

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT  
AGENDA  
ROSE ROOM  
CREEKMORE PARK COMMUNITY CENTER  
5:30 P.M.  
MAY 14, 2013**

**I. ROLL CALL**

**II. APPROVAL OF MINUTES FROM APRIL 9, 2013 & MAY 7, 2013 SPECIAL MEETING**

**III. STAFF COMMENTS AND PROCEDURES**

1. Unified Development Ordinance Amendments
2. Rezoning #5-5-13; A request by Travis Brisendine, agent for Umarex USA, for a zone change from Not Zoned to Industrial Light (I-1) by Classification located at 7700 Chad Colley Boulevard. (companion item to item #3)
3. A request by Travis Brisendine, agent for Umarex USA, for development plan approval of an expansion to the Umarex USA headquarters located at 7700 Chad Colley Boulevard. (companion item to item #2)
4. Rezoning #6-5-13; A request by Mike Liyeos, agent for SB Bonner Trustee, et al, for a zone change from Transitional (T) to Commercial Heavy (C-5) by Classification located at 8100 Rogers Avenue. (companion item to item #5)
5. A request by Mike Liyeos, agent for SB Bonner Trustee, et al, for development plan approval of a retail development located at 8100 Rogers Avenue. (companion item to item #4)
6. Conditional Use #11-5-13; A request by Mike Alsup, Director of Parks and Recreation for the City of Fort Smith, for a conditional use for an athletic field located at 7200 Zero Street.
7. A request by Jeff Lee, agent for Elizabeth Pornjaroen, for an off-site parking agreement for 3758 Midland Boulevard. (companion item to item #9)

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

623 Garrison Avenue  
P.O. Box 1908  
FORT SMITH, ARKANSAS 72902  
(479) 784-2216  
FAX (479) 784-2462

8. Variance #15-4-13; A request by Bart Petray, agent for Sally Parker, for a variance from 25 feet to 15 feet front yard setback located at 5610 South Enid Street. (patio cover) (tabled from April)
9. Variance #16-5-13; A request by Jeff Lee, agent for Elizabeth Pornjaroen, for a variance from 25 feet to 8.6 feet front yard setback located at 3758 Midland Boulevard. (companion item to item #7)
10. Variance #17-5-13; A request by Wilma Griffith, agent for Alva and Kristen Beasley, for a variance from 10 feet to 4.7 feet interior side yard setback for Fitzgerald Addition, Block 83 proposed Lot 9A and from 10 feet to 4.7 feet interior side yard setback for Fitzgerald Addition, Block 83 proposed Lot 9B located at 2015 & 2021 Rogers Avenue.

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT  
MINUTES  
ROSE ROOM  
CREEKMORE PARK COMMUNITY CENTER  
5:30 P.M.  
APRIL 9, 2013**

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

Motion was made by Commissioner Howard, seconded by Commissioner Sharpe and carried unanimously to approve the minutes of the March 12, 2013, meeting as written.

Mr. Wally Bailey stated that this was the last meeting for Commissioners Griffin and Maurras and thanked them on behalf of staff and the citizens of Fort Smith for their service on the Planning Commission. Mr. Bailey stated that Commissioner Griffin had served for a total of thirteen (13) years and as Chairman since 2005. Mr. Bailey stated that Commissioner Maurras had completed a three (3) year term on the Commission.

Mr. Wally Bailey spoke on the procedures. Mr. Bailey called attention to the agenda which includes a Consent Agenda with five (5) items. Mr. Bailey stated that unless a Planning Commissioner or member of the audience would like for one of these items to be pulled from the consent and heard separately, the consent agenda would be voted on as one item. No one expressed a desire to have an item removed from the consent agenda.

**1. CONSENT AGENDA**

- A. Final Plat – Stoneshire at Chaffee Crossing, Phase I, Lots 1-60 – Mickle-Wagner-Coleman**
- B. Conditional Use #7-4-13; A request by Heather Johnson, agent for Trustees of Northside Baptist Church for a Head Start Preschool located at 5011 Mussett Road.**
- C. Conditional Use #8-4-13; A request by James Abby for a conditional use for a church located at 6421 Highway 271 South.**

**D. Home Occupation #3-4-13; A request by Neeol & Nicholas Carbonia for an etching and awards and promotional management business located at 1208 North 41<sup>st</sup> Street.**

**E. Home Occupation #4-4-13; A request by Carlos Barrientos for a lawn and tree service business located at 3625 Park Avenue.**

Chairman Griffin called for the vote on the consent agenda. Motion was made by Commissioner Howard, seconded by Commissioner Parks and carried unanimously to amend these requests to make approval subject to all staff comments and recommendations. Chairman Griffin then called for the vote on the consent agenda as amended. The vote was 8 in favor and 0 opposed.

## **2. Unified Development Ordinance Amendments**

Mr. Wally Bailey read the staff report. Mr. Bailey noted that these amendments are to the Planned Zoning District (PZD) and reflects the proposed code amendment changes that were suggested at the March 18, 2013, Planning Commission work session.

There was no one present to speak on behalf or in opposition to these proposed amendments.

Chairman Griffin then called for the vote on the UDO amendments. The vote was 8 in favor and 0 opposed.

- 3. A request by Cary Smallwood, agent for Cancer Support House, for a Master Land Use Plan Amendment from Residential Detached to Residential Attached located at 1412 South 34<sup>th</sup> Street. (companion item to items #4 & #5) (tabled from March)**
- 4. Rezoning #3-3-13; A request by Cary Smallwood, agent for Cancer Support House, for a zone change from Transitional (T) to Residential Multi-Family Medium Density (RM-3) by Extension located at 1412 South 34<sup>th</sup> Street. (companion item to items #3 & #5)**
- 5. A request by Cary Smallwood, agent for Cancer Support House, for development plan approval for a multi-family development located at 1412 South 34<sup>th</sup> Street. (companion item to items #3 & #4) (tabled from March)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow the development of a 50 unit apartment complex. Ms. Andrews stated that a neighborhood meeting was held on February 26, 2013, with several surrounding property

owners in attendance in opposition to these requests. Ms. Andrews noted that a second neighborhood meeting was held on site on Friday, April 5, 2013.

Mr. Cary Smallwood, 2809 Lakeview Pointe, was present to speak on behalf of these requests.

There were approximately 16+ persons in attendance opposing these requests. Mr. Wayne King, 3406 South "M" Street, Mr. David Cravens, 3507 South "O" Street, Mr. Glenn Parson, owner of Oakwood Apartments located at 3500 North "M" Street and Ms. Betty Welch, 3201 South "O" #17, were present to speak in opposition to these requests citing their concerns relative to traffic flow and the location of driveways on a hill next to the South "N" Street and South 34<sup>th</sup> Street intersection, the density of the development and drainage issues.

Ms. Penny Yarbrough, manager of the Oakwood Apartments, presented a petition in opposition to the Planning Commission.

Mr. Ron Teeter with the City of Fort Smith Engineering Department addressed the drainage issue by noting that the bulk of the drainage would go into the proposed detention pond which would collect the water, hold it and allow it to come out slowly.

Following a discussion by the Commission, Chairman Griffin called for the vote on these requests.

3. **A request by Cary Smallwood, agent for Cancer Support House, for a Master Land Use Plan Amendment from Residential Detached to Residential Attached located at 1412 South 34<sup>th</sup> Street. (companion item to items #4 & #5) (tabled from March)**

Chairman Griffin called for the vote on the Master Land Use Plan Amendment. The vote was 2 in favor, 5 opposed and 1 abstention (Cox)

4. **Rezoning #3-3-13; A request by Cary Smallwood, agent for Cancer Support House, for a zone change from Transitional (T) to Residential Multi-Family Medium Density (RM-3) by Extension located at 1412 South 34<sup>th</sup> Street. (companion item to items #3 & #5)**

Chairman Griffin called for the vote on the rezoning request. The vote was 1 in favor (Howard), 6 opposed and 1 abstention (Cox).

- 5. A request by Cary Smallwood, agent for Cancer Support House, for development plan approval for a multi-family development located at 1412 South 34<sup>th</sup> Street. (companion item to items #3 & #4) (tabled from March)**

Chairman Griffin called for the vote on the development plan. The vote was 1 in favor (Howard), 6 opposed and 1 abstention (Cox).

- 6. Rezoning #4-4-13; A request by Mickle-Wagner-Coleman, agent for Fort Chaffee Redevelopment Authority, for a zone change from Unzoned to Industrial Light (I-1) by Classification located at 7300 Chad Colley Boulevard. (companion item to item #7)**

- 7. A request by Mickle-Wagner-Coleman, agent for Fort Chaffee Redevelopment Authority, for development plan approval for a steel processing company located at 7300 Chad Colley Boulevard. (companion item to item #6)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow the development of a metal processing company which processes and distributes aluminum and stainless steel.

Mr. Randy Coleman of Mickle-Wagner-Coleman was present to speak on behalf of these requests.

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

Following a discussion by the Commission, Chairman Griffin called for the vote on these requests.

- 6. Rezoning #4-4-13; A request by Mickle-Wagner-Coleman, agent for Fort Chaffee Redevelopment Authority, for a zone change from Unzoned to Industrial Light (I-1) by Classification located at 7300 Chad Colley Boulevard. (companion item to item #7)**

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

- Approval of the submitted development plan.

- Fort Chaffee Redevelopment Authority approval of the development plan is required. It is noted that the landscaping and the exterior finish material (siding) do not comply with the Chaffee Crossing Design Guidelines.

Chairman Griffin then called for the vote on the rezoning request as amended. The vote was 8 in favor and 0 opposed.

**7. A request by Mickle-Wagner-Coleman, agent for Fort Chaffee Redevelopment Authority, for development plan approval for a steel processing company located at 7300 Chad Colley Boulevard. (companion item to item #6)**

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

- Approval of the submitted development plan.
- Fort Chaffee Redevelopment Authority approval of the development plan is required. It is noted that the landscaping and the exterior finish material (siding) do not comply with the Chaffee Crossing Design Guidelines.

Chairman Griffin then called for the vote on the development plan as amended. The vote was 8 in favor and 0 opposed.

**8. Conditional Use #9-4-13; A request by Michael Johnson, agent for Fort Smith Public Schools, for an amendment to a conditional use approved on January 8, 2013, for a classroom/administration addition to Woods Elementary School located at 3201 Massad Road. (companion item to item #10)**

**10. Variance #14-4-13; A request by Michael Johnson, agent for Fort Smith Public Schools, for a variance from 200 feet to 45 feet and 125 feet driveway separation located at 3201 Massard Road. (companion item to item #8)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow for the amendment for the conditional use approved on January 18, 2013. Ms. Andrews stated that the only change to the development plan is a request for a variance to retain an existing driveway for Woods Elementary School facility. Ms. Andrews noted that this driveway was to be removed with the previous conditional use and variance.

Mr. Michael Johnson with Architecture Plus was present to speak on behalf of these requests.

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

Following a discussion by the Commission, Chairman Griffin called for the vote on these requests.

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

**10. Variance #14-4-13; A request by Michael Johnson, agent for Fort Smith Public Schools, for a variance from 200 feet to 45 feet and 125 feet driveway separation located at 3201 Massard Road. (companion item to item #8)**

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

- The altered existing driveway shall remain as a one way “entry only” driveway.

Chairman Griffin then called for the vote on the variance request as amended. The vote was 8 in favor and 0 opposed.

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

**8. Conditional Use #9-4-13; A request by Michael Johnson, agent for Fort Smith Public Schools, for an amendment to a conditional use approved on January 8, 2013, for a classroom/administration addition to Woods Elementary School located at 3201 Massard Road. (companion item to item #10)**

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

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

- Submittal of a sign permit application for staff review of any new signage.
- The altered existing driveway shall remain as a one way “entry only” driveway.

Chairman Griffin then called for the vote on the conditional use as amended. The vote was 8 in favor and 0 opposed.

**9. Appeal of Administrative Determination regarding denial of permits for Outdoor Advertising Signs located at 5700 & 7310 Rogers Avenue.**

Mr. Wally Bailey read the staff report indicating that an appeal had been received from Mr. Troy Gaston on behalf of RAM Outdoor Advertising relative to an interpretation of Section 27-704-4 (C) of the Unified Development Ordinance regarding outdoor advertising signs. Mr. Bailey stated that irrespective of this appeal concerning the language of the ordinance, staff contends that the proposed sign at 5700 Rogers Avenue is not allowed due to the fact that there are already four (4) signs on the same side of the street and the proposed sign is within 1,000 feet of an existing off site sign.

Mr. Troy Gaston, representing RAM Outdoor Advertising, was present to speak on behalf of this appeal. Mr. Gaston stated that the Ordinance specifically states that all measurements are to be made along a line parallel to the street and from the center of the closest support pole. He noted that this method of measurement necessarily excludes signs on the opposite side of the street. Mr. Gaston noted that the sign applications were incorrectly denied as there are not four (4) outdoor advertising signs within a mile along a line parallel to the street measured from the center pole of the proposed locations. Mr. Gaston stated that the Calico County sign faces South 56<sup>th</sup> Street and not Rogers Avenue which is a State Highway and under the jurisdiction of the Arkansas Highway Commission. Mr. Gaston also stated that any sign that is on a State Highway must be permitted by the State Highway Commission and the Calico County sign was not permitted by the State. Mr. Bailey noted that according to the State Highway Department they did in fact permit the Calico County sign. Mr. Gaston also noted that to the extent the city contends that the “statute mile” measurement specified by the Ordinance includes outdoor advertising signs on either side of the street from the proposed location in the applications, RAM believes that the Ordinance as written is unconstitutionally vague; specifically, the Ordinance’s language on the measurement of the statute mile.

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

Following a discussion by the Commission, Chairman Griffin called for the vote on this appeal. Commissioner Maurras questioned how this vote should be done. Mr. Bailey

stated that if a Commissioner votes yes, they would be voting in support of the appeal and if they were to vote no, they would not be supporting the appeal.

Chairman Griffin then called for the vote on the appeal. The vote was 8 opposed and 0 in favor.

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

**11. Variance #13-4-13; A request by Alvin Bradley for a variance from 25 feet to 7 feet front yard setback located at 5109 Lovett Lane.**

Ms. Brenda Andrews read the staff report indicating that the purpose of this variance request is to allow the applicant to construct a carport to the front of his residence. Ms. Andrews noted that the carport would be constructed of wood to resemble the home.

Mr. Alvin Bradley, 5109 Lovett Lane, was present to speak on behalf of this request.

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

Chairman Griffin then called for the vote on the variance request. Motion was made by Commissioner Maurras, seconded by Commissioner Howard and carried unanimously to amend this request to make approval subject to the carport following the roofline and architecture of the existing home.

Chairman Griffin then called for the vote on the variance request as amended. The vote was 8 in favor and 0 opposed.

