

**FAYETTEVILLE CITY COUNCIL
AGENDA
REGULAR MEETING
MAY 26, 2009
7:00 P.M.**

VISION STATEMENT

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

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

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

**FAYETTEVILLE CITY COUNCIL
AGENDA
MAY 26, 2009
7:00 P.M.
CITY HALL COUNCIL CHAMBER**

INVOCATION

PLEDGE OF ALLEGIANCE

RECOGNITIONS AND ANNOUNCEMENTS

ITEM 1. APPROVAL OF AGENDA

ITEM 2. CONSENT:

A. Approve Minutes:

- 1. City Council Work Session Held on May 4, 2009
PAGE: 10**
- 2. City Council Dinner and Discussion Meeting Held on
May 11, 2009
PAGE: 13**
- 3. City Council Budget Work Session Held on May 13, 2009
PAGE: 15**

**B. Adopt Capital Project Ordinance Amendment 2009-21
(Adjustment of State Grant and Local Match for the FY2001
Transit Capital Grant)**

Transit has received a budget revision from NCDOT, which reduces the state portion of the FY2001 Capital Grant to \$105,631. The City must provide an additional local match of \$12,025 to make up the difference. The funding for this amendment is currently available from remaining General Fund transfers to the Transit Capital Project Fund in previous fiscal years. The overall project budget, which was established to purchase vehicles and equipment for Transit, will not change and all financial transactions associated with this project will be complete by the end of this fiscal year.

PAGE: 17

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

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

This amendment will appropriate additional contributions of \$10,000 from private donors for the development of the Freedom Memorial Park project. The funds will be used for landscaping, paver engraving and plaque installation. If this amendment is approved, the revised budget for the project will be \$482,175.

PAGE: 19

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

This ordinance will appropriate the budget for the design and construction of a new fire training tower in the amount of \$500,000. The source of funds for this ordinance is a \$400,000 grant from the State of North Carolina, through Fayetteville State University, and a \$100,000 transfer from the General Fund. The General Fund transfer is available from funds remaining from the project budget for Fire Station 15 on Buhmann Drive. This action is consistent with the capital improvement plan adopted by City Council.

PAGE: 21

E. Request to Transfer Property to Fayetteville Metropolitan Housing Authority for the Hope VI Revitalization Project

The City received a request to transfer a vacant City-owned lot to the Fayetteville Metropolitan Housing Authority (FMHA). The property is located on Alfred Street and is further identified as Tax PIN 0437-71-0033. The parcel is located within the Hope VI Revitalization Project area and will support the FMHA's revitalization efforts.

PAGE: 23

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

The Community Development Department is seeking to acquire 2 lots through the Acquisition-Demolition Program. The structures at these addresses have been demolished. The owners wish to sell the lots. It is proposed that the lots will be used for affordable housing in partnership with one of the City's Community Housing Development Organization.

PAGE: 25

G. Consider Request for Reimbursement of Legal Fees

On or about May 13, 2008 a former police officer was sued in a civil action arising from a collision that occurred on Skibo Road while the officer was operating his patrol vehicle. The officer has obtained outside legal counsel to represent him in this lawsuit and pursuant to NCGS 160A-167 and Resolution No. R1995-53, Authorizing Payment of Certain Legal Expenses, the officer requests that the City pay any costs associated with his legal representation.

PAGE: 28

H. Approve the rezoning from C1P commercial district to C1 commercial district for property located at 5953 Yadkin Road. Containing 0.41 acres more or less and being the property of Song Y Kim. Case Number P09-12F

The previous building on this property suffered fire damage and was demolished. The setback in the C1P district is 30 feet from any side yard property line. The lot width is approximately 56 feet making it impossible to rebuild on the lot. The applicant is requesting C1 commercial zoning that allows a side yard setback of 3 feet allowing a new building on the site. The uses in C1 commercial district are the same as the uses in the C1P commercial district. The Zoning Commission and planning staff concur with the applicant's request for C1 commercial zoning.

PAGE: 35

I. Approve the rezoning from AR residential/agricultural district to R10 residential district for property located at the southeast corner of Clinton Road and Burlington Drive. Containing 4.225 acres more or less and being the property of Floyd Properties and Development Company, Inc. Case Number P09-15F

This property was annexed in April 2008. In February 2007, a separate Floyd Property tract containing 41.50 acres was annexed. The 41.50 acre tract was zoned R10 when it was in the county and was initially zoned R10 in the city. The tract annexed last year was zoned RR rural residential in the county and initially zoned AR in the city. The R10 request is consistent with the surrounding zoning and the property is served with PWC water and sewer. The Zoning Commission and planning staff concur with the applicant's request for R10 zoning.

PAGE: 45

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

1. 1912 Armstrong Street (PIN 0428-84-6652)
R & A Homes, Inc.; Delton Creech, Registered Agent
PAGE: 52
2. 2721 Colgate Drive (PIN 0426-35-5165)
Manos R. Dutton
PAGE: 56
3. 711 Ellis Street (PIN 0437-23-4098)
William Edward Murphy, Jr.
PAGE: 60
4. 233 McIver Street (PIN 0437-33-0884)
Raymond L. Anders, Heirs; Robert S. and Wanda R. Hawes;
Freeman Hawes; Heirs of Mary Joe; Mattie L. Edwards;
Heirs of Lula Harris; Heirs of Ernest Cunion; Helen Cunion
PAGE: 65
5. 412 McIver Street (PIN 0437-22-5909)
Irvin Broadie, Jr., Life Estate Only; Steven I. Broadie
PAGE: 70
6. 604 Wilma Street (PIN 0438-08-4157)
Eula Mae Graham; Willie Donnell Dancy; Lemon Jefferson
Dancy
PAGE: 74

ITEM 3. PUBLIC HEARINGS:

A. Consider Public Input on the Fiscal Year 2009-2010 Recommended Budget

The Fiscal Year 2009-2010 Recommended Budget has been presented to City Council and the budget document, along with PWC's recommended budget, has been made available for public inspection at the office of the City Clerk.

PRESENTED BY: Dale E. Iman, City Manager

RECOMMENDED ACTION: Public input only. No action required.
PAGE: 78

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

Following a public hearing on the matter, Council is asked to adopt amendments to Articles I and II in Chapter 23 of the City of Code of Ordinances. These amendments are necessary due to the withdrawal of Cumberland County from the Joint Stormwater Utility. The City of Fayetteville now needs to have a separate Stormwater Management Ordinance that does not include the County. Council is also asked to approve a Resolution setting the Stormwater Fee (\$3.00 per month per ERU), and a Schedule of Fines and Civil Penalties for violators of the ordinance.

PRESENTED BY: Jeffery P. Brown, PE, City Engineer

RECOMMENDATION: Staff recommends that Council adopt (1) the attached ordinance amendment and direct staff to format the amendment consistent with Section 1-6 of the City Code, (2) the attached resolution setting rates, and (3) the schedule of fines and civil penalties, all with an effective date of July 1, 2009.

PAGE: 79

C. Consider the rezoning from P2 professional district and R10 residential district to MU/CZ mixed use/conditional zoning district for office and retail uses on property located at 503 Owen Drive and 504 Terry Circle. Containing 0.60 acres more or less and being the property of George J. Demetri, Jr. Case Number P09-13F

Applicant wishes to construct a building for a medical office and retail to include a snack bar or grill. The planning staff recommended denial of the request based on the 2010 Land Use Plan and surrounding zoning.

PRESENTED BY: Craig Harmon, Planner II

RECOMMENDED ACTION: Zoning Commission recommends approval of the mixed use/conditional zoning as requested by the applicant.

PAGE: 104

- D. Consider the rezoning from R10 residential district to P2 professional district on property located at 1800 Fargo Drive. Containing 0.56 acres more or less and being the property of Loretta Toad. Case Number P09-14F**

Applicant wishes to rezone the property to professional in order to utilize the property for office use. The planning staff recommended denial based on the surrounding zoning.

PRESENTED BY: Craig Harmon, Planner II

RECOMMENDED ACTION: Zoning Commission recommends approval of the P2 professional zoning as requested by the applicant.

PAGE: 115

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

The annexation petition was submitted in order to receive PWC water and sewer service as outlined in City Council policy #150.2.

PRESENTED BY: Jimmy Teal, Planning Director

RECOMMENDED ACTION: City staff recommends adoption of the annexation ordinance effective May 26, 2009.

PAGE: 124

- ITEM 4. CONSIDER THE INITIAL ZONING TO R5A RESIDENTIAL DISTRICT OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION FOR PROPERTY LOCATED ON THE NORTHWEST CORNER OF RAMSEY STREET AND MCCLOSKEY ROAD. CONTAINING 18.30 ACRES MORE OR LESS AND ANNEXED BY THE CITY OF FAYETTEVILLE. CASE NUMBER P08-57F**

Initially zoning this property R5A residential district matches what the property was zoned in the county and follows the City Council policy of initially zoning property as zoned in the county.

PRESENTED BY: Craig Harmon, Planner II

RECOMMENDED ACTION: Zoning Commission recommends initially zoning the property to R5A residential district.

PAGE: 131

ITEM 5. CONSIDERATION OF AN AMENDMENT OF THE CONSOLIDATED PLAN 2008-2009 ANNUAL ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FUNDS THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The City of Fayetteville has been allocated \$385,584 of Community Development Block Grant funds through the American Recovery and Reinvestment Act of 2009. A substantial amendment to the City's Consolidated Plan 2008-2009 Annual Plan is required in order to receive the funds.

PRESENTED BY: Victor Sharpe, Community Development Director

RECOMMENDED ACTION: Approve the Substantial Amendment to the Consolidated Plan 2008-2009 Annual Action for the Community Development Block Grant-Recovery funds and authorize the Mayor to execute documents pertaining to the program.

PAGE: 140

INFORMATION ITEMS:

1. **Statement of Taxes Collected for the Month of April 2009 from the Cumberland County Tax Administrator**
PAGE: 142

2. **Tax Refunds Less Than \$100**
PAGE: 147

POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS

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

POLICY REGARDING PUBLIC HEARING AGENDA ITEMS

Individuals wishing to speak at a public hearing must register in advance with the City Clerk. The Clerk's Office is located in the Executive Offices, Second Floor, City Hall, 433 Hay Street, and is open during normal business hours.

Citizens may also register to speak immediately before the public hearing by signing in with the City Clerk in the Council Chamber between 6:30 and 7:00 p.m.

POLICY REGARDING CITY COUNCIL MEETING PROCEDURES

SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM

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

COUNCIL MEETING WILL BE AIRED

MAY 26, 2009 - 7:00 PM

COMMUNITY CHANNEL 7

COUNCIL MEETING WILL BE RE-AIRED

MAY 27, 2009 - 10:00 PM

COMMUNITY CHANNEL 7

000008

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

000009

DRAFT

FAYETTEVILLE CITY COUNCIL
MINUTES
MAY 4, 2009
5:00 P.M.
CITY HALL COUNCIL CHAMBER

Present: Mayor Anthony G. Chavonne

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

Others Present: Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Jeffrey Powell, Assistant City Manager
Karen M. McDonald, City Attorney
Lisa Smith, Chief Financial Officer
Tracey Broyles, Budget and Evaluation Manager
Victor Sharpe, Community Development Director
Rob Anderson, Chief Development Officer
Jackie Tuckey, Communications Manager/Public Information Officer
Candice H. White, City Clerk
Press

CALL TO ORDER

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

INVOCATION

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

1. APPROVAL OF AGENDA

Council Member Mohn requested the addition of a closed session for a personnel matter.

MOTION: Council Member Bates moved to approve the agenda with the addition of a closed session for a personnel matter.

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

2. CONSIDER AMENDMENT OF THE CONSOLIDATED PLAN 2008-2009 ANNUAL ACTION PLAN FOR THE HOMELESS PREVENTION AND RAPID RE-HOUSING PROGRAM

Victor Sharpe, Community Development Director, explained the City of Fayetteville had been allocated \$589,648 for the Homeless Prevention and Rapid Re-housing Program (HPRP) through the American Reinvestment and Recovery Act of 2009. Mr. Sharpe stated a substantial amendment to the City's Consolidated Plan 2008-2009 Annual Plan would be required in order to receive the funds. Mr. Sharpe explained the purpose of the HPRP was to provide homeless prevention assistance to households who would otherwise become homeless and to provide assistance to rapidly re-house people who experienced homelessness. Mr. Sharpe provided highlights of the Homeless Prevention and Rapid Re-housing Program and outlined program activities contained therein. Mr. Sharpe responded to questions.

Consensus of Council was to forward to the May 11, 2009 meeting for consideration of approval.

000010

ITEM 2.A.1.

DRAFT

3. CONSIDER REVISION TO CITY COUNCIL POLICY 102.2 REGARDING PUBLIC HEARINGS

Karen M. McDonald, City Attorney, stated City Council's current policy for public hearings allowed fifteen minutes per side for an issue and there was currently no time limit for individual speakers. Mrs. McDonald further stated in an effort to allow a greater number of citizens to be heard on issues, the proposed revision would limit the time of individual speakers to three minutes. Mrs. McDonald responded to questions and discussion ensued.

Consensus of Council was to forward the revisions as proposed to the May 11, 2009 meeting for consideration of approval.

4. FY 2009-2010 STRATEGIC PLAN ADOPTION

Doug Hewett, Assistant City Manager, reviewed the five main components of the strategic plan and stated the FY 2009-2010 Strategic Plan as presented was developed by the City Council during their strategic planning retreat in February. Mr. Hewett provided an overview of the 2009-2010 policy and management agenda targets for action. Mr. Hewett explained should Council approve the FY 2009-2010 strategic plan, the documents would govern policy and management direction of the City from July 1, 2009 - June 30, 2010. Mr. Hewett responded to questions and discussion ensued.

Consensus of Council was for staff to align the FY 2009-2010 Strategic Plan to the FY 2009-2010 recommended budget and return to City Council along with the strategic plan narratives at their June 1, 2009 work session.

5. OVERVIEW OF THE FISCAL YEAR 2009-2010 RECOMMENDED BUDGET

Dale E. Iman, City Manager, presented the Fiscal Year 2009-2010 budget message and highlighted key tools used in the budget planning process. Mr. Iman explained the budget goals were to continue to provide quality municipal services by the most efficient means possible and to enhance police, fire and transit services consistent with Council's vision and community expectations.

Lisa Smith, Chief Financial Officer, explained what was meant by and how a revenue-neutral tax rate was derived. Mrs. Smith then provided a revenue-neutral tax rate analysis and the recommended tax rate.

Mr. Iman outlined enhancements to police, fire and transit services and provided a summary of the recommended budget.

Mrs. Smith and Mr. Iman responded to questions. A brief discussion followed. Mr. Iman stated Council would hold budget work sessions on May 13, 2009 and May 20, 2009 followed by a public hearing on May 26, 2009 and adoption of the Fiscal Year 2009-2010 budget on June 8, 2009.

6. COUNCIL MEMBER REQUESTS

A. SEWER FUNDING MODEL

Mayor Chavonne requested Council give consideration to having staff facilitate a review of the sewer funding model and its impact on citizens. Council Member Haire also requested information regarding assistance programs and the number of citizen who had participated in the programs.

Following a brief discussion, consensus was for staff to provide at a future meeting.

DRAFT

B. NOISE ORDINANCE

Council Member Bates requested Council give consideration to strengthening the noise ordinance and making the fine for violations progressive.

Following a brief discussion, consensus was for the City Attorney's office to research and return to Council.

C. FIBER-TO-THE-HOME (FTTH) BROADBAND CONCEPT

Council Member Meredith requested Council give consideration to exploring the fiber-to-the-home broadband concept.

Following questions and a brief discussion, consensus was for staff to provide an explanation of the concept, enhancements and possibilities at a future work session.

7. CLOSED SESSION

MOTION: Council Member Meredith moved to go into closed session for a personnel matter.
SECOND: Council Member Bates
VOTE: UNANIMOUS (10-0)

The regular session recessed at 7:10 p.m.

The regular session reconvened at 7:25 p.m.

MOTION: Council Member Mohn moved to go into open session.
SECOND: Council Member Meredith
VOTE: UNANIMOUS (10-0)

MOTION: Council Member Mohn moved that we provide Karen McDonald, our City Attorney, a 2% pay raise from her base pay along with a one time bonus of \$5,000.
SECOND: Council Member Applewhite

Council Member Evans asked that Council consider delaying the pay raise.

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

There being no further business, the meeting adjourned at 7:28 p.m.

Respectfully submitted,

CANDICE H. WHITE
City Clerk

ANTHONY G. CHAVONNE
Mayor

050409

DRAFT

FAYETTEVILLE CITY COUNCIL
DINNER AND DISCUSSION MEETING MINUTES
LAFAYETTE ROOM
MAY 11, 2009
6:00 P.M.

Present: Mayor Anthony G. Chavonne

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

Absent: Council Member William J. L. Crisp (District 6)

Others Present: Dale E. Iman, City Manager
Karen M. McDonald, City Attorney
Rob Anderson, Chief Development Officer

Mayor Chavonne called the meeting to order.

Closed session to discuss litigation in the matter of *Estate of Calvin Wilson v. Bart Suggs, et al.*

MOTION: Council Member Bates moved to go into closed session to discuss litigation in the matter of *Estate of Calvin Wilson v. Bart Suggs, et al.*
SECOND: Council Member Haire
VOTE: UNANIMOUS (8-0)

The regular session recessed at 6:10 p.m. The regular session reconvened at 6:20 p.m.

MOTION: Council Member Applewhite moved to go into open session.
SECOND: Council Member Haire
VOTE: UNANIMOUS (8-0)

Closed session for consultation with attorney.

MOTION: Council Member Evans moved to go into closed session for consultation with attorney.
SECOND: Council Member Haire
VOTE: UNANIMOUS (8-0)

The regular session recessed at 6:20 p.m. The regular session reconvened at 6:25 p.m.

MOTION: Mayor Pro Tem Meredith moved to go into open session.
SECOND: Council Member Haire
VOTE: UNANIMOUS (8-0)

Mr. Rob Anderson, Chief Development Officer, provided a brief update on the Unified Development Ordinance process and schedule. He explained that they wanted as much input as possible from the stakeholders, citizens, etc. He stated that based on that, they would not expect the Unified Development Ordinance to be ready for approval until late November or December.

Discussion ensued and Council thanked Mr. Anderson for his hard work on this project.

000013

ITEM 2, A, 2

DRAFT

There being no further business, the meeting adjourned at 6:50 p.m.

Respectfully submitted,

KAREN M. MCDONALD
City Attorney

ANTHONY G. CHAVONNE
Mayor

051109

DRAFT

FAYETTEVILLE CITY COUNCIL
BUDGET WORK SESSION MINUTES
MAY 13, 2009
5:00 P.M.
LAFAYETTE ROOM

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7) (arrived 5:05 p.m.); Theodore W. Mohn (District 8) (arrived 5:20 p.m.); Wesley A. Meredith (District 9) (arrived 5:15 p.m.)

Others Present: Dale E. Iman, City Manager
Jeffrey Powell, Assistant City Manager
Doug Hewett, Assistant City Manager
Karen M. McDonald, City Attorney
Lisa Smith, Chief Financial Officer
Tracey Broyles, Budget and Evaluation Manager
Ron Macaluso, Transit Director
Rosann Christian, Transit Assistant Director
Tony Means, Transit Operations Superintendent
Bobby Teague, Engineering and Infrastructure Director
Jeffrey P. Brown, City Engineer
Greg Caison, Stormwater Division Manager
Rusty Thompson, City Traffic Engineer
Jackie Tuckey, Communications Manager/Public Information Officer
Elizabeth Fetting, KFH Consultant
Candice H. White, City Clerk
Press

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

Dale E. Iman, City Manager, recalled the budget message as delivered to Council at their May 4, 2009 meeting, budget goals contained therein and service enhancements in the areas of transit, fire and police as included in the FY 2009-2010 budget. Mr. Iman noted that although Fayetteville had been spared some of the effects of the economic recession, declines or stagnation in several revenue sources, which supported operational budgets of the City, were expected. Mr. Iman outlined the format for upcoming budget meetings and introduced Elizabeth Fetting, consultant with the KFH Group.

Ms. Fetting reviewed highlights of the Transit Development Plan (TDP) to include objectives, existing transit services, transit needs analysis and themes that emerged during the analysis, and system-wide operational and capital service alternatives. Ms. Fetting then reviewed tentative short-term, mid-term and long-term recommendations and bases for the same. Ron Macaluso, Transit Director, and Ms. Fetting responded to questions. Discussion ensued regarding route changes and route frequencies relative to demographic data, and route level alternatives and short-term recommendations. Mr. Iman clarified the processes involved with service enhancements and the TDP, and their relationship to the development of the FY 2009-2010 budget.

Discussion continued regarding future meetings for discussion of the TDP recommendations. Consensus of Council was for the transit recommendations as contained in the FY 2009-2010 budget to be brought forward for public hearing at the May 26, 2009 meeting and to move forward with the TDP process to include an opportunity for citizen input.

000015

ITEM 2.A.3.

DRAFT

Jeffrey Powell, Assistant City Manager, reviewed current stormwater fees and a fee usage, impacts to the program due to the county's withdrawal and changes to accommodate the same. Mr. Powell and Greg Caison, Stormwater Division Manager, responded to questions. Mr. Powell continued with a review of revenue reduction impacts; proposed changes to the Stormwater Management Ordinance, Articles I-III, which would be available for public hearing at the May 26, 2009 meeting; and proposed changes to the Stormwater Advisory Board. Mr. Powell stated there would be no increase in current fees and continuation of the interlocal agreement with the County would be required for billing and collection purposes.

Mayor Chavonne outlined the next steps in the budget process and spoke to future opportunities for Council questions and answers.

There being no further business, the meeting adjourned at 6:50 p.m.

Respectfully submitted,

CANDICE H. WHITE
City Clerk

ANTHONY G. CHAVONNE
Mayor

051309

000016

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager

From: Lisa Smith, Chief Financial Officer *LS*

Date: May 26, 2009

Re: Capital Project Ordinance Amendment 2009-21 (FY2001 Transit Capital Grant for the replacement of several Transit vehicles)

THE QUESTION: This amendment will increase the local match required and reduce the state grant provided for this project by \$12,025. Therefore, the overall budget for this project will remain \$1,238,560.

RELATIONSHIP TO STRATEGIC PLAN:

Principle A: Great Place to Live – Accessible and efficient transit throughout the City.

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

BACKGROUND:

- ☐ Transit has received a budget revision from NCDOT, which reduces the state portion of the FY2001 Capital Grant to \$105,631.
- ☐ The City must provide an additional local match of \$12,025 to make up the difference.
- ☐ The funding for this amendment is currently available from remaining General Fund transfers to the Transit Capital Project Fund in previous fiscal years.
- ☐ The overall project budget will not change and all financial transactions associated with this project will be complete by the end of this fiscal year.

ISSUES: None

OPTIONS:

- 1) Adopt the capital project ordinance amendment.
- 2) Do not adopt the capital project ordinance amendment.

RECOMMENDATIONS: Adopt Capital Project Ordinance Amendment 2009-21.

000017

ITEM 2. B.

CAPITAL PROJECT ORDINANCE AMENDMENT
CHANGE 2009-21 (CPO 2001-4)

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 amended:

Section 1. The project change authorized is to Capital Project Ordinance 2001-4, adopted March 5, 2001, as amended, for the FY01 Transit Capital Grant which includes the replacement of several Transit vehicles.

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:

	Listed As	Amendment	Revised
Federal Transit Administration Funds	\$ 990,848	\$ -	\$ 990,848
State Funds	117,656	(12,025)	105,631
Local Match - General Fund	130,056	12,025	142,081
Total Revenues	<u>\$ 1,238,560</u>	<u>\$ -</u>	<u>\$ 1,238,560</u>

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

Project Expenditures	<u>\$ 1,238,560</u>	<u>\$ -</u>	<u>\$ 1,238,560</u>
----------------------	---------------------	-------------	---------------------

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

Adopted this 26th day of May, 2009.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager

From: Lisa Smith, Chief Financial Officer *LS*

Date: May 26, 2009

Re: Capital Project Ordinance Amendment 2009-22 (Freedom Memorial Park)

THE QUESTION: This amendment will appropriate additional contributions of \$10,000 from private donors for the development of the Freedom Memorial Park project.

RELATIONSHIP TO STRATEGIC PLAN:

GOAL 6: Revitalized Downtown – A Community Focal Point

BACKGROUND:

- ❑ The funding source for this amendment consists of \$10,000 from private donors.
- ❑ The total amended project budget will be \$482,175 and will be funded as follows: General Fund (\$225,000), PWC contribution (\$25,000), private donations (\$225,505), and investment income (\$6,670).

ISSUES: None.

OPTIONS: 1) Adopt Capital Project Ordinance Amendment 2009-22.
2) Do not adopt Capital Project Ordinance Amendment 2009-22.

RECOMMENDATIONS: Adopt Capital Project Ordinance Amendment 2009-22.

CAPITAL PROJECT ORDINANCE AMENDMENT
CHANGE 2009-22 (CPO 2002-3)

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

Section 1. The project change authorized is to Capital Project Ordinance 2002-3, adopted June 17, 2002 as amended, for the funding of the Freedom Memorial Park Project.

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

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

	Listed As	Amendment	Revised
General Fund Transfer	\$ 225,000	\$ -	\$ 225,000
Utility Fund Transfer (PWC)	25,000	-	25,000
Donations	215,505	10,000	225,505
Investment Income	6,670	-	6,670
	<u>\$ 472,175</u>	<u>\$ 10,000</u>	<u>\$ 482,175</u>

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

Project Expenditures	<u>\$ 472,175</u>	<u>\$ 10,000</u>	<u>\$ 482,175</u>
----------------------	-------------------	------------------	-------------------

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

Adopted this 26th day of May, 2009.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Lisa Smith, Chief Financial Officer *LS*
Date: May 26, 2009
Re: Capital Project Ordinance 2009-23 (Fire Training Tower)

THE QUESTION: This Capital Project Ordinance will provide funding for the design and construction of a new fire training tower.

RELATIONSHIP TO STRATEGIC PLAN: Goal 4: MORE EFFICIENT GOVERNMENT- COST EFFECTIVE SERVICE DELIVERY

BACKGROUND:

- ❑ Capital Project Ordinance 2009-23 will appropriate the budget for the design and construction of a new fire training tower in the amount of \$500,000.
- ❑ \$400,000 from the State of North Carolina, through Fayetteville State University, and a \$100,000 transfer from the General Fund will provide the funding for this project.
- ❑ The City of Fayetteville must have a fire tower training facility to maintain its current ISO fire rating and avoid having an adverse impact on the insurance rates for commercial properties in the City of Fayetteville.
- ❑ The Fayetteville Regional Airport Fire Training Facility serves as a base for a wide range of basic and specialized fire training. The lack of a drill tower and burn building at the site dictates that live burn training is conducted in acquired structures. These structures may be located in populated areas less conducive to fire training. Constructing a fire training tower at the airport fire training facility allows all training to take place on site.

ISSUES: None

OPTIONS:

- 1) Adopt the capital project ordinance and proceed with the project.
- 2) Do not adopt the capital project ordinance and do not construct the fire training tower.

RECOMMENDATIONS: Adopt Capital Project Ordinance 2009-23 for the design and construction of the fire training tower.

000021

ITEM 2. D.

CAPITAL PROJECT ORDINANCE
ORD 2009-23

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 design and construction of the Fire Training Tower.

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:

State Grant (Through FSU)	\$400,000
General Fund Transfer	<u>100,000</u>
	<u><u>\$500,000</u></u>


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

Project Expenditures	<u><u>\$500,000</u></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 26th day of May, 2009.

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
Thru: Karen McDonald, City Attorney 
From: Cindy Preas, Real Estate Manager
Date: May 26, 2009
Re: Request to Transfer Property to Fayetteville Metropolitan Housing Authority for the Hope VI Revitalization Project

THE QUESTION: How to respond to a request to transfer ownership of one vacant, City-owned lot to the Fayetteville Metropolitan Housing Authority (FMHA)

RELATIONSHIP TO STRATEGIC PLAN: Consistent with the goals and objective of a More Attractive City – Clean and Beautiful, Revitalized Downtown – A Community Focal Point, Livable Neighborhoods – A Great Place To Live.

BACKGROUND:

- The property is located on Alfred Street and is further identified as Tax PIN 0437-71-0033.
- The parcel is located within the Hope VI Revitalization Project area and will support the FMHA's revitalization efforts
- This parcel will be included in the FMHA's swap of .97 acres of land with Friendship Baptist Church for land owned by the church. The church's land is adjacent to the proposed Alfred Street Senior Housing Site.

ISSUES: None

OPTIONS:

- Approve FMHA's request
- Deny FMHA's request

RECOMMENDATIONS:

Adopt the attached resolution declaring the property surplus and authorize the Manager to sign a deed conveying the property to the Fayetteville Municipal Housing Authority.

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

Resolution R2009_____

**RESOLUTION DECLARING PROPERTY EXCESS
TO CITY'S NEEDS AND CONVEY TITLE IN THE PROPERTY TO
FAYETTEVILLE METROPOLITAN HOUSING AUTHORITY**

WHEREAS, the City of Fayetteville owns certain real property in Cumberland County, said property being located on Alfred Street having the tax map designation of PIN 0437-71-0033; and

WHEREAS, North Carolina General Statute § 160A-279 permits the City to convey said properties; and

WHEREAS, the City now desires to declare the property surplus to the City's needs and convey the City's title to the Fayetteville Metropolitan Housing Authority;

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 the aforesaid real property surplus to City's needs and authorizes its Manager to sign a deed conveying title to the Fayetteville Metropolitan Housing Authority.

ADOPTED this _____ day of May 2009 by the City Council of the City of Fayetteville, North Carolina.

