Mayor – Sandy Sanders

City Administrator – Carl Geffken

City Clerk – Sherri Gard

Board of Directors

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

AGENDA

Fort Smith Board of Directors
REGULAR MEETING
June 7, 2016 ~ 6:00 p.m.
Fort Smith Public Schools Service Center
3205 Jenny Lind Road

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

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL

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

APPROVE MINUTES OF THE MAY 17, 2016 REGULAR MEETING

ITEMS OF BUSINESS:

1. Ordinance rezoning identified property and amending the zoning map *(from Not Zoned to a Planned Zoning District by classification located at 11201 Custer Boulevard)*

2. Ordinance rezoning identified property and amending the zoning map *(from Residential Single Family Duplex Low / Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by classification located at 1700-1730 South Albert Pike; 3901-4111 South "Q" Street; 1701-1721 Hendricks Boulevard; and 4001-4119, 3904-3923,4002-4120 South "P" Street)* ♦

3. Ordinance amending the Fort Smith Code Section 27-327-6 to provide for outdoor mobile food vending from self-contained mobile food trucks for extended hours of operation in city marked locations in public street right-of-way *(mobile food vending)* ♦

4. Resolution authorizing the Mayor to execute an agreement with U.S. Bank for purchasing card services *~ Agreement defeated at the May 17, 2016 regular meeting ~*

5. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Goodwin & Goodwin, Inc. for the Lee Creek Reservoir Buoy Line Replacement *($48,695.00 / Utility Department / Budgeted – Water and Sewer Operating Budget)* ♦

6. Resolution confirming and ratifying approval of Authorization No. 2 to the agreement with RJN Group, Inc. for providing engineering services in connection with the 2015 Sanitary Sewer Assessment Remedial Measures, Phase A (Sub-Basin P007 and S008) as authorized by Resolution No. R-64-16 adopted on May 17, 2016 *($281,560.00 / Utility Department / Budgeted – 2015 Revenue Bonds)* ♦ ●

7. Resolution confirming and ratifying approval of Authorization No. 2 to the agreement with Morrison-Shipley Engineers, Inc. for providing engineering services in connection with the 2015 Sanitary Sewer Assessment Remedial Measures, Phase C (Sub-Basin FL01 and S009) as authorized by Resolution No. R-66-16 adopted on May 17, 2016 *($308,300.00 / Utility Department / Budgeted – 2015 Revenue Bonds)* ♦ ●

8. Ordinance declaring an exceptional situation waiving the requirements of competitive bidding and authorizing a contract with Goodwin & Goodwin, Inc. for emergency repair SSA 2015 (S009) High Street – Brockman from North 43rd Street to Albert Pike *($158,160.00 / Utility Department / Not Budgeted – Water and Sewer Capital Improvements)* ♦ ●

9. Consent Agenda

   A. Resolution authorizing a time extension for the 2013 Drainage Improvements, Phase A, Project No. 13-06-A *(145 days)*

   B. Resolution accepting completion of and authorizing final payment for the construction of 2013 Drainage Improvements, Phase A, Project No. 13-06-A *($19,596.94 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦

   C. Resolution authorizing a time extension for the 2015 Drainage Improvements, Phase A, Project No. 15-06-A *(109 days)*

   D. Resolution accepting completion of and authorizing final payment for the construction of 2015 Drainage Improvements, Phase A, Project No. 15-06-A *($7,536.09 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦

   E. Resolution accepting bid for the purchase of a rear loader *($232,956.46 / Sanitation Department / Budgeted – Capital Outlay 6302-304)*

   F. Resolution accepting bid for the purchase of an automated side loader *($277,057.18 / Sanitation Department / Budgeted – Capital Outlay 6302-303)*

G. Resolution authorizing the Mayor to enter into a lease agreement with Heather Mendez for operation of the miniature golf course and concession at Creekmore Park

OFFICIALS FORUM ~ presentation of information requiring no official action

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

- Mayor
- Directors
- City Administrator

ADJOURN

1.

ORDINANCE NO._____

AN ORDINANCE REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP

WHEREAS, the City Planning Commission has heretofore held a public hearing upon request No.11-5-16 to rezone certain properties hereinafter described, and, having considered said request, recommended on May 10, 2016, that said change be made;

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

SECTION 1: That the following properties to-wit:

Part of the Southwest Quarter of Section 9, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas. Being more particularly described as follows:

Commencing at the Southeast Corner of said Section 9; Thence along the south line of said Section 9, N87°11'16"W, 3309.03 feet; Thence leaving said south line, N00°00'00"W, 656.71 feet to a point on the north right-of-way line of Custer Boulevard and the Point of Beginning, said point being marked with a set 1/2" rebar with cap stamped MWC 1369; Thence along said north right-of-way line, N86°43'31"W, 327.10 feet to a set 1/2" rebar with cap stamped MWC 1369; Thence leaving said north right-of-way line, N02°33'09"E, 278.00 feet to a set 1/2" rebar with cap stamped MWC 1369; Thence N86°43'31"W, 210.00 feet to the easterly line of a Tank Trail Easement, being filed June 21, 2001 as Document #7046150, said point being marked with a set 1/2" rebar with cap stamped MWC 1369; Thence along said easterly line the following courses: N02°33'09"E, 32.93 feet to a set 1/2" rebar with cap stamped MWC 1369; N19°37'20"W, 202.70 feet to a set 1/2" rebar with cap stamped MWC 1369; N57°16'53"W, 226.59 feet to a set 1/2" rebar with cap stamped MWC 1369; N76°46'54"W, 207.00 feet to a set 1/2" rebar with cap stamped MWC 1369; Thence leaving said easterly line, N02°33'09"E, 393.98 feet to a set 1/2" rebar with cap stamped MWC 1369 on the northerly line of a sanitary sewer easement, being filed for record March 24, 2009 as Document #7263892; Thence along said northerly line the following courses: N83°17'36"E, 196.30 feet to a set 1/2" rebar with cap stamped MWC 1369; N76°10'06"E, 599.08 feet to a set 1/2" rebar with cap stamped MWC 1369; N28°55'17"W, 2.41 feet to a set 1/2" rebar with cap stamped MWC 1369; N61°04'43"E,

288.04 feet to a set 1/2" rebar with cap stamped MWC 1369; Thence leaving said northerly line, S02°33’09”W, 1404.58 feet to the Point of Beginning. Containing 20.00 acres, more or less.

more commonly known as 11201 Custer Boulevard, should be, and is hereby rezoned from Not Zoned to a Planned Zoning District (PZD) by Classification. The approved change in zoning classification is based and conditioned upon the Planned Zoning District provisions of Section 27-341 of the Unified Development Ordinance and the Planned Zone Project Booklet reviewed by the Fort Smith Planning Commission and approved hereby, which Project Booklet shall be filed in the office of the City Clerk.

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

PASSED AND APPROVED THIS_____DAY OF_____, 2016.

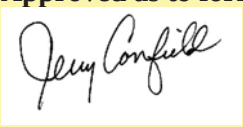
ATTEST:

_____
City Clerk

APPROVED:

_____
Mayor

Approved as to form:



_____
Publish One Time

May 26, 2016

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

Re: A request by Mickle-Wagner-Coleman, agent for Free Will Baptist Church Ministries, for a zone change from Not Zoned to a Planned Zoning District by Classification located at 11201 Custer Boulevard.

On May 10, 2016, the City Planning Commission held a public hearing to consider the above request.

Ms. Maggie Rice read the staff report indicating that the purpose of the rezoning request is to allow for the development of four (4) multifamily children's home with the capability of adding two (2) additional group homes in the future with one administration building to oversee the homes. It was noted that each of the four (4) homes will house eight (8) children.

Mr. Pat Mickle was present to speak on behalf of this request.

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

Chairman Sharpe then called for the vote on the rezoning request. Motion was made by Commissioner Newton, seconded by Commissioner Carson and carried unanimously to amend this request to make approval subject to the following:

- Compliance with the submitted project booklet.
- Any required construction will require plans to be submitted for a building permit review.

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

Respectfully Submitted,

CITY PLANNING COMMISSION

Marshall L. Sharpe

Marshall Sharpe
Chairman

MS/lp

cc: File
City Administrator

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

Printed on 100% Recycled Paper

Memorandum

To: Carl Geffken, City Administrator
From: Wally Bailey, Director of Development Services
Date: May 20, 2016
Subject: Planned Zoning District – 11201 Custer Boulevard

The subject rezoning application for a Planned Zoning District (PZD) will be presented to the Board of Directors at the June 7, 2016 meeting. The property included in this PZD is in Chaffee Crossing. The property in this PZD consists of approximately 20 acres.

The purpose of the PZD will be to allow for the development of the Curt, Cliff, and Opal Young Family Home. The owner of the development is the Free will Baptist Family Ministries.

The development will include four multifamily children's cottages with the capability of adding two additional cottages in the future. Each of the homes will house eight children. An administrative building is also included in the development. A future assisted living facility and required parking are also shown on the site plan.

The enclosed PZD booklet includes the standard narrative of information required, a development/site plan, architectural elevations, and a land use chart. The land uses for this PZD are limited to multifamily development, assisted living facilities, and dormitory, sorority, fraternity.

All future development on these properties will comply with the Chaffee Crossing Master Development Guidelines and the Unified Development Ordinance. The attached project booklet submitted with the zoning request establishes the development standards for the properties. The development has received the necessary approvals from the Fort Chaffee Redevelopment Authority.

Please contact me if you have any questions.

Enc.

Rezoning - PZD

Memo

To: City Planning Commission

From: Planning Staff

Date: April 26, 2016

Re: Rezoning #11-5-16 - A request by Mickle-Wagner-Coleman, agent for Free Will Baptist Family Ministries, for Planning Commission consideration of a zone request from Not Zoned to Planned Zoning District (PZD) by classification at 11201 Custer Boulevard

PROPOSED ZONING

The approval of this rezoning request would allow for a development of four multifamily children's home with the capability of adding two additional group homes in the future with one administration buildings to oversee the homes. Each of the four homes will house eight children.

LOT LOCATION AND SIZE

The subject property is on the north side of Custer Blvd. between Taylor Avenue and I-549. The tract contains an area of 20 acres with approximately 327 feet of street frontage along Custer Blvd.

REQUESTED ZONING

The applicant has requested a Planned Zoning District (PZD). The purpose of a Planned Zoning District is to assure control of certain development while providing the applicant a means of gaining commitment without undue financial risk. Specifically the purposes of a PZD are to encourage:

- Comprehensive and innovative planning and design of diversified yet harmonious development consistent with the comprehensive plan;
- Better utilization of sites characterized by special features of geographic location, topography, size, or shape;
- Flexible administration of general performance standards and development guidelines;
- Primary emphases shall be placed upon achieving compatibility between the proposed developments and surrounding areas to preserve and enhance the neighborhood through the use of enhanced site design, architecture, landscaping, and signage.

- Developments that utilize design standards greater than the minimum required by the UDO.

4A

EXISTING ZONING

This tract is currently Not Zoned (NZ)

SURROUNDING ZONING AND LAND USE

All of the surrounding properties are currently not zoned. Two of the properties have been utilized as a rock quarry and fill areas for recent construction.

MASTER STREET PLAN CLASSIFICATION

Master Street Plan classifies Custer Blvd. as a Major Arterial and Taylor Avenue as a Major Collector.

MASTER LAND USE PLAN COMPLIANCE

The Chaffee Crossing Master Land Use Plan classifies this site as Institutional. This classification is intended to guide appropriate development of non-residential uses, establish strong street presence, and promote parking at the sides and rear of the buildings.

PROJECT BOOKLET

A copy of the project booklet is enclosed for your review. The following criteria shall be considered by the Planning Commission when reviewing the project booklet:

A. Is the site capable of accommodating the building(s), parking areas and drives with the appropriate open space provided? **Yes**

B. Does the plan provide for safe and easy ingress, egress and internal traffic circulation? **Yes**

C. Is the plan consistent with good land use planning and site engineering design principles, particularly with respect to safety? **Yes**

D. Are the architectural designs consistent with the City of Fort Smith policies and regulations and compatible with surrounding land use features? **Yes**

E. Does the Plan represent an overall development pattern that is consistent with the Comprehensive Plan, Master Street Plan, Master Land Use Plan, and other adopted planning policies? **Yes**

F. The required right-of-way dedication has been identified by the City Engineering Department? **If R.O.W. is needed it will be dedicated during the plat phase of the project.**

G. All easements and utilities shall meet the requirements of the approving departments and agencies? **At this time it is unknown.**

4B

H. Articulate how the plan minimizes or mitigates the impact of increased traffic both in volume and vehicle size. **The PZD Booklet indicates that the City Engineering Department has reviewed and approved the traffic statement for this project.**

I. Articulate how the plan exceeds the UDO requirements. (e.g. increased landscaping increased high quality materials, etc.) **The building's architectural elevations will utilize 100% of high quality materials. The landscaping utilized for the site will meet or exceed the UDO requirements. Additionally, they exceed the UDO by proposing limited land uses as well as a monument sign**

SITE DESIGN FEATURES

Ingress/egress/traffic circulation – The proposal is to use the one existing driveway.

Right-of-way dedication – Will be determined during the platting of the property.

Drainage – Will be determined during the platting of the property prior to the building permit being issued.

Landscaping & Screening – The applicant has shown in the PZD booklet the landscaping will meet or exceed the UDO requirements for landscaping and screening utilizing design guidelines from the Chaffee Crossing Design Guidelines.

Parking – The current site plan proposes 32 parking spaces to accommodate the care takers. This exceeds the requirements for multifamily housing and group residential buildings.

Signage – The PZD booklet indicates that the signage will be a masonry monument style sign and will comply with the UDO and FCRA sign regulations. The sign area will be limited to 100 s.f. maximum area.

Sidewalks – No sidewalks are shown at this time. During the platting phase the requirements for sidewalk information will be submitted. The subject site does propose interior sidewalks for residential pathways.

FACTORS TO BE CONSIDERED

Approval, approval as amended, or denial of the application and project booklet shall be based on the following factors as outlined in Section 27-341-3(E) of the UDO:

A. Compatibility with the Comprehensive Plan, Master Street Plan, and applicable area plans (e.g., corridor, neighborhood)

B. Compatibility of the proposed development with the character of the neighborhood.

C. The zoning and uses of adjacent and nearby properties, and the compatibility of the proposed future uses with those existing uses.

D. The extent to which the proposed land use would increase or change traffic volume or parking demand in documented evidence or engineering data, road conditions, road

4C

safety, or create parking problems in combination with any improvements that would mitigate these adverse impacts.

E. The current availability of public utilities and services and the future capacity needed to adequately serve the proposed land use in combination with any improvements that would mitigate these adverse impacts.

F. That the application complies with all relevant ordinance requirements (for example 27-200, 27-500, 27-600, and 27-700).

NEIGHBORHOOD MEETING

The neighborhood meeting for the PZD was waived in accordance to Section 27-304-1 of the UDO. In lieu of the meeting the applicant was required to send a letter to the surrounding property owners (in this case only FCRA) with a description of the projects, map of the projects, and contact information.

STAFF COMMENTS AND RECOMMENDATIONS

The PZD will allow for the development of four cottages housing eight children each and one administration building. Additionally, they propose a future assisted living facility. These are the only land uses allowed by this PZD. Staff recommends approval of the proposed Planned Zoning District based on compliance with the submitted project booklet, along with the following comments:

1. Any required construction will require that plans be submitted for building permit review.

40

Rez. #11-5-16

PETITION FOR CHANGE IN ZONING MAP

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

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas 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: 11201 Custer Boulevard

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 a Planned Zoning District.

5. Explain why the Planned Zoning District is requested?

   To establish a zoning district for limited residential uses

Signed:

Mickle Wagner Coleman, Inc.
~~Owner or~~ Agent Name
(please print)

P.O. Box 1507, Fort Smith, AR 72902
~~Owner or~~ Agent Mailing Address

479-649-8484
~~Owner or~~ Agent Phone Number

~~Owner~~ or Agent

4E

Curt, Cliff, & Opal Young Family Home
PLANNED ZONNG DISTRICT APPLICATION
PROJECT BOOKLET

3a. **Reason (need) for requesting the zoning change and response to how the proposal fulfills the intent/purpose of the Planned Zoning District.**

The property for the Curt, Cliff, & Opal Young Family Home is not currently zoned. A Planned Zoning District (PZD) is proposed for this project. A PZD will allow the development to utilize design standards which meet or exceed the minimum standards required by the UDO and FCRA design guidelines.

3b. **Current ownership information (landowner/applicant and representative if applicable) and any proposed or pending property sales.**

OWNER
Free Will Baptist Family Ministries
90 Stanley Lane
Greenville, TN 37743

REPRESENTATIVE
Mickle Wagner Coleman, Inc.
3434 Country Club Avenue
Fort Smith, AR 72903

3c. **Description of the scope, nature, and intent of the proposal.**

The PZD will include an area of 20 acres located on Custer Boulevard near Taylor Avenue. The proposed use is a complex of 4 family cottages with the capability of adding two additional cottages in the future, an Administration Building to oversee these and other group homes state wide along with new parking, drives and required amenities for the current use. A future assisted living facility and required parking is proposed on the same property east of the cottages.

Each cottage is approximately 2,750 s.f. with four client bedrooms sized for double occupancy (total of 8 children). Two bath room facilities, kitchen, dining, living, laundry, and dayroom areas are for the main house use. A separate house parent bedroom and bathroom is located in each cottage.

The Administration Building is approximately 3,590 s.f. with 4 administrative offices, secretary/waiting area, activity room, conference room, family visitation room, break room, library, clothing, dry goods storage rooms, public toilets, and private toilet.

A vicinity map and development plan is included in the Appendix A.

3d. **General Project Scope.**

i. Street and lot layout:
See attached development plan. Access to the site is via Custer Boulevard.

ii. Site plan showing improvements:
See attached Development Plan.

4F

iii. Buffer areas, screening and landscaping areas:
All items will meet or exceed City UDO requirements. Landscaping meets FCRA requirements with the exception of the variances. Proposed variances are detailed in section 3j.

iv. Storm water detention areas and drainage:
All detention and drainage will comply with The City of Fort Smith's 2011 Storm Drainage Standards. Detention areas are shown on attached Development Plan.

v. Undisturbed natural areas:
All boundaries of the property contain good quality hardwood trees that will remain as act as perimeter landscaping.

vi. Existing and proposed utility connections and extensions:
a. An existing 16" water line along Custer Boulevard will provide water service to the property.
b. An Existing 30" Sanitary Sewer along the northern property line provide sewer service to the property.
c. Franchise Utilities will be extended to the site

vii. Development and architectural design standards:
a. Design standards will meet or exceed UDO and FCRA design guidelines with approved FCRA variances.
b. Landscape materials and types will meet the requirements of the UDO and FCRA architectural standards.
c. All exterior lighting will comply with the UDO "Commercial Outdoor Lighting" regulations.

viii. Building elevations:
a. See attached elevations

ix. Proposed signage (Type and Size):
a. The sign will be a masonry monument style sign and will comply with UDO and FCRA sign regulations. The road frontage is 327', thus the maximum sign area is limited to 100 sq.ft. maximum.

3e. **Proposed Development Phasing and Time Frame**

The first phase of the development is the family homes. There is proposed to be constructed beginning August 2015. No timeline is specified for future phases.

3f. **Identify land use designations**

The property is designated as "Institutional" according to the Chaffee Crossing Master Land Use plan.

4G

3g. **Identify area and bulk regulations**

a. Minimum lot size: 20 acres.
b. Minimum lot width at BSL: 327'
c. Maximum lot coverage: 60%.
d. Maximum height: 35'
e. Additional height: Per UDO code 27-404-D
f. Setbacks:
   - Front: 30'
   - Side: 30'
   - Street side/corner: 30'
   - Rear: 30'
   - Minimum street frontage: 327'.
   - Minimum building separation: To be determined by current building and fire code.

3h. **A chart comparing the proposed planned zoning district to the current zoning district requirements (land uses, setbacks, density, height, intensity, bulk and area regulations, etc.)**

Not Applicable. The property is not zoned.

3i. **A chart comparing the proposed land uses and the zoning district(s) where such land uses are permitted.**

The proposed land use for the cottages is similar to multifamily and/or dormitory in Fort Smith's land use matrix. This type of use would be a conditional use in Multifamily and Commercial zoning districts. The future assisted living facility is a conditional use in multifamily districts and is a permitted use in commercial districts. See land use chart in Appendix C.

3j. **A chart articulating how the project exceeds the UDO requirements (ex. increased landscaping, increased high quality materials on the façade, etc.).**

Architectural Elevations and Landscape Plans are included in Appendix B.

The building architecture will meet and exceed UDO requirements. Architectural elevations are included in Appendix B. The building will utilize 100% high quality materials: brick, Hardy Plank fiber cement board. Hardy Board is not on Chaffee Crossings' approved building material list. Thus, a variance will be requested at the FCRA Design Review Committee meeting.

Landscaping will meet or exceed UDO requirements. The landscaping will meet FCRA requirements with the exception of the following variances that will be requested at the FCRA Design Review Committee meeting:

44

Building Landscaping:

FCRA Requirement: 1 Tree plus 4 shrubs per 40 linear feet of building.
Variance: To the extent possible, the existing trees and vegetation will be retained and will serve as building landscaping.

Parking Lot Landscape:

FCRA Requirement: 1 shade tree per 8 spaces.
Variance: To the extent possible, the existing trees and vegetation will be retained and will serve as parking lot landscaping.

Perimeter Landscaping:

FCRA Requirement: Along perimeter within setbacks
Variance: Perimeter landscaping only required along Custer Boulevard. The existing vegetation shall be retained and serve as perimeter landscaping along the other property lines.

Parking Lot Screening:

FCRA Requirement: Parking lots shall be screened from Street rights of way as well adjacent properties.
Variance: The existing vegetation will serve as parking lot screening.

3k. **Statement of how the development will relate to the existing and surrounding properties in terms of land use, traffic, appearance, and signage.**

The surrounding property is undeveloped with the exception of the existing golf course to the east. There is little traffic on Custer Boulevard. A 100 sq.ft. masonry monument style sign will be used and will meet or exceed Fort Smith UDO requirements and FCRA design guidelines

3l. **A traffic study when required by the Engineering Department (consult with staff prior to submittal).**

The City of Fort Smith Engineering department has reviewed and approved the traffic statement for this project.

3m. **Statement of availability of water and sewer (state size of lines).**

An existing 16" water line along Custer Boulevard will provide water service to the property. An Existing 30" Sanitary Sewer along the northern property line provide sewer service to the property.

APPENDIX A

Vicinity Map
Development Plan

45

Basis of Bearings:
Bearings are grid, Arkansas State Plane, North Zone, NAD83, based upon City of Fort Smith Monuments.

LEGEND

- SRB = SET ½" REBAR W/ PLASTIC CAP STAMPED MWC 1369
- ERB = EXISTING IRON PIN, ½" REBAR
- = ASPHALT PAVEMENT
- = EASEMENT LINE
- R/W = RIGHT OF WAY LINE
- SS = SANITARY SEWER LINE
- H = OVERHEAD POWER LINE
- X = FENCE LINE
- FP = FLOODPLAIN LINE
- = FLOODWAY LINE
- = WETLANDS LINE
- = RIPARIAN PRESERVATION AREA
- SSMH = SANITARY SEWER MANHOLE
- WM = WATER METER
- PP = POWER POLE
- LP = LIGHT POLE
- FH = FIRE HYDRANT

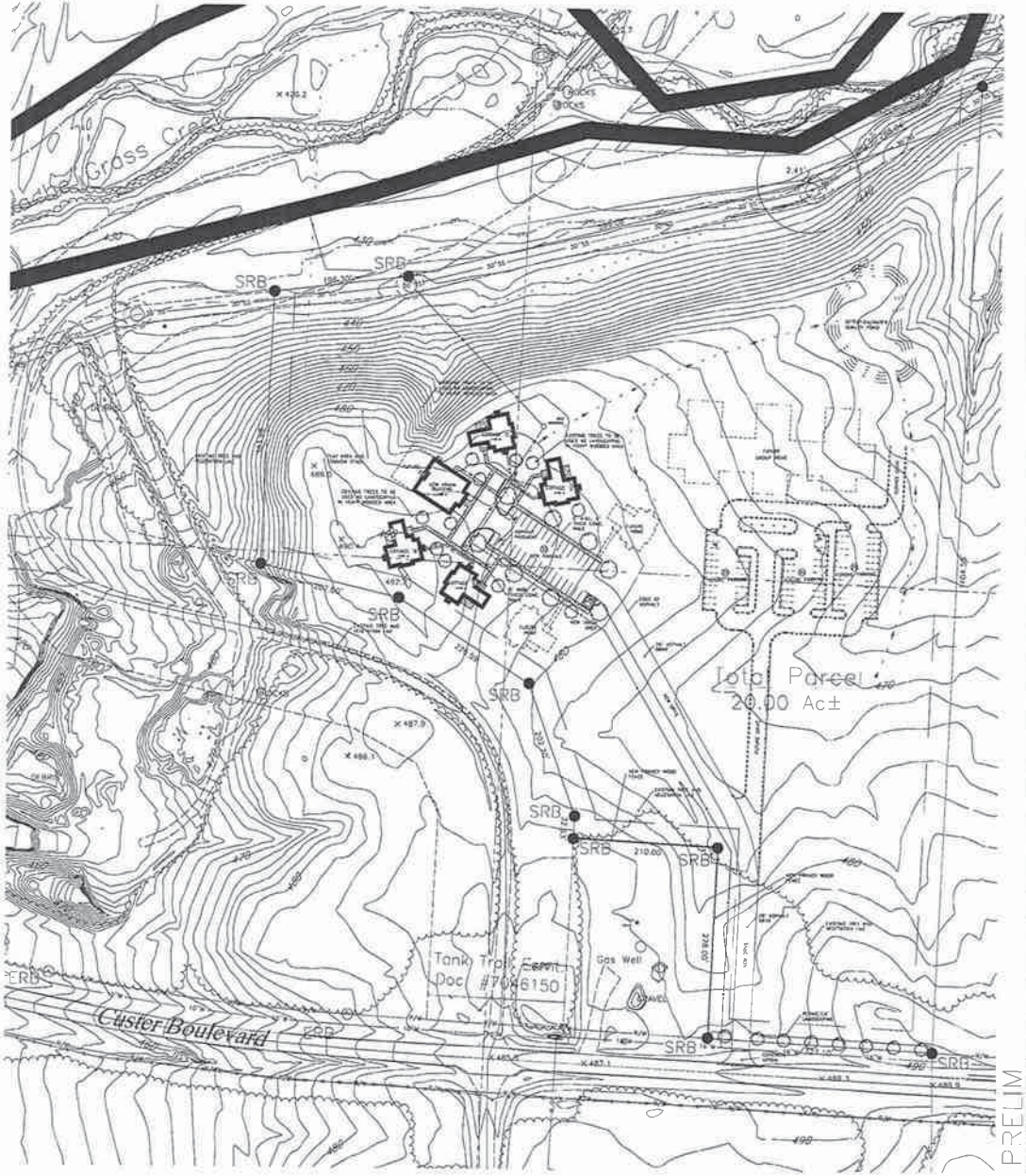
BOUNDARY DESCRIPTION

Part of the Southwest Quarter of Section 9, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas. Being more particularly described as follows:

Commencing at the Southeast Corner of said Section 9; Thence along the south line of said Section 9, N87°11'16"W, 3309.03 feet; Thence leaving said south line, N00°00'00"W, 556.71 feet to a point on the north right-of-way line of Custer Boulevard and the Point of Beginning, said point being marked with a set 1/2" rebar with cap stamped MWC 1369; Thence along said north right-of-way line, N88°43'31"W, 327.10 feet to a set 1/2" rebar with cap stamped MWC 1369; Thence leaving said north right-of-way line, N02°33'09"E, 278.00 feet to a set 1/2" rebar with cap stamped MWC 1369; Thence N88°43'31"W, 210.00 feet to the easterly line of a Tank Trail Easement, being filed June 21, 2001 as Document #7046150, said point being marked with a set 1/2" rebar with cap stamped MWC 1369; Thence along said easterly line the following courses: N02°33'09"E, 32.93 feet to a set 1/2" rebar with cap stamped MWC 1369; N19°37'20"W, 202.70 feet to a set 1/2" rebar with cap stamped MWC 1369; N07°16'53"W, 226.59 feet to a set 1/2" rebar with cap stamped MWC 1369; N76°46'54"W, 207.00 feet to a set 1/2" rebar with cap stamped MWC 1369; Thence leaving said easterly line, N02°33'09"E, 263.98 feet to a set 1/2" rebar with cap stamped MWC 1369 on the northerly line of a sanitary sewer easement, being filed for record March 24, 2009 as Document #7263892; Thence along said northerly line the following courses: N83°17'36"E, 196.30 feet to a set 1/2" rebar with cap stamped MWC 1369; N76°10'06"E, 599.08 feet to a set 1/2" rebar with cap stamped MWC 1369; N28°55'17"W, 2.41 feet to a set 1/2" rebar with cap stamped MWC 1369; N81°04'43"E, 288.04 feet to a set 1/2" rebar with cap stamped MWC 1369; Thence leaving said northerly line, S02°33'09"W, 1404.58 feet to the Point of Beginning. Containing 20.00 acres, more or less.

