

City of Fayetteville Staff Review Form

2020-0269

Legistar File ID

6/2/2020

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Garner Stoll

5/15/2020

CITY PLANNING (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A Resolution to authorize Mayor Jordan to approve sale of a permanent access easement totaling approximately 9,310 square feet to Markham Hospitality Owner, LLC. and Markham Residential Owner, LLC. for \$10,586.00 and widening, milling, and overlaying of the easement to the City's specifications to allow a secondary access through City of Fayetteville property in conjunction with an approved preliminary plat (PPL 19-6861)

Budget Impact:

Account Number	Fund
Project Number	Project Title
Budgeted Item? NA	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
Does item have a cost? No	Item Cost
Budget Adjustment Attached? NA	Budget Adjustment
	Remaining Budget \$ -

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF JUNE 2, 2020

TO: Mayor; Fayetteville City Council

THRU: Susan Norton, Chief of Staff
Garner Stoll, Development Services Director
Tim Nyander, Utilities Director

FROM: Jonathan Curth, Development Review Manager
Corey Granderson, Utilities Engineer

DATE: May 15, 2020

SUBJECT: **2020-0269 Access Easement to Markham Hospitality Owner, LLC. & Markham Residential Owner, LLC.**

RECOMMENDATION:

Staff requests sale of an access easement to Markham Hospitality Owner, LLC. & Markham Residential Owner, LLC. to allow a secondary access point for an approved preliminary plat (PPL 19-6681) through the City of Fayetteville property. The City property currently serves as access to the existing Markham Hill water tower.

BACKGROUND:

On January 13, 2020, Specialized Real Estate received preliminary plat development entitlement for 26 single-family lots along Markham Road, Cross Avenue, and Sang Avenue. The seven lots fronting Sang Avenue were approved with a rear alley that connects Markham Road to the north and Sang Street to the south by way of City of Fayetteville property. The preliminary plat's approval was conditioned on garnering approval of an access easement through the City property from City Council.

DISCUSSION:

The City property is currently developed with a water tower and access road. The access road is used by the Utility Department for access to the existing water tower and by telecommunication providers installing and maintaining antenna on the water tower. The portion of the City property between the water tower and Sang is approximately 50 feet in width, of which the southern 15-foot is dedicated in a telecommunications easement to Cellco/Verizon. The applicant proposes an easement for the remaining 35 feet, totaling approximately 9,310 square feet.

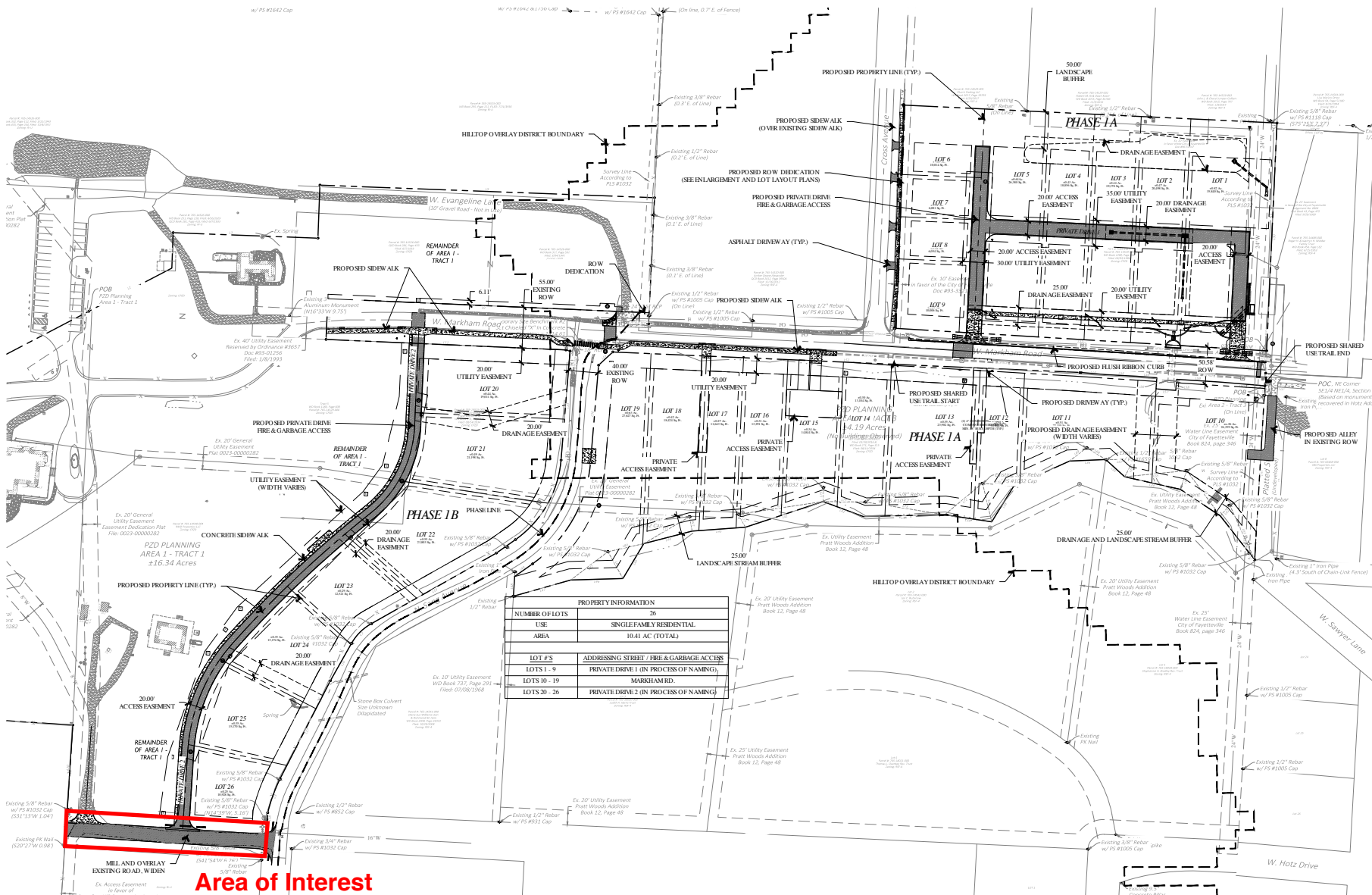
In negotiating the conditions under which the Utilities Department will support the request, the applicant has offered to mill and overlay, and widen the existing service road. This improvement was included in the approved preliminary site plan and shall be completed prior to final plat approval, subject to Engineering Division and Utility Department review. Additionally, the applicant has agreed to pay \$10,586 for the easement, representing the appraised value of comparable property in the area.

