Mayor – Sandy Sanders

City Administrator – Carl Geffken

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith Lau
Ward 2 – Andre' Good
Ward 3 – Mike Lorenz
Ward 4 – George Catsavis
At Large Position 5 – Tracy Pennartz
At Large Position 6 – Kevin Settle
At Large Position 7 – Don Hutchings

AGENDA

Fort Smith Board of Directors
REGULAR MEETING
August 2, 2016 ~ 6:00 p.m.
Fort Smith Public Schools Service Center
3205 Jenny Lind Road

THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 214 AND ONLINE AT http://www.ustream.tv/channel/city-of-fort-smith-board-of-directors-meetings

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING
(Section 2-37 of Ordinance No. 24-10)

APPROVE MINUTES OF THE JULY 19, 2016 REGULAR MEETING

ITEMS OF BUSINESS:

1. Ordinance rezoning identified property and amending the zoning map *(from Transitional (T) to Residential Single Family Medium/High Density (RS-3) by classification located at 1216 Hendricks Boulevard; and, from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family Medium/High Density (RS-3) by classification located at 1216, 1220, 1314, 1402, 1404, 1414, 1510, 1514, 1516 and 1528 Hendricks Boulevard and 1531 South 37th Street; and, from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by extension located at 1411, 1415, 1503, 1507, 1509, 1532 Hendricks Boulevard and 3909, 3911 and 3915 South "N" Street and 1404, 1405, 1408, 1409, 1414, 1415, 1500, 1505, 1508, 1510, 1515, 1516, 1517, 1520, 1521, 1525, 1529, 1530, 1531 and 1532 South 40th Street and 1535 South 37th Street)* ♦

2. Ordinance rezoning identified property and amending the zoning map *(from Commercial Heavy (C-5) to Transitional (T) by extension located at 1208 & 1216 Mesa Drive)*

3. Ordinance rezoning identified property and amending the zoning map *(from Commercial Heavy (C-5) to Residential Single Family Medium Density (RS-2) by extension located at 5900 South 92nd Street)*

4. Consent Agenda

   A. Ordinance authorizing the appropriation of donated funds for Fire Department equipment purchases *($35,528.00 / Fire Department / Not Budgeted – Unobligated balance of the General Fund)*

   B. Resolution accepting Change Order No. 1 with Rodebush Construction, Inc. for construction of the press box and dugouts at Martin Luther King, Jr. Park *($350.00 / Parks Department / Budgeted – 1/8% Sales and Use Tax & Arkansas Department of Parks and Tourism Grant)*

   C. Resolution accepting completion of and authorizing final payment to Rodebush Construction, Inc. for construction of the press box and dugouts at Martin Luther King Jr. Park *($5,987.50 / Parks Department / Budgeted – 1/8% Sales and Use Tax & Arkansas Department of Parks & Tourism Grant)*

   D. Resolution naming the softball field at the Martin Luther King Jr. Park, *Grizzly Field* and the press box, *Lawrence Buzz Wood Press Box*

   E. Resolution authorizing the Mayor to execute a lease agreement with the Special School District of Fort Smith for the softball field at Martin Luther King, Jr. Park

   F. Resolution authorizing the acquisition of real property interests for the Lake Fort Smith 48-Inch Water Transmission Line, Project No. 08-07-P *($6,450.00 / Utility Department / Budgeted – 2012 & 2014 Sales and Use Tax)* ♦

OFFICIALS FORUM ~ presentation of information requiring no official action

(Section 2-36 of Ordinance No. 24-10)

- Mayor
- Directors
- City Administrator

ADJOURN

1.

ORDINANCE NO._____

AN ORDINANCE REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS:

SECTION 1: That the following properties to-wit:

From Transitional (T) to Residential Single Family Medium/High Density (RS-3) by Classification

South 25 feet, Lot 2, Block 2, Hendricks Hills #1 (1216 Hendricks Boulevard)

From Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family Medium/High Density (RS-3) by Classification

Lots 3-7, Block 2, Hendricks Hills #2; and Lots 1-13 and Lot 18, Block 3, Hendricks Hills #1 (1216, 1220, 1314, 1402, 1404, 1414, 1510,1514, 1516, 1528 Hendricks Boulevard and 1531 South 37th Street)

From Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by Extension

South 10 feet of Lot 3 and all of Lots 4, 5, 6, and Lots 10, 11, 12, Block 5, Hendricks Hills #3 (1411 & 1415 Hendricks Boulevard and 3909, 3911 and 3915 South "N" Street)

Lots 1 thru 4, Block 6, Hendricks Hills #3 (1503, 1507, 1509 Hendricks Boulevard)

Lots 1 thru 4 and the South 25 feet of Lot 5, Block 2, Hendricks Hills #3 (1404, 1408, & 1414 South 40th Street)

North 33.3 feet, Lot 2 and Lots 3-12, Block 3, Hendricks Hills #3 (1500, 1508, 1510, 1516, 1520, 1530, and 1532 South 40th Street)

North 30 feet of Lot 2 and Lot 3-17 and the south 10 feet of Lot 18, Block 4, Hendricks Hills #3 (1405, 1409, 1415, 1505, 1515, 1517, 1521, 1525, 1529, and 1531 South 40th

Street)

Lots 14-17, Block 3, Hendricks Hills #1 (1532 Hendricks Boulevard and 1535 South 37th Street)

Part of the West half of the West half of the Northeast Quarter of the Northeast Quarter of Section 22, Township 8 North, Range 32 West, Sebastian County, Fort Smith District, Arkansas, being more particularly described as follows:

Beginning at an existing post at the Southeast corner of the West half of the West half of the Northeast Quarter of the Northeast Quarter; thence North 89 degrees 59 minutes 42 seconds West, 330.49 feet; thence North 00 degrees 16 minutes 40 seconds West, 188.26 feet; thence East, 230.90 feet to an existing iron pin; thence North 00 degrees 04 minutes 10 seconds West; 75.00 feet to an existing iron pin; thence South 89 degrees 58 minutes 49 seconds East, 100.09 feet to an existing iron pin; thence South 00 degrees 06 minutes 34 seconds East; 263.26 feet to the point of beginning. Except public roads. (1523 Hendricks Boulevard)

AND

A part of the W ½ of the W ½ of the NE ¼ of the NE ¼ of Section 22, Township 8 North, Range 32 West, Sebastian County, Arkansas, as follows: Beginning at a point 263.26 feet North of the SW corner of said NE ¼ of the NE ¼; thence East, 330.9 feet, more or less, to the East line of said W ½ of the W ½ of the NE ¼ of the NE ¼; thence South 75 feet; thence West 330.9 feet to the West line of said NE ¼ of the NE ¼; thence North 75 feet to the point of beginning. Less and except the East l00 feet of the above described property. Less and except public roads, easements and rights of way. (1519 Hendricks Boulevard)

AND

Part of the West half of the West half of the Northeast Quarter of the Northeast Quarter of Section 22, Township 8 North, Range 32 West, Sebastian County, Arkansas, being more particularly described as follows: Commencing at the Southwest corner of the West half of the West half of the Northeast Quarter of the Northeast Quarter, said point being the centerline of Hendricks Boulevard; thence East along the South line of said West half, 25.00 feet to the East right of way line of Hendricks Boulevard; thence along said right-of-way line North, 263.26 feet to the point of beginning; thence continue North along said right of way line, 66.54 feet; thence leaving said right of way line South 89 degrees 48 minutes 15 seconds East, 225.30 feet; thence South 00 degrees 04 minutes 09 seconds East 66.14 feet; thence North 89 degrees 55 minutes 53 seconds West, 225.38 feet to the point of beginning. Except public roads. (1515 Hendricks Boulevard)

AND

Part of the Northeast Quarter of the Northeast Quarter, Section 22, Township 8 North, Range 32 West, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at a point marking the Southwest Corner of the Northeast Quarter of the Northeast Quarter; thence along the south line of said forty, North 89 degrees 34 minutes 05 seconds East, 25.00 feet to a point on the east right of way line of Hendricks Boulevard. Thence leaving said south line and along said east right of way line, North 00 degrees 25 minutes 55 seconds West, 329.80 feet to a ½ inch existing rebar and the Point

of Beginning. Thence continue along said east right of way line, North 00 degrees 25 minutes 55 seconds West, 64.87 feet to a ½ inch existing iron pin marking the Southwest Corner of Lot 4, Block 6, Hendricks Hills No. 3 (Revised). Thence leaving said east right of way line and along the south line of Lots 4 thru 6, Block 6, South 89 degrees 38 minutes 56 seconds East, 226.33 feet to a ½ inch set rebar with cap. Thence leaving said south line, South 00 degrees 28 minutes 50 seconds West, 64.26 feet to a ½ inch existing iron pin; thence North 89 degrees 48 minutes 15 seconds West, 225.30 feet to the point of beginning. Subject to all easements, covenants and restrictions. Subject to all previous reservations, exceptions and conveyances of oil, gas and other minerals. Subject to any oil and gas leases. (1511 Hendricks Boulevard)

AND

Lot 8 and the North 17.3 feet of Lot 7 in Block 3, in Hendricks Hills No. 3 Addition to the City of Fort Smith, Arkansas, according to the revised plat. Also, Part of the West Half of the West Half of the Northeast Quarter of the Northeast Quarter of Section 22, Township 8 North, Range 32 West, described as follows: Beginning at a point 394.65 feet North and 250.9 feet East of the Southwest Corner of said W/2 W/2 NE/4 NE/4; thence East 80 feet, more or less to the East line of said W/2 W/2 NE/4 NE/4; thence South 65 feet; thence West 80 feet, more or less; thence North 65 feet to the point of beginning. ALSO, part of the W/2 W/2 NE/4 NE/4, Section 22-8-32 as follows: Beginning at a point 263.26 feet North and 250.5 feet East of the SE corner of said W/2 W/2 NE/4 NE/4 thence North 66.64 feet; thence East 80.4 feet; thence South 66.64 feet; thence West 80.4 feet to the point of beginning. (Part of 1510 South 40th Street)

more commonly known as 1216-1404 Hendricks, 1411-1532 Hendricks, 1404-1532 South 40th Street, 1531 and 1535 South 37th Street and 3909, 3911 and 3915 South “N” Street, should be,

and is hereby rezoned from Residential Single Family Duplex Low/Medium Density (RSD-2) and Transitional (T) to Residential Single Family Medium/High Density (RS-3) by Classification and from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by Extension.

PASSED AND APPROVED THIS_____DAY OF_____, 2016.

APPROVED:

_____

Mayor

ATTEST:

_____

City Clerk

Approved as to form:

_____

Publish One Time

Memo

To: Carl Geffken, City Administrator

From: Wally Bailey, Director of Development Services

Date: July 28, 2016

Re: Rezoning #14-7-16 – Hendricks Hills

Subsequent to the Planning Commission approval of the neighborhood rezoning petition, a property was discovered that has a duplex constructed on the lot. The address and legal description of the duplex property is 1533-1535 South 40th Street; Lot 1 and south 20' Lot 2, Block 4, Hendricks Hills #3.

The applicant did not intend to include the existing duplex in their application. The owner of the duplex property had not signed the petition requesting the rezoning of the property. An email from the applicant is attached. A revised rezoning map is included to show the removal of this property.

The Ordinance that will be presented to the Board of Directors for their consideration includes the Planning Commission's recommendation with the property at 1533-1535 South 40th Street removed.

Please contact me if you have any questions.

Rice, Maggie

Subject: FW: 1533 and 1535 South 40th Street

From: Linsey Yates [mailto:leyates1@aol.com]
Sent: Friday, July 29, 2016 9:28 AM
To: Miller, Perry
Subject: Re: 1533 and 1535 South 40th Street

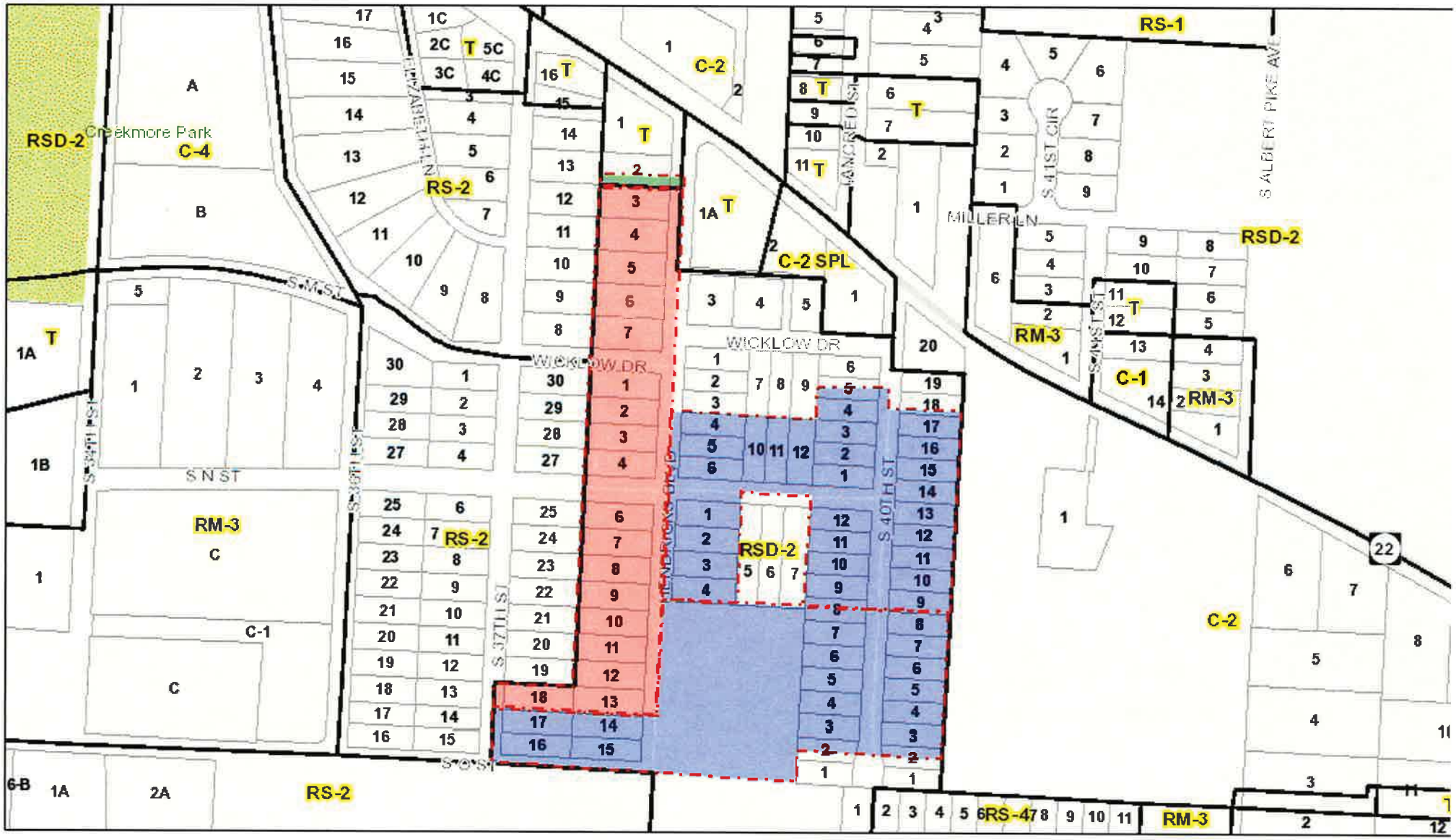
Tyler,

We are requesting that Board of Directors removed 1533/1535 South 40th Street from the rezoning. It was not our intent to include an existing duplex in the application. Please let me know if you have any questions. Thank you so much!