75' 0 75'
SCALE IN FEET

SITE PLAN
SCALE: 1" = 75'-0"



Curt, Cliff & Opal Young Family Home
a Division of Family Ministries
at Chaffee Crossing
11201 Custer Boulevard
Fort Smith , Arkansas

BIGGERSTAFF MINDEN & ASSOCIATES P.A.
ARCH TECTS & PLANNERS
303 NORTH GREENWOOD FORT SMITH, ARKANSAS 72901 (479) 782-5049 FAX 782-5340

SITE PLAN

BM & A

REVISIONS:
REV1
REV2
RLV3
REV4

DATE: 03-23-16

PROJECT NO.: 16 03

SHEET: C1 OF 2

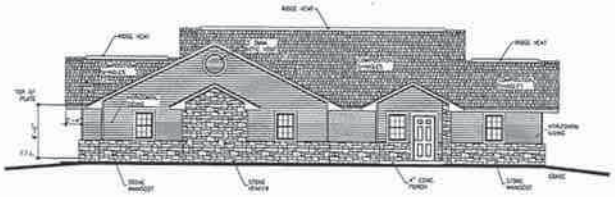
PRELIM

4K

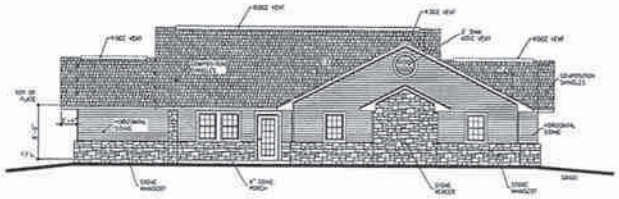
APPENDIX B

Architectural Elevations

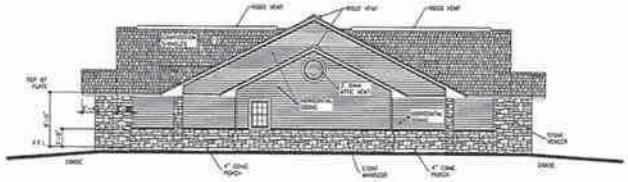
46



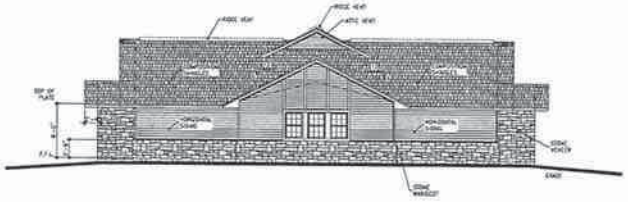
FRONT ELEVATION ①



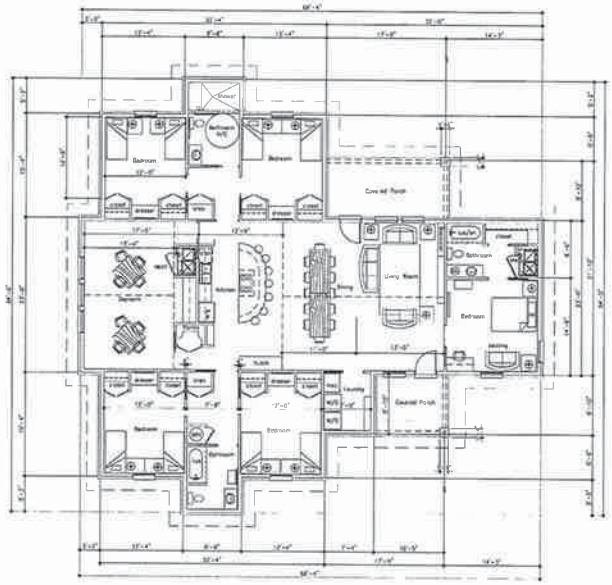
REAR ELEVATION ②



SIDE ELEVATION ③



SIDE ELEVATION ④



FLOOR PLAN 2,748 Square Feet Ⓐ

PRELIM

Curt, Cliff & Opal Young Family Home
a Division of Family Ministries
at Chaffee Crossing
11201 Custer Boulevard
Fort Smith, Arkansas

BIGGERSTAFF MINDEN & ASSOCIATES P.A.
ARCHITECTS & PLANNERS
303 NORTH GREENWOOD FORT SMITH, ARKANSAS 72901 (479) 783-3646 FAX 783-5940

FLOOR PLAN

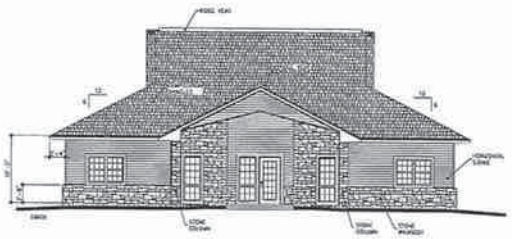
BM & A

REVISIONS:
REV1
REV2
REV3
REV4

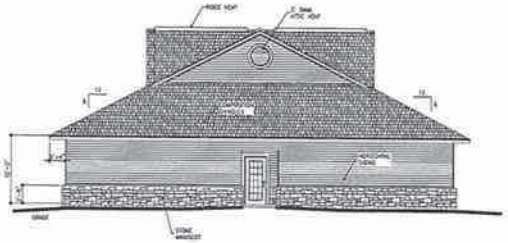
DATE:
03-23-16

PROJECT NO:
15.03

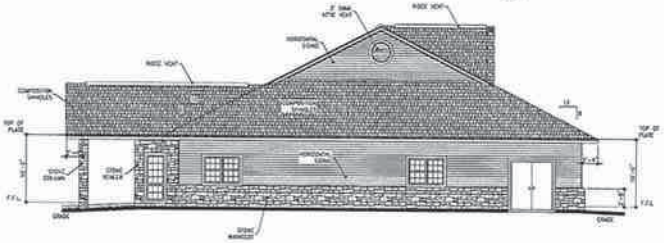
SHEET:
A1 OF 2



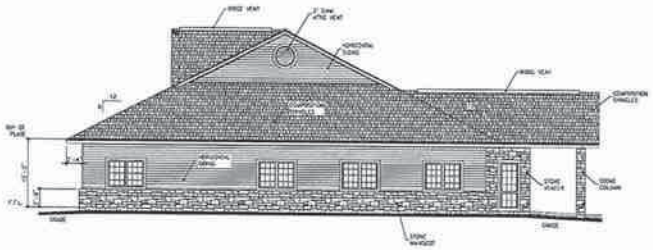
SOUTH ELEVATION ①



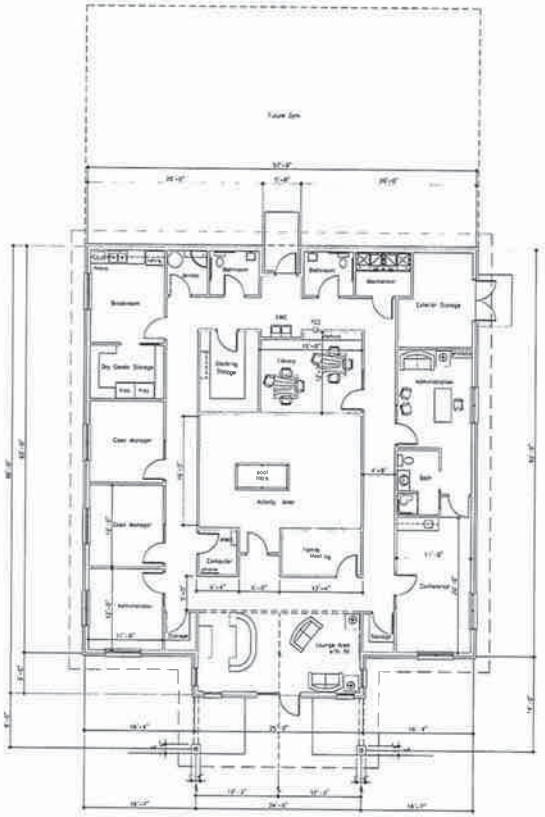
NORTH ELEVATION ②



EAST ELEVATION ③



WEST ELEVATION ④



3,589 Square Feet

ADMINISTRATION FLOOR PLAN Ⓑ

Curt, Cliff & Opal Young Family Home
a Division of Family Ministries
at Chaffee Crossing
11201 Custer Boulevard
Fort Smith, Arkansas

BIGGERSTAFF MINDEN & ASSOCIATES P.A.
ARCHITECTS & PLANNERS

FLOOR PLAN

BM & A

REVISIONS:
REV1
REV2
REV3
REV4

DATE: 03-23-16

PROJECT NO.: 16.03

SHEET: A2 OF ?

PRELIM

2 4

APPENDIX C

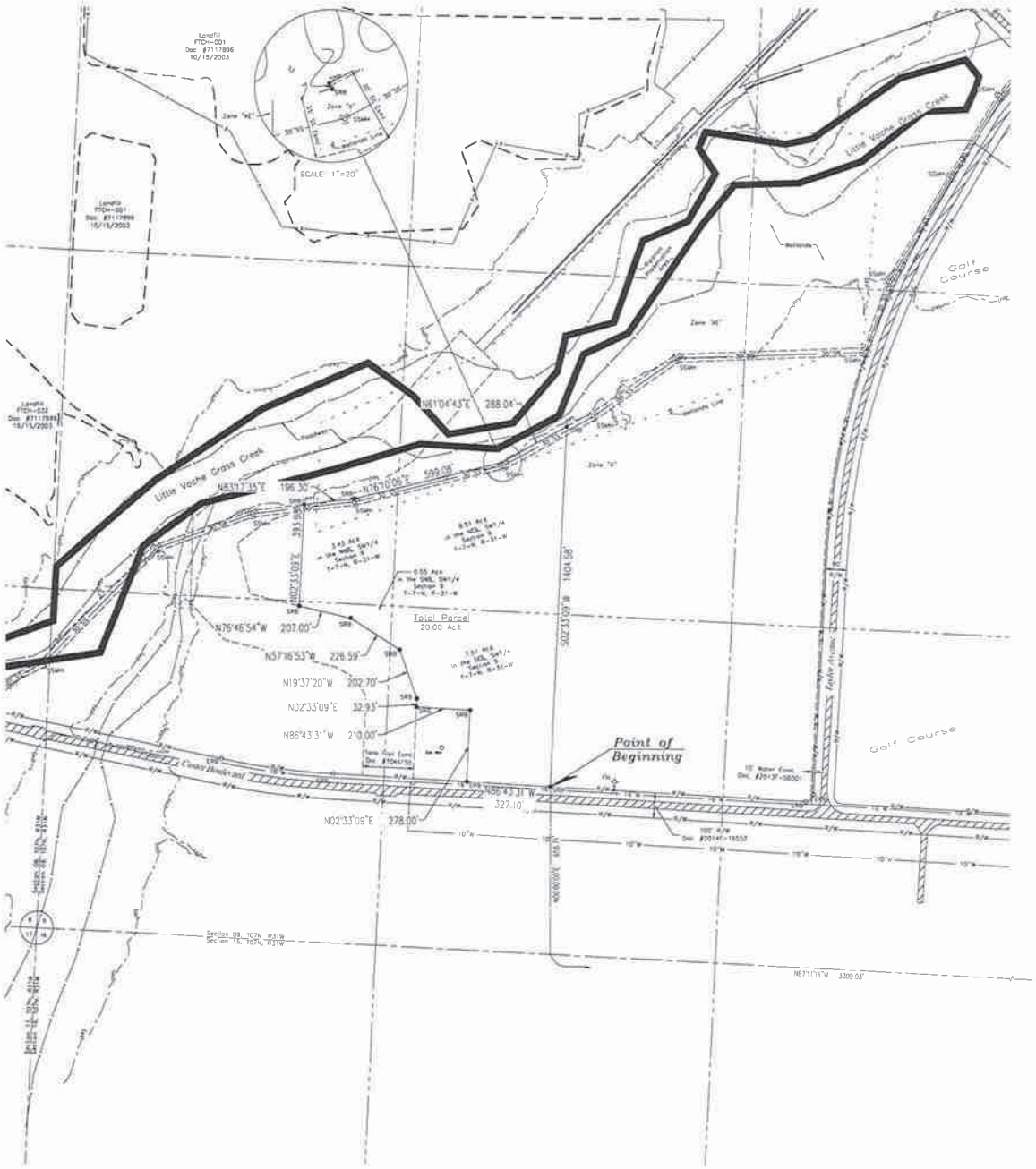
Land Use Chart

40

4P

Fort Smith Use Matrix	J	K	L	M	N	O					Q	R	S	T	U		W	X	Y	AB	Z	AC	AD	AE	AF	Y
Districts	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3	Proposed PZD
P = Permitted Use, C = Conditional Use, A = Accessory Use			R-1	R-2	R-3	R-4	R-6	DP-2	DP-3	DP-4	MF-2	MF-3	MF-4	R-5	H	T1,2,3	C-1	C-2	C-3	C-4	C-5	C-6	I-1,2	I-3	I-4	PZD
Size or density restrictions for any use may be noted in the district																										
Residence or Accommodation																										
Private Household																										
Multifamiliy development											P	P	P	P	C			P	P	P	P	P				P
Housing for the Elderly																										
Assisted living											C	C	C	C	C	C		P	P	P	P	P				P
Hotels, Motels, or other Accommodations																										
Dormitory, sorority, fraternity											C	C	C	C				C	C	C	C	C				P

f:\doc\forms\CFS Forms-Applications\Freewill Baptist Family Ministry PZD - Land Use Chart.xls



Basis of Bearings
Bearings are grid, Arkansas State Plane, North Zone, NAD83, based upon City of Fort Smith Monuments

LEGEND

- SRB = SET ½" REBAR W/ PLASTIC CAP STAMPED WMC 1369
- ERB = EXISTING IRON PIN, ½" REBAR
- = ASPHALT PAVEMENT
- = EASEMENT LINE
- = RIGHT OF WAY LINE
- = SANITARY SEWER LINE
- = OVERHEAD POWER LINE
- = FENCE LINE
- = FLOODPLAIN LINE
- = FLOODWAY LINE
- = WETLANDS LINE
- = RIPARIAN PRESERVATION AREA
- SSMH = SANITARY SEWER MANHOLE
- WM = WATER METER
- PP = POWER POLE
- LP = LIGHT POLE
- FH = FIRE HYDRANT

BOUNDARY DESCRIPTION

Part of the Southwest Quarter of Section 9, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas. Being more particularly described as follows:

Commencing at the Southeast Corner of said Section 9; Thence along the south line of said Section 9, N87°11'16"W, 3309.03 feet; Thence leaving said south line, N00°00'00"W, 856.71 feet to a point on the north right-of-way line of Custer Boulevard and the Point of Beginning, said point being marked with a set 1/2" rebar with cap stamped WMC 1369; Thence along said north right-of-way line, N86°43'31"W, 327.10 feet to a set 1/2" rebar with cap stamped WMC 1369; Thence leaving said north right-of-way line, N02°33'09"E, 278.00 feet to a set 1/2" rebar with cap stamped WMC 1369; Thence N86°43'31"W, 210.00 feet to the easterly line of a Tank Trail Easement, being filed June 21, 2001 as Document #7046150, said point being marked with a set 1/2" rebar with cap stamped WMC 1369; Thence along said easterly line the following courses: N02°33'09"E, 32.93 feet to a set 1/2" rebar with cap stamped WMC 1369; N19°37'20"W, 202.70 feet to a set 1/2" rebar with cap stamped WMC 1369; N57°16'53"W, 226.59 feet to a set 1/2" rebar with cap stamped WMC 1369; N76°46'54"W, 207.00 feet to a set 1/2" rebar with cap stamped WMC 1369; Thence leaving said easterly line, N02°33'09"E, 393.98 feet to a set 1/2" rebar with cap stamped WMC 1369 on the northerly line of a sanitary sewer easement, being filed for record March 24, 2009 as Document #7263892; Thence along said northerly line the following courses: N83°17'35"E, 196.30 feet to a set 1/2" rebar with cap stamped WMC 1369; N76°10'06"E, 599.08 feet to a set 1/2" rebar with cap stamped WMC 1369; N28°55'17"W, 2.41 feet to a set 1/2" rebar with cap stamped WMC 1369; N61°04'43"E, 288.04 feet to a set 1/2" rebar with cap stamped WMC 1369; Thence leaving said northerly line, S02°33'09"W, 1404.58 feet to the Point of Beginning. Containing 20.00 acres±, more or less.

FLOOD INFORMATION

Based upon review of FEMA Firm 05131C0145E with a effective date of May 20, 2010 and by graphic plotting only, the subject property is determined to be in Zone "X" & "AE" or areas determined to be outside the 0.2% annual chance floodplain.

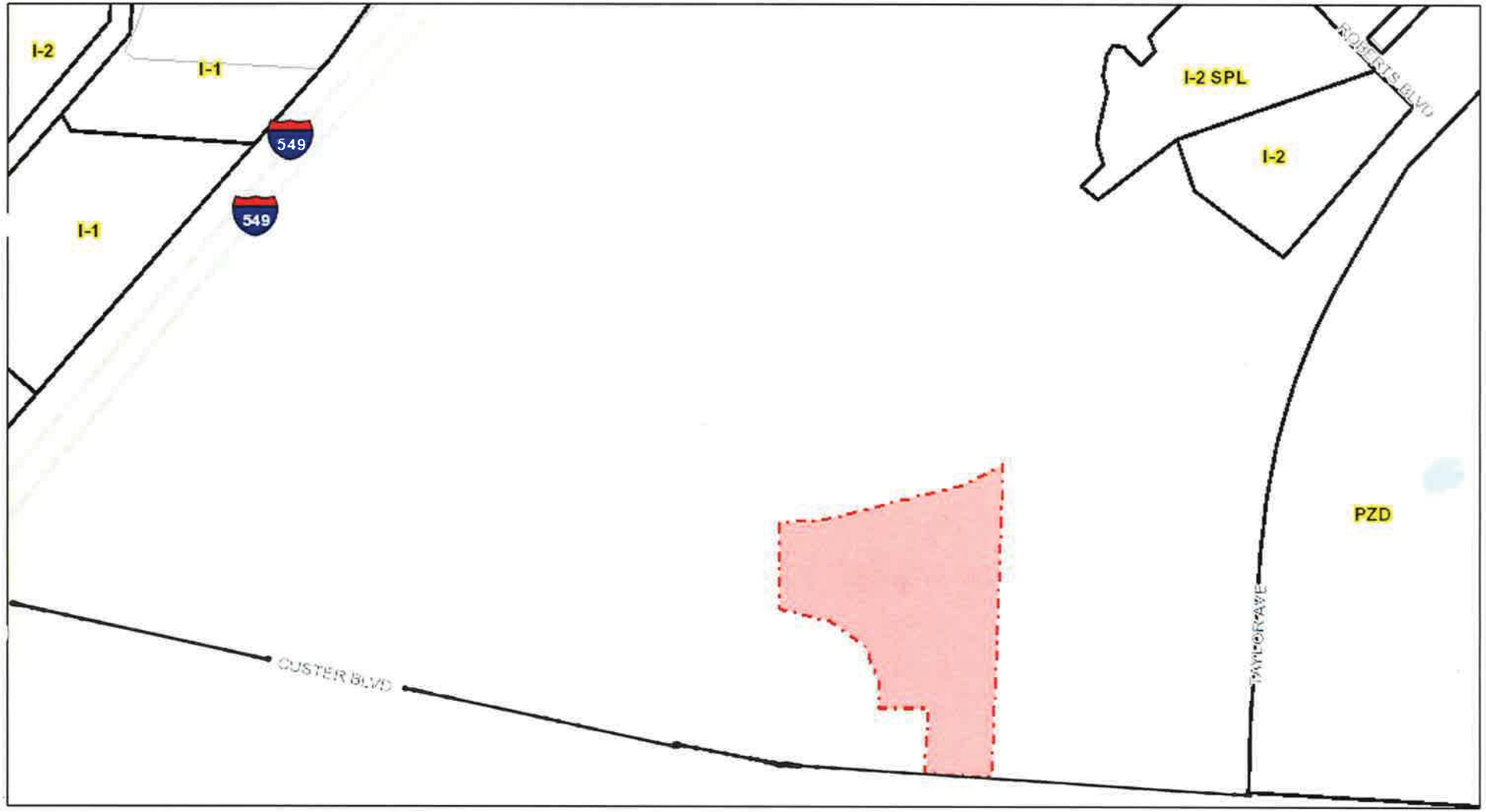
CERTIFICATION

I hereby certify that I have had surveyed this date under my supervision the described property. The property is in accordance with established property lines and any improvements and encroachments are as shown. This survey is made for the exclusive use of the present owners of the property and also those who purchase, mortgage, or guarantee title thereto and as to them I warrant the accuracy of said survey and map.

DOUGLAS RAY WHITLOCK, Professional Surveyor
Arkansas Registration No. 1369

Survey for: Fort Chaffee Redevelopment Authority (Maggie House)

Rezoning #11-5-16: From Not Zoned to PZD
11201 Custer Boulevard



April 19, 2016

Fort Smith City Limts

Zoning

Subdivisions

1:7,139

0 325 650 1,300 ft

0 100 200 400 m

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

Chairman Sharpe then called for the vote on these plats as amended. The vote was 7 in favor and 0 opposed.

3. **Rezoning #10-5-16; A request by Sara Baker/Emily Oakes, agents for Morningside Addition neighborhood rezoning for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by Classification located at 1700-1730 South Albert Pike, 3901-4111 South "Q" Street; 1701-1721 Hendricks Boulevard and 4001-4199, 3904-3923, 4002-4120 South "P" Street.**

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

   Mr. Al Baker and Mrs. Sara Baker, representing the Morningside Subdivision spoke on behalf of this request.

   Mr. Dennis Rupp, 1601 Hendricks Street requested his property be removed from the rezoning application.

   Following a discussion by the Commission, Chairman Sharpe called for the vote on the rezoning request as submitted. The vote was 6 in favor and 1 opposed (Richardson).

4. **Rezoning #11-5-16; A request by Mickle-Wagner-Coleman, agent for Free Will Baptist Family Ministries, for a zone change from Not Zoned to a Planned Zoning District by Classification located at 11201 Custer Boulevard.**

   Ms. Maggie Rice read the staff report indicating that the purpose of this rezoning request is to allow for a development of four (4) multifamily children's home with the capability of adding two (2) additional group homes in the future with one administration building to oversee the homes. It was noted that each of the four (4) homes will house eight (8) children.

   Mr. Pat Mickle was present to speak on behalf of this request.

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

   Chairman Sharpe then called for the vote on the rezoning request. Motion was made by Commissioner Newton, seconded by Commissioner Carson, and carried unanimously to amend this request to make approval subject to the following:

   - Compliance with the submitted project booklet.

DRAFT

- Any required construction will require that plans be submitted

2.

ORDINANCE NO._____

AN ORDINANCE REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP

WHEREAS, the City Planning Commission has heretofore held a public hearing upon request No. 10-5-16 to rezone certain properties hereinafter described, and, having considered said request, recommended on May 10, 2016, that said change be made;

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

SECTION 1: That the following properties to-wit:

Block 1, Lots 1-11 and Block 2, Lots 1-41 Morningside Addition

more commonly known as 1700-1730 South Albert Pike; 3901-4111 South "Q" Street; 1701-1721 Hendricks Boulevard and 4001-4199, 3904-3923, 4002-4120 South "P" Street, should be, and are hereby rezoned from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by Classification.

PASSED AND APPROVED THIS_____DAY OF_____, 2016.

ATTEST:

_____
City Clerk

APPROVED:

_____
Mayor

Approved as to form:

_____
Publish One Time

May 18, 2016

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

Re: Rezoning #10-5-16 - A request by Sara Baker/Emily Oakes, agents, for Planning Commission consideration of a rezoning request from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by classification at Block 1, Lots 1-11 and Block 2, Lots 1-41, Morningside Addition (1700-1730 South Albert Pike Avenue, 3901-4111 South "Q" Street, 1701-1721 Hendricks Boulevard and 4001-4119, 3904-3923, 4002-4120 South "P" Street)

Dear Mayor Sanders and Board of Directors:

On May 10, 2016, the City Planning Commission held a public hearing to consider the above request. Ms. Brenda Andrews read the staff report indicating the purpose of the applicant's rezoning request was to eliminate the possibility of future duplexes in the subdivision by requesting a zoning district that allows single-family residential only. The applicants wish to maintain a single-family atmosphere for the neighborhood.

The Future Fort Smith Comprehensive Plan policy HN-1-8 says *"Reduce non-compatible land uses by mitigating any negative impacts and revising zoning language and map designations as necessary".* The accompanying Action HN-1.8.1 says *"Continue to rezone existing, predominantly, single family residential neighborhoods where the historic zoning pattern does not reflect the predominate built pattern with a priority to focus on targeted growth areas and areas where stability and character are threatened".*

Ms. Andrews stated that the neighborhood recently became interested in rezoning the Morningside Addition to single family when the property owner at 4106 South P Street applied for a setback variance for the construction of a duplex. The single family house at this location was destroyed by fire. Another duplex is located at 3905 South Q Street, which was constructed after the single family house was destroyed by fire in 2014. Beyond these two duplexes, there are only single-family houses in the requested rezoning area. According to the city's 1962 zoning map (which is the city's initial zoning map), the neighborhood was designated as R-2 zoning which allowed single family and duplex dwellings.

If the rezoning request is approved, the two existing duplexes will become legal nonconforming structures. A copy of the Unified Development Ordinance Section 27-118-2(F) regarding the reconstruction of a structure housing a non-conforming use is attached. Essentially, if a nonconforming structure is destroyed or damaged to the extent that the cost of repair is *more than 50 percent of the value of the structure after the repair*, the structure cannot rebuild until a conditional use application is approved by the planning commission.

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

Printed on 100% Recycled Paper

There are 45 properties included in the proposed rezoning area. Of the 45 properties, 25 property owners (55%) signed the authorization of agent form allowing Ms. Baker and Ms. Oakes to submit the application on their behalf. The same property owners also signed a petition supporting a Residential Single Family High Density (RS-4) zoning request.

The agents also obtained the signatures of 23 property owners within 300 feet of the rezoning areas who support the rezoning request.

Staff also received phone calls from three property owners outside the zoning area who support the rezoning request. Those owners reside at 1508 South 40th, 1525 South 40th, and 4221 South Q Street.

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

Staff also provided a 1978 legal opinion by the city's attorney, Jerry Canfield regarding this matter. In this letter, Mr. Canfield's opinion is that an "interested property owner" within the area proposed for a change may propose a change. In Mr. Canfield's opinion the interested property owner does not require actual ownership of the entire area. Staff also enclosed an earlier legal opinion dated 1972 in which Mr. Canfield had the same opinion. Ms. Andrews referenced an e-mail from Mr. Canfield dated May 9, 2016, in which Mr. Canfield confirmed that his opinions have not changed on the topic. A copy of that e-mail is enclosed.

Mr. Al Baker and Mrs. Sara Baker, representing the Morningside Subdivision spoke on behalf of this request.

During the public hearing, Mr. Dennis Rupp, who lives at 1601 Hendricks Street requested his two properties located at 3904 and 3923 South P be removed from the rezoning application. These two properties are currently developed as single-family structures. In response to a question from Commissioner Richardson as to why he wanted his properties removed, Mr. Rupp stated that he was not opposed to the neighborhood rezoning, but he did not want his two lots included because he may want to build duplexes in the future.

Following a discussion by the Commission, Chairman Sharpe called for the vote on the rezoning request as submitted. The vote was 6 in favor and 1 opposed (Richardson).

Respectfully submitted,

CITY PLANNING COMMISSION

Marshall L. Sharpe

Marshall Sharpe, Chairman

pc: File
Carl Geffken, City Administrator

LEGAL OPINIONS REGARDING REZONING FROM INTERESTED PERSONS

3Z-11

From: Jerry Canfield [mailto:jcanfield@dailywoods.com]
Sent: Monday, May 09, 2016 10:08 AM
To: Andrews, Brenda
Subject: RE: Legal Opinions - Rezonings by Interested Persons

Yes as to rezoning in conventional districts provided for in Section 27-330 of the Municipal Code. See Section 27-330-2 which identifies applicants. There has been no significant change in the State statutes. See A.C.A. 14-56-423 (Repl. 1998). Jerry Canfield

---

From: Andrews, Brenda [mailto:bandrews@FortSmithAR.gov]
Sent: Friday, May 06, 2016 12:53 PM
To: Jerry Canfield
Cc: Bailey, Wally
Subject: Legal Opinions - Rezonings by Interested Persons

Jerry – Attached are two legal opinions you provided to the city in 1978 and 1972. Do you still have the same opinion on this topic?

Thanks.

Brenda Andrews, senior planner
City of Fort Smith
479-784-2219 (phone)
479-784-2462 (fax)

File
City Opinions
Index under
Planning Comm
Zoning
Petitions

August 8, 1978

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

Re: Rezoning Petition

Dear Mr. Parker:

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

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

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

44

32-12

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

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

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

Very truly yours,

Jerry Lee Canfield
blm

32-13

File
City
Opinions

December 19, 1972

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

RE: Persons having sufficient interest to request zoning changes

Dear Mike:

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

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

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

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

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

Yours very truly,

Jerry Lee Canfield

32-14

27-118-2(F) Nonconforming Use of Structures

F. A structure housing a nonconforming use that is destroyed or damaged to the extent that the cost of repair is more than fifty (50) percent of the value of the structure after repair shall not be replaced unless all of the following conditions are met:

1. A conditional use application is presented to the Planning Commission in accordance with section 27-332 of this chapter;

2. The conditional use is approved by the planning commission;

3. Construction is completed within one (1) year from the date of the loss; the determination of "cost of repair" shall be based on the anticipated cost of a repair performed by a contractor in the ordinary course of the construction industry, and the determination of the "value of the structure after repair" shall not include real property value. Both determinations shall be made by the Director;

4. The structure shall be adapted for the same use as the previous structure; and

5. The structure as built shall not exceed the bulk and area characteristics of the previous structure;

6. Provided, a maximum time extension not to exceed sixty (60) calendar days may be granted upon written application of the owner to the Director, provided substantial progress has been made to repair the structure.

27-118-3 Nonconforming Structure

A. A nonconforming structure may continue until destroyed or damaged.

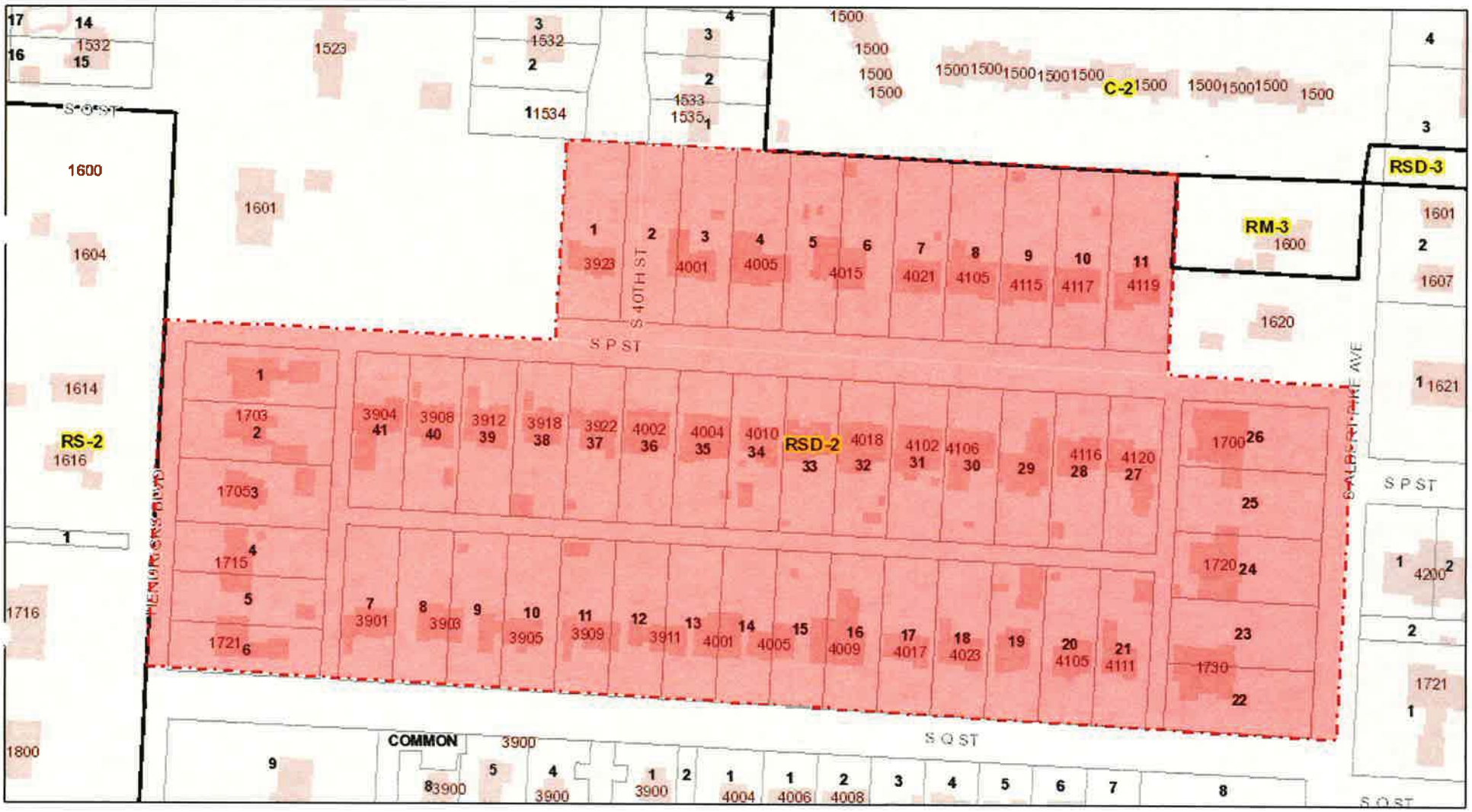
B. A nonconforming structure that is destroyed or damaged to the extent that the cost of repair is more than fifty (50) percent of the value of the structure after repair shall not be rebuilt unless all of the following conditions are met:

1. A conditional use application is presented to the Planning Commission in accordance with section 27-332 of this chapter;

2. The conditional use is approved by the Planning Commission;

3. Construction is completed within one (1) year from the date of the loss; the determination of "cost of repair" shall be based on the anticipated cost of

Rezoning #10-5-16: From Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) at Morningside Addition; Block 1, Lots 1-11, Block 2, Lots 1-41



April 25, 2016

1:1,785

0 80 160 320 ft

0 25 50 100 m

Fort Smith City Limts

Building Footprints

Zoning

Subdivisions

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

Duplexes located within the rezoning area

May 4, 2016

Fort Smith City Limts

Zoning

Subdivisions

Building Footprints

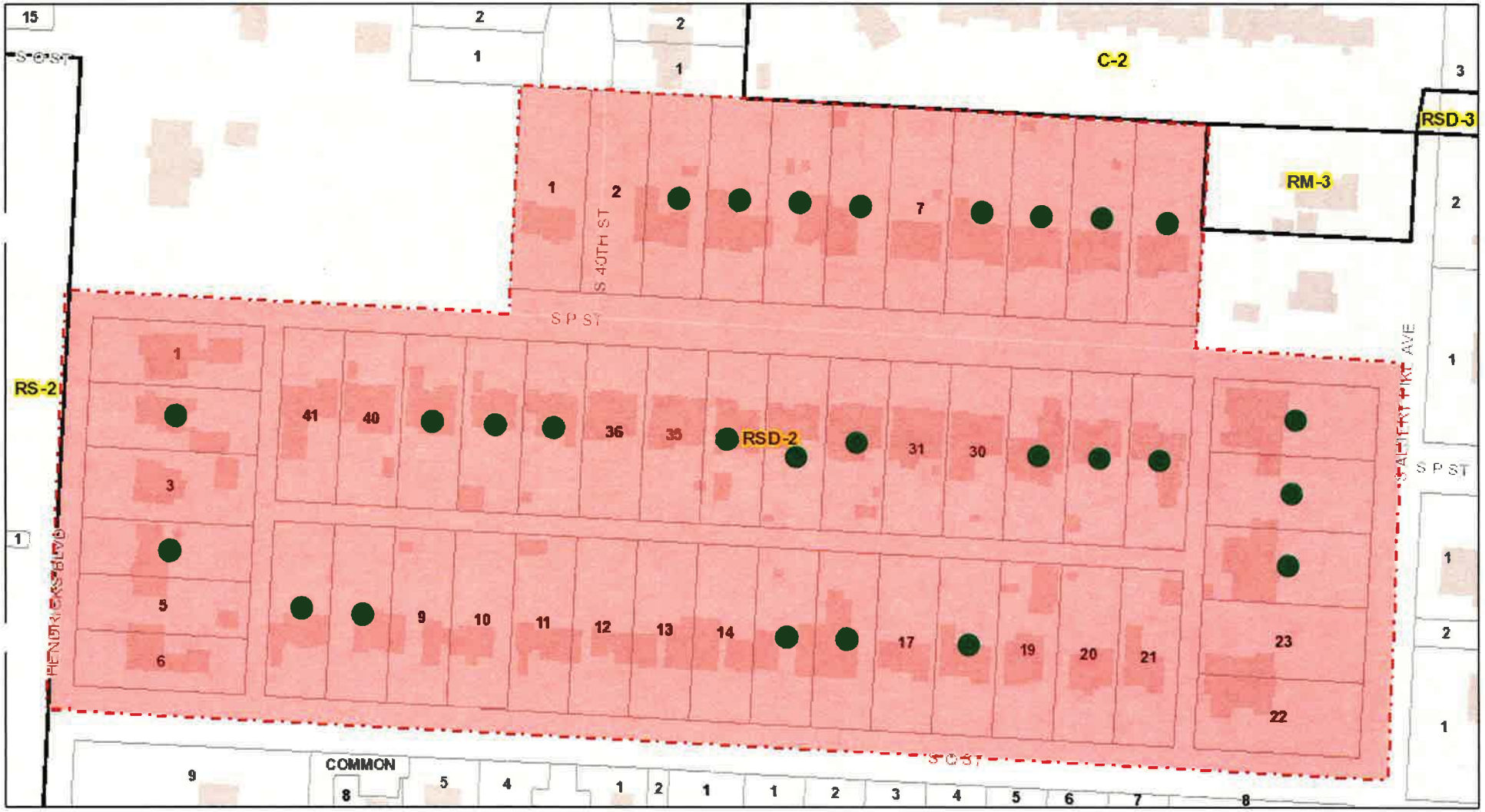
1:1,599

0 75 150 300 ft

0 20 40 80 m

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

Property owners that signed the rezoning application



May 4, 2016

Fort Smith City Limts

Building Footprints

Zoning

Subdivisions

1:1,599

0 75 150 300 ft

0 20 40 80 m

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

Rezoning

Memo

To: City Planning Commission

From: Planning Staff

Date: April 29, 2016

Re: Rezoning #10-5-16 - A request by Sara Baker/Emily Oakes, agents, for Planning Commission consideration of a rezoning request from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by classification at Block 1, Lots 1-11 and Block 2, Lots 1-41, Morningside Addition (1700-1730 South Albert Pike Avenue, 3901-4111 South "Q" Street, 1701-1721 Hendricks Boulevard and 4001-4119, 3904-3923, 4002-4120 South "P" Street)

PROPOSED ZONING

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

LOT LOCATION AND SIZE

The subject property is located on the east side of Hendricks Boulevard and west of South Albert Pike Avenue and north of South "Q" Street to the north side of South "P" Street. The tract contains an area of 14.9 acres with approximately 375 feet of street frontage along Hendricks Boulevard and along South Albert Pike Avenue and approximately 1,300 feet of street frontage along South "P" Street and along South "Q" Street.

