

**FAYETTEVILLE CITY COUNCIL  
AGENDA  
REGULAR MEETING  
JANUARY 25, 2010  
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  
JANUARY 25, 2010  
7:00 P.M.  
City Hall Council Chamber

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**1.0 CALL TO ORDER**

**2.0 INVOCATION**

**3.0 PLEDGE OF ALLEGIANCE**

**4.0 APPROVAL OF AGENDA**

**5.0 ANNOUNCEMENTS AND RECOGNITIONS**

**6.0 CONSENT**

6.1 City Attorney – A Decision of the Fayetteville City Council Denying American Tower Corporation's Application for a Special Use Permit Submitted on October 5, 2009

**Page: 1**

6.2 City Manager's Office - Adoption of the FY 2011 Federal Legislative Agenda

**Page: 16**

6.3 Engineering & Infrastructure (via PWC) - Bid Recommendation for Skye Drive Stormwater Improvements-System #2

**Page: 19**

6.4 Engineering & Infrastructure (via PWC) – Consider Resolution of Award For Reilly Road/Ramsey Street Sidewalk Project

**Page: 20**

6.5 Finance – Budget Ordinance Amendment 2010-5 (General Fund – City Attorney's Office and Fire Department)

**Page: 22**

6.6 Finance - Resolution to Accept the State Grant and Capital Project Ordinance 2010-16 (Airport Fingerprint Machine Replacement)

**Page: 24**

6.7 PWC - Bid Award for Little Cross Creek Best Management Practices (BMP) Project  
**Page: 37**

6.8 PWC - Interlocal Agreement Between the County of Cumberland and The Public Works Commission of the City of Fayetteville, NC for the Brooklyn Circle Water Main Extension Project  
**Page: 40**

6.9 PWC – Release of Easement to abandon that portion of the utility easement that is no longer needed on the parcel of land located on Skibo Road referenced by Pin No. 0418-34-8882  
**Page: 44**

6.10 Development Services - Case No. P09-47F. The rezoning from P2 Professional to C1P Commercial District or to a more restrictive zoning classification for property located at 8363 Clifffdale Road. Containing 0.44 acres more or less and being the property of Ethel & Worth A. Pate.  
**Page: 52**

6.11 Development Services - Case No. P09-48F. The rezoning from AR Agricultural Residential District to R5A Residential District or to a more restrictive zoning classification for property located to the west of 8047 Raeford Rd. Containing 28.66 acres (of 33.71 total) more or less and being the property of John A Williams, Jr., et al heirs.  
**(Zoning Commission recommendation is for R10)**  
**Page: 59**

6.12 Development Services - Case No. P09-49F. The rezoning from P2 Professional District to C3 Commercial District or to a more restrictive zoning classification for property located at 230 Robeson Street. Containing 0.47 acres more or less and being the property of Charleston Seven Group, LLC.  
**Page: 68**

## 7.0 PUBLIC HEARINGS

*For certain issues, the Fayetteville City Council may sit as a quasi-judicial body that has powers resembling those of a court of law or judge. The Council will hold hearings, investigate facts, weigh evidence and draw conclusions which serve as a basis for its decisions. All persons wishing to appear before the Council should be prepared to give sworn testimony on relevant facts.*

- 7.1 Engineering & Infrastructure - Public Hearing to Consider Closing a Portion of Crystal Drive  
**Page: 98**

Presented By: Jeffery P. Brown, PE, Engineering & Infrastructure Director

- 7.2 PWC - Public Hearing regarding the Resolution Declaring Cost, Ordering Preparation of Preliminary Assessment Roll and Calling Public Hearing approved by City Council at the January 11, 2010 meeting for the Arran Lake area of the Phase 5 Annexation  
**Page: 103**

Presented By: Joe Callis, PWC Business Planning Manager

- 7.3 Development Services - Voluntary Annexation Petition - River Landing Center, LLC – Property on Andrews Road across from Rosebank Drive  
**Page: 106**

Presented By: Marsha Bryant, Planner

## **8.0 OTHER ITEMS OF BUSINESS**

- 8.1 Development Services - Case No. P09-45F. The initial zoning of 128 acres of newly annexed property on the south side of Andrews Road across from Rosebank Drive to MU Mixed Use Conditional Zoning District. River Landing Center, LLC owner.  
**Page: 113**

Presented By: Craig Harmon, Planner II

- 8.2 Appointment Committee (Council Member Hurst) Presentation of Appointment Committee Recommendations for Ethics Commission Appointments  
**Page: 133**

Presented by: Bobby Hurst, City Council Member

- 8.3 Police - Consideration of proposed ordinance revisions to Article VII, Wrecker & Tow Ordinance  
**Page: 135**

Presented By: Matthew Dow, Sergeant

8.4 City Manager - Fayetteville Police Department's Response to Sexual Assault Cases - Operating Procedure 3.8

**Page: 153**

Presented by: Dale Iman, City Manager

8.5 City Manager's Office – FY 2010 Strategic Plan 2nd Quarter Report

**Page: 157**

Presented by: Doug Hewett, Assistant City Manager

**9.0 ADMINISTRATIVE REPORTS**

9.1 City Clerk - Monthly Statement of Taxes for pending for December 2009

**Page: 160**

**10.0 ADJOURNMENT**

## **CLOSING REMARKS**

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

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

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

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

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

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

**COUNCIL MEETING WILL BE AIRED  
JANUARY 25, 2010 - 7:00 PM  
COMMUNITY CHANNEL 7**

**COUNCIL MEETING WILL BE RE-AIRED  
JANUARY 27, 2010 - 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. Any person who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in any City program, service, or activity, should contact the office of Ron McElrath, ADA Coordinator, at [rmcelrath@ci.fay.nc.us](mailto:rmcelrath@ci.fay.nc.us), 910-433-1696, or the office of Rita Perry, City Clerk at [cityclerk@ci.fay.nc.us](mailto:cityclerk@ci.fay.nc.us), 910-433-1989, as soon as possible but no later than 72 hours before the scheduled event.*

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Karen M. McDonald, City Attorney  
**DATE:** January 25, 2010  
**RE:** **City Attorney - A Decision of the Fayetteville City Council Denying American Tower Corporation's Application for a Special Use Permit Submitted on October 5, 2009**

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**THE QUESTION:**

Whether to issue the attached written decision regarding the City Council's denial of American Tower Corporation's Application for a Special Use Permit?

**RELATIONSHIP TO STRATEGIC PLAN:**

Growing City, Livable Neighborhood - A Great Place to Live

**BACKGROUND:**

The City Council held a quasi-judicial hearing on December 14, 2009, regarding American Tower Corporation's application for a special use permit to allow the construction of a Wireless Telecommunications Tower. By statute, the City Council must render a decision in writing. The attached decision reduces to writing the findings of fact, conclusions of law, and decision denying American Tower Corporation's application for a Special Use Permit as enunciated by the City Council during the hearing.

**ISSUES:**

Whether to adopt the attached findings of fact, conclusions of law, and decision.

**OPTIONS:**

- Adopt the attached decision.
- Modify the attached decision.
- Decline to adopt the attached decision.

**RECOMMENDED ACTION:**

Adopt the attached decision.

**ATTACHMENTS:**

Decision of the Fayetteville City Council

**A DECISION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE  
DENYING AMERICAN TOWER CORPORATION'S APPLICATION FOR A SPECIAL  
USE PERMIT SUBMITTED ON OCTOBER 5, 2009**

On October 5, 2009, the American Tower Corporation ("American Tower"), by and through its attorney, Thomas H. Johnson, Jr., submitted an application for a Special Use Permit to allow the construction of a Wireless Telecommunications Tower pursuant to Fayetteville City Ordinance Sections 30-102.2 and 30-107(17) (the "Application"). The City Council held a public hearing on the Application on December 14, 2009. At the conclusion of the hearing, a motion was made to approve the Special Use Permit with the Zoning Commission's recommended conditions. The vote was 5 to 5 (Council Members Crisp, Mohn, Applewhite, Hurst, and Bates in favor of the motion; Council Members Chavonne, Davy, Haire, Massey, and Meredith in opposition of the motion). Therefore, the motion failed and the Application was denied. Based upon the sworn testimony presented at that hearing, the City Council hereby issues this decision denying the Application.

**I. BACKGROUND**

Sections 30-102.2 and 30-107(17) allow for the construction of a communications tower upon the approval of a Special Use Permit in an AR District. These sections are attached herewith as Exhibit A. Section 30-107(17) further states that the Special Use Permit "... 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 30-107(17)a-y." The ordinance specifies that the City Council is the body that will issue the Special Use Permit upon recommendation of the zoning agency after public hearing. See Section 30-107(17) of the Fayetteville City Code.

**II. PROCEDURAL HISTORY OF THE APPLICATION**

American Tower submitted an application through its attorney, Thomas H. Johnson, Jr., to the City of Fayetteville Planning Department dated October 2, 2009. Pursuant to the Fayetteville City Ordinances, the Zoning Commission held a quasi-judicial public hearing on November 10, 2009, and recommended approval of the Special Use Permit to the City Council with conditions as shown in Exhibit B.

As required by ordinance, the City Council held a public hearing on the Special Use Permit on December 14, 2009. The decision made here is based upon the evidence presented during that public hearing.

At the hearing before the City Council, the following sworn testimony was given:

- a. Craig Harmon, Assistant Planner, of the City of Fayetteville Planning Department provided background to the Application which included showing slides of the map of the property, the zoning map of the area, the 2010 Land Use Plan, the



current use of the property, and an aerial photo of the property. Mr. Harmon showed the site plan indicating where the tower would be placed and the dashed line for the "fall zone". A landscaping plan was shown which Mr. Harmon indicated as "is in keeping with the requirements of the ordinance". Mr. Harmon reported that the Appearance Commission approved the Application, and that the Zoning Commission approved it with conditions.

- b. One witness appeared in support of the Application: Mr. Thomas H. Johnson, Jr., American Tower's legal counsel. Mr. Johnson testified that the Application was approved by the Appearance Commission and the Zoning Commission "with no opposition". Mr. Johnson provided testimony that the tower needed to be built to provide better coverage and due to increased cell phone "usage". He presented a map of existing towers, as well as testified that the plan exceeded setback requirements of the ordinance. In response to Council Member Applewhite's question about the search for other sites for the tower, Mr. Johnson stated that the Application "met the requirements of the ordinance". He also said that some residential areas were now designed around towers. Mr. Johnson told the City Council that AT&T provided evidence that it was not able to collocate with an existing tower.
- c. Two persons appeared in opposition: Mr. Joe Riddle, 125 Great Oaks, who stated that he was representing the new development in Gates Four next to the proposed location and Mr. Alan Tucker, 2637 Old Colony Place, a real estate broker who worked with Mr. Riddle. Mr. Riddle testified that the location of the tower would look as if it was in the middle of the new section of Gates Four, thereby effecting home values in the area. Mr. Tucker asked that the City Council consider the "appearance" of the tower.

### III. FINDINGS OF FACT

1. Through its attorney, American Tower seeks permission to obtain a Special Use Permit to build a cell tower on property located in an AR zoning district for the following reasons:

- a. It would provide better coverage for cell phone users, especially for emergency use.
- b. The increase in usage requires more towers to be built.
- c. AT&T stated that collocation is not possible.
- d. The tower meets the setback requirements found in the ordinance.

2. The City Council has considered the testimony by American Tower for a Special Use Permit at the hearing held on December 14, 2009.

3. In order to be granted a Special Use Permit to build the cell tower, American Tower is required by the City of Fayetteville Ordinance to show 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 30-107(17)a-y." Ordinance Section 30-107(17).

4. Testimony regarding the appearance and possible adverse affect on neighboring properties was presented by Mr. Joe Riddle and Mr. Alan Tucker. The testimony presented by Mr. Riddle and Mr. Tucker was speculative and not substantiated by data or expert testimony.

5. The testimony provided by American Tower at the hearing did not include material, substantial and competent evidence with regard to the requirements as stated in Section 30-107(17).

#### IV. CONCLUSIONS OF LAW

Section 30-107(17) states that the Special Use Permit for a tower will be approved by the City Council after a public hearing 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-y. These standards act as a guide for the City Council in considering Special Use Permit applications for towers. The burden is on the applicant to present competent, material and substantial evidence of meeting these standards at the City Council public hearing.

In ruling upon the application for the Special Use Permit, the City Council applies the factors referenced above in 30-107(17)a-y. The burden of proof is on American Tower to present, material, substantial and competent evidence supporting the ordinance requirements for approval of a tower. Each of the standards found in 30-107(17) are as follows:

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.

The City Council packet contained information regarding the setback and the applicant stated the setback requirement was met.

- 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.

The City Council packet contained a landscaping plan, however, the picture was not introduced at the hearing.

- 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.

The City Council packet contained a landscaping plan, however, it was not introduced as evidence during the hearing.

- 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.

The City Council packet contained a letter, however, it was not introduced as evidence during the hearing.

- 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.

The City Council packet contained a letter, however, it was not introduced as evidence during the hearing.

- f. Radio or television or similar reception for adjoining residentially zoned properties will not be disturbed or diminished.

No evidence of compliance with this requirement was presented at the hearing.

- 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.

No evidence of compliance with this requirement was presented at the hearing.

- 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.

No evidence of compliance with this requirement was presented at the hearing.

- 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.

No evidence of compliance with this requirement was presented at the hearing.

- j. The use will not be detrimental to the surrounding neighborhood.

No evidence regarding this factor was presented at the hearing.

- 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.

No evidence was presented at the hearing regarding this factor.

- 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.

No evidence was presented at the hearing regarding this factor.

- 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.

The City Council packet contained a letter from Thomas Johnson which referenced this requirement, but no evidence of agreement with this requirement was presented at the hearing.

- 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.

No agreement or evidence of agreement was presented at the hearing.

- 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.

No agreement or evidence of agreement was presented at the hearing.

- 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.

No evidence of compliance with this requirement was presented at the hearing. Instead, the American Tower's counsel stated that the tower would be in a "wooded site".

- q. That no outside storage be allowed on-site.

No evidence of compliance with this requirement was presented at the hearing.

- 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.

No evidence of compliance with this requirement was presented at the hearing.

- 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.

Testimony about AT&T was presented at the hearing, but no other users were discussed or evidence presented.

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.

The City Council packet contained a letter in the stating a search had been conducted.

3. All the requirements of this chapter and chapter 25 must be met.

No evidence of compliance was presented at the hearing regarding this standard.

- 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.

No evidence of compliance was presented at the hearing regarding this standard.

- 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.

The City Council packet contained document with this information, but they were not introduced as evidence during the hearing.

- 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 collocater under a swapping arrangement. The tower shall be galvanized or painted.

No evidence of compliance with this requirement was presented at the hearing.

- 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).

No evidence of compliance with this requirement was presented at the hearing.

- 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 collocater company names.

No evidence of compliance with this requirement was presented at the hearing.

- 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.

No evidence of compliance with this requirement was presented at the hearing.

At the end of the hearing, American Tower had briefly addressed some of the ordinance requirements found in 30-107(17), but only with circular statements such as "the applicant met the ordinance requirements". American Tower failed to produce competent, material and substantial evidence necessary to establish that the application met the ordinance requirements.

## V. DECISION

THEREFORE, ON THE BASIS OF THE FOREGOING, the application for a Special Use Permit heard by the City Council on December 14, 2009, is DENIED.

ADOPTED this \_\_\_\_\_ day of January, 2010.

CITY OF FAYETTEVILLE

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

ATTEST:

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

## Exhibit A

### Sec. 30-102.2. AR agricultural--residential district.

The following uses are permitted in the AR agricultural--residential district:

Agricultural or rural farm use.

Blacksmith services.

Riding academy activities.

Greenhouse and truck gardening, including the sale of crops raised on the premises.

Trailer parking based on one trailer per acre with a permit in accordance with subsection 30-221(j).

Any use permitted in the R15 residential district.

### Sec. 30-107. R15 residential district.

The following uses are permitted in the R15 residential district:

(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 collocater 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

## EXHIBIT B

The Zoning Commission approved the request for the Special Use Permit with the following conditions:

1. That prior to issuing a building permit, written confirmation that there is an agreement that one or more providers will use the tower once built.
2. That the Special Use Permit becomes null and void if a building permit is not issued after two years form the date of approval of the request.
3. That the applicant follow the submitted site plan for plantings.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Doug Hewett, Assistant City Manager  
**DATE:** January 25, 2010  
**RE:** **City Manager's Office - Adoption of FY 2011 Federal Legislative Agenda**

---

**THE QUESTION:**

Does the attached FY 2011 Federal Legislative Agenda meet the City Council's interest?

**RELATIONSHIP TO STRATEGIC PLAN:**

This is a high priority policy agenda item for the City goal of More Efficient City Government.

**BACKGROUND:**

The City, Cumberland County and Fayetteville-Cumberland County Chamber of Commerce have partnered with the Ferguson Group to develop a community-wide federal legislative agenda. Our efforts have aided in the authorization of more than \$4 million in federal appropriations this year. Moreover, this partnership has returned more than \$46,613,900 in federal assistance to the community since its inception. In order to continue these successful efforts, the partners have developed a FY 2011 federal agenda for submission to our federal legislative delegation in February.

A series of meetings were held November 13 with representatives from the City, County, Chamber, Public Works Commission and other local agencies. During these meetings, time was allocated for representatives from the City Council and the County Commissioners to meet with our lobbyist, Leslie Mazingo, and provide input. Since that time, our legislative partners have refined a draft agenda. A draft federal legislative agenda was presented to Council during the January work session. The final FY 2011 federal legislative agenda is reflected on the attached document.

**ISSUES:**

The federal agenda is based on projects and issues, which the partners have identified as priorities for our community AND which our lobbyist feels we can successfully acquire federal assistance. The attached agenda does not include legislative issues that we will share with the NC General Assembly.

**OPTIONS:**

1. Approve, modify or reject recommendations
2. Take no action at this time.

**RECOMMENDED ACTION:**

Approve the federal agenda as presented.

**ATTACHMENTS:**

Fayetteville Cumberland County FY11 Agenda Draft



**City of Fayetteville/Cumberland County/Fayetteville - Cumberland County Chamber, NC  
2010 (FY 2011) FEDERAL AGENDA**

**APPROPRIATIONS**

	<b>PROJECT</b>	<b>DESCRIPTION OF REQUEST</b>	<b>FUNDING HISTORY</b>
1	<b>Military Business Park (MBP)</b>	\$1 million in Transportation Appropriations (FHWA), Transportation, Community and System Preservation, for transportation improvements to the MBP.	\$600,000 (FY06) \$147,000 (FY08) \$584,400 (FY10)
2	<b>Partnership for Defense Innovation (PDI)</b>	\$4.6 million for PDI Wi-Fi Testing and Assessment Laboratory, Joint Special Operations Command, Information and Intelligence Warfare Directorate, for the continuation of testing and development of cellular capabilities on the battlefield.	\$1.08 million (FY07) \$2.7 million (FY08) \$2 million (FY09) \$2.8 million (FY10)
3	<b>Secure Training and Integration Facility (SCIF)</b>	\$2.2 million in Defense Appropriations to develop a SCIF at Fayetteville Regional Airport.	First year request.
4	<b>Regional Public Safety</b>	\$2 million in Justice Appropriations, COPS Technology, to merge regional communications, including purchase of interoperable radios.	\$300,000 (FY06) \$352,500 (FY08) \$200,000 (FY09) \$300,000 (FY10)
5	<b>Sanitary Sewer System</b>	\$2 million in Energy and Water Appropriations, Corps of Engineers, Sec. 219, for sanitary sewer system.	\$6 million authorized by WRDA 2007
6	<b>Murchison Road</b>	\$34.6 million in Military Construction Appropriations, Department of the Army, for Fort Bragg Access Roads, Phase II	\$21.8 million in FY09 (Phase I)
7	<b>Hybrid Transit Buses</b>	\$2 million in Transportation Appropriations and SAFETEA-LU, Bus and Bus Facilities, for the purchase of hybrid buses.	\$3,129,010 from ARRA.
8	<b>Multimodal Center</b>	\$5 million in Transportation Appropriations, Bus and Bus Facilities, for Multimodal Transportation.	\$400,000 (FY10)
9	<b>Electronic Records Management</b>	\$500,000 in Health and Human Services Appropriations, Health Resources and Services Administration, for County's public health records management and digitization of veteran's records.	Third year requested
10	<b>Emergency Operations Center</b>	Department of Homeland Security Appropriations, FEMA Emergency Operations Centers, for Fayetteville-Cumberland County Emergency Operations Center.	First year request

## AUTHORIZATIONS

PROJECT	DESCRIPTION OF REQUEST	FUNDING HISTORY
<b>Multimodal Center</b>	\$10,672,000 requested in <b>surface transportation reauthorization</b> , Federal Transit Administration, High Priority Projects, Bus and Bus Facilities, for Multimodal Transportation.	Second year requested.
<b>Traffic Safety Cameras</b>	\$400,000 requested in <b>surface transportation reauthorization</b> , Federal-Aid Highways, High Priority Projects, for video surveillance cameras.	Second year requested.
<b>Sanitary Sewer System</b>	Expand <b>Water Resources Development Act (WRDA)</b> authorization from \$6 million to \$20 million and modifications to language.	Authorized by WRDA 2007.

## ADDITIONAL PRIORITIES

PROJECT	DESCRIPTION OF REQUEST
<b>Stimulus</b>	Work with City and County to effectively compete for stimulus funding.
<b>I-295 Loop</b>	Support efforts by NC DOT to fund the I-295 Loop.
<b>National Sustainability Center</b>	Keep Chamber informed on sustainability funding and initiatives that would help support the development of a National Sustainability Center in Fayetteville-Cumberland County.
<b>Abandoned Home Removal</b>	Keep County informed on funding available to assist in transforming vacant and blighted properties near Fort Bragg.
<b>Air Quality</b>	Pursue local, state and EPA agreement to reach attainment.
<b>Homelessness</b>	Develop awareness of City's 10-Year Plan to end chronic homelessness and pursue funds for same, as well as specifically for homeless veterans.
<b>Murchison Road Redevelopment</b>	Support City's effort for grants and low interest loans to help fund redevelopment of the Murchison Road Corridor.
<b>Crime</b>	Support cops on the streets, gang resistance and education, and crime prevention funding.
<b>Sidewalks</b>	Support Safe Route to Schools.
<b>Modernize Tax Code for Employee Cell Phones</b>	Support NLC and NACo's position on HR 690 / S 144 to modernize the tax code and remove cell phones and related telecommunications equipment from the listed property rules.

FOR MORE INFORMATION CONTACT:

Debra Bryant  
 (202) 331-8500  
[dbryant@tfgnet.com](mailto:dbryant@tfgnet.com)



Leslie Mozingo  
 (336) 766-1801  
[lmozingo@tfgnet.com](mailto:lmozingo@tfgnet.com)



**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Gloria Wrench, Purchasing Manager  
**DATE:** January 25, 2010  
**RE:** **Engineering & Infrastructure (via PWC) - Bid Recommendation for Skye Drive Stormwater Improvements-System #2**

---

**THE QUESTION:**

Staff requests approval to award a contract for the Skye Drive Stormwater Improvements - System #2 project.

**RELATIONSHIP TO STRATEGIC PLAN:**

More Efficient City Government – Investing in the City’s infrastructure Facilities and Equipment.

**BACKGROUND:**

Formal bids were received January 7, 2010 as follows:

Colt Contracting Company, Clinton, NC	\$503,433.45
Billy Bill Grading, Fayetteville, NC	\$512,491.75
Lanier Construction Co., Snow Hill, NC	\$545,075.00
Rock Grading & Paving, Inc., Florence, SC	\$562,063.50
Triangle Grading & Paving, Burlington, NC	\$627,990.33
ES&J Enterprises, Inc., Autryville, NC	\$694,878.78
Narron Contracting, Inc., Middlesex, NC	\$705,331.50

On September 28th, Council approved a resolution accepting a Clean Water State Revolving Loan for the Skye Drive Drainage Improvement Project through the North Carolina Department of Environment and Natural Resources in the amount of \$557,000. This project will reduce flooding along city streets, private properties, and reduce stormwater runoff into Branson Creek thus decreasing stream bank erosion with the installation of an underground detention facility in an existing parking lot located on the campus of Fayetteville Technical Community College (FTCC).

**ISSUES:**

None

**OPTIONS:**

- (1) Award contract according to staff recommendation.
- (2) Not award contract.

**RECOMMENDED ACTION:**

Award contract to Colt Contracting Company, Clinton, NC, the lowest responsive, responsible bidder, in the amount of \$503,433.45.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Gloria Wrench, Purchasing Manager  
**DATE:** January 25, 2010  
**RE:** **Engineering & Infrastructure (via PWC) - Consider Resolution of Award for Reilly Road/Ramsey Street Sidewalk Project**

---

**THE QUESTION:**

Staff requests that Council adopt the attached Resolution of Award for the Reilly Road/Ramsey Street Sidewalk Project.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growing City, Livable Neighborhoods – A Great Place to Live

**BACKGROUND:**

The City received funding from the North Carolina Department of Transportation (NCDOT) Safe Routes to School Division for construction of this project. The NCDOT requires that Council adopt a Resolution of Award as part of the funding agreement.

Bids were received December 17, 2009 as follows:

Sandhills Contractors, Sanford, NC	\$109,075.00
Paul Howard Construction, Greensboro, NC	\$124,640.00
White Oak Construction, New Hill, NC	\$126,510.00
Lanier Construction, Snow Hill, NC	\$127,982.00
Browe Construction, Clayton, NC	\$145,150.00

**ISSUES:**

None

**OPTIONS:**

- (1) Adopt resolution as recommended.
- (2) Not adopt resolution.

**RECOMMENDED ACTION:**

Adopt the attached resolution of award to Sandhills Contractors, Sanford, North Carolina, the lowest responsible, responsive bidder, for construction of the Reilly Road/Ramsey Street Concrete Sidewalk project.

**ATTACHMENTS:**

Resolution of Award for Reilly Road/Ramsey Street Sidewalk Project

**RESOLUTION OF AWARD  
OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA**

**Reilly Road/Ramsey Street Sidewalk Project**

**North Carolina Department of Transportation  
Safe Routes to School Division Fund Project**

**WHEREAS**, The City of Fayetteville, North Carolina, hereinafter referred to as City, publicly advertised for bids to be received for the Reilly Road/Ramsey Street Sidewalk Project on Thursday, December 17, 2009; and,

**WHEREAS**, the Bids were publicly opened on the stated date; and,

**WHEREAS**, the City has accepted a loan from the Federal Highway Administration, through the North Carolina Department of Transportation Safe Routes to School Division Fund, in the amount of \$147,000 for the Reilly Road/Ramsey Street Sidewalk Project.

**NOW THEREFORE BE IT RESOLVED BY THE CITY** that the bid be awarded in accordance with the Engineer's recommendation to the lowest responsive, responsible bidder, Sandhills Contractors, Inc, Sanford, North Carolina, in the amount of \$109,075. This Resolution authorizes the Mayor, or his designee, to execute on behalf of the City of Fayetteville, a contract and any change orders within the budgeted amount, with Sandhills Contractors, Inc., for the project known as Reilly Road/Ramsey Street Sidewalk project.

Bids are awarded subject to approval of the North Carolina Department of Transportation Safe Routes to School Division.

The City Council of the City of Fayetteville, North Carolina, has read, approved and adopted this Resoultion in the form presented above.

Adopted this 25<sup>th</sup> day of January, 2010, at Fayetteville, North Carolina.

**THE CITY OF FAYETTEVILLE,  
NORTH CAROLINA**

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

**ATTEST:**

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

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Lisa T. Smith, Chief Financial Officer  
**DATE:** January 25, 2010  
**RE:** **Finance - Budget Ordinance Amendment 2010-5 (General Fund - City Attorney's Office and Fire Department)**

---

**THE QUESTION:**

This budget ordinance amendment will appropriate \$72,700 of fund balance and \$98,473 of projected revenues from a contract to provide fire protection and first responder medical services for a portion of the West Area Fire District to provide funding for additional contracted legal services for the City Attorney's Office and additional personnel, operating and equipment expenses for the Fire Department.

**RELATIONSHIP TO STRATEGIC PLAN:**

Mission Principle: Financially Sound City Government.

**BACKGROUND:**

- During the first half of the budget year, the City Attorney's office has been involved in bringing to conclusion several cases that have been ongoing for years. While these cases have been resolved, a litigation budget amendment of \$100,000 is necessary for the remainder of the year.
- The City has contracted with Cumberland County to provide fire protection services for a portion of the West Area Fire District that is adjacent to the northern boundaries of the City. The City will be paid the fire district tax revenues collected from the area under protection. The Fire Department will incur expenses for three additional firefighters, operating and equipment costs estimated at \$71,173 for the balance of fiscal year 2010 to service the contract. The fire tax revenues estimated to be received for fiscal year 2010 total \$98,473.

**ISSUES:**

None

**OPTIONS:**

Adopt the budget ordinance amendment to appropriate the necessary funding to provide the contracted fire protection services and fund needed legal services.

**RECOMMENDED ACTION:**

Adopt the budget ordinance amendment.

**ATTACHMENTS:**

BOA 2010-5

2009-2010 BUDGET ORDINANCE AMENDMENT  
CHANGE 2010-5

BE IT ORDAINED BY THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA:

That the City of Fayetteville Budget Ordinance adopted June 22, 2009 is hereby amended as follows:

Section 1. It is estimated that the following revenues and other financing sources will be available during the fiscal year beginning July 1, 2009, and ending June 30, 2010, to meet the appropriations listed in Section 2.

<u>Item</u>	<u>Listed As</u>	<u>Revision</u>	<u>Revised Amount</u>
<u>Schedule A: General Fund</u>			
Intergovernmental Revenues	\$ 52,201,917	\$ 98,473	\$ 52,300,390
Fund Balance Appropriation	9,739,789	72,700	9,812,489
All Other General Fund Revenues and OFS	86,981,494	-	86,981,494
Total Estimated General Fund Revenues and Other Financing Sources	<u>\$ 148,923,200</u>	<u>\$ 171,173</u>	<u>\$ 149,094,373</u>

Section 2. The following amounts are hereby appropriated for the operations of the City Government and its activities for the fiscal year beginning July 1, 2009, and ending June 30, 2010, according to the following schedules:

<u>Item</u>	<u>Listed As</u>	<u>Revision</u>	<u>Revised Amount</u>
<u>Schedule A: General Fund</u>			
City Attorney's Office	\$ 1,084,729	\$ 100,000	\$ 1,184,729
Fire & Emergency Management	21,179,424	71,173	21,250,597
All Other General Fund Departments	126,659,047	-	126,659,047
Total Estimated General Fund Expenditures	<u>\$ 148,923,200</u>	<u>\$ 171,173</u>	<u>\$ 149,094,373</u>

Adopted this 25th day of January, 2010.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Lisa Smith, Chief Financial Officer  
**DATE:** January 25, 2010  
**RE:** **Finance - Resolution to Accept the State Grant and Capital Project Ordinance 2010-16 (Airport Fingerprint Machine Replacement)**

---

**THE QUESTION:**

The attached resolution must be adopted to accept the grant, and the attached capital project ordinance will appropriate \$13,772 for the Airport Fingerprint Machine Replacement Project.

**RELATIONSHIP TO STRATEGIC PLAN:**

Goal 4 - More Efficient City Government - Investing in the City's future infrastructure, facilities and equipment.

**BACKGROUND:**

- This \$13,772 project is for the replacement of the fingerprint machine located at the Airport.
- The current funding sources for this project consist of a grant from the NC Department of Transportation in the amount of \$12,395 and a required local match from the Airport Operating Fund in the amount of \$1,377.
- The fingerprint machine that is being replaced is broken and is not in service.
- The attached resolution will authorize the City to execute the grant agreement.
- The attached project ordinance will formally establish the budget for this project.

**ISSUES:**

None

**OPTIONS:**

- Adopt the resolution to accept the grant and adopt Capital Project Ordinance 2010-16.
- Do not adopt the resolution or ordinance and do not proceed with the project.

**RECOMMENDED ACTION:**

Adopt the resolution to accept the grant and adopt Capital Project Ordinance 2010-16.

**ATTACHMENTS:**

CPO 2010-16 Airport Fingerprint Machine Project  
Resolution for Airport Fingerprint Machine

CAPITAL PROJECT ORDINANCE  
ORD 2010-16

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 a new fingerprint machine at the Airport.

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:

NC Department of Transportation	\$ 12,395
Airport Operating Fund Transfer	<u>1,377</u>
	<u>\$ 13,772</u>

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

Project Expenditures	<u>\$ 13,772</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 25th day of January, 2010.

**RESOLUTION**

A motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_  
(Name and Title)

\_\_\_\_\_ for the adoption of the following resolution, and upon being put to a  
(Name and Title)  
vote was duly accepted:

WHEREAS, a Grant in the amount of \$12,395 has been approved by the Department based on total estimated cost of \$13,772; and

WHEREAS, an amount equal to or greater than 10 percent of the total estimated project cost has been appropriated by the Sponsor for this Project.

NOW THEREFORE, BE AND IT IS RESOLVED THAT THE \_\_\_\_\_ Mayor \_\_\_\_\_  
(Title)

of the Sponsor be and he hereby is authorized and empowered to enter into a Grant Agreement with the Department, thereby binding the Sponsor to the fulfillment of its obligation incurred under this Grant Agreement or any mutually agreed upon modification thereof.

I, Rita Perry, City Clerk \_\_\_\_\_ of the  
(Name and Title)

City of Fayetteville \_\_\_\_\_ do hereby certify that  
(Sponsor)

the above is a true and correct copy of an excerpt from the minutes of the  
City of Fayetteville \_\_\_\_\_ of a meeting  
(Sponsor)

duly and regularly held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

This, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**SPONSOR SEAL**

Signed: \_\_\_\_\_

Title: City Clerk

Of The: City of Fayetteville

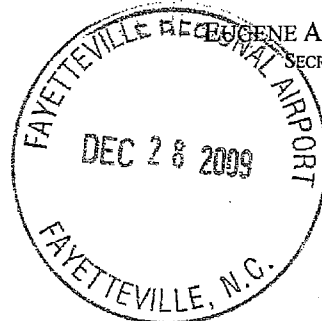




STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE  
GOVERNOR

December 18, 2009



EUGENE A. CONTI, JR.  
SECRETARY

Mr. Toney Coleman, Assistant Director  
Fayetteville Regional Airport  
P.O. Box 64218  
Fayetteville, NC 28306

Dear Mr. Coleman:

Enclosed are state airport aid grant agreements for the funding of your State Airport Aid Project 36244.27.9.4 (Fingerprint Machine). The appropriate governmental body must execute these agreements. Upon completion, both original copies of the agreement must be returned to this office. Please remember that all signatures and seals must be original and not reproduced copies. The Department will fill in the date on the first page of the agreements once the Deputy Secretary of Transportation signs the documents.

Please note that the signature pages are pages 3 and 4 of the Agreement. Once the Department has executed the grant agreements, one copy will be returned to you for your files.

If you have any questions, please contact your Airport Project Manager, Dion Viventi or myself.

Sincerely,

Nancy C. Seigler  
Grants Administrator

NCS/cae  
Enclosures

cc: Carter Keller, Aeronautics Council Representative  
David C. Barker, Aeronautics Council Representative  
M. W. Mullinix, Sr., Aeronautics Council Representative

MAILING ADDRESS:  
NC DEPARTMENT OF TRANSPORTATION  
DIVISION OF AVIATION  
1560 MAIL SERVICE CENTER  
RALEIGH NC 27699-1560

TELEPHONE: 919-840-0112  
FAX: 919-840-9267

WEBSITE: [WWW.NCDOT.ORG](http://WWW.NCDOT.ORG)

LOCATION:  
RDU AIRPORT  
1050 MERIDIAN DRIVE  
RDU NC 27623

**GRANT AGREEMENT**

STATE AID TO AIRPORTS  
BETWEEN  
THE N. C. DEPARTMENT OF TRANSPORTATION,  
AN AGENCY OF THE STATE OF NORTH CAROLINA  
AND  
**CITY OF FAYETTEVILLE**

**AIRPORT: FAYETTEVILLE REGIONAL/  
GRANNIS FIELD**

**PROJECT # 36244.27.9.4**

This Agreement made and entered into this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as "Department") and the **CITY OF FAYETTEVILLE**, the public agency owning **FAYETTEVILLE REGIONAL AIRPORT/GRANNIS FIELD** (hereinafter referred to as "Sponsor").

**WITNESSETH**

WHEREAS, Chapter 63 of the North Carolina General Statutes authorizes the Department, subject to limitations and conditions stated therein, to provide State Aid in the forms of loans and grants to cities, counties, and public airport authorities of North Carolina for the purpose of planning, acquiring, and improving municipal, county, and other publicly-owned or publicly controlled airport facilities, and to authorize related programs of aviation safety, education, promotion and long-range planning; and

WHEREAS, the Sponsor has made a formal application dated **NOVEMBER 16, 2009** to the Department for State Financial Aid for **FAYETTEVILLE REGIONAL AIRPORT/GRANNIS FIELD**; and

WHEREAS, a grant in the amount of **\$12,395** not to exceed **90 percent** of the non-federal share of the final, eligible project costs has been approved subject to the conditions and limitations herein; and

WHEREAS, the Grant of State Airport Aid funds will be used for the following approved Project (if a federal aid project, this scope shall also include any modifications thereto by the Federal Aviation Administration):

NOW THEREFORE, the Sponsor and Department do mutually hereby agree as follows:

**PROJECT DESCRIPTION:**

**FINGERPRINT MACHINE**

1) That the Sponsor shall promptly undertake the Project and complete all work on the Project prior to the 1st day of JULY 2013, unless a written extension of time is granted by the Department.

2) Work performed under this Agreement shall conform to the approved project description. Any amendments to, or modification of, the scope and terms of this Agreement shall be in the form of a Modified Agreement mutually executed by the Sponsor and the Department, except that an extension of time may be granted by the Department by written notice to the Sponsor.

3) Debarment and Suspension: The Grantee agrees to comply, and assures the compliance by each of its third party contractors and sub recipients at any tier, with the provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations on Debarment and Suspension at 49 C.F.R. Part 29.

4) The Sponsor certifies that it has adhered to all applicable laws, regulations, and procedures in the application for and Sponsor's approval of the Grant.

5) For a material breach of this Agreement or the Sponsor's Assurances, the Sponsor shall be liable to the Department for the return of all grant monies received.

6) The Sponsor agrees to adhere to the standards and procedures contained in the State Aid to Airports Program Guidance Handbook (third edition, dated January 1997), unless the Department issues a written waiver.

7) The Sponsor agrees to comply with the "Sponsor's Assurances" contained as a part of this Agreement.

8) N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this grant agreement, you attest, for your entire organization and its employees or agents that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

IN WITNESS WHEREOF, THE PARTIES HERETO EXECUTED THIS GRANT AGREEMENT THE DAY AND YEAR FIRST WRITTEN ABOVE:

NCDOT SEAL

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION:

BY: \_\_\_\_\_  
Deputy Secretary for Transit

ATTEST: \_\_\_\_\_

SPONSOR:

SPONSOR SEAL

Signed: \_\_\_\_\_

Title: Mayor

Attest: \_\_\_\_\_

STATE OF NORTH CAROLINA, COUNTY OF Cumberland

I, Jennifer K. Penfield, a Notary Public in and for the County and State aforesaid, do hereby certify that Anthony G. Chavonne personally came before me this day and acknowledged that he is Mayor of the City of Fayetteville  
(Title) (Sponsor)

(hereinafter referred to as "Sponsor" and by authority duly given and as an act of said Sponsor, the foregoing instrument was signed by him, attested by Rita Perry, City Clerk of the Sponsor, and the  
(Name and Title)

Seal of the Sponsor affixed hereto.

WITNESS my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public (Signature)

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

SEAL

SECTION A: SPONSOR'S ASSURANCES: GENERAL CONDITIONS

A-1. The Sponsor certifies that it holds fee simple title to the property on which this project is to be constructed. In the event any work is proposed on property which has an easement or lease in the Sponsor's name, the Sponsor agrees that it will comply with the Department's conditions and receive written approval prior to any construction on such lease or easements. This condition does not apply to planning projects.

A-2. The Sponsor agrees to operate the Airport for the use and benefit of the general public and shall not deny reasonable access to public facilities by the general public.

A-3. The Sponsor agrees to operate, maintain, and control the Airport in a safe and serviceable condition for a minimum of twenty (20) years following the date of this Agreement and shall immediately undertake, or cause to be undertaken, such action to correct safety deficiencies as may be brought to its attention by the Department.

A-4. The Sponsor agrees that any land purchased, facilities constructed, or equipment acquired under this Agreement shall not be sold, swapped, leased or otherwise transferred from the control of the Sponsor without written concurrence of the Department.

A-5. The Sponsor agrees that the state share of any land purchased, facilities constructed, or equipment acquired under this Agreement shall be credited to the Department in a manner acceptable to the Department in the event such land, facilities or equipment are subsequently disposed of through sale or lease.

A-6. Insofar as it is within its power and reasonable, the Sponsor shall, either by the acquisition and retention of property interest, in fee or easement, or by appropriate local zoning action, prevent the construction of any object which may constitute an obstruction to air navigation under the appropriate category of Federal Air Regulation Part 77, 14 CFR 77.

A-7. Insofar as it is within its power and reasonable, the Sponsor shall, either by acquisition and the retention of property interest, in fee or easement, or by appropriate local zoning action, restrict the use of land in the airport's environs to activities and purposes which are compatible with normal airport operations including landing and takeoff of aircraft and the noise produced by such operations.

A-8. Terminal building spaces constructed under this Grant Agreement shall be for the use of the general public. The Sponsor agrees that it will not use any space so constructed for private use, or charge fees for the use of such space, without the written approval of the Department.

**SECTION B: SPONSOR'S ASSURANCES: PROJECT ADMINISTRATION**

B-1. The Airport shall comply with all requirements of the State Aid to Airports Program Guidance Handbook (third edition, January 1997).

B-2. It is the policy of this State, to encourage and promote participation by disadvantaged minority owned and women owned businesses (MBE and WBE) in contracts let by the Department pursuant to GS 136-28.4 for the planning, design, preconstruction, construction, alteration, or maintenance of State highways, roads, streets, or bridges, airports and airport related construction, and in the procurement of materials for these projects. All State agencies, institutions, and political subdivisions shall cooperate with the Department of Transportation and among themselves in all efforts to conduct outreach and to encourage and promote the use of disadvantaged minority owned and women owned businesses in these contracts. This is designed to ensure minority MBEs and WBEs have maximum opportunity to participate in performance of NCDOT contracts let using state funding. The sponsor assures and certifies with respect to this grant that they will pursue these requirements as stipulated by the Department in the advertising, award and administration of all contracts, and require the same for all contractors, sub recipient or subcontractors.

MBE\WBE program is governed by G.S. 136-28.4 and administered in accordance with Title 19A Chapter 02 SubChapter D Section .1101 - .1112 of North Carolina Administrative Code (19A NCAC 02D.1101).

B-3. The Sponsor shall submit draft plans and specifications, or approved alternate, for the project for review by the Department prior to advertising for bids on the Project. Should bids not be required on the project, the Sponsor shall submit a detailed work scope and estimated costs prior to requesting "Project Concurrence and Notice to Proceed" form (AV-CONCUR/AV-503) for undertaking the project. All plans (and alternate) shall be supported by engineer's report.

B-4. Bids will be taken in accordance with N. C. General Statute 143-129. Following bid opening or final contract negotiations, the Sponsor shall submit the "Project Concurrence and Notice to Proceed" (AV-CONCUR/AV-503) request along with the bid tabulations to the Department for review. The Department will take action on the request including the approval or disapproval of the Sponsor's Employment of specific contractors within ten (10) days of receipt.

B-5. All contractor(s) who bid or submit proposals for contracts in connection with this project must submit a statement of non-collusion to the Sponsor.

B-6. The Sponsor shall not commence construction or award construction contracts on the project until a written "Project Concurrence and Notice to Proceed" (AV-CONCUR/AV-503) is co-signed by the Sponsor's Representative and the Department or alternate written approval is provided by the Department.

B-7. The Sponsor shall submit quarterly status reports (AV-STATUS/AV-502) to the Department, unless otherwise instructed, and will immediately notify the Department of any significant problems which are encountered in the completion of the project.

B-8. The Sponsor shall notify the Department of any significant meetings or inspections involving the Sponsor, his contractor(s), consultant(s), and/or federal funding agencies concerning Project.

B-9. The Sponsor shall provide the Department with such interim plans, specifications, reports, and other studies as may be produced under the Project prior to the acceptance of such Document by the Sponsor. Further, the Sponsor shall provide the Department with a final copy of such documents following their approval and acceptance by the Sponsor.

B-10. The Sponsor shall notify the Department within thirty (30) days of completion of all work performed under this agreement for the purpose of final acceptance inspection and completion of audit requirements by the Department.

B-11. The Sponsor has full responsibility for assuring the completed Project meets the requirements of the Department and appropriate federal funding agencies. The Sponsor further certifies that all local, state, and federal requirements for the conduct of this Project shall be met.

B-12. It is the policy of the Department not to award contracts to contractors who have been removed from the Department's list of pre-qualified bidders without subsequent reinstatement. Therefore, no State funds will be provided for any work performed by the contractor(s), or sub-contractor(s) which had been removed from the Department's list of pre-qualified bidders without subsequent reinstatement as of the date of the signing of the construction contract. It shall be the responsibility of Sponsor to insure that only properly qualified contractors are given construction contracts for work.

#### **SECTION C: SPONSOR'S ASSURANCES: PROJECT ACCOUNTING AND PAYMENT**

C-1. The Sponsor shall record all funds received under this Agreement and shall keep the same in an identifiable Project account. The Sponsor, and his contractor(s) and/or consultant(s), shall maintain adequate records and documentation to support all Project costs incurred under this Grant. All records and documentation in support of the Project costs must be identifiable as relating to the Project and must be acceptable costs only. Acceptable costs are defined as those costs which are acceptable under "Federal Acquisition Regulations 1-31.6, 48 CFR (OMC Circular A-87)". Acceptable items of work are those referenced in the State Aid to Airports Program Guidance Handbook and North Carolina General Statutes. The Sponsor's accounting procedures which were established for work as set out in this Agreement must be reviewed and accepted by the Department prior to the final execution of this Agreement and payment of State funds, except for Sponsor reporting under OMB Circular A-133.