**12. Variance #15-4-13; A request by Bart Petray, agent for Sally Parker, for a variance from 25 feet to 15 feet front yard setback located at 5610 South Enid Street. (patio cover)**

Ms. Brenda Andrews read the staff report indicating that the purpose of this variance request is to allow the applicant to add a cover over an existing patio to the side of the house which would be constructed of wood to resemble the house.

Mr. Bart Petray was present to speak on behalf of this request.

Ms. Ann Brady, 3108 South 57<sup>th</sup> Street and Mr. John Hiatt addressed the Commission relative to their concerns with the construction of a fence to the property line which would hinder their ability to see oncoming traffic when backing out of the driveway.

Although the Commission could understand their concerns, they were advised that a fence was legally allowed to be placed on the property line.

Following a discussion by the Commission, Mr. Hiatt requested the Commission table this item so they could attempt to work this issue out with Ms. Parker. Motion was then made by Commissioner Maurras, seconded by Commissioner Griffin and carried unanimously to table this item.

**Meeting Adjourned!**

**CITY PLANNING COMMISSION  
SPECIAL MEETING  
MINUTES  
CREEKMORE PARK COMMUNITY CENTER  
11:30 A.M.  
MAY 7, 2013**

**I. ROLL CALL**

The following Commissioners were present: Don Keesee, Brandon Cox, John Huffman, Vicki Newton and Richard Spearman. The following Commissioners were absent: Jennifer Parks, Rett howard and Marshall Sharpe.

**II. ELECTION OF OFFICERS**

For the office of Chairman, motion was made by Commissioner Huffman, seconded by Commissioner Spearman and carried unanimously to nominate Marshall Sharpe for Planning Commission Chairman.

For the office of Vice-Chairman, motion was made by Commissioner Spearman, seconded by Commissioner Huffman and carried unanimously to nominate Brandon Cox for Planning Commission Vice-Chairman.'

Fort the office of Secretary, motion was made by Commissioner Newton, seconded by Commissioner Huffman and carried unanimously to nominate Jennifer Parks for Planning Commission Secretary.

**Meeting Adjourned!**

# Memo

To: City Planning Commission  
From: Planning Staff  
Date: May 3, 2013  
Subject: Zoning Ordinance Amendments – Unified Development Ordinance

This month, Planning Staff has prepared several amendments for your consideration:

- After the approval of the Planned Zoning District amendment, Planning staff began working on a series of editorial amendments to incorporate the PZD into the code. These proposed amendments include adding the PZD to the Table of Contents as well as various charts throughout the code.
- For clarification, staff recommends adding the definition of *multifamily development*.
- The two references to Temporary Use Permits within the two different charts do not accurately reflect the code. The temporary use permit appeal process is multi-faceted and too complicated to accurately reflect in these charts, we believe that for now the best approach is to remove the temporary use permit process from the charts. The requirements are still in the specific sections of the code. The staff will work with the city attorney about developing a resolution and possibly streamlining the appeal process for temporary use permits. We will bring the recommendation back to the Planning commission when our research is complete.
- Currently, the Industrial Design Standards apply to projects on major arterial streets only. Staff is proposing to add boulevards, the only additional street classification higher than a major arterial, to this requirement. The appearance of major arterials and boulevards is important as mentioned within the Comprehensive Plan. These streets are typically highly visible and traveled frequently.
- The appeal process within the Appeals of Administrative Decisions section of the code needed further clarification. Staff utilized the same language that is present in other development applications.
- The appeal/vested rights section of Appendix B, the fee chart, needed further clarification.

All changes are highlighted on the attached page.

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

IA

- 27-327 Temporary Use Permits
- 27-328 Comprehensive Plan and Master Land Use Plan Amendment
- 27-329 Rezoning – Planned Development District
- 27-330 Rezoning – Conventional District
- 27-331 Development Plan
- 27-332 Conditional Use Permit
- 27-333 Subdivision – Major
- 27-334 Subdivision – Minor
- 27-335 Commercial Subdivision – Limited Frontage
- 27-336 Written Interpretations
- 27-337 Appeals and Variances
- 27-338 Home Occupations
- 27-339 Vested Rights Determination
- 27-340 Amendments to the text of the Unified Development Ordinance
- 27-341 Planned Zoning District
- Appendix B Fee Schedule

**Chapter 27-400 Zoning Districts**

- 27-401 Comprehensive Plan and Zoning District Conversion Chart
- 27-402 Zoning Map
- 27-403 Land Use Regulations Table
- 27-404 Lot Dimension Standards
- 27-405 Street Hierarchy
- 27-406 Residential Estate Three (RE-3)
- 27-407 Residential Estate One (RE-1)
- 27-408 Residential Single Family Low Density (RS-1)
- 27-409 Residential Single Family Medium Density (RS-2)
- 27-410 Residential Single Family Medium/High Density (RS-3)
- 27-411 Residential Single Family High Density (RS-4)
- 27-4\_\_ Residential Single Family Rowhouse and Zero Lot Line District (RS-5)
- 27-4\_\_ Residential Single Family-Duplex Low/Medium Density(RSD-2)
- 27-4\_\_ Residential Single Family-Duplex Medium/High Density(RSD-3)
- 27-4\_\_ Residential Single Family-Duplex High Density(RSD-4)
- 27-412 Residential Multifamily Low Density (RM-2)
- 27-413 Residential Multifamily Medium Density (RM-3)
- 27-414 Residential Multifamily High Density (RM-4)
- 27-415 Residential Mixed Density (RMD)
- 27-416 Residential Historic (RH)
- 27-417 Residential/Commercial Employment Mixed Use (RMU/CEMU)

1B

***Pet cemetery***

shall mean a parcel of land, buildings, and/or structures used for the interring of animal remains.

***Pet shop***

shall mean a facility for the display and sale of small animals, dogs, cats, fish and birds without involving commercial boarding or treating of any animal, fish or bird.

***Pet supply store***

shall mean stores which retail pets, pet foods, and other pet supplies.

***Petroleum and coal products***

shall mean businesses which manufacture petroleum and coal products by transforming crude petroleum and coal into usable products. The dominant process is petroleum refinement: the separation of crude petroleum into component products through techniques such as cracking and distillation.

***Petroleum distribution facility***

shall mean a facility for the storage of fuels or other volatile products and for their distribution to retail sales facilities or other bulk purchasers, regardless of ownership.

***Pharmaceutical manufacturing***

see manufacturing, light.

***Pharmacy or drug store***

shall mean a facility for preparing, preserving, compounding and dispensing of drugs and medicines.

***Photocopy shop***

a facility for the reproduction and copying of printed material or drawings. This does not include sign shops, printing establishments, or similar large-scale operations.

***Photography studio***

shall mean a facility for taking and processing photographs, not a bulk processing plant.

***Pipeline transportation***

establishments in pipeline transportation use transmission pipelines to transport products, such as crude oil, natural gas, refined petroleum products, and slurry.

***Pistol Range (indoor)***

shall mean an indoor facility designed and constructed for the practice and teaching of marksmanship with handguns.

***Planned zoning district***

shall mean a zoning district that allows for comprehensively planned developments for either single use or mixed use and permits development and zoning review as a simultaneous process.

***Planning commission***

shall mean the Planning Commission of the City of Fort Smith, Arkansas.

***Plat, final***

10

327 Temporary Use Permits

**III. Development Applications**

328 Comprehensive Plan and Master Land Use Plan Amendment

329 Rezoning – Planned Development District

330 Rezoning – Conventional District

331 Development Plan

332 Conditional Use Permit

333 Subdivision – Major

334 Subdivision – Minor

335 Commercial Subdivision – Limited Frontage

336 Written Interpretations

337 Appeals and Variances

338 Home Occupations

339 Vested Rights Determination

340 Amendment to the Text of the Unified Development Ordinance

341 Planned Zoning District

Minor (334)									
Commercial Subdivision (335)	●		R	D	A				
Written Interpretations (336)			D	A	A				
Appeals (337)						D		●	
Zoning Variance (337)	●	●	R			D		●	
Subdivision Variance (516)	●	❖	R	D	A				
Home Occupations (338)	●		R	D	A			●	●
Vested Rights (339)	●		R	D	A		●		
Text Amendment (340)			R	R	D		●		
Planned Zoning District (341)	●	●	R	D	A				

**27 301-2**

The board of directors may supplement, change, or amend the zoning map and the zoning regulations in the manner prescribed by A.C.A. SS 14-56-423.

**27-302 Pre-Application Conference**

**27-302-1 When Required**

A pre-application conference with the Planning and Zoning Department is required for certain development applications, as identified in Table 27-301.1 (Application Procedures) and indicated by the individual application type sections below. The purpose of the meeting is to:

- A. Review the requirements of the Unified Development Ordinance;
- B. Review the requirements of the Fort Smith Comprehensive Plan;
- C. Discuss the nature and design of the proposed development; and
- D. Discuss the development application review and approval process.

**27-302-2 Timing**

The pre-application conference shall be held at least ten (10) days before the submission date unless otherwise specified by the Director. Applications must be submitted within six months of the conference date or a new conference shall be required.

**27-302-3 Additional Parties**

As necessary, the Planning and Zoning Department may include representatives of other departments or agencies at the pre-application conference.

IE

**Motor freight terminals**

shall mean a facility for freight loading and freight storage.

**Motor vehicle**

shall mean any self propelled vehicle designed primarily for the transportation of persons or goods along public streets or alleys or other public ways.

**Motorcycle sales and service**

see auto and vehicle dealer

**Movie theater (indoor)**

shall mean a building including a stage or screen for the projection of motion pictures to the public.

**Moving and storage**

shall mean a facility for warehousing, transferring or keeping of goods.

**Moving company**

shall mean a company that moves the possessions of a family or business from one site to another.

**Multifamily (apartments or condominiums)**

a building on a single lot that has three or more attached independent dwelling units.

**Multifamily development**

a single lot that has three or more independent dwelling units.

**Multistoried parking structure**

shall mean a parking structure which is designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages and deck parking.

**Museum**

shall mean a building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their own use.

**Mutual access easement**

shall mean a permit or license (easement) from the owner of a tract of real property authorizing the use of a described portion or all of the owned tract of real property for ingress and egress to one or more other tracts of real property (dominant estates) for the mutual benefit of the dominant estates individually or collectively. A mutual access easement in favor of public utility companies shall authorize mutual access and ingress to described public utility facilities in favor of the public utility companies individually or collectively.

**Neighborhood store**

IF

## I. General Requirements

### 27-301 General Requirements

#### 27-301-1 Applicability.

The policies and regulations apply to land use and development. Any person proposing a land use change or new development shall comply with the procedures of this Chapter. Table 27-301.1 (Application Procedures) summarizes the application types, required meetings, acting bodies and public notices involved in the development review process between the applicants and the City. The application procedure is covered in more detail in later sections of this chapter.

**Table 27-301.1—Application Procedures**

Actions:

R = Review/Recommendation    D = Decision    A = Appeal    • Required  
 ♦ = at the discretion of the Director    ■ = as described in section

Acting Bodies:

Staff = Planning and Zoning Department  
 PC = Planning Commission  
 BD = Board of Directors  
 BZA = Board of Zoning Adjustment

Application Type	Preapp Conf.	Neighborhood Meeting	Acting Body				Notices		
			Staff	PC	BD	BZA	Pub.	Mail	Sign
Accessory Residential Use (324)			D	A					
Permits for New Construction, Major Alterations (325)			D						
Certificate of Occupancy (326)			D						
Temporary Use Permit (327)			D	A					
Comp. Plan/Master Land Use Map Amendment (328)	•	•	R	R	D		•	■	■
Rezoning – Planned (329)	•	•	R	R	D		•	•	•
Rezoning – Conventional (330)	•	•	R	R	D		•	•	•
Development Plan Review (331)	•	♦	D	A					
Conditional Use Permit (332)	•	•	R	D	A		•	•	•
Subdivision – Major (333)	♦		R	D	A				
Subdivision –			D	A					

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**27-340-5 Application Appeals Chart**

Application	Appeal Entity		
	Planning Commission	Board of Directors	Court of Jurisdiction
Rezoning		X	X
Comp Plan & Master Land Use Amendment		X	X
Conditional Use		X	X
Home Occupation		X	X
Accessory Residential Use	X	X	X
Zoning Variance			X
Subdivision Variance		X	
Driveway Variance		X	
Preliminary Development Plan Amendment - Major			X
Preliminary Development Plan Amendment - Minor	X		X
Development Plan Review	X	X	X
Subdivision Plat – Major			X
Subdivision Plat – Minor	X		X
Text Amendment		X	X
Temporary Use Permits	X		X
Written Interpretation of UDO	X	X	X
Vested Rights		X	X

111

**E. Industrial Building Standards** The following standards shall apply to industrial, storage and distribution buildings when constructed along major arterial or boulevard streets as classified by the master street plan, or adjacent to residential districts, and/or those buildings at the perimeter of an industrial subdivision.

1. Each primary entrance for employees or visitors that faces a public street should be emphasized through the use of differing colors or materials, arches, arcades or other architectural treatments.
2. All front facades of primary structures, all facades that face a public right-of-way, and all sidewall facades within forty (40) feet of the front façade, shall be made of masonry (brick, stone and/or stucco), tilt-up concrete panels (textured or untextured), wood, native stone, tinted glass, exterior insulated finished systems (EIFS), cementitious siding (e.g., Hardie Board), or other siding materials as approved by the Director.
3. Facades of the primary structure should incorporate architectural relief through the use of at least two of the following tools: reveals, visible joint patterns, projected sills, belt courses, repeating brick header and stretcher courses, or differing colors and textures.
4. All primary structures with roofs with a pitch of less than 2:12 shall be screened by a parapet wall or fascia.
5. All trash receptacles shall be screened with a permanent opaque screening fence.
6. Outdoor lighting shall comply with Section 27-602-5.
7. Outdoor storage.

a. Industrial-1 (I-1):

1. Areas used for outdoor storage or display shall be maintained so that excessive dust, fumes or odors will not be produced by continued use.

2. Buffering, landscape, and fence screening shall be required when abutting residentially zoned properties. The minimum buffering requirements shall consist of a six-foot high screen fence, landscaping (trees, shrubs, and groundcover,) or a berm. All buffer areas shall be a minimum of ten (10) feet in width. The Planning and Zoning Department shall approve location, size, plant species, and number. The buffering shall be in addition to minimum open space requirements.

3. Auto impoundment or holding yards shall be screened with a minimum six (6) to eight (8) foot opaque fence constructed of

17

**D. Action.** In exercising its powers, the Planning Commission, in conformity with the provisions of law, may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination.