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Preliminary Plat Easement Exhibits
- Proposed Access Easement Document
- Description of recommended improvement



PROPERTY INFORMATION	
NUMBER OF LOTS	26
USE	SINGLE-FAMILY RESIDENTIAL
AREA	10.41 AC (TOTAL)
LOT #S	ADDRESSING STREET / FIRE & GARBAGE ACCESS
LOTS 1 - 9	PRIVATE DRIVE 1 (IN PROCESS OF NAMING)
LOTS 10 - 19	MARGHARET
LOTS 20 - 26	PRIVATE DRIVE 2 (IN PROCESS OF NAMING)

① SITE PLAN - OVERALL PLAN

Area of Interest



PRELIMINARY PLAT - MARKHAM HILL - PHASE 1 Tract 2, Tract 3, and portions of Tract 1 Markham Hill Rd. & Sang Ave. Fayetteville, AR PPL # 19-6861

NOT FOR CONSTRUCTION
25% CONSTRUCTION DOCUMENTS
REVISIONS

OVERALL SITE PLAN
ISSUE DATE 03.09.2020
SHEET NO. C1.00

EDG PROJECT # 19-020

EXISTING LEGEND

- 0.5' --- Existing Intermediate Contours (1 FT)
- 5.0' --- Existing Index Contours (5 FT)
- Boundary Line
- Existing Right-Of-Way Line
- Existing Easement Line
- Existing Gravel
- Existing Concrete
- Existing Asphalt
- Existing Water Line
- Existing Sanitary Sewer Line
- Existing Gas Line
- Existing Telephone Line
- Existing Fiber Optic Line
- Existing Overhead Power Line
- Existing Underground Electric
- Existing Drainage Pipes
- Existing Fire Hydrant
- Existing Fire Department Connection
- Existing Water Meter
- Existing Gas Meter
- Existing Power Pole w/ Guy Wire
- Existing Light Pole
- Existing Transformer
- Existing Telephone Pedestal
- Existing Electric Pedestal
- Existing Mail Box
- Existing Sign

All Symbols May Not Appear On Drawing. Use As Applicable.

PROPOSED LEGEND

- PROPOSED CURB AND GUTTER (REF. PLANS FOR TYPE)
- PROPOSED INTERMEDIATE CONTOUR (1 FT)
- PROPOSED INDEX CONTOUR (5 FT)
- PROPOSED STORM SEWER PIPING
- PROPOSED ROADWAY CENTERLINE
- PHASE LINE
- PROPOSED ASPHALT
- PROPOSED CONCRETE
- PROPOSED SANITARY SEWER MANHOLE
- PROPOSED STORM SEWER GRATE
- PROPOSED FLARED END SECTION (FES)
- PROPOSED NYLOPLAST BASIN
- PROPOSED HYDRANT
- PROPOSED TRANSFORMER OR VAULT

PROPERTY INFORMATION (LOTS 20-26)	
CPZD AREA	PLANNING AREA 1
# OF LOTS	7
AREA	2.70 AC
USE	SINGLE-FAMILY RESIDENTIAL
FIRE AND GARBAGE ACCESS	PRIVATE DRIVE 2
ADDRESSING STREET	PRIVATE DRIVE 2
SETBACKS	FRONT @ MARKHAM 30' 0"
	FRONT @ SANG AVE 30' 0"
	SIDE 5' 0"
	REAR: 15' 0" TO CENTRELINE OF PRIVATE DRIVE OR 15' 0" WITHOUT A REAR PRIVATE DRIVE
BUFFERS	20' 0" LANDSCAPE BUFFER ALONG SANG AVE
MIN LOT WIDTH	50' 0"
MIN LOT AREA	6000 SF
MAX DENSITY	1.5 UNITS PER ACRE**

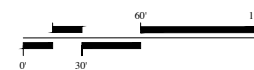
**MAXIMUM 24 UNITS (TOTAL UNIT COUNT AT ANY GIVEN TIME SHALL NOT EXCEED A TOTAL OF 104 NEW HOTEL SUITS, CABINS OR SINGLE FAMILY HOMES)

SEE SHEET 4B THIS SHEET FOR CONTINUATION

SEE SHEET 4A THIS SHEET FOR CONTINUATION

1 SITE PLAN ENLARGEMENT AREA 4B

SCALE: 1" = 30' 0"



SHEET NO.