C-2. The Sponsor and his contractor(s) and/or consultant(s) shall permit free access to its accounts and records by official representatives of the State of North Carolina. Furthermore, the Sponsor and contractor(s) and/or consultant(s) shall maintain all pertinent records and documentation for a period of not less than five (5) years from the date of final payment.

C-3. In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" ([www.whitehouse.gov/wh/eop/omb](http://www.whitehouse.gov/wh/eop/omb)), the Airport shall arrange for an independent financial and compliance audit of its fiscal operations. The Airport shall furnish the Department with a copy of the independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the Airports fiscal year ends.

The Airport shall maintain all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Airport shall make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of final payment under this agreement, for inspection and audit by the Department's Fiscal Section

C-4. Payment of the funds obligated under this Grant Agreement shall be made in accordance with the following schedule, unless otherwise authorized by the Department::

A. Payments will be made on the basis of progress payments which may be requested by the Sponsor as costs are incurred, but not more frequently than monthly. Progress payments will be made provided the following requirements have been met:

- (1) The Grant Agreement has been executed and a Project Concurrence (AV-CONCUR/AV-503) issued.
- (2) The Project has received an appropriate environmental finding.
- (3) The Sponsor has submitted a Proposed Project Budget (AV-BUDGET/AV-504) accurately reflecting costs to date.
- (4) The Sponsor has submitted an executed Interim Payment Request (AV-PAY/AV-505) accurately reflecting costs incurred to date.
- (5) The Sponsor has complied with all applicable conditions of the State Aid to Airports Program Guidance Handbook (third edition, dated January 1997).

B. The submission of progress payments is expected to parallel the value of work actually completed and costs incurred. At such point the Sponsor has requested payments equaling 100% of the State Grant, it is expected that the approved Project will be 100% complete.

C. Upon receipt of 100% of the State Grant, the Sponsor will promptly complete Project acceptance and submit the Project Completion and Final Payment Request (AV-FINAL/AV-506).

C-5. If after the acceptance of the Project by the Department, the final State share of approved eligible items is less than the amount of State funds actually disbursed for the Project, the Sponsor shall reimburse the Department in an amount equal to the difference between the amount of State funds actually disbursed and the final State share of the final, audited, approved eligible Project costs within thirty (30) days of notification by the Department of the amount due.



C-6. If after the acceptance of the Project by the Department, the final State share of approved eligible Project costs shall be more than the amount of State funds obligated for the Project, the Sponsor may make application to the Department for a corresponding increase which will be considered for funding in accordance with their relative priority versus other applications for available State funds.

C-7. Under certain conditions, projects originally involving only State and local funds may subsequently be eligible for reimbursement from federal funding agencies. In such cases, the Sponsor shall notify the Department of its intent to apply for federal reimbursement and shall keep the Department informed of the status of such application. In the event federal funds are obtained for all or a portion of the Project, the Sponsor shall refund to the Department an amount equal to the difference between State funds originally disbursed for the work item(s) subsequently receiving federal funds and the final State share of the costs of the affected item(s) of work. Reimbursement will be made within ninety (90) days of the date of the final execution of the FAA Grant Agreement affecting the work elements in the approved Project.

C-8. For the purpose of calculating the State share of the Project, federal funds are defined as funds provided by an agency of the federal government for the specific purpose of undertaking the Project, including Block Grant funds administered by the Department.

#### **SECTION D: SPONSOR'S ASSURANCES: REAL PROPERTY ACQUISITION**

D-1. The acquisition of land, buildings, and other real property involving the use of State Airport Aid funds shall be in compliance with the provisions of this Section.

D-2. The Sponsor shall depict each parcel to be acquired on an airport property map containing the identity of the parcel and its metes and bounds.

D-3. The acquisition cost of each parcel, building, or other real property acquired with State financial assistance shall be based on the fair market value of the property as determined by an appraisal process acceptable to the Department.

D-4. For each parcel or building with an estimated cost of \$100,000 or less, fair market value shall be established by a single original appraisal and a review appraisal. For complex acquisitions, fair market value shall be established by two original appraisals and one review appraisal.

D-5. All original and review appraisals shall be conducted by qualified appraisers who have no financial or other interest in the property to be acquired.

D-6. The fair market value of a parcel will be established by the review appraiser based upon the information contained in the original appraisal or appraisals.

D-7. No negotiation for property acquisition shall be commenced between the Sponsor and the property owner until the fair market value of the property has been established. Initial negotiations shall be based upon the fair market value.

D-8. Negotiated values above the fair market value shall not be eligible for State funds unless, prior to the final agreement for acquisition, the Sponsor has received the concurrence of the Department for paying such negotiated values in lieu of the appraised fair market value.

D-9. Sponsors which adhere to the federal "Uniform Guidelines for the Acquisition of Property" shall be deemed to have conformed to the Department's guidelines, except that Paragraph 8 above shall also be applicable under such acquisitions.

D-10. In the event the Project is a low value, non-complex acquisition, the Department, at its option, may accept the original appraisal without the review appraisal. In such cases, all other provisions of this Section shall apply.

D-11. Failure to follow the requirements of this Section shall disqualify the property from State participation for any parcel which has not been acquired in accordance with such standards.

**SECTION E: Sponsor's Acknowledgement of Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32**

E-1 Sponsor acknowledges and agrees that it is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Steven K. Blanchard, PWC CEO/General Manager  
**DATE:** January 25, 2010  
**RE:** **PWC - Bid Award for Little Cross Creek Best Management Practices (BMP) Project**

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**THE QUESTION:**

The Public Works Commission of the City of Fayetteville requests Council approve bid award for Little Cross Creek Best Management Practices (BMP) Project.

**RELATIONSHIP TO STRATEGIC PLAN:**

Quality Utility Services

**BACKGROUND:**

The Public Works Commission, during their meeting of January 13, 2010 approved to award bid for the Little Cross Creek BMP Project to Wells Brothers Construction Company, Turkey, NC in the total amount of \$1,222,516.00 and to forward to City Council for approval. Bids were received December 31, 2009 as follows:

<u>Bidders</u>	<u>Total Cost</u>
Wells Brothers Construction Co., Turkey, NC	\$1,222,516.00
Lanier Construction Co., Snow Hill, NC	\$1,376,965.00
S.T. Wooten Company, Wilson, NC	\$1,517,049.75
Hine Sitework, Inc., Goldsboro, NC	\$1,624,259.00
T.A. Loving, Co., Goldsboro, NC	\$1,713,000.00
ES&J Enterprises, Autryville, NC	\$1,927,980.50

**ISSUES:**

- Bids were solicited from sixteen (16) contractors with seven (7) contractors responding.
- The project consists of work at two sites (Site 17 and Site 25). Contractors had the option to bid on both sites or on one site only. Colt Contracting submitted a bid for Site 25 only; however, they were not the low bidder for that site. All other Contractors submitted bids for both sites.
- Bids advertised in the Fayetteville Observer and on the PWC Website.
- The lowest responsive, responsible bidder, Wells Brothers Construction Co. will utilize SDBE HUB certified subcontractors for approximately 19.7% of the work on this site.

**OPTIONS:**

None

**RECOMMENDED ACTION:**

Award bid to Wells Brothers Construction Company, Turkey, NC

**ATTACHMENTS:**

Bid Recommendation

Bid History

PUBLIC WORKS COMMISSION  
ACTION REQUEST FORM

TO: Steve Blanchard, CEO/General Manager \_\_\_\_\_ DATE: January 6, 2010 \_\_\_\_\_

FROM: Gloria Wrench, Purchasing Manager \_\_\_\_\_

.....  
ACTION REQUESTED: Award contract for Little Cross Creek BMP Project \_\_\_\_\_  
.....

BID/PROJECT NAME: Little Cross Creek BMP Project \_\_\_\_\_

BID DATE: December 31, 2009 DEPARTMENT: Water Resources – Environmental Programs \_\_\_\_\_

BUDGETED AMOUNT: \$2,524,931.00 \_\_\_\_\_  
.....

BIDDERS	TOTAL COST
Wells Brothers Construction Co., Turkey, NC	\$1,222,516.00
Lanier Construction Co., Snow Hill, NC	\$1,376,965.00
S.T. Wooten Company, Wilson, NC	\$1,517,049.75
Hine Sitework, Inc., Goldsboro, NC	\$1,624,259.00
TA Loving Co., Goldsboro, NC	\$1,713,000.00
ES&J Enterprises, Autryville, NC	\$1,927,980.50

.....  
AWARD RECOMMENDED TO: Wells Brothers Construction Co., Turkey, NC \_\_\_\_\_

BASIS OF AWARD: Lowest responsive, responsible bidder \_\_\_\_\_

AWARD RECOMMENDED BY: Kathryn Benson, CH2M Hill, Chad Ham and Gloria Wrench \_\_\_\_\_  
.....

COMMENTS: Plans and specifications were requested by sixteen (16) contractors with seven (7) contractors responding. The project consists of work at two sites (Site 17 and Site 25). Contractors had the option to bid on both sites, or on one site only. Colt Contracting submitted a bid for Site 25 only, however, they were not the low bidder for that site. All other Contractors submitted bids for both sites. Wells Brothers submitted the lowest bid for each individual site, as well as the lowest total bid.  
.....

ACTION BY COMMISSION

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

ACTION BY COUNCIL

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

## BID HISTORY

### LITTLE CROSS CREEK BMP PROJECT BID DATE: DECEMBER 31, 2009

#### Consulting Engineer

CH2M Hill, Raleigh, North Carolina

#### Advertisement

1. The Fayetteville Observer, Fayetteville, NC 12/09/09
2. PWC Website

#### List of Organizations Notified of Bid

1. NAACP Fayetteville Branch, Fayetteville, NC
2. NAWIC, Fayetteville, NC
3. N.C. Institute of Minority Economic Development, Durham, NC
4. CRIC, Fayetteville, NC
5. Fayetteville Business & Professional League, Fayetteville, NC
6. SBTDC, Fayetteville, NC
7. FTCC Small Business Center, Fayetteville, NC
8. The Women's Center of Fayetteville, Fayetteville, NC
9. Fayetteville Area Chamber of Commerce, Fayetteville, NC
10. Carolinas AGC, Fayetteville, Raleigh & Charlotte, NC
11. F.W. Dodge, Raleigh, NC
12. Hispanic Contractors Association, Raleigh, NC

#### List of Contractors Requesting Plans and Specifications

1. ES&J Enterprises, Autryville, NC
2. S.T. Wooten Co., Wilson, NC
3. Wells Brothers Construction, Turkey, NC
4. ACF Environmental, Raleigh, NC
5. Narron Contracting, Middlesex, NC
6. Triangle Grading & Paving, Burlington, NC
7. Lanier Construction, Snow Hill, NC
8. Hine Sitework, Goldsboro, NC
9. Turf Pros, Inc., Hookerton, NC
10. North State Environmental, Winston-Salem, NC
11. Taylors Grading & Utilities, Fayetteville, NC
12. Environmental Design & Construction, Huntsville, AL
13. TA Loving, Goldsboro, NC
14. Blythe Development Co., Charlotte, NC
15. Clary Hood, Inc., Spartanburg, NC
16. Colt Contracting, Clinton, NC

#### SDBE Participation

Wells Brothers Construction Co. will utilize SDBE HUB certified subcontractors for approximately 19.7% of the work on this project.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Steven K. Blanchard, PWC CEO/General Manager  
**DATE:** January 25, 2010  
**RE:** **PWC - Interlocal Agreement Between the County of Cumberland and the Public Works Commission of the City of Fayetteville, NC for the Brooklyn Circle Water Main Extension Project**

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**THE QUESTION:**

The Public Works Commission of the City of Fayetteville requests City Council approve the Interlocal Agreement between the County of Cumberland and the Public Works Commission of the City of Fayetteville, NC for the Brooklyn Circle Water Main Extension Project

**RELATIONSHIP TO STRATEGIC PLAN:**

Quality Utility Services

**BACKGROUND:**

The Public Works Commission, during their regular meeting of January 13, 2010, approved the Interlocal Agreement between the County of Cumberland and the Public Works Commission of the City of Fayetteville, NC for the Brooklyn Circle water main extension project and to forward to City Council for approval. This extension project will provide water service to seventeen contaminated well lots in the Brooklyn Circle area. PWC's contribution toward the cost of the project is \$12,700. Participation in this project was previously approved by the Commission.

**ISSUES:**

None

**OPTIONS:**

None

**RECOMMENDED ACTION:**

City Council approve and execute the Interlocal Agreement with the County of Cumberland.

**ATTACHMENTS:**

Transmittal letter  
Interlocal Agreement



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

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

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

MEMORANDUM

To: Steven K. Blanchard, General Manager  
From: Joe Callis, Business Planning Manager  
**Subject:** *Brooklyn Circle Interlocal Agreement*  
Date: December 16, 2009

I am enclosing four original interlocal agreements for the Brooklyn Circle water main extension. This project will provide water service to seventeen parcels. PWC's contribution towards the cost is \$12,700 to serve the contaminated well lots as part of the project. This amount will be paid upon completion of the project and written acceptance by PWC.

Please place this item on the Commission agenda for consideration. The action requested of the Commission is to approve the project and forward to City Council for full execution. If you have any questions, please do not hesitate to give me a call at extension 4343.

cc: James Rose

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

INTERLOCAL AGREEMENT  
BROOKLYN CIRCLE

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by and between the City of Fayetteville acting by and through its Public Works Commission (hereinafter called COMMISSION) and the County of Cumberland (hereinafter called COUNTY).

WITNESSETH

WHEREAS, the COUNTY and COMMISSION now wish to enter into this Interlocal Agreement to provide for extension of COMMISSION water service to the Brooklyn Circle area as shown on PWC Drawing Number DW-14221.

NOW THEREFORE, in consideration of these premises, COMMISSION and COUNTY do now agree, pursuant to NCGS160A-460, et seq., to enter into an Interlocal Agreement and in consideration of mutual covenants, agreements, and undertakings contained herein, the parties agree to as follows:

1. COUNTY shall furnish all material, perform all labor, and pay all other costs not provided for herein to construct by a contractor licensed to perform utility construction in North Carolina and in accordance with COMMISSION and City of Fayetteville standards approximately 2,097 feet of water main and seventeen 1" water laterals to serve the Brooklyn Circle area.
2. All utilities being installed for the Brooklyn Circle area shall be in accordance with all terms and conditions as outlined in the Utility Extension Agreement dated September 23, 2009.
3. COMMISSION will contribute the total sum of \$12,700 as its contribution towards the water main project. Upon satisfactory completion of construction of the water main extension project and written acceptance of such by COMMISSION, COMMISSION will at such time reimburse COUNTY the agreed sum of \$12,700.
4. **Binding Effect:** This contract shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors, and assigns.
5. **Entire Agreement:** This contract contains the entire agreement of the parties and there are no representations, inducements, or other provisions other than those expressed herein.
6. **Governing Law:** This contract shall be governed by the laws of the State of North Carolina.



IN WITNESS WHEREOF, COMMISSION, COUNTY, and the City of Fayetteville have executed this Agreement as of the date first above written.

COUNTY OF CUMBERLAND

By: Jeanette M. Council  
Jeanette M. Council, Chairman

WITNESS:

Marie Colgan  
Marie Colgan, Clerk to the Board

Approved for legal sufficiency:

Harvey W. Raynor III  
County Attorney

This instrument has been preaudited in the manner Required by the Local Government Budget and Fiscal Control Act.

Amy Cannon  
Amy Cannon, Assistant County Manager for Finance

PUBLIC WORKS COMMISSION OF THE CITY OF FAYETTEVILLE

By: \_\_\_\_\_  
Terri Union, Chairman

ATTEST:

\_\_\_\_\_  
Michael G. Lallier, Secretary

Approved as to form this 10<sup>TH</sup> day of Dec, 2009.

Richard M. Lewis, Jr.  
Richard M. Lewis, Jr.  
Public Works Commission Attorney

This instrument has been preaudited in the manner Required by the Local Government Budget and Fiscal Control Act.

Dwight Miller 12/14/09  
Dwight Miller  
PWC Chief Financial Officer

CITY OF FAYETTEVILLE

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

ATTEST:

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

Approved for legal sufficiency:

\_\_\_\_\_  
Karen M. McDonald  
City of Fayetteville Attorney

This instrument has been preaudited in the manner Required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Lisa Smith  
City of Fayetteville Chief Financial Officer

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Steven K. Blanchard, PWC CEO/General Manager  
**DATE:** January 25, 2010  
**RE:** **PWC - Release of Easement to abandon that portion of the utility easement that is no longer needed on the parcel of land located on Skibo Road referenced by Pin No. 0418-34-8882**

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**THE QUESTION:**

The Public Works Commission of the City of Fayetteville requests City Council approve the request for Release of Easement by Darrell L. Rogers, Trustee, Trustee of the Darrell L. Rogers 2008 Trust, a Texas Irrevocable Trust.

**RELATIONSHIP TO STRATEGIC PLAN:**

Quality Utility Services

**BACKGROUND:**

The Public Works Commission, during their meeting of January 13, 2010 approved a request by Darrell L. Rogers, Trustee, Trustee of the Darrell L. Rogers 2008 Trust, a Texas Irrevocable Trust for the Release of Easement to abandon that portion of the utility easement that is no longer needed on the parcel of land located on Skibo Road referenced by Pin No. 0418-34-8882 and to forward to City Council for approval and execution.

**ISSUES:**

None

**OPTIONS:**

None

**RECOMMENDED ACTION:**

City Council approve and execute the Release of Easement.

**ATTACHMENTS:**

Transmittal Letter and Release of Easement




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  
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## MEMORANDUM

**To:** Steven K. Blanchard, General Manager  
**From:** Joe Callis, Business Planning Manager   
**Subject:** *Easement Abandonment – Sonic on Skibo Road; Reference Pin No. 0418-34-8882*  
**Date:** December 16, 2009

A Sonic Drive-in Restaurant is being built on the land parcel referenced above which is the former site of Purvis Motors. A utility easement for sanitary sewer on the property is recorded in Deed Book 3539, Page 139. The owner/developer is removing the existing structure and redeveloping the property. As part of the redevelopment plans, Sonic is to install a new sewer main to the building off an existing manhole on site and remove that section of the existing sewer no longer needed. The owner/developer has requested formal abandonment of that section of the existing easement.

Attached is the Release of Easement for execution by the City to abandon that portion of the utility easement no longer needed. The Release includes a written legal description and drawing of the easement area to be abandoned.

PWC Water Resources Engineering approved utility plans for the relocation project. Business Planning staff recommends the approval of the request for easement abandonment and this item be placed on PWC Commission Agenda for consideration and, upon approval, forwarded to the City for final action by City Council.

If you have any question regarding this request, please give Jim Autry or myself a call.

cc: Cindy Preas

**STATE OF NORTH CAROLINA**

**RELEASE OF EASEMENT**

**COUNTY OF CUMBERLAND**

PWC Easement No. \_\_\_\_\_

Prepared by and return to PWC

**THIS RELEASE OF EASEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the **CITY OF FAYETTEVILLE**, a North Carolina municipal corporation, hereinafter referred to as GRANTOR, and **DARRELL L. ROGERS, TRUSTEE, TRUSTEE OF THE DARRELL L. ROGERS 2008 TRUST, a Texas Irrevocable Trust**, hereinafter referred to as GRANTEE:

**WITNESSETH THAT:**

WHEREAS, GRANTEE is the current owner of property located on Skibo Road US-401-Bypass and described in deed of record duly recorded in Deed Book 8070, Page 171, Cumberland County Registry; and,

WHEREAS, a utility easement was conveyed to GRANTOR in Deed Book 3539, Page 139, across said property for water, sanitary sewer, and electric utilities including a 20-foot wide utility easement for sanitary sewer as shown on PWC Drawing Number

DW&S-9314, herein referred to as the "Original Easement"; and

WHEREAS, GRANTEE desires to redevelop said property; that in order to do so, it will require that a section of said sanitary sewer be abandoned and released and new sewer lines be installed; and that the portion of the Original Easement requested to be released is no longer needed by GRANTOR; and

WHEREAS, GRANTEE therefore requests that GRANTOR release that portion of the easement to be abandoned as described on the attached **Exhibit "A"** and GRANTOR, having no need for that portion of the easement, has agreed to do so.

NOW, THEREFORE, the GRANTOR, for and in consideration of the sum of One Dollar and other valuable consideration to it in hand paid, the receipt of which is hereby acknowledged, has remised and released and by these presents does remise, release, and forever quitclaim unto the GRANTEE and its successors and assigns all right, title, claim and interest of the GRANTOR in and to that portion of the Original Easement as more particularly described on the attached **Exhibit "A"** and shown on PWC Drawing AS-14261 labeled **Exhibit "B"** which are incorporated herein by reference.

TO HAVE AND TO HOLD, the aforesaid easement of land and all privileges, thereto belonging to the GRANTEE and its successors and assigns free and discharged

from all right, title, claim or interest of the GRANTOR.

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal the day and year first above written.

CITY OF FAYETTEVILLE,  
a municipal corporation

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
KAREN MCDONALD, City Attorney

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

I, a Notary Public for said County and State, certify that **RITA PERRY**, personally appeared before me and this day acknowledged that she is the **City Clerk of the City of Fayetteville**, a North Carolina municipal corporation, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its **City Clerk**.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Notary Public

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed or Typed Name of Notary

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

NORTH CAROLINA -- CUMBERLAND COUNTY  
CROSS CREEK TOWNSHIP

EXHIBIT "A"

Property of

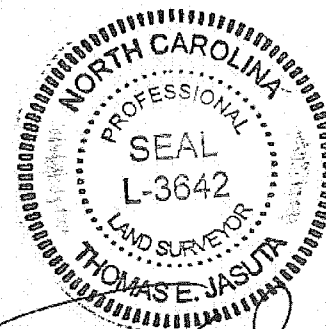
**DARRELL L. ROGERS, TRUSTEE**  
**DB 8070 PG 171**  
**PB 123 PG 131**  
**0418-34-8882**

The following described easement lies within that certain parcel of land on the southern side of Skibo Road, US Hwy 401 By-pass, known as Lot 2, of Plat Book 123, Page 131, and is more fully described by deed duly recorded in Deed Book 8070, Page 171, and being a portion of the 20 foot utility easement granted to the City of Fayetteville by deed duly recorded in Deed Book 3539, Page 139 of the Cumberland County, North Carolina Registry .

**Abandoned Easement:**

**Beginning** at a point in the southern margin of Skibo Road, US Hwy 401 By-pass, said point being N 31°02'04" E, 57.32 feet from an existing iron rod, the northwest corner of the tract of which this is a part; thence with the southern margin of Skibo Road, US Hwy 401 By-pass, N 31°02'04" E, 20.32 feet to a point; thence S 48°48'45" E, 175.13 feet to a point; thence S 41°11'15" W, 20.00 feet to a point; thence N 48°48'45" W, 171.55' feet to the **Point of Beginning**.

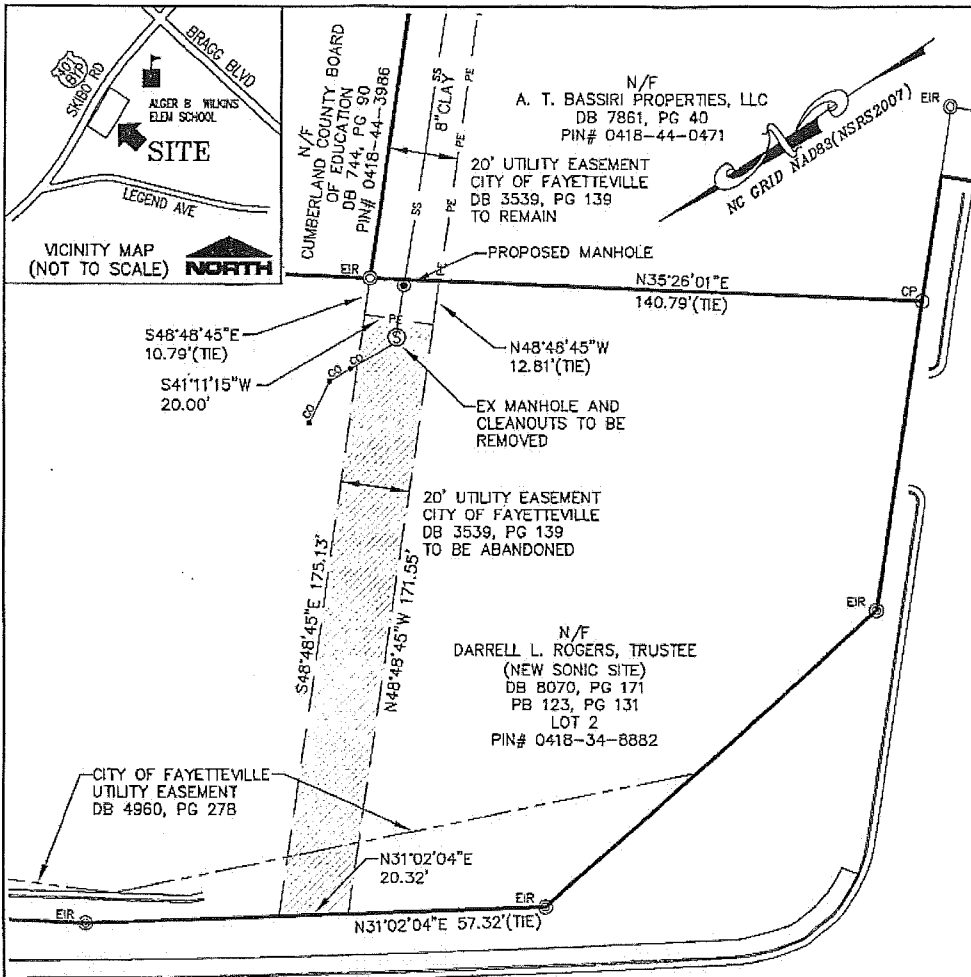
The above described permanent easement is 20.00 in width, containing 3,467 square feet.



*Thomas E. Jasuta*  
12/7/09

NC. Corp. Lic. No.: C-0342

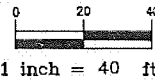




SKIBO ROAD - US HWY 401 BY-PASS

THIS IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.

GRAPHIC SCALE



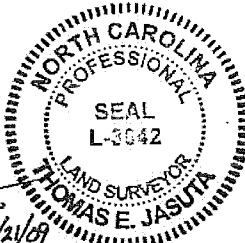
NOTES:

- 1) THIS MAP WAS PREPARED FROM RECORDED MAPS, DEEDS, AND A PARTIAL FIELD SURVEY.
- 2) THIS MAP HAS BEEN PREPARED FOR EASEMENT ABANDONMENT ONLY.
- 3) THIS MAP IS NOT A CERTIFIED SURVEY AND NO RELIANCE MAY BE PLACED IN ITS ACCURACY.

EXHIBIT "B"

- LEGEND:
- N/F-NOW OR FORMERLY
  - PE-PERMANENT EASEMENT
  - ⊙-EXISTING SEWER MANHOLE
  - ⊙-PROPOSED SEWER MANHOLE
  - EIR-EXISTING IRON ROD
  - ⊙ CP-COMPUTED POINT
- JOB NO. 051660003

**MCKIM & CREED**  
 104 GILLESPIE STREET  
 FAYETTEVILLE, NORTH CAROLINA 28301  
 PH (910) 323-3400  
 FAX (910) 323-5232  
 NC FIRM #C-0342  
 Internet Site: <http://www.mckimcreed.com>



AREA (By Coordinate Computation)  
 PERMANENT EASEMENT  
 TO BE ABANDONED = 3,467 SF (0.08 AC)

ABANDONMENT OF A PORTION  
 OF SANITARY SEWER  
 EASEMENT  
 DB 3539, PG 139

THOMAS E. JASUTA  
 PROF. SURVEYOR

*Thomas E. Jasuta*  
 PLS. No. L-3642 10/21/09

PWCENCR

**PUBLIC WORKS COMMISSION**  
 955 OLD WILMINGTON RD.  
 FAYETTEVILLE, N.C. 28301

SURVEY/GPS BY:	DATE	REVISIONS	BY
BY: JK	10/16/09		
PLAN/PROF. BY: JK			
DESIGN REVIEW BY: W/R ENGR. DEPT			
APPROVED BY: <i>CDC</i> 10/22/09			
SCALE: HOR: 1"=40'			

SHT: SHEET# 1A5-14261 DWG

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, Planner II  
**DATE:** January 25, 2010  
**RE:** **Development Services - Case No. P09-47F. The rezoning of the property located at 8363 Cliffdale Road from P2 Professional to C1P Commercial District. Ethel & Worth A. Pate owner.**

---

**THE QUESTION:**

Rezoning consistent with a fully established zoning pattern and development surrounding a small parcel.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growth and Development

**BACKGROUND:**

Owner: Ethel and Worth Pate  
Applicant: Albemorla Oil Co.  
Requested Action: P2 to C1P  
Property Address: 8363 Cliffdale Rd.  
City Council District: 7 (Applewhite)  
Status of Property: House being used as office space.  
Size: 0.44 +/- acres  
Existing Land Use: Office  
Adjoining Land Use & Zoning: North - R6 Residential / South - C1P Commercial / East - C1P Commercial / West C1P Commercial  
2010 Land Use Plan: Medium Density Residential  
Letters Mailed: 37  
Transportation: Cliffdale is a major thoroughfare, with an average daily traffic count of 28,000 vehicles at this location.

2030 Plan - Policy 9.5: SMALLER SCALE COMMERCIAL DEVELOPMENT should be clustered in "nodal" locations convenient to surrounding residential areas. Pedestrian and bicycle facilities should be installed along all streets leading to such commercial nodes.

P2 - Predominantly residential in character, but primarily for general office uses. An office and retail specialty shop area with mixed residential use designated to provide a transition from high intensity use areas to residential districts.

C1P - Identical to the C1 local business district except that plans as required by the subdivision chapter must be submitted to the planning agency for approval prior to development; and, mixed residential use is permitted with special limitations.

**ISSUES:**

This property is surrounded on three sides by C1P Commercial.

**Zoning Commission and Planning Staff recommend Approval of the rezoning based on:**

1. Although the 2010 Land Use Plan calls for medium density residential in this area, the surrounding properties have already been rezoned to commercial.
2. All of the adjoining properties on the south side of Cliffdale Road are zoned commercial.

**OPTIONS:**

1. **Zone the property to C1P Commercial Zoning District (Recommended);**

2. Zone to a more restrictive Zoning District;
3. Deny the rezoning of this property.

**RECOMMENDED ACTION:**

The Zoning Commission and staff recommend that Council move to approve the rezoning from P2 Professional District to C1P Commercial Shopping District based on the information provided in the staff report and the recommendations of both the.

**ATTACHMENTS:**

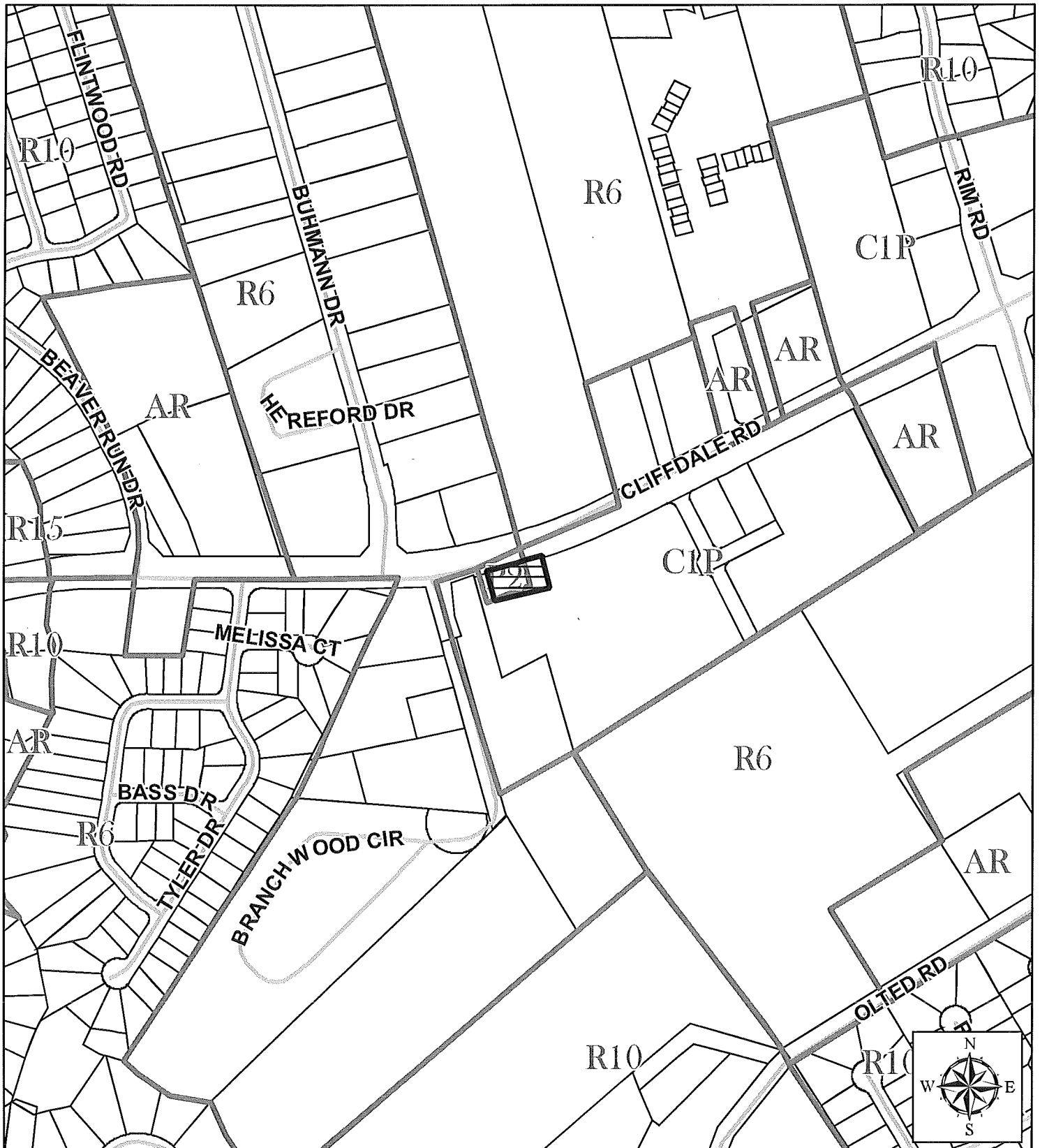
Zoning Map

2010 Plan

Ortho Photo

Zoning Commission Minutes

**ZONING COMMISSION  
CASE NO. P09-47F**



**Request:** P2 to C1p  
**Location:** 8363 Cliffdale Rd  
**Acreage:** +/- 0.44

**Zoning Commission:** 12/08/2009    **Recommendation:** \_\_\_\_\_  
**City Council:** \_\_\_\_\_    **Final Action:** \_\_\_\_\_  
**Pin:** 9487-35-7670







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

# 2010 Land Use Plan

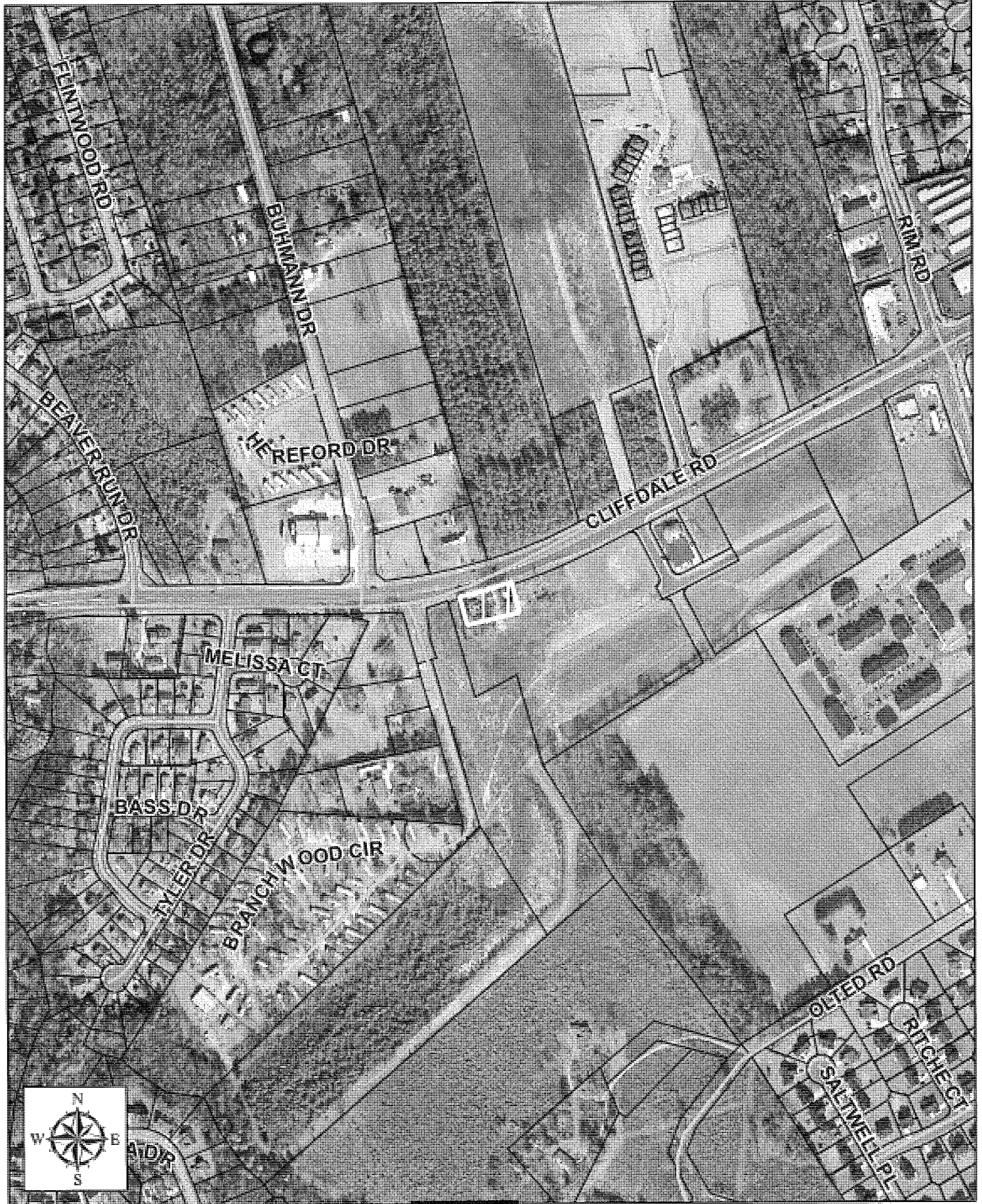
## Case No. P09-47F



### Legend

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

ZONING COMMISSION  
CASE NO. P09-47F



**MINUTES  
CITY OF FAYETTEVILLE  
ZONING COMMISSION  
CITY COUNCIL CHAMBERS  
1ST FLOOR, CITY HALL  
DECEMBER 8, 2009- 7:00 P.M.**

**MEMBERS PRESENT**

Pete Paoni  
Richard West  
John Crawley  
Lockett Tally  
Marshall Isler  
Mannell  
Hendricks

**MEMBERS ABSENT**

**OTHERS PRESENT**

Marsha Bryant, Planner  
Craig Harmon, Planner  
Janet Smith, Asst. City Atty  
David Steinmetz, Inspections  
Karen Hilton, Intm Plan. Dir.

The meeting was called to order at 7:00 pm.

**I. APPROVAL OF AGENDA**

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

**II. APPROVAL OF THE MINUTES FROM THE OCTOBER 13, 2009 MEETING**

Mr. Paoni made a motion to approve the minutes from October 13, 2009. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

**III. APPROVAL OF THE MINUTES FROM THE NOVEMBER 10, 2009 MEETING**

Mr. Crawley made a motion to approve the minutes from November 10, 2009. Mr. Isler 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 are quasi-judicial and speakers must be sworn in before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerk's Office, located on the second floor of City Hall.**

#### IV. PUBLIC HEARINGS

**D. Case No. P09-47F. The rezoning from P2 Professional to C1P Commercial District or to a more restrictive zoning classification for property located at 8363 Cliffdale Road. Containing 0.44 acres more or less and being the property of Ethel & Worth A. Pate.**

Mr. Harmon gave an overview of the case. Mr. Harmon explained the current land use for the property and the surrounding areas. He stated that other portions of the property were rezoned several years ago. Mr. Harmon stated that the property currently has a house on it and is currently being used as office space. He stated that the 2010 land use plan called for medium density residential. He stated that the Planning Department mailed out 37 letters in regards to the request. Mr. Harmon showed pictures to explain current land use of the property.

Mr. Harmon stated that the Planning Staff recommends approval of the rezoning based on:

1. Although the 2010 Land Use Plan calls for medium density residential in this area, the surrounding properties have already been rezoned to commercial.
2. All of the adjoining properties on the south side of Cliffdale Road are zoned commercial.

The public hearing was opened.

Mr. Tim Evans spoke in favor of the request. He stated that he is a representative of the Pate Family. Mr. Evans explained that the owner thought this parcel was being rezoned with the past rezoning. Mr. Evans explained that the lack of rezoning this parcel in the first rezoning was a mistake.

No one appeared to speak in opposition. The public hearing was closed.

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

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



## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, Planner II  
**DATE:** January 25, 2010  
**RE:** **Development Services - Case No. P09-48F. The rezoning of the property located to the west of 8047 Raeford Rd. from AR Agricultural Residential District to R5A Residential District or to a more restrictive zoning. John A Williams, Jr., owner. (Zoning Commission recommendation is for R10)**

---

**THE QUESTION:**

Rezone consistent with long range plans and with established zoning and development patterns surrounding the property.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growth and Development  
Livable Neighborhoods

**BACKGROUND:**

Owner: John A Williams, Jr. et al heirs  
Applicant: Charles Morris  
Requested Action: AR to R5A  
Property Address: West of 8047 Raeford Rd.  
City Council District: 6 (Crisp)  
Status of Property: Wooded lot.  
Size: 28.66 +/- acres  
Existing Land Use: Vacant  
Adjoining Land Use & Zoning: North - R5A, C1P, AR / South - CD Conservation / East - R15 / West - AR  
2010 Land Use Plan: Low Density Residential  
Letters Mailed: 99  
Transportation: Raeford Rd. / 401 is a major thoroughfare, with an average daily traffic count of 22,000 vehicles at this location.

AR - This district is designed for rural use to include agricultural use and low-density residential use. This district would allow for a maximum of 62 units on this property.

R10 - Primarily a single-family residential district with smaller lot areas required but including occasional two-family and multifamily structures on larger lots. This district would allow for a maximum of 166 units on this property.

R5A - Predominately a single-family residential district, but with smaller lot areas per family required, permitting more frequent use of two-family and multifamily structures. This district would allow for a maximum of 416 units on this property.

**ISSUES:**

Case 08-54F rezoned a portion of this property from CD - Conservation District to AR - Agricultural Residential. Some CD remains on this property. It generally corresponds to the 100 year flood plain on the south side of the property.

The Planning staff advised the Zoning Commission that rezoning to R5A would be inappropriate in this area of the City. Staff recommended rezoning to R10 which matches the growth pattern set out in the 2010 Land Use Plan and it is also with the surrounding development. The applicant agreed with a rezoning to R10.

**Zoning Commission recommends Approval of the rezoning to R10 not R5A, as requested, based on:**

1. The 2010 Land Use Plan calls for low density residential in this area.
2. The properties to the east and west of this lot are zoned for low density residential (AR & R15) and these properties are already developed as low density single family housing.
3. It is staffs opinion that the density/zoning classification on this property should go no higher than what is allowed in the R10 district. R5A is the City's second highest density zone for residential and therefore incompatible with the neighboring properties.

**OPTIONS:**

- **Zone to R10, (Recommended by Zoning Commission);**
- Zone the property to R5A Residential Zoning District;
- Deny the rezoning of this property.

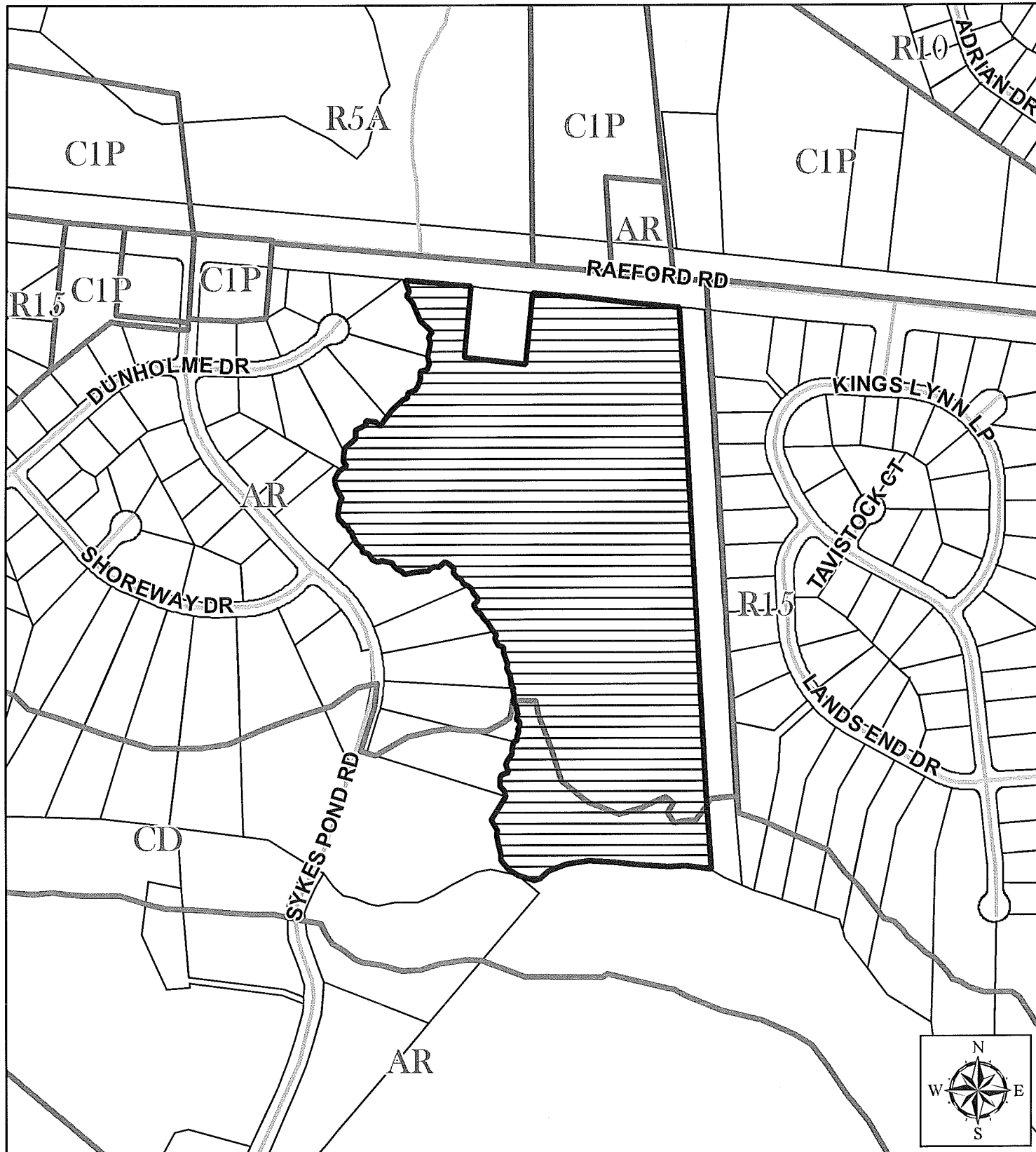
**RECOMMENDED ACTION:**

The Zoning Commission and Staff recommend Council move to approve the rezone from AR Agricultural Residential District to R10 Residential District based on the information provided in the staff report.

