



WASHINGTON COUNTY, ARKANSAS
County Courthouse

November 7, 2014

**SPECIAL MEETING OF THE
WASHINGTON COUNTY QUORUM COURT**

Thursday, November 13, 2014
6:00 p.m.
Washington County Quorum Court Room

A G E N D A

1. CALL TO ORDER. JUDGE EDWARDS
2. PRAYER AND PLEDGE.
3. ROLL CALL.
4. ADOPTION OF AGENDA.
5. **CONDITIONAL USE PERMIT APPEAL HEARING: (5.1-5.5)**
Eastern Park Subdivision CUP Conditional Use Permit Approval Request
Location: Section 32, Township 17 North, Range 29 West
Owner: Fred Patrick/L&F
Construction Engineer: USI Consulting Engineers, Ferdinand Fourie
Location Address: 4436 E. Mission Blvd
Proposed Land Use: Approximately 7.66 acres / 17 lots; 15 Single Family Residential (2 other lots-one for septic and one for detention)
Coordinates: Latitude: 36.097785, Longitude: -94.097156
Project #: 2014-018 Planner: Courtney McNair, cmcnair@co.washington.ar.us
 - Introductory Remarks and Presentation by County Staff Summarizing the Project and Staff Recommendation.
 - Testimony from Public Agencies (Health Department, Road Department, etc.)
 - Presentation by the Applicant/Appellant in Support of the Project. (30-minute limit)
 - Presentation by any opponents of the Project. (30-minute limit)

**6. AN ORDINANCE RATIFYING A CONDITIONAL
USE PERMIT DENIED BY THE PLANNING
AND ZONING BOARD.** This ordinance is on first
reading. (6.1)

JOE PATTERSON

- Motion by a Member of the Quorum Court.
- Deliberation of the Quorum Court.
- Public Comment.
(20-minute limit: 10 minutes for & 10 minutes against; 3-minute limit per speaker)
- Vote on Ordinance.

7. ADJOURNMENT.

/ji



WASHINGTON COUNTY PLANNING OFFICE

2615 Brink Dr.
Fayetteville, AR 72701
(479) 444-1724
(479) 973-8417

Agenda Item

APPEAL

APPEAL-November 13, 2014
Eastern Park Subdivision CUP
Project Number- 2014-018
Planner- cmcnair@co.washington.ar.us

ZONING- CONDITIONAL USE PERMIT REQUEST

The determination as to whether a conditional use permit will be granted is subjective to a degree. The Quorum Court may act on issues discussed in the zoning ordinance and criteria checklist when making decisions in these matters.

REQUEST: Conditional Use Permit approval to allow a residential subdivision with 15 residential lots, 1 lot for a decentralized sewer system, and one lot for drainage. The overall density proposed is 2.3 units per acre.

CURRENT ZONING: Project lies within the County's Zoned area (Agriculture/Single-Family Residential 1 unit per acre).

PLANNING AREA: This project is located within Fayetteville's planning area. The city has submitted comments (**appeal-81-82**).

QUORUM COURT DISTRICT: District 15, Butch Pond **FIRE SERVICE AREA:** Goshen VFD **SCHOOL DISTRICT:** Fayetteville

INFRASTRUCTURE: **Water-** Fayetteville **Electric-**Ozarks Electric **Natural Gas-** Source Gas **Telephone-** AT&T **Cable-** Cox Communications

TIMELINE OF EVENTS PRIOR TO THE SEPTEMBER 4, 2014 DENIAL OF THIS CONDITIONAL USE PERMIT:

This project was originally submitted to the Planning Office in February 2014. The applicant decided to table the project several times before it was placed on the Planning Board / Zoning Board of Adjustments (PB/ZBA) agenda for the May 1, 2014 meeting.

MAY 1, 2014 PLANNING BOARD / ZONING BOARD OF ADJUSTEMENTS MEETING SYNOPSIS:

At this meeting, staff recommended that the Board table the project in order for the applicant to investigate additional mitigation efforts for surrounding property owners as the proposed density was higher than adjacent properties. (**See attached excerpt of the minutes for the May 1, 2014 PB/ZBA for the Eastern Park SD CUP, appeal-96-103**)

- The applicant received signatures from **five (5)** surrounding neighbors stating that they were unopposed to his proposed project.
- **Five (5)** neighbors submitted written comments against this proposed project.
- No neighbors spoke at the meeting either for or against this project.
- Five members of the Board were present at the meeting. All five members voted to TABLE the project.

The applicant then asked to table for the May 29, 2014 meeting and removed the project for the June 26, 2014 meeting while he sought another engineer.

SEPTEMBER 4, 2014 PLANNING BOARD / ZONING BOARD OF ADJUSTMENTS MEETING SYNOPSIS:

This Conditional Use Permit (CUP) was heard by the Planning Board / Zoning Board of Adjustments (PB/ZBA) on September 4, 2014. Planning Staff recommended that this CUP be approved with conditions.

- **One (1)** neighbor (who also submitted comments prior) submitted written comments against this proposed project.
- No neighbors spoke at the meeting either for or against this project.
- Six members of the Board were present at the meeting. A motion to DENY this project was made and seconded. Four members voted in favor of approving the denial. One member was opposed to the denial. One member did not vote. Motion passed for the DENIAL of the Eastern Park Subdivision Conditional Use Permit request. **(See attached excerpt of the minutes for the September 4, 2014 PB/ZBA for the Eastern Park SD CUP, appeal-86-95)**

APPLICANT'S CHANGE TO PLAN AFTER PB/ZBA DENIAL:

The applicant submitted a new plan on October 31, 2014. Three of the previously proposed lots were combined into one (1) lot that will be on an individual septic system (Lot 17); the other 14 residential lots will utilize the decentralized sewer system (DCS) as planned. This change reduces the density from 2.3 units per acre to 1.96 units per acre and leaves a total of 15 residential lots and two (2) service lots (detention and decentralized sewer). **(appeal-112)**

This change is due to the fact that a lift station would be required for the three previously proposed lots (if on the DCS) as a result of elevation changes on this site. Individual grinder tanks are not allowed by the City of Fayetteville, and lift stations are costly.

The new layout does not alter staff's recommendations or proposed conditions.

BACKGROUND/ PROJECT SYNOPSIS:

This property is owned by LF Construction. The applicant is Fred Patrick, and the engineer is Ferdi Fourie with USI Engineering. The property is located east of the City of Fayetteville and is within approximately ½ mile of the City Limits of Fayetteville.

Eastern Park Subdivision is requesting Conditional Use Permit approval to allow a residential subdivision with 17 residential lots to be placed on a property that is approximately 7.66 acres in size. Two additional lots are proposed; One lot is to be used for drainage/detention (0.38 acres) and the other, a decentralized sewer system (0.41 acres). The requested density is 2.3 units/acre. Residential lots range in size from 0.23 acres to 0.35 acres.

One entrance off Highway 45 (E Mission Blvd) is proposed to access this development.

The proposed density is high, but, with fencing, and the addition and retention of trees, the applicant has made some efforts to mitigate impact on adjacent neighbors.

In the follow up letter submitted by the applicant (dated August 26, 2014) (**appeal-17**), he proposes to add two trees per lot, make every effort to save existing trees, install fencing, and build a pavilion. He has enclosed sketches of the proposed houses for this site.

In addition to compatibility concerns, staff had concerns that all necessary site elements may not fit on the site because the acreage is fairly small. The engineer has shown all of the elements staff listed as concerns. The plans show the road and road right-of-way (ROW), the utility easements, fire hydrants, sewer line in a separate easement (cannot be in the same easement as water), building setbacks, and signage easement.

TECHNICAL CONCERNS:

Water/Plumbing/Fire Issues:

This property is serviced by City of Fayetteville water. There is an existing waterline located on Hwy 45 (E. Mission Blvd.). The nearest hydrant is located at Hwy 45 and E. Ashley Lane, which is approximately ¼ mile to the west of the proposed entrance to this property. The gpm fire flow for that hydrant is 974 gpm. A new hydrant is proposed near the entrance of the subdivision, and two additional hydrants are proposed to be located within the development.

Fayetteville Water commented, "This project is within the 1-mile planning district and will be subject to preliminary plat review through the city. Detailed Engineering comments will be generated at that time."

The Washington County Fire Marshal asked that an engineered fire flow for the proposed hydrants be submitted at Preliminary Subdivision review. He also stated that all hydrants must be shown on the plans (and labeled or indicated on the legend). Hydrants must be spaced every 500 feet. Information was provided to the applicant regarding road width. No parking will be allowed on the side of the street where the hydrant is located. The cul-de-sacs shown appear to be adequate. No parking will be allowed on the cul-de-sac (this must be posted). A 28 foot turn radius is required on all curves. Modified curbs will be required on bio-islands within the cul-de-sacs.

Full review for compliance with the State Fire Code will be required at Preliminary Subdivision review.

Sewer/Septic/Decentralized Sewer:

Soil work was submitted for this project. Test pit locations are shown on the plats within the Decentralized Sewer System (DSS) lot. The applicant is proposing a gravity-feed system that can be connected to City of Fayetteville sewer in the future if necessary. All review and permitting of this system must be completed at Preliminary Subdivision review.

Three of the previously proposed lots were combined into one (1) lot that will be on an individual septic system (Lot 17); the other 14 residential lots will utilize the decentralized sewer system (DCS) as planned. This change reduces the density from 2.3 units per acre to 1.96 units per acre and leaves a total of 15 residential lots and two (2) service lots (detention and decentralized sewer).

Renee Biby, the Washington County Public Utilities Coordinator, submitted comments regarding the proposed DSS. All review and permitting of the proposed DSS must be completed as per County and State Regulations. From preliminary discussion at County Services regarding this project, it appeared to staff that many of the Quorum Court Members had concerns regarding this type of waste disposal system. Renee Biby has provided some information in your packet and will answer additional questions at the meeting.

Electric/Gas/Cable/Phone:

No comments were received by ATT, Source Gas, or Cox Communications. Ozarks Electric provided general comments to the applicant. Full utility review will take place at Preliminary Subdivision if this CUP is approved.

Roads/Sight Visibility/Ingress-Egress/Parking:

One entrance is proposed off Hwy 45 (E Mission Blvd). As this is a state highway, the applicant will be required to obtain proper permits from AHTD before constructing the entrance. No direct lot access onto Hwy 45 will be allowed (all lots must have access the proposed interior street). In addition, there is a small residential drive, Trough Springs Drive, to the north of this property. No access will be allowed onto that road. Sight distance appears adequate, and a statement verifying the sight distance will be required at Preliminary Subdivision review. It must meet minimum County standards.

The Washington County Road Department requires that the right-of-way (ROW) carry through the proposed cul-de-sacs. They also stated that with the currently proposed plat, the streets will be classified as Class II residential, per county regulations. No utilities, signage, lighting, or structures may be placed in the County ROW.

Drainage:

The Washington County Contract Engineer has no comments on this proposed project at this time. A full drainage study will be required at Preliminary Subdivision review. The drainage report must meet City of Fayetteville's specifications.

As the discharge point at this time is proposed to flow into a pond on an adjacent property, a drainage easement may be required. More information will be gathered at the Preliminary Subdivision phase if this project receives CUP approval.

Environmental Concerns:

At this time, no stormwater permit is required by Washington County; however, the applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality (ADEQ).

Signage/Lighting/Screening Concerns:

Sidewalks and two bio-islands are shown on the plats; these must be maintained by the POA or other entity. Washington County will not maintain sidewalks or bio islands. All outdoor lighting must be shielded from neighboring properties. Any lighting must be indirect and not cause disturbance to drivers or neighbors. All security lighting must be shielded appropriately.

A sign easement is shown on the plat. Staff recommends monument type signage, approximately 60 sq ft or less in size, that is indirectly lit (if lit). The signage will not be allowed to be placed in the County ROW. The proposed signage must be approved by Planning Staff.

A six-foot privacy fence is proposed around the entire property line (except where it touches the Hwy 45 ROW). In addition to the fencing, the engineer for this project provided a tree survey. Every effort must be made to retain the trees that are indicated on these plans as retained. It is understood that during the Preliminary Subdivision phase of this project, some additional existing trees may need to be removed. If additional trees are to be removed, the applicant must show how they plan to replace them at Preliminary Subdivision review. A tree protection plan must be submitted detailing how the trees are to be protected during construction. Staff must review and approve this plan prior to construction.

An agreement with a neighbor to the south to maintain certain large trees must be formalized in writing (with specific tree locations shown) at Preliminary Subdivision. The drip line of these trees must be left intact and fenced for protection during construction to ensure their protection. Currently there are 35 trees marked to be saved on this plat. That is an average of two trees per residential lot. Staff is comfortable with this preservation in conjunction with an additional 3 trees per each lot being planted. These additional three trees do not have to be on each lot, but must average 3 additional trees per lot (some lots have more existing mature trees than others; they may not need additional trees on those lots). If more of the existing mature trees are removed or damaged during construction, staff will then require that an additional 3 new trees be planted for every mature tree removed beyond what is proposed.

Staff puts very high priority on maintaining the existing mature trees.

Staff recommends that all new trees be installed at a minimum 2-inch caliper size. Plantings will be inspected. Any that do not survive must be replaced within the first year after construction is complete.

City of Fayetteville Concerns:

This project is located within approximately ½ mile of the city limits.

The City of Fayetteville submitted comments. According to the letter submitted (**appeal-81-82**) by the City of Fayetteville: generally, the proposed density is incompatible with the City of Fayetteville Future Land Use Plan, and incompatible with surrounding rural residential properties. Mitigation to lessen the impact of this density should be considered.

COMPATIBILITY CONCERNS:

Surrounding Density/Uses:

The surrounding uses are single family residential and agricultural. The site contains one residence and one barn which are proposed to be removed. The proposed density of the project is 1.96 units/acre (1 unit per 0.5 acres). The adjacent average density is 0.14 units/acre (1 unit per 7.125 acres); with lots ranging from approximately 1.25 acres to 24 acres in size. (**appeal-108**)

In the vicinity, there is more dense development. Subdivisions in the general area range from 1 unit/3.39 acres to 1 unit/0.3 acres. There is also a storage facility in the near vicinity. Additional commercial uses are within ¼ mile of the proposed development.

The applicant has proposed some mitigation efforts for adjacent neighbors.

County's Land Use Plan (written document):

According to the County's Land Use Plan,

SECTION III. PHYSICAL DEVELOPMENT

A. LAND USE CONSIDERATIONS

1. RESIDENTIAL

- a. To provide for development of residential areas at appropriate densities. **The proposal is a very high density for this area. The only densities that are similar are in the Holiday Hills Homes SD. These homes are cottage type and several are duplexes. Most other subdivisions in the general area have lots that average ½ acre or more.**
- b. Update, administer and enforce subdivision regulations; and develop, adopt, and enforce zoning and related regulations and codes; **the proposal will be required to meet minimum County Subdivision standards (10,000 sq ft minimum lot size) and the lot sizes as shown are in compliance with these standards. The proposal does not meet current zoning which is why the applicant must request Conditional Use Permit approval.**
- c. Require development to be connected to utilities and utilize zoning as a means to guide the progression of development; **Utilities are available to service this development.**
- d. Protect the character and integrity, and property values, of single-family, residential areas; **the proposal is for single family residential use. Mitigation is proposed for density differences (screening, retention and addition of trees).**
- e. Protect residential neighborhoods from inappropriate non-residential influences through the use of regulatory controls; **the use proposed is residential.**
- f. Ensure land use and development patterns which provide for the most efficient and effective use of available utilities and services, including fire protection; and,
- g. Maintain an adequate county road plan and standards to guide and accommodate traffic movement; to develop differing categories of roads; and to protect rights-of-ways for planned, future roads. **This development takes access from a state highway. All interior roads will be constructed to at least minimum County standards.**

Staff feels that this project as proposed will not be detrimental to public health, safety and welfare. The engineer has also shown that all required site elements can be placed on the property. Staff feels like there has been good communication and discussion about the vision for this project.

As stated at the May 1, 2014 Planning Board, staff feels that this property is located in an area of the County that is undergoing transition from a rural area to a more developed area. Eventually residential rooftops and privacy fencing seem to be a "given" for this area. The applicant has responded to staff's request for additional studies and mitigation efforts. The density remains high, but staff feels that with conditions, this project will not diminish the use and enjoyment of the surrounding properties.

One consideration staff looks at is the impact of what is allowed by right (1 unit per acre, so seven (7) residences would be allowed by right on this property) and what is being proposed (15 residences). If the applicant wanted to add seven (7) residences, he could do so with no regard to any existing tree canopy, no fencing for his neighbors, drainage would not be addressed, and it would be up to the individual lot owner to have an individual septic system installed on his or her lot.

The Conditional Use Permit process allows staff to address issues that help protect the natural resources of the County, protect neighboring properties with conditions, and limit impact of development on the rural areas in the County. Staff feels that seven (7) residences on a cleared lot could have a negative impact on the surrounding area. The conditions that require trees to be retained, additional trees to be planted, and fencing will help to alleviate some of that impact even though the density is higher than what is allow by right.

Future Land Use Plan

The future land use for this area (derived from the City of Fayetteville adopted Land Use plan) is Rural Area Residential. Rural Area Residential is defined as 1 unit/15 acres. Most of the adjacent properties do not conform to this future land use designation (see above section with acreages). This development is not compatible with the future land use designation.

NEIGHBOR COMMENTS/CONCERNS:

All neighbors within 300 feet of the boundary of this property were notified by regular mail of this appeal.

Previously, all neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project. Staff has included previous comments submitted by neighbors with this packet. (**appeal-64-79**)

Staff will update the Quorum Court at the meeting if any additional comments are received.

STAFF RECOMMENDATION:

Staff recommends approval for the Conditional Use Permit request of the Eastern Park Subdivision CUP, with the following conditions:

Water/Plumbing/Fire Conditions:

1. Engineered fire flow for the proposed hydrants must be submitted at Preliminary Subdivision review.
2. All hydrants must be shown on the plans (and labeled or indicated on the legend). Hydrants must be spaced every 500 feet.
3. No parking will be allowed on the side of the street where the hydrants are located.
4. Modified curbs will be required on bio-islands within the cul-de-sacs.
5. The cul-de-sacs shown appear to be adequate.
6. Full review for compliance with the State Fire Code will be required at Preliminary Subdivision review.

Septic Conditions:

1. All review and permitting of the proposed decentralized sewer system (dss) must be completed as per County and State regulations.
2. No parking is allowed on any portion of the dss including the alternate area. The alternate area must remain undisturbed (no overflow parking either).
3. The proposed decentralized sewer system must be gravity flow and use no interceptor tanks.
4. At Preliminary Subdivision Plat, please provide a drawing of the system, operations manual, and details on the SCADA system that will be installed.
5. Prior to Construction Plan approval, proof that the operations permit has been submitted to ADEQ and has been deemed administratively complete should be submitted to the Public Utilities Coordinator.
6. Prior to Final Plat approval, proof that the final permit from ADEQ has been submitted and approved needs to be submitted to Public Utilities Coordinator.
7. Note that prior to the permit being approved by ADEQ, the developer will have to have an approved budget and be required to put up five years of operations expenses to ADEQ.
8. Details about who will own the sewer system upon completion of the subdivision need to be submitted at Preliminary Plat.
9. Note to the developer that there is a \$500 annual fee required for the permit to ADEQ.

10. The Public Utilities Coordinator would like to see something in the covenants that mentions the decentralized sewer system and the responsibility to the homeowners to pay the costs for operations and maintenance of the system (although this is not required by our ordinance).

Roads/Sight Visibility/Ingress-Egress/Parking Conditions:

1. All drives must support 75,000lbs in all weather conditions.
2. No parking is allowed within the Washington County Right-of-way.
3. Obtain proper permits from AHTD before constructing the entrance.
4. All subdivision lots must access onto the proposed roads. No direct access from subdivision lots will be allowed on Hwy 45 (Mission Blvd).
5. No subdivision lot access will be allowed on Trough Springs Drive.
6. A statement verifying the sight distance will be required at Preliminary Subdivision review. It must meet minimum County standards.
7. The Washington County Road Department requires that the right-of-way (ROW) carry through the proposed cul-de-sacs
8. Streets will be classified as Class II Residential, per County regulations.
9. No utilities, signage, lighting, or structures may be placed in the County ROW.

Drainage Conditions:

1. A full drainage study will be required at Preliminary Subdivision review.
2. The drainage report must meet City of Fayetteville's specifications.
3. Care must be taken to avoid contamination of the spring fed pond by runoff created by the development.
4. As the discharge point at this time is proposed to flow into a pond on an adjacent property, a drainage easement may be required. More information will be gathered at the Preliminary Subdivision phase if this project receives CUP approval.

Environmental Conditions:

1. No stormwater permit is required by Washington County at this time; however, applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality. This proposed project is larger than five acres and would require a Stormwater Permit for Large Construction Sites. http://www.adeg.state.ar.us/water/branch_permits/general_permits/stormwater/default.htm

Utility Conditions:

1. Generally, any damage or relocation of utilities will be at the expense of the owner/applicant.
2. All required utility easements must be shown at Preliminary Plat.
3. **Ozarks Electric Comments:**
 1. Any relocation of existing facilities or extension of line that has to be built specifically to feed the subdivision will be at full cost to the developer.
 2. All lot corners must be marked with lot numbers clearly written on the stakes before construction will begin.
 3. If off site easements are needed for Ozarks to provide electricity to the development, easements must be obtained by developer and provided to Ozarks before the design will begin.
 4. All conduits placed at road crossings by developer must have 48 inch of cover at final grade and marked with post to identify end of conduits. (3 – 4 inch schedule 40 conduits to be used for electric only at all road crossings, conduits must extend past the edge of any

obstructions so that they are accessible during construction. Other utilities will require more conduits at road crossing.) There must be minimum separation of 12 inches between conduits for electric and conduits for other utilities. This is NESC code 354.

5. All conduits for road crossings and specific widths of U.E. must be shown on final plat before Ozarks Electric will sign the final plat.
6. Subdivisions will be built on Policy 45 (Ozarks is responsible for up to 50% and the developer is responsible for the remainder of the cost of construction) There will be extra charges to the Developer when extra time or materials are used for rock trenching, boring, select material bedding, shoring, dewatering, etc.
7. All back lot and side lot utility easements to be 20 feet except side lot utility easements to be used for street lights to be 10 feet. All front lot utility easements to be a minimum of 25 feet.
8. Developer must provide Ozarks Electric with a Digital copy (AutoCAD 2004) of the final plat as well as a hard copy.
9. All Utility Easements to be cleared of all trees, brush, dirt piles, buildings and debris so that the easement is accessible with equipment. If easement is not cleared developer may be subject to extra charges.
10. Please contact me when construction begins on subdivision and again when construction is within three months of completion. Greg McGee at (479) 684-4634 or gmcgee@ozarksecc.com

Signage/Lighting/Screening Conditions:

1. Sidewalks and two bio-islands are shown on the plats; these must be maintained by the POA or other entity. Washington County will not maintain sidewalks or bio islands.
2. All outdoor lighting must be shielded from neighboring properties. Any lighting must be indirect and not cause disturbance to drivers or neighbors. All security lighting must be shielded appropriately.
3. A sign easement is shown on the plat. Sign must be placed within the proposed easement.
4. Staff recommends monument type signage, approximately 60 sq ft or less in size, that is indirectly lit (if lit). The signage will not be allowed to be placed in the County ROW. The proposed signage must be approved by Planning Staff.
5. A six (6) foot privacy fence along the property line is required to be installed (except where the property touches the Hwy 45 ROW).
6. An agreement with a neighbor to the south to maintain certain large trees must be formalized in writing (with specific tree locations show) at Preliminary Plat. The drip line of these trees must be left intact and fenced for protection during construction to insure their protection.
7. Every effort must be made to retain the trees that are indicated on these plans as retained. It is understood that during the Preliminary Subdivision phase of this project, some additional existing trees may need to be removed.
8. Currently there are 35 trees marked to be saved on this plat. That is an average of two trees per residential lot. Staff is comfortable with this preservation in conjunction with an additional 3 trees per each lot being planted. These additional three trees do not have to be on each lot, but must average 3 additional trees per lot (some lots have more existing mature trees than others; they may not need additional trees on those lots).
9. If more of the existing mature trees are removed or damaged during construction, staff will then require that an additional 3 new trees be planted for every mature tree removed beyond what is proposed.
10. Any tree that is to be counted as preserved (this includes the trees in the agreement with the adjacent neighbor) must have the drip line preserved and shall be protected from construction activity to prevent impingement by or the storage of construction vehicles, materials, debris, spoils or equipment in tree preservation areas. No filling, excavating or other land disturbance shall take place in tree preservation areas.
11. Before commencing any construction activity, the applicant shall construct tree protection barriers, by a method approved by Planning Staff, on the site along the tree drip line or 10 feet from the trunk, whichever is greater.

12. A tree protection plan must be submitted detailing how the trees are to be protected during construction. Staff must review and approve this plan prior to construction.
13. Staff recommends that all new trees be installed at a minimum 2-inch caliper. Plantings will be inspected. Any that do not survive must be replaced within the first year after construction is complete.
14. County Planning Staff may require other protective measures based upon the individual characteristics of the site and the proposed construction methods. Tree protection measures shall also protect any off-site trees, the roots of which extend onto the site of the proposed construction.
15. If the required barriers surrounding the agreed upon protected trees are not adequately maintained during construction, County Planning Staff shall prescribe remedial measures.

Standard Conditions:

1. Pay engineering fees. Staff will prepare a statement once all invoices are received. If less than one hour of review, there will be no billed charges.
2. Pay neighbor notification mailing fees (\$65.40 and \$66.40) within 30 days of project approval. Any extension must be approved by the Planning Office (invoice was emailed to applicant on 05/01/2014 and 08/28/2014).
3. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
4. This CUP must be ratified by the Quorum Court.
5. No CUP is final until the 30-day appeal period has run (and no appeal has been filed).
6. As this project is located in the City of Fayetteville's Planning area, it must proceed through the City Subdivision Plat process if CUP is granted. It must also proceed through the Washington County Subdivision Plat process after approval is granted by the City of Fayetteville.
7. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
8. All conditions shall be achieved to and completed in the appropriate time period set out by ordinance.
 - o This project requires additional review (Subdivision), and therefore, the applicant must submit for Preliminary project review within 12 months of this CUP project's ratification.

PRIOR PLANNING BOARD/ZONING BOARD OF ADJUSTMENTS ACTION:

_____ CUP Approved
 _____ CUP Ratified
9/4/14 CUP Denied
5/1/14, 5/29/14, 6/26/14 (removed) CUP Tabled

QUORUM COURT ACTION:

_____ CUP Approved
 _____ CUP Ratified
 _____ CUP Denied
 _____ CUP Tabled

Washington County Conditional Use Permit Criteria Checklist (updated 05-01-14) ctm 9.3.14

Project: Eastern Park SD CUP

	Received/ Date
a. That a written application has been filed with the Planning Office and the appropriate fee has been paid.	8.12.14
b. Each property owner as set out in 11-204 has been notified by certified mail.	8.21.14

	Schools	Water	Sewer	Electric, Gas, Phone & Cable	Roads	Fire	Drainage
c. That adequate utilities, roads, drainage and other public services are available and adequate or will be made available and adequate if the use is granted.	Fayetteville	Fayetteville	Decentralized Sewer System	Ozarks, SourceGas, ATT, Cox	AR Hwy 45	Goshen/ Fayetteville	detention proposed, outlet to pond on adjacent property
general notes on each: expansion or improvements needed, etc.	No concerns, low number of residences.	Existing water line. Good pressure on nearest hydrant.	Soil work has been completed. One lot is dedicated to the DCS. Full design and review will take place at Preliminary SD.	Make sure all utilities have adequate easements. Space could be a concern.	Must obtain permits from the AR Hwy Department for driveway connection.	Hydrants are shown every 500'. Adequate turn arounds shown.	A drainage easement may be required as the drainage is going to adjacent pond. Must follow Fayetteville's drainage standards.

