Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Steve Tyler
Ward 2 – Andre' Good
Ward 3 – Don Hutchings
Ward 4 – George Catsavis
At Large Position 5 – Pam Weber
At Large Position 6 – Kevin Settle
At Large Position 7 – Philip H. Merry Jr.

AGENDA

Fort Smith Board of Directors

Regular Meeting

September 4, 2012 ~ 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 6

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 AUGUST 23, 2012 REGULAR MEETING

ITEMS OF BUSINESS:

1. Presentation:

    - Proclamation declaring September 2012 Hunger Action Month in recognition of the Mayor's second annual Communitywide Food Drive

    - Good Neighbor Award

2. Items relative to appeal of Planning Commission decision denying the development plan located at 900 South Waldron *(appeal filed by Rocky Walker & Aaron Wirth, Developers)*:

A. Resolution affirming the action of the Planning Commission denying the development plan for a multi-family development located at 900 South Waldron Road

B. Resolution approving a development plan for a multi-family development located at 900 South Waldron Road

3. Ordinance amending Chapter 4, Article I of the Fort Smith Municipal Code regulating animals, establishing mandatory registration, spay and neuter regulations, and a hobbyist permit for dogs and cats *~ First reading at the March 15, 2011 regular meeting / Tabled for 6 months at the April 5, 2011 regular meeting / Tabled for 90 days at the October 4, 2011 regular meeting / Tabled for 9 months at the January 3, 2012 regular meeting ~ ** Second reading **

4. Ordinance amending Chapter 4, Article I, Section 4-1 of the Fort Smith Municipal Code regulating animals *~ First reading at the March 15, 2011 regular meeting / Tabled for 6 months at the April 5, 2011 regular meeting / Tabled for 90 days at the October 4, 2011 regular meeting / Tabled for 9 months at the January 3, 2012 regular meeting ~ ** Second reading **

5. Items regarding aquatic center and softball fields at Ben Geren Regional Park:

A. Ordinance accepting certain territory into the city of Fort Smith, Arkansas *(Ben Geren Regional Park)*

B. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map *(Master Land Use Plan - from Extraterritorial Jurisdiction Low Density Residential to General Commercial; Rezoning – from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Commercial Heavy (C-5) by extension located at 7300 South Zero Street and 6618 Softball Lane) ~ Tabled at the August 7, 2012 regular meeting ~*

6. Items regarding property development at 9022 and 9100 Highway 271 South:

A. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan - from Unclassified to Extraterritorial Jurisdiction Light Industrial; Rezoning - from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Industrial Light (ETJ I-1) by classification located at 9022 and 9100 South Highway 271)*

B. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(ETJ Use Matrix)*

7. Ordinance rezoning identified property and amending the zoning map *(from Not Zoned to Residential Single-Family Medium/High Density (RS-3), Residential Single Family Duplex Medium/High Density (RSD-3) and Residential Multi-Family Medium Density (RM-3) by classification located at 9450, 9600 and 9850 Chad Colley Blvd)*

8. Ordinance rezoning identified property and amending the zoning map *(from Not Zoned to Transitional (T) by classification located at 8101 McClure Drive)*

9. Ordinance rezoning identified property and amending the zoning map (*from Transitional (T) to Residential Multi-Family Medium Density (RM-3) by extension located at 3407 South 66th Street)*

10. Ordinance establishing a limited policy of the City of Fort Smith, Arkansas for the hearing and settling of specifically identified tort claims *~ Good/Settle placed on agenda at the August 28, 2012 study session ~*

11. Ordinance accepting dedication of public roadway rights-of-way *(Fort Chaffee Redevelopment Authority)*

12. Consent Agenda

    A. Resolution setting public hearing date on petition to vacate a portion of a street right-of-way located in Jefferson Place, an addition to the city of Fort Smith, Arkansas *(North "J" Street)*

    B. Resolution to accept the bids and authorize contracts for the construction of McClure Amphitheater Road, Project No. 12-00-A upon concurrence of the Fort Chaffee Redevelopment Authority *($1,096,317.10 / Engineering Department / Budgeted – Sales Tax Program Fund)*

    C. Resolution authorizing an amendment to the engineering services agreement for the design of 2012 Neighborhood Drainage Improvements, Project No. 12-06-C *($42,850.00 / Engineering Department / Budgeted – Sales Tax Program Fund)*

    D. Resolution authorizing an amendment to the engineering services agreement for the design of 2012 Neighborhood Drainage Improvements, Project No. 12-06-A *($8,260.00 / Engineering Department / Budgeted – Sales Tax Program Fund)*

    E. Resolution allowing the sale of surplus vehicles and equipment at public auction

F. Resolution rescinding Resolution No. R-173-11 and accepting bid for the purchase and installation of a fuel management system *($87,034.00 / Sanitation Department / Budgeted Sanitation Operating Fund)*

G. Resolution accepting bids for the purchase of trucks *($428,825.00 / Various capital outlay accounts)*

H. Resolution accepting the bid for the purchase of a sewer rodding truck *($159,873.75 / Utilities Department / Budgeted – Water & Sewer Operating Fund)*

I. Resolution accepting bid for the purchase of 65 and 95 gallon recycling roll-out containers *($206,755.00 / Sanitation Department / Budgeted – Sanitation Fund)*

J. Resolution accepting bid for the purchase of a vacuum jet cleaner truck *($348,522.00 / Utilities Department / Budgeted – Water & Sewer Operating Fund)*

13. Ordinance referring a proposed initiated ordinance authorizing city-wide expansion of automated residential waste collection in the City of Fort Smith to a vote of the electorate of the city

OFFICIALS FORUM ~ presentation of information requiring no official action

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

A. Mayor
B. Directors
C. City Administrator

ADJOURN

2A.

RESOLUTION NO._____

A RESOLUTION AFFIRMING THE ACTION OF THE PLANNING COMMISSION DENYING THE DEVELOPMENT PLAN FOR A MULTI-FAMILY DEVELOPMENT LOCATED AT 900 SOUTH WALDRON ROAD

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

The City of Fort Smith hereby affirms the action of the Planning Commission which denied the development plan for a multi-family development to be located at 900 South Waldron Road.

THIS RESOLUTION ADOPTED THIS_____DAY OF _____, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:

_____
No Publication Required

2B.

RESOLUTION NO._____

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR A MULTI-FAMILY DEVELOPMENT LOCATED AT 900 SOUTH WALDRON ROAD

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

The City of Fort Smith hereby approves the development plan for a multi-family development located at 900 South Waldron Road.

THIS RESOLUTION ADOPTED THIS_____DAY OF _____, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:

_____
No Publication Required

MEMORANDUM

TO: Ray Gosack, City Administrator
FROM: Wally Bailey, Director of Development Services
DATE: August 27, 2012
SUBJECT: Appeal of Planning Commission Decision for a development plan for a multi-family development located at 900 South Waldron Road.

On August 14, 2012, the Planning Commission reviewed a development plan for a multi-family development located at 900 South Waldron Road. The Planning Commission denied the development plan. The developers, Rocky Walker and Aaron Wirth, have submitted an appeal to the Board of Directors. A copy of their appeal is attached and tabbed.

Ordinance No. 5-10 was approved by the City Board of Directors February 2, 2010. The property was zoned to Residential Multifamily High Density (RM4). The development plan submitted with that rezoning is attached and tabbed as the 2010 Development Plan. The plan showed a 56 unit multi-family development with five buildings including a mix of two (2) and three (3) story buildings. With the enhanced setback requirements in the UDO variances were needed to permit the development based on that plan.

After reviewing the possibility of variances, the developers decided to revise the development plan so that it did not require any variances. The current development plan is attached and tabbed as the 2012 Development plan. The 2012 plan shows the 56 unit development with three (3) – three (3) story buildings.

Some significant issues that were discussed at the meeting included the following:

- Traffic (A copy of the 2010 traffic study is enclosed .)
  A memorandum from Stan Snodgrass concerning the traffic and drainage reports is attached to this memorandum. In 2010, the traffic impact information was forwarded to Traffic Engineering Consultants (TEC) of Oklahoma City to determine the impacts to the operational level of service for the intersection with and without the additional traffic from the proposed development. TEC's analysis found that the level of service remains the same and there is only one tenth of a second difference in the delay calculations at the intersection. In 2012, Mr. Snodgrass confirms that the traffic counts on Free Ferry and Waldron have declined since 2010 therefore the 2010 study and analysis remains valid.
- Drainage (A copy of the drainage analysis is enclosed.)
  Regarding drainage, Mr. Snodgrass states that on-site detention will be designed to not allow any more runoff from the site than what exists under the current conditions. Also, the development will now be required to meet all the new City of Fort Smith drainage standards.
- Size or height of the structures are too tall for the area. (This issue is addressed in the information submitted by the developer.

A copy of the draft minutes from the August 14, 2012 Planning Commission meeting are attached and tabbed. The draft minutes reflect the testimony and concerns of those opposed to the development. I have also attached a copy of all correspondence we received in opposition to the development.

The Planning Commission denied this request based on the proposed development would not be consistent with the area's established development pattern and character and that it fails to respect the context of the surrounding neighborhood.

Two (2) Resolutions have been prepared for your consideration. Board approval of Resolution No. 2 A will sustain the decision of the Planning Commission which was denial of the development plan. Board approval of Resolution No. 2 B will overturn the Planning Commission's decision and approve the development plan. The Board could also discuss any amendments with the developers to be included in the approval of Resolution No. 2B.

Please let me know if you have any questions regarding this matter.

INTER-OFFICE MEMO

TO: Wally Bailey, Director of Development and Construction

FROM: Stan Snodgrass, P.E., Director of Engineering

DATE: August 10,2012

SUBJECT: Stoufer Place Apartments (900 Waldron)
Traffic and Drainage Issues

This information is provided as a supplement to my previous memo dated January 27, 2010 regarding the traffic and drainage issues on the subject property.

We have reviewed the averaged daily traffic counts from the Arkansas Highway and Transportation Department for both Waldron Road and Free Ferry Road in this area. A summary of those counts from year 2008 to 2011 are provided below.

	Waldron	Free Ferry
2008	15,000	6,700
2009	15,000	6,600
2010	12,000	6,500
2011	11,000	6,300

The AHTD counts show a reduction of traffic at these locations from 2008 to 2011. Current traffic movement counts have not been taken at this intersection but we would expect those counts to be similar if not lower given the total reduction in the traffic volume. As such and based on the proposed development with the same number of dwelling units, we believe the previous prepared traffic analysis by TEC to remain valid and the impacts to the level of service to the intersection of Waldron and Free Ferry to be neglible.

In reference to the drainage issues, the proposed development is basically the same footprint as before. The onsite detention will be designed to not allow any more runoff from the site than what exists under the current conditions.

1Q

INTER-OFFICE MEMO

TO: Wally Bailey, Director of Development and Construction

FROM: Stan Snodgrass, P.E., Director of Engineering SS

DATE: January 27, 2010

SUBJECT: Stoufer Place Apartments
Traffic and Drainage Issues

This information is provided as a result of concerns raised during the planning commission meeting on the above subject property.

Morrison Shipley Engineers prepared a Traffic Information Statement (TS) in accordance with the new requirements of the UDO. The 2008 average daily traffic counts are 15,000 on Waldron and 6,700 on Free Ferry at this location. Morrison Shipley Engineers also counted the A.M. and P.M. turning movements on January 20 at this intersection. This information was forwarded to Traffic Engineering Consultants (TEC) Oklahoma City to determine the impacts to the operational level of service for the intersection with and without the additional traffic from the proposed development. A copy of the intersection analysis performed by TEC is attached as Exhibit 1. TEC's analysis found that the level of service remains the same and there is only one tenth of a second difference in the delay calculations at the intersection of Waldron and Free Ferry.

The second issue concerned the impacts to the drainage system west of the subject property. We have received additional drainage design information from Morrison Shipley Engineers which is included as Exhibit 2. The site is currently split with portions draining both to the west and east. For the proposed layout the design is such that the drainage outfall to the west will not be increased. The additional runoff will be conveyed to the Waldron Road storm sewer system. Therefore the proposed drainage outfall to the west will not be impacted.

Enclosures

1R

DRAFT MINUTES
FROM
AUGUST 14, 2012
PLANNING COMMISSION MEETING

DRAFT

PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
AUGUST 14, 2012

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

Chairman Griffin welcomed Commissioner Spearman to his first Planning Commission since being appointed by the Board of Directors.

Chairman Griffin called for the vote on the minutes from the July 10, 2012 and July 12, 2012, Special Meeting of the Planning Commission. Motion was made by Commissioner Howard, seconded by Commissioner Sharpe and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on the procedures.

1. **Development Plan Approval for a multi-family development located at 900 South Waldron Road.**

   Ms. Brenda Andrews read the staff report indicating that the purpose of this request is for approval of a 56-unit apartment complex with three, three-story buildings which will include a mix of 22 one-bedroom apartments and 34 two-bedroom apartments with a one-story attached office also being proposed. Ms. Andrews noted that the development plan shows a detention area at the northeast corner of the property in which Mr. Snodgrass of the City's Engineering Department has reviewed and states that the on-site detention will not allow any more runoff from the site than what currently exists.

   Ms. Andrews stated that a neighborhood meeting was held on August 9, 2012, at 5:30 p.m. at the project with twenty-five (25) neighboring property owners in attendance who voiced various objections to the project including the proposed three story design, traffic concerns and property devaluation.

   Ms. Andrews noted that at the July Planning Commission meeting, the applicant requested that the Planning Commission table a variance application for rear and side yard setbacks and private outdoor space requirements in order to give the applicant time to consider an alternate design. Ms. Andrews stated that the revised development plan being submitted for Planning Commission consideration eliminates the need for any variance requests.

   Mr. Travis Brisendine, the engineer for this project and Mr. Terry Burruss, the architect for the project was present to speak on behalf of this request.

DRAFT

Commissioner Maurras questioned how many of the units would have outside space. Mr. Burruss stated that 75% or 42 out of the proposed 56 units would have outside space.

Chairman Griffin asked for a show of hands of all persons in attendance opposing this request. Approximately 30+ people were in attendance that were opposed to this project.

Mr. Rocky Walker, developer for the project, stated that this project has been totally redesigned out of respect for the neighbor's concerns. Mr. Walker stated that this project would be a good addition to the neighborhood and that he would not do anything that would cause a negative impact to the neighborhood.

Mr. Tom Robertson spoke in opposition to this request. Mr. Robertson stated that he was the attorney on behalf of some of the property owners in this area who are opposed to this development. Mr. Robertson stated that this proposed project does not fit in this area and is not consistent with the area's established development pattern and character. Mr. Robertson also expressed his clients' concerns relative to drainage, traffic, safety and devaluation of their properties. Mr. Robertson also stated that Section 27-414 of the Unified Development Ordinance specifically stated that the purpose of the RM-4 zoning designation is to provide high density attached homes, including multi-story residential buildings in those areas where such building types already exist. Mr. Robertson noted that no building types like the development being proposed currently exist in this area.

Mr. Stan Ramsey, 5318 Free Ferry; Ms. Elizabeth Martin, 925 Elm, Mr. Mike Rappeport, 904 South Albert Pike, Ms. Sally Gean, 5621 Free Ferry, Mr. Mike Butler, 8806 Meandering Way and Ms. Sandra Summers, 5309 A & B Summit, were present to voice their opposition to this request citing their concerns relative to compatibility of this type of development within the neighborhood, drainage, traffic, safety and devaluation of their property.

Mr. Ron Teeter of the City of Fort Smith Engineering Department was present to speak on the drainage concerns. Commissioner Maurras noted his concerns to Mr. Teeter relative to 89% of this property being covered with either roof line or parking lot and the impact this would have on drainage in this area. Mr. Teeter noted that there had been some improvements to the drainage in this area through the City's CIP Program and that any drainage issues would have to be addressed prior to any construction on this property.

Commissioner Maurras noted his desire for an e-mail, dated August 13, 2012, from Daily & Woods to be made a part of the record of this meeting. Mr. Maurras quoted from this e-mail the following statement from Mr. Jerry Canfield: "The approval process is necessary to ensure that the proposed development shall conform to the Unified Development Ordinance and shall incorporate a compatible arrangement of buildings, parking, lighting, signage, landscaping, circulation, drainage and open spaces."

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

- All construction must be built in accordance with the submitted development plan.
- The final development plan must provide details on the proposed exterior lighting that complies with Section 27-602-5 Commercial and Outdoor Lighting requirements.
- All signage will require staff review and permitting.

Chairman Griffin then called for the vote on the development plan as amended. The vote was 6 opposed, 2 in favor (Griffin, Howard) and 1 abstention (Parks).

The development plan was denied based on the fact that the proposed development would not be consistent with the area's established development pattern and character and that it fails to respect the context of the surrounding neighborhood.

2. Final Plat – Southfield Heights Villas – Phase I – Morrison Shipley Engineers

Ms. Brenda Andrews read the staff report indicating that this subdivision is for a residential single family development.

Mr. Travis Brisendine was present to speak on behalf of this request.

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

Chairman Griffin then called for the vote on the final plat. The vote was 9 in favor and 0 opposed. The final plat was approved subject to all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents prior to the plat being filed with the county recorder.

3. Final Plat – Old Dominion Freight Lines – Lot 1 – Mickle-Wagner-Coleman

Ms. Brenda Andrews read the staff report indicating that the purpose of this plat is to provide for a motor freight terminal.

Mr. Randy Coleman was present to speak on behalf of this request.

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

Chairman Griffin then called for the vote on the final plat. The vote was 9 in favor and 0 opposed. The final plat was approved subject to all required approvals of the plat and the

DAILY & WOODS

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

KMW BUILDING
58 SOUTH SIXTH STREET
P.O. BOX 1446
FORT SMITH, AR 72902
TELEPHONE (479) 782-0361
FAX (479) 782-6160

WRITER'S E-MAIL ADDRESS
JCanfield@DailyWoods.com

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THOMAS A. DAILY, P.A.
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DOUGLAS M. CARSON, P.A.
ROBERT R. BRIGGS, P.A. †
C. MICHAEL DAILY, P.A. † •
L. MATTHEW DAVIS, P.A. †
COLBY T. ROE

† Also Licensed in Oklahoma
• Also Licensed in Wyoming & North Dakota

JAMES E. WEST
DALE CARLTON
PHILLIP E. NORVELL †

OF COUNSEL

HARRY P. DAILY (1886-1965)
JOHN P. WOODS (1886-1976)
JOHN S. DAILY (1912-1987)
BEN CORE (1924-2007)

August 13, 2012

Mr. Wally Bailey
Director of Development Services
P.O. Box 1908
Fort Smith, AR 72902

Re: Development Plan Approval – Fort Smith Municipal Code Section 27-331

Dear Mr. Bailey:

As you know, rezoning and other planning action is often taken on the condition of subsequent approval of a specific development plan for the subject property. Fort Smith Code Section 27-331-1 establishes a procedure for such development plan review and approval. The section provides:

> A Development Plan may be submitted as a single approval project or concurrently as part of another application or approval process. The approval process is necessary to ensure that the proposed development shall conform to the Unified Development Ordinance and shall incorporate a compatible arrangement of buildings, parking, lighting, signage, landscaping, circulation, drainage, and open spaces.

It is our opinion that the language of this section establishes the extent of City review by the director, planning commission or board of directors (on appeal). Stated otherwise, it is our opinion that factors outside the language of Section 27-331-1, such as (1) disagreement with the zoning classification of the property or other prior planning decisions of the City or (2) argued incompatibility of the development plan with other, nearby properties, are not appropriate factors in performing development plan review under the section.

Thank you for your attention to this matter.

Very truly yours,

Jerry L. Canfield
JLC/cmm

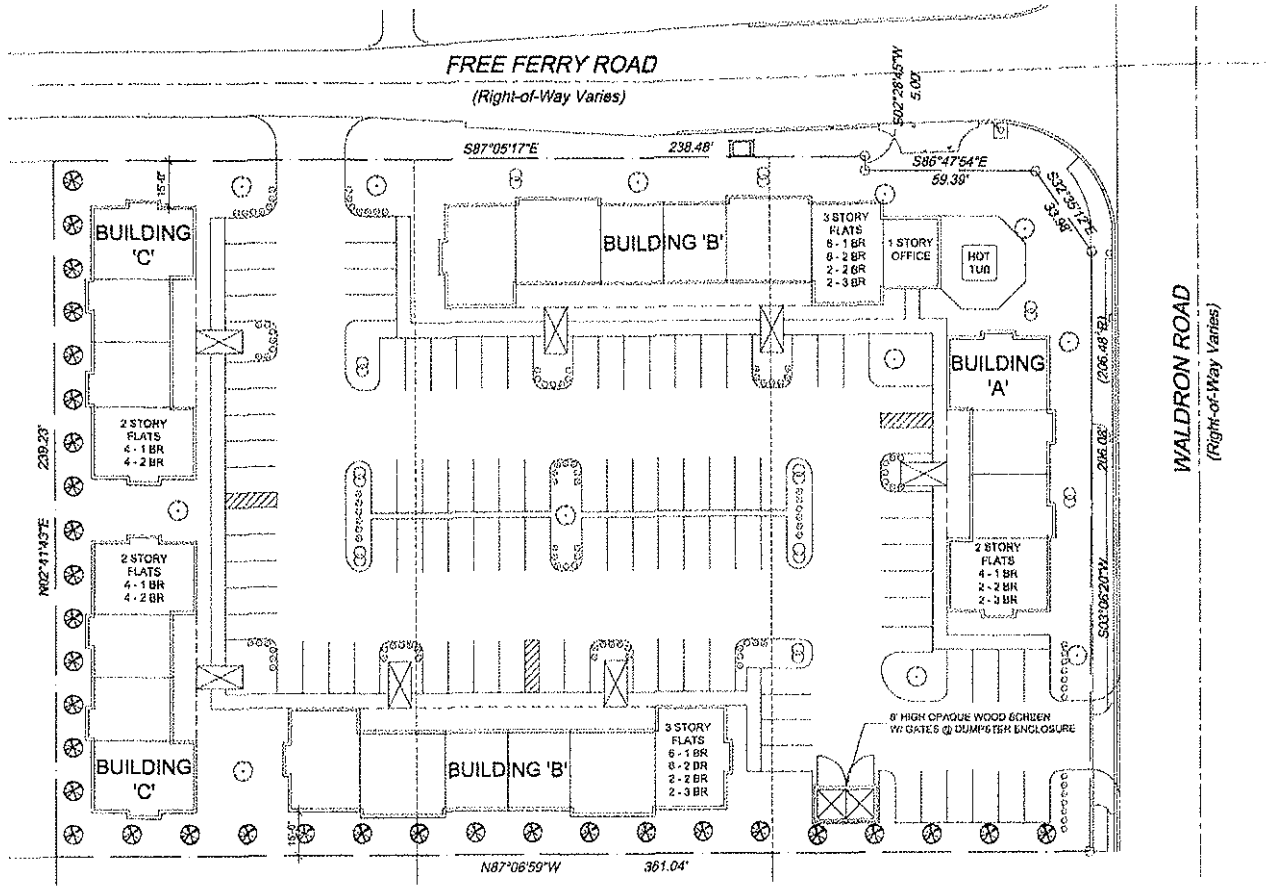
2010
DEVELOPMENT PLAN

PROJECT STATISTICS

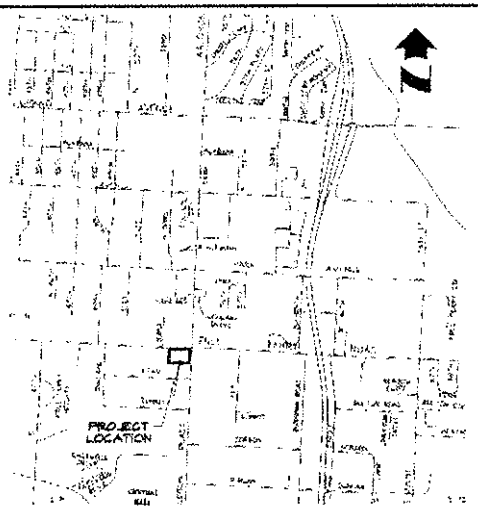
DWELLING UNITS	RESIDENTIAL DENSITY (UNITS/ACRE)	TOTAL SITE AREA (ACRES)	TOTAL OPEN SPACE AREA	TOTAL BUILDING FOOT PRINT AREA (ft²)	TOTAL PAVING AREA (ft²)	REQUIRED PARKING SPACES	PROVIDED SPACES
56	28.41	1.971	0.587	22,364	57,455	100	100
PARKING SPACE CALCULATION METHOD		1.5 P.S. / 1 BR =				1.0 x 24 =	38
		2 P.S. / 2 & 3 BR =				2 x 32 =	64

STRUCTURE INFORMATION

BUILDING DESIGNATION	# ON SITE	# OF FLOORS	TOTAL BLDG AREA (ft²)	FLOOR	FLOOR AREA (ft²)	USAGE	FLOOR AREA RATIO
A	1	3	6,210	1	3,480	DWELLING	100% DWELLING
				2	3,480	DWELLING	
				3	1,260	DWELLING	
B	2	3	17,136	1	5,712	DWELLING	100% DWELLING
				2	5,712	DWELLING	
				3	5,712	DWELLING	
C	2	2	6,960	1	3,480	DWELLING	100% DWELLING
				2	3,480	DWELLING	
OFFICE	1	1	600	1	600	OFFICE	100% OFFICE



SITE PLAN SCALE: 1" = 20'-0"



VICINITY MAP SCALE: 1" = 1000'-0"

PROJECT STATISTICS

LAND AREA	= 86,657 sq.ft = 1.971 Acres
STRUCTURES	6 BUILDINGS 56 UNITS: 3 BEDROOMS - 6 2 BEDROOMS - 26 1 BEDROOM - 24
PARKING	100 (5 ADA) SPACES

PLANT LEGEND

TYPE	COMMON NAME	REMARKS
	WILLOW OAK	3" CALIPER
B	CEDAR	3" CALIPER
BI	RIVER BIRCH	3" CALIPER / MULTISTEM (1-1/2" CALIPER)
IV	YAUPON HOLLY	5 GAL.
V	ASIAN JASMINE	SPRIG @ 18" GRID

1. ALL DISTURBED AREAS TO RECEIVE BERMUDA/RYE SEED MIX.
2. OWNER SHALL PROVIDE WATER SOURCE WITHIN 75' OF ALL PLANT BEDS.
3. OWNER MAY SUBSTITUTE PLANTS WITHIN APPROVED PLANT LIST.
4. EDGE PLANT BEDS - SPRIG W/TYPE V, AND PROVIDE BARK CHIP.

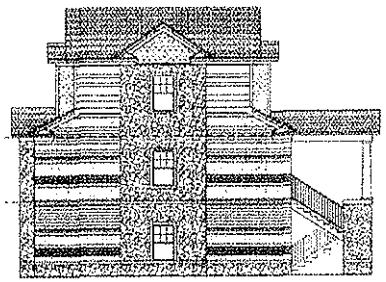
BRITT BRITT CRUSS ARCHITECT

SITE PLAN

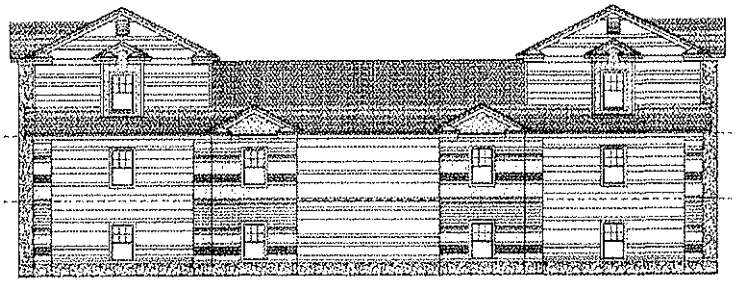
PROJECT ADDRESS
SCOOTER PLACE

C1.0

WEST ELEVATION "BUILDING - A" — SCALE: 1/4"=1'-0"



NORTH ELEVATION (SOUTH SIMILAR) — SCALE: 1/8"=1'-0"



EAST ELEVATION — SCALE: 1/8"=1'-0"

CONCEPT ELEVATIONS
BUILDING "A"

PROPOSED DEVELOPMENT FOR:
STOUFFER PLACE

CD 1.0

CD 2.0

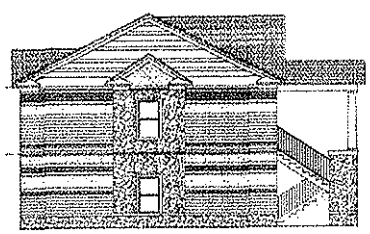
A PROPOSED DEVELOPMENT FOR:

STOUFFER PLACE

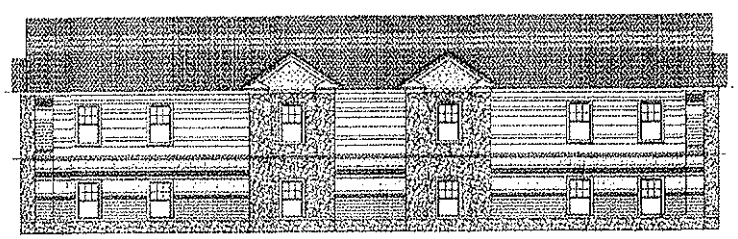
CONCEPT ELEVATIONS

BUILDING - "B"

EAST ELEVATION "BUILDING - C" — SCALE: 1/4" = 1'-0"



SOUTH ELEVATION (NORTH SIMILAR) — SCALE: 1/8" = 1'-0"



WEST ELEVATION — SCALE: 1/8" = 1'-0"

CONCEPT ELEVATIONS
BUILDING - "C"

A PROPOSED DEVELOPMENT FOR
STOUFFER PLACE

CD 3.0

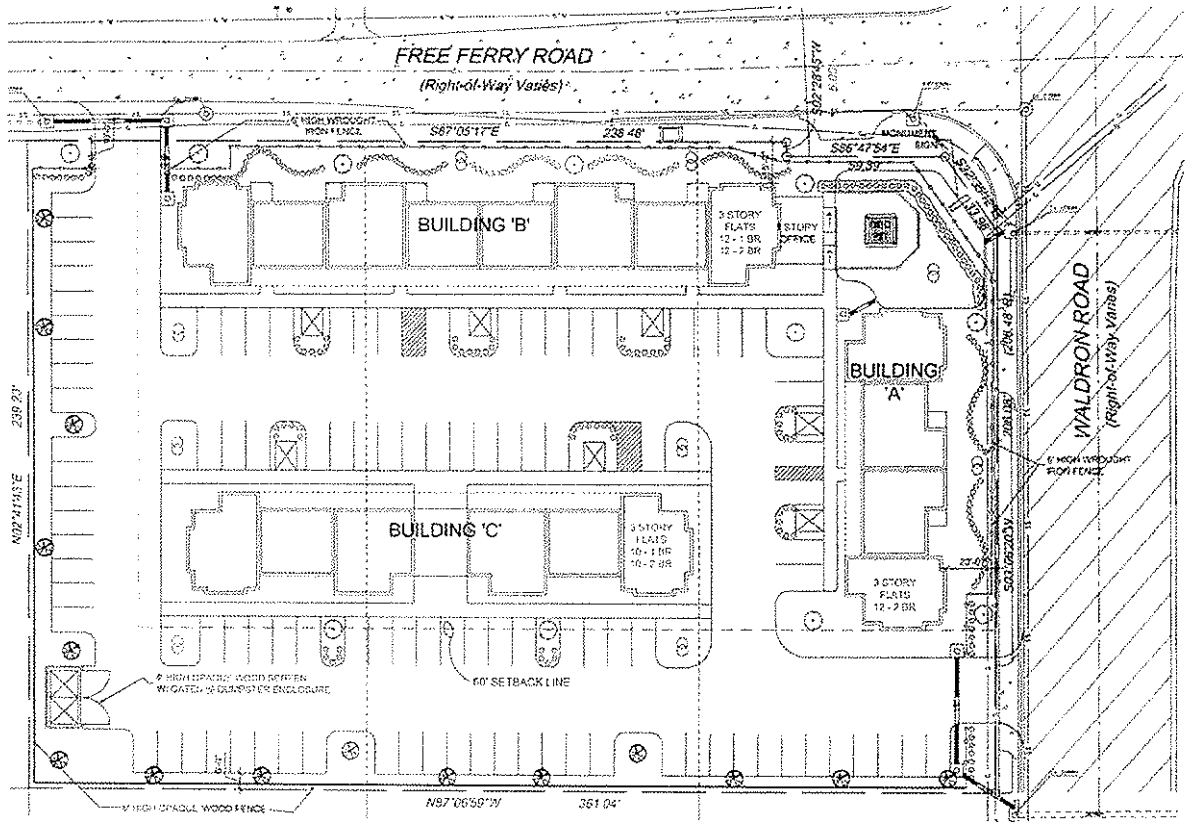
2012
DEVELOPMENT PLAN

PROJECT STATISTICS

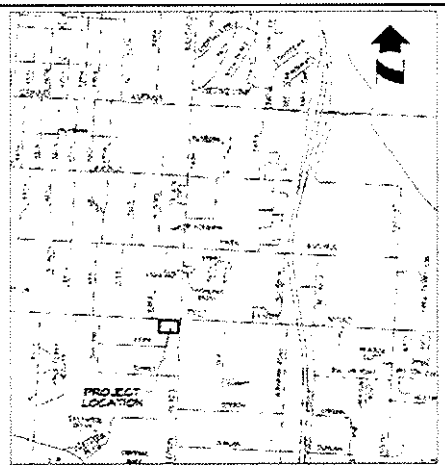
RESIDENTIAL DENSITY		TOTAL SITE AREA (ACRES)	TOTAL BUILDING FOOT PRINT AREA (ft²)	TOTAL PAVING AREA (ft²)	REQUIRED PARKING SPACES	PROVIDED PARKING SPACES
DWELLING UNITS	UNITS/ACRE					
36	20.6	1.921	34,512	40,000	72	102
PARKING SPACES CALCULATION METHOD			1 x 0 - 1 BR = 1 x 36 = 36 1 x 0 - 2 BR = 1 x 36 = 36		72 0	72 30

STRUCTURE INFORMATION

BUILDING DESIGNATION	# ON SITE	# OF FLOORS	TOTAL BLDG AREA (ft²)	FLOOR	FLOOR AREA (ft²)	USAGE	FLOOR AREA RATIO
A	1	3	12,384	1	4,128	DWELLING	100% DWELLING
				2	4,128	DWELLING	
				3	4,128	DWELLING	
B	1	3	24,564	1	8,188	DWELLING	100% DWELLING
				2	8,188	DWELLING	
				3	8,188	DWELLING	
C	1	3	12,564	1	4,188	DWELLING	100% DWELLING
				2	4,188	DWELLING	
				3	4,188	DWELLING	
OFFICE	1	1	576	1	576	OFFICE	100% OFFICE



SITE PLAN ——— SCALE: 1" = 20'-0"



VICINITY MAP ——— SCALE: 1" = 1000'-0"

PROJECT STATISTICS

LAND AREA	± 83,657 sq ft ± 1.921 Acres
STRUCTURES	5 BUILDINGS 5 UNITS - 2 BEDROOMS - 36 1 BEDROOM - 72
PARKING	102 (5 ADA) SPACES

PLANT LEGEND

TYPE	COMMON NAME	REMARKS
I	WILLOW OAK	3" CALIPER
II	CEDAR	3" CALIPER
III	RIVER BIRCH	3" CALIPER / MULTISTEM (1-1/2" CALIPER)
IV	YAUPON HOLLY	3 GAL.
V	ASIAN JASMINE	SPRIG @ 18" GRID

1. ALL DISTURBED AREAS TO RECEIVE BERMUDAGRASS SOD MIX.
2. OWNER SHALL PROVIDE WATER SOURCE WITHIN 75' OF ALL PLANT BEDS.
3. OWNER MAY SUBSTITUTE PLANTS WITHIN APPROVED PLANT LIST.
4. EDGE PLANT BEDS - SPRIG W/TYPE V, AND PROVIDE BARK CHIP.

SITE PLAN

C1.0

EAST ELEVATION
SCALE: 1/8"=1'-0"
NORTH ELEVATION
SCALE: 1/8"=1'-0"
SOUTH ELEVATION
SCALE: 1/8"=1'-0"
COPYRIGHT, TBA

EAST ELEVATION
SCALE: 1/8" = 1'-0"
SOUTH ELEVATION
SCALE: 1/8" = 1'-0"
NORTH ELEVATION
SCALE: 1/8" = 1'-0"
COPYRIGHT, TBA

EAST ELEVATION
SCALE 1/8"=1'-0"
WEST ELEVATION
SCALE 1/8"=1'-0"
NORTH ELEVATION
SCALE 1/8"=1'-0"
COPYRIGHT, TBA

SUBMITTED
APPEAL INFORMATION

August 24, 2012

City Clerk
FILED 8-24-12
H James

City Directors
City of Fort Smith
623 Garrison Ave.
PO Box 1908
Fort Smith, AR 72902

City Directors,

We are respectfully appealing the decision by the Fort Smith Planning Commission during the August 14th, 2012 meeting which denied our request of the development plan review at 900 South Waldron Road.

The Unified Development Ordinance is a template for developing, not a template against developing. We worked closely with the city planning staff to ensure that we met all requirements of the UDO for land use and zoning. This was reflected by the planning staff's recommendation to the Planning Commission that they approve this development plan. We believe the Planning Commission made an arbitrary decision not based on facts or empirical data. The following factors are the key elements for their decision and our response.

1. **Consistent Use:** The main reason listed for denial was, "proposed development would not be consistent with areas established development patterns and character. It fails to respect the context of the surrounding neighborhood." (Exhibit" A") Not only do we disagree with the contents of the statement, we do not believe that the stated reason is a legal or valid reason to deny our application.

   Planner Maurras expressed the reason for denial by referencing a letter from City Attorney Jerry Canfield. (Exhibit "B") Mr. Maurras read the part of Mr. Canfield's letter that simply restated 27-331-1 of the Fort Smith Code, "The approval process is necessary to ensure that the proposed development shall conform to the Unified Development Ordinance and shall incorporate a compatible arrangement of buildings, parking, lighting, signage, landscaping, circulation, drainage, and open spaces."

   However, upon review the very letter written by the City Attorney, Planner Maurras did not continue to read the next part of the letter that states, "factors outside the language of Section 27-331-1, such as (1) disagreement with the zoning classification or other prior planning decisions of the city or (2) argued incompatibility of the development plan with other, nearby properties, are not appropriate factors in performing development plan

review under the section". (Emphasis added.) It is apparent from the face of the letter, that the planning commission did not follow the advice of the City Attorney.

Assuming for the sake of argument (despite Mr. Canfields advice) that the Planning Commission could look to other outside factors, our project is compatible within itself both in function and design as per the Fort Smith code requirements. As far as compatibility with the surrounding area, we want it to be compatible and believe it is but that is not a valid reason for development review denial.

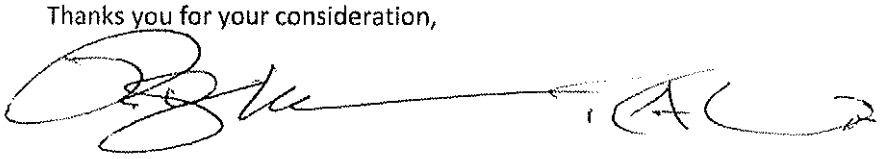
Exhibit C shows some examples of compatibility in the area. This shows an approximate 4000 foot radius from 900 South Waldron Road. We choose this radius based upon the location of some of the residents that are objecting to this project. The commonalities of area buildings are much more similar than they are different. This property sits at an intersection of two classified roads, a collector and a major arterial. People seem to be concerned about the height of our project being a three-story residence. Some have stated the lack of like "tall" structures in the area, we disagree. For example Central Mall, Trinity Jr. High, the Emeritus Senior Living Center, St. Luke Lutheran Church, Stubblefield Center at the University of Arkansas of Fort Smith, the Lion's Den and Sebastian Commons Apartments. Some of which have single family homes adjacent. Our point being that there are an eclectic mix of buildings in the area that say "community" and our project would fit quite appropriately.

2. **Vehicle Traffic:** Vehicle traffic has been brought up as a potential issue. The fact is a traffic study was performed in 2010 (Exhibit "D"). It found the impact to local traffic has "virtually no effect on the intersection of Waldron Road and Free Ferry". Furthermore an update for this study was done August 10th, 2012 (Exhibit "E"). It states that traffic had decreased at this intersection and that the original study remains valid.
3. **Drainage:** Drainage has been brought up as a potential issue. This project will be engineered, designed, supervised and constructed by professionals under the codes of the city and in conjunction with the cities engineering officials. Water run-off will be dealt with properly and much better than a raw piece of undeveloped or run down property. Per Stan Snodgrass Director of City Engineering (Exhibit "E") "the on-site detention will be designed to not allow anymore runoff from the site than what exists under current conditions".
4. **Other Factors:** Some other factors have been brought up like density, landscaping, parking, and signage. All these we comply with or will comply through the normal permitting/inspection process.

In conclusion, we believe the Planning Commission was incorrect in its decision to deny our application. We further believe that the Planning Commission did not follow the rules of the Commission and that we have satisfied all the regulatory requirements. We are local, small business men that feel a connection to our community and a desire to develop an economic opportunity that is profitable. We feel this is an opportunity for both. We strive to be good citizens and providers for our families. Our economy needs growth. People need jobs and places to reside. Here's an excellent way for this by the

"good old American way" of hard work, perseverance, ingenuity, and taking a risk. In doing so, this provides a place for people to reside in our area. We respectfully request the Board of Directors to overturn the denial by the Planning Commission and approve our application.

Thanks you for your consideration,



Rocky Walker & Aaron Wirth, Developers

Attachments

Ex. A

August 15, 2012

Dear Property Owner:

The Planning Commission denied the development plan for a multi-family development located at 900 South Waldron Road at their August 14, 2012, meeting.

The Planning Commission denied this request based on the fact that the proposed development would not be consistent with the area's established development pattern and character and that it fails to respect the context of the surrounding neighborhood.

Any appeal to the Planning Commission's decision on this development plan request must be filed in writing to the City Clerk no later than 5:00 p.m. on August 24, 2012.

If you have any questions concerning this matter, you may contact the Planning Department at 784-2216.

Sincerely,

Wally Bailey
Director of Development
Services

lp

Printed on 100% Recycled Paper

Ex B

DAILY & WOODS

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

JERRY L. CANFIELD, P.A.
THOMAS A. DAILY, P.A.
WYMAN R. WADE, JR., P.A.
DOUGLAS M. CARSON, P.A.
ROBERT R. BRIGGS, P.A. †
C. MICHAEL DAILY, P.A. † •
L. MATTHEW DAVIS, P.A. †
COLBY T. ROE

† Also Licensed in Oklahoma
• Also Licensed in Wyoming & North Dakota

KMW BUILDING
58 SOUTH SIXTH STREET
P.O. BOX 1446
FORT SMITH, AR 72902
TELEPHONE (479) 782-0361
FAX (479) 782-6160

WRITER'S E-MAIL ADDRESS
JCanfield@DailyWoods.com

JAMES E. WEST
DALE CARLTON
PHILLIP E. NORVELL †

OF COUNSEL

HARRY P. DAILY (1886-1965)
JOHN P. WOODS (1886-1976)
JOHN S. DAILY (1912-1987)
BEN CORE (1924-2007)

August 13, 2012

Mr. Wally Bailey
Director of Development Services
P.O. Box 1908
Fort Smith, AR 72902

Re: Development Plan Approval – Fort Smith Municipal Code Section 27-331

Dear Mr. Bailey:

As you know, rezoning and other planning action is often taken on the condition of subsequent approval of a specific development plan for the subject property. Fort Smith Code Section 27-331-1 establishes a procedure for such development plan review and approval. The section provides:

> A Development Plan may be submitted as a single approval project or concurrently as part of another application or approval process. The approval process is necessary to ensure that the proposed development shall conform to the Unified Development Ordinance and shall incorporate a compatible arrangement of buildings, parking, lighting, signage, landscaping, circulation, drainage, and open spaces.

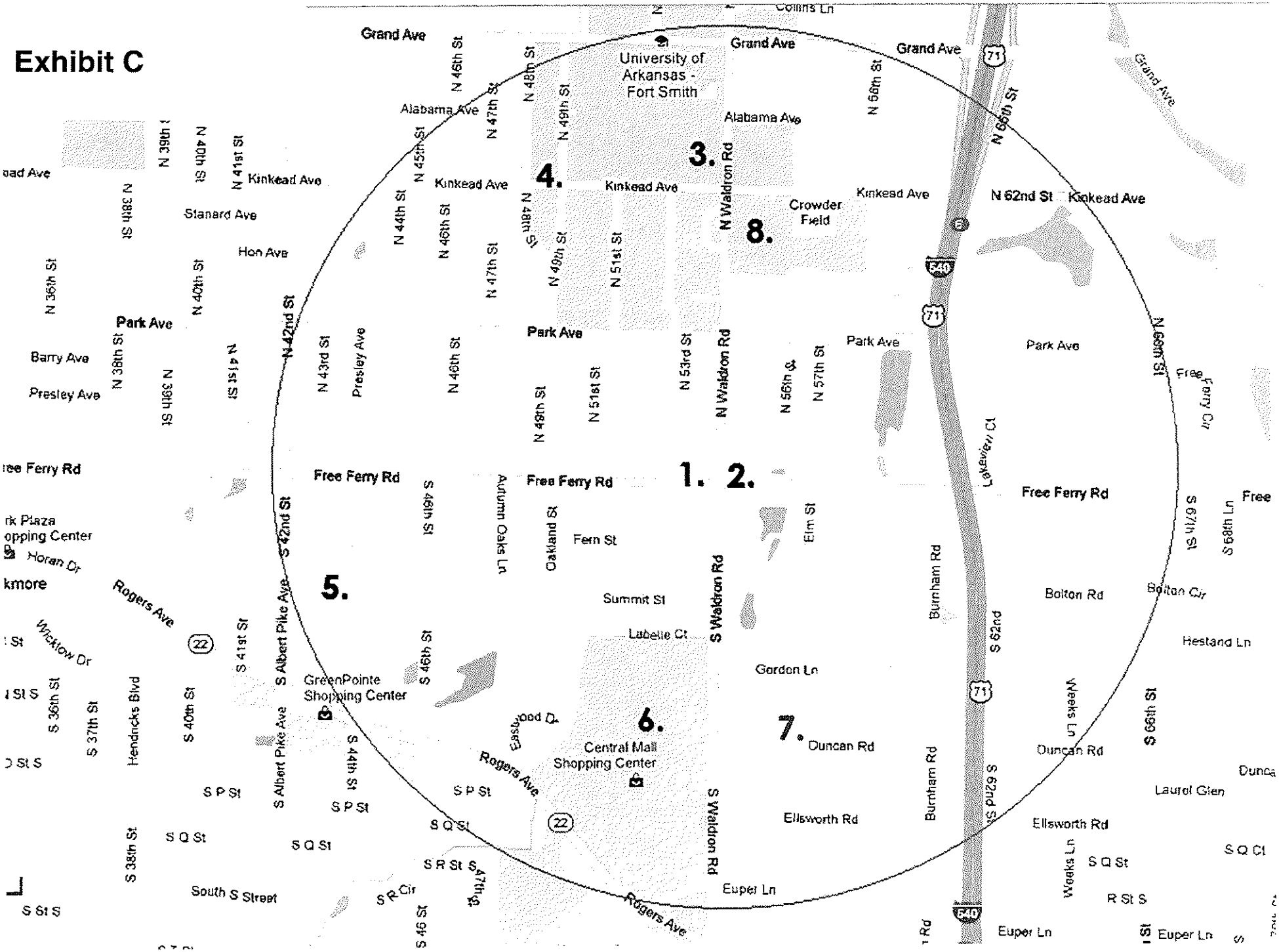
It is our opinion that the language of this section establishes the extent of City review by the director, planning commission or board of directors (on appeal). Stated otherwise, it is our opinion that factors outside the language of Section 27-331-1, such as (1) disagreement with the zoning classification of the property or other prior planning decisions of the City or (2) argued incompatibility of the development plan with other, nearby properties, are not appropriate factors in performing development plan review under the section.

Thank you for your attention to this matter.

Very truly yours,

Jerry L. Canfield
JLC/cmm

Exhibit C



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7.
8.
University of Arkansas - Fort Smith
Crowder Field
GreenPointe Shopping Center
Central Mall Shopping Center
Grand Ave
Alabama Ave
Kinkead Ave
Stanard Ave
Hon Ave
Park Ave
Barry Ave
Presley Ave
Free Ferry Rd
Rogers Ave
Horan Dr
Wicklow Dr
Hendricks Blvd
South S Street
Summit St
Labelle Ct
Gordon Ln
Duncan Rd
Ellsworth Rd
Euper Ln
Bolton Rd
Bolton Cir
Hestand Ln
Laurel Glen
Weeks Ln
Burnham Rd
Lakeview Ct
Fern St
Oakland St
Autumn Oaks Ln
Elm St
Collins Ln
N 62nd St
N 66th St
N 42nd St
N Waldron Rd
S Waldron Rd
S Albert Pike Ave
S 42nd St
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Free Ferry Cir
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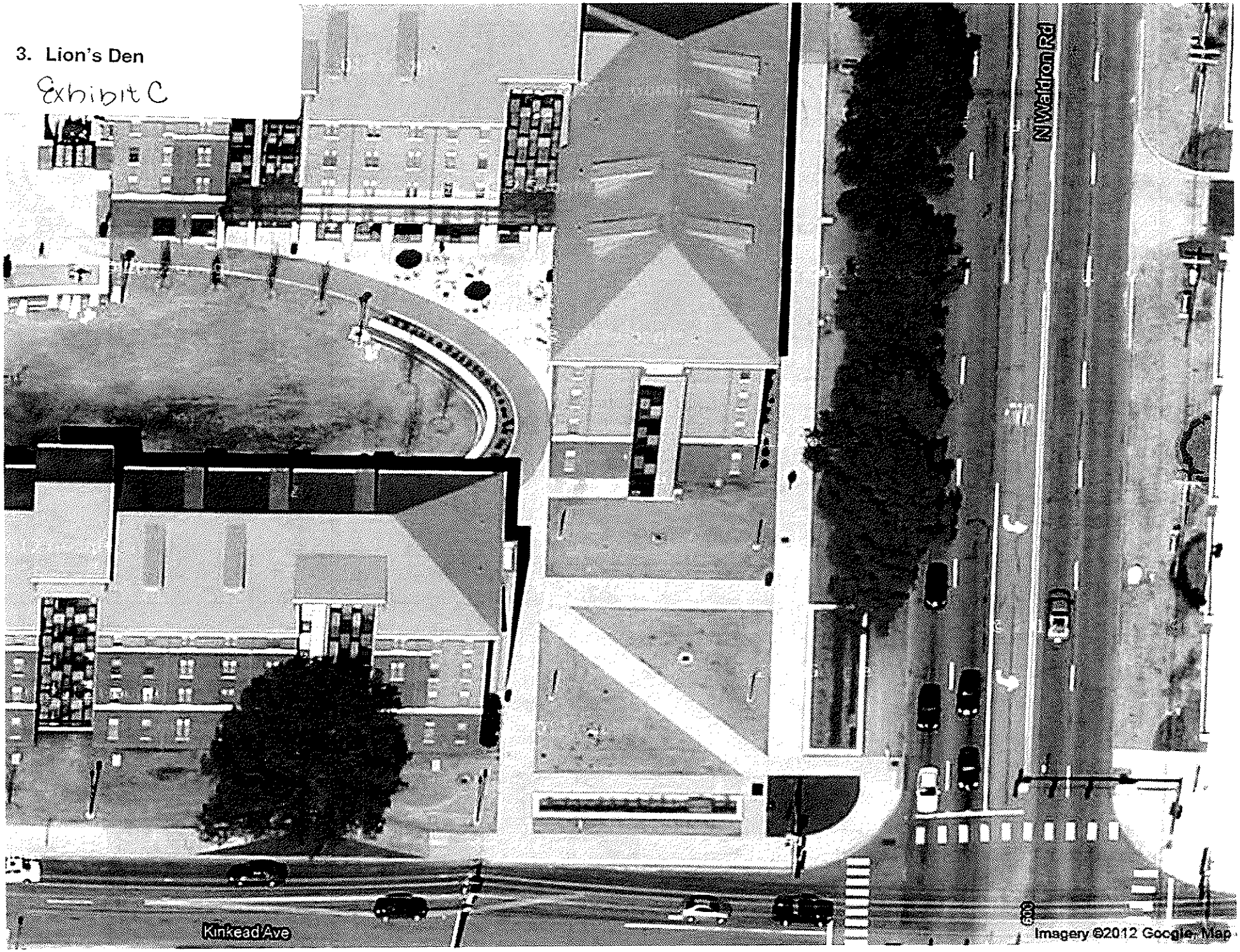
1. **Project Site**
   900 S. Waldron Road
   Exhibit C

2. St. Luke Lutheran Church
Exhibit C
N Waldron Rd
9600 Waldro
© 2012 Google

3. Lion's Den

Exhibit C

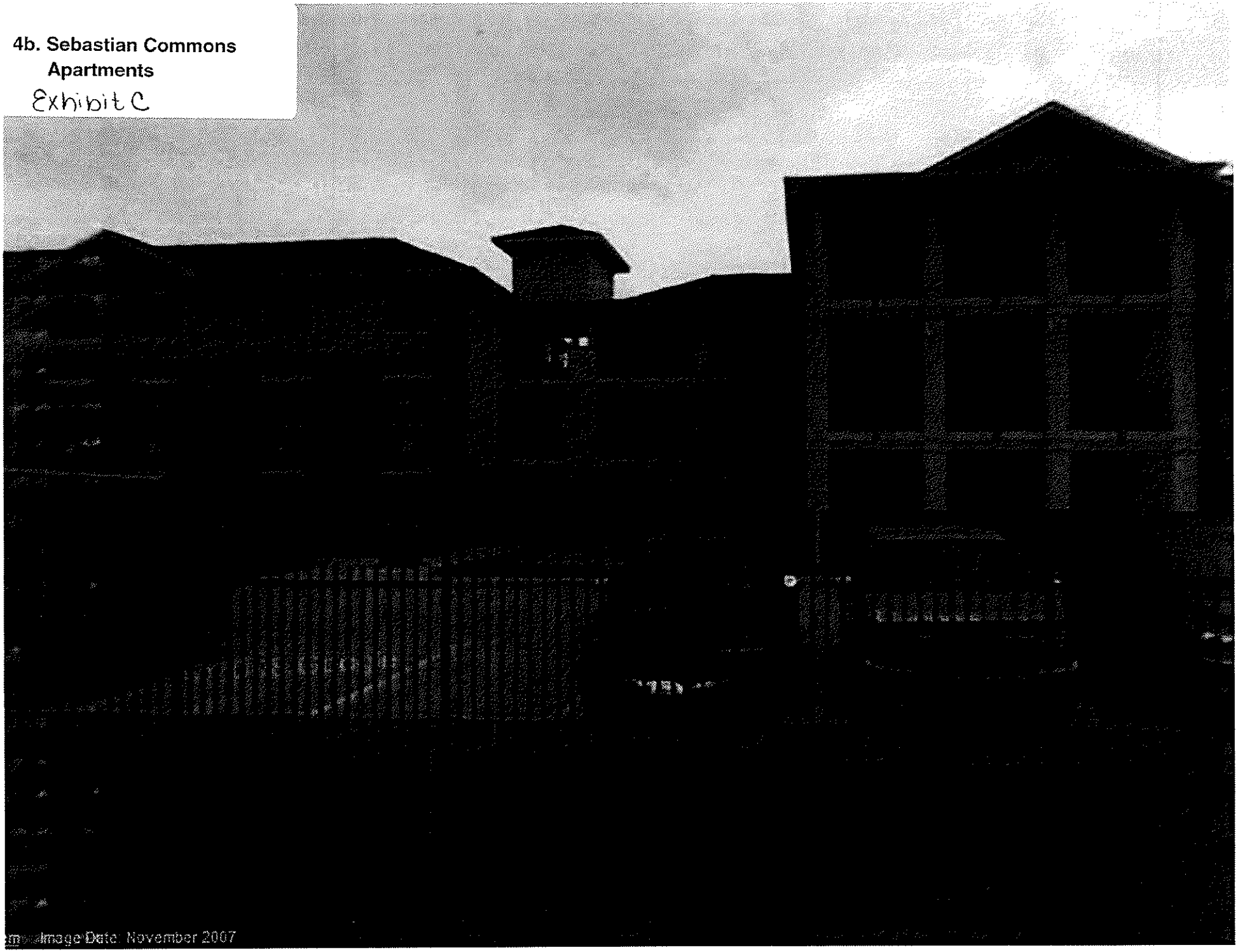


4a. Sebastian Commons Apartments

Exhibit C

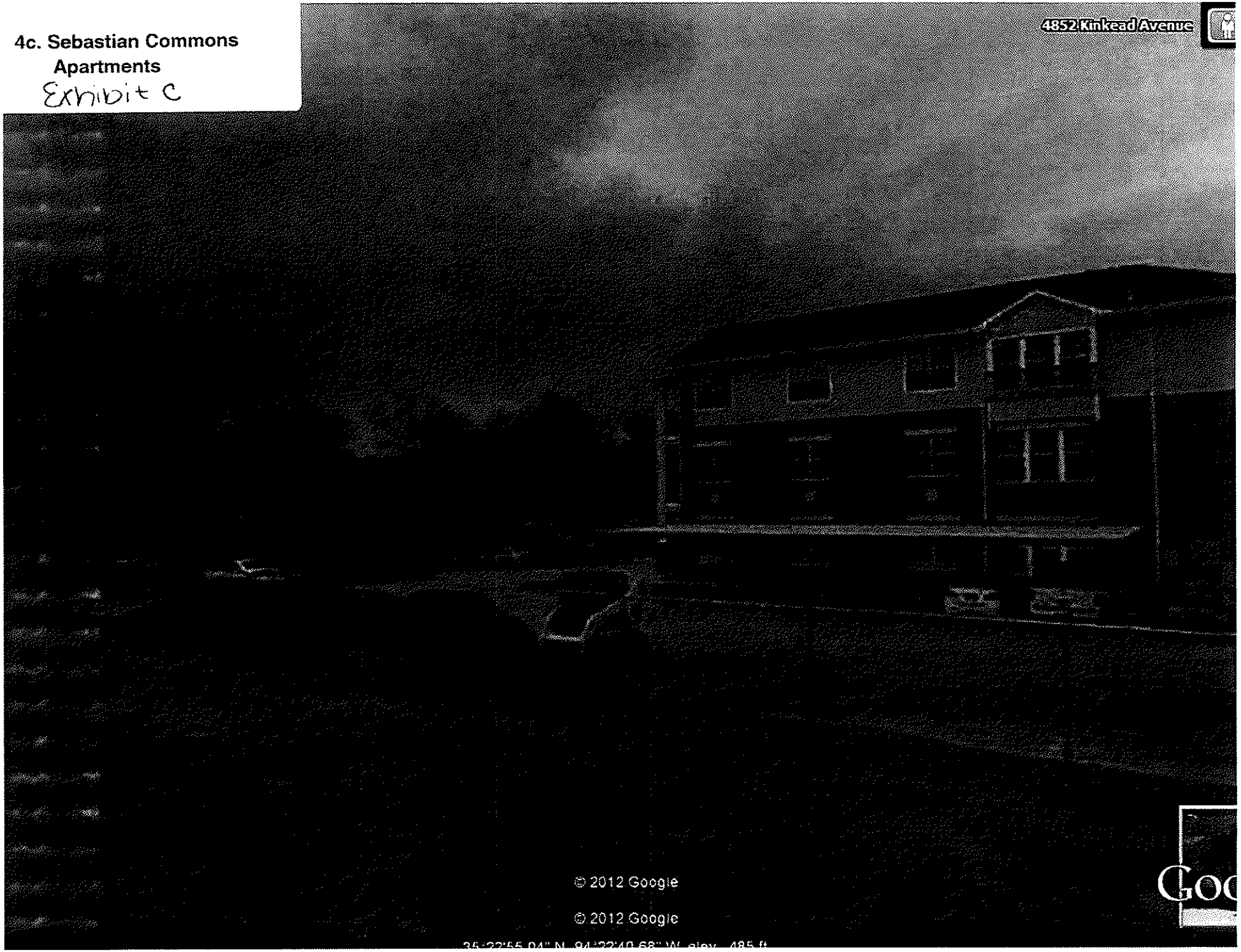
4b. Sebastian Commons Apartments

Exhibit C



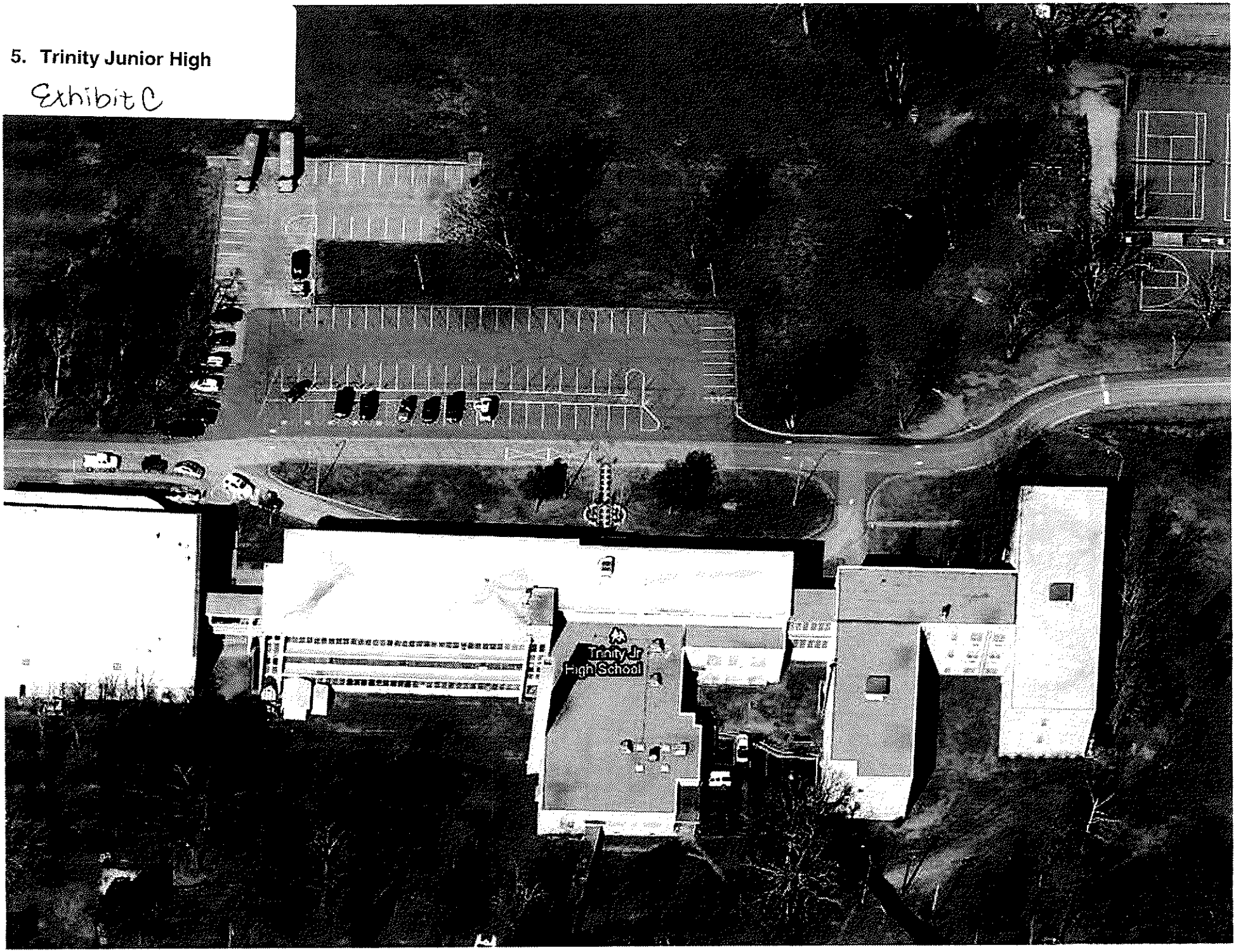
4c. Sebastian Commons Apartments

Exhibit C



5. **Trinity Junior High**

Exhibit C



6a. Central Mall

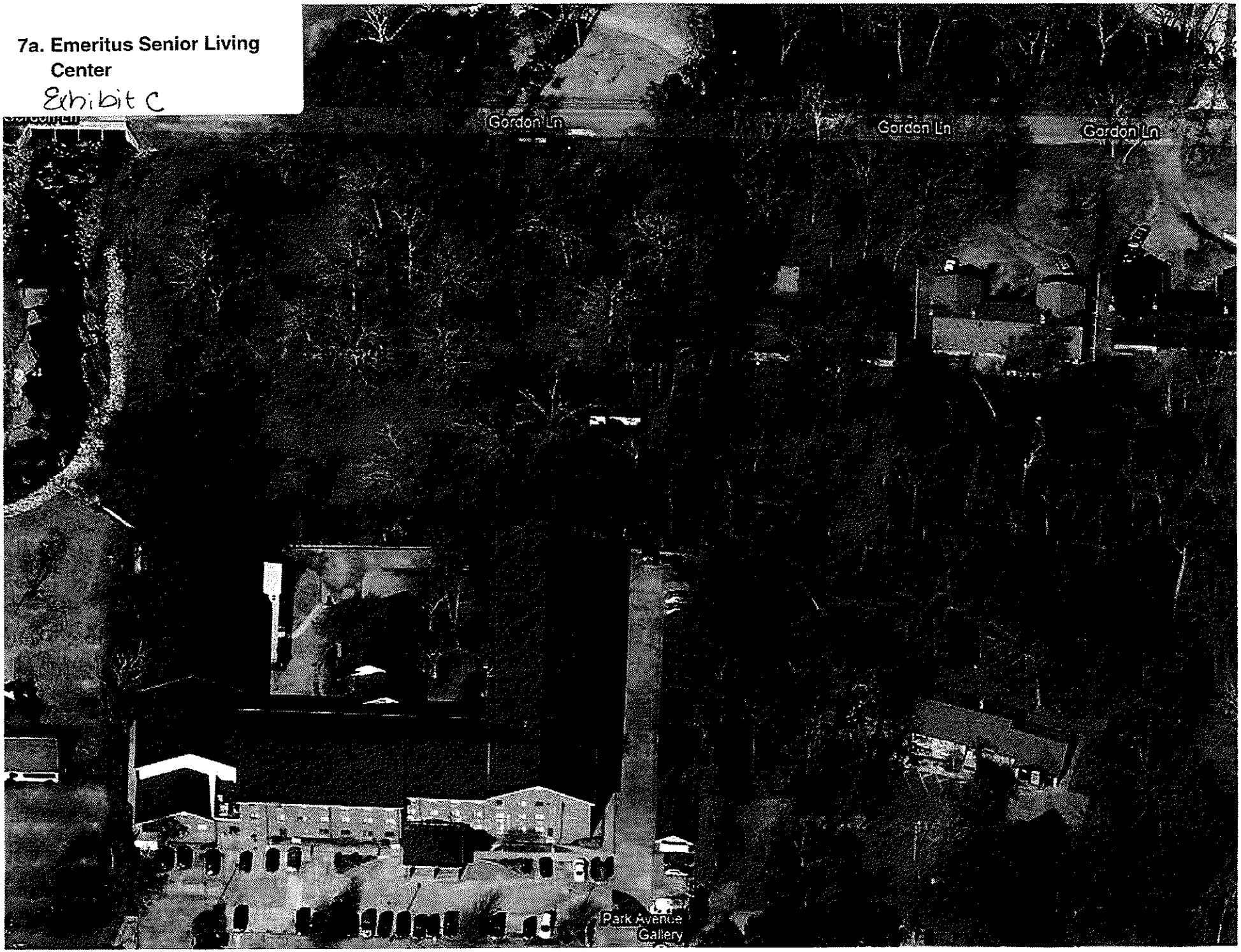
Exhibit C

6b. Central Mall

Exhibit C

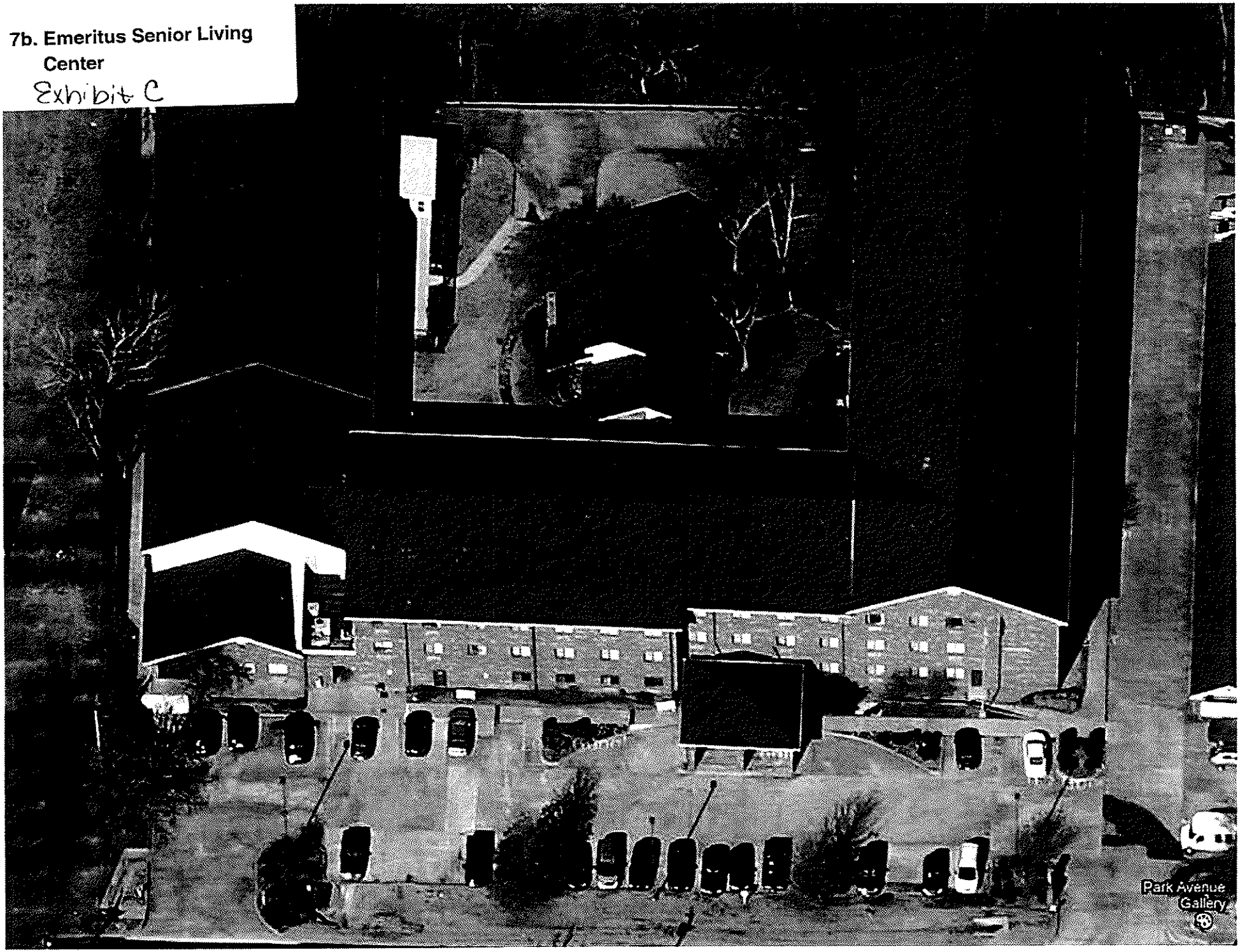
7a. Emeritus Senior Living Center

Exhibit C



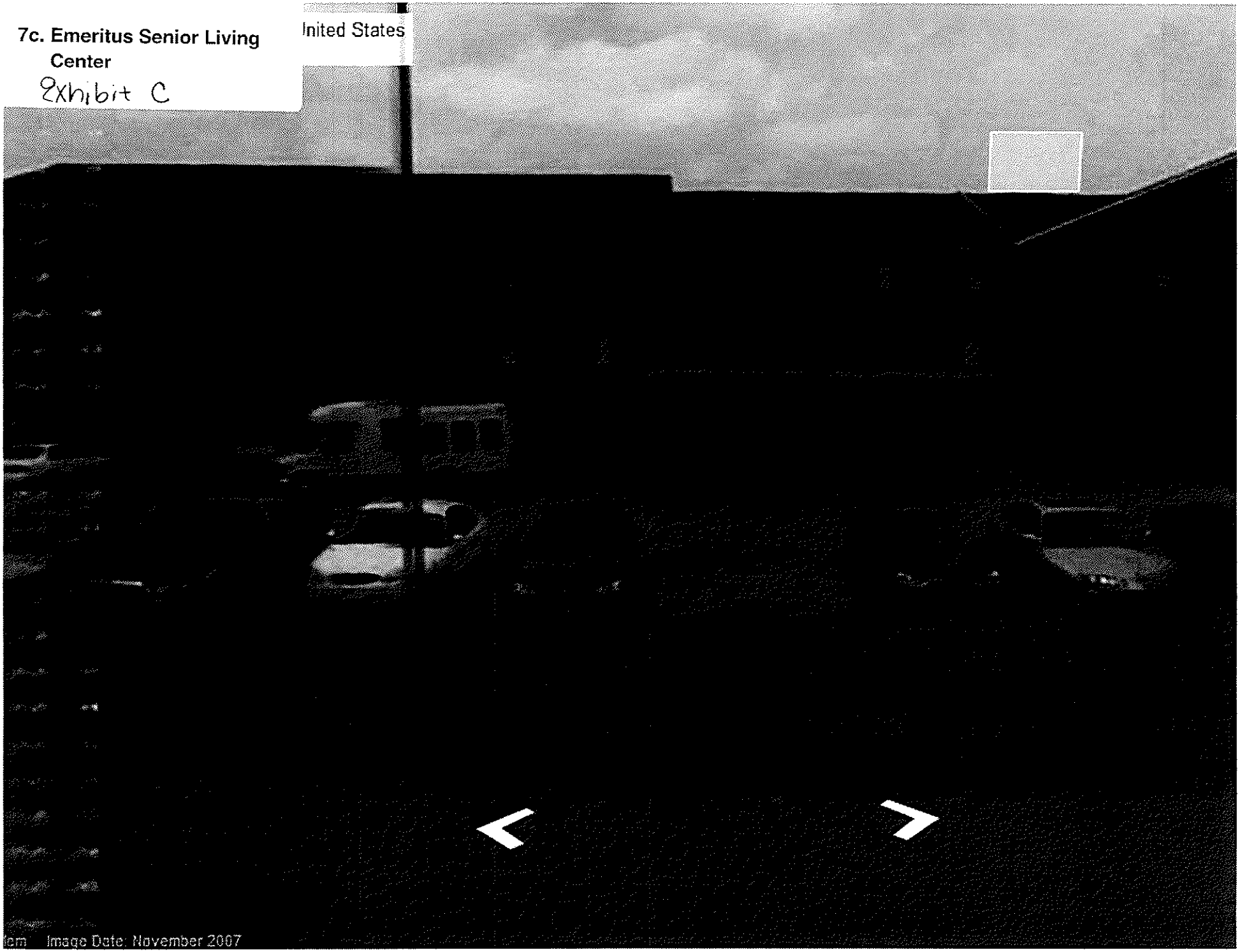
7b. Emeritus Senior Living Center

Exhibit C



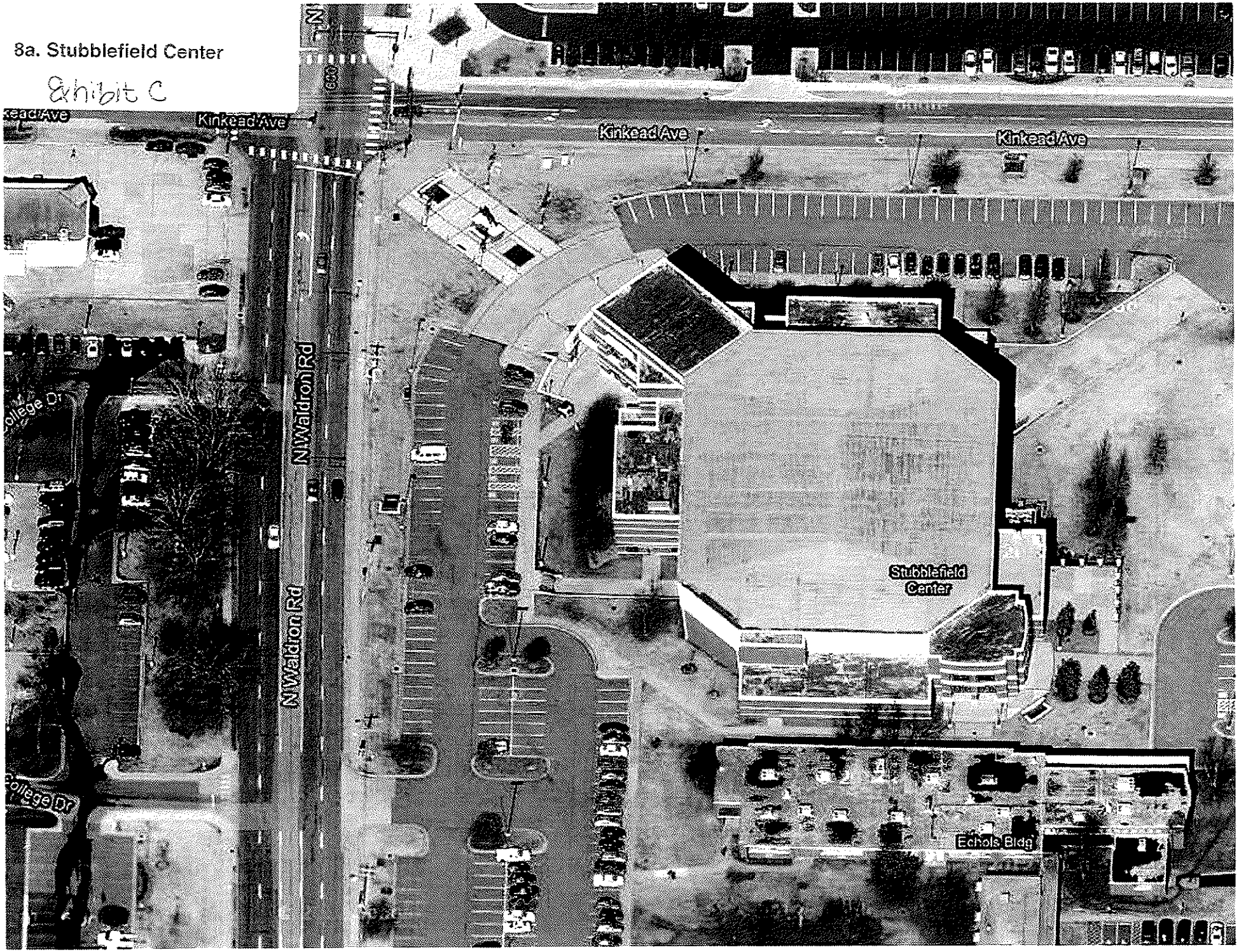
7c. Emeritus Senior Living Center

Exhibit C



8a. Stubblefield Center

Exhibit C



8b. Stubblefield Center

Exhibit C

Ex. D

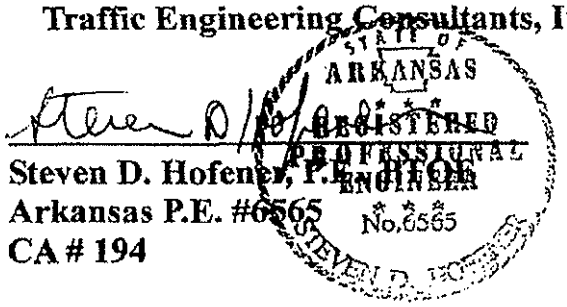
Traffic Engineering Consultants, Inc.