C1.13

ISSUE DATE

10.23.2019

REVISIONS

REV-1 11.04.2019

100% DESIGN DEVELOPMENT

NOT FOR CONSTRUCTION

PRELIMINARY PLAT - MARKHAM HILL - PHASE 1
Tract 2, Tract 3, and portions of Tract 1 Markham Hill Rd. & Sang Ave. Fayetteville, AR
PPL # 19-6861

SEE SHEET C1.12 FOR CONTINUATION



EDG PROJECT # 19-030

ACCESS EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTOR, for and in consideration of the sum of Ten Thousand Five Hundred Eighty Six Dollars (\$10,586.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto **Markham Hospitality Owner LLC, an Arkansas limited liability company, and Markham Residential Owner, LLC, an Arkansas limited liability company**, hereinafter called GRANTEES, and unto Grantee's successors and assigns, a permanent easement for ingress, egress and access purposes in, on, over, and across the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION (Warranty Deed, Book 520, page 199 & Book 520, page 200):

Beginning at a point which is 594.0 feet North of the SE corner of the SW 1/4 of the NW 1/4 of Sec. 17, T 16 N, R 30 W in Washington County, Arkansas; said point being on the East line of said SW 1/4 of the NW 1/4; thence West and parallel to the South line of said SW 1/4 of the NW 1/4 of said Sec. 17, 266. 8 feet more or less; thence South parallel to the East line of said SW 1/4 of the NW 1/4 105 feet; thence West and parallel to the South line of said SW 1/4 of the NW 1/4 270 feet; thence North and parallel to the East line of the SW 1/4 of the NW 1/4 270 feet; thence East and parallel to the South line of the SW 1/4 of the NW 1/4 270 feet; thence South and parallel to the East line of said SW 1/4 of the NW 1/4 115 feet; thence East and parallel to the South line of the SW 1/4 of the NW 1/4 266. 8 feet, more or less to a point on the East line of said SW 1/4 of the NW 1/4 of Section 17; thence South along the East line of said SW 1/4 of the NW 1/4 50 feet to the point of beginning, and containing 1.98 acres, more or less.

PERMANENT ACCESS EASEMENT DESCRIPTION:

Part of the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) of Section 17, Township 16 North, Range 30 West, of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows:

COMMENCING at a five-eighths inch (5/8") rebar marking the southeast corner of said Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4); thence by bearing and distance (basis of bearing, Grid North), North 03°36'12" East along the east line thereof a distance of 593.89 feet to a five-eighths inch (5/8") rebar at the southeast corner of a tract conveyed to the City of Fayetteville by Warranty Deed, Book 520, page 199, and by Warranty Deed, Book 520, page 200, both filed for record on May 5, 1959; thence North 03°36'12" East continuing along said east line a distance of 15.00 feet to the POINT OF BEGINNING; thence leaving said east line, North 86°14'11" West, parallel to and 15 feet north of the south line of said City of Fayetteville tract and along the north line of an easement described in Document #2019-28146, filed 9/17/2019, a distance of 266.01 feet; thence North 03°45'49" East a distance of 35.00 feet to a corner of said City of Fayetteville tract; thence leaving said north line, South 86°14'11" East along the north line of said City of Fayetteville tract a distance of 265.91 feet to said east line of the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4); thence South 03°36'12" West along said east line a distance of 35.00 feet to the Point of Beginning.

Said permanent access easement is adjacent to a utility easement granted by the City of Fayetteville to Cellco Partnership d/b/a Verizon Wireless, pursuant to City of Fayetteville Resolution No. 196-19. Said utility easement is filed of record with the Washington County Circuit Clerk and Ex-Officio Recorder as Document No. 2019-28146.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantees, their heirs, successors and assigns, for the uses and purposes hereinabove set forth.

The Grantor agrees not to erect any permanent buildings or structures in said access easement area.

The consideration first above recited as being paid to Grantors by Grantees is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantees is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the _____ day of _____, 2020.

CITY OF FAYETTEVILLE, ARKANSAS
A Municipal Corporation

By:

Lioneld Jordan, Mayor

ATTEST:

[SEAL]

Kara Paxton, City Clerk Treasurer

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF

)
) ss.
)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Lioneld Jordan** and **Kara Paxton**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and **City Clerk Treasurer**, respectively, of the **City of Fayetteville, Arkansas, a Municipal Corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said City of Fayetteville, Arkansas, 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.

WITNESS my hand and seal on this _____ day of _____, 2020.

MY COMMISSION EXPIRES:

Notary Public



mtaengineers.com

MTA ENGINEERS

a division of Materials Testing of Arkansas, Inc.