	Surrounding uses- adjacent	Surrounding uses- general proximity/ neighborhood
d. That the proposed use is compatible with the surrounding area.	The surrounding uses are single family residential and agricultural. The site contains one residence and one barn which are proposed to be removed. The proposed density of the project is 2.3 units/acre (1 unit per 0.4 acres). The adjacent average density is 0.14 units/acre (1 unit per 7.125 acres); with lots ranging from approximately 1.25 acres to 24 acres in size.	In the vicinity, there is more dense development. Subdivisions in the general area range from 1 unit/3.39 acres to 1 unit/0.3 acres. There is also a storage facility in the near vicinity. Additional commercial uses are within ¼ mile of the proposed development.
general notes:		
e. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare	Staff feels that this project as proposed will not be detrimental to public health, safety and welfare. The DCS must be designed and bonded as per ADEQ and WC regulations. Detention and drainage will be developed to City of Fayetteville's standards. Sight distance for the proposed driveway appears adequate.	
general notes:		
f. That the Conditional Use will not be injurious to the use and enjoyment of other property in the surrounding area for the purposes already permitted, nor substantially diminish and impair property values within the surrounding area.	The applicant has proposed some mitigation efforts for adjacent neighbors. They are proposing a 6 foot privacy fence along the entire boundary (except where the property fronts Hwy 45). An average of 2 mature trees per residential lot are proposed to be retained. Staff is recommending an additional 3 trees per lot to be added (the applicant proposed 2, staff is recommending 3).	

<p>g. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding area for uses permitted in the zone.</p>	<p>general notes:</p> <p>As stated at the May 1, 2014 Planning Board, staff feels that this property is located in an area of the County that is undergoing transition from a rural area to a more developed area. Eventually residential rooftops and privacy fencing seem to be a "given" for this area. The applicant has responded to staff's request for additional studies and mitigation efforts. The density remains high, but staff feels that with conditions, this use will not impede normal development of this area.</p>
--	--

Other:

<p>1. Compatibility with the policies within the adopted County Land Use Plan</p>	<p>general notes:</p> <p>SECTION III. PHYSICAL DEVELOPMENT A. LAND USE CONSIDERATIONS 1. RESIDENTIAL a. To provide for development of residential areas at appropriate densities. The proposal is a very high density for this area. The only densities that are similar are in the Holiday Hills Homes SD. These homes are cottage type and several are duplexes. Most other subdivisions in the general area have lots that average ½ acre or more. b. Update, administer and enforce subdivision regulations; and develop, adopt, and enforce zoning and related regulations and codes; the proposal will be required to meet minimum County Subdivision standards (10,000 sq ft minimum lot size) and the lot sizes as shown are in compliance with these standards. The proposal does not meet current zoning which is why the applicant must request Conditional Use Permit approval. c. Require development to be connected to utilities and utilize zoning as a means to guide the progression of development; Utilities are available to service this development. d. Protect the character and integrity, and property values, of single-family, residential areas; the proposal is for single family residential use. Mitigation is proposed for density differences (screening, retention and addition of trees). e. Protect residential neighborhoods from inappropriate non-residential influences through the use of regulatory controls; the use proposed is residential. f. Ensure land use and development patterns which provide for the most efficient and effective use of available utilities and services, including fire protection; and, g. Maintain an adequate county road plan and standards to guide and accommodate traffic movement; to develop differing categories of roads; and to protect rights-of-ways for planned, future roads. This development takes access from a state highway. All interior roads will be constructed to at least minimum County standards.</p>
<p>2. Compatibility with the Future Land Use Plan Map (showing Cities' land use plans for their Planning areas) <i>Must be considered as per A.C.A. 14-17-209.</i></p>	<p>Rural Area Residential</p> <p>The future land use for this area (derived from the City of Fayetteville adopted Land Use plan) is Rural Area Residential. Rural Area Residential is defined as 1 unit/15 acres. Most of the adjacent properties do not conform to this future land use designation (see above section with acreages). This development is not compatible with the future land use designation, but can be made compatible with existing surrounding uses.</p>



WASHINGTON COUNTY PLANNING OFFICE

2615 Brink Drive, Suite 102
Fayetteville, AR 72701
(479) 444-1724
(479) 444-1786 - Fax

PLANNING BOARD/ZBA DECISION APPEAL

BECKY LEWALLEN
CO. & PROBATE CLERK
WASHINGTON COUNTY

2014 SEP 10 PM 3:29

FILED

I, Fred Patrick (L&F Construction)
name 2479 Camelot Place, Fayetteville, AR 72703
address
479-466-3352 fredflymen@sbcglobal.net
phone/email

I am hereby filing an appeal of a recent decision of the Washington County Planning Board/ Zoning Board of Adjustments (ZBA). My appeal is being filed within thirty (30) days of the decision as required by Ordinances 2009-33, 43, 67, and 2010-02 amending Section 11-206; "Appeals from Board" in "Chapter 11-Planning and Development, Article VI-Zoning" in Washington County, Arkansas.

During the September 4, 2014 meeting of the Washington County Zoning Board of Adjustments, a Conditional Use Permit (CUP) was presented for approval. The CUP was for a (circle one) Commercial Use / Industrial Use / Residential Use / Other Use, located in Section 32, Township 17N, Range 29W, in Washington County.

My understanding of the decision of the Washington County ZBA is as follows:
Conditional Use permit for residential subdivision with a density of 2.33 units/acre has been denied by the Planning Board, and therefore we are not allowed to move forward with a Preliminary Plat or construction of the 17 lot subdivision.

- I am appealing this decision to the Quorum Court for the following reasons:
1. All previous concerns/comments related to the CUP submittal has been addressed, including an extensive tree surveying to catalog all existing trees, and an agreement to go above and beyond normal tree mitigation requirements.
2. Use is not contradictory to the surrounding area, and the proposed residential use will be an improvement from the existing conditions in the area.

I understand that the Quorum Court will follow the same procedures as the Washington County ZBA to reach a decision. The decision of the Quorum Court may be appealed to Circuit Court within thirty (30) days from said decision. I certify the above statements are correct to the best of my knowledge. (If extra room is needed please attach additional sheets.)

[Signature]
(signature)

9/10/14
date

Information Submitted by the Applicant

2479 Camelot
Fayetteville, AR 72701
(479) 466-3352
lfconstruction@sbcglobal.net



August 26, 2014

Juliet Richey
Planning Director
Washington County Planning Department
2615 S. Brink Dr
Fayetteville, AR 72701

Re: CUP for Subdivision

Dear Mrs. Richey,

This letter is a follow-up to our letter dated April 11, 2014. The purpose of the letter is to communicate in writing a few of the things we discussed in our last meeting.

Trees

We will add two trees per lot to be planted in the front yard behind the right of way. We will make every effort to save existing trees on the property.

Other Structures

We will install fencing where shown on lot layout. We also have plans to install a 20'x20' pavilion on the northwest side of the subdivision.

Houses

Enclosed are renderings of proposed houses to be built upon final approval of subdivision.

Lot Sizes & Compatibility

Several recently developed subdivisions near our proposed subdivision (within approximately a 1-mile radius), have larger lot sizes with larger houses than we are proposing. However, we feel that smaller houses (approx. 2500-3000 sq ft) with smaller lots are more compatible with adjacent existing homes.

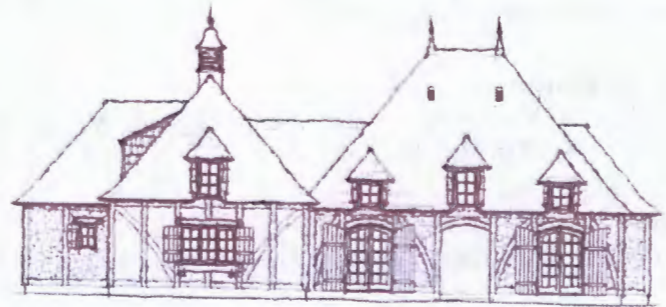
Sincerely,
Fred Patrick
L&F Construction, LLC

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Renderings of Proposed Houses



Front Elevation



Front Elevation



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WASHINGTON COUNTY
PLANNING

August 10, 2014
Juliet Richey
Planning Director
Washington County Planning Department
2615 S. Brink Dr.
Fayetteville, AR 72701

Ferdinand Fourie, P.E.
Project Manager
4847 Kaylee Avenue-Suite B
Springdale Arkansas 72762
479.872.7115 Telephone
479.872.7118 Facsimile
www.usi-ce.com
ffourie@usi-ce.com

Re: Eastern Park Subdivision
Conditional Use Permit
USI Project No 1409037 00

Dear Juliet:

Please find enclosed application and exhibits as a request for a Conditional Use of the approximately 7.65 acre property at 4436 E. Mission Blvd. The request is for use of the property as single-family residential with lot sizes less than 1-acre. The property would be subdivided into 19 lots, of which one will be used for drainage control, and the other as a location for a decentralized waste water treatment system. The remaining 17 residential lots will vary in size from 0.23-acre to 0.35-acre.

Traffic impact due to the development will be minor. The development may generate 170 trips per day (10 trips/dwelling * 17 units)

Proper drainage infrastructure and drainage discharge control will be utilized to limit the post-development drainage from the site to pre-developed amounts in all directions from the site.

An 8-inch water line is located on the south side of Mission Blvd. Fire hydrant flow at the corner of Mission Blvd. and Ashley Lane is as follows:

Static Pressure : 68 psi

Residual Pressure : 26 psi @ 974 gpm

Sewer services will be provided with a decentralized waste water treatment system that will be proposed on Lot 2. Treated effluent from the plant will be discharged through underground polyethylene drip line. An evaluation of the soils conditions have been completed by a Department of Health Designated Representative. The results of this evaluation show that the soil is suitable to be utilized as drip fields at a rate of approximately 0.7 gallon/square feet/day. The subdivision sewer collection system shall gravity flow to the treatment system.

Please let me know if you have any questions or need additional information.

Sincerely,
USI Consulting Engineers, Inc.



Ferdinand Fourie, P.E.
enclosures

August 1, 2014
Juliet Richey
Planning Director
Washington County Planning Department
2615 S. Brink Dr.
Fayetteville, AR 72701

Ferdinand Fourie, P.E.
Project Manager
4847 Kaylee Avenue-Suite B
Springdale, Arkansas 72762
479.872.7115 Telephone
479.872.7118 Facsimile
www.usi-ce.com
ffourie@usi-ce.com

Re: Eastern Park Subdivision
Conditional Use Permit
USI Project No. 1409037.00

Dear Juliet:

Please find enclosed application and exhibits as a request for a Conditional Use of the approximately 7.65 acre property at 4436 E. Mission Blvd. The request is for use of the property as single-family residential with lot sizes less than 1-acre. The property would be subdivided into 19 lots, of which one will be used for drainage control, and the other as a location for a decentralized waste water treatment system. The remaining 17 residential lots will vary in size from 0.23-acre to 0.35-acre.

Traffic impact due to the development will be minor. The development may generate 153 trips per day. (9trips/dwelling * 17 units)

Proper drainage infrastructure and drainage discharge control will be utilized to limit the post-development drainage from the site to pre-developed amounts in all directions from the site.

An 8-inch water line is located on the south side of Mission Blvd. Fire hydrant flow at the corner of Mission Blvd. and Ashley Lane is as follows:

Static Pressure : 68 psi
Residual Pressure : 26 psi @ 974 gpm

Sewer services will be provided with a decentralized waste water treatment plant that will be proposed on Lot 2. Treated effluent from the plant will be discharged through underground polyethylene drip line. An evaluation of the soils conditions have been completed by a Department of Health Designated Representative. The results of this evaluation show that the soil is suitable to be utilized as drip fields at a rate of approximately 0.7 gallon/square feet/day.

Please let me know if you have any questions or need additional information.

Sincerely,
USI Consulting Engineers, Inc.



Ferdinand Fourie, P.E.
enclosures

2479 Camelot
Fayetteville, AR 72701
(479) 466-3352
lfconstruction@sbcglobal.net



April 11, 2014

Juliet Richey
Planning Director
Washington County Planning Department
2615 S. Brink Dr
Fayetteville, AR 72701

Re: CUP for Subdivision

Dear Mrs. Richey,

This letter is a follow-up to our letter dated April 1, 2014. In our previous letter, we mistakenly stated that we had signed statements from all the adjacent property owners. We currently have signed statements from all but one of the adjacent property owners stating that they have no objections to the concept plan for our proposed subdivision. We also want to address concerns that City of Fayetteville Planning Division expressed in their letter dated February 18, 2014.

The property owner on the southwest side of our proposed subdivision would not sign the statement. The entrance street is adjacent to the east side of his property, and the septic area and one residential lot in our subdivision are adjacent to the north side of his property. He was concerned about privacy for his family at their pool which is located approximately 32 yards south of the property line. We have committed to building a 6' tall privacy fence near the property line between the south side of our subdivision and the north side of his property. Figure 1 below shows the view from the property line looking south towards his pool.

The property owner on the southeast side of our proposed subdivision, Mr. Barry Bramlett, signed the statement when we added the following: "There are three trees that are on property line that must be protected and any fences that are built must be on my [Mr. Bramlett's] side of property." Figure 2 shows a section of the tree line that contains the three trees we have committed to preserving. We will identify and clearly mark the three trees before beginning work on that area of the site.

The February 18 letter from the City expressed concern about the compatibility with surrounding rural areas especially in terms of agribusiness and food production. A majority of the lots we are proposing are 190 feet long and have an area of approximately 1/3 acre. The backyards of these lots provide ample space for small traditional vegetable gardens as well as raised-bed vegetable gardens. There is plenty of space on each lot for fruit trees and berry bushes. The City requires a setback of 25'. We are considering a setback of up to 45' to create a rural feel in the neighborhood. Our goal is to be consistent with County and City requirements such as infill, preserving nature, minimizing impact on surrounding property, and saving trees.

If you have further questions, please let me know. We are looking forward to meeting with you next week.

Sincerely,
Fred Patrick
L&F Construction, LLC

2479 Camelot
Fayetteville, AR 72701
(479) 466-3352
lfconstruction@sbcglobal.net

April 1, 2014

Juliet Richey
Planning Director
Washington County Planning Department
2615 S. Brink Dr
Fayetteville, AR 72701

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Re: CUP for Subdivision

Dear Mrs. Richey,

This letter is to address the items in Article 10 "Criteria for Allowance of Conditional Uses" of the Washington County CUP Application. Our company is applying for a CUP for property located at 4436 E. Mission Blvd. We respectfully submit that the proposed subdivision meets the criteria set forth in Article 10 (1) a-g.

Article 10 (1) a. "That a written application has been filed with the Planning Office and the appropriate fee has been paid."

This step has been completed.

Article 10 (1) b. "That each property owner set out in Article 14 has been notified by return receipt mail."

We have obtained signed statements from each property owner as requested at our previous meeting.

Article 10 (1) c. "That adequate utilities, roads, drainage and other public services are available and adequate or will be made available and adequate if the use is granted."

The committee stated that this criterion was met at the previous meeting.

Article 10 (1) d. "That the proposed use is compatible with the surrounding area."

The property is located in Fayetteville's growth area. It is 1.5 miles east of Arkansas 265 on Arkansas 45. The state and city are spending over \$13 million¹ to improve the infrastructure along Arkansas 265. Fayetteville's 2030 Master Plan includes extending Skillern Road to the east crossing Oakland Zion Road and passing just to the north of the proposed subdivision before connecting to Arkansas 45 slightly to the east of the proposed subdivision. These current and future plans demonstrate that city and state officials expect growth in east Fayetteville to continue.

Entrances to Covington Park and Barrington Parke subdivisions are located less than one mile west of the proposed subdivision. Lot sizes in Covington Park range from about 57 to 93 feet in width and from 137 to 200 feet in depth. Lots in Barrington Parke vary from about from 71 to 110 feet wide and from 150 to 195 feet deep. With widths from 56 to 108 feet and depths from 100 to 190 feet, our proposed subdivision has comparable, if not slightly larger, lot sizes relative to these neighboring subdivisions. The subdivision which sits south of Arkansas 45 with

an entrance yards from the proposed subdivision contains small cottages with small lots. See Figure 1.

Tower Storage is the only large-scale business located in the vicinity. See Figure 2. It is located between Oakland Zion Road and the proposed subdivision. The City Plan 2030 Future Land Use Plan shows proposed land use of "Residential Neighborhood" to the west of Oakland Zion Road and "Rural Residential" to the east of Oakland Zion Road, including where Tower Storage is located. See Figure 3.

We submit that our proposed subdivision is compatible with the area because it provides a transition between the "Residential Neighborhood" zoning and the "Rural Residential" zoning with Tower Storage in between. The current and future street expansions indicate that our proposed subdivision is compatible with expected levels of growth in east Fayetteville.

Article 10 (1) e. "That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare."

We are proposing a small neighborhood with single-family homes. A Bill of Assurance and Protective Covenants will be established for the subdivision (a copy is available upon request). This will encourage residents to maintain clean and tidy properties. It will also legally bind residents to provide maintenance for common areas such as the subdivision entrance and the detention pond.

Article 10 (1) f. "That the Conditional Use will not be injurious to the use and enjoyment of other property in the surrounding area for the purposes already permitted, nor substantially diminish and impair property values within the surrounding area."

As requested in Article 10 (1) b, adjacent property owners have been notified of the proposed subdivision. They did not voice any concerns about their property values. The Bill of Assurance and Protective Covenants that will be established for the subdivision will, at a minimum, maintain property values within the subdivision and in the surrounding area. Based on feedback from area realtors, these documents and their enforcement will likely enhance property values.

Article 10 (1) g. "That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding area for uses permitted in the zone."

Currently, the subdivision is surrounded by rural residential areas with the exception of Tower Storage which is situated just west of the property. The proposed east/west street will end in a stub to the east. This will allow for connectivity to any development to the east of the subdivision. There is an existing pond west of the property that would naturally prevent the street from connecting to the west.

A letter from Geoffrey Bates dated February 6, 2014 details the lot sizes and traffic impacts. It also addresses the sewer system and drainage.

In closing, this proposal is for a 18 lot subdivision. Due to significant population growth in northwest Arkansas over the past 10 years, there is a need for single family homes in and near Fayetteville. This growth is continuing as highlighted in an article in the March 19, 2014, edition of the *Arkansas Democrat-Gazette*. The article reported that "experts are showing little concern about [housing] oversupply." Based on the second 2013 Skyline Report, it was also

noted that “key employers in Northwest Arkansas planned on adding more than 2,000 workers...over the next three years.” These workers will add to the current demand for housing.

We believe our CUP should be granted because we have met your requirements and because housing, such as what we’re proposing to build, is needed in and near Fayetteville. Thank you for carefully considering our proposal. Please contact me at your convenience with any further questions.

Sincerely,

Fred Patrick
Owner, L&F Construction, LLC

Notes

¹ This amount was taken from information given by the AHTD at the Skyline Review in Bentonville in February 2014.



Figure 1. View looking south towards the adjacent property owner's pool. The chain-link fence is on or near the property line. This property of located southwest of the proposed subdivision.



Figure 2. View looking south towards tree line that separates our property from the property southeast of the proposed subdivision. The adjacent property owner, Mr. Bramlett, will help us mark the three trees he especially wants preserved.



Figure 1: Satellite view of site and surrounding area.



Figure 2. Tower Storage units. Photo from Google Earth.

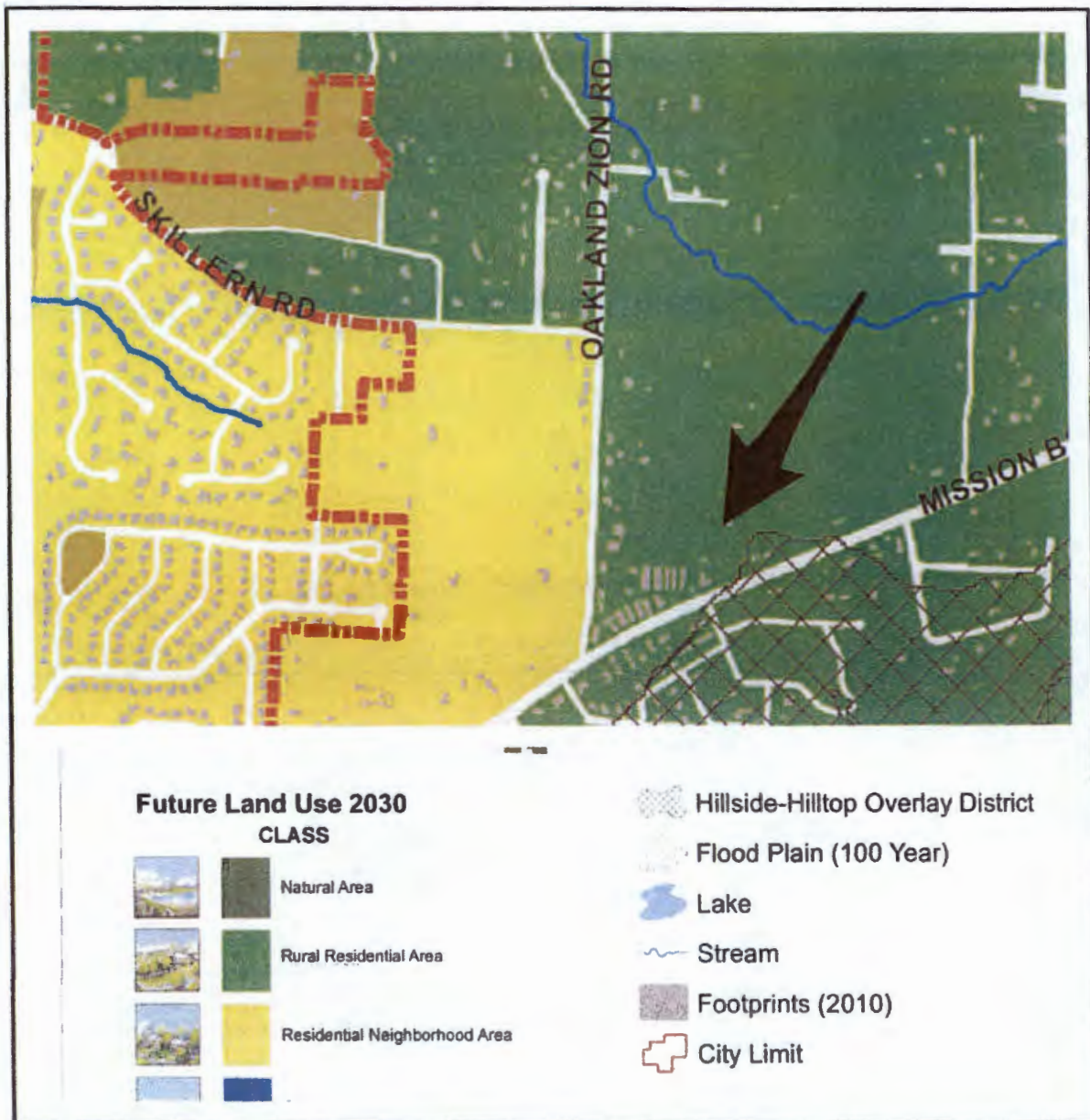


Figure 3. The arrow indicates the approximate location of the proposed subdivision. The map is from the City of Fayetteville's 2030 Plan.

**Corbitt Environmental Consulting
P.O. Box 937
Lowell, AR 72745
(479) 466-6183**

Date: January 23, 2014

To: Fred Patrick

cc: Bates and Associates
attn.: Derek

Tom Bartlett

Project and location: Mission Blvd, Hwy 45 E, Fayetteville, AR (7.66 acre tract)

Subject: Test Pit Results for Community Drip System, Seasonal Water Table Depths & Loading Rates

Fred,

Below is a list of the soil test pit #'s along with the corresponding soil loading rates for the proposed .59 lot reserved and labeled "step system area" that will serve a small number of residential homes.

<u>Pit #</u>	<u>Depth to SWT's</u>	<u>Loading Rates for Drip Gal/Sq. Ft./Day</u>
1 South	BSWT @ 38" (Mn)	.779
2 North	BSWT @ 33" (Mn)	.677

The information above will have to be reviewed by the Arkansas Department of Environmental Quality before any permit or approval for the use of these soils for an community drip system can be granted. The soil in other areas of the property could be more or less suitable.

If you have any questions please feel free to email me or give us a call.

Sincerely,

Mark Corbitt *Rebecca Corbitt*

Mark Corbitt,
Designated Representative #0905238
Rebecca Corbitt
Designated Representative #1136373
Professional Soil Classifier #60



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FEB 07 2014

WASHINGTON COUNTY
PLANNING



**Bates &
Associates, Inc.**

Civil Engineering & Surveying

91 W. Colt Square Dr. Suite 3 / Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350

February 6, 2014

Juliet Richey
Planning Director
Washington County Planning Department
2615 S. Brink Dr.
Fayetteville, AR 72701

Re: Fred Patrick CUP for Subdivision

Dear Mrs. Richey,

This letter is to address the items for the conditional use permit. The developer is proposing a 19 lot subdivision within the 1 mile growth area of the City of Fayetteville. The developer is requesting a conditional use for lots smaller than 1 acre.

The largest lot is 0.3 acres (75'x178') and the smallest is 0.19 acres (83'x 100'). The lots will be served by a typical sewer system that will gravity feed to a decentralized sewer system. The system will be designed so that it can easily connect to city sewer once sewer has been extended to the area.

There will be an increase in traffic to State Highway 45 but it will be minor due to the small size of the subdivision.

The runoff from the site drains to an existing off site pond in the northeast corner of the property. A full drainage report will be submitted with the preliminary plat.

The nearest hydrant is on the corner of Mission and Ashley Lane. The static pressure is 68 psi, residual pressure is 26 psi and the flow is 974 gpm.

A copy of the soils work is attached.

If you have any questions or require additional information, please feel free to contact me at your convenience.

Sincerely,

Bates & Associates, Inc

Geoffrey H. Bates, P.E.

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FEB 07 2014

WASHINGTON COUNTY
PLANNING

**BILL OF ASSURANCE AND
PROTECTIVE COVENANTS
EASTERN PARK**

RECEIVED BY

APR 04 2014

WASHINGTON COUNTY
PLANNING

A Subdivision to Washington County, Arkansas
Washington County, Arkansas

KNOW ALL MEN BY THESE PRESENTS, that L&F Construction, LLC, an Arkansas Corporation (sometimes referred to herein as "Declarant"), as owner and subdivider of all the lots in Eastern Park, a subdivision in Washington County, Arkansas, (referred to herein as the "Subdivision"), hereby enters the following assurances and covenants with respect to the Subdivision:

1. All lots in the Subdivision shall be residential lots, and no structures shall be erected on any of said lots other than one single family dwelling to be used for residential purposes. A guest house, cabana, and/or detached garage designed for not fewer than two cars may be allowed as long as it is in keeping with the architectural design of said residence. Any dwelling house construction upon any lot shall have at least 2,500 square feet of heated area excluding porches, garages and breezeways and shall have not less than 1,500 square feet on the ground floor.
2. No vehicles may be parked on the streets of the Subdivision. Lot owners shall provide sufficient off street parking to accommodate the vehicles used by their families and guests. Also, no semi-trailer trucks or commercial vehicles shall be allowed to park overnight in the Subdivision, either on the streets or on privately owned lots.
3. No lot shall be re-subdivided or re-platted.
4. No trade or business shall be carried on upon any lot in the Subdivision, nor shall anything be done or performed thereon which may become an annoyance or nuisance to the neighborhood or detrimental to the residential value of any lot in the Subdivision.
5. No trailer, mobile home, tent, shack, metal building, or other unsightly building or structure, temporary or permanent, shall be erected or used on said lots.
6. Recreational and camping vehicles, utility trailers, and boats may be stored and parked on the lots. However, these vehicles, trailers and boats shall be located behind the house, guest house, or fence, or in or behind the garage, or otherwise screened so that they are not readily visible from the street or adjoining lots. Screening walls and fences must be constructed of brick, stone or shadow-box-style wood.
7. No fences of any kind shall be constructed between the front building set back line and the curb without the permission of the Declarant. "Front" as used herein shall be that portion of the lot between the residence situated thereon and the street abutting said lot and includes

both sides of a corner lot. Any fence along or upon any portion of any lot in said Subdivision must be shadow-box-style and/or brick or stone masonry and/or wrought iron and not exceed six (6) feet in height. No chain-link metal fences shall be erected on said lots.