**ATTACHMENTS:**

Zoning Map  
2010 Plan  
Current Landuse  
Ortho Photo  
Zoning Commission Minutes

**ZONING COMMISSION  
CASE NO. P09-48F**



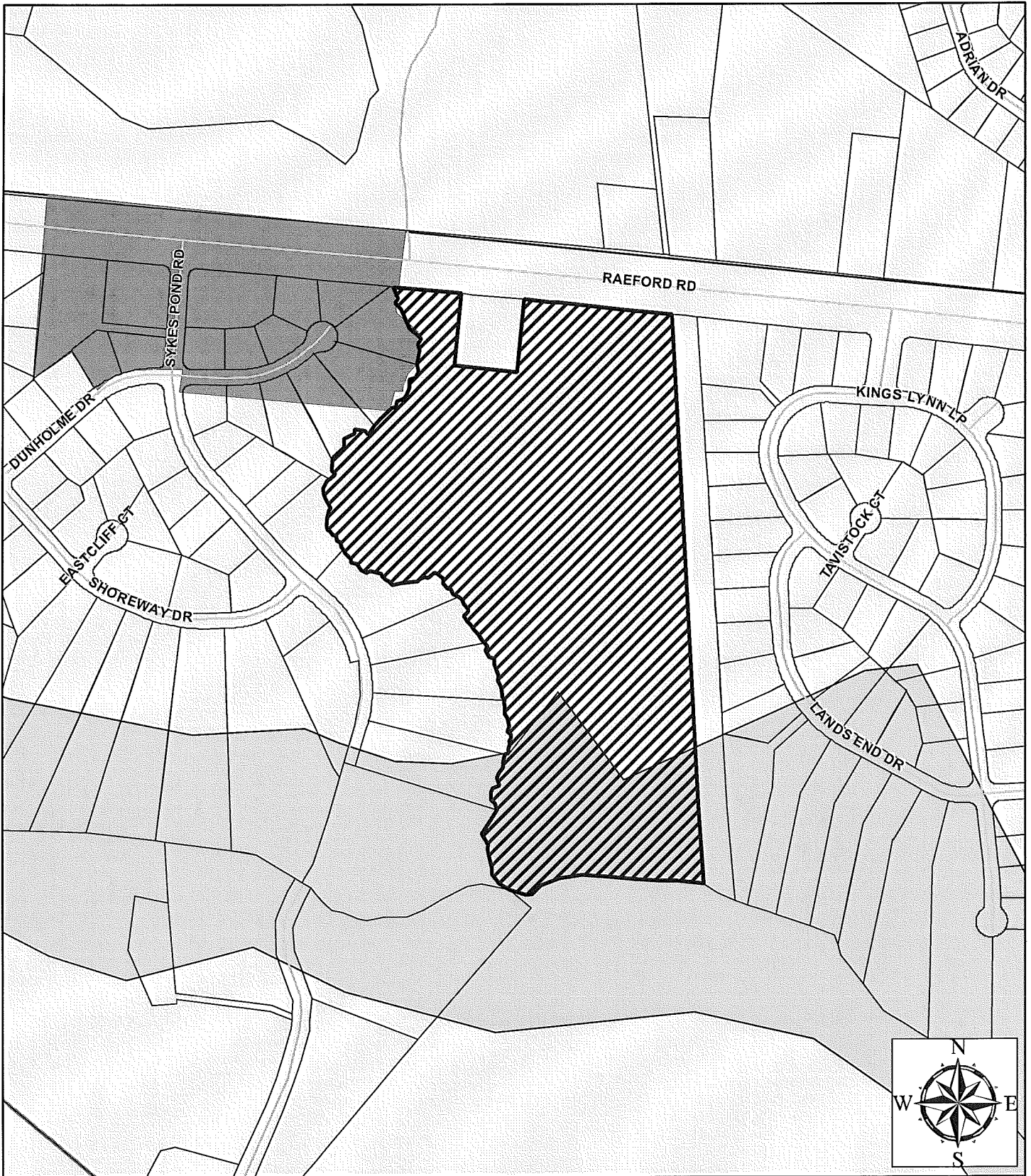
**Request:** AR to R5A  
**Location:** West of 8047 Raeford Rd  
**Acreage:** +/- 28.66 (of 33.71)

**Zoning Commission:** 12/08/2009    **Recommendation:** \_\_\_\_\_  
**City Council:** \_\_\_\_\_    **Final Action:** \_\_\_\_\_  
**Pin:** 9476-95-3701

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

# 2010 Land Use Plan

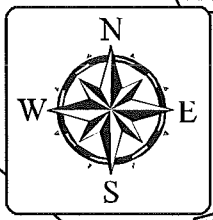
## Case No. P09-48F



### Legend

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

Current Land Use  
P09-48F



Legend

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

ZONING COMMISSION  
CASE NO. P09-48F



**MINUTES  
CITY OF FAYETTEVILLE  
ZONING COMMISSION  
CITY COUNCIL CHAMBERS  
1ST FLOOR, CITY HALL  
DECEMBER 8, 2009- 7:00 P.M.**

**MEMBERS PRESENT**

Pete Paoni  
Richard West  
John Crawley  
Lockett Tally  
Marshall Isler  
Mannell  
Hendricks

**MEMBERS ABSENT**

**OTHERS PRESENT**

Marsha Bryant, Planner  
Craig Harmon, Planner  
Janet Smith, Asst. City Atty  
David Steinmetz, Inspections  
Karen Hilton, Intm Plan. Dir.

The meeting was called to order at 7:00 pm.

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#### IV. PUBLIC HEARINGS

**E. Case No. P09-48F. The rezoning from AR Agricultural Residential District to R5A Residential District or to a more restrictive zoning classification for property located to the west of 8047 Raeford Rd. Containing 28.66 acres more or less and being the property of John A Williams, Jr., et al heirs.**

Mr. Harmon gave an overview of the case. Mr. Harmon explained the current land use for the property and the surrounding areas. He stated that the 2010 land use plan calls for low density residential. Mr. Harmon stated that in 2008 this property was rezoned from Conservation District to Agricultural Residential and runs along the 100 year flood plain. He stated that the Planning Department mailed out 99 letters in regards to the request. Mr. Harmon showed pictures to explain current land use of the property.

Mr. Harmon stated that the Planning Staff recommends denial of the rezoning based on:

1. The 2010 Land Use Plan calls for low density residential in this area.
2. The properties to the east and west of this lot are zoned for low density residential (AR & R15) and these properties are already developed as low density single family housing.
3. It is staffs opinion that the density/zoning classification on this property should go no higher than what is allowed in the R10 district. R5A is the City's second highest density zone for residential and therefore incompatible with the neighboring properties.

Mr. Harmon asked if there were any questions.

Mr. Paoni asked if only the 28.66 acres is to be rezoned and if the request does not include the Conservation District. He asked if it is to remain a Conservation District. He wanted to know if the density for the entire track includes the Conversation District. Mr. Steinmetz stated that the density would be based solely upon the parcels zoned Residential.

The public hearing was opened.

Mr. Charles Morris appeared in favor of the request. Mr. Morris stated that he represents the owners of the property. Mr. Morris stated that the applicant's family has owned the property for more than 100 years. He stated that about 15 years ago the property owner brought the infrastructure to that property at his own expense and the land has developed nicely. Mr. Morris discussed the surrounding neighborhoods and the services that have been provided to them because there had been no infrastructure available to them. Mr. Morris stated that the reason they are asking for the R5A was because there will be a new addition of sewer and water, the owners feel the area will be able to handle a higher density zoning. Mr. Morris stated the applicants would be satisfied with the R10 but would like a higher density if possible.

Mr. Paoni asked how many units were allowed with an R5A zoning. Mr. Morris stated that with the R5A, 406 units would be allowed but the applicant is proposing 310.

Mr. Ed Williams appeared in favor of the request and deferred his time to Mr. Morris.

Mr. Charles Williams appeared in favor of the request and deferred his time to Mr. Morris.



Mr. Morris stated that other land out in that area had a lower density because sewer wasn't available out there at the time, but it is now and they will be able to handle a higher density.

Mr. Paoni addressed his concern about there being too much R5 in the area and asked why the applicant did not consider R6 zoning. Mr. Morris stated that there is currently no R6 in the area and it was likely it not to have been considered.

Mr. Morris stated that the Conservation District is acting as a natural buffer to the lower density properties. Mr. Morris reiterated to the Commission that the applicants would be satisfied with a R6 request.

The public hearing was closed.

Mr. Isler asked Mr. Harmon about the option of a R6 rezoning. Mr. Harmon explained that staff would still feel that it isn't compatible with what's on either side of the property. Mr. Harmon reminded the Commission that this is not a conditional rezoning; that it is a straight rezoning and once the property is rezoned anything allowed with that zoning could take place.

Mr. West stated that he would agree to an R10 rezoning and asked the applicant if they were agreeable to that. Mr. Morris replied that R10 is fine but that a higher density would be better.

Mr. Paoni made a motion to recommend the property be rezoned from an AR zoning to a more restrictive zoning R10. Mr. West seconded the motion. A vote was taken and passed unanimously.

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, Planner II  
**DATE:** January 25, 2010  
**RE:** **Development Services - Case No. P09-49F. The rezoning from P2 Professional District to C3 Commercial District for property located at 230 Robeson Street. Charleston Seven Group, LLC., owner.**

---

**THE QUESTION:**

Rezoning consistent with long range plans and established development patterns.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growth and Development  
Strong Local Economy

**BACKGROUND:**

Owner: Charleston Seven Group, LLC  
Applicant: E.C. Garber, III  
Requested Action: P2 to C3  
Property Address: 230 Robeson St.  
City Council District: 2 (Davy)  
Status of Property: Active commercial along Robeson.  
Size: 0.47 +/- acres  
Existing Land Use: Vacant & Commercial  
Adjoining Land Use & Zoning: North - P2 & C3 / South - R5 & C3 / East - C3 / West - P2  
2010 Land Use Plan: Downtown  
Letters Mailed: 90  
Transportation: Robeson Street is a major thoroughfare, with an average daily traffic count of 17,000 vehicles at this location.

2030 Growth Vision Plan: Policy 1.1: The expansion of existing businesses and the start up of new businesses shall be a critical component of the area's economic development effort.

P2 Professional - Predominantly residential in character, but primarily for general office uses. An office and retail specialty shop area with mixed residential use designated to provide a transition from high intensity use areas to residential districts.

C3 Commercial - Primarily for heavy retail and service establishments and wholesale establishments providing services to residents of the Fayetteville area and which require large amounts of ground area and easy access to the city highway system.

**ISSUES:**

This property is split zoned with C3 facing Robeson and P2 in the back. The applicants are looking to make the entire parcel C3 to allow for a storage area to be built on the back section.

**Zoning Commission and Planning Staff recommend Approval of the rezoning based on:**

1. The 2010 Land Use Plan calls for Downtown uses on this property.
2. The front part of this property is zoned C3. It is too close to residential properties to allow any adult oriented businesses as a re-use of this property.
3. Storage areas fit with the general character and current uses of the surrounding properties. The vacant area fronts McIver St. and would not be visible from Robeson.

**OPTIONS:**

1. **Zone the property to C3 Commercial Zoning District (Recommended);**
2. Zone to a more restrictive Zoning District;
3. Deny the rezoning of this property.

**RECOMMENDED ACTION:**

The Zoning Commission recommend that Council move to approve the rezoning from P2 Professional District to C3 Commercial District based on the information provided in the staff report.

**ATTACHMENTS:**

Application

Vicinity Map

Zoning Map

2010 Plan

Current Landuse

Ortho Photo

Pictures

Zoning Commission Minutes

PO9-49F

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: 230 ROBEYEN ST.

Owner of the Property: CHARLESTON SEVEN GROUP, LLC

Address of the Owner: 1211 ROTHERWOOD RD. GREENSBORO, NC zip 27406

Owner's Home Phone: N/A Owner's Work Phone: 888-222-2472

A. The property sought for Rezoning is owned by SAME AS ABOVE as evidenced by deed, recorded in Deed Book 08173, Page 0198, 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: P-2 To: C-3

Please describe the proposed use of the property requested for rezoning: \_\_\_\_\_

STORAGE

C. Tax Property Identification Number (PIN#) of the property: 0437.33.2928

D. Acreage to be rezoned: ± .47

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): N/A, OPEN FIELD

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.

CHARLESTON SEVEN GROUP, LLC.  
Print or Type Name of Owner  
1211 ROTHERWOOD RD, GREENSBORO, NC. 27406  
Address of Owner  
N/A Home Phone 888-222-2472 Work Phone  
F.C. GARBER, III  
Print or Type Name of Applicant  
P.O. Box 198, Fayetteville, N.C. 28302  
Address of Applicant  
910-484-9243 Home Phone 910-323-1101 Work Phone  
S.C. Jackson, III  
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)

8173  
0198

BK8173PG0198

FILED  
CUMBERLAND COUNTY NC  
J. LEE WARREN, JR.  
REGISTER OF DEEDS

FILED Jun 10, 2009  
AT 02:38:00 pm  
BOOK 08173  
START PAGE 0198  
END PAGE 0203  
INSTRUMENT # 21686  
RECORDING \$29.00  
EXCISE TAX \$600.00

RT

**NORTH CAROLINA SPECIAL WARRANTY DEED**

**NO TITLE EXAMINATION**

**THE FORM OF THIS DEED VARIES FROM THE NC BAR ASSOCIATION FORM NO. 6**

Parcel Identifier No. 0437-33-2928

Excise Tax: \$600.00

Prepared by: Richard A. Galt, PLLC, 2533 Raeford Road, Fayetteville, NC 28305

Return after recording to: ~~Grantee~~

Reaves & Reaves, PLLC

Attorneys at Law

PO Box 53187

Fayetteville, NC 28305

Brief Description for the Index: Lot 1, Plat Book 81, Page 23

This Deed made this the 9 day of June, 2009 by and between:

GRANTOR	GRANTEE
<p>WILLIAM H. DUDLEY, and WACHOVIA BANK OF NORTH CAROLINA, N.A., E. CLAY BULLARD and JANET W. DORSEY, as CO-TRUSTEES UNDER ARTICLE VII OF THE WILL OF P. M. WILLIAMS FOR MELROSE WILLIAMS QTIP TRUST</p>	<p>CHARLESTON SEVEN GROUP, LLC a North Carolina limited liability company</p> <p>Mailing Address: 1211 Rotherwood Road Greensboro NC 27406</p>

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all That certain lot or parcel of land situated in Cumberland County, North Carolina and more particularly described as follows:

NPGB01:1081823.1

**BEING all of Lot No. 1 according to the plat entitled "Property of Dudley and Williams" duly recorded in Plat Book 81, Page 23 in the Office of the Register of Deeds of Cumberland County, North Carolina.**

The property hereinabove described was acquired by instrument recorded in Book \_\_\_\_, Page \_\_\_\_.

A map showing the above described property is recorded in Book of Plats 81, Page 23.

**TO HAVE AND TO HOLD** the aforesaid lots or parcels of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

**William H. Dudley does hereby covenant that he has not placed or suffered to be placed any presently existing liens or encumbrances on said premises, and that he will warrant and defend title to same against the lawful claims of all persons claiming by, through, under or on account of William H. Dudley. Suzanne R. Dudley executes and delivers this instrument solely for the purpose of releasing and quitclaiming to Grantee any and all marital rights or claims that Suzanne R. Dudley might otherwise have in the premises growing out of her marriage to William H. Dudley.**

**Janet W. Dorsey, as Co-Trustee Under Article VII of the Will of P. M. Williams for Melrose Williams QTIP Trust, does hereby covenant that she has not placed or suffered to be placed any presently existing liens or encumbrances on said premises, and that she will warrant and defend title to same against the lawful claims of all persons claiming by, through, under or on account of Janet W. Dorsey, in her capacity as Co-Trustee of the Melrose Williams QTIP Trust, but no farther.**

**E. Clay Bullard, as Co-Trustee Under Article VII of the Will of P. M. Williams for Melrose Williams QTIP Trust, does hereby covenant that he has not placed or suffered to be placed any presently existing liens or encumbrances on said premises, and that he will warrant and defend title to same against the lawful claims of all persons claiming by, through, under or on account of E. Clay Bullard in his capacity as Co-Trustee of the Melrose Williams QTIP Trust, but no farther.**

**Wachovia Bank, N.A., a national banking association organized and existing under the laws of the United States, as Co-Trustee Under Article VII of the Will of P. M. Williams for Melrose Williams QTIP Trust, does hereby covenant that it has not placed or suffered to be placed any presently existing liens or encumbrances on said premises, and that it will warrant and defend title to same against the lawful claims of all persons claiming by, through, under or on account of Wachovia Bank, N.A. in its capacity as Co-Trustee of the Melrose Williams QTIP Trust, but no farther.**

Title to the property hereinabove described is subject to the following exceptions:


1. the lien of ad valorem tax for the current year which Grantee shall pay; and
2. Easements, setback lines and any other matters shown on the survey map entitled "Boundary Survey And Easement Map Of Dudley Tract" prepared by Sean R. Seever, L-4571, dated April 13, 2009, and last revised June 4, 2009; and
3. Easement(s) to the North Carolina Department of Transportation recorded in Book 5684, Page 168, Cumberland County Registry; and
4. Easement(s) to Carolina Telephone And Telegraph Company recorded in Book 709, Page 350, and Book 737, Page 313 Cumberland County Registry; and
5. All other valid and enforceable easements, covenants, reservations, restrictions, rights-of-way, conditions and matters of record.

**IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed**

8173  
0200

BK 8173 PG 0200

by authority of its Board of Directors, effective the day and year first above written.

  
\_\_\_\_\_  
WILLIAM H. DUDLEY (SEAL)

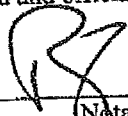
Suzanne R. Dudley, the wife of William H. Dudley, joins in this Deed solely for the purpose of relinquishing, waiving and releasing her right to a life estate in one-half (1/2) in value of the above-described real property of which her husband was seized and possessed of an estate of inheritance at any time during coverture as provided in N.C. Gen. Stat. Section 29-30(a) and relinquishes, waives and releases any and all other rights created in said statute or any other statute to like effect. The following makes no warranty, express or implied, as to the title to the real property.

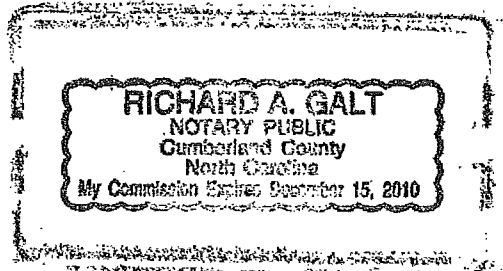
  
\_\_\_\_\_  
SUZANNE R. DUDLEY (SEAL)

NORTH CAROLINA  
CUMBERLAND COUNTY

I, Richard A. Galt, a Notary of the County and State aforesaid, do hereby certify that William H. Dudley and Suzanne R. Dudley personally came before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, the 14 day of June, 2009.

My commission expires: Dec 15, 2010

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



(N.P. SEAL)

NPGBO1:1091823.1



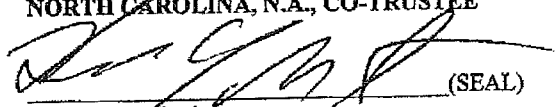
8173  
0201

BK8173PG0201

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, effective the day and year first above written.

**CO-TRUSTEES UNDER ARTICLE VII OF  
THE WILL OF P. M. WILLIAMS  
FOR MELROSE WILLIAMS QTIP TRUST**

**WACHOVIA BANK OF  
NORTH CAROLINA, N.A., CO-TRUSTEE**

 (SEAL)

By: LeRoy Martin  
Its: Senior Vice President

North Carolina

County of Wake

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: LeRoy Martin, Senior Vice President, Wachovia Bank of North Carolina, N.A., Co-Trustee under Article VII of the Will of P. M. Williams for Melrose Williams QTIP Trust.

Dated: 6/9/09



Printed Name: Tracy B. Barnes  
Notary Public

(Official Seal)

My commission expires: January 31, 2011

(N.P. SEAL)

8173  
0202

BK 8173PG0202

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, effective the day and year first above written.

CO-TRUSTEES UNDER ARTICLE VII OF  
THE WILL OF P. M. WILLIAMS  
FOR MELROSE WILLIAMS QTIP TRUST


  
E. Clay Bullard, Co-Trustee (SEAL)

North Carolina  
County of ~~Cumberland~~ Guilford

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

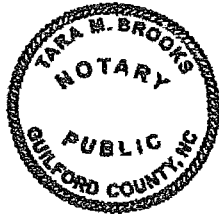
E. Clay Bullard, Co-Trustee

Dated: June 9, 2009

  
Printed Name: TARA M. BROOKS  
Notary Public

My commission expires: January 16, 2011

(Official Seal)



(N.P. SEAL)

8173  
0203

CK8173P60203

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, effective the day and year first above written.

CO-TRUSTEES UNDER ARTICLE VII OF  
THE WILL OF P. M. WILLIAMS  
FOR MELROSE WILLIAMS QTIP TRUST

Janet W. Dorsey, Trustee (SEAL)  
Janet W. Dorsey, Co-Trustee

North Carolina

County of Guilford

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

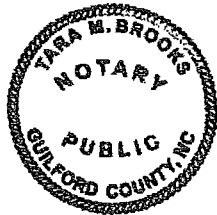
Janet W. Dorsey, Co-Trustee

Dated: June 9, 2009

Tara M. Brooks  
Printed Name: Tara M. Brooks  
Notary Public

My commission expires: January 16, 2011

(Official Seal)



(N.P. SEAL)

8173  
0204

BK8173PG0204

FILED  
 CUMBERLAND COUNTY NC  
 J. LEE WARREN, JR.  
 REGISTER OF DEEDS

FILED	Jun 10, 2009
AT	02:38:00 pm
BOOK	08173
START PAGE	0204
END PAGE	0216
INSTRUMENT #	21687
RECORDING	\$75.00
EXCISE TAX	(None)

RT

**DEED OF EASEMENT FOR JOINT DRIVEWAY**

**NORTH CAROLINA  
CUMBERLAND COUNTY**

Reaves & Reaves, PLLC  
Attorneys at Law  
PO Box 53187  
Fayetteville, NC 28305

Without Title Examination

Prepared By: Richard A. Galt, Esq.  
No Excise Tax

~~Prepared by and return to Richard A. Galt, Esq., 2533 Racford Rd., Fayetteville, NC 28305~~

THIS DEED OF EASEMENT FOR JOINT DRIVEWAY, made and entered into as of the \_\_\_ day of June, 2009, by and among **Charleston Seven Group, LLC**, a North Carolina limited liability company ("CSG"); and **William H. Dudley and wife Suzanne Dudley**, residents of Cumberland County, North Carolina, **Daniel D. Dudley unmarried**, a resident of Cumberland County North Carolina, and **Wachovia Bank of North Carolina, N.A., E. Clay Bullard and Janet W. Dorsey, Co-Trustees under Article VII of the Will of P. M. Williams for Melrose Williams QTIP Trust** (collectively, "Lot 2 Owners").

**WITNESSETH:**

THAT WHEREAS, CSG is the owner of a certain lot or parcel of land and the improvements thereon located at 230 Robeson Street, Fayetteville, Cumberland County, North Carolina, the same being more particularly described as Lot 1 on the Plat recorded in Book 81, Page 23 of the Cumberland County Registry ("Lot 1"); and

WHEREAS, the Lot 2 Owners are the owners, as tenants in common, of a certain lot or parcel of land and the improvements thereon located at 603 German Street, Fayetteville, Cumberland County, North Carolina, the same being more particularly on the Plat recorded in Book 81, Page 23 of the Cumberland County Registry ("Lot 2"); and

WHEREAS, Lot 1 lies immediately south of Lot 2; and

WHEREAS, there is a joint driveway located on portions of both lots, which joint driveway serves both lots; and

Each owner and such owner's contractors and subcontractors shall have an easement and right of entry upon the other owner's lot to the extent reasonably necessary to repair, restore and maintain or reconstruct said driveway. Such repair, restoration, maintenance or reconstruction shall be done expeditiously and, promptly upon completion of the work, the owner on whose behalf the work is being done shall repair any damage caused to the other owner's lot as a result thereof.

The easements, restrictions, and agreements provided for herein shall be effective upon execution of this Deed of Easement by the parties hereto. The easements provided for herein are appurtenant to and shall run with the land above-referred to. The easements provided for herein shall inure to the benefit of and be binding upon the respective successors, assigns, heirs, and tenants of each party hereto and the customers, employees, and invitees of such parties, and shall remain in full force and effect and shall be unaffected by any change in ownership of Lot 1 or Lot 2, or by any change of use, demolition, reconstruction, expansion, or other circumstances, except as specified herein. The agreement and undertakings by each party hereto shall be enforceable by any action in law or equity.

[SIGNATURE PAGES FOLLOW]

IN TESTIMONY WHEREOF the said parties have hereunto set their hands and seals the day and year first above written.

CSG:

CHARLESTON SEVEN GROUP, LLC,  
a North Carolina limited liability company

*Kent McKinney* (SEAL)  
By: KENT MCKINNEY  
Its: MANAGER

North Carolina

County of Guilford

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Kent McKinney as Manager of Charleston Seven Group, LLC

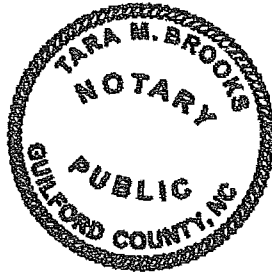
Dated: June 9, 2009

Tara M. Brooks

Printed Name: TARA M. BROOKS  
Notary Public

My commission expires: January 16, 2011

(Official Seal)




(N.P. SEAL)


8173  
0208

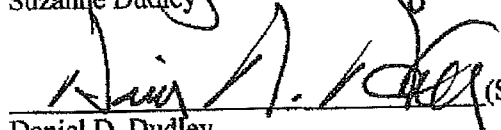
BK 8173PG0208

IN TESTIMONY WHEREOF the said parties have hereunto set their hands and seals the day and year first above written.

**LOT 2 OWNERS:**

 (SEAL)  
William H. Dudley

 (SEAL)  
Suzanne Dudley

 (SEAL)  
Daniel D. Dudley

**CO-TRUSTEES UNDER ARTICLE VII OF  
THE WILL OF P. M. WILLIAMS  
FOR MELROSE WILLIAMS OTIP TRUST**

**WACHOVIA BANK OF  
NORTH CAROLINA, N.A., TRUSTEE**

\_\_\_\_\_ (SEAL)  
By:  
Its:

\_\_\_\_\_ (SEAL)  
E. Clay Bullard, Trustee

\_\_\_\_\_ (SEAL)  
Janet W. Dorsey, Trustee

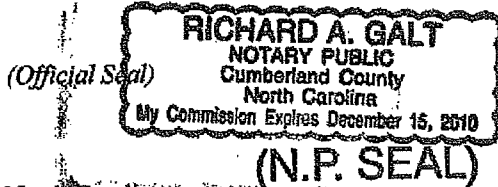
North Carolina

County of Cumberland

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: William H. Dudley and Suzanne Dudley

Dated: June 8, 2009

RJ  
Printed Name: Richard A. Galt  
Notary Public



My commission expires: Dec 15, 2010

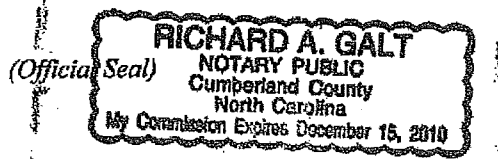
North Carolina

County of Cumberland

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: James B. Dudley

Dated: June 8, 2009

RJ  
Printed Name: Richard A. Galt  
Notary Public



My commission expires: Dec 15, 2010

North Carolina

County of \_\_\_\_\_

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_

Dated: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Notary Public

(Official Seal)

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



8173  
0210

BK 8173 PG 0210

IN TESTIMONY WHEREOF the said parties have hereunto set their hands and seals the day and year first above written.

**LOT 2 OWNERS:**

\_\_\_\_\_  
William H. Dudley (SEAL)

\_\_\_\_\_  
Suzanne Dudley (SEAL)

\_\_\_\_\_  
Daniel D. Dudley (SEAL)

**CO-TRUSTEES UNDER ARTICLE VII OF  
THE WILL OF P. M. WILLIAMS  
FOR MELROSE WILLIAMS QTIP TRUST**

**WACHOVIA BANK OF  
NORTH CAROLINA, N.A., TRUSTEE**

*[Handwritten Signature]*  
By: *H. L. ELLROY MARTIN* (SEAL)  
Its: *SUP*

\_\_\_\_\_  
E. Clay Bullard, Trustee (SEAL)

\_\_\_\_\_  
Janet W. Dorsey, Trustee (SEAL)

North Carolina

County of Cumberland

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_

Dated: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Notary Public

(Official Seal)

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

North Carolina

County of Wake

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: SVP

Dated: 6/09/09

Tracey B. Barnes  
Printed Name: Tracey B. Barnes  
Notary Public

(Official Seal)

My commission expires: January 31, 2011

(N.P. SEAL)

North Carolina

County of \_\_\_\_\_

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_

Dated: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Notary Public

(Official Seal)

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

8173  
0212

BK 8173PG0212

IN TESTIMONY WHEREOF the said parties have hereunto set their hands and seals the day and year first above written.

**LOT 2 OWNERS:**

\_\_\_\_\_(SEAL)  
William H. Dudley

\_\_\_\_\_(SEAL)  
Suzanne Dudley

\_\_\_\_\_(SEAL)  
Daniel D. Dudley

**CO-TRUSTEES UNDER ARTICLE VII OF  
THE WILL OF P. M. WILLIAMS  
FOR MELROSE WILLIAMS QTIP TRUST**

**WACHOVIA BANK OF  
NORTH CAROLINA, N.A., TRUSTEE**

\_\_\_\_\_(SEAL)  
By:  
Its:

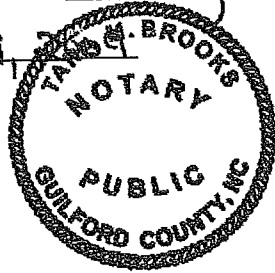
*E. Clay Bullard - Trustee* (SEAL)  
E. Clay Bullard, Trustee

*Janet W. Dorsey, Trustee* (SEAL)  
Janet W. Dorsey, Trustee,

North Carolina  
County of Guilford

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: E. Clay Bullard, Trustee

Dated: June 9, 2011



(Official Seal)

Tara M. Brooks

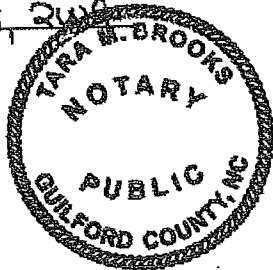
Printed Name: Tara M. Brooks  
Notary Public

My commission expires: January 16, 2011

North Carolina  
County of Guilford  
(N.P. SEAL)

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Janet W. Dorsey, Trustee

Dated: June 9, 2011



(Official Seal)

Tara M. Brooks

Printed Name: Tara M. Brooks  
Notary Public

My commission expires: January 16, 2011

North Carolina  
County of \_\_\_\_\_  
(N.P. SEAL)

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_

Printed Name: \_\_\_\_\_  
Notary Public

(Official Seal)

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



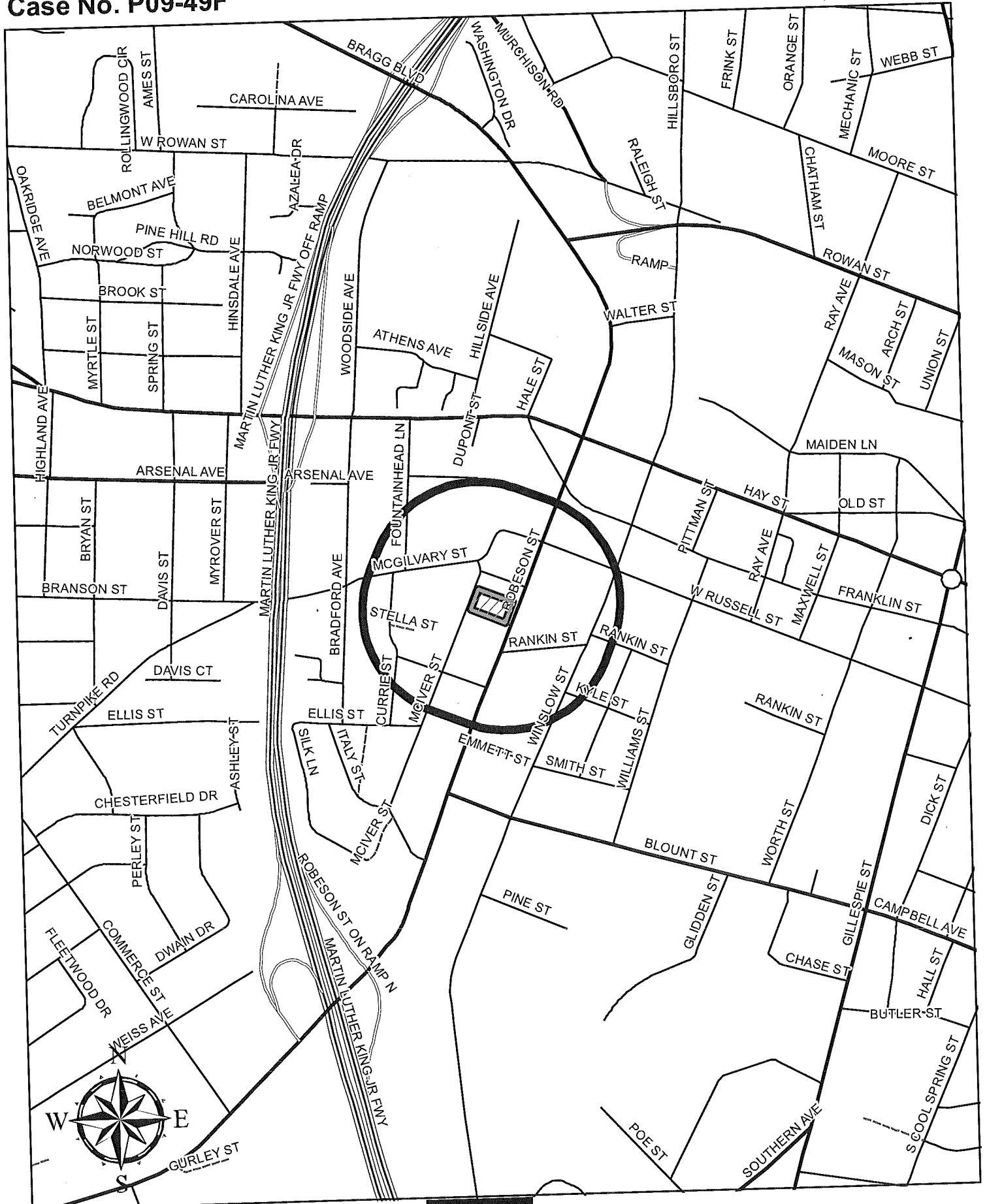
**EXHIBIT B**  
(Legal Description of Driveway)

Lying in Cross Creek Township, Cumberland County, North Carolina, and being more particularly described as follows:

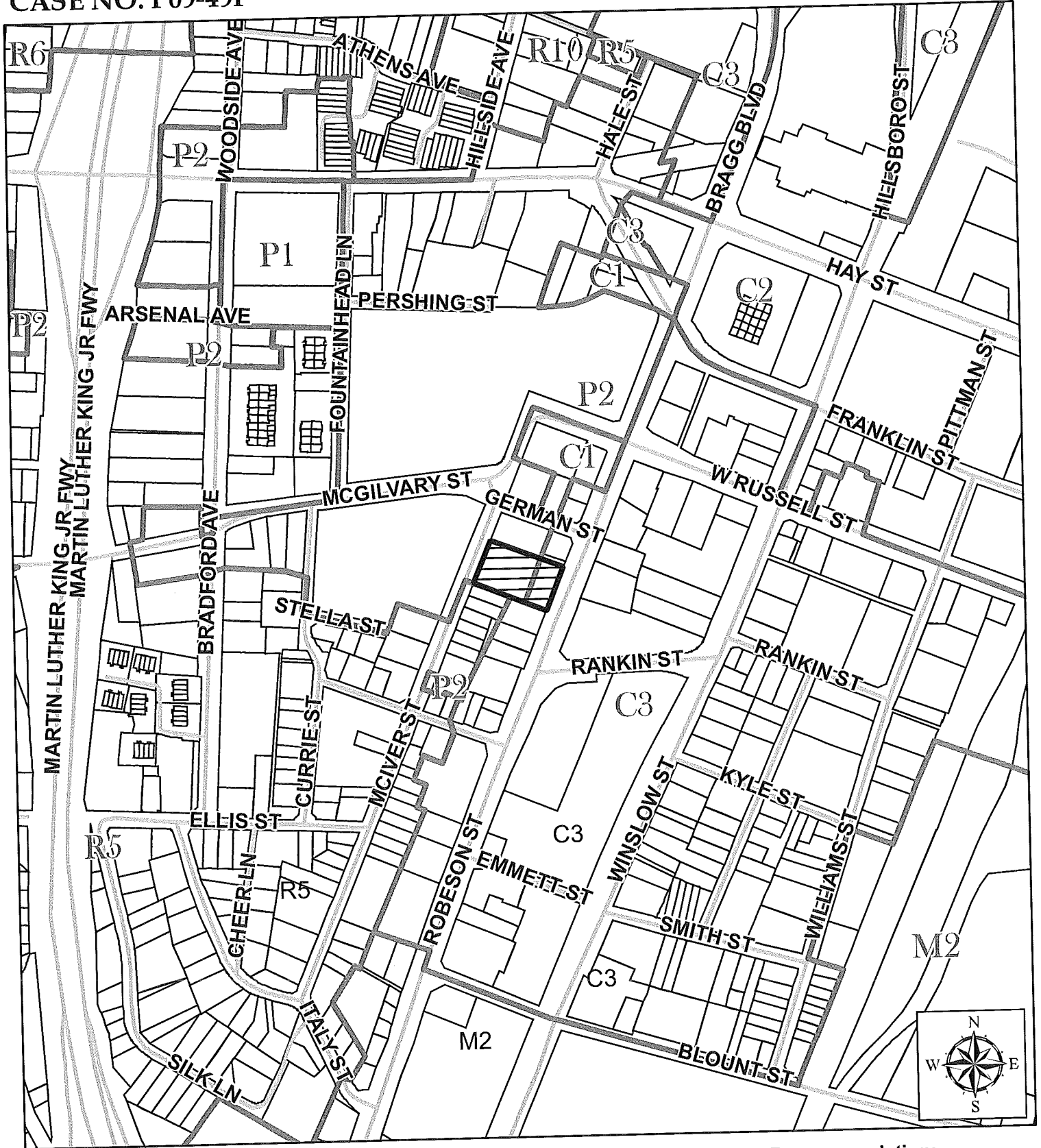
BEGINNING at a computed point in the east margin of the 60-foot right of way of McIver Street, said point marking the westernmost corner of Lot 2 as shown in Plat Book 81, Page 23 of the Cumberland County Registry, and said point being located South 22° 54' 14" West 100.38 feet from an existing ½" rebar marking the southernmost point of intersection of McIver Street and the 50-foot right of way of German Street, and running thence from said BEGINNING point along the east margin of McIver Street North 22° 54' 14" East 10.84 feet to a point in the west line of said Lot 2 of Plat Book 81, Page 23; thence leaving the east margin of McIver Street and running South 67° 54' 14" East 266.19 feet to a point in the west margin of the variable right of way of Robeson Street, said point being in the east line of (now or formerly) James L. McDuffie and wife, Shirrell D. McDuffie (see Deed Book 3980, Page 486); thence along McDuffie's east line and the west margin of Robeson Street South 22° 22' 00" West 4.08 feet to a computed point marking the easternmost corner of Lot 1 as shown in Plat Book 81, Page 23; thence continuing along the west margin of Robeson Street South 22° 22' 00" West 10.92 feet to a point in the east line of said Lot 1 of Plat Book 81, Page 23; thence North 67° 54' 14" West 266.33 feet to a point in the east margin of McIver Street and in the west line of said Lot 1; thence along the east margin of McIver Street and the west line of Lot 1 North 22° 54' 14" East 4.16 feet to the point of BEGINNING, containing 0.05 acre, more or less, and being designated as "Proposed Ingress, Egress Easement" on a Boundary Survey and Easement Map of Dudley Tract, done by 4D Site Solutions, Inc., dated April 13, 2009, and last revised June 4, 2009, identified as Project No. 439.