REQUESTED ZONING

The proposed zoning on this tract is Residential Single Family High Density (RS-4). Characteristics of this zone are as follows:

Purpose:

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

3A

Permitted Uses:

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

Conditional Uses:

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

Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet
Maximum Density – 8.7 Dwelling Units/Acre
Minimum Lot Width at Building Line – 50 feet
Minimum Street Frontage – 20 feet
Front Yard Setback - 20 feet
Side Yard on Street Side of Corner Lot - 20 feet
Side Yard Setback – 5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet

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

EXISTING ZONING

The existing zoning on this tract is Residential Single Family – Duplex Low/Medium Density (RSD-2). Characteristics of this zone are as follows:

Purpose:

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

Permitted Uses:

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

Conditional Uses:

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

Area and Bulk Regulations:

Minimum Lot Size – 10,500 square feet
Maximum Density – 4 Dwelling Units/Acre

Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 50%

3B

Minimum Lot Width at Building Line – 75 feet
Minimum Street Frontage – 50 feet
Front Yard Setback - 30 feet
Side Yard on Street Side of Corner Lot - 30 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Residential Single Family – Duplex Low/Medium Density (RSD-2) and Commercial Light and developed as single family residences and an apartment complex.

The area to the east is zoned Residential Single Family – Duplex Low/Medium Density (RSD-2) and Residential Multifamily Medium Density (RM-3) and developed as single family residences.

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

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

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Hendricks Boulevard and South Albert Pike Avenue as Residential Collector and South "P" and South "Q" Streets as Local Roads.

MASTER LAND USE PLAN COMPLIANCE

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

NEIGHBORHOOD MEETING

A neighborhood meeting was held Wednesday, March 30, 2016, at the Fort Smith Public Library. Fourteen (14) neighboring property owners attended the meeting and no opposition was expressed regarding the proposed rezoning application. A copy of the attendance record and meeting summary are enclosed.

STAFF COMMENTS AND RECOMMENDATIONS

The neighborhood recently became interested in rezoning the Morningside Addition to single family when the property owner at 4106 South P Street applied for a setback variance for the construction of a duplex. The single family house at this location was destroyed by fire. Another duplex is located at 3905 South Q Street, which was constructed after the single family house was destroyed by fire in 2014. Beyond these two duplexes, there are only single-family houses in the requested rezoning area. According to the city's 1962 zoning map, the neighborhood was designated as R-2 zoning which allowed single family and duplex dwellings.

3C

There are 45 properties included in the proposed rezoning area. Of the 45 properties, 25 property owners (55%) signed the authorization of agent form allowing Ms. Baker and Ms. Oakes to submit the application on their behalf. The same property also signed a petition supporting an RS-4 zoning request.

The agents also obtained the signatures of 23 property owners within 300 feet of the rezoning areas who support the rezoning request.

Staff also received phone calls from three property owners outside the zoning area who support the rezoning request. Those owners reside at 1508 South 40th, 1525 South 40th, and 4221 South Q Street.

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

We have also provided a 1978 legal opinion by the city's attorney, Jerry Canfield regarding this matter. In this opinion, Mr. Canfield's opinion is that an "interested property owner" within the area proposed for a change may propose a change. In Mr. Canfield's opinion the interested property owner does not require actual ownership of the entire area. We have also enclosed an earlier legal opinion dated 1972 in which Mr. Canfield has the same opinion.

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

Rez. # 10-5-16

PETITION FOR CHANGE IN ZONING MAP

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

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

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

   Block 1, Lots 1-11 and Block 2, Lots 1-41, Morningside Addition

2. Address of property: 1700-1730 South Albert Pike, 3901-4111 South Q Street, 1701-1721 Hendricks Blvd., and 4001-4119, 3904-3923, 4002-4120 South P Street,

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

4. Application is hereby made to change the zoning classification of the above described property to RS-4 by Residential Single Family High Density
   (Extension or classification)

5. Why is the zoning change requested?

   Majority of landowners do not wish more duplexes constructed.
   Concern of parking overflow to streets and alleyways.
   Concern of water /drainage problems due to elevation of alley/construction elevation changes. (Exhibit D)
   Real Estate devaluation (Exhibit C)

6. Submit any proposed development plans that might help explain the reason for the request.
   Possible future designs (Exhibits A, B)

Signed:

Sara E. Baker
Owner or Agent Name
(please print)

Owner

1720 South Albert Pike
Owner or Agent Mailing Address

or

Sara E. Baker
Agent

(479) 783-6185, 629-1428
Owner or Agent Phone Number

3E

Authorizations for Agent

25 property owners out of 45 properties (55%)

3F

AUTHORIZATION OF AGENT

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

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Sara Baker and/or Emily Oakes to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS
1. TANYA MERRILL	Tanya Merrill
2. Margie Belt	Margie Belt
3. Carrie Vargas	Carrie Vargas
4.	
5.	
6.	
7.	
8.	
9.	
10.	

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

3G

AUTHORIZATION OF AGENT

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

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Sara Baker and/or Emily Oakes to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1. Glen Turner	Glen R. Turner
2. Frankie Turner	Frankie Turner
3. HARRISON. Jodie	Jodie Harrison
4. Kelly Wingfield	Kelly Wingfield
5. Brittney Mason	Brittney Mason
6. ROZAN OLIVER	Rozan Oliver
7. Sandra James Jackson	Sandra Jackson
8.	
9.	
10.	

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

3H

AUTHORIZATION OF AGENT

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We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Sara Baker and/or Emily Oakes to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

	NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1.	ALLEN & DARLENE BRANHAM	Allen Branham / Darlene Branham
2.		
3.		
4.		
5.		
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10.		

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

3I

AUTHORIZATION OF AGENT

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

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Sara Baker and/or Emily Oakes to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

	NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1.	Mary Cotta	
2.	Pierce Robinson	
3.	JAMES GRAHAM	
4.	Jim Thomas	
5.		
6.		
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10.		

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

3J

AUTHORIZATION OF AGENT

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

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Sara Baker and/or Emily Oakes to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

	NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1.	Emily Oakes	
2.	Peggy Pierson	
3.	Thadeous Pierson	
4.	Sara Baker	
5.	ALBERT M. BAKER	
6.	Barbara Newman	
7.	Barbara J Newman	
8.		
9.		
10.		

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

3K

AUTHORIZATION OF AGENT

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

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Sara Baker and/or Emily Oakes to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

	NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1.	Deborah C Carney	Deborah C Carney
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

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

3L

AUTHORIZATION OF AGENT

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

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Sara Baker and/or Emily Oakes to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1. BILLY R. ORME	Billy R. Orme
2.	
3.	
4.	
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7.	
8.	
9.	
10.	

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

3M

AUTHORIZATION OF AGENT

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

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Sara Baker and/or Emily Oakes to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

	NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1.	Cathy Armstrong	Cathy Armstrong
2.	Lynette & Harry Denton	Lynette & Harry Denton
3.	Keith McGillon	Keith McGillon
4.	Georgia Hammill	Georgia Hammill
5.		
6.		
7.		
8.		
9.		
10.		

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

3N

AUTHORIZATION OF AGENT

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

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Sara Baker and/or Emily Oakes to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1. JOAN M. MAYHUE	Joan M. Mayhue
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

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

30

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location Fort Smith Public Library

Meeting Time & Date 5:30 p.m. March 30, 2016

Meeting Purpose Decide on which zoning to apply, To fulfill City Planning Requirements

	NAME	ADDRESS	PHONE #
1.	[illegible]	4700 South P St.	479-502-0062
2.	[illegible]	4700 South P St.	479 522-5584
3.	[illegible]	1621 S Albert Pike	479-782-9763
4.	[illegible]	1621 S Albert Pike	479-782-9763
5.	[illegible]	4116 S. P	479 831 7311
6.	[illegible]	4023 S Q	479 782-7743
7.	[illegible]	4015 S "P"	479-782-6617
8.	[illegible]	419 S. P	479-459-0540
9.	[illegible]	3900 S Q	479 434 6360
10.	[illegible]	4116 So. P St.	479 831 7311
11.	[illegible]	1820 Hendricks	479 783-2874

3S

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location Ft. Smith Public Library

Meeting Time & Date 5:30 p.m. March 30, 2016

Meeting Purpose Decide on which zoning to apply To fulfill City Planning Requirements

	NAME	ADDRESS	PHONE #
1.	Frankie Turner	4013 So. P	479-782-6617
2.	Nancy Baker	1720 So. Albert Pike	783-6185
3.	Al Baker	" " "	"
4.			
5.			
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7.			
8.			
9.			
10.			
11.			

3T

MINUTES OF NEIGHBORHOOD MEETING

REZONING MORNINGSIDE ADDITION

5:30, MARCH 30, 2016

Sara Baker opened meeting with 16 neighbors present, including Brenda Andrews representing the City Planning Department.

After introductions were made of co-agent Emily Oakes, husband Al Baker, and Brenda Andrews, City Sr. Planner, the Agent topic was explained as to the reason fitting in with the City's requirement. The current count of authorizations is at 31% of landowners, and the need to continue collecting more authorizations from within Morningside. The purpose of the meeting was announced; the rezoning of our addition from RSD-2 to a single family dwelling zoning. The reasons were that the recent construction of a duplex at 3905 So. Q and the groundbreaking of one at 4106 So. P brought to our attention that we were unaware of zoning as it was, until the request for variance issue recently was presented. Mr. Walls, owner of a property at 3900 So. Q, spoke in regard to the Q Street duplex having created a water drainage problem to surrounding neighbors.

Handouts were given comparing RS-3 to RS-4 for a choice fitting of our neighborhood. In the discussion which opened, Larry Newman pointed out the flexibility of RS-4 if a homeowner wished to add on and wanted the side dimensions of some structures to be in line with the structure being added onto. If we were zoned RS-3 with a 7.5' side setback, the owner would have to request a variance to match the existing home. Discussion continued, and it was voted that the majority attending would prefer RS-4 for that reason.

Next, the signatures in favor of the rezoning cause was broken down between Morningside owners and surrounding neighbors; of 45 pieces of property in the addition, 53% have supported rezoning, and in surrounding 64 pieces within 300'

30

MINUTES OF NEIGHBORHOOD MEETING

REZONING OF MORNINGSIDE ADDITION

5:30 MARCH 30, 2016

(Cont'd.)

of addition, 38% have signed on. In addition, we have many signatures of co-owners'. It was noted that in the combined areas, 4 landowners are either landlords in same area or own and live in a townhouse in same.

The following topic was concerning the sign-up sheets available for: Attendance, Authorization for Agent, Supporting the Cause, Helping to contact neighbors, and E-mail addresses for importing city meeting date reminders.

In wrap-up, a collection was taken up to defray filing costs and the meeting dates upcoming for Planning Commission and Board of Directors are: May 3, May 10, and June 7. All are encouraged to attend.

There were no further questions or discussion and the meeting was adjourned at 6:15.

3V

Exhibit C

To calculate, realtor.com® analyzed home prices and appreciation rates in ZIP codes of the 100 largest metro areas across the country where a specific so-called "drag-me-down facility" – such as power plants or homeless shelter – was present.

Realtor.com®'s research team then calculated the potential discount by comparing the median home price of the ZIP codes with that facility with the median price for all homes in the same country.

The following neighborhood features emerged as the ones that could potentially drag down home values by the greatest amounts:

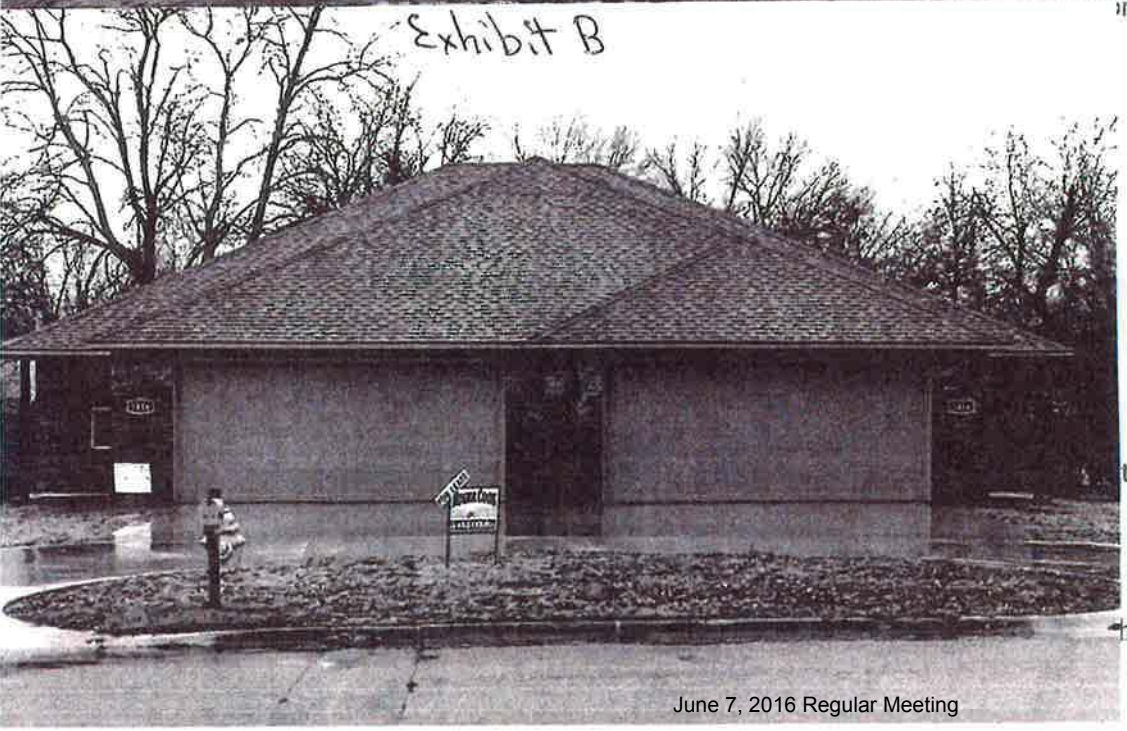
1. Bad school: -22.2% (translation: home owners near a bad school received 22.2 percent less than an average home in the same county could get)
2. Strip club: -14.7%
3. High renter concentration: -13.8%
4. Homeless shelter: -12.7%
5. Cemetery: -12.3%
6. Funeral home: -6.5%
7. Power plant: -5.3%
8. Shooting range: -3.7%

Exhibit A

d," realtor.com® (March 28,

rmation, visit our list of

Exhibit B



Login

Sort by Best

train line. I'm surprised

hamper-valu... 4/14/2016

3W

4106 So. P

Elevation of Alley

D+9.14x3 3X

SIGNATURES FROM PROERTY OWNERS INSIDE MORNINGSIDE ADDTION

SUPPORTING REZONING

34

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

I SUPPORT THE REQUEST FOR REZONING OF MORNINGSIDE SUBDIVISION, FORT SMITH, AR

EXISTING RSD-2 PROPOSED REZONING RS-3 OR RS-4

PRINTED NAME	PROPERTY ADDRESS	SIGNATURE
Kelly Wingfield	3922 So. P	Kelly Wingfield
Solomon Martinez	3908 South P St	Solomon
Caleb Hilton	3912 South P St	Caleb Hilton
Jodie Harrison	3918 South P	Jodie Harrison

32

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

I SUPPORT THE REQUEST FOR REZONING OF MORNINGSIDE SUBDIVISION, FORT SMITH, AR

EXISTING RSD-2 PROPOSED REZONING RS-3

PRINTED NAME	PROPERTY ADDRESS	SIGNATURE
Peggy Pierson	4117 South P St.	Peggy Pierson
Thadeous Pierson	4117 South P St	
Cathy Armstrong	4123 South P St	Cathy Armstrong
Emily Baker	4116 S. P	Emily Baker
Larry Newman	4116 So. P ST	Larry Newman
	4120 S. P ST	Pierce Robinson
Mr & Mrs Glen Turner	4015 South P St	Glen R. Turner/Frankie Turner
Barbara Newman	4116 So P St	Barbara Newman
	1720 So. Albert Pike	ALBERT M. BAKER
Sara Baker	1720 So Albert Pike	Sara Baker

32-1

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

I SUPPORT THE REQUEST FOR REZONING OF MORNINGSIDE SUBDIVISION, FORT SMITH, AR

EXISTING RSD-2 PROPOSED REZONING RS-3 OR RS-4

PRINTED NAME	PROPERTY ADDRESS	SIGNATURE
ALLEN BRANHAM	4018 So P ST	Allen Branham
James Graham	4014 S. P ST	James Graham
Sandra + James Jackson	4005 South P St	Sandra + Jackson
ROZAN OLIVER	4010 South P Street	Rozan Oliver
LARRY HILTON	4021 SOUTH P ST.	
DAVID SHARUM	4105 S Q	

3Z-2

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

I SUPPORT THE REQUEST FOR REZONING OF MORNINGSIDE SUBDIVISION, FORT SMITH, AR

EXISTING RSD-2 PROPOSED REZONING RS-3

PRINTED NAME	PROPERTY ADDRESS	SIGNATURE
Lynette Denton	4009 South Q Street	Lynette Denton
LARRY C. DENTON	4009 SOUTH Q ST.	Larry C. Denton
Keith McCollom	3903 S. Q	Keith McCollom
Georgia Hammill	3901 So Q	Georgia Hammill
Bill R Orm	4005 So Q St.	
Joan M. Maufue	1703 Hendricks Blvd 72903	
☆ Ashley F. Ahlert	1721 S. Albert Pike, 72903	Ashley F. Ahlert
Mary Cotta	1700 S. Albert Pike 72903	M Cotta

☆ - Resides in 300' surrounding Morningside

32-3

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

I SUPPORT THE REQUEST FOR REZONING OF MORNINGSIDE SUBDIVISION, FORT SMITH, AR

EXISTING RSD-2 PROPOSED REZONING RS-3 OR RS-4

PRINTED NAME	PROPERTY ADDRESS	SIGNATURE
Carrie Vargas	4001 S. P	Carrie Vargas
Tim Thomas	4105 S. P.	Tim Th

3Z-4

SIGNATURES AND PHONE CALLS FROM PROERTY OWNERS WITHIN 300' FEET OF MORNINGSIDE ADDTION SUPPORTING REZONING

32-5

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

300' Neighborhoods Surrounding

I SUPPORT THE REQUEST FOR REZONING OF MORNINGSIDE SUBDIVISION, FORT SMITH, AR

EXISTING RSD-2 **PROPOSED REZONING RS-2 OR RS-3 OR RS-4**

PRINTED NAME	PROPERTY ADDRESS	SIGNATURE
★ Deborah Carney	1715 Hendricks	Deborah Carney
Sue Bice	1614 Hendricks Blvd.	Sue Bice
Doug Bice	1614 Hendricks Blvd.	Doug Bice
Gaelon Hoover	1716 Hendricks Blvd	Gaelon Hoover
Frances J. Bateman	1714 Hendricks Blvd.	Frances J. Bateman
Deanna S. Friedman	1800 Hendricks Blvd	Deanna S. Friedman
Brad Kidder	1810 Hendricks Blvd	Brad Kidder
Kim Kidder	1810 Hendricks Blvd.	Kim Kidder
Brice Jones	1906 Hendricks Blvd.	Brice Jones
Sarah Jones	1906 Hendricks Blvd.	Sarah Jones
Amanda Bulger	3710 So "O" St.	Amanda Bulger
Melanie Jaber	1616 Hendricks Blvd	Melanie Jaber
Stacey Grubb	1519 Hendricks Blvd Fort Smith	Stacey Grubb
Caroline K. Whitby	1520 So. 40th Ft. Smith, AR 72903	Caroline K. Whitby
Stephen L. Ware	1530 S. 40th St Ft Smith AR 72903	Stephen L. Ware
Sharon Davis	1500 S. Albert Pike #4-Ft Smith, AR 72903	Sharon Davis

★ Property is in Morningside

32-6

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

300' SURROUNDING NEIGHBORS

I SUPPORT THE REQUEST FOR REZONING OF MORNINGSIDE SUBDIVISION, FORT SMITH, AR

EXISTING RSD-2 **PROPOSED REZONING RS-2 OR RS-3 OR RS-4**

PRINTED NAME	PROPERTY ADDRESS	SIGNATURE
BLAKE PEACOCK	4223 P STREET	[signature]
DREW WARNER	4306 So. "P" ST.	[signature]
Clara Rabideau	also 1607 So. Albert Pike 1621 S. Albert Pike	Clara D. Rabideau
Dana Rabideau	1621 S. Albert Pike	[signature]
William J. Williams	1620 S. ALBERT PIKE	[signature]
[signature]	4200 SPO	[signature]
[signature]	" "	[signature]
ROBERT F. BOULDEN	4221 So. Q	ROBERT F. BOULDEN
C. JANE SPERRY	4102 So. Q	Jane Sperry
Michael Farrell	1523 Hendricks Blvd	M Farrell
Laura Moore-Farrell	"	L Farrell
FRANK HUY	1820 HENDRICKS	[signature]
Eric Pendergrass	1807 Hendrick	[signature]
Meighan Pendergrass	1807 Hendricks	Meighan Pendergrass

32-7

April 29, 2016

A telephone call from Grover Harper of 1508 South 40th Street indicated he has no concerns or objections to the proposed Morningside Addition rezoning.

Brenda Andrews

32-8

Monaco,Tom

From: Monaco,Tom
Sent: Friday, April 29, 2016 3:34 PM
To: Planning Email Group
Subject: Neighborhood Rezoning

I spoke with Robert & Caroline Boulden at 4221 South "Q" Street and they are in favor of the rezoning.

I will add this to the file and red folder.

Tom Monaco
City Planner
City of Fort Smith
P.O. Box 1908
623 Garrison Avenue Suite 331
Fort Smith, AR 72902
O - (479) 784-2218
F - (479) 784-2462
tmonaco@fortsmithar.gov

Miller, Perry

From: Miller, Perry
Sent: Thursday, April 28, 2016 2:57 PM
To: Planning Email Group
Subject: morning side neighborhood rezoning

Martha Martin 783-8321 at 1525 South 40th Street has called in support of the neighborhood rezoning. I will add copies to the file and packet.

Thank you,

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

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

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

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

Glenn & Frankie Turner
4015 South "P" Street
Fort Smith, AR 72903

Larry Ray Chilton
P. O. Box 3583
Fort Smith, AR 72903

Timothy & Jennifer Thomas
4105 South "P" Street
Fort Smith, AR 72903

Margie Belt
4115 South "P" Street
Fort Smith, AR 72903

Thaddeous Pierson
4117 South "P" Street
Fort Smith, AR 72903

Emily Oakes
4119 South "P" Street
Fort Smith, AR 72903

Robert & Sherry Raynor
400 Wofford Ridge Drive
Fort Smith, AR 72916

Joan Mayhue
1703 Hendricks
Fort Smith, AR 72903

Glenlynn Brundge
P. O. Box 6876
Fort Smith, AR 72906

Deborah Carney
P. O. Box 3908
Fort Smith, AR 72903

Clarence & Billie Boone
3316 South 42nd Street
Fort Smith, AR 72903

Keith Crocker
6263 Gordon Lane
Fort Smith, AR 72903

Keith McCollom
3903 South Q" Street
Fort Smith, AR 72903

Triple 7's Properties, LLC
5511 South 28th Street
Fort Smith, AR 72901

DMH Properties, LLC
8013 South 24th Street
Fort Smith, AR 72908

Robert & Virginia Jasper
3909 South "Q" Street
Fort Smith, AR 72903

Ronald & Jo Lynn Hall
3911 South "Q" Street
Fort Smith, AR 72903

Monica Macomber
5900 Apache Trail
Fort Smith, AR 72904

Billy & Barbara Orme
4005 South "Q" Street
Fort Smith, AR 72903

The Denton Family Trust
4009 South "Q" Street
Fort Smith, AR 72903

Cpointe, LLC
2804 Westlake Drive
Lavaca, AR 72941

Cathy Elaine Armstrong
4023 South "Q" Street
Fort Smith, AR 72903

Clarke Respess
4101 South "Q" Street
Fort Smith, AR 72903

David & Vicki Sharum
4121 Colton Drive
Fort Smith, AR 72903

Daniel Mixon a Living Trust
4111 South "Q" Street
Fort Smith, AR 72903

Joshua A. Palmer Intervivios Trust
P. O. Box 10210
Fort Smith, AR 72917

Albert & Sara Baker
1720 S. Albert Pike
Fort Smith, AR 72903

Joe Cotta & Mary Nguyen
1700 S. Albert Pike
Fort Smith, AR 72903

Pierce Rebsamen
4120 South "P" Street
Fort Smith, AR 72903

Tracy Rebsamen
1618 E. 5th Street
Fayetteville, AR 72701

Larry & Barbara Newman
4116 South "P" Street
Fort Smith, AR 72903

Tanya Merrill
4110 South "P" Street
Fort Smith, AR 72903

Samuel & Jessica Swilling
2300 South 24th Street
Fort Smith, AR 72901

Dr. Ismail Ihmeidan & Dr. Fareeda Al-Refai
2411 Wyndermere Way
Fort Smith, AR 72903

Ivor Allen Branham & Wife
4018 South "P" Street
Fort Smith, AR 72903

James & Gail Graham
4014 South "P" Street
Fort Smith, AR 72903

Rozan & Leroy Oliver, et al
4010 South "P" Street
Fort Smith, AR 72903

Steve & Erin Delassus
4004 South "P" Street
Fort Smtih, AR 72903

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

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

Jodie W. Hanson, Jr.
3908 South "P" Street
Fort Smith, AR 72903

Samuel & Brittney Melton
3902 South "P" Street
Fort Smith, AR 72903

Salomon & Teli Martinez
3908 South 99th Street
Fort Smith, AR 72903

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

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

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

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

Wayne & Meredith Burton
14 Riding Ridge Elgin, SC 29045

Floyd & Kathryn Traylor Living Trust
2609 Heather Oak
Fort Smith, AR 72903

Greenpointe, Ind.
4320 Industrial Drive
Fort Smith, AR 72916

Dr. Dana & Clara Rabideau
1607 S. Albert Pike
Fort Smith, AR 72903

Blake Peacock
4223 South "P" Street
Fort Smith, AR 72903

Robert D. Warner, Living Trust
4306 South "P" Street
Fort Smith, AR 72903

Robert & Carolyn Boulden
4221 South "Q" Street
Fort Smith, AR 72903

Wes & Hope Marie Turner
4200 South "Q" Street
Fort Smith, AR 72903

Clyde Johnston & Wife
4222 South "Q" Street
Fort Smith, AR 72903

Neva Otwell
4200 South "P" Street
Fort Smith, AR 72903

Brian & Ashley Ahlert
1720 S. Albert Pike
Fort Smith, AR 72903

Aaron Hice
4004 South "Q" Street
Fort Smith, AR 72903

Sagely Investments, LLC
1102 Wofford Lake Road
Fort Smith, AR 72916

Pat D. Roberts
1500 S. Albert Pike #12
Fort Smith, AR 72903

Vicki Ann Route
1500 S. Albert Pike #7
Fort Smith, AR 72903

John W. Townshend
1500 S. Albert Pike #13
Fort Smith, AR 72903

Harold & Bertha Jean Hayes
1500 S. Albert Pike #14
Fort Smith, AR 72903

Masada Properties
10908 Old Harbor Road
Fort Smith, AR 72903

Billie Ryalls
2016 Dockside Court
Hermitage, TN 37076

Joseph & Stacy Calderera
1500 S. Albert Pike #33
Fort Smith, AR 72903

Patricia Bateman
1500 S. Albert Pike #39
Fort Smith, AR 72903

Penny Packard & Linda Dee
1500 S. Albert Pike #40
Fort Smith, AR 72903

John & Judy Sagely Trust
1102 Wofford Lake Road
Fort Smith, AR 72916

Timothy & Sharon Davis
1500 S. Albert Pike #41
Fort Smith, AR 72903

Willow Lake Property Owners
2411 S. Waldron Road
Fort Smith, AR 72903

Shannon S. Bruce Waters
713 Spruce Street W.
Van Buren, AR 72956

Stacey Grubb
1519 Hendricks Blvd.
Fort Smith, AR 72903

Drs. M. Farrell & L. Moore
1523 Hendricks Blvd.
Fort Smith, AR 72903

Perry & Linda Mankins
1523 Hendricks Blvd.
Fort Smith, AR 72903

Ronald Whitby
1520 South 40th
Fort Smith, AR 72903

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

Ronald & Edna May Ware
c/o Karen Hobbs
300 N. Albert Pike
Fort Smith, AR 72901

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

Samuel & Frances Bateman
1714 Hendricks Blvd.
Fort Smith, AR 72903

Melanie, Sabra & Melinda Jaber
1616 Hendricks Blvd.
Fort Smith, AR 72903

Gae Von Hoover
1716 Hendricks Blvd.
Fort Smith, AR 72903

James & Phyllis Jane Childers
3905 Free Ferry Road
Fort Smith, AR 72903

Bradley & Kimberly Kidder
1810 Hendricks Blvd.
Fort Smith, AR 72903

Hug Family Trust
1820 Hendricks Blvd.
Fort Smith, AR 72903

Francis Hyson
1600 S. Albert Pike
Fort Smith, AR 72903

William & Margaret Williams
1620 S. Albert Pike
Fort Smith, AR 72903

Haad Properties, LLC
2411 Wyndermere Way
Fort Smith, AR 72903

Tariq H. Hmidan
4018 S. "Q" Street
Fort Smith, AR 72903

Cathy Hall
4020 South "Q" Street
Fort Smith, AR 72903

Jamie McCord-Byers
2207 South 40th Street
Fort Smith, AR 72903

Stephen Eugene Sperry, Trustee
4102 South "Q" Street
Fort Smith, AR 72903

Sunnie Islamic Center
4430 Spikeridge Trail
Greenwood, AR 72936

Eric & Meghan Pendergrass
9506 Londonderry Court
Fort Smith, AR 72908

Norma Hopkins Real Estate
3900 South "Q" Street
Fort Smith, AR 72903

Madge Torkelson & Judy Walls
7306 Riviera Drive
Fort Smith, AR 72903

Amanda Bulger
3710 S. "O" Street
Fort Smith, AR 72903

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

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

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

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

Karen Allison
1532 Hendricks Blvd.
Fort Smith, AR 72903

Aaron Ty Borengasser
1920 S. Albert Pike
Fort Smith, AR 72903

John & Sharon Borengasser
4101 South "S" Street
Fort Smith, AR 72903

James & Ann Borengasser
4017 South "S" Street
Fort Smith, AR 72903

James & Patricia Ann Pendleton
523 North 47th Street
Fort Smith, AR 7290

Randy & Debbie Kern
4009 South "S" Street
Fort Smith, AR 72903

Marion & Dorothy Wight
4001 South "S" Street
Fort Smith, AR 72903

White Family Trust
P. O. Box 2582
Greenwood, AR 72936

Sprick Family Trust
3909 South "S" Street
Fort Smith, AR 72903

Sam & Aline McCoubrey
3903 South "S" Street
Fort Smith, AR 72903

Rosalie & Gina Ciulla
3817 South "S" Street
Fort Smith, AR 72903

Lawrence Chaney
1903 Hendricks Blvd.
Fort Smith, AR 72903

Sean O'Brien
1905 Hendricks Blvd.
Fort Smith, AR 72903

Eric & Meighan Pendergrass
9506 Londonderry Court
Fort Smith, AR 72908

Haaad Properties, LLC
2411 Wyndermere Way
Fort Smith, AR 72903

Ismail Ihmeidan & Al Fareeda
2411 Wyndermere Way
Fort Smith, AR 72903

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Fort Smith, AR 72903

Madge Torkelson & Judy Walls
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Fort Smith, AR 72903