8. The owner(s) of each lot shall construct or cause to be constructed a concrete driveway connecting a minimum of two-car garage of said dwelling to the street, said drive or drives being of adequate width to accommodate two or more automobiles in total.
9. All lots must have sod installed in the front and on both sides of the main dwelling.
10. Swimming pools are permitted in the Subdivision but must be ground level only.
11. Satellite dishes not larger than eighteen (18) inches, may be installed on residential lots. The satellite dish shall be located behind the house and screened so that they are not readily visible from the street or adjoining lots.
12. No commercial or private farming will be allowed on any lot. However, a backyard garden will be permitted when it is sized for the needs of the family occupying the lot. Such a garden shall be maintained so that it does not appear weedy, unkempt or unsightly.
13. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes. Provided further that such household pets must be kept in accordance with the leash laws of the City of Fayetteville, Arkansas.
14. All lots must be maintained in neat manner without the accumulation of debris or unsightly growth of grass or weeds.
15. No noxious or offensive activity shall be carried on upon any lot.
16. After construction has commenced on a lot or if any improvement is damaged or destroyed the improvement must be completed or restored promptly in order to avoid any unsafe or unsightly condition.
17. No sign of any kind shall be displayed to the public view on any lot except one (1) real estate sign of not more than nine (9) square feet for the sale of the property.
18. No inoperative or junk motor vehicles or other vehicles shall be permitted to remain upon any lot or lots or in any public streets in said Subdivision for a period in excess of two (2) days. At no time will motor vehicles be allowed to be parked on said lots other than on the driveway between the street and the garage.
19. The association of owners of lots in the Eastern Park Subdivision (the "Association") shall be responsible for maintenance and repair of the fence located adjacent to Arkansas Highway 45

bordering the Subdivision. Each lot owner shall be assessed a prorata share of the cost of maintaining and repairing such fence.

20. Any assessment which shall be made against any lot as provided in paragraph 19 herein shall constitute a lien against such lot until it is paid. Any assessment which is not paid within 30 days after it becomes due shall bear interest at the highest rate permitted by applicable law. Declarant or the Association, as their interests appear, may bring an action at law against the owner personally obligated to pay such assessment or may foreclose such lien against the lot, and interest, costs and attorney fees for any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse or abandonment of the Common Property or the Amenity Property. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage.
21. In order to insure that all dwellings and other buildings to be located on any lot in the Subdivision shall be compatible with other improvements in the Subdivision, no buildings shall be erected, placed or altered on any lot in the Subdivision until the construction plans and specifications have been submitted to, and approved by, the Architectural Control Committee. For such time as the Declarant shall own one or more of the lots in Subdivision, the Architectural Control Committee shall be made up such persons as the Declarant may appoint. At such time as the Declarant shall own none of the lots in the Subdivision, or at such earlier time as the Declarant may elect to resign from membership on the Architectural Control Committee, the Committee shall be made up of such persons as the Association may designate from time to time.
22. These covenants and restrictions are to run with the land, and shall be binding on all of the parties, their heirs and assigns for a period of 25 years from the date hereof. At any time within six months from the expiration date a majority of the then lot owners may express their intention in writing drafted so as to be recorded with the Register of Deeds that they no longer care for these covenants and the same shall be terminated. In the event that no such action is taken, these covenants shall continue for periods of five years and any five year period may be terminated in accordance with the terms for the original termination. It is further provided that should the majority of the lot owners at any time wish to amend these covenants either by adding to or taking from the present form, the same shall be incorporated in a written instrument capable of being recorded as above referred to and under the same terms and conditions thereof; provided, however, that the rights of the Declarant as set forth in paragraphs 20 and 21 herein shall not be amended, modified or revoked without the written consent of the Declarant. Each lot shall entitle owner(s) to one vote.
23. If the parties herein or any of them or their heirs or assigns shall violate or attempt to violate any of the covenants or restrictions herein before the 25 years from date hereof and likewise as to continuations it shall be lawful for any other persons or person owning any home in the Subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions and either to prevent him or them from so doing or to recover damages or other penalties for such violation.

24. In the event any provision or any part of these covenants shall be adjudged invalid or ineffective, the remaining provisions shall continue in full force and effect and shall be construed and enforced accordingly.

IN WITNESS WHEREOF this instrument has been executed this ____ day of _____, 2014.

L&F CONSTRUCTION, LLC

ATTEST:

BY: _____
Ashley F. Patrick, Owner

Lemuel F. Patrick, Owner

ACKNOWLEDGEMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this ____ day of _____, 2014, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Ashley F. Patrick and Lemuel F. Patrick, to me personally known, who stated that they were the owners of L&F Construction, LLC, a corporation, and were duly authorized in their capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ____ day of _____, 2014.

My Commission Expires:

Notary Public

BY-LAWS

EASTERN PARK

PROPERTY OWNERS ASSOCIATION

**ARTICLE I
Definitions**

Section 1. Eastern Park Property Owners Association. An Arkansas non-profit corporation formed to promote the collective and individual property and civic interests of all persons owning property in Eastern Park Subdivision, being a subdivision to Washington County, Arkansas, the plat of which was filed for record on 2014, in Drawer at Pages, Washington County, Arkansas and to own, operate, and maintain any area which may now or hereafter be designated as Common Property and to operate and maintain any area which may now or hereafter be designated as Amenity Property in accordance with the provisions set forth in the Bill of Assurances and Protective Covenants of Eastern Park Subdivision.

**ARTICLE II
Location**

Section 1. The principal office of the Property Owners Association shall be located at , Fayetteville, Arkansas.

**ARTICLE III
Membership**

Section 1. A person shall become a member of the Property Owners Association upon the recordation of the instrument of conveyance whereby he acquires title to a Lot in Eastern Park Subdivision. Each Lot shall constitute one membership in the Property Owners Association.

Section 2. The rights of membership are subject to the payment of all assessments, the obligation of which assessments is imposed against each owner of, and becomes a lien upon the Lot against which such assessments are made.

Section 3. The Property Owners Association membership of each Owner shall be an appurtenant right to the Lot giving rise to such membership and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer shall be void.

**ARTICLE IV
Voting Rights**

Section 1. The Owners of each Lot shall be entitled to one vote on each matter submitted to a vote of the members. A member shall have one vote for each Lot of which he is the owner.

Section 2. The voting rights of any Owner whose Lot is subject to assessments shall be suspended during the period when the assessments are delinquent in excess of 30 days; but, upon payment of such assessments, his rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of any Common Property or Amenity Property (including the provisions of these by-laws), they may, in the discretion, upon majority vote, suspend the voting rights of any owner for a violation of such until the violation is corrected.

Section 3. The vote of each Lot may be cast only as a Lot. In the event that joint Owners of a lot are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. No Owner other than the person designated to the Board may vote for a Lot and when such person casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that such person was acting with the authority and consent of all other Owners of the same Lot. All voting rights shall be exercised by Owners and no lessee, sublessee, or other person shall be entitled to exercise voting rights notwithstanding lease provisions to the contrary.

ARTICLE V
Property Rights and Rights of
Use of Common Property
or Amenity Property

Section 1. Each Owner shall be entitled to the use of any property which may now be designated as Common Property or as Amenity Property.

Section 2. Each Owner shall abide by all rules and regulations pertaining to the use of any Common Property or Amenity Property.

ARTICLE VI
Board of Directors

Section 1. The affairs of Eastern Park Subdivision Property Owners Association shall be administered by a board of not less than three (3), nor more than five (5) directors, who need not be Owners. The initial Board of Directors shall consist of three (3) persons, who shall hold office for three (3) years, and until election of their successors. Beginning with the third annual meeting, the Owners, at every annual meeting, shall elect new directors to replace those directors whose terms have expired. Directors may succeed themselves. When the Board of Directors is expanded, the terms of each additional director shall be three (3) years.

Section 2. Vacancies in the Board of Directors shall be filled by appointment by a majority of the remaining directors, though less than a quorum; any such appointed director shall hold office through the unexpired remainder of the predecessor's term or until his successor is

elected by the Owners, who may make such election at the next annual meeting of the Owners or at a special meeting called for that purpose.

Section 3. Members of the Board of Directors may be removed by the vote of two-thirds (2/3) of the Owners.

Section 4. Directors shall not receive any salary for their services.

Section 5. The officers of the Board of Directors shall be a president, a vice president, a secretary, a treasurer, and such officers or assistants as the Board of Directors may deem desirable. More than one office may not be held by the same person except that one person may hold the office of secretary and treasurer.

Section 6. The officers of the Board of Directors shall be chosen by a majority vote of the directors.

Section 7. All officers shall hold office for a term of one (1) year but may succeed themselves.

Section 8. The president shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out and sign all written instruments to be executed by the Property Owners Association.

Section 9. The vice president shall perform the duties of the president in the president's absence.

Section 10. The secretary shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. The secretary shall also keep the records of Eastern Park Property Owners Association. He/she shall record in a book kept for that purpose the names and addresses of all Owners.

Section 11. The treasurer shall receive and deposit in appropriate bank accounts all the monies of Eastern Park Subdivision Property Owners Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board.

Section 12. The treasurer shall keep proper books of account and shall prepare an annual budget and an annual balance sheet statement. The budget and balance sheet statement shall be presented to the Owners at the annual meeting.

ARTICLE VII Election of Directors

Section 1. Election of the Board of Directors shall be by written ballot of the members. The candidate(s) receiving the largest number of votes shall be elected.

Section 2. Nominations for election to the Board of Directors shall be in writing and may be made by any member and shall be delivered to the secretary of Eastern Park Subdivision Property Owners Association not less than twenty (20) days prior to the election date. Nominations shall thereafter be closed.

Section 3. The secretary shall cause a ballot to be prepared containing the names of all nominees and one ballot shall be distributed to each member not less than five (5) days prior to the election date. Election shall be upon written ballot submitted to the secretary at the annual meeting.

ARTICLE VIII Powers and Duties of the Board of Directors

Section 1. The Board shall have the following powers and duties:

- (i) To call special meetings of the Owners whenever it deems necessary and it shall call a meeting at any time upon written request of one-half of the voting membership of Owners as defined in Article IV, Section 1 hereof;
- (ii) To appoint and removed, at its pleasure all agents and employees, including a manager, of Eastern Park Subdivision Property Owners Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these by-laws shall be construed to prohibit the employment of any Owner, officer or director in any capacity whatsoever;
- (iii) To establish, levy, assess, and collect the assessment or charges;
- (iv) To adopt and publish rules and regulations covering the use of any Common Property and Amenity Property and the conduct of the Owners and their guests, invitees, and employees thereon;
- (v) To exercise for Eastern Park Subdivision Property Owners Association all powers, duties, and authority vested in or delegated to Eastern Park Subdivision Property Owners Association;
- (vi) In the event that any member of the Board of Directors shall be absent from five (5) consecutive regular meetings of the Board of Directors, the Board may, by action taken by the meeting during which said fifth absence occurs, declare the office of such director to be vacant;
- (vii) To hire and contract for the administration of any Common Property and Amenity Property and their care, repair, upkeep, and security;
- (viii) To establish such committees as the Board deems desirable.

Section 2.

- (i) To cause to be kept a complete record of all its acts and to present a statement thereof to the Owners at the annual meeting of the members or at any special meeting called for that purpose when such is requested;

- (ii) To supervise all agents and employees of Eastern Park Subdivision Property Owners Association and see that their duties are properly performed;
- (iii) To collect for the payment of common expenses in connection therewith to:
 - (a.) Adopt an annual budget and fix and levy the amount of the assessment against each Lot for each assessment period.
 - (b.) Prepare a roster of the Lots and the assessments applicable thereto which shall be kept by the secretary and shall be open to inspection by any Owner; and
 - (c.) Send written notice of each assessment to every Owner subject thereto;
- (iv) To issue, or to cause an appropriate official to issue, upon demand by any Owner, mortgagee or prospective mortgagee of a Lot, a certificate setting forth whether any assessment has been paid; such certificate to be conclusive evidence of the payment of any assessment therein stated to have been paid; and

Section 3. The Board shall pay all taxes, real and personal, and assessments, bonds and levies which are or would become a lien on any Common Property or the Amenity Property.

Section 4. Regular Assessment.

- A. Regular assessment. As soon as is reasonably practicable after the election of the first Board, the Board shall set the assessments to be assessed for the initial fiscal year against each Lot for the purposes hereinafter specified. The total of such assessments for all Lots for each fiscal year shall equal (i) the estimated expenses of the Board in carrying out the obligations described herein for such fiscal year, other than for a reserve for the maintenance, repair, or replacement of any Common Property or Amenity Property (the "Maintenance Fund Requirement"), plus (ii) an amount to be determined by the Board, to be set aside during the fiscal year to provide for a reserve fund for the maintenance, repair or replacement of any Common Property or Amenity Property (the "Reserve Fund Requirement").
- B. December assessment. In December of each year the Board shall meet and determine the regular monthly assessment for the succeeding fiscal year.
- C. Fiscal year. The initial fiscal year shall run from the date on which the Final Plat of Eastern Park Subdivision is filed with the Circuit Clerk of Washington County, Arkansas, to the next succeeding December 31, the succeeding fiscal years of the Property Owners Association shall run from January 1 through December 31.
- D. Increase in assessments. For each fiscal year, the regular assessment may be increased prior to, but effective as of, the beginning of such fiscal year, by the Board without a vote of the Owners. The term

“regular assessment,” as used herein, shall mean that assessment set at the beginning of the fiscal year by the Board.

- E. Certificate of payment. The Board shall, upon demand, furnish to any Owner, mortgagee of an Owner, or prospective purchaser of any Lot, a certificate in writing signed by an officer of the Board setting forth whether the assessments on the specified Lot have been paid, and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of such certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid, subject to collection in the case of recent payments by check or draft.
- F. Mortgagee Protection. Notwithstanding any other provisions hereof:
- (i) The liens created hereunder upon any lot shall be subject and subordinate to, and shall not affect the rights of the holder of any indebtedness secured by a recorded prior mortgage or deed of trust upon such lot made in good faith and for value to the extent expended prior to the recordation of notice of lien pursuant to these By-Laws; provided, that after the foreclosure of any such mortgage or deed of trust, there may be a lien created pursuant to the provisions of these By-Laws on the interest of the purchaser at the foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an owner and after the date of such foreclosure sale.
 - (ii) No amendment to this Article shall affect rights of holders of any mortgage or deed of trust recorded prior to the recordation of any such amendment unless the holder joins in the execution thereof.

Section 5. Special emergency assessments. In the event that the Board shall determine that its budget for any current month is or will become inadequate to meet all expenses for any reason, including nonpayment of any Owner's assessment on a current basis, it shall immediately determine the appropriate amount of such inadequacy for such month and may levy an emergency assessment against all Owners for the amount required to meet all such expenses on a current basis. Emergency assessments levied in accordance with this section shall be due and payable within ten (10) days of written notice thereof by the Board.

Section 6. Payment of assessments. Each payment of regular and emergency assessments made by an Owner shall first be applied to that portion of such Lot's assessments allocable to the Maintenance Fund Requirement, and the remainder of such payment shall be applied to that portion of such Lot's assessments allocable to the Reserve Fund Requirement.

Section 7. Maintenance fund. All collected assessment charges shall be properly deposited in a commercial bank account in a bank to be selected by the Board. The

Board shall have control of said account and shall be responsible to the Owners for the maintenance of accurate records thereof at all times.

Section 8. Reserve fund. All collected assessment charges allocable to the Reserve Fund Requirement shall be properly deposited in a commercial bank account in a bank to be selected by the Board. The Board shall have control over such accounts and shall be responsible to the Owners for the maintenance of accurate records thereof at all times. The funds in such account may be expensed only for expenses incurred for the maintenance, repair, or replacement of the Common Property or Amenity Property.

Section 9. Non-payment of assessments; lien rights, remedies. Every Owner is deemed to covenant and agree to pay the assessments provided herein and further agrees to the enforcement of such assessments in the manner provided for herein and by the laws of Arkansas.

A. Delinquency. Any assessment levied by the Board which is not paid when due shall become delinquent on the date on which such assessment is due (the "date of delinquency"). A late charge of ten percent (10%) per month for each delinquent assessment shall be payable with respect to such assessment not paid when due, and the Board, its attorney or other authorized representative may, at its option, at any time after such period, and in addition to other remedies herein or by law or in equity provided, enforce the obligation to pay assessments in any manner provided by law or in equity and, without limiting the generality of the foregoing, by any or all of the following procedures:

- (i) Enforcement by suit. The Board may cause a suit to be commenced and maintained in the name of the Board against any Owner or Owners, or any of them, delinquent in the payment of assessments. Any judgment rendered in any such actions shall include that amount of the delinquent assessment, together with late charges and interest thereon at the rate of ten percent (10%) per annum or the maximum lawful rate of interest, whichever is less, from and after the date of delinquency, as provided for herein, court costs and reasonable attorneys' fees in such amounts as the court may award. Suit to recover a money judgment for unpaid assessments shall be maintainable by the Board, or its authorized agent, without foreclosing or waiving the lien hereinafter described and established.
- (ii) Enforcement by lien. Any assessment which remains unpaid on the date on which such assessment is due shall be a lien on the Lot for which such assessment is made and on all appurtenances thereto. Such lien may be foreclosed by a suit instituted by the Board, its attorney or duly authorized agent. The Board, or its duly authorized agent, shall have the power to

bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey the lot acquired at such sale. Provided, however, in any such foreclosure sale the Board may not bid an amount in excess of any judgment rendered in its favor in such foreclosure action and satisfiable out of the proceeds of such sale.

- (iii) Additional costs secured by lien. In the event the lien described above is foreclosed, reasonable attorneys' fees as the court may award, and court costs, title insurance premiums, interest on all sums due at the rate of ten percent (10%) per annum or the maximum lawful rate of interest, whichever is less, from the date of delinquency, and all other costs and expenses shall be allowed to the Board.
- (iv) Rights of Board. Each Owner hereby vests in and delegates to the Board or its duly authorized representative the right and power to bring all actions at law or equity against any Owner or Owners for the collect in of delinquent assessments in accordance herewith.
- (v) Purchaser at foreclosure sale. Any purchaser of a Lot at a foreclosure sale pursuant to an action to foreclose the lien herein provided shall take title to such Lot subject to all the terms, provisions, and restrictions contained herein. There shall be a lien on the Lot of the purchaser which may be foreclosed in accordance with the provisions contained herein and which shall secure all assessments which become due after the date of such sale. For the purposes of this section, a sale of a Lot shall occur on the date any judicial sale is held.
- (vi) Purpose of assessments. The assessments levied by the Board shall be used exclusively for the purpose of promoting the health, safety, and welfare of the Owners, their guests, invitees, and employees, and in particular shall be used for the purpose of improving, protecting, operating, repairing, and maintaining any Common Property or Amenity Property and any facilities, improvements, landscaping and structures located thereon, and providing for the acquisition and maintenance of property, services and facilities devoted to this purpose and directly related to the use and enjoyment of the property.

ARTICLE IX Directors Meetings

Section 1. Regular meetings of the Board of Directors shall be held once each six (6) months at such time and place as the Board of Directors may designate.

Section 2. If the day for the meeting shall fall upon a holiday or weekend, the meeting shall be held at the same hour on the first day following which is not a holiday, and no notice thereof need be given.

Section 3. Special meetings of the Board of Directors shall be held when called by a majority of directors, after not less than three (3) days notice to each director.

Section 4. The transaction of any business at any meeting of the Board of Directors, however called and noticed, or wherever held, shall be as valid as though made in a meeting duly held after regular call and notice if (i) a quorum is present, or (ii) after the meeting, enough of the directors not present sign a written waiver or notice, and a consent to the holding of such meeting, and an approval of the action taken at such meeting so that when added to the directors present at the meeting and voting for the action taken, a majority of the Board has approved the meeting and action. All such waivers, consents, or approvals shall be filed with the corporate records and made part of the minutes of the meeting.

Section 5. A majority of the Board of Directors shall constitute a quorum thereof.

Section 6. Any action which could be taken at a meeting of the Board of Directors may be taken by a written memorandum and record of action signed by all the directors and filed with the records and made part of the minutes.

ARTICLE X Meeting of Owners

Section 1. The regular annual meeting of the Owners shall be held in December at a time and date set by the Directors upon five (5) days' prior notice to all Owners. If the date for the annual meeting of the members shall fall upon a holiday, the meeting will be held at the same hour on the first day following which is not a holiday.

Section 2. Special meetings of the Owners for any purpose may be called at any time by a majority of the Board of Directors, or upon the written request of the Owners who have the right to vote one-half of all votes described in Article IV, Section 2.

Section 3. All meetings of the Owners shall be presided over by the president of the Board of Directors or, if the President is absent, by the vice president.

Section 4. Notice of any meeting of Owners shall be given in writing to the Owners by the secretary. Notice shall be given to the Owners by sending a copy of the notice through the mail, postage prepaid, to the addresses appearing on the books of the secretary. Each Owner shall register his address with the secretary and notices of meetings shall be mailed to him at such address. Notice of any meeting, regular or special, shall be mailed at least (5) days in advance of the meeting and shall set forth in general the nature of the business to be transacted.

Section 5. The presence at the meeting of Owners entitled to cast, or of proxies entitled to cast, fifty percent (50%) of the votes of the membership shall constitute a quorum for any

action governed by these by-laws, and the approval of fifty one percent (51%) of the votes represented at the meeting shall be required to adopt decisions unless a different percentage is specified elsewhere herein.

ARTICLE XI
Proxies

Section 1. At all meetings of Owners, each Owner may vote either in person or by proxy.

Section 2. All proxies shall be in writing, signed and filed with the secretary prior to the meeting. No proxy shall extend beyond the designated meeting. Any proxy may be revoked by the Owner's presence at the meeting. Every proxy given by an Owner shall automatically cease upon sale by the Owner of his Lot or any party thereof.

ARTICLE XII
Books and Papers

Section 1. The books, records, and papers of Eastern Park Subdivision Property Owners Association shall at all times during reasonable business hours be subject to the inspection of any member.

ARTICLE XIII
Amendments

Section 1. These By-laws may be amended, at a regular or special meeting of the members, by a vote of the members having two-thirds (2/3) of the votes described in Article IV.

ARTICLE XIV
Conduct of Meetings

Section 1. All meetings shall be conducted pursuant to Roberts Rules of Order.

ARTICLE XV
Exculpability of Board and Officers

Section 1. Neither the Board, as a body, nor any individual member thereof nor any officer shall be personally liable to any Owner or any third party for any action or lack of action arising out of the execution of his or her office or for negligence while acting in such official capacity except as set forth herein. Each Owner shall be bound by the good faith actions of the Board and the officers. Unless acting in bad faith, no Director or officer shall be liable to any Owner or any other person for misfeasance or malfeasance in office or for negligence. The representation and defense of any officer or Director against claims asserted against such officer or Director arising out of or in connection with the discharge of official duties as such shall be a Common Expense unless a final judgment is entered in court of competent jurisdiction determining that said officer or Directors acted in bad faith.

IN WITNESS WHEREOF, these By-laws have been approved and adopted this ___ day of _____, 2014, by action of the undersigned, constituting 100% of the Owners of Lots in Eastern Park Subdivison.

L&F Construction, LLC

BY: _____
Lemuel F. Patrick, Owner

BY: _____
Ashley F. Patrick, Owner

ACKNOWLEDGEMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this ___ day of _____, 2014, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Lemuel F. Patrick and Ashley F. Patrick, to me personally known, who stated that they were owners of L&F Construction, LLC, and were duly authorized in their capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ___ day of _____, 2014.

My Commission Expires:

Notary Public

**BILL OF ASSURANCE AND
PROTECTIVE COVENANTS**

EASTERN PARK

A Subdivision to Washington County, Arkansas
Washington County, Arkansas

RECEIVED BY

APR 04 2014

WASHINGTON COUNTY
PLANNING

KNOW ALL MEN BY THESE PRESENTS, that L&F Construction, LLC, an Arkansas Corporation (sometimes referred to herein as "Declarant"), as owner and subdivider of all the lots in Eastern Park, a subdivision in Washington County, Arkansas, (referred to herein as the "Subdivision"), hereby enters the following assurances and covenants with respect to the Subdivision:

1. All lots in the Subdivision shall be residential lots, and no structures shall be erected on any of said lots other than one single family dwelling to be used for residential purposes. A guest house, cabana, and/or detached garage designed for not fewer than two cars may be allowed as long as it is in keeping with the architectural design of said residence. Any dwelling house construction upon any lot shall have at least 2,500 square feet of heated area excluding porches, garages and breezeways and shall have not less than 1,500 square feet on the ground floor.
2. No vehicles may be parked on the streets of the Subdivision. Lot owners shall provide sufficient off street parking to accommodate the vehicles used by their families and guests. Also, no semi-trailer trucks or commercial vehicles shall be allowed to park overnight in the Subdivision, either on the streets or on privately owned lots.
3. No lot shall be re-subdivided or re-platted.
4. No trade or business shall be carried on upon any lot in the Subdivision, nor shall anything be done or performed thereon which may become an annoyance or nuisance to the neighborhood or detrimental to the residential value of any lot in the Subdivision.
5. No trailer, mobile home, tent, shack, metal building, or other unsightly building or structure, temporary or permanent, shall be erected or used on said lots.
6. Recreational and camping vehicles, utility trailers, and boats may be stored and parked on the lots. However, these vehicles, trailers and boats shall be located behind the house, guest house, or fence, or in or behind the garage, or otherwise screened so that they are not readily visible from the street or adjoining lots. Screening walls and fences must be constructed of brick, stone or shadow-box-style wood.
7. No fences of any kind shall be constructed between the front building set back line and the curb without the permission of the Declarant. "Front" as used herein shall be that portion of the lot between the residence situated thereon and the street abutting said lot and includes

both sides of a corner lot. Any fence along or upon any portion of any lot in said Subdivision must be shadow-box-style and/or brick or stone masonry and/or wrought iron and not exceed six (6) feet in height. No chain-link metal fences shall be erected on said lots.