Linsey Yates

Sent from my iPhone

Revised Map Rezoning #14-7-16:from RSD-2 to RS-3 (red), from RSD-2 to RS-4(blue) & from T to RS-3 (Green)



July 29, 2016

Fort Smith City Limts

Parks

Zoning

Subdivisions

1:3,802

0 175 350 7

0 50 100 200

City of F
Copyright 2013, City

July 25, 2016

Honorable Mayor and Board of Directors
City of Fort Smith, Arkansas

Re: A request by Linsey Yates and Brian Means for Planning Commission consideration of a rezoning request from Residential Single Family Duplex Low/Medium Density (RSD-2) and Transitional (T) to Residential Single Family Medium/High Density (RS-3) by Classification and from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by Extension located at 1216-1404 Hendricks, 1411-1532 Hendricks, 1404-1533 South 40th Street, 1531 and 1535 South 37th Street and 3909, 3911 and 3915 South "N" Street.

On July 12, 2016, the City Planning Commission held a public hearing to consider the above request.

Ms. Maggie Rice read the staff report indicating that the purpose of this rezoning request is to eliminate the possibility of future duplexes in the subdivision by requesting a zoning district that allows single family residential only. The applicants wish to maintain a single family atmosphere for the neighborhood.

Ms. Rice noted that the neighborhood is requesting their zoning reflect how the area has developed. It was noted that there are 46 single family homes included in the proposed rezoning area and currently does not include any duplex or multifamily developments. Of the 46 properties, 35 people signed the authorization of agent forms allowing Ms. Yates and Mr. Means to submit the application on their behalf.

Ms. Linsey Yates and Brian Means were present to speak on behalf of this request.

Mr. Lindsey Cotner, 1415 South 36th Street, also spoke on behalf of this rezoning request.

Mr. Dennis Rupp expressed his concerns relative to whether any of his properties were included in this rezoning request. It was noted that none of Mr. Rupp's properties were included in the rezoning request and the rezoning does not include any existing duplexes or multi-family developments.

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

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

Respectfully Submitted,

CITY PLANNING COMMISSION

Marshall S. Sharpe

Marshall Sharpe
Chairman

MS/lp
cc: File
City Administrator

623 GARRISON AVENUE
P.O. BOX 1908
FORT SMITH, ARKANSAS 72902
(479) 784-2216
FAX (479) 784-2462

Printed on 100% Recycled Paper

Rezoning

Memo

To: City Planning Commission

From: Planning Staff

Date: June 28, 2016

Re: Rezoning #14-7-16 - A request by Linsey Yates/Brian Means, agents, for Planning Commission consideration of a rezoning request from Residential Single Family Duplex Low/Medium Density (RSD-2) and Transitional (T) to Residential Single Family High Density (RS-4) and Residential Single Family Medium/High Density (RS-3) by classification and extension at Block 3, Lots 1-18 and Block 2, Lots 3-7 Hendricks Hill Addition No. 1, Lots 1-4 Hendricks Hills No 3, Block 5 Lots 4-6 and 10-11, Block 2 lots 1-5.5 , Block 3 lots 2-12, and Block 4 1-17 Hendricks Hills. The zoning request location is 1535 South 37th Street; 1532, 1523, 1519, 1515, 1511, 1509, 1507, 1503, 1415 and 1411 Hendricks Boulevard; 3909, 3911, and 3915 South "N" Street and 1404, 1405, 1408, 1409, 1414, 1415, 1500, 1505, 1508, 1510, 1515, 1516, 1517, 1520, 1521, 1525, 1529, 1530, 1531, 1532 and 1533 South 40th Street. Requested by Linsey Yates and Brian Means.

PROPOSED ZONING

The purpose of the rezoning request is to eliminate the possibility of future duplexes in the subdivision by requesting a zoning district that allows single-family residential only. The applicants wish to maintain a single-family atmosphere for the neighborhood.

LOT LOCATION AND SIZE

The subject property is located on the east and west side of Hendricks Boulevard south of Rogers Avenue and North of South O Street, on the east and west sides of South 40th Street between wick low Drive and South O Street. Please refer to the attached maps. The tract contains an approximate area 16 acres with frontages along Hendricks Blvd, South O Street, South 40th Street, South N Street, and Wicklow Drive.

REQUESTED ZONING

The proposed zoning on this tract is Residential Single Family High Density (RS-4) and Residential Single Family Medium/High Density (RS-3).

3A

Characteristics of the (RS-4) zone are as follows:

Purpose:

To provide very dense single family detached housing as either new or infill development. The RS-4 zoning district is appropriate in higher density residential areas near the downtown, in mixed use/density areas, and as a transitional buffer zone between lower density residential development and multifamily or commercial uses. The RS-4 zoning district corresponds to the Residential Detached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

Permitted Uses:

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

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet
Maximum Density – 8.7 Dwelling Units/Acre
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 - 20 feet
Side Yard Setback – 5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet

Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 65%

Characteristics of the (RS-3) zone are as follows:

The requested zoning on this tract is Residential Single Family Medium/High Density (RS-3). Characteristics of this zone 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 as 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.

3B

Permitted Uses:

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

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet
Maximum Density – 6.7 Dwelling Units/Acre
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
Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 60%

EXISTING ZONING

The existing zoning on most of the tracts is Residential Single Family – Duplex Low/Medium Density (RSD-2). One small section on the north side of the rezoning is zoned Transitional (T) *Characteristics of the RSD-2 zone are as follows*:

Purpose:

To provide for attached and detached homes in low-to-medium density neighborhoods where adequate public services and facilities are available. The RSD-2 zoning district is appropriate in suburban areas and primarily applies to the Residential Attached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

Permitted Uses:

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

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

3C

Area and Bulk Regulations:

Minimum Lot Size – 10,500 square feet
Maximum Density – 4 Dwelling Units/Acre
Minimum Lot Width at Building Line – 75 feet
Minimum Street Frontage – 50 feet
Front Yard Setback - 30 feet
Side Yard on Street Side of Corner Lot - 30 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet
Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 50%

The existing zoning on the small portion of the north tract is Transitional (T). *Characteristics of the T 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
Maximum Lot Size – 40,000 square feet
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.
Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 65%

3D

SURROUNDING ZONING AND LAND USE

The area to the west is zoned Residential Single Family Medium Density (RS-2) and is developed as single family residences.

The area to the east is zoned Commercial Light (C-2) and is developed as a multifamily developed and light commercial businesses.

The areas to the north are zoned Residential Single Family – Duplex Low/Medium Density (RSD-2) and developed as duplexes, Commercial Light/Transitional and developed as light commercial offices.

The area to the south is zoned Residential Single Family – Duplex Low/Medium Density (RSD-2 and developed as single family residences. Some portion to the south are zoned (RS-4) and are developed as single family residences (Morningside Addition) which was a previous neighborhood rezoning.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Hendricks Boulevard as Residential Collector and all the other streets associated with the rezoning as Local Roads.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Residential Detached. This classification is to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values.

NEIGHBORHOOD MEETING

A neighborhood meeting was held Tuesday June 28, 2016 at 5:30 P.M., at the Fort Smith Public Library. Approximately 16 property owners attended the meeting. The meeting attendees were in support of the rezoning and a copy of the attendance record and meeting summary are enclosed.

STAFF COMMENTS AND RECOMMENDATIONS

This neighborhood is requesting their zoning reflect how the area has developed. There are 46 single family homes included in the proposed rezoning area. The proposed area does not include any duplex or multifamily developments. Of the 46 properties, 35 people signed the authorization of agent forms allowing Ms. Yates and Mr. Means to submit the application on their behalf.

Section 27-330-2 of the Unified Development Ordinances states the following regarding who can initiate a rezoning request: *An application for a conventional rezoning request may be initiated by the Board of Directors, Planning Commission, property owners(s) or the owner's agent, or upon application of any interested property within the area proposed to be rezoned.*

We have also provided a 1978 legal opinion by the city's attorney, Jerry Canfield regarding this matter. In this opinion, Mr. Canfield's opinion is that an "interested property owner" within the area proposed for a change may propose a change. In Mr. Canfield's opinion the interested

3E

property owner does not require actual ownership of the entire area. We have also enclosed an earlier legal opinion dated 1972 in which Mr. Canfield has the same opinion.

Based on the requested rezoning's compliance with the area's land use classification of Residential Detached and the fact that the neighborhood is comprised of single family housing, staff recommends approval of the request.

3F

File
City Opinions
Independent
Plan Com
Zoning
Petitions

August 8, 1978

Mr. Paul Parker
Director of Planning
City of Fort Smith
Stephens Building
623 Garrison Avenue
Fort Smith, Arkansas 72901

Re: Rezoning Petition

Dear Mr. Parker:

You have submitted to us a Petition for Change in Zoning Map which has been filed with your Department seeking rezoning from an R-3 Multi-Family classification to an R-3 Single-Family and Duplex classification of a substantial area in the Sutton Estates vicinity of Fort Smith. We have reviewed the Petition, and understand that the Petition is submitted to us for our opinion as to whether the owners of portions of the property petitioned for rezoning may include in their Petition other, adjacent areas in which they have no ownership interest.

It is our opinion that the Petition is not insufficient nor improper by reason of the above point of inquiry. We have not considered other possible defects in the Petition, we have not considered arguments of the vesting of rights in the current zoning of some or all of the property by reason of current expenditures in reliance on the current zoning and we have assumed that some of the petitioners own a fee interest in some of the area proposed for rezoning.

Our opinion is based upon the language of Section 4-1 of the Zoning Code of the City of Fort Smith, codified in Appendix A to the Fort Smith Code of Ordinances. It is our opinion that the question of "who may initiate a rezoning matter" is a matter for legislative determination. The legislative determination could first be made by the State Legislature which authorizes zoning procedures. We have reviewed the Zoning Acts of the General Assembly and find that the General Assembly provides no direction as to who may initiate rezoning matters. On the other hand, the local legislation, Section 4-1 of the Zoning Code, expressly provides in sub-section (b) as follows:

32-12

> A change in the zoning map or the zoning regulations may be proposed by the City Planning Commission either on its own initiative or on the application of any interested property owner within the area proposed for a change.

It is our interpretation of this language that an "interested property owner" within the area proposed for a change (which to us does not require actual ownership of the entire area) may propose a change. We have reviewed the case of City of Little Rock v. Goodman, 222 Ark. 350, 260 S.W.2d 450 (1953) (including dissenting opinion) and do not feel that the decision is particularly helpful on this point as the case primarily deals with the problem we are not discussing - that problem being the degree of ownership less than fee title which will entitle a person to petition for rezoning.

We have given consideration to an argument that it would violate the constitutional rights of the property owner for that owner's property to be subject to consideration for rezoning without his permission. Although we are not impressed with the argument we will gladly review any additional authorities on point. For our current purposes, we feel the existing ordinance should carry a strong presumption of constitutionality. We have reviewed authorities such as McQuillan on Municipal Corporation. See Sections 25.66 and 25.258. McQuillan supports the proposition that no property owner has a vested right under any zoning ordinance and that the existing zoning of property is not such a property right as to be protected from amendment. In fact, attempts to provide that property may not be rezoned without consent of the owner have been held improper as an unlawful delegation of the legislative authority of the City. In theory, the power to zone property is an exercise of the police power which may be exercised only by the legislative authority in a municipality. As such, that authority may not be delegated to the desires of the property owners involved. If zoning is to be viewed as a proposition which affects only an individual tract of property, then there is no common or public good involved so as to justify the initial authority to subject the property to legislative control. The logical consequence of such a theory is that the legislative body must retain ultimate control in such matters. The legislative body is entitled to a great amount of discretion in determining who may initiate an investigation into this subject matter. We have not given consideration to the question of whether the governing body could limit initiation of rezoning requests to the property owners and the Planning Commission.

Very truly yours,

Jerry Lee Canfield
blm

32-13

File
City
Opinions

December 19, 1972

Mr. Mike Walker
Assistant Director
Planning and Inspections
City of Fort Smith
Sebastian County Courthouse
Fort Smith, Arkansas 72901

RE: Persons having sufficient interest to request zoning changes

Dear Mike:

You have requested our opinion as to the meaning of the term "interested property owner" in Section 29-50(b) of the Code of Ordinances.

The first sentence of Sub-section b of Section 29-50 reads as follows:

> (b) A change in the zoning map of the zoning regulations may be proposed by the City Planning Commission either on its own initiative or upon the application of any interested property owner within the area proposed for a change.

In our opinion the above set forth provision requires of a person who makes application for a zoning change that such person have a legal interest in property which is within the area proposed for a zoning change. The term "interest" when used in relation to property is said to be the most general term that can be employed to denote a property in land. Black's Law Dictionary, page 950. Thus, any person having an estate, right and/or title in lands has an interest which would be sufficient to permit such person to request a re-zoning of such land. Merely being concerned about property requested to be re-zoned by reason of geographic closeness of other property in which one has an interest but which is not included within the area to be re-zoned is not sufficient interest to request such a change.

If you have a specific fact situation in which the question has been raised and the foregoing general statement does not answer your question, please advise.

Yours very truly,

Jerry Lee Canfield

Rezoning #14-7-16: from RSD-2 to RS-3 (red), from RSD-2 to RS-4 (blue) & from T to RS-3 (green)

June 23, 2016

1:3,570

0 165 330 660 ft

0 50 100 200 m

Fort Smith City Limts

Zoning

Subdivisions

Building Footprints

Parks

City of Fort Smith GIS
Copyright 2013, City of Fort Smith

Rezoning #14-7-16: from RSD-2 to RS-3 (red), from RSD-2 to RS-4 (blue) & from T to RS-3 (green)

June 23, 2016

Fort Smith City Limts

Parks

Zoning

Subdivisions

1:3,570

0 165 330 660 ft

0 50 100 200 m

City of Fort Smith GIS
Copyright 2013, City of Fort Smith

Miller, Perry

From: bpmeans@aol.com
Sent: Tuesday, June 28, 2016 8:49 PM
To: Miller, Perry; leyates1@aol.com
Subject: Zoning #14-7-16
Attachments: Zoning #14-7-16.pdf

Tyler,
Thanks again for showing up and answering the zoning questions..
Minutes and Sign in sheet attached..Let me know if I need to change anything up.

Thanks Linsey

Brian Means
By All Means Medical
479-883-1256

3G

Minutes for Neighborhood meeting concerning rezoning #14-7-16 from RSD2 to RS3/RS4 and T to RS3

Azalea Room Creekmore Park Community center

June 28, 2016 5:30 pm

Approximately 14-16 people were in attendance. A copy of the sign in sheet is attached.

Linsey Yates and Brian Means initiated Neighborhood Meeting explaining what the letters that were sent from them and the City of Ft Smith meant. Also reviewing the changes to the zoning.

A map of the area effected by the zoning changes was distributed and discussed with no questions or concerns being raised.

The issue of rezoning RSD2 to RS3/RS4 were raised and addressed

-The question of duplex vs garage apartment and the effect that rezoning would have on future building implications

-The actual definitions of RS3 and RS4 as determined by the City of Fort Smith Planning Department were explained.

