocation sites to include the current and potential number of collocations, number of transmitters/receivers located and collocated on the tower, height of the tower, owner's names, and collocator company names.
- y. Concealed towers require a special use permit and may be subject to all of the conditions in this subsection (17). Some conditions may not be required for concealed towers at the discretion of city council.

(18) Railroad right-of-way.

(19) Signs, subject to the provisions of article VIII of this chapter.

(20) Sporting events, such as baseball, football, basketball, track meets, and similar games, including accessory concessions, when operated by a public or private school or public body, or leased for similar games by a public or private school or public body.

(21) Swimming pools, private, provided that:

- a. Such swimming pools shall have a fence at least three feet high completely enclosing the portion of the yard containing the pool with a gate that can be securely fastened;
- b. Such pools are located a distance from any lot line equal to three feet plus one foot for each foot of vertical excavation;
- c. Such pools have no pump or filtering device closer than ten feet to any property;
- d. All flood lights are shielded in such a manner that no offensive glare will be visible from adjacent properties; and
- e. Each pool with a capacity of 2,000 gallons or more shall have filtering and purification equipment or automatic water exchange to change all the water every 24 hours.

(22) Swimming clubs, nonprofit, provided that:

- a. Such pools shall be located on a plot of land at least one acre in area and with a minimum width of 200 feet at the building line;
- b. The water supply, recirculation and purification equipment shall be approved by the state health department;
- c. A fence at least three feet high enclosing the pool area with a gate that can be securely fastened is constructed;
- d. No pool, pump, or filtering equipment shall be closer than 25 feet to a lot line;

<b>SUBJECT - ZONING</b> <b>Siting of Telecommunications Towers</b>	<b>Number</b> <b>165.4</b>	<b>Revised</b>	<b>Effective Date</b> <b>9-25-00</b>	<b>Page 1 of 2</b>
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It is the goal of the City Council to encourage a telecommunication system within our community that provides reliable and accessible service. A system that enhances our public safety capability, provides our business community with a competitive advantage and allows the public the availability of telecommunication services.

This goal shall be guided and balanced by the City Council's desire to maintain and enhance the visual appearance of the City and to safeguard property values within the surrounding area of the telecommunication equipment. Understanding that telecommunication service requires equipment that is generally placed 100 to 200 feet above the ground, it is the intent of City Council to minimize the visual impact of the service and to protect possible negative aspects of nearby investments.

The City Council shall conduct a public hearing before issuing a special use permit for the construction of a structure for the purpose of housing telecommunication equipment. The public hearing provides the opportunity for proponents and opponents of telecommunication sites to provide relevant evidence and information to City Council. The City Council shall be guided in its deliberation by the parameters established by this policy, relevant City ordinances and the Telecommunications Act as adopted by the United States Congress acknowledging that each site has its own unique circumstances and nuances.

The City Council has established the following preferences as it relates to the siting of telecommunication equipment. The list begins at the most favorable method descending to the least favorable method.

1. Telecommunication equipment, such as antennas, located on buildings or other structures 50 feet or greater in height provided the antennas do not exceed 20 percent of the height of the structure. (Special Use Permit Not Required)
2. Co-location of telecommunication equipment on existing towers. (Special Use Permit Not Required)
3. Telecommunication equipment concealed within a building or structure. (Special Use Permit Required)

<b>SUBJECT - ZONING</b> <b>Siting of Telecommunications Towers</b>	<b>Number</b> <b>165.4</b>	<b>Revised</b>	<b>Effective Date</b> <b>9-25-00</b>	<b>Page 2 of 2</b>
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4. Telecommunication equipment placed on a mono-pole tower with a height no greater than 150 feet. (Special Use Permit Required)
5. Telecommunication equipment placed on a mono-pole tower with a height greater than 150 feet. (Special Use Permit Required)
6. Telecommunication equipment placed on a lattice or guyed tower. (Special Use Permit Required)

It is the desire of the City Council that the location of telecommunication equipment be placed on public property so that revenue generated from any lease agreement shall be used for the benefit of the public.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

SESSION LAW 2007-526  
SENATE BILL 831

AN ACT STREAMLINING LOCAL GOVERNMENT REGULATION OF  
WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES AND THE  
COLLOCATION OF WIRELESS FACILITIES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 19 of Chapter 160A of the General Statutes is amended by adding a new Part to read:

"Part 3E. Wireless Telecommunications Facilities.

**"§ 160A-400.50. Purpose and compliance with federal law.**

(a) The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare. The following standards shall apply to a city's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, and in accordance with the rules promulgated by the Federal Communications Commission.

**"§ 160A-400.51. Definitions.**

The following definitions apply in this Part.

- (1) Antenna. – Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
- (2) Application. – A formal request submitted to the city to construct or modify a wireless support structure or a wireless facility.
- (3) Building permit. – An official administrative authorization issued by the city prior to beginning construction consistent with the provisions of G.S. 160A-417.
- (4) Collocation. – The installation of new wireless facilities on previously-approved structures, including towers, buildings, utility poles, and water tanks.
- (5) Equipment enclosure. – An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

- (5a) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
- (6) Land development regulation. – Any ordinance enacted pursuant to this Part.
- (7) Search ring. – The area within which a wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.
- (8) Utility pole. – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.
- (9) Wireless facility. – The set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.
- (10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

**"§ 160A-400.52. Construction of wireless facilities and wireless support structures.**

(a) A city may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160A-400.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities.

(b) Any person that proposes to construct or modify a wireless support structure or wireless facility within the planning and land-use jurisdiction of a city must do both of the following:

- (1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.
- (2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A city's review of an application for the placement, construction, or modification of a wireless facility or wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the city may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. In reviewing an application, the city may review the following:

- (1) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.
- (2) Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved structure can reasonably be used for the antenna placement instead of the construction of a new tower, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new tower or initial antenna placement or a proposed height increase of a modified tower, replacement tower, or collocation is necessary to provide the applicant's designed service.
- (3) A city may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing structure or structures within the applicant's search ring. Collocation on an existing structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the tower is unwilling to enter into a contract for such use at fair market value. Cities may require information necessary to determine whether collocation on existing structures is reasonably feasible.

(d) A collocation application entitled to streamlined processing under G.S. 160A-400.53 shall be deemed complete unless the city provides notice in writing to the applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

(e) The city shall issue a written decision approving or denying an application within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 160A-400.53 and within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.

(f) A city may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site or modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a city on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the city in connection with the regulatory review authorized under this section. The foregoing does not prohibit a city from imposing additional reasonable and cost based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant.



(g) The city may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A city shall not deny an initial land-use or zoning permit based on such documentation. A city may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(h) The city may not require the placement of wireless support structures or wireless facilities on city owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on city owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

**"§ 160A-400.53. Collocation of wireless facilities.**

(a) Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.

(b) Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.

(c) The streamlined process set forth in subsection (a) of this section shall apply to all collocations, in addition to collocations qualified for streamlined processing under subsection (b) of this section, that meet the following requirements:

- (1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.
- (2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.
- (3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.
- (4) The additional wireless facilities comply with all federal, State and local safety requirements.
- (5) The collocation does not exceed the applicable weight limits for the wireless support structure.

**SECTION 2.** Article 18 of Chapter 153A of the General Statutes is amended by adding a new Part to read:

**"Part 3B. Wireless Telecommunications Facilities.**

**"§ 153A-349.50. Purpose and compliance with federal law.**

(a) Purpose. – The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare. The following standards shall apply to a county's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) Compliance with the Federal Communications Act. – The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, and in accordance with the rules promulgated by the Federal Communications Commission.

**"§ 153A-349.51. Definitions.**

The following definitions apply in this Part.

- (1) Antenna. – Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
- (2) Application. – A formal request submitted to the county to construct or modify a wireless support structure or a wireless facility.
- (3) Building permit. – An official administrative authorization issued by the county prior to beginning construction consistent with the provisions of G.S. 153A-357.
- (4) Collocation. – The installation of new wireless facilities on previously-approved structures, including towers, buildings, utility poles, and water tanks.
- (5) Equipment enclosure. – An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.
- (5a) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
- (6) Land development regulation. – Any ordinance enacted pursuant to this Part.
- (7) Search ring. – The area within which a wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.
- (8) Utility pole. – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.
- (9) Wireless facility. – The set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.

- (10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

**"§ 153A-349.52. Construction of wireless facilities and wireless support structures.**

(a) A county may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a county from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 153A-349.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities.

(b) Any person that proposes to construct or modify a wireless support structure or wireless facility within the planning and land-use jurisdiction of a county must do both of the following:

- (1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.
- (2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A county's review of an application for the placement, construction, or modification of a wireless facility or wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the county may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. In reviewing an application the county may review the following:

- (1) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.
- (2) Information or materials directly related to an identified public safety, land development or zoning issue including evidence that no existing or previously approved structure can reasonably be used for the antenna placement instead of the construction of a new tower, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new tower or initial antenna placement or a proposed height increase of a modified tower, replacement tower, or collocation is necessary to provide the applicant's designed service.

- (3) A county may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing structure or structures within the applicant's search ring.

Collocation on an existing structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the tower is unwilling to enter into a contract for such use at fair market value. Counties may require information necessary to determine whether collocation on existing structures is reasonably feasible.

(d) A collocation application entitled to streamlined processing under G.S. 153A-349.53 shall be deemed complete unless the city provides notice in writing to the applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

(e) The county shall issue a written decision approving or denying an application within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 153A-349.53 and within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.

(f) A county may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site or modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a county on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the county in connection with the regulatory review authorized under this section. The foregoing does not prohibit a county from imposing additional reasonable and cost based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant.

(g) The county may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A county shall not deny an initial land-use or zoning permit based on such documentation. A county may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(h) The county may not require the placement of wireless support structures or wireless facilities on county owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on county owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

**"§ 153A-349.53. Collocation of wireless facilities.**

(a) Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.

(b) Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.

(c) The streamlined process set forth in subsection (a) of this section shall apply to all collocations, in addition to collocations qualified for streamlined processing under subsection (b) of this section, that meet the following requirements:

- (1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.
- (2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.
- (3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.
- (4) The additional wireless facilities comply with all federal, State, and local safety requirements.
- (5) The collocation does not exceed the applicable weight limits for the wireless support structure.

**SECTION 3.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

**SECTION 4.** This act becomes effective December 1, 2007.

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of August, 2007.

s/ Beverly E. Perdue  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Michael F. Easley

Governor

Approved 11:35 a.m. this 31<sup>st</sup> day of August, 2007

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**North Carolina Wireless Telecommunications  
Facilities Streamlining Bill (S.831)**

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**Summary**

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**August 9, 2007**

Following is a summary of the S.831, Wireless Telecommunications Facilities, ratified by the North Carolina General Assembly on August 2, 2007.

Time Limits

- Local governments must conduct their initial review of collocation applications entitled to streamlined processing within 45 days, or the application will be deemed complete by operation of law. Once the application is deemed complete, it must be acted on within 45 days.
- All applications other than those entitled to streamlined processing must be processed and acted on within a reasonable period of time consistent with the issuance of other land-use permits.

Fees

- A city may impose fees for wireless applications, including fees to cover the costs of consultants, which are reasonable and cost-based and do not exceed what is usual and customary for the services provided.
- Any fees on account of outside consultants must be (1) incorporated into the permit or application fee, (2) fixed in advance, (3) reasonable, and (4) cost-based. On request, the fees on account of the consultant will be separately identified for the applicant.
- Additional fees may be charged if an applicant amends its application.

### Permissible Review

- A local government's review is limited to land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, fall zones, or building code requirements.
- A local government may not require information about an applicant's business decisions about its designed service, customer demand for its services, or the quality of service to or from a particular area or site. This would prohibit, for example, a local government second-guessing engineering judgments about power necessary to provide service or the proposed height of an antenna.
- Local governments are permitted to review evidence: (i) that no existing or previously approved structure can reasonably be used for the for the desired antenna, (ii) that residential, historic, and designated scenic areas cannot be served from outside such areas, or (ii) that the proposed height of a new tower or initial antenna placement or a proposed height increase of a modified tower, replacement tower, or collocation is necessary to provide the applicant's deigned service. Other than these specific issues, local governments cannot require a business justification for a wireless facility application.
- A local government may not impose requirements relating to RF emissions.
- Local governments can require applicants to evaluate collocation, but cannot require collocation where it is not reasonably feasible. Local governments can seek information relating to whether collocation is reasonable feasible.

### "Spec" Towers

- Local governments may condition construction of new towers on the requirement of showing the existence of one or more parties who desire to use the facilities. Local governments cannot, however, refuse to process the initial permit (as opposed to construction) application because of the absence of a tenant.
- A local government may condition a permit by requiring construction in a reasonable time, which can be no less than 24 months.

### Preferences Based on Ownership of Facilities

- Local governments may not require placement of facilities on government-owned property but they can adopt regulations encouraging placement on government-owned property.



Streamlined Processing for Collocation Applications

- Applications entitled to streamlined processing shall be reviewed only for compliance with applicable building permit requirements but shall not otherwise be subject to zoning requirements.
  
- Applicants are entitled to streamlined processing for collocation applications in two circumstances:
  - (1) Where they are for facilities that were previously approved as part of a wireless application. This applies to structures approved after December 1, 2007, in order to give cities time to prospectively adopt procedures for “pre-approving” future installations as part of the initial structure approval process.
  
  - (2) Applications for collocation are also entitled to streamlined processing where they meet the following requirements:
    - (i) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.
  
    - (ii) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.
  
    - (iii) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.
  
    - (iv) The additional wireless facilities comply with all federal, State and local safety requirements.
  
    - (v) The collocation does not exceed the applicable weight limits for the wireless support structure.

Effective Date

- The new law is effective December 1, 2007. Local governments will need to revise their ordinances consistent with these new requirements by that date.

\* \* \* \* \*

If you should have questions, please contact Marcus Trathen, Brooks Pierce, at (919) 839-0300 (mtrathen@brookspierce.com).

SENATE BILL 831 -- STRIKING A BALANCE IN CELL TOWER ZONING

by M. Gray Styers, Jr. and Stephon J. Bowens \*

In every century (if not in every generation), advances in transportation, communications, and other utilities require new infrastructure to accommodate new technologies and to meet consumer demand. In the nineteenth century, the railroad tracks were needed for the trains to run and ports were expanded for larger steamships. In the twentieth century, wooden poles began to line city streets, highways, and rural byways – first for electrification and then for wireline telephone service. Later, pipelines criss-crossed the country to deliver natural gas and gasoline from production areas and refineries to distribution points and burner tips.

In the past ten years, the new technology requiring infrastructure deployment has been for wireless telecommunications. How many people owned cell phones in 1995? How many members of your family have cell phones today? How many different cell phone companies provided service in 1995? (at most, two). How many options are available today? (in most urban markets, six or more). In what year did you first own a phone with voicemail, receive a text message, or (for those who owned Blackberries, Treos, or other G3 phones) receive or check e-mails, sports scores, weather, or traffic reports on your telephone?

Unlike the railroads and the regulated utilities, the wireless telecommunications industry does not have the power of eminent domain. In fact, many, if not most, support structures for wireless telecommunications facilities (*i.e.*, cell towers) require zoning or other permit approvals. Because the height of the antennas that are required to provide service coverage necessitates, in many places, towers being the tallest structures in an area, this needed infrastructure often faces opposition from surrounding neighbors. These political struggles are typically played out in front of Boards of Adjustment, City Councils or County Commissioners, and the opposition often creates difficult political decisions for planning staffs and elected officials, who want wireless services for their citizenry, but are sympathetic to neighborhood concerns and complaints about aesthetic changes to the viewscape.

Until recently, the governing law for these struggles was established by local zoning ordinances, within the context of established case law governing North Carolina zoning law (especially quasi-judicial zoning decisions). In this past legislative session, however, the North Carolina General Assembly, by enacting Senate Bill 831, took the first steps toward addressing on a statewide level some of the issues raised by the need for wireless infrastructure. Specifically, this new law establishes some basic guidelines and parameters for the permitting of wireless telecommunications facilities. This article discusses the existing zoning environment for cell towers, summarizes some of the key provisions of Senate Bill 831, and attempts to predict this new law's effect on the zoning and permitting process as it is implemented by the cities and counties.

## Typical Rules and Standards for Zoning Cell Towers

Prior to the licensing of new digital wireless telecommunication frequencies by the Federal Communications Commission in 1995,<sup>1</sup> many North Carolina cities and counties did not have zoning ordinances that even referred to cell towers. Some jurisdictions interpreted their existing ordinances to classify cell towers within the definition of "Utility Facilities", while others applied standards written for broadcast radio or television towers. See BellSouth Carolinas PCS d/b/a BellSouth Mobility DCS v. Henderson County Zoning Bd. of Adjustment, 174 N.C. App. 574, 621 S.E. 2d 270 (2005).

By the late 1990s, however, many jurisdictions had enacted specific ordinances for the zoning and permitting of cell towers. In general, most of these ordinances establish specific standards, including minimum setbacks from property lines; maximum heights; fencing and/or landscaping requirements; lighting standards (consistent with FAA requirements) (e.g., no flashing white strobe lights); mandatory collocation requirements (requiring space availability for other service providers' antennas to be attached on the same tower); and minimum separation distances from other existing towers or evidence showing that the collocation of the applicant's antennas on existing towers could not satisfy the service provider's coverage objectives. So long as the applicant could provide information or documentation satisfying those requirements, the facilities were typically permitted by right in industrial or more intensive-use commercial districts, or by conditional use permits/special use permits in lighter commercial districts, rural residential/agricultural districts, and some or all other residential districts. When conditional use permits are required, the zoning hearings typically focus on the four general conditions, which, in most jurisdictions, are whether:

1. The proposed use meets all required conditions and specifications set forth in the ordinance.
2. The proposed location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the jurisdiction.
3. The proposed use will substantially injure the value of adjoining or abutting property, or that the use is a public necessity.
4. The proposed use will materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

See Humble Oil & Refining Co. v. Board of Aldermen of Town of Chapel Hill, 284 N.C. 458, 202 S.E.2d 129 (1974); Woodhouse v. Board of Com'rs of City of Nags Head., 299 N.C. 211, 261, S.E.2d 882 (1980).

<sup>1</sup> These new frequencies are in a range near 1900 mghzt and are used for what the FCC defines as "commercial mobile radio service" (CMRS). In North Carolina, these frequencies are used by service providers such as AT&T Mobility (formerly Cingular Wireless), Sprint PCS, SunCom and Cricket.

The only other limitations or legal standards applicable to cell towers are set forth in the Federal Telecommunications Act in 1996; which states that local governments (1) shall not unreasonably discriminate among providers, (2) shall not prohibit the provision of wireless services, (3) shall not regulate facilities on the basis of the environmental effects of radio frequency emissions (so long as they comply with FCC standards), and (4) must render their decisions in writing and be "supported by substantial evidence contained in a written record" (a standard very similar to the North Carolina conditional use permit case law). 47 U.S.C. 332(c) (7). These federal limitations, however, have been narrowly construed by the Fourth Circuit, which chose, instead, to grant considerable deference and wide latitude to the discretion of local zoning authorities. See, e.g., AT&T Wireless PCS v. Winston Salem Zoning Board of Adjustment, 172 F.3d 307 (4<sup>th</sup> Cir. 1999); 360 Communications Co. v. Board of Supervisors of Albemarle County, 211 F.3d 79 (4<sup>th</sup> Cir. 2000). Attorneys for cell tower applicants, however, found that North Carolina state court judges who were familiar with the standards and burden-shifting pronouncements of the seminal Humble Oil and Woodhouse cases were much more inclined to reverse Board of Adjustment denials of cell tower applications when there was little or no opposition or when the denials were based on subjective aesthetic considerations. E.g., Crown Castle Int'l and BellSouth Personal Communications, LLC vs. Durham Board of Adjustment, 2000 CVS 05467 (Durham Co., 2001); SBA Incorporated v. Granville Co. Board of Adjustment, 00 CVS 1187 (Granville Co., 2001). See also Cumulus Broadcasting, LLC v. Hoke County Bd. of Com'rs., 638 S.E.2d 12 (N.C. App. 2006) (broadcasting tower). But see SBA, Inc. v. City of Asheville City Council, 141 N.C. App. 19, 539 S.E.2d 18 (2000).