**E. Appeal.** Appeal to the Board of Directors. The decision of the Planning Commission concerning an appeal of administrative determinations request may be appealed to the Board of Directors. Any interested party may file an appeal provided that it is filed with the City Clerk by 5:00 p.m. on the tenth calendar day following the date of the Planning Commission decision. A fee in an amount established by the Board of Directors is required for filing an appeal.

### **27-337-2 Variances**

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

### **27-337-3 Board of Zoning Adjustment Procedures**

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The Board of Zoning Adjustment shall establish regular meeting dates, adopt rules for the conduct of its business, establish a quorum in procedure, and keep a public record of all findings and decisions. The public meeting requires a notice of the meeting date and agenda to be published in a newspaper of general circulation in the City of Fort Smith at least one (1) time seven (7) days prior to the meeting.

### **27-337-4 Submission Requirements**

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The Director shall prepare an application form specifying the information to be submitted.

**A. Application.** The applications shall contain at least the following information:

1. The legal description of the subject property;
2. The street address of the subject property;

15

6. All pick-up and drop-off of children shall be on the property's driveway and not on the public right-of-way unless otherwise approved by the planning commission.

**Appendix B**

**Planning and Zoning Department Fee Schedule**

<u>Application Type</u>	<u>Fee</u>
Accessory Residential Use	\$ 35
Rezoning or Zoning Text Amendment	\$ 350
Development Plan Review	\$ 300 \$ 100 when submitted with another application
Conditional Use Permit	\$ 350
Subdivision-Major	\$ 200 + \$4 per lot; \$ 600 maximum
Subdivision-Minor	\$ 125
Appeals/Vested Rights to Planning Commission <b>or Board of Directors</b>	\$ 75
Variances (Zoning, Driveway, or Subdivision)	\$ 250
Home Occupations	\$ 150
Comprehensive Plan/Master Land Use Plan Amendment	\$ 350 \$ 100 when submitted with a rezoning application
Annexation	\$ 350
Temporary Revocable License	\$ 150
Street/Right-of-way/Easement Closing	\$ 150

IK

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** April 30, 2013

**Re:** Rezoning #5-5-13 - A request by Travis Brisendine, agent for Umarex USA, for Planning Commission consideration of a zone request from Not Zoned to Industrial Light (I-1) by classification at 7700 Chad Colley Boulevard (Companion to item # 3)

## LOT LOCATION AND SIZE

The subject property is located on the west side of Chad Colley Boulevard between Roberts Boulevard and Custer Boulevard. The tract contains an area of 27 acres with approximately 1,332 feet of street frontage along Chad Colley Boulevard.

## REQUESTED ZONING

The proposed zoning on this tract is Industrial Light (I-1).

Characteristics of this zone are as follows:

### Purpose:

To provide for a mixture of light manufacturing, office park, research and development, and limited retail/service retail land uses in an attractive, business park setting. The Industrial Light district may be used as a zoning buffer between mixed uses, commercial uses and heavier industrial uses. The I-1 zoning district is appropriate with the Office, Research, and Light Industrial (ORLI) and Industry classifications of the Master Land Use Plan.

### Permitted Uses:

Auto and boat related businesses, a wide variety of retail businesses, indoor flea market, pawnshop, financial services, offices, bar or tavern, restaurant, animal and pet services, manufacturing and commercial communication towers are examples of permitted uses.

### Conditional Uses:

Homeless shelter, truck stop, outdoor flea market, beer garden, restaurant with outdoor dining, pet cemetery, animal food processing, petroleum distribution facility, bus station, recycling

2A

center, sports complex, educational facilities and police station are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 20,000 square feet  
(1+1)

Maximum Height - 45 feet

75%

Maximum Lot Coverage -

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 20,000 square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 10 feet

Rear Yard Setback - 10 feet

Side/Rear (adjoining SF Residential District/Development) – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)

Minimum building separation – to be determined by current City building and fire code.

Required street access – Major Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The area to the north is not zoned and is undeveloped.

The area to the east is not zoned and is developed as an animal food processing plant.

The area to the south is not zoned and is undeveloped.

The area to the west is zoned Residential Single Family High Density (RS-4) and is undeveloped.

**LAND USE PLAN COMPLIANCE**

The *Chaffee Crossing Redevelopment Plan* currently classifies the site as Mixed Use: Industrial/Office. This classification is intended to guide the appropriate development of non residential uses with a larger community context, establish a strong street presence, and promote parking on the sides and rear of the buildings. Approval of the zone change will not conflict with the goals and objectives of the Chaffee Crossing Redevelopment Plan.

**PROPOSED ZONING**

The current subject property was not zoned during the initial development. The requested zoning will allow for an expansion of the existing facility and an increase in parking spaces for the employee parking lot.

2B

## **STAFF COMMENTS AND RECOMMENDATIONS**

The Industrial Light (I-1) zoning district is proposed to allow the existing business to conform to the zoning code.

Section 27-430 of the Unified Development Ordinance states the purpose of the Industrial Light (I-1) zoning district is to provide for a mixture of light manufacturing, office park, research and development, and limited retail/service retail land uses in an attractive, business park setting.

A neighborhood meeting was held Thursday May 9<sup>th</sup>, 2013 at 7700 Chad Colley Blvd. The applicant and city staff were the only persons in attendance. A copy of the attendance record and meeting summary are enclosed.

If the Planning Commission is inclined to approve the application, we recommend a condition that all construction must be built in accordance with the submitted Development Plan.

20

**PETITION FOR CHANGE IN ZONING MAP**

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

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

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

2. Address of property: 7700 Chad Colley 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 I-1 by Classification.  
(Extension or classification)

5. Why is the zoning change requested?

Property is Chaffee Crossing and was not zoned during the  
initial site development.

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

Signed:

TRAVIS BRISENDINE  
Owner or Agent Name  
(please print)

\_\_\_\_\_  
Owner

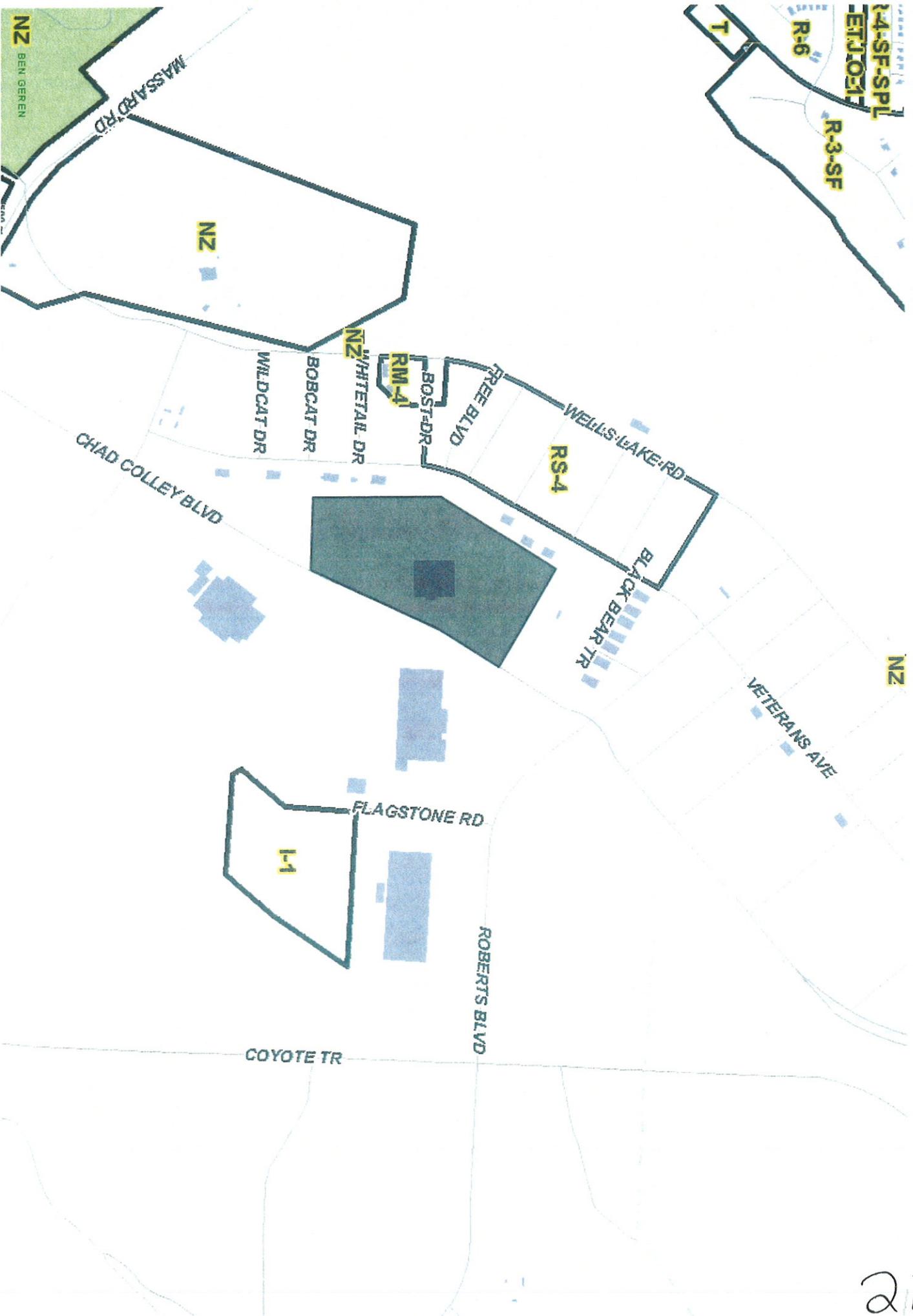
PO Box 10064  
Owner or Agent Mailing Address

or  
T. Brind  
Agent

452-1933  
Owner or Agent Phone Number

# Rezoning #5-5-13: From Not Zoned to Industrial Light (I-1)

7700 Chad Colley Boulevard



# Memorandum

**To:** Project File  
**CC:** City of Fort Smith Planning Dept., Clay McGill  
**From:** Travis Brisendine, P.E.  
**Date:** May 9, 2013 (4:00 P.M. at Project Site)  
**Re:** Neighborhood Meeting

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In Attendance:

**Morrison-Shiple Engineers**

Travis Brisendine

**City of Fort Smith Planning**

Tom Monaco

**Citizens**

None

**Meeting Summary:**

Notices were sent to all adjacent and contiguous landowners during the application process. No citizens attended the meeting.

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

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location 7700 CHAD COLLEY

Meeting Time & Date 4:00 5/9/13

Meeting Purpose REZONE & DEVELOPMENT PLAN

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE#</u>
1.	<u>TRAVIS BRISENDINE</u>	<u>PO Box 10064, 72917</u>	<u>883-4028</u>
2.	<u>TOM MANUEL</u>	<u>CITY</u>	<u>784-2718</u>
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** April 30, 2013

**Re:** Development Plan Review - A request by Travis Brisendine, agent for Umarex USA, for Planning Commission consideration of a Development Plan request to expand an existing manufacturing facility at 7700 Chad Colley Boulevard (Companion to item #2)

## **LOT LOCATION AND SIZE**

The subject property is located on the west side of Chad Colley Boulevard between Roberts Boulevard and Custer Boulevard. The tract contains an area of 27 acres with approximately 1,332 feet of street frontage along Chad Colley Boulevard.

## **REQUESTED ZONING**

The proposed zoning on this tract is Industrial Light (I-1).

Characteristics of this zone are as follows:

### **Purpose:**

To provide for a mixture of light manufacturing, office park, research and development, and limited retail/service retail land uses in an attractive, business park setting. The Industrial Light district may be used as a zoning buffer between mixed uses, commercial uses and heavier industrial uses. The I-1 zoning district is appropriate with the Office, Research, and Light Industrial (ORLI) and Industry classifications of the Master Land Use Plan.

### **Permitted Uses:**

Auto and boat related businesses, a wide variety of retail businesses, indoor flea market, pawnshop, financial services, offices, bar or tavern, restaurant, animal and pet services, manufacturing and commercial communication towers are examples of permitted uses.

### **Conditional Uses:**

Homeless shelter, truck stop, outdoor flea market, beer garden, restaurant with outdoor dining, pet cemetery, animal food processing, petroleum distribution facility, bus station, recycling center, sports complex, educational facilities and police station are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 20,000 square feet  
(1+1)

Maximum Height - 45 feet

75%

Maximum Lot Coverage -

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 20,000 square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 10 feet

Rear Yard Setback - 10 feet

Side/Rear (adjoining SF Residential District/Development) – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)

Minimum building separation – to be determined by current City building and fire code.

Required street access – Major Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The area to the north is not zoned and is undeveloped.

The area to the east is not zoned and is developed as an animal food processing plant.

The area to the south is not zoned and is undeveloped.

The area to the west is zoned Residential Single Family High Density (RS-4) and is undeveloped.

**PROPOSED DEVELOPMENT PLAN**

The applicant is currently submitting a development plan for a 51,672 s.f. textured metal expansion to the existing Umarex building at 7700 Chad Colley Boulevard. The development plan will also include a parking lot expansion.

**SITE DESIGN FEATURES**

**Ingress/egress/traffic circulation –**

**Easement/utilities –** The developer must agree to meet all franchise and city utility easement requirements. Additionally, the development must comply with the City’s Subdivision Design and Improvement Standards and the Standard Specification for Public Works Construction.

**Drainage –** A development plan shows a proposed detention pond on the north side of the building just east of the parking lot improvements. The drainage has been submitted and reviewed by the engineering department.

**Landscaping –** The development plan proposes landscaping around the improved parking lot and detention pond area.

Screening – The landscaping around the improved parking lot and detention pond area will be utilized for screening.

Parking – The proposed parking lot improvements will have 155 parking spaces. This surpasses the required parking spaces from the UDO.

Signage – All signage meets the Chaffee Crossing Design Guidelines.

Lighting – The proposed lighting shall be approved by the Chaffee Crossing Design Review Committee.

Architectural features – The proposed facades are similar to the existing structure. .

### **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Thursday May 9<sup>th</sup>, 2013 at 7700 Chad Colley Blvd. The applicant and city staff were the only persons in attendance. A copy of the attendance record and meeting summary are enclosed.

Staff recommends approval of the application or for the reasons stated in the staff report.

- All construction has been approved by the Chaffee Crossing - Design Review Committee.
- All construction must be built in accordance with the submitted Development Plan.
- The conceptual development plan that has been submitted will be further reviewed for all codes and ordinances when a more detailed plan is submitted for a building permit. The Planning Commission approval of the development plan does not waive or provide any variances for any codes or standards required for development.