CITY OF FAYETTEVILLE

(SEAL)

By: _____
ANTHONY G. CHAVONNE, Mayor

ATTEST:

Candice White, City Clerk

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Victor D. Sharpe, Community Development Director
Date: May 26, 2009
Re: Acquisition of lots at 214 Grady Street and 319 Maloney Avenue

THE QUESTION: Does acquiring the lots at 214 Grady Street and 319 Maloney Avenue provide lots for the redevelopment of affordable housing?

RELATIONSHIP TO STRATEGIC PLAN: More Attractive City – Clean and Beautiful, Growing City, Livable Neighborhoods – A Great Place To Live

BACKGROUND:

- ☐ The Community Development Department is seeking to acquire 2 lots through the Acquisition-Demolition Program.
- ☐ The structures at these addresses are being demolished through the Acquisition-Demolition Program and the owners wish to sell the lots to the City.
- ☐ The lots will be used to build affordable housing in partnership with one of the City's Community Housing Development Organization.

ISSUES:

None

OPTIONS:

Approve acquisition.
Decline acquisition.

RECOMMENDATIONS:

Approve acquisition of 214 Grady Street and 319 Maloney Avenue.

ATTACHMENT:

Pictures of 214 Grady Street and 319 Maloney Avenue.

000025

ITEM 2. F.



214 GRADY STREET



319 MALONEY AVENUE

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tiffanie W. Sneed, Police Attorney
Date: May 26, 2009
Re: Consider Request for Reimbursement of Legal Fees

THE QUESTION: Whether to provide reimbursement of legal fees to a former officer named in a lawsuit arising during the course and scope of his duties.

RELATIONSHIP TO STRATEGIC PLAN: This action is requested not based on the Strategic Plan, but rather, N.C.G.S. 160A-167 and Resolution No. R1995-53, Authorizing Payment of Certain Legal Expenses.

BACKGROUND: On or about May 10, 2006, Ryan Skewes was a sworn member of the Fayetteville Police Department and was operating his vehicle during the course and scope of his employment. Specifically, Officer Skewes was driving his assigned marked Police vehicle, north on Skibo Road, when a silver Nissan Altima, operated by Rose Stanford, slowed and/or stopped in front of him. Officer Skewes was unable to reduce his speed in order to avoid colliding with the Nissan. Moments later, a red Dodge Neon, operated by Luis Alberto Gonzales Delarosa, was also unable to reduce speed, and collided into the rear of Officer Skewes' patrol vehicle.

On May 13, 2008, Ms. Trearna Stanford, who was a passenger in the vehicle being operated by Rose Stanford, filed a civil action against Officer Skewes and the City of Fayetteville in Superior Court alleging, among other things, that Officer Skewes acted negligently, failed to exercise due caution while driving the vehicle and drove in a careless and reckless manner, causing injuries to Ms. Stanford. Due to the fact that Officer Skewes was disciplined for this accident, he has retained outside legal counsel to represent him during the course of this litigation. Pursuant to G.S. §160A-167 and Resolution No. R1995-53, Authorizing Payment of Certain Legal Expenses, Ryan Skewes requests that the City of Fayetteville pay any costs associated with his legal representation. Attached is a Memorandum from Skewes' Attorney supporting his request.

ISSUES: None.

OPTIONS:

- Grant the request.
- Deny the request.

RECOMMENDATIONS: The City's insurance brokers have advised that under North Carolina law, the City has a duty to defend Officer Skewes. Therefore, Staff recommends that Council grant Officer Skewes request.

000028

ITEM 2. G.

ANDERSON, JOHNSON, LAWRENCE, BUTLER & BOCK, L.L.P.
LAWYERS

HENRY L. ANDERSON (1911-1986)
HAL W. BROADFOOT (1929-1994)
LEE B. JOHNSON
JOHN H. ANDERSON, II*
STEVEN C. LAWRENCE
J. STEWART BUTLER, III
A. DAVID BOCK
ROBERT A. HASTY, JR.
MICHAEL R. PORTER
*AOC CERTIFIED MEDIATOR

109 GREEN STREET, SUITE 204
P. O. DRAWER 2737
FAYETTEVILLE, NC 28302-2737

TELEPHONE:
(910) 483-1171

FAX:
(910) 483-5005

EMAIL:
JSBUTLER@ANDERSONJOHNSON.COM

March 26, 2009

Tiffany W. Sneed, Esq. Via Email: TSneed@ci.fay.nc.us /ONLY
City of Fayetteville
467 Hay Street
Fayetteville, NC 28301

Re: 08 CVS 1418 (Cumberland) -- Trearna Shevon
Stanford v. Ryan James Skewes and City of
Fayetteville
D/A: May 10, 2006
AJLB&B File No. 09199-500-4

Dear Tiffany:

Thank you for your email of February 25th. As requested, I have enclosed a copy of a Memo together with a copy of my previous March 4th letter directed to you. Please call if you have any questions. I look forward to hearing from you.

Sincerely yours,

ANDERSON, JOHNSON, LAWRENCE,
BUTLER & BOCK, L.L.P.

S/



J. Stewart Butler, III

JSB,III/sbb
Attachments (2)

(Email: TSneed2)

000029

Memo To Counsel
(09199-4)

1. 5/10/06 Ryan Skewes, police officer for the city of Fayetteville, was operating a Fayetteville Police Department vehicle on Skibo Road.
2. On that date his vehicle struck the rear of a vehicle operated by Trearna Stanford;
3. At the time of the automobile accident Officer Skewes was on his way to work.
4. At the time of the accident Officer Skewes was employed with the Fayetteville Police Department in an administrative position,
5. At the time of the accident Officer Skewes was in lawful possession and/or had permissive use of the vehicle;
6. On 2/12/09 Trearna Stanford filed a lawsuit against Officer Ryan Skewes and the City of Fayetteville arising out of the above referenced motor vehicle accident;
7. On February 26, 2009 Officer Skewes filed a Motion for an Extension of Time in which to file responsive pleadings;
8. Responsive pleadings (Answer) is due April 3, 2009.
9. On March 4, 2009 the undersigned directed a letter to the City of Fayetteville, specifically requesting it provide coverage and/or defense for Officer Skewes;
10. The North Carolina Financial Responsibility Act, N.C. Gen. Stat. §279, *et seq.*, requires that all vehicles legally operated on the roads of North Carolina be insured and/or bonded up to at least minimum limits of \$30,000 per injury, \$60,000 per accident;
11. That case law in North Carolina (Brown v. Lumbermens Mutual, 90 N.C.App. 464, at 470, 369 S.E.2d 367 (1988)) stands for the proposition that a duty to defend an insured is separate from and broader than the insurer's duty to indemnify;

S:(09199/MemoToCounsel)

ANDERSON, JOHNSON, LAWRENCE, BUTLER & BOCK**ATTORNEYS AT LAW**

109 GREEN STREET, SUITE 204
 POST OFFICE DRAWER 2737
 FAYETTEVILLE, N. C. 28302-2737

Telephone: (910) 483-1171

Tax I.D. No. 56-0592516

Page: 1

May 14, 2009

500-09199

1

Mr. Ryan Skewes
 721 North Fifth Avenue
 Apt. A
 Wilmington NC 28401

AJLB&B FILE NO:
 STATEMENT NO.

ATTN: Tiffanie Sneed, Esq.

Trearna Sevon Stanford v. Ryan James Skewes and
 City of Fayetteville

08 CVS 1418

Venue: Cumberland

Date of Accident: May 10, 2006

		HOURS
02/27/2009		
JSB	Telephone calls to and from Skewes re representation and discuss case to set up meeting;	0.30
JSB	Telephone call to Fayetteville Police attorney Sneed re why they not provide defense?;	0.20
03/04/2009		
JSB	Office conference with Skewes; review file;	0.90
JSB	Draft letter to police attorney specifically referencing office memo and requesting defense;	0.40
03/25/2009		
JSB	Two emails from and to police attorney Sneed re status of attorney/defense costs;	0.20
03/26/2009		
JSB	Receipt/review email from Fayetteville Police Dept. attorney Sneed re need Memo to Fayetteville City Council re coverage;	0.10
JSB	Draft Memorandum to Fayetteville City Council re status of case and coverage; defense for Skewes;	0.60
JSB	Letter to Ms. Sneed with attachments;	0.30
JSB	Email from attorney Sneed re attorneys fee issue;	0.10
JSB	Draft Answer;	1.10
JSB	Draft Interrogatories and Request for Production of Documents to Plaintiff;	0.90

000031

Mr. Ryan Skewes

AJLB&B FILE NO:
STATEMENT NO.Trearna Sevon Stanford v. Ryan James Skewes and
City of Fayetteville

HOURS

JSB	Draft letter to Trial Court Administrator explaining our involvement and requesting case off June 1, 2009 calendar;	0.30	
JSB	Draft detailed letter to Plaintiff's attorney Adams explaining coverage and second impact;	0.40	
JSB	Draft letter to client Skewes re providing documents; reference attorneys fees issue and request his response to discovery;	0.30	
RAH	Brief research/case retrieval re duty to defend <u>Brown v. Lumberman's</u> ;	0.30	
03/27/2009			
DLS	Filed Answer at Courthouse; (No Charge);		n/c
04/03/2009			
JSB	Receipt/review and transcribe draft Defendant Skewes responses to discovery;	0.70	
JSB	Letter to Defendant Skewes with detailed instructions;	0.30	
JSB	Receipt/review Plaintiff's Designation of Experts;	0.10	
JSB	Letter to Plaintiff's attorney re we have rough draft responses to discovery completed and will forward final copies soon;	0.20	
04/04/2009			
JSB	Receipt draft Defendant's responses to Request for Production of Documents;	0.30	
04/13/2009			
JSB	Telephone call from Ellen Hancox, Trial Court Administrator re trial, discovery status;	0.20	
JSB	Receipt/review Defendant's <u>Amended</u> responses to discovery; transcribe same;	0.40	
JSB	Letter to attorney Adams with discovery; request Plaintiff's responses to discovery and discuss trial;	0.30	
JSB	Letter to police department attorney Sneed re trial and discovery status;	0.30	
04/15/2009			
JSB	Receipt/review two emails from Defendant's attorney Sneed re status of Plaintiff's responses to discovery and trial date;	0.20	
JSB	Email back to attorney Sneed re we want all discovery between parties and inquiry as to basis of Summary Judgment Motion;	0.10	
04/16/2009			
JSB	Receipt/review email from City of Fayetteville attorney and		

000032

Mr. Ryan Skewes

May 14, 2009

AJLB&B FILE NO:

500-09199

STATEMENT NO.

1

Trearna Sevon Stanford v. Ryan James Skewes and
City of Fayetteville

		HOURS	
	Defendant City's responses to discovery sent by Plaintiff's attorney;	0.40	
04/21/2009			
JSB	Telephone call from Trial Court Administrator Hancox re discovery status and trial status;	0.10	
04/22/2009			
JSB	Receipt/review Plaintiff's responses to Defendant City of Fayetteville discovery requests;	0.40	
JSB	Two emails from and to city attorney re responses and bases for Summary Judgment Motion;	0.30	
04/23/2009			
DLS	Picked up letter denying continuance on trial at Courthouse; (No Charge);		n/c
JSB	Receipt/review six emails between city attorney and firm re Summary Judgment Motion and responding to same;	0.70	
JSB	Receipt/review case <u>Williams v. Holsclaw</u> that city bases Motion on;	0.30	
JSB	Receipt/review Order from Trial Court Administrator denying continuance;	0.10	
JSB	Receipt/review letter from Defendant Skewes with driving record;	0.10	
JSB	Letter to Skewes re status;	0.30	
04/27/2009			
JSB	Attend calendar call for Defendant City of Fayetteville's Motion to Compel; discuss case with city attorney Sneed;	0.80	
JSB	Draft detailed memo to paralegal re contact USAA-Skewes carrier (USAA is Skewes "excess" carrier);	0.20	
04/28/2009			
JSB	Telephone call to USAA re claim;	0.20	
04/30/2009			
JSB	Telephone conference with USAA adjuster Adams;	0.30	
05/01/2009			
JSB	Receipt/review fax from USAA requesting file information;	0.10	
JSB	Telephone call from USAA rep Adams requesting file information;	0.10	
JSB	Review file; forward pleadings and investigative information to USAA via fax;	0.30	
05/04/2009			
JSB	Receipt/review Plaintiff's supplemental responses to discovery (pre-accident medicals);	0.30	

Mr. Ryan Skewes

AJLB&B FILE NO:
STATEMENT NO.Tearna Sevon Stanford v. Ryan James Skewes and
City of Fayetteville

HOURS

05/06/2009	JSB	Receipt/review certified letter from USAA to Skewes re reservation of rights;	0.10	
05/08/2009	RAH	Review file materials and case law re Motion for Summary Judgment/Sovereign Immunity;	1.00	
05/11/2009	JSB	Telephone call to police attorney Sneed re status of Voluntary Dismissal; we to prepare bill and fax;	0.10	
	RAH	To Cumberland County Superior Court for calendar call on Motion for Summary Judgment; speak with attorneys Sneed and Adams prior; Adams taking dismissal; report to Court;	0.80	
	JSB	Telephone call to client Skewes re status; confirm dismissal; discuss his reimbursement;	0.20	
05/14/2009	JSB	Letter to Sneed with bill;	0.10	
		FOR PROFESSIONAL SERVICES RENDERED	16.80	2,520.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
J. Stewart Butler	14.70	\$150.00	\$2,205.00
Robert A. Hasty, Jr.	2.10	150.00	315.00

03/27/2009	Postage and Mailing;	1.34
03/27/2009	Postage and Mailing;	1.51
03/27/2009	Postage and Mailing;	1.85
04/06/2009	Postage and Mailing;	1.34
04/14/2009	Postage and Mailing;	2.68
	TOTAL EXPENSES	8.72
	TOTAL CURRENT WORK	2,528.72
	BALANCE DUE	<u>\$2,528.72</u>

TRUST ACTIVITY

03/05/2009	Deposit to Trust Skewes Check No. 1104;	2,500.00
		<u>\$2,500.00</u>
		<u>\$2,528.72</u>

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council

From: Craig Harmon, Planner

Date: May 26, 2009

Case No. P09-12F

THE QUESTION: Rezone from C1P Commercial District to C1 Commercial District to allow a retail shop

RELATIONSHIP TO STRATEGIC PLAN: Growth and Development

BACKGROUND:

Owner:	Song Y Kim
Applicant:	"same as owner"
Council District:	District 4 - Haire
Requested Action:	Rezone from C1P to C1
Existing Zoning	C1P District
Status of Property:	5953 Yadkin Rd.
Size:	+/- 0.41 acres
Existing Land Use:	Vacant
Adjoining Land Use & Zoning:	North – C1 Commercial South – C1 Commercial East – R10 Residential West – C1 Commercial
2010 Land Use Plan:	Heavy Commercial
Letters Mailed:	88

SPECIAL INFORMATION: The former retail building on this lot suffered fire damage and was demolished. The current zoning standards for C1P will not allow the owner to rebuild the building. The lot is too narrow to meet the C1P side setbacks and is current unbuildable. A C1 district would allow the owner use of his property.

Public Utilities:

Water:	PWC
Sanitary Sewer:	PWC

Transportation:

Yadkin Road is a major thoroughfare. The average daily traffic count is 36,000 vehicles at it's southern intersection with Horseshoe Road.

OPTIONS:

1. Rezone the property to C1 Commercial;
2. Set a public hearing to consider other options.

000035

ITEM 2. H.

RECOMMENDATIONS:

Zoning Commission & planning staff recommend approval of C1 Commercial zoning:

1. The 2010 Land Use Plan recommends Heavy Commercial uses for this property;
2. C1 is compatible with the surrounding property's, they are each zoned C1;
3. This property is unbuildable without a rezoning;

ATTACHMENTS:

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

**APPLICATION FOR REZONING
CITY OF FAYETTEVILLE**

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

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

Location/Address of the Property: 5953 Yaddin Rd. Fay, NC 28303

Owner of the Property: SONG Y KIM

Address of the Owner: 2134 COFFMAN ST Zip 28306

Owner's Home Phone: 910-868-1376 Owner's Work Phone: 910-867-8530

A. The property sought for Rezoning is owned by SONG Y KIM as evidenced by deed, recorded in Deed Book 8034, Page pg 2619, 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: CIP To: C1

Please describe the proposed use of the property requested for rezoning: _____

RETAIL SHOP

C. Tax Property Identification Number (PIN#) of the property: 0408-39-5599

D. Acreage to be rezoned: 0.41 AC

E. To the best of your knowledge, has an application for rezoning been filed for this property within the previous 5 years? (If yes, please indicate month and year of application.)

N/A

F. Existing use of the property (Specify any structures and respective uses): N/A

71

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.

SONG Y KIM
Print or Type Name of Owner
2134 COFFMAN ST. FAY. NC 28306
Address of Owner
910-868-1376 910-867-8530
Home Phone Work Phone
SONG Y KIM
Print or Type Name of Applicant
Same as above
Address of Applicant
Home Phone Work Phone
A. J. Kim
Signature of Individual Submitting the Application

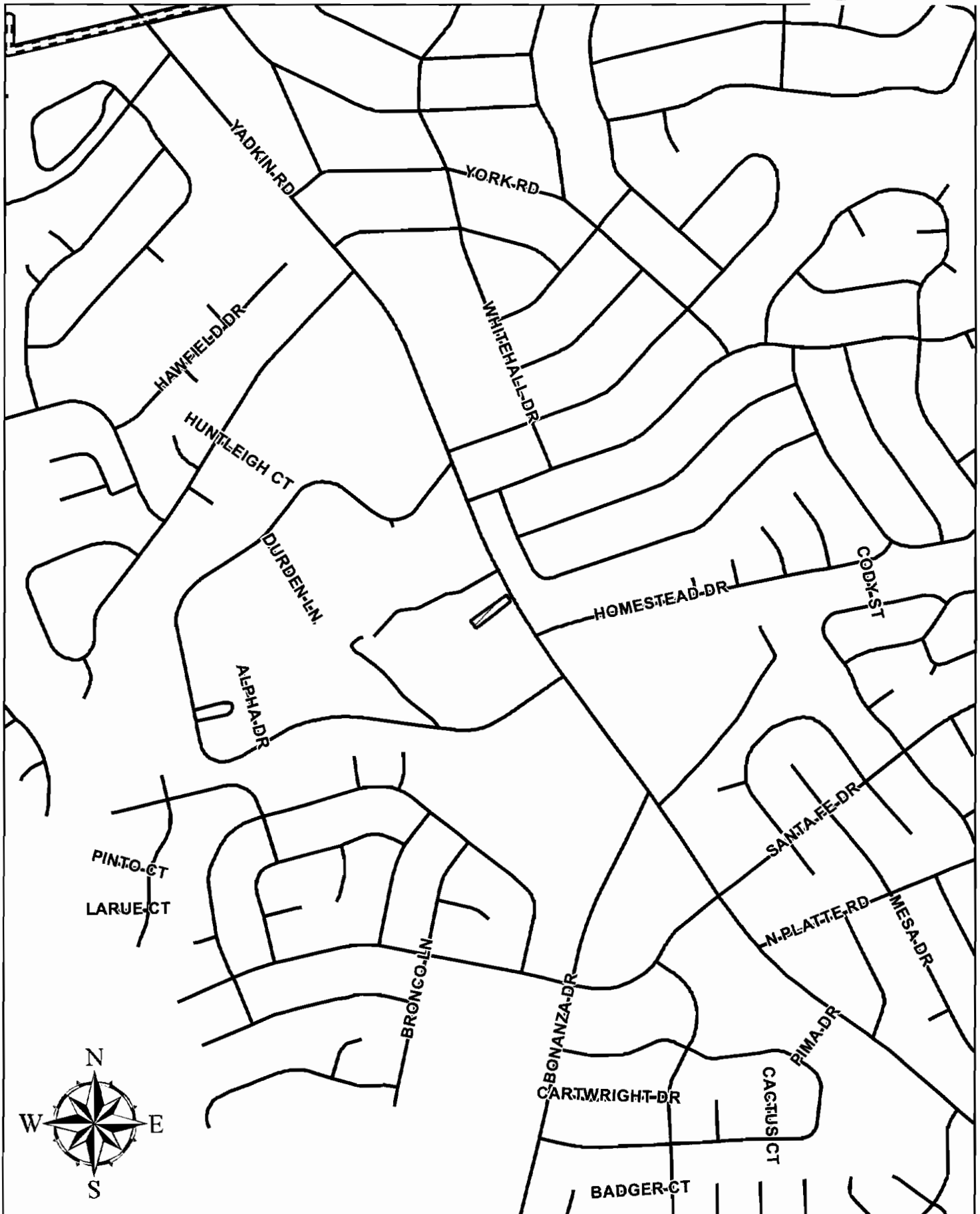
City of Fayetteville Appeals Procedure: Any person aggrieved by the recommendation of the Zoning Commission shall have the right to appeal the action of the Zoning Commission in writing to the Clerk of the City of Fayetteville within ten (10) calendar days of the action of the Zoning Commission. If an 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 then visit the Planning Dept. page)

Zoning Commission - Vicinity Map

Case No. P09-12F



**ZONING COMMISSION
CASE NO. P09-12F**

City of
Fayetteville
North Carolina
PLANNING



Request: C1P to C1
Location: 5953 Yadkin Rd.
Acreage: 0.41

Zoning Commission: 4/14/2009
City Council:
Pin: 0408-39-5599

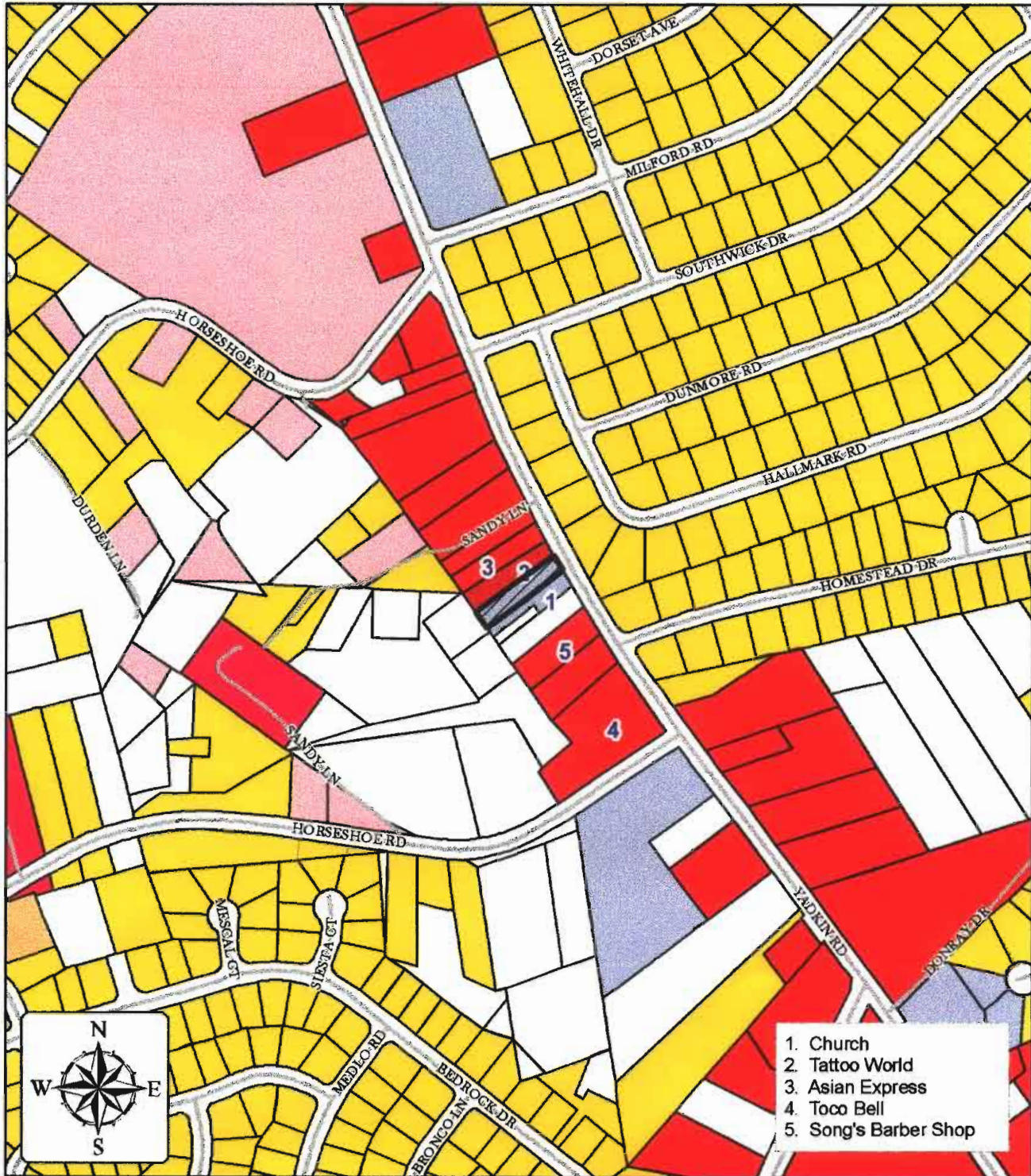
Recommendation:
Final Action:

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

000040

Current Land Use

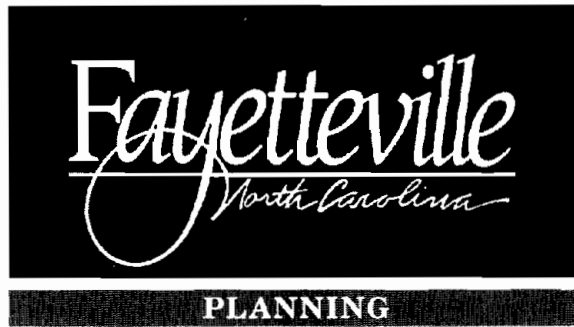
P09-12F



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

000041



**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
APRIL 14, 2009- 7:00 P.M.**

MEMBERS PRESENT

Pete Paoni
Richard West
John Crawley
Lockett Tally

MEMBERS ABSENT

Jeannie Nelson

OTHERS PRESENT

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

The meeting was called to order at 7:00 p.m.

I. APPROVAL OF AGENDA

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

II. APPROVAL OF THE MINUTES FROM THE MARCH 10, 2009 MEETING

Mr. West made a motion to approve the minutes from the March 10, 2009 meeting. Mr. Crawley seconded the motion. A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

- A. Case No. P09-12F.** The rezoning from C1P Commercial District to C1 Commercial District for a retail shop on property located at 5953 Yadkin Road. Containing 0.41 acres more or less and being the property of Song Y Kim.

Mr. Harmon provided a brief overview of the request including maps, pictures, surrounding land uses, and the 2010 land use plan's recommendation of low density residential area. Mr. Harmon stated that the Planning Department mailed out 88 letters to property owners with 750 feet of the project. Mr. Harmon stated the reason for the rezoning of the property, with the C1P zoning and due to property size, Mr. Kim is unable to rebuild. Mr. Harmon stated the side set backs over lap. Mr. Harmon stated that having the property rezoned to a C1 will actually allow him to rebuild on the property.

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

The public hearing was opened.

ZONING COMMISSION
433 HAY STREET
FAYETTEVILLE, NC 28501-5537
(910) 433-1612 / FAX (910) 433-1776
An Equal Opportunity Employer
www.cityoffayetteville.org

Mr. Kim appeared in favor of the request. He stated that he was pleased that the Zoning staff recommended rezoning.

After Mr. West asked what Mr. Kim's plans were for the property, Mr. Kim stated that it was his intent to build a military boot shop and alteration shop on the property.

Pastor Murphy appeared in opposition of the request. Pastor Murphy stated that he pastors the church that is located next door to the property. He stated that his only concern is the traffic on Yadkin Road and having another retail shop on Yadkin Road will only add to the problem.

Mr. West asked Pastor Murphy asked about the church schedule. Pastor Murphy stated that he has Sunday morning services from 9 until 12 noon, Sunday evening service is at 4:00 or 5:00 pm. He stated that they have service on Friday evening 7:30 pm and Tuesday night bible study at 7:00 pm.

Mr. Paoni asked Pastor Murphy how many parking spaces they have available for the church. Pastor Murphy responded if you count the ones in front of the church there are six. He stated that they have been using the land around the church as additional parking.

Mr. West asked the size of the congregation. Pastor Murphy stated about 25 members but there are guest and visitors and on Sunday Morning there are approximately 25-35 people present.

Ms. Nails appeared in opposition. She stated that her only concern is the issue of parking availability. She stated she received a letter about an encroachment problem in the past and is looking into the acquiring a survey to make sure that all the property that is meant to belong to the church does.

Mr. Paoni asked Ms. Nails about her need to survey the property. Ms. Nails stated that she would like the opportunity to have a survey down to see what they own. Mr. Paoni stated Mr. Kim had to survey when he bought the property.

Ms. Nails stated that she is just concerned on how the traffic is going to flow around the property.

Mr. Paoni asked if there were any more questions for Ms. Nails. There were none.

Mr. Kim requested to rebut to Pastor Murphy and Ms. Nails comments. He stated that the church only opened a few months ago. He stated that they are only open on Sunday and they have towed some cars parked on his property. He stated that the church uses his property for parking.

Mr. Kim stated that the site plan shows how much parking he is going to have.

Mr. West asked Mr. Kim how large the building was going to be that he was going to have built. Mr. Kim stated that he was going to set the front to 130 feet inside. He stated that the building was only 70 feet long and 45 feet wide. He stated that parking is still available in the back.

Mr. West asked Mr. Kim about his hours of operation. Mr. Kim stated that he would be open Monday through Saturday and an occasional Sunday, 9am to 7pm.

Mr. Teal stated that explained the rezoning request is for C1 commercial district and if approved for C1 commercial Mr. Kim has a variety of commercial uses he could use. Mr. Teal emphasized that the Zoning Commission has to look at all uses and not focus on one specific use as suggested by Mr. Kim. Mr. Teal added that the lot is small, so Mr. Kim is limited to the size of the building based on the required parking requirements.

