

**FAYETTEVILLE CITY COUNCIL
AGENDA
REGULAR MEETING
JANUARY 10, 2011
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 10, 2011
7:00 P.M.
CITY HALL COUNCIL CHAMBER

1.0 CALL TO ORDER

2.0 INVOCATION

3.0 PLEDGE OF ALLEGIANCE

**4.0 ADMINISTRATION OF OATH OF OFFICE TO DISTRICT 9 DESIGNATE –
JAMES WILLIAM ARP, JR.**

5.0 APPROVAL OF AGENDA

6.0 ANNOUNCEMENTS AND RECOGNITIONS

7.0 PUBLIC FORUM

8.0 CONSENT

8.1 Adoption of Calendar for Fiscal Year 2012 Budget Process
PAGE: 1

8.2 Approve Purchase of One (1) 45' Hybrid Bucket Truck
PAGE: 3

8.3 Adopt a Resolution Declaring Jointly-Owned Real Property Surplus and Authorizing a
Quitclaim of the City's Interest in Order to Expedite Cumberland County's Sale of
Property
PAGE: 6

8.4 Adopt a Resolution Authorizing the FY2011 Transit Multi-Modal Center Grant
agreement with the North Carolina Department of Transportation
PAGE: 9

9.0 OTHER ITEMS OF BUSINESS

9.1 Request for sidewalk waiver for development within the City's MIA, for Vander
Community Center at Rock Hill Road and Sunnyside School Road
PAGE: 11

Presenter(s): Karen Hilton, Planning and Zoning Manager
David Steinmetz, Senior Zoning Administrator

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 10, 2011 - 7:00 PM
COMMUNITY CHANNEL 7**

**COUNCIL MEETING WILL BE RE-AIRED
JANUARY 12, 2011 - 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, 910-433-1696, or the office of Rita Perry, City Clerk at 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: Dale Iman, City Manager
DATE: January 10, 2011
RE: Adoption of Calendar for Fiscal Year 2012 Budget Process

THE QUESTION:

Council is asked to approve the budget calendar attached that outlines dates, locations and topics of discussion for the fiscal year 2011-2012 budget process. The suggested calendar adds three budget workshops at 5:00 pm on May 11, May 18 and May 25, 2011, and schedules the public hearing on the budget for the May 23, 2011 regular council meeting.

RELATIONSHIP TO STRATEGIC PLAN:

Mission Principle: Financially Sound City Government.

BACKGROUND:

- The calendar attached outlines recommended dates and activities for deliberation and adoption of the fiscal year 2011-2012 budget.
- In addition to discussion and action at regularly scheduled council meetings, three additional budget workshops are suggested for May 11, 18 and 25, 2011.
- The calendar sets the public hearing for the fiscal year 2012 budget for the regular council meeting to be held on May 23, 2011.

ISSUES:

None

BUDGET IMPACT:

None

OPTIONS:

- Adopt the budget calendar as attached to schedule the three additional budget workshops and the budget public hearing.
- Adopt a modified calendar to schedule desired budget workshops and public hearing on the budget.

RECOMMENDED ACTION:

Adopt the recommended budget calendar.

ATTACHMENTS:

FY12 Council Budget Calendar

**City of Fayetteville
FY 2011/2012 BUDGET CALENDAR**

March 2011						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

April 2011						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

May 2011						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June 2011						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Regular Meeting

Work Session

Budget Work Session

Holiday

Date	Location	Activity
March 7, 2011 Work Session 5:00 pm	Lafayette Room	<ul style="list-style-type: none"> Presentation of Recommended Capital Improvement Plan and Information Technology Plan
May 2, 2011 Work Session 5:00 pm	Lafayette Room	<ul style="list-style-type: none"> Overview of budget to be recommended
May 9, 2011 Regular Meeting 7:00 pm	Council Chambers	<ul style="list-style-type: none"> Presentation of recommended City and PWC budgets
May 11, 2011 Budget Workshop 5:00 pm	Lafayette Room	<ul style="list-style-type: none"> Topics to be determined
May 18, 2011 Budget Workshop 5:00 pm	Lafayette Room	<ul style="list-style-type: none"> Topics to be determined
May 23, 2011 Regular Meeting 7:00 pm	Council Chambers	<ul style="list-style-type: none"> Public hearing
May 25, 2011 Budget Workshop 5:00 pm	Lafayette Room	<ul style="list-style-type: none"> Topics to be determined
June 6, 2011 Work Session 5:00 pm	Lafayette Room	<ul style="list-style-type: none"> If needed, confirm Council changes for adopted budget
June 13, 2011 Regular Meeting 7:00 pm	Council Chambers	<ul style="list-style-type: none"> Consider adoption of budget ordinance and related capital project ordinances

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Steven K. Blanchard, PWC CEO/General Manager
DATE: January 10, 2011
RE: **Approve Purchase of One (1) 45' Hybrid Bucket Truck**

THE QUESTION:

The Public Works Commission of the City of Fayetteville requests Council approve purchase of one (1) 45' Hybrid Bucket Truck, with the option to purchase additional units within a one-year period upon the agreement of both parties.

RELATIONSHIP TO STRATEGIC PLAN:

Quality Utility Services.

BACKGROUND:

The Public Works Commission, during their meeting of December 8, 2010, approved bid recommendation to award bid for purchase of one (1) 45' Hybrid Bucket Truck, with the option to purchase additional units within a one-year period upon the agreement of both parties to Altec Industries, Birmingham, AL (Kenworth Cab & Chassis) in the total amount of \$184,067.00 and forward to City Council for approval. This is a budgeted item. (Total available with budget and grant funding is \$189,632.00 as follows: PWC budgeted amount of \$138,000 in FY 2011 Budget to Replace Unit #204; plus Clean Cities Grant through Triangle J. Council of Governments "Carolina Blue Skies and Green Jobs Initiative" in the amount of \$51,632.00). Bids were received on November 16, 2010 as follows:

<u>Bidders</u>	<u>Total Cost</u>
Altec Industries, Birmingham, AL (Kenworth Cab & Chassis)	\$184,067.00
Terex Utilities, Inc., Glen Allen, VA	\$191,915.00
Altec Industries, Birmingham, AL (International Cab & Chassis)	\$192,245.00
Peterbilt Truck Center, Dunn, NC	\$193,740.00
*Altec Industries, Birmingham, AL (Freightliner Cab & Chassis)	\$183,380.00
*Cooper Kenworth, Raleigh, NC	\$165,450.00

*Bids determined to be non-compliant. Contained exceptions which were not acceptable.

