

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
AGENDA
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
MARCH 12, 2013**

I. ROLL CALL

**II. APPROVAL OF MINUTES FROM FEBRUARY 11, 2013, SPECIAL MEETING
AND FEBRUARY 12, 2013 MEETING**

III. STAFF COMMENTS AND PROCEDURES

1. Unified Development Ordinance Amendments
2. Final Plat – Stonebrook at Chaffee Crossing – Crafton Tull (tabled from February 2013)
3. A request by Rickey Shores, agent for Hisham Yasin, for development plan approval for an office, covered patio and handicap accessible restroom facility for Fort Smith Stone Company located at 3012-3022 Midland Boulevard. (companion item to item #10)
4. A request by Cary Smallwood, agent for Cancer Support House, for a Master Land Use Plan Amendment from Residential Detached to Residential Attached located at 1412 South 34th Street. (companion item to items #5, & #6).
5. Rezoning 3-3-13; A request by Cary Smallwood, agent for Cancer Support House, for a zone change from Transitional (T) to Residential Multi-Family High Density (RM-4) by Classification located at 1412 South 34th Street. (companion item to items #4, & #6).
6. A request by Cary Smallwood, agent for Cancer Support House, for development plan approval for a multi-family development located at 1412 South 34th Street. (companion item to items #4, & #5).
7. A request by Travis Brisendine, agent for Edward W. Magness, for development plan approval for government offices located at 4624 Kelley Highway. (companion item to item #12)
8. Home Occupation #1-3-13; A request by Malayphone Ning Seubold for a tax preparation business located at 6911 Lookout Drive.
9. Home Occupation #2-3-13; A request by Patricia Dye for a tax preparation business located at 2205 North 10th Street.

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**RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT**

10. Variance #10-3-13; A request by Rickey Shores, agent for Hisham Yasin, for a variance from 20 feet to 6 feet interior side yard setback and from 20 feet to 5.6 feet rear yard setback located at 3022 Midland. (companion item to item #3)
11. Variance #11-3-13; A request by Woodrow Anderson, Jr. for a variance from 20 square feet to 50 square feet maximum size of a sign, from pedestal or monument type sign to pole sign and from indirect lighting to digital illumination located at 700 Lexington Avenue.
12. Variance #12-3-13; A request by Travis Brisendine, agent for Edward W. Magness, for a variance from 10 feet to 5 feet landscaping strip requirement along North 47th Street – Section 27-602-3-C and from the requirement to plant 1 tree every 50 linear feet of right-of-way frontage along Kelley Highway – Section 27-602-3-B located at 4624 Kelley Highway. (companion item to item #7)

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
FEBRUARY 12, 2013**

On roll call, the following Commissioners were present: Vicki Newton, Brandon Cox, Walton Maurras, Jennifer Parks, Marshall Sharpe, Steve Griffin and Richard Spearman. The following Commissioners were absent: John Huffman and Rett Howard.

Motion was made by Commissioner Maurras, seconded by Commissioner Sharpe and carried unanimously to approve the minutes of the January 8, 2013, meeting as written.

Mr. Wally Bailey read the staff procedures.

1. Final Plat – Stonebrook at Chaffee Crossing

Ms. Brenda Andrews stated that a request to table this item until the March 2013 Planning Commission meeting had been received by the applicant. Ms. Andrews noted that the request to table this item is being made in order to provide them additional time to complete the maintenance documents for the proposed subdivision.

Motion was then made by Commissioner Parks, seconded by Commissioner Spearman and carried unanimously to table this item until the March 2013 Planning Commission meeting.

- 2. Master Land Use Plan Amendment from Commercial Neighborhood to General Commercial located at 2501 North 50th Street. (companion item to items #3 & #10) (tabled from December 2012)**
- 3. Rezoning #22-9-12; A request by Al Prieur, agent for Mark & Amy Koenigseder for a zone change from Commercial Regional (C-4) to Commercial Heavy (C-5) by Classification located at 2501 North 50th Street. (companion item to items #2 & #10) (tabled from December 2012)**
- 10. Variance #27-9-12; A request by Al Prieur, agent for Mark & Amy Koenigseder, for a variance from 2 acres to 49,875 square feet minimum lot area located at 2501 North 50th Street. (companion item to items #2 & #3) (tabled from December 2012)**

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to allow the existing use to be in conformance with the zoning code. Ms. Rice stated that the business has operated at this location as a gasoline service station since the early 1970's and in the 1980's, the business transitioned from a gasoline service station to auto repair.

Ms. Rice noted that a neighborhood meeting was held on September 4th, 2012, with a few surrounding property owners in attendance; however, none voiced any concerns over the proposed zone change. Ms. Rice also noted that in 2011, staff sent a series of enforcement letters for the outdoor storage of salvage vehicles and salvage parts.

Ms. Rice stated that a letter from Mr. Prieur has been received outlining a compromise stemming from the December 2012 Planning Commission meeting. Ms. Rice noted that the proposed rezoning will now only include the property being used for auto repair and auto sales.

Mr. Al Prieur was present to speak on behalf of these requests.

No one was present to speak in opposition to the requests.

Following a discussion by the Commission, Chairman Griffin called for the vote on these items. Chairman Griffin noted that the variance request would need to be voted on prior to the vote on the Master Land Use Plan Amendment or rezoning request.

**RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT**

- 10. Variance #27-9-12; A request by Al Prieur, agent for Mark & Amy Koenigseder, for a variance from 2 acres to 49,875 square feet minimum lot area located at 2501 North 50th Street. (companion item to items #2 & #3) (tabled from December 2012)**

Chairman Griffin called for the vote on the variance request. The vote was 7 in favor and 0 opposed.

**RECESS BOARD OF ZONING ADJUSTMENT
RECONVENE PLANNING COMMISSION**

- 2. Master Land Use Plan Amendment from Commercial Neighborhood to General Commercial located at 2501 North 50th Street. (companion item to items #3 & #10) (tabled from December 2012)**

Chairman Griffin called for the vote on the Master Land Use Plan Amendment. Motion was made by Commissioner Maurras, seconded by Commissioner Parks and carried unanimously to amend this request to make approval subject to the following:

- The letter from Mr. Al Prieur, dated January 16, 2013, which requests to rezone only the area of the property south of the southern lot line of Lot 26A, Block 3.
- Any new additions on the property will require development plan approval by the Planning Commission prior to the issuance of a building permit.

Chairman Griffin then called for the vote on the Master Land Use Plan Amendment as amended. The vote was 7 in favor and 0 opposed.

- 3. Rezoning #22-9-12; A request by Al Prieur, agent for Mark & Amy Koenigseder for a zone change from Commercial Regional (C-4) to Commercial Heavy (C-5) by Classification located at 2501 North 50th Street. (companion item to items #2 & #10) (tabled from December 2012)**

Chairman Griffin called for the vote on the rezoning request. Motion was made by Commissioner Maurras, seconded by Commissioner Parks, and carried unanimously to amend this request to make approval subject to the following:

- The letter from Mr. Al Prieur, dated January 16, 2013, which requests to rezone only the area of the property south of the southern lot line of Lot 26A, Block 3.
- Any new additions on the property will require development plan approval by the Planning Commission prior to the issuance of a building permit.

Chairman Griffin then called for the vote on the rezoning request as amended. The vote was 7 in favor and 0 opposed.

- 4. A request by Morrison-Shipley, agent for Zaki Adib Samman, Kefah F. Daas, and Larry & Sandra Roper for development plan approval for a convenience store with gasoline sales located at 9102 Rogers Avenue. (companion item to item #11) (tabled from January 2013)**

- 11. Variance #3-1-13; A request by Morrison-Shipley, agent for Zaki Adib Samman, Kefah F. Daas and Larry & Sandra Roper, for a variance from: 1) 30 feet to 10 feet rear yard setback; 2) from 200 feet to 68.66 feet minimum separation between adjacent driveways; 3) from 200 feet to 132 feet minimum separation between adjacent driveways; and 4) from 250 feet to 66.78 feet minimum separation between driveway and street intersection located at 9102 Rogers Avenue. (companion item to item #4) (tabled from January 2013)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to facilitate a convenience store with gasoline sales. Ms. Andrews stated that at the January Planning Commission meeting, the applicant request that these items be tabled until February. Ms. Andrews noted that a neighborhood meeting was held on Thursday, December 27, 2012, at 5:30 p.m. at the Fort Smith Public Library located at 3201 Rogers Avenue with one (1) adjacent property owner in attendance. No objections or concerns were expressed during this meeting. Ms. Andrews stated that staff had received a phone call in August when the project was first proposed from a nearby property owner who had questions about any future expansion of South 91st Street and concerns relative to traffic that would be generated by the proposed convenience store.

Mr. Greg Shipley was present to speak on behalf of these requests. Mr. Shipley stated that two (2) driveways are needed for safety and also referenced the Woods Elementary School variance which was approved at the January 2013 Planning Commission and asked for consistency in the way the regulations are applied.

Mr. Ron Teeter with the City of Fort Smith Engineering Department addressed the Commission. Mr. Teeter noted that they had reviewed and approved what is being proposed and understands the traffic concerns and although this is not an ideal situation it is consistent with other developments along Rogers Avenue.

Mr. Doug Schwartz was present to speak in opposition to these requests citing concerns relative to traffic and safety.

Following a discussion by the Commission, Chairman Griffin called for the vote on these requests. Chairman Griffin noted that the variance request would need to be voted on prior to the vote on the development plan.

RECESS PLANNING COMMISSION RECONVENE BOARD OF ZONING ADJUSTMENT

- 11. Variance #3-1-13; A request by Morrison-Shipley, agent for Zaki Adib Samman, Kefah F. Daas and Larry & Sandra Roper, for a variance from: 1) 30 feet to 10 feet rear yard setback; 2) from 200 feet to 68.66 feet minimum separation between adjacent driveways; 3) from 200 feet to 132 feet minimum separation between adjacent driveways; and 4) from 250 feet to 66.78 feet minimum separation between driveway and street intersection located at 9102 Rogers Avenue. (companion item to item #4) (tabled from January 2013)**

Chairman Griffin called for the vote on the variance request. Motion was made by Commissioner Sharpe, seconded by Commissioner Parks and carried unanimously to amend this request to make approval of the variance based on the submitted development plan.

Chairman Griffin then called for the vote on the variance request as amended. The vote was 6 in favor and 1 opposed (Maurras).

RECESS BOARD OF ZONING ADJUSTMENT RECONVENE PLANNING COMMISSION

- 4. A request by Morrison-Shipley, agent for Zaki Adib Samman, Kefah F. Daas, and Larry & Sandra Roper for development plan approval for a convenience store with gasoline sales located at 9102 Rogers Avenue. (companion item to item #11) (tabled from January 2013)**

Chairman Griffin called for the vote on the development plan. Motion was made by Commissioner Parks, seconded by Commissioner Sharpe and carried unanimously to amend this request to make approval subject to the following:

- Development plan approval shall be based on the site plan and landscape plan submitted (Date: 12-20-12, Project No. CAS-08) and elevations as submitted.
- West entrance shall be right turn only – in and out
- The pump island canopy shall comply with Section 27-404-C-7 of the UDO. (The canopy shall be a minimum height of at least twelve (12) feet).
- Perimeter landscaping shall include parking lot screening consisting of a dense vegetative buffer that is a minimum three (3) feet above finished parking lot elevation within twenty-four (24) months of installation in accordance with Section 27-602-3(C) of the Unified Development Ordinance.
- The electric transformer utility box shall be screened from the adjoining property to the east.
- Ground signs shall be limited to the monument sign shown on the submitted development plan.
- Submittal of sign permit application for staff review.
- All lighting shall conform to Section 27-602-5 of the Unified Development Ordinance.

Chairman Griffin then called for the vote on the development plan as amended. The vote was 6 in favor and 1 opposed (Maurras).

- 5. Rezoning #2-2-13; A request by Randy Coleman, agent for Fort Chaffee Redevelopment Authority, for a zone change from Not Zoned to Industrial Moderate (I-2) by Classification located at 7712 Taylor Avenue. (companion item to items #6 & #12)**
- 6. Conditional Use #4-2-13; A request by Randy Coleman, agent for Fort Chaffee Redevelopment Authority, for a conditional use for a chemical, plastics and rubber industry located at 7712 Taylor Avenue. (companion item to items #5 & #12)**
- 12. Variance #5-2-13; A request by Randy Coleman, agent for Fort Chaffee Redevelopment Authority for a variance from 10 acres to 3.92 acres minimum lot area and from major arterial to major collector required street access located at 7712 Taylor Avenue. (companion item to items #5 & #6)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow the development of a chemical manufacturing company. Ms. Andrews stated that a neighborhood meeting was held on January 31, 2013, at the offices of the Fort Chaffee Redevelopment Authority, 7020 Taylor Avenue with one (1) surrounding property owner in attendance who voiced concerns relative to any odors that might occur during the manufacturing process, proposed truck traffic and the delivery of raw materials. Mr. Coleman advised the property owner that no odors were anticipated and that three to four trucks per week are planned initially for the project and that raw materials would be delivered by rail and the final product transported by trucks.

Mr. Randy Coleman with Mickle-Wagner-Coleman was present to speak on behalf of these requests. Mr. Coleman advised the Commission that the Fort Chaffee Design Review Board had met and submitted a copy of their approval letter.

No one was present to speak in opposition to these requests.

Following a discussion by the Commission, Chairman Griffin called for the vote on these requests with a vote on the variance request prior to the vote on the rezoning and conditional use requests.

**RECESS PLANNING COMMISSION
RECONVENE BOARD OF ZONING ADJUSTMENT**

- 12. Variance #5-2-13; A request by Randy Coleman, agent for Fort Chaffee Redevelopment Authority for a variance from 10 acres to 3.92 acres minimum lot area and from major arterial to major collector required street access located at 7712 Taylor Avenue. (companion item to items #5 & #6)**

Chairman Griffin called for the vote on the variance request. The vote was 7 in favor and 0 opposed.

**RECESS BOARD OF ZONING ADJUSTMENT
RECONVENE PLANNING COMMISSION**

- 5. Rezoning #2-2-13; A request by Randy Coleman, agent for Fort Chaffee Redevelopment Authority, for a zone change from Not Zoned to Industrial Moderate (I-2) by Classification located at 7712 Taylor Avenue. (companion item to items #6 & #12)**

Chairman Griffin called for the vote on the rezoning request. Motion was made by Commissioner Parks, seconded by Commissioner Maurras and carried unanimously to amend this request to make approval subject to approval of the conditional use application to allow a chemical manufacturing company at this site.

Chairman Griffin then called for the vote on the rezoning request as amended. The vote was 7 in favor and 0 opposed.

6. Conditional Use #4-2-13; A request by Randy Coleman, agent for Fort Chaffee Redevelopment Authority, for a conditional use for a chemical, plastics and rubber industry located at 7712 Taylor Avenue. (companion item to items #5 & #12)

Chairman Griffin called for the vote on the conditional use request. Motion was made by Commissioner Sharpe, seconded by Commissioner Parks and carried unanimously to amend this request to make approval subject to the following:

- Submittal of a landscaping plan that complies with the Chaffee Crossing Master Design Guidelines landscaping requirements or documentation of an approved variance from the Chaffee Crossing Design Review Committee. The final landscape plan must also address conflicts with existing utilities, drainage and sidewalk.
- Dedication of any required franchise or city easements.
- Compliance with the Chaffee Crossing Master Design Guidelines sign regulations and submittal of a sign permit application for any proposed signage.
- Compliance with Chaffee Crossing Master Design Guidelines lighting requirements.
- Compliance with the Chaffee Crossing Master Design Guidelines architectural or documentation of an approved variance from the Chaffee Crossing Design Review Committee (DRC).
- Construction of a 5' sidewalk adjacent to Darby Avenue or approval from the DRC to delay sidewalk construction until development of the lot adjacent to Darby Avenue.
- Compliance with the City's Storm Drainage Standards.
- All construction must be built in accordance with the submitted development plan and with any Planning Commission amendments.

Chairman Griffin then called for the vote on the conditional use request as amended. The vote was 7 in favor and 0 opposed.

7. A request by Jerry Morrow and/or Kip Guthrie, agents for A&M Railroad Fort Smith for development plan approval for a warehouse addition located at 1301 North 4th Street. (companion item to item #14)

14. Variance #7-2-13; A request by Jerry Morrow and/or Kip Guthrie, agents for A&M Railroad Fort Smith for a variance from Section 27-602-4(E) Industrial Building Standards located at 1301 North 4th Street. (companion item to item #7)

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is for a 60,000 square foot metal building addition with 13 bays located at 1301 North 4th Street and a variance from all of the UDO Industrial design guidelines. Ms. Rice stated that a neighborhood meeting was held on February 4, 2013, at 3:00 p.m. on site and no surrounding property owners were in attendance. Ms. Rice noted that the development plan proposes a 60,000 square foot metal warehouse addition to an existing 40,000 square foot facility. Ms. Rice also noted that the variance application is requesting a waiver from Section 27-602-4 (E) Industrial Building Standards of the UDO which would be applicable to this development.

Mr. Kip Guthrie, representing the Arkansas Missouri Railroad and Mr. Jerry Morrow were present to speak on behalf of these requests. Mr. Guthrie stated that this property is in a flood zone and they are proposing to put in green space and clean up this area.

No one was present to speak in opposition to these requests.

Following a discussion by the Commission, Chairman Griffin called for the vote on these requests with the variance application being voted on prior to the vote on the development plan.

**RECESS PLANNING COMMISSION
RECONVENE BOARD OF ZONING ADJUSTMENT**

14. Variance #7-2-13; A request by Jerry Morrow and/or Kip Guthrie, agents for A&M Railroad Fort Smith for a variance from Section 27-602-4(E) Industrial Building Standards located at 1301 North 4th Street.

Chairman Griffin called for the vote on the variance request. Motion was made by Commissioner Maurras, seconded by Commissioner Spearman and carried unanimously to amend this request to make approval subject to the following:

- Installation of the perimeter landscape strip spanning the length of the entire property.
- The installation of an opaque enclosure to screen the trash receptacles.

Chairman Griffin then called for the vote on the variance request as amended. The vote was 7 in favor and 0 opposed.

**RECESS BOARD OF ZONING ADJUSTMENT
RECONVENE PLANNING COMMISSION**

7. A request by Jerry Morrow and/or Kip Guthrie, agents for A&M Railroad Fort Smith for development plan approval for a warehouse addition located at 1301 North 4th Street. (companion item to item #14)

Chairman Griffin called for the vote on the development plan. Motion was made by Commissioner Parks, seconded by Commissioner Maurras and carried unanimously to amend this request to make approval subject to the following:

- Installation of the perimeter landscape strip spanning the length of the entire property.
- The installation of an opaque enclosure to screen the trash receptacles.

Chairman Griffin then called for the vote on the development plan as amended. The vote was 7 in favor and 0 opposed.

8. Conditional Use #5-2-13; A request by Chasen Garrett, agent for Alejandro Fuentes for a conditional use for a restaurant with outdoor dining located at 8909 Rogers Avenue.

Ms. Maggie Rice read the staff report indicating that the purpose of the conditional use request is to develop a restaurant with an outdoor dining area. Ms. Rice stated that a neighborhood meeting was held on Wednesday, January 30, 2013, at 4:00 p.m. onsite at 8909 Rogers Avenue with no surrounding property owners in attendance.

Mr. Chasen Garrett was present to speak on behalf of this request.

No one was present to speak in opposition to the request.

Chairman Griffin then called for the vote on the conditional use request. Motion was made by Commissioner Parks, seconded by Commissioner Cox and carried unanimously to amend this request to make approval subject to the following:

- The revised site plan dated February 8, 2013, showing the dumpster being removed from the flood plain and completely screened.
- Re-platting of the property to address the additional parking tract.

Chairman Griffin then called for the vote on the conditional use request as amended. The vote was 7 in favor and 0 opposed.

9. Conditional Use #6-2-13; A request by Larry Young, agent for St. Edward Mercy Health System, Inc. for a conditional use for a hospital located at 3601 South 79th Street (formerly addressed as 3501 W.E. Knight Drive).

Ms. Brenda Andrews read the staff report indicating that the purpose of the conditional use request is to allow the construction of a hospital.

Ms. Andrews stated that a neighborhood meeting was held on Monday, February 11, 2013, at 6:00 p.m. on site.

Mr. Barry McCormick was present to speak on behalf of this request. Mr. McCormick noted that the applicant has no issues with the recommendations relative to this application.

No one was present to speak in opposition to this request.

Following a discussion by the Commission, motion was made by Commissioner Sharpe, seconded by Commissioner Parks and carried unanimously to amend this request to make approval subject to the following:

- Submittal of a landscape plan in compliance with UDO Landscaping and Screening requirements, Section 27-602-3 regarding perimeter landscaping, parking lot screening and interior landscaping for vehicular use areas.
- Identify setbacks and easements on site plan for building permit review.
- Provide dimensions of new parking spaces and drive aisles on site plan for building review.
- All site lighting shall comply with the lighting requirements of the UDO – Section 27-602-5.
- All ground and roof-top mechanical equipment, heating/cooling systems and utility boxes and trash receptacles shall be completely screened from adjoining properties and street rights-of-way in accordance with UDO – Section 27-602-4(C)(4)(a)(b).
- All signage shall comply with the UDO General Sign Regulations – Section 27-704-5 and the Phoenix Avenue Overlay sign regulations-27-440(B). A separate submittal is required for all signs proposed.
- All construction must be built in accordance with the submitted development plan and with any planning commission amendments.

Chairman Griffin then called for the vote on the conditional use request as amended. The vote was 7 in favor and 0 opposed.

**RECESS PLANNING COMMISSION
RECONVENE BOARD OF ZONING ADJUSTMENT**

13. Variance #6-2-13; A request by Micah Bubbus, agent for Michael Albanese, Eldon Albanese and Thomas Cormier for a variance from 300 square feet to 417 square feet maximum size of a sign located at 1200 South Waldron.

Ms. Maggie Rice read the staff report indicating that the purpose of this variance request is to facilitate a new sign addition for a restaurant. Ms. Rice stated that the applicant has stated that due to the existing sign, there is not enough advertising space for his proposed restaurant. Ms. Rice noted that a neighborhood meeting was held on February 1, 2013, at 1200 Waldron Road with no surrounding property owners in attendance. Ms. Rice stated that the applicant is proposing two options for the sign, one being to add 50.26 square feet to the existing sign and be located as a round addition to the outside of the sign. Ms. Rice noted that the second option would add 55.31 square feet and be located underneath the existing signage.

Mr. Micah Bubbus was present to speak on behalf of this request. Mr. Bubbus stated that the façade of his business would limit being able to be seen from the road.

No one was present to speak in opposition to this request.

Following a discussion by the Commission, motion was made by Commissioner Maurras, seconded by Commissioner Cox and carried unanimously to amend this request to make approval subject to the following:

- The sign size was approved to add 50.26 square feet to an existing sign (319.25 square feet) and to be located as a round addition to the outside of the sign.
- The sign was approved contingent upon removal of the empty sign frame located on the same lot.

Chairman Griffin then called for the vote on the variance request as amended. The vote was 6 in favor and 1 opposed (Parks).

15. Variance #9-2-13; A request by Ricky Hill, agent for Travis and Roxanne Chaffey, for a variance from 60 feet to 25 feet minimum width building set back line located at 2714 North Albert Pike Avenue.

Ms. Brenda Andrews read the staff report indicating that the purpose of the variance request is to facilitate the development of a duplex.

Mr. Ricky Hill with Satterfield Land Surveyors, was present to speak on behalf of this request.

No one was present to speak in opposition to the request.

Chairman Griffin then called for the vote on the variance request. The vote was 7 in favor and 0 opposed.

Meeting Adjourned!

**CITY PLANNING COMMISSION SPECIAL MEETING
MINUTES
CREEKMORE PARK COMMUNITY CENTER
ROSE ROOM
11:30 A.M.
FEBRUARY 20, 2013**

The following Planning Commissioners were present: Brandon Cox, Steve Griffin, John Huffman, Vicki Newton, Rett Howard, Marshall Sharpe and Richard Spearman. Commissioners Walton Maurras and Jennifer Parks were absent.

Motion was made by Commissioner Howard, seconded by Commissioner Sharpe and carried unanimously to approve the minutes of the special meeting on February 11, 2013 as written.

Mr. Wally Bailey stated that at the last special meeting several items were identified that needed to be addressed in the Ordinance regulating outdoor advertising signs. Mr. Bailey noted the following items:

- Do we want to continue with the current provisions for non-conforming signs or apply something similar to what is applied to structures in Section 27-118-3?
- Do we want to allow some changes to a non-conforming sign and/or structure which would primarily relate to converting an existing static sign to a digital sign but could also relate to other structural improvements. Mr. Bailey stated that a sign may be nonconforming because of its size, zoning district where it is located, height, distance from other signs, number of signs per mile, or distance from residential property. Mr. Bailey also stated that for digital signs the size, zoning district, where it is located and distance from residential property is the most significant of these issues.

Mr. Bailey noted that since the last special meeting of the Planning Commission, a meeting was held with members of the stakeholder committee and these issues were discussed. Mr. Bailey stated that during that meeting some basic agreement on a proposal for new code language to address nonconforming signs was developed.

Ms. Lori Robertson, 3301 South 96th Street, representing the stakeholder committee addressed the Commission. Ms. Robertson thanked the Commission for working with them as stakeholders. Ms. Robertson stated that they agree and support the Ordinance as it has been presented to the Commission today and feels it is fair to not only advertising companies but citizens as well and feels it is a reasonable compromise on several different levels. Ms. Robertson stated that outdoor advertising has been around for years and is a productive revenue generating business for the City.

Ms. Robertson requested the Commission recommend approval of the Ordinance as proposed to the Board of Directors.

Mr. Bailey noted the following language in the proposed Ordinance that has been prepared since the last planning commission meeting and following their meeting with the stakeholders.

Paragraph (f) of the proposed Ordinance shall read as follows:

No outdoor advertising sign (whether static or digital) shall be permitted to be erected with a sign area in excess of three hundred (300) square feet along non-interstate streets nor to be erected with a sign area in excess of three hundred seventy-eight (378) square feet on interstates. Sign area in excess of three hundred seventy-eight (378) square feet but not to exceed six hundred seventy-two (672) square feet along interstates may be allowed with special permission through the Conditional Use process as long as an equivalent or greater amount of square footage is deleted from the sign bank.

Mr. Bailey stated that in Paragraph (g) of the proposed Ordinance items 1-10 are Arkansas Highway Department regulations. Paragraph (g) of the proposed Ordinance shall read as follows:

Outdoor advertising signs may be erected with a static face or with a digital face, provided the sign complies with all provisions applicable to outdoor advertising signs.

(1) For permitted structures containing a digital face, only one digital face shall be allowed per facing and the digital face shall be the only sign allowed on that facint.

(2) Electronic message changes must be accomplished within an interval of two (2) seconds or less.

(3) The message or image on a digital face must remain static for a minimum of eight (8) seconds.

(4) Digital faces shall contain a default design that will freeze the sign in one position if a malfunction occurs. The Planning Department shall be provided with an on-call contact person and telephone number for every permitted digital face. In the event of malfunction, the contact person must have the ability and authority to make modifications to the displays and lighting levels should the need arise. If modifications cannot be made to correct the malfunction within a timely manner, then the digital face should be disabled until the modifications are made. It shall be the responsibility of the permittee to maintain accurate and current contact information.

(5) Signs that contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, including animated parts or scrolling messages or images, are prohibited, with the exception of those giving public service information such as time, date, temperature and weather and/or similar information as approved by the Department.

(6) There shall be no appearance of a visual dissolve or fading in which any part of one electronic message/display appears simultaneously with any part of a following electronic message/display.