Moreover, as cell phones became increasingly popular and the service providers sought to expand coverage to more and more areas in the state, cell towers continued to be built every few miles apart. This was necessary for several reasons. Depending upon the height of the tower and the surrounding terrain, a wireless signal can only be reliably received or transmitted over a distance of two to four miles (as a general rule) between the phone handset and the antenna. In addition, different companies use different technology protocols (e.g., GSM, CDMA, EMSR, TDMA) that have different signal propagation characteristics and therefore require different network designs with differing antenna placement and orientation configurations.

In reaction to the perceived proliferation of towers, a few jurisdictions called upon freelance "consultants" to help draft ordinances and testify at hearings with the effect (if not the intent) of discouraging or helping Boards find reasons to deny cell tower applications. This began creating problems for the wireless service industry. The quality and reliability of a wireless service network depend upon the "hand-offs" of wireless signals from one antenna to an adjacent antenna -- just like a chain that is only as strong as its weakest link. Therefore, the location of antennas to provide contiguous coverage areas (i.e., without gaps that result in "dropped" calls) is an essential element of the engineering design of a network. In addition, service providers were often competing for customers based upon coverage, reliability and frequency of dropped calls -- ("Can you hear me now?"). As a result of this confluence of trends, many in the telecommunications arena felt service quality in North Carolina was being adversely

affected by the absence of reliable coverage in areas where towers were prohibited or discouraged because the zoning process required unnecessary or excessive fees, submittal requirements, or subjective consultant evaluations. At the same time, the city or county planning staffs were feeling overwhelmed by the number of tower applications and the resources of the tower applicants. Meanwhile, elected officials were feeling political pressure from neighbors opposing tower applications at public hearings.

The General Assembly enacted Senate Bill 831 to try to establish some consistent, state-wide standards and to balance competing interests in a way that preserved the zoning authority of local jurisdictions but curbed practices that prevented wireless coverage expansion.

### Senate Bill 831

Senate Bill 831 was passed by the General Assembly on August 2, signed by the Governor on August 31, and will become effective on December 1, 2007. Its provisions will be codified at N.C. Gen. Stat. §§ 160A-400.50 to -400.53 (as they apply to cities), and at N.C. Gen. Stat. §§ 153A-349.50 to -349.53 (as they apply to counties). The first two sections of the new law state the purpose of the law, confirm that facilities must be constructed in compliance with federal law, and define certain terms used in subsequent sections. The substantive provisions are found in N.C. Gen. Stat. §§ 160A-400.52 and 160A-400.53 (for cities) and Sections 153A-349.52 and 153A-349.53 (for counties)<sup>2</sup>.

Contrary to how the bill was characterized by some of its opponents, the law expressly affirms the rights of cities and counties to enact land development ordinances to regulate the siting of cell towers. The new law does not preempt local zoning authority; it only applies some very broad parameters about how it is to be exercised. For example, although N.C. Gen. Stat. § 160A-400.52(a) acknowledges that public safety is an appropriate consideration in regulating towers, it also re-affirms the federal law that such considerations cannot include requirements relating to radio frequency emissions. The statutes allow cities and counties to evaluate the feasibility of collocation on structures within the search ring and other alternatives (especially if the proposed new tower is to be constructed in residential, historic, or designated scenic areas); however, the city or county "may not require information on or evaluate an applicant's business decisions about its design services, customer demand for its service, or quality of its service to or from a particular area or site." N.C. Gen. Stat. § 160A-400.52(b). In other words, the review of the application should be limited to only addressing "public safety, land development, or zoning issues."

The statutes require cities and counties to review collocation applications and respond with any deficiencies within 45 days of receipt of the application and to issue a written decision on collocation applications within 45 days from when the application is deemed complete. N.C. Gen. Stat. § 160A-400.52(f). The jurisdictions must issue a decision on new tower applications within a "reasonable time" consistent with their

<sup>2</sup> Because the county provisions are identical to those applicable to cities, the references and cites hereinafter in this article, for purposes of simplicity, will only be to those in Chapter 160A.

timelines for other land use applications. This section ensures that wireless facilities applications will be considered and treated the same as applications for other types of land uses. Id.

Although cities and counties can still retain consultants to review applications and advise them, the consultants' fees must be set in advance and incorporated into a permit or application fee based upon the reasonable costs being incurred by the city or county in connection with the application review and cannot exceed what is usual and customary for such services. N.C. Gen. Stat. § 160A-400.52(f). In other words, the payment of escrow fees, in advance, to be applied toward an undetermined amount of consulting fees that may be incurred on a billable hour basis, will no longer be allowed under state law.

As before, cities and counties have the authority to prohibit the construction of "spec towers," by requiring documentation from a service provider who intends to use the tower. This documentation, however, does not have to be produced at the time of the zoning application, so long as it is provided prior to applying for a building permit. N.C. Gen. Stat. § 160A-400.52(g). Also, the zoning permits may lapse if the jurisdiction conditions its approval on the tower being constructed within a specific period of time, but the period cannot be less than twenty-four months. Id.

One of the key benefits of the new law is the establishment of a streamlined permitting process for collocations. Under the new law, applications for collocation may be reviewed for conformance with applicable site plans and building permit requirements but are not otherwise subject to zoning requirements or public hearings so long as they meet the following five requirements:

- (1) the collocation does not increase the overall height or width of the tower;
- (2) the ground space for the fenced compound does not increase;
- (3) the tower itself is in compliance with the requirements and conditions originally placed on the structure;
- (4) the antennas comply with all safety requirements; and
- (5) the collocation does not exceed the structural loading limits of the tower.

N.C. Gen. Stat. § 160A-400.53. In addition, for all towers approved after December 1, 2007, collocation applications will qualify for this streamlined approval process, so long as the total number of antennas does not exceed the number of collocations that were contemplated and approved for the tower at the time of its original approval and the tower still meets all its other requirements and conditions. Id.

Although most (but not all) North Carolina jurisdictions already apply a type of streamlined approval process to collocations to provide incentives to service providers to collocate on existing structures rather than to build new towers, the provisions of N.C.

Gen. Stat. § 160A-400.53 now codifies this practice statewide. The effect of Section 160A-400.53 should greatly reduce (if not entirely eliminate) the role of consultants for collocations, and it should limit the jurisdiction's ability to impose design or placement requirements on how or where antennas are located on existing structures (so long as the structures are capable of supporting the antennas).<sup>3</sup>

While Senate Bill 831 wound its way through the legislative process, some observers advocated instead for the development of a model ordinance that would balance both community and industry concerns, eliminate the irregular patchwork of inconsistent requirements from jurisdiction to jurisdiction, providing a framework, if necessary, for consistent judicial interpretations, and curb the abuses about which the wireless telecommunications industry had complained. The authors believe that the wireless industry would welcome such an initiative so long as the model ordinance fairly balanced the competing interests and allowed the service providers to expand their coverage to serve their customers.

### Effects of the New Law

For the vast majority of city and county jurisdictions in the State of North Carolina, Senate Bill 831 will have little or no effect. Their ordinances can still impose setbacks, fencing and landscaping, tower separation, and other design and placement standards and requirements. The policy of allowing towers by right in the most intensive use districts and by conditional use permits in most other districts is consistent with the new law. Where conditional use permits are required for new towers, public hearings will still be conducted and the evidence must still be considered within the framework of the four general requirements as typically found in most zoning ordinances.

In general, only two types of ordinances will need to be rewritten. First, ordinances that require public hearings for collocations or those that do not distinguish between collocations and the construction of new support structures will need to be rewritten. Second, ordinances that will be affected are those that allow consultants to (1) be paid an undefined amount based upon billable hours paid out of advanced escrow fees, and (2) critique the company's need for new support structures based upon engineering criteria, performance or reliability standards, or other business considerations other than those of the applicant itself. In other words, consultants cannot substitute their own business judgment or engineering design criteria for those of the company spending their own capital resources to build the support structures and provide the service to its own customers.

Although Senate Bill 831 establishes some time limitations within which jurisdictions must review and process applications, those time frames are considerably

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<sup>3</sup> While this legislation was being considered, a consultant for one North Carolina county attempted to collect escrow fees for his review of over twenty already existing collocations on existing towers where the service provider had done nothing more than upgrade the antenna type and equipment at the towers. Although that county backed down in response to the objections of the service provider's attorneys, this new statute now eliminates this possibility in the future.

beyond what almost all jurisdictions already use anyway -- except in those rare instances when a jurisdiction may intentionally be holding an application in limbo in hopes that the applicant may eventually give up and go away.

Perhaps the most significant aspect of this new law is symbolic: it signals that -- for better or worse -- personal communications devices (cell phones) are a part of modern life and deployment of the necessary infrastructure should not be unreasonably restricted. As stated in the very first sentence of the new law:

The purpose of this [law] is to ensure the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunication services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

N.C. Gen. Stat. § 160A-400.50(a). Like railroads in the nineteenth century and power lines, telephone lines, and pipelines in the twentieth century, the infrastructure of the twenty-first century will include cell towers at sufficient heights above tree-top-level and spaced close enough together to provide reliable signal strength in contiguous service areas.

By enacting Senate Bill 831, the General Assembly recognized that this infrastructure is necessary to provide access to public safety resources (e.g., E911), enhance economic productivity, and provide convenient communications -- all of the reasons that people purchase cell phones and expect them to work when they attempt to place a call. If the very limited measures of Senate Bill 831 prove to be sufficient to remove obstacles to the efficient deployment of this infrastructure, then further efforts to standardize criteria on a state-wide basis for zoning cell towers will not be necessary. If not, a precedent has been established and a framework now exists for the legislature to take further action as the need may arise.

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\* Styers and Bowens are attorneys with Blanchard, Miller, Lewis & Styers in Raleigh. Their zoning practice includes representing wireless service providers and tower companies as applicants for required permits to construct and operate wireless telecommunications facilities (i.e. "cell towers"). Styers serves as the NCBA Board of Governors liaison to the Zoning, Planning, and Land Use Section Council. Bowens serves on the NCBA Environment, Energy & Natural Resources Section Council.



# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of City Council

**From:** Craig M. Harmon, Planner II

**Date:** July 27, 2009

**Case No.** P09-19F

**THE QUESTION:** Rezone from R6 Residential District to C1 Commercial District to allow parking.

**RELATIONSHIP TO STRATEGIC PLAN:** Growth and Development

**BACKGROUND:**

Owner:	John & Mable Council
Applicant:	"same as owner"
Council District:	District 4 - Haire
Requested Action:	Rezone from R6 to C1
Existing Zoning	R6 Residential Districts
Status of Property:	Parking Lot (Legal Non-Conforming)
Size:	+/- 0.16 acres
Existing Land Use:	Parking Lot
Adjoining Land Use & Zoning:	North – P2 Professional South – C1 Commercial East – R5A Residential West – R6 Residential
2010 Land Use Plan:	High Density Commercial
Murchison Road Corridor Study	Residential
Letters Mailed:	103

**SPECIAL INFORMATION:**

The new Murchison Road Corridor Study recommends residential for this property. There are businesses on three sides of this property and the current use is a parking lot.

**Public Utilities:**

Water:	PWC
Sanitary Sewer:	PWC

**Transportation:**

Murchison Road is a major thoroughfare. The average daily traffic count is 15,000 vehicles at the intersection with Jasper Street.

0005-5

ITEM 4.

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**OPTIONS:**

1. Rezone the property to P2 Professional Zoning:
2. Set a public hearing to consider other options. In this situation, the other realistic option solely under the control of City Council is denial of the rezoning. A denial of the rezoning still allows the owner to use the property as a parking lot.

The City Council could request the applicant to consider resubmitting the application as a conditional zoning request. The conditional zoning allows the applicant to specify the exact use or uses they propose for the property as opposed to a standard rezoning where all the uses in the district are allowed. The conditional zoning option requires the applicant to begin the process from the beginning. It is the applicant's choice whether to resubmit the application as a conditional zoning request.

**RECOMMENDATIONS:**

Zoning Commission & planning staff recommend approval of the rezoning for P2 professional district:

1. Although the Murchison Road Land Use Map recommends residential uses for this property, it is the Zoning Commission & staff's opinion that P2 professional is a better fit. The P2 zoning allows residential uses and that is consistent with the Murchison Road Study, but with commercial on two sides and in front of this property it is highly unlikely anyone would develop the property residentially;
2. The adjacent property to the north of this one is zoned P2;
3. P2 professional will serve as a transition district and will allow for residential, office or parking;
4. The current land use for the property is a parking lot that is a legal non-conforming use;
5. The applicant and the representative from the neighborhood who appeared at the Zoning Commission's public hearing were satisfied with P2 professional zoning.

**ATTACHMENTS:**

1. Application for Rezoning
2. Vicinity Map
3. Zoning Map
4. Current Land Use Map
5. Zoning Commission Minutes

**APPLICATION FOR REZONING  
CITY OF FAYETTEVILLE**

To the Zoning Commission and the City Council of the City of Fayetteville, North Carolina

I (We), the undersigned, do hereby respectfully make application and petition to the City Council to amend the Zoning Ordinance and to change the Zoning Map of the City of Fayetteville as hereinafter requested, and in support of this application, the following facts are shown:

Location/Address of the Property: 2215 ~~Acres~~ <sup>2215</sup> ~~Acres~~ Murchison Rd  
Owner of the Property: John T Council, Male Council  
Address of the Owner: 3641 County Line Rd Zip 28306-9254  
Owner's Home Phone: 910-4258005 Owner's Work Phone: \_\_\_\_\_

A. The property sought for Rezoning is owned by John T. Council as evidenced by deed, recorded in Deed Book 7264, Page 822, Cumberland County Registry. (Attach a copy of (all) deed(s) as it appears in the Registry.)

B. It is desired and requested that the foregoing property be rezoned:

From: Resid. R-6 To: C-1

Please describe the proposed use of the property requested for rezoning: Parking

C. Tax Property Identification Number (PIN#) of the property: 0428-85-1023  
~~0428-12-85-1009~~

D. Acreage to be rezoned: 0. ~~16~~ .16 Ac

E. To the best of your knowledge, has an application for rezoning been filed for this property within the previous 5 years? (If yes, please indicate month and year of application.)  
No

F. Existing use of the property (Specify any structures and respective uses): Parking

G. Existing and/or proposed water service (Specify if Community System): PWC

H. Existing and/or proposed sewer service (Specify if Community System): PWC

It is understood by the undersigned that the Zoning Map, as originally adopted and as subsequently amended, is presumed to be appropriate to the property involved and that the burden of proof for a zoning amendment rests with the applicant. It is further understood by the undersigned that the singling out of a small parcel(s) of land for exceptional zoning would likely constitute illegal "spot zoning" and in such cases a rezoning request and a public hearing are superfluous. Therefore, it is the responsibility of the applicant to submit a valid request not incompatible with existing neighborhood zoning patterns. The responsibility of securing additional properties to be included in the request lies with the undersigned.

John T. Council, Mable Council  
Print or Type Name of Owner

3641 County Line Rd., Fay., N.C. 28306-9574  
Address of Owner

910-425-8605  
Home Phone Work Phone

John T. Council  
Print or Type Name of Applicant

3641 County Line Rd., Fay., N.C. 28306-9574  
Address of Applicant

910-425-8605  
Home Phone Work Phone

[Signature]  
Signature of Individual Submitting the Application

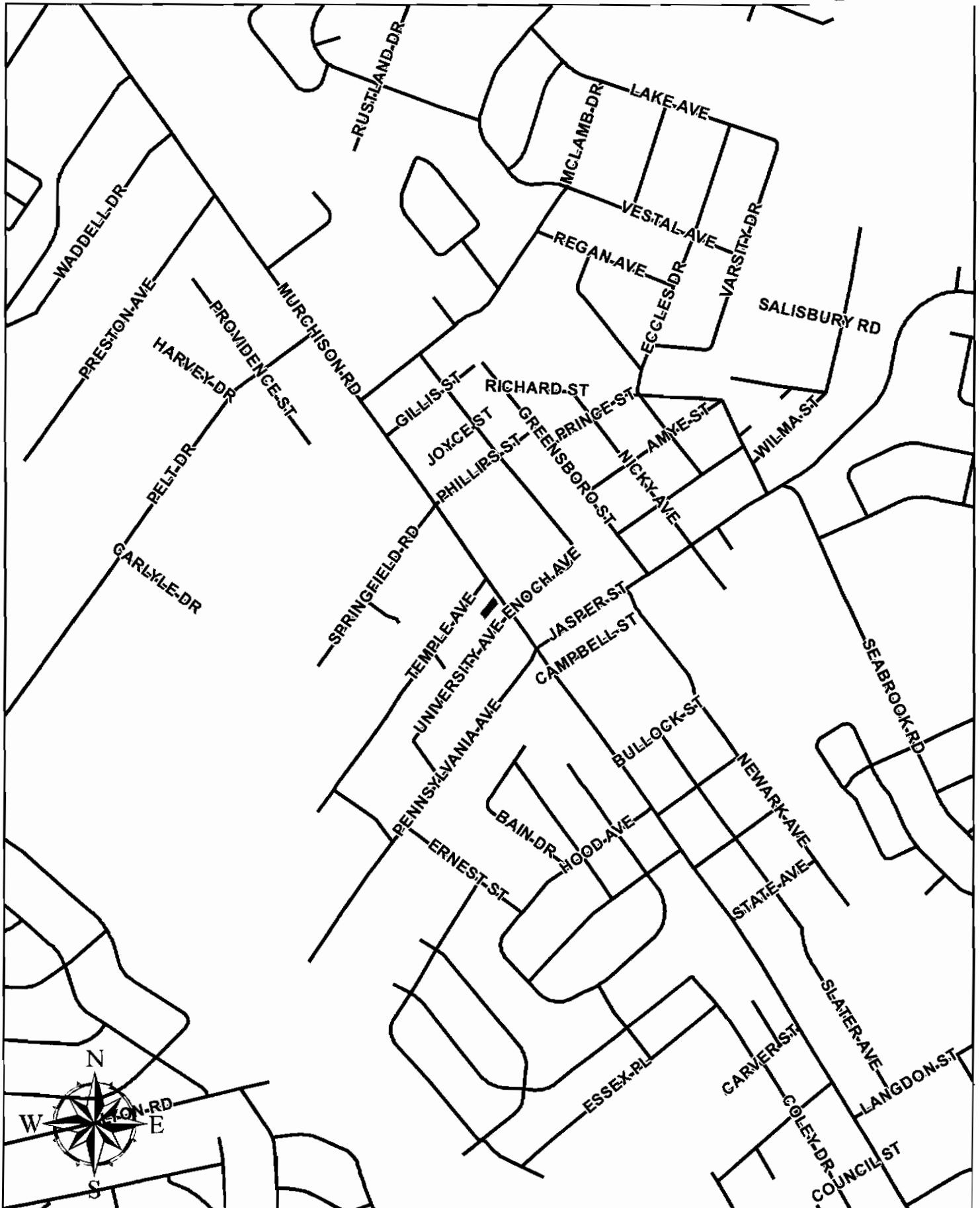
**City of Fayetteville Appeals Procedure:** Any person aggrieved by the recommendation of the Zoning Commission shall have the right to appeal the action of the Zoning Commission in writing to the Clerk of the City of Fayetteville within ten (10) calendar days of the action of the Zoning Commission. If an appeal is timely filed, then the City Council shall hold a public hearing on the case.

If the Zoning Commission's recommendation is to rezone the property, and no appeal is filed, then the City Council shall have the right to adopt the rezoning without further public hearing. If the Zoning Commission's recommendation is to deny the rezoning, and no appeal is filed, then the request will not be forwarded to City Council. There is a 1-year waiting period before any further rezoning request can be filed for this property.