8. The owner(s) of each lot shall construct or cause to be constructed a concrete driveway connecting a minimum of two-car garage of said dwelling to the street, said drive or drives being of adequate width to accommodate two or more automobiles in total.
9. All lots must have sod installed in the front and on both sides of the main dwelling.
10. Swimming pools are permitted in the Subdivision but must be ground level only.
11. Satellite dishes not larger than eighteen (18) inches, may be installed on residential lots. The satellite dish shall be located behind the house and screened so that they are not readily visible from the street or adjoining lots.
12. No commercial or private farming will be allowed on any lot. However, a backyard garden will be permitted when it is sized for the needs of the family occupying the lot. Such a garden shall be maintained so that it does not appear weedy, unkempt or unsightly.
13. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes. Provided further that such household pets must be kept in accordance with the leash laws of the City of Fayetteville, Arkansas.
14. All lots must be maintained in neat manner without the accumulation of debris or unsightly growth of grass or weeds.
15. No noxious or offensive activity shall be carried on upon any lot.
16. After construction has commenced on a lot or if any improvement is damaged or destroyed the improvement must be completed or restored promptly in order to avoid any unsafe or unsightly condition.
17. No sign of any kind shall be displayed to the public view on any lot except one (1) real estate sign of not more than nine (9) square feet for the sale of the property.
18. No inoperative or junk motor vehicles or other vehicles shall be permitted to remain upon any lot or lots or in any public streets in said Subdivision for a period in excess of two (2) days. At no time will motor vehicles be allowed to be parked on said lots other than on the driveway between the street and the garage.
19. The association of owners of lots in the Eastern Park Subdivision (the "Association") shall be responsible for maintenance and repair of the fence located adjacent to Arkansas Highway 45

bordering the Subdivision. Each lot owner shall be assessed a prorata share of the cost of maintaining and repairing such fence.

20. Any assessment which shall be made against any lot as provided in paragraph 19 herein shall constitute a lien against such lot until it is paid. Any assessment which is not paid within 30 days after it becomes due shall bear interest at the highest rate permitted by applicable law. Declarant or the Association, as their interests appear, may bring an action at law against the owner personally obligated to pay such assessment or may foreclose such lien against the lot, and interest, costs and attorney fees for any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse or abandonment of the Common Property or the Amenity Property. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage.
21. In order to insure that all dwellings and other buildings to be located on any lot in the Subdivision shall be compatible with other improvements in the Subdivision, no buildings shall be erected, placed or altered on any lot in the Subdivision until the construction plans and specifications have been submitted to, and approved by, the Architectural Control Committee. For such time as the Declarant shall own one or more of the lots in Subdivision, the Architectural Control Committee shall be made up such persons as the Declarant may appoint. At such time as the Declarant shall own none of the lots in the Subdivision, or at such earlier time as the Declarant may elect to resign from membership on the Architectural Control Committee, the Committee shall be made up of such persons as the Association may designate from time to time.
22. These covenants and restrictions are to run with the land, and shall be binding on all of the parties, their heirs and assigns for a period of 25 years from the date hereof. At any time within six months from the expiration date a majority of the then lot owners may express their intention in writing drafted so as to be recorded with the Register of Deeds that they no longer care for these covenants and the same shall be terminated. In the event that no such action is taken, these covenants shall continue for periods of five years and any five year period may be terminated in accordance with the terms for the original termination. It is further provided that should the majority of the lot owners at any time wish to amend these covenants either by adding to or taking from the present form, the same shall be incorporated in a written instrument capable of being recorded as above referred to and under the same terms and conditions thereof; provided, however, that the rights of the Declarant as set forth in paragraphs 20 and 21 herein shall not be amended, modified or revoked without the written consent of the Declarant. Each lot shall entitle owner(s) to one vote.
23. If the parties herein or any of them or their heirs or assigns shall violate or attempt to violate any of the covenants or restrictions herein before the 25 years from date hereof and likewise as to continuations it shall be lawful for any other persons or person owning any home in the Subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions and either to prevent him or them from so doing or to recover damages or other penalties for such violation.

24. In the event any provision or any part of these covenants shall be adjudged invalid or ineffective, the remaining provisions shall continue in full force and effect and shall be construed and enforced accordingly.

IN WITNESS WHEREOF this instrument has been executed this ____ day of _____, 2014.

L&F CONSTRUCTION, LLC

ATTEST:

BY: _____
Ashley F. Patrick, Owner

Lemuel F. Patrick, Owner

ACKNOWLEDGEMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this ____ day of _____, 2014, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Ashley F. Patrick and Lemuel F. Patrick, to me personally known, who stated that they were the owners of L&F Construction, LLC, a corporation, and were duly authorized in their capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ____ day of _____, 2014.

My Commission Expires:

Notary Public

BY-LAWS

EASTERN PARK

PROPERTY OWNERS ASSOCIATION

ARTICLE I
Definitions

Section 1. Eastern Park Property Owners Association. An Arkansas non-profit corporation formed to promote the collective and individual property and civic interests of all persons owning property in Eastern Park Subdivision, being a subdivision to Washington County, Arkansas, the plat of which was filed for record on 2014, in Drawer at Pages , Washington County, Arkansas and to own, operate, and maintain any area which may now or hereafter be designated as Common Property and to operate and maintain any area which may now or hereafter be designated as Amenity Property in accordance with the provisions set forth in the Bill of Assurances and Protective Covenants of Eastern Park Subdivision.

ARTICLE II
Location

Section 1. The principal office of the Property Owners Association shall be located at , Fayetteville, Arkansas.

ARTICLE III
Membership

Section 1. A person shall become a member of the Property Owners Association upon the recordation of the instrument of conveyance whereby he acquires title to a Lot in Eastern Park Subdivision. Each Lot shall constitute one membership in the Property Owners Association.

Section 2. The rights of membership are subject to the payment of all assessments, the obligation of which assessments is imposed against each owner of, and becomes a lien upon the Lot against which such assessments are made.

Section 3. The Property Owners Association membership of each Owner shall be an appurtenant right to the Lot giving rise to such membership and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer shall be void.

ARTICLE IV
Voting Rights

Section 1. The Owners of each Lot shall be entitled to one vote on each matter submitted to a vote of the members. A member shall have one vote for each Lot of which he is the owner.

Section 2. The voting rights of any Owner whose Lot is subject to assessments shall be suspended during the period when the assessments are delinquent in excess of 30 days; but, upon payment of such assessments, his rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of any Common Property or Amenity Property (including the provisions of these by-laws), they may, in the discretion, upon majority vote, suspend the voting rights of any owner for a violation of such until the violation is corrected.

Section 3. The vote of each Lot may be cast only as a Lot. In the event that joint Owners of a lot are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. No Owner other than the person designated to the Board may vote for a Lot and when such person casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that such person was acting with the authority and consent of all other Owners of the same Lot. All voting rights shall be exercised by Owners and no lessee, sublessee, or other person shall be entitled to exercise voting rights notwithstanding lease provisions to the contrary.

ARTICLE V
Property Rights and Rights of
Use of Common Property
or Amenity Property

Section 1. Each Owner shall be entitled to the use of any property which may now be designated as Common Property or as Amenity Property.

Section 2. Each Owner shall abide by all rules and regulations pertaining to the use of any Common Property or Amenity Property.

ARTICLE VI
Board of Directors

Section 1. The affairs of Eastern Park Subdivision Property Owners Association shall be administered by a board of not less than three (3), nor more than five (5) directors, who need not be Owners. The initial Board of Directors shall consist of three (3) persons, who shall hold office for three (3) years, and until election of their successors. Beginning with the third annual meeting, the Owners, at every annual meeting, shall elect new directors to replace those directors whose terms have expired. Directors may succeed themselves. When the Board of Directors is expanded, the terms of each additional director shall be three (3) years.

Section 2. Vacancies in the Board of Directors shall be filled by appointment by a majority of the remaining directors, though less than a quorum; any such appointed director shall hold office through the unexpired remainder of the predecessor's term or until his successor is

elected by the Owners, who may make such election at the next annual meeting of the Owners or at a special meeting called for that purpose.

Section 3. Members of the Board of Directors may be removed by the vote of two-thirds (2/3) of the Owners.

Section 4. Directors shall not receive any salary for their services.

Section 5. The officers of the Board of Directors shall be a president, a vice president, a secretary, a treasurer, and such officers or assistants as the Board of Directors may deem desirable. More than one office may not be held by the same person except that one person may hold the office of secretary and treasurer.

Section 6. The officers of the Board of Directors shall be chosen by a majority vote of the directors.

Section 7. All officers shall hold office for a term of one (1) year but may succeed themselves.

Section 8. The president shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out and sign all written instruments to be executed by the Property Owners Association.

Section 9. The vice president shall perform the duties of the president in the president's absence.

Section 10. The secretary shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. The secretary shall also keep the records of Eastern Park Property Owners Association. He/she shall record in a book kept for that purpose the names and addresses of all Owners.

Section 11. The treasurer shall receive and deposit in appropriate bank accounts all the monies of Eastern Park Subdivision Property Owners Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board.

Section 12. The treasurer shall keep proper books of account and shall prepare an annual budget and an annual balance sheet statement. The budget and balance sheet statement shall be presented to the Owners at the annual meeting.

ARTICLE VII Election of Directors

Section 1. Election of the Board of Directors shall be by written ballot of the members. The candidate(s) receiving the largest number of votes shall be elected.

Section 2. Nominations for election to the Board of Directors shall be in writing and may be made by any member and shall be delivered to the secretary of Eastern Park Subdivision Property Owners Association not less than twenty (20) days prior to the election date. Nominations shall thereafter be closed.

Section 3. The secretary shall cause a ballot to be prepared containing the names of all nominees and one ballot shall be distributed to each member not less than five (5) days prior to the election date. Election shall be upon written ballot submitted to the secretary at the annual meeting.

ARTICLE VIII Powers and Duties of the Board of Directors

Section 1. The Board shall have the following powers and duties:

- (i) To call special meetings of the Owners whenever it deems necessary and it shall call a meeting at any time upon written request of one-half of the voting membership of Owners as defined in Article IV, Section 1 hereof;
- (ii) To appoint and removed, at its pleasure all agents and employees, including a manager, of Eastern Park Subdivision Property Owners Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these by-laws shall be construed to prohibit the employment of any Owner, officer or director in any capacity whatsoever;
- (iii) To establish, levy, assess, and collect the assessment or charges;
- (iv) To adopt and publish rules and regulations covering the use of any Common Property and Amenity Property and the conduct of the Owners and their guests, invitees, and employees thereon;
- (v) To exercise for Eastern Park Subdivision Property Owners Association all powers, duties, and authority vested in or delegated to Eastern Park Subdivision Property Owners Association;
- (vi) In the event that any member of the Board of Directors shall be absent from five (5) consecutive regular meetings of the Board of Directors, the Board may, by action taken by the meeting during which said fifth absence occurs, declare the office of such director to be vacant;
- (vii) To hire and contract for the administration of any Common Property and Amenity Property and their care, repair, upkeep, and security;
- (viii) To establish such committees as the Board deems desirable.

Section 2.

- (i) To cause to be kept a complete record of all its acts and to present a statement thereof to the Owners at the annual meeting of the members or at any special meeting called for that purpose when such is requested;

- (ii) To supervise all agents and employees of Eastern Park Subdivision Property Owners Association and see that their duties are properly performed;
- (iii) To collect for the payment of common expenses in connection therewith to:
 - (a.) Adopt an annual budget and fix and levy the amount of the assessment against each Lot for each assessment period.
 - (b.) Prepare a roster of the Lots and the assessments applicable thereto which shall be kept by the secretary and shall be open to inspection by any Owner; and
 - (c.) Send written notice of each assessment to every Owner subject thereto;
- (iv) To issue, or to cause an appropriate official to issue, upon demand by any Owner, mortgagee or prospective mortgagee of a Lot, a certificate setting forth whether any assessment has been paid; such certificate to be conclusive evidence of the payment of any assessment therein stated to have been paid; and

Section 3. The Board shall pay all taxes, real and personal, and assessments, bonds and levies which are or would become a lien on any Common Property or the Amenity Property.

Section 4. Regular Assessment.

- A. Regular assessment. As soon as is reasonably practicable after the election of the first Board, the Board shall set the assessments to be assessed for the initial fiscal year against each Lot for the purposes hereinafter specified. The total of such assessments for all Lots for each fiscal year shall equal (i) the estimated expenses of the Board in carrying out the obligations described herein for such fiscal year, other than for a reserve for the maintenance, repair, or replacement of any Common Property or Amenity Property (the "Maintenance Fund Requirement"), plus (ii) an amount to be determined by the Board, to be set aside during the fiscal year to provide for a reserve fund for the maintenance, repair or replacement of any Common Property or Amenity Property (the "Reserve Fund Requirement").
- B. December assessment. In December of each year the Board shall meet and determine the regular monthly assessment for the succeeding fiscal year.
- C. Fiscal year. The initial fiscal year shall run from the date on which the Final Plat of Eastern Park Subdivision is filed with the Circuit Clerk of Washington County, Arkansas, to the next succeeding December 31, the succeeding fiscal years of the Property Owners Association shall run from January 1 through December 31.
- D. Increase in assessments. For each fiscal year, the regular assessment may be increased prior to, but effective as of, the beginning of such fiscal year, by the Board without a vote of the Owners. The term

“regular assessment,” as used herein, shall mean that assessment set at the beginning of the fiscal year by the Board.

- E. Certificate of payment. The Board shall, upon demand, furnish to any Owner, mortgagee of an Owner, or prospective purchaser of any Lot, a certificate in writing signed by an officer of the Board setting forth whether the assessments on the specified Lot have been paid, and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of such certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid, subject to collection in the case of recent payments by check or draft.
- F. Mortgagee Protection. Notwithstanding any other provisions hereof:
 - (i) The liens created hereunder upon any lot shall be subject and subordinate to, and shall not affect the rights of the holder of any indebtedness secured by a recorded prior mortgage or deed of trust upon such lot made in good faith and for value to the extent expended prior to the recordation of notice of lien pursuant to these By-Laws; provided, that after the foreclosure of any such mortgage or deed of trust, there may be a lien created pursuant to the provisions of these By-Laws on the interest of the purchaser at the foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an owner and after the date of such foreclosure sale.
 - (ii) No amendment to this Article shall affect rights of holders of any mortgage or deed of trust recorded prior to the recordation of any such amendment unless the holder joins in the execution thereof.

Section 5. Special emergency assessments. In the event that the Board shall determine that its budget for any current month is or will become inadequate to meet all expenses for any reason, including nonpayment of any Owner’s assessment on a current basis, it shall immediately determine the appropriate amount of such inadequacy for such month and may levy an emergency assessment against all Owners for the amount required to meet all such expenses on a current basis. Emergency assessments levied in accordance with this section shall be due and payable within ten (10) days of written notice thereof by the Board.

Section 6. Payment of assessments. Each payment of regular and emergency assessments made by an Owner shall first be applied to that portion of such Lot’s assessments allocable to the Maintenance Fund Requirement, and the remainder of such payment shall be applied to that portion of such Lot’s assessments allocable to the Reserve Fund Requirement.

Section 7. Maintenance fund. All collected assessment charges shall be properly deposited in a commercial bank account in a bank to be selected by the Board. The

Board shall have control of said account and shall be responsible to the Owners for the maintenance of accurate records thereof at all times.

Section 8. Reserve fund. All collected assessment charges allocable to the Reserve Fund Requirement shall be properly deposited in a commercial bank account in a bank to be selected by the Board. The Board shall have control over such accounts and shall be responsible to the Owners for the maintenance of accurate records thereof at all times. The funds in such account may be expensed only for expenses incurred for the maintenance, repair, or replacement of the Common Property or Amenity Property.

Section 9. Non-payment of assessments; lien rights, remedies. Every Owner is deemed to covenant and agree to pay the assessments provided herein and further agrees to the enforcement of such assessments in the manner provided for herein and by the laws of Arkansas.

A. Delinquency. Any assessment levied by the Board which is not paid when due shall become delinquent on the date on which such assessment is due (the "date of delinquency"). A late charge of ten percent (10%) per month for each delinquent assessment shall be payable with respect to such assessment not paid when due, and the Board, its attorney or other authorized representative may, at its option, at any time after such period, and in addition to other remedies herein or by law or in equity provided, enforce the obligation to pay assessments in any manner provided by law or in equity and, without limiting the generality of the foregoing, by any or all of the following procedures:

- (i) Enforcement by suit. The Board may cause a suit to be commenced and maintained in the name of the Board against any Owner or Owners, or any of them, delinquent in the payment of assessments. Any judgment rendered in any such actions shall include that amount of the delinquent assessment, together with late charges and interest thereon at the rate of ten percent (10%) per annum or the maximum lawful rate of interest, whichever is less, from and after the date of delinquency, as provided for herein, court costs and reasonable attorneys' fees in such amounts as the court may award. Suit to recover a money judgment for unpaid assessments shall be maintainable by the Board, or its authorized agent, without foreclosing or waiving the lien hereinafter described and established.
- (ii) Enforcement by lien. Any assessment which remains unpaid on the date on which such assessment is due shall be a lien on the Lot for which such assessment is made and on all appurtenances thereto. Such lien may be foreclosed by a suit instituted by the Board, its attorney or duly authorized agent. The Board, or its duly authorized agent, shall have the power to

bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey the lot acquired at such sale. Provided, however, in any such foreclosure sale the Board may not bid an amount in excess of any judgment rendered in its favor in such foreclosure action and satisfiable out of the proceeds of such sale.

- (iii) Additional costs secured by lien. In the event the lien described above is foreclosed, reasonable attorneys' fees as the court may award, and court costs, title insurance premiums, interest on all sums due at the rate of ten percent (10%) per annum or the maximum lawful rate of interest, whichever is less, from the date of delinquency, and all other costs and expenses shall be allowed to the Board.
- (iv) Rights of Board. Each Owner hereby vests in and delegates to the Board or its duly authorized representative the right and power to bring all actions at law or equity against any Owner or Owners for the collect in of delinquent assessments in accordance herewith.
- (v) Purchaser at foreclosure sale. Any purchaser of a Lot at a foreclosure sale pursuant to an action to foreclose the lien herein provided shall take title to such Lot subject to all the terms, provisions, and restrictions contained herein. There shall be a lien on the Lot of the purchaser which may be foreclosed in accordance with the provisions contained herein and which shall secure all assessments which become due after the date of such sale. For the purposes of this section, a sale of a Lot shall occur on the date any judicial sale is held.
- (vi) Purpose of assessments. The assessments levied by the Board shall be used exclusively for the purpose of promoting the health, safety, and welfare of the Owners, their guests, invitees, and employees, and in particular shall be used for the purpose of improving, protecting, operating, repairing, and maintaining any Common Property or Amenity Property and any facilities, improvements, landscaping and structures located thereon, and providing for the acquisition and maintenance of property, services and facilities devoted to this purpose and directly related to the use and enjoyment of the property.

ARTICLE IX Directors Meetings

Section 1. Regular meetings of the Board of Directors shall be held once each six (6) months at such time and place as the Board of Directors may designate.

Section 2. If the day for the meeting shall fall upon a holiday or weekend, the meeting shall be held at the same hour on the first day following which is not a holiday, and no notice thereof need be given.

Section 3. Special meetings of the Board of Directors shall be held when called by a majority of directors, after not less than three (3) days notice to each director.

Section 4. The transaction of any business at any meeting of the Board of Directors, however called and noticed, or wherever held, shall be as valid as though made in a meeting duly held after regular call and notice if (i) a quorum is present, or (ii) after the meeting, enough of the directors not present sign a written waiver or notice, and a consent to the holding of such meeting, and an approval of the action taken at such meeting so that when added to the directors present at the meeting and voting for the action taken, a majority of the Board has approved the meeting and action. All such waivers, consents, or approvals shall be filed with the corporate records and made part of the minutes of the meeting.

Section 5. A majority of the Board of Directors shall constitute a quorum thereof.

Section 6. Any action which could be taken at a meeting of the Board of Directors may be taken by a written memorandum and record of action signed by all the directors and filed with the records and made part of the minutes.

ARTICLE X Meeting of Owners

Section 1. The regular annual meeting of the Owners shall be held in December at a time and date set by the Directors upon five (5) days' prior notice to all Owners. If the date for the annual meeting of the members shall fall upon a holiday, the meeting will be held at the same hour on the first day following which is not a holiday.

Section 2. Special meetings of the Owners for any purpose may be called at any time by a majority of the Board of Directors, or upon the written request of the Owners who have the right to vote one-half of all votes described in Article IV, Section 2.

Section 3. All meetings of the Owners shall be presided over by the president of the Board of Directors or, if the President is absent, by the vice president.

Section 4. Notice of any meeting of Owners shall be given in writing to the Owners by the secretary. Notice shall be given to the Owners by sending a copy of the notice through the mail, postage prepaid, to the addresses appearing on the books of the secretary. Each Owner shall register his address with the secretary and notices of meetings shall be mailed to him at such address. Notice of any meeting, regular or special, shall be mailed at least (5) days in advance of the meeting and shall set forth in general the nature of the business to be transacted.

Section 5. The presence at the meeting of Owners entitled to cast, or of proxies entitled to cast, fifty percent (50%) of the votes of the membership shall constitute a quorum for any

action governed by these by-laws, and the approval of fifty one percent (51%) of the votes represented at the meeting shall be required to adopt decisions unless a different percentage is specified elsewhere herein.

ARTICLE XI
Proxies

Section 1. At all meetings of Owners, each Owner may vote either in person or by proxy.

Section 2. All proxies shall be in writing, signed and filed with the secretary prior to the meeting. No proxy shall extend beyond the designated meeting. Any proxy may be revoked by the Owner's presence at the meeting. Every proxy given by an Owner shall automatically cease upon sale by the Owner of his Lot or any party thereof.

ARTICLE XII
Books and Papers

Section 1. The books, records, and papers of Eastern Park Subdivision Property Owners Association shall at all times during reasonable business hours be subject to the inspection of any member.

ARTICLE XIII
Amendments

Section 1. These By-laws may be amended, at a regular or special meeting of the members, by a vote of the members having two-thirds (2/3) of the votes described in Article IV.

ARTICLE XIV
Conduct of Meetings

Section 1. All meetings shall be conducted pursuant to Roberts Rules of Order.

ARTICLE XV
Exculpability of Board and Officers

Section 1. Neither the Board, as a body, nor any individual member thereof nor any officer shall be personally liable to any Owner or any third party for any action or lack of action arising out of the execution of his or her office or for negligence while acting in such official capacity except as set forth herein. Each Owner shall be bound by the good faith actions of the Board and the officers. Unless acting in bad faith, no Director or officer shall be liable to any Owner or any other person for misfeasance or malfeasance in office or for negligence. The representation and defense of any officer or Director against claims asserted against such officer or Director arising out of or in connection with the discharge of official duties as such shall be a Common Expense unless a final judgment is entered in court of competent jurisdiction determining that said officer or Directors acted in bad faith.

IN WITNESS WHEREOF, these By-laws have been approved and adopted this ___ day of _____, 2014, by action of the undersigned, constituting 100% of the Owners of Lots in Eastern Park Subdivison.

L&F Construction, LLC

BY: _____
Lemuel F. Patrick, Owner

BY: _____
Ashley F. Patrick, Owner

ACKNOWLEDGEMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this ___ day of _____, 2014, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Lemuel F. Patrick and Ashley F. Patrick, to me personally known, who stated that they were owners of L&F Construction, LLC, and were duly authorized in their capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ___ day of _____, 2014.

My Commission Expires:

Notary Public

Previously Submitted Neighbor Comments

-Some concerns may have been addressed with the new proposal, but staff wanted to include them in this packet

Neighbors opposed

Courtney McNair

From: Gary Roop [garyroop@yahoo.com]
Sent: Monday, August 25, 2014 12:13 PM
To: Courtney McNair
Subject: Eastern Park Subdivision CUP # 2014-018

Courtney,

Our family continues to oppose this project based on the density level as I communicated in my original email response.

Gary Roop

Roop, Bo & Rosa Revocable Trust
Parcel #001-15721-000, 001-15734-000

WASHINGTON COUNTY, ARKANSAS
PLANNING BOARD/ZBA MEETING NOTICE COMMENT FORM:
CONDITIONAL USE PERMIT
Eastern Park Subdivision CUP

RECEIVED BY
APR 19 2014
WASHINGTON COUNTY
PLANNING

If you wish to express specific concerns to staff, regarding this application for a Conditional Use Permit, prior to the Planning Board/ZBA meeting date, please mail, email or fax the Comment form below:

Project Name: Eastern Park Subdivision CUP
Project Number: 2014-018

Planner on Project: Courtney McNair, cmcnair@co.washington.ar.us

Name, Address, and Parcel Number of Neighbor: _____

TERRY, GARNET D
4503 E MISSION BLVD,
FAYETTEVILLE, AR 72703-4396
Parcel #: 001-15726-000

_____ In Favor X _____ Opposed

Contact Number (s): 479-442-5515 Contact Email: _____

Comments:

De-centralized sewer systems are often not maintained properly. Since the maintenance of de-centralized sewer systems are left up to the property owners and some owners do not or can not care for them. This can cause groundwater pollution and odors. If these concerns are alleviated, my vote may change.

Questions? Contact the Planning Office!
Phone (479) 444-1724. Fax (479) 444-1786

<http://www.co.washington.ar.us>
2615 Brink Drive, Fayetteville, AR 72701

Courtney McNair

From: helen duran [htduran@hotmail.com]
Sent: Monday, April 21, 2014 3:50 PM
To: Courtney McNair
Subject: re: Parcel # 001-15686-003

Hi Courtney:

I just received from your dept the request for CUP for a planned subdivision on Mission Bld (which will be within 300 feet of my residence)..