TRAFFIC IMPACT STATEMENT
STOUFFER PLACE APARTMENTS
Fort Smith, Arkansas

Prepared for:
City of Fort Smith

January 26, 2010

Prepared by:
Traffic Engineering Consultants, Inc.



Steven D. Hofener, P.E. #6565 — 1/26/10
Steven D. Hofener, P.E. #6565 — Date
Arkansas P.E. #6565
CA # 194

1S

Ex. D

Traffic Impact Statement
Stouffer Place Apartments

A planned development has been submitted to the City of Fort Smith to develop the southwest corner of Waldron Road and Free Ferry. It is an apartment complex with 56 units. There are two access points (driveways), one on Free Ferry and the other on Waldron. Morrison Shipley (MS) is the site design engineer. MS submitted traffic data and traffic projections for the site. Traffic Engineering Consultants, Inc (TEC) was asked to review the data and perform analysis to determine the traffic impacts to the intersection of Waldron Road and Free Ferry. This report summarizes the results.

Trip Projections

The 8th edition of the ITE publication *"Trip Generation Manual"* was used to determine the expected trips to be generated by Stouffer Place Apartments. The table below shows the projected trips for both the a.m. peak period and the p.m. peak period.

TRAFFIC PROJECTIONS

LAND USE TYPE	ITE CLASS	APPROX GROSS FLOOR AREA	AVERAGE WEEKDAY VEHICLE TRIP ENDS									
			PER DAY	PER PEAK HOUR ADJACENT STREET TRAFFIC		AM Peak Hr Directional Distribution		AM Peak Hr Directional Volume		PM Peak Hr Directional Distribution		PM Peak Hr Directional Volume	
				ONE HOUR BETWEEN 7:00am & 9:00am	ONE HOUR BETWEEN 4:00pm & 6:00pm								
		(sf)	(vpd)	(vph)	(vph)	IN	OUT	IN	OUT	IN	OUT	IN	OUT
TRIP RATE*	220	per unit	6.65	0.51	0.63	0.2	0.80	4	23	0.65	0.35	23	12
MULTI-FAMILY		56	372	29	35								
Total			372	29	35			6	23			23	12

* Average Trip Rates from "TRIP GENERATION", 8th Edition, Institute of Transportation Engineers, 2008

Trip Distribution

The projected trips were then distributed to both driveways and through the intersection of Waldron Road and Free Ferry. **Figure 1** shows the expected new trips at Waldron Road and Free Ferry created by Stouffer Place.

Traffic Analysis

In order to perform a Capacity Analysis, it is necessary to determine the existing traffic at the intersection. MS performed peak hour traffic counts on January 20, 2010. These counts were provided to TEC. **Figure 2** shows the existing traffic.

The projected traffic was then added to the existing traffic to show the total traffic after completion of Stouffer Place. This traffic is shown in **Figure 3**.

A capacity analysis was then performed for both the a.m. peak period and the p.m. peak period for two conditions. The first was existing traffic and the second was total traffic after Stouffer Place is completed and fully occupied. The two conditions were then compared. All supporting data is attached to this report.

17

E & D

The table below shows the comparison of before and after. It shows the calculated levels-of-service and the average delay per vehicle during the peak periods.

Condition	A.M. Peak Hour		P.M. Peak Hour	
	Average Delay (Sec. per Vehicle)	Level-of-Service	Average Delay (Sec. per Vehicle)	Level-of-Service
Existing Traffic	19.0	B	20.5	C
Combined Traffic	19.1	B	20.6	C
Difference	.1		.1	

As can be seen from the table, the intersection currently operates within acceptable limits with good levels-of-service. After the Stouffer Place Apartments are constructed, there is virtually no effect on the intersection. The levels-of-service remain the same and there is only one tenth of a second difference in the delay calculations. Stouffer Place can be constructed without a negative traffic impact on the intersection of Waldron Road and Free Ferry.

Crash Records

The City of Fort Smith provided crash records for 2005-2009 at the intersection. There were seven crashes in 2005, seven crashes in 2006, thirteen crashes in 2007, seven crashes in 2008 and six crashes in 2009. This is very low for an intersection with the traffic volumes seen at Waldron Road and Free Ferry. For 2009, two of the crashes were left turning vehicles, two crashes were right angle collisions, and two were rear end collisions. The two rear end collisions were for westbound Free Ferry traffic east of Waldron Road. Due to the low number of crashes, no action is necessary to review crash causation.

10

Ex E

INTER-OFFICE MEMO

TO: Wally Bailey, Director of Development and Construction

FROM: Stan Snodgrass, P.E., Director of Engineering SS

DATE: August 10,2012

SUBJECT: Stoufer Place Apartments (900 Waldron)
Traffic and Drainage Issues

This information is provided as a supplement to my previous memo dated January 27, 2010 regarding the traffic and drainage issues on the subject property.

We have reviewed the averaged daily traffic counts from the Arkansas Highway and Transportation Department for both Waldron Road and Free Ferry Road in this area. A summary of those counts from year 2008 to 2011 are provided below.

	Waldron	Free Ferry
2008	15,000	6,700
2009	15,000	6,600
2010	12,000	6,500
2011	11,000	6,300

The AHTD counts show a reduction of traffic at these locations from 2008 to 2011. Current traffic movement counts have not been taken at this intersection but we would expect those counts to be similar if not lower given the total reduction in the traffic volume. As such and based on the proposed development with the same number of dwelling units, we believe the previous prepared traffic analysis by TEC to remain valid and the impacts to the level of service to the intersection of Waldron and Free Ferry to be neglible.

In reference to the drainage issues, the proposed development is basically the same footprint as before. The onsite detention will be designed to not allow any more runoff from the site than what exists under the current conditions.

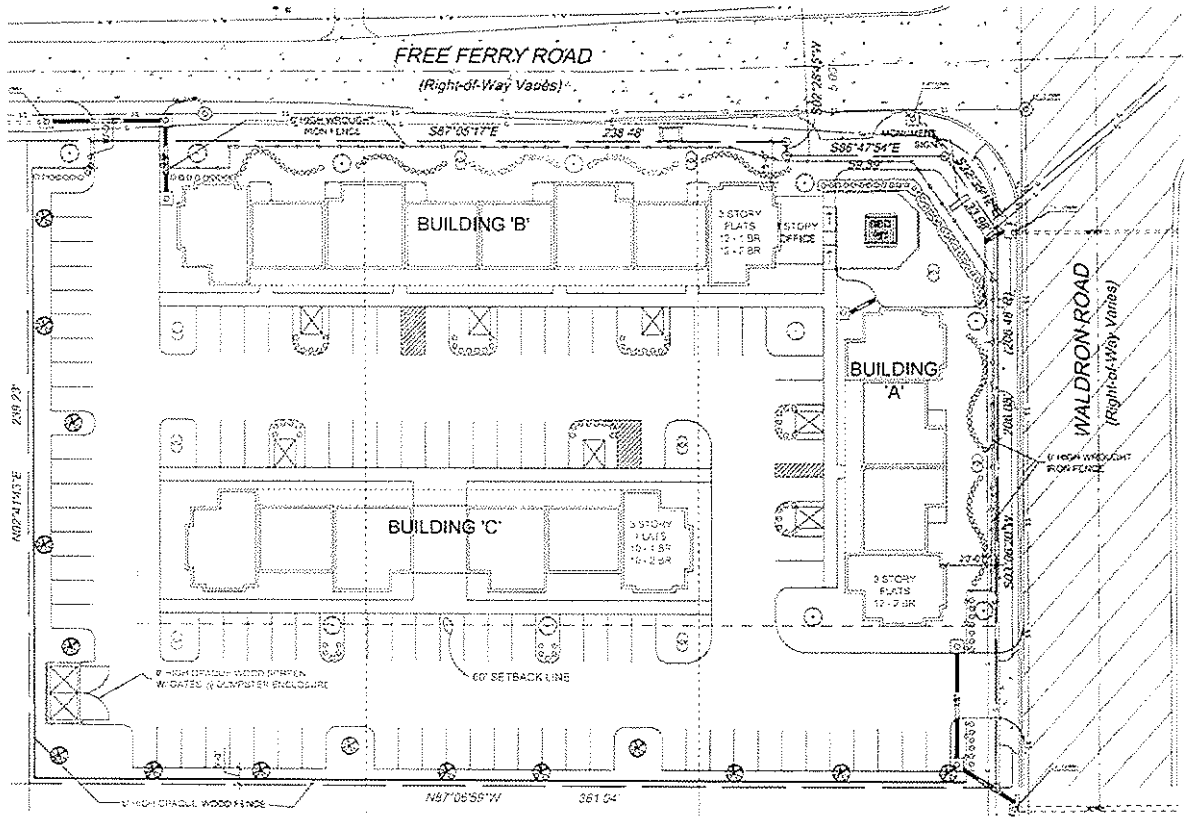
1Q

PROJECT STATISTICS

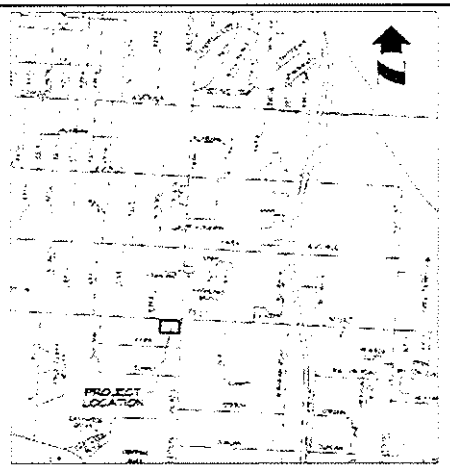
	RESIDENTIAL DENSITY (UNITS/ACRE)	TOTAL SITE AREA (ACRES)	TOTAL BUILDING FOOT PRINT AREA (ft²)	TOTAL PAVING AREA (ft²)	REQUIRED PARKING SPACES	PROVIDED SPACES
DWELLING UNITS	26.4	1.901	34,516	42,220	1	102
PARKING SPACE CALCULATION METHOD			1 S.P.S. 1 BR 2 P.S. 2 BR		1 + 2 = 3 2 + 3 = 7	13 12

STRUCTURE INFORMATION

BUILDING DESIGNATION	# ON SITE	# OF FLOORS	TOTAL BLDG AREA (ft²)	FLOOR	FLOOR AREA (ft²)	USAGE	FLOOR AREA RATIO
A	1	3	32,146	1	4,292	DWELLING	100% DWELLING
				2	4,292	DWELLING	
				3	4,292	DWELLING	
B	1	3	21,564	1	5,222	DWELLING	100% DWELLING
				2	5,222	DWELLING	
				3	5,222	DWELLING	
C	1	3	16,384	1	5,222	DWELLING	100% DWELLING
				2	5,222	DWELLING	
				3	5,222	DWELLING	
OFFICE	1	1	4,16	1	4,16	OFFICE	100% OFFICE



SITE PLAN — SCALE: 1"=20'-0"



VICINITY MAP — SCALE: 1"=1000'-0"

PROJECT STATISTICS

LAND AREA	[illegible]
STRUCTURES	5 BUILDINGS [illegible]
PARKING	102 (5 ADA) SPACES

PLANT LEGEND

TYPE	COMMON NAME	REMARKS
I	WILLOW OAK	3" CALIPER
II	CEDAR	3" CALIPER
III	RIVER BIRCH	3" CALIPER / MULTISTEM (1-1/2" CALIPER)
IV	YAUPON HOLLY	5 GAL.
V	ASIAN JASMINE	SPRIG @ 18" GRID

1. ALL DISTURBED AREAS TO RECEIVE BERMUDA/RYE SEED MIX.
2. OWNER SHALL PROVIDE WATER SOURCE WITHIN 75' OF ALL PLANT BEDS.
3. OWNER MAY SUBSTITUTE PLANTS WITHIN APPROVED PLANT LIST.
4. EDGE PLANT BEDS - SPRIG W/TYPE V. AND PROVIDE BARK CHIP.

C1.0

NORTH ELEVATION
SOUTH ELEVATION
EAST ELEVATION
COPYRIGHT, TBA

EAST ELEVATION
SCALE: 1/8" = 1'-0"
SOUTH ELEVATION
SCALE: 1/8" = 1'-0"
NORTH ELEVATION
SCALE: 1/8" = 1'-0"
HORIZONTAL SIDING
STONE VENEER
BRICK VENEER
COPYRIGHT TBA

EAST ELEVATION
SCALE: 1/8"=1'-0"
WEST ELEVATION
SCALE: 1/8"=1'-0"
NORTH ELEVATION
SCALE: 1/8"=1'-0"
COPYRIGHT TBA

OPPOSITION LETTERS,
PETITIONS, E-MAILS

Perceful, Lestene

From: John Alford [john@jalfordlaw.com]
Sent: Tuesday, January 12, 2010 12:16 PM
To: Andrews, Brenda; Planning Email Group
Cc: Bailey, Wally
Subject: RE: January 12 Planning Commission Meeting
Attachments: John D. Alford (jdalaw@sbcglobal.net).vcf

Brenda,

I met with and talked to several of my neighbors about the proposed apartment complex at the corner of Free Ferry and Waldron Rd. I also met with one of the developers, Bill Hanson to discuss the plan. Here are the concerns:

1. The current Master Plan does not permit 56 units. A change of the Master Plan could permit other uses if this project were to not move forward by this developer. Another developer could build a project not contemplated by the current plan. Therefore, if this plan is permitted it should be limited in time. If the plan as currently presented does not start within 6 months from final approval by the City then the property should revert back to the existing master plan.

2. The current development scheme does not provide for street improvements to Free Ferry Rd or Waldron Rd. We believe that a deceleration lane for east bound Free Ferry traffic at the proposed apartment entrance is necessary due to:

A. stacking at the Free Ferry and Waldron intersection;

B. the speed of vehicles traveling on Free Ferry Rd (35mph posted limit but the reality is drivers drive 40 to45+mph); and,

C. the width of Free Ferry at the location of the drive entrance narrows from the intersection.

For the same reasons, a turn lane west bound at the Free Ferry entrance to the apartment complex should be required.

Apartment complexes are large trip generators and there are 56 units which indicate that there will probably be a full parking lot everyday (105 parking spaces including handicap spaces). The complex will generate more than 500 trips per day and probably even more if occupied by college students. There are several apartment complexes either complete or under construction around the university. A lot of the traffic finds its way from the University to Free Ferry Rd, 49th street and 46th street as students go to and from class and look for routes to avoid some of the main streets. I would suspect that the FSPD issues more speeding citations on Waldron Rd from the University to the Central Mall than any other section of street in the city. For these reasons, the traffic should be addresses now.

3. By permitting the additional units through the amendment of the Master Plan, there is no space for detention or other green space to absorb storm water runoff. Most all of the project is roof top or hard surface parking. Free Ferry at the east end of the subject property is low and the street does retain surface water during heavy rains. Drainage should be addressed with the development of the project.

4. No other developments adjoining the subject property should be permitted to have a drive easement or ingress and egress across the subject property. This would burden the planned two (2) entrance exit locations for the project.

We understand that apartments are permitted on the subject property. It is the development issues that should be addressed so that existing property owners are protected as the use of the subject property changes. The issues regarding traffic and drainage should be addressed whether it is 46 units or 56 units.

John D. Alford
John D. Alford, P.A.
Attorney At Law
6301 CLIFF DRIVE
P.O.BOX 10210

172-24
56

Andrews, Brenda

From: Brenda Altman [baltman@bicinsurance.com]
Sent: Tuesday, January 12, 2010 1:46 PM
To: Andrews, Brenda
Subject: FW: Hearing rezone 900 S Waldron Road (Free Ferry and Waldron Road)

Brenda, I have been advised to contact you regarding opposition to the rezoning of the property located 900 S Waldron Road (Corner of Free Ferry and Waldron Road). Would you please send our concerns to the board?

My husband and I are the owners of 14 duplexes located 100-127 North 53rd Street. The majority of our tenants are retired women/men looking for safe and quite housing. Many have lived here 10+ years. The proposed rezoning with 2-3 story buildings with density of 58 units on less than 2 acres will greatly decrease the quality of life in this area. A hot tub located on the premises increases the likelihood of loud parties and all the accompanying problems. The increased traffic will negatively impact the safety of the area as well.

We are asking you to disapprove the request to zone multi family. Thank you for your consideration.

Brenda Altman

172-2

Michael Shaw
4615 Free Ferry Road

RE: 900 South Waldron Road

Michael Shaw of 4615 Free Ferry Road is opposed to the Master Land Use Amendment and Rezoning at 900 Waldron Road. He has concerns regarding drainage, density, and traffic flow.

172-26

January 12, 2010

Fort Smith Planning Commission

My wife and I are the owners of 14 duplexes located 100-127 North 53rd Street. The majority of our tenants are retired women/men looking for safe and quite housing. Many have lived here 10+ years. The proposed rezoning with 2-3 story buildings with density of 58 units on less than 2 acres will greatly decrease the quality of life in this area. A hot tub located on the premises increases the likelihood of loud parties and all the accompanying problems. The increased traffic will negatively impact the safety of the area as well.

We are asking you to disapprove the request to zone multi family. Thank you for your consideration.

Anthony Altman Brenda Altman

Tenants:

Mrs. Roy H. Vann Kathryn Englehart

Nancy T. Turner Larry A. Denno

Finley Turner James W Haffey

Evelyn Turner J. Wen Barthel

Carlotta Aistt James T. Shamberger

[illegible] Patty H McBride

Phyllis H. Davidson Gayle Remer Thiele

Linda L. Woodhull Kay Howard

Tiffany L. [illegible]

172-27

8/10/12

I oppose the proposed planned development of Free Ferry Apts. as I consided it to be detrimental to the future of our ~~area~~ neighborhood.

William E. Robinson
5310 FERN ST.
Ft. Smith, Ar. 72903
479-719-7372

Judy Hardin 300 Paddock 806-7900 opposed
Edward Zimmer 5420 Free Ferry 479-459-0519 OPPOSED
Mary Zimmer 5420 Free Ferry 479-806-0799 opposed
Dian Layman 5500 Free Ferry 479-719-2733
J. T. [illegible] 5411 [illegible] 452.8615

I am opposing the development located at 900 Waldron and Freeferry 56 unit apartment building.

Name	Address	Phone #
Barbara J McLochlan	5125A	479-452-2254
Nancy Nelson	5119	479.414.8869
Ruth Corbin	5121	479-434-1252
Jean M. Williams	5114 Fern St.	479/452-3488
Barbara Beaty	5112 Fern St	452-2989
Jill Siebenmorgen	5309A Summit St.	651-1923
Michael L Fox	5700 Gordon Ln	479.459.4377
Jodie Cole	5701 Gordon Lane	420 1370
Freda Heath	5740 Gordon	479 452-7720
Candace Faulkner	5740 Gordon Ln	452-7720
Patricia A Jenkins	5823 Gordon Ln	452 2547
	5823 Gordon Ln	452 2547
	5901 Gordon Lane	479 629-2566

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JOEL D. JOHNSON
DAVID R. WRIGHT

OF COUNSEL:
JOE T. GUNTER
RICHARD SMITH

+ also licensed in Texas
++ also licensed in Colorado, Wisconsin Pennsylvania and Texas

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FORT SMITH, AR 72917

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FAX (479) 242-2715
john@hajattorneys.com

August 10, 2012

Board of Zoning Adjustment
City of Fort Smith
623 Garrison Ave.
P.O. Box 1908
Fort Smith, AR 72902

VIA FACSIMILE
(479)784-2462
and REGULAR U.S. MAIL

RE: Development Plan formerly submitted as variance request #22-7-12-900 S. Waldron Rd.(corner of Free Ferry Rd and Waldron Rd.)
Community Meeting, Tuesday August 14, 2012 at 5:30 p.m., Creekmore Park

Dear Director of Planning and Planning Commission:

In response to the revised development plan submitted by the developer for the above-referenced site, as a property owner on Free Ferry Rd., I feel that there are many deficiencies in the proposed development and the location of 56 apartment units on less than 1.9 acres at the very busy intersection of Waldron Rd. and Free Ferry. I have lived at 4601 Free Ferry for twenty-three(23)years. I am very familiar with the traffic on Free Ferry and Waldron Rd. and other issues at the subject location. My concerns regarding the proposed development are as follows:

1. **Use.** Even though the property is zoned RM-4, the City's Unified Code does not require the Board to approve the location of apartment units on this property. The guidelines under RM-4 clearly provide that all such buildings should be consistent with an area's established development pattern and character. There are no multi-unit apartment complexes located on Free Ferry Rd from the City library at the intersection of Free Ferry and Rogers Ave. to South 74th Street(Wildcat Mountain Rd.). Certainly, there are rental units in the form of duplexes and the Stonebridge Commons Condominium complex, however, there are no multi-unit apartments buildings in this single family developed residential area. The three(3)story apartment complex is not consistent with surrounding development. There are four(4)new homes within fifty(50)yards of this development priced in excess of $250,000.00 each. Further, I am not aware of any three(3)story "walk-up" multi

family apartment complexes in our city. The proposal is not consistent with and will negatively impact the value of surrounding property.

2. **Traffic.** Traffic on Free Ferry Rd. travels at a very high rate of speed. The speed limit is posted at 35mph. Likewise, Waldron Rd. at the intersection of Free Ferry and Waldron has a high volume of traffic. Motorists traveling south on Waldron will have no stopping distance prior to the turn into the apartment complex from Waldron Rd. The same is true with regard to traffic that is eastbound on Free Ferry through the lighted intersection. It is a very narrow single lane of traffic on Free Ferry and there is no room provided for cars to go around traffic turning into the one entry for the apartment complex on Free Ferry Rd. When west bound traffic stacks at the light, east bound vehicles seeking to make a left hand turn into the apartment complex will cause other east bound traffic vehicles to have to stop and wait until all of the traffic clears through the signal at the intersection. With at least 105 cars on this property, making multiple trips per day, there will be problems and we can expect many traffic accidents.

Both the Waldron intersection, and the Free Ferry intersection into the apartment complex should have turn lanes. These infra-structure improvements should be paid for by the Developer and made a condition to the approval of any development plan.

3. **Drainage.** This site is approximately 1.9 acres. However, I believe that some of the site is also in the right-of-way to the centerline of Free Ferry Rd. Of the 1.9 acres, almost 1.75 acres is roof tops and hard surfaces. That is 90% of the project area and that is also assuming none of the site is in the Free Ferry Rd. right-of-way. This leaves very little area for drainage(see Building Footprint and paving on Project statistics). Who is going to pay for the drainage later? How will other property owners be affected by stormwater runoff? Are there any environmental concerns with regard to stormwater runoff that would affect other property owners? On-site drainage detention should be a requirement for this development.

4. **Density.** As stated under paragraph 3.-"Drainage", it appears from the site plan provided that the calculation of density not only includes the actual site but also includes right-of-way that borders the subject property. There are clearly too many units located on this site.

5. **Sidewalks.** The site plan does not reflect any sidewalks on Free Ferry. No right-of-way is provided for future sidewalks. Even if the sidewalks were to be paid for from the city sidewalk fund, there is no property to build sidewalks along Free Ferry Rd.

6. **Landscaping and Tree Ordinance.** The landscaping reflected in the plan is minimal. The Plan should not only include sidewalks around the perimeter(as mentioned above) but also consider the mature trees on the site and the mature trees should all be incorporated into the development plan. Absent large trees, there is no way to screen a multi-story building.

8. **Parking Lot Traffic.** The Plan may reflect sufficient parking space(see paragraph 3-"Drainage"). However, it appears from the review of the site plan, many of the turn lanes are very tight. Two(2) cars can not turn around the dumpster area at the same time while passing each other. If two(2) regular sized vehicles can not do so, then how will emergency vehicles be able to access this site?

As you can see, there are many issues that need to be addressed in the development plan and, the expense of complying with these issues should be borne by the developer not the taxpayers or surrounding property owners. Once the apartment complex is built, eminent domain to take an apartment building to widen Free Ferry Rd. or Waldron Rd. to allow for turn lanes will not be feasible. When it is later determined that a turn lane is needed, or sidewalks to be added or deal with drainage issues, what will the City do to correct this and where will the property and money come from?

As stated at the previous meeting by the developer, **"this site just does not work financially unless you can squeeze at least fifty-six(56)units on the property."** Well that is an incorrect statement. The site will work for a lesser number of residential units. All that has to happen is the price of the property be lowered to an amount to allow not more than forty(40) units to be constructed on this property with the developer complying with the traffic, drainage, and other issues mentioned above. Profit should not be a motivating factor in determining whether this project is approved.

If the Board wants to compare the increase in property values on Free Ferry over the past twenty(20) years, and the millions of dollars spent on improving some of the oldest homes in Fort Smith, all one has to do is go to the City Building Department and look at the building permits pulled along Free Ferry. The Board has a duty to consider the rights and property values of all property owners in this area and not just the profit to be made by the Developer.

Finally, let me say that one of the more positive areas of our city is the campus at UofA Fort Smith. Thousands of students, parents and visitors to the campus pass through the intersection of Free Ferry and Waldron every month. The site should be developed in a manner that adds to the appearance of the University campus area and in conformity to the immediate area. A 56 unit apartment complex squeezed on a small site is not a positive addition to the area, the college or the face of the community nor will the traffic issue created by the development.

I am sorry to say that I will not be able to attend the August 14 meeting. I have a prior engagement that I committed to several months ago. I am sending a copy of this letter to the property owners along Free Ferry and ask that they all attend and object to this proposed development.

Thank you for your consideration.

Sincerely,

John D. Alford

JDA:at

PLANNING COMMISSION PACKET
AUGUST 14, 2012

MEMO

To: City Planning Commission

From: Planning Staff

Date: August 3, 2012

Subject: Development Plan – 900 South Waldron Road

The Planning Department is in receipt of a development plan from Travis Brisendine, agent, for a proposed multifamily development at 900 South Waldron Road.

TRACT LOCATION AND SIZE

The subject property is located on the southwest side of the intersection of Free Ferry Road and Waldron Road. The tract contains three lots (lots 10, 11, and 12) with an area of 85,857 square feet (1.97 acres). The tract has approximately 240 feet of road frontage on Waldron Road and 361 feet of road frontage on Free Ferry Road.

EXISTING ZONING/PROPOSED ZONING

The existing zoning on this tract is RM-4-SPL. Characteristics of this zone are as follows:

Purpose:

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

Uses:

All general uses, conditional uses and home occupations allowed in RM-4- zones as well as multi-family apartments.

Area Regulations:

Lot Area - 5,000 square feet
Front Yard Setback - 20 feet
Side Yard Setback - 5 feet
Side Yard on Street Side of Corner Lot - 15 feet
Rear Yard Setback - 5 feet
Separation of Buildings - 10 feet
Maximum Height - 40 feet
Side/Rear – Adjacent to RS Dist.Dev. – 40 feet

Density Regulations:

30 dwellings/acre

EXISTING LAND USE/PROPOSED LAND USE

The area to the north is zoned as Commercial-2 and is undeveloped. Another area to the north is zoned as Residential Single Family-Duplex Low/Medium Density (RSD-2) and developed with duplex dwellings.

The area to the east is zoned Transitional and developed as professional and medical offices.

The area to the south is zoned Residential Single Family-Duplex Low/Medium Density (RSD-2) and developed as single-family residential.

The area to the west is zoned Residential Single Family-Duplex Low/Medium Density (RSD-2) and developed as single-family residential.

PROPOSED DEVELOPMENT PLAN

The proposed development plan consists of a 56-unit apartment complex with three, three- story buildings. The development will include a mix of 22 one-bedroom apartments and 34 two-bedroom apartments. A one-story attached office is also proposed.

INGRESS/EGRESS/TRAFFIC CIRCULATION

It is proposed that ingress and egress into the site will be provided with one driveway on Free Ferry Road and one driveway on Waldron Road. A copy of a 2010 Traffic Impact Statement prepared by Traffic Engineering Consultants, Inc., on this location is enclosed. The city's engineering department states that based on the proposed development, the traffic analysis remains valid. A memorandum from Stan Snodgrass, Director of Engineering, is enclosed.

EASEMENTS/UTILITIES

The developer must agree to meet all franchise and city utility easement requirements. Additionally, the development must comply with the city's Subdivision Design and Improvement Standards and the Standard Specifications for Public Works Construction.

DRAINAGE

The development plan shows a detention area at the northeast corner of the property. The above-referenced memorandum from Mr. Snodgrass states that the on-site detention will not allow any more runoff from the site than what exits under the current conditions.

RIGHT-OF-WAY DEDICATION

No additional right-of-way is required.

1B

SITE DESIGN

Landscaping – The preliminary development shows perimeter landscaping along both Free Ferry Road and Waldron Road. Parking lot screening is required adjacent to the driveways. All landscaping designs will be reviewed for compliance at the time of building permit plan review. A 6' wrought-iron fence is also shown along the right-of-way frontages of Waldron Road and Free Ferry Road.

Screening – A 6' opaque wood fence is shown on the rear and side property lines adjacent to single family residences.

Parking – One hundred and two (102) parking spaces are provided and complies with minimum parking space requirements for multifamily developments.

Signage – A monument sign at the intersection of Free Ferry Road and Waldron Road is proposed.

Lighting – The development plan did not provide details on exterior lighting. The final development plan must provide details on the proposed exterior lighting that complies with Section 27-602-5 Commercial and Outdoor Lighting requirements.

Architectural Features – All three buildings have gabled roofs which contain vertical elevation changes to avoid continuous roof lines. The buildings wall planes show projections and recesses to break up wall facades greater than 65 feet. Exterior finish materials for the buildings include brick and rock veneers, and cementious siding. Private outdoor spaces with a minimum area of 36 s.f. are proposed for 75% of the units. The architectural features comply with the minimum architectural design requirements of the UDO, Section 27-602-4.

The placement of the buildings complies with the RM-4 zoning district setbacks for multifamily structures adjacent to single family dwellings. For this development, the minimum required rear-yard set is 40 feet and the minimum required side-yard setback is 60 feet. The plan shows a rear yard setback of 58 feet and a side-yard setback of 60 feet.

STAFF COMMENTS

A neighborhood meeting was held August 9, 5:30 p.m. at the project site. The meeting was attended by twenty-five (25) neighboring property owners. The attendees voiced various objections to the project including the proposed three story design, traffic concerns, and property devaluation. The attendance record and meeting summary are enclosed. Staff has also enclosed letters from two property owners objecting to the project.

At the July planning commission meeting, the applicant requested that the planning commission table a variance application for rear and side-yard setbacks and private outdoor space requirements in order to give the applicant time to consider an alternate design. The revised development plan submitted for planning commission consideration eliminates the need for the variance requests.

1C

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

1. All construction must be built in accordance with the submitted development plan.

2. The final development plan must provide details on the proposed exterior lighting that complies with Section 27-602-5 Commercial and Outdoor Lighting requirements.

3. All signage will require staff review and permitting.

10

Memorandum

To: COB-04 Project File

CC: City of Fort Smith Planning Dept., Aaron Wirth; Rocky Walker, Terry Burruss

From: Travis Brisendine, P.E.

Date: July 9, 2012 (5:30 P.M. at Project Site – SWQ Free Ferry Rd. & Waldron Rd.)

Re: Neighborhood Meeting for Free Ferry Apartments Development Plan Review

---

In Attendance:

Morrison-Shipley Engineers

Travis Brisendine

Developer

Aaron Wirth

City of Fort Smith Planning

Brenda Andrews

Citizens

See Attached sign in sheets:

Meeting Summary:

The following items were discussed:

- Travis Brisendine provided a description of the history of the project for neighbors that had not attended previous meetings. Travis explained the site plan had been revised since the July meeting to comply with all zoning regulations and no longer required any variance request from current regulations. A brief discussion was held to explain the total units remained at 56 units and all three buildings (previously five) are now three story units.
- Mike Butler asked why a revised traffic study was not required for the development plan. Mr. Brisendine explained that he had discussions with the City engineering staff about the development in July 2012 and they agree that the study completed in 2010 would still be a representative model for the development.
- Attendees asked about the anticipated rental rates for the development. Mr. Wirth noted he anticipates rental rates around $650.00 per month. Many neighbors voiced opinions regarding the proposed rent price.
- Mike Butler asked that it be entered onto the record that the original zoning should not have been allowed due to lack of a variance requests regarding setbacks. Mr. Brisendine reminded Mr. Butler that the Planning Commission at that time did put a separate requirement of site plan approval on the site as part of any development plans associated with the property.
- Attendees asked if any improvements would be required on Free Ferry or Waldron road. Mr. Brisendine reminded them the traffic study does not recommend any improvements.

- Discussions took place regarding required parking spaces and visitor parking. The design team made note that the current layout meets all parking requirements for the number of planned units.
- Question was asked of the developers if they would be providing any "low income" units to which Mr. Wirth replied "NO".
- Property owners voiced opinions that the developers should go back to the bank and negotiate a lower price for the property to be able to construct a "smaller" development. They also stated they would prefer to see duplexes, strip mall, convenience store or an office complex on the site.
- Questions were asked about whether or not the developers have completed an EPA study of the site to which Mr. Wirth replied "NO".

The meeting concluded at 6:40 PM.

NOTE: Morrison-Shipley did NOT receive any phone calls regarding the project following the mailing of notices to adjacent landowners.

(1)

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location On-Site

Meeting Time & Date 8/9/12

Meeting Purpose _____

	NAME	ADDRESS	PHONE #
1.	Travis Brisendine	PO Box 10064	452-1933
2.	[illegible]	5620 FREEFERRY RD	452-0647
3.	[illegible] MIKE BUTLER	8806 MEANDERING WAY	650 3838
4.	[illegible]	5224 Fern	452 6744
5.	DeBosey Carl	5410 Free Ferry	461-2395
6.	[illegible]	53rd	650 6855
7.	James T. Culpepper	5011 FERN	452-1615
8.	Sally Deans	5621 Free Ferry	452-15-71
9.	Jon and Chanelle Carter	4903 FERN	434-5097
10.	Patricia Butler	8806 Meandering Way	452-0613
11.	[illegible]	300 [illegible] LANE	866-7900

1G

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location_____

Meeting Time & Date_____

Meeting Purpose_____

	NAME	ADDRESS	PHONE #
1.	STAN RAMSEY	5318 Free Ferry	479-459-7324
2.	AARON [illegible]	2515 Mt Zion	479-651-5524
3.	ED & MARY ZIMMER	5420 FREE FERRY	479-459-0519
4.	Dian Layman	5500 Free Ferry	479-719-2733
5.	Jan Roebuck	3306 Free Ferry Rd.	479-783-7009
6.	JOAN BRYANT	1005 S. 46	479-926-1266
7.	Mary Reith	5127	479-414-3175
8.	J.T. SHAMBERGER	104 N. 53RD	N.A.
9.	DAVID MCMAHON JR	5003 Summit	479 459 2488
10.	Brent Cardwell	801 Cedar Lane	479-739-8910
11.	Brenda Altman	Free Ferry	479 783-7005

1H

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location_____

Meeting Time & Date_____

Meeting Purpose_____

	NAME	ADDRESS	PHONE #
1.	Myra Dennis	4805 Aspen Ct	478-6409
2.	Jim Dennis	" "	" "
3.	Brenda Andrews	Fort Smith Planz	784-2216
4.	J.W. Davis	524 Fern	452 6744
5.			
6.			
7.			
8.			
9.			
10.			
11.			

LI

Mr. & Mrs. Jack L. Green
4205 Free Ferry Road
Fort Smith, Arkansas 72903

July 15, 2012

Board of Zoning Adjustment
City of Fort Smith
623 Garrison Avenue
P. O. Box 1908
Fort Smith, Arkansas 72902

RE: Variance #22-7-12 900 South Waldron Road

We fear that we are late to the game since this property was rezoned in 2010. Our property was not in the adjacent property category and, therefore, missed the opportunity to oppose the change to RM-4.

There are several things that we feel are questionable about the request by Travis Brisendine for a variance on the property at 900 South Waldron Road.

First, it appears that Mr. Brisendine and his client do not own this property and, therefore, should not have any standing to ask for a variance on property owned by another party.

Second, it also seems that the project planned for the property does not meet the purpose shown in the RM-4 zoning guidelines. A portion of the first sentence states that "such buildings would be consistent with an area's established development pattern and character." There are no buildings in this area that are multi-story or high density in character.

It was obvious at the meeting on July 10th that the planned project is not economically feasible unless it crowds the adjoining properties with over-bearing sized buildings crammed right up next to them.

The Board of Zoning Adjustment has a duty to protect the rights and the property values of all property owners. With the above thoughts, we ask that you carefully consider the consequences of passing the requested variance.

Sincerely,

Jack L. Green

Jack L. Green

Louanna H. Green

Louanna H. Green

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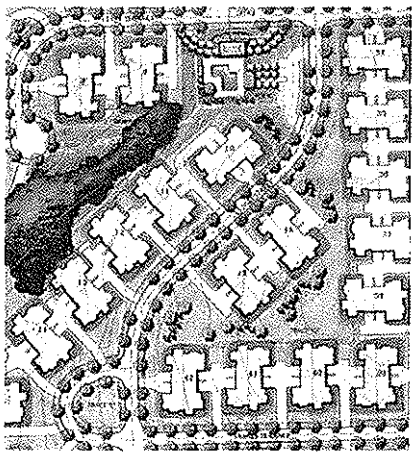
E. **Multifamily developments shall conform to Design Guidelines of chapter 27-600 et seq.**

27-414 Residential Multifamily High Density (RM-4)

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



E. **Land Uses.** Permitted, Conditional and Accessory land uses in the RM-4 Zoning District are identified on the Land Use Matrix, Chapter 27-400, Appendix A. Specific land uses not identified on the matrix are subject to classification pursuant to Section 27-336. With the exception of multifamily developments, no more than one principal structure may be erected on each defined lot.

F. **Area and Bulk Regulations**

Density/ Min. Lot Size	Min. Lot Width at Bldg. Line	Max Lot Coverage	Minimum Street Frontage	Max Height
30 du per acre/ 5,000 s.f.	50 feet	70%	20 feet	40 feet (See 27-404(D))

Setbacks

Front	Side	Street Side/Corner	Side/Rear Adjacent to RS Dist/Development	Rear
20 feet	5 feet	15 feet	40 feet	5 feet

1. Minimum building separation shall be 10 feet.

1K

HAYES, ALFORD & JOHNSON, PLLC

ATTORNEYS AT LAW

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JOHN D. ALFORD++
JOEL D. JOHNSON
DAVID R. WRIGHT

OF COUNSEL:
JOE T. GUNTER
RICHARD SMITH

+ Also licensed in Texas
++ Also licensed in Colorado, Wisconsin Pennsylvania and Texas

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FORT SMITH, AR 72901

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FORT SMITH, AR 72917

TELEPHONE (479) 242-8814
FAX (479) 242-2715
john@hayesjohnlaw.com

August 10, 2012

Board of Zoning Adjustment
City of Fort Smith
623 Garrison Ave.
P.O. Box 1908
Fort Smith, AR 72902

VIA FACSIMILE
(479)784-2462
and REGULAR U.S. MAIL

RE: Development Plan formerly submitted as variance request #22-7-12-900 S. Waldron Rd.(corner of Free Ferry Rd and Waldron Rd.)
Community Meeting, Tuesday August 14, 2012 at 5:30 p.m., Creekmore Park

Dear Director of Planning and Planning Commission:

In response to the revised development plan submitted by the developer for the above-referenced site, as a property owner on Free Ferry Rd., I feel that there are many deficiencies in the proposed development and the location of 56 apartment units on less than 1.9 acres at the very busy intersection of Waldron Rd. and Free Ferry. I have lived at 4601 Free Ferry for twenty-three(23)years. I am very familiar with the traffic on Free Ferry and Waldron Rd. and other issues at the subject location. My concerns regarding the proposed development are as follows:

1. **Use.** Even though the property is zoned RM-4, the City's Unified Code does not require the Board to approve the location of apartment units on this property. The guidelines under RM-4 clearly provide that all such buildings should be consistent with an area's established development pattern and character. There are no multi-unit apartment complexes located on Free Ferry Rd from the City library at the intersection of Free Ferry and Rogers Ave. to South 74th Street(Wildcat Mountain Rd.). Certainly, there are rental units in the form of duplexes and the Stonebridge Commons Condominium complex, however, there are no multi-unit apartments buildings in this single family developed residential area. The three(3)story apartment complex is not consistent with surrounding development. There are four(4)new homes within fifty(50)yards of this development priced in excess of $250,000.00 each. Further, I am not aware of any three(3)story "walk-up" multi

12

family apartment complexes in our city. The proposal is not consistent with and will negatively impact the value of surrounding property.

2. **Traffic.** Traffic on Free Ferry Rd. travels at a very high rate of speed. The speed limit is posted at 35mph. Likewise, Waldron Rd. at the intersection of Free Ferry and Waldron has a high volume of traffic. Motorists traveling south on Waldron will have no stopping distance prior to the turn into the apartment complex from Waldron Rd. The same is true with regard to traffic that is eastbound on Free Ferry through the lighted intersection. It is a very narrow single lane of traffic on Free Ferry and there is no room provided for cars to go around traffic turning into the one entry for the apartment complex on Free Ferry Rd. When west bound traffic stacks at the light, east bound vehicles seeking to make a left hand turn into the apartment complex will cause other east bound traffic vehicles to have to stop and wait until all of the traffic clears through the signal at the intersection. With at least 105 cars on this property, making multiple trips per day, there will be problems and we can expect many traffic accidents.

Both the Waldron intersection, and the Free Ferry intersection into the apartment complex should have turn lanes. These infra-structure improvements should be paid for by the Developer and made a condition to the approval of any development plan.

3. **Drainage.** This site is approximately 1.9 acres. However, I believe that some of the site is also in the right-of-way to the centerline of Free Ferry Rd. Of the 1.9 acres, almost 1.75 acres is roof tops and hard surfaces. That is 90% of the project area and that is also assuming none of the site is in the Free Ferry Rd. right-of-way. This leaves very little area for drainage(see Building Footprint and paving on Project statistics). Who is going to pay for the drainage later? How will other property owners be affected by stormwater runoff? Are there any environmental concerns with regard to stormwater runoff that would affect other property owners? On-site drainage detention should be a requirement for this development.

4. **Density.** As stated under paragraph 3."Drainage", it appears from the site plan provided that the calculation of density not only includes the actual site but also includes right-of-way that borders the subject property. There are clearly too many units located on this site.

5. **Sidewalks.** The site plan does not reflect any sidewalks on Free Ferry. No right-of-way is provided for future sidewalks. Even if the sidewalks were to be paid for from the city sidewalk fund, there is no property to build sidewalks along Free Ferry Rd.

6. **Landscaping and Tree Ordinance.** The landscaping reflected in the plan is minimal. The Plan should not only include sidewalks around the perimeter(as mentioned above) but also consider the mature trees on the site and the mature trees should all be incorporated into the development plan. Absent large trees, there is no way to screen a multi-story building.

1m

8. **Parking Lot Traffic.** The Plan may reflect sufficient parking space(see paragraph 3- "Drainage"). However, it appears from the review of the site plan, many of the turn lanes are very tight. Two(2) cars can not turn around the dumpster area at the same time while passing each other. If two(2) regular sized vehicles can not do so, then how will emergency vehicles be able to access this site?

As you can see, there are many issues that need to be addressed in the development plan and, the expense of complying with these issues should be borne by the developer not the taxpayers or surrounding property owners. Once the apartment complex is built, eminent domain to take an apartment building to widen Free Ferry Rd. or Waldron Rd. to allow for turn lanes will not be feasible. When it is later determined that a turn lane is needed, or sidewalks to be added or deal with drainage issues, what will the City do to correct this and where will the property and money come from?

As stated at the previous meeting by the developer, **"this site just does not work financially unless you can squeeze at least fifty-six(56)units on the property."** Well that is an incorrect statement. The site will work for a lesser number of residential units. All that has to happen is the price of the property be lowered to an amount to allow not more than forty(40) units to be constructed on this property with the developer complying with the traffic, drainage, and other issues mentioned above. Profit should not be a motivating factor in determining whether this project is approved.

If the Board wants to compare the increase in property values on Free Ferry over the past twenty(20) years, and the millions of dollars spent on improving some of the oldest homes in Fort Smith, all one has to do is go to the City Building Department and look at the building permits pulled along Free Ferry. The Board has a duty to consider the rights and property values of all property owners in this area and not just the profit to be made by the Developer.

Finally, let me say that one of the more positive areas of our city is the campus at UofA Fort Smith. Thousands of students, parents and visitors to the campus pass through the intersection of Free Ferry and Waldron every month. The site should be developed in a manner that adds to the appearance of the University campus area and in conformity to the immediate area. A 56 unit apartment complex squeezed on a small site is not a positive addition to the area, the college or the face of the community nor will the traffic issue created by the development.

I am sorry to say that I will not be able to attend the August 14 meeting. I have a prior engagement that I committed to several months ago. I am sending a copy of this letter to the property owners along Free Ferry and ask that they all attend and object to this proposed development.

1N

Thank you for your consideration.

Sincerely,

John D. Alford

JDA:at

10

TRAFFIC AND DRAINAGE EVALUATION

INTER-OFFICE MEMO

TO: Wally Bailey, Director of Development and Construction

FROM: Stan Snodgrass, P.E., Director of Engineering

DATE: August 10,2012

SUBJECT: Stoufer Place Apartments (900 Waldron)
Traffic and Drainage Issues

This information is provided as a supplement to my previous memo dated January 27, 2010 regarding the traffic and drainage issues on the subject property.

We have reviewed the averaged daily traffic counts from the Arkansas Highway and Transportation Department for both Waldron Road and Free Ferry Road in this area. A summary of those counts from year 2008 to 2011 are provided below.

	Waldron	Free Ferry
2008	15,000	6,700
2009	15,000	6,600
2010	12,000	6,500
2011	11,000	6,300

The AHTD counts show a reduction of traffic at these locations from 2008 to 2011. Current traffic movement counts have not been taken at this intersection but we would expect those counts to be similar if not lower given the total reduction in the traffic volume. As such and based on the proposed development with the same number of dwelling units, we believe the previous prepared traffic analysis by TEC to remain valid and the impacts to the level of service to the intersection of Waldron and Free Ferry to be neglible.

In reference to the drainage issues, the proposed development is basically the same footprint as before. The onsite detention will be designed to not allow any more runoff from the site than what exists under the current conditions.

1Q

INTER-OFFICE MEMO

TO: Wally Bailey, Director of Development and Construction

FROM: Stan Snodgrass, P.E., Director of Engineering 85

DATE: January 27, 2010

SUBJECT: Stoufer Place Apartments
Traffic and Drainage Issues

This information is provided as a result of concerns raised during the planning commission meeting on the above subject property.

Morrison Shipley Engineers prepared a Traffic Information Statement (TS) in accordance with the new requirements of the UDO. The 2008 average daily traffic counts are 15,000 on Waldron and 6,700 on Free Ferry at this location. Morrison Shipley Engineers also counted the A.M. and P.M. turning movements on January 20 at this intersection. This information was forwarded to Traffic Engineering Consultants (TEC) Oklahoma City to determine the impacts to the operational level of service for the intersection with and without the additional traffic from the proposed development. A copy of the intersection analysis performed by TEC is attached as Exhibit 1. TEC's analysis found that the level of service remains the same and there is only one tenth of a second difference in the delay calculations at the intersection of Waldron and Free Ferry.

The second issue concerned the impacts to the drainage system west of the subject property. We have received additional drainage design information from Morrison Shipley Engineers which is included as Exhibit 2. The site is currently split with portions draining both to the west and east. For the proposed layout the design is such that the drainage outfall to the west will not be increased. The additional runoff will be conveyed to the Waldron Road storm sewer system. Therefore the proposed drainage outfall to the west will not be impacted.

Enclosures

1R

EXHIBIT 1

Traffic Engineering Consultants, Inc.

TRAFFIC IMPACT STATEMENT
STOUFFER PLACE APARTMENTS
Fort Smith, Arkansas

Prepared for:
City of Fort Smith

January 26, 2010

Prepared by:
Traffic Engineering Consultants, Inc.

STATE OF ARKANSAS REGISTERED PROFESSIONAL ENGINEER No.6565 STEVEN D. HOFENER

Steven D. Hofener 1/26/10

Steven D. Hofener, P.E., PTOE **Date**
Arkansas P.E. #6565
CA # 194

1S

Traffic Impact Statement
Stouffer Place Apartments

A planned development has been submitted to the City of Fort Smith to develop the southwest corner of Waldron Road and Free Ferry. It is an apartment complex with 56 units. There are two access points (driveways), one on Free Ferry and the other on Waldron. Morrison Shipley (MS) is the site design engineer. MS submitted traffic data and traffic projections for the site. Traffic Engineering Consultants, Inc (TEC) was asked to review the data and perform analysis to determine the traffic impacts to the intersection of Waldron Road and Free Ferry. This report summarizes the results.

Trip Projections

The 8th edition of the ITE publication *"Trip Generation Manual"* was used to determine the expected trips to be generated by Stouffer Place Apartments. The table below shows the projected trips for both the a.m. peak period and the p.m. peak period.

TRAFFIC PROJECTIONS

LAND USE TYPE	ITE CLASS	APPROX GROSS FLOOR AREA	AVERAGE WEEKDAY VEHICLE TRIP ENDS									
			PER DAY	PER PEAK HOUR ADJACENT STREET TRAFFIC		AM Peak Hr Directional Distribution		AM Peak Hr Directional Volume		PM Peak Hr Directional Distribution		PM Peak Hr Directional Volume	
				ONE HOUR BETWEEN 7:00am & 9:00am	ONE HOUR BETWEEN 4:00pm & 6:00pm								
		(sf)	(vpd)	(vph)	(vph)	IN	OUT	IN	OUT	IN	OUT	IN	OUT
TRIP RATE*	220	no. units	6.65	0.51	0.62	0.2	0.80	6	23	0.65	0.35	23	12
MULTI-FAMILY		56	372	29	35								
Total			372	29	35			6	23			23	12

* Average Trip Rates from "TRIP GENERATION", 8th Edition, Institute of Transportation Engineers, 2008

Trip Distribution

The projected trips were then distributed to both driveways and through the intersection of Waldron Road and Free Ferry. **Figure 1** shows the expected new trips at Waldron Road and Free Ferry created by Stouffer Place.

Traffic Analysis

In order to perform a Capacity Analysis, it is necessary to determine the existing traffic at the intersection. MS performed peak hour traffic counts on January 20, 2010. These counts were provided to TEC. **Figure 2** shows the existing traffic.

The projected traffic was then added to the existing traffic to show the total traffic after completion of Stouffer Place. This traffic is shown in **Figure 3**.

A capacity analysis was then performed for both the a.m. peak period and the p.m. peak period for two conditions. The first was existing traffic and the second was total traffic after Stouffer Place is completed and fully occupied. The two conditions were then compared. All supporting data is attached to this report.

IT

The table below shows the comparison of before and after. It shows the calculated levels-of-service and the average delay per vehicle during the peak periods.

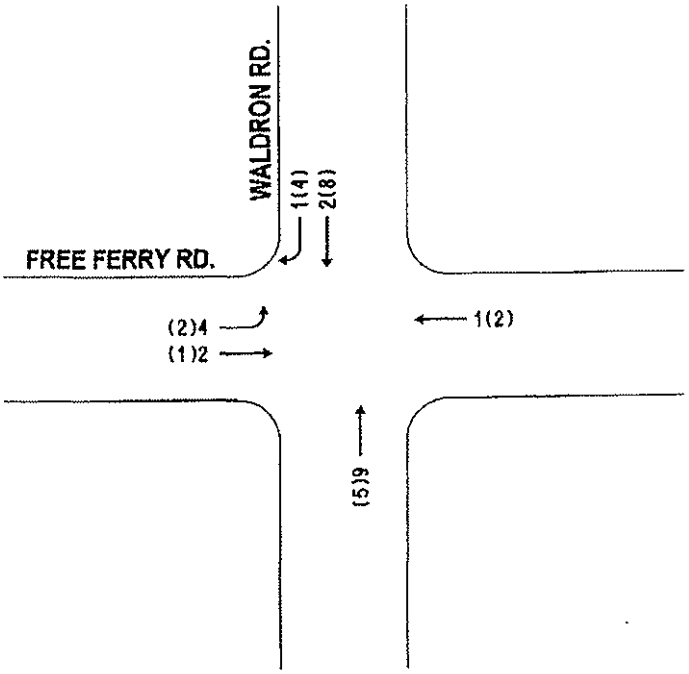
Condition	A.M. Peak Hour		P.M. Peak Hour	
	Average Delay (Sec. per Vehicle)	Level-of-Service	Average Delay (Sec. per Vehicle)	Level-of-Service
Existing Traffic	19.0	B	20.5	C
Combined Traffic	19.1	B	20.6	C
Difference	.1		.1	

As can be seen from the table, the intersection currently operates within acceptable limits with good levels-of-service. After the Stouffer Place Apartments are constructed, there is virtually no effect on the intersection. The levels-of-service remain the same and there is only one tenth of a second difference in the delay calculations. Stouffer Place can be constructed without a negative traffic impact on the intersection of Waldron Road and Free Ferry.

Crash Records

The City of Fort Smith provided crash records for 2005-2009 at the intersection. There were seven crashes in 2005, seven crashes in 2006, thirteen crashes in 2007, seven crashes in 2008 and six crashes in 2009. This is very low for an intersection with the traffic volumes seen at Waldron Road and Free Ferry. For 2009, two of the crashes were left turning vehicles, two crashes were right angle collisions, and two were rear end collisions. The two rear end collisions were for westbound Free Ferry traffic east of Waldron Road. Due to the low number of crashes, no action is necessary to review crash causation.

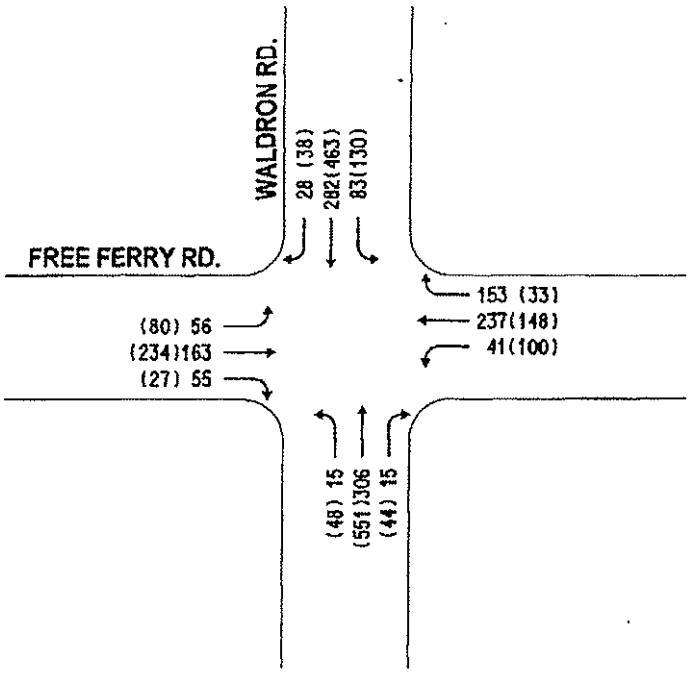
10



LEGEND
XXX = A.M. PEAK HOUR
(XXX) = P.M. PEAK HOUR

FIGURE 1. SITE TRIPS

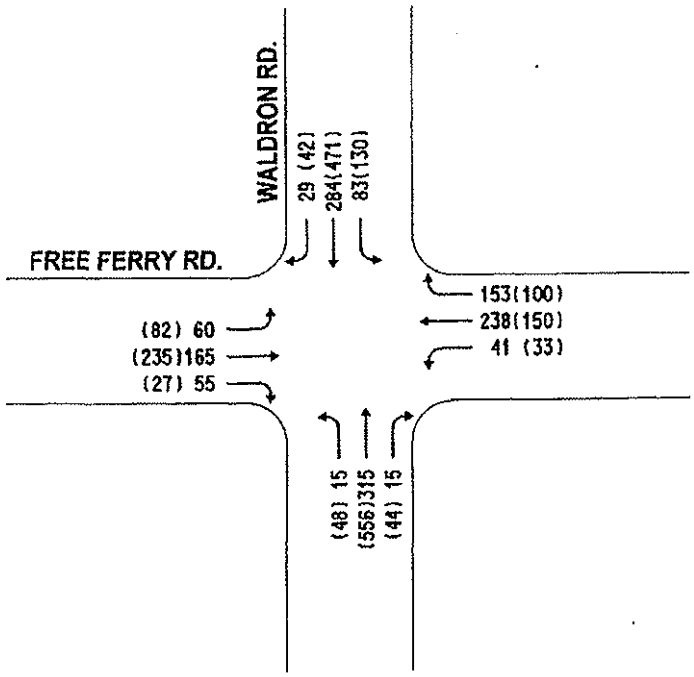
TRAFFIC ENGINEERING CONSULTANTS



LEGEND
XXX = A.M. PEAK HOUR
(XXX) = P.M. PEAK HOUR

FIGURE 2. EXISTING (2009) TRAFFIC

TRAFFIC ENGINEERING CONSULTANTS



LEGEND
XXX = A.M. PEAK HOUR
(XXX) = P.M. PEAK HOUR

FIGURE 3. COMBINED TRAFFIC

TRAFFIC ENGINEERING CONSULTANTS

Traffic Counts for January 20, 2010 at Waldron Road & Free Ferry

	Eastbound Free Ferry			Westbound Free Ferry		
	Left Turn	Straight	Right Turn	Left Turn	Straight	Right Turn
7:00-7:15	5	7	0	3	24	16
7:15-7:30	9	22	5	2	33	28
7:30-7:45	16	47	7	5	82	44
7:45-8:00	19	51	21	19	54	55
8:00-8:15	12	44	17	7	56	31
8:15-8:30	9	21	10	10	45	23

	Northbound Waldron			Southbound Waldron		
	Left Turn	Straight	Right Turn	Left Turn	Straight	Right Turn
7:00-7:15	2	22	1	11	16	9
7:15-7:30	1	62	5	5	46	14
7:30-7:45	1	97	3	29	55	15
7:45-8:00	1	90	3	33	94	10
8:00-8:15	8	56	2	10	70	0
8:15-8:30	5	63	7	11	63	3

	Eastbound Free Ferry			Westbound Free Ferry		
	Left Turn	Straight	Right Turn	Left Turn	Straight	Right Turn
4:30-4:45	12	50	9	11	34	12
4:45-5:00	22	48	7	8	41	26
5:00-5:15	28	75	2	6	33	31
5:15-5:30	18	61	9	8	40	31

	Northbound Waldron			Southbound Waldron		
	Left Turn	Straight	Right Turn	Left Turn	Straight	Right Turn
4:30-4:45	16	142	5	27	101	8
4:45-5:00	9	136	9	28	114	10
5:00-5:15	12	153	17	47	118	7
5:15-5:30	11	120	13	28	130	13

EXHIBIT 2

MORRISON SHIPLEY
ENGINEERS • SURVEYORS

January 26, 2010

Mr. Stan Snodgrass, P.E. *(Via E-mail)*
City of Fort Smith
P.O. Box 1908
Fort Smith, Arkansas 72902

RE: Stouffer Place – Drainage Evaluation

Dear Stan:

Per the City's request, we have reviewed the site drainage from the Stouffer Place development and offer the following brief summary. Currently, runoff from the site is collected in a concrete junction box and piped in an enclosed storm system near the northwest corner of the site. This system collects runoff and conveys the flow west to a larger system under Free Ferry Road. The runoff then exits the system through a 42-inch RCP under Waldron Road and into a large drainage channel located east of the Luthern Church. A drainage system also exists along the east side of the site. These improvements were constructed as part of the Waldron Road widening.