# Zoning Commission - Vicinity Map

Case No. P09-49F



**ZONING COMMISSION  
CASE NO. P09-49F**



Request: P2 to C3  
Location: 230 Robeson St.  
Acreage: +/- 0.47

Zoning Commission: 12/08/2009 Recommendation: \_\_\_\_\_  
City Council: \_\_\_\_\_ Final Action: \_\_\_\_\_  
Pin: 0437-33-2928

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



# 2010 Land Use Plan

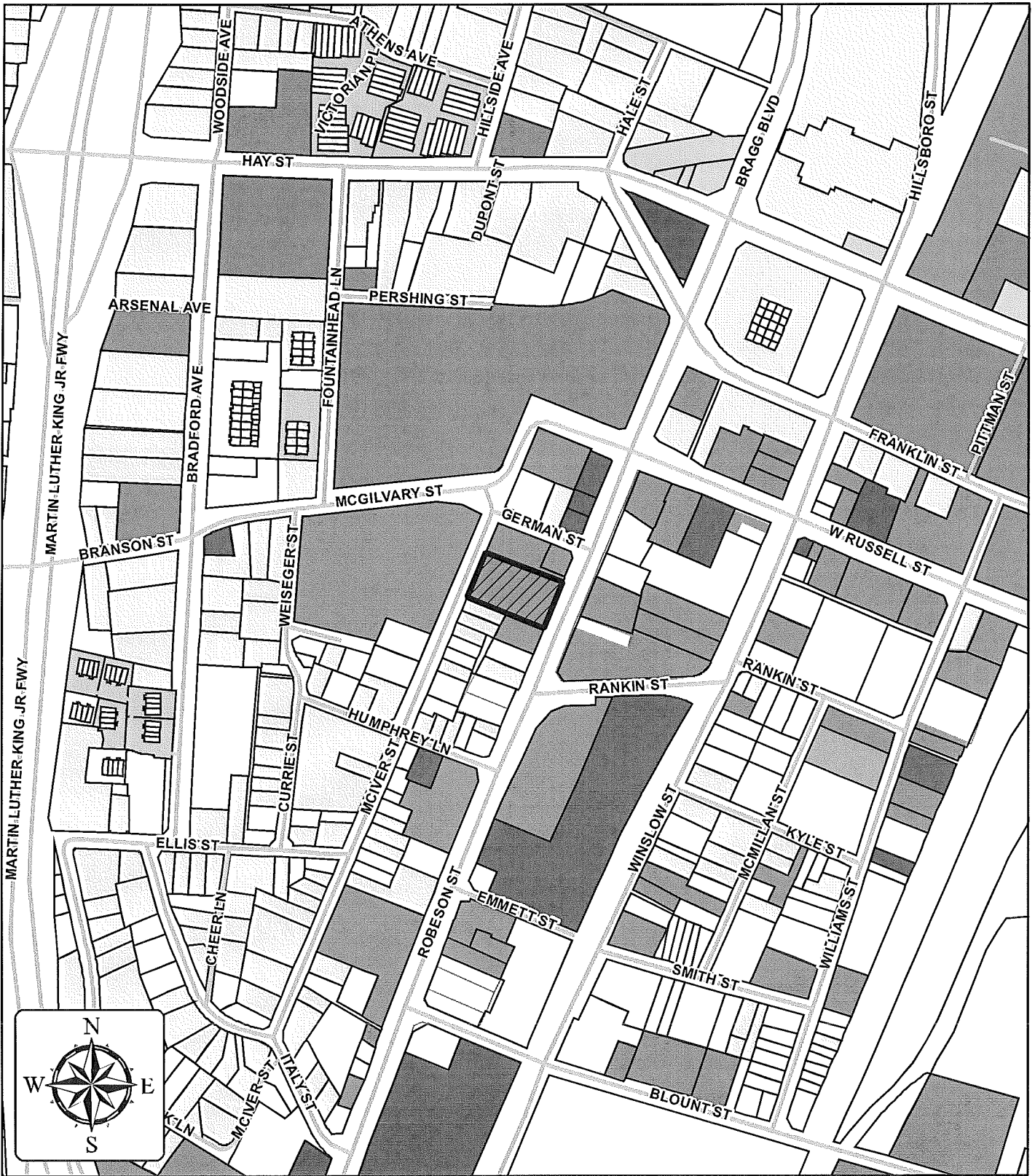
## Case No. P09-49F



### Legend

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

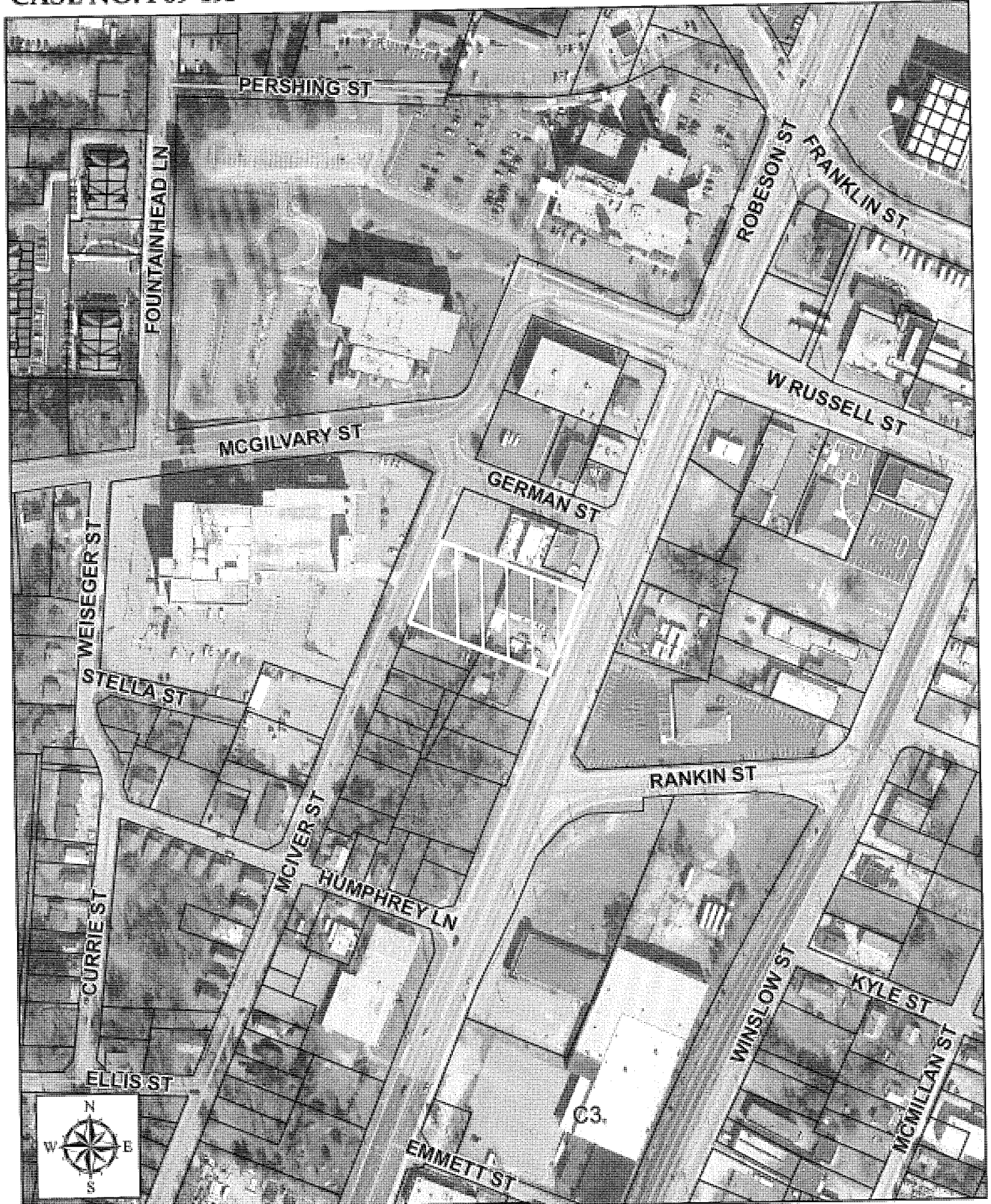
Current Land Use  
P09-49F

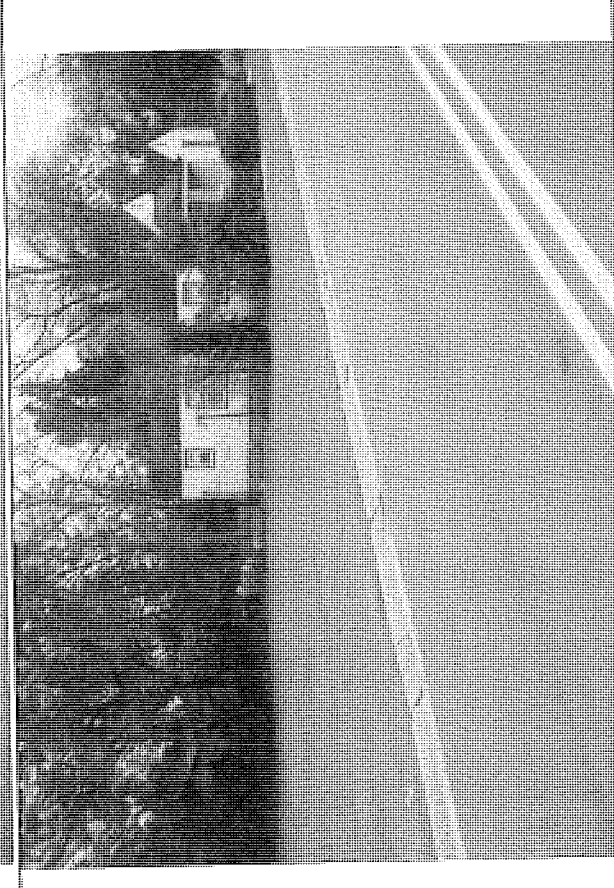
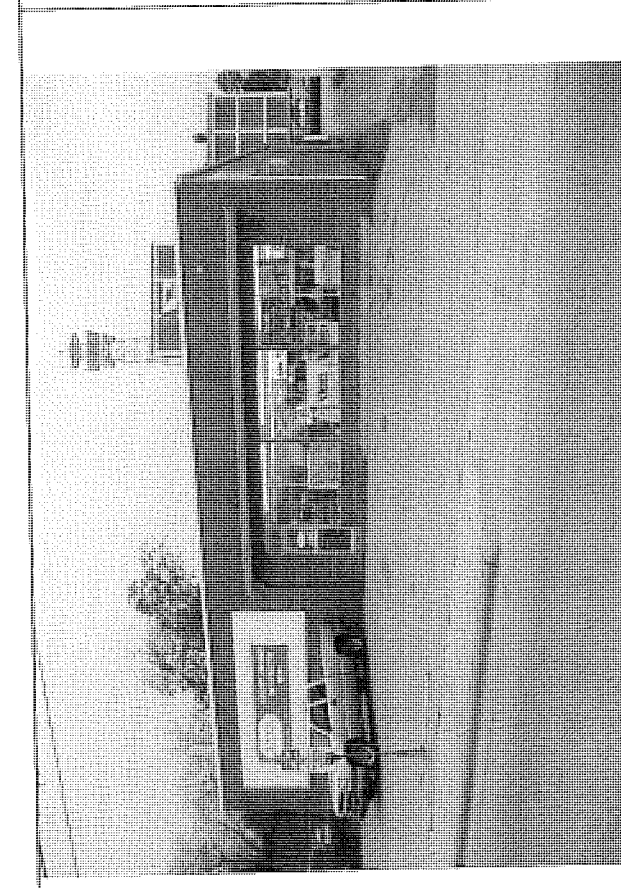
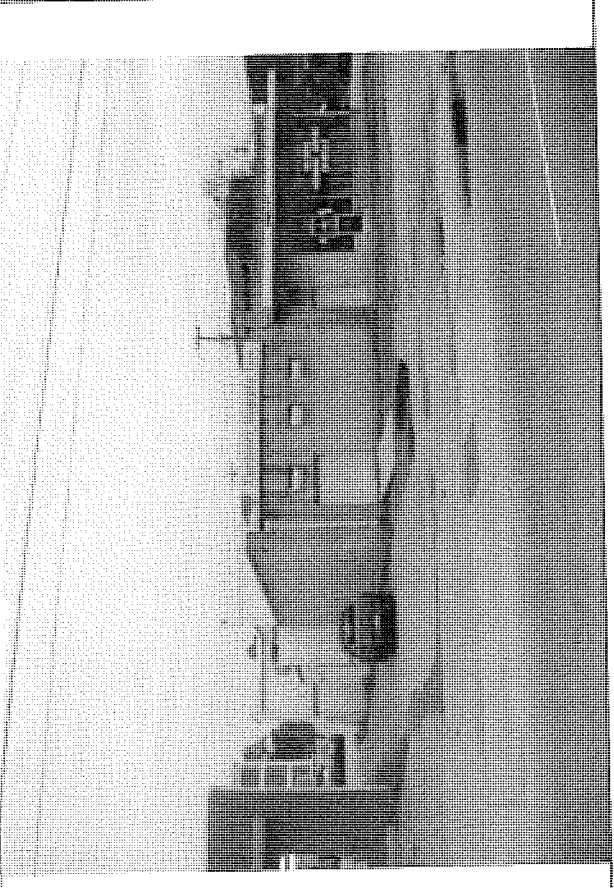
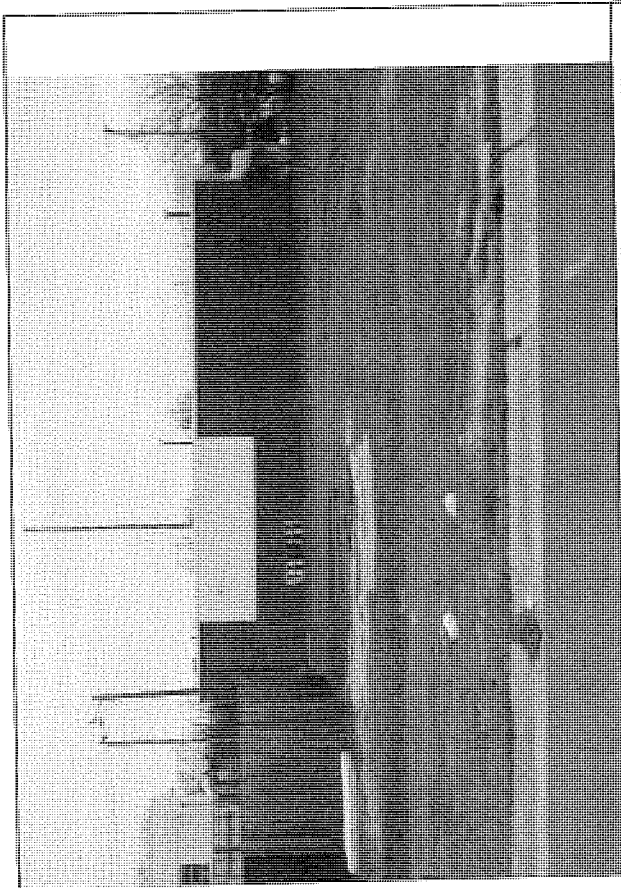


Legend

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

ZONING COMMISSION  
CASE NO. P09-49F





P09-49F

**MINUTES  
CITY OF FAYETTEVILLE  
ZONING COMMISSION  
CITY COUNCIL CHAMBERS  
1ST FLOOR, CITY HALL  
DECEMBER 8, 2009- 7:00 P.M.**

**MEMBERS PRESENT**

Pete Paoni  
Richard West  
John Crawley  
Lockett Tally  
Marshall Isler  
Mannell  
Hendricks

**MEMBERS ABSENT**

**OTHERS PRESENT**

Marsha Bryant, Planner  
Craig Harmon, Planner  
Janet Smith, Asst. City Atty  
David Steinmetz, Inspections  
Karen Hilton, Intm Plan. Dir.

The meeting was called to order at 7:00 pm.

**I. APPROVAL OF AGENDA**

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

**II. APPROVAL OF THE MINUTES FROM THE OCTOBER 13, 2009 MEETING**

Mr. Paoni made a motion to approve the minutes from October 13, 2009. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

**III. APPROVAL OF THE MINUTES FROM THE NOVEMBER 10, 2009 MEETING**

Mr. Crawley made a motion to approve the minutes from November 10, 2009. Mr. Isler 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 are quasi-judicial and speakers must be sworn in before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerk's Office, located on the second floor of City Hall.

#### IV. PUBLIC HEARINGS

- F. **Case No. P09-49F. The rezoning from P2 Professional District to C3 Commercial District or to a more restrictive zoning classification for property located at 230 Robeson Street. Containing 0.47 acres more or less and being the property of Charleston Seven Group, LLC.**

Mr. Harmon gave an overview of the case. Mr. Harmon explained the current land use for the property and the surrounding areas. Mr. Harmon stated that the property has a split zoning of C3 and P2. He stated that the 2010 land use plan calls for downtown district. He stated that currently the property has commercial in the front and is vacant in the back. He stated that the Planning Department mailed out 90 letters in regards to the request. Mr. Harmon showed pictures to explain current land use of the property.

Mr. Harmon stated that the Planning Staff recommends approval of the rezoning based on:

1. The 2010 Land Use Plan calls for Downtown uses on this property.
2. The front part of this property is zoned C3. And it is too close to residential properties to allow any adult oriented businesses.
3. Storage areas fit with the general character and current uses of the surrounding properties. The vacant area fronts McIver St. and would not be visible from Robeson.

Mr. Isler addressed his concerned about the occupied residence adjacent to the property. He asked Mr. Harmon about the buffer and Mr. Harmon replied that it would be the standard city ordinance.

The public hearing was opened.

Mr. Ned Garber spoke in favor of the request. Mr. Garber stated that the manager of the store spoke with the nurse for the owner of the residential property next door and they stated they were okay with the rezoning.

Mr. Scott Ward spoke in favor of the request. Mr. Ward stated that he is one of the owners of Charleston LLC. Mr. Ward stated that he is available for any questions the Commission might have.

Mr. Paoni asked what the area was going to be used for. Mr. Ward stated that it was going to a lay down area. Mr. Paoni asked about the access to the building. Mr. Ward stated that there are no plans to add any new entrances to the building. He stated that they just want to expand the business.

Mr. Paoni asked Mr. Ward why the rezoning from P2 to C3 was necessary. Mr. Ward stated that the P2 doesn't allow them to do the business they are in or allow outdoor storage.

No one appeared in opposition.

The public hearing was closed.

Mr. Harmon asked if there were questions of staff. Mr. Harmon explained to the Commission that the building is currently split zoned. Mr. Harmon stated that the building is non-conforming and if it were to be damaged it could not be rebuilt. Mr. Harmon stated that about half the building is C3.

Mr. Paoni asked about the 2010 plan recommendation. Mr. Harmon explained that the Downtown district allows for a variety of uses and is non specific as to location of the uses within the district.

Mr. Isler asked about the buffer requirement. Mr. Steinmetz said that if more than 50% addition is made to existing building, fence and landscaping would be required.

Mr. Paoni asked about adult entertainment in the C3 district. Mr. Harmon explained that this particular property was too close to residential district and adult entertainment would not be allowed under current City ordinance.

Mr. Crawley made a motion to approve the request to C3. Mr. West seconded the motion. A vote was taken and passed unanimously.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Jeffery P. Brown, PE, Engineering & Infrastructure Director  
**DATE:** January 25, 2010  
**RE:** **Engineering & Infrastructure - Public Hearing to Consider Closing a Portion of Crystal Drive**

---

**THE QUESTION:**

A petition was received from Carolyn Armstrong for the closure of a portion of Crystal Drive. This section of street serves as a private driveway to an existing residence. The property owner is planning on redeveloping the parcel and the adjacent parcels. A public hearing is scheduled to receive comments on the closure.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growing City - A Great Place to Live

**BACKGROUND:**

- NCGS§160A-299 gives the authority and procedures for the City to close a city street or alley.
- A map of the proposed street is attached.
- The signed petition along with a map of the proposed closing are attached.
- The Resolution and Order closing a portion of Crystal Drive is attached for adoption following the public hearing.

**ISSUES:**

- Access to the abutting properties will not be denied as a result of the closures.
- Notices of the Public Hearing were published and sent out as required by NCGS§160A-299.
- The entire area being closed will be retained as a utility and drainage easement.

**OPTIONS:**

- Adopt the attached resolution and order the closing of a portion of Crystal Drive.
- Deny the request by taking no action.

**RECOMMENDED ACTION:**

Adopt the attached resolution and order the closing of a portion of Crystal Drive.

**ATTACHMENTS:**

Resolution Ordering the Closing of Crystal Dr  
Map of Crystal Drive



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

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

**Resolution R2010-\_\_\_\_\_**

**RESOLUTION AND ORDER  
CLOSING A PORTION OF  
CRYSTAL DRIVE FROM THE END OF CURRENT CITY MAINTENANCE  
TO THE SOUTH END OF THE 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 25<sup>th</sup> day of January, 2010, 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 that portion of Crystal Drive from the end of current city maintenance to the south end of the street located in the City of Fayetteville, North Carolina, 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;

**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 that portion of Crystal Drive from the end of current city maintenance to the south end of the street and 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 that portion of Crystal Drive from the end of current city maintenance to the south end of the street and 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 that portion of Crystal Drive from the end of current city maintenance to the south end of the street located in the City of Fayetteville, North Carolina, and 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 Crystal Drive as described below and as shown on attached Exhibit A.

Beginning at a point in the eastern margin of Crystal Drive being also the northwestern corner of the tract conveyed in Deed Book 7588 PG 73, Thence running North 78 Degrees 31 Minutes 34 Seconds West for a distance of 65.31',  
Thence North 79 Degrees 12 Minutes 35 Seconds West for a distance of 134.12',  
Thence South 51 Degrees 27 Minutes 54 Seconds West for a distance of 47.76',  
Thence South 22 Degrees 45 Minutes 34 Seconds East for a distance of 29.51',  
Thence North 79 Degrees 04 Minutes 02 Seconds West for a distance of 24.04',  
Thence North 22 Degrees 45 Minutes 34 Seconds West for a distance of 31.31',  
Thence North 51 Degrees 27 Minutes 54 Seconds East for a distance of 45.70',  
Thence South 79 Degrees 12 Minutes 35 Seconds East for a distance of 26.37',  
to the point of beginning containing 1,542.92 SF.

2. 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 25<sup>th</sup> day of January, 2010 by the City Council of the City of Fayetteville, North Carolina

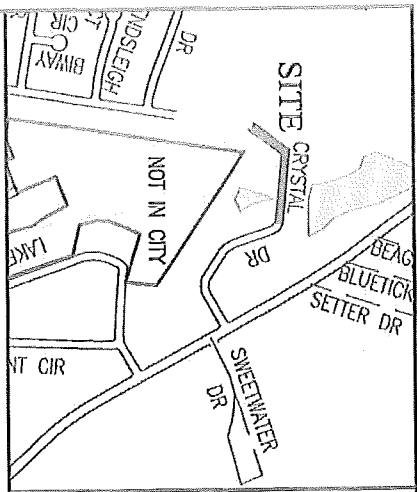
***CITY OF FAYETTEVILLE***

(SEAL)

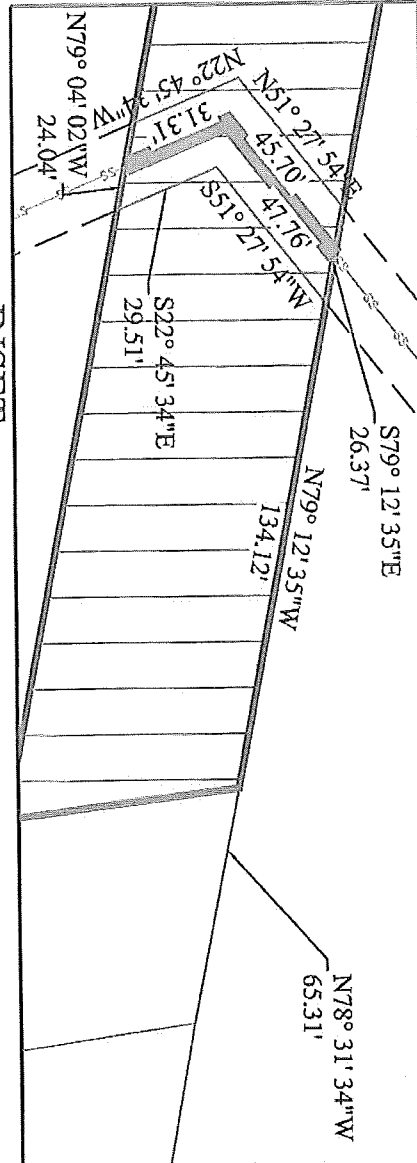
By: \_\_\_\_\_  
Anthony G. Chavonne, Mayor

ATTEST:

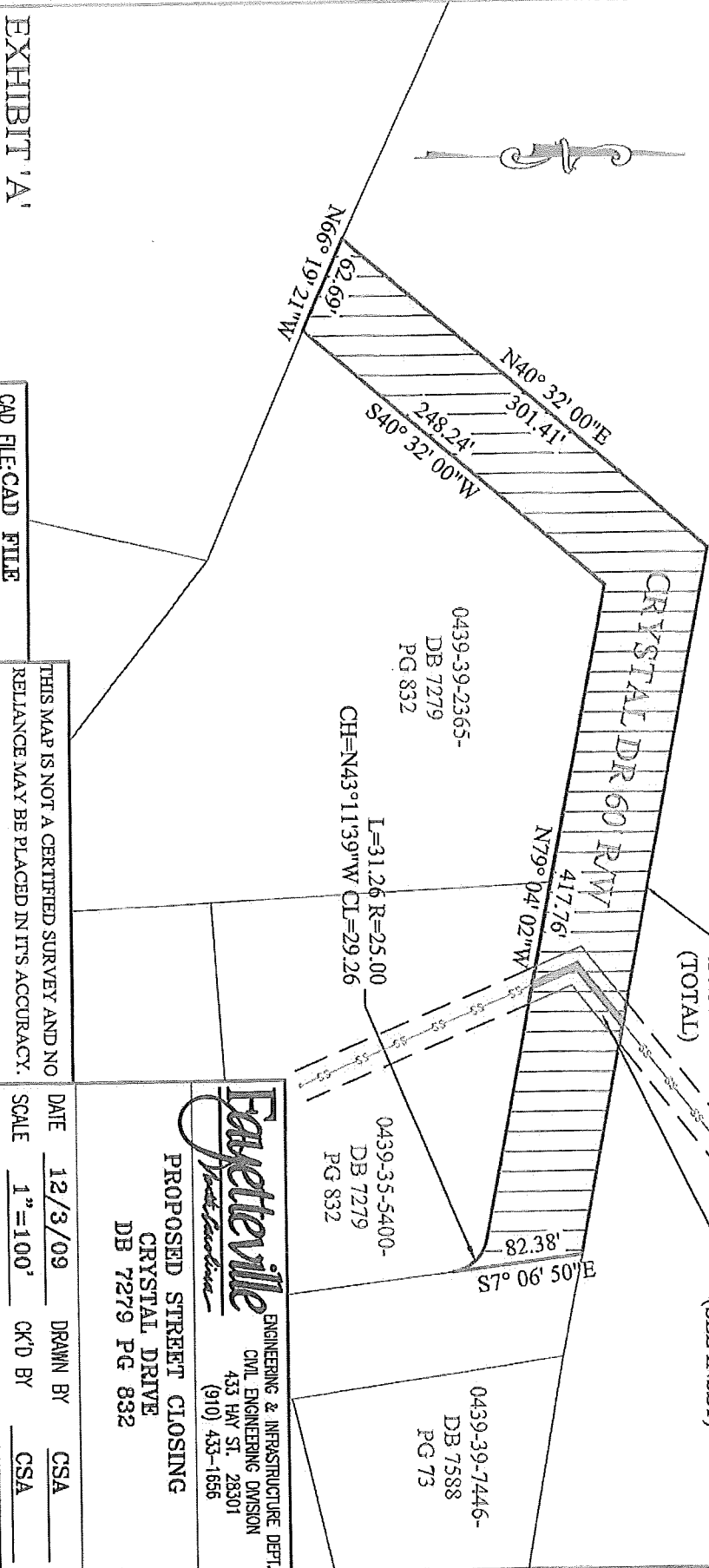
\_\_\_\_\_  
Rity Perry, City Clerk



VICINITY MAP N.T.S.



INSET  
SCALE = 1:50



0439-39-2365-  
DB 7279  
PG 832

L=31.26 R=25.00  
CH=N43° 11' 39" W CL=29.26

0439-35-5400-  
DB 7279  
PG 832

0439-39-7446-  
DB 7588  
PG 73

SANITARY SEWER  
ESMT RESERVED  
(SEE INSET)

EXHIBIT 'A'

CAD FILE: CAD FILE

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

DATE 12/3/09 DRAWN BY CSA  
SCALE 1"=100' CK'D BY CSA

**Fayetteville**  
*Project Solutions*  
ENGINEERING & INFRASTRUCTURE DEPT.  
CIVIL ENGINEERING DIVISION  
433 HAY ST. 28301  
(910) 433-1656  
**PROPOSED STREET CLOSING**  
CRYSTAL DRIVE  
DB 7279 PG 832

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Joe Callis, PWC Business Planning Manager  
**DATE:** January 25, 2010  
**RE:** **PWC - Public Hearing regarding the Resolution Declaring Cost, Ordering Preparation of Preliminary Assessment Roll and Calling Public Hearing approved by City Council at the January 11, 2010 meeting for the Arran Lake area of the Phase 5 Annexation**

---

**THE QUESTION:**

Providing sanitary sewer service to Areas 4 and 5 of the Phase 5 Annexation.

**RELATIONSHIP TO STRATEGIC PLAN:**

Goal 4: More Efficient City Government – Cost-Effective Service Delivery

**BACKGROUND:**

City Council approved the Resolution Declaring Cost, Ordering Preparation of Preliminary Assessment Roll, and Calling Public Hearing in their meeting on January 11, 2010. The Resolution set the date of the public hearing for Monday, January 25, 2010. A notice was published in the Fayetteville Observer regarding the public hearing and the preliminary assessment notices were mailed January 13, 2010 informing the property owners of their proposed assessment and the public hearing date. I have enclosed the certification of mailing of preliminary notices for your records. The Arran Lakes area of the Phase 5 Annexation project resulted in 26,170 feet of sanitary sewer main having been installed at a cost to date of \$3,973,233. Construction contracts in the annexation area indicate the average per parcel cost for sanitary sewer which includes the service lateral is \$10,188 or an average per foot linear cost of \$140 for mains without laterals. In keeping with the presentations held in the original neighborhood meetings, the sanitary sewer assessment rate for single family residential lots is recommended at \$5,000 which includes both the main and lateral charges. This amount does not include what is referred to as the facility investment fee of \$640 for sewer, however, if property owners made application for service within six months of being notified sewer was available, PWC waived the facility investment fee. For properties that require grinder pumps, the average lateral charge of \$790 is recommended. After the public hearing, the next step in the process is to approve the Resolution Confirming Assessment Roll and Levying Assessments. This item is currently scheduled for February 8, 2010. After the resolution is approved, the confirmed assessment roll will be delivered to the PWC tax collector who will mail the final assessment notices to the property owners on February 9, 2010 and publish a newspaper notice on March 1, 2010.

**ISSUES:**

None

**OPTIONS:**

**RECOMMENDED ACTION:**

Receive public comments regarding the Preliminary Assessment Roll.

**ATTACHMENTS:**

Certification of Mailing

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**CERTIFICATE OF MAILING OF NOTICES OF PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND PUBLIC HEARING TO PROPERTY OWNERS**

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF FAYETTEVILLE:

I, Cheryl Jones, do hereby certify that notices of the Preliminary Assessment Roll for the Arran Lakes area of the Phase 5 Annexation extension to include utility improvements within all or a portion of the following streets: Andes Court, Bowman Court, Caspian Court, Denham Court, Grampian Court, Greenock Avenue, Keswick Drive, Kirby Court, Lawnwood Drive, Lochcarron Drive, Lochness Court, MacGregor Court, Maddox Court, McDougal Drive, Ormskirk Drive, Paisley Avenue, Selkirk Place, Shenandoah Drive, Thornwald Court, Tree Drive, and Whitburn Avenue and of the public hearing thereon were mailed by first-class mail on the 13<sup>th</sup> day of January, 2010 to all the owners of real property shown thereon indicating to each such owner of the assessment against his or her property.

IN WITNESS WHEREOF, I have hereunto signed and sealed this instrument,

Cheryl Jones  
Signature

January 13, 2010  
Date

---

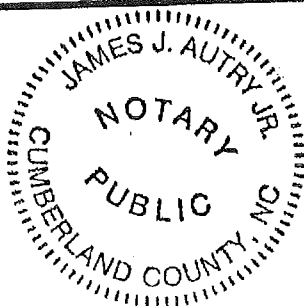
NORTH CAROLINA -- CUMBERLAND COUNTY

I, JAMES J. Autry Jr., a Notary Public of said County and State, certify that Cheryl Jones came before me this day and acknowledged that she accomplished the mailing in compliance with North Carolina GS 160A-224.

Witness my hand and Notarial Seal, this the 13<sup>th</sup> day of JANUARY, 2010.

My Commission expires: Oct. 8, 2012

James J. Autry Jr.  
Notary Public



**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Marsha Bryant, Planner  
**DATE:** January 25, 2010  
**RE:** **Development Services - Voluntary Annexation Petition - River Landing Center, LLC  
- Property on Andrews Road across from Rosebank Drive**

---

**THE QUESTION:**

Consider annexing an area contiguous to the city limits.

**RELATIONSHIP TO STRATEGIC PLAN:**

Strong local economy  
A great place to live

**BACKGROUND:**

The property consisting of 128.04 acres is located on Andrews Road. Cumberland County Commissioners zoned the property to Mixed Use/Condition Use District and approved a plan consisting of 128 single-family parcels, 192 multi-family units, and 124,950 square feet of office space.

**ISSUES:**

The property is contiguous to the city limits. Since the developer, Mr. John Koenig, requested PWC water and sewer services, a petition for annexation is required and was submitted.

**OPTIONS:**

1. Adopt the Annexation Ordinance with the Effective Date January 25, 2010
2. Adopt the Annexation Ordinance with an Effective Date after January 25, 2010.
3. Deny the Annexation and the property will be developed outside the City Limits

**RECOMMENDED ACTION:**

Staff recommends that Council move to adopt the proposed ordinance approving the requested annexation Effective January 25, 2010.

**ATTACHMENTS:**

Basic Information about the site  
Legal Description of the Property  
Map of the Property  
Ordinance to Extend the City Limits



**BASIC INFORMATION ABOUT THE AREA PROPOSED FOR ANNEXATION**

**Date Petition Received: 6/1/2009**

**Annexation Date: \_\_\_\_\_ Effective Date: \_\_\_\_\_**

**Annexation Number: \_\_\_\_\_**

1. Name of Area:	River Landing Center, LLC Property and a portion of I-295 Corridor
2. Petitioner:	River Landing Center, LLC – Lawrence Walsh, Member/Manager
3. Location:	Southern side of Andrews Road across from Rosebank Drive
4. Tax Identification Number (PIN):	A portion of 0531-00-6612
5. Fire Department Affected by Annexation:	Fayetteville (formally Westarea)
6. Is the Area Contiguous:	Yes
7. Type of Proposed Annexation:	Petitioned Contiguous Annexation
8. Background:	Plans have been submitted to the County for a Mixed Use Development/Conditional Use zoning district. The County Commissioners approved the development plans on April 20, 2009.
9. Reason the Annexation is Proposed:	PWC services
10. Number of Acres in Area:	99.63 acres (4,339,883 square feet) 28.41 acres within the I-295 Corridor Area Total: 128.04 acres
11. Type of Development in Area:	___ New ___ Existing <u> X </u> Vacant
12. Present Conditions:	a. <u>Present Land Use:</u> vacant b. <u>Present Number of Housing Units:</u> 0 c. <u>Present Demographics:</u> 0 d. <u>Present Streets:</u> none
13. Factors Likely to Affect Future of Area:	a. <u>Plans of Owner:</u> Plans for a mixed use development consisting of 128 SFR lots, 192 apartment units, 124,950 sq. ft. of office space b. <u>Development Controls</u> 1. <u>Land Use Plan</u> a. <u>2010 Plan:</u> Open Space 2. <u>Zoning</u> a. <u>Current Zoning in County:</u> Mixed Use/Conditional Use District b. <u>Likely Zoning After Annexation:</u> Mixed Use/Conditional Zoning District
14. Expected Future Conditions:	a. <u>Future Land Use:</u> SFR, MFR, and Office b. <u>Future Number of Housing Units:</u> 320 c. <u>Future Demographics:</u> 800 d. <u>Future Streets:</u> public and private

**BASIC INFORMATION ABOUT THE AREA PROPOSED FOR ANNEXATION**

**Date Petition Received: 6/1/2009**

**Annexation Date: \_\_\_\_\_ Effective Date: \_\_\_\_\_**

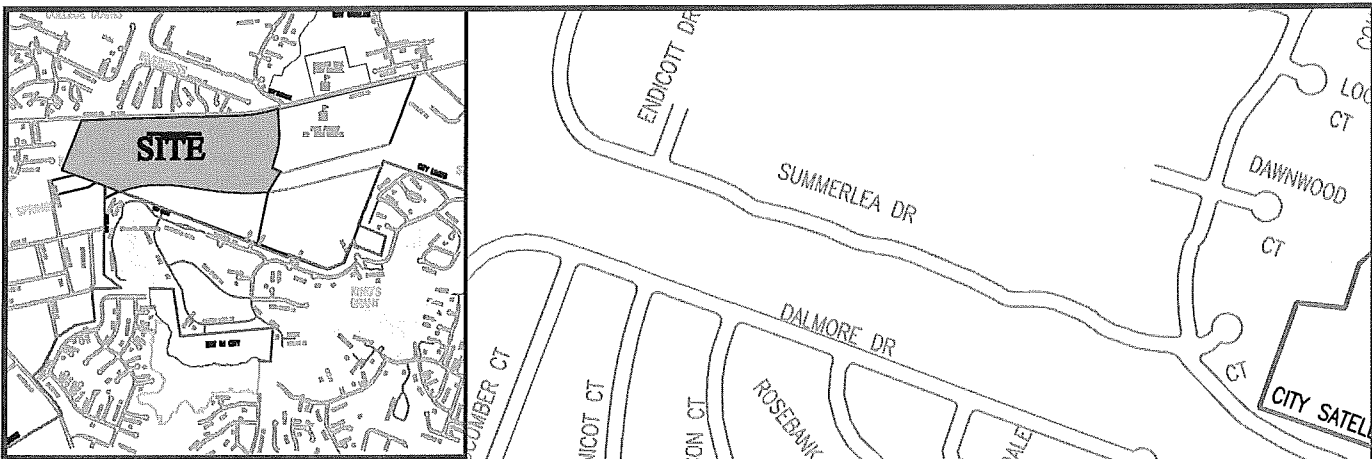
**Annexation Number: \_\_\_\_\_**

	e. <u>Water and Sewer Service:</u> PWC f. <u>Electric Service:</u> South River Electric
15. Tax Value of Land: (entire tract = 135.45 acres)	\$569,052 (.096 per square foot) 99.63 acres = \$416,629

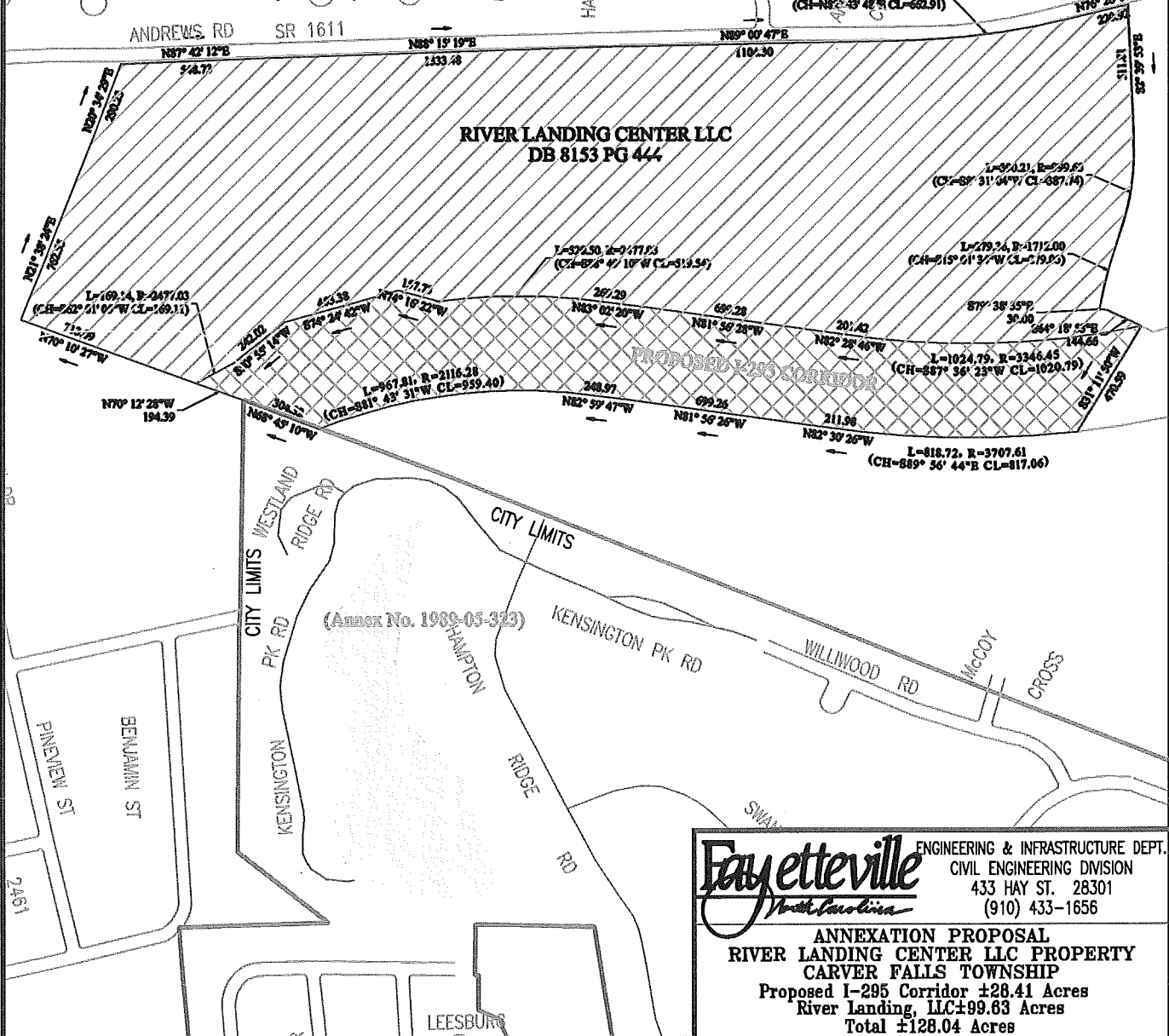
**RIVER LANDING CENTER, LLC**  
**Southern Side of Andrews Road**

**BEGINNING** at an existing iron stake in the southern right-of-way margin of Andrews Road (SR 1611), said iron stake being the Northeast Corner of a tract recorded in Deed Book 2138, Page 77, Cumberland County, North Carolina Registry and running with said right-of-way margin the following courses and distances:

North 87 degrees 42 minutes 12 seconds East 548.73 feet; thence North 88 degrees 15 minutes 19 seconds East 1333.48 feet to a set rebar; thence North 89 degrees 00 minutes 47 seconds East 1104.30 feet to a set rebar at a point of curvature; thence with a curve to the left on a radius of 3030.00 feet an arc distance of 664.24 feet (chord North 82 degrees 43 minutes 48 seconds East, 662.91 feet) to a set rebar; North 76 degrees 26 minutes 59 seconds East 220.92 feet to a set rebar at the Northwest corner of the Cumberland County Board of Education Property as recorded in Deed Book 2218, page 581 and Deed Book 2233, Page 241; thence with the western margin of said property the following courses and distances; South 02 degrees 39 minutes 53 seconds East, 511.81 feet to a set rebar; thence with a curve to the right on a radius of 999.63 feet an arc distance of 390.21 feet (chord South 08 degrees 31 minutes 04 seconds West, 387.74 feet) to a set rebar; thence with a curve to the left on a radius of 1712.00 feet an arc distance of 279.36 feet (chord South 15 degrees 01 minutes 34 seconds West, 279.05 feet) to a set rebar; thence continuing with the school property South 79 degrees 38 minutes 55 seconds East 30.00 feet to an existing concrete monument; thence continuing with the school property South 64 degrees 18 minutes 53 seconds East, 144.66 feet to an existing NCDOT right-of-way disk in the northern right-of-way margin of the future I-295; thence crossing said right-of-way South 31 degrees 11 minutes 50 seconds West 470.59 feet to the southern right-of-way margin of said future I-295; thence with curve along said right-of-way margin on a radius of 3,707.61 feet an arc distance of 818.72 feet (chord South 89 degrees 56 minutes 44 seconds East 817.06 feet); thence North 82 degrees 30 minutes 26 seconds West 211.98 feet; thence North 81 degrees 56 minutes 26 seconds West 699.26 feet; thence North 82 degrees 59 minutes 47 seconds West 248.97 feet; thence with a curve on a radius of 2116.28 feet an arc distance of 967.81 feet (chord South 81 degrees 43 minutes 31 seconds West 959.40 feet) to the existing City Limit line as established by Annexation No. 1989-05-323; thence running with said City Limit line and crossing said future I-295 right-of-way North 68 degrees 45 minutes 10 seconds West 304.32 feet; thence leaving said City Limit line North 70 degrees 12 seconds 28 minutes West 194.39 feet to the northern right-of-way margin of said I-295, said point also being the southern boundary line of a tract described in Deed Book 8153, Page 444 Cumberland County, North Carolina Registry; thence continuing with said boundary line North 70 degrees 10 minutes 27 seconds West 713.09 feet; thence North 21 degrees 38 minutes 24 seconds East 762.55 feet; thence North 20 degrees 34 minutes 29 seconds East 290.23 feet to the **BEGINNING** and containing  $\pm$  128.04 acres (Future I-295 Right-of-Way being  $\pm$  28.41 acres; River Landing Center LLC property  $\pm$  99.63 acres).



VICINITY MAP (N.T.S.)



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

**ANNEXATION PROPOSAL**  
**RIVER LANDING CENTER LLC PROPERTY**  
**CARVER FALLS TOWNSHIP**  
 Proposed I-295 Corridor ±28.41 Acres  
 River Landing, LLC ±99.63 Acres  
 Total ±128.04 Acres

CAD FILE: CAD FILE

REVISION  
 DATE

DATE 6/22/09 DRAWN BY C. ALLEN  
 SCALE 1" = 600' CK'D BY C. ALLEN

**River Landing Property - (Located on the Southern side of Andrews Road Across from Rosebank Drive)**

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA**

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City Council has by resolution directed the City of Fayetteville Clerk to investigate the sufficiency of the petition; and

WHEREAS, the City of Fayetteville Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall Council Chambers at 7:00 p.m. on January 25, 2010, after due notice by publication on January 15, 2010; and

WHEREAS, the City Council further finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described contiguous property owned by River Landing Center, LLC (right-of-way owned by NCDOT) is hereby annexed and made part of the City of Fayetteville of North Carolina as of January 25, 2010:

**RIVER LANDING CENTER, LLC**  
*Southern Side of Andrews Road*

**BEGINNING** at an existing iron stake in the southern right-of-way margin of Andrews Road (SR 1611), said iron stake being the Northeast Corner of a tract recorded in Deed Book 2138, Page 77, Cumberland County, North Carolina Registry and running with said right-of-way margin the following courses and distances:

North 87 degrees 42 minutes 12 seconds East 548.73 feet; thence North 88 degrees 15 minutes 19 seconds East 1333.48 feet to a set rebar; thence North 89 degrees 00 minutes 47 seconds East 1104.30 feet to a set rebar at a point of curvature; thence with a curve to the left on a radius of 3030.00 feet an arc distance of 664.24 feet (chord North 82 degrees 43 minutes 48 seconds East, 662.91 feet) to a set rebar; North 76 degrees 26 minutes 59 seconds East 220.92 feet to a set rebar at the Northwest corner of the Cumberland County Board of Education Property as recorded in Deed Book 2218, page 581 and Deed Book 2233, Page 241; thence with the western margin of said property the following courses and distances; South 02 degrees 39 minutes 53 seconds East, 511.81 feet to a set rebar; thence with a curve to the right on a radius of 999.63 feet an arc distance of 390.21 feet (chord South 08 degrees 31 minutes 04 seconds West, 387.74 feet) to a set rebar; thence with a curve to the left on a radius of 1712.00 feet an arc distance of 279.36 feet (chord South 15 degrees 01 minutes 34 seconds West, 279.05 feet) to a set rebar; thence continuing with the school property South 79 degrees 38 minutes 55 seconds East 30.00 feet to an existing concrete monument; thence continuing with the school property South 64 degrees 18 minutes 53 seconds East, 144.66 feet to an existing NCDOT right-of-way disk in the northern right-of-way margin of the

future I-295; thence crossing said right-of-way South 31 degrees 11 minutes 50 seconds West 470.59 feet to the southern right-of-way margin of said future I-295; thence with curve along said right-of-way margin on a radius of 3,707.61 feet an arc distance of 818.72 feet (chord South 89 degrees 56 minutes 44 seconds East 817.06 feet); thence North 82 degrees 30 minutes 26 seconds West 211.98 feet; thence North 81 degrees 56 minutes 26 seconds West 699.26 feet; thence North 82 degrees 59 minutes 47 seconds West 248.97 feet; thence with a curve on a radius of 2116.28 feet an arc distance of 967.81 feet (chord South 81 degrees 43 minutes 31 seconds West 959.40 feet) to the existing City Limit line as established by Annexation No. 1989-05-323; thence running with said City Limit line and crossing said future I-295 right-of-way North 68 degrees 45 minutes 10 seconds West 304.32 feet; thence leaving said City Limit line North 70 degrees 12 seconds 28 minutes West 194.39 feet to the northern right-of-way margin of said I-295, said point also being the southern boundary line of a tract described in Deed Book 8153, Page 444 Cumberland County, North Carolina Registry; thence continuing with said boundary line North 70 degrees 10 minutes 27 seconds West 713.09 feet; thence North 21 degrees 38 minutes 24 seconds East 762.55 feet; thence North 20 degrees 34 minutes 29 seconds East 290.23 feet to the **BEGINNING** and containing  $\pm$  128.04 acres (Future I-295 Right-of-Way being  $\pm$  28.41 acres; River Landing Center LLC property  $\pm$  99.63 acres).