All parties that were present understood what the changes meant and were in favor for the change in zoning from RSD2 to RS3/4.

3H

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location Azalea Room @ Creekmore

Meeting Time & Date June 28th 2016 @ 5-30

Meeting Purpose Rezoning

	NAME	ADDRESS	PHONE #
1.	JAMES CAMPBELL	1535 So. 37th	479-651-6536
2.	DENNIS RUPP	1601 HENDRICKS	6517465
3.	Paul W. Williams	1404 Hendricks	782-7120
4.	Becky Yates	8310 Rosewood	484 0074
5.	Ronnie Yates	" "	"
6.	MICHAEL FARRELL	1523 HENDRICKS BLVD	479-783-4838
7.	Christa Means	1525 S. 37th St	479-651-8764
8.	Stacey Grubb /Erin McCarroll	1519 Hendricks Blvd	414-2361
9.	Lindy Cowder	1415 So. 36th ST.	782-4112
10.	[illegible]	1508 S. 40th St.	479-783-0342
11.	Tyler Miller	City of Fort Smith	784-2241
12.	[illegible]	1523 Hendricks Blvd	783-4838
	[illegible] Shirley Cook	1409 South 40th	783-5846

3I

Rez#14-7-16

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 Accessor Information

2. Address of property: SEE Attached

3. The above described property is now zoned: RSD-2 & T

4. Application is hereby made to change the zoning classification of the above described property to RS-3 & RS-4 by Extension & By Classification (Extension or classification)

5. Why is the zoning change requested?

The majority of current Homeowners do not wish new duplex to be constructed due to drainage & parking, etc

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

Brad P Means

Owner or Agent Name (please print)

1516 Hendricks Blvd Fsm AR 72903

Owner or Agent Mailing Address

(479) 883-9370

Owner or Agent Phone Number

Signed:

Owner

or

Agent

3J

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Brian Moore/Linsey to act as our agent in the matter.
(Print Name of Agent) YATES

(Type or clearly print)

NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1. Kim + Don Brown	[signature]
2. ↳	[signature]
3. TARA Nicely	Tara Nicely
4. Brian Nicely	Brian Nicely
5. Landy Westphal	Landy Westphal
6. James D Campbell	JAMES CAMPBELL
7.	
8.	
9.	
10.	

This form is necessary only when the person representing this request does not own all property.

3K

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Linsey Yates / Brian Mann to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1. Linsey Yates	Linsey E Yates
2. MARIE-Tchniowski	Marie Tchniowski
3. Bennie B. Westphal	Bennie B. Westphal
4. BRYAN Dobbins	Bryan Dobbins
5. Ashley Hout	Ashley Hout
6. Lydia Dobbins	Lydia Dobbins
7. Justin E. Hout	[illegible]
8. John W. Mullins	[illegible]
9. Sonya Mullins	Sonya Mullins
10. John Cook	JOHN COOK

This form is necessary only when the person representing this request does not own all property.

3L

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Brian Means/Linsey Yates to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1. Shirley Cook	Shirley Cook
2. Phillip S. Core	Phillip S. Core
3. MARY CORE	Mary Core
4. MARTHA JEAN MASK	Martha Jean Mask
5. Carey Thompson	Carey Thompson
6. Grover R. Harper	Grover R. Harper
7. Janet D Harper	Janet D Harper
8. Angela Rains	Angela Rains
9. Sid + Leslie Martin	Leslie Martin Sid Martin
10. Caroline K. Whitby	Caroline K. Whitby

This form is necessary only when the person representing this request does not own all property.

3M

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Linsey Yates / Brian Means to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1. STACEY GRUBB	
2. Erin McCarroll	
3. GARRY PEERY	
4. Toby Ross	
5. Jennifer Ross	
6. Stephen Ware	
7. Julian E. Castro	
8. Clarissa McGrew	
9. Sam McGrew	
10.	

This form is necessary only when the person representing this request does not own all property.

3N

PROPERTY OWNERS WITHIN 300 FEET

Phillip & Tamara O'Dell
6108 Rye Hill Road East
Fort Smith, AR 72916

James Childers Living Trust
3905 Free Ferry
Fort Smith, AR 72903

Mark & Cristin Hall
3807 Wicklow Drive
Fort Smith, AR 72903

Chris Etter & Gary Don Lindsay
3905 Wicklow Drive
Fort Smith, AR 72903

Hendricks Hills Professional
3307 Old Greenwood Rd-Suite A
Fort Smith, AR 72903

King Realty Group Partners, LLC
3920 Rogers Avenue
Fort Smith, AR 72904

Geroge Dennis Rupp
1601 Hendricks Blvd.
Fort Smith, AR 72903

James & Sandra Jackson
4005 South "P" Street
Fort Smith, AR 72903

Carrie Vargas
4001 South "P" Street
Fort Smith, AR 72903

Robert & Sherry Raynor
1701 Hendricks Blvd.
Fort Smith, AR 72903

Eric Mackey
P. O. Box 5778
Fort Smith, AR 72913

Kelly Wingfield
3922 South "P" Street
Fort Smith, AR 72903

Jodie Haralson, Jr.
3918 South "P" Street
Fort Smith, AR 72903

Samuel & Britney Melton
3912 South "P" Street
Fort Smith, AR 72903

Salomon & Traci Martinez
3908 South "P" Street
Fort Smith, AR 72903

Steven & Erin Delassus
4004 South "P" Street
Fort Smith, AR 72903

Darren Schmidt & Suzanne White
3518 South "O" Street
Fort Smith, AR 72903

David & Brenda Patterson
3520 South "O" Street
Fort Smith, AR 72903

Bernard & Jonita Terbieten
3600 South "O" Street
Fort Smith, AR 72903

Dan Scivally
3610 South "O" Street
Fort Smith, AR 72903

Timothy & Donnetta Schale
P. O. Box 3174
Fort Smith, AR 72913

Fennell Family Trust
3624 South "O" Street
Fort Smith, AR 72903

Amanda Bulger
3710 South "O" Street
Fort Smith, AR 72903

Joe & Elizabeth Marchant
P. O. Box 2706
Fort Smith, AR 72913

Charlotte McGowan LLC
1600 Hendricks Blvd.
Fort Smith, AR 72903

Terry & Kathleen Bice
19059 N. 88th Avenue
Peoria, AZ 85382

Bernard Douglas Bice
1614 Hendricks Blvd.
Fort Smith, AR 72903

Phillip & Lora Ann Boyd
1509 South 37th Street
Fort Smith, AR 72903

Robert Charles Fenwick
1505 South 37th Street
Fort Smith, AR 72903

Marcy Porter
P. O. Box 2802
Fort Smith, AR 72913

Elliott & Robin Clegg
3410 South "M" Street
Fort Smith, AR 72903

Kenneth & Charlotte King
3406 South "M" Street
Fort Smith, AR 72903

CM Properties of Fort Smith LLC
6515 South Zero Street
Fort Smith, AR 72903

David & Lorraine Cravens
3507 South "O" Street
Fort Smith, AR 72903

WJC Holdings, LLC
3507 South "O" Street
Fort Smith, AR 72903

Stanley & Melissa Douglas
1412 South 37th Street
Fort Smith, AR 72903

Eldon & Betty Pence
1400 South 37th Street
Fort Smith, AR 72903

Norma Belle Sipe
1409 South 36th Street
Fort Smith, AR 72903

Cleve Cotner, Jr.
1415 South 36th Street
Fort Smith, AR 72903

Teresa Sparks
1415 South 37th Street
Fort Smith, AR 72903

Michael & Dortch Coleman
3700 Wycklow Drive
Fort Smith, AR 72903

Douglas & Linda Kaye George
#6 Old Greenwood Lane
Fort Smith, AR 72903

Click Family Trust
2023 Hendricks Blvd.
Fort Smith, AR 72903

Jim & Barbara Petrus
6905 South "Q" Street
Fort Smith, AR 72903

Joseph Landon
2300 Lakeshore Avenue
Los Angeles, CA 90039

Kevin & Elizabeth King
3701 Wicklow
Fort Smith, AR 72903

William & Lauren Pruitt
1303 South 37th Street
Fort Smith, AR 72903

Colby Beland & Courtney Davis
1217 South 37th Street
Fort Smith, AR 72903

WWA Company, Inc.
700 Lexington Avenue
Fort Smith, AR 72901

Larry & Roberta Willis
1537 South 36th Street
Fort Smith, AR 72903

Cheryl Cole
1530 South 37th Street
Fort Smith, AR 72903

Walter Burk
1521 South 36th Street
Fort Smith, AR 72903

Christopher Burton
1515 South 36th Street
Fort Smith, AR 72903

Brooxine Kidder Revocable Living Trust
1501 South 36th Street
Fort Smith, AR 72903

Winston & Lorena Jordan
1500 South 37th Street
Fort Smith, AR 72903

Mark & Brent Hall
401 Lexington Avenue
Fort Smith, AR 72901

Lester & Helen Barnes
1516 South 37th Street
Fort Smith, AR 72903

Charles & Sara Lane
1219 Elizabeth Lane
Fort Smith, AR 72903

William & Marianne Thompson
1236 Elizabeth Lane
Fort Smith, AR 72903

David & Alesha Moore
1317 South 40th Street
Fort Smith, AR 72903

ETC Properties, LLC
4000 Rogers Avenue
Fort Smith, AR 72903

Southland Management Group LLC
P. O. Box 180129
Fort Smith, AR 72918

Charles & Sara Lane
1219 Elizabeth Lane
Fort Smith, AR 72903

Rodney & Sally Naucke Revocable Trust
1225 Elizabeth Lane
Fort Smith, AR 72903

Louise Leamons
1204 South 37th Street
Fort Smith, AR 72903

Louise Leamons
1200 South 37th Street
Fort Smith, AR 72903

Steven & Carolyn Gross
1213 South 37th Street
Fort Smith, AR 72903

Professional Counseling Services
3706 Rogers Avenue
Fort Smith, AR 72903

Turn Key Properties, LLC
P. O. Box 11124
Fort Smith, AR 72917

Dr. Roger Bullington, PA
3000 Willow Cove
Fort Smith, AR 72903

Joel & Shirley Wallis Trust
1201 Elizabeth Lane
Fort Smith, AR 72903

Phillip & Beverly Martin
P. O. Box 1064
Fort Smith, AR 72902

Respess Family Living Trust
8000 Yorktown Road
Fort Smith, AR 72903

Evans Properties
1901 Atlanta
Fort Smith, AR 72901

Joyce Beshears
1535 South 40th Street
Fort Smith, AR 72903

John Roberts
1531 South 40th Street
Fort Smith, AR 72903

Donald & Kimberly Brown
1529 South 40th Street
Fort Smith, AR 72903

Sidney & Martha Martin
1525 South 40th Street
Fort Smith, AR 72903

Wayne & Meredith Burton
14 Riding Ridge
Elgin, SC 29045

Perry & Linda Mankin
1517 South 40th Street
Fort Smith, AR 72903

Carey Doss
1505 South 40th Street
Fort Smith, AR 72903

Snow Hendryx
1415 South 40th Street
Fort Smith, AR 72903

John & Shirley Cook
1409 South 40th Street
Fort Smith, AR 72903

Frank & Marilynne Knight
1405 South 40th Street
Fort Smith, AR 72903

Gary & Cynthia Peevy
1216 Hendricks Blvd.
Fort Smith, AR 72903

Michael & Sonya Coleman
3700 Free Ferry Road
Fort Smith, AR 72903

Keith & Laura Blythe
3921 Rogers Avenue
Fort Smith, AR 72903

Leigh Taylor Properties LLC
2604 Carrington Pointe
Fort Smith, AR 72903

Covenant Limited Partnership
5701 South Cliff Drive
Fort Smith, AR 72903

Brian & Christa Means
1525 South 37th Street
Fort Smith, AR 72903

William & Otlia Cole
P. O. Box 3803
Fort Smith, AR 72913

PROPERTY OWNERS INCLUDED IN REZONING

James & Shirley Campbell
1535 South 37th Street
Fort Smith, AR 72903

Sheila Barnes
1532 Hendricks Blvd.
Fort Smith, AR 72903

Angela Rains
1404 South 40th Street
Fort Smith, AR 72903

Frank & Marilynne Knight
1405 South 40th Street
Fort Smith, AR 72903

John & Shirley Cook
1409 South 40th Street
Fort Smith, AR 72903

Snow Hendryx
1415 South 40th Street
Fort Smith, AR 72903

Carey Doss
1505 South 40th Street
Fort Smith, AR 72903

Perry & Linda Mankins
1517 South 40th Street
Fort Smith, AR 72903

Wayne & Meredith Burton
14 Riding Ridge
Elgin, SC 29045

Sidney & Martha Martin
1525 South 40th Street
Fort Smith, AR 72903

Donald & Kimberly Brown
1529 South 40th Street
Fort Smith, AR 72903

John Roberts
1531 South 40th Street
Fort Smith, AR 72903

Joyce Beshears
1535 South 40th Street
Fort Smith, AR 72903

Ronald & Edna Ware
c/o Karen Hobbs
P. O. Box 3132
Fort Smith, AR 72913

Stephen Ware
1530 South 40th Street
Fort Smith, AR 72903

Brian Nicely
3915 South "N" Street
Fort Smith, AR 72903

Julian Castro
3911 South "N" Street
Fort Smith, AR 72903

James Byers
1415 Hendricks Blvd.
Fort Smith, AR 72903

Charles & Gaylon Jepson
20610 Hwy. 71 S.
Greenwood, AR 72936

David & Dian Brisco Burns
1503 Hendricks Blvd.
Fort Smith, AR 72903

Joseph & Elizabeth Weisenfels
1507 Hendricks Blvd.
Fort Smith, AR 72903

John Post Living Trust
1509 Hendricks Blvd.
Fort Smith, AR 72903

Ana Altes
8600 Moody Road
Fort Smith, AR 72903

Gerald & Stephanie Hyman
1515 Hendricks Blvd.
Fort Smith, AR 72903

Stacey Grubb
1519 Hendricks Blvd.
Fort Smith, AR 72903

Michael & Laura Farrell
1523 Hendricks Blvd.
Fort Smith, AR 72903

Orville & Virginia Williams
300 Meadows
Pocola, OK 74902

Ronald Whitby
1520 South 40th Street
Fort Smith, AR 72903

Grover & Janet Harper
1508 South 40th Street
Fort Smith, AR 72903

Harver & Martha Mask
1500 South 40th Street
Fort Smith, AR 72903

Phillip & Mary Elizabeth Core
9519 Painter Drive
Fort Smith, AR 72903

Malinda Startzman
1408 South 40th Street
Fort Smith, AR 72903

Perry & Linda Mankin
1 Corelogic Drive DFW 4-3
Westlake, TX 76264

James & Jill Byers
4714 South 30th Street
Fort Smith, AR 72903

DRAFT

Ms. Brenda Andrews read the staff report indicating that the purpose of this variance request is to allow three (3) subdivision entry signs with sign areas of 32 square feet each for the Stonewood at Chaffee Crossing Subdivision that have already been installed to remain.

Ms. Andrews noted that a neighborhood meeting was held on Tuesday, July 5, 2016, at 7226 Stonebrook Drive with no adjacent property owners in attendance. Ms. Andrews also noted that staff is recommending approval subject to variance approval of the sign sizes by the Chaffee Crossing Design Review Committee.