Following discussions with the surrounding property owners and City staff, it is understood that the drainage system to the west of the site is of concern. As such, the site improvements have been designed to minimize impacts to this system. Site grading will allow the post developed runoff to be split between the east and west drainage systems. Post-developed flows to the system along the west side of the site will not exceed the pre-developed flows at this location. Any additional flows from the site will be directed to the system on the east side of the site

5704 Euper Lane • Suite 200
Fort Smith, AR • 72903
P.O. Box 10064 • 72917
479.452.1933 • Fax 479.452.1939
morrisonshipley.com

12

along Waldron Road. Detention ponds will not be used for this site due to the location and size of the site as it relates to the overall drainage basin.

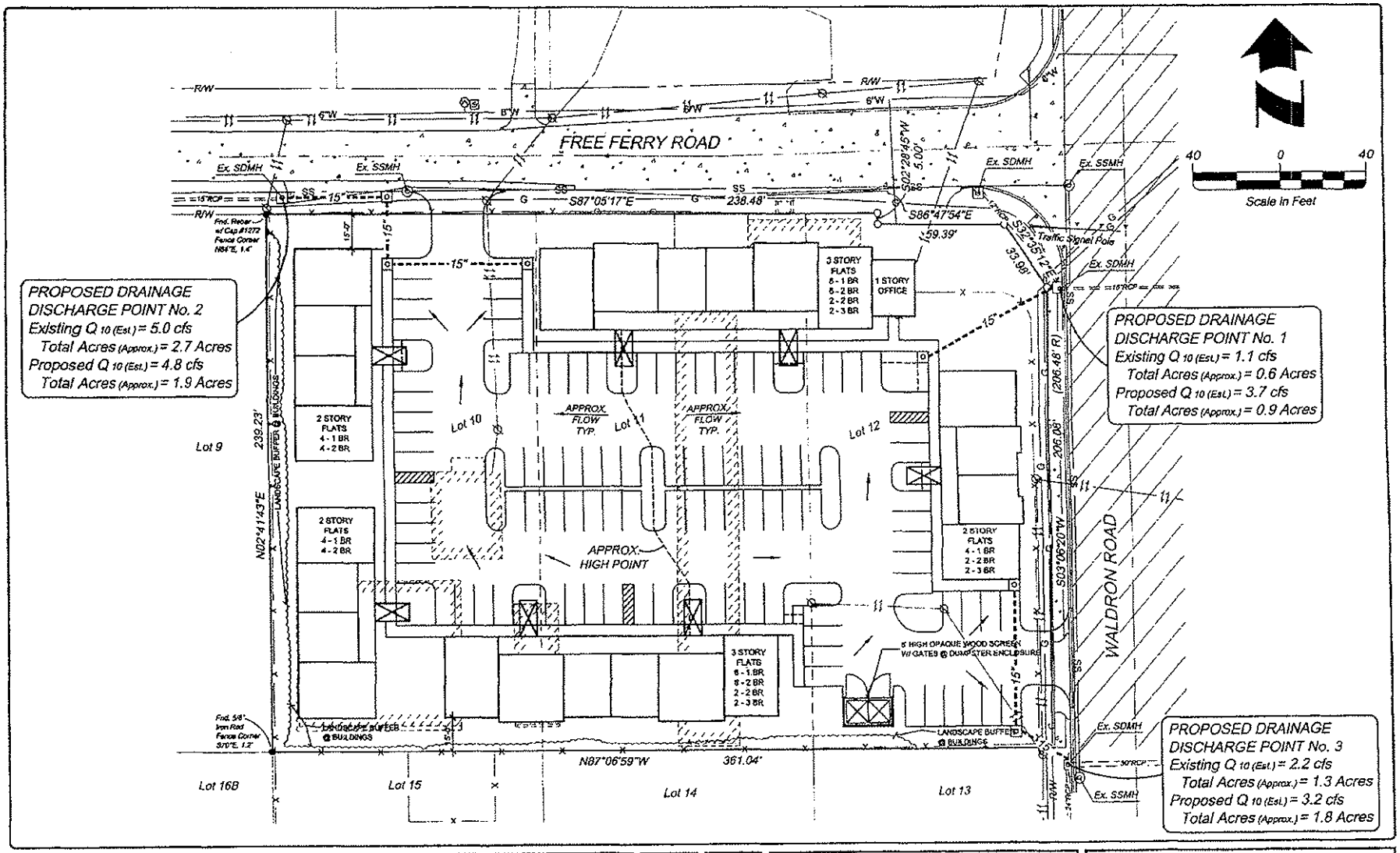
I have revised the exhibit we previouisly sent you to reflect the pre-developed and post-developed flows in each system. Please review the documents at your earliest convenience and let me know if you have any questions or require additional information.

Sincerely,
Morrison-Shipley Engineers, Inc.

Travis Brisendine, P.E.

Attachments

12-1



Revision	By	Date

MORRISON SHIPLEY
ENGINEERS • SURVEYORS

Drawn By: JMN
Approved By: YH
Date: 01.26.10
Project No: RSU-01
Vertical Scale: —
Horizontal Scale: 1"=40'
Plotting Scale: 1
Drawing Name: EXHIBIT SITE

REZONING EXHIBIT
STOUFFER PLACE
Fort Smith, Sebastian County, Arkansas

Prepared for:
Mark Rouse
PO Box 180328
Fort Smith, Arkansas 72918

Z-2

DEVELOPMENT PLAN REVIEW APPLICATION

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

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

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

   See Attached Legal Description

2. Address of property: 900 South Waldron Road

3. The above described property is now zoned: RM-4 SPL

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

   Yes_____ No__X_____

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

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

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

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

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

   North: C-2 and R-2-SF-DP; South: R-2-SF-DP; West: R-2-SF-DP; East: T-2

8. Total acreage of property 1.971 Acres

12-3

Signed:

TRAVIS BRISENDINE

Owner or Agent Name
(please print)

PO Box 1006, 72917

Owner or Agent Mailing Address

479-452-1933

Owner or Agent Phone Number

Owner

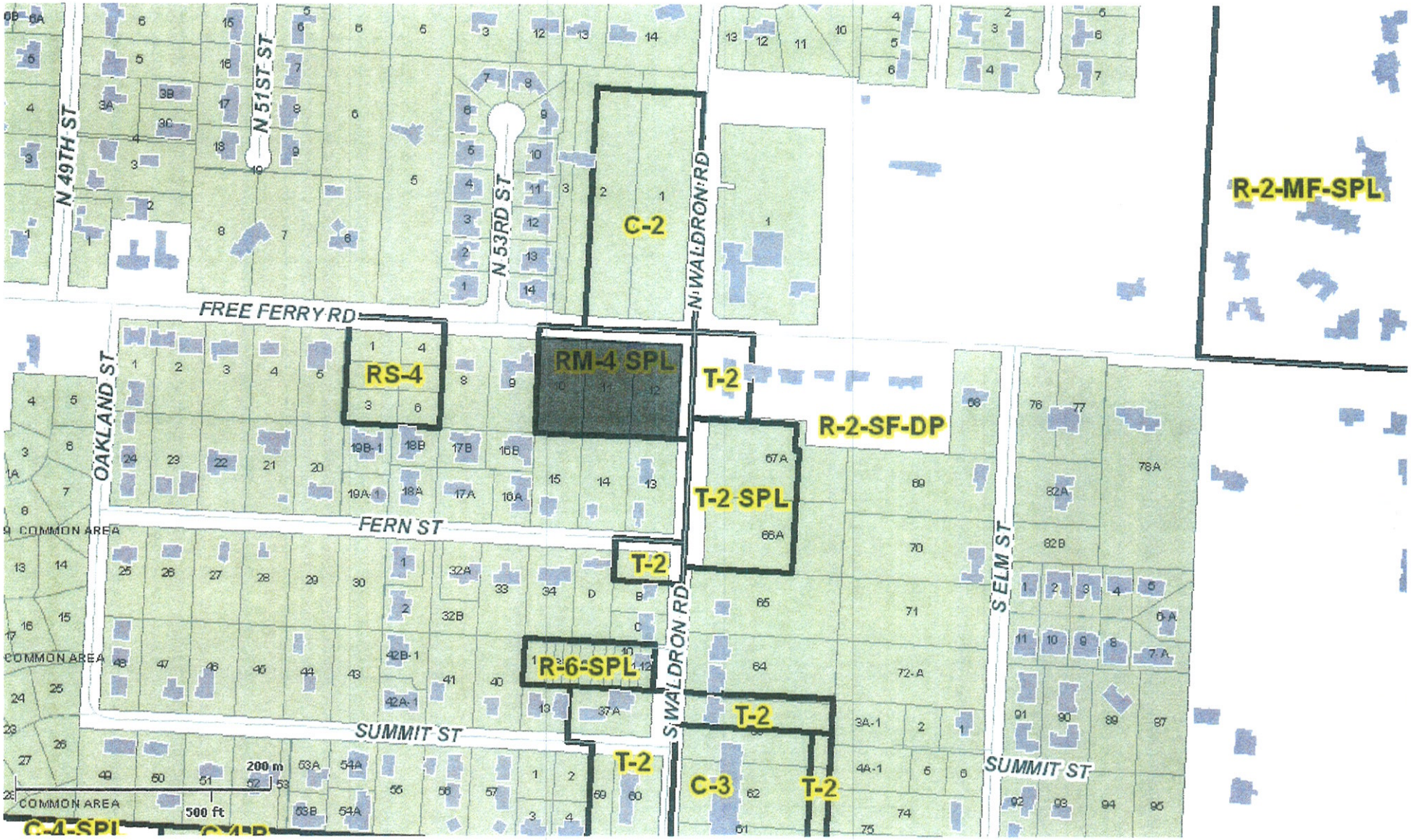
or

Agent

12-4

Development Plan Review for a Multi-Family Development

900 South Waldron Road



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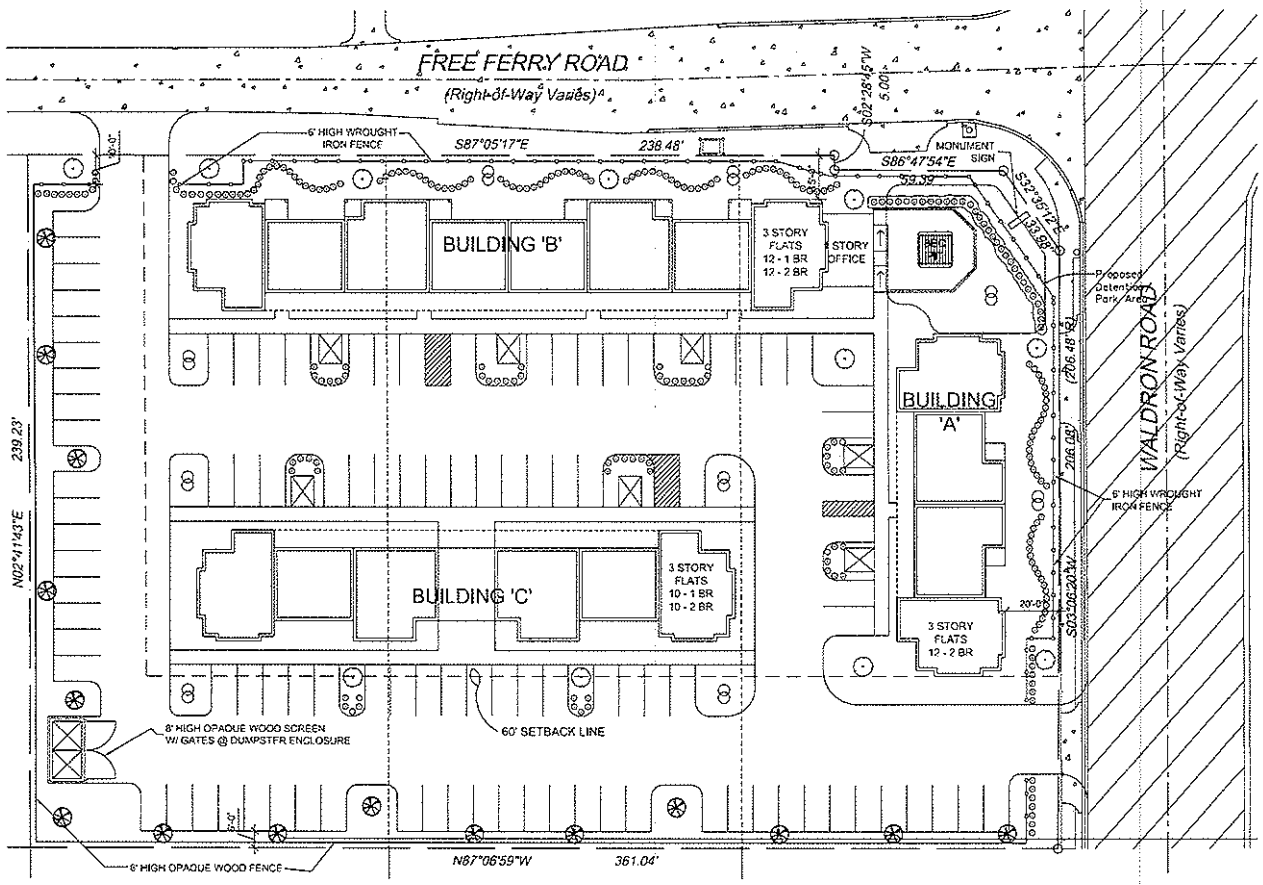
12-S

PROJECT STATISTICS

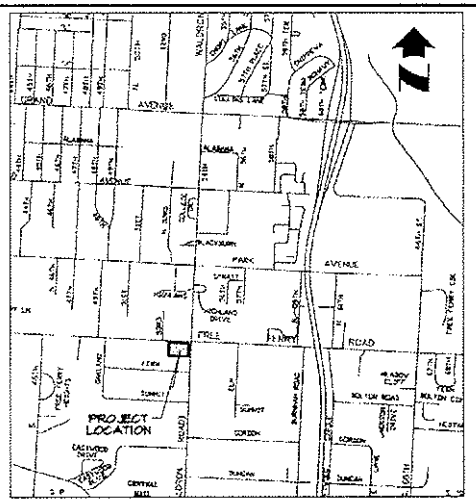
DWELLING UNITS	RESIDENTIAL DENSITY (UNITS/ACRE)	TOTAL SITE AREA (ACRES)		TOTAL BUILDING FOOT PRINT AREA (ft²)	TOTAL PAVING AREA (ft²)	REQUIRED PARKING SPACES	PROVIDED SPACES
56	28.41	1.971		34,510	42,020	101	102
PARKING SPACE CALCULATION METHOD		1.5 P.S. / 1 BR =				1.5 x 22 =	33
		2 P.S. / 2 BR =				2 x 34 =	68

STRUCTURE INFORMATION

BUILDING DESIGNATION	# ON SITE	# OF FLOORS	TOTAL BLDG AREA (ft²)	FLOOR	FLOOR AREA (ft²)	USAGE	FLOOR AREA RATIO
A	1	3	13,146	1	4,387	DWELLING	100% DWELLING
				2	4,387	DWELLING	
				3	4,382	DWELLING	
B	1	3	24,684	1	8,228	DWELLING	100% DWELLING
				2	8,228	DWELLING	
				3	8,228	DWELLING	
C	1	3	19,684	1	6,628	DWELLING	100% DWELLING
				2	6,628	DWELLING	
				3	6,628	DWELLING	
OFFICE	1	1	415	1	415	OFFICE	100% OFFICE



SITE PLAN ——— SCALE: 1" = 20'-0"



VICINITY MAP ——— SCALE: 1" = 1000'-0"

PROJECT STATISTICS

LAND AREA	= 85,857 sq.ft = 1.971 Acres
STRUCTURES	3 BUILDINGS 56 UNITS 2 BEDROOMS - 34 1 BEDROOM - 22
PARKING	102 (5 ADA) SPACES

PLANT LEGEND

TYPE	COMMON NAME	REMARKS
I	WILLOW OAK	3" CALIPER
II	CEDAR	3" CALIPER
III	RIVER BIRCH	3" CALIPER / MULTISTEM (1-1/2" CALIPER)
IV	YAUPON HOLLY	5 GAL.
V	ASIAN JASMINE	SPRIG @ 18" GRID

1. ALL DISTURBED AREAS TO RECEIVE BERMUDA/RYE SEED MIX.
2. OWNER SHALL PROVIDE WATER SOURCE WITHIN 75' OF ALL PLANT BEDS.
3. OWNER MAY SUBSTITUTE PLANTS WITHIN APPROVED PLANT LIST.
4. EDGE PLANT BEDS - SPRIG W/TYPE V, AND PROVIDE BARK CHIP.

SITE PLAN

FREE FERRY APARTMENTS

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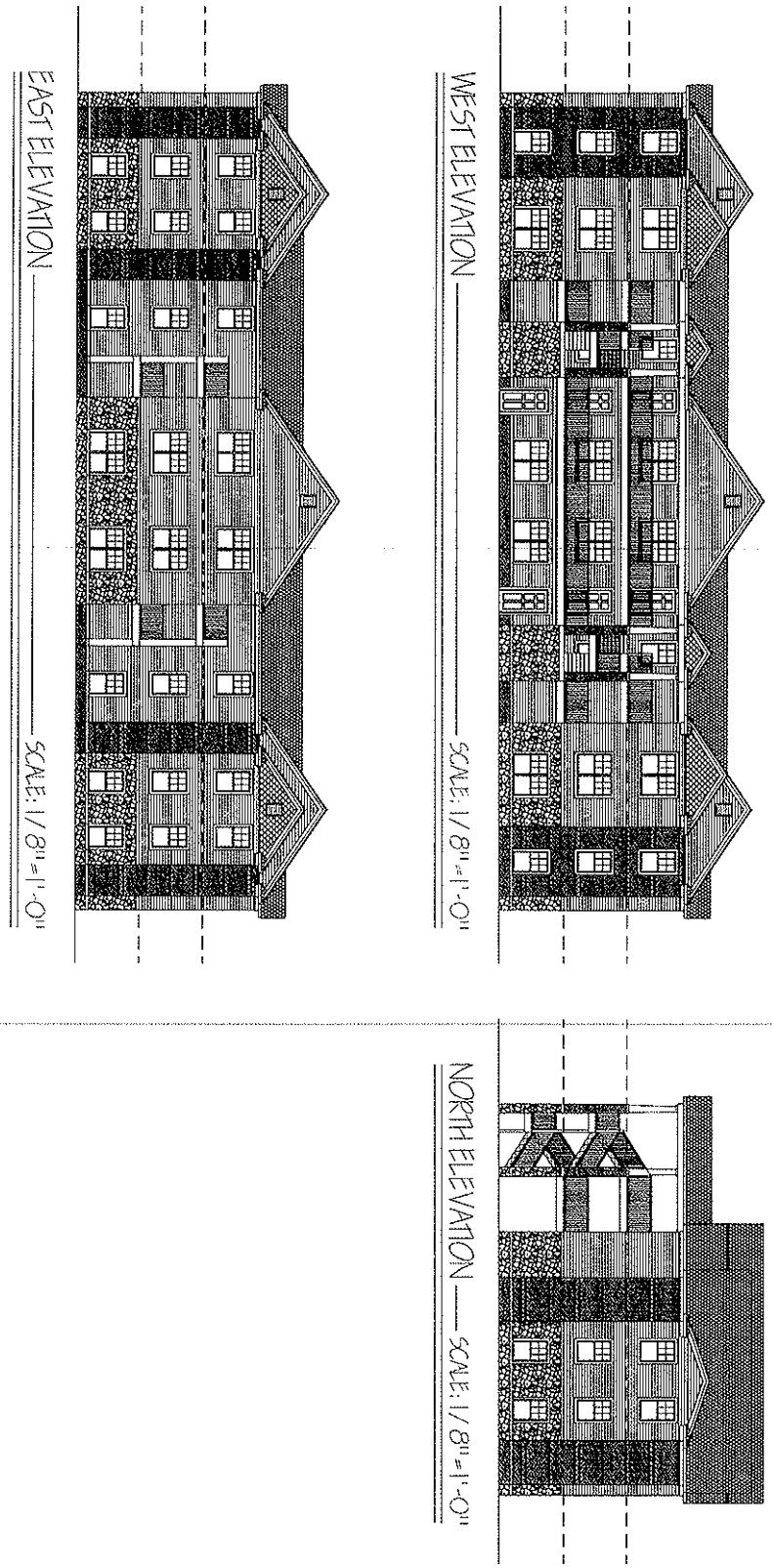

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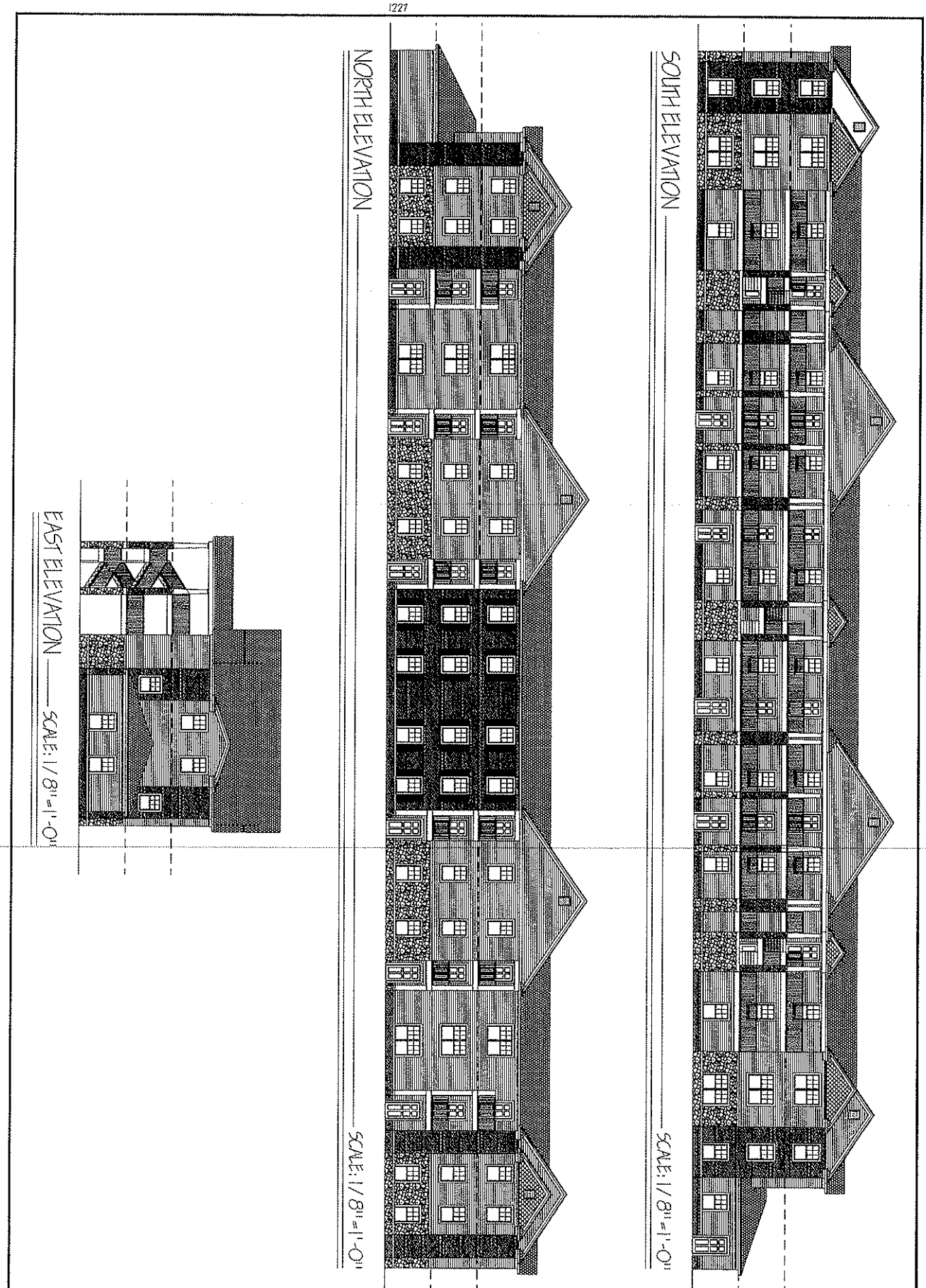
PROPOSED NEW BUILDING FOR:
FREE FERRY APARTMENTS

CONCEPT ELEVATIONS
BUILDING "A"

Terry Burruss Architect

COPYRIGHT, TBA

12-7



CD 2.0

PROPOSED NEW BUILDING FOR:

FREE FERRY APARTMENTS

CONCEPT ELEVATIONS
BUILDING "B"

terry thirruss Architect

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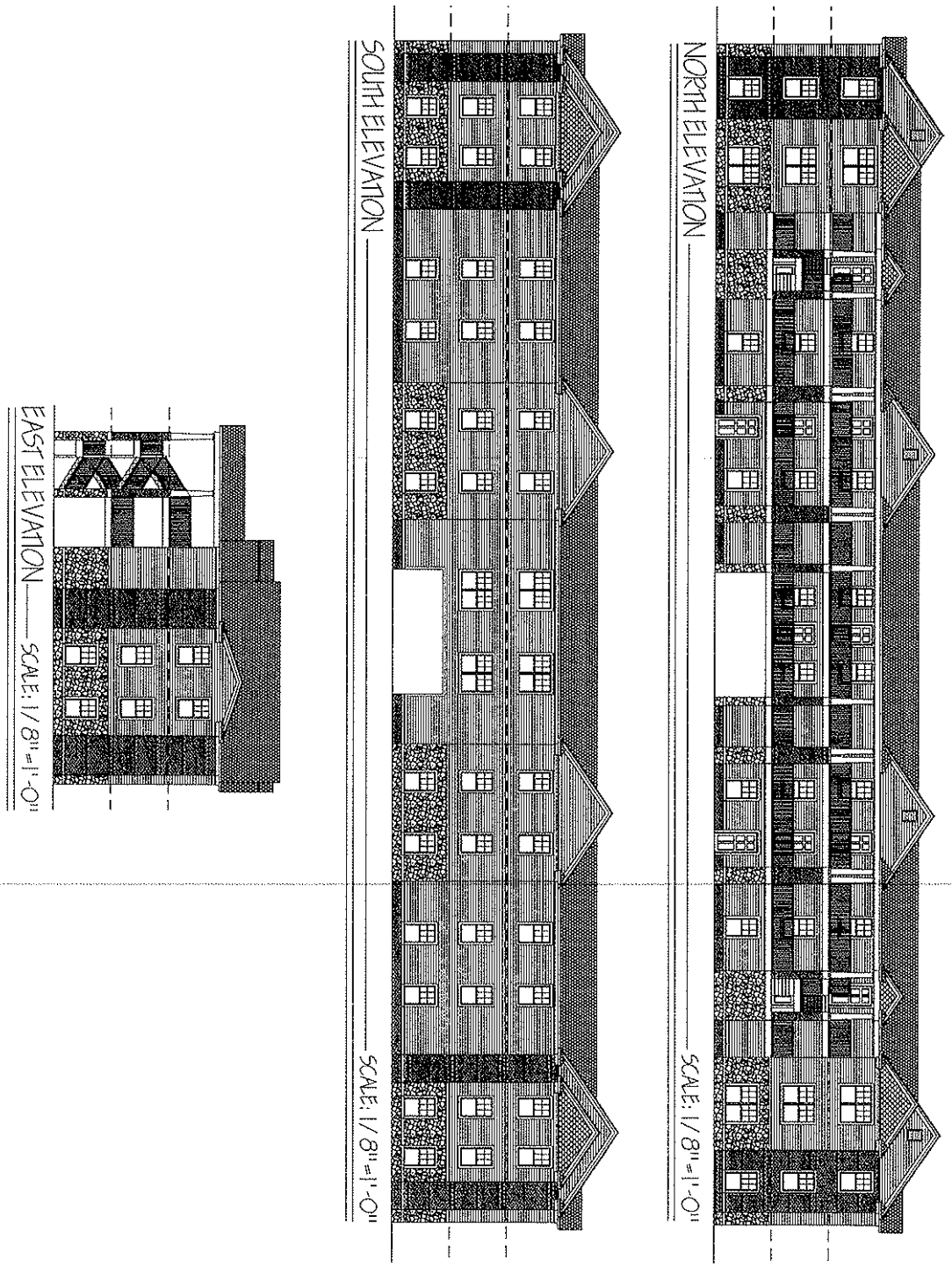
12-8



CD 3.0

PROPOSED NEW BUILDING FOR:

FREE FERRY APARTMENTS

CONCEPT ELEVATIONS

BUILDING - "C"

terry mitruss Architect

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12-9

Industry Consulting Group
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Dallas, TX 75381

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3100 Chelsea Mead
Fort Smith, AR 72908

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Fort Smith, AR 72913

L & W Vaughn Investments, LLC
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Fort Smith, AR 72903

Barbara Walker Trust
1906 Yukon
Barling, AR 72923

Cynthia Farrell
P. O. Box 11050
Fort Smith, AR 72917

Michael Butler Living Trust
8806 Meandering Way
Fort Smith, AR 72903

William Reith
P. O. Box 10925
Fort Smith, AR 72917

WAJA, Inc.
P. O. Box 6383
Fort Smith, AR 72906

St. Luke Lutheran Church
5401 Free Ferry Road
Fort Smith, AR 72901

Stan & Bev Ramsey
1317 South Gary
Fort Smith, AR 72903

Anthony & Brenda Altman
121 North 14th Street
Fort Smith, AR 72901

Mike Butler
8806 Meandering Way
Fort Smith, AR 72903

Ron Ramsey
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Fort Smith, AR 72903

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Fort Smith, AR 72901

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Fort Smith, AR 72903

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5127 Fern Street
Fort Smith, AR 72903

Stephanie Ferrari
5123 Fern Street
Fort Smith, AR 72903

Travis Brisendine
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Fort Smith, AR 72916

Warren Giss
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Fort Smith, AR 72903

John Alford
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Fort Smith, AR 72903

Rocky Walker
6808 Hunter Crossing
Fort Smith, AR 72903

Martha Murphy
4620 Free Ferry
Fort Smith, AR 72903

Mike & Jane Rappeport
904 S. Albert Pike
Fort Smith, AR 72903

Andy Hendricks
300 Paddock Lane
Fort Smith, AR 72903

Jack & Lauanna Green
4205 Free Ferry Road
Fort Smith, AR 72903

Joan & Patricia Bryant
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Fort Smith, AR 72903

Joseph Procell
1101 South Waldron
Fort Smith, AR 72903

Allen Schluterman
5300 Fern Street
Fort Smith, AR 72903

LaManda Broyles
5226 Fern Street
Fort Smith, AR 72903

Paul Hill
5105 Free Ferry Road
Fort Smith, AR 72903

David McMahon, Jr.
5003 Summit
Fort Smith, AR 72903

Nancy Helms
5119 Fern
Fort Smith, AR 72903

Ruth Corbin
5121 Fern Street
Fort Smith, AR 72903

Rick Bennett
124 North 53rd Street
Fort Smith, AR 72903

Thomas Honeycutt
105 North 53rd Street
Fort Smith, AR 72903

Les Evitts
5701 Free Ferry #30
Fort Smith, AR 72903

Chuck Mackey
3212 South 93rd Circle
Fort Smith, AR 72903

Don Hutchings
1300 Clover Lane
Fort Smith, AR 72908

Bill & Kristy Hanson
8508 Rosewood Drive
Fort Smith, AR 72903

Billie Bracken
7206 South "T" Street
Fort Smith, AR 72903

Larry Devero
100 North 53rd Street
Fort Smith, AR 72903

Katie Basiliere
12520 Wilminton Way
Fort Smith, AR 72903

James Sternberger
104 North 53rd Street
Fort Smith, AR 72903

Brenda Altman
P. O. Box 2590
Fort Smith, AR 72903

Finley & Evelyn Turner
118 North 53rd Street
Fort Smith, AR 72903

John & Joyce Parr
5001 Fern Street
Fort Smith, AR 72903

Kay Howard
119 North 53rd Street
Fort Smith, AR 72903

Douglas Olienjk
2716 Quarry Drive
Van Buren, AR 72956

Karen Lewis
5620 Free Ferry Road
Fort Smith, AR 72903

Bonnie Webb
2317 Rannoch Lane
Fort Smith, AR 72908

Joan Bryant
1005 South 46th Street
Fort Smith, AR 72903

St Luke Lutheran Church
5401 Free Ferry road
Fort Smith, AR 72901

WAJA Inc.
PO Box 6383
Fort Smith, AR 72906

William Reith
PO Box 10925
Fort Smith, AR 72917

Michael Butler Living Trust
8806 Meandering Way
Address 2
Fort Smith, AR 72903

Hank & Cynthia Farrell
PO Box 11050
Fort Smith, AR 72917

Barbara Walker Trust
1906 Yukon
Barling, AR 72923

L&W Vaughn Investments LLC
6611 South T Street
Fort Smith, AR 72903

Free Ferry East LLC.
PO Box 3129
Fort Smith, AR 72913

William Leding
C/O Industry Consulting Gr.
PO Box 810490
Dallas, TX 75381

Free Ferry East LLC.
6300 Park Ave.
Fort Smith, AR 72903

Ronald Boitel
5318 Free Ferry Road
Fort Smith, AR 72903

BEHR, LLC.
PO Box 2771
Fort Smith, AR 72913

Robert Shelby
433 North Waldron Rd.
Fort Smith, AR 72903

Barry Southerland
5414 Free Ferry Road
Fort Smith, AR 72903

Four-S LLC.
5005 Free Ferry Rd.
Fort Smith, AR 72903

Jan Taylor
5203 Moody Drive
Fort Smith, AR 72903

Patricia Walz
1100 South Waldron Road
Fort Smith, AR 72903

William Robinson
5310 Fern St.
Fort Smith, AR 72903

AJ Schluterman
5300 Fern St.
Fort Smith, AR 72903

Jonathan Davis
5224 Fern St.
Fort Smith, AR 72903

Marie Rickman
1901 Fort Street
Barling, AR 72923

Sally Gean
5621 Free Ferry
Fort Smith, AR 72903

Billie Bracken
7206 South "T" Street
Fort Smith, AR 72903

James & Myra Dennis
4805 Aspen Court
Fort Smith, AR 72903

Anthony Altman
100-128 North 53rd Street
Fort Smith, AR 72901

Bob & Elizabeth Martin
925 Elm
Fort Smith, AR 72903

J. Michael Shaw
4615 Free Ferry Road
Fort Smith, AR 72903

Bonnie Cook
309 Rivercrest
Fort Smith, AR 72903

Jonathan & Frances Davis
5224 Fern Street
Fort Smith, AR 72903

Mary Maestri
4905 Fern Street
Fort Smith, AR 72903

Ron & Stan Ramsey
5318 Free Ferry Road
Fort Smith, AR 72903

Dian Layman
5500 Free Ferry
Fort Smith, AR 72903

Larry Devero
1401 Burnham
Fort Smith, AR 72903

Linda Lincks
5305 Summit
Fort Smith, AR 72903

Ho Tam
8801 South 35th Terrace
Fort Smith, AR 72903

Ricky & Barbie Davis
5728 Free Ferry
Fort Smith, AR 72903

Sandra Summers
5309 Summit
Fort Smith, AR 72903

William & Laura Jones
6408 Free Ferry
Fort Smith, AR 72903

Bill McCain
7720 Steephill Road
Fort Smith, AR 72903

Mike & Jane Rappeport
904 S. Albert Pike
Fort Smith, AR 72903

Travis Brisendine
P. O. Box 10064
Fort Smith, AR 72917

Modena Glidewell
5600 Free Ferry
Fort Smith, AR 72903

Harry Foltz
4629 Free Ferry
Fort Smith, AR 72903

Jack & Sharon Helms
4900 Chestnut Way
Fort Smith, AR 72903

Ryan Coleman
3724 Free Ferry
Fort Smith, AR 72903

David Dunagin
1716 Burnham Road
Fort Smith, AR 72903

Gary Carroll
6208 Free Ferry
Fort Smith, AR 72903

Soonja French
4716 Free Ferry
Fort Smith, AR 72903

Danny Freeman
5434 Highland Drive
Fort Smith, AR 72903

Betty Flowers
5125 B Fern Street
Fort Smith, AR 72903

Terry Burruss
614 Center
Little Rock, AR 72201

Mr. Charles Cook
Senior Vice President
Special Assets
P. O. Box 7
Fort Smith, AR 72901

Darrell Mathis
304 Lecta Avenue
Fort Smith, AR 72901

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE I, OF THE FORT SMITH MUNICIPAL CODE REGULATING ANIMALS, ESTABLISHING MANDATORY REGISTRATION, SPAY AND NEUTER REGULATIONS, AND A HOBBYIST PERMIT FOR DOGS AND CATS

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

Chapter 4, Article I, of the Fort Smith Municipal Code is amended to add Section 4-11 to read as follows:

Sec. 4-11. Annual Registration for Dogs and Cats; Mandatory Spay / Neuter for Dogs and Cats; Hobbyist Permit for Dogs and Cats

(a) *Annual registration for dogs and cats.* Any person owning, keeping, harboring or having custody of a dog or cat six months old or older within the city limits for more than thirty (30) consecutive days in a twelve month period is required to obtain a license tag for such dog or cat by registering it with the license-collecting agent of the city, to be designated by the City Administrator. For each neutered male or spayed female over six months of age, the levied fee shall be in the amount of five ($5) dollars, annually, or a license valid for the life of the animal can be purchased in the amount of ten ($10) dollars. An owner shall have thirty (30) days from the date a license expires to obtain a new license without penalty. Anyone failing to obtain a license within said thirty (30) days shall be required to pay an additional fee of ten ($10) dollars.

(1) When initially registering a dog or cat, the owner shall produce documented proof of current rabies vaccination as well as documented proof that the animal has been spayed or neutered. Regardless of whether a license is obtained for an annual or a lifetime bases, every owner shall provide proof annually of the then current rabies vaccination to the license-collecting agent of the city. Failure to maintain current rabies vaccination records with the city shall render the registration invalid.

(2) Every person owning, keeping, harboring or having custody of a dog or cat subject to the registration requirement is required to see that the animal's license tag is valid and is securely fastened to the dog or cat by collar or harness at all times.

(3) Working police dogs, police dogs in training, registered service dogs, and service dogs in training with applicable credentials shall qualify for exemption from the annual registration fee by including on the license application the name and phone number of the responsible law enforcement agency and, in the case of service dogs, the individual registration number of the animal.

(4) City residents who are sixty-five (65) years of age or older can register up to two (2) pets without cost.

(b) *Spaying and neutering requirements.* With the exception of those individuals listed below, any person owning, keeping, harboring, or having custody of any dog or cat six months of age or older is required to have said animal spayed or neutered unless said person holds a hobbyist permit issued by the license-collecting agent of the city:

(1) Persons who own, keep, harbor, or have custody of registered service dogs, search and rescue dogs or working police dogs;

(2) Individuals who are non-residents of the city and reside temporarily therein for a period not to exceed thirty (30) consecutive days within a twelve month period;

(3) Animal shelters, kennels, pet shops and veterinary hospitals;

(4) Persons who own, keep, harbor or have custody of a dog or cat and who are in possession of a certification signed by a licensed veterinarian stating that the animal is unfit to be spayed or neutered because the procedure would endanger the life of the animal;

(5) City residents with a combined annual household income below the United States Health and Human Services Poverty Guidelines may apply for financial assistance to comply with the spaying and/or neutering requirements.

(c) *Hobbyist permit.* Applicants must apply for a hobbyist permit with the license-collecting agent of the city if the dog or cat will remain intact. A citation will only be issued under this section if the owner is in violation of any other provision of this chapter. A hobbyist may not allow his or her animals to produce more than one total litter annually regardless of the number of unsterilized animals owned. A second litter delivered within the city within a twelve month period shall invalidate the hobbyist's permit for twelve months.

(1) Levy and amount of permit. There is hereby levied and there shall be collected an annual permit fee in the amount hereinafter provided on each dog or cat owned or kept within the city for the purposes of breeding, competing, or hunting. Said permit fee shall be paid to the license-collecting agent of the city, along with a twenty-five ($25) dollar non-refundable application fee. For each unneutered male or unspayed female over six months of age, the levied fee shall be in the amount of twenty-five ($25) dollars annually.

(2) Issuance of permit and tag. The license-collecting agent of the city shall issue a permit after the required documentation listed below has been provided:

(A) Hobbyist permit application is filed with the license-collecting agent of the city, stating the purpose for which the dog or cat is to be utilized, e.g., hunting, breeding, or show.

(B) Documentation for breeding purposes confirming that each applicable animal is registered with the AKC, UKC, CFA, or TICA as a purebred; proof that the hobbyist has held membership within the preceding twelve months in a national, regional or local kennel club; provides a signed copy of the Code of Ethics for the breed club to which the hobbyist belongs; and, provides documentation of all necessary health clearances for breeding specific type of breed and health records for litter.

(C) For show dogs or dogs participating in sporting competitions, documentation confirming that each applicable animal has competed in at least one dog show or sporting competition sanctioned by a national or regional registry within the past twelve months; and that the hobbyist has held membership within the preceding twelve months in a national, regional or local kennel club.

(D) For hunting purposes, a hobbyist must provide documentation showing she or he holds a current state hunting license with the Arkansas Game and Fish Commission.

(3) A new permit shall be obtained each year by every hobbyist and a new fee paid. An owner shall have thirty (30) days from the date the permit expires to obtain a new permit without penalty. Any hobbyist failing to obtain a permit within such period shall be required to pay an additional fee of $10.00.

(4) Revocation of Permit. A permit may be revoked if the animal services division determines that any of the following conditions exist:

(A) The hobbyist has been convicted of or has plead guilty or *nolo contendre* to the criminal offense of cruelty to animals; or

(B) The hobbyist has failed to comply with any of the conditions of the permit; or

(C) The hobbyist has violated any of the provisions of this Chapter twice in one permit year.

(5) Nothing in this section shall be construed to apply to any dog or cat under the age of six months or to dogs or cats brought to the city on a temporary basis for the sole purpose of show or exhibition.

(d) This ordinance shall go into effect on January 1, 2012. Application for and issuance of licenses shall be by ward in the following prescribed manner:

(1) Residents living in Ward 1 shall license dogs and cats during the first quarter of the calendar year (January 1 to March 31) or within thirty (30) days of acquiring a dog or cat after the licensing period has expired.

(2) Residents living in Ward 2 shall license dogs and cats during the second quarter of the calendar year (April 1 to June 30) or within thirty (30) days of acquiring a dog or cat after the licensing period has expired.

(3) Residents living in Ward 3 shall license dogs and cats during the third quarter of the calendar year (July 1 to September 30) or within thirty (30) days of acquiring a dog or cat after the licensing period has expired.

(4) Residents living in Ward 4 shall license dogs and cats during the fourth quarter of the calendar year (October 1 to December 31) or within thirty (30) days of acquiring a dog or cat after the licensing period has expired.

This Ordinance adopted this ____ day of _____, 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney
Publish 1 time

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE I, SECTION 4-1 OF THE FORT SMITH MUNICIPAL CODE REGULATING ANIMALS

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

Chapter 4, Article I, Section 4-1, of the Fort Smith Municipal Code is amended to read as follows:

Sec. 4-1. Definitions.

The following words and phrases shall, for the purpose of this chapter, have the following meanings:

Animal shall mean any animal which may be affected by rabies.

Animal warden shall mean the person who shall be, from time to time, duly authorized by the board of directors as the agent of the city for the purpose of providing the services and fulfilling the responsibilities of the animal warden as herein set out.

Cat shall mean animals of all ages, both female and male, which are members of the feline or cat family.

City pound shall mean the place specified by the City of Fort Smith Board of Directors for the impounding of dogs and other animals.

Dangerous dog means any dog which displays or has a tendency, disposition or propensity to:

(1) Bare its teeth or approach in a menacing manner a person or domestic animal that is not provoking the dog, or

(2) Attack, chase, charge or bite a person or domestic animal in a menacing manner, or attempt to do so.

Dog shall mean animals of all ages, both female and male, which are members of the canine or dog family.

Has been bitten shall mean that a person has been seized with teeth or jaws by an animal, so that the skin of the person or things seized has been nipped or gripped, or has been wounded or pierced and includes contact of saliva with any break or abrasion of the skin.

Hobbyist means a person whose unsterilized dogs or cats are registered with the

American Kennel Club (AKC), United Kennel Club (UKC), Cat Fanciers' Association (CFA), The International Cat Association (TICA) or similar group, and who competes or shows their animals at least annually. 'Hobbyist' also means a person who holds a current Arkansas hunting license and uses his or her dogs to hunt at least annually.

Licensed veterinarian shall mean a practitioner of veterinary medicine who holds a valid license to practice his profession.

Muzzle, when required, shall mean an apparatus of appropriate material with sufficient strength to restrain the dog from biting; provided, that no such muzzle employed shall be made from any material or maintained on the dog in any manner so as to cut or injure the dog.

Neuter shall mean to render a male dog or male cat unable to reproduce.

Owner shall mean every person having a right of property in a dog or other animal or who keeps or harbors a dog or other animal, or has it in his or her care, or acts as its custodian, or knowingly permits a dog or other animal to remain on or about any premises occupied by him or her, provided that this term shall not apply to veterinarians, pet shops or kennel owners temporarily maintaining on their premises animals owned by others.

Pen shall mean an enclosure for domestic animals meeting the following requirements:

(1) The minimum pen size shall be four (4) feet by six (6) feet or twenty-four (24) square feet for one dog under fifty (50) lbs. For dogs over fifty (50) lbs., the minimum pen size shall be five (5) feet by ten (10) feet or fifty (50) square feet.

(2) In all pens, each dog housed therein shall have room to stand, lie down, turn around and sit normally away from its own waste; this requires a minimum of four (4) feet by six (6) feet. A pen five (5) feet by ten (10) feet shall hold no more than one (1) large, or two (2) medium, or three (3) small breed dogs.

(3) All pens shall be a minimum of six (6) feet in height.

(4) All pens shall be surrounded on all sides and top by chainlink fencing of at least no. 9 gauge, with steel ties, maximum two and one-half-inch mesh, with concrete or similar flooring or with side fencing buried eighteen (18) inches into the ground, and with gates padlocked.

Run at large shall mean the state of freedom of any dog not confined on the premises of the owner within an enclosure, house or other building, trolley system or temporary tether, or not restrained on the premises of the owner by a leash sufficiently strong to prevent the dog from escaping and restricting the dog to the premises, or not confined by leash or confined within an automobile when away from the premises of the owner. In relation to unspayed female dogs while in season, "run at large" shall further be defined as the state of freedom of any such dog not confined inside an enclosure of such a substantial construction so as to prevent such dog from attracting other dogs to the near vicinity of the confined dog.

Trolley system is a method to confine a dog by tethering the dog to a cable that is not less

than ten feet in length and elevated four to seven feet off the ground in a manner that allows the tether to move freely along the length of the cable.

Spay shall mean to remove the ovaries of a female dog or female cat in order to render the animal unable to reproduce.

Vaccination shall mean the injection, subcutaneously or otherwise, of canine antirabic vaccine, as approved by the United States Department of Agriculture or the state veterinarian and administered by a licensed veterinarian.

Vaccination certificate shall mean a written or printed certificate showing on its face that the owner described thereon has received an inoculation or antirabic vaccine in an amount sufficient to produce immunity in the described animal and bearing the signature of a licensed veterinarian.

Vicious animal shall mean any animal which:

(1) When unprovoked, approaches in a manner of attack any person upon the streets, sidewalks, or any other public ground or place;

(2) Has a known propensity, tendency or disposition to attack, without provocation, human beings or domestic animals;

(3) Without provocation, bites or attacks a human being or domestic animal on public or private property;

(4) Is owned or harbored primarily or in part for the purpose of animal fighting or is an animal trained for animal fighting.

Notwithstanding the above definition, no animal shall be declared vicious if the person attacked or bitten by the animal was teasing, tormenting, abusing, or assaulting the animal, or was committing or attempting to commit a crime. Furthermore, no animal shall be declared vicious if a domestic animal which was bitten or attacked by that animal was teasing, tormenting, abusing, or assaulting the animal. Additionally, no animal shall be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault by another human being or animal.

Vicious dog means any dog which has:

(1) Caused a life-threatening injury, broken bone, multiple sutures, or any injury requiring medical attention to a person or domestic animal, without provocation, on public or private property; or

(2) Killed a domestic animal, without provocation, on public or private property; or

(3) Is owned or harbored primarily or in part for the purpose of dog fighting or is a dog trained for fighting.

This Ordinance adopted this ____ day of _____, 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney
Publish 1 time

MEMORANDUM

August 31, 2012

TO: Mayor and Board of Directors

FROM : Ray Gosack, City Administrator

SUBJECT: Animal Control Ordinances

At the March 15, 2011 regular meeting of the board of directors, the board passed two ordinances regarding registration and spay/neuter of dogs and cats; and definitions for the enactment of those requirements. Since the ordinances passed without suspension of the rules, they were read for the first of three times at that meeting. Further consideration of these ordinances was tabled to the September 4, 2012 board meeting.

At the September 4th meeting, the board has the following options regarding these ordinances:

1) Allow the ordinances to be read for the second time. This is what will happen if no other option is exercised.

2) Make a motion to pass the ordinances with suspension of the rules. If the motion passes with 5 or more votes, the ordinances would be adopted without the need for any further readings. If the motion passes with 4 votes, the ordinances would be read for the second time. If the motion receives less than 4 favorable votes, the ordinances would be defeated.

3) Table the ordinances for a designated period of time. This will keep the ordinances available for future consideration.

4) Table the ordinances indefinitely. This action has the effect of withdrawing the ordinances from further consideration unless reintroduced at a later time.

Last year when the board considered the report of the animal services task force, there was discussion of an alternative to encourage people to have their dogs altered rather than mandating spay/neuter. Below is an outline of an approach the board may wish to consider. If the board is interested, it may be desirable to refer this approach to the animal services advisory board for its review, refinement, and recommendation.

The approach focused on dogs running at large. Dogs allowed to roam are many times intact. They can cause the following problems.

- Intact dogs running loose are frequently looking to mate, which increases the animal population.
- Dogs running loose, particularly intact males, may be more aggressive toward people and other pets.
- Loose dogs cause traffic hazards.
- Loose dogs can damage the property of others.

In 2010, there were 80 offenses of letting a dog run loose and 44 such offenses in 2011. Thus far in 2012, there's been 27 offenses. Currently, the fine for a first offense of letting a dog run loose is $100 plus $65 in court costs and fees. The discussion last fall was for a two-tiered fine system based on the animal's reproductive capability and the repetition of the offense.

- The fine amount would be lower if the animal has been altered.
- If the dog hasn't been altered, the owner would have the option of paying a fine (the only option currently available) or having the animal altered in lieu of paying the fine.
- The fine amounts would increase for recurring offenses. (This is currently the practice, but is at the judge's discretion.)
- The police dept. would place a greater emphasis on enforcing dogs running at large.

This approach gives citizens an economic incentive to have their dogs altered without mandating that it be done. If someone whose dog is found running loose chooses not to have their dog altered, they would pay a fine which is currently their only

option. The proposal encourages spay/neuter without requiring anyone to alter their pet.

If the board is interested in this proposal, it may wish to include this in its motion to act on the ordinances. Please contact me if there's any questions or a need for more information.

2 Attachments

5A.

ORDINANCE NO._____

AN ORDINANCE ACCEPTING CERTAIN TERRITORY INTO THE CITY OF FORT SMITH, STATE OF ARKANSAS

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

WHEREAS, on the 20th day of June, 2012, before the County Court of Sebastian County, Fort Smith District, State of Arkansas, pursuant to Arkansas Code Annotated § 14-40-601(a), there came to be heard a Petition for Annexation, in proper form and substance, and executed by Sebastian County, the owner of the subject real property in the territory to be annexed;

WHEREAS, the County Court for Sebastian County, Arkansas, Fort Smith District, approved the Petition and entered an Order annexing the hereinafter described real property to the City of Fort Smith, pursuant to the Petition of the owner of the real property in the territory to be annexed, proper notice being issued in accordance with Arkansas Code Annotated § 14-40-602, and all other procedures set forth in Arkansas Code Annotated § 14-40-601 et seq; and

WHEREAS, no objection to the said Order of Annexation entered by the County Court for Sebastian County, Arkansas, Fort Smith District, on June 20, 2012, has been filed within the subsequent thirty (30) day period in which an action could be filed to prevent the said annexation pursuant to Arkansas Code Annotated § 14-40-604.

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

SECTION 1: The real properties described in Section 2 of this Ordinance are hereby accepted into the City of Fort Smith, State of Arkansas, annexed to the City of Fort Smith, State of Arkansas, and made a part of the City of Fort Smith, State of Arkansas, for all purposes as provided by law.

SECTION 2: The subject real properties accepted into and annexed to the City of Fort Smith, State of Arkansas, by Section 1 of this Ordinance above, are located in Sebastian County, Arkansas, and are more particularly described as follows, to-wit:

Part of Government Lot 2 of the Northwest Quarter of Section 6, Township 7 North, Range 31 West, part of Government Lots 1 and 2 of the Northeast Quarter and part of the Northwest Quarter of the Southeast Quarter of Section 1, Township 7 North, Range 32 West, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Northwest Corner of said Section 6; Thence along the West Line of said Section 6, S02°44'07"W, 329.53 feet to the southerly right-of-way of Arkansas Highway 255 (Zero Street); Thence along said right-of-way, S76°34'08"E, 1014.66 feet; Thence S18°28'41"W, 196.59 feet; Thence 296.12 feet along the arc of a curve to the right, said curve having a radius of 476.35 feet and being subtended by a chord having a bearing of S47°37'27"W and a distance of 291.38 feet; Thence 270.78 feet along the arc of a curve to the right, said curve having a radius of 409.78 feet and being subtended by a chord having a bearing of S80°29'14"W and a distance of 265.88 feet; Thence N72°43'59"W, 122.26 feet; Thence N62°56'17"W, 216.51 feet; Thence 283.44 feet along the arc of a curve to the left, said curve having a radius of 664.39 feet and being subtended by a chord having a bearing of N80°38'09"W and a distance of 281.30 feet; Thence S85°51'29"W, 156.20 feet; Thence 306.17 feet along the arc of a curve to the right, said curve having a radius of 539.66 feet and subtended by a chord having a bearing of N73°31'20"W and a distance of 302.08 feet; Thence N56°50'45"W, 281.99 feet; Thence 123.73 feet along the arc of a curve to the right, said curve having a radius of 363.35 feet and being subtended by a chord having a bearing of S86°08'55"W and a distance of 123.13 feet; Thence 138.70 feet along the arc of a curve to the left, said curve having a radius of 333.65 feet and being subtended by a chord having a bearing of S83°59'32"W and a distance of 137.70 feet; Thence S67°15'10"W, 121.40 feet; Thence 291.34 feet along the arc of a curve to the left, said curve having a radius of 258.02 feet and being subtended by a chord having a bearing of S28°56'40"W and a distance of 276.11 feet; Thence S00°44'58"W, 421.02 feet; Thence 547.00 feet along the arc of a curve to the right, said curve having a radius of 522.05 feet and being subtended by a chord having a bearing of S31°55'33"W and a distance of 522.32 feet; Thence S62°18'14"W, 384.20 feet; Thence 176.37 feet along the arc of a curve to the left, said curve having a radius of 429.76 feet and being subtended by a chord having a bearing of S46°11'42"W and a distance of 175.14 feet; Thence S36°28'08"W, 402.87 feet; Thence S66°13'48"E, 257.42 feet; Thence 65.09 feet along the arc of a curve to the left, said curve having a radius of 310.13 feet and being subtended by a chord having a bearing of S15°37'14"W and a distance of 64.97 feet; Thence S23°32'32"W, 483.24 feet; Thence N87°33'56"W, 210.24 feet; Thence N01°26'41"E, 445.37 feet; Thence N35°49'13"E, 222.18 feet; Thence N36°28'08"E, 407.65 feet; Thence 197.93 feet along the arc of a curve to the right, said curve having a radius of 479.76 feet and being subtended by a chord having a bearing of N46°21'57"E and a distance of 196.53 feet; Thence

N62°18’14”E, 385.89 feet; Thence 493.96 feet along the arc of a curve to the left, said curve having a radius of 472.05 feet and being subtended by a chord having a bearing of N31°56’48”E and a distance of 471.73 feet; Thence N00°44’58”E, 418.77 feet; Thence 348.62 feet along the arc of a curve to the right, said curve having a radius of 308.02 feet and being subtended by a chord having a bearing of N29°22’24”E and a distance of 330.31 feet; Thence N67°15’10”E, 125.92 feet; Thence 161.67 feet along the arc of a curve to the right, said curve having a radius of 383.65 feet and being subtended by a chord having a bearing of N83°49’45”E and a distance of 160.47 feet; Thence 80.58 feet along the arc of a curve to the left, said curve having a radius of 313.35 feet and being subtended by a chord having a bearing of N88°32’13”E and a distance of 80.36 feet; Thence 196.42 feet along the arc of a curve to the right, said curve having a radius of 217.50 feet and being subtended by a chord having a bearing of N05°00’59”W and a distance of 189.81 feet; Thence N12°21’14”E, 221.71 feet to said southerly right-of-way of Arkansas Highway 255; Thence along said right-of-way, 202.90 feet along the arc of a curve to the right, said curve having a radius of 11409.16 feet and being subtended by a chord having a bearing of S77°04’41”E and a distance of 202.90 feet; Thence continuing along said right-of-way, S76°34’08”E, 1662.69 feet to the Point of Beginning, containing 27.89 acres, more or less.

SECTION 3: The Fort Smith City Clerk shall forward notice of the adoption of this Ordinance to the Sebastian County Clerk and provide such assistance as is required to provide notification to the Arkansas Secretary of State and the Director of the Tax Division of the Arkansas Public Service Commission pursuant to the provisions of Arkansas Code Annotated § 14-40-605.

THIS ORDINANCE PASSED, APPROVED AND ADOPTED THIS____DAY OF_____, 2012.

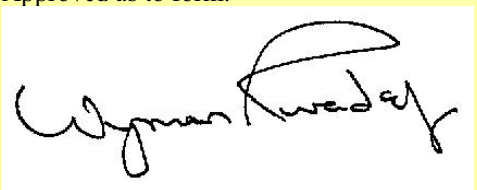
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:



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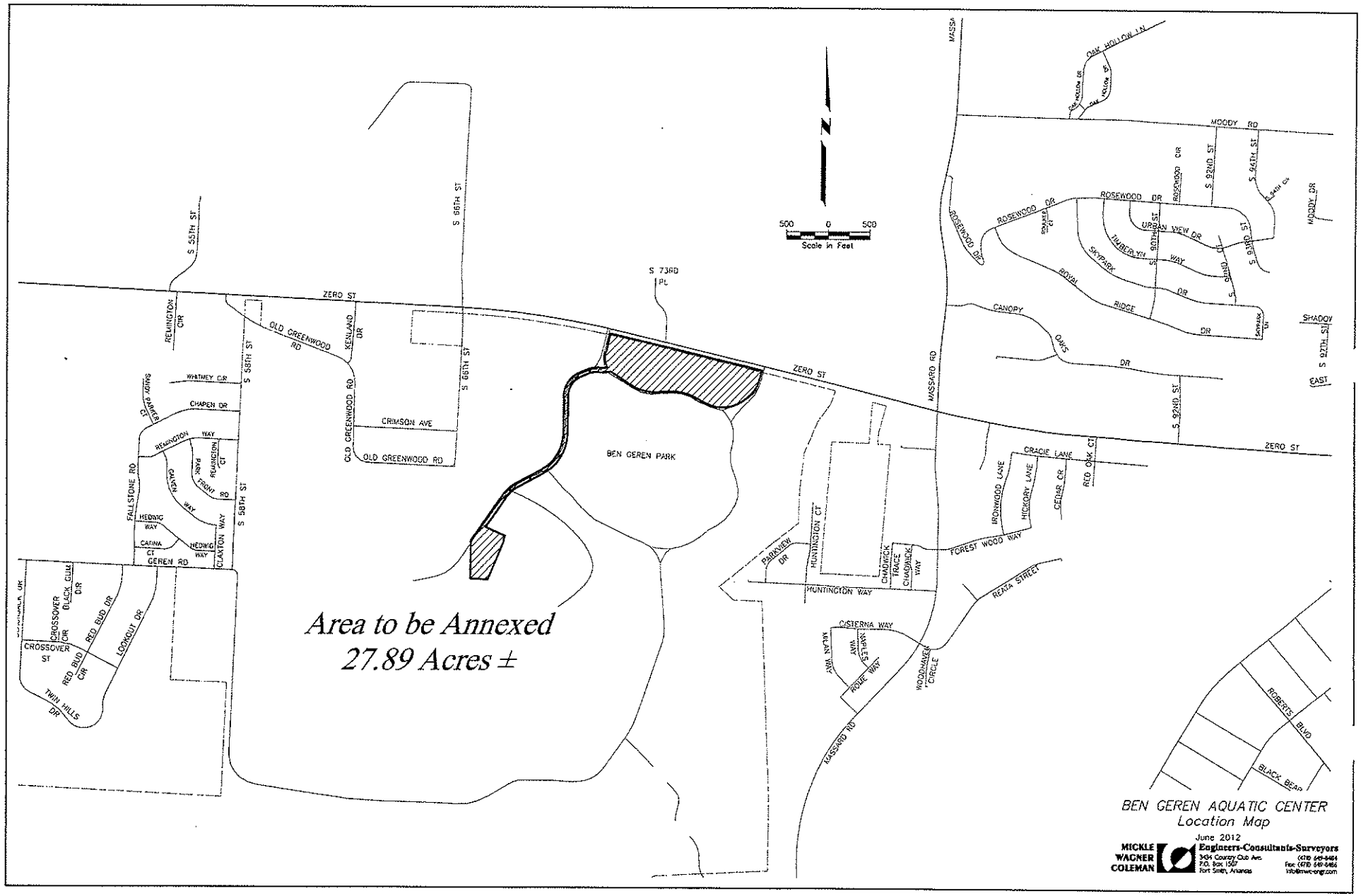

K:\Work Orders\Ben Geren Aquatic Center\11666.dwg\Ben Geren Aquatic Center Location Mapdwg, Half 6/13/2012 1:56:46 PM, douglas

MEMORANDUM

To: Ray Gosack, City Administrator
From: Wally Bailey, Director of Development Services
Date: August 31, 2012
Subject: Annexation of Lands for the Aquatic Center and Softball Fields at Ben Geren Park

The construction of the Aquatic Center and Softball Fields at Ben Geren Park requires an annexation and zoning of a portion of the park where these facilities will be constructed. The City of Fort Smith and the Sebastian County Quorum Court approved an agreement that provided for the annexation of the property to facilitate these facilities. The annexation and rezoning applications are being presented to the Board of Directors for their approval.

The attached ordinance regarding the annexation of the subject lands at Ben Geren Park includes approximately 27.89 acres which will facilitate the construction of the aquatic center and the softball fields. The exhibit attached to the ordinance shows the area to be annexed.

On June 20, 2012, the County Court for Sebastian County held a public hearing and following that hearing approved the Petition and entered an Order annexing the properties to the City of Fort Smith. *(Attached is a copy of the Order of Annexation signed by David Hudson, Sebastian County Court Judge).*

No objection to the Order of Annexation has been filed within the requisite thirty-day period following the date of the Order in which an action could be filed to prevent the annexation pursuant to Arkansas Statutes.

An Ordinance has been prepared for the Board of Directors consideration that will complete the process for annexing the property.

Please contact me if you have any questions.

CCO - 2012 - 139

IN THE COUNTY COURT
OF
SEBASTIAN COUNTY, ARKANSAS

FILED
JUL 20 2012
SHARON BROOKS
County Clerk & Recorder
BY _____

IN THE MATTER OF A PETITION BY SEBASTIAN COUNTY, ARKANSAS FOR ANNEXATION OF REAL PROPERTY TO THE CITY OF FORT SMITH

ORDER

ORDER GRANTING PETITION FOR ANNEXATION OF ADJOINING TERRITORY BY OWNER

On this 20th day of July, 2012, came on for consideration the Petition of Sebastian County, through and by its legal counsel, Daniel Shue, Prosecuting Attorney, requesting that the territory described below be annexed into the City of Fort Smith. And, the County Court of Sebastian County, being well advised in the premises, finds and orders as follows:

1. The Petitioner, Sebastian County, is the sole owner of certain lands adjoining the City of Fort Smith, which are within Sebastian County, Arkansas, more particularly described in Exhibit "A" attached to this Order. Daniel Shue, Prosecuting Attorney, as legal counsel for Sebastian County, is authorized pursuant to A.C.A. §14-40-601(a) to bring the Petition on behalf of the landowner, i.e., Sebastian County.

2. The Petition was filed pursuant to A.C.A. §14-40-601 et seq. and venue is in the County Court of Sebastian County, Arkansas, Fort Smith District, pursuant to A.C.A. §14-40-601(a).

3. The lands that adjoin the City of Fort Smith that are subject to the Petition are fully described in Exhibit "A" attached hereto. Attached hereto as Exhibit "B" is a map depicting the boundary lines of the City of Fort Smith, Arkansas, as it exists and relates to the above-described real properties owned by the Petitioner.

4. The County Court, after due notice to the public and after hearing, is satisfied that the allegations of the Petition are sustained by proof and is satisfied that Daniel Shue, Prosecuting Attorney, legal counsel for Sebastian County, Arkansas, whose signature appears on the Petition on behalf of the owner of the land, i.e., Sebastian County, is an authorized signatory. The County Court is further satisfied that the limits of the territory to be annexed have been accurately described and an accurate map thereof made and filed, and that the prayer of the Petitioner is right and proper. Accordingly, the Petition is granted annexing the property to the City of Fort Smith, Arkansas.

IT IS SO ORDERED,

DAVID HUDSON
SEBASTIAN COUNTY JUDGE

Attachment(s):

Attachment A

Ben Geren Aquatic Center Annexation 27.89 Ac.

Part of Government Lot 2 of the Northwest Quarter of Section 6, Township 7 North, Range 31 West, part of Government Lots 1 and 2 of the Northeast Quarter and part of the Northwest Quarter of the Southeast Quarter of Section 1, Township 7 North, Range 32 West, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Northwest Corner of said Section 6; Thence along the West Line of said Section 6, S02°44'07"W, 329.53 feet to the southerly right-of-way of Arkansas Highway 255 (Zero Street); Thence along said right-of-way, S76°34'08"E, 1014.66 feet; Thence S18°28'41"W, 196.59 feet; Thence 296.12 feet along the arc of a curve to the right, said curve having a radius of 476.35 feet and being subtended by a chord having a bearing of S47°37'27"W and a distance of 291.38 feet; Thence 270.78 feet along the arc of a curve to the right, said curve having a radius of 409.78 feet and being subtended by a chord having a bearing of S80°29'14"W and a distance of 265.88 feet; Thence N72°43'59"W, 122.26 feet; Thence N62°56'17"W, 216.51 feet; Thence 283.44 feet along the arc of a curve to the left, said curve having a radius of 664.39 feet and being subtended by a chord having a bearing of N80°38'09"W and a distance of 281.30 feet; Thence S85°51'29"W, 156.20 feet; Thence 306.17 feet along the arc of a curve to the right, said curve having a radius of 539.66 feet and subtended by a chord having a bearing of N73°31'20"W and a distance of 302.08 feet; Thence N56°50'45"W, 281.99 feet; Thence 123.73 feet along the arc of a curve to the right, said curve having a radius of 363.35 feet and being subtended by a chord having a bearing of S86°08'55"W and a distance of 123.13 feet; Thence 138.70 feet along the arc of a curve to the left, said curve having a radius of 333.65 feet and being subtended by a chord having a bearing of S83°59'32"W and a distance of 137.70 feet; Thence S67°15'10"W, 121.40 feet; Thence 291.34 feet along the arc of a curve to the left, said curve having a radius of 258.02 feet and being subtended by a chord having a bearing of S28°56'40"W and a distance of 276.11 feet; Thence S00°44'58"W, 421.02 feet; Thence 547.00 feet along the arc of a curve to the right, said curve having a radius of 522.05 feet and being subtended by a chord having a bearing of S31°55'33"W and a distance of 522.32 feet; Thence S62°18'14"W, 384.20 feet; Thence 176.37 feet along the arc of a curve to the left, said curve having a radius of 429.76 feet and being subtended by a chord having a bearing of S46°11'42"W and a distance of 175.14 feet; Thence S36°28'08"W, 402.87 feet; Thence S66°13'48"E, 257.42 feet; Thence 65.09 feet along the arc of a curve to the left, said curve having a radius of 310.13 feet and being subtended by a chord having a bearing of S15°37'14"W and a distance of 64.97 feet; Thence S23°32'32"W, 483.24 feet; Thence N87°33'56"W, 210.24 feet; Thence N01°26'41"E, 445.37 feet; Thence N35°49'13"E, 222.18 feet; Thence N36°28'08"E, 407.65 feet; Thence 197.93 feet along the arc of a curve to the right, said curve having a radius of 479.76 feet and being subtended by a chord having a bearing of N46°21'57"E and a distance of 196.53 feet; Thence N62°18'14"E, 385.89 feet; Thence 493.96 feet along the arc of a curve to the left, said curve having a radius of 472.05 feet and being subtended by a chord having a bearing of N31°56'48"E and a distance of 471.73 feet; Thence N00°44'58"E, 418.77 feet; Thence 348.62 feet along the arc of a curve to the right, said curve having a radius of 308.02 feet and being subtended by a chord having a bearing of N29°22'24"E and a distance of

330.31 feet; Thence N67°15'10"E, 125.92 feet; Thence 161.67 feet along the arc of a curve to the right, said curve having a radius of 383.65 feet and being subtended by a chord having a bearing of N83°49'45"E and a distance of 160.47 feet; Thence 80.58 feet along the arc of a curve to the left, said curve having a radius of 313.35 feet and being subtended by a chord having a bearing of N88°32'13"E and a distance of 80.36 feet; Thence 196.42 feet along the arc of a curve to the right, said curve having a radius of 217.50 feet and being subtended by a chord having a bearing of N05°00'59"W and a distance of 189.81 feet; Thence N12°21'14"E, 221.71 feet to said southerly right-of-way of Arkansas Highway 255; Thence along said right-of-way, 202.90 feet along the arc of a curve to the right, said curve having a radius of 11409.16 feet and being subtended by a chord having a bearing of S77°04'41"E and a distance of 202.90 feet; Thence continuing along said right-of-way, S76°34'08"E, 1662.69 feet to the Point of Beginning, containing 27.89 acres, more or less.