I reviewed the plat layout and more importantly the proposed decentralized septic systems for these 17 lots... the location of the proposed system is with 50 feet of a one acre spring fed pond... how is this addressed.. this spring fed pond (which is adjacent property) is part of a water system of multiple streams flowing into larger streams..I do not see any information that this is even being addressed.

thanks, Helen Duran 521-8398

WASHINGTON COUNTY, ARKANSAS
PLANNING BOARD/ZBA MEETING NOTICE COMMENT FORM:
CONDITIONAL USE PERMIT
Eastern Park Subdivision CUP

If you wish to express specific concerns to staff, regarding this application for a Conditional Use Permit, prior to the Planning Board/ZBA meeting date, please mail, email or fax the Comment form below:

Project Name: Eastern Park Subdivision CUP
Project Number: 2014-018

Planner on Project: Courtney McNair, cmcnair@co.washington.ar.us

Name, Address, and Parcel Number of Neighbor: _____

DURAN, HELEN T
4274 E TROUGH SPRING RD
FAYETTEVILLE, AR 72703-4663
Parcel #: 001-15686-003

RECEIVED BY
APR 24 2014
WASHINGTON COUNTY
PLANNING BOARD

_____ In Favor _____ Opposed

Contact Number (s): _____ Contact Email: _____

Comments:

Please read attached letter
question placement of septic
system within watershed of
Spring Fed Pond?

thanks
Helen Duran

I will be out of town May 1-6, 2014

Questions? Contact the Planning Office!
Phone (479) 444-1724. Fax (479) 444-1786

<http://www.co.washington.ar.us>
2615 Brink Drive, Fayetteville, AR 72701

TO: Washington CO, Arkansas
Planning Board


RE: Parcel # 001-15686-003

Eastern Park Subdivision CUP

April 21, 2014

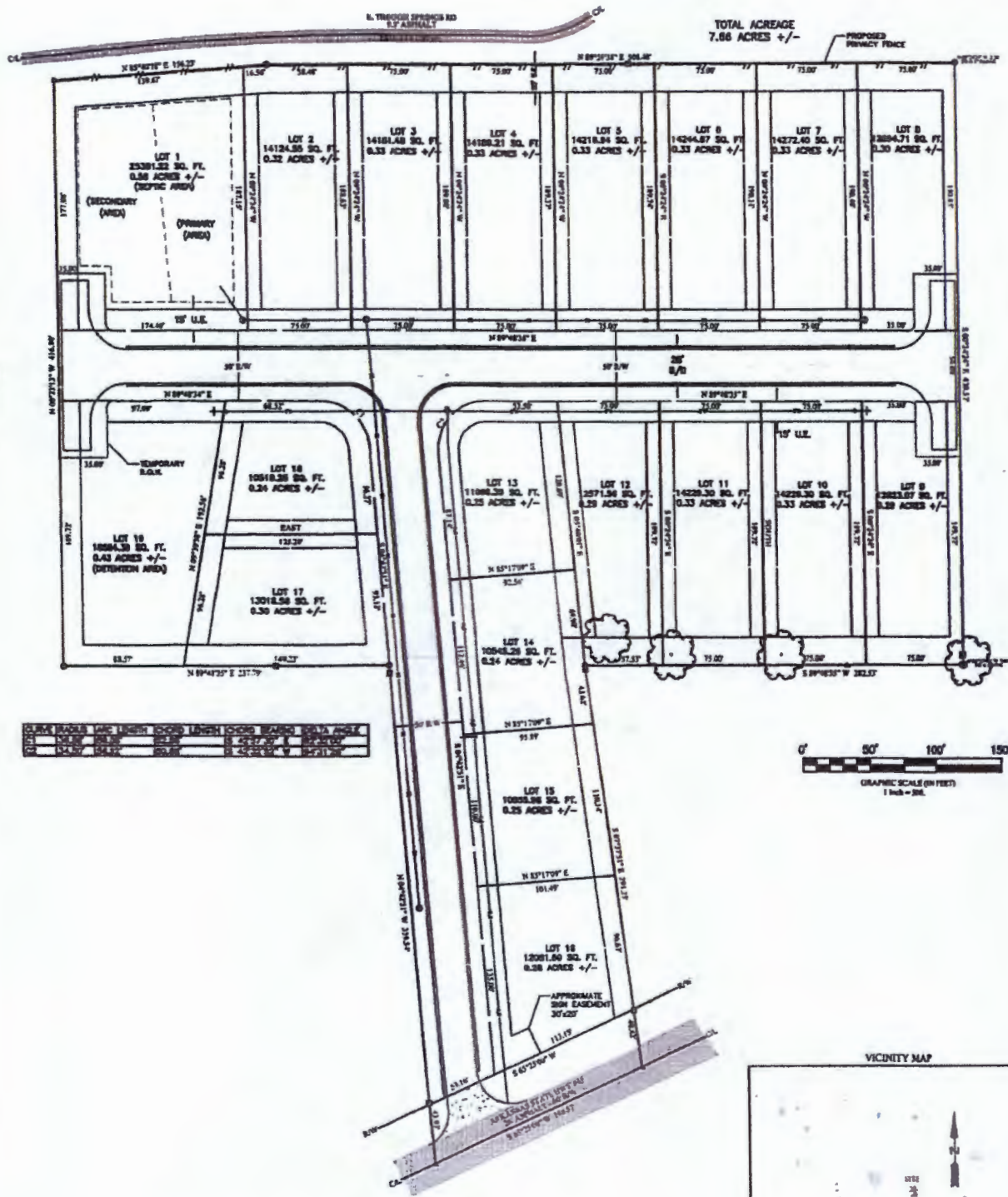
I just received the information regarding a proposed subdivision which will impact my living space. In review of the material I have received the primary concern I voice is for the PUBLIC HEALTH and General Welfare due to the placement of the proposed subdivision central septic area and dentention area.

Looking at the Aerial Site: the location of this decentralized septic system in the **NW corner** of said property will place it within approx 50 feet of a one (1) acre Spring Fed Pond (adjacent property). This Spring Fed Pond overflows under our private road (Trough Spring Road) into a creek which then flows North (behind homes along Oakland-Zion Road) which connects with other water systems. I am voicing great concern over this placement of a decentralized septic system within this plat design. I did not receive any environmental study or information how it was determined that this centralized septic system location within such close proximity to a natural spring fed pond is the best alternative for said subdivision.

Helen Duran (htduran@hotmail.com) 

4274 Trough Spring Rd/Fayetteville, Ar 72703 479 521-8398

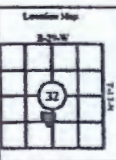
RECEIVED BY
APR 24 2014
WASHINGTON COUNTY
PLANNING



EASTERN PARK SUBDIVISION

FOR USE AND BENEFIT OF:
FRED PATRICK

Bates & Associates, Inc.
 Real Estate & Surveying
 10000 17th Avenue SW, Suite 100, Edmonds, WA 98149
 Phone: (206) 775-1111
 Fax: (206) 775-1112
 Website: www.batesandassociates.com



LEGEND:

- TRAIL 10' WIDE
- TRAIL 12' WIDE
- TRAIL 14' WIDE
- TRAIL 16' WIDE
- TRAIL 18' WIDE
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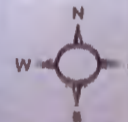
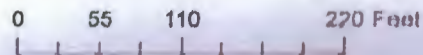


VICINITY MAP NOT TO SCALE
 RECORDING NUMBER: 123456789



Eastern Park Subdivision
Conditional Use Permit
Project # 2014-018
Aerial Site

Site information is drawn over Assessor GIS aerial imagery (2013), parcel and street information. The information should not be misconstrued as survey information. Parcel information locations are based off the best material at hand.



Legend

- Other
- Highways
- Paved Roads
- Unpaved Roads
- Development 2014

Floodplain

- A
- AE
- Shaded Z

Courtney McNair

From: Gary Roop [garyroop@yahoo.com]
Sent: Monday, April 21, 2014 1:09 PM
To: Courtney McNair
Subject: Comments on Eastern Park Subdivision CUP #2014-018

Courtney,

The property adjacent to the east of this project is owned by my parents's trust:

Roop, BO & Rosa Revocable Trust
5000 Arkanshire Cir #334
Springdale, AR 72764
Parcel #: 001-15721-000, 001-15734-000

I represent my father who is living at Arkanshire.

When the county administrators set the current rule of 1 unit/acre I assume they did so with debate and input from property owners. This debate must have also included their concerns for future growth.

I'm sure they envisioned a time when situations would arise calling for a reasonable adjustment from this standard. However, this request represents a 130% change. The magnitude of this deviation isn't reasonable and would effectively gut the current standard.

I believe an approval on this project would open the door to uncontrolled growth where standards no longer apply.

Perhaps a new standard needs to be established. Until that time I have to respect the current 1 unit /acre rule and oppose this project.

Gary Roop
1848 Balmoral Ave
Springdale, AR 72764
479-287-1640

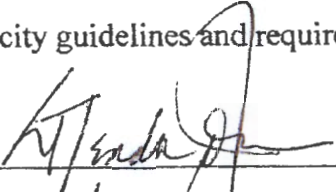
Neighbors unopposed



2479 Camelot
 Fayetteville, AR 72701
 (479) 466-3352
 lfconstruction@sbcglobal.net

March 13, 2014

I, Glenda Johnson, have spoken to L&F Construction, LLC,
 about the proposed Eastern Park subdivision at 4436 E. Mission Blvd. that is
 adjacent to my property at E. Trough Springs Rd. I have no objections
32-17-29 PT NW SEPT / POND
 to the attached concept plan. I understand that their proposal will meet all state,
 county, and city guidelines and requirements.

Signed: 
 Date: 4/9/14

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 APR 11 2014
 WASHINGTON COUNTY
 PLANNING



2479 Camelot
 Fayetteville, AR 72701
 (479) 466-3352
 lfconstruction@sbcglobal.net

March 13, 2014

I, Barry Brian Lett, have spoken to L&F Construction, LLC,
 about the proposed Eastern Park subdivision at 4436 E. Mission Blvd. that is
 adjacent to my property at 4484 E. Mission I have no objections
 to the attached concept plan. I understand that their proposal will meet all state,
 county, and city guidelines and requirements.

Signed: Barry Brian Lett

Date: 4-9-2014

There are 3 TREE'S that are on
 property line that must be protected
 and any fence that are built must be
 on my ~~side~~ side of property.

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2479 Camelot
Fayetteville, AR 72701
(479) 466-3352
lfconstruction@sbcglobal.net

March 13, 2014

I, Bob Parran, have spoken to L&F Construction, LLC,
about the proposed Eastern Park subdivision at 4436 E. Mission Blvd. that is
adjacent to my property at 4384 Trouth Sp. I have no objections
to the attached concept plan. I understand that their proposal will meet all state,
county, and city guidelines and requirements.

Signed: Bob J. Parran

Date: 4/8/14

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2479 Camelot
 Fayetteville, AR 72701
 (479) 466-3352
 lfconstruction@sbcglobal.net

March 13, 2014

I, Jean Daniels, have spoken to L&F Construction, LLC,
 about the proposed Eastern Park subdivision at 4436 E. Mission Blvd. that is
 adjacent to my property at 4480 E. ^{Spring Rd.} Lough. I have no objections
 to the attached concept plan. I understand that their proposal will meet all state,
 county, and city guidelines and requirements.

Signed: *Erin B. L...* *Jean J. Daniels*

Date: 4-1-14

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 WASHINGTON COUNTY
 PLANNING



2479 Camelot
Fayetteville, AR 72701
(479) 466-3352
lfconstruction@sbcglobal.net

March 13, 2014

I, M. Dorian Holmes, have spoken to L&F Construction, LLC,
about the proposed Eastern Park subdivision at 4436 E. Mission Blvd. that is
adjacent to my property at 4432 E. Trough Sp. I have no objections
to the attached concept plan. I understand that their proposal will meet all state,
county, and city guidelines and requirements.

Signed: M. Dorian Holmes

Date: 4-1-2014

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Information from other Entities

PLANNING DIVISION CORRESPONDENCE

April 14, 2014

Ms. Juliet Richey
Washington County Planning Director
2615 Brink Drive
Fayetteville, AR 72701

Re: Eastern Park Subdivision/Patrick Subdivision (2nd Submittal) – Conditional Use Permit review

Dear Mrs. Richey,

Upon our review of conceptual drawings and information supplied to the City of Fayetteville for the proposed Conditional Use Permit known as Patrick Subdivision, the following information is offered for your continued review of zoning and development issues related to the development of this site.

Location and Use

The subject property is located east of Oakland Zion Road, between Mission Boulevard (Hwy 45) and Through Springs Road (private road) and contains approximately 7.6 acres. The property is within the Fayetteville Planning Area and within one mile of the City limits. The proposal is to develop a residential subdivision containing 19 dwelling units at a density of 2.5 units/acre.

Future Land Use Plan

The adopted City Plan 2030 Future Land Use Plan identifies the future use of this property as a *Rural Residential Area*. The *Rural Residential Area* land use designation encourages the conservation and preservation of woodlands, grasslands, or agricultural lands that are sparsely settled. **These areas may or may not have adequate street and water infrastructure or public services, such as police and fire, to support urban or suburban densities and development patterns**, nor should these services be expanded to accommodate future growth unless they are in line with the following guiding principles:

1. Allow and encourage historical agricultural and related uses to continue and to occur as permanent land uses within planned developments.
2. If developed, encourage alternative development patterns, such as conservation or cluster development types, to achieve compatibility with surrounding rural areas.
3. Foster a culture that supports local food production on a variety of scales.
4. Encourage, preserve and protect viable agribusinesses such as orchards, berry farms and small scale produce-yielding businesses that provide goods for the local market.

Land Use

As noted in the City's adopted policies for rural areas, if development is approved, the design should encourage preservation of agricultural and related uses, through alternative development patterns, such as conservation or cluster development. The proposed development doesn't retain any of the existing rural or natural features as proposed. It is expected that most all of the existing tree canopy will be removed with construction of the infrastructure.

Other concerns that could impact the design:

- Street stub-outs to the west and east are required by the City's Street Design and Access Management Code. A variance from these requirements may be requested through the Fayetteville Planning Commission at the time of preliminary plat review.

In general, the proposed density is incompatible with the City of Fayetteville Future Land Use plans for this area, and with surrounding rural residential properties. Development on this site should attempt to mitigate the impacts of the density by preserving agricultural and rural characteristics.

Thank you for the opportunity for the City of Fayetteville to comment on this project. Please contact me with any questions.

Best Regards,



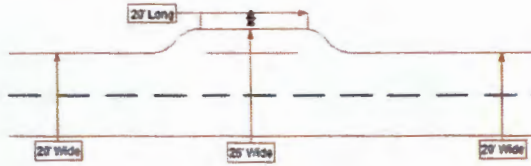
Jesse Fulcher
Senior Planner
City of Fayetteville

Description:

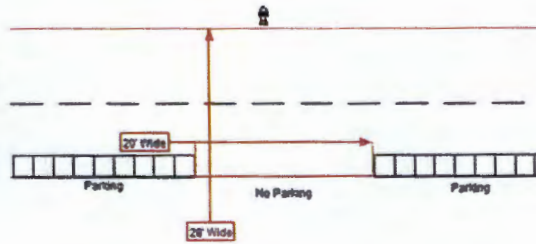
2012 International Fire Code Appendix D

NOT TO SCALE

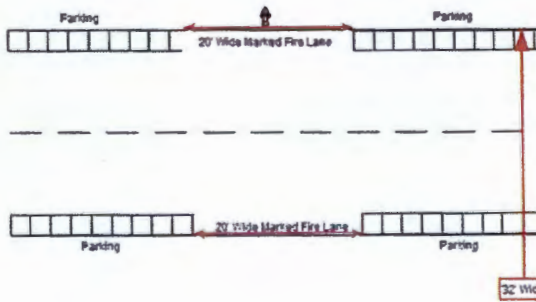
No Parking Marked Fire Lane with signs or strips on curbs both sides.



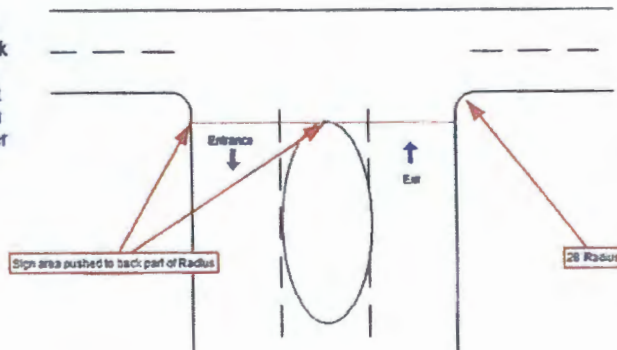
No Parking Marked Fire Lane on Side with Hydrant. Parking on opposite side with no parking 20 feet wide across from hydrant marked Fire Lane.



Parking on both sides with 20 feet on hydrant and across road from hydrant marked Fire Lane.



If you are going to put up a sign you must push the sign to the back part of the radius and make the curb a modified curb. If you want one side bigger than the other you must make the entrance side bigger than the exit.



All radius must be at least 28' or more

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APR 15 2014

WASHINGTON COUNTY
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APPENDIX D

FIRE APPARATUS ACCESS ROADS

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

SECTION D101
GENERAL

D101.1 Scope. Fire apparatus access roads shall be in accordance with this appendix and all other applicable requirements of the Arkansas Fire Prevention Code, Volume I. Requests for exceptions to Appendix D may be appealed to the State Fire Marshal.

SECTION D102
REQUIRED ACCESS

D102.1 Access and loading. Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds (34 050 kg).

SECTION D103
MINIMUM SPECIFICATIONS

D103.1 Access road width with a hydrant. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm), exclusive of shoulders (see Figure D103.1).

D103.2 Grade. Fire apparatus access roads shall not exceed 10 percent in grade.

Exception: Grades steeper than 10 percent as approved by the fire chief.

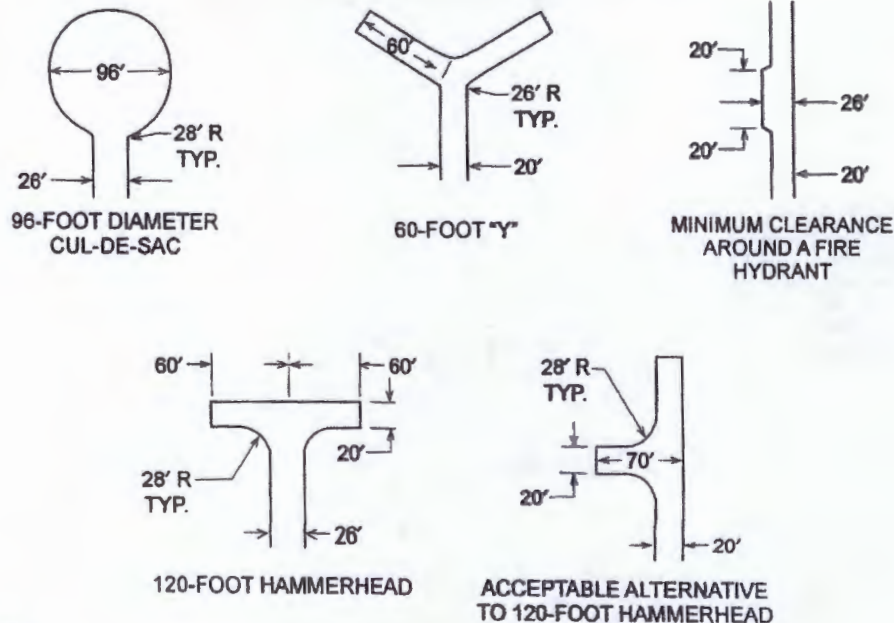
D103.3 Turning radius. The minimum turning radius shall be determined by the fire code official.

D103.4 Dead ends. Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with Table D103.4.

TABLE D103.4
REQUIREMENTS FOR DEAD-END
FIRE APPARATUS ACCESS ROADS

LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0-150	20	None required
151-500	20	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
501-750	26	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
Over 750		Special approval required

For SI: 1 foot = 304.8 mm.



For SI: 1 foot = 304.8 mm.

FIGURE D103.1
DEAD-END FIRE APPARATUS ACCESS ROAD TURNAROUND

Excerpts from May 1, 2014 and September 4, 2014
Planning Board/Zoning Board of Adjustments
Minute Meetings

EXCERPT FROM THE:

**MINUTES
WASHINGTON COUNTY PLANNING BOARD
&
ZONING BOARD OF ADJUSTMENTS
Sept 04, 2014
5:00 pm, Quorum Court Room, New Court House
280 N. College Ave.
Fayetteville, Arkansas 72701**

REGARDING:

DEVELOPMENTS REVIEWED:

ACTION TAKEN:

CONDITONAL USE PERMIT HEARINGS

County

k: Eastern Park Subdivision CUP

Denied

1. ROLL CALL:

Roll call was taken. Members present include Robert Daugherty, Chuck Browning, Randy Laney, Cheryl West, Walter Jennings, and Kenley Haley. Daryl Yerton was not present.

2. APPROVAL OF MINUTES: *Cheryl West made a motion to approve the minutes of Aug 07, 2014. Robert Daugherty seconded. All board members were in favor of approving. Motion passed.*

3. APPROVAL OF THE AGENDA: *Robert Daugherty made a motion to approve the agenda. Chuck Browning seconded. All board members were in favor of approving. Motion passed.*

4. NEW BUSINESS

CONDITIONAL USE PERMIT HEARINGS

Fayetteville Planning Area

k. Eastern Park Subdivision CUP

Conditional Use Permit Approval Request

Location: Section 32, Township 17 North, Range 29 West

Owner: Fred Patrick/L&F Construction

Engineer: USI Consulting Engineers, Ferdinand Fourie

Location Address: 4436 E. Mission Blvd

Approximately 7.66 acres / 19 lots. Proposed Land Use: 17 Single Family Residential (2 other lots-one for septic and one for detention)

Coordinates: Latitude: 36.097785, Longitude: -94.097156

Project #: 2014-018 Planner: Courtney McNair e-mail at cmcnair@co.washington.ar.us

REQUEST: Conditional Use Permit approval to allow a residential subdivision with 17 residential lots, 1 lot for a decentralized sewer system, and one lot for drainage. The overall density proposed is 2.3 units per acre.

CURRENT ZONING: Project lies within the County's Zoned area (Agriculture/Single-Family Residential 1 unit per acre).

PLANNING AREA: This project is located within Fayetteville's planning area. The city has submitted comments (K-41-42).

QUORUM COURT DISTRICT: District 15, Butch Pond **FIRE SERVICE AREA:** Goshen VFD

SCHOOL DISTRICT: Fayetteville

INFRASTRUCTURE: Water- Fayetteville **Electric-**Ozarks Electric **Natural Gas-** Source Gas
Telephone- AT&T **Cable-** Cox Communications

BACKGROUND/ PROJECT SYNOPSIS:

This property is owned by LF Construction. The applicant is Fred Patrick, and the engineer is Ferdi Fourie with USI Engineering. The property is located east of the City of Fayetteville and is within approximately ½ mile of the City Limits of Fayetteville.

Eastern Park Subdivision is requesting Conditional Use Permit approval to allow a residential subdivision with 17 residential lots to be placed on a property that is approximately 7.66 acres in size. Two additional lots are proposed; One lot is to be used for drainage/detention (0.38 acres) and the other, a decentralized sewer system (0.41 acres). The requested density is 2.3 units/acre. Residential lots range in size from 0.23 acres to 0.35 acres.

One entrance off Highway 45 (E. Mission Blvd) is proposed to access this development.

This project was on the May 1, 2014 Planning Board/Zoning Board of Adjustments (PB/ZBA) agenda. At that meeting, the PB/ZBA voted to table the project and asked the applicant to further evaluate the existing trees onsite, as well as propose mitigation efforts for the surrounding property owners.

The proposed density is still high, but, with fencing, and the addition and retention of trees, the applicant has made some efforts to mitigate impact on adjacent neighbors.

In the follow up letter submitted by the applicant (K-10-11), he proposes to add two trees per lot, make every effort to save existing trees, install fencing, and build a pavilion. He has enclosed sketches of the proposed houses for this site.

In addition to compatibility concerns, staff had concerns that all necessary site elements may not fit on the site because the acreage is fairly small. The engineer has shown all of the elements staff listed as concerns. The plans show the road and road right-of-way (ROW), the utility easements, fire hydrants, sewer line in a separate easement (cannot be in the same easement as water), building setbacks, and signage easement.

TECHNICAL CONCERNS:

Water/Plumbing/Fire Issues:

This property is serviced by City of Fayetteville water. There is an existing waterline located on Hwy 45 (E. Mission Blvd.). The nearest hydrant is located at Hwy 45 and E. Ashley Lane, which is approximately ¼ mile to the west of the proposed entrance to this property. The gpm fire flow for that hydrant is 974 gpm. A new hydrant is proposed near the entrance of the subdivision, and two additional hydrants are proposed to be located within the development.

Fayetteville Water commented, "This project is within the 1-mile planning district and will be subject to preliminary plat review through the city. Detailed Engineering comments will be generated at that time."

The Washington County Fire Marshal asked that an engineered fire flow for the proposed hydrants be submitted at Preliminary Subdivision review. He also stated that all hydrants must be shown on the plans (and labeled or indicated on the legend). Hydrants must be spaced every 500 feet. Information was provided to the applicant regarding road width (K-43-44). No parking will be allowed on the side of the

street where the hydrant is located. The cul-de-sacs shown appear to be adequate. No parking will be allowed on the cul-de-sac (this must be posted). A 28 foot turn radius is required on all curves. Modified curbs will be required on bio-islands within the cul-de-sacs.

Full review for compliance with the State Fire Code will be required at Preliminary Subdivision review.

Sewer/Septic/Decentralized Sewer:

Soil work was submitted for this project (K-23). Test pit locations are shown on the plats within the Decentralized Sewer System (DSS) lot. The applicant is proposing a gravity-feed system that can be connected to City of Fayetteville sewer in the future if necessary. All review and permitting of this system must be completed at Preliminary Subdivision review.

Renee Biby, the Washington County Public Utilities Coordinator, submitted comments regarding the proposed DSS. All review and permitting of the proposed DSS must be completed as per County and State Regulations.

Electric/Gas/Cable/Phone:

No comments were received by ATT, Source Gas, or Cox Communications. Ozarks Electric provided general comments to the applicant.

Roads/Sight Visibility/Ingress-Egress/Parking:

One entrance is proposed off Hwy 45 (E Mission Blvd). As this is a state highway, the applicant will be required to obtain proper permits from AHTD before constructing the entrance. No direct lot access onto Hwy 45 will be allowed (all lots must have access the proposed interior street). In addition, there is a small residential drive, Trough Springs Drive, to the north of this property. No access will be allowed onto that road.

Sight distance appears adequate, and a statement verifying the sight distance will be required at Preliminary Subdivision review. It must meet minimum County standards.

The Washington County Road Department requires that the right-of-way (ROW) carry through the proposed cul-de-sacs. They also stated that with the currently proposed plat, the streets will be classified as Class II residential, per county regulations. No utilities signage, lighting, or structures may be placed in the County ROW.

Drainage:

The Washington County Contract Engineer has no comments on this proposed project at this time. A full drainage study will be required at Preliminary Subdivision review. The drainage report must meet City of Fayetteville's specifications.

As the discharge point at this time is proposed to flow into a pond on an adjacent property, a drainage easement may be required. More information will be gathered at the Preliminary Subdivision phase if this project receives CUP approval.

Environmental Concerns:

At this time, no stormwater permit is required by Washington County; however, the applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality (ADEQ).

Signage/Lighting/Screening Concerns:

Sidewalks and two bio-islands are shown on the plats; these must be maintained by the POA or other entity. Washington County will not maintain sidewalks or bio islands. All outdoor lighting must be shielded from neighboring properties. Any lighting must be indirect and not cause disturbance to drivers or neighbors. All security lighting must be shielded appropriately.

A sign easement is shown on the plat. Staff recommends monument type signage, approximately 60 sq ft or less in size, that is indirectly lit (if lit). The signage will not be allowed to be placed in the County ROW. The proposed signage must be approved by Planning Staff.

A six-foot privacy fence is proposed around the entire property line (except where it touches the Hwy 45 ROW). In addition to the fencing, the engineer for this project provided a tree survey. Every effort must be made to retain the trees that are indicated on these plans as retained. It is understood that during the Preliminary Subdivision phase of this project, some additional existing trees may need to be removed. If additional trees are to be removed, the applicant must show how they plan to replace them at Preliminary Subdivision review. A tree protection plan must be submitted detailing how the trees are to be protected during construction. Staff must review and approve this plan prior to construction.

An agreement with a neighbor to the south to maintain certain large trees must be formalized in writing (with specific tree locations shown) at Preliminary Plat. The drip line of these trees must be left intact and fenced for protection during construction to ensure their protection.

Staff recommends the addition of three trees per lot: two street trees per lot as proposed by the applicant (minimum 2-inch in caliper), and one tree per yard shall be required, (unless existing trees have been preserved to meet this requirement-the preference is for existing trees to be retained).

Staff recommends that all new trees be installed at a minimum 2-inch caliper size. Plantings will be inspected. Any that do not survive must be replaced within the first year after construction is complete.

City of Fayetteville Concerns:

This project is located within approximately ½ mile of the city limits.

The City of Fayetteville submitted comments. According to the letter submitted by the City of Fayetteville (K-41-42), generally, the proposed density is incompatible with the City of Fayetteville Future Land Use Plan, and incompatible with surrounding rural residential properties. Mitigation to lessen the impact of this density should be considered.

