

**FAYETTEVILLE CITY COUNCIL
AGENDA
REGULAR MEETING
FEBRUARY 23, 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
FEBRUARY 23, 2009
7:00 P.M.
CITY HALL COUNCIL CHAMBER**

INVOCATION

PLEDGE OF ALLEGIANCE

RECOGNITIONS AND ANNOUNCEMENTS

ITEM 1. APPROVAL OF AGENDA

ITEM 2. CONSENT:

A. Approve Minutes:

- 1. City Council Meeting Held on January 26, 2009
PAGE: 10**
- 2. Work Session Held on February 2, 2009
PAGE: 16**
- 3. City Council Strategic Planning Retreat Held on
February 6, 2009
PAGE: 19**
- 4. City Council Strategic Planning Retreat Held on
February 7, 2009
PAGE: 20**

B. Adopt a Resolution of the City Council of the City of Fayetteville Accepting the Report of Unpaid Taxes and Directing Advertisement of Tax Liens.

North Carolina General Statute 105-369 requires the Tax Collector to report unpaid taxes for municipalities for the current fiscal year that are liens on real property by the second Monday in February. The purpose of the report is to allow Council to order the Tax Collector to advertise the tax liens.

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

C. Approve Bid Award – Purchase of 80,000' of 1/0 ALCN, EPR, 25KV, 1/C Underground Primary Power Cable, PWC Stock No. 1-065-510 (with the option to purchase additional quantities within a one-year period)

The Public Works Commission, during their meeting of February 11, 2009, approved to award bid for purchase of 80,000' of 1/0 ALCN, EPR, 25KV, 1/C Underground Primary Power Cable, PWC Stock No. 1-065-510 (with the option to purchase additional quantities within a one-year period) to Stuart C. Irby, Rocky Mount, NC, the lowest evaluated bidder, for the total purchase price of \$123,120.00 and forward to City Council for approval. Bids were received January 6, 2009.

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D. Approve No Parking Ordinance, Hay Street

NCDOT has submitted a certificate of municipal ordinance requesting the City to concur with a No Parking ordinance for the south side of Hay Street (SR 3578) from a point 375 feet west of Morganton Road (SR1404) eastward to a point 275 feet west of Morganton Road. This area is already marked as no parking, but an ordinance is needed to make it enforceable.

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E. Approve Resolution Requesting NCDOT to Transfer Walter Street and a Portion of Hillsboro Street to the City

Walter Street and Hillsboro Street are NCDOT maintained streets that are within the North Carolina Veterans Park site. The master plan for the park incorporates these two streets into the overall park layout. For this reason, Walter Street and a portion of Hillsboro Street from Hay Street to the on-ramp to Rowan Street need to be closed as public streets. The first step in this process is to transfer maintenance from NCDOT to the City.

PAGE: 32

F. Administrative Error in Deed by County

How to respond to a request from Cumberland County for assistance in clearing up title on two parcels mistakenly conveyed solely to the City.

PAGE: 35

G. Adopt Resolution Declaring Property Surplus

The resolution for consideration is to declare real property owned jointly with Cumberland County surplus and authorize a quit claim of the City's title to the County in order to expedite sale of the land by Cumberland County.

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H. Approve a Lease with the Gospel Services Benevolent Society, Inc. for the Homeless Shelter Located at 913 Person Street

North Carolina Housing Finance Agency granted 913 Person Street to the City of Fayetteville for use as a homeless shelter. The Community Development Department solicited request for proposals for a non-profit organization to operate the facility as a homeless shelter. The Gospel Services Benevolent Society, Inc. submitted a proposal and is being recommended to lease the property as a homeless shelter.

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I. Approve an application by Chris Manning to amend a previously approved R6 residential district\CZ conditional zoning case to allow the flexibility of the multifamily residential units to be condominiums and/or apartments for an area located on Rosehill Road at the end of Grafton Avenue and behind Haymount Presbyterian Church. Containing 28.2 acres more or less and being the property of Green Valley South, LLC. Case Number P09-02F

The City Council on July 23, 2007 approved a rezoning request from R10 residential district to R6 residential district\CZ conditional zoning for 61 single-family homes and 192 condominium units. Approval of this most recent request allows the developer to construct 192 multifamily units as condominiums or apartments or a combination of the two. All other conditions associated with the approval of the rezoning request in July 2007 remain in effect. The Zoning Commission and planning staff concur with the applicant's request to amend the condition to allow condominiums or apartments to a maximum of 192 units.

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J. Approve Sign Permit for the Fayetteville Area Dogwood Exchange Club for their Annual Barbeque Plate Sale Fundraiser on April 3, 2009 at 2900 Village Drive

Small signs are to be placed in the Village Drive, Owen Drive and Raeford Road vicinity beginning Tuesday, March 31st through Saturday, April 4th. The sign ordinance provides for temporary signage for festivals and special events. The City Council has approved the Fayetteville Area Dogwood Exchange sign request for this event for the past three years.

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K. Approve Sign Permit for the Annual Craftsmen's Spring Festival on March 14th and March 15th

The signs are to be placed at various locations throughout the city from Monday, March 9th through Monday, March 16th. The sign ordinance provides for temporary signage for festivals and special events. The City Council has approved the Craftsmen's Spring Festival for the past several years.

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L. Approve Sign Permit for the Fayetteville Fire Department's Annual Spring "Change Your Clock - Change your Battery" Promotion

Signs will be placed at all city fire stations from February 25th through March 16th promoting this campaign. The sign ordinance provides for temporary signage.

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M. Approve Sign Permit for the Crown Center for Their Upcoming Step Show in March

Approximately 30 small signs will be placed in various locations throughout the community from March 9th through March 30th. The sign ordinance provides temporary signage for festivals and special events.

PAGE: 60

N. Approve Sign Permit for the Annual Fort Bragg Fair to be Held in April and May

The Fort Bragg Directorate of Morale, Welfare and Recreation will place 10 small signs in various locations throughout the community from April 23rd through May 18th. The sign ordinance provides temporary signage for festivals and special events. The City Council approved this sign request for last year's fair.

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O. 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. 101 Bremer Street (PIN 0419-70-0862)

Freda E. Johnson, Heirs; James Ken Johnson

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2. 605 Deep Creek Road (PIN 0446-38-7815)

Helen Garnett; Myra Baker; Wilma Roberts; Patricia Baldwin

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3. 110 Mary Street (PIN 0437-69-5972)

Alberta Williams, Heirs; c/o Marshall C. Williams

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4. **1210 North Street (PIN 0438-71-1696)**
Cora Whitehead McEachern, Heirs; Saunders Whitehead,
Heirs
PAGE: 93
5. **1615 North Street (PIN 0438-64-3206)**
Alfred H. Shields; Diane Shields Bullard
PAGE: 105
6. **5009 Patton Street (PIN 0418-49-4528)**
Servicing Associates, LLC
PAGE: 113

ITEM 3. PUBLIC HEARINGS:

A. Public Hearing to Consider Closing a Portion of an Unopened and Unnamed Street/Alley off N. Reilly Road

A request was received from Missions to Military, Inc. requesting that a 25' unopened and unnamed street/alley off N. Reilly Road and abutting their property be permanently closed. A public hearing is scheduled to receive comments on the closure.

PRESENTED BY: Bobby Teague, Engineering and Infrastructure Director

RECOMMENDED ACTION: Approval.
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B. Consider a local landmark designation in accordance with the guidelines established in Chapter 30, Article XV, Section 30-455 of the Fayetteville City Code for property located on the south bank of Cross Creek near the intersection of North Cool Spring Street and Cool Spring Lane.

Properties determined by the Historic Resources Commission to be of special significance in terms of its historical, pre-historical, architectural or cultural importance to include integrity of design, setting, workmanship or materials may be designated as a local landmark.

PRESENTED BY: Bruce Daws, Historic Properties Manager

RECOMMENDED ACTION: Historic Resources Commission recommends approval of the local landmark designation.
PAGE: 129

- C. **Consider the rezoning from R5A residential district and C1P commercial district to M2 industrial district or to a more restrictive zoning classification for property located between Louise Street and Raeford Road. Containing 8.87 acres more or less and being the property of Edward and Raymonde Schantz. Case Number P09-01F**

Applicant wishes to rezone property to M2 industrial where he currently operates a non-conforming salvage yard.

PRESENTED BY: Jimmy Teal, Planning Director

RECOMMENDED ACTION: Zoning Commission recommends approval of the rezoning to M2 industrial district. Planning staff recommends denial of the rezoning request based on the area being located within the 100 year floodplain, the 2010 Land Use Plan suggesting conservation and open space uses, and M2 zoning being incompatible with the surrounding zoning.

PAGE: 147

- D. **Consider the rezoning from P3 professional district to CD conservation district for property located on the southeast corner of Morganton Road and Loch Haven Drive. Containing 4.25 acres more or less and being the property of William Maxwell, Sr., Harold Stutts and Edens LLC. Case Number P09-03F**

The applicant in this case is not the property owners, but the McFadyen Lake Owners Association. Mr. Ed Blanchard, President of the McFadyen Lake Owners Association, appealed the decision of the Zoning Commission.

PRESENTED BY: Jimmy Teal, Planning Director

RECOMMENDED ACTION: Zoning Commission recommends denial of the rezoning to CD conservation district. Planning staff recommends approval of the CD Conservation District for the floodway for environmental protection, but leaving the remainder of the property P3 Professional District.

PAGE: 160

- E. **Consider the rezoning from PND plan neighborhood district to CD conservation district for property located in the area of Bahama Loop, Offing Drive, Georgetown Circle and Water Edge Drive. Containing 12.11 acres more or less and being the property of SABE, LLC and 3340 Investments, LLC. Case Number P09-04F**

The applicant in this case is not the property owners, but the McFadyen Lake Owners Association. Mr. Ed Blanchard, President of the McFadyen Lake Owners Association, appealed the decision of the Zoning Commission.

PRESENTED BY: Jimmy Teal

RECOMMENDED ACTION: Zoning Commission recommends denial of the rezoning to CD conservation district. Planning staff recommends approval of the CD Conservation District for the floodway for environmental protection land leaving the remainder of the property PND Planned Neighborhood District.

PAGE: 174

- F. **Consider the rezoning from R5 residential district to P4 professional district or to a more restrictive zoning classification for property located at 1101, 1103 and 1111 Arsenal Avenue. Containing .51 acres more or less and being the property of Stevie Ammons, Robert Brandenburg and Neil Grant. Case Number P09-05F**

Applicants wish to have the option of using their property for professional uses.

PRESENTED BY: Jimmy Teal, Planning Director

RECOMMENDED ACTION: Zoning Commission recommends approval of the rezoning request to P4 professional district. Planning staff recommends denial of the rezoning request based on rezoning these properties to professional changes the 1100 block of Arsenal Avenue from a residential setting to a professional setting and there is existing vacant office space in the vicinity.

PAGE: 118

- G. Consider an application by Columbus Thurmond for a Special Use Permit to allow a daycare center in an R6 residential district for property located at 5007 Redwood Drive. Containing .26 acres more or less and being the property of Columbus Thurmond. Case Number P09-06F**

Applicant wishes to operate a daycare at 5007 Redwood Drive six days-a-week for twenty-four hours per day for a maximum total of 30 children at any one time.

PRESENTED BY: Jimmy Teal, Planning Director

RECOMMENDED ACTION: Zoning Commission recommends denial of the Special Use Permit.

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ITEM 4. MUSEUM OF ART TASK FORCE REPORT PRESENTATION

The Museum of Art Task Force was established to research issues related to the proposed Museum of Art location in Festival Park. Scott Baker made his presentation at the February 2, 2009 work session and City Council consensus was to forward the report to a February meeting for consideration of formal acceptance.

PRESENTED BY: Scott Baker, Museum of Art Task Force Chairman

RECOMMENDED ACTION: Staff recommends acceptance of the report.

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ITEM 5. 2009 FEDERAL LEGISLATIVE AGENDA

The City, County of Cumberland and Fayetteville-Cumberland County Chamber of Commerce have partnered with the Ferguson Group to develop a community-wide federal legislative agenda. This partnership has returned more than \$20,000,000 in federal assistance to the community since its inception. In order to continue those successful efforts, the partners have developed a 2009 federal agenda for submission to our federal legislative delegation later this year for which staff is seeking City Council's final approval.

PRESENTED BY: Doug Hewett, Assistant City Manager

RECOMMENDED ACTION: Approve the federal agenda as presented.

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ITEM 6. CLOSED SESSION

INFORMATION ITEMS:

- 1. Statement of Taxes Collected for the Month of January 2009 from the Cumberland County Tax Administrator**

PAGE: 219

2. **General Fund Revenue and Expenditure Report for the Six-Month Period Ended December 31, 2008**
PAGE: 224
3. **Standard Communication Letter from Cherry Bekaert & Holland Describing the Nature and Scope of the Audit to be Performed for the Fiscal Year Ending June 30, 2009**
PAGE: 229

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
FEBRUARY 23, 2009 - 7:00 PM
COMMUNITY CHANNEL 7**

**COUNCIL MEETING WILL BE RE-AIRED
FEBRUARY 25, 2009 - 10:00 PM
COMMUNITY CHANNEL 7**

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

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**FAYETTEVILLE CITY COUNCIL
MINUTES
JANUARY 26, 2009
7:00 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) (via teleconference); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Karen M. McDonald, City Attorney
Lisa Smith, Chief Financial Officer
Stanley Victrum, Chief Information Officer
Rob Anderson, Chief Development Officer
Victor Sharpe, Community Development Director
Bradley Whited, Fayetteville Airport Director
Bobby Teague, Engineering and Infrastructure Director
Rusty Thompson, Traffic Engineer
Jimmy Teal, Planning Director
Karen Hilton, Assistant Planning Director
David Nash, Planner II
Ron Macaluso, Transit Director
Tony Means, Transit Operations Superintendent
Gloria Wrench, PWC Purchasing Manager
Jackie Tuckey, Communications Manager/Public Information Officer
Rebecca Rogers-Carter, Management Analyst
Shelby Olive, Graphics Supervisor
Scott Lagueux, Consultant, LandDesign
Michale M. Rutkowski, Kimley-Horn and Associates
Candice H. White, City Clerk
Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Pastor Crawford Humphrey, Abney Chapel Seventh Day Adventist Church, followed by the Pledge of Allegiance to the American Flag.

RECOGNITIONS AND ANNOUNCEMENTS

Mayor Chavonne and Council Member Meredith, on behalf of the City Council and City of Fayetteville, recognized faculty and students from the Management Information Systems class at the University of North Carolina Pembroke for their development of a customized database to improve the City's print shop inventory management.

Mayor Chavonne and Council Member Applewhite, on behalf of the City Council and City of Fayetteville, recognized the Seventy First High School football team, coaches and principal for being the 2008 4-A State Football Champions.

1. APPROVAL OF AGENDA

MOTION: Council Member Meredith moved to approve the agenda.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

DRAFT

2. CONSENT:

Council Member Evans requested Item 2.I. pulled.

Council Member Haire requested Item 2.D. pulled.

MOTION: Council Member Hurst moved to approve the consent agenda with the exception of Item 2.D. and Item 2.I.
SECOND: Council Member Bates
VOTE: UNANIMOUS (10-0)

The following items were approved:

A. Approve Minutes:

1. Work Session Held on January 5, 2009
 2. City Council Meeting Held on January 12, 2009
- B. Adopt a Reimbursement Resolution for Soil Street Paving and Hope VI Redevelopment Project Infrastructure Improvements

The adopted capital improvement plan and fiscal year 2008/2009 budget include planned financing of soil street paving projects and infrastructure improvements for the Hope VI redevelopment project. This reimbursement resolution will allow the City to reimburse itself from the financing proceeds for any expenditures paid prior to the acquisition of the financing. The total amount expected to be financed for these infrastructure projects within the next twelve months is \$2,413,550.

RESOLUTION DECLARING THE INTENTION OF SAID CITY TO REIMBURSE ITSELF FROM PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND TO BE MADE IN CONNECTION WITH PAVING OF SOIL STREETS AT VARIOUS LOCATIONS, AND INFRASTRUCTURE IMPROVEMENTS INCLUDING STREETS, SIDEWALKS, DRAINAGE, WATER AND SANITARY SEWER ASSOCIATED WITH A HOPE VI DEVELOPMENT PROJECT. RESOLUTION NO. R2009-006

- C. Adopt Capital Project Ordinance Amendment Change 2009-12 (AIP 33 - Airport Lighting Vault Improvement Project)

This Capital Project Ordinance Amendment will appropriate an additional \$65,662 from an Airport Operating Fund transfer to address an increase in concrete removal and additional modifications necessary to prepare for the future renovation of Station 10. Ultimately, the City expects to be reimbursed 95% of the cost of the expense from the FAA.

- D. Pulled at the request of Council Member Haire.

- E. Addition of Certain Streets to the City of Fayetteville System of Streets

- F. Resolution to Set Public Hearing to Consider Closing an Un-named 25' Street/Alley off N. Reilly Road

RESOLUTION CALLING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF A PORTION OF A 25-FOOT WIDE UN-NAMED ALLEY/STREET LOCATED BETWEEN NORTH REILLY ROAD AND SQUIRE LANE. RESOLUTION NO. R2009-007

- G. NCDOT Safe Routes to School, Infrastructure Reimbursement Program Application

A RESOLUTION OF SUPPORT AND ADMINISTRATION FOR THE APPLICATION OF NORTH CAROLINA SAFE ROUTES TO SCHOOL GRANTS AND ACTION PLAN. RESOLUTION NO. R2009-008

- H. Consider Adoption of a Resolution to the North Carolina Department of Transportation (NCDOT) for a Possible Grant to be Awarded in FY2010 for an Urban Advanced Technology Grant

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RESOLUTION AUTHORIZING THE CITY OF FAYETTEVILLE TO ENTER INTO AN GRANT FOR FY2010, IF AWARDED, FOR AN URBAN ADVANCED TECHNOLOGY GRANT PROGRAM WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION. RESOLUTION NO. R2009-009

- I. Pulled at the request of Council Member Evans.
 - J. Approve sign permit for Methodist University Loyalty Day event on Tuesday, February 10th
 - K. Approve the application to amend a previously approved mixed use district\conditional zoning to expand a dog kennel by adding 30 dog units for property located at 2102 Strickland Bridge Road. Containing 4.1 acres more or less and being the property of Lisa Adams-Turner. Case Number P08-60F
- 2.D. Consider Setting a Public Hearing on Economic Development Incentive Agreement with Goodyear Tire and Rubber Company

Council Member Haire inquired regarding the purpose of the public hearing. Dale E. Iman, City Manager, briefly reviewed the City's September 25, 2006 tentative agreement to provide an incentive package to Goodyear Tire and Rubber Company contingent upon the company making a capital investment of at \$200 million by December 31, 2012 and retaining 2,000 employees. Mr. Iman stated North Carolina state law requires that a public hearing be held on these type of economic development incentive agreements.

MOTION: Council Member Haire moved to set a public hearing for February 9, 2009 to consider the Goodyear Tire and Rubber Company incentive.
SECOND: Council Member Bates
VOTE UNANIMOUS (10-0)

2.I. Consider Adoption of Resolution Approving Assignment of Voluntary Annexations to Electoral Districts

Council Member Evans inquired regarding the effect of the annexations on the upcoming election. Karen M. McDonald, City Attorney, stated the voluntary annexations had already occurred and the small number of citizens involved would be assigned to the current electoral districts. Mrs. McDonald further stated should Council adopt the resolution, the submission would be forwarded to the U.S. Justice Department for clearance.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE ACCOUNTING FOR EIGHT ANNEXATIONS OF TERRITORY TO THE CITY OF FAYETTEVILLE. RESOLUTION NO. R2009-010

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

3. PUBLIC HEARINGS:

A. Consideration of an Application to the North Carolina Department of Commerce for a Grant through the Neighborhood Stabilization Program

Victor Sharpe, Community Development Director, stated City Council in October 2008 approved the submission of a Letter of Intent for the Neighborhood Stabilization Program. Mr. Sharpe explained the purpose of the program. Mr. Sharpe stated the City's intent is to apply for \$5 million and a public hearing regarding the City's application and intent to apply is required. Mr. Sharpe responded to questions regarding areas with high foreclosure numbers.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing opened and closed at 7:35 p.m.

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

- B. Consider the rezoning from M1 industrial district to R6 residential district or to a more restrictive zoning district for property located at the end of Quality Drive and Shedd Avenue. Containing 66.33 acres more or less and owned by Broadwell Land Company. Case Number P08-49F**

Karen Hilton, Assistant Planning Director, showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mrs. Hilton stated the applicant wished to rezone a former textile mill site from M2 industrial zoning to R6 residential zoning in order to construct new housing. Mrs. Hilton reminded Council of the case history and that the public hearing was continued from September 22, 2008.

This is the advertised public hearing continued for this date and time. The public hearing opened at 7:45 p.m.

John White, 2949 Delaware Drive, Fayetteville, NC 28304 appeared in favor and stated the neighborhood learned that their issues might be associated with underground water, not stormwater, which had caused damage to streets and residences.

Jimmy Kizer, 115 Broadfoot Avenue, Fayetteville, NC 28305 appeared in favor, stated the site plan had been redesigned to integrate stormwater controls and any underground water problems on the site would be addressed.

No one appeared in opposition and the public hearing closed at 7:49 p.m.

Mr. Kizer responded to questions posed by Council Members Evans and Crisp regarding sound issues associated with the railroad, plans for a natural tree buffer and use of retention ponds to eliminate any increase in the development's stormwater runoff.

MOTION: Council Member Evans moved to approve the rezoning from M1 industrial district to R6 residential district.
SECOND: Council Member Meredith
VOTE: UNANIMOUS (10-0)

4. APPROVAL OF THE RAMSEY STREET CORRIDOR PLAN FOR LAND USE AND SPECIFIC FOCUS AREAS

Ms. Hilton introduced Scott Lagueux, LandDesign Consultant.

Mr. Lagueux presented a summary of the final draft plan to include recommended land uses for the next fifteen to twenty years for the corridor from Martin Luther King Boulevard to the northern city limits. Mr. Lagueux reviewed plans for the focus area from Country Club Drive to Methodist University and recommendations for other enhancements and implementations.

Mr. Lagueux responded to questions posed by Council Members. Mrs. Hilton clarified the corridor plan was for land use and if adopted, would provide local guidance along with the Unified Development Ordinance.

MOTION: Council Member Bates moved to approve the proposed corridor land use plan.
SECOND: Council Member Meredith
VOTE: UNANIMOUS (10-0)

5. APPROVAL OF THE MURCHISON ROAD CORRIDOR STUDY, PHASE II, TRANSPORTATION

Mr. Thompson provided an overview of events leading up to the study of the Murchison Road corridor and introduced Michael M.

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Rutkowski, Consultant with Kimley-Horn and Associates. Mr. Rutkowski introduced the transportation study by providing a brief synopsis of the planning process and public outreach efforts to include a taskforce, stakeholders and a collaborative four-day charrette that was attended by over two hundred and fifty individuals. Mr. Rutkowski called attention to the design concept plans and reviewed the guiding principles used during the study process to include those associated with connectivity, potential impact on property, and context sensitivity of the entire corridor and surrounding community.

Mr. Rutkowski reviewed transportation elements for design sections along the length of the corridor and provided data associated with traffic volumes, signalized and unsignalized intersection operations, level of service measures and the top ten crash intersections.

Mr. Rutkowski concluded the presentation with an outline of proposed recommendations for improvements to the design sections along the corridor and the development potential for various projects on Murchison Road. Questions followed regarding connectivity options, controls placed on left-hand turns off of Murchison Road and utilization of the transportation study.

MOTION: Council Member Haire moved to accept the Murchison Road Corridor Study.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

6. BID AWARD - RESURFACE VARIOUS STREETS - 2009

Bobby Teague, Engineering and Infrastructure Director, stated bids were received on January 13, 2009 for the 2009 resurfacing contract for ninety-seven streets totaling approximately nineteen and one-third miles. Mr. Teague further stated of the three bids received, Highland Paving Company of Fayetteville was the low bidder in the amount of \$2,798,861.22. Mr. Teague stated staff recommendation is to award the contract to Highland Paving Company in the amount of \$2,798,861.22.

MOTION: Council Member Meredith moved to award the contract according to staff recommendation.

SECOND: Council Member Massey

Mr. Teague outlined the rating system used for evaluating which city streets need to be resurfaced. Mr. Iman spoke to Council's appropriation of \$3.5 million for each of the past three years for resurfacing of streets throughout the city. Mr. Teague responded to additional questions.

VOTE: UNANIMOUS (10-0)

ITEM 7. FY 2008-09 STRATEGIC PLAN 2ND QUARTER REPORT

Doug Hewett, Assistant City Manager, outlined the three main areas of the city's Strategic Plan and reviewed the Strategic Plan second quarter report to include the status of Top and High Policy Agenda targets for action and the status of Top and High Management Agenda targets for action.

Mr. Hewett introduced Doug Peters, Fayetteville Cumberland Chamber of Commerce President, who reported on the Chamber of Commerce's Workforce Development Plan and, diverse tax base and economic development strategies.

Mr. Hewett concluded his presentation and responded to questions.

INFORMATION ITEMS:

1. Statement of taxes collected for the month of December 2008 from the Cumberland County Tax Administrator

| | |
|--------------------------|-----------------|
| 2008 Taxes | \$12,168,328.33 |
| 2008 Vehicle Taxes | 524,616.41 |

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| | |
|------------------------------------|-----------------|
| 2008 Revit | 26,691.91 |
| 2008 Vehicle Revit | 300.24 |
| 2008 FVT | 53,327.77 |
| 2008 Transit Fee | 44,008.56 |
| 2008 Storm Water | 645,479.76 |
| 2008 Fay Storm Water | 970,735.11 |
| 2008 Recycle Fee | 386,424.57 |
| 2008 Annex | (33.18) |
| 2007 Taxes | \$16,931.55 |
| 2007 Vehicle Taxes | 58,094.40 |
| 2007 Revit | 11.04 |
| 2007 Vehicle Revit | 0.00 |
| 2007 FVT | 7,369.73 |
| 2007 Storm Water | 1,132.58 |
| 2007 Fay Storm Water | 848.73 |
| 2007 Annex | 15.17 |
| 2006 Annex | \$19,800.99 |
| 2006 Taxes | 4,474.84 |
| 2006 Vehicle Taxes | 2,136.12 |
| 2006 Revit | 0.59 |
| 2006 Vehicle Revit | 0.00 |
| 2006 FVT | 464.91 |
| 2006 Storm Water | 364.85 |
| 2005 Taxes | \$1,896.14 |
| 2005 Vehicle Taxes | 739.91 |
| 2005 Revit | 0.00 |
| 2005 Vehicle Revit | 0.00 |
| 2005 FVT | 183.35 |
| 2005 Storm Water | 226.60 |
| 2004 and Prior Taxes | \$1,849.83 |
| 2004 and Prior Vehicle Taxes | 1,498.30 |
| 2004 and Prior Revit | 0.00 |
| 2004 and Prior Vehicle Revit | 0.37 |
| 2004 and Prior FVT | 391.51 |
| 2004 and Prior Storm Water | 295.19 |
| Interest | \$15,241.79 |
| Interest (Revit) | 2.71 |
| Interest (Storm Water) | 364.97 |
| Interest (Fay Storm Water) | 91.87 |
| Interest (Annex) | 106.21 |
| Interest (Fay Recycling) | 0.00 |
| Total Collections | \$14,957,413.73 |

2. General Fund Revenue and Expenditure Report for the Four-Month Period Ended October 31, 2008

There being no further business, the meeting adjourned at 9:53 p.m.

Respectfully submitted,

CANDICE H. WHITE
City Clerk

ANTHONY G. CHAVONNE
Mayor

012609

000015

DRAFT

FAYETTEVILLE CITY COUNCIL
MINUTES
FEBRUARY 2, 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)(arrived 5:03 p.m.); Robert A. Massey, Jr. (District 3)(arrived 5:03 p.m.); Darrell J. Haire (District 4)(arrived 5:02 p.m.); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8)(arrived 5:06); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Karen M. McDonald, City Attorney
Lisa Smith, Chief Financial Officer
Tracy Broyles, Budget and Evaluation Manager
Stanley Victrum, Chief Information Officer
Rob Anderson, Chief Development Officer
Bobby Teague, Engineering and Infrastructure Director
Victor Sharpe, Community Development Director
B. E. (Benny) Nichols, Fire/Emergency Management Chief
Ben Major, Assistant Fire Chief
Mike Hill, Battalion Commander
Jackie Tuckey, Communications Manager/Public Information Officer
Scott Baker, Museum of Art Taskforce Chairman
Candice H. White, City Clerk
Press

CALL TO ORDER

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

MOTION: Council Member Bates moved to adjourn the meeting to the Council Chambers.
SECOND: Council Member Meredith
VOTE: UNANIMOUS (6-0)

INVOCATION

Council Member Haire provided the invocation.

1. APPROVAL OF AGENDA

Mayor Chavonne requested Item 5. moved to Item 2. and the remaining items renumbered accordingly.

MOTION: Council Member Meredith moved to approve the agenda with Item 5. moved to Item 2. and the remaining items renumbered accordingly.
SECOND: Council Member Crisp
VOTE: UNANIMOUS (9-0)

Dale E. Iman, City Manager, introduced Jami Shepphard who was recently hired as the City's Downtown Development Manager.

DRAFT

2. CORN TRAIN UPDATE

Mr. Iman provided information regarding a train that would travel through Fayetteville to carry corn to the ethanol plant being constructed in Hoke County.

Bobby Teague, Engineering and Infrastructure Director, mapped the corn train route through Fayetteville and stated due to the length of the trains, street crossings would be blocked for ten to fifteen minutes and some streets such as Maiden Lane, Hay Street, Franklin Street and Russell Street could all be blocked at the same time. Mr. Teague stated the corn trains are expected to travel through Fayetteville every four to five days.

Questions followed and discussion ensued regarding the City's options.

Consensus was for staff to explore all options to include correspondence to the Department of Commerce and a briefing on legal considerations.

3. PRESENTATION OF THE RECOMMENDED CAPITAL IMPROVEMENT PLAN

Lisa Smith, Chief Financial Officer, introduced the recommended fiscal year 2010-2014 Capital Improvement Plan (CIP) and stated this was the second year the city had participated in the process. Mrs. Smith stated the CIP was consistent with Council's strategic plan, considered the city's financial well being, and strived to maintain full quality municipal services.

Mrs. Smith reviewed the process used to develop the CIP and funding assumptions or available resources for the CIP projects.

Mr. Iman and Mrs. Smith responded to questions and advised following Council feedback and adoption, the CIP could be amended.

4. PRESENTATION REGARDING STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) GRANT

Benny Nichols, Fire/Emergency Management Chief, stated as the city's boundaries had expanded and as emergency response times had gradually increased due to the extended travel distance, the Fire and Emergency Management Department sought assistance through a Staffing for Adequate Fire and Emergency Response (SAFER) Grant, which was applied for in April 2008, to hire twenty-four additional firefighters.

Chief Nichols spoke to benefits to the community resulting from the award of the SAFER grant.

Chief Nichols responded to questions and at the request of Mayor Chavonne, spoke to plans for fire stations in northern and eastern Fayetteville. Consensus was to return to Council for consideration of approval.

5. 2009 FEDERAL LEGISLATIVE AGENDA

Doug Hewett, Assistant City Manager, stated the City of Fayetteville, County of Cumberland and the Fayetteville-Cumberland Chamber of Commerce worked with the Ferguson Group to develop a community-wide federal legislative agenda. Mr. Hewett further stated the Ferguson Group had returned more than \$20,000,000 in federal assistance to the community.

Mr. Hewett provided an overview of the draft list of projects and issues identified by the partners as priorities for the community for the 2009 federal agenda and pointed out the list did not include legislative issues to be shared with the NC General Assembly. Mr. Hewett responded to questions and discussion ensued.

DRAFT

6. PRESENTATION ON 2008 ANNUAL REPORT

Mr. Iman stated for the second consecutive year the City of Fayetteville was presenting its annual report. Mr. Iman further stated the annual report was posted to the city's website and identified the primary activities, accomplishments and achievements of all departments throughout the year. Mr. Iman reviewed highlights from each department and responded to questions regarding the panhandling ordinance, benefits of recycling and average response times for the Fire Department.

Consensus was to forward to a televised meeting for presentation and formal acceptance.

7. MUSEUM OF ART TASK FORCE UPDATE

Scott Baker, Chairman of the Museum of Art Task Force, reiterated the charge of the task force regarding the Fayetteville Museum of Art (FMOA) and stated the results of the task force were: the FMOA could not sustain the original proposal of building and space requirements; agreement of four parking recommendations; and recommendation of the following four sites: 1) align the new FMOA along Ray Avenue within Festival Park; 2) align the FMOA along Rowan Street within Festival Park; 3) allot a portion of the 3.5 acres behind the AIT building contiguous to the Amtrak Station; and 4) adaptive reuse of the existing Lundy Building.

Consensus of Council was to move the report forward to a February meeting for consideration of formal acceptance.

8. COUNCIL MEMBER REQUEST

A. REVIEW TRAVEL TRAILER ORDINANCE

Council Member Bates requested that Council consider amending the travel trailer ordinance to include appearance standards that would allow travel trailers to be parked in driveways. A brief discussion followed. Consensus was to give the matter further consideration.

There being no further business, the meeting adjourned at 7:12 p.m.

Respectfully submitted,

CANDICE H. WHITE
City Clerk

ANTHONY G. CHAVONNE
Mayor

020209

DRAFT

FAYETTEVILLE CITY COUNCIL
ANNUAL RETREAT
FAYETTEVILLE REGIONAL AIRPORT
400 AIRPORT ROAD - CONFERENCE ROOM
FEBRUARY 6, 2009
5:30 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2) (arrived 5:50 p.m.); 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
Rebecca Rogers-Carter, Management Analyst
Lyle Sumek, Sumek and Associates, Inc.
Andrew Barksdale, The Fayetteville Observer

Mayor Chavonne called the strategic planning retreat to order at 5:35 p.m. and recognized Dale E. Iman, City Manager. Mr. Iman introduced Jeffrey Powell, newly hired Assistant City Manager and turned the meeting over to Lyle Sumek of Sumek and Associates, Inc. Mr. Sumek provided an overview of topics slated for City Council's strategic planning retreat:

1. Performance Report 2008
2. Sustainability
3. Looking to Fayetteville's Future
4. Strategic Discussions:
Outcomes - Directions
 - A. Police and Crime Reduction
 - B. Transportation
 - C. Annexation

Council recessed for dinner at 7:00 p.m. and reconvened at 7:50 p.m.

Council engaged in strategic planning discussions regarding crime, transportation and annexation. City Council recessed their meeting at 9:45 p.m. to reconvene on Saturday, February 7, 2009 at 8:30 a.m.

Respectfully submitted,

DOUG HEWETT
Assistant City Manager

ANTHONY G. CHAVONNE
Mayor

020609

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ITEM 2.A.3.

DRAFT

FAYETTEVILLE CITY COUNCIL
ANNUAL RETREAT
FAYETTEVILLE REGIONAL AIRPORT
400 AIRPORT ROAD - CONFERENCE ROOM
FEBRUARY 7, 2009
8:30 A.M.

Present: Mayor Anthony G. Chavonne

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

Others Present: Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Jeffrey Powell, Assistant City Manager
Karen M. McDonald, City Attorney
Rebecca Rogers-Carter, Management Analyst
Lyle Sumek, Sumek and Associates, Inc.
Andrew Barksdale, The Fayetteville Observer

The strategic planning retreat reconvened at 8:30 a.m. Lyle Sumek of Sumek and Associates, Inc., led Council through a BRAC/Ft. Bragg strategy discussion. Discussion then moved to economic development and City-County relations.

Council recessed for lunch at 12:00 p.m. reconvened at 1:00 p.m.

Mr. Sumek facilitated City Council's ordering of the "Goals 2014" as follows:

1. Growing City, Livable Neighborhoods - A Great Place to Live
2. Greater Tax Base Diversity - Strong Local Economy
3. More Attractive City - Clean and Beautiful
4. More Efficient City Government - Cost-Effective Service Delivery
5. Greater Community Unity - Pride in Fayetteville
6. Revitalized Downtown - A Community Focal Point

Council then selected projects and issues of interest for each of the "Goals 2014" to develop the fiscal year 2010 Targets for Action as follows:

Policy Agenda 2009

Top Priority:

Unified Development Ordinance
Annexation Policy and Strategy
Murchison Road Study - Implementation
Workforce Development
Recycling: Multi-Family and Commercial
Park and Recreation: Report and Direction

High Priority:

Jail Capacity
Air Quality Non-Attainment
Tree Preservation Ordinance
Building Demolition: Funding
Revaluation and Tax Rate
Lobbying/Legislative Agenda
Medical Transport: Report and Direction

DRAFT

Management Agenda 2009

Top Priority:

Crime Reduction Strategy

Economic Development: Scope of Work, RFD

F.A.S.T.

Community Watch: Expansion

Community Report Card

High Priority:

Police Recruitment and Selection

"B" Street Model: Neighborhoods

Air Service (NonStop)

Telling the City's Story

Northwest Gateway

Council's interest in workforce development was clarified.

There being no further business, the strategic planning retreat adjourned at 4:35 p.m.

Respectfully submitted,

DOUG HEWETT
Assistant City Manager

ANTHONY G. CHAVONNE
Mayor

020709

000021

CITY COUNCIL ACTION MEMO

To: Dale E. Iman, City Manager

From: Lisa Smith, Chief Financial Officer *LS*

Date: February 23, 2009

Re: Acceptance of Report of Unpaid Taxes for 2008 and Advertisement of Tax Liens

BACKGROUND:

North Carolina General Statute 105-369 requires the County Tax Administrator to report to the governing body in February of each year the total amount of unpaid taxes for the current fiscal year that are liens on real property. The purpose of the report is to allow the governing body to order the Tax Collector to advertise the tax liens. The statute requires the advertisement period to occur during the period of March 1st through June 30th.

Please review the attached correspondence from the County Tax Administrator. The detailed report is available in the City Clerk's office for review. The report lists delinquent city and county taxes for all city properties. According to the County Tax Administrator, delinquent ad valorem taxes for the City of Fayetteville and the Downtown Revitalization District as of January 26, 2009 are \$ 3,152,767.57.

ISSUES:

None.

OPTION:

Adopt the resolution.

RECOMMENDATIONS:

Adopt the resolution.



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

January 26, 2009

TO: Anthony G. Chavonne, Mayor

FROM: Aaron Donaldson, Tax Administrator *AD*

RE: Delinquent Taxes for Year 2008 for the Town of Fayetteville

BACKGROUND: North Carolina General Statute 105-369 requires the Tax Collector to report unpaid taxes for municipalities for the current fiscal year that are liens on real property by the second Monday in February. The purpose of the reporting is to allow you to order the Tax Collector to advertise the tax liens.

Upon receipt of your order, I will advertise the tax liens by publishing each lien at least one time in one or more of the local newspapers having general circulation in the County. The statute requires that advertisement period to occur during the period of March 1st through June 30th. It is my intention to deliver the list of delinquent taxes to the newspaper in the latter part of March for advertisement in April.

Enclosed please find the list of real property delinquent taxes for your municipality that is required to be posted at the city or town hall of each municipality by North Carolina General Statute 105-369(c).

RECOMMENDATION: Accept the report of unpaid taxes for the current fiscal year that are liens on real property and charge the Collector to advertise the tax liens.

AD/kp

cc: file

Celebrating Our Past...Embracing Our Future

EASTOVER - FALCON - FAYETTEVILLE - GODWIN - HOPE MILLS - LINDEN - SPRING LAKE - STEDMAN - WADE

000023

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE
ACCEPTING THE REPORT OF UNPAID TAXES AND DIRECTING THE
ADVERTISEMENT OF TAX LIENS**

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL:

Section 1. The City Council accepts the report of unpaid taxes for the current fiscal year that are liens on real property as submitted by the tax collector.

Section 2. The City Council orders the tax collector to advertise the tax liens pursuant to North Carolina General Statute 105-369.

Section 3. The resolution shall take effect immediately upon its passage

Passed and adopted the 23rd day of February, 2009.

CITY OF FAYETTEVILLE

Anthony G. Chavonne, Mayor

ATTEST:

Candice H. White, City Clerk

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager

Steven K. Blanchard

From: Steven K. Blanchard, CEO/General Manager

Public Works Commission of the City of Fayetteville

Date: February 11, 2009 (**Scheduled City Council Date: February 23, 2009**)

Re: Bid Recommendation – Underground Primary Cable

THE QUESTION: The Public Works Commission of the City of Fayetteville requests Council approve bid award for purchase of 80,000' of 1/0 ALCN, EPR, 25KV, 1/C Underground Primary Power Cable, PWC Stock No. 1-065-510 (with the option to purchase additional quantities within a one-year period).

RELATIONSHIP TO STRATEGIC PLAN: Quality utility services.

BACKGROUND:

The Public Works Commission, during their meeting of February 11, 2009 approved to award bid for purchase of 80,000' of 1/0 ALCN, EPR, 25KV, 1/C Underground Primary Power Cable, PWC Stock No. 1-065-510 (with the option to purchase additional quantities within a one-year period) to Stuart C. Irby, Rocky Mount, NC, the lowest evaluated bidder, for the total purchase price of \$123,120.00 and forward to City Council for approval. Bids were received January 6, 2009 as follows:

| <u>Bidders</u> | <u>Total Purchase Price</u> | <u>Evaluated Cost Per 1000 Feet</u> |
|--|---------------------------------|---|
| Stuart C. Irby, Rocky Mount, NC | \$123,120.00 | \$2,902.00 |
| Westinghouse Electric Supply, Raleigh, NC | \$119,520.00 | \$3,132.00 |

ISSUES:

- ☐ Bids were solicited from four (4) bidders with two (2) bidders responding.
- ☐ Bids advertised in the Fayetteville Observer.
- ☐ The lowest evaluated bidder, Stuart C. Irby is not classified as a SDBE, minority or woman-owned business.

OPTIONS:

RECOMMENDATIONS:

Award bid to Stuart C. Irby, Rocky Mount, NC, the lowest evaluated bidder, for the total purchase price of \$123,120.00.

**PUBLIC WORKS COMMISSION
ACTION REQUEST FORM**

TO: Steve Blanchard, CEO/General Manager **DATE:** February 3, 2009

FROM: Gloria Wrench, Purchasing Manager

.....
ACTION REQUESTED: Award bid for the purchase of 80,000' of 1/0, ALCN, EPR, 25KV, 1/C Underground Primary Power Cable, PWC Stock No. 1-065-510 (with the option to purchase additional quantities within a one-year period).
.....

BID/PROJECT NAME: Underground Primary Power Cable

BID DATE: January 6, 2009 **DEPARTMENT:** Electric Inventory

.....

| BIDDERS | TOTAL PURCHASE PRICE | EVAL. COST PER 1000 FEET |
|--|-------------------------|-----------------------------|
| <u>Stuart C. Irby, Rocky Mount, NC</u> | <u>\$123,120.00</u> | <u>\$2,902.00</u> |
| <u>Westinghouse Electric Supply, Raleigh, NC</u> | <u>\$119,520.00</u> | <u>\$3,132.00</u> |

.....

AWARD RECOMMENDED TO: Stuart C. Irby, Rocky Mount, North Carolina

BASIS OF AWARD: Lowest evaluated bidder

AWARD RECOMMENDED BY: Tommy Cooper and Gloria Wrench

.....
COMMENTS: Bids were solicited from four (4) vendors with two (2) vendors responding. The lowest evaluated bidder is recommended.
.....

ACTION BY COMMISSION

APPROVED ☒ **REJECTED** ☐
DATE 2-11-09

ACTION BY COUNCIL

APPROVED ☐ **REJECTED** ☐
DATE _____

CONSENT
ITEM II-B

000026

BID HISTORY

UNDERGROUND PRIMARY POWER CABLE

Advertisement

1. The Fayetteville Observer, Fayetteville, NC 12/24/08

List of Organizations Notified of Bid

1. NAACP Fayetteville Branch, Fayetteville, NC
2. NAWIC, Fayetteville, NC
3. N.C. Institute of Minority Economic Development, Durham, NC
4. CRIC, Fayetteville, NC
5. Fayetteville Business & Professional League, Fayetteville, NC
6. SBTDC, Fayetteville, NC
7. FTCC Small Business Center, Fayetteville, NC
8. The Women's Center of Fayetteville, Fayetteville, NC
9. Fayetteville Area Chamber of Commerce, Fayetteville, NC

List of Prospective Bidders

1. WESCO Distribution, Inc., Raleigh, NC
2. Stuart C. Irby Company, Rocky Mount, NC
3. HD Supply Utilities, Wake Forest, NC
4. Shealy Electrical Wholesalers, Inc., Greenville, SC

SDBE/MWBE Participation

Stuart C. Irby is not classified as a SDDBE, minority or woman-owned business.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager

Thru: Bobby B. Teague, Director of Engineering & Infrastructure

BBT d

From: Rusty Thompson, City Traffic Engineer

Date: February 23, 2009

Re: No Parking Ordinance

THE QUESTION:

- NCDOT has submitted a certificate of municipal ordinance requesting the City to concur with a No Parking ordinance for the south side of Hay Street (SR 3578) from a point 375 feet west of Morganton Road (SR1404) eastward to a point 275 feet west of Morganton Road.

RELATIONSHIP TO STRATEGIC PLAN:

- Most efficient city government; cost effective service delivery.

BACKGROUND:

- We received a request to enforce no parking on Hay Street at the rear of 1214 Morganton Road.
- Hay Street at this location is a state road.
- This location on Hay Street is currently marked for no parking
- The Police cannot enforce the no parking because neither the City nor NCDOT has an ordinance creating a no parking zone at that location.
- On state system streets the City needs to adopt a no parking ordinance then DOT will adopt a like ordinance.

ISSUES:

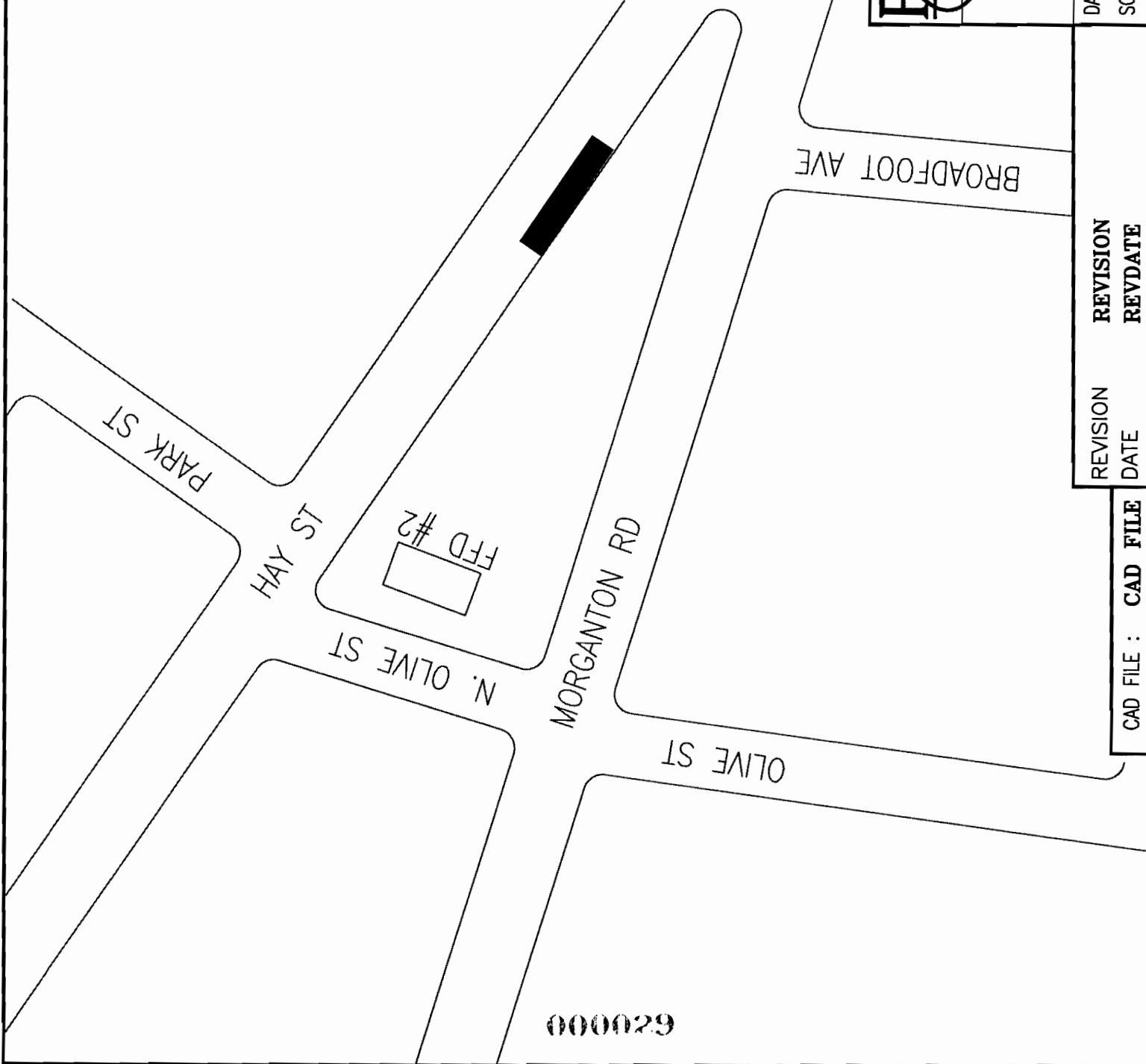
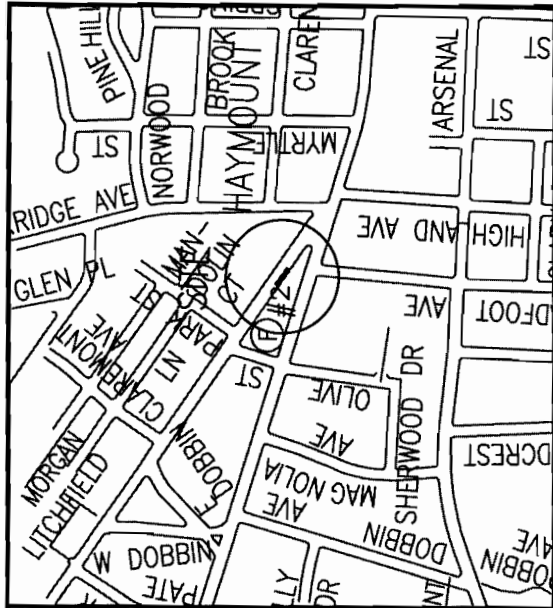
- None

OPTIONS:

- Adopt the attached No Parking Ordinance and request for concurring ordinance by NCDOT
- Do not adopt the No Parking ordinance

RECOMMENDATIONS:

- Adopt the attached No Parking Ordinance and authorize the City Clerk to execute the attached "Certification of Municipal Ordinance Declaring No Parking and Request for Concurring Ordinance by Department of Transportation"



000029

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

PROPOSED NO PARKING ZONE
 HAY STREET
 SR 3578

| | | | |
|-------|---------|----------|-----|
| DATE | 2/10/09 | DRAWN BY | CSA |
| SCALE | N.T.S. | CK'D BY | CSA |

| | |
|----------|----------|
| REVISION | REVISION |
| DATE | REDATE |

CAD FILE : CAD FILE

**AN ORDINANCE AMENDING CHAPTER 16, MOTOR VEHICLES, AND TRAFFIC OF
THE CITY OF FAYETTEVILLE
CODE OF ORDINANCES**

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina that
Chapter 16, "Motor Vehicles and Traffic", is hereby amended to read as follows:

Sec. 16-11. Traffic Schedule Number 11 – Parking prohibited

No Parking

HAY STREET

Along the south side from a point 375 feet west of
Morganton Road eastward to a point 275 feet west of
Morganton Road

This ordinance shall be adopted in full force and effective _____, 2009

CITY OF FAYETTEVILLE

BY: _____
ANTHONY G. CHAVONNE, Mayor

ATTEST:

CANDICE H. WHITE, City Clerk

**CERTIFICATION OF MUNICIPAL ORDINANCE DECLARING NO PARKING AND REQUEST
FOR CONCURRING ORDINANCE BY DEPARTMENT
OF TRANSPORTATION:**

I, _____, Clerk of the _____ of
(City) (Town)

_____, do hereby certify that the _____
(Governing Body)

of the _____ duly enacted on the _____ day of
(City) (Town)

_____, 20 _____ an ordinance based upon engineering and traffic
investigation pursuant to authority granted by G.S. 136-8(5) declaring the following no parking as set
forth below on the following described portion of a State Highway System Street:

Declare the Following No Parking

| <u>Speed Limit</u> | <u>Route</u> | <u>Description</u> |
|------------------------|--------------|--|
| NA | SR 3578 | No Parking along the south side of SR 3578 from a point 375 feet west of SR 1404 (Morganton Rd.) eastward to a point 275 feet west of SR 1404. |

said ordinance to become effective upon adoption of the Department of Transportation of a concurring
ordinance and the erection of signs giving notice of the authorized speed limit; that said ordinance is
recorded in Minute Book _____ at page _____.