P.O. Box 23715 • Little Rock, AR 72221
Ph. 501.753.2526 • Fax 501.753.5747

101 South Church • Jonesboro, AR 72401
Ph. 870.530.8380 • Fax 870.972.0237

505 Sanders Avenue • Springdale, AR 72764
Ph. 479.756.0061 • Fax 479.756.9254

October 7, 2019

Specialized Real Estate Group
15 N. Church Street
Suite 103
Fayetteville, Arkansas 72701

Attention: Donna Wonsower
donna@specializedreg.com

**RE: Amendment 1 to Geotechnical Report
Markham Hill Property
Fayetteville, Arkansas**

Based on our conversations, MTA Engineers performed two cores in the existing roadway on the Watertower access road in the area of planned pavement improvements. The existing Structural Numbers (SN) are determined from these tests. The existing roadway pavement structure was determined to consist of the following section:

SN for: Asphalt Hot Mix = 0.44
Aggregate Base = 0.14

Location: N 637565.2684, E 665138.5058

3" ACHM Surface Course
5" Crushed Stone Aggregate Base Course
Subgrade - Red Sandy Clay with Chert -CBR \geq 8

Existing SN = 2.02

Location: N 637553.6714, E 665235.3978

2" ACHM Surface Course
6" Crushed Stone Aggregate Base Course
Subgrade - Red Sandy Clay with Chert -CBR \geq 8

Existing SN = 1.72

Per current city standards, Table 6.2, Pavement Design Criteria the required structural number for local streets is SN \geq 2.42. In addition, the minimum sections should be 3 inches of ACHM and 8 inches of Crushed Stone Base Course. An asphalt overlay of 1.5 inches will be required to obtain the minimum SN required by the City.



mtaengineers.com

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505 Sanders Avenue • Springdale, AR 72764
Ph. 479.756.0061 • Fax 479.756.9254

101 South Church • Jonesboro, AR 72401
Ph. 870.530.8380 • Fax 870.972.0237

It is recommended that the overlay be incorporated into design and be performed at the end of construction for esthetics. If you have any questions, or is additional information is warranted, please contact us.

Sincerely,

Steven R. Garrett, P.E.
President



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Susan Norton**, Chief of Staff
Garner Stoll, Development Services Director

FROM: **Kit Williams**, City Attorney

DATE: May 28, 2020

RE: **No deed or judgment restrictions on City driveway to Water Tank site**

There has been a suggestion that the City of Fayetteville may not have the legal right to sell and convey a thirty five foot wide access easement or right-of-way to Specialized Real Estate along our driveway from Sang toward our water tank site. I believe that the City of Fayetteville has clear legal authority to sell such access easement/right of way.

As noted by Ms. Orton, this about 2 acre site was condemned from Evangeline Archer, Joy Pratt and Magdalene Pratt (probably in late 1958 or early 1959). The issue of the proper fair market value was finally resolved when the City of Fayetteville agreed to pay them a total of \$10,000.00 for the land. All three signed their agreement to this conveyance on March 4, 1959. The warranty deed (attached) for the 1.98 acre parcel was signed and filed for record at the Washington County Courthouse on May 5, 1959.

The Court Judgement entered by Circuit Judge Marvin Cummings states:

"That the City of Fayetteville, Arkansas, has condemned said above described real estate (1.98 acres) for the permanent location of an elevated water storage tank and appurtenances thereto, and for the construction of a permanent location for sewer, water, telephone and electric utility lines and appurtenances thereto..."

Black's Law Dictionary, Eighth Edition defines appurtenance as "Something that belongs or is attached to something else." "(T)he word means anything . . . which is an incident of, and belongs to, some other thing as principal." The Arkansas Supreme Court cited *Webster's New International Dictionary*, Second Edition, Unabridged for this definition of appurtenance: "that which belongs to something else; adjunct, appendix, an accessory, something annexed to another thing more worthy." *O'Guinn Volkswagen, Inc. v. Lawson*, 256 Ark. 23, 505 S.W.2d 213, 218 (1974). Basically, the Judge's use of "appurtenances" ensures that the conveyance would include any structure, use, etc. that could be associated with conveyed land such as the thirty five foot wide access road built by the City running from Sang to the water tank site.

The warranty deed to the City of Fayetteville for this 2 acre lot has no limitations restricting how the City will use the land. This type of unrestricted warranty deed conveys what is referred to as "fee simple" meaning the grantee (the City) owns all rights of the land with no conditions reserved by the grantor that could affect the use of the land conveyed to the City. The legal description printed on the warranty deed has been placed over the satellite imagery for this area by G.I.S. and shows a single lot including the "panhandle" road portion running to Sang Street (copy attached). Thus, the road is on land fully conveyed and owned by the City with no restrictive conditions. The City later leased an easement of the south 15 feet of the 50 feet wide panhandle to Verizon for access to Sang Street for its access, wires, and even poles, etc. serving its cell tower). That is why the City at this time may only sell and convey public access or right-of-way rights to Specialized for the remaining 35 feet on the north side of our road property.

CONCLUSION

The City of Fayetteville owns the 2 acre lot it condemned and then purchased from the Pratts and Archer for \$10,000.00 in May of 1959. There were no conditions or restrictions on the Warranty Deed conveying this property to the City. Thus, this 2 acre parcel which includes the road area connecting the larger area to Sang Street is City property with no limitations except the existing lease with Verizon.

There is no doubt that the City has the right and authority to convey a right-of-way or access easement to another entity especially since such conveyance will not harm the City's purpose for which this part of the property was purchased: to access and serve the water tank, etc. on the larger area of this two acre parcel.