Mr. West asked Pastor Murphy if the parking for the church is occurring on Mr. Kim's property.

Pastor Murphy stated that if a building is built, they will not park on his property.

Mr. Paoni asked if there were any other questions. There were none.

The public hearing was closed.

Mr. Harmon stated that the Planning Staff recommend approval of the C1 Commercial District. He stated that the recommendation was based on the 2010 land use plan which recommends heavy commercial uses for the property. He stated that C1 is compatible with the surrounding properties which are each zoned C1. Mr. Harmon stated that without a rezoning, Mr. Kim has unbuildable lot.

Mr. Harmon asked if there were any questions.

Mr. Paoni asked why a site plan isn't required at the zoning hearing for a C1 request. Mr. Harmon stated that it wasn't a conditional rezoning and that he was only asking for a change for permitted uses for the property.

Mr. West asked about Mr. Kim business moving. Mr. Kim stated that he is currently renting that building and would be moving to the new location.

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

Mr. Teal stated that this would go to City Council on Tuesday, May 26, 2009. He stated that anyone who would like to appeal the decision of the Zoning Commission can do so within ten days, April 24th, with the City Clerk.

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council

From: Craig Harmon, Planner

Date: May 26, 2009

Case No. P09-15F

THE QUESTION: Rezone from AR Agricultural Residential District to R10 Residential District to allow low density residential.

RELATIONSHIP TO STRATEGIC PLAN: Growth and Development

BACKGROUND:

Owner:	Floyd Properties and Development
Applicant:	James M. Kizer
Council District:	District 2 - Evans
Requested Action:	Rezone from AR to R10
Existing Zoning	AR Agricultural Residential District
Status of Property:	SE corner of Clinton Road and Burlington Drive
Size:	+/- 4.225 acres
Existing Land Use:	Vacant
Adjoining Land Use & Zoning:	North – C3 - County South – R10 Residential - City East – RR Residential - County West – R10 Residential - City
2010 Land Use Plan:	Suburban Density Residential
Letters Mailed:	25

SPECIAL INFORMATION: This property is adjacent to Cape Fear Crossing, a R10 low-density subdivision.

Public Utilities:

Water:	PWC
Sanitary Sewer:	PWC

Transportation:

Clinton Road is a major thoroughfare. The average daily traffic count is 5,100 vehicles at its intersection with Godwin Circle.

OPTIONS:

1. Rezone the property to R10 Residential;
2. Set a public hearing to consider other options.

000045

ITEM 2. I.

RECOMMENDATIONS:

Zoning Commission & planning staff recommend approval of R10 zoning:

1. The 2010 Land Use Plan recommends suburban density residential uses for this property;
2. R10 is compatible with the adjacent property's;
3. City utilities (water and sewer) are already available to this property.

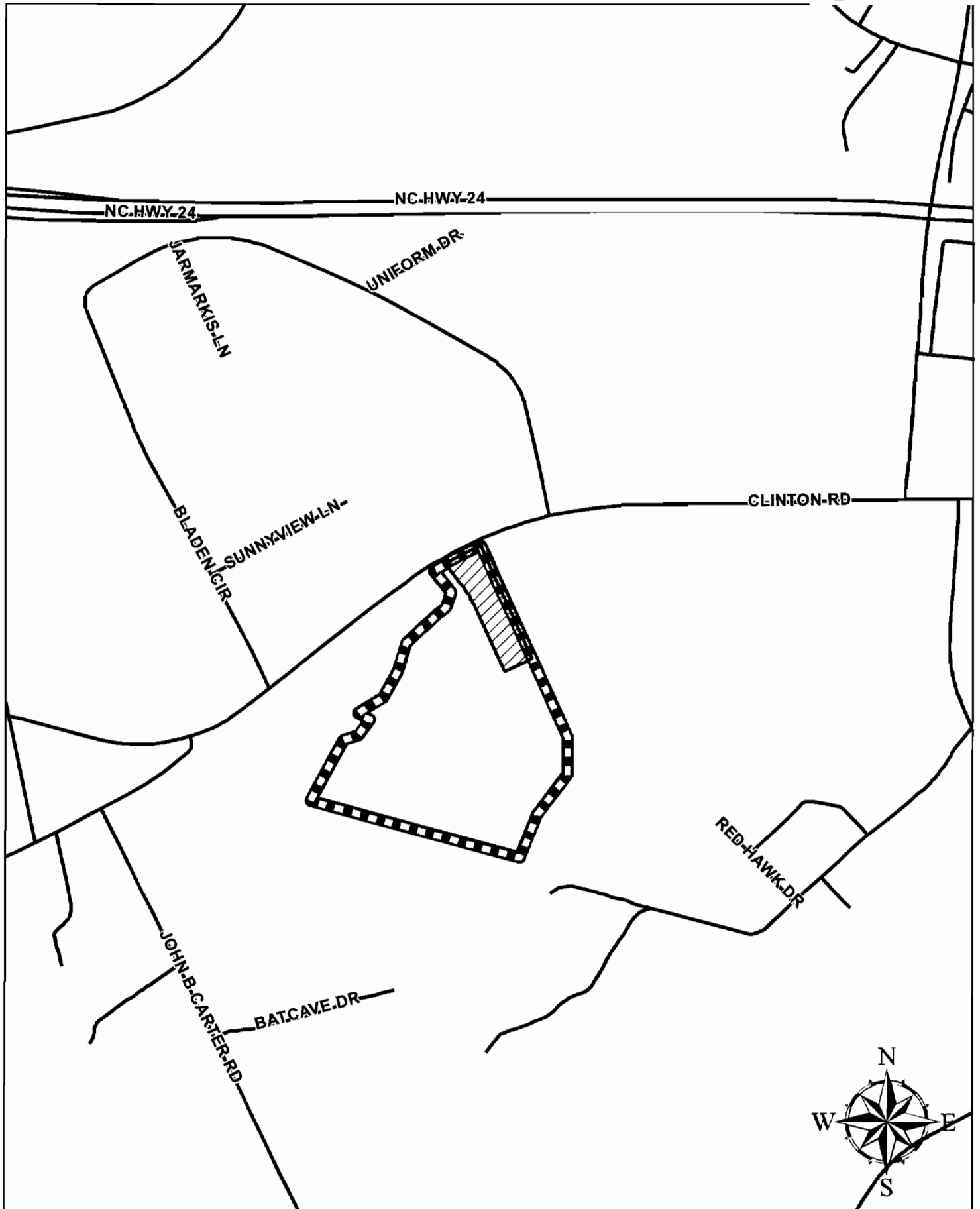
ATTACHMENTS:

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

Zoning Commission - Vicinity Map

Case No. P09-15F

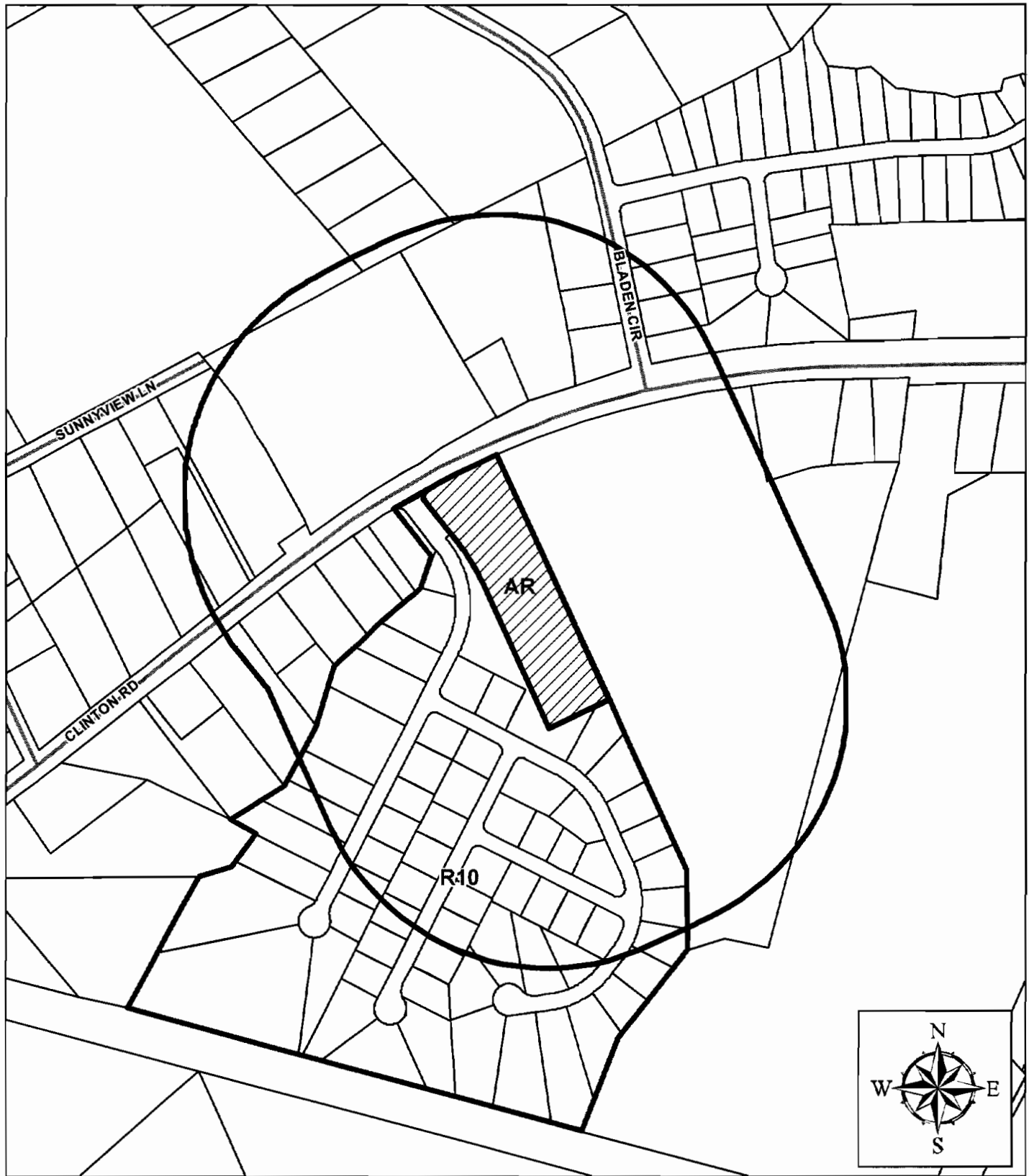
City of
Fayetteville
North Carolina
PLANNING



000047

**ZONING COMMISSION
CASE NO. P09-15F**

City of
Fayetteville
North Carolina
PLANNING



Request: AR to R10
Location: SE Quad. Clinton Rd & Burlington Dr.
Acreage: 4.255

Zoning Commission: 4/14/2009
City Council: _____
Pin: 0466-47-8426

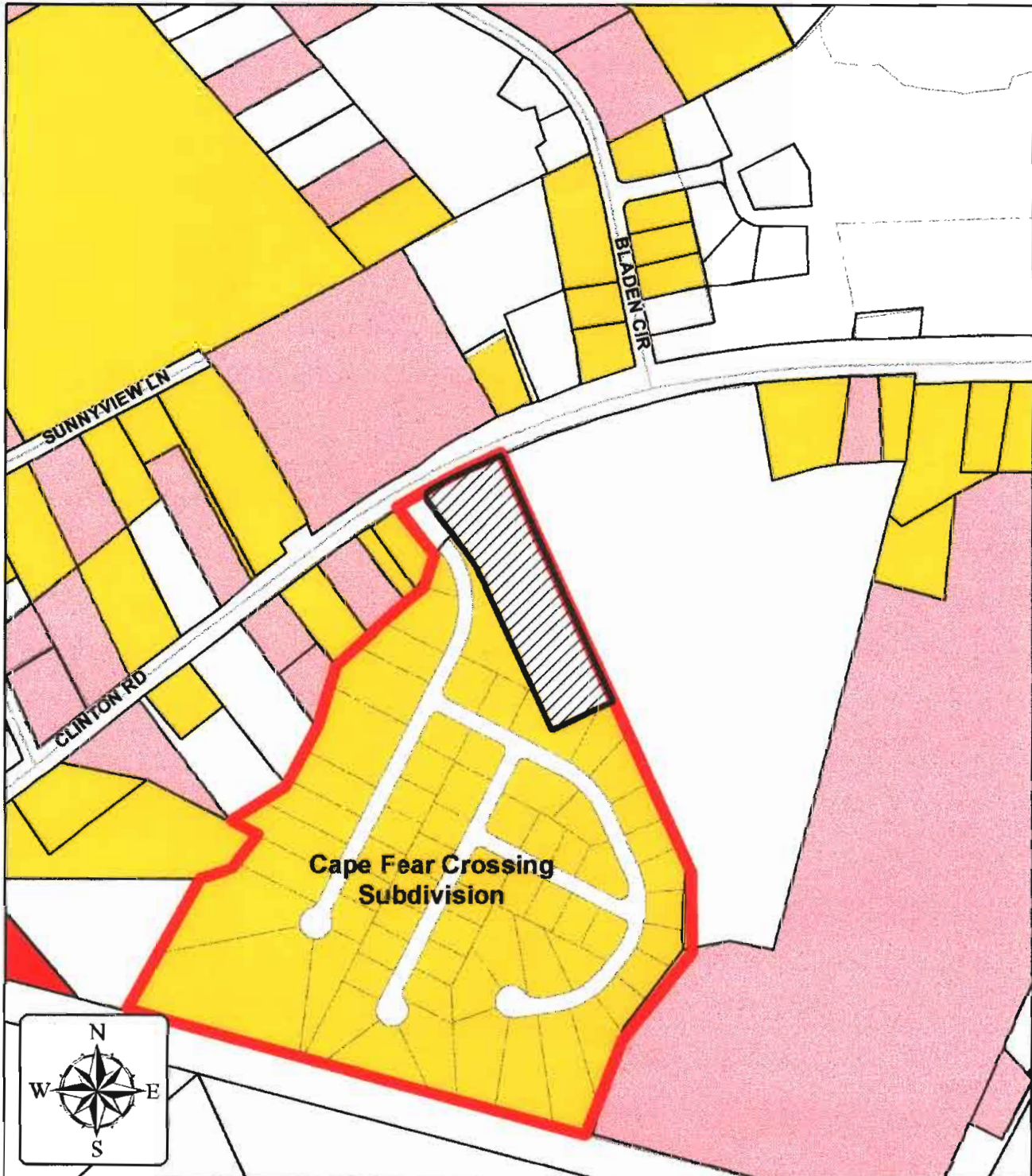
Recommendation: _____
Final Action: _____

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

000048

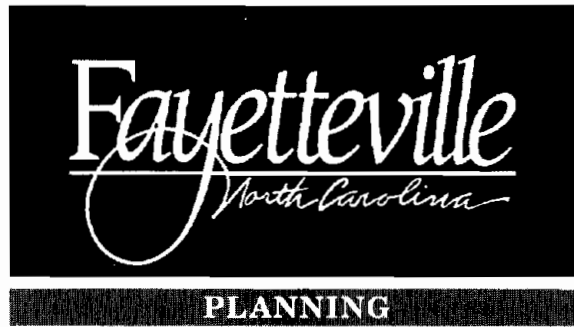
Current Land Use

P09-15F



Legend

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



**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
APRIL 14, 2009- 7:00 P.M.**

MEMBERS PRESENT

Pete Paoni
Richard West
John Crawley
Lockett Tally

MEMBERS ABSENT

Jeannie Nelson

OTHERS PRESENT

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

The meeting was called to order at 7:00 p.m.

I. APPROVAL OF AGENDA

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

II. APPROVAL OF THE MINUTES FROM THE MARCH 10, 2009 MEETING

Mr. West made a motion to approve the minutes from the March 10, 2009 meeting. Mr. Crawley seconded the motion. A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

D. Case No. P09-15F. The rezoning from AR Residential District to R10 Residential District for future single-family dwellings on property located at the southeast corner of Clinton Road and Burlington Drive. Containing 4.225 acres more or less and being the property of Floyd Properties and Development Co., Inc.

Mr. Harmon provided a brief overview of the request including maps, pictures, surrounding land uses, and the 2010 land use plan's recommendation which calls for a suburban density residential use. Mr. Harmon stated that the Planning Department mailed out 25 letters to property owners with 750 feet of the project. Mr. Harmon stated that water and sewer are available to the property.

Mr. Harmon asked if there were any questions of staff.

Mr. West asked if this was the same area with the drainage issues. Mr. Teal responded that this was not the same location with the drainage issue from the past. Mr. Teal stated that property was about 100 acres off LA Dunham Road.

Mr. Paoni asked about the zoning in the county, stating that the east side of the tract is in the county and is zoned Rural Residential. Mr. Teal explained that the county's Rural Residential is the same as the City's Agricultural Residential.

The public hearing was opened.

Mr. Kizer spoke in favor of the request. Mr. Kizer stated that he was present on behalf of Mr. Floyd who was unable to attend the meeting. Mr. Kizer stated that in 2007 when Mr. Floyd recorded the plat for Cape Fear Crossings, the current tract of land requesting rezoning was not in the City limits.

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

The public hearing was closed.

Mr. Harmon stated that it was Planning Staff's recommendation is to approve the request of R10 Residential district.

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

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

Mr. Teal stated this case will be heard by City Council on May 26th as a consent item unless someone appeal's the decision of the Zoning Commission.



TO: Mayor
City Council Members
City Manager
City Attorney

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

Location	1912 Armstrong Street
Property Owner(s)	R & A Homes, Inc., Delton Creech, Registered Agent, Tarboro, NC
Date of Inspection	December 10, 2008
Date of Hearing	January 12, 2009
Finding/Facts of Scheduled Hearing	Notice to repair/demolish the structure within 60 days mailed January 22, 2009
Owner's Response	None
Appeal Taken (Board of Appeals)	No
Other	Utilities disconnected since December 2008
Police Calls for Service (past 2 yrs)	52

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

This is the 26th day of May, 2009.

Frank Lewis, Jr.

Sr. Code Enforcement Administrator (Housing)

000052

ITEM 2, J. 1.

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

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

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

The City Council finds the following facts:

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

1912 Armstrong Street
PIN 0428-84-6652

Known as 1912 Armstrong Street, Fayetteville, NC. Being all of Lot 119 and 120, in a subdivision known as Council Heights, according to plat of same duly recorded in Book of Plats 11, Page 32, Cumberland County Registry, North Carolina. Being the identical lot conveyed to Alpine Properties, LLC by deed from Webb Builders, LLC dated August 30, 2002, recorded in Deed Book 5840, Page 809 of the Cumberland County Registry.

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

R & A Homes, Inc.
Delton Creech, Registered Agent
806 Saint David Street
Tarboro, NC 27886

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before March 13, 2009.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.
- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:

None.

- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$1,800.00 shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

SECTION 1

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

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

SECTION 2

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

SECTION 3

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

Adopted this _____ day of _____, 2009.

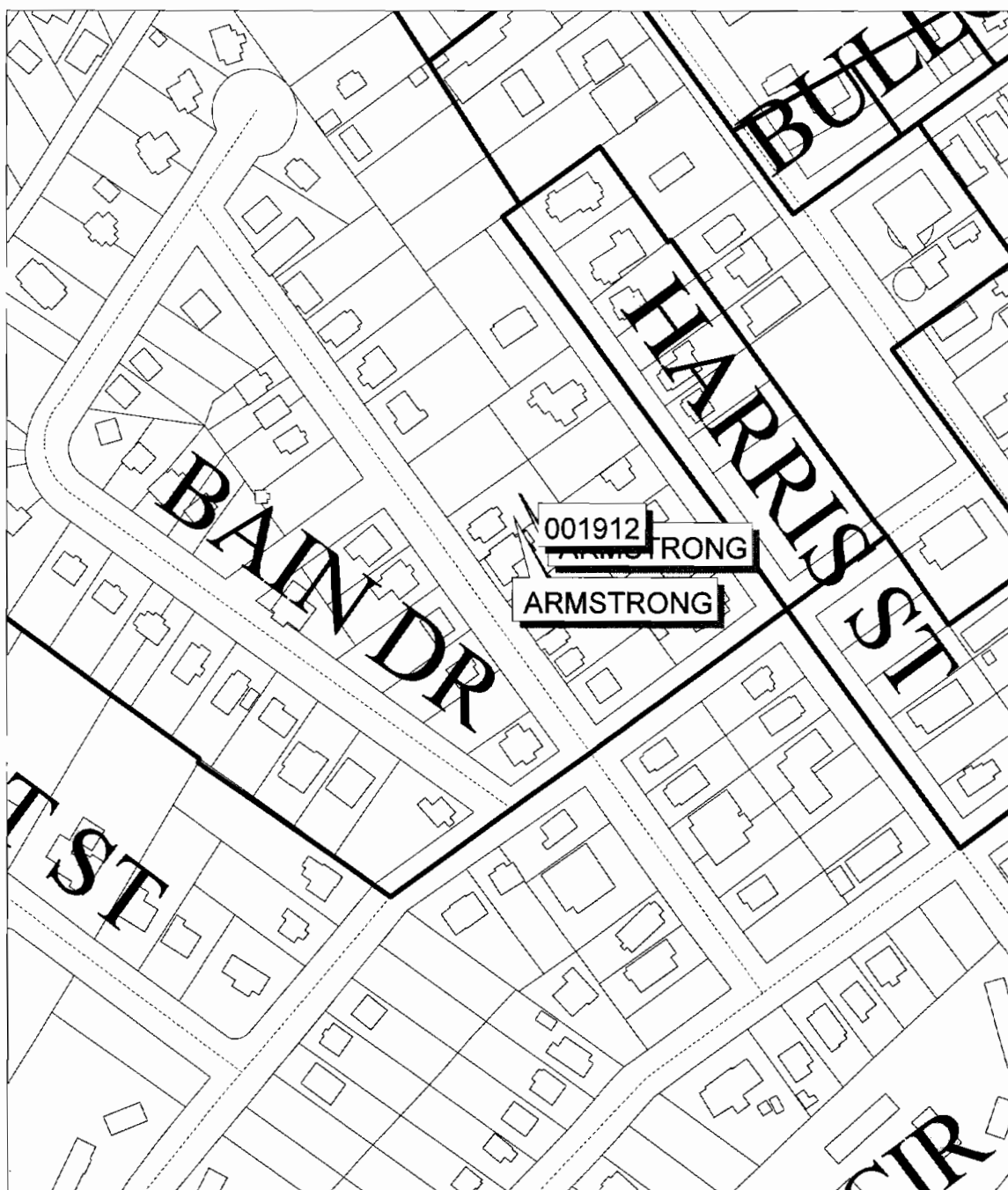
CITY OF FAYETTEVILLE

BY: _____
Anthony Chavonne, Mayor

ATTEST:

Candice White, City Clerk

City Of Fayetteville Inspections Department



Legend



Streets



Zoning



Parcels

Text

Street Name



Group Homes

000055



TO: Mayor
City Council Members
City Manager
City Attorney

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

Location	2721 Colgate Drive
Property Owner(s)	Manos R. Dutton, Fayetteville, NC
Date of Inspection	December 15, 2008
Date of Hearing	January 26, 2009
Finding/Facts of Scheduled Hearing	Notice to repair/demolish the structure within 60 days mailed January 27, 2009
Owner's Response	Owner obtained permit February 26, 2009, but no repairs have been made.
Appeal Taken (Board of Appeals)	No
Other	Utilities disconnected since December 2008
Police Calls for Service (past 2 yrs)	2

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

This is the 26th day of May, 2009.

Frank Lewis, Jr.

Sr. Code Enforcement Administrator (Housing)

000056
433 HAY STREET

FAYETTEVILLE, NC 28301-5537
www.cityoffayetteville.org
An Equal Opportunity Employer

ITEM 2, J. 2.

INSPECTIONS: (910) 433-1707
PLANNING (910) 433-1612

ZONING: (910) 433-1705
HOUSING: (910) 433-1706

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

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

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

The City Council finds the following facts:

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

2721 Colgate Drive
PIN 0426-35-5165

Lot #68, Section 1, Briarwood Hills, as per plat of same duly recorded in Plat Book 26, Page 43, Cumberland County Registry. For reference to title see deed dated August 31, 1962, from Savoy Realty Company to Briarwood Hills, Inc., recorded in Book 951, page 403, Cumberland County Registry. This lot is subject to Restrictive Covenants contained in that certain instruments dated October 31, 1962, and recorded in Book 953, Page 209, Cumberland County Registry. It is further understood and agreed that the party of the second part, agree and assume and pay off that certain deed of trust to Home Federal Savings and Loan Association in the original amount of \$20,000.

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

Manos R. Dutton
2721 Colgate Drive
Fayetteville, NC 28304-3712

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before March 27, 2009.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.

- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:
- None.
- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$2,400.00 shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

SECTION 1

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

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

SECTION 2

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

SECTION 3

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

Adopted this _____ day of _____, 2009.

CITY OF FAYETTEVILLE

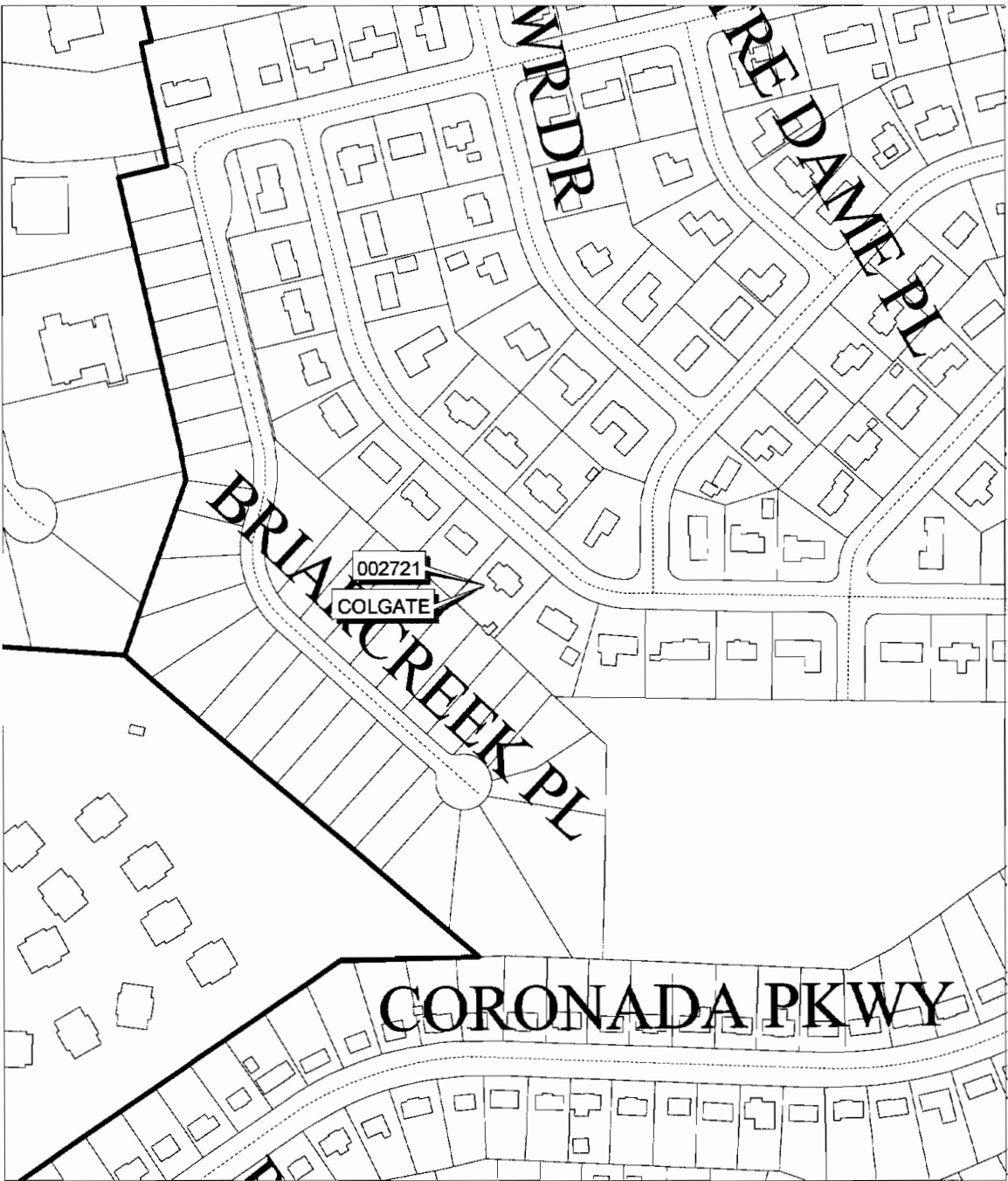
BY: _____
Anthony Chavonne, Mayor

ATTEST:

Candice White, City Clerk

000058

City Of Fayetteville Inspections Department



Legend



Streets



Zoning



Parcels

Text

Street Name



Group Homes



TO: Mayor
City Council Members
City Manager
City Attorney

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

Location	711 Ellis Street
Property Owner(s)	William Edward Murphy, Jr.
Date of Inspection	November 6, 2008
Date of Hearing	November 17, 2008
Finding/Facts of Scheduled Hearing	Notice to repair/demolish the structure within 60 days mailed November 20, 2008
Owner's Response	None
Appeal Taken (Board of Appeals)	No
Other	Utilities disconnected since June 2006
Police Calls for Service (past 2 yrs)	2

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

This is the 26th day of May, 2009.

Frank Lewis, Jr.

Sr. Code Enforcement Administrator (Housing)

ITEM 2. J. 3.