COMPATIBILITY CONCERNS:

Surrounding Density/Uses:

The surrounding uses are single family residential and agricultural. The site contains one residence and one barn which are proposed to be removed. The proposed density of the project is 2.3 units/acre (1 unit per 0.4 acres). The adjacent average density is 0.14 units/acre (1 unit per 7.125 acres); with lots ranging from approximately 1.25 acres to 24 acres in size.

In the vicinity, there is more dense development (K-47-48). Subdivisions in the general area range from 1 unit/3.39 acres to 1 unit/0.3 acres. There is also a storage facility in the near vicinity. Additional commercial uses are within ¼ mile of the proposed development.

The applicant has proposed some mitigation efforts for adjacent neighbors.

County's Land Use Plan (written document):

According to the County's Land Use Plan,

SECTION III. PHYSICAL DEVELOPMENT

A. LAND USE CONSIDERATIONS

1. RESIDENTIAL

- a. To provide for development of residential areas at appropriate densities. **The proposal is a very high density for this area. The only densities that are similar are in the Holiday Hills Homes SD. These homes are cottage type and several are duplexes. Most other subdivisions in the general area have lots that average ½ acre or more.**

- b. Update, administer and enforce subdivision regulations; and develop, adopt, and enforce zoning and related regulations and codes; **the proposal will be required to meet minimum County Subdivision standards (10,000 sq ft minimum lot size) and the lot sizes as shown are in compliance with these standards. The proposal does not meet current zoning which is why the applicant must request Conditional Use Permit approval.**
- c. Require development to be connected to utilities and utilize zoning as a means to guide the progression of development; **Utilities are available to service this development.**
- d. Protect the character and integrity, and property values, of single-family, residential areas; **the proposal is for single family residential use. Mitigation is proposed for density differences (screening, retention and addition of trees).**
- e. Protect residential neighborhoods from inappropriate non-residential influences through the use of regulatory controls; **the use proposed is residential.**
- f. Ensure land use and development patterns which provide for the most efficient and effective use of available utilities and services, including fire protection; and,
- g. Maintain an adequate county road plan and standards to guide and accommodate traffic movement; to develop differing categories of roads; and to protect rights-of-ways for planned, future roads. **This development takes access from a state highway. All interior roads will be constructed to at least minimum County standards.**

Staff feels that this project as proposed will not be detrimental to public health, safety and welfare.

The engineer has also shown that all required site elements can be placed on the property. Staff feels like there has been good communication and discussion about the vision for this project.

As stated at the May 1, 2014 Planning Board, staff feels that this property is located in an area of the County that is undergoing transition from a rural area to a more developed area. Eventually residential rooftops and privacy fencing seem to be a "given" for this area. The applicant has responded to staff's request for additional studies and mitigation efforts. The density remains high, but staff feels that with conditions, this project will not diminish the use and enjoyment of the surrounding properties.

Future Land Use Plan

The future land use for this area (derived from the City of Fayetteville adopted Land Use plan) is Rural Area Residential. Rural Area Residential is defined as 1 unit/15 acres. Most of the adjacent properties do not conform to this future land use designation (see above section with acreages). This development is not compatible with the future land use designation.

NEIGHBOR COMMENTS/CONCERNS:

All neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project. One opposed comment was submitted with the current notification. Staff has included previous comments submitted by neighbors with this packet as well.

Staff will update the Planning Board at the meeting if any additional comments are received.

STAFF RECOMMENDATION:

Staff recommends approval for the Conditional Use Permit request of the Eastern Park Subdivision CUP, with the following conditions:

Water/Plumbing/Fire Conditions:

1. Engineered fire flow for the proposed hydrants must be submitted at Preliminary Subdivision review.
2. All hydrants must be shown on the plans (and labeled or indicated on the legend). Hydrants must be spaced every 500 feet.
3. No parking will be allowed on the side of the street where the hydrants are located.
4. Modified curbs will be required on bio-islands within the cul-de-sacs.
5. The cul-de-sacs shown appear to be adequate.
6. Full review for compliance with the State Fire Code will be required at Preliminary Subdivision review.

Septic Conditions:

1. All review and permitting of the proposed decentralized sewer system (dss) must be completed as per County and State regulations.
2. No parking is allowed on any portion of the dss including the alternate area. The alternate area must remain undisturbed (no overflow parking either).
3. The proposed decentralized sewer system must be gravity flow and use no interceptor tanks.
4. At Preliminary Subdivision Plat, please provide a drawing of the system, operations manual, and details on the SCADA system that will be installed.
5. Prior to Construction Plan approval, proof that the operations permit has been submitted to ADEQ and has been deemed administratively complete should be submitted to the Public Utilities Coordinator.
6. Prior to Final Plat approval, proof that the final permit from ADEQ has been submitted and approved needs to be submitted to Public Utilities Coordinator.
7. Note that prior to the permit being approved by ADEQ, the developer will have to have an approved budget and be required to put up five years of operations expenses to ADEQ.
8. Details about who will own the sewer system upon completion of the subdivision need to be submitted at Preliminary Plat.
9. Note to the developer that there is a \$500 annual fee required for the permit to ADEQ.
10. The Public Utilities Coordinator would like to see something in the covenants that mentions the decentralized sewer system and the responsibility to the homeowners to pay the costs for operations and maintenance of the system (although this is not required by our ordinance).

Roads/Sight Visibility/Ingress-Egress/Parking Conditions:

1. All drives must support 75,000lbs in all weather conditions.
2. No parking is allowed within the Washington County Right-of-way.
3. Obtain proper permits from AHTD before constructing the entrance.
4. All subdivision lots must access onto the proposed roads. No direct access from subdivision lots will be allowed on Hwy 45 (Mission Blvd).
5. No subdivision lot access will be allowed on Trough Springs Drive.
6. A statement verifying the sight distance will be required at Preliminary Subdivision review. It must meet minimum County standards.
7. The Washington County Road Department requires that the right-of-way (ROW) carry through the proposed cul-de-sacs
8. Streets will be classified as Class II Residential, per County regulations.
9. No utilities, signage, lighting, or structures may be placed in the County ROW.

Drainage Conditions:

1. A full drainage study will be required at Preliminary Subdivision review.
2. The drainage report must meet City of Fayetteville's specifications.
3. Care must be taken to avoid contamination of the spring fed pond by runoff created by the development.

4. As the discharge point at this time is proposed to flow into a pond on an adjacent property, a drainage easement may be required. More information will be gathered at the Preliminary Subdivision phase if this project receives CUP approval.

Environmental Conditions:

1. No stormwater permit is required by Washington County at this time; however, applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality. This proposed project is larger than five acres and would require a Stormwater Permit for Large Construction Sites.
http://www.adeq.state.ar.us/water/branch_permits/general_permits/stormwater/default.htm

Utility Conditions:

1. Generally, any damage or relocation of utilities will be at the expense of the owner/applicant.
2. All required utility easements must be shown at Preliminary Plat.
3. **Ozarks Electric Comments:**
 1. Any relocation of existing facilities or extension of line that has to be built specifically to feed the subdivision will be at full cost to the developer.
 2. All lot corners must be marked with lot numbers clearly written on the stakes before construction will begin.
 3. If off site easements are needed for Ozarks to provide electricity to the development, easements must be obtained by developer and provided to Ozarks before the design will begin.
 4. All conduits placed at road crossings by developer must have 48 inch of cover at final grade and marked with post to identify end of conduits. (3 – 4 inch schedule 40 conduits to be used for electric only at all road crossings, conduits must extend past the edge of any obstructions so that they are accessible during construction. Other utilities will require more conduits at road crossing.) There must be minimum separation of 12 inches between conduits for electric and conduits for other utilities. This is NESC code 354.
 5. All conduits for road crossings and specific widths of U.E. must be shown on final plat before Ozarks Electric will sign the final plat.
 6. Subdivisions will be built on Policy 45 (Ozarks is responsible for up to 50% and the developer is responsible for the remainder of the cost of construction) There will be extra charges to the Developer when extra time or materials are used for rock trenching, boring, select material bedding, shoring, dewatering, etc.
 7. All back lot and side lot utility easements to be 20 feet except side lot utility easements to be used for street lights to be 10 feet. All front lot utility easements to be a minimum of 25 feet.
 8. Developer must provide Ozarks Electric with a Digital copy (AutoCAD 2004) of the final plat as well as a hard copy.
 9. All Utility Easements to be cleared of all trees, brush, dirt piles, buildings and debris so that the easement is accessible with equipment. If easement is not cleared developer may be subject to extra charges.
 10. Please contact me when construction begins on subdivision and again when construction is within three months of completion. Greg McGee at (479) 684-4634 or gmcgee@ozarksecc.com

Signage/Lighting/Screening Conditions:

1. Sidewalks and two bio-islands are shown on the plats; these must be maintained by the POA or other entity. Washington County will not maintain sidewalks or bio islands.
2. All outdoor lighting must be shielded from neighboring properties. Any lighting must be indirect and not cause disturbance to drivers or neighbors. All security lighting must be shielded appropriately.
3. A sign easement is shown on the plat. Sign must be placed within the proposed easement.
4. Staff recommends monument type signage, approximately 60 sq ft or less in size, that is indirectly lit (if lit). The signage will not be allowed to be placed in the County ROW. The proposed signage must be approved by Planning Staff.

5. A six (6) foot privacy fence along the property line is required to be installed (except where the property touches the Hwy 45 ROW).
6. An agreement with a neighbor to the south to maintain certain large trees must be formalized in writing (with specific tree locations show) at Preliminary Plat. The drip line of these trees must be left intact and fenced for protection during construction to insure their protection.
7. Every effort must be made to retain the trees that are indicated on these plans as retained. It is understood that during the Preliminary Subdivision phase of this project, some addition existing trees may need to be removed.
8. The addition of three trees per lot: two street trees per lot as proposed by the applicant (minimum 2-inch in caliper), and one tree per yard shall be required, (unless existing trees have been preserved to meet this requirement-the preference is for existing trees to be retained). –**This condition is being examined and adjustments are expected-Staff will update at the meeting.**
9. Any tree that is to be counted as preserved (this includes the trees in the agreement with the adjacent neighbor) must have the drip line preserved and shall be protected from construction activity to prevent impingement by or the storage of construction vehicles, materials, debris, spoils or equipment in tree preservation areas. No filling, excavating or other land disturbance shall take place in tree preservation areas.
10. Before commencing any construction activity, the applicant shall construct tree protection barriers, by a method approved by Planning Staff, on the site along the tree drip line or 10 feet from the trunk, whichever is greater.
11. A tree protection plan must be submitted detailing how the trees are to be protected during construction. Staff must review and approve this plan prior to construction.
12. Staff recommends that all new trees be installed at a minimum 2-inch caliper. Plantings will be inspected. Any that do not survive must be replaced within the first year after construction is complete.
13. County Planning Staff may require other protective measures based upon the individual characteristics of the site and the proposed construction methods. Tree protection measures shall also protect any off-site trees, the roots of which extend onto the site of the proposed construction.
14. If the required barriers surrounding the agreed upon protected trees are not adequately maintained during construction, County Planning Staff shall prescribe remedial measures.

Standard Conditions:

1. Pay engineering fees. Staff will prepare a statement once all invoices are received. If less than one hour of review, there will be no billed charges.
2. Pay neighbor notification mailing fees (\$65.40 and \$66.40) within 30 days of project approval. Any extension must be approved by the Planning Office (invoice was emailed to applicant on 05/01/2014 and 08/28/2014).
3. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
4. This CUP must be ratified by the Quorum Court.
5. No CUP is final until the 30-day appeal period has run (and no appeal has been filed).
6. As this project is located in the City of Fayetteville's Planning area, it must proceed through the City Subdivision Plat process if CUP is granted. It must also proceed through the Washington County Subdivision Plat process after approval is granted by the City of Fayetteville.
7. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
8. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.
 - a. This project requires additional review (Subdivision), and therefore, the applicant must submit for Preliminary project review within 12 months of this CUP project's ratification.

Washington County Senior Planner, Courtney McNair, presented the staff report for the board members.

Public comments.

Kenley Haley, Planning Board member, wanted to clarify that Fayetteville Planning said it is incompatible. "Is that their recommendation?"

Courtney McNair, Washington County Senior Planner, replied, "It's incompatible with their future land use. I agree it is incompatible with their future land use. They did say that mitigation efforts should be attempted in order to make it compatible with the surrounding areas."

Kenley Haley asked about the square footage of the houses. "The houses run from 2,500-3,000 sq ft correct?"

Courtney McNair replied, "I think it's an average of 2,500 sq ft."

Kenley Haley asked how many houses per acres?

Courtney McNair replied, "It's 2.3 homes per acre."

Randy Laney, Planning Board Director, asked, "How far is the Holiday Hills unit from the project?"

Courtney McNair replied, "From the entry point it's 700 ft."

Kenley Haley asked if they are concern about the decentralized system near the pond.

Courtney McNair responded that the public utilities coordinator was not concerned. As long as it is designed and maintained properly. "ADEQ also regulates these types of system to make sure that if anything malfunctions there's a plan in place. There's a managing agency that review those."

Kenley Haley stated, "Also there is a runoff that's going to run into someone's property. Was that the easement you're referring to?"

Courtney McNair replied that is correct. "They currently show runoff to flow into a lot which is a detention area. Then discharge that into the adjacent pond. The easement maybe a necessity."

Chuck Browning, Planning Board member, asked "What happens if she sells that property and the pond? Will it always be there?"

Juliet Richey responded, "We'll require the easement to be written and convey with the property deed."

Chuck Browning replied, "I understand it may be conveyed, but the potential future property owner may not want the easement there."

Juliet Richey responded, "They can eliminate the pond but they would still have to accept the water."

Chuck Browning asked how this the project not compatible with Fayetteville's future land use plan.

Courtney McNair replied, "This area in the future land is shown to be rural area residential which is 1 unit per 15 acres."

Walter Jennings, Planning Board member, asked "Do they plan to have sidewalks on Hwy 45?"

Courtney McNair responded, "I'm unaware of that. It would be a highway department question. We did notify the highway department but we did not receive any comments."

Kenley Haley stated, "It says on the report 2,500 sq ft to 3,000 sq ft."

Randy Laney stated, "I didn't read anything about covenants. That's just the average for the square footage. Are you building the houses yourself?"

Ferdinand Fourie replied, "They're going to be built by the developer."

Cheryl West, Planning Board member, asked, "Why lot 17 is so tiny compared to the other lots?"

Ferdinand Fourie, replied, "That's an existing property line. Also, I was wondering about this tree replacement. We would replace 3 trees for any tree we would take out. If we were to save one of the trees that is existing and switch it out with a tree that we take out would that be allowed?"

Courtney McNair responded, "The intent of that condition was to maintain the average number of trees."

Cheryl West asked if there were there any neighbor comments.

Courtney McNair replied, "Just one neighbor comment. He has the same comment as before. He's not opposed to this particular development. He's opposed to the deviation in zoning. He feels it too large of a deviation."

Walter Jennings stated he still has same concern about the density and the lack of connectivity to anything else other than Highway 45.

Ferdinand Fourie, responded, "There's a connection provided in the future. There's a future right-of-way when Fayetteville comes in , it will be connected to that road. It's designed in a manner that will allow future connectivity. The cul-de-sac can be modified. The reason we put that cul-de-sac is there is we plan to put a bio island. The drainage will follow into the island before it gets to the detention pond. It'll provide some low impact development features."

Cheryl West stated that it just bothers her that all the surrounding lots are 1 acre or more. Just like the previous project we turned down. "The reasoning for that is you have big lots and they're coming in as tiny lots. I'm concerned by about smaller lots."

Public Comments Closed.

*Kenley Haley made a motion to deny the **Eastern Park Subdivision CUP**. Cheryl West seconded. Daryl Yerton was not present. Board Members Walter Jennings, Chuck Browning, Cheryl West and Kenley Haley were in favor of approving the denial. Robert Daugherty opposed. Randy Laney did not vote. Motion passed.*

EXCERPT FROM THE:

**MINUTES
WASHINGTON COUNTY PLANNING BOARD
&
ZONING BOARD OF ADJUSTMENTS
May 01, 2014
5:00 pm, Quorum Court Room, New Court House
280 N. College Ave.
Fayetteville, Arkansas 72701**

REGARDING:

DEVELOPMENTS REVIEWED:

ACTION TAKEN:

CONDITONAL USE PERMIT HEARINGS

Fayetteville Planning Area

g. Eastern Park Subdivision CUP

Tabled

1. ROLL CALL:

Roll call was taken. Members present include Robert Daugherty, Chuck Browning, Randy Laney, Walter Jennings, and Kenley Haley. Cheryl West and Daryl Yerton were not present.

2. APPROVAL OF MINUTES: *Kenley Haley made a motion to approve the minutes of April 03, 2014. Walter Jennings seconded. All board members were in favor of approving. Motion passed.*

3. APPROVAL OF THE AGENDA: *Kenley Haley made a motion to approve the agenda. Walter Jennings seconded. All board members were in favor of approving. Motion passed.*

4. NEW BUSINESS

CONDITIONAL USE PERMIT HEARINGS

Fayetteville Planning Area

g. Eastern Park Subdivision CUP

Conditional Use Permit Approval Request

Location: Section 32, Township 17 North, Range 29 West

Owner: Joyce McGuire

Applicant: Fred Patrick

Engineer: Bates and Associates

Location Address: 4436 E. Mission Blvd

Approximately 7.66 acres/ 19 lots. Proposed Land Use: Single Family Residential (17 residential lots, one lot for septic and one lot for detention)

Coordinates: Longitude: -94.097156, Latitude: 36.097785

Project #: 2014-018 Planner: Courtney McNair e-mail at cmcnair@co.washington.ar.us

REQUEST: Conditional Use Permit approval to allow a residential subdivision with 17 residential lots, 1 lot for a decentralized sewer system, and one lot for drainage. The overall density proposed is 2.3 units per acre.

CURRENT ZONING: Project lies within the County's Zoned area (Agriculture/Single-Family Residential 1 unit per acre).

PLANNING AREA: This project is located within Fayetteville's planning area. The city has submitted comments (**G-48-49**).

QUORUM COURT DISTRICT: District 15, Butch Pond **FIRE SERVICE AREA:** Goshen VFD
SCHOOL DISTRICT: Fayetteville

INFRASTRUCTURE: **Water-** Fayetteville **Electric-**Ozarks Electric **Natural Gas-** Source Gas
Telephone- AT&T **Cable-** Cox Communications

BACKGROUND/ PROJECT SYNOPSIS:

This property is owned by Joyce McGuire. The applicant is Fred Patrick, and the engineer is Geoff Bates with Bates and Associates. The property is located east of the City of Fayetteville and is within approximately ½ mile of the City Limits of Fayetteville.

Eastern Park Subdivision is requesting Conditional Use Permit approval to allow a residential subdivision with 17 residential lots to be placed on a property that is approximately 7.66 acres in size. Two additional lots are proposed to be used for drainage (0.58 acres) and a decentralized sewer system (0.43 acres). The requested density is 2.3 units/acre. Residential lots range in size from 0.24 acres to 0.33 acres.

One entrance off Highway 45 (E. Mission Blvd) is proposed to access this development.

According to the letter submitted by the applicant (**G-30**), screening in the form of a privacy fence is proposed along a portion of the property line. Some tree preservation is also proposed.

TECHNICAL CONCERNS:

Water/Plumbing/Fire Issues:

This property is serviced by City of Fayetteville water. There is an existing waterline located on Hwy 45 (E. Mission Blvd.). The nearest hydrant is located at Hwy 45 and E. Ashley Lane, which is approximately ¼ mile to the west of the proposed entrance to this property. The gpm fire flow for that hydrant is 974 gpm. A new hydrant is proposed near the entrance of the subdivision, and two additional hydrants are proposed to be located within the development.

No comments were received from City of Fayetteville water.

The Washington County Fire Marshal asked that an engineered fire flow for the proposed hydrants be submitted at Preliminary Subdivision review. He also stated that all hydrants must be shown on the plans (and labeled or indicated on the legend). Information was provided to the applicant regarding road width (**G50-51**). No parking will be allowed on the side of the street where the hydrant is located. The hammerheads shown appear to be adequate.

Full review for compliance with the State Fire Code will be required at Preliminary Subdivision review.

Sewer/Septic/Decentralized Sewer:

Soil work was submitted for this project (**G-7**). Test pit locations are shown on the plats within the Decentralized Sewer System lot. The applicant is proposing a gravity-feed system that can be connected to City of Fayetteville sewer in the future if necessary. All review and permitting of this system must be completed at Preliminary Subdivision review.

Electric/Gas/Cable/Phone:

No comments were received by ATT, Source Gas, or Cox Communications. Ozarks Electric provided general comments to the applicant.

Roads/Sight Visibility/Ingress-Egress/Parking:

One entrance is proposed off Hwy 45 (E Mission Blvd). As this is a state highway, the applicant will be required to obtain proper permits from AHTD before constructing the entrance. No direct access on to Hwy 45 will be allowed. In addition, there is a small residential drive, Trough Springs Drive, to the north of this property. No access will be allowed on to that road.

Sight distance appears adequate, and a statement verifying the sight distance will be required at Preliminary Subdivision review. It must meet minimum County standards.

The Washington County Road Department requires that the right-of-way (ROW) carry through the proposed hammerhead turn-arounds. They also stated that with current proposed plat, the streets will be classified Class II residential, per county regulations. The latest plan shows the Sewer Line within the County ROW, this is not allowed and must be removed. No utilities, signage, lighting, or structures may be placed in the County ROW.

Drainage:

The Washington County Contract Engineer has no comments on this proposed project at this time. A full drainage study will be required at Preliminary Subdivision review.

Environmental Concerns:

At this time, no stormwater permit is required by Washington County; however, the applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality (ADEQ).

Signage/Lighting/Screening Concerns:

Some street lights are shown on the plats; these must be maintained by the POA. Washington County will not maintain street lights. All outdoor lighting must be shielded from neighboring properties. Any lighting must be indirect and not cause disturbance to drivers or neighbors. All security lighting must be shielded appropriately.

A sign easement is shown on the plat. The applicant has not provided details on the requested signage. Staff recommends monument type signage, approximately 60 sq ft or less in size, that is indirectly lit (if lit). The signage will not be allowed to be placed in the County ROW. The proposed signage must be approved by Planning Staff.

At this time, the applicant is proposing a six (6) foot privacy fence along portions of his property line (**see attached plat G-56**). He has also made an agreement with a neighbor to the south to maintain certain large trees. Staff is in agreement generally with the applicant's proposal. Staff is going to require that privacy fencing be placed along the neighboring property line along the entrance drive (on the west side) as well as what the applicant is showing on the plats (**see staff's sketch G-33**).

City of Fayetteville Concerns:

The City of Fayetteville submitted comments. According to the letter submitted by the City of Fayetteville (**G-48-49**), generally, the proposed density is incompatible with the City of Fayetteville Future Land Use Plan, and incompatible with surrounding rural residential properties. Mitigation to lessen the impact of this density should be considered.

This project is located within approximately ½ mile of the city limits.

COMPATIBILITY CONCERNS:

Surrounding Density/Uses:

The surrounding uses are single family residential and agricultural. The site contains one residence and one barn which are proposed to be removed. The proposed density of the project is 2.3 units/acre (1 unit per 0.4 acres). The adjacent average density is 0.14 units/acre (1 unit per 7.125 acres); with lots ranging from approximately 1.25 acres to 24 acres in size.

In the vicinity, there is more dense development (**G-54**). Subdivisions in the general area range from 1

unit/3.39 acres to 1 unit/0.3 acres. There is also a storage facility in the near vicinity. Additional commercial uses are within ¼ mile of the proposed development.

The applicant has proposed some mitigation efforts for adjacent neighbors, and several adjacent neighbors appear to be unopposed to the project (**see attached signed statements provided by the applicant G-42-47**). There are some neighbors opposed to the project as presented.

County's Land Use Plan (written document):

According to the County's Land Use Plan,

SECTION III. PHYSICAL DEVELOPMENT

A. LAND USE CONSIDERATIONS

1. RESIDENTIAL

- a. To provide for development of residential areas at appropriate densities. **The proposal is a very high density for this area. The only densities that are similar are in the Holiday Hills Homes SD. These homes are cottage type and several are duplexes. Most other subdivisions in the general area have lots that average ½ acre or more.**
- b. Update, administer and enforce subdivision regulations; and develop, adopt, and enforce zoning and related regulations and codes; **the proposal will be required to meet minimum County Subdivision standards and the lot sizes as shown are in compliance with these standards. The proposal does not meet current zoning which is why the applicant must request Conditional Use Permit approval.**
- c. Require development to be connected to utilities and utilize zoning as a means to guide the progression of development; **Utilities are available to service this development.**
- d. Protect the character and integrity, and property values, of single-family, residential areas; **The proposal is for single family residential use.**
- e. Protect residential neighborhoods from inappropriate non-residential influences through the use of regulatory controls; **the use proposed is residential.**
- f. Ensure land use and development patterns which provide for the most efficient and effective use of available utilities and services, including fire protection; and,
- g. Maintain an adequate county road plan and standards to guide and accommodate traffic movement; to develop differing categories of roads; and to protect rights-of-ways for planned, future roads. **This development takes access from a state highway. All interior roads will be constructed to at least minimum County standards.**

Future Land Use Plan

The future land use for this area (derived from the City of Fayetteville adopted Land Use plan) is Rural Area Residential. Rural Area Residential is defined as 1 unit/15 acres. Most of the adjacent properties do not conform to this future land use designation (see above section with acreages). This development is not compatible with the future land use designation.

NEIGHBOR COMMENTS/CONCERNS:

All neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project. In addition, the applicant visited with many of his neighbors in person. Five (5) neighbors signed statements prepared by the applicant stating they have no objection to the proposal (**G-**

42-47). Staff received four (4) opposed comments (2 were from the same neighbor) (G-34-41). Concerns were mostly in regard to the decentralized sewer system (DCS), though one neighbor voiced concern about the deviation from the current zoning of the property. It is staff's understanding that the applicant is setting up a meeting with the developer of the DSC and his neighbors in an attempt to address those concerns.

Staff will update the Planning Board at the meeting if any additional comments are received.

STAFF CONCLUSION:

This project is proposing a high density for this area. While it is located very close to the City of Fayetteville which has similar densities, the project is incompatible with the Future Land Use plan and with properties directly adjacent to the site. Staff is still considering neighbor input and compatibility concerns as well as proximity to the city limits. **Staff will present the recommendation and conditions at the Planning Board Meeting.**

Washington County Senior Planner, Courtney McNair, presented the staff report for the board members. Staff does recommend to table the project to get a better understanding of the design that will include tree preservation. Staff included some conditions because we did not feel that this project as design will be detrimental to public health, safety, and welfare. It's clearly a compatibility issue and that why we're asking for the tree preservation. If the board does decide to approve it, staff has written a set of conditions that we like you to approve with it.

Kenley Haley, Planning Board Member, asked, "On the north side where that backs up to Trough Springs, are there trees through there too?"

Courtney McNair, Washington County Senior Planner, answered that she couldn't get back there. "On the aerial photo it does look like there are a lot of trees."

Kenley Haley, asked, "How much distance is between the proposal and the residential drive Trough Springs?"

Courtney McNair replied, "It is actually unclear. Part of the mix up is with the deed information not being filed. The Assessor stated that were several oddities in the parcels in this area. The Assessor said that those do not look right. The Assessor would have to remap and fix them to try figure out what's going on. I'm not sure how close that property line is to the road. On the developer's survey you can see it's fairly close but it's really hard to accurately tell at this time."