ISSUES:

Altec Industries is not classified as a SDBE, minority or woman-owned business.

BUDGET IMPACT:

This is a PWC budget item.

OPTIONS:

N/A

RECOMMENDED ACTION:

Award bid to Altec Industries, Birmingham, AL (Kenworth Cab & Chassis) in the total amount of \$184,067.00.

ATTACHMENTS:

Bid recommendation
Bid history

**PUBLIC WORKS COMMISSION
ACTION REQUEST FORM**

TO: Steve Blanchard, CEO/General Manager DATE: December 1, 2010

FROM: Gloria Wrench, Purchasing Manager

.....
ACTION REQUESTED: Award bid for the purchase of one (1) 45' Hybrid Bucket Truck (with the option to purchase additional units within a one-year period upon the agreement of both parties).
.....

BID/PROJECT NAME: One (1) 45' Hybrid Bucket Truck

BID DATE: November 16, 2010 **DEPARTMENT:** Electric Construction

BUDGETED AMOUNT: \$138,000 in FY2011 Budget to Replace Unit #204; Clean Cities Grant through Triangle J Council of Governments "Carolina Blue Skies and Green Jobs Initiative" - \$51,632.00 (Total available with FY2011 budget and grant funding is \$189,632.00)
.....

BIDDERS	TOTAL COST
<u>Altec Industries, Birmingham, AL (Kenworth cab & chassis)</u>	<u>\$184,067.00</u>
<u>Terex Utilities, Inc., Glen Allen, VA</u>	<u>\$191,915.00</u>
<u>Altec Industries, Birmingham, AL (International cab & chassis)</u>	<u>\$192,245.00</u>
<u>Peterbilt Truck Center, Dunn, NC</u>	<u>\$193,740.00</u>
<u>*Altec Industries, Birmingham, AL (Freightliner cab & chassis)</u>	<u>\$183,380.00</u>
<u>*Cooper Kenworth, Raleigh, NC</u>	<u>\$165,450.00</u>

*see comments below

.....
AWARD RECOMMENDED TO: Altec Industries, Birmingham, AL (Kenworth cab & chassis)

BASIS OF AWARD: Lowest bidder meeting all specifications

AWARD RECOMMENDED BY: John McColl and Gloria Wrench
.....

COMMENTS: Bids were solicited from seven (7) vendors with four (4) vendors responding. A total of six (6) bids were received, as one vendor submitted multiple bids utilizing different cab and chassis manufacturers. *The bids received from Altec Industries (Freightliner cab & chassis) and Cooper Kenworth, Raleigh, NC, contained exceptions which were not acceptable. The boom unit bid by Cooper Kenworth and the Freightliner cab and chassis bid by Altec, did not meet specifications. The recommended bid had no exceptions.
.....

ACTION BY COMMISSION

APPROVED _____ REJECTED _____
DATE _____

ACTION BY COUNCIL

APPROVED _____ REJECTED _____
DATE _____

BID HISTORY

ONE (1) 45' HYBRID BUCKET TRUCK

Advertisement

1. Public Works Commission Website 10/27/10 through 11/16/10

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 Raleigh Black Chamber of Commerce, Raleigh, NC
9. Fayetteville Area Chamber of Commerce, Fayetteville, NC

List of Prospective Bidders

1. Peterbilt Truck Center, Dunn, NC
2. Cooper Kenworth, Raleigh, NC
3. Smith International Truck Center, Fayetteville, NC
4. Terex Utilities, Glen Allen, VA
5. Altec Industries, Birmingham, AL
6. Map Enterprises, Burlington, NC
7. Baker Equipment, Richmond, VA

SDBE/MWBE Participation

Altec Industries is not classified as a SDBE, minority, or woman-owned business.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Tami Lewis, Senior Paralegal
DATE: January 10, 2011
RE: **Adopt a Resolution Declaring Jointly-Owned Real Property Surplus and Authorizing a Quitclaim of the City's Interest in Order to Expedite Cumberland County's Sale of Property**

THE QUESTION:

How best to respond to a request from Cumberland County for assistance in expediting the sale of jointly-owned real property.

RELATIONSHIP TO STRATEGIC PLAN:

More Efficient City Government

BACKGROUND:

Cumberland County and the City of Fayetteville received joint title to the property identified as 5005 Haddock Street being PIN 0418-18-8316. Title to the subject property is jointly held due to the 2007 foreclosure by the County in its role as tax administrator. The County has received an offer to purchase said property for a price equaling the foreclosure bid, i.e. \$4,426.52. The County is requesting the City declare the property surplus and quitclaim the City's interest to the County in order to expedite the sale. The City will receive \$414.00 for assessments from this sale. If the present bid is declined, there is a good chance the property will remain in joint government ownership not earning taxes and requiring upkeep.

ISSUES:

None

BUDGET IMPACT:

N/A for FY11 budget.

OPTIONS:

1. Accept the County's request and quitclaim the City's title to the County.
2. Decline the County's request.

RECOMMENDED ACTION:

Adopt the attached resolution declaring the property surplus and authorize the City Manager to sign a quitclaim deed conveying the City's interest to the County.

ATTACHMENTS:

Resolution Declaring Real Property Surplus
Site Map

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

Resolution R2010_____

**RESOLUTION DECLARING PROPERTY EXCESS
TO CITY'S NEEDS AND QUITCLAIMING CITY TITLE
IN THE PROPERTY TO CUMBERLAND COUNTY**

WHEREAS, the City of Fayetteville and the County of Cumberland jointly own real property in Cumberland County, said property having the tax map designation of PIN 0418-18-8316 being a vacant lot at 5005 Haddock Street; and

WHEREAS, the City of Fayetteville has a financial interest in the form of getting the real property back on the tax books; and

WHEREAS, the property is surplus to the needs of the City of Fayetteville; and

WHEREAS, the County of Cumberland has received an offer to purchase the parcel and requests that the City of Fayetteville join in the sale of the property by declaring the parcel surplus to the City's needs and quitclaiming the City's title to the County; and

WHEREAS, the City Council of the City of Fayetteville finds such actions to be in the public interest.

NOW THEREFORE, the City Council of the City of Fayetteville hereby declares that the aforesaid real property surplus to City's needs and authorizes its Manager to sign a deed quitclaiming title to the County of Cumberland.

ADOPTED this ____ day of _____, 2011 by the City Council of the City of Fayetteville, North Carolina.