Chairman Sharpe then called for the vote on the variance request. The vote was 7 in favor and 0 opposed to approve the variance subject to approval from the Chaffee Crossing Design Review Committee.

RECESS BOARD OF ZONING ADJUSTMENT
RECONVENE PLANNING COMMISSION

3. **Rezoning #14-7-16; A request by Linsey Yates and Brian Means for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) and Transitional (T) to Residential Single Family Medium/High Density (RS-3) by Classification located at 1216, 1220, 1314, 1402, 1404, 1414, 1510, 1514, 1516 and 1528 Hendricks Boulevard and 1531 South 37th Street and a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by Extension located at 1535 South 37th Street; 1532, 1523, 1519, 1515, 1511, 1509, 1507, 1503, 1415 and 1411 Hendricks Boulevard; 3909, 3911 and 3915 South "N" Street and 1404, 1405, 1408, 1409, 1414, 1415, 1500, 1505, 1508, 1510, 1515, 1516, 1517, 1520, 1521, 1525, 1529, 1530, 1531, 1532 and 1533 South 40th Street.**

   Ms. Maggie Rice read the staff report indicating that the purpose of this rezoning request is to eliminate the possibility of future duplexes in the subdivision by requesting a zoning district that allows single family residential only. The applicants wish to maintain a single family atmosphere for the neighborhood.

   Ms. Rice noted that the neighborhood is requesting their zoning reflect how the area has developed. It was noted that there are 46 single family homes included in the proposed rezoning area and currently does not include any duplex or multifamily developments. Of the 46 properties, 35 people signed the authorization of agent forms allowing Ms. Yates and Mr. Means to submit the application on their behalf.

   Ms. Linsey Yates and Brian Means were present on behalf of this request.

Mr. Lindsey Cotner, 1415 South 36th Street, spoke on behalf of this rezoning request.

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

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

4. **Rezoning #15-7-16; A request by J.D. Sagely, agent for John D. Sagely, Jr., Judy R. Sagely and Williams & Nancy Edwards, for a zone change from Commercial Heavy (C-5) to Transitional (T) by Extension located at 1208 & 1216 Mesa Drive.**

Ms. Maggie Rice read the staff report indicating that the purpose of this rezoning request is to allow for the sale of these properties and the development of a duplex on each lot.

Ms. Rice noted that a neighborhood meeting was held on Monday, June 27, 2016, at 4611 Rogers Avenue with no neighboring property owners in attendance.

Mr. J. D. Sagely was present on behalf of this rezoning request.

No one was present in opposition to this request.

Chairman Sharpe then called for a vote on the rezoning request. The vote was 7 in favor and 0 opposed.

6. **Conditional Use #12-7-16; A request by Wesley Hooks, agent for University of Arkansas-Fort Smith, for a day care home with one (1) employee located at 442 North 49th Street.**

Ms. Maggie Rice read the staff report indicating that the purpose of the conditional use request is to allow the operation of a daycare home for twelve children from 6:00 a.m. to 6:00 p.m., Monday through Friday. Ms. Rice noted that they are proposing one employee who will park in the existing driveway. Pick-up and drop-off will occur in the driveway and the play area for the children in the existing fenced backyard.

Mr. Wesley Hooks was present on behalf of the conditional use request.

No one was present in opposition to this request.

Chairman Sharpe called for the vote on the conditional use request. The vote was 7 in favor and 0 opposed. The conditional use was approved subject to compliance with Section 27-706 of the Unified Development Ordinance.

RECESS PLANNING COMMISSION
RECONVENE BOARD OF ZONING ADJUSTMENT

2.

ORDINANCE NO._____

AN ORDINANCE REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP

WHEREAS, the City Planning Commission has heretofore held a public hearing upon request No.15-7-16 to rezone certain properties hereinafter described, and, having considered said request, recommended on July 12, 2016, that said change be made;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS:

SECTION 1: That the following properties to-wit:

Lots 2 & 3, South Haven No. 2 Annex, an addition to the City of Fort Smith, Arkansas more commonly known as 1208 & 1216 Mesa Drive, should be, and is hereby rezoned from Commercial Heavy (C-5) to Transitional (T) by Extension.

The zoning map of the City of Fort Smith is hereby amended to reflect said rezoning.

PASSED AND APPROVED THIS_____DAY OF_____, 2016.

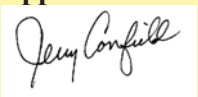
ATTEST:

_____
City Clerk

APPROVED:

_____
Mayor

Approved as to form



_____
Publish One Time

The City of Fort Smith ARKANSAS

July 25, 2016

Honorable Mayor and Board of Directors
City of Fort Smith, Arkansas

Re: A request by J. D. Sagely for Planning Commission consideration of a rezoning request from Commercial Heavy (C-5) to Transitional (T) by Extension located at 1208 & 1216 Mesa Drive.

On July 12, 2016, the City Planning Commission held a public hearing to consider the above request.

Ms. Maggie Rice read the staff report indicating that the purpose of this rezoning request is to allow for the sale of these properties and the development of a duplex on each lot.

Ms. Rice noted that a neighborhood meeting was held on Monday, June 27, 2016, at 4611 Rogers Avenue with no neighboring property owners in attendance.

Mr. J. D. Sagely was present to speak on behalf of this request.

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

Chairman Sharpe then called for the vote on the rezoning request. The vote was 6 in favor, 0 opposed and 1 abstention (Cooper).

Respectfully Submitted,

CITY PLANNING COMMISSION

Marshall L. Sharpe

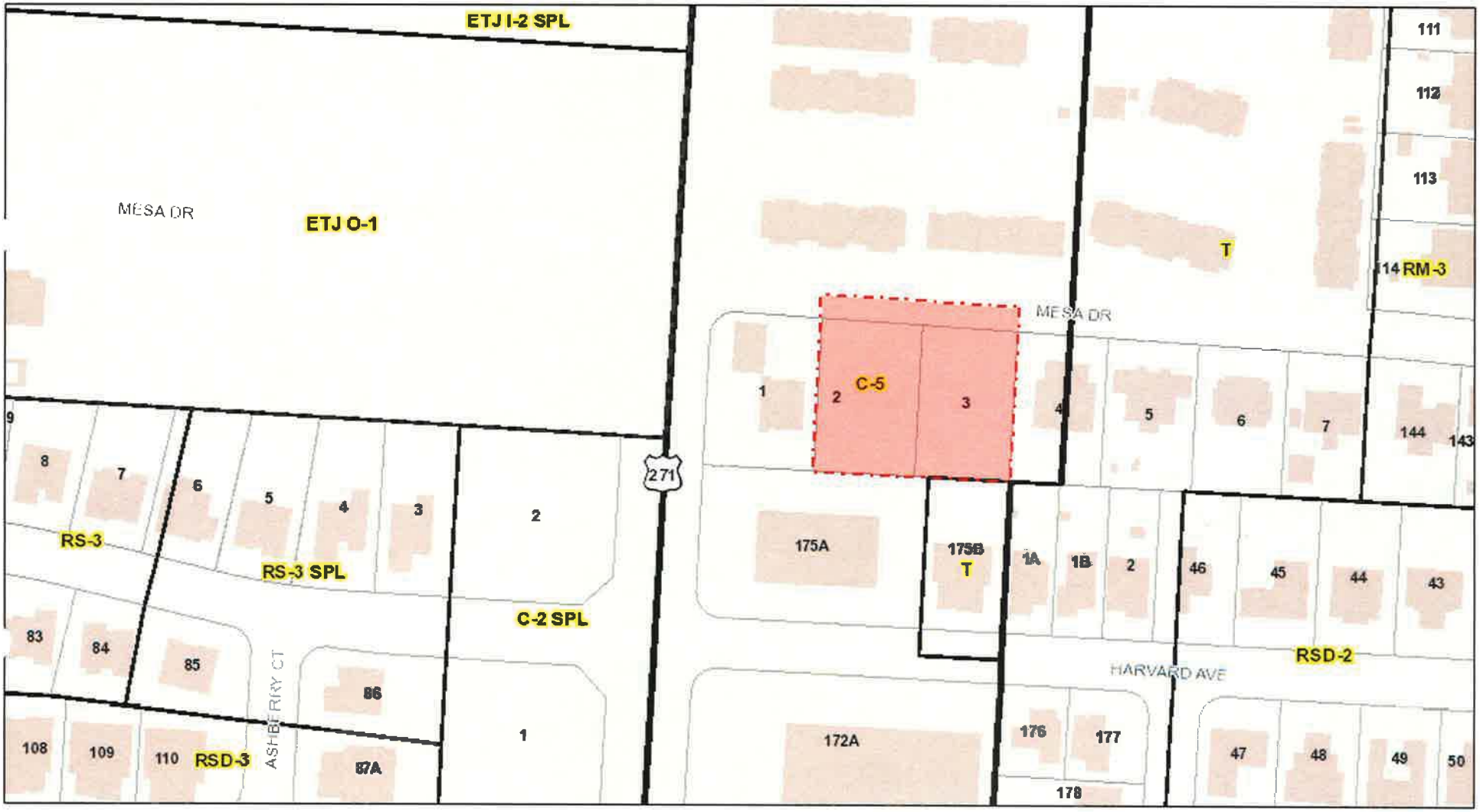
Marshall Sharpe
Chairman

MS/lp

cc: File
City Administrator

623 GARRISON AVENUE
P.O. BOX 1908
FORT SMITH, ARKANSAS 72902
(479) 784-2216
FAX (479) 784-2462

Rezoning #15-7-16: From Commercial Heavy (C-5) to Transitional (T)
1208 & 1216 Mesa Drive



June 21, 2016

1:1,599

0 75 150 300 ft

0 20 40 80 m

Fort Smith City Limts

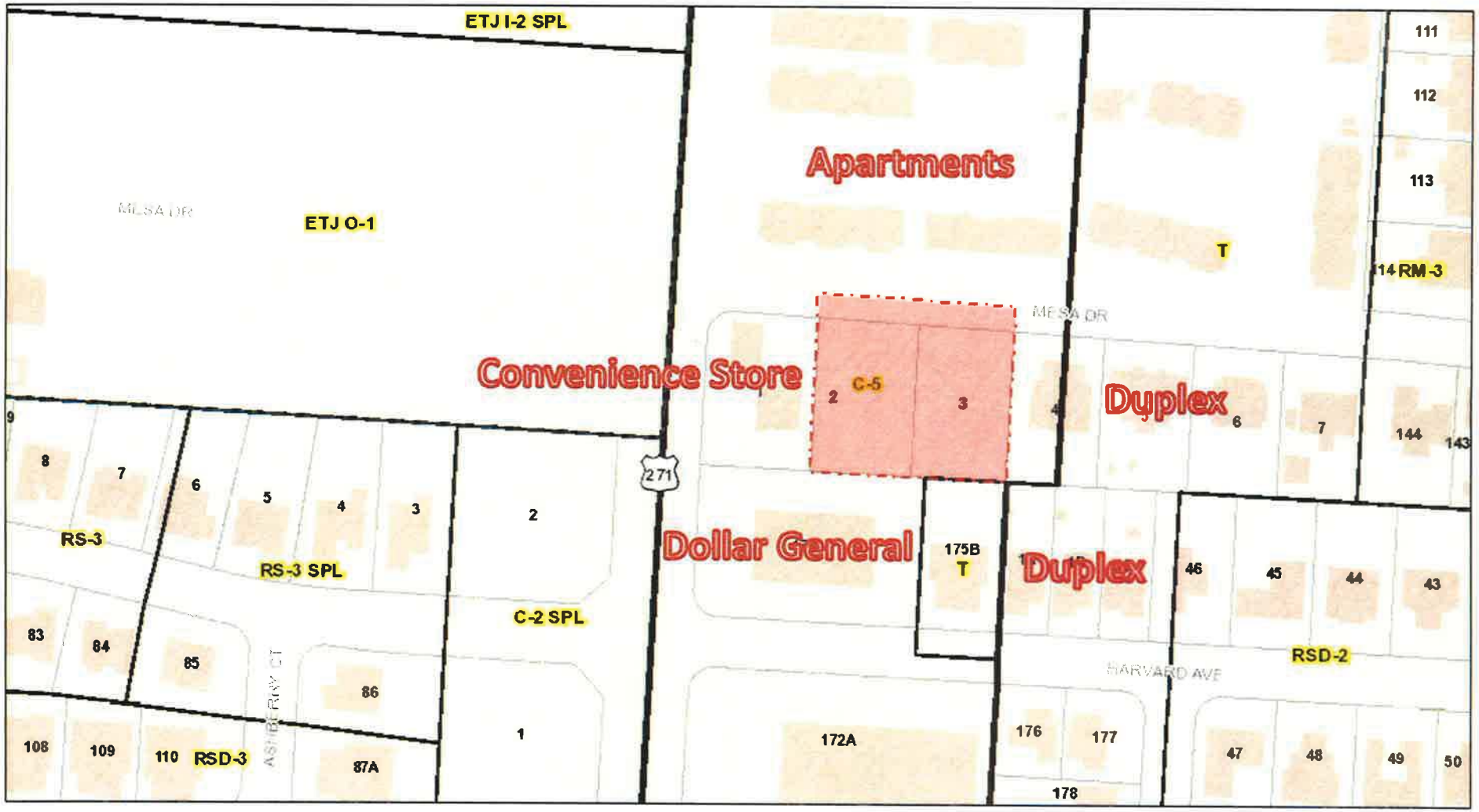
Building Footprints

Zoning

Subdivisions

City of Fort Smith GIS
Copyright 2013, City of Fort Smith

Rezoning #15-7-16: From Commercial Heavy (C-5) to Transitional (T)
1208 & 1216 Mesa Drive



Rezoning

Memo

To: City Planning Commission

From: Planning Staff

Date: June 27, 2016

Re: Rezoning #15-7-16 - A request by J.D. Sagely, owner, for Planning Commission consideration of a zone request from Commercial Heavy (C-5) to Transitional (T) by extension at 1208 & 1216 Mesa Drive

PROPOSED ZONING

The approval of this rezoning will allow for the sale of these properties and the development of a duplex on each lot.

LOT LOCATION AND SIZE

The subject property is on the south side of Mesa Drive just east of US Highway 271. The tract contains an area of 0.67 acres with approximately 194 feet of street frontage along Mesa Drive.

REQUESTED ZONING

The requested 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,

4A

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
Maximum Lot Size – 40,000 square feet
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.

Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 65%

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, 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

4B

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

The area to the east is zoned Commercial Heavy (C-5) and is developed as a duplex.

The area to the south is zoned Commercial Heavy (C-5) and Transitional (T) and is developed as a retail business and a duplex.

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

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Mesa Drive as a Local Road.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as General Commercial and Residential Attached. This classification is to provide opportunities for business transactions and activities, and meet the consumer needs of the community and to provide for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values.

NEIGHBORHOOD MEETING

A neighborhood meeting was held Monday, June 27, 2016 at 4611 Rogers Avenue.

There were no neighboring property owners in attendance.

STAFF COMMENTS AND RECOMMENDATIONS

Staff recommends approval of the application.

4C

Rez. #15-7-16

Petition For Change in Zoning Map

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

The undersigned, as owners(s) or agent for the owners(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:

   Lots 2 & 3, South Haven No. 2 Annex, an addition to the City of Fort Smith, arkansas

2. Address of properties: 1208 & **1216 Mesa Drive.**

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

4. Application is hereby made to change the zoning classification of the above described property to **T-1, Transitional.**

5. Why is the zoning change requested? To allow for the construction of duplexs. This is in conformity with the neighborhood.