Section 2. Upon and after January 25, 2010, the above described area and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Fayetteville of North Carolina and shall be entitled to the same privileges and benefits as other parts of the City of Fayetteville of North Carolina. Said area shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Fayetteville of North Carolina shall cause to be recorded in the office of the Register of Deeds of Cumberland County, and in the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed area, described in Section 1, together with a certified copy of this ordinance. Such a map shall also be delivered to the Cumberland County Board of Elections, as required by G.S. 163-288.1.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2010.

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

ATTEST:

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

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, Planner II  
**DATE:** January 25, 2010  
**RE:** **Development Services - Case No. P09-45F. The initial zoning of 128 acres of newly annexed property on the south side of Andrews Road across from Rosebank Drive to MU Mixed Use Conditional Zoning District. River Landing Center, LLC owner.**

---

### **THE QUESTION:**

Establish the initial zoning of newly annexed property as MU/CZ as the most comparable to existing County zoning and consistent with City Council policy, or establish a more restrictive zoning.

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

Growth and Development

### **BACKGROUND:**

Owner: River Landing Center, LLC  
Applicant: Lawrence Walsh  
Requested Action: Initial Zoning to MU  
Property Address: Between 525 & 1051 Andrews Rd  
City Council District: 1 (Bates)  
Status of Property: Approved mixed use development through the County.  
Size: 128.04  
Existing Land Use: Vacant  
Adjoining Land Use & Zoning: North - PND and County / South - I-295 right-of-way, PND, R10 & County / East - County / West County  
2010 Land Use Plan: Low Density Residential and Conservation  
Letters Mailed: 243  
Transportation: Andrews Road is a major thoroughfare, with an average daily traffic count of 5,400 vehicles at its intersection with Ramsey Street.

MU - This district is designed for the flexibility of development and use of the property subject to predetermined ordinance standards and rules imposed as part of the legislative decision creating the district and applying it to the particular property.

### **ISSUES:**

The City has received a petition requesting voluntary contiguous annexation into the City. This property is scheduled for annexation in January of 2010. This item may only be considered after Council has acted on the annexation request. Cumberland County approved this property for a Mixed Use Development / Conditional Use District on April 20, 2009. Right-of-Way for the I-295 Bypass runs along the southern border of the property.

### **Zoning Commission and Planning Staff recommend approval of the MU/CZ zoning district based on the City's policy for initial zonings:**

Since this is an initial zoning, staff recommendation is to follow the City's policy of zoning to the closest zone the City has to what the property was zoned by the County. In this case it would be a straight transfer from Mixed Use Development / Conditional Use District to Mixed-Use Conditional Zoning District. The conditions and terms of the approved district are listed in the attached memorandum from the County. The Conditions imposed by the County are proposed to be carried

forward into the City's initial zoning.

**OPTIONS:**

- **Zone the property to MU/CZ Mixed Use Conditional Zoning (Recommended);**
- Zone to a more restrictive Zoning District;
- Deny the Initial Zoning of this property.

**RECOMMENDED ACTION:**

The Zoning Commission and Staff move to approve the initial zoning to MU/CZ Mixed Use Conditional District based on the City's policy and the record of Cumberland County's action related to this property including all conditions established thereby.

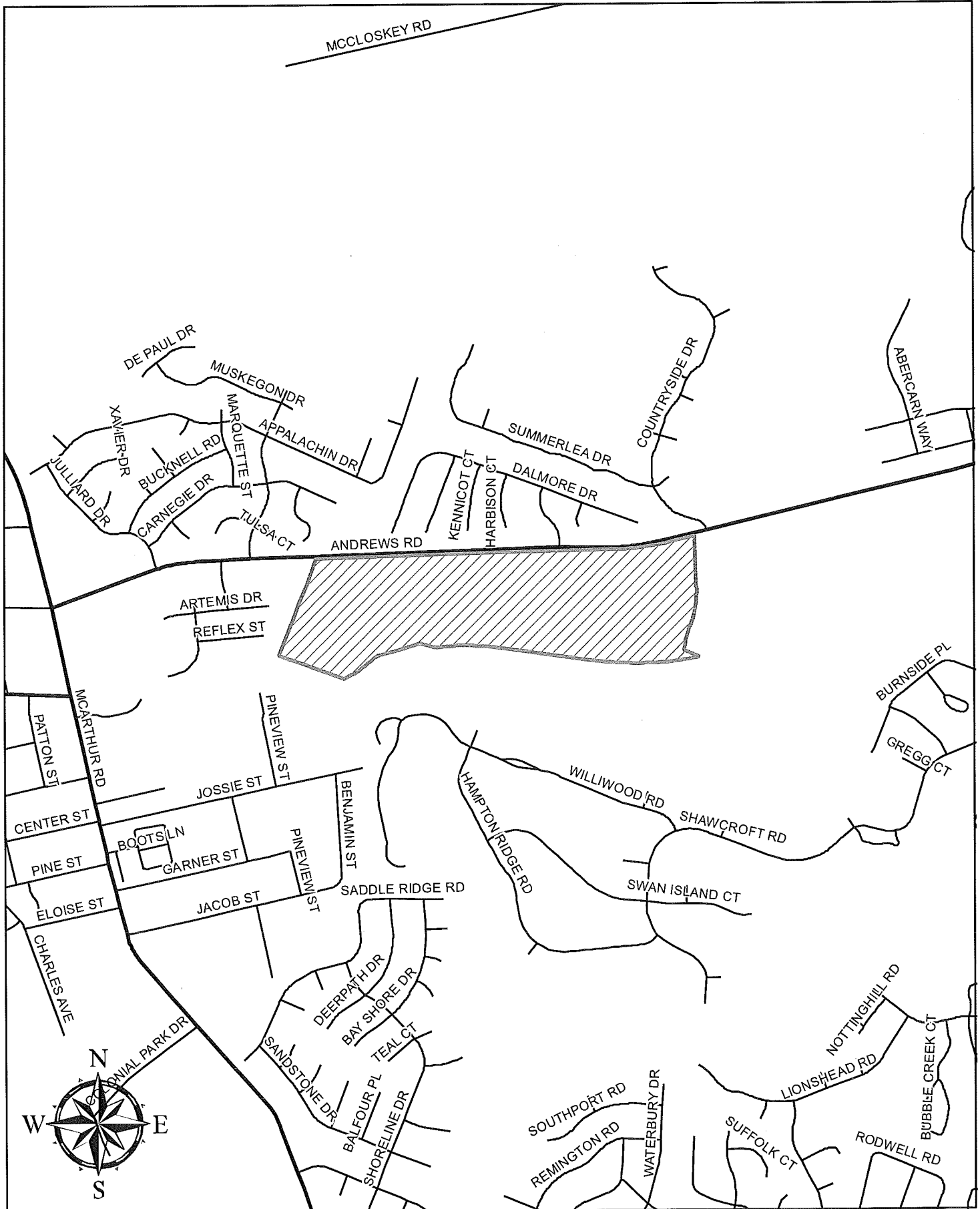
**ATTACHMENTS:**

Vicinity Map  
Zoning Map  
2010 Plan  
Current Landuse  
Ortho Photo  
County Approval  
Zoning Commission Minutes

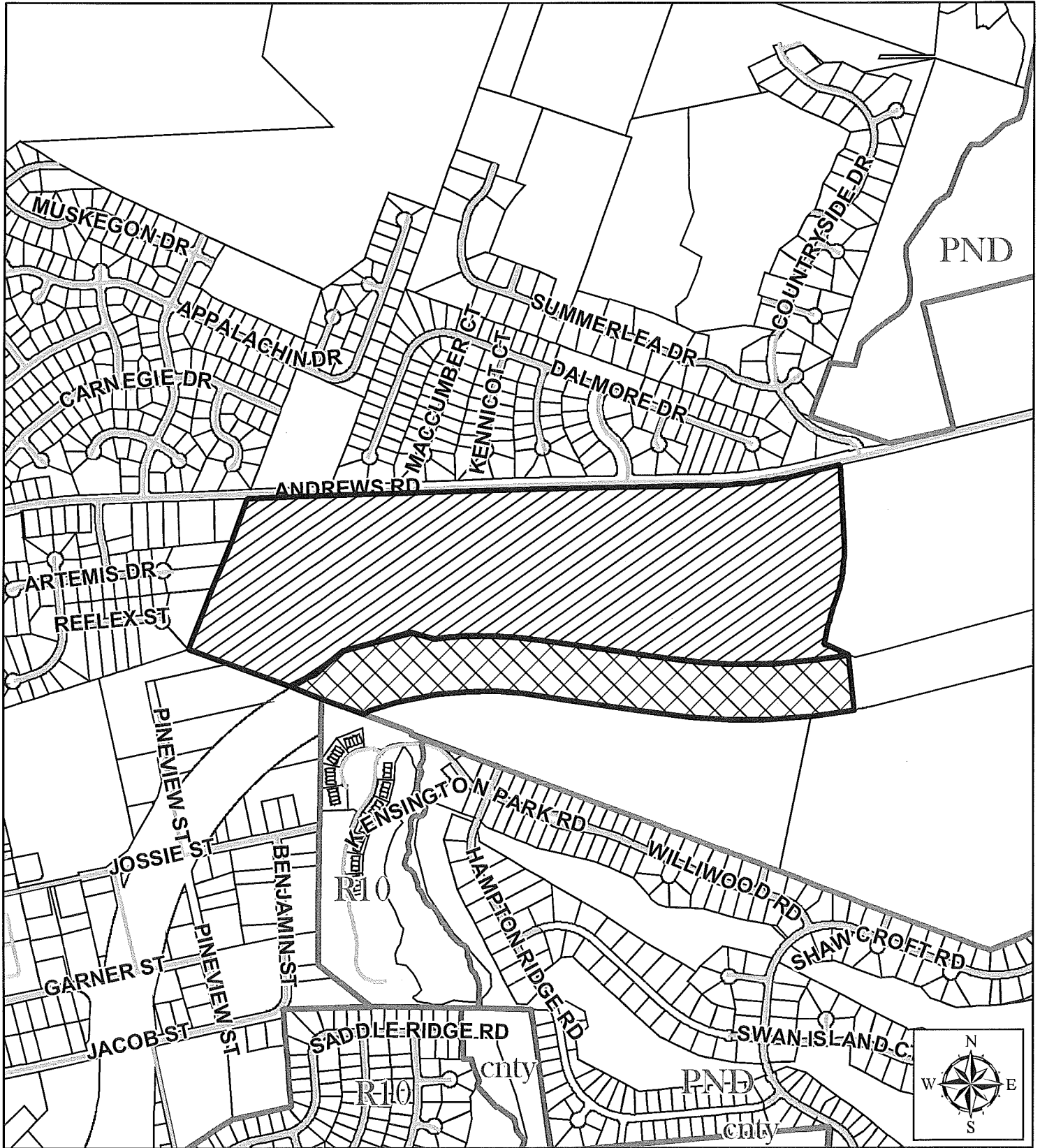


# Zoning Commission - Vicinity Map

Case No. P09-45F



**ZONING COMMISSION  
CASE NO. P09-45F**



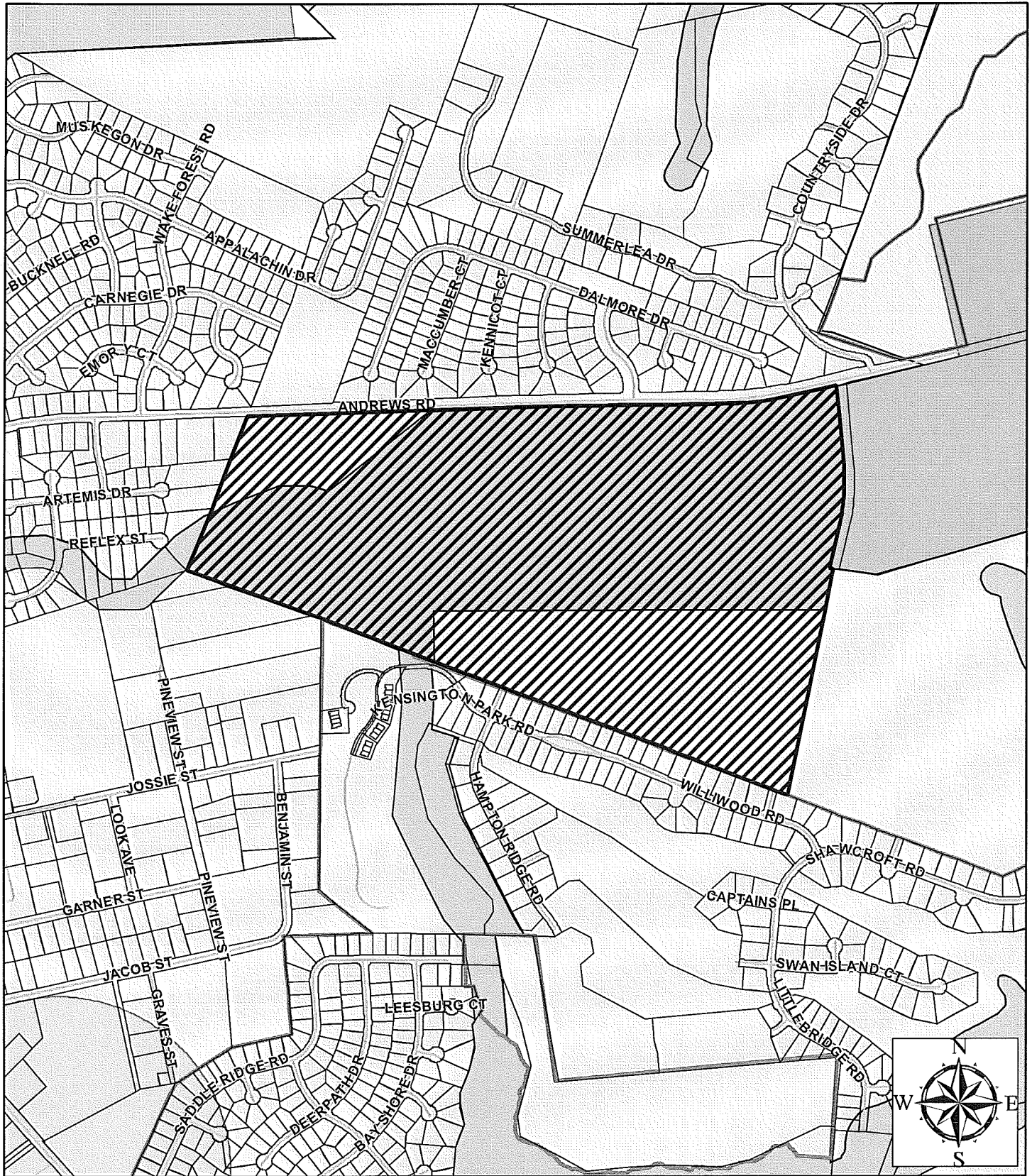
**Request: Initial Zoning to MU/CZ  
Location: Between 525 & 1051 Andrews Rd  
Acreage: +/- 128.04**

**Zoning Commission: 12/08/2009    Recommendation: \_\_\_\_\_  
City Council: \_\_\_\_\_    Final Action: \_\_\_\_\_  
Pin: 0531-00-6765**

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

# 2010 Land Use Plan

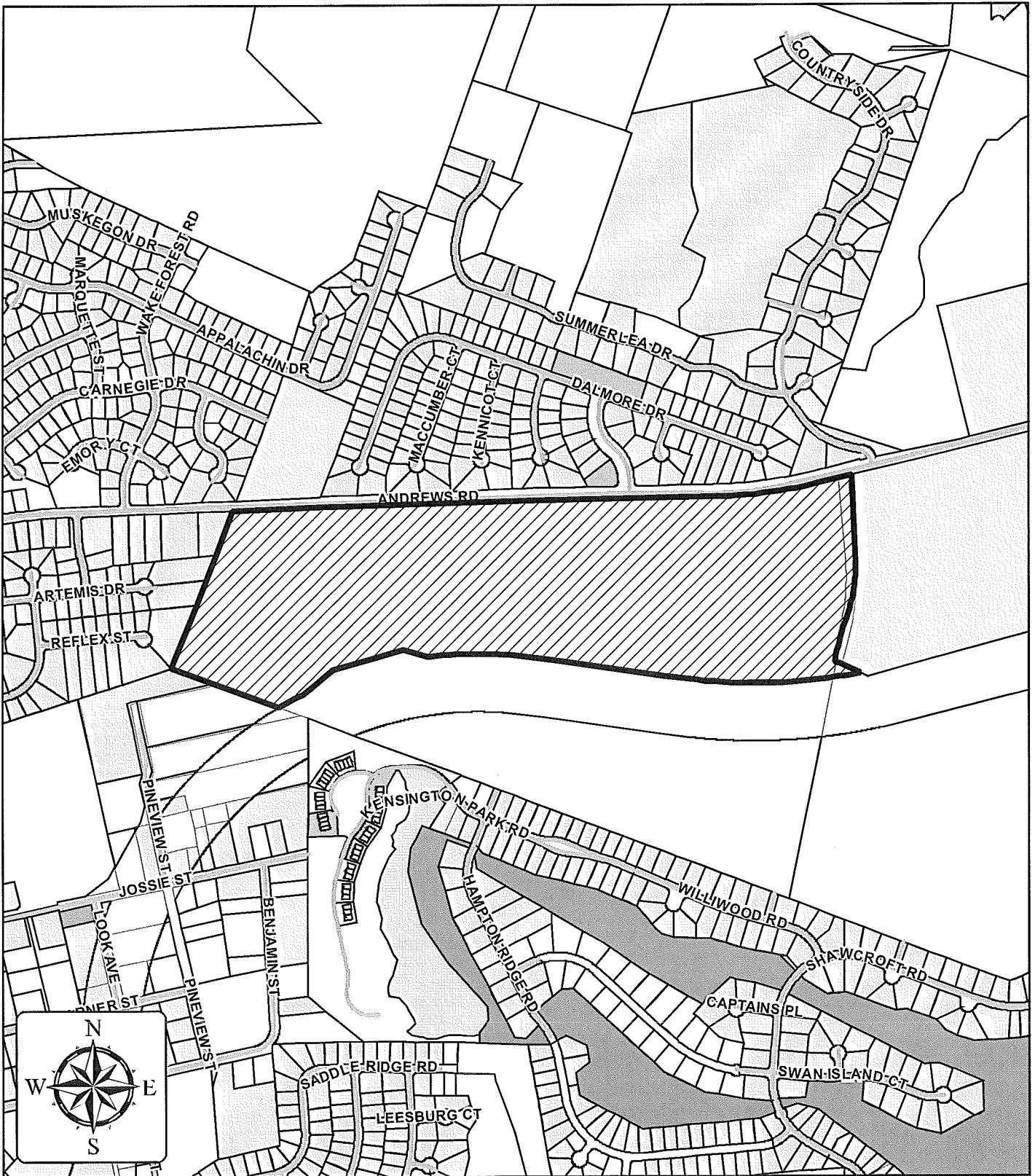
## Case No. P09-45F



### Legend

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

Current Land Use  
P09-45F



Legend

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

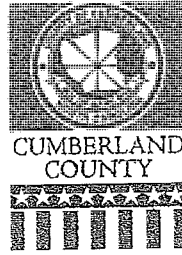
ZONING COMMISSION  
CASE NO. P09-45F



Donovan McLaurin,  
Chair  
Wade, Falcon & Godwin

Lori Epler,  
Vice-Chair  
Cumberland County

Garland C. Hostetter,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman  
Patricia Hall,  
Town of Hope Mills  
Charles C. Morris,  
Town of Linden



**COUNTY of CUMBERLAND**  
*Planning & Inspections Department*

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Walter Clark,  
Roy Turner,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

April 22, 2009

Alfred E. Cleveland, Attorney & General Manager  
Andrews Road Company, LLC  
P.O. Box 87009  
Fayetteville, North Carolina 28304

**SUBJECT: P09-06: REZONING OF 99.63+/- ACRES FROM PND PLANNED NEIGHBORHOOD DEVELOPMENT AND R6 RESIDENTIAL TO MXD MIXED USE DEVELOPMENT/CUD CONDITIONAL USE DISTRICT AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT LOCATED ON THE SOUTH SIDE OF SR 1611 (ANDREWS ROAD) AND WEST OF SR 1612 (FARMERS ROAD), SUBMITTED BY ATTORNEY AND GENERAL MANAGER ALFRED E. CLEVELAND, OWNED BY ANDREWS ROAD COMPANY, LLC.**

Dear Mr. Cleveland,

The Cumberland County Board of Commissioners met on Monday, April 20, 2009 and approved the MXD Mixed Use Development / CUD Conditional Use District and Permit application that you submitted, subject to the contents of the application, the site plan and the following conditions:

**Watershed-Related:**

1. An application for watershed approval must be submitted to the Watershed Review Officer (WRO) and plans must be approved by the WRO prior to final plat approval and/or prior to application for any building/zoning permits. (Note: This approval may require additional conditions restricting the development of this property.) A copy of the WRO's approval of this plat/plan must be submitted to Code Enforcement at the time of application for any permits.
2. Prior to application for the building final inspection, a Watershed Occupancy Permit must be issued for each lot/tract within this development.

**Permit-Related:**

3. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
4. Connection to public water and sewer is required, the Public Works Commission (PWC) must approve water and sewer plans prior to application for any permits. A copy of the PWC approval must be provided to Code Enforcement at the time of application for building/zoning permits. (Section 2306 A.1, Public Water and Sewer Systems County Subdivision Ordinance)

rw

5. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.
6. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.
7. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
8. Landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance and be shown on the site plan for the office area portion of this development. Three copies of a revised site plan for the office area depicting the landscaping must be submitted to Land Use Codes prior to application for any permits. The following are the minimum standards for the required landscaping for the office area portion of this development:
  - a. Fourteen large shade trees or 26 small ornamental trees within the front yard setback area along SR 1611 (Andrews Road);
  - b. Eight ornamental trees and 85 shrubs are required in the building yard area;
  - c. Twenty two large shade trees or 44 small ornamental trees are required within the parking area.

In addition:

- a. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and
  - b. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.
9. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans. (Note: Also see Condition No. 29)

**Site-Related:**

10. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the MXD/CUD zoning district must be complied with, as applicable. (Note: The setbacks for the periphery of this development must comply with those of the adjoining zoning districts and only those office uses allowed as specified in Section 603 of the County Zoning Ordinance shall be permitted within the "office" area as shown on the site plan.)

11. All corner lots and lots fronting more than one street must provide front yard setbacks from each street, except where access to the street has been denied.
12. This conditional approval is not approval of the permit for any freestanding signs. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is **not** approval of the size, shape, or location of any signs.) The NC Department of Transportation (NCDOT) must also approve the sign location for those signs located within the median strips.
13. All applicable provisions of Section 2401, "Group Developments", County Subdivision Ordinance, must be complied with.
14. Concrete curbs and gutters complying with the City of Fayetteville standards and specifications are required. Rolled concrete curb, if allowed, must not be less than 24 inches in width. (Fayetteville MIA)
15. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources' (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2306 D, County Subdivision Ordinance)
16. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
17. The owner/developer shall secure and maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation.
18. This review does not constitute a "subdivision" approval by NC Department of Transportation (NCDOT). A separate submittal to NCDOT will be required prior to consideration for addition to the system of any street within this development.
19. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
20. The NC Department of Transportation (NCDOT) must approve the street plans and the street(s) are required to be constructed to the City of Fayetteville street standards or the NCDOT standards for secondary roads, if NCDOT is more restrictive.
21. The right-of-way width of the three median strips is required to be a minimum of 70 feet with the median strips not being less than 10 feet wide.
22. Turn lanes may be required by the NC Department of Transportation (NCDOT).
23. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.
24. A solid buffer must be provided and maintained along the boundary of the multi-family and office areas within this development, except where these areas abut a right-of-way in accordance with the provisions of Section 1102 G, Buffer Requirements, County Zoning Ordinance. (Note: Chain link fencing cannot be used to satisfy the buffer requirement.)
25. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.



26. All required off-street parking spaces measuring a minimum of 9' x 20', are required to be surfaced, with a permanent material such as asphalt or concrete, and striped prior to application for the building final inspection. A minimum of 288 off-street parking spaces for the multi-family area and 416 spaces for the office area are required for this development.
27. All notes and calculations as shown on the site plan are to be considered as a part of this conditional approval.

**Plat-Related:**

28. The areas labeled as stormwater areas, wetlands & uplands (open space) and all other commonly owned property must be labeled as "common area" on the final plat.
29. The final plat must reflect a minimum of a 20' emergency access easement between the multi-family and single family areas of this development and the access point must be surfaced with at least a gravel base prior to application for the first building final inspection of a multi-family unit and prior to final plat approval of any lot adjacent to the multi-family area.
30. Concrete or other approved surface material, sidewalks are required to be constructed along one side of all streets, to include along SR 1611 (Andrews Road). (5 or more du/ac). (Section 2305, Sidewalks, County Subdivision Ordinance)
31. Fire hydrants must be installed along the proposed streets and drives; hydrants must be located no further than 1,000 feet apart and at a maximum of 500 feet from any lot/unit. (Section 2306 B, Fire hydrants, County Subdivision Ordinance)
32. The developer is required to submit to Land Use Codes, three (3) copies of the legal documents specifically designating responsibility for maintenance and upkeep of all stormwater, recreational/open space and commons areas through an owners' association for this development. These documents must be approved by the County Attorney prior to the sale of or submission for final plat approval of any lot or unit within this development.
33. The developer must contact the Street Naming Section of the Planning & Inspection for approval of street names for the proposed streets and drives within this development. The approved street name must be reflected on the final plat for each section. (Note: The developer must provide the Land Use Code Section of the Planning & Inspection Department a copy of a site plan showing the approved street names on the plan.)
34. The street name signs, in compliance with the County Street Sign Specifications, must be installed prior to final plat approval. The developer should contact E911 Street Naming/Signs for inquiries regarding the County's policy for street sign installation or, if the sign is commissioned from a private source, to schedule an inspection of the street sign(s). Land Use Codes must receive notice of agreement with the Street Naming & Addressing Section for sign installation or of satisfactory inspection prior to the approval of the final plat.
35. Dedication of 10 feet of right-of-way and reservation of 5 feet of right-of-way along SR 1611 (Andrews Road) is required and the metes and bounds for both dedication and reservation is required to be shown on the final plat and/or reflected on any future site plans.. The location of all improvements, required or otherwise, and all building setback lines are to be measured from the ultimate right-of-way line. (Section 2302 F, Planned Public Right-of-Way, County Subdivision Ordinance)
36. The builder/developer must provide the buildable envelopes on the final plat: providing a five-foot maintenance easement along each side of all common internal lines with all other applicable setbacks being provided for, or at the time of permit application, the individual plot plans must be approved by Land Use Codes prior to issuance of any permits.

37. Any/All easements must be reflected on the final plat and labeled as to type of easement, reference number for document creating the easement, and the name of the agency, individual, etc. who holds the easement.
38. Twenty foot wide utility easements must be provided and reflected on the final plat along all rear lot lines (10 feet on each side) for the residential portion of this development and also must be provided for the non-residential portion if deemed necessary by the City Engineer.
39. All lots within this development must be served by an internal street system and a "no access" easement must be reflected on the final plat where Lots 1-8 and 47 - 56 abut SR 1611 (Andrews Road).
40. A 10' x 70' sight distance easement is required at the intersection of SR 1611 (Andrew Road) with the proposed streets and drives and must be reflected on the final plat.
41. A 25' right-of-way radius is required at all intersections and must be reflected on the final plat. (Section 2304.10.c, Street Design, County Subdivision Ordinance)
42. The NC Department of Transportation (NCDOT) stamp must be affixed to the final plat prior to submission for final plat approval by Land Use Codes.
43. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the final plat when submitted for final approval. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision Ordinance)
44. The developer is reminded that the improvements must be in place or that final plat approval will only be granted in accordance with Section 2502 B, C, or D, Final Plat - Guarantees of Improvements, Subdivision Ordinance. (Note: Once the improvements are in place, the developer is responsible for contacting Jeff Barnhill to schedule an inspection of the improvements.)
45. The final plat must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.

**Plat-Required Statement:**

46. All structures shall be shown on the final plat or the final plat shall reflect the following statement (Section 2504 D, County Subdivision Ordinance):

"Nonconforming structures have not been created by this subdivision."

**Other Relevant Conditions:**

47. The applicant is advised to consult an expert on wetlands before proceeding with any development.
48. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.
49. This conditional approval is contingent upon all rights-of-way being "public"; if the developer intends to construct "private" streets to serve this development, five copies of a revised site plan shall be required to be submitted to Land Use Codes for review and approval prior to submission for final plat approval of any portion of this development.

**If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605; otherwise, contact the appropriate agency at the contact numbers below.**

Contact Information (Area Code is 910 unless otherwise stated):

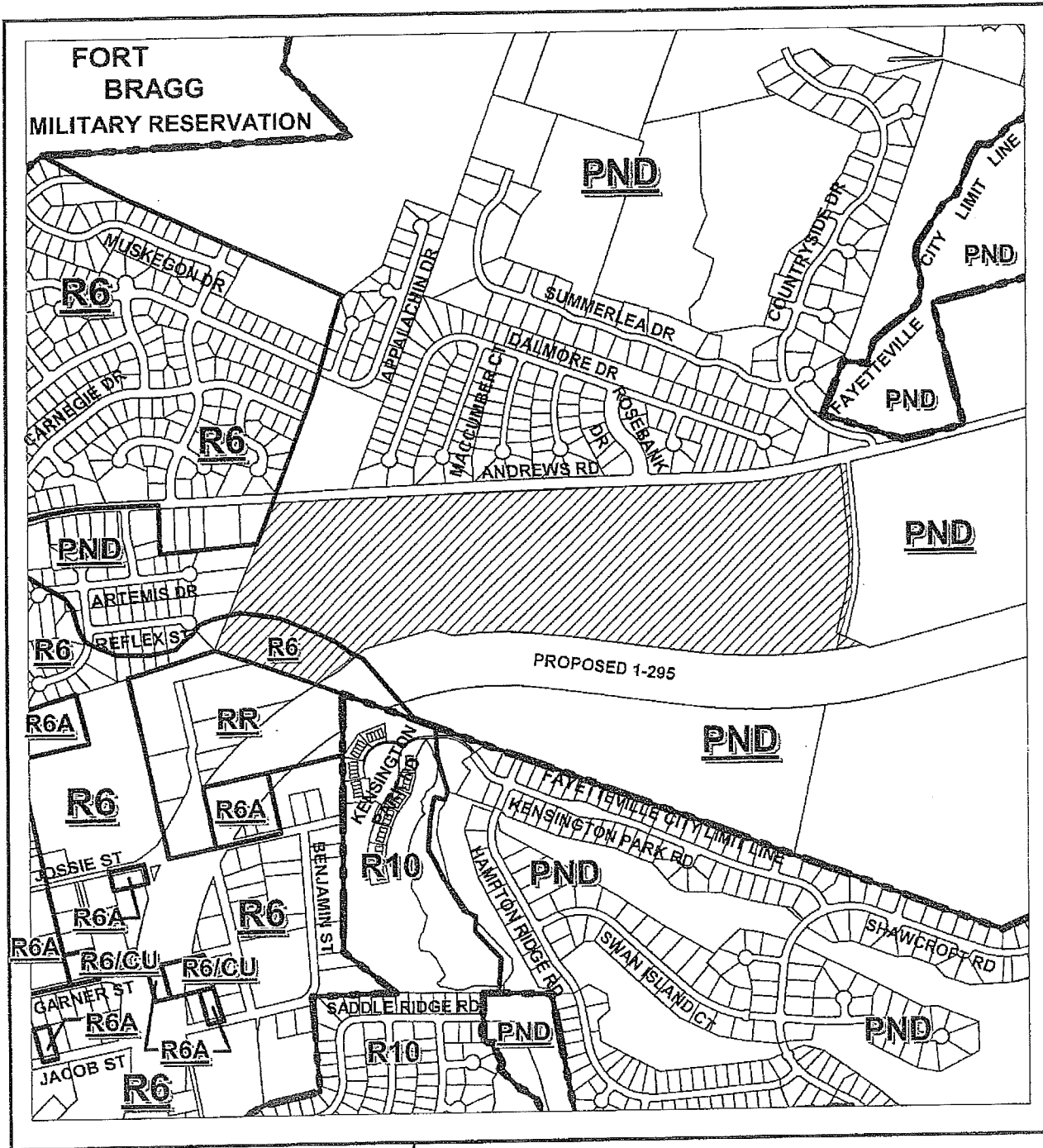
Watershed Officer/Improvements:	Jeff Barnhill	678-7765
Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
PWC:	Heidi Maly	223-4773
Fayetteville Planning:	Marsha Bryant	433-1416
Fayetteville Engineer:	Rusty Thompson	433-1660
Corp of Engineers (wetlands):	Ronnie Smith	(910) 251-4829
NCDENR (E&S):	Sally McKinney	433-3300
E911 Site-Specific Address:	Ron Gonzales	678-7616
E911 Street Naming/Signs:	Diane Shelton	678-7665
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
NCDOT (subdivision roads):	David Plummer	486-1496
Transportation Planning:	Bobby McCormick	678 7632
N.C. Division of Water Quality:	Mike Randall	(919) 733-5083 ext. 545
County Schools Planner:	Mark Whitley	678-2342

If you have any questions, please give me a call at 678-7605.

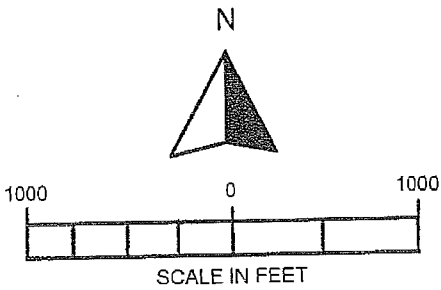
Sincerely,

  
Patricia Speicher  
Land Use Codes Supervisor

cc: Code Enforcement Section  
John Koenig



## REQUESTED REZONING PND & R6 TO MXD/CUD



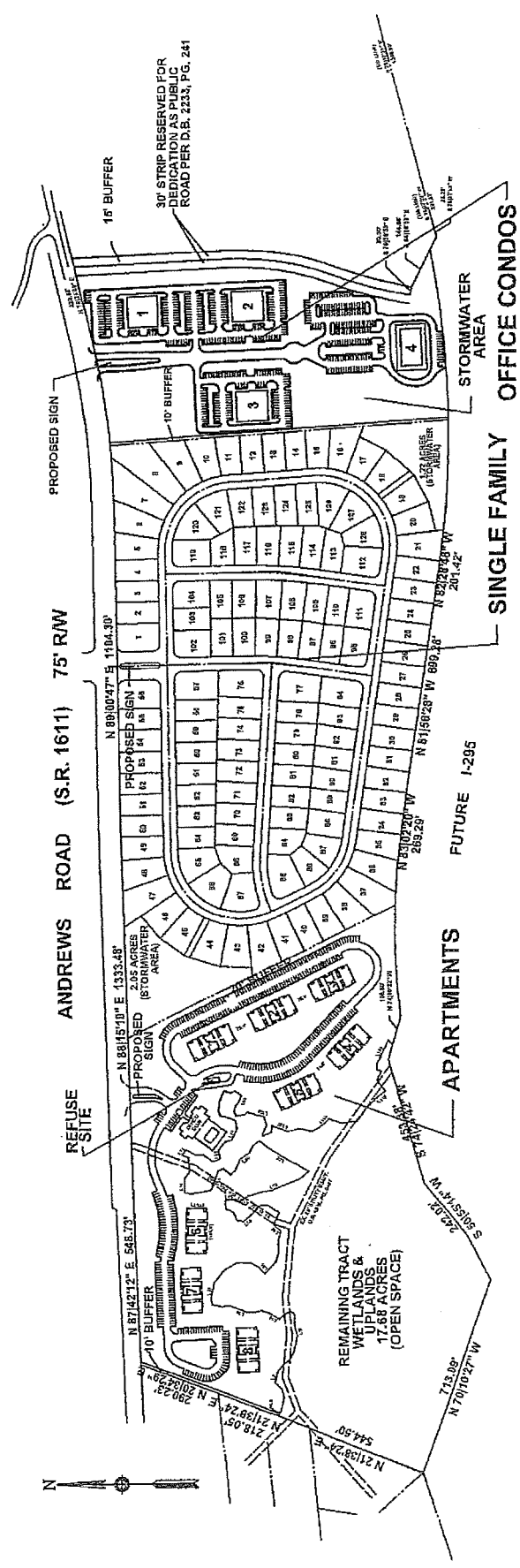
ACREAGE: 99.63 AC. +/-		HEARING NO: P09-06	
ORDINANCE: COUNTY		HEARING DATE	ACTION
STAFF RECOMMENDATION			
PLANNING BOARD			
GOVERNING BOARD			

PORT OF PIN: 0531-00-6612  
 PORT OF PIN: 0530-39-4583

AF  
3/11/09

\*Calculation based on total land area 99.63± acres  
 18% Open Space - 17.68± acres  
 \*Calculations based on net land area of 81.95 acres  
 56% Single Family - 45.86± Acres  
 24% Apartments - 20.06± Acres  
 20% Professional (Office Condos) - 16 ± Acres

# OF SINGLE FAMILY: 128 LOTS  
 # OF APARTMENTS: 192 UNITS, (8 EACH, 3-STORY, 24 UNIT BLDGS)  
 # OF STORIES FOR OFFICE CONDOS: 3 STORIES PER BLDG (4 BLDGS, 124,950 SQ. FT. TOTAL)



**MIXED USE DEVELOPMENT - CONDITIONAL USE DISTRICT & PERMIT**  
**CASE: P09-06 ACREAGE: 99.63±**  
**SCALE: NTS**

\*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST

2/26/2009  
 3/10/2008

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**MINUTES  
CITY OF FAYETTEVILLE  
ZONING COMMISSION  
CITY COUNCIL CHAMBERS  
1ST FLOOR, CITY HALL  
DECEMBER 8, 2009- 7:00 P.M.**

**MEMBERS PRESENT**

Pete Paoni  
Richard West  
John Crawley  
Lockett Tally  
Marshall Isler  
Mannell  
Hendricks

**MEMBERS ABSENT**

**OTHERS PRESENT**

Marsha Bryant, Planner  
Craig Harmon, Planner  
Janet Smith, Asst. City Atty  
David Steinmetz, Inspections  
Karen Hilton, Intm Plan. Dir.

The meeting was called to order at 7:00 pm.

**I. APPROVAL OF AGENDA**

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

**II. APPROVAL OF THE MINUTES FROM THE OCTOBER 13, 2009 MEETING**

Mr. Paoni made a motion to approve the minutes from October 13, 2009. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

**III. APPROVAL OF THE MINUTES FROM THE NOVEMBER 10, 2009 MEETING**

Mr. Crawley made a motion to approve the minutes from November 10, 2009. Mr. Isler 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 are quasi-judicial and speakers must be sworn in before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerk's Office, located on the second floor of City Hall.**



#### IV. PUBLIC HEARINGS

- B. Case No. P09-45F. The initial zoning to MU/CZ Mixed use Conditional Zoning District or to a more restrictive zoning classification for an area located on the south side of Andrews Road across from Rosebank Drive. Containing 128.04 acres more or less and being the property of River Landing Center, LLC as evidenced by map and legal description furnished by the City of Fayetteville, and being annexed by the City of Fayetteville in January 2010.**

Mr. Harmon gave an overview of the case. Mr. Harmon explained the current land use for the property and the surrounding areas. Mr. Harmon stated that the property has a Mixed Use Conditional Zoning from the County and the applicant is in the process of voluntary annexation. He stated that the 2010 land use plan called for low density residential and conservation. He stated that the Planning Department mailed out 243 letters in regards to the request. Mr. Harmon showed pictures to explain current land use of the property.

Mr. Harmon stated that staff recommendation for the property is to approve the MU zoning district to follow the City's policy of zoning to the closest zone the city has to what the property was zoned by the County. In this case it would be a straight transfer from Mixed Use Development / Conditional Use District to Mixed-Use Conditional Zoning District.

Mr. Harmon asked if there were any questions.

Mr. Isler asked about the conservation zoning listed in the 2010 plan. Mr. Harmon explained that typically conservation zoning is used around creeks and does not necessarily mean that there are any special features on the property that need conserving. Mr. Harmon stated the property is suitable for a regional park and that is why the property was zoned conservation.

Mr. Paoni opened the public hearing. There was no one to speak in favor or opposition of the request. Mr. Paoni closed the public hearing.

Mr. Paoni stated that the only thing he is concerned with is the lack of basic items needed in the area. Mr. Paoni used examples of basic services that would need to be in place for the people in that area. He asked the Commission for any other things they see missing.

Mr. West stated that he would like to see open space in the area and would like to encourage it.

Mr. Isler asked about any requirements that are available. Mr. Harmon said that every request has requirements in the residential portion. Mr. Isler asked if this property did not meet the requirements because it was brought in by the county. Mr. Harmon stated that it may not meet all the City's standards because it was brought in by the county. He stated that with the MIA agreement the county should approve them based on our ordinance.

Mr. Harmon stated that the Commission could approve the request with a list of concern that could be sent to City Council.

Mr. Crawley asked if anything beside suggesting conditions could be done. Mr. Harmon reminded Mr. Crawley that the Zoning Commission is a recommendation body and that City Council has the final say.

Mr. Harmon stated that the site plan calls for 18% open space.

Mr. Paoni emphasized his concerned about the lack of bus stops, services and it being a walking community.

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

Mr. Isler explained his concerned about the possible compromise of the city's requirements. Mr. Harmon assured him that the variances between the county's zoning and the city's zoning are minimum and not something that the Commission could deal with at this point.

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Council Member Bobby Hurst - District 5  
**DATE:** January 25, 2010  
**RE:** **Appointment Committee (Council Member Hurst) Presentation of Appointment Committee Recommendations for Ethics Commission Appointments**

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**THE QUESTION:**

Do the attached recommendations from the City Council's Appointment Committee meet the City Council's approval?

**RELATIONSHIP TO STRATEGIC PLAN:**

- Partnership of Citizens - Citizens Volunteering to help the City
- Greater Community Unity - Pride of Fayetteville
- Diverse Culture and Rich Heritage - Diverse people working together with a single vision and common goals

**BACKGROUND:**

The Appointment Committee met on Tuesday, January 19, 2010 to review applications for appointments to the newly formed Ethics Commissions. It is from that meeting that the Appointment Committee provides the attached recommendations for appointments to the City of Fayetteville Ethics Commission. Consistent with the City Council's wishes, the Appointment Committee's recommendations for appointments are indicated on the attachment.

**ISSUES:**

NA

**OPTIONS:**

1. Approve Appointment Committee recommendations to fill the Ethics Commission vacancies as indicated on the attachment.
2. Approve Appointment Committee recommendations to fill some of the Ethics Commission vacancies and provide further direction.
3. Do not approve Appointment Committee recommendations to fill the Ethics Commission vacancies and provide further direction.

**RECOMMENDED ACTION:**

Approve Appointment Committee recommendations for the Ethics Commission appointments.

**ATTACHMENTS:**

Ethics Commission Recommendations

**FAYETTEVILLE CITY COUNCIL ETHIC COMMISSION APPOINTMENTS**

*January 25, 2010*

CATEGORY		RECOMMENDATION
1.	<b>Cumberland County Bar Association</b> ❖ 1 Appointment	Renny W. Deese
2.	<b>Sandhills Chapter of Certified Public Accountants</b> ❖ 1 Appointment	Kelly D. Puryear
3.	<b>University/College Selection</b> ❖ 1 Appointment	Pending
4.	<b>General Citizenry</b> ❖ 2 Appointments	1. Stephon A. Ferguson  2. Gwen J. Holloman

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Tom Bergamine, Chief of Police  
**DATE:** January 25, 2010  
**RE:** **Police - Consideration of proposed ordinance revisions to Article VII, Wrecker & Tow Ordinance**

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**THE QUESTION:**

Whether to approve the proposed ordinance revisions to Article VII, Wrecker & Tow Service of the Fayetteville City Code?

**RELATIONSHIP TO STRATEGIC PLAN:**

This action is requested based on Principle H of the Council's Strategic Plan, Partnership and Citizens, specifically, working together with citizens to solve problems. Additionally, this is also an initiative under the guiding principle of Operational Efficiency within the Police Department's Community Wellness Plan (Target for Action: Crime Reduction Strategy and Report).

**BACKGROUND:**

At the November 9, 2009 City Council meeting, Sergeant Matthew Dow, Police Department, presented information regarding a new management system that will aid citizens in the recovery of towed vehicles and the management of the City's wrecker rotation list. Proposed ordinance revisions necessary for the successful implementation of the new management system were presented to Council. Members of the Cumberland County Wrecker's Association expressed concerns regarding the revisions. Council directed Staff to meet with the Wrecker Review Board to address the issues raised by the wrecker industry, including, but not limited to the following items: increased insurance requirements, updated language, City Code compliance, predatory towing, requirements for all tows-not just rotation (C:Logic). A meeting was conducted with the Wrecker Review Board on December 15, 2009 and from that meeting recommendations were incorporated into the revised ordinance.

**ISSUES:**

Status of revised Wrecker Ordinance.