CITY OF FAYETTEVILLE

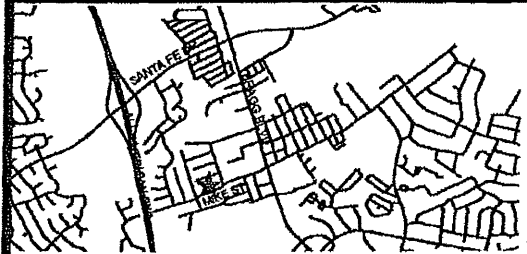
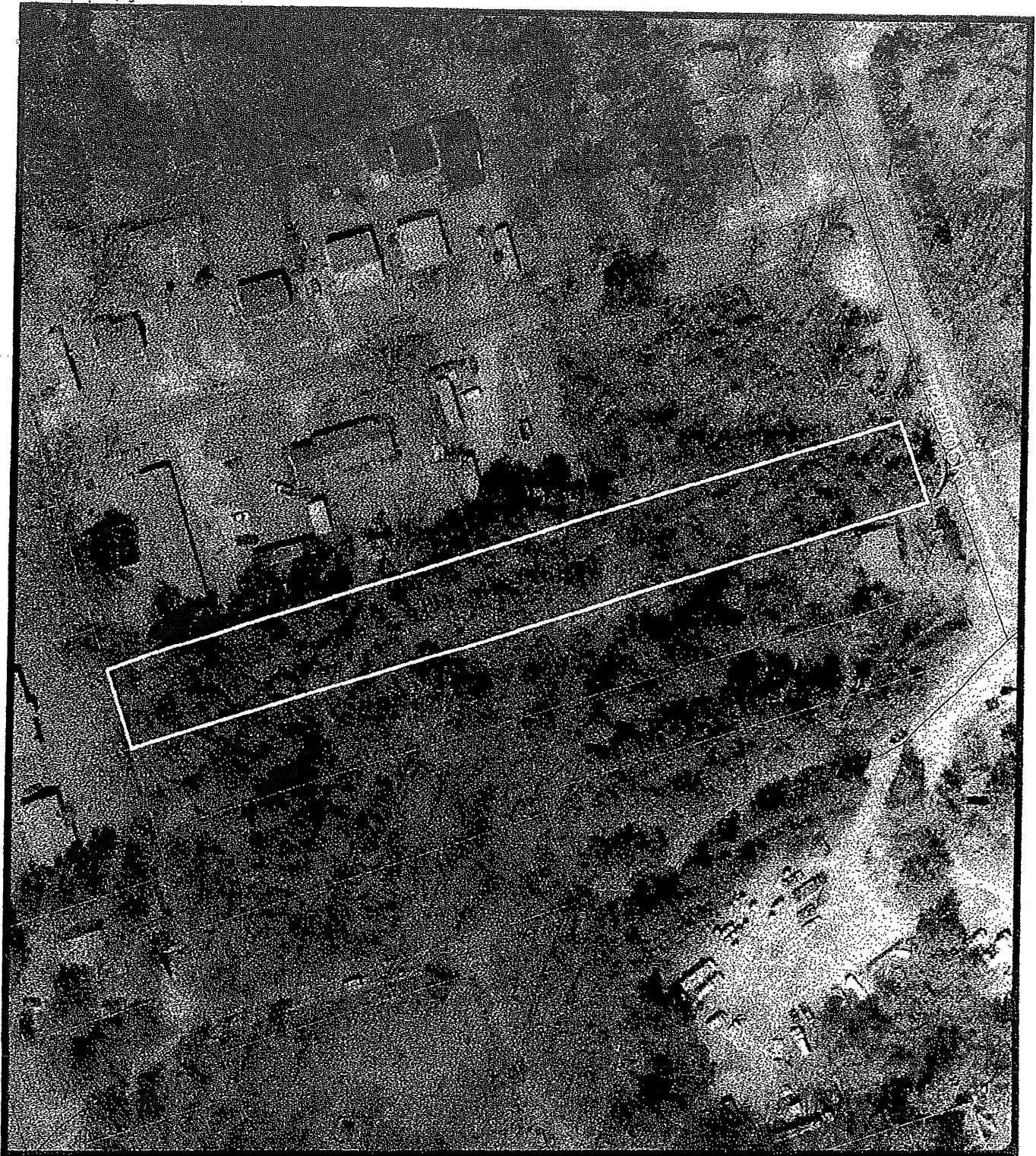
(SEAL)

By: _____
ANTHONY G. CHAVONNE, MAYOR

ATTEST:

Rita Perry, City Clerk

E:\Real Estate\Lewis\Resolutions\CountyquitclaimRes.doc



Site Map
5005 HADDOCK ST
CROSS CREEK TOWNSHIP



100 0 100 Feet



THE COUNTY OF GARFIELD AND THE
DEPARTMENT OF GEOLOGICAL AND MINERAL RESOURCES
ACCEPT NO LIABILITY FOR THE PRESENT AND FUTURE
USE OF THE INFORMATION CONTAINED HEREIN
AND ACCEPT THE RESPONSIBILITY FOR
INTERPRETATION AND APPLICATION OF THE
PRODUCTS WITH THE USER.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Ron Macaluso, Transit Director
DATE: January 10, 2011
RE: **Adopt a Resolution Authorizing the FY2011 Transit Multi-Modal Center Grant agreement with the North Carolina Department of Transportation**

THE QUESTION:

This resolution will grant the City Manager authority to enter into an agreement with the North Carolina Department of Transportation for their portion of the FY2011 Transit Multi-Modal Center grant for real estate acquisition, relocation and demolition costs associated with the construction of the Transit Multi-Modal Center.

RELATIONSHIP TO STRATEGIC PLAN:

Principle A: Great Place to Live – Accessible and efficient transit throughout the City. Value – Stewardship – Looking for ways to leverage city resources and to expand revenues

BACKGROUND:

Transit has received a federal grant to administer land acquisition, relocation and demolition in relation to the construction of the Multi-Modal Center. The Federal Transit Administration will fund 80% of the expenditures (\$1,329,845), NCDOT will fund 10% (\$166,231) and the City will provide a local match of 10% (\$166,231). The budget for this grant was approved by City Council on October 11, 2010 with CPO 2011-6. An agreement from NCDOT has been received; in order to fully execute the agreement, a resolution must be passed granting the City Manager authority to enter into this contract with NCDOT.

ISSUES:

None

BUDGET IMPACT:

The City's 10% match, will come from FAST's operating funds and was budgeted this fiscal year.