**DEVELOPMENT PLAN REVIEW APPLICATION**

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

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

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

2. Address of property: 7700 Chad Colley boulevard

3. The above described property is now zoned: Not Zoned

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

Yes X No \_\_\_\_\_

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

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

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

I-1 by classification  
(Zoning Classification) (Extension or classification)

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

Mars Petcare, Mitsubishi energy, open land, warehouse  
facilities

8. Total acreage of property 27

30

Signed:

TRAVIS BRISSENDINE

Owner or Agent Name  
(please print)

\_\_\_\_\_

Owner

PO Box 10064

Owner or Agent Mailing Address

or  
T. Brissendine

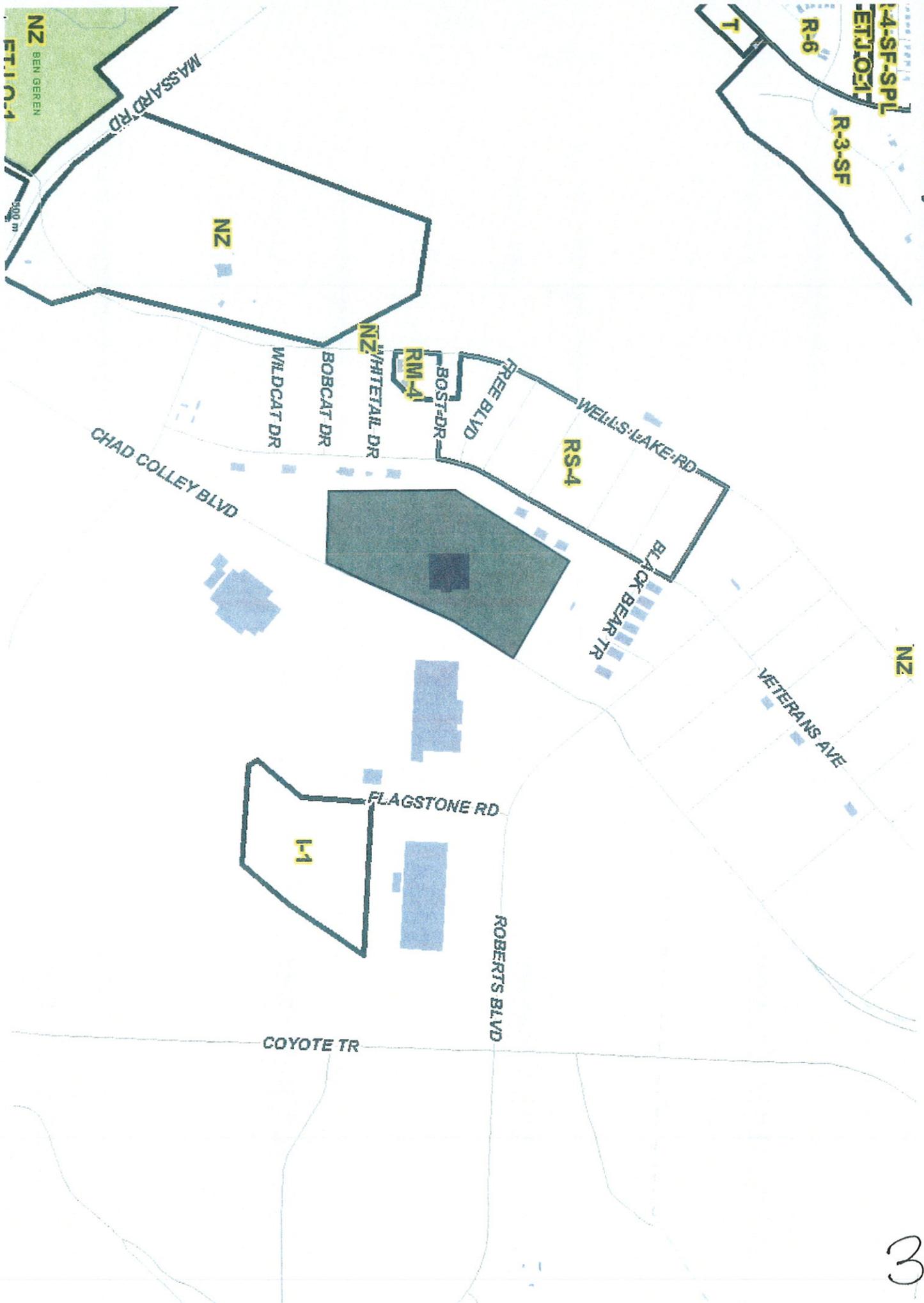
Agent

452-1933

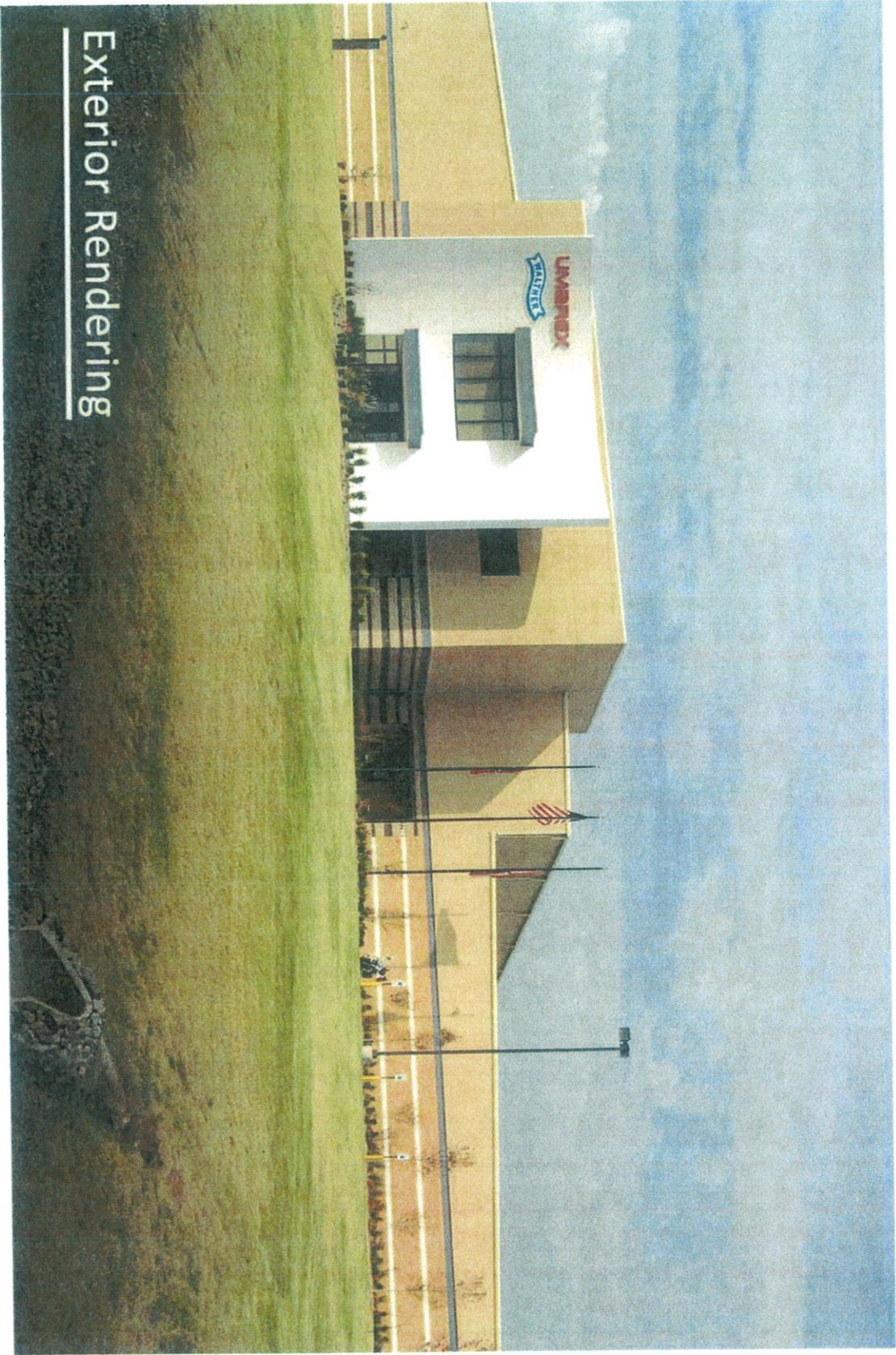
Owner or Agent Phone Number

# Development Plan: Umarex Expansion

7700 Chad Colley Boulevard



3F



Exterior Rendering

01/21/13

PROJECT NUMBER  
1171

DATE

**UMAREXUSA**

Fort Smith, Arkansas

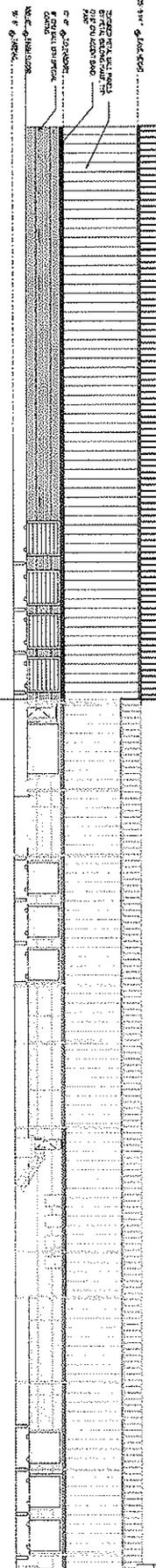
**HIGHT - JACKSON**  
ASSOCIATES . P A  
ARCHITECTS AND PLANNERS  
P.O. Box 765, Rogers, Arkansas 72756 phone - 479-644-6495 P.O. Box 3853, Searsville, Arkansas 72152



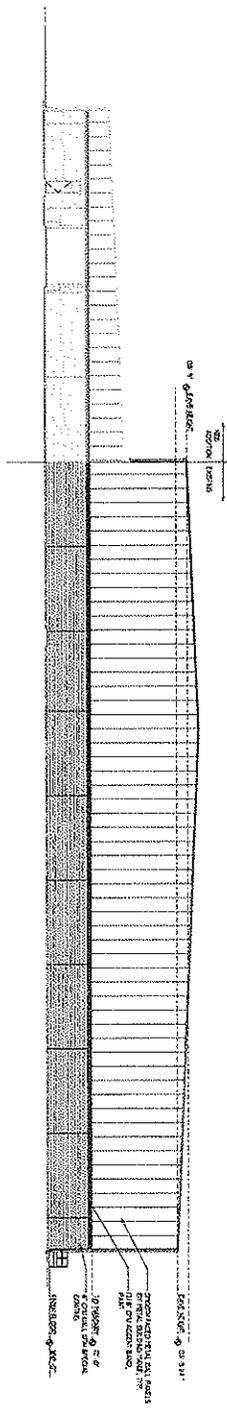
3G



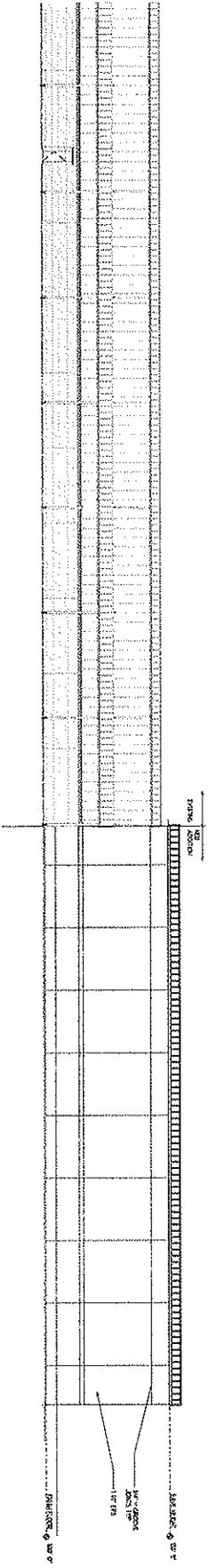




**K14**  
 South Elevation  
 1/8" = 1'-0"  
 Ref. 2372473



**F14**  
 West Elevation  
 1/8" = 1'-0"  
 Ref. 2372472



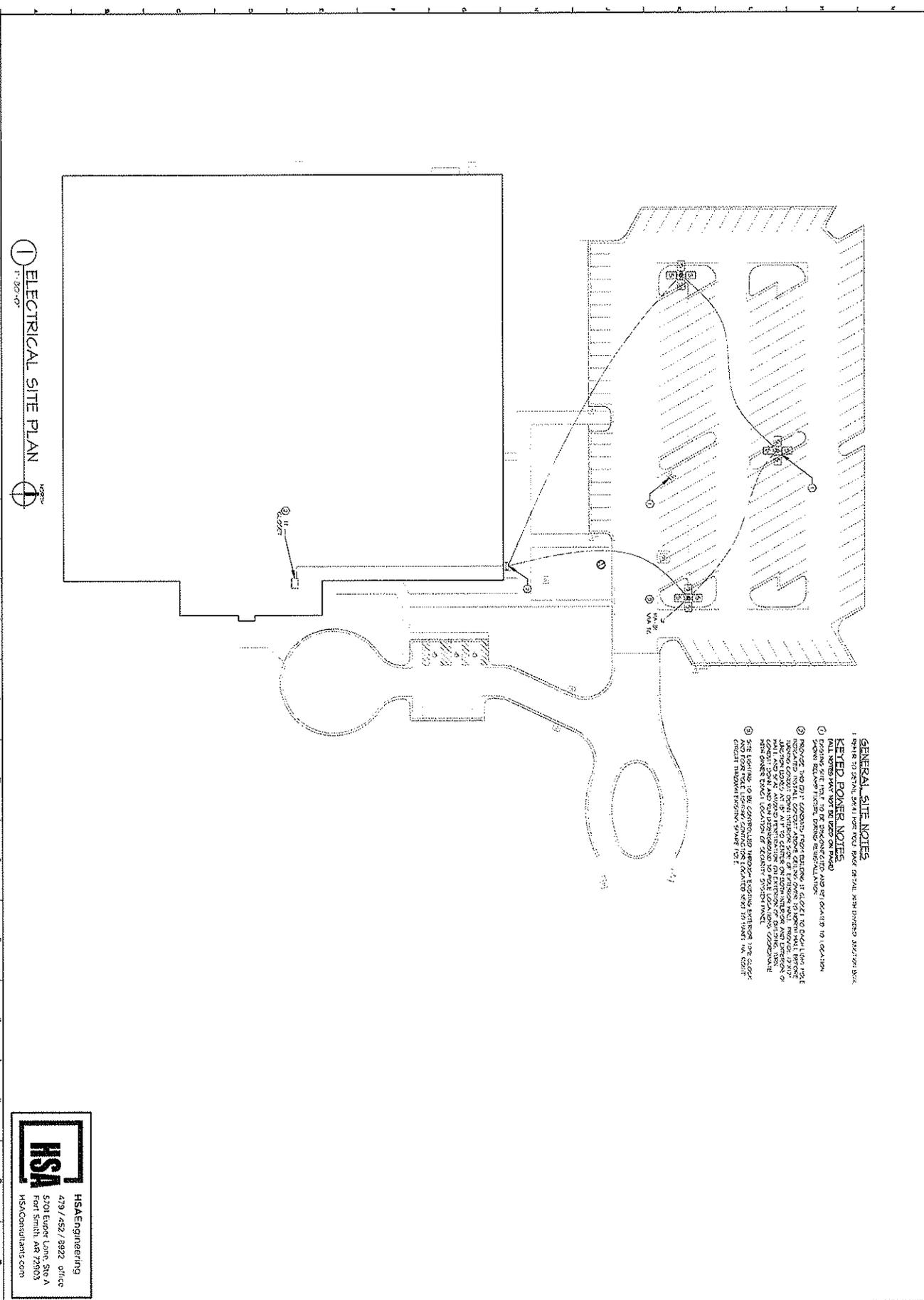
**B14**  
 North Elevation  
 1/8" = 1'-0"  
 Ref. 2372472