Amanda Bulger
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Fort Smith, AR 72903

Joe & Elizabeth Marchant
P. O. Box 2706
Fort Smith, AR 72902

Charlotte McGowan
1600 Hendricks Blvd.
Fort Smith, AR 72903

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

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Fort Smith, AR 72903

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Elgin, SC 29045

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4320 Industrial Drive
Fort Smith, AR 72916

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1621 S. Albert Pike
Fort Smith, AR 72903

Dana Rabideau
1607 S. Albert Pike
Fort Smith, AR 72903

Blake Peacock
4223 South "P" Street
Fort Smith, AR 72903

Robert Warner Living Trust
4306 South "P" Street
Fort Smith, AR 72903

Robert & Carolyn Boulden
4221 South "Q" Street
Fort Smith, AR 72903

Wes & Hope Marie Turner
4200 South "Q" Street
Fort Smith, AR 72903

Clyde Johnston
4222 South "Q" Street
Fort Smith, AR 72903

Neva Otwell
4200 South "P" Street
Fort Smith, AR 72903

Brian & Ashley Ahlert
1721 S. Albert Pike
Fort Smith, AR 72903

Aaron Hice
4004 South "Q" Street
Fort Smith, AR 72903

Joshua Palmer Intervivios Trust
P. O. Box 10210
Fort Smith, AR 72917

S & E Development Co., Inc.
3101 Rogers Avenue
Fort Smith, AR 72903

Sagely Investments, LLC
1102 Wofford Lake Road
Fort Smith, AR 72916

Willow Lake Property Owners
2411 S. Waldron Road
Fort Smith, AR 72903

Chairman Sharpe then called for the vote on these plats as amended. The vote was 7 in favor and 0 opposed.

3. **Rezoning #10-5-16; A request by Sara Baker/Emily Oakes, agents for Morningside Addition neighborhood rezoning for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by Classification located at 1700-1730 South Albert Pike, 3901-4111 South "Q" Street; 1701-1721 Hendricks Boulevard and 4001-4199, 3904-3923, 4002-4120 South "P" Street.**

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

   Mr. Al Baker and Mrs. Sara Baker, representing the Morningside Subdivision spoke on behalf of this request.

   Mr. Dennis Rupp, 1601 Hendricks Street requested his property be removed from the rezoning application.

   Following a discussion by the Commission, Chairman Sharpe called for the vote on the rezoning request as submitted. The vote was 6 in favor and 1 opposed (Richardson).

4. **Rezoning #11-5-16; A request by Mickle-Wagner-Coleman, agent for Free Will Baptist Family Ministries, for a zone change from Not Zoned to a Planned Zoning District by Classification located at 11201 Custer Boulevard.**

   Ms. Maggie Rice read the staff report indicating that the purpose of this rezoning request is to allow for a development of four (4) multifamily children's home with the capability of adding two (2) additional group homes in the future with one administration building to oversee the homes. It was noted that each of the four (4) homes will house eight (8) children.

   Mr. Pat Mickle was present to speak on behalf of this request.

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

   Chairman Sharpe then called for the vote on the rezoning request. Motion was made by Commissioner Newton, seconded by Commissioner Carson, and carried unanimously to amend this request to make approval subject to the following:

   - Compliance with the submitted project booklet.

ORDINANCE NO. _____

AN ORDINANCE AMENDING FORT SMITH CODE SECTION 27-327-6 TO PROVIDE FOR OUTDOOR MOBILE FOOD VENDING FROM SELF CONTAINED MOBILE FOOD TRUCKS FOR EXTENDED HOURS OF OPERATION IN CITY MARKED LOCATIONS IN PUBLIC STREET RIGHT-OF-WAY

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

SECTION 1: The definition of "Mobile food vehicle" set forth in Section 27-327-6 A of the Fort Smith Code is hereby amended to read:

Mobile food vehicle shall include, but not be limited to:

a. Mobile food truck: A motorized unit selling edible goods.

b. Mobile food truck (self contained): A motorized unit selling edible goods. The unit shall be self-contained meaning all appurtenant facilities, including but not limited to water tanks and generators, are affixed to or contained within the mobile food truck.

c. Concession trailers: A vending unit which is pulled by a motorized unit and has no power to move on its own.

SECTION 2: Section 27-327-6 D of the Fort Smith Code is hereby amended by adding thereto Subsection 6 as follows:

6. Extended hours vending at limited locations marked by City. Outdoor mobile food vending on public street right-of-way between the hours of 7:00 a.m. and 9:00 p.m. is permitted in limited locations marked by the City within the Commercial Downtown (C-6) zoning district. The following criteria shall apply:

a. Each vending location shall be limited to a designated and marked parallel parking space in public right-of-way adjacent to a public park.

b. Applicants shall be governed by all permit requirements required for vending in a public street right-of-way with the following exceptions:

i. The Mobile Food Vendor shall operate solely from a Mobile food truck (self contained);

ii. The Mobile food truck (self contained) shall occupy only one Parallel Parking Space;
iii. Permitted and required additional hours of operation are as provided in this subsection D 6;
iv. The requirements of subsection D 3 are not applicable to the limited locations designated by the City.

Otherwise, vending shall comply with all applicable requirements of this Chapter.

c. The Mobile food truck (self contained) shall be constructed of quality materials with an attractive, inviting appearance and kept clean and in good repair.

d. Lottery. Persons who hold a permit for outdoor mobile food vending on public street right-of-way ("Section 27-327-6D permit") or who have completed the application for a Section 27-327-6D permit other than paying the permit and processing fee are eligible lottery participants. At any time two (2) or more eligible lottery participants make application to use a City marked location for vending between the hours of 7:00 a.m. and 9:00 p.m., each lottery participant's right to select a marked Parallel Parking Space reserved for use by that lottery participant shall be determined by publically conducted lottery. The initial lottery shall be conducted on June 21, 2016, at 12:00 p.m. (noon) (for vending in July and August, 2016) in the Planning Conference Room, Room 326 of the offices of the City, and shall be officiated by the Mayor or his designee. Thereafter, lotteries (if needed) shall be conducted by the Planning Commission at the Planning Commission's first regular meeting in the month of August (for vending in September and October), 2016, and every second month thereafter, and each subsequent lottery shall be officiated by the chairman of the Planning Commission or his or her designee. The lottery will determine the order of right to select a marked location for all lottery participants. Subsequent to the initial lottery, at any time not all City marked locations are selected for use by lottery participants, the City Administrator may issue to eligible persons a vending permit for any unused, marked location for the remaining portion of an applicable two (2) month period. In the event there is only one (1) eligible lottery participant making application to utilize a City marked location in any two (2) month period, the lottery need not be held and the eligible lottery participant may vend from a selected City marked location upon payment of the fees provided for in (e) below for the applicable two (2) month period.

e. Fee. In addition to the annual $150.00 permit and process fee for the Section 27-327-6D permit, vendors selected in the lottery or pursuant to the last two (2) sentences of (d) above shall pay a nonrefundable permit fee of $100.00 for vending rights in the selected marked location for the applicable two month period. The permit is non-transferrable.

f. Revocation. If any permittee has failed to vend (with attendant present) at the selected location for at least three hours per day on two (2) consecutive days (Monday – Friday), the right to vend in that marked location shall be considered forfeited and the lottery participant next in order as determined by the lottery shall have the right to vend (subject to holding a Section 27-327-6D permit) for the

remaining portion of the two (2) month period for a prorated portion of the $100.00 fee based on the remaining portion of the two (2) month period.

SECTION 3: Emergency Clause. It is determined that the provision for extended hour vending from City designated locations in public right-of-way in the Commercial Downtown (C-6) Zoning District will enhance the health, safety and welfare of the inhabitants of the City and that an emergency exists due to the approaching summer season with expected increased numbers of downtown visitors. Therefore, this Ordinance shall be in full force and effect from its date of adoption.

This Ordinance adopted this ___ day of _____, 2016.

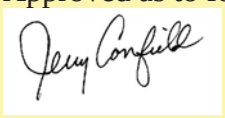
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:



_____
City Attorney
Publish 1 Time

Memorandum

To: Carl Geffken, City Administrator
Cc: Jeff Dingman, Deputy City Administrator
From: Wally Bailey, Director of Development Services
Date: May 20, 2016
Subject: Mobile Food Vending UDO Amendment – Downtown Limited location

The Board of Directors approved Ordinance No. 34-15 on May 19, 2015, which established guidelines for mobile food vendors. Recently, the Parks Department and Planning Department had inquiries from mobile food vendors about using the parking spaces at Cisterna Park. The parking spaces are not in Cisterna Park but are located in the Towson Avenue right of way. The right of way is City of Fort Smith right of way and is still a through street. The current ordinance does not permit vending in the public right of way except for between the hours of 9:00 p.m. and 2:00 a.m., and the vending must occur at a parallel parking space with the vending toward the sidewalk and not the street or another parking space.

Due to the interest in mobile food vending in the downtown and specifically at this location, we investigated the potential of creating some space(s) for mobile food vending to be placed during daytime hours in the area identified on the attached map. A letter was sent to downtown property owners, downtown restaurant owners and mobile food vendors wherein we asked for their input as we developed the proposal. Copies of the letters are attached.

As we reviewed and analyzed the potential for an ordinance amendment we consulted with the City Attorney, Fort Smith Police Department, Operations (Street) Department and the Parks Department. We also reviewed other cities ordinances and contacted the City of Fayetteville to determine best practices on a number of issues related to this item. Because the vending will occur in the City's street right of way there are some details that must be addressed differently from private property (*e.g. permitting for a limited use compared to a lease and public safety concerns*).

The section of the right of way is currently striped or designated with diagonal parking spaces that are not metered. About 4 or 5 diagonal spaces will be lost due to the restriping for the food trucks. Restriping will be required for two parallel parking spaces so that the vendor can vend to the sidewalk. We propose the creation of two parallel parking spaces as that will leave several unmetered parking spaces for park visitors and downtown visitors to use. Also, the two spaces will allow us to measure the interest for future review and consideration.

The Future Fort Smith Comprehensive Plan Policy ED-1.1 states *"Encourage and support start-up companies and small businesses.* The accompanying Action ED-1.1.1 states *"Provide regulatory and financial incentives for small businesses (including food trucks, etc.)."* Action FLU-1.1.3 states *"Review and adjust zoning classifications for consistency with the Preferred Future."*

Staff presented a draft to the Central Business Improvement District committee and the Planning Commission and both have recommended approval of the proposed amendment. We have received a number of positive comments. Ms. Anna Connor addressed the Planning Commission with concerns and opposition to the proposed ordinance. The concern was the potential impact the food trucks could have on Savoy Tea and Coffee.

Recently we discovered that a UAFS Community Leadership class has also been discussing the subject of food trucks. A conclusion of their report is to create a *food truck alley* in downtown Fort Smith and specifically it is recommended the same section of Towson Avenue be used for this purpose. A copy of their project report is enclosed.

The Planning Department staff and City Attorney have drafted an amendment to the existing Outdoor Mobile Food Vending regulations which will allow food truck vendors to operate during the daytime at the limited locations.

Some key points of the proposed ordinance are as follows:

- Vending in these reserved spaces is between the hours of 7:00 a.m. and 9:00 p.m.

- Vending shall operate solely from a Mobile Food Truck. Food trailers are not permitted, only food trucks. The current ordinance defines food trucks and food trailers. We have provided a new and revised definition for food truck. The intent is that the food trucks must be self-contained with all appurtenances either in or attached to the food truck. Items such as generators or water tanks cannot be placed in the street right of way or on the sidewalk. The food truck must be attended while it is parked in one of the reserved spaces.

- Two marked parallel parking spaces will be reserved for Food Truck vendors. Signs will be installed reserving the spaces for those with a permit to park in the spaces.

- A lottery will be held every two months to determine the parking space location for the lottery participants. The two month permit periods will allows us the ability to measure interest and determine if we have any corrections to the ordinance or procedures that might be needed. As we gain experience, we could consider longer periods of time with each permit. The draft ordinance establishes the first drawing for use of the spaces will occur on June 21st and would allow for the permittees to operate during the months of July and August. Subsequent to the first drawing, drawings will be conducted at the Planning Commission meetings. For example, a drawing will occur at the August 9th Planning Commission meeting for the months of September and October.

- In addition to the existing annual $150.00 permit and processing fee, vendors selected in the lottery will pay an additional $100.00 permit fee for vending rights in the marked location. A comment/concern we received is that the City should charge an additional fee for the administration of the special permits and to provide some consistency with those leasing space on private property. The $100.00 fee will encourage the selected vendors to vend regularly and not skip days because the permit fee is non-refundable and subject to revocation.

- A revocation clause to insure the selected food vendor performs to the expectations and if they do not then their permit will be revoked and a new vendor selected.

I have enclosed a document that includes some questions that have been asked about the proposed ordinance. Answers and explanations are also provided.

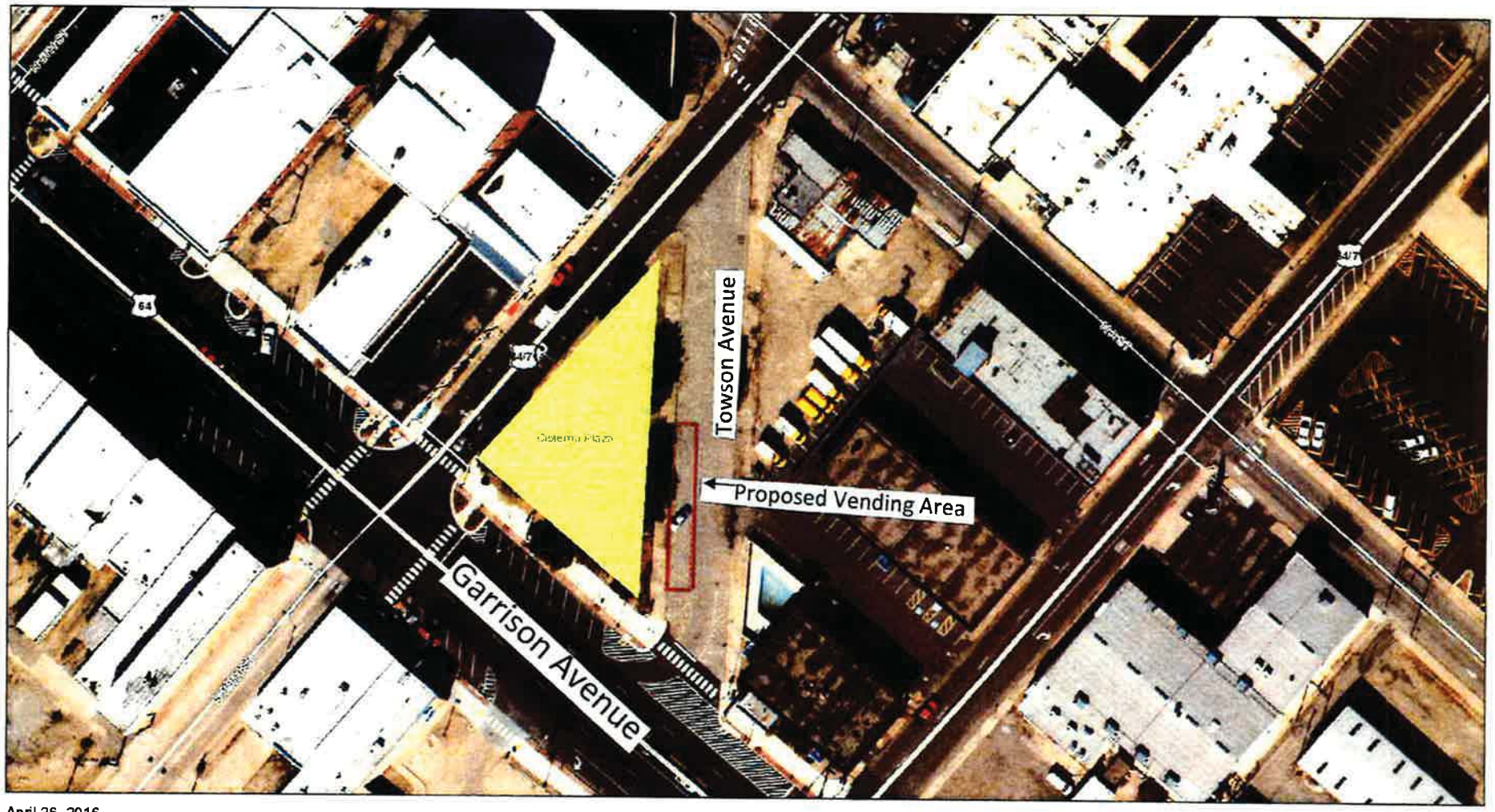
Enclosed is a copy of the proposed amendments to the Unified Development Ordinance (UDO). All proposed changes are in legislative format and are highlighted. Additionally, a copy of the proposed ordinance adopting these amendments is enclosed.

Should the Board approve the Ordinance, the staff will need to prepare the applications, restripe the parking spaces, have signs made and installed, and set up the accounting process for the license/permit.

Please contact me, if you have any questions regarding this matter.

Enc.

Proposed Outdoor Mobile Food Vending Amendment



April 26, 2016

: : Fort Smith City Limits

1:712

0 45 90 180 ft

0 12.5 25 50 m

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

Rivertront Inn

DRAFT

27- 327-6 Outdoor Mobile Food Vending

The purpose of Section 27-327-6 is to promote and encourage open-air retail environments, while preserving and protecting the health, safety and welfare of citizens through regulations that promote opportunities and management of such enterprises.

A. Definitions.

Angled parking space shall mean a parking space that is on a geometric angle to the street curb.

Edible goods shall include, but are not limited to prepackaged and prepared foods, excluding the sales of alcoholic beverages.

Food service establishment shall mean businesses that sell edible goods and have been inspected and approved by the Sebastian County Health Department and the City of Fort Smith.

Mobile shall mean the state of being active, but not necessarily continuous, movement.

Mobile food court shall mean a site that contains more than one mobile food vendor on a regular basis as the principal use of the land.

Mobile food vendor shall mean any person(s) who owns or operates a mobile food vehicle for the purpose of mobile food vending.

Mobile food vendor, private property shall mean any person(s) who exhibits, displays, or sells any food or beverage from a mobile food vehicle at a designated location on private property.

Mobile food vendor, public street right-of-way shall mean any person(s) who exhibits, displays, or sells any food or beverage from a mobile food vehicle at a designated location on the public street right-of-way.

Mobile food vehicle shall include, but not be limited to:

(a) **Mobile food truck**: A ~~self contained~~ motorized unit selling ~~items defined as~~ edible goods.

(b) **Mobile food truck (self-contained)**: A motorized unit selling edible goods. The unit shall be self-contained meaning all items such as water tanks, generators, etc. are affixed or contained within the mobile food truck.

p. In any parallel parking space that is designated as reserved.

4. **Hours of Operation**. Outdoor mobile food vending on public street rights-of-way within the Commercial Downtown (C-6) zoning district shall be allowed to engage in the business of mobile food vending only between the hours of 9:00 pm and 2:00 a.m. Mobile food vending vehicles shall be removed from the public street right-of-way when not in use.

5. **Waste Disposal.** The mobile food vendor has the responsibility to dispose of all solid and liquid wastes in accordance with all applicable laws. Mobile food vendors are not permitted to dispose of their trash in public trash receptacles.

6. **Extended hours vending at limited locations marked by City.** Outdoor mobile food vending on public street right-of-way between the hours of 7:00 a.m. and 9:00 p.m. is permitted in limited locations marked by the City within the Commercial Downtown (C-6) zoning district. The following criteria shall apply:

   a. Each vending location shall be limited to a designated and marked parallel parking space in public right-of-way adjacent to a public park.

   b. Applicants shall be governed by all permit requirements required for vending in a public street right-of-way with the following exceptions:

      i. The Mobile Food Vendor shall operate solely from a Mobile Food Truck;
      ii. The Mobile Food Truck shall occupy only one Parallel Parking Space;
      iii. Permitted and required additional hours of operation are as provided in this subsection D 6;
      iv. The requirements of subsection D 3 are not applicable to the limited locations designated by the City.

      Otherwise, vending shall comply with all applicable requirements of this Chapter.

   c. The Mobile Food Truck shall be constructed of quality materials with an attractive, inviting appearance and kept clean and in good repair.

   d. Lottery. Persons who hold a permit for outdoor mobile food vending on public street right-of-way ("Section 27-327-6D permit")

or who have completed the application for a Section 27-327-6D permit other than paying the permit and processing fee are eligible lottery participants. At any time two (2) or more eligible lottery participants make application to use a City marked location for vending between the hours of 7:00 a.m. and 9:00 p.m., each lottery participant's right to select a marked Parallel Parking Space reserved for use by that lottery participant shall be determined by publically conducted lottery. The initial lottery shall be conducted on June 21, 2016, at 12:00 p.m. (noon) (for vending in July and August, 2016) in the Planning Conference Room, Room 326 of the offices of the City, and shall be officiated by the Mayor or his designee. Thereafter, lotteries (if needed) shall be conducted by the Planning Commission at the Planning Commission's first regular meeting in the month of August (for vending in September and October), 2016, and every second month thereafter, and each subsequent lottery shall be officiated by the chairman of the Planning Commission or his or her designee. The lottery will determine the order of right to select a marked location for all lottery participants. Subsequent to the initial lottery, at any time not all City marked locations are selected for use by lottery participants, the City Administrator may issue to eligible persons a vending permit for any unused, marked location for the remaining portion of an applicable two (2) month period. In the event there is only one (1) eligible lottery participant making application to utilize a City marked location in any two (2) month period, the lottery need not be held and the eligible lottery participant may vend from a selected City marked location upon payment of the fees provided for in (e) below for the applicable two (2) month period.

e. Fee. In addition to the annual $150.00 permit and process fee for the Section 27-327-6D permit, vendors selected in the lottery or pursuant to the last two (2) sentences of (d) above shall pay a nonrefundable permit fee of $100.00 for vending rights in the selected marked location for the applicable two month period. The permit is non-transferable.

f. Revocation. If any permittee has failed to vend (with attendant present) at the selected location for at least three hours per day on two (2) consecutive days (Monday – Friday), the right to vend in that marked location shall be considered forfeited and the lottery participant next in order as determined by the lottery shall have the right to vend (subject to holding a Section 27-327-6D permit) for the remaining portion of the two (2) month period for a prorated portion

of the $100.00 fee based on the remaining portion of the two (2) month period.

E. Mobile Food Permit and Permit Requirements – Private Property

1. **Mobile Food Vendor Annual Permit.** Mobile food vendors are allowed to operate on a temporary basis for one year in one location with administrative approval of the Planning Department. After the one-year period has expired, the mobile food vendor shall move to another location or may request a one-year renewal from the Planning Department. Mobile food vendor permits shall be issued to the owner of the mobile food vendor vehicle. All permits shall expire December 31.

2. **Mobile Food Vendor Permit Requirements.** Each application for a permit to conduct a mobile food vendor business on a private property shall contain the following:

a. A permit and processing fee of $150.00. For Permits issued after June 30th the permit and processing fee shall be $75.00.

b. The name, address, contact information and signature of both the property owner and the mobile food vendor requesting to locate on private property.

c. Written permission, signed by the property owner or legal representative of record, stating that the mobile food vendor is permitted to operate on the subject property for a specified period of time.

d. Written verification that the applicant is registered with the Arkansas Department of Finance and Administration.

e. A statement on how and where solid and liquid wastes will be disposed, if applicable.

3. **Permit Transfer.** The permit issued to a mobile food vendor shall not be transferrable to another owner or operator without a new application submitted and approved by the city.

4. **Permit Displayed.** The mobile food vendor permit issued shall be conspicuously displayed at all times during the operation of the mobile vending business.

April 25, 2016

Dear Downtown Property Owner:

Based on interest from food vendors, the City of Fort Smith Planning Department is proposing an amendment to the Outdoor Mobile Food Vending regulations which will allow food vendors to operate during the daytime hours. The mobile food vendors would be limited to the parallel parking spaces on Towson Avenue next to Cisterna Park. Attached is a map showing the right-of-way where food vending would be permitted. Currently the Outdoor Mobile Food Vending regulations only allow food vendors in the Commercial Downtown (C-6) zoning district to operate in eligible parallel parking spaces between the hours of 9 pm and 2 am.

We would like your input regarding this proposal. You can contact me at the number or e-mail address below.

The Fort Smith Planning Commission will discuss the proposed amendment at their meeting on Tuesday, May 10, 2016; 5:30 p.m., at the Creekmore Community Center, Rose Room. You are welcome to attend the meeting.

If you have any questions regarding the proposed amendment, please contact me at 479-784-2219 or at planning@fortsmithar.gov .

Sincerely,

Brenda Andrews
Senior Planner

Enc.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 784-2216
FAX (479) 784-2462

Printed on 100% Recycled Paper

April 27, 2016

Dear Mobile Food Vendor:

Based on interest from food vendors, the City of Fort Smith Planning Department is proposing an amendment to the Outdoor Mobile Food Vending regulations which will allow food vendors to operate during the daytime hours. The mobile food vendors would be limited to the parallel parking spaces on Towson Avenue next to Cisterna Park. Attached is a map showing the right-of-way where food vending would be permitted. Currently the Outdoor Mobile Food Vending regulations only allow food vendors in the Commercial Downtown (C-6) zoning district to operate in eligible parallel parking spaces between the hours of 9 pm and 2 am.

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Sincerely,

Brenda Andrews
Senior Planner

Enc.

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

The City of Fort Smith ARKANSAS

April 28, 2016

Dear Downtown Restaurant Owner:

Based on interest from food vendors, the City of Fort Smith Planning Department is proposing an amendment to the Outdoor Mobile Food Vending regulations which will allow food vendors to operate during the daytime hours. The mobile food vendors would be limited to the parallel parking spaces on Towson Avenue next to Cisterna Park. Attached is a map showing the right-of-way where food vending would be permitted. Currently the Outdoor Mobile Food Vending regulations only allow food vendors in the Commercial Downtown (C-6) zoning district to operate in eligible parallel parking spaces between the hours of 9 pm and 2 am.

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Sincerely,

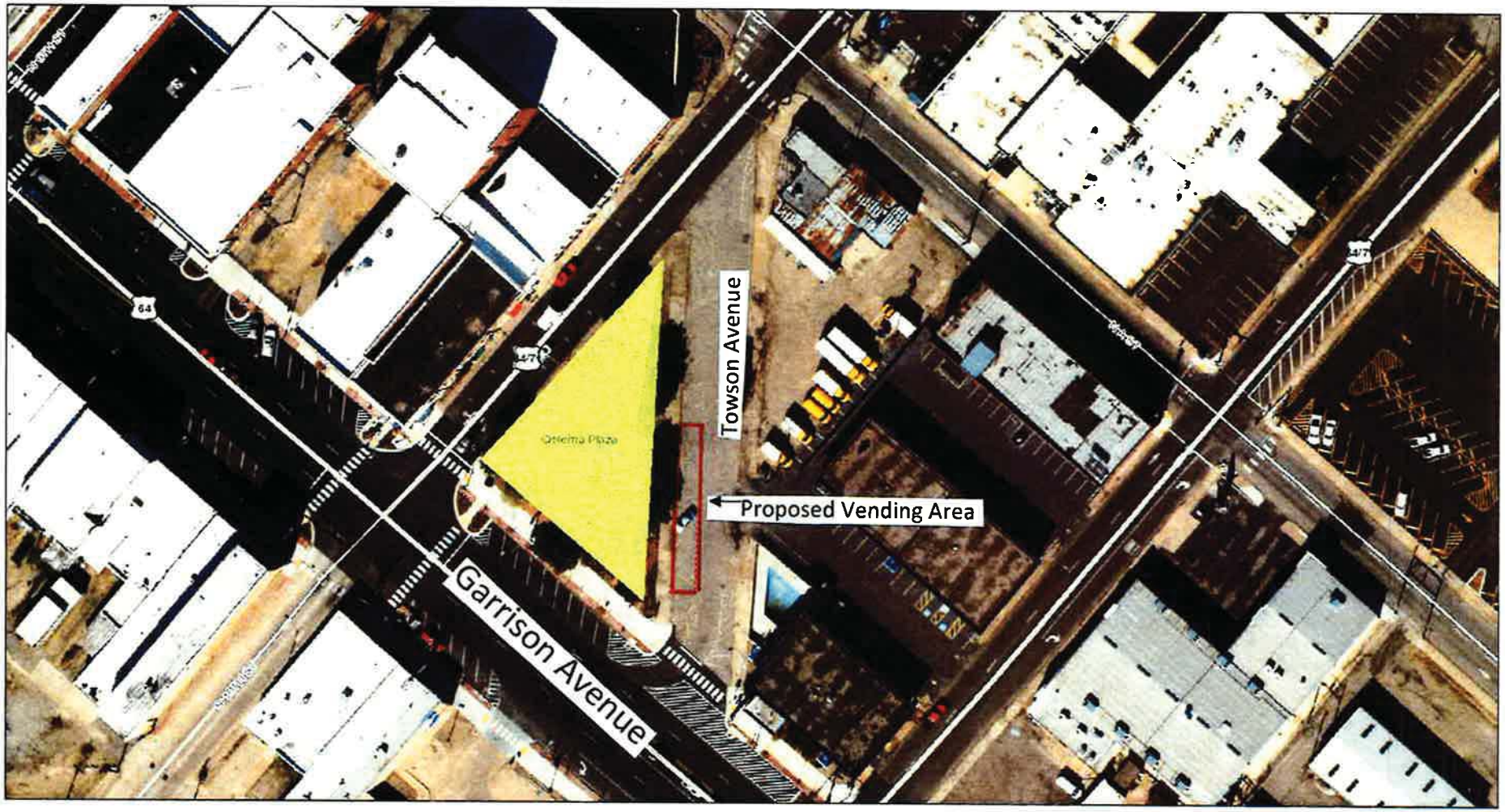
Brenda Andrews

Brenda Andrews
Senior Planner

Enc.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 784-2216
FAX (479) 784-2462

Proposed Outdoor Mobile Food Vending Amendment



April 26, 2016

: : Fort Smith City Limts

Note: Map not drawn to scale

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

Questions about the proposed Ordinance.