OPTIONS:

- 1) Adopt the resolution authorizing the grant agreement with NCDOT.
- 2) Do not adopt the resolution authorizing the grant agreement with NCDOT.

RECOMMENDED ACTION:

Adopt the resolution authorizing the grant agreement with NCDOT.

ATTACHMENTS:

Resolution

RESOLUTION
AUTHORIZING CITY OF FAYETTEVILLE
TO ENTER INTO AN AGREEMENT WITH
THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

A motion was made by _____ and seconded by _____ for adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, the **CITY OF FAYETTEVILLE** has requested the North Carolina Department of Transportation to assist in the funding of the **FY2011 Transit Capital Grant 11-04-033**; and

WHEREAS, the **CITY OF FAYETTEVILLE** will provide **10%** of the cost of the above described project;

NOW THEREFORE, BE IT RESOLVED that the **CITY MANAGER** * is hereby authorized to enter into a contract with the Department of Transportation and execute all agreements and contracts with the North Carolina Department of Transportation, Public Transportation Division.

.....
I, Anthony G. Chavonne * do hereby certify that the above is a true and correct copy of an excerpt for the minutes of a meeting of the **City of Fayetteville City Council** duly held on the **10th** day of **January, 2011**.

BY: _____
ANTHONY G. CHAVONNE, Mayor

(Official Seal)

ATTEST:

RITA PERRY, City Clerk

* The official authorized to enter onto agreement **SHOULD NOT** sign the resolution.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Karen Hilton, Planning and Zoning Manager/ David Steinmetz, Senior Zoning Administrator
DATE: January 10, 2011
RE: Request for sidewalk waiver for development within the City's MIA, for the Vander community center at Rock Hill Road and Sunnyside School Road.

THE QUESTION:

Should a request for a sidewalk waiver be recommended for approval for development of a public activity center within the City's MIA?

RELATIONSHIP TO STRATEGIC PLAN:

Livable neighborhoods

BACKGROUND:

The Vander Civic Association received conditional approval from the Cumberland County Planning and Inspections Department in October 2009 for the development of the project which is to become the Vander Civic and Community Center. The property is within the City of Fayetteville's Municipal Influence Area and therefore one condition to the approved plan is that prior to a final building inspection, a concrete sidewalk must be constructed along the entire length of the subject property where the property abuts SR 1835 (Rock Hill Road) and SR 2000 (Sunnyside School Road). Property within the MIA may apply to the Cumberland County Joint Planning Board for a waiver which is a quasi-judicial hearing. The applicant has stated that the sidewalk is an unforeseen cost that could lead to the loss of the property. The State General Statutes do not allow for a waiver approval to be based on financial hardship. The Vander Civic Association has developed the property to include a multi use trail.

ISSUES:

The required sidewalk would be approximately 1000 feet in length along Rock Hill Road and Sunnyside School Road. Currently there are no other sidewalks in the area but there is existing development and footpaths have been established where sidewalks would normally be constructed. Staff from Development Services and Engineering and Infrastructure recommend the sidewalks be installed along Rock Hill Road due to the anticipation that the park will create more pedestrian traffic and the sidewalks will be necessary. Along Sunnyside School Road staff believes the walking trail is close enough to the street right-of-way to serve as a sidewalk, and therefore staff recommends that the applicant provide connecting segments at the corners to the existing walking trail and dedicate easements for portions outside the right-of-way.

BUDGET IMPACT:

Granting of the waiver would increase future public cost to retrofit the proposed site.

OPTIONS:

1. Recommend to the Cumberland County Joint Planning Board that the waiver requests be approved.
2. Recommend to the Cumberland County Joint Planning Board that the waiver requests be denied.
3. Recommend to the Cumberland County Joint Planning Board that the waiver requests be denied on Rock Hill Road and, along Sunnyside School Road, sidewalk segments be installed at the corners to connect with the existing walking trail, with the applicant dedicating the easements for the portions outside the public right of way.

RECOMMENDED ACTION:

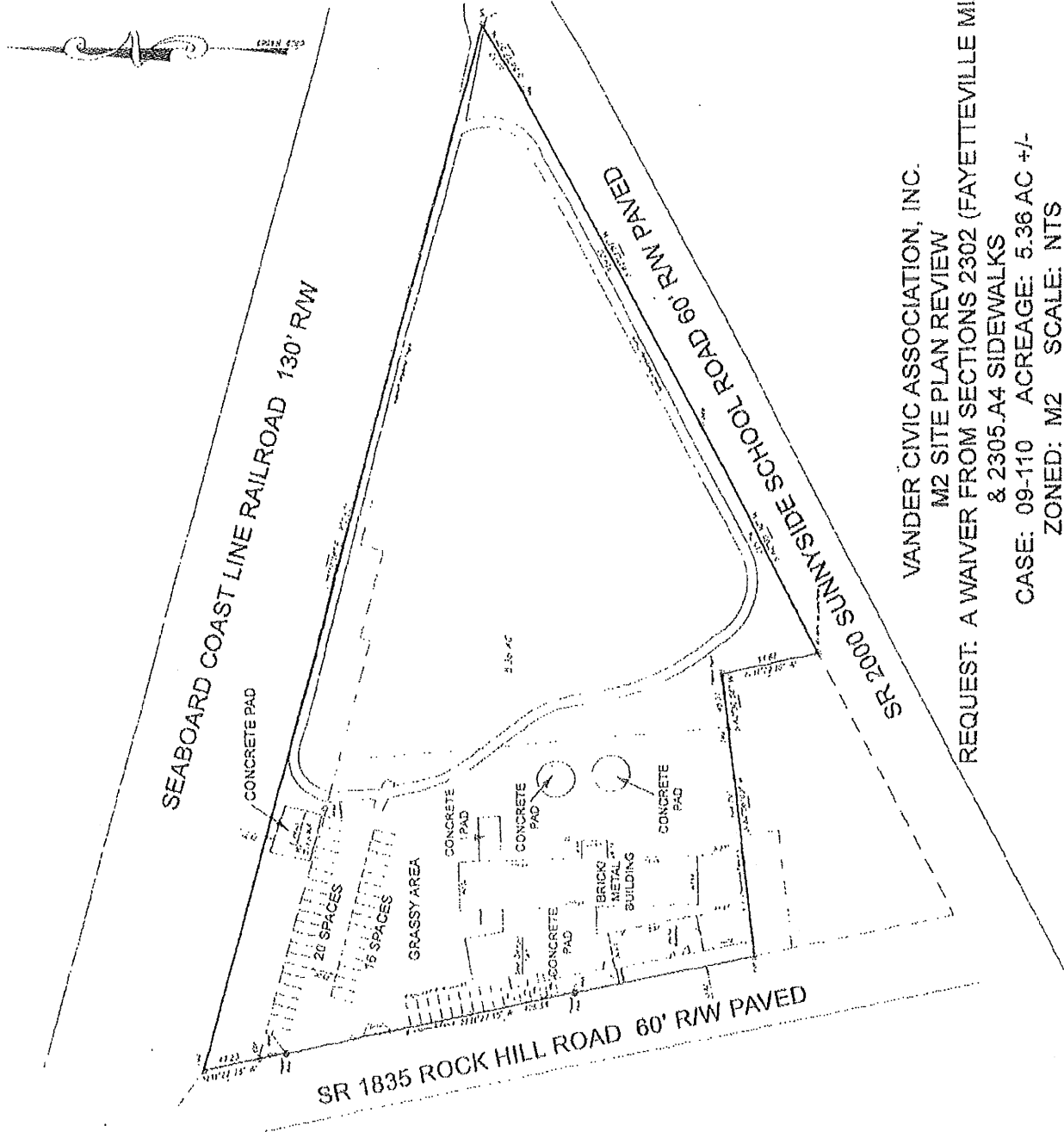
That the City Council move to recommend to the Cumberland County Joint Planning Board that the waiver request be denied on Rock Hill Road and, along Sunnyside School Road, sidewalk segments be installed at the corners to connect with the existing walking trail, with the applicant dedicating the easements for the portions outside the public right of way.