(7) A sign owner may modify existing, legal, conforming structures to a digital face only after filing an application and receiving approval by the Department.

(8) Signs containing a digital face shall not be located closer than 1,500 linear feet along Interstate highways and 1,000 linear feet along non-interstate state highways of another digital face when viewed from the same direction of the traveled way.

(9) Digital faces shall comply with all other requirements of Federal and State Outdoor Advertising Regulations.

(10) Failure to adhere to any of these provisions may result in the revocation of the digital face portion of the permit (following due process including notice to comply).

(11) Digital faces shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter. Documentation shall be provided to the City at time of permit issuance certifying the digital billboard has been set to be incapable of exceeding .3 foot candles above ambient light.

(12) Each display must have a light sensing device that will adjust the brightness as ambient light conditions change.

Paragraph (h) of the proposed Ordinance shall read as follows:

V-type outdoor advertising signs are permitted provided the angle of separation of the two sides of the sign is not greater than thirty (30) degrees.

Paragraph (2) relative to sign banks in the proposed Ordinance shall read as follows:

(2) Sign Bank. There is hereby created an outdoor advertising sign permit bank ("Sign Bank") whereby the city planning department shall maintain a permit on file for the replacement of outdoor advertising signs as allowed under subsection (1) above. The purposes of the Sign Bank and the Sign Bank permitting process are to ensure that the quantity of outdoor advertising signs in the City of Fort Smith and its extraterritorial jurisdiction area does not increase, to ensure proper placement of replaced or relocated outdoor advertising signs, and to prioritize replacement of outdoor advertising signs over relocation.

A. Existing outdoor advertising signs shall be given a credit within the sign bank.

1. If an existing outdoor advertising sign is removed it is incumbent on the sign owner to inform the City Planning Department of the removal of the sign so the credit within the sign bank is not deleted.
2. The owner of an existing outdoor advertising sign may transfer a credit as long as the number of signs does not increase within the sign bank. The transfer requires a notarized statement from the owner/owners representative that the credit has transferred to another entity.

3. Prior to the issuance of a building permit for a new sign the applicant shall submit evidence that an existing sign has been removed from the sign bank.

Paragraph (l) relative to Nonconforming Outdoor Advertising Signs in the proposed Ordinance shall read as follows:

1. Repairs to a nonconforming sign that do not exceed 50% of the replacement cost of the sign are permitted.
2. All repairs to a nonconforming sign that exceed 50% of the replacement cost are permitted when a sign is converted to a monopole structure but only when the sign's size and height are not changed. An existing sign that exceeds the size and height requirements permitted by this code shall be reconstructed to comply with the maximum size and height requirements for the specific location.
3. Reconstruction of a nonconforming sign that cannot comply with this section shall not be rebuilt unless a conditional use is approved by the Planning Commission and construction is completed within one (1) year from the date of the loss.
4. Converting a nonconforming sign to digital is permitted only when the sign: 1) will not increase in size or height; 2) the sign is in the proper zoning district for outdoor advertising signs; 3) the sign is the proper distance from residential zoning districts; and 4) the sign complies with all specific requirements for digital signs.

Mr. Craig Roberts of Garland, Texas addressed the Commission with a question relative to the conditional use process and also with his concerns with one location of a nonconforming digital sign he currently has on Rogers Avenue and his ability to replace the sign if it was destroyed more than 50%.

Mr. Bailey stated that with the Ordinance as it is written he would have the ability to come before the Planning Commission with a conditional use application to replace the destroyed sign. Mr. Bailey stated that the conditional use application is decided by the City Planning Commission and their decision can be appealed either by a concerned citizen or the applicant.

Mr. Bailey noted that the first draft of the Ordinance was written by the City Attorney and he has not had a chance to review this Ordinance and if there are any language changes to the Ordinance after the City Attorney reviews it staff will advise the Commission but the Commission's vote today is a vote on the basic ideas and intent of the Ordinance.

Chairman Griffin then called for the vote to recommend this Ordinance to the City Board of Directors for approval. The vote was 7 in favor and 0 opposed.

Mr. Bailey stated that this Ordinance would be scheduled to be voted on by the Board of Directors at their March 27, 2013, meeting and probably would be taken to the Board to review at a study session prior to their voting meeting.

Meeting Adjourned!

Memo

To: City Planning Commission

From: Planning Staff

Date: March 8, 2013

Subject: Zoning Ordinance Amendments – Unified Development Ordinance –
Appendix A

The Planning Department received a request to construct a parking lot (offsite) within a Transitional zone. Currently, the code prohibits this use in the T zone. In lieu of processing an individual zoning change request, staff believes a code change allowing the uses citywide is more appropriate. Staff agrees that allowing parking lot (offsite) as a Conditional Use is an appropriate amendment.

All changes are highlighted on the attached page.

Should the Planning Commission agree, we ask that a recommendation be made to the Board of Directors to amend the UDO.

IA

Appendix A

	Districts	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-6	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3	I-4
P = Permitted Use, C = Conditional Use, A = Accessory Use																											
Bail bonds office																											
Barber shop/salon/spa/massage services																											
Laundry (commercial/industrial)																											
Laundry and cleaning facilities (self-service)																											
Laundry, cleaner																											
Laundry, cleaner (drop-off station)																											
Photocopy shop																											
Photography studio																											
Print shop																											
Shoe repair shop																											
Tailor shop																											
Tanning salons																											
Tattoo/body piercing parlor																											
Weight loss centers																											
Pet and animal services																											
Animal and pet services (indoor)																											
Animal and pet services (outdoor)																											
Animal shelter																											
Equestrian facilities																											
Kennels																											
Pet cemetery																											
Pet shop																											
Pet supply store																											
Veterinary clinic (no outdoor kennels)																											
Veterinary clinic (with outdoor kennels)																											
Automobile Parking Facilities																											
Parking garage																											
Parking lot (commercial)																											
Parking lot (off site)																											
Manufacturing and Wholesale Trade																											
Food, Textiles and Related Products																											
Animal food processing																											
Clothing manufacturing																											
Food and beverage processing																											
Leather and allied products																											
Textiles																											
Tobacco manufacturing																											
Wood, Paper and Printing Products																											
Cabinet and woodwork shop																											
Furniture or home furnishings																											
Manufacturing, boxes/containers/corrugated																											
Manufacturing, packaging material																											

10

SUBDIVISION COMMENTS

March 2013

1. **Stonebrook at Chaffee Crossing, Phase I, Lots 1-23 - Final Plat – Crafton Tull & Associates**

Zoning Designation: Residential Single Family Medium/High Density (RS-3)

Land Use: Provides for medium/high density, compact single-family homes as either new or infill development

Proposed Use: Single-family dwellings

We recommend approval of the final plat and the subdivision's Declaration of Covenants, Conditions and Restrictions. After all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents, the plat will be filed with the county recorder.

2A

Attached are sections of Stonebrook at Chaffee Crossing's Declaration of Covenants, Conditions, and Restrictions pertaining to maintenance of landscaping in common areas and bylaws

AFTER RECORDING, RETURN TO:
Carrington Creek Holdings, LLC
P.O. Box 10176
Fort Smith, Arkansas 72917
Attention: Cary Smallwood

STONEBROOK AT CHAFFEE CROSSING

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR STONEBROOK AT CHAFFEE CROSSING,
AN ADDITION TO THE CITY OF FORT SMITH,
SEBASTIAN COUNTY, ARKANSAS**

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR STONEBROOK AT CHAFFEE CROSSING, A RESIDENTIAL
COMMUNITY TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, STATE OF
ARKANSAS**

THIS DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS FOR STONEBROOK AT CHAFFEE CROSSING (“**Declaration**”), A RESIDENTIAL COMMUNITY TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS (the “**Subdivision**”) is made this 26th day of February, 2013, by CARRINGTON CREEK HOLDINGS, LLC, an Arkansas limited liability company (“**Declarant**”). Words bearing initial capital letters shall have the meanings ascribed to them in Article 2 of this Declaration or as defined within this Declaration.

PART ONE: INTRODUCTION

The Declarant has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance and preservation of StoneBrook as a quality residential community.

This Declaration contemplates that StoneBrook will be a distinct residential area and sometimes be referred to or called the “**Community**” time to time throughout this document. The term “**Association**” refers to a homeowners’ association comprised of all Owners of Lots in StoneBrook at Chaffee Crossing.

The Association has the power under the Governing Documents to establish standards for conduct and activities for the property within StoneBrook. Another component of the StoneBrook development is the Design Review Board, which has jurisdiction over all matters of design review for all Lots within StoneBrook.

**ARTICLE 1
CREATION OF THE SUBDIVISION**

1.1 Purpose and Intent.

The Declarant, as the owner of the real property described in Exhibit “A” and Exhibit “B”, intends by the Recording of this Declaration to create a general plan of development for the planned community known as StoneBrook at Chaffee Crossing. This Declaration provides a flexible and reasonable procedure for future expansion of StoneBrook to include additional real property as Declarant deems appropriate and provides for the overall development, administration, maintenance and preservation of the real property now and hereafter comprising StoneBrook. An integral part of the development plan is the creation of the Association to be comprised of all Owners of Lots in StoneBrook, to own, operate and/or maintain various Common Areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referred to in this Declaration.

This Declaration does not and is not intended to create a unit ownership estate within the meaning of Arkansas Horizontal Property Regime Act. This document does and is intended to create a real estate development and owners' association and a method for the assessment of Lots to cover certain costs and expenditures.

1.2 Binding Effect and Term.

The real property described in Exhibit "A" and any of the Exhibit "B" additional real property which is made a part of StoneBrook in the future by Recording one or more Supplemental Declarations, shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the land and title to such property. This Declaration shall be binding on all Persons having any right, title or interest in any portion of StoneBrook, their respective heirs, successors, successors-in-title and assigns.

This Declaration shall remain in effect for a term of forty (40) years from the date Recorded and may be enforced by Declarant, the Association, any Owner and their respective legal representatives, heirs, successors and assigns. After such forty (40) year period, the Declaration's term shall automatically extend for successive ten (10) year periods unless seventy-five percent (75%) of the then Owners sign and Record, within the year preceding any extension, a document which terminates, adds to or amends, in whole or in part, this Declaration.

If any provision of this Declaration would be unlawful, void or voidable by reason of applicability of the rule against perpetuities, such provision shall expire twenty-one (21) years after the death of the last survivor of the now living descendants of the youngest living President of the United States having a descendant. Nothing in this section shall be construed to permit termination of any easement, covenant, restriction or obligation created in this Declaration without the consent of the holder of such easement.

1.3 Governing Documents.

The Governing Documents create a general plan of development for StoneBrook which may be supplemented by additional covenants, restrictions and easements applicable to the property within StoneBrook. In the event of a conflict between or among the Governing Documents and any such additional covenants or restrictions and/or the provisions of any other articles of incorporation, bylaws or rules or policies, this Declaration shall control.

Nothing in this section shall preclude the Recording of a Supplemental Declaration or other document applicable to any portion of StoneBrook containing additional restrictions or more restrictive provisions. However, any Person who seeks to Record any document applicable to StoneBrook must obtain the Declarant's written consent so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration. Any attempted Recordation without such consent shall result in such document being void and of no force and effect unless subsequently approved by Recorded consent signed by the Declarant, so long as the Declarant owns any portion of the Subdivision.

Declarant, the Design Review Board, the Association, the Board and any committee or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work or for any defects in plans revised or approved hereunder or for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Lot. In all matters, the Design Review Board shall be defended and indemnified by the Association as provided in Section 7.6 of this Declaration.

4.7 Certificate of Compliance.

Any Owner may request that the Design Review Board issue a Certificate of Architectural Compliance certifying that there are no known violations of this Declaration. The Association shall either grant or deny such request within thirty (30) days after receipt of a written request and may charge a reasonable administrative fee for issuing such Certificate of Architectural Compliance. Issuance of a Certificate of Architectural Compliance shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of the Certificate of Architectural Compliance.

4.8 Fees; Assistance.

The Design Review Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant, the Design Review Board and the Association may employ architects, engineers or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

4.9 Declarant and Design Review Board Address.

For purposes of this Article 4, Owners or, as applicable, Builders shall submit applications to: StoneBrook at Chaffee Crossing, Design Review Board, P.O. Box 10513, Fort Smith, Arkansas, 72917. Any change in the above notice address shall be given through a filing in the real property records of the Fort Smith District of Sebastian County, State of Arkansas designated a "Change of Address for Design Applications" providing the new address for submission of applications.

ARTICLE 5 MAINTENANCE AND REPAIR

5.1 Maintenance of Lots.

Each Owner shall maintain such Owner's Lot, including all landscaping and improvements comprising the Lot, in a manner consistent with the Governing Documents, the StoneBrook-General Standard and all applicable covenants, unless, such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Lot.

5.2 Maintenance of Common Areas.

The Association shall maintain all Common Areas, including any improvements appurtenant thereto in a manner consistent with the Governing Documents, the StoneBrook-General Standards and all applicable covenants. This maintenance responsibility shall include all fencing along Massard Road.

On resolution of the Board, the Association shall be responsible for paying, through Assessments, the costs of operating, maintaining and insuring certain portions of the Common Area within or adjacent to the Subdivision. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and green space between the property line(s) of the Subdivision and adjacent public roads, private streets within the Subdivision and lakes or ponds, if any, within the Subdivision, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association.

The Association may assume maintenance responsibility for other property, in addition to that designated by any Supplemental Declaration, either by agreement with an adjoining land owner or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the StoneBrook-General Standard. All costs of maintenance pursuant to this section shall be a Base Assessment. The provision of services in accordance with this section shall not constitute discrimination within a class.

5.3 Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other documents creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the StoneBrook-General Standard.

By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on such Owner's Lot, less a reasonable deductible.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising such Owner's Lot, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 4 of this Declaration. Alternatively, the Owner shall clear the Lot and maintain the Lot in a neat and attractive, landscaped condition consistent with the StoneBrook-General Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

The requirements of this section shall apply to all Lots within the Subdivision. Additional Recorded covenants may establish more stringent requirements for insurance and more stringent Standards for rebuilding or reconstructing structures on Lots within the Subdivision and for clearing and maintaining the Lots in the event the structures are not rebuilt or reconstructed.

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of the Governing Documents. After termination of the Class B Control Period, the Declarant shall have a right to disapprove actions of the Board and committees as provided in Section 3.19 of the Bylaws.

The Declarant-ship shall terminate on the earlier of: (a) expiration or termination of the addition and annexation rights reserved to the Declarant in Section 9.1 to this Declaration; or (b) when, in Declarant's discretion, Declarant so determines and declares in a Recorded document.

On termination of the Declarant-ship, Declarant shall be a Class A Member entitled to one (1) Class A vote for each Lot which Declarant owns and, during Declarant's ownership of such Lots, Declarant shall not be responsible for Base Assessments or payment of any Common Expenses.

6.3.1 Exercise of Voting Rights. Except as otherwise specified in this Declaration or the Bylaws, the vote for each Lot owned by a Class A Member shall be exercised by the Member or proxy representing the Lot. The Member may cast all such votes as such Member, in such Member's discretion, deems appropriate.

In any situation where a Member is entitled personally to exercise the vote for such Member's Lot and there is more than one (1) Owner of such Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise such vote; however the Lot shall be counted for quorum purposes.

ARTICLE 7

ASSOCIATION POWERS AND RESPONSIBILITIES

7.1 Acceptance and Control of Association Property.

The Association, through Board action, may acquire, hold and dispose of tangible and intangible personal property and real property. Declarant and the Declarant's designees may convey to the Association personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B". The Association shall accept and maintain such property at the Association's expense for the benefit of the Association's Members, subject to any restrictions set forth in the deed or other document transferring such property to the Association. On written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of StoneBrook originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

The Declarant shall not bear any responsibility for any damages caused by mold or by some other agent, that may be associated with defects in Common Area improvements and construction, to include but not be limited to, property damage, personal injury, loss of income,

emotional distress, death, loss of use, loss of value and adverse health effects or any other effects. Any implied warranties, including an implied warranty of workmanlike construction, an implied warranty of habitability or an implied warranty of fitness for a particular use, are hereby waived and disclaimed.

7.2 Maintenance of Common Areas.

The Association shall maintain, in accordance with the StoneBrook-General Standard and the business judgment rule, the Common Area, which shall include, but need not be limited to:

- (1) all portions of and structures situated on the Common Area;
- (2) landscaping within public rights-of-way within StoneBrook;
- (3) such portions of any additional property included within the Common Area as may be dictated by this Declaration, any Supplemental Declaration or any contract or agreement for maintenance thereof entered into by the Association;
- (4) all areas located within StoneBrook which serve as part of the storm water drainage system for StoneBrook, including improvements and equipment installed therein or used in connection therewith; provided, neither Declarant, the Design Review Board, nor the Association shall have any liability for damage or injury caused by flooding or surface runoff resulting from rainfall or other natural occurrences; and
- (5) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and the Association's Members, such property and facilities to be identified by written notice from Declarant to the Association and to remain a part of the Common Area and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association shall have the right to enter on, for the purpose of maintaining and may maintain other property which the Association does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the StoneBrook-General Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of, property which the Association does not own, except to the extent that the Association has been negligent in the performance of maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Common Area in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing seventy-five

percent (75%) of the Class A votes in the Association and the Declarant, if any, agree in writing to discontinue such operation.

Except as provided above, the Common Area shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of Declarant as long as Declarant owns any property described in Exhibits "A" or "B" of this Declaration.

The costs associated with maintenance, repair and replacement of the Common Area shall be a Common Expense; provided, the Association may seek reimbursement from the Owner(s) of or other Persons responsible for, certain portions of the Subdivision pursuant to this Declaration, other Recorded covenants or agreements with the Owner(s) thereof.

7.3 Insurance.

7.3.1 Required Coverages. The Association, acting through the Board or the Board's duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(1) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(2) Commercial general liability insurance on the Common Area, insuring the Association and the Association's Members for damage or injury caused by the negligence of the Association or any of the Association's Members, employees, agents or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least One Million Dollars (\$1,000,000) per occurrence with respect to bodily injury, personal injury and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(3) Workers' compensation insurance and employers' liability insurance, if and to the extent required by law;

(4) Directors' and officers' liability coverage;

(5) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-sixth (1/6th) of the annual Base Assessments

EXHIBIT "D"
BYLAWS
OF
STONEBROOK AT CHAFFEE CROSSING P.O.A.

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**BYLAWS OF
STONEBROOK AT CHAFFEE CROSSING P.O.A.**

ARTICLE 1 NAME, PRINCIPAL OFFICE AND DEFINITIONS

1.1 Name. The name of the corporation is StoneBrook at Chaffee Crossing P.O.A., (the "Association").

1.2 Principal Office. The principal office of the Association shall be P.O. Box _____, Fort Smith, Arkansas. The Association may have such other offices, either within or outside the State of Arkansas as the Board of Directors may determine or as the affairs of the Association may require.

1.3 Definitions. The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the meanings set forth in that certain Declaration of Covenants, Conditions and Restrictions for StoneBrook at Chaffee Crossing, a Residential Community in the City of Fort Smith, Sebastian County, Arkansas, recorded with the County Clerk of the Fort Smith District of Sebastian County on February ____, 2013 in Book_____, Page_____, as amended, unless the context herein indicates otherwise.

ARTICLE 2 ASSOCIATION MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

2.1 Membership. The Association shall have two (2) classes of membership, Class A and Class B, as more fully set forth in the Declaration and incorporated herein by this reference. The Declarant (as identified in the Declaration) shall be the sole Class B Member.

2.2 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate.

2.3 Annual Meetings. The first meeting of the Members of the Association, whether a regular or special meeting, shall be held at such time as the Declarant, in the Declarant's sole discretion, determines a sufficient number of Lots are owner-occupied. Meetings shall be of Members and, if required by law, shall be open to all Members. Subsequent regular annual meetings shall be set by the Board to occur during the fourth quarter of the Association's fiscal year on a date and at a time set by the Board.

2.4 Special Meetings. Subject to the Declarant's discretion, the President may call special meetings. In addition, it shall be the duty of the President, subject to Declarant approval, to call a special meeting if so directed by resolution of the Board, on a petition signed by Members representing at least twenty-five percent (25%) of the total Class A votes of the Association.

2.5 Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting of Members shall be posted at each entrance to StoneBrook or delivered, either personally or by mail, to each Member entitled to vote at such meeting and, if required by law, to all Members not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

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In the case of a special meeting or when otherwise required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered three (3) days after deposit in the United States mail addressed to the Member at such Member's address as it appears on the records of the Association, with postage prepaid. If posted, the notice of a meeting shall be deemed delivered three (3) days after such notice is posted at each entrance to StoneBrook.

2.6 Waiver of Notice. Waiver of notice of a meeting of Members shall be deemed the equivalent of proper notice. Any Member may waive, in writing, notice of any meeting of Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed a waiver by such Member of notice of the time, date and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall be deemed a waiver of notice of all business transacted at such meeting, unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7 Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of Members who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8 Voting. The voting rights of the Members shall be as set forth in the Declaration and in these Bylaws and such voting rights provisions in the Declaration are specifically incorporated herein by this reference.

2.9 Proxies. On any matter as to which a Member is entitled personally to cast the vote for a Lot, such vote may be cast in person, by written ballot or by proxy, subject to the limitations of Arkansas law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these Bylaws.

Every proxy shall be in writing specifying the Lot for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated and filed with the Secretary of the Association prior to the meeting for which it is to be effective. If such proxies have not been properly completed or returned in a timely fashion to the Secretary and a Member or such Member's duly authorized attorney-in-fact does not personally appear at a meeting, the vote of the Member

shall be deemed to have been given to the Declarant for quorum and voting purposes. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast. In the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail or if dated as of the same date, both shall be deemed invalid; however, such conflicting proxies shall be counted for purposes of determining the presence of a quorum.

Every proxy shall be revocable and shall automatically cease on: (a) conveyance of any Lot for which it was given; (b) receipt by the Secretary of written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person; or (c) on the date specified in the proxy.

2.10 Majority. As used in these Bylaws, the term "majority" shall mean those votes, Owners or other group as the context may indicate, totaling more than fifty percent (50%) of the total eligible number thereof.

2.11 Quorum. Except as otherwise provided in these Bylaws or in the Declaration, the presence of Members representing a majority of the total Class A votes in the Association shall constitute a quorum at all meetings of the Association. Any Member or their duly authorized attorney-in-fact not personally present at a meeting and who has not properly completed or returned their proxy in a timely fashion to the Secretary shall be deemed to have given to the Declarant the vote of such Member for quorum and voting purposes.

2.12 Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13 Action without a Meeting. Any action required or permitted by law to be taken at a meeting of Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated and delivered to the Association. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote who did not give their consent, fairly summarizing the material features of the authorized action.

ARTICLE 3 BOARD OF DIRECTORS: NUMBERS, POWERS, MEETINGS

A. Composition and Selections.

3.1 Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one vote. Except with respect to directors appointed by the Declarant, the directors shall be Members or residents. A "resident" shall be any natural person

eighteen (18) years of age or older whose principal residence is located on a Lot within StoneBrook. In the case of a Member which is not a natural person, any officer, director, partner or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member; provided, no Member may have more than one (1) such representative on the Board at a time, except in the case of directors appointed by the Declarant.

3.2 Number of Directors. The Board shall consist of no less than three (3) or more than five (5) directors, as provided in Sections 3.3 and 3.5 below.

3.3 Directors during Class B Control Period. Subject to the provisions of Section 3.5 of these Bylaws, the Directors, shall be selected by the Declarant acting in its sole discretion and shall serve at the pleasure of the Declarant until the first to occur of the following:

- (1) when the Class B Control Period should cease; or
- (2) when, in its sole discretion, the Declarant so determines.

3.4 Nomination and Election Procedures.

3.4.1 Nominations and Declarations of Candidacy. Prior to each election of Directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which each and every eligible person who has a bona-fide interest in serving as a Director may file as a candidate for any position to be filled by Class A votes. The Board shall also establish such other rules and regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient and cost-effective manner.

Except with respect to Directors selected by the Declarant, nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee, if any, shall consist of a Chairman, who shall be a member of the Board and three (3) or more Members or representatives of Members. The members of the Nominating Committee shall be appointed by the Board not less than thirty (30) days prior to each annual meeting to serve a term of one (1) year and until their successors are appointed and such appointment shall be announced in the notice of each election.

The Nominating Committee may make as many nominations for election to the Board as the Nominating Committee shall, in its discretion, determine. The Nominating Committee shall nominate a slate of candidates for the Directors to be elected at large by all Class A votes. In making nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates. Each candidate shall be given a reasonable, uniform opportunity to communicate qualifications to the Members and to solicit votes.

3.4.2 Election Procedures. Each Member may cast all votes assigned to the Lots which such Member represents for each position to be filled from the slate of candidates on which such Member is entitled to vote. There shall be no cumulative voting. That number of candidates

equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5 Election and Term of Office. Notwithstanding any other provision of these Bylaws:

3.5.1 During the Class B Control Period, the Declarant shall have the right in the Declarant's sole discretion to appoint each member of the Board. The Declarant may, but shall not be required to, appoint an Owner to the Board during the Class B Control Period. The fact that the Declarant has in the past appointed a resident Owner to the Board shall not require the Declarant to continue with such appointments.

3.5.2 After termination of the Class B Control Period, the Declarant shall be entitled to appoint one (1) Director, unless the Declarant waives such right in a Recorded document. The Declarant's appointed Director shall serve for a term of two (2) years and shall not be subject to removal by the Members. At the sole discretion of the Declarant, the Declarant appointee may resign, and this position may be filled by the Members at the next election of Directors. Within ninety (90) days after termination of the Class B Control Period, the Board shall be increased to not less than five (5) Directors and an election shall be held. The five (5) Directors shall be elected by the vote of all Members in good standing. Three (3) Directors shall serve a term of two (2) years and two (2) Directors shall serve a term of one (1) year, as such directors determine among themselves. The Directors elected by Members shall not be subject to removal by the Declarant following termination of the Class B Control Period.

On the expiration of the term of office of each Director elected by Members, Members entitled to elect such Director shall be entitled to elect a successor to serve a term of two (2) years. The Directors elected by Members shall hold office until their respective successors have been elected; provided, however, any successor replacing a Director elected as an "at-large" director shall be designated as such.

3.6 Removal of Directors and Vacancies. Any Director elected by Members may be removed, with or without cause, by the vote of Members holding a majority of the votes entitled to be cast for the election of such Director. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. On removal of a Director, a successor shall be elected by Members entitled to elect the Director so removed to fill the vacancy for the remainder of the term of such Director.

Any Director elected by Members who has three (3) consecutive unexcused absences from Board meetings or who is more than thirty (30) days delinquent (or is the representative of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the Directors present at a regular or special meeting at which a quorum is present and the Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability or resignation of a Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time Members entitled to fill such directorship may elect a successor for the remainder of the term.

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This section shall not apply to Directors appointed by the Declarant. The Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a Director appointed by or elected as a representative of the Declarant.

B. Meetings.

3.7 Organizational Meetings. The first meeting of the Board following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place the Board shall fix.

3.8 Regular Meetings. Regular annual meetings of the Board may be held at such time and place a majority of the Directors shall determine. Notice of the time and place of a regular meeting shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

3.9 Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or Vice President or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by: (a) personal delivery; (b) first class mail, postage pre-paid; (c) telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or (d) facsimile, computer, fiber optics or such other communication device. All such notices shall be given at the Director's telephone number, fax number, electronic mail number or sent to the Director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least seven (7) business days before the time set for the meeting. Notices given by personal delivery, telephone or other device shall be delivered or transmitted at least seventy-two (72) hours before the time set for the meeting.