1. What's been the feedback from truck owners regarding the hours for the park or downtown in general? *Three vendors spoke at the planning commission meeting and had no opposition to the proposed park hours. Staff has not had any input from food truck vendors regarding downtown hours in general. However, when the ordinance was proposed, there was no opposition to the hours of 9:00 pm to 2:00 am. We specifically discussed the hours of 9:00 p.m. to 2:00 a.m. with the food vendors at a public meeting. When the original ordinance was discussed we sought input from several sources. A comment received was that we needed to remain respectful of the existing bricks and mortar restaurants which included times allowed and parking. Concerns about food trucks on private property were viewed as standard competition but to allow a food truck on public property in needed parking spaces was viewed as a potential problem. We found another city was using the 9:00 p.m. to 2:00 a.m. time frame for similar reasons (e.g., most restaurants were closing but there were still numbers in the downtown area due to the entertainment and other establishments that were still open).*

2. Do we need to look at the expanded hours for all of downtown? *The primary reason for restricting food trucks operating within the row between the hours of 9:00 p.m. to 2:00 a.m. was to minimize conflicts with existing brick and mortar businesses. This could certainly be something for a future review. We would want to get input from existing restaurants and the CBID before proposing expanded hours of operation. We notified the downtown property owners, restaurant owners and CBID that this proposal was limited to this specific proposal. Fayetteville, AR allows some food trucks to operate from the right of way during the day but the number of vendors are limited and the vendors are limited to 4-hours. It seems that many would prefer to see the food trucks concentrated in one location. Customers will know where the food trucks will be without having to hunt for the trucks. Also, the report from the UAFS students indicates a food truck alley (or court) is desirable.*

3. What was the reason for the ending time being 9 p.m. for the park spots? *The proposed ordinance will "reserve" the space for the lottery selected vendor from 7:00 a.m. to 9:00 p.m. From 9:00 p.m. to 2:00 a.m. they can still vend from the same space if it is available. The space will not be reserved for them after 9:00 p.m. If the lottery selected vendor is not in the space another approved vendor can operate between the hours of 9:00 p.m. and 2:00 a.m. A vendor selected through the lottery to vend next to the park will have the option to continue vending until 2am. One possible condition might be that an ice cream vendor gets a space in the lottery and plans to use the space during the day and/or the early evening. Later that night a food truck vendor might want to locate in the space to serve food for patrons of the night life in downtown.*

4. Why exclude a trailer as long as it is self contained? I would think that a stand alone truck or a trailer either would be fine as long as they are fully self- contained. *With only two parallel parking spaces, staff believes maneuvering a trailer into place would be logistically difficult and perhaps unsafe. The current ordinance that allows food vendors in the right of way between 9:00 p.m. and 2:00 a.m. does not allow the use of a trailer unless the trailer remains connected to a motorized vehicle. (This seemed to be a common requirement as we reviewed other ordinances when we drafted the current ordinance). The intent is that the use of these spaces that are in the right of way remain limited in time and the vending vehicle must be mobile. Staff also consulted with Captain Danny Baker about the possibility of allowing trailers. Captain Baker recommended against trailer because the space is extremely limited and the amount of room necessary to accommodate a vehicle pulling a trailer would likely create congestion, parking difficulties, and inconveniences to vendors and park visitors. For example, a vendor trying to get*

a trailer into or out of the parallel parking space that is between two occupied parking spaces could be difficult if not impossible. We also considered the issue of the towing vehicle will need a place to park which will further reduce the number of parking spaces in the area.

5. If passed, why the two-week delay in implementing the policy? *The time will be used to advertise for vendors to submit applications to be submitted for the lottery. To be eligible for the lottery, we are not requiring the applicants to have their permit applications submitted and approved proof of insurance submitted, etc. The applicants will need time to get this information completed and approved. The Operations Department will need to restripe the parking spaces.*

6. Will this apply to Pendergraft Park? Also what would it take to apply to other parks in the city? *Cisterna Park is the only downtown park where parallel parking can be accommodated. There are no parking spaces adjacent to Pendergraft Park. It might be possible to add some parallel spaces next to Pendergraft Park on the Garrison Avenue frontage; however, the Arkansas Highway Department does not permit vending from the AHTD right of way. This proposal is only about the use of the public street right of way. Vendors can visit with the Parks Department about vending within one or all of the parks.*

Community Leadership
MGMT 4613

Project Reports
May 9, 2016

Instructors:
Fred Williams & Rusty Myers

UAFS
University of Arkansas - Fort Smith
College of Business

Food Truck Rally

Bringing together good food and good people

Presented by:

Alyssa Dobbins
Kathryne Ethen
Zak Maestri
Nathan Poston
Tyler Teague

Introduction

In this paper, we will discuss the success that food trucks can bring to a city and the impact it could potentially have on its community. Fort Smith, Arkansas is a city that is full of opportunity and growth, and we strongly believe that a dedicated spot for food trucks is a move in the right direction for our city. This paper will demonstrate possible locations, issues that we could run into, and statistics from other cities that are experiencing major success from their own food truck alleys and courtyards. Through the semester we have spoken to many businessmen and women who have given us great ideas and advice to make this mission possible. The paper will discuss their thoughts and concerns regarding the installment of a food truck alley in the downtown area. Although a lot of time and effort has been put into the semester to make this dream a reality, we hope that our project will inspire strong leaders in the Fort Smith community to team up with us, and make this food truck alley a possibility, for the people of Fort Smith.

In our study of this subject, we have found that creating a food truck alley in downtown Fort Smith will not only accommodate the people working downtown, but it will also draw more people to the actual downtown area. Over the last few years, there has been lots of development in our city's downtown. Fewer and fewer buildings are vacant and there is almost no availability for housing downtown. We think that starting a food truck alley somewhere near Garrison will be a successful venture and bring more people to that area. Out of 45 people asked, 37 said that the addition of a food truck alley downtown would impact how much they visited downtown. Only 8 people asked said it would not affect their decision. Most of the people who would not be affected said it was because they hardly ever go downtown, or that they already go a lot and will continue going regardless of the attractions. The mobile food vending industry brings in revenue of about $650 million annually, and is projected to more than quadruple this revenue stream over the next five years, to about $2.7 billion in revenue, according to research by the National League of Cities. Bringing a project like this downtown will not only bring more people, it will bring in more revenue to the local businesses that are based downtown. If something like this could actually be implemented in Fort Smith, it could boost the city's economy and revenue stream which could in long-term, potentially grab corporations to want to make downtown their home and retain more graduates from UAFS.

According to John Gaber, food truck expert and professor of public policy at the University of Arkansas, there are several reasons why we should implement a food truck alley in downtown like other cities have. Fayetteville, among other bigger cities, has had great success since implementing a food truck alley. These small businesses are great startup companies for entrepreneurs. They do not cost a whole lot to start up, and there is no need for a lot of employees. Trucks can cost anywhere from $50,000 to $120,000 depending on the kind of kitchen gadgetry needed. They also provide an opportunity to create new, different environments to under populated areas. These areas include downtown squares. These places will start to have more visitors and that will bring more money to our city. Food trucks alleys provide a means for more safety on the streets by having more people around and

looking out. This makes cities more urban in a sense. There would also be more foot traffic because it would be closer to the businesses and people will not have to drive to get there. We feel that implementing a food truck alley in downtown Fort Smith will not only provide more dining choices to the people working downtown, but will also bring more people downtown that would not normally be there.

Internal and External SWOT

After we studied some aspects of this project, we came up with a short SWOT analysis, internal strengths and weaknesses as well as external opportunities and threats, to present. There are several food trucks in this area that have become actual restaurants (Patrick's Butcher Boy Burgers and Paizis' Gyros specifically). These establishments were so successful that they were able to expand and move into a building. There are many other food trucks in the city that, working together, could all thrive on the downtown life. With all of the development downtown because of businesses moving or starting up, there is so much potential for new food establishments. There are fewer employees to hire for running a food truck and owners don't have to provide a bathroom, air conditioning, or landscaping. While there are many strengths, there are also some weaknesses that will have to be overcome. This food truck alley would most likely not be on a private owned lot. This means that all food truck operators could be using land owned by the city or state. There would also be limited hours of operation and less convenience than a traditional sit-down restaurant. There could also be the problem of running out of stock. Because these businesses are so physically small, they may not have enough room to stock as much as a restaurant in a building. Due to state alcohol laws, unless the food truck alley is enclosed by a six foot tall fence, there can be no alcohol sales or consumption. This shouldn't be much of a problem, especially during lunch time, but it could take away some potential business because some people may want to drink while they eat and hang out.

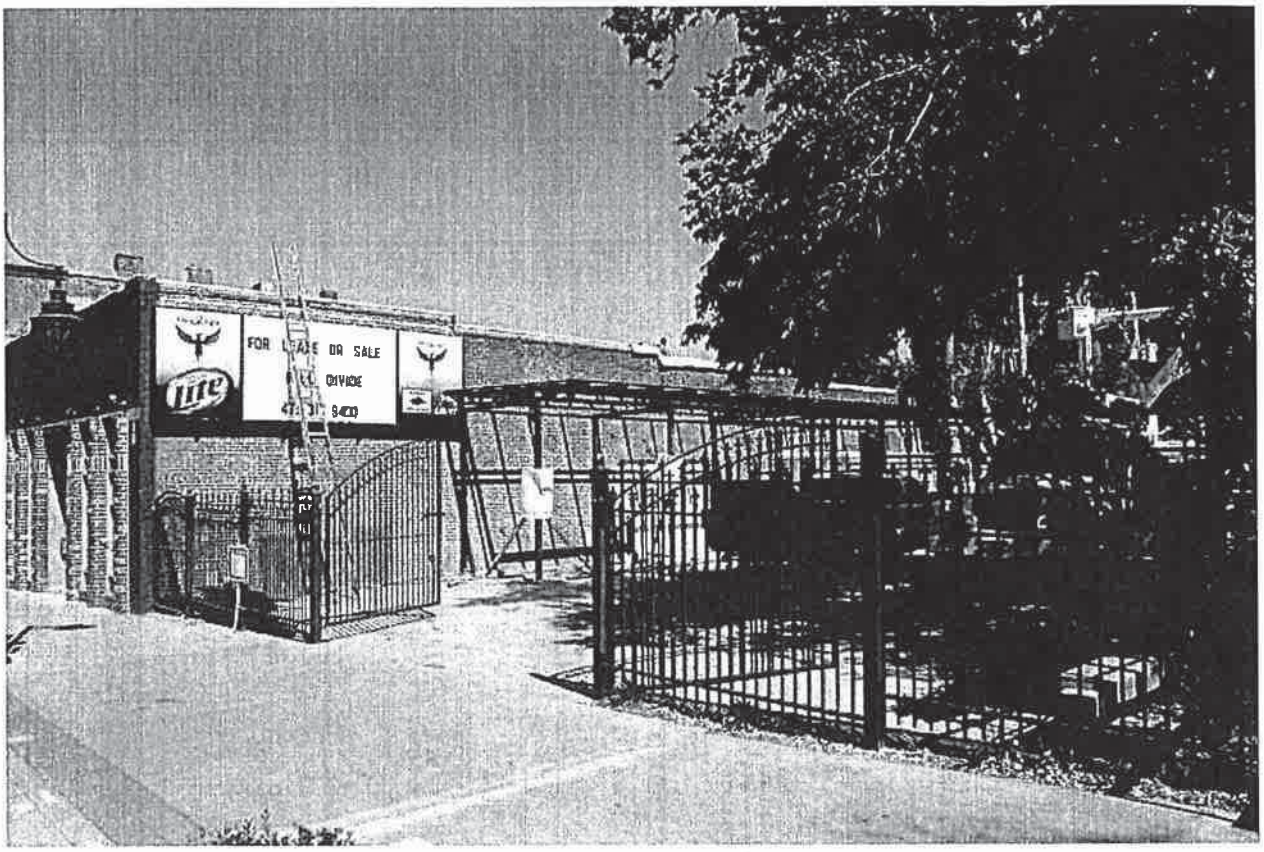
Looking at the external opportunities and threats, we discovered that there are many opportunities for this venture as well as a few threats. Competition can both help and hurt businesses. If there are several food trucks in a small space, there will be competition which benefits the small businesses. They will not be competing against each other but rather all helping bring in more business. The threat of competition will come from outside restaurants bringing in more people because they can accommodate more people at a time. Using competition to their advantage, this food truck alley can grow and bring in more businesses and customers. As new technology emerges, these small businesses may keep up with the changes and become more efficient, also bringing in more customers. The farmer's market is a great aspect to our downtown. It is open every Saturday from 7 a.m. until noon and there are more days during the summer months. If this food truck alley is near the farmer's market, all local businesses involved will benefit from the local shoppers. Some threats to this operation are the land usage, state laws, and city ordinances in place currently. There is a state law that says no food truck may operate on a highway (Garrison). There is also a city ordinance stating that the hours of operation can only be between 9:00 p.m. and 2:00 a.m. Hopefully there will be a change to these laws/ordinances soon and then this food truck alley could be even more successful. The biggest problem we have come across is the matter of parking downtown.

Depending on what time of day it is, it can be very hard to find parking close to the place you are visiting. This could be helped if the food truck alley is implemented near a big parking lot, or near enough businesses that people can walk there.

Regulations & Permits

In Fayetteville, the City Council passed new regulations. These regulations were designed to facilitate food trucks and other businesses that operate inside mobile vendor courts. One of these new laws allows for the creation of mobile vendor courtyards on private land if the owner is granted a conditional use permit. The city grants these permits. The vendors themselves are not required to get a conditional use permit, but they must provide the city with a site plan and copies of the necessary health permits and regular inspections. This new law also addressed mobile food vendors that park in public areas. The city requires the owners of these food trucks to pay an annual fee of $100 to cover and fees charged for the public parking spaces used. Parking access for the moving food vendors are given on a lottery basis. A drawing will be held each year to determine which vendors are allowed to set up inside city parks or in public parking spaces. If the city of Fort Smith follows in Fayetteville's footsteps, we think that the food truck alley will be a huge success.

The following picture is of the Shulertown Community Food Market, the Fayetteville food truck alley off of Dickson Street. Zac Wooden owns the property where the food trucks stand. There are seven trucks located in this space, complete with electrical hookups and picnic tables and chairs. After The Phoenix closed down, the property owner (Wooden) wanted something "completely different" to be put in that space. He had the patio converted to accommodate all of these mobile vendors. Wooden requires the vendors using his property to sign a one year lease. Since Shulertown is on private property, and fenced in, there can be alcohol sales here. Shulertown is open mostly for dinner and late nights, usually staying open until about 3 a.m., and most of the sales happen after 1 in the morning, according to Bryan Brandon Jr., owner of Wicked Wood Fired Pizza. "Our craziest times are definitely right after the bars close. The last hour is all hands on deck," said Brandon. "I think we all had our own hurdles to climb in terms of seeing this courtyard come to life. It was a ton of paperwork and legal stuff. . . I am just glad to get that aspect out of the way. There is a lot of room for growth in this industry. . . Right now things are going great." Implementing this food truck alley will be a lot of work but the payoff in the end will be worth it. Working on all of the paperwork and setting up a location will take the most time, but it will be a one-time project. Once everything is set into place, there will not be a need for anymore paperwork unless laws and regulations change.



Shulertown Community Food Market, Fayetteville, AR

Potential Locations

We have found a few potential areas for this food truck alley, all located downtown. Our first choice is Towson where it connects to Garrison at Cisterna Park. With the new Darby statue being put in, there will be a bigger attraction to that area. It is also right by the Friedman-Mincer Building and less than a block away from the Pocket Park being put in place. We decided that the best place to use at this lot is Towson. It is used now mostly as a parking lot but could be easily changed into a food truck alley. Unfortunately, the only way to shut down that portion of Towson requires a hearing and dividing the land between the owners on either side of the street. It is also located on a highway (Garrison) which is not allowed under state law. If laws change, this area would be a great place with a lot of potential to set up a food truck alley and bring more business to that end of Garrison.

Item 4

RESOLUTION NO._____

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH U.S. BANK FOR PURCHASING CARD SERVICES

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

SECTION 1: The proposal of U.S. Bank National Association ND, a qualified purchasing card provider, to issue purchasing cards to city staff in order to enhance internal controls over purchasing procedures and to replace existing credit cards, local store cards, and local store accounts is hereby accepted and approved.

SECTION 2: The Mayor is hereby authorized to execute the Political Subdivision Addendum and Certificate of Authority to the U.S. Bank Commercial Card Master Agreement. The City Administrator is hereby authorized to provide financial information, make necessary elections and otherwise administer the approved Agreement.

This Resolution adopted this _____ day of June, 2016.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

Jerry Canfield

_____

No Publication Required

Item 4

Interoffice Memorandum

TO: Carl Geffken, City Administrator

COPY TO: Jeff Dingman, Deputy City Administrator
Jennifer Walker, Finance Director
P-Card Evaluation Team

FROM: Alie Bahsoon, Purchasing Manager AB

SUBJECT: Purchasing Card Program

DATE: June 2, 2016

The City of Fort Smith ARKANSAS

Pursuant to the decision of not awarding the purchasing card program to U.S. Bank (see attached protest letter) and a directive from the City Board of Directors at the May 17th meeting, the P-Card RFP Selection Team met with Arvest Bank on May 25th for the purpose of clarifying the ability to interface with the City's pending ERP system and further discuss the rebate structure/rate and the availability of support staff.

From our meeting with Arvest, we learned that both Arvest and U.S. Bank (USB) use Total System Services, Inc. (TSYS), a credit card processor that offers commercial cards. This automated process provides for receiving final transaction data nightly. This data can be pushed to our system through various means offered by both banks. As for existing ERP systems, Arvest is currently working with Lawson, Great Plains, and several other ERP solutions.

Though not yet in place, Arvest is working on an authorization API solution such as fraud alerts which will be available in 2017 (alerts via emails, phone devices, tablets, etc.). An API, or application programming interface, is a technology protocol that allows diverse software components to communicate together. In the simplest terms, APIs are sets of requirements that govern how one application can talk to another. USB has this solution in place which we believe is a critical component to have with the City's PCard program.

In our discussions with Arvest, we gave them an opportunity to present their "best and final" offer in regards to the rebates and they indicated that the 1% rebate structure is non-negotiable but yet their E-Payables solution offers rebates ranging from 1.39% up to 1.5%. The rebate will depend on the frequency and the volume of payables processed through them.

Though Arvest Bank is local, the local vendor ordinance (50-15) was not taken into consideration since *Sec. 2-182(d). - Procedures for purchase of supplies, services* of the Municipal Code calls for the provision of these types of professional services "to be provided to the city on a negotiated basis" and are therefore exempt from this ordinance.

Once again, in order to insure that our RFP objective was met as a Team, we reviewed the scores originally awarded (100 point evaluation criteria) and re-evaluated them based on the newly acquired information. You will find attached a revised score sheet. After another thorough evaluation by the team, it is yet still our recommendation that an award be made to U.S. Bank (USB) for their PCard services and overall experience and solutions with municipal and higher education agencies such as ours. Please let me know if you should have any questions.

EXHIBIT NO. 1

AVERAGE EVALUATION SCORING FOR RFP 4306-212-16 (REVISED)

Criteria	Total Points	American Express	Arvest Bank	U.S. Bank
Proposer's corporate experience & qualifications relative to the requirements of this procurement	5	3	4	5
Experience & qualifications of the Proposer's proposed team members for this procurement	5	2	4	4
Proposer's communicated understanding of the requirements of this procurement	5	2	5	5
Proposer's previous successful experience in implementation and ongoing management of a P-Card solution	10	7	7	9
Proposer's ability to offer a solution compatible with an ERP accounting system	10	7	8	8
Proposer's communicated methodology and ability to offer a solution meeting the overall technical and functionality requirements identified in Section IV	10	5	7	7
Proposer's ability to meet the functionality requirements identified in Section IV.L	10	7	7	7
Proposer's implementation plan as identified in Section IV.J	5	3	4	4
Proposer's communicated methodology and ability to meet the overall management requirements identified in Section IV	5	3	4	4
Proposer's project plan, approach, and ability to meet milestones as identified in Section IV	5	3	4	4
Proposer's communicated methodology in addressing organizational change management	5	2	3	3
The extent to which proposer agrees to the City's required provisions without seeking exception	5	5	5	5
Proposer's Rebate Structure	10	6	7	8
Fee structure as identified in Section IV.M	10	6	7	8
Addition of Local Preference (5%)			3.8	
Revised Total	100	61	79.8	81
Ranking		**3**	**2**	**1**

One Riverfront Place
North Little Rock, AR 72114
501.688.1000
501.688.1389 fax

May 20, 2016

Alie Bahsoon
Purchasing Manager
City of Fort Smith, AR
623 Garrison Ave Suite 522
Fort Smith, AR 72901

Dear Alie Bahsoon:
Thank you for creating a resolution from the rigorous evaluation by the Cross Departmental team that selected U.S. Bank as the choice for the Purchasing Card. We are writing today to protest the decision by the Board to deny approval of your resolution to award U.S. Bank the contract for the following reasons:

- U.S. Bank has a solution engineer who insures integration into every major ERP system
- U.S. Bank's close physical presence less than a mile from Fort Smith city limits
- U.S. Bank Purchasing card is being used by public institutions including UAFS, UofA Fayetteville, City of Hot Springs, NW AR Technical Institute
- The competitor uses an out of state 3rd party company for their cards www.securitybankcard.com
- U.S. Bank owns all service, call centers, and technology of the Purchasing Card program
- U.S. Bank is 2nd largest issuer of commercial cards in the United States
- We ranked #1 on your scoring criteria and were recommended by the Cross Departmental Team
- U.S. Bank's rebate on $4MM annual spend is estimated to be $20,000 higher in Year 1 and $16,000 thereafter. The 5 year advantage of choosing U.S. Bank is **$84,000** over the other choice.
- We have met with Finance to understand your A/P process and plan to present future recommendations as well as incorporating this knowledge to the P-Card implementation

I welcome the opportunity to meet the Board members at a future meeting. We are optimistic about the possibility of being Fort Smith's provider of Pay Cards. We look forward to hearing from the Board soon.

Sincerely,

John Scuderi
501-688-1213
Treasury Management and Payment Consultant

Enclosures: 8G RFP 4306-212-16

RESOLUTION NO._____ 5

RESOLUTION ACCEPTING THE BID OF AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH GOODWIN & GOODWIN, INC., FOR THE LEE CREEK RESERVOIR BUOY LINE REPLACEMENT

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

SECTION 1: The bid of Goodwin & Goodwin, Inc., for the Lee Creek Reservoir Buoy Line Replacement, Project Number 16-14-C1, is hereby accepted.

SECTION 2: The Mayor is hereby authorized to execute a contract with Goodwin & Goodwin, Inc., for an amount of $48,695.00, for performing said construction.

This Resolution adopted this_____ day of June 2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____npr

INTER-OFFICE MEMO

TO: Carl Geffken, City Administrator **DATE:** May 31, 2016

FROM: Jimmie B. Johnson, Deputy Director of Systems JBJ

SUBJECT: Lee Creek Reservoir Buoy Line Replacement
Project 16-14-C1

The buoy line installed approximately 600 feet upstream of the Lee Creek dam was broken due to the accumulation of increased amounts of floating debris washed into the reservoir during the storm in December 2015. The buoy line stretches across the lake and is required to keep boaters away from the intake zone for the water treatment plant and turbine generator and protects against boats being swept over the dam. The 1,700 feet long buoy line with 31 of the 79 orange barrier floats and 9 of the 15 warning buoys will be replaced. The lake must be closed to boaters until the replacement is complete.

Crawford County has been approved for disaster emergency funds through the Federal Emergency Management Agency (FEMA) and assistance has been applied for by the City of Fort Smith for disaster relief. The city is currently awaiting a decision from FEMA.

The Utility Department has reviewed the bids that were submitted. The low bid for the project was submitted by Dixon Contracting, Inc., in the amount of $36,375.00. However, this company has recently demonstrated that they are not a responsible and responsive contractor. The Utility Department refers to the Fort Smith Municipal Code book under Administration, Section 2-183 and paragraph d. Dixon Contracting, Inc., most recent contract with the city was terminated by the city for contractor's poor performance.

At this time the Utility Department is recommending that the Board accepts the next lowest bidder, Goodwin & Goodwin, Inc., for the bid award. A bid tabulation sheet showing the bidders and their bid amounts is attached. A Resolution accepting the bid of and authorizing the Mayor to execute a contract with Goodwin & Goodwin, Inc., for installation of a new buoy line in the amount of $48,695.00 is also attached. Funds are available for this project from the water and sewer operations budget.

Should you or the members of the Board have any questions or need additional information, please let me know.

attachment

pc: Jeff Dingman
Bob Roddy

Bid Tabulation Sheet

Project Name
Lee Creek Reservior Buoy Line Replacement
Project Number 16-14-C1

Bid Opening
May 19, 2016
2:00 P.M.

Bids Received

Dixon Contracting, Inc. Fort Smith, Arkansas	$36,375.00
Goodwin & Goodwin, Inc. Fort Smith, Arkansas	$48,695.00
Hudson Excavation Van Buren, Arkansas	$54,492.90

Comprehensive Plan Goal Supported
By Water Projects

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

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

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

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

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

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

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

RESOLUTION NO. _____ 6

RESOLUTION CONFIRMING AND RATIFYING APPROVAL OF AUTHORIZATION NUMBER TWO TO THE AGREEMENT WITH RJN GROUP, INC. FOR THE PROVIDING OF ENGINEERING SERVICES IN CONNECTION WITH THE 2015 SANITARY SEWER ASSESSMENT REMEDIAL MEASURES, PHASE A (SUB-BASIN P007 AND S008) AS AUTHORIZED BY RESOLUTION NO. R-64-16 ADOPTED ON MAY 17, 2016

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

R-65-16, adopted on May 17, 2016, is hereby confirmed and ratified as an approval of Authorization Number Two (Sub-Basin S008, Project Number 16-10-ED2) to the Agreement with RJN Group, Inc., for engineering design services for the 2015 Sanitary Sewer Assessment Remedial Measures, Phase A, which Agreement was approved by R-64-16 adopted on May 17, 2016, and as an authorization for the Mayor to execute Authorization Two in the amount of $281,560.00, for performance of said services.

This Resolution adopted this _____ day of June 2016.

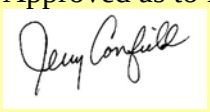
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:



_____
City Attorney
No Publication Required

INTER-OFFICE MEMO

TO: Carl Geffken, City Administrator **DATE:** May 31, 2016

FROM: Jimmie B. Johnson, Deputy Director of Systems

SUBJECT: 2015 Sanitary Sewer Assessment Remedial Measures,
Phase A (Sub-Basins P007 and S008)
Project Number 16-10-ED1 and 16-10-ED2

R-64-16 approved an Agreement for Engineering Services and Authorization Number One to the Agreement with RJN Group, Inc., for engineering design services for the 2015 Sanitary Sewer Assessment Remedial Measures, Phase A. R-65-16 approved Authorization Number Two to the Agreement for Engineering services approved in R-64-16. However, the language with reference to R-64-16 was unclear as to allowing a second authorization.

The attached Resolutions confirms and ratifies the approval of Authorization Number Two (Sub-Basin S008, Project Number 16-10-ED2) as being subject to the agreement with RJN Group, Inc., for engineering design services for the 2015 Sanitary Sewer Assessment Remedial Measures, Phase A which includes Sub-Basins P007 and S008.

Should you or members of the Board have any questions or desire additional information, please call.

attachment

pc: Jeff Dingman
Bob Roddy

Comprehensive Plan Goal Supported
By Wastewater Projects

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

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

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

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

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

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

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

RESOLUTION NO. _____ 7

RESOLUTION CONFIRMING AND RATIFYING APPROVAL OF AUTHORIZATION NUMBER TWO TO THE AGREEMENT WITH MORRISON-SHIPLEY ENGINEERS, INC. FOR THE PROVIDING OF ENGINEERING SERVICES IN CONNECTION WITH THE 2015 SANITARY SEWER ASSESSMENT REMEDIAL MEASURES, PHASE C (SUB-BASIN FL01 AND S009) AS AUTHORIZED BY RESOLUTION NO. R-66-16 ADOPTED ON MAY 17, 2016

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

R-67-16, adopted on May 17, 2016, is hereby confirmed and ratified as an approval of Authorization Number Two (Sub-Basin S009, Project Number 16-12-ED2) to the Agreement with Morrison-Shipley Engineers, Inc., for engineering design services for the 2015 Sanitary Sewer Assessment Remedial Measures, Phase C, which Agreement was approved by R-66-16 adopted on May 17, 2016, and as an authorization for the Mayor to execute Authorization Two in the amount of $308,300.00, for performance of said services.

This Resolution adopted this _____ day of May, 2016.

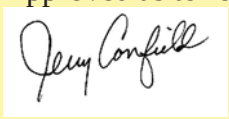
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:



_____
City Attorney
No Publication Required

INTER-OFFICE MEMO

TO: Carl Geffken, City Administrator **DATE:** May 31, 2016

FROM: Jimmie B. Johnson, Deputy Director of Systems

SUBJECT: 2015 Sanitary Sewer Assessment Remedial Measures, Phase C (Sub-Basins FL01 and S009)
Project Number: 16-12-ED1 and 16-12-ED2

R-66-16 approved an Agreement for Engineering Services and Authorization Number One to the Agreement with Morrison-Shipley Engineers, Inc., for engineering design services for the 2015 Sanitary Sewer Assessment Remedial Measures, Phase C. R-67-16 approved Authorization Number Two to the Agreement for Engineering services approved in R-66-16. However the language with reference to R-66-16 was unclear as to allowing a second authorization.

The attached Resolutions confirms and ratifies the approval of Authorization Number Two (Sub-Basin S009, Project Number 16-12-ED2) as being subject to the agreement with Morrison-Shipley Engineers, Inc. for engineering design services for the 2015 Sanitary Sewer Assessment Remedial Measures, Phase C which includes Sub-Basins FL01 and S009.

Should you or members of the Board have any questions or desire additional information, please call.

attachment

pc: Jeff Dingman
Bob Roddy

Comprehensive Plan Goal Supported
By Wastewater Projects

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

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

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

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

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

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

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

ORDINANCE NO. _____ 8

AN ORDINANCE DECLARING AN EXCEPTIONAL SITUATION WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING AND AUTHORIZING A CONTRACT WITH GOODWIN & GOODWIN, INC., FOR EMERGENCY REPAIR SSA 2015 (S009) HIGH STREET – BROCKMAN FROM 43RD TO ALBERT PIKE

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

WHEREAS, it is necessary to contract for the emergency repairs of the sanitary sewer main in the alley between High Street and Brockman Avenue, from North 43rd to Albert Pike Street; and,

WHEREAS, the emergency necessity of repair precludes the City from engaging in competitive bidding for the repair contract ; and,

WHEREAS, the emergency sewer repair required immediate repair to prevent the possibility of health hazards to the residents of the City of Fort Smith:

NOW THEREFORE, in order to eliminate the possibility of health hazards to the residents of the City of Fort Smith and to begin the necessary repairs as quickly as possible, an exceptional situation existed requiring the waiving of the competitive bidding, so that competitive bidding requirements are hereby waived and the contract with Goodwin & Goodwin, Inc. for emergency repair SSA 2015 (S009) at High Street – Brockman from 43rd to Albert Pike is hereby approved and authorized. An appropriation of $158,160.00 from the unobligated balance of the Water and Sewer Operating fund transfer to Water and sewer Capital Improvements Project, Fund Code 8211-165, 6505 for said emergency repair is hereby made, and payment to the contractor, Goodwin & Goodwin, Inc., in the amount of $158,160.00, is hereby approved upon completion of the contract work.