PHASE 2- AN ADDITION FOR  
**UMAREXUSA**  
 Fort Smith, Arkansas

HIGHT - JACKSON  
 ASSOCIATES . P.A.  
 713 East 7th Street, Arkansas 72701 Phone: 479-644-6262 FAX: 479-644-6262 713 East 20th Street, Arkansas 72712

**bu**  
 PROJECT NO. 03/25/2013  
 DATE 04/01/2013  
 DRAWN BY CJK/JMH  
 CHECKED BY S  
 SCALE 1/8" = 1'-0"  
 SHEET NO. A4.1  
 TOTAL SHEETS 1

35



- GENERAL SITE NOTES**
- REFER TO DETAIL SHEET FOR POLE BAY OUTLINE WITH EXTERIOR JUNCTION BOX.
  - KEYED POWER NOTES**  
ALL NOTES MAY NOT BE USED ON THIS PROJECT.
  - POLES TO BE CONCRETE AND BE LOCATED TO LOCATION.
  - POLES TO BE 15' TALL. POLE BAY SHALL BE 10' X 10'. POLE SHALL BE 10' X 10' CONCRETE. POLE BAY SHALL BE 10' X 10' CONCRETE. POLE BAY SHALL BE 10' X 10' CONCRETE. POLE BAY SHALL BE 10' X 10' CONCRETE.
  - POLES TO BE CONCRETE AND BE LOCATED TO LOCATION.
  - POLES TO BE 15' TALL. POLE BAY SHALL BE 10' X 10'. POLE SHALL BE 10' X 10' CONCRETE. POLE BAY SHALL BE 10' X 10' CONCRETE. POLE BAY SHALL BE 10' X 10' CONCRETE.
  - POLES TO BE CONCRETE AND BE LOCATED TO LOCATION.
  - POLES TO BE 15' TALL. POLE BAY SHALL BE 10' X 10'. POLE SHALL BE 10' X 10' CONCRETE. POLE BAY SHALL BE 10' X 10' CONCRETE. POLE BAY SHALL BE 10' X 10' CONCRETE.

**HSA**  
HSAEngineering  
479 / 452 / 9822 office  
5701 Europe Lane, Ste A  
Fort Smith, AR 72903  
HSAConsultants.com

**ES1.1**  
SHEET  
04/15/2013  
09/25/2013  
1171

PHASE 1:  
AN ADDITION AND PARKING LOT IMPROVEMENTS FOR  
**UMAREXUSA**  
Fort Smith, Arkansas

**HIGHT - JACKSON**  
ASSOCIATES . P A  
ARCHITECTS AND PLANNERS  
702 South Lewis Avenue, 207th Floor - CHICAGO, IL 60605, Telephone: 312.467.1000

**HSA**  
HSAEngineering  
QUALITY CONTROL  
COMPLETES

3K

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** April 30, 2013

**Re:** Rezoning #6-5-13 - A request by Mike Liyeos, agent, for Planning Commission consideration of a zone request from Transitional (T) to Commercial Heavy (C-5) by extension at 8100 Rogers Avenue Companion to item #5

## **LOT LOCATION AND SIZE**

The subject property is on the south side of Rogers Avenue, west of Massard Road. The tract contains an area of 2.46 acres with approximately 367 feet of street frontage along Rogers Avenue.

## **EXISTING ZONING**

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

### **Purpose:**

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

### **Permitted Uses:**

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

### **Conditional Uses:**

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

**Area and Bulk Regulations:**

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

**REQUESTED ZONING**

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

**Purpose:**

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

**Permitted Uses:**

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

**Conditional Uses:**

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet	Maximum Height - 45 feet (1+1)
	Maximum Lot Coverage - 75%
Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres	
	Existing District (By Extension) – 14,000 square feet
Minimum Lot Width – 100 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 15 feet	
Side Yard Setback – 20 feet	

4B

Rear Yard Setback - 20 feet  
Side/Rear (adjoining SF Residential District/Development) – 30 feet  
Minimum building separation – to be determined by current City building and fire code.  
Required street access – Minor Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Commercial Heavy (C-5) and are developed as Lowes and Aaron’s Sales & Lease.

The area to the east is zoned Commercial Heavy (C-5) and is developed as AT & T.

The area to the south is zoned Transitional (T) and is developed as Mercy Clinic.

The areas to the west are zoned Commercial Heavy (C-5) and are developed as a furniture store and Taco Bell.

**LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community. Approval of the zone change will not conflict with the goals and objectives of the Unified Development Ordinance.

**PROPOSED ZONING**

The majority of the property is zoned Commercial Heavy (C-5) while the remainder is zoned Transitional (T). Rezoning the Transitional area to Commercial Heavy will allow the entire property to be developed in a consistent manner.

**STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting will be held Monday, May 13, 2013 onsite. A summary of that neighborhood meeting will be given at the Planning Commission meeting.

Staff recommends approval of the rezoning contingent upon approval of the companion development plan.

4C

PETITION FOR CHANGE IN ZONING MAP

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

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

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

See Attached.

- 2. Address of property: 8100 Rogers Avenue

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

- 4. Application is hereby made to change the zoning classification of the above described property to C-5 by Classification.  
(Extension or classification)

- 5. Why is the zoning change requested?  
The majority of the property is zoned C-5 while the remainder  
is zoned T. Rezoning the T area to C-5 will allow the  
entire property to be developed in a consistent manner.

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

Quattro Development, LLC  
Attn: Mike Liyeos

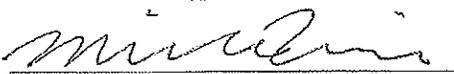
Kevin Barnes  
630-891-6474

Owner or Agent Name  
(please print)  
1100 Jorie Blvd, Suite 238  
Oak Brook, IL 60523  
Owner or Agent Mailing Address

(630) 891-6473  
Owner or Agent Phone Number

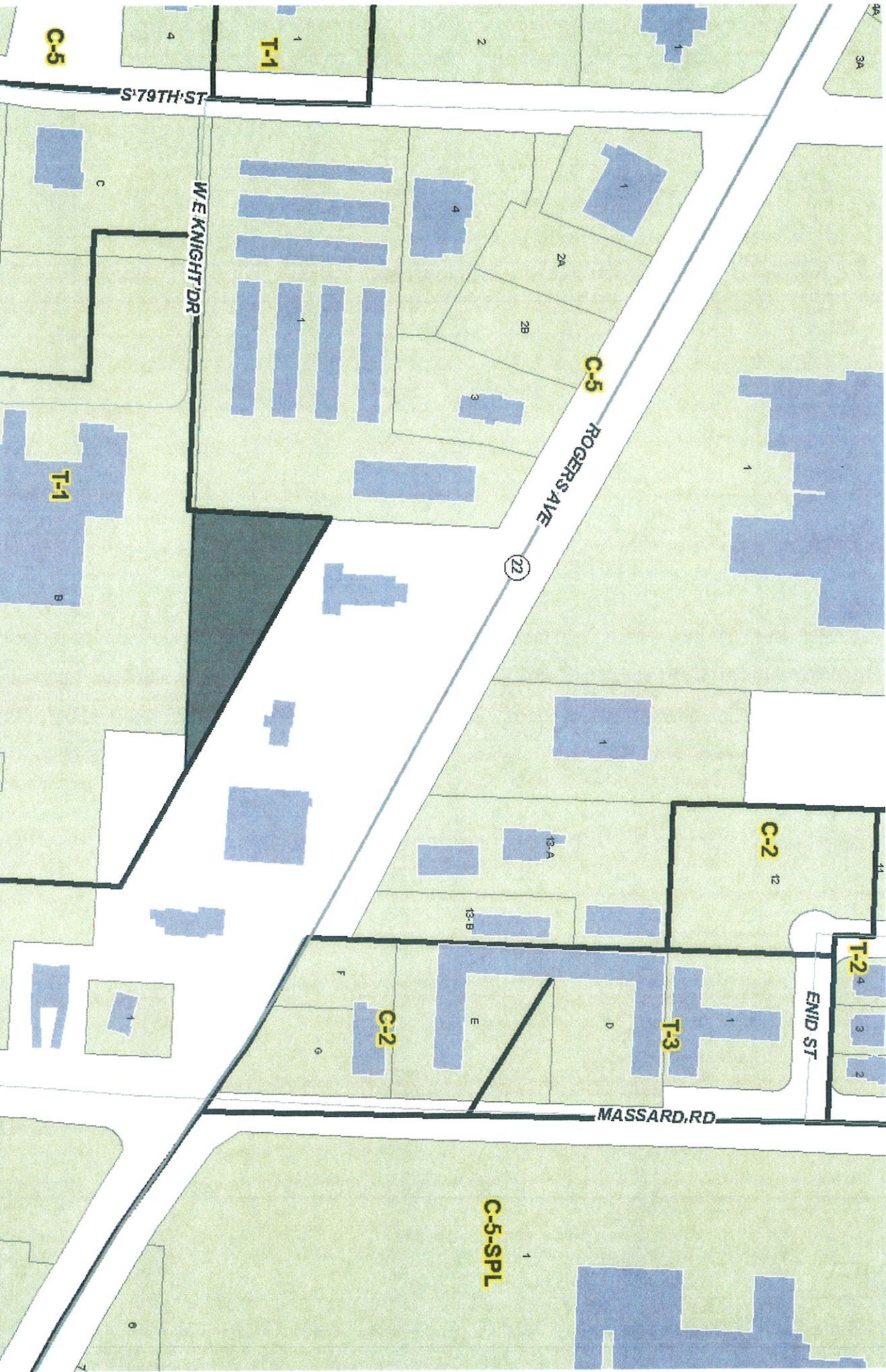
Signed:

\_\_\_\_\_  
Owner

or  
  
\_\_\_\_\_  
Agent

# Rezoning #6-5-13: From Transitional (T) to Commercial Heavy (C-5)

8100 Rogers Avenue



TH

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** May 1, 2013

**Re:** Development Plan Review - A request by Mike Liyeos, agent, for Planning Commission consideration of a Development Plan request to develop a retail development at 8100 Rogers Avenue (Companion to item #4)

## **LOT LOCATION AND SIZE**

The subject property is on the south side of Rogers Avenue, west of Massard Road. The tract contains an area of 2.46 acres with approximately 367 feet of street frontage along Rogers Avenue.

**PROPOSED ZONING** A companion application proposes rezoning from Transitional (T) to Commercial Heavy (C-5)

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

### **Purpose:**

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

### **Permitted Uses:**

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

### **Conditional Uses:**

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet  
Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 14,000 square feet  
Minimum Lot Width – 100 feet  
Front Yard Setback - 25 feet  
Side Yard on Street Side of Corner Lot - 15 feet  
Side Yard Setback – 20 feet

Maximum Height - 45 feet (1+1)  
Maximum Lot Coverage - 75%

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Commercial Heavy (C-5) and are developed as Lowes and Aaron’s Sales & Lease.

The area to the east is zoned Commercial Heavy (C-5) and is developed as AT & T.

The area to the south is zoned Transitional (T) and is developed as Mercy Clinic.

The areas to the west are zoned Commercial Heavy (C-5) and are developed as a furniture store and Taco Bell.

**PROPOSED DEVELOPMENT PLAN**

The project will consist of a three tenant lease building and a separate restaurant facility on the same lot. They are proposing to reuse the two existing driveway approaches.

**SITE DESIGN FEATURES**

**Ingress/egress/traffic circulation** – The designers are proposing to reuse the existing two driveway approaches located on Rogers Avenue. The driveway separation has been approved by the Engineering Department. Enclosed within your packet is a memorandum from Stan Snodgrass, Director of Engineering.

**Easement/utilities** – The developer must agree to meet all franchise and city utility easement requirements. Additionally, the development must comply with the City’s Subdivision Design and Improvement Standards and the Standard Specification for Public Works Construction.

**Drainage** – The proposed drainage will go to the rear of the lot.

**Right-of-way dedication** – Rogers Avenue is classified a major arterial street (100 feet minimum width of right of way) per the master Street Plan. Right of way dedication will be required to provide 50 feet minimum from the centerline of the right of way (per AHTD plans) on Rogers Avenue.

**Landscaping** – Landscaping is proposed along three sides of the property. The landscaping proposed along Rogers Avenue follows the edges of the parking lot and driveway instead of the first ten feet adjacent to the Rogers Avenue right-of-way. The remainder of the landscaping

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appears to comply with the UDO requirements, but will be verified upon building permit submittal.

**Screening** – No screening is required or shown.

**Parking** – 134 parking spaces are shown on site. The parking requirements will be verified upon building permit submittal.

**Signage** – No signage is shown with this submittal. All signs will require a separate submittal and building permit.

**Lighting** – No lighting is shown with this submittal. All exterior lighting shall not produce glare, light trespass (nuisance light) and/or sky glow and will be verified upon building permit submittal.

**Architectural features** – The buildings will be constructed of split face block on the lower portion of the building with brick above. Dryvit will be placed above the glass areas on the front and sides of the building. There will be what appears to be a brick column located at the edges of each lease space. A fabric awning will be installed above the glass on the front and sides. The rear of the building will be the split face block with brick above.

#### **STAFF COMMENTS AND RECOMMENDATIONS**

A pre-application or development review meeting with the applicant has not occurred. The Planning Commission has the option of approving, tabling or disapproving the development plan. As you can see from the following comments and attached memorandums there are a number of issues that have not been answered and remain unresolved with the development plan. When a complete development plan and information is submitted for review, it is possible the development plan could change as a result of the development codes and ordinances of the city. Any approval should include a condition that significant changes to the development plan will require a new review by the Planning Commission.

A neighborhood meeting will be held Monday, May 13, 2013 onsite. A summary of that neighborhood meeting will be given at the Planning Commission meeting.