3.10 Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if: (a) a quorum is present; and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11 Telephonic Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

3.12 Quorum of Board. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise

specifically provided in these Bylaws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the Directors present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.13 Compensation. Directors shall not receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class A votes in the Association at a regular or special meeting of the Association. Any Director may be reimbursed for expenses incurred on behalf of the Association on approval of a majority of the other Directors. Nothing herein shall prohibit the Association from compensating a Director or any entity with which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such Director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested Director.

3.14 Conduct of Meetings. The President shall preside over all meetings of the Board and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.15 Notice to Owners; Open Meetings. Except in an emergency, notice of the time and place of Board meetings shall be posted at least forty-eight (48) hours in advance of the meeting at a conspicuous place within StoneBrook which the Board establishes for the posting of notices relating to the Association or electronically to the Member's designated e-mail address. Notice of any meeting at which assessments are to be established shall state that fact and the nature of the assessment. Subject to the provisions of Section 3.16 of these Bylaws, all meetings of the Board shall be open to all Members and, if required by law, all Owners, but attendees other than Directors may not participate in any discussion or deliberation unless permission to speak is authorized by a vote of the majority of a quorum of the Board. In such case, the President may limit the time any such individual may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session and may exclude persons other than Directors, to discuss any or all of the following:

- (1) employment or personnel matters for employees of the Association;
- (2) legal advice from an attorney retained for the Board or the Association;
- (3) pending or contemplated litigation; or
- (4) pending or contemplated matters relating to enforcement of the Governing Documents.

3.16 Action without a Formal Meeting. Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Directors and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.17 Powers. The Board of Directors shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these Bylaws, the Articles and as provided by law. The Board may do or cause to be done all acts and things which the Declaration, Articles, these Bylaws or Arkansas law do not direct to be done and exercised exclusively by Members or the membership generally.

3.18 Duties. The duties of the Board shall include, without limitation:

(1) preparing and adopting, in accordance with the Declaration, an annual budget and establishing each Owner's share of the Common Expenses and any Subdivision Expenses;

(2) providing for the operation, care, upkeep and maintenance of the Common Area;

(3) designating, hiring and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and materials to be used by such personnel in the performance of their duties;

(4) depositing all funds received on behalf of the Association in a bank depository approved by the Association and using such funds to operate the Association; provided, any reserve funds may be deposited, in the Board's best business judgment, in depositories other than banks;

(5) making and amending use restrictions and rules in accordance with the Declaration;

(6) opening of bank accounts on behalf of the Association and designating the signatories required;

(7) making or contracting for the making of repairs, additions and improvements to or alterations of the Common Area in accordance with the Declaration and these Bylaws;

(8) enforcing the provisions of the Declaration, these Bylaws and the rules adopted pursuant thereto and bringing any legal proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board in the exercise of the Board's business judgment determines is or is likely to be construed as inconsistent with applicable law or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action;

(9) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof and filing and adjusting claims, as appropriate;

(10) paying the cost of all services rendered to the Association;

(11) keeping books with detailed accounts of the receipts and expenditures of the Association;

(12) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Subdivision;

(13) indemnifying a Director, officer or committee member or former Director, officer or committee member of the Association to the extent such indemnity is authorized by Arkansas law, the Articles or the Declaration; and

(14) assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration.

3.19 Right of Declarant to Disapprove Actions. Declarant shall have a right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Declarant, would tend to impair rights of Declarant or Builders under the Governing Documents or interfere with development or construction of any portion of StoneBrook or diminish the level of services being provided by the Association.

3.19.1 Notice. The Declarant shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to the Board meetings with Sections 3.8, 3.9, 3.10 and 3.11 of these Bylaws and which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth with reasonable particularity the agenda to be followed at such meeting.

3.19.2 Opportunity to be Heard. The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy or program which would be subject to the right of disapproval set forth herein.

No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (1) and (2) above have been met.

The Declarant, through its representatives or agents, shall make the Declarant's concerns, thoughts and suggestions known to the Board and/or the members of the subject committee. The Declarant, acting through any officer or Director, agent or authorized representative, may exercise the Declarant's right to disapprove at any time within ten (10) days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting,

at any time within ten (10) days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, the Board or the Association. The Declarant shall not use the Declarant's right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.20 Management. The Board may employ for the Association a professional manager, agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The manager may be a corporation or an individual. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policymaking authority or those duties set forth in Sections 3.18(1), 3.18(5), 3.18(6), 3.18(8) and 3.18(13) or 3.18(14) of these Bylaws. Declarant or an affiliate of Declarant may be employed as managing agent or manager.

The Board may delegate to one (1) of its members the authority to act on behalf of the Board on all matters relating to the duties of the manager, if any, which might arise between meetings of the Board.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Class B Control Period unless such contract contains a right of termination exercisable by the Association, with or without cause and without penalty, at any time after termination of the Class B Control Period on not more than ninety (90) days' written notice.

3.21 Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(1) cash accounting, as defined by generally accepted accounting principles, shall be employed;

(2) accounting and controls should conform to generally accepted accounting principles;

(3) cash accounts of the Association shall not be commingled with any other accounts;

(4) no remuneration shall be accepted by the manager from vendors, independent contractors or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise anything of value received shall benefit the Association; and

(5) any financial or other interest which the manager may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board.

3.22 Borrowing. The Association shall have the power to borrow money for any legal purpose; provided, the Board shall obtain Member approval in the same manner provided in Section 8.4 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year. During the Class B Control Period, no Mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent or any combination thereof of Members representing at least fifty-one percent (51%) of the total Class A votes in the Association.

3.23 Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without implied limitation, the right to enter into common management, operational or other agreements with trusts, of condominiums, cooperatives and other owners or residents associations, within and outside the Subdivision. Any common management agreement shall require the consent of an absolute majority of the Board.

3.24 Enforcement. The Association shall have the power, as provided in the Declaration, to impose sanctions for violation of any duty imposed under the Governing Documents. In the event that any occupant, tenant, employee, guest or invitee of a Lot violates the Declaration, Bylaws or a rule and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine on notice from the Association.

The Association shall not be obligated to take any enforcement action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed as a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may, but shall not be obligated to, enforce applicable city and county ordinances, if applicable and may, but shall not be obligated to, permit Sebastian County or the City of Fort Smith to enforce ordinances within the Subdivision for the benefit of the Association and the Members.

In conducting the business of the Association, the Board, at all times, shall act within the scope of the Governing Documents and in good faith to further the legitimate interests of the Association and the Members. In fulfilling its governance responsibilities, the Board shall limit its actions to those reasonably related to the Association's purposes; those reasonably related to or within the Association's powers as provided by the Governing Documents and as provided by the laws of the State of Arkansas; and those that are reasonable in scope. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

3.24.1 Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Board or the Board's delegate shall serve the alleged violator with written or electronic notice describing: (a) the nature of the alleged violation; (b) the proposed sanction to be imposed; (c) a period of not less than ten (10) days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article 5 of these Bylaws; and (d) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided that the Board or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

3.24.2. Hearing. If a hearing is requested within the allotted ten (10) day period, the hearing shall be held before the Covenants Committee or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the Person, who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

3.24.3. Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, President or Secretary of the Association within ten (10) days after the hearing date.

3.24.4. Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration, these Bylaws or the Use Restrictions and Rules by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules) or, following compliance with the dispute resolution procedures set forth in Article 13 of the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred. Any entry onto a Lot for purposes of exercising this power of self-help shall not be deemed a trespass.

ARTICLE 4 OFFICERS

4.1 Officers. The officers of the Association shall be a President, Vice President, Secretary and Treasurer. The President and Secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one (1) or more Assistant Secretaries and one (1) or more Assistant Treasurers,

as the Board deems desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

4.2 Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of Members, to serve until their successors are elected.

4.3 Removal and Vacancies. The Board may remove any officer whenever in the Board's judgment the best interests of the Association will be served and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4 Powers and Duties. The officers of the Association each shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, manager or both.

4.5 Resignation. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6 Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks and other documents of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

4.7 Compensation. Compensation of officers shall be subject to the same limitations as compensation of Directors under Section 3.13 of these Bylaws.

ARTICLE 5 COMMITTEES

5.1 General. The Board may appoint such committees as the Board deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2 Covenants Committee. In addition to any other committees which the Board may establish pursuant to Section 5.1 of these Bylaws, the Board may appoint a Covenants Committee consisting of at least three (3) and no more than seven (7) Members. Acting in accordance with the provisions of the Declaration, these Bylaws and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.24 of these Bylaws.

ARTICLE 6 MISCELLANEOUS

6.1 Fiscal Year. The fiscal year of the Association shall be a calendar year, unless the Board establishes a different fiscal year by resolution.

6.2 Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Arkansas law, the Articles, the Declaration or these Bylaws.

6.3 Conflicts. If there are conflicts among the provisions of Arkansas law, the Articles, the Declaration or these Bylaws, the provisions of Arkansas law (unless displaceable by the Governing Documents), the Declaration, the Articles and the Bylaws (in that order) shall prevail.

6.4 Books and Records.

6.4.1. Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Lot, any Member or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to such Owner's interest in a Lot: the Declaration, Bylaws and Articles, including any amendments, the Use Restrictions and Rules, the membership register, books of account, including financial records and the minutes of meetings of the Members, the Board and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place as the Board shall designate.

6.4.2. Rules for Inspection. The Board shall establish rules with respect to: (a) notice to be given to the custodian of the records; (b) hours and days of the week when such an inspection may be made; and (c) payment of the cost of reproducing documents requested.

6.4.3. Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make a copy of relevant documents at the expense of the Association.

6.4.4. Exceptions to Inspection Requirement. Notwithstanding any provision to the contrary, the Board shall not be required to make available for inspection any portion of any book or record which relates to any of the following:

- (1) personnel matters or a person's medical records;
- (2) communication between an attorney for the Association and the Association;
- (3) pending or contemplated litigation;
- (4) pending or contemplated matters relating to enforcement of the Governing Documents; or

(5) meeting minutes or other records of a session of a Board or Association meeting that is not required by law to be open to all Members. In addition, the Board shall not be required to disclose or make available for inspection any financial or other records of the Association if disclosure would violate local, state or federal law.

6.5 Notices. Except as otherwise provided in the Declaration or these Bylaws, all notices, demands, bills, statements or other communications under the Declaration or these Bylaws shall be in writing and shall be deemed to have been duly given if posted at no less than one (1) entrance to StoneBrook, delivered personally, delivered electronically to the Owner's designated e-mail address, or if sent by United States mail, first class postage prepaid:

(1) If to a Member or Members, at the address which the Member or Members has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member or Members;

(2) If to the Association, the Board or the manager, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this section; or

(3) If to any committee, at the principal address of the Association or at such other address as shall be designated by notice in writing to the Members pursuant to this section.

6.6 Amendment.

6.6.1. By Declarant. Prior to termination of the Class B Control Period, the Declarant may unilaterally amend these Bylaws. Thereafter, the Declarant may unilaterally amend these Bylaws at any time and from time to time if such amendment is necessary: (a) to bring any provision of these Bylaws into compliance with any applicable governmental statute, rule or regulation or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Lots; or (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Lots. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing.

6.6.2. By Members Generally. Except as provided above and Arkansas law, these Bylaws may be amended only by the affirmative vote or written consent or any combination thereof, of Members representing seventy-five percent (75%) of the total Class A votes in the Association and the consent of the Declarant, if such exists. In addition, the approval requirements set forth in Article 14 of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

6.6.3. Validity and Effective Date of Amendments. Amendments to these Bylaws shall become effective on adoption pursuant to Section 6.6.1 or 6.6.2 as applicable unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6)

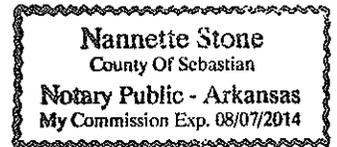
months of the adoption of the amendment or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

No amendment may remove, revoke or modify any right or privilege of Declarant or the Declarant without the written consent of Declarant, the Declarant or the assignee of such right or privilege.

CERTIFICATION

I, the undersigned, do hereby certify: I am the duly elected and acting Secretary of the StoneBrook at Chaffee Crossing P.O.A., an Arkansas corporation; the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 21st day of Feb, 2013.

IN WITNESS WHEREOF, I have hereunto subscribed my name of said Association the same date as written above.



Nannette Stone, Notary
Diane Meadow, Secretary

EXHIBIT "E"

CALCULATION OF INITIAL ANNUAL ASSESSMENTS

Subdivision	Base Assessment
Lots 1 through 80	\$275 (per Lot)

FORMULA FOR ASSESSMENT (PER LOT) ON GOING FORWARD BASIS:

Step 1: Common Expenses plus reasonable reserve (as determined under Section 8.1) (the "Expense Figure")

Step 2: Expense Figure x 1.10 (the "Product").

Step 3: Product divided by the number of Lots in the Subdivision equals the Base Assessment

MEMO

To: City Planning Commission
From: Planning Staff
Date: February 22, 2013
Subject: Development Plan – 3012 & 3022 Midland Boulevard

The Planning Department is in receipt of a development plan from Ricky Shores, agent for Hisham Yasin and Nibal Yasin, for a proposed stone and rock sales office at 3012 & 3022 Midland Boulevard.

TRACT LOCATION AND SIZE

The subject property is on the southeast side of Midland Boulevard between Johnson Street and Armour Street. The tract contains an area of 0.96 acres with approximately 300 feet of street frontage along Midland Boulevard.

EXISTING ZONING

The existing zoning on this tract is Commercial Heavy (C-5). Characteristics of this zone are as follows:

Purpose: To provide for adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial classification of the Master Land Use Plan.

Permitted Uses: Permitted uses include a variety of retail establishments, finance, grocery, beverage and restaurant establishments, as well as multi-family residential.

Conditional Uses: Schools and religious institutions, restaurants with outdoor dining, and beer gardens are examples of uses permitted as conditional uses.

Bulk & Area Regulations:

Minimum Lot Size – 14,000 s.f.
Minimum Lot Width – 100 feet
Maximum Lot Coverage – 75%
Maximum Height – 45 feet (1 + 1)
Front Yard Setback – 25 feet
Side Yard Setback – 20 feet
Side Yard on Street Side of Corner Lot – 15 feet
Rear Yard Setback – 20 feet
Rear/Side Yard Adjoining Single Family Residential District/Development – 30 feet

3A

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Commercial Heavy (C-5) and is developed as Midland Furniture.

The area to the east is zoned Residential Multifamily Medium Density (RM-3) and is developed as a single family residence.

The area to the south is zoned Commercial Heavy (C-5) and is developed as a warehouse and office.

The areas to the west are zoned Commercial Heavy (C-5) and are developed as a vacant club and an auto repair shop.

PROPOSED DEVELOPMENT PLAN

The development will facilitate construction of an office with restrooms.

INGRESS/EGRESS/TRAFFIC CIRCULATION

The site currently has two access points from Midland Boulevard and can also be accessed from the alley.

RIGHT-OF-WAY DEDICATION

No right-of-way dedication is required.

DRAINAGE

No drainage requirements are necessary.

SITE DESIGN

Landscaping/Parking Lot Screening – A 10-wide landscape strip consisting of above-ground planter boxes have been installed along the perimeter of the property adjacent to Midland Boulevard. The planters have stone veneers and must have an automatic irrigation system in compliance with the planning commission's October 9, 2012, approval of conditional use permit application #13-10-12. The applicant has installed flowers in the planters but has not yet planted trees and shrubs in compliance with the UDO Landscaping and Parking Lot Screening requirements in Sections 27-602-3(B)(C). As permitted by the Conditional Use Permit regulations in Section 27-332, all requirements associated with conditional uses must begin to be met within one (1) year from approval.

Parking – Nine (9) parking spaces are provided. The parking space and maneuvering dimension meet the UDO's minimum requirements.

3B

Signage – A pole sign that meets the sign standard is located on the site. Any other signs shall require a separate permit submittal.

Lighting – The development plan did not provide details on exterior lighting. If any lighting is proposed in the future, it must comply with the Commercial and Outdoor Lighting requirements - Section 27-602-5 of the Unified Development Ordinance.

Architectural Features – The proposed office building with restroom contains approximately 440 s.f. and an attached covered porch. Exterior finish material for the office building consists of rock veneer on all facades. The exterior materials exceed the minimum 51% requirement for high-quality materials as required in the Transitional and Commercial Building Design Standards in Section 27-602-4(C) of the Unified Development Ordinance.

Roof-Top Screening – No rooftop mechanical units are shown on the development plan elevations. All mechanical equipment shall be completely screened from public right-of-way and adjacent properties.

Residential Screening – A new 6' tall wood screening fence is shown on the development plan and has been installed on the rear property line to screen the site from the residence located east of the development.

Dumpster & Utility Box Screening – A dumpster located in the middle of the property is shown on the site plan to be screened with a 6' wood enclosure with wood gates.

Setbacks – The site complies with the Commercial-5 setbacks with the exception of the side and rear-yard setbacks for the proposed office building. A variance application has been submitted for the rear and side-yard setbacks. (Companion item #9)

STAFF COMMENTS

On October 9, 2012, the applicant received planning commission approval for Conditional Use Permit #13-10-12 allowing rock and stone sales by appointment at the site. This application requests an amendment to the previously approved plan with the addition of an office facility with restrooms and a covered porch. The construction of an office will allow the business to establish set hours and eliminate the need for sales by appointment only.

The applicant has one year to comply with all of the conditions set forth from the application approval.

The applicant held a neighborhood meeting on Thursday, February 28th, 2013, 8:00 a.m. at 3012 & 3022 Midland Boulevard. No objections or concerns were expressed at the meeting.

Staff recommends approval of the development plan with the following conditions:

1. BZA approval of the companion variance application for rear and side-yard setbacks.

3C

2. Development Plan approval shall be based on the site plan, landscape plan, submitted (submitted Date 2-20-13, Project No 12-229) and elevations for the office building as submitted.
3. All mechanical units shall be completely screened.
4. Submittals of sign permit application for staff review for any future signs.
5. All lighting shall conform to section 27-602-5 of the Unified Development Ordinance.
6. The site shall comply with the previously approved Conditional Use Permit #13-10-12 requirements within one-year from the approval date of October 9, 2012.

DEVELOPMENT PLAN REVIEW APPLICATION

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

2. Address of property: 3012 - 3022 Midland Blvd.

3. The above described property is now zoned: C-5 *RW*

4. Does the development plan include a companion rezoning request?

Yes _____ No X

5. If yes, please specify the companion application submitted:

- Conventional Rezoning *N/A*
- Planned Rezoning
- Conditional Use
- Master Land Use Plan Amendment
- Variance

6. If applicable, a companion rezoning application is proposed to change the zoning classification of the above described property to: *N/A*

_____ by _____
(Zoning Classification) (Extension or classification)

7. Existing zoning, structures and driveways on surrounding properties within 300 feet of subject property:

8. Total acreage of property 0.96 Ac.

3E

Signed:

Ricky Show
Owner or Agent Name

(please print)
479-739-6423
479-788-2822
479-459-9595

Owner or Agent Mailing Address

601 Towson Avenue Ft. Smith AR
Owner or Agent Phone Number 72901

Owner

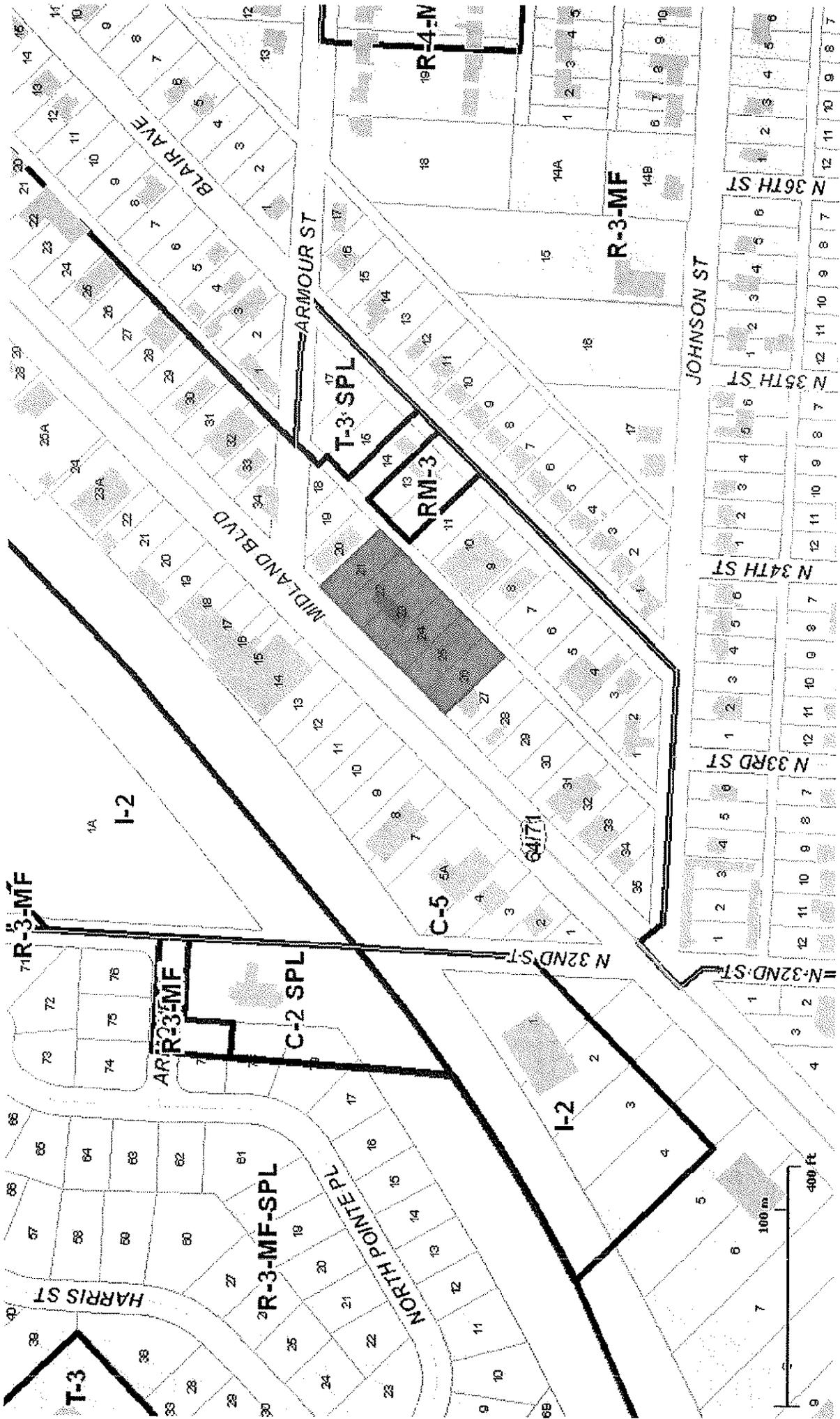
or

Agent

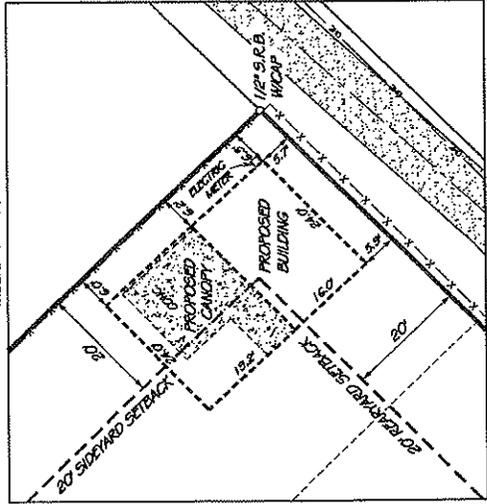
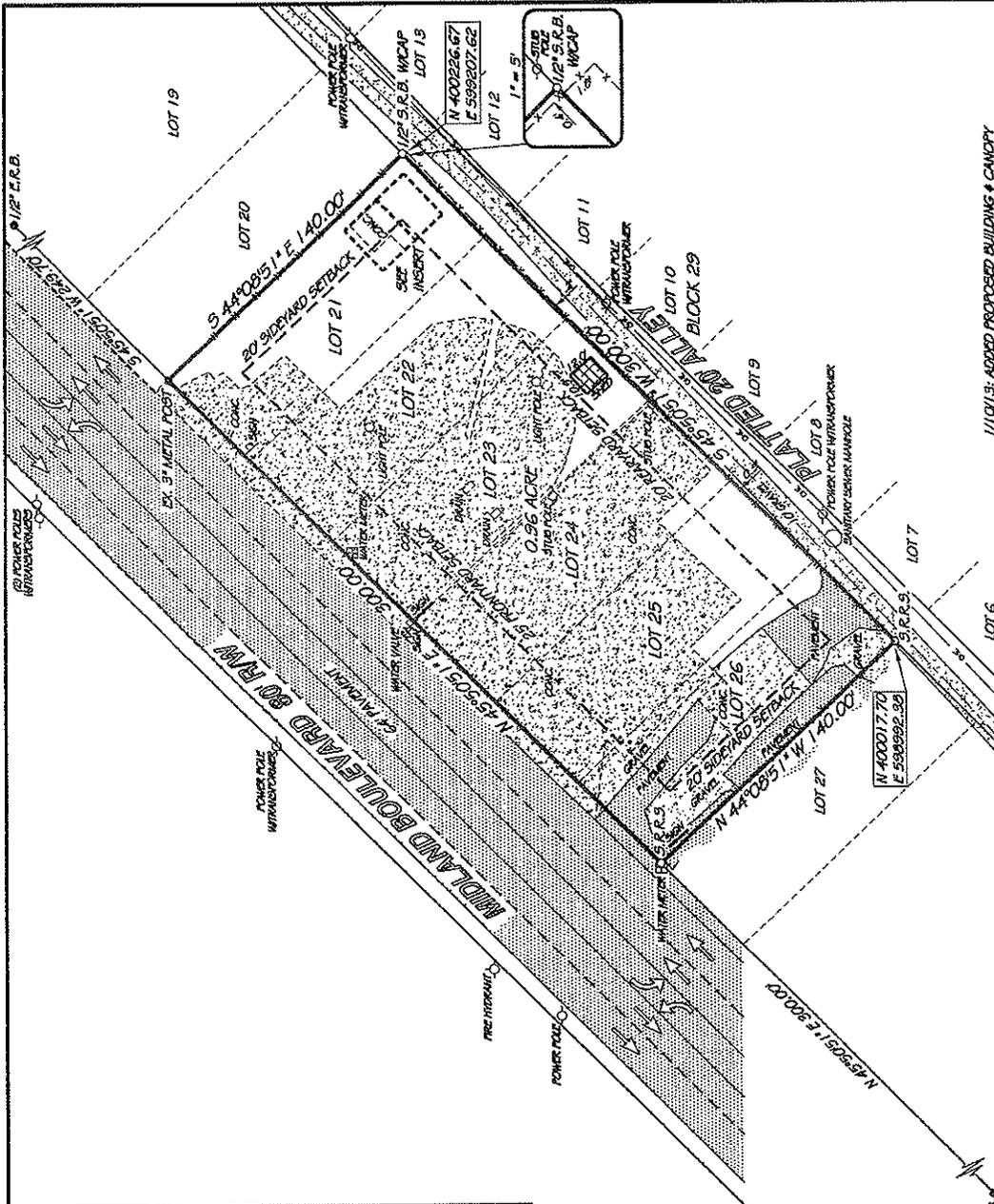
3F

Development Plan Review - Office

3012-3022 Midland Boulevard



3G



SURVEYOR'S NOTE: This survey was conducted under the supervision of Clovis W. Satterfield, No. 01472, or Ricky Hill, No. 1443, Satterfield Land Surveyors, P.A., Certificate of Authorization No. 718, Satterfield Land Surveyors, P.A., 1-(479)-632-3565 Hwy 71 North, P.O. Box 640, Alma, AR 72921

SURVEYOR'S NOTE: This survey was done to mark the corners on the ground and to show observed structures. Utilities located if requested according to utility company records and or above ground inspection. This survey was done from description furnished to us or instruction from the person(s) named on this plat. Surveyor has made no investigation or independent search for easements or record, encumbrances, restrictive covenants, ownership title evidence, or any other facts which an accurate and current title search my disclose.