In witness whereof, I have hereunto set my hand and the seal of the _____ of
_____, this _____ day of _____, 20 _____.

_____(Seal)

Division Approval: _____ Title: _____ Date: _____

Region Approval: _____ Title: _____ Date: _____

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager

Thru: Bobby B. Teague, Director of Engineering & Infrastructure

BBT *D*

From: Jeffery P. Brown, City Engineer

Date: February 23, 2009

Re: Resolution Requesting NCDOT to Transfer Walter Street and a portion of Hillsboro Street to the City

THE QUESTION:

- Approval of a Resolution requesting NCDOT to transfer Walter Street (SR 3825) and a portion of Hillsboro Street (SR 3826) to the City of Fayetteville system of streets.

RELATIONSHIP TO STRATEGIC PLAN:

- Develop World Class North Carolina Veteran's Park

BACKGROUND:

- Walter Street and Hillsboro Street are NCDOT maintained streets that are within the North Carolina Veteran's Park site. The master plan for the park incorporates these two streets into the overall park layout. For this reason, Walter Street and a portion of Hillsboro Street from Hay Street to the on-ramp to Rowan Street need to be closed as public streets. The first step in this process is to transfer maintenance from NCDOT to the City.

ISSUES:

- The state will transfer Walter Street and this portion of Hillsboro Street to the City after receiving a resolution from the City requesting it.
- Converting these streets to City Streets enables the City to incorporate these streets into the development of the North Carolina Veteran's Park.

OPTIONS:

- Approve the attached Resolution requesting the transfer of Walter Street and a portion of Hillsboro Street to the City for maintenance.
- Choose not to request the transfer.

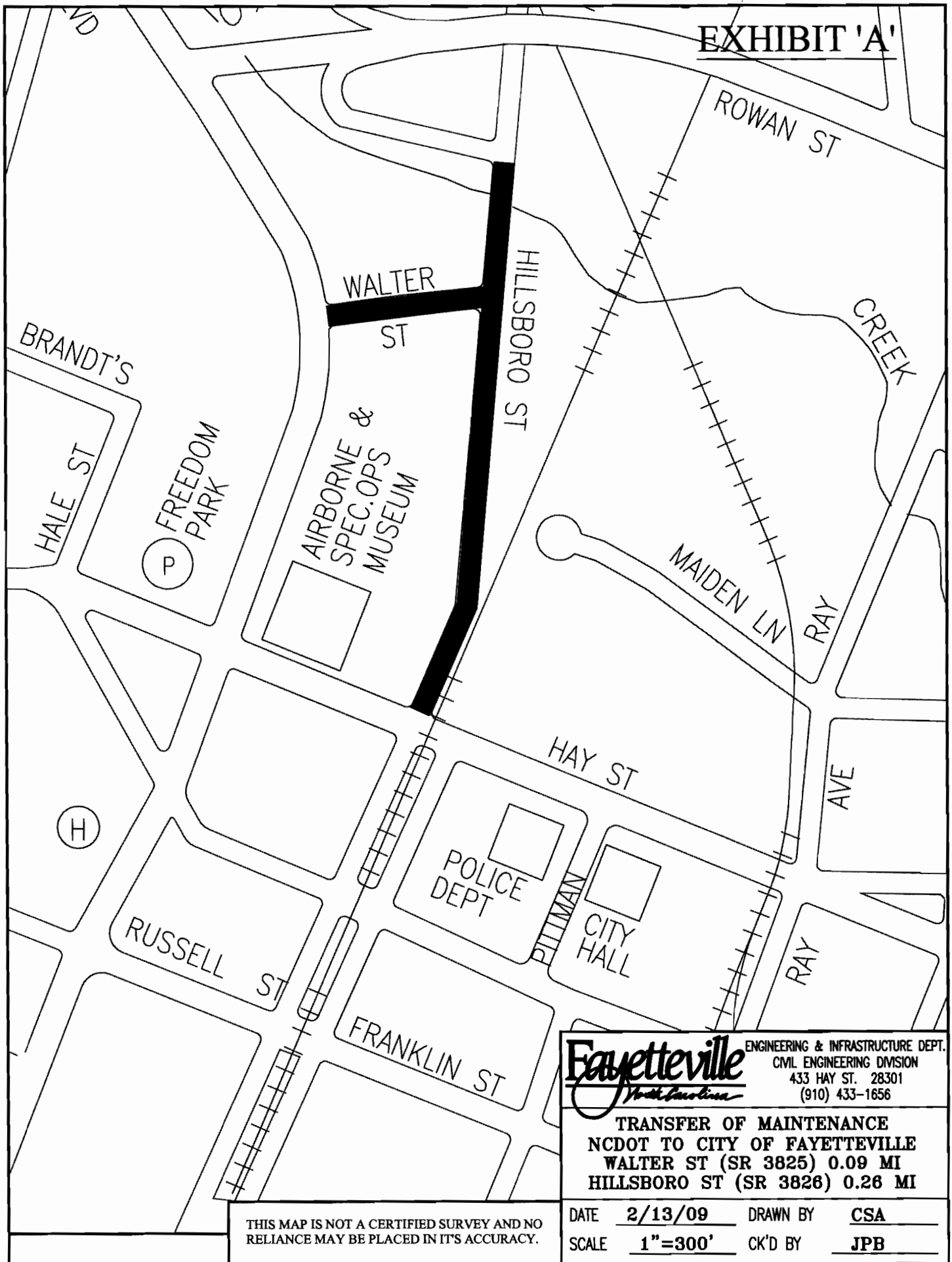
RECOMMENDATIONS:

- Approve the attached Resolution requesting the transfer of Walter Street (SR 3825) and a portion of Hillsboro Street (SR 3826) to the City for maintenance.

000032

ITEM 2.E.

EXHIBIT 'A'



Resolution Requesting the Transfer of Walter Street (SR 3825) and a Portion of Hillsboro Street (SR 1380) to the City of Fayetteville for Maintenance

WHEREAS, Walter Street and Hillsboro Street are currently maintained by the North Carolina Department of Transportation and can be transferred to the City of Fayetteville for maintenance.

AND WHEREAS, it is the desire of both the City of Fayetteville and the North Carolina Department of Transportation that maintenance of the streets listed below be transferred to the City of Fayetteville.

DELETIONS FROM THE STATE HIGHWAY SYSTEM

| NAME | ROAD | TERMINI | LENGTH |
|------------------|-------------|--------------------------------|---------------|
| Walter Street | SR 3825 | Bragg Blvd to Hillsboro St | 0.09 mi |
| Hillsboro Street | SR 3826 | Hay St to On-Ramp for Rowan St | 0.26 mi |

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF FAYETTEVILLE, NORTH CAROLINA, THAT:

The City of Fayetteville requests the transfer of Walter Street (SR 3825) between Bragg Boulevard and Hillsboro Street and a portion of Hillsboro Street (SR 3826) between Hay Street and the on-ramp for Rowan Street from the North Carolina Department of Transportation to the City of Fayetteville at the earliest possible date.

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

CITY OF FAYETTEVILLE

ANTHONY G. CHAVONNE, Mayor

ATTEST:

CANDICE H. WHITE, City Clerk

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
Thru: Karen McDonald, City Attorney *KM*
From: Cindy Preas, Real Estate Manager *CP*
Date: February 23, 2009
Re: Administrative error in deed by County

THE QUESTION: How to respond to a request from Cumberland County for assistance in clearing up title on two parcels mistakenly conveyed solely to the City.

RELATIONSHIP TO STRATEGIC PLAN: More Efficient City Government-Cost Effective Services Delivery.

BACKGROUND: Cumberland County and the City of Fayetteville received through tax foreclosure joint title to properties identified as Tax PIN's 0437-39-0565 and 0428-88-5674. A deed was prepared and recorded which mistakenly conveyed the property solely to the City of Fayetteville. This action is meant to correct this error so that the property is conveyed to both the City and County as originally intended.

ISSUES:

- Cumberland County and the City received the subject properties due to foreclosure by the County in its role as tax administrator.
- Current deed of record reflects the City as sole owner of the properties.
- Due to an administrative error the County's interest is not reflected on the deed of record.
- If the quitclaim deed is not executed, the City will remain sole owner of the properties.

OPTIONS:

- Accept the County's request and quit claim one-half (1/2) interest in the parcels to Cumberland County.
- Decline the County's request.

RECOMMENDATIONS: Adopt the attached resolution and authorize the City Manager to quitclaim one-half interest in the two parcels to Cumberland County.

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

Resolution R2009_____

**RESOLUTION DECLARING TITLE TO PROPERTIES
BE TRANSFERRED TO
CUMBERLAND COUNTY AND CITY OF FAYETTEVILLE**

WHEREAS, the City of Fayetteville and the County of Cumberland jointly own real properties in Cumberland County, said properties having the tax map designation of PIN's 0437-39-0565 and 0428-88-5674; and

WHEREAS, due to an administrative error tile to the properties was conveyed solely to the City of Fayetteville; and

WHEREAS, the County of Cumberland now wishes to correct said error by requesting the City convey one-half (1/2) interest in said properties to Cumberland County; and

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

NOW THEREFORE, the City Council of the City of Fayetteville hereby declares title to aforesaid real properties belongs jointly to County of Cumberland and the City of Fayetteville, therefore it authorizes its Manager to sign a deed quitclaiming one-half (1/2) interest in the aforesaid properties to County of Cumberland.

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

CITY OF FAYETTEVILLE

(SEAL)

By: _____
ANTHONY G. CHAVONNE, Mayor

ATTEST:

Candice H. White, City Clerk

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
Thru: Karen McDonald, City Attorney *KM*
From: Cindy Preas, Real Estate Manager *CP*
Date: February 23, 2009
Re: Adopt a Resolution Declaring Real Property Owned Jointly with Cumberland County Surplus and Authorizing a Quitclaim of the City's Title to the County

THE QUESTION: How to respond to a request from Cumberland County for assistance in expediting sale of jointly owned real property.

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

BACKGROUND: Cumberland County and the City of Fayetteville received joint title to the property identified as PIN 0418-27-7859 located at 316-318 Rhew Street. The County has received an offer to purchase said property and is requesting the City declare the property surplus and quitclaim the City's interest to the County in order to expedite the sale process.

ISSUES:

- Title to the subject property is jointly held due to foreclosure by the County in its role as tax administrator.
- The subject lot is not located within the Hope VI project area, and is not needed by any City agency.
- The County is in receipt of an offer to purchase the property for a price equaling the foreclosure bid; i.e. \$4,385.23. The City's share of overdue property taxes is \$706.26. Additionally, the City will collect \$787.73 of unpaid assessments, which was included in the foreclosure bid.
- If the present bids are declined, there is a good chance the properties will remain in joint government ownership not earning taxes and requiring upkeep.

OPTIONS:

- Accept the County's request and quit claim the City's title to the County.
- Decline the County's request.

RECOMMENDATIONS:

Adopt the attached resolution declaring the properties surplus and authorize the Manager to sign a quitclaim deed conveying the City's interest to the County in exchange for the City's share of overdue property taxes and assessments.

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

Resolution R2009_____

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

WHEREAS, the City of Fayetteville and the County of Cumberland jointly own real property in Cumberland County, said property being located on Rhew Street having the tax map designation of PIN 0418-27-7859; and

WHEREAS, the City of Fayetteville has financial interest in the form of real property taxes and unpaid assessments in parcel 0418-27-7859; and

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

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

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

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

ADOPTED this _____ day of February 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: February 23, 2009
Re: Lease Agreement for 913 Person Street – Homeless Shelter

THE QUESTION: Should the City lease 913 Person Street to Gospel Services Benevolent Society, Inc. for the operation of an overnight homeless shelter for up to 21 homeless men?

RELATIONSHIP TO STRATEGIC PLAN: Consistent with the goals and objectives of a Growing City, Livable Neighborhoods – A Great Place To Live.

BACKGROUND:

- ❑ According to the 2008 Point in Time Survey, there are more than 1,074 homeless individuals in Fayetteville-Cumberland County including 342 children, 218 women and 514 men.
- ❑ The City of Fayetteville has adopted a 10 Year Plan to End Homelessness. Priority 6 of the plan recommends additional shelter space. The goal of this priority is to provide additional shelter to eliminate the number of homeless individuals that spend the night on the street. Approval of the lease agreement with Gospel Services Benevolent Society, Inc. is consistent with Priority 6.
- ❑ North Carolina Housing Finance Agency granted 913 Person Street to the City for the use as a homeless shelter. This location is the site of the former Hope Center Homeless Shelter.
- ❑ NCHFA placed a deed restriction on the property that requires their approval of the organization selected to operate the homeless shelter and they have approved this lease.
- ❑ The Community Development Department solicited Request for Proposals to non-profit organizations to operate the facility as a homeless shelter.
- ❑ The Gospel Services Benevolent Society, Inc. submitted a proposal to operate the building at 913 as a homeless shelter.
- ❑ Based on the application submitted, it is the opinion of the Community Development Department staff and NCHFA that the Gospel Services Benevolent Society, Inc has the capacity to operate 913 Person Street as a homeless shelter.
- ❑ The terms of the lease agreement are consistent with information provided to City Council on February 11, 2008 for the acceptance of the property from NCHFA.
- ❑ Highlights of the lease agreement include:
 - Building must be used as a homeless shelter
 - One-year lease for \$1.
 - City will pay utility costs.
 - Lessee must provide commercial general liability insurance and must insure its own contents.

RECOMMENDATIONS:

Authorize the City Manager to enter into a lease agreement with Gospel Services Benevolent Society, Inc. and further authorize him to do any and all things necessary to implement the lease consistent with City Council's authorization. North Carolina Housing Finance Agency has granted its approval.

ATTACHMENTS:

Letter from North Carolina Housing Finance Agency



February 6, 2009

A self-supporting
public agency

A. Robert Kucab
Executive Director

PO Box 28066
Raleigh, NC
27611-8066

3508 Bush Street
Raleigh, NC
27609-7509

TEL. 919-877-5700
FAX. 919-877-5701
www.nchfa.com

Victor Sharpe
Community Development Department
City of Fayetteville
433 Hay Street
Fayetteville, NC 28301

RE: SNHP 9505
Hope Center Homeless Shelter

Dear Victor,

The North Carolina Housing Finance Agency is in agreement with the selection of Gospel Services Benevolent Society, Inc. (Society) to lease the property for the use as a homeless shelter at 913 Person Street and provide services to homeless persons in the Fayetteville area.

Once the Society has made their initial assessment, the Agency would require a new projected budget detailing sources and uses of funds, a summary of supportive services that will be provided at the shelter, and contact information.

We value the partnership between NCHFA and the City of Fayetteville to work together to meet the housing needs in your community.

Sincerely,

A handwritten signature in black ink, appearing to read "C. William Dowse".

C. William Dowse
Director of Strategic Investments

000040

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer

From: Jimmy Teal, Planning Director

Date: February 23, 2009

Case No. P09-02F

THE QUESTION: Consider changing an R6\Conditional Zoning site plan from 192 condominium units to 192 apartment units. All conditions of the site plan remain with the exception of changing the proposed units from condominiums to apartments.

RELATIONSHIP TO STRATEGIC PLAN: Strong Local Economy

BACKGROUND:

| | |
|----------------------|--|
| Owner: | South East Development of Cumberland, LLC |
| Applicant: | Chris Manning |
| Requested Action: | Change the condition from 192 condominium units to 192 |
| Existing Zoning | multi-family units allowing condominiums or apartments |
| Status of Property: | R6\Conditional Zoning |
| Size: | Conforming |
| Existing Land Use: | +/- 28.2 acres |
| Adjoining Land Use & | Vacant |
| Zoning: | North – Vacant & zoned R10 residential |
| | South – Houses & zoned R6 residential |
| | East – Radio Tower & zoned R10 |
| | West – Church & zoned R10 |
| 2010 Land Use Plan: | Low density residential |
| Letters Mailed: | 118 |

SPECIAL INFORMATION:

This property was zoned from R10 to R6\Conditional Zoning on July 23, 2007. The site plan with conditions was approved as part of the rezoning. The applicant is asking to amend the original request to allow apartments and condominiums rather than only condominiums as originally approved.

Public Utilities:

Water:

PWC

Sanitary Sewer:

PWC

Transportation:

Rosehill Road is a minor thoroughfare. The estimated average daily traffic volume at this location on Rosehill Road is 10,000.

OPTIONS:

1. Change the condition from solely 192 condominium units to 192 multi-family units allowing either condominium or apartment units;
2. Set a public hearing to consider other options.

RECOMMENDATIONS:

Zoning Commission and planning staff recommend option 1, the approval of changing the site plan to allow condominium or apartments units. This recommendation is based on the stipulation that the prior approved conditions remain in effect. The site plan, layout and the buildings will be built as proposed with the exception that they could be used as apartments or condominiums as opposed to condominiums only. The conditions approved with the rezoning in July 2007 are listed.

1. The density is restricted to 61 single family units and 192 multifamily units;
2. The property is within the watershed and the applicant must comply with all watershed regulations. The maximum impervious area allowed for the development is 70%. The submitted plans calls for 39% of impervious area;
3. The vehicular access for the property is only by Country Club Drive with street improvements required by North Carolina Department of Transportation prior to obtaining building permits for the property;
4. The current R6 zoning limits the height of the buildings to 35 feet;
5. A buffer shall be placed where the property abuts Rosehill Road.

Case No.: P09-02F
Location: Rosehill Road
Page: 2

ATTACHMENTS:

1. Vicinity Map
2. Zoning Map
3. Current Land Use Map
4. Zoning Commission Minutes from January 2009 Case
5. Zoning Commission Minutes from Previous Case
6. Site Plan
7. Application

**APPLICATION FOR CONDITIONAL ZONING
CITY OF FAYETTEVILLE**

P09-02 F

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

Ref. P07-41F

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

Location/Address of the Property: Country Club Dr. @ Green Valley Rd. Zip Owner of the Property: South East Development of Cumberland, LLCOwner's Home Phone: 910-527-2007 Owner's Work Phone: 910-527-2007

- A. Section and provision of the Zoning Ordinance from which the Conditional Zoning is requested: Change the current CZ allowing "condominiums" such that it allows "multifamily" giving the flexibility to build apartments
- B. The property sought for Conditional Zoning is owned by South East Development as evidenced by deed, recorded in Deed Book 7356, Page 820, Cumberland County Registry. (Attach a copy of (all) deed(s) as it appears in Registry.)
- C. Tax Property Identification Number(s) (PIN#): 0439-30-2525 a portion of
- D. Acreage requested for Conditional Zoning: 28.2
- E. It is requested that the property be rezoned:
From: R5ACZ R6/CZ To: R5ACZ R6/CZ amended
- F. It is proposed that the property will be put to the following use: (Describe proposed use/activity in detail to include hours of operation, screening, number of residential units or square footage of nonresidential uses, access points, phasing if applicable, parking and circulation pattern.)
The use remains the same as the initial application:
253 residential units

Signature of Owner

428 Swan Island Court

Address

FayettevilleNC 28311

City

State

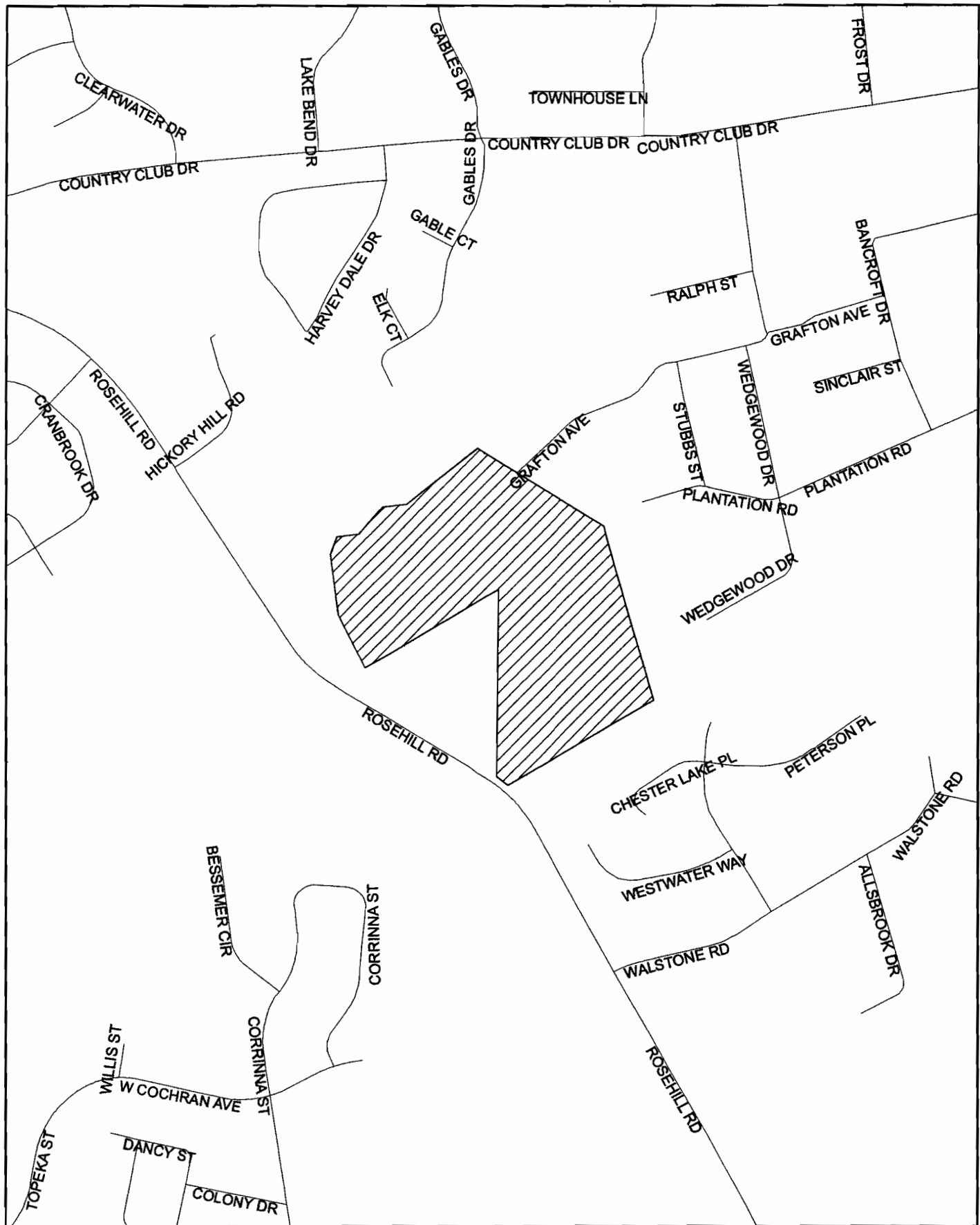
Zip Code

Home Phone: 910-527-2007Work Phone: 910-527-2007(for additional application forms: www.cityoffayetteville.org then visit the Planning Dept. page)

4 D Site Solutions, Inc.
Chris Reese 000044
409 Chicago Dr. Suite 112
28226

Zoning Commission - Vicinity Map

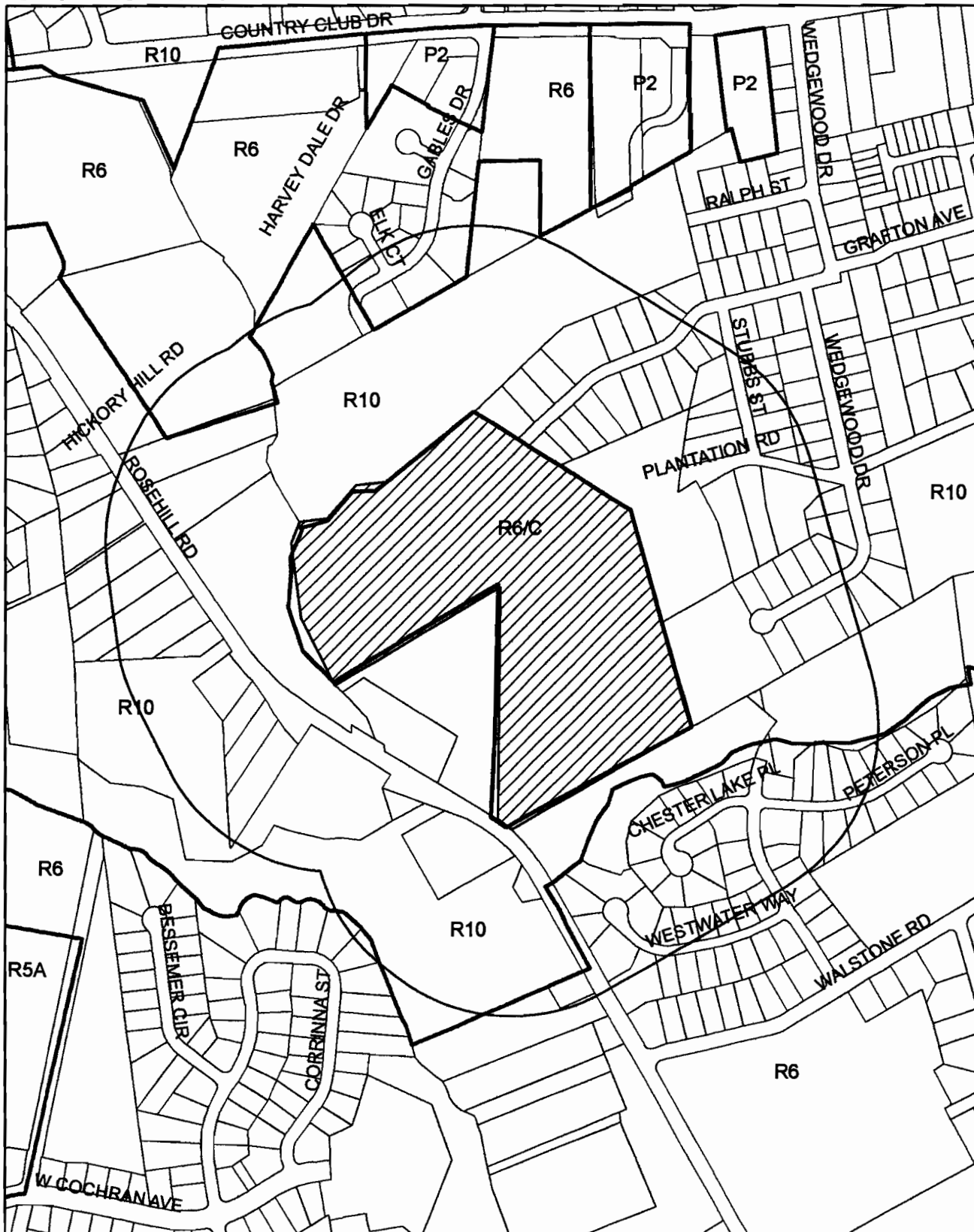
Case No. P09-02F



Request: Amend R6/CZ
Location: Rosehill Road
Pin: a portion of 0439-30-2525

000045

**ZONING COMMISSION
CASE NO. P09-02F**



Request: Amend R6/CZ
Location: Rosehill Road
Acreage: 28.2

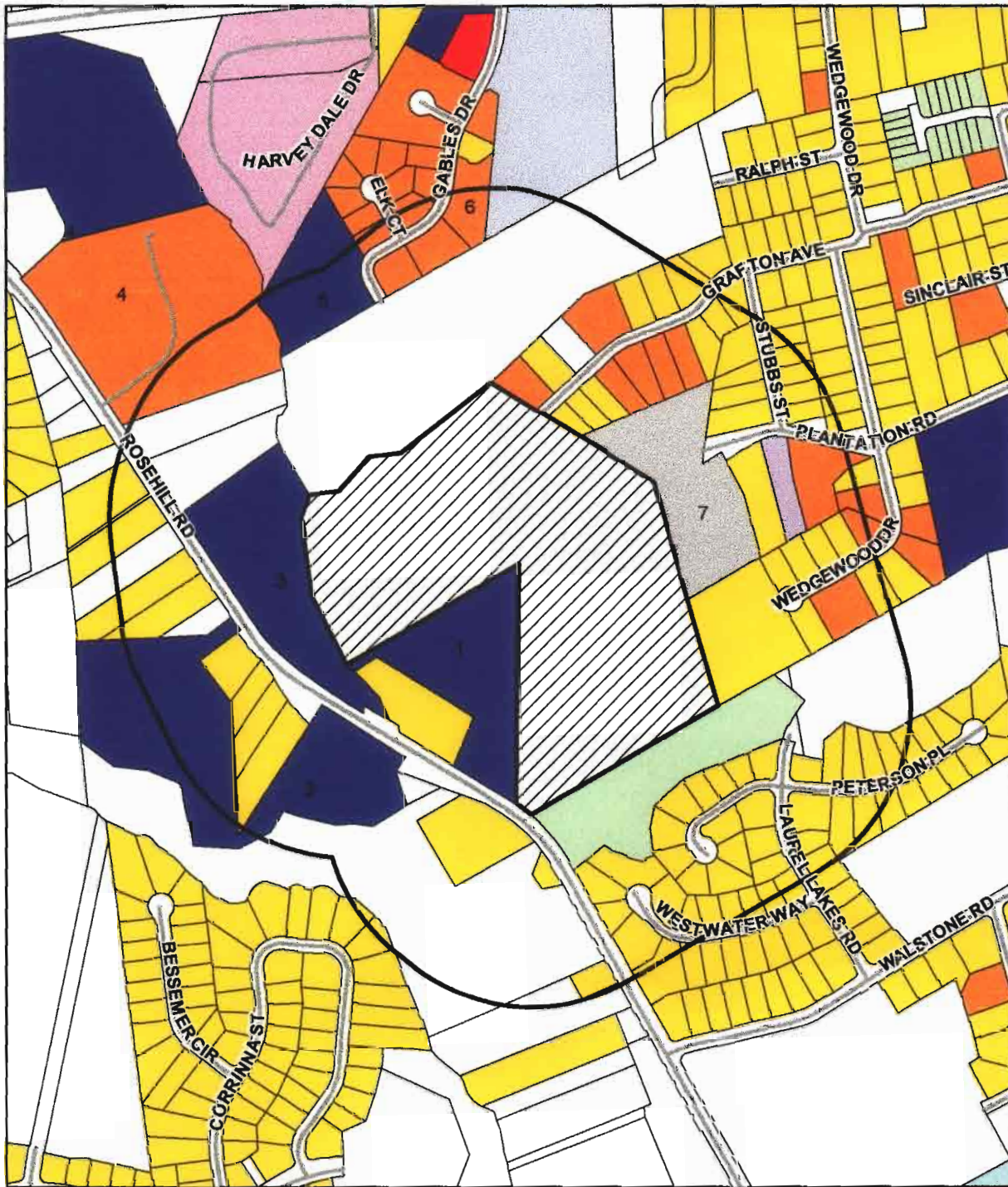
Zoning Commission: 1/13/2009
City Council: _____
Pin: a portion of 0439-30-2525

Recommendation: _____
Final Action: _____

000046

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

Current Land Use P09-02F



- Legend**
- | | |
|---------------------------------|----------------------------|
| 1. Haymount Presbyterian Church | 5. Elks Lodge |
| 2. Hood Memorial Church | 6. Green Valley Apartments |
| 3. Abney Chapel Church | 7. Tower |
| 4. Hickory Hill Apartments | |

- | |
|--|
| Single-Family Residential |
| Multi-Family Residential |





**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
JANUARY 13, 2009- 7:00 P.M.**

MEMBERS PRESENT

Pete Paoni
Richard West
Jeannie Nelson
John Crawley
Lockett Tally

MEMBERS ABSENT

OTHERS PRESENT

Karen Hilton, Asst. Planning Dir.
Craig Harmon, Planner
Marsha Bryant, Planner
David Nash, Planner
Janet Smith, Asst. City Atty.

I. APPROVAL OF AGENDA

Mr. West made a motion to approve the agenda. Mr. Tally seconded the motion.

A vote was taken and the motion passed unanimously.

II. APPROVAL OF THE MINUTES FROM THE DECEMBER 9, 2008 MEETING

Mr. West made a motion to approve the minutes. Mr. Crawley seconded the motion.

A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

- B. Case No. P09-02F.** Consideration of an application by Chris Manning to amend a previously approved R6 Residential District/Conditional Zoning to allow the flexibility of the multi-family residential to be condominiums and/or apartments for an area located on Rosehill Road at the end of Grafton Avenue. Containing 28.2 acres more or less and being the property of Green Valley South, LLC.

Ms. Bryant provided a brief overview of the request, which is an amendment to an existing conditional zoning. The overview included a zoning map, surrounding land uses, the 2010 land use plan's recommendation of low density residential uses, pictures and a site plan. She stated that the conditional zoning was approved in 2007 to allow 192 condominium units. The applicant would like to amend the condition zoning to allow the flexibility of constructing condos or apartment units.

The public hearing was opened.

000048

Mr. West asked what was the difference between apartments and condominiums? Ms. Bryant stated that both must have sprinkler systems, the firewall specifications are more strict with condos, and apartments must have handicap units and accessibility.

Mr. Chris Manning, owner/developer, stated that he would like to amend the conditional zoning so that he will have the flexibility of constructing apartment buildings vs. condo buildings in order to meet the demands of the market. Mr. Manning also stated the financial market has undergone a huge change since 2007 and the financing of condominiums is extremely difficult.

Mr. Robert Williams, resident on Rosehill Road spoke in opposition. Mr. Williams stated when the rezoning was approved in 2007 they were hoping a development would be designed to compliment the neighborhood rather than degrade or depreciate the neighborhood. Their concern did not begin within the past two years with the Green Valley South proposal but was expressed in and about 1979 and 1980 with the development of Hickory Hill Apartments understanding that Rosehill Gardens and Melvin Place were sizeable complexes that had been developed years earlier. Because of the disproportionate number of apartments that had been developed on the segment of Rosehill Road between Ramsey Street and Country Club Drive, citizens requested and a previous City Council committed not to approve any more multi-family housing on this segment.

In 2007 developers requested the property the question be rezoned, after numerous meetings and discussions the citizens of this community reluctantly conceded to the proposed conditional zoning that was approved. They felt if there were any protection to be afforded to the residents the conditions would protect them. The conditions were made because they felt condominiums were more exemplary of homeownership than apartments. Some were surprised to learn the developers want to renege on the compromise and eliminate the conditional zoning.

They respectfully request the Commission adhere to the conditional R6 zoning approved by the City Council in July 2007.

Mr. Parker appeared in opposition. After the neighborhood meeting Mr. Manning stated some of the reasons he desired to change the plan. He has resided on Rosehill Road for 42 years and has seen many changes in zoning; none of the outsiders every seemed to be satisfied. Mr. Parker is of the opinion this meeting should be based on what has been requested, what is existing and if change is really necessary. He spoke of the existing zoning and what the developer may construct noting that it has been approved and development may begin at any day without further action from the Zoning Commission or the Council. In the neighborhood meeting they were informed that Mr. Manning was seeking the option of building apartment units rather than condominium units.

In his closing, Mr. Parker felt the condominiums should be built so they would have a nice neighborhood.

In rebuttal Mr. Manning stated the community they are building has many distinct properties. The property does abut Rosehill Road but just for a few hundred feet and they do not connect nor is there an entrance on Rosehill Road, the entrance is on Country Club Drive. At the beginning of the project there are seven (7) professional office buildings, the next phase would be ninety (90) townhouses and then the single family section where they planned 58 although they are allowed to do 61 and the back portion has 192 multifamily units.

The use of the units will not change; if an apartment is built or a condo and he could lease every unit because it does not have to be sold and has nothing to do with ownership. There are condo buildings all over that may have twelve (12) units with twelve (12) different owners or twelve (12) units with one owner owning all the units; it has to do with the legal paperwork and how the attorney draws out the spaces on the deeds of the property. There might be a few firewall changes and a few of those were mentioned by Ms. Bryant.

Mr. Manning stated the change has to do with feedback he received from lending institutions and, once again, it has nothing to do with ownership of the property.

Mr. Paoni asked if the single-family would be constructed in the project. Mr. Manning replied yes. The conditional use was done on twenty-eight (28) acres but approximately half of that is laid out for single-family homes and that will not be altered; this request has to do with approximately fourteen (14) acres in the rear. The townhomes in the front of the community and the single family remain the same with all of the conditions. Multiple meetings were held with the community approximately one and a half years ago and both sides were presented; he shared what he desired to do and the community told him their issues. Each issue was discussed, resolved and placed the restrictions in the deed in the conditional zoning at that time and he is not attempting to change those except the word "condo" to "multi-family" so it could be apartments or condos, this does not change the use of the property or any of the conditions that he agreed he would fulfill with the community.

Mr. Paoni asked about ingress and egress. Mr. Manning replied it remains the same, one way in and out, which was approved by DOT, on Country Club Drive. He is also required to install a traffic light on Country Club Drive, beside the nursing home at the corner of Green Valley and Country Club Drives; none of that will change.

The public hearing was closed.

Ms. Bryant stated the planning staff recommends approval of changing the site plan to allow condominium or apartments units. This recommendation is based on the prior approved conditions will remain in effect. The site plan and layout will remain in effect and the buildings will be built as proposed with the exception that they could be used as apartments or condominiums as opposed to condominiums only. The conditions approved with the rezoning in July 2007 are listed:

1. The density is restricted to 61 single family units and 192 multifamily units;
2. The property is within the watershed and the applicant must comply with all watershed regulations. The maximum impervious area allowed for the development is 70%. The submitted plans calls for 39% of impervious area;
3. The vehicular access for the property is only by Country Club Drive with street improvements required by North Carolina Department of Transportation prior to obtaining building permits for the property;
4. The current R6 zoning limits the height of the buildings to 35 feet;
5. A buffer shall be placed where the property abuts Rosehill Road.

The project also went through site plan review and one condition was the addition of a 6-foot solid fence and a 12-foot wide landscape buffer where the project abuts single-family residential structures. There are conditions of approval in addition to the conditional zoning they would have to obtain site plan, draining plans, driveway permits, and all things pertaining to development.

The public hearing was closed.

Mr. West made a motion to follow staff recommendation. Mr. Crawley seconded the motion.

A vote was taken and the motion passed unanimously.



**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
JUNE 12, 2007 - 7:00 P.M.**

MEMBERS PRESENT

Beverly Brayboy
Jack Cox
Billy Manning
Culous Hayes
John Crawley

MEMBERS ABSENT

OTHERS PRESENT

Jimmy Teal, Planning Director
Kyle Garner, Planner
Marsha Bryant, Planner
Amanda Briggs, Asst. City Atty.
David Steinmetz, Code Enf. Off.

The meeting was called to order at 7pm.

Mr. Cox explained the Zoning Commission process. Each side has 15 minutes to speak and after the public hearing is closed the Commission members will render a recommendation to be forwarded to City Council. If any party is aggrieved by the decision they may file an appeal with the City Clerk within ten (10) of today's meeting. The deadline to file an appeal is by the close of business on June 22, 2007.

I. APPROVAL OF THE AGENDA

Mr. Manning made a motion to approve the agenda. Ms. Brayboy seconded the motion.

A vote was taken and the motion passed unanimously.

II. APPROVAL OF THE MINUTES OF THE MAY 8, 2007 MEETING

Ms. Brayboy made a motion to approve the minutes. Mr. Crawley seconded the motion.

A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

- B. Case No. P07-41F.** The rezoning from R10 Residential to R5A Residential District/Conditional Zoning to allow a 253 unit development on property located on Rosehill Road. Containing 28.2 acres more or less and being the property of Green Valley South, LLC.

Mr. Teal stated this case was heard last year when the request was to rezone from R10 Residential District to R6 Residential District and the City Council denied the request and suggested to the applicant to consider Conditional Zoning. He has done so and has returned with that request.

The overview included a vicinity map, surrounding land uses, the 2010 land use plan's recommendation for low-density residential uses and pictures of the vacant site.

Mr. Teal said he had spoken with the applicant, Mr. Manning, regarding matters concerning this case and when he comes before the Commission members he would like to amend his request, which adds more restrictions. With conditional zoning if the applicant voluntarily submits or requests restrictions they could be considered by the Commission; if he was asking for less restrictions that would require another public hearing. Any conditions that are suggested by the applicant could be considered by the Zoning Commission and any conditions suggested by the Commission have to be voluntarily approved by the applicant.

Ms. Brayboy asked how long the conditional zoning stayed in effect or was there a time frame. Mr. Teal said, assuming City Council approved the request; it runs with the land forever. If he wanted another rezoning he would have to return to the Commission after one year.

The public hearing was opened.

Mr. Manning, the developer, appeared in favor. They have held two neighborhood meetings to try and alleviate their concerns about the project and the change in zoning. Jointly they have arrived at conditions, which he would like to voluntarily impose on the property. The conditions are as follows:

- They desire to change the zoning request to R6 with conditional zoning
- No more than 253 units
- Pond on site, with aerators, to handle and treat the storm water
- There would be no connection to Rosehill Road
- A plant buffer would be installed between the project and Rosehill Road

Mr. Cox asked for a description of the buffer. Mr. Manning explained where the property adjoins Rosehill Road; the back of the garages could be seen from Rosehill Road. He would like to install Leland or holly bushes that would block that view.

Ms. Brayboy asked, when considering this type of foliage, what is the height of the proposed buildings. Mr. Manning replied the walls would be 10-feet in height and the roof would be approximately an additional 5-feet because they are single garages with a gable roof; a total 14 to 16 feet in height. He envisioned planting 6 to 8-foot plant material, mature in nature, and within a year it would be to the height of the building.

Mr. Williams appeared in favor. He stated he had no opposition to Mr. Manning's presentation. There was one additional item they requested is for the conditions are made part of the deed to the parcels of land in the development, if possible. So that if the property is sold or transferred the conditions would not be lost. Mr. Teal said it was unsure if that could be done but on conditional zoning whatever is approved is what has to occur on the property. They could not return and do all multi-family housing or choose not to do the buffer or have an entrance off of Rosehill Road. Only the conditions approved by the Zoning Commission and City Council could be done.

Ms. Briggs supported Mr. Teal's statement adding just as any other zoning could not be part of someone's deed but if the residents are concerned about enforcement that would be handled through the Inspections Department and the Zoning Enforcement Officers.

Ms. Brayboy asked the allowable units for R5A versus R6, which was requested by the applicant. Mr. Teal said it does not affect the number of units because R5A allows 391 and R6 allows from 280 to 290 units. In Mr. Manning's request he is asking for 253; 192 condominiums and 61 single-family homes. Therefore if this is approved the most he could build is 253. The other significant change is in R5A there is no building height restriction but in R6 the building height is 35-feet.

Being no one signed up to speak in opposition, the public hearing was closed.

Mr. Teal stated staff recommended approval of R6 Residential District/Conditional Zoning. The R6 zoning provides the height restriction of no building greater than 35 feet that staff felt was needed. Mr. Teal mentioned the other conditions as outlined by Mr. Manning to be included in the Zoning Commission's action if the action is for approval. Mr. Teal stated two communities meetings were held when only one meeting was required and they were able to work out the terms with the neighborhood.

Mr. Crawley made a motion to accept staff's recommendation to rezone the property to R6/Conditional zoning with conditions and restrictions as noted previously.

Mr. Manning seconded the motion.

A vote was taken and the motion passed unanimously.

Mr. Teal explained any aggrieved party has ten days from today to file an appeal with the City Clerk's Office; the deadline would be 5pm on Friday, June 22, 2007. The appeal would forward this case to the City Council to be heard as a public hearing item on July 23, 2007. If no appeal were filed it would move forward as a consent item, which is not a public hearing, on the same date. Any questions, please contact the Planning Department for further assistance.

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer *RAH*
From: Jimmy Teal, Planning Director *JT*
Date: February 23, 2009
Re: Sign Permit – Fayetteville Area Dogwood Exchange Club Fundraiser

THE QUESTION: Approval of Sign Permit

RELATIONSHIP TO STRATEGIC PLAN: Partnership of Citizens

BACKGROUND:

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

The Fayetteville Area Dogwood Exchange Club is requesting small signs be allowed in and around the Village Drive, Raeford Road and Bordeaux area beginning Tuesday, March 31st through Saturday, April 4th for their annual barbecue plate sale on Friday, April 3rd.

ISSUES:

The City Council has routinely approved similar requests and has approved this request the last three years.

OPTIONS:

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

RECOMMENDATIONS:

Option 1 – Grant the permit.

The Exchange Club of Greater Fayetteville

Post Office Box 53311
Fayetteville, North Carolina 28305

Club Number 1846

District Number 17

Charter Date: August 20, 1966

January 9, 2009

Jimmy Teal
City Planning Department
433 Hay Street
Fayetteville, North Carolina 28301

Dear Mr. Teal:

The Fayetteville Area Dogwood Exchange Club requests your permission to place temporary signs advertising our annual fundraiser.

Our barbeque plate sale will take place on April 3, at 2900 Village Drive. We would like to place our signs on the corner of major intersections around the Bordeaux, Village Drive and Raeford Road areas beginning Tuesday, March 31, and will remove the signs promptly the morning after the barbeque on April 4.

The Fayetteville Area Dogwood Exchange Club is a non-profit organization that awards two \$1,500.00 college scholarships each year to deserving high school seniors which is renewable for four years. We also seek to prevent child abuse by making annual donations to the Guardian Ad Litem Program and the Green Wing Program.

We appreciate your consideration of our request and look forward to seeing you at our barbeque event.

Sincerely,



James Canaday
Barbeque Fundraiser Chairman

000055

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer

From: Jimmy Teal, Planning Director

Date: February 23, 2009

Re: Sign Permit – Craftsmen's Spring Festival

THE QUESTION: Approval of Sign Permit

RELATIONSHIP TO STRATEGIC PLAN: Partnership of Citizens

BACKGROUND:

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

The Craftsmen's Spring Festival is conducting their annual festival on March 14th and March 15th. They are requesting the placements of their small signs announcing the event in various locations throughout the city from Monday, March 9th through Monday, March 16th.

ISSUES:

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

OPTIONS:

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

RECOMMENDATIONS:

Option 1 – Grant the permit.

PETITION FOR A SPECIAL USE PERMIT

TO THE HONORABLE MEMBERS OF THE FAYETTEVILLE CITY COUNCIL:

Please consider this letter as a formal request for a special use permit, as prescribed in Section 32 – 59:1.1. of The City Of Fayetteville Advertising And Sign Ordinance, to allow temporary off premises signs giving information and directions for the thirty-second annual CRAFTSMEN'S SPRING FESTIVAL to be held March 14 & 15, 2009, at the Agro-expo building of the Crown Center Complex.

This is a major regional Arts and Crafts show featuring traditional handmade articles and Art sold by the person who makes the item. The show has brought considerable talent and cultural exposure to the region since the bicentennial year of 1976. Civic Clubs and charities are offered free booths.

These temporary signs are wood, in the form of sandwich-boards measuring two feet in height and four feet in width and supported by legs from six to twelve inches tall. They are the same design and display what we have used since 1976, and simply states, **CRAFTSMEN'S FESTIVAL/THIS WEEKEND**. Attached are photographs.

Incorporated into the Craftsman's Spring Festival is the Fayetteville Antiques and Collectibles Show. Eight of the forty-five locations that we are requesting will also have the blue **ANTIQUES & COLLECTIBLES** signs of the same size.

These temporary signs are for the week of the festival only, beginning Monday, March 9th through Monday, March 16th.

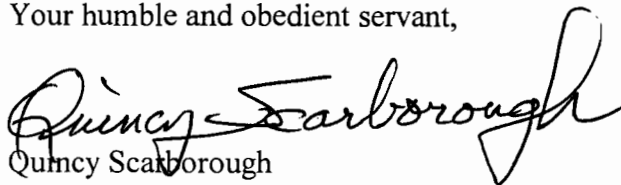
The following are the traditional locations that are requested:

1. Corner of Grove St./Eastern Blvd. (Sandpiper)
2. Corner of Green/Grove Street. (St. James Square)
3. Ramsey St. @ Law Road
4. Ramsey St. @ McDonald's
5. Ramsey St. @ Golden Corral
6. Raleigh Rd. @ the N/W corner of Stacy Weaver Road
7. Corner of Raleigh Rd./Andrews Rd. (Hardee's)
8. Corner of Yadkin Rd./Santa Fe Rd. (Glam-O-Rama)
9. Corner of Bonanza Rd./Morganton Rd. (Owen Estate corner)
10. Corner of Glensford Dr./Cliffdale Rd.
11. Corner of Bragg Blvd./Stamper Rd. (BB&T Bank)

12. Bragg Blvd. In front of the Flea Market
13. Corner of Yadkin Rd./Skibo Rd.
14. Skibo Rd./near Toys R'Us.
15. Skibo Rd. near Wal-Mart.
16. Skibo Rd. @ Ruby Tuesday's
17. Corner of Skibo Rd./Morganton Road (Arby's)
18. Skibo Rd. @ Lone Star.
19. Corner of Skibo Rd./Cliffdale Rd. (Quick Stop)
20. Corner of Skibo Rd./Campground Rd. (Lowe's)
21. Skibo Rd. @ Home Depot.
22. Corner of Morganton Rd./Glensford Dr. (On The Border)
23. Morganton Rd. across from BB&T Bank.
24. Morganton Rd/Cliffdale Rd. intersection (Vanstory property)
25. Corner of Morganton Rd./Skibo Rd. (Burger King)
26. McPherson Church Rd./Sycamore Dairy Rd. Extension (King Buffet).
27. Corner of Yadkin Rd./Fillyaw Rd.
28. Raeford Rd./Purdue St. Near Hunan Gardens.
29. Corner of Raeford Rd./McPherson Church Rd.
30. Raeford Rd./Ireland Dr. in front of Food Lion.
31. Corner of Raeford Rd./Hope Mills Rd.
32. Corner of Raeford Rd./Bingham Dr. (CVS Drugs)
33. Corner of Raeford Rd./Graham Rd. (McDonald's)
34. Hwy. 301 @the Ambassador Motel
35. Hwy. 301 @ East Mountain Dr.
36. Corner of Person St./Cedar Creek Rd.
37. Corner of Owen Dr./Village Dr. (First Citizens Bank)
38. Corner of Morganton Rd./Reilly Rd. (Hardee's)
39. Corner of Reilly Rd./Cliffdale Rd. (McDonald's) (2)
40. Intersection of Santa Fe Rd./All American Fwy. (2)
41. Skibo Rd. Near Yadkin Rd. (vacant lot)
42. Corner of McPherson Church Rd./Skibo Rd.
43. Corner of Reilly Rd./Fillyaw Rd. (Hess Station)
44. Corner of Gillis Rd./Raeford Rd.
45. Corner of Cliffdale Rd./Raeford Rd. (In front KFC)

We pray that you grant this petition.

Your humble and obedient servant,



Quincy Scarborough

P. O. Box 67

Fayetteville, NC 28302

483-2040

City Chief Planning Officer, **Jimmy Teal**

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer

From: Jimmy Teal, Planning Director

Date: February 23, 2009

Re: Sign Permit – Fayetteville Fire Department

THE QUESTION: Approval of Sign Permit

RELATIONSHIP TO STRATEGIC PLAN: Partnership of Citizens

BACKGROUND:

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

The Fayetteville Fire Department is conducting their annual spring "Change your Clock – Change your Battery" campaign. Chief Nichols is requesting banners be flown from all the fire stations from Wednesday, February 25th through Monday, March 16th announcing this event.

ISSUES:

The City Council has routinely approved similar requests and approved this particular request last year.

OPTIONS:

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

RECOMMENDATIONS:

Option 1 – Grant the permit.

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer *RAA*
From: Jimmy Teal, Planning Director *JT*
Date: February 23, 2009
Re: Sign Permit – Crown Center

THE QUESTION: Approval of Sign Permit

RELATIONSHIP TO STRATEGIC PLAN: Partnership of Citizens

BACKGROUND:

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

The Crown Center is holding their annual step show in March. They are requesting approval of placing approximately 30 small signs in various locations in the community from Monday, March 9th through Monday, March 30th announcing this event.

ISSUES:

The City Council has routinely approved similar requests for the Crown Center.

OPTIONS:

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

RECOMMENDATION:

Option 1 – Grant the permit.

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer *RAA*
From: Jimmy Teal, Planning Director *JT*
Date: February 23, 2009
Re: Sign Permit – Fort Bragg Morale, Welfare & Recreation Division

THE QUESTION: Approval of Sign Permit

RELATIONSHIP TO STRATEGIC PLAN: Partnership of Citizens

BACKGROUND:

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

Mr. Robert Stroupe of the Fort Bragg Morale, Welfare & Recreation Division is requesting ten signs for the annual Fort Bragg Fair to be held this spring. Mr. Stoupe is requesting the signs be posted from Thursday, April 23rd through Monday, May 18th.