Staff recommends approval of the application contingent upon the following:

1. All construction must be built in accordance with the submitted Development Plan.
2. Approval of the companion rezoning application.
3. Platting is required, the plat shall be filed prior to the issuance of the building permit.
4. A certified survey of the property shall be submitted at the time of building permit review.
5. The proposed drive through window requires five queuing spaces and shall be shown and dimensioned on the site plan at the time of building permit review.
6. The required width of the queuing aisle is twelve feet wide and shall be dimensioned on the site plan at the time of building permit review.
7. No barrier shall be located between the queuing lane and the drive aisle. A passing aisle of twelve feet in width is required to be located adjacent to the queuing lane. This shall be shown on the site plan at the time of building permit review.

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8. All mechanical equipment, heating/cooling systems and utility boxes shall be completely screened from adjoining properties and street right-of-way. Ground-mounted equipment, the screening shall consist of a wall, fence, or approved landscaping or the equipment must be enclosed within a building. Roof-mounted equipment, the screening shall be architecturally incorporated into the roof design and shall consist of materials that are visually compatible with the supporting building.
9. The ten foot wide parking lot screening along Rogers Avenue shall be relocated to be adjacent to the right-of-way.
10. Submit the square footage of the paved surface area along with the square footage of each landscaped area not along property line to verify the interior landscaping requirement. This will be verified at the time of building permit review.
11. All site and exterior building lighting shall not produce glare, light trespass (nuisance light) and/or unnecessary sky glow. This will be verified at the time of building permit review.
12. No sign information was shown with the development plan.
13. We cannot verify the parking spaces for the site will comply with the UDO. No specific information was submitted concerning restaurant seating or retail space that would allow for a correct determination of the parking.
14. Please find attached a memo from the Engineering Department with an additional eight comments.

**INTER-OFFICE MEMO**  
**CITY OF FORT SMITH**  
**ENGINEERING DEPARTMENT**

TO: Brenda Andrews, Senior Planner  
FROM: Stan Snodgrass, Director of Engineering  
DATE: May 3, 2013  
SUBJECT: 8100 Rogers Avenue  
Restaurant & Retail Development  
Access Management

Access management requirements for the proposed development have been reviewed. The driveway separation standards specified in UDO Section 27-603-2 require a distance of 200 feet between driveways within the development as well as separation from driveways on adjacent properties. The driveway approaches within the site coincide with the existing driveways and conform to the 200 feet spacing. Separation of the driveways on adjacent properties is 55 feet (east side – AT&T Facility) and 140 feet (west side – restaurant & commercial building). The AT&T facility is an operations location with limited personnel traffic.

In accordance with UDO Section 27-603-1 the proposed development is considered infill / redevelopment and was reviewed on an individual case basis. The driveway separation from adjacent properties is considered adequate.

**INTER-OFFICE MEMO**  
CITY OF FORT SMITH  
ENGINEERING DEPARTMENT

TO: Tyler Miller, Tom Monaco and Bill Striplin, Planners  
FROM: Ron Teeter, Project Engineer  
DATE: May 1, 2013 (Revised May 3, 2013)  
SUBJECT: Planning Items –May, 2013

Comments for planning items are as follows:

Rezoning / Development Plan 7700 Chad Colley Blvd UmarexUSA Expansion

1. A building permit application has been reviewed for the parking facility improvements. Design of the stormwater detention and treatment facilities is in progress.
2. A stormwater management/maintenance agreement will be required for this facility.

Rezoning / Development Plan 8100 Rogers Avenue Restaurant & Retail Development

1. Property will have to be platted. Boundaries shown on the preliminary drawings appear to be incorrect.
2. Rogers Avenue is classified a major arterial street (100 feet minimum width of right of way) per the Master Street Plan. Right of way dedication will be required to provide 50 feet minimum from the centerline of the right of way (per AHTD plans) on Rogers Avenue.
3. A traffic study will be required; preliminary traffic information must be submitted to the Engineering Department prior to initiating a study.
4. Rogers Avenue is a state highway and an AHTD permit will be required for driveway approaches and related work within the right of way.
5. Existing driveway approaches do not conform to current design and material standards and will require replacement. The segment of depressed curb (intended for a future driveway approach) must be removed and replaced with barrier curb.
6. Storm water management, including detention and water quality treatment in accordance with the 2011 Storm Drainage Standards is required. A stormwater management/maintenance agreement will be required for this facility.
7. Show all easements. Note the access and drainage easements on the west and south sides of the property.
8. A separate fill / grading permit will be required.

Conditional Use 7200 Zero Street Softball Facility – Ben Geren Park

1. Site is completely within the Ben Geren Park complex; the preliminary plans are acceptable.

DEVELOPMENT PLAN REVIEW APPLICATION

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

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

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

*See Attached*

2. Address of property: 8100 Rogers Avenue, Fort Smith, AR

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

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

Yes X No \_\_\_\_\_

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

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

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

T to C-5 by Classification  
(Zoning Classification) (Extension or classification)

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

Lowes Home Centers, Inc.; Widmer Place, LLC;

Southwestern Bell Telephone Co.;

St. Edward Mercy Medical Center; Amyco

8. Total acreage of property 2.46

*56*

Signed:  
Quattro Development, LLC

Mike Liyeos

Owner or Agent Name  
*(please print)*

1100 Jorie Blvd, Suite 238  
Oak Brook, IL 60523

Owner or Agent Mailing Address

(630) 891-6473

Owner or Agent Phone Number

ML-5  
Owner

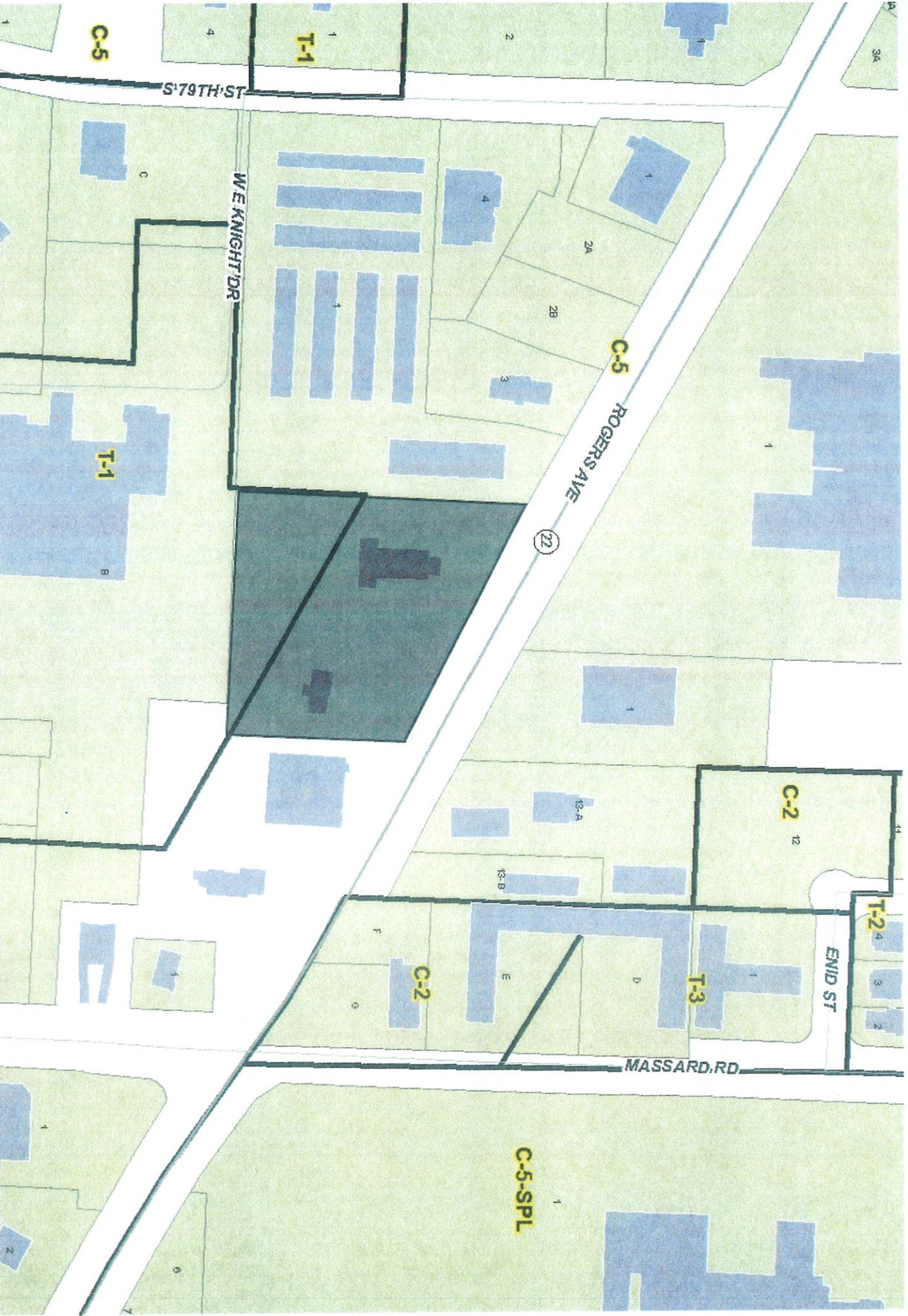
or

Agent

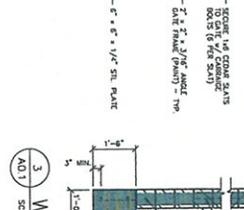
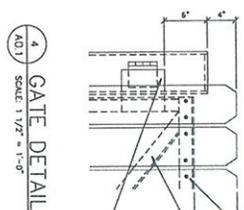
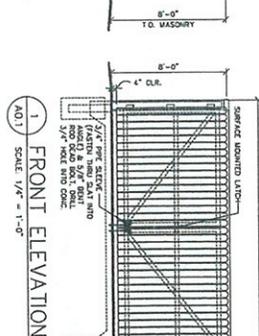
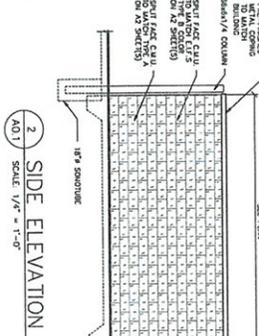
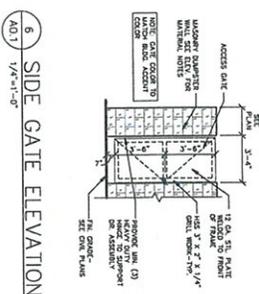
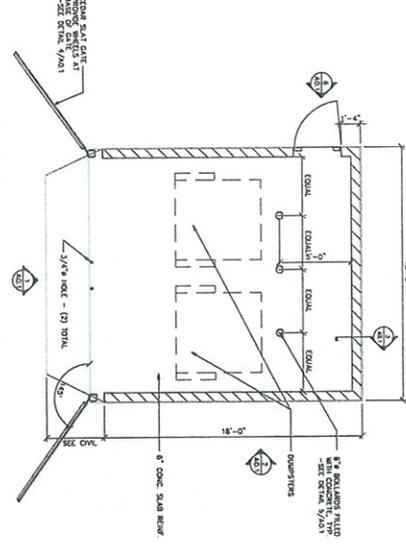
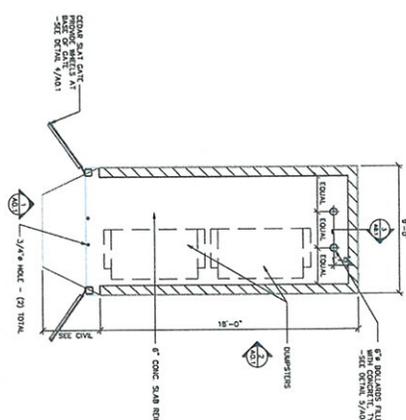
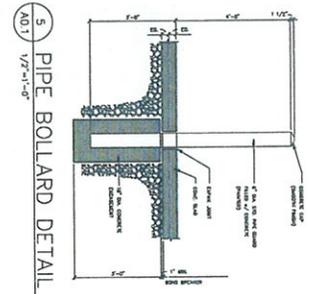
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# Development Plan: Restaurant with Retail Development

8100 Rogers Avenue



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PRELIMINARY DRAWING - NOT FOR CONSTRUCTION



PROJECT:  
 PROPOSED RETAIL DEVELOPMENT FOR:  
 QUATTRO DEVELOPMENT, LLC  
 8100 ROGERS AVENUE  
 FORT SMITH, AR 72903

OWNER:  
 QUATTRO DEVELOPMENT, LLC  
 1100 JORIE BLVD  
 SUITE 238  
 OAK BROOK, IL 60523



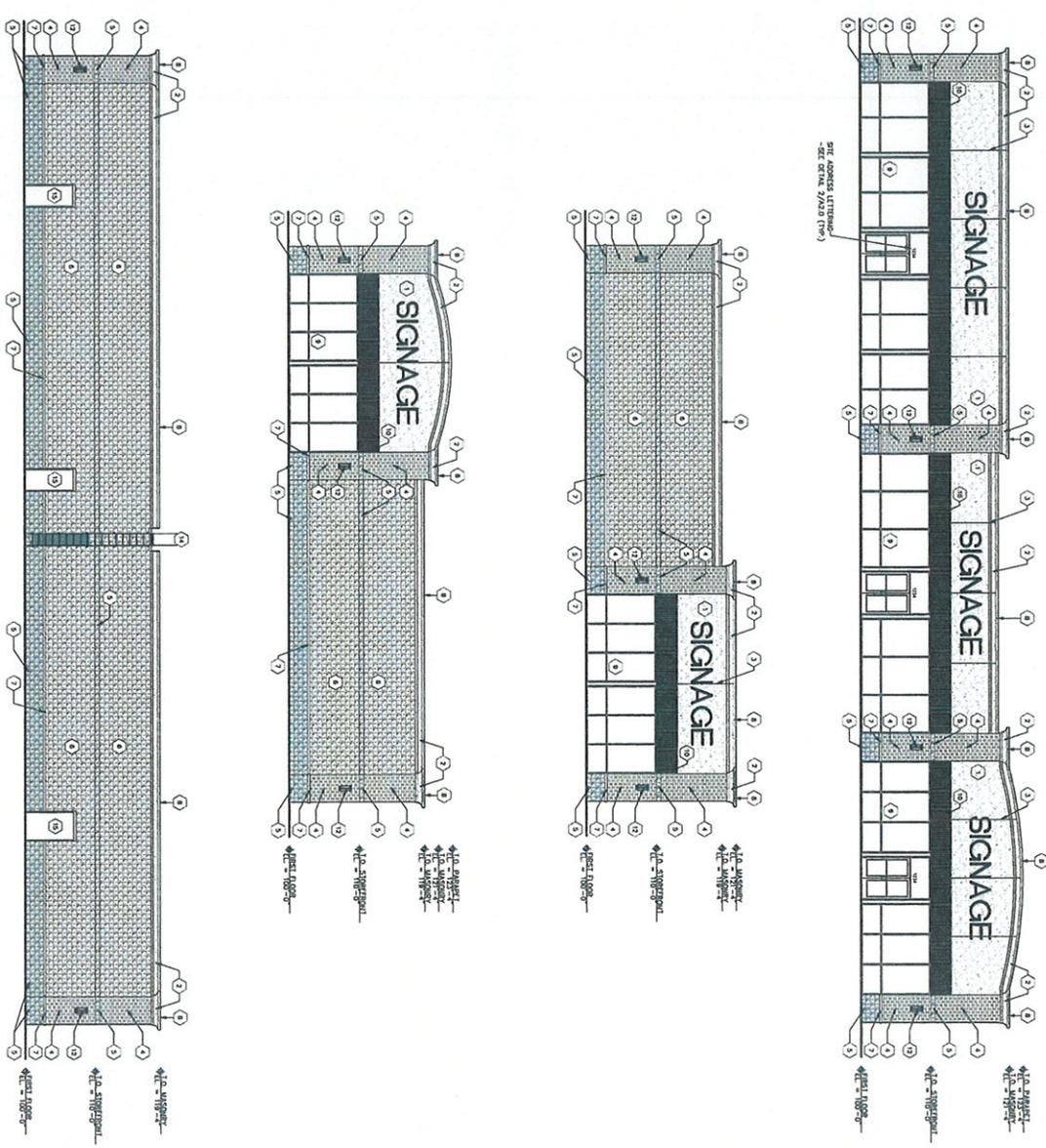
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EXCEL ENGINEERING  
 1100 JORIE BLVD  
 SUITE 238  
 OAK BROOK, IL 60452