**OPTIONS:**

Approve all ordinance revisions or approve some ordinance revisions or decline to approve ordinance revisions

**RECOMMENDED ACTION:**

Staff recommends approval of all proposed ordinance revisions

**ATTACHMENTS:**

Wrecker Ordinance Revision (Draft)

## ARTICLE VII. WRECKER AND TOW SERVICE

### Sec. 24-221. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means a person, firm, or corporation engaged in the business of, or offering the services of, a vehicle wrecker or towing service whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle manufactured and designed for the primary purpose of removing and towing disabled motor vehicles that desires to participate in the rotation list by making application to the same.

*Chief of police* means the executive head of the police department of the city or anyone designated by him.

*Consensual tow* means a tow where the vehicle owner, operator or his agent or designee is present at the scene and the individual owner, operator or his agent or designee expressly requests that a specific towing or wrecker company to remove his vehicle and enters into a private contract with the towing or wrecker company for towing services.

*Driver* means any person driving a wrecker upon the streets, roads and public thoroughfares of the City of Fayetteville.

*Licensee* means a person, firm or corporation, or employee, agent or contract agent of any person, firm or corporation issued a license under the terms of this article.

*Non-consent tow* means a tow occurs without prior consent or authorization of the owner or operator of the motor vehicle that is to be towed. For purposes of this provision, a "non-consent tow" includes:

- (i) a repossession ;
- (ii) a city (county) initiated tow from public or private property;
- (iii) a law enforcement initiated tow from public property; or
- (iv) a tow of a vehicle initiated by a private party.

*Rollback* means a truck chassis having a minimum gross vehicle weight rating of 14,000 pounds, a minimum deck length of 16 feet, and being constructed of steel or aluminum. The deck must have a minimum load capacity of 7,000 pounds, a deck winch with a minimum capacity of 6,000 pounds, and a winch cable with a minimum diameter of three-eighths of an inch and a minimum length of 25 feet.

*Rotation calls* means calls for towing services made by the City using licensees from the City's rotation list.

*Rotation list* means a list maintained by the police department containing the names of those wreckers licensed by the city to respond to requests made by the police department for the towing of vehicles.

Rotation wrecker services means the towing, lifting, righting, winching, removal or storage of a city-owned vehicle, illegally parked vehicle, wrecked vehicle, damaged vehicle, inoperable vehicle, seized vehicle, abandoned vehicle, disabled vehicle or other designated vehicle in accordance with the city rotation list.

*Tow or towing* means the act of moving damaged or disabled vehicles, illegally parked vehicles, and vehicles that must be moved for safekeeping and evidentiary purposes, and abandoned, wrecked, dismantled or inoperative vehicles constituting a nuisance.

*Towing Operator* means any person, firm corporation or other entity, whether licensed or not, who owns or operates a business which engages, in whole or in part, in the business of towing, removal or storage of motor vehicles in the City of Fayetteville.

*Wrecker* means a truck chassis having a minimum gross vehicle weight rating of 19,000 pounds with a wheelbase of 84 inches from the rear of the cab to the rear axle, a hydraulic boom assembly having a minimum lifting power of 12 tons, a hydraulic wheel lift having a minimum lifting power of 4,000 pounds retracted, as rated by the manufacturer. A wrecker must also have two 12,000 pound winches and any additional safety equipment as specified by the chief of police and incorporated herein by reference as set forth in this article.

*Wrecker inspector* means the person designated within the City's police department to fulfill his duties as outlined in this article.

(Code 1961, § 20-164; Ord. No. S2001-004, §§ 1, 2, 2-5-2001)

**Cross references:** Definitions generally, § 1-2.

#### **Sec. 24-222. Policy.**

In order to protect persons who operate motor vehicles inside the city, it is desirable and necessary to adopt this article to ensure licensing, storage, availability, and other controls over persons and firms providing towing and vehicle storage services.

(Code 1961, § 20-165)

#### **Sec. 24-223. Duties and requirements of licensees under this article.**

(a) The licensee shall provide a wrecker vehicle of sufficient size and weight as defined in section 24-221. The operator of such wrecker shall follow the

manufacturer's operation manual in the operation of such wrecker. The wrecker operator shall not attempt to tow any vehicle that would reduce the weight of the front axles of the wrecker by 50 percent or more.

(b) All wreckers shall be equipped with warning lights required under state law. Wreckers and rollbacks shall operate all warning devices while stopped in or near a street, highway, public vehicular area, or any other area where vehicles may travel. Wreckers and rollbacks are not required to operate warning lights while in tow unless the vehicle is oversized or a condition exists that requires towing the vehicle substantially below the speed limit. A wrecker or rollback with a vehicle in tow must have auxiliary tow lights attached to the towed vehicle in a manner that allows following traffic to observe whether the towing unit is turning or braking. If a rollback is transporting a vehicle on the bed and the turn and brake lights are visible to the rear, no auxiliary tow lights are necessary. Wreckers and rollbacks shall be marked in accordance with N.C. Gen. Stat. § 20-101, as it may be modified from time to time.

(c) The licensee shall provide continuous 24-hour-a-day service each day of the year, and there shall be an attendant on duty at the storage lot, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday except for emergencies and State and Federal holidays. This attendant shall be clothed with the authority to release any vehicle upon the legal conditions of release being fulfilled. The attendant should also be authorized to provide assistance to the driver and any relevant information regarding the towing of their vehicle, including, but not limited to, billing inquiries and property damage. The licensee shall also post instructions in an area that is visible to the public regarding how to retrieve the driver's vehicle when attendants aren't present.

(d) The licensee shall not release any vehicle directly impounded by the city without authorization by the police department.

(e) Licensees shall perform towing service for the city on a rotation basis.

(h) No licensee or agent of the licensee shall intercept police calls by any means for the purpose of soliciting business.

(i) No licensee or agent of the licensee shall engage in unfair and deceptive trade practices in the course and operation of its business in violation of N.C. Gen. Stat. § 75-1, et. seq.

(j) Only drivers holding valid North Carolina driver's licenses may respond to City rotation calls. The licensee shall provide North Carolina licensed wrecker drivers for the purpose of responding to city rotation calls. Drivers must adhere to the North Carolina Driver's License Act, N.C. Gen. Stat. § 20-5, et seq., Drivers with felony offenses or misdemeanors related to North Carolina's Controlled Substances and Vapors Act, as it may be modified from time to time, or the offense of driving under the influence of an intoxicating liquor or drug, or who are habitual offenders of traffic laws, will not be authorized to respond to city rotation calls.

(k) Drivers employed by licensees are required to attend and successfully complete eight hours of hands-on training and pass a written test pertaining



to the towing and recovery of vehicles. This training shall be conducted by a recognized training facility or by a trained and certified licensee.

(k) The licensee shall provide:

- (1) An outdoor space measuring 8,600 square feet for properly accommodating and protecting motor vehicles to be towed or otherwise removed from the place where they are disabled. Such storage space for vehicles shall be enclosed by a minimum six-foot chain link fence or a fence of similar strength and shall have all entrances and exits secure from public access and be compliant with all applicable articles of the Fayetteville City Code;
- (2) A storage vault or storage room on the storage lot or premises which is adequate to secure and protect personal property which may be left in vehicles towed to a private wrecker. An office space with proper signage identifying the business and telephone number
- (3) The storage lot shall be located within the corporate limits of the City Fayetteville. If a licensee and/or applicant is a family member of another licensee and/or applicant, or has a monetary interest, or is otherwise employed by another licensee and/or applicant, the respective businesses must be at least one-mile apart.
- (4) Licensees are prohibited from sharing any office space, employees or equipment that is subject to inspection with other licensees. However, licensees may request assistance from another licensee to assist in a particular tow or vehicle recovery, provided that the assisting licensee supervises and operates its own equipment at the scene of that tow or vehicle recovery.

(l) Licensees shall be held responsible for the actions of their employees. Failure to correct or prevent conduct that is in violation of this article that the Licensee had knowledge of, or should have had knowledge of by the exercise of due diligence, will result in action being taken against the Licensee, up to, and including, removal from the city rotation list.

(m) Upon request or demand, and proof of ownership or right of possession, a licensee shall return personal property stored in a vehicle, provided that all authorized charges for towing of the vehicle have been paid. A licensee may not require payment of any storage fees as a prerequisite to release personal property. Any items attached to the vehicle such that a tool of any type is required for removal is not considered personal property under this provision.

(n) All wrecker and rollbacks utilized by the Licensee shall be registered to the Licensee at the address indicated on the Licensee's application as its storage lot or principal place of business within the City of Fayetteville.

(o) Licensees must release vehicles from storage after regular business hours upon request of the Fayetteville Police Department or the owner of the vehicle. Licensees may charge a release fee in accordance with the fee schedule approved by City Council referred to in Section 24-237 for such service as it may be modified from time to time. The Licensee may also require payment of the release fee at the time of the release.

(p) Licensees must tow vehicles to their designated storage facility or to another location designated by the vehicle owner or the Fayetteville Police Department. Charges for tows to a police facility, where the vehicle is not relocated to the licensee's storage facility within fourteen 14 days, shall be paid by the City.

(Code 1961, § 20-166)

#### **Sec. 24-224. Additional equipment authorized.**

(a) After having met the requirement of subsection 24-223(a), a Licensee may have an additional wrecker of not less than 14,000 pounds GVWR with dual rear wheels. This wrecker must have a boom rated at 8 tons with two 8,000 pound winches with 100 foot cables no smaller than 3/8 of an inch in diameter and a wheel lift having a minimum lifting power of 3,000 pounds retracted as rated by the manufacturer. All auxiliary equipment must be duplicated on this additional wrecker as required by the wrecker inspector for large wreckers.

(b) After having met the requirement of subsection 24-223(a), a Licensee may have a rollback for the purpose of initial response to rotation calls. This rollback must have a minimum gross vehicle weight of 14,000 pounds, a minimum deck length of 16 feet and be constructed of steel or aluminum. The deck winch must have a minimum capacity of 6,000 pounds and a winch cable with a minimum diameter of three-eighths of an inch and a minimum length of 25 feet. All auxiliary equipment must be duplicated on the rollback as required by the wrecker inspector for the primary rotation wrecker, except dollies.

(c) It is not the intent of this section to allow the wrecker defined in subsection (a) of this section to be used as a substitute for that required in subsection 24-223(a), in order to be eligible to be on the rotation list.

(Code 1961, § 20-167; Ord. No. S2001-004, § 3, 2-5-2001)

#### **Sec. 24-225. Application for license.**

All applicants shall submit an "application for wrecker service license" in duplicate to the wrecker inspector. Applications shall be obtained from the office of the wrecker inspector. This application shall include:

- (1) The name, home and business address and telephone number of the applicant/owner, and name of the business if different from name of owner;

(2) That the storage lot on which towed vehicles will be stored is located within the city limits and additional information concerning the size and security features of the lot;

(3) The towing equipment available, its size and capacity;

(4) A complete listing of the insurance policies, complying with section 24-229 and the carriers and agents the wrecker applicant would place into effect upon license approval;

(5) A copy of a current city privilege license;

(6) Copies of all valid North Carolina drivers' licenses for its drivers.

(7) Such other information as the wrecker inspector may find reasonably necessary to determine whether or not the requirements of this article will be complied with and that it is in the best interest of the public health, safety and welfare to issue a license to the applicant;

(Code 1961, § 20-168)

#### **Sec. 24-226. Licensing.**

(a) Within a reasonable period, but no later than ninety (90) days after receiving an "application for wrecker service license," the wrecker inspector shall conduct an investigation to determine if the applicant has complied with the necessary standards and criteria of this article, and that it is in the best interest of the public health, safety and welfare that a license shall be issued to the applicant after having complied with the provisions of section 24-223. If approved, the applicant's name shall be placed at the end of rotation list; provided, that if an applicant is refused a license by the wrecker inspector, the applicant shall have the right to appeal the denial to the wrecker review board for a determination concerning the issuance of license to such applicant. The appeal shall be in accordance with section 24-243.

(b) After the initial approval of the licensing, the wrecker inspector shall conduct an annual inspection to ensure that the licensee maintains the necessary equipment and is otherwise in compliance with the requirements of this article.

(c) The rotation list shall be limited to no more than twenty wrecker companies. Prospective applications will be placed on a waiting list and considered for selection to the City wrecker rotation list in the order that the applications were received.

(Code 1961, § 20-169)

#### **Sec. 24-227. Mandatory refusal of application.**

If an applicant has been convicted, entered a plea of nolo contendere, or received a prayer continued for judgment within the last five years for any felony

offenses or misdemeanors related to North Carolina's Controlled Substances and Vapors Act as it may be modified from time to time or the offense of driving under the influence of an intoxicating liquor or drug, or is an habitual offender of traffic laws, it is the finding of the city council that it is not in the best interest of the public health, safety or welfare to issue a license under this article to such applicant and therefore any such application shall be denied.

(Code 1961, § 20-170)

### **Sec. 24-228. Conditions precedent to issuance of license.**

When an application is approved, a license will be issued when:

- (1) Insurance policies required by this article have been procured and a copy of each policy has been given to the wrecker inspector. Each policy shall be written by a company licensed to do business in North Carolina, and issued in the name of the licensee.
- (2) Each licensee must have its own insurance policy to insure its business, including, but not limited to, equipment, employees, real property and other personal property. Licensees are prohibited from including multiple licensees on one policy, or having licensees as additional insureds on their respective policies.
- (3) The requirements of this article and all other governing laws and ordinances have been met, including that each licensee maintains a business with a business telephone listing within the city limits. This business will be at the same location as the storage lot.

(Code 1961, § 20-171)

### **Sec. 24-229. Insurance.**

The following are the minimum insurance requirements to be kept and maintained by any licensee under this article at all times such license is in effect:

- (1) *Garage/auto liability policy.* A garage liability policy covering the operation of the licensee's business equipment, or other vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of \$1,000,000.00..
- (2) *Garage keeper's/On-Hook Coverage policy.* A garage keeper's liability policy for each storage premises covering fire, theft, windstorm, vandalism and explosion in the amount of \$100,000.00 (\$20,000.00 per claim per vehicle). This shall not be a requirement for open storage areas. Similarly, each licensee must have its own "on hook" insurance policy in the minimum amount of \$100,000.00.

- (3) *Notice of change.* Each policy required under this section must contain an endorsement by carriers providing ten days' notice to both the

city and the insured in the event of any change in coverage under the policy.

(4) Each licensee must have a separate liability insurance policy issued in the name of the licensee. Licensees are prohibited from including multiple licensees on one policy, or having licensees as additional insured on their respective policies.

(Code 1961, § 20-172)

#### **Sec. 24-230. Hold harmless provision.**

Any licensee shall indemnify, save and hold harmless the city, its officers, agents, and employees, from any and all claims, actions, defenses, suits, and proceedings arising out of any negligent, grossly negligent or intentional, willful or wanton misconduct on the part of a licensee, employee, or part-time employee of the licensee, which such misconduct is the proximate cause of damage to any vehicle towed or stored in a lot authorized under the terms of this article, including, but not limited to, liability for damages sustained by vehicles while being towed or stored and for all personal injuries occurring to any of the firm's employees or other persons.

(Code 1961, § 20-173)

#### **Sec. 24-231. Wrecker inspector; office created.**

There is hereby created the office of wrecker inspector, who shall be appointed by the city manager.

(Code 1961, § 20-174)

#### **Sec. 24-232. Duties generally.**

The wrecker inspector shall be responsible for:

- (1) The practical administration of the wrecker ordinances and regulations and the safety and welfare of the public in connection with the operation and use of rotation wreckers;
- (2) The inspection of wreckers;
- (3) Advising the chief of police, the city manager, and the wrecker review board with respect to matters governed or incidentally involved in the operation or administration of the wreckers and the rotation wrecker ordinance, after having conferred with members of the wrecker industry.
- (4) Making recommendations for submission to the city manager, wrecker review board, and to the city council, after having conferred with members of the wrecker industry, with respect to the adequacy of wrecker service in the city to serve the public convenience and necessity;

(5) Making such studies and recommendations as he may deem advisable looking towards more efficient operation of wreckers and rotation wreckers to the end that the public safety and welfare will be served and proper as adequate wrecker service to the general public will be promoted;

(6) May collect data and statistics related to non-consent tow and release of vehicles.

(7) The wrecker inspector may prescribe procedures for the reporting of information relating to the impound and recovery of non-consent tows and, consistent with law, operate a centralized data system for the tracking of this information.

(8) All other duties as required by this article.

(Code 1961, § 20-175)

#### **Sec. 24-233. Cost and inspections.**

(a) Except as provided in section 24-234, all costs incident to towing and storage shall be paid by the owner, or person in charge or possession of the towed and stored vehicle, to the towing operator, and a receipt for payment shall be issued to such person. With regard to rotation calls, the city shall assume no liability or responsibility for any vehicle removed from any place without the authority of the police department. Each licensee shall maintain approved records and claim check system to assure release of vehicles to the rightful owner or authorized person. Such records shall be open to the police department and/or the wrecker inspector for investigation of specific complaints, in writing, and for compiling surveys under this article. Any licensee shall permit any person appointed by the wrecker inspector to inspect his records, vault, security room, or storage area at such reasonable times as the wrecker inspector shall deem appropriate.

(b) Any administrative costs due to the city and imposed by this article, to include any service fee due for the operation and maintenance of a centralized electronic data reporting system, shall be collected by the towing operator at the same time the cost incident to towing and storage are collected in subsection (a) of this section, and immediately paid to the City's Finance Department or designee.

(Code 1961, § 20-176)

#### **Sec. 24-234. Wreckers called by the police.**

The police department shall ensure that wreckers are called to the scene of an accident or to impound vehicles on a rotation basis, distributing the calls from the rotation list. The chief of police shall not call or cause to be called any wrecker not on the rotation list unless all such wreckers are unavailable, or unless the owner of the vehicle to be towed requests that a specific wrecker be called; any wrecker called by the police department not on the rotation list shall comply with statutory insurance requirements. In accordance with North Carolina's Incident Management policy, as may be periodically modified, it is specifically permitted for the police department to call a wrecker out of sequence where, due to the public's health, safety and welfare, or in an emergency or life-threatening situation, proximity to the wreck and estimated response time make it more necessary to do so. Out of sequence calls shall count as rotation calls.

(Code 1961, § 20-177)

### **Sec. 24-235. Storage of vehicles.**

(a) It shall be the responsibility of any licensee to secure in a safe manner any vehicle or personal property contained in such vehicle that is placed in the custody of the licensee as a result of being called by the city police department to perform a tow. The area within which such vehicle and/or personal property shall be stored shall meet the minimum requirements of subsection 16-223(i). If at the time the vehicle was towed the storage area provided by the licensee is full, then the licensee shall secure the vehicle and/or personal property elsewhere as permitted by the police department. In the event that the vehicle or personal property placed in his custody is the subject of a police investigation for evidentiary purposes, and the storage area is full, then the licensee shall immediately contact the wrecker inspector or the desk sergeant on duty and make arrangements to secure the vehicle and/or personal property in a safe manner.

(b) Whenever a vehicle is impounded and held for evidentiary purposes as the result of a criminal arrest, the owner of the vehicle shall be reimbursed by the city for any towing and storage fees incurred during the period of time that the car is held for evidentiary purposes only upon one of the following conditions being met:

- (1) The owner is not arrested with any crime arising out of the alleged criminal activity resulting in the impoundment; or
- (2) The vehicle is returned pursuant to the provisions of G.S. 90-112.1; or
- (3) If the owner is arrested, the charge is dismissed or there is a finding of no probable cause in district court.

In the case where none of the above conditions have been satisfied, the city shall reimburse the towing operator for any towing and storage fees and/or assist the towing operator in obtaining restitution as allowed by law.

(Code 1961, § 20-178)

**Sec. 24-236 Electronic Reporting of Tow Information**

(a) The City shall, consistent with state and local law, prescribe a form or other method for the electronic reporting of all towing services provided within the City of Fayetteville in order to facilitate and expedite the recovery of a vehicle from a vehicle storage facility, as defined in this ordinance.

(b) The towing operators, as defined by this ordinance, shall report by electronic means to the police department all necessary information required to assist the City in notifying the registered owner regarding the towing and/or release of their vehicle. The reporting shall be completed within sixty (60) minutes from the time the vehicle is delivered to the storage lot, provided that the tow occurred during normal business hours, or by 9:00 a.m. the following business day if the vehicle was towed during non-business hours. The necessary information related to the towing of the vehicle includes, but is not limited to, the following:

- (1) the name and address of the registered owner of the vehicle.
- (2) the location of the stored vehicle;
- (3) a description of the stored vehicle, including the color, make, and model;
- (4) vehicle license plate number and state; and
- (5) vehicle identification number (VIN).
- (6) the date and time that the vehicle was towed; and
- (7) the location from where the vehicle was towed.

If applicable, the wrecker operator shall also provide the following information within sixty (60) minutes of releasing the vehicle:

- (1) the owner's driver's license/identification number;
- (2) the date and time the vehicle was released from custody; and
- (3) the identity of the individual to whom the vehicle was released, to include the name, address and driver's license/identification number if different from that of the registered owner.

**Sec. 24-237. Fees.**

The city council, from time to time, upon the recommendation of the wrecker inspector, after having consulted with the licensees, shall establish a table of maximum fees and costs that may be charged by licensees under the provisions of this article, and establish any administrative fees to be charged per tow for the costs incurred in administering the provisions of this article, including the assessment of an administrative fee for all non-consent tows initiated under this ordinance.

(Code 1961, § 20-179)



**Sec. 24-238. Other regulations.**

The wrecker inspector, subject to approval by the city manager, shall establish and cause the enforcement of reasonable rules and regulations for licensees as from time to time he deems appropriate for the safety, well-being, and protection of citizens within his jurisdiction and their property. These rules and regulations, as approved by the city manager from time to time, shall be incorporated in this section by reference. A copy of these rules and regulations shall be available for inspection in the office of the wrecker inspector at all times.

(Code 1961, § 20-180; Ord. No. S2001-004, § 4, 2-5-2001)

**Sec. 24-239. Solicitation of business.**

(a) It shall be unlawful for any towing operator or person acting on behalf of any towing operator, to stop or approach within 1,500 feet of a scene of an accident or disabled vehicle either for the purpose of soliciting an engagement for towing service, either directly or indirectly, or to contact the owner/operator or legal possessor of a disabled or wrecked vehicle, either directly or indirectly, or to solicit by phone, for the purpose of soliciting business or to furnish any towing service, unless the towing operator has been summoned to such scene by the owner/operator or legal possessor of a disabled or wrecked vehicle or has been requested to perform such service at the request of a law enforcement officer or agency pursuant to that agency's procedures. For purposes of this section, unlawful solicitation shall include, but is not limited to, the distributing of business cards, tokens or items of any kind bearing the name of a towing operator within 1,500 feet of a scene of an accident or disabled vehicle by a licensee not summoned to such scene as provided in this section.

(b) It shall be unlawful for a city, county or state employee to solicit for any towing operator. For purposes of this section, unlawful solicitation shall include the distributing of business cards, tokens or items of any kind bearing the name of a towing operator at anytime.

(Code 1961, § 20-181; Ord. No. S2001-004, § 5, 2-5-2001)

**Sec. 24-240. Suspension or revocation of license.**

(a) The following shall be grounds for suspension or revocation of a license issued under this article:

(1) The license was secured by fraud or by the concealment of a material fact by the licensee and such fact, if known, would have caused a refusal to issue a license;

(2) The licensee, or any employee, representative or agent of the licensee, is charged with any felony or any violations of North Carolina's Controlled Substances and Vapors Act, as it may be modified from time to time, or the offense of driving under the influence of an intoxicating liquor or drug.

(3) The licensee failed to procure insurance as provided in Sections 24-228 and 24-229.

(4) The licensee has violated any of the requirements of the regulations established by the wrecker inspector under this article;

(5) Past services rendered by any licensee are shown to be detrimental to the public health, safety, and welfare, including overcharging of wrecker fees or false charging of items done by the wrecker business;

(6) The licensee paid in the form of a gratuity any third person for information as to the location of the accident;

(7) The licensee has violated the fee schedule by overcharge or false charges;

(8) Failure to operate the wreckers specified in such a manner as to serve the public adequately and efficiently;

(9) Failure to maintain recovery equipment, to include all vehicles used in towing, in good condition;

(10) Failure to pay the city privilege license fee imposed upon licensees;

(11) Failure to report accidents while towing city rotation call vehicles or to furnish such other records and reports as may be required by this chapter and/or the wrecker inspector;

(12) Failure to pay civil penalties issued pursuant to this ordinance;

(13) The intentional, willful or wanton failure to comply with any of the provisions of this chapter, ordinance or state laws relating to the operation of wreckers; and

(14) The intentional, willful or wanton failure to comply with the reporting requirements of this ordinance, as may be periodically modified.

(b) If the wrecker inspector determines that any of the above violations have occurred, he shall have the authority to revoke or suspend a license as follows:

(1) For violation of subsection (a)(1) through (3) of this section, revocation;

(2) For a first time violation of subsections (a)(4) through (14) of this section, suspension up to 30 days;

(3) For a second violation of subsections (a)(4) through (14) of this section, within a period of two years from the date of the first suspension, suspension up to 60 days; and

(4) For a third violation of subsections (a)(4) through (14) of this section, within a period of two years from the date of the first violation, revocation.

(c) Any licensee who has his license revoked shall be eligible to apply for a new license one year from the date of the revocation. For purposes of this section, the date of suspension or date of revocation shall be the date of the notification by the wrecker inspector pursuant to section 24-240, or if an appeal is made, the date of the final action by the wrecker review board.

(Code 1961, § 20-182)

**Sec. 24-241. Notification of suspension or revocation by wrecker inspector.**

Such revocation or suspension shall be in writing and notify the licensee of the following:

- (1) The nature of the violation;
- (2) The wrecker inspector's recommendation as to whether the licensee should remain on the rotation wrecker list, should be suspended, or its license revoked;
- (3) That the licensee has a right to appeal such action to the wrecker review board.

(Code 1961, § 20-183)

**Sec. 24-242. Wrecker review board.**

There is hereby established a wrecker review board whose function is to hear appeals from any decision of the wrecker inspector pursuant to this article. The board shall be composed of a chairman, two individuals selected by the licensees, and two individuals appointed by the chief of police. The chairman shall be selected by the city council, and shall be a disinterested person who is not a licensee, wrecker owner or operator, or a city employee. Two members of the wrecker review board shall be selected by the licensees by means of a vote of the licensees. The chief of police shall appoint two members of the police department who hold the rank of sergeant or higher to the wrecker review board. All members shall serve for a term of two years, and no member shall serve more than two consecutive terms. The wrecker inspector shall serve as a nonvoting advisor and to bring complaints to the wrecker review board.

The wrecker review board will meet on a quarterly basis irrespective of whether they receive any notices of appeals. All meetings, to include appeal hearings, will be governed by North Carolina's open meeting laws.

(Code 1961, § 20-184)

**Cross references:** Administration, ch. 2.

**Sec. 24-243. Appeal to the wrecker review board.**

Whenever any provision of this article shall provide for an appeal of a decision of the wrecker inspector to the wrecker review board, the following procedure shall be followed:

- (1) The appellant shall give written notice of appeal to the city clerk within ten days of receiving the notice of the action he is appealing;

(2) The wrecker review board shall hold a hearing on the appeal within 30 days of receipt of the written notice of appeal;

(3) The written notice of appeal shall state whether or not the appellant wants an open or closed hearing before the wrecker review board. In the event of the failure to make such a request, such hearing shall be open.

(Code 1961, § 20-185)

**Sec. 24-244. Action pending appeal; lapse of time; waiver.**

(a) Whenever a provision of this article states a specific time within which an appeal must be taken, and regardless of the level of authority from which the appeal may be taken, if the appeal is not taken within the time prescribed, then the action of the wrecker inspector from which the appeal may have been taken is deemed to be final.

(b) The action of the wrecker inspector suspending or revoking the rights granted under the authority of this article shall be effective upon receipt of notice by the licensee; provided, that if the licensee files a timely appeal, then any right under this article heretofore existing shall continue in effect during the pendency of any appeal or 30 days, whichever is sooner.

(c) Any hearing may be continued upon 48 hours' written notice prior to the date of the hearing; provided, that if the new date for the hearing is more than 30 days from the date of the original notice of appeal, then the rights of the appellant pursuant to subsection (b) of this section may only be extended upon a showing of good cause.

(Code 1961, § 20-186)

**Sec. 24-245. Hearing; action of wrecker review board.**

(a) The purpose of the hearing before the wrecker review board shall be to determine whether or not the action of the wrecker inspector in suspending or revoking the rights and privileges of the appellant was in the best interests of the public health, safety, and welfare of the city. The appellant shall be permitted to present any evidence relevant to the subject matter of the appeal. The hearing shall be administrative in nature, and the action of the wrecker review board shall be final.

(b) If the action of the wrecker review board is to affirm the action of the wrecker inspector, then the effective date of the action shall be the date of the hearing. Any period of actual suspension as the result of a continuance prior to the hearing shall be counted toward any period of suspension approved by the wrecker review board.

(Code 1961, § 20-187)

**Sec. 24-246. Hearing procedures.**

Any hearing before the wrecker review board shall use the following procedures:

- (1) The hearing shall be open, unless specifically requested by the appellant prior to the hearing;
- (2) The appellant shall be entitled to make any statements either by an attorney or someone of his own choosing;
- (3) The appellant shall be entitled to make any statements or present any witnesses on his behalf that he desires;
- (4) The hearing shall be administrative in nature, there shall be a right of cross examination;
- (5) The appellant shall be entitled to transcribe the proceedings at his own cost.

(Code 1961, § 20-188)

**Sec. 24-247. Applicability to previous licensees; noncompliance.**

Whenever this article is amended from time to time by the city council and such amendments shall render any current approved licensee in noncompliance with this article as amended, such noncompliant licensee shall have a period of one year from the effective date of the amendment of the article within which to comply.

(Code 1961, § 20-189)

**Sec. 24-248. Persons prohibited from holding a license.**

No city council member, or employee directly involved with the administration of this article shall be permitted to hold a license under the terms of this article.

(Code 1961, § 20-190)

**Sec. 24-249. Improper towing**

(a) It is a misdemeanor offense to tow a motor vehicle from a lot that is subject to the provisions of N.C.G.S. 20-219.2, as it may be modified from time to time, unless the lot and individual parking spaces are properly designated as mandated by that statute.

(b) Any towing operator shall not charge the owner or operator of the towed vehicle in excess of one hundred dollars (\$100.00) for the non-consensual tow of the motor vehicle or in excess of twenty-five dollars (\$25.00) per day for storage fees; however, no storage fees shall be charged for the first twenty-four (24) hour time period from the time the vehicle is towed from the property. The fee of one hundred dollars (\$100.00) shall be all inclusive. The fees referred to in this section shall be payable by cash, debit card or major national credit card at no extra cost. Failure to accept credit or debit cards for payment or to charge an additional fee for payment with a credit or debit card is a violation of this section

and is punishable as a misdemeanor. No additional fees may be charged for using dollies, trailers, lifts, Slim jims or any other equipment or service. However, the maximum fees in this section shall not apply to the non-consensual towing of vehicles weighing in excess of two (2) tons. Non-consensual towing fees and storage rates shall be established by the City Council in accordance with their fee schedule, as it may be modified from time to time.

(c) Any towing operator removing a private vehicle at the request of any person, other than a police officer on duty, shall report to the Fayetteville Police Department the fact that the vehicle was towed and its present storage space in accordance with Sec. 24-236 of this article.

(d) Any towing operator summoned to tow any vehicle in a non-consensual towing shall not tow the vehicle and shall release the vehicle for a charge not to exceed fifty (50) percent of the non-consensual towing rate set out in paragraph (b) herein if the operator of the vehicle returns prior to the tow truck having left the location to which he was summoned and moves the vehicle immediately and prior to the tow truck having left the location to which it was summoned. The towing operator shall permit the owner of a vehicle towed non-consensually to remove personal property from a vehicle in the custody of the towing operator without any charge or fees. If the towing operator has removed personal property from the vehicle, it shall be returned to the owner of the property at no charge upon request made to the towing operator.

#### **Sec. 24-250. Enforcement.**

(a) A violation of section 24-238, solicitation of business, by a licensee, shall submit the violator to a civil penalty in the nature of a debt in the sum of \$3,000.00 for each large rotation size tow and \$500.00 for each automobile rotation size tow. The civil penalty shall be imposed by a citation served personally or by registered mail to the violator by the wrecker inspector.

(b) Any violation of this article, other than sections 24-238 or 24-249, by a licensee, shall submit the violator to a civil penalty in an amount in accordance with the fee schedule as adopted by the city council, as may be periodically modified. In addition, if a licensee is in violation under this article more than three times in one year, the licensee shall also be subject to removal from the rotation list for a period of one year. For purposes of removal and/or revocation, the violations can arise from the same incident, occur simultaneously and during the same incident.

(c) If a civil penalty issued under this section is not paid as set forth in the citation within thirty (30) days of receipt thereof, failure to pay shall result in the City instituting collection procedures to collect the debt. The licensee will be suspended from all City rotation lists until the civil penalty is satisfied.

(Code 1961, § 20-191; Ord. No. S2001-004, § 6, 2-5-2001)

Secs. 24-251--24-270. Reserved.

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Dale Iman, City Manager  
**DATE:** January 25, 2010  
**RE:** **City Manager - Fayetteville Police Department Operating Procedure 3.8: Response to Sexual Assault Cases**

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**THE QUESTION:**

Does City Council support this revised Operating Procedure?

**RELATIONSHIP TO STRATEGIC PLAN:**

Goal 1, Objective 1 - Growing City, Livable Neighborhoods - A Great Place To Live/Low crime rate and reputation as a safe community.

**BACKGROUND:**

Based on City Council's direction at the conclusion of the Special Called Meeting on January 19, 2010, the Fayetteville Police Department (FPD) has submitted the attached revision to Operating Procedure 3.8 Response To Sexual Assault Cases.

**ISSUES:**

As stated in his letter dated January 19, 2010, Cumberland County District Attorney Edward Grannis advised the FPD to refrain from having extra judicial discussions of pending investigations. This letter, which tracks on his August 4, 2008 memorandum to local law enforcement agencies, does recognize the public's legitimate interests in these types of cases. However, in both letters he urges caution in the release of detailed information concerning pending investigations.

Additionally, staff met with members of Rape Crisis Volunteers of Cumberland County (RCVCC) who are concerned a revision to the operating procedure will be "going backwards for victims' rights." RCVCC believes that the number of reported sexual assaults is up over prior years, because victims had confidence that the FPD would handle their information with a high level of confidentiality.

While RCVCC understood the desire of the City Council in requesting the operating procedure change, they feel that a change in policy will reduce the number of victims who report their attacks to the FPD. During our meeting they cited examples of women who were recently assaulted and refused to report the incident to police because of the recent media attention and the fear that the FPD could no longer shield their identity.

The RCVCC's stated preference is to see no change from the current procedures used by the FPD; which is to release sexual assault information upon request or when the need for confidentiality is outweighed by the need for public disclosure. However, understanding the City Council's direction, RCVCC was comfortable with the attached revisions found in section 3.8.4 - Public Awareness.

**OPTIONS:**


1. City Council support and accept the attached revision.
2. City Council not support and accept the attached revision.

**RECOMMENDED ACTION:**

1. City Council support and accept the attached revision.

**ATTACHMENTS:**

Revision to FPD Operating Procedure 3.8: Response to Sexual Assault Cases

	Fayetteville Police Department <b>OPERATING PROCEDURE</b>	Number <b>3.8</b>
	Subject <b>RESPONSE TO SEXUAL ASSAULT CASES</b>	Effective Date 20 January 2010
	Revised 01-15-87, 02-25-02	Page 1 of 3

### 3.8.0 OBJECTIVE

To establish guidelines for responding to complaints of sexual assault, dealing with victims, interfacing with local health and welfare agencies and conducting interviews with victims and witnesses.

### 3.8.1 DEFINITION

Sexual assault, as referenced in this policy includes rape and other forcible, non-consensual sex acts as defined by law, in relation to female and male victims.

### 3.8.2 PROCEDURES

#### ▪ Communications

Communications personnel play a critical role in focusing the initial police response by obtaining necessary information concerning the victim and offender and providing initial aid and comfort to the victim. This includes:

- a. Ascertaining the medical condition, needs and location of the victim.
- b. Time and location of the incident.
- c. Description of the suspect and direction, mode of travel and weapon used, if any.
- d. Advising the victim not to change clothing, shower or touch anything in the immediate area.
- e. Dispatching patrol and medical personnel.
- f. Remaining on the telephone with the victim to provide assistance and comfort until a patrol unit arrives on the scene.

#### ▪ Initial Response

Initial responding officers should be primarily concerned with the well being of the victim and, where circumstances allow, will initiate investigative procedures that will facilitate the identification and arrest of suspects. The officer must remain patient, objective and non-judgmental. The officer should not attempt to go into detail to determine if a "real rape" has occurred. Never presume the rape is false before it is thoroughly investigated.

With regard to victim assistance, the officer should:

- a. Render necessary first aid and request emergency medical assistance; and
- b. Attempt to gain the victim's trust and confidence by showing understanding, patience and respect for personal dignity.
- c. Inform the victim that an officer of the same sex will be provided if desired and available.
- d. Assist the victim to locate family or friends for emotional support, or offer the assistance of the Victim Advocate.

With regard to initial investigation and enforcement actions, the officer will:

- a. Secure the crime scene.
- b. Only briefly interview the victim. Generally, avoid asking detailed, intimate questions regarding the assault.
- c. Note the victim's appearance and behavior – bruises, disarrayed or torn clothing, dirt or vegetation stains.
- d. Relay pertinent information to Communications.
- e. Determine the victim's emotional and physical ability to answer questions concerning the assault and limit questioning accordingly.
- f. Conduct questioning in private and only by one officer.



- g. Protect the crime scene to include bedding, clothing and related materials and areas, and ask the victim not to wash until a medical examination has been performed.
- h. Request the victim's consent to undergo a medical examination, emphasizing its importance to his/her health, investigative and apprehension efforts.
- i. Accompany the victim, with a change of clothing, to the hospital and relay pertinent information concerning the assault to the examining physician.
- j. Remain on hand at the hospital until family members, support service personnel or detectives arrive.
- k. Ensure photos are taken of evidence of physical injury.

▪ **Follow Up Interview**

A detective will be assigned to follow up as soon as possible after the initial complaint and will remain responsible for the case until it is closed. It is especially important in sexual assault cases that only one detective interview and support the victim throughout the investigative and court process. In most cases, the victim will feel very uncomfortable explaining the details to too many people; she/he may become uncooperative. The victim should be reassured by explaining the procedures that the department follows to protect her right to privacy. The detective must remember that the victim is being asked to discuss with a stranger the details of what is probably the most traumatic and personal experience of his/her life.

The detective will:

- a. Explain the need for a medical examination in order to collect evidence from the victim and the victim's clothing and to take photographs of any cuts or bruises. If the victim gives permission for photographs to be taken, a same sex Forensic Technician will be used to take the photographs.
- b. Compile the basic investigative information contained in the initial review, criminal complaint and medical examination.
- c. Arrange interviews with potential witnesses as soon as possible.
- d. Determine the victim's emotional and physical ability to submit to an in-depth interview and schedule the interview as soon as these factors will allow following the incident. Generally, immediately following the crisis is not the best time to interview the victim. When the interview does take place, the detective will:
  - 1. Employ a comfortable setting that affords privacy and freedom from distractions, attempting to obtain all necessary information at this time. A rape counselor can be present if the victim wishes.
  - 2. Allow the victim to describe the incident in his / her own words without interruption. The detective should be very patient, objective and non-judgmental with the victim and should only ask questions after the story has been completed.
  - 3. Explain why personal, intimate detailed information concerning the crime is needed to include:
    - a) Details of the sex act
    - b) The suspect's modus operandi
    - c) Clothing, means of restraining the victim and the use or availability of weapons
    - d) Any words used or instructions given to the victim
    - e) Marks, scars, tattoos or deformities or other unusual physical features or body odors of the suspect
    - f) Any witnesses, participants or accomplices that may be described or identified by the victim
  - 4. Document the victim's actions in response to the attack to include the type and degree of any resistance offered, the nature of any acquaintance with the suspect to include any prior intimate relationships and the state of mind of the victim during the attack.

5. Determine the degree to which the victim has received support services from family, friends and assistance groups and encourage/facilitate these interactions where necessary. The victim should be reminded that rape trauma syndrome lasts for some time.
- f. Determine whether the victim has filed any sexual assault complaints in the past or has a criminal record.
- g. Review the victim's account of the event in order to clarify any discrepancies with earlier accounts and to elaborate on issues of significance to the prosecution.
- h. Encourage the victim to prosecute the case should she/he hesitate to do so, emphasizing the importance of prosecution for public safety.
- i. Solicit the victim's continued support in the investigation, informing the victim of future investigative and prosecutorial activities that will or may require involvement and cooperation. The victim must be supported throughout the judicial process. He/she should be briefed regarding the process, informed of each step of the case progression and protected from intimidation by the defendant or his witnesses.
- j. Work with the prosecutor's office to develop the case, to familiarize the victim with the types of inquiries that may be faced during cross-examination and to ensure that requests for victim protection orders are made where indicated.
- k. Maintain continued contact with the victim to ensure that appropriate mental health and other support services are readily available.

### 3.8.3 VICTIM ASSISTANCE

Knowing what the community has to offer is essential for effectively handling the victim's needs. A victim who is supported emotionally is more likely to hold up under the stress of the investigation, to go through with the prosecution and to be a good witness in court. The detective and officer should become familiar with the resources in the community and seek to establish a good working relationship with them. Periodic contact with the representatives of other agencies that provide rape services can help ensure a process that is responsive to the victim's needs as well as facilitating the goals of the criminal justice system.

Rape crisis centers and mental health agencies offer a host of services, including 24 hour crisis line, short and long term counseling and, in some cases, transportation, child care and emergency housing. A rape case counselor can be available 24 hours a day to help deal with the victim's needs and is trained to help the victim deal with the immediate crisis, as well as the trauma that occurs for an extended period of time after the assault.

### 3.8.4 PUBLIC AWARENESS

In an effort to increase public awareness on criminal assault complaints, a media release will be disseminated informing the public on reports of adult criminal assaults involving unknown offenders. Unknown offenders are defined as those offenders with whom the victim is unacquainted or does not know. This release will be published within a reasonable time after receipt of a complaint, but no later than seventy-two hours after the reported incident

Media releases on reported complaints of criminal assaults will include the date and time of the report and the general area where the crime occurred.

Crime prevention tips will be disseminated with the media release in an effort to increase public awareness on strategies that the community can employ in an effort to better maintain their safety and security regarding these types of crime.

BY ORDER OF: \_\_\_\_\_

**TOM BERGAMINE, Chief of Police**

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Doug Hewett, Assistant City Manager  
**DATE:** January 25, 2010  
**RE:** City Manager's Office - FY 2010 Strategic Plan 2nd Quarter Report

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**THE QUESTION:**

Has City Council's interest been met in staff's advancement of the policy and management action agenda for the 2nd quarter? The attached reports are provided to detail progress made during the 2nd quarter of this fiscal year, so that City Council members can either concur that the actions meet their interests or direct staff to modify their course.

**RELATIONSHIP TO STRATEGIC PLAN:**

This report, like previous reports, reinforces and clarifies Council's vision for our community, which is the foundation of the City's Strategic Plan.

**BACKGROUND:**

The City's Strategic Plan has three main areas:

A vision 2023 statement that describes the type of community the Council would like to facilitate through its and staff's work efforts;

Five-year goals that provide an intermediate focus for the work of staff and further outlines the activities Council believes are necessary to realize the vision; and

A one-year action agenda that identifies issues that Council needs to address by providing policy direction and/or necessary actions that the City staff should complete during the current fiscal year. The attached report focuses on this one-year action plan.

**ISSUES:**

Do the 2nd quarter work efforts reflect the overall direction articulated by the City Council in the FY 2010 Strategic Plan? Does the progress highlighted in this report move the community closer to the desired vision previously identified by the City Council?

**OPTIONS:**

- Accept the report as provided with guidance to the City Manager/staff on areas of interest.
- Request additional information on items listed in the report.
- Modify/clarify interests in report and Strategic Plan.

**RECOMMENDED ACTION:**

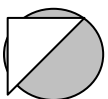
Receive and file this report.

**ATTACHMENTS:**

**FY 2010 Strategic Plan Policy & Management Agenda Narratives**



***FY 2010 Strategic Plan***  
***Policy and Management Agenda***  
***Narratives***



# **Policy Agenda**

## **Top Priority**

Unified Development Ordinance  
Murchison Road Corridor Redevelopment  
Parks and Recreation Service  
Annexation Policy  
Workforce Development  
Recycling Program for Multifamily and Commercial

## **High Priority**

County Jail Capacity  
Air Quality Non-Attainment  
Emergency Medical Transport Performance Report  
Tree Preservation Ordinance  
Building Demolition  
Property Revaluation and Tax Rate  
Legislative Agenda and Lobby Strategy

# **Management Agenda**

## **Top Priority**

Crime Reduction Strategy and Report  
FAST Improvements  
Community Report Card  
Community Watch Expansion  
Economic Development

## **High Priority**

Reclaiming Neighborhoods Strategy  
Police Staffing  
Non-Stop Air Service to Washington, D.C.  
Telling the City's Positive Story  
Northwest Gateway Project

## Policy Agenda - Top

### Unified Development Ordinance (UDO)

This target for action seeks to follow the creation of the new Unified Development Ordinance. Revisions of the zoning and development regulations need to take place in order to implement the 2010 Plan, the anticipated 2030 Growth Vision Plan, and to help implement the City's Strategic Plan. The City's existing development ordinances have not been comprehensively revised since 1961. City regulations are functional but disjointed, hard to use, occasionally contradictory, often outdated, and lack internal focus or coordination to help achieve community goals.

In FY '07-08 Clarion Associates was selected as consultant for the 16-month project to create a new Unified Development Ordinance. Input provided by the Vision Plan, other current adopted plans, and from stakeholders guided the process. Clarion prepared a Diagnosis and Annotated Outline assessing the current ordinances and proposing how to revise these regulations.

Funding was approved in FY09 budget for the remaining elements. The process continues with final adoption considered in November-December 2009.

The City departments will need to continue to dedicate staff time to research, continue community discussions, and review of specific standards and procedures throughout the process. Significant changes to the standards for signs, street design, or certain overlays would be the responsibility of City staff or other consultant efforts.