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

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

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

The City Council finds the following facts:

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

711 Ellis Street
PIN 0437-23-4098

TRACT NO. 1. In the city of Fayetteville, being lot No. 19 as per plat of the Fayetteville Development Company property, registered in Book Y, No. 6, page 340, in the office of the Register of Deeds for Cumberland County, being described as follows: BEGINNING at a point on the Turnpike Road 151 feet West of the Western margin of McIver Street, being the N.W. corner of lot No. 9, and running thence with the Western of lots Nos. 9 and 4, south 6 degrees W 143 feet to the Northern line of lot No. 5 and being the S.W. corner of lot No. 4, and running thence with the Northern line of lot No. 5. N. 64 degrees 30' West 47 ½ feet to the South east corner of lot No. 11, thence with the Eastern line of lot No. 11, North 6 degrees East 128 feet to the Turnpike Road; thence with said road South 84 degrees East 45 feet to the beginning. See Deed from William S. Leach to Charles A. Waddell, dated April 3, 1914, in Book O #8, page 228 in Cumberland County Registry.

TRACT NO. 2 BEGINNING at a stake in the South margin of Vanstory Street 200 feet from the Northeast corner of the main tract of which this is a part, and runs thence S 7 E 161 and 8/10 feet to a stake; thence S 84-15 W 50 feet to a stake; thence N 7 W 16C and 7/10 feet to a stake in the Southern margin of Vanstory Street; thence with said Street margin N 83-degrees E 50 feet to the beginning, being Lot No. 5 in the subdivision of the Nathan-Cain Tract. See Deed from R.H. Campbell and wife, to Charles A. Waddell dated April 8, 1914, in Book O#8, page 227, Cumberland County Registry.

TRACT NO. 3 BEGINNING at a stake on the S.E. corner of Robeson Street and runs in a direct line E 196 feet with P.N. Melchors line, to a stake in Boones line, thence in a direct line N 40 feet with Boones line to a stake at the intersection of Boones and Stewarts line, thence in a direct line W 196 feet with Stewarts line to a stake on the Eastern margin of Robeson Street; thence S 40 feet with the Eastern margin of Robeson

Street to the beginning. See Deed from P.N. Melchor and Sarah Melchor to Charles A. Waddell, dated February 20, 1905, in Book Z #5, page 434, Cumberland County Registry.

TRACT NO. 4 BEGINNING at the West corner of lot No. 2 and runs West 120 feet to a lot No. 4; thence South 72 feet thence East 120 feet to S.W. corner of lot No. 2; thence North to the beginning corner, being Lot No. 3 in a division of lots on lands of Nathan A Cain situated on Hatwood Ave an Cool Spring Streets. See Deed from R.H. Campbell and wife to Charles A. Waddell, dated February 23, 1916, in Book C #9, page 204, Cumberland County Registry.

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

William Edward Murphy, Jr.
PO Box 532
Fayetteville, NC 28302

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before January 16, 2009.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.
- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:

None.
- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$2,200.00 shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

SECTION 1

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

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

SECTION 2

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

SECTION 3

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

Adopted this _____ day of _____, 2009.

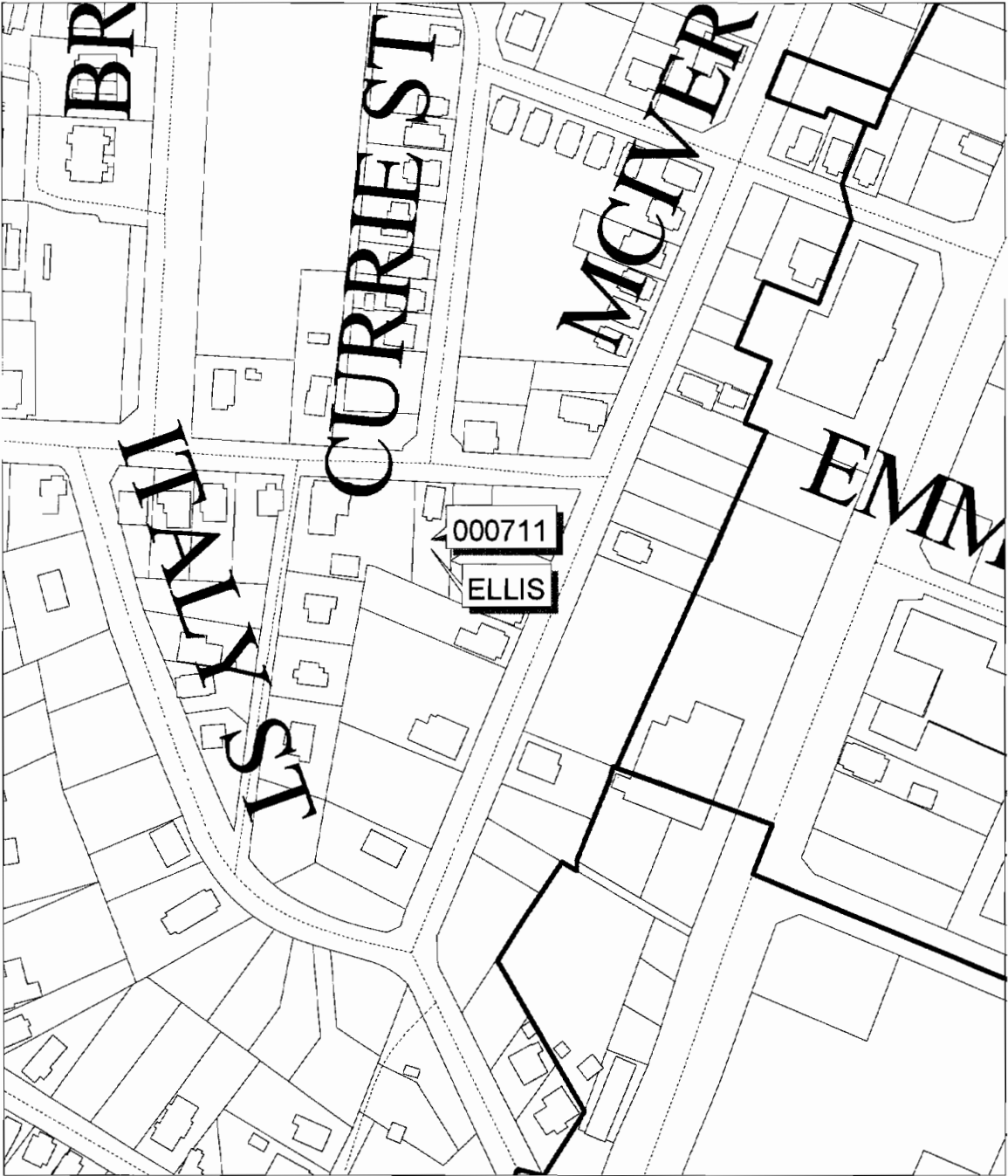
CITY OF FAYETTEVILLE

BY: _____
Anthony Chavonne, Mayor

ATTEST:

Candice White, City Clerk

City Of Fayetteville Inspections Department



Legend

- | | | | | | |
|---|-------------|---|-------------|---|---------|
|  | Streets |  | Zoning |  | Parcels |
| Text | Street Name |  | Group Homes | | |



TO: Mayor
City Council Members
City Manager
City Attorney

AD

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

Location	233 McIver Street
Property Owner(s)	Raymond L. Anders, Heirs, Leesburg, FL
Date of Inspection	November 3, 2008
Date of Hearing	December 24, 2008 (hearing advertised in the Fayetteville Observer)
Finding/Facts of Scheduled Hearing	Notice to repair/demolish the structure within 60 days mailed December 29, 2008
Owner's Response	None
Appeal Taken (Board of Appeals)	No
Other	Utilities disconnected since February 2006
Police Calls for Service (past 2 yrs)	5

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

This is the 26th day of May, 2009.

Frank Lewis, Jr.

Sr. Code Enforcement Administrator (Housing)

000065

433 HAY STREET

FAYETTEVILLE, NC 28301-5537

www.cityoffayetteville.org

An Equal Opportunity Employer

ITEM 2. J. 4.

INSPECTIONS: (910) 433-1707

PLANNING: (910) 433-1612

ZONING (910) 433-1705

HOUSING: (910) 433-1706

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

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

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

The City Council finds the following facts:

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

233 McIver Street
PIN 0437-33-0884

Tract I:

A certain tract of land in Cumberland County designated as Lot #2 and described as follows: BEGINNING at a stake in the eastern boundary of McIver St. and said stake being 40 feet south of the intersection of the eastern boundary of McIver St., and the southern boundary of the Merrick property and runs thence 3 23 degrees 30 minutes West for a distance of about 40 feet along the eastern boundary of McIver St. to a stake; thence South 67 degrees 52 minutes East for a distance of about 126.6 feet to a stake; thence North 27 degrees 59 minutes East for a distance of about 40.2 feet to a stake; thence North 67 degrees 52 minutes West for a distance of about 129.8 feet to the point of beginning. This lot is a subdivision of lot transferred from J. R. Tolar and wife, to J. C. Jackson, recorded in Book U 5, Page 21, in the Office of the Register of Deeds of Cumberland County, North Carolina. For history of title see deed recorded in Book 273, Page 483, Cumberland County Registry.

Tract II:

A certain tract of land in Cumberland County and designated as Lot #3 and described as follows: BEGINNING at a stake in the eastern boundary of McIver St., said stake being 80 feet south of the intersection of the eastern boundary of McIver St. and the southern boundary of the Merrick property: runs thence Southern 23 degrees 30 minutes West for a distance of about 40 feet along the eastern boundary of McIver St. to a stake; thence South 67 degrees 52 minutes East for a distance of about 123.4 feet to a stake thence North 27 degrees 59 minutes East for a distance of 40.2 feet to the point of beginning. Said lot is a subdivision of lot transferred from J. R. Tolar and wife, to J. C. Jackson, recorded in Book U 5, at Page 21 and transferred from Margaret T. Jackson to W. C. Trey and wife, recorded in Book J #5, page 468, records of the Register of Deeds of Cumberland County, North Carolina. For history of title see Deed recorded in Book 273, at page 483, Cumberland County Registry.

Tract III:

Being known and designated as Lot No. 5 and described as follows: Beginning at a stake in the eastern boundary of McIver St. said stake being 160 feet South of the intersection of the Eastern boundary of McIver St and the southern boundary of the Merrick property and runs thence South 23 degrees 30 minutes West for a distance of 40 feet along the said eastern boundary of McIver St to a stake; thence South 67 degrees 52 minutes East for a distance of 117 feet to a stake; thence North 27 degrees 59 minutes East for a distance of 40.2 feet to a stake; thence North 67 degrees 52 minutes West for a distance of 120.2 feet to the point of beginning, said lot being a subdivision of Lot transferred from Margaret T. Jackson to W. C. Troy and wife, recorded in Book J, Number 5, Page 468. Said lot number 5 is one of two lots conveyed by Fayetteville Insurance and Realty Company to John Henry Young and wife, Annie Jane Young which conveyance is recorded in Book 273, Page 133, Cumberland County Registry. For history of title see Deed recorded in Book 558, Page 260, Cumberland County Registry.

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

Raymond L. Anders, Heirs
Robert S. & Wanda R. Hawes
Freeman Hawes
Heirs of Mary Joe
Mattie L. Edwards
Heirs of Lula Harris
Heirs of Ernest Cunion
Helen Cunion
26601 Bull Run
Leesburg, FL 34748-1240

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before February 22, 2009.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.
- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:

None.
- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$1,100.00 shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

SECTION 1

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

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

SECTION 2

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

SECTION 3

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

Adopted this _____ day of _____, 2009.

CITY OF FAYETTEVILLE

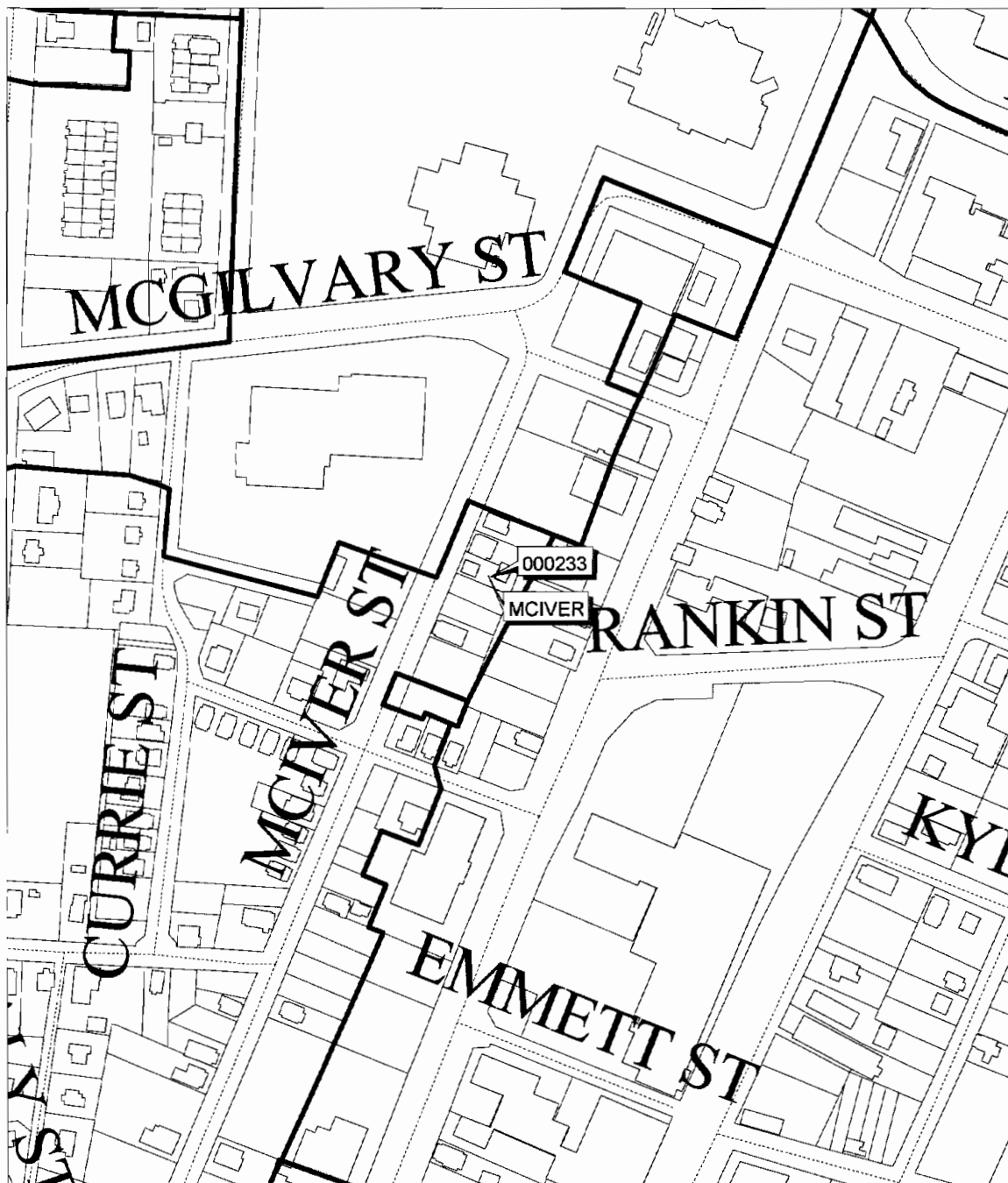
BY: _____
Anthony Chavonne, Mayor

ATTEST:





Candice White, City Clerk

000068

City Of Fayetteville Inspections Department



Legend

	Streets		Zoning		Parcels
Text	Street Name		Group Homes		

000069



TO: Mayor
City Council Members
City Manager
City Attorney

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

Location	412 McIver Street
Property Owner(s)	Irvin Broadie, Jr., Life Estate Only, Steven I. Broadie, Fayetteville, NC
Date of Inspection	October 16, 2008
Date of Hearing	December 24, 2008 (Advertised in the Fayetteville Observer)
Finding/Facts of Scheduled Hearing	Notice to repair/demolish the structure within 60 days mailed December 29, 2008
Owner's Response	None
Appeal Taken (Board of Appeals)	No
Other	Utilities disconnected since February 2007
Police Calls for Service (past 2 yrs)	3

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

This is the 26th day of May, 2009.

Frank Lewis, Jr.

Sr. Code Enforcement Administrator (Housing)

000070

ITEM 2, J. 5.

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

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

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

The City Council finds the following facts:

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

412 McIver Street
PIN 0437-22-5909

Being all of Lot 5 of the Fayetteville Development Company property according to a Plat of same duly recorded in Book of Plats 151, page 340, Cumberland County Registry. Grantor to reserve a life estate until his death at which time the property will automatically revert to the grantee, Steven Broadie.

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

Irvin Broadie, Jr., Life Estate
Steven I. Broadie
412 McIver Street
Fayetteville, NC 28301-5440

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before February 22, 2009.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.
- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:

None.

- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$2,300.00 shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

SECTION 1

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

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

SECTION 2

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

SECTION 3

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

Adopted this _____ day of _____, 2009.

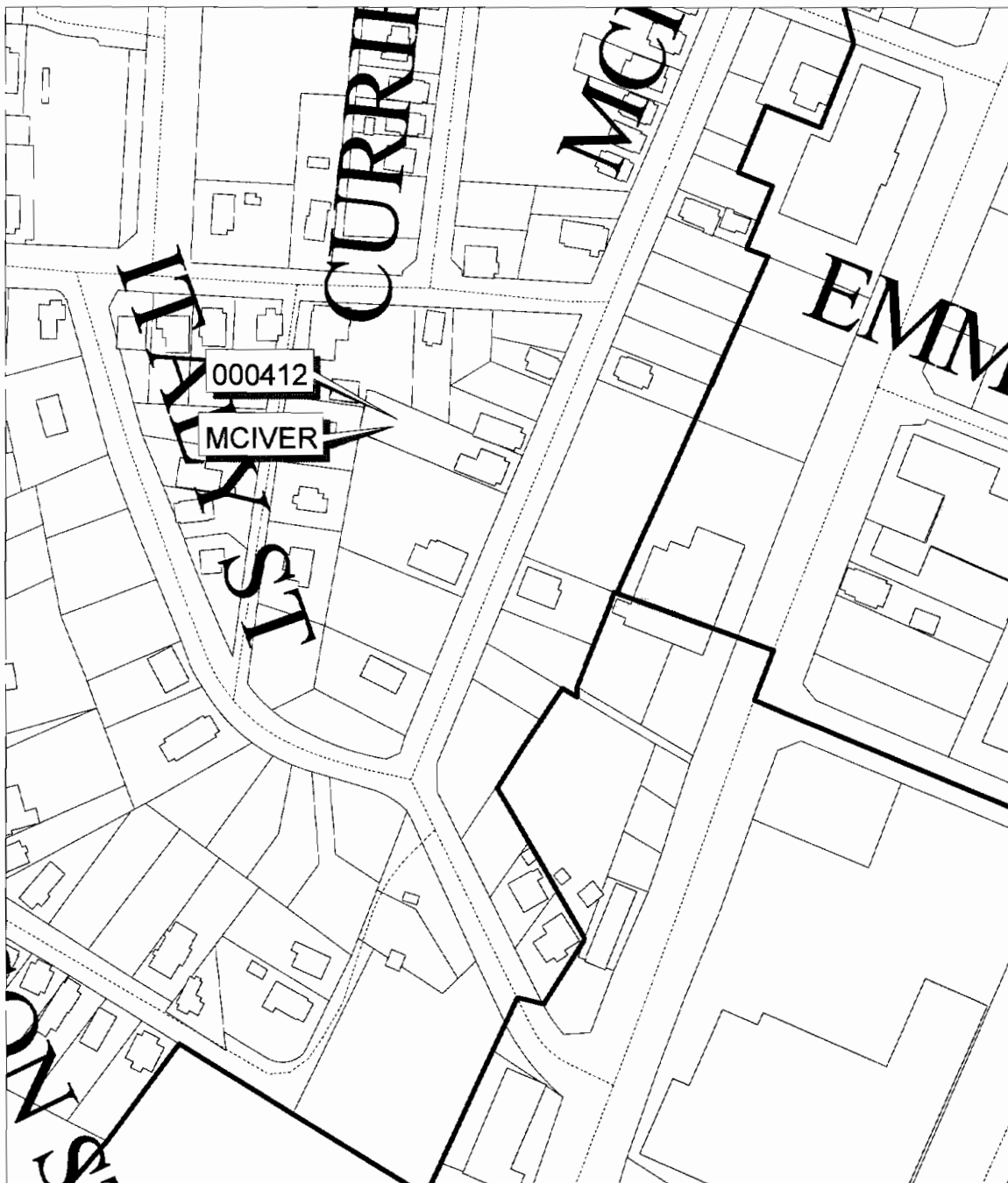
CITY OF FAYETTEVILLE

BY: _____
Anthony Chavonne, Mayor





ATTEST:

Candice White, City Clerk

City Of Fayetteville Inspections Department



Legend

	Streets		Zoning		Parcels
Text	Street Name		Group Homes		

000073



TO: Mayor
City Council Members
City Manager
City Attorney

10

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

Location	604 Wilma Street
Property Owner(s)	Eula Mae Graham, Willie Donnell Dancy, Lemon Jefferson Dancy, Fayetteville, NC
Date of Inspection	July 3, 2007
Date of Hearing	November 12, 2008 (Advertised in the Fayetteville Observer)
Finding/Facts of Scheduled Hearing	Notice to repair/demolish the structure within 60 days mailed November 13, 2008
Owner's Response	None
Appeal Taken (Board of Appeals)	No
Other	Utilities disconnected since May 2006
Police Calls for Service (past 2 yrs)	42

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

This is the 26th day of May, 2009.

Frank Lewis, Jr.

Sr. Code Enforcement Administrator (Housing)

ITEM 2, J. 6.

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

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

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

The City Council finds the following facts:

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

604 Wilma Street
PIN 0438-08-4157

BEGINNING at a point in the Northeast corner of a tract of land heretofore conveyed to Katherine Dancy by William Henry Whitted and wife, Bessie Mae Whitted, on April 5, 1971, said beginning point being in the western margin of a Street as yet unnamed, and running thence North 79 degrees West 194' to a point; thence S 11 degrees West 30' to a point, a new corner; thence South 79 degrees E 194.46' to a point in the Western margin of said street, thence with the Western margin of said Street North 11 degrees East 30 feet to the beginning, and being a part of lot number 4 in the subdivision of plats registered in Book of Plats #15, Page #12, in the office of the Register of Deeds for Cumberland County, North Carolina.

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

Eula Mae Graham
Willie Donnell Dancy
Lemon Jefferson Dancy
6712 Interban Drive
Fayetteville, NC 28314

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before January 11, 2009.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.

- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:
- None.
- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$1,200.00 shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

SECTION 1

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

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

SECTION 2

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

SECTION 3

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

Adopted this _____ day of _____, 2009.

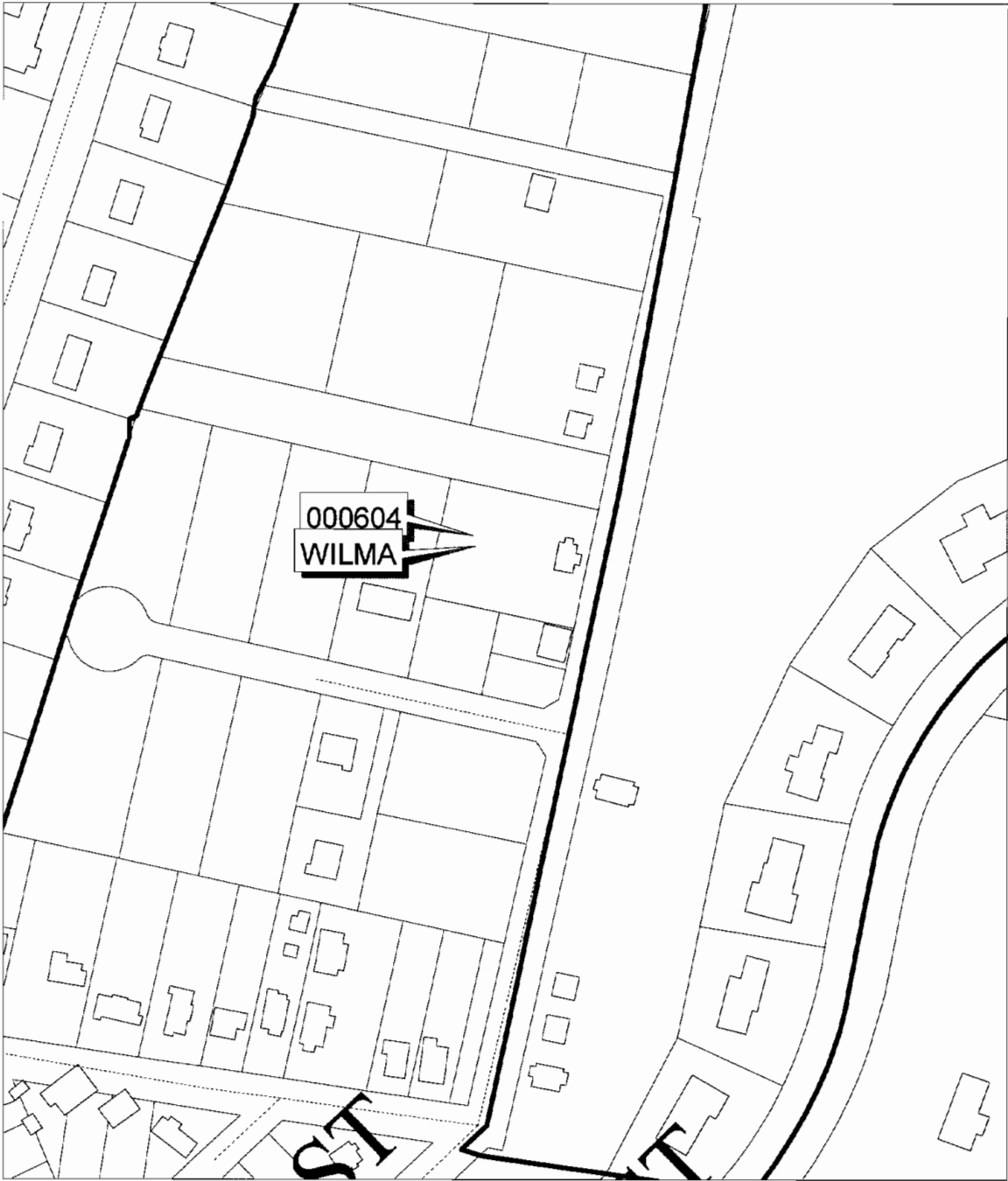
CITY OF FAYETTEVILLE

BY: _____
Anthony Chavonne, Mayor





ATTEST:

Candice White, City Clerk


City Of Fayetteville Inspections Department



Legend

	Streets		Zoning		Parcels
Text	Street Name		Group Homes		

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Lisa Smith, Chief Financial Officer 
Date: May 26, 2009
Re: Public Hearing on the Fiscal Year 2009-2010 Recommended Budget

THE QUESTION: This public hearing has been set to receive comments regarding the recommended budget for fiscal year 2009-2010.

RELATIONSHIP TO STRATEGIC PLAN:

Mission Principles: Financially sound city government; full range of quality municipal services; and services delivered in a cost effective manner.

BACKGROUND:

- The Fiscal Year 2009-2010 Recommended Budget was presented to City Council on May 4, 2009 and the document, along with the PWC's recommended budget, has been made available for public inspection at the office of the City Clerk and on the city website.
- This public hearing is required to comply with the Local Government Budget and Fiscal Control Act.

ISSUES: None

OPTIONS: None

RECOMMENDATIONS: Public input only. No action required.

CITY COUNCIL ACTION MEMO

To: Mayor and City Council
Thru: Jeffrey Powell, Assistant City Manager *JP 5/19/09*
From: Bobby B. Teague, Director of Engineering & Infrastructure *BBT*
Date: May 26, 2009
Re: Consider adoption of amendments to Articles I and II in Chapter 23, Stormwater Management, of the City Code of Ordinances and related documents

THE QUESTION:

- Following a public hearing on the matter, Council is asked to adopt amendments to Articles I and II in Chapter 23 of the City Code of Ordinances. These amendments are necessary due to the withdrawal of Cumberland County from the Joint Stormwater Utility. The City of Fayetteville now needs to have a separate Stormwater Management Ordinance that does not include the County. Council is also asked to approve a Resolution setting the City's Stormwater Fee (\$3.00 per month per ERU), and a Schedule of Fines and Civil Penalties for violators of the ordinance.

RELATIONSHIP TO STRATEGIC PLAN:

- Stormwater Management

BACKGROUND:

- The City & County currently provide stormwater services through a joint stormwater utility.
- Beginning July 1, 2009 the County will no longer be required by the State to meet Phase I regulations as mandated under our NPDES stormwater permit and has decided to withdraw from the utility.
- Since our current ordinance was originally a County ordinance, and the City adopted the same ordinance, the City now needs to amend the City's ordinance to provide for a city stormwater utility.
- We also need to set our own rate and establish a schedule of fines and civil penalties.
- Article III of Chapter 23 is the Stormwater Control ordinance that was adopted in 2008. No changes are proposed in it.

ISSUES:

- Most of the changes proposed are simply to remove references to the County and to address everything as City only including the formation of a new five-member City Stormwater Advisory Board.
- A fee of \$3.00 per month per ERU is proposed. This amount represents no change in the stormwater fee being the equivalent to the sum of the current \$1.00 and \$2.00 fees.
- The schedule of fines and civil penalties is the same as the current schedule originally adopted by the County.

OPTIONS:

- Adoption of the ordinance amendment, the resolution setting rates, and the schedule of fines and civil penalties.
- Revise then adopt some or all of these documents.
- Deny the adoption of the documents.

RECOMMENDATIONS:

- Staff recommends that Council adopt (1) the attached ordinance amendment and direct staff to format the amendment consistent with Section 1-6 of the City Code, (2) the attached resolution setting rates, and (3) the schedule of fines and civil penalties, all with an effective date of July 1, 2009.

000079

ITEM 3. B.

Please note the following is not the entire chapter. Amendments are being made to Article I and Article II by deleting the same in its entirety and substituting with the following new Article I and Article II.