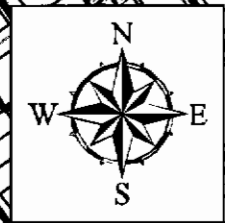
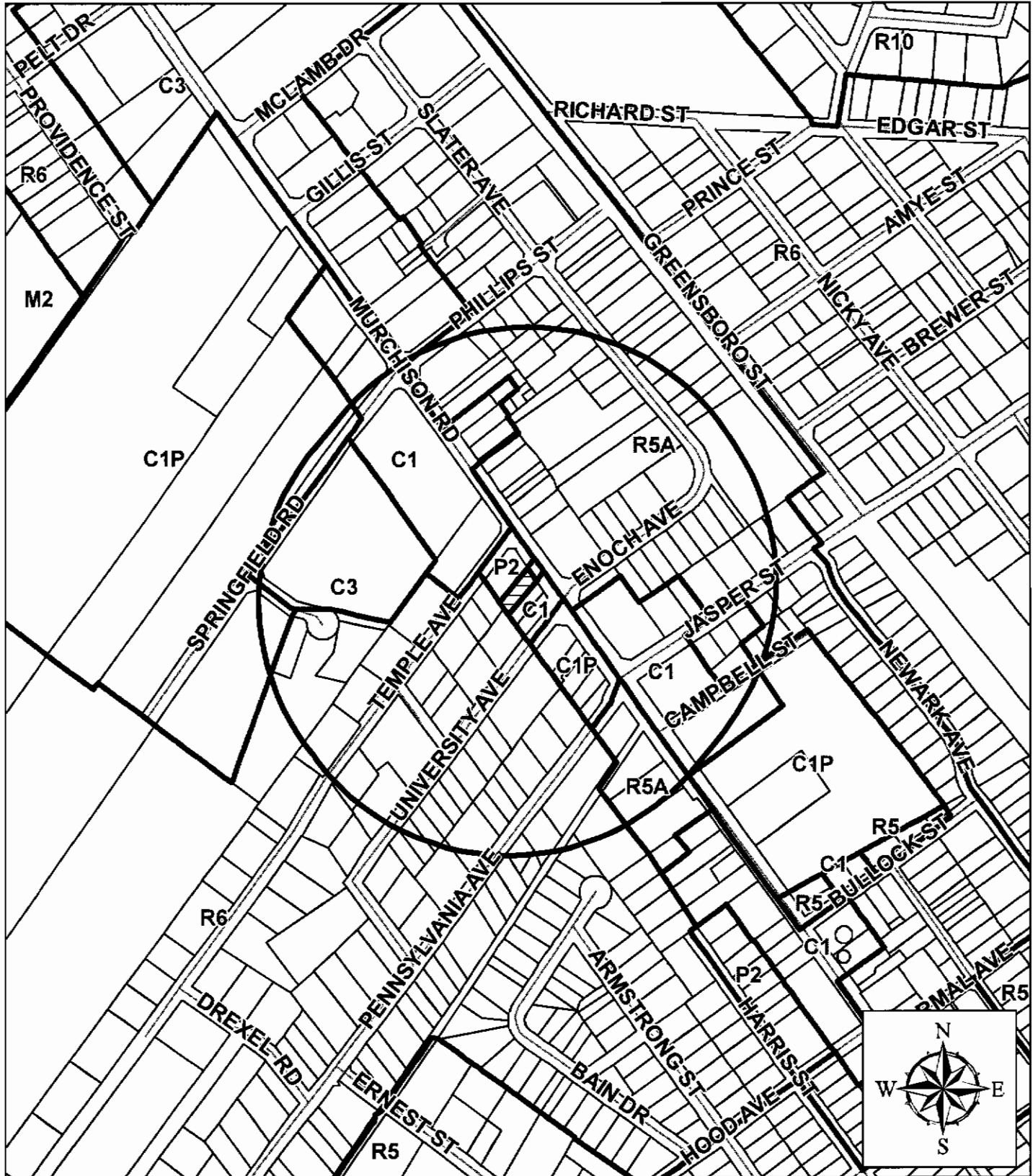
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# Zoning Commission - Vicinity Map

Case No. P09-19F



**ZONING COMMISSION  
CASE NO. P09-19F**



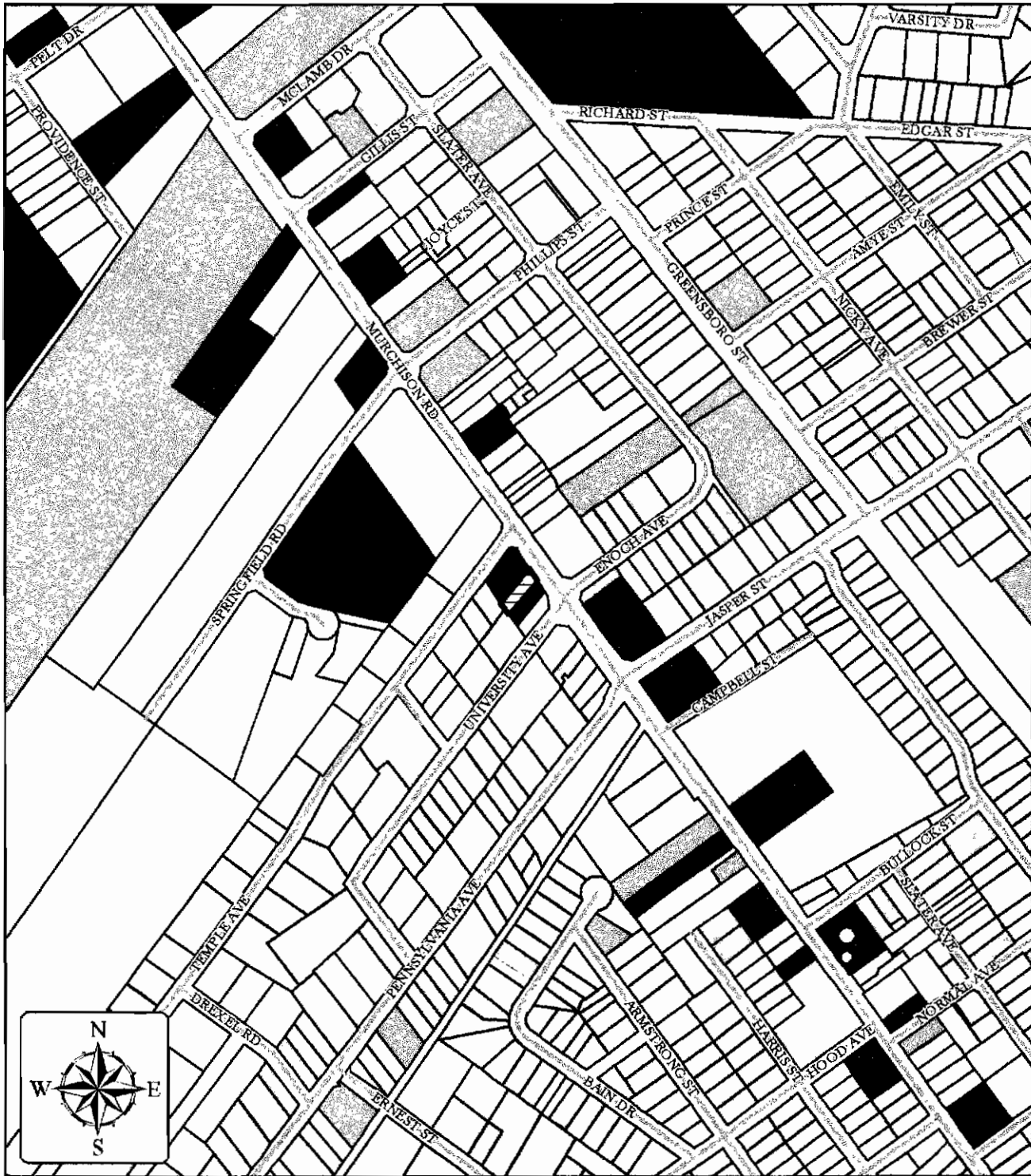
**Request: R6 to C1**  
**Location: 2215 Murchison Rd.**  
**Acreage: 0.16 +/- acres**

**Zoning Commission: 6/9/2009**  
**City Council: \_\_\_\_\_**  
**Pin: 0428-86-1023**

**Recommendation: \_\_\_\_\_**  
**Final Action: \_\_\_\_\_**

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

**Current Land Use**  
**P09-19F**



**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

000191



MINUTES  
CITY OF FAYETTEVILLE  
ZONING COMMISSION  
CITY COUNCIL CHAMBERS  
1ST FLOOR, CITY HALL  
JUNE 9, 2009- 7:00 P.M.

**MEMBERS PRESENT**

Pete Paoni  
Richard West  
John Crawley

**MEMBERS ABSENT**

Jeannie Nelson  
Lockett Tally

**OTHERS PRESENT**

Jimmy Teal, Planning Director  
Craig Harmon, Planner  
Janet Smith, Asst. City Atty  
David Steinmetz, Inspections

The meeting was called to order at 7:02 p.m.

**I. APPROVAL OF AGENDA**

Mr. West made a motion to approve the agenda. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

**II. APPROVAL OF THE MINUTES FROM THE APRIL 14, 2009 MEETING**

Mr. West made a motion to approve the minutes from the April 14, 2009 meeting. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

Mr. Paoni explained the Commission members job was to conduct public hearings, listening carefully to the testimony from both sides to make recommendations that would be forwarded to City Council for final action. Each side will be given fifteen (15) minutes, collectively, to speak and must be signed up prior to the meeting. Request for Special Use Permits is quasi-judicial and must be sworn to before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerks Office, located on the second floor of City Hall.

**III. PUBLIC HEARINGS**

- C. Case No. P09-19F. The rezoning from R6 Residential District to C1 Commercial District or to a more restrictive zoning classification for property located at 2215 Murchison Rd. Containing 0.16 acres more or less and being the property of John I and Mable Council.

Mr. Harmon presented the case. He gave an overview of the request, the property and the surrounding area. He stated that the 2010 land use plan is for a high density commercial use for the area but the Murchison Road Corridor study states that the area needs to be single family residential. Mr. Harmon stated that staff mailed out 103 Public Hearing letters to surrounding properties in the area. He stated that there is adequate water and sewer available to the property.



The public hearing was opened.

Mr. Thomas Council representing Mr. John Council spoke in favor in the request. He stated that the recommendation from staff of P2 was acceptable by the applicant.

Ms. Cureton spoke in opposition of the request. Ms. Cureton addressed her concerns that the parking lot should be professional as opposed to commercial. She stated that she had a petition available of citizens in the area that had sign in opposition of a commercial zoning.

The public hearing was closed.

Mr. Harmon stated that the staff recommendation for this project is to approve it as a P2 Professional district.

Mr. West stated the applicant, the opposition and the staff all supported the P2 zoning.

Mr. Crawley made a motion to approve the request to rezone the property to P2. Mr. West seconded the motion. A vote was taken and passed unanimously.

Mr. Teal stated that this item would go to City Council as a regular on Monday, July 27, 2009 meeting at 7:00pm

# CITY COUNCIL ACTION MEMO

**To:** Dale Iman, City Manager  
**From:** Doug Hewett, Assistant City Manager *D*  
**Date:** July 27, 2009  
**Re:** FY 2008-2009 Strategic Plan's Policy and Management Action Agenda- 4<sup>th</sup> Quarter Report

**THE QUESTION:** Has City Council's interest been met in staff's advancement of the policy and management action agenda for the 4<sup>th</sup> quarter? The attached reports are provided to detail progress made during the 4<sup>th</sup> 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 fifteen-year vision 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 ten-year 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 4<sup>th</sup> quarter work efforts reflect the overall direction articulated by the City Council in the FY 2008-09 Strategic Plan? Does the progress highlighted in this report move the community closer to the desired fifteen-year vision previously identified by the City Council?

**OPTIONS:**

- 1.) Accept the report as provided with guidance to the City Manager/staff on areas of interest.
- 2.) Request additional information on items listed in the report.
- 3.) Modify/clarify interests in report and Strategic Plan.

**RECOMMENDATIONS:** Receive and file this report.

000194

ITEM 5,



***FY 2009 Strategic Plan  
Policy and Management  
Action Agenda  
Fourth Quarter Report***

***In Narrative Form***



# Policy Agenda

## Top Priority

Northwest Gateway  
Murchison Road Corridor Study  
Sidewalk Policy Implementation  
NC Veterans Park  
BRAC Opportunities

## High Priority

Sign Ordinance  
Workforce Development Plan  
Funding Plan for Parks and Recreation  
Downtown Parking Actions  
Diverse Tax Base Strategy

# Management Agenda

## Top Priority

Unified Development Ordinance  
Strategy to Deter Neighborhood Speeding  
Community Watch Expansion  
Telling the City's Story: Action Plan

## High Priority

HOPE VI  
Fire Training Tower  
Consolidated Marketing Program  
Performance Based Compensation

## Continuing Priority

Transit System Improvements

# Policy Agenda- Top

## Northwest Gateway Development

The commitment of the NC state government to construct a park in Fayetteville honoring North Carolina veterans of all branches enabled the City to begin assembling land and preparing a concept plan for the new NC Veterans' Park behind ASOM, along Cross Creek in the downtown area. In assessing design options and realizing that DOT was just beginning design of the Rowan St. Bridge replacement, the consultants recommended a realignment of the bridge and Rowan St., in turn enabling a dynamic new gateway area.

This gateway concept would bring Rowan St., Bragg Blvd., and Murchison Rd. together in a more functional, attractive way and free up several acres for the Veterans' Park. It also would create a setting for new private sector development, including the potential for new housing on City-owned property on Bragg Boulevard across from ASOM and the new park. The concept also includes extending a greenway from the new park northward along Cross Creek to provide a pedestrian and bicycle connection to MLK Park and, eventually, to Fayetteville State University and Mazarick Park.

Realization of the bridge and roadway realignments, reconnection of Murchison Road to Rowan Street, private redevelopment on the enhanced sites and the greenway extension are multi-year undertakings. Success in the next 12 months would include a completed "signature" bridge design with incorporated roadway improvements. The \$4 million currently on the TIP plan for the upper portion of Murchison Road, through the MPO process, is re-allocated to facilitate the road realignments under the Gateway concept (including the re-connection of Murchison Road to the new "Gateway"). The environmental impacts would be understood and mitigation plans would be coordinated to support both the Murchison Road and the Veterans' Park projects. Arrangements with NC DOT would allow land freed up by removal of the ramps to become a part of the new park, and there would be a coordinated City and DOT plan regarding relocation issues.

Such successes would help achieve the City goals of:

- More Attractive City – Clean and Beautiful
- Revitalized Downtown – A Community Focal Point

Vandewalle and Associates completed the vision and conceptual design of the Northwest Gateway, and the City Council approved the plan (except housing within Rowan Park) on March 17, 2008.

Additional funding to support the enhanced bridge design and/or special features of the new roundabout or intersection would need to be acquired through the MPO process and /or contributory funding by the City of Fayetteville.

Team members include representatives from the following:

- City of Fayetteville, Traffic Engineering
- City of Fayetteville, Special Projects
- City of Fayetteville, Parks and Recreation
- City of Fayetteville, Planning
- City of Fayetteville, Community Development
- FAMPO
- NC DOT

- CCBC – Downtown

Staff Liaison: Residential: Craig Hampton

Commercial (and round-about): Karen Hilton/Rusty Thompson

Email Address: [champton@ci.fay.nc.us](mailto:champton@ci.fay.nc.us)

[khilton@ci.fay.nc.us](mailto:khilton@ci.fay.nc.us); [rthompson@ci.fay.nc.us](mailto:rthompson@ci.fay.nc.us)

Phone Number: 433-1786; 433-1437; 433-1153

<b>Action Plan (Residential and Commercial elements become distinctly separate projects beginning in 2009)</b> * = dependent on NC DOT schedule	<b>Estimated Completion</b>
Complete and coordinate results of Murchison Corridor plans	Feb 2009
Determine roundabout feasibility*	Mid 2009
Rowan Bridge design & roadway alignment*	Early 2010
-- Coordination with NCVP Phase II land availability and -- Cross Creek rerouting plan and permitting -- Coordination regarding land acquisition/assembly/relocation	2009-2010
Assist with integrating freedom trail and creek trail extensions along/through the commercial area and new roundabout/intersection.	2009-2010
Prepare detailed task schedules and responsibilities: -- Residential -- Commercial	Early 2009 Mid 2009
Site appraisals, assembly, relocations -- Roadway related -- Commercial related	Late 2009 TBD
RFP, development process -- Residential -- Commercial	Spring 2009 TBD

First Quarter Update:

- Traffic Engineering coordinated local input to DOT on traffic patterns and volumes and design ideas
- Based on local input, DOT began reassessing traffic volumes and feasibility of a roundabout or standard intersection

Upcoming Activities:

- Provide local feedback on DOT reassessment of the roundabout or intersection for Rowan,

Murchison and Bragg Blvd. (conference call expected in October)

- Assist in providing firm(s) selected for NCVP the background information needed to begin refining design elements and understanding options and timetables associated with Rowan Bridge and roadway

Second Quarter Update:

- Provided local feedback on DOT reassessment of the roundabout or intersection for Rowan, Murchison and Bragg Blvd. (results of revised analysis expected in mid/late January)
- Murchison Phase II final draft completed in December

Upcoming Activities:

- Participate throughout the week-long scoping charrette with the design teams, January 5-9, 2009
- Continue to work closely with NCDOT in assessing Rowan St. bridge replacement (and potential re-use of existing bridge), road alignment, ramp removal/use, and intersection or roundabout traffic and design approaches
- Assist in providing firm(s) selected for NCVP the information needed to refine design elements and understand options and timetables associated with Rowan Bridge and roadway
- Establish responsibilities and prepare and issue RFQ/RFP for residential development

Third Quarter Update:

- Participated throughout the week-long scoping charrette with the design teams, January 5-9, 2009
- Continued to work closely with NCDOT in assessing Rowan St. bridge replacement, road alignment, ramp removal/use, and intersection or roundabout traffic and design approaches
- Assisted with providing the URG team the information needed to refine design elements and understand options and timetables associated with Rowan Bridge and roadway
- After assessing the current market, local conditions, and the NC Veterans Park project impacts, the decision was made to proceed this spring with the issue of an RFQ/RFP for residential development. Craig Hampton will assume lead responsibility for the Housing component

Upcoming Activities:

- Housing RFP/development will begin this Spring

#### Fourth Quarter Update

- Issued RFP for residential development of designated area. Held pre-submittal conference for potential developers. Submittal due the end of June 2009
- Coordinated final design of Freedom Trail-Phase 1 with DOT and Freedom Park.

#### Upcoming Activities:

- Review and analyze all submissions for residential development. Make recommendation to City Council
- This target for action will continue as HIGH PRIORITY on the Management Agenda in FY 2010.



# Policy Agenda- Top

## Murchison Road Corridor Study

In FY 2008, the City identified a five mile section of Murchison Road as needing a corridor plan to provide guidance regarding appropriate land use patterns, development standards, opportunities for economic development and local recommendations regarding street design. Murchison was a high priority because of numerous pending changes.

- Closure of Bragg Blvd. as thoroughfare from Spring Lake to Fayetteville in 2011; which will make Murchison Rd. the major east/west roadway
- Expansion plans at Fayetteville State University
- Council goal of FSU connection to downtown (FY 2008 Strategic Plan)

The first phase focused on land use and economic development, with general recommendations about street patterns and form. An appointed 17 member community task force helped guide the work led by LandDesign and its economic consultant Basille, Bauman, Probst and Cole. The final report was presented to the City Council on June 9, 2008 and approved. Phase II, which began in early June 2008, includes FAMPO funding for a more detailed analysis of transportation improvements and alternatives in the context of the recommended land use and development plans from Phase I. Phase II will be led by Kimley Horn and Associates, consultants, with input from a core advisory committee drawn from the initial task force plus opportunities for other task force members, stakeholders and general community involvement.

Success for the next 12 months would be completion and Council adoption of a complete package of zoning, development and street design options coordinated with NC DOT needs and projects and compatible with community and business objectives. Task force and other community members will continue to assist with subsequent implementation projects and roadway design options. New development standards will guide infill and reinvestment in the catalytic development sites. The plans and program for action will help achieve the City's goals of:

- Greater Tax Base Diversity – Strong Local Economy
- More Attractive City – Clean and Beautiful
- Growing City, Livable Neighborhoods – A Great Place to Live

Phase I involved a \$57,300 with LandDesign; Phase II involves a \$125,000 contract with Kimley-Horn and Associates for the transportation-focused analysis and design options (\$100,000 provided by FAMPO).

Project staff includes representatives from the City's Planning, Manager's Office and Traffic Engineering Departments.

Phase I also included extensive involvement of staff from Fayetteville – Cumberland County Chamber of Commerce (formerly CCBC), while Phase II includes NC DOT and FAMPO staff on the project team.