Attachment B
Area to be Annexed
27.89 Acres ±
BEN GEREN AQUATIC CENTER
Annexation Exhibit
June 2012
MICKLE WAGNER COLEMAN
Engineers-Consultants-Surveyors

IN THE COUNTY COURT OF SEBASTIAN COUNTY, ARKANSAS
FORT SMITH DISTRICT

In Re: FILED **NO. 2012-139**

JUN 11 2012

SHARON BROOKS
County Clerk & Recorder
BY_____

Petition by Sebastian County, Arkansas for Annexation of Real Property to the City of Fort Smith **PETITIONER**

NOTICE OF HEARING ON PETITION TO ANNEX PROPERTY INTO THE CITY OF FORT SMITH, ARKANSAS

A hearing will be held before the County Court of Sebastian County at 9:00 AM on the 20th day of July, 2012, for the purpose of determining whether to approve the proposed annexation into the City of Fort Smith, Arkansas, of the following described property situated in Sebastian County, Arkansas; to wit, the Aquatics Facilities and certain Softball Fields at Ben Geren Regional Park [more specifically described in the Petition for Annexation of Adjoining Territory by Owner, filed July 11, 2012.]

Any person interested may appear and contest the granting of the prayer of the petition and affidavits in support of or against the petition may be prepared and submitted and, if any, will be examined by the County Court.

David Hudson
Sebastian County Judge
35 South 6th Street, Rm. 106
Fort Smith, AR 72901

IN THE COUNTY COURT OF SEBASTIAN COUNTY, ARKANSAS
FORT SMITH DISTRICT

In Re:

FILED
JUN 11 2012
SHARON BROOKS
County Clerk & Recorder
BY_____

NO. 2012-139

Petition by Sebastian County, Arkansas, for Annexation of Real Property to the City of Fort Smith

PETITIONER

PETITION FOR ANNEXATION OF ADJOINING TERRITORY BY OWNER

COMES NOW the Petitioner, Sebastian County, Arkansas, through and by its legal counsel, Daniel Shue, Prosecuting Attorney, and for its Petition to the County Court of Sebastian County, Arkansas, states as follows:

1. Petitioner is the sole owner of certain lands adjoining the City of Fort Smith, which are within Sebastian County, Arkansas, more particularly described in Exhibit "A" to this Petition, which exhibit is incorporated by reference.

2. This Petition is being filed pursuant to A.C.A. § 14-40-601 et seq. Venue is in the County Court of Sebastian County, Arkansas, Fort Smith District, pursuant to A.C.A. § 14-40-601 (a).

3. The lands that adjoin the City of Fort Smith that are subject to this Petition are described as set forth in Exhibit "A" attached hereto. Attached hereto as Exhibit "B" and also incorporated by reference is a map depicting the boundary lines of the City of Fort Smith, Arkansas, as it exists and relates to the above-described real properties owned by the Petitioner.

4. Daniel Shue, Prosecuting Attorney, as legal counsel for the owner, Sebastian County, is authorized to bring this Petition on Sebastian County's behalf.

WHEREFORE, the Petitioner, Sebastian County, through and by its legal counsel, Daniel Shue, Prosecuting Attorney, pursuant to A.C.A. § 14-601(a), hereby petitions the County Court of Sebastian County, Arkansas, to enter an Order, after proper notice and hearing, granting the annexation of said real property to the City of Fort Smith, Arkansas.

DATED this 11th day of June, 2012.

SEBASTIAN COUNTY, ARKANSAS

David Hudson, County Judge

By: Daniel Shue
Prosecuting Attorney for
Sebastian County, Arkansas
901 South B Street, Suite 209
Fort Smith, AR 72901
Arkansas Bar No. 83159
(479) 783-8976

Daniel Shue, Prosecuting Attorney

Attachment A

Ben Geren Aquatic Center Annexation 27.89 Ac.

Part of Government Lot 2 of the Northwest Quarter of Section 6, Township 7 North, Range 31 West, part of Government Lots 1 and 2 of the Northeast Quarter and part of the Northwest Quarter of the Southeast Quarter of Section 1, Township 7 North, Range 32 West, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Northwest Corner of said Section 6; Thence along the West Line of said Section 6, S02°44'07"W, 329.53 feet to the southerly right-of-way of Arkansas Highway 255 (Zero Street); Thence along said right-of-way, S76°34'08"E, 1014.66 feet; Thence S18°28'41"W, 196.59 feet; Thence 296.12 feet along the arc of a curve to the right, said curve having a radius of 476.35 feet and being subtended by a chord having a bearing of S47°37'27"W and a distance of 291.38 feet; Thence 270.78 feet along the arc of a curve to the right, said curve having a radius of 409.78 feet and being subtended by a chord having a bearing of S80°29'14"W and a distance of 265.88 feet; Thence N72°43'59"W, 122.26 feet; Thence N62°56'17"W, 216.51 feet; Thence 283.44 feet along the arc of a curve to the left, said curve having a radius of 664.39 feet and being subtended by a chord having a bearing of N80°38'09"W and a distance of 281.30 feet; Thence S85°51'29"W, 156.20 feet; Thence 306.17 feet along the arc of a curve to the right, said curve having a radius of 539.66 feet and subtended by a chord having a bearing of N73°31'20"W and a distance of 302.08 feet; Thence N56°50'45"W, 281.99 feet; Thence 123.73 feet along the arc of a curve to the right, said curve having a radius of 363.35 feet and being subtended by a chord having a bearing of S86°08'55"W and a distance of 123.13 feet; Thence 138.70 feet along the arc of a curve to the left, said curve having a radius of 333.65 feet and being subtended by a chord having a bearing of S83°59'32"W and a distance of 137.70 feet; Thence S67°15'10"W, 121.40 feet; Thence 291.34 feet along the arc of a curve to the left, said curve having a radius of 258.02 feet and being subtended by a chord having a bearing of S28°56'40"W and a distance of 276.11 feet; Thence S00°44'58"W, 421.02 feet; Thence 547.00 feet along the arc of a curve to the right, said curve having a radius of 522.05 feet and being subtended by a chord having a bearing of S31°55'33"W and a distance of 522.32 feet; Thence S62°18'14"W, 384.20 feet; Thence 176.37 feet along the arc of a curve to the left, said curve having a radius of 429.76 feet and being subtended by a chord having a bearing of S46°11'42"W and a distance of 175.14 feet; Thence S36°28'08"W, 402.87 feet; Thence S66°13'48"E, 257.42 feet; Thence 65.09 feet along the arc of a curve to the left, said curve having a radius of 310.13 feet and being subtended by a chord having a bearing of S15°37'14"W and a distance of 64.97 feet; Thence S23°32'32"W, 483.24 feet; Thence N87°33'56"W, 210.24 feet; Thence N01°26'41"E, 445.37 feet; Thence N35°49'13"E, 222.18 feet; Thence N36°28'08"E, 407.65 feet; Thence 197.93 feet along the arc of a curve to the right, said curve having a radius of 479.76 feet and being subtended by a chord having a bearing of N46°21'57"E and a distance of 196.53 feet; Thence N62°18'14"E, 385.89 feet; Thence 493.96 feet along the arc of a curve to the left, said curve having a radius of 472.05 feet and being subtended by a chord having a bearing of N31°56'48"E and a distance of 471.73 feet; Thence N00°44'58"E, 418.77 feet; Thence 348.62 feet along the arc of a curve to the right, said curve having a radius of 308.02 feet and being subtended by a chord having a bearing of N29°22'24"E and a distance of

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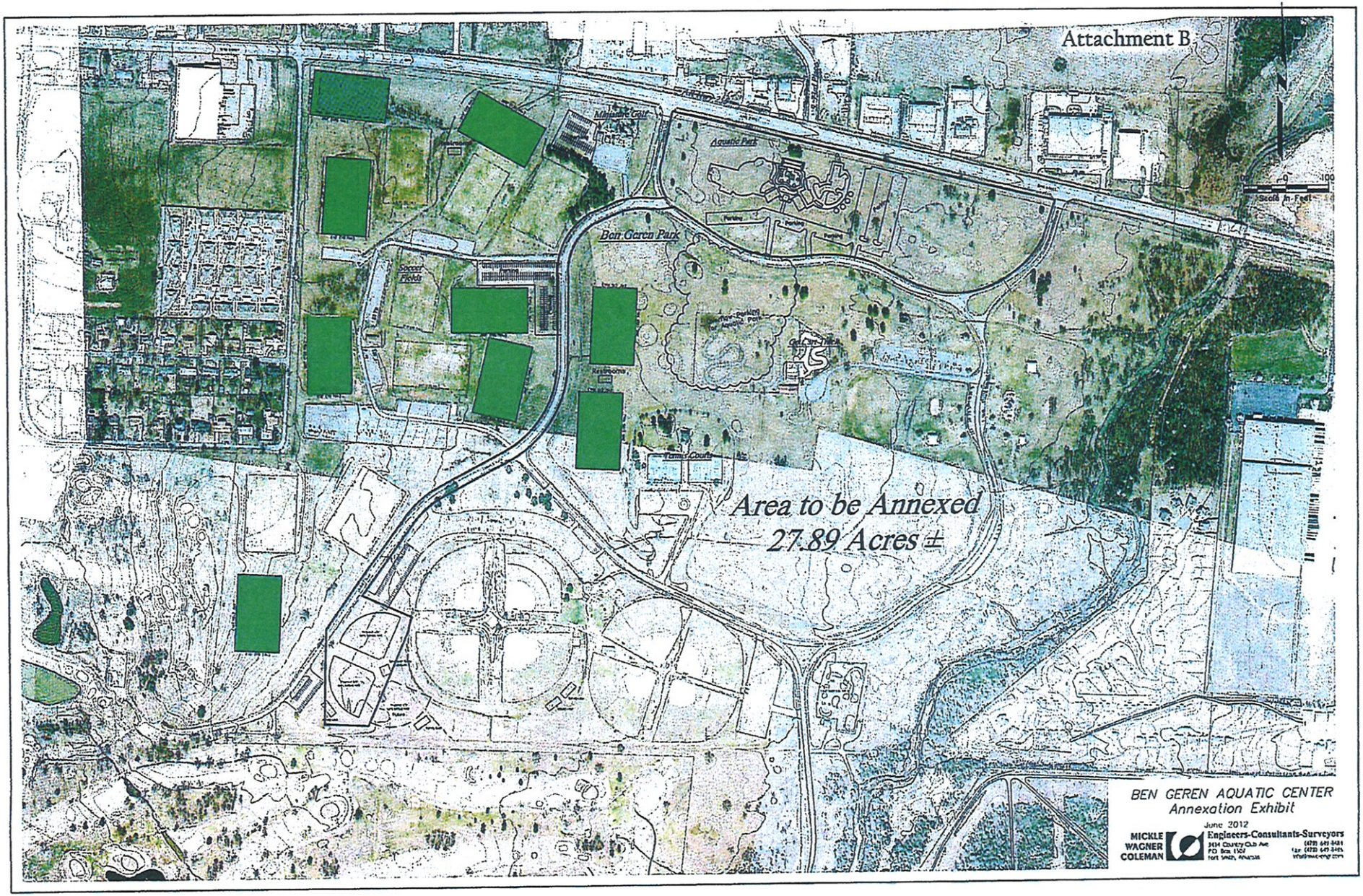

Attachment B
Area to be Annexed
27.89 Acres ±
Ben Geren Park
Aquatic Park
Soccer Fields
Tennis Courts
Scale in Feet
BEN GEREN AQUATIC CENTER
Annexation Exhibit
June 2012
MICKLE WAGNER COLEMAN
Engineers-Consultants-Surveyors

ORDINANCE NO. _____ **5B.**

AN ORDINANCE AMENDING THE MASTER LAND USE PLAN MAP AND REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP

WHEREAS, the City Planning Commission has held a public hearing to consider a request to amend the Master Land Use Plan Map relative to property described in Section 1 of this ordinance, and, having considered the request, recommended on July 10, 2012, that said change be made; and,

WHEREAS, the Planning Commission determined the change to the Master Land Use Plan Map does conform to the goals and objectives of the Comprehensive Plan.

WHEREAS, the City Planning Commission has heretofore held a public hearing to consider request No. 14-7-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on July 10, 2012, 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: The hereinafter described property is hereby reclassified on the Master Land Use Plan Map from Extraterritorial Jurisdiction Low Density Residential to General Commercial and the Master Land Use Plan Map is hereby amended to reflect said amendment to-wit:

> Part of Government Lot 2 of the Northwest Quarter of Section 6, Township 7 North, Range 31 West, part of Government Lots 1 and 2 of the Northeast Quarter and part of the Northwest Quarter of the Southeast Quarter of Section 1, Township 7 North, Range 32 West, Sebastian County, Arkansas, being more particularly described as follows:
>
> Commencing at the Northwest Corner of said Section 6; Thence along the West Line of said Section 6, S02°44'07"W, 329.53 feet to the southerly right-of-way of Arkansas Highway 255 (Zero Street); Thence along said right-of-way, S76°34'08"E, 1014.66 feet; Thence S18°28'41"W, 196.59 feet; Thence 296.12 feet along the arc of a curve to the right, said curve having a radius of 476.35 feet and being subtended by a chord having a bearing of S47°37'27"W and a distance of 291.38 feet; Thence 270.78 feet along the arc of a curve to the right, said curve having a radius of 409.78 feet and being subtended

by a chord having a bearing of S80°29’14”W and a distance of 265.88 feet; Thence N72°43’59”W, 122.26 feet; Thence N62°56’17”W, 216.51 feet; Thence 283.44 feet along the arc of a curve to the left, said curve having a radius of 664.39 feet and being subtended by a chord having a bearing of N80°38’09”W and a distance of 281.30 feet; Thence S85°51’29”W, 156.20 feet; Thence 306.17 feet along the arc of a curve to the right, said curve having a radius of 539.66 feet and subtended by a chord having a bearing of N73°31’20”W and a distance of 302.08 feet; Thence N56°50’45”W, 281.99 feet; Thence 123.73 feet along the arc of a curve to the right, said curve having a radius of 363.35 feet and being subtended by a chord having a bearing of S86°08’55”W and a distance of 123.13 feet; Thence 138.70 feet along the arc of a curve to the left, said curve having a radius of 333.65 feet and being subtended by a chord having a bearing of S83°59’32”W and a distance of 137.70 feet; Thence S67°15’10”W, 121.40 feet; Thence 291.34 feet along the arc of a curve to the left, said curve having a radius of 258.02 feet and being subtended by a chord having a bearing of S28°56’40”W and a distance of 276.11 feet; Thence S00°44’58”W, 421.02 feet; Thence 547.00 feet along the arc of a curve to the right, said curve having a radius of 522.05 feet and being subtended by a chord having a bearing of S31°55’33”W and a distance of 522.32 feet; Thence S62°18’14”W, 384.20 feet; Thence 176.37 feet along the arc of a curve to the left, said curve having a radius of 429.76 feet and being subtended by a chord having a bearing of S46°11’42”W and a distance of 175.14 feet; Thence S36°28’08”W, 402.87 feet; Thence S66°13’48”E, 257.42 feet; Thence 65.09 feet along the arc of a curve to the left, said curve having a radius of 310.13 feet and being subtended by a chord having a bearing of S15°37’14”W and a distance of 64.97 feet; Thence S23°32’32”W, 483.24 feet; Thence N87°33’56”W, 210.24 feet; Thence N01°26’41”E, 445.37 feet; Thence N35°49’13”E, 222.18 feet; Thence N36°28’08”E, 407.65 feet; Thence 197.93 feet along the arc of a curve to the right, said curve having a radius of 479.76 feet and being subtended by a chord having a bearing of N46°21’57”E and a distance of 196.53 feet; Thence N62°18’14”E, 385.89 feet; Thence 493.96 feet along the arc of a curve to the left, said curve having a radius of 472.05 feet and being subtended by a chord having a bearing of N31°56’48”E and a distance of 471.73 feet; Thence N00°44’58”E, 418.77 feet; Thence 348.62 feet along the arc of a curve to the right, said curve having a radius of 308.02 feet and being subtended by a chord having a bearing of N29°22’24”E and a distance of 330.31 feet; Thence N67°15’10”E, 125.92 feet; Thence 161.67 feet along the arc of a curve to the right, said curve having a radius of 383.65 feet and being subtended by a chord having a bearing of N83°49’45”E and a distance of 160.47 feet; Thence 80.58 feet along the arc of a curve to the left, said curve having a radius of 313.35 feet and being subtended by a chord having a bearing of N88°32’13”E and a distance of 80.36 feet; Thence 196.42 feet along the arc of a curve to the right, said curve having a radius of 217.50 feet and being subtended by a chord having a bearing of N05°00’59”W and a distance of 189.81 feet; Thence N12°21’14”E, 221.71 feet to said southerly right-of-way of Arkansas Highway 255; Thence along said right-of-way, 202.90 feet along the arc of a curve to the right, said curve having a radius of 11409.16 feet and being subtended by a chord having a bearing of S77°04’41”E and a distance of 202.90 feet; Thence continuing along said right-of-way, S76°34’08”E, 1662.69 feet to the Point of Beginning, containing 27.89 acres, more or less.

more commonly known as 7300 South Zero and 6618 Softball Lane.

SECTION 2: The hereinafter described property is hereby rezoned from Extraterritorial Jurisdiction Open Zone (ETJ Open-1) to Commercial Heavy (C-5) by Extension:

Part of Government Lot 2 of the Northwest Quarter of Section 6, Township 7 North, Range 31 West, part of Government Lots 1 and 2 of the Northeast Quarter and part of the Northwest Quarter of the

Southeast Quarter of Section 1, Township 7 North, Range 32 West, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Northwest Corner of said Section 6; Thence along the West Line of said Section 6, S02°44’07”W, 329.53 feet to the southerly right-of-way of Arkansas Highway 255 (Zero Street); Thence along said right-of-way, S76°34’08”E, 1014.66 feet; Thence S18°28’41”W, 196.59 feet; Thence 296.12 feet along the arc of a curve to the right, said curve having a radius of 476.35 feet and being subtended by a chord having a bearing of S47°37’27”W and a distance of 291.38 feet; Thence 270.78 feet along the arc of a curve to the right, said curve having a radius of 409.78 feet and being subtended by a chord having a bearing of S80°29’14”W and a distance of 265.88 feet; Thence N72°43’59”W, 122.26 feet; Thence N62°56’17”W, 216.51 feet; Thence 283.44 feet along the arc of a curve to the left, said curve having a radius of 664.39 feet and being subtended by a chord having a bearing of N80°38’09”W and a distance of 281.30 feet; Thence S85°51’29”W, 156.20 feet; Thence 306.17 feet along the arc of a curve to the right, said curve having a radius of 539.66 feet and subtended by a chord having a bearing of N73°31’20”W and a distance of 302.08 feet; Thence N56°50’45”W, 281.99 feet; Thence 123.73 feet along the arc of a curve to the right, said curve having a radius of 363.35 feet and being subtended by a chord having a bearing of S86°08’55”W and a distance of 123.13 feet; Thence 138.70 feet along the arc of a curve to the left, said curve having a radius of 333.65 feet and being subtended by a chord having a bearing of S83°59’32”W and a distance of 137.70 feet; Thence S67°15’10”W, 121.40 feet; Thence 291.34 feet along the arc of a curve to the left, said curve having a radius of 258.02 feet and being subtended by a chord having a bearing of S28°56’40”W and a distance of 276.11 feet; Thence S00°44’58”W, 421.02 feet; Thence 547.00 feet along the arc of a curve to the right, said curve having a radius of 522.05 feet and being subtended by a chord having a bearing of S31°55’33”W and a distance of 522.32 feet; Thence S62°18’14”W, 384.20 feet; Thence 176.37 feet along the arc of a curve to the left, said curve having a radius of 429.76 feet and being subtended by a chord having a bearing of S46°11’42”W and a distance of 175.14 feet; Thence S36°28’08”W, 402.87 feet; Thence S66°13’48”E, 257.42 feet; Thence 65.09 feet along the arc of a curve to the left, said curve having a radius of 310.13 feet and being subtended by a chord having a bearing of S15°37’14”W and a distance of 64.97 feet; Thence S23°32’32”W, 483.24 feet; Thence N87°33’56”W, 210.24 feet; Thence N01°26’41”E, 445.37 feet; Thence N35°49’13”E, 222.18 feet; Thence N36°28’08”E, 407.65 feet; Thence 197.93 feet along the arc of a curve to the right, said curve having a radius of 479.76 feet and being subtended by a chord having a bearing of N46°21’57”E and a distance of 196.53 feet; Thence N62°18’14”E, 385.89 feet; Thence 493.96 feet along the arc of a curve to the left, said curve having a radius of 472.05 feet and being subtended by a chord having a bearing of N31°56’48”E and a distance of 471.73 feet; Thence N00°44’58”E, 418.77 feet; Thence 348.62 feet along the arc of a curve to the right, said curve having a radius of 308.02 feet and being subtended by a chord having a bearing of N29°22’24”E and a distance of 330.31 feet; Thence N67°15’10”E, 125.92 feet; Thence 161.67 feet along the arc of a curve to the right, said curve having a radius of 383.65 feet and being subtended by a chord having a bearing of N83°49’45”E and a distance of 160.47 feet; Thence 80.58 feet along the arc of a curve to the left, said curve having a radius of 313.35 feet and being subtended by a chord having a bearing of N88°32’13”E and a distance of 80.36 feet; Thence 196.42 feet along the arc of a curve to the right, said curve having a radius of 217.50 feet and being subtended by a chord having a bearing of N05°00’59”W and a distance of 189.81 feet; Thence N12°21’14”E, 221.71 feet to said southerly right-of-way of Arkansas Highway 255; Thence along said right-of-way, 202.90 feet along the arc of a curve to the right, said curve having a radius of 11409.16 feet and being subtended by a chord having a bearing of S77°04’41”E and a distance of 202.90 feet; Thence continuing along said right-of-way, S76°34’08”E, 1662.69 feet to the Point of Beginning, containing 27.89 acres, more or less.

more commonly known as 7300 South Zero and 6618 Softball Lane.

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

PASSED AND APPROVED THIS_____DAY OF _____, 2012.

ATTEST: **APPROVED:**

_____ _____

City Clerk **Mayor**

Approved as to form:

_____

Publish 1 Time

July 23, 2012

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

Re: Master Land Use Plan Amendment from Extraterritorial Jurisdiction Low Density Residential to General Commercial and a zone change from Extraterritorial Jurisdiction Open Zone (ETJ Open-1) to Commercial Heavy (C-5) by Extension located at 7300 South Zero and 6618 Softball Lane.

On July 10, 2012, the City Planning Commission held a public hearing to consider the above requests.

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests is to allow for the construction of an aquatic center and two softball fields at Ben Geren Regional Park. Mr. Bailey stated that the proposed C-5 zone is an appropriate zoning district for this project. Mr. Bailey noted that water parks are permitted with conditional use approval and sports complexes are a permitted use so upon approval of the rezoning and Master Land Use Plan Amendment, a conditional use application for the aquatic center would be submitted at a future date.

Mr. Bailey stated that a neighborhood meeting was held on July 2, 2012, at 5:30 p.m. at the Ben Geren Park Community Building with three (3) surrounding property owners in attendance. Mr. Bailey noted that no objections or concerns were expressed.

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

Commissioner Maurras made a motion to amend these requests to make approval subject to annexation of this property by the City of Fort Smith. The motion was seconded by Commissioner Howard and carried unanimously. Acting Chairman Lorenz then called for the vote on these items as amended.

Acting Chairman Lorenz called for the vote on the Master Land Use Plan Amendment. The vote was 7 in favor and 0 opposed.

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

The Planning Commission hereby certifies this zoning map amendment to the Board of Directors in accordance with A.C.A. 14-56-422.

Respectfully Submitted,

CITY PLANNING COMMISSION

Mike Lorenz, Acting Chairman

ML/lp

cc: File
City Administrator

MEMO

To: City Planning Commission

From: Planning Staff

Date: July 6, 2012

Subject: Proposed Master Land Use Plan Amendment from ETJ Low Density Residential to General Commercial at 7300 South Zero & 6618 Softball (companion item to item #4)

The Planning Department is in receipt of an application from Sebastian County to amend the *Master Land Use Plan* to facilitate a proposed aquatic center and softball fields at 7300 South Zero Street & 6618 Softball Lane. A *Master Land Use Plan* classification from ETJ Low Density Residential to General Commercial will also facilitate the annexation of the property into the Fort Smith city limits. The subject property is located on the south side of Zero Street between South 66th Street and the Walmart Distribution Center. The tract contains an area of approximately 28 acres with approximately 1,000 feet of road frontage on Zero Street.

The existing zoning of the site is ETJ Open-1. A companion application (item #4) proposes a change in the zoning classification to Commercial Heavy (C-5) by extension. The *Master Land Use Plan* is a guide to zoning and development and must be considered with the companion applications.

ADJACENT LAND USE CLASSIFICATIONS AND USES

Land use classifications and uses contiguous to the subject lot are as follows:

The area to the north is classified as General Commercial and Office, Research and Light Industrial and developed as commercial and industrial uses.

The area to the south is classified as ETJ Low Density Residential and developed as Ben Geren Regional Park.

The area to the east is classified as ETJ Low Density Residential and developed as Ben Geren Regional Park.

The area to the west is classified as ETJ Low Density Residential and developed as Ben Geren Regional Park.

3A

The proposed land use classification of General Commercial is described as follows:

Purpose: To provide opportunities for business transactions and activities and meet the consumer needs of the community.

Characteristics and Use: Retail sales of all product types requiring transportation of goods; and, professional, technical, and financial services.

Criteria for Designation:	**Compliance Noted**
• Compatible with, and complimentary to surrounding uses	Yes
• Located on high-volume arterials and collectors	Yes
• Located as a cluster of like services	Yes
• Accessible by most modes of transportation	Yes
• Appropriately located for minimum impact to adjacent uses and by volume of activity and trips generated by use	Yes

MASTER STREET PLAN CLASSIFICATIONS

The Fort Smith Master Street Plan classifies Zero Street (AR Highway 255) as a major arterial street.

STAFF COMMENTS

A neighborhood meeting was held on Monday, July 2, 5:30 p.m., at the Ben Geren Park Community Building. The meeting was attended by three surrounding property owners. No concerns were expressed by the attendees. A meeting attendance record and meeting summary are enclosed.

In March 2012, Fort Smith citizens approved the issuance of sales tax bonds for the construction of an aquatic center and the two softball fields at Ben Geren Regional Park. In order for city funds to be spent on the project, the property must be annexed into Fort Smith city limits. The proposed Master Land Use Plan amendment and companion rezoning will facilitate the pending annexation of this site. Although the property will be annexed into the city, the property will continue to be part of Ben Geren Regional Park and is restricted to outdoor recreational development and uses in perpetuity.

Staff finds that the request meets the criteria for designation as General Commercial and recommends approval of the proposed Master Land Use Plan amendment.

3B

Application Type

○ Minor Amendment ◉ Standard Amendment ○ Major Amendment *(See Section 27-328-5 C. (Criteria))*

☐ Request to Amend Text ☐ Request to Amend Map

Applicant Name:	Sebastian County, Arkansas				
Firm Name:	N/A				
Address:	35 South 6th Street, Fort Smith, AR 72901				
Phone (day):	783-6139	Phone (cell):		Fax:	784-1550
Owner Name:	Sebastian County, Arkansas				
Owner Address:	Same as above				
Phone (day):	same as above	Phone (cell):		Fax:	same as above
Property Address (subject property):	7300 South Zero Street and 6618 Softball Lane				

Subject Property

Current Land Use:	Ben Geren Regional Park
Existing MLUP Classification:	ETJ - Low Density Residential
Proposed MLUP Classification:	General Commercial
Existing Zoning Classification:	ETJ Open-1
Proposed Zoning Classification:	Commercial Heavy (C-5)

3C

Surrounding Property

Current Land Use:	North:	Commercial and Industrial
	South:	Ben Geren Regional Park
	East:	Ben Geren Regional Park
	West:	Ben Geren Regional Park
Existing MLUP Classification:	North:	General Commercial and Office, Research and Light Industrial
	South:	ETJ - Low Density Residential
	East:	ETJ - Low Density Residential
	West:	ETJ - Low Density Residential
Existing Zoning Classification:	North:	Commercial Heavy (C-5) and Light Industrial (I-1)
	South:	ETJ - Open-1
	East:	ETJ - Open-1
	West:	ETJ - Open-1

Pre-Application Meeting Date:	5/31/12

30

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

1. A legal description of the subject property that is to be amended (reclassified). – Attached

2. A map of the property which includes the scaled distance, legal description, and general vicinty map inset showing the property's location. –attached

3. The area dimensions of the property in square feet or acres. 27.89 acres

4. Describe existing road conditions and new roads to be included in the development and the effect of the proposed development on existing roads and traffic conditions:

The 27.89 acre site proposed for a master land use amendment, zoning and annexation is served by Zero Street (Arkansas Highway 255) and existing roads within Ben Geren Regional Park. The existing highway and internal roads are capable of handling all traffic generated by the proposed aquatic center/softball fields development.

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

There is an existing 12' cast iron water line on the north side of Zero St. (Hwy. 255). It is adequate, but an extension of this line will be necessary to serve domestic and fire functions for the aquatic center. An existing 10" sanitary sewer line within Ben Geren Park should be adequate to serve the proposed development. Once the 27.89 acres are annexed into Fort Smith city limits, fire and police protection will be provided by the City of Fort Smith.

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

Build-out density will be limited to the development of an aquatic center and soft ballfields.

7. Identify any known or anticipated environmental concerns:

There are no known or anticipated environmental concerns relating to the property or project.

3E

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

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

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

   Ben Geren Regional Park consists of approximately 1,300 acres and is served by Arkansas Highway 255. The development of the aquatic center and two softball fields will diversify and complement the park's existing recreational facilities; however, no changes in development patterns to the local or regional area are anticipated.

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

   Ben Geren Regional Park is located outside the Fort Smith city limits, but within the city's ETJ. The park is currently zoned ETJ Open-1. The proposed C-5 zoning will facilitate the annexation of the property into Fort Smith city limits and allow the development of the aquatic center and softball fields.

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

   The aquatic park will enhance the existing recreational features of Ben Geren Regional Park and provide a unique recreational opportunity for local and regional families. The proposed softball fields will serve as replacements for the loss of fields at Andrews Field, which were utilized by the Sebastian County Girls Softball Association.

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

   The long-term development plan for the Ben Geren Regional Park will continue to focus on the recreational needs of the local and regional area. Transportation and infrastructure needs will be an integral consideration as long-term developments are designed and implemented.

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

1. A typewritten copy of the proposed changes to the text in underline/strikeout (also known as "track changes") format.

2. A description of the reasons supporting the amendment and the special circumstances requiring the change.

3F

Certification

Once an application has been deemed complete, the applicant shall not modify it unless requested or agreed upon by the Planning Department. Should the applicant request a modification to the application after if has been advertised for public hearing, it shall be at the discretion of the Planning Commission to review or continue the application. A re-advertising fee may be required.

I, the undersigned applicant, hereby certify that the information contained in this application is true and correct to the best of my knowledge and belief. I grant the appropriate City personnel permission to enter the subject property during reasonable hours so that they may investigate and review this application.

X Third Division County Judge
Signature (Agent/Owner)

X 4/25/2012
Date

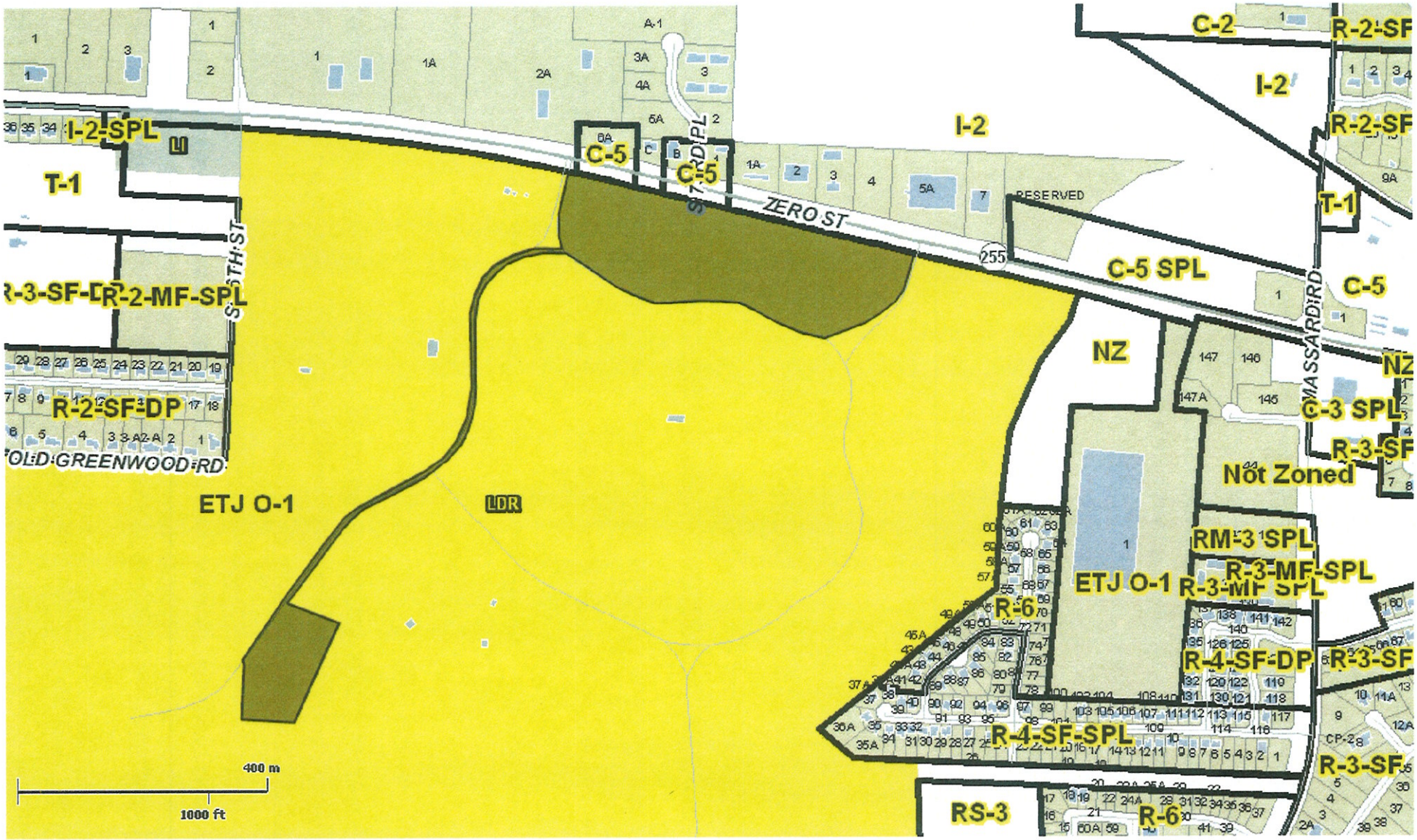
The City of Fort Smith requires complete applications. If your application does not include all of the information required for submission, it will not be processed.

3G

3 of

Master Land Use Amendment: From ETJ Low Density Residential to General Commercial

7300 South Zero Street and 6618 Softball Lane



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Area to be Annexed
27.89 Acres ±
Soccer Fields
Ben Geren Park
Aquatic Park
BEN GEREN AQUATIC CENTER
Annexation Exhibit
June 2012
MICKLE
WAGNER
COLEMAN
Engineers-Consultants-Surveyors
Fort Smith, Arkansas

3I

Memo

To: City Planning Commission

From: Planning Staff

Date: July 6, 2012

Subject: Rezoning #14-7-12; A request by Sebastian County for Planning Commission consideration of a zone change from ETJ Open-1 to Commercial Heavy (C-5) by extension at 7300 South Zero Street & 6618 Softball Lane (Companion item to item #3)

LOT LOCATION AND SIZE

The subject property is located on the south side of Zero Street between South 66th Street and the Walmart Distribution Center. The tract contains an area of approximately 28 acres with approximately 1,000 feet of road frontage on Zero Street.

EXISTING ZONING

The property is currently zoned ETJ Open-1.

REQUESTED ZONING

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

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

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

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

4A

Bulk & Area Regulations:

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

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Commercial Heavy (C-5) and Industrial Light (I-1) and developed as commercial and industrial uses.

The area to the south zoned ETJ Open-1 and developed as Ben Geren Regional Park.

The area to the east is zoned ETJ Open-1 and developed as Ben Geren Regional Park.

The area to the west is zoned ETJ Open-1 and developed as Ben Geren Regional Park.

PROPOSED REZONING

The proposed zoning will facilitate annexation of the property into the city limits of Fort Smith and the development of an aquatic center and two softball fields.

LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies this property as ETJ Low Density Residential. A companion Master Land Use Plan Amendment application requests a classification change from ETJ Low Density Residential to General Commercial.

MASTER STREET PLAN CLASSIFICATION

The Fort Smith Master Street Plan classifies Zero Street (U.S. Highway 255) as a major arterial street.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held July 2, 5:30 p.m. at the Ben Geren Park Community Building. Three surrounding property owners attended the meeting. No objections or concerns were expressed. The attendance record and meeting summary are included in the companion application for a Master Land Use Plan Amendment.

4B

In March 2012, Fort Smith citizens approved the issuance of sales tax bonds for the construction of an aquatic center and the two softball fields at Ben Geren Regional Park. In order for city funds to be spent on the project, the property must be annexed into Fort Smith city limits. The proposed zoning and companion Master Land Use Plan amendment will facilitate the pending annexation of this site. Although the property will be annexed into the city, the property will continue to be part of Ben Geren Regional Park and is restricted to outdoor recreational development and uses in perpetuity.

The proposed C-5 zone is an appropriate zoning district for the aquatic center and softball fields. Water parks are permitted with conditional use approval and sports complexes are a permitted use. Upon approval of the rezoning and companion application for a Master Land Use Plan amendment, a conditional use application for the aquatic center will be submitted at a future date.

Based on the appropriateness of the zoning, staff recommends approval of the zoning contingent upon approval of the requested Master Land Use Plan Amendment.

4C

Rez.#14-7-12

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 legal description

2. Address of property: 7300 S. Zero Street and 6618 Softball Lane

3. The above described property is now zoned: ETJ Open-1

4. Application is hereby made to change the zoning classification of the above described property to

C-5 by Extension
(Extension or classification)

5. Why is the zoning change requested?

To facilitate the annexation of the property into the Fort Smith city limits.

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

Signed:

David Hudson, Sebastian County Judge
Owner or Agent Name *(please print)*

X David Hudson County Judge
Owner
or

Agent

35 South 6th Street, Ft. Smith 72901
Owner or Agent Mailing Address

479-783-6139
Owner or Agent Phone Number

4E

Rezoning #14-7-12: From ETJ Open-1 to Commercial Heavy (C-5)

H-G

7300 South Zero Street and 6618 Softball Lane

2009 City of Fort Smith, AR. Printed on Wed Jun 20 2012 08:47:33 AM.

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ALAWEST-AL,LLC
6801 MCFARLAND BLVD NORTH
NORTHPORT AL 35475

ALLARD, CARL E & SHERRIE L
6512 GALVEN WAY
FORT SMITH AR 72916

ALLEN, JERRY L & BETTY
2910 S 34TH ST
FORT SMITH AR 72903

APPLEGATE, LISA D
6324 REMINGTON CT.
FORT SMITH AR 72916

BEAM, AARON REE & BRANDY
6509 CRIMSON
FORT SMITH AR 72903

BIG D ENTERPRISES, INC.
21 N 2ND ST
FORT SMITH AR 72901

BOGNER, RALPH J JR & KATIE A
6518 CRIMSON ST
FORT SMITH AR 72903-6538

BROWN, KENNETH R
6309 REMINGTON CT
FORT SMITH AR 72916

CAO, NHIEM & LIEU, TAM
6601 CLAXTON WAY
FT SMITH AR 72916

CHAUDHRY, ARIF & RAZIA
8905 S 16TH ST
FORT SMITH AR 72908

COLE, GLEN E & WANDA L
6504 PARKFRONT RD
FORT SMITH AR 72916

COPELAND, CLAUDIE D & JACKIE S
6420 CRIMSON ST
FORT SMITH AR 72903

CORE, STEVEN F & DEBORAH C
6317 REMINGTON CT
FORT SMITH AR 72916

COTNER, CLEVE L JR. &
1514 S 36TH ST
FORT SMITH AR 72903

COTTAGES PROPERTY INVESTORS LLC,
2541 SOQUEL AVE
SANTA CRUZ CA 95062

CROSS STREET SERVICES INC
P O BOX 15070
LITTLE ROCK AR 72113

CROW, JASON S
6617 CLAXTON WAY
FORT SMITH AR 72916

DONALD, RICHARD J
6701 CLAXTON WAY
FORT SMITH AR 72916

ELY, RICK D & ROBIN
5712 HEDWIG WAY
FORT SMITH AR 72916

FIRST TEE INC
5800 GEREN RD
FORT SMITH AR 72916

FLANAGIN, SHERYL A
6325 REMINGTON CT
FT SMITH AR 72916

FORT CHAFFEE REDEVELOPMENT TRUST
P O BOX 11165
FORT SMITH AR 72917

GMCM PARTNERS
7906 YORKTOWN RD
FT SMITH AR 72903

GOULD, CHESTER M & VIRGINIA A
6501 CRIMSON ST
FORT SMITH AR 72903-6539

GROSS, LILLIE & MARILYN GROSS
6416 CRIMSON ST
FORT SMITH AR 72903-6534

GROTHE, RUSSELL & SANDRA
6400 CRIMSON ST
FORT SMITH AR 72903

GUSHEA, ALLEN FREDERICK & MILD
6412 CRIMSON ST
FORT SMITH AR 72903-6532

GUTHRIE, JOHN
5709 REMINGTON WAY
FORT SMITH AR 72916

HAMILTON, JEFFREY H
6401 OLD GREENWOOD RD
FORT SMITH AR 72903-6591

HANKINS, CHARLES R & CAROLYN
5502 GEREN RD
FORT SMITH AR 72916-9744

HARALSON, ROBERT & SHARON HARGIS
7209 S ZERO ST
FORT SMITH AR 72903-6530

HARRY G. BARR CO.
PO BOX 10226
FORT SMITH AR 72917

HAWTHORNE, MYRANDA G
6316 REMINGTON CT
FORT SMITH AR 72910

HOWE, ROBBIN L & PEELER, NANCY L
6409 PARKFRONT DR
FORT SMITH AR 72916

JACKSON, JAMES RODNEY
6321 REMINGTON CT
FORT SMITH AR 72916

KELLEY, MAX P & MELISSA
6115 OLD GREENWOOD RD
FORT SMITH AR 72903-6549

KIMES, THOMAS L & ANNA L
6415 OLD GREENWOOD RD
FORT SMITH AR 72903-6591

LEDBETTER, JACK KIP & JENNIFER R
6316 CRIMSON ST
FORT SMITH AR 72903-6534

LOUNSBURY, LILLIAN L
6419 OLD GREENWOOD RD
FORT SMITH AR 72903

MAY, MICHAEL
6219 OLD GREENWOOD ROAD
FORT SMITH AR 72903

MCCONNELL, JENNIFER & DELBERT
5711 HEDWIG WAY
FORT SMITH AR 72916

MCCORKLE, CODY W & BETHANY
6312 REMINGTON CT
FORT SMITH AR 72916

MCLEAN, MICHAEL D
6301 REMINGTON CT
FORT SMITH AR 72916

MCMAHON, DAVID N
6110 OLD GREENWOOD RD
FORT SMITH AR 72903

MEDLOCK, WILLIAM J
6413 PARK FRONT DR
FORT SMITH AR 72916

MICHALEK, AMOREE L
6705 CLAXTON WAY
FORT SMITH AR 72916

MITCHAEL, KENNETH PAUL & DEBORAH
6301 OLD GREENWOOD RD
FORT SMITH AR 72903

MOODY, JAMES HUGH
6514 CRIMSON ST
FORT SMITH AR 72903-6538

MORPHEW, KHRISTIAN E
6320 REMINGTON CT
FORT SMITH AR 72916

OSBURN, CHARLES R & WANDA J
6201 OLD GREENWOOD RD
FORT SMITH AR 72903-6551

OTTAWAY JEFF W LIVING TRUST
6501 OLD GREENWOOD RD
FT SMITH AR 72903

PETRUCCI, JOSEPH E & MARY NICHOLE
3109 S 97TH ST
FORT SMITH AR 72903

PLOTT, JOHN & ALAWEST-AL, LLC
1201 GREENBORO AVE
TUSCALOOSA AL 35401

PLOTT, JOHN H & ALAWEST-AL, LLC
ATTN: BOBBY PLOTT
TUSCALOOSA AL 35401

QUANEX CORP
P O BOX 1592
FORT SMITH AR 72902

REESE, RHONDA
6313 REMINGTON CT
FORT SMITH AR 72916

REMY, WILLIAM T & BLENTLINGER
6508 PARKFRONT DR
FT SMITH AR 72916

RIGG, RANDALL & LINDA
6500 PARKFRONT DR
FT SMITH AR 72916

RIGGS REALTY COMPANY
P O BOX 1399
LITTLE ROCK AR 72203

RISLEY, CLARK R & TRACY S
6308 REMINGTON CT
FORT SMITH AR 72916

RITTER, TERRY L & LINDA P
6516 CRIMSON ST
FORT SMITH AR 72903-6538

ROGERS, J M & BETTY JANE
6304 REMINGTON CT
FORT SMITH AR 72916

ROWE, FRANK ODUM & MELISSA CAMPBELL
6212 S 66TH ST
FORT SMITH AR 72903-6576

ROWTON, JEFFREY & PENNY
6303 OLD GREENWOOD RD
FORT SMITH AR 72903-6585

RUNDE, PATRICK L
6505 PARKFRONT DR.
FORT SMITH AR 72916

S & D WELLS INVEST., LLC.
3218 SOUTHRIDGE ESTATES
FORT SMITH AR 72916

SCHRADER, STEVEN & HEATHER
6501 PARKFRONT DR
FORT SMITH AR 72916

SEBASTIAN COUNTY (GATOR GOLF)
P O BOX 180854
FT SMITH AR 72918

SEBASTIAN COUNTY, AR
,

SEBASTIAN COUNTY, ARKANSAS
BEN GEREN
FORT SMITH AR 72903

SEBASTIAN COUNTY, ARKANSAS BEN GEREN
FORT SMITH AR 72903

SEBASTIAN COUNTY, BEN GEREN PARK
,

SEBASTIAN COUNTY, BEN GEREN PARK
,

SHELTON, ROBERT & DELIA
6215 OLD GREENWOOD RD
FT SMITH AR 72903

SHEPPARD, ANTHONY E. & TIFFANY L
6613 CLAXTON WAY
FORT SMITH AR 72916

SPEARS, DWAYNE A.
6414 CRIMSON AVE
FORT SMITH AR 72903

SYHASOMBATH, AENOY
6509 PARKFRONT DR.
FORT SMITH AR 72916

TESTA, ROBERT M & DONNA
6509 GALVEN WAY
FORT SMITH AR 72916

THANH DUY DAO & VAN TRAN
6609 CLAXTON WAY
FORT SMITH AR 72916

THROWER, FREDERICK & LYNETTE
6605 CLAXTON WAY
FORT SMITH AR 72916

TRAN, ANTHONY & LOAN
6513 GALVEN WAY
FT SMITH AR 72916

TRAN, HAI
6305 REMINGTON CT
FORT SMITH AR 72916

TRIPLETT, RAYMOND T & NANCY M
6405 OLD GREENWOOD RD
FT SMITH AR 72903

TROBAUGH, FRED L & LAVETA
6519 CRIMSON ST
FORT SMITH AR 72903-6539

VO, TUAN VAN & TRA THI PHAM
5713 REMINGTON WAY
FORT SMITH AR 72916

WARREN, JOHN B & JANICE E
6512 PARKFRONT DR
FORT SMITH AR 72916

WILLIAMS, JORENE ET AL
6208 CRIMSON ST
FT SMITH AR 72903-6532

YACINE, CHAHINEZ
2100 RANNOCH TRACE
FORT SMITH AR 72908

6A. REVISED

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MASTER LAND USE PLAN MAP AND REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP

WHEREAS, the City Planning Commission has held a public hearing to consider a request to amend the Master Land Use Plan Map relative to property described in Section 1 of this ordinance, and, having considered the request, recommended on August 14, 2012, that said change be made; and,

WHEREAS, the Planning Commission determined the change to the Master Land Use Plan Map does conform to the goals and objectives of the Comprehensive Plan.

WHEREAS, the City Planning Commission has heretofore held a public hearing to consider request No. 17-8-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on August 14, 2012, 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: The hereinafter described property is hereby reclassified on the Master Land Use Plan Map from Unclassified to Extraterritorial Jurisdiction Light Industrial and the Master Land Use Plan Map is hereby amended to reflect said amendment to-wit:

> Part of the Southeast Quarter of the Southeast Quarter of Section Eight (8), Township Seven (7) North, Range Thirty-two (32) West, described as follows: Beginning at a point 200 feet North of the Southeast corner of said Southeast Quarter of the Southeast Quarter; thence North, 100 feet; thence West, 500 feet; thence South, 200 feet; thence East, 500 feet to the point of beginning. Less and except public roads and rights of way.

more commonly known as 9100 Highway 271 South.

AND

A part of the Southeast Quarter of the Southeast Quarter of Section Eight (8), Township Seven (7) North, Range Thirty Two (32) West, described as follows: Beginning at a point 300 feet North of the Southeast Corner of said Southeast Quarter of the Southeast Quarter; thence West 500 feet; thence North 170 feet; thence East 500 feet; thence South 170 feet to the Point of Beginning.

more commonly known as 9022 Highway 271 South.

SECTION 2: The hereinafter described property is hereby rezoned from Extraterritorial Jurisdiction Open Zone (ETJ Open-1) to Extraterritorial Jurisdiction Industrial Light (ETJ I-1) by Classification.

Part of the Southeast Quarter of the Southeast Quarter of Section Eight (8), Township Seven (7) North, Range Thirty-Two (32) West, described as follows: Beginning at a point 200 feet North of the Southeast corner of said Southeast Quarter of the Southeast Quarter; thence North, 100 feet; thence West, 500 feet; thence South, 200 feet; thence East, 500 feet to the point of beginning. Less and except public roads and rights of way.

more commonly known as 9100 Highway 271 South.

AND

A part of the Southeast Quarter of the Southeast Quarter of Section Eight (8), Township Seven (7) North, Range Thirty Two (32) West, described as follows: Beginning at a point 300 feet North of the Southeast Corner of said Southeast Quarter of the Southeast Quarter; thence West 500 feet; thence North 170 feet; thence East 500 feet; thence South 170 feet to the Point of Beginning.

more commonly known as 9022 Highway 271 South.

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

PASSED AND APPROVED THIS___DAY OF_____, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:

Jerry Canfield

_____
Publish 1 Time

6A.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MASTER LAND USE PLAN MAP AND REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP

WHEREAS, the City Planning Commission has held a public hearing to consider a request to amend the Master Land Use Plan Map relative to property described in Section 1 of this ordinance, and, having considered the request, recommended on August 14, 2012, that said change be made; and,

WHEREAS, the Planning Commission determined the change to the Master Land Use Plan Map does conform to the goals and objectives of the Comprehensive Plan.

WHEREAS, the City Planning Commission has heretofore held a public hearing to consider request No. 17-8-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on August 14, 2012, 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: The hereinafter described property is hereby reclassified on the Master Land Use Plan Map from Unclassified to Extraterritorial Jurisdiction Light Industrial and the Master Land Use Plan Map is hereby amended to reflect said amendment to-wit:

> Part of the Southeast Quarter of the Southeast Quarter of Section Eight (8), Township Seven (7) North, Range Thirty-two (32) West, described as follows: Beginning at a point 200 feet North of the Southeast corner of said Southeast Quarter of the Southeast Quarter; thence North, 100 feet; thence West, 500 feet; thence South, 200 feet; thence East, 500 feet to the point of beginning. Less and except public roads and rights of way.

more commonly known as 9100 Highway 271 South.

AND

A part of the Southeast Quarter of the Southeast Quarter of Section Eight (8), Township Seven (7) North, Range Thirty Two (32) West, described as follows: Beginning at a point 300 feet North of the Southeast Corner of said Southeast Quarter of the Southeast Quarter; thence West 500 feet; thence North 170 feet; thence East 500 feet; thence South 170 feet to the Point of Beginning.

more commonly known as 9022 Highway 271 South.

SECTION 2: The hereinafter described property is hereby rezoned from Extraterritorial Jurisdiction Open Zone (ETJ Open-1) to Extraterritorial Jurisdiction Industrial Light (ETJ I-1) by Classification.

Part of the Southeast Quarter of the Southeast Quarter of Section Eight (8), Township Seven (7) North, Range Thirty-Two (32) West, described as follows: Beginning at a point 200 feet North of the Southeast corner of said Southeast Quarter of the Southeast Quarter; thence North, 100 feet; thence West, 500 feet; thence South, 200 feet; thence East, 500 feet to the point of beginning. Less and except public roads and rights of way.

more commonly known as 9100 Highway 271 South.

AND

A part of the Southeast Quarter of the Southeast Quarter of Section Eight (8), Township Seven (7) North, Range Thirty Two (32) West, described as follows: Beginning at a point 300 feet North of the Southeast Corner of said Southeast Quarter of the Southeast Quarter; thence West 500 feet; thence North 170 feet; thence East 500 feet; thence South 170 feet to the Point of Beginning.

more commonly known as 9200 Highway 271 South.

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

PASSED AND APPROVED THIS____DAY OF_____, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:

_____
Publish 1 Time

August 27, 2012

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

Re: Master Land Use Plan Amendment from Unclassified to Extraterritorial Jurisdiction Light Industrial and a zone change from Extraterritorial Jurisdiction Open Zone (ETJ Open-1) to Extraterritorial Jurisdiction Industrial Light (ETJ I-1) by Classification located at 9022 and 9100 Highway 271 South.

On August 14, 2012, the City Planning Commission held a public hearing to consider the above requests.

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to allow Eastern Tank Services to get proper zoning on their existing development at 9100 Highway 271 South and to expand their existing operation to 9022 Highway 271 South. Ms. Rice noted that they have had a business license at 9100 Highway 271 South since 1989. Ms. Rice stated that currently, Eastern Tank Services is within an Extraterritorial Jurisdiction Open-1 zoning district and is therefore considered a nonconforming use. Ms. Rice also stated that all properties in the ETJ were given an Open-1 zoning district as a placeholder until development occurs that required a zoning change with all existing land uses being permitted to continue as nonconforming uses. Ms. Rice noted that since they would like to expand their operation to include the contiguous property at 9022 Highway 271 South, a zone change is required. The property at 9022 Highway 271 South is the former City Limits night club. Also, Ms. Rice stated that after staff's review of the land use chart, it was determined a land use that adequately described Eastern Tank Services was not found within the ETJ land use matrix which prompted a UDO amendment which adds oil and gas equipment (sales and service) to the ETJ Industrial Light and ETJ Industrial Moderate zoning districts. This is similar and consistent with the land use chart within the corporate limits of the city.

Mr. C. J. Klinger was present to speak on behalf of these requests.

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

Following a discussion by the Commission, Chairman Griffin called for the vote on these requests. The Master Land Use Plan Amendment was approved by a vote of 9 in favor and 0 opposed. The rezoning request was approved by a vote of 9 in favor and 0 opposed.

The Planning Commission hereby certifies this zoning map amendment to the Board of Directors in accordance with A.C.A. 14-56-422.

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/lp

cc: File
City Administrator

Memo

To: City Planning Commission

From: Planning Staff

Date: July 26, 2012

Re: Proposed Master Land Use Plan Amendment at 9022 & 9100 Highway 271 South from unclassified to Extraterritorial Jurisdiction Light Industrial.

The Planning Department is in receipt of an application from C J Klinger, agent for Eastern Tank Services, Inc, to amend the *Master Land Use Plan* from ETJ Unclassified to ETJ Light Industrial to accommodate a proposed ETJ Industrial Light (ETJ I-1) zoning designation. The subject property is located on the west side of Highway 271 South north of Rutgers. The site contains an approximate combined area of 3.45 acres with 300 feet of street frontage along Highway 271 South.

The existing zoning on this tract is ETJ Open-1. A companion application (item #15) proposes a change in the zoning classification to ETJ I-1 by classification. The *Master Land Use Plan* is a guide to zoning and development and must be considered with the companion application.

ADJACENT LAND USE CLASSIFICATIONS AND USES

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

The area to the north is classified as General Commercial and is developed as an Auto and Vehicle Dealer.

The areas to the south are ETJ Unclassified and are developed as vacant retail and a single family residence.

The area to the east is classified as Residential Attached and is developed as single family and duplex dwellings.

The area to the west is ETJ Unclassified and is developed as an Electrical Substation.

The proposed land use classification of ETJ Light Industrial is described as follows:

Purpose: To provide light manufacturing, research technology, processing, storage, wholesaling, and distribution under high environmental performance standards. Commercial and service uses in support of industrial uses also permitted

MASTER STREET PLAN CLASSIFICATIONS

The Master Street Plan classifies Highway 271 South as a Major Arterial.

14A

STAFF COMMENTS

The proposed ETJ Light Industrial classification would facilitate the requested ETJ Industrial Light (ETJ I-1) zone. Staff recommends approval of the request.

14B

Application Type

○ **Minor Amendment** ○ **Standard Amendment** ○ **Major Amendment**
(See Section 27-328-5 C. (Criteria)

Request to Amend Map ☒ **Request to Amend Text** ☐

Applicant Name: Sam & Elizabeth Ludington	
Firm Name: Eastern Tank Service, Inc.	
Address: P. O. Box 6235 Fort Smith, AR 72906	
Phone # (day):(479) 648-3766 Phone # (cell):	Fax #:(479) 648-3808
Owner Name: Sam & Elizabeth Ludington	
Owner Address: P. O. Box 304 Fort Smith, AR 72902	
Phone # (day):(479) 648-3766 Phone # (cell):	Fax #:(479) 648-3808
Property Address (subject property): 9100 S & 9022 S Hwy 271	
Subject Property	
Current Land Use: Transportation Yard	
Existing MLUP Classification: Yet to be determined	
Proposed MLUP Classification: ETJ Light Industrial	
Existing Zoning Classification: ETJ Open 1	
Proposed Zoning Classification: ETJ Industrial Light (ETJ I-1)	
Surrounding Property	
Current Land Use: north- Car Lot	
south- Old VFW Buliding	
east- Residential	
west- O G & E Land	
Existing MLUP Classification: north:	
south:	
east:	
west:	
Existing Zoning Classification: north: C-5	
south: ETJ O-1	
east: R-3-SF-DP-SPL	
west: ETJ O-1	
Pre-Application Meeting Date:	

14C

Certification

Once an application has been deemed complete, the applicant shall not modify it unless requested or agreed upon by the Planning Department. Should the applicant request a modification to the application after it has been advertised for public hearing, it shall be at the discretion of the Planning Commission to review or continue the application. A re-advertising fee may be required.

I, the undersigned applicant, hereby certify that the information contained in this application is true and correct to the best of my knowledge and belief. I grant the appropriate City personnel permission to enter the subject property during reasonable hours so that they may investigate and review this application.

CJ Wilson — 7/11/12

Signature (Agent/Owner) Date

The City of Fort Smith requires complete applications. If your application does not include all of the information required for submission, it will not be processed.

140

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

1. A legal description of the subject property that is to be amended (reclassified).
   See Attachment
2. A map of the property which includes the scaled distance, legal description, and general vicinity map inset showing the property's location.
   See Attachment
3. The area dimensions of the property in square feet or acres.
   9100 S Hwy 271- 1.15 Acres/ 9022 S Hwy 271- 1.15 Acres
4. Describe existing road conditions and new roads to be included in the development and the effect of the proposed development on existing roads and traffic conditions:
   There will be no new effect to the roads or condition of the roads.
5. Describe the existing public utility services and infrastructure (such as water, sewer, fire/police) which are available to the property and the source/method of providing additional utilities and infrastructure to the property if necessary:
   We are own our own septic system, we are on city water and we have a private contract with the fire department
6. Provide a statement of the proposed build-out density and maximum potential build-out density (units per acre) permitted by the proposed land use classification:
   We want to take the bar that is located on the property located @ 9022 S Hwy 271 and turn it into a larger shop then what we already have.
7. Identify any known or anticipated environmental concerns:
   At this time our facility at 9100 S Hwy 271 has a SPCC Plan and a SWPPP. We are working with our engineer right now to implement into our SPCC and our SWPPP 9022 S Hwy 271, so it will be covered as well. There is no environmental concerns.

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

14E

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

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

I don't see that there is going to be any changes in the development patterns or local and regional impacts.

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

It will accommodate us greatly

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

With our company growing and the shop that we are working out of is really to small to handle the maintenance and repairs that we need to preform on our trucks to keep them operational.

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

The impacts that will be on the City of Fort Smith and the Property Owner in the next (10-20) years is not a great difference then what has been going on with the property for the last 30 years, except we are changing what was once a bar into a working shop for our company.

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

1. A typewritten copy of the proposed changes to the text in underline/strikeout (also known as "track changes") format.

2. A description of the reasons supporting the amendment and the special circumstances requiring the change:

14F

Master Land Use Amendment: From Unclassified to ETJ Light Industrial

9022 & 9100 US Highway 271

2009 City of Fort Smith, AR. Printed on Tue Jul 24 2012 09:14:04 AM.

146

Memo

To: City Planning Commission

From: Planning Staff

Date: July 26, 2012

Re: Rezoning #17-8-12 - A request by C J Klinger, agent, for Planning Commission consideration of a zone change from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Industrial Light (ETJ I-1) by classification at 9022 & 9100 Highway 271 South.

LOT LOCATION AND SIZE

The subject property is on the west side of Highway 271 South north of Rutgers. The tracts contain an approximate combined area of 3.45 acres with 300 feet of street frontage along Highway 271 South.

EXISTING ZONING

The existing zoning on this tract is ETJ Open-1. Characteristics of this zone are as follows:

Purpose: The ETJ O-1 zone is to protect the undeveloped areas within the City's extraterritorial zoning jurisdiction from incompatible land uses.

Permitted Uses: Single family homes, duplexes, nurseries and greenhouses, truck farms, parks, playgrounds and open space.

Conditional Uses: Agricultural uses (limited), churches, public, private and parochial schools and public buildings.

Accessory Uses: Guest houses, accessory farm buildings, and accessory farm dwellings, not to include mobile homes.

REQUESTED ZONING

The requested zoning on this tract is ETJ Industrial Light (ETJ I-1). Characteristics of this zone are as follows:

Purpose: To provide a mix of light manufacturing uses, office park, research and development, and limited retail/service uses in an attractive, business park setting.

Uses: General uses permitted in this zone include automobile sales and service, transportation, communication and utilities services and business, professional and technical services. Conditional uses include truck stops, petroleum storage and loading and medical labs.

15A

Area Regulations:

Minimum Lot Area: 2 acres
Minimum Lot Width at Building Line: 100 feet
Maximum Lot Coverage: 75%
Minimum Front Yard: 25 feet
Minimum Side Yard: 10 feet-15 feet
Minimum Rear Yard: 10 feet
Minimum Side/Rear Yard Abutting Residential: 100 feet
Maximum Height at Building Line: 45 feet

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Commercial Heavy (C-5) and is developed as an Auto and Vehicle Dealer.

The area to the south is zoned ETJ O-1 and is developed as vacant retail and a single family residence.

The area to the east is zoned Residential Single Family Duplex Medium/High Density (RSD-3) and is developed as single family and duplex dwellings.

The area to the west is zoned ETJ O-1 and is developed as an electric substation.

LAND USE PLAN COMPLIANCE

The *Master Land Use Plan is* currently ETJ Unclassified. A companion master land use plan amendment has been submitted to change the classification from ETJ Unclassified to Extraterritorial Jurisdiction Light Industrial.

PROPOSED ZONING

The proposed ETJ I-1 zone is a corrective rezoning to reflect how the area has developed.

STAFF COMMENTS AND RECOMMENDATIONS

The property was developed prior to the implementation of the ETJ land use plan and the ETJ zoning ordinance. In 2003 all properties in the ETJ were given an Open-1 zoning district as a placeholder until development occurs that required a zoning change. Existing land uses were permitted to continue as nonconforming uses. The proposed rezoning is to allow the zoning to match the development on the property

Staff recommends approval of the zone change contingent upon approval of the companion text amendment and master land use plan amendment.

15B

Rez #17-8-12

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 Attachment

2. Address of property: 9022 S Hwy 271 & 9100 S Hwy 271

3. The above described property is now zoned: ETJ O-1

4. Application is hereby made to change the zoning classification of the above described property to ETJ I-1 by Classification.
   (Extension or classification)

5. Why is the zoning change requested?

   " Non conforming"

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

Signed:

C J Klinger
Owner or Agent Name
(please print)

Owner

P. O. Box 6235, Fort Smith, AR 72906
Owner or Agent Mailing Address

or

C J Klinger
Agent

(479) 648-3766 / Cell (479) 461-2651
Owner or Agent Phone Number

ISC

Vicinity Map

9022 & 9100 US Highway 271

Master Land Use Amendment: From Unclassified to ETJ Light Industrial & Rezoning: From ETJ Open - 1 to ETJ I-1

9022 & 9100 US Highway 271

SAB Corporation
P. O. Box 180117
Fort Smith, AR 72918

Christopher & Mark Thorndyke
5143 Bakman #207
North Hollywood, CA 91601

Terry & Elizabeth Dadd
17219 Gault Street
Lake Balboa, CA 91406

Robert & Shirley Johnson
471 Cemetery Road
Austin, AR 72007

Cobb & Westphal, LLC
109 North 6th Street
Fort Smith, AR 72901

Bobby & Tommy Black
P. O. Box 515
Hackett, AR 72937

Floyd Traylor
9000 Highway 271 S.
Fort Smith, AR 72908

OG&E
P. O. Box 321
Oklahoma City, OK 73101

Ludington Revocable Living Trust
P. O. Box 304
Fort Smith, AR 72902

Tillman Evans
1101 Rutgers
Fort Smith, AR 72903

Nuwest Enterprises, Ltd
10932 Hwy. 215 S.
Charleston, AR 72933

Kola Fortune Share No. 2 Trust
4500 South 35th Street
Fort Smith, AR 72903

Paul & Geraldine Alverson
11914 Mitchell Bend
Fort Smith, AR 72916

Robert & Linda Person
10708 Castleton
Fort Smith, AR 72908

Ronald & Matthew Hibbs
1800 Hidden Valley
Van Buren, AR 72956

Dr. Kay Johnson
420 North Main
Greenwood, AR 72936

Charles Mitchael
White Bluff-Rye Hill VFD
12504 White Bluff Road
Fort Smith, AR 72916

6B.

ORDINANCE NO._____

AN ORDINANCE AMENDING THE 2009 UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF FORT SMITH

WHEREAS, the Board of Directors passed and approved Ordinance No. 36-09 which adopted the Unified Development Ordinance on May 19, 2009; and,

WHEREAS, it is necessary to amend certain sections of the Unified Development Ordinance to provide clarity and remove conflicts with other provisions of the municipal code; and,

WHEREAS, the Planning Commission held a public hearing regarding these amendments and recommended on August 14, 2012, that said changes be made; and,

WHEREAS, three (3) copies of September 2012 Amendments to the Unified Development Ordinance have been on file in the Office of the City Clerk of the City of Fort Smith for inspection and review by the public prior to the passage of this Ordinance; and,

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

SECTION 1: The September 2012 Amendments to the Unified Development Ordinance Section 27-445-28 ETJ Use Matrix is hereby adopted.

SECTION 2: The codifier shall codify the new sections and amend the existing sections of the Unified Development Ordinance.

SECTION 3: It is hereby found and determined that the adoption of these amendments to the Unified Development Ordinance is necessary to alleviate an emergency created by the lack

of regulation of uses of property within the City of Fort Smith so that the protection of the health, safety and welfare of the inhabitants of the City requires that the amendments be effective, and the amendment is hereby made effective, as of the date of approval of this Ordinance.

PASSED AND APPROVED THIS_____DAY OF _____, 2012.

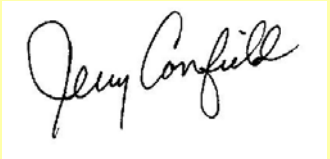
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:



_____
Publish 1 Time

August 27, 2012

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

Re: September 2012 Unified Development Ordinance Amendments

On August 14, 2012, the City Planning Commission held a public hearing to consider the above amendments to the Unified Development Ordinance.