ISSUES:

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

OPTIONS:

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

RECOMMENDATION:

Option 1 – Grant the permit.



Fort Bragg, Morale, Welfare and Recreation

5 February 2009

City of Fayetteville Planning Officer
ATTN: Mr. Jimmy Teal
433 Hay Street
Fayetteville, NC 28301

Dear Mr. Teal:

The Directorate of Family, and Morale, Welfare, and Recreation (DFMWR), Special Events Section, requests authorization to place ten 18" x 24" corrugated signs within the city limits to promote the upcoming, community-wide Fort Bragg Fair special event. DFMWR is a non-profit organization, with all proceeds going towards improving Soldier's quality of life at Fort Bragg.

We would like for the signs to be posted from 23 April - 18 May 2009 at the following intersections:

- * **Yadkin and Santa Fe Roads**
- * **US 401 Byp (Skibo) and Yadkin**
- * **US 401 Byp (Skibo) and Morganton**
- * **US 401, US 401 Byp, US 401 Bus (Skibo and Raeford Rd)**
- * **McPherson and Raeford Roads**
- * **McPherson and Morganton Roads**
- * **NC 24/87 (Bragg Blvd) and Sycamore Diary Rd**
- * **NC 24/87 (Bragg Blvd) and Stamper Road**
- * **US 401 Byp (Country Club) and NC 210 (Murchison Rd)**
- * **Ramsey & Country Club**

Sincerely,

RHETT L. STROUPE
Manager, Special Events

Special Events Section, Bldg. F-4208, Fairgrounds, Fort Bragg, NC 28310-5000, (910) 396-9126

000062



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 | 101 Bremer Street |
| Property Owner(s) | Freda E. Johnson, Heirs, Fayetteville, NC |
| Date of Inspection | September 16, 2008 – inspector posts building as dangerous |
| Date of Hearing | October 1, 2008 (hearing advertised in the Fayetteville Observer) |
| Finding/Facts of Scheduled Hearing | Notice to repair/demolish the structure within 60 days mailed October 6, 2008 |
| Owner's Response | Owner obtained a building permit, but has not started the repairs |
| Appeal Taken (Board of Appeals) | No |
| Other | Utilities disconnected since October 2002 |
| | |
| | |
| Police Calls for Service (past 2 yrs) | 7 |

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 23rd day of February, 2009.

Frank Lewis, Jr.

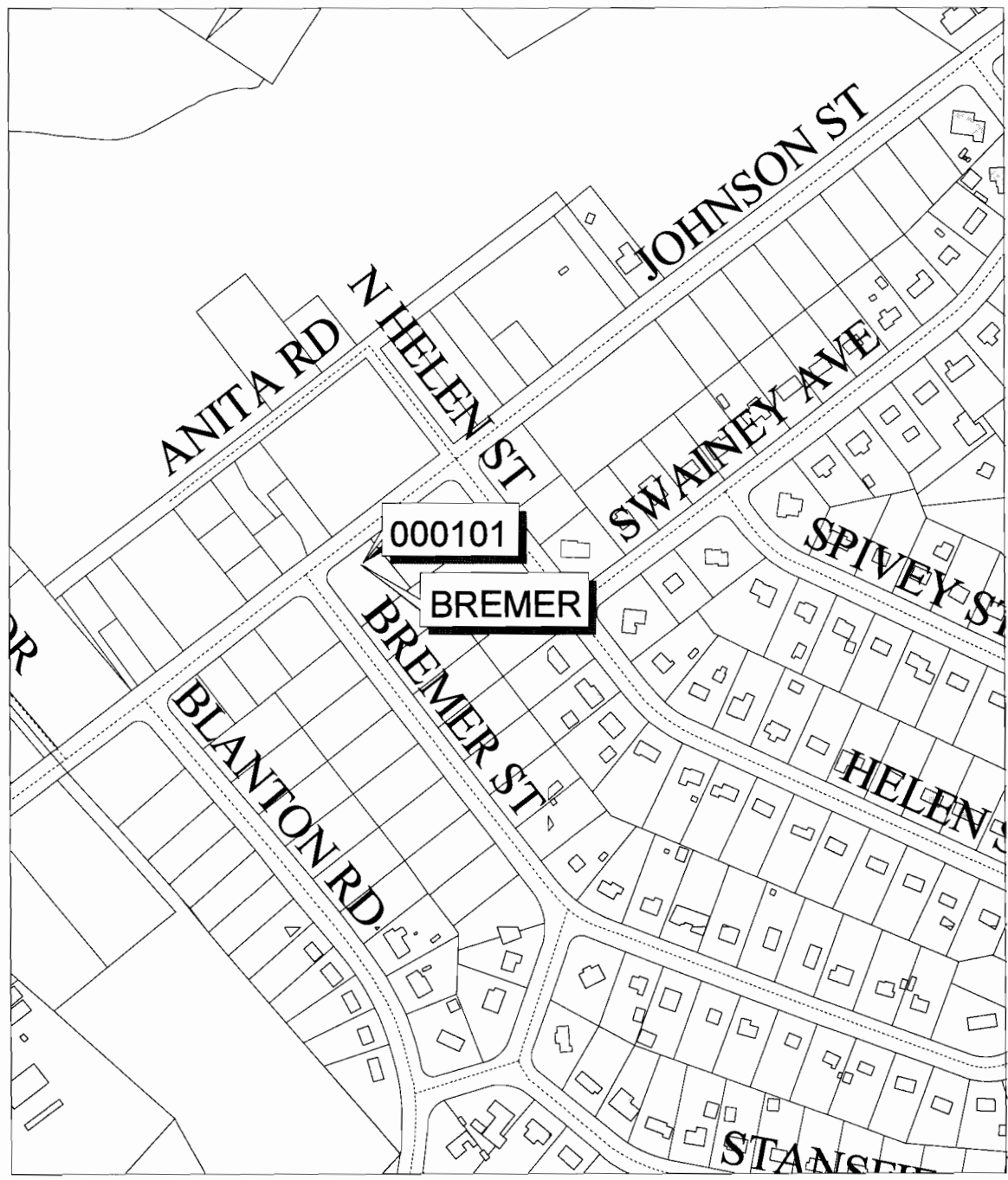
Sr. Code Enforcement Administrator (Housing)

000063

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433 HAY STREET
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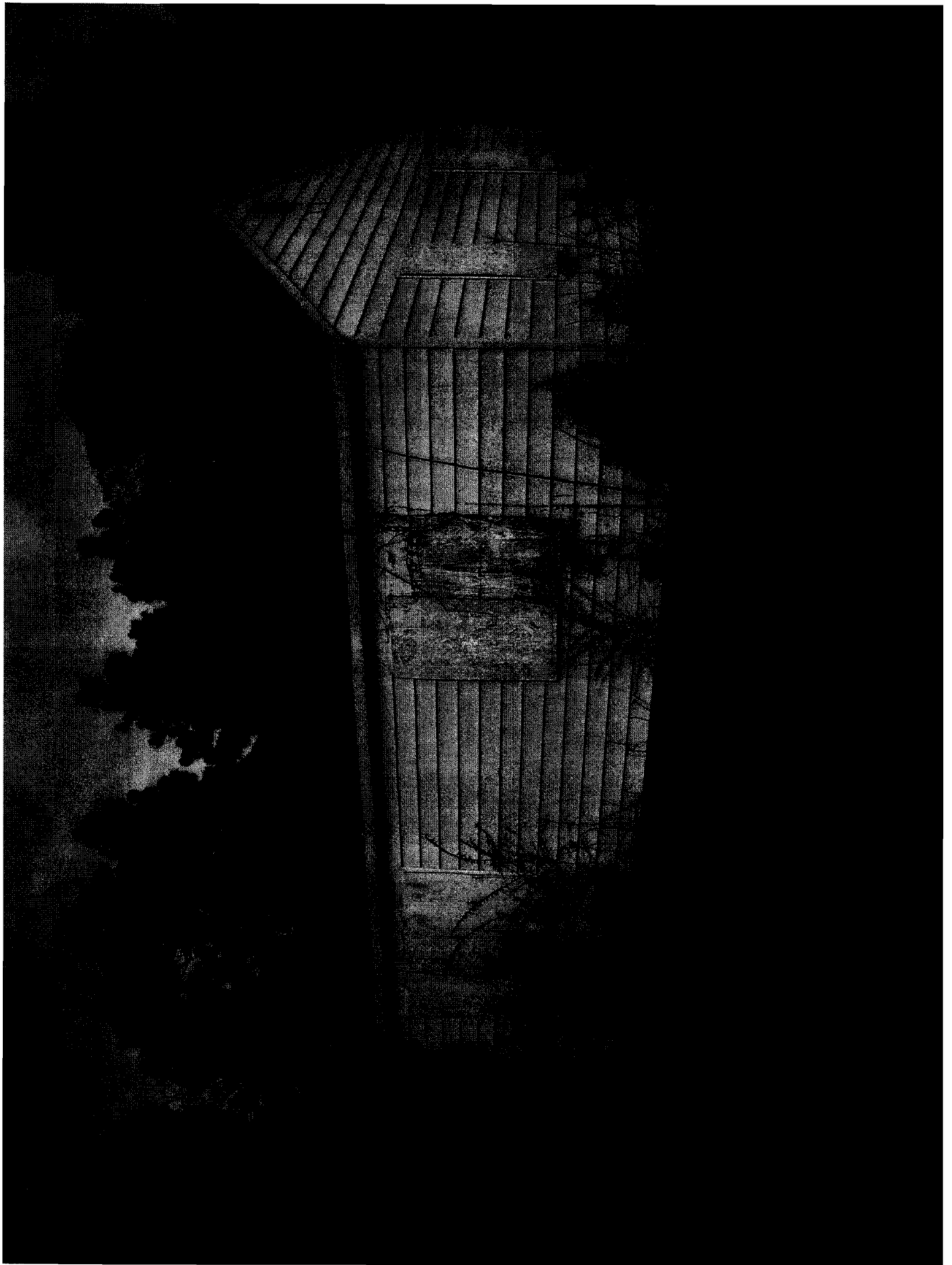
ITEM 7.0.1.

City Of Fayetteville Inspections Department

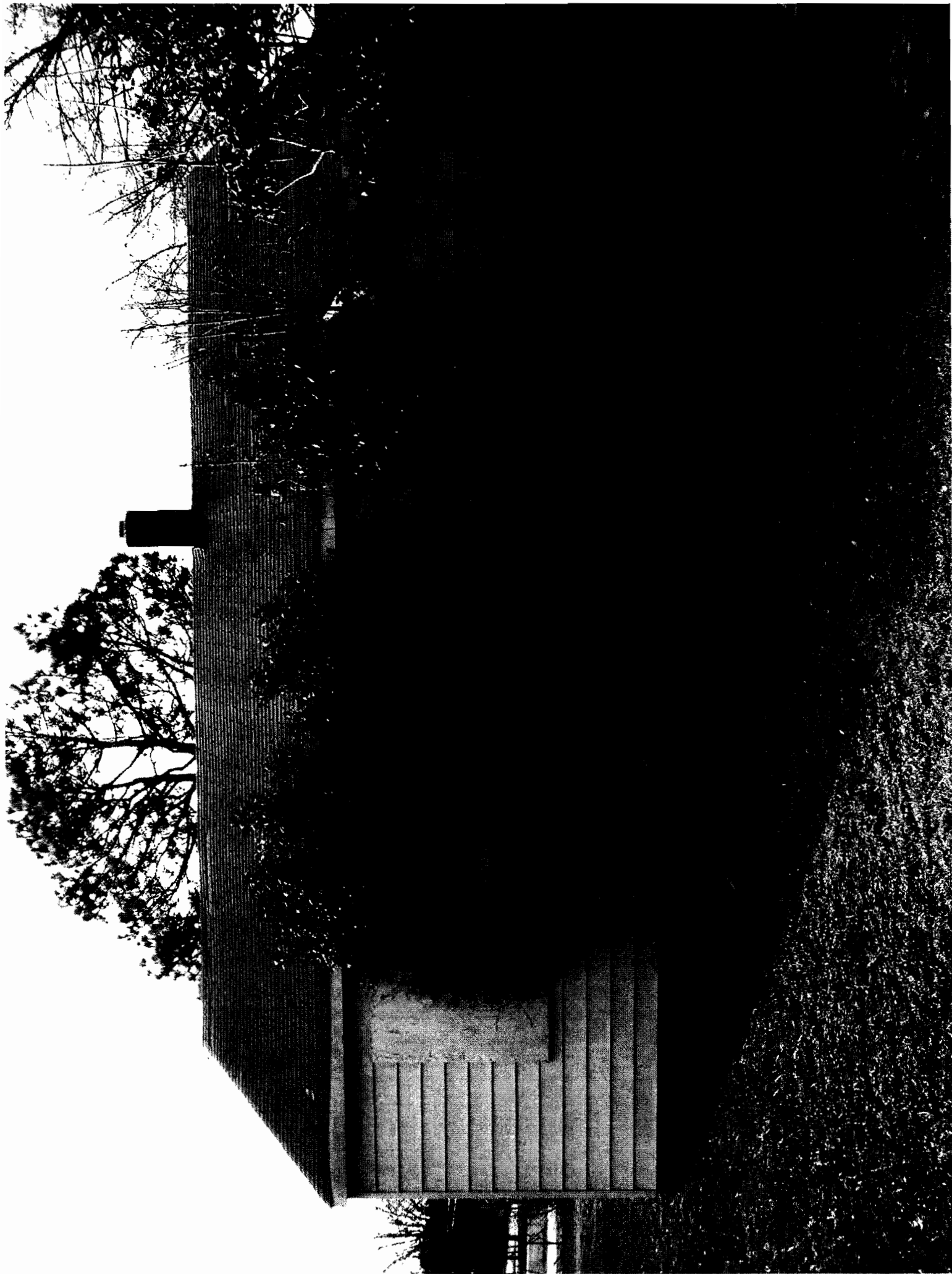


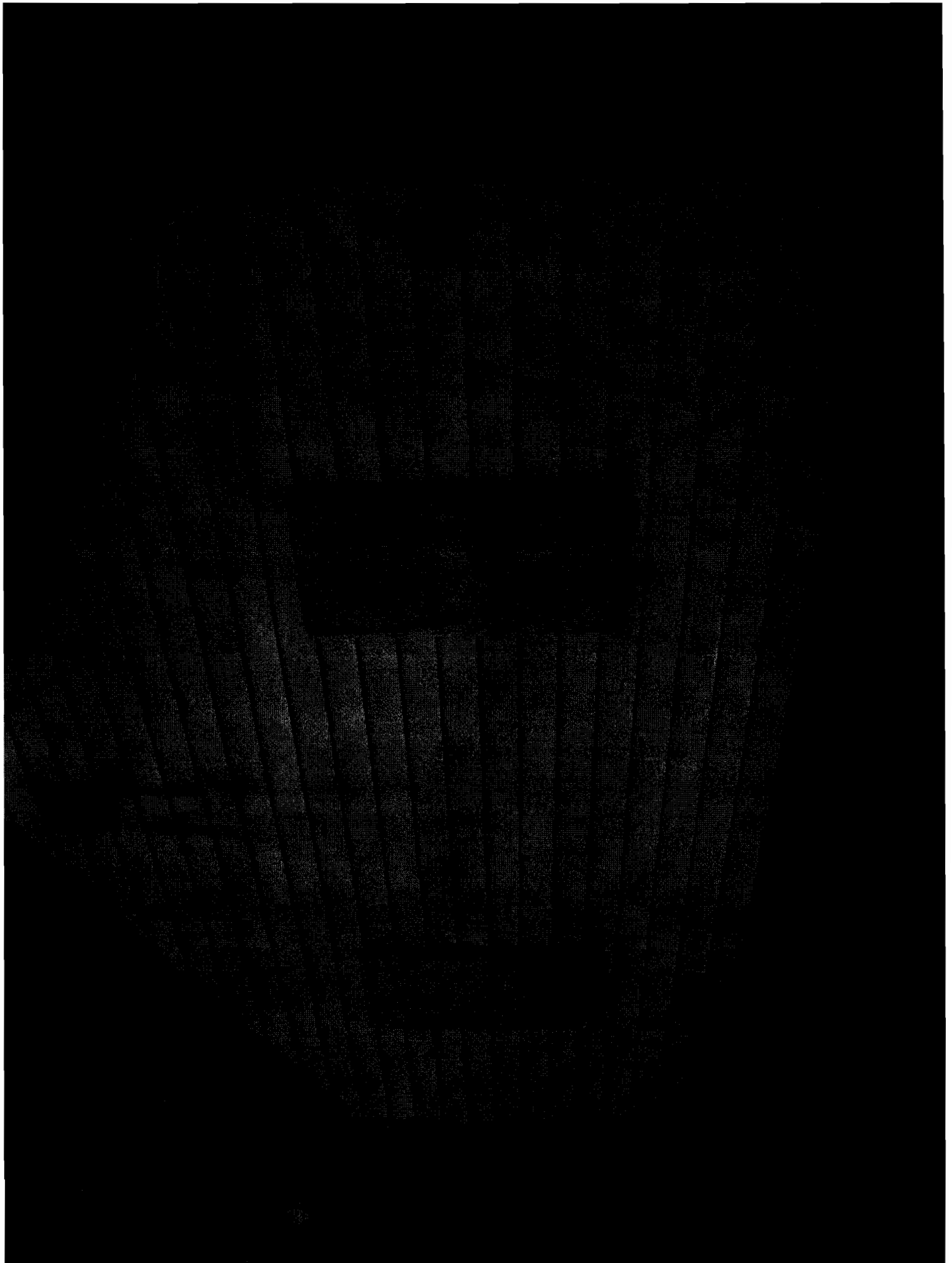
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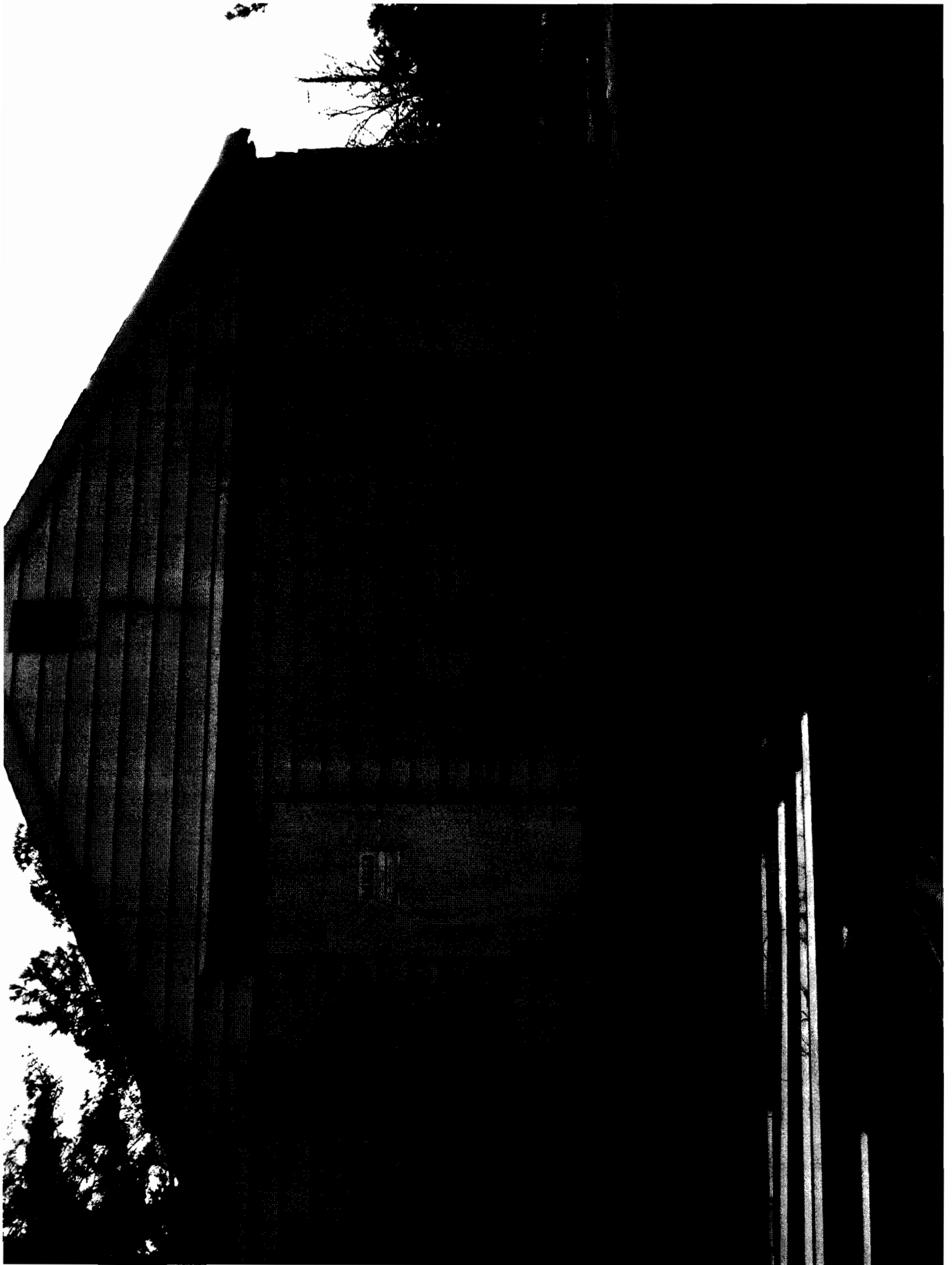
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|------|-------------|--|-------------|--|---------|
| | Streets | | Zoning | | Parcels |
| Text | Street Name | | Group Homes | | |











**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:

101 Bremer Street
PIN 0419-70-0862

Beginning at a stake in the southeastern margin of Avenue "A" located in the western corner of Lot No. 24, being 120 feet from the point of tangency of a curve at the intersection of said margin of Avenue "A", and the northeastern margin of Ann Street; thence South 35 degrees 26 minutes East 150 feet to a stake in the southern corner of Lot No. 24; thence South 54 degrees 34 minutes West 150 feet to a stake in the margin of Ann Street, the western corner of Lot No. 61; thence with said margin of Ann Street North 35 degrees 26 minutes West 120 feet to the point of tangency of a curve; thence with said curve, with a radius of 30 feet to the end of said curve in the southeastern margin of Avenue "A"; thence North 54 degrees 34 minutes East 120 feet to the point of Beginning. Being Lot No. 23 in Block "C" in Kornbow lake Development about 4 miles West of the City of Fayetteville, North Carolina. And being the same property described in a deed dated August 5, 1952 from Franklin Development Company, Inc. to James A. Johnson and wife, located in Book 587, Page 491, Cumberland County Registry. And further described in deed dated July 21, 1952 from Franklin Development Company, Inc. recorded in Book 584, Page 446, Cumberland County Registry.

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

Freda Johnson, Heirs
James Ken Johnson
2821 Briarcreek Place
Fayetteville, NC 28304

- (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 November 30, 2008.
- (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



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 | 605 Deep Creek Road |
| Property Owner(s) | Helen Garnett, Patricia Baldwin, Wilma Roberts, Myra Baker, Hope Mills, NC |
| Date of Inspection | July 24, 2008 – inspector notices house appears vacant and abandoned; property posted dangerous |
| Date of Hearing | September 8, 2008 |
| Finding/Facts of Scheduled Hearing | Notice to repair/demolish the structure within 60 days mailed September 10, 2008 |
| Owner's Response | None |
| Appeal Taken (Board of Appeals) | No |
| Other | Utilities disconnected since May 2000 |
| | |
| | |
| Police Calls for Service (past 2 yrs) | 7 |

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 23rd day of February, 2009.

Frank Lewis, Jr.

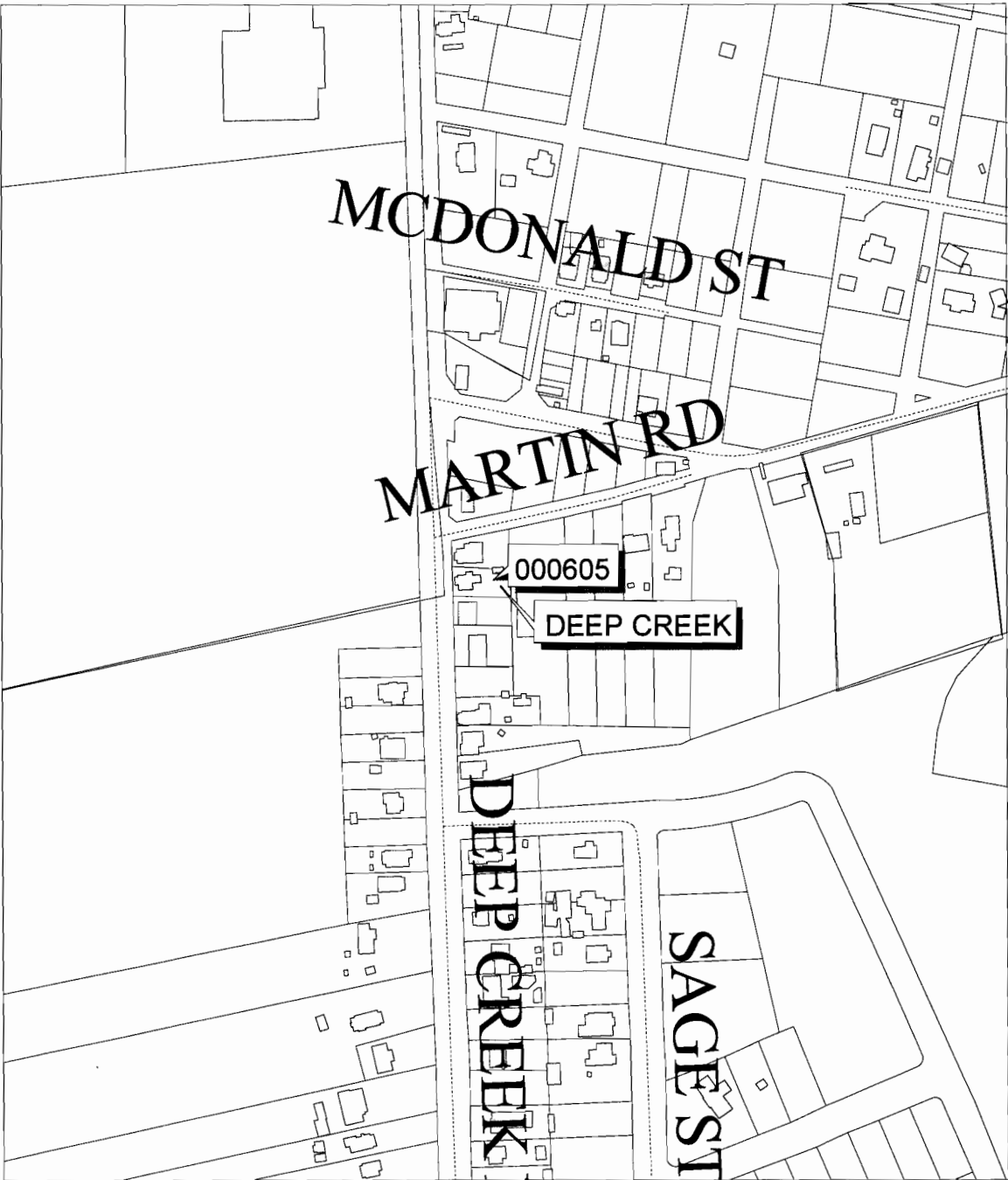
Sr. Code Enforcement Administrator (Housing)

000071

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ITEM 2.0.2

City Of Fayetteville Inspections Department



Legend



Streets



Zoning



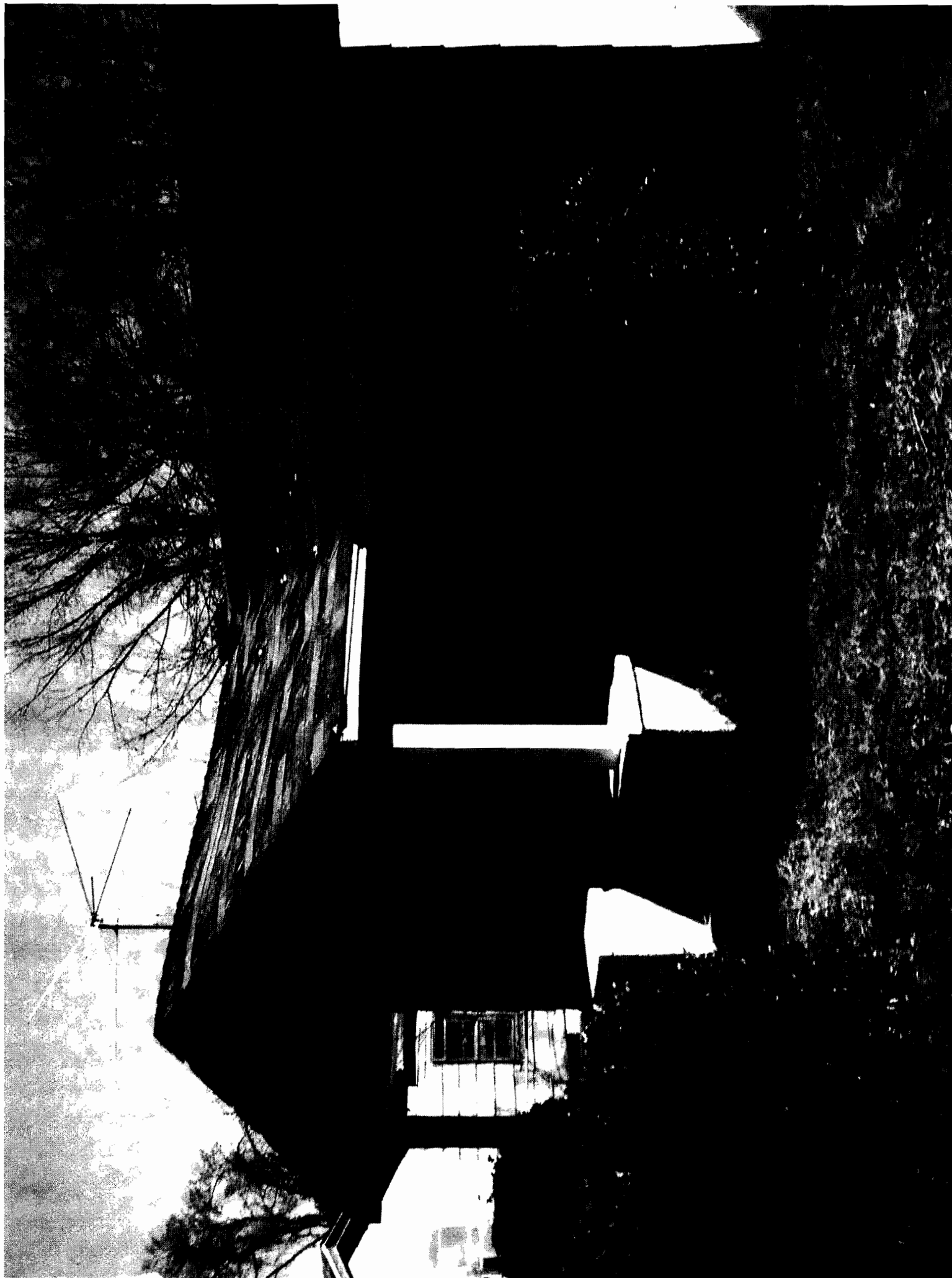
Parcels

Text

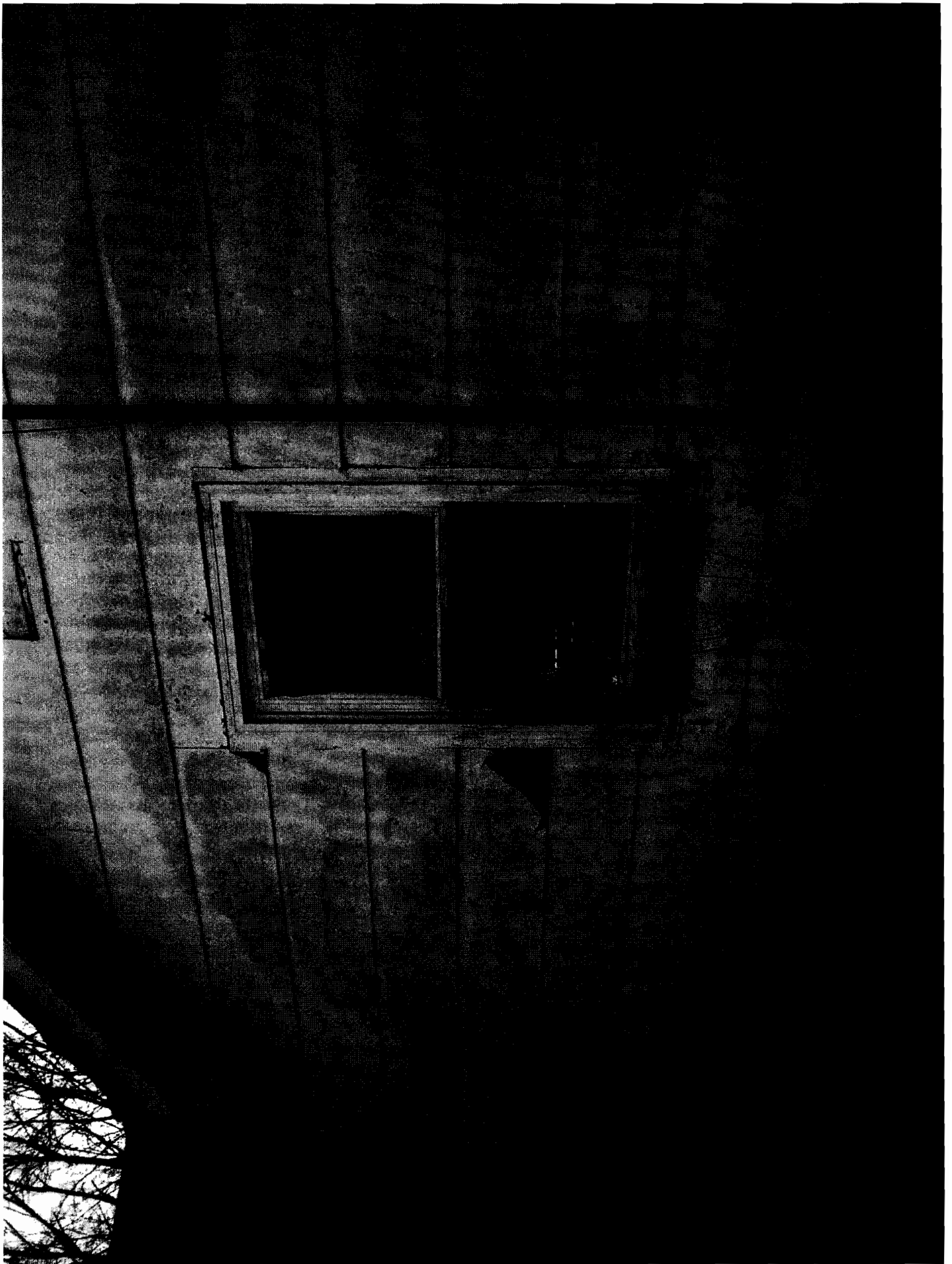
Street Name

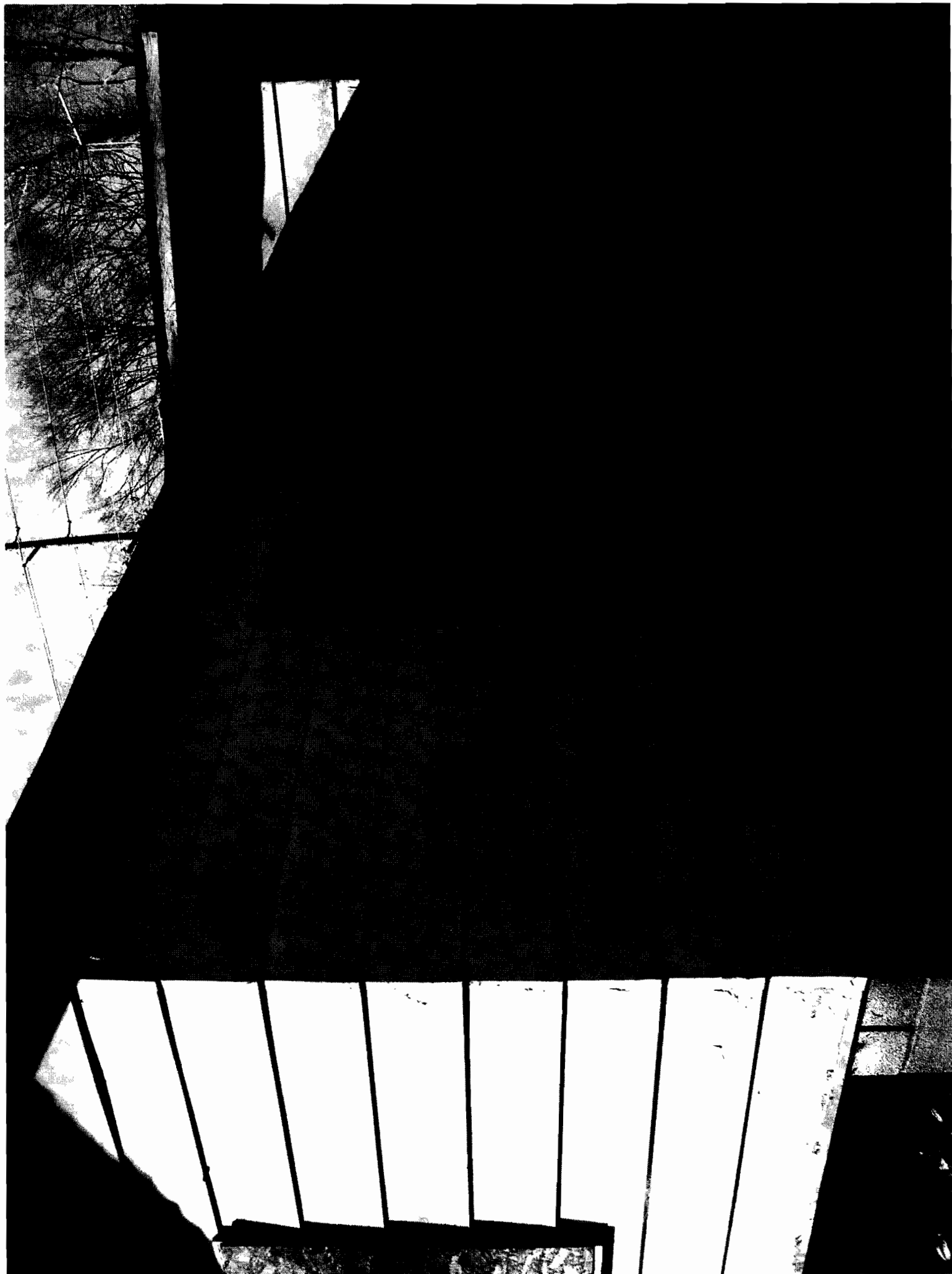


Group Homes



















**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:

605 Deep Creek Road
PIN 0446-38-7815

Beginning at a stake in the Eastern margin of Cade Avenue, at a point 50 feet South of the intersection of the Southern margin of a small avenue, the Southwest corner of a lot conveyed to Lucile Baker on the 1st day of June, 1948, and running thence with the Eastern margin of Cade Avenue South 50 feet to a stake; thence Eastwardly, parallel to Lucille Baker's line, 116 feet to a stake in a ditch; thence with the ditch North 50 feet to the said Lucille Baker's Southeast corner; thence with her line Westwardly 116 feet to the beginning. And being the same property as described in a deed dated August 22, 1949 from Lester Campbell and wife, Marie Campbell to Elijah Baker and wife, Frances Baker, and recorded in Book 540, Page 104, in the office of Register of Deeds for Cumberland County, North Carolina.

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

Helen Garnett
Patricia Baldwin
Wilma Roberts
Myra Baker
3209 Vardaman Avenue, Apt R2
Hope Mills, NC 28348-9649

- (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 November 7, 2008.

- (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 \$1,700.00 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



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 | 110 Mary Street |
| Property Owner(s) | Alberta Williams, Heirs, Grayson, GA |
| Date of Inspection | September 16, 2008 – inspector posts building as vacant and abandoned |
| Date of Hearing | October 1, 2008 (hearing advertised in the Fayetteville Observer) |
| Finding/Facts of Scheduled Hearing | Notice to repair/demolish the structure within 60 days mailed October 6, 2008 |
| Owner's Response | None |
| Appeal Taken (Board of Appeals) | No |
| Other | Utilities disconnected since June 2007 |
| | |
| | |
| Police Calls for Service (past 2 yrs) | 30 |

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.

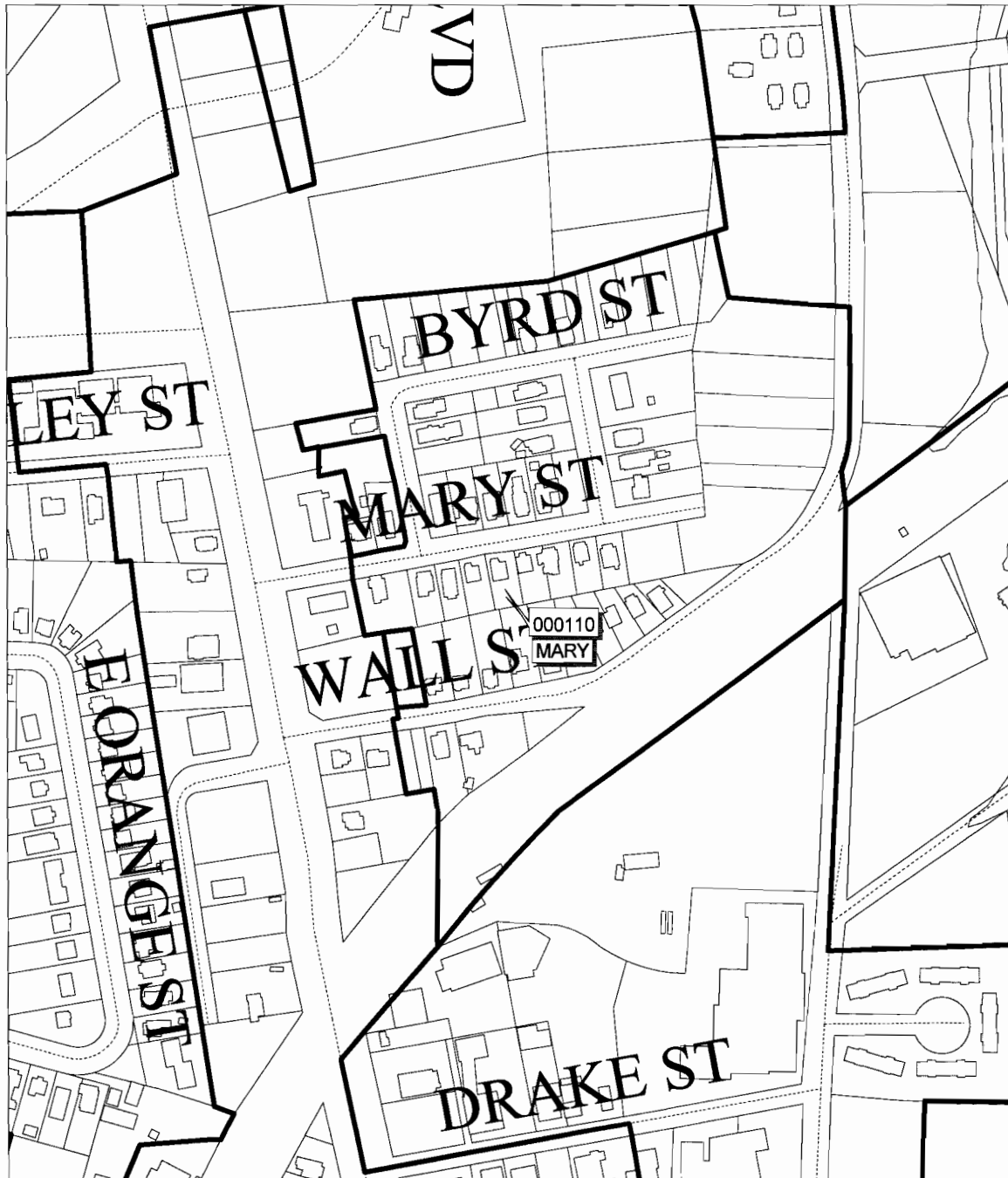
This is the 23rd day of February, 2009.

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

000084
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ITEM 7.0.3.

City Of Fayetteville Inspections Department



Legend



Streets



Zoning



Parcels

Text

Street Name



Group Homes

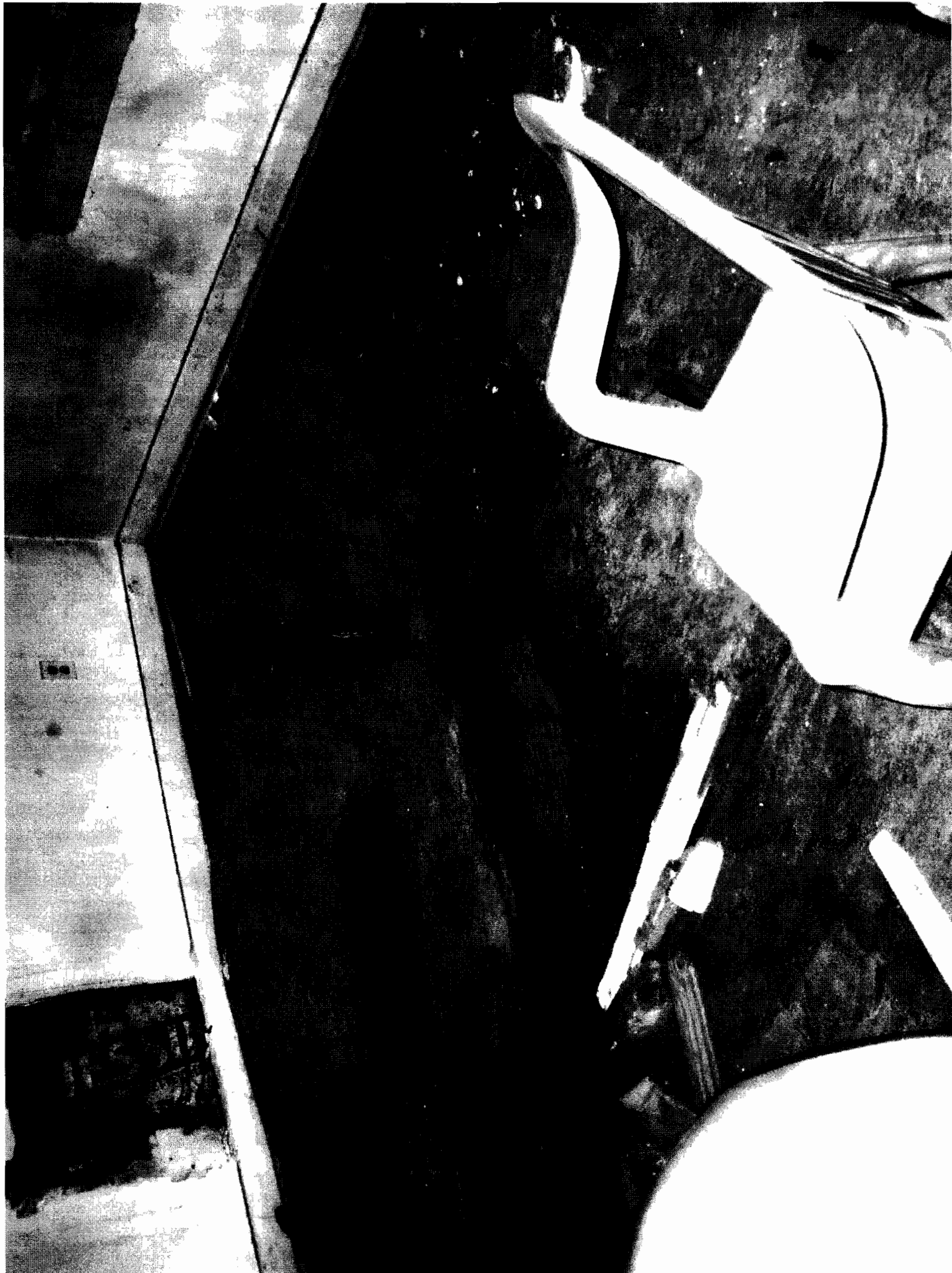
000085











**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:

110 Mary Street
PIN 0437-69-5972

Beginning at a stake in the Southern margin of a street known as Mary Street, at a point 400 feet North 81 deg. East from the Southern intersection of Mary Street with the Eastern boundary of the Raleigh Road, the same being the Northeast corner of Lot #5, and runs thence South 8 deg. 30 min. East 100 feet to a stake; thence North 81 deg. East 50 feet to a stake; thence North 8 deg. 30 min. West 100 feet to a stake in the Southern margin of Mary Street; thence South 81 deg. West 50 feet to the point of beginning and being Lot #7 as shown on the Plat of map of the division of the Emanuel Williams Estate as per plat made by Leslie E. Smith, Surveyor.

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

Alberta Williams Heirs
C/O Marshall C. Williams
2665 Haynes Club Circle
Grayson, GA 30017-2845

- (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 November 30, 2008.
- (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



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 | 1210 North Street |
| Property Owner(s) | Cora Whitehead McEachern, Heirs & Saunders Whitehead, Heirs, Philadelphia, PA |
| Date of Inspection | September 16, 2008 – inspector notices house appears vacant and abandoned; property posted dangerous |
| Date of Hearing | October 1, 2008 (hearing advertised in the Fayetteville Observer) |
| Finding/Facts of Scheduled Hearing | Notice to repair/demolish the structure within 60 days mailed October 6, 2008 |
| Owner's Response | Owner requested demolition bids, Inspections obtained bids & provided same to owner. As of this date, no action taken by owner. |
| Appeal Taken (Board of Appeals) | No |
| Other | Utilities information-no longer in system |
| | |
| | |
| Police Calls for Service (past 2 yrs) | 0 |

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 23rd day of February, 2009.

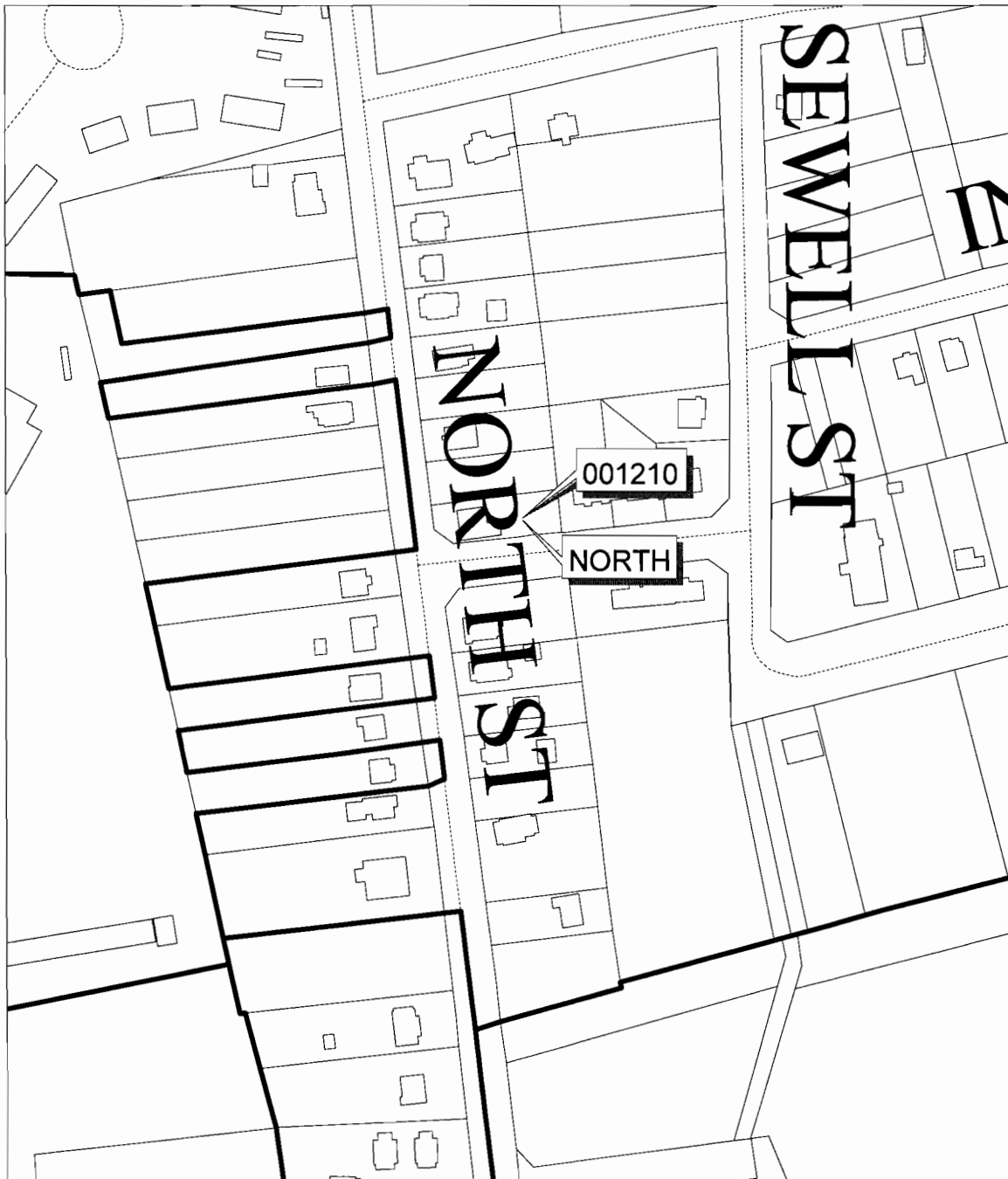
Frank Lewis, Jr.
Sr. Code Enforcement Administrator (Housing)

000093

P.O. BOX 1846
433 HAY STREET
FAYETTEVILLE, NC 28302-1846
(910) 433-1707 / 1714 / FAX (910) 433-1588
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ITEM 2.0.4.