Satterfield Land Surveyors P.A., Copyright 2012

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REFERENCE NEED
SURVEY REFERENCES

BASES OF BEARING
ARIZONA STATE PLANE COORDINATES GRID NORTH

SURVEYOR'S DISCLAIMER AND STATEMENT OF USE
This survey was conducted by the written or verbal authorization of the person named as the buyer and/or use by as shown on this plat. No one has the authority to use the data or legal description from this survey except those named or their agents and the survey is only certified to the date shown on this plat. This plat is protected by copyright and any person other than those named using or relying upon this plat will be held responsible. Satterfield Land Surveyors, P.A. will not be responsible or have any liability to any other person or company who uses this plat without written authorization.

- LEGEND:**
- E.R.R.S. - RECORD BY CAP
 - S.P.A.K. - SET P.A. MARK
 - S.O.A.S. - SET SURROUND SINK
 - S.M. - SET MARK
 - E.P. - EXISTING PAVEMENT
 - E.P./A.K. - EXISTING PAVEMENT
 - E.A. - EXISTING SIDEWALK
 - E.S. - EXISTING STATE HIGHWAY
 - E.S.M. - EXISTING STATE MONUMENT
 - E.P.M. - EXISTING PAVEMENT
 - E.P. - EXISTING PAVEMENT
 - E.C. - EXISTING CURB
 - E.V. - EXISTING VENEER

1/10/13: ADDED PROPOSED BUILDING & CANOPY
SEBASTIAN COUNTY, ARKANSAS
SURVEY OF

**LOTS 21 THRU 26, BLOCK 29, MIDLAND HEIGHTS
ADDITION TO THE CITY OF FORT SMITH, ARKANSAS**

FOR USE BY: A & H AUTO SALES

DRAWN BY: J.D.B.
SCALE: 1" = 50'
DATE: 8-30-12
JOB NO: 39,011

Satterfield Land Surveyors, P.A.
1288 HWY. 71 NORTH, ALMA, ARK. - PHONE NO. (479) 632-3565
FAX: (479) 632-3002 - WEBSITE: <http://www.satterfieldpa.com>

BI

MEMO

To: City Planning Commission
From: Planning Staff
Date: February 25, 2013
Subject: 1412 South 34th Street – Request to table applications for Master Land Use Plan, Rezoning, and Development Plan

Cary Smallwood, agent for the Cancer Support Foundation, has requested that the Planning Commission table the above-referenced applications pertaining to a proposed multifamily development at 1412 South 34th Street. Mr. Smallwood requests the tabling of the applications until the April planning commission to allow him additional time for evaluation of the site and potential improvements.

Andrews, Brenda

From: Cary Smallwood [csmallwood@carringtoncreek.com]
Sent: Thursday, March 07, 2013 12:03 PM
To: Andrews, Brenda; Rice, Maggie
Cc: Mont Sagely
Subject: 34th street apts

Brenda, Maggie,

Please accept a request to table our application for zoning change for our south 34th project scheduled 03/12/2013 until the scheduled April hearing. This will give additional time for evaluation of said project.

Thank you

Cary Smallwood
Managing Partner
Carrington Creek Homes
P.O. Box 10176
Fort Smith, AR, 72917
479.806.7474

Master Land Use Plan Amendment

Memo

To: City Planning Commission

From: Planning Staff

Date: February 25, 2013

Re: Proposed Master Land Use Plan Amendment at 1412 South 34th Street from Residential Detached to Residential Attached

The Planning Department is in receipt of an application from Cary Smallwood, agent for Cancer Support Foundation, to amend the *Master Land Use Plan* from Residential Detached to Residential Attached to accommodate a proposed rezoning to Residential Multifamily High Density (RM-4). The subject property is on the west side of South 34th Street between South O Street and South M Street. The tract contains an approximate area of 2.5 acres with approximately 311 feet of street frontage along South 34th Street.

The existing zoning of the site is Transitional (T). A companion application (item #4) proposes a change in the zoning classification from Transitional (T) to Residential Multifamily High Density (RM-4). The *Master Land Use Plan* is a guide to zoning and development and must be considered with the companion application.

ADJACENT LAND USE CLASSIFICATIONS AND USES

Land Use classification and use contiguous to the subject lot are as follows:

The area to the north is classified as Residential Attached and is developed as the cancer support house.

The area to the south is classified as Residential Attached and is developed as an apartment complex.

The area to the west is classified as Residential Attached and is developed as the Gregory Kistler Treatment Center.

The areas to the east are classified as Residential Attached and Residential Detached and are developed as an apartment complex and a single family home.

The proposed land use classification of Residential Attached is described as follows:

4C

Purpose: To provide for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values.

Characteristics and Use: Duplex, triplex, fourplex, town-house, single and multiple story apartments and condominiums.

Criteria for Designation:

Compliance Noted

- | | |
|--|-----|
| • Land adjacent to/or within regional centers | Yes |
| • Land within walking distance to commercial, office, low impact industry, regional institutions or parks. | Yes |
| • Located on a high volume roadway | No |
| • Planned as part of a mixed-use development | No |

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies South 34th Street as a local road.

STAFF COMMENTS AND RECOMMENDATIONS

The applicant is requesting a land use plan change to facilitate a companion rezoning request that will allow an apartment complex to be developed at this site. A neighborhood meeting was held on February 26, 2012. Several surrounding property owners were in attendance in opposition to the request. A copy of the attendance sheet and meeting summary is enclosed within your packet.

Furthermore, the attending neighbors at the meeting had concerns with the following.

- Increased traffic flow and the location of driveways on a hill next to the South N Street and South 34th Street intersection.
- The density of this development 22.4 units/acre which is denser than the surrounding properties. The other two apartment complexes have a density of 18.7 units/acre.
- The neighbors raised opposition based on utility extensions along with the drainage for the site.

The small area of Residential Detached is an island within a larger area of Residential Attached. Staff recommends approval of the Master Land Use Plan Amendment.

40

1. A legal description of the subject property that is to be amended (reclassified).
2. A map of the property which includes the scaled distance, legal description, and general vicinity map inset showing the property's location.
3. The area dimensions of the property in square feet or acres.
4. Describe existing road conditions and new roads to be included in the development and the effect of the proposed development on existing roads and traffic conditions:

EXISTING ROAD ARE ADEQUATE

5. Describe the existing public utility services and infrastructure (such as water, sewer, fire/police) which are available to the property and the source/method of providing additional utilities and infrastructure to the property if necessary:

NO SEWER AVAILABLE - ADDING A LINE
 WATER INADEQUATE ADDING A LINE
 ADDING A FIRE HYDRANT
 ALL OTHERS ARE SUFFICIENT

6. Provide a statement of the proposed build-out density and maximum potential build-out density (units per acre) permitted by the proposed land use classification:

Proposing a 56 unit buildout. Maximum density
 for proposed R-4-15 74 units!

7. Identify any known or anticipated environmental concerns:

N/A

For a Standard or Major Master Land Use Plan Amendment only, please attach the following additional information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

8. An analysis of the impact of the amendment on surrounding properties and plans in terms of:

- a. Describe potential changes to development patterns in terms of local and regional impacts:

CLOSE TO PARK CREATING MORE PARK USAGE
- MORE HOUSING OPPORTUNITIES FOR FAMILIES
CREATE A PARK REVENUE FOR CITY

- b. Describe the consistency in zoning between existing and planned uses:

All Properties to East Ave R-3-MF
All Properties to South Ave R-3-MF
All Properties to South/E Ave R-3-MF
All Properties to North Ave GREENMOUNT PARK ZONED R-2-SF
All Properties to North/East Ave C-Y-P
All Properties to North West Ave PAIN ACRES
All Properties to West Ave R-2-SF-DD

- c. Provide explanation of the need for and demand in the proposed uses:

Good Housing IS NEEDED FOR EAST SMITH AREA

9. Provide an analysis of the long term development plan for the area (10-20 years) which incorporates a review of the land use, transportation, and infrastructure impact to both the City of Fort Smith and the property owner:

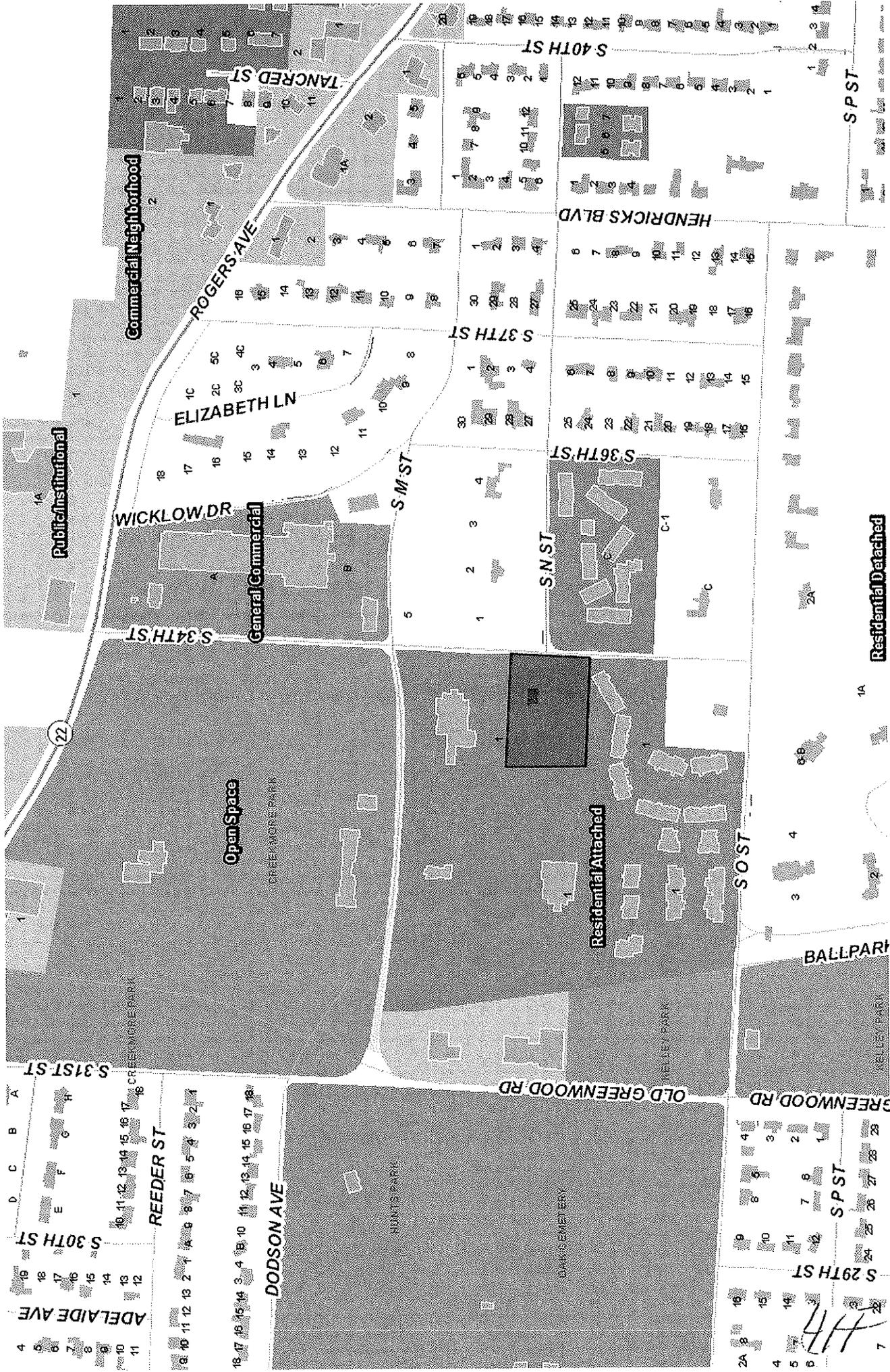
SEWER AND WATER LINES ARE ACCESSIBLE TO PROPERTY OWNER
AND WILL NOT BE A COST FOR CITY OF F.S.
EXISTING ROADS WILL NOT SUFFER IMPACT AND ADEQUATE

For a Comprehensive Plan-Text Amendment only, please attach the following information. Provide answers on a separate sheet and attach it to this application:

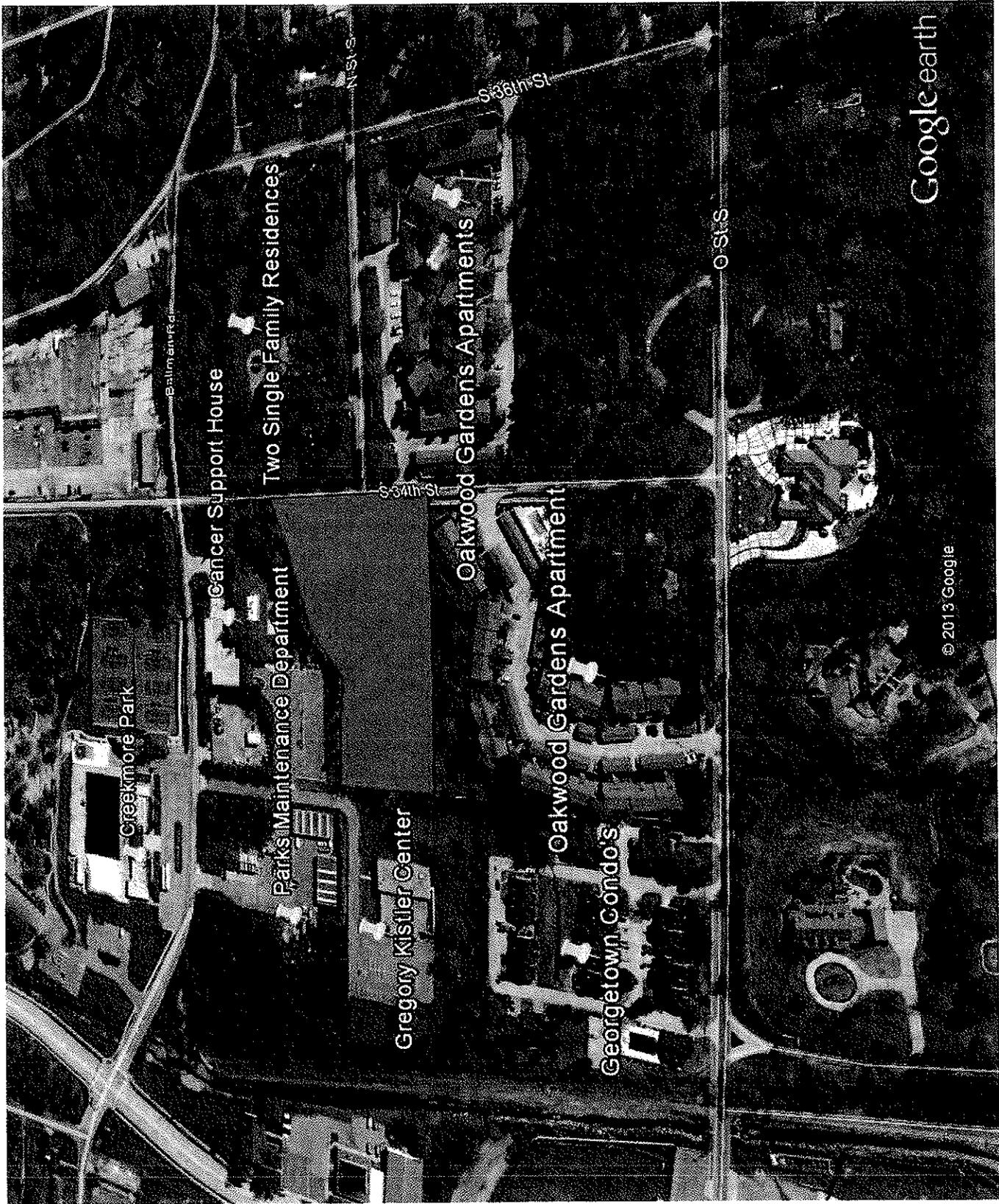
1. A typewritten copy of the proposed changes to the text in underline/strikeout (also known as "track changes") format.
2. A description of the reasons supporting the amendment and the special circumstances requiring the change:

Master Land Use Plan Amendment: From Residential Detached to Residential Attached.

1412 South 34th Street



44



47

Google earth

feet
meters

200

900



Google earth

© 2013 Google

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location 1412 S 34

Meeting Time & Date 02-26-2013

Meeting Purpose REZONE OF PROPERTY

Submitted
02-26-2013

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	DAVID CRAMER	3502 So. D th	479-283-1415
2.	KEVIN KING	3701 Wicklow	479-650-0130
3.	Elizabeth King	3701 Wicklow	479-650-5299
4.	Luke Pruitt	1303 S. 37 th	479-414-0530
5.	Nelson Brown	156 S 37	785 1449
6.	Charlotte King	3406 So. M	461-6700
7.	Wayne King	3406 S. M	461-5156
8.	City of Smith	2809 LANEVIEW (CCM)	806-7178
9.	Mont Snydel	361 ROSEBUD AVE (CCM)	462-5516
10.	Milton Snydel	2809 LANEVIEW PT (CCM)	459-6252
11.	Tyler Miller	City of East Smith	478-784-2241
	Jason Hoyer	1716 Hendrick	333-7917
	Penny Lambrecht	3415 So. N	785-5155

Rice, Maggie

From: Cary Smallwood [csmallwood@carringtoncreek.com]
Sent: Friday, March 01, 2013 3:21 PM
To: Rice, Maggie
Cc: 'Mont Sagely'
Attachments: Cary Smallwood.vcf; 20130301134816826.pdf

Maggie,

Attached is the attendance list for the 34th street neighborhood meeting.

All who attended with exception of CCH employees, opposed the increase in traffic counts. Additional opposition of concern was the entrances to the facility. They were worried it would be hard to see traffic entering and leaving the facility.

Thank you
Cary



4K

Miller, Perry

From: Miller, Perry
Sent: Wednesday, March 06, 2013 8:39 AM
To: Bailey, Wally
Cc: Andrews, Brenda; Monaco, Tom; Rice, Maggie; Striplin, Bill
Subject: 1412 South 34th Street

I read the neighborhood meeting minutes for the apartment development. The minutes attached explain that all the neighbors are in opposition based on too much traffic generation, and the location of the entrances for the complex.

The minutes did not specify that the neighbors were worried about the location of the driveways due to the hill and the location of the intersection at South N Street.

The minutes did not show that the neighbors mentioned the higher density. I believe a few of the attendants was worried that this was more dense than the surrounding properties.

The neighbors also asked questions about the actual project such as the façade, landscape and layout. No opposition about the design for façade or layout was noted.

Thank you,

Tyler Miller
Planner City of Fort Smith
623 Garrison Avenue
Fort Smith, AR 72901
479-784-2241

Miller, Perry

From: Miller, Perry
Sent: Tuesday, March 05, 2013 9:16 AM
To: Bailey, Wally
Cc: Striplin, Bill; Monaco, Tom; Andrews, Brenda; Rice, Maggie
Subject: Oakwood Gardens Venuture Density

The county records show 3301 South O Street Oakwood Gardens Venture with 4 acres.

The county records show 3500 South N Street Oakwood Gardens Venture with 3.9 Acres.

I called Oakwood Gardens and spoke with Penny the manager and she informed me that they have a total of 148 units with both locations. She was not sure how much each location has. I will try and look up a building permit with the information, or one of us can drive by and get the number of units for each parcel.

$3.9 \text{ acres} + 4 \text{ acres} = 7.9 \text{ acres}$ with 148 units . The density comes to 18.7 units per acre.

The 1412 South 34th Street has 2.5 acres with 56 units. This density comes to 22.4 units per acre.

Thank you,

Tyler Miller
Planner City of Fort Smith
623 Garrison Avenue
Fort Smith, AR 72901
479-784-2241

4M

Memo

To: City Planning Commission

From: Planning Staff

Date: February 22, 2013

Re: Rezoning #3-3-13 - A request by Cary Smallwood, agent for the Cancer Support Foundation, for Planning Commission consideration of a zoning change from Transitional (T) to Residential Multifamily High Density (RM-4) by classification at 1412 South 34th Street

LOT LOCATION AND SIZE

The subject property is on the west side of South 34th Street between South O Street and South M Street. The tract contains an approximate area of 2.5 acres with approximately 311 feet of street frontage along South 34th Street.

EXISTING ZONING

The existing zoning on this tract is Transitional (T).

Characteristics of this zone are as follows:

Purpose:

To provide small scale areas for limited office, professional service, and medical services designed in scale with surrounding residential uses. The transitional zoning district applies to the Residential Attached, Institutional, Neighborhood Commercial and General Commercial categories of the Master Land Use Plan.

Permitted Uses:

Single family detached, duplexes, family group home, retirement housing, bridal shop, banking establishments and offices are examples of permitted uses.

Conditional Uses:

Assisted living, bed & breakfast inn, utility substation, country club, park or playground, college, library, primary and secondary school, business professional schools, fire and rescue station, emergency response station, police substation, diagnostic laboratory testing facility, hospital, daycare homes, substance abuse treatment facility, senior citizen center and churches are examples of uses permitted as conditional uses.

5A

Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet (1+1)	Maximum Height - 35 feet
Maximum Lot Size – 40,000 square feet 65%	Maximum Lot Coverage -
Minimum Lot Width at Building Line – 50 feet	
Minimum Street Frontage – 50 feet	
Front Yard Setback - 20 feet	
Side Yard on Street Side of Corner Lot - 20 feet	
Side Yard Setback – 5 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – 10 feet (residential), non residential to be determined by current City building and fire code.	

REQUESTED ZONING

The requested zoning on this tract is Residential Multifamily High Density (RM-4).
Characteristics of this zone are as follows:

Purpose:

To provide high density attached homes, including multi-story residential buildings in those areas where such building types already exist, or where such buildings would be consistent with an area's established development pattern and character. The RM-4 zoning district is appropriate in urban areas in the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial categories of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

Conditional Uses:

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet (1+1)	Maximum Height - 40 feet
Maximum Density – 30 Dwelling Units/Acre 70%	Maximum Lot Coverage -
Minimum Lot Width at Building Line – 50 feet	

5B

Minimum Street Frontage – 20 feet
Front Yard Setback - 20 feet
Side Yard on Street Side of Corner Lot - 15 feet
Side Yard Setback – 5 feet
Rear Yard Setback - 5 feet
Side/Rear adjacent to RS district/development – 40 feet
Minimum building separation – 10 feet

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Transitional (T) and is developed as a cancer support center.

The areas to the east are zoned Residential Multifamily Medium Density (RM-3) and are developed as apartments and a single family home.

The area to the south is zoned Residential Multifamily Medium Density (RM-3) and is developed as apartments.

The area to the west is zoned Transitional (T) and is developed as the Gregory Kistler Treatment Center.

MASTER STREET PLAN CLASSIFICATION

The Fort Smith Master Street Plan classifies South 34th Street as a Local Road.

LAND USE PLAN COMPLIANCE

The Master Land Use Plan currently classifies the site as Residential Detached and Residential attached. The applicant has submitted a companion application for a request to change the Master Land Use classification to Residential Attached. This classification is to provide for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values.

PROPOSED ZONING

The proposed Residential Multifamily High Density (RM-4) zone, Master Land Use Plan amendment and Development Plan, if approved, will allow the development of a 56 unit apartment complex at 1412 South 34th Street.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held on February 26, 2012. Several surrounding property owners were in attendance in opposition to the request. A copy of the attendance sheet and meeting summary is enclosed within your packet.

Furthermore, the attending neighbors at the meeting had concerns with the following.

5C

- Increased traffic flow and the location of driveways on a hill next to the South N Street and South 34th Street intersection.
- The density of this development 22.4 units/acre which is denser than the surrounding properties. The other two apartment complexes have a density of 18.7 units/acre.
- The neighbors raised opposition based on utility extensions along with the drainage for the site.

If the Planning Commission is inclined to approve the application staff request it be contingent upon the following.

1. Planning Commission approval of the companion master land use plan and development applications.
2. Approval shall be based off of the submitted development plan and any Planning Commission changes.