Public Comments

Geoff Bates, Engineer for the project, "stated right now this is just a Conditional Use Permit, we're just trying to get permission to make this size lot and density. Once we do a plat some of them may not even work. We haven't designed it yet. We've got to put in a detention decentralized system, get all the utilities in, and then at that time when we submit our plat we'll decide where to put fences, shrubs, and trees. We haven't done a topography survey yet that locates all the trees. Just seems like we're getting the cart before the horse. Once we get in and do the design then they can require fencing and all other details. For now we are just trying to get permission to have this density and size lots. Once we get to designing, it may not work. At that time you cannot approve the plat."

Randy Laney, Planning Board Chair, stated that this type of density is what we did not want to happen. "The cart is not really before the horse because you are asking for a big deviation. I understand in order mitigate that, I understand the way you prefer it to work which is not spend money until you see that kind of density. Without a whole lot of work, your chance of getting this kind of density from me is little to none for my vote. You might want to spend the money or lower your density."

Walter Jennings, Planning Board Member, stated that he has concerns about the density. "It is way too dense for where it is."

Geoff Bates, asked what would the board feel more comfortable with? "Does the board have something in mind for what size lots?"

Randy Laney replied, "I think it has to do with working with staff on mitigation efforts. What can you do besides the density issue? We have seen projects that are dense but they have gone out of their way to have street designs, pulled the porches to the front property line, those kinds of planned community looks. There were also sufficient screening, berming, and other things going on made the project worked out."

Geoff Bates asked, "so the board wants the a full design, of even what the houses looked like?"

Randy Laney, replied, "I don't know. That's what I saw done."

Kenley Haley, Planning Board Member, asked if we can give an example of area that we approved that's high density.

Robert Daugherty, Planning Board Member, noted that there's one right up the road. How big were those lots? They were an acre or more weren't they?

Juliet Richey, Planning Board Director, responded "For the one at Chapel View, all lots were over an acre in size, we did not do a conditional use permit for those. For a subdivision that is somewhat similar, a third to a half an acre lot, was the Buffington Subdivision conditional use permit that was on the corner of Oakland Zion and Gulley. We had similar conditions for tree preservation. Unfortunately they did not decide to go forward with that project. The only other dense subdivision that we reviewed was Hughmount Subdivision on the west side of town. We talked about many similar issues. They did a connective green space between all their homes and they had some different styles and types of homes. It was a very different project because it was a lot bigger scale, 140 lots vs. 17 lots."

Randy Laney added that it Hughmount Village was next door to some dense things.

Juliet Richey, noted that we are just now starting to see more dense subdivision being proposed since passing zoning and the market decline. The Buffington Subdivision was similar and we asked them to look at similar things. We understand what you are saying Mr. Bates, upfront that you don't want to do all these things. But the way our codes work is if we don't address it on the front end then we cannot address as it subdivision. We don't have the latitude to deny a plat if we don't have those things worked out on the front end in CUP.

Geoff Bates replied, "That's what it seemed like to me. This was more of a concept phase and platting when you get into more detail requirements".

Randy Laney added, "That is correct, it is concept phase. But from our point of the view the concept is not very good. In order to sell the notion that you can have more density, that'll fit into the neighborhood. We're going to need a little more help."

Geoff Bates, replied "That's fine. I am just the middle man trying to help. I'm not trying to get between the board and the developers."

Robert Daugherty, asked about the about decentralize system. "Doesn't the system have to be bonded? What are the guidelines for that?"

George Butler, Washington County Attorney, stated they have to get a permit from ADEQ and the health department.

Robert Daugherty, asked if that bond takes care of it. "For example the POA's broke or the owner's broke and it'll end up in the bank's hand."

George Butler replied that we have to look at the state legislation. "A bond to ensure they comply, and another bond put for nature of reserves for repairs."

Robert Daugherty stated that he knows one system that was never completed yet and it's in the bank's hand. That is the reason why he asked that questions

Fred Patrick, Property Owner, stated "I would like for the septic representative to come and speak."

Kathy Bartlett Representative for NWA utilities stated "We operate and maintain waste water system such as these here in the NWA. The bond that you made reference to is actually a financial assurance requirement that the ADEQ places on any permit applications. When Mr. Patrick applies for a permit for the system he will be required to post that financial assurance mechanism which will be equal to five years operation and maintenance on the system. The money can be posted in a variety of methods, whether it be a letter of credit, a bond, insurance, or just money in the bank. Typically they apply for a letter of credit with the bank and they use that. The ADEQ will be listed as the beneficiaries of that letter of credit, that financial assurance. What that does is that it allows for that developer to have the funds set aside to operate and maintain that plant for the term of the permit. The financial assurance needs to be equal to five years of operation and maintenance for that plant. When the permit is renewed in the five years the financial assurance has to be renewed with it. I believe the County no longer has oversight or regulations over these. They allowed it to maintain that oversight by the state ADEQ. They will maintain that oversight."

Robert Daugherty asked if the POA eventually takes ownership of it at some point.

Kathy Bartlett, answered, "It could. It depends on how the developer sets that up in his bill of assurance and in the protective covenants. If the developer sets it up where the POA will be deeded that property then they will own it. That will transfer over to them."

Robert Daugherty asked if somebody will inspect and make sure the system is maintained properly?

Kathy Bartlett replied "Yes. ADEQ will require that the plant be maintained and operated by a certain class operator and those reports need to be sent in a monthly bases to the state for review."

Juliet Richey added that the County did retain a little bit of our regulation. "Not in regards to the financial part but we do require that it be gravity feed in this area and in relation to how the cities want it done. Also we require them to some telemetry on them. So if an alarm goes off that it actually calls somebody and it's just a light blinking on a building."

Yume Rudzinski, Architect in Fayetteville, stated that she has no stake in this project. "Mr. Patrick is using an architect out of Tulsa who is designing these homes. She stated that she does not like working for developers because of things that happened in this area. But when Mr. Patrick showed me what he was doing, at least someone is doing something that as little bit of density. I lived in the first planned unit development in Fayetteville in Huntingdon Subdivision. I have an fifth of an acre lot, it's located west of Crossover, north of Old Wire, and out of Paradise Valley. It's a beautiful walkable neighborhood. On my fifth of an acre I have 17 mature trees. All my neighbors have trees. My 14 year son has friends that live out towards the East of side where all the coaches live. I went by the subdivision called Ridgemonte Estates, they're five acres lots. When you put up a 3,000 sq ft house in a five acre lot with two trees, I drove by there yesterday, it's embarrassing. Spending all that money on that lot and a big house and you cannot afford to put 30 thirty trees. I have more trees on my fifth acre lot compared to these lots. The reason I am here is I want to encourage people to have a little bit of density but instead of using the big land and spending your money on big lots. I think it's okay to have smaller lots and have a more quality lot with a better quality of life, having a lot of trees. Instead of putting a big house on the lot and calling an architect to come out "saying it's really hot out here in the summer and can you put in some canopy for me?" Why do you just plant some trees? It's just the idea of trying to retrofit a house because you're just thinking about fixing up things and not using nature. But I think if the developer can have smaller lots and

I encourage them to put trees on their lots. A couple of trees on a quarter acre lots look a lot better than a couple of trees on a five acre lot. If you have a chance just drive by Huntingdon's Subdivision, it's a nice neighborhood and all my neighbors have matures trees. We don't have big giant lots where you can be fried in the summer time. It just feels like a nice neighborhood. If developers were doing something like this I would applaud them. Mr. Patrick came to me with the house plans and I said I do not do McMansions, I looked at the plans and it looked nice. Mr. Patrick is doing something that has a lot of character and with a lot of trees. It's got to be the quality of the subdivision. If you cannot put trees in there you're not going to have a type of development where people want to live. Mr. Patrick agrees it's about the character of the neighborhood. You can put sidewalks in, green spaces, and nice trees. I think that's a better way of growing a town then encouraging people to get five acres lots and flopping a house on there with two trees. It's not a bad thing to have small lots. We should encourage a more community feel neighborhood than encourage these McMansions".

Tom Bartlett, NWA Utilities representative, stated that he will be available to answer board's questions regarding the decentralized sewer system.

Public Comments Closed.

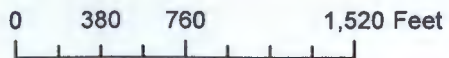
*Robert Daugherty made a motion to Table the **Eastern Park Subdivision CUP**. Chuck Browning seconded. Daryl Yerton and Cheryl West were not present. Board Members Randy Laney, Walter Jennings, Robert Daugherty, Chuck Browning, and Kenley Haley were in favor of tabling. Motion passed*

Maps/Plans



Eastern Park Subdivision
Conditional Use Permit
Project # 2014-018
Location Map

Site information is drawn over Assessor GIS aerial imagery (2013), parcel and street information. The information should not be misconstrued as survey information. Parcel information locations are based off the best material at hand.



Eastern Park SD CUP Appeal-105



Legend

- Other
- Highways
- Paved Roads
- Unpaved Roads
- Development2014

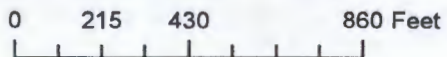
Floodplain

- A
- AE
- Shaded Zone X

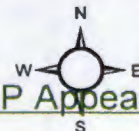


Eastern Park Subdivision
Conditional Use Permit
Project # 2014-018
Location Map

Site information is drawn over Assessor GIS aerial imagery (2013), parcel and street information. The information should not be misconstrued as survey information. Parcel information locations are based off the best material at hand.



Eastern Park SD CUP Appeal-106



Legend

- Other
- Highways
- Paved Roads
- Unpaved Roads
- Development2014

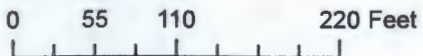
Floodplain

- A
- AE
- Shaded Zone X



Eastern Park Subdivision
Conditional Use Permit
Project # 2014-018
Aerial Site

Site information is drawn over Assessor GIS aerial imagery (2013), parcel and street information. The information should not be misconstrued as survey information. Parcel information locations are based off the best material at hand.






Eastern Park SD CUP Appeal-107



Legend

-  Other
-  Highways
-  Paved Roads
-  Unpaved Roads
-  Development2014

Floodplain

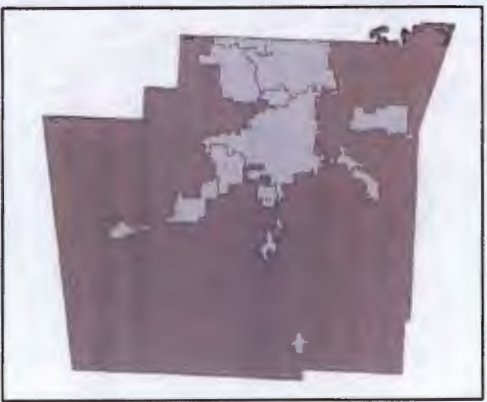
-  A
-  AE
-  Shaded Zone X

Eastern Park Subdivision Project 2014-018 Surrounding Acreage



- Subdivisions**
- ALTUS ADDITION
 - CARSON MEADOWS
 - COVINGTON PARK PHASE III
 - COVINGTON PARK PHASE IV
 - CRESTMONT ESTATES
 - DRIVER S/D
 - GUINN SUBDIVISION
 - HARTSFIELD ADD
 - HEATHER HEIGHTS
 - HOLIDAY HILLS COTTAGES - HPR
 - HOLIDAY HILLS HOMES HPR
 - HOLIDAY HILLS S/D
 - RIDGEMONT VIEW
 - SAVANNA ESTATES PHASE IV
 - SHERWOOD ACRES

- Other Elements**
- Highways/Other Roads
 - Paved Roads
 - Unpaved Roads
 - Fayetteville City Limits
 - Eastern Park Subdivision
 - Floodplain
 - Washington County Parcels



Site information is drawn over Assessor GIS aerial imagery (2013), parcel and street information. The information should not be misconstrued as survey information. Parcel information is based off the best material at hand.

Eastern Park SD CUP Appeal-108



Eastern Park Subdivision Project 2014-018 Surrounding Densities

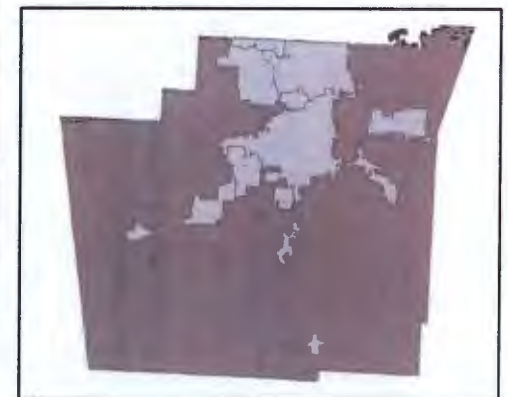


Subdivisions

- ALTUS ADDITION
- CARSON MEADOWS
- COVINGTON PARK PHASE III
- COVINGTON PARK PHASE IV
- CRESTMONT ESTATES
- DRIVER S/D
- GUINN SUBDIVISION
- HARTSFIELD ADD
- HEATHER HEIGHTS
- HOLIDAY HILLS COTTAGES - HPR
- HOLIDAY HILLS HOMES HPR
- HOLIDAY HILLS S/D
- RIDGEMONTE VIEW
- SAVANNA ESTATES PHASE IV
- SHERWOOD ACRES

Other Elements

- Highways/Other Roads
- Paved Roads
- Unpaved Roads
- Fayetteville City Limits
- Eastern Park Subdivision
- Floodplain
- Washington County Parcels



Site information is drawn over Assessor GIS aerial imagery (2013), parcel and street information. The information should not be misconstrued as survey information. Parcel information is based on the best material at hand.

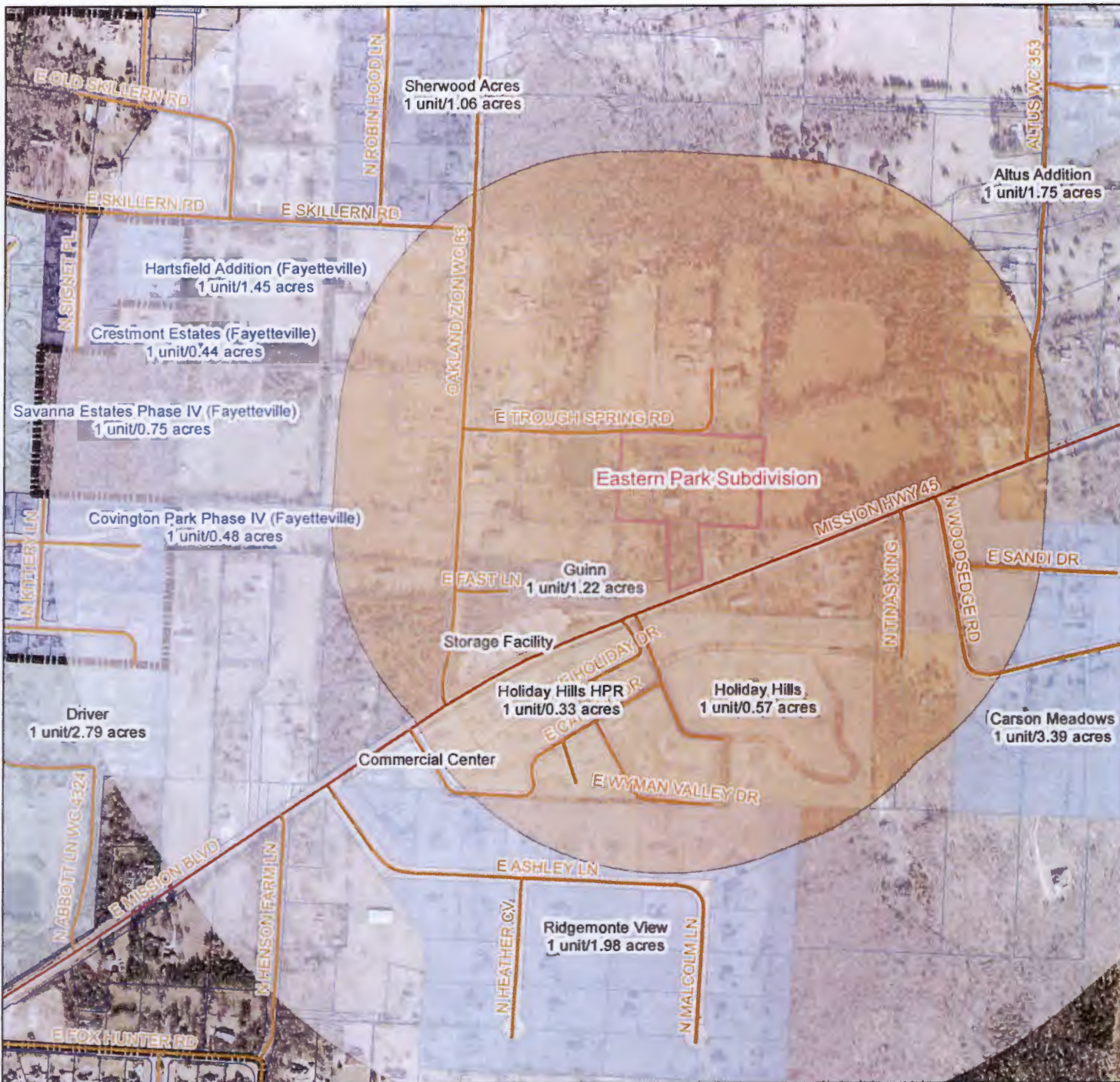
Eastern Park SD CUP Appeal-109

500





1000 Feet












Eastern Park Subdivision Project 2014-018 1/4 mile & 1/2 mile



Subdivisions

-  ALTUS ADDITION
-  CARSON MEADOWS
-  COVINGTON PARK PHASE III
-  COVINGTON PARK PHASE IV
-  CRESTMONT ESTATES
-  DRIVER S/D
-  GUINN SUBDIVISION
-  HARTSFIELD ADD
-  HEATHER HEIGHTS
-  HOLIDAY HILLS COTTAGES - HPR
-  HOLIDAY HILLS HOMES HPR
-  HOLIDAY HILLS S/D
-  RIDGEMONTE VIEW
-  SAVANNA ESTATES PHASE IV
-  SHERWOOD ACRES

Other Elements

-  Highways/Other Roads
-  Paved Roads
-  Unpaved Roads
-  0.25 mi Buffer
-  0.5 mi Buffer
-  Fayetteville City Limits
-  Eastern Park Subdivision
-  Floodplain
-  Washington County Parcels



Site information is drawn over Assessor GIS aerial imagery (2013), parcel and street information. The information should not be misconstrued as survey information. Parcel information locations are based off the best material at hand.

Eastern Park SD CUP Appeal-110

500

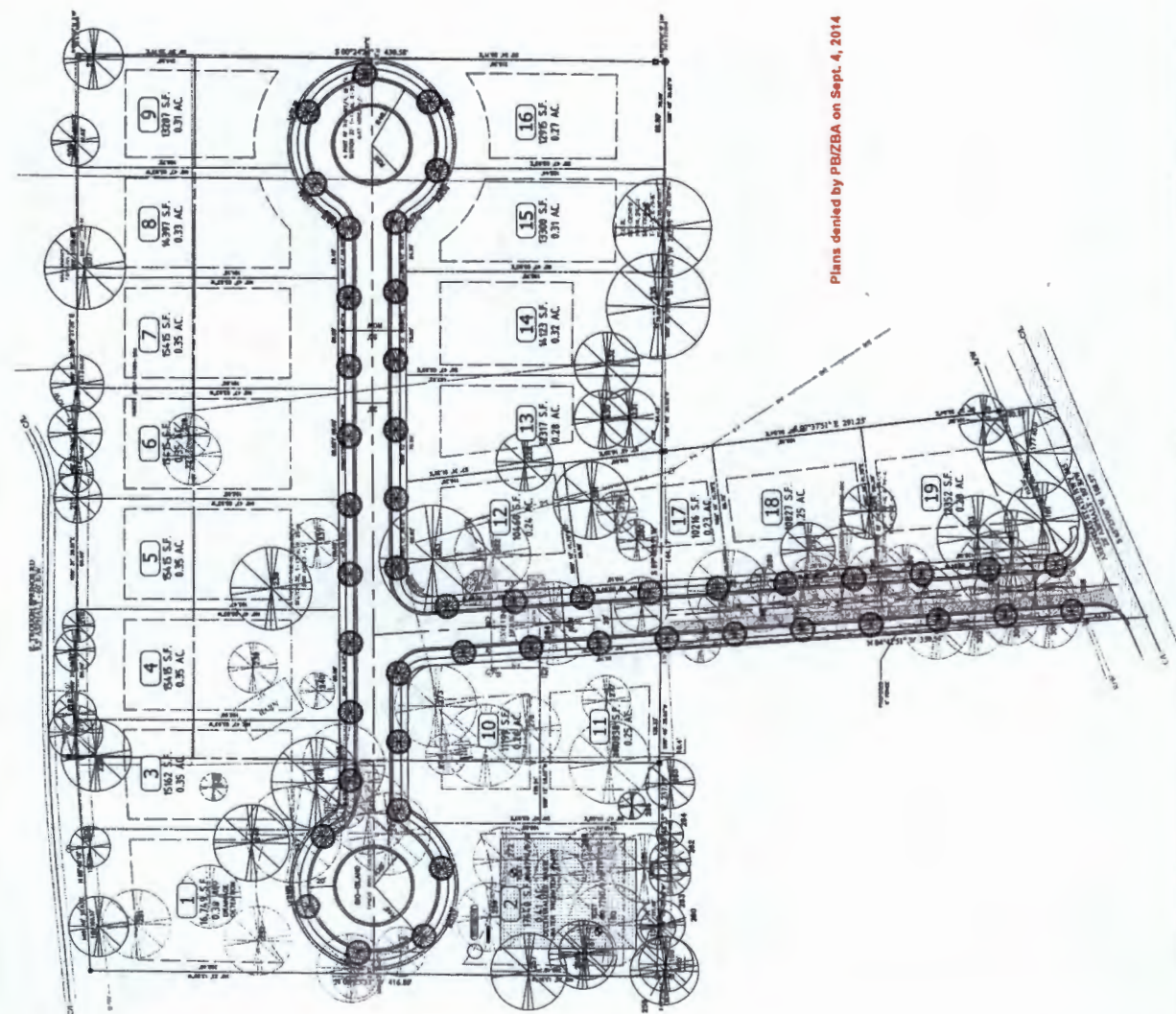
1000 Feet





PROPERTY #	TRACT AREA (ACRES)	SPACES
1	0.28	1
2	0.28	1
3	0.28	1
4	0.28	1
5	0.28	1
6	0.28	1
7	0.28	1
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97	0.28	1
98	0.28	1
99	0.28	1
100	0.28	1

PROPERTY #	TRACT AREA (ACRES)	SPACES
101	0.28	1
102	0.28	1
103	0.28	1
104	0.28	1
105	0.28	1
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198	0.28	1
199	0.28	1
200	0.28	1



Plans denied by PB/ZBA on Sept. 4, 2014



LOCAL JURISDICTION: GOSHEN, ARKANSAS
 PLANNING AND ZONING COMMISSION
 MEETING DATE AND PLACE: MAY 14, 2014, GOSHEN CITY PLANNING DEPARTMENT
 PROJECT NUMBER: 100887-00

**EASTERN PARK SUBDIVISION
FAYETTEVILLE, ARKANSAS
CONCEPTUAL PLAN**

USI Consulting
Springdale, Arkansas



DATE: _____
 PREPARED BY: _____
 CHECKED BY: _____
 DATE: _____
 SCALE: _____
 USI PROJECT NO.: _____
 SHEET: _____

LEGEND

PROPERTY LINE

WALKWAY

POLE SERVICE LINE

STREET LIGHT

SEWER

WATER

SEWER MAIN

WATER MAIN

SEWER SERVICE LINE

WATER SERVICE LINE

SEWER VALVE

WATER VALVE

SEWER MANHOLE

WATER MANHOLE

SEWER CHECK VALVE

WATER CHECK VALVE

SEWER CLEANOUT

WATER CLEANOUT

SEWER TIE-IN

WATER TIE-IN

SEWER CONNECTION

WATER CONNECTION

SEWER INTERSECTION

WATER INTERSECTION

SEWER TEE

WATER TEE

SEWER CROSS

WATER CROSS

SEWER END

WATER END

SEWER OPENING

WATER OPENING



TABLE 1 - LOT SUMMARY

LOT NO.	AREA (SQ. FT.)	AREA (AC.)
1	18,149 S.F.	0.41 AC.
2	17,640 S.F.	0.40 AC.
3	8,549 S.F.	0.19 AC.
4	8,549 S.F.	0.19 AC.
5	8,549 S.F.	0.19 AC.
6	8,549 S.F.	0.19 AC.
7	8,549 S.F.	0.19 AC.
8	8,549 S.F.	0.19 AC.
9	8,549 S.F.	0.19 AC.
10	10,720 S.F.	0.24 AC.
11	8,549 S.F.	0.19 AC.
12	14,555 S.F.	0.33 AC.
13	12,317 S.F.	0.28 AC.
14	14,123 S.F.	0.32 AC.
15	13,940 S.F.	0.31 AC.
16	12,975 S.F.	0.29 AC.
17	30,320 S.F.	0.69 AC.

New Plans Submitted 10.31.14

I hereby certify that I am a duly licensed Professional Engineer in the State of Arkansas, License No. 000000450, and that I have prepared the above-named plan, drawing or report in accordance with the laws and regulations of the State of Arkansas, and that I am not providing any engineering service to any other person or entity at the same time as I am providing such service to the client named herein.

GENERAL NOTES:

1. ALL LOTS ARE TO BE DEVELOPED AS RESIDENTIAL LOTS.
2. ALL LOTS TO BE DEVELOPED AS SINGLE-FAMILY RESIDENTIAL LOTS.
3. ALL LOTS TO BE DEVELOPED AS SINGLE-FAMILY RESIDENTIAL LOTS.
4. ALL LOTS TO BE DEVELOPED AS SINGLE-FAMILY RESIDENTIAL LOTS.
5. ALL LOTS TO BE DEVELOPED AS SINGLE-FAMILY RESIDENTIAL LOTS.



2479 Camelot
Fayetteville, AR 72701
(479) 466-3352
lfconstruction@sbcglobal.net

November 4, 2014

Juliet Richey and Karen Beeks
Washington County Planning Department
2615 S. Brink Dr
Fayetteville, AR 72701

Re: Septic system plan updates

Dear Ms. Richey and Ms. Beeks,

You have received a copy of the new concept plan. Please notice that lots 18 & 19 from the earlier plans have been eliminated and lot 17 has been expanded to the south to accommodate a single-house septic system. There are now 14 lots that are gravity flow to the treatment plant located at the southwestern corner of the property. Only one lot has its own septic system.

Sincerely,

Fred Patrick

Corbitt Environmental Consulting
PO Box 937
Lowell, AR 72745
479-466-6183

November 1, 2014

Washington County Planning

Property location: Proposed 17 Lot Subdivision for Fred Patrick, Hwy 45 E

Fred Patrick has contacted us to provide the Class II Wastewater operator license for the monthly sampling requirement. These samples will be collected and analyzed by ESC in Springdale. I will complete the necessary paperwork to maintain any and all required documentation of those samples and the results of those

Licensed installer and onsite maintenance provider, Ben Gordon will assist with any equipment maintenance, repairs and installation issues. If you have any questions please don't hesitate to give me a call.