City Of Fayetteville Inspections Department



Legend



Streets



Zoning



Parcels

Text

Street Name

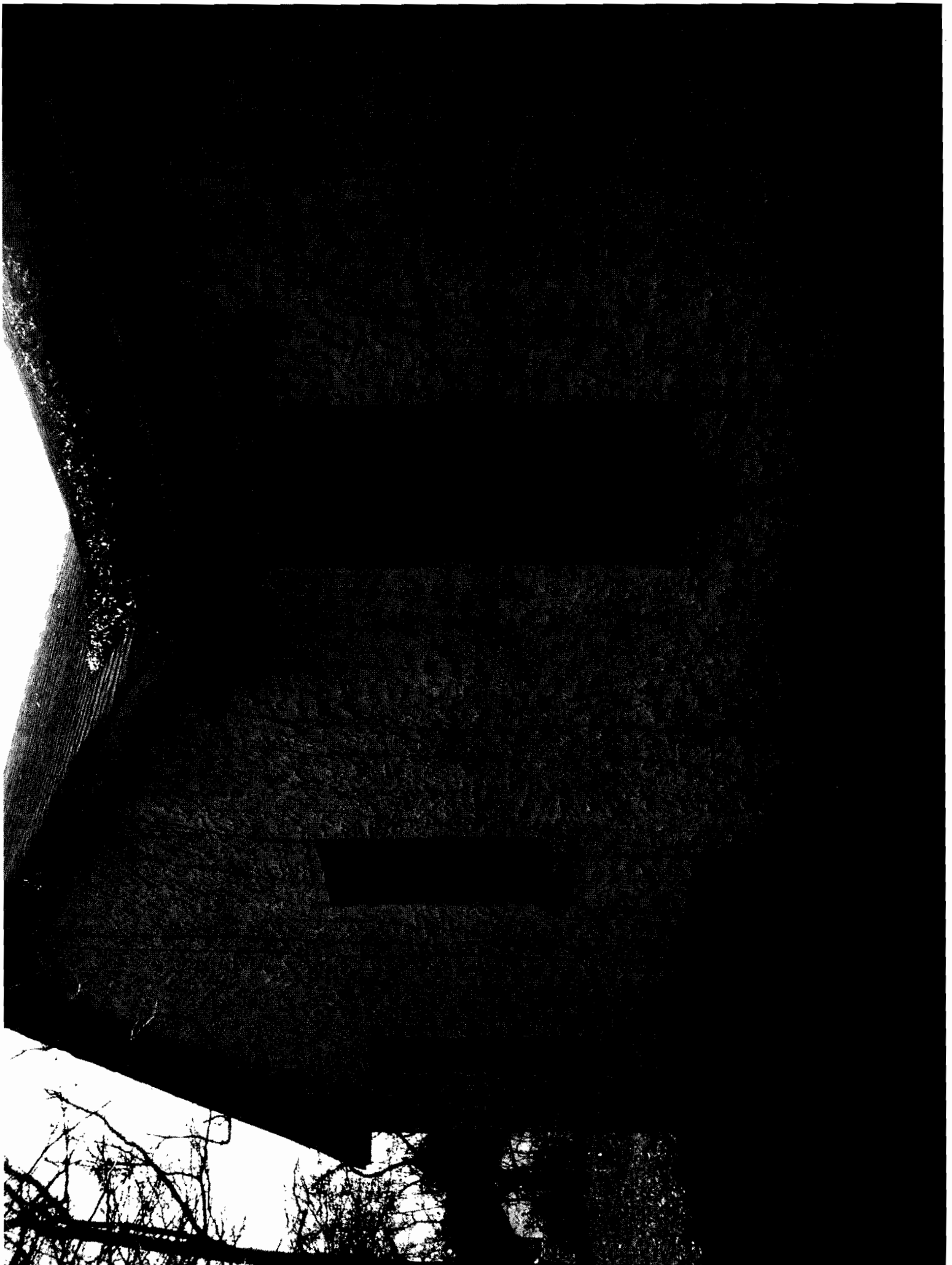


Group Homes

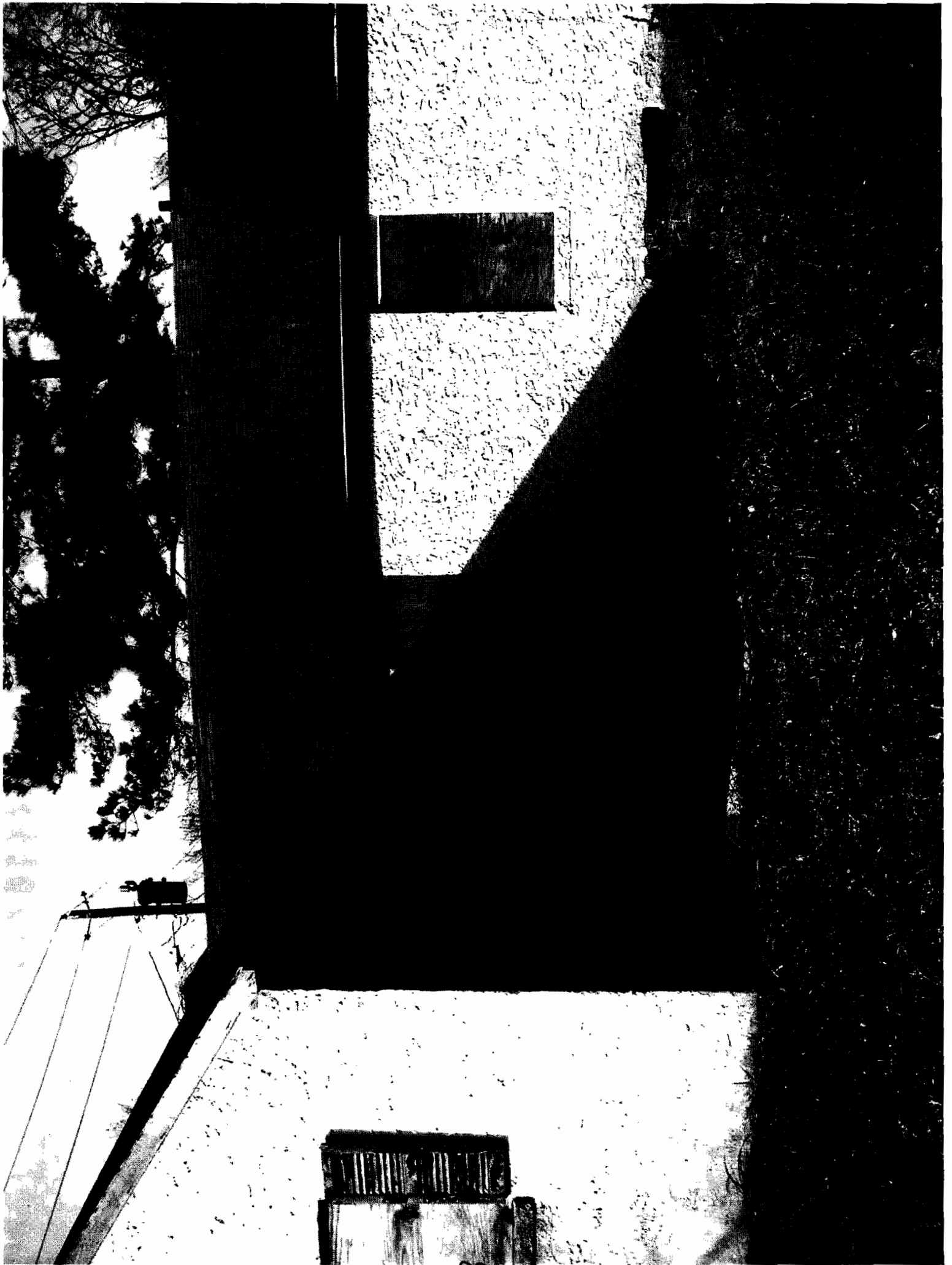
000094

















**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:

1210 North Street
PIN 0438-71-1696

Being all of Lots Numbers 60 and 61 of the Subdivision known as Fairview per plat recorded in Book of Plats 10, Page 68, Cumberland County Registry, and being the same land described in a deed from O. D. Neville and wife to Cora Whitehead, dated September 13, 1945, and recorded in Book 484, Page 22 of the Cumberland County Registry. Cora Whitehead was the mother of the parties of the second part herein. It is the intention of the Commissioner herein to convey to the parties of the second part, all interest in said land not already possessed and held by them in fee. For further title references see following: Book 1033, Page 147; Book 1033, Page 125; Book 1033, Page 145; Book 1033, Page 149, all in Cumberland County Registry.

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

Heirs of Cora Whitehead McEachern
Heirs of Saunders Whitehead
2915 N. Judson Street
Philadelphia, PA 19132-2019

- (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 November 30, 2008.
- (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 \$1,400.00 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



P

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 | 1615 North Street |
| Property Owner(s) | Alfred H. Shields, Diane Shields Bullard, Fayetteville, NC |
| Date of Inspection | August 25, 2008 – inspector posts building as vacant and abandoned |
| Date of Hearing | September 15, 2008 |
| Finding/Facts of Scheduled Hearing | Notice to repair/demolish the structure within 60 days mailed September 17, 2008 |
| Owner's Response | None |
| Appeal Taken (Board of Appeals) | No |
| Other | |
| | |
| | |
| Police Calls for Service (past 2 yrs) | 20 |

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 23rd day of February, 2009.

Frank Lewis, Jr.

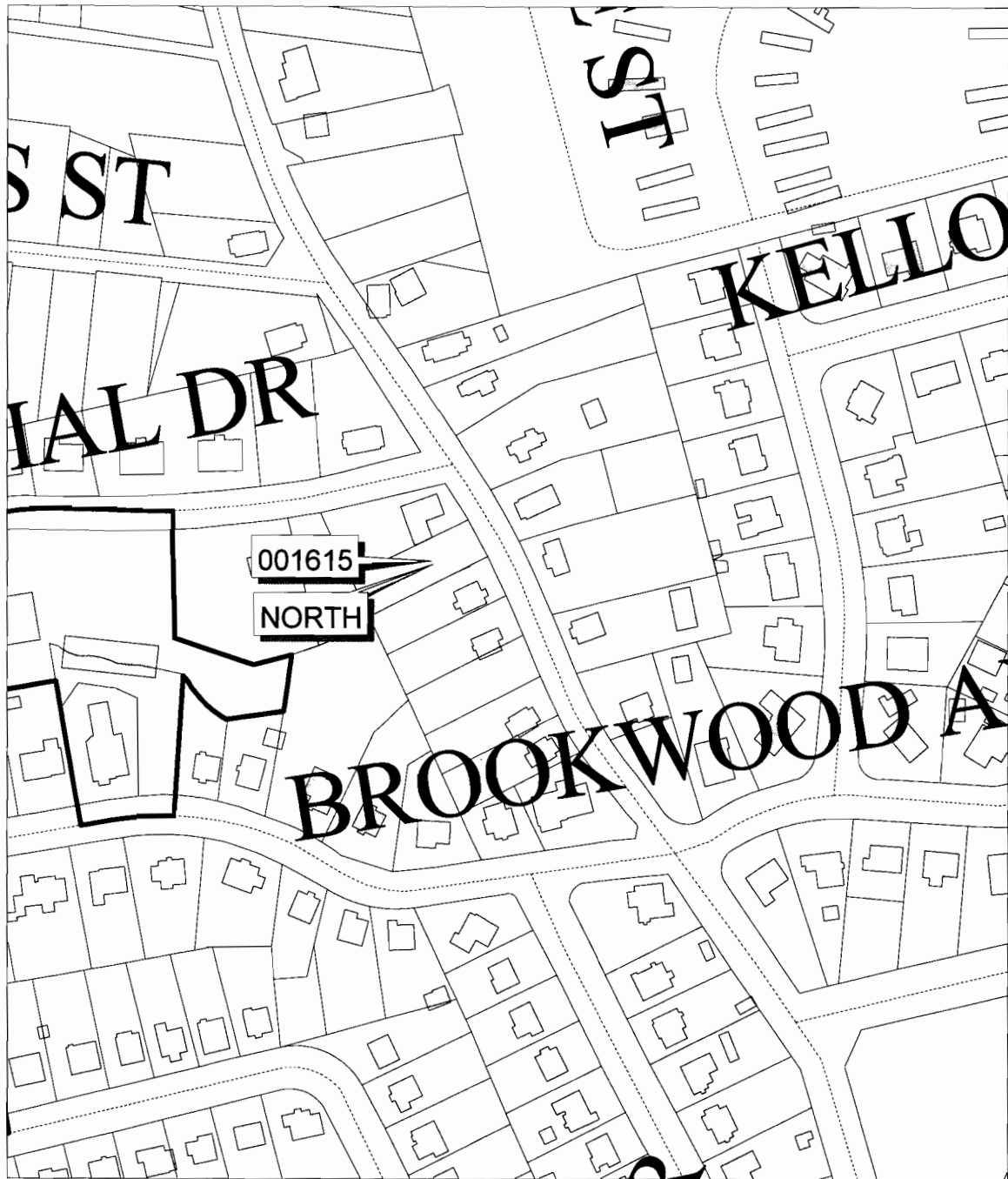
Sr. Code Enforcement Administrator (Housing)

000105





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FAYETTEVILLE, NC 28302-1846
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ITEM 2.0.5.

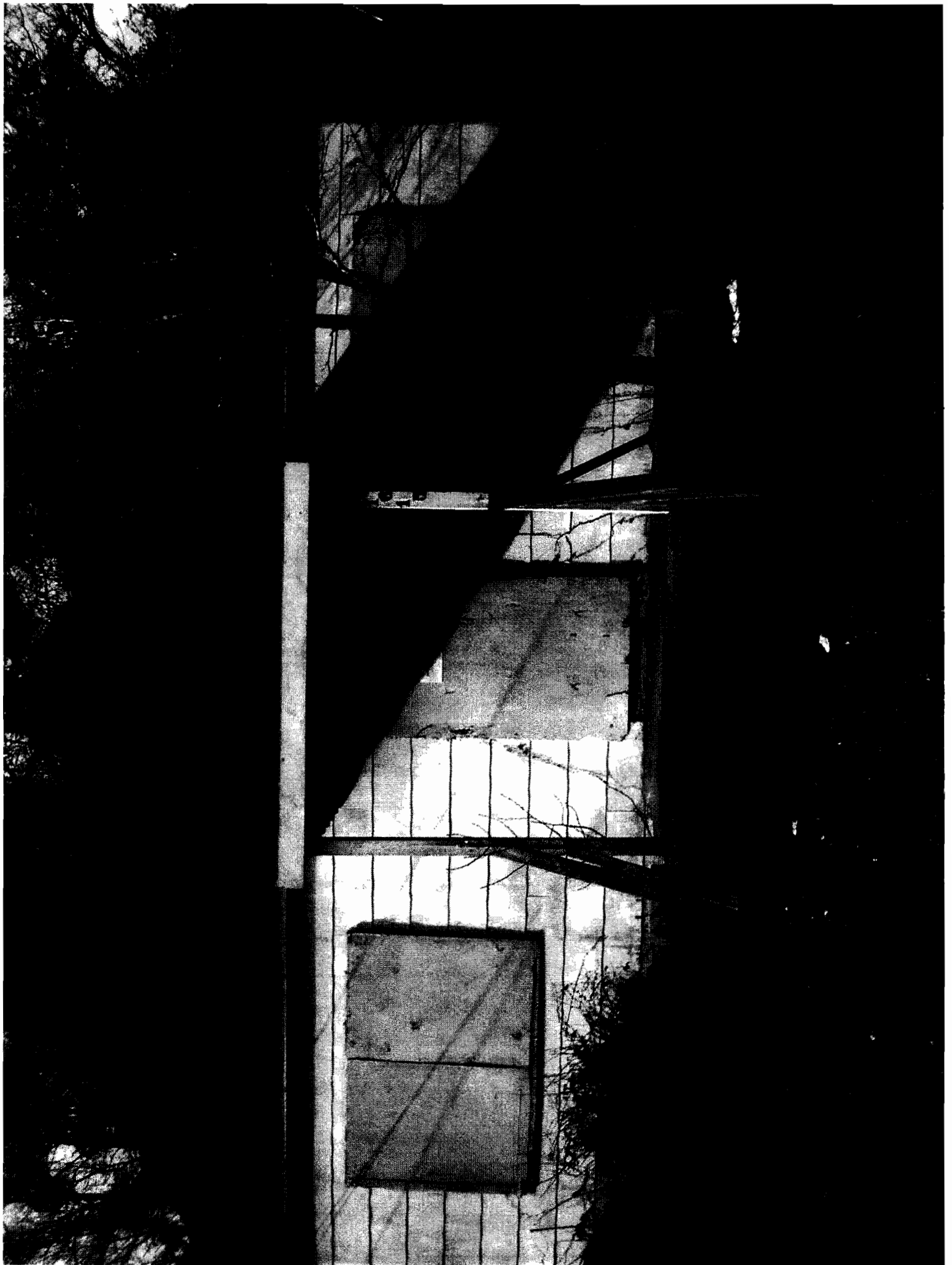
City Of Fayetteville Inspections Department



Legend

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

000106









**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:

1615 North Street
PIN 0438-64-3206

Beginning at a stake in the western margin of North Street at a point 50 feet south of the intersection of the southern margin of Colonial Drive, the said point being the southeast corner of Lot 2, and running thence with the southern line of Lot 2 south 67 degrees 30 minutes west 148 feet to the southwest corner of said lot 2; thence south 21 degrees 30 minutes east 50 feet to a stake; thence north 67 degrees 30 minutes east 150 feet to a stake in the western margin of North Street; thence with the western margin of North Street north 25 degrees west 50 feet to the beginning, being a common survey of Lots 3 and 4, Block D of the Subdivision of the M. D. Riddle property as will appear by map of the same by F. M. Averitt in May 1940, recorded in Plat Book 9, page 54, Cumberland County Registry. For title reference see deed dated July 18, 1966 from P. D. Jones and wife, Edith M. Jones to Jackie D. Johnson and wife, Norma Johnson duly recorded in Book 2007, page 635, Cumberland County Registry.

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

Alfred H. Shields
Diane Shields Bullard
1410 Morganton Rd
Fayetteville, NC 28305-4734

- (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 November 14, 2008.

- (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



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 | 5009 Patton Street |
| Property Owner(s) | Servicing Associates, LLC, Los Angeles, CA |
| Date of Inspection | July 23, 2008 – inspector notices house appears vacant and abandoned; property posted dangerous |
| Date of Hearing | August 4, 2008 |
| Finding/Facts of Scheduled Hearing | Notice to repair/demolish the structure within 60 days mailed August 5, 2008 |
| Owner's Response | Owner requested demolition bids, Inspections obtained bids & provided same to owner. As of this date, no action taken by owner. |
| Appeal Taken (Board of Appeals) | No |
| Other | Utilities disconnected since July 2002 |
| | |
| | |
| Police Calls for Service (past 2 yrs) | 7 |

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.

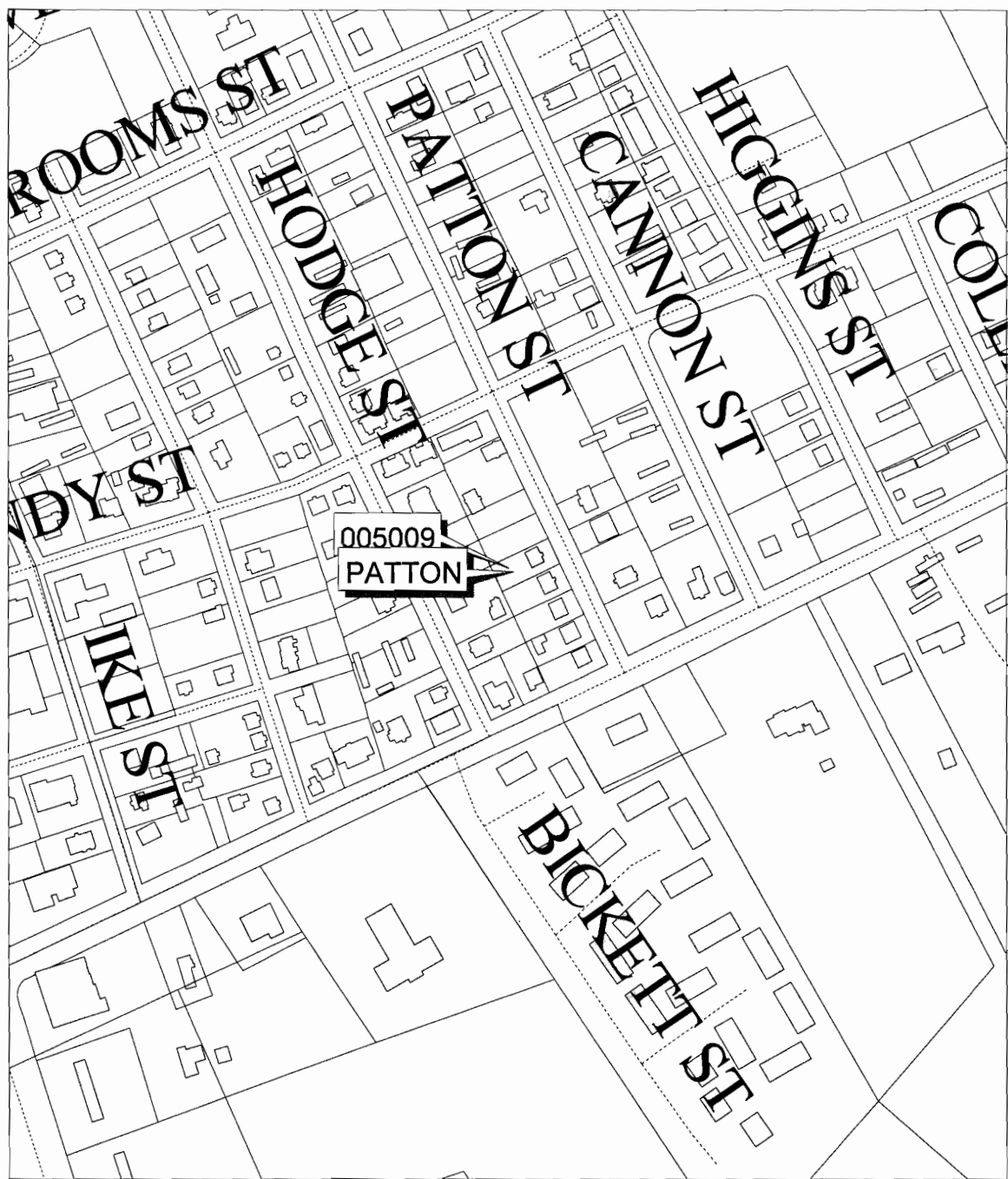
This is the 23rd day of February, 2009.

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





000113
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433 HAY STREET
FAYETTEVILLE, NC 28302-1846
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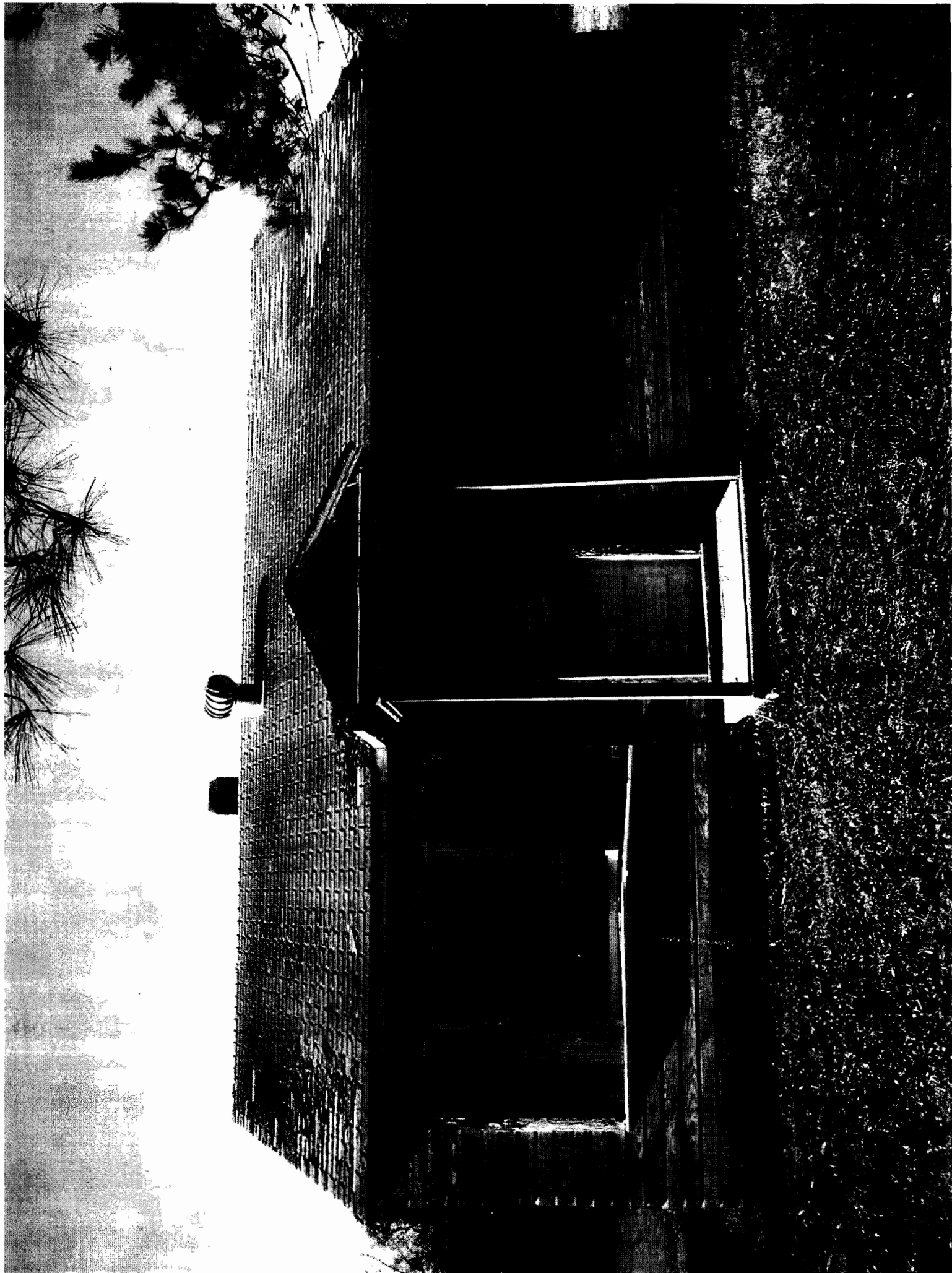
ITEM 2.D.6.

City Of Fayetteville Inspections Department

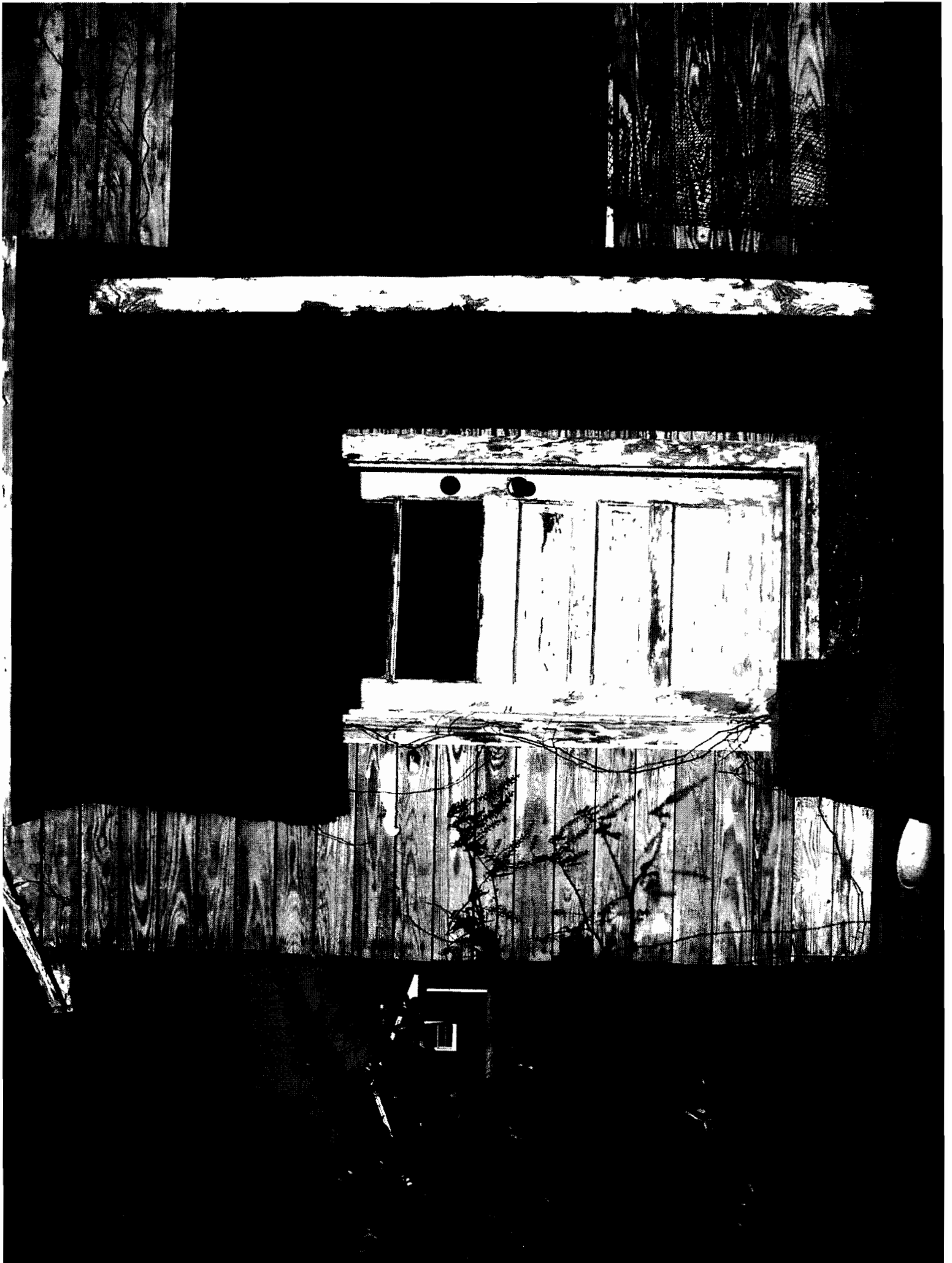


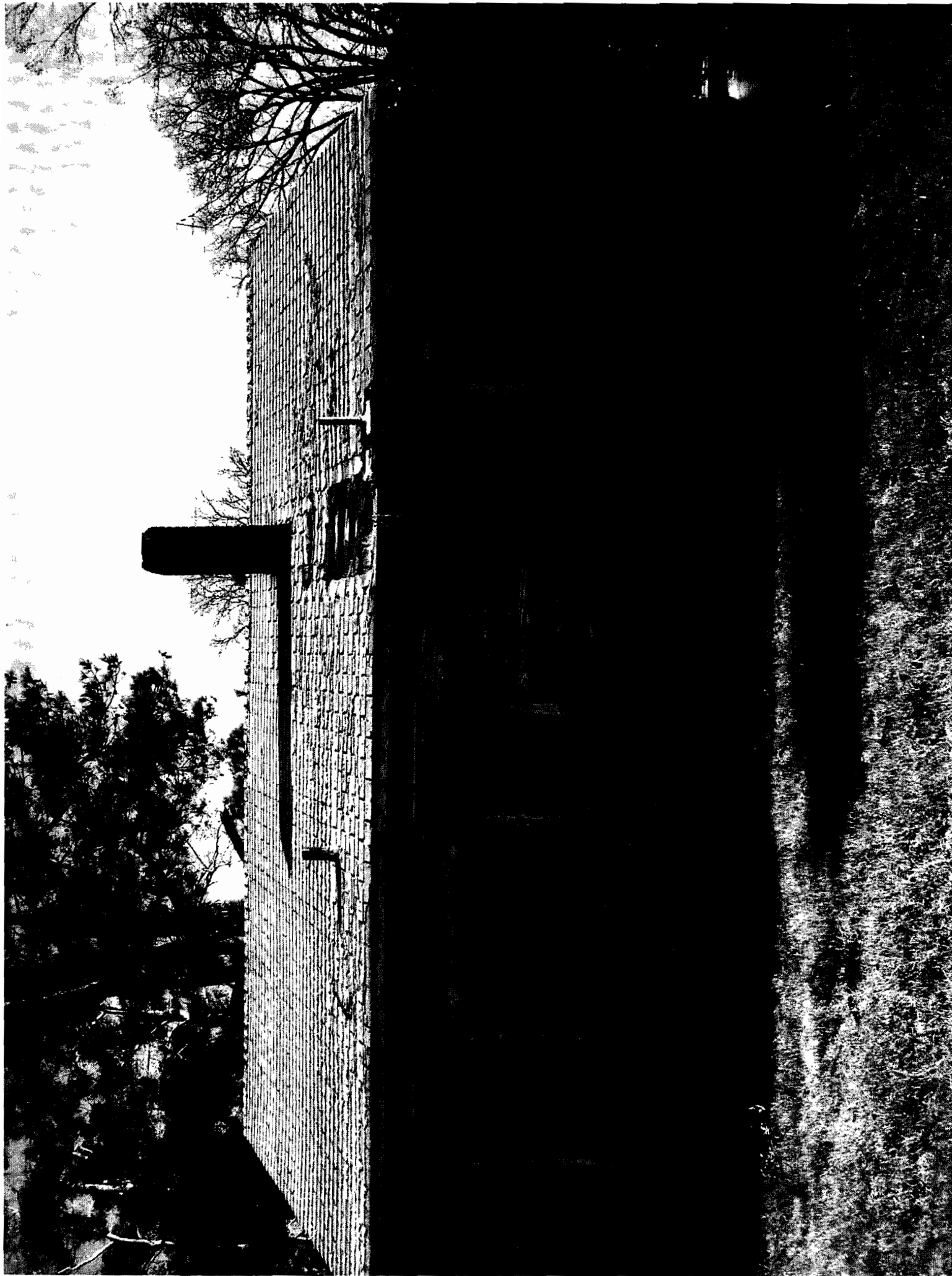
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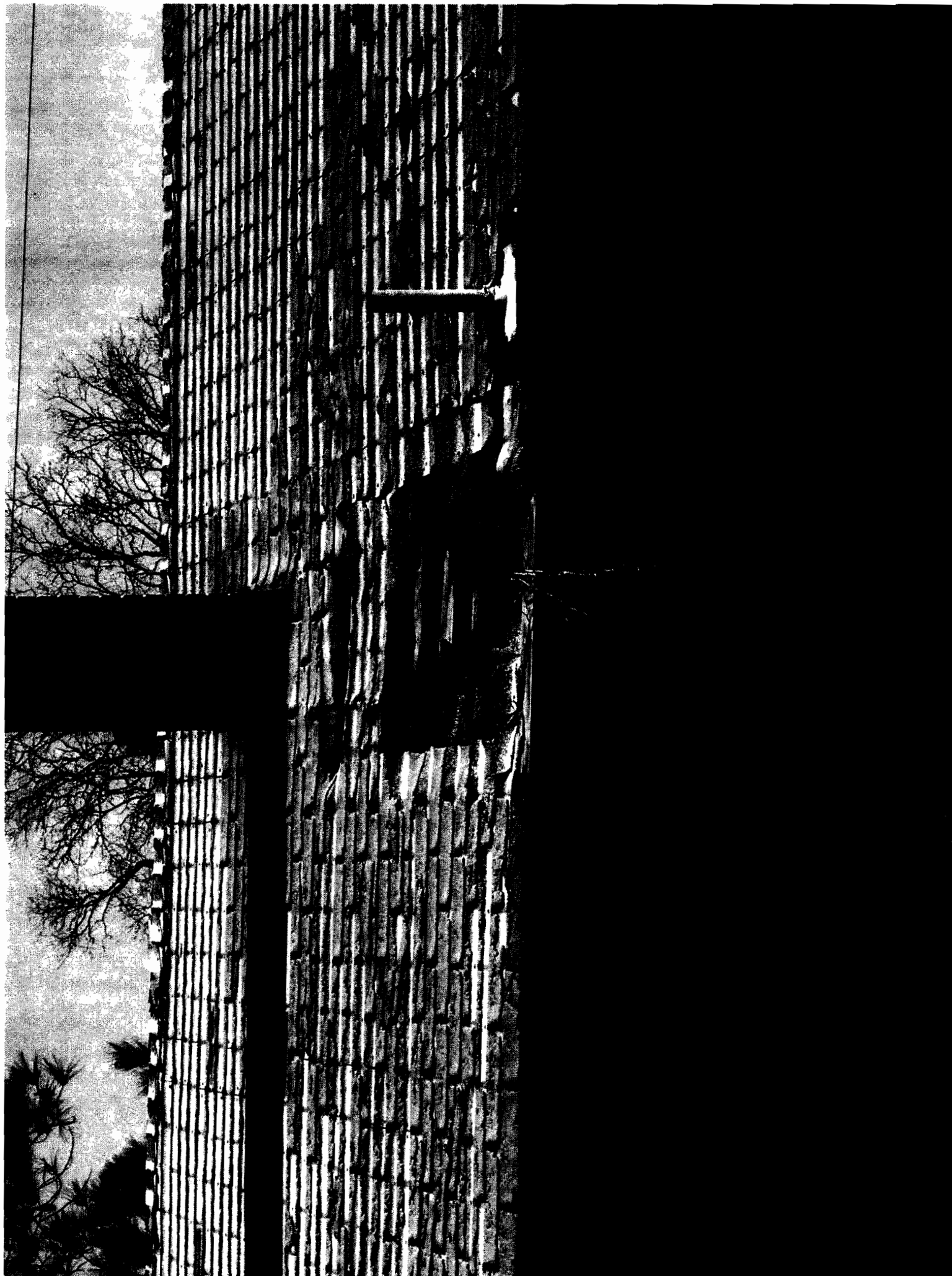
| | | | | | |
|---|-------------|---|-------------|---|---------|
|  | Streets |  | Zoning |  | Parcels |
| Text | Street Name |  | Group Homes | | |















**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:

5009 Patton Street
PIN 0418-49-4528

Being all of Lot No. 103, in a subdivision known as Bonnie Acres, according to a plat of same duly recorded in Book of Plats 9, Page 75, Cumberland County Registry, North Carolina.

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

Servicing Associates, LLC
PO Box 24437
Los Angeles, CA 90024

- (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 October 3, 2008.
- (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 COUNCIL ACTION MEMO

To: Dale Iman, City Manager

From: Bobby Teague, Director Engineering and Infrastructure *EST a*

Date: February 23, 2009

Re: Public Hearing to Consider Closing a Portion of an unnamed Street/Alley off N. Reilly Road

THE QUESTION:

- A request was received from Missions to Military, Inc. requesting that a 25' unopened and unnamed street/alley off N. Reilly Road and abutting their property be permanently closed. A public hearing is scheduled to receive comments on the closure.

RELATIONSHIP TO STRATEGIC PLAN:

- Growing City – A Great Place to Live

BACKGROUND:

- NCGS§160A-299 gives the authority and procedures for the City to close a city street or alley.
- A map of the proposed closing is attached.
- The Resolution and Order closing a portion of the unnamed street/alley is attached for adoption following the public hearing

ISSUES:

- Access to the abutting properties will not be denied as a result of the closure.
- A portion of the street/alley at the end of Squires Lane is being retained for the construction of a turnaround if needed later.
- The entire area being closed will be retained as a utility and drainage easement.
- Notices of the Public Hearing were published and sent out as required by NCGS§160A-299

OPTIONS:

Following the Public Hearing:

- Adopt the attached resolution and order closing a portion of the unnamed 25' street/alley off N. Reilly Road.
- Deny the request.

RECOMMENDATIONS:

- Adopt the attached resolution and order closing a portion of the unnamed 25' street/alley off N. Reilly Road.

VICINITY MAP

REILLY RD. 100' R/W

APPROX. 370.00'

APPROX. 25.00'

30.00'

9499-70-0230-

NEW, DOUGLAS
STEDON-6466
507-7136

9499-70-4212-
WRENN, BOBBY GLEN & WIFE NANCY
Died Book 2467 Died Page 96
Plat Book 35 Plat Page 5

SQUIRES LN 30' R/W

9499-60-8151-

WOO, YOUNG C & WIFE YBONY
 Dead Book: 6074 Dead Page 136
 Flat Book: 25 Flat Page 34

9499-60-9069-

WOO, YOUNG C & WIFE YBONY
Deed Book 6074 Deed Page 136
Plat Book 25 Plat Page 34

9499-70-0160-

BLALOCK, MARIA TL
Deed Book 2268 Deed Page 613
Plat Book 25 Plat Page 34

9499-70-1355-
MISSIONS TO MILITARY, INC.
Deed Book 6815 Deed Page 746
Flat Book 122 Flat Page 127

Fayetteville
Westland

**PROPOSED STREET CLOSING
UNNAMED ALLEY
PB 25 PG 34, PB 35 PG 5
& PB 122 PG 127**

| | | | |
|-------|----------|----------|-----|
| DATE | 1" = 80' | DRAWN BY | CSA |
| SCALE | 1/9/09 | CK'D BY | CSA |

| REVISION | REVISION | REVISION | REVISION |
|----------|----------|----------|----------|
| DATE | REVD | DATE | REVD |

CAD FILE: CAD FILE

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

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

Resolution R2009-_____

**RESOLUTION AND ORDER CLOSING OF A PORTION OF
A 25-FOOT WIDE UNNAMED STREET/ALLEY LOCATED BETWEEN
NORTH REILLY ROAD AND SQUIRE LANE**

WHEREAS, under authority of N.C.G.S. 160A-299, a public hearing before the City Council of the City of Fayetteville, North Carolina, was advertised as required by law, and duly held on the 23rd day of February, 2009, in accordance with the notice calling for said public hearing, and all adjoining property owners having been notified by certified mail of the time, place and purpose of said meeting, the purpose of which was to determine whether a portion of that certain street/alley located in the City of Fayetteville, North Carolina, known as an unopened and unnamed twenty-five foot (25') street/alley as shown on Plat Book 25, Page 34 and located on the east side of and perpendicular to North Reilly Road midway between Fairvale Drive and Dandridge Drive should be permanently closed as a street/alley; and a notice of said hearing having been posted on said street/alley for four weeks prior to the holding of said hearing;

WHEREAS, during the said public hearing all interested citizens were invited to comment and state any objections they may have to the permanent closing of that unopened and unnamed twenty-five foot (25') street/alley as shown on Plat Book 25, Page 34 and located on the east side of and perpendicular to North Reilly Road midway between Fairvale Drive and Dandridge Drive; and

WHEREAS, the City Council, following such public hearing, after considering all the facts, has determined that the permanent closing of that unopened and unnamed twenty-five foot (25') street/alley as shown on Plat Book 25, Page 34 and located on the east side of and perpendicular to North Reilly Road midway between Fairvale Drive and Dandridge Drive is not contrary to the public interest and that no individual owning property in the vicinity of said alley will thereby be deprived of reasonable means of ingress and egress to his or her property;

NOW THEREFORE, IT IS ORDERED AND DIRECTED:

That the unopened and unnamed twenty-five foot (25') street/alley as shown on Plat Book 25, Page 34 and located on the east side of and perpendicular to North Reilly Road midway between Fairvale Drive and Dandridge Drive, be permanently closed as a street/alley under the following terms and conditions:

1. Description of area closed as a street/alley;

Commencing at a point where the eastern right-of-way margin of North Reilly Road intersects the northern right-of-way margin of Fairvale Drive and running in a northerly direction along the eastern right-of-way of North Reilly Road approximately 400 feet to the point of BEGINNING; thence continuing with the eastern right-of-way margin of North Reilly Road and crossing an un-named alley/street in a northerly direction approximately 25 feet to a shell casing, the southwest corner of Tract #1 as described in Deed Book 6815, Page 746 of the Cumberland County Registry; thence with the southern boundary of said Tract #1 in a easterly direction approximately 370 feet to a point; thence crossing said un-named alley/street in a southerly direction approximately 25 feet to a point in the northern boundary of Lot 5 as shown on Plat Book 25, Page 34 of the Cumberland County Registry, said point being 30 feet westwardly from the

western right-of-way margin Squire Lane; thence with the northern line of Lots 4 & 5 as shown on Plat Book 25 Page 34 of the Cumberland County Registry, approximately 370 feet to the point of BEGINNING.....

2. The City of Fayetteville reserves an all-purpose, underground and overhead utility and drainage easement in and over the entire area of the street/alley portion as described above.
3. That a copy of this ORDER be recorded in the office of the Register of Deeds of Cumberland County.

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

ADOPTED this 23rd day of February, 2009 by the City Council of the City of Fayetteville, North Carolina

CITY OF FAYETTEVILLE

(SEAL)

By: _____
Anthony G. Chavonne, Mayor

ATTEST:

Candice H. White, City Clerk

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer 
From: Jimmy Teal, Planning Director 
Date: February 23, 2009
Re: Designation of the Cool Spring site as a local historic landmark

THE QUESTION: Designating the Cool Spring site as a local historic landmark.

RELATIONSHIP TO STRATEGIC PLAN: Rich Heritage

BACKGROUND:

North Carolina General Statute 160A-400.6 provides governing bodies the opportunity to designate property within their jurisdiction as historic landmark. This designation may only occur after an investigation and report on the historic, architectural, educational or cultural significance of each building or site, review by the Department of Cultural Resources, a recommendation from the local historic preservation commission and a public hearing held by the governing body. All items have been met on this designation except the public hearing and action by City Council.

ISSUES:

The Cool Spring is one of Fayetteville's most historic sites. It served its primary purpose, to provide water, from Fayetteville's beginning until the early twentieth century. The site is an important archaeological site that if ever restored would provide a rare and extremely significant architectural example of a spring structure. The site, though now covered, is an important cultural and natural resource that serves as an integral part of the city's history. It is eligible and deserving for Local Landmark designation and the protection that designation affords.

OPTIONS:

1. Approve the ordinance designating the Cool Spring site as a local historic landmark as recommended by the Historic Resources Commission.
2. Deny the request.

RECOMMENDATIONS:

Option 1 – Adopt the ordinance granting historic landmark status as recommended by the Historic Resources Commission.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE
DESIGNATING THE COOL SPRING LOCATED ON THE SOUTH BANK OF CROSS
CREEK NEAR THE INTERSECTION OF COOL SPRING STREET AND COOL
SPRING LANE AS A HISTORIC LANDMARK**

THAT WHEREAS the Fayetteville Historic Resources Commission has recommended to the Fayetteville City Council that it designate by ordinance as a historic landmark the Cool Spring located on the south bank of Cross Creek near the intersection of Cool Spring Street and Cool Spring Lane within the City of Fayetteville, North Carolina because of its historical significance. Pursuant to N.C.G.S. 160A-400.6, a public hearing was held by the Fayetteville Historic Resources Commission on November 22, 2005 and a public hearing was held by the Fayetteville City Council on February 23, 2009 to consider adoption of an ordinance designating same as a historic landmark;

THEREFORE, BE IT ORDAINED by the City Council of the City of Fayetteville that Cool Spring is hereby designated as a historic landmark as pursuant to N.C.G.S. 160A-400 AND 160A-400.6, based upon the following:

- | | |
|-------------------------------|--|
| 1. NAME OF PROPERTY | Cool Spring |
| 2. OWNER OF PROPERTY | City of Fayetteville 433 Hay Street, Fayetteville, NC 28301 |
| 3. LOCATION | South bank of Cross Creek near intersection of Cool Spring Street and Cool Spring Lane |
| 4. PROPERTY PIN NUMBER | 0437-74-7133 (Tax Sheet Attached) |

5. MAPS/PHOTOGRAPHS

Attached

6. FUNCTION OR USE

Historic Function: Spring

Current Function: Spring



Fig. 1. View of Cool Spring Excavation 1983. Photo Courtesy of Dr. K. H. Suggs

7. DESCRIPTION

The Cool Spring is one of Fayetteville's most endearing landmarks. It is located on the south bank of Cross Creek just north of Cool Spring Lane at Cool Spring Street. Protected by shade trees and groundcover, the spring was historically accessible by Cool Spring Lane. The Lane, shaded by mature trees, is narrow and quite picturesque. Although underground, the site of the spring evokes a sense of history that is emphasized by its location visible from Cool Spring Tavern (NR1973), Evans A.M.E. Zion Church (NR1973), the Fayetteville Independent Light Infantry (F.I.L.I.) Parade Ground, and First Presbyterian Church (NR1973).



Fig. 2 View of Cool Spring Tavern

Photo by Author

A spring is defined as a natural fountain or flow of water (The American Heritage Dictionary, p. 1182). Today the spring is still a natural flow of water, however, it is not visible from the surface. It is below ground and protected by a steep grade that leads to Cross Creek. Cool Spring was improved in the early nineteenth century as a public water source. The town built walls to protect it and steps to access it. Historically the spring served as one of the town's primary water sources and gathering places.

In 1929 the city closed the spring and covered it with dirt and fill. The first attempt to uncover Cool Spring occurred in the 1950s and was partially successful. In addition to uncovering part of the spring interpretive markers were erected to tell the history of the spring. In 1983 the city of Fayetteville embarked on an extensive archaeological investigation that resulted in *Cool Spring, Fayetteville, North Carolina, 1983 Archaeological Excavations and Historic Research* conducted by Kenneth W. Robinson. Robinson excavated the site and found an extraordinary structure surrounding the spring. In his report he describes the spring as follows:

The architecture of the spring structure, though simple in style

And construction, is also important, for the structure represents a rare type of public architecture. Actually, the entire creek bank of Cool Spring can be considered a massive manmade structure, comprised of the rectangular spring access structure, the series of stepped retaining walls, and the fill placed between the retaining walls. But the rectangular spring access structure is the focal point of the site since it controlled the water flow and permitted access.

Robinson continues in greater detail:

The walls were constructed using a combination of dry-laid and mortared stone blocks. The sandstone material that was used in the construction is the same type that was used to construct the foundations of some of the more prominent early buildings in Fayetteville (e.g. Liberty Point Building, Market House, Sanford House).

During the excavation, Mr. Robinson fully documented the site and detailed his findings and recommendations in his report. The excavation also realized that budget constraints would not allow for the restoration of the spring at that time. After the site was documented it was covered and filled and has remained covered since 1983. The only other change to the spring site was the paving of Cool Spring Alley in the late 20th Century. Unfortunately, the asphalt cover detracts from the historic character of the place but could be reversed in the future.

8. HISTORICAL BACKGROUND

Fayetteville is fortunate to have an abundance of natural resources to benefit its citizens. The meandering waters of Cross Creek and Blounts Creek provide the city with aesthetic and natural resources that have shaped the landscape as well as the history of this city. In the early development of the city these waterways provided water for irrigation and waste. Fortunately, for the townspeople there is also an abundance of natural springs that provided fresh water for consumption. The McRae Map of 1825 (Fig. 7) illustrates several springs surrounding the center of the town; Cool Spring at the intersection of Cool Spring Street and Cross Creek,

Foresters Spring north of Grove Street near its intersection with Cool Spring Street, and Scotch Spring just north of Maiden Lane. A fourth spring known as Fountainhead was located at Haymount just west of present-day Fountainhead Lane.