ARTICLE I. STORMWATER MANAGEMENT UTILITY

Sec. 23-1. Findings.

The City Council of Fayetteville, North Carolina makes the following findings:

(a) Chapter 160A, Article 16 of the North Carolina General Statutes, authorizes the City to acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types.

(b) The establishment of a stormwater management utility that would be accounted for as a separate enterprise fund and would facilitate the provision of a stormwater management program is reasonable and in the public interest.

(c) North Carolina General Statute § 160A-314 authorizes the City to establish and revise, from time to time, a schedule of rates and charges to fund the stormwater management program activities including both structural and natural stormwater conveyance and drainage system services provided by the stormwater management utility.

Sec. 23-1.1. Article Designation.

This article may be cited as the Stormwater Management Utility Ordinance of the City of Fayetteville.

Sec. 23-1.2. Purpose.

A Stormwater Management Utility is hereby created as an identified fiscal and accounting fund for the purpose of comprehensively addressing the stormwater management needs of the City. The City's stormwater management needs are met herein (1) through programs designed to protect and manage water quality and quantity by controlling the level of pollutants in stormwater runoff, and the quantity and rate of stormwater received and conveyed by structural and natural stormwater and drainage systems of all types, (2) by establishing a schedule of charges, (3) by defining the control, collection, and disbursement of funds, and (4) by setting forth penalties, methods of appeals and exemptions.

Sec. 23-2. Definitions.

As used in this article, unless the context clearly indicates otherwise, the following definitions shall apply.

Credits. Credit shall mean on-going reductions in the stormwater service charge applicable to a given property in recognition of on-site or off-site systems, facilities, measures, and actions taken by customers to reduce or mitigate the impact of their properties or actions on the peak rate of stormwater runoff from the site or the pollutant loadings of stormwater runoff from the site. Credits shall be based on their impact on the utility's long-term cost of providing services and facilities, not on the cost to the customer of acquiring, designing, building, operating, maintaining, or performing measures or actions to attain a credit. Credits shall be conditioned on the continuing performance of the systems, facilities, measures, or actions in reference to standards adopted by the utility upon which the credits are granted, and may be revised or rescinded. In no case shall credits exceed the amount of the stormwater service charge.

Customer. Customer shall mean the person or firm to which a bill for stormwater service charges is sent.

Detached single-family residential. Detached single-family residential shall mean developed land containing one (1) structure which is not attached to another dwelling unit and which contains one (1) or more rooms with a bathroom and kitchen facilities designed for occupancy by one (1) family and shall include single family houses, single duplex units under common ownership, manufactured homes, and mobile homes located on individual lots or parcels of land and residential condominium and townhouse units. Developed land may be classified as 'detached single-family residential' despite the presence of incidental structures associated with residential uses such as garages, carports or small storage buildings. 'Detached single-family residential' shall not include developed land containing: structures used primarily for non-residential purposes; manufactured homes and mobile homes located within manufactured home or mobile home parks; or other multiple unit properties.

Developed land. Developed land shall mean property altered from a natural state that contains impervious surface, and includes improved land without structures and land on which improvements are under construction.

Equivalent residential unit. For the purposes of this ordinance, an Equivalent Residential Unit shall mean two thousand two hundred sixty-six (2,266) square feet of impervious surface, which is the average amount of impervious surface within and/or on an average single family property in the service area.

Exemption. Exemption shall mean not applying to or removing the application of the stormwater utility service charge from a property. No permanent exemption shall be granted based on taxable or non-taxable status or economic status of the property owner. An exemption may be granted based on agreements between the City and other persons, governmental and non-governmental entities, and organizations whereby they provide approved Best Management Practices and perform on-site and/or off-site stormwater quantity management, including acquiring, designing, building, operating, and maintaining systems and facilities, and performing measures and actions or other best management practices which equal or exceed the stormwater

utility guidelines. Exemptions may be removed or rescinded at any time by the stormwater utility.

Impervious surface area. Impervious surfaces shall mean those areas within developed land which prevent or significantly impede the infiltration of stormwater into the soil. Common impervious surfaces include, but are not limited to, roof tops, sidewalks, walkways, patio areas, roads, driveways, parking lots, storage areas, brick or concrete pavers, and other surfaces which prevent or significantly impede the natural infiltration of stormwater into the soil.

Other properties. Other properties shall mean any developed land not fitting the definition of detached single-family residential. 'Other properties' shall include, but not be limited to, attached single-family houses, nonresidential townhouses and condominiums, apartments, boarding houses, hotels and motels, churches, commercial properties which include dwelling units, manufactured home or mobile home parks, commercial and office buildings, storage areas, parking lots and other impervious areas, parks, recreation properties, public and private schools and universities, hospitals and convalescent centers, office buildings, airports, agricultural uses involving impervious surfaces, water reservoirs, and water and wastewater treatment plants. Real properties which are used for other than single-family residential use located in single-family residential structures or duplexes shall be deemed other properties for the purpose of calculating the stormwater service charge. The definition of 'other properties' shall be broadly construed such that any property having areas of impervious coverage shall be subject to the stormwater service charge unless otherwise provided.

Service charge. Service charge shall mean the stormwater service charges applicable to a parcel of developed land which is generally reflective of a parcel's allocable portion of or impact on the cost of providing stormwater utility services and facilities as authorized or provided for herein. The service charge will vary from one parcel of developed land to another based upon the amount of impervious surfaces.

Stormwater. Stormwater shall mean the runoff from precipitation that travels over natural or developed surfaces to the nearest stream, other conduit, or impoundment and appears in lakes, rivers, ponds, or other bodies of water.

Stormwater advisory board. Stormwater advisory board shall mean the citizens' advisory board established by this chapter.

Stormwater management program. Stormwater management program shall mean programs designed to protect, restore, or manage water quality by controlling, reducing, or managing the level of pollutants in, and controlling, reducing, or managing the velocity, volume, and peak flow of, stormwater.

Stormwater manager. Person designated by the City to manage stormwater services and who is charged with certain duties and responsibilities by this Ordinance, or that person's duly authorized representative.

Stormwater services. Stormwater services shall mean that organization including its employees as well as other designated personnel that is responsible for implementing the City Stormwater Management Program.

Stormwater system or storm sewer system. Stormwater system or storm sewer system shall mean the system of natural and constructed devices for collecting and transporting stormwater. It includes, but is not limited to, lakes, ponds, rivers, creeks, open ditches, catch basins, pipes, sewers, drains, culverts, and other stormwater management facilities.

Stormwater utility. Stormwater utility shall mean the stormwater utility created hereby, including a management structure that shall be responsible solely and specifically for the stormwater management program and system and that is supported through the stormwater utility service charge authorized herein and, if applicable, other general fund appropriations, grants and other revenues appropriated therefore.

Undeveloped land. Undeveloped land shall mean land that does not meet the definition of developed land.

Sec. 23-3. Establishment of a stormwater management utility and enterprise fund.

(a) There is hereby established a stormwater management utility within the Engineering and Infrastructure Department which shall be responsible for stormwater management programs throughout the City, and which shall provide for the management, protection, control, regulation, use, and enhancement of stormwater systems and facilities.

(b) There is hereby established a stormwater enterprise fund in the City budget and accounting system for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the stormwater management utility, including but not limited to rentals, rates, charges, fees, and licenses as may be established by the City Council and other funds that may be transferred or allocated to the stormwater management utility. All revenues and receipts of the stormwater management utility shall be placed in the stormwater enterprise fund and all expenses of the utility shall be paid from the stormwater enterprise fund, except that other revenues receipts, and resources not accounted for in the stormwater utility enterprise fund may be applied to stormwater management programs, facilities, operations, and capital investments as deemed appropriate by the City Council.

(c) The City Council hereby transfers to the stormwater management utility (Stormwater Division) operational control over the existing stormwater management programs, systems, and facilities performed, provided, or owned and heretofore operated by the City and other related assets, including but not limited to properties other than roadways upon which such systems and facilities are located, easements, rights-of-entry and access, and certain equipment used solely for stormwater management.

Sec. 23-3.1. Boundaries and jurisdiction.

The boundaries and jurisdiction of the Stormwater Management Utility shall extend to the corporate limits of the City of Fayetteville, including all areas hereafter annexed thereto.

Sec. 23-4. Impervious surface area and equivalent residential unit.

(a) Impervious surface area on a given land parcel directly relates to the volume, rate and pollutant loading of stormwater runoff discharged from that land parcel to the City's structural and natural drainage systems and facilities. Therefore, impervious surface area shall be the parameter for establishing a rate structure to distribute the cost of services associated with the operation, repair, improvement and maintenance of public drainage systems and facilities through a schedule of rates, fees, charges, and penalties related to the operation of a Stormwater Management Utility and Stormwater Management Enterprise Fund as established in Section 23-3.

(b) Based on an analysis by the City upon the enactment of this ordinance of impervious surface area on properties throughout the City, an impervious surface area of 2,266 square feet is hereby designated as one (1) Equivalent Residential Unit (ERU).

Sec. 23-5. Stormwater service charge rates.

Stormwater service charge rates may be determined and modified from time to time by the Fayetteville City Council so that the total revenue generated by said charges and any other sources of revenues or other resources allocated to stormwater management by the City Council to the Stormwater Management Utility shall be sufficient to meet the cost of stormwater management services, systems, and facilities, including but not limited to the payment of principal and interest on debt obligations, operating expense, capital outlays, non-operating expense, provisions for prudent reserves, and other costs as deemed appropriate by the City Council. The following stormwater service charge rates shall apply:

(a) *Detached single-family residential.* Each developed detached single-family residential property shall be billed and shall pay pursuant to the rate established for one (1) Equivalent Residential Unit (ERU).

(b) *Other properties.* All other developed properties having impervious coverage, including but not limited to multi-family residential properties with three or more living units, commercial properties, industrial properties, public and institutional properties, church properties, public and private school properties, and developed vacant properties shall be billed for one (1) ERU for each 2,266 square feet or fraction thereof of impervious coverage on the subject property. There will be no service charge for Other Properties with fewer than 600 square feet of impervious surface.

(c) *Charge per Equivalent Residential Unit (ERU).* The monthly rate per ERU shall be set by Resolution of the Fayetteville City Council and shall be available for public review and inspection in the Office of the Stormwater Utility. The Resolution establishing the monthly service charge for each ERU shall reflect the scope of the stormwater management program to be implemented and/or being implemented during the billing period and the actual overall aggregate

cost of the stormwater utility. The monthly service charge for each ERU may be amended from time to time pursuant to the City's Fee Schedule.

(d) *Other fees and charges.* Other fees and charges may be adopted from time to time by the City Council incidental to the purposes of stormwater utilities as provided in G.S. 160A-314.

Sec. 23-6. Stormwater service charge billing, delinquencies and collections.

(a) *Method of billing.* Billing and collection of the stormwater service charge and any other fees, charges, and penalties for stormwater utility services and facilities may be accomplished in any manner deemed appropriate by the City Manager, including but not limited to, including the service charge with the annual property tax billing, enclosing it with or attaching it to the annual property tax billing, or by a separate billing.

(b) *Delinquencies.* A stormwater utility service charge billing or other billing for fees, charges, and penalties associated with the stormwater utility shall be delinquent if not paid within 60 days of the date of billing or upon the date of delinquency of the annual property tax billing if the stormwater utility service charge or other billing for fees, charges, and penalties is placed upon the annual property tax billing or enclosed with or attached to the annual property tax billing. A delinquent billing shall accumulate an additional penalty at the rate as established for the interest applicable to delinquent, unpaid property taxes and shall run from the date of the original billing. This penalty shall be termed a delinquency penalty charge.

(c) *Appeal of disputed bills, adjustments.* Any customer who believes the provisions of this Article have been applied in error may appeal in the following manner and sequence:

- (1) An appeal of a stormwater service charge must be filed in writing with the Fayetteville Stormwater Manager within thirty (30) days of the charge being mailed or delivered to the property owner and stating the reasons for the appeal. In the case of stormwater service charge appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions that influence its hydrologic response to rainfall events.
- (2) Using information provided by the appellant, the Stormwater Manager or his designee shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days. In response to an appeal, the Stormwater Manager may adjust the stormwater service charge applicable to the property in conformance with the general purposes and intent of this Ordinance.
- (3) A decision of the Stormwater Manager that is adverse to an appellant may be further appealed to the City Manager or his designee within thirty (30) days of the adverse decision. Notice of the appeal shall be delivered to the City Manager or his designee by the appellant, stating the grounds for further appeal. The City

Manager or his designee shall issue a written decision on the appeal within thirty (30) days. All decisions by the City Manager or his designee shall be served on the customer personally or by registered or certified mail, sent to the billing address of the customer.

- (4) The appeal process contained in this section shall be exhausted before an aggrieved customer may appeal for judicial review or relief. Further appeal shall be filed within thirty (30) days of the date of the service of the decision of the City Manager or his designee.

(d) *No suspension of due date.* No provision of this article allowing for an administrative appeal shall be deemed to suspend the due date of the service charge with payment in full. Any adjustment in the service charge for the person pursuing an appeal shall be made by refund of the amount due.

Sec. 23-7. Exemptions and credits applicable to stormwater service charges.

Except as provided in this Section, no public or private property shall be exempt from stormwater utility service charges or receive a credit or offset against such service charges. No exemption, credit, offset, or other reduction in stormwater service charges shall be granted based on the age, tax, or economic status, race, or religion of the customer, or other condition unrelated to the Stormwater Management Utility's cost of providing Services, Systems, and Facilities. A Stormwater Management Utility Service Charge Credit Manual shall be prepared specifying the design and performance standards of on-site stormwater services, systems, facilities, and activities that qualify for application of a service charge credit, and how such credits shall be calculated.

(a) *Credit for mitigation measures.* Other properties which provide and maintain measures and/or facilities that mitigate the impact of impervious coverage on the property upon the stormwater systems, facilities, and services provided or to be provided by the stormwater utility shall be eligible for credits, offsets, or exemptions proportional to the extent that those measures and/or facilities reduce the impact of peak rate of stormwater discharge and/or annual pollutant loadings emanating from the subject property. Credits shall be applied only against charges billed to the property under the scope of the stormwater management program in effect during the period of the billing and requested credit. Detached single-family residential properties shall not be eligible for credits, offsets, or exemptions.

(b) *Credit manual.* A Credit Manual which prescribes the basis and the manner of calculating the amount of credits permitted pursuant to this chapter shall be adopted from time to time by the Fayetteville City Council.

(c) *Exemptions.* The following exemptions shall be allowed:

- (1) Improved public road rights-of-way which have been conveyed to and accepted for maintenance by the North Carolina Department of Transportation and are

available for use in common for vehicular transportation by the general public shall be exempt from stormwater service charges.

- (2) Improved public road rights-of-way which have been conveyed to and accepted for maintenance by the City of Fayetteville and are available for use in common for vehicular transportation by the general public shall be exempt from stormwater service charges.
- (3) Railroad rights-of-way used for trackage and related appurtenances shall be exempt from stormwater service charges. However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from stormwater service charges.
- (4) All of that property in the City of Fayetteville that is a part of the Fort Bragg Army federal military facilities shall be exempt from stormwater service charges.

Sec. 23-8. Stormwater advisory board.

(a) *Established.* The City of Fayetteville Stormwater Advisory Board (hereinafter, "the advisory board") is hereby established. The advisory board shall be appointed in the manner set out in subsection (d) of this section.

(b) *Purposes and duties.*

- (1) *Advisory function.* The advisory board shall provide guidance and advice to the City Council pertaining to the stormwater management program, including but not limited to, program activities, functions, systems, management, and funding.
- (2) *Administrative review.* The advisory board shall have the powers and duty to act in all matters relating to the administrative review of any order, requirement, decision or determination made by the Stormwater Manager or other administrative official.

(c) *Required Vote.* The concurring vote of a simple majority of the members of the advisory board present shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of this chapter.

(d) *Appointment, membership.* The advisory board shall consist of five members representing a diverse cross-section of the city and appointed for staggered terms of two years. The City Council appoints members of the advisory board as terms expire and as vacancies in unexpired terms arise. No member of the advisory board shall serve more than two consecutive terms without a period of at least one year intervening between appointments. The chairman and the vice-chairman of the advisory board shall be duly elected by the respective board members. The chairman and the vice-chairman shall be elected to serve in that capacity for a period of one year.

(e) *Regular meetings.* The advisory board shall meet not less than four times annually on a schedule that is approximately quarterly. The advisory board may meet more often than four times annually if it shall so determine. A simple majority of the advisory board shall constitute a quorum for the conduct of business. The advisory board may adopt rules of procedure for the conduct of its meetings and its business, which rules shall generally be consistent with rules of parliamentary procedure. Notice of the meetings of the advisory board shall be given in accordance with and such meetings shall be subject to the North Carolina Open Meetings Law, N.C.G.S. Chapter 143, Article 33C and any other applicable statute.

(f) *Emergency meetings.* The advisory board may hold special or emergency meetings if called by the Mayor of the City of Fayetteville, or its chairman. Notice of such meetings of the advisory board shall be given in accordance with and shall be subject to the North Carolina Open Meetings Law, N.C.G.S. Chapter 143, Article 33C and any other applicable statute.

Sec. 23-8.1. Severability.

If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of North Carolina law, or other pre-emptive legal principle, then that Section, Sub-section, or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.

Sec. 23-8.2. Abrogation.

This article is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued. However, if any provisions or requirements of this article conflict with any existing regulations or ordinances, the more restrictive provisions shall apply.

Sec. 23-8.3. Effective date.

This Article shall become effective on July 1, 2009.

ARTICLE II. ILLICIT CONNECTIONS AND IMPROPER DISPOSAL

Sec. 23-9. Title; purpose.

This article of this Code shall be and is collectively referred to and cited as "The Illicit Connections and Improper Disposal Article of the City of Fayetteville, North Carolina." The purpose of this article is to protect and promote the public health, safety and welfare by preventing the introduction of potentially harmful materials into the municipal separate storm sewer system within the city, receiving waterways, and other waters of the state, and also to maintain and enhance water quality.

Sec. 23-10. Objective.

The general objective of this article is to protect the quality of discharges to waters of the state by the following actions:

- (1) Prohibit nonstormwater discharges to the municipal separate storm sewer system;
- (2) Require the removal of illicit connections to the municipal separate storm sewer system;
- (3) Prohibit improper disposal of substances into the municipal separate storm sewer system; and
- (4) Permit inspection, sampling, and monitoring for pollutants such as those associated with illicit connections; improper disposal; activities on industrial, commercial and related facilities; and the application of pesticides, herbicides, and fertilizers.

Sec. 23-11. Jurisdiction.

(a) The provisions of this article shall apply to all properties within the corporate limits of the city, including all areas hereafter annexed thereto, and such additional areas lying outside the corporate limits of the city as shall be approved by the City Council.

(b) This article provides for the regulation of direct and indirect contributors to the municipal separate storm sewer system and authorizes monitoring activities. No user shall be authorized to discharge stormwater into the municipal separate stormwater sewer system unless such user complies with the terms, conditions and provisions of this article. By discharging stormwater into the municipal separate storm sewer system, all users agree to comply with the terms and conditions established in this article, as well as any permits, enforcement actions or orders issued hereunder. Except as otherwise provided herein, stormwater services (SWS) shall administer, implement, and enforce the provisions of this article. Any powers granted to or imposed upon the Stormwater manager may be delegated by the Stormwater manager to other SWS personnel or other designated personnel as may be necessary.

Sec. 23-12. Authority.

This article is adopted pursuant to portions of one or more of the following authorities in the North Carolina General Statutes: Chapter 153A, Chapter 15 (Criminal Procedure), Chapter 113A (Pollution Control and Environment), Chapter 130A (Public Health), Chapter 160A (Cities and Towns), Chapter 143 (Water and Air Resources), and others as applicable.

Sec. 23-13. Abrogation.

This article is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued. However, if any provisions or requirements of this article conflict with any existing regulations or ordinances, the more restrictive provisions shall apply.

Sec. 23-13.1. Definitions.

As used in this article, unless the context clearly indicates otherwise, the following definitions shall apply:

Connection shall mean any ditch, pipe, or other device for the diversion or transmission of storm drainage which will in any way affect the operation or maintenance of the municipal separate storm sewer system.

Conveyance shall mean any feature of the landscape or earth, manmade or natural, that carries stormwater in a concentrated flow.

Ditch shall mean an open channel that transports stormwater runoff.

Drainage shall mean the flow of stormwater runoff into a conveyance.

Garbage shall mean all putrescible wastes, such as food wastes, animal or vegetable matter, animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human wastes.

Illicit connection shall mean any connection to the municipal separate storm sewer which discharges nonpermitted nonstormwater to the municipal separate storm sewer system.

Improper disposal shall mean the releasing of matter or fluids other than atmospheric precipitation at a location where the matter or fluid can enter the municipal separate storm sewer system.

Municipal separate storm sewer system shall mean a conveyance or system of conveyances designed or used for collecting or conveying stormwater (including roads with drainage systems, catch basins, curbs, gutters, ditches, manmade channels, or storm drains). (Ref: 40 CFR 122.26 (b)(8)).

National Pollutant Discharge Elimination System (NPDES) shall mean a permitting system established by Section 402 of the Clean Water Act (PL 92-500 as amended). Permits are issued by the State of North Carolina under delegation from EPA for discharges directly to the surface waters of the state pursuant to G.S. 143-215.1.

Noncommercial car washing shall mean any automotive washing performed by individuals or groups for no fee or for a charitable donation. This shall include but is not limited to car washes performed by local church groups, schools groups, athletic teams, youth organizations, and individuals at their place of residence.

Nonstormwater shall mean any flow which is discharged to the municipal separate storm sewer system which is not from a form of natural precipitation.

Outfall shall mean the point where a municipal separate storm sewer discharges to waters of the state and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the state and are used to convey waters of the state. (Ref: 40 CFR 122.26(b)(9))

Pollution shall mean manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

Refuse shall mean all nonputrescible wastes.

User shall mean any person who contributes, causes or permits the contribution of stormwater into the municipal separate storm sewer system.

Waters of the state, as defined in NCGS 143-212(6), shall mean all streams, lakes, ponds, marshes, watercourses, waterways, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of North Carolina or any portion thereof over which the State has jurisdiction.

Watershed shall mean the entire land area which by virtue of its topography and system of drainage conveyances, conducts stormwater runoff to a specific point of interest (e.g., intake for water-supply systems, drainage outfall, etc.).

Sec. 23-14. Right of entry.

In order to allow stormwater services to adequately enforce the provisions of this article, stormwater services needs to be provided access to areas where potential violations may occur. The following subsections identify the means by which stormwater services may implement to achieve the aforementioned objectives:

- (1) For the purpose of conducting inspections, sampling, monitoring, records examination and copying, or in the performance of any other duties necessary to determine compliance with this article, SWS personnel or other designated personnel.

upon presentation of proper credentials and identification, are hereby authorized to enter upon private premises, including any building or other structure, subject to this article. Stormwater services shall be provided ready access during regular business hours to all parts of the premises. Nothing in this section shall be construed to free the inspecting or investigating official from any requirement: to obtain the consent of the owner or occupant of the premises concerned, or to obtain an administrative search warrant pursuant to G.S. § 15-27.2 or other provisions of the North Carolina General Statutes, or otherwise to view or enter upon such premises in a manner prescribed by law.

- (2) Where a person has security measures in force which require proper identification and clearance before entry into its premise, the person shall make necessary arrangements with its security guards so that upon presentation of suitable identification, stormwater services will be permitted to enter without delay for the purpose of performing their specific responsibilities.
- (3) Stormwater services shall have the right to set up on the person's property such temporary devices as are necessary to conduct stormwater sampling.
- (4) The person shall not impede or obstruct the safe and easy access to the areas to be inspected and/or monitored. If necessary, stormwater services shall be responsible for providing access to existing nonaccessible locations, such as difficult-to-access outfalls.
- (5) Stormwater services may inspect the facilities of any user in order to ensure compliance with the article. Such inspection shall be made with the consent of the owner, manager, or signatory official. If stormwater services has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the SWS designed to verify compliance with this article or any permit of order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the SWS may seek issuance of an administrative search warrant pursuant to G.S. § 15-27.2.

Sec. 23-15. Prohibited discharges.

In order to protect the quality of the waters of the State of North Carolina in the city, certain discharges are hereby prohibited that either directly discharge to waters of the state or that discharge to waters of the state through the stormwater drainage system. The following subsections identify the three primary classifications of prohibited discharges, as well as exceptions to the prohibitions:

- (1) *Permitted incidental nonstormwater flows.* Stormwater is the only discharge permitted in the municipal separate storm sewer system with the exception of incidental nonstormwater flows which do not negatively impact the quality of the

receiving stream. Therefore, it shall be unlawful for any person or persons to discharge nonstormwater to any stormwater conveyance with the exception of the following:

- a. Water line flushing, except super-chlorinated water line flushing;
- b. Landscape irrigation;
- c. Diverted stream flows;
- d. Rising groundwaters;
- e. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20));
- f. Uncontaminated pumped groundwater;
- g. Discharges from potable water sources;
- h. Foundation drains;
- i. Air conditioning condensation (commercial / residential);
- j. Irrigation water (does not include reclaimed water as described in 15A NCAC 2H.0200);
- k. Springs;
- l. Water from crawl space pumps;
- m. Footing drains;
- n. Lawn watering;
- o. Noncommercial car washing;
- p. Flows from riparian habitats and wetlands;
- q. Backwash and draining associated with swimming pools;
- r. Street wash waters;
- s. Discharges from emergency fire fighting activities;
- t. Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, state, or local government on-scene coordinator;
- u. Flushing and cleaning of stormwater conveyances with unmodified potable water;
- v. Washwater from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat; and
- w. Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by DENR, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by stormwater services.

If any of the above nonstormwater exceptions are found to be polluted and thus cause a negative impact on the quality of the waters of the state, said situation or occurrence shall be deemed unlawful and shall not be allowed to discharge to the municipal separate storm sewer system. These conditions shall be determined by the manager of stormwater services or designee. Such situations or occurrences shall be considered an illicit connection or improper disposal as defined in this article.

(2) *Illicit connections.*

- a. Pipelines, ditches and other physical connections carrying nonstormwater may not discharge into the municipal separate storm sewer system with exception of

incidental nonstormwater flow which does not negatively impact the quality of the waters of the state as described in previous section of this article or as permitted by a NPDES permit. Prohibited discharges include, but are not limited to, wastewater lines such as those from washing machines or sanitary sewers, commercial wash water from cleaning vehicles or equipment, flushing water such as that from industrial operations, floor drains, and overflowing septic systems.

- b. Raw sewage shall not be emptied into the municipal separate storm sewer system within the corporate limits of the city..
- c. It shall be unlawful to discharge to any parts or portions which comprise the stormwater drainage system within the corporate limits of the city any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the appropriate local authority and with regulations of the division of environmental management, department of environment and natural resources of the state.
- d. No water or refuse from any industrial, commercial or institutional process, including uncontaminated water used for heating or cooling, shall be discharged to the municipal separate storm sewer system by any person until such person has obtained the appropriate local, state and federal permits.

(3) *Improper disposal.*

- a. It shall be unlawful for any person to deposit, place, put or discard into or allow to be blown or scattered into, the municipal separate storm sewer system, waters of the state or the banks thereof, at any place within the corporate limits of the city, any solids, fluids or gases of any kind, that will create a litter, nuisance, overflow, change of course, or impediment to the free flow of water therein, or that will pollute said system, or cause it to be polluted, or that will cause an unsanitary condition in such system. These conditions shall be determined by the stormwater manager or his designee.
- b. No garbage receptacle shall be cleaned on public property, and no residual garbage or refuse from the cleaning of garbage receptacles shall be allowed to drain into the municipal separate storm sewer system or the waters of the state.
- c. It shall be unlawful to place grass clippings, leaves, tree and shrub clippings, or any other yard wastes in any storm drain, stream, stormwater conveyance, or any other location within the corporate limits of the city where concentrated stormwater flows will wash such wastes into the municipal separate storm sewer system.
- d. No pigpen, stable, feedlots or animal waste lagoons of any kind shall be permitted to stand so near the municipal separate storm sewer system or the waters of the state that the droppings therefrom will run into the municipal

separate storm sewer system or the waters of the state or in any way poison or contaminate the water therein.

- (4) *Review of stormwater pollution prevention plans.* Stormwater services may review the stormwater pollution prevention plans required under a facility's NPDES stormwater discharge permit when outfall monitoring or the illicit discharge/improper disposal program locates a suspected violation.

Sec. 23-16. Enforcement--Illicit connections.

(a) *Notice of violation.*

- (1) Whenever stormwater services finds that any user of the municipal separate storm sewer system is violating this article by having and maintaining an illicit connection to the system, the stormwater manager, or designee, shall serve upon such a person a notice of violation and direct the responsible party to:
 - a. Comply immediately;
 - b. Comply in accordance with a schedule set forth in the notice, which is normally 30 days; or
 - c. Take appropriate remedial or preventative action in the event of a continuing or threatening violation.
- (2) No penalty shall be assessed until the person alleged to be in violation has been served written notice of the violation by registered or certified mail, personal service, posting of said notice on the property of the violator, or publication. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty and/or other enforcement action. If, after the allotted time period has expired, the violator has not completed corrective action, a civil penalty shall be assessed by the stormwater manager, or designee, from the date of receipt of the notice of violation. Refusal to accept the notice shall not relieve the violator of the obligation to pay such a penalty.

(b) *Civil penalties.*

- (1) A first-time violation of this section of this article shall subject the offender to the assessment of a Category III civil penalty in an amount set forth in the schedule of civil penalties to be adopted by the City Council. The civil penalties may be amended from time to time pursuant to the City's Fee Schedule. Penalties assessed shall be recovered by the City of Fayetteville in a civil action in the nature of debt if the offender does not pay the civil penalty within 30 days after the offender has been assessed the penalty. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty.