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

William H. Edwards

Owner (Print)

Nancy S. Edwards

Owner (Print)

1908 Massard Road

Fort Smith, AR 72903

Owner Mailing Address

479-452-3217
Owner PhoneNumber

(Signed)
William H Edwards
Nancy S. Edwards

John D. Sagely, Jr.

Owner (Print)

Judy R. Sagely

Owner (Print)

1102 Wofford Lake Road

Fort Smith, AR 72916

Owner Mailing Address

479-650-2751
Owner Phone Number

(Signed)
John D. Sagely, Jr.
Judy R. Sagely

4D

Byra Porter
P. O. Box 146
Hackett, AR 72937

William & Nancy Edwards
1102 Wofford Lake Road
Fort Smith, AR 72916

John & Wanda Smith
5710 Duncan Road
Fort Smith, AR 72903

Paula Riggs
1218 Mesa Drive
Fort Smith, AR 72908

The Edge, LLC
3601 Duncan Road
Fort Smith, AR 72903

Sarah & Louis Patrick McKinney
1214-1216 Mesa Drive
Fort Smith, AR 72903

Southbrook Properties of Fort Smith
c/o Trinity Properties
P. O. Box 11655
Fort Smith, AR 72917

Newell Properties, LLC
10027 Carmen Vincent Court
Fort Smith, AR 72908

David Leon Skaggs
1435 North 41st Street
Fort Smith, AR 72904

Yell Properties, LLC
14397 N. State Highway 28
Dardanelle, AR 72934

Kristi Cate
1301 Harvard Avenue
Fort Smith, AR 72908

Commerce Park Properties, LLC
P. O. Box 180185
Fort Smith, AR 72918

Lorna Wood
8504 Southridge Drive
Fort Smith, AR 72908

Port City Properties, LLC
21 South 5th Street
Van Buren, AR 72956

Larry Betnar
1212 Harvard Avenue
Fort Smith, AR 72908

Chaco Land Company, LLC
2120 South Waldron
Fort Smith, AR 72903

Wayman & Melita Barnes
8613 Harvard Drive
Fort Smith, AR 72908

James Thompson
1205 Harvard Avenue
Fort Smith, AR 72908

Quyen Pham & Dang Chung
511 Harvard Avenue
Fort Smith, AR 72908

James & Verdale King
1217 Harvard Avenue
Fort Smith, AR 72908

Carrington Creek Holdings, LLC
P. O. Box 10176
Fort Smith, AR 72917

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

4. **Rezoning #15-7-16; A request by J.D. Sagely, agent for John D. Sagely, Jr., Judy R. Sagely and Williams & Nancy Edwards, for a zone change from Commercial Heavy (C-5) to Transitional (T) by Extension located at 1208 & 1216 Mesa Drive.**

   Ms. Maggie Rice read the staff report indicating that the purpose of this rezoning request is to allow for the sale of these properties and the development of a duplex on each lot.

   Ms. Rice noted that a neighborhood meeting was held on Monday, June 27, 2016, at 4611 Rogers Avenue with no neighboring property owners in attendance.

   Mr. J. D. Sagely was present on behalf of this rezoning request.

   No one was present in opposition to this request.

   Chairman Sharpe then called for a vote on the rezoning request. The vote was 7 in favor and 0 opposed.

6. **Conditional Use #12-7-16; A request by Wesley Hooks, agent for University of Arkansas-Fort Smith, for a day care home with one (1) employee located at 442 North 49th Street.**

   Ms. Maggie Rice read the staff report indicating that the purpose of the conditional use request is to allow the operation of a daycare home for twelve children from 6:00 a.m. to 6:00 p.m., Monday through Friday. Ms. Rice noted that they are proposing one employee who will park in the existing driveway. Pick-up and drop-off will occur in the driveway and the play area for the children in the existing fenced backyard.

   Mr. Wesley Hooks was present on behalf of the conditional use request.

   No one was present in opposition to this request.

   Chairman Sharpe called for the vote on the conditional use request. The vote was 7 in favor and 0 opposed. The conditional use was approved subject to compliance with Section 27-706 of the Unified Development Ordinance.

RECESS PLANNING COMMISSION
RECONVENE BOARD OF ZONING ADJUSTMENT

3.

ORDINANCE NO._____

AN ORDINANCE REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP

WHEREAS, the City Planning Commission has heretofore held a public hearing upon request No.16-7-16 to rezone certain properties hereinafter described, and, having considered said request, recommended on July 12, 2016, that said change be made;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS:

SECTION 1: That the following properties to-wit:

Lot 1B, Big "D" Addition

more commonly known as 5900 South 92nd Street, should be, and is hereby rezoned from Commercial Heavy (C-5) to Residential Single Family Medium Density (RS-2) by Extension.

The zoning map of the City of Fort Smith is hereby amended to reflect said rezoning.

PASSED AND APPROVED THIS_____DAY OF_____, 2016.

ATTEST:

_____
City Clerk

APPROVED:

_____
Mayor

Approved as to form

_____
Publish One Time

The City of Fort Smith
ARKANSAS

July 25, 2016

Honorable Mayor and Board of Directors
City of Fort Smith, Arkansas

Re: A request by Joshua Carson, agent for Sam Glen Properties, for Planning Commission consideration of a rezoning request from Commercial Heavy (C-5) to Residential Single Family Medium Density (RS-2) by Extension located at 5900 South 92nd Street.

On July 12, 2016, the City Planning Commission held a public hearing to consider the above request.

Ms. Brenda Andrews read the staff report indicating that the purpose of this rezoning request is to allow the property owner to convert the existing building and property into a residential single family dwelling unit.

Ms. Andrews noted that a neighborhood meeting was held on Wednesday, June 15, 2016, at 5:30 p.m. at the site with five (5) neighboring property owners in attendance but voiced no objections.

Mr. Joshua Carson was present to speak on behalf of this request.

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

Chairman Sharpe then called for the vote on the rezoning request. The vote was 7 in favor and 0 Opposed and 1 abstention (Carson).

Respectfully Submitted,

CITY PLANNING COMMISSION

Marshall L. Sharpe

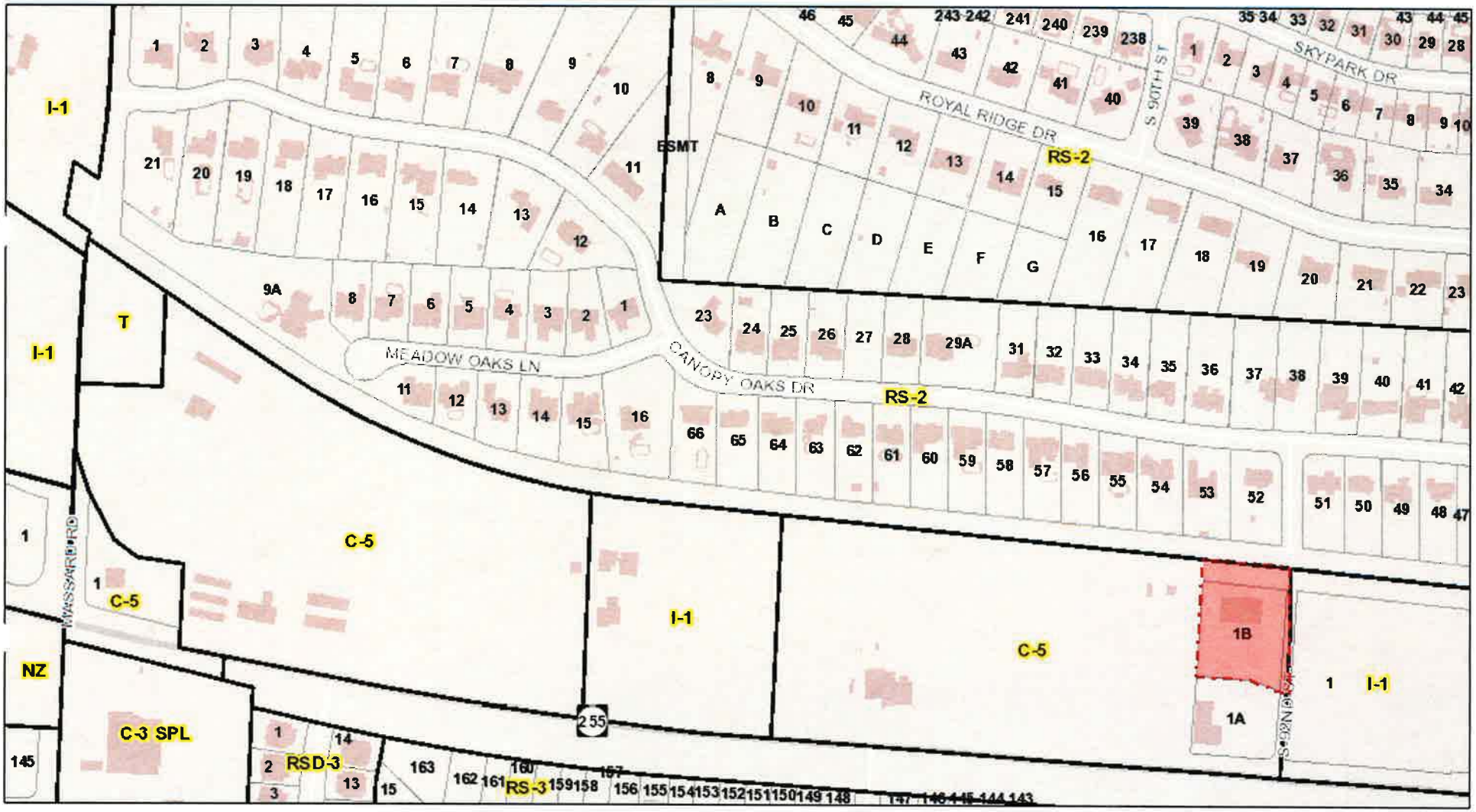
Marshall Sharpe
Chairman

MS/lp

cc: File
City Administrator

623 GARRISON AVENUE
P.O. BOX 1908
FORT SMITH, ARKANSAS 72902
(479) 784-2216
FAX (479) 784-2462

Rezoning #16-7-16: From Commercial Heavy (C-5) to Residential Single Family Medium Density (RS-2)
5900 South 92nd Street



July 8, 2016

Fort Smith City Limts

Zoning

Subdivisions

Building Footprints

Parks

1:3,802

0 175 350 700 ft

0 50 100 200 m

City of Fort Smith GIS
Copyright 2013, City of Fort Smith

5F

July 8, 2016

Fort Smith City Limts

Parks

Zoning

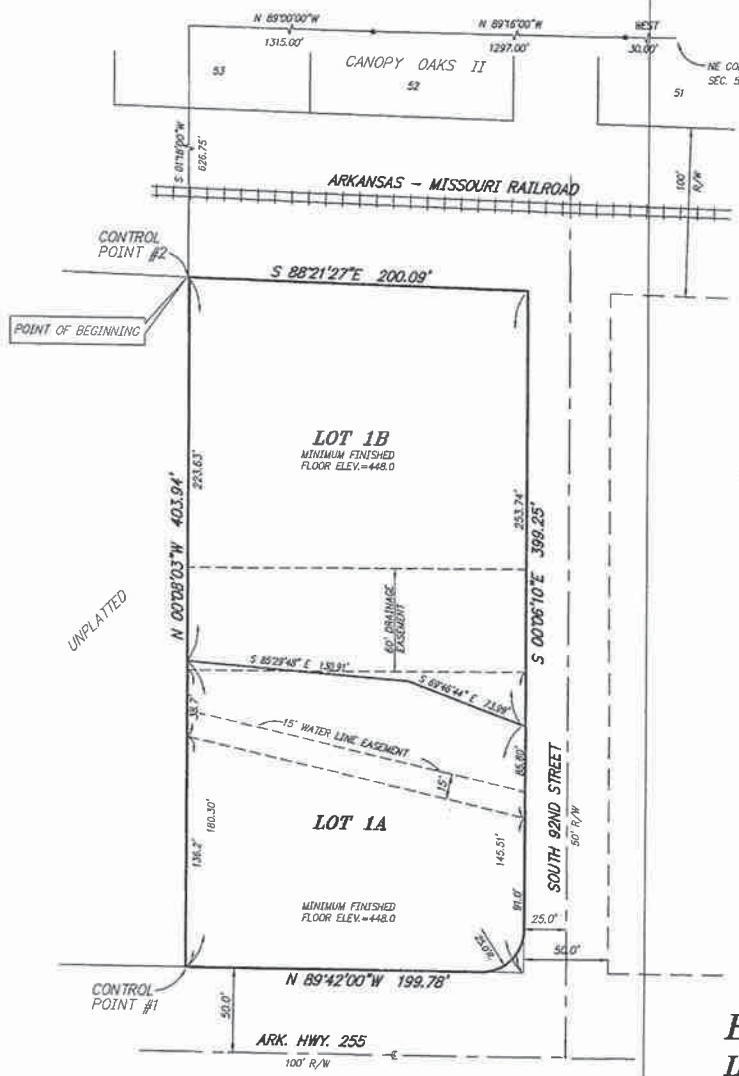
Subdivisions

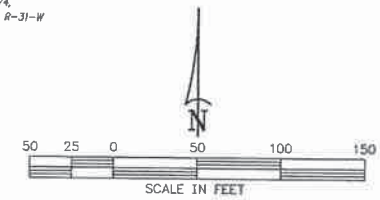
1:951

0 40 80 160 ft

0 12.5 25 50 m

City of Fort Smith GIS
Copyright 2013, City of Fort Smith





Notes:

1. Bearing system assumed, east line assumed S 00°06'10"E, based on previous plat of Lot 1, Big "D" Addition.
2. Property corners are 5/8"x18" steel rebars set with yellow plastic cap stamped "RLS 905".
3. Public sanitary sewer is not available to Lots 1A and 1B. Development of these lots will require Arkansas Health Department approval and permitting for a private sanitary sewer system until such time as a public sanitary sewer system is available to these lots.

Property Description

Lot 1 of Big "D" Addition (filed February 28, 1997) to the City of Fort Smith, Sebastian County, Arkansas.

BIG "D" ADDITION
Lots 1A & 1B

BEING A REPLAT OF LOT 1, BIG "D" ADDITION AS FILED FEBRUARY 28, 1997, TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

DATE: DECEMBER, 2006 SCALE: 1"= 50'

Geo-referenced to the City of Fort Smith's Control System		
Control Point	Northing	Easting
1	368530.66	616600.94
2	368933.66	616626.81

City of Fort Smith
Planning Department
Big "D" Addition, Lots 1A & 1B
Code #: 4106-201-0101

HAWKINS-WEIR ENGINEERS, INC.
Engineers • Surveyors • Consultants
110 South 7th Street
P.O. Box 648
Van Buren, AR 72957-0648
(479) 474-1227
FAX (479) 474-8531
www.hawkins-weir.com

PLANNING COMMISSION APPROVAL:

for Chairman — Date December 14, 2006
Secretary Mary Lou Pointon

FILED FOR RECORD

This 14 day of Dec, 2006 at 4:15 o'clock P.M.
DORIS TATE
Clerk and Ex-Officio Recorder
By: Nitz Lutkaker

ALLOTTER:

Elizabeth A. Dooley
5900 So. 92nd Street
Fort Smith, AR.