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

- 1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

See Attached

2. Address of property: 1412 South 34th

3. The above described property is now zoned: T.

4. Application is hereby made to change the zoning classification of the above described property to Rm-4 by Classification.
(Extension or classification)

5. Why is the zoning change requested?
To Build A 56 UNIT MULTI FAMILY COMPLEX

6. Submit any proposed development plans that might help explain the reason for the request.

Cathy Smallwood
Owner or Agent Name
(please print)

Signed:
[Signature]
Owner

P.O. Box 10176, FS, AR 72917
Owner or Agent Mailing Address

or

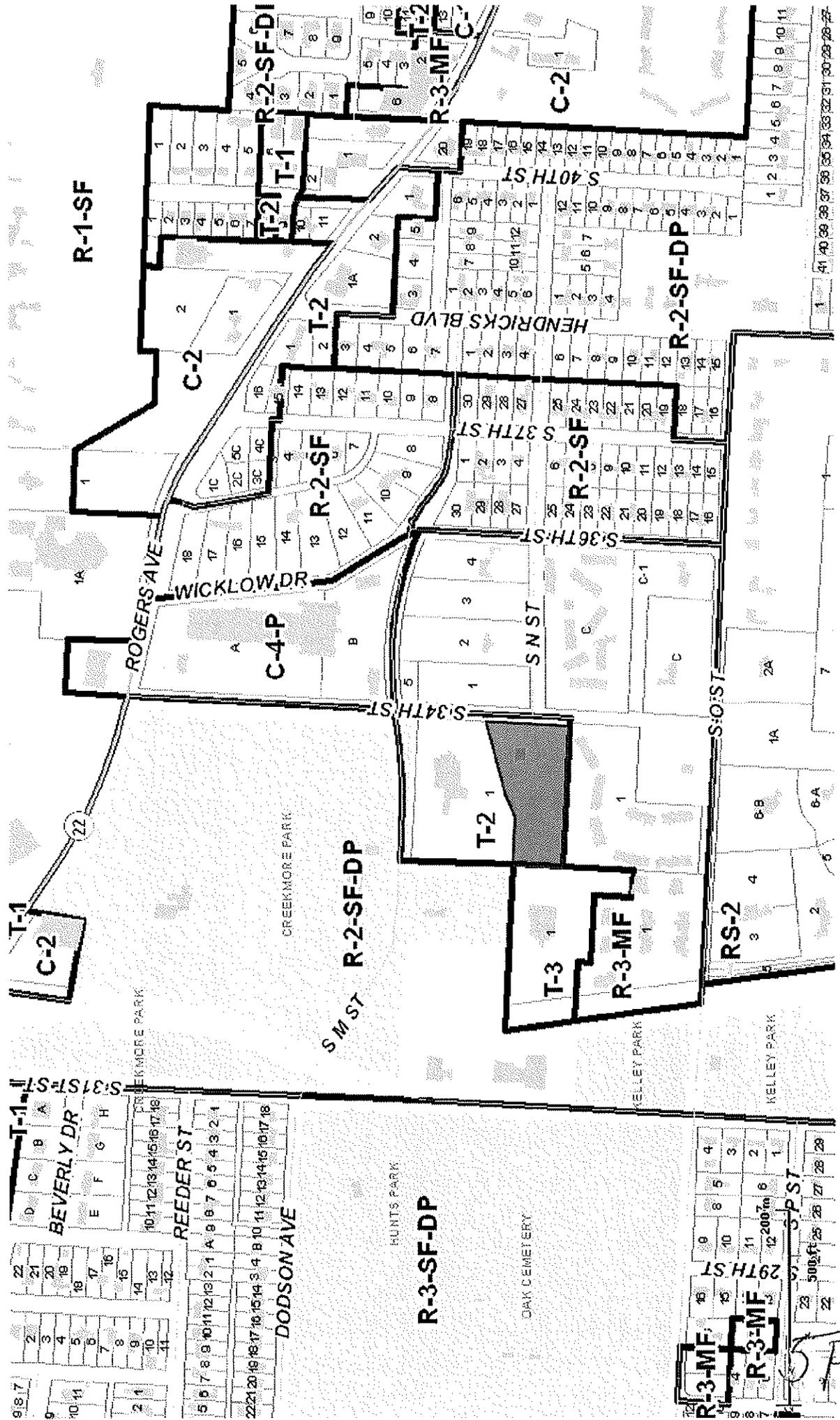
479-806-7474
Owner or Agent Phone Number

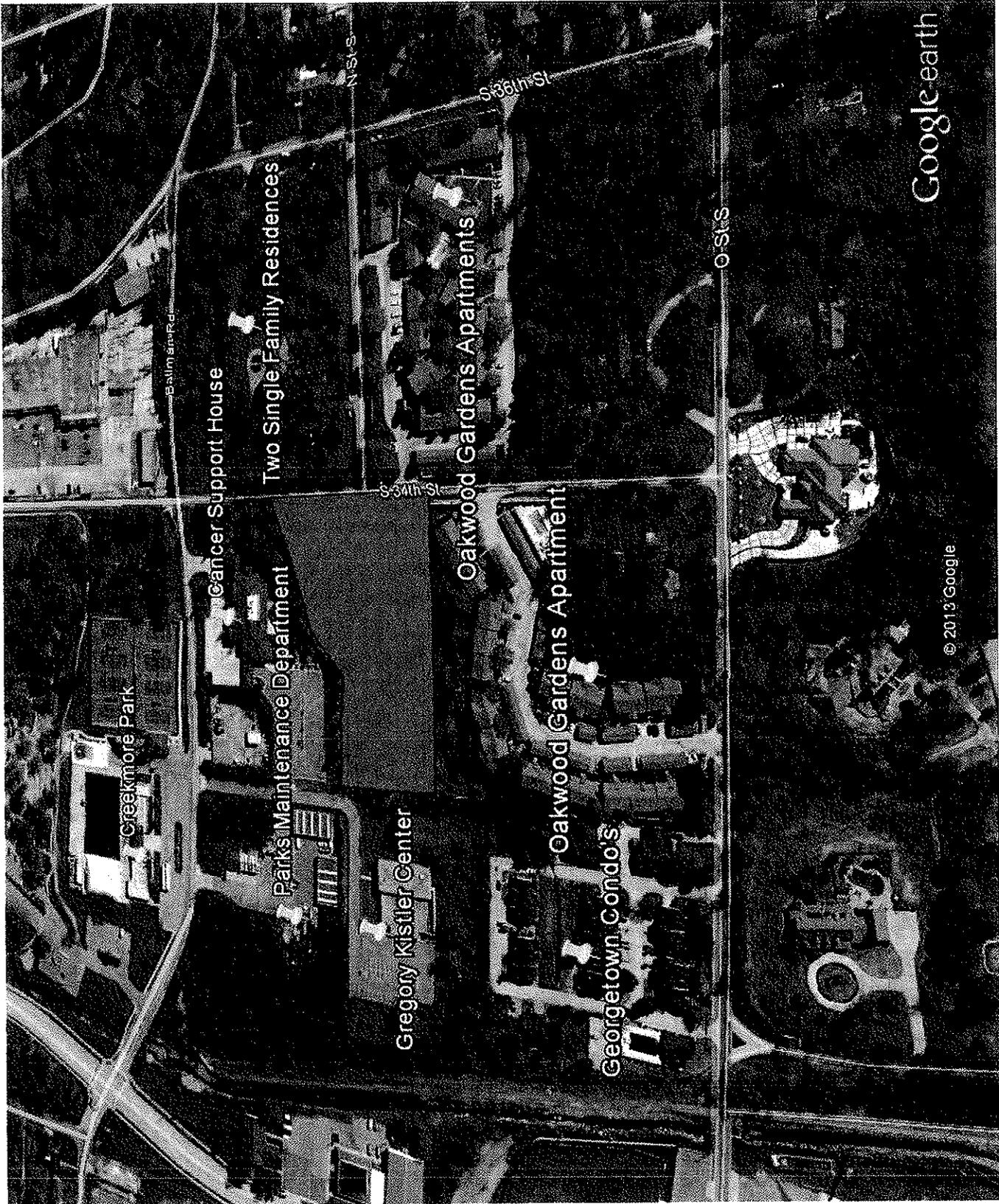
Agent

SE

Rezoning #3-3-13: From Transitional (T) to Residential Multifamily High Density (RM-4)

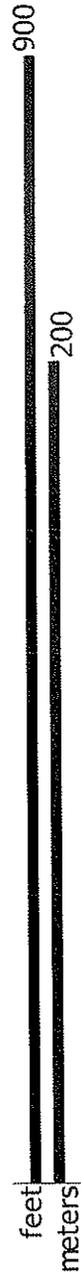
1412 South 34th Street





Google-earth

56



Google earth



MEMO

To: City Planning Commission
From: Planning Staff
Date: February 25, 2013
Subject: Development Plan – 1412 South 34th Street

The Planning Department is in receipt of a development plan from Cary Smallwood, agent for the Cancer Support Foundation, for a proposed apartment complex at 1412 South 34th Street.

TRACT LOCATION AND SIZE

The subject property is on the west side of South 34th Street between South O Street and South M Street. The tract contains an approximate area of 2.5 acres with approximately 311 feet of street frontage along South 34th Street.

EXISTING ZONING

The existing zoning on this tract is Transitional (T).

Characteristics of this zone are as follows:

Purpose:

To provide small scale areas for limited office, professional service, and medical services designed in scale with surrounding residential uses. The transitional zoning district applies to the Residential Attached, Institutional, Neighborhood Commercial and General Commercial categories of the Master Land Use Plan.

Permitted Uses:

Single family detached, duplexes, family group home, retirement housing, bridal shop, banking establishments and offices are examples of permitted uses.

Conditional Uses:

Assisted living, bed & breakfast inn, utility substation, country club, park or playground, college, library, primary and secondary school, business professional schools, fire and rescue station, emergency response station, police substation, diagnostic laboratory testing facility, hospital, daycare homes, substance abuse treatment facility, senior citizen center and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet feet (1+1)	Maximum Height - 35
Maximum Lot Size – 40,000 square feet Coverage - 65%	Maximum Lot
Minimum Lot Width at Building Line – 50 feet	
Minimum Street Frontage – 50 feet	

6A

Front Yard Setback - 20 feet
Side Yard on Street Side of Corner Lot - 20 feet
Side Yard Setback – 5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet (residential), non residential to be determined by current City building and fire code.

REQUESTED ZONING

A companion rezoning application has been submitted for a zone change from Transitional (T) to Residential Multifamily High Density (RM-4).

Characteristics of this zone are as follows:

Purpose:

To provide high density attached homes, including multi-story residential buildings in those areas where such building types already exist, or where such buildings would be consistent with an area's established development pattern and character. The RM-4 zoning district is appropriate in urban areas in the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial categories of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

Conditional Uses:

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet feet (1+1)	Maximum Height - 40
Maximum Density – 30 Dwelling Units/Acre Coverage - 70%	Maximum Lot
Minimum Lot Width at Building Line – 50 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 20 feet	
Side Yard on Street Side of Corner Lot - 15 feet	
Side Yard Setback – 5 feet	
Rear Yard Setback - 5 feet	
Side/Rear adjacent to RS district/development – 40 feet	
Minimum building separation – 10 feet	

6B

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Transitional (T) and is developed as a cancer support center.

The areas to the east are zoned Residential Multifamily Medium Density (RM-3) and are developed as apartments and a single family home.

The area to the south is zoned Residential Multifamily Medium Density (RM-3) and is developed as apartments.

The area to the west is zoned Transitional (T) and is developed as the Gregory Kistler Treatment Center.

PROPOSED DEVELOPMENT PLAN

The development plan will facilitate a 56-unit apartment complex.

INGRESS/EGRESS/TRAFFIC CIRCULATION

The site plan has two access points from South 34th Street.

EASEMENTS/UTILITIES

The developer must agree to meet all franchise and city utility easement requirements.

DRAINAGE

The site plan has a detention pond on the northwest side of the property. The plan shall show the route of the drainage from the detention pond to a storm drain or other approved method.

SITE DESIGN

Landscaping – The preliminary development plan shows perimeter landscaping along South 34th Street along with interior landscaping and a note for parking lot screening. A new site plan shall be submitted during the submission of a building permit that complies with the UDO.

Parking – 112 parking spaces are provided. The parking space and maneuvering dimension meet the UDO's minimum requirements.

Signage – A monument sign is shown in the development plan and it complies with the sign standards of the UDO. This sign and any other signs shall require a separate permit submittal.

Lighting – The development plan did not provide details on exterior lighting. If any lighting is proposed in the future it must comply with Section 27-602-5 of the Unified Development Ordinance.

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Architectural Features – Exterior finish materials for the buildings include brick and vinyl siding. The exterior materials exceed the minimum 51% requirement for high-quality materials as required in the Transitional and Commercial Building Design Standards in Section 27-602-4(C) of the Unified Development Ordinance.

Dumpster & Utility Box Screening – A dumpster location is on the south part of the property and will be screened with a privacy fence.

Setbacks – The site complies with the Residential Multifamily High Density (RM-4) setbacks.

Density – The proposed 56 unit apartment complex on the 2.5 acres has a density of 22.4units/acre. This density is less than the proposed RM-4 density of 30 dwelling units/acre.

STAFF COMMENTS

A neighborhood meeting was held on February 26, 2012. Several surrounding property owners were in attendance in opposition to the request. A copy of the attendance sheet and meeting summary is enclosed within your packet.

Furthermore, the attending neighbors at the meeting had concerns with the following.

- Increased traffic flow and the location of driveways on a hill next to the South N Street and South 34th Street intersection.
- The density of this development 22.4 units/acre which is denser than the surrounding properties. The other two apartment complexes have a density of 18.7 units/acre.
- The neighbors raised opposition based on utility extensions along with the drainage for the site.

If the Planning Commission is inclined to approve the application staff request it be contingent upon the following.

1. Planning Commission approval of the companion master land use plan and rezoning applications.
2. Approval shall be based off of the submitted development plan and any Planning Commission changes.
3. A detailed landscape plan shall be submitted during the building permit that complies with the perimeter, parking, and interior landscaping requirement of the UDO.
4. A separate sign permit shall be submitted.
5. Exterior lighting shall conform to section 27-602-5 of the Unified Development Ordinance.
6. The apartment complex shall maintain two entrances at all times for fire emergencies.

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7. Re-platting of the Cancer Support Foundation Addition, Lots 1A & 1B shall be required prior to the issuance of a building permit.
8. A traffic statement shall be required for this development.
9. Storm water management including detention and water quality treatment shall be required.
10. Drainage improvements and easement dedication shall be required.
11. The minimum Water Design Standards shall require the water line extension for the multi-family development to be a minimum of eight (8) inches in size. The fire hydrant shown shall be connected to the public water line extension paralleling South 34th Street.
12. Detailed comments for onsite fire protection system, domestic metering, number and location of fire hydrants along the street frontage shall be provided with the submission of the building permit plans, fire sprinkler system plans, and plans with the basic design for public water line improvements.

6E

DEVELOPMENT PLAN REVIEW APPLICATION

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

2. Address of property: 1412 SOUTH 34th, Fort Smith

3. The above described property is now zoned: T

4. Does the development plan include a companion rezoning request?

Yes No

5. If yes, please specify the companion application submitted:

- Conventional Rezoning
- Planned Rezoning
- Conditional Use
- Master Land Use Plan Amendment
- Variance

6. If applicable, a companion rezoning application is proposed to change the zoning classification of the above described property to:

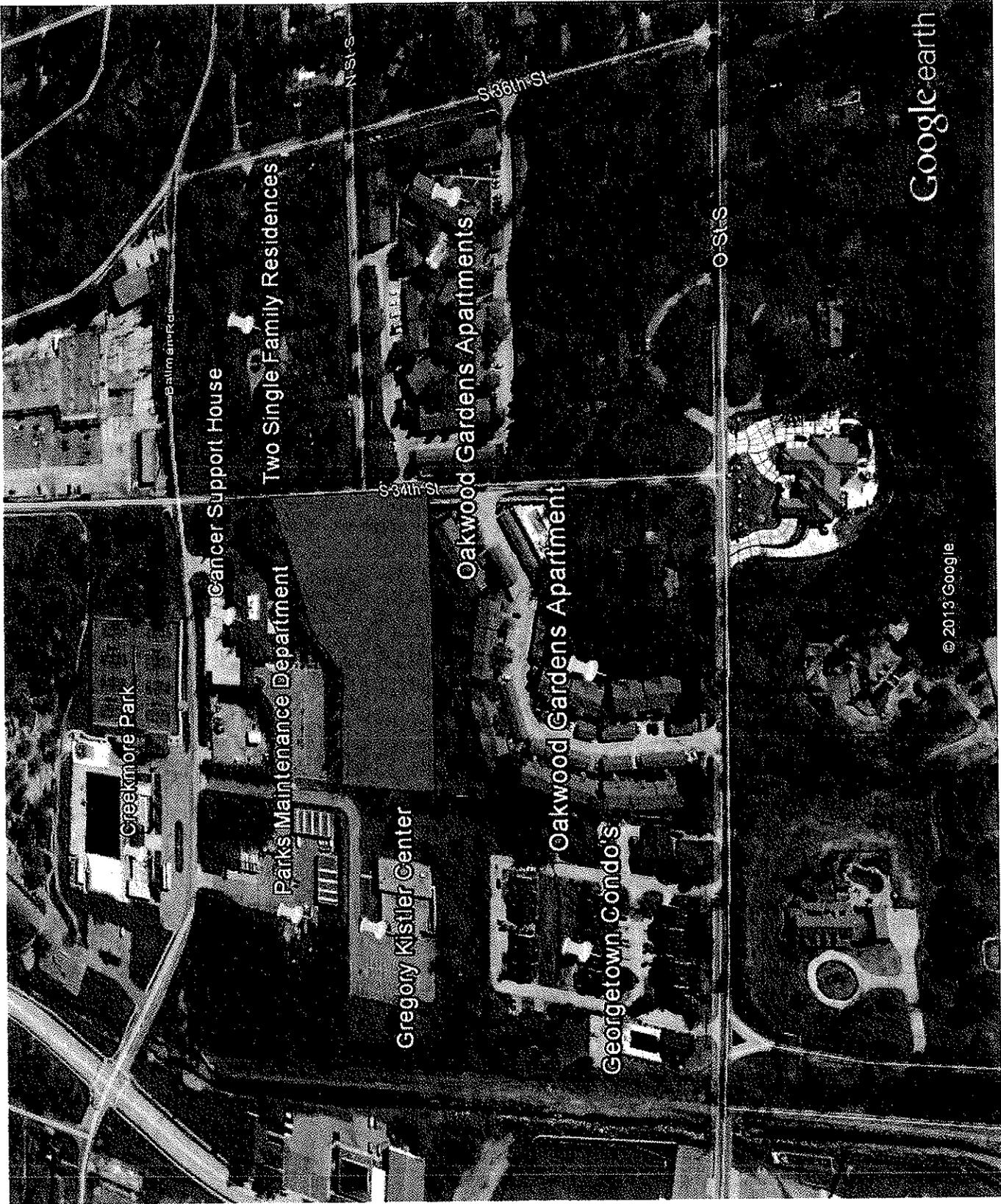
RM-4 by CLASSIFICATION
(Zoning Classification) (Extension or classification)

7. Existing zoning, structures and driveways on surrounding properties within 300 feet of subject property:

NORTH - R-2-SF-DP, C-4-P, SOUTH - R-3-MF,
EAST - R-3-MF, WEST T-3, R-2-SF-DP

8. Total acreage of property 2.5 ACRES

6 F



61

Google earth

feet
meters

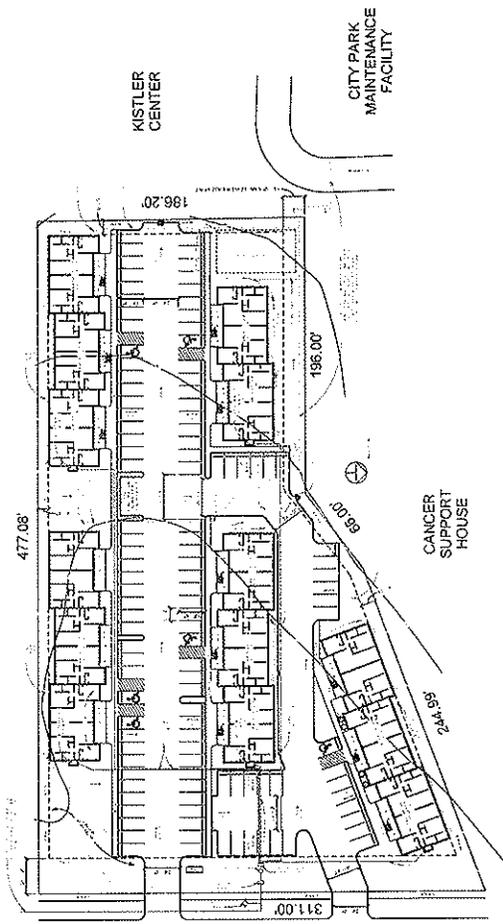
200

900

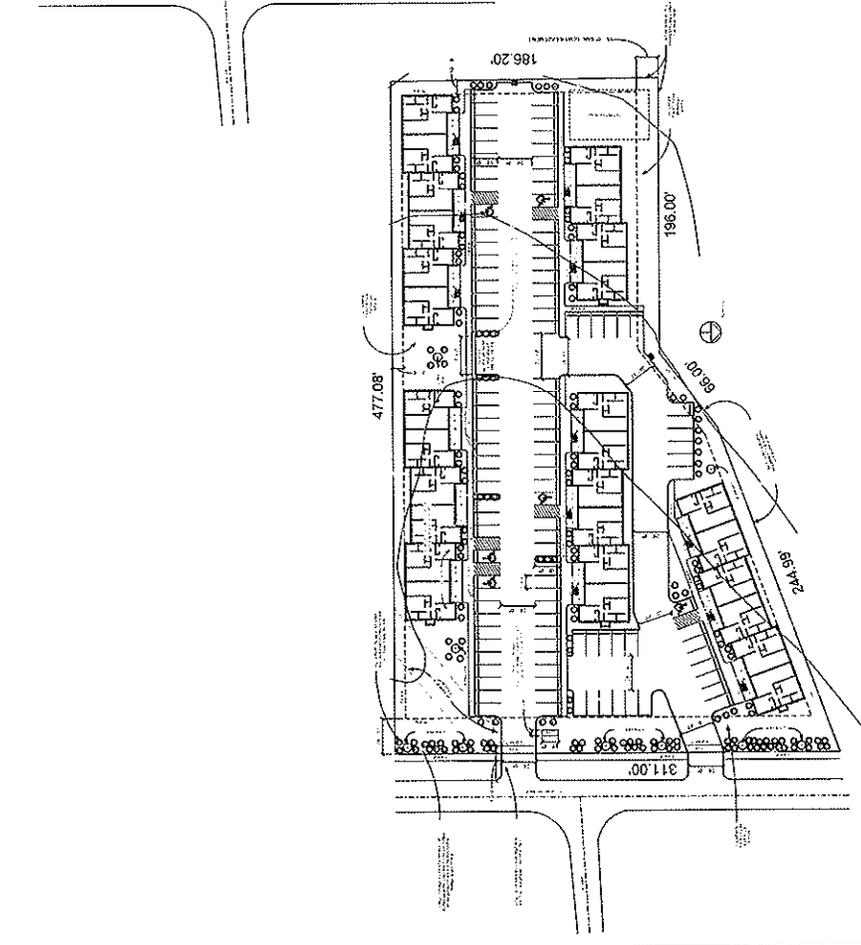
© 2013 Google

Google earth





Site Plan
1" = 32.8'



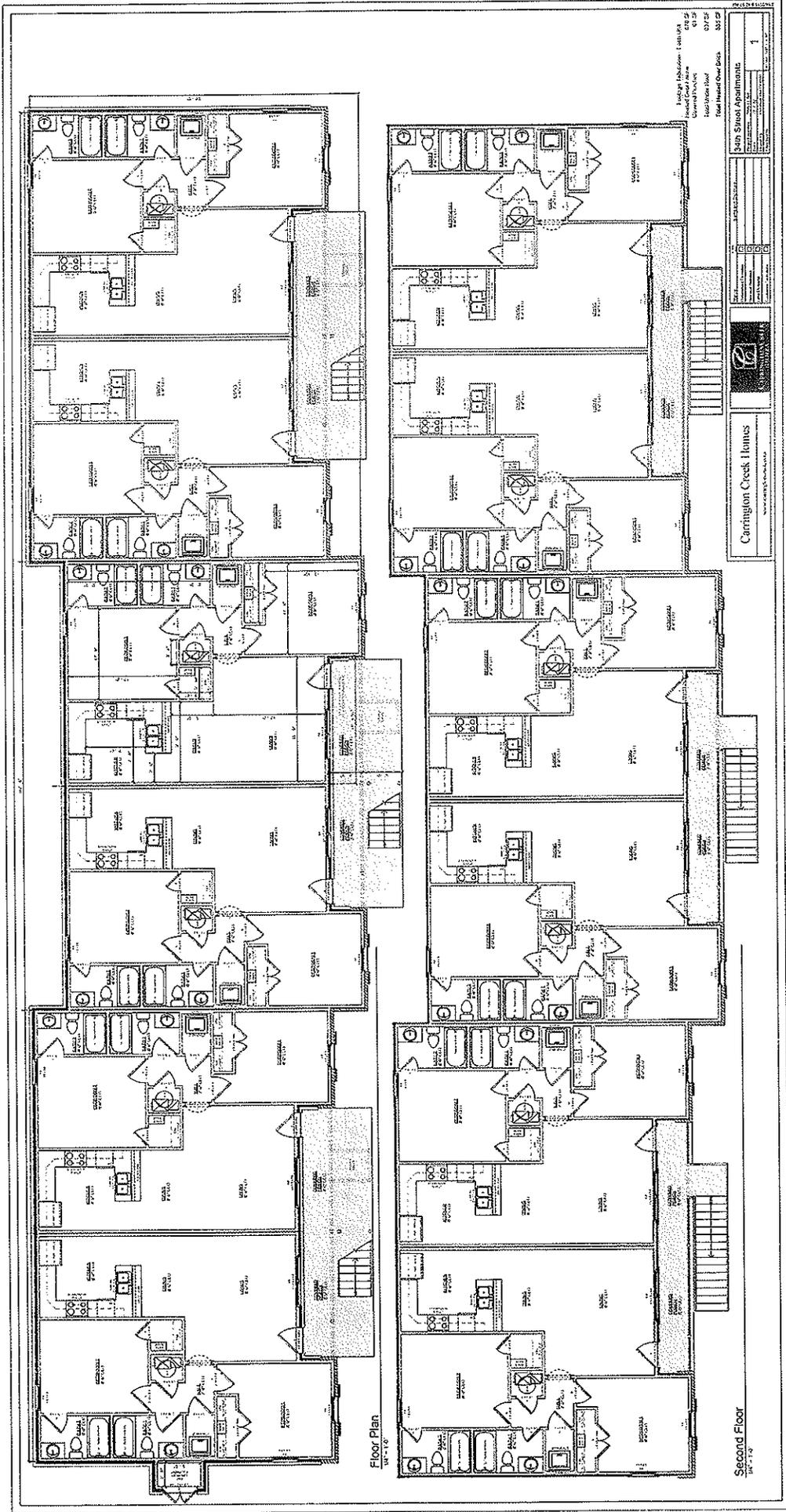
Landscape Plan
1" = 32.8'

NO.	DESCRIPTION	DATE
1	PRELIMINARY	10/15/08
2	REVISED	11/10/08
3	REVISED	12/15/08
4	REVISED	01/15/09
5	REVISED	02/15/09
6	REVISED	03/15/09
7	REVISED	04/15/09
8	REVISED	05/15/09
9	REVISED	06/15/09
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100	REVISED	01/15/17

Carrington Creek Homes

3

60



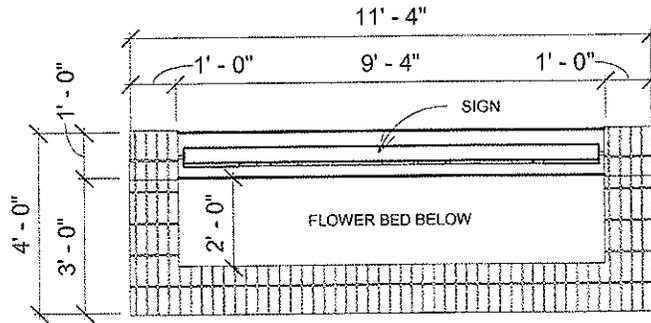
Floor Plan
104-110

Second Floor
104-110

Building Information: 104-110
 Construction: 07/20
 Construction Date: 07/20
 Total Resident Over Deck: 337/20

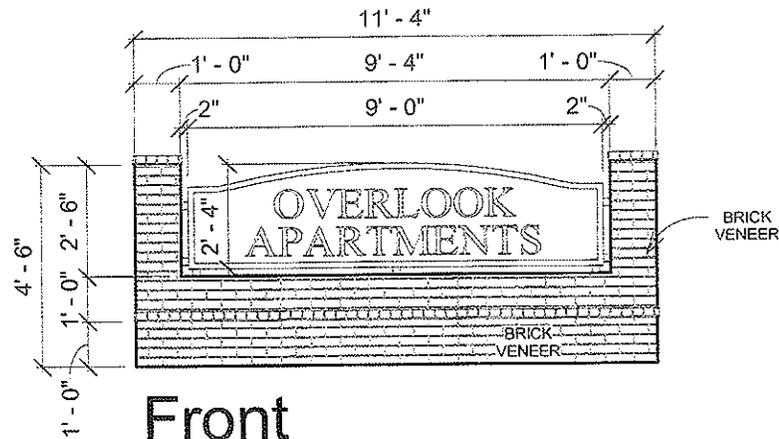
Carrington Creek Homes	
104-110	
1	

62



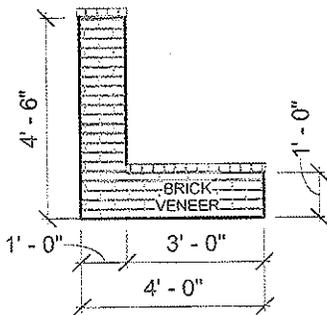
Floor Plan

1/4" = 1'-0"



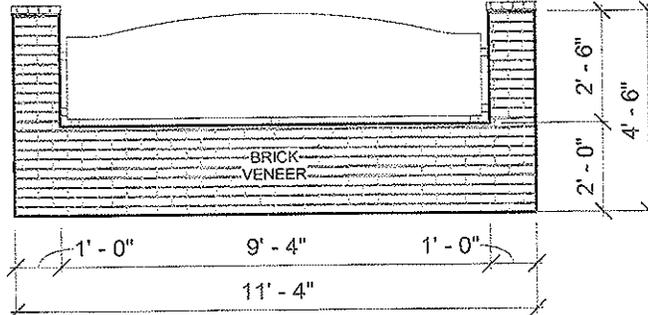
Front

1/4" = 1'-0"



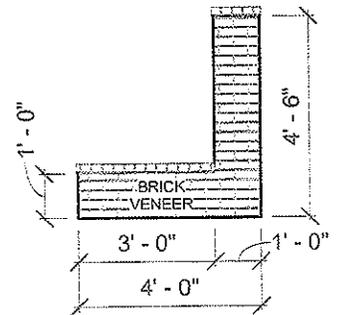
Left

1/4" = 1'-0"



Rear

1/4" = 1'-0"



Right

1/4" = 1'-0"

	Overlook Apartment Signage	Overlook Apartments	
		Date 2/14/2013 10:04:49 AM	1
		Footage Tabulation	
			Scale 1/4" = 1'-0"

LEM

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location 1412 S 34

Meeting Time & Date 02-26-2013

Meeting Purpose REZONING OF PROPERTY

*Submitted
02-12-2013*

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	DAVID CRANES	3502 So. D th	479-283-1415
2.	Kevin King	3701 Wicklow	479-650-0180
3.	Elizabeth King	3701 Wicklow	479-650-5299
4.	Luke Pouch	1303 S 37 th	479-414-0520
5.	Nelson Baer	156 S 37	785 1449
6.	Charlotte King	3406 So. M	461-6700
7.	Wayne King	3406 S. M	461-5156
8.	City of Smith	2809 LAKEVIEW (CCH)	806 7478
9.	Mont Snydel	361 ROSEBUD AVE (CCH)	462-5516
10.	MILTON Snydel	2809 LAKEVIEW PT (CCH)	439-6252
11.	Tyler Miller	City of East Smith	478-784-2241
	Paul M. Hester	1715 Handrick	333-7417
	Penny Lambrecht	3415 So. M	785-5155

6N

Rice, Maggie

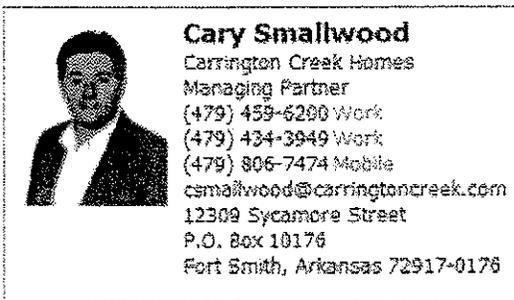
From: Cary Smallwood [csmallwood@carringtoncreek.com]
Sent: Friday, March 01, 2013 3:21 PM
To: Rice, Maggie
Cc: 'Mont Sagely'
Attachments: Cary Smallwood.vcf; 20130301134816826.pdf

Maggie,

Attached is the attendance list for the 34th street neighborhood meeting.