Staff Liaison: Karen Hilton (lead, Phase I); Rusty Thompson (lead, Phase II)

Email Address: [khilton@ci.fay.nc.us](mailto:khilton@ci.fay.nc.us); [rthompson@ci.fay.nc.us](mailto:rthompson@ci.fay.nc.us)

Phone Number: 433-1437 / 433-1153

Action Plan	Estimated Completion
Complete preliminary land use study and get community input (Phase I)	Apr 2008
Select consultant for transportation corridor study (Phase II)	Apr 2008
Finalize land use study and report (Phase I)	May 2008
Execute contract with consultants for Phase II	May 2008
Present Phase I study to Mayor and Council for approval	Jun 2008
Conduct research, start-up and community visioning for Phase II	Jun 2008
Refine conceptual designs; test alternatives; get feedback for revisions	Aug 2008
Draft action plan and funding strategies	Sept 2008
Prepare preliminary report; get feedback at final public work shop	Oct 2008
Presentation of Phase II final report	Nov 2008

First Quarter Update:

- Over 125 community members participated in a visioning charrette late in the last quarter, June 23-26, 2008, to identify preferred alternatives for the roadway design
- On July 15, 2008, lead consultant participated in a WIDU radio show discussing economic development along the Murchison corridor area and the Phase II project
- On August 11, project team members met with lead consultants to explore the implementation timetable and specific directions to pursue with certain catalyst sites
- On August 13, staff members made a presentation to the Fayetteville Business and Professional League regarding Murchison corridor projects and timetables
- Project liaison staff met with Police Department staff to explore redevelopment activities, timetables and related considerations associated with security programs along the corridor
- Project staff reviewed a preliminary draft plan which will be revised and presented to the

stakeholders in October, 2008

Upcoming Activities:

- A preliminary report will be presented for stakeholder review in October
- A final report will be prepared and presented in November for consideration by City Council

Second Quarter Update:

- Project staff reviewed a preliminary draft plan which was revised and received as a final report in December 2008
- Recommendations for roadway improvement and preferred design were incorporated in discussions about I-295 extension and service to support new BRAC-related facilities and personnel

Upcoming Activities:

- The final report will be presented in February for consideration by City Council
- Coordination with NCDOT and MPO regarding costs and priorities to get improvements in line for funding
- Coordination with NCDOT regarding connections with other improvement projects (e.g. I-295, Rowan St. Bridge and roadway)

Third Quarter Update:

- The final report of Phase II, which focused on transportation improvements, was presented January 26 for consideration by City Council, and approved
- With the description of the preferred design concepts, efforts continued in coordination with NCDOT and MPO regarding costs and priorities to get improvements in line for funding
- Staff from Engineering and Planning worked with FTCC to develop a 3-D model of the corridor roadway improvements and I-295, for the Greater Fayetteville Futures conference
- Efforts continued in coordination with NCDOT regarding connections with other improvement projects (e.g. I-295, Rowan St. Bridge and roadway). Staff provided information and participated in various meetings and phone calls to explain and re-establish the high priority for I-295 funding DOT and stimulus funding
- Stimulus funds (\$64 m) were committed to portions of I-295: the bridges and ramps, which have the longest lead construction time, are funded and construction is expected to start this summer
- Community Development oversaw completion of the consultant contract to explain the new development expectations and opportunities and to facilitate market interests along the corridor

Upcoming Activities:

- Continued coordination among agencies and research to identify resources for specific projects

Fourth Quarter Update:

- Consultant completed and presented to City Council May 11, 2009, the Implementation Feasibility Analysis for the Land Use and Economic Development Plan for the Murchison Road Corridor
- On June 9 applicants requested rezoning of two different properties on Murchison Rd. Staff recommendations applied the recommended land use and development guidelines from the corridor plan to the specific circumstances of these two requests. City Council will consider the requested re-zonings on July 27
- On June 25 staff (CDO and Planning and Traffic Engineering staff) met with FTCC to review the 3-D models and provide suggestions regarding the 'voice-over' comments for the final packages on the I-295 and Murchison corridor segments
- Consultant completed report on potential funding sources for Murchison Road Development of 3 catalyst projects.

Upcoming Activities:

- Report on an action plan for the Implementation Feasibility Analysis for the Land Use and Economic Development Plan for the Murchison Road Corridor (3 catalyst projects). Due back to City Council in August 2009
- On July 27 Council will have the opportunity to consider 2 rezoning requests in the context of the approved Corridor Plan
- Staff will begin comparing the existing zoning along the entire corridor with the approved Corridor Plan and the districts and standards available in the draft UDO
- This target for action will continue as TOP PRIORITY on the Policy Agenda in FY 2010.

# Policy Agenda- Top

## Sidewalk Policy and Funding

Council adopted the current Sidewalk Policy in May 2003 with minor revisions since then. The priority project list has not been officially updated to remove completed projects and add needs in the area annexed in 2005 and locations requested by Cumberland Co. Schools. This Target for Action will be to review/revise policies & ordinances, set priorities and identify all funding sources.

Success for FY 09 will be adoption of a revised plan that:

- Is easy to understand and implement
- Best utilizes all available resources
- Prioritizes sidewalk needs that are eligible for the various funding sources and has a means to stay updated
- Includes an updated sidewalk inventory
- In 12 months we can revise/adopt a new plan.

Resources currently being committed to this Target for Action include:

- Developer installed sidewalks
- Fee-in-lieu funds
- Approved CIP includes \$150,000 per year
- NCDOT Enhancement Funds and funds included in DOT road improvement projects
- Safe Routes to School funds

The plan can be revised without additional resources. Additional CIP funds, for example, will be needed to make good progress in completing the plan.

Team members will include:

- City Engineering & Infrastructure Director
- City Engineer
- City Traffic Engineer
- City Construction Manager
- City Planning Director
- Sr. Code Enforcement Administrator
- NCDOT Assistant District Engineer

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Action Plan	Estimated Completion
Review existing policy	Apr. 2008- Sep. 2008
Finalize report	Dec. 2008
Present report to Mayor and Council and receive feedback	Feb. 2009
Adoption	Mar. 2009

First Quarter Update:

- Identified \$417,000 in additional funding and received commitment for:
  - NCDOT Enhancement Funds - \$95,000
  - Safe Routes to School Funds - \$147,000
  - STP-DA Funds through FAMPO - \$150,000
  - NCDOT / FSU Funds - \$25,000
- Developed a plan to construct 3.2 miles of sidewalk utilizing the City's \$200,000 and the \$417,000 in additional funding (total of \$617,000)
- Held three Sidewalk Policy and Funding TFA team meetings to discuss use of current year funds and proposed changes to the current sidewalk policies

Upcoming Activities:

- Continue to hold team meetings bi-weekly to discuss policy changes
- Identify sidewalk priorities for future sidewalk funds

Second Quarter Update:

- A presentation was made to Council at the Oct. 6 Work Session on the available funds and proposed projects for those funds in the current fiscal year
- FAMPO has offered another \$45,000 matching funds (all of that \$195,000 has been approved by the TAC and is to be approved by NCDOT for the TIP in early 2009). That brings the total available funds to \$662,000 and the total length of new sidewalk to 3.65 miles
- Included representatives from PWC at one of our team meetings to get input on the location of utilities relative to curbs and sidewalks
- The team has completed a DRAFT Sidewalk Policy
- Plans are being made to submit an application for funding directly from Safe Routes to School (previous awards have been through NCDOT)

Upcoming Activities:

- Consider strategies for developing and funding a comprehensive sidewalk inventory
- Finalize the report and present to Council

Third Quarter Update:

- Have identified a significant overlap between the work of this committee and the UDO; therefore, we have delayed finalizing this document until we get in full agreement with the proposed UDO. Several members of our team are also on the UDO review team
- We are still considering strategies for developing and funding a comprehensive sidewalk inventory. With the tight budget and the capabilities of our GPS equipment, we are looking favorably at gathering the sidewalk inventory information with our own personnel and entering it into GIS
- Construction Management is putting together a bid package for approximately \$157,000 of work to be let in April while we get the necessary approvals from NCDOT for the remainder of the proposed projects

Upcoming Activities:

- Continue working with the UDO review team to get a unified set of standards for sidewalk pertaining to new development
- Finalize report and present to Council

Fourth Quarter Update:

- The process of developing a comprehensive sidewalk inventory is underway, utilizing existing staff to compile the field data for the creation of the inventory. This process will assist staff in prioritizing locations
- The City has fully executed Municipal Agreements with NCDOT in the amount of \$457,000. With the City's contribution of \$200,000 this brings the total amount to \$657,000 for sidewalk construction
- All sidewalks utilizing the above funding for construction have been designed
- Awaiting approval from NCDOT on construction. Once approved, we will move forward with bidding process. To date, none of the above funding has been spent because of the delay in getting approval from NCDOT
- Since there is significant overlap between this committee and the UDO, it appears that the most logical step is to incorporate the policy recommendations developed by this committee into the UDO process.

Upcoming Activities:

- E&I Staff will continue to identify opportunities in which we can leverage City funding with other possible funding sources through NCDOT and/or FAMPO in order to maximize the

City's ability to provide safe pedestrian routes to our citizens.

- This target for action will merge into the Unified Development Ordinance in the FY 2010 Strategic Plan.



# Policy Agenda- Top

## NC Veterans Park

This Target for Action describes the development of the NC Veterans Park. The project establishes a world-class, twenty-first century park honoring the sacrifices of members of the Armed Services and recognizes the special place that the military occupies in the lives of the citizens of this state.

The city planning and review team is in place for the park. Citizen sounding boards are active in gathering stakeholder input and approval. The City Council has reviewed and approved the park concept plan and endorsed a resolution to request state funding.

The future of this work plan is contingent on state funding by the North Carolina General Assembly. All actions listed below operate under the assumption that funding will be secured. Property acquisition and DOT bridge replacement and road realignment are additional resources needed to complete this TFA.

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Action Plan	Estimated Completion
Request for proposal - solicit for final design (engineering, surveying etc.)	Aug. 2008
Award contract	Sept. 2008
Final construction documents (plan specifications)	Apr. 2009
Final plan approval by City Council	May 2009
Begin construction	June 2009

### First Quarter Update:

- In July, the City was awarded \$15 million in state funding for the NC State Veteran's Park project
- Completed and published RFP for design and engineering Phase I (construction documents)
  - Proposal includes several elements of design such as engineering and architecture, landscape architecture, static displays and exhibit design
  - Deadline to respond to RFP was Sept. 29

- Held technical committee meetings of key City staff and community stakeholders
- Continued to coordinate with Northwest Gateway project team liaisons as it relates to this project
  - Challenging the NC DOT roundabout assessment

#### Upcoming Activities:

- Awaiting the funding agreement from the state for the award
- Advancing the engineering and design phase of the project
  - Issue a recommendation for award of the A & E contract to develop construction documents
  - Target date for award is December
- Gateway residential development
  - Issue an RFP for developer selection

#### Second Quarter Update:

- Received 50% of the \$14.7 million award from the State of North Carolina
- Advancing the engineering and design phase of the project
  - Received 13 packages from firms submitting statements of qualifications
  - Conducted shortlist evaluation and selected five submittals for interviews
  - Recommend award of contract to City Council in December 2008
- Gateway residential development
  - The release of the RFP is on hold pending better market conditions

#### Upcoming Activities:

- Advancing the engineering and design phase of the project
  - Award final contracts for design documents for phase 1
  - Establish content committee members for appointment by City Council
  - Conduct various meetings with design team, City staff and assigned design and content committees
  - Conduct master plan validation and scoping meeting with design team
  - Conduct survey of entire project area for creation of design documents
  - Begin design development & schematic design portion of the contract
  - Revise development schedule to show six month extension to Phase 1 project completion date (July 4, 2011)

#### Third Quarter Update:

- Design Contract approved by City Council on March 9, 2009
- Design Contract executed by city and design consultants in March 2009

### Upcoming Activities:

- Conduct monthly meetings, for the next 4 months, with Project Management Team (PMT), Design Review Committee, & Content Committee
- Continue process to obtain final parcel of land needed for the park
- Submit application for some of the state and national development permits that may be required

### Fourth Quarter Update

- Conducted 4 all day design meetings with City staff, design review committee, and content committee. Completed design process thru construction documents for Freedom Trail – Phase 1; bid in August –September 2009, begin work late 2009
- Continued process (survey & appraisals & owner discussion) to obtain parcels needed for Freedom Trail –Phase 2. Reached value agreement on billboard parcel. Requires “Friendly Condemnation.”

### Upcoming Activities

- Conduct monthly meetings, for the next months, with Project Management Team (PMT), Design Review Committee, & Content Committee
- Continue process to obtain final parcel of land needed for the park
- Conduct bid process for Freedom Trail-Phase 1, award contract, begin work
- Coordinate location of special donor statue with ASOM and honoree
- Complete design development phase of park project, move to construction document phase with completion set for early 2010
- This target for action continues as an element of both the Northwest Gateway Project and the Murchison Road Corridor Redevelopment.

## Policy Agenda- Top

### BRAC Opportunities

Base Realignment and Closure, (BRAC) refers to our nation's effort to streamline the military and increase efficiency of operations. According to the BRAC Regional Task Force (RTF), this process will bring to Ft. Bragg an estimated 2,651 active duty soldiers and 6,207 civilian employees and defense contractors, or a total of 8,858 positions. Together with their family members, reservists and economic migrants, an estimated 40,800 new residents could move to the surrounding area. This influx is also estimated to create approximately 19,200 jobs with the two largest sectors in government and construction.

In response to this growth, the City of Fayetteville and Cumberland County have partnered with the BRAC Regional Task Force. The task force represents 11 counties that are planning and preparing for the influx of personnel and capital to the region. Its purpose is to engage in regional planning to maximize the potential benefits of the BRAC-related changes and to cooperate with federal and state agencies, military departments and the installation to support transition actions, minimize the negative impact on the community and maximize the economic growth potential. The Task Force has contracted with Training and Development Associates of Laurinburg, NC (TDA) to develop a Comprehensive Regional Growth Plan to prepare for BRAC-related developments.

On the local level, a *BRAC Project Committee* was established by the leadership of Fayetteville and Cumberland County to *promote* the Fayetteville/Cumberland County area as an appealing location for incoming families to reside.

Enhancing and promoting the availability of housing, healthcare, transportation, perception of safety, educational opportunities and leisure offerings are important methods for realizing this goal.

An important facet of the local effort will be to support the action plan outlined in the "Comprehensive Regional Growth Plan" which enhances the City's readiness to be a destination for military-related businesses and the City's ability to respond to the coming changes for our community. In this regard, the *BRAC Opportunities* target for action coincides with all of the FY09 Policy Agenda's top priorities as well as other FY09 targets for action such as the *Workforce Development Plan*, *Diverse Tax Base Strategies*, *Unified Development Ordinance* and *Transit Improvements*. BRAC Opportunities target for action also supports the City's ongoing project, the All American Business Park. Together, these efforts will encourage the development of opportunities to support and improve the City's ability to provide quality services to its citizens and the growing community.

A second important facet of the local effort will be to reach out to those preparing to relocate into the area and to promote the availability of housing, healthcare, transportation, perception of safety, educational opportunities and leisure offerings within the City of Fayetteville and Cumberland County. City Council adopted a marketing plan that includes the efforts of the Army's Army, an approach designed to market the amenities of Cumberland County and the City of Fayetteville to individuals moving to this region in relation to the military. The target

audience includes military and their families as well as defense and federal contractors and their families.

If these goals are accomplished it will help to meet the City's larger goals:

- Greater Tax Base Diversity – Strong Local Economy
- Growing City, Livable Neighborhoods – A Great Place to Live

Overall, this target for action seeks to monitor and augment the City's ongoing efforts related to BRAC changes and the work of the Cumberland County/Fayetteville area BRAC task force.

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<b>Action Plan (excluding actions identified in other TFA's)</b>	<b>Estimated Completion</b>
Review TDA Study (Comprehensive Regional Growth Plan) and present report to the community	June 2008
All American Business Park- Finalize agreement with developer and proceed with design of sanitary sewer	Aug. 2008
Marketing Effort- Identify BRAC priorities for the City and continue supporting effort	Sept. 2008
All American Business Park- Construction begins	Oct. 2008
All American Business Park- Construction complete	March 2009

First Quarter Update:

- City management staff reviewed the draft Comprehensive Regional Growth Plan (CRGP) provided by the TDA and offered feedback to the City Manager with reference to their respective areas
  - Awaiting the final CRGP
- BRAC Executive Committee met July 15, Aug. 19 & Sept. 16
  - Took part in frequent recruitment drives for the Army's Army
  - On September 5, 2008, at a ground breaking ceremony at the Fayetteville Independent Light Infantry Armory, US Congressman Robin Hayes and local dignitaries declared Fayetteville & Cumberland County the world's first sanctuary for soldiers and their families
- All American Business Center: A high-tech business site for military contractors moving into the area due to the BRAC changes

- Site selection complete
- Wetlands have been delineated

#### Upcoming Activities:

- Ground breaking for the All American Business Center - October 2
  - Construction for the first phase to begin in October
- Continue to support marketing efforts through the Army's Army
- Continue partnering with the BRAC RTF and coordinating with other community leaders in taking a proactive approach to sustainable growth

#### Second Quarter Update:

- Attended the ground breaking for the Military Business Park All American Business Center on October 2
  - A high-tech business site for military contractors moving into the area due to the BRAC changes
- City staff attended the BRAC Regional Task Force annual meeting October 30
- City management staff reviewed the final Comprehensive Regional Growth Plan (CRGP) provided by the TDA
- City staff attended the Municipal Service Partnership kick off meeting on Ft. Bragg.
- BRAC Executive Committee met monthly
- Attended the ground breaking ceremony held at Fort Bragg for the new FORSCOM/USARC Headquarters building in December
- Defended and supported I-295 construction following speculation about the possible diversion of funds earmarked for the project that was scheduled to begin in 2009. City staff and Council worked to address the critical need for the completion of I-295 given anticipated economic and population growth associated with the relocation of FORSCOM and the U.S. Army Reserve Command to Fort Bragg.

#### Upcoming Activities:

- City management staff meeting scheduled for Jan 21 to:
  - Provide feedback to the City Manager on City related actions included in the CRGP
  - Prepare staff for representation at an upcoming BRAC community meeting
  - Plan for City Council's strategic planning process in February
- Continue to support marketing efforts through the Army's Army
- Continue partnering with the BRAC RTF and coordinating with other community leaders in taking a proactive approach to sustainable growth
  - Represent the City at a community meeting January 31 to review the final report in detail, to verify facts and discuss specific action items

- Continued support of the Municipal Service Partnership

#### Third Quarter Update:

- City staff personnel met with the American Society of Military Controller's Sandhills Chapter Professional Development on March 11, 2009 at Ft Bragg and provided three sessions titled Fayetteville Future Initiatives covering:
  - City growth, including recent Fort Bragg annexation, and major planning initiatives
  - Transportation improvements associated with Murchison and Ramsey corridors, I-295, airport growth and transit improvement
  - Hope VI
  - UDO and its relevance to all residents
  - Evolution of Downtown
  - NC Veterans Park and Gateway projects
- City staff and Ft Bragg representatives coordinated and participated in follow-up meetings for the Municipal Services Partnership study
- City management staff attended the Greater Fayetteville Futures II event held at the Crown Coliseum March 28<sup>th</sup> and were available to provide support

#### Fourth Quarter

- Secured \$25K from BRAC RTF for DC air service study
- Pending a \$25K match from NCDOT for study.

#### Upcoming Activities:

- City staff and Ft. Bragg representatives continue to support and provide direction for the Municipal Services Partnership study
- City staff will continue to support the BRAC RTF and Greater Fayetteville Futures II planning initiatives
- This target for action will continue as a theme in all the targets for action for FY 2010 as the date approaches for execution of the 2005 BRAC legislation. FY 2010 Strategic Plan highlights for BRAC Opportunities include:
  - Murchison Road Corridor Redevelopment
  - Workforce Development
  - Crime Reduction Strategy and Report
  - Legislative Agenda and Lobbying Strategy
  - Non-Stop Air Service to Washington, DC

## **Policy Agenda- High**

### **Sign Ordinance**

The Target for Action for the City's new sign ordinance is to improve the overall impact that signage has on the community from an aesthetic, economic, community appearance and land use perspective. This is to be accomplished through a revision of the existing ordinance, making the final product easy to interpret, implement and enforce, while reducing "sign clutter" along our streets, thoroughfares and gateways.