Elizabeth A. Dooley

STATE OF ARKANSAS
COUNTY OF Crawford

Sworn and subscribed before me this day December 14, 2006

Notary Public Janette E. Hutton

My commission expires March 31, 2013

JANETTE E. HUTTON
Crawford County
My Commission Expires
March 31, 2013

The right-of-way as shown on this plat is hereby dedicated to the City of Fort Smith ("City") for public use. The easements shown on this plat are hereby dedicated to the City for utility, drainage, access and other purposes. Any easement designated as a "utility easement" is dedicated to the City for the installation, operation, and maintenance of City owned utilities and utilities, including cable TV, operated by utility companies having a franchise agreement with the City. The City and City franchised utility companies shall have access through and along designated easements for their personnel and equipment at all times with the authority to cut down and keep trimmed from the dedicated easements trees, hedges, and shrubs that may interfere with or endanger such utilities. In the event that fencing of individual lots is desired, gates that provide free ingress and egress to, and within, the dedicated easement shall be provided.

CERTIFICATE OF AUTHORIZATION
HAWKINS-WEIR ENGINEERS, INC.
No. 101
ARKANSAS ENGINEER

REGISTERED PROFESSIONAL ENGINEER
STATE OF ARKANSAS
No. 9[illegible]

FILED
DEC 14 2006
DORIS TATE
County Clerk & Recorder
By

P1773b
JOB NO. 06217

Rezoning

Memo

To: City Planning Commission

From: Planning Staff

Date: June 28, 2016

Re: Rezoning #16-7-16 - A request by Joshua Carson, agent for Sam Glen Properties, for Planning Commission consideration of a rezoning request from Commercial Heavy (C-5) to Residential Single Family Medium Density (RS-2) by extension at 5900 South 92nd Street

PROPOSED ZONING

Approval of the rezoning will allow the property owner to convert the existing building and property into a residential single family dwelling unit.

LOT LOCATION AND SIZE

The subject property is on the west side of South 92nd Street between South Zero Street and Canopy Oaks Drive. The tract contains an area of 1.84 acres with approximately 400 feet of street frontage along South 92nd Street.

REQUESTED ZONING

The requested zoning on this tract is Residential Single Family Medium Density (RS-2). Characteristics of this zone are as follows:

Purpose:

To provide for detached homes in low-to-medium density single family neighborhoods where adequate public services and facilities are available. The RS-2 zoning district is appropriate in suburban areas and primarily applies to the Residential Detached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

Permitted Uses:

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

5A

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 10,500 square feet
Maximum Density – 4 Dwelling Units/Acre
Minimum Lot Width at Building Line – 75 feet
Minimum Street Frontage – 50 feet
Front Yard Setback - 30 feet
Side Yard on Street Side of Corner Lot - 30 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet
Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 50%

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

5B

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 area to the north is zoned Residential Single Family Medium Density (RS-2) and developed as single family residences. A railroad right-of-way is also located to the north.

The area to the east is zoned Industrial Light and is undeveloped.

The area to the south is zoned Commercial Heavy (C-5) and developed as a contractor shop and storage yard.

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

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies South 92nd Street as a local road.

NEIGHBORHOOD MEETING

A neighborhood meeting was held Wednesday June 15, 2016, at 5:30 p.m. at the site. Five (5) neighboring property owners attended the meeting and had no objections. The attendance record and meeting summary are enclosed.

STAFF COMMENTS AND RECOMMENDATIONS

The RS-2 zoning district zone line is currently along the center line of the railroad right-of-way located to the north of the applicant's property. Approval of the rezoning will result in an extension of the RS-2 zoning district. Staff recommends approval of the application.

5C

Rez. # 16-7-16

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)

   Lot 1B, Big "D" Addition

2. Address of property: 5900 S 92nd St

3. The above described property is now zoned: Comm Heavy C5

4. Application is hereby made to change the zoning classification of the above described property to RS2 by extension.
   (Extension or classification)

5. Why is the zoning change requested?

   Owner intends to use as private residence

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

Signed:

Joshua T. Carson
Owner or Agent Name
(please print)

Owner

PO Box 2023, FSM, AR 72902
Owner or Agent Mailing Address

or

Agent

782-7203
Owner or Agent Phone Number

5D

JONES, JACKSON & MOLL, PLC

ATTORNEYS AT LAW
401 North 7th Street
Post Office Box 2023
Fort Smith, Arkansas 72902-2023

ROBERT L. JONES, JR. (1922-2004)
RANDOLPH C. JACKSON*
MARK A. MOLL
J. RANDALL MCGINNIS
KATHRYN A. STOCKS*
MICHAEL T. NEWMAN**
JOSHUA T. CARSON

*Also licensed in Oklahoma
** Also licensed in Oklahoma and Missouri

TELEPHONE (479) 782-7203
FACSIMILE (479) 782-9460

Sender's e-mail:
jcarson@jjmlaw.com

June 16, 2016

bandrews@FortSmithAR.gov
Brenda Andrews
County of Sebastian
35 S. 6th Street
Fort Smith, AR 72901

Re: 5900 South 92nd Street – Rezoning – Neighborhood Meeting Summary

Dear Brenda:

A Neighborhood Meeting was held for the rezoning application of 5900 South 92nd Street on Wednesday, June 15, 2016 at 5:30 p.m. at the property located at 5900 South 92nd Street. The attendance list for the Neighborhood Meeting is attached. Wally Bailey and I were present to answer and address questions of the attendees. The nature of the rezoning application was explained. There were no objections/opposition to the application.

Please let me know if you have any questions.

Sincerely,

JONES, JACKSON & MOLL, PLC

By:
Joshua T. Carson

JTC/lm
Enclosure
cc w/encl: Glenn Yaffe

5H

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location 5900 S. 92nd

Meeting Time & Date 5:30 6/15/16

Meeting Purpose Neighborhood Meeting for Re-zone

	NAME	ADDRESS	PHONE #
1.	Josh Carson	401 N. 7th	782 7203
2.	Glenn Yaffe	1900 St. Francis Crest	926-9789
3.	Curt Koenecke	9108 Canopy Oaks Dr	926-6970
4.	Jim Barber	9004 " " "	452-1057
5.	Pat Barber	9004 Canopy Oaks Dr	452-1057
6.	Deb + Bob Varney	9104 Canopy Oaks Dr	452-2277
7.			
8.			
9.			
10.			
11.			

51

Edwin Dooley, Jr.
21 North 2nd Street
Fort Smith, AR 72901

Creative Network Ltd
1 Windhaven Drive
Fort Smith, AR 72903

Robert & Deborah Varney
9104 Canopy Oaks Drive
Fort Smith, AR 72903

Danny & Rena Minks
9100 Canopy Oaks Drive
Fort Smith, AR 72903

Curtis & Kimberly Koeneke
9108 Canopy Oaks Drive
Fort Smith, AR 72903

Linda Ann Schneider
9208 Canopy Oaks Drive
Fort Smith, AR 72903

Claude & Becky Webster
9200 Canopy Oaks Drive
Fort Smith, AR 72903

Gregory & Schawn Shipley
9204 Canopy Oaks Drive
Fort Smith, AR 72903

Brandon & Amanda Richmond
9008 Canopy Oaks Drive
Fort Smith, AR 72903

James & Patrice Barber
9004 Canopy Oaks Drive
Fort Smith, AR 72903

Sam Glenn Properties, LLC
1900 St. Francis Crest
Fort Smith, AR 72903

RSDS, LLC
P. O. Box 11527
Fort Smith, AR 72917

Linda K. Gurlen Living Trust
P. O. Box Box 180262
Fort Smith, AR 72918

Sebastian County
35 South 6th Street
Fort Smith, AR 72901

DRAFT

PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
JULY 12, 2016

On roll call, the following Commissioners were present: Marshall Sharpe, Talicia Richardson, Vicki Newton, Josh Carson, Bob Cooper, Jr., Rett Howard, Don Keesee and Joshua Kilgore. Commissioner Sarah Howe was absent.

Chairman Sharpe noted a correction to the minutes on page 1, Item #1, seconded paragraph which depicted a typographical error of a question mark that needs to be removed. Motion was then made by Commissioner Howard, seconded by Commissioner Carson and carried unanimously to approve the minutes as corrected.

Mr. Wally Bailey spoke on the procedures.

5. **Rezoning #16-7-16; A request by Joshua Carson, agent for Sam Glenn Properties, LLC, for a zone change from Commercial Heavy (C-5) to Residential Single Family Medium Density (RS-2) by Extension located at 5900 South 92nd Street.**

   Ms. Brenda Andrews read the staff report indicating that the purpose of this rezoning request is to allow the property owner to convert the existing building and property into a residential single family dwelling unit.

   Ms. Andrews noted that a neighborhood meeting was held on Wednesday, June 15, 2016, at 5:30 p.m. at the site. Five (5) neighboring property owners attended the meeting and had no objections.

   Mr. Joshua Carson was present on behalf of this rezoning request.

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

   Chairman Sharpe then called for the vote on the rezoning request. The vote was 7 in favor, 0 opposed and 1 abstention (Carson).

   Following this item, Commissioner Carson was absent from the remainder of the Planning Commission meeting.

1. **Preliminary Plat – The Providence – Lots 1-68 – Crafton Tull**

   Ms. Brenda Andrews read the staff report indicating that the purpose of this request is to allow for single family and duplex dwellings.

4a

ORDINANCE NO._____

AN ORDINANCE AUTHORIZING THE APPROPRIATION OF DONATED FUNDS FOR FIRE DEPARTMENT EQUIPMENT PURCHASES

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS THAT:

WHEREAS, the Fire Department has received earmarked donations totaling $35,528 from two local businesses, Firehouse Subs and Shared Services Center;

NOW THEREFORE, there is hereby appropriated the sum of $35,528 from the unobligated balance of the General Fund to purchase Fire Department Equipment and the current fiscal year budget is amended to make the following appropriations to the identified Fire Department accounts in the General Fund as follows:

GENERAL FUND:

FIRE DEPARTMENT

4802-302-0101	Hydraulic rescue spreader and pump	$20,533
4801-304-0101	Digital fire extinguisher trainer	$14,995

PASSED AND APPROVED THIS_____DAY OF AUGUST, 2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
No publication required

Fort Smith Fire Department

200 North 5th Street
Fort Smith, AR 72901
(479) 783-4052 office (479) 783-5338 fax

Phil Christensen
Fire Chief

Memo

To: Jennifer Walker, Finance Director
From: Phil Christensen, Interim Fire Chief
RE: Appropriation of Funds
Date: July 22, 2016

The Fire Department has received donations from two local businesses, Firehouse Subs and Shared Services Center. The donations have been earmarked for purchases of rescue equipment and fire prevention training aids. The donations are in account 3716-013 totaling in the amount of $35,528.

A budget appropriation and transfer of funds to account 4802-302 in the amount of $20,533 will be necessary for the purchase of a Holmatro hydraulic rescue spreader and pump. We have purchased and received the Holmatro hydraulic rescue spreader and pump from Emergency Vehicles Specialist and are ready to render payment.

Also, a budget appropriation and transfer of funds to account 4801-304 in the amount of $14,995 will be necessary for the purchase of a Bullex digital fire extinguisher trainer. We have received three quotes, submitted and received a purchase order number, and have ordered the system.

Let me know should you have any questions.

4B

RESOLUTION NO. _____

RESOLUTION ACCEPTING CHANGE ORDER NUMBER ONE
WITH RODEBUSH CONSTRUCTION, INC. FOR CONSTRUCTION
OF THE PRESS BOX AND DUGOUTS AT MARTIN LUTHER KING, JR. PARK

_____

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

The Mayor is hereby authorized to execute Change Order No. 1 with Rodebush Construction, Inc., increasing the contract amount by $350.00.

This Resolution adopted this _____ day of August, 2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM

_____npr

4C

RESOLUTION NO. _____

RESOLUTION ACCEPTING COMPLETION OF AND
AUTHORIZING FINAL PAYMENT TO RODEBUSH
CONSTRUCTION, INC., FOR CONSTRUCTION OF THE
PRESS BOX AND DUGOUTS AT MARTIN LUTHER KING, JR. PARK

_____

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS THAT:

SECTION 1: The City of Fort Smith hereby accepts construction of the press box and dugouts at Martin Luther King, Jr. Park as complete.

Section 2: Final payment is hereby authorized in the amount of $5,987.50 to the contractor, Rodebush Construction, Inc., for the construction accepted by Section 1 of this Resolution.

This Resolution adopted this _____ day of August, 2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM

_____npr

PARKS RECREATION
FORT SMITH

Memo:

July 29, 2016

To: Carl Geffken, City Administrator
From: Doug Reinert, Director of Parks and Recreation DSR
Re: Change order and final payment to Rodebush Construction, Inc.

The Martin Luther King Softball Field has been a cooperative effort with the Northside High School Alumni, the Fort Smith Boys and Girls Club and the City of Fort Smith. Rodebush Construction, Inc. has completed the dugouts and press box for this field. The field initially only had a backstop and a few bleachers all of which were showing their age. Rodebush Construction worked rain and shine to get this work done on time and within budget. These collaborative efforts are a step in the right direction, proving we can come together and make a difference.

A change order is requested for $350 dollars for (2) 8' W x 5' H slide windows for the Press Box and the final pay for the completion of the MLK Press Box and Dugouts in the amount $5,987.50.

This project is in alignment with the goals of the Comprehensive Plan policy NCR-1.3, NCR-1.5 and NCR-4. I recommend authorizing the $350.00 change order, accepting the Dugouts and Press Box Project as complete and authorizing final pay in the amount $5,987.50 to Rodebush Construction, Inc.

Should you have any questions or need additional information please feel free to contact me.

attachments

Project Summary

Project Status:	Complete	Project name:	Press Box and Dugouts at MLK Park
Today's Date:	July 29, 2106	Project contractor:	Rodebush Construction, Inc.
Staff contact name:	Doug Reinert		
Staff contact phone:	(479) 784-1006		
Notice to proceed issued:	January 29, 2016		

	Dollar Amount	Contract Time (Days)
Original bid award	112,750.00	120
Total change orders	350.00	0
Adjusted contract amount	113,100.00	120
Payments to date (as negative):	-107,112.50	
Amount of this payment (as negative)	-5,987.50	
Retainage held	0.00	
Contract balance remaining	0.00	
Amount over as a percentage	0.31%	

Final Comments:

4D

RESOLUTION NO. _____

RESOLUTION NAMING THE SOFTBALL FIELD AT MARTIN LUTHER KING JR PARK GRIZZLY FIELD AND THE PRESS BOX LAWRENCE BUZZ WOOD PRESS BOX

_____

WHEREAS, nominations for naming the softball field at Martin Luther King Jr. Park were solicited by public notice in the Times Record newspaper on May 1 & May 8, 2016; and

WHEREAS, the Parks and Recreation Commission considered all nominations received; and

WHEREAS, notice of the initial selection was published in the Times Record newspaper on June 5 & 12, 2016 as required by the city's naming policy; and

WHEREAS, the Parks and Recreation Commission has considered all public comments received and recommend to the Board of Directors that the softball field at Martin Luther King Jr. Park be named Grizzly Field and that the press box at Martin Luther King Jr. Park be named Lawrence Buzz Wood Press Box;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Fort Smith, Arkansas that:

Section 1: The softball field at Martin Luther King Jr. Park is hereby named "Grizzly Field," and the press box at Martin Luther King Jr. Park is hereby named "Lawrence Buzz Wood Press Box."