WARRANTY DEED 520

~~Register~~

199 Filed for Record

KNOW ALL MEN BY THESE PRESENTS:

That I, Evangeline Pratt Archer (being one and the same person as Evangeline Pratt), one of the devisees under the Last Will and Testament of C. L. Pratt, deceased

MAY 5 1959

Do not write in this space

for and in consideration of the sum of One Dollar and Other Valuable Considerations to me in hand paid by City of Fayetteville, Arkansas, a municipal corporation

do hereby grant, bargain and sell unto the said City of Fayetteville, Arkansas, a municipal corporation, its successors

~~and~~ and assigns, the following described land, situate in Washington County, State of Arkansas, to-wit:

Beginning at a point which is 594.0 feet North of the SE corner of the SW 1/4 of the NW 1/4 of Sec. 17, T 16 N, R 30 W in Washington County, Arkansas; said point being on the East line of said SW 1/4 of the NW 1/4; thence West and parallel to the South line of said SW 1/4 of the NW 1/4 of said Sec. 17, 266.8 feet more or less; thence South parallel to the East line of said SW 1/4 of the NW 1/4 105 feet; thence West and parallel to the South line of said SW 1/4 of the NW 1/4 270 feet; thence North and parallel to the East line of the SW 1/4 of the NW 1/4 270 feet; thence East and parallel to the South line of the SW 1/4 of the NW 1/4 270 feet; thence South and parallel to the East line of said SW 1/4 of the NW 1/4 115 feet; thence East and parallel to the South line of the SW 1/4 of the NW 1/4 266.8 feet, more or less to a point on the East line of said SW 1/4 of the NW 1/4 of Section 17; thence South along the East line of said SW 1/4 of the NW 1/4 50 feet to the point of beginning, and containing 1.98 acres, more or less.

This deed is given by the Grantee to the Grantor herein for the purpose of clearing any possible defects in the title to the real estate above described, although the title to this land was taken by the City in condemnation proceedings.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said City of Fayetteville, Arkansas, its successors

~~and~~ and assigns, forever. And I, the said Evangeline Pratt Archer

hereby covenant that I am lawfully seized of said land and premises; that the same is unincumbered, and I will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS my hand and seal on this 5th day of May 19 59

Evangeline Pratt Archer [Seal]

ACKNOWLEDGMENT

STATE OF ARKANSAS

County of Washington ss.

BE IT REMEMBERED, That on this day came before the undersigned, a Notary Public within and for the County aforesaid, duly commissioned and acting

ing, Evangeline Pratt Archer to me well-known as the Grantor in the foregoing Deed, and stated that he had executed the same for the consideration and purposes therein mentioned and set forth.

Witness my hand and seal as such Notary Public

this 5th day of

May 19 59.
My Commission expires 4-9-63

Thurman L. [Signature]



Warranty Deed 520/199

Parcel Line



Right-of-Way



0 50 100 150 200 Feet

SANG AVE

SANG AVE

Disclaimer:
The data contained herein was compiled from various sources for the sole use and benefit of the City of Fayetteville. Geographic Information System and the public agencies it serves. Any use of the data by anyone other than the City of Fayetteville is at the sole risk of the user and by acceptance of the data, the user does hereby warrant that the City of Fayetteville shall not be held liable for any damages or any failure, including the City's cost of defense, asserted by user or by another arising from the use of the data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or clause found herein shall be construed to waive that but immunity set forth under Arkansas law.

CityClerk

From: CityClerk
Sent: Friday, May 22, 2020 12:11 PM
To: Bolinger, Bonnie; Pennington, Blake; CityClerk; citycouncil@matthewpetty.org; Eads, Gail; Roberts, Gina; Batker, Jodi; Johnson, Kimberly; Rogers, Kristin; Williams, Kit; Branson, Lisa; Jordan, Lioneld; Paxton, Kara; Mulford, Patti; Norton, Susan; Thurber, Lisa; Gutierrez, Sonia; Marsh, Sarah; Kinion, Mark; Scroggin, Sloan; Bunch, Sarah; Turk, Teresa; Smith, Kyle
Cc: LMann2@earthlink.net
Subject: Please forward to Lioneld and the aldermen

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hey Y'all,
Louise Mann asking you to please protect Markham Hill, once and for all.
Do not sell the developer a darn thing. We had another "suspicious incident" in our 'hood last week.
We don't like having to ask the cops to do extra patrol. They have plenty else to do.
Please quit allowing the destruction of neighborhoods.
Thanks and take care,
Louise

Louise G. Mann

www.WasteReductionResources.com

Inspiring Communities to Reclaim their Recyclable Resources and Three R programs,
making REDUCTION and REUSE the Highest Priorities!

CityClerk

From: CityClerk
Sent: Friday, May 22, 2020 2:03 PM
To: Bolinger, Bonnie; Pennington, Blake; CityClerk; citycouncil@matthewpetty.org; Eads, Gail; Roberts, Gina; Batker, Jodi; Johnson, Kimberly; Rogers, Kristin; Williams, Kit; Branson, Lisa; Jordan, Lioneld; Paxton, Kara; Mulford, Patti; Norton, Susan; Thurber, Lisa; Gutierrez, Sonia; Marsh, Sarah; Kinion, Mark; Scroggin, Sloan; Bunch, Sarah; Turk, Teresa; Smith, Kyle
Cc: springfieldranch@aol.com
Subject: FW: Markham Hill/forward to Mayor Jordan and City Council

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

It is time Fayetteville put the brakes on development. The growth is out of control and getting ugly. How many more apartment complexes and fast food joints do we need? The traffic is becoming unbearable. This is not sustainable growth, this is sprawl for profit.