When implemented, this new sign ordinance will create a more visually appealing community as well as a more comprehensive approach in regulating signage and outdoor advertising.

The original sign ordinance was developed in 1961 with a major revision adopted in 1997. Since 1997, several updates have occurred to address specific issues. Twelve months are anticipated for completion for the revision of the sign ordinance.

Staff time and effort are the current resources needed for this process. It is also anticipated that the Planning Commission will spend considerable time on this issue due to its controversial nature and a major change in City policy.

A recommended stakeholder committee would also be convened of a representative from the following:

- The City of Fayetteville: City Attorney, Inspections (Zoning), Human Relations and Planning Departments
- External: Chamber of Commerce, a member of the business community, a sign company representative and two members of the Planning Commission

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<b>Action Plan</b>	<b>Estimated Completion</b>
Prepare report	April 2008
Present report at workshop a. Identify b. Framework c. Interim actions	May 2008
Determine direction	May 2008
Establish stakeholder committee to begin revision of ordinance	July 2008
Present report on proposed sign ordinance	Jan. 2009
Adoption of the revised sign ordinance	June 2009

First Quarter Update:

- Established a committee consisting of members from the business community, sign industry, city staff and city commission members to review and make recommendations on developing a new sign ordinance

Upcoming Activities:

- The first meeting of the sign committee will take place on Thursday, October 2 at noon in the Lafayette Room of City Hall. The committee plans to meet every two or three weeks and have preliminary recommendations by the end of the quarter

Second Quarter Update:

- Developed a sign ordinance draft that the sign committee reviewed and refined in meetings in October, November and December

Upcoming Activities:

- Continue to refine the sign ordinance draft and present draft to City Council for comments

Third Quarter Update:

- Continued to refine sign ordinance draft based on comments from committee members and staff

Upcoming Activities:

- Meet with sign committee to finalize comments and present draft to City Council at the June 1<sup>st</sup> work session

Fourth Quarter Update:

- Presented proposed sign ordinance to the City Council at their June 1<sup>st</sup> work session
- Presented proposed sign ordinance to the Planning Commission at their June 16<sup>th</sup> meeting.

Upcoming Activities:

- Planning Commission conducts a public input session on August 18<sup>th</sup> on the proposed sign ordinance
- Planning Commission & City Council will conduct separate public hearings in the second quarter of 2009-2010 with City Council adopting a revised sign ordinance within the second quarter timeline.

# Policy Agenda- High

## Workforce Development Plan

The Cumberland County workforce has a number of deficiencies related to skills, work ethic, and personal traits identified in a study commissioned by the Chamber of Commerce. In order to grow the local economy, the workforce deficiencies will need to be corrected. Success would ultimately consist of improving the quality of the workforce. The City is not currently devoting resources to workforce development. However, the Chamber of Commerce has presented a proposal to address workforce development in FY 08-09 through a contract with the City for \$80,697. In the next 12 months, success would consist of developing and implementing a strategy for addressing workforce quality.

The team for this project would consist of business leaders and educators working with Fayetteville – Cumberland County Chamber of Commerce staff.

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Action Plan	Estimated Completion
Determine direction on City participation and funding on Fayetteville – Cumberland County Chamber of Commerce study	July 2008
Conduct survey of business community	Dec. 2008
Conduct community summit to discuss possible business strategies	Feb. 2009
Develop strategy for workforce development	April 2009

### First Quarter Update:

- The Fayetteville – Cumberland County Chamber of Commerce will provide a full report on a quarterly basis to Council on the following projects:
  - Business community survey and analysis
  - Summit with business leaders and educators
  - Develop strategy
  - Plan for implementation of strategy
- Brief updates on progress to date:
  - Participate in the Cumberland County Workforce Development Board
    - Function as a liaison for the Board to area plant managers
    - Prepared a presentation for schools to share with students
    - FTCC's Work Keys effort was presented to the committee

- Principal Shadowing was conducted earlier this year and efforts are underway to have school principals go out to industry
  - Working with FTCC on the Construction Career Days 2008
  - Working with Cumberland County Schools on other creative methods to educate for industrial jobs in our school system
  - Staff visited schools to recruit the non-college bound student and learn about well-paid job opportunities in our community
- The Chamber has purchased Synchronist Software and is implementing its use in the survey of all plant visits
  - Discussions are underway to revive the area plant tours by educators that were once held each summer to learn first hand the skills required by industry
  - FTCC representative coordinates with area plants for training needs
  - Industries are being referred to the ESC and FTCC for testing of applicants to determine math, reading, writing, computer skills and more

Second Quarter Update:

- The City's IT Department has implemented a new intern program to promote workforce development in the community. Two interns from FTCC have recently been invited to join the City's IT team. The goals of the City IT Internship Program include giving the students the opportunity to gain real-world IT experience, giving the City the opportunity to enhance the IT support provided by the Help Desk and providing the City & FTCC the opportunity to strengthen their partnership in the effort to make Fayetteville a better place for all.
- The City's Management Services Department partnered with a UNCP Management Information Systems class to develop a customized database for the City's print shop. This project gave the students an opportunity to gain real-world experience which better prepares them for employment and provided the City the opportunity to establish relationships within the community while improving the service it provides in the print shop.
- Progress made through the partnership with The Fayetteville – Cumberland County Chamber of Commerce
  - The Chamber provides a full report on a quarterly basis to Council on the following projects:
    - Business community survey and analysis
    - Summit with business leaders and educators
    - Develop strategy
    - Plan for implementation of strategy

Third Quarter Update:

- City staff and the Fayetteville – Cumberland County Chamber personnel continue to meet and discuss the Chamber of Commerce contract and identify key elements in the contract that are linked to the City's Strategic plan

Fourth Quarter Update:

- City staff and the Fayetteville – Cumberland County Chamber personnel continue to meet and discuss the Chamber of Commerce contract and identify key elements in the contract that are linked to the City's Strategic plan.

Upcoming Activities:

- FY 2010 contract under negotiation
- This target for action will continue as a TOP PRIORITY on the Policy Agenda in FY 2010 Strategic Plan.

# Policy Agenda- High

## Funding Plan for Parks and Rec. Master Plan

The Parks and Recreation Advisory Commission presented a projects list with cost estimates of construction, operations, and maintenance to a joint meeting of the City Council and County Commissioners on April 8, 2008. The list included city projects, county projects and jointly funded projects. At the May 26, 2008 meeting, the City Council approved a resolution endorsing the joint bond referendum with the County in November. The resolution asked the County Commissioners to respond by July 1, 2008 if they would vote to endorse a November parks bond ballot. While the County Commissioners voted at their June 16, 2008 meeting not to endorse a November parks bond ballot, work will continue to identify other funding options available.

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Action Plan	Estimated Completion
Collaborate with Cumberland County and Parks and Recreation Advisory Commission on possible funding alternatives for the parks improvement plan.	TBD

### First Quarter Update:

- On September 2, 2008 the Parks and Recreation Advisory Commission was briefed by Don Belk, BRAC Regional Planner as to the possible impact for Parks and Recreation within our region and the need for additional facilities and programs
- On September 4, 2008, City and County staff met to discuss park and recreation projects and explore possible funding alternatives. It was determined that the next step is for the County to identify the projects for which there was County interest and develop suggestions for proposed funding alternatives in support of the continuation of the parks improvement plan

### Second Quarter Update:

- On October 30, 2008, City and County staff met with liaisons from the City Council and Board of County Commissioners to discuss proposed requirements for jointly-funded projects, 5 cost-sharing options for those projects and potential funding sources. In addition, the group discussed the current method of funding the operations of the joint parks and recreation program. The group concluded that the next step was to have City

and County staff review the current cost sharing methodology for funding the joint parks and recreation program and determine strategies for moving to a single funding source for the program.

- On November 18 and December 11, 2008, City and County staff met to review the current funding sources for the joint parks and recreation program and options available to move toward a single funding source. At the December 11 meeting, City and County staff concluded that due to the current state of the economy, now would not be the time to seek additional tax revenues for parks and recreation projects or consolidate the current tax resources into a single county-wide tax for parks and recreation program operations.

Third Quarter Update:

- No action taken in the 3<sup>rd</sup> quarter

Upcoming Activities:

- Create a recommended action plan for Council's FY10 Policy agenda item: Parks and Recreation Service

Fourth Quarter Update

- No action taken in the 4<sup>th</sup> quarter.

Upcoming Activities:

- This project will continue as the target for action called Parks and Recreation Services, a TOP PRIORITY Policy Agenda item, in the FY 2010 Strategic Plan
- Develop a recommended action plan.

# Policy Agenda- High

## Downtown Parking Actions

A City/County committee has been reviewing downtown parking needs as identified in a comprehensive downtown parking study completed in FY 2007. The study, prepared by a consultant, recommended parking changes downtown including charging for off-street parking and building a parking deck.

Success would consist of two primary elements. The first would be to adopt parking management changes proposed by the consultant. The most important of these would be to begin charging off-street parking in city owned and operated lots. The second would be to adopt a financing plan for development of the parking deck. Realistically, the first element could be implemented in FY 09. Implementation of the second element will be dependent on further analysis and discussion between the City and the County.

Staff time is currently being committed to this project however; additional resources will be needed to construct the parking deck. The estimated cost of the deck is \$9.7 Million.

City team members include representatives from the City's Traffic Services, Engineering and Infrastructure and City Manager's departments. County staff will participate in further analysis of deck financing options.

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Action Plan	Estimated Completion
Adopt ordinance for paid off street parking	Feb 2009
Implement off street parking	Mar 2009
Determine direction on parking deck County commitment	Feb 2009
Determine direction for City on parking deck	Apr 2009

### First Quarter Update:

- During the August work session, staff presented to Council recommendations from the downtown parking study to include sending out a Request for Proposal (RFP) for parking service firms to provide equipment, maintenance and enforcement contingent on direction by Council
- Council approved in concept, the plan to shift City owned lots to paid parking



- The city has leased the BB&T lot on 100 block of Hay Street for 22 years so the public could use the spaces, but the bank has decided to sell the lot.. The bank wanted \$395,000 for it. On September 2nd, Council voted not to purchase BB&T lot
- Completed and published RFP for parking services contract
- Staff met with County to talk about financing concepts for a parking deck

Upcoming Activities:

- Receive RFP's for parking contract by Oct. 7
  - Review RFP's and conduct interviews during October
  - Select firm in December
- Develop ordinance for paid off street parking
  - Council adoption by December
- Implement paid off street parking – Jan 2009
- Continue to coordinate with County on financing alternatives for parking deck

Second Quarter Update:

- Interviewed 2 firms for the parking services contract on January 12th, 2009
- Confirming financial statements and references. Selection by January 23rd

Upcoming Activities:

- Negotiate final contract
- Develop ordinance for paid off street parking with Council adoption by February
- Implement paid off street parking March 2009
- Determine direction on parking deck County commitment- February 2009
- Determine direction for City on parking deck - April 2009

Third Quarter Update:

- Contract for parking services is being executed

Upcoming Activities:

- Implementation of off street paid parking by June 1, 2009

Fourth Quarter Update:

- Implemented off street paid parking on June 1, 2009

- This target for action has met success criteria with implementation. The City will need to conduct a program evaluation after 12 months to gauge effectiveness of new program
- Efforts will continue for a parking deck in downtown.

# Policy Agenda- High

## Diverse Tax Base Strategy

The City's goal is to enhance and expand its tax base by maintaining awareness of surrounding influences and taking advantage of opportunities that arise. Currently, less than 1% of the tax base is industrial. One element specific to tax base diversification is the identification of industrial and rural manufacturing expansion inside the City of Fayetteville. The All American Business Park, BRAC Strategies, and the continuation of the City's contract with Fayetteville – Cumberland County Chamber of Commerce (formerly CCBC ) in support of the City's "Economic Development Policy and Structure" are some examples of the tangible projects and agendas the City is currently undertaking to help develop and diversify the tax base.

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Action Plan	Estimated Completion
Ft. Bragg annexation	Jul 2008
Fayetteville – Cumberland County Chamber of Commerce – Analyze growth and identify target businesses right for City	Nov 2008
Fayetteville – Cumberland County Chamber of Commerce - Complete analysis and develop report	Jan 2009
Determine actions for City	Feb 2009

### First Quarter Update:

- In July 2008, state legislators passed a bill extending Fayetteville's city limits to Ft. Bragg
  - The annexation was effective September 1, 2008 and raises the City population figure to approximately 206,000, encouraging developers and promoting business relocations to the area
  - Negotiations with Spring Lake - Interlocal Agreement complete
  - PWC preparing design for water line to serve Ft. Bragg
- Development of a staff team to explore annexation by evaluating areas currently surrounded by City limits
- Progress in Gates Four annexation
  - Council passed the Resolution of Intent July 28
  - Council approved Annexation Report and Plan of Services August 11
  - Held Public Information Meeting September 18 and Public Hearing September 29

- The City has partnered with the Fayetteville – Cumberland County Chamber of Commerce to analyze and develop a report on recruitment of industries and businesses. The Chamber will provide a full report to Council on the progress of their work
  - Target Industries:
    - Defense contractors
    - Distribution
    - Automotive
    - Back office/call center
    - Biotech pharmaceutical
    - Plastics
    - Non-woven textiles

Upcoming Activities:

- Adoption of Annexation Ordinance for Gates Four is scheduled for October 20, 2008
- Fayetteville – Cumberland County Chamber of Commerce to analyze growth and identify target businesses right for City- Nov 2008

Second Quarter Update:

- Adoption of Annexation Ordinance for Gates Four area October 20
- Staff developed a team to explore annexation by evaluating areas currently surrounded by City limits
  - Initial analysis was done of island areas (areas surrounded by City limits) and annexation standards
  - Team meeting was held to present data to group, discussion and receive direction
  - Additional field studies are ongoing
- Staff participated in the Joint Committee on Municipal Annexation meetings where they discussed possible changing annexation law
- The City has partnered with the Fayetteville – Cumberland County Chamber of Commerce to analyze and develop a report on recruitment of industries and businesses. The Chamber will provide a full report to Council on the progress of their work
  - Target Industries:
    - Defense contractors
    - Distribution
    - Automotive
    - Back office/call center
    - Biotech pharmaceutical
    - Plastics
    - Non-woven textiles

Upcoming Activities:

- Progress in the evaluation of island areas for possible annexation
- Continued participation in the efforts of the Joint Committee on Municipal Annexation.

### Third Quarter Update:

- City staff participated in the Joint Committee on Municipal Annexation and met several times to formulate numerous recommendations for the NC General Assembly
- City staff prepared supporting information for the Gates Four annexation
- The City has partnered with the Fayetteville – Cumberland County Chamber of Commerce to analyze and develop a report on recruitment of industries and businesses. The Chamber will provide a full report to Council on the progress of their work.

### Fourth Quarter Update:

- City staff attended NC General Assembly committee hearings on annexation bill. Bill is still in committee
- The City has partnered with the Fayetteville – Cumberland County Chamber of Commerce to analyze and develop a report on recruitment of industries and businesses. Chamber will provide a full report to Council on the progress of their work.

### Upcoming Activities:

- City staff and the Fayetteville – Cumberland County Chamber personnel continue to meet and discuss the Chamber of Commerce contract and identify key elements in the contract that are linked to the City's Strategic plan
- This target for action will continue next year a TOP PRIORITY on the Management Agenda named Economic Development.

# Management Agenda- Top

## Unified Development Ordinance

In order to implement the 2010 Plan and the anticipated 2030 Growth Vision Plan and to help implement the City's Strategic Plan, revisions of the zoning and development regulations need to take place. The City's existing development ordinances have not been comprehensively revised since the 1960's. Piecemeal amendments have kept the regulations functional but disjointed, hard to use, occasionally contradictory, often outdated and without the 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. Guided by the Vision Plan and other current adopted plans, and by conversations with stakeholders, staff, and elected officials, Clarion prepared a Diagnosis and Annotated Outline assessing the current ordinances and proposing how to revise these regulations. The proposed changes were summarized by six themes: Increase User Friendliness; Streamline Procedural Efficiency; Modernize Zoning Districts and Uses; Improve Development Quality; Establish a New Downtown District; Incorporate Sustainable Development Practices.

The City Council and Planning Commission, at a joint meeting in April 2008, directed Clarion to begin drafting the procedures and zoning districts in line with changes described by the first three themes of the Diagnosis. Subsequent review will establish the direction of work for the remaining portions (development and design standards). The final draft would be presented in April or May 2009.

Success would be measured by adoption of a new unified development code that is more "user-friendly" and that incorporates current best practices from planning and related professions. It will modernize the zoning districts, establish minimum development standards and encourage 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 community goals expressed in Fayetteville's comprehensive plans and its Strategic Plan Goals, especially the following:

More Attractive City – Clean and Beautiful

Growing City, Livable Neighborhoods – A Great Place to Live

Staff includes the City Manager's Office, Engineering, Inspections/Codes, Legal, Fire and Planning. In addition, an Advisory Committee represents a cross-section of user groups with experience with development codes – neighborhood/community, engineering/surveying, home building, real estate and legal, developers, architects, environment and related perspectives.

The City departments will need to continue to dedicate staff time to the research, community discussion and review of specific standards and procedures throughout the process. Significant changes to the standards for signs or street design or certain overlays would be the responsibility of City staff or other consultant efforts.

This TFA also entails significant administrative changes (forms, staff responsibilities, internal procedures, fees, record-keeping, and so forth) and the process of mapping the new zoning districts before the new UDO is fully effective. Additional funds would be required for consultant assistance in any of these tasks.

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<b>Action Plan</b>	<b>Estimated Completion</b>
Complete assessment: Proposal for change	Apr 2008
Complete administration and procedures	Jul 2008
Complete zoning districts and standards	Nov 2008
Complete overlays and design standards	Feb 2009
Prepare final ordinance	Apr 2009
Review ordinance and adoption	May 2009
Final formatting for computer/web (VIC codes)	Aug. 2009

First Quarter Update:

- Funding was approved in FY 08-09 Budget for remaining elements
- Module 1, administration and procedures, was presented and discussed with the advisory committee and the City Council July 14
- Staff briefed City management (9/10) on status of work and discussed possible issues or directions such as how to quickly reduce the number of non-conformities that exist or that might be created with the new UDO
- Staff communicated with the consultant to refine understanding of current practices and discuss specific approaches to new standards, especially regarding zero lot subdivisions and infill tools and practices and a work shop preparing for Module 3

Upcoming Activities:

- Internal review sessions during the first 2 weeks of October for Module 2 -- zoning districts, use lists and standards resulting in a draft for public review and comment in November
- An advisory committee and a special City Council meeting are scheduled for November 19, for presentation and discussion of the Module 2 draft regulations
- Clarion will schedule workshop(s) with staff in Oct. or Nov. to refine an approach to design & development standards, downtown zoning and to explore the related tools, training and implementation considerations

- Clarion and staff will begin concentrated work on the design and development standards (Module 3) in December

#### Second Quarter Update:

- Clarion and staff from several departments met in a 5 hour work session format to provide more detail for upcoming design and development standards
- Staff held five internal work sessions as the draft of Module 2 was prepared for public review
- Staff provided the photos and parcel maps for each proposed zoning district (the new UDO includes photos, drawings, and illustrative parcel maps for each district)
- The draft Module 2, covering the new zoning districts, standards and uses, and the updated definitions, was received and began circulating for public review on November 11
- Clarion and planning staff presented the draft Module to the Advisory Committee and to a Special Joint Meeting of the City Council and the Planning Commission on Wednesday, November 19. Additional discussion is expected with regard to the commercial districts, residential standards, zero lot line standards and procedures, and the downtown district
- Staff forwarded additional background information to Planning Commission and Advisory Committee members and scheduled a work session for January 13 to continue discussion of specific aspects of Module 2

#### Upcoming Activities:

- An internal work session is anticipated, perhaps late in the coming quarter, to begin detailing administrative procedures and needed changes in forms, thus beginning the preparation of the Administrative Manual that will accompany implementation of the new UDO
- Interested members of the Advisory Committee and the Planning Commission will meet January 13 to continue discussion on the residential standards and on zero lot line regulations
- Two alternative dates, January 15 and January 20, have been offered for continued discussion. Additional ways to secure broader community involvement may follow as the Advisory Committee finishes its review of Module 2
- Module 3, the design and development standards, is anticipated in February or early March

#### Issues and Other Considerations:

- UDO Funding Requirements: Additional funding of up to \$170,300 was provided in the FY 08-09 Budget to complete and draft the new Unified Development Ordinance
- Staff resources during drafting of the new UDO: Each of the key departments, Planning, Engineering, Inspections, and Legal, should anticipate the need to commit some staff time



not only to the review and comment process but also to unexpected research needs of widely varying types

- Preparing for Implementation: Implementation steps include (1) mapping the new zoning districts; (2) staff training, (3) user training or orientation, (4) administrative preparations
- Limiting Continued Piecemeal Amendments to the Current Ordinance: Consistent with staff recommendations, very few new text amendments have been introduced in the last few months. As more of the draft UDO is prepared, it becomes increasingly difficult to fold any new amendments into the UDO in a timely and seamless way. Instead of initiating new amendments, staff works with Clarion to incorporate the ideas into appropriate sections of the draft UDO.
- Administrative Handbook: The City may wish to consider outside assistance in preparing an administrative handbook. The handbook would include such items as process flow charts, application forms and checklists, examples, and internal procedures and policies. To start the process, over the next few months staff will begin preparing detailed internal charts for procedures and outlines for changes in forms. The new software program for the Inspections Department may help provide structure for the review and approval processes.