This target for action also entails significant administrative changes (forms, staff responsibilities, internal procedures, fees, record-keeping, and so forth). The process of mapping the new zoning districts is required before the new UDO is fully effective. These tasks would require the allocation of additional funds for consultant assistance.

A new UDO modernizes the zoning districts, establishes minimum development standards, and encourages high-quality physical development. The zoning and subdivision codes would be unified into one document. All portions of the code would be coordinated and focused in ways that help achieve all community goals expressed in Fayetteville's comprehensive plans and its Strategic Plan goals.

**This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live and goal #3 MORE ATTRACTIVE CITY-Clean and beautiful**

- Objectives:
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
  - Neighborhoods connected by sidewalks, trails and bike lanes
  - Higher development standards
  - Preserve and sustain natural resources, increasing green spaces
  - Cleaner community with less visible blight
  - Improve signage
- Measure of success:
  - Success is measured with adoption and implementation of a new Unified Development Code that is more "user-friendly" and that incorporates best practices

Staff Liaison: Rob Anderson, Chief Development Officer

Email Address: randerson@ci.fay.nc.us

Phone Number: 910-433-1701

Team Members: Primarily Planning and Zoning Staff in collaboration with the Technical Review Committee

<b>Action Plan</b>	<b>Estimated Completion</b>
Complete assessment and review	Feb 2010
Final Draft of Ordinance, Administrative Manual, Zoning Map	May 2010
Ordinance adoption	Jun 2010
Transition to Implementation	June - Oct 2010
Effective Date of Ordinance and Zoning Map	Nov 1, 2010

First Quarter Update:

- Testing phase: Module 1 & 2 (evaluating impact of new code, as compared to current code for current and upcoming projects)
- Stakeholder committee reviews: 6 meetings (reviewing test cases; reviewing specific portions of Module 3; 3-hour work session with Clarion Associates)
- Review of Module 3
- Working with development community: UDO is development friendly, creating predictability and certainty, without compromising development standards
- Council update on Sept. 14<sup>th</sup>
- Developing administrative procedure manual.

Second Quarter Update:

- No update this quarter.

Upcoming Activities:

- Continue working sessions with Stakeholder Advisory Group
- Present reports to Council on progress
- Preliminary mapping of new districts
- Flow charting of operations
- Drafting of Administrative Manual
- Base Zoning Map translation from old code to new Zoning classifications of entire city – a labor intensive activity
- Adoption of new Zoning Map along with adoption of new UDO
- Adoption of UDO and Implementation Transition (training, publication, VIC coding, and guidance for development community etc.)
- Periodic follow up meetings with development community for troubleshooting and refinement of code and procedures as necessary.

## Policy Agenda - Top

### Murchison Road Corridor Redevelopment

The City hired LandDesign, Inc. and Basile Baumann Prost Cole & Associates, Inc. to develop the Land Use and Economic Development Plan for the Murchison Road Corridor. The Murchison Road Corridor runs from Rowan Street to the south, to the intersection of the planned Outer Loop or Fort Bragg to the north. The plan was approved by City Council in June 2008.

The Land Use and Economic Development Plan identified nine catalyst sites to jump-start the redevelopment process. The City subsequently hired Marshall Isler to prepare an "Implementation Feasibility Analysis" as a follow up to the Land Use and Economic Development Plan for the Murchison Road Corridor. The Implementation Feasibility Analysis addresses catalyst three of the nine catalyst sites identified in the Land Use and Economic Development Plan. It defines specific development concepts based on the recommendations of the Land Use and Economic Development Plan and discussions with major land and business owners; demonstrates the economic feasibility of the recommended concepts; and defines public economic incentives necessary to make the proposed development attractive to developers.

It is recommended that the City play the role of land developer, provide subordinate development loans for gap financing, rent subsidies and create affordable housing.

**This target for action is linked to City goal #2: GREATER TAX BASE DIVERSITY- Strong local economy**

- Objectives:
  - More jobs with higher wages
  - Retain and grow businesses
  - Attract military business
- Measure of success:
  - The adoption of an action plan that outlines the City's participation in order to execute projects

Staff Liaison: Victor Sharpe, Director of Community Development

Email Address: vsharpe@ci.fay.nc.us

Phone Number: 910-433-1933

Team Members: Special Projects Director, Planning Dept



<b>Action Plan</b>	<b>Estimated Completion</b>
Complete development of the funding strategy report	July 2009
Present funding strategy plan to City Council for adoption or policy guidance	Sept 2009
Prepare a detailed outline of activities necessary to implement phase 1 of the plan	Nov 2009
Research the HUD Section 108 Guarantee Loan Program for the first source of funding	Dec 2009
Update City Council on the status of implementation of funding strategies	Feb 2010

First Quarter Update:

- City Council presentation was held on the Sept 8 work session: Direction and policy guidance
- Funding strategy was formally presented to City Council on September 14, 2009
- City Council adopted a funding strategy for the redevelopment of the Murchison Road Corridor on September 28, 2009.

Second Quarter Update:

- Met with consultant to discuss redevelopment plan and funding strategies for the Murchison Road Corridor
- Consultant began the research for HUD Section 108 Loan Guarantee Program
- Prepared a work schedule for activities to complete the HUD Section 108 Loan Guarantee and Redevelopment Plan.

Upcoming Activities:

- Update to City Council
- Completion of the Murchison Road Redevelopment Plan
- Development of the HUD Section 108 Loan Guarantee to fund phase 1 of the project
- Hold required public hearings for HUD Section 108 Loan Guarantee program for inclusion in the Consolidated Plan and Annual Action Plan.

# Policy Agenda - Top

## Parks and Recreation Service

Maintain a funding source within the City and County Parks and Recreation areas that adequately provides a level of practical, useful, dynamic and affordable leisure activities that add value to the citizens' quality of life. Further to achieve in great detail an organization that responds to its community's lifestyle by developing and training employees that produce activities for that outcome.

**This target for action is linked to City goal #4: MORE EFFICIENT CITY GOVERNMENT-  
Cost effective service delivery**

- Objectives:
  - Investing in City's infrastructure, facilities and equipment
  - Greater accountability for performance & results
  - Higher level of customer satisfaction
- Measure of success:
  - The presentation of a comprehensive report to Council on the purpose, history, successes and future of the Cumberland County and Fayetteville's parks and recreation department.

Staff Liaison: Michael Gibson, Director of Parks and Recreation and Maintenance

Email Address: mgibson@ci.fay.nc.us

Phone Number: 910-433-1557

Team Members: Human Resource Director, Finance Manager, Assistant City Manager

Action Plan	Estimated Completion
Prepare comprehensive report	Dec 2009
Present findings to City Manager	Jan 2010
Present report to City Council for policy direction	Feb 2010

First Quarter Update:

- Staff research

Second Quarter Update:

- Staff met with City and County managers to develop performance measures for Fayetteville-Cumberland Parks and Recreation
- The group's consensus was to research and provide recommendations for improvements in staff efficiency measures.

Upcoming Activities:

- Continued support with process

# Policy Agenda - Top

## Annexation Policy

The City of Fayetteville's growth management strategy influences development in the community and diversifies the City's tax base. This target for action will provide the City Council with an opportunity to consider annexation strategies designed to ensure efficient delivery of City services. The goal is to grow the community in an orderly, logical manner while recognizing our obligation to existing residents. In addition to providing support for making strategic choices for growth based on sound principals for urban planning and development, environmental considerations (reduction of septic systems and domestic wells) and a balanced, full service, fiscally responsible community.

In an effort to devise a policy for guiding annexation decisions, staff will continue to examine the impact of various annexation scenarios in the context of changing State of North Carolina legislation. We will take a look at the legal obstacles, financial implications and service delivery challenges and opportunities associated with each possible annexation site in the Municipal Influence Area on our periphery.

It is anticipated that several working sessions with the City Council will be required during FY 2009 – 2010 for staff to receive guidance on policy directions. We expect to be prepared to complete our analysis and begin dialogue with Council by early to mid-winter.

Staff will continue to participate in the Joint Committee on Municipal Annexation to formulate numerous recommendations for the North Carolina General Assembly. Success for this target for action will be achieved when we have a clearly defined policy adopted by City Council to be used as a decision tool when considering the annexation of land into the City of Fayetteville.

### **This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live**

- Objectives:
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
- Measure of success:
  - The presentation of a comprehensive report to Council on the purpose, history, successes and future of Fayetteville's growth management strategy

Staff Liaison: Kristoff Bauer, Assistant City Manager

Email Address: kbauer@ci.fay.nc.us

Phone Number: 910-433-1933

Team Members: Planning Staff, City Manager

<b>Action Plan</b>	<b>Estimated Completion</b>
Staff research and evaluation	Nov 2009
Council Work Session on Annexation	Feb 2010
Staff support of Joint Committee on Municipal Annexation	March 2010
Present report to City Council for policy direction	April 2010

First Quarter Update:

- Staff researched non-incorporated areas on our periphery, including enclaves
- Ongoing evaluation of infrastructure, legislation and development continues
- Staff continues to support the Joint Committee on Municipal Annexation to guide and impact NC legislation
- Staff attended legislative hearings in Raleigh
- Numerous planning division staff meetings on the topic and two meetings with the City Manager and Assistant City Managers to discuss policies, priorities, strategies, impediments and opportunities.

Second Quarter Update:

- The City Council adopted an updated PWC policy related to utility service extension within the City's MIA leading to an increase in voluntary annexation petitions in this area
- Staff has completed preparation of a Resolution of Consideration for the area within the City's MIA and will bring that to Council for consideration
- The annexation of existing City owned property has been initiated and will be ready soon for Council consideration
- Staff is researching and mapping legal limitations on annexation authority to inform the policy development process.

Upcoming Activities:

- Discussion with Council of the legal and operational environment influencing annexation policy in Fayetteville
- Further evaluation of potential annexation areas in preparation for Council discussions and policy setting.

# Policy Agenda - Top

## Workforce Development

The Cumberland County workforce has a number of challenges related to knowledge, skills and abilities as identified in a study commissioned by the Chamber of Commerce. In order to grow the local economy, a collaborative effort is needed to meet the challenges in the current workforce.

The City has partnered with the Chamber of Commerce to address workforce development in FY 09. This target for action seeks to continue this partnership through FY10. The City is currently in contract negotiations with the Chamber and is developing the performance objectives specific to workforce development. Success would consist of fostering a collaborative environment with multiple partners to set the conditions to meet the workforce development challenges and evolve into a high quality community workforce.

**This target for action is linked to City goal #2: GREATER TAX BASE DIVERSITY- Strong local economy**

- Objectives:
  - More jobs with higher wages
  - Retain and grow businesses including those associated with the military
  - Have an available, competent local workforce
- Measure of success:
  - Contract execution
  - Support, evaluate and report the City's participation in workforce development efforts

Staff Liaison: Victor Sharpe, Director of Community Development

Email Address: vsharpe@ci.fay.nc.us

Phone Number: 910-433-1933

Team Members: Human Resource Director, Fayetteville-Cumberland County Chamber of Commerce

Action Plan	Estimated Completion
Fall into Work Job Fair	Oct 2009
Construction of sanitary sewer and utility improvements for the Military Business Park	Nov 2009
Supporting the efforts of the Women's Center of Fayetteville	Continuous
Supporting the efforts of Economic Development Incentive Programs and Neighborhood Resource Center offered through Community Development Programs	Continuous
Supporting the efforts of Fayetteville-Cumberland County Chamber of Commerce	Continuous

First Quarter Update:

- Executed contract with Fayetteville-Cumberland County Chamber of Commerce
- Started computer classes and medical terminology classes in the Neighborhood Resource Center. The NRCs provide facilities for job training opportunities in low-moderate income neighborhoods
- Offered Economic Development Incentive Programs, utilizing CDBG funds designed to create jobs (Downtown Loan, Business Assistance Program and Façade Grant Program)
- Executed a contract with the Women’s Center of Fayetteville to provide assistance to small businesses for start up or expansion (counseling & business plans) which would lead to the creation of jobs
- Partnered with the County Workforce Development to provide temporary employment for youths through the summer youth work program
- The City continued its recruitment efforts through the Police Department’s BLET program.
- The Fire Department graduated 24 trainees through the Fire Recruiting Academy which were hired through the SAFER grant program.

Second Quarter Update:

- City staff participated in the Fall to Work Job Fair. There were 96 vendors present with over 4,500 people seeking jobs. The City partnered with Cumberland County DSS and Work First Program, Fayetteville Technical Community College, Beasley Broadcasting Group, Inc., Hiring Now Magazine, and the Chamber of Commerce
- Classes offered through the Neighborhood Resource Center continued
- Continued to market City’s economic development incentive programs such as the Downtown Loan Program, Business Assistance Program and Façade Grant Program for job creation
- Continued contract with Women’s Center of Fayetteville to provide assistance to small businesses for start up or expansion.

Women’s Center’s Goals and Accomplishments

	<b>Goal for 2009- 2010</b>	<b>Jul-Sep 09 Q1</b>	<b>Oct-Dec 09 Q2</b>	<b>Total for 2009- 2010</b>
One-on-one Consultations	<b>500</b>	362	202	564
Clients served	<b>325</b>	280	89	369
Workshops/ events	<b>60</b>	47	38	85
Attendees in workshops/ events	<b>600</b>	656	771	1427
Access to funding	<b>70</b>	6	6	12
Business Plans	<b>35</b>	5	3	8
Start up Businesses/ Expansion	<b>35</b>	10	9	19
Loans applied by WBC \$/ No.		\$205,000/6	\$340,000/6	\$545,000/12
Loans approved for WBC clients (incl. outside bankers) \$/ No.		\$152,000/2	\$65,000/2	\$217,000/4

Upcoming Activities:

- Quarterly report presentation by the Fayetteville-Cumberland County Chamber of Commerce
- Coordination of workforce development activities with the Fayetteville-Cumberland County Chamber of Commerce continues
- Construction of the Military Business Park continues
- March to Work Job Fair will be held during the month of March.

## Policy Agenda - Top

### Recycling Program for Multifamily and Commercial

This target for action seeks to expand our successful curbside recycling program to multifamily and commercial customers. The staff must first meet with and obtain feedback from the stakeholders to include Homeowners Association representatives, waste haulers and the material recovery facility manager to discuss service alternatives. A determination of the type of collection containers needed at multifamily and commercial establishments is based upon size of complex, type of commercial establishment and space available. Once this is decided, a method of collection will need to be determined. This will be done by considering the maximum diversion rates and costs of optional service possibilities.

In order to accomplish these tasks, staff intends to partner with Sustainable Sandhills to collect necessary data and formulate alternate methods of collection. Types, sizes, and the cost of dumpsters and carts will be analyzed. Recommendations are based upon size and type of multifamily developments and businesses. Staff will then estimate collection service costs to include dumpsters, carts, collection and hauling, advertisements and educational materials.

**This target for action is linked to City goal #3 MORE ATTRACTIVE CITY-Clean and beautiful**

- Objectives:
  - Preserve natural resources
  - Cleaner community
- Measure of success:
  - Program recommendation presentation to Management and City Council in FY10

Staff Liaison: Jerry Dietzen, Director of Environmental Services

Email Address: gdietzen@ci.fay.nc.us

Phone Number: 910-433-1329

Team Members: Environmental Services Director, Analyst & Superintendent, Sustainable Sandhills staff members, Special Project Manager, Finance department

Action Plan	Estimated Completion
Meet with stakeholders	Nov 2009
Develop plan and estimate costs	Feb 2010
Present plan to Council for approval	Mar 2010

First Quarter Update:

- Met with Cumberland County Apartment Association and presented information on multifamily recycling benefits and needs. CCAA was very receptive to the implementation of a recycling program



- Met with Sustainable Sandhills to discuss options and share ideas for meeting with stakeholders. Sustainable Sandhills has agreed to sponsor the stakeholder meetings and gather input.

#### Second Quarter Update:

- Sustainable Sandhills created and delivered an on-line survey to over 50 stakeholders of multifamily and commercial developments to seek input on recycling
- Environmental Services met several times with Sustainable Sandhills and ACM to discuss questions and next steps
- Met with the manager of the local materials facility to ensure that they have the capacity for the additional material once we begin the program.

#### Upcoming Activities:

- Stakeholder interviews to gather additional information, ideas, concerns and to stress the importance of recycling at multifamily and commercial developments
- Second meeting with Cumberland County Apartment Association
- Development of program options, various models and cost estimates for finance review
- Development of final recommendations for management review
- Schedule presentation for Council work session.

# Policy Agenda - High

## County Jail Capacity

The Fayetteville Police Department is very assertive in arresting individuals within our community as a result of an investigation, and/or warrants issued by the court or other law enforcement agencies. More often than not, recidivists are not receiving bonds that require jail time. The Cumberland County Sheriff's Office (CCSO) is directly responsible for providing these services for **ALL** citizens and jurisdictions within Cumberland County. The City of Fayetteville is directly impacted by the lack of adequate bed space within the jail, which does not fall under the purview of the Fayetteville Police Department or local government. The funding of additional 190 jail bed spaces exceeds \$11 Million for construction with an additional \$1 Million each year to sustain the operation. Jail overcrowding is one of many issues that local criminal justice entities must address, and while the CCSO is responsible, it is not their issue alone.

County-wide solutions must be developed to address the lack of adequate jail space and other issues that habitually impact every law enforcement agency such as involuntary mental commitments, juvenile issues, magistrate and court issues, grant coordination and logistical and consolidation endeavors. The Fayetteville Police Department, Methodist University and Fayetteville State University have taken the lead in developing a Criminal Justice Coordinating Council (CJCC) to address the aforementioned needs of our community.

Currently, representatives from these organizations have been holding regularly scheduled meetings in developing this initiative. The concept was presented and supported by the CCSO. The next phase will be to meet with our District Attorney, Senior Superior Court and Senior District Court Judges.

The development of the CJCC is currently unfunded and will eventually need dedicated staff. However, Methodist University, Fayetteville State University and personnel from the Fayetteville Police have volunteered their time on this project. Graduate assistants, intern and other volunteers will also be utilized based upon availability and need for the project.

The development of the CJCC is contingent upon the cooperation from each and every criminal justice stakeholder. The CJCC will develop partnerships whereas we can move forward as one on a consensus.

### **This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live**

- Objectives:
  - Low crime rate, safe streets, responsible neighborhoods connected with sidewalks that are well-organized, expand and upgrade parks
- Measure of success:
  - Develop a proposed plan (funding and actions) which will directly impact the lack of adequate bed space within the jail
  - Team members from the separate criminal justice entities commit to develop and participate in a Criminal Justice Coordinating Council

Staff Liaison: Tom Bergamine, Chief of Police

Email Address: tbergamine@ci.fay.nc.us

Phone Number: 910-433-1819

Team Members: Team Captain/Captain Bridgeman, Police Chief, Methodist University, District Attorney, and Cumberland County Sheriff

Action Plan	Estimated Completion
Cumberland County Commissioners presentation on jail capacity and expansion issues	Sept 2009
Meet with team members and stakeholders to develop plan of action to address jail capacity; advocate for solution	Continuous
Initiate, develop and implement the Criminal Justice Coordinating Council	June 2010

First Quarter Update:

**CRIMINAL JUSTICE COORDINATING COUNCIL**

- Formed a core group: Police Department/Sheriff's Office/District Attorney's Office/Methodist University and Fayetteville State University
- Met with stakeholders to identify possible options for increasing jail capacity
- Met with team members to develop a mission, goals and vision statement for the Criminal Justice Coordinating Council
- Established framework for guiding principles.

**JAIL CAPACITY**

- Met with Mr. Grannis & Sheriff Butler to provide information on arrests and repeat offenders
- Funding is the main topic of concern
- Articles appeared in the newspaper on September 9 & September 11 on the presentation made to Cumberland County Board of Commissioners
- Planning Committee has asked the County Manager for a follow-up report on this issue in 60 days.
- Alternate detention plans (bracelets worn by repeat offenders) if they violate, they go back to jail)

Second Quarter Update:

- Chief Bergamine partnered with District Attorney Grannis and Sheriff Butler to address the Cumberland County Commissioners in a request for additional jail space
- Cumberland County Commissioners stated that they would conduct an assessment and report back within 90 days
- The Cumberland County Criminal Justice Coordinating Council will coordinate a meeting with the Senior Superior Court, District Court Judges and the Public Defender
- Alternate means of tracking offenders and subjects on pretrial release are being utilized through GPS tracking.

Upcoming Activities:

- Continue work in support of the Cumberland County Criminal Justice Coordinating Council and continue to highlight and address the need for increase in jail capacity.

## Policy Agenda - High

### Air Quality Non-Attainment

Recently Fayetteville met the air quality attainment standards set by EPA as part of the “early action compact” agreement. However, the air quality standards will be incrementally strengthened. Fayetteville will be required to meet a more stringent air quality level. If we do not meet the new requirement, Fayetteville will be considered a “non-attainment” area requiring mandatory changes for new and expanding industry and it will be necessary to follow the “State Implementation Plan”.

We will consult with professionals and work with our Municipal Planning Organization in order to better understand the implications of not meeting the new air quality standards and to better plan for the future. Once a local plan of action is outlined, staff will meet with stakeholders and make recommendations for necessary ordinance changes. Air quality standards may not be attainable in the short term; therefore, the recommendations to meet attainment may be difficult and costly for business and local governments.

**This target for action is linked to City goal #2 MORE ATTRACTIVE CITY-Clean and beautiful**

- Objectives:
  - Preserve natural resources
  - Cleaner community
- Measure of success:
  - Program recommendation presentation to Management and City Council in FY10

Staff Liaison: Jerry Dietzen, Director of Environmental Services

Email Address: gdietzen@ci.fay.nc.us

Phone Number: 910-433-1329

Team Members: Sustainable Sandhills, Fort Bragg Air Team, Fayetteville Area Metropolitan Planning Organization (FAMPO), NCDENR Division of Air Quality and a number of other key air quality stakeholders in Cumberland, Hoke and Harnett Counties.

Action Plan	Estimated Completion
Consult with professionals in the Air Quality industry concerning reinstatement of EPA’s Early Action Compact (EAC)	Oct. 2009
Meet with stake holders to explain potential impacts to local industry to meet “Lowest Achievable Emissions Rate” – Begin community education	Dec. 2009
Develop action plan with DENR and MPO to meet “Lowest Achievable Emission Rate”	March 2010
Identify realistic clean-air strategies to assist in Air Quality attainment	April 2010
Estimate costs to City budget and timelines for complying with new strategies	May 2010

### First Quarter Update:

- Attended Combined Air Team meeting (COMBAT) with local stake holders on September 15th 2009
- Transit Connection to the Fort Bragg Heritage Village: Two van pools are now operating for this function
- Fossil-fueled engine and motor sources: Sustainable Sandhills Project number 3. 'No Idle' Policies in Local School Districts – No idle zones have been identified and signed at schools in the Cumberland County area for the 2009 -10 school year
- Green Business Program: Sustainable Sandhills Project number 5. Businesses are certified based on a checklist modeled after several successful programs across the country. There are currently 43 businesses certified under this new program with 32 in progress of certification
- Innovative Education and Outreach programs on sustainable practices: A series of 4 evening films on sustainability with open discussions have taken place during the quarter
- Alternate Fuel Vehicle Stimulus Grant Award: DOE grant funds were awarded to the Triangle Clean Cities Coalition, which Fayetteville is a part of. The grant funds will be used to offset the difference between the cost of a regular fuel vehicle and the cost of a hybrid vehicle.

### Second Quarter Update:

- Attended Combined Air Team meeting (COMBAT) with local stake holders on January 14
- Discussing the possibility of partnering with PWC, Transit and "Ride Share NC" to develop vanpools and demand transportation options
- Green Business Program: Businesses are certified based on a checklist modeled after several successful programs across the country. To date, 45 businesses certified and 30 in progress
- City buildings are applying to become "green businesses" beginning with Transit & Environmental Services building on Grove Street. Energy efficient renovations will reduce energy requirements
- Innovative education and outreach programs on sustainable practices: A series of evening films on sustainability with open discussions have continued during the quarter
- Ordered 3 ea. hybrid electric work vehicles for use by PWC electric crews and Traffic Services
- Fort Bragg Sustainability Department hosted a three-day Sustainability workshop Jan. 11-13 for Army installations across the United States. Fort Bragg is considered a leader in sustainability for military reservations
- PWC applied for a competitive DOE grant to roll out the Consert program. This program will make money available to PWC and individual home owners to install electrical usage monitoring devices and smart meters. Also included will be a program to provide incentives for home owners to make energy retrofits to their homes. This will result in reduced energy usage and a reduction in carbon emissions.

### Upcoming Activities:

- Regional Park-and-Ride: This is a collaboration between all regional stake holders to discuss and develop park-and-ride options and to provide a summary for possible local action
- Green Buildings and Development: Linking green building techniques with affordable housing initiatives
- EECBG stimulus grant application will be completed and submitted to DOE by January 22,

2010. When awarded, the \$1.652 million will be used for energy upfits to city buildings. These energy upfits will result in reduced energy use and a reduction in carbon emissions.

# Policy Agenda - High

## Emergency Medical Transport Performance Report

The City of Fayetteville partners with Cumberland County for provisions in public safety systems. This target for action focuses on the area of emergency medical transport (ambulance service) in the Fayetteville community. Emergency medical transport is currently provided by Cumberland County and managed through Cape Fear Valley Hospital System. Based on recent concerns about ambulatory response times, the City Council has asked for a review of the entire public safety system. In an effort to improve emergency medical transport performance within the City of Fayetteville, municipal and county managers and their representatives are engaged in a Public Safety Work Group.

This work group will conduct a review of the public safety system, specifically fire service, communications and EMS. The group was charged to make recommendations for system design improvements, and to provide final report with recommendations by December 2009.

**This target for action is linked to City goal #4: MORE EFFICIENT CITY GOVERNMENT- Cost effective service delivery**

- Objectives:
  - Investing in City's infrastructure, facilities and equipment
  - Greater accountability for performance & results
  - Services delivered in a cost-effective manner
  - High level of customer satisfaction
- Measure of success:
  - Participate in a Public Safety Work Group
  - Review of the entire public safety system
  - Present recommendations for service improvements within the City

Staff Liaison: Benny Nichols, Fire Chief

Email Address: bnichols@ci.fay.nc.us

Phone Number: 910-433-1111

Team Members: Fire Chief Town of Hope Mills Fire Department, Cumberland County Fire Chief's Association President, Cumberland County Emergency Services Director, Cape Fear Valley EMS Chief, Fire Chief Wade Community Fire Department, Fire Chief Town of Spring Lake Fire Department, Fire Chief Fort Bragg Fire Department, and Fire Chief City of Fayetteville Fire/Emergency Management Department

Action Plan	Estimated Completion
Participation in Public Safety Work Group: Review and Evaluate services	Dec 2009
The Task Force will present report	Jan 2010
Present findings to Council and receive policy preference and direction	April 2010
Include resources in FY11 budget request, consistent with Council direction	May 2010

### First Quarter Update:

- Group discussions and activities have facilitated operational changes in the system - process and procedure improvements
  - Ambulances now pre-stationed at fire stations report decrease in response times
  - Contracted with funeral homes to transport deceased patients
  - Implementation of Omega Codes (shifts non-emergency transports to alternate agency)
  - Taxi vouchers being issued by CCEMS paramedics to patients for non-emergency transport to medical facilities
- Reported average response times for emergency calls have been reduced by approximately 50%
- FFD has realized a significant reduction in wait times for CCEMS arrival.

### Second Quarter Update:

- Weekly meetings with the Public Safety Task Force and the E911 committee
- The Task Force is scheduled to present their findings in a report February 2010
- The report will be presented first to the County and municipal managers and then to the elected officials. The Council will be sent an invitation once a definite date is secured.

### Upcoming Activities:

- New CAD migration will further improve system efficiency and reduce response times for EMS calls
- City communications personnel attending Emergency Medical Dispatch (EMD) training
- Continued participation in Public Safety Task Force meetings with presentation to be given to Council/Commissioners in February 2010
- Continued participation in North Carolina E911 Study Group (Chief Nichols)
- Continued exploration of EMS transport to be provided by FFD (cost-benefit analysis).



# Policy Agenda - High

## Tree Preservation Ordinance

This target for action seeks to clarify tree preservation ordinances and pursues policy guidance on this initiative. Tree ordinances are meant to help build a healthy and sustainable community forest. They define how to manage and care for public and/or privately owned trees and demonstrate commitment to the community forest. A tree preservation ordinance may be developed to address such matters as establishing municipal authority over public trees, setting standards for tree planting, maintenance and management, outlining enforcement, fees and fines, and defining nuisance conditions on private trees. A tree ordinance has economic, environmental, and social benefits to the city.

A tree preservation ordinance can serve many purposes from beautification to preservation to protection. These purposes can be singular or comprehensive in nature. In addition, tree preservation ordinances can be components of city land use plans. It is possible that administration costs and revenue from fees will be associated with a tree ordinance.

The developing Unified Development Ordinance (UDO) includes tree preservation standards. We recommend continued policy and administrative procedure research on this issue. A final report and recommendation will be presented to City Council in FY 10. Success for this target for action is a program that will preserve a significant tree canopy in the community without excessively infringing on property rights. In addition, the program is focused and easy to administer.

**This target for action is linked to City goal #3 MORE ATTRACTIVE CITY-Clean and beautiful**

- Objectives:
  - Higher development standards
  - Preserve natural resources and increase green spaces
- Measure of success:
  - Adoption of tree preservation ordinance or inclusion in adopted UDO

Staff Liaison: Michael Gibson, Director of Parks and Recreation and Maintenance

Email Address: mgibson@ci.fay.nc.us

Phone Number: 910-433-1557

Team Members: Planning Department, UDO stakeholders

Action Plan	Estimated Completion
Review, evaluate and test tree preservation standards contained in UDO	Dec 2009
Consult with stakeholders and team member for modifications	March 2010
Present ordinance recommendation to Council for adoption	June 2010

First Quarter Update:

- Draft tree preservation standards are contained within Module 3 of the UDO
- Review and evaluation of the standards.

Second Quarter Update:

- Reviewing, evaluating and testing tree preservation standards contained in UDO
- Consulting with stakeholders for any modifications.

Upcoming Activities:

- Continue to review, evaluate and modify
- Collaboration with stakeholders and team members for modifications.

# Policy Agenda - High

## Building Demolition

There are a number of challenges associated with any municipal code enforcement/building demolition programs. The two most prominent are the lengthy procedural requirements of state law and the limited funds available for demolition as compared to the number of buildings that fit the profile as candidates for removal.

At the same time, there are several factors that contribute to the need for public involvement in building demolition. These factors are mainly economic and market changes but also include the investment or disinvestment patterns of property owners – especially those of rental properties.

In the fiscal year 2009 – 2010 the general fund budget request of \$175,966 for Contract Services is similar to the 2008 – 2009 Contract Services funded at \$175,000. This is the line item which we use for building demolition, weed cutting, trash and debris clean-up and the securing of vacant buildings open to trespass. Because this is a small number relative to the need in the community, we must prioritize the use of these funds to achieve the greatest impact.

In fiscal year 2008 – 2009 the Community Development Department initiated an Acquisition/Demolition program with the allocation of \$70,000 in CDBG funding. Through collaboration between Community Development and Inspections as of late April 2009, we have begun to utilize some of those CDBG funds to expand our financial ability to carry out demolitions when needed. As of this writing, 10 buildings have been demolished using the federal CDBG funds. In addition, the Community Development Department has proposed to increase the funding of this program by recommending the allocation of \$100,000 in CDBG Economic Recovery funds for this purpose.

The Code Enforcement process sometimes results in private property owners paying for demolition of their dilapidated properties. In effect, the efforts of the Inspections Code Enforcement activities have a greater impact than is represented by the City funded demolition numbers. Other than privately funded renovation of basically sound structures, this is the most desirable outcome – property owners taking responsibility for their property.

**This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live and goal #3 MORE ATTRACTIVE CITY-Clean and beautiful**

- Objectives:
  - Low crime rate and reputation as a safe community
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
  - Higher development standards
  - Preserve natural resources which increases green spaces
  - Cleaner community with less trash and visible blight
  - More buildings and homes meeting codes and requirements
- Measure of success:
  - Increasing the number of demolitions through creative financing such as the CDBG programs
  - Utilizing other programs such as the “B” Street Model and a possible rental inspections program to reverse the trend for disinvestment for the long term

Staff Liaison: Rob Anderson, Chief Development Officer

Email Address: randerson@ci.fay.nc.us

Phone Number: 910-433-1701

Team Members: Code Enforcement Staff, Community Development Department

<b>Action Plan</b>	<b>Estimated Completion</b>
Collaborating with State agencies to ensure compliance with regulations	Continuous
Attend Neighborhood Reclaiming Strategy meetings and support the effort through demolition program	Monthly
Strategic utilization of funding resources to achieve as many demolitions as possible	Continuous

First Quarter Update:

- Working with the NC Department of Environment and Natural Resources (NC DENR) to ensure our new procedures are consistent with their requirements for asbestos testing and abatement for residential demolition
- Working to resolve differences in procedural requirements from the NC DENR and Health Hazards Control Unit in Raleigh to resolve any gaps or conflicts in their policies
- We received revised policies from Community Development which modified guidelines to allow for funding of testing and removal of asbestos
- Community Development was awarded \$100,000 in demolition acquisition funding through the American Recovery and Reinvestment Act
- Demolitions
  - 3 completed demolitions in the first quarter: As part of the “B” St. pilot program we had two structures demolished that were continual problems. One of these was done by a private property owner at no cost to the City
- Staff is prioritizing blighted structures in the demolition program, utilizing Federal funds when circumstances allow.

Second Quarter Update:

- Community Development’s new financial limits for the demolition and acquisition program are in place. We continue to use federal CDBG funds to demolish residential structures when available
- Created new regulations, specifications and procedures for demolition of properties, which will require asbestos testing and abatement on all demolitions in the city. These regulations mirror regulations and policies of most of the larger municipalities in NC
- Two team members have successfully completed training in asbestos testing
- Two demolitions associated with B Street program expected to be complete in January
- Continued participation in the police Reclaiming Neighborhoods Strategy
- 11 demolitions for October 1 to December 31—these were all code enforcement cases; of those, nine were funded through the Community Development Acquisition and Demolition Program with federal Community Development Block Grant funding. The two remaining cases were paid from the general fund at a cost of \$13,400

- Working with the NC Department of Environment and Natural Resources to ensure our new procedures are consistent with their requirements for asbestos testing and abatement for residential demolition
- Working to resolve differences in procedural requirements from the NC DENR and Health Hazards Control Unit in Raleigh to resolve any gaps or conflicts in their policies.

Upcoming Activities:

- Staff continues to collaborate with the police and other departments to maximize our opportunities to positively impact our neighborhoods to support the Reclaiming Neighborhoods Strategy Target for Action
- Continue to monitor property maintenance problem cases throughout the community and prioritize candidates for demolition
- Continue to explore funding opportunities to expand our ability to remove problem properties.

# Policy Agenda - High

## Property Revaluation and Tax Rate

Cumberland County completed property tax revaluation in the fall of 2008. This target for action seeks to evaluate what the revenue neutral tax rate would be for the FY10 budget. The team will gather historical property value data as well as estimated property values for FY2010 to determine a revenue neutral tax rate. In addition, the City Manager, assisted by the team, will develop the FY2010 recommended budget and tax rate. City Council will set the tax rate in June 2009 for FY2010.

**This target for action is linked to City goal #4: MORE EFFICIENT CITY GOVERNMENT-  
Cost effective service delivery**

- Objectives:
  - Investing in City's future infrastructure, facilities and equipment
  - Greater accountability for performance & results
  - Services delivered in a cost-effective manner
  - Producing results following the strategic plan and budget
- Measure of success:
  - Adoption of the FY2010 City of Fayetteville budget

Staff Liaison: Lisa Smith, Chief Finance Officer

Email Address: lsmith@ci.fay.nc.us

Phone Number: 910-433-1682

Team Members: Budget and Evaluation Manager, City Manager

Action Plan	Estimated Completion
Gather historical property value data and estimated property values for FY10	May 2009
Determine revenue neutral tax rate	June 2009
Adopt FY 2010 budget	June 2009

### First Quarter Update:

- Council adopted the FY2010 budget June 22, 2009 with a revenue neutral rate of 45.6 cents

### Upcoming Activities:

- No further action is required

## Policy Agenda - High

### Legislative Agenda and Lobbying Strategy

The City, County of Cumberland, and Fayetteville-Cumberland County Chamber of Commerce have partnered with the Ferguson Group to develop a community-wide federal legislative agenda. The federal agenda is based on projects/issues for which the partners have identified as priorities for our community, and for which our delegation and lobbyist feel we can successfully acquire federal assistance. This partnership has returned more than \$22 Million in federal assistance to the community since its inception. In order to continue those successful efforts, the partners have developed a 2009 federal agenda for submission to our federal legislative delegation. This agenda was approved by the City Council on February 23, 2009. Funds are included in the FY10 budget for the continuation of the Ferguson Group contract.

Additionally staff is proactively responding to the American Recovery and Reinvestment Act. Every tool at the City's disposal will be applied to ensure that Fayetteville positions itself to take full advantage and emerge as a stronger, healthier community. The federal dollars received will be spent on worthwhile projects and bring jobs to the city and surrounding communities. We continue to analyze the stimulus package and the possible funding opportunities in more than 75 Federal programs. Also, we continue to develop and refine the City's ready to go project list. As projects are prioritized and opportunities are identified, we match projects to Federal programs and funding delivery methods. Staff is aggressively applying for eligible projects and collaborating with other organizations to leverage opportunities for the community. In an effort to promote transparency and to ensure the City is responsive and accountable to the public, we are developing a stimulus tracker portal on the City's website which will launch during the first quarter of FY 10.

**This target for action is linked to City goal #4: MORE EFFICIENT CITY GOVERNMENT-  
Cost effective service delivery**

- Objectives:
  - Investing in City's future infrastructure, facilities and equipment
  - Greater accountability for performance and results and transparency
  - Producing results following the strategic plan and budget
  - High level of customer satisfaction with City services
- Measure of success:
  - Continuation of the Ferguson Group contract in collaboration with County of Cumberland, and Fayetteville-Cumberland County Chamber of Commerce
  - Continued proactive response to Stimulus funding

Staff Liaison: Doug Hewett, Assistant City Manager

Email Address: dhewett@ci.fay.nc.us

Phone Number: 910-433-1978

Team Members: Management Analyst, Stimulus Response Team

Action Plan	Estimated Completion
Develop and launch the Stimulus Tracker	Sept 2009
Continued proactive response to Stimulus funding, including bimonthly meetings	Continuous
Collaborating with lobbying group and partners to monitor, evaluate and respond to impending legislation	Continuous

First Quarter Update:

- More than \$10 million in Stimulus funds allocated or awarded to the City of Fayetteville
- Bimonthly Stimulus Response Team meetings
- Developed and published Stimulus website
- Monitoring, evaluating and responding to the impact of the State's budget cuts on the City's revenue stream (beer and wine tax)
- Monitoring, evaluating and responding to the State legislation impacting the City's operations (Ethics panel requirement and smoke free legislation)
- Collaborating with lobbying group and partners to respond to the Water Resource Development Act

Second Quarter Update:

- Stimulus Response Team meetings and continuous website updates
- Coordination of the development of a community-wide federal legislative agenda in partnership with Cumberland County and Fayetteville-Cumberland County Chamber of Commerce and the Ferguson Group
  - Prioritized federal legislative agenda
- Issued letters of support for WRDA increase in authorization from \$6 million to \$20 million
- Issued briefing paper on air quality and policy paper on collective bargaining bill
- Stimulus bond opportunity:
  - Held staff meetings and researched opportunities
  - Adopted resolution designating the city a Recovery Zone
  - Completed and submitted packet to the Department of Commerce including the notice of intent to issue recovery zone bonds, a request for additional allocation and adopted resolutions declaring the use for specific projects.

Upcoming Activities:

- Council adoption of the federal legislative agenda
- Collaborating with lobbying group and partners to monitor, evaluate and respond to impending legislation
- Continued proactive response to and coordination of Stimulus funding
- Continued response to stimulus bond program.



# Management Agenda - Top

## Crime Reduction Strategy and Report

On April 6, 2009, Chief Bergamine presented to City Council the Fayetteville Police Department Community Wellness Plan. The comprehensive report contains 33 planned actions for the coming year. This target for action seeks to follow the implementation of those actions through the coming year. Success would consist of the following measures:

- Increase in community participation
- Reduction in overall crime
- Reduction in violent crime
- Reduction in crimes committed by youth offenders
- Reduction in related traffic injuries and deaths
- Increase in recruiting and retaining qualified applicants

The Police Department's mission statement affirms that they are committed to leading the community problem-solving efforts that improve the quality of life for all citizens of Fayetteville. The Police Department will work assertively with the community to address the underlying conditions that lead to crime and disorder. The Police Department's core values include: all people, community involvement, integrity, professionalism, innovation, our employees, the Police code of ethics, the laws of the city, state, and country; and accountability.

At the core of our community policing efforts are the guiding principles that articulate our common organizational values, which serve as a basis for integrated decision-making and underlie the Department's strategic vision and mission. These principles are: Intelligence-led Policing, Community Partnerships, Crime Prevention, and Operational Efficiency.

We know from past experience that through prevention, education and enforcement, we can be very effective in reducing crime. We believe the challenges for fighting crime in our community are opportunities to identify more effective ways for our department to operate and to work hand-in-hand with other city departments, providing a holistic approach to creating a healthier city.

Resources needed include:

- Grant applied for and if passed: City would be responsible for the salaries of:
  - 35 additional police officer positions \$1,411,641
  - 4 additional forensic technicians, \$ 35,400
  - 2 additional crime prevention specialists. \$ 61,920

We would also look to establish partnerships between Police Department and other city departments, county agencies, government entities, academic institutions, District Attorney's Office, and citizen participation.

### **This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live**

- Objectives:
  - Low crime rate and reputation as a safe community
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
  - Safe streets with vehicles traveling at the posted limits

- Measure of success:
  - The presentation of a comprehensive report to Council on the Community Wellness Plan
  - Implementation of approved elements of the Community Wellness Plan

Staff Liaison: Tom Bergamine, Chief of Police

Email Address: tbergamine@ci.fay.nc.us

Phone Number: 910-433-1819

Team Members: All City Departments, Cumberland County agencies, academic institutions, and citizen participation

Action Plan	Estimated Completion
Council presentation on Community Wellness Plan and “Police Strategy”	Sept 2009
Discuss Wellness Plan at community meetings and Community Watch Group meetings to educate through Public Service Announcements and updates to website	Continuous
Continue to implement approved elements of the Community Wellness plan through aggressive prevention, education and enforcement initiatives	Continuous

First Quarter Update:

**INTELLIGENCE LED POLICING**

- GPS bracelets (tracking): Met with pre-trial to enhance efforts; partnering with Probation & Parole regarding repeat offenders
- Scout System (Alarms): Purchased, installed, and trained detectives
- License Plate Readers: Purchased, installed, and operational
- Palm Reader Technology: Purchased, installed and currently entering 30,000 prints into database.

**OPERATIONAL EFFICIENCY**

- Sector Policing: Implemented in both patrol districts
- Warrant Specials: Conducted each month
- Bicycle Patrol: Officers in both patrol districts and OSB cross-trained
- Records Management System: Purchased, and coordinating with IT for installation
- Case Management cases are reviewed monthly
- Joint 911 Center: Work group has met with the manager, meeting with County Manager is scheduled
- Full Service Search Warrants: Team approach with County resources to permanently rid neighborhoods of narcotics activity; City Inspections looks at a residence to ensure code compliance, Animal Control ensures that canines that are vicious and/or do not have the proper documentation are removed from the residence, DSS ensures the safety and well being of the children at the residence
- Police Executive Research Forum (PERF): Data downloaded, interviews with personnel have been conducted. Preliminary report to be received in October.

## COMMUNITY PARTNERSHIPS

- Police Foundation: Was started to increase the involvement of the community with the Police Department; accomplished with donations that allows for annual Police Awards Banquet in May; sponsored the 1<sup>st</sup> annual National Night Out event at Festival Park on August 1; started Grant Process of \$500 each to support Community Watch Groups
- Rental Inspection Program: Work in progress to develop policies and procedures necessary to register rental property to bring substandard rental property into compliance
- Badges for Baseball: Mentoring of youth through athletic programs
- Greater Fayetteville United: Attend meetings each month, members took a tour to view areas affected by the "Broken Windows" concept
- Community Forums: Patrol districts alternate months and meetings are held each month.

## CRIME PREVENTION

- Addition of two Crime Prevention Specialist positions (grant funded) for a total of six (three for each patrol district; Crime Prevention Specialists conduct residential and business security surveys, safety presentations, and work with Community Watch Groups
- G.R.E.A.T.: (Grant Resistance Education and Training) training completed at New Life Christian Academy; currently training at Berean Baptist Academy
- Operation ID: purchased 30 engravers for citizens to use to mark their property
- Property Manager Network: three new properties on board with this program

## Second Quarter Update:

- Reduction in overall crime – Crime Index Rate lowest in 10 years
- Reduction in violent crime – 17.5% reduction
- 11 people on the GPS bracelets program
- Scout systems are assigned to the property crimes supervisors, deployed and in use in the field
- All DVR equipment is working properly at this time
- Bond Enhancement Program continues and we are in constant contact with District Attorney's Office
- Great Oak Youth Development Center – Reading Buddies program to begin week of January 11, 2010
- Rental Inspection Program – meeting was held in November with the key players to discuss the legal issues concerning an ordinance; met with Raleigh IT to determine what type of computer system will be needed to implement the program
- Bicycle Patrols – Concentrated in Zone 16 & 21 residential areas; Zone 14, Glen Reilly subdivision. Officers utilized bicycle patrols to assist in residential areas where offenders were utilizing paths and other areas not accessible to motor vehicles
- G.R.E.A.T. – Received supplies (water bottles, t-shirts, name plates) utilizing 2009 JAG grant funds; more classes being scheduled after January 2010
- Operation I.D. – Crime prevention specialists continue to promote this program at all safety presentations and meetings; engravers have been loaned to residents and Operation ID stickers provided; Police Foundation did not award money to Community Watch groups; however, they will be providing at least one engraver to each group who applied for a grant
- Records Management System – Completed 50% audit for CAD migration and conducted verification meeting; completed 10% audit for RMS migration; provided data for TeleStaff licenses to City EIT for scheduling user training
- Succession Planning – Met with assistant chiefs reference transfers, due to recent promotions. In addition, the remaining lieutenants who have been in positions for an extended period of time will be rotated; met with Methodist University regarding upcoming West Point Leadership Course beginning on January 12, 2010
- Case Management – Recommendations will be made for assignment and investigation of

- specific crimes, such as fraud and white collar crimes, B&E of motor vehicles, etc
- Joint 911/Communications Center – Continuity between the County center and our center with installation of new OSSI CAD system being monitored; meeting on December 14 to ensure standardization with the County as our personnel start to be trained/certified with EMD, EFD and EPD in the new year; looking for grant money to build a modern communication center that is large enough to meet the needs of our citizens and public safety personnel
- Operation C.R.A.Y.O.N. – Presentations given by Lieutenant Bass-Caine on December 8 to FPD command staff and on December.