- EXTERIOR FINISH KEYNOTES:**
- 1) CLT 5 TYPE A CONCRETE (SEE APPROVED DETAILS) 12" THICK
  - 2) CLT 5 TYPE B CONCRETE (SEE APPROVED DETAILS) 12" THICK
  - 3) CLT 5 SCORE LEVEL
  - 4) CLT 5 SCORE LEVEL (SEE DETAIL 1/23)
  - 5) HORIZONTAL BRICK CO. (SEE COMPLETION)
  - 6) SHIRT FACED CLT TYPE A ACCENT COLOR COLOUR (SEE DETAIL 1/23)
  - 7) SHIRT FACED CLT TYPE B COMPLETION COLOUR (SEE DETAIL 1/23)
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2 ADDRESS DETAIL  
 SCALE: 1/4" = 1'-0"



1 FIS SCORE  
 SCALE: 1/4" = 1'-0"

**EXTERIOR SIGNAGE:**  
 ALL EXTERIOR SIGNAGE IS BY TRUMAI AT THE OF TRUMAI BUILD-OUT.  
 EXTERIOR SIGNAGE LOCATION V/ SIGNAGE

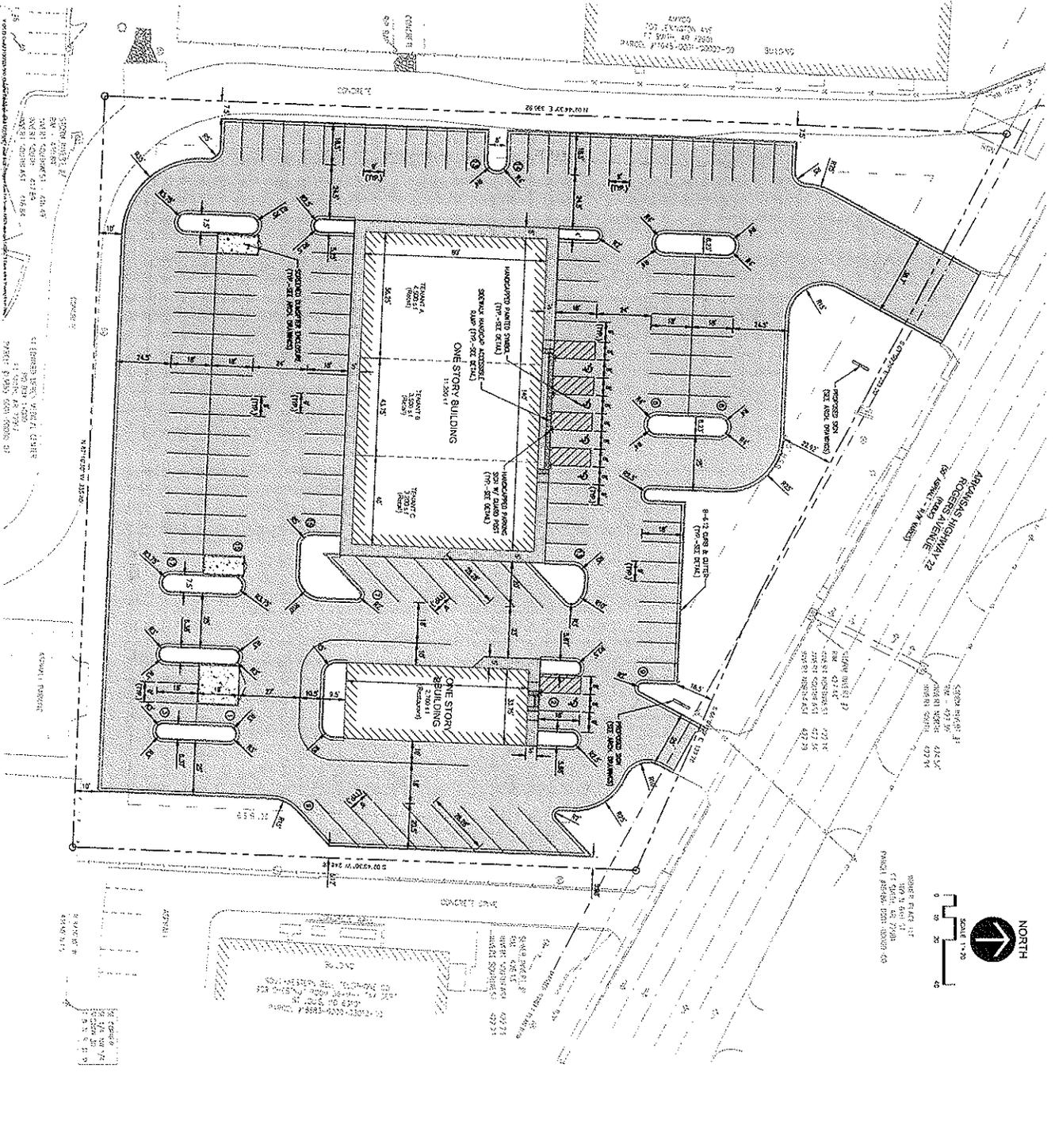
PRELIMINARY DRAWING - NOT FOR CONSTRUCTION



2015 © EXCEL ENGINEERING, INC.  
 JOB NUMBER: 1305300  
 SHEET: A2.0

PROJECT:  
 PROPOSED RETAIL DEVELOPMENT FOR:  
 QUATTRO DEVELOPMENT, LLC  
 8100 ROGERS AVENUE  
 FORT SMITH, AR 72903

PRELIMINARY SHEET DATES:  
 APRIL 18, 2013



**PROJECT CONTACTS:**

**Client:**  
 Quattro Development, LLC  
 1100 Jorie Boulevard, Suite 238  
 Oak Brook, IL 60151  
 Tel: 630.891.6100  
 Fax: 630.891.6100  
 Email: kate@quattrodevelopment.com

**Engineer:**  
 Larson Engineering, Inc.  
 1468 Bond Street, Suite 100  
 Naperville, IL 60563  
 Tel: 630.527.0104  
 Fax: 630.527.0104  
 Email: kate@larsoneg.com

**Architect:**  
 JAW Johnson  
 1468 Bond Street, Suite 100  
 Naperville, IL 60563  
 Tel: 630.527.0104  
 Fax: 630.527.0104  
 Email: kate@larsoneg.com

**SITE DATA:**

Zoning: C-1 (Community Heavy)  
 Project: 1,200 S.F. (One-Story, 3 Level Retail)  
 Proposed Building: 1,200 S.F. (One-Story, 3 Level Retail)  
 Proposed Building: 2,041 S.F. (One-Story, 3 Level Retail)

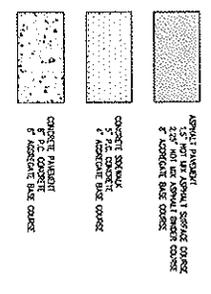
**Proposed:**  
 1,200 S.F. (One-Story, 3 Level Retail)  
 2,041 S.F. (One-Story, 3 Level Retail)  
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 1,200 S.F. (One-Story, 3 Level Retail)  
 2,041 S.F. (One-Story, 3 Level Retail)  
 1,200 S.F. (One-Story, 3 Level Retail)

**PAVEMENT NOTES:**

1. SEE ARCHITECTURAL DRAWINGS FOR BUILDING FOOTPRINTS.
2. ALL DRIVEWAYS ARE TO BE CONCRETE OR ASPHALT OR REPAVED FOR TRUCK TRAFFIC WITHIN.
3. ALL PARKING SPACES SHALL BE ASPHALT OR CONCRETE OR REPAVED FOR TRUCK TRAFFIC WITHIN.
4. ALL DRIVEWAYS SHALL BE REPAVED FOR TRUCK TRAFFIC WITHIN.
5. 1" OF ASPHALT SHALL BE APPLIED OVER ALL DRIVEWAYS AND PARKING SPACES.

**SURFACE LEGEND:**



<p><b>C3.0</b></p> <p>3 of 7</p>	<p><b>PROPOSED RETAIL DEVELOPMENT</b></p> <p>8100 ROGERS AVENUE FORT SMITH, AR</p>	<p><b>QUATTRO DEVELOPMENT, LLC</b></p> <p>1100 JORIE BOULEVARD, SUITE 238 OAK BROOK, IL 60523</p>	<p><b>Larson Engineering, Inc.</b></p> <p>1468 Bond Street, Suite 100 Naperville, IL 60563-6523 Tel: 630.527.0104 Fax: 630.527.0104 www.larsoneg.com</p> <p>ILLINOIS LICENSE NO. 184-001642  <small>© 2011 Larson Engineering, Inc. All rights reserved.</small></p>
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# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** May 1, 2013

**Re:** Conditional Use #11-5-13 - A request by Mike Alsup, Director of Parks and Recreation for the City of Fort Smith, for Planning Commission consideration of a Conditional Use request to develop athletic fields at 7200 South Zero Street

## LOT LOCATION AND SIZE

The subject property is on the south side of South Zero Street. The tract contains an area of 9.1 acres.

## EXISTING ZONING

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

### Purpose:

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

### Permitted Uses:

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

### Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

### **Area and Bulk Regulations:**

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

### **SURROUNDING ZONING AND LAND USE**

The areas surrounding this site are all zoned ETJ O-1 and are developed as Ben Geren Park and golf course.

### **PURPOSE OF CONDITIONAL USE**

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

### **CONDITIONS FOR A CONDITIONAL USE**

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

### **LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community. Approval of the zone change will not conflict with the goals and objectives of the Master Land Use.

6 B

## **PROPOSED CONDITIONAL USE**

With the approval of this Conditional Use the construction of two softball fields, a concession stand with restrooms and parking will begin.

## **SITE DESIGN FEATURES**

**Ingress/egress/traffic circulation** – No changes to the entries to Ben Geren Park.

**Drainage** – The Engineering Department did not require drainage improvements.

**Right-of-way dedication** – No right-of-way dedication will be required.

**Multi-Use bike path** – No new bike paths will be required.

**Landscaping** – Landscaping will be provided around the ball fields and parking lots as required. This will be verified upon submittal of the plans for building permit review.

**Screening** – No screening is required.

**Parking** – The site currently has 111 parking spaces. An additional 62 parking spaces will be added with this project with the ability to add 30 more spaces in the future.

**Signage** – No signage is shown on the plans. All new signage will require a separate plan submittal and review prior to the issuance of a building permit.

**Lighting** – All lighting shall comply Section 27-602-5 of the UDO.

**Setbacks** – The concession stand complies with setback requirements.

**Architectural features** – The concession stand will have a stone veneer and a standing seam metal roof.

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Thursday, April 18, 2013 at Creekmore Community Center. No neighboring property owners were in attendance at the neighborhood meeting. There were no objections to the proposed project or explain the objections. A copy of the attendance record and meeting summary are enclosed.

Staff recommends approval of the application contingent upon the following:

1. All construction must be built in accordance with the submitted site plan.
2. All landscaping shall be irrigated with an automatic irrigation system or the applicant shall supply the City with a maintenance plan specifying the method of keeping the plants alive with proper watering. This shall be verified upon submittal of the plans for building permit review.
3. All signs, portable, wall, pole, flags, banners, etc. require a separate submittal and review process prior to their being permitted.

6C

4. All site and exterior building lighting shall not produce glare, light trespass (nuisance light) and/or unnecessary sky glow. This will be verified upon submittal of the plans for building permit review.

Conditional Use # 11-5-13

**APPLICATION FOR CONDITIONAL USE**

Name of Property Owner: City of Fort Smith

Name of Authorized Agent (if applicable) \_\_\_\_\_

Legal Description of property included in the conditional use request:

\_\_\_\_\_  
\_\_\_\_\_

Street Address of Property:

7200 Zero

Existing Zoning Classification:

C-5

Proposed Zoning Classification (if applicable):

\_\_\_\_\_

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:

2 softball fields concessions/restroom building

\_\_\_\_\_

What amenities are proposed such as landscaping and screening?

Landscaping will be done according to UDO requirements

\_\_\_\_\_

Mike Alsup, Director of Parks & Recreation  
Owner or Agent Name (please print)

3301 South M Street  
Owner or Agent Mailing Address

479-784-1006  
Owner or Agent Phone Number

Signed:

Mike Alsup  
Owner

Or

\_\_\_\_\_  
Agent

6E











# Memo

**To:** City Planning Commission  
**From:** Planning Staff  
**Date:** May 9, 2013  
**Subject:** Remote Parking Agreement; A request by Jeff Lee, agent, for Elizabeth Pornjaroen, for Planning Commission consideration of remote parking for the restaurant to be located at 3600 Midland Boulevard

The Planning Department is in receipt of a "Remote Parking Request" to be located at 3600 Midland Boulevard. The agreement is between the Fried Rice restaurant and Mr. Phongkham Oudomparamy of TKO Auto Body Repair. The property is zoned Commercial Heavy (C-5) which permits parking lots (off site).

A minimum of 32 parking spaces are required and the restaurant only has room for 23 onsite parking spaces. TKO Auto Body Repair has agreed to share 9 parking spaces with Fried Rice thus satisfying their parking requirement.