Sincerely,

Rebecca Corbitt
Corbitt Environmental Consulting
Licensed Designated Representative #1136373

**BILL OF ASSURANCE AND
PROTECTIVE COVENANTS**

EASTERN PARK

A Subdivision to Washington County, Arkansas
Washington County, Arkansas

KNOW ALL MEN BY THESE PRESENTS, that L&F Construction, LLC, an Arkansas Corporation (sometimes referred to herein as “Declarant”), as owner and subdivider of all the lots in Eastern Park, a subdivision in Washington County, Arkansas, (referred to herein as the “Subdivision”), hereby enters the following assurances and covenants with respect to the Subdivision:

1. All lots in the Subdivision shall be residential lots, and no structures shall be erected on any of said lots other than one single family dwelling to be used for residential purposes. A guest house, cabana, and/or detached garage designed for not fewer than two cars may be allowed as long as it is in keeping with the architectural design of said residence. Any dwelling house construction upon any lot shall have at least 2,500 square feet of heated area excluding porches, garages and breezeways and shall have not less than 1,500 square feet on the ground floor.
2. No vehicles may be parked on the streets of the Subdivision. Lot owners shall provide sufficient off street parking to accommodate the vehicles used by their families and guests. Also, no semi-trailer trucks or commercial vehicles shall be allowed to park overnight in the Subdivision, either on the streets or on privately owned lots.
3. No lot shall be re-subdivided or re-platted.
4. No trade or business shall be carried on upon any lot in the Subdivision, nor shall anything be done or performed thereon which may become an annoyance or nuisance to the neighborhood or detrimental to the residential value of any lot in the Subdivision.
5. No trailer, mobile home, tent, shack, metal building, or other unsightly building or structure, temporary or permanent, shall be erected or used on said lots.
6. Recreational and camping vehicles, utility trailers, and boats may be stored and parked on the lots. However, these vehicles, trailers and boats shall be located behind the house, guest house, or fence, or in or behind the garage, or otherwise screened so that they are not readily visible from the street or adjoining lots. Screening walls and fences must be constructed of brick, stone or shadow-box-style wood.
7. No fences of any kind shall be constructed between the front building set back line and the curb without the permission of the Declarant. “Front” as used herein shall be that portion of the lot between the residence situated thereon and the street abutting said lot and includes

both sides of a corner lot. Any fence along or upon any portion of any lot in said Subdivision must be shadow-box-style and/or brick or stone masonry and/or wrought iron and not exceed six (6) feet in height. No chain-link metal fences shall be erected on said lots.

8. The owner(s) of each lot shall construct or cause to be constructed a concrete driveway connecting a minimum of two-car garage of said dwelling to the street, said drive or drives being of adequate width to accommodate two or more automobiles in total.
9. All lots must have sod installed in the front and on both sides of the main dwelling.
10. Swimming pools are permitted in the Subdivision but must be ground level only.
11. Satellite dishes not larger than eighteen (18) inches, may be installed on residential lots. The satellite dish shall be located behind the house and screened so that they are not readily visible from the street or adjoining lots.
12. No commercial or private farming will be allowed on any lot. However, a backyard garden will be permitted when it is sized for the needs of the family occupying the lot. Such a garden shall be maintained so that it does not appear weedy, unkempt or unsightly.
13. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes. Provided further that such household pets must be kept in accordance with the leash laws of the City of Fayetteville, Arkansas.
14. All lots must be maintained in neat manner without the accumulation of debris or unsightly growth of grass or weeds.
15. No noxious or offensive activity shall be carried on upon any lot.
16. After construction has commenced on a lot or if any improvement is damaged or destroyed the improvement must be completed or restored promptly in order to avoid any unsafe or unsightly condition.
17. No sign of any kind shall be displayed to the public view on any lot except one (1) real estate sign of not more than nine (9) square feet for the sale of the property.
18. No inoperative or junk motor vehicles or other vehicles shall be permitted to remain upon any lot or lots or in any public streets in said Subdivision for a period in excess of two (2) days. At no time will motor vehicles be allowed to be parked on said lots other than on the driveway between the street and the garage.
19. The association of owners of lots in the Eastern Park Subdivision (the "Association") shall be responsible for maintenance and repair of the fence located adjacent to Arkansas Highway 45 bordering the Subdivision and for maintenance of the septic system located at the

southwestern corner of the subdivision. Each lot owner shall be assessed a monthly fee of \$49.95 for the cost of maintaining the septic treatment system. The annual POA dues (Article III, Section 4 of By Laws) will cover maintenance costs of fence. When final approval for the subdivision is obtained, Developer will deposit \$12,000 in an escrow for the maintenance of the septic treatment system.

20. Any assessment which shall be made against any lot as provided in paragraph 19 herein shall constitute a lien against such lot until it is paid. Any assessment which is not paid within 30 days after it becomes due shall bear interest at the highest rate permitted by applicable law. Declarant or the Association, as their interests appear, may bring an action at law against the owner personally obligated to pay such assessment or may foreclose such lien against the lot, and interest, costs and attorney fees for any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse or abandonment of the Common Property or the Amenity Property. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage.
21. In order to insure that all dwellings and other buildings to be located on any lot in the Subdivision shall be compatible with other improvements in the Subdivision, no buildings shall be erected, placed or altered on any lot in the Subdivision until the construction plans and specifications have been submitted to, and approved by, the Architectural Control Committee. For such time as the Declarant shall own one or more of the lots in Subdivision, the Architectural Control Committee shall be made up such persons as the Declarant may appoint. At such time as the Declarant shall own none of the lots in the Subdivision, or at such earlier time as the Declarant may elect to resign from membership on the Architectural Control Committee, the Committee shall be made up of such persons as the Association may designate from time to time.
22. These covenants and restrictions are to run with the land, and shall be binding on all of the parties, their heirs and assigns for a period of 25 years from the date hereof. At any time within six months from the expiration date a majority of the then lot owners may express their intention in writing drafted so as to be recorded with the Register of Deeds that they no longer care for these covenants and the same shall be terminated. In the event that no such action is taken, these covenants shall continue for periods of five years and any five year period may be terminated in accordance with the terms for the original termination. It is further provided that should the majority of the lot owners at any time wish to amend these covenants either by adding to or taking from the present form, the same shall be incorporated in a written instrument capable of being recorded as above referred to and under the same terms and conditions thereof; provided, however, that the rights of the Declarant as set forth in paragraphs 20 and 21 herein shall not be amended, modified or revoked without the written consent of the Declarant. Each lot shall entitle owner(s) to one vote.
23. If the parties herein or any of them or their heirs or assigns shall violate or attempt to violate any of the covenants or restrictions herein before the 25 years from date hereof and likewise as to continuations it shall be lawful for any other persons or person owning any home in the Subdivision to prosecute any proceedings at law or in equity against the person or persons

violating or attempting to violate any such covenants or restrictions and either to prevent him or them from so doing or to recover damages or other penalties for such violation.

24. In the event any provision or any part of these covenants shall be adjudged invalid or ineffective, the remaining provisions shall continue in full force and effect and shall be construed and enforced accordingly.

IN WITNESS WHEREOF this instrument has been executed this ____ day of _____, 2014.

L&F CONSTRUCTION, LLC

ATTEST:

BY: _____
Ashley F. Patrick, Owner

Lemuel F. Patrick, Owner

ACKNOWLEDGEMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this ____ day of _____, 2014, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Ashley F. Patrick and Lemuel F. Patrick, to me personally known, who stated that they were the owners of L&F Construction, LLC, a corporation, and were duly authorized in their capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ____ day of _____, 2014.

My Commission Expires:

Notary Public

BY-LAWS
EASTERN PARK
PROPERTY OWNERS ASSOCIATION

ARTICLE I
Definitions

Section 1. Eastern Park Property Owners Association. An Arkansas non-profit corporation formed to promote the collective and individual property and civic interests of all persons owning property in Eastern Park Subdivision, being a subdivision to Washington County, Arkansas, the plat of which was filed for record on 2014, in Drawer at Pages , Washington County, Arkansas and to own, operate, and maintain any area which may now or hereafter be designated as Common Property and to operate and maintain any area which may now or hereafter be designated as Amenity Property in accordance with the provisions set forth in the Bill of Assurances and Protective Covenants of Eastern Park Subdivision.

ARTICLE II
Location

Section 1. The principal office of the Property Owners Association shall be located at , Fayetteville, Arkansas.

ARTICLE III
Membership

Section 1. A person shall become a member of the Property Owners Association upon the recordation of the instrument of conveyance whereby he acquires title to a Lot in Eastern Park Subdivision. Each Lot shall constitute one membership in the Property Owners Association.

Section 2. The rights of membership are subject to the payment of all assessments, the obligation of which assessments is imposed against each owner of, and becomes a lien upon the Lot against which such assessments are made.

Section 3. The Property Owners Association membership of each Owner shall be an appurtenant right to the Lot giving rise to such membership and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer shall be void.

Section 4. Each homeowner will be assessed \$100 per year for POA dues for mowing and maintenance of common areas. In addition, each homeowner will be assessed \$49.95 per month for maintenance of the septic treatment plant effective until the subdivision is annexed into the City of Fayetteville and each home is connected directly to the City of Fayetteville sewer system.

For the septic treatment plant, a financial institution will bill homeowners monthly and hold the money in an escrow account. In the event that a homeowner's septic fee is over 90 days in arrears, the POA may place a lien on the homeowner's property.

ARTICLE IV Voting Rights

Section 1. The Owners of each Lot shall be entitled to one vote on each matter submitted to a vote of the members. A member shall have one vote for each Lot of which he is the owner.

Section 2. The voting rights of any Owner whose Lot is subject to assessments shall be suspended during the period when the assessments are delinquent in excess of 30 days; but, upon payment of such assessments, his rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of any Common Property or Amenity Property (including the provisions of these by-laws), they may, in the discretion, upon majority vote, suspend the voting rights of any owner for a violation of such until the violation is corrected.

Section 3. The vote of each Lot may be cast only as a Lot. In the event that joint Owners of a lot are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. No Owner other than the person designated to the Board may vote for a Lot and when such person casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that such person was acting with the authority and consent of all other Owners of the same Lot. All voting rights shall be exercised by Owners and no lessee, sublessee, or other person shall be entitled to exercise voting rights notwithstanding lease provisions to the contrary.

ARTICLE V Property Rights and Rights of Use of Common Property or Amenity Property

Section 1. Each Owner shall be entitled to the use of any property which may now be designated as Common Property or as Amenity Property.

Section 2. Each Owner shall abide by all rules and regulations pertaining to the use of any Common Property or Amenity Property.

ARTICLE VI Board of Directors

Section 1. The affairs of Eastern Park Subdivision Property Owners Association shall be administered by a board of not less than three (3), nor more than five (5) directors, who need not be Owners. The initial Board of Directors shall consist of three (3) persons, who shall hold office for three (3) years, and until election of their successors. Beginning with the third annual

meeting, the Owners, at every annual meeting, shall elect new directors to replace those directors whose terms have expired. Directors may succeed themselves. When the Board of Directors is expanded, the terms of each additional director shall be three (3) years.

Section 2. Vacancies in the Board of Directors shall be filled by appointment by a majority of the remaining directors, though less than a quorum; any such appointed director shall hold office through the unexpired remainder of the predecessor's term or until his successor is elected by the Owners, who may make such election at the next annual meeting of the Owners or at a special meeting called for that purpose.

Section 3. Members of the Board of Directors may be removed by the vote of two-thirds (2/3) of the Owners.

Section 4. Directors shall not receive any salary for their services.

Section 5. The officers of the Board of Directors shall be a president, a vice president, a secretary, a treasurer, and such officers or assistants as the Board of Directors may deem desirable. More than one office may not be held by the same person except that one person may hold the office of secretary and treasurer.

Section 6. The officers of the Board of Directors shall be chosen by a majority vote of the directors.

Section 7. All officers shall hold office for a term of one (1) year but may succeed themselves.

Section 8. The president shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out and sign all written instruments to be executed by the Property Owners Association.

Section 9. The vice president shall perform the duties of the president in the president's absence.

Section 10. The secretary shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. The secretary shall also keep the records of Eastern Park Property Owners Association. He/she shall record in a book kept for that purpose the names and addresses of all Owners.

Section 11. The treasurer shall receive and deposit in appropriate bank accounts all the monies of Eastern Park Subdivision Property Owners Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board.

Section 12. The treasurer shall keep proper books of account and shall prepare an annual budget and an annual balance sheet statement. The budget and balance sheet statement shall be presented to the Owners at the annual meeting.

ARTICLE VII Election of Directors

Section 1. Election of the Board of Directors shall be by written ballot of the members. The candidate(s) receiving the largest number of votes shall be elected.

Section 2. Nominations for election to the Board of Directors shall be in writing and may be made by any member and shall be delivered to the secretary of Eastern Park Subdivision Property Owners Association not less than twenty (20) days prior to the election date. Nominations shall thereafter be closed.

Section 3. The secretary shall cause a ballot to be prepared containing the names of all nominees and one ballot shall be distributed to each member not less than five (5) days prior to the election date. Election shall be upon written ballot submitted to the secretary at the annual meeting.

ARTICLE VIII Powers and Duties of the Board of Directors

Section 1. The Board shall have the following powers and duties:

- (i) To call special meetings of the Owners whenever it deems necessary and it shall call a meeting at any time upon written request of one-half of the voting membership of Owners as defined in Article IV, Section 1 hereof;
- (ii) To appoint and removed, at its pleasure all agents and employees, including a manager, of Eastern Park Subdivision Property Owners Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these by-laws shall be construed to prohibit the employment of any Owner, officer or director in any capacity whatsoever;
- (iii) To establish, levy, assess, and collect the assessment or charges;
- (iv) To adopt and publish rules and regulations covering the use of any Common Property and Amenity Property and the conduct of the Owners and their guests, invitees, and employees thereon;
- (v) To exercise for Eastern Park Subdivision Property Owners Association all powers, duties, and authority vested in or delegated to Eastern Park Subdivision Property Owners Association;
- (vi) In the event that any member of the Board of Directors shall be absent from five (5) consecutive regular meetings of the Board of Directors, the Board may, by action taken by the meeting during which said fifth absence occurs, declare the office of such director to be vacant;

- (vii) To hire and contract for the administration of any Common Property and Amenity Property and their care, repair, upkeep, and security;
- (viii) To establish such committees as the Board deems desirable.

Section 2.

- (i) To cause to be kept a complete record of all its acts and to present a statement thereof to the Owners at the annual meeting of the members or at any special meeting called for that purpose when such is requested;
- (ii) To supervise all agents and employees of Eastern Park Subdivision Property Owners Association and see that their duties are properly performed;
- (iii) To collect for the payment of common expenses in connection therewith to:
 - (a.) Adopt an annual budget and fix and levy the amount of the assessment against each Lot for each assessment period.
 - (b.) Prepare a roster of the Lots and the assessments applicable thereto which shall be kept by the secretary and shall be open to inspection by any Owner; and
 - (c.) Send written notice of each assessment to every Owner subject thereto;
- (iv) To issue, or to cause an appropriate official to issue, upon demand by any Owner, mortgagee or prospective mortgagee of a Lot, a certificate setting forth whether any assessment has been paid; such certificate to be conclusive evidence of the payment of any assessment therein stated to have been paid; and

Section 3. The Board shall pay all taxes, real and personal, and assessments, bonds and levies which are or would become a lien on any Common Property or the Amenity Property.

Section 4. Regular Assessment.

- A. Regular assessment. As soon as is reasonably practicable after the election of the first Board, the Board shall set the assessments to be assessed for the initial fiscal year against each Lot for the purposes hereinafter specified. The total of such assessments for all Lots for each fiscal year shall equal (i) the estimated expenses of the Board in carrying out the obligations described herein for such fiscal year, other than for a reserve for the maintenance, repair, or replacement of any Common Property or Amenity Property (the "Maintenance Fund Requirement"), plus (ii) an amount to be determined by the Board, to be set aside during the fiscal year to provide for a reserve fund for the maintenance, repair or replacement of any Common Property or Amenity Property (the "Reserve Fund Requirement").
- B. December assessment. In December of each year the Board shall meet and determine the regular monthly assessment for the succeeding fiscal year.

- C. Fiscal year. The initial fiscal year shall run from the date on which the Final Plat of Eastern Park Subdivision is filed with the Circuit Clerk of Washington County, Arkansas, to the next succeeding December 31, the succeeding fiscal years of the Property Owners Association shall run from January 1 through December 31.
- D. Increase in assessments. For each fiscal year, the regular assessment may be increased prior to, but effective as of, the beginning of such fiscal year, by the Board without a vote of the Owners. The term "regular assessment," as used herein, shall mean that assessment set at the beginning of the fiscal year by the Board.
- E. Certificate of payment. The Board shall, upon demand, furnish to any Owner, mortgagee of an Owner, or prospective purchaser of any Lot, a certificate in writing signed by an officer of the Board setting forth whether the assessments on the specified Lot have been paid, and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of such certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid, subject to collection in the case of recent payments by check or draft.
- F. Mortgagee Protection. Notwithstanding any other provisions hereof:
 - (i) The liens created hereunder upon any lot shall be subject and subordinate to, and shall not affect the rights of the holder of any indebtedness secured by a recorded prior mortgage or deed of trust upon such lot made in good faith and for value to the extent expended prior to the recordation of notice of lien pursuant to these By-Laws; provided, that after the foreclosure of any such mortgage or deed of trust, there may be a lien created pursuant to the provisions of these By-Laws on the interest of the purchaser at the foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an owner and after the date of such foreclosure sale.
 - (ii) No amendment to this Article shall affect rights of holders of any mortgage or deed of trust recorded prior to the recordation of any such amendment unless the holder joins in the execution thereof.

Section 5. Special emergency assessments. In the event that the Board shall determine that its budget for any current month is or will become inadequate to meet all expenses for any reason, including nonpayment of any Owner's assessment on a current basis, it shall immediately determine the appropriate amount of such inadequacy for such month and may levy an emergency assessment against all Owners for the amount required to meet all such expenses on a current basis. Emergency assessments levied in accordance with this section shall be due and payable within ten (10) days of written notice thereof by the Board.

Section 6. Payment of assessments. Each payment of regular and emergency assessments made by an Owner shall first be applied to that portion of such Lot's assessments allocable to the Maintenance Fund Requirement, and the remainder of such payment shall be applied to that portion of such Lot's assessments allocable to the Reserve Fund Requirement.

Section 7. Maintenance fund. All collected assessment charges shall be properly deposited in a commercial bank account in a bank to be selected by the Board. The Board shall have control of said account and shall be responsible to the Owners for the maintenance of accurate records thereof at all times.

Section 8. Reserve fund. All collected assessment charges allocable to the Reserve Fund Requirement shall be properly deposited in a commercial bank account in a bank to be selected by the Board. The Board shall have control over such accounts and shall be responsible to the Owners for the maintenance of accurate records thereof at all times. The funds in such account may be expensed only for expenses incurred for the maintenance, repair, or replacement of the Common Property or Amenity Property.

Section 9. Non-payment of assessments; lien rights, remedies. Every Owner is deemed to covenant and agree to pay the assessments provided herein and further agrees to the enforcement of such assessments in the manner provided for herein and by the laws of Arkansas.

A. Delinquency. Any assessment levied by the Board which is not paid when due shall become delinquent on the date on which such assessment is due (the "date of delinquency"). A late charge of ten percent (10%) per month for each delinquent assessment shall be payable with respect to such assessment not paid when due, and the Board, its attorney or other authorized representative may, at its option, at any time after such period, and in addition to other remedies herein or by law or in equity provided, enforce the obligation to pay assessments in any manner provided by law or in equity and, without limiting the generality of the foregoing, by any or all of the following procedures:

(i) Enforcement by suit. The Board may cause a suit to be commenced and maintained in the name of the Board against any Owner or Owners, or any of them, delinquent in the payment of assessments. Any judgment rendered in any such actions shall include that amount of the delinquent assessment, together with late charges and interest thereon at the rate of ten percent (10%) per annum or the maximum lawful rate of interest, whichever is less, from and after the date of delinquency, as provided for herein, court costs and reasonable attorneys' fees in such amounts as the court may award. Suit to recover a money judgment for unpaid assessments shall be maintainable by the Board, or its authorized agent, without

foreclosing or waiving the lien hereinafter described and established.

- (ii) Enforcement by lien. Any assessment which remains unpaid on the date on which such assessment is due shall be a lien on the Lot for which such assessment is made and on all appurtenances thereto. Such lien may be foreclosed by a suit instituted by the Board, its attorney or duly authorized agent. The Board, or its duly authorized agent, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey the lot acquired at such sale. Provided, however, in any such foreclosure sale the Board may not bid an amount in excess of any judgment rendered in its favor in such foreclosure action and satisfiable out of the proceeds of such sale.
- (iii) Additional costs secured by lien. In the event the lien described above is foreclosed, reasonable attorneys' fees as the court may award, and court costs, title insurance premiums, interest on all sums due at the rate of ten percent (10%) per annum or the maximum lawful rate of interest, whichever is less, from the date of delinquency, and all other costs and expenses shall be allowed to the Board.
- (iv) Rights of Board. Each Owner hereby vests in and delegates to the Board or its duly authorized representative the right and power to bring all actions at law or equity against any Owner or Owners for the collect in of delinquent assessments in accordance herewith.
- (v) Purchaser at foreclosure sale. Any purchaser of a Lot at a foreclosure sale pursuant to an action to foreclose the lien herein provided shall take title to such Lot subject to all the terms, provisions, and restrictions contained herein. There shall be a lien on the Lot of the purchaser which may be foreclosed in accordance with the provisions contained herein and which shall secure all assessments which become due after the date of such sale. For the purposes of this section, a sale of a Lot shall occur on the date any judicial sale is held.
- (vi) Purpose of assessments. The assessments levied by the Board shall be used exclusively for the purpose of promoting the health, safety, and welfare of the Owners, their guests, invitees, and employees, and in particular shall be used for the purpose of improving, protecting, operating, repairing, and maintaining any Common Property or Amenity Property and any facilities, improvements, landscaping and structures located thereon, and providing for the acquisition and maintenance of property, services and facilities devoted to this purpose and directly related to the use and enjoyment of the property.

ARTICLE IX
Directors Meetings

Section 1. Regular meetings of the Board of Directors shall be held once each six (6) months at such time and place as the Board of Directors may designate.

Section 2. If the day for the meeting shall fall upon a holiday or weekend, the meeting shall be held at the same hour on the first day following which is not a holiday, and no notice thereof need be given.

Section 3. Special meetings of the Board of Directors shall be held when called by a majority of directors, after not less than three (3) days notice to each director.

Section 4. The transaction of any business at any meeting of the Board of Directors, however called and noticed, or wherever held, shall be as valid as though made in a meeting duly held after regular call and notice if (i) a quorum is present, or (ii) after the meeting, enough of the directors not present sign a written waiver or notice, and a consent to the holding of such meeting, and an approval of the action taken at such meeting so that when added to the directors present at the meeting and voting for the action taken, a majority of the Board has approved the meeting and action. All such waivers, consents, or approvals shall be filed with the corporate records and made part of the minutes of the meeting.

Section 5. A majority of the Board of Directors shall constitute a quorum thereof.

Section 6. Any action which could be taken at a meeting of the Board of Directors may be taken by a written memorandum and record of action signed by all the directors and filed with the records and made part of the minutes.

ARTICLE X
Meeting of Owners

Section 1. The regular annual meeting of the Owners shall be held in December at a time and date set by the Directors upon five (5) days' prior notice to all Owners. If the date for the annual meeting of the members shall fall upon a holiday, the meeting will be held at the same hour on the first day following which is not a holiday.

Section 2. Special meetings of the Owners for any purpose may be called at any time by a majority of the Board of Directors, or upon the written request of the Owners who have the right to vote one-half of all votes described in Article IV, Section 2.

Section 3. All meetings of the Owners shall be presided over by the president of the Board of Directors or, if the President is absent, by the vice president.

Section 4. Notice of any meeting of Owners shall be given in writing to the Owners by the secretary. Notice shall be given to the Owners by sending a copy of the notice through the mail, postage prepaid, to the addresses appearing on the books of the secretary. Each Owner

shall register his address with the secretary and notices of meetings shall be mailed to him at such address. Notice of any meeting, regular or special, shall be mailed at least (5) days in advance of the meeting and shall set forth in general the nature of the business to be transacted.

Section 5. The presence at the meeting of Owners entitled to cast, or of proxies entitled to cast, fifty percent (50%) of the votes of the membership shall constitute a quorum for any action governed by these by-laws, and the approval of fifty one percent (51%) of the votes represented at the meeting shall be required to adopt decisions unless a different percentage is specified elsewhere herein.

ARTICLE XI Proxies

Section 1. At all meetings of Owners, each Owner may vote either in person or by proxy.

Section 2. All proxies shall be in writing, signed and filed with the secretary prior to the meeting. No proxy shall extend beyond the designated meeting. Any proxy may be revoked by the Owner's presence at the meeting. Every proxy given by an Owner shall automatically cease upon sale by the Owner of his Lot or any party thereof.

ARTICLE XII Books and Papers

Section 1. The books, records, and papers of Eastern Park Subdivision Property Owners Association shall at all times during reasonable business hours be subject to the inspection of any member.

ARTICLE XIII Amendments

Section 1. These By-laws may be amended, at a regular or special meeting of the members, by a vote of the members having two-thirds (2/3) of the votes described in Article IV.

ARTICLE XIV Conduct of Meetings

Section 1. All meetings shall be conducted pursuant to Roberts Rules of Order.

ARTICLE XV Exculpability of Board and Officers

Section 1. Neither the Board, as a body, nor any individual member thereof nor any officer shall be personally liable to any Owner or any third party for any action or lack of action arising out of the execution of his or her office or for negligence while acting in such official capacity except as set forth herein. Each Owner shall be bound by the good faith actions of the Board and the officers. Unless acting in bad faith, no Director or officer shall be liable to any

Owner or any other person for misfeasance or malfeasance in office or for negligence. The representation and defense of any officer or Director against claims asserted against such officer or Director arising out of or in connection with the discharge of official duties as such shall be a Common Expense unless a final judgment is entered in court of competent jurisdiction determining that said officer or Directors acted in bad faith.

IN WITNESS WHEREOF, these By-laws have been approved and adopted this ___ day of _____, 2014, by action of the undersigned, constituting 100% of the Owners of Lots in Eastern Park Subdivison.

L&F Construction, LLC

BY: _____
Lemuel F. Patrick, Owner

BY: _____
Ashley F. Patrick, Owner

ACKNOWLEDGEMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this ___ day of _____, 2014, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Lemuel F. Patrick and Ashley F. Patrick, to me personally known, who stated that they were owners of L&F Construction, LLC, and were duly authorized in their capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ___ day of _____, 2014.

My Commission Expires:

Notary Public

ORDINANCE NO. 2014-_____

BE IT ORDAINED BY THE QUORUM COURT OF THE COUNTY OF WASHINGTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE RATIFYING A CONDITIONAL USE PERMIT DENIED BY THE PLANNING AND ZONING BOARD.

WHEREAS, the Planning and Zoning Board denied a Conditional Use Permit on September 4 for Eastern Park Subdivision; and,

WHEREAS, an appeal has been filed concerning such; and,

WHEREAS, based upon the actions of the Planning and Zoning Board and the facts before the Court.

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF WASHINGTON COUNTY, ARKANSAS:

ARTICLE 1. That the Conditional Use Permit for Eastern Park Subdivision denied by the Planning and Zoning Board is hereby ratified.

ARTICLE 2. If this ordinance fails, then the Conditional Use Permit for the Eastern Park Subdivision shall be deemed granted.

MARILYN EDWARDS, County Judge

DATE

BECKY LEWALLEN, County Clerk

Sponsor: _____ Joe Patterson
Date of Passage: _____
Votes For: _____ Votes Against: _____
Abstention: _____ Absent: _____