Upcoming Activities:

- Continued work toward reaching the goals of the Community Wellness Plan which focuses on intelligence led policing, improving operational efficiency, strengthening community partnerships and enhancing crime prevention.

# Management Agenda - Top

## FAST Improvements

The Fayetteville Area System of Transit (FAST) has a mission to provide safe, efficient, reliable, courteous, and innovative public transportation to the citizens of Fayetteville. To that end, the City hired a consultant to perform a Transportation Development Plan (TDP). The TDP addresses the public transportation systems in the City of Fayetteville needs now and in the future. The preliminary results/alternatives of this study were shared with the City management team and the City Council in May 2009. The final presentation to the City Council will follow a public hearing and the recommended alternatives. The Transit team will then prepare a plan of action that would take into account the approved recommendations from this plan.

The City Council has also pledged to get FAST to the state-wide funding level of other comparable NC cities within three years. Consistent with that goal and the findings in the TDP, the following actions are planned for this fiscal year:

- Replacement of the bus fleet continues – three new units (35') in July 2009, and four LTVs in June and August
- Five new hybrid electric buses will be ordered in the 1st Quarter of FY2010 via stimulus funding (arrival will be December 2010 – January 2011)
- Replacement of the ADA van fleet continues – four new LTVs in June and August 2009
- Evaluate the study results and present to the citizens via public hearings regarding future changes to the transit system
- Implement the approved alternatives to the FAST system.

### **This target for action is linked to City goal #4: MORE EFFICIENT CITY GOVERNMENT- Cost effective service delivery**

- Objectives:
  - Investing in City's infrastructure, facilities and equipment
  - Greater accountability for performance & results
  - Services delivered in a cost-effective manner
  - Producing results following strategic plan and budget
  - High level of customer satisfaction
- Measure of success:
  - Implementation of TDP elements approved by City Council
  - Increased ridership from 989,000 to > 1,000,000 riders in FY10

Staff Liaison: Ron Macaluso, Director of Transit

Email Address: rmacaluso@ci.fay.nc.us

Phone Number: 910-433-1011

Team Members: Transit Department staff and representatives from the Transportation Advisory Committee

<b>Action Plan</b>	<b>Estimated Completion</b>
TDP Council presentation and adoption	Sept 2009
Arrival of the last two LTV vehicles	Oct. 2009
Implement expansion of services: 3 route expansion & system extended hours	Nov. 2009
Transfer station replacement	Nov. 2009
Installation of new bus stop signs and route schedules	Dec 2009
Renovation of FAST offices on Grove Street	Mar. 2010

First Quarter Update:

- The Transportation Development Plan (TDP) was presented to Council and adopted in August 2009
- Vehicle replacement plan is 50% complete – Eight 35’ HD Transit vehicles have been replaced as of July 2009
- The ARRA Stimulus grant was executed and funds encumbered for the 5 diesel-electric hybrid buses. Delivery is expected in early 2011
- Bus Blast II was held to introduce the new 25’ LTV units for the fixed route service and 20’ LTV
- Rebranded the Paratransit service – “FASTtrac”.

Second Quarter Update:

- Extended hours for 3 routes and the new route 9 were initiated on November 2, 2009
- Transfer Center building replacement was completed and opened for service in December
- New FAST bus stop signs have been installed
- The renovation of the Transit administration facility is progressing as planned. The current progress estimate is that the project is about 66% complete
- Received the last of the 8 LTV transit vehicles.

Upcoming Activities:

- Complete ARRA stimulus grant process to include the enhancement portion of the project
- Execute the FTA grant award for preventative maintenance, ADA, bus rehab, transit enhancements and planning funding. Total project budget of \$2.6 million
- Completion of the Grove Street renovation estimated in 3<sup>rd</sup> quarter.

# Management Agenda - Top

## Community Report Card

The city continues to seek improvement in the delivery of services to its citizens. To that end, development of a community report card begins in FY 2009-2010. The community report card provides transparency, accountability, and measures results of fiscal resources. The intent behind the community report card is to evaluate City services and guide policy and management decisions in pursuit of the City's strategic goals.

The community report card consists of four components: strategic plan, citizen input, City department business plans, and standards of performance measurement. The City possesses a current strategic plan, which defines the vision and goals for our City. In FY 2009-2010, the City has allocated \$18,400 to conduct a citizen survey. The survey will seek to gain resident's feedback on delivery of city services and the goals defined in the strategic plan.

Other components that will be explored in developing a community report card could be multi-year in nature. They will require a significant change in organizational processes and are not included in the FY10 budget request. One such component is the development of department level business plans in support of the strategic plan. The business plans will infuse results based objectives into department operations and resources. Finally, the City will continue to pursue standards for performance measurement.

The North Carolina Local Government Performance Measurement Project at the UNC School of Government is an existing program that could accelerate the community report card process. The program assists cities in compiling numerous performance measures. The standardized data allows for comparison among peer cities in North Carolina. However, participation in this project carries a fiscal and human resource cost and it does not cover the entire spectrum of existing City services. Yet, it is the fastest and simplest performance measurement system to implement.

The Community Report Card target for action will provide the opportunity for staff to explore in detail all options and resources needed for implementation and to present a final report to Council on recommendations. Following adoption of the recommendations, an estimated initial publishing date for a community report card would be FY 2012.

### **This target for action is linked to the city goal #5: Greater Community Unity- Pride in Fayetteville**

- Objectives:
  - Increase trust and confidence in City government
  - Better inform citizenry about the city and City government
  - Increase community dialog on major issues
- Measure of success:
  - Present Council a recommended multiyear plan that shapes the four components of the community report card: strategic plan, citizen survey, departmental business plans and performance measures.

Staff Liaison: Doug Hewett, Assistant City Manager

Email Address: dhewett@ci.fay.nc.us

Phone Number: 910-433-1978

Team Members: Management Analyst, Organization and Development Manager, Budget and Evaluation Manager

<b>Action Plan</b>	<b>Estimated Completion</b>
Research options for community report card	Sept 2009
Present findings to City Manager	Dec 2009
Present report to City Council and gauge interest in development	Jan 2010
Include program costs in FY11 budget request	Feb 2010

First Quarter Update:

- Citizen survey was not included in the adopted budget
- Researched options and resources needed for the four elements of the community report card including innovating the strategic plan integration, developing performance measures, performing a citizen survey and developing and integrating departmental business plans
- Prepared and delivered presentation to the Assistant City Manager.

Second Quarter Update:

- Held team meeting to discuss feasibility of this project and provide direction
- Project has limited resources (no budget or dedicated staff)
- Decision was made to gauge the interest of Council to commit resources during their strategic planning retreat.

Upcoming Activities:

- Gauge interest of Council to pursue and commit resources during their strategic planning retreat.



# Management Agenda - Top

## Community Watch Expansion

Community Watch is a philosophy and strategy that allows law enforcement and citizens to work together to solve crime and social problems associated with crime. The city is currently approximately 148 square miles (after Fort Bragg annexation) and there are many new neighborhoods being developed. Active Community Watch groups meet regularly to discuss crime and community needs. This target for action seeks to expand the number of new Community Watch groups as well as to revive the inactive groups.

We have learned in the past that as quickly as Community Watch groups are started, they falter. Sustainability is the key to keeping groups active. Crime problems start groups, but when crime problem goes away, so does participation. Information from the community flows to law enforcement which determines the method of patrol needed in the community. Continuous communication is the key to successful information to/from the Zone Officer and the Community Watch Coordinator. Zone Officers will contact Community Watch Coordinators on a regular basis.

**This target for action is linked to the city goal #5: Greater Community Unity- Pride in Fayetteville**

- Objectives:
  - Increase trust and confidence in City government
  - Better inform citizenry about the city and City government
  - Increase community dialog on major issues
  - Developing and maintaining collaborative working relationships
- Measure of success:
  - Sustainability for Community Watch groups
  - Two-way communication and community participation: Increase in reports leading to arrest which are initiated by CW groups
  - Increased Community Watch training, staff support and education

Staff Liaison: Tom Bergamine, Chief of Police

Email Address: tbergamine@ci.fay.nc.us

Phone Number: 910-433-1819

Team Members: Cross Creek Patrol District Commander, Crime Prevention Specialists, Community Watch Groups

Action Plan	Estimated Completion
Active Community Watch List Evaluation	Sept 2009
Initiate and staff community meetings	Monthly
Public education campaign: Public Service Announcements, ensuring crime prevention presence at community events utilizing opportunities to educate public in CW groups and crime prevention, updating Police website	Continuous
Training for CW coordinators	Quarterly

First Quarter Update:

- Evaluated the CW list and found we had 108 active CW groups Sept 30, 2009
- During the quarter 8 groups activated, including one in the B Street area. Crime prevention specialists have been contacting inactive groups to regenerate an interest
- Community meetings are being held monthly in an attempt to educate residents about crime trends in the community. Police Dept. initiates these meetings based on crime trends to solicit advice, suggestions and provide information to citizens. Meetings rotate between bureaus/patrol districts. This quarter they were centered in Ramsey St. area
- Public service announcements with crime trend information and safety tips are sent out to the public through Community Watch leaders, newspapers, radio, TV and Police web site
- Continuing to provide crime prevention presence at community events such as National Night Out Kick Off event where CW groups around the world celebrate crime prevention by turning on porch lights. We held the event at Festival Park with Police Band Roll'RZ, displays, info, & prize drawings and three Cease Fire Movie Nights where crime prevention provides information on starting a CW group
- Two new crime prevention specialists (ARRA grant) are in training for a total of six
- Several CW coordinators and members have been enrolling in the Citizen's Police Academy, Citizens on Patrol Academy, and the City Citizen's Academy.

Second Quarter Update:

- Groups are evaluated weekly regarding the requirements for remaining on the active list
- Inactive Community Watch groups were contacted through letters, cards, e-mails and telephone calls to rekindle interest
- Community meetings are being held monthly in areas that have seen increases in criminal activity based on hot spot data analysis
- New groups created this quarter: Lafayette Village West, Legacy at Cross Creek Apts, and Autumn View
- Crime prevention specialists attended Citizen Police Academies and City Citizen Academy to promote the Crime Prevention program and foster interest in community watch groups
- Crime prevention specialists attended 86 Community Watch meetings; conducted 11 safety presentations; and participated in 17 community events, such as Fall Safety Day, Car Seat Safety Checks, Neighbors' Night Out and Safe Communities.

Upcoming Activities:

- Continuing the efforts listed in the action plan
- Continuing to provide crime prevention presence at community events.

# Management Agenda - Top

## Economic Development

Effective municipal economic development programs generally have at their core several elements. First, strong partnerships with the existing business community, state institutions and a non-governmental agency focused on the daily functions of traditional economic development activities. The purpose of a non-governmental agency as a partner is to enable confidential interaction with investors and businesses as they evaluate alternatives for their location and investment decisions.

Second, it is important to know your community along many dimensions and to be able to demonstrate in writing the attributes that investors and businesses consider before making investment decisions. These attributes range from infrastructure location and size to utility costs, and workforce availability and characteristics. Further issues of local educational, housing and cultural opportunities, the availability of land and buildings, financial resources and economic incentive programs and general demographics all are important factors. When successful, that results in a quality of life experience that promotes even further economic expansion.

The third major element of an effective municipal economic development program is a fiscally responsible municipal government with strong services, a policy climate that promotes a healthy sustainable balance between citizen, corporate citizen, and a local economy that is rooted in both the present and the future.

With these principles in mind, the City will contract with the Fayetteville/Cumberland County Chamber of Commerce for traditional economic development services. The contract is the tool by which we define our expectations for the traditional activities we need them to carry out on our behalf. In addition, we will work closely with them as they strive to expand existing businesses while targeting opportunities to bring new jobs, retail, and industry to Fayetteville. We will collaborate on evaluating policies and strategies for state, national and international marketing programs as well as opportunities to foster an environment of success for appropriate, balanced economic expansion.

### **This target for action is linked to City goal #2: GREATER TAX BASE DIVERSITY- Strong local economy**

- Objectives:
  - Retain and grow businesses including those associated with the military
  - Increased industrial tax base; more jobs with higher wages
- Measure of success:
  - The expansion of our capacity to promote Fayetteville and provide informational and support services to investors considering Fayetteville.
  - Drafting, adoption and implementation of new economic development tools to promote job creation and the types and location of investment deemed desirable by the community and depicted in the Vision 2030 Plan.
  - Identifying number, size and qualitative characteristics of businesses choosing to locate or expand in Fayetteville.

Staff Liaison: Kristoff Bauer, Assistant City Manager

Email Address: kbauer@ci.fay.nc.us

Phone Number: 910-433-1993

Team Members: Chamber, Community Development Department

<b>Action Plan</b>	<b>Estimated Completion</b>
Chamber contract execution	July 2009
Develop a Hospitality Facility Incentive Program	Dec. 2009
Evaluation of current economic incentive programs	Jan 2010
Support economic development efforts of the Chamber	Continuous
Council Presentation: Recommendations for modifications to programs (refine the tools)	March 2010

First Quarter Update:

- Chamber contract has been executed and operations have begun
- The procedures, application process and contract format for implementation of the economic incentive program Property Tax Grantback have been established and are in place
- Two development projects have been approved through the Property Tax Grantback program representing approximately \$40 million in investment in multi-family housing facilities.

Second Quarter Update:

- A Hospitality Facility Incentive Program was developed in coordination with the Chamber and Cumberland County. A draft of the program was presented to Council during the November 2, 2009 Council Work Session. The proposal has been placed on hold during the ARRA bond program process
- The Chamber of Commerce provided a report on economic development activities during the November 2 Work Session
- An ARRA program to provide low interest financing was identified as a means to assist two hospitality projects (one promoted by the City and one by the County). The City and the County took separate actions to apply for this funding tool to assist these projects. The Hospitality Facility Incentive Program was placed on hold pending the outcome of this application process.

Upcoming Activities:

- Continue work on the ARRA bond program
- Development of a comprehensive Economic Development Program definition including incentive tools and identifying the administrative responsibilities of those agencies participating therein.

# Management Agenda - High

## Reclaiming Neighborhoods Strategy

In September of 2008 an initiative was developed to improve working relationships between business owners, residents and various departments of the City. The model was developed to form a holistic approach to be implemented to rehabilitate an area that has seriously declined. The goal of the project is: to increase citizen involvement, provide beautification opportunities, identify resources for the repair of owner occupied properties that are below minimum housing standards, and to support these efforts using a cross section of city resources in an attempt to bring this community together and increase overall wellness.

The B Street area was originally identified as an area between the boundaries of Grove Street and Person Street, and Eastern Blvd. to B Street. The area has been expanded to include Maloney Avenue, Lamon St. and Person Street from Eastern Blvd. to the hotel located on 333 Person Street where continuous illegal activity occurs. This entire area has been rampant with crime for over thirty years and is a classic case of “broken windows.” The police have responded over the years using reactive and proactive strategies. This response was a band-aid approach that only served to provide temporary relief through arrests and landlords evicting tenants.

The process for identifying an action plan developed through information exchanged and suggestions by all department representatives during monthly meetings. Each department identifies strategies the group could employ to increase success in this area and each month accomplishments are discussed and next steps are identified. After several B Street Workgroup meetings, additional meetings were scheduled with the business community, churches and residents. During these meetings the group described the initiative and what the team was hoping to accomplish. The B Street model is intended to be a flexible model that may be adjusted based upon community response. It is anticipated that this model could be used for other areas of the City by adopting specific actions that address conditions inherent to those specific areas. This model was developed in an effort to provide a long-term strategy to increase the likelihood of permanent improvement in the area. This target for action seeks to measure the long-term success of the initiative in the B street area as well as to identify reclaimable activities and extend them to other areas in the community.

### **This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live**

- Objectives:
  - Low crime rate and reputation as a safe community
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
  - Safe streets with vehicles traveling at the posted limits
- Measure of success:
  - Increased community governance and establishment of a formal active community watch group
  - Reduction in overall crime/violent crime/crime committed by youth offenders in the area
  - Observable beautification efforts of community through community assistance programs and stakeholder participation
  - Support for rental inspection program

- Increased collaboration of City departments in a holistic approach to neighborhood reclamation

Staff Liaison: Tom Bergamine, Chief of Police

Email Address: tbergamine@ci.fay.nc.us

Phone Number: 910-433-1819

Team Members: Police, Inspections, Community Development, Solid Waste, Community Relations, Fire, PWC

Action Plan	Estimated Completion
Departmental workgroup meetings for stakeholder departments	Monthly
Identification of maintenance plan for B Street target area	Nov 2009
Identification of area and work group stakeholders for new focus area	Dec 2009
Development & implementation of action plan for new focus area	Feb 2010
Council presentation on strategy and applicable target area update	June 2010

First Quarter Update:

- Implemented area specific police strategy which increased presence and over time the community experienced a noticeable reduction in crime:



- Police Dept spearheaded monthly departmental workgroup meetings for B street with high attendance and participation
- Community Watch group established – Crime prevention specialists worked with Community Development Dept to lead this initiative. The CW meeting was sponsored by Fayetteville Emanuel Holiness Church on Minor Street. Approximately 21

residents/business owners attended. Pizza Palace provided complimentary spaghetti dinners for the group.

- Marked improvements in area beautification with respect to housing/vacant lots: Inspections: 2 demolitions; Community Development: Beautification and renovation



513 School St.  
before/after photo

- Solid Waste hand delivered recycling booklet, which covers City ordinances concerning the collection of yard waste, household garbage, and bulky collection, provided residents trash bags, got residents involved in cleanup efforts, and promoted ownership of residential areas
- Parks and Recreation provided the workers and equipment for clearing the area overtaken by bamboo



604 Link St.  
before/after photo

- Fire Dept. assisted with the trash cleanup in the area during Fayetteville Beautiful
- PWC conducted additional lighting assessments in the Person St. and Eastern Blvd areas and released work order in June 09 to install additional lights and completed the installation.

### Second Quarter Update:

- Community Watch group continues to meet, are well attended and are sponsored by Fayetteville Emanuel Holiness Church on Minor St.
- Identified department commitments for transition plan and continued maintenance in the B St. area
- Identified new target area as Boonie Doone.

### Upcoming Activities:

- B St. workgroup to have one final meeting to wrap up the project area
- Bonnie Doone workgroup will establish group participants and meet to identify a strategy for the target area
- Prepare for Council presentation on strategy and applicable target area.



# Management Agenda - High

## Police Staffing

Effective police recruiting and retention is a core fundamental objective for the success of any police department. Recruiting qualified applicants ensures that the department can effectively police the community it serves. It is very important that the City's Police Department attracts and retains qualified officers. Our agency is aggressively working to fill our current vacancies. We are expecting 20 plus in our academy starting on July 13, 2009.

**This target for action is linked to City goal #1: GROWING CITY LIVABLE NEIGHBORHOODS- A great place to live**

- Objectives:
  - Low crime rate and reputation as a safe community
  - Well organized neighborhoods with residents taking pride and responsibility for their neighborhoods
  - Safe streets with vehicles traveling at the posted limits
- Measure of success:
  - Attain and sustain full strength capacity
  - Increased effective recruitment strategies
  - Decrease turnover rate
  - Increase partnerships with BLET program

Staff Liaison: Tom Bergamine, Chief of Police

Email Address: tbergamine@ci.fay.nc.us

Phone Number: 910-433-1819

Team Members: Support Service Division Commander, Human Resource Department

Action Plan	Estimated Completion
Continually evaluating police recruiting strategy to respond to the changing environment	Continuous
Develop new approaches for improvements in recruiting, hiring and training processes	Continuous
Monitoring the authorized positions and vacancy rate for effective response	Continuous

First Quarter Update:

- Attained full strength staffing of sworn police officers during the month of August. This is a moving target and is adjusted daily
- At the end of the quarter we had approximately 380 authorized sworn positions with a vacancy rate of approximately 7% which includes the 17 additional positions from the ARRA grant award
- BLET class began in July with 24 students

- Partnering with FTCC for additional BLET class spaces
- Evaluating new radio ad campaign effectiveness. The radio ad campaign did not yield enough response to continue
- Testing new strategy termed “personal recruiting approach” in an effort to humanize the agency. Police recruiter makes multiple individual follow up contacts with potential applicants to engage in a personal relationship rather than simply requesting the applicant to submit inquiries. Recently experienced an increase in the applicant pool.

#### Second Quarter Update:

- Sworn police staffed at 94% Dec. 31, including 24 new police officers
- Hired 4 officers through the COPS Stimulus funding and 4 lateral officers
- Selected a new background investigator
- Recruiting efforts yielded a 12% increase in acceptable/testable applicants, as compared to the second quarter last year.

#### Upcoming Activities:

- Begin next BLET class (18 students) on January 19, 2010
- Continue to refine and expand on the Recruiting Team and Personal Recruiter initiatives
- Continue targeted efforts to attract qualified applicants.

## Management Agenda - High

### Non-Stop Air Service to Washington, D. C.

This target for action is to investigate and secure direct air service from Fayetteville/Fort Bragg to the DC area primarily for military use, but also to include the civilian market demand. BRAC RTF has agreed to co-sponsor this investigation with the Fayetteville Regional Airport. The work tasks include: selection of a national aviation consultant with experience in data collection and analysis of point-to-point service.

A request for proposal was issued April 29, 2009 and responses are due May 29, 2009. Final selections are expected during the month of June. A timetable for completion of the study is part of the response process and will be coordinated upon selection. It is anticipated that this study will conclude near the mid-point of the 2009-2010 Strategic plan year. The study is anticipated to provide guidance and recommendations that will support direct air service from Fayetteville/Fort Bragg to the DC area as well as aiding in the development of negotiations for potential service providers.

**This target for action is linked to City goal #2: GREATER TAX BASE DIVERSITY- Strong local economy**

- Objectives:
  - Retain and grow businesses including those associated with the military
  - Increased industrial tax base
  - More jobs with higher wages
- Measure of success:
  - Contract execution
  - Support, evaluate and report on the City's participation in RTF Comprehensive Regional Growth Plan

Staff Liaison: Bradley Whited, Airport Director

Email Address: bwhited@ci.fay.nc.us

Phone Number: 910-433-1160

Team Members: Assist. Airport Director, Deputy Director BRAC-RTF

Action Plan	Estimated Completion
Contract execution	July 2009
Completion of Air Service Market Study	Jan 2010
Alternatives study complete in May 2010 (general aviation alternatives)	May 2010
Support, evaluate and report on the City's participation in RTF Comprehensive Regional Growth Plan	Continuous

First Quarter Update:

- Executed contract for Air Service Market Study

- Funding for study: Total= \$50,000, \$25,000 from BRAC RTF, requested \$25,000 from NCDOT Aviation (approval pending)
- September 1, 2009 start date for Air Service Market Study

Second Quarter Update:

- Executed grant with NCDOT Aviation for funding request of \$25,000
- Deployed customer surveys that will provide feedback on air service to DC.

Upcoming Activities:

- Completion of Air Service Market Study Jan 2010
- Alternative study complete in May 2010 (general aviation alternatives).

# Management Agenda - High

## Telling the City's Positive Story

The City continues to provide a communications network to its internal and external customers about the services it provides. The efforts will raise the levels of understanding about City government, how it works, impacts on the city residents, and how the Strategic Plan integrates all departments and their goals.

The partnership between the media, local civic and government organizations, PWC, advertising agencies and our committed, dedicated City employees brings a greater degree of visibility to the City. Continuation of the award-winning Kaleidoscope, Fayetteville Focus e-newsletter, employee newsletter, and excellent service delivery campaigns enhances our abilities to bring current and transparent news to the community. The redesigned web site delivers information to citizens as it happens.

Good-will events and exposure in the community also brings visibility to our excellent programs and services.

### **This target for action is linked to the city goal #5: Greater Community Unity- Pride in Fayetteville**

- Objectives:
  - Increase trust and confidence in City government
  - Better inform citizenry about the city and City government
  - Increase community dialog on major issues
  - Marketing City
- Measure of success:
  - Increased positive media exposure; positive responses from citizens

Staff Liaison: Doug Hewett, Assistant City Manager

Email Address: dhewett@ci.fay.nc.us

Phone Number: 910-433-1978

Team Members: PIO, City Communications Team

Action Plan	Estimated Completion
Up & Coming City page development and launch newly designed website	Dec 2009
Revamp Communications Team and radio show feasibility study	Jan 2010
Production of annual report and development of media training sessions for staff	June 2010

### First Quarter Update:

- Publicity on Transit improvements: Assisted with new web site, media conference on new vehicles for Para-transit, materials for rebranding Para-transit Division
- Recognized with 5 awards this calendar year:
  - NC3C - First Place - Employee Newsletter "Inside Track"
  - NC3C - First Place - Citizen E-Newsletter "Fayetteville Focus"
  - NC3C - First Place - Service Delivery "Fayetteville Recycles"

- NC3C - Second Place - 2008 Annual Report
- 3CMA - Third Place - Environmental Services booklet "Fayetteville Recycles and Other Environmental Services"
- Phase II of broadcast upgrades completed
- Developed and launched new City of Fayetteville Stimulus Website
- Launched new FAST website
- Increased media response to newsworthy items such as Linear Park, economic indicators, Sustainability Plan, Parks & Recreation partnership with Ft. Bragg for recreation for wounded soldiers & families, Transit improvements, upgrade in bond ratings
- Interviews of three departments on WFSS radio: Transit, Environmental Services and Traffic
- Citizens' Academy started second session
- City information table at Folk Festival.

#### Second Quarter Update:

- Launch of two-page spread in Up&Coming Weekly (Focus on Fayetteville) as a new opportunity (published every other week)
- Graduated second class of Citizens' Academy
- Assist with Downtown Developments published every other week in Up&Coming Weekly
- Planned and executed City Council inauguration on Dec. 7, 2009
- Assisted in production of Finance Dept's Comprehensive Annual Finance Report and adopted Budget book; printed same
- Coordinated setup of booth at Beasley Broadcasting's Energy Expo
- Completed training on new Phase II broadcast equipment
- Pedestrian safety project for SOS committee
- Planned Census regional bus tour event with Complete Count Committee for Fayetteville/Cumberland County
- Continued monthly publishing of e-newsletter to increasing number of subscribers, employee newsletter and Council meeting broadcasts

#### Upcoming Activities:

- Launch of redesigned web site
- Groundbreaking ceremony for NC Veterans Park
- Ribbon cutting for Transportation Museum annex
- Community relations assistance with sign ordinance education for Zoning
- SOS committee campaign: Don't talk, text or Tweet from the driver's seat

# Management Agenda - High

## Northwest Gateway Project

The Northwest Gateway Project is the convergence of three separate projects involving the City of Fayetteville Community Development Department, the Special Projects Director and the State Department of Transportation in conjunction with our City Traffic Engineer. The synergy that will spring from the three key activities that make up the Gateway project goes beyond their physical proximity. The trio of core actions is as follows:

The Community Development Department is working to fund and implement a significant redevelopment effort on Murchison Road from Fort Bragg to its terminus at Rowan Street on the edge of downtown Fayetteville. One targeted phase of this plan involves redevelopment of the land which will be northeast of the intersection of Bragg Boulevard and Rowan Street.

The City's Special Project Director is coordinating the design and development of the North Carolina Veterans' Park behind ASOM, along Cross Creek to the northwestern edge of the downtown area. A significant element of this effort is to extend Freedom Trail along Bragg Boulevard from Hay Street to Rowan.

The State Department of Transportation (DOT) is preparing to replace the Rowan Street Bridge which spans across a primary rail line. The replacement of this bridge calls for locating the span in a new location that will open up several acres for a second phase of Veterans' Park on the northeast side of Cross Creek. The city will take this opportunity to make improvements to automobile, pedestrian and bicycle facilities in this area.

The graphic included in this report depicts the juxtaposition of these activities. The balance between extraordinary park development on both sides of Bragg Blvd (including the Freedom Trail), major improvements to the transportation infrastructure and mixed use development is ideal to create a whole new experience entering the downtown from this Northwest Gateway location.

(Narrative update 9.30.09)

### **This target for action is linked to the city goal #6: Revitalize Downtown- A Community Focal Point**

- Objectives:
  - Adequate access to downtown
  - Develop world class NC Veteran's Park
  - More private investment in downtown
  - Make downtown a viable neighborhood with services available
  - Enhance utility services and upgrade quality of streets
  - Increase unity among factions and stakeholders
  
- Measure of success:
  - Continued staff support and collaboration of the three projects involving the City of Fayetteville Community Development Department, the Special Projects Director and the State Department of Transportation in conjunction with our City Traffic Engineer
  - Support for the redevelopment effort on Murchison Road
  - Coordinating the design and development of the North Carolina Veterans' Park and Freedom Trail
  - Rowan Street Bridge replacement

Staff Liaison: Rob Anderson, Chief Development Officer

Email Address: randerson@ci.fay.nc.us

Phone Number: 910-433-1701

Team Members: Community Development, Special Projects Director and City Traffic Engineering



<b>Action Plan</b>	<b>Estimated Completion</b>
Community Development Department is working to fund and implement a significant redevelopment effort on Murchison Road	Continuous
City's Special Project Director: Coordinating the design & development of the NC Veterans' Park & Freedom Trail	Continuous
City Traffic Engineer staff support for replacement of Rowan Street Bridge	Continuous
Development Services (planning) for all three components	Continuous

First Quarter Update:

- The Special Projects Director issued a Request for Proposals for the old hotel redevelopment site on Bragg Boulevard across from the ASOM facility and the NC Veteran's Park site. The City only received one proposal which was later withdrawn due to the condition of financial markets
- The Special Projects Director has coordinated an aggressive series of meetings for pre-development activities associated with the NC Veteran's Park. The Freedom Trail component will go to bid in the second quarter with construction to be completed by the end



of the fiscal year

- The Community Development Department in conjunction with their redevelopment consultant made two presentations to the City Council to prioritize which actions to pursue in this fiscal year. The Council also provided concurrence on the exploration of funding sources to initiate implementation. This item can be followed through the Murchison Road Redevelopment target for action
- The State Department of Transportation has determined that the new intersection to be formed by the relocation of the Rowan Street Bridge and improvements to Bragg Boulevard and Murchison Road will not be suitable for the roundabout the City originally envisioned. It will be designed as a traditional signalized intersection.

#### Second Quarter Update:

- The construction contract for Part 1 of Phase 1 of the NC Veteran's Park was awarded January 11, 2010. The contract is for Freedom Trail from Hay Street to Walters Street, for a comfort station (restroom facility) & parking lot at Freedom Memorial Park and a campus connector to create the connection between the Veterans Park visitor center and ASOM. This part will be completed by September 2010
- Once the Freedom Trail and Phase 1 of the park is completed, we will reissue a Request for Proposal for the old hotel redevelopment site on Bragg Boulevard across from the ASOM facility and the NC Veteran's Park site
- Murchison Road Redevelopment: Specific reporting on this item can be monitored by viewing the Murchison Road Redevelopment Target for Action
- The NC Department of Transportation has not yet committed to a specific schedule for the replacement of the Rowan Street Bridge. Phase 2 of the park can only be completed in coordination with this change.

#### Upcoming Activities:

- Part 2 of phase 1 (the larger park project) will be bid in the spring 2010, awarded in spring, with construction completed in June of 2011
- Part 3 of phase 1 (the visitor center) will be bid in the early summer of 2010, with the contract award in June/July. Construction of the visitor center will be completed by the end of June 2011
- Part 4 of phase 1 (the exhibits) will be bid in early fall of 2010 and completed in June 2011.
- Continued staff support and collaboration of the three projects involving the City of Fayetteville Community Development Department, the Special Projects Director and the State Department of Transportation.

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Rita Perry, City Clerk  
**DATE:** January 25, 2010  
**RE:** **City Clerk - Monthly Statement of Taxes for December 2009**

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**THE QUESTION:**

For information only.

**RELATIONSHIP TO STRATEGIC PLAN:**

Greater Tax Base Diversity - Strong Local Economy

**BACKGROUND:**

Attached is the report that has been furnished to the Mayor and City Council by the Cumberland County Tax Administrator for the month of December 2009

**ISSUES:**

N/A

**OPTIONS:**

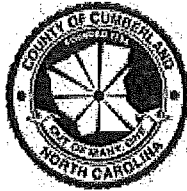
N/A

**RECOMMENDED ACTION:**

For information only

**ATTACHMENTS:**

Monthly Statement of Taxes for December 2009



OFFICE OF THE TAX ADMINISTRATOR

117 Dick Street, 5<sup>th</sup> Floor, New Courthouse • PO Box 449 • Fayetteville, North Carolina • 28302  
Phone: 910-678-7507 • Fax: 910-678-7582 • [www.co.cumberland.nc.us](http://www.co.cumberland.nc.us)

MEMORANDUM

TO: Rita Perry, Fayetteville City Clerk  
FROM: Aaron Donaldson, Tax Administrator *AD*  
DATE: January 4, 2010  
RE: MONTHLY STATEMENT OF TAXES

Attached hereto is the report that has been furnished to the Mayor and governing body of your municipality for the month of December 2009. This report separates the distribution of real property and personal property from motor vehicle property taxes, and provides detail for the current and delinquent years.

Should you have any questions regarding this report, please contact me at 678-7587.

AD/sn  
Attachments

*Celebrating Our Past...Embracing Our Future*

*EASTOVER - FALCON - FAYETTEVILLE - GODWIN - HOPE MILLS - LINDEN - SPRING LAKE - STEDMAN - WADE*

FAYETTEVILLE MACC LEDGER

DECEMBER 2009

1999-2009

DATE	REPORT #	REMITTED TO FINANCE	2009 CC	2009 VEHICLE	2009 REVIT	2009 VEHICLE REVIT	2009 FVT	2009 TRANSIT TAX	2009 STORM WATER	2009 FAY STORM WATER
12/01/09	2009-109		73,687.38	11,229.30	367.75	0.00	1,575.00	1,575.00	2,025.31	4,050.61
12/02/09	2009-110	106,457.42	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
12/03/09	2009-111	SYSTEM DOWN	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
12/04/09	2009-112	SYSTEM DOWN	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
12/07/09	2009-113	SYSTEM DOWN	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
12/08/09	2009-114	SYSTEM DOWN	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
12/09/09	2009-115	1,540,173.43	1,257,066.35	81,357.71	3,833.49	19.31	10,570.00	10,570.00	40,704.00	81,408.00
12/10/09	2009-116	1,129,535.46	765,428.30	53,053.49	2,104.40	49.15	6,556.63	6,556.65	76,775.80	153,551.54
12/11/09	2009-117	407,026.38	319,419.29	18,331.12	4,118.46	6.88	2,106.91	2,106.91	15,168.32	30,336.66
12/14/09	2009-118	819,474.20	664,264.92	26,328.25	2,137.16	122.33	3,138.39	3,133.38	31,694.46	63,388.98
12/15/09	2009-119	438,944.65	373,155.97	13,866.41	347.88	0.00	1,676.71	1,676.72	9,806.58	19,613.19
12/16/09	2009-120	559,543.01	473,443.62	14,744.73	40.66	(0.64)	1,714.93	1,714.92	17,370.56	34,741.11
12/17/09	2009-121	464,245.37	388,707.98	19,399.26	239.69	45.60	2,313.98	2,313.97	11,651.64	23,303.30
12/18/09	2009-122	555,194.78	326,606.90	8,832.37	982.94	1.00	925.00	925.00	69,460.32	138,920.66
12/21/09	2009-123	1,420,829.31	1,208,542.90	25,723.16	1,668.78	47.42	2,949.00	2,949.00	50,447.41	100,894.81
12/22/09	2009-124	479,965.51	377,639.43	7,712.97	7,066.53	16.63	915.03	915.04	24,336.80	48,673.62
12/23/09	2009-125	1,095,417.01	915,194.74	17,326.47	4,951.22	50.16	2,043.08	2,043.09	43,967.01	87,934.01
12/24/09	2009-126	HOLIDAY	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
12/25/09	2009-127	HOLIDAY	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
12/28/09	2009-128	2,423,447.63	2,164,551.06	28,567.54	7,656.97	0.00	3,404.49	3,404.51	58,294.43	116,588.85
12/29/09	2009-129	2,204,450.22	1,948,836.83	14,501.32	165.79	0.00	1,720.51	1,720.51	71,068.27	142,136.55
12/30/09	2009-130	1,250,239.65	1,071,363.51	22,693.98	1,779.48	0.00	2,575.00	2,575.00	35,609.60	72,011.19
12/31/09	2009-131	2,255,293.94	1,965,754.79	30,150.68	8,280.83	0.00	3,394.08	3,394.09	63,656.44	127,312.89
<b>TOTALS</b>		<b>17,150,237.97</b>	<b>14,293,663.97</b>	<b>393,818.76</b>	<b>45,742.03</b>	<b>357.84</b>	<b>47,578.74</b>	<b>47,573.79</b>	<b>622,036.95</b>	<b>1,244,865.97</b>

TRUE

MACC: MONTHLY ACCOUNTING (TOTALS COLLECTED FOR MONTH)  
 CC: INCLUDES REAL & PERSONAL, LATE LIST, & PUBLIC SERVICE

FVT: FAYETTEVILLE VEHICLE TAX (\$5.00)

1999-2009

2009 RECYCLE FEE	2009 ANNEX	2008 CC	2008 VEHICLE	2008 REVIT	2008 VEHICLE REVIT	2008 FVT	2008 TRANSIT TAX	2008 STORM WATER	2008 RECYCLE	2008 FAY STORM WATER	2008 ANNEX	2007 CC
4,317.45	0.00	246.47	4,568.32	0.00	0.00	530.98	485.99	57.35	84.00	48.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
53,998.00	0.00	0.00	167.40	0.00	0.00	30.00	30.00	0.00	0.00	0.00	0.00	0.00
30,846.22	2.63	2,303.44	18,338.46	0.00	0.00	2,320.56	2,196.29	162.05	97.12	55.49	0.00	479.73
7,297.04	0.00	287.62	3,245.39	0.00	0.00	460.79	425.00	61.81	79.41	45.38	0.00	1,256.96
18,817.85	0.00	346.74	3,642.83	0.00	0.00	459.95	444.95	0.00	0.00	0.00	0.00	0.00
8,596.19	0.00	1,454.77	4,595.80	0.00	0.00	613.64	568.62	96.32	504.00	144.00	0.00	342.86
11,382.77	0.00	13.35	2,901.23	0.00	0.00	341.68	336.68	7.91	27.67	15.82	0.00	3.36
11,770.91	0.00	272.48	2,391.41	0.00	0.00	325.70	300.70	40.09	14.33	8.18	0.00	38.35
5,561.70	0.00	193.43	1,116.17	0.00	0.00	366.45	341.46	30.73	0.00	0.00	0.00	6.63
20,837.61	333.90	599.98	4,025.71	0.00	0.00	403.21	378.21	0.00	0.00	0.00	0.00	0.00
9,236.56	0.00	353.50	1,873.20	0.00	0.00	226.02	231.02	3.53	12.36	7.06	0.00	63.09
18,046.86	0.00	421.16	2,058.41	0.70	0.00	265.00	260.00	24.00	42.00	24.00	0.00	52.08
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
33,423.25	0.00	341.37	4,807.86	0.00	0.00	550.73	529.06	29.41	0.00	0.00	0.00	13.89
19,811.55	0.00	186.38	2,645.08	0.00	0.00	345.11	335.11	0.00	0.00	0.00	0.00	0.00
36,649.74	0.00	130.40	2,956.33	0.00	0.00	380.00	355.00	12.00	0.00	0.00	0.00	0.00
44,600.74	0.00	471.70	5,366.48	0.00	0.00	660.00	620.00	24.00	42.00	24.00	0.00	0.00
335,194.44	336.53	7,622.79	64,700.08	0.70	12.29	8,279.82	7,838.09	549.20	902.89	371.93	0.00	2,256.95

FAYETTEVILLE MACC LEDGER

DECEMBER 2009

1999-2009

2007 VEHICLE	2007 REVIT	2007 VEHICLE REVIT	2007 FVT	2007 STORM WATER	2007 FAY STORM WATER	2007 ANNEX	2006 CC	2006 VEHICLE	2006 REVIT	2006 VEHICLE REVIT	2006 FVT	2006 STORM WATER	2006 ANNEX
344.43	0.00	0.00	55.00	12.00	0.00	0.00	35.07	38.00	0.00	0.00	20.00	12.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
837.56	0.00	0.00	159.12	27.26	24.00	0.00	265.62	305.81	0.00	0.00	74.54	12.00	226.31
237.44	0.00	0.00	30.00	35.46	49.25	0.00	392.92	101.63	0.00	0.00	17.73	0.12	20.01
300.12	0.00	0.00	45.00	0.00	0.00	0.00	0.39	97.15	0.00	0.00	15.00	0.00	0.00
216.86	0.00	0.00	40.00	0.00	0.00	0.00	0.00	126.02	0.00	0.00	36.86	0.00	0.00
(33.13)	0.00	0.00	5.00	0.00	0.00	0.00	0.00	18.23	0.00	0.00	5.00	0.00	0.00
378.88	0.00	0.00	35.00	0.00	0.00	0.00	0.00	16.61	0.00	0.00	5.00	0.00	0.00
209.48	0.00	0.00	60.00	12.00	0.00	0.00	(145.20)	14.10	0.00	0.00	7.86	0.00	0.00
113.84	0.00	0.00	35.00	0.00	0.00	0.00	0.00	16.94	0.00	0.00	5.00	0.00	57.71
(40.91)	0.00	0.00	15.00	0.00	0.00	0.00	44.75	61.05	0.00	0.00	0.00	0.00	129.18
31.12	0.00	0.00	10.00	0.00	0.00	0.00	40.07	7.62	0.00	0.00	5.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
110.83	0.00	0.00	15.00	0.00	0.00	0.00	0.00	60.82	0.00	0.00	15.00	0.00	0.00
120.01	0.00	0.00	20.00	0.00	0.00	0.00	0.00	105.53	0.00	0.00	10.00	0.00	0.00
76.46	0.00	0.00	15.00	0.00	0.00	0.00	477.70	31.06	0.00	0.00	10.00	0.00	0.00
198.15	0.00	0.00	35.00	12.00	0.00	0.00	0.28	32.67	0.00	0.00	5.00	0.00	0.00
3,101.14	0.00	0.00	574.12	98.72	73.25	0.00	1,111.60	1,033.24	0.00	0.00	231.99	24.12	433.21

**FAYETTEVILLE MACC LEDGER  
1999-2009**

**DECEMBER 2009**

2005 CC & PRIOR	2005 VEHICLE & PRIOR	2005 REVIT & PRIOR	2005 VEHICLE REVIT & PRIOR	2005 FVT & PRIOR	2005 & PRIOR STORM WATER	INTEREST	REVIT INTEREST	STORM WATER INTEREST	FAY STORM WATER INTEREST	ANNEX INTEREST	FAY RECYCLE INTEREST	TOTAL TAX & INTEREST
45.12	92.01	0.00	0.00	20.00	0.00	909.73	0.00	11.82	4.85	0.00	8.48	106,457.42
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
516.76	1,205.08	0.00	0.00	0.00	0.00	418.93	0.24	0.00	0.00	0.00	0.00	1,540,173.43
61.64	128.35	0.00	0.99	206.58	24.00	4,678.66	0.86	35.18	11.63	33.37	12.18	1,129,535.46
1.64	102.79	0.00	0.00	37.32	0.00	1,123.08	0.00	11.64	11.41	2.85	11.58	407,026.38
0.00	281.60	0.00	0.00	20.00	0.00	971.92	0.00	0.00	0.00	0.00	0.00	819,474.20
11.14	74.25	0.00	0.00	43.26	0.00	1,063.14	0.00	10.21	14.91	0.00	52.13	438,944.65
0.00	60.25	0.00	0.00	15.00	0.00	639.04	0.00	1.25	2.50	0.00	4.37	559,543.01
0.00	185.34	0.00	0.00	23.42	0.00	584.81	0.00	3.83	0.00	0.00	0.00	464,245.37
42.16	52.26	0.00	0.00	20.49	0.00	554.94	0.00	5.01	0.00	0.00	0.00	555,194.78
113.30	8.65	0.00	0.00	10.00	0.00	695.03	0.27	0.00	0.00	0.00	0.00	1,420,829.31
98.47	5.44	0.00	0.00	5.00	0.00	338.34	0.00	0.08	0.16	13.24	0.28	479,965.51
0.00	0.00	0.00	0.00	0.00	0.00	500.87	0.10	2.52	2.48	0.00	4.33	1,095,417.01
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
56.40	107.63	0.00	0.00	30.00	0.00	884.90	0.00	3.63	0.00	0.00	0.00	2,423,447.63
0.00	106.53	0.00	0.00	18.67	0.00	583.20	0.98	0.00	0.00	0.00	0.00	2,204,450.22
28.38	0.00	0.00	0.00	0.00	0.00	508.58	0.00	1.24	0.00	0.00	0.00	1,250,239.65
0.00	214.15	0.00	0.00	30.00	0.00	1,002.17	0.00	4.95	2.49	0.00	4.36	2,255,293.94
975.01	2,624.33	0.00	0.99	479.74	24.00	15,457.34	2.45	91.36	50.43	49.46	97.71	17,150,237.97