#### Third Quarter Update:

- Members of the Advisory Committee and Planning Commission met to discuss the residential standards, zero lot line regulations and the new office and commercial districts January 13, February 10 and February 26
- Several of the UDO staff participated in the Greater Fayetteville Futures conference on March 28 to include UDO ideas in the group discussions and to see how well the draft standards are fitting with identified initiatives
- Internal work sessions were held on a variety of topics:
  - The “TRC” met three times to start detailing administrative procedures and needed changes in forms, thus beginning the preparation of the Administrative Manual to accompany implementation of the new UDO
  - Staff held 12 internal work sessions to review the rough draft of Module 3 prior to general circulation and comment
  - Internal work group met March 23 to identify recommended changes to draft regulations for the new commercial zoning districts and use lists
  - Internal work group, with stakeholders input, met to identify alternatives for locations of sidewalk, landscape planting strip, and utility trench(s)
- The following meetings were held to extend community awareness of the project and to seek specific ideas and comments from stakeholder groups
  - Staff held small working group meetings with Council members, professional groups and various stakeholders, including the local Homebuilders Association, the City Council work session on March 3, individual applicants or interested developers as they came in for pre-application or mid-project reviews, and the Downtown Alliance board members on February 17
  - Staff made presentations at the following events:
    - March 10 – Downtown Alliance general member meeting

- March 11 – local chapter of the American Society of Military Comptrollers, at Fort Bragg (staff made 3 presentations at the annual day-long training seminar with approx. 180 registrants (approx. 100-115 attended the UDO sessions))
- March 24 – Historic Resources Commission
- March – quarterly luncheon meeting of the local Homebuilders Association (approx. 60-65 attending)

#### Upcoming Activities:

- Additional work sessions are being scheduled with the Advisory Committee April 14
- Presentations and discussion with various stakeholder, civic and professional groups are being scheduled (e.g., April 14 local Professional Engineers; May 7 Greater Fayetteville Futures green initiatives)
- The Planning Commission is holding a special meeting April 7, 2009 to review the Module 1 elements of the UDO; continued discussion on this and subsequent elements is tentatively set for April 21 at its regular meeting
- Staff comments on the rough draft of Module 3 will be transmitted to enable Clarion to return a public review draft as soon as possible
- Staff will schedule a presentation by Clarion of Module 3 Development Standards in May, to begin community discussion of that portion
- Community information sheets are being prepared, a Kaleidoscope segment is scheduled for May, and community meetings/open houses are being anticipated for May and June during final reviews of the draft materials
- Optimal schedule would have the Planning Commission considering the complete draft by the first week of June, and the City Council considering it in late June or early July

#### Fourth Quarter:

- Presentations and discussion with various stakeholder, civic and professional groups were held, including:
  - Work sessions with the UDO Advisory (Stakeholder) Committee on April 14, May 5; June 2 and June 23.
  - April 14 local Professional Engineers (approx. 18 people)
  - May 7 GFFII / Sustainable Sandhills (approx. 25 people)
  - Fayetteville Homebuilders board (approx. 18 people including Chamber)
- The Planning Commission held a special meeting April 7, 2009 to review the Module 1 elements of the UDO and, on April 21, approved a motion indicating consensus regarding the direction of the regulations and proposed changes. The Commission began its discussion of Module 2 on May 19 and June 16 and will continue discussion at subsequent meetings until the UDO is sufficiently complete to begin public meetings/hearings
- On April 29 and June 10 staff met with interested Council members to summarize activities, any new issues, and efforts to identify appropriate changes or resolutions of issues

- Staff continued its internal work sessions and evaluation of comments from stakeholders and interested community members to submit revisions to Modules 1 and 2. Clarion provided a revised, redlined copy of Module 1 on May 20 and of Module 2 on June 19, both of which were distributed in hard copy (45) and electronically and posted to the web
- Module 3 was delayed by the complexity of staff review and nature of revisions. The public review copy is expected in July
- Staff secured new city-wide data to help in analysis of existing land uses and is evaluating its accuracy and application
- A community information sheet was prepared and distributed at numerous meetings. A Kaleidoscope segment was aired in May to introduce the project to the community, including its purpose and the impacts zoning and subdivision regulations have on every neighborhood and the shape and character of the community.

#### Upcoming Activities:

- Additional work sessions are being scheduled with the Advisory Committee. In several instances during the summer those work sessions may be concurrent with case studies work
- Testing during the summer will involve case studies of development proposals under the draft regulations to better describe the nature and magnitude of differences, and GIS and small area field work to check the translation process and certain areas that will not be a straight translation from existing zoning districts to new zoning districts
- Module 3 is expected to be distributed in late July
- Presentations and discussion with various stakeholder, civic and professional groups will continue to include updates to such professional and interest groups as engineers, architects, homebuilders, commercial developers, real estate and appraisal professionals, and interested county, regional and environmental groups. The Joint Appearance Commission will discuss the tree preservation element on July 6
- Community information sheets on specific topics or aspects of the draft regulations will be prepared throughout the summer to help describe major changes
- The Planning Commission will continue to keep a UDO agenda item on each meeting, to work through Module 2 and 3 and begin preparation for public hearings in early fall
- Clarion will compile revisions to all 3 modules in late summer and prepare a public hearing draft with all illustrations for formal review processes in October and November.

#### Issues/Longer Range Activities

- Schedule Issues: As the draft reaches final stages of drafting and review, the time involved in researching and coordinating changes becomes both more extensive and unpredictable. Every effort is being made to involve as many impacted groups as possible as well as those charged with specific review or approval processes. Meeting the current November adoption schedule depends upon prompt and specific comments from a wide variety of

sources, as well as, on the staff's part, concise and clear description of issues and recommended changes

- **Content Issues:** Major issues have included:
  - the lower densities and height limits proposed for some districts,
  - using incentives to get desired features,
  - specific standards and procedures associated with both
    - in-fill development and
    - zero lot line standards
  - whether, and when, neighborhood meetings should be required
  - minimizing situations requiring a public hearing
  
- **Coordination Considerations:** Related work outside Clarion's direct responsibility includes standards and procedures for streets, sidewalks, utility location, sign standards and other individual initiatives such as day care regulations. Coordination with the UDO will continue into late August, but at that point the final UDO has to be prepared for public hearing dates in October and November.
  
- **Other Major, Related Implementation Tasks in 2010:** Drafting and implementing a new development ordinance involves a number of major tasks, only one of which is the text itself. The detailed research and "calibration" for the final adjustments of districts and standards is primarily a local responsibility. Most other tasks in implementing the new ordinance are also local responsibilities. These tasks will involve at least 4-6 months of intense work after adoption of the ordinance:
  - **Processes:** Completing an Administrative Manual, revising forms, making appropriate adjustments in fees/schedules, and conducting "training" or information seminars for the development community regarding the new procedures and application of the UDO standards
  
  - **Mapping:** Rezoning of an estimated 10% of the city will require hands-on, tailored application of the new districts to specific areas, with community meetings and official hearings for those sites/areas
  
  - **Community Information:** After adoption of the UDO, providing information in various formats, including training seminars, as part of community and professional awareness of new application forms, procedures and standards
  
  - **Systematic Review / Amendment:** Establishing and maintaining a process for regularly and expeditiously correcting and making minor adjustments during the initial 1-2 years of implementation.

## Management Agenda- Top

### Strategy to Deter Neighborhood Speeding

Neighborhoods and communities discuss complaints of speeding at Community Watch meetings. This past year the City experienced an overall reduction of crashes (5.5%) and traffic fatalities (24%). However, the development of long-range strategies will aid in the reduction of neighborhood speeding concerns.

Success for this target for action:

- A comprehensive speeding reduction plan, which includes prevention, education and enforcement.
- Form a cohesive partnership with citizens within the community to work with the police and the City of Fayetteville.

Different strategies will be formed within the next 12 months. Our challenge will include active participation from the citizens of Fayetteville.

Resources currently committed to this target for action:

- Personnel: Patrol zone officers, traffic officers, civilian crash investigators, and department-wide initiative and two additional civilian crash investigators starting July 1, 2008.
- Equipment: Radar, speed sentry signs, vehicles, mounted patrol units, crime prevention specialists.

Team members:

- Operational support lieutenant
- Traffic sergeant
- Patrol representation from both Districts
- Volunteers

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<b>Action Plan</b>	<b>Estimated Completion</b>
Evaluate bike lanes on residential streets and potential locations and determine direction	Aug 2008
Hire additional Civilian Crash Investigators	Sept 2008
Develop public information and marketing materials	Sept 2008
Reduce parameters for Traffic Administrative Court	Jan 2009
Develop comprehensive speed reduction plan	May 2009
Implementation	Jun 2009
Continue active traffic enforcement	Ongoing

First Quarter Update:

- Developed public information and marketing materials for Safety Over Speed (SOS) and distributed them at Community Watch meetings
- Held a SOS school campaign press conference on August 12 at Benjamin Martin Elementary School
- Heavy enforcement in school zones beginning August 25, first day of traditional calendar year; 214 citations issued in the past month in school zones in city limits
- Traffic safety classes at Fort Bragg (Sept. 11 & 18); more dates calendared for October
- Speed Sentry signs distributed in various neighborhoods across the city
- SOS meeting held on September 24; discussed initiatives regarding pedestrian traffic within the city and crosswalks
- Three new Civilian Crash Investigators hired and will begin training soon
- Planned additional sidewalks at Ben Martin School

Upcoming Activities:

- Police Department to participate with Fire Department in Fall Safety Day, October 11, 2008 at Cross Creek Mall
- Examine methods of evaluating bike lanes –new projected date Jan 2009
- Continue efforts of the first quarter

### Second Quarter Update:

- Fall Safety Day on October 11, 2008 at Cross Creek Mall
- Safety Over Speed (SOS) meeting held on November 5, 2008
- Three new Civilian Crash Investigators hired and began training in November 2008
- Traffic Safety classes and “booze buggy” presentations at Fort Bragg on a weekly basis
- Applying for traffic grant to deal with driving awareness/safety
- Enhance ways to educate the general public about crossing major highways
- Holiday Safety Campaign - Increase presence in shopping areas, changing scheduling to maximize police enforcement for traffic, robberies, motor vehicle break-ins, etc.
- Increase public safety announcements to keep the public informed and educated about our crime prevention efforts
- Applied for GHSP Traffic Safety Grant (2 driving simulators to be used for high school/Fort Bragg)
- Purchased and trained patrol personnel on 15 dual antenna radar systems (November)
- Started a monthly radio show with KISS 106 about traffic safety issues (December)
- Continue with CPTV stories on Traffic Safety issues (i.e. school zones, neighborhood speeding, Cross Creek Mall traffic, pedestrian safety)
- Attend monthly Highway Incident Management/DOT meetings
- Continued success with Traffic Administrative Court
- Continue with use of speed sentry signs and post info. on police website

### Upcoming Activities:

- Reduce parameters for Traffic Administrative Court
- Develop and implement a comprehensive speed reduction plan
- Attend a SOS legislative committee during the General Assembly Long Session to assign school zone fines to match construction zone fines
- Continue active traffic enforcement

### Third Quarter Update:

- Submitted proposal to receive monies from JAG grant to start "Collision Avoidance Training" for teen drivers
- Hired and trained three new Civilian Crash Investigators in February 2009
- Traffic Safety classes and "booze buggy" presentations at Fort Bragg on a weekly basis
- Applied for traffic grant to deal with driving awareness/safety
- Increase public safety announcements to keep the public informed and educated about our crime prevention efforts
- Conduct ongoing selective traffic enforcement specials on weeknights and weekends
- Submitted budget proposal for 20 additional dual antenna RADAR units
- Participated in a monthly radio show with KISS 106 about traffic safety issues
- Continued with CPTV stories on Traffic Safety issues (i.e. school zones, neighborhood speeding, Cross Creek Mall traffic, pedestrian safety)

### Upcoming Activities:

- Planning two Ghost Out programs for local high schools
- Develop comprehensive speed reduction plan
- Implementation of speed reduction plan
- SOS – Legislative Committee
- Assign school zone fines to match construction zone fines
- Continue active traffic enforcement

### Fourth Quarter Update:

- The evaluation of bike lanes has been completed and recommendations will be made in the FY10 TFA Crime Reduction Strategy
- Completed development and deployment of a public information campaign that includes pamphlets, traffic safety presentations, and web material
- Completed the streamlining of Traffic Administrative Court and conducted training for all officers
- Completed the development of a comprehensive speed reduction plan and implemented strategy for active traffic enforcement, which primarily consists of the mentioned action points



- We were able to successfully reduce FY09 crashes by 5.5% and the fatality rate by 24%. The CCI's reported 22% of all crashes saving an estimated 7,200 man-hours. We will continue to aggressively combat neighborhood speeding through education, engineering and enforcement.

Upcoming Activities:

- This target for action will continue as theme of the Crime Reduction Strategy and Report initiative for FY 2010.

# Management Agenda- Top

## Community Watch Expansion

Community Watch is a philosophy and strategy of policing that allows law enforcement and citizens to work together to solve crime and social problems associated with crime. Currently, the city has 109 active Community Watch groups spread across the city. The city is currently 91 square miles and there are many new neighborhoods being developed. Active community watch groups meet regularly to discuss crime and community needs.

Success for this target for action is to continue to develop Community Watch as a relevant and modern crime prevention tool. By bringing the Community Watch concept up-to-date with current social and technological advances, we should be able to increase the effectiveness of Community Watch and maintain its relevance. By the end of FY 2009 a functional crime prevention blog should be established as well as an operational e-newsletter through the City Watch system.

This Target for Action should look to build upon what the Police Department has already done. Currently we are soliciting through our web site for people to become involved in City Watch. People are being asked to submit their email addresses so that they can receive a newsletter about crime in their area. However, this program has not been completely developed and currently no newsletters are being sent. A crime prevention specialist could post the questions from City Watch on a blog along with the response.

Another underutilized resource is our reverse 911 system. This system could be used in conjunction with crime mapping to inform the public of current crime trends in specific areas.

Currently, our crime prevention specialists are working with Fort Bragg to engage new soldiers about becoming involved in Community Watch.

Team to work on this Target for Action:

- Crime prevention specialists
- Public information officer
- Computer operations
- Crime mapping
- Parks and Recreation representatives
- Inspections
- Animal Control
- Representatives from the Community Watch groups (two from Cambellton and two from Cross Creek Districts)

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Action Plan	Estimated Completion
Develop outreach strategy for new members (Internet, etc.)	Sept. 2008
Develop crime prevention blog	Apr 2009
Train City employees on Safe Watch program	Jul 2009
Develop newsletter	TBD in 1 <sup>st</sup> Q
Crime mapping	TBD in 1 <sup>st</sup> Q

First Quarter Update:

- Three Community Watch (CW) groups have resumed this quarter: Blanton Green, Nighthawk Place & Devonwood West
- 5 new Community Watch groups have been formed this quarter: Engelwood, Hampton Oaks, Lake Francis, Beacon Hill & Woodglen
- Collaborated with business community to form Business Watches: Exit 49 & Cross Creek Mall
- Completed a 35 page informational booklet on Community Watch program to be distributed via hard copy/internet
- Met with local ministry to possibly form a Church Watch within neighborhoods
- Crime prevention specialist attended Ft. Bragg town hall meeting in conjunction with crime prevention personnel from Ft. Bragg

Upcoming Activities:

- City Watch projected kickoff time: end of January 2009
  - Citizens may start enrolling now
- Alternatives for advertising and outreach program will be discussed at next CW Expansion meeting

Second Quarter Update:

- Total of 38 additional active groups this fiscal year
- Implement plan for zone officers to visit at least two CW coordinators per month starting in January 2009
- Media blast of CW info- We are working closely with the Fayetteville Observer to better promote the message of CW and with CPTV for new CW segments.

- We now have active Business Watch Groups at Exit 49 and Cross Creek Mall and are working with the business community for success at Cliffdale Plaza and along the Skibo Road corridor.
- Fort Bragg Family Readiness Group (FRG) Support – Police department CW representatives have attended Fort Bragg FRG meetings to present safety information to soldiers and their dependants.
- Patrol officer support of the CW program- Patrol officers are meeting twice a month with CW coordinators to gather information and maintain a healthy relationship between the FPD and CW groups. They are also distributing information packets on safety and CW Start-up in areas without a CW group or to residents during a call. After action includes forwarding information exchanges to the Crime Prevention Specialist for follow up with citizens to encourage the CW program.

Upcoming Activities:

- CityWatch Notification System- This program will allow for mass information distribution to areas with high crime or current high crime trends and is projected to begin in January.
- Continued media blast of CW information
- Continued Business Watch start up
- Ft. Bragg FRG start ups (3 per month)
- Crime Prevention Forums (chat rooms with Campbellton & Cross Creek Bureaus)
- Banners for CW advertisement for events
- Develop crime prevention blog- April 2009
- Train City employees on Safe Watch program- July 2009

Third Quarter Update:

- 6 new groups were added this quarter
- Worked with Ft. Bragg ACS continues (safety presentations, referrals, CW info)
- Development of Apartment Managers Network (Community Watches involving staff at Multi-family housing units, not just tenants)
- Added a statement on letters to B&E victims to start or join the neighborhood Community Watch
- Continued to conduct Safety Presentations and adding benefits of Community Watch
- Compiled stats for new city residents and soldiers wanting to find safe neighborhoods
- Held Community Meetings in hot spot areas to alert citizens of crime trends

Upcoming Activities:

- Continue efforts of first & second quarters
- Development of Apartment Managers Network (Community Watches involving staff at Multi-family housing units, not just tenants)

Fourth Quarter Update:

- Completed developing a CW group outreach strategy which includes the following:
  - Improved tracking and reporting of CW groups- currently tracking 110 active groups
  - Improved communication and support for CW groups to include newsletters, email database for crime alerts, monthly community information meetings and heavy advertising
  - Implemented policy to require staffing CW meetings with a zone officer
- FRG Safety Presentations on Fort Bragg have increased
- Crime mapping implemented
- Completed the development and implementation of an Apartment Managers Network and Business Watch.

Upcoming Activities:

- This will continue as TOP PRIORITY on the Management Agenda for FY 2010 Strategic Plan.

## Management Agenda- Top

### Telling the City's Positive Story

The City, like many organizations, has numerous constituents, internal and external, with whom it needs to communicate. The Target for Action describes the communication efforts of the City to meet the varying needs of its constituents, especially the citizens of Fayetteville.

In this effort, the City's Communications office has partnered with the local media, PWC, Fayetteville – Cumberland County Chamber of Commerce as well as various local advertising agencies to enhance our communication efforts. Promoting the City of Fayetteville as a great place to live involves projects and resources such as the Kaleidoscope program and City website. Measures of success would include timely and accurate information distribution to the citizens of Fayetteville, a constructive biennial survey and an updated website, all with the goal of enhancing our proactive approach to communicating the City's positive stories.