Ms. Maggie Rice stated that the Planning Department received a request from Eastern Tank Services located at 9022 and 9100 Highway 271 South. Eastern Tank wants to expand their existing operation. Ms. Rice stated that they have had a business license at this 9100 Highway 271 South since 1989 and since they are located within an Extraterritorial Jurisdiction Open-1 zoning district they are considered a nonconforming use.

As the staff reviewed the development request, we found that the ETJ land use chart did not include a proper description for the existing business as conducted by Eastern Tank. Ms. Rice noted that in 2003 all properties in the ETJ were given an Open-1 zoning district as a placeholder until development occurs that requires a zoning change.

Ms. Rice stated that staff is proposing to add *Oil and Gas Equipment (sales and service)* to the ETJ Industrial Light and ETJ Industrial Moderate zoning districts. This is consistent with the land use chart within the corporate limits of the City. This amendment will facilitate a companion rezoning application and allow Eastern Tank to operate within an approved zoning district.

No one was present to speak in opposition to this proposed amendment.

Chairman Griffin then called for the vote on the Unified Development Ordinance Amendment. The vote was 9 in favor and 0 opposed.

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

ML/lp

cc: File
City Administrator

SEPTEMBER 2012

AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE

		2127 Heating and plumbing equipment								P	P
		2128 Oil and Gas Equipment (sales or service)								P	P
	2130 Durable consumer goods sales or service										
		2131 Computer and software						P	P	P	
		2132 Camera and photographic supplies						P	P		
		2133 Clothing, jewelry, luggage, shoes					P	P	P		
		Used clothing, jewelry						P	P		
		2134 Sporting goods, toy and hobby, and musical inst.						P	P		
		2135 Books, magazines, music, stationery						P	P	P	
	2140 Consumer goods, other										
		2141 Florist					P	P	P		
		2142 Art dealers, supplies, sales and service						P	P	P	
		2143 Tobacco or tobacconist establishment					P	P	P		
		2144 Mail order or direct selling establishment							P	P	
		2145 Antique shops					C	C	P	P	
		2145 Flea markets (indoor only, no outdoor storage)					P	P	P		
	2150 Grocery, food, beverage, dairy										

13B

7.

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. 19-8-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on August 14, 2012, 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:

Part of the Southwest Quarter of the Northeast Quarter of Section 18, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Southwest Corner of Government Lot 1 of the Northwest Quarter of said Section 18; Thence along the South Line of said Government Lot 1 of the Northwest Quarter and the South Line of said Southwest Quarter of the Northeast Quarter, S87°01'11"E, 1648.16 feet to the westerly right-of-way of Chad Colley Boulevard; Thence along said right-of-way the following bearings and distances: N23°31'30"E, 326.16 feet; N66°28'30"W, 30.00 feet; N23°31'30"E, 200.00 feet; S66°28'30"E, 30.00 feet; N23°31'30"E, 422.85 feet to the Point of Beginning; Thence N59°16'02"W, 484.48 feet; Thence N13°16'34"E, 100.72 feet; Thence S87°15'19"E, 87.82 feet; Thence S64°48'49"E, 116.69 feet; Thence S31°25'45"E, 80.83 feet; Thence S62°01'00"E, 234.36 feet to said westerly right-of-way; Thence along said right-of-way, S23°31'29"W, 123.04 feet to the Point of Beginning, containing 1.42 acres, more or less.

more commonly known as 9450 Chad Colley Boulevard, should be, and is hereby rezoned from Not Zoned to Residential Multifamily Medium Density (RM-3) by Classification.

SECTION 2: That the following properties to-wit:

Part of the Southwest Quarter of the Northeast Quarter, part of Government Lot 1 of the Northwest Quarter, and part of the Northwest Quarter of the Northeast Quarter of Section 18, part of the Southwest Quarter of the Southeast Quarter of Section 7, all in Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas, being more particularly

described as follows:

Commencing at the Southwest Corner of Government Lot 1 of the Northwest Quarter of said Section 18; Thence along the South Line of said Government Lot 1 of the Northwest Quarter and the South Line of said Southwest Quarter of the Northeast Quarter, S87°01'11"E, 1648.16 feet to the westerly right-of-way of Chad Colley Boulevard; Thence along said right-of-way the following bearings and distances: N23°31'30"E, 326.16 feet; N66°28'30"W, 30.00 feet; N23°31'30"E, 200.00 feet; S66°28'30"E, 30.00 feet; N23°31'30"E, 545.89 feet to the Point of Beginning; Thence N62°01'00"W, 234.36 feet; Thence N31°25'45"W, 80.83 feet; Thence N64°48'49"W, 116.69 feet; Thence N87°15'19"W, 87.82 feet; Thence S13°16'34"W, 100.72 feet; Thence N59°16'02"W, 421.94 feet; Thence N01°27'52"W, 66.60 feet; Thence N14°07'46"E, 186.22 feet; Thence N09°51'46"W, 82.79 feet; Thence N87°51'13"W, 533.39 feet; Thence N02°08'47"E, 673.07 feet; Thence N71°46'15"E, 1170.36 feet; Thence S18°13'45"E, 150.00 feet; Thence S04°11'35"E, 61.85 feet; Thence S18°13'45"E, 162.74 feet; Thence S58°18'46"E, 688.63 feet to said westerly right-of-way; Thence along said right-of-way the following bearings and distances: 318.37 feet along the arc of a curve to the left, said curve having a radius of 4580.00 feet and being subtended by a chord having a bearing of S29°41'45"W and a distance of 318.31 feet; N62°55'15"W, 20.00 feet; S27°23'28"W, 50.00 feet; S62°55'15"E, 20.00 feet; 284.10 feet along the arc of a curve to the left, said curve having a radius of 4580.00 feet and being subtended by a chord having a bearing of S25°18'07"W and a distance of 284.05 feet; S 23°31'30"W, 479.52 feet to the Point of Beginning, containing 42.30 acres, more or less.

more commonly known as 9600 Chad Colley Boulevard, should be, and is hereby rezoned from

Not Zoned to Residential Single Family Medium/High Density (RS-3) by Classification.

SECTION 3: That the following properties to-wit:

Part of the Northwest Quarter of the Northeast Quarter of Section 18, and part of the Southwest Quarter of the Southeast Quarter of Section 7, all in Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Southwest Corner of Government Lot 1 of the Northwest Quarter of said Section 18; Thence along the South Line of said Government Lot 1 of the Northwest Quarter and the South Line of the Southwest Quarter of the Northeast Quarter, S87°01'11"E, 1648.16 feet to the westerly right-of-way of Chad Colley Boulevard; Thence along said right-of-way the following bearings and distances: N23°31'30"E, 326.16 feet; N66°28'30"W, 30.00 feet; N23°31'30"E, 200.00 feet; S66°28'30"E, 30.00 feet; N23°31'30"E, 1025.41 feet; 284.10 feet along the arc of a curve to the right, said curve having a radius of 4580.00 feet and being subtended by a chord having a bearing of N25°18'07"E and a distance of 284.05 feet; N62°55'15"W, 20.00 feet; N27°23'28"E, 50.00 feet; S62°55'15"E, 20.00 feet; 318.37 feet along the arc of a curve to the right, said curve having a radius of 4580.00 feet and being subtended by a chord having a bearing of

N29°41’45”E and a distance of 318.31 feet to the Point of Beginning; Thence N58°18’46”W, 688.63 feet; Thence N18°13’45”W, 162.74 feet; Thence N04°11’35”W, 61.85 feet; Thence N18°13’45”W, 150.00 feet; Thence N71°46’15”E, 167.47 feet; Thence 419.66 feet along the arc of a curve to the left, said curve having a radius of 385.00 feet and being subtended by a chord having a bearing of S24°54’57”E and a distance of 399.19 feet; Thence S56°08’33”E, 525.57 feet to said westerly right-of-way; Thence along said right-of-way, 140.01 feet along the arc of a curve to the left, said curve having a radius of 4580.00 feet and being subtended by a chord having a bearing of S32°33’47”W and a distance of 140.01 feet to the Point of Beginning, containing 3.51 acres, more or less.

more commonly known as 9850 Chad Colley Boulevard, should be, and is hereby rezoned from

Not Zoned to Residential Single Family Duplex Medium/High Density (RSD-3) by

Classification.

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

PASSED AND APPROVED THIS_____DAY OF _____, 2012.

ATTEST: **APPROVED:**

_____ _____

City Clerk **Mayor**

Approved as to form

_____

Publish 1 Time

August 27, 2012

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

Re: Rezoning #19-8-12; A request by Pat Mickle, agent, for a zone change from Unzoned to Residential Single-Family Medium/High Density (RS-3), Residential Single Family-Duplex Medium/High Density (RSD-3) and Residential Multifamily Medium Density (RM-3) by Classification located at 9450, 9600 and 9850 Chad Colley Boulevard.

On August 14, 2012, the City Planning Commission held a public hearing to consider the above rezoning request.

Mr. Wally Bailey read the staff report indicating that the purpose of this request is to facilitate a subdivision containing single family dwellings and duplexes. Mr. Bailey also noted that a development plan deferral request was also received for Lots 60, 99 and 100 in the proposed Stoneshire at Chaffee Crossing subdivision since the developer anticipates duplexes on the lots but does not have a defined plan for these areas.

Mr. Bailey noted that a neighborhood meeting was held on July 23, 2012, at 2:00 p.m. at 7020 Taylor Avenue with the meeting being attended by Pat Mickle and two representatives of the Fort Smith Fire Department.

Mr. Randy Coleman with Mickle-Wagner-Coleman, was present to speak on behalf of this request.

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

Chairman Griffin then called for the vote on the rezoning request. The vote was 9 in favor and 0 opposed.

The Planning Commission hereby certifies this zoning map amendment to the Board of Directors in accordance with A.C.A. 14-56-422.

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/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

Memo

To: City Planning Commission

From: Planning Staff

Date: August 6, 2012

Re: Rezoning #19-8-12; A request from Pat Mickle, agent for the Fort Chaffee Redevelopment Authority, for Planning Commission consideration of a zone change from unzoned to Residential Single-Family Medium/High Density (RS-3), Residential Single Family-Duplex Medium/High Density (RSD-3), and Residential Multifamily Medium Density (RM-3) by classification at 9600, 9450 & 9850 Chad Colley Boulevard (companion item to items #6 and #7)

LOT LOCATION AND SIZE

The proposed zoning site is located on the west side of Chad Colley Boulevard, south of Massard Road and east of Ben Geren Regional Park. The tract contains 47 acres with approximately 1,648 feet of street frontage on Chad Colley Boulevard.

EXISTING ZONING

The site is currently not zoned.

REQUESTED ZONING

Three zoning designations are requested for the subdivision: 1) Residential Single-Family Medium/High Density (RS-3) for lots 1-59 & 61-98; 2) Residential Multifamily Medium Density (RM-3) for Lot 60; and 3) Residential Single Family-Duplex Medium/High Density (RSD-3) for lots 99 & 100.

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

Characteristics of the Residential Single-Family Medium/High Density (RS-3) are as follows:

Purpose: To provide for medium/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 multi-family or commercial districts. RS-3 zoning is appropriate in urban and suburban areas and primarily applies to the Residential Detached classification of the Master Land Use Plan.

5A

Permitted Uses: Detached dwelling units and family group homes.

Conditional Uses: Schools, churches, utility substations, commercial communication towers, country club, golf course, parks and playgrounds (public and non-public) police stations and police substations, daycare home (12 or less), and home occupations.

Area Regulations

Lot Area - 6,500 square feet
Minimum Lot Width at Building Line – 60 feet
Maximum Lot Coverage – 60%
Minimum Street Frontage – 20 feet
Maximum Height – 35 feet (1+1)
Front Yard Setback - 25 feet
Side Yard Setback - 7.5 feet
Side Yard on Street Side of Corner Lot - 25 feet
Rear Yard Setback - 10 feet
Separation of Buildings - 10 feet

Density Requirements:

6.7 dwelling units per acre

Residential Multifamily Medium Density (RM-3)

Characteristics of the Residential Multifamily Medium Density (RM-3) are as follows:

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

Purpose: To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 Zoning District is appropriate in urban areas within the Residential Attached, Mixed Use Residential, or Mixed Use Employment land use categories of the Master Land Use Plan.

Permitted Uses: Single, duplex, multifamily dwellings, family and neighborhood group homes.

Conditional Uses: Schools, churches, utility substations, commercial communication towers, country club, golf course, parks and playgrounds (public and non-public) police stations and police substations, daycare home (12 or less), and home occupations.

Area Regulations:
Lot Area - 6,500 square feet
Front Yard Setback - 25 feet
Side Yard Setback - 7.5 feet
Side Yard on Street Side of Corner Lot - 15 feet
Rear Yard Setback - 10 feet
Separation of Buildings - 10 feet

Density Regulations:
20 dwellings/acre

5B

Maximum Height - 25 feet (1 + 1)

Residential Single Family-Duplex Medium/High Density (RSD-3)

Characteristics of the Residential Single Family-Duplex Medium/High Density (RSD-3) 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.

Permitted Uses: Detached and duplex dwelling units and family group homes.

Conditional Uses: Schools, churches, utility substations, commercial communication towers, country club, golf course, parks and playgrounds (public and non-public) police stations and police substations, daycare home (12 or less), and home occupations.

Area Regulations

Lot Area - 6,500 square feet
Minimum Lot Width at Building Line – 60 feet
Maximum Lot Coverage – 60%
Minimum Street Frontage – 20 feet
Maximum Height – 35 feet (1+1)
Front Yard Setback - 25 feet
Side Yard Setback - 7.5 feet
Side Yard on Street Side of Corner Lot - 25 feet
Rear Yard Setback - 10 feet
Separation of Buildings - 10 feet

Density Requirements:

6.7 dwelling units per acre

SURROUNDING ZONING AND LAND USE

The area to the north is not zoned and developed as Ben Geren Regional Park.

The area to the south is not zoned and developed as Ben Geren Regional Park Annex and Stick Lake.

The area to the east (across Chad Colley Boulevard) is zoned RM-3 and is the site of a future multifamily development. The remaining area to the east is not zoned and undeveloped.

The area to the west is not zoned and is undeveloped.

PROPOSED ZONE CHANGE

The requested zoning districts will facilitate a subdivision containing single family dwellings and duplexes. The RM-3 zoning will likely contain multiple duplexes on a single lot.

5C

LAND USE COMPLIANCE

The property is classified as Single Family Residential by the Chaffee Crossing Future Land Use Plan. To accommodate the requested RSD-3 and RM-3 zoning districts, the Fort Chaffee Redevelopment Authority must amend the land use classification for those areas to Mixed Use: Residential/Commercial/Office.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held on July 23, 2:00 p.m., at 7020 Taylor Avenue. The meeting was attended by Pat Mickle and two representatives of the Fort Smith Fire Department. A copy of the meeting summary is enclosed.

Staff recommends approval of the zoning requests on the condition that the FCRA amend the Chaffee Crossing Future Land Use Plan to reflect Mixed Use: Residential/Commercial/Office on the areas proposed as RSD-3 and RM-3.

5D

Neighborhood Meeting Minutes
Stoneshire at Chaffee Crossing
July 23, 2012 2:00 PM
FCRA Offices
7020 Taylor Avenue, Fort Smith, Arkansas

A neighborhood meeting to discuss the Stoneshire at Chaffee Crossing subdivision project was held Monday, July 23, 2012 at 2:00 p.m. at the FCRA Offices, 7020 Taylor Avenue, Fort Smith, Arkansas. The meeting was called to order at 2:00 p.m.; Pat Mickle was the moderator. The only attendees were two representatives of the Fort Smith Fire Department. See attached list of attendees. The need to keep structures at least 100' away from the existing gas well on the southwest side of the property was discussed. Mr. Mickle pointed out that the 100' setback required by the State Fire Code was shown on the Preliminary Layout. Mr. Mickle confirmed all lots except 60, 99, & 100 were to be single family; lot 60 (near gas well) is planned as multifamily; lots 99 & 100 are being zoned for duplexes.

There being no further comments, the meeting adjourned at 2:20 p.m.

Pat Mickle
Patrick J. Mickle

f:\doc\misc\Neighborhood Meeting Minutes – Stoneshire 7-23-12.doc

5E

Rez #19-8-12

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 Attachment #1

2. Address of property: 9600 Chad Colley Blvd.

3. The above described property is now zoned: Not Zoned

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

5. Why is the zoning change requested?

   To permit development of a residential subdivision on unzoned property.

6. Submit any proposed development plans that might help explain the reason for the request.
   Subdivision Preliminary Layout attached.

Signed:

Mickle Wagner Coleman, Inc.
~~Owner or~~ Agent Name
(please print)

Owner

P.O. Box 1507, Fort Smith, AR 72902
~~Owner or~~ Agent Mailing Address

or

Pat Mcee
Agent

479-649-8484
~~Owner or~~ Agent Phone Number

5F

Pending Approval

Minutes
Fort Chaffee Redevelopment Authority
August 16, 2012 Board Meeting

TRUSTEES PRESENT: Kelly Clark, Bob Evans, Dean Gibson, Janie Glover, Galen Hunter, Paul McCollom, Drew Williams and ex-officio members Ray Caruthers and Mayor Sandy Sanders.

ABSENT: Bob Bradford and ex-officio member Judge David Hudson.

OTHERS PRESENT: Ivy Owen, Janet Menshek, Larry Evans, Lyndsee Lyons, Bob Cooper, Randy Coleman, Lorie Robertson, Priscilla Gober, Gary Cook, Colonel Mike Stransky, Danny Aldridge, Barbara Owen, Michael Milton, Rusty Garrett, Aric Mitchell, Chuck Peacock, Charlotte Douglas, and Bruce Holland.

CALL TO ORDER

Chairman Dean Gibson called the meeting to order at 3:37 p.m.

ATTENDANCE CALL

Janet Menshek called attendance. A quorum was present.

APPROVAL OF MINUTES

The minutes of the June 28, 2012 special board meeting were submitted for approval. **Galen Hunter moved to approve the minutes. Kelly Clark seconded the motion. Motion passed.**

FINANCIAL REPORT

The June and July financial statements were provided to board members for review. Janet Menshek discussed the statements. The report was accepted.

CHAIRMAN'S REPORT

Chairman Dean Gibson had nothing to report.

COMMITTEE REPORTS – NOMINATING COMMITTEE

NOMINATION OF NEW BOARD MEMBER

Chairman Dean Gibson introduced Charles (Chuck) J. Peacock IV, whom he recommended on behalf of the nominating committee to fill the board position vacated by Michael Milton. Mr. Peacock discussed his background and his reasons for wanting to serve on the FCRA board. His experience in small business will be an asset to the board. Mr. Peacock's appointment will need to be confirmed by the Sebastian County Quorum Court at its August 23rd meeting. **Dean Gibson moved on behalf of the nominating committee to appoint Charles (Chuck) J. Peacock IV to the FCRA board, filling the trustee position vacated by Michael Milton, contingent upon the confirmation by the Sebastian County Quorum Court. Janie Glover seconded the motion. Motion passed.**

EXECUTIVE DIRECTOR'S REPORT

PRESENTATION OF ADC AWARD TO BOARD

Fort Chaffee Redevelopment Authority was awarded the 2011 Association of Defense Communities' Base Redevelopment Project of the Year award. Ivy Owen presented the award to the Board of Trustees. Prior to this

meeting, an official press conference was held to announce FCRA being honored with the award. It will be used as a marketing tool internationally and is an important honor to the Fort Smith region.

RECLASSIFICATION OF LAND USE TO SUPPORT A RESIDENTIAL DEVELOPMENT BY SHIRE, INC.

Shire, Inc. is requesting a portion of their land be reclassified from Single Family Residential to Mixed Use: Residential/Commercial/Office in order to build duplexes on the northeastern and southern edges of its future single family residential development. In addition, Ivy Owen requested for the Single Family Residential property north of the Shire property also be changed to Mixed Use: Residential/Commercial/Office to serve as a transitional zone between the commercial and residential projects. This reclassification is also required by the City of Fort Smith's Unified Development Ordinance. **Bob Evans moved to approve the reclassification of land use for the northeastern and southern edges of the Shire property and the residential property north of the Shire property from Single Family Residential to Mixed Use: Residential/Commercial/Office. Paul McCollom seconded the motion. Motion passed.**

RECLASSIFICATION OF LAND USE TO SUPPORT ERC, INC'S OFFICE AND CONSERVATION DEVELOPMENTS

ERC, Inc. is requesting that the 2.3 acres it is purchasing on Massard Road to build its new headquarters be reclassified to Mixed Use: Neighborhood Commercial/Office as required by Fort Smith's Unified Development Ordinance. Also, there are 12.6 acres southeast of the 7 acres ERC is purchasing for residential development that would be difficult to develop due to topography and drainage issues. ERC had requested that this property be placed in a permanent conservation easement to keep it green and provide a buffer for ERC's 7 acres. After researching the best way to accomplish this, Ivy Owen recommended that FCRA retain ownership of this land, change the land use classification from Single Family Residential to Parks/Open Space, and agree to place a deed restriction on the property whenever it is transferred to another party requiring the property to permanently remain green. **Kelly Clark moved to approve the reclassification of land use for the 2.3 acres on Massard being purchased by ERC from Single Family Residential to Mixed-Use: Neighborhood Commercia/Office and to change the land use of the 12.6 acres southeast of ERC's future 7-acre residential development from Single Family Residential to Parks/Open Space, with the stipulation that a deed restriction be placed on any transfers of this property to keep this parcel green. Galen Hunter seconded the motion. Motion passed.**

DEDICATION OF MULTIPLE ROADWAYS TO THE CITY OF FORT SMITH

Board members were provided with a copy of a roadway dedication easement with maps proposing that approximately 5 miles of Chaffee Crossing roadways be dedicated to the City of Fort Smith. This dedication will be accomplished by an "easement" allowing FCRA to retain a fee simple title to the ground beneath the roadways. The City of Fort Smith will maintain the roadways as city streets in the future. **Bob Evans moved to approve granting the Roadway Dedication Easement to the City of Fort Smith. Kelly Clark seconded the motion. Motion passed.**

ACCEPTANCE OF CONSTRUCTION BID FOR PHASE II UTILITY EXTENSIONS PROJECT

Mickle, Wagner, Coleman received and opened construction bids on behalf of FCRA for Phase II of the planned utilities extension project near Massard Road and Chad Colley Boulevard. The lowest bidder was Harris Company at $356,025. **Bob Evans moved to accept the construction bid from Harris Company for the Phase II Utilities Extension Project. Kelly Clark seconded the motion. Motion passed.**

ACCEPTANCE OF CONSTRUCTION BID FOR EPA IV WATER LINE PROJECT AT TAYLOR AVENUE AND CUSTER BOULEVARD

Mickle, Wagner, Coleman received and opened construction bids on behalf of FCRA for the EPA IV water line project at Taylor Avenue and Custer Boulevard. The lowest bidder was Crawford Construction Company at $594,260. The EPA will provide 55% of the grant award amount of $529,091 and FCRA will provide the 45% match and the amount in excess of the grant award. **Janie Glover moved to accept the construction bid from**

Crawford Construction Company for the EPA IV Water Line Project at Taylor Avenue and Custer Boulevard. Paul McCollom seconded the motion. Motion passed.

MASTER PLAN ELEMENTS FOR CHAFFEE CROSSING HISTORIC AREA

The development guidelines for the Chaffee Crossing Historic Area were presented to board members for review. The guidelines are very detailed and show the continued efforts to preserve the history of Fort Chaffee. The Historic District Guidelines will trump the FCRA Chaffee Crossing Master Plan Guidelines when they apply to the Historic District, but will default to the Chaffee Crossing guidelines otherwise. **Janie Glover moved to approve the Master Plan Elements for the Chaffee Crossing Historic Area. Galen Hunter seconded the motion. Motion passed.**

REQUEST FOR EXTENSION FROM TJSJT

TJSJT Properties purchased land in Barling approximately three years ago on the northeast corner of Highways 59 & 22. Due to utility easement issues and issues with alcohol permitting in the City of Barling, they have been unable to begin construction. A request from TJSJT was received by FCRA asking for a one-year extension to complete construction of the required improvements for this property. Ray Caruthers announced that an alcohol petition was gathered by the citizens of Barling to be placed on the ballot for November. **Bob Evans moved to approve a one-year extension for TJSJT Properties, LLC to complete construction of the required improvements on the 15 acres it purchased in the City of Barling. Paul McCollom seconded the motion. Motion passed.**

MISCELLANEOUS

Ivy Owen asked the Trustees' preference of electronic or paper board packets.

Ray Caruthers reported that the City of Barling has hired an engineering firm to design the extension of H Street to the Barling City Park. The road will be built to a very high standard. Ivy Owen asked Mr. Caruthers for an estimate for the cost of construction of the road and FCRA will consider sharing the costs.

ANNOUNCEMENTS

The next regular board meeting is scheduled for September 20, 2012.

ADJOURN

There being no further business, the meeting was adjourned at 4:20 p.m.

ATTEST: THIS 20TH DAY OF SEPTEMBER 2012.

_____
Chairman or Presiding Board Member

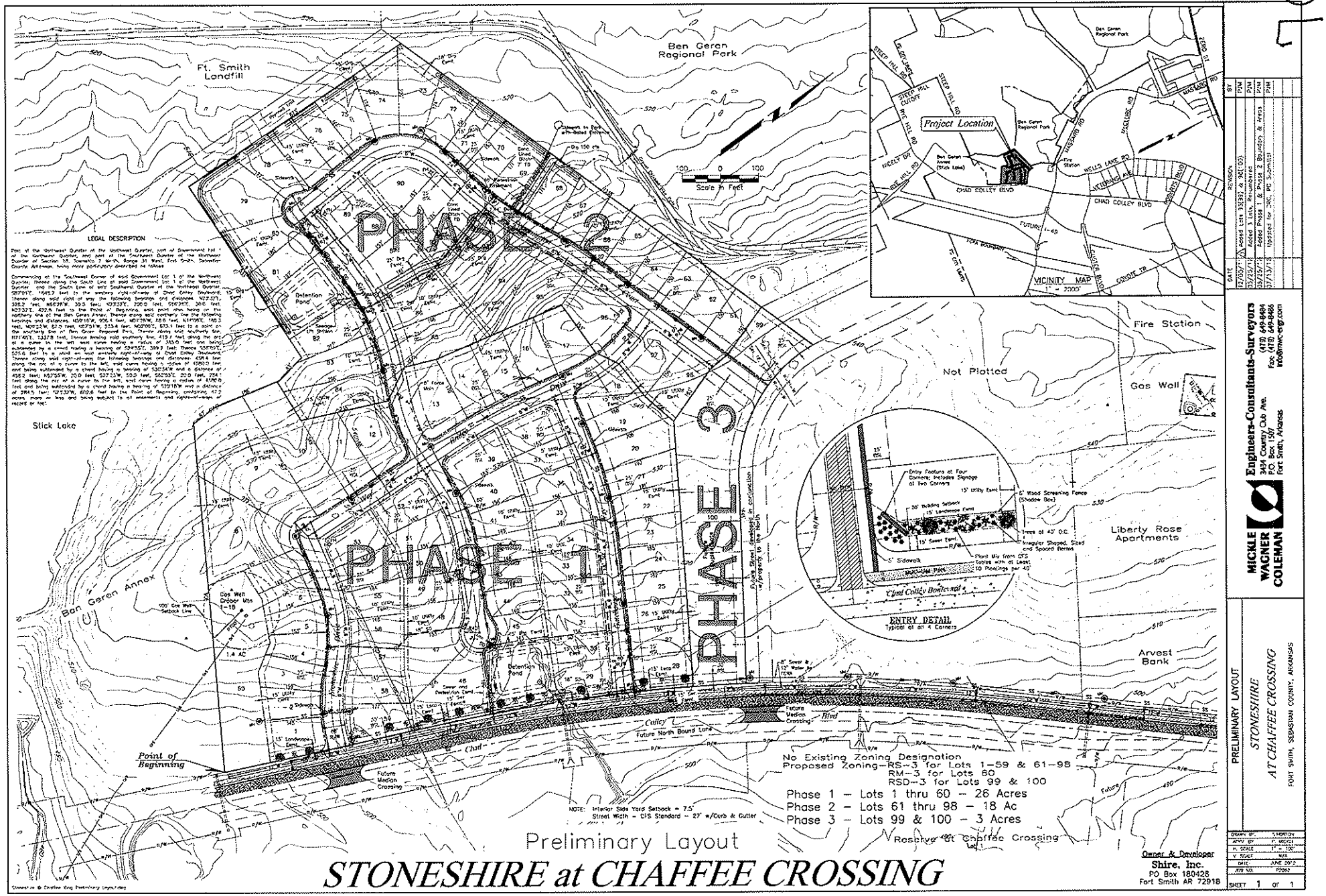
_____
Secretary or Executive Director

_____
SEAL

Rezoning #19-8-12: From Not Zoned to Residential Single Family Medium/High Density (RS-3), Residential Single Family-Duplex Medium/High Density (RSD-3) and Residential Multifamily Medium Density (RM-3)

9450, 9600 and 9850 Chad Colley Boulevard

56



LEGAL DESCRIPTION

Part of the Northwest Quarter, part of the Southwest Quarter, part of Government Lot 1 of the Northwest Quarter, and part of the Southwest Quarter of the Northwest Quarter of Section 18, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Southwest Corner of said Government Lot 1 of the Northwest Quarter; thence along the South Line of said Government Lot 1 of the Northwest Quarter and the South Line of said Southwest Quarter of the Northwest Quarter, N87°01'E, 1645.7 feet to the westerly right-of-way of Chad Colley Boulevard; thence along said right-of-way the following bearings and distances: N23°37'E, 328.2 feet, N66°28'W, 30.5 feet; N23°33'E, 200.0 feet, S66°28'E, 30.0 feet, N23°32'E, 422.8 feet to the Point of Beginning, said point also being on the northerly line of the Ben Geren Annex; thence along said northerly line the following bearings and distances: N59°18'W, 906.4 feet, N61°28'W, 88.6 feet, N11°08'E, 186.3 feet, N09°53'W, 82.0 feet, N87°51'W, 333.4 feet, N02°00'E, 673.1 feet to a point on the southerly line of Ben Geren Regional Park; thence along said southerly line, N71°46'E, 1337.8 feet; thence leaving said southerly line, 419.1 feet along the arc of a curve to the left, said curve having a radius of 383.0 feet and being subtended by a chord having a bearing of S24°55'E, 399.2 feet; thence S26°02'E, 525.6 feet to a point on said westerly right-of-way of Chad Colley Boulevard; thence along said right-of-way the following bearings and distances: 438.4 feet along the arc of a curve to the left, said curve having a radius of 4580.0 feet and being subtended by a chord having a bearing of S30°54'W and a distance of 438.2 feet; N57°55'W, 20.0 feet, S27°23'W, 50.0 feet, S62°55'E, 20.0 feet, 284.1 feet along the arc of a curve to the left, said curve having a radius of 4580.0 feet and being subtended by a chord having a bearing of S25°18'W and a distance of 284.5 feet; S27°32'W, 602.6 feet to the Point of Beginning, containing 47.2 acres, more or less and being subject to all easements and rights-of-ways of record or fact.

DATE	REVISION	BY
12/05/11	Added Lots 93(99) & 98(100)	PJM
05/25/12	Added 3 Lots, Renumbered	PJM
05/25/12	Added Phase 1 & Phase 2 Boundary & Areas	PJM
07/13/12	Updated for DRC, PC Submittal	PJM

MICKLE WAGNER COLEMAN
Engineers-Consultants-Surveyors
3434 Country Club Ave.
P.O. Box 1507
Fort Smith, Arkansas
(479) 649-8494
Fax: (479) 649-8486
info@mwc-eng.com

PRELIMINARY LAYOUT
STONESHIRE AT CHAFFEE CROSSING
FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

DRAWN BY:	T. MORTON
APPV BY:	P. MICKLE
H. SCALE:	1" = 100'
V. SCALE:	N/A
DATE:	JUNE 2012
JOB NO.	P2062
SHEET	1 OF 1

8.

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. 18-8-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on August 14, 2012, 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:

Commencing at the Northeast Corner of said Government Lot 1 of the Southwest Quarter; thence N 87◦24'51"W, 60.78 feet along the north line of said Government Lot 1 to a point on the westerly right-of-way of Massard Road; thence 724.18 feet along the arc of a curve to the right in said westerly right-of-way line, said curve having a radius of 1430.0 feet and being subtended by a chord having a bearing of S30◦00'38"W, and a distance of 716.47 feet; thence S44◦31'17"W, 291.69 feet along said right-of-way line; thence S45◦28'45"E, 140.0 feet to a set ½" rebar with cap stamped MWC 1369 on the easterly right-of-way of Massard Road and the Point of Beginning, said point also being the corner of the City of Fort Smith property; thence along the City of Fort Smith property line, S45◦28'45"E, 250.65 feet to an existing ½" rebar with cap stamped MWC 1369; thence along said City of Fort Smith property line, S44◦31'17"W, 397.15 feet to an existing ½" rebar with cap stamped MWC 1369; thence leaving said property line, S43◦36'01"W, 5.24 feet to a set ½" rebar with cap stamped MWC 1369; thence N46◦23'59"W, 17.83 feet to a set ½" rebar with cap stamped MWC 1369; thence 7.58 feet along the arc of a curve to the left, said curve having a radius of 635.00 feet and being subtended by a chord having a bearing of N46◦44'30"W and a distance of 7.58 feet to a set ½" rebar with cap stamped MWC 1369; thence N47◦05'00"W, 194.56 feet to a set ½" rebar with cap stamped MWC 1369; thence 47.96 feet along the arc of a curve to the right, said curve having a radius of 30.00 feet and being subtended by a chord having a bearing of N01◦16'52"W and a distance of 43.02 feet to said easterly right-of-way of Massard Road; thence N44◦31'17"E, 378.30 feet to the Point of Beginning, containing 2.33 acres, more or less.

more commonly known as 8101 McClure Drive, should be, and is hereby rezoned from Not Zoned to Transitional (T) by Classification.

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

PASSED AND APPROVED THIS_____DAY OF _____, 2012.

ATTEST: **APPROVED:**

_____ _____

City Clerk **Mayor**

Approved as to form:

_____

Publish 1 Time

August 27, 2012

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

Re: Rezoning #18-8-12; A request by Rob Coleman, agent, for a zone change from Not Zoned to Transitional (T) by Classification located at 8101 McClure Drive.

On August 14, 2012, the City Planning Commission held a public hearing to consider the above rezoning request.

Ms. Maggie Rice read the staff report indicating that the purpose of the rezoning request is to allow for the development of an office building. Ms. Rice stated that the Chaffee Crossing Redevelopment Plan Future Land Use Plan currently classifies the site as single family residential which does not permit the Transitional zoning district. Ms. Rice noted that staff is recommending the Fort Chaffee Redevelopment Authority change the land use classification to Mixed Use: Neighborhood Commercial/Office. Ms. Rice noted that a neighborhood meeting was held on Thursday, August 9, 2012, at 5:30 p.m. and no property owners were in attendance.

Mr. Wally Bailey stated that the rezoning request being submitted was recommended by city staff due to the fact that staff felt a transitional zoning designation would be a better choice for this development rather than a commercial zone.

Mr. John Fisher, 7101 Milan Way, addressed the Commission with questions relative to the type of professional office this would be, as well as the size of the proposed structure. It was noted that this would be the office for ERC and would be approximately 10,000 square feet.

Following a discussion by the Commission, Chairman Griffin called for the vote on the rezoning request. Motion was made by Commissioner Parks, seconded by Commissioner Howard and carried unanimously to amend this request to make approval subject to the Fort Chaffee Redevelopment Authority amending the Chaffee Crossing Redevelopment Plan Future Land Use Plan to Mixed Use: Neighborhood Commercial/Office. Chairman Griffin then called for the vote on the rezoning request as amended. The vote was 9 in favor and 0 opposed.

The Planning Commission hereby certifies this zoning map amendment to the Board of Directors in accordance with A.C.A. 14-56-422.

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/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

Memo

To: City Planning Commission

From: Planning Staff

Date: July 26, 2012

Re: Rezoning #18-8-12 - A request by Rob Coleman, agent, for Planning Commission consideration of a zone change from Not Zoned to Transitional (T), by classification, at 8101 McClure Drive. (companion to items #17 and #19)

LOT LOCATION AND SIZE

The subject property is on the northeast corner of Massard Road and McClure Drive. The tract contains an area of 2.33 acres with approximately 400 feet of street frontage along Massard Road and approximately 250 feet of street frontage along the McClure Drive.

EXISTING ZONING

The property is currently Not Zoned.

REQUESTED ZONING

Characteristics of the Transitional (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 Detached, 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, banking establishments and offices.

Conditional Uses: Assisted living, nursing homes, 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, daycare homes, hospital, substance abuse treatment facility, senior citizen center and churches.

Area Regulations:

Minimum Lot Area – 5,000 square feet
Front Yard Setback – 20 feet
Side Yard Setback – 5 feet
Side Yard on Street Side of Corner Lot – 20 feet
Rear Yard Setback – 10 feet

16A

Density – 3 dwelling units/acre single family homes, 6 dwelling units/acre two-family homes
Separation of Buildings – 10 feet-Residential/per current building fire codes-Non-Residential
Maximum Height – 35 feet

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Residential Single Family Rowhouse and Zero Lot Line District (RS-5) and is developed as single family residences along with Residential Single Family Medium/High Density (RS-3) and is developed as single family residences.

The area to the east is Not Zoned and Residential Single Family Medium/High Density (RS-3) and is single family dwellings and undeveloped.

The area to the south is Not Zoned and is undeveloped.

The area to the west is Residential Single Family Medium/High Density (RS-3) and is undeveloped along with an area that is Not Zoned and is undeveloped.

LAND USE PLAN COMPLIANCE

The *Chaffee Crossing Redevelopment Plan Future Land Use Plan* currently classifies the site as Single Family Residential. An amendment to the land use plan will need to be made to accommodate the Transitional zone.

PROPOSED ZONING

The proposed Transitional (T) zoning will allow for the development of an office building. This will be in compliance with the *Chaffee Crossing Redevelopment Plan Future Land Use Plan.*

STAFF COMMENTS AND RECOMMENDATIONS

The *Chaffee Crossing Redevelopment Plan Future Land Use Plan* currently classifies the site as Single Family Residential. This classification does not permit the Transitional zoning district. Staff recommends the Fort Chaffee Redevelopment Authority change the land use classification to Mixed Use: Neighborhood Commercial/Office. A neighborhood meeting was held Thursday, August 9th at 5:30 p.m. and no property owners were in attendance.

Staff recommends approval of the request contingent upon approval of the variance application, development plan, and FCRA amending the *Chaffee Crossing Redevelopment Plan Future Land Use Plan* to Mixed Use: Neighborhood Commercial/Office.

16B

Rez.#18-8-12

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)

2. Address of property: 8101 McClure Drive, Fort Smith, AR 72916

3. The above described property is now zoned: Not Zoned

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

5. Why is the zoning change requested?

Currently Not Zoned and we desire to build a professional office at this location.

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

ERC Land Development Group, LLC

~~Owner or~~ Agent Name
(please print)

813 Fort Street
Barling, AR 72923

Owner or Agent Mailing Address

479.478.5105 (office)
479.650.4510 (cell)

Owner or Agent Phone Number

Signed:

~~Owner~~

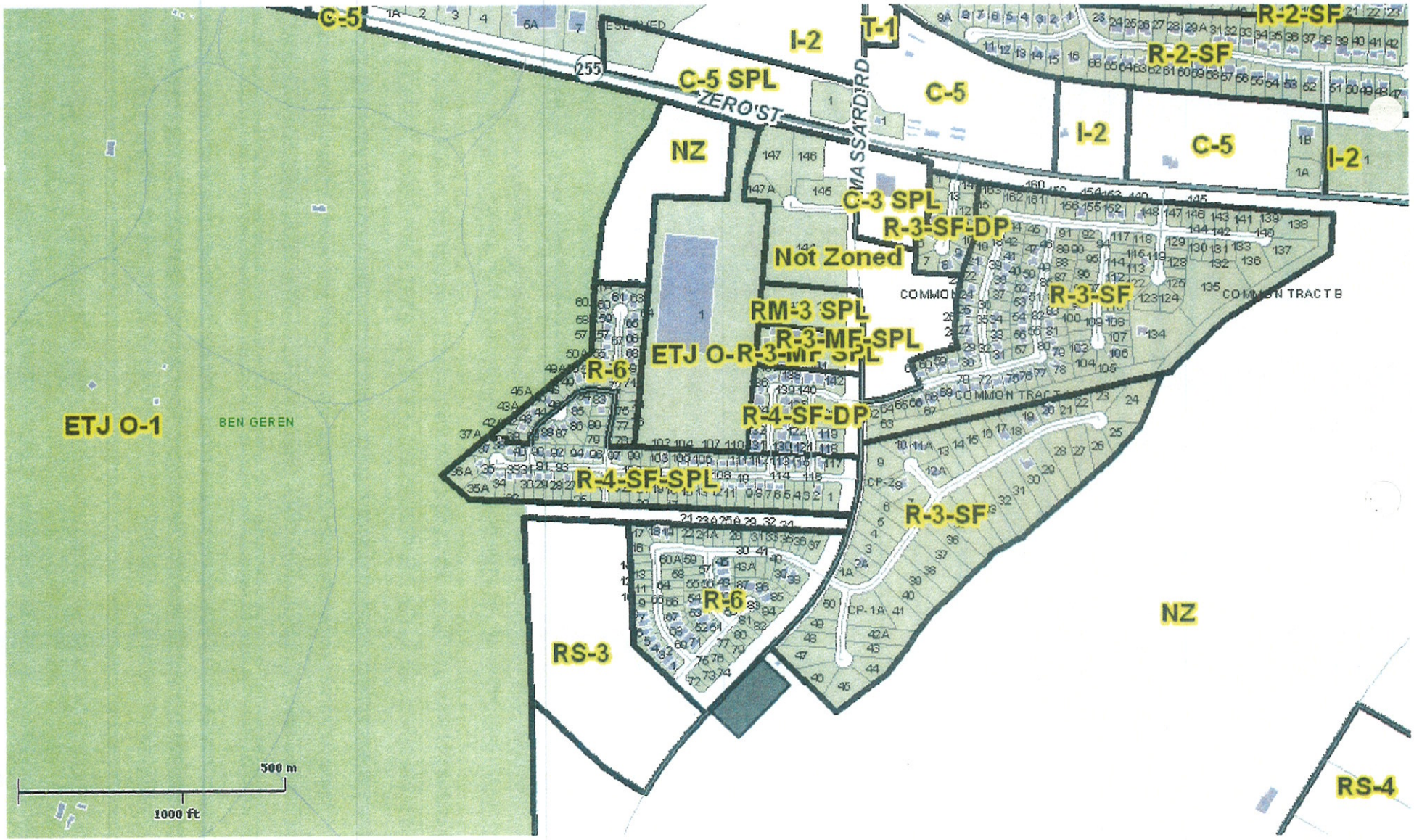
or

Agent

16C

Rezoning #18-8-12: From Not Zoned to Transitional (T)

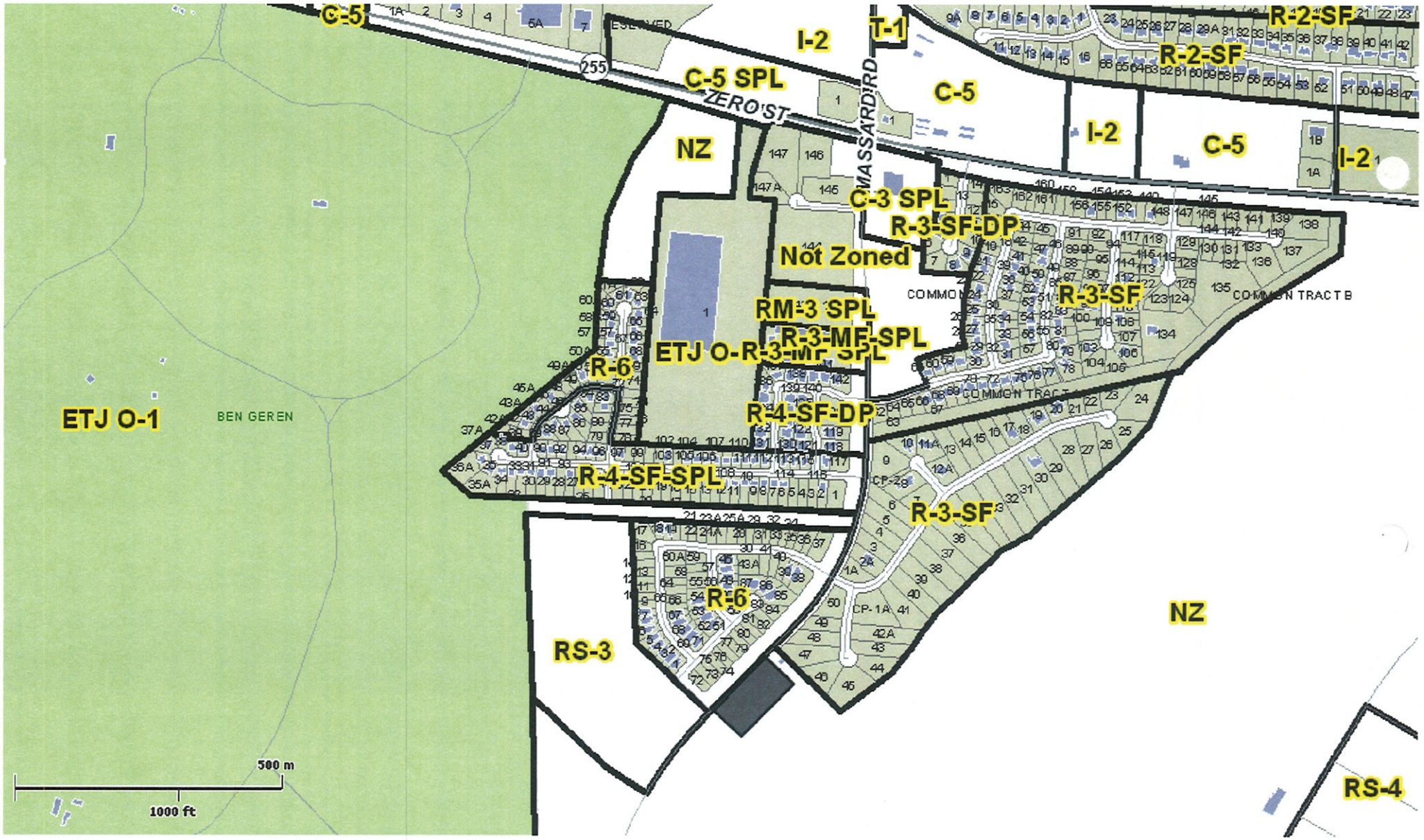
8101 McClure Road



2009 City of Fort Smith, AR. Printed on Mon Jul 30 2012 10:07:04 AM.

Rezoning #18-8-12, Development Plan and Variance #23-8-12

8101 McClure Road



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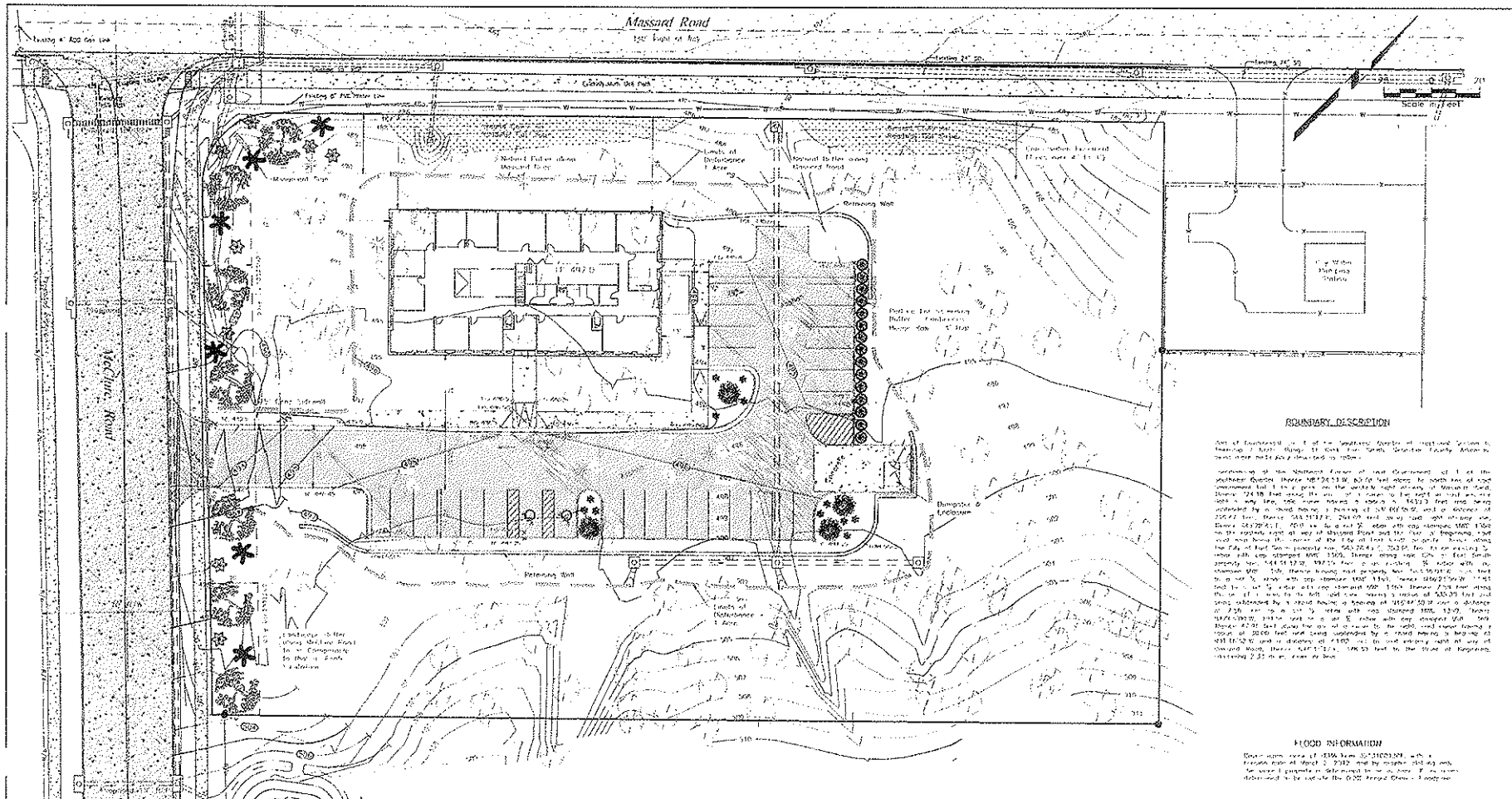
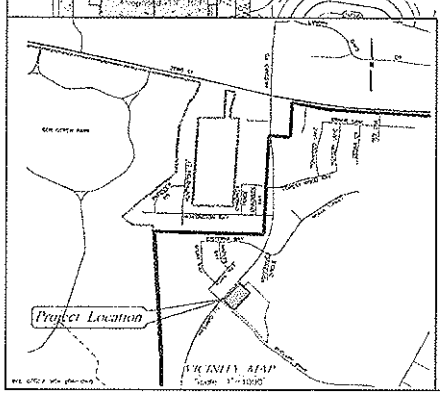
201





BOUNDARY DESCRIPTION

FLOOD INFORMATION

SITE DATA:

Setbacks:

Front	25'
Side	10'
Street Side/Corner	10'
Side/Rear (Adjacent to RS dist/development)	N/A
Rear	10'

Zoning:
Currently NOT ZONED
Proposed Transitional with Classification

Property Located at
Corner of Massard Road & McClure Road
8101 McClure Road

Owner:
Fort Chaffee Redevelopment Authority
7020 Taylor Avenue
Fort Smith, Arkansas 71916
Phone: (479) 452-4554
email: lowen@chaffeecrossing.com

Architect:
Robert Sharp Architect, Inc
PO Box 3494
525 S School Ave Ste 220
Fayetteville AR 72702
Phone: (479) 442-0229
email:

MICKLE WAGNER COLEMAN
Engineers-Consultants-Surveyors
3834 Country Club Ave.
P.O. Box 1507
Fort Smith, Arkansas
(479) 649-8484
Fax: (479) 649-8486
info@mwc-engr.com

PRELIMINARY DEVELOPMENT PLAN

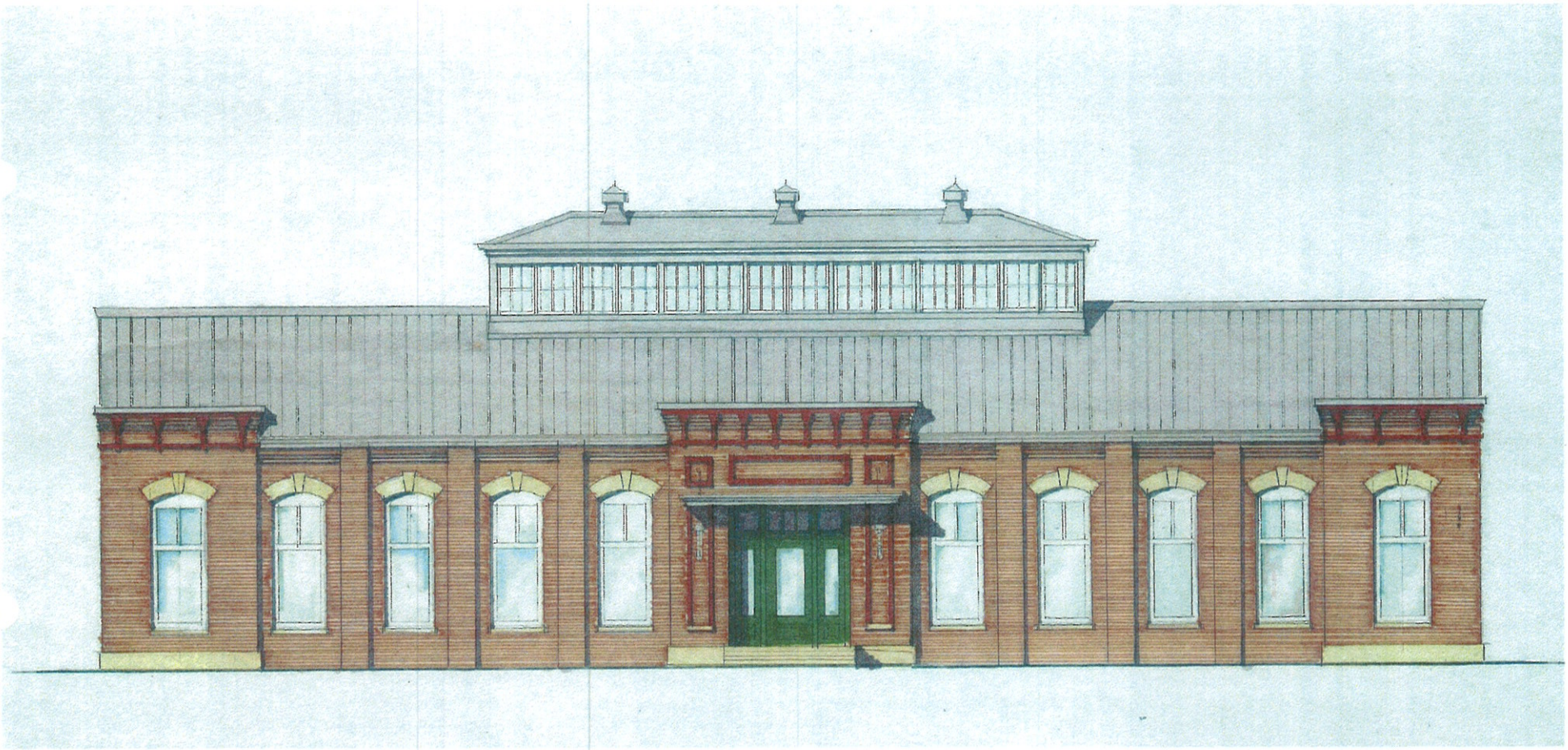
ERC OFFICE BUILDING

MASSARD ROAD & McCLURE DRIVE

FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

DRAWN BY	J. HOLER
APPV. BY	P. HOLER
H. SCALE	1"=20'
V. SCALE	N/A
DATE	JULY 2012
JOB NO.	13653

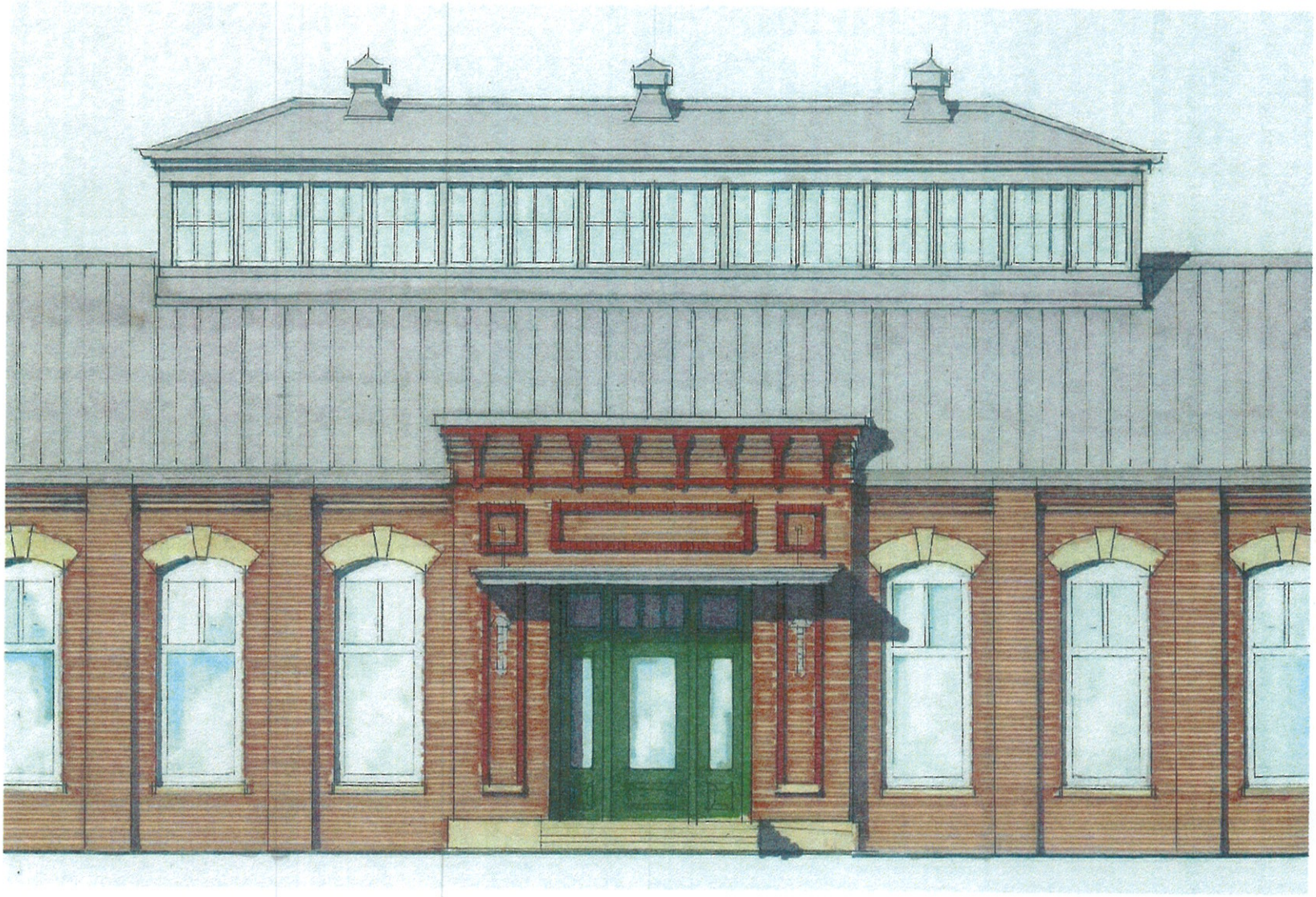
SHEET 1 OF 1



ENTRY ELEVATION, FACING PARKING LOT

erc companies

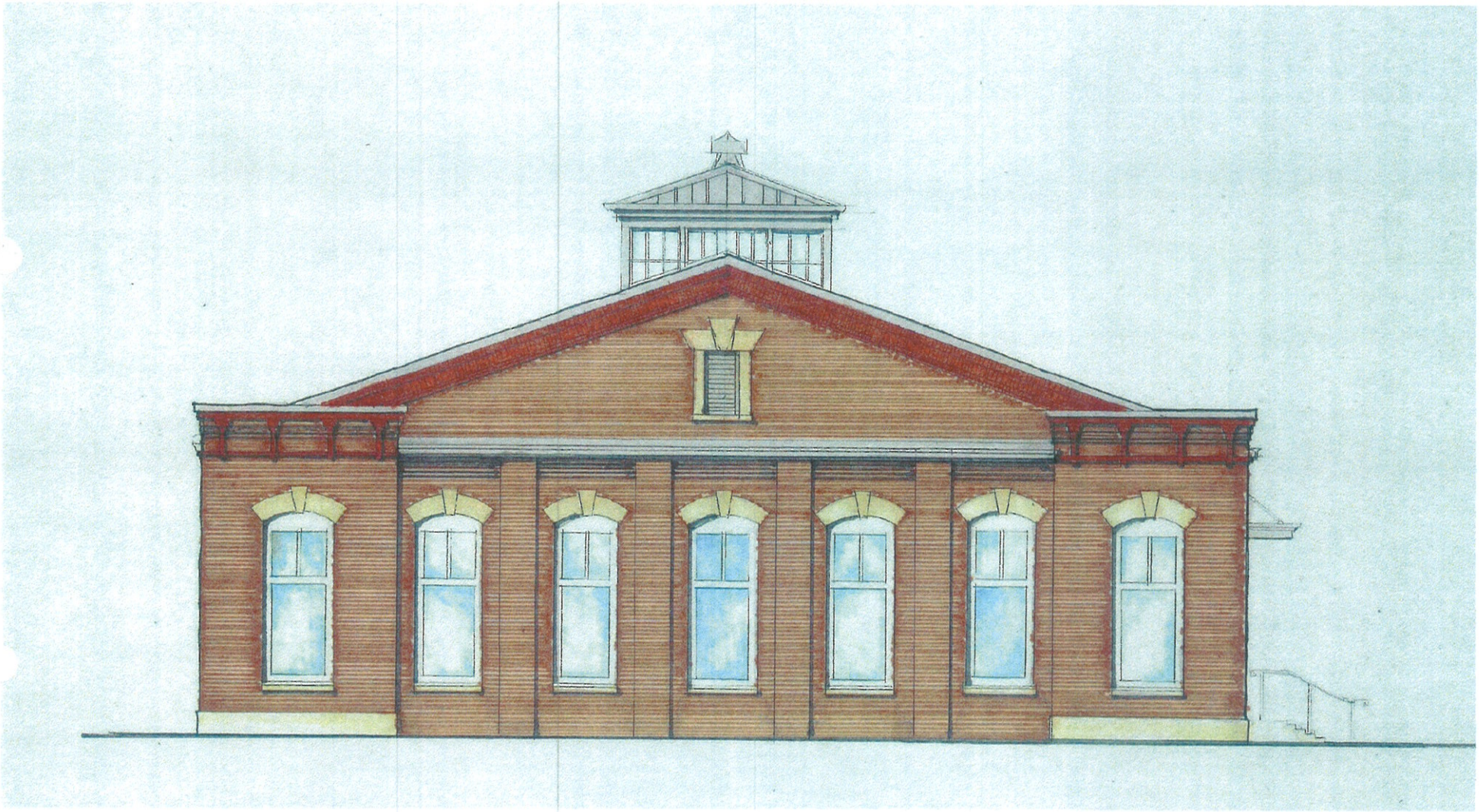
RAISING THE STANDARD FOR GENERATIONS.™



DETAIL OF ENTRY DOOR

erc companies

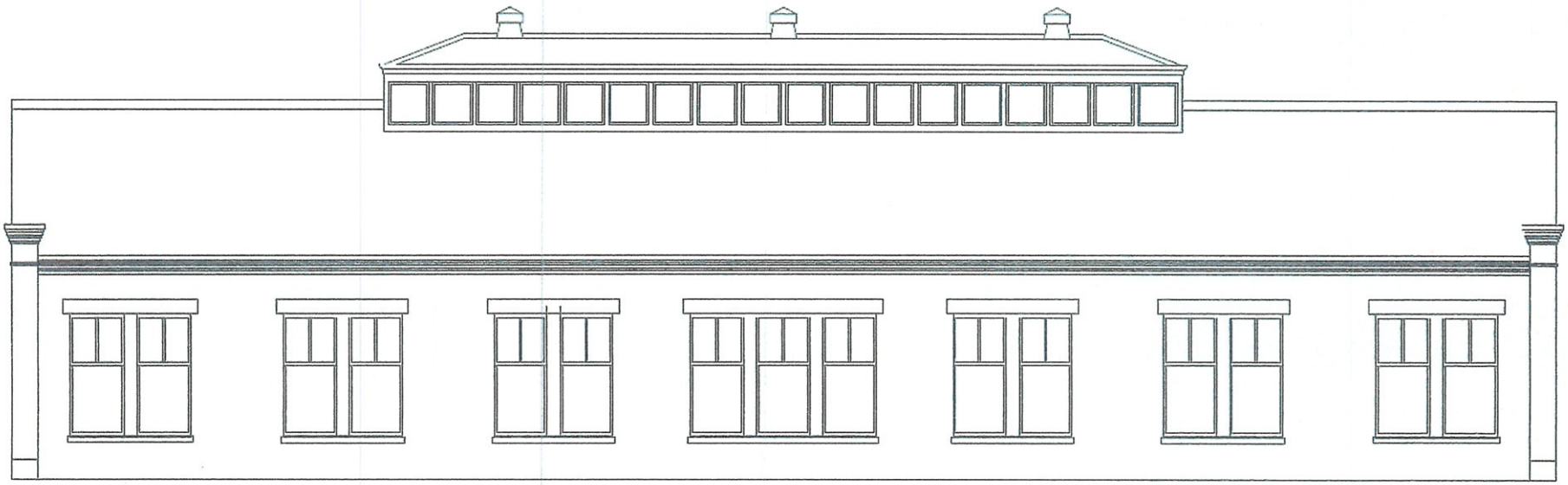
RAISING THE STANDARD FOR GENERATIONS.



SIDE ELEVATION, BOTH SIDES SIMILAR

erc companies

RAISING THE STANDARD FOR GENERATIONS.™



ELEVATION, FACING MASSARD. WALL MATERIAL TO BE BRICK
TO MATCH OTHER SIDES

erc companies

RAISING THE STANDARD
FOR GENERATIONS.™

Pending Approval

Minutes
Fort Chaffee Redevelopment Authority
August 16, 2012 Board Meeting

TRUSTEES PRESENT: Kelly Clark, Bob Evans, Dean Gibson, Janie Glover, Galen Hunter, Paul McCollom, Drew Williams and ex-officio members Ray Caruthers and Mayor Sandy Sanders.

ABSENT: Bob Bradford and ex-officio member Judge David Hudson.

OTHERS PRESENT: Ivy Owen, Janet Menshek, Larry Evans, Lyndsee Lyons, Bob Cooper, Randy Coleman, Lorie Robertson, Priscilla Gober, Gary Cook, Colonel Mike Stransky, Danny Aldridge, Barbara Owen, Michael Milton, Rusty Garrett, Aric Mitchell, Chuck Peacock, Charlotte Douglas, and Bruce Holland.

CALL TO ORDER

Chairman Dean Gibson called the meeting to order at 3:37 p.m.

ATTENDANCE CALL

Janet Menshek called attendance. A quorum was present.

APPROVAL OF MINUTES

The minutes of the June 28, 2012 special board meeting were submitted for approval. **Galen Hunter moved to approve the minutes. Kelly Clark seconded the motion. Motion passed.**

FINANCIAL REPORT

The June and July financial statements were provided to board members for review. Janet Menshek discussed the statements. The report was accepted.

CHAIRMAN'S REPORT

Chairman Dean Gibson had nothing to report.

COMMITTEE REPORTS – NOMINATING COMMITTEE

NOMINATION OF NEW BOARD MEMBER

Chairman Dean Gibson introduced Charles (Chuck) J. Peacock IV, whom he recommended on behalf of the nominating committee to fill the board position vacated by Michael Milton. Mr. Peacock discussed his background and his reasons for wanting to serve on the FCRA board. His experience in small business will be an asset to the board. Mr. Peacock's appointment will need to be confirmed by the Sebastian County Quorum Court at its August 23rd meeting. **Dean Gibson moved on behalf of the nominating committee to appoint Charles (Chuck) J. Peacock IV to the FCRA board, filling the trustee position vacated by Michael Milton, contingent upon the confirmation by the Sebastian County Quorum Court. Janie Glover seconded the motion. Motion passed.**

EXECUTIVE DIRECTOR'S REPORT

PRESENTATION OF ADC AWARD TO BOARD

Fort Chaffee Redevelopment Authority was awarded the 2011 Association of Defense Communities' Base Redevelopment Project of the Year award. Ivy Owen presented the award to the Board of Trustees. Prior to this

meeting, an official press conference was held to announce FCRA being honored with the award. It will be used as a marketing tool internationally and is an important honor to the Fort Smith region.

RECLASSIFICATION OF LAND USE TO SUPPORT A RESIDENTIAL DEVELOPMENT BY SHIRE, INC.