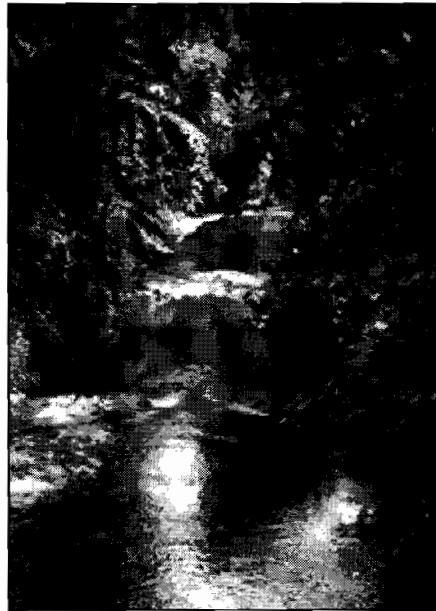


Fig. 3. View of Cross Creek Photo by Author

Cool Spring is the most well known of the natural springs that historically served Fayetteville. This can be attributed to its location near the center of town. The spring was conveniently located to most of the commercial and residential activity in the town. The earliest deed reference is found in 1770 for Cool Spring, Thomas Hadley and John Wilcox purchased half of an acre on the south side of Cross Creek, "ten feet north of Russel's line near the Cool Spring (Field's p. 5)." The deed reference is just one of many references to the spring. It was apparently an established landmark when Dolphin Davis opened his tavern in 1789 because he references the spring in his advertisement published in the Fayetteville Gazette on September 21, 1789, "The Subscriber begs leave to inform the public that he has a opened a Public House in Fayetteville near the Cool Spring." Mr. Davis' public house is now Fayetteville's oldest extant residence, Cool Spring Tavern at 119 North Cool Spring Street. The spring is located just north

of the tavern between Cool Spring Lane and Cross Creek. Cool Spring's most famous association however occurs during the American Revolution. "Tradition is that Flora MacDonald bade farewell here to the Scottish Loyalists who marched off to battle at Moores Creek Bridge" (Fields: 1983, p. 20). The legend of Flora MacDonald has survived generations of folklore, however, there is no evidence at this time to substantiate the site at the Cool Spring

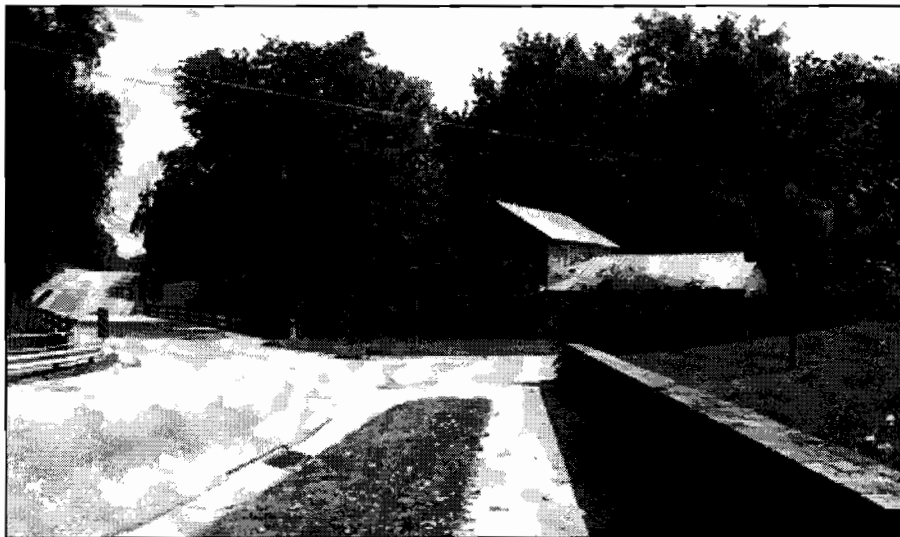


Fig. 4. View of Flora MacDonald Historical Marker across Cool Spring Street from the Cool Spring, also note Cool Spring Mill and bridge over Cross Creek in background.
Photo by Author

The importance and endearment of the Cool Spring is evidenced in the last wishes of one of its citizens and a member of the Fayetteville Independent Light Infantry (F.I.L.I.). Isaac Hammond, the fifer of the F.I.L.I. is buried on the bank of Cross Creek across from the Cool Spring site. John Oates states that the F.I.L.I. would march past the spring on parade days. He continues, "Hammond stated on his death bed that he wanted to be buried with his fife on the bank of the stream. He said "I shall perhaps hear the drum and the fife of the Company when they throng at the spring on parade day and the sound will cheer me in the long sleep of the tomb." Isaac Hammond, the Fifer of the F.I.L.I. (Oates, p. 251). Hammond's grave is located

between Evan's A.M.E. Zion Church and the northern bank of Cross Creek. The F.I.L.I. takes pride in the grave of its former fifer and maintains the site.



Fig. 5. View of Evan's AME Zion Church looking north from Cool Spring Street just east of Cool Spring. Photo by Author

Cool Spring's is most significant for its contribution to the city in the way of fresh drinking water. It is the site of one of Fayetteville's earliest public works. The earliest illustrated reference to the spring structure is on the 1825 McRae Map. 'It indicates that the spring structure was built around Cool Spring at least by 1823" (Robinson: 1983, p. 24). Near the same time the town was improving the water system. The new system involved the use of log pipes to convey water from Fountainhead Spring on Haymount Hill. Although Fountainhead was the source for the new water system, the other existing springs continued to be used into the late nineteenth and early twentieth centuries (Robinson: 1983, p. 24).

An entry in the Fayetteville Observer on January 31, 1907 indicates that the spring was not in use during that time and encourages the restoration of the spring, titled "Restore the Old Spring – Set Running Again the Waters at the Foot of the Hill" and reads:

The Observer readers will have noticed in yesterday's proceedings

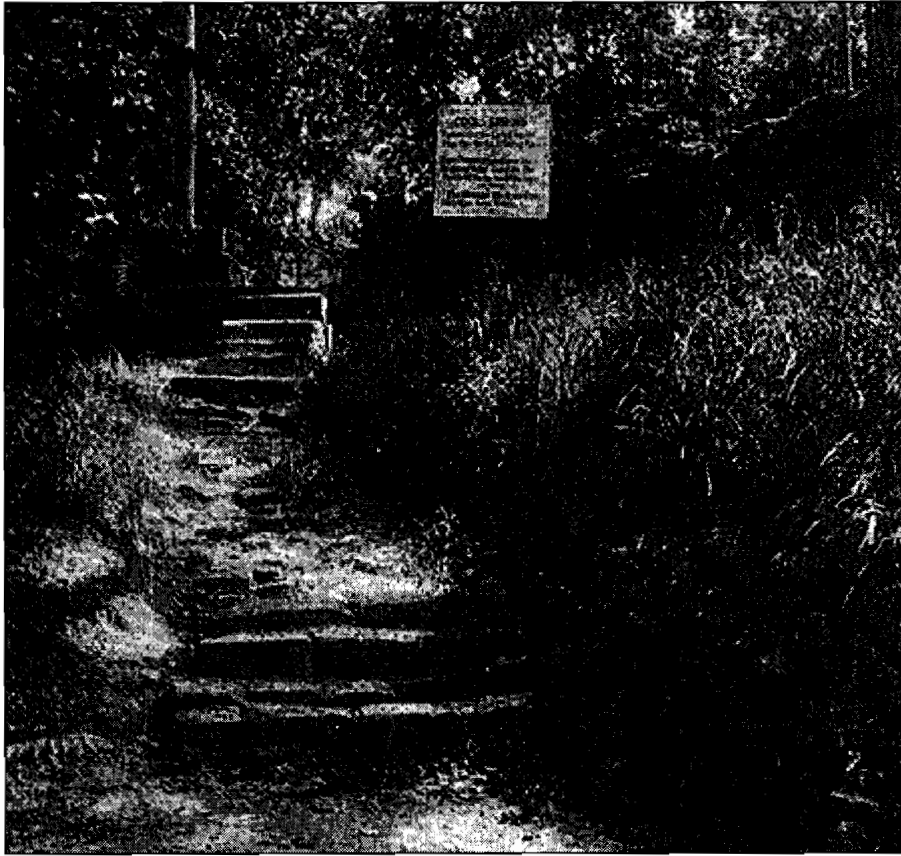
of the Women's Civic Improvement Association that among their other good works they hope to restore the old Cool Spring. They could hardly do anything better. It is coeval with the towns very beginnings. Its folk, old and young have slaked their thirst at its broad stone rim, and have lain under the shade of its giant sheltering trees, who went to rest under the elms on the banks of Cross Creek nearly a century ago. There were seats about it for afternoon recreation, and the beaux and belles there gathered before the charming poke bonnet and the smart knee breeches went out of vogue.

Louis Hammond, the fifer of the Independent Light Infantry, lies near there; and so dearly did he love this fountain that we might almost fancy that the splash of its waters, astir again, would awaken him from his long dreamless sleep.

Cool Spring remained open until 1929 when the city decided to close the spring for a new traffic thoroughfare. The spring was filled but an injunction stopped the construction of the road. The spring was abandoned and the Cool Spring Alley remained a narrow passage. In a 1939 article a visitor to the city observes the state of the once lovely spring, "Cool Spring has been buried; the lordly oak is bedded deep in bricks and paving stones and dirt" (Fayetteville Observer, 1939).

The spring remained covered until the mid-twentieth century. The Colonial Dames removed the fill and found the old steps to the spring. A marker placed near the spring by the Colonial Dames states that "in the early days of the Towne of Cross Creek, this spring supplied the residents with drinking water. There is a legend that strangers who drank here would always return."

Unfortunately, this attempt lasted only a few years. It again fell into a state of disrepair and became filled and overgrown (Robinson: 1983, p. 35).



*Fig.6. Steps to Cool Spring and Marker Placed by the Colonial Dames.
Photo from The Fayetteville Observer, provided by the City of Fayetteville.*

In 1980, downtown revitalization plans included the restoration of the spring. Initial archaeological testing began in 1980. The parcel encompassing the spring was deeded to the city as two separate lots the first was deeded in 1958 by Mrs. Hattie Rankin in Deed Book 753, Page 16. The second deed was transferred by the First Presbyterian Church to the city in 1983 as evidenced in Deed Book 2962 Page 375. Also in 1983, Kenneth W. Robinson was hired to conduct an intensive archaeological investigation. Mr. Robinson's extensive investigation is detailed in his report dated 1983. The excavation sparked interest throughout the city and according to Robinson's report over three hundred people visited the site. However, it was found during the study that the restoration of the site would not be possible at that time due to budget constraints. Instead it was decided to preserve the site through protection. The site was

again covered and is still covered today. This year as we celebrate the 250th anniversary of Cumberland County it is appropriate that we recognize the importance of the Cool Spring to our history and that we ensure its preservation for future generations.



Fig.7. View of Cool Spring Excavation, 1983. Photo Courtesy of Dr. K. H. Suggs

9. STATEMENT OF SIGNIFICANCE

The Cool Spring is one of Fayetteville's most historic sites. It served its primary purpose, to provide water, from Fayetteville's beginning until the early twentieth century. Further research may produce more information regarding the spring's association with Native

Americans. In addition, the site is an important archaeological site that if ever restored would provide a rare and extremely significant architectural example of a spring structure. The site though now covered is an irreplaceable natural and cultural resource important to the history of the city and therefore eligible for Local Landmark designation and the protection that designation affords.



*Fig. 8. View of Cool Spring Tavern with Cool Spring Lane to right. Looking West
Photo by Author.*

10. CRITERIA ASSESSMENT

The Cool Spring is only required to meet one of five criteria for significance to be eligible for Local Landmark status. The spring meets three of this criteria including its association with events that have contributed significantly to our past, embodies the distinctive characteristics of a

type, period, or method of construction, and it has yielded or is likely to yield important historical or pre-historical information.

Cool Spring is associated with events that have contributed significantly to our history. It is a surviving example of Fayetteville's earliest water source and an early example of the city's public works. In addition it has historically been associated with important events in the city's history.

Cool Spring embodies the distinctive characteristics of a type, period, and method of early construction. The 1983 excavation documented the importance, significance, and distinctive characteristics of the spring structure. The structure includes retaining walls to protect the spring, steps to access the spring, and a floor. This is a rare example of this type of structure that was built specifically to suit this site on the steep creek bank.

Cool Spring has yielded and will likely yield important historical or pre-historical information.

Completion of the 1983 excavation and analysis by Kenneth W. Robinson illustrated the importance of the site and its ability to yield important historical information.

11. WORKS CONSULTED

Books and Reports:

The American Heritage Dictionary, Second College Edition: Boston, MA: Houghton Mifflin Company, 1982.

McIver, Rev. Colin. Laws of the Town of Fayetteville: Consisting of All the Acts, and Parts of Acts, Now in Force, and all the Ordinances, and Other Proceedings, Now in Force, from A.D. 1785, to A.D. 1828, Inclusive. Fayetteville, NC: The Evangelical Printing Office, 1828.

Oates, John A., *The Story of Fayetteville and the Upper Cape Fear.* 1950: rpt. Charlotte, NC: The Dowd Press, Inc.; reprint ed., Raleigh, NC: Litho Industries, Inc. 1972.

Parker, Roy, Jr. *Cumberland County: A Brief History.* Raleigh, NC: Division of Archives and History, NC Department of Cultural Resources, 1998.

Parker, Weeks. *Fayetteville, North Carolina - A Pictorial History.* Norfolk/Virginia Beach, VA: The Donning Company, 1984.

Robinson, Kenneth W., *Cool Spring, Fayetteville, North Carolina, 1983 Archaeological Excavations and Historical Research.* City of Fayetteville, NC, 1990.

Archival Records:

Cumberland County Deed Books, Cumberland County Register of Deeds, Fayetteville, North Carolina.

North Carolina Department Archives and History, *Cool Spring Place (Cool Spring Tavern) National Register Nomination*, Raleigh, NC, March 19, 1972.

Maps:

Sanborn Fire Insurance Maps for Fayetteville: 1930, 1930 with 1950 updates

"McRae Map of Fayetteville" (A copy of Brazier's Original Map of the Town of Fayetteville, NC. A.D. 1821).

Newspapers:

"Cool Spring, One of the City's Historic Spots Now Profaned." The Fayetteville Observer, Fayetteville, NC: October 3, 1939.

"Cool Spring Excavation – A Search for Heritage." The Fayetteville Observer, Fayetteville, NC: November 4, 1983. Section C, p. 1.

Newspapers (Continued):

"Cool Spring Gift: A Challenge to Fayetteville." The Fayetteville Observer, Fayetteville, NC: March 16, 1958. Section B, p. 4.

"Mrs. Rankin Gives City Cool Spring." The Fayetteville Observer, Fayetteville, NC: March 13, 1958.

"Points of Interest in the City" The Fayetteville Observer, Fayetteville, NC: November 15, 1939. Section 2, p. 5.

"Renaissance for Old Cool Spring." The Fayetteville Observer, Fayetteville, NC: September 4, 1983, Section F, p. 1.

"Restore the Old Spring." The Fayetteville Observer, Fayetteville, NC: January 31, 1907, p. 4.

"Turning the Pages, From the Files," by Mrs. E. R. MacKethan. The Fayetteville Observer, Fayetteville, NC: February 7, 1960. p. 2B.

"Wooden Water Mains Were Used." The Fayetteville Observer, Fayetteville, NC: Reprinted November 15, 1939. Section B, p. 11.

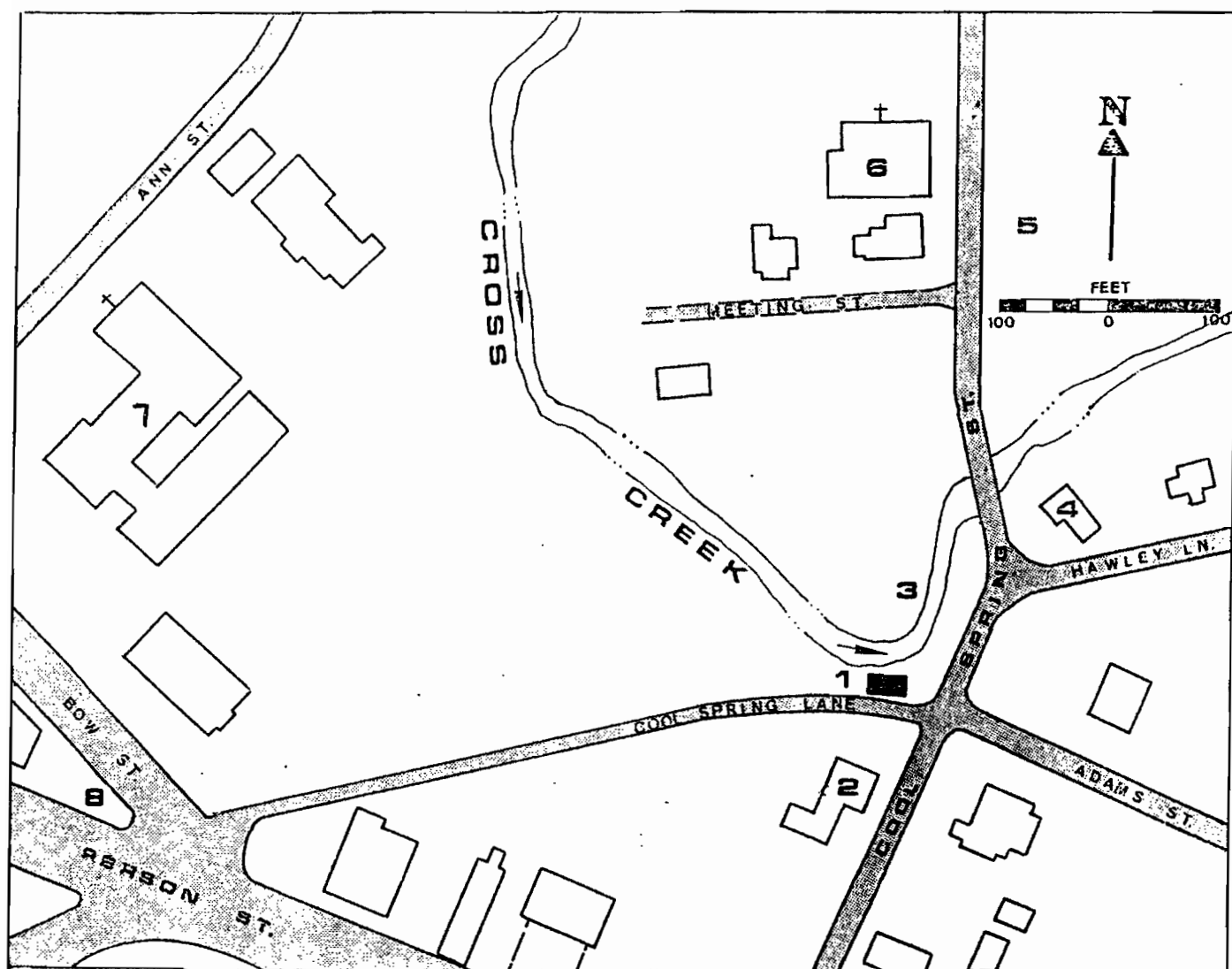
ADOPTED this 23rd of February 2009

CITY OF FAYETTEVILLE

ANTHONY G. CHAVONNE, Mayor

ATTEST:

CANDICE WHITE, City Clerk



Key:

1. Cool Spring
2. Cool Spring Place
3. Fayetteville Independent Light Infantry
Parade Ground and Issac Hammond Grave
4. Cool Spring Mill (also known as McNeil's Mill)
5. Cross Creek Cemetery No. 1
6. Evans Metropolitan A.M.E. Zion Church
7. First Presbyterian Church
8. Liberty Point

Fig. II-2. Cool Spring vicinity and location of nearby historic sites.

Fig. 9. Copied from, "Cool Spring, Fayetteville, NC, 1983 Archaeological Excavations and Historical Research." By Kenneth W. Robinson, April 15, 1990.

Fig. 8. Copied from, "Cool Spring, Fayetteville, NC, 1983 Archaeological Excavations and Historical Research."
By Kenneth W. Robinson, April 15, 1990.

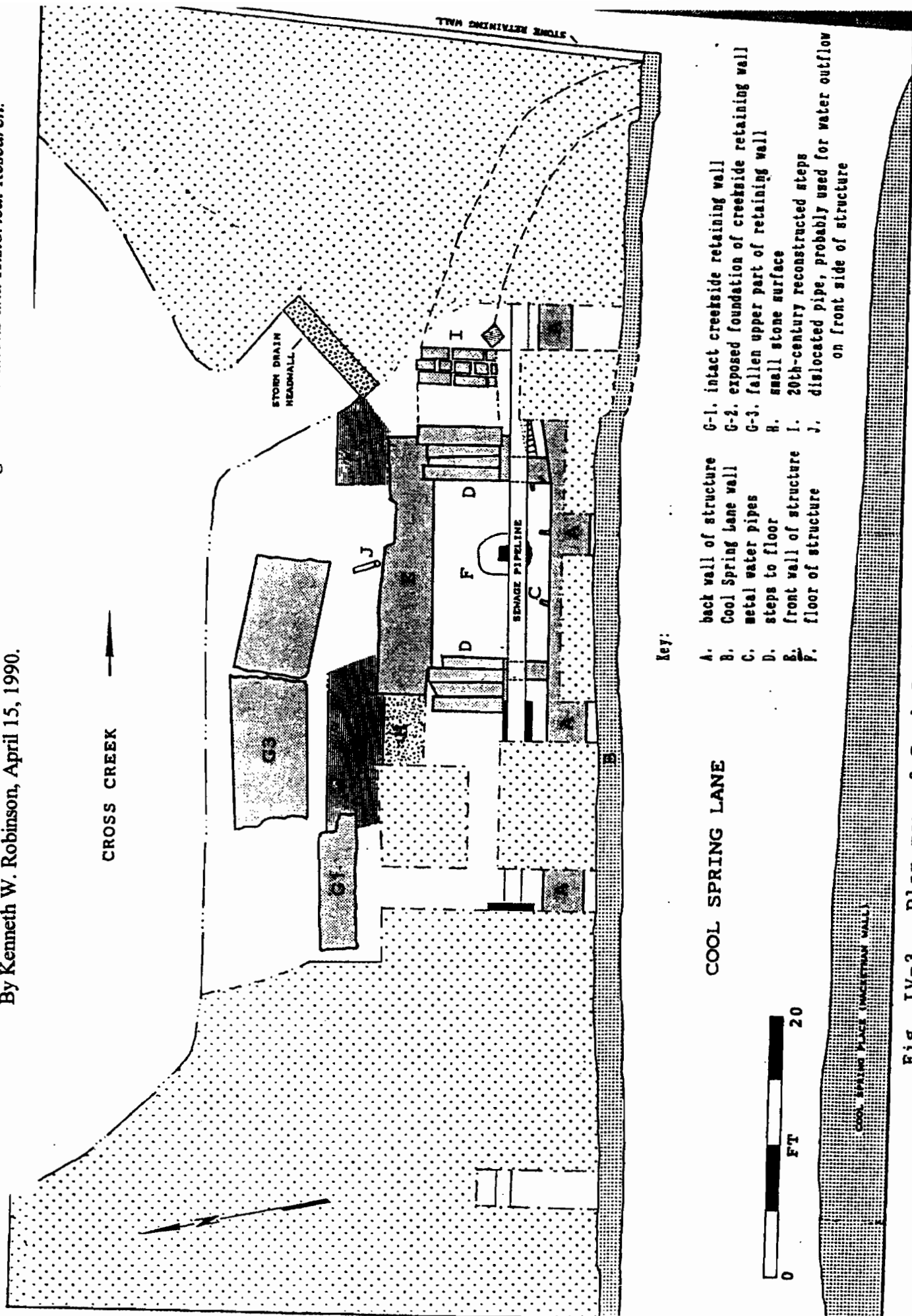


Fig. IV-3. Plan map of Cool Spring site and archaeological excavation with key to architectural features.

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer *RAH* *D*
From: Jimmy Teal, Planning Director *JT*
Date: February 23, 2009
Case No. P09-01F

THE QUESTION: C1P Commercial & R5A Residential District to M2 Industrial District

RELATIONSHIP TO STRATEGIC PLAN: Growth and Development

BACKGROUND:

| | |
|------------------------------|--|
| Owner: | Ed Schantz & Raymonde Schantz |
| Applicant: | Ed Schantz & Raymonde Schantz |
| Requested Action: | Rezone from C1P & R5A to M2 District |
| Existing Zoning | C1P & R5A |
| Status of Property: | Nonconforming use for the salvage yard |
| Size: | +/- 8.87 Acres |
| Existing Land Use: | Salvage yard |
| Adjoining Land Use & Zoning: | North – Houses & school & zoned R5A South – Body Shop & zoned C1P East – Vacant & commercial uses & zoned C1P West – Vacant & zoned R10 & C1P |
| 2010 Land Use Plan: | Medium Density Residential |
| Letters Mailed: | 62 |

SPECIAL INFORMATION: City Council recently adopted an ordinance that requires the closing and removal of all vehicles from any non-conforming salvage yard by January 1, 2012.

Public Utilities:
Water: PWC
Sanitary Sewer: PWC

Transportation:
Raeford Road is a thoroughfare. The average daily traffic count on Raeford Road at this location is 25,000 vehicles.

OPTIONS:

1. Rezone the property to M2 Industrial District as requested by the applicant;
2. Rezone the property to a more restrictive zoning classification;
3. Deny the rezoning.

RECOMMENDATIONS:

Zoning Commission recommends approval of the rezoning to M2 industrial district based on the length time Mr. Schantz has operated his business from that location.

Planning staff recommends denial of M2 industrial zoning:

1. The 2010 Land Use Plan recommends open or conservation uses for these properties;
2. The existing land use is a non-conforming salvage yard. The City Council recently adopted an ordinance that requires the owner to close the salvage yard and remove all the vehicles prior to January 1, 2012;
3. M2 industrial is the least restrictive zoning district allowing a variety of commercial and industrial uses that would be inappropriate for this area based on the property being within the floodway or the 100-year floodplain;
4. The applicant's intent is to receive M2 zoning in order to request a special use permit to change the salvage yard from a non-conforming business to a conforming business. This change allows the salvage yard to continue operating beyond January 1, 2012. This use is inconsistent with state law adopted in 2000 prohibiting salvage yards within 100-year floodplain areas.

ATTACHMENTS:

1. Application for Rezoning
2. Vicinity Map
3. Zoning Map
4. Current Land Use Map
5. Zoning Commission Minutes
6. Information on state law prohibiting salvage yards in 100-year floodplain areas
7. Floodway Map

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.

Edward C. Scharitz & Raymonde M. Scharitz
Print or Type Name of Owner

Business - 6006 Rarford Rd, or 1670 Greenock Ave.
Address of Owner

910-423-2428 910-864-3500
Home Phone Work Phone

Edward C. Scharitz & Raymond M. Scharitz
Print or Type Name of Applicant

1670 Greenock Ave. Fayetteville, N.C. 28304
Address of Applicant

910 423-2428 910-864-3500
Home Phone Work Phone

Signature of Individual Submitting the Application

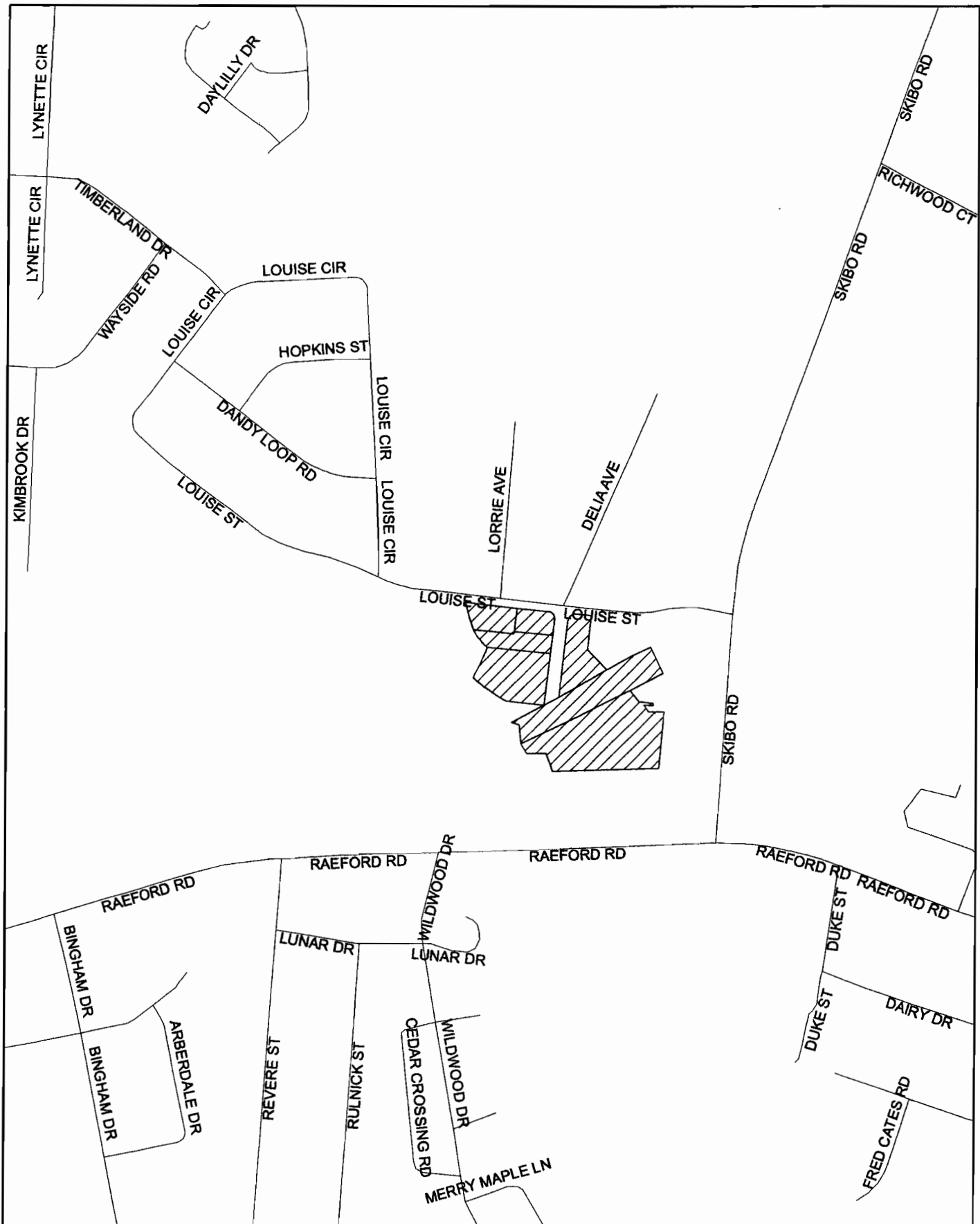
City of Fayetteville Appeals Procedure: Any person aggrieved by the recommendation of the Zoning Commission shall have the right to appeal the action of the Zoning Commission in writing to the Clerk of the City of Fayetteville within ten (10) calendar days of the action of the Zoning Commission. If an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

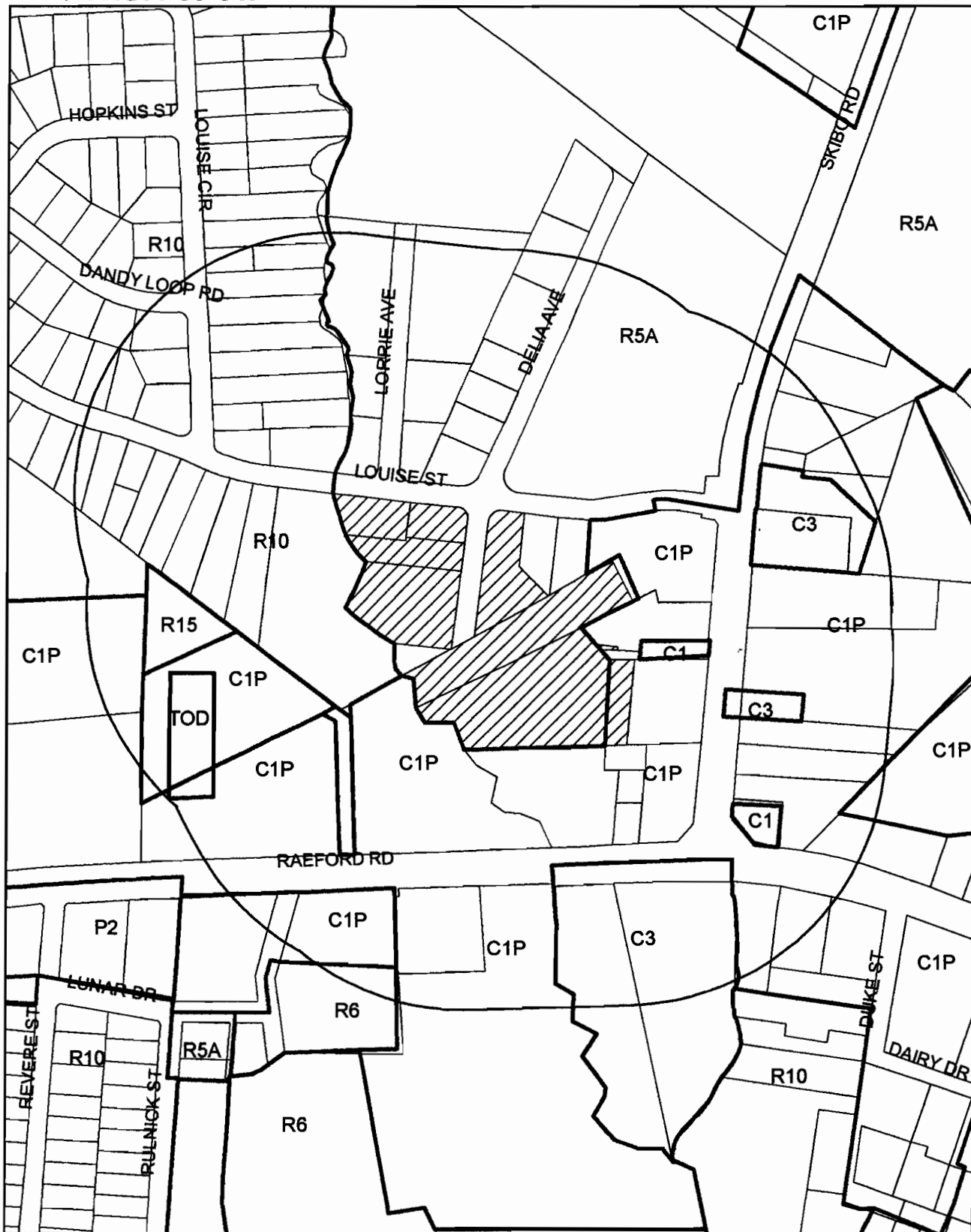
Zoning Commission - Vicinity Map

Case No. P09-01F



Request: R5A and C1P to M2
Location: Between Louise Street and Raeford Road
Pin: 0407-61-2964,2850,5838,5792,6552, 62-1055,3043

**ZONING COMMISSION
CASE NO. P09-01F**



Request: R5A and C1P to M2

Location: Between Louise St. & Raeford Rd

Acreage: 8.87

Zoning Commission: 1/13/2009

City Council:

Pin: 0407-61-2964,2850,5838,5792,6552,62-1055,3043

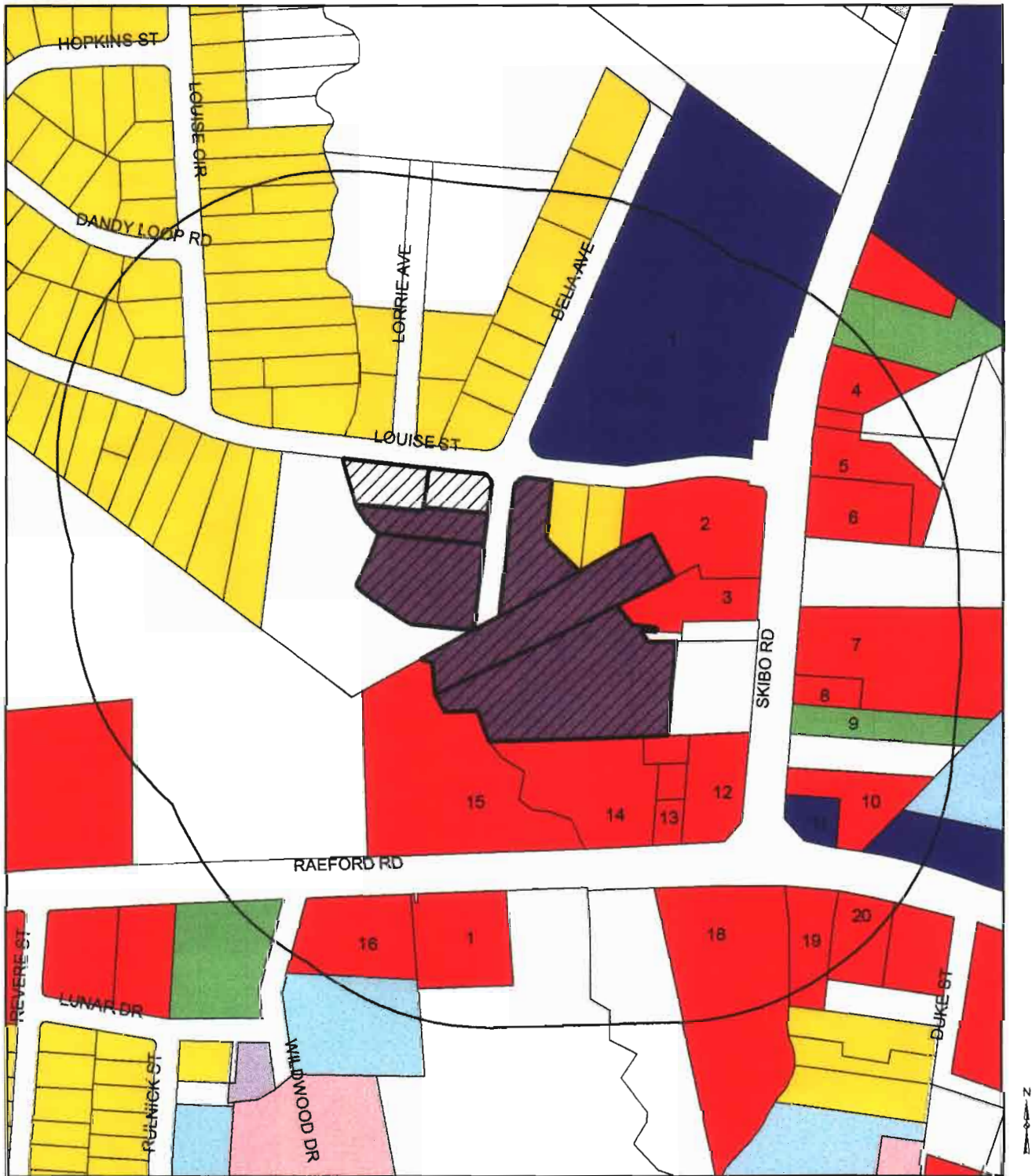
Recommendation:

Final Action:

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

000152

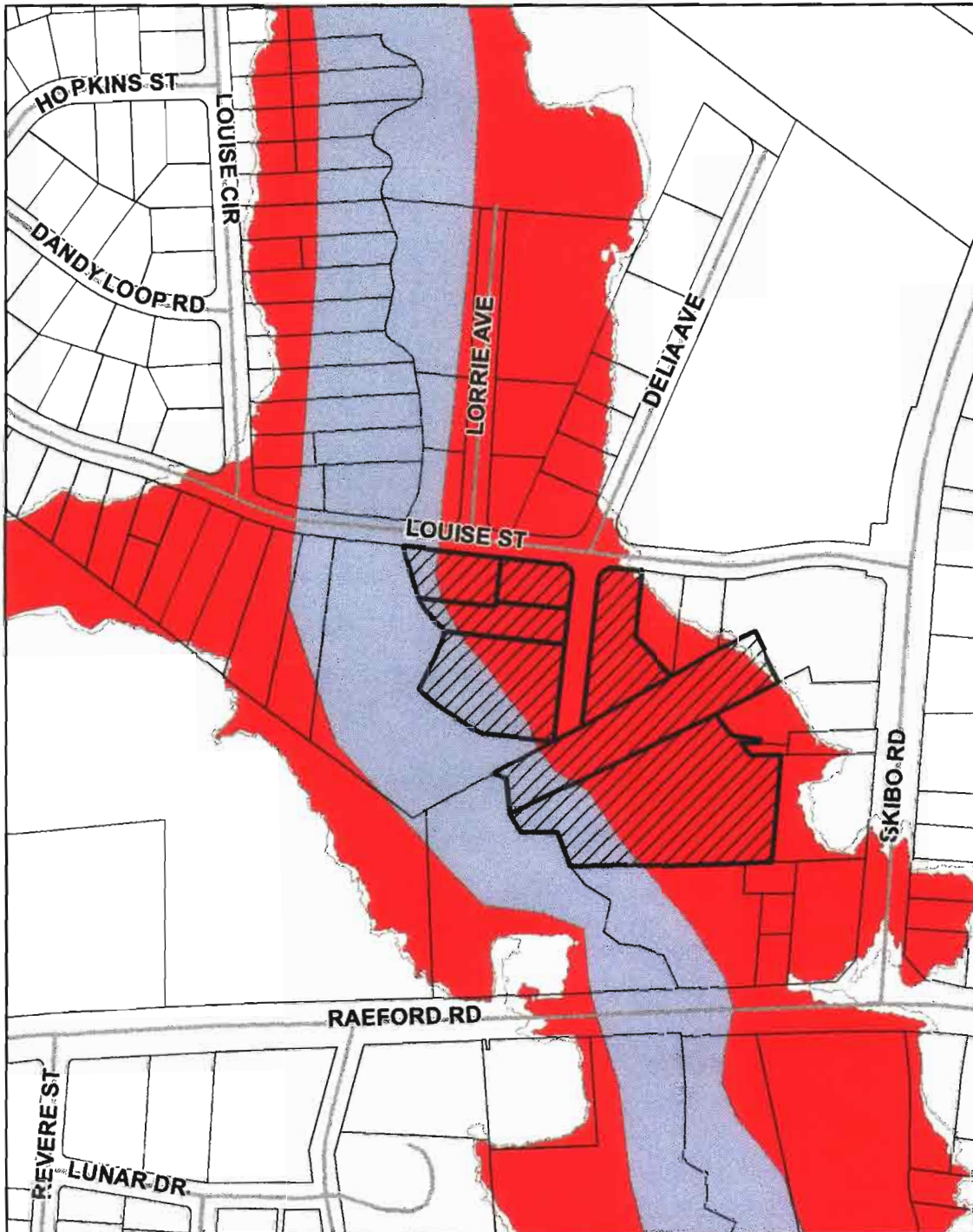
Current Land Use P09-01F



Legend

- | | | | | |
|---------------------|-----------------------|--------------------|----------------------|-------------------|
| 1. Middle School | 5. Po Boy Seafood | 9. office | 13. Nations Flooring | 17. Family Dollar |
| 2. Wholesale Tires | 6. Maaco | 10. Budget Rental | 14. Body Shop | 18. Mini-Storage |
| 3. B & M Auto Sales | 7. Handi House | 11. Cornerstone Ch | 15. Sunoco | 19. Waffle House |
| 4. Dental Office | 8. Deans Transmission | 12. Hardees | 16. shopping center | 20. Chiropractor |

ZONING COMMISSION - FLOOD INFORMATION
CASE NO. P09-01F





**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
JANUARY 13, 2009- 7:00 P.M.**

MEMBERS PRESENT

Pete Paoni
Richard West
Jeannie Nelson
John Crawley
Lockett Tally

MEMBERS ABSENT

OTHERS PRESENT

Karen Hilton, Asst. Planning Dir.
Craig Harmon, Planner
Marsha Bryant, Planner
David Nash, Planner
Janet Smith, Asst. City Atty.

I. APPROVAL OF AGENDA

Mr. West made a motion to approve the agenda. Mr. Tally seconded the motion.

A vote was taken and the motion passed unanimously.

II. APPROVAL OF THE MINUTES FROM THE DECEMBER 9, 2008 MEETING

Mr. West made a motion to approve the minutes. Mr. Crawley seconded the motion.

A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

- A. Case No. P09-01F.** The rezoning from R5A Residential and C1P Commercial to M2 Industrial District or to a more restrictive zoning classification for property located between Louise Street and Raeford Road. Containing 8.87 acres more or less and being the property of Edward and Raymonde Schantz.

Ms. Hilton provided a brief overview of the request that included a zoning map, surrounding land uses, the 2010 land use plan's recommendation of open space, a flood map indicating that all of this property is located within the floodway and 100 year floodplain and pictures of the site.

The public hearing was opened.

Ms. Hilton stated the request tonight is for M2 zoning. One of the purposes for the M2 request is so the owner, if approved for M2 zoning, could file a special use permit to continue his salvage yard business at this location. The City Council in October 2008 adopted an amortization ordinance for all nonconforming junk and salvage yards requiring them to close by January 1, 2012.

Ms. Hilton added that in 2000 the State passed a law that states that no new salvage yards should be located within the 100-year floodplain areas. She notified and reiterated that if the M2 zoning is approved tonight the owner would likely apply for a Special Use Permit in order for his salvage yard business to remain open.

Mr. Ed Schantz, the owner of Ed's Salvage, stated that he has been in business for 39 years at this location. He said that he wants to continue his business and that is why he is requesting the rezoning. He stated that prior to annexation by the city he attempted to rezone his property in the county and the request was denied. However the County Planning Dept. informed him that he is a legal nonconforming business and could remain in operation as long as the business did not close. At that time he had already been in business for approximately 15 years. After the city annexed the property he continued to operate and has over the past several years improved his business and its appearance by cleaning up the site and providing screenings to attempt to shield the salvage yard from view. He stated that he has tried to be a good neighbor and has complied with all required regulations. He indicated that he has acquired permits from the State allowing him to fill in portions of the floodway.

Mr. Jimmy Schantz, son of Mr. Ed Schantz, stated that this is a family owned and operated business that has been open for 39 years and that just want to be able to continue operating at this location. He said that they have acquired all the required federal, state, and local permits.

Mrs. Louise Harris stated that she resides in the adjoining subdivision and would like for the rezoning request to be denied. She said that she is opposed to having the property rezoned to M2 and she was opposed when the request went before the County Planning Commission in the 1980's. She indicated her reasons for opposition were the fact that many undesirable uses are allowed within the M2 Industrial District and that there are several schools and churches within this area. She said that a salvage yard as well as other industrial type uses is detrimental to the adjoining creek and that they also contribute to snakes, rats, and other type of rodents. She stated that there are 1500 residences in the subdivision that has been in existence for 40 years.

Mr. Curtis Worthy stated that he also lives in the adjoining subdivision and has been there for 30 years. He said that he is opposed to the rezoning because of the many industrial type uses that are allowed within the M2 district. He said the neighborhood and gateway into Fayetteville needs to be protected and preserved.

Mr. Paoni asked Ms. Hilton about the State Law she mentioned in her presentation. Ms. Hilton stated that the law references new salvage yards and that this is an existing nonconforming use. She indicated that City Council adopted the amortization to clean up Fayetteville and rid these type uses within sensitive areas of Fayetteville, such as gateways and floodplain areas.

Reverend King, stated that he is opposed to the rezoning and that this area should be protected from these type uses because it is a gateway and an entrance into a community.

Mr. Ed Schantz stated that there are 25 acres of wooded land adjacent to his property that contribute to the rodents and snakes in the area as well as the creek. He said he has made every attempt over the years to clean up his property and provide buffering. He said that he wants to be a good neighbor and that he just wants to be able to continue his business, a business that is needed in Fayetteville and provides a large amount of taxes to Fayetteville.

Mr. West asked for verification regarding the fact that City Council is in essence putting this man out of business in three years with the adopted amortization. Ms. Hilton provided the commission information on the amortization ordinance.

Mr. Worthy stated that he is not opposed to the salvage yard, but that he would like additional fencing and buffers. He said that he is opposed to the potential for other undesirable uses at this

location if the property is rezoned to M2. He and the residents are afraid of what the future might bring in the property were zoned industrial.

Ms. Hilton reported that planning staff recommends denial of the requested rezoning based on the 2010 Plan recommending open space uses at this location, the City Council adopting the amortization schedule to close nonconforming salvage yards, the fact that M2 uses are not suitable for this locations, and the State Law regarding salvage yards not being allowed to be located within floodplain areas.

Dave Steinmetz, Chief Code Enforcement Officer, stated that the city was using flood plain maps created in the 1980's however recently new maps were created. He said that 40 years ago the county and city did not have a floodplain ordinance.

Mr. West stated that City Council is putting this man out of business and that if this rezoning is approved conditions could be placed on this business that could alleviate some of the neighbors concerns through the Special Use process that will also be required.

Mr. West made a motion to recommend approval of this rezoning to M2. Mr. Crawley seconded the motion. A vote was taken and the motion passed with a vote of 4 to 1, with Ms. Nelson voting in opposition.

Excerpt from *Summaries of Substantive Ratified Legislation 2000*

Research Division, North Carolina General Assembly

Flood Hazard Prevention Act of 2000

S.L. 2000-150 (SB 1341) rewrites all of Part 6 (Floodway Regulation) of Article 21 of Chapter 143 of the General Statutes. This act changes the title of Part 6 to Floodplain Regulation, rewrites the purpose of the Part, and extensively amends the definitions of terms. It authorizes local governments to adopt flood hazard prevention ordinances to regulate uses in flood hazard areas. A local government that adopts a flood hazard prevention ordinance by July 1, 2001 will be given a higher priority to receive loans and grants from the Clean Water Revolving Loan and Grant Fund. This act also prohibits new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities in the 100-year floodplain except as authorized under a flood hazard prevention ordinance. Administration of the floodplain regulation program is transferred from the Department of Environment and Natural Resources (DENR) to the Department of Crime Control and Public Safety.

Flood Hazard Prevention Ordinance

This act authorizes local governments to adopt flood hazard prevention ordinances. A flood hazard prevention ordinance must:

- Meet the requirements of the National Flood Insurance Program.
- Prohibit new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities in the 100-year floodplain.
- Require that chemical or fuel storage tanks incidental to an allowed use either be watertight or elevated above base flood elevation.

As part of its flood hazard prevention ordinance, a local government may establish a permitting process for uses of flood hazard areas. Certain uses including agriculture, mining, recreation and land application of waste and septage may be made of flood hazard areas without the issuance of a permit. Under its permitting program, a local government

- May consider the impact of locating an obstruction in a flood hazard area on existing and future development.
- Must consider the impact of locating an obstruction in a stream on water back up and diversion, the danger of the obstruction being swept downstream, and injury and damage at the site of the obstruction.

A local government may also include in its flood hazard prevention ordinance a procedure for granting a variance to the prohibition on new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities in the 100-year floodplain. Under a variance procedure, a local government must notify the Secretary of Crime Control and Public Safety at least 30 days prior to granting the variance and must find that:

- The use serves a critical need to the community.
- No feasible location exists outside the 100-year floodplain for the location of the use.
- The lowest floor of any structure is either elevated or watertight.
- The use complies with all other applicable laws and regulations.

If a city chooses not to exercise its authority to adopt a flood hazard prevention ordinance that applies to its extraterritorial zoning jurisdiction, the surrounding county is authorized to do so.

Other Provisions for Flood Hazard Prevention

This act provides for a number of other flood hazard prevention measures that:

- Authorize local governments to acquire an existing structure in a flood hazard area by purchase or condemnation if necessary to prevent damage from flooding.
- Authorize local governments to delineate flood hazard areas with the assistance of State and federal technical agencies. Flood hazard areas may be delineated by reference to maps prepared under the National Flood Insurance Program. The Department of Crime Control and Public Safety may prepare maps of the 100-year floodplain and base flood elevations if existing floodplain maps under the National Flood Insurance Program are more than five years old and the Department finds a need to identify flood hazard areas to prevent flood damage. Maps prepared by the Department must meet the federal standards for use in administering the National Flood Insurance Program.
- Amend an existing penalty provision to make a violation of floodplain regulations a misdemeanor only if the violation is willful and to allow a local government to use all remedies available for the enforcement of its zoning ordinance to enforce its flood hazard prevention ordinance.

- Provide local governments that adopt a flood hazard prevention ordinance conforming to the minimum requirements set out in this act priority in the consideration of applications for loans and grants from the Clean Water Revolving Loan and Grant Fund.
- Direct the Environmental Review Commission (ERC) to study the need to increase minimum elevation requirements for structures in floodplains, to increase the authority of the Secretary of Crime Control and Public Safety to enforce minimum standards in the floodplains, and other measures to prevent recurring damage to public and private property from flooding in order to reduce demands for public assistance in response to future storm events.
- Direct the Environmental Management Commission (EMC) to study the impact of development in the river basins of the State on the volume of stormwater runoff and its contribution to flood events. The EMC is directed to specifically consider means to reduce the impact of development in the river basins of the State.

The provision on priority for loans and grants from the Clean Water Revolving Loan and Grant Fund becomes effective July 1, 2001 and applies to loans and grants made on or after that date. All other provisions of this act became effective August 2, 2000.