Additional resources would be needed to produce a higher level of visibility of good-will events in community.

Team to work on this Target for Action:

- City Communications Team
- Senior Management Team
- City Council
- Media
- Various local advertising agencies
- PWC
- Fayetteville – Cumberland County Chamber of Commerce

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Action Plan	Estimated Completion
Research past community-information/marketing efforts	May 2008
Identify key messages we wish to communicate	Sept 2008
Identify likely vehicles for message dissemination	Oct 2008
Train community partners on key messages and tactics	Jan 2009
Implement community message program including a comprehensive update of the city's website	Feb 2009
Measure and evaluate message penetration	Jun 2009

First Quarter Update:

- Met with City Communications Team on July 30 to discuss suggestions for streamlining communications and guidelines for standardized emails, memos, etc.
- Met with Cumberland County PIO, Chamber PIO and Hodges & Associates Advertising to brainstorm ideas and new ways to tell the City's story – ideas became the basis for the City Communications Plan
- Completed Panhandling Guide and will begin community awareness campaign this month
- Established a City sponsor table at the International Folk Festival on September 28. According to City employees who attended, there was a very positive response to programs and the City in general. Handouts included those from Stormwater, Recycling, and hand fans that promoted Kaleidoscope, PWC Connections, 433-1FAY, and recycling
- Developed timeline for production of the City's annual report
- Participating in Beasley Broadcasting's Energy Expo with a recycling booth

Upcoming Activities:

- Researching and developing plan for citizens' academy
- Locating a trainer and scheduling media training for SMT and Council
- Name for e-newsletter and new design rolls out in October
- Campaign to increase subscribers to e-newsletter
- New design for City web site continues; expected launch is January 2009.
- Begin work on newcomers' guide to city services – print version; section on new web site

for newcomers

### Second Quarter Update:

- Met with Communications Team on November 5. Discussion included standardizing email format for use by all City employees thus providing a consistent and professional look to all correspondence both internal and external
- After seeing the new business card size promotions for Kaleidoscope and 433-1FAY, three departments whose employees' jobs take them out in neighborhoods ordered the cards for distribution to residents.
- "Promote Real Change, Not Spare Change" was done in December to inform residents that it often does more good to donate to a non-profit that helps the homeless and others in need than to give money to panhandlers
- Collected, edited and designed annual report selections; final report will be finished in mid-January 2009
- Attended the first Energy Expo at the Crown Expo Center with booth on recycling; attendance was good
- Completed research on starting a citizens' academy for the City of Fayetteville
- Staff was trained on new broadcast equipment and other Council Chamber upgrades; included new graphics system for televised meetings, etc
- Assisted Museum of Art Task Force with public meeting
- Prepared media release, icon and information for web site, and set up radio and television interviews to advertise sales of new 96-gallon recycling carts
- Debuted new name, Fayetteville Focus, and banner head for City's e-newsletter to citizens

### Upcoming Activities:

- Campaign to increase subscribers to e-newsletter
- New web site design continues
- Complete and distribute Annual Report
- Complete Citizens' Academy plan and publicize application process
- Complete work on the City Services guide
- Recruiting for boards and commissions

### Third Quarter Update:

- Citizens' Academy kicked off in March with 42 participants; 7-week session to learn more about City government and how to get involved



- Focused on increasing number of subscribers to Fayetteville Focus newsletter; steady increase each month; up 150 subscribers (11%)
- Began closed captioning services during live broadcasts of Council meetings on March 23rd
- Researched feasibility of operating City government access channel
- Developed Talking Points Cards for communicating City successes
- Developed and distributed 2-3 media releases each week
- Completed revisions to City Services Guide 2009 and posted to website

Upcoming Activities:

- Prepare for City booth at Dogwood Festival
- Recycling and Police Dept with Seat Belt Convincer
- Work with Planning on UDO community involvement/feedback projects
- Finish Citizens' Academy in May with graduation ceremony
- Work on bi-weekly or monthly City news brief for employees

Fourth Quarter Update:

- Citizens' Academy graduated 32 participants on May 12 with class recognition at City Council meeting June 8
- Won three first place awards (Inside Track, Fayetteville Focus, Recycling Kickoff Campaign) and one second place (2008 Annual Report) at the North Carolina City and County Communicators conference
- Increased subscriptions to Fayetteville Focus newsletter at rate of approximately 31 per month
- Began work on Transit marketing campaign to promote improved services and Para-transit division branding.

Upcoming Activities:

- This target for action continues in the FY 2010 Strategic Plan as HIGH PRIORITY on the Management Agenda.

# Management Agenda- High

## HOPE VI- Implementation

The Fayetteville Metropolitan Housing Authority has been awarded a \$20 million HOPE VI Grant from the U.S. Department of Housing and Urban Development (HUD). The HOPE VI Grant will allow FMHA to redevelop the Old Wilmington Road area by demolishing Campbell Terrace and Delona Garden Apartments, relocate residents of the apartments and to rebuild the area with a mix of market-rate and subsidized housing. Approximately 850 new low-income, workforce and market rate housing units will be built as a result of the HOPE VI Grant.

The HOPE VI program serves a vital role in HUD's efforts to transform Public Housing. The specific elements of public housing transformation that have proven vital to the HOPE VI program include:

- Changing the physical shape of public housing
- Establishing positive incentives for resident self-sufficiency and comprehensive services that empower residents
- Lessening concentrations of poverty by placing public housing in non-poverty neighborhoods and promoting mixed-income communities
- Forging partnerships with other agencies, local governments, nonprofit organizations, and private businesses to leverage support and resources

The HOPE VI project will invest \$130 million into the Old Wilmington Road neighborhood and downtown area to provide building, relocation, infrastructure repair, outdoor space and community services. Significant and positive change is expected during a five-year implementation period. Completion of this project will help the City to meet its goals:

- Growing City, Livable Neighborhoods – A Great Place to Live
- Revitalized Downtown – A Community Focal Point

Funds have been made available for the project in the 2009 fiscal year. The City will participate in the HOPE VI project through various financial commitments.

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<b>Action Plan</b>	<b>Estimated Completion</b>
Revise revitalization plan	September 2008
Develop plan for property acquisition for infill housing Current year budget includes \$1 million	December 2008
Develop plan for property acquisition for business park Current year budget includes \$1 million	December 2008
Develop 1 <sup>st</sup> phase of Community Gardens – install irrigation lines and roadway) Current year budget includes \$5,000	December 2008
Allocate funding for infrastructure (\$2,773,779)	January 2009
Design, and implement improvements along Blount Creek Current year budget includes \$250,000	January 2009
Submit LIHTC application for Campbell Avenue (72 elderly units)	January 2009
Start relocation of residents	April 2009
Development of Bunce Road family housing – 72 units Current year budget includes \$350,000	<b>State Application</b> July 2008 <b>Construction</b> Summer 2009
Development of Curtis Lane family housing and Alfred Street senior housing – 218 units	<b>State Application</b> July 2008 <b>Construction</b> Summer 2009

First Quarter Update:

- City Staff met with Fayetteville Metropolitan Housing Authority for project updates
- City staff began development of list of properties for acquisition for infill development and business park
- Developer was awarded funding by the North Carolina Housing Finance Agency (NCHFA) for 2009 Low Income Housing Tax Credits for 72 elderly units for the Bunce East project in July 2008. Construction expected to start summer 2009
- Developer submitted applications in July 2008 to NCHFA for bonds inducements for the Alfred Street project (46 senior units) and the Curtis Lane project (184 family units). Construction expected to start summer 2009
- FMHA submitted the Community and Supportive Services Plan to HUD in August 2008
- FMHA submitted supplemental grant information to HUD in September 2008

Upcoming Activities:

- FMHA will begin provision of community and supportive services to Delona Gardens and Campbell Terrace residents

- FMHA will develop resident relocation plan for sites for 2009 (Vouchers and other FMHA sites with relocation benefits)
- City staff will begin property acquisition

#### Second Quarter Update:

- City Staff met with Fayetteville Metropolitan Housing Authority for project updates
- City Council approved acquisition of 7 parcels from Cumberland County
- City Manager was granted authority to negotiate land acquisitions for the HOPE VI project
- Began work on the environmental review for the community garden project
- Completed environmental review and request for release of funds from HUD for the Alfred Street Senior Housing project, Curtis Lane Family project and the Bunce East Family Housing project
- FMHA completed the hiring of staff for the community and support services component of the project. FMHA staff is currently working with the residents of Delona Gardens and Campbell Terrace to prepare them for upcoming activities. Their offices are located in the Old Wilmington Road Neighborhood Resource Center

#### Upcoming Activities:

- Transfer of property to FMHA is scheduled for January 2009
- FMHA will begin the relocation of residents on April 1, 2009
- Property acquisition is scheduled for the upcoming quarter
- Construction of the Alfred Street Senior Housing project, Curtis Lane Family project and the Bunce East Family Housing project are scheduled to begin late spring/early summer

#### Third Quarter Update:

- City Staff met with Fayetteville Metropolitan Housing Authority for project updates
- Acquired a total of 12 parcels for infill housing
- Received Release of Funds from HUD through the environment review process for the Community Garden Project, the Alfred Street Senior Housing project, Curtis Lane Family project and the Bunce East Family Housing project
- Completed the transfer of City property (30.99 acres) to FMHA
- The City received \$28,000 in grant funds from Sandhills Area Land Trust (SALT) for the construction of the road in the Community Gardens Project. These funds are being used in conjunction with \$5,000 from the Community Development Department budget for the irrigation system. The Parks and Recreation Department is coordinating the project

- The Parks and Recreation Department began the survey work for the easements for the Blount's Creek Trail

#### Upcoming Activities:

- FMHA will continue the relocation of residents of the Campbell Terrace and Delona Garden Apartments
- Obtain easements and begin the design work for the Blounts Creek Trail
- The City will continue to work with SALT to continue the development of the Community Garden Project
- The City will continue to acquire property for infill development and a business park
- Construction of the Alfred Street Senior Housing project, Curtis Lane Family project and the Bunce East Family Housing project are scheduled to begin this summer

#### Fourth Quarter Update:

- FMHA has continued with the relocation of residents of Campbell Terrace and Delona Gardens Apartments. The process has moved well and is ahead of schedule
- The City has acquired six additional properties throughout the HOPE VI project area
- Gardeners have begun working in the Community Gardens project
- City staff has continued its meetings with FMHA for project updates
- Acquired additional properties for infill development and the construction of the Blounts Creek Trail.

#### Upcoming Activities:

- Relocation of residents of the Campbell Terrace and Delona Garden Apartments will be completed by the end of September 2009
- Demolition will start during this fall 2009
- A ribbon cutting will be held at the Community Gardens on August 1, 2009
- The City will continue to acquire property for infill development and a business park
- Continue to obtain easements and begin the design work for the Blounts Creek Trail
- Completion of the Intergovernmental Infrastructure Agreement by the City, County, PWC and FMHA for project's infrastructure
- Start construction on the Alfred Street Senior Housing project, Curtis Lane Family project and the Bunce East Family Housing project
- Elements of this target for action will continue in a number of targets for action in FY 2010.

# Management Agenda- High

## Fire Training Tower

The existing fire tower located on Eastern Blvd. adjacent to the Fayetteville Botanical Gardens, was built in the late 1950s. It has begun to show signs of structural issues which limit the types of training that are conducted at the facility. Currently no live fire training is conducted at the facility. Live fire training is conducted away from the training facility in structures that are marked for demolition. While efforts are made to control potential risks during the live fire training, the training in acquired structures is less safe for the firefighter recruit and the community.

In addition to the limited use of the existing fire tower, the Botanical Garden has expressed an interest in obtaining the property on which the existing fire tower is located. They plan to develop a pavilion complex which will enhance the gateway corridor leading to downtown. However, the fire department continues to receive credit towards its ISO rating based on the tower and its current availability. Relinquishing the property and the fire training tower would necessitate building a new tower in order to maintain ISO credits.

Success for this Target for Action includes identification of funding and culminates in the completion of the new fire tower. We plan to work with FSU and FTCC who could potentially provide funding and/or other types of assistance, to include site and project preparation. The tower would be built at the Fayetteville Regional Airport Training Facility which serves as a base for a wide range of basic and specialized training. This Target for Action is dependant upon receiving state funds for construction of new facility; if not received this Target for Action will be delayed.

### Team:

- Fayetteville Regional Airport representation
- Fayetteville Fire Department staff
- Special Project manager
- Fayetteville State University representation
- Fayetteville Technical Community College
- Botanical Gardens

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Action Plan	Estimated Completion
Obtain updated costs of constructing fire training tower	July 2008
Identify funding sources	Jan. 2009
Complete agreement with Botanical Garden	Apr. 2009
Pre-Bid Conference	July 2009
Receive, evaluate, award bids	Aug. 2009
Complete tower construction	Nov. 2009

First Quarter Update:

- The total project is estimated at \$950,000 which includes design, construction and demolition of existing tower
- Identify Funding Sources:
  - The Director of Community & Government Affairs Office of the Chancellor confirmed that \$400,000 of state funding is currently designated for the fire training tower and will pass through FSU. Further discussions will be held with FSU to address administrative fees that the University would typically charge for management of the \$400,000
  - Additional resources for this project may also be included Veteran's Park project funding, but at present no further details are available. A follow up meeting is being scheduled with Rep. Rick Glazier for additional information
  - Overall issues that may impact funding for the fire training tower project include a 2% cut in the State's budget as recommended by Governor Easley and the influence the national economy on state and local funding resources
- Complete Agreement with Botanical Garden:
  - A lease has been drafted allowing the Botanical Garden the use of the current training tower property located at Eastern Blvd. The lease is expected to be signed by all parties by the end of October. The Botanical Gardens will use the property for parking during the construction phase of one of their projects

Upcoming Activities:

- Fire Department staff will continue to communicate with team members in a collaborative effort to identify funding and progress in the development of this project

Second Quarter Update:

- Staff is working with FSU to transfer funding allocated to the project

- Fire Department staff continues explore possible sources of funding for the project and ways to reduce the cost of the project, to include requiring the Botanical Gardens to be responsible for the demolition of the existing tower, preparation of the site and all related costs
- The Botanical Garden group has made a request for the property (with the exception of the footprint of the fire training facility and the structure itself drill tower itself) to be deeded to the Botanical Garden. The move will enable them to gain permits required to begin construction on their projects

#### Upcoming Activities:

- Continue discussions with City, FSU and Botanical Gardens representatives and explore opportunities the may present addition funding or cost savings for this project

#### Third Quarter Update:

- Received \$400,000 from FSU as a part of funding for construction of the training tower
- Met with team to discuss next steps. The steps include developing a project timeline delegating task responsibilities, updating cost information, completing a project checklist through purchasing (PWC) and beginning site preparations

#### Upcoming Activities:

- Developing the project ordinance to appropriate the budget for the design and construction cost of the training tower in the amount of \$500,000, which includes the \$400,000 transferred from FSU and \$100,000 from the City. The plan is to present the action to Council during the April 27<sup>th</sup> meeting

#### Fourth Quarter Update:

- Budget (\$500,000) for the design and construction cost of training tower was approved during the May 26<sup>th</sup> Council meeting
- Budget has been set up and the funds have been transferred into a project account
- Added representative from city engineering to the project team
- Met to discuss next steps to complete project and made adjustments to the timeline. A timeline and task assignment schedule is being produced for team members
- Met with E&I representative at site to begin preparing the site plan
- Begin preparing a pre-bid and bid schedule.

#### Upcoming Activities:

- Developing site plan for structure to be located at the Regional Airport Training Facility
- Pre-bid conference and evaluation and acceptance of bid



- Break ground for the project
- With construction scheduled to begin in second quarter, FY 2010; this will mark the successful completion of this target for action.

# Management Agenda- High

## Consolidated Marketing Program with PWC

The City and PWC jointly sponsor a variety of community events each year, such as the Dogwood Festival, International Folk Festival, Grinding of the Greens, etc. This Target for Action (TFA) is designed to effectively utilize limited marketing funds for support of these community projects. The goal is for the City and PWC to realize a shared benefit working together in their marketing efforts. Recognizing that PWC services are different in nature than the service provided at the City, this TFA will strive to look for opportunities where we can maximize our commonality in ways to enhance marketing efforts.

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Action Plan	Estimated Completion
Identify joint marketing/sponsorship opportunities	Aug 2008
Identify joint marketing/communication opportunities and vehicles, i.e. PWC newsletter, organizational websites, and TV shows	Aug 2008
Develop marketing agreement that specifies communication and marketing messages/tactics to be used by both organizations	Nov 2008

### First Quarter Update:

- Met with PWC PIO to discuss joint marketing efforts & possible opportunities for a bill stuffer in PWC bills
- Collaborated in cross promotion of Kaleidoscope and PWC Connections TV programs. Examples include:
  - Cross promotions at the end of the programs
  - Cross promotions in PWC and City newsletters
  - City business cards advertised Kaleidoscope on one side and PWC Connections on the reverse; distribution at every opportunity
  - City hand fans advertised PWC Connections & were distributed at the International Folk Festival
- During Hurricane Hanna the City developed a special edition e-newsletter (Eye on Hanna) which PWC linked from their web site
- City has a link to the PWC website and will feature it more prominently on our new web site

#### Upcoming Activities:

- Continue to meet with PWC PIO and brainstorm other activities and opportunities for partnerships and cross promotions

#### Second Quarter Update:

- Cross-promoting Kaleidoscope and PWC Connections television shows through business card size promotions distributed throughout the city
- Promoting important City issues in the PWC customer newsletter
- Promoted Grinding of the Greens (joint City / PWC project) in City employee newsletter and Fayetteville Focus citizen e-newsletter

#### Upcoming Activities:

- Continue to meet with PWC PIO and brainstorm other activities and opportunities for partnerships and cross promotions
  - Possibly work together to promote activities as sponsors of the Fayetteville Dogwood Festival

#### Third Quarter Update:

- Cross-promotion of services through our respective websites
- Cross-promoting Kaleidoscope and PWC Connections television shows through business card size promotions distributed throughout the city
- Promoting important City issues in the PWC customer newsletter

#### Upcoming Activities:

- Work together to promote City and PWC services through our sponsorships of the Dogwood Festival

#### Fourth Quarter Update:

- Cross-promotion of programs and services through our respective web site
- Cross-promoting Kaleidoscope and PWC Connections television shows through printed promotion items distributed throughout the city at meetings and events
- Promoting important City issues in the PWC customer newsletter.

#### Upcoming Activities:

- Elements of this target for action will continue and be followed in the FY 2010 TFA Telling the City's Positive Story.

# Management Agenda- High

## Performance Based Compensation

A successful performance based compensation system will include:

- clearly-defined expectations that are reasonable to obtain and shared with employees
- appropriately defined rating levels of performance for each job
- well trained supervisors
- ongoing feedback to employees regarding their performance
- appropriate review and controls
- adequate funding to reward employees for different level of performance

The outcome of this system is that the employees in the organization assist with achieving the objectives outlined in the strategic plan and departmental plans.