Shire, Inc. is requesting a portion of their land be reclassified from Single Family Residential to Mixed Use: Residential/Commercial/Office in order to build duplexes on the northeastern and southern edges of its future single family residential development. In addition, Ivy Owen requested for the Single Family Residential property north of the Shire property also be changed to Mixed Use: Residential/Commercial/Office to serve as a transitional zone between the commercial and residential projects. This reclassification is also required by the City of Fort Smith's Unified Development Ordinance. **Bob Evans moved to approve the reclassification of land use for the northeastern and southern edges of the Shire property and the residential property north of the Shire property from Single Family Residential to Mixed Use: Residential/Commercial/Office. Paul McCollom seconded the motion. Motion passed.**

RECLASSIFICATION OF LAND USE TO SUPPORT ERC, INC'S OFFICE AND CONSERVATION DEVELOPMENTS

ERC, Inc. is requesting that the 2.3 acres it is purchasing on Massard Road to build its new headquarters be reclassified to Mixed Use: Neighborhood Commercial/Office as required by Fort Smith's Unified Development Ordinance. Also, there are 12.6 acres southeast of the 7 acres ERC is purchasing for residential development that would be difficult to develop due to topography and drainage issues. ERC had requested that this property be placed in a permanent conservation easement to keep it green and provide a buffer for ERC's 7 acres. After researching the best way to accomplish this, Ivy Owen recommended that FCRA retain ownership of this land, change the land use classification from Single Family Residential to Parks/Open Space, and agree to place a deed restriction on the property whenever it is transferred to another party requiring the property to permanently remain green. **Kelly Clark moved to approve the reclassification of land use for the 2.3 acres on Massard being purchased by ERC from Single Family Residential to Mixed-Use: Neighborhood Commercia/Office and to change the land use of the 12.6 acres southeast of ERC's future 7-acre residential development from Single Family Residential to Parks/Open Space, with the stipulation that a deed restriction be placed on any transfers of this property to keep this parcel green. Galen Hunter seconded the motion. Motion passed.**

DEDICATION OF MULTIPLE ROADWAYS TO THE CITY OF FORT SMITH

Board members were provided with a copy of a roadway dedication easement with maps proposing that approximately 5 miles of Chaffee Crossing roadways be dedicated to the City of Fort Smith. This dedication will be accomplished by an "easement" allowing FCRA to retain a fee simple title to the ground beneath the roadways. The City of Fort Smith will maintain the roadways as city streets in the future. **Bob Evans moved to approve granting the Roadway Dedication Easement to the City of Fort Smith. Kelly Clark seconded the motion. Motion passed.**

ACCEPTANCE OF CONSTRUCTION BID FOR PHASE II UTILITY EXTENSIONS PROJECT

Mickle, Wagner, Coleman received and opened construction bids on behalf of FCRA for Phase II of the planned utilities extension project near Massard Road and Chad Colley Boulevard. The lowest bidder was Harris Company at $356,025. **Bob Evans moved to accept the construction bid from Harris Company for the Phase II Utilities Extension Project. Kelly Clark seconded the motion. Motion passed.**

ACCEPTANCE OF CONSTRUCTION BID FOR EPA IV WATER LINE PROJECT AT TAYLOR AVENUE AND CUSTER BOULEVARD

Mickle, Wagner, Coleman received and opened construction bids on behalf of FCRA for the EPA IV water line project at Taylor Avenue and Custer Boulevard. The lowest bidder was Crawford Construction Company at $594,260. The EPA will provide 55% of the grant award amount of $529,091 and FCRA will provide the 45% match and the amount in excess of the grant award. **Janie Glover moved to accept the construction bid from**

Crawford Construction Company for the EPA IV Water Line Project at Taylor Avenue and Custer Boulevard. Paul McCollom seconded the motion. Motion passed.

MASTER PLAN ELEMENTS FOR CHAFFEE CROSSING HISTORIC AREA

The development guidelines for the Chaffee Crossing Historic Area were presented to board members for review. The guidelines are very detailed and show the continued efforts to preserve the history of Fort Chaffee. The Historic District Guidelines will trump the FCRA Chaffee Crossing Master Plan Guidelines when they apply to the Historic District, but will default to the Chaffee Crossing guidelines otherwise. **Janie Glover moved to approve the Master Plan Elements for the Chaffee Crossing Historic Area. Galen Hunter seconded the motion. Motion passed.**

REQUEST FOR EXTENSION FROM TJSJT

TJSJT Properties purchased land in Barling approximately three years ago on the northeast corner of Highways 59 & 22. Due to utility easement issues and issues with alcohol permitting in the City of Barling, they have been unable to begin construction. A request from TJSJT was received by FCRA asking for a one-year extension to complete construction of the required improvements for this property. Ray Caruthers announced that an alcohol petition was gathered by the citizens of Barling to be placed on the ballot for November. **Bob Evans moved to approve a one-year extension for TJSJT Properties, LLC to complete construction of the required improvements on the 15 acres it purchased in the City of Barling. Paul McCollom seconded the motion. Motion passed.**

MISCELLANEOUS

Ivy Owen asked the Trustees' preference of electronic or paper board packets.

Ray Caruthers reported that the City of Barling has hired an engineering firm to design the extension of H Street to the Barling City Park. The road will be built to a very high standard. Ivy Owen asked Mr. Caruthers for an estimate for the cost of construction of the road and FCRA will consider sharing the costs.

ANNOUNCEMENTS

The next regular board meeting is scheduled for September 20, 2012.

ADJOURN

There being no further business, the meeting was adjourned at 4:20 p.m.

ATTEST: THIS 20TH DAY OF SEPTEMBER 2012.

_____
Chairman or Presiding Board Member

_____
Secretary or Executive Director

_____
SEAL

Richard Walter
3929 Hoela Place
Honolulu, hi 96815

Rucker Fine Homes, Inc.
4190 Hwy 71
Alma, AR 72921

GRW Properties, Inc.
P. O. Box 180548
Fort Smith, AR 72918

ERC Land Development Group LLC
813 Fort Street
Barling, AR 72923

Carrington Creek Holding, LLC
P. O. Box 11288
Fort Smith, AR 72917

City of Fort Smith
Administration

Fort Chaffee Redevelopment Trust
P. O. Box 11165
Fort Smith, AR 72917

Alan Love
Fort Smith Public Schools
P. O. Box 1948
Fort Smith, AR 72902

Cisterna Villa
Property Owners Association
8005 Cisterna Way
Fort Smith, AR 72916

9.

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. 20-8-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on August 14, 2012, 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:

A part of the Southwest Quarter of the Northeast Quarter of Section 25, Township 8 North, Range 32 West, as follows: Beginning at a point on the West line of said NE/4 which is 660 feet North of the Southwest corner thereof, thence East 660 feet, thence South 81 feet, thence West 660 feet, thence North 81 feet, to the point of beginning. Including all appurtenances, structures and buildings thereon. Less and except public roads.

AND

A part of the Southwest Quarter of the Northeast Quarter of Section 25, Township 8 North, Range 32 West, as follows: Beginning at a point on the West line of said NE ¼, which is 660 feet North of the Southwest corner thereof, thence North along said West line 99 feet; thence East 660 feet; thence South 99 feet; thence West 660 feet to the point of beginning, including all appurtenances, structures and buildings located thereon.

more commonly known as 3407 South 66th Street, should be, and is hereby rezoned from Transitional (T) to Residential Multifamily Medium Density (RM-3) by Extension.

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

PASSED AND APPROVED THIS_____DAY OF _____, 2012.

ATTEST: **APPROVED:**

_____ _____

City Clerk **Mayor**

Approved as to form:

_____

Publish 1 Time

August 27, 2012

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

Re: Rezoning #20-8-12; A request by Brett Abbott, agent, for a zone change from Transitional (T) to Residential Multifamily Medium Density (RM-3) by Extension located at 3407 South 66th Street.

On August 14, 2012, the City Planning Commission held a public hearing to consider the above rezoning request.

Ms. Maggie Rice read the staff report indicating that the purpose of the rezoning request is for a corrective rezoning to reflect how the area has developed. Ms. Rice stated that the existing use on this site is a multifamily dwelling and currently, the existing apartments are a nonconforming land use. Ms. Rice stated that this rezoning request will allow the apartments to become a conforming use. Ms. Rice noted that a neighborhood meeting was held on Wednesday, July 25, 2012, at 2:00 p.m. at 3407 South 66th Street with no neighboring property owners in attendance.

Mr. Brett Abbott was present to speak on behalf of this request.

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

Chairman Griffin then called for the vote on the rezoning request. The vote was 8 in favor, 0 opposed and 1 abstention (Howard).

The Planning Commission hereby certifies this zoning map amendment to the Board of Directors in accordance with A.C.A. 14-56-422.

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/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

Memo

To: City Planning Commission

From: Planning Staff

Date: July 26, 2012

Re: Rezoning #20-8-12 - A request by Brett Abbott, agent, for Planning Commission consideration of a zone change from Transitional (T) to Residential Multifamily Medium Density (RM-3), by extension, at 3407 South 66th Street

LOT LOCATION AND SIZE

The subject property is on the east side of South 66th Street between Eagle Lane and Sunchase Lane. The tract contains an area of 2.72 acres 180 feet of street frontage along the South 66th Street.

EXISTING ZONING

Characteristics of the Transitional (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 Detached, 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, banking establishments and offices.

Conditional Uses: Assisted living, nursing homes, 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, daycare homes, hospital, substance abuse treatment facility, senior citizen center and churches.

Area Regulations:

Minimum Lot Area – 5,000 square feet
Front Yard Setback – 20 feet
Side Yard Setback – 5 feet
Side Yard on Street Side of Corner Lot – 20 feet
Rear Yard Setback – 10 feet
Density – 3 dwelling units/acre single family homes, 6 dwelling units/acre two-family homes
Separation of Buildings – 10 feet-Residential/per current building fire codes-Non-Residential
Maximum Height – 35 feet

REQUESTED ZONING

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

Purpose:

To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 Zoning District is appropriate in urban areas within the Residential Attached, Mixed Use Residential, or Mixed Use Employment land use categories of the Master Land Use Plan.

Uses:

All general uses, conditional uses and home occupations allowed in RM-3 zones as well as multi-family apartments.

Area Regulations:
Lot Area - 6,500 square feet
Front Yard Setback - 25 feet
Side Yard Setback - 7.5 feet
Side Yard on Street Side of Corner Lot - 15 feet
Rear Yard Setback - 10 feet
Separation of Buildings - 10 feet
Maximum Height - 25 feet (1 + 1)

Density Regulations:
Single Family-4 units/acre
Duplex - 8 units/acre
Multi-Family - 24 units/acre

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Transitional (T) and is vacant.

The area to the south is Transitional (T) and is developed as an apartment complex.

The area to the east is Commercial Heavy (C-5) and Residential Single Family-Duplex High Density (RSD-4) and is developed as the Eagles Club and single family residences.

The area to the west is Residential Multifamily Medium Density (RM-3) and is developed as apartments and single family residences.

LAND USE PLAN COMPLIANCE

The *Master Land Use Plan* currently classifies the site as Residential Attached and Commercial Neighborhood.

The Residential Attached classification provides for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values.

The Commercial Neighborhood classification provides locations for convenience goods and services in a residentially compatible design, for surrounding neighborhoods. Appropriates uses include uses, such as coffee shops, movie rentals, specialty retail, personal and professional services.

18B

PROPOSED ZONING

The proposed Residential Multifamily Medium Density (RM-3) zone is a corrective rezoning to reflect how the area has developed. The Residential Multifamily Medium Density (RM-3) is in compliance with the Master Land Use Plan.

STAFF COMMENTS AND RECOMMENDATIONS

The existing use on this site is a multifamily dwelling. Currently, the existing apartments are a nonconforming land use. The requested Residential Multifamily Medium Density (RM-3) zone is a corrective rezoning, which will allow the apartments to become a conforming use.

A neighborhood meeting was held Wednesday July 25, 2012 at 2:00 p.m. at 3407 South 66th Street. No neighboring property owners were in attendance.

Staff recommends approval of the rezoning.

18C

Rez.#20-8-12

PETITION FOR CHANGE IN ZONING MAP

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

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

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

   SEE ATTACHED

2. Address of property: 3407 S. 66th St. - Fort Smith, AR 72903

3. The above described property is now zoned: T-1 (TRANSITIONAL)

4. Application is hereby made to change the zoning classification of the above described property to RM-3 - RESIDENTIAL MULTI-FAMILY by _____ (Extension or classification).

5. Why is the zoning change requested?

   CORRECTIVE REZONING

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

Signed:

BRETT ABBOTT, AIA
Owner or Agent Name
(please print)

_____
Owner

6101 S. Phoenix - Fs. AR 72903
Owner or Agent Mailing Address

or

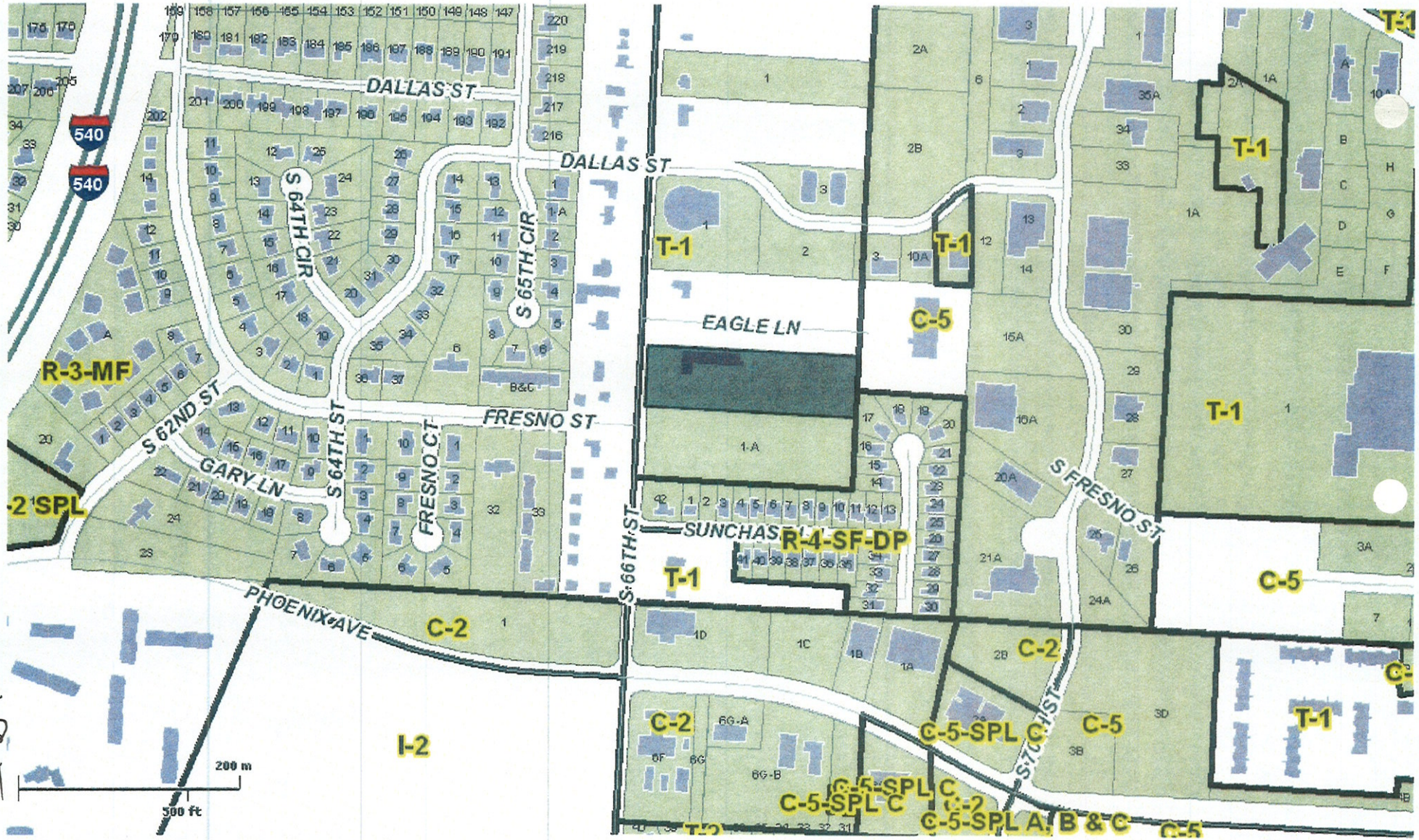
_____
Agent

479. 452-2636
Owner or Agent Phone Number

18D

Rezoning #20-8-12: From Transitional (T) to Residential Multifamily Medium Density (RM-3)

3407 South 66th Street



18E

2009 City of Fort Smith, AR. Printed on Mon Jul 23 2012 11:15:28 AM.

Leann Black
6713 Sunchase Lane
Fort Smith, AR 72903

Robert & Marian Gilmore
3418 S. 66th Street
Fort Smith, AR 72903

Naomi Ruth Cahoon
6625 Sunchase Lane
Fort Smith, AR 72903

Catherine Rockwell
3121 S. 65th Circle
Fort Smith, AR 72903

Arlon & Roselyn Hall
3203 S. 65th Circle
Fort Smith, AR 72903

Robert Viguet
3000 Old Greenwood Road
Fort Smith, AR 72903

Cliff Terrace Assembly of God
3301 S. 66th Street
Fort Smith, AR 72903

Federal National Mortgage
P. O. Box 650043
Dallas, TX 75265-0043

Roger Clement
700 South 20th Street
Fort Smith, AR 72901

Hai & Hong Tran
6305 Remington Court
Fort Smith, AR 72916

Charles & Reba Tidwell
10309 Meandering Way
Fort Smith, AR 72903

RST Rental Properties, Inc.
1801 Fianna Way
Fort Smith, AR 72908

David Barroso
P. O. Box 4231
Fort Smith, AR 72914

Big Bear Investments, LLC
P. O. Box 11655
Fort Smith, AR 72917

Lydia Michael
3221 South 68th Circle
Fort Smith, AR 72903

Art A Gussa By-Pass Trust
841 Running Creek, Apt. 209
Hamilton, MT 59840

Jerrie Schaberg
3220 S. 68th Circle
Fort Smith, AR 72903

Roberto Gutierrez
3305 S. 68th Circle
Fort Smith, AR 72903

Louis Sander
6633 Sunchase Lane
Fort Smith, AR 72903

Travis & Roxanne Chaffey
8800 Royal Ridge Drive
Fort Smith, AR 72903

Matthew Yancey
3304 S. 66th Street
Fort Smith, AR 72903

Linda Sue Arter
3224 S. 64th Circle
Fort Smith, AR 72903

Jimmie Sterling
3205 S. 65th Circle
Fort Smith, AR 72904

C & J Investments of Fort Smith
1704 Broken Hill Drive
Van Buren, AR 72956

Griffin Family Trust
3320 S. 66th Street
Fort Smith, AR 72903

Jeremy Lamberson
6629 Sunchase Lane
Fort Smith, AR 72903

Jessica Shelton
6705 Sunchase Lane
Fort Smith, AR 72903

Rainwater Real Estate LLC
2923 S. 59th Street
Fort Smith, AR 72903

Patricia Frala
3201 S. 65th Circle
Fort Smith, AR 72903

Melinda Griffin
1520 Woodland Drive
Rogers, AR 72756

Terrell Family Revocable Trust
6701 Sunchase Lane
Fort Smith, AR 72903

Thang Duc Dang
3308 S. 68th Circle
Fort Smith, AR 72903

John & Merelyn Aubrey
6710 S. Dallas
Fort Smith, AR 72903

Steven Tran
6721 Sunchase Lane
Fort Smith, AR 72903

Barbara Redding
3306 S. 66th Street
Fort Smith, AR 72903

Robert & Randall Viguet
3000 Old Greenwood Road
Fort Smith, AR 72903

Nancy Preston
6709 Sunchase Lane
Fort Smith, AR 72903

James Fields
6621 Sunchase Lane
Fort Smith, AR 72903

James Clauson
3304 S. 68th Circle
Fort Smith, AR 72903

Phat Manh & Phuong Kim Vu
3300 S. 68th Circle
Fort Smith, AR 72903

Dale Lynn Pierce
3225 S. 68th Circle
Fort Smith, AR 72903

Danny Williams
7971 Juniper Drive
Park City, UT 84098

Trustees of Fraternal Order
3321 S. 66th Street
Fort Smith, AR 72903

Cliff Terrace Assembly of God
3301 S. 66th Street
Fort Smith, AR 72903

3407 South 66th Street

2009 City of Fort Smith, AR. Printed on Wed Aug 29 2012 01:40:11 PM.

ORDINANCE NO. _____ 10

AN ORDINANCE ESTABLISHING A LIMITED POLICY OF THE CITY OF FORT SMITH, ARKANSAS, FOR THE HEARING AND SETTLING OF SPECIFICALLY IDENTIFIED TORT CLAIMS

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

Section 1: The attached Limited Policy of the City of Fort Smith, Arkansas, for the Hearing and Settling of Specifically Identified Tort Claims ("Policy") is hereby adopted. The Policy supercedes the City's previous policy adopted by Ordinance No. 69-02.

Section 2: Chapter 2, Article V, Section 2-221 of the Fort Smith Municipal Code is hereby amended to provide as follows:

> The "Limited Policy Of The City Of Fort Smith, Arkansas, For The Hearing And Settling Of Specifically Identified Tort Claims" incorporated herein and made a part hereof, is hereby adopted. The Policy is not set out herein, but is on file and available for inspection in the office of the city clerk. The city administrator is hereby authorized to approve for payment claims resolved under the policy from funds appropriated for that purpose. The maximum reimbursement shall not exceed five hundred dollars ($500.00) per structure per occurrence for sanitary sewer backup claims. The maximum reimbursement shall not exceed three thousand dollars ($3,000.00) per property per occurrence for water main line break claims. The maximum reimbursement shall not exceed five hundred dollars ($500.00) per claim for vehicle damage caused by displace manhole lid. The maximum reimbursement shall not exceed ten thousand dollars ($10,000.00) per single property for building foundation settlement claims.

Section 3: Emergency Clause. It is determined that the adoption of an amended policy for the hearing and settling of specifically identified tort claims is essential to the appropriate administration of the relationship of the city with potential claimants and that the amendments adopted by this Ordinance are in the public interest. Therefore an emergency is declared to exist, and this Ordinance, being necessary to preserve the health, safety and welfare of the inhabitants

of the city, shall be in effect from and after its date of approval.

This Ordinance Passed and Approved this _____ day of September 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____Publish 1 Time

LIMITED POLICY OF THE CITY OF FORT SMITH, ARKANSAS FOR THE HEARING AND SETTLING OF SPECIFICALLY IDENTIFIED TORT CLAIMS

This policy is established to govern the hearing and settling of tort claims arising because of the actions of the employees of the City of Fort Smith. The City acknowledges its immunity from liability, except to the extent that the City may be covered by liability insurance, for damages and further acknowledges that no tort action is permitted to lie against the City because of the acts of its agents and employees. A. C. A. Section 21-9-301 (Repl. 1995). The City determines, by this policy, to hear and settle only those specifically identified tort claims described in the policy and no others, and the City agrees to hear and settle the specifically identified claims only pursuant to the expressed procedures and limitations of liability set forth in this policy. The City reserves the right to amend or repeal in its entirety the policy at any time irrespective of any prior occurrence which could result in a claim(s) or the pendency of a claim(s).

I. TORT CLAIMS AS TO WHICH POLICY APPLIES.

Unless limited by the third sentence of this paragraph I, and according to the limitations and procedures set forth in this policy the City shall receive for hearing and settling tort claims involving allegations of property damage from a sanitary sewer back-up a water main line break, vehicle damage caused by displaced manhole lid or building foundation settlement caused by excavation associated with a City owned underground utility line or facility arising from the negligent actions of employees of the City. No other tort claims shall be received for processing pursuant to this policy.

Specifically, this policy shall not authorize the processing of claims of personal injury or claims arising from intentional acts of City agents and employees, claims of strict liability, claims

not directly related to the performance of the job duties of the involved City employees (even though they may have been "at work" at the time of the occurrence), or claims covered by any liability insurance policy obtained by the City, obtained by others for the benefit of the City, or obtained by others for their own benefit.

"Sanitary sewer back-up" shall refer solely to property damage claims arising from the negligent actions of City employees proximately causing sanitary sewer flows to discharge from the City's sanitary sewer lines directly (not by over land surface flow) into a structure then utilized for residential, commercial or industrial purpose.

"Water main line break" shall refer solely to property damage claims arising from the negligent actions of city employees proximately resulting in water flow from breaks in City water distribution lines (but not service lines from distribution lines to individual water meters) to enter into residences or structures, or which otherwise causes damage to property.

"Vehicle damage caused by displaced manhole lid" shall refer solely to damage to a vehicle arising from the vehicle striking a sanitary sewer manhole in a public roadway where the manhole lid has been displaced.

"Building foundation settlement" shall refer solely to property damage arising from the negligent actions of City employees during excavation associated with a City owned underground utility line or facility.

II. PROCEDURE FOR PROCESSING CLAIMS.

The following procedures shall govern the processing of claims submitted pursuant to this policy.

(a) The term "City Administrator" shall refer to the City Administrator or his designated agent.

(b) All claims resulting from an occurrence of back-up on a date prior to the adoption of this policy shall be processed under the policy established by Ordinance 69-02. All claims resulting from an occurrence of back-up or water main line break on the date or the after the date of adoption of this policy shall be processed under this policy. All claims resulting from an occurrence of building foundation settlement associated with excavation on a date after January 1, 2009, shall be processed under this policy.

(c) Any person making a sanitary sewer backup claim, a water main line break claim, or a vehicle damage claim may provide in writing to the City Administrator within thirty (30) days of the occurrence a notice of intention to file a claim. Notice of intention to file a building foundation settlement claim must be provided to the City Administration within three hundred sixty-five (365) days of the excavation activity proximately resulting in the building foundation settlement (any foundation settlement claim asserted with reference to excavation work occurring after January 1, 2009, and presented to the City Administrator prior to the adoption of this 2012 amended policy will be considered as meeting the required notice). Any person who complies with this notice provision may thereafter, within the time limit and according to the procedures set forth in (d) below, file a written claim.

(d) All claims shall be submitted in writing (containing the name, address and telephone number of the claimant) delivered to the City Administrator within the time periods provided in (c) or, if notice of intention to file a claims has been provided pursuant to (c), within sixty (60) days of delivery of the notice of intention to file a claim. If delivered in writing within the time period provided in (d), the claimant may request an extension of time for filing a claim which may be considered at the discretion of the City Administrator.

(e) All claims from a sanitary sewer back-up into a single structure shall be consolidated and handled as one claim subject to the $500.00 limitation provided by Section III (b). All claims from a water main line break across a single property shall be consolidated and handled as on claim subject to the $3,000.00 limitation provided by Section III (b). All claims for vehicle damage arising from a single occurrence of displaced manhole lid shall be subject to the $500.00

limitation provided by Section III (b). All claims of building foundation settlement for individual buildings (including detached structures) across a single property shall be consolidated and handled as a claim subject to the $10,000.00 limitation provided by this policy.

When used in this policy, the term "single property" refers to real property, irrespective of platting or description as more than one lot or parcel, owned by the same person, persons, entity or entities.

(f) All claims, shall be considered by the City Administrator, who shall determine all requisite facts under this policy, including the existence of negligence as described in Section I. The City Administrator shall have the authority to recommend for payment, from funds appropriated for that purpose, such claims. With reference to the existence of negligence on sanitary sewer backup claims, the City Administrator shall assume that any discharge originating in the sewer system of the City (as opposed to the claimant's service line) proximately arose from a negligent action of the City unless the City Administrator determines there is objective evidence of another caused of the back-up. With reference to the existence of negligence on water main line break claims, the City Administrator shall assume that any flow of water from a broken City water main line proximately arose from a negligent action of the City unless the City Administrator determines there is objective evidence of another cause of the water main break. With reference to the existence of negligence on vehicle damage from a displaced manhole lid, the City Administrator shall assume that any such damage proximately arose from a negligent action of the City unless the City Administrator determines there is objective evidence of another cause of the displaced manhole lid. With reference to the existence of negligence on building foundation settlement, the City Administrator shall assume that any such damage proximately arose from a negligent action of the City unless the City Administrator determines there is objective evidence of another cause of the building foundation settlement.

(g) Claims denied, in whole or part, by the City Administrator may be appealed to the Board of Directors of the City. A claimant shall have a period of ten (10) days, from the date of notification by the City Administrator, to appeal the decision to

the governing body of the City. Said notification shall be issued by first class mail to the address indicated by the written claim of the claimant. The ten day period will run from the date of issuance of notification for any claimant whose address is located within the City of Fort Smith. In the event that the claimant's address is located outside the City of Fort Smith, a period of four (4) days shall be added to the period in which an appeal to the governing body may be submitted.

(h) A claimant's appeal shall be filed in writing and filed with the City Administrator, and the appeal shall be scheduled before the Board of Directors of the City and the claimant notified of the date of the hearing.

(i) In addition to the other limitations set forth in this policy, compensation paid for damage to real or personal property shall be limited to the cost of repair of the damage or, in the event that the cost of repair exceeds the fair market value of the subject property, less salvage value, compensation shall be limited to the fair market value of the damage property minus any salvage value. No compensation shall be granted for inconvenience, loss of use, loss of profits, dislocation expenses or personal injury including, without limitation, emotional distress.

(j) Unless the requirement is waived or modified by the City Administrator, the claimant shall submit three qualified estimates of the cost of repair of the property in question or three opinions of qualified persons of the fair market value, minus salvage costs, of damaged property.

(k) For vehicle damage claims arising from a displaced manhole lid, the claimant must also submit a police report documenting the incident.

(l) The provision of this policy regarding types of claims subject to the policy, limitation periods, limitations on coverage and the other provisions of the policy shall be applicable to all claims including those appealed to the Board of Directors.

III. ADDITIONAL LIMITATIONS ON CLAIMS.

In addition to limitations set forth at other places in this policy, all claims shall be subject

to the following limitations.

(a) No compensation shall be paid on the basis of any claim accruing to the benefit, directly or indirectly, of an insurance carrier. In particular, no compensation shall be based on any claim for property damage if the item of expense is covered by any insurance provision. Any claim may be rejected by the City Administrator or the Board of Directors from further handling in the event that the claimant fails to comply with any reasonable requirement of the City Administrator or the Board of Directors regarding determinations of insurance coverage.

(b) Under no circumstances shall the City pay in excess of $500.00 on any sewer backup claim or any vehicle damage claim. Under no circumstances shall the City pay in excess of $3,000.00 on any water main line break claim. Under no circumstances shall the City pay in excess of $10,000.00 on any building foundation settlement claim.

(c) During any budget year, no claim shall be processed if the total budget appropriation for handling the claims has been expended.

(d) Acceptance of the sum paid by the City on a claim will constitute a release and discharge of the City from any and all other liability for existing or future claims arising from the occurrence which gave rise to the claim of back-up. Additionally, the acceptance shall acknowledge the limitation set forth in the next sub-paragraph regarding future occurrences.

(e) After the City has paid a sewer back-up claim at a location in the City (either under this policy, the policy or previous policies), the City shall not thereafter consider or pay a claim under this policy arising from a sewer back-up at the same location presented by the previously paid claimant or said claimant's spouse or immediate family member (parent or child or related person residing in same household).

(f) This policy shall not apply where there is a written agreement absolving or releasing the City of liability from damage caused by a water main line break.

(g) As to building foundation settlement claims, this policy shall not permit the processing or paying of a claim of damage to a building which encroaches into a dedicated easement, prescriptive easement area, right-of-way or setback area established by City ordinances which benefit City installation, replacement or maintenance of an underground utility line or facility or where there is a written agreement absolving or releasing the City from liability for damage which may occur due to the presence of an existing or future City underground utility line or facility.

Dated this ___ day of September, 2012.

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** August 31, 2012

FROM: Steve Parker, Director of Utilities

SUBJECT: 12 Northwood Drive

Mr. Harve Walker, who resides at 12 Northwood Drive, contacted the city indicating that the foundation of his house was settling as a result of excavation work performed by city maintenance crews to replace a sewer main in early 2009. A review of our work order records shows that city crews performed this work in February 2009. The sewer main runs along the side lot line between Mr. Walker's and his neighbor's house which are separated by a distance of about ten feet. The sewer main between the houses is about eight feet deep.

An engineer from our office inspected Mr. Walker's house foundation settlement and it is his opinion that the construction work performed by the city cannot be ruled out as a possible contributing factor. The lateral movement of the foundation block is indicative of trench settlement as opposed to ground movements that occur due to seasonal changes in soil moisture. The city currently maintains a policy which sets out the manner by which staff manages tort claims related to sewer backups, water main breaks and vehicle damage caused by a displaced manhole lid. However, in the absence of the city having a policy to address this type of claim, the city must hold to its immunity from liability for damages.

In order to consider this claim for foundation settlement, the Board would need to amend its current damage claims policy to include this type of event. Staff discussed this situation with Mr. Walker and suggested that he obtain cost estimates for the needed repair work. This would allow the extent of the claim to be defined so that it could be presented to the Board for consideration. Mr. Walker was able to obtain three cost estimates in the amount of $4,900, $7,700 and $8,000. These amounts do not include costs for any interior sheet rock repair and painting that may be needed due to the foundation settlement and which would also be included as part of a claim.

The damage claims policy for the inclusion of claims for foundation settlement is attached as part of the ordinance. It has been structured to narrowly define the circumstance under which a claim for foundation settlement would be considered. In the case of Mr. Walker's claim, the 1960's subdivision planning was accepted by the city with the location of the sewer mains, lot lines and easements identified. The proximity of Mr. Walker's house to the sewer main is in accordance with the original subdivision layout. However, there are many instances where buildings have been constructed such that they encroach into established easement areas or placed over sewers thereby creating conditions which excavation for sewer repair or replacement would undoubtedly threaten the structure. This draft would not accept a claim for foundation settlement in that type of situation. There are instances where the city has allowed encroachments to easements and construction over sewer mains by permission. These situations have been addressed through agreements or covenants which clearly state that the owner

recognizes that the city is not responsible for, and is held harmless from, any damages related to the proximity of the building to the sewer main. This draft would not accept a claim under that type of situation.

Based upon the estimates that Mr. Walker obtained for the cost of foundation repair for his home, the draft claims policy proposes a maximum payment for foundation settlement claims at $10,000.00. Staff feels that the situation presented by Mr. Walker's claim is one where a revision to the city's policy for hearing and settling tort claims should be considered. An Ordinance adopting a revised damage claims policy is attached for the Board's consideration.

Should you or members of the Board have any questions of desire additional information, please let me know.

attachment

pc: Jeff Dingman

11

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING DEDICATION
OF PUBLIC ROADWAY RIGHTS OF WAY

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

SECTION 1: The attached Public Roadway Rights of Way Dedication dedicating to the City of Fort Smith certain roadway rights of way identified therein by the Fort Chaffee Redevelopment Authority is hereby accepted. The Mayor is hereby authorized to execute, his signature being attested by the City Clerk, the acceptance of said Roadway Rights of Way Dedication.

SECTION 2: Emergency Clause. In order to provide essential street maintenance and other public service activities regarding public streets, the Board of Directors determines that there is an immediate need for the effectiveness of the dedication of public roadway rights of way by the Fort Chaffee Redevelopment Authority within those areas recently annexed to the City of Fort Smith. Based on that determination and for this reason, an emergency is declared to exist and this Ordinance will be in full force and effect from this date.

This Ordinance adopted this ___ day of _____, 2012.

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney
Publish 1 time

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

FROM: Stan Snodgrass, P.E., Director of Engineering

DATE: August 28, 2012

SUBJECT: Fort Chaffee Redevelopment Authority
Dedication of Public Roadway Rights of Way

On August 7, 2001, by Ordinance No. 48-01, the City accepted the dedication of public roadways within the Fort Chaffee Redevelopment Authority area. That ordinance accepted responsibility of the paved surface roadways but did not define the right of way widths of the streets. These streets have since been surveyed and the right of way widths have been established. The right of way widths are shown on the attached Exhibit "A" which is included with the agreement. The defining of the right of way is necessary to accommodate both City and franchise utilities and to allow for future expansion and development.

The Fort Chaffee Redevelopment Authority approved the attached Public Roadway Rights of Way Dedication agreement at their August 16, 2012 meeting. The attached Ordinance will accept the right of way dedication by the City. I recommend approval of the ordinance.

Attachment

PUBLIC ROADWAY RIGHTS OF WAY DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, the Fort Chaffee Redevelopment Authority, is a body corporate and politic, existing under the laws of the State of Arkansas, having its principal place of business at 7020 TAYLOR AVE. 72916 ~~P.O. Box 11921~~, Fort Smith, AR ~~72917~~ (hereinafter, the "Grantor"); and

WHEREAS, the Grantor is acknowledged as the Public Trust for the Fort Chaffee Military Reservation under Ark. Code Ann. § 12-63-103 and recognized as the local redevelopment authority for the Fort Chaffee Military Reservation by the Office of Economic Adjustment on behalf of the Secretary of Defense, and is granted the authority to oversee and implement the civilian reuse of the excess portion of the Fort Chaffee Military Reservation (hereinafter, the "Excess Property"), in accordance with a local-approved Reuse Plan; and

WHEREAS, the United States Army and the Grantor have entered into a Memorandum of Agreement dated the 5th day of September, 2000 (hereinafter, the "MOA"), establishing the terms and conditions for an Economic Development Conveyance of the Excess Property to the Grantor; and

WHEREAS, the MOA provides for the conveyance of the Excess Property in phases as Army mission requirements cease and environmental remediation is completed; and

WHEREAS, the Army conveyed to the Grantor, approximately 3,792.66 acres of the Excess Property pursuant to a Quitclaim Deed (the "EDC-1 Deed") ated November 15, 2000 and filed for record in the Greenwood District of Sebastian County, Arkansas on November 20, 2000,

document number 7030813 on which is located certain paved roadways that were constructed by the Army; and

WHEREAS, the Army conveyed to Grantor approximately 1,165.86 acres of the Excess Property pursuant to a Quitclaim Deed (the "EDC-2 Deed") executed by the Army on June 18, 2001 and filed for record in the Greenwood District of Sebastian County, Arkansas, on June 21, 2001as document Number 7046150 on which is located certain paved roadways that were constructed by the Army, and

WHEREAS, the City of Fort Smith, Arkansas, Grantee, annexed the Lands conveyed to Grantor by the Army on June 25, 2001 subject to a Memorandum of Agreement between Grantor and Grantee dated February 27, 2001 (hereinafter, the "Fort Smith MOA"); and

WHEREAS, the Grantor executed and delivered a Dedication of Easement dated April 19, 2001 which was filed for record on April 25, 2001 in the Greenwood District of Sebastian County, Arkansas as Document No. 7041407 and said Dedication of Easement is amended and replaced by this conveyance; and

WHEREAS, the Grantor executed and delivered a Roadway Dedication dated July 19, 2001, which was filed for record on August 9, 2001, in the Fort Smith District of Sebastian County, Arkansas, as Document No. 7050077 and said Roadway Dedication is amended and supplemented by this conveyance; and

WHEREAS, in furtherance of the Reuse Plan, Grantor desires to grant a perpetual non-exclusive easement to construct, use, improve, operate and maintain certain existing roadways pursuant to the Fort Smith MOA.

NOW, THEREFORE, Grantor hereby grants and conveys to the Grantee a non-exclusive

perpetual easement, subject to the reservations, restrictions and conditions contained herein, for the construction, improvement, operation and maintenance of public roads, and for no other purposes, for as long as said easement is used for such purposes, said easement to revert to Grantor if it is not used for suchpurposes, over and across the roadways identified on the map attached hereto and incorporated herein as Exhibit A as the "Primary Roadways" located in the Fort Smith District of Sebastian County, Arkansas, known locally as follows:

1. Frontier Road
   From Wells Lake Road to Chad Colley Boulevard.

2. Fort Chaffee Boulevard
   From Fort Smith city limits south to Roberts Boulevard.

3. Ward Avenue
   From Terry Street to FCRA/Military property line.

4. Terry Street
   From Taylor Avenue to Roberts Boulevard.

5. Taylor Avenue
   From existing Interstate 49 ROW to Custer Boulevard.

6. Custer Boulevard
   From Wells Lake Road to FCRA/Military property line, excluding previous dedication with Interstate 49 ROW.

7. Chad Colley Boulevard
   From Roberts Boulevard to Massard Road.

8. Veterans Avenue
   From Frontier Road to Custer Boulevard.

9. Wells Lake Road
   From Frontier Road to Massard Road.

10. Roberts Boulevard
    From Wells Lake Road to FCRA/Military property line, excluding previous dedication with Interstate 49 ROW.

11. Mahogany Avenue
    The western side of Mahogany Avenue from Brittany Drive to Tuscany Street, and the entire Mahogany Avenue from Tuscany Street south to FCRA/Military property line.

12. Darby Avenue
    From Terry Street to Taylor Avenue.

AND, Grantor specifically reserves unto itself, its successors and assigns:

1. The fee simple title to the land under the Primary Roadways;

2. The non-exclusive right (co-equal with Grantee) to install and permit the installation, repair, operation and maintenance of public and private services (hereinafter, "Public and Private Services") such as, by way of example and not by way of limitation, water, gas, sewer, electricity, communications, t.v. cable, telephone service and the like;

3. The exclusive right to grant and withhold access to areas in which Public And Private Services are located or may be designated by the Grantor to be located in the future;

4. The non-exclusive right (co-equal with Grantee) to rebuild or replace or close, or relocate or abandon, or demolish or extend, or shorten or extend the length, or enlarge or reduce the width, or modify the load bearing capability or otherwise change any or all of the Primary Roadways so long as the useful access for ingress and egress to the Excess Property is not denied.

AND, Grantor hereby reserves unto itself all rights in the Primary Roadways that are not specifically granted herein.

AND, this conveyance and the rights granted hereby are specifically subject to and limited by the notices, conditions and restrictions in the EDC-1 Deed and the EDC-2 Deed, the terms of which are incorporated herein by this reference.

TO HAVE AND TO HOLD the same unto the said City of Fort Smith, Arkansas and unto

its successors and assigns, including the right of ingress and egress from the Primary Roadways, the right to clear and keep cleared all trees, overhanging branches, roots, brush and other obstructions from the Primary Roadways, so long as the Primary Roadways are used for the purposes stated herein, subject to the reservations, restrictions and conditions provided herein.

IN WITNESS WHEREOF, the said Fort Chaffee Redevelopment Authority, by its duly authorized Chairman, has caused these presents to be executed this 30th day of August, 2012.

FORT CHAFFEE REDEVELOPMENT AUTHORITY

BY: Dean Gibson
DEAN GIBSON, CHAIRMAN

ATTEST:

ROBERT BRADFORD, SECRETARY

APPROVED:

IVY OWEN, EXECUTIVE DIRECTOR

ACCEPTED AND APPROVED this ___ day of _____, 2012.

CITY OF FORT SMITH, ARKANSAS

BY: _____
Mayor

ATTEST:

_____
City Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss.
COUNTY OF SEBASTIAN)

On this 30th day of August, 2012, before me, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person DEAN GIBSON, ROBERT BRADFORD, and IVY OWEN, to me personally well known, who stated that they were the Chairman of the Board, Secretary and Executive Director of the FORT CHAFFEE REDEVELOPMENT AUTHORITY, an Arkansas Public Trust, and were duly authorized in their respective capacities to execute the foregoing instrument for an in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 30th day of August, 2012.

Janet S. Menshek
Notary Public

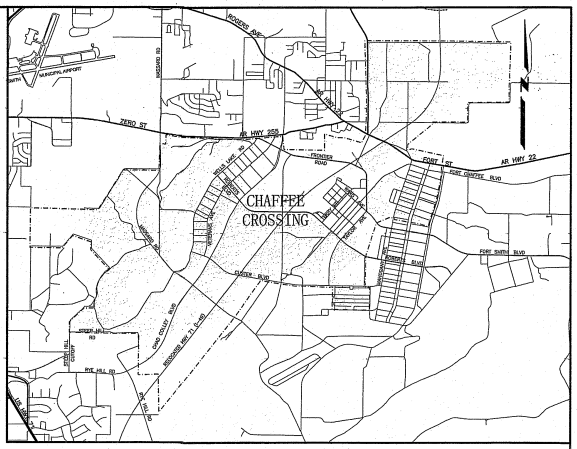
My Commission Expires:

9/7/20

JANET S. MENSHEK
NOTARY PUBLIC-ARKANSAS
SEBASTIAN COUNTY
COMMISSION NO. 12378277
COMMISSION EXP. 9-7-2020

EXHIBIT "A"

CHAFFEE CROSSING STREET DEDICATION MAPS



Vicinity Map
Not to Scale

Fort Chaffee Redevelopment Authority

Fort Smith, Arkansas
June 2012

The City of Fort Smith ARKANSAS

Prepared by:

MICKLE WAGNER COLEMAN
Engineers-Consultants-Surveyors
3434 Country Club Ave.
P.O. Box 1507
Fort Smith, Arkansas
(479) 649-8484
Fax: (479) 649-8486
info@mwc-engr.com

FORT CHAFFEE REDEVELOPMENT AUTHORITY
BOARD MEMBERS
Michael Milton, Chairman
Linda Schmidt
Bob Bradford
Dean Gibson
Bob Evans
Galen Hunter
Janie Glover
Kelly Clark
Jessica Breaux, AEDC

EX-OFFICIO MEMBERS

Judge David Hudson
Mayor Sandy Sanders
Mayor Jerry Barling/Ray Caruthers
Ivy Owen, Executive Director

CITY OF FORT SMITH
BOARD OF DIRECTORS

Sandy Sanders, Mayor
Steve Tyler
André Good
Rev. Don Hutchings
George Catsavis
Pam Weber
Kevin Settle
Philip H. Merry, Jr.

City Administrator - Ray Gosack
Director of Engineering - Stan Snodgrass

INDEX

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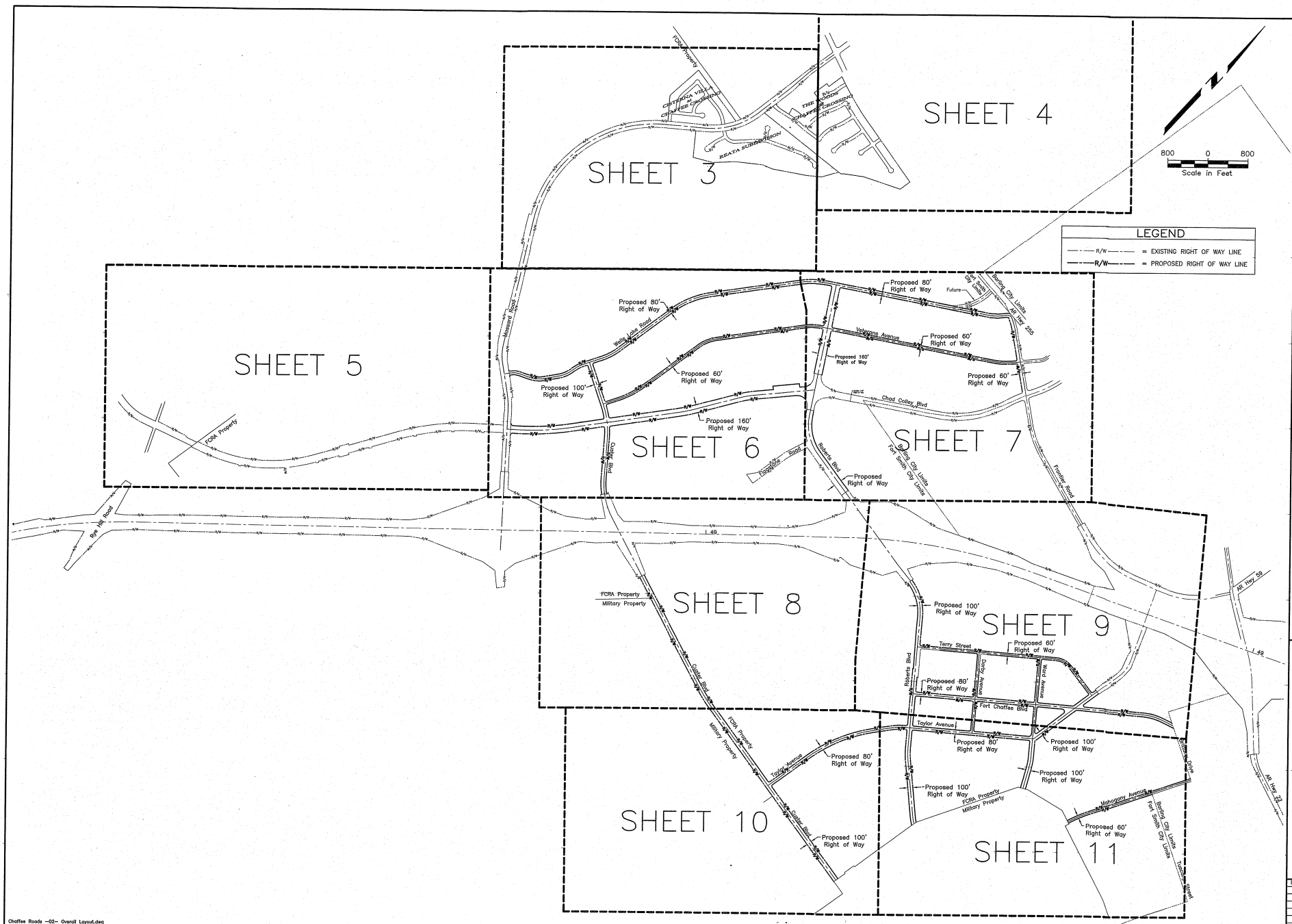
2. Overall Layout
3. Map Sheet 3
4. Map Sheet 4
5. Map Sheet 5
6. Map Sheet 6
7. Map Sheet 7
8. Map Sheet 8
9. Map Sheet 9
10. Map Sheet 10
11. Map Sheet 11

JUN 18 2012



REGISTERED PROFESSIONAL ENGINEER STATE OF ARKANSAS

DATE	REVISION	BY

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INDEX SHEET

CHAFFEE CROSSING-STREET DEDICATION
FORT CHAFFEE REDEVELOPMENT AUTHORITY
City of Fort Smith, Arkansas

DRAWN BY:	J. NOLEN
APPV. BY:	D. WHITLOCK
H. SCALE:	1" = 800'
V. SCALE:	N/A
DATE:	JUNE 2012
JOB NO:	PWO 11511

SHEET 2 OF 11

JUN 19 2012

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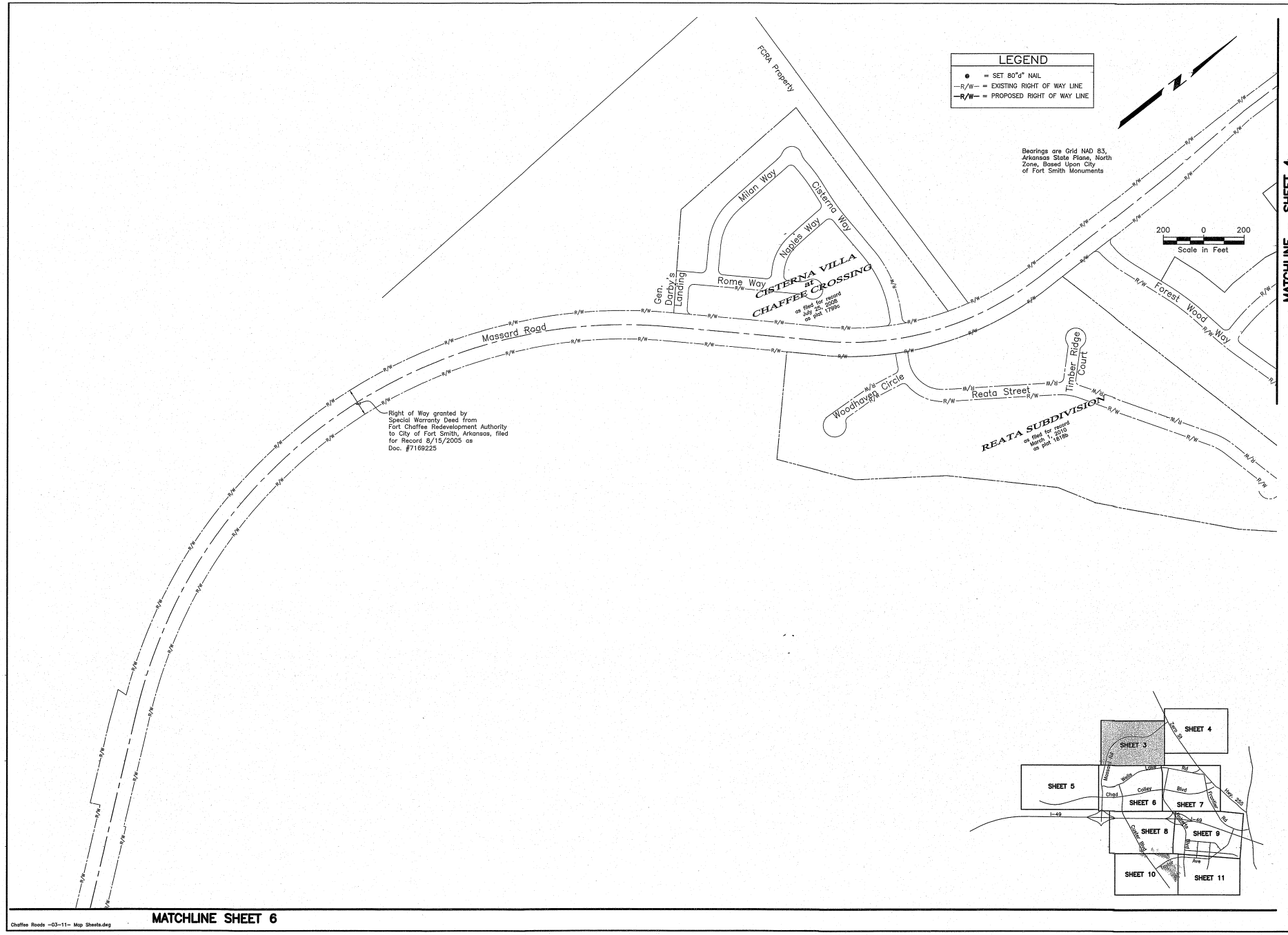

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MAP SHEET 3

CHAFFEE CROSSING-STREET DEDICATION
FORT CHAFFEE REDEVELOPMENT AUTHORITY
City of Fort Smith, Arkansas

DRAWN BY:	J. NOLEN
APPV. BY:	D. WHITLOCK
H. SCALE:	1" = 200'
V. SCALE:	N/A
DATE:	JUNE 2012
JOB NO:	PWO 11511

SHEET 3 OF 11

JUN 19 2012

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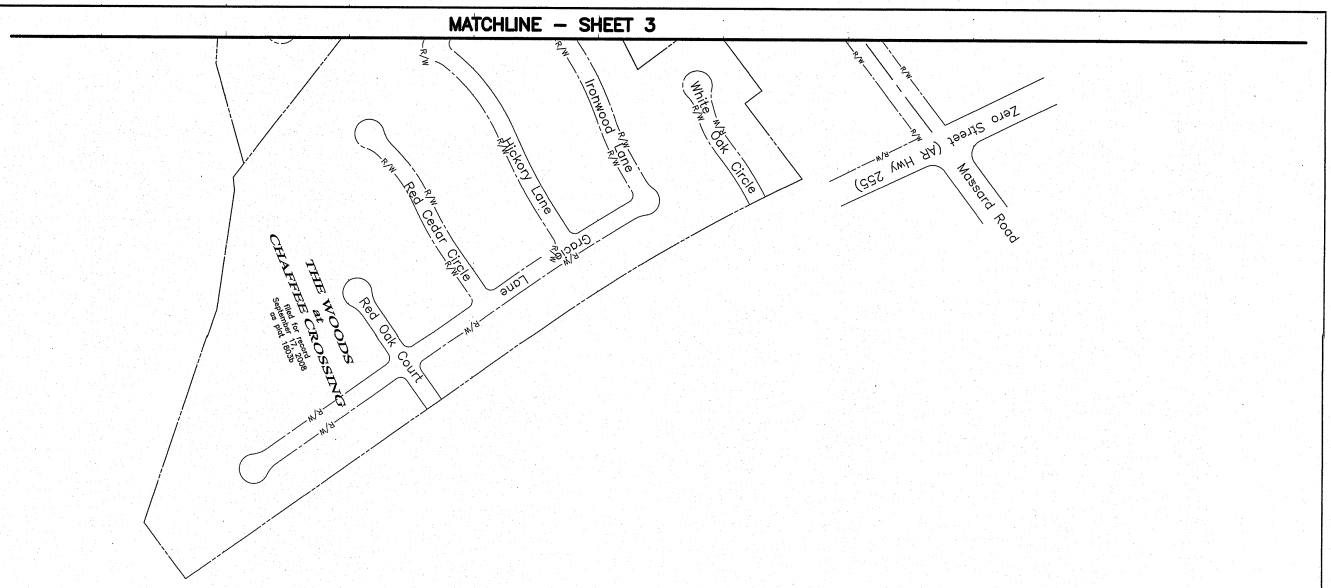
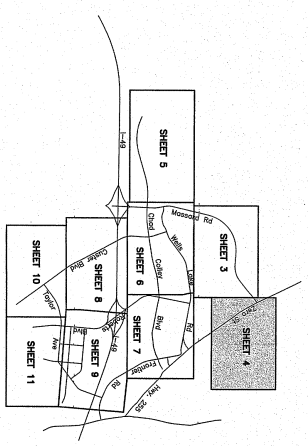
Chaffee Roads -03-11- Map Sheets.dwg





LEGEND

● = SET 80"d" NAIL
—R/W— = EXISTING RIGHT OF WAY LINE
—R/W— = PROPOSED RIGHT OF WAY LINE

Bearings are Grid NAD 83, Arkansas State Plane, North Zone, Based Upon City of Fort Smith Monuments

200 0 200
Scale in Feet

N

DRAWN BY:	J. NOLEN
APPV. BY:	D. WHITLOCK
H. SCALE:	1" = 200'
V. SCALE:	N/A
DATE:	JUNE 2012
JOB NO.	PWO 11511

SHEET 4 OF 11

Map Sheet 4

CHAFFEE CROSSING-STREET DEDICATION
FORT CHAFFEE REDEVELOPMENT AUTHORITY
City of Fort Smith, Arkansas

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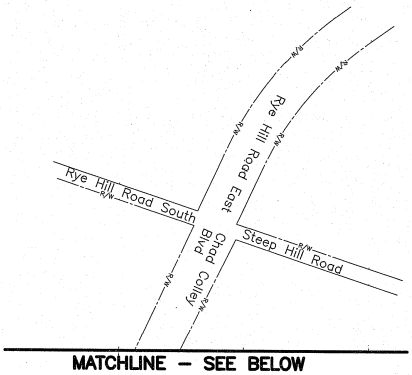
DATE	REVISION	BY

REGISTERED PROFESSIONAL ENGINEER
STATE OF ARKANSAS
PROFESSIONAL ENGINEER
SURVEYOR

JUN 19 2012

K:\Work Orders\Chaffee Roads-11911\dwg\Chaffee Roads -03-11- Map Sheets.dwg, Sheet 5, 6/19/2012 7:28:52 AM, dougw

MATCHLINE – SEE INSET

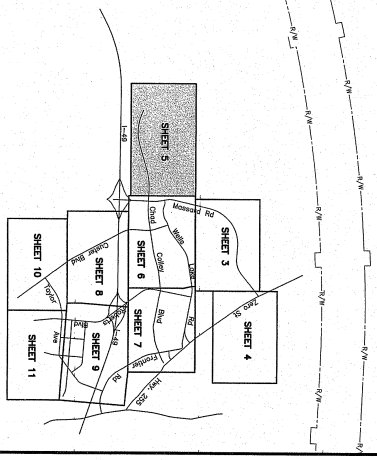


MATCHLINE – SEE BELOW

FCRA Property

Chad Colley Blvd

Right of Way created by Special Warranty Deed from Fort Chaffee Redevelopment Authority to City of Fort Smith, Arkansas, filed for Record 6/30/2007 as Doc. #7225239



MATCHLINE – SHEET 6

LEGEND

● = SET 80"d" NAIL
—R/W— = EXISTING RIGHT OF WAY LINE
—R/W— = PROPOSED RIGHT OF WAY LINE

Bearings are Grid NAD 83, Arkansas State Plane, North Zone, Based on City of Fort Smith Monuments

200 0 200
Scale in Feet

Map Sheet 5

CHAFFEE CROSSING-STREET DEDICATION
FORT CHAFFEE REDEVELOPMENT AUTHORITY
City of Fort Smith, Arkansas

DRAWN BY:	J. NADEN
CHECKED BY:	D. WAGNER
H. SCALE:	1" = 200'
V. SCALE:	N/A
DATE:	JUNE 2012
JOB NO.:	PRO 11911
SHEET	5 OF 11

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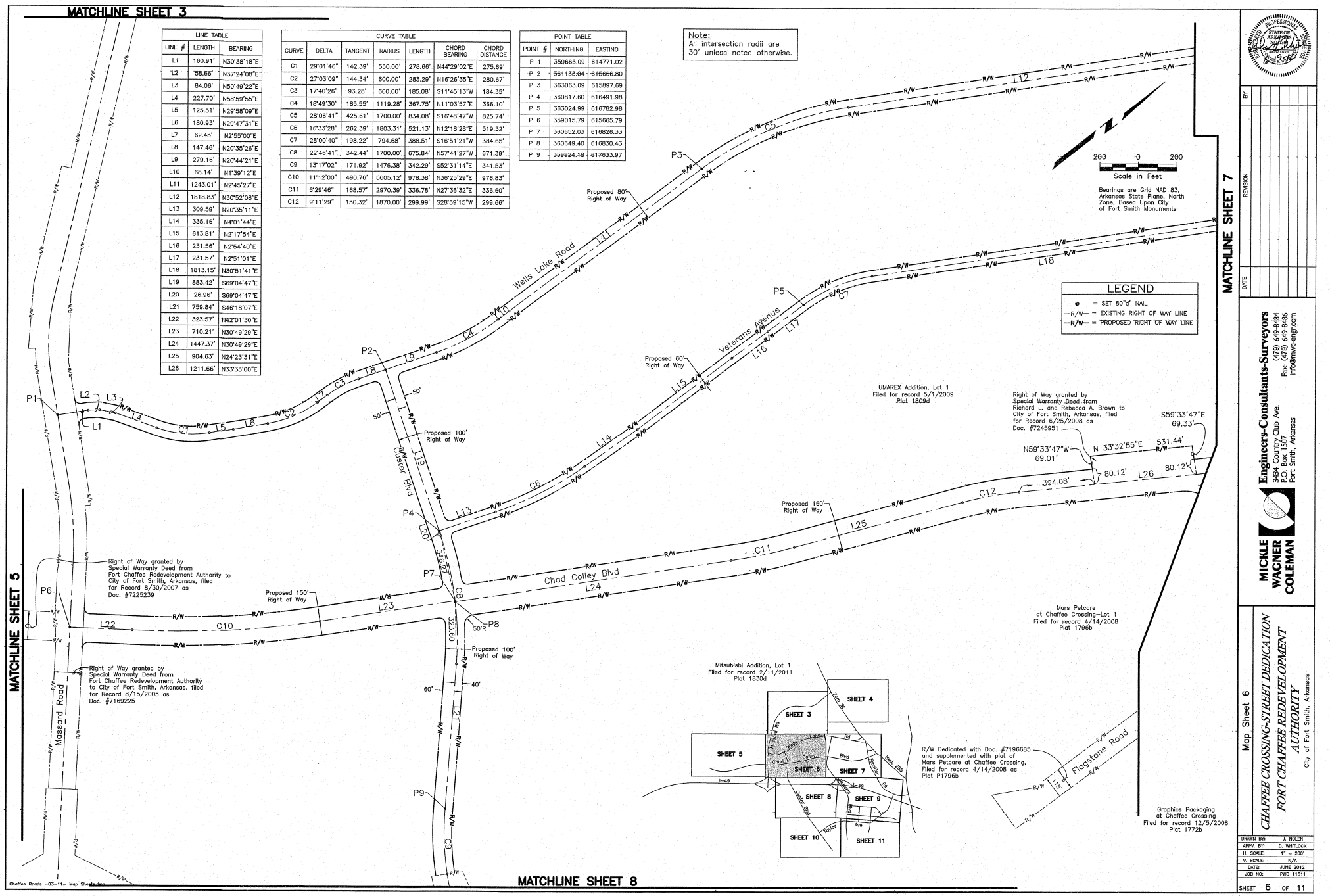
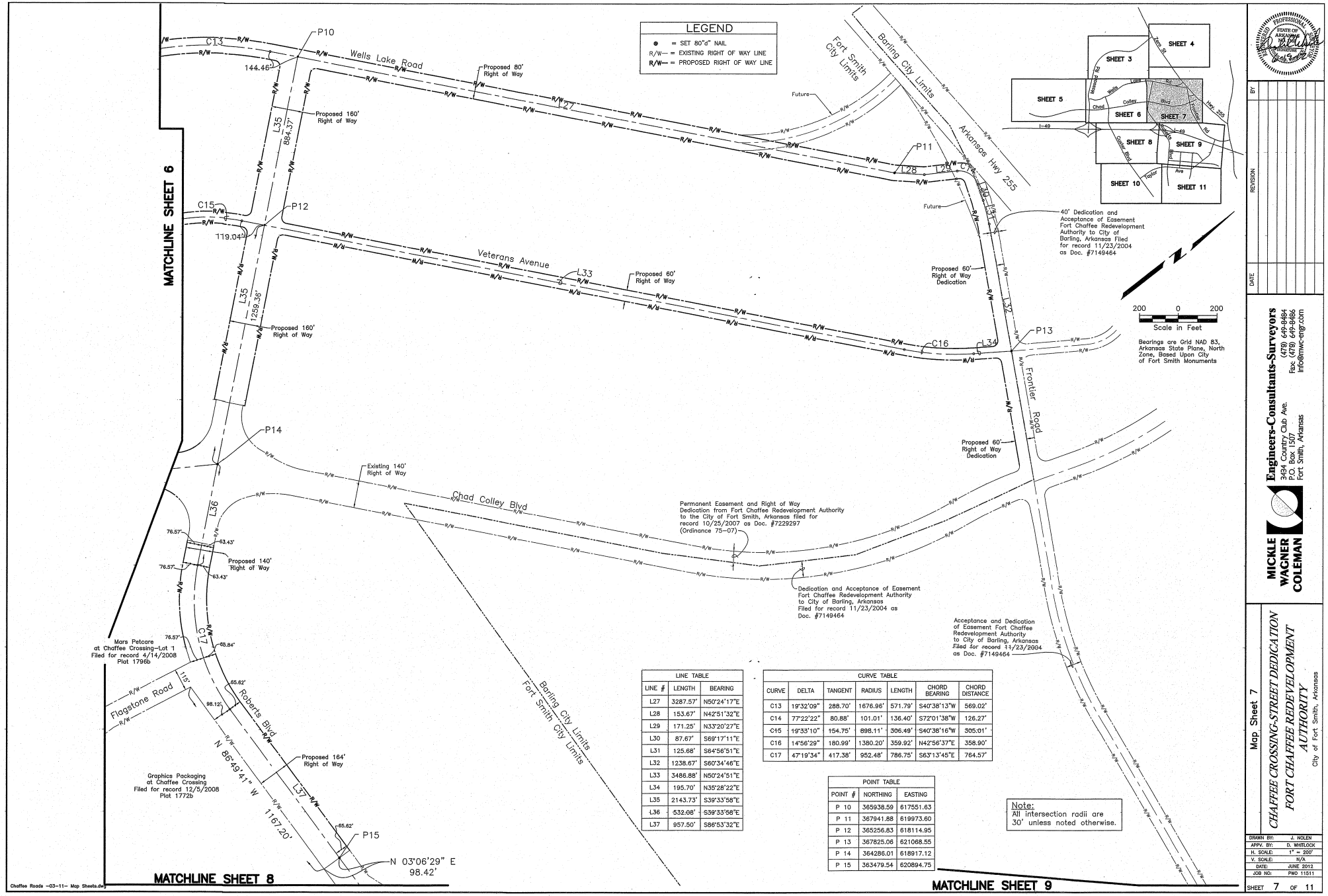
DATE	REVISION	BY

JUN 19 2012


MATCHLINE SHEET 3
MATCHLINE SHEET 5
MATCHLINE SHEET 7
MATCHLINE SHEET 8
Note:
All intersection radii are 30' unless noted otherwise.
LINE TABLE
LINE # | LENGTH | BEARING
L1 | 160.91' | N30°38'18"E
L2 | 58.66' | N37°24'08"E
L3 | 84.06' | N50°49'22"E
L4 | 227.70' | N58°59'55"E
L5 | 125.51' | N29°58'09"E
L6 | 180.93' | N29°47'31"E
L7 | 62.45' | N2°55'00"E
L8 | 147.46' | N20°35'26"E
L9 | 279.16' | N20°44'21"E
L10 | 68.14' | N1°39'12"E
L11 | 1243.01' | N2°45'27"E
L12 | 1818.83' | N30°52'08"E
L13 | 309.59' | N20°35'11"E
L14 | 335.16' | N4°01'44"E
L15 | 613.81' | N2°17'54"E
L16 | 231.56' | N2°54'40"E
L17 | 231.57' | N2°51'01"E
L18 | 1813.15' | N30°51'41"E
L19 | 883.42' | S69°04'47"E
L20 | 26.96' | S69°04'47"E
L21 | 759.84' | S46°18'07"E
L22 | 323.57' | N42°01'30"E
L23 | 710.21' | N30°49'29"E
L24 | 1447.37' | N30°49'29"E
L25 | 904.63' | N24°23'31"E
L26 | 1211.66' | N33°35'00"E
CURVE TABLE
CURVE | DELTA | TANGENT | RADIUS | LENGTH | CHORD BEARING | CHORD DISTANCE
C1 | 29°01'46" | 142.39' | 550.00' | 278.66' | N44°29'02"E | 275.69'
C2 | 27°03'09" | 144.34' | 600.00' | 283.29' | N16°26'35"E | 280.67'
C3 | 17°40'26" | 93.28' | 600.00' | 185.08' | S11°45'13"W | 184.35'
C4 | 18°49'30" | 185.55' | 1119.28' | 367.75' | N11°03'57"E | 366.10'
C5 | 28°06'41" | 425.61' | 1700.00' | 834.08' | S16°48'47"W | 825.74'
C6 | 16°33'28" | 262.39' | 1803.31' | 521.13' | N12°18'28"E | 519.32'
C7 | 28°00'40" | 198.22' | 794.68' | 388.51' | S16°51'21"W | 384.65'
C8 | 22°46'41" | 342.44' | 1700.00' | 675.84' | N57°41'27"W | 671.39'
C9 | 13°17'02" | 171.92' | 1476.38' | 342.29' | S52°31'14"E | 341.53'
C10 | 11°12'00" | 490.76' | 5005.12' | 978.38' | N36°25'29"E | 976.83'
C11 | 6°29'46" | 168.57' | 2970.39' | 336.78' | N27°36'32"E | 336.60'
C12 | 9°11'29" | 150.32' | 1870.00' | 299.99' | S28°59'15"W | 299.66'
POINT TABLE
POINT # | NORTHING | EASTING
P 1 | 359665.09 | 614771.02
P 2 | 361133.04 | 615666.80
P 3 | 363063.09 | 615897.69
P 4 | 360817.60 | 616491.98
P 5 | 363024.99 | 616782.98
P 6 | 359015.79 | 615665.79
P 7 | 360652.03 | 616826.33
P 8 | 360649.40 | 616830.43
P 9 | 359924.18 | 617633.97
Wells Lake Road
Veterans Avenue
Custer Blvd
Chad Colley Blvd
Massard Road
Flagstone Road
Proposed 80' Right of Way
Proposed 60' Right of Way
Proposed 100' Right of Way
Proposed 150' Right of Way
Proposed 160' Right of Way
Proposed 100' Right of Way
Right of Way granted by Special Warranty Deed from Fort Chaffee Redevelopment Authority to City of Fort Smith, Arkansas, filed for Record 8/30/2007 as Doc. #7225239
Right of Way granted by Special Warranty Deed from Fort Chaffee Redevelopment Authority to City of Fort Smith, Arkansas, filed for Record 8/15/2005 as Doc. #7169225
Right of Way granted by Special Warranty Deed from Richard L. and Rebecca A. Brown to City of Fort Smith, Arkansas, filed for Record 6/25/2008 as Doc. #7245951
UMAREX Addition, Lot 1 Filed for record 5/1/2009 Plat 1809d
Mitsubishi Addition, Lot 1 Filed for record 2/11/2011 Plat 1830d
Mars Petcare at Chaffee Crossing-Lot 1 Filed for record 4/14/2008 Plat 1796b
R/W Dedicated with Doc. #7196685 and supplemented with plat of Mars Petcare at Chaffee Crossing, Filed for record 4/14/2008 as Plat P1796b
Graphics Packaging at Chaffee Crossing Filed for record 12/5/2008 Plat 1772b
LEGEND
● = SET 80"d" NAIL
—R/W— = EXISTING RIGHT OF WAY LINE
—R/W— = PROPOSED RIGHT OF WAY LINE
200 0 200
Scale in Feet
Bearings are Grid NAD 83, Arkansas State Plane, North Zone, Based Upon City of Fort Smith Monuments
SHEET 3
SHEET 4
SHEET 5
SHEET 6
SHEET 7
SHEET 8
SHEET 9
SHEET 10
SHEET 11
Map Sheet 6
CHAFFEE CROSSING-STREET DEDICATION
FORT CHAFFEE REDEVELOPMENT AUTHORITY
City of Fort Smith, Arkansas
Engineers-Consultants-Surveyors
3434 Country Club Ave.
P.O. Box 1507
Fort Smith, Arkansas
(479) 649-8484
Fax: (479) 649-8486
info@mwc-engr.com
MICKLE WAGNER COLEMAN
DRAWN BY: J. NOLEN
APPV. BY: D. WHITLOCK
H. SCALE: 1" = 200'
V. SCALE: N/A
DATE: JUNE 2012
JOB NO: PWD 11511
SHEET 6 OF 11
JUN 19 2012



LINE TABLE		
LINE #	LENGTH	BEARING
L27	3287.57'	N50°24'17"E
L28	153.67'	N42°51'32"E
L29	171.25'	N33°20'27"E
L30	87.67'	S69°17'11"E
L31	125.68'	S64°56'51"E
L32	1238.67'	S60°34'46"E
L33	3486.88'	N50°24'51"E
L34	195.70'	N35°28'22"E
L35	2143.73'	S39°33'58"E
L36	532.08'	S39°33'58"E
L37	957.50'	S86°53'32"E

CURVE TABLE						
CURVE	DELTA	TANGENT	RADIUS	LENGTH	CHORD BEARING	CHORD DISTANCE
C13	19°32'09"	288.70'	1676.96'	571.79'	S40°38'13"W	569.02'
C14	77°22'22"	80.88'	101.01'	136.40'	S72°01'38"W	126.27'
C15	19°33'10"	154.75'	898.11'	306.49'	S40°38'16"W	305.01'
C16	14°56'29"	180.99'	1380.20'	359.92'	N42°56'37"E	358.90'
C17	47°19'34"	417.38'	952.48'	786.75'	S63°13'45"E	764.57'

POINT TABLE		
POINT #	NORTHING	EASTING
P 10	365938.59	617551.63
P 11	367941.88	619973.60
P 12	365256.83	618114.95
P 13	367825.06	621068.55
P 14	364286.01	618917.12
P 15	363479.54	620894.75

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Map Sheet 7

CHAFFEE CROSSING-STREET DEDICATION
FORT CHAFFEE REDEVELOPMENT AUTHORITY
City of Fort Smith, Arkansas

DRAWN BY:	J. NOLEN
APPV. BY:	D. WHITLOCK
H. SCALE:	1" = 200'
V. SCALE:	N/A
DATE:	JUNE 2012
JOB NO:	PWO 11511

SHEET 7 OF 11

JUN 19 2012

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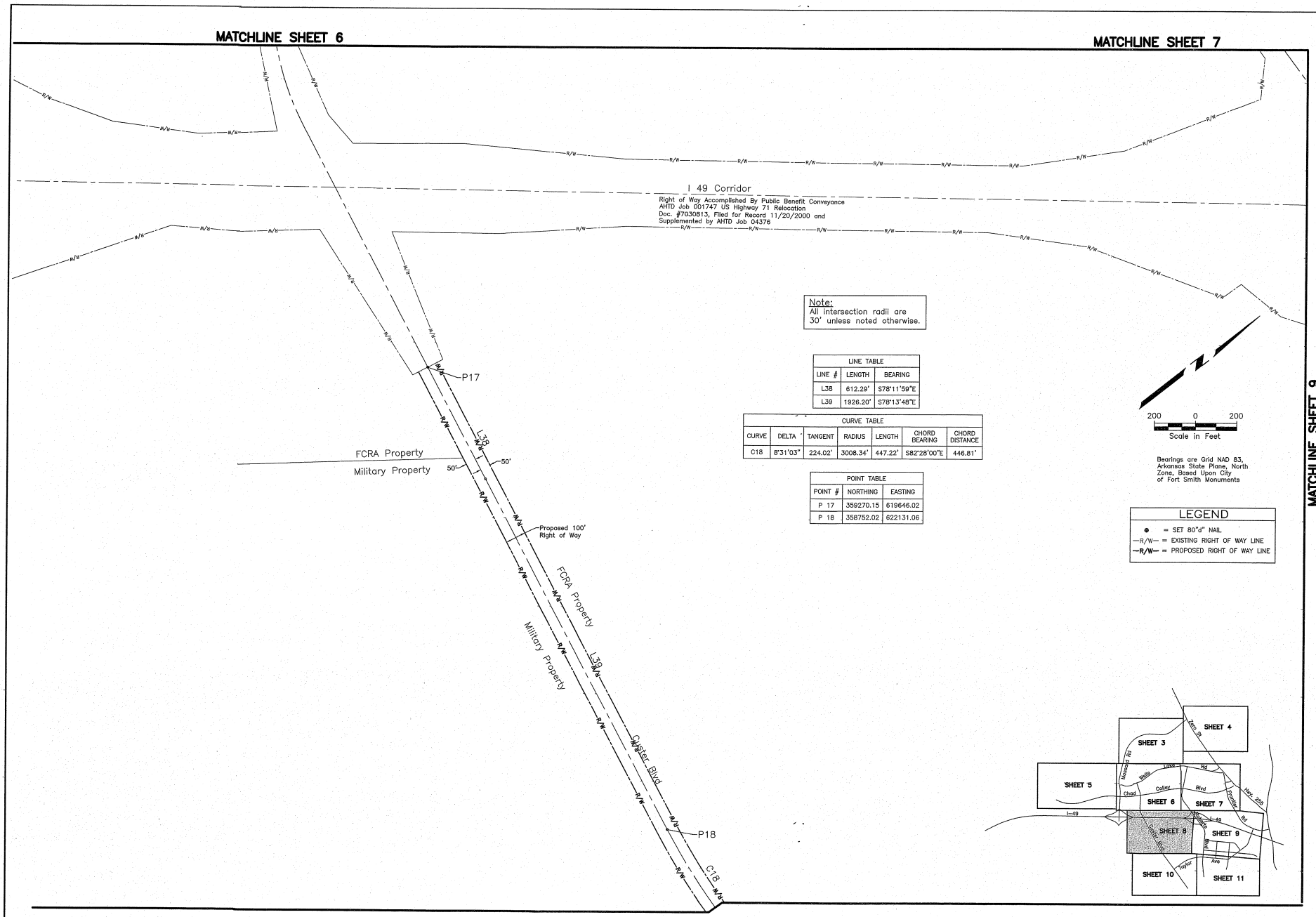

Note:
All intersection radii are 30' unless noted otherwise.