PASSED AND APPROVED this _____ day of June 2016.

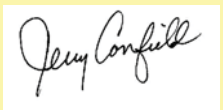
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM



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INTER-OFFICE MEMO

TO: Carl Geffken, City Administrator **DATE:** May 31, 2016

FROM: Jimmie B. Johnson, Deputy Director of Systems

SUBJECT: Emergency Repair SSA 2015 (S009) High Street – Brockman from 43rd to Albert Pike, Project Number 16-13-C1

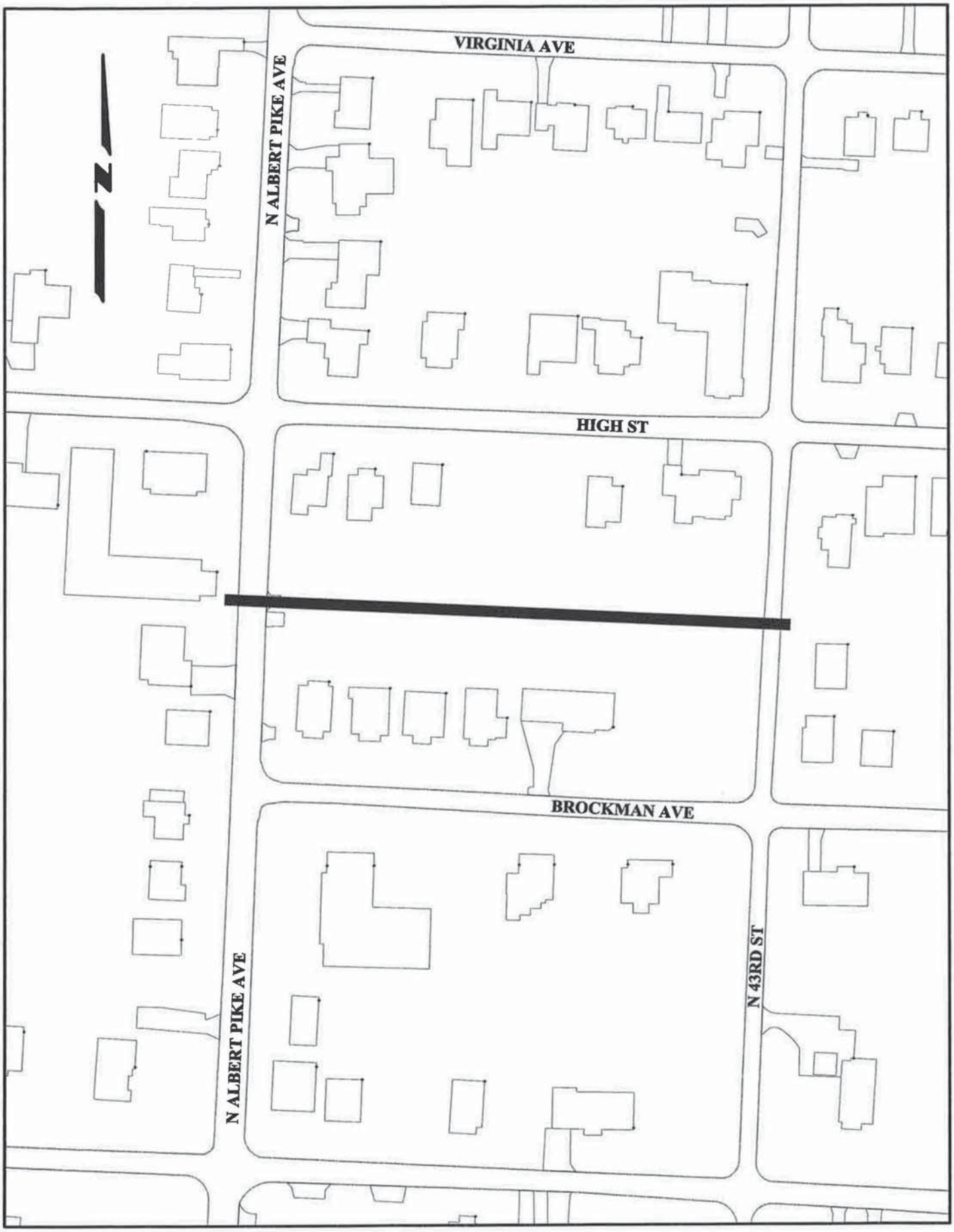
On April 5, 2016, maintenance crews discovered a collapsed 6-inch sewer located in the alley between High Street and Brockman Avenue, from North 43rd to Albert Pike Street. The collapsed line was causing a sanitary sewer overflow to occur. It was necessary to contract for the emergency repair, waiving competitive bidding, in order to repair the sewer main immediately. The contractor replaced 436 feet of the 6-inch sewer line with a new 8-inch line. This line was identified as part of the 2015 Sanitary Sewer Assessment Remedial Measures, Phase C (Sub-Basins S009), Project Number 16-12-ED2 which the Board approved on May 17, 2016. Goodwin & Goodwin, Inc., had personnel and equipment available for immediate response. The total cost for the emergency repair was $158,160.00.

The attached Ordinance waives the competitive bidding requirements for the emergency repair and authorizes final payment to Goodwin & Goodwin, Inc., in the amount of $158.160.00.

Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Jeff Dingman
Bob Roddy



Emergency Sewer Repair
Project No. 16-13-C1

Comprehensive Plan Goal Supported
By Wastewater Projects

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

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

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

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

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

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

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

RESOLUTION _____

A RESOLUTION AUTHORIZING A TIME EXTENSION FOR THE 2013 DRAINAGE IMPROVEMENTS, PHASE A PROJECT NO. 13-06-A

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

SECTION 1: A time extension with Township Builders, Inc., for the construction of the 2013 Drainage Improvements, Phase A, Project No. 13-06-A, which increases the contract time by 145 calendar days, is hereby approved.

This Resolution adopted this _____ day of June, 2016.

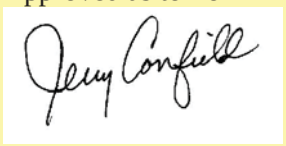
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form



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☐ No Publication Required

RESOLUTION _____

A RESOLUTION ACCEPTING COMPLETION OF AND AUTHORIZING FINAL PAYMENT FOR THE CONSTRUCTION OF 2013 DRAINAGE IMPROVEMENTS, PHASE A PROJECT NO. 13-06-A

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

SECTION 1: The City of Fort Smith hereby accepts the construction of 2013 Drainage Improvements, Phase A, Project No. 13-06-A as complete.

SECTION 2: Final payment is hereby authorized in the amount of $19,596.94 to the contractor, Township Builders, Inc., for the 2013 Drainage Improvements, Phase A, Project No. 13-06-A.

This Resolution adopted this _____ day of June, 2016.

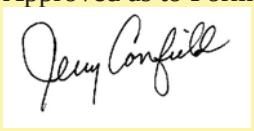
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form



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☐ No Publication Required

Memorandum

TO: Carl Geffken, City Administrator

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

DATE: June 1, 2016

SUBJECT: 2013 Drainage Improvements, Phase A
Project No. 13-06-A

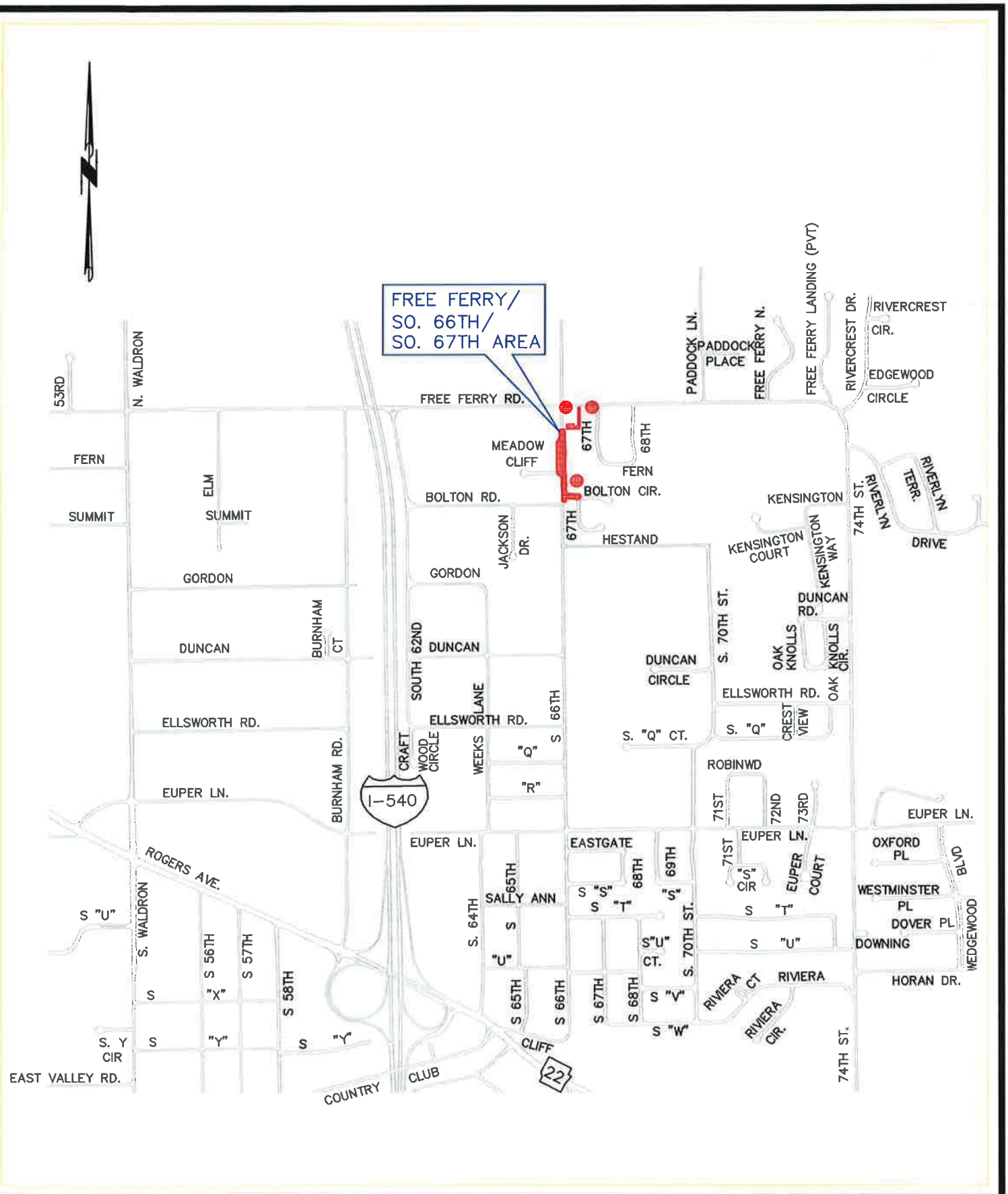
This project consisted of drainage improvements to alleviate neighborhood flooding concerns. The project included improvements in the following two areas: Free Ferry/South 66th & 67th Streets and Knoxville Street / Cliff Drive Area between Jenny Lind Road and South 23rd Street. The locations of the improvements are shown on the attached exhibit. A project summary sheet is also attached.

The project was substantially complete on February 10, 2016 which is 145 days beyond the September 18, 2015 contract completion date. A time extension of 145 days which includes 74 days due to utility relocations/adjustments, 41 days for field change/modified work items and 30 days for inclement weather is warranted.

This project was also in alignment with the comprehensive plan policies FLU-1.4 (Ensure adequate, well-maintained infrastructure, public safety, and public facilities for all development and prevent development ahead of infrastructure and service provision), TI-5.1 (Continue to ensure that customers within Fort Smith have access to reliable water, sewer, drainage, solid waste services by reducing or eliminating deficiencies and gaps in infrastructure systems), TI-5.2 (Ensure that utility and infrastructure systems can meet the city's long-term needs) and NCR-2.6 (Reduce stormwater runoff and flooding).

Attached is a Resolution to increase the contract time and a resolution to accept the project as complete and authorize final payment to the contractor. I recommend that the two resolutions be accepted by the Board at the next regular meeting.

Attachments



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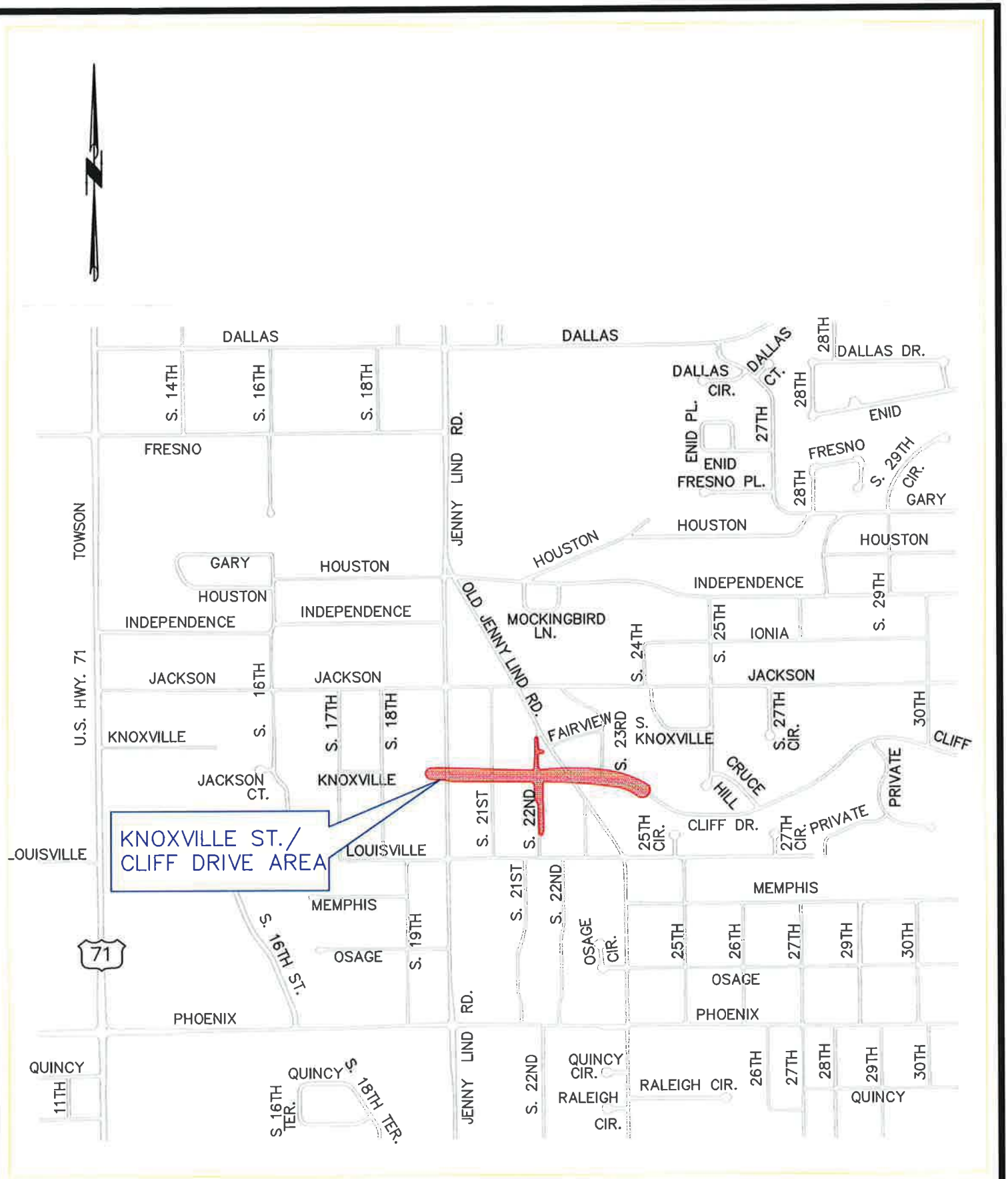
CAPITAL IMPROVEMENTS PROGRAM
2013 DRAINAGE IMPROVEMENTS
PHASE A

The City of Fort Smith ARKANSAS

Project:	13-06-A
Date:	JAN. 2015
Scale:	NONE
Drawn By:	RBR



CAPITAL IMPROVEMENTS PROGRAM
2013 DRAINAGE IMPROVEMENTS
PHASE A

The City of Fort Smith ARKANSAS

Project:	13-06-A
Date:	JAN. 2015
Scale:	NONE
Drawn By:	RBR

G:\DRAWINGS\CIP\00-00 CIPALL\2015\ 13-06-A Maps.dwg 01/14/15-16:10 RBR KNOXVILLE-CLIFF

SUMMARY SHEET

City of Fort Smith

Project Status	Complete	Project name:	Drainage Improvements Phase A
Today's Date:	6/1/2016		
Staff contact name:	Stan Snodgrass	Project number:	13-06-A
Staff contact phone:	784-2225	Consultant engineer:	Philip Leraris, P.E., L.S.
Contract time (no of days):	180	Project contractor:	Township Builders, Inc.
Notice to proceed issued:	3/23/2015		

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	$1,943,072.00	1/13/2015	9/18/2015
Contract Revisions:			
1 Time Extension - 145 days			2/10/2016
2			
Adjusted contract amount	$1,943,072.00		
Work Completed to Date	$1,809,213.63		
Payments to date (as negative)	$1,789,616.69		
Amount of this payment	$19,596.94		
Contract balance remaining	$133,858.37		
Retainage held	0%		
Final payment	$19,596.94		
Amount under original as a percentage	6.9%		

Final Comments:

The project was substantially complete on February 10, 2016 which is 145 days beyond the September 18, 2015 contract completion date. A time extension of 145 days which includes 74 days due to utility relocations/adjustments, 41 days for field change/modified work items and 30 days for inclement weather is warranted.

RESOLUTION _____

A RESOLUTION AUTHORIZING A TIME EXTENSION FOR THE 2015 DRAINAGE IMPROVEMENTS, PHASE A PROJECT NO. 15-06-A

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

SECTION 1: A time extension with Steve Beam Construction, Inc., for the construction of the 2015 Drainage Improvements, Phase A, Project No. 15-06-A, which increases the contract time by 109 calendar days, is hereby approved.

This Resolution adopted this _____ day of June, 2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____

☐ No Publication Required

RESOLUTION _____

A RESOLUTION ACCEPTING COMPLETION OF AND AUTHORIZING FINAL PAYMENT FOR THE CONSTRUCTION OF 2015 DRAINAGE IMPROVEMENTS, PHASE A
PROJECT NO. 15-06-A

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

SECTION 1: The City of Fort Smith hereby accepts the construction of 2015 Drainage Improvements, Phase A, Project 15-06-A as complete.

SECTION 2: Final payment is hereby authorized in the amount of $7,536.09 to the contractor, Steve Beam Construction Inc., for the 2015 Drainage Improvements, Phase A, Project No. 15-06-A.

This Resolution adopted this _____ day of June, 2016.

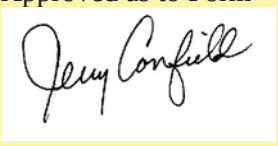
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form



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☐ No Publication Required

Memorandum

TO: Carl Geffken, City Administrator

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

DATE: June 1, 2016

SUBJECT: 2015 Drainage Improvements, Phase A
Project No. 15-06-A

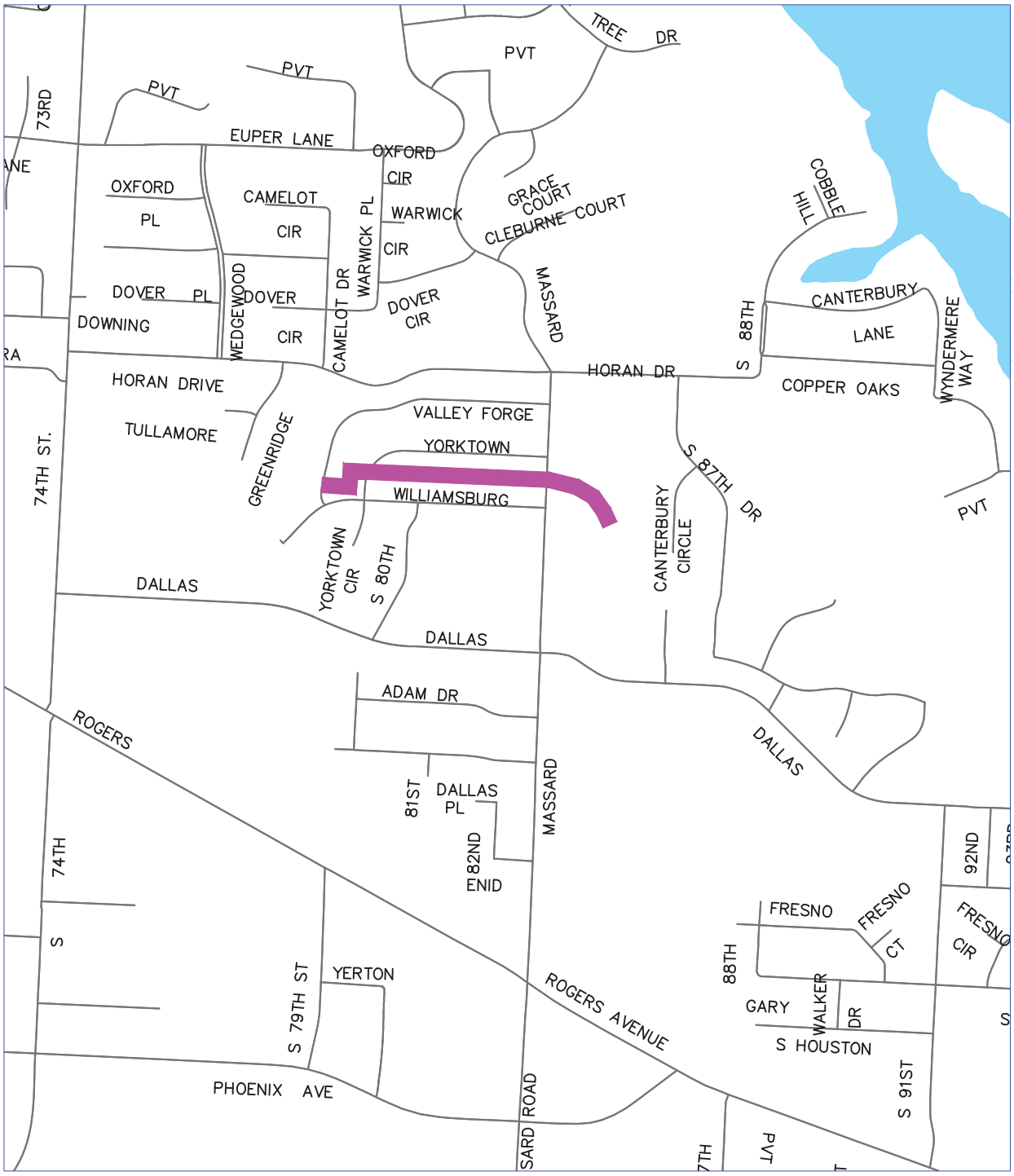
This project consisted of drainage improvements to alleviate neighborhood flooding concerns. It replaced an existing earthen ditch located between Yorktown Road and Williamsburg Road with a concrete channel. This project also included upsizing the culvert at Massard Road and the storm drain between Yorktown Road and Valley Forge Road. The location of the improvements are shown on the attached exhibit. A project summary sheet is also attached.

The project was substantially complete on January 14, 2016 which is 109 days beyond the September 27, 2015 contract completion date. A time extension of 109 days which includes 79 days due to utility relocations/adjustments, and 30 days for inclement weather is warranted.

This project was also in alignment with the comprehensive plan policies FLU-1.4 (Ensure adequate, well-maintained infrastructure, public safety, and public facilities for all development and prevent development ahead of infrastructure and service provision), TI-5.1 (Continue to ensure that customers within Fort Smith have access to reliable water, sewer, drainage, solid waste services by reducing or eliminating deficiencies and gaps in infrastructure systems), TI-5.2 (Ensure that utility and infrastructure systems can meet the city's long-term needs) and NCR-2.6 (Reduce stormwater runoff and flooding).

Attached is a Resolution to increase the contract time and a resolution to accept the project as complete and authorize final payment to the contractor. I recommend that the two resolutions be accepted by the Board at the next regular meeting.

Attachments



2015 CAPITAL IMPROVEMENTS PROGRAM

DRAINAGE IMPROVEMENTS

The City of Fort Smith ARKANSAS

Project:	15-06-A
Date:	FEB. 2015
Scale:	NONE
Drawn By:	RBR

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SUMMARY SHEET

City of Fort Smith

Project Status	Complete	Project name:	Drainage Improvements Phase A
Today's Date:	6/1/2016		
Staff contact name:	Stan Snodgrass	Project number:	15-06-A
Staff contact phone:	784-2225	Consultant engineer:	Philip Leraris, P.E., L.S.
Contract time (no of days):	180	Project contractor:	Steve Beam Construction
Notice to proceed issued:	4/1/2015		

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	$817,504.00	2/2/2015	9/27/2015
Contract Revisions:			
1 Time Extension - 109 days			1/14/2016
2			
Adjusted contract amount	$817,504.00		
Work Completed to Date	$725,888.57		
Payments to date (as negative)	$718,352.48		
Amount of this payment	$7,536.09		
Contract balance remaining	$91,615.43		
Retainage held	0%		
Final payment	$7,536.09		
Amount under original as a percentage	11.2%		

Final Comments:

The project was substantially complete on January 14, 2016 which is 109 days beyond the September 27, 2015 contract completion date. A time extension of 109 days which includes 79 days due to utility relocations/adjustments, and 30 days for inclement weather is warranted.

9E

RESOLUTION NO. _____

RESOLUTION ACCEPTING BID FOR THE PURCHASE OF
A REAR LOADER

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 rear loader truck from River City Hydraulics, Inc. for $232,956.46, is accepted.

This Resolution adopted this _____ day of June, 2016.

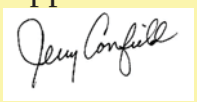
APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:



_____
No Publication Required

Interoffice Memorandum

TO: Carl Geffken, City Administrator

COPY TO: Mark Schlievert, Director of Sanitation

FROM: Alie Bahsoon, Purchasing Manager

SUBJECT: **Purchase of Rear Loader Refuse Truck**

DATE: June 3, 2016

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 National Joint Powers Alliance (NJPA), a national municipal contracting agency offering national contract purchasing solutions by facilitating and awarding national competitively bid contracts. Because of their contract, local governments nationwide are permitted to purchase through their cooperative purchasing program.

The Residential Collection Division of the Department of Sanitation (Program 6302) has budgeted $235,000 for the purchase of a rear loader refuse truck and funding has been appropriated for in the 2016 City Budget as a Capital Outlay line item (6302-304). Because of the NJPA contract (No. 28414), bids were not solicited and we are therefore acquiring these trucks from Rivercity Hydraulics, Inc. of Memphis, Tennessee in the amount of $232,956.46. You will find attached a memorandum from the Department of Sanitation with additional information about this purchase.

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 be approved.

Please let me know if should require any additional information.

Responsible Environmental Management

Fort Smith Department of Sanitation

MEMORANDUM

May 27, 2016

To: Mark Schlievert, Sanitation Director

From: Mitchell Parker, Residential Division Manager

Subject: 2016 Budget – Request for Rear Loader for Program 6302

The 2016 Budget for the Department of Sanitation's Residential Collections Division (Program 6302) includes replacement of a 2002 Peterbilt rear loader truck with a new rear loader truck. This truck will support the existing Automated Residential Collections Programs areas.

The requested truck will be utilized to support the existing residential refuse collection programs. Our maintenance challenge is to keep the residential collections fleet in good working order by paying special attention to brakes, tires, axle alignment, air and fluid filtration, cooling system, batteries, transmission linkages, and all chassis and body fasteners. Brakes and tires rate particular attention because of the stop-and-go nature of refuse collection, which exacerbates wear on those components.

The truck being replaced, Asset 021, currently has 150,907 miles and has had over $24,000 worth of repairs made in the last 2 years. The packer body is worn and suffers with metal fatigue to all plates, sweeps, and panels, and requires hydraulic cylinder repairs and/or replacements. The Crane Carrier truck we are acquiring is a low entry truck which helps reduce fatigue on the driver or workers getting in and out of the truck.

Please contact me should you have any questions or would like additional information regarding this request.

RIVER CITY HYDRAULICS, INC.

EQUIPMENT

Sales - Service - Repairs

April 27, 2016

City Fort Smith Sanitation
5900 Commerce
Fort Smith, AR 72916

City Fort Smith NJPA ID# 28414

Attn. Terry Rankin

I am pleased to quote the following for your consideration.

One New 2016 Crane Carrier Model LET2-40 Crew Cab with Heil Model 5000-25 yard rear loader with dual tippers. This quote meets all specifications for the City of Fort Smith, AR

TOTAL $232,956.46

Chassis Options on following page.

This price is through NJPA

If you have any questions please give me a call.

Thanks
Roger Williams
Sales Manager
River City Hydraulics, Inc.
Phone 501 765 1891

122 Magnet Drive • Sherwood, AR 72120 • 2350 Wooddale Blvd. • Baton Rouge, LA 70805
3131 Fleetbrook • Memphis, TN 38116
800-365-6183

9F

RESOLUTION NO. _____

RESOLUTION ACCEPTING BID FOR THE PURCHASE OF
AN AUTOMATED SIDE LOADER

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 an automated side loader from River City Hydraulics, Inc. for $277,057.18, is accepted.

This Resolution adopted this _____ day of June, 2016.

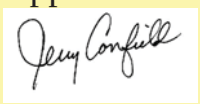
APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:



_____
No Publication Required

Interoffice Memorandum

TO: Carl Geffken, City Administrator

COPY TO: Mark Schlievert, Director of Sanitation

FROM: Alie Bahsoon, Purchasing Manager AB

SUBJECT: **Purchase of Automated Side Loader Refuse Truck**

DATE: June 3, 2016

The City of Fort Smith ARKANSAS

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 National Joint Powers Alliance (NJPA), a national municipal contracting agency offering national contract purchasing solutions by facilitating and awarding national competitively bid contracts. Because of their contract, local governments nationwide are permitted to purchase through their cooperative purchasing program.

The Residential Collection Division of the Department of Sanitation (Program 6302) has budgeted $278,000 for the purchase of an automated rear loader truck and funding has been appropriated for in the 2016 City Budget as a Capital Outlay line item (6302-303). Because of the NJPA contract (No. 28414), bids were not solicited and we are therefore acquiring these trucks from Rivercity Hydraulics, Inc. of Memphis, Tennessee in the amount of $277,057.18. You will find attached a memorandum from the Department of Sanitation with additional information about this purchase.

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 be approved.

Please let me know if should require any additional information.

Responsible Environmental Management

Fort Smith Department of Sanitation

MEMORANDUM

May 27, 2016

To: Mark Schlievert, Sanitation Director

From: Mitchell Parker, Residential Collection Manager

Subject: Truck Purchase – Automated Side Loader

The 2016 Budget for the Department of Sanitation's Residential Collections Division (Program 6302) includes replacement of a 2008 Mack automated side loader truck with a new automated side loader. This truck will support the existing Automated Residential Collections Programs areas.

The requested truck will be utilized to support the existing residential refuse collection programs. Our maintenance challenge is to keep the residential collections fleet in good working order by paying special attention to brakes, tires, axle alignment, air and fluid filtration, cooling system, batteries, transmission linkages, and all chassis and body fasteners. Brakes and tires rate particular attention because of the stop-and-go nature of refuse collection, which exacerbates wear on those components.

The truck being replaced, Asset 138, currently has 77,282 miles and has had approximately $63,777 worth of repairs made in the last 2 years. The packer body is worn and suffers with metal fatigue to all plates, sweeps, and panels, and requires hydraulic cylinder repairs and/or replacements. The Crane Carrier truck we are acquiring is a low entry truck which helps reduce fatigue on the driver or workers getting in and out of the truck.

Please contact me should you have any questions or would like additional information regarding this request.

RIVER CITY HYDRAULICS, INC.

EQUIPMENT
Sales - Service - Repairs

June 3, 2016

City Fort Smith Sanitation

5900 Commerce

Fort Smith, AR 72916

Terry Rankin

City Fort Smith NJPA ID# 284!4

I am pleased to quote the following for your consideration.

One New Mack Model LR613 with New Heil Dura Pack Rapid Rail-28 yard. This quote meets all specifications for the City Fort Smith AR.

TOTAL $ 277,057.18

If you have any questions please give me a call.