- (2) In addition to the per diem civil penalty, penalties for costs incurred by stormwater services during the investigation and restoration process shall be assessed based on costs which include but are not limited to sampling, abatement, cleanup, and city administrative costs.
- (3) Civil penalties collected pursuant to this section shall be credited to the City of Fayetteville General Fund as a nontax revenue.
- (4) If any person who previously has been found to have an illicit connection reconnects to the municipal separate storm sewer system within one year, he shall be deemed a second time violator and assessed a Category II civil penalty in an amount set forth in the schedule of civil penalties to be adopted by the City Council. The civil penalties may be amended from time to time pursuant to the City's Fee Schedule. If the person has or is required to have a stormwater discharge permit from the department of environment and natural resources, stormwater services shall notify the appropriate state authorities of the violation.
- (5) If any person deemed to have been a second time violator reconnects an illicit connection to the municipal separate storm sewer system within a year, he shall be deemed a third time violator and assessed a Category I civil penalty in an amount set forth in the schedule of civil penalties to be adopted by the City Council. The civil penalties may be amended from time to time pursuant to the City's Fee Schedule. If the person has or is required to have a stormwater discharge permit from the department of environment and natural resources, stormwater services shall notify the appropriate state authorities of the violation.
- (6) In the event there are subsequent penalties assessed by the state against the city for illicit connections, caused by any person, such person shall be assessed the equivalent amount of civil penalty.

Sec. 23-17. Enforcement--Improper disposal.

- (a) *Notice of violation.*
 - (1) Whenever stormwater services finds that any user of the municipal separate storm sewer system is violating the improper disposal provisions of this article, the stormwater manager, or his designee, shall serve upon such a person a notice of violation and direct the responsible party to:
 - a. Comply immediately;
 - b. Comply in accordance with a schedule set forth in the notice; or
 - c. Take appropriate remedial or preventative action in the event of a continuing or threatening violation.

- (2) No penalty shall be assessed until the person alleged to be in violation has been served written notice of the violation by registered or certified mail, personal service, posting of said notice on the property of the violator, or publication. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty and/or other enforcement action. If, after the allotted time period has expired, the violator has not completed corrective action, a civil penalty shall be assessed by the stormwater manager, or designee, from the date of receipt of the notice of violation. Refusal to accept the notice shall not relieve the violator of the obligation to pay such a penalty.

(b) *Civil penalties.* Any person who violates the improper disposal provisions of this article shall be subject to the assessment of a civil penalty. Penalties assessed shall be recovered by the City of Fayetteville in a civil action in the nature of debt if the offender does not pay the civil penalty within 30 days after the offender has been assessed the penalty. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty. Civil penalties shall be assessed in the following categories:

- (1) *Waste products.* Any person who is found to have improperly disposed of any substance that is a byproduct of a commercial or industrial process which, upon discharge to the municipal separate storm sewer system or drainage network, would have an adverse impact on water quality or cause the city to be in noncompliance with any applicable environmental permit shall be assessed a Category I civil penalty in an amount set forth in the schedule of civil penalties to be adopted by the City Council. The civil penalties may be amended from time to time pursuant to the City's Fee Schedule.
- (2) *Bulk sales.* Any person who is found to have improperly disposed of any substance that was purchased at a bulk sales location which, upon discharge to the municipal separate storm sewer system or drainage network, would have an adverse impact on water quality or cause the city to be in noncompliance with any applicable environmental permit shall be assessed a Category I civil penalty in an amount set forth in the schedule of civil penalties to be adopted by the City Council. The civil penalties may be amended from time to time pursuant to the City's Fee Schedule.
- (3) *Household products.*
 - a. Any person who is found to have improperly disposed of any substance that was purchased over-the-counter for household use, in quantities considered normal for household purposes which, upon discharge to the municipal separate storm sewer system or drainage network, would have an adverse impact on water quality or cause the city to be in noncompliance with any applicable environmental permit shall be assessed a Category II civil penalty in an amount set forth in the schedule

of civil penalties to be adopted by the City Council. The civil penalties may be amended from time to time pursuant to the City's Fee Schedule.

- b. Any person cited for a second-time offense of improperly disposing of household products within one year, shall be deemed a second time violator and assessed a Category I civil penalty in an amount set forth in the schedule of civil penalties to be adopted by the City Council. The civil penalties may be amended from time to time pursuant to the City's Fee Schedule.

(4) *Yard waste.*

- a. Any person who is found to have improperly disposed of leaves, grass clippings, or other yard wastes which, upon discharge to the municipal separate storm sewer system or drainage network, would have an adverse impact on water quality or cause the city to be in noncompliance with any applicable environmental permit shall be assessed a Category III civil penalty in an amount set forth in the schedule of civil penalties to be adopted by the City Council. The civil penalties may be amended from time to time pursuant to the City's Fee Schedule.
- b. Any person cited for a second-time offense of improperly disposing of yard waste within one year, shall be deemed a second time violator and assessed a Category II civil penalty in an amount set forth in the schedule of civil penalties to be adopted by the City Council. The civil penalties may be amended from time to time pursuant to the City's Fee Schedule.
- c. Any person cited for a third-time offense of improperly disposing of yard waste within one year, shall be deemed a third time violator and assessed a Category I civil penalty in an amount set forth in the schedule of civil penalties to be adopted by the City Council. The civil penalties may be amended from time to time pursuant to the City's Fee Schedule.

- (5) In addition to the per diem civil penalty, penalties for costs incurred by stormwater services during the investigation and restoration process shall be assessed based on costs which include but are not limited to sampling, abatement, cleanup and city administrative costs.
- (6) Civil penalties collected pursuant to this section shall be credited to the City of Fayetteville General Fund as a nontax revenue.
- (7) In the event there are subsequent penalties assessed by the state against the city for improper disposal or illegal dumping, caused by any person, such person shall be assessed the equivalent amount of civil penalty.
- (8) The penalty assessed for any of the above violations shall be increased by 25 percent of the amount assessed if it occurs in any designated water-supply watershed area.

Sec. 23-18. Judicial remedies.

(a) *Other remedies.* This article may be enforced by any other remedy at law or equity which the city is authorized to pursue, to include actions in the General Court of Justice for injunctive relief, other remedies authorized in G.S. Ch. 160A, art. 19, pt 3. The civil penalties, criminal prosecution, and other remedies provided in this article are cumulative and not exclusive, and may be independently and separately pursued against the same person for the activity constituting a violation of this article. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies in other provisions of this Code or other laws and regulations. Each day any violation of this Code shall continue shall constitute a separate offense, unless otherwise specified.

(b) *Notification of the state enforcement officials.*

(1) *Industrial and related facilities.*

a. When stormwater services discovers an apparent violation of an industrial or related facility's NPDES stormwater discharge permit or that the facility is not operating pursuant to its stormwater pollution prevention plan, stormwater services shall notify the appropriate local and state officials immediately.

b. When the discharge from the facility interferes significantly with the municipal separate storm sewer, and the facility fails to take appropriate actions upon notification by stormwater services, stormwater services may take immediate and appropriate measures to control the problem whether or not the facility is violating its NPDES permit and recover the cost of such action from the facility.

(2) *Animal waste lagoons.* When stormwater services discovers an apparent violation of an animal waste lagoon's permit or that the facility is not operating pursuant to its pollution prevention plan, stormwater services shall notify the appropriate local and state officials immediately.

Sec. 23-19. Appeal process.

(a) Any person who has been served a notice of violation or assessed a civil penalty under this article may request an appeal hearing from the stormwater manager, or designee, provided such appeal is taken within 30 days of the challenged action. The appellant's obligation to satisfy a notice of violation will not be delayed by a request for appeal. Notice of the appeal shall be given by filing with the stormwater manager, or designee, a written petition for a hearing. The written petition requesting the hearing must state name and address of the aggrieved person, a description of the challenged action, and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the stormwater manager shall, within five working days, transmit to the stormwater advisory board the notice of appeal and the papers and materials upon which the challenged action was taken. Within ten working days of receipt of said petition, informal proceedings may be held with the consent of the petitioner before the stormwater manager. If said grievance or grievances are not resolved at this informal proceeding, it shall be the duty of the stormwater manager to, within five working days of the date of the informal

hearing, communicate the request for a hearing to the chairman of the stormwater advisory board. The stormwater advisory board shall hold a hearing within 30 days of the receipt of the notice of appeal. The stormwater advisory board shall give the appellant not less than ten days' notice of the date, time and place of the hearing. Any party may appear in person or by agent or attorney. In considering appeals, the stormwater advisory board shall have the authority to affirm, modify or reverse the challenged action.

(b) The stormwater advisory board shall make a final decision on the contested action within 60 days following the hearing.

(c) The stormwater advisory board shall transmit a copy of the decision by registered or certified mail, publication, personal service, or posting of said decision on the property of the appellant.

(d) The decision of the stormwater advisory board shall be considered the final administrative action for the purposes of judicial review.

(e) If the appeal is in regards to the assessment of a civil penalty, and it has been deemed that each day constitutes a separate and distinct violation, the determination of the total civil penalty shall not be affected by the appeal process.

(f) Unless such written demand is made within the time specified herein, the action shall be final and binding.

(g) Any party aggrieved by the decision of the stormwater advisory board with regard to the issuance of a notice of violation or notice of assessment of a civil penalty shall have 30 days from the receipt of the decision of the stormwater advisory board to file a petition for review in the nature of certiorari in superior court with the clerk of Cumberland County Superior Court.

Sec. 23-19.1. Effective date.

This Article shall become effective on July 1, 2009.

**SCHEDULE OF CIVIL PENALTIES
CITY OF FAYETTEVILLE ILLICIT CONNECTIONS
AND IMPROPER DISPOSAL ARTICLE**

Effective July 1, 2009, the following civil penalties shall be imposed in the amounts shown upon the owner, manager, or other person in charge of any building or structure subject to the Illicit Connections and Improper Disposal Article of the City of Fayetteville Stormwater Ordinance, upon issuance of a civil penalty citation for a violation of said article. Each day any violation of this Code shall continue shall constitute a separate offense, unless otherwise specified. These civil penalties may be amended from time to time pursuant to the City's Fee Schedule.

Category I Violation: Civil Penalty \$1,000.00

Section 23-16 Illicit Connection (b) (5) - Third Offense

Any person deemed to have been a second time violator that reconnects an illicit connection to the stormwater system within a year shall be deemed a third time violator.

Section 23-17 Improper Disposal (b) (1) Waste Products

No person shall dispose of any substance that is a byproduct of a commercial or industrial process which, upon discharge to the stormwater system or drainage network, would have an adverse impact on water quality or cause the City to be in non-compliance with any applicable environmental permit.

Section 23-17 Improper Disposal (b) (2) Bulk Sales

No person shall dispose of any substance that was purchased at a bulk sales location which, upon discharge to the stormwater system or drainage network, would have an adverse impact on water quality or cause the City to be in non-compliance with any applicable environmental permit.

Section 23-17 Improper Disposal (b) (3) b. Household Products - Second Offense

Any person cited for a second time offense of improperly disposing of household products within one year shall be deemed a second time violator.

Section 23-17 Improper Disposal (b) (4) c. Yard Waste - Third Offense

Any person cited for a third time offense of improperly disposing of yard waste within one year shall be deemed a third time violator.

Category II Violation: Civil Penalty \$500.00

Section 23-16 Illicit Connection (b) (4) - Second Offense

Any person who previously has been found to have an illicit connection that reconnects to the stormwater system within one year shall be deemed a second time violator.

Section 23-17 Improper Disposal (b) (3) a. Household Products

No person shall dispose of any substance that was purchased over-the-counter for household use, in quantities considered normal for household purposes which, upon discharge to the stormwater system or drainage network, would have an adverse impact on water quality or cause the City to be in non-compliance with any applicable environmental permit.

Section 23-17 Improper Disposal (b) (4) b. Yard Waste - Second Offense

Any person cited for a second time offense of improperly disposing of yard waste within one year shall be deemed a second time violator.

Category III Violation: Civil Penalty \$100.00

Section 23-16 Illicit Connection (b) (1)

After a notice of violation has been served on the user, it shall be illegal to have a connection to the stormwater system that allows non-permitted non-stormwater to discharge into the stormwater system or waters of the State.

Section 23-17 Improper Disposal (b) (4) a. Yard Waste

No person shall improperly dispose of leaves, grass clippings, or other yard wastes which, upon discharge to the stormwater system or drainage network, would have an adverse impact on water quality or cause the City to be in non-compliance with any applicable environmental permit.

**A RESOLUTION OF THE FAYETTEVILLE CITY COUNCIL
TO ESTABLISH THE MONTHLY SERVICE CHARGE PER EQUIVALENT
RESIDENTIAL UNIT (ERU) UNDER THE CITY OF FAYETTEVILLE
STORMWATER PUBLIC ENTERPRISE ORDINANCE**

WHEREAS, the City of Fayetteville has established a stormwater utility which requires the City to adopt and to amend from time to time the monthly service charge for each equivalent residential unit (ERU) incidental to the governmental purposes and regulatory authority of the City to provide stormwater services and facilities, and / or for the use of the stormwater systems, facilities, and / or services furnished or to be furnished and related to such systems and facilities; and

WHEREAS, the City of Fayetteville has reviewed and evaluated the implementation components, public benefit, and monthly service charge of a comprehensive Stormwater Management Program and has determined to implement a program that is designed to address those elements of stormwater quality as required by the City's NPDES Stormwater Discharge Permit as well as those elements of stormwater quantity to effectively address local flooding and stormwater problems including capital improvement projects;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE
HEREBY RESOLVES THAT:**

1. The monthly service charge per equivalent residential unit (ERU) under the Stormwater Public Enterprise Ordinance shall be Three Dollars (\$3.00).
2. This resolution shall be effective from and after adoption. The service charge established by this Resolution shall be effective July 1, 2009 and shall remain in effect until subsequently amended by City Council. The monthly service charge for each ERU may be amended from time to time pursuant to the City's Fee Schedule.

Adopted this the 26th day of May, 2009.

ANTHONY G. CHAVONNE, Mayor

ATTEST:

CANDICE H. WHITE, City Clerk

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council

From: Craig Harmon, Planner 

Date: May 26, 2009

Case No. P09-13F

THE QUESTION: Rezone from P2 Professional and R10 Residential Districts to MU-CZ
Mixed Use Conditional Zoning for office and retail.

RELATIONSHIP TO STRATEGIC PLAN: Growth and Development

BACKGROUND:

Owner:	George J. Demetri, Jr.
Applicant:	"same as owner"
Council District:	District 6 - Crisp
Requested Action:	P2 & R10 to MU-CZ
Existing Zoning	P2 & R10
Status of Property:	503 Owen Drive & 504 Terry Circle
Size:	0.60 +/- Acres
Existing Land Use:	P2 - Doctor's office, R10 - Single Family Residential
Adjoining Land Use & Zoning:	North - P2 Professional and R10 Residential South - P2 Professional and R10 Residential East - R10 Residential West - C1 Commercial
2010 Land Use Plan:	Office/Institutional & Low Density Residential
Letters Mailed:	123

SPECIAL INFORMATION:

Public Utilities:

Water:	PWC
Sanitary Sewer:	PWC

Transportation:

Owen Drive is a major thoroughfare. The average daily traffic count is 51,000 vehicles at its intersection with Village Drive.

OPTIONS:

1. Rezone the property to MU-CZ;
2. Deny the rezoning of this property.

000104

ITEM 3. C.

RECOMMENDATIONS:

Zoning Commission recommends approval of the rezoning:

1. Owen Drive is a heavily traveled road making residential uses in the general vicinity less attractive for residential development;
2. The conditional zoning provides a layout of the design and limits the use to offices and retail;
3. Terry Circle is primarily a rental area that is undergoing a transition from residential to office use.

ATTACHMENTS:

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

CONDITIONAL ZONING
APPLICATION FOR ~~REZONING~~
CITY OF FAYETTEVILLE

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

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

Location/Address of the Property: 503 & 504 TERRY CIR.
Owner of the Property: GEORGE J. DEMETRI, JR. & WIFE PAULIA E. DEMETRI
Address of the Owner: 3102 Wyman Place Fay. N.C. Zip 28303
Owner's Home Phone: 910-868-4145 Owner's Work Phone: 910-483-3338

A. The property sought for Rezoning is owned by SAME AS ABOVE as evidenced by deed, recorded in Deed Book 4481/3981, Page 658/374, 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: PZ & R10 To: MV-CZ

Please describe the proposed use of the property requested for rezoning: _____

LOTS 10 & 11 BORDEAUX SECT. II PB 17 PG 31
OCCUPANCIES ARE DEFINED BY NC STATE BUILDING CODE -
OCCUPANCY B, BUSINESS AND OCCUPANCY M, MERCANTILE.

C. Tax Property Identification Number (PIN#) of the property: 0426-08-2304/2384

D. Acreage to be rezoned: 0.60 AC

E. To the best of your knowledge, has an application for rezoning been filed for this property within the previous 5 years? (If yes, please indicate month and year of application.)

NO

F. Existing use of the property (Specify any structures and respective uses): _____

DOCTOR'S OFFICE (503); RENTAL RESIDENTIAL (504 TERRY CIRCLE)

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.

GEORGE J. DEMETRI JR.

Print or Type Name of Owner

3102 HYMAN PLACE; FAYETTEVILLE, NC 28303

Address of Owner

910-868-4145

910-483-3338

Home Phone

Work Phone

GEORGE J. DEMETRI JR.

Print or Type Name of Applicant

3102 HYMAN PLACE; FAYETTEVILLE, NC 28303

Address of Applicant

910-868-4145

910-483-3338

Home Phone

Work Phone

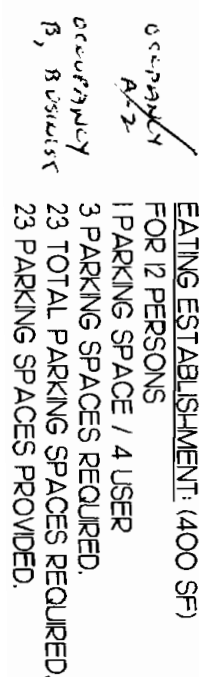
Signature of Individual Submitting the Application

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

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

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

000107



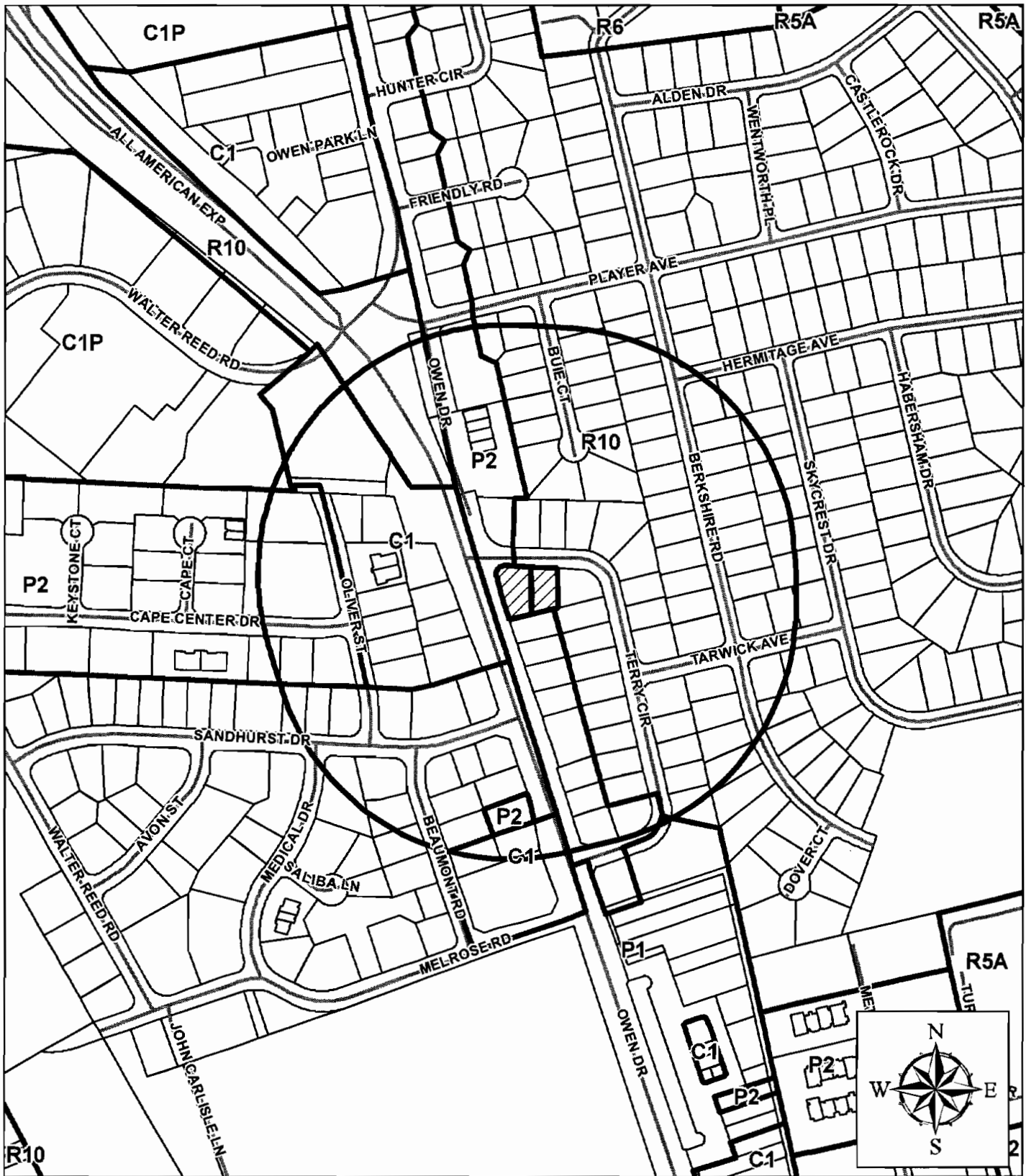
Zoning Commission - Vicinity Map

Case No. P09-13F



000109

**ZONING COMMISSION
CASE NO. P09-13F**



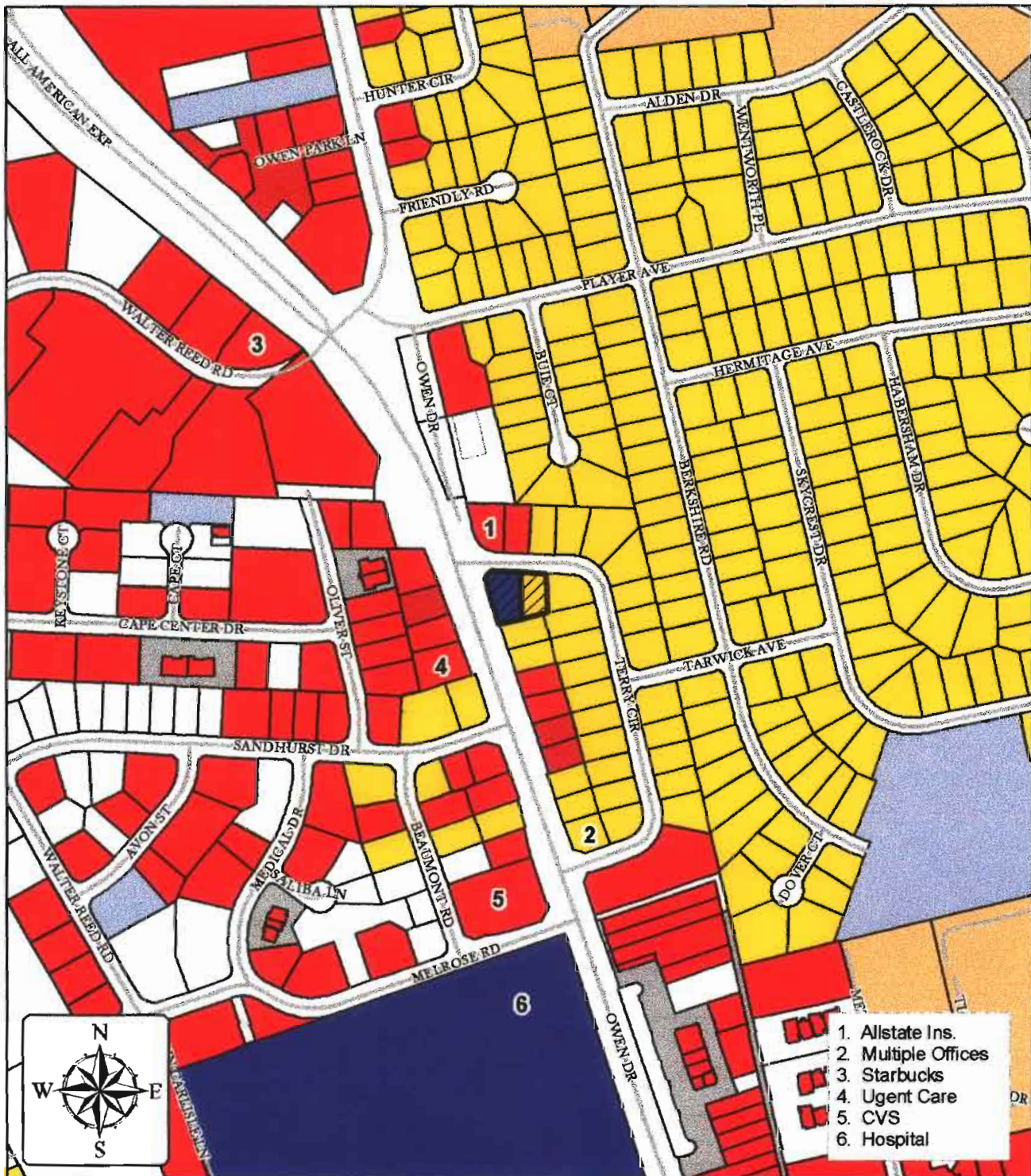
Request: P2 & R10 to MU/CZ
Location: 503 Owen Dr. & 504 Terry Cir.
Acreage: 0.60

Zoning Commission: 4/14/2009 **Recommendation:** _____
City Council: _____ **Final Action:** _____
Pin: 0426-08-2304 & 2384

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

Current Land Use

P09-13F



Legend

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



**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
APRIL 14, 2009- 7:00 P.M.**

MEMBERS PRESENT

Pete Paoni
Richard West
John Crawley
Lockett Tally

MEMBERS ABSENT

Jeannie Nelson

OTHERS PRESENT

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

The meeting was called to order at 7:00 p.m.

I. APPROVAL OF AGENDA

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

II. APPROVAL OF THE MINUTES FROM THE MARCH 10, 2009 MEETING

Mr. West made a motion to approve the minutes from the March 10, 2009 meeting. Mr. Crawley seconded the motion. A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

B. Case No. P09-13F. The rezoning from P2 Profession District and R10 Residential District to MU/CZ Mixed Use Conditional Zoning District for Office and Retail on property located at 503 Owen Drive and 504 Terry Circle. Containing 0.60 acres more or less and being the property of George J. Demetri Jr.

Mr. Harmon provided a brief overview of the request including maps, pictures, surrounding land uses, and the 2010 land use plan's recommendation of office institution on the P2 lot and low density residential on the R10 lot. Mr. Harmon stated that the Planning Department mailed out 123 letters to property owners with 750 feet of the project. Mr. Harmon showed the Commission a copy of the applicant's site plan. Mr. Harmon stated there is plenty water and sewer available in the area.

Mr. Harmon asked if there were any questions from the board. There were none.

The public hearing was opened.

Mr. Bennett appeared in favor of the request. He stated that the site plan envisions replacing one existing residential structure currently being used as a medical facility and one residential structure to construct a two story 8390 square foot mixed use building. Mr. Bennett stated that the primary use of the facility would be 3000 for a health care facility, 1000 feet for retail stores and shops and 1473 square feet for general office space and an eating establishment 400 square feet. Mr. Bennett stated that these facilities would be operated by lease or by direct management.

Mr. Bennett talked about the requirement for parking, buffers and sidewalks. Mr. Bennett spoke of the existing properties surrounding the properties listed for rezoning. He stated that the area was in a transitional stage for residents on the west side of Terry Circle.

Mr. Bennett addressed the storm water requirements and stated that Dr. Demetri's architect did a thorough job in meeting all the requirements. He stated that he believes the project will enhance the neighborhood and give an economic benefit to the area.

Mr. Bennett asked if there were any questions.

Mr. Paoni asked questions about the direction of uses in the area. Mr. Bennett stated that some of the property owners along Terry Circle, east of Owen Drive, are business owners of property along Owen Drive.

Mr. Paoni asked where the restaurant was going to be located in the building. Mr. Bennett stated that there would be a small restaurant on the first floor.

Mr. Paoni asked about the retail shops and he discussed his concerns about demolishing the house. Mr. Bennett discussed the size of the building reiterating the different businesses located therein.

Dr. Demetri appeared in favor of the request. Dr. Demetri gave a brief introduction of himself and his history in Fayetteville. Dr. Demetri stated that mixed use conditional zoning was the best alternative to suffice all that he hoped to do with the properties. He stated that the eatery would be more simple foods or snacks with very little hot food preparation.

Dr. Demetri stated that the area the property is located on is lacking cosmetically and he is looking to create something that would help with his practice but that the same time enhances Fayetteville's appearance. He stated that he is looking to have the building built as green as possible.

Dr. Demetri asked if there were any questions. Mr. Paoni asked if Dr. Demetri was the single provider in the entire building. Dr. Demetri replied yes.

No one appeared in opposition to the request.

The public hearing was closed.

Mr. Harmon made reference to the site plan. He stated that DOT thinks that the entrance way that already exists on Owen Drive may need to be closed. He stated that DOT feels that the property may only need the Terry Circle entrance. Mr. Harmon stated that it was only informational at this point. Mr. Harmon stated there is a question about parking spaces shown on the site map, so there are some things that will need to be worked out on the site plan.