LINE TABLE		
LINE #	LENGTH	BEARING
L38	612.29'	S78°11'59"E
L39	1926.20'	S78°13'48"E

CURVE TABLE						
CURVE	DELTA	TANGENT	RADIUS	LENGTH	CHORD BEARING	CHORD DISTANCE
C18	8°31'03"	224.02'	3008.34'	447.22'	S82°28'00"E	446.81'

POINT TABLE		
POINT #	NORTHING	EASTING
P 17	359270.15	619646.02
P 18	358752.02	622131.06

LEGEND

- ● = SET 80"d" NAIL
- —R/W— = EXISTING RIGHT OF WAY LINE
- —R/W— = PROPOSED RIGHT OF WAY LINE

Chaffee Roads -03-11- Map Sheets.dwg

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info@mwc-engr.com

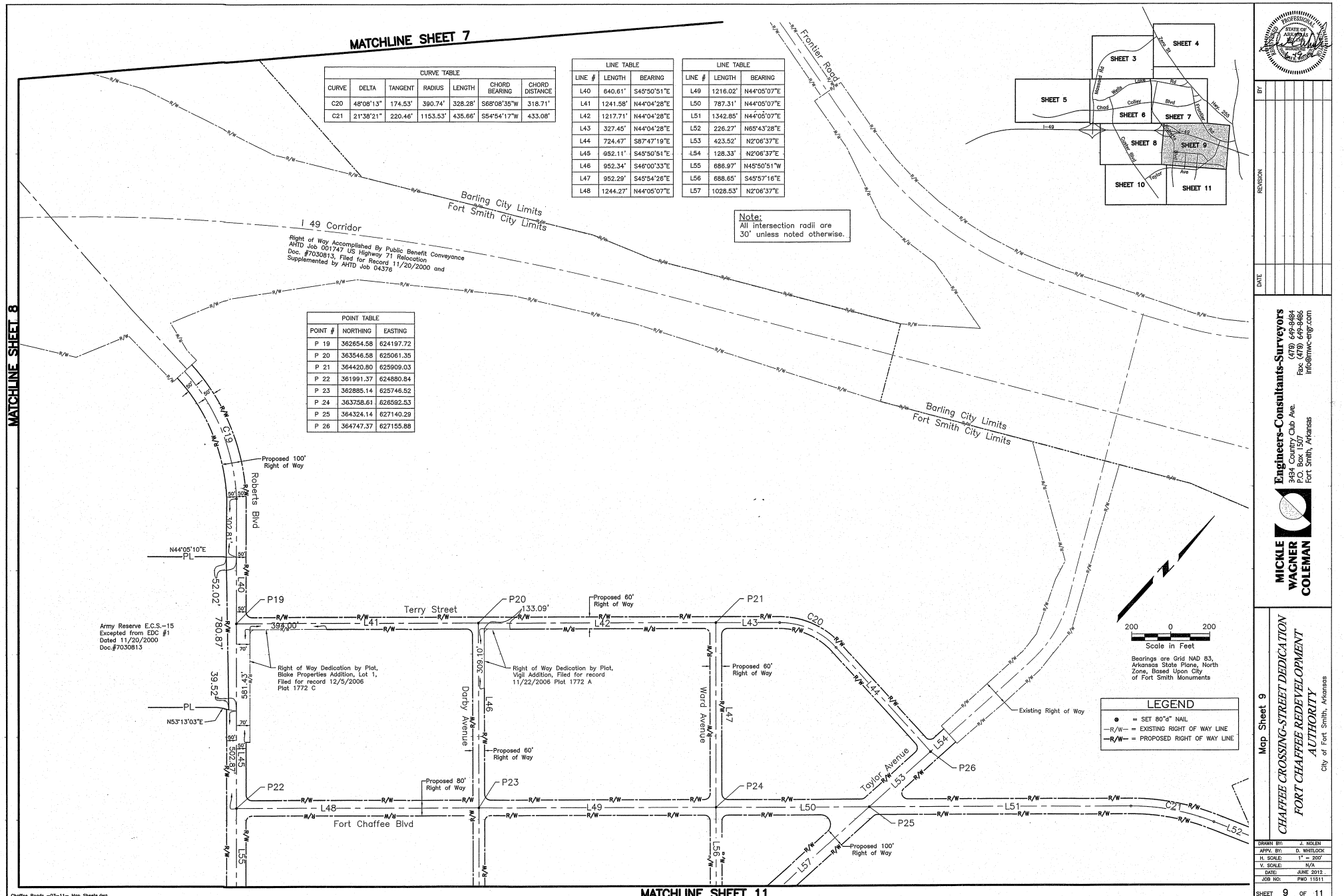
Map Sheet 8

CHAFFEE CROSSING-STREET DEDICATION
FORT CHAFFEE REDEVELOPMENT AUTHORITY
City of Fort Smith, Arkansas

DRAWN BY:	J. NOLEN
APPV. BY:	D. WHITLOCK
H. SCALE:	1" = 200'
V. SCALE:	N/A
DATE:	JUNE 2012
JOB NO:	PWO 11511

SHEET 8 OF 11

JUN 19 2012



CURVE TABLE						
CURVE	DELTA	TANGENT	RADIUS	LENGTH	CHORD BEARING	CHORD DISTANCE
C20	48°08'13"	174.53'	390.74'	328.28'	S68°08'35"W	318.71'
C21	21°38'21"	220.46'	1153.53'	435.66'	S54°54'17"W	433.08'

LINE TABLE		
LINE #	LENGTH	BEARING
L40	640.61'	S45°50'51"E
L41	1241.58'	N44°04'28"E
L42	1217.71'	N44°04'28"E
L43	327.45'	N44°04'28"E
L44	724.47'	S87°47'19"E
L45	952.11'	S45°50'51"E
L46	952.34'	S46°00'33"E
L47	952.29'	S45°54'26"E
L48	1244.27'	N44°05'07"E

LINE TABLE		
LINE #	LENGTH	BEARING
L49	1216.02'	N44°05'07"E
L50	787.31'	N44°05'07"E
L51	1342.85'	N44°05'07"E
L52	226.27'	N65°43'28"E
L53	423.52'	N2°06'37"E
L54	128.33'	N2°06'37"E
L55	686.97'	N45°50'51"W
L56	688.65'	S45°57'16"E
L57	1028.53'	N2°06'37"E

Note:
All intersection radii are 30' unless noted otherwise.

POINT TABLE		
POINT #	NORTHING	EASTING
P 19	362654.58	624197.72
P 20	363546.58	625061.35
P 21	364420.80	625909.03
P 22	361991.37	624880.84
P 23	362885.14	625746.52
P 24	363758.61	626592.53
P 25	364324.14	627140.29
P 26	364747.37	627155.88

REGISTERED PROFESSIONAL ENGINEER STATE OF ARKANSAS

DATE	REVISION	BY

MICKLE WAGNER COLEMAN
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info@mwc-engr.com

Map Sheet 9

CHAFFEE CROSSING-STREET DEDICATION
FORT CHAFFEE REDEVELOPMENT AUTHORITY
City of Fort Smith, Arkansas

DRAWN BY:	J. NOLEN
APPV. BY:	D. WHITLOCK
H. SCALE:	1" = 200'
V. SCALE:	N/A
DATE:	JUNE 2012
JOB NO:	PWO 11511

SHEET 9 OF 11

JUN 19 2012

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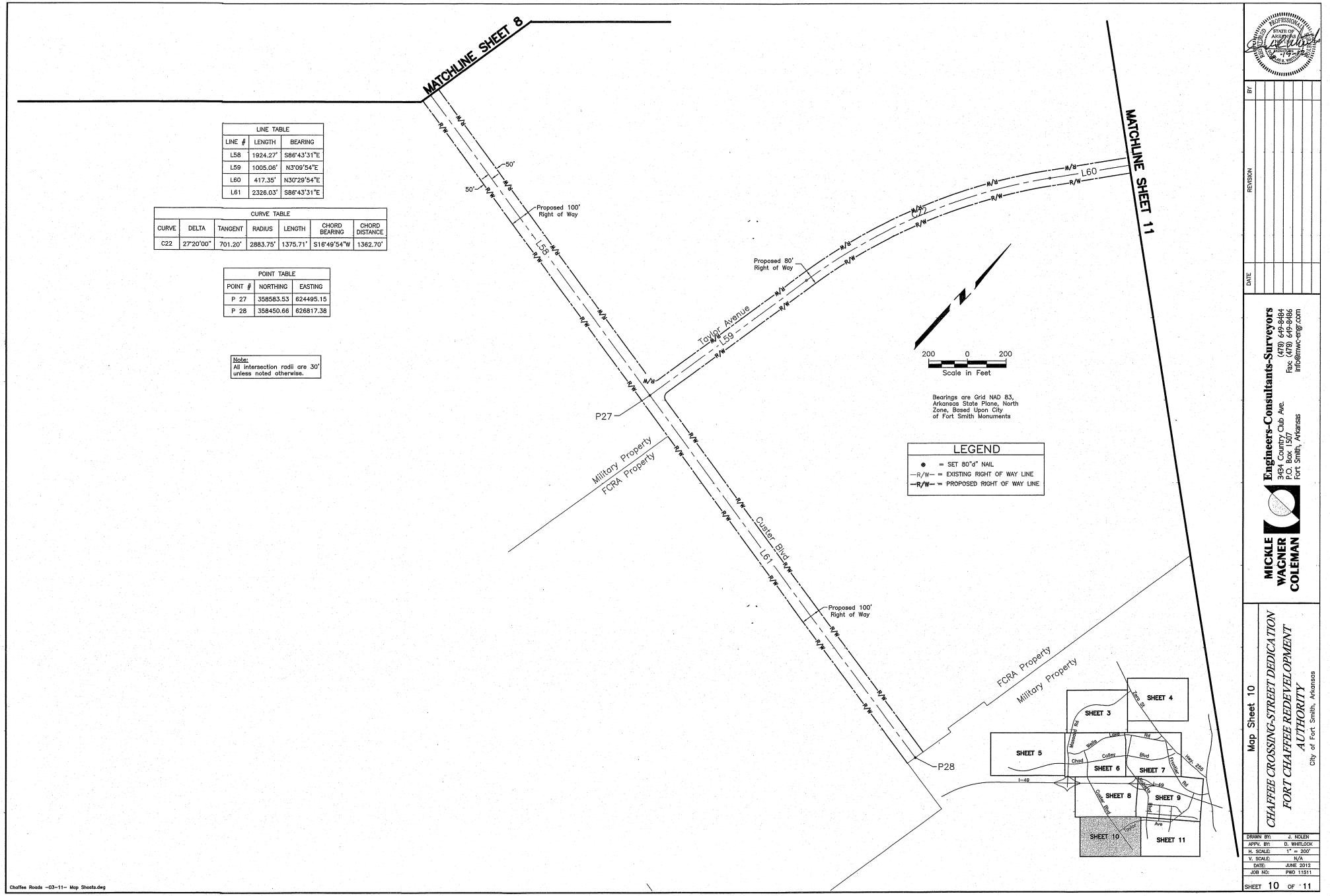


LINE TABLE		
LINE #	LENGTH	BEARING
L58	1924.27'	S86°43'31"E
L59	1005.06'	N3°09'54"E
L60	417.35'	N30°29'54"E
L61	2326.03'	S86°43'31"E

CURVE TABLE						
CURVE	DELTA	TANGENT	RADIUS	LENGTH	CHORD BEARING	CHORD DISTANCE
C22	27°20'00"	701.20'	2883.75'	1375.71'	S16°49'54"W	1362.70'

POINT TABLE		
POINT #	NORTHING	EASTING
P 27	358583.53	624495.15
P 28	358450.66	626817.38

Note:
All intersection radii are 30' unless noted otherwise.

REGISTERED PROFESSIONAL ENGINEER STATE OF ARKANSAS

DATE	REVISION	BY

MICKLE WAGNER COLEMAN
Engineers-Consultants-Surveyors
3494 Country Club Ave.
P.O. Box 1507
Fort Smith, Arkansas
(479) 649-8484
Fax: (479) 649-8486
info@mwc-engr.com

Map Sheet 10

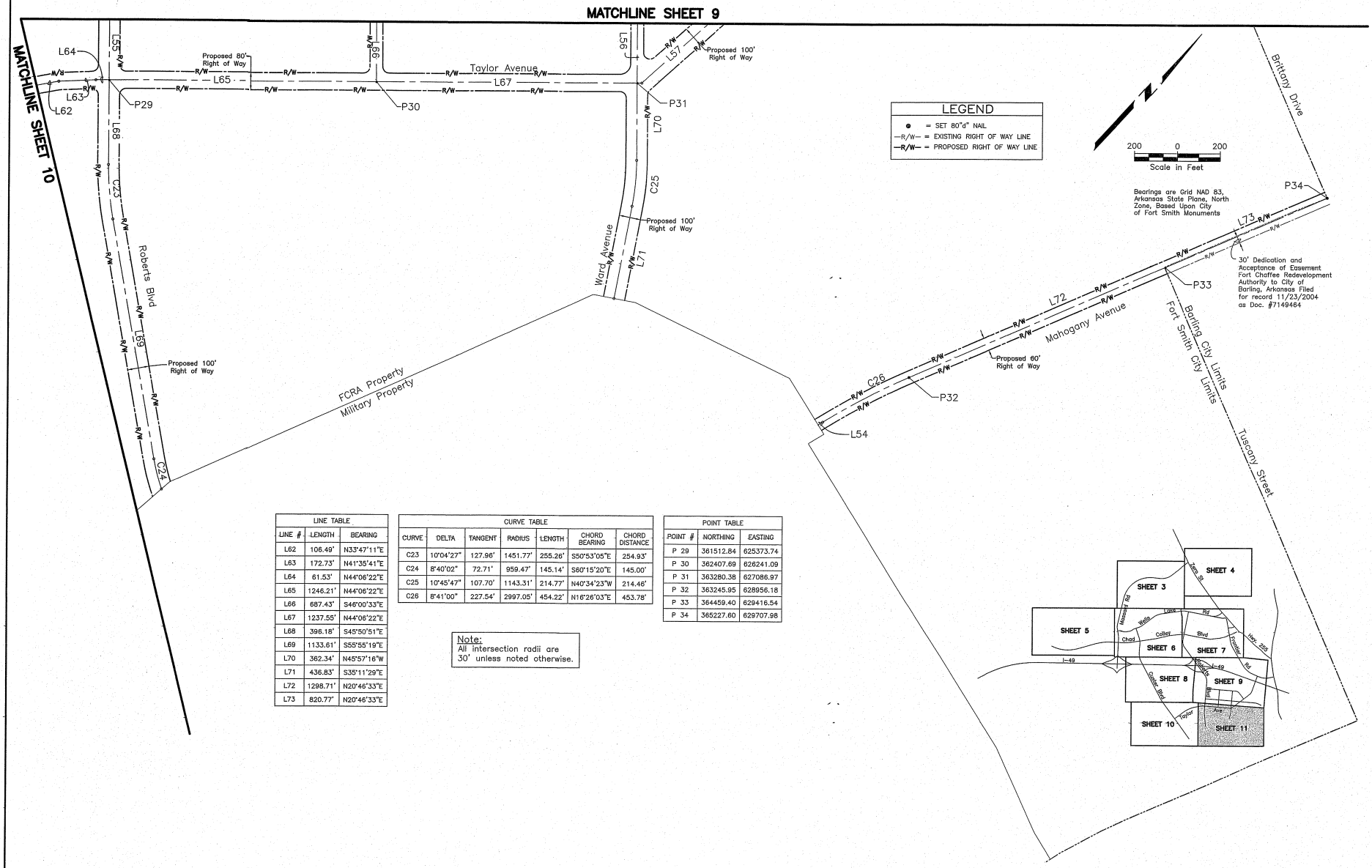
CHAFFEE CROSSING-STREET DEDICATION
FORT CHAFFEE REDEVELOPMENT AUTHORITY
City of Fort Smith, Arkansas

DRAWN BY:	J. NOLEN
APPV. BY:	D. WHITLOCK
H. SCALE:	1" = 200'
V. SCALE:	N/A
DATE:	JUNE 2012
JOB NO:	PWO 11511

SHEET 10 OF 11

JUN 19 2012

K:\Work-Orders\Chaffee Roads-11511\dwg\Chaffee Roads-03-11-Map Sheets.dwg, Sheet 10, 6/19/2012 7:02:55 AM, jbaqe



LINE TABLE		
LINE #	LENGTH	BEARING
L62	106.49'	N33°47'11"E
L63	172.73'	N41°35'41"E
L64	61.53'	N44°06'22"E
L65	1246.21'	N44°06'22"E
L66	687.43'	S46°00'33"E
L67	1237.55'	N44°06'22"E
L68	396.18'	S45°50'51"E
L69	1133.61'	S55°55'19"E
L70	362.34'	N45°57'16"W
L71	436.83'	S35°11'29"E
L72	1298.71'	N20°46'33"E
L73	820.77'	N20°46'33"E

CURVE TABLE						
CURVE	DELTA	TANGENT	RADIUS	LENGTH	CHORD BEARING	CHORD DISTANCE
C23	10°04'27"	127.96'	1451.77'	255.26'	S50°53'05"E	254.93'
C24	8°40'02"	72.71'	959.47'	145.14'	S60°15'20"E	145.00'
C25	10°45'47"	107.70'	1143.31'	214.77'	N40°34'23"W	214.46'
C26	8°41'00"	227.54'	2997.05'	454.22'	N16°26'03"E	453.78'

POINT TABLE		
POINT #	NORTHING	EASTING
P 29	361512.84	625373.74
P 30	362407.69	626241.09
P 31	363280.38	627086.97
P 32	363245.95	628956.18
P 33	364459.40	629416.54
P 34	365227.60	629707.98

Note:
All intersection radii are 30' unless noted otherwise.

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DATE | REVISION | BY

Map Sheet 11

CHAFFEE CROSSING-STREET DEDICATION
FORT CHAFFEE REDEVELOPMENT AUTHORITY
City of Fort Smith, Arkansas

DRAWN BY:	J. NOLEN
APPV. BY:	D. WHITLOCK
H. SCALE:	1" = 200'
V. SCALE:	N/A
DATE:	JUNE 2012
JOB NO:	PWO 11511

SHEET 11 OF 11

JUN 19 2012

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Chaffee Roads -03-11- Map Sheets.dwg

RESOLUTION NO. _____

RESOLUTION SETTING PUBLIC HEARING DATE ON PETITION TO VACATE A PORTION OF A STREET RIGHT-OF-WAY LOCATED IN JEFFERSON PLACE, AN ADDITION TO THE CITY OF FORT SMITH, ARKANSAS

WHEREAS, a petition to vacate a portion of North "J" Street located between Jefferson Place, Block 2 and Jefferson Place, Block 3 has been filed with the Office of the City Clerk in the manner and form as provided by law.

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

Said petition is hereby set for hearing on the 18th day of September 2012, at 6:00 p.m. at the regular meeting of the Board of Directors of the City of Fort Smith, and the city clerk is hereby directed to give notice of said meeting by publication once a week for two (2) consecutive weeks in a newspaper of general circulation in the City of Fort Smith, Arkansas.

THIS RESOLUTION ADOPTED THIS _____ DAY OF SEPTEMBER 2012.

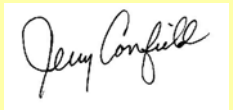
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:



_____
No Publication Required

Memo

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 8/27/2012

Re: Resolution setting a public hearing date for a petition to vacate a portion of North J Street located in Jefferson Place

We have received the enclosed application from Andy Knox, owner and agent for Ronald S. Brasuell and David and Gale Beckman to vacate a portion of the undeveloped North J Street right-of-way as shown on Exhibit A. A vicinity map is also enclosed.

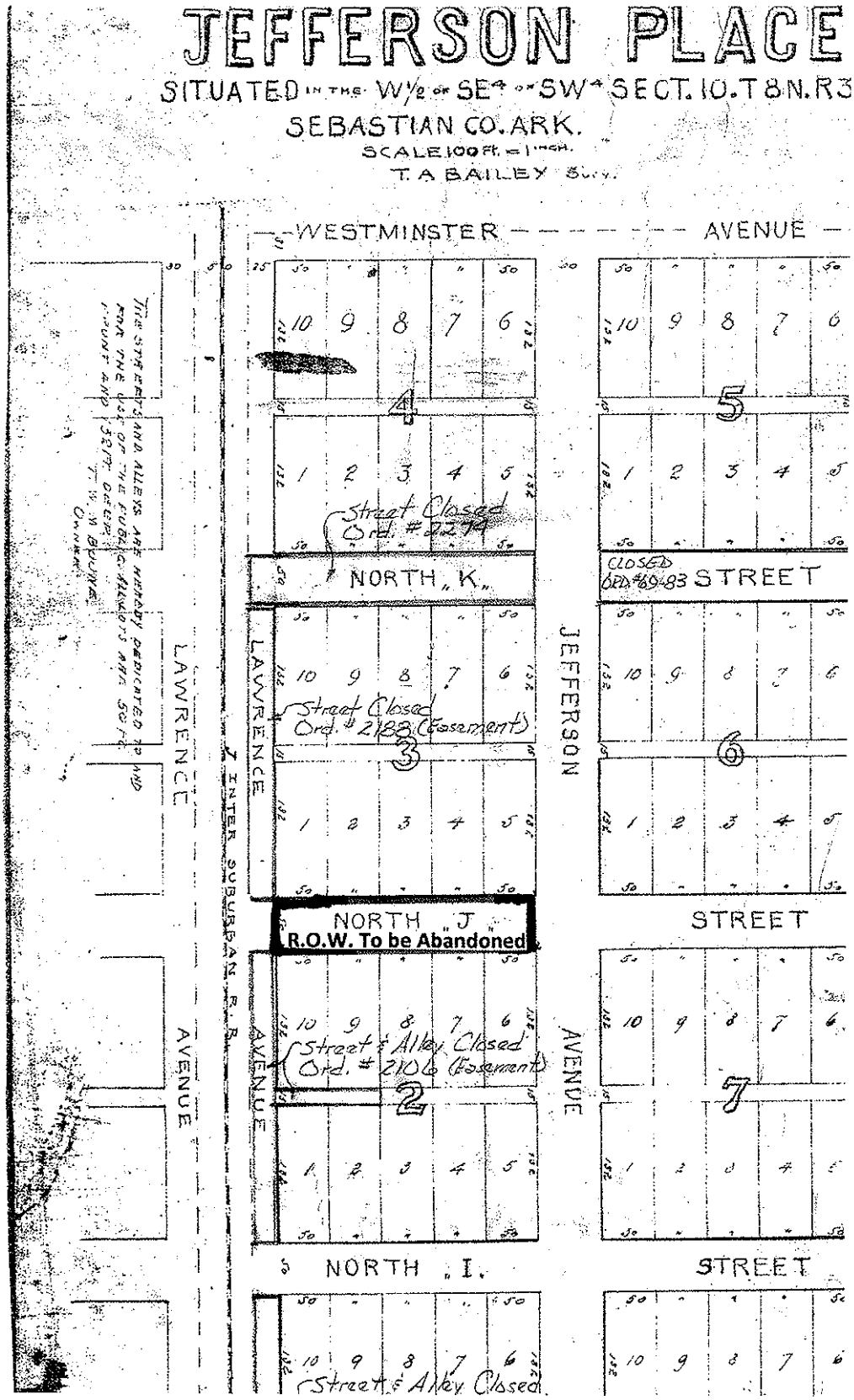
The petitioners are requesting the abandonment of the right-of-way to so that the area can utilized for vehicle parking and maneuvering, and the installation of fencing to secure the area in connection with a future business at this location.

In accordance with Arkansas law, the Board of Directors is required to set a public hearing on the proposed abandonment. Staff recommends that the Board of Directors set a public hearing date for September 18, 2012, for the purpose of reviewing this matter. Enclosed is a resolution for the Board's consideration.

In response to the petition, we have contacted all franchise utility companies relative to any ongoing or future interests that they may have within the street right-of-way. We will also notify all property owners within 300 feet of the proposed abandonment. If you have any questions regarding this matter, please do not hesitate to contact me.

Enc.

EXHIBIT A


JEFFERSON PLACE
SITUATED IN THE W½ OF SE4 OF SW4 SECT. 10. T8N. R3
SEBASTIAN CO. ARK.
SCALE 100 Ft. = 1 inch.
T. A. BAILEY Surv.
WESTMINSTER AVENUE
NORTH „K„ STREET
NORTH „J„ STREET
NORTH „I„ STREET
LAWRENCE AVENUE
JEFFERSON AVENUE
INTER SUBURBAN R.R.
Street Closed Ord. #2274
Street Closed Ord. #2188 (Easement)
Street & Alley Closed Ord. #2106 (Easement)
Street & Alley Closed
CLOSED ORD. #69-83
R.O.W. To be Abandoned
4
5
3
6
2
7

CITY OF FORT SMITH, ARKANSAS
REQUEST FOR ABANDONMENT OF PUBLIC RIGHT-OF-WAY, ALLEY OR PUBLIC EASEMENT

City Clerk
FILED 8/24/12
S Ford

APPLICATION:

Indicate one contact person for application: X Applicant X Representative ~~Representative~~

Applicant (owner)

Name: Andy Knox

Address: 1213 N 32nd Street
Fort Smith, AR 72901

Telephone Number: 651-5582

E-Mail: asapinvestments@cox.net

Representative (engineer, attorney, realtor, etc)

Name:

Address:

Telephone Number:

E-Mail:

Site Address/Location: 1213 N 32nd (North "J")

Legal Description of area to be vacated (attach separate sheet if necessary):
SEE ATTACHED SHEET

Assessor's Parcel Number for Subject Property: N/A

Reason for Request: We would like to Fence OFF the Area proposed For Abandonment and use the Area For Vehicles and maneuvering and security Related to our Future Business at this Location

Current Status of Right-of-Way/Easement: UNDEVELOPED

APPLICANT/REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made, all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval.

I understand that if it is determined following review of the application by city staff that ongoing utility interests must be protected through easement dedications, the applicant or his authorized agent shall be required to develop and submit a fully executed easement. Additionally, I understand that the applicant or agent will be required to execute a Memorandum of Understanding regarding any right-of-way abandonments and understand that no action will be taken by the Board of Directors on an abandonment request until said utility easement, if determined by staff is necessary, and Memorandum of Understanding are on file with the city.

I understand that I shall bear the expense of publication of notice given by the City in addition to the expense of publication of the ordinance after adoption by the Board of Directors.

Name: (printed) Andy L. Knox

Signature: _____ Date: 8/23/12

Property Owner(s)/Authorized Agent: *I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is subject of this application and that I/we have read this application and consent to its filing.*

Note: If application is signed by authorized agent, all owners must sign and submit "Authorization of Agent" form.

Application Checklist:

☒ A list from the Sebastian County Assessor's Office showing all property owners within 300 feet of all perimeter points of the tract being considered for abandonment. ***(County Assessor is located in Room 107 of the Sebastian County Courthouse).***

☒ Abstractor's Certificate of Ownership stating names of all owners of property abutting the property to be vacated

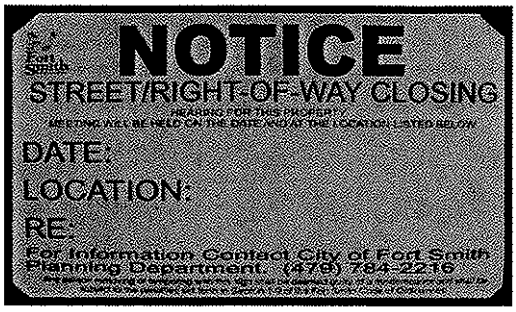
☒ Petition with signatures of all abutting property owners

☒ Metes and Bounds legal description of the area to be vacated (Provide hard copy and CD containing legal description in MS Word)

☒ Hard copy and PDF of survey of the site depicting the perimeter property lines and area within the property to be vacated

☒ Application Fee of $150.00. This fee is non-refundable.

The Planning Department will post a sign like the one shown below at area proposed for vacation. Once the sign is posted, it must be left in place until the vacation is approved by the Board of Directors. The planning staff will remove the sign the following day after by the Board of Directors meeting.



Legal Description of area to be vacated: Street right-of-way located between Jefferson Place, Block 3 and Jefferson Place, Block 2 additions to the City of Fort Smith. More particularly described as North of J Street lying East of the East right-of-way line of North 31st Street and West of the West right-of-way line of North 32nd Street.

PETITION TO VACATE

PETITION TO VACATE portion of North "J" Street right-of-way LOCATED between Jefferson Place, Block 3 and Jefferson Place, Block 2, CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS.

TO: Fort Smith Board of Directors

We, the undersigned, being all of the owners of real estate abutting the right-of-way herein sought to be abandoned and vacated, lying between Jefferson Place, Block 3 and Jefferson Place, Block 2, CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS, a municipal corporation, petition to vacate right-of-way which is described as follows:

> North "J" Street lying east of the east right-of-way line of North 31st Street and west of the west right-of-way line of North 32nd Street

That the abutting real estate affected by said abandonment of the right-of-way located between Jefferson Place, Block 3 and Jefferson Place, Block 2 has not been used by the public for a period of years, and that the public interest and welfare would not be adversely affected by the abandonment of the above-described right-of-way.
The petitioners pray that the City of Fort Smith, Arkansas, abandon and vacate the above-described real estate, subject to existing public utility easements, water line easements, sewer easements, or drainage easements as required, and that the above-described real estate be used for the respective benefit and purpose as now approved by law.

The petitions further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREAS, the undersigned petitioners respectfully pray that the governing body of the City of Fort Smith, Arkansas, abandon and vacate the above-described real estate, subject to existing public utility easements, water line easements, sewer easements, or drainage easements as required, and that title to said real estate sought to be abandoned be vested in the abutting owners as provided by law.

Dated this 23rd day of August, 2012

Andy L. Knox

Printed Name

Signature

Ronald S. Braswell

Printed Name

Signature

DAVID Beckman

Printed Name

Signature

GALE Beckman

Printed Name

Signature

AUTHORIZATION OF AGENT

If an agent 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 Andy L Knox to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAME & ADDRESS OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1. ANDY L KNOX 12409 Winds Acres, Lane Ft Smith, AR 72916	
2. Ronald S. Braswell 204 N 57th Street Ft Smith, AR 72903	
3. DAVID Beckman 6 North 58 Terrace Drive Ft Smith, AR 72904	
4. GALE Beckman 6 North 58 Terrace Drive Ft Smith, AR 72904	

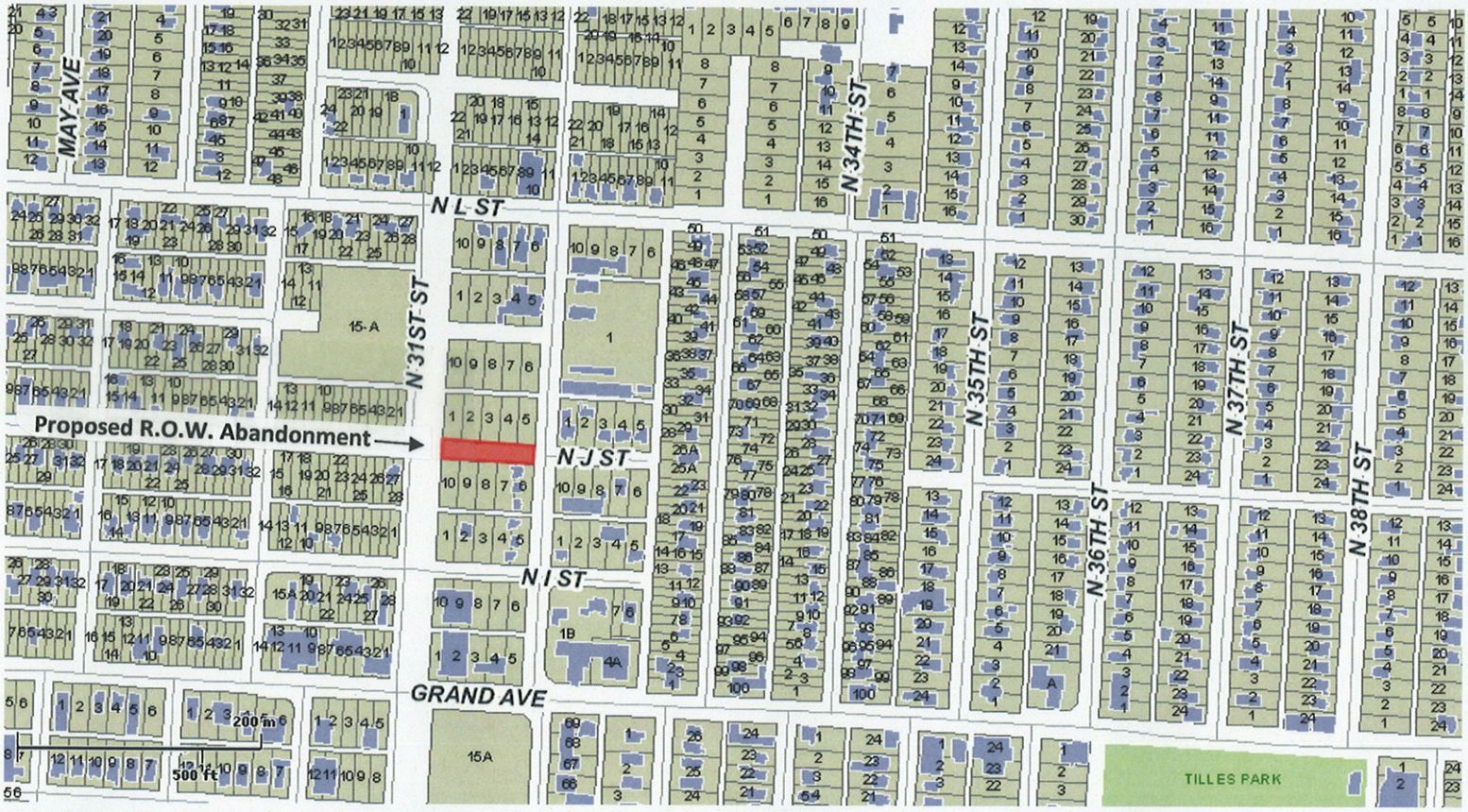
City of Fort Smith

Online GIS Map

2009 City of Fort Smith, AR. Printed on Wed Aug 29 2012 08:47:33 AM.

Vicinity Map

Proposed R.O.W. Closing - North J Street



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12B

RESOLUTION _____

A RESOLUTION TO ACCEPT THE BIDS AND AUTHORIZE CONTRACTS FOR THE CONSTRUCTION OF MCCLURE AMPHITHEATER ROAD PROJECT NO. 12-00-A UPON CONCURRENCE OF THE FORT CHAFFEE REDEVELOPMENT AUTHORITY

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

SECTION 1: Subject to concurrence of the Fort Chaffee Redevelopment Authority ("FCRA"), the bid of Crawford Construction Company ("Contractor") received August 21, 2012, for the construction of McClure Amphitheater Road, Project No. 12-00-A, in the amount of $1,089,115.10 is hereby accepted.

SECTION 2: The Mayor is authorized to execute a contract with Crawford Construction Company subject to the terms set forth in Section 1 above. Following execution by the Mayor, the City Clerk and City Administrator are authorized to deliver the executed contract documents to the Contractor upon receipt of written verification that the governing body of the FCRA also approves the Contract.

SECTION 3: Subject to the concurrence of the FCRA, the bid of Data Testing, Inc., received August 21, 2012, for quality control testing services for the construction of McClure Amphitheater Road, Project No. 12-00-A, in the amount of $7,202.00 is hereby accepted.

SECTION 4: The Mayor is authorized to execute a contract with Data Testing, Inc., subject to the terms set forth in Section 3 above. Following execution by the Mayor, the City Clerk and City Administrator are authorized to deliver the executed contract documents to Data Testing, Inc. upon receipt of written verification that the governing body of the FCRA also approves the Contract.

SECTION 5: Payment for the City's share of the construction authorized by Section 1 and Section 3 is hereby authorized from the Sales Tax Fund (1105).

This resolution adopted this _____ day of September, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____
No Publication Required

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

FROM: Stan Snodgrass, P.E., Director of Engineering

DATE: August 29, 2012

SUBJECT: McClure Amphitheater Road
Project No. 12-00-A

The above subject project is for the construction of a new street to serve the McClure Amphitheater. This street will also encourage development of the area east of the amphitheater extending towards Wells Lake Road. This approximately 1300 feet street will intersect with Massard Road as shown on the attached exhibit. The cost is being split equally between the Fort Chaffee Redevelopment Authority and the City.

Construction plans and specifications were prepared by Mickle, Wagner, Coleman Inc. of Fort Smith. An advertisement was published and bids were received on August 21, 2012. Twelve contractors requested plans and specifications and six bids were received which are summarized as follows:

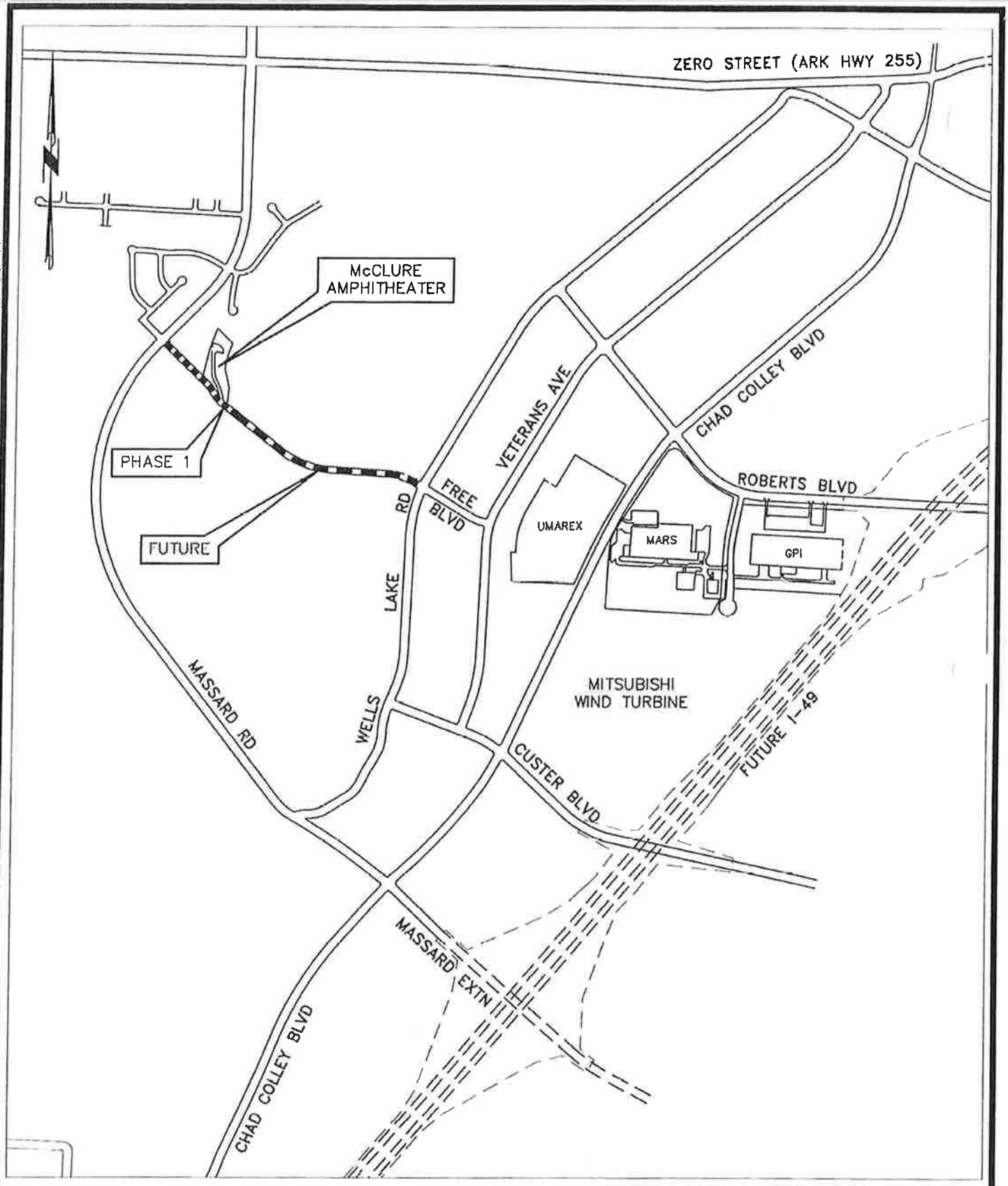
CONTRACTOR	AMOUNT	CONTRACTOR	AMOUNT
1. Crawford Construction Fort Smith, AR	$1,089,115.10	4. TNT, Inc. Van Buren, AR	$1,223,586.45
2. Forsgren, Inc. Fort Smith, AR	$1,133,064.75	5. Goodwin & Goodwin Fort Smith, AR	$1,241,026.00
3. Steve Beam Construction Fort Smith, AR	$1,142,563.50	6. Township Builders Little Rock, AR	$1,443,617.00
Engineers Estimate	$1,125,000.00		

I recommend that the lowest bid be accepted and that the construction contract be awarded to Crawford Construction. The estimated notice to proceed date for this contract is October 15, 2012. Based on the contract duration of 180 days, the estimated completion date would be April 12, 2013.

Also, two bids were received on August 21, 2012, for project quality assurance testing. They are summarized as follows:

TESTING FIRM	**AMOUNT**
Ark-Con Testing Service, Inc. Van Buren, AR	$7490.00
Data Testing, Inc. Fort Smith, AR	$7202.00

I recommend that the quality assurance testing contract be awarded to Data Testing, Inc. Attached is a Resolution to accomplish the above two recommendations. Funds are available in the Sales Tax Program (1105) for the construction and testing.



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2012 CAPITAL IMPROVEMENTS PROGRAM STREET OVERLAYS/RECONSTRUCTION	The City of Fort Smith ARKANSAS

Project:	12-00-A
Date:	OCT. 2011
Scale:	NONE
Drawn By:	RBR

12C

RESOLUTION _____

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE ENGINEERING SERVICES AGREEMENT FOR THE DESIGN OF 2012 NEIGHBORHOOD DRAINAGE IMPROVEMENTS
PROJECT NO. 12-06-C

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

SECTION 1: Amendment No. 1 to the engineering services agreement with Philip J. Leraris, P.E., L.S. for the design of the 2012 Neighborhood Drainage Improvements, Project No. 12-06-C which increases the contract amount by $42,850.00 to an adjusted contract amount of $128,310.00, is hereby approved.

SECTION 2: Payment for engineering services authorized by Section 1 is hereby authorized from the Sales Tax Fund (1105).

This resolution adopted this _____ day of September, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____
No Publication Required

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

FROM: Stan Snodgrass, P.E., Director of Engineering

DATE: August 29, 2012

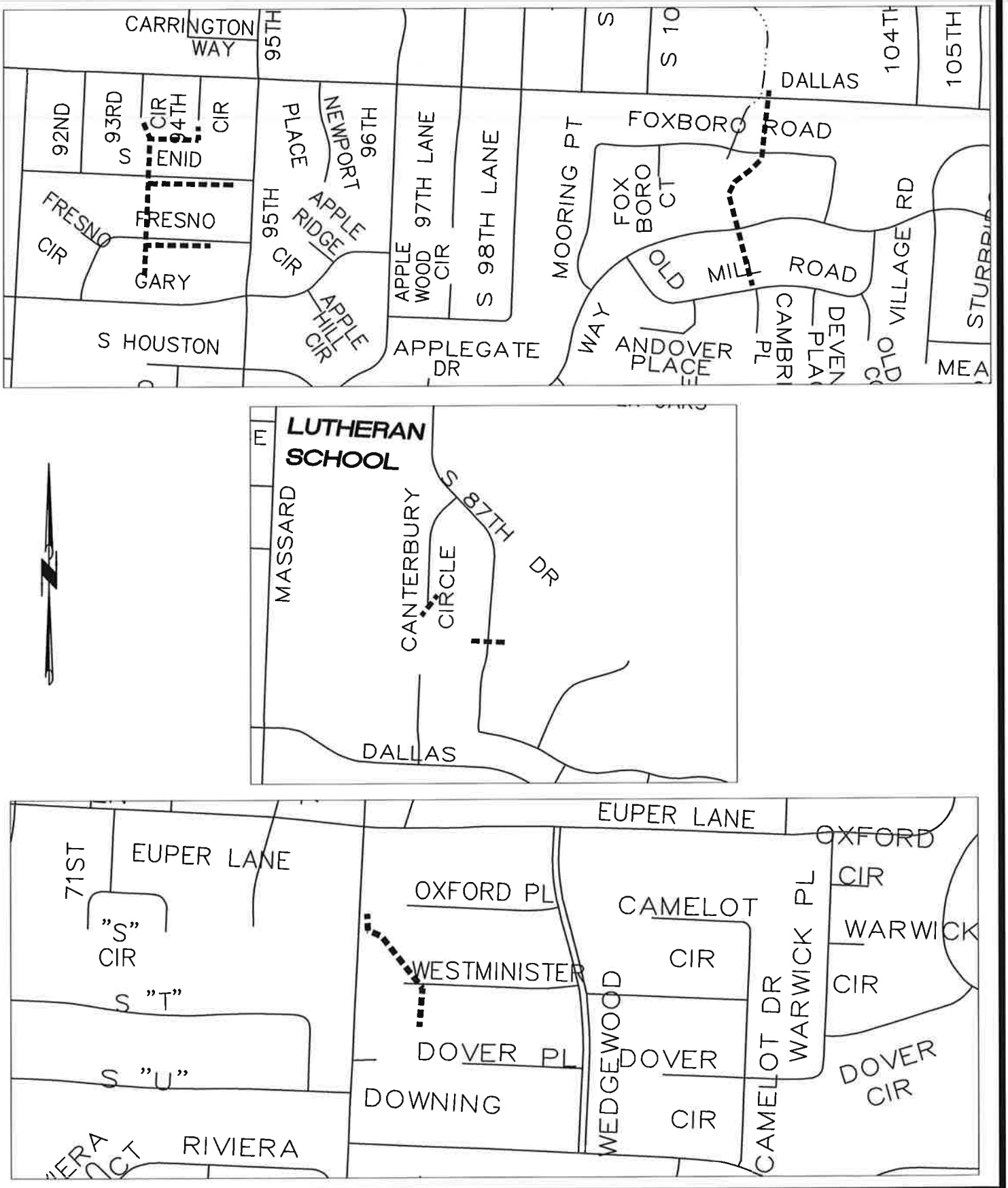
SUBJECT: Neighborhood Drainage Improvements
Engineering Services Contract
Project No. 12-06-C

The 2012 Neighborhood Drainage Improvements Project 12-06-C is one of the projects to alleviate structure flooding that occurred during the heavy rains in spring 2011. The project includes improvements in four areas: Westminster, Rivermont, Village Harbor and Canterbury/South 87th. A location map for these areas is attached.

The original scope anticipated the total length of these improvements would be approximately 3570 feet. However, this length has increased to approximately 6000 feet. During the analysis of the existing drainage system these areas were determined to be in need of improvements and the estimated number of structures which experienced flooding increased from ten to fourteen. There is also severe street flooding in these locations. The estimated construction cost has also increased from $1.15 million to $1.75 million. A detailed summary of the additional work is noted in the attached letter from the design engineer, Philip Leraris, P.E., L.S.

As a result of the increase in the scope of work, the engineering services contract is being increased by $42,850 to a total amount of $128,310. I recommend approval of the amendment to the engineering services. Attached is a Resolution to accomplish this recommendation. Funds are available in the Sales Tax Program (1105) for this work.

Attachment



12-06-C

08/28/12-15:05 RBR

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2012 CAPITAL IMPROVEMENTS PROGRAM

NEIGHBORHOOD DRAINAGE

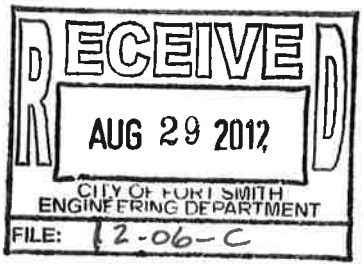
The City of Fort Smith ARKANSAS

Project:	12-06-C
Date:	OCT. 2011
Scale:	NONE
Drawn By:	RBR

Philip J. Leraris, P.E., L.S.

consulting engineer
land surveyor

August 28, 2012



Stan Snodgrass, P.E.
City of Fort Smith
Engineering Department
P.O. Box 1908
Fort Smith, AR 72902

RE: Request for Contract Amendment FS CIP Project 12-06-C

Dear Mr. Snodgrass:

Please allow this letter to serve as a Request for Contract Amendment for the referenced Project.

Our original Contract consisted of neighborhood drainage improvements in four locations: Westminster, Rivermont, Village Harbor and Canterbury/87th Street. All areas had previously experienced structure flooding. The Original Scope of Work indicated drainage improvements with a total length of 3568 feet, and an estimated Construction Cost of $1,150,000. Our Original Engineering Contract was in the amount of $85,460.00.

During the analysis of the existing drainage systems, several areas of needed improvements were identified beyond those contained within the Original Scope of Work. The estimated number of structures which flooded also increased from ten to fourteen.

Additional work for each of the four Drainage Improvement Locations are as follows:

Westminster
(2 Structures Flooded)

Length of Originally Proposed Improvements:	785 feet
Length of Drainage Improvements as Designed:	955 feet
Estimated Construction Cost of Original Improvements:	$ 200,000.00
Estimated Construction Cost of Designed Improvements:	$ 295,000.00

Added Drainage Improvements from Westminster Place to, and along, South 74th Street, concrete overflow swales, total street overlay

p.o. box 11123 • fort smith, ar 72917 • (479) 452-5822

Rivermont
(6 Structures Flooded)

Length of Originally Proposed Improvements:	1755 feet
Length of Drainage Improvements as Designed:	2860 feet
Estimated Construction Cost of Original Improvements:	$ 350,000.00
Estimated Construction Cost of Designed Improvements:	$ 540,000.00

Added additional Storm Drains for street drainage, concrete overflow swales, additional 4-feet wide concrete vertical wall channel

Village Harbor
(3 Structures Flooded)

Length of Originally Proposed Improvements:	693 feet
Length of Drainage Improvements as Designed:	1285 feet
Estimated Construction Cost of Original Improvements:	$ 400,000.00
Estimated Construction Cost of Designed Improvements:	$ 510,000.00

Added additional Storm Drains for street drainage, concrete overflow swales, sanitary sewer relocation

Canterbury/South 87th Street
(3 Structures Flooded)

Length of Originally Proposed Improvements:	335 feet
Length of Drainage Improvements as Designed:	900 feet
Estimated Construction Cost of Original Improvements:	$ 200,000.00
Estimated Construction Cost of Designed Improvements:	$ 402,000.00

Added 565 feet of 8-feet and 10-feet wide concrete vertical wall channel including box culverts at OG&E boundary and South 87th Street, concrete overflow channels, street overlay

The total length of improvements required for this project increased from 3568 feet to 6000 feet, not including overflow swales or street overlays. The total estimated construction cost increased from $1,150,000 to $1,747,000.

We are requesting a Contract Amendment in the additional amount of $42,850.00, for a total Contract Amount of $128,310.00. Your consideration for this request is appreciated.

Sincerely,

Philip J. Leraris, PE, LS

12D

RESOLUTION _____

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE ENGINEERING SERVICES AGREEMENT FOR THE DESIGN OF 2012 NEIGHBORHOOD DRAINAGE IMPROVEMENTS
PROJECT NO. 12-06-A

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

SECTION 1: Amendment No. 1 to the engineering services agreement with Atkins Engineering, Inc. for the design of the 2012 Neighborhood Drainage Improvements, Project No. 12-06-A which increases the contract amount by $8,260.00 to an adjusted contract amount of $81,860.00, is hereby approved.

SECTION 2: Payment for engineering services authorized by Section 1 is hereby authorized from the Sales Tax Fund (1105).

This resolution adopted this _____ day of September, 2012.

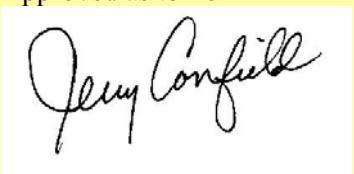
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form



_____
No Publication Required

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

FROM: Stan Snodgrass, P.E., Director of Engineering

DATE: August 29, 2012

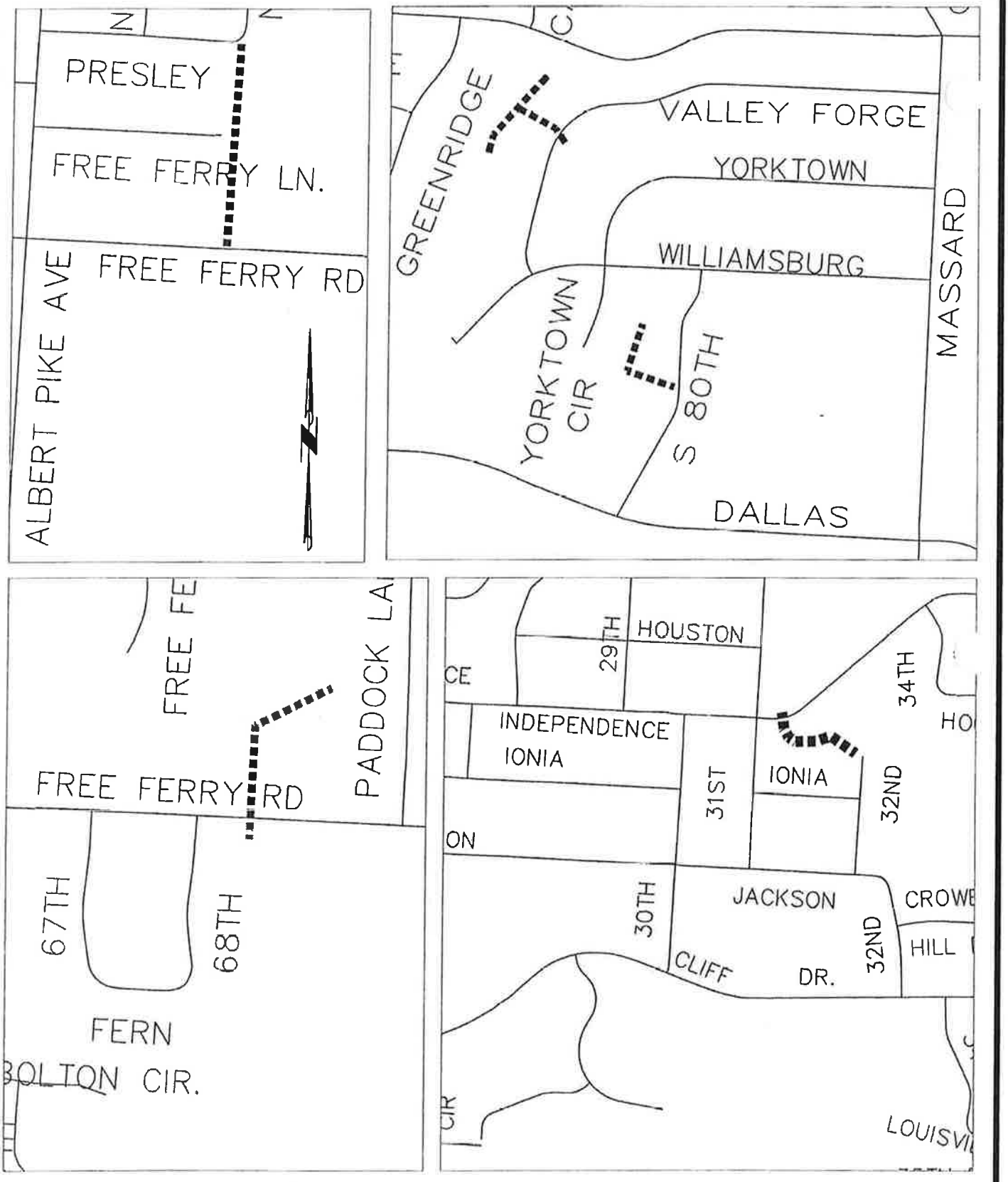
SUBJECT: Neighborhood Drainage Improvements
Engineering Services Contract
Project No. 12-06-A

The 2012 Neighborhood Drainage Improvements Project 12-06-A is one of the projects to alleviate structure flooding that occurred during the heavy rains in spring 2011. The project includes improvements in five areas: Free Ferry Lane, Valley Forge, South 80th, Free Ferry Road and Independence Street. A location map for these areas is attached.

The original scope of work has been expanded to include additional drainage improvements at the Free Ferry Road and Independence Street locations. A detailed summary of the additional work is noted in the attached letter from the design engineering firm, Atkins Engineering.

As a result of the increase in the scope of work, the engineering services contract is being increased by $8,260 to a total amount of $81,860. I recommend approval of the amendment to the engineering services. Attached is a Resolution to accomplish this recommendation. Funds are available in the Sales Tax Program (1105) for this work.

Attachment



2012 CAPITAL IMPROVEMENTS PROGRAM

NEIGHBORHOOD DRAINAGE

The City of Fort Smith ARKANSAS

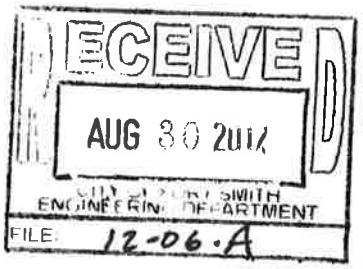
Project:	12-06-A
Date:	OCT. 2011
Scale:	NONE
Drawn By:	RBR

G:\DRAWINGS\CIP\00-00 CIPALL\2012\CIPALL 2012 PROJECTS.DWG 10/21/11-10:10 RBR 12-06-A

ATKINS ENGINEERING, INC.

P.O. Box 23640 • 1101 "H" Street • Barling, Arkansas 72923 • (479) 484-0822 • Fax 484-0823 • jerry@atkengr.com

August 30, 2012



Mr. Stan Snodgrass
Engineering Department
City of Fort Smith
P. O. Box 1908
Fort Smith, Arkansas 72902

Subject: Engineering Fee Revision
Drainage Improvements, Project 12-06-A

Dear Mr. Snodgrass:

I hereby request an Amendment to the Engineering Services Agreement dated November 1, 2011 for the above Project associated with the additional engineering design work for the construction of drainage facilities at the following locations:

1. Construction of Drainage Ditch along South side of Free Ferry Road.
2. Grading of ditch side slopes to drain year yard of 6819 Free Ferry Road.
3. Removal of Concrete Ditch and Trees and Reconstruction of Wood Fence at 3124 Independence Street.

An itemization of the engineering tasks and man-hours associated with the additional work is attached hereto. The total increase in Engineering Fee is $8,260.

Sincerely,

Gerald W. Atkins

Gerald Atkins, PE

APPROVED: CITY OF FORT SMITH

By: _____

Date: _____

MAN-HOUR TABULATION
ADDITIOANL WORK - 3124 INDEPENDENCE STREET
DRAINAGE IMPROVEMENTS - PROJECT NO. 12-06-A
FORT SMITH 2012 SALES TAX PROGRAM
August 24, 2012

	Engr 140.0	Tech & Draft 70.0	Surv Crew 140.0	Cost Total
Field Locate Drainage Channel, Trees, & Fences			3	
Modify Construction Drawing	3	6		
Modify Easement Drawing	1	2		
Modify Demolition Drawing	1	2		
Modify SW3P Drawing	1	1		
Modify Quantities & Bid Sch	3			
Modify Quantity Drawing	1	2		
Modify Easment Documents	3	3		
Evaluation of 24" RCP Free Ferry Road	4			
Meetings	3			
	20	16	3	
	2,800	1,120	420	4,340

MAN-HOUR TABULATION
ADDITIOANL WORK - 6819 FREEFERRY ROAD
DRAINAGE IMPROVEMENTS - PROJECT NO. 12-06-A
FORT SMITH 2012 SALES TAX PROGRAM
April 23, 2012

	Engr	Tech & Draft	Surv Crew	Cost Total
	140.0	70.0	140.0	
Topo Survey		2	6	
Plot Existing	2	8		
Design & Construction Drawings	2	12		
Details	2	2		
Hydraulic Calcs	4			
	10	24	6	
	1,400	1,680	840	3,920

RESOLUTION NO. _____

RESOLUTION ALLOWING THE SALE OF SURPLUS VEHICLES AND EQUIPMENT AT PUBLIC AUCTION

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

The vehicles and equipment shown on the attached list are surplus and no longer needed by the City of Fort Smith.