ATTACHMENTS:

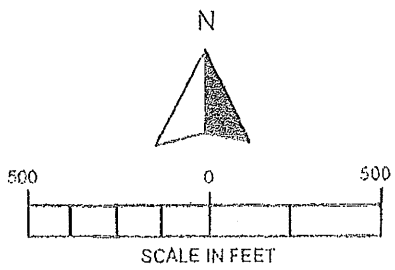
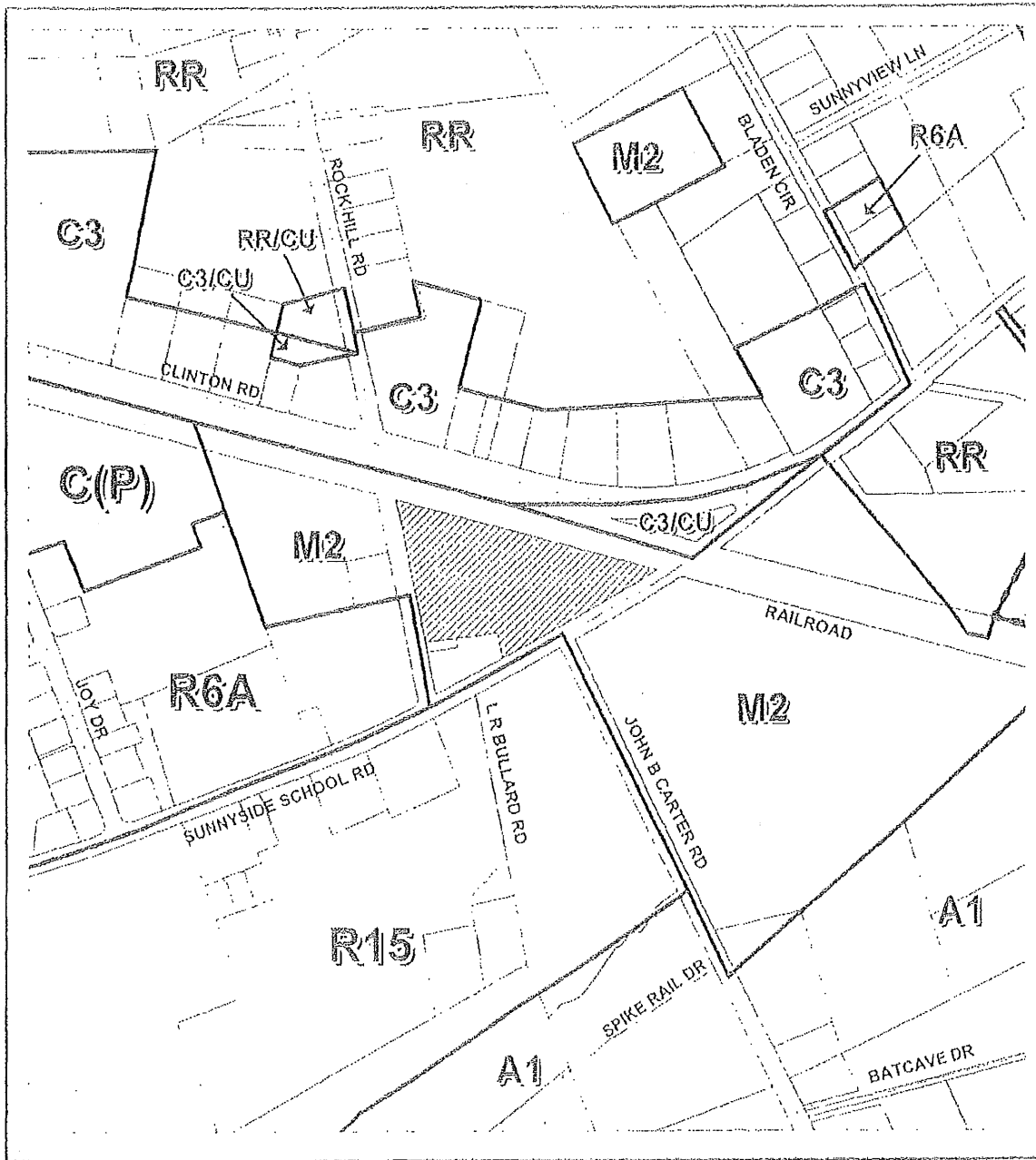
vander sidewalk waiver

vander waiver - County conditions of approval 2009

Vander waiver - Applicant letter



VANDER CIVIC ASSOCIATION, INC.
 M2 SITE PLAN REVIEW
 REQUEST: A WAIVER FROM SECTIONS 2302 (FAYETTEVILLE MIA)
 & 2305.A4 SIDEWALKS
 CASE: 09-110 ACREAGE: 5.36 AC +/-
 ZONED: M2 SCALE: NTS
 *SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST