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer *RAH*
From: Jimmy Teal, Planning Director *JT*
Date: February 23, 2009
Case No. P09-03F

THE QUESTION: Rezone from P3 Professional District to CD Conservation District

RELATIONSHIP TO STRATEGIC PLAN: Growth and Development

BACKGROUND:

| | |
|---------------------------------|---|
| Owner: | William Maxwell, Edens, LLC & Harold L. Stutts |
| Applicant: | McFadyen Lake Owners Association\Ed Blanchard, Jr. |
| Requested Action: | Rezone from P3 to CD |
| Existing Zoning | P3 Professional |
| Status of Property: | Unoccupied House |
| Size: | +/- .4.25 Acres |
| Existing Land Use: | One house on corner lot |
| Adjoining Land Use & Zoning: | North – Property Management Office & zoned P2 South – Vacant & & zoned R10 East – Houses & zoned R10 West – Kings Cross Apartments & zoned R5A |
| 2010 Land Use Plan: | Medium Density Residential & Open Space |
| Letters Mailed: | 93 |

SPECIAL INFORMATION: The City Council rezoned the property from R6 residential district to P3 professional district in August 2006.

Public Utilities:

| | |
|-----------------|-----|
| Water: | PWC |
| Sanitary Sewer: | PWC |

Transportation:

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

OPTIONS:

1. Rezone the property to CD Conservation District as requested by the applicant;
2. Rezone a portion of the property to CD;
3. Deny the rezoning.

RECOMMENDATIONS:

Zoning Commission recommends denial of the rezoning based on:

1. Rezoning the entire property to CD conservation district leaves no viable use for the property owner;
2. City Council rezoned the property to P3 professional district in August 2006;
3. The property owners plan to develop the property under the P3 professional district guidelines.

Planning staff recommends approval of the CD conservation district for the area within the floodway (shown as blue on the flood information map) and denial of CD conservation district for the remaining property:

1. The current zoning is P3 professional district. It allows office uses or residential uses;
2. The CD conservation district does not allow any uses except recreation or agricultural uses. If the rezoning request is granted for conservation district for the entire 4.25 acres, then the property owners could claim a taking by the City
3. The area shown as blue on the flood information map is designated as the floodway. No buildings or parking may be located within the floodway thus CD conservation district is appropriate for this area;
4. The P3 professional zoning district requires a minimum of two acres. Rezoning the floodway to CD conservation district still leaves over two acres of P3 professionally zoned property allowing the owners a viable use for the property;

ATTACHMENTS:

1. Application for Rezoning
2. Zoning Commission Minutes from August 2006 Rezoning Case
3. Vicinity Map
4. Zoning Map
5. Current Land Use Map
6. Zoning Commission Minutes from January 2009
7. Flood Map

**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: 5583 MORGANTON RD FAY NC / D LOCH HAVEN DR. E FAY NC

Owner of the Property: William A. Maxwell / Edens LLC

Address of the Owner: P.O. Box 53903 FAY NC 28305 / 7450 Old Maxton Rd Red Springs NC Zip 28377

Owner's Home Phone: 850-7314 / 875-8328 Owner's Work Phone: 864-8888 / 843-8892

A. The property sought for Rezoning is owned by William A Maxwell / Edens LLC as evidenced by deed, recorded in Deed Book 7274/2082, Page 747 / 706, Cumberland County Registry. (Attach a copy of (all) deed(s) as it appears in the Registry.)

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

From: P-3

To: CONSERVATION DISTRICT

Please describe the proposed use of the property requested for rezoning: to protect And preserve on-site And adjoining wetlands that are the #1 removal of stormwater pollutants, to preserve the 100 year Floodplain, Wildlife Trees To Reduce Existing Flooding, SHALLOWING + sediment problems in McFAYDEN LAKE

C. Tax Property Identification Number (PIN#) of the property: 0408-61-389A, -6760, -3655

D. Acreage to be rezoned: 4.25 per Tax Record 1.72 1.48 1.05

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.)

Re Zoned from R-6 To P-3 8/2006 / Denied from P-3 To R6A 11/07 P07-68F
P06-57F

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

STEEP SLOPE TO HEADWATERS OF MCFAYDEN LAKE, 2 wetland AREAS, Abutting

G. Existing and/or proposed water service (Specify if Community System): LOCHAVEN CITY DAM
PWC DISCHARGE AREA

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

ADDITIONAL wetland PARCEL FOR Rezoning

From P-3 TO CONSERVATION DISTRICT pin# 0408-61-6760

488-4554 HAROLD L. STUTTS
2624 Tom beddie Rd
Fayetteville NC 28312
000162

Deed Book 459
Page 337
2

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.

William A Maxwell / Edens LLC 7480 Old Maxton Rd
Print or Type Name of Owner Ped Springs NC 28377
P.O. Box 53903 Fayetteville, NC 28305
Address of Owner
850-7314 Home Phone 864-8888 Work Phone
McFayden Lake Homeowners Association
Print or Type Name of Applicant
P.O. Box 26663 Fayetteville NC 28314
Address of Applicant
(910) 977-7072 Home Phone (910) 438-0882 Work Phone
Ed Blanchard Jr. McFayden Lake Association President
Signature of Individual Submitting the Application

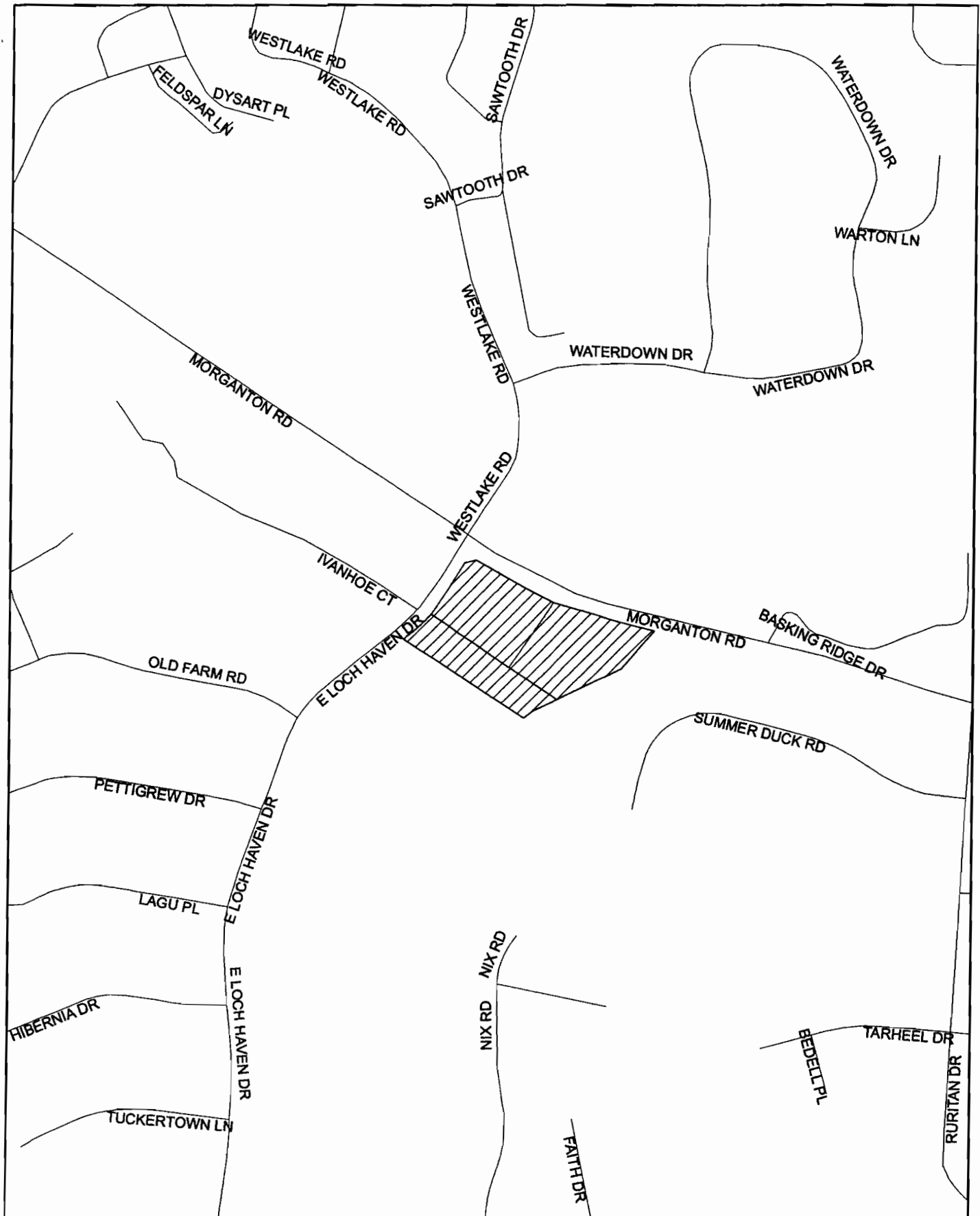
City of Fayetteville Appeals Procedure: Any person aggrieved by the recommendation of the Zoning Commission shall have the right to appeal the action of the Zoning Commission in writing to the Clerk of the City of Fayetteville within ten (10) calendar days of the action of the Zoning Commission. If an 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. P09-03F



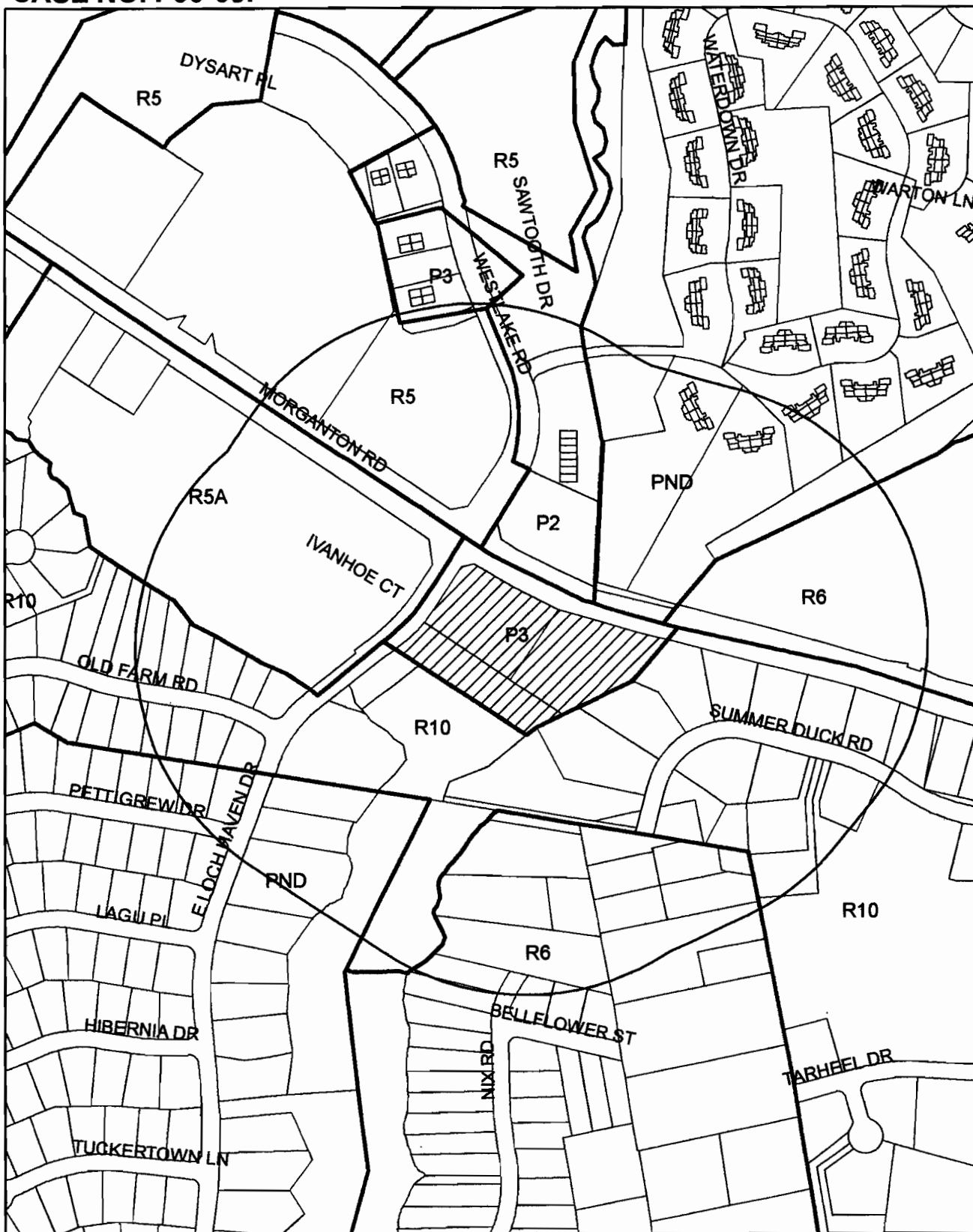
000164

Request: P3 to CD

Location: SE corner of Morganton & Loch Haven

Pin: 0408-61-3892 6760 3655

**ZONING COMMISSION
CASE NO. P09-03F**



Request: P3 to CD

Location: SE corner Morganston & Loch Haven Dr

Acreage: 4.25

Zoning Commission: 1/13/2009

City Council:

Pin: 0408-61-3892,6760,3655

Recommendation:

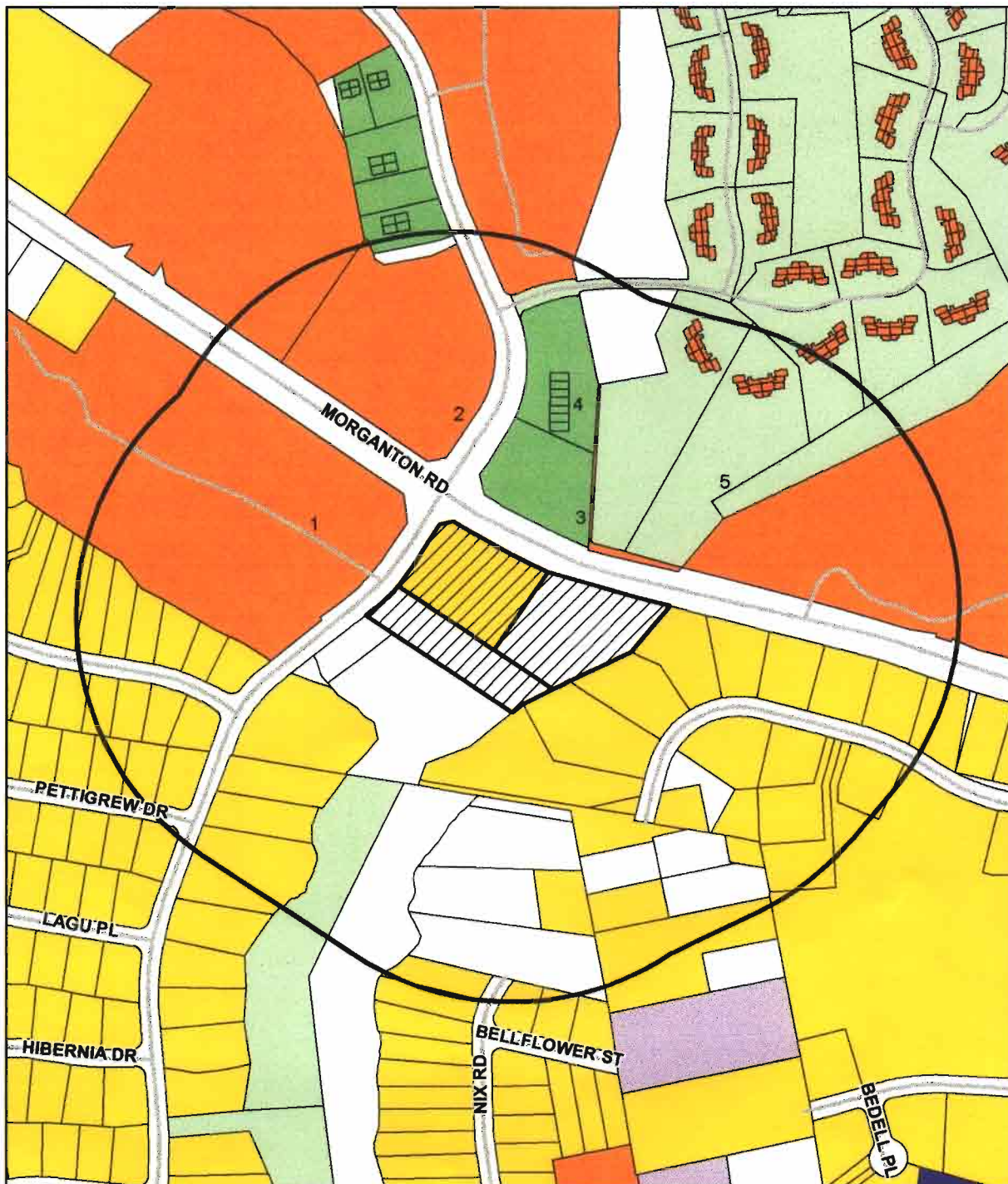
Final Action:

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

000165

Current Land Use

P09-03F



Legend

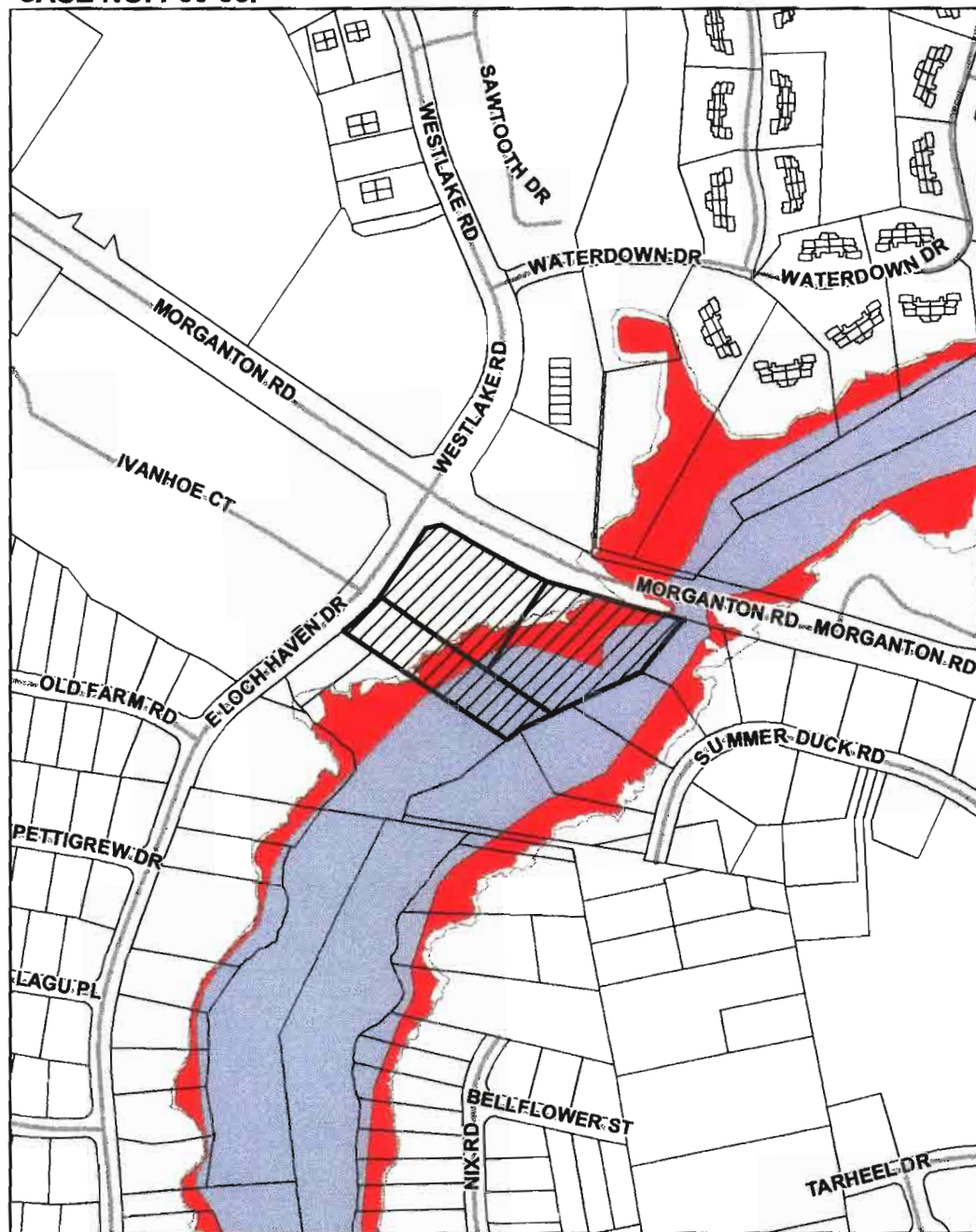
1. Kings Crossing Apartments
2. Westlake Apartments
3. Property Management Ofcs.

4. Georgetown Square
5. Kings Pointe MFR

- Single-Family Residential
- Single-Family Attached Residential



ZONING COMMISSION - FLOOD INFORMATION
CASE NO. P09-03F



- 100 Year Flood Area
- Floodway



**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
JANUARY 13, 2009- 7:00 P.M.**

MEMBERS PRESENT

Pete Paoni
Richard West
Jeannie Nelson
John Crawley
Lockett Tally

MEMBERS ABSENT

OTHERS PRESENT

Karen Hilton, Asst. Planning Dir.
Craig Harmon, Planner
Marsha Bryant, Planner
David Nash, Planner
Janet Smith, Asst. City Atty.

I. APPROVAL OF AGENDA

Mr. West made a motion to approve the agenda. Mr. Tally seconded the motion.

A vote was taken and the motion passed unanimously.

II. APPROVAL OF THE MINUTES FROM THE DECEMBER 9, 2008 MEETING

Mr. West made a motion to approve the minutes. Mr. Crawley seconded the motion.

A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

- C. Case No. P09-03F.** The rezoning from P3 Professional to CD Conservation District for property located on the southeast corner of Morganton and Loch Haven Drive. Containing 4.25 acres more or less and being the property of William Maxwell, Sr., Harold Stutts, and Edens LLC.

Ms. Hilton provided an overview of the case that included a zoning map, surrounding land uses, the 2010 land use plan recommendation for open space and medium residential uses. She noted the floodway and the 100 year flood plain. Pictures of the site were shown.

The public hearing was opened.

Mr. Blanchard, Jr., appeared in favor of the request on behalf of their McFayden Lake Association. They brought forth issues as they related to the preservation of McFayden Lake, its tributaries and the floodplain. He commented on how the area has changed within the last few

years and today the lake represents a 26-square mile watershed that receives water from commercial, residential and business entities.

They are not in opposition to development or growth but there are issues unique to the site and he provided the definition and purpose of a conservation district. He provided photographs and video as part of his presentation. Mr. Blanchard also spoke of Beaver Creek and shared that the Department of Environmental Natural Resources was considering a study on the creek. He noted that encroaching development along McFayden Lake and Beaver Creek was creating problems with sedimentation, flooding and pollution.

After the video, Mr. Blanchard asked to reserve time for rebuttal. Mr. Blanchard said when the Zoning Commission considers density they use land that is underwater to calculate what could be built upon a site. The site has significant wetlands and is the last line of defense to protect the largest body of water within the city limits from ongoing pollution and sedimentation problems. The importance of this property is preserve water quality and private property. McFayden Lake Board is studying feasibility of offering this lake as a secondary drinking water supply and investigating hydro-electric on top of the dam to help support the community and its citizens.

Ms. Watkins also appeared in favor. In her opinion there is not enough policing of the projects around the area and responsible parties need to heed the rezonings and efforts that are ongoing. With consideration of this particular property being on the lake maybe it should never have been anything other than single-family. Ms. Watkins ended by saying they need protection concerning all properties around the lakes and streams.

Mr. Gilliam, Sr. stated the 2010 plan shows this property as P3 and the remainder of the lake and the adjoining properties, until the west end, is PND. The 4.25 acres in the petition is a relatively small tract; surrounded by hundreds of acres that permits residential or office development; and if any part of the 4.25 tract is rezoned it would impose greater restrictions than applied to the surrounding hundreds of acres. There is no fact to distinguish the portion of the three tracts within the floodway from the more than 100 additional acres of the lake. Looking at the map the three tracts are in the middle of the water and if a portion of all of these tracts were rezoned to CD then half of the water has been rezoned and the remaining is PND.

If anyone wants to rezone any portion of McFayden Pond to CD then it should be under a petition to rezone the entire pond to CD, otherwise in his opinion it would be spot zoning although the courts have implied it must be single ownership. If someone tried to rezone the entire lake to CD there may be some objections because some properties had used the impounded water in their density calculations and the rezoning would render the properties nonconforming.

The staff report states their recommendation would be to rezone the portion in the floodway, which is regulated under state and federal laws and adding zoning would only engage spot zoning.

Mr. Gilliam said the petition for the current rezoning should be denied in full. They applaud the conservation efforts of the petitioners but in this case the rezoning would accomplish nothing for their purposes and would hurt the owners of the property by taking a portion of the property and rezoning it to CD so that it cannot be used in determining the density.

Mr. Maxwell, representing the owner of the property in question, provided handouts to the Commission. The handouts contained a preliminary plot plan of a proposed medical facility. He did not know why the petitioner requested CD because it is fully protected by the Corps of Engineer and other regulations federally, locally and by the state.

He asked if Mr. Blanchard had the majority approval of the association and if he had the authority to rezone his property without notification prior to his petition.

Mr. Maxwell stated he had talked with the Planning members and they had information from the City Engineering Department determined that if 1.5-acres from the total was rezoned CD it would not infringe and they could accept that provided several conditions were met.

Ms. Hammer, representing Edens, LLC, as a member and manager stated that Mr. Blanchard did not notify Edens, LLC or the other landowner Harold Stutts of the rezoning request.

The public hearing was reopened to allow Mr. Ericson, who asked to reserve his time, an opportunity to speak.

Mr. Ericson stated that his main concern is the size of the proposed structure, how far into the wetlands it would go and the construction process removing more foliage. Regarding rezoning the entire lake, he would be interested to know if it would be a problem with the lake association.

Mr. West asked if he was asking them to give him control of property owned by someone else and Mr. Ericson replied yes.

Mr. Paoni asked Mr. Maxwell for more information about the proposed development. Mr. Maxwell replied a national medical facility dealing with medical testing, not a clinic but a technical medical facility.

Ms. Bryant reminded the Commission that they must consider all the uses allowed in the current zoning, P3 Professional District, not particularly what Mr. Maxwell plans to do at that site.

Mr. Maxwell stated they would be using less than half the property as noted on the handouts. He felt they could accept the 1.5 acres being used as conservation district provided it would delay the project or cost the developer more money because of restriction relating to the conservation district. He also voiced concerns of this possibly being a case of spot zoning.

The public hearing was closed.

Ms. Hilton stated it is unusual to have a request initiated by individual other than the property owner, it is permitted under state law. It was initiated by the McFayden Lake Association and all property owners had been properly notified and this is a legitimate and authorized approach. The concerns raised are those evident in the land use plan itself in the recommendation for open space and conservation of that area as an important drainage, water quality basin and considering the floodway.

Planning staff recommends approval of the CD conservation district for the area within the floodway (shown as blue on the flood information map) and denial of CD conservation district for the remaining property. The current zoning is P3 professional district. It allows office uses or residential uses. The CD conservation district does not allow any uses except recreation or agricultural uses. If the rezoning request is granted for conservation district for the entire 4.25 acres, then the property owners could claim a taking by the City. The area shown as blue on the flood information map is designated as the floodway. No buildings or parking may be located within the floodway thus CD conservation district is appropriate for this area. The P3 professional zoning district requires a minimum of two acres. Rezoning the floodway to CD conservation district still leaves over two acres of P3 professionally zoned property allowing the owners a viable use for the property.

Mr. Paoni asked if Mr. Blanchard was representing the majority of the McFayden Lake Homeowners Association. Mr. Blanchard stated the zoning applications were submitted to the planning staff after a unanimous vote by the currently elected board of the McFayden Lake Association. He is acting as President and representative of that association. The Assistant City Attorney has verified that he represents the association and he is a concerned citizen as well.

Mr. West asked if he understood Mr. Maxwell saying they could accept staff's recommendation. Mr. Maxwell stated the last paragraph in the handout said he could accept that provided that it would not delay the project, cost the developer more money as the results of the 1.5-acres being zoned CD and that the Corp of Engineers would not place more restrictions for development.

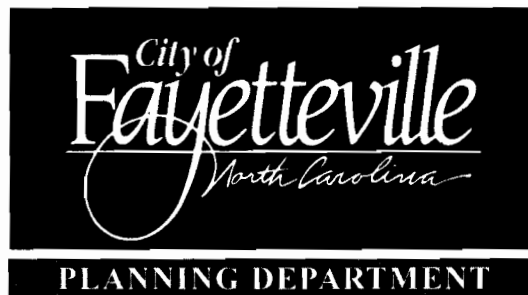
Mr. Crawley made a recommendation to deny the request. Mr. Tally seconded the motion.

A vote was taken and the motion passed 4/1 with Ms. Nelson voting in opposition.

Ms. Bryant stated because the Zoning Commission recommended denial the case must be appealed in the City Clerk's Office to move forward to City Council within ten (10) days of tonight's hearing.

Regarding the next case, Ms. Smith stated there was a notation on the upcoming rezoning application that involves Mr. Paoni's name and she asked if he had any pecuniary interest in the property under this application. Mr. Paoni replied no.

Mr. Paoni stated his name appeared on the application as having signed the deed to the current owner. Mr. Paoni stated he was an attorney in fact for the sellers. He explained the original property was part of the PND for the entire McFayden Lake area



**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
JULY 11, 2006 - 7:00 P.M.**

MEMBERS PRESENT

Jim Smith
Jim Arp
Jack Cox
Billy Manning
Culous Hayes
Richard West
John Crawley

MEMBERS ABSENT

OTHERS PRESENT

Jimmy Teal, Chief Planning Ofc.
Marsha Bryant, Planner
Amanda F. Briggs, Asst. City Atty.
David Steinmetz, Inspections

I. APPROVAL OF THE AGENDA

Chairman Smith opened the meeting stating the applicant for Case No. P06-58F could not attend the meeting tonight. Mr. Smith suggested that since no one signed up to speak on the case that it be pulled from the agenda and heard in August.

Mr. Manning made a motion to approve the agenda as presented with the exception of removing item 3H, Case No. P06-58F. Mr. Hayes seconded the motion and it passed unanimously.

II. APPROVAL OF THE MINUTES OF THE JUNE 13, 2006 MEETING

Chairman asked if there were any changes to the minutes from the June 13, 2006 meeting. Ms. Amanda Briggs, Assistant City Attorney, requested that on Case No. P06-49F her statement regarding the spot zoning should be "illegal spot zoning" rather than "legal spot zoning". No other corrections were offered.

Mr. Cox made a motion to approve the minutes with the correction noted by Ms. Briggs. Mr. Manning seconded the motion and it passed unanimously.

III. PUBLIC HEARINGS

- G. Case No. P06-57F.** The rezoning from R6 Residential District to P3 Flex Office District or to a more restrictive zoning classification for property located on the southeast corner of Morganton Road and Loch Haven Drive. Containing 4.25 acres more or less and being the property of Edens Family Partnership and Harold Stutts as evidenced by deeds recorded in Deed Book 4453, Page 15 and 3395, Page 740, respectively, Cumberland County Registry.

Mr. Teal provided an overview of the property that included a vicinity map, zoning map, surrounding land uses, the 2010 land use plan's recommendation for medium density residential and open space and a picture of the site.

The public hearing was opened.

Mr. Loveland appeared in favor of the case. They have planned for a 1,500-square foot office at the site. The traffic in the area is too heavy for residential development on that corner. Around the area is high density residential with professional across the street.

Being no one signed up to speak in opposition, Mr. Smith closed the public hearing.

Mr. Teal stated planning staff's recommendation was approval of the rezoning to P3 Flex Office District. One requirement of the P3 zoning is a site plan prior to permits being issued and the staff felt that gave more protection to the adjoining property owners. The parcels across the street were either professional or multi-family uses. Although the 2010 land use plan map recommends medium density residential for the site, the property sets on a corner with access to a traffic signal on Morganton Road and East Loch Haven. Given those factors and the traffic on Morganton Road, P3 would be a viable option for the area. The P3 allows the same uses as P2 but it also allows copying facilities, cosmetic offices, engineering, research laboratory, office and studio uses, office furniture sales providing there are no showrooms or displays windows visible from the street, etc. P3 zoning is not a normal request and in the city we have only one other property with this zoning.

Mr. Arp made a motion to accept Planning staff's recommendation and approve the rezoning from R6 Residential District to P3 Flex Office District.

Mr. Manning seconded the motion.

A vote was taken and the motion passed unanimously.

This case would move forward to City Council as a consent item on August 28, 2006 unless someone files an appeal.

CITYCOUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer
From: Jimmy Teal, Planning Director
Date: February 23, 2009
Case No. P09-04F

THE QUESTION: Rezone from PND Planned Neighborhood District to CD Conservation District

RELATIONSHIP TO STRATEGIC PLAN: Growth and Development

BACKGROUND:

| | |
|------------------------------|--|
| Owner: | Sabe, LLC & 3340 Investments, LLC |
| Applicant: | McFadyen Lake Owners Association\Ed Blanchard, Jr. |
| Requested Action: | Rezone from PND to CD |
| Existing Zoning | PND |
| Status of Property: | Vacant |
| Size: | +/- 12.11 Acres |
| Existing Land Use: | Vacant |
| Adjoining Land Use & Zoning: | North – Houses & zoned PND South – Houses & zoned PND East – Houses & zoned PND West – Condominiums & zoned PND |
| 2010 Land Use Plan: | Low Density Residential & Open Space |
| Letters Mailed: | 450 |

SPECIAL INFORMATION:

The City Council approved the PND Plan in September 2006 with the underlying zoning of R6 residential for the property at the corner of Offing and Georgetown Circle. A valid protest petition has been filed requiring 8 affirmative votes for City Council to rezone the property to CD conservation district.

Public Utilities:

| | |
|-----------------|-----|
| Water: | PWC |
| Sanitary Sewer: | PWC |

Transportation:

Offing Drive is a collector street. The average daily traffic count on Offing Drive at this location is 6,000 vehicles.

OPTIONS:

1. Rezone the property to CD Conservation District as requested by the applicant;
2. Rezone the property to a less restrictive property than CD, but more restrictive than PND;
3. Rezone the floodway portion of the property to CD Conservation District and leave the current zoning in place;
4. Deny the rezoning.

RECOMMENDATIONS:

Zoning Commission recommends denial of the rezoning based on:

1. City Council approving the PND plan in September 2006;
2. Rezoning the property at the corner of Offing Drive and Georgetown Circle to CD conservation leaves the property owner with no viable use of the property.

Planning staff recommends approval of the CD conservation district for the area within the floodway (shown as blue on the flood information map) and denial of CD conservation district for the remaining property:

1. The current zoning is PND that allows residential uses;
2. The CD conservation district does not allow any uses except recreation or agricultural uses. If the rezoning request is granted for conservation district for the entire 12.11 acres, then the property owners could claim a taking by the City;
3. The area shown as blue on the flood information map is designated as the floodway. No buildings or parking may be located within the floodway thus CD conservation district is appropriate for this area. This floodway constitutes 5.40 acres of the 12.11 acres;
4. Rezoning the floodway to CD conservation district still leaves opportunity for residential uses thus allowing the owners a viable use for the property.

ATTACHMENTS:

1. Application for Rezoning
2. City Council Minutes from PND Case in September 2006
3. Vicinity Map
4. Zoning Map
5. Current Land Use Map
6. Zoning Commission Minutes from January 2009
7. Flood Information Map

1-15-2001
P09-4F
\$700.00 pd. (MB)

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: 699 Georgetown Circle Fayetteville NC 283

Owner of the Property: SABE L.L.C.

Address of the Owner: 2100 W 76th ST STE 108 Hialeah FLA. 33016

Owner's Home Phone: P.O.A. 486-5123 Owner's Work Phone: P.O.A. 486-5123

A. The property sought for Rezoning is owned by SABE L.L.C. as evidenced by deed, recorded in Deed Book 7297, Page 354, 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: PND To: CONSERVATION

Please describe the proposed use of the property requested for rezoning: Protection And Conservation of Identifiable Wetlands And Improved Water Quality For Fayetteville's Largest Lake

C. Tax Property Identification Number (PIN#) of the property: 0407-18-6831 ⁰⁴⁰⁷⁻¹⁸ ₋₁₉₂₃

D. Acreage to be rezoned: 1.35 And 10.76 ^{12.11 total} 0407-18-6831

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.)

F. Existing use of the property (Specify any structures and respective uses): VACANT
Wooded lots - wetland BUFFER, wildlife Habitat

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

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

See additional page 2 For 2nd parcel

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.

SABE LLC

Print or Type Name of Owner

2100 W. 76th St STE 108 Hialeah FLA. 33016

Address of Owner

no phone # listed in Public Records Peter Paoni Signed For

Home Phone

Work Phone

Buyer + Seller

McFayden Lake Association Inc.

Print or Type Name of Applicant

P.O. Box 26663 Fayetteville NC. 28314

Address of Applicant

(910) 977-7072

(910) 438-9074

Home Phone

Work Phone

President MLA

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)

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: N/A PER TAX RECORDS +/- 10.76 ACRES McFAYDEN LAKE

Owner of the Property: 3340 Investments

Address of the Owner: 3340 Investments QUARRY Drive Fay Zip 28303

Owner's Home Phone: 867-3925 Owner's Work Phone: 485-8899

A. The property sought for Rezoning is owned by 3340 Investments as evidenced by deed, recorded in Deed Book 6017, Page 165, 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: Pnd Existing To: Conservation District

Please describe the proposed use of the property requested for rezoning: TO protect Existing wetlands And Wildlife Habitat And Improve water Quality OF Fayettevilles Largest WATERSHED (Most OF Parcel IS "water")

C. Tax Property Identification Number (PIN#) of the property: 0407-18-1923 -

D. Acreage to be rezoned: +/- 10.76 per TAX RECORD

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.)
TO BE determined by planning no record found

F. Existing use of the property (Specify any structures and respective uses): majority OF Land "Underwater" in McFayden Lake some land borders water's edge

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

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

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.

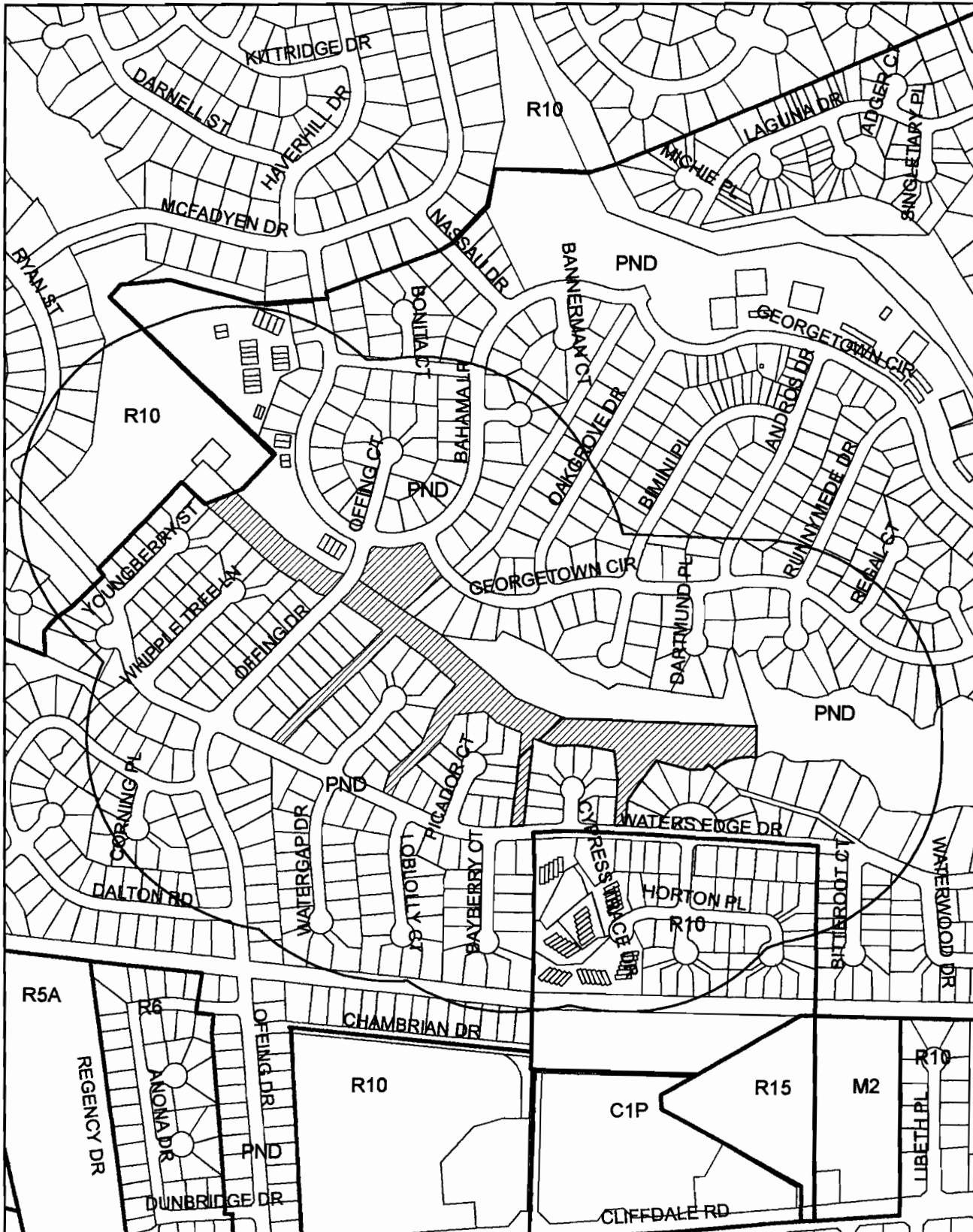
3340 Investments
Print or Type Name of Owner
3340 QUARRY Drive Fayetteville NC 28303
Address of Owner
867-2935 485-8899
Home Phone Work Phone
McFayden Lake Homeowners Association Inc.
Print or Type Name of Applicant
P.O. Box 26663 Fayetteville NC 28314
Address of Applicant
(910) 977-7072 (910) 438-9074
Home Phone Work Phone
Ed Blanchard Jr McFayden Lake Association President
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
CASE NO. P09-04F**



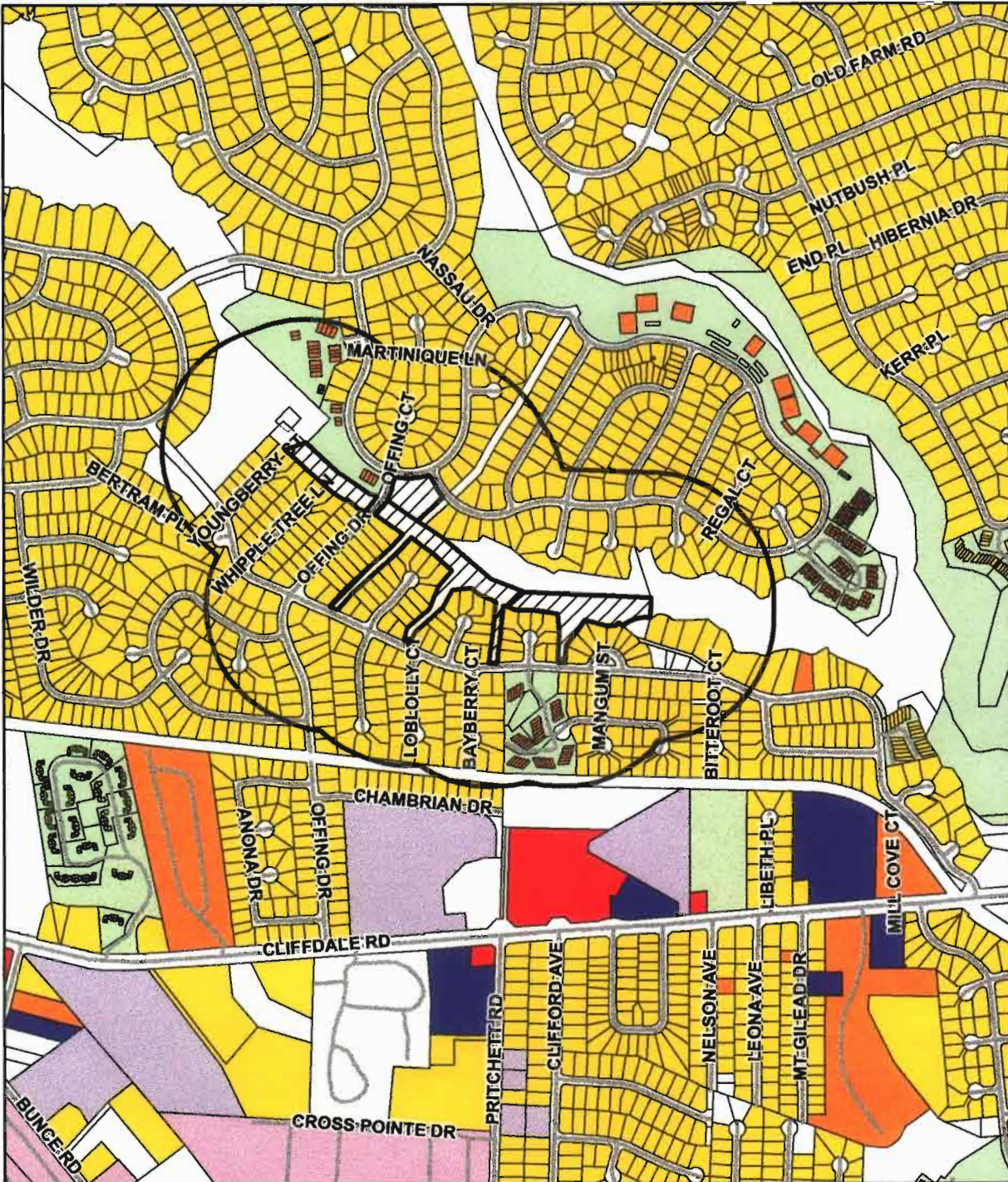
Request: PND to CD
Location: Bahama, Offing, Georgetown
Acreage: 12.11

Zoning Commission: 1/13/2009
City Council: _____
Pin: 0407-18-1923 and 6831

Recommendation: _____
Final Action: _____

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

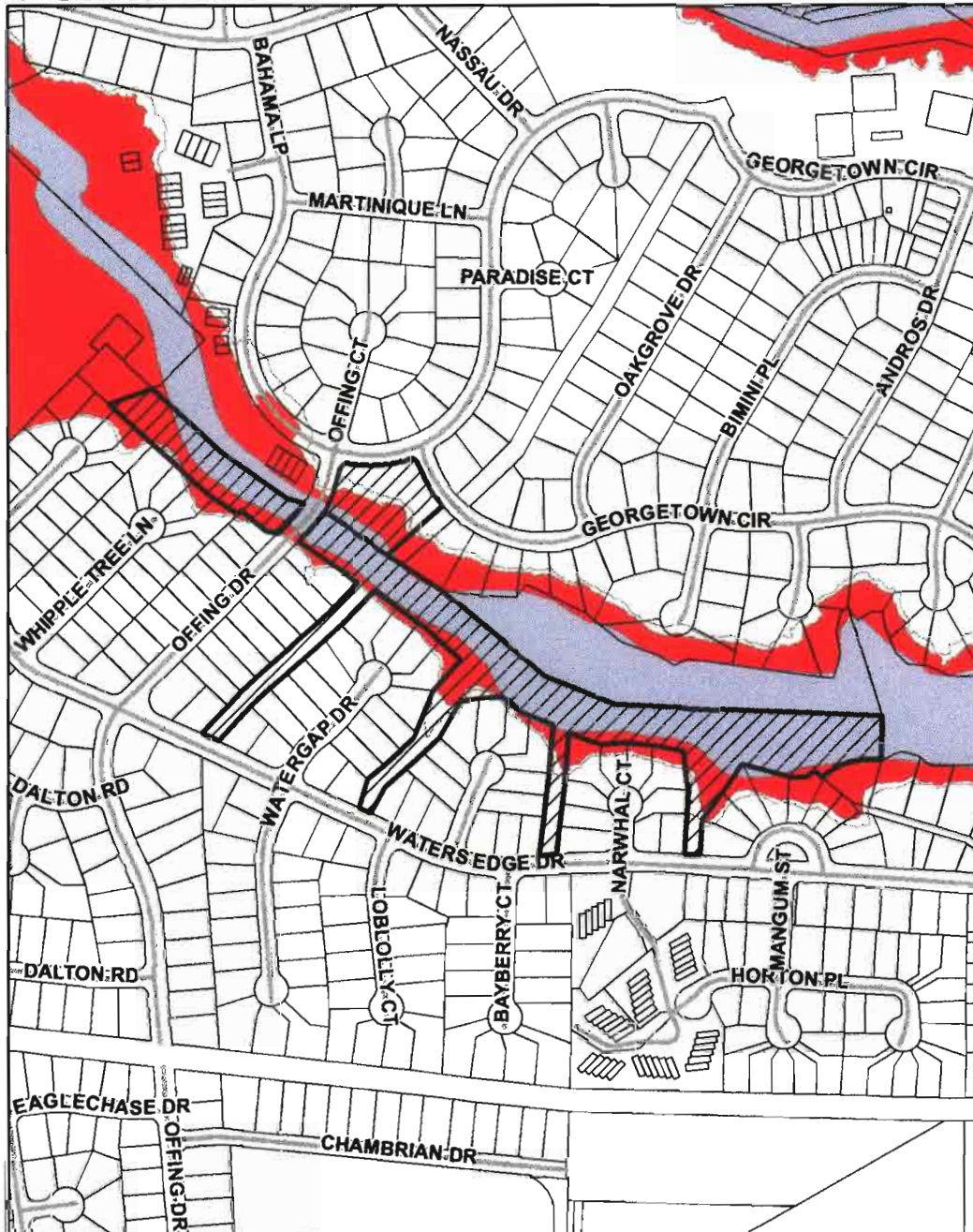
Current Land Use P09-04F



- Legend**
- Single-Family Residential
 - Single-Family Attached Residential



ZONING COMMISSION - FLOOD INFORMATION
CASE NO. P09-04F





**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
JANUARY 13, 2009- 7:00 P.M.**

MEMBERS PRESENT

Pete Paoni
Richard West
Jeannie Nelson
John Crawley
Lockett Tally

MEMBERS ABSENT

OTHERS PRESENT

Karen Hilton, Asst. Planning Dir.
Craig Harmon, Planner
Marsha Bryant, Planner
David Nash, Planner
Janet Smith, Asst. City Atty.

I. APPROVAL OF AGENDA

Mr. West made a motion to approve the agenda. Mr. Tally seconded the motion.

A vote was taken and the motion passed unanimously.

II. APPROVAL OF THE MINUTES FROM THE DECEMBER 9, 2008 MEETING

Mr. West made a motion to approve the minutes. Mr. Crawley seconded the motion.

A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

- D. Case No. P09-04F.** The rezoning from PND Planned Neighborhood to CD Conservation District for property located in the area of Bahama Loop, Offing Drive, Georgetown Circle, and Watersedge Drive. Containing 12.11 acres more or less and being the property of SABLE, LLC and 3340 Investments, LLC.

Ms. Hilton provided an overview of the case that included a zoning map, surrounding land uses, current land development, the 2010 land use plan recommendation for open space and preservation, conservation and prevailing develop pattern around it which is low density single family. She identified the floodway and noted the area being requested for rezoning to conservation development. She indicated the largest and most developable parcel located between Offing Drive and Georgetown, stating that only a very small portion is within the floodway versus the flood plain, removing only .17 acres at the bottom.

Ms. Hilton stated possible plans for conservation by the Neighborhood Association in regards to this parcel and the PND plans to do so to the north edge, above the hatch marked area.

Ms. Hilton explained briefly the history of rezoning requests for the larger parcel, excluding the long, narrow portion and the fingers. She stated the most recent ended in 2006 with a rezoning to R6 as part of the PND.

The public hearing was opened.

Mr. Flood was called to speak but didn't come forward.

Mr. Blanchard appeared in favor of the request. He stated that this was an attempt to protect environmentally sensitive areas. Mr. Blanchard stated that this particular parcel was primarily under water and that land under water is used for density deciding how much building we can put next to it. Mr. Blanchard read from the 2030 Joint Growth Vision Plan, citing areas requiring protection. Mr. Blanchard is not opposing Mr. Maxwell, but states that he is trying to protect the area. He referenced the planning staff saying it is there recommendation that is parcel be zoned conservation.

Mr. Blanchard reiterated that it is the charge of city officials to protect water courses. He also stated that Mr. Paoni may have signed for the seller or the buyer on one of the parcels and requests that Mr. Paoni recuse himself from voting on this matter.

Mr. Paoni agrees to only if the attorneys say to.