The future value of green space cannot be imagined. NOW is the time for Fayetteville to act and preserve Markham Hill. Once this jewel is gone, it's gone and all the wildlife that call it home have been issued a death sentence. What lives there now cannot be sustained or thrive on the measly acreage the developer intends to leave "green".

You have the power to stop it. I implore you to take action for the future generations who will treasure this legacy and applaud your foresight.

T.A. Sampson

CityClerk

From: CityClerk
Sent: Friday, May 22, 2020 2:58 PM
To: Bolinger, Bonnie; Pennington, Blake; CityClerk; citycouncil@matthewpetty.org; Eads, Gail; Roberts, Gina; Batker, Jodi; Johnson, Kimberly; Rogers, Kristin; Williams, Kit; Branson, Lisa; Jordan, Lioneld; Paxton, Kara; Mulford, Patti; Norton, Susan; Thurber, Lisa; Gutierrez, Sonia; Marsh, Sarah; Kinion, Mark; Scroggin, Sloan; Bunch, Sarah; Turk, Teresa; Smith, Kyle
Cc: hdonna4967@gmail.com
Subject: FW: Markham Hill

From: Donna Hersh <hdonna4967@gmail.com>
Sent: Friday, May 22, 2020 2:56 PM
To: CityClerk <cityclerk@fayetteville-ar.gov>
Subject: Markham Hill

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please save our park. Stop the development. Thank you!

CityClerk

From: CityClerk
Sent: Friday, May 22, 2020 3:48 PM
To: Bolinger, Bonnie; Pennington, Blake; CityClerk; citycouncil@matthewpetty.org; Eads, Gail; Roberts, Gina; Batker, Jodi; Johnson, Kimberly; Rogers, Kristin; Williams, Kit; Branson, Lisa; Jordan, Lioneld; Paxton, Kara; Mulford, Patti; Norton, Susan; Thurber, Lisa; Gutierrez, Sonia; Marsh, Sarah; Kinion, Mark; Scroggin, Sloan; Bunch, Sarah; Turk, Teresa; Smith, Kyle
Cc: lisa_m_orton@yahoo.com
Subject: FW: SREG requesting access road off upper Sang Ave

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Other things to consider as well:

1. Why should the City sell any of their land to a developer? Especially when so many people are against that development and its destruction of natural habitat and historic land. Here's an opportunity for the City to listen to a neighborhood and its people. To put the people of Fayetteville above developers and money. Here's a chance for the City to start helping save Markham Hill from destruction. The City could choose not to sell this access road land to the developer. It is not illegal for a City Council to say 'no' to a developer, especially when it is better for Fayetteville in the long run to preserve its intact urban forests, pervious surfaces, trees, natural habitats, wildlife, Native American landforms, neighborhoods, etc. The City Council could choose to say 'no' to all future requests from the developer concerning Markham Hill since that would be better for Fayetteville. The pandemic has made it even clearer the need for the environmental benefits of urban forests, clean air, clean water, and space. Not crowding people together.
2. The road the developer wants from Markham Rd to Sang Ave would cross a septic tank field which will render the house at 2115 Markham Rd unoccupiable. The house would need to be connected to City sewer and be paid for by the developer. City sewer is difficult on Markham Hill. Septic systems are used.
3. If the City decides to sell the access road land to the developer, provisions would need to be specified in the sale that the developer, not the City or its residents, must be responsible for all costs for the required gutters, drainage, sidewalk, and curbs. Especially since this is on a hillside where wet weather flows and drainage are a problem. All resulting drainage problems from any development on Markham Hill and its slopes and foothills must be paid for by SREG and its financial backer for the next 100 years or more. Specifically, Jeremy Hudson, Seth Mims, and Robert M Dant. This responsibility to the people of Fayetteville must not be passed on to its residents or future developers.

An aside: Pertaining to the problem of long City meetings and the need to figure out how to shorten them, if the City Council voted according to what the residents want rather than what the developer wants, there would be less need to appear at the meetings and speak. Our emails would suffice. Long meetings reveal a problem exists between the City govt and the people of Fayetteville. When many people speak against something, but the City Council votes to pass it anyway, longer meetings will persist.

[Sent from Yahoo Mail for iPad](#)

On Thursday, May 21, 2020, 1:37 PM, Lisa Orton <lisa_m_orton@yahoo.com> wrote:

Dear Univ Hts neighbors,

Specialized Real Estate Group (SREG) under their financial backer's new names (Markham Hill Hospitality and Markham Hill Residential) is requesting purchase of land for an access road along the City's access road off Sang Ave leading to the water tower and Verizon tower. This is for the 7 homes SREG wants to build in the horse pasture between Markham Rd and Sang Ave on the hill. They want an exit onto Sang Ave and an exit onto Markham Rd. The access road land belongs to the City of Fayetteville, after purchasing it from Mrs. Markham to build the water tower. The sale of this land for the access road by the City to SREG (under its financial backer's two names) is going before the City Council this coming Tuesday. The City staff recommends approving the sale. If it is not approved, those 7 homes cannot be built, protecting this section of the hill from destruction. I'm wondering if Mrs. Markham and Evangeline Archer made a covenant of some kind with the City when they sold them the water tower land? That its use can only be for the water tower. What lawyers among us can investigate this matter? It must be done immediately. I've attached the City documents concerning SREG's request.