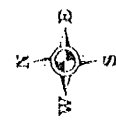
COUNTY SUBDIVISION ORDINANCE WAIVER

ACREAGE: 5.36 AC. +/-	HEARING NO: 09-110	
ORDINANCE, COUNTY	HEARING DATE	ACTION
GOVERNING BOARD		

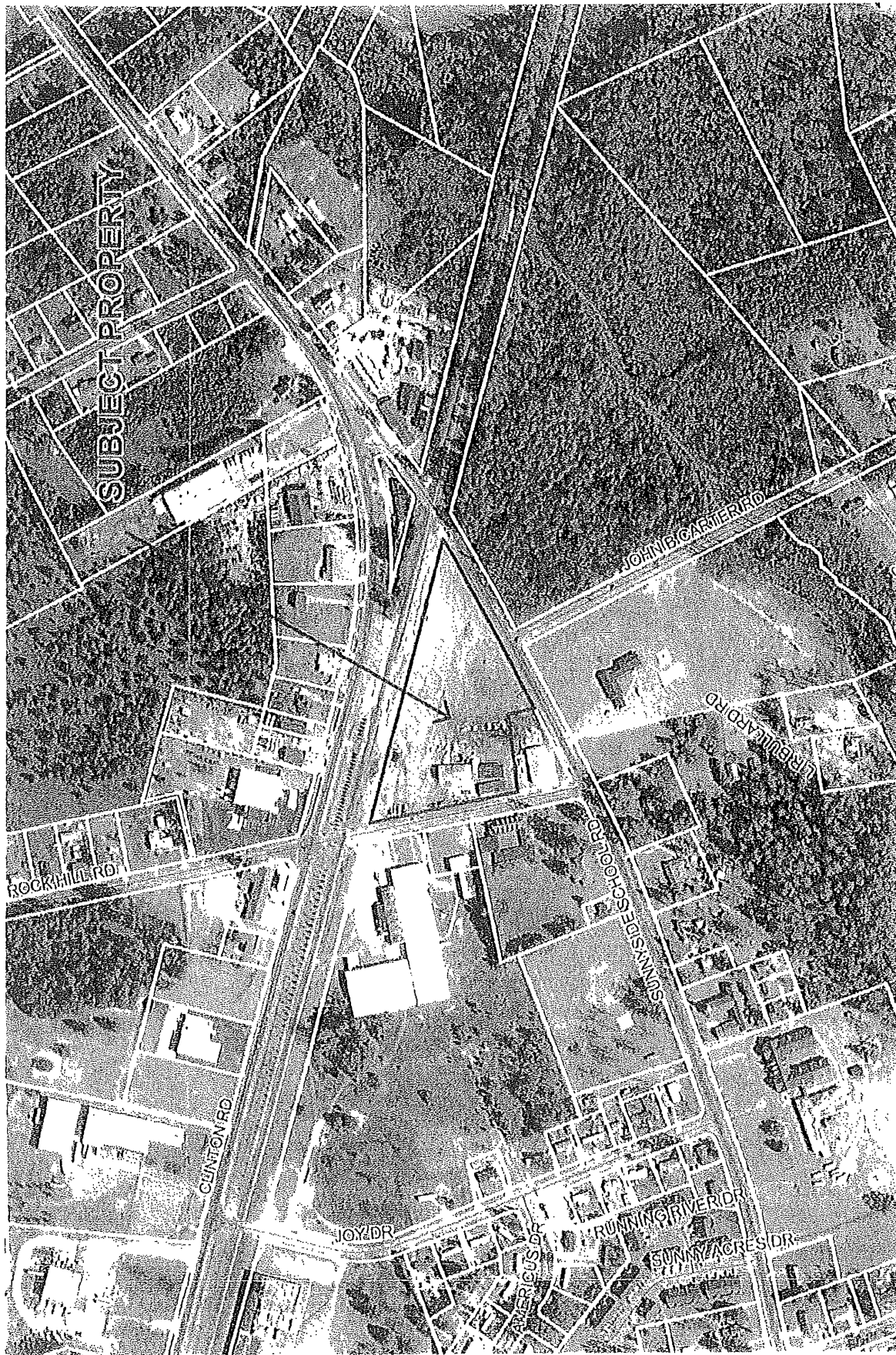
PIN: 0466-16-0259

AF

Handwritten signature



AERIAL PHOTO
CASE NO: 09-110



TO THE CUMBERLAND COUNTY JOINT PLANNING BOARD,
FAYETTEVILLE, NORTH CAROLINA:

I (We), the undersigned, hereby submit this application, and petition the Cumberland County Joint Planning Board to waive [vary] certain adopted provisions of the County's Subdivision Ordinance as specified below and provided for under the terms of the Subdivision Ordinance. In support of this petition, the following facts are submitted:

LOCATION OF PROPERTY: 123 Rock Hill Rd Fayetteville, NC
OWNER: Vander Civic Association, Inc
ADDRESS: 135 Bladen Circle Fayetteville, NC ZIP CODE: 28312
TELEPHONE: HOME (910)311-3676 WORK _____
AGENT: John Matthews President
ADDRESS: 135 Bladen Circle Fayetteville, NC ZIP CODE: 28312
TELEPHONE: HOME (910)311-3676 WORK _____

APPLICATION FOR A WAIVER [VARIANCE]
As required by the Subdivision Ordinance

- A. Parcel Identification Number (PIN #) of subject property: 0466-16-9259
(also known as Tax ID Number or Property Tax ID)
- B. Acreage: 5.36 Frontage: 474.04 Depth: 902.63
- C. Water Provider: PWC
- D. Septage Provider: Septic
- E. Deed Book 715 Page(s) 298-300, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
- F. Existing and/or proposed use of property: community building & park
- G. Section and provision of the Cumberland County Subdivision Ordinance from which a waiver [variance] is requested:

Section 2302 A & Section 2305 A(4)

H. Nature and extent of hardship involved in strict application of the County Subdivision Ordinance – attach additional sheet if necessary:

see attached addendum

STATEMENT OF ACKNOWLEDGEMENT

Regarding appearance before the Joint Planning Board, the undersigned owner(s), agents, or their assigns, by virtue of their signature(s) to this application, hereby acknowledge the following:

- That although appearance before the board is not required, it is strongly encouraged;
- The board will hear any and all arguments for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the board has the authority to issue a final approval or denial decision on this request, or defer the request for additional information to be provided;
- If the petitioner or the representative of this application does not appear personally before the board, whether there is opposition or not, the board has full authority to consider the case and defer, approve, or deny the case.
- If the board's action is to deny the matter before them, the course of appeal to the decision will be that of Cumberland County Superior Court. (Affected parties of the board's decision have 30 days from date of proper notification in which to serve notice of appeal).