All who attended with exception of CCH employees, opposed the increase in traffic counts. Additional opposition of concern was the entrances to the facility. They were worried it would be hard to see traffic entering and leaving the facility.

Thank you
Cary



Miller, Perry

From: Miller, Perry
Sent: Wednesday, March 06, 2013 8:39 AM
To: Bailey, Wally
Cc: Andrews, Brenda; Monaco, Tom; Rice, Maggie; Striplin, Bill
Subject: 1412 South 34th Street

I read the neighborhood meeting minutes for the apartment development. The minutes attached explain that all the neighbors are in opposition based on too much traffic generation, and the location of the entrances for the complex.

The minutes did not specify that the neighbors were worried about the location of the driveways due to the hill and the location of the intersection at South N Street.

The minutes did not show that the neighbors mentioned the higher density. I believe a few of the attendants was worried that this was more dense than the surrounding properties.

The neighbors also asked questions about the actual project such as the façade, landscape and layout. No opposition about the design for façade or layout was noted.

Thank you,

Tyler Miller
Planner City of Fort Smith
623 Garrison Avenue
Fort Smith, AR 72901
479-784-2241

6P

Miller, Perry

From: Miller, Perry
Sent: Tuesday, March 05, 2013 9:16 AM
To: Bailey, Wally
Cc: Striplin, Bill; Monaco, Tom; Andrews, Brenda; Rice, Maggie
Subject: Oakwood Gardens Venuture Density

The county records show 3301 South O Street Oakwood Gardens Venture with 4 acres.

The county records show 3500 South N Street Oakwood Gardens Venture with 3.9 Acres.

I called Oakwood Gardens and spoke with Penny the manager and she informed me that they have a total of 148 units with both locations. She was not sure how much each location has. I will try and look up a building permit with the information, or one of us can drive by and get the number of units for each parcel.

3.9 acres + 4 acres = 7.9 acres with 148 units . The density comes to 18.7 units per acre.

The 1412 South 34th Street has 2.5 acres with 56 units. This density comes to 22.4 units per acre.

Thank you,

Tyler Miller
Planner City of Fort Smith
623 Garrison Avenue
Fort Smith, AR 72901
479-784-2241

Memo

To: City Planning Commission

From: Planning Staff

Date: February 25, 2013

Re: A request by Travis Brisendine, agent for Edward Magness, for Planning Commission consideration of a Development Plan to develop a government office at 4624 Kelley Highway

LOT LOCATION AND SIZE

The subject property is on the southwest corner of the intersection of Kelley Highway and North 47th Terrace. The tract contains an area of 1.6 acres with approximately 220 feet of street frontage along Kelley Highway and approximately 321 feet of street frontage along North 47th Terrace.

EXISTING ZONING (or) PROPOSED ZONING

The existing zoning on this tract is Commercial Heavy (C-5). Characteristics of this zone are as follows:

Purpose:

To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial, Office, Research, and Light Industrial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-5 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station,

7A

utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

- Minimum Lot Size – 14,000 square feet
- Maximum Height - 45 feet (1+1)
- Maximum Lot Coverage - 75%
- Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
- Existing District (By Extension) – 14,000 square feet
- Minimum Lot Width – 100 feet
- Front Yard Setback - 25 feet
- Side Yard on Street Side of Corner Lot - 15 feet
- Side Yard Setback – 20 feet
- Rear Yard Setback - 20 feet
- Side/Rear (adjoining SF Residential District/Development) – 30 feet
- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Minor Arterial or higher

SURROUNDING ZONING AND LAND USE

The areas to the north are zoned Commercial Light (C-2) and Residential Multifamily Medium Density (RM-3) and are developed as a church and vacant land.

The area to the east is zoned Commercial Regional (C-4) and is developed as medical clinic.

The area to the south is zoned Residential Multifamily Medium Density (RM-3) and is developed as a single family residence and apartments.

The area to the west is zoned Commercial Heavy (C-5) and is developed as a chemical systems business.

PROPOSED DEVELOPMENT PLAN

The project will include the remodeling of the existing 9,700 s.f. building along with a 5,463 s.f. addition for the development of a government office and parking lot expansion.

SITE DESIGN FEATURES

Ingress/egress/traffic circulation – The existing driveways along both Kelley Highway and North 47th Terrace will be used. No new driveways are proposed.

Easement/utilities – No additional easement requirements have been identified at this time. However, the developer must agree to meet all franchise and city utility easement requirements. Additionally, the development must comply with the City’s Subdivision Design and Improvement Standards and the Standard Specification for Public Works Construction.

Drainage – A drainage swale is proposed at the southeast corner of the property. An existing approximately 5’ drainage easement is also located on the northwest corner of the property. The engineering department will review drainage details during the building permit process.

7B

Right-of-way dedication – No additional right-of-way is required.

Landscaping – The development plan shows perimeter and parking lot screening adjacent to Kelley Highway and North 47th Terrace. Along Kelley Highway, a 10' landscape strip consisting of shrubbery is proposed. The applicant has requested to omit the required 1 tree for every 50 linear feet along Kelley Highway due to an existing 12" high pressure gas line. Along North 47th Terrace, a landscape strip is proposed consisting of shrubs and trees and varying in width from 5' to 10'. A companion variance application requests a variance from the required 10' wide landscape strip adjacent to North 47th Terrace and the omission of trees along Kelley Highway.

A total of 20,690 s.f. of interior landscaping, consisting of grass or landscape materials, is also proposed and complies with the UDO requirements for interior landscaping for vehicular use areas.

Screening – A six foot high wood fence is proposed along the south side of the property adjacent to a single family residence and two apartment buildings. A chain link fence is proposed along the west side of the property adjacent to the chemical business.

Parking – A new parking lot containing 30 parking spaces will be constructed to the south of the proposed addition. A total of 51 parking spaces are proposed, which complies with the minimum parking spaces for professional offices.

Signage – No information dealing with signs was submitted with this application. A separate sign permit is required and will be checked by staff at that time.

Lighting – A lighting plan was submitted with this application that indicates that proposed site lighting will not create light trespass or unnecessary skyglow. All exterior and site lighting shall comply with the requirements of the UDO, Section 27-602-5.

Architectural features – The building's entry will be reoriented from facing Kelley Highway to face North 47th Terrace. The exterior finish materials will consist of stucco and brick. The existing stone veneer on the buildings north façade will remain. A prefinished metal parapet cap is proposed to screen roof-mounted mechanical equipment. The proposed renovations comply with the Transitional and Commercial Building Design Standards of the Unified Development Ordinance.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting will be held Monday, March 11, 2013 at 4:00 p.m. at 4624 Kelley Highway. A summary of the meeting will be provided to the planning commission.

Staff recommends approval of the development plan with the following comments:

1. All construction must be built in accordance with the submitted Development Plan.
2. Board of Zoning Adjustment approval of the companion variance for landscaping.

7C

Signed:

TRAVIS BRISNDINE
Owner or Agent Name
(please print)

PO Box 10064, FS 72917
Owner or Agent Mailing Address

452-1933
Owner or Agent Phone Number

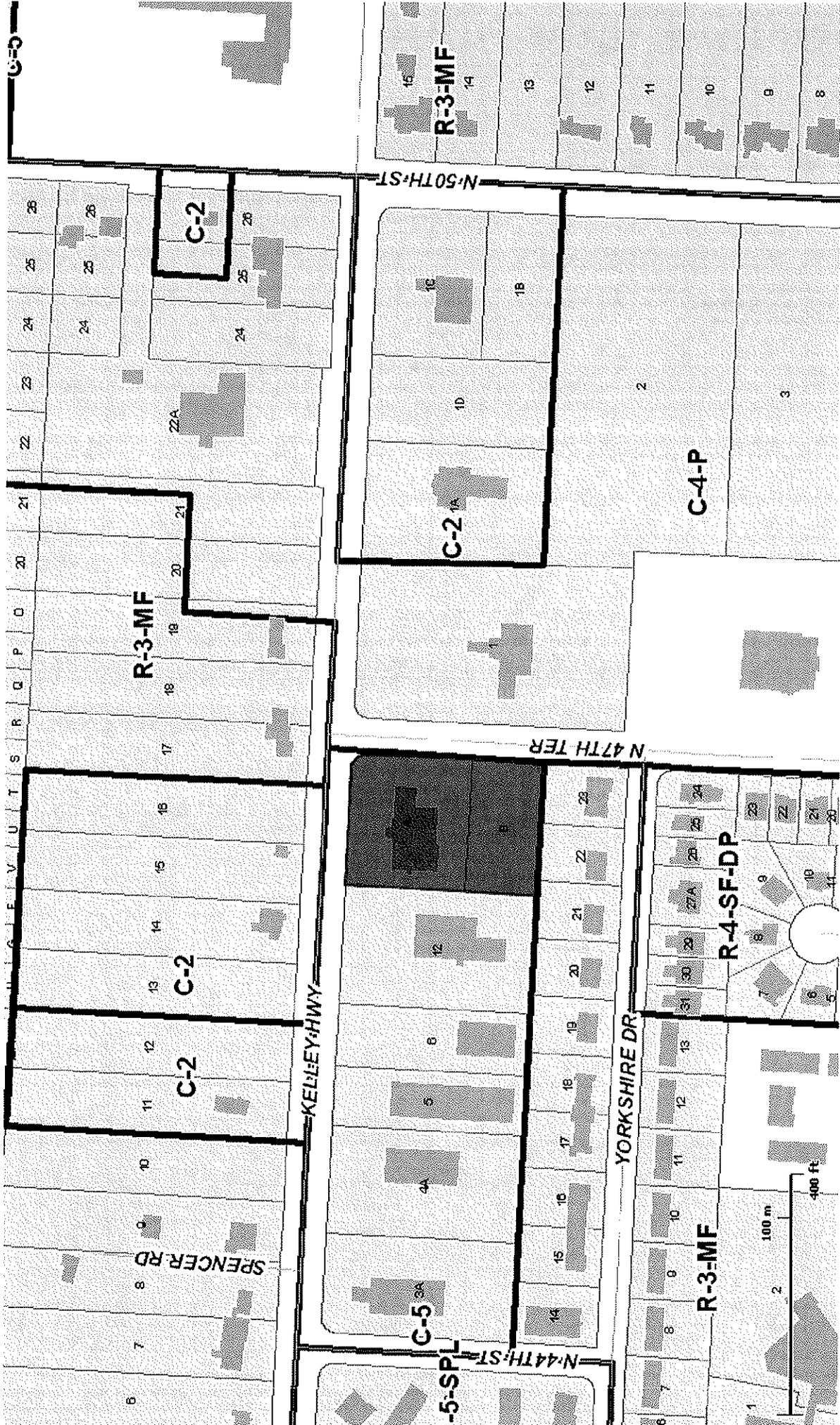
Owner

or
T. Brindine
Agent

TE

Development Plan: Government Offices

4624 Kelley Highway



77



CITIZENSHIP & IMMIGRATION
SERVICES FORT SMITH
4624 KELLEY HIGHWAY, FORT SMITH, AR

ARCHITECTURE PLUS, INC.
507 SOUTH 21ST STREET FORT SMITH, ARKANSAS 72203-2505
SITING PHOTOMETRIC LIGHTING PLAN

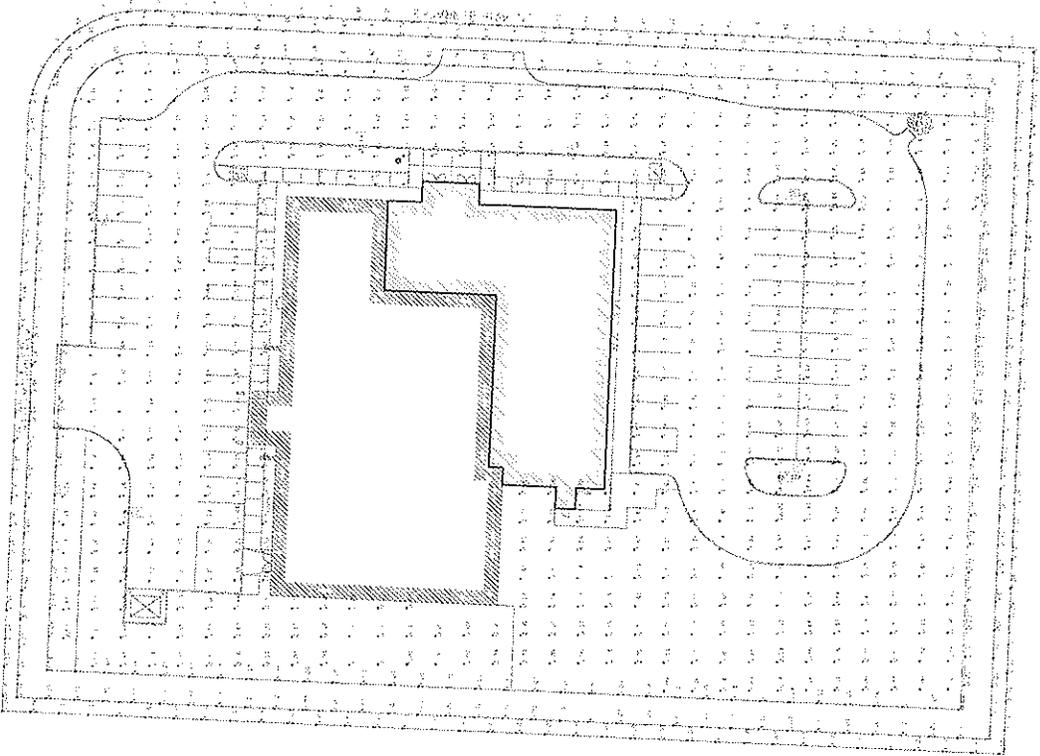
PROJECT: 12-59
DATE: 01.10.2013
A 2 15 2013

ES-11



LED Area Summary	Area	Total Watts	LED
Label	87331	3524	0.046
Label			

Calculation Summary	CalcType	Units	Avg
ROOMERY	Illuminance	FC	0.91
ROOMERY 10	Illuminance	FC	0.46
ROOMERY 15	Illuminance	FC	0.31
STAIR	Illuminance	FC	3.36
StairWcs	Illuminance	FC	2.38



HSAEngineering
479 / 452 / 8922 office
5701 Euler Lane, Ste A
Fort Smith, AR 72903
HSAConsultants.com



① SITE PHOTOMETRIC LIGHTING PLAN
1" = 20' 0"

77

Memo

To: City Planning Commission

From: Planning Staff

Date: February 26th, 2013

Re: Home Occupation #1-3-13: A request by Maylayphone Ning Seubold, for Planning Commission consideration of a tax preparation business in a Residential Single Family Duplex Medium/High Density (RSD-3) zone at 6911 Lookout Drive

LOT LOCATION AND SIZE

The Seubold residence is located on the east side of Lookout Drive between Geren Road and Crossover Street. The lot contains 19,540 square feet and is approximately 0.45 acres, with 75 feet of street frontage along Lookout Drive.

EXISTING ZONING

The existing zoning for the property is Residential Single-Family Duplex Medium/High Density (RSD-3). Characteristics are as follows:

Purpose:

To provide for medium-to-high density, compact single family detached and duplex development on new sites or as infill construction. Adequate public services and facilities shall be available with sufficient capacity to serve the proposed development. This zoning district is intended to serve as a transition between the lower density single family-duplex districts and the multifamily or commercial districts. RSD-3 zoning is appropriate in urban and suburban areas and primarily applies to the Residential Attached, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Uses:

Single-family dwellings and family group homes are examples of permitted uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet	Maximum Height - 35 feet (1+1)
Maximum Density – 6.7 Dwelling Units/Acre	Maximum Lot Coverage - 60%
Minimum Lot Width at Building Line – 60 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 25 feet	
Side Yard Setback – 7.5 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – 10 feet	

SURROUNDING ZONING AND LAND USE

The property to the north, west, and south are zoned Residential Single Family – Duplex Medium/High Density (RSD-3) and developed as single family residences. The property to the east is zoned Extraterritorial open zone (ETJ-Open-1) and is undeveloped.

LAND USE PLAN COMPLIANCE

The *Master Land Use Plan* classifies this site as Residential Detached. This classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values. The home occupation, if approved, will not compromise the goals and objectives of the *Master Land Use Plan*.

PROPOSED HOME OCCUPATION

The applicant is requesting to operate a tax preparation business from her residence. Ms. Suebold’s application indicates business will be conducted Monday through Friday from 5:00 pm to 9:00 pm and Saturday from 9:00 am to 8:00 pm. Customers will come to her residence by appointment only.

PLANNING COMMISSION AUTHORITY

The *Unified Development Ordinance* allows the Planning Commission the authority to grant to residents of Residential-3 (RS-3 and RM-3), Residential-4 (RS-4 and RM-4) and Historic-1 (RH) zones the privilege of engaging in the limited pursuit of an occupation, operating minimal business activities or offering limited professional services in their homes, provided that in the opinion of the Planning Commission, those activities do not conflict with the purposes and objectives of this chapter as stated in Section 27-101 and provided such activities comply with this section as well as any conditions and limitations the Planning Commission deems necessary for any particular case in carrying out the spirit and intent of a section.

COMPATIBILITY/CONDITIONS

The planning commission is not required to approve an application for the operation of any home occupation which, in its opinion, is not compatible with the integrity of the neighborhood. The Planning Commission may impose conditions and restrictions on the property benefited by the home occupation use to reduce or minimize the injurious effects of the home occupation.

STAFF COMMENTS AND RECOMMENDATIONS

In addition to Section 27-338-4F (Minimum Requirements for Consideration) Planning Staff recommends approval of the requested home occupation subject to the following:

1. All vehicles shall be parked in compliance with the Fort Smith Parking Regulations. No parking is allowed on the street.
2. The business license cannot be transferred to another residence without a new Home Occupation Application.
3. No commercial trash container will be placed at the residence.

HOME OCCUPATION REQUIREMENTS
Sec. 27-338-4F. Minimum requirements for consideration

The planning commission, in reviewing applications under this section, may consider the performing of a skill, talent, service or profession on a limited basis as a home occupation only if it complies with all of the following:

1. The area to be used for the home occupation is no greater than thirty (30%) percent of the living space of the residence.
2. There shall be no occupational activity on the premises outside of the main structure. An existing detached building which is utilized in conjunction with a home occupation shall be no larger than three hundred (300) square feet in size and can only be utilized for storage of materials.
3. No sign may be used in the operation of the business.
4. No outdoor display of any goods or services and no outdoor storage of materials or equipment are allowed.
5. The home occupation is required to be run only by the resident members of the household and shall not have any other employees, concessionaires or other operators or helpers whether such business is conducted on the premises or off the premises.
6. No sale of any retail or wholesale item or items is allowed on the premises unless they are considered as an accessory item of the approved business. Items drop-shipped or delivered by order may be permissible only after the Planning Commission has approved such operation.
7. Any business conducted on the premises shall be by appointment only, such that no more than two (2) patrons shall be at the business at any one time.
8. The Planning Commission shall have the authority to limit the operating hours of a business where it deems it necessary in order to assure compatibility with the residential neighborhood.
9. The resident shall not utilize the address of the property in any form of business advertising. This includes, but is not limited to, paid commercial advertising, telephone directory advertising, flyers, business cards, etc.
10. The home occupation shall not produce any fumes, odors, noise or any other offensive effects that are not normal to residential activity.
11. The home occupation shall not require the construction of any additional off-street parking areas which would detract from the residential character of the neighborhood. The Planning Commission in exceptional circumstances may allow the construction of additional off-street parking, but under no circumstances more than two (2) spaces in addition to those currently in use for residential purposes. All parking and maneuvering areas must be completely contained on private property. A parking site plan must be approved by the Planning Commission where a business would require customers coming to the property.

APPLICATION FOR HOME OCCUPATION

(Please print or type)

Name of Applicant: Malayphone Ning Senbold

Legal Description of property included in the home occupation request:

Lot # 114 Twin Hills Estate Phase III

Street Address of Property: 6911 Lookout Drive, Fort Smith, AR 72916

Zone Classification: RSD3

Type of Business Requested: Tax Preparation

Signed:

Malayphone N. Senbold
Applicant's Name (please print)

579-739-6470
Phone Number of Applicant

6911 Lookout Dr
Fort Smith, AR 72916
Applicant Mailing Address

M Senbold
Applicant

2/13/13
Date

Property Owner

Date

(if rental property)

8E

Home Occ. # 1-3-13

HOME OCCUPATION INFORMATION FORM

1. Describe what type of business you are requesting. Tax Preparation

2. Will this business be completely contained in the residential structure? Yes No

If no, described location. _____

3. What percentage of the residential floor area will be required to operate the business?

Less than 5%

4. Will operation of the business utilize any persons other than members of the immediate household? Yes No

5. At what hours and days of the week do you plan to operate the business? M-F 9-9 p.m.
Sat + Sun 9-8 p.m.

6. Will there be any noise NO, odor NO, or other outdoor activity NO associated with the business? If yes, explain. _____

7. Will materials or supplies be stored at this location? Yes No

8. How much storage will be needed? NONE

9. Will merchandise be sold at this location? Yes No If yes, explain. _____

10. Will you have any business vehicles? Yes No If yes, describe below.

Type of Vehicle:

Make _____ Model _____

Color _____ Length (trailer) _____

11. Will this business require any license, certification, accreditation other than a city occupation license? Yes No What type? _____

12. Can you operate this business by appointment only? Yes No

Explain: _____

8F

13. Will customers come to this location? Yes No

14. How many customers do you expect to have coming to your home at any one time?

2

15. Do you expect any drop-in customers? Yes No *by-appointment only*

16. How do you plan to provide parking for customers? Drive way

17. Do you plan to advertise this business? Yes No

If yes, by what methods? _____

18. Do you understand advertising the street address is not permitted? (Including the telephone directory listings.) Yes No

19. Do you understand the utilization of a sign in conjunction with this business is not permitted? Yes No

20. Will the Home Occupation require a commercial trash container (dumpster)?
Yes No

21. Do you own or rent this property? OWN

22. If renting, please attach a letter from the property owner giving you permission to operate this home occupation.

23. Do you live at this location? Yes No

24. Do you understand that failure to comply with the home occupation requirements could constitute the revoking of the occupation license issued for this business?
Yes No

25. Provide any other information that you feel helpful.

Plan on operating after 5 p.m. Most
clients will be drop-offs.

Saturday and Sunday will be between
9-7 p.m.

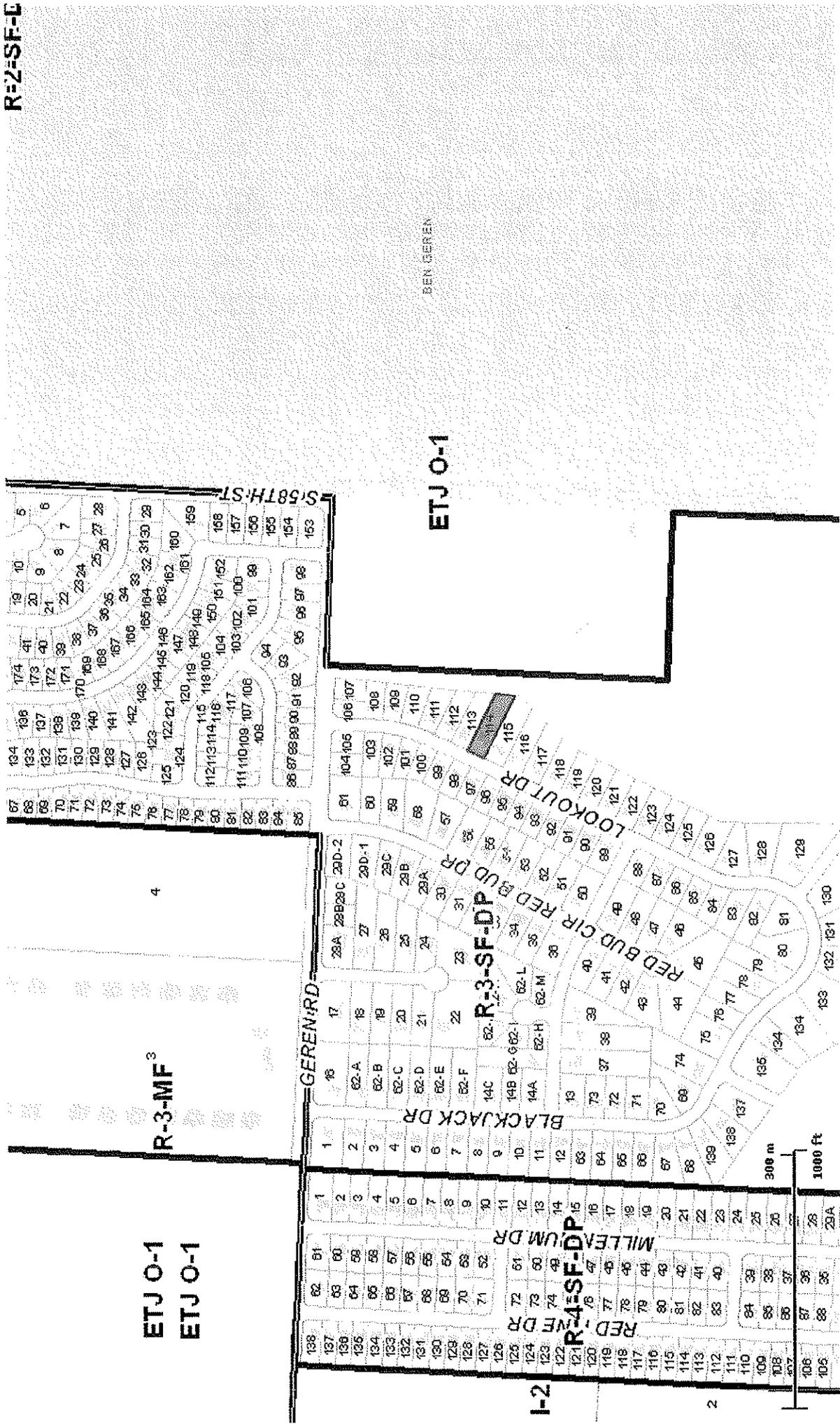
This is only for about 6-8 weeks of
the year.