Section 2: The city administrator and his staff are directed to place the appropriate signage to recognize the naming authorized by Section 1 of this Resolution.

This Resolution passed this _____ day of August, 2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM

_____NPR

PARKS RECREATION
FORT SMITH

Memo:

July 29, 2016

To: Carl Geffken, City Administrator
From: Doug Reinert, Director of Parks and Recreation DSR
Re: Naming the Martin Luther King Jr. Park Press Box and Softball Field, "Lawrence Buzz Wood Press Box" and "Grizzly Field"

Lawrence "Buzz" Wood Sr. a native of Fort Smith dedicated his free time to helping the youth of the City to enrich and mentor them through recreational activities and sports, leaving a legacy of good citizenship. Lawrence "Buzz" Wood Sr. passed his humanitarian efforts to his son Lawrence "Buzz" Wood Jr. Lawrence "Buzz" Wood Jr. volunteered at the Boys and Girls Club as a football, basketball and track coach. Buzz Wood Jr. received numerous awards over the years for his outstanding community service, including: Sir Thomas Lipton Sportsmanship award in 1992, the Sertoma Club Service to Mankind Award in 2003 and the NFL Champion of Youth Award in 2007. He was inducted into the Fort Smith Boys and Girls Club Hall of Fame in 1998. Buzz served as an advocate for young people, spending countless hours over six decades, helping the youth of Fort Smith. He is remembered for his selfless dedication to helping others. It is the recommendation of the Fort Smith Parks and Recreation Commission to name the MLK Press Box after Lawrence "Buzz" Wood. He was truly an inspiration to the youth in this community.

It is also the recommendation of the Parks and Recreation Commission to name the MLK Softball Field "Grizzly Field" in honor of Northside High School and at the request of the private donors that made this field be all that it was meant to be.

If you have questions, please call.

4E

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH THE SPECIAL SCHOOL DISTRICT OF FORT SMITH FOR THE SOFTBALL FIELD AT MARTIN LUTHER KING, JR. PARK

_____

BE IT RESOLVED by the Board of Directors of the City of Fort Smith, Arkansas that:

The Mayor and is hereby authorized to execute the attached lease agreement with the Special School District of Fort Smith for the use of the softball field at Martin Luther King, Jr. Park.

This Resolution passed this _____ day of August, 2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM

_____

Memo:

July 29, 2016

To: Carl Geffken, City Administrator
From: Doug Reinert, Director of Parks and Recreation DSR
Re: Execution of a lease agreement with the Special School District of Fort Smith

The Martin Luther King, Jr. Softball Field is almost complete. This project has become a success because of the collaboration efforts of the City of Fort Smith Parks and Recreation Department, the Boys and Girls Club, Northside Alumni and the Special School District of Fort Smith. During this process of design and construction the School District has committed to maintaining the fields and scheduling practices and games. This partnership and lease will enable immaculate care, and ease the maintenance demand on the Parks Department. The MLK Softball field is a facility we should all be proud of. I recommend the execution of this lease.

If you have any questions please feel free to contact me.

LEASE AGREEMENT

THIS AGREEMENT MADE AND ENTERED INTO this _____ day of _____, 2016, by and between the City of Fort Smith, Arkansas, hereinafter "City" and the Special School District of Fort Smith, hereinafter "Lessee."

W I T N E S S E T H

WHEREAS, the City is the owner of the real property described in paragraph 1 of this Agreement; and,

WHEREAS, the parties desire that the subject property continue to be used, in part, for public youth athletic activities supervised by the Lessee (primarily softball and baseball activities); and,

WHEREAS, the parties desire to place in writing the terms of their agreement regarding the lease of the described real properties and use of the described personal properties by the Lessee; NOW, THEREFORE:

In exchange of the mutual terms and conditions set forth herein, which are acknowledged by the parities to be sufficient to support the obligations set forth herein, the parties agrees as follows:

1. Leased property. The City hereby leases to the Lessee for an annual payment of $10.00 due on or before August 1st of each year and the League hereby takes from the City, under the terms and conditions set forth herein, the hereinafter described tracts of real property located in the Fort Smith District of the County of Sebastian, State of Arkansas, to wit:

> Part of the Southeast Quarter of the Northeast Quarter of Section 9, Township 8 North, Range 32 West, Fort Smith, Sebastian County, Arkansas. Being more particularly described as follows:
>
> **COMMENCING** at the Southwest Corner of said Southeast Quarter of the Northeast Quarter; Thence N02°40'45"E, 30.00 feet along the west line of said Southeast Quarter of the Northeast Quarter to the **POINT OF BEGINNING**, said point being N02°40'45"E, 5.00 feet and S86°31'50"E, 51.00 feet from the southeast corner of Lot 16, Young's Addition, Fort Smith, Sebastian County, Arkansas being filed for record November 27, 1889; Thence continuing N02°40'45"E, 135.00 feet along said west line; Thence leaving said west line, S86°31'50"E, 70.00 feet; Thence N02°40'45"E, 225.00 feet; Thence S86°31'50"E, 160.00 feet; Thence S41°55'32"E, 224.98 feet; Thence S02°40'45"W, 202.00 feet to a point being 30.0 feet north of the south line of said Southeast Quarter of the Northeast Quarter; Thence N86°31'50"W, 388.00 feet, parallel to said south line, to the **POINT OF BEGINNING**. Containing 2.56 acres, more or less.

2. The Lessee shall use the leased property solely for the conducting of Northside High School's scheduled youth activity programs, primarily including softball and baseball, for the public park benefit of the citizens of the City of Fort Smith. The Lessee shall have the right to schedule the use of the athletic fields on the subject properties; provided, at any time that any portion of the park property is not in use for a scheduled activity, the property shall be subject to use by members of the public for park purposes consistent with the further provisions of this Agreement and the park rules and regulations

developed by the City of Fort Smith. The Lessee shall have exclusive use of the property during scheduled games and practices. The Lessee shall submit a schedule of its planned uses to the City's director of parks and recreation annually. The City may then schedule other public uses of the park during times which the League isn't using the property. The Lessee may schedule use of the property at other times by submitting a request to the City's director of parks and recreation. Such requests shall be approved by the City provided a conflict in use has not been scheduled by the City. All of the leased property shall be available for public park uses by the citizens of the City of Fort Smith at all times not scheduled for Lessee activities. The City reserves the right to schedule and utilize the leased property, including structures and other facilities, for park uses at all times not scheduled by the Lessee. The Lessee shall have the right to control use of personal property and equipment owned by the Lessee and stored in the structures located on the leased property. All improvements and structures on the leased property shall become a part of the leased property. All personal property and equipment of the Lessee shall remain the personal property of the Lessee and shall be removed from the leased property within seven (7) days of any cancellation of this Lease.

3. The City shall maintain fire, storm and other casualty insurance on the improvements located on the leased premises in minimum amounts set forth in the scheduled attached as Exhibit "A" to this Agreement. Any such insurance policy shall designate the City and the Lessee as the insureds under the policy "as their interests may appear." All insurance proceeds shall be utilized to repair or replace damaged improvements, unless a different use for the proceeds is designated, in the City's sole discretion, by the City Administrator of the City. Lessee understands the insurance obtained by the City will not cover Lessee's personal property, and Lessee shall obtain any insurance it desires of its property.

4. The Lessee shall indemnify and hold the City harmless from all claims, liens, actions, and judgments, including reasonable legal fees and costs incurred with reference thereto, arising from the activities of the Lessee under this Lease Agreement.

5. The scheduled activities of the Lessee shall be for public park purposes open to participation by all Fort Smith citizens, subject to the right of the Lessee to impose reasonable rules on participants during Lessee scheduled activities.

6. The leased property shall be subject to the park rules of the City of Fort Smith codified in Article III of Chapter 18 of the Fort Smith Code. The City reserves the right to adopt and implement additional park rules and regulations at any time during the term of this lease.

7. The Lessee shall maintain the leased property and the improvements located thereon so as to return same to the City at the end of the leased term in the same condition as they now exist subject to ordinary wear and tear. Specifically, it shall be the obligation of the Lessee to maintain the leased premises in conformance with all relevant codes and ordinances of the City, including the Clean-up of Lands Ordinance and applicable Health Codes. Inspection of facilities will be made by Lessee and City representatives immediately prior to August 1 of each year.

8. The Lessee may charge admission fees for any games schedule by the Lessee and the proceeds from those admission charges shall be the property of the Lessee. Concession revenues from events scheduled by Lessee shall be the property of the Northside Lady Bears Softball Team unless directed otherwise by the Lessee. By January 31st of each year, the Lessee shall provide the City with a written annual report for the preceding calendar year. Such report shall include a summary of all concession revenues received and how they were expended for the year, the number of days admissions were

charged, revenues received from admissions, and how the admission proceeds were expended. This rule does not prohibit the making of reasonable charges for foodstuffs sold in concession stands, nor does this provision prohibit the Lessee from charging participants in activities reasonable fees for Lessee expenses. The City Administrator shall direct collection and ownership of admission and concession revenues, if any, for events scheduled by the City.

9. The Lessee shall have the right to construct additional improvements or to remodel or rehabilitate the current improvements after first obtaining the written approval of the City Administrator, obtained after review by the Director of Parks and Recreation. All such construction activities shall be in conformance with all applicable codes and regulations.

10. The City shall provide public utilities (water and electricity) for uses of the park by the Lessee and by the public generally.

11. It is acknowledged by the Lessee that all employees, agents and volunteers of the Lessee are not employees or agents of the City.

12. The Lessee shall allow participation in its recreational, park activities on a non-discriminatory basis. The Lessee shall not permit discrimination based on race, national origin, religion, disability or gender. The provisions of this paragraph shall not prevent the Lessee from establishing recreational activities according to the ages of the participants in the activities.

13. This Agreement shall have a term of ten (10) years.

14. Any notice required or permitted to be given pursuant to this Lease Agreement shall be provided to the other property at the addresses indicated:

City of Fort Smith
Office of City Administrator
P.O. Box 1908
Fort Smith, Arkansas 72902

Fort Smith Public Schools
Attn: Office of Athletic Director
PO Box 1948
Fort Smith, Arkansas 72902

15. Either party to this Agreement may provide notice to the other at the addresses indicated in paragraph 14 above, that the party deems the other party to the Agreement to be in violation of the Agreement.

(a) The notice shall specify the nature of the alleged violation and the corresponding provision in this Agreement. Within seven (7) days, the other party shall respond in writing regarding the allegations of violation of the Agreement. If the alleged violations have been cured, the response shall so note. If after the exchange of notice of violation and response, either party considers the issue to not be resolved, that party shall notify the other of the date, time and place of a meeting (to be held within the City of Fort Smith and not sooner than seven (7) days from the date of said notice of meeting

and not more than fourteen (14) days subsequent to the date of said notice of meeting) at which representatives of the parties shall discuss the alleged violation and the response thereto.

(b) Irrespective of the foregoing, in the event the City determines that any condition on the leased premises constitutes an immediate health hazard to the members of the public, the City shall have the right to immediately take action to correct said condition. In that situation, the City shall notify the representative of the Lessee identified in paragraph 14 above, by telephone, facsimile transmission or other method designed to provide the most expedient notice to the Lessee. If the Lessee does not subsequently agree to pay the expense of such curative action, the City has the right under this Agreement to petition a court of competent jurisdiction to declare the rights of the parties and, if it is declared that the expense was the obligation of the Lessee under this Agreement, the Lessee shall immediately pay the expense to the City after exhausting judicial remedies regarding that issue. Any failure of the Lessee to comply with the provisions of this paragraph shall be a basis for the City, in its sole discretion to terminate this Lease Agreement on seven (7) days notice of termination.

(c) In the event the meeting of the parties pursuant to the procedures in sub-paragraph (a) above does not resolve the alleged violation, either party may pursue any available judicial remedy. Upon final determination that the other party is in violation of this Agreement, either party shall have the right to terminate this Agreement on seven (7) days notice to the other.

THIS AGREEMENT EXECUTED as of the date first set forth above by the Mayor and the City Clerk of the City of Fort Smith pursuant to Resolution No. _____ of the Fort Smith Board of Directors and the Superintendent pursuant to resolution adopted by the School Board of the Lessee.

CITY OF FORT SMITH, ARKANSAS

By:_____
Mayor

ATTESTED:

_____
City Clerk

SPECIAL SCHOOL DISTRICT OF FORT SMITH

By:_____
Director of Athletics & Student Activities

ATTESTED:

_____
Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

On this _____ day of _____, 2016, before me personally appeared Sandy Sanders, personally known to me to be the individual who executed the within and foregoing instrument, and he/she acknowledged that he/she signed the same as the duly authorized agent of the City of Fort Smith, and that the same is the free and voluntary act and deed of the City of Fort Smith, for the uses and purposes therein mentioned.

Given under my hand and official seal this _____ day of _____, 2011.

_____
Notary Public

My Commission Expires:

_____

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

On this 26th day of July, 2016, before me personally appeared Charles D. McKinney, personally known to me to be the Director of Athletics and Student Activities of Special School District of Fort Smith and he signed the above and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

Given under my hand and official seal this 26th day of July, 2016.

A Nadine Brooks
Notary Public

My Commission Expires:
6-19-20

A. NADINE BROOKS COMMISSION # 12376773 NOTARY PUBLIC EXPIRES 6-19-2020 SEBASTIAN COUNTY ARKANSAS

Martin Luther King Softball Field

ITEM	QUANTITY/SIZE	REPLACEMENT COST
Press Box/Concession Building	1	120,000
Dugouts	2	25,000
Bleachers	2	4,000
Fencing	1,315'	65,000
Scoreboard/Sign	1	15,000
Lights	6 Poles, 29 Fixtures	7,300
Bases	1 set	350
Storage Building	1	3,000
PA System	1	1,200
Top Mount Refrigerator	1	500
Popcorn Machine	1	500
George Foreman Grill	2	100
Crockpots	2	60
		TOTAL 242,010

4 F

RESOLUTION _____

A RESOLUTION AUTHORIZING THE ACQUISITION OF REAL PROPERTY INTERESTS FOR THE LAKE FORT SMITH 48-INCH WATER TRANSMISSION LINE PROJECT NO. 08-07-P

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT**:**

Section 1: The offer made by Jimmie Seratt and Melissa Seratt to convey the Tract 11-30-10-03 property interests for the captioned project for a consideration of $6,450.00 is hereby accepted. The City agrees to abandon its easement for and in its interest the existing 27-Inch water transmission line that crosses Tract 11-30-10-03 subsequent to the new 48-Inch line becoming fully operational.

Section 2: The City Administrator and the City Attorney are hereby authorized to take any and all necessary action including the dismissal of the pending eminent domain action, Crawford County Circuit Case No. CV-12-559 (I), to effectuate the Agreement accepted by Section 1 of this Resolution.