Roger Williams

Sales Manager

River City Hydraulics, Inc.

Phone 501 765 1891

122 Magnet Drive • Sherwood, AR 72120 • 2350 Wooddale Blvd. • Baton Rouge, LA 70805
3131 Fleetbrook • Memphis, TN 38116
800-365-6183

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER
INTO A LEASE AGREEMENT WITH HEATHER MENDEZ FOR OPERATION
OF THE MINIATURE GOLF COURSE AND CONCESSION AT CREEKMORE PARK

_____

WHEREAS, Heather Mendez, Fort Smith, Arkansas has submitted a business plan and references to operate the miniature golf course at Creekmore Park and;

WHEREAS, Heather Mendez has operated the concessions at Creekmore Pool and for the Convention Center and has been a good partner looking out for the welfare of the facilities and citizens, and;

WHEREAS, the City of Fort Smith Parks and Recreation Commission recommends the approval of the agreement with Heather Mendez to operate the Creekmore Park miniature golf course and concession;

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

The Mayor, his signature being attested by the City Clerk, is hereby authorized to execute the attached Lease Agreement between the City of Fort Smith, Lessor, and Heather Mendez, Lessee, providing for the operation of the Creekmore Park miniature golf course and concession stand during 2016 with options for the operation in calendar years 2017-2020.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM

_____npr

PARKS RECREATION
FORT SMITH

Memo:

June 3, 2016

To: Carl Geffken, City Administrator
From: Doug Reinert, Director of Parks and Recreation DSR
Re: Lease agreement with Heather Mendez for Creekmore Miniature Golf and Concession Operation

Laura Mechling retired from the operation of the Creekmore Miniature Golf Course and Concession operation early this spring. The Parks Department has spent several months determining the best direction to move the facility and restore the facility to its full potential. After a $15,000 donation from Pernod Ricard for updates, retooling and over 200 volunteers, the golf course will be ready for the public to enjoy the rest of the summer.

The Parks Department advertised and accepted proposals from interested parties to operate the facility. These packets included a request for a business plan, a copy of their City of Fort Smith Business License, a City of Fort Smith police background check and references. Two business proposals were submitted and after reviewing the business plans the Park and Recreation Commission recommended Heather Mendez to be selected as the new operator. Attached is the lease agreement and all the information provided by Mrs. Mendez.

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

attachments

LEASE AGREEMENT

This Lease Agreement made and entered into this _____ day of _____, 2016, by and between the City of Fort Smith, Arkansas, hereinafter referred to as "Lessor", and Heather Mendez, an individual, hereinafter referred to as "Lessee." The Lessor and Lessee are sometimes referred to as "the Parties."

WITNESSETH:

For and in consideration of the covenants and agreements as herein set forth, the Parties agree as follows:

1. The property to which this lease applies is located in Creekmore Park in the City of Fort Smith, Sebastian County, Arkansas, and is more particularly described as follows:

Beginning at a point in the East right-of-way line of the Missouri Pacific Railroad, being a distance of 263 feet South of the South right-of-way line of Rogers Avenue and also being the Southwest corner of a tract of land being occupied by Park land and parking lot;

Thence Southerly along the right-of-way line of the Missouri Pacific East right-of-way line a distance of 253 feet, more or less, to the point of beginning;

Thence continuing Southerly with the East right-of-way of the Missouri Pacific Railroad a distance of 125 feet, more or less, to a point in an existing ditch;

Thence Southeasterly with an existing ditch a distance of 216 feet, more or less, to a point;

Thence Northeasterly a distance of 189 feet, more or less, to a point in the center of a concrete block ditch;

Thence Northwesterly with an existing ditch a distance of 243 feet, more or less, to the point of beginning.

Lessor does hereby lease and rent unto the Lessee, and the Lessee does hereby lease and take from the Lessor, the above described premises for the sole purpose of operating a miniature

golf course and concession stand open to the public.

2. The initial term of this lease shall commence on the date of execution of this Lease and extend through December 31, 2016. Subject to Lessor's approval of Lessee's operation during the initial term or previous renewal term (which approval shall not be unreasonably withheld), and upon submission of written notice to Lessor at least fifteen (15) days prior to the last day of the previous term of this Lease, Lessee shall have the option to renew this Lease for annual renewal terms in 2017, 2018, 2019 and 2020.

3. Lessee shall pay as rental for the leased premises, during the initial term and any renewal term, the sum of one dollar ($1.00) of every game of miniature golf that is played on the premises. The base charge for each game of miniature golf shall be $2.50 per person, per round of golf. The Lessee may allow for discount packages for parties and groups; however one dollar ($1.00) per person, per round of golf played shall be paid to Lessor as rental. Lessee shall owe no rental from profits generated from the sale of concessions. Lessor shall make a verified report of games of golf played on the premises to the Parks and Recreation Department weekly on each Monday for the previous Sunday through Saturday week period. With each report, the due rental shall be payable to the City in care of the City Administrator, or his designated agent, at the Creekmore Community Center. If any rental payment is not made with the weekly report, Lessee shall incur and must pay a ten percent (10%) late charge for the late payment.

4. The Lessee shall have the right to establish the rates to be charged customers at the concession stand, subject, however, to prior approval by the City Administrator or his designated agent. Such approval shall not be unreasonably denied.

5. Commencing with the execution of this lease and continuing throughout the initial term and any renewal term hereof, the Lessee shall maintain in full force and effect general liability insurance in minimum amounts of $100,000.00 per person, $300,000.00 per occurrence, and $50,000.00 property damage. The Lessee expressly assumes full responsibility for all damages and injuries which may result to any person or property by reason of the operation of the said miniature golf course and concession stand. Lessee agrees and covenants to indemnify and hold the City harmless from all claims and judgments of any kind, and the City's legal expenses and fees associated therewith, related to or arising from operation of the miniature golf course and concession stand.

6. The equipment identified on the attached Exhibit "A" is the property of the Lessor. Lessee is hereby given the right to utilize the equipment for Lease operations under this Lease. Lessee shall maintain or cause to be maintained the equipment in good working order. The identified equipment shall be inventoried at the end of the initial term and at the end of any renewal term of the Lease, and Lessee shall replace, with like kind and quality, any lost or destroyed equipment (the obligation to replace golf balls shall be to provide a minimum of 15 dozen golf balls).

7. Lessee agrees to maintain and keep in a reasonable state of repair all equipment and the leased premises used in the operation of said miniature golf course and concession stand. The Lessee shall maintain the premises in a neat and orderly condition and keep the grounds of the leased premises clean and free of litter.

8. Lessee agrees to be responsible for maintaining decorum and order upon the leased premises at all times.

9. Except during the initial term as to periods of time from Memorial Day to the execution of this Lease, Lessee agrees to operate the said miniature golf course and concession stand from Memorial Day through Labor Day of each year, being open seven (7) days per week and at least eight (8) hours per day. Lessee's additional hours of operation are subject to the prior approval of the City Administrator or his designated agent, which approval shall not be unreasonably withheld.

10. Lessee agrees to maintain accurate books and records with reference to the operation of said miniature golf course and concession stand, and Lessee shall, at the City's request, submit periodic financial reports to the City Administrator, or his designated agent. The City has the right to examine Lessee's books and records at all reasonable times and places.

11. Lessor, through its employees or agents, shall have the right of reasonable access to the leased premises for any purpose related to the City's ownership of the property and in order to insure that the property is being managed in accordance with the terms of this lease agreement.

12. The Lessee shall not, without the prior written consent of the City Administrator or his designated agent, assign this lease or sublet the leased premises or any part thereof.

13. It is expressly understood and agreed by the parties that the Lessee takes the leased premises and equipment "as is". The City makes no warranties with reference to the premises or equipment. Lessee expressly acknowledges that Lessor makes no implied warranty of fitness for Lessee's purposes, or otherwise.

14. Subject to the prior written consent of the City Administrator or his designated agent, the Lessee may make alterations to structures on the leased premises and may make other improvements on the leased premises. The Lessee shall have the right of possession,

including the right of operating the said miniature golf course and concession stand, to the leased premises and to any structures located thereon for the purposes consistent with this Lease providing for the operation of the said miniature golf course and concession stand. The Lessee shall be entitled to the proceeds of the operation of the said miniature golf course and concession stand, subject to the rental and other obligations of this Lease.

15. Lessee agrees that any failure to pay the rental due under this lease on time, or default by Lessee of the performance of any of the agreements contained herein to be kept and performed by Lessee, will serve as a basis of a forfeiture of Lessee's rights under this lease agreement. In the event of a default by Lessee of the performance of any covenant of this lease except timely payment of rental, the City shall make written notice of default, delivered to Lessee or sent by United States Mail to 2518 Virginia Avenue, Fort Smith, Arkansas, with a demand to the Lessee that such default be cured within thirty (30) calendar days. In the event that the default is not cured, the City shall have all remedies available at law or equity and may immediately proceed with same. Specifically, and without limitation on the City's remedies otherwise available, in the event that the Lessee fails to cure any noticed default according to the provisions of this paragraph, the City may elect to terminate this Lease and the leased premises, together with all improvements and equipment, shall forthwith revert to the City by operation of law. Any violation of law or health/safety codes by the Lessee shall be the subject of immediate enforcement pursuant to such law or health/safety code, and enforcement shall not be subject to the notice/demand provisions of this paragraph.

16. This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties hereto.

17. In the event all of the leased premises, or such part thereof as renders the leased premises unsuitable for use in the activity or business of the Lessee, become necessary or desirable for public improvements of the City, then the terms of this Lease shall cease and terminate after six (6) months notice to the Lessee.

18. Time is of the essence as to all provisions of this lease.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the date first set forth above.

CITY OF FORT SMITH, ARKANSAS

By:_____
Mayor

ATTEST:

_____
City Clerk

_____
Lessee

Creekmore Miniature Golf
Equipment List

QUANTITY	ITEM
1	Refrigerator
1	Southern Snow Machine w/Plastic Drip Pan
1	Replacement Blade Set
1	Snow Cone Machine Tool Kit
30	35″ Black Putters
30	29″ Red Putters
20	27″ Yellow Putters
10	24″ Orange Putters
1	Golf Ball Dispenser
18 dozen	Golf Balls Various Colors

BUSINESS PLAN

Mendez Concessions
2518 Virginia Ave, Fort Smith
Arkansas
72904

Executive Summary

The Company

I started concessions 2011 or 2012 at Ft.Smith convention center. In the summer 2012 I started Creekmore pool concessions. Also, last summer in 2015 I managed Parrot Island concessions.

The Ownership

The company will be structured as a sole proprietorship.

The Management

I would be in charge. However, I would seek approval from the park administrative.

The Goals and Objectives

Help people have fun and have therapy at the same time. Golf helps with depression, eye therapy, occupational therapy, physical therapy, and keep kids off the streets.

The Product

The main product would be the snow cones. Our delicious snow cones with several amazing flavors. Also, we would create an atmosphere filled with Love, Peace, Joy and fun !.

The Target Market

Have fun and receive therapy at the same time.

Pricing Strategy

I would like to keep all prices to the minimum to create more customers. Good quality at a fair price. Examples : Hot dogs $1.00, Snow cones small 12 oz $1.50, and Golf $2.00 a round. I would offer buddy day ! On buddy day your buddy will receive .50 c off one round of miniature golf. Groups and parties would have $1.00 snow cones!.

The Competitors

We have no competitors near by.

Capital Requirements

I will invest in all ares that are needed to run this summer. Also, I will use my profits from my other concessions stands to establish the miniature golf/concessions.

Business Plan - Mendez Concessions

The Company

Business Sector

The owners would like to start a business in the food and accomodation services sector.

Company History

I started concessions 2011 or 2012 at Ft.Smith convention center. In the summer 2012 I started Creekmore pool concessions. Also, last summer in 2015 I managed Parrot Island concessions.

Company Goals and Objectives

Help people have fun and have therapy at the same time. Golf helps with depression, eye therapy, occupational therapy, physical therapy, and keep kids off the streets.

Company Ownership Structure

The company will be structured as a sole proprietorship.

Ownership Background

Heather mendez (owner):

I have hands on training in concessions since 2011. I have worked in the food industry and sales since 1989.

Company Management Structure

I would be in charge. However, I would seek approval from the park administrative.

Organizational Timeline

This summer.

Company Assets

I own lap top, hot dog steamer, nacho cheese pump, baskets, crock pots, microwaves, deep freezer, and stock.

The Product

The Product

The main product would be the snow cones. Our delicious snow cones with several amazing flavors. Also, we would create an atmosphere filled with Love, Peace, Joy and fun !.

Future Products

I like to keep an open mind to new Ideas from the customers as well as mine. Example character day. Any one who dresses up gets one free small snow cone with a purchase of one round of golf.

Marketing Plan

The Target Market

Have fun and receive therapy at the same time.

Location Analysis

It's located in one of our most busy parks. Also, right by the city pool where I run my other concession stand.

Established Customers

I have established customers from my other concessions stands. So, I will network miniature golf during the off season as well as on season to all my existing customers and soon to be customers. I will inform my customers the new and improved miniature golf at creekmore park. How they can have fun and get therapy at the same time at a AWESOME price !.

Pricing

I would like to keep all prices to the minimum to create more customers. Good quality at a fair price. Examples : Hot dogs $1.00, Snow cones small 12 oz $1.50, and Golf $2.00 a round. I would offer buddy day ! On buddy day your buddy will receive .50 c off one round of miniature golf. Groups and parties would have $1.00 snow cones!.

Advertising

I would network through my other concessions stands. I will personally go visit Churches, boys and girls club, kids shelter, assist living, Schools, Private Schools, Alternative Schools, Golf coarse, and sport fields to talk to coaches to treat their team with a round of miniature golf at a low price.

Competitor Analysis

The Competitors
We have no competitors near by.

SWOT Analysis (Strengths/Weaknesses/Opportunities/Threats)

Strengths
Location.

Weaknesses
Floods when heavy rains occurs.

Opportunities
We have the opportunity to reach out to our community and activate the fun in miniature golf.

Threats
Floods.

Operations

Daily Operations
Sunday to Saturday 9 am - 9 pm.

Operational Facilities
The facility is Fun size! Renovation is needed. The Golf coarse could use new carpet, landscape, and decorations as well as a new name that the public could vote on... Concessions stand needs a snow cone machine, paint job inside, appliances, and nice attractive lights around and on the building.

Staffing
Me and my family.

Suppliers
Sams here in Ft.Smith.

Capital Requirements Plan

Capital Requirements

I will invest in all ares that are needed to run this summer. Also, I will use my profits from my other concessions stands to establish the miniature golf/concessions.

©2002-2016 LawDepot.com™

Menu

Hot dog... $ 1.00

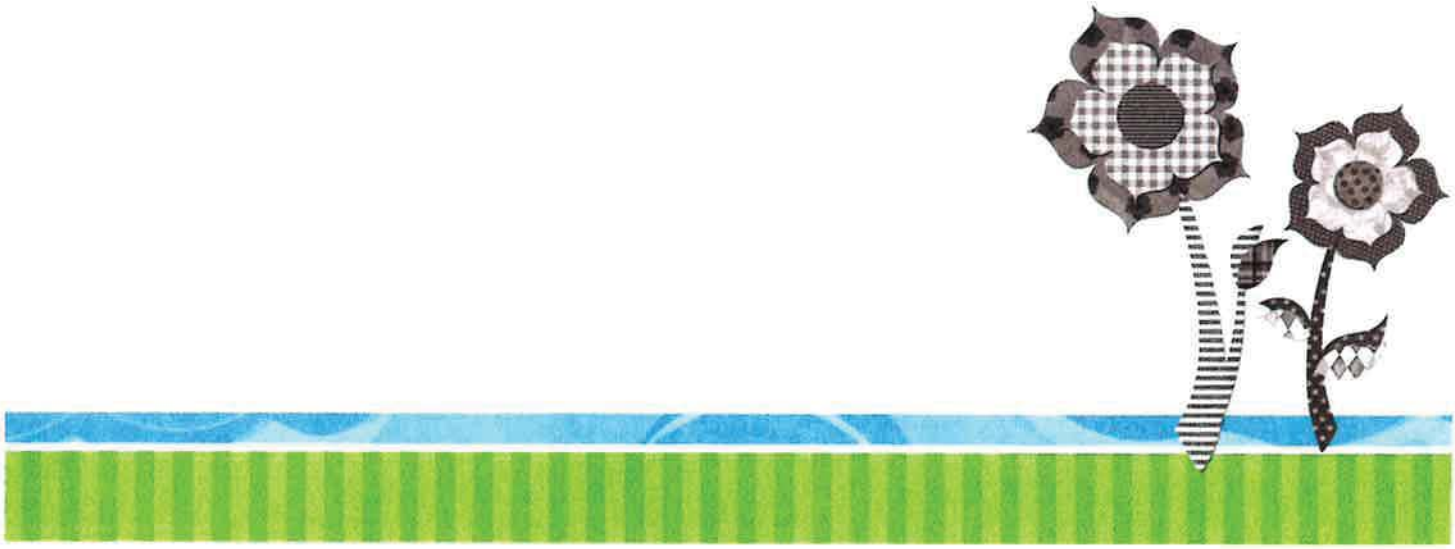
Nacho... $2.50

Bag of chips... $1.00

Candy... $1.25

Bottled water... $1.00

Snow cones...$1.50sm/$2.50lg



5424 Park Ave.

Fort Smith, AR 72903

RECEIVED
MAR 18 2010
ARK. REAL ESTATE COMMISSION

October 12th, 2009

To whom it may concern,

I have been employed at Sweet Bay Coffee Co. for about three years. I have worked alongside Heather Mendez for the extent of those years. If whoever was reading this could meet her, then this letter to describe her character would be unnecessary.

Character can be defined as "moral or ethical quality.. ". Heather is the embodiment of moral and ethical character. Doing the right and just thing is the only option to Heather. Lies, deceit or any other "wrong" act is not included in her decision making process. I have never heard Heather speak ill of anyone, yet almost too often she finds the good in others. No matter how miniscule the good may be.

I have often wondered where this seemingly deep seeded character originates. Not knowing her prior to our time working together, I do not know much about her past. However I feel confident in saying that the origins of her upstanding character are a direct result of her close relationship with her belief in Jesus Christ. Often discussions between us are religious and theological in nature. I am envious of her steadfast belief, which drives the moral compass she guides herself with.

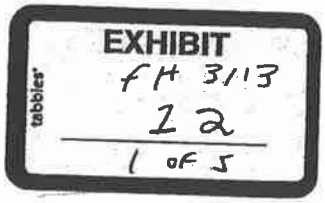
It is my personal and unwavering opinion that the mistakes in Heathers life should be wiped clean. She is undeniably an upstanding member of society and deserves the chances the rest of us receive. With a clean record, Heather will be able to move forward with her life and continue the education she is pursuing, and continue to strive for the best life for her children. She undoubtedly has the "American Dream" nearly in her clutches. She desperately wants to grab hold, and a clean record will help her to clutch her dreams and aspirations.

In closing, I may not know the transgressions that reside in Heather's past. But I am certain that they belong there... buried in the past. Heather deserves, based on her outstanding moral character, no obstacles restricting her course to better herself, and the lives of her children and family.

Sincerely,

Josh Eide

(479) 739-1416



Reference for Heather Mendez

March 9, 2010

To Whom It May Concern:

I am very pleased to be asked to write a reference letter for Heather Mendez. I have known Heather for the last two years while she has been a manager for Sweet Bay Coffee Company.

Heather is organized, dedicated, extremely competent and has an excellent rapport with her employees and her customers. Her communication skills, both verbal, and written are excellent. She very people oriented, easygoing and a team player. The most important aspect of her character is that she is reliable and honest. I has observed these traits when working with her on extracurricular studies.

In summary, I highly recommend Heather for any position, or endeavor that she may seek to pursue. She will prove to be a valuable asset for any for any organization.

If you have any questions, please do not hesitate to contact me.

RECEIVED
JUN 25 2010
ARK. REAL ESTATE COMMISSION

Sincerely yours,

Steve Silverstone

Steve Silverstone

Phone 479-452-h4242

Mr. John's

"Lifestyle Salon and Day Spa"

6710 S. Dallas St.
Fort Smith, Ar.
72903
Phone (479) 484-5665
www.mr-johns.com

To whom it may concern,

I have known Heather Mendez during the past years while she has worked at the Sweet Bay Coffee Company. Being a regular in the shop has afforded me the opportunity to observe her work esthetics and her personnel demeanor. Heather is very efficient at performing her duties and is relied on to maintain the unseen portions of the business.

I feel that she has taken steps to show everyone that she is working to be a responsible member of society.

Thank you.

John R. Aubrey
Mr. John's Inc.

3-8-10

To whom it may concern;

Heather Mendez has had a positive effect on the juvenile girls in our facility for about two years now. She visits & shares with them as an example of good rehabilitation and a mentor.

Chaplain Odell Carter
Sch. Co. Detention Center

FH 3113-12
5 of 5

January 19, 2012

To whom it may concern,

I have known Ms. Heather Mendez for two years. She has worked as a volunteer for her local elementary school and now serves in a leadership position. She has set up sales, concessions, and fun activities for our local school.

Ms. Mendez is a hard worker and she enjoys working with the public. I believe that she and her workers would be a valuable asset to your organization/company, as she has been for our local school.

If you have any further questions please contact me at your convenience.

Sincerely,
LaToya Shepherd

479-522-1481

October 3, 2011

To whom it may concern:

My name is Eddy Guzman; I am currently the Assistant Manager of Arvest Bank Cloverleaf. I am pleased to write this letter of recommendation for Heather Mendez, and I can attest to her virtuous qualities.

Heather and I have worked together as part of the board of directors for the Western Arkansas United Soccer League. Her help has been very satisfactory for the organization.

Some of the main qualities Heather possesses, which I think makes her admirable, are her outstanding people skills, wide availability to work in a team, and her strong desire for success. Heather has help WAUSL tremendously by searching and finding help to make the league possible. She treats everyone on the board as if they were family and always keeps them satisfied. Heather's self motivation and work ethic are phenomenal. She performs tasks without hesitation and always looks for ways to excel. An example of said quality is that thanks to her, land was donated to WAUSL to build soccer fields.

In my opinion, I unreservedly recommend that Heather meets the necessary characteristics to perform any job or task assigned to her.

Sincerely,

Eddy Guzman

Chuck Fawcett
Realty, Inc.

4720 Rogers Avenue
Fort Smith, Arkansas 72903
Business (479) 484-5588
Fax (479) 484-0451
Email chfawcett@aol.com
www.chuckfawcettrealty.com

To: AREC

June 19, 2010

Subject: Recommendation for Heather Ann Mendez

We have reviewed Ms Mendez's background and very aware of her previous convictions, however we believe that she has completely turned her life around and is a very reliable and competent person and is completely capable of handling the requirements required by a real estate licensee. We also firmly believe that she has the honesty, trustworthiness and integrity sufficient to safeguard the interest of the public at this time in her life.

This young lady attended the pre-license course that was held by the Fort Smith Regional School of Real Estate, which is owned and instructed by Ralph Bogner Jr, she is extremely punctual, polite, attentive and worked diligently to understand, retain and know the information presented in the course.

We would be honored to have her become a licensee under the Chuck Fawcett Realty Office

Chuck Fawcett, Principal Broker

Ralph Bogner Jr, Executive Broker

REALTOR

January 19, 2012

To whom it may concern,

I have known Ms. Heather Mendez for two years. She has worked as a volunteer for her local elementary school and now serves in a leadership position. She has set up sales, concessions, and fun activities for our local school.

Ms. Mendez is a hard worker and she enjoys working with the public. I believe that she and her workers would be a valuable asset to your organization/company, as she has been for our local school.

If you have any further questions please contact me at your convenience.

Sincerely,
LaToya Shepherd

479-522-1481

SWEET BAY COFFEE CO.

To Whom It May Concern:

Heather Mendez has been a valuable employee for Sweet Bay Coffee Company since November 2006. She has always been a very trustworthy employee and can always be depended on to accomplish more than is required of her. She was only with the company a short time when she was promoted to kitchen manager. Because of her great work ethics, loyalty to the company, and trustworthiness she was soon moved to shift management.

She always displays a friendly, positive attitude with employees, customers and owners. She shows genuine concern and interest with everyone she is around. It has been a great pleasure to know Heather not only in a working relationship, but in a personal way. She is always there to brighten your day with a warm smile and a friendly greeting.

Sincerely,

Linda Lee

and all the owners of Sweet Bay Coffee Company

Jail

Midland Heights
United Methodist Church
3500 North 6th Street
Fort Smith, Arkansas 72904
479-783-0118

January 13, 2012

To Whom It May Concern:

Heather Mendez is a valuable member of Midland Heights United Methodist Church where she is involved in several ministries. She is always willing to serve in any way she can and with a servant heart.

This past Christmas she helped organize our Christmas Give-a-way where we gave each child at Trusty Elementary a Christmas gift. Not only in she active in our church, but also in the community surrounding our church by coaching a local boys/girls club soccer team.

Heather serves quietly and efficiently. She shows great Leadership skills working with not only children but adults as well. She has a tender heart and we are grateful to have her as a member. Any team would benefit from having Heather on their team.

If you need further assistance, feel free to call me at 479-783-0118 or 479-208-2138.

Sincerely,

Dan Williams

Dan Williams
Pastor
Midland Heights United Methodist Church

1-20-2012

To whom it may concern,
My name is Teresa Graves; I am a neighbor & friend of Heather Mendez Heather has been a very kind & good christian person for the last 13 yrs I have come to know her, she is honest and hard working and has been very good and helpful to the children in our neighborhood, she has bible study in her home for kids, coaches soccer for the kids and takes them to church & councils them. I feel she would be a good person to be a blessed part of any buisness or organization that hires her for their employee or manager, she does have managment exsperience and is very organized and good with the public. She has been a joy to me and my family and I wish her all the success in life she deserves.

Teresa Graves
221-1178
2516 Virginia Ave
Ft. Smith, AR
72904

Creekmore Swimming Pool Concession Stand

3301 South M Street / Fort Smith, Arkansas 72903 / 479.784.1006 / FAX 479.784.2480 / www.fortsmithparks.com

PARKS RECREATION
FORT SMITH

November 5, 2013

To whom it may concern:

Heather Mendez has had a lease agreement with the City of Fort Smith Parks and Recreation Department for the last two years. The lease agreement is for the operation of the concessions at Creekmore Pool. We will be continuing that lease agreement for next year.

Heather has been faithful in her lease payments and has done an excellent job of running the concessions and providing a good product at an affordable price. She maintains and manages the facility with pride. She has been wonderful to work with and we look forward to continuing the lease agreement. If you have any questions or need further information you may reach me at 479.784.1006.

Sincerely,

Mike Alsup

Mike Alsup
Director of Parks and Recreation

cc: Heather Mendez

To whom it may concern:

I Marshall have had the great pleasure of working with Heather Mendez, at Parrot Island Waterpark. Heather is very dedicated to her work, family, and staff as a whole. Miss Mendez is always willing to do anything in her power to make sure her job is done at 100%. I would recommend Miss Mendez to anyone inquiring about her as a person. I have never met a more dedicated, honest, and loveable woman.

Miss Mendez can and will complete any task you put in front of her, if she doesn't know how to do something she will ask around until she finds the right person to help her complete her tasks. Mendez is task driven and very organized. She will not give up until the job is done.

Best regards,

Marshall Koelliker

CITY OF FORT SMITH
COLLECTIONS DEPARTMENT

PO BOX 1908
623 GARRISON AVE.
FORT SMITH, AR 72902

ACCOUNT NUMBER

RECEIPT NUMBER

DATE

TOTAL

RECEIVED FROM:

CLERK #

DOC. # 45415

Heather Mendez
2518 Virginia Ave
Ft. Smith, AR 72904
May 25, 2016

Ft. Smith Parks and Recreation
3301 South M Street
Ft. Smith, Arkansas 72901

Dear Ft. Smith Parks and Recreation:

I'm writing you this letter to state that I'm not a sex offender. However, enclosed you will find my back ground check. I do have a past that I cannot change. But, I have worked diligently to make a better future for myself, family, and the people God has put in my life.

I have been told more than once not to put Jesus in my letters, but it's hard not to when he is the reason, for my transformation. I'm not where I use to be, but I'm still not where I need to be. I say this because the Lord is not done with me. I hope all of you will consider **2 Corinthians 5:17** this means that anyone who belongs to Christ has become a **new** person. The old life is gone; a **new** life has begun!

Also, I will do my best to advertise Creekmoore Park miniature golf. My goal is to inform the public how beneficial golf is and how you can use it for therapy and fun!

Whatever your decision, please accept my sincere thanks for your time and consideration of my request.

Sincerely,

Heather Mendez

Heather Mendez

Enclosure

FSPD Form #34 (Revised 11/14/06)

FORT SMITH POLICE
RECORDS SECTION

100 South 10th Street
Fort Smith, AR 72901

PLEASE PRINT

Phone: (479)709-5003
8AM – 5PM Mon - Fri

HISTORY OF ARRESTS MADE BY FORT SMITH POLICE

Date of request:	On behalf of Company:
05-24-2016	MENDEZ CONCESSIONS
Person making request:	**Title / Position:**
HEATHER ANN MENDEZ	OWNER

Name of person being checked:		Other names this person may have been known by:	
HEATHER ANN MENDEZ		HELTON	
Date of birth:	**Social security number:**	**Driver's license number:**	**State:**
10-04-1972	605-09-5451		
Address:		**City / State:**	
2518 VIRGINIA AVE.		FSA	
Other Identifiers:			

PLEASE NOTICE

- **This document only contains information about arrests made by Fort Smith Police.**
- **No other law enforcement agency's information is included.**
- **By law, no juvenile arrest history is available.**
- **There is no intent to indicate the person for whom the check was made has any criminal conviction.**
- **Information pertaining to guilt or innocence is available from the Court of Adjudication.**

District Court of Sebastian County – Fort Smith Division	Sebastian County Circuit Court Clerk
(479) 784-2420	(479) 782-1046

Arrest Date	Charge at Arrest
01-24-06	PETITION TO REVOKE SUSPENDED SENTENCE
06-03-05	FAILURE TO APPEAR - FELONY
02-19-04	FAILURE TO APPEAR - FELONY
08-08-03	CONTEMPT-FAILURE TO PAY FINE/OVERDRAFT UNDER $200 OVERDRAFT UNDER $200
04-05-00	OVERDRAFT UNDER $200
02-26-98	OVERDRAFT UNDER $200
04-26-97	CONTEMPT-FAILURE TO PAY FINE

Wendell W. Sampson 4197

CPL. W.N. SAMPSON #4197 / Police Department Official

05-24-16

Date

FORT SMITH POLICE
RECORDS SECTION

HISTORY OF ARRESTS CONTINUED

Arrest Date	Charge at arrest
02-21-97	POSS MARIJUANA W/I DEL/POSS DRUG PARAPHERNALIA
11-24-95	OVERDRAFT OVER $200
05-24-94	PETITION TO REVOKE SUSPENDED SENTENCE/ FAILURE TO APPEAR - MISDEMEANOR
02-16-94	CONTEMPT OF COURT/DISORDERLY CONDUCT
12-12-92	BATTERY-2ND DEGREE/RESISTING ARREST/ CRIMINAL MISCHIEF, 1ST DEG

Arkansas High School Diploma

Heather A. Mendez

has demonstrated the prescribed competencies necessary to fulfill the requirements of the American Council on Education for issuance of a high school diploma. The Recipient has successfully completed the General Educational Development tests in the areas of

Language Arts, Writing
Social Studies
Science
Language Arts, Reading
Mathematics

This Arkansas High School Diploma is awarded in compliance with the regulations of the Arkansas Department of Career Education.

Given on this 26th Day of October A.D. 2009

GREAT SEAL OF THE STATE OF ARKANSAS

Jack Justus
Chairman of the State Board of Career Education

William L. "Bill" Walker, Jr.
Director, Arkansas Department of Career Education

ARKANSAS DEPARTMENT OF CAREER EDUCATION
GED® TESTING OFFICE

Three Capitol Mall, Luther S. Hardin Building
Little Rock, AR 72201-1083

WARNING: Original document has an artificial watermark on reverse side.

Official Report of Test Results
TESTS OF GENERAL EDUCATIONAL DEVELOPMENT

NAME OF EXAMINEE	Heather A. Mendez
IDENTIFICATION NUMBER	605-09-5451
DATE OF BIRTH	10/04/1972
TEST SCORING DATE	10/22/2009
GED TEST CENTER CODE	300006026000
TEST FORMAT	English

	Test Form	Standard Score	Percentile Rank
Language Arts, Writing	ID	440	27
Social Studies	IK	480	42
Science	IK	510	54
Language Arts, Reading	IK	490	46
Mathematics	ID	410	18

TOTAL SCORE	2330
AVERAGE SCORE	466

EXAMINEE HAS PASSED THE TESTS.