Thanks,
Lisa Orton

Sent from Yahoo Mail on Android

Branson, Lisa

From: Branson, Lisa
Sent: Tuesday, May 26, 2020 8:33 AM
To: bbolinger@fayetteville-ar.gov; bpennington@fayetteville-ar.gov; cityclerk@fayetteville-ar.gov; citycouncil@matthewpetty.org; geads@fayetteville-ar.gov; groberts@fayetteville-ar.gov; jbatker@fayetteville-ar.gov; kjohnson@fayetteville-ar.gov; krogers@fayetteville-ar.gov; kwilliams@fayetteville-ar.gov; lbranson@fayetteville-ar.gov; ljordan@fayetteville-ar.gov; Paxton, Kara; pmulford@fayetteville-ar.gov; snorton@fayetteville-ar.gov; Thurber, Lisa; ward1_pos1@fayetteville-ar.gov; ward1_pos2@fayetteville-ar.gov; ward2_pos1@fayetteville-ar.gov; ward3_pos1@fayetteville-ar.gov; ward3_pos2@fayetteville-ar.gov; ward4_pos1@fayetteville-ar.gov; ward4_pos2@fayetteville-ar.gov
Cc: bearchitect@sbcglobal.net
Subject: FW: Markham Hill issue

Please forward this e-mail on to the city council and to our mayor-

Please do not sell any land to the developers that are trying to destroy our Fayetteville by gutting Markham Hills lush woods. The density that they have a desire for is not wanted by the thousands that have signed petitions to show support for Saving Markham Hill. Please listen to those that love the Hill the way it is.

Michelle Westfall-Edwards
Fayetteville resident

CityClerk

From: CityClerk
Sent: Tuesday, May 26, 2020 3:33 PM
To: bbolinger@fayetteville-ar.gov; bpennington@fayetteville-ar.gov; cityclerk@fayetteville-ar.gov; citycouncil@matthewpetty.org; geads@fayetteville-ar.gov; groberts@fayetteville-ar.gov; jbatker@fayetteville-ar.gov; kjohnson@fayetteville-ar.gov; krogers@fayetteville-ar.gov; kwilliams@fayetteville-ar.gov; lbranson@fayetteville-ar.gov; ljordan@fayetteville-ar.gov; Mathis, Jeana; Paxton, Kara; pmulford@fayetteville-ar.gov; snorton@fayetteville-ar.gov; Thurber, Lisa; ward1_pos1@fayetteville-ar.gov; ward1_pos2@fayetteville-ar.gov; ward2_pos1@fayetteville-ar.gov; ward3_pos1@fayetteville-ar.gov; ward3_pos2@fayetteville-ar.gov; ward4_pos1@fayetteville-ar.gov; ward4_pos2@fayetteville-ar.gov
Cc: Fran Alexander
Subject: FW: Please deliver to City Council members and Mayor Jordan

To City Council Members and Mayor Jordan:

For your consideration tonight is the request from Specialized Real Estate Group (and its other names) for purchase of land for an access road along the City's access off Sang Ave leading to the water tower and Verizon tower on Markham Hill.

I see no reason that this city land sale will benefit the surrounding neighborhood, which should be the City's top priority, and NOT the facilitation of yet another encroachment avenue into the neighborhood for whatever purpose they desire. With continuing accommodations to this development's needs and wants, this hill top will continue to be compromised with roads, utilities, and infrastructure that city taxpayers will be affected by either financially or by physical damage to the land. Please stop the continuing practice of assuming all development should be aided and abetted at the expense of surrounding neighborhoods and losses to the current land use, which is providing environmental protection through urban forest canopy. That canopy is being decimated in areas all around the city at a pace that is impossible to mitigate given the years it takes to return canopy cover to land below. Every tree counts.

Please vote to deny this request for access road purchase.

Thank you,

Fran Alexander

CityClerk

From: CityClerk
Sent: Wednesday, May 27, 2020 7:54 AM
To: Bolinger, Bonnie; Pennington, Blake; CityClerk; citycouncil@matthewpetty.org; Eads, Gail; Roberts, Gina; Batker, Jodi; Johnson, Kimberly; Rogers, Kristin; Williams, Kit; Branson, Lisa; Jordan, Lioneld; Mathis, Jeana; Paxton, Kara; Mulford, Patti; Norton, Susan; Thurber, Lisa; Gutierrez, Sonia; Marsh, Sarah; Kinion, Mark; Scroggin, Sloan; Bunch, Sarah; Turk, Teresa; Smith, Kyle
Cc: lisa_m_orton@yahoo.com
Subject: FW: Developer request to purchase use of City access road on Markham Hill

Dear Mayor Jordan and City Council,

Please do not approve. According to the attached 1959 legal document from the Washington County Circuit Court, the City of Fayetteville condemned the land for the access road, the water tower, and specified City utilities on Markham Hill for that purpose alone, not for private use by a developer. It looks like the City Council would be going against the Washington County Circuit Court decision if they approved the developer's request to use the City's access road for access to their private development.

There is no legal requirement for a City to grant anything to a developer, especially if it is not in Fayetteville's best interest. Over 7800 people who have signed the Friends of Markham Hill petition (and many who have not yet signed) do not want Markham Hill to be developed but rather made into a nature and wildlife preserve which will also protect its ecology, environmental benefits, historical places, early 20th century ruins, evidences of Native American habitation found across the mountain top, and its two already registered Native American sites. For 115 years since 1900, preservation and conservation was the Pratt family intention. The destruction of Markham Hill by the current 4 year developer/owner should not be allowed.