This Resolution adopted this ____ day of August, 2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
No Publication Required

INTER-OFFICE MEMO

TO: Carl Geffken, City Administrator

FROM: Robert Roddy, Interim Director of Utilities CDA

SUBJECT: Project No. 08.07.E1
48-inch Transmission Line – Easement Condemnation
Jimmie Seratt and Melissa Seratt – Tract No. 11.30.10.03

DATE: July 28, 2016

RE: Settlement Proposal

The construction of phase I for the new Lake Fort Smith 48-inch water transmission line is underway. As each phase is completed, the corresponding portions of the 27-inch transmission line will be retired from service. During the City's right-of-way acquisition process for the new 48-inch line, several properties that were identified as needing easements for the 48-inch line were also encumbered with easements for the old 27-inch line. As the City efforted to acquire the necessary property acquisition for the 48-inch line, two (2) property owners would not reach agreements with the City and the subject takings were sent to condemnation. It appears that one (1) of the property owners, Jimmie Seratt and Melissa Seratt, have reached a tentative agreement with the City.

Initially, Mr. Seratt challenged the necessity of this taking and was turned away. Subsequently, Mr. Seratt denied the City the easement and the matter was turned over to Daily & Woods for eminent domain proceedings. An Order of Possession was issued to the City by Judge Cottrell on 31-DEC-2012, and a Just Compensation Deposit was made to the registry of the Court in the amount of $1,400.

Mr. Seratt claimed this taking would cause him to not be able to develop his property in the manner he planned, and argued a $200,000 loss. Interestingly, Mr. Seratt's first offer to resolve this matter was only $64,000. The City rejected this offer and Mr. Seratt countered again with an offer of $20,000. The City again, rejected this offer and informed Mr. Seratt that the appraised value of the easement was the City's position. Mr. Serrat stood firm and the matter was set for a hearing on 8-JUNE-2016. The parties were ordered into mediation and were given a ninety (90) day window to reach an agreement. A trial date of 20-SEPT-2016 was then set in the event that mediation was unsuccessful.

After further discussion, and an analysis of litigation costs, a tacit agreement has been reached. The parties have agreed upon financial compensation in the amount of $6,450, and an understanding that the City will release the existing easement for the 27-inch transmission line

that lies on the subject property's frontage to Highway 71. The 27-inch easement will not be released until the 48" transmission line is in service.

A copy of the necessary easement and a copy of the Order of Possession are attached to this memo.

It is my recommendation that the resolution be approved so that the City Administrator, his designated agent, and city attorney can conclude the acquisition of the real property.

Attachment

Pc: Jeff Dingman

Tract 11-30-10-03
May 7, 2012

WATER UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That Jimmie & Melissa Seratt GRANTORS, for and in consideration of the sum of one dollar ($1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the City of Fort Smith, Arkansas, a municipal corporation, GRANTEE, its successors and assigns, a Permanent Easement for the construction, operation, and maintenance of WATER UTILITY FACILITIES with all appurtenances thereto, including but not limited to fire hydrants, valve and meter boxes, air/vacuum release stations, distribution lines, service lines, etc., together with the right to remove trees, brush, undergrowth or other obstructions interfering with construction, operation and maintenance of said WATER UTILITY FACILITIES over, under and upon the following lands situated in the County of Crawford, State of Arkansas, to wit:

> A part of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 10, Township 11 North, Range 30 West of the Fifth Principal Meridian, Mountainburg, Crawford County, Arkansas. More particularly described as follows:
>
> Commencing at the Northeast (NE) corner of said NE1/4 of the SE1/4; Thence N87°14'29"W, 181.75 feet along the north line of said NE1/4 of the SE1/4 to the northwesterly right of way of U.S. Highway 71; Thence S26°51'44"W, 390.24 feet along said right of way; Thence S26°05'54"W, 356.92 feet to the northerly corner of the Seratt property; Thence N70°11'51"W, 74.48 feet along the northerly property line of said property; Thence N73°19'33"W, 276.53 feet along said northerly property line to the POINT OF BEGINNING said point having Arkansas State Plane coordinates of N483175.49, E668763.48; Thence S23°05'08"W, 424.64 feet to the southerly line of said Seratt property; Thence N69°41'24"W, 60.07 feet along said property line to the easterly right of way of the Arkansas& Missouri Railroad; Thence N23°05'09"E, 420.81 feet along said right of way to the northerly property line of said Seratt property; Thence S73°19'33"E, 60.38 feet along said property line to the POINT OF BEGINNING. Containing 25,362 square feet or 0.58 acres more or less, of which approximately 10,337 square feet lies within an existing presumed prescriptive sewer easement. As shown on Exhibit "A" attached hereto and hereby made a part of this instrument.

with right of ingress and egress to and from the same.

TO HAVE AND TO HOLD said Easement unto GRANTEE, its successors and assigns, forever.

GRANTORS shall have the right to use the surface of the property above described; provided, that

GRANTORS shall not interfere with the use thereof by GRANTEE, shall not erect a permanent building or other structure nor construct a pond or other improvement within the said easement area, and shall provide gates acceptable to GRANTEE if said easement area, or portion thereof, is fenced by GRANTORS.

GRANTEE, its agents and assigns shall have the temporary right for 360 Days, and until completion and acceptance by GRANTEE of the construction work, to enter upon and use an additional 25 Feet contiguous to the Southeasterly side of the permanent easement herein granted, for the purpose of doing all acts necessary for construction; said temporary construction easement containing 10,636 square feet more or less.

GRANTEE, its agents and assigns, shall have the right, at GRANTEE'S option and at any time, to remove, abandon in place, sever or fill any existing or to be constructed water utility facilities, including pipes no longer needed by GRANTEE situated on the foregoing property, or any adjoining lands owned by the GRANTORS.

After completion of construction, GRANTEE shall restore the land in this permanent/temporary easement (whichever case, or both) to as near its original condition as possible, subject to both parties acting in a reasonable manner.

The consideration paid by GRANTEE is received and accepted by GRANTORS in full satisfaction of every right hereby conveyed.

GRANTORS does hereby covenant with GRANTEE that GRANTORS are lawfully seized and possessed of the real estate above described and that GRANTORS have a good and lawful right to convey the same or any part thereof.

It is hereby understood that party securing this grant in behalf of GRANTEE is without authority to make any covenant or agreement not herein expressed.

WITNESS our hands and seals on this _____ day of _____, 20__.

_____
Jimmie Seratt

_____
Melissa Seratt

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) SS
COUNTY OF _____)

On this _____ day of _____, 20_____, before me, a Notary Public, duly commissioned, qualified and acting, within and for the County of Sebastian, Arkansas, appeared in person the within named _____, to me personally well known as the persons whose names appear upon the within and foregoing instrument, and stated and acknowledged that they had executed the same for the consideration, uses and purposes therein mentioned and set forth, and I do hereby so certify.

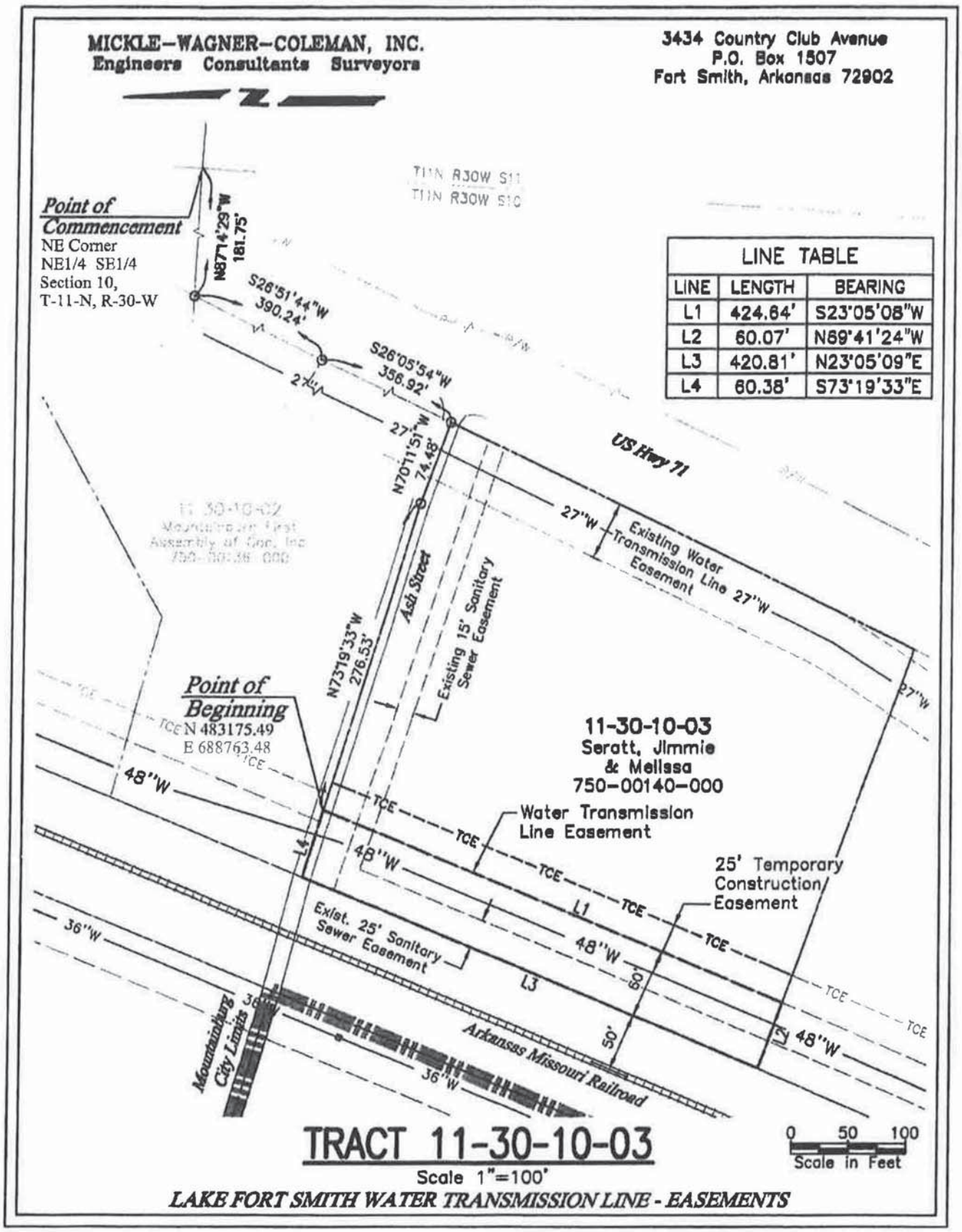
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 20_____.

_____
Notary Public

My Commission Expires:

_____

F:\DOC\EASEMENT\Mountainburg Water Trans Legals\LG\esmts\rtf\11-30-10-03_Seratt rev5-12.doc



LINE TABLE		
LINE	LENGTH	BEARING
L1	424.64'	S23°05'08"W
L2	60.07'	N69°41'24"W
L3	420.81'	N23°05'09"E
L4	60.38'	S73°19'33"E

IN THE CIRCUIT COURT OF CRAWFORD COUNTY, ARKANSAS
CIVIL DIVISION

FILED
CRAWFORD COUNTY
CIRCUIT CLERK
2012 DEC 31 AM 11:19
BY

CITY OF FORT SMITH, ARKANSAS PLAINTIFF

v. Case No. CV-12-559 (I)

JIMMIE SERATT, MELISSA SERATT,
DEPARTMENT OF THE TREASURY -
INTERNAL REVENUE SERVICE AND
RICHARD WEISS, IN HIS OFFICIAL
CAPACITY AS THE DIRECTOR OF THE
ARKANSAS DEPARTMENT OF
FINANCE AND ADMINISTRATION DEFENDANTS

ORDER OF POSSESSION

NOW on this 31st day of Dec, 2012, comes on for hearing the Application/Petition for Exercise of Power of Eminent Domain of the Plaintiff, City of Fort Smith, Arkansas, for an Order granting the right of possession of the real property described in the Application/Petition for Exercise of Power of Eminent Domain filed herein.

The Court, being fully advised in the premises, finds that the determination of the questions in controversy presented in the Application/Petition for Exercise of Power of Eminent Domain will retard the progress of the work described in the Application/Petition for Exercise of Power of Eminent Domain and that the Plaintiff has designated the sum of $1,400.00, which sum in its opinion is in excess of just compensation for the interests in the lands to be taken and has offered to deposit said sum into the registry of this Court for the purpose of making compensation and paying any damages which may be assessed against the Plaintiff because of the taking of the tract described in the Application/Petition for Exercise of Power of Eminent

Domain.

The Court further finds that the Plaintiff, its permittees, agents and contractors, are entitled to have the right of entry onto and the possession of the following described real property situated in Crawford County, Arkansas, as more fully described by the document titled "Water Utility Easement" attached hereto and incorporated herein as Exhibit "A."

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED that the Plaintiff, its permittees, agents and contractors shall have the right of entry onto and possession of the real property described herein and in the Application/Petition for Exercise of Power of Eminent Domain immediately, and that the owners of said real property and/or any other persons in possession of said real property be and they are hereby directed to surrender possession of said lands to the City of Fort Smith, Arkansas, and its authorized permittees immediately.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED that the sum of $1,400.00 be deposited into the registry of this Court, to be placed in an interest bearing account by the Clerk, in connection with the acquisition of the aforementioned interests, that ownership of the aforementioned property be vested in the Plaintiff and its successors and assigns, and that the issue of just compensation due to the Defendants be determined at a time to be scheduled by the Court. This Court retains jurisdiction of this cause for such further orders and proceedings as may be appropriate and necessary from time to time.

Circuit Court Judge

Comprehensive Plan Goal Supported By Water Projects

- Ensure adequate, well-maintained infrastructure, public safety, and public facilities for all development and prevent development ahead of infrastructure and service provision. (FLU-1.4)

- Continue to ensure that customers within Fort Smith have access to reliable water, sewer, drainage, solid waste services by reducing or eliminating deficiencies and gaps in infrastructure systems (TI-5.1)

- Implement an infrastructure Asset Management Program as a tool for management of the utility department's water and sewer systems and to track, manage, and schedule necessary facility upgrades and improvements. (TI-5.1.1)

- Ensure that utility and infrastructure systems can meet the city's long-term needs. (TI-5.2)

- Coordinate land use planning and capital programming to ensure infrastructure improvements and extensions are phased to support the future land use pattern. (TI-5.2.1)

- Adopt criteria for prioritizing funding to infrastructure-related capital improvement projects. (TI-5.2.4)

- Provide new facilities in a manner that protects investments in existing facilities and promotes orderly growth. (PFS-4.2)

August 2016

August 2016

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
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28	29	30	31			

September 2016

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jul 31	Aug 1	2 11:30am Planning Com. S. S. (Creekmore) 6:00pm Board of Directors (FSM Public Schools)	3	4 6:00pm Historic District Com. (220 North 7 Street)	5	6
7	8 11:00am Property Owners Appeal Bd. (Tentative) (Planning Conf. Rm)	9 12:00pm Board of Directors S.S. (Main Library) 5:30pm Planning Commission (Creekmore)	10 12:00pm Parks Com. (Creekmore)	11 12:00pm Housing Assistance Board (Main library) 12:15pm Oak Cemetery Com. (Creekmore)	12	13
14	15	16 9:30am CBID (Area Agency) 4:30pm Library Board of Trustees (Main Library) 6:00pm Board of Directors (FSM Public School Center)	17	18	19	20
21	22	23 12:00pm Board Study Session (Elm Grove) 4:00pm A & P Commission (Convention Cntr.) 5:30pm Airport Com. (Airport)	24	25 5:30pm Historic District S.S. (220 Noth 7 Street)	26	27
28	29	30 12:00pm NO STUDY SESSION	31	Sep 1	2	3