86

Home Occupation #1-3-13: Tax Preparation

6911 Lookout Drive

R-2-SF-E



ETJ O-1
ETJ O-1

R-3-MF³

BEN GEREN

ETJ O-1

I-2

2

8 F

Memo

To: City Planning Commission

From: Planning Staff

Date: February 26, 2013

Re: Home Occupation # 2-3-13: A request by Patricia Dye for Planning Commission consideration of a tax preparation business in a Residential Single Family Medium Density (RS-3) zone at 2205 North 10th Street.

LOT LOCATION AND SIZE

The Dye residence is located on the west side of North 10th Street between North "T" Street and North U Street. The lot contains 6,837 square feet and is approximately 0.16 acres with 50' feet of street frontage along North 10th Street.

EXISTING ZONING

The existing zoning for the property is Residential Single-Family Medium Density (RS-3). Characteristics are as follows:

Purpose:

To provide for medium-to-high density, compact single family detached development on new sites or as infill construction. Adequate public services and facilities shall be available with sufficient capacity to serve the proposed development. This zoning district is intended to serve as a transition between the lower density single family districts and the multifamily of commercial districts. RS-3 zoning is appropriate in urban and suburban areas and primarily applies to the Residential Detached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

Uses:

Single-family dwellings and family group homes are examples of permitted uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet	Maximum Height - 35 feet (1+1)
Maximum Density – 6.7 Dwelling Units/Acre	Maximum Lot Coverage - 60%
Minimum Lot Width at Building Line – 60 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 25 feet	
Side Yard Setback – 7.5 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – 10 feet	

SURROUNDING ZONING AND LAND USE

The properties to the north and south are zoned Commercial Heavy (C-5) and developed as single family residences.

The property to the east is Commercial Heavy (C-5) and is developed as a pawn shop.

The property to the west is Residential Multi Family Medium Density (RM-3) and is developed as single family.

LAND USE PLAN COMPLIANCE

The *Master Land Use Plan* classifies this site as Residential Detached. That classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values. The home occupation, if approved, will not compromise the goals and objectives of the *Master Land Use Plan*.

PROPOSED HOME OCCUPATION

The applicant is requesting to operate a tax preparation business from her residence. Ms. Dye's application indicates business will be conducted Monday through Saturday from 12:00 p.m. to 5:00 p.m. Customers will come to her residence by appointment only.

PLANNING COMMISSION AUTHORITY

The *Unified Development Ordinance* allows the Planning Commission the authority to grant to residents of Residential-3 (RS-3 and RM-3), Residential-4 (RS-4 and RM-4) and Historic-1 (RH) zones the privilege of engaging in the limited pursuit of an occupation, operating minimal business activities or offering limited professional services in their homes, provided that in the opinion of the Planning Commission, those activities do not conflict with the purposes and objectives of this chapter as stated in Section 27-101 and provided such activities comply with this section as well as any conditions and limitations the Planning Commission deems necessary for any particular case in carrying out the spirit and intent of a section.

9B

COMPATIBILITY/CONDITIONS

The planning commission is not required to approve an application for the operation of any home occupation which, in its opinion, is not compatible with the integrity of the neighborhood. The Planning Commission may impose conditions and restrictions on the property benefited by the home occupation use to reduce or minimize the injurious effects of the home occupation.

STAFF COMMENTS AND RECOMMENDATIONS

In addition to Section 27-338-4F (Minimum Requirements for Consideration) Planning Staff recommends approval of the requested home occupation subject to the following:

1. All vehicles shall be parked in compliance with the Fort Smith Parking Regulations.
2. The business license cannot be transferred to another residence without a new Home Occupation Application.
3. No commercial trash container will be placed at the residence.

9C

HOME OCCUPATION REQUIREMENTS

Sec. 27-338-4F. Minimum requirements for consideration

The planning commission, in reviewing applications under this section, may consider the performing of a skill, talent, service or profession on a limited basis as a home occupation only if it complies with all of the following:

1. The area to be used for the home occupation is no greater than thirty (30%) percent of the living space of the residence.
2. There shall be no occupational activity on the premises outside of the main structure. An existing detached building which is utilized in conjunction with a home occupation shall be no larger than three hundred (300) square feet in size and can only be utilized for storage of materials.
3. No sign may be used in the operation of the business.
4. No outdoor display of any goods or services and no outdoor storage of materials or equipment are allowed.
5. The home occupation is required to be run only by the resident members of the household and shall not have any other employees, concessionaires or other operators or helpers whether such business is conducted on the premises or off the premises.
6. No sale of any retail or wholesale item or items is allowed on the premises unless they are considered as an accessory item of the approved business. Items drop-shipped or delivered by order may be permissible only after the Planning Commission has approved such operation.
7. Any business conducted on the premises shall be by appointment only, such that no more than two (2) patrons shall be at the business at any one time.
8. The Planning Commission shall have the authority to limit the operating hours of a business where it deems it necessary in order to assure compatibility with the residential neighborhood.
9. The resident shall not utilize the address of the property in any form of business advertising. This includes, but is not limited to, paid commercial advertising, telephone directory advertising, flyers, business cards, etc.
10. The home occupation shall not produce any fumes, odors, noise or any other offensive effects that are not normal to residential activity.
11. The home occupation shall not require the construction of any additional off-street parking areas which would detract from the residential character of the neighborhood. The Planning Commission in exceptional circumstances may allow the construction of additional off-street parking, but under no circumstances more than two (2) spaces in addition to those currently in use for residential purposes. All parking and maneuvering areas must be completely contained on private property. A parking site plan must be approved by the Planning Commission where a business would require customers coming to the property.

APPLICATION FOR HOME OCCUPATION

(Please print or type)

Name of Applicant: PATRICIA DYE

Legal Description of property included in the home occupation request:

Street Address of Property: 2205 NORTH 10th

Zone Classification: R53

Type of Business Requested: Small Business Tax prep or

consulting

Signed:

PATRICIA DYE
Applicant's Name (please print)

479-785-0733
Phone Number of Applicant

2205 N 10th
Applicant Mailing Address

PATRICIA DYE
Applicant

2-15-13
Date

PATRICIA DYE
Property Owner

2-15-13
Date

(if rental property)

9E

Home Occ. # 2-3-13

HOME OCCUPATION INFORMATION FORM

1. Describe what type of business you are requesting. Tax prep for
friends and family

2. Will this business be completely contained in the residential structure? Yes No
If no, described location. _____

3. What percentage of the residential floor area will be required to operate the business?
13% Den only

4. Will operation of the business utilize any persons other than members of the immediate household? Yes No

5. At what hours and days of the week do you plan to operate the business? Appointments only
12-5

6. Will there be any noise no, odor no, or other outdoor activity no associated with the business? If yes, explain. _____

7. Will materials or supplies be stored at this location? Yes No

8. How much storage will be needed? file cabinet

9. Will merchandise be sold at this location? Yes No If yes, explain. _____

10. Will you have any business vehicles? Yes No If yes, describe below.

Type of Vehicle:

Make _____ Model _____

Color _____ Length (trailer) _____

11. Will this business require any license, certification, accreditation other than a city occupation license? Yes No What type? _____

12. Can you operate this business by appointment only? Yes No

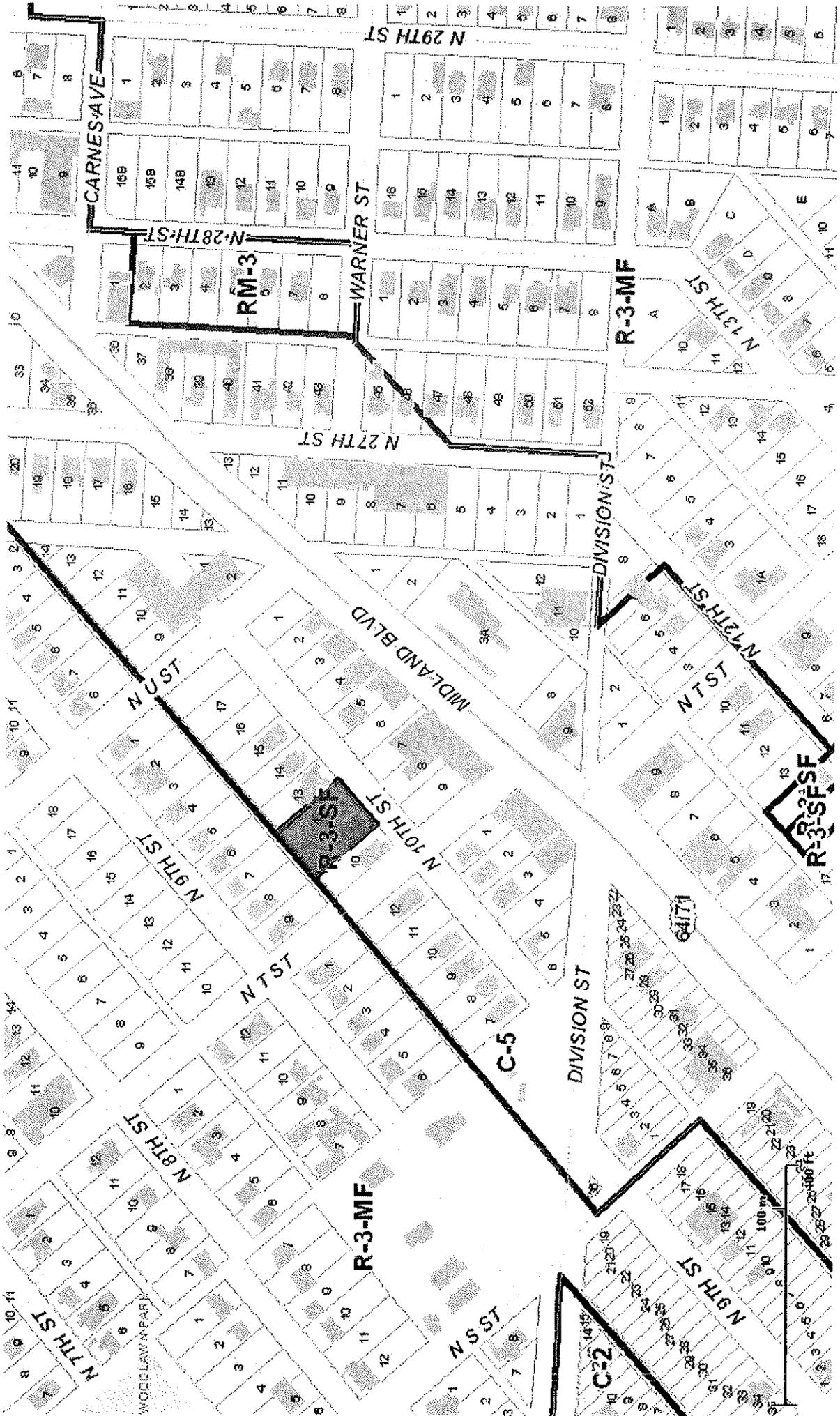
Explain: _____

9F

13. Will customers come to this location? Yes No
14. How many customers do you expect to have coming to your home at any one time?
1 or 2 people mainly 1 by appt only
15. Do you expect any drop-in customers? Yes No
16. How do you plan to provide parking for customers? Parking Available for 3 Additional Cars
17. Do you plan to advertise this business? Yes No
If yes, by what methods? _____
18. Do you understand advertising the street address is not permitted? (Including the telephone directory listings.) Yes No
19. Do you understand the utilization of a sign in conjunction with this business is not permitted? Yes No
20. Will the Home Occupation require a commercial trash container (dumpster)?
Yes No
21. Do you own or rent this property? Own
22. If renting, please attach a letter from the property owner giving you permission to operate this home occupation.
23. Do you live at this location? Yes No
24. Do you understand that failure to comply with the home occupation requirements could constitute the revoking of the occupation license issued for this business?
Yes No
25. Provide any other information that you feel helpful.
only doing taxes for few friends & mostly family - church members

Home Occupation #2-3-13: Tax Preparation

2205 North 10th Street



Handwritten initials or signature.

Memo

To: Board of Zoning Adjustment

From: Planning Staff

Date: February 22, 2013

Re: Variance #10-3-13 - A request by Rickey Shores, agent for Hisham Yasin and Nibal Yasin, for Board consideration of the following variances: 1) from 20 feet to 6 feet interior side yard setback; and 2) from 20 feet to 5.6 feet rear yard setback located at 3012-3022 Midland Boulevard

LOT LOCATION AND SIZE

The subject property is on the southeast side of Midland Boulevard in between Johnson Street and Armour Street. The tract contains an area of 0.96 acres with approximately 300 feet of street frontage along Midland Boulevard.

EXISTING ZONING

The existing zoning on this tract is Commercial Heavy (C-5). Characteristics of this zone are as follows:

Purpose: To provide for adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial classification of the Master Land Use Plan.

Permitted Uses: Permitted uses include a variety of retail establishments, finance, grocery, beverage and restaurant establishments, as well as multi-family residential.

Conditional Uses: Schools and religious institutions, restaurants with outdoor dining, and beer gardens are examples of uses permitted as conditional uses.

Bulk & Area Regulations:

Minimum Lot Size – 14,000 s.f.

Minimum Lot Width – 100 feet

Maximum Lot Coverage – 75%

Maximum Height – 45 feet (1 + 1)

Front Yard Setback – 25 feet

Side Yard Setback – 20 feet

Side Yard on Street Side of Corner Lot – 15 feet

Rear Yard Setback – 20 feet

Rear/Side Yard Adjoining Single Family Residential District/Development – 30 feet

10A

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Commercial Heavy (C-5) and is developed as Midland Furniture.

The area to the east is zoned Residential Multifamily Medium Density (RM-3) and is developed as a single family residence.

The area to the south is zoned Commercial Heavy (C-5) and is developed as a warehouse and office.

The areas to the west are zoned Commercial Heavy (C-5) and are developed as a vacant club, and an auto repair shop.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Midland Boulevard as a Major Arterial.

LAND USE PLAN COMPLIANCE

The Master Land Use Plan currently classifies the site as General Commercial. Approval of the Conditional Use Permit will not conflict with the goals and objectives of the Master Land Use Plan.

REQUESTED VARIANCE

The requested variances will allow construction of an office for the existing rock and stone sales site. The applicant proposes to enlarge an existing non-conforming structure that currently encroaches the rear yard and side yard setbacks.

APPLICANT HARDSHIP

The applicant states that the existing structure and foundation currently encroaches the side and rear setbacks. The addition to the existing structure will allow the applicant to have adequate office space for the business and comply with the accessible restroom requirements set forth by the building code.

VARIANCE CRITERIA

Arkansas law and the Fort Smith Unified Development Ordinance (Sec. 27-337-2) states that the Board of Zoning Adjustment shall hear requests for variances from the literal provisions of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action shall be in keeping with the spirit and intent of the provisions of the zoning chapter.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Thursday, February 22, 8 a.m., at the applicant's site. No objections or concerns were expressed.

If the Planning Commission is inclined to approve the variance application, staff recommends the following conditions:

10B

1. Planning Commission approval of the development plan.
2. The variance approval shall be based on the site plan, landscape plan (submitted Date 2-20-13, Project No 12-229) and office elevations as submitted.
3. No further building additions or enlargements shall be made to the building without Planning Commission approval.
4. The site shall comply with the previously approved Conditional Use Permit #13-10-12 requirements within the one-year of the approval date of October 9, 2012.

Var. #10-3-13

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 3022 Midland Ave, Existing or Proposed

Zoning Classification C-5, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

<u>Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship</u>

FROM

TO

- Front Yard Setback or Minimum Distance from Right-of-Way
- Exterior Side Yard Setback
- 20' - 6.0' Interior Side Yard Setback
- 20' - 5.0' Rear Yard Setback
- Maximum Height of Structure
- Minimum Distance Between Structures on the Same Lot
- Minimum Lot Area (Square Feet)
- Minimum Lot Frontage
- Maximum Size of a Sign
- Other:

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this

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publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this 25 day of Jan, 2013.

Signed:

Hisham. Yasin
Owner or Agent Name (please print)

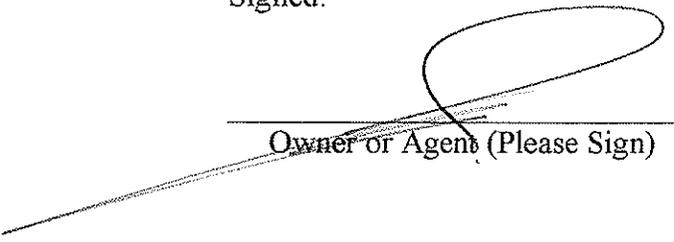
479-739-6423

479-782-2822

Ruby Shon
Owner or Agent Phone Number

479-459-9595

601 Towson Ave Ft. Smith AR
Owner or Agent Mailing Address 72901


Owner or Agent (Please Sign)

1-25-13

Date

Email

Variance # _____

10E

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
_____	<u>✓</u>	Is this variance needed because of previous actions taken by yourself?
<u>✓</u>	_____	Is this variance needed because of previous actions taken by a prior owner?
_____	<u>✓</u>	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
_____	<u>✓</u>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
_____	<u>✓</u>	Is the lot of an odd or unusual shape?
_____	<u>✓</u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	<u>✓</u>	Does the lot contain required easements other than those that might be located on its perimeter?
_____	<u>✓</u>	Is any part of the lot in a flood plain or flood way?
_____	<u>✓</u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
<u>✓</u>	_____	Is the lot developed with structures in violation of current zoning requirements?
_____	_____	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

10F

Explanation of question #4 (if applicable)

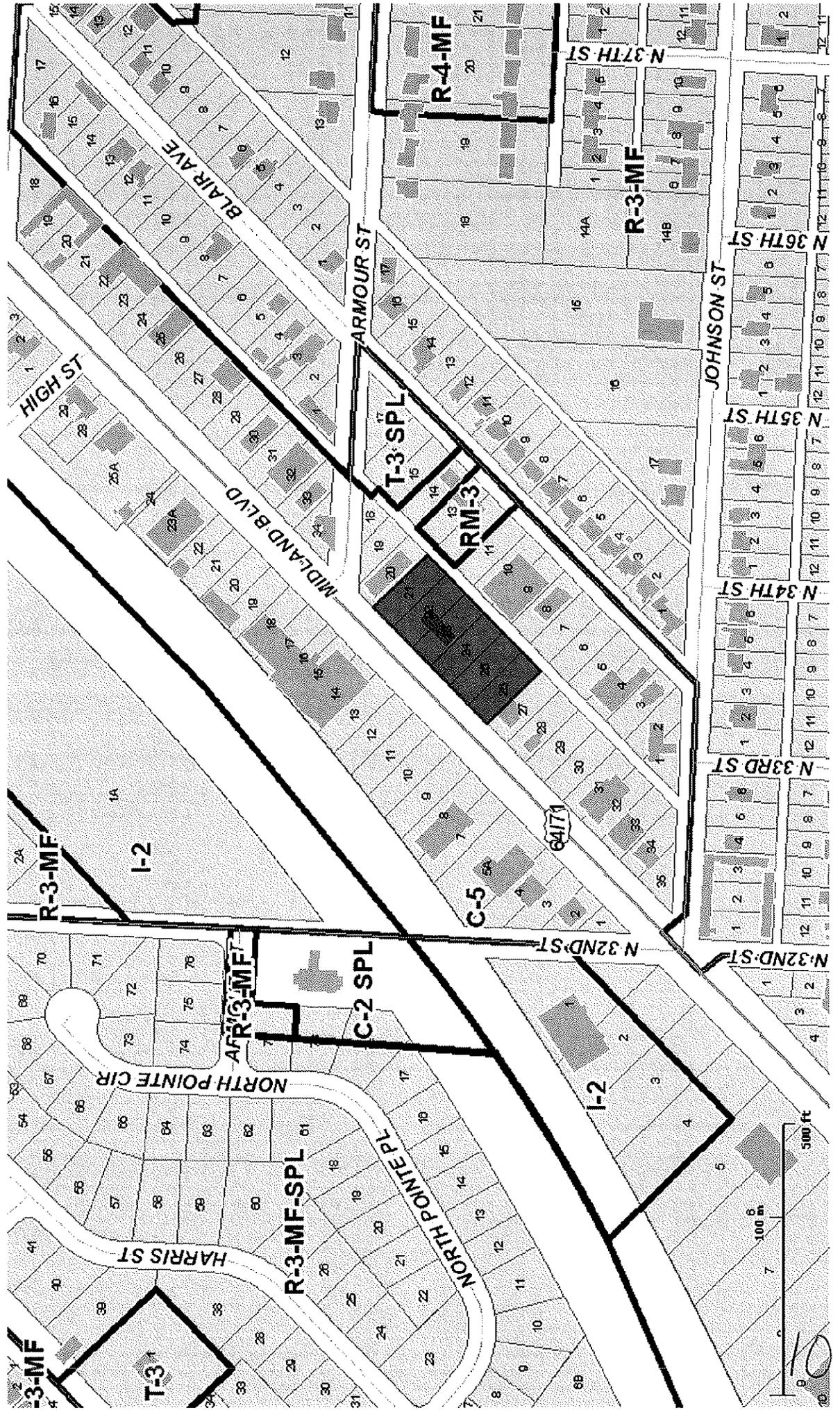
2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

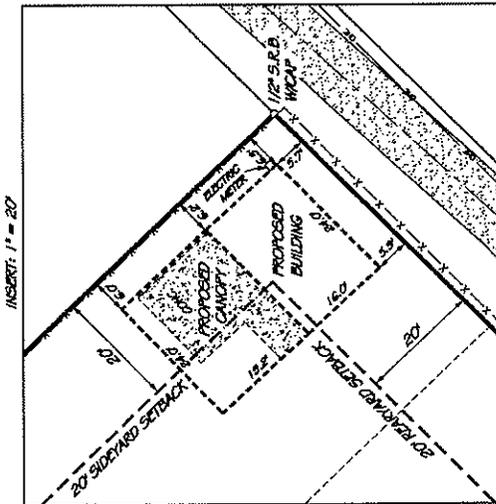
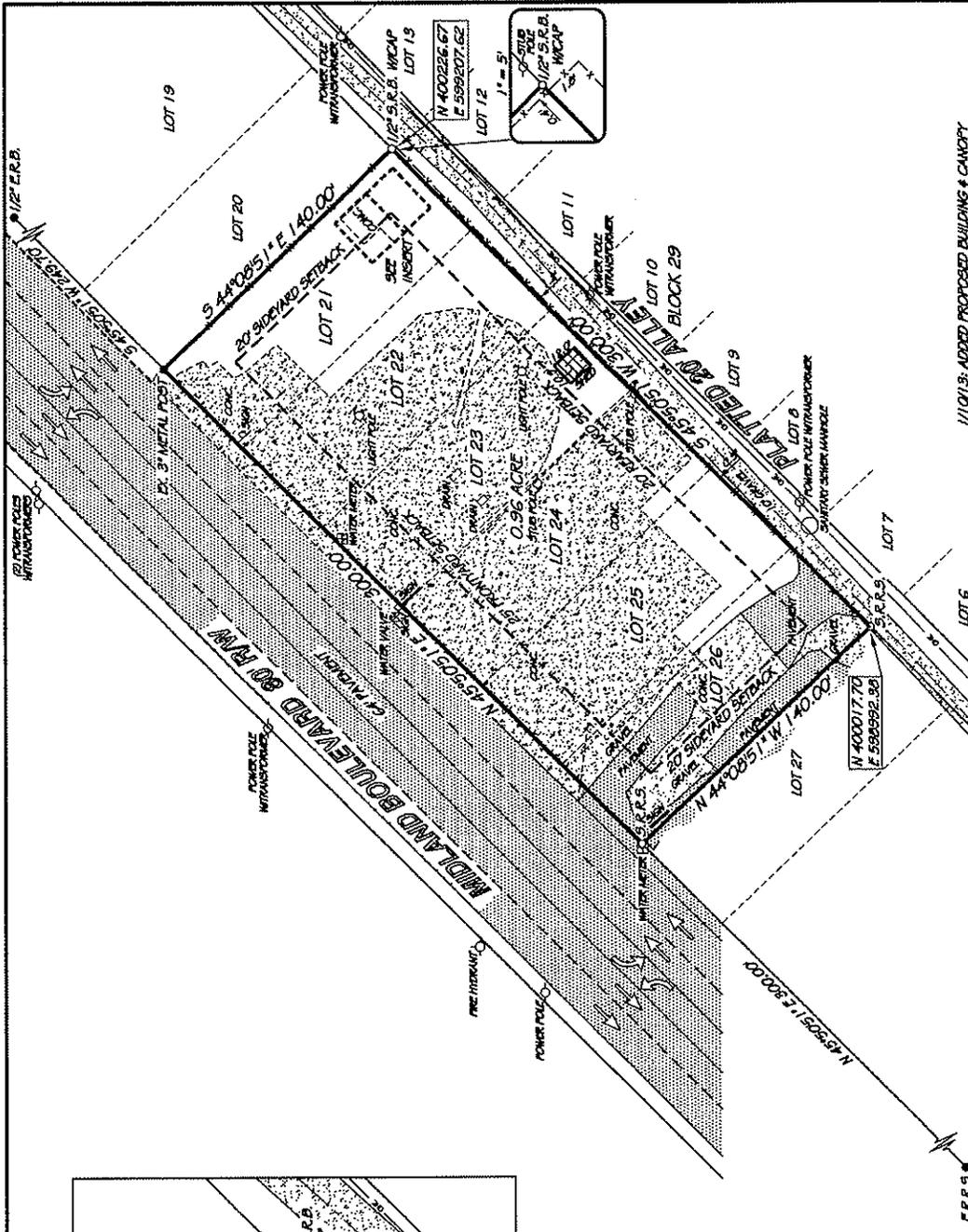
The Building and foundation WAS Built inside Setback
I must add To this Building To meet Office and
Bathroom Requirements

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

Variance #10-3-13: From 20' to 6' interior side yard setback and from 20' to 5.7' rear yard setback

3012-3022 Midland Boulevard





SURVEYOR'S NOTE: This survey was conducted under the supervision of Clovis W. Satterfield, No. 0147, or Ricky Hill, No. 1443, Satterfield Land Surveyors, P.A., Certificate of Authorization No. 718, Satterfield Land Surveyors, P.A., 1-(479)-632-3565 Hwy. 71 North, P.O. Box 640, Alma, AR 72921

SURVEYOR'S NOTE: This survey was done to mark the corners on the ground and to show observed structures. Utilities located if requested according to utility company records, and or above ground inspection. This survey was done from description furnished to us or instruction from the person(s) named on this plat. Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts which an accurate and current title search my disclose.