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Action Plan	Estimated Completion
Communicate to employees and supervisors the decision to move to a Pay-for-Performance System	June 2008
Develop a pay for performance system a. Levels of performance b. Dates of evaluation c. Funding	June 2008
Mandatory training for supervisors	Aug 2008
Conduct evaluations	July 2009
Finalized budget and funding for PFP	May 2009
Enter evaluation pay record into system	Aug 2009
Audit evaluation and pay	Aug. 2009

### First Quarter Update:

- In June 2008, the City Manager's Budget Message communicated the decision to move to pay-for-performance to all City employees

- The pay-for-performance system was recommended by the HRD Director and approved by the City Manager, which outlined levels of performance and dates of the evaluation period. Funding to be determined during the budget process
- Supervisors attended a mandatory phase I training class on City's pay-for-performance system in August 2008
- Supervisors began attending a mandatory phase II training class on performance management

Upcoming Activities:

- October 2008 – January 2009: Supervisors continue to attend a mandatory phase II training class on performance management
- October 2008: Employees will receive a brochure outlining the City's pay-for-performance system

Second Quarter Update:

- October 2008: Employees received a brochure outlining the City's pay-for-performance system
- 100% supervisors have attended phase I training on performance management. Supervisors continue to attend a mandatory phase II training class. Currently approximately 80% of supervisors have completed the training thus far.
- Completed a survey of FY10 pay recommendations for Cities in our market
- Conducting mid-cycle evaluations for employees

Upcoming Activities:

- Evaluating funding for FY10 employee raises
- Conducting departmental training on an automated personnel system. This training will cover instructions in the necessary steps to process employee performance evaluations
- Entering employee's performance evaluations into the automated personnel system

Third Quarter Update:

- Jan./Feb. 2009: Mid-Cycle evaluations conducted for all eligible employees
- March 2009: Mid-Cycle evaluations entered into the automated personnel system
- March 2009: City Manager sent memorandum to all employees notifying them of the lack of adequate funding for the pay-for-performance raises

Upcoming Activities:

- Analysis conducted of Mid-Cycle evaluations

- Annual evaluations to be conducted for all eligible employees in June/July 2009
- Analysis conducted of Annual evaluations
- Feedback and/or re-retraining given to supervisors regarding improvements for managing employees' performance and conducting effective employee performance evaluations

#### 4th Quarter Update

- April: All employees were informed about the up-coming annual evaluation period
- April: Instructions to Reviewers, JDE Entry Personnel, Senior Management Team Members, and supervisors was sent out to go over the process and the steps required. Specific guidelines about the writing of the justification for the "Exceeds Expectations" rating were given, in order to maintain the integrity of that rating
- May: Supervisors held preliminary performance meetings with employees to collaboratively discuss the employee's performance strengths and weaknesses over the past year, in order to ensure that the employee had input into the process. After meeting with their employees, the supervisor took the employee's input, along with their observations and created the evaluation form. Once completed, the form was sent up the chain of command for pre-approvals by the Reviewers, Department Directors, and the City Manager (if it was an "Exceed Expectation" rating)
- May: The Department Directors reviewed and signed all of their department's evaluations
- June: The City Manager reviewed and signed all "Exceeds Expectations" evaluations
- June/July: Supervisors gave all regular (non-probationary) employees an annual performance evaluation, covering the review period of July 1, 2008 through June 30, 2009, during the three weeks of June 15-July 3
- Negotiations with NEOGOV (our online application provider) were conducted to come to an agreement for providing online performance evaluations for our employees.

#### Upcoming Activities:

- July: The JDE Data Entry personnel in each department are entering all of the performance evaluation ratings into the JDE system during the week of July 6-10. After that, July 13-17, HR can make updates into the system, and prepare for August 7 payroll
- July: HRD (with help from I.T.) begins working with NEOGOV on an implementation plan for the new online performance evaluation system
- July/Aug: A consultant will be working with HR to help us design a more effective evaluation system. The consultant's guidance will be used in the NEOGOV implementation process, as the evaluation forms and rating scale is set-up on the new online system
- This target for action will not be complete until it is fully funded. In the interim, monitoring of the system needs to continue in the next fiscal year.

## Continuing Priority

### Transit System 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 management performance review in FY 2007. This review was all encompassing, covering the topics of management staff, condition of the fleet, condition of the facilities, number of operators required, the route structure, condition of the maintenance department and other topics, but of less significance, still needing attention. The results of this study were shared with the City management team and the City Council in January 2008. The Transit team then prepared a plan of action that would take into account the recommendations from this review.

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 management review, the following actions are planned:

- Management resources required have been identified and budgeted for in FY09;
- Replacement of the bus fleet has begun – five new units have been received and will be placed into service in July 2008;
- Replacement of the ADA van fleet has begun – seven vans have been ordered, five have been received and placed into service in June 2008;
- Additional orders for new equipment will be placed in FY09;
- An RFP will be generated for the Transportation Development Plan or Route Study;
- Evaluate the study results and present to the citizens via public hearings regarding future changes to the transit system;
- Implement the recommended changes to the F.A.S.T. system by July 2009

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Action Plan	Estimated Completion
Identify required management positions per Management Performance Report	Mar 2008
Receive approved transit budget to include management positions	July 2008
Create RFP, select consultant for development of TDP or route study	Oct 2008
Public hearings as a result of the TDP study	May 2009
Implement recommendations of TDP within FY09 fiscal constraints	July 2009

### First Quarter Update:

- Personnel: The management positions for the operations superintendent and para transit supervisor have been filled. Three dispatcher positions have been filled. The safety/training coordinator interviews are in progress
- The consultant completed the Phase I segment of the Joint City/County Transit Consolidation Study
- The Transportation Development Plan (TDP) Request for Proposal (RFP) was completed and published. Proposals were received on September 5, 2000
- A grant was awarded for flex funds from the NC Department of Transportation (NCDOT) in the amount of \$1,254,000 for equipment; and \$296,000 for Admin/Main facility renovation
- A grant was awarded by the FTA in the amount of \$1,354,000 for maintenance, ADA and small equipment
- Ridership for the first quarter FY09 has increased an average of 15.6% over the same time period one year ago

### Upcoming Activities:

- Select TDP Consultant
- Select the site for the multi-modal center
- Fill the remaining management positions
- Order three new full size buses, four small buses and four vans

### Second Quarter Update:

- Personnel: The Safety/Training Coordinator has been hired. They have compiled a bus operator Training Manual and successfully completed the first training class for 5 new operators. A second class of 3 new operators is in process. We have filled the 5th street supervisor position
- Joint City/County Transit Consolidation Study: The consultant is authorized to proceed with phase II. Anticipated completion of this segment is June 2009
- The Transportation Development Plan (TDP) consultant has been selected and has begun work. The study is expected to take 6 months
- Ridership for the second quarter FY09 has increased an average of 11.4% over the same time period one year ago
- The site for the future multi-modal center was selected. Activities are now underway for the initial actions of property owner discussions, appraisals, environmental studies, and grant applications for funds



- Vehicles on order: Three 35' buses, four 30' buses, four vans, supervisor support vehicles, and maintenance service trucks

#### Upcoming Activities:

- Support the TDP Consultant during the course of the study
- Continue with the activities required for the multi-modal center site

#### Third Quarter Update:

- Joint City/County Transit Consolidation Study: Continued to provide support to the study. Anticipated completion of Phase II is July 2009
- Continued to provide support to the Transportation Development Plan consultant during the course of the study. The first 3 Tech Memos will be released by the end of the 3rd Quarter
- Ridership for this quarter has decreased an average of 2.8% over the same time period one year ago. The decrease is attributed to the winter weather event
- The site for the future multi-modal center was selected. Activities are now underway for the initial actions of property owner discussions, appraisals, environmental studies, and grant applications for funds
- Grant application has been submitted to provide funds for a replacement mobile unit for the Transfer Center. The grant was awarded by the FTA on March 27, 2009
- Transit received an appropriation of \$3,129,010 in stimulus funds from the FTA for purchase of hybrid buses

#### Fourth Quarter Update:

- Joint City/County Transit Consolidation Study: Continued to provide support to the study. Anticipated completion of Phase II is July 2009
- Continued to provide support to the Transportation Development Plan consultant during the course of the study. The first 3 tech memos were released. Tech memo #4 contained the first recommendation for the Transit system alternatives for change and was presented to the City Council in May 2009. The TDP is expected to be completed and presented to the City Council for receipt and file in July 2009
- Multi-Modal Center: Activities are underway for property owner discussions, appraisals, environmental studies, and grant applications. Once completed, an FTA grant will be applied for with a project value of \$1,125,000 (FED \$900,000; State \$112,500, Local \$112,500)
- A grant was awarded by the FTA on March 27, 2009, for a replacement mobile unit for the Transfer Center

- Grant application submitted for \$3,129,010 in stimulus funds from the FTA for purchase of hybrid buses. The City received the grant award notice in July. Purchase order is expected to be placed during the 1<sup>st</sup> Quarter of FY2010
- Ridership for the 4<sup>th</sup> quarter is expected to be the same or slightly ahead of the same time period one year ago. The annual increase in ridership for FY2009 will be about 7% over FY2008.

Upcoming Activities:

- Support the TDP consultant during the completion of the study
- Continue with the activities required for the Multi-Modal Center site
- Receive vehicles on order in the 1<sup>st</sup> Quarter FY2010: Three 35' buses, one 20' LTV and one 25' LTV
- Proceed with purchasing the five 35' Low Floor Hybrid buses using Stimulus funding
- Continue the activities to replace the existing Transfer Center building with a new unit
- Continue with the renovation of the transit facility at 455 Grove St. – anticipated completion is 2<sup>nd</sup> Quarter FY2010 (Dec. 2009)
- This target for action continues in the FY 2010 Strategic Plan as a TOP PRIORITY on the Management Agenda.



OFFICE OF THE TAX ADMINISTRATOR

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June 30, 2009

Mr. Tony G. Chavonne, Mayor  
 City of Fayetteville  
 433 Hay Street  
 Fayetteville, NC 28301

This settlement is required under the provisions of General Statute #105-373 (a) (3). This covers the period from July 1, 2008 through June 30, 2009.

**Charge:**

Charge Real & Personal 2008	\$	49,408,678.43
Storm Water Charge 2008	\$	2,298,654.00
Fayetteville Storm Water Charge 2008	\$	3,374,160.00
Vehicles Charge 2008	\$	8,008,153.21
2005 Annexation in 2008 Charge	\$	-
Curbside Recycle Charge 2008	\$	2,551,500.00
Added Charge Real & Personal	\$	273,449.79
Added Charge Storm Water	\$	3,900.00
Added Charge Fayetteville Storm Water	\$	72.00
Added Charge Vehicles	\$	11,175.66
Added Charge Annexation	\$	1,627.17
Added Charge Curbside Recycle	\$	798.00
Fayetteville Gross Receipts Vehicle Tax Current Year	\$	441,381.02
Fayetteville Gross Receipts Vehicle Tax Penalty	\$	-
Total Interest Collected	\$	343,419.86
<b>Total Charge:</b>	<b>\$</b>	<b>66,716,969.14</b>

**Credits:**

Deposited with Finance Real & Personal	\$	49,058,483.01
Deposited with Finance Vehicles	\$	5,754,196.12
Deposited with Finance Annexation Taxes	\$	951.64
Deposited with Finance Storm Water	\$	2,283,670.70
Deposited with Finance Fayetteville Storm Water	\$	3,355,111.57
Deposited with Finance Curbside Recycle	\$	2,495,406.81
Fayetteville Gross Receipts Vehicle Tax Current Year	\$	441,381.02
Fayetteville Gross Receipts Vehicle Tax Penalty	\$	-
Interest Deposited with Finance	\$	343,419.86
	<b>\$</b>	<b>63,732,620.73</b>

Releases Real/Personal Allowed	\$	358,177.10
Releases Vehicles Allowed	\$	800,196.75
Storm Water Releases Allowed	\$	608.00
Fayetteville Storm Water Releases Allowed	\$	312.00
Annexation Releases Allowed	\$	539.07
Curbside Recycle Releases Allowed	\$	36,537.47
Real/Personal Balance	\$	265,468.11
Vehicles Balance	\$	1,464,936.00
Storm Water Balance	\$	18,275.30
Fayetteville Storm Water Balance	\$	18,808.43
Annexation Balance	\$	136.46
Curbside Recycle Balance	\$	20,353.72
Adjustments	\$	-
	\$	<u>2,984,348.41</u>

**Total Credits:** **\$ 66,716,969.14**

**Charge:**

Real & Personal 2007	\$	291,580.45
Vehicles 2007	\$	1,334,571.98
2005 Annexation in 2007 Charge	\$	176.92
Storm Water 2007	\$	21,904.69
Fayetteville Storm Water 2007	\$	23,009.20
Fayetteville Gross Receipts Vehicle Tax 1st Year Prior	\$	-
Real & Personal 2006	\$	97,839.51
Vehicles 2006	\$	311,294.20
2005 Annexation in 2006 Charge	\$	147,775.47
Storm Water 2006	\$	8,061.14
Real & Personal 2005 & Prior	\$	344,259.81
Vehicles 2005 & Prior	\$	1,362,867.61
Storm Water 2005 & Prior	\$	27,991.35
	\$	<u>3,971,332.33</u>

**Total Charge:** **\$ 3,971,332.33**

**Barred by Statute: 1998**

Barred by Statute - Real/Personal	\$	12,918.61
Barred by Statute - Vehicles	\$	148,802.96
Barred by Statute - Storm Water	\$	191.29
	\$	<u>161,912.86</u>

**Credits:**

Real & Personal Collections 2007	\$	214,067.13
Vehicle Collections 2007	\$	859,304.21
2005 Annexation in 2007 Charge Collections	\$	114.51
Storm Water 2007 Collections	\$	16,466.43
Fay. Storm Water 2007 Collections	\$	16,273.98
Fayetteville Gross Receipts Vehicle Tax 1st Year Prior	\$	-
Real & Personal Collections 2006	\$	36,757.58
Vehicle Collections 2006	\$	39,371.61
2005 Annexation in 2006 Charge Collections	\$	122,588.84
Storm Water 2006 Collections	\$	4,343.12
Real & Personal 2005 & Prior Collections	\$	39,033.90
Vehicle 2005 Collections	\$	51,435.82
Storm Water 2005 & Prior Collections	\$	12,852.67
Real & Personal Releases Allowed 2007	\$	4,418.50
Vehicles Releases Allowed 2007	\$	149,094.95
2005 Annexation in 2007 Releases Allowed	\$	-
Storm Water Releases Allowed 2007	\$	24.00
Fayetteville Storm Water Releases Allowed 2007	\$	-
Real & Personal Releases Allowed 2006	\$	435.75
Vehicles Releases Allowed 2006	\$	12,702.45
2005 Annexation in 2006 Releases Allowed	\$	6.34
Storm Water Releases Allowed 2006	\$	-
Real & Personal Releases Allowed 2005 & Prior	\$	290.83
Vehicles Releases Allowed 2005 & Prior	\$	9,549.11
Storm Water Releases Allowed 2005 & Prior	\$	-
Real & Personal Balance 2007	\$	73,094.82
Vehicles Balance 2007	\$	326,172.82
2005 Annexation in 2007 Balance	\$	62.41
Storm Water Balance 2007	\$	5,414.26
Fayetteville Storm Water Balance 2007	\$	6,735.22
Real & Personal Balance 2006	\$	60,646.18
Vehicles Balance 2006	\$	259,220.14
2005 Annexation in 2006 Balance	\$	25,180.29
Storm Water Balance 2006	\$	3,718.02
Real & Personal Balance 2005 & Prior	\$	292,016.47
Vehicles Balance 2005 & Prior	\$	1,153,079.72
Storm Water Balance 2005 & Prior	\$	14,947.39
Adjustment		
	\$	3,809,419.47
<b>Total Credits:</b>	<b>\$</b>	<b>3,971,332.33</b>



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**Summary of 1998 Real/Personal & Vehicles Taxes to be Barred**

	<u>Vehicles</u>	<u>Personal</u>	<u>Real</u>	<u>Public Service</u>	<u>Fees</u>	<u>Total</u>
County	457,335.46	70,598.35	5,952.04	-		533,885.85
County Pets					1,154.49	1,154.49
Fayetteville	128,331.00	12,282.39	628.80	-		141,242.19
Revit	50.25	7.42	-	-		57.67
Fayetteville Vehicle Fee	20,421.71					20,421.71
Hope Mills	5,777.45	896.51	52.44	-		6,726.40
Hope Mills Vehicle Fee	1,440.00					1,440.00
Hope Mills Pets					25.00	25.00
Spring Lake	11,741.48	455.95	-	-		12,197.43
Stedman	189.28	-	-	-		189.28
Stedman Vehicle Fee	60.00					60.00
Godwin	53.97	0.67	-	-		54.64
Wade	171.73	66.82	8.40	-		246.95
Falcon	86.82	-	-	-		86.82
Linden	120.99	1.65	-	-		122.64
Solid Waste User Fee					477.18	477.18
Storm Water Fee					191.29	191.29
Advertising Fee					306.00	306.00
<b>Total</b>	<u>625,780.14</u>	<u>84,309.76</u>	<u>6,641.68</u>	<u>0.00</u>	<u>2,153.96</u>	<u>718,885.54</u>
TA500 MR VEHICLES	625,780.14					
TA500 MR CC	93,105.40					
TA500 MR PS	0.00					
	<u>718,885.54</u>					

*Celebrating Our Past...Embracing Our Future*

EASTOVER - FALCON - FAYETTEVILLE - GODWIN - HOPE MILLS - LINDEN - SPRING LAKE - STEDMAN - WADE

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**CITY OF FAYETTEVILLE**  
 Verification of Tax Funds for the Fiscal Year Ended June 30, 2009

	<u>General Fund</u>	<u>CBDT</u>	<u>Annexation</u>
1. Current Year Original Levy (Real and Personal)			
Total Property Valuation	9,299,567,475	83,570,330	0.00
Tax Rate Per \$100	0.53	0.10	0.3975
Amount of the Levy	49,287,707.62	83,570.33	0.00
Late List Levy	37,226.82	173.66	0.00
2. Discoveries and Releases			
Discoveries			
Total Property Valuation	43,507,347	356,500	286,789.94
Tax Rate Per \$100	0.53	0.10	0.3975
Amount of the Levy	230,588.94	356.50	1,139.99
Late List Discoveries	42,438.20	66.15	487.18
Releases			
Total Property Valuation	(64,364,823)	520,430	(90,802.52)
Tax Rate Per \$100	0.53	0.10	0.3975
Amount of the Levy	(341,133.56)	520.43	(360.94)
Late List Releases	(16,580.40)	14.71	(178.13)
3. Taxes remitted to the City for Tax Years:			
2008	48,975,102.22	83,380.79	951.64
2007	213,787.23	279.90	114.51
2006	36,719.86	37.72	122,588.84
2005 & prior	39,024.94	8.96	
4. Interest	157,600.99	485.84	2,297.96
5. Balance due the City at June 30, 2009 for:			
2008	265,217.40	250.71	136.46
2007	73,045.52	49.30	62.41
2006	60,627.34	18.84	25,180.29
2005 & prior	304,778.61	156.47	

	General Fund Vehicles	CBDT Vehicles	Vehicle License Tax	Transportation Fee
1. Current Year Original Levy (Vehicles)				
Total Property Valuation	1,289,418,687	4,459,170		
Tax Rate Per \$100	0.53	0.10		
Amount of the Levy	6,833,919.04	4,459.17	714,600.00	455,175.00
2. Discoveries and Releases				
Discoveries				
Total Property Valuation	1,886,145	9,090		
Tax Rate Per \$100	0.53	0.10		
Amount of the Levy	9,996.57	9.09	760.00	410.00
Releases				
Total Property Valuation	(138,558,377)	(362,350)		
Tax Rate Per \$100	0.53	0.10		
Amount of the Levy	(734,359.40)	(362.35)	(42,355.00)	(23,120.00)
3. Taxes remitted to the City for Tax Years:				
2008	4,925,996.36	3,600.03	519,948.09	304,651.64
2007	764,788.10	345.86	94,170.25	
2006	32,517.86	1.18	6,852.57	
2005 & prior	42,336.80	5.41	9,093.61	
4. Interest	150,998.72	40.43		
5. Balance due the City at June 30, 2009 for:				
2008	1,183,559.85	505.88	153,056.91	127,813.36
2007	281,864.75	75.31	44,232.76	
2006	224,504.01	25.45	34,690.68	
2005 & prior	1,123,508.41	381.34	177,992.93	



	<u>Storm Water Management</u>	<u>Fayetteville Storm Water Management</u>	<u>Curbside Recycling</u>
1. Current Year Original Levy (Real and Personal)			
Total Property Valuation			
Tax Rate Per \$100			
Amount of the Levy	2,298,654.00	3,374,160.00	2,551,500.00
2. Discoveries and Releases			
Discoveries			
Total Property Valuation			
Tax Rate Per \$100			
Amount of the Levy	3,900.00	72.00	798.00
Releases			
Total Property Valuation			
Tax Rate Per \$100			
Amount of the Levy	(608.00)	(312.00)	(36,537.47)
3. Taxes remitted to the City for Tax Years:			
2008	2,283,670.70	3,355,111.57	2,495,406.81
2007	16,466.43		
2006	4,343.12		
2005 & prior	12,852.67		
4. Interest	14,975.85	8,970.03	8,050.04
5. Balance due the City at June 30, 2009 for:			
2008	18,275.30	18,808.43	20,353.72
2007	5,414.26	6,735.22	
2006	3,718.02		
2005 & prior	15,138.68		