It is stated that Mr. Paoni signed only for the seller.

Again Mr. Blanchard requested the Mr. Paoni consider recuse himself from vote since he signed the Deed on one of parcel being rezoned.

It was stated that there is no need for Mr. Paoni to recuse himself.

Mr. Blanchard concedes.

Mr. Erickson is called. He was questioned if he wished to reserve or pass. Mr. Erickson passed.

Ms. Watkins appeared in favor of the request. And request that the committee see this as a city problem and not just their lake, stating that this is an issue that needs to be handle and wishes that they consider it as such.

Ms. Krantz appeared in favor of the request. She stated that she is living in one of the properties that are all of the sudden in a flood plain. She stated she finds if very irresponsible for there to be storm water to be dumped into the lake. She expressed the difference how it was and now how it is, stating that when it rains her backyard floods. She states that 250 residents live on the lake and that they owe a responsibility to them but that we also have an environmental responsibility to the city, the children and the future.

Mr. Ramos was called but he gave his time to speak to Mr. Blanchard.

Mr. Blanchard reiterates that this is an effort to preserve and protect not an effort to squelch development. That the concerns are not false and that property underwater should not be used in calculating densities for development only. He states that the parcels are underwater.

In closing Mr. Paoni offered Mr. Blanchard an opportunity for rebuttal if there was time left. Mr. Blanchard declined.

Mr. Dwayne Gilliam, Sr. appeared in opposition to the request. Mr. Gilliam argues that this is a small parcel compared to the entire lake. Mr. Gilliam used a map to show the area as reference. He

states that if any part of the lake is going to be zoned a CD, the entire lake should be taken up not to go to the center of it. Mr. Gilliam proceeds to explain the history of the property. He then states that it is improper to be engaged in this kind of zoning and that they are accomplishing nothing to be doing spot zoning.

Mr. Perry appeared in opposition to the request. Mr. Perry states that he has no interest in the property other than the fact that he is the Property Manager for the Waterford Villas Home Owners Association and they are associated in part to the McFayden Lake Association. He stated that they are currently seeking counsel to separate themselves from McFayden Lake Association. Mr. Perry presented maps and photos of the area. He states that tax records show that the Waterford Villas are residential and not waterfront.

Referencing the maps, area labeled #2, Mr. Perry states that this area is Offing Road and Water Gap Drive. He states that this is a utility right of way and is protected by PWC. He also states that it is obviously not underwater.

Referencing the area labeled #3 on the map, Mr. Perry states that Waterford from Waters Edge Drive zoned to be conservation is not under water and is also a utility right of way.

Mr. Perry referenced a photo of land that is zoned to be CD showing that it is not underwater and he asked if there are any questions in regards to the information. There are none.

Mr. Perry stated that the McFayden Lake Home Owners Association has incorporated the Waterford Villas as of a meeting on January 12, 2009 and no member of Waterford was addressed or approached with the opportunity to make any kind of deciding point. Mr. Perry stated that he has an invoice showing that they have been charged McFayden Lake dues even though they are not in any portion of it. Mr. Perry feels that McFayden Lake Association is overstepping their bound by incorporating homes and associations not on the lake to further their financial needs.

The public hearing was closed.

Ms. Hilton stated that one oversight was that a letter from SABE, LLC stating that they are aware of the application for rezoning and they wanted to be on record stating that they were completely opposed. Ms. Hilton presented photos of the area and stated that the Planning staff recommends a partial approval as rezoning for conservation district for the area that is in the flood way.

Ms. Hilton reiterated that the current zoning is PND, focusing on residential uses and that the plan to the northern half of the lake to include an open space, set aside area comparable to the strip set on the southern side. Ms. Hilton states the uses as set by the CD. She stated that setting aside the CD and its purposes and the consideration for the environmental area that it does seem appropriate in the area. She stated that rezoning the floodway does allow for a portion of the property to still be developed.

Ms. Hilton summarized her point by showing the portions of the parcel that she indicated be rezoned and the remainder be not approved.

Mr. Paoni asked if there are any questions.

Mr. West asked for clarity in reference to the conservation district.

Ms. Hilton responded by explaining the standards of conservation district uses for the land.

Motion made to deny the request by Mr. Crowley. The motion was seconded by Mr. West.

A vote was taken and the motion passed 3/2 with Mr. Crawley, Mr. West and Mr. Talley voting in favor of the motion to deny and Mr. Paoni and Ms. Nelson in opposition.

SEPTEMBER 25, 2006

City of Fayetteville, North Carolina Official Meeting Minutes

- F. Consider a request to amend the Lake Shores' Planned Neighborhood District development plan by changing 1.35 acres at the corner of Bahama Loop and Offing Drive from R10 designation to R6 designation.**

Mr. Jimmy Teal, Planning Director, presented this item and stated the Lakes Shores' Planned Neighborhood District Plan was adopted by the County prior to annexation in the mid-1980's. He further stated the City Council re-adopted the original plan on March 22, 2004 and again on August 28, 2006. Mr. Teal stated the property owner is requesting 1.35 acres of land currently vacant and designated in the plan as R10 Residential be changed to residential designation under the R6 development standards. He stated staff recommended approval of the R6 designation.

This is the advertised public hearing set for this date and time. The public hearing opened at 9:30 p.m.

Mr. Robert Beso, 4000 Ponce de Leon Blvd, Ste. 470, Coral Gables, Florida, appeared in favor and stated the absence of opposition indicates neighbors and property owners want the same thing.

There was no one further to speak and the public hearing closed at 9:33 p.m.

MOTION: Council Member Worthy moved to approve.

SECOND: Council Member Williams

VOTE: UNANIMOUS (10-0)

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer

From: Jimmy Teal, Planning Director

Date: February 23, 2009

Case No. P09-05F

THE QUESTION: R5 Residential District to P4 Professional District

RELATIONSHIP TO STRATEGIC PLAN: Growth and Development

BACKGROUND:

| | |
|------------------------------|--|
| Owner: | Neil Grant, Robert Brandenburg & Stevie Ammons |
| Applicant | Neil Yarborough |
| Requested Action: | Rezone from R5 to P4 |
| Existing Zoning | R5 District |
| Status of Property: | 1111 Arsenal Non-Conforming (Setback off of Highland Avenue) |
| Size: | +/- .51 Acres |
| Existing Land Use: | Houses |
| Adjoining Land Use & Zoning: | North – Highland Presbyterian Church & zoned R5 South – House & & zoned R5 East – Office & zoned P2 West – Parking Lot & zoned R5 |
| 2010 Land Use Plan: | Medium Density Residential |
| Letters Mailed: | 141 |

SPECIAL INFORMATION:

Mr. Grant, the owner of 1111 Arsenal Avenue, requested a rezoning to P4 professional district in 2007. The City Council denied the request at their meeting on February 26, 2007.

Public Utilities:

| | |
|-----------------|-----|
| Water: | PWC |
| Sanitary Sewer: | PWC |

Transportation:

Arsenal Avenue is a business street. The average daily traffic count on Arsenal Avenue at this location is 7,000 vehicles.

OPTIONS:

1. Rezone the property to P4 Professional District as requested by the applicant;
2. Deny the rezoning of this property.

000188

ITEM 3.F.

RECOMMENDATIONS:

Zoning Commission recommends approval of the rezoning to P4 professional district based on:

1. There are professional and institutional uses existing in the area;
2. The P4 zoning preserves the residential character of the area;
3. P4 uses would not be detrimental to the neighborhood.

Planning staff recommends denial of P4 professional zoning:

1. The 2010 Land Use Plan recommends residential uses for these properties;
2. There is existing vacant office space in the area limiting the need for further office space;
3. Keeping the zoning R5 residential for those three properties helps keep the neighborhood intact;
4. Rezoning the properties to professional potentially changes the 1100 block of Arsenal Avenue from residential uses to professional uses.

ATTACHMENTS:

1. Application for Rezoning
2. Zoning Commission Minutes from Previous Rezoning Case
3. City Council Minutes from Previous Rezoning Case
4. Vicinity Map
5. Zoning Map
6. Current Land Use Map
7. Zoning Commission Minutes from January 2009

APPLICATION FOR
REZONING CITY OF
FAYETTEVILLE

11/18/07
P09-05F
Pd. 700.00
(MB)

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: 1101, 1103 and 1111 Arsenal Avenue, Fayetteville, NC 28305

Owner of the Property: Stevie Ammons, Robert E. Lee Brandenburg and Ira Neil Grant

Address of the Owner: 6495 Windy Creek Way, Fayetteville, NC 28306; 1103 Arsenal Avenue, Fayetteville, NC 28305 and PO Box 35065, Fayetteville, NC 28303.

Owner's Home Phone: 423-6738; 485-2090 and 323-3080.

Owner's Work Phone: 527-4644; 485-2090 and 818-3252.

A. The property sought for Rezoning is owned by Stevie Ammons, Robert E. Lee Brandenburg and Ira Neil Grant as evidenced by deed, recorded in Deed Book 7907, Page 0686; Book 3484, Page 730 and Book 7398, Page 466, 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: R5 To: P4

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

Professional Office use as provided for in the P4 zone.

C. Tax Property Identification Number (PIN#) of the property: 0437-04-4845; 0437-04-3895 and 0437-04-1896.

D. Acreage to be rezoned: each property is approximately 0.17 acre. . 51 total.

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.) Yes. 1111 Arsenal Ave. rezoning was filed around December 2006, recommended for approval by the Planning Board on January 9, 2007 and rejected by the City Council on February 26, 2007.

F. Existing use of the property (Specify any structures and respective uses): Ammons: vacant; Brandenburg: single family residential and Grant: Multi-family 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.

Print or Type Name of Owner: Stevie Ammons, Robert E. Lee Brandenburg and Ira Neil Grant

Address of Owner: 6495 Windy Creek Way, Fayetteville, NC 28306; 1103 Arsenal Avenue,

Fayetteville, NC 28305 and PO Box 35065, Fayetteville, NC 28303

Home Phone: 423-6738; 485-2090 and 323-3080

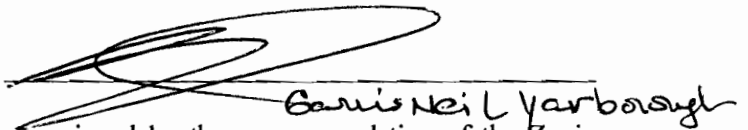
Work Phone: 527-4644; 485-2090 and 818-3252

Print or Type Name of Applicant: Garris Neil Yarborough

Address of Applicant: PO Box 705, Fayetteville, NC 28302

Home Phone: n/a Work Phone: 910-433-4433

Signature of Individual Submitting the Application:



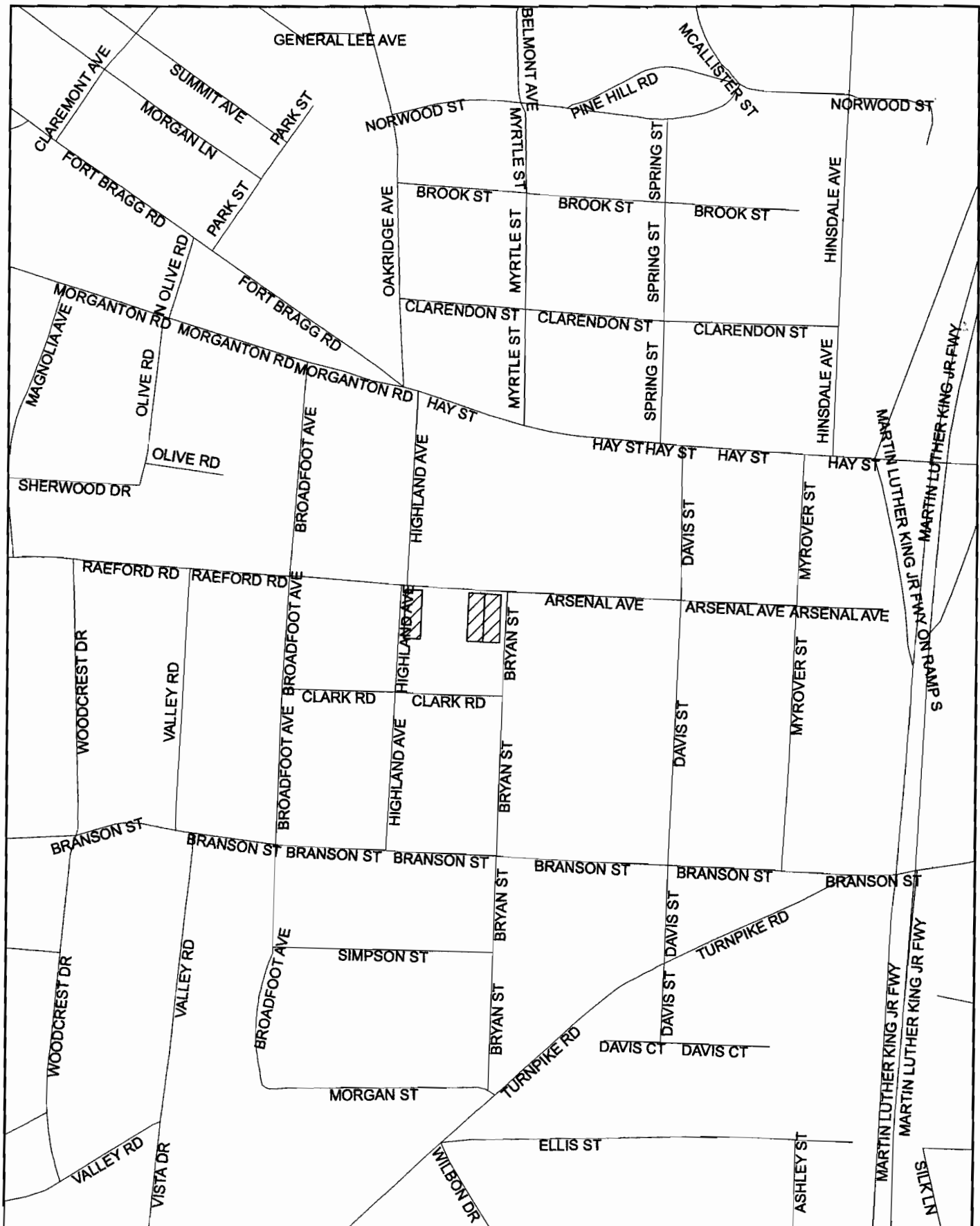
City of Fayetteville Appeals Procedure: Any person aggrieved by the recommendation of the Zoning Commission shall have the right to appeal the action of the Zoning Commission in writing to the Clerk of the City of Fayetteville within ten (10) calendar days of the action of the Zoning Commission. If an 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. P09-05F



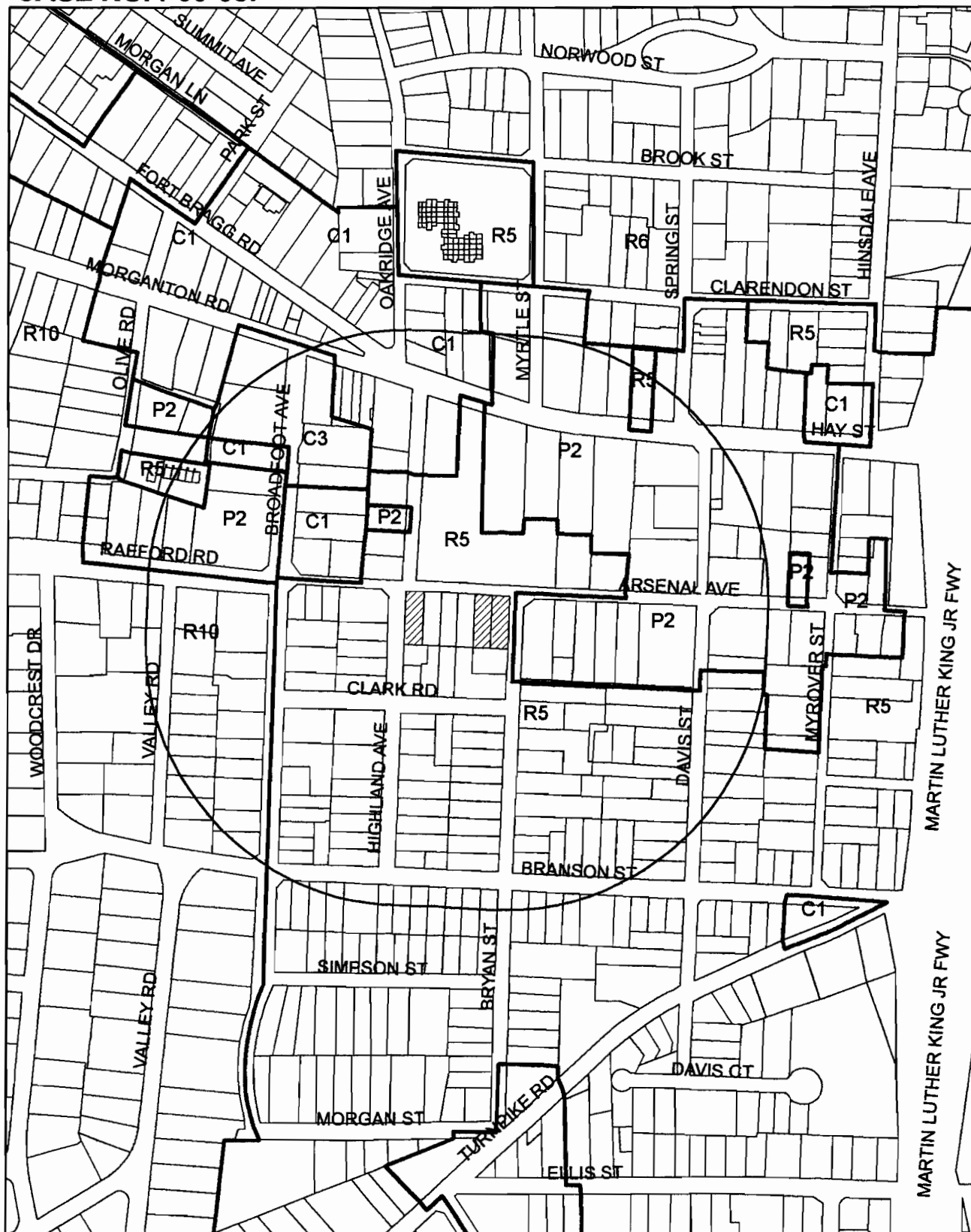
Request: R5 to P4

Location: 1101, 1103, and 1111 Arsenal Avenue

Pin: 0437-04-4845, 3895, 1896

000192

**ZONING COMMISSION
CASE NO. P09-05F**



Request: R5 to P4

Location: 1101,1103,1111 Arsenal Avenue

Acreage: .51

Zoning Commission: 1/13/2009

City Council: _____

Pin: 0437-04-4845, 3895, 1896

Recommendation: _____

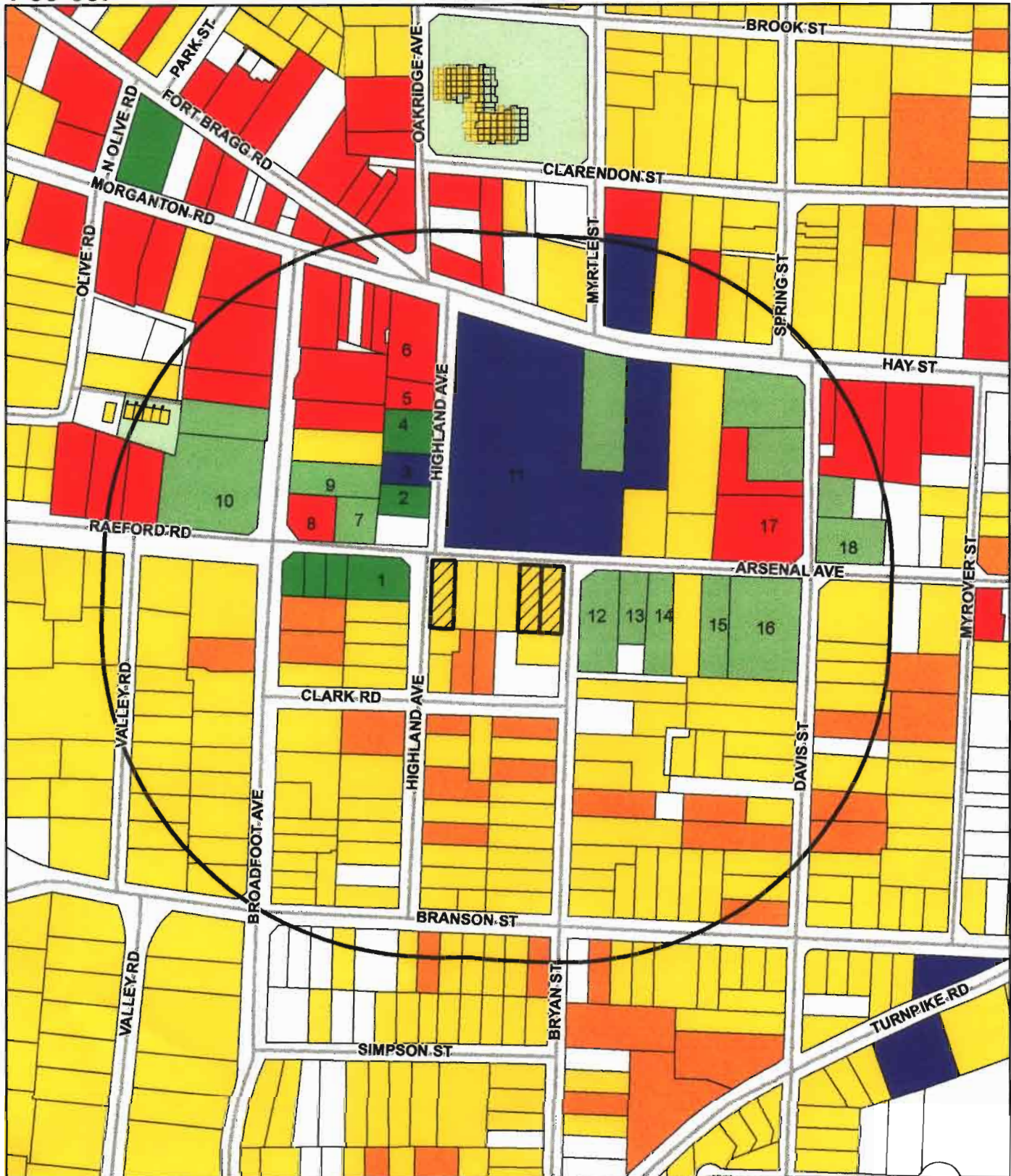
Final Action: _____

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

000193

Current Land Use

P09-05F



Legend

- | | | | |
|--------------------|--------------------|--------------------------|------------------------|
| 1. parking lot | 5. hair salon | 9. Smithboro Collections | 13. attorneys office |
| 2. parking lot | 6. CF Theatre | 10. First Citizens Bank | 14. attorneys office |
| 3. Family Life Ctr | 7. appraisers ofs. | 11. Highland Pres. Ch. | 15. office |
| 4. parking lot | 8. dental lab | 12. attorneys office | 16. Alltel |
| | | | 17. Haymount Ofs. Ctr. |
| | | | 18. attorneys office |





**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
JANUARY 13, 2009- 7:00 P.M.**

MEMBERS PRESENT

Pete Paoni
Richard West
Jeannie Nelson
John Crawley
Lockett Tally

MEMBERS ABSENT

OTHERS PRESENT

Karen Hilton, Asst. Planning Dir.
Craig Harmon, Planner
Marsha Bryant, Planner
David Nash, Planner
Janet Smith, Asst. City Atty.

I. APPROVAL OF AGENDA

Mr. West made a motion to approve the agenda. Mr. Tally seconded the motion.

A vote was taken and the motion passed unanimously.

II. APPROVAL OF THE MINUTES FROM THE DECEMBER 9, 2008 MEETING

Mr. West made a motion to approve the minutes. Mr. Crawley seconded the motion.

A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

- E.** Case No. P09-05F. The rezoning from R5 Residential to P4 Professional District or to a more restrictive zoning classification for property located at 1101, 1103, and 1111 Arsenal Avenue. Containing .51 acres more or less and being the property of Stevie Ammons, Robert Brandenburg, and Ira Neil Grant.

Mr. Harmon provided a brief overview of the case. The overview included a zoning map, surrounding land uses, the 2010 land use plan's recommendation of low density residential uses and pictures of the site. Mr. Harmon mentioned the property at the corner of Arsenal Avenue and Highland Avenue came before the Zoning Commission in 2007 for P4 professional and the Zoning Commission recommended denial.

Chairman Paoni opened the public hearing.

Attorney Neil Yarborough identified himself and stated that he was presenting on behalf of the petitioners. Attorney Yarborough clarified and defined the meaning of a P4 zone. Attorney Yarborough used a presentation of Arsenal Avenue to express images of residentially zoned areas

for office use. Mr. Yarborough showed that Arsenal Avenue is a business street and that his clients are just asking for the same courtesy.

Attorney Yarborough restated that City Planning did not recommend the rezoning of this area. He stated that the reason for their denial was because there was existing vacant office already available in the area, limiting the need for further office space. His rebuttal was that his clients have the right to compete in the free market society and questions why his clients should be limited because they are in competition with other existing properties.

Mr. Yarborough stated that Arsenal Avenue is a business street that borders residential areas and that a P4 zoning is the least intrusive transitional activity that happens. He stated that a P4 doesn't change the appearance of the neighborhood but provides the option of using professional office space in a residential setting along with typical residential uses. Attorney Yarborough stated that a P4 zoning was adopted for this particular reason. He reiterates that this is not a commercial building bringing with it lots of traffic; he states that nothing will change except for maybe an "up-fitting and increased attractiveness of these properties" from the rezoning.

Mr. Yarborough stated that rezoning the properties to professional potentially changes the 1100 block of Arsenal Avenue for residential uses to professional uses. He states that if you look at that block, "it might" but if you look at the neighborhood, "it doesn't." He reiterated that it is a business street; the neighborhood is a mix use of commercial, professional and residential. Mr. Yarborough submitted to the board that the P4 is the perfect zoning for the property because, "it is a compromise" between commercial use and residential use.

Ms. Wayley who lives on the block of the rezoning appeared in opposition of the request. Ms. Wayley introduced herself and explained where her house is located on Arsenal Avenue. Ms. Wayley submitted a photograph of the house next to her when it was built in 1929. She states that the point is that it is a historic neighborhood. She stated that she has a list of ten open, professional offices within two and a half miles that are available to them right now. She stated that if there was a need for professional space the P4 rezoning might be justified, but that professional space out there in abundance, several on Arsenal Avenue. Ms. Wayley stated that they not take historic, family dwellings and turn them into professional, not when we don't need them.

Ms. Wayley asked that the community stand up. She asked the board not to have "tunnel vision". Ms. Wayley stated that all they have talked about is Arsenal Avenue but a lot of the people come from the residential area behind. She stated that if you take Arsenal Avenue and turn it professional in that area, she stated that it like scalping the front for those houses.

Ms. Wayley stated that while P4 zoning is restrictive, there are some things you can't get away from: parking, loss of nighttime neighbors, landscaping goes, appearance of neighborhood is changed.

Ms. Wayley commented on the R5 zoning of Haymount and the delight of the Haymount Hill being used as the professional zoning in that area and the revitalization of the downtown areas. She stated that Mr. Brandenburg was requested by the inspections department to desist from "literally behaving as though it were already zoned professional". She stated that UPS was there several times a day, that traffic was horrendous and that vehicles were parked in the street. She is concerned what it would be like tripled. Ms. Wayley states that these are their homes and appreciates the support of the community to keep these historic homes, homes for people to live in.

Ms. Eddy appeared in opposition of the request. Ms. Eddy explained she lives in the same area of the rezoning request and she opposes the rezoning. She stated that it is a very unique area and that healthy neighborhoods are neighborhoods that have families and are not empty at night. She stated that she is afraid of what's going to happen next, the question she asks herself is "is another

professional going to come and try to run me out to?" She stated that she is just concerned about the future.

The public hearing was closed.

Mr. Harmon stated that the planning staff recommendation is for denial of the P4 Professional District. He stated that the recommendation is based on the 2010 plan recommends residential uses, that there is adequate office space currently in the area, keeping them residential helps keep the neighborhood in tact, rezoning potentially changes the 1100 block of Arsenal for residential to professional. Mr. Harmon asked if there were any questions. There were none.

Mr. Tally made motion to rezone the property as requested by the applicant. The motion was seconded by Mr. Crawley.

A vote was taken and the motion failed 3/2 with Ms. Nelson, Mr. West and Mr. Paoni voting in opposition.

Mr. Harmon stated in order to satisfy the appeals process and affirmative motion was needed. Ms. Smith added they needed a motion to reconsider.

Mr. Paoni stated they needed to approve or deny the request.

Ms. Nelson asks if there was still time to ask a question. The board discussed the possibility for the need of a motion to reconsider.

Mr. Paoni stated "we can discuss that until we could convince one another that it could be the other way or whatever".

Ms. Nelson makes a motion to reconsider the previous action and vote. Mr. West seconded the motion for the purpose of discussion.

Mr. Paoni asked Ms. Nelson why she was asking for the reconsideration. Ms. Nelson explained that in thinking about the rezoning she was questioning whether the character of the neighbor would be kept in tact, mentioning the yards and exterior upkeep. She stated that she always takes that into consideration when voting on a zoning issue. Ms. Nelson asked herself if it fit the character and then answered, yes it does. She stated that she is thinking that her vote should have been the other way because she doesn't see where anything is going to change.

Mr. Paoni was in discussion with Ms. Nelson about her decision and then he stated that they are just in discussion of the motion.

Ms. Waylay interrupted Mr. Paoni and asked if they had voted. Mr. Paoni explained that according to Ms. Smith, the attorney, they have a question of reconsideration and they do want to open it up before we finalize everything.

Mr. Paoni stated, if we don't do a thing and leave it like it is, it would deny the planning staff's recommendation and asked if that was correct.

Mr. Tally stated that he had made a motion to rezone. Mr. Paoni reiterated what Mr. Tally said and then another gentleman said they voted against rezoning.

Mr. Paoni stated that the vote was 3/2 in favor of denying the rezoning.

A question was raised about the appeals process and asked for understanding the process in regard to the reconsideration.

Ms. Smith stated that the motion to reconsider was proper and at that point they need to vote on the case. After some discussion it was decided that they needed to vote on a motion to reconsider. The question was raised if they were voting to reconsider the case or voting to discuss the case among themselves.

Ms. Smith replied that they were voting to reconsider their vote.

A question was asked if there was going to be another vote or if they were likely to discuss the matter and do nothing.

Ms. Smith thought they needed to take another vote.

Mr. Harmon stated they needed to have a positive vote one way or the other.

A question was asked if the case can be tabled and brought back at a later date.

Mr. Harmon replied that while it could be a possibility, he didn't think staff would recommend it because they had already held a public hearing.

Ms. Smith stated that they had already closed the public hearing.

The vote was taken for reconsideration and it was 3/2 in favor of reconsideration. Mr. Tally, Mr. Crawley and Ms. Nelson in favor with Mr. Paoni and Mr. West in opposition.

Mr. Tally made motion to rezone the property to P4 Professional as requested by the applicant. The motion was seconded by Mr. Crawley.

The committee voted and it was 3/2 in favor with Ms. Nelson, Mr. Crawley and Mr. Tally voting in favor of the motion and Mr. Paoni and Mr. West in opposition.

Ms. Wayley questioned the decision wanting to know if it was correct now. Mr. Paoni replied that it was correct and it was on the record as 3/2 in favor of rezoning to P4.

Ms. Bryant stated that if an appeal were filed within ten days of today the case would move forward to City Council as a public hearing on February 23, 2009.



**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
JANUARY 9, 2007 - 7:00 P.M.**

MEMBERS PRESENT

Jack Cox
Melvin Henderson
Beverly Brayboy
Culous Hayes
Billy Manning
John Crawley

MEMBERS ABSENT

OTHERS PRESENT

Jimmy Teal, Chief Planning Ofc.
Marsha Bryant, Planner
David Steinmetz, Inspections

Mr. Cox explained the Zoning Commission process. Each side would have fifteen (15) minutes to speak and any remaining time may be used for rebuttal. Once the public hearing is closed no one else may speak unless a Commission member asks a question. Any person aggrieved by the recommendation of the Zoning Commission has the right to file an appeal within ten (10) days from today's date with the City Clerk's Office.

I. APPROVAL OF THE AGENDA

Mr. Cox stated case No. P07-07F has been withdrawn per the applicant's request.

Mr. Manning made a motion to approve the amended agenda. Mr. Hayes seconded the motion.

A vote was taken and the motion passed unanimously.

II. APPROVAL OF THE MINUTES OF THE DECEMBER 12, 2006 MEETING

Mr. Manning made a motion to approve the minutes. Mr. Hayes seconded the motion.

A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

H. Case No. P07-08F. The rezoning from R5 Residential District to P4 Professional District or to a more restrictive zoning classification for property located on the southeast corner of Arsenal and Highland Avenues. Containing .17 acres more or less and being the property of Ira Neil Grant as evidenced by deed recorded in Deed Book 7398, Page 466, Cumberland County Registry.

Mr. Teal provided an overview of the case that included a vicinity map, surrounding land uses, the 2010 land use plan's recommendation for medium density residential and pictures of the site.

The public hearing was opened.

Mr. Cox asked about the blue section on the 2010 land use plan near the Hay Street area. Mr. Teal explained when the land use plan was done there was a Hay Street Area Plan that was done in the 1970s. This property, which is currently zoned P2, is being used for offices and he felt that was the reason for this area being designated professional.

The public hearing was opened.

Mr. Grant appeared in favor of the case. He shared that he purchased the house, built in 1906, about 30 days ago and the house is in very poor condition and in need of repair. The house was originally designed in such a way that the upstairs rooms could be rented. Mr. Teal had recommended P4 Professional District, which reduces his ability for signage and keeps the character of the structure in accordance with the neighborhood. His intentions were to keep the house as is but improve the exterior and interior. He wanted to return the home to its original condition to include exposing the stairwell underneath and relocate his real estate office to that site. Currently he is a "one-man operation". Another reason he felt this would work for him is the onsite parking; the backyard has an old storage building on it and his desire was to put in some gravel and have parking for 4 to 6 cars. In his opinion rezoning the property was not a negative impact in the neighborhood. He would be more than willing to talk with people and share his plans for the home. He believed improving the property and rezoning it to P4 would have a low impact on the community including the residential in the rear and side.

Ms. Barbour appeared in favor of the request. She resides near the house that Mr. Grant purchased. They are happy to know that someone is going to improve the house and keep it as attractive as the other businesses on the street. One of their concerns is they live two doors down from an abandoned home and those renters had a difficult time with crime and other activities going on beside their home and they moved and the house in unkempt and looks bad. She has faith in Mr. Grant putting money into the home as a business and keeping the street looking good.

Mr. Barbour also appeared in favor. He supports the rezoning of the property. He gave an example of the businesses surrounding their home and his neighborhood has not fallen apart because of this. They support revitalization and felt this property, with property investment, could be landmark property. Having served on a City commission he knows that all aspects must be taken into consideration and imagined there would be emotional testimony about saving neighborhoods and the like. Mr. Barbour said there is a row of 6 houses surrounded by commercial property with demographics that are greatly different from the neighborhood behind them and he didn't feel the landscape with be changed with a restrictive professional use of P4. He did not feel the neighborhood would be destroy but revitalized with the development.

Mr. Moore stated in the middle of 1999 he saw opportunity in the neighborhood. It was rundown, distressed, drug dealers frequented the area and it was a really depressed neighborhood that the police did not want to visit. He has 17 rentals in the neighborhood in question in close proximity to the house and has invested over \$1M because he saw the opportunity to clean it up. He helped rid the area of the drug dealers because he remodeled/restored homes in a manner in such a way that people wanted to live in the neighborhood again. He invested in the area because he enjoys living there but did not like the activities that were taking place. He spoke of the amenities surrounding the area such as the theater, coffee shops, charter school and stores. Other professional buildings are being constructed and it's a street that presently has many professional buildings with the exception of 3 or 4 homes. He felt this would be a good asset to the neighbors to rezone the property to professional.

Ms. Whaley appeared in opposition. She has lived in the area for 34 years and have lovingly restored their home to a place of beauty. The neighborhood has been encroached upon many times. They do not agree with using houses for businesses when there are offices available around

town. There are very few old neighborhoods left that contain 3 to 4 generations of families. The problem with a professional classification is that it does have a domino affect and it is spot zoning. One objection to the P4 zoning is that there is no one there at night and the people that are out for mischief are very much aware. But when she needed the police they were there to assist her immediately. The city and immediate neighborhood would be tremendously impoverished by chipping away one more house.

Ms. Eddy expressed her opposition to the rezoning. They have resided in the area for 20 years. Mr. Moore has done a lot of good work in the neighborhood and has taken bad properties and put in good renters. When she needed the assistance of law enforcement officers she never waited longer than 5 minutes. She understands families with young children make healthy neighborhoods and where she could appreciate the fact that Mr. Grant wants to save the house but what happens when he sells the home. There were at least 15 people in opposition to the request. They love their neighborhood and they have fought the drug dealers and are still standing.

Mr. Cox asked if they allowed a real estate office in the building are they not getting a good neighbor. Ms. Eddy replied no she was not. She agrees with the domino affect and with the fact there are plenty of professional buildings that this is residential and her hope would be that it would remain residential. If the rezoning were approved she did not think Mr. Grant would do a bad job but asked what would happen if he sold the property and then the entire block is taken over. When Highland Presbyterian purchased several lots, removed the homes and made them into parking lots she was happy because the neighborhood was in such a bad state at that time.

Mr. Whaley also appeared in opposition. He shared that he has lived in the area 30 years. He agreed with all that has been said. He spoke of how the neighborhood use to be and the problems with trying to park on Arsenal Avenue. Then he described how good things are now and about the improvements they have made. These houses are one of a kind. They have watched the area in Haymount and on the edges of Haymount chipped away over the years.

Mr. Grant had one minute left for rebuttal. He said he appreciated the opposition speaking and all that was said and understands their points of view. He said the lot is 50-feet wide and a corner lot. With the current setbacks if the house were destroyed he felt the lot would be un-buildable.

The public hearing was closed.

Mr. Teal stated staff's recommendation was to approve the rezoning to P4 Professional District. Although the 2010 Land Use Plan suggests residential uses for this property, the P4 zoning district provides safeguards to keep the appearance of the property as residential in character. P4 allows residential uses as well as professional uses as a permitted use. There are other houses on Arsenal Avenue zoned professional that fit within the character of the neighborhood. Any remodeling or if that house were to be removed and rebuilt on that site, the P4 district requires a residential appearance and therefore could not be a standard office building. Based on that staff felt it did allow flexibility to do other thing besides residential.

Mr. Manning asked if there a stipulation as to what type of material could be used for the parking lot; noting that Mr. Grant mentioned he would use gravel. Mr. Teal said it would not have to be paved but one requirement of P4 is if an office were at that location he would have to appear before the Planning Commission and present his site plan that would indicate parking and landscaping requirements. The P4 would not give the applicant to immediately open a professional office but to require plans be submitted to the Planning Commission for their review also.

Mr. Steinmetz added one parking space had to be paved for handicap accessibility.

Dr. Henderson asked when looking at the 2010 plan he realized it was not always current. But in this instance it looked as if some type of dividing line had been set in place with Arsenal Avenue

being that line. There does seem to be some weight attached to a precedent being set for jumping the dividing lines and changing the character of the zoning. He asked how the 2010 plan was supposed to be used in their decision making when he is having difficulty figuring out how staff uses it in their decision. Mr. Teal responded, looking at the land use plan, there is professional on the south side of Arsenal Avenue. It is not a clean line of residential on the south side of Arsenal Avenue. Dr. Henderson said looking at the pattern once the line is crossed if a boundary is not set in place it could take over the neighborhood. Mr. Teal said that is a concern if this property is rezoned professional then what is the answer if the property next door asks for the same. Staff felt a compromise would be the P4 in that it provides more protection for the neighborhood than P1 or P2 Professional Districts.

Dr. Henderson asked the zoning of the parking lot. Mr. Teal replied R5 and the lot is for the church, which has it as an accessory use. Churches are somewhat different from a regular business because where the parking lot is within 400 feet of the church it can be used by the church for parking.

Dr. Henderson made a motion to deny the rezoning request from R5 to P4. Mr. Manning seconded the motion. The motion passed unanimously denying the request for P4.

Mr. Teal stated the applicant or anyone else has until Friday, January 19th to appeal the decision of the Zoning Commission with the City Clerk. An appeal of the case requires a public hearing before City Council. The public hearing date would be Monday, February 26, 2007 at 7:00 PM.

If no appeal is filed, then the rezoning case is denied.

City of Fayetteville, North Carolina Official Meeting Minutes

- C. Consider the rezoning from R5 residential district to P4 professional district or to a more restrictive zoning classification for property located on the southeast corner of Arsenal Avenue and Highland Avenue. Containing .17 acres more or less and being the property of Ira Neil Grant as evidenced by deed recorded in Deed Book 7398, Page 466, Cumberland County Registry. Case No. P07-08F.**

Mr. Jimmy Teal, Planning Director, presented this item. Mr. Teal showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Teal stated the applicant wishes to utilize the property for office use. Mr. Teal stated the Zoning Commission recommends denial based on the 2010 Land Use Plan for the area, surrounding residential uses and the concern of the neighborhood about the loss of residential uses in the area.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:54 p.m.

Mr. Neil Grant, 1852 Morganton Road, Fayetteville, NC, appeared in favor and stated the property is located at a busy intersection on the corner of Arsenal Avenue and Highland Avenue and is a transitional piece of property. Mr. Grant stated surrounding properties are professional use, business use, vacant lots, a church and a parking lot. Mr. Grant stated he purchased the house to renovate it for use as his real estate office and does not view his plans as a hindrance to the neighborhood.

Ms. Patricia Eddy, 221 Broadfoot Avenue, Fayetteville, NC, appeared in opposition and spoke to good neighbors and the support they have given each other throughout the years. Ms. Eddy stated she did not object to Mr. Grant having his real estate office on the property as long as he and his family lived there; otherwise, it would become victim to the domino effect.

Mrs. Katherine L. Whaley, 1107 Arsenal Avenue, Fayetteville, NC, appeared in opposition and stated the residential neighborhood fears the domino effect. Ms. Whaley stated she has lived on Arsenal Avenue for thirty-five years, raised four children and fenced in the yard to safeguard her children. Ms. Whaley spoke to the love and sweat equity that revitalized the old residences on Arsenal Avenue and stated the city cannot afford to lose such pockets of domestic history.

Mr. Neil Grant, 1852 Morganton Road, Fayetteville, NC, appeared in rebuttal and stated in reality there are a lot of boarded up residences on Broadfoot and Arsenal Avenues. Mr. Grant stated he would not have considered putting his real estate office on the property had it not been for the nearby law offices, museum and new office park.

Mrs. Katherine L. Whaley, 1107 Arsenal Avenue, Fayetteville, NC, appeared in rebuttal and stated the residential properties in the Arsenal Avenue community will provide affordable

City of Fayetteville, North Carolina Official Meeting Minutes

housing for families associated with BRAC and put them within walking distance to churches, a museum, a small business district and a park.

There was no one further to speak and the public hearing closed at 9:15 p.m.

MOTION: Council Member Gonzalez moved to follow the Zoning Commission's recommendation and deny the request.

SECOND: Council Member Bates

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

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer

From: Jimmy Teal, Planning Director

Date: February 23, 2009

Case No. P09-06F

THE QUESTION: SUP – Daycare

RELATIONSHIP TO STRATEGIC PLAN: Strong Local Community

BACKGROUND:

| | |
|---------------------------------|--|
| Owner: | Columbus Thurmond |
| Applicant: | Columbus Thurmond |
| Requested Action: | SUP – Daycare |
| Existing Zoning | R10 Residential District |
| Status of Property: | Conforming |
| Size: | +/- 0.26 Acres |
| Existing Land Use: | House |
| Adjoining Land Use & Zoning: | North – House & zoned R10 residential district South – House & Doctor's Office & zoned R10 residential & C1 commercial district East – Auto sales & zoned C3 commercial district West – House & zoned R10 residential district |
| 2010 Land Use Plan: | Low density residential |
| Letters Mailed: | 125 |

SPECIAL INFORMATION:

Public Utilities:

| | |
|-----------------|-----|
| Water: | PWC |
| Sanitary Sewer: | PWC |

Transportation:

Redwood Drive is a residential street. The estimated average daily traffic count at this location on Redwood Drive is 3,000 vehicles.

OPTIONS:

1. Approve the SUP – Daycare without conditions as requested;
2. Approve the SUP – Daycare with conditions;
3. Deny the SUP – Daycare

RECOMMENDATIONS:

Section 30-107(24) allowing homes for the care of children and adults upon and after obtaining a special use permit to be issued by the City Council upon recommendation of the zoning agency after a public hearing. Such special use permits shall be approved only after findings of fact are made that such use shall:

- a. Fit in with the character of the area in which such use is to be located;
- b. Such use is not detrimental to the surrounding area;
- c. All applications for a special use permit shall be accompanied by an accurate and detailed plat of the proposed use, showing location of all buildings, yard dimensions, driveways, parking areas, and all other pertinent data necessary for the zoning agency and the city council to determine that all of the above requirements have been complied.

The Zoning Commission finds the applicant failed to prove that the daycare fit within the character of the area and was not detrimental to the surrounding area. The Zoning Commission based this decision on the daycare being on a residential street, the operation of the daycare being 24 hours and the limited space and bathroom facilities in the house.

Should City Council make a different ruling from the Zoning Commission and approve the daycare, the staff suggests the following conditions:

- a. The construction and operation of such facilities shall comply with the provisions of the General Statutes of the State of North Carolina and any other applicable Federal, State, or local codes including City of Fayetteville Fire Code;
- b. The sign ordinance generally allows 20 square feet of copy area, but staff recommends limiting signage to no more than four square feet of copy area for a wall sign. This is based on the site being in a residential setting;
- c. Applicant is requesting 30 children with 4 employees. (North Carolina Licensing requirement of 25 square feet per child of indoor primary space and 75 square feet per child of outdoor space) According to the dimensions of the house, the applicant could have 33 children. However, staff recommends 15 children maximum based on the house only having one bathroom and the state regulation allowing a maximum of 15 children per toilet;
- d. Hours of operation 24 hours per day Monday through Saturday.
- e. All required driveway permits shall be obtained. The site plan incorporates the existing circle drive allowing children to be dropped off and picked-up without backing into the street. A small entrance sign shall be placed on the driveway location on the west side of the property and an exit sign on the driveway location on the east side of the property. Parking shall be in the existing paved driveway area to the side and rear of the property;
- f. Fencing around the proposed play area to include the installation of a fence on the east side of the driveway in the rear of the property. This fencing separates the parking area from the children play area;
- g. Any outside lighting shall be shielded to prevent lighting impacting on adjacent properties;
- h. Failure to comply with any and all conditions of approval for this Special Use Permit may result in revocation.