Satterfield Land Surveyors P.A., Copyright 2012

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REFERENCE DEED
SURVEY REFERENCES

BACK OF BEARING
ARKANSAS STATE PLANE COORDINATES GAD NAD83

- LEGEND:**
- - EXISTING ROAD RIGHT OF WAY
 - - EXISTING 1/4\"/>

SURVEYOR'S DISCLAIMER AND STATEMENT OF USE

This survey was conducted by the written or verbal authorization of the person named as the buyer and/or use by as shown on this plat. No one has the authority to use the data or legal description from this survey except those named or their agents and the survey is only certified to the date shown on this plat. This plat is protected by copyright and any person other than those named using or relying upon this plat will be held responsible. Satterfield Land Surveyors, P.A. will not be responsible or have any liability to any other person or company who uses this plat without written authorization.

FOR USE BY: A & H AUTO SALES

Satterfield Land Surveyors P.A.

1929 HWY. 71 NORTH, ALMA, ARK. - PHONE NO. (479) 632-3565
FAX (479) 632-3502 - WEBSITE: <http://www.slsr-mpls.com>

DRAWN BY: J.O.B.
SCALE: 1"=50'
DATE: 8-30-12
JOB NO. 39.011

SEBASTIAN COUNTY, ARKANSAS
SURVEY OF
11101.9: ADDED PROPOSED BUILDING & CANOPY

LOTS 21 THRU 26, BLOCK 29, MIDLAND HEIGHTS
ADDITION TO THE CITY OF FORT SMITH, ARKANSAS

107

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location 3012-3022 Midland Blvd.

Meeting Time & Date February 22, 8 AM

Meeting Purpose Development Plan & Variance for
Side/Rear Setbacks for Office

	<u>NAME</u>	<u>ADDRESS</u>
1.	<u>Rickey L Shores</u>	<u>522 North 19th St Fort Smith AR 72401</u>
2.	<u>Noah D. Klein</u>	<u>2519 Rogers Ave, Ft. Smith, AR 72203</u>
3.	<u>Joseph Frank</u>	<u>2007 south H. St ft. smith AR. 72401</u>
4.	<u>Hisham M Yasin</u>	<u>1812 Innsbruck Ln Ft. Smith ARK</u>
5.	<u>Bill Stripler</u>	<u>City of Fort Smith</u>
6.	<u>TOM MANACD</u>	<u>SI</u>
F.	<u>Kern Boyd</u>	<u>100 Olive manaford AR 72944</u>
G.	<u>John Mearns</u>	<u>3105 N. 58th Terrace Ft. S. 72904</u>
H.		
I.		
J.		
K.		
L.		
M.		
N.		
O.		
P.		

Memo

To: City Planning Commission

From: Planning Staff

Date: February 25, 2013

Re: Variance #11-3-13 - A request by Woodrow Anderson, owner, for Board of Zoning Adjustment consideration of a zoning variance request from: 1) 20 square feet to 50 square feet maximum size of sign; 2) pedestal or monument type sign to pole sign; 3) indirect lighting to direct lighting (digital)

LOT LOCATION AND SIZE

The subject property is on the southwest corner of the intersection of Lexington Avenue and South "F" Street. The tract contains an area of 0.19 acres with approximately 65 feet of street frontage along Lexington Avenue and approximately 131 feet of street frontage along South "F" Street.

EXISTING ZONING

The existing zoning on this tract is Transitional (T). Characteristics of this zone are as follows:

Purpose:

To provide small scale areas for limited office, professional service, and medical services designed in scale with surrounding residential uses. The transitional zoning district applies to the Residential Attached, Institutional, Neighborhood Commercial and General Commercial categories of the Master Land Use Plan.

Permitted Uses:

Single family detached, duplexes, family group home, retirement housing, bridal shop, banking establishments and offices are examples of permitted uses.

Conditional Uses:

Assisted living, bed & breakfast inn, utility substation, country club, park or playground, college, library, primary and secondary school, business professional schools, fire and rescue station, emergency response station, police substation, diagnostic laboratory testing facility, hospital, daycare homes, substance abuse treatment facility, senior citizen center and churches are examples of uses permitted as conditional uses.

11A

Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Lot Size – 40,000 square feet	Maximum Lot Coverage - 65%
Minimum Lot Width at Building Line – 50 feet	
Minimum Street Frontage – 50 feet	
Front Yard Setback - 20 feet	
Side Yard on Street Side of Corner Lot - 20 feet	
Side Yard Setback – 5 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – 10 feet (residential), non residential to be determined by current City building and fire code.	

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Commercial Heavy (C-5) and is undeveloped.

The area to the east is zoned Residential Multifamily High Density (RM-4) and is developed as a cemetery.

The area to the south is zoned Transitional (T) and is developed as a medical clinic.

The area to the west is zoned Commercial Heavy (C-5) and is developed as a parking lot.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Lexington Avenue as Major Collector and South “F” Street as Local Road.

LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Regional Center. This classification is intended to provide for major destination clustering of major employers, retailers, entertainment and regional level services of all types in a walkable setting. Approval of the variance will not conflict with the goals and objectives of the Master Land Use Plan.

REQUESTED VARIANCE

An approved variance will permit an existing pole sign to have a 50 s.f. sign area with a digital message.

APPLICANT HARDSHIP

The applicant states that the current sign limits the business to 3 lines of message with only 11 letters per line. The applicant would like to be have the ability to display the services they offer, hours of operation and new and hard to find products.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Tuesday, March 5, 2013 at 3:00 p.m. on site at 700 Lexington Avenue. No neighboring property owners were present at the neighborhood meeting.

11B

The original sign permit for this property was issued in 1987 as a ground sign. Staff was unable to locate any records indicating when the sign was changed to a pole sign.

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

Var. #11-3-13

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 700 Lexington Ave, Existing or Proposed

Zoning Classification T, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

<u>Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship</u>

FROM

TO

_____ - _____ Front Yard Setback or Minimum Distance from Right-of-Way

_____ - _____ Exterior Side Yard Setback

_____ - _____ Interior Side Yard Setback

_____ - _____ Rear Yard Setback

_____ - _____ Maximum Height of Structure

_____ - _____ Minimum Distance Between Structures on the Same Lot

_____ - _____ Minimum Lot Area (Square Feet)

_____ - _____ Minimum Lot Frontage

205.F - ~~480 sq ft~~ ^{50 s.f} Maximum Size of a Sign - Illuminated

_____ - _____ Other: From indirect lighting to digital, & from Pedestal or monument sign to Pole sign

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

110

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this 15 day of Feb, 2013.

Signed:

Woodrow Anderson, JR
Owner or Agent Name *(please print)*

W Andh
Owner

or

479-782-2881
Owner or Agent Phone Number

Agent

700 Lexington Ave
Owner or Agent Mailing Address

Variance # _____

11E

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
_____	<u> ✓ </u>	Is this variance needed because of previous actions taken by yourself?
_____	<u> ✓ </u>	Is this variance needed because of previous actions taken by a prior owner?
_____	<u> ✓ </u>	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
_____	<u> ✓ </u>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
_____	<u> ✓ </u>	Is the lot of an odd or unusual shape?
_____	<u> ✓ </u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	<u> ✓ </u>	Does the lot contain required easements other than those that might be located on its perimeter?
_____	<u> ✓ </u>	Is any part of the lot in a flood plain or flood way?
_____	<u> ✓ </u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	<u> ✓ </u>	Is the lot developed with structures in violation of current zoning requirements?
_____	<u> ✓ </u>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

11F

Explanation of question #4 (if applicable)

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project: With our current sign we are limited to the number lines and space to provide information to the public we only have three lines with a min of 11 letters per line

By not having an electronic sign - we are unable to display services that we offer to the public concerning hours of operation on holidays as we are the only pharmacy that has extended holiday hours.
(continued bottom page.)

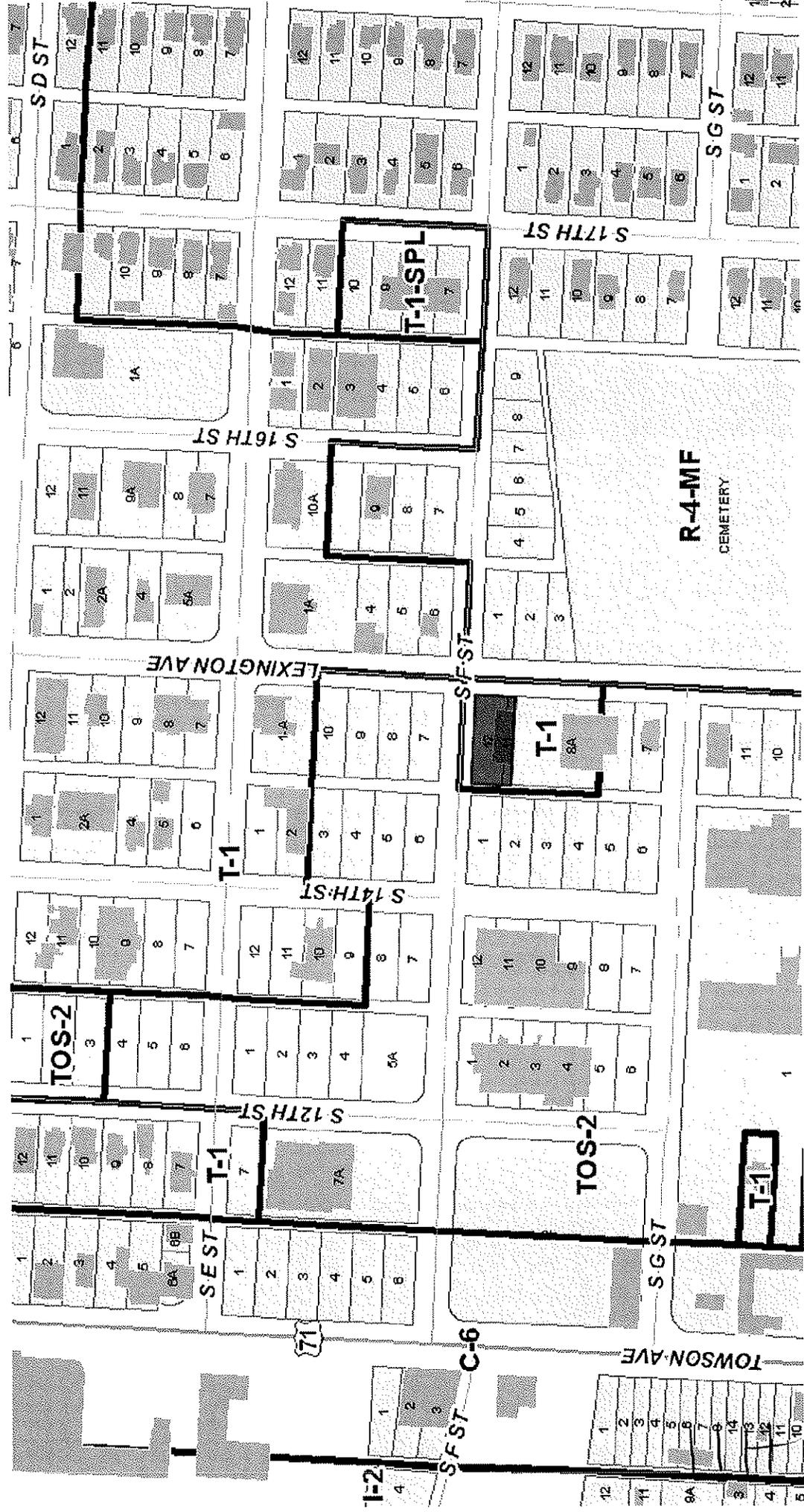
3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

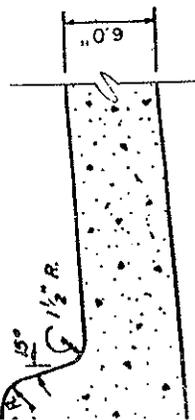
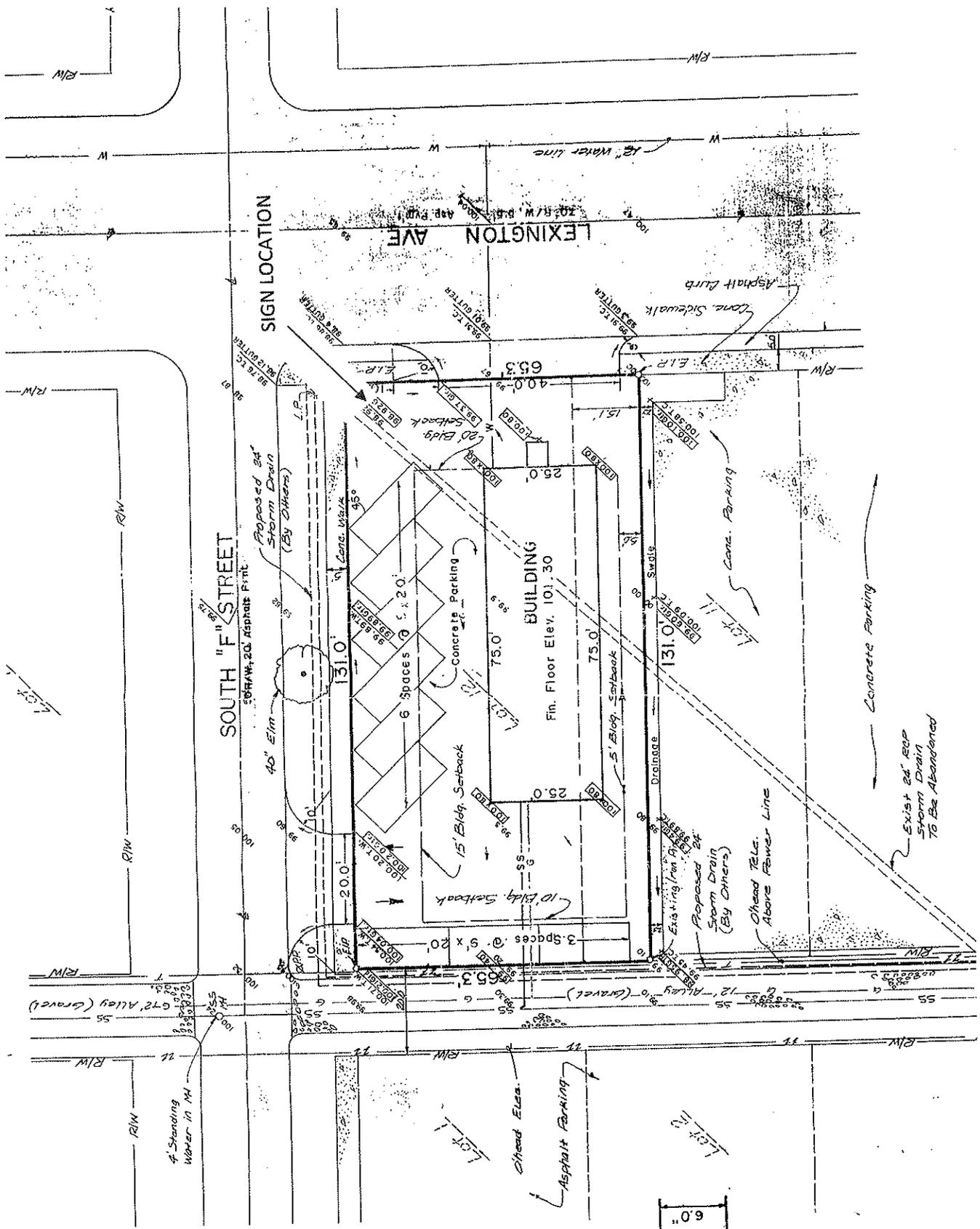
- 2) continue - 2) vaccinations - we offer several vaccines available to the public ex: Flu, Shingles, etc.
3) Public services available - Blood pressure, drug counseling
Vision checks.
4) New products and hard to find drugs - ex: tamiflu

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Variance #11-3-13: From 20 to 50 square feet maximum size of sign, from pedestal or monument type sign to pole sign, and from indirect lighting to direct lighting and digital

700 Lexington Avenue





Curb and Gutter construction on north and east sides of property

ITEGRAL CURB

No Scale

111

Anderson's DISCOUNT PHARMACY

WE HAVE
FLU SHOTS
IN STOCK

CURRENT SIGN

ONE WAY

Phone

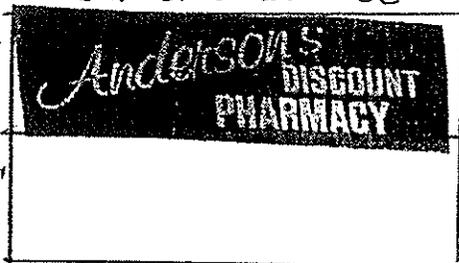
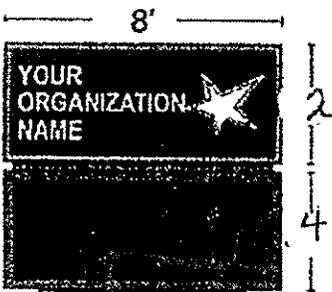


PROPOSED SIGN

Page 1 of 1

8x6 = 48 sq ft.

Cabinet allowance = 50 sq ft.



Led section -
3 Lines.

From Base to Bottom
Sign 12 ft.



11R

Memo

To: City Planning Commission

From: Planning Staff

Date: February 25, 2013

Re: Variance #12-3-13 - A request by Travis Brisendine, agent for Edward Magness, for Board of Zoning Adjustment consideration of a zoning variance request from 27-602-3-C (width of landscape area along North 47th Terrace) and from 27-602-3-B (one tree every 50 linear feet of right-of-way along Kelley Highway) at 4624 Kelley Highway

LOT LOCATION AND SIZE

The subject property is on the southwest corner of the intersection of Kelley Highway and North 47th Terrace. The tract contains an area of 1.6 acres with approximately 220 feet of street frontage along Kelley Highway and approximately 321 feet of street frontage along North 47th Terrace.

EXISTING ZONING

The existing zoning on this tract is Commercial Heavy (C-5). Characteristics of this zone are as follows:

Purpose:

To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial, Office, Research, and Light Industrial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-5 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station,

12A

utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 14,000 square feet
Maximum Height - 45 feet (1+1)
Maximum Lot Coverage - 75%
Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
Existing District (By Extension) – 14,000 square feet
Minimum Lot Width – 100 feet
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 15 feet
Side Yard Setback – 20 feet
Rear Yard Setback - 20 feet
Side/Rear (adjoining SF Residential District/Development) – 30 feet
Minimum building separation – to be determined by current City building and fire code.
Required street access – Minor Arterial or higher

SURROUNDING ZONING AND LAND USE

The areas to the north are zoned Commercial Light (C-2) and Residential Multifamily Medium Density (RM-3) and are developed as a church and vacant land.

The area to the east is zoned Commercial Regional (C-4) and is developed as medical clinic.

The area to the south is zoned Residential Multifamily Medium Density (RM-3) and is developed as a single family residence and apartments.

The area to the west is zoned Commercial Heavy (C-5) and is developed as chemical systems business.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Kelley Highway as Major Arterial and North 47th Terrace as Local Road.

LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Mixed Use Employment. This classification is intended to provide for a dense, compatible mix of retail, residential, employment and production activities designed for all modes of transportation. Approval of the variance will not conflict with the goals and objectives of the Master Land Use Plan.

REQUESTED VARIANCE

Approval of the variance will allow: 1) the landscape strip adjacent to North 47th Terrace to have a width of 5' at its narrowest width; and 2) the omission of trees in the landscape strip adjacent to Kelley Highway.

12B

APPLICANT HARDSHIP

The applicant states that the existing building and parking lot were constructed prior to the adoption of the UDO. Also, due to the office configurations and space requirements of the client, the building's entrance will be reoriented toward North 47th Terrace. The existing improvements and the proposed configuration will not allow a full 10' wide landscape strip/parking lot screening to be constructed along North 47th Terrace. The Kelley Highway frontage will have the full 10' width landscaping.

Along Kelley Highway frontage, AOG has stated that it will not permit trees in the existing 12' high pressure gas line easement along Kelley Highway. AOG has provided a letter stating that although they will not permit trees within the easement, shrubs and ground cover are permitted. (See attached AOG letter)

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting will be held Monday, March 11, 2013 at 4:00 p.m. at 4624 Kelley Highway. Staff will provide planning commissioners a summary of the neighborhood meeting.

It is staff's opinion that the landscaping proposed complies with the UDO guidelines to greatest extent possible. Staff recommends approval based on the applicant's stated hardships and on the submitted development plan.

12C

Var. # 12-3-13

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 4624 Kelley Highway, Existing or Proposed

Zoning Classification C-5, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

<u>Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship</u>	

- | <u>FROM</u> | | <u>TO</u> | |
|--------------------|---|------------------|---|
| _____ | - | _____ | Front Yard Setback or Minimum Distance from Right-of-Way |
| _____ | - | _____ | Exterior Side Yard Setback |
| _____ | - | _____ | Interior Side Yard Setback |
| _____ | - | _____ | Rear Yard Setback |
| _____ | - | _____ | Maximum Height of Structure |
| _____ | - | _____ | Minimum Distance Between Structures on the Same Lot |
| _____ | - | _____ | Minimum Lot Area (Square Feet) |
| _____ | - | _____ | Minimum Lot Frontage |
| _____ | - | _____ | Maximum Size of a Sign |
| <u>10</u> | - | <u>5</u> | Other: <u>27-602-3-C, along north 47th Terrace and from 27-602-3(B) - requirement of one tree every 50 LF of R/W along Kelley Highway.</u> |

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this

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said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this _____ day of _____, 20____.

Signed:

TRAVIS BRISENDINE
Owner or Agent Name (please print)

Owner

452-1933
Owner or Agent Phone Number

or
T. Brind
Agent

PO Box 10064 FS, 72917
Owner or Agent Mailing Address

Variance # _____

12E

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
_____	_X_	Is this variance needed because of previous actions taken by yourself?
_____	_X_	Is this variance needed because of previous actions taken by a prior owner?
_____	_X_	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
X	_____	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
_____	_X_	Is the lot of an odd or unusual shape?
_____	_X_	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	_X_	Does the lot contain required easements other than those that might be located on its perimeter?
_____	_X_	Is any part of the lot in a flood plain or flood way?
_____	_X_	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	_X_	Is the lot developed with structures in violation of current zoning requirements?
X	_____	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

12F

Explanation of question #4 (if applicable)

The existing building and parking lot were constructed prior to the new UDO requirements being in place. Due to the office configurations and space requirements of the client the entrance will be moved to front 47th terrace instead of Kelley Highway. This configuration will not allow a full 10-landscape strip/parking lot screen to be constructed along 47th terrace. We do propose construct a full ten foot landscape strip along Kelley Highway.

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

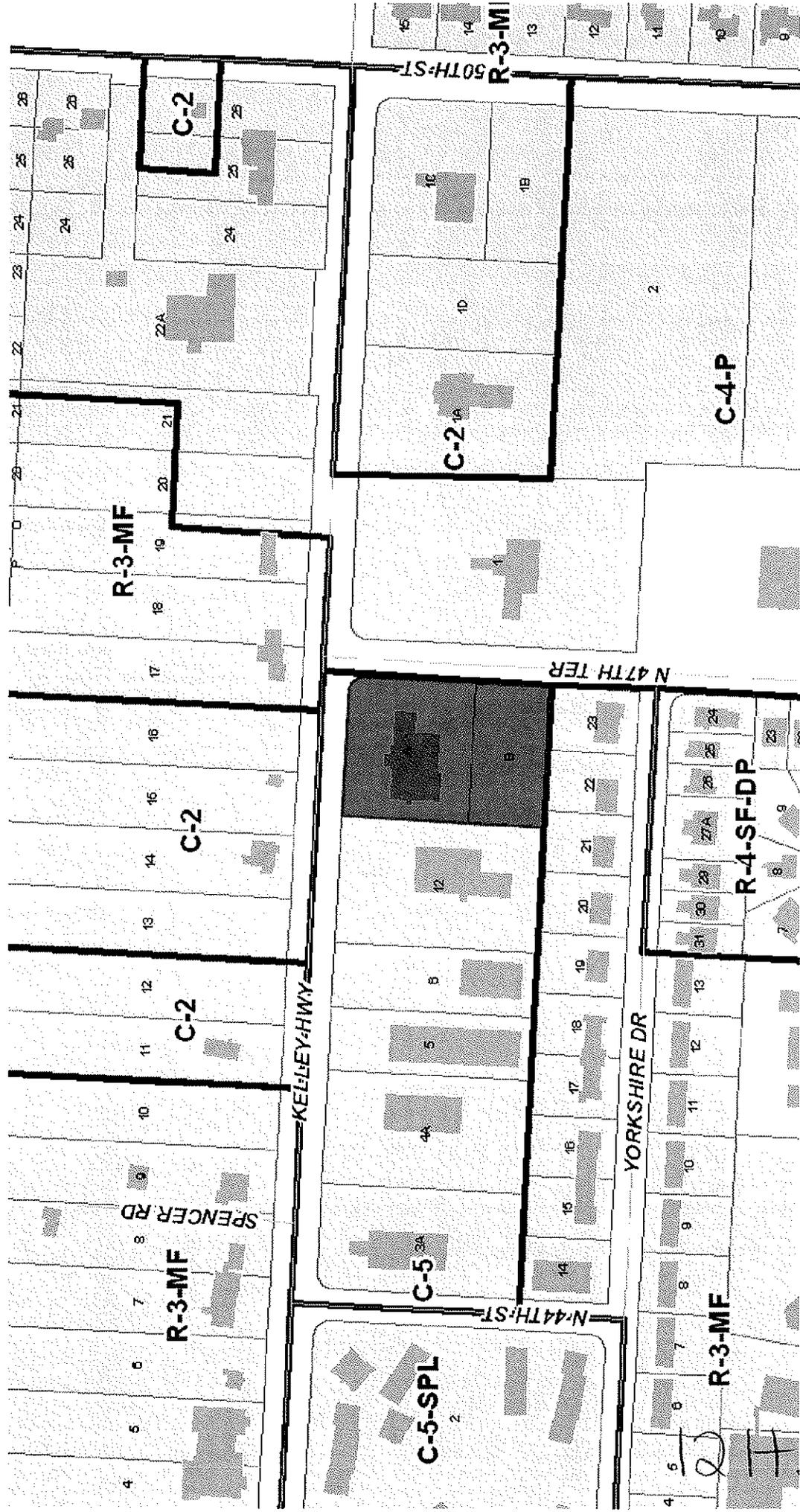
As previously mentioned, the office configurations and space requirements of the client dictate the layout currently shown. AOG has also stated they will not allow any trees to be constructed within its easements. As such without the requested variance the planned site use may not be possible on this site.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

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Variance #12-3-13: From 10' to 5' width of landscape at property line (27-602-3-C) along North 47th Terrace and from one tree every 50 linear feet of right of way along Kelley Highway (27-602-3-B)

4624 Kelley Highway





ARKANSAS OKLAHOMA GAS CORPORATION

CUSTOMER SERVICE
PHONE: 479-784-2000
FAX: 479-782-1881

OPERATIONS
5030 SOUTH "S" STREET
FORT SMITH, AR 72903
FAX: 479-452-7602

EXECUTIVE OFFICES
115 NORTH 12th STREET
P.O. BOX 2414
FORT SMITH, AR 72902
PHONE: 479-783-3181
FAX: 479-784-2095

February 26, 2013



Travis Brisendine, P.E.
Morrison-Shipley Engineers
PO Box 10064
Fort Smith, AR 72917

Dear Mr. Brisendine,

This letter is in response to your request to install landscaping over our high pressure gas line which is located within a 10 foot utility easement to accommodate development along Kelly Highway near 47th terrace in Fort Smith, AR. Due to the hazard associated with installation and maintenance of trees, AOG requests that any landscaping be limited to shrubs and ground cover.

If there are any questions, please contact me at (479)783-3181 x 2335 or sdavis@aogc.com.

Sincerely,

Sarah Davis, P.E.
Director of Engineering
Arkansas Oklahoma Gas
P.O. Box 2414
Fort Smith, AR 72902-2414