NOTE: The scores on this report are the ***highest*** scores achieved by the examinee and not necessarily the most recent or retest scores. If retest scores are lower than scores previously achieved, the retest scores are not reported.

Jaquita Hawkins
ARKANSAS GED ADMINISTRATOR

10/26/2009

Certificate of Achievement

Fort Smith Regional
School of Real Estate

This certificate is presented to

HEATHER A MENDEZ

In recognition of completing 60 classrooms hours of pre-licensure real estate principles
Arkansas State Board of Private Career Education License Number: 413
License Expires: April 30, 2010

Robert Bogner Jr — Feb 21, 2010

Signature — Date

The City of Fort Smith ARKANSAS

June 1, 2016

TO: Members of the Board of Directors
Members of the Mechanical Board of Adjustments And Appeals

RE: Appointment:

The term of Mr. Ron B. Smith will expire July 31st, 2016 on the Mechanical Board of Adjustments and Appeals. In accordance with Ordinance No. 2926 applications for this prospective vacancy are now being received. Applicants must be residents and registered voters in the City of Fort Smith.

Please submit applications to the city administrator's office no later than the close of business on July 12th, 2016. A list will be compiled for review by the Board of Directors. Applications are available on the City of Fort Smith website. Go to www.fortsmithar.gov and click on boards and commissions.

Sincerely,

Carl E. Geffken

Carl Geffken
City Administrator

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 785-2801
www.fortsmithar.gov

Printed on 100% Recycled Paper

June 2016

June 2016

Su	Mo	Tu	We	Th	Fr	Sa
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July 2016

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31						

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
May 29	30	31	Jun 1	2 12:00pm Housing Assistance Board (Main Library) 6:00pm Historic District Com. (220 North 7 Street)	3	4
5	6	7 11:30am Planning Com. Study Ses. (Creekmore) 6:00pm Board of Directors (FSM Public Serv. Cntr.)	8 1:00pm Parks Com. (Creekmore)	9 12:15pm Oak Cemetery Com. (Creekmore)	10	11
12	13 11:00am Property Owners Appeal Board (Planning Conf. Room (TENTATIVE))	14 12:00pm Board Study Session (Main Library) 5:30pm Planning Commission (Creekmore)	15	16 12:00pm Streets, Bridges & Assoc. Drainage (CIP) (623 Garrison/Planning Conf. Rm.)	17	18
19	20	21 9:30am CBID (Area Agency) 4:30pm Library Board of Trustees (Windsor Drive) 6:00pm Board of Directors (FSM Public Schools Service Cntr.)	22	23	24	25
26	27	28 12:00pm Board Study Session (Main Library) 4:00pm A & P Commission (Convention Center) 5:30pm Airport Com. (Airport)	29	30 5:30pm Historic District Study Session (220 North 7 Street)	Jul 1	2

Mayor – Sandy Sanders

City Administrator – Carl Geffken

City Clerk – Sherri Gard

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

AGENDA ~ SUMMARY

Fort Smith Board of Directors
REGULAR MEETING
June 7, 2016 ~ 6:00 p.m.
Fort Smith Public Schools Service Center
3205 Jenny Lind Road

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

INVOCATION & PLEDGE OF ALLEGIANCE
Reverence Ngoc Ha, Gospel Baptist Church

ROLL CALL
- All present
- Mayor Sandy Sanders presiding

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 214, the City website or http://www.ustream.tv/channel/city-of-fort-smith-board-ofdirectors-meetings

APPROVE MINUTES OF THE MAY 17, 2016 REGULAR MEETING
APPROVED as written

ITEMS OF BUSINESS:

1. Ordinance rezoning identified property and amending the zoning map *(from Not Zoned to a Planned Zoning District by classification located at 11201 Custer Boulevard)*
   APPROVED 7 in favor, 0 opposed / Ordinance No. 33-16

2. Ordinance rezoning identified property and amending the zoning map *(from Residential Single Family Duplex Low / Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by classification located at 1700-1730 South Albert Pike; 3901-4111 South "Q" Street; 1701-1721 Hendricks Boulevard; and 4001-4119, 3904-3923,4002-4120 South "P" Street)* ♦
APPROVED 6 in favor, 1 opposed (Pennartz) as revised to correct a typographical error within the ordinance *(4001-4199 to 4001-4119 South "P" Street)* and as amended to remove 3904, 3923 and 4106 South "P" Street / Ordinance No. 34-16

3. Ordinance amending the Fort Smith Code Section 27-327-6 to provide for outdoor mobile food vending from self-contained mobile food trucks for extended hours of operation in city marked locations in public street right-of-way *(mobile food vending)* ♦
APPROVED 7 in favor, 0 opposed / Ordinance No. 35-16

4. Resolution authorizing the Mayor to execute an agreement with U.S. Bank for purchasing card services *~ Agreement defeated at the May 17, 2016 regular meeting ~*
APPROVED 4 in favor (Good, Catsavis, Settle and Hutchings), 2 opposed (Lorenz and Pennartz), 1 abstention (Lau) as amended to execute an agreement with Arvest Bank / Resolution No. R-80-16

5. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Goodwin & Goodwin, Inc. for the Lee Creek Reservoir Buoy Line Replacement *($48,695.00 / Utility Department / Budgeted – Water and Sewer Operating Budget)* ♦
APPROVED 7 in favor, 0 opposed / Resolution No. R-81-16

6. Resolution confirming and ratifying approval of Authorization No. 2 to the agreement with RJN Group, Inc. for providing engineering services in connection with the 2015 Sanitary Sewer Assessment Remedial Measures, Phase A (Sub-Basin P007 and S008) as authorized by Resolution No. R-64-16 adopted on May 17, 2016 *($281,560.00 / Utility Department / Budgeted – 2015 Revenue Bonds)* ♦ ●
APPROVED 7 in favor, 0 opposed / Resolution No. R-82-16

7. Resolution confirming and ratifying approval of Authorization No. 2 to the agreement with Morrison-Shipley Engineers, Inc. for providing engineering services in connection with the 2015 Sanitary Sewer Assessment Remedial Measures, Phase C (Sub-Basin FL01 and S009) as authorized by Resolution No. R-66-16 adopted on May 17, 2016 *($308,300.00 / Utility Department / Budgeted – 2015 Revenue Bonds)* ♦ ●
APPROVED 7 in favor, 0 opposed / Resolution No. R-83-16

8. Ordinance declaring an exceptional situation waiving the requirements of competitive bidding and authorizing a contract with Goodwin & Goodwin, Inc. for emergency repair SSA 2015 (S009) High Street – Brockman from North 43rd Street to Albert Pike *($158,160.00 / Utility Department / Not Budgeted – Water and Sewer Capital Improvements)* ♦ ●
APPROVED 7 in favor, 0 opposed / Ordinance No. 36-16

9. Consent Agenda

A. Resolution authorizing a time extension for the 2013 Drainage Improvements, Phase A, Project No. 13-06-A *(145 days)*
APPROVED 7 in favor, 0 opposed / Resolution No. R-84-16

B. Resolution accepting completion of and authorizing final payment for the construction of 2013 Drainage Improvements, Phase A, Project No. 13-06-A *($19,596.94 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦
APPROVED 7 in favor, 0 opposed / Resolution No. R-85-16

C. Resolution authorizing a time extension for the 2015 Drainage Improvements, Phase A, Project No. 15-06-A *(109 days)*
APPROVED 7 in favor, 0 opposed / Resolution No. R-86-16

D. Resolution accepting completion of and authorizing final payment for the construction of 2015 Drainage Improvements, Phase A, Project No. 15-06-A *($7,536.09 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦
APPROVED 7 in favor, 0 opposed / Resolution No. R-87-16

E. Resolution accepting bid for the purchase of a rear loader *($232,956.46 / Sanitation Department / Budgeted – Capital Outlay 6302-304)*
TABLED 7 in favor, 0 opposed pending discussion of associated Sanitation Department items at the June 14, 2016 study session

F. Resolution accepting bid for the purchase of an automated side loader *($277,057.18 / Sanitation Department / Budgeted – Capital Outlay 6302-303)*
TABLED 7 in favor, 0 opposed pending discussion of associated Sanitation Department items at the June 14, 2016 study session

G. Resolution authorizing the Mayor to enter into a lease agreement with Heather Mendez for operation of the miniature golf course and concession at Creekmore Park
APPROVED 7 in favor, 0 opposed / Resolution No. R-88-16

OFFICIALS FORUM ~ presentation of information requiring no official action

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

- Mayor
- Directors
- City Administrator

Information available by viewing rebroadcast of the meeting on the City Access Channel 214, the City website or http://www.ustream.tv/channel/city-of-fort-smith-board-ofdirectors-meetings

ADJOURN

7:41 p.m.

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JUNE 7, 2016 ~ 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 Reverend Ngoc Quan Ha of Gospel Baptist Church, followed by the Pledge of Allegiance.

On roll call, the following members of the Board were present: Directors Keith Lau, Andre' Good, Mike Lorenz, George Catsavis, Kevin Settle, Tracy Pennartz and Don Hutchings. 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. There was none presented.

The minutes of the May 17, 2016 regular meeting were presented for approval. Settle, seconded by Pennartz, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Mayor Sanders announced that this June 7, 2016 regular meeting is the last meeting that Southwest Time Record reporter Chad Hunter will be reporting on. He advised Mr. Hunter will be relocating with his family and offered well wishes.

Item No. 1 was an ordinance rezoning identified property and amending the zoning map *(from Not Zoned to a Planned Zoning District by classification located at 11201 Custer Boulevard)*

Senior Planner Brenda Andrews briefed the board on the item advising such is per the request of Mickle Wagner Coleman, agent for Free Will Baptist Church Ministries. The purpose of the rezoning request is to allow for the development of four (4) multifamily children home's with ability of adding two (2) additional group homes in the future and one

(1) administration building to oversee the homes. Each of the four (4) homes will house eight (8) foster children. The Planning Commission held a public hearing on May 10, 2016 with no individual present to speak in opposition. The Planning Commission amended the request to make approval subject to the following:

- Compliance with the submitted project booklet
- Any required construction will require plans to be submitted for a building permit review.

The Planning Commission approved the amended request by a vote of seven (7) in favor and (0) zero opposed.

Lau, seconded by Hutchings, moved adoption of the ordinance with suspension of 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.

Prior to the vote, Director Hutchings expressed support of the item and questioned when the aforementioned homes will open.

Mrs. Andrews advised that because the land, the funding, and the plans are already secured, the project could begin as soon as the rezoning is approved.

The motion remaining on the floor, 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 Ordinance No. 33-16.

Item No. 2 was an ordinance rezoning identified property and amending the zoning map *(from Residential Single Family Duplex Low / Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by classification located at 1700-1730 South Albert Pike; 3901-4111 South "Q" Street; 1701-1721 Hendricks Boulevard; and 4001-4119, 3904-3923,4002-4120 South "P" Street)* ♦

Senior Planner Brenda Andrews briefed the Board on the item requesting consideration of the item as revised to include an address correction from 4199 South "P" corrected to reflect 4119 South "P". The rezoning is requested by Sara Baker and Emily Oaks agents representing over 55% of the subject properties. The purpose of the request is to eliminate the possibility of future duplexes in the subdivision. The Planning Commission held a public hearing on May 10, 2016 where Mr. Al Baker and Mrs. Sara Baker, were present to represent 25 out of 45 property owners (55%) of the Morningside Subdivision and spoke on behalf of the request. The applicant's desire is to maintain a single-family atmosphere for the neighborhood. The aforementioned 25 property owners as well as 23 property owners within 300 feet of the subject area signed the petition in support of the rezoning request. Staff received additional emails and phone calls in support of the rezoning request. The applicants recently became interested in rezoning the Morningside Addition to single family when the property owner at 4106 South "P" Street applied for a setback variance for construction of a duplex. A single family house at this location was destroyed by fire. A duplex at 3905 South "Q" was constructed in 2014 after a single family house was destroyed by fire. Beyond these two duplexes, there are only single-family houses in the requested rezoning area. The Future Fort Smith Comprehensive Plan policy HN-1-8 that says *"Reduced non-compatible land uses by mitigating any negative impacts and revising zoning language and map designations as necessary"* and Action HN-1.8.1 says *"Continue to rezone existing, predominantly, single family residential neighborhoods where the historic zoning pattern does not reflect the predominate built pattern with a priority to focus on targeted growth areas and areas where stability and character are threatened"* Mr. Dennis Rupp property owner of 3904 and 3923 South "P" was present at the public hearing to request his two (2) properties be removed

from the rezoning application. Mr. Rupp's aforementioned properties are currently developed as single-family structures however he advised he may want to build duplexes in the future. The Planning Commission approved the request by a vote of seven (6) in favor and (1) one opposed.

The following individuals were present to address the Board:

- Gae Von Hoover
  Fort Smith, AR

  Re: Spoke in favor of the item alleging long-term residence in the neighborhood and expressed desire for the neighborhood to remain single family. She indicated those opposed to the item are simply interested in the properties as investments.

- Dennis Rupp
  Fort Smith, AR

  Re: Spoke in opposition of the item indicating his aforementioned properties have been in his family for over 100 years. He sees no issue with rezoning and reiterated his request to remove his properties from consideration of the rezoning.

- Jessica Swilling
  Fort Smith, AR

  Re: Requested her property at 4106 South "P" Street be removed from consideration of the rezoning request.

  Director Lau inquired what the value of Ms. Swilling's property will be once construction of the duplex is complete.

  Ms. Swilling advised the appraisal indicated $285,000.

Settle, seconded by Pennartz, moved adoption of the ordinance as revised to correct the address of 4199 South "P" to read 4119 South "P". 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.

Prior to the vote, Director Settle inquired what the affects the rezoning would have on the duplex's.

Mrs. Andrews advised if the rezoning is approved the duplex's would become nonconforming. If the structures were to be damaged and the cost to repair was more than 50% of the value of the structure the property owner would have appeal to the Planning Commission for a conditional use to rebuild the duplexes. It is probable the Planning Commission would approve such.

Director Pennartz inquired if the emails and phone calls staff received in support of the rezoning actually increases 55% of property owners that are being represented by the agents and questioned if removal of Mr. Rupp and Ms. Swilling's properties from consideration would result in spot zoning.

Mrs. Andrews advised she believes the rezoning has greater than the 55% of the neighborhoods support. She confirmed removal of Mr. Rupp and Ms. Swilling's properties from the request could be perceived as spot zoning.

The Mayor noted if the rezoning is adopted the property under construction at 4106 South "P" could continue as planned.

Director Lau voiced concern with the current value of the duplexes being sustainable if the rezoning is approved.

Lau, seconded by Lorenz, offered a secondary motion to amend the revised ordinance removing 3904 South "P", 3923 South "P" and 4106 South "P" from consideration. The members voted as follows: aye – Lau, Good, Lorenz and Catsavis; nays - Pennartz, Settle and Hutchings, the Mayor declared the motion carried and the ordinance stood amended.

The main motion remaining on the floor, the City Clerk read the ordinance for its readings and the members voted as follows: ayes – Lau, Good, Lorenz, Catsavis, Settle and Hutchings; nays - Pennartz. The Mayor declared the motion carried and the revised ordinance was adopted as amended and given Ordinance No. 34-16.

Item No. 3 was an ordinance amending the Fort Smith Code Section 27-327-6 to provide for outdoor mobile food vending from self-contained mobile food trucks for extended hours of operation in city marked locations in public street right-of-way *(mobile food vending)* ♦

Senior Planner Brenda Andrews briefed the board on the item advising the amendment comes from recent inquires by mobile food vendors and UAFS Community Leadership class about using the parking spaces at Cisterna Park for mobile food vending. The parking spaces are located in the Towson Avenue right of way and such is still a through street. The current ordinance does not permit vending in the public right of way except between 9:00 p.m. and 2:00 a.m. Vending must occur at a parallel parking space with the vending toward the sidewalk. Because vending will occur in the City's street right of way details such as permitting for a limited use compared to a lease and public safety concerns must be addressed differently from private property vending. The section of the right of way is currently striped with diagonal parking spaces that are not metered. Staff proposes creation of two (2) parallel parking spaces leaving several unmetered parking spaces for park visitors and downtown visitors to use. Four (4) to five (5) spaces of the diagonal spaces will be lost for the restriping necessary to create two (2) parallel parking spaces to accommodate vending to the sidewalk. The initial creation of two (2) parallel spaces allows staff to measure the interest. Future expansion is possible and will be assessed by interest shown. Some key points of the proposed ordinance are as follows:

- Vending in the subject area reserved spaces is between the hours of 7:00 a.m. and 9:00 p.m.

- Vending shall operate solely from mobile food trucks, food trailers are not permitted. The current ordinance defines food trucks and food trailers. A new and revised definition for food truck is provided. The intent is that the food trucks must be self-contained with all appurtenances either in or attached to the food truck. Items such as generators or water tanks cannot be placed in the street right of way or on the sidewalk. The food truck must be attended while it is parked in one of the reserved spaces.

- Two marked parallel parking spaces will be reserved for food truck vendors. Signs will be installed reserving the spaces for those with a permit to park in the spaces.

- A lottery will be held every two months to determine the parking space location for the lottery participants. The two month permit periods will allow us the ability to measure interest and determine if we have any corrections to the ordinance or procedures that might be needed. As we gain experience, we could consider longer periods of time with each permit. The draft ordinance establishes the first drawing for use of the spaces to occur on June 21st and would allow for the permittees to operate during the months of July and August. Subsequently to the first drawing, drawings will be conducted at the Planning Commission meetings. For example, a drawing will occur at the August 9th Planning Commission meeting for the months of September and October.

- In addition to the existing annual $150.00 permit and processing fee, vendors selected in the lottery will pay an additional $100.00 permit fee for vending rights in the marked location. A comment/concern staff received is that the City should charge an additional fee for the administration of the special permits and to provide some consistency with those leasing space on private property. The non-refundable $100.00 fee will encourage the selected vendors to vend regularly and not skip days because the permit fee is non-refundable and subject to revocation.

- A revocation clause to ensure the selected food vendor performs to the expectations and if they do not then their permit will be revoked and a new vendor selected.

Staff presented a draft to the Central Business Improvement District (CBID) and the Planning Commission with both recommending approval of the proposed amendment. There has been a number of positive comments about the proposed ordinance. Ms. Anna Connor addressed the Planning Commission in opposition expressing concern regarding

the potential impact the food trucks could have on the brick and mortar businesses in the area.

The following individual was present to address the Board:

- Casey Millspaugh
  Fort Smith, AR

  Re: Spoke in favor of the item, he noted food trailers should be allowed if they fit in the designated parking spot. He also questioned the necessity of the additional $100.00 permit fee.

Pennartz, 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.

Prior to the vote, there was extensive discussion with multiple Board members offering the following: concern with the number of spaces being limited to two (2); inquired how many parallel parking spots would the subject area accommodate; concern the ordinance is too restrictive; additional $100 permit fee should allow for an extra amenity; desire to work with the state to accommodate vending on Garrison Avenue and questioned the permissibility of food trucks in other public parks.

Administrator Geffken advised the objective was to be conservative in by limiting the spaces to two (2), such will allow staff to measure demand for the locations and leave parking spaces available to the patrons visiting/working downtown. He estimated the subject area would accommodate 4-5 parallel spaces and noted nothing in the presented ordinance fixes the number of spaces to two (2), therefore such can be increased.

Mrs. Andrews expressed the Planning Department hopes the demand will be great in order to fulfill the Board's aspirations for the area. She confirmed the states restriction of vending on Garrison Avenue has been a deterrent to the growth of the food vending

downtown and further advised that food vending is not permissible in public parks at this time.

The Mayor voiced support for the mobile vending however reiterated the Board be mindful of the brick and mortar businesses operating on Garrison.

The motion remaining on the floor the City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried.

Settle, seconded by Pennartz 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 Ordinance No. 35-16.

Item No. 4 was a resolution authorizing the Mayor to execute an agreement with U.S. Bank for purchasing card services *~ Agreement defeated at the May 17, 2016 regular meeting ~*

Administrator Geffken advised he directed staff to resubmit the resolution seeking approval of agreement with U.S. Bank. He noted the Finance Director, IT Director and Purchasing Manager met with Arvest Bank on May 25th to review and clarify some of the Boards inquiries. After re-evaluating and adjusting the rankings U.S. Bank still ranked highest, therefore he felt it prudent to resubmit the resolution seeking agreement with U.S. Bank. The presented item can be amended if the Board's desires is to select Arvest.

Director of Finance Jennifer Walker briefed the Board on the item noting at the March 25th meeting with Arvest staff found that both Arvest and U.S. Bank use Total System Services, Inc. (TSYS) an automated credit card processor that provides for receiving final transaction data nightly allowing data to be pushed to the City's system through various means. Regarding existing Enterprise Resource Planning (ERP) systems Arvest is currently working with several companies for ERP solutions. Arvest is working on

an authorization Application Programming Interface (API) which will be available in 2017. U.S. Bank has and API system in place currently and an API system is a critical component to have with the City's purchasing card (P-card) program. Arvest indicated that the 1% rebate structure is non-negotiable however their E-payables solution offers rebates ranging from 1.39% up to 1.5%. The rebate will depend on the frequency and volume of payables processed through them.

The following individuals were present to address the Board:

- John Scuderi, Treasury Management Payments Consultant for U.S. Bank Little Rock, AR

  Re: Spoke in favor of the item advised of U.S. Banks experience and qualifications to adequately serve the City in implementing and managing such program.

- Keith Zollicoffer, Vice President and Area Account Manager for Security Bank Card & Arvest Bank

  Re: Advised of Arvest Banks experience and qualifications to adequately serve the City in implementing and managing such program and noted the local presence of the Bank.

Lorenz, seconded by Pennartz, moved adoption of the resolution.

Good, seconded by Hutchings, offered a secondary motion to amend the resolution to read Arvest Bank rather than U.S. Bank for purchasing card services.

Prior to the vote, Director Good noted local businesses are looked to for financial assistance from non-profits, charities etc. and advised of Arvest Bank extensive list of local organizations that they donate to annually. He noted when we invest in our local vendors it feeds back and benefits our City and local organizations.

Director Pennartz questioned what monetary difference the rebates offered by each bank will have. She also referenced the letter provided by U.S. Bank where they indicate that *"We have met with Finance to understand you're A/P process and plan to present*

future recommendations as well as incorporating this knowledge to the P-card implementation" inquiring if such meant they would act as a consultant and inquired when Arvest will have the API system in place.

Mrs. Walker advised that Arvest offers 1% rebate and U.S. Bank offers up to 1.4% rebate, therefore the City achieves a slightly higher rebate from U.S. Bank. She further advised that U.S. Bank would play a similar role as a consultant as they have other features they can offer. Arvest does have other features to offer outside the P-card program as well, however such has not been discussed.

Mr. Zollicoffer advised Arvest expects to have the API system in 2017.

Director Settle inquired if the City has identified an ERP system to utilize and inquired the amount of P-cards they City needs is being assessed.

Mrs. Walker advised the ERP systems are still being vetted through and counselled that the P-card system allows for more control therefore better protecting the City and within evaluation process the necessity of users is assessed.

Administrator Geffken further offered and explained the controls that P-cards offer vs. the process that the City currently utilizes credit cards and purchase orders.

Director Lorenz voiced concern with weight given for local presence when such should not apply in this process. He further noted that qualified staff has extensively evaluated the Banks and it is judicious for the Board to consider staff recommendations.

Director good reiterated the final rankings are close to equal and staff's indicated confidence in either bank the Board chooses. He recapped that the City is not yet set up with the ERP system, therefore the fact that U.S. Bank currently has the API system and Arvest will have the API system in 2017 is relative since the City cannot currently utilize such.

Administrator Geffken noted the benefit of U.S. Bank already having the API system in place gives them the background and experience that would be an asset to the City during implementation of the very complex ERP system.

The secondary motion remaining on the floor, the members voted as follows: ayes – Good, Catsavis, Settle and Hutchings; nays – Lorenz and Pennartz; abstention – Lau. The Mayor declared the motion carried and the resolution stood amended.

The main motion remaining on the floor the members voted as follows: ayes – Good, Catsavis, Settle and Hutchings; nays – Lorenz and Pennartz; abstention – Lau. The Mayor declared the motion carried and the resolution was adopted as amended and given Resolution No. R-80-16.

Item No. 5 was a resolution accepting the bid of and authorizing the Mayor to execute a contract with Goodwin & Goodwin, Inc. for the Lee Creek Reservoir Buoy Line Replacement *($48,695.00 / Utility Department / Budgeted – Water and Sewer Operating Budget)* ♦

Interim Utility Director Bob Roddy briefed the board on the item advising the 1,700 foot buoy line upstream of the Lee Creek dam was broken due to the accumulation of increased amounts of floating debris washed into the reservoir during the storm in December 2015. The buoy line is required to keep boaters away from the intake zone for the water treatment plant and turbine generators and protects against boats being swept over the dam. 31 of the 79 orange barrier floats and 9 of the 15 warning buoys will be replaced; therefore the lake must be closed to boaters until the replacement is complete. Disaster relief funds have been applied for through Federal Emergency Management Agency (FEMA) and the city is awaiting a decision. Dixon Contracting, Inc. was the low

bidder, however due to the contractor's recent termination for poor performance staff recommends the next lowest bidder of Goodwin & Goodwin.

Settle, seconded by Lorenz, moved adoption of the resolution.

Prior to the vote, Director Good inquired of any other work done on the buoy line and questioned the validity of forgoing Dixon Contracting as the lowest bidder due to much of the issue resulting in the termination was weather related.

Mr. Roddy advised of a repair earlier in 2016 however prior to that the buoy line was in place for 25 years.

The motion remaining on the floor and the members all voting affirmatively the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-81-16.

Item No. 6 was a resolution confirming and ratifying approval of Authorization No. 2 to the agreement with RJN Group, Inc. for providing engineering services in connection with the 2015 Sanitary Sewer Assessment Remedial Measures, Phase A (Sub-Basin P007 and S008) as authorized by Resolution No. R-64-16 adopted on May 17, 2016 *($281,560.00 / Utility Department / Budgeted – 2015 Revenue Bonds)* ♦ ●

Interim Utility Director Bob Roddy briefed the board on the item advising such is simply to correct unclear language with reference to Resolution No. R-64-16 approved at the May 17, 2016 regular meeting. The presented item confirms and ratifies the approval of Authorization No. 2 (Sub-Basin S008, Project No. 16-10-ED2) as being subject to the agreement with RJN Group, Inc. for engineering design services for the 2015 Sanitary Sewer Assessment Remedial Measures, Phase A.

Hutchings, seconded by Lorenz, moved adoption of the resolution.

Prior to the vote, Director Settle questioned the necessity of the presented item and how to negate the occurrence in the future.

City Attorney Jerry Canfield advised such was simply and issue with staff trying to consolidate words and the presented item clarifies the Boards original intent.

The motion remaining on the floor and the members all voting affirmatively the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-82-16.

Item No. 7 was a resolution confirming and ratifying approval of Authorization No. 2 to the agreement with Morrison-Shipley Engineers, Inc. for providing engineering services in connection with the 2015 Sanitary Sewer Assessment Remedial Measures, Phase C (Sub-Basin FL01 and S009) as authorized by Resolution No. R-66-16 adopted on May 17, 2016 *($308,300.00 / Utility Department / Budgeted – 2015 Revenue Bonds)* ♦ ●

Interim Utility Director Bob Roddy briefed the board on the item advising such is simply to correct unclear language with reference to Resolution No. R-67-16 approved at the May 17, 2016 regular meeting. The presented item confirms and ratifies the approval of Authorization No. 2 (Sub-Basin S009, Project No. 16-12-ED2) as being subject to the agreement with Morrison Shipley Engineers, Inc. for engineering design services for the 2015 Sanitary Sewer Assessment Remedial Measures, Phase C.

Hutchings, seconded by Good, moved adoption of the resolution. There being no Board discussion, the members all voting affirmatively the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-83-16.

Item No. 8 was an ordinance declaring an exceptional situation waiving the requirements of competitive bidding and authorizing a contract with Goodwin & Goodwin, Inc. for emergency repair SSA 2015 (S009) High Street – Brockman from North 43rd Street to Albert Pike *($158,160.00 / Utility Department / Not Budgeted – Water and Sewer Capital Improvements)* ♦ ●

Interim Utility Director Bob Roddy briefed the board on the item advising maintenance crews discovered a collapsed 6 inch sewer line located in the alley between High Street and Brockman Avenue, from North 43rd to Albert Pike Street. The collapsed line was causing a sanitary sewer overflow to occur. It was necessary to contract for the emergency repair and waive competitive bidding, in order to repair the sewer main immediately.

Settle, seconded by Good, moved adoption of the ordinance.

Prior to the vote, Director Pennartz questioned if this pipe was located within the basin that had 61% of the pipes in need of repair and if the Board should expect more emergency repairs.

Mr. Roddy advised the collapse was located within the aforementioned area and the action of emergency repairs should always be expected as it is the nature for pipes to fail whether it be water or wastewater pipes; however he cannot predict if future failures will occur in the same area.

The motion remaining on the floor, and the members all voting affirmatively the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 36-16.

The Consent Agenda (Item No. 9) was introduced for consideration, the items being as follows:

A. Resolution authorizing a time extension for the 2013 Drainage Improvements, Phase A, Project No. 13-06-A *(145 days)*

B. Resolution accepting completion of and authorizing final payment for the construction of 2013 Drainage Improvements, Phase A, Project No. 13-06-A *($19,596.94 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦

C. Resolution authorizing a time extension for the 2015 Drainage Improvements, Phase A, Project No. 15-06-A *(109 days)*

D. Resolution accepting completion of and authorizing final payment for the construction of 2015 Drainage Improvements, Phase A, Project No. 15-06-A *($7,536.09 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦

E. Resolution accepting bid for the purchase of a rear loader *($232,956.46 / Sanitation Department / Budgeted – Capital Outlay 6302-304)*

F. Resolution accepting bid for the purchase of an automated side loader *($277,057.18 / Sanitation Department / Budgeted – Capital Outlay 6302-303)*

G. Resolution authorizing the Mayor to enter into a lease agreement with Heather Mendez for operation of the miniature golf course and concession at Creekmore Park

Settle, seconded by Pennartz, moved to table Item No. 9E and 9F till after the June 14, 2016 study session discussions. The members all voting affirmatively the Mayor declared the motion carried and Item No. 9E and 9F were tabled.

Settle, seconded by Pennartz moved adoption of all consent agenda items. The members all voting affirmatively the Mayor declared the motion carried and all items were adopted with the exception of Item No. 9E and 9F which were tabled, and the resolutions were adopted and given Resolution No. R-84-16 through R-88-16, respectively.

Mayor Sanders opened the Officials Forum with the following comments offered:

- Mayor Sanders

  Re: Thanked the Avenue of Flags Committee for their contribution to the success of the Memorial Day Program.

- Director Good

  Re: Commended Mars Pet Care for their contribution to the Seeds of Change. The Antioch Discovery Garden was recently a recipient of $20,000 in grant funds from Seeds of Change Grant Program. The project is making strides and creating diverse community involvement and such is valuable to our community.

- Director Settle

  Re: 1. Moved, seconded by Lorenz, to have a study session regarding the City's business friendliness including a review of ordinances in an attempt to amend any that could be considered not business friendly.

  2. Congratulated UAFS Coach's Chris Pope and Justin Bailey as they leave UAFS for new coaching assignments.

- Director Hutchings

  Re: Noted the success of the Memorial Day Services and expressed pride for outstanding community involvement.

- Director Pennartz

  Re: Recognized Pernod Ricard for their $15,000 donation as well as their staff volunteer's to help the Parks and Recreation Department rejuvenate the miniature golf course.

- Administrator Carl Geffken

  Re: 1. Reminded of the cancelation of the June 28, 2016 study session.

  2. Noted of the Ward 3 Neighborhood Meeting on June 28, 2016 at 6:00 p.m. at the Fort Smith Senior Activity Center 2700 Cavanaugh Road.

There being no further business to come before the Board, Lorenz moved that the meeting adjourn. The motion was seconded by Hutchings, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:41 p.m.

APPROVED

MAYOR

ATTEST

CITY CLERK