Sincerely,

Lisa Orton
1663 W Halsell Rd
Fayetteville, AR 72701
410-674-8440

That the City of Fayetteville, Arkansas, has condemned said above described real estate for the permanent location of an elevated water storage tank and appurtenances thereto, and for the construction of a permanent location for sewer, water, telephone and electric utility lines and appurtenances thereto, in connection with improvements to the existing waterworks system operated by the City of Fayetteville, Arkansas.

That by settlement agreement entered into by and between Evangeline Pratt Archer, Margaret Joy Pratt Markham, and Magdalene Pratt, the City of Fayetteville, Arkansas, has agreed to pay to Evangeline Pratt Archer, Margaret Joy Pratt Markham, and Magdalene Pratt, and Evangeline Pratt Archer, Margaret Joy Pratt Markham, and Magdalene Pratt have agreed to accept from the City of Fayetteville, Arkansas, the total sum of \$10,000.00 as full and just compensation for the taking of said above described real estate by plaintiff herein, with the sum of \$1,000.00 being allocated to the actual value of the real estate condemned and \$9,000.00 being allocated as damages to the remaining real estate owned by defendants herein.

That upon payment by plaintiff herein to Magdalene Pratt of the sum of \$880.50,

32 304

IN THE CIRCUIT COURT OF

WASHINGTON COUNTY, ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS,
A MUNICIPAL CORPORATION

VS

EVANGELINE PRATT ARCHER, MARGARET JOY
PRATT MARKHAM, AND MAGDALENE PRATT

PLAINTIFF

DEFENDANTS

JUDGMENT

Now on this 1st day of March, 1959, comes on to be heard the matter of the adjudication of just compensation due to Evangeline Pratt Archer, Margaret Joy Pratt Markham and Magdalene Pratt, by reason of the taking by the City of Fayetteville, Arkansas, of the real estate hereinafter described, and the plaintiff appearing by its attorneys, Wade & McAllister, of Fayetteville, Arkansas, announce ready for trial; the defendants, Margaret Joy Pratt Markham and Magdalene Pratt, appearing by written settlement agreement, entry of general appearance and consent to judgment, announce ready for trial; the defendant, Evangeline Pratt Archer, appearing by written settlement agreement, entry of general appearance, and by her attorney, ~~U. A. Lovell~~, and announce ready for trial; whereupon

17-16-30

CityClerk

From: CityClerk
Sent: Friday, May 29, 2020 8:33 AM
To: bbolinger@fayetteville-ar.gov; bpennington@fayetteville-ar.gov; cityclerk@fayetteville-ar.gov; citycouncil@matthewpetty.org; geads@fayetteville-ar.gov; groberts@fayetteville-ar.gov; jbatker@fayetteville-ar.gov; kjohnson@fayetteville-ar.gov; krogers@fayetteville-ar.gov; kwilliams@fayetteville-ar.gov; lbranson@fayetteville-ar.gov; ljordan@fayetteville-ar.gov; Mathis, Jeana; Paxton, Kara; pmulford@fayetteville-ar.gov; snorton@fayetteville-ar.gov; Thurber, Lisa; ward1_pos1@fayetteville-ar.gov; ward1_pos2@fayetteville-ar.gov; ward2_pos1@fayetteville-ar.gov; ward3_pos1@fayetteville-ar.gov; ward3_pos2@fayetteville-ar.gov; ward4_pos1@fayetteville-ar.gov; ward4_pos2@fayetteville-ar.gov
Cc: lawrence@specializedreg.com; Curth, Jonathan; Stoll, Garner
Subject: FW: Notice to Council - Resolution 2020 0269

Please see email below from Specialized Real Estate regarding Markham Hospitality Owner, LLC Access Easement.

Have a nice day!
Lisa

From: Stoll, Garner <gstoll@fayetteville-ar.gov>
Sent: Friday, May 29, 2020 8:24 AM
To: CityClerk <cityclerk@fayetteville-ar.gov>
Cc: Norton, Susan <snorton@fayetteville-ar.gov>; lawrence@specializedreg.com; Curth, Jonathan <jcurth@fayetteville-ar.gov>
Subject: FW: Notice to Council - Resolution 2020 0269

Good morning,

Please forward to the email from Specialized Real Estate to Mayor and City Council .

It relates to the June 2, 2020 City Council Agenda Item 7.

Please let me know if you need additional information.

Garner Stoll AICP
Director of Development Services
City of Fayetteville, AR 72701
479-575-8265
Gstoll@Fayetteville-ar.gov

From: Lawrence Finn <lawrence@specializedreg.com>
Sent: Friday, May 29, 2020 8:00 AM
To: Stoll, Garner <gstoll@fayetteville-ar.gov>
Cc: Curth, Jonathan <jcurth@fayetteville-ar.gov>
Subject: Notice to Council - Resolution 2020 0269

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Garner

The Specialized Real Estate Group would like to table resolution 2020 0269 scheduled to be heard before the City Council at the June 2, 2020 meeting. We want to wait until council meetings are in chambers and open to the public but no later than the end of the year. SREG will work with staff to address any concerns and will resubmit at a later date.

Regards,

Lawrence Finn

VP Development and Construction

CELL 404.931.8426

SPECIALIZED REAL
ESTATE
GROUP