The same shall be sold at the public auction on September 13, 2012.

This Resolution adopted this _____ day of September, 2012.

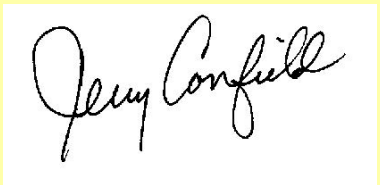
APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:



_____

No Publication Required

Interoffice Memorandum

TO: Ray Gosack, City Administrator

FROM: Alie Bahsoon, Purchasing Manager

SUBJECT: 2012 City Auction

DATE: August 29, 2012

The 2012 City Auction is scheduled to be held on **Thursday, September 13th, 2012** (starting at 10:00) at the Fort Smith Transit Facility, located at 6821 Jenny Lind Road. The auction will be conducted by Looper Auction & Realty, Inc.

You will find attached a list consisting of surplus vehicles and equipment that are scheduled to be sold at the auction. For your convenience, I have included the names of the departments that are disposing of the items, the mileage, what the vehicle/equipment was used for, and the current condition.

In an effort to promote the auction to the citizens of Fort Smith, a complete list of items being sold is available on the City's website at www.fortsmithar.gov.

Should you have any questions or should require any additional information, please do not hesitate to let me know.

CITY OF FORT SMITH - 2012 AUCTION
VEHICLES/TRUCKS

DEPARTMENT	PROG. No.	ITEM DESCRIPTION Purpose/Mileage	VIN #	Condition Excellent/Good/ Fair/Poor	ASSET #
Sanitation	6302	2000 GMC W5500 10 YD Residential Hot Shot Trash Truck (303,218)	J8DE5B143Y7902499	POOR	20
Sanitation	6307	2000 Mack RD690S Roll-Off Truck with Galbreth Hoist (420,742)	1M2P264C61M032070	POOR	61
Sanitation	6305	2000 Mack RD690S Roll-Off Truck with Galbreth Hoist (230,981)	1M2P264CX1M032072	POOR	63
Sanitation	6303	2004 Mack MR688S Commercial Front Loader w/Heil Body (176,566)	1M2K195C94M023297	POOR	12
Sanitation	6303	2002 International 2674 Commercial Rear Loader w/Heil Body (106,060)	1HTGLAXT12H521148	POOR	34
Utilities (MTGB)	5604	Duracraft 6763 14' V Bottom Aluminum Boat		POOR	
Utilities (P Street)	5603	1996 Ford F150 (83,675)	1FTEF15H7TLC14317	FAIR	403
Utilities (P Street)	5603	1996 John Deere 455 Mower	CH3029D004456	POOR	565
Utilities (P Street)	5603	2010 Land Pride AT 2572 Grooming Mower	253243	GOOD	
Parks & Rec.	6202	722D Grasshopper Mower (1168 hours)	Ser# 5417581	FAIR	1029
Parks & Rec.	6202	30HP Pro Series Bad Boy Mower (1141hrs)	Ser# BBP483OK002091527	POOR	1055
Code Enforcement	4108	2003 Ford 150 ½ Ton	2FTRF17203CA90377	TOTALED	167
Transit	6550	1999 Ford Crown Victoria; Transport drivers to transfer stations (182,106)	2FAFP71W6XX128617	POOR	892
Police	4704	1998 Ford Retired transit bus (278,000)	1FDXE40S6WHB23641	FAIR	668
Police	4704	2003 Chevrolet S 10; Animal control (155,000)	1GCCS14X738251107	POOR	558
Police	4702	1992 Chevrolet 4x4 Cargo transport and off road patrol (156,000)	1GTFK24K0NZ533917	POOR	570

Police	4703	2002 Pontiac Grand AM; CID vehicle (112,000)	1G2NF52F53C116255	FAIR	905
Utilities	5616	1996 Chev. Astro Van WW Station Maint. (97,879)	1GCDM19W8TB156704	POOR	663
Utilities	5613	1994 Ford Taurus; meter reading (98,812)	1FALP52U6RA225588	POOR	107
Utilities	5610	1998 Dodge 1 Ton Service Truck w/utility bed; Waterline Maint (207,388)	3B6MC3655WM262040	POOR	429
Utilities	5610	1998 Dodge 1 Ton Service Truck w/utility bed; Water Line Maint (152,835)	3B6MC3659WM262039	POOR	437
Utilities	5611	1999 Belshe Trailer T2-3EP; Sewer Line Construction	16JF0163XX1032790	POOR	454
Utilities	5610	1998 Belshe Trailer T2-3EP; Water line Maint.	16JF01635W1031075	POOR	457
Utilities	5611	1992 GMC Flatbed; Sewer Line Maint. (166,187)	1GDJC34F3XF093563	POOR	472
Utilities	5610	1999 GMC Sierra 3500 1 Ton Service Truck w/utility bed; Water Line Maint. (157,539)	1GDHC34R7XF092067	POOR	569
Utilities	5616	1996 Ford Aerostar Van WW Station Maint. (110,715)	1FTDA14U0TZB55066	POOR	611
Street	5302	2001 Sterling Concrete Truck; general use (107,333)	2FZXBJCB31AH51455	POOR	417
Street	5303	1995 Ford Rod Truck; Clear storm drains (131,114)	1FDNF70J6SVA80752	FAIR	523
Street	5303	1987 Koech ring LRT -180A Crane w/inch 1381.1 hrs	NSN3810-01-246-8660	FAIR	3012

RESOLUTION NO. _____

RESOLUTION RESCINDING RESOLUTION R-173-11
AND ACCEPTING BID FOR THE PURCHASE AND
INSTALLATION OF A FUEL MANAGEMENT SYSTEM

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

Resolution No. R-173-11 is hereby rescinded. The bid of The Southern Company is hereby accepted as indicated on the attached Bid Tabulation No. 6304-301-BA for the purchase and installation of a fuel management system in the amount of $87,034.

This Resolution adopted this _____ day of September, 2012.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

_____
No Publication Required

Interoffice Memorandum

TO: Ray Gosack, City Administrator

COPY TO: Baridi Nkokheli, Director of Sanitation

FROM: Alie Bahsoon, Purchasing Manager

SUBJECT: Purchase of Fuel Management System

DATE: August 29, 2012

In September of 2011, Bid Tabulation 6304-301-BA for the purchase of a fuel management system for use by the Department of Sanitation was presented to and approved by the Board of Directors.

The purpose of this system was to assist the department with better management and fuel control and therefore provide accurate record keeping of fuel usage at all levels. The existing system is one lacking these capabilities and is over 18 years old.

A pre-bid mandatory meeting was held on August 3, 2011 to ensure that all bidders are aware of a complete turnkey system needed (hardware, software, pumps, dispensers, labor, materials, electrical and installation). Despite having a representative present at the meeting, Trak Engineering omitted the following from their bid amidst the assurances that their system is a turnkey system:

- Failed to include pumps and dispensers
- Piping between tanks and critical components were omitted
- Unable to provide certain components due to licensing and "not having the experience"
- Trak Engineering "does not provide or install concrete or conduit" and they were going to rely on our staff on hand (electricians, laborers, etc.) to complete
- Upon issuing a purchase order, a down-payment ($19,899.35) was required

Realizing the cost of this system was going to surpass our next lowest bidder, Mr. John Barnes, Fleets & Ground Manager and I decided to cancel the project with Trak Engineering in February of this year. It has taken us over six months to be reimbursed for the down-payment; therefore, funding for this system is available and has been appropriated for in the 2012 Budget in account 6304-303 ("*Fuel Systems and Pumps*") in the amount of $68,825 (plus the down-payment reimbursement to be received by September 14th).

I am recommending that the bid submitted by The Southern Company for $87,034 and as noted by enclosure on the attached bid tabulation, be accepted and approved by the Board.

Tabulation of Bids - City of Fort Smith Fuel Management System-Department of Sanitation Bid No. 6304-301-BA (Revised)	
Vendor	**Cost**
The Southern Co. Fort Smith, AR	$87,034.00 ✔
~~Trak Engineering~~ ~~Tallahassee, FL~~	~~$51,853.96~~
EJ Ward Inc. San Antonio, TX	$92,150.00

Bids Advertised: 07/29-31/11
Bids Opened: 08/12/11

✔ Recommended Bid Award; vendor will honor original bid price

RESOLUTION NO. _____

RESOLUTION ACCEPTING BIDS FOR THE PURCHASE OF TRUCKS

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

The bids, as indicated on the attached Bid Tabulation No. **08-27-12BA** for the purchase of various trucks for the City's fleet, are accepted.

This Resolution adopted this _____ day of September, 2012.

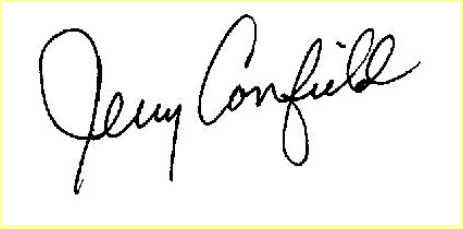
APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:



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No Publication Required

Interoffice Memorandum

TO: Ray Gosack, City Administrator

FROM: Alie Bahsoon, Purchasing Manager

SUBJECT: Purchase of Fleet Trucks

DATE: August 29, 2012

Bids were solicited for the purchase and replacement of various trucks for various departments within the City.

You will find attached the bid tabulation which includes the budgeted amounts and the respective departments purchasing these vehicles.

Funds for these purchases are available and have been appropriated for in the 2012 Budget, Capital Outlay accounts.

I recommend that the bids noted by enclosure on the attached bid tabulation be accepted.

Please let me know should you have any questions.

CITY OF FORT SMITH
Fleet Truck Bid Tab 08-27-12BA

Bid No.	Breeden Dodge Fort Smith, AR	Carco Intl. Fort Smith, AR	Dunn Ford Stigler, OK	Randall Ford Fort Smith, AR	Sallisaw Ford Sallisaw, OK	Smith Chevrolet Fort Smith, AR	Springdale AutoPlex Springdale, AR	Truck Centers of AR Van Buren, AR
1	12 Dodge Ram 1500		13 Ford F150	13 Ford F150	13 Ford F150	13 Chev. Silver. 1500	13 Dodge Ram 1500	
	$18,919	N/A	$18,367	$18,354	$18,567	$19,431	$21,515	N/A
2	12 Dodge Ram 1500		13 Ford F150	13 Ford F150	13 Ford F150	13 Chev. Silver. 1500	13 Dodge Ram 1500	
	$19,640	N/A	$18,630	$18,617	$18,830	$19,494	$21,768	N/A
3	12 Dodge Ram 1500		13 Ford F150	13 Ford F150	13 Ford F150	13 Chev. Silver. 1500	13 Dodge Ram 1500	
	$21,656	N/A	$22,549	$25,224	$22,877	$22,887	$21,229	N/A
4			13 Ford E250	13 Ford E250	13 Ford E250	13 Chev. Express		
	N/A	N/A	$20,740	$23,225	$19,108	$24,724	N/A	N/A
5	13 Dodge Durango		13 Ford Explorer	13 Ford Explorer	13 Ford Explorer	13 Chev. Tahoe	13 Dodge Durango	
	$28,624	N/A	$24,175	$25,145	$24,338	$29,110	$26,449	N/A
7		13 1HC 4300						12 M2 Freightliner
	N/A	$71,060.47	N/A	N/A	N/A	N/A	N/A	$73,718
8	12 Dodge Ram 1500		13 Ford F150	13 Ford F150		13 Chev. Silver. 1500	13 Dodge Ram 1500	
	$23,371	N/A	$25,171	$25,714	N/A	$25,970	$23,507	N/A

CITY OF FORT SMITH
Fleet Truck Bid Tab 08-27-12BA

Bid No.	Breeden Dodge Fort Smith, AR	Carco Intl. Fort Smith, AR	Dunn Ford Stigler, OK	Randall Ford Fort Smith, AR	Sallisaw Ford Sallisaw, OK	Smith Chevrolet Fort Smith, AR	Springdale AutoPlex Springdale, AR	Truck Centers of AR Van Buren, AR
9	12 Dodge Ram 3500		13 Ford F250	13 Ford F250	13 Ford F250	13 Chev. Silver. 2500	12 Dodge Ram 3500	
	$33,304	N/A	$33,633	$34,091	$34,854	$35,831	$33,073	N/A
10	12 Dodge Ram 3500	13 1HC 4300	13 Ford F350	13 Ford F350			12 Dodge Ram 3500	
	$44,022	$60,670.95	$40,183	$39,045	N/A	N/A	$41,533	N/A
11a				13 Ford F350	12 Ford F350			
	N/A	N/A		$30,843	$30,974			
11b				13 Ford F350	12 Ford F350			
	N/A	N/A	N/A	$43,378	$43,520	N/A	N/A	N/A

Bid No.	Description	Department Name	Program Code	Quantity	Budget
1	1/2 Ton PU SWB	Engineering	4103-301	1	$21,400
2	1/2 Ton PU LWB	Utilities-Sewer Treatment	5603-302	1	$23,800
2	1/2 Ton PU LWB	Metering Transmission LM	5613-304	1	$25,000
3	1/2 Ton PU SWB 4x4	Utilities-Water Treatment	5604-302	2	$43,800
3	1/2 Ton PU SWB 4x4	Metering Transmission LM	5613-304	1	$25,000
4	3/4 Ton Utility Van	Utility Administration	5501-301	1	$21,800
5	Mid-Size SUV	Metering Transmission LM	5613-303	2	$50,000
7	2 Ton SA C&C w/5CY dump bed	Water Line Maintenance	5610-302	1	$62,100
8	1/2 Ton PU Ext. Cab 4x4	Sanitation Fleet & Grounds Maint.	6304-Sinking Fund	1	$21,900
9	3/4 Ton PU 4WD w/utility bed	Street Maintenance	5304-Sinking Fund	1	$35,000
10	1 Ton Flat Bed Dump Truck	Street Drainage	5303-Sinking Fund	1	$40,000
11a	1 Ton C&C w/utility bed	Water Stationary Equipment	5616-301	1	$39,000
11b	1 Ton C&C w/crane	Water Stationary Equipment	5616-302	1	$52,000

RESOLUTION NO. _____

RESOLUTION ACCEPTING BID FOR THE PURCHASE OF A SEWER RODDING TRUCK

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

The bid, as indicated by enclosure for the purchase of a sewer rodding truck from Vac-Con, Inc. $159,873.75, is accepted.

This Resolution adopted this _____ day of September, 2012.

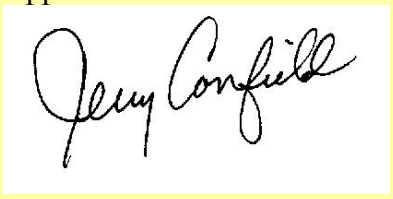
APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:



_____
No Publication Required

Interoffice Memorandum

TO: Ray Gosack, City Administrator

COPY TO: Steve Parke, Director of Utilities

FROM: Alie Bahsoon, Purchasing Manager

SUBJECT: Purchase of Sewer Rodding Truck

DATE: August 29, 2012

In December of 2005, the Board of Directors approved Ordinance 93-05, thereby authorizing the City to participate in the State Cooperative Purchasing program. This process has enabled us to take advantage of other negotiated contracts that the State of Arkansas currently participates in.

One of these contracts is the *U.S. Communities Government Purchasing Alliance*, a national organization for local government agencies to assist them in making better use of their collective purchasing powers and improving their overall purchasing effectiveness.

The Houston-Galveston Area Council (H-GAC) is a member of this alliance. Because of their contract, local governments nationwide are permitted to purchase through their cooperative purchasing program. The State of Arkansas has executed an "Inter-local Contract" with H-GAC through the U.S. Communities Government Purchasing Alliance.

The Sewer Line Maintenance has budgeted $150,000 for this purchase. Funding has been appropriated for in the Capital Outlay Account (5611-301) of the 2012 City Budget. Because of the H-GAC contract, bids were not solicited and we are therefore acquiring this truck from Vac-Con, Inc. in the amount of $159,873.75. The remaining balance will be supplemented with funds available from capital outlay account 5611-303.

Please be advised that this purchase fulfils all of the purchasing obligations as mandated by both state and local purchasing requirements; I am therefore recommending that the enclosed resolution is approved.

Henard Utility
1920 South Main St.
Searcy, AR 72143

Date 5/29/2012
Number 4830
Type of Quote HS
PO
Attn Mitch Vincant

Quote

Retail Purchaser Ft. Smith Sewer Line and Maint. Ship To

Comments

Price excludes any applicable F.E.T., sales taxes, tag, title or registration fees.

Option content is subject to engineering approval.

Model Number - V HS1000 A

Standard Equipment Includes:
Polyethylene Water Tank - 5 year warranty
600' capacity (1" Front mounted hose reel)
30 gpm/3000 psi water pump system
Minimum 131 HP Auxiliary Diesel Engine
400' High Pressure Jet Rodder Hose (3/4")
Hose rewind guide
Hose guide (Tiger Tail)
30" Leader Hose
600 psi wash down hand gun with 25' of hose and nozzle
1) each Sanitary and Penetrator Nozzles
ICC Lighting
DuPont Elite Polyurethane Paint
12 month standard Warranty - see certificate for details
5lb Fire Extinguisher
Set of Triangles

Main Information

Model	HS1000
Hose Reel	Front Mounted, Articulating to Drivers Side, 800' (1") Capacity (Std Pivot)
Jet Rodder Hose	600' x 3/4" 3000 psi/7500 psi - 100' extra
Water System	50 gpm/3000 psi Pump - Single Engine, Hydrostatic Drive, FMC only
Drive System	Hydrostatic drive
Water Pump	FMC
Auxiliary Engine	0

Other Items

Qty	Description
1	Winter Recirculating System
1	Air Purge System

1 1/4 turn ball valve water drain
1 Variable Flow Valve (Valve Only) - nozzles required
1 Storage Box [Hydrostatic Drive Units Only]
1 2) 24" x 18" x 18" Steel Rear Tool Boxes, mtd each side of extended frame units, 1000 or 1300 gallons only
1 Long Handle Storage / PVC
1 LED 4 Strobes - (2) front bumper / (2) rear bumper
1 LED Arrowstick
1 Low Water Alarm with Light
1 3/4" Nozzle rack
1 3/4" 30 gpm - Standard Nozzle, spare
1 3/4" 50 gpm - Standard Nozzle, spare
1 3/4" 30 gpm Penetrator Chisel - Standard, spare
1 3/4" 50 gpm Penetrator Chisel - Standard, spare
1 3/4" 50 gpm Grenade Nozzle
1 3/4" x 15' Length Leader Hose
1 Hose Footage Counter (Standard - Driver Side)
1 Allison Series 3000 5-year/unlimited mileage
1 Paint: To be advised
1 Anti-Sail Mud Flaps (rear)
1 Cummins-ISC engine 5 year/150,000 miles, PP1 W/Aftertreatment, extended warranty

Truck Chassis Information

Pool Truck Chassis Model **2012-2013 Freightliner 4X2 CUM-ISC 260HP 3000RDS 33000 GVWR '10 EPA [3 in stock as of 2/15/12, consult factory on availability]** *Pool Trucks are subject to availability.*

Qty Description

Machine Total $157,833.75
Delivery $2,040.00
Total **$159,873.75**

Offered by: Jerry M. Todd __

Accepted by:_____

RESOLUTION NO. _____

RESOLUTION ACCEPTING BID FOR THE PURCHASE OF
65 AND 95 GALLON RECYCLING ROLL-OUT CONTAINERS

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

The bid, as indicated by enclosure for the purchase of 65 and 96 gallon recycling roll-out containers from Rehrig Pacific for $206,755.00, is accepted.

This Resolution adopted this _____ day of September, 2012.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

_____

No Publication Required

Interoffice Memorandum

TO: Ray Gosack, City Administrator

COPY TO: Baridi Nkokheli, Director of Sanitation

FROM: Alie Bahsoon, Purchasing Manager

SUBJECT: Purchase of Recycling Roll-Out Containers

DATE: August 29, 2012

In December of 2005, the Board of Directors approved Ordinance 93-05, thereby authorizing the City to participate in the State Cooperative Purchasing program. This process has enabled us to take advantage of other negotiated contracts that the State of Arkansas currently participates in.

One of these contracts is the *U.S. Communities Government Purchasing Alliance*, a national organization for local government agencies to assist them in making better use of their collective purchasing powers and improving their overall purchasing effectiveness.

The Houston-Galveston Area Council (H-GAC) is a member of this alliance. Because of their contract, local governments nationwide are permitted to purchase through their cooperative purchasing program. The State of Arkansas has executed an "Inter-local Contract" with H-GAC through the U.S. Communities Government Purchasing Alliance. I have provided some information about this program.

The Sanitation Department has budgeted $232,440 for this purchase. Funding has been appropriated for in the Capital Outlay Accounts (6302-302: $189,840; 6302-303: $42,600) of the 2012 City Budget. Because of the H-GAC contract, bids were not solicited and we are therefore acquiring these carts from Rehrig Pacific in the amount of $206,755.

Please be advised that this purchase fulfils all of the purchasing obligations as mandated by both state and local purchasing requirements; I am therefore recommending that the enclosed resolution is approved.

Please let me know if should require any additional information.

What is H-GAC?

The Houston-Galveston Area Council (H-GAC) is a regional council of governments and a political subdivision of the State of Texas. H-GAC conducts its affairs under the laws of Texas and is governed by a 35-member board comprised of elected officials from the 13-county H-GAC region. The Board awards all contracts in public meetings. Through these contracts local governments nationwide are permitted to purchase through the H-GAC Cooperative Purchasing Program.

What are some differences between H-GAC's Program and others?

H-GAC has offered Cooperative Purchasing since 1973. The Program specializes in high ticket, capital-intensive products and services that require technical, detailed specifications and extensive professional skills to evaluate bid and proposal responses. No membership dues are required to participate in the H-GAC Cooperative Purchasing Program.

How does the H-GAC Program work?

Each entity executes an "Inter-local Contract" with H-GAC. The document sets out the conditions, requirements, and processes through which purchase orders are received, confirmed and processed. Purchase orders are sent directly to an H-GAC supplier with a duplicate to H-GAC for confirmation. The supplier processes the orders, delivers the products and invoices the buyer for payment.

Is any entity eligible to purchase through the H-GAC Program?

The Texas Inter-local Cooperation Act permits joint participation by local governments, states, state agencies, and non-profit corporations providing one or more government functions and services in Texas—and in other states. Most states have inter-local cooperation authority or other joint power provisions that allow participation in cooperative activities.

What are the benefits of the H-GAC Program?

- Volume Purchasing
- Volume Discounts
- Technical specifications that can eliminate the need to hire consultants
- Elimination of advertising, printing, and delivery costs
- Expedited procurement process without lengthy delays

Responsible Environmental Management

Fort Smith Department of Sanitation

MEMORANDUM

August 31, 2012

To: Ray Gosack, City Administrator

From: T. Baridi Nkokheli, Director of Sanitation

Subject: Automated Residential Refuse Cart Purchase

The Department of Sanitation's 2012 Budget for the Residential Collections Division (program 6302) includes funding to purchase 65-gallon and 95-gallon refuse and recycling carts for the seventh and final planned expansion the Automated Residential Refuse Collection Program. We are requesting to purchase the 65-gallon (500 qty) and 95-gallon carts (4,000 qty) in order to accommodate expansion of automated garbage and recycling collection services for the remaining 4,083 households not currently receiving automated refuse collection, as well as replenish our inventory for residents choosing to utilize multiple carts. The remaining neighborhoods to receive automated collection services in 2012 include:

Aldridge	Elmwood	Park Hill North
Back Stretch	Fitzgerald North	Park Hill South
Bailey Hill	Fitzgerald West	Park Hill East
Belle Grove	Fitzgerald East/Fishback	Sleepy Hollow
Carnall Addition	Home Addition	Sulphur Springs
Clifton Court	Howard School Addition	The Heights
Duvall School Addition	May/Lecta/Sweet	Unnamed Areas

Since its inception in 2006, the automated refuse collection program has reduced the employee injury rate, reduced worker's compensation costs, reduced absenteeism due to a reduced amount of workers fatigue, and increased employee morale, thus enhancing personnel collection performance and efficiency by lessening our dependence on physical capabilities of workers. The program has also allowed us to provide additional diversity, which is no longer based on perceived physical capability, in our hiring practices.

Please let me know if you should require any additional information.

HGACBuy	CONTRACT PRICING WORKSHEET For Catalog & Price Sheet Type Purchases	Contract No.:	GC01-11	Date Prepared:	8/27/2012

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both the PO and the Worksheet MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.

Buying Agency:	City of Fort Smith Arkansas	Contractor:	Rehrig Pacific Company
Contact Person:	Alie Bahsoon	Prepared By:	John Seabaugh
Phone:	(479) 784-2267	Phone:	972-977-2723
Fax:	(479) 784-2484	Fax:	
Email:	abahsoon@fortsmithar.gov	Email:	jseabaugh@rehrigpacific.com

Catalog / Price Sheet Name:	95 and 65 Gallon Roll out Carts for Trash and Recycling
General Description of Product:	Production of 95 and 65 gallon roll out carts for city Solid Waste Program

A. Catalog / Price Sheet Items being purchased - Itemize Below - Attach Additional Sheet If Necessary

Quan	Description	Unit Pr	Total
4000	AG135-AG137 - 95 Gallon NB Roll out Cart - Trash (Navy Blue Body/Burgandy Lid)	$ 44.70	$ 178,800
500	AG133-AG134 - 65 Gallon NB Roll out Cart - Trash (Navy Blue Body/Burgandy Lid)	$ 40.31	$ 20,155
			$ -
			$ -
	* All Pricing includes City logo on cart body/lid		$ -
	* Pricing includes HGAC Fees and does not include any applicable taxes		$ -
			$ -
			$ -
			$ -
			$ -
			$ -
		Total From Other Sheets, If Any:	
		Subtotal A:	$ 198,955

HGACBuy THE SMART PURCHASING SOLUTION

B. Unpublished Options, Accessory or Service items - Itemize Below - Attach Additional Sheet If Necessary
(Note: Unpublished items are any which were not submitted and priced in contractor's bid.)

Quan	Description	Unit Pr	Total
4000	Freight for 95 Gallon NB Roll out Cart - Trash	$ 1.80	$ 7,200
500	Freight for 65 Gallon NB Roll out Cart - Trash	$ 1.20	$ 600
			$ -
			$ -
		Total From Other Sheets, If Any:	
		Subtotal B:	$ 7,800

Check: Total cost of Unpublished Options (B) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).	For this transaction the percentage is:	4%

C. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges

Subtotal C:	$ -

Delivery Date:	30 Days (65s) 60	D. Total Purchase Price (A+B+C):	$ 206,755

RESOLUTION NO. _____

RESOLUTION ACCEPTING BID FOR THE PURCHASE OF A VACUUM JET CLEANER TRUCK

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

The bid, as indicated by enclosure for the purchase of a vacuum jet cleaner truck from Vac-Con, Inc. $348,522.00, is accepted.

This Resolution adopted this _____ day of September, 2012.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

_____

□ No Publication Required

□ Publish ____ Times

Interoffice Memorandum

TO: Ray Gosack, City Administrator

COPY TO: Steve Parke, Director of Utilities

FROM: Alie Bahsoon, Purchasing Manager

SUBJECT: Purchase of Vacuum Jet Cleaner Truck

DATE: August 29, 2012

In December of 2005, the Board of Directors approved Ordinance 93-05, thereby authorizing the City to participate in the State Cooperative Purchasing program. This process has enabled us to take advantage of other negotiated contracts that the State of Arkansas currently participates in.

One of these contracts is the *U.S. Communities Government Purchasing Alliance*, a national organization for local government agencies to assist them in making better use of their collective purchasing powers and improving their overall purchasing effectiveness.

The Houston-Galveston Area Council (H-GAC) is a member of this alliance. Because of their contract, local governments nationwide are permitted to purchase through their cooperative purchasing program. The State of Arkansas has executed an "Inter-local Contract" with H-GAC through the U.S. Communities Government Purchasing Alliance.

The Sewer Line Maintenance has budgeted $375,000 for this purchase. Funding has been appropriated for in the Capital Outlay Account (5611-303) of the 2012 City Budget. Because of the H-GAC contract, bids were not solicited and we are therefore acquiring this truck from Vac-Con, Inc. in the amount of $348,522.

Please be advised that this purchase fulfils all of the purchasing obligations as mandated by both state and local purchasing requirements; I am therefore recommending that the enclosed resolution is approved.

Henard Utility
1920 South Main St.
Searcy, AR 72143

Date 8/30/2012
Number 5330
Type of Quote Dual
PO
Attn Ali Bahsoon

Quote

Retail Purchaser City of Ft. Smith Ship To

Comments

Price excludes any applicable F.E.T., sales taxes, tag, title or registration fees.

Option content is subject to engineering approval.

Model Number - V 390/1000 L H A -O

Main Information

Model	390/1000
Blower	High Volume Hydrostatic Drive Upgrade
Boom	10' Aluminum Telescoping Boom with Pendant Control Station
Hose Reel	Front Mounted, Articulating to Driver Side, 800' (1") Capacity
Jet Rodder Hose	1000' x 3/4" 3000 psi/7500 psi - 600' extra
Water System	50 gpm/3000 psi Pump - Giant
Water Pump	GIANT
Auxiliary Engine	John Deere 4045 140HP

Other Items

Qty	Description
1	Debris Body "Power Flush" System, 8 jets
1	Flush Out connection for rear door valve
1	Centrifugal Compressor Fan Flush Out System
1	Hydraulic Rear Door Opener, removes door grabber
1	6" Knife Valve with lever action, in Lieu of 5" Butterfly Valve
1	Rear, Hydraulic Pump Off System, 575 GPM w/20' Layflat Hose
1	Gravity Drain System; plumbing to mid-passenger side of unit, allowing return of liquids to the manhole
1	Rear splash guard (3 - 9 O'clock) - tank mounted
1	Winter Recirculating System
1	Air Purge System
1	1/4 turn ball valve water drain (cannot choose both 2-1/2" gate valve and 1/4 turn ball valve, only choose one)
1	Variable Flow Valve (Valve Only) - nozzles required
1	Electro Magnet for outrigger leg
1	Additional Pipe Rack(s), specify any requested locations in comments section, otherwise engineering will place in best available locations.
1	Lazy Susan Pipe Rack (Holds 5 Pipes, will not fit when unit has a 6 cyl aux engine)

1	Storage Box Behind Cab 16" x 42" x 96"
1	(2) Roll out shelves for storage box behind cab
2	Side Mounted Tool Box 35" x 14" x 24"
1	Long Handle Storage / PVC
1	LED strobe, front mounted, with Limb Guard
1	LED strobe, rear mounted
1	LED 4 Strobes - (2) front bumper / (2) rear bumper
1	LED Arrowstick
1	Hand Held Spot Light
1	Boom Mounted Flood Lights
1	Rear Mounted Flood Lights
1	Flood Light - Water Pump Work Area
1	Flood Light - Auxiliary Engine Work Area
4	Limb Guard for Flood Light - each
1	Limb Guard for Rear Strobe or Revolving Light - each
1	Low Water Alarm with Light
1	Body Load Limit Alarm, Level Indicator
1	Rear Axle Load Limit Alarm
1	Front Axle Load Limit Alarm
1	Auxiliary Engine Kill Switch (Vandalism Protection)
1	Safety Shut Down Switch for Boom
1	Remote Control (Wireless): Boom, Vacuum Breaker, Throttle & Debris Body (includes Hi-Dump, if applicable). Does not include remote cable pendant controls for boom or hi dump.
1	Back Up Alarm
1	Hand Gun Assembly, Low Pressure
1	100' Capacity Handgun Hose Reel
1	Cone Storage Rack
1	Rear Mounted Tow Hooks
1	Centrifugal Compressor Quiet Package, limited available, consult factory
1	Auxiliary Engine Remote Oil Drain
1	Remote Boom Grease Zerk Assembly (Ground Level - includes water pump drive)
1	Remote Debris Tank Grease Assembly (Ground Level)
1	Grease Assembly Articulating Hose Reel
1	Automatic Lube Kit for Centrifugal Compressor
1	Hydraulic System Temperature Gauge
1	Vacuum gauge front bumper location behind reel
1	Dual Roller Level Wind Guide, plastic (in lieu of single)
1	Grease Gun 690-0093
1	3/4" Nozzle rack
1	Standard nozzle
1	Grenade Nozzle
1	Rotating Spinning Nozzle
1	3/4" x 15' Length Leader Hose
1	Allison Series 3000 5-year/unlimited mileage
1	Paint: To be advised
1	John Deere Power Tech E 4.5L (275 CID) Diesel Engine, Model 4045HF285, (4) Cylinder, 140HP at 2400RPM, 387 ftlbs at 1500RPM

1 Omnibus-2 Electronic Controller System-Color Monitor
1 Omnibus Footage Counter
1 Omnibus Hydrostratic Electronic Engagement
1 Water Pump Remote Oil Drain
1 John Deere auxiliary engine 5 Years/5000 hours (subject to $250 deductible) extended warranty
1 Cummins-ISC engine 5 year/150,000 miles, PP1 W/Aftertreatment, extended warranty

Truck Chassis Information

Pool Truck Chassis Model **2013 Freightliner 43000 GVWR 4X2 ISC 350HP 3000RDS** *Pool Trucks are subject to availability.*

Qty Description

Machine Total $346,482.00
Delivery $2,040.00
Total **$348,522.00**

Offered by: Jerry M. Todd __

Accepted by:_____

ORDINANCE NO. _____

AN ORDINANCE REFERRING A PROPOSED INITIATED ORDINANCE AUTHORIZING CITY-WIDE EXPANSION OF AUTOMATED RESIDENTIAL WASTE COLLECTION IN THE CITY OF FORT SMITH TO A VOTE OF THE ELECTORATE OF THE CITY

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

SECTION 1: The proposed initiated ordinance, certified by initiative petition filed with the City Clerk of the City of Fort Smith and the text of which is set forth in its entirety in this section, is hereby presented to a vote of the electorate of the City of Fort Smith at the general election to be held on the 6th day of November, 2012:

BE IT ENACTED BY THE PEOPLE OF THE CITY OF FORT SMITH, ARKANSAS: AN ORDINANCE OF THE CITY OF FORT SMITH, ARKANSAS CREATING A CITY-WIDE EXPANSION OF AUTOMATED RESIDENTIAL WASTE COLLECTION IN WHICH AUTOMATED MECHANICAL CURBSIDE RESIDENTIAL WASTE COLLECTION, UTILIZING WASTE CONTAINERS PROVIDED BY THE CITY OF FORT SMITH, ARKANSAS, WILL BE THE STANDARD WASTE COLLECTION METHOD PROVIDED BY THE CITY OF FORT SMITH TO EVERY RESIDENT RESIDING WITHIN THE CITY OF FORT SMITH, ARKANSAS, SUBJECT TO SPECIFIED VARIANCES AND DISABILITIES OF CUSTOMERS; AND FOR OTHER PURPOSES

The following designated definitions are to be added to the definitions in existing Section 25-261:

Automated Curbside Solid Waste Collection System shall have the following definition: a mechanical curbside solid waste collection system utilizing city-approved or city-provided containers for collection by solid waste collection vehicles equipped with a side-loading grapple arm boom assembly.

Grapple Arm Boom Assembly shall have the following definition: a mechanism affixed to a solid waste collection vehicle which moves in a horizontal direction away from the vehicle, has a reach of seven (7) to nine (9) feet, and dumps in a vertical overhead position which allows for articulation, greater operational flexibility and range of motion, and allows refuse containers to be retrieved from various distances and various levels of terrain from the vehicle.

Curbside shall have the following definition: the area adjacent to the public or private street used for general circulation, extending from the street not more than five (5) feet onto the homeowner's property. This area should also provide at least three (3) feet of clearance on each side of the container. If extraordinary circumstances preclude curbside placement, "curbside" shall be considered a placement suitable to the resident and convenient to the Fort Smith Department of Sanitation's equipment, as approved by the Director of the Fort Smith Department of Sanitation or by his/her authorized designee.

Section 25-301 - Automated Curbside Solid Waste Collection System

Except as designated by the City Administrator, by a supermajority vote of the Board of Directors, same being a vote of at least 5 of the 7 directors, by the Director of the Department of Sanitation, or by his/her authorized designee, the automated curbside solid waste collection system will be the method of collection for residential waste collection services provided to citizens within the city limits of the city of Fort Smith, Arkansas. Where it is impractical for the side-loader solid waste collection vehicles to operate due to terrain or other conditions, as designated by the City Administrator, by a supermajority vote of the Board of Directors, same being a vote of at least 5 of the 7 directors, or by the Director of the Department of Sanitation, or by his/her authorized designee, an alternate collection method will be provided.

Section 25-302 - Variances to Automated Curbside Solid Waste Collection System

The City Administrator, the Board of Directors by a supermajority vote, same being a vote of at least 5 of 7 directors, the Director of the Department of Sanitation, or his/her designee may grant exceptions to the requirements of Section 25-301 based upon circumstances such as, but not limited to, physical limitations of circumstances due to terrain difficulties, or right-of-way accessibility, as determined by the Director of the Department of Sanitation, or his/her authorized designee. All requests for variances will be considered on an individual case-by-case basis.

Section 25-303 - Collection Service for Disabled Persons

A carry-out service will be provided by the City of Fort Smith Department of Sanitation, or by an authorized designee, for persons with disabilities residing in dwelling units receiving city solid waste collection and recycling service. This service is provided at no additional charge to an individual(s) who is disabled or otherwise incapable of conveying their solid waste or recycling container to the designated collection location. The City Administrator, the Board of Directors, or an authorized designee shall verify that an individual(s) meets the aforementioned criteria upon receipt of a request for carry-out service. Prior to receiving this service, the requester may be required to produce reasonable evidence of disability. This service does not include collection personnel entering any portion of any dwelling unit to provide such service.

Section 25-304 - Containers for Automated Curbside Solid Waste Collection System

The City will furnish residential customers a city-owned plastic solid waste container for utilization with the automated curbside solid waste collection system. The provisions of this Section shall apply only to residential customers who are participating in the automated curbside solid waste collection system, who have not opted out due to disability or other designated variance.

SECTION 2: The proposed initiated ordinance presented to the electorate of the City by Section 1 of this ordinance shall be voted on at the general election to be held on the 6th day of November, 2012. The official ballot shall identify the proposed initiated ordinance by entirety of its text. The electorate shall be requested to vote on the issue by voting "For" or "Against" the proposed initiated ordinance authorizing city-wide expansion of automated residential waste collection in the city of Fort Smith.

SECTION 3: The City Clerk shall provide notice to the Sebastian County Board of Election Commissioners of the proposed initiated ordinance and shall cause such publications and proclamations to be published as are required by the election laws of the State of Arkansas.

SECTION 4: Emergency Clause. It is determined that the time requirements for timely presenting a matter for consideration to the electorate at the next general election constitute an emergency regarding the effective date of this ordinance. It is, therefore, determined that this ordinance shall become effective immediately upon passage.

THIS ORDINANCE ADOPTED this 4th day of September, 2012.

APPROVED:

_____

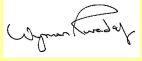
MAYOR

ATTEST:

_____

CITY CLERK

Approved as to form:



_____

Publish 1 Time

The City of Fort Smith ARKANSAS

OFFICE OF THE CITY CLERK
Sherri Gard, CMC, City Clerk
Heather Iames, Assistant City Clerk

August 31, 2012

Fort Smith Citizens for Automated Trash Collection
c/o Mr. Joel I. Culberson
2421 South "O" Street
Fort Smith, AR 72901
ujculbe@gmail.com

Re: Initiative Regarding Automated Trash Collection

Dear Mr. Culberson:

Pursuant to the authority extended to me by Article 5, § 1 of the Arkansas Constitution and by Section 2-71 of the Fort Smith Municipal Code, I hereby certify to the Fort Smith Board of Directors that the Initiative Petition is sufficient. As also provided in Section 2-71 of the Fort Smith Municipal Code, this decision shall be final unless suit is brought in the circuit court of Sebastian County, Fort Smith District, within thirty (30) days of the date of this notice to the Board of Directors.

After consultation with the city attorney, I have determined that the submitted amendments/corrections to the Initiative Petition filed with my office on August 29, 2012 have addressed the previous insufficiencies as noted in my initial determination letter dated August 23, 2012. The Initiative Petition now contains the required 2,822 verified signatures of registered voters in Fort Smith and a valid ballot title for placement on the November 6, 2012 general election ballot.

Section 2-72 of the Fort Municipal Code states, *"In the case of an initiative petition, after receipt of the clerk's certification, the board of directors shall, at its next regular meeting, or at an earlier special meeting, notify the county board of election commissioners that the measure has been initiated and should be placed on the ballot at the next regular municipal election; and the board shall submit a copy of the ballot title for the initiated matter to the county board of election commissioners."*

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 784-2208
FAX (479) 784-2256
E-mail: cityclerk@fortsmithar.gov

Printed on 100% Recycled Paper

In accordance with the aforementioned Code, the attached ordinance will be presented to the Fort Smith Board of Directors at the September 4, 2012 regular meeting to notify the County Board of Election Commissioners that the measure has been initiated and should be placed on the November 6, 2012 general election ballot.

Respectfully submitted,

Sherri Gard

Sherri Gard
City Clerk

Pursuant to Section 2-71 of the Fort Smith Municipal Code, this notice of determination as to sufficiency of the Initiative Petition is provided to the members of the Fort Smith Board of Directors and to Mayor Sandy Sanders on this 31st day of August, 2012.

Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors
Ward 1 – Steve Tyler
Ward 2 – Andre' Good
Ward 3 – Don Hutchings
Ward 4 – George Catsavis
At Large Position 5 – Pam Weber
At Large Position 6 – Kevin Settle
At Large Position 7 – Philip H. Merry Jr.

AGENDA ~ Summary

Fort Smith Board of Directors

Regular Meeting

September 4, 2012 ~ 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 6

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL
All Present

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)
Information available by viewing rebroadcast of the meeting on the City Access Channel 6 or City website

APPROVE MINUTES OF THE AUGUST 23, 2012 REGULAR MEETING
Unanimously approved as written

ITEMS OF BUSINESS:

1. Presentation:

- Proclamation declaring September 2012 Hunger Action Month in recognition of the Mayor's second annual Communitywide Food Drive
  Presentation Only

- Good Neighbor Award
  Presentation Only

2. Items relative to appeal of Planning Commission decision denying the development plan located at 900 South Waldron *(appeal filed by Rocky Walker & Aaron Wirth, Developers)*:

   A. Resolution affirming the action of the Planning Commission denying the development plan for a multi-family development located at 900 South Waldron Road
   Approved 7 in favor, 0 opposed / Resolution No. R-192-12

   B. Resolution approving a development plan for a multi-family development located at 900 South Waldron Road
   No action taken due to adoption of Item No. 2A

3. Ordinance amending Chapter 4, Article I of the Fort Smith Municipal Code regulating animals, establishing mandatory registration, spay and neuter regulations, and a hobbyist permit for dogs and cats *~ First reading at the March 15, 2011 regular meeting / Tabled for 6 months at the April 5, 2011 regular meeting / Tabled for 90 days at the October 4, 2011 regular meeting / Tabled for 9 months at the January 3, 2012 regular meeting ~ ** Second reading ***
   7 in favor, 0 opposed / Tabled indefinitely

4. Ordinance amending Chapter 4, Article I, Section 4-1 of the Fort Smith Municipal Code regulating animals *~ First reading at the March 15, 2011 regular meeting / Tabled for 6 months at the April 5, 2011 regular meeting / Tabled for 90 days at the October 4, 2011 regular meeting / Tabled for 9 months at the January 3, 2012 regular meeting ~ ** Second reading ***
   7 in favor, 0 opposed / Tabled indefinitely

5. Items regarding aquatic center and softball fields at Ben Geren Regional Park:

   A. Ordinance accepting certain territory into the city of Fort Smith, Arkansas *(Ben Geren Regional Park)*
   Approved 7 in favor, 0 opposed / Ordinance No. 61-12

   B. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map *(Master Land Use Plan - from Extraterritorial Jurisdiction Low Density Residential to General Commercial; Rezoning – from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Commercial Heavy (C-5) by extension located at 7300 South Zero Street and 6618 Softball Lane) ~ Tabled at the August 7, 2012 regular meeting ~*
   Approved 7 in favor, 0 opposed / Ordinance No. 62-12

6. Items regarding property development at 9022 and 9100 Highway 271 South:

   A. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan - from Unclassified to Extraterritorial Jurisdiction Light Industrial; Rezoning - from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Industrial Light (ETJ I-1) by classification located at 9022 and 9100 South Highway 271)*
   Approved 7 in favor, 0 opposed / Ordinance No. 63-12

   B. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(ETJ Use Matrix)*
   Approved 7 in favor, 0 opposed / Ordinance No. 64-12

7. Ordinance rezoning identified property and amending the zoning map *(from Not Zoned to Residential Single-Family Medium/High Density (RS-3), Residential Single Family Duplex Medium/High Density (RSD-3) and Residential Multi-Family Medium Density (RM-3) by classification located at 9450, 9600 and 9850 Chad Colley Blvd)*
   Approved 7 in favor, 0 opposed / Ordinance No. 65-12

8. Ordinance rezoning identified property and amending the zoning map *(from Not Zoned to Transitional (T) by classification located at 8101 McClure Drive)*
   Approved 7 in favor, 0 opposed / Ordinance No. 66-12

9. Ordinance rezoning identified property and amending the zoning map (*from Transitional (T) to Residential Multi-Family Medium Density (RM-3) by extension located at 3407 South 66th Street)*
   Approved 7 in favor, 0 opposed / Ordinance No. 67-12

10. Ordinance establishing a limited policy of the City of Fort Smith, Arkansas for the hearing and settling of specifically identified tort claims *~ Good/Settle placed on agenda at the August 28, 2012 study session ~*
    Approved 7 in favor, 0 opposed / Ordinance No. 68-12

11. Ordinance accepting dedication of public roadway rights-of-way *(Fort Chaffee Redevelopment Authority)*
    Approved 7 in favor, 0 opposed / Ordinance No. 69-12

12. Consent Agenda

    A. Resolution setting public hearing date on petition to vacate a portion of a street right-of-way located in Jefferson Place, an addition to the city of Fort Smith, Arkansas *(North "J" Street)*
    Approved 7 in favor, 0 opposed / Resolution No. R-193-12

B. Resolution to accept the bids and authorize contracts for the construction of McClure Amphitheater Road, Project No. 12-00-A upon concurrence of the Fort Chaffee Redevelopment Authority *($1,096,317.10 / Engineering Department / Budgeted – Sales Tax Program Fund)*
Approved 7 in favor, 0 opposed / Resolution No. R-194-12

C. Resolution authorizing an amendment to the engineering services agreement for the design of 2012 Neighborhood Drainage Improvements, Project No. 12-06-C *($42,850.00 / Engineering Department / Budgeted – Sales Tax Program Fund)*
Approved 7 in favor, 0 opposed / Resolution No. R-195-12

D. Resolution authorizing an amendment to the engineering services agreement for the design of 2012 Neighborhood Drainage Improvements, Project No. 12-06-A *($8,260.00 / Engineering Department / Budgeted – Sales Tax Program Fund)*
Approved 7 in favor, 0 opposed / Resolution No. R-196-12

E. Resolution allowing the sale of surplus vehicles and equipment at public auction
Approved 7 in favor, 0 opposed / Resolution No. R-197-12

F. Resolution rescinding Resolution No. R-173-11 and accepting bid for the purchase and installation of a fuel management system *($87,034.00 / Sanitation Department / Budgeted Sanitation Operating Fund)*
Approved 7 in favor, 0 opposed / Resolution No. R-198-12

G. Resolution accepting bids for the purchase of trucks *($428,825.00 / Various capital outlay accounts)*
Approved 7 in favor, 0 opposed / Resolution No. R-199-12

H. Resolution accepting the bid for the purchase of a sewer rodding truck *($159,873.75 / Utilities Department / Budgeted – Water & Sewer Operating Fund)*
Approved 7 in favor, 0 opposed / Resolution No. R-200-12

I. Resolution accepting bid for the purchase of 65 and 95 gallon recycling roll-out containers *($206,755.00 / Sanitation Department / Budgeted – Sanitation Fund)*
Approved 5 in favor, 2 opposed (Tyler & Merry) / Resolution No. R-201-12

J. Resolution accepting bid for the purchase of a vacuum jet cleaner truck *($348,522.00 / Utilities Department / Budgeted – Water & Sewer Operating Fund)*
Approved 7 in favor, 0 opposed / Resolution No. R-202-12

13. Ordinance referring a proposed initiated ordinance authorizing city-wide expansion of automated residential waste collection in the City of Fort Smith to a vote of the electorate of the city
Approved 6 in favor, 1 opposed (Tyler) / Ordinance No. 70-12

OFFICIALS FORUM ~ presentation of information requiring no official action

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

A. Mayor
B. Directors
C. City Administrator

Information available by viewing rebroadcast of the meeting on the City Access Channel 6 or City website

ADJOURN
7:28 P.M.

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ SEPTEMBER 4, 2012 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Father John Maxwell of St. George and Alexandra Orthodox Church, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, George Catsavis, Pam Weber, Kevin Settle and Philip H. Merry, Jr. The Mayor declared a quorum present.

Mayor Sanders inquired if any Board member had any item of business to present that was not already on the agenda. None was presented.

The minutes of the August 23, 2012 regular meeting were presented for approval. Settle, seconded by Catsavis, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Item No. 1 consisted of the following presentations:

- In recognition of the Mayor's Second Annual Communitywide Food Drive, Mayor Sanders presented a proclamation declaring September 2012 as Hunger Action Month in Fort Smith to Mr. Ken Kupchick, representing the River Valley Regional Food Bank.

- The Mayor also presented Mr. David Ransom with the Good Neighbor Award. Ms. Patty Yarborough nominated Mr. Ransom citing his valued assistance to her and other surrounding neighbors.

Item No. 2 consisted of the following items relative to appeal of Planning Commission decision denying the development plan located at 900 South Waldron Road *(appeal filed by Rocky Walker & Aaron Wirth, Developers)*:

A. Resolution affirming the action of the Planning Commission denying the development plan for a multi-family development located at 900 South Waldron Road

B. Resolution approving a development plan for a multi-family development located at 900 South Waldron Road

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the appeal of Rocky Walker and Aaron Wirth, developers. The Board of Directors rezoned the subject property in 2010. A development plan was submitted at that time, identified as the 2010 Development Plan, which consisted of a fifty-six (56) unit multi-family development with five (5) buildings including a mix of two (2) and three (3) story buildings. With the enhanced setback requirements in the Unified Development Ordinance (UDO), variances were needed to permit the previously submitted development. After reviewing the possibility of variances, the developers decided to revise the development plan so that it did not require any variances. The revised development plan, identified as the 2012 Development Plan, consists of a fifty-six (56) unit multi-family development, but with three (3), three (3) story buildings. A neighborhood meeting was held on August 9, 2012 with approximately twenty-five (25) surrounding neighbors in attendance, who voice various objections to the project citing opposition to the three (3) story design, traffic concerns and property devaluation. The Planning Commission reviewed the 2012 Development Plan and unanimously amended the request to make approval subject to the following:

- All construction must be built in accordance with the submitted development plan.
- The final development plan must provide details on the proposed exterior lighting that complies with Section 27-602-5 Commercial and Outdoor Lighting requirements.
- All signage will require staff review and permitting.

The Planning Commission denied the amended request by a vote of two (2) in favor, six (6) opposed, and one (1) abstention. The denial was based on the fact that the

proposed development would not be consistent with the area's established development pattern and character, and that it fails to respect the context of the surrounding neighborhood. Mr. Walker filed an appeal of the Planning Commission denial with the City Clerk's Office on August 24, 2012. Item No. 2A affirms the action of the Planning Commission denying the 2012 Development Plan. Item No. 2B overturns the action of the Planning Commission and approves the 2012 Development Plan for the multi-family development.

The following individual was present to address the Board:

- Mr. Rocky Walker, developer
  Fort Smith, Arkansas

  Re: Spoke in favor of the submitted 2012 Development Plan citing such was designed according to all City guidelines and standards, and alleged such is consistent with the approved zoning in 2010. Regarding the basis for Planning Commission denial, he noted the city attorney opinion which states, *"argued incompatibility of the development plan with other, nearby properties, are not appropriate factors in performing development plan review under this section. (Section 27-331-1)"*; therefore, he recommended approval of Item No. 2B.

- Mr. John Alford
  Fort Smith, Arkansas

  Re: Spoke in opposition to the submitted 2012 Development Plan and requested all those in attendance who were also opposed to stand whereby approximately thirty (30) attendees participated. He expressed concern regarding increased traffic citing 689 traffic citations were issued on Waldron Road in 2011, and alleged the proposed development is not consistent with requirements noted within the UDO.

- Mr. Tom Robertson

  Re: Also spoke in opposition to the submitted 2012 Development Plan citing such does not conform with the character or pattern of the surrounding neighborhood.

There was brief discussion with several members of the Board conveying concern regarding the density and parking of the development, traffic and uniformity with the existing character of the surrounding neighborhood. An inquiry was also conveyed regarding the possibility of access from Waldron Road only and other developments that could be constructed on the subject property, as well as nearby vacant property.

Mr. Bailey advised the density of the development and parking conforms with the existing requirements of the UDO and noted public safety officials would 'prefer' multiple access to the development from both Free Ferry and Waldron Road. With regard to other allowable development, he advised the property was rezoned in 2010 specifically for a high-density, multi-family development; however, such included a provision that required Planning Commission approval of the development plan. With regard to allowable development on vacant land nearby, he advised such is currently zoned for commercial development.

Tyler, seconded by Weber, moved adoption of Item No. 2A. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-192-12.

Items No. 3 and 4 were presented collectively, the items being as follows:

3. Ordinance amending Chapter 4, Article I of the Fort Smith Municipal Code regulating animals, establishing mandatory registration, spay and neuter regulations, and a hobbyist permit for dogs and cats ~ *First reading at the March 15, 2011 regular meeting / Tabled for 6 months at the April 5, 2011 regular meeting / Tabled for 90 days at the October 4, 2011 regular meeting / Tabled for 9 months at the January 3, 2012 regular meeting ~ ** Second reading* **

4. Ordinance amending Chapter 4, Article I, Section 4-1 of the Fort Smith Municipal Code regulating animals ~ *First reading at the March 15, 2011 regular meeting / Tabled for 6 months at the April 5, 2011 regular meeting / Tabled for 90 days at the*

September 4, 2012 Regular Meeting

*October 4, 2011 regular meeting / Tabled for 9 months at the January 3, 2012 regular meeting ~ ** Second reading ***

Administrator Gosack briefed the Board advising the ordinances were first presented for consideration and approved on March 15, 2011; however, neither ordinance received the required five (5) affirmative votes for passage on their first reading. The second readings were scheduled for April 5, 2011 and was tabled for six (6) months. At the October 4, 2011 regular meeting, the second readings were tabled for ninety (90) days to allow the Animal Services Task Force to complete their work and present recommendations. At the January 3, 2012 regular meeting, the second readings were again tabled, but for ninety (90) days.

Item No. 3 establishes mandatory registration, spay and neuter regulations, and hobbyist permits for dogs and cats. Item No. 4 merely amends the existing definitions to accomplish regulations adopted in Item No. 3. The Board maintains the following options with regard to the proposed ordinances:

- Merely allow the second reading.
- Table the ordinances for a designated period of time to retain them for future consideration.
- Table the ordinances indefinitely to withdraw consideration.
- Vote on the ordinances again in an attempt to obtain the required five (5) affirmative votes for passage.

Merry, seconded by Settle, moved to table the items indefinitely. The motion also included that the Animal Services Advisory Board review the current "leash law" to encourage pet owners to spay/neuter their pets whereby incentives would be provided that the fine could potentially be waived in its entirety, as well as implementation of an increased fine scale for multiple violations of unaltered pets running at large. The members all voting affirmatively, the Mayor declared the motion carried.

September 4, 2012 Regular Meeting

Item No. 5 consisted of the following items regarding aquatic center and softball fields at Ben Geren Regional Park:

A. Ordinance accepting certain territory into the city of Fort Smith, Arkansas *(Ben Geren Regional Park)*

B. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map *(Master Land Use Plan - from Extraterritorial Jurisdiction Low Density Residential to General Commercial; Rezoning - from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Commercial Heavy (C-5) by extension located at 7300 South Zero Street and 6618 Softball Lane) ~ Tabled at the August 7, 2012 regular meeting ~*

Mr. Bailey briefed the Board on the items collectively advising construction of the aquatic center and softball fields at Ben Geren Regional Park requires the annexation and rezoning of a portion of the park where the facilities will be constructed. The City of Fort Smith and the Sebastian County Quorum Court approved and have executed an agreement that provides for the annexation to facilitate these facilities. Item No. 5A accepts the annexation of approximately 27.89 acres into the corporate limits of the City of Fort Smith.

Item No. 5B is per the request of Sebastian County to amend the Master Land Use Plan and request a zone change to facilitate the aquatic center and softball fields in the aforementioned 27.89 acres to be annexed. A neighborhood meeting was held on July 2, 2012 with three (3) surrounding property owners in attendance; however, no objections or concerns were expressed. The Planning Commission held a public hearing on July 10, 2012 with no individual present to speak in opposition. The Planning Commission unanimously amended the request to make approval subject to annexation of the property into the city of Fort Smith. The Planning Commission approved amended Master Land Use

Plan and rezoning by a vote of seven (7) in favor and zero (0) opposed.

Hutchings, seconded by Settle, moved adoption of Item No. 5A. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 61-12.

Settle, seconded by Weber, moved adoption of Item No. 5B. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 62-12.

Item No. 6 consisted of the following items regarding property development at 9022 and 9100 Highway 271 South:

A. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map *(Master Land Use Plan - from Unclassified to Extraterritorial Jurisdiction Light Industrial; Rezoning - from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Industrial Light (ETJ I-1) by classification located at 9022 and 9100 South Highway 271)*

B. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(ETJ Use Matrix)*

Mayor Sanders announced Item No. 6A had been revised to correct a typographical error in the address noted within the ordinance *(9200 should be 9022 South Highway 271)*; therefore, the motion to adopt must include the noted revision.

Mr. Bailey briefed the Board on the items advising Item No. 6A is per the request of C. J. Klinger, agent for Eastern Tank Services, Inc. The purpose of the requests is to allow

Eastern Tank Services to obtain proper zoning on their existing development at 9100 Highway 271 South and to expand their existing operation to 9022 Highway 271 South. The business is located within the Extraterritorial Jurisdiction; therefore, is considered a nonconforming use. In order to facilitate the proposed expansion to the contiguous property, such requires the proposed zone change.

Regarding Item No. 6B, during review of the above noted Master Land Use Plan and rezoning, it was determined that a land use that adequately described Eastern Tank Services was not found within the ETJ land use matrix; therefore, the proposed ordinance includes oil and gas equipment (sales and service) to the ETJ Industrial Light and ETJ Industrial Moderate zoning districts. The Planning Commission held a public hearing on August 14, 2012 with no individual present to speak in opposition. The Planning Commission approved the Master Land Use Plan amendment, rezoning and UDO amendment by a vote of seven (7) in favor and zero (0) opposed.

Good, seconded by Settle, moved adoption of Item No. 6A as revised to reflect the aforementioned typographical error. The motion also included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 63-12.

Settle, seconded by Good, moved adoption of Item No. 6B. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried. Weber, seconded by Tyler, moved adoption of Section 3 the emergency clause. The

members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 64-12.

Item No. 7 was an ordinance rezoning identified property and amending the zoning map *(from Not Zoned to Residential Single-Family Medium/High Density (RS-3), Residential Single Family Duplex Medium/High Density (RSD-3) and Residential Multi-Family Medium Density (RM-3) by classification located at 9450, 9600 and 9850 Chad Colley Blvd)*

Mr. Bailey briefed the Board on the item advising such is per the request of Pat Mickle, agent. The purpose of the rezoning request is to facilitate a subdivision containing single-family dwellings and duplexes. The petitioner also requested a development plan deferral for Lots 60, 99 and 100 as the developer anticipates duplexes, but does not have a defined plan for the areas. The Planning Commission held a public hearing on August 14, 2012 with no individual present to speak in opposition. The Planning Commission approved the rezoning request by a vote of nine (9) in favor and zero (0) opposed.

Hutchings, seconded by Settle, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 65-12.

Item No. 8 was an ordinance rezoning identified property and amending the zoning map *(from Not Zoned to Transitional (T) by classification located at 8101 McClure Drive)*

Mr. Bailey briefed the Board on the item advising such is per the request of Rob Coleman, agent. The purpose of the request is to allow for the development of an office building. The Chaffee Crossing Redevelopment Plan Future Land Use Plan currently

classifies the site as single-family residential, which does not permit the Transitional zoning district. Due to such, the City of Fort Smith recommended the Fort Chaffee Redevelopment Authority (FCRA) change the land use classification to Mixed Use: Neighborhood Commercial/Office whereby such was ultimately approved. The Planning Commission held a public hearing on August 14, 2012 with Mr. John Fisher in attendance to inquire of the type of professional office proposed. The Planning Commission unanimously amended the request to make approval subject to the FCRA amending the Chaffee Crossing Redevelopment Plan Future Land Use Plan. The Planning Commission approved the amended request by a vote of nine (9) in favor and zero (0) opposed.

Merry, seconded by Hutchings, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 66-12.

Item No. 9 was an ordinance rezoning identified property and amending the zoning map *(from Transitional (T) to Residential Multi-Family Medium Density (RM-3) by extension located at 3407 South 66th Street)*

Mr. Bailey briefed the Board on the item advising such is per the request of Brett Abbott, agent. The request is a corrective rezoning to reflect how the area has developed. The existing use of the subject property is a multi-family dwelling and currently, such is a nonconforming use. The proposed corrective rezoning will allow the apartments to become a conforming use. The Planning Commission held a public hearing on August 14, 2012 with no individual present to speak in opposition. The Planning Commission approved the rezoning request by a vote of eight (8) in favor, zero (0) opposed and one (1) abstention.

Director Settle questioned if a proposed development on the property prompted the rezoning request whereby Mr. Bailey responded "no".

Settle, seconded by Weber, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 67-12.

Item No. 10 was an ordinance establishing a limited policy of the City of Fort Smith, Arkansas for the hearing and settling of specifically identified tort claims ~ *Good/Settle placed on agenda at the August 28, 2012 study session* ~

Director of Utilities Steve Parke briefed the Board on the item as discussed at the August 28, 2012 study session. The proposed ordinance amends the existing policy to allow for the settling of identified tort claims in which such damage was caused as a direct result of work performed by the City.

Director Hutchings requested confirmation that the proposed amendment will be utilized for limited circumstances.

Mr. Parke confirmed that such merely allows the City to consider specifically identified claim requests on a case-by-case basis.

Weber, seconded by Good, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Good, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 68-12.

Item No. 11 was an ordinance accepting dedication of public roadway rights-of-way *(Fort Chaffee Redevelopment Authority)*

Director of Engineering Stan Snodgrass briefed the Board on the item advising the City of Fort Smith accepted the dedication of public roadways within the Fort Chaffee Redevelopment (FCRA) area via adoption of Ordinance No. 48-01. The aforementioned ordinance accepted responsibility of the paved surface roadways, but did not define the right-of-way widths of the streets. The streets have now been surveyed and widths established. On August 16, 2012, the FCRA approved a Public Roadway Rights-of-Way Dedication agreement; therefore, the proposed ordinance formally accepts the right-of-way dedication from the FCRA.

Settle, seconded by Hutchings, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried. Good, seconded by Tyler, moved adoption of Section 2 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 69-12.

The Consent Agenda (Item No. 12) was introduced for consideration, the items being as follows:

A. Resolution setting public hearing date on petition to vacate a portion of a street right-of-way located in Jefferson Place, an addition to the city of Fort Smith, Arkansas *(North "J" Street)*

B. Resolution to accept the bids and authorize contracts for the construction of McClure Amphitheater Road, Project No. 12-00-A upon concurrence of the Fort Chaffee Redevelopment Authority *($1,096,317.10/Engineering Department/Budgeted - Sales Tax Program Fund)*

C. Resolution authorizing an amendment to the engineering services agreement for the design of 2012 Neighborhood Drainage Improvements, Project No. 12-06-C *($42,850.00 / Engineering Department / Budgeted - Sales Tax Program Fund)*

D. Resolution authorizing an amendment to the engineering services agreement for the design of 2012 Neighborhood Drainage Improvements, Project No. 12-06-A *($8,260.00 / Engineering Department / Budgeted - Sales Tax Program Fund)*

E. Resolution allowing the sale of surplus vehicles and equipment at public auction

F. Resolution rescinding Resolution No. R-173-11 and accepting bid for the purchase and installation of a fuel management system *($87,034.00 / Sanitation Department / Budgeted Sanitation Operating Fund)*

G. Resolution accepting bids for the purchase of trucks *($428,825.00 / Various capital outlay accounts)*

H. Resolution accepting the bid for the purchase of a sewer rodding truck *($159,873.75 / Utilities Department / Budgeted - Water & Sewer Operating Fund)*

I. Resolution accepting bid for the purchase of 65 and 95 gallon recycling roll-out containers *($206,755.00 / Sanitation Department / Budgeted - Sanitation Fund)*

J. Resolution accepting bid for the purchase of a vacuum jet cleaner truck *($348,522.00 / Utilities Department / Budgeted - Water & Sewer Operating Fund)*

Regarding Item No. 12I, the following individual was present to address the Board:

- David Harris
  Fort Smith, Arkansas

  Re: Conveyed multiple questions regarding the purchase of recycling roll-out containers, i.e. how many recycle cans, how many trash cans, may residents have an extra container, can such be used for yard waste, etc.

  Director of Sanitation Baridi Nkokheli responded to each inquiry accordingly.

Director Tyler questioned the necessity of the purchase when the initiatballot measure regarding citywide automated sanitation service has not yet been determined by the voters.

Mayor Sanders reminded all that the Board recently approved citywide automated sanitation service; therefore, the purchase of roll-out containers is necessary regardless of the outcome of the ballot initiative.

City Attorney Jerry Canfield confirmed the comments of Mayor Sanders and further noted that if the initiated measure is approved, the Arkansas Constitution renders authority to the governing body to overturn such by 2/3 vote of the Board.

Settle, seconded by Catsavis, moved adoption of all consent agenda items. The members all voting affirmatively, with the exception of Directors Tyler and Merry voting "no" on Item No. 12l, the Mayor declared the motion carried and the resolutions were adopted and numbered R-193-12 through R-202-12 respectively.

Item No. 13 was an ordinance referring a proposed initiated ordinance authorizing city-wide expansion of automated residential waste collection in the City of Fort Smith to a vote of the electorate of the city.

City Clerk Sherri Gard briefed the Board on the item advising the initiative petition has been determined to be sufficient for placement on the November 6, 2012 general election ballot. The proposed ordinance is a requirement of the Fort Smith Municipal Code whereby such must be presented to the Board for approval to formally notify the Sebastian County Board of Election Commissioners of placement of the initiated measure on the general election ballot.

The following individual was present to address the Board:

- David Harris
  Fort Smith, Arkansas

  Re: Questioned if all language after the specified title within Section 1 will be included on the ballot whereby Administrator Gosack responded "yes".

Settle, seconded by Hutchings, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members voted as follows: ayes - Good, Hutchings, Catsavis, Weber, Settle and Merry; nays - Tyler. The Mayor declared the motion carried. Settle, seconded by Hutchings, moved adoption of Section 4 the emergency clause. The members voted as follows: ayes - Good, Hutchings, Catsavis, Weber, Settle and Merry; nays - Tyler. The Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 70-12.

Mayor Sanders opened the Officials Forum with the following comments offered:

- Mayor Sanders

  Re: 1. Announced the Arkansas-Oklahoma State Fair will occur September 21 - 29, 2012 at Kay Rodgers Park and encouraged all to attend.

  2. Reminded all that the monthly Town Hall meeting will be held following adjournment advising those wishing to address the Board during said meeting must sign-in and advised the sign-in sheet is located at the back of the room.

- Director Settle

  Re: 1. Regarding Item No. 13, he expressed concern with the necessity of Board approval of an ordinance to formally place an initiated measure on an election ballot when the petition has been determined to be sufficient by the City Clerk. Due to such, he requested the matter be

reviewed and provided no state requirement exists, requested the Fort Smith Municipal Code be amended to remove said requirement.

2. Requested the full expansion of Spradling Avenue be included in the upcoming discussion regarding future CIP Projects.

- Director Merry

  Re: Regarding Item No. 3 relative to spay/neuter, he recommended the Animal Services Advisory Board place a greater emphasis on enforcement of dogs running-at-large.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Merry and the members all voting aye, the Mayor declared the motion carried, and the meeting stood adjourned at 7:28 p.m.

APPROVED:

MAYOR

ATTEST:

CITY CLERK