Mr. Harmon stated that the Planning Staff's recommendation was that the request be denied.

Mr. West asked if the majority of houses in the area are rental property. Mr. Harmon stated that primarily they are rental uses with a few that are owner occupied.

Mr. Paoni asked about the future direction of Terry Circle. Mr. Harmon stated that there are some medical offices in the area.

Mr. Paoni asked Dr. Demetri about the parking. Dr. Demetri stated that there will be 23 parking spaces available. Mr. Paoni asked about the entrance off of Owen Drive. Dr. Demetri stated that he is not running into the same problems mentioned by the planning staff. Dr. Demetri stated that the Owen Drive entrance would remain open.

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

Mr. Teal stated this case will be heard by City Council on May 26th as a public hearing item.

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council

From: Craig Harmon, Planner II

Date: May 26, 2009

Case No. P09-14F

THE QUESTION: Rezone from R10 Residential District to P2 Professional District to allow office use.

RELATIONSHIP TO STRATEGIC PLAN: Growth and Development

BACKGROUND:

Owner:	Loretta Todd
Applicant:	"Same as owner"
Council District:	District 6 - Crisp
Requested Action:	Rezone from R10 to P2
Existing Zoning	R10 Residential District
Status of Property:	1800 Fargo Drive, corner lot at intersection w/ Village Drive.
Size:	+/- 0.56 acres
Existing Land Use:	Single Family Residential
Adjoining Land Use & Zoning:	North – R10 Residential South – R10 Residential East – R10 Residential West – R10 Residential
2010 Land Use Plan:	Low Density Residential
Letters Mailed:	73

SPECIAL INFORMATION: This property is directly across the street from the hospital's ambulance entrance. A R10 Residential zone surrounds this property.

Public Utilities:

Water:	PWC
Sanitary Sewer:	PWC

Transportation:

Village Drive is a major thoroughfare. The average daily traffic count is 15,000 vehicles.

OPTIONS:

1. Rezone the property to P2 Professional;
2. Deny the rezoning of this property.

000115

ITEM 3. D.

RECOMMENDATIONS:

Zoning Commission recommends approval of the rezoning:

1. Although the 2010 Land Use Plan recommends residential uses, the hospital expansion has made that section of Village Drive less desirable for residential uses;
2. The majority of the neighborhood supports the change of zoning;
3. P2 professional uses allow residential uses.

Planning staff recommends denial of P2 Professional zoning:

1. The 2010 Land Use Plan recommends low density residential uses for this property;
2. P2 is incompatible with the surrounding property's, they are each zoned R10;
3. The closest professional district, on the same side of the street, to this property is a block away.

ATTACHMENTS:

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

CITY OF FAYETTEVILLE

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

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

Location/Address of the Property: 1800 Fargo Drive, Fayetteville, NC 28304

Owner of the Property: Loretta Todd

Address of the Owner: 1800 Fargo Drive, Fayetteville, NC Zip 28304

Owner's Home Phone: 237-0652 Owner's Work Phone: 484-8880

A. The property sought for Rezoning is owned by Loretta Todd as evidenced by deed, recorded in Deed Book 6458, Page 754, 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: R10 To: P2

Please describe the proposed use of the property requested for rezoning: _____

Doctor's office

C. Tax Property Identification Number (PIN#) of the property: 0416-95-4434-

D. Acreage to be rezoned: 0.156 ~~Deed as shown~~

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): _____

Residential

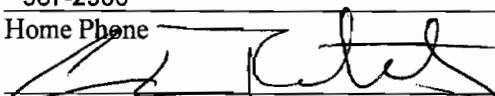
G. Existing and/or proposed water service (Specify if Community System): _____

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.

Loretta Todd
Print or Type Name of Owner
1800 Fargo Drive, Fayetteville, NC 28304
Address of Owner
237-0652 484-8880
Home Phone Work Phone
Chris Roberts, Agent
Print or Type Name of Applicant
3102 N. Main Street, Hope Mills, NC 28348
Address of Applicant
987-2900 424-9000
Home Phone Work Phone

Signature of Individual Submitting the Application

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

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

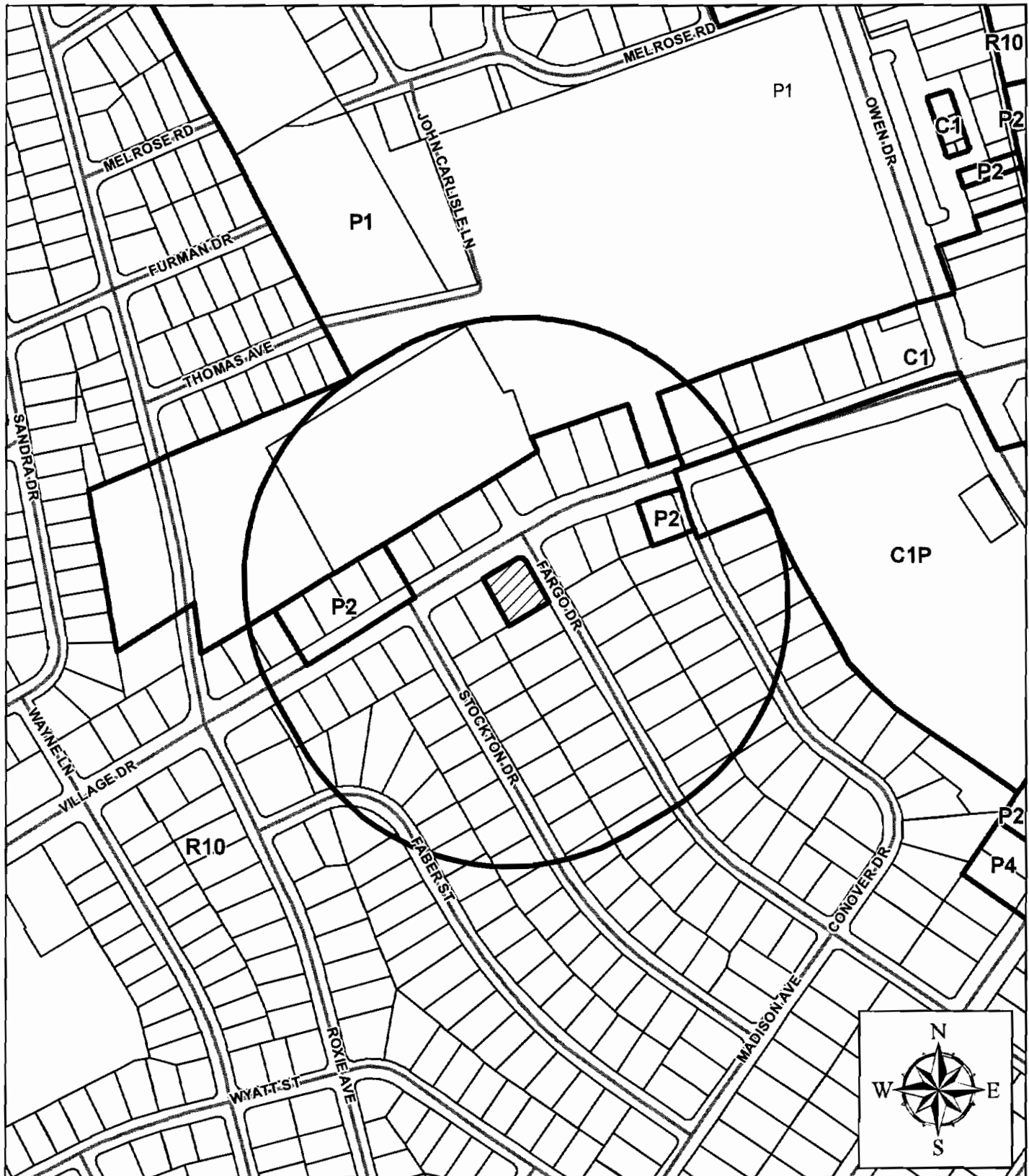
(for additional application forms: www.cityoffayetteville.org then visit the Planning Dept. page)

Zoning Commission - Vicinity Map
Case No. P09-14F



ZONING COMMISSION
CASE NO. P09-14F

City of
Fayetteville
North Carolina
PLANNING



Request: R10 to P2
Location: 1800 Fargo Dr.
Acreage: 0.56

Zoning Commission: 4/14/2009
City Council: _____
Pin: 0416-95-4434

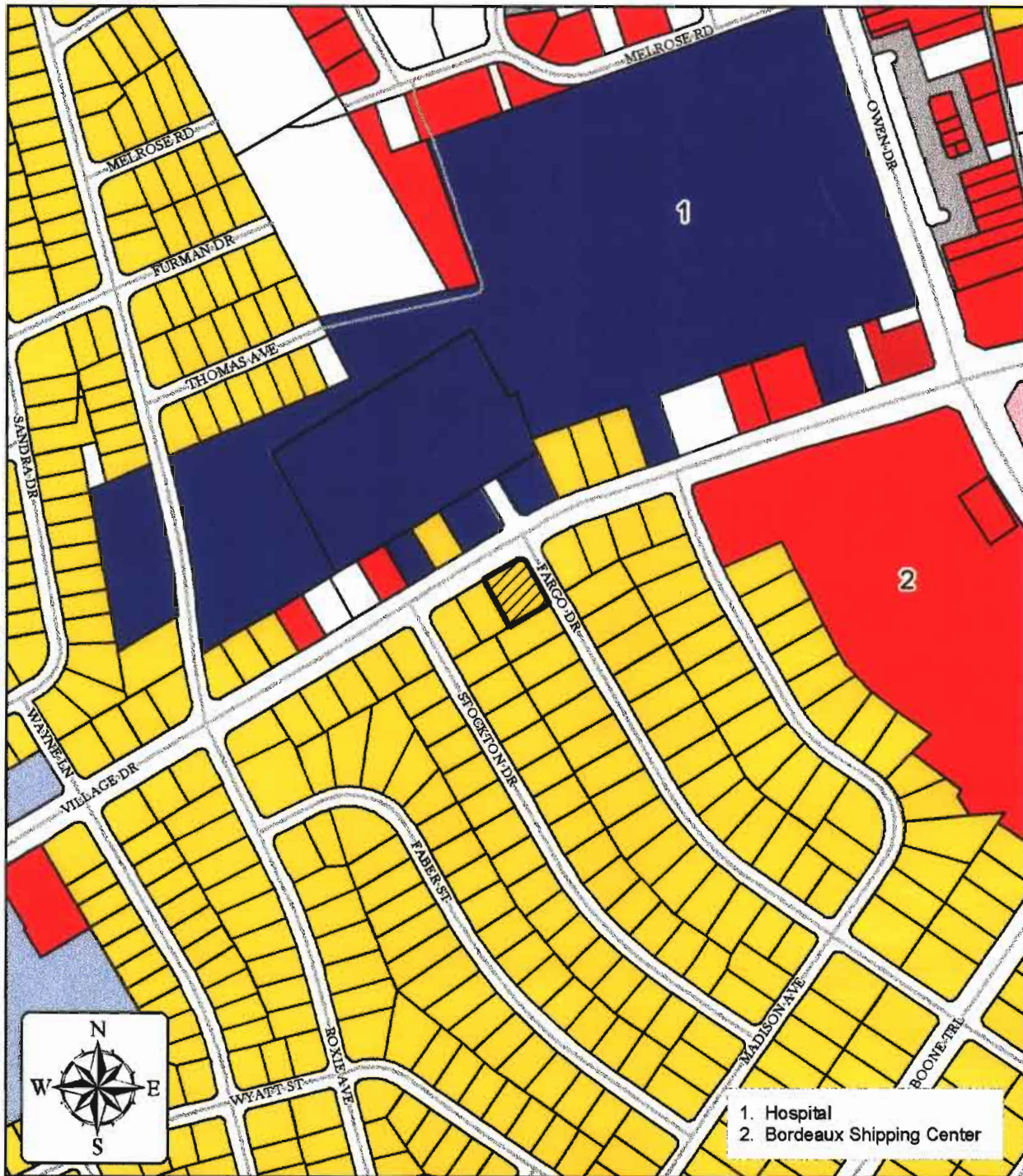
Recommendation: _____
Final Action: _____

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

000120

Current Land Use

P09-14F



Legend

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



**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
APRIL 14, 2009- 7:00 P.M.**

MEMBERS PRESENT

Pete Paoni
Richard West
John Crawley
Lockett Tally

MEMBERS ABSENT

Jeannie Nelson

OTHERS PRESENT

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

The meeting was called to order at 7:00 p.m.

I. APPROVAL OF AGENDA

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

II. APPROVAL OF THE MINUTES FROM THE MARCH 10, 2009 MEETING

Mr. West made a motion to approve the minutes from the March 10, 2009 meeting. Mr. Crawley seconded the motion. A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

C. Case No. P09-14F. The rezoning from R10 Residential District to P2 Professional District for office use on property located at 1800 Fargo Drive. Containing 0.56 acres more or less and being the property of Loretta Todd.

Mr. Harmon provided a brief overview of the request including maps, pictures, surrounding land uses, and the 2010 land use plan's recommendation which calls for the north side of Village Drive be heavy commercial and offices uses while the south side of Village Drive low density residential uses. Mr. Harmon stated that plenty of water and sewer are available for the property.

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

The public hearing was opened.

Mr. Neville appeared in favor of the request. Mr. Neville appeared as attorney on behalf of the Todd family. Mr. Neville stated that most of the properties in the area are being used as professional offices. He stated that the neighborhood is obviously in transition.

Mr. Neville explained that the Todd Family can no longer live in the area due to the changes that have taken place. Mr. Neville stated that Mr. Todd is no longer able to sleep due to all the noise and hospital activity.

Mr. Neville stated that the 2010 land use plan does not make room for changes. Mr. Neville stated that the surrounding land uses in the area are a mixture of R10, P2 and P1. He stated that a professional district is a natural buffer to a residential area and a hospital. Mr. Neville stated that the closest professional area to this property is not a block away but across the street. Mr. Neville stated that approving is in the best interest of everyone.

Mr. Todd appeared in favor of the request. Mr. Todd stated that he bought the house to retire. He stated that he is unable to use the home the way he would like to due to all the activity. He stated that he is unable to sleep due to the noise. He stated that it's becoming a professional neighborhood. He stated that this neighborhood is no longer a place to live or raise children.

Mr. Todd stated that while he is unaware if there is any present to oppose the request; he does extend the invitation to listen to it. He stated that Village Drive is becoming like Owen Drive. Mr. Todd stated that he just wants to retire where it is safe and quiet.

Mr. Paoni stated for the record that he and Dr. Ejah knew each other and were friends.

Dr. Ejah appeared in favor of the request. Dr. Ejah stated that he is interested utilizing the property for his cardiology practice. Dr. Ejah gave a brief introduction of his practice and his reasons for living in Fayetteville. Dr. Ejah stated that being so close to the hospital has the potential to save lives. Dr. Ejah stated that he is planning on doing nothing more than running a medical practice on the property.

Mr. Neville reiterated his client's reasons for requesting the rezoning. He stated that it is not about building a medical practice at this location but about the homeowners caught in a trap.

Mr. Paoni asked if the rezoning occurs would the property be sold. Mr. Neville stated yes. Mr. Neville stated that the sale is contingent upon the property being rezoned to P2. Mr. Neville stated that if it is not, Dr. Ejah has an escape clause in effect to not purchase the property.

The public hearing was close.

Mr. Harmon made reference to a letter addressed to Mr. Teal from Mr. Duke; that had been distributed to the Commission members prior to the meeting, voicing Mr. Duke's opposition to the request for rezoning.

Mr. West asked how many notification letters were mailed out. Mr. Harmon stated that 73 letters were mailed on this particular case.

Mr. Harmon stated that Planning Department's recommendation is denial for the request for P2 professional district.

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

Mr. Crawley made a motion to approve the request for P2 rezoning. Mr. Tally seconded the motion. A vote was taken and passed unanimously.

Mr. Teal stated this case will be heard by City Council on May 26th as a public hearing.

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council

From: Jimmy Teal, Planning Director

Date: May 26, 2009

Re: Annexation Petition – Longhill Pointe

THE QUESTION: Consider annexing an area contiguous to the city.

RELATIONSHIP TO STRATEGIC PLAN: Strong local economy

BACKGROUND:

Owner:	Fayetteville Longhill Pointe, LLC
Applicant:	Britt Simon
Status of Property:	Contiguous to the City
Size:	18.30 Acres
Existing Land Use:	Vacant
Utilities	Requesting PWC Service

ISSUES:

Britt Simon is the Manager Member of Fayetteville Longhill Pointe, LLC. Their corporation is the owner of a tract of land at the corner of Ramsey Street and McCloskey Road. They have submitted plans to PWC and Cumberland County for developing a 234 unit apartment complex. It is contiguous to the city and they are using PWC service, therefore they have petitioned for annexation per the City Council policy.

OPTIONS:

1. Adopt the annexation ordinance with the effective date of May 26, 2009;
2. Adopt the annexation ordinance with an effective date after May 26, 2009;
3. Do not annex the property

RECOMMENDATIONS:

Option 1. Adopt the annexation ordinance with the effective date of May 26, 2009.

000124

ITEM 3. E.

BASIC INFORMATION ABOUT THE AREA PROPOSED FOR ANNEXATION**Date Petition Received: 8-12-2008****Annexation Date:****Effective Date:****Annexation Number:**

1. Name of Area:	Longhill Pointe, LLC and a portion of McCloskey Road
2. Petitioner:	BBK Descendants, Britt Simon, Manager Member of Fayetteville Longhill Pointe, LLC
3. Location:	Northwest corner of McCloskey Road and Ramsey Street
4. Tax Identification Number (PIN):	Portions of 0541-05-3122, 0506, 0531-87-1221 and 0541-05-1321 New Pin – 0531-95-9544
5. Fire Department Affected by Annexation:	Westarea
6. Is the Area Contiguous:	Yes
7. Type of Proposed Annexation:	Petitioned Contiguous Annexation
8. Background:	Plans have been submitted to the Cumberland County Planning Department for an apartment complex with 234 units within 29 2-story buildings.
9. Reason the Annexation is Proposed:	PWC services
10. Number of Acres in Area:	18.30 (16.12 within apartment property and 2.18 within right-of-way of McCloskey Road)
11. Type of Development in Area:	<input type="checkbox"/> New <input type="checkbox"/> Existing <input checked="" type="checkbox"/> Vacant
12. Present Conditions:	a. <u>Present Land Use:</u> vacant (clearing and grading have begun for apartment complex) 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> 234 apartments b. <u>Development Controls</u> 1. <u>Land Use Plan</u> a. <u>2010 Plan:</u> Low Density Residential 2. <u>Zoning</u> a. <u>Current Zoning in County:</u> R5A Residential District b. <u>Likely Zoning After Annexation:</u> R5A Residential District c. <u>Maximum number of units allowed based on the zoning:</u> 234

000125

BASIC INFORMATION ABOUT THE AREA PROPOSED FOR ANNEXATION

Date Petition Received: 8-12-2008

Annexation Date:

Effective Date:

Annexation Number:

14. Expected Future Conditions:	a. <u>Future Land Use:</u> multi-family residential b. <u>Future Number of Housing Units:</u> 234 c. <u>Future Demographics:</u> 585 d. <u>Future Streets:</u> private e. <u>Water and Sewer Service:</u> PWC f. <u>Electric Service:</u> South River
15. Tax Value of Land:	\$ 168,524.92 (.24 per square foot)

LONGHILL POINTE
Northwest Corner of McCloskey Road and Ramsey Street
16.12 Acres
McCloskey Road Right-of-Way
Portion Thereof
2.18 Acres

BEGINNING at a point in the city limit line as established by Annex 2004-04-464; said point being at the eastern margin of McCloskey Road (SR 1610) 60' Right-of-Way as it intersects with the northern margin of Ramsey Street (U.S. 401 North) 100' Right-of-Way; said point also being the southwest corner of property described and recorded in Deed Book 7734, Page 10, of the Cumberland County Registry; running thence with the city limit line and the western margin of Ramsey Street South 30 degrees 52 minutes 01 seconds West 65.70 feet to the western right-of-way margin of McCloskey Road; thence continuing with the city limit line and the western right-of-way margin of McCloskey Road North 35 degrees 05 minutes 12 seconds West 800.01 feet to an existing iron stake; thence leaving said city limit line, but continuing along said right-of-way North 35 degrees 05 minutes 12 seconds West 808.25 feet to a point; thence crossing said right-of-way North 72 degrees 04 seconds 02 seconds East 62.79 feet to the eastern right of way of McCloskey Road, said point being the northwest corner of property described and recorded in Deed Book 7734, Page 10, being part of 100 acre tract of land as recorded in Plat Book 104, Page 4 of the Cumberland County Registry; thence North 72 degrees 04 minutes 02 seconds East 122.07 feet to an existing iron pipe, said point being the northeast corner of said Deed Book 7734, Page 10 and the northwest corner of property as described and recorded in Deed Book 7732, Page 347, Cumberland County Registry; thence North 72 degrees 04 minutes 02 seconds East 597.05 feet to an existing pump pipe, said pump pipe being the northeast corner of said Deed Book 7732, Page 347; thence South 37 degrees 22 minutes 42 seconds East 222.31 feet to an existing iron pipe, said iron pipe being located on the northern line of a tract of land as described and recorded in Deed Book 1114, Page 353; thence South 53 degrees 17 minutes 19 seconds West 100.05 feet to a 2-inch pipe, said 2-inch pipe being the northwest corner of said Deed Book 1114, Page 353; thence South 37 degrees 13 minutes 30 seconds East 709.40 feet to an existing iron pipe, said iron pipe being the southeast corner of said Deed Book 7734, Page 10, said iron pipe also being the northeast corner of a tract of land as described and recorded in Deed Book 978, Page 624; thence South 40 degrees 41 minutes 20 seconds West 155.51 feet to an existing concrete monument, said concrete monument located on the eastern line of the former right-of-way of Sandra Lane; thence South 40 degrees 41 minutes 20 seconds West 25.02 to an iron stake set; thence South 40 degrees 41 minutes 20 seconds West 25.02 to an iron stake set; thence South 45 degrees 09 minutes 19 seconds West 429.44 feet to an iron stake set, said iron stake being located in the western line of Deed Book 7734, Page 10, said iron stake also being located on the eastern right-of-way of McCloskey Road; thence continuing with the eastern right-of-way of McCloskey Road South 35 degrees 05 minutes 12 seconds East 293.71 feet to the point and place of BEGINNING.....containing 18.30 acres more or less. Said 18.30 acres consists of 16.12 acres per annexation proposal submitted by Fayetteville Longhill Pointe, LLC; and 2.18 acres representing a portion of McCloskey Road Right-of-Way.

**Longhill Pointe - (Located on the
Northwest Corner of McCloskey Road
and Ramsey Street)**

**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 May 26, 2009, after due notice by publication on May 15, 2009; 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 BBK Descendants, Britt Simon, Manager/Member of Fayetteville Longhill Pointe, LLC is hereby annexed and made part of the City of Fayetteville of North Carolina as of May 26, 2009:

LONGHILL POINTE
Northwest Corner of McCloskey Road and Ramsey Street
16.12 Acres
McCloskey Road Right-of-Way
Portion Thereof
2.18 Acres

BEGINNING at a point in the city limit line as established by Annex 2004-04-464; said point being at the eastern margin of McCloskey Road (SR 1610) 60' Right-of-Way as it intersects with the northern margin of Ramsey Street (U.S. 401 North) 100' Right-of-Way; said point also being the southwest corner of property described and recorded in Deed Book 7734, Page 10, of the Cumberland County Registry; running thence with the city limit line and the western margin of Ramsey Street South 30 degrees 52 minutes 01 seconds West 65.70 feet to the western right-of-way margin of McCloskey Road; thence continuing with the city limit line and the western right-of-way margin of McCloskey Road North 35 degrees 05 minutes 12 seconds West 800.01 feet to an existing iron stake; thence leaving said city limit line, but continuing along said right-of-way North 35 degrees 05 minutes 12 seconds West 808.25 feet to a point; thence crossing said right-of-way North 72 degrees 04 seconds 02 seconds East 62.79 feet to the eastern right of way of McCloskey Road, said point being the northwest corner of property

000129

described and recorded in Deed Book 7734, Page 10, being part of 100 acre tract of land as recorded in Plat Book 104, Page 4 of the Cumberland County Registry; thence North 72 degrees 04 minutes 02 seconds East 122.07 feet to an existing iron pipe, said point being the northeast corner of said Deed Book 7734, Page 10 and the northwest corner of property as described and recorded in Deed Book 7732, Page 347, Cumberland County Registry; thence North 72 degrees 04 minutes 02 seconds East 597.05 feet to an existing pump pipe, said pump pipe being the northeast corner of said Deed Book 7732, Page 347; thence South 37 degrees 22 minutes 42 seconds East 222.31 feet to an existing iron pipe, said iron pipe being located on the northern line of a tract of land as described and recorded in Deed Book 1114, Page 353; thence South 53 degrees 17 minutes 19 seconds West 100.05 feet to a 2-inch pipe, said 2-inch pipe being the northwest corner of said Deed Book 1114, Page 353; thence South 37 degrees 13 minutes 30 seconds East 709.40 feet to an existing iron pipe, said iron pipe being the southeast corner of said Deed Book 7734, Page 10, said iron pipe also being the northeast corner of a tract of land as described and recorded in Deed Book 978, Page 624; thence South 40 degrees 41 minutes 20 seconds West 155.51 feet to an existing concrete monument, said concrete monument located on the eastern line of the former right-of-way of Sandra Lane; thence South 40 degrees 41 minutes 20 seconds West 25.02 to an iron stake set; thence South 40 degrees 41 minutes 20 seconds West 25.02 to an iron stake set; thence South 45 degrees 09 minutes 19 seconds West 429.44 feet to an iron stake set, said iron stake being located in the western line of Deed Book 7734, Page 10, said iron stake also being located on the eastern right-of-way of McCloskey Road; thence continuing with the eastern right-of-way of McCloskey Road South 35 degrees 05 minutes 12 seconds East 293.71 feet to the point and place of BEGINNING.....containing 18.30 acres more or less. Said 18.30 acres consists of 16.12 acres per annexation proposal submitted by Fayetteville Longhill Pointe, LLC; and 2.18 acres representing a portion of McCloskey Road Right-of-Way.

Section 2. Upon and after May 26, 2009, 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 _____, 2009.

BY:

Anthony G. Chavonne, Mayor

ATTEST:

Candice White, City Clerk

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council

From: Craig Harmon, Planner II

Date: May 26, 2009

Case No. P08-57F

THE QUESTION: Initial Zoning – R5A Residential District

RELATIONSHIP TO STRATEGIC PLAN: Growth and Development

BACKGROUND:

Location:	Corner of Ramsey Street & McCloskey Road
Owners:	Fayetteville Longhill Pointe, LLC
Council District:	District One - Bates
Requested Action:	Initial Zoning
Existing Zoning (County)	R5A Residential District
Status of Property:	Undeveloped
Size:	18.30 acres
Existing Land Use:	Vacant
Adjoining Land Use & Zoning:	North – Undeveloped Property, within County South – South River Co-Op, zoned C1P East – Undeveloped Property, within County West – Undeveloped Property, within County

2010 Land Use Plan:	Low Density Residential
Letters Mailed:	32

SPECIAL INFORMATION: The City Council's policy for initial zoning of property after it has been annexed into the city is to zone the property to the same zoning it had when it was under county jurisdiction.

Public Utilities:

Water:	Requesting PWC
Sanitary Sewer:	Requesting PWC

Transportation:

Ramsey Street is a major thoroughfare. The average daily traffic count along this portion of Ramsey Street is 16,000 vehicles at this location.

OPTIONS:

1. Initially zone this property to R5A Residential District;
2. Set a public hearing to consider other options.

000131

ITEM 4.

Case No.: P08-57F

Location: Ramsey Street & McCloskey Road

Page: 2

RECOMMENDATIONS:

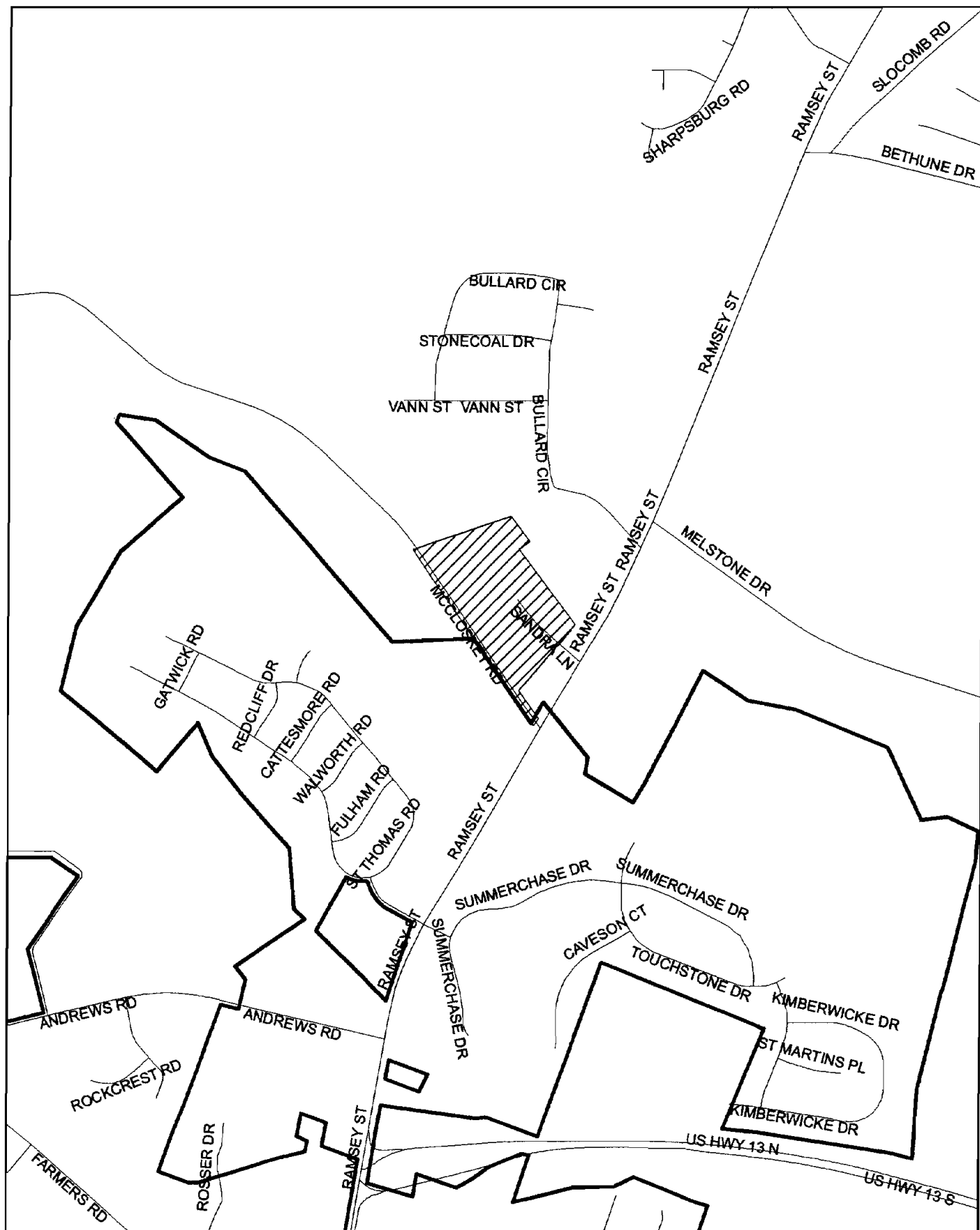
In accordance with the Fayetteville City Council policy # 165.1 of initially zoning a property to the same zoning classification or the nearest available zoning classification to it's county zoning, the Zoning Commission and planning staff recommend initially zoning this property R5A Residential District to match the county's zoning.