Signed acknowledgement that the County Planning & Inspections Staff has explained the application process and procedures regarding this request and the public hearing procedure stated above and that the application is complete and accurate.

John Matthews, President
Property owner(s)' signature(s)

Vander Civic Association, Inc. c/o John Matthews
Property owner(s)' name (print or type)

135 Bladen Circle Fayetteville, NC 28312
Complete mailing address of property owner(s)

(910) 391-3676
Telephone number

Alternative telephone number

(910) 323-1417
Email address

FAX number

Lori Epler,
Chair
Cumberland County

Roy Turner,
Vice-Chair
Cumberland County

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



CUMBERLAND
COUNTY



COUNTY of CUMBERLAND

Planning and Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Walter Clark,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin
Wade, Falcon, & Godwin

STAFF REVIEW: 10-06-09 PLANNING BOARD DECISION: N/A

CASE NO: 09-110 NAME OF DEVELOPMENT: VANDER CIVIC & COMMUNITY CENTER

MIA: FAYETTEVILLE M2 SITE PLAN REVIEW

LOCATION: EAST SIDE OF SR 1835 (ROCK HILL ROAD), ZONING: M2
NORTH SIDE OF SR 2000 (SUNNYSIDE SCHOOL ROAD) PIN: 0466-16-9259-

OWNERS / DEVELOPER: VANDER CIVIC ASSOCIATION ENGINEER OR DESIGNER: MIKE TATE

PLANNING & INSPECTIONS DEPARTMENT ACTION:

- PRELIMINARY
- EXTENSION REVISION
- APPROVED CONDITIONALLY
- DENIED

PLANNING BOARD DECISION:

- PRELIMINARY
- EXTENSION REVISION
- APPROVED CONDITIONALLY
- DENIED

The development plat/plan you submitted to this office is conditionally approved. Your approval is subject to the following conditions:

Permit-Related:

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

5. 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.
6. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
7. Prior to the building final inspection, a concrete sidewalk must be constructed along the entire length of the subject property where the property abuts SR 1835 (Rock Hill Road) and SR 2000 (Sunnyside School Road).
8. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.

Site-Related:

9. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the M(P) zoning district must be complied with, as applicable.
10. All corner lots and lots fronting more than one street must provide front yard setbacks from each street.
11. This conditional approval is not approval of any freestanding signs. If a freestanding sign is desired, re-submittal of the site plan is required prior to application for any freestanding sign permits. 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.)
12. 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)
13. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
14. 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.
15. Turn lanes may be required by the NC Department of Transportation (NCDOT).
16. 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.
17. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
18. All required off-street parking spaces shall be a minimum of 9' x 20' and shall be surfaced, with a permanent material such as asphalt or concrete, and striped prior to application for the building final inspection. A minimum of 28 off-street parking spaces are required for this development.
19. Noise levels shall not exceed 60 dB(A) between the hours of 10:00 pm and 7:00 am. In any event, the noise level, regardless of the time of day, shall not become a nuisance to neighboring properties and strict compliance with the County's Noise Ordinance is required.

Advisories:

20. The applicant is advised to consult an expert on wetlands before proceeding with any development.

Page 2 of 3

130 Gillespie Street-- Post Office Box 1829 -- Fayetteville, North Carolina 28302-1829 -- (910) 678-7600 -- Fax: (910) 678-7669

21. 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.
22. An internal street system most likely will be required by the NC Department of Transportation (NCDOT) to serve any divisions of the subject property.

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

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

Improvements Inspections:	Jeff Barnhill	678-7765
Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Health Department:	Daniel Ortiz	433-3680
PWC:	Heidi Maly	223-4773
Fayetteville Planning:	Marsha Bryant	433-1416
Fayetteville Engineer (Easements):	Rusty Thompson	433-1660
Fayetteville Engineer (Sidewalks):	Randy Lane	433-1661
Fayetteville Engineer (Stormwater):	Jeffrey Brown	433-1691
Corp of Engineers (wetlands):	Crystal C. Amschler	251-4170
NC DENR (E&S):	Sally McKinney	433-3300
E911 Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
N.C. Division of Water Quality:	Mike Randall	(919) 733-5083 ext. 545

cc: Marsha Bryant, City of Fayetteville

**OFFICIAL PRELIMINARY STAMP
CUMBERLAND COUNTY
CASE NO: 09-110**

THIS PLAN APPROVED BY THE CUMBERLAND COUNTY PLANNING &
INSPECTION DEPARTMENT ON: 10-06-09

COMMENTS: SUBJECT TO CONDITIONS

I CERTIFY THAT THIS PLAN HAS BEEN APPROVED BY THE CUMBERLAND
COUNTY PLANNING & INSPECTIONS DEPARTMENT AS DRAWN HEREON
AND MAY BE USED FOR ANY OFFICIAL PURPOSE AS PERMITTED BY LAW.
THIS APPROVAL IS VALID UNTIL: 12-31-12

Patricia S. Speicher **GB**
SUPERVISOR, LAND USE CODES

ADDENDUM TO REQUEST FOR WAIVER

Vander Civic Association, Inc.
Addendum to Application for Waiver
(Page 1 of 3)

Members of the Fayetteville City Council and the Cumberland County Planning Board,

The Vander Civic Association is applying for a Waiver (Variance) from Sections 2302 A and 2305 A (4) of the Cumberland County Subdivision Ordinance. That ordinance requires us to install concrete sidewalks along the entire length of our property which abuts Rock Hill Road and Sunnyside School Road, a total length of more than 1,000 feet. This is a very expensive project for a community non-profit organization such as ours to pay for. The ordinance would cause a special hardship to the Vander Civic Association, one that will likely necessitate our filing bankruptcy unless you will provide us some relief.

At the time we purchased this property, the 2030 Growth Vision Plan had not been adopted. We incurred debt in the amount of \$126,000 with which to purchase the second parcel of land at a tax foreclosure sale. We have been innocently blindsided by the imposition of this ordinance. Had we been made aware of the impending ordinances and the associated costs, we most likely would not have purchased the property.

Certainly, there is some kind of relief in your hearts for an organization created to enhance the lives of its citizens that is an innocent victim and is a non-profit corporation which depends on 2 or 3 fund raisers a year merely to be able to survive. The costs to comply with this ordinance would be in the tens of thousands of dollars which we do not have, nor do we have the means to obtain.

We are grateful to you for any consideration you give to our plea for understanding and relief.