Case No.: P09-06F
Location: 5007 Redwood Drive
Page: 2

ATTACHMENTS:

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

**APPLICATION FOR SPECIAL USE PERMIT
CITY OF FAYETTEVILLE**

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

I (We), the undersigned, do hereby respectfully make application and petition to the City Council to grant a Special Use Permit as required in the Zoning Ordinance. In support of this application, the following facts are shown:

Location/Address of the Property: 5007 Redwood Dr. Fayetteville 28304
Owner of the Property: COLUMBUS NICHOLS THURMOND
Address of the Owner: 1813 Cawdor Dr Zip: 28304
Owner's Home Phone: 910 2868680 Owner's Work Phone: 910 717 5326

- A. Section and provision of the Zoning Ordinance from which a Special Use Permit is requested:
R10 30-107 (24)
- B. The property sought for a Special Use Permit is owned by _____
as evidenced by deed, recorded in Deed Book 07969, Page 0183-0785, Cumberland
County Registry. (Attach a copy of (all) deed(s) as it appears in the Registry.)
- C. Tax Property Identification Number (PIN#) of the property: 0416-14-4864
- D. Acreage requested for a Special Use Permit: LESS THAN A CREW .26
- E. It is proposed that the property will be put to the following use: (Describe proposed use/activity
in detail to include hours and days of operation, number of employees, number of clients, etc.)
24 hours Child day care center, 6 days a week
30 children and 4 employees.
- F. To the best of your knowledge, has an application for a special use permit or rezoning been filed
for this property within the previous 5 years? (If yes, please indicate month and year.) NO

Columbus Nichols Thurmond
Signature of Applicant

1813 Cawdor Dr
Address of Applicant

FAYETTEVILLE NC 28304
City State Zip Code

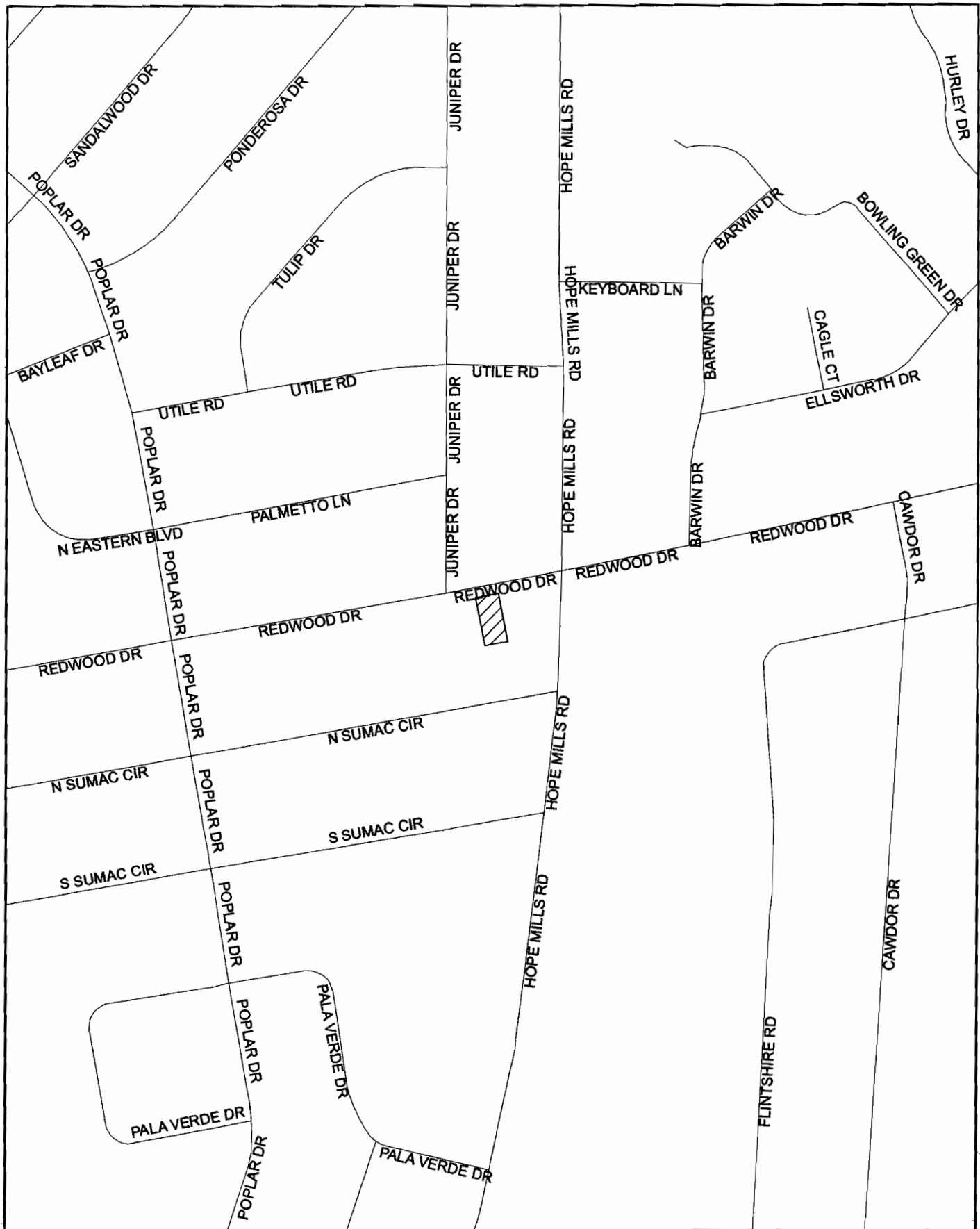
Home Phone: 910 2868680

Work Phone: 910 717 5326

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

Zoning Commission - Vicinity Map

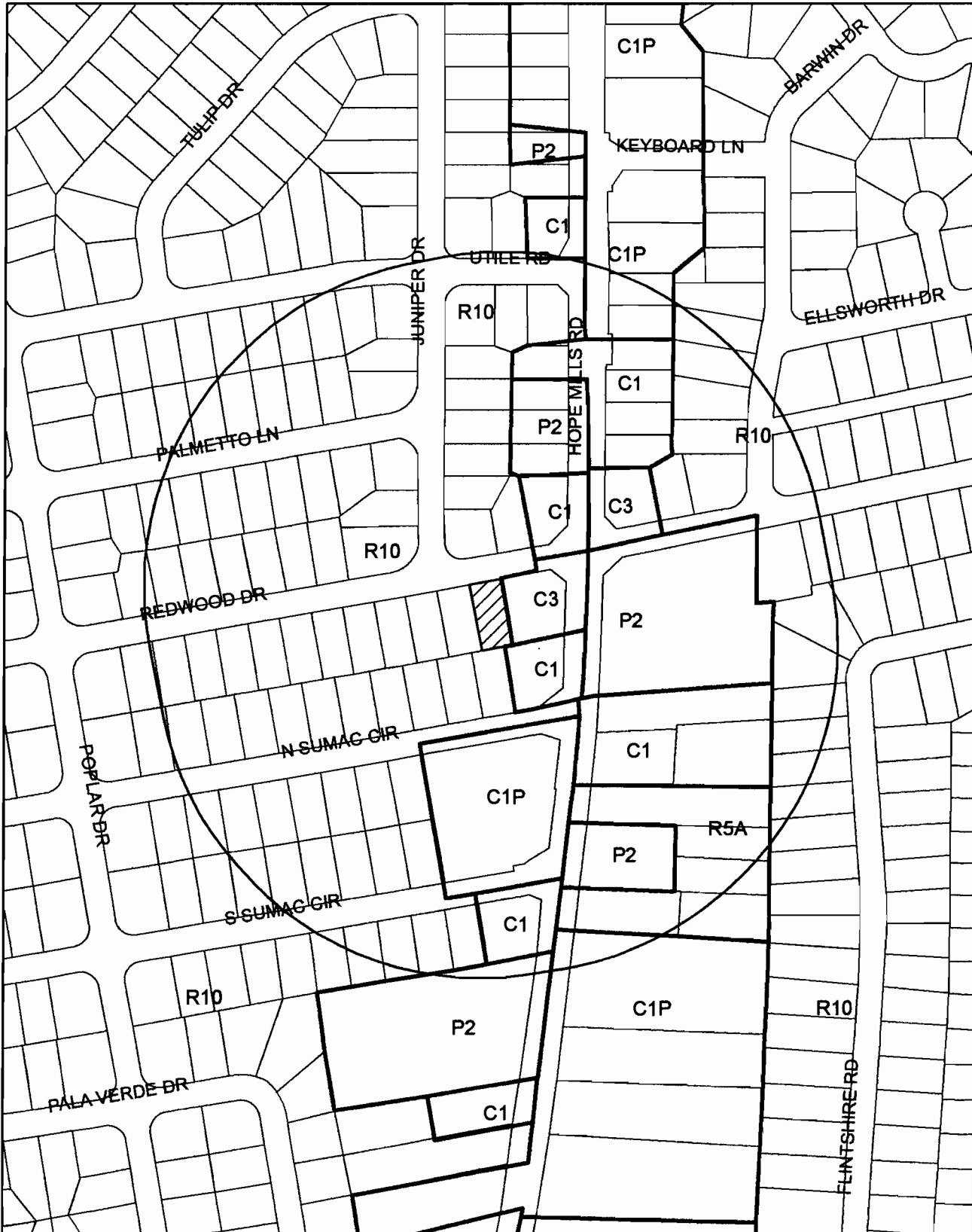
Case No. P09-06F



Request: SUP - Day Care
Location: 5007 Redwood Drive
Pin: 0416-14-4864

000209

**ZONING COMMISSION
CASE NO. P09-06F**

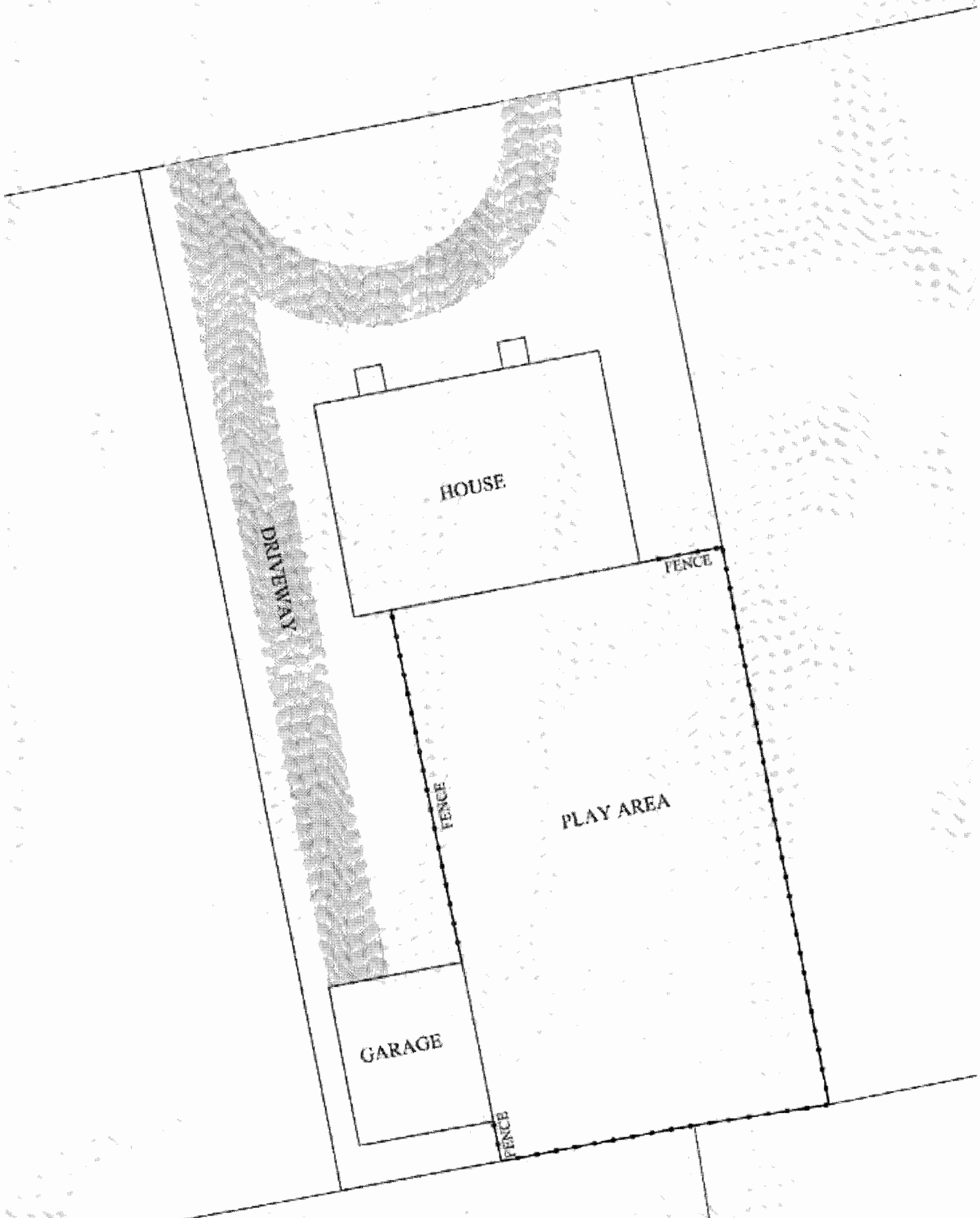


Request: SUP - Day Care
Location: 5007 Redwood Drive
Acreage: .26

Zoning Commission: 1/13/2009
City Council: _____
Pin: 0416-14-4864

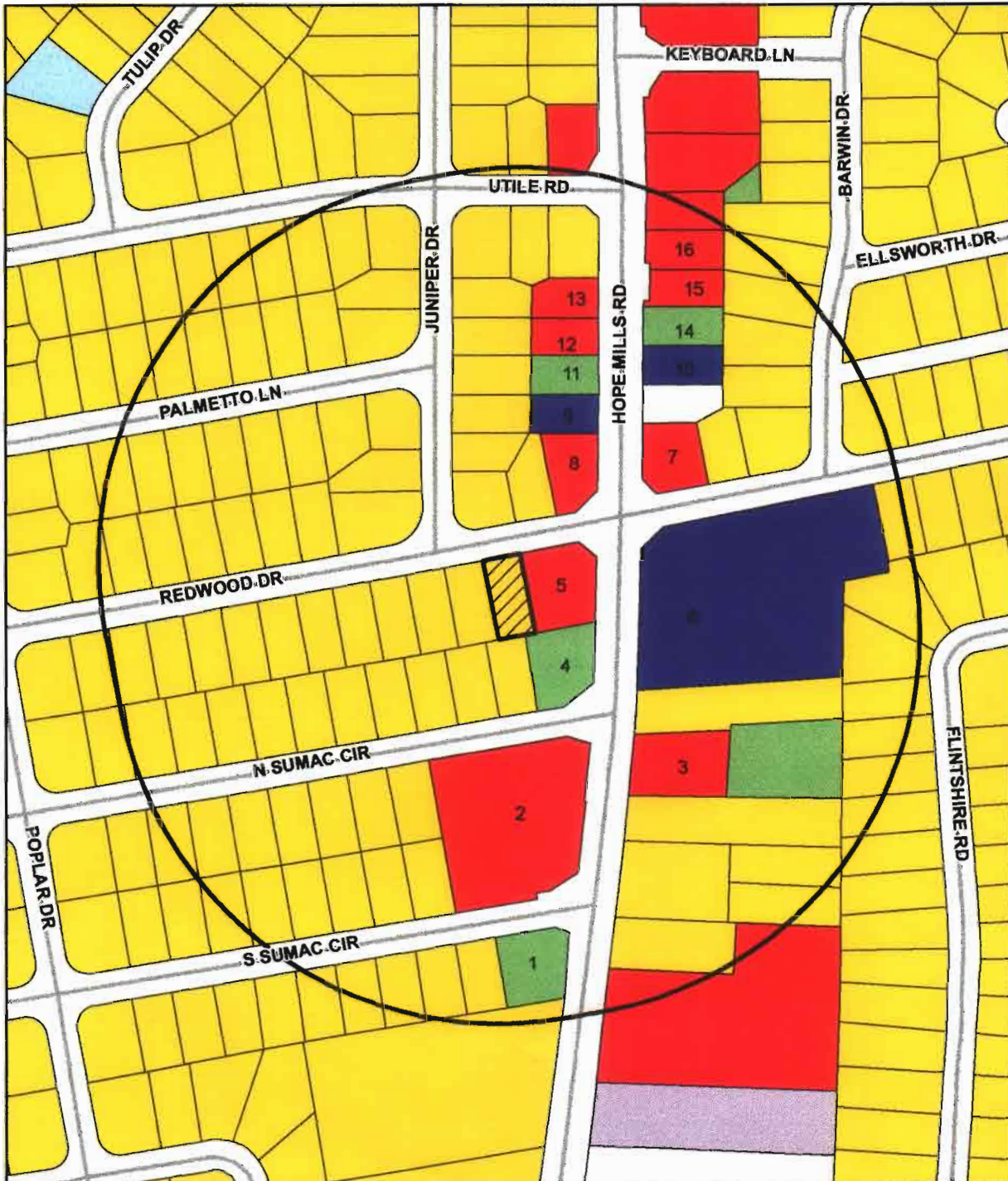
Recommendation: _____
Final Action: _____

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



000211

Current Land Use P09-06F



Legend

- | | | | |
|---------------------|--------------------|----------------------|-------------------------|
| 1. Harris Realty | 5. Quality Sales | 9. Lafayette Daycare | 13. Maid w/Care |
| 2. gas station | 6. Wellness Center | 10. Loving Hands | 14. Mothers Home Care |
| 3. Stork News | 7. Hope Motors | 11. office | 15. Sewing Machine Shop |
| 4. Treatment Center | 8. Poodle Parlor | 12. beauty salon | 16. beauty shop |





**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
CITY COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
JANUARY 13, 2009- 7:00 P.M.**

MEMBERS PRESENT

Pete Paoni
Richard West
Jeannie Nelson
John Crawley
Lockett Tally

MEMBERS ABSENT

OTHERS PRESENT

Karen Hilton, Asst. Planning Dir.
Craig Harmon, Planner
Marsha Bryant, Planner
David Nash, Planner
Janet Smith, Asst. City Atty.

I. APPROVAL OF AGENDA

Mr. West made a motion to approve the agenda. Mr. Tally seconded the motion.

A vote was taken and the motion passed unanimously.

II. APPROVAL OF THE MINUTES FROM THE DECEMBER 9, 2008 MEETING

Mr. West made a motion to approve the minutes. Mr. Crawley seconded the motion.

A vote was taken and the motion passed unanimously.

III. PUBLIC HEARINGS

F Case No. P09-06F. Consideration of an application by Columbus Nichols Thurmond for a Special Use Permit to allow a day care center in an R10 Residential District for property located at 5007 Redwood Drive. Containing .26 acres more or less and being the property of Columbus Nichols Thurmond.

Mr. Harmon stated the request is a special use permit for a daycare.

Mr. Paoni asked that all applicants who were going to speak come forward and be sworn in.

Mr. Paoni explained the purpose of a special use permit and instructed the committee that their mission is to listen to the testimony and ask questions.

Mr. Harmon addressed the committee explaining the request. He stated that most of the land use in the area reflects the zoning with some commercial, institutional and residential everywhere except Hope Mills Rd. He noted that next to this property is a commercially zoned property, which is a

car lot. Mr. Harmon used photographs with his explanation of the position of the property in relation with Redwood Drive, the house itself and its surrounding area.

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

The public hearing was opened.

Mr. Thurman appeared in favor of the request. Mr. Thurman explained that he would be the person insuring that all the staff would be in compliance with all state regulations while his daughter would be the one operating the facility. Mr. Thurman stated that nothing would be taken away from the neighborhood and that the daycare would be a positive addition to the area.

Mr. Thurman asked if there were any questions of the committee.

A question was asked if there was a site plan available. A hand drawn plan was located in the file.

Mr. West asked if Mr. Thurman were planning to run this as a 24 hour a day business. Mr. Thurman replied yes. Mr. West then asked Mr. Thurman to explain how a day care business would be run 24 hours a day. Mr. Thurman replied that it would be to accommodate people who worked night shift and that he may not start off running 24 hour shifts but that was his goal. Mr. Thurman then stated that he would also like to offer child care to patrons who needed over night child care. Mr. West asked Mr. Thurman if he would be using this as a type of baby-sitting service as well. Mr. Thurman replied that has long as they met the requirements. Mr. West asked Mr. Thurman about the staffing. Mr. Thurman replied that he would staff four to five employees and that he could cover a 24 hour facility with that number of employees. Mr. West asked about the employment training. Mr. Thurman explained that his daughter has her masters.

Mr. Thurman discussed the educational requirements, insuring that everything would be done by the book. Mr. West questioned weather the employees are currently trained and certified. Mr. Thurman replied that his daughter had been trained and certified but it is expired. Mr. West asked if it were a teaching certificate to teach school. Mr. Thurman said yes along with a variety of other day care centers. Mr. West questioned Mr. Thurman about the amount of children who would attend the daycare. Mr. Thurman replied that based off the information he received from Raleigh, he could in fact have thirty children in the facility if he had two bathrooms. Mr. Thurman stated that he has plans to install a second bathroom in the house.

Ms. Ewing was called but did not come forward.

Ms. Bryda appeared in opposition of the request. Ms. Bryda stated that she is here on behalf of her father-in-law, Michael Bryda, who lives on the property adjacent to the property under consideration and was unable to attend the meeting due to his health. Ms. Bryda stated that she would be reading a letter that her father-in-law wrote to James Teal, Director of the Planning Department for the City of Fayetteville. The letter is dated December 26, 2008. Ms. Bryda stated from the letter that Mr. Bryda feels that it would be a grave disruption for any business to be located at that location but a daycare center would be a great hardship for Mr. Bryda and his wife. The bedrooms of his home are located along the side adjacent to the property. Mr. Bryda would be concerned about the noise levels from the daycare. Mr. Bryda stated that Mr. Thurmond did not poll the neighbors in the area about any concerns they may have.

Ms. Bryda stated that she had no idea this was intended to be a 24 hour day care center. She stated that this would be a grave hardship for not only her father-in-law but for anyone else in the neighborhood. She stated that they do not want any encroachment into the neighborhood of anything with a commercial nature. She stated that thirty children would not fit in that house, in addition to the concerns of parking. She stated that while she commends Mr. Thurmond for wanting to open a day care center for autistic children, a residential neighborhood is not the best place for it. Ms. Bryda stated that in her experience she has seen how autistic children are prone to

tantrums and loud noise. Ms. Bryda stated that her father-in-law would not be able to continue to live in his home of forty-six years if a daycare is allowed next door.

Ms. Smith stated that while the committee may take into consideration that he is against the project, nothing in the letter could be taken into evidence because Mr. Bryda was not there to answer questions. She stated that his opposition is duly noted for the record.

Ms. Bryda asked if she could take questions on his behalf because she knows the property.

Mr. Paoni stated that they have noted Mr. Bryda's opposition.

Mr. McQueen appeared in opposition of the request. Mr. McQueen strongly disagreed with having a day care center on that property. Mr. McQueen used a drawing of the area to show how many homes were occupied by renters or where in fact vacant. He stated that most of the property around the site where renters and that the property owners of those homes would not be concerned about the proposed projects. He stated that it is not a good location.

Mr. McQueen read a letter on behalf of Ms. Wade. The letter stated that she is concerned for the additional traffic and increase of noise.

Mr. McQueen reiterated that it is his knowledge that Mr. Thurmond had not spoken with any of the fellow property owners in the area. He stated that he believed that Mr. Thurmond's plan has not been completely thought out.

Mr. McQueen asked the committee if there were any questions. There were none.

The public hearing was closed.

Mr. Harmon reminded the committee that the planning staff does not make recommendations for approval or denial of special use permits because the decision is based on sworn testimony given during the public hearing. He also reminded the committee that the letters read were in opposition but can not be taken into evidence due to the fact that the citizens who wrote the letters were not present at the hearing.

Mr. Harmon recited the charge of special use permits to the committee and the requirements needed. He stated that it was an available option, if the committee felt it necessary, that the applicant would have to return with additional required information. Mr. Harmon offered a list of possible stipulations.

Mr. Harmon asked if the committee had any questions.

Mr. Paoni asked about the square footage concerning the play area and the amount of children there at one time.

Mr. Harmon answered maybe, but that it was possible that there be 30 children there at one time by the way the applicant had applied for the permit.

Mr. Paoni asked for a motion from the committee.

Mr. Crowley made a motion to deny the request. Mr. West seconded the motion.

A vote was taken and the motion for denial passed unanimously.

The case will be heard by the City Council as a public hearing on Monday, February 23rd.

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Dale Iman, City Manager
Date: February 23, 2009
Re: Museum of Art Task Force Update

THE QUESTION: Mr. Scott Baker, Chairman of the Museum of Art Task Force will present this update for information purposes only.

RELATIONSHIP TO STRATEGIC PLAN: Principle E – Vibrant Downtown; Goal 6 – Revitalized Downtown – A Community Focal Point.

BACKGROUND: The Museum of Art Task Force was established to research issues related to the proposed Museum of Art location in Festival Park. Mr. Baker made this presentation at the February 2, 2009 work session and City Council consensus was to forward this report to a February meeting for consideration of formal acceptance.

THE ISSUE:
N/A

OPTIONS:
1. Accept report
2. Do not accept report.

RECOMMENDATIONS:
Staff recommends acceptance of report.

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
Through: Dale Iman, City Manager
From: Doug Hewett, Assistant City Manager
Date: February 23, 2009
Re: 2009 Federal Legislative Agenda

THE QUESTION: Does the attached 2009 Federal Legislative Agenda meet the City Council's interest?

RELATIONSHIP TO STRATEGIC PLAN: Greater Tax Base Diversity – Strong Local Economy

BACKGROUND: The City, County of Cumberland and Fayetteville-Cumberland County Chamber of Commerce have partnered with the Ferguson Group to develop a community-wide federal legislative agenda. This partnership has returned more than \$22,000,000 in federal assistance to the community since its inception. In order to continue those successful efforts, the partners have developed a 2009 federal agenda for submission to our federal legislative delegation later this year.

Staff developed a draft agenda that was presented to the City Council on February 2, 2009. Since that time, staff and our legislative partners have refined and ranked the agenda as reflected on the attached document.

In addition to the projects listed on the draft agenda, staff is also recommending adding the Partnership for Defense Innovation (PDI). PDI's initial estimates for revenue infusion into the Fayetteville - Cumberland County are \$4.3M of annual operations (new lab) that was funded in FY 08 and FY 09. Since opening this program, PDI and participating companies have created more than 150 jobs, which work on 94 contracts and have contributed more than \$31.8M into our economy.

THE ISSUE: The federal agenda is based on projects/issues for which the partners have identified as priorities for our community AND for which our delegation/lobbyist feel we can successfully acquire federal assistance.

The attached agenda does not include legislative issues that we will share with the NC General Assembly.

OPTIONS:

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

RECOMMENDATIONS: Approve the federal agenda as presented.



**City of Fayetteville/Cumberland County/Fayetteville - Cumberland County Chamber, NC
2009 (FY 2010) FEDERAL AGENDA**

| | PROJECT | DESCRIPTION OF REQUEST | FUNDING HISTORY |
|----|---|--|--|
| 1 | Murchison Road | \$30 million in Military Construction Appropriations, Department of the Army, for Fort Bragg Access Roads, Phase II | \$21.8 million in FY09 (Phase I) |
| 2 | Regional Public Safety | \$2 million in Justice Appropriations, COPS Technology, to merge regional communications, including purchase of interoperable radios. | \$300,000 in FY06 and \$352,500 in FY08 |
| 3 | Sanitary Sewer System | \$2 million in Energy and Water Appropriations, Corps of Engineers, Sec. 219, for sanitary sewer system. • Extend authority in Water Resources Development Act from \$6 million to \$20 million. | \$6 million authorized by WRDA 2007 |
| 4 | Military Business Park (MBP) | \$1 million in Transportation Appropriations (FHWA), Transportation, Community and System Preservation, for transportation improvements to the MBP. | \$600,000 in FY06 and \$147,000 in FY08 |
| 5 | Partnership for Defense Innovation (PDI) | \$3.5 million for PDI Wi-Fi Test Lab, Defense Appropriations, Special Operations Advanced Technology Development, for completion, testing and validation of a Tactical Psychological Operations (PSYOP) Situational Awareness System (TPSS). | \$1.08 million FY07, \$2.7 million FY08, and \$2 million in FY09 |
| 6 | Clean Fuel Buses | \$2 million in Transportation Appropriations and SAFETEA-LU, Bus and Bus Facilities, for the purchase of hybrid buses. | First year request |
| 7 | Multimodal Center | \$3 million in Transportation Appropriations and SAFETEA-LU, Bus and Bus Facilities, for Multimodal Transportation. | Fourth year requested |
| 8 | Veterans Services | \$200,000 in Health and Human Services Appropriations, Health Resources and Services Administration, for renovation and equipment for Cumberland County's veterans' services. | Second year requested |
| 9 | Abandoned Home Removal | \$1 million in HUD Appropriations, EDI, to transform vacant and blighted properties near Fort Bragg. | Fourth year requested |
| 10 | Traffic Safety Cameras | \$400,000 in Transportation Appropriations (FHWA) and SAFETEA-LU, Transportation, Community and System Preservation, for video surveillance cameras. | First year request |
| 11 | Stimulus | Work with City and County to effectively compete for stimulus funding. | |
| 12 | Air Quality | Pursue local, state and EPA agreement to reach attainment by 2011. | |
| 13 | Homelessness | Develop awareness of City's 10-Year Plan to end chronic homelessness and pursue funds for same. | |
| 14 | Crime | Support cops on the streets, gang resistance and education, and crime prevention funding. | |
| 15 | Sidewalks | Support Safe Route to Schools. | |



For more information contact: Leslie Mazingo, The Ferguson Group, (336) 766-1801 or lmazingo@tfgnet.com



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: February 2, 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 January 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

000219

INFORMATION

FAYETTEVILLE MACC LEDGER

1998-2008

JANUARY 2009

| 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 |
|---------------|----------|---------------------|--------------|--------------|------------|--------------------|-----------|------------------|------------------|----------------------|------------------|
| 01/01/09 | 2008-133 | HOLIDAY | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 01/02/09 | 2008-134 | 1,653,854.34 | 1,418,677.13 | 23,909.38 | 1,422.73 | 14.97 | 2,717.26 | 2,227.25 | 59,365.36 | 87,408.06 | 48,845.13 |
| 01/05/09 | 2008-135 | 4,939,774.51 | 4,327,989.84 | 45,504.10 | 2,198.40 | 0.00 | 5,536.02 | 5,129.75 | 185,190.46 | 288,189.60 | 69,034.36 |
| 01/06/09 | 2008-136 | 1,245,462.72 | 1,046,569.57 | 20,490.04 | 9,405.31 | 7.28 | 2,505.08 | 2,230.08 | 51,215.59 | 74,105.97 | 31,380.38 |
| 01/07/09 | 2008-137 | 616,687.01 | 446,722.44 | 25,693.75 | 213.40 | 42.70 | 3,172.91 | 2,917.92 | 44,620.46 | 75,280.69 | 12,160.17 |
| 01/08/09 | 2008-138 | 235,781.44 | 179,765.51 | 13,210.28 | 2,681.20 | 4.67 | 1,744.82 | 1,464.82 | 11,439.25 | 14,736.57 | 5,755.02 |
| 01/09/09 | 2008-139 | 119,885.04 | 79,702.79 | 15,897.15 | 225.26 | 0.00 | 1,932.69 | 1,636.40 | 4,489.76 | 6,725.41 | 4,073.76 |
| 01/12/09 | 2008-140 | 132,551.37 | 77,829.35 | 27,494.49 | 36.67 | 6.82 | 3,050.64 | 2,649.42 | 4,800.80 | 7,159.67 | 4,010.64 |
| 01/13/09 | 2008-141 | 101,376.96 | 66,740.54 | 14,725.22 | 197.56 | 0.00 | 1,675.00 | 1,335.00 | 5,015.04 | 2,927.52 | 3,191.16 |
| 01/14/09 | 2008-142 | 81,108.97 | 54,439.65 | 9,480.97 | 175.59 | 0.00 | 1,121.68 | 886.67 | 3,480.08 | 2,359.16 | 4,001.42 |
| 01/15/09 | 2008-143 | 65,693.58 | 39,329.85 | 9,698.86 | 290.57 | 0.00 | 1,063.98 | 798.98 | 1,699.69 | 2,906.61 | 2,437.26 |
| 01/16/09 | 2008-144 | 95,765.72 | 52,262.68 | 18,885.41 | 0.00 | 13.67 | 1,836.39 | 1,502.66 | 4,043.26 | 6,022.34 | 3,092.23 |
| 01/19/09 | 2008-145 | HOLIDAY | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 01/20/09 | 2008-146 | SNOW DAY | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 01/21/09 | 2008-147 | 229,958.95 | 134,337.50 | 57,539.59 | 52.96 | 30.35 | 4,111.11 | 3,676.08 | 8,038.80 | 8,283.79 | 4,960.89 |
| 01/22/09 | 2008-148 | 81,479.67 | 46,037.35 | 16,275.91 | 561.22 | 0.00 | 1,736.02 | 1,441.02 | 3,605.31 | 4,139.15 | 2,162.29 |
| 01/23/09 | 2008-149 | 71,945.13 | 36,380.01 | 18,396.08 | 0.00 | 1.86 | 1,945.00 | 1,615.00 | 2,506.26 | 3,434.83 | 1,648.59 |
| 01/26/09 | 2008-150 | 132,157.37 | 74,460.26 | 26,347.86 | 410.01 | 33.41 | 3,022.58 | 2,567.12 | 6,712.40 | 6,361.03 | 3,529.78 |
| 01/27/09 | 2008-151 | 82,363.03 | 51,799.77 | 12,818.14 | 3,008.88 | 0.00 | 1,479.24 | 1,269.25 | 2,073.68 | 2,995.36 | 2,007.87 |
| 01/28/09 | 2008-152 | 150,928.49 | 107,855.88 | 20,576.70 | 107.74 | 49.32 | 2,056.93 | 1,781.61 | 3,651.13 | 5,665.48 | 3,548.25 |
| 01/29/09 | 2008-153 | 97,184.28 | 59,914.17 | 18,486.86 | 294.85 | 18.28 | 1,882.35 | 1,517.73 | 2,272.51 | 3,369.20 | 2,915.23 |
| 01/30/09 | 2008-154 | 219,674.92 | 146,093.27 | 31,236.95 | 0.00 | 6.24 | 3,267.18 | 2,572.18 | 7,426.87 | 9,984.19 | 5,643.47 |
| | | | | | | | | | | | |
| TOTALS | | 10,353,633.50 | 8,446,907.56 | 426,667.74 | 21,282.35 | 229.57 | 45,856.88 | 39,218.94 | 411,646.71 | 612,054.63 | 214,397.90 |

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

JANUARY 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 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 21.21 | 73.08 | 5,383.13 | 0.00 | 0.00 | 625.00 | 12.00 | 0.00 | 0.00 | 1,823.98 | 0.00 | 35.46 | 0.00 |
| 9.77 | 815.87 | 3,625.66 | 0.00 | 0.00 | 443.18 | 5.16 | 0.00 | 0.00 | 4,914.16 | 1.27 | 113.59 | 0.00 |
| 0.00 | 495.64 | 2,226.28 | 0.00 | 0.00 | 320.00 | 45.36 | 0.00 | | 1,002.69 | 13.39 | 44.12 | 0.00 |
| 0.00 | 1,131.04 | 1,728.11 | 0.00 | 0.00 | 230.00 | 64.72 | 57.44 | | 0.00 | 24.46 | 526.78 | 0.00 |
| 0.00 | 83.27 | 2,762.81 | 0.00 | 0.00 | 250.00 | 0.00 | 0.00 | | 180.29 | 0.29 | 168.31 | 0.00 |
| 0.00 | 356.53 | 2,299.51 | 0.00 | 0.00 | 275.00 | 0.00 | 0.00 | | 350.25 | 0.00 | 150.45 | 0.00 |
| 60.33 | 124.73 | 2,637.43 | 0.00 | 0.00 | 370.00 | 24.00 | 24.00 | | 393.64 | 8.21 | 42.26 | 0.00 |
| 0.00 | 211.40 | 2,207.04 | 0.00 | 0.00 | 304.35 | 18.86 | 0.00 | | 390.25 | 1.22 | 25.46 | 0.00 |
| 0.00 | 42.29 | 2,307.81 | 0.00 | 0.00 | 270.00 | 0.00 | 0.00 | | 148.66 | 137.45 | 300.81 | 0.00 |
| 0.00 | 145.85 | 4,572.70 | 0.00 | 12.60 | 475.00 | 36.00 | 24.00 | | 73.60 | 10.85 | 56.86 | 0.00 |
| 79.88 | 623.59 | 3,500.14 | 25.68 | 0.00 | 425.00 | 24.00 | 0.00 | | 325.29 | 356.23 | 30.41 | 29.92 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | | 0.00 | 0.00 | 0.00 | 0.00 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | | 0.00 | 0.00 | 0.00 | 0.00 |
| 0.00 | 311.04 | 3,058.52 | 0.00 | 0.00 | 370.00 | 12.00 | 0.00 | | 320.29 | 43.91 | 91.39 | 0.00 |
| 6.44 | 680.63 | 1,761.54 | 0.00 | 0.00 | 250.00 | 12.00 | 24.00 | | 395.96 | 184.70 | 50.04 | 0.00 |
| 0.00 | 306.61 | 2,841.30 | 0.00 | 0.00 | 410.00 | 0.00 | 0.00 | | 290.62 | 115.52 | 175.14 | 0.00 |
| 59.60 | 173.72 | 3,066.35 | 0.00 | 0.00 | 419.32 | 64.57 | 129.15 | | 1,399.10 | 45.69 | 108.08 | 0.00 |
| 0.00 | 19.84 | 2,357.71 | 0.00 | 0.00 | 335.00 | 4.72 | 0.00 | | 0.00 | 0.00 | 68.92 | 0.00 |
| 66.98 | 146.58 | 1,577.71 | 0.41 | 0.00 | 210.00 | 0.00 | 0.00 | | 295.49 | 0.00 | 164.73 | 0.00 |
| 5.04 | 1,199.97 | 1,969.60 | 0.00 | 0.00 | 300.00 | 24.26 | 0.51 | | 248.35 | 0.00 | 41.26 | 0.00 |
| 0.00 | 230.61 | 6,155.46 | 0.00 | 0.00 | 740.00 | 65.59 | 23.90 | | 492.08 | 9.40 | 209.46 | 0.00 |
| 309.25 | 7,172.29 | 56,038.81 | 26.09 | 12.60 | 7,021.85 | 413.24 | 283.00 | 0.00 | 13,044.70 | 952.59 | 2,403.53 | 29.92 |

000221

FAYETTEVILLE MACC LEDGER

1998-2008

JANUARY 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 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 0.00 | 10.00 | 12.00 | 53.91 | 59.63 | 0.00 | 0.00 | 20.00 | 0.00 | 0.00 | 82.44 | 0.00 | 0.00 | 20.00 |
| 0.00 | 35.00 | 12.00 | 58.35 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 16.27 | 25.39 | 0.00 | 0.00 | 13.01 |
| 0.00 | 5.00 | 16.97 | 0.00 | 58.95 | 0.00 | 0.00 | 10.00 | 5.22 | 23.47 | 155.46 | 0.00 | 0.00 | 30.00 |
| 0.00 | 40.00 | 22.44 | 75.26 | 17.12 | 0.00 | 0.00 | 1.65 | 0.00 | 55.92 | 150.81 | 0.00 | 0.00 | 25.00 |
| 0.00 | 35.75 | 0.00 | 6.14 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 71.62 | 27.96 | 0.00 | 0.00 | 10.00 |
| 0.00 | 30.00 | 0.00 | 55.16 | 34.61 | 0.00 | 0.00 | 5.00 | 0.00 | 0.00 | 75.13 | 0.00 | 0.00 | 30.00 |
| 0.00 | 10.00 | 12.00 | 41.39 | 14.73 | 0.00 | 0.00 | 5.00 | 12.00 | 0.00 | 61.47 | 0.00 | 0.00 | 10.00 |
| 0.00 | 15.00 | 0.00 | 25.08 | 53.59 | 0.00 | 0.00 | 20.00 | 0.00 | 0.00 | 117.99 | 0.00 | 0.00 | 30.00 |
| 0.00 | 30.00 | 0.00 | 0.00 | 26.21 | 0.00 | 0.00 | 15.00 | 0.00 | 0.00 | 26.12 | 0.00 | 0.00 | 15.00 |
| 0.00 | 20.00 | 6.42 | 0.00 | 34.24 | 0.00 | 0.00 | 10.00 | 0.00 | 0.00 | 57.56 | 0.00 | 0.00 | 15.00 |
| 0.00 | 10.00 | 7.02 | 86.58 | 35.33 | 2.27 | 0.00 | 10.00 | 0.00 | 0.00 | 112.01 | 0.00 | 0.00 | 25.00 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 0.00 | 30.00 | 0.00 | 28.26 | 44.92 | 0.00 | 0.00 | 20.00 | 9.21 | 0.00 | 111.63 | 0.00 | 0.00 | 50.00 |
| 0.00 | 25.00 | 0.00 | 29.57 | 29.52 | 0.00 | 0.00 | 20.00 | 0.00 | 18.96 | 147.46 | 0.00 | 0.00 | 15.00 |
| 0.00 | 40.00 | 0.00 | 0.00 | 84.55 | 0.00 | 0.00 | 15.00 | 0.00 | 7.30 | 26.13 | 0.00 | 0.00 | 10.00 |
| 0.00 | 15.00 | 0.00 | 74.43 | 126.28 | 0.00 | 0.00 | 20.00 | 0.00 | 0.00 | 33.77 | 0.00 | 0.00 | 25.00 |
| 0.00 | 35.00 | 12.00 | 0.00 | 72.68 | 0.00 | 0.00 | 25.00 | 0.00 | 0.00 | 52.21 | 0.00 | 0.00 | 15.00 |
| 0.00 | 15.00 | 0.00 | 0.00 | 45.02 | 0.00 | 0.00 | 10.00 | 0.00 | 35.46 | 64.11 | 0.00 | 0.00 | 10.00 |
| 0.00 | 15.00 | 12.00 | 0.00 | 31.72 | 0.00 | 0.00 | 15.00 | 0.00 | 0.00 | 294.99 | 0.00 | 0.00 | 44.79 |
| 0.00 | 50.00 | 0.00 | 67.01 | 60.74 | 0.00 | 0.00 | 29.39 | 0.00 | 96.36 | 153.81 | 0.00 | 0.00 | 35.00 |
| 0.00 | 465.75 | 112.85 | 601.14 | 829.84 | 2.27 | 0.00 | 251.04 | 26.43 | 325.36 | 1,776.45 | 0.00 | 0.00 | 427.80 |

000222

FAYETTEVILLE MACC LEDGER
1998-2008

JANUARY 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 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 0.00 | 1,030.46 | 0.00 | 4.77 | 0.00 | 0.00 | 0.00 | 1,653,854.34 |
| 0.00 | 908.97 | 0.00 | 3.41 | 0.00 | 0.92 | 0.00 | 4,939,774.51 |
| 0.00 | 2,648.42 | 0.00 | 129.39 | 190.06 | 3.66 | 129.34 | 1,245,462.72 |
| 0.00 | 1,576.88 | 0.44 | 42.75 | 42.35 | 0.00 | 49.40 | 616,687.01 |
| 0.00 | 1,296.84 | 0.75 | 23.59 | 29.76 | 0.00 | 31.92 | 235,781.44 |
| 0.00 | 1,388.99 | 4.51 | 32.47 | 37.59 | 16.47 | 60.15 | 119,885.04 |
| 0.00 | 1,471.76 | 0.00 | 58.61 | 63.52 | 9.07 | 58.72 | 132,551.37 |
| 0.00 | 1,912.56 | 4.04 | 101.74 | 58.98 | 7.80 | 64.56 | 101,376.96 |
| 0.00 | 1,682.67 | 4.06 | 27.72 | 47.61 | 4.06 | 78.28 | 81,108.97 |
| 0.00 | 1,743.87 | 7.13 | 41.60 | 67.52 | 1.47 | 55.51 | 65,693.58 |
| 72.00 | 1,977.04 | 9.68 | 137.53 | 121.11 | 18.89 | 62.48 | 95,765.72 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 4.81 | 3,972.23 | 1.08 | 164.68 | 169.08 | 13.03 | 101.80 | 229,958.95 |
| 0.00 | 1,655.34 | 11.22 | 71.74 | 81.93 | 8.18 | 42.17 | 81,479.67 |
| 0.00 | 1,535.30 | 0.00 | 51.30 | 69.20 | 5.81 | 33.72 | 71,945.13 |
| 2.27 | 2,530.43 | 8.35 | 142.90 | 140.77 | 56.92 | 71.22 | 132,157.37 |
| 0.00 | 1,687.28 | 61.43 | 55.00 | 67.05 | 0.00 | 42.00 | 82,363.03 |
| 12.00 | 2,709.45 | 1.95 | 78.82 | 113.52 | 7.25 | 70.97 | 150,928.49 |
| 29.42 | 2,073.84 | 5.73 | 70.66 | 66.42 | 5.43 | 59.11 | 97,184.28 |
| 0.00 | 4,559.62 | 0.09 | 146.25 | 179.11 | 27.49 | 113.20 | 219,674.92 |
| 120.50 | 38,361.95 | 120.46 | 1,384.93 | 1,545.58 | 186.45 | 1,124.55 | 10,353,633.50 |

000223

**General Fund Revenue Report
For the Six Month Period Ended
December 31, 2008**

| | FY2008 | FY2009 | FY2009 | FY2009 | Actual |
|-----------------------------------|----------------------------|------------------------------------|----------------------------|----------------------------|-------------------------------|
| Description | Actual thru December | Annual Budget As Of December | Actual thru December | % of Budget Obtained | % Change Over Last Year |
| Ad Valorem Taxes | | | | | |
| Current Year Taxes | 37,451,483 | 54,101,745 | 40,138,946 | 74% | 7% |
| Prior Years Taxes | 1,165,563 | 1,361,000 | 912,716 | 67% | -22% 1 |
| Penalties & Interest | 101,897 | 320,000 | 93,560 | 29% | -8% |
| Ad Valorem Taxes | 38,718,943 | 55,782,745 | 41,145,222 | 74% | 6% |
| Other Taxes | | | | | |
| Local Option Sales Tax | 15,223,295 | 31,096,000 | 12,233,805 | 39% | -20% 2 |
| Utility Franchise Taxes | 3,983,394 | 8,129,036 | 2,119,293 | 26% | -47% 3 |
| Vehicle License Tax (FVT) | 317,430 | 651,500 | 319,453 | 49% | 1% |
| Privilege License | 905,516 | 985,100 | 962,699 | 98% | 6% |
| Cablevision Franchise Tax | 163,083 | 411,500 | 97,225 | 24% | -40% 4 |
| Vehicle Gross Receipts Tax | 175,832 | 416,600 | 197,078 | 47% | 12% |
| Other Taxes | 20,768,550 | 41,689,736 | 15,929,553 | 38% | -23% |
| Intergovernmental Revenues | | | | | |
| Federal | 23,765 | 35,000 | 9,528 | 27% | -60% |
| State | 5,748,746 | 6,227,840 | 5,313,527 | 85% | -8% 5 |
| Local | 1,367,121 | 3,418,442 | 1,764,000 | 52% | 29% 6 |
| Intergovernmental Revenues | 7,139,632 | 9,681,282 | 7,087,055 | 73% | -1% |
| Other Functional Revenues | | | | | |
| Permits and Fees | 832,554 | 2,049,970 | 987,288 | 48% | 19% 7 |
| Property Leases | 143,967 | 888,270 | 143,741 | 16% | 0% |
| Planning & Engineering Services | 177,331 | 290,172 | 186,480 | 64% | 5% |
| Public Safety Services | 357,277 | 829,970 | 374,476 | 45% | 5% |
| Environmental Services | 33,664 | 71,618 | 34,152 | 48% | 1% |
| Recreation & Cultural Services | 446,238 | 942,533 | 448,709 | 48% | 1% |
| Other Fees & Services | 45,910 | 193,656 | 138,268 | 71% | 201% 8 |
| Other Functional Revenues | 2,036,941 | 5,266,189 | 2,313,114 | 44% | 14% |
| Other Revenue | | | | | |
| Refunds & Sundry | 413,476 | 626,586 | 323,212 | 52% | -22% 9 |
| Indirect Cost Allocation | 456,615 | 987,650 | 493,059 | 50% | 8% |
| Special Use Assessments | 108,675 | 181,000 | 142,027 | 78% | 31% |
| Sale of Assets & Materials | 134,946 | 160,000 | 146,891 | 92% | 9% |
| Other Revenue | 1,113,712 | 1,955,236 | 1,105,189 | 57% | -1% |
| Investment Income | 21,846 | 1,190,500 | 33,209 | 3% | 52% 10 |
| Other Financing Sources | | | | | |
| Transfers In | 4,458,665 | 8,479,318 | 3,976,650 | 47% | -11% 11 |
| Loan Proceeds | | 750,000 | | 0% | 0% |
| Capital Leases | | - | - | 0% | 0% |
| Other Financing Sources | 4,458,665 | 9,229,318 | 3,976,650 | 43% | -11% |
| Fund Balance Appropriation | - | 16,903,459 | - | 0% | 0% |
| Revenues | 74,258,289 | 141,698,465 | 71,589,992 | 51% | -4% |

**General Fund Expenditure Report
For the Six Month Period Ended
December 31, 2008**

| Description | FY2008 Actual thru December | FY2009 Annual Budget As of December | FY2009 Actual thru December | FY2009 % of Budget Expended | Actual % Change Over Last Year |
|---------------------------------|--|--|--|--|---|
| General Fund | | | | | |
| City Attorney | 447,178 | 1,095,719 | 463,674 | 42% | 4% |
| City Manager | 393,081 | 860,485 | 427,154 | 50% | 9% |
| Community Development | 179,820 | 1,513,631 | 205,989 | 14% | 15% 1 |
| Engineering & Infrastructure | 7,208,594 | 13,027,189 * | 6,907,237 | 53% | -4% |
| Finance | 813,747 | 2,679,796 | 1,194,253 | 45% | 47% 2 |
| Fire & Emergency Management | 9,051,702 | 21,716,407 * | 9,798,791 | 45% | 8% |
| Human Relations | 106,670 | 254,902 | 108,790 | 43% | 2% |
| Human Resources Development | 524,250 | 1,159,160 | 517,474 | 45% | -1% |
| Information Technology | 782,464 | 2,977,281 | 970,286 | 33% | 24% 3 |
| Inspections | 1,250,036 | 2,959,932 | 1,332,369 | 45% | 7% |
| Management Services | 563,094 | 1,072,153 | 426,035 | 40% | -24% 4 |
| Mayor & Council | 386,716 | 543,944 | 250,586 | 46% | -35% 5 |
| Other Appropriations | 6,111,325 | 22,576,363 * | 8,450,479 | 37% | 38% 6 |
| Parks, Recreation & Maintenance | 6,769,663 | 16,240,770 | 7,629,795 | 47% | 13% 7 |
| Planning | 265,654 | 968,371 | 378,009 | 39% | 42% 8 |
| Police | 20,505,582 | 42,344,132 | 19,229,130 | 45% | -6% |
| Solid Waste | 5,085,966 | 9,708,230 * | 4,101,341 | 42% | -19% 9 |
| General Fund | 60,445,542 | 141,698,465 | 62,391,392 | 44% | 3% |

*Reflects redistribution of \$2,616,584 from the Other Appropriations budget to the Fire and Emergency Management budget (\$1,333,248), Engineering and Infrastructure budget (\$568,773) and Solid Waste budget (\$714,563) for vehicle replacement.

**General Fund Revenue and Expenditure Variances
Notes for the Six Month Period Ended December 31, 2008**

Revenues

1. Ad Valorem Taxes Prior Years – Decrease primarily due to the FY2008 prior year tax collection of remaining nine-month FY2006 annexation taxes.
2. Local Option Sales Tax – Timing difference due to FY2008 sales tax includes six months of sales tax revenue (July – December 2007) while FY2009 includes posting of five months of sales tax revenue (July – November 2008). December sales tax revenues will be received from the state approximately March 15, 2009. Sales tax revenues as of November 2008 compared to November 2007 have decreased 1% or \$151,673.
3. Utility Franchise Taxes - Second quarter revenues for FY2009 will not be received until approximately March 15, 2009. Franchise tax revenues as of September 30, 2008 compared to September 30, 2007 have increased 8% or \$155,344. This increase is primarily due to the new statewide cable franchise tax and the telecommunications tax.
4. Cablevision Franchise Tax – Most local video programming taxes have been replaced by the statewide cable franchise tax. \$60,000 received during FY2008 was a one-time grant for PEG channel broadcast improvements.
5. State Intergovernmental Revenues – Decrease due to a \$427,000 reduction in Powell Bill street aid proceeds, of which \$390,000 was expected.
6. Local Intergovernmental Revenue – Increase primarily due to a \$348,851 increase in recreation district tax proceeds and \$29,000 received from Eastover for sales tax reimbursements.
7. Permits & Fees – Building permits for the period through December 2008 were up 65%, or \$213,283, over the period through December 2007. Three large projects (Health Department, Town Place Suites, and Reserve at Carrington Place Apartments) resulted in revenue of approximately \$178,800. This increase in revenues is offset by a decrease in revenues for HVAC and electric permits which were down 22% and 18%, respectively.
8. Other Fees and Services – Increase due primarily to an increase in Unified Work Program revenue from Cumberland County in FY2009 compared to FY2008 for reimbursement of the Murchison Road Study – Phase II contract.
9. Refunds and Sundry – Decrease due primarily to one-time NCLM donations received in FY2008.
10. Investment Income – Investments are pooled throughout the year, and therefore, investment income is allocated among the benefiting funds at the end of each fiscal year.

**General Fund Revenue and Expenditure Variances
Notes for the Six Month Period Ended December 31, 2008**

11. Transfers In – Decrease is due to the elimination of the transfer for PWC streetlights, consistent with the transfer agreement adopted by City Council in 2008.

Expenditures

1. Community Development – The increase can be primarily attributed to \$19,000 in contract payments for the Murchison Road catalyst projects.
2. Finance – The increase can be primarily attributed to the timing of the tax collection contract payment to Cumberland County. As of December 31, 2008, a total of \$267,786 was paid for the first five months of FY2009. The payment for the first five months of FY2008 was made after December 2007 due to contract negotiations during this period.
3. Information Technology – The increase is primarily due to an increase of \$72,936 for the purchase of MuniAgenda, Lasefiche, and GAP Analysis software, as well as \$55,649 for ClientPro software. It also includes an increase of \$24,344 to build a records room at 455 Grove Street.
4. Management Services – The decrease is primarily due to the transfer of the call center and associated personnel to the Solid Waste Department.
5. Mayor and Council – The decrease is due to a \$134,748 payment to the Cumberland County Board of Elections for the general election in FY2008 that did not occur in FY2009.
6. Other Appropriations – The increase is primarily due to \$365,112 in loan payments for the new SunTrust installment purchase agreement for equipment and vehicles; a \$1,301,878 increase in the transfer to the PWC consistent with the annexation sewer funding agreement approved by City Council; a \$242,587 increase in the transfer to Debt Service Fund; a \$2,334,376 transfer to the Economic and Physical Development Capital Project Fund, a \$200,000 transfer to the Transportation Fund, and a \$147,752 increase in the transfer to the Transit Capital Fund consistent with the approved Capital Improvement Plan and annual budget; and a required \$350,915 payment to the Bank of New York, bond trustee, to establish a debt service reserve fund for the 1996 City of Fayetteville Finance Corporation bonds; offset by a \$2,718,878 decrease in contract services due to the timing of the sales tax reimbursement to Cumberland County and municipalities.
7. Parks and Recreation / Maintenance – The increase is partially due to a \$180,500 transfer to the Recreation and Cultural Capital Project Fund for playground equipment and the Cape Fear River Trail and a \$50,000 transfer to the General Government Capital Project Fund for building maintenance

General Fund Revenue and Expenditure Variances
Notes for the Six Month Period Ended December 31, 2008

projects consistent with the approved Capital Improvement Plan. The increase is also due to an increase of \$97,453 in vehicle maintenance and fuel. Additional building maintenance costs increased in FY2009 by approximately \$140,765 primarily associated with City Hall. In FY2009, building expenditures of \$22,105 were incurred for the Gilmore Therapeutic Center, which were not in FY2008. The increase is also partially due to increased salary related expenditures due to filled vacancies in FY2009 compared to FY2008.

8. Planning – The increase is primarily due to contract payments for the Uniform Development Ordinance and the Ramsey Street study.
9. Solid Waste – The decrease is primarily due to a decrease of approximately \$1,091,000 in Other Contract Services to outside sanitation companies for the period ending December 31, 2008 as compared to the period ending December 31, 2007 based on the decision to provide solid waste collection services with city staff and equipment instead of private hauler contracts.



February 2, 2009

The City Council
City of Fayetteville
Post Office Box D
Fayetteville, North Carolina 28302

Members of the City Council:

This letter sets forth the nature and scope of the procedures that Cherry, Bekaert & Holland, L.L.P. will perform relative to compliance with laws and regulations and internal control over financial reporting in connection with our audit of the financial statements of the City of Fayetteville, North Carolina (the "City") as of and for the year ending June 30, 2009.

The objective of our audit is the expression of an opinion about whether your financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America. The objective also includes reporting on the City's:

1. Internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with Government Auditing Standards.
2. Internal control related to major programs and an opinion on whether the City complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

The reports on internal control and compliance will each include a statement that the report is intended for the information of the audit committee, management, specific legislative or regulatory bodies, federal awarding agencies, and if applicable, pass-through entities.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include tests of your accounting records, a determination of major program(s) in accordance with OMB Circular A-133, and other procedures we consider necessary to enable us to express such an opinion and to render the required reports.

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and agreements applicable to major programs. Our procedures will consist of the applicable procedures described in the OMB's compliance supplement. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to major programs in our report on compliance issued pursuant to OMB Circular A-133. Additionally, as required by OMB Circular A-133, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan.

At the conclusion of the engagement, it is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the designated federal clearinghouse and, if appropriate, to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit.

Our procedures relative to compliance with laws and regulations and internal control over financial reporting are limited to those discussed herein. We would be happy to discuss our procedures with you further at your request.

Very truly yours,

CHERRY, BEKAERT & HOLLAND, L.L.P.

A handwritten signature in black ink that reads "Cherry Bekaert & Holland LLP". The signature is written in a cursive, flowing style.