ATTACHMENTS:

1. Vicinity Map
2. Zoning Map
3. Current Land Use Map
4. Initial Zoning Policy

Zoning Commission - Vicinity Map

Case No. P08-57F

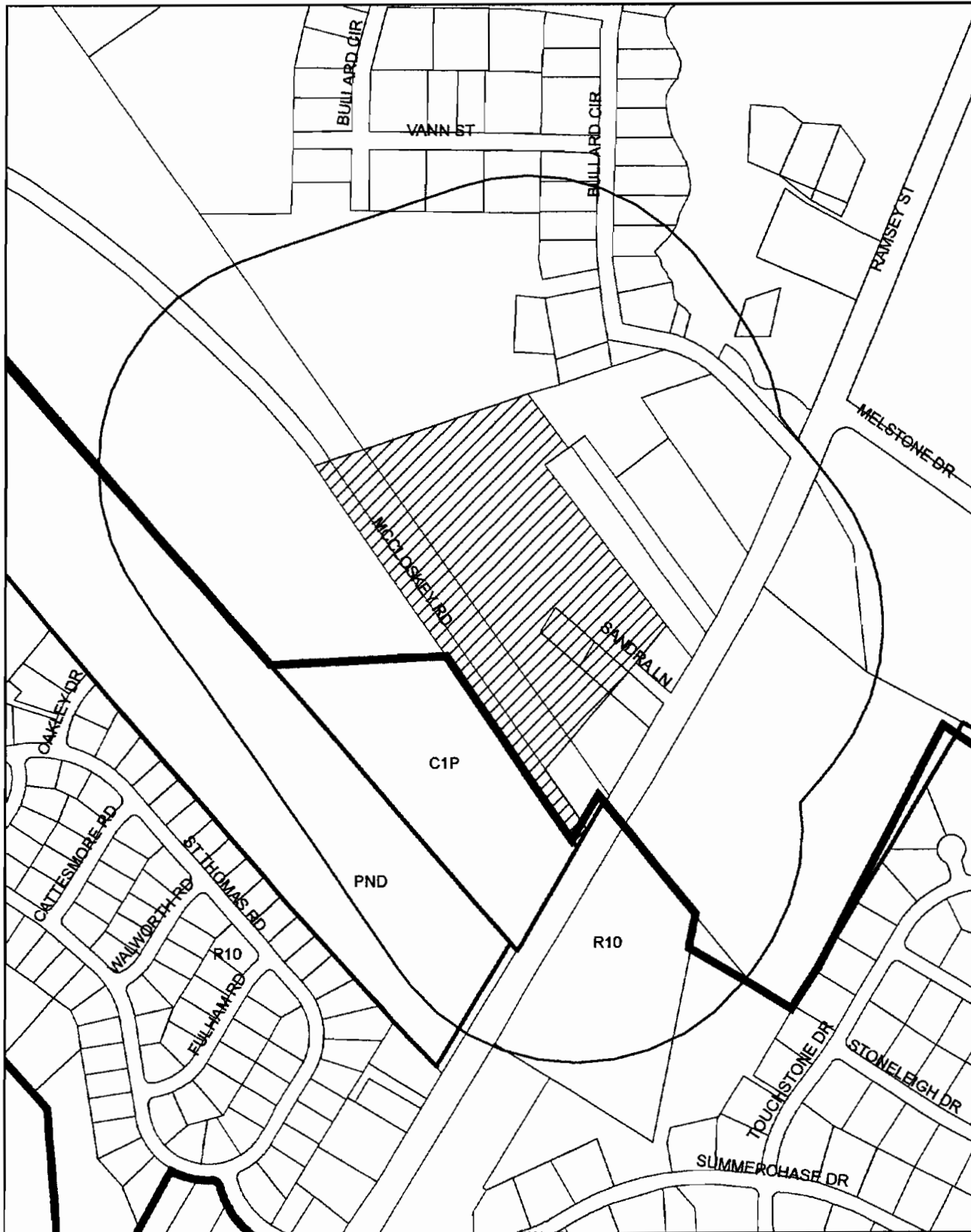


Request: Initial Zoning to R5A

Location: NW Corner of McCloskey and Ramsey 000133

Pin: a portion of 0541-05-3122, 0506, 0531-87-1221 & 0541-05-1321

**ZONING COMMISSION
CASE NO. P08-57F**



Request: Initial Zoning to R5A

Location: NW Corner McCloskey & Ramsey

Acreage: 18.30

Zoning Commission: 11/12/2008 Recommendation:

City Council:

Final Action:

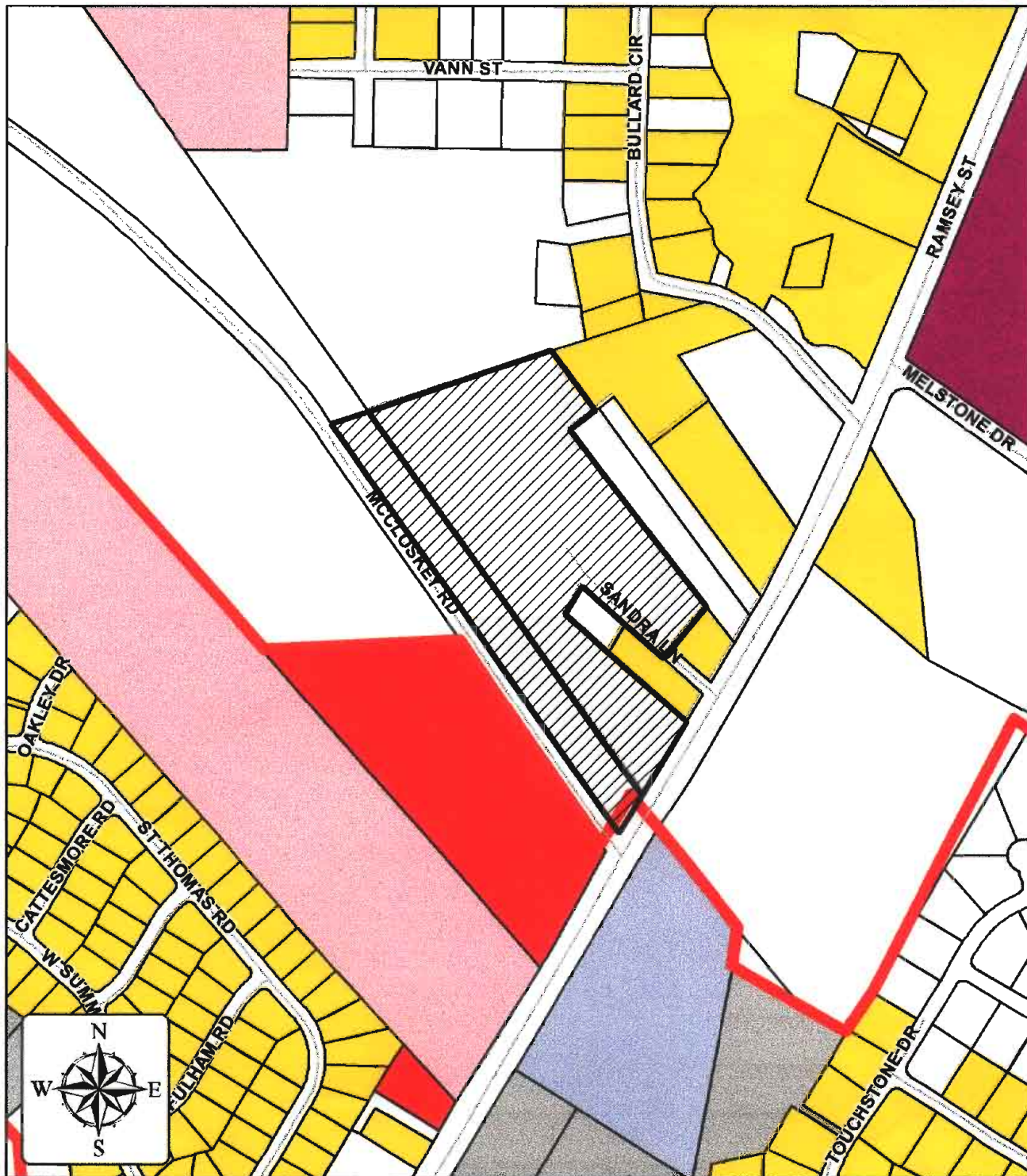
Pin: portions of 0541-05-3122, 0506, 1321, 0531-87-1221

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

000134

Current Land Use

P08-57F



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

000136



**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
NOVEMBER 12, 2008 - 7:00 P.M.**

MEMBERS PRESENT

John Crawley
Pete Paoni
Richard West
Lockett Tally

MEMBERS ABSENT

Jeannie Nelson

OTHERS PRESENT

Jimmy Teal, Planning Director
Karen Hilton, Asst. Planning Dir.
Janet Smith, Asst. City Atty.
David Steinmetz, Code Enf. Ofc

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

Mr. Paoni explained the role of the Zoning Commission. Each side is given 15 minutes, collectively to speak.

I. APPROVAL OF AGENDA

Mr. West stated **Case No. P08-58F** was removed per a request by the property owner's attorney. He made a motion to approve the amended agenda removing Item 3B, Case Number P08-58F.

Mr. Crawley seconded the motion.

A vote was taken and the motion passed unanimously.

II. APPROVAL OF OCTOBER 14, 2008 MINUTES

Mr. Crawley made a motion to approve the minutes.

Mr. Tally seconded the motion.

A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

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

Mr. Teal stated the current County zoning is R5A and zoning would remain the same when the property is annexed into the City.

His overview included a zoning map, the surrounding land uses, the 2010 land use plan's recommendation for low density development and pictures of the site.

Mr. Paoni asked what was happening at that site. Mr. Teal replied plans were submitted to the County and were approved to construct 234 apartment units.

Mr. Paoni asked if a neighborhood meeting were held. Mr. Teal replied no, this was rezoned in the County to R5A early in 2008. Mr. Paoni asked if they should not be concerned about the neighborhood. Mr. Teal stated anytime there is a rezoning property owners are notified within 500-feet of the site and they were notified of the rezoning while in the County. Since it has been rezoned to R5A they have an approved plan from the County and whether or not it is annexed by the City the development is going to be constructed.

Mr. West asked if the request for annexation was to obtain City PWC services. Mr. Teal stated that was correct; once they petition for annexation they get PWC services whether the City annexes the property or not.

The public hearing was opened; being no one signed up to speak the public hearing was closed.

Mr. Teal stated in accordance with the Fayetteville City Council policy # 165.1 of initially zoning a property to the same zoning classification or the nearest available zoning classification to it's County zoning, planning staff recommends initially zoning this property R5A Residential District to match the County's zoning.

Mr. Crawley made a motion to follow staff's recommendation to initially zone the property R5A.

Mr. West seconded the motion.

A vote was taken and the motion passed unanimously.

IV. OTHER

V. ADJOURNMENT

The meeting was adjourned at 7:10pm.

SUBJECT - ZONING Initial Zoning After Annexation	Number 165.1	Revised 11-5-90	Effective Date 8-6-84	Page 1 of 1
---	-------------------------------	----------------------------------	--	--------------------

The policy of the City Council on the initial zoning of property after it has been annexed into the City is as follows:

1. The City Planning Department shall notify the property owners by letter that the initial municipal zoning proceedings are beginning. The letter shall state the existing County zoning of the property, if zoned, and the proposed municipal zoning (which would be the most similar municipal zoning district). The letter shall state that once the initial zoning has been established, residents shall be able to request a zoning change through the normal zoning application process.
2. When an area of the County is not zoned at the time of the annexation, the planning staff shall prepare an initial zoning map. Requests for changes shall be heard by the City Planning Commission prior to recommending the zoning map to the municipal governing body.
3. After annexation of zoned property by 100 percent petition, the owner(s) of the property within the annexed area shall be contacted by the City Planning Department Staff to determine if the owner(s) would desire a more restrictive zoning classification than would normally be applied in paragraph 1, above. If the owner(s) elects more restrictive zoning for all or a portion of such property, then such zoning shall be advertised for public hearings.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Victor D. Sharpe, Community Development Director
Date: May 26, 2009
Re: CDBG-R – Consolidated Plan 2008-2009 Action Plan Amendment

THE QUESTION: Does the Consolidated Plan 2008-2009 Action Plan Amendment meet the requirements of the City's Citizen Participation Plan?

RELATIONSHIP TO STRATEGIC PLAN: More Attractive City – Clean and Beautiful, Growing City, Livable Neighborhoods – A Great Place To Live and Greater Tax Base Diversity- Strong Local Economy.

BACKGROUND:

- ❑ The City of Fayetteville has been allocated \$385,584 in Community Development Block Grant funds through the American Reinvestment and Recovery Act of 2009.
- ❑ The City is required to make a substantial amendment to its Consolidated Plan 2008-2009 Annual Plan in order to receive the funds. This process involves following the City's Citizen Participation Plan process, which includes providing the document for public review and comment as well as holding a public hearing.
- ❑ The Community Development Department recommends that the funding be used for a Residential Facade Grant Program and a Demolition Program.
- ❑ The Residential Façade Grant program will be designed to provide assistance to owner-occupied houses. Assistance will be made up to \$5,000 for eligible applicants.
- ❑ We anticipate that the exterior of the houses will be repaired and painted or have vinyl siding installed.
- ❑ The Demolition Program will be utilized to demolish vacant dilapidated structures that contribute to blight. Grants will awarded up to \$2,500 per structure.
- ❑ A draft copy of the amendment will be made available for public review and comment May 20-26, 2009 in various locations through out the City.

ISSUES:

Amendments must be completed and submitted to HUD by June 5, 2009

OPTIONS:

Approve amendment.
Modify amendment.

RECOMMENDATIONS:

Approve the Substantial Amendment to the Consolidated Plan 2008-2009 Annual Action for the Community Development Block Grant-Recovery funds and authorize the Mayor to execute documents pertaining to the program.

ATTACHMENT:

CDBG-R Budget

Budget

Community Development Block Grant-R

Funding Sources

CDBG-R Funds \$385,584

Proposed Activity	Budget	Goal	
Demolition Program	\$100,000	40 units demolished	
Residential Façade Grant Program	\$250,000	50 units rehabilitated	
Administration	\$ 35,584	Program administration	
Total	\$385,584		



OFFICE OF THE TAX ADMINISTRATOR
117 Dick Street, 5th Floor, New Courthouse • PO Box 449 • Fayetteville, North Carolina • 28302
Phone: 910-678-7507 • Fax: 910-678-7582 • www.co.cumberland.nc.us

MEMORANDUM

TO: Candice White, Fayetteville City Clerk
FROM: Aaron Donaldson, Tax Administrator *AD*
DATE: May 1, 2009
RE: MONTHLY STATEMENT OF TAXES

Attached hereto is the report that has been furnished to the Mayor and governing body of your municipality for the month of April 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

000142

INFORMATION

FAYETTEVILLE MACC LEDGER

APRIL 2009

1998-2008

DATE	REPORT #	REMITTED TO FINANCE	2008 CC	2008 VEHICLE	2008 REVIT	2008 VEHICLE REVIT	2008 FVT	2008 TRANSIT TAX	2008 STORM WATER	2008 FAY STORM WATER	2008 RECYCLE FEE
04/01/09	2008-197	56,311.91	25,174.79	20,037.50	26.25	11.19	2,210.00	1,855.00	712.72	861.81	1,466.17
04/02/09	2008-198	38,926.75	20,230.78	11,773.86	0.00	0.00	1,136.78	781.78	603.34	842.18	1,095.84
04/03/09	2008-199	63,236.55	17,760.28	27,813.93	0.00	0.00	3,256.68	2,871.69	989.13	1,215.08	1,412.29
04/06/09	2008-200	83,725.83	23,407.51	43,027.14	98.72	10.05	4,885.31	4,515.32	906.52	1,071.99	1,582.64
04/07/09	2008-201	33,970.97	16,723.25	9,665.24	0.00	0.00	1,285.28	1,060.00	778.49	902.32	1,116.44
04/08/09	2008-202	50,834.94	14,887.15	21,897.70	0.00	43.96	2,706.38	2,456.05	1,876.51	3,343.44	1,134.84
04/09/09	2008-203	41,656.09	20,684.26	13,269.25	0.00	13.21	1,269.18	1,054.19	535.86	615.33	866.84
04/10/09	2008-204	HOLIDAY	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
04/13/09	2008-205	62,034.43	16,507.15	32,591.63	0.00	13.69	3,040.46	2,515.72	1,453.01	795.77	1,231.67
04/14/09	2008-206	40,097.18	12,888.00	18,796.84	0.00	0.00	2,095.00	1,695.00	934.78	453.26	730.10
04/15/09	2008-207	39,692.85	15,716.72	15,253.53	0.00	15.44	1,761.45	1,347.73	487.64	639.30	1,076.78
04/16/09	2008-208	35,788.74	13,400.49	14,894.36	0.00	0.00	1,505.00	1,200.00	575.47	863.67	1,260.19
04/17/09	2008-209	34,707.96	13,520.41	13,942.50	1.27	0.00	1,487.29	1,137.50	675.78	421.58	811.18
04/20/09	2008-210	57,686.00	14,615.74	31,622.13	74.42	24.06	2,898.23	2,548.23	631.82	720.27	1,260.47
04/21/09	2008-211	44,894.55	21,385.27	13,153.06	2,109.45	25.10	1,453.02	1,193.02	965.77	1,322.86	978.06
04/22/09	2008-212	26,468.10	12,957.05	8,166.97	0.00	20.91	834.20	624.20	397.25	543.84	963.53
04/23/09	2008-213	33,599.26	12,312.16	12,848.99	0.00	20.87	1,310.51	1,085.49	630.19	578.47	718.32
04/24/09	2008-214	25,969.26	6,546.34	12,768.93	35.71	0.00	1,275.00	1,020.00	390.49	276.99	442.73
04/27/09	2008-215	48,906.02	11,998.21	28,084.16	13.79	19.03	2,554.08	2,232.67	442.49	596.99	711.24
04/28/09	2008-216	39,014.84	16,871.26	10,299.76	0.00	2.94	1,127.50	887.50	1,957.27	3,221.51	1,269.65
04/29/09	2008-217	44,614.57	23,507.99	14,302.94	141.99	0.00	1,495.00	1,220.00	487.76	579.71	930.49
04/30/09	2008-218	64,028.49	24,895.02	25,429.68	0.00	26.80	2,755.00	2,325.00	924.27	1,169.61	1,989.40
TOTALS		966,165.29	355,989.83	399,640.10	2,501.60	247.25	42,341.35	35,626.09	17,356.56	21,035.98	23,048.87

TRUE

MACC: MONTHLY ACCOUNTING (TOTALS COLLECTED FOR MONTH)
 CC: INCLUDES REAL & PERSONAL, LATE LIST, & PUBLIC SERVICE

FVT: FAYETTEVILLE VEHICLE TAX (\$5.00)

FAYETTEVILLE MACC LEDGER

1998-2008

APRIL 2009

2008 ANNEX	2007 CC	2007 VEHICLE	2007 REVIT	2007 VEHICLE REVIT	2007 FVT	2007 STORM WATER	2007 FAY STORM WATER	2007 ANNEX	2006 ANNEX	2006 CC	2006 VEHICLE	2006 REVIT
0.00	380.71	1,009.30	0.00	0.00	137.35	0.00	0.00	0.00	111.99	73.06	68.77	0.00
0.00	383.40	766.42	0.00	0.00	115.00	0.00	0.00	0.00	0.00	0.00	(102.98)	0.00
0.00	692.14	2,024.85	0.00	0.00	215.00	35.45	59.80	0.00	189.95	790.36	223.73	0.00
0.00	53.68	1,377.10	0.00	0.00	175.00	0.00	0.00	0.00	169.81	0.00	111.79	0.00
21.59	0.00	521.97	0.00	0.00	95.00	18.43	0.00	0.00	332.45	0.00	34.10	0.00
0.00	10.80	627.99	0.00	0.00	125.00	0.00	0.00	0.00	16.13	0.00	64.23	0.00
32.61	152.79	1,022.98	0.00	0.00	100.00	0.00	0.00	0.00	442.16	0.00	(149.49)	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
7.56	40.71	1,102.29	0.00	0.00	140.00	48.00	0.00	0.00	86.65	21.56	167.62	0.00
0.00	0.00	814.61	0.00	0.00	115.00	0.00	0.00	0.00	103.53	0.00	70.32	0.00
0.00	14.22	1,095.20	0.00	0.00	155.00	12.00	0.00	0.00	0.00	11.90	206.24	0.00
0.00	52.70	249.24	0.00	0.00	75.00	0.00	0.00	0.00	184.58	0.00	94.99	0.00
0.00	30.38	963.49	0.00	0.00	140.00	12.00	0.00	0.00	164.64	0.00	58.67	0.00
(32.61)	319.85	1,057.62	0.00	0.00	150.00	0.00	0.00	0.00	222.32	0.00	84.85	0.00
0.00	0.00	573.47	0.00	0.00	80.00	21.48	42.96	0.00	0.00	0.00	(11.17)	0.00
0.00	124.33	451.60	0.00	0.00	55.00	0.00	0.00	0.00	136.35	0.00	129.78	0.00
0.00	1,099.48	388.65	0.00	0.00	60.00	72.03	41.68	0.00	112.75	657.86	160.21	0.00
0.00	99.97	967.81	0.00	0.00	150.00	0.00	0.00	0.00	133.82	11.84	105.99	0.00
0.00	52.63	689.13	0.00	0.00	110.00	0.00	0.00	0.00	0.00	0.00	21.84	0.00
0.00	440.80	284.60	0.00	0.00	61.18	12.00	24.00	0.00	230.97	29.15	190.64	0.00
0.00	1.02	489.06	0.00	0.00	60.00	0.00	0.00	0.00	292.62	0.00	0.00	0.00
0.00	852.82	401.40	0.00	0.00	95.00	64.70	48.00	0.00	214.04	255.21	53.30	0.00
29.15	4,802.43	16,878.78	0.00	0.00	2,408.53	296.09	216.44	0.00	3,144.76	1,850.94	1,583.43	0.00

000144

FAYETTEVILLE MACC LEDGER

1998-2008

APRIL 2009

2006 VEHICLE REVIT	2006 FVT	2006 STORM WATER	2005 CC	2005 VEHICLE	2005 REVIT	2005 VEHICLE REVIT	2005 FVT	2005 STORM WATER	2004 CC & PRIOR	2004 VEHICLE & PRIOR	2004 REVIT & PRIOR	2004 VEHICLE REVIT & PRIOR	2004 FVT & PRIOR
0.00	15.00	9.72	5.45	5.45	0.00	0.00	0.00	0.00	0.00	35.22	0.00	0.00	17.09
0.00	0.00	0.00	5.53	(173.77)	0.00	0.00	(15.00)	9.36	0.00	8.43	0.00	0.00	8.47
0.00	36.86	16.57	334.88	84.59	0.00	0.00	20.00	16.91	42.81	343.50	0.00	0.00	61.93
0.00	30.00	0.00	5.12	77.73	0.00	0.00	15.00	0.00	22.10	248.17	0.00	0.00	55.00
0.00	15.00	2.83	31.49	28.90	0.00	0.00	0.00	0.00	31.62	29.39	0.00	0.00	6.69
0.00	25.00	0.00	66.53	27.49	0.00	0.00	5.00	0.00	0.00	52.18	0.00	0.00	25.00
0.00	(5.00)	0.00	18.96	75.35	0.00	0.00	18.83	12.00	6.27	17.32	0.00	0.00	12.06
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	15.00	0.00	59.99	23.97	0.00	0.00	0.00	0.00	0.00	336.34	0.00	0.00	36.14
0.00	20.00	0.00	0.00	44.94	0.00	0.00	18.36	0.00	20.83	89.85	0.00	0.00	20.00
0.00	40.00	0.00	2.09	8.93	0.00	0.00	5.00	0.00	2.47	202.83	0.00	0.00	30.00
0.00	15.00	0.00	24.52	52.35	0.00	0.00	10.00	0.00	0.00	125.33	0.00	0.00	10.00
0.00	35.00	0.00	0.00	7.80	0.00	0.00	0.00	0.00	0.00	144.64	0.00	0.00	30.00
0.00	20.00	0.00	0.00	16.93	0.00	0.00	5.00	0.00	0.00	82.52	0.00	0.00	17.93
0.00	5.00	0.00	0.00	22.59	0.00	0.00	10.00	0.00	0.00	10.81	0.00	0.00	0.00
0.00	20.00	0.00	0.00	16.36	0.00	0.00	0.00	0.00	0.00	33.58	0.00	0.00	5.00
0.00	35.00	35.06	118.86	11.61	0.00	0.00	5.00	24.00	103.26	(20.85)	0.00	0.00	19.48
0.00	15.00	0.00	0.00	83.31	0.00	0.00	15.00	0.00	0.00	397.97	0.00	0.00	80.00
0.00	5.65	0.00	0.00	14.33	0.00	0.00	5.00	0.00	116.96	116.83	0.00	0.00	15.00
0.00	30.00	0.00	30.53	15.37	0.00	0.00	5.00	0.00	146.05	45.71	0.00	0.00	11.41
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	23.18	0.00	0.00	21.63
0.00	15.00	12.00	9.40	96.70	0.00	0.00	15.00	8.89	0.00	271.56	0.00	0.00	30.00
0.00	387.51	76.18	713.35	540.93	0.00	0.00	137.19	71.16	492.37	2,594.51	0.00	0.00	512.83

000145

FAYETTEVILLE MACC LEDGER

1998-2008

APRIL 2009

2004 & PRIOR STORM WATER	INTEREST	REVIT INTEREST	STORM WATER INTEREST	FAY STORM WATER INTEREST	ANNEX INTEREST	FAY RECYCLE INTEREST	TOTAL TAX & INTEREST
0.00	1,954.46	1.14	30.55	35.73	4.76	60.73	56,311.91
0.00	1,347.50	0.00	29.68	34.87	0.00	45.28	38,926.75
16.93	2,508.56	0.00	68.70	63.53	12.45	57.97	63,236.55
0.00	1,714.46	4.20	39.88	46.19	6.18	69.22	83,725.83
0.00	1,126.13	0.00	33.69	37.66	26.69	46.32	33,970.97
1.04	1,161.28	0.13	86.06	144.66	0.68	49.71	50,834.94
0.00	1,430.34	0.37	25.84	25.10	74.50	34.98	41,656.09
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	1,641.93	0.00	67.03	33.56	4.00	52.98	62,034.43
0.00	1,095.20	0.00	38.90	17.65	6.25	28.76	40,097.18
0.00	1,519.46	0.00	21.41	25.19	0.00	42.32	39,692.85
0.00	1,081.67	0.00	23.37	33.52	7.85	49.44	35,788.74
0.00	1,020.94	0.06	34.15	18.68	13.57	36.43	34,707.96
0.00	1,212.33	3.18	27.27	31.10	18.07	54.27	57,686.00
0.00	1,314.26	91.65	45.03	62.77	0.00	40.09	44,894.55
0.00	901.85	0.00	16.93	23.65	2.53	43.19	26,468.10
24.22	1,021.33	0.00	60.56	28.42	4.79	30.86	33,599.26
0.00	1,098.78	0.13	17.00	11.82	5.68	18.95	25,969.26
0.00	1,026.38	0.58	19.55	26.80	0.00	32.68	48,906.02
24.00	1,498.37	0.00	90.69	141.31	9.81	55.86	39,014.84
0.00	955.28	4.63	18.58	22.02	24.42	36.25	44,614.57
0.00	1,863.49	0.00	53.87	56.48	9.09	87.76	64,028.49
66.19	28,494.00	106.07	848.74	920.71	231.32	974.05	966,165.29

000146



May 26, 2009

TO: Lisa Smith, Chief Financial Officer *LS*

FROM: Nancy Peters, Accounts Payable *NP*

RE: Tax Refunds of Less Than \$100

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

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
Maggio, Yong M.	3642442	2007	Clerical Error	99.88
TOTAL				\$99.88