In considering your decision, we feel that the history is a very important factor; therefore, we are providing the following information so that you may better understand our position.

The parcel in question was purchased in two different transactions. The former site of Thomason Plywood Plant and most recently, Woody's Salvage Yard was purchased by Vander Civic Association, Inc on December 27, 2006 from Cumberland County for a total price including back property tax of \$ 15, 532.68. More than 2 years prior a group of concerned Vander citizens organized hoping to resolve the problem of the eyesore that had plagued our community for many, many years. We had several fundraisers and banked the funds in hopes that if we could not convince government agencies to assist with the problem, we could somehow purchase the property and work towards resolving it ourselves. This property had approximately \$1.8 million liens on it including EPA, UNC Hospital Systems as well as Cumberland County. Members of our group made our concerns known to politicians and after much effort the EPA and UNC Hospital liens were removed. Cumberland County then allowed us to purchase the property on the condition that we find a way to clean it up. Cumberland County wasted no time after the closing in condemning the property and giving us a mandate to clean it up. We had had some fundraisers in the 2 years prior, but had just a small portion of the funds needed to commence with the clean up. Research indicated that any grants that could be obtained for clean up in the amount we needed seemed to require matching funds which we didn't have either. One of the business men in the community graciously decided that he would use his resources to tear down the buildings and clean up the debris. Others donated their time and energy to the process as well. Estimated charges to clean up the site exceed \$144,000, not including other volunteer labor. Besides that, our organization paid incidental costs for fuel and supplies in the amount of approximately \$ 19,000. During clean up, we were given a grant for a walking track which was promptly installed after clean up was complete.

During the period of time that the clean up was being done on the 1st parcel, we became aware of a tax foreclosure auction on the adjoining property. Because our group had become so passionate about the project, we decided to bid on the adjoining property as well because we felt that the existing building and grounds would enhance our purpose for the community. Furthermore, the risk of someone else buying it, depending on the future use could have adversely

affected what we were trying to accomplish. Those factors pushed us to put in a bid. Our bid was accepted, but the process became very difficult. 2 weeks into the process, our first closing attorney dropped the case without warning when he found that there were more than 20 liens and judgments attached to the parcel. After more than half a day talking to different attorneys, we finally found someone to take the job, Mr. Richard Lewis. The IRS and the North Carolina Department of Revenue both also had liens on the parcel. In order to satisfy the IRS, they required us to have an appraisal done to verify that the approximate \$133,000 we were paying for the property was comparable to fair market value. The appraisal was done at a cost of \$1,300.00. Mr. Lewis took care of notifying all other lien holders so that everything could be cleared. The property closing took place on October 11, 2007.

Cumberland County was paid approximately \$150,000 by our organization for the purchase of these 2 tax foreclosed parcels of land. Our organization financed \$ 126,000 for the purchase of the 2nd parcel. This debt is amortized over a 15 year period with a 5 year balloon due at the end of 5 years. We are hopeful to be able to obtain financing for the remaining balance at the end of the 5 year period so that we can continue making payments. Our payments are approximately \$1,240 per month and to date we have paid approximately \$50,000 in principal and interest (mostly interest).

The existing building that was on the 2nd parcel needed extensive repair. We set out to make it into a community building. Eastover and Stedman have had community buildings for years, but Vander was lacking that in our community. We felt that if we could make the building into something usable, we would have a place to have meetings, host fundraisers and community functions, and rent to others for various important occasions. To date we have spent approximately \$36,000 out of pocket and have had approximately \$15,000 in donated materials and labor to repair the building and clean up the site. We have passed all inspections, but have been told that since we are in the municipal impact area, we have to construct sidewalks as well before we can obtain a permanent occupancy permit.

Historically, we have been able to raise \$16,000 - \$20,000 per year with the 2 - 3 fundraisers we have. Since we have depleted funds raised in our initial few years and now have the debt from the purchase of the 2nd piece of property, the amount that we have the ability to raise with our 2 major fundraisers is depleted by our loan payments which exceed \$1,240 per month, insurance of approx, \$2,400 per year and utilities. We have no excess in order to make any more capital improvements to this property. Furthermore, if we are not granted a permanent occupancy permit for our building, we have no means to raise funds via pig cook-offs, rib-fests, rental of building, etc. and we will literally be forced into bankruptcy. 90% of our active members are senior citizens and our active membership has declined by 50% in recent years. Also, it has become more difficult to raise funds due to the sluggish economy. All of these factors contribute to our position that to raise additional funds to construct sidewalks is an impossible task for our organization.

Besides the financial reasons, there are other reasons that we feel the ordinance should not apply. When we purchased these 2 parcels of land the parcels, the 2030 Growth Vision Plan had not yet been adopted and we were not in the municipal impact area. We purchased them not knowing that future decisions and agreements made by the city and county would impose these ordinances upon us. Had we known that, our decision to buy the 2nd parcel most likely would have been different.

We have a .3 of a mile walking track around the park part of the property. This walking track runs along the side of Sunnyside School Road and the railroad track. Putting a sidewalk along side it seems not only wasteful, but impractical. That part of the proposed sidewalk would run between the railroad track crossing and Evans Hardware. The other proposed sidewalk would run between Evans Hardware and the railroad track. The sidewalks would actually go nowhere.

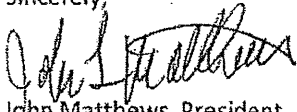
Vander Civic Association, Inc.
Addendum to Application for Waiver
(Page 3 of 3)

Until our debt is paid, there is absolutely no way that our organization could take on another capital project of any size. We are hopeful to be able to pay off our debt in 12 years. We are asking for a permanent waiver for the sidewalks. If this is not granted, our chance for survival is not good. If a permanent waiver is not satisfactory to you, hopefully, you can come to a concession that will not cause our organization to forfeit the responsibility it has taken on for the community.

In making your decision, please consider that this group has literally changed the landscape of our community. We have placed a park and community center in a community where county or city government has not. Vander was promised a park many years ago; however, those plans were changed. Even though our property taxes include the recreation tax, we have not been able to benefit from recreational facilities in our neighborhood until now due to the efforts of this organization. Our community is now able to enjoy the benefits of a park with walking track, playground and green spaces. We ask that you help us continue in our efforts for the community by granting us the waivers so that we can fully utilize our community building and continue to work for our community.

Thank you for your consideration. Please see attached photos marked Exhibit A (Before) and Exhibit B (After).

Sincerely,



John Matthews, President

Vander Civic Association