Factors relating to remote parking:

1. Remote parking must be located within 300 feet of the facility it serves.
2. The parking facility must meet minimum code compliance for the required number of spaces and their configuration and delineation.
3. The remote parking agreement must be approved by the Planning Commission and filed with the Sebastian County Clerk. Any change to the agreement must be approved by the Planning Commission.

Staff recommends approval of the remote parking request.

4/19/2013

Regarding PARKING -  
ON TKO LOT

Fried Rice  
3759 Midland  
Fort Smith, AR  
72904

I hereby grant permission  
for up to ten (10) cars to park on  
my property to satisfy Ordinances  
regarding area required by City  
for remodel project.



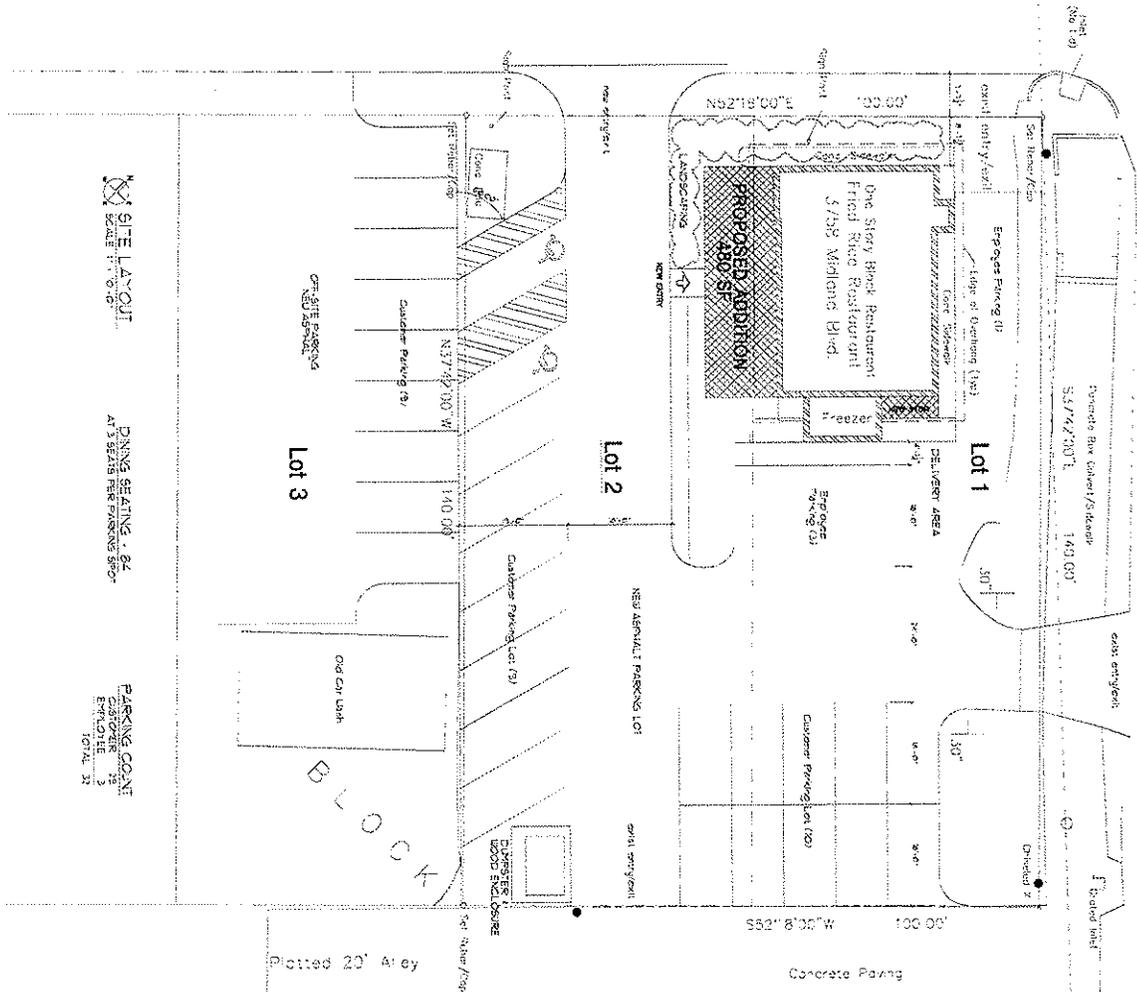
4/19/2013 -

TKO Auto Body Repair  
3600 Midland Blvd  
Fort Smith AR, 72904  
479-494-7778

Phongkham Oudomparomy

7B

MIDLAND BOULEVARD (ARK HWY 64/71)  
80' R/W 55' Asphalt w/ Curb & Gutter



**SITE LAYOUT**  
DATE: 11-0-08

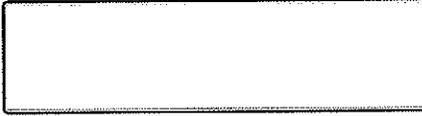
DINING SEATING - 84  
AT 2 SEATING PER PERSONS SEAT

PARKING COUNT  
23 SPACES  
EFFECTIVE 11-3  
TOTAL 21

NO. ALBERT NIXE  
50' R/W 77' Asphalt

P. JEFFERY LEE, AIA  
ARCHITECT  
I hereby certify that these plans and specifications have been prepared by me or under my direct supervision and that I am a duly Licensed Professional Architect in the State of Arkansas under the Arkansas Professional Code for the State of Arkansas (ARCS 10-3-200) P. JEFFERY LEE

DATE	11-0-08
BY	P. JEFFERY LEE
CHECKED BY	P. JEFFERY LEE
SCALE	AS SHOWN
PROJECT	RESTAURANT
SHEET NO.	1
TOTAL SHEETS	1



**P. JEFFERY LEE, AIA**  
3409 Village Rd., Fort Smith, AR 72903  
ph/fax: 479.452.9226  
e-mail: PJJLarchitect@aol.com



7C



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** April 30, 2013

**Re:** Variance #15-4-13 - A request by Bart Petray, agent for Sally Parker, for Board of Zoning Adjustment consideration of a zoning variance request from 25' to 15' front yard setback at 5610 Enid Street

## LOT LOCATION AND SIZE

The subject property is on the south west corner of the intersection of Enid Street and South 57<sup>th</sup> Street. The tract contains an area of 0.23 acres with approximately 113 feet of street frontage along Enid Street and approximately 116 feet of street frontage along South 57<sup>th</sup> Street.

## EXISTING ZONING

The existing zoning on this tract is Residential Single Family – Duplex Medium/High Density (RSD-3).

Characteristics of this zone are as follows:

### Purpose:

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

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

**SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Residential Single Family - Low Density (RSD-2) and is developed as single family residences.

The areas to the east, south and west are all zoned Residential Single Family – Duplex Medium/High Density (RSD-3) and are developed as single family residences.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies both Enid Street and South 57<sup>th</sup> Street as Local Roads.

**LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as Residential Detached. This classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values. Approval of the variance will not conflict with the goals and objectives of the Unified Development Ordinance

**REQUESTED VARIANCE**

The applicant would like to add a cover over an existing patio to the side of the house. The cover would be constructed of wood to resemble the house.

**APPLICANT HARDSHIP**

The applicant states no hardship other than without the cover the use of the patio will be greatly restricted.

8B

## **STAFF COMMENTS AND RECOMMENDATIONS**

This item was tabled at the April 9<sup>th</sup> meeting because of surrounding property owners concerns over the proposed privacy fence.

The city street department did an onsite inspection to determine no hazard was present with the installation of the privacy fence. Also, the city engineering department and planning staff researched the applicable restrictive covenants to determine the applicant was compliant. Furthermore, there are no applicable ordinances that would prohibit the applicant from installing a privacy fence on the owners property line.

In staff's opinion, the addition of the cover over the existing patio will not have any adverse impacts on setback encroachment. If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

Var#15-4-13

**APPLICATION FOR VARIANCE**

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

Lot 63 Hardscrabble Way, an Addition to the City of Fort Smith, Sebastian County, Arkansas.

Address of property 5610 South Enid Street, Existing or Proposed

Zoning Classification RSD-3, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

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

**FROM**

**TO**

- 25' - 15' Front Yard Setback or Minimum Distance from Right-of-Way
- \_\_\_\_\_ - \_\_\_\_\_ Exterior Side Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Interior Side Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Rear Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Maximum Height of Structure
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Distance Between Structures on the Same Lot
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Area (Square Feet)
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Frontage
- \_\_\_\_\_ - \_\_\_\_\_ Maximum Size of a Sign
- \_\_\_\_\_ - \_\_\_\_\_ Other: \_\_\_\_\_

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

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

Signed:

BART PETRAJ  
Owner or Agent Name (please print)

  
Owner

or

479-474-7914  
Owner or Agent Phone Number

\_\_\_\_\_  
Agent

320 O'BRYAN Lane, Van Buren, 72956  
Owner or Agent Mailing Address

Variance # \_\_\_\_\_

8E

## VARIANCE INFORMATION FORM

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

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

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

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

8 F

Explanation of question #4 (if applicable)

The house has an existing semi-circular concrete patio adjacent to the East side of the house, which encroaches the 25' Front Yard setback. The owner wishes to construct a cover over the patio to render it more usable during all times of the year.

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

No undue hardship will result but use of the patio will be greatly restricted.

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

None

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# Variance #15-4-13: From 25 to 15 front yard setback

5610 Enid Street

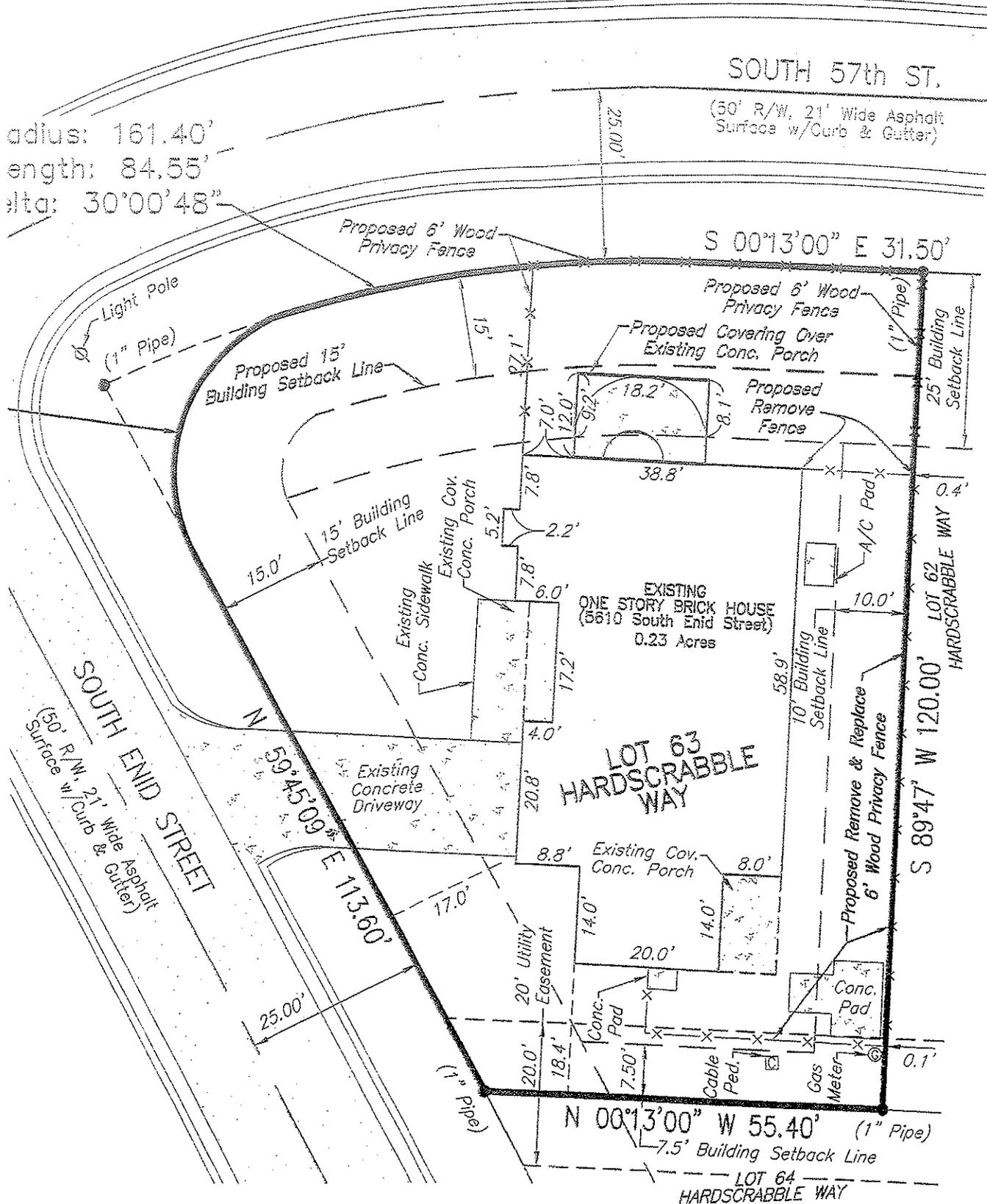


rown  
000-00  
18

Harold M & Janet S. Heslep  
Parcel #: 13489-0042-00000-00  
W.D. Bk 617 Pg 168

David C.  
Parcel #: 13489-0042-00000-00  
W.D. Bk 617 Pg 168

radius: 161.40'  
length: 84.55'  
delta: 30°00'48"



Anna  
Parc

8 I

# HARDSCABBLE WAY, LOTS 1-221 RESTRICTIVE COVENANTS

DEED RECORD <sup>374</sup> PAGE <sup>1856</sup> OF the records of the Fort Smith District of Sebastian County, Arkansas. Filed

374 10

## BILL OF ASSURANCE

WHEREAS, Impco, Inc. now the owner of record of the following described property located in Sebastian County, Arkansas.

Lots 1 through 221, Hardscabble Way, an addition to the city of Fort Smith, Arkansas, located in Part of the Northeast Quarter (NE $\frac{1}{4}$ ) and part of the Northwest Quarter (NW $\frac{1}{4}$ ) Section 26, T-8-N, R-32-W, Sebastian County.

Whereas, the above owner desires to develop a residential sub-division to the city of Fort Smith, Sebastian County, Arkansas; and has caused said tract to be surveyed and platted into lots; and Whereas, it is in the interest of said owner of record of the property described above, as well as prospective purchaser of the lots and the common elements appurtenant thereto, that said tract be known as Hardscabble Way, an Addition to the city of Fort Smith, Arkansas, and that use of the lots be restricted as hereinafter provided.

1. All streets shown on the plat of Hardscabble Way are hereby dedicated to the use of the public.
2. Easements as shown on the plat of Hardscabble Way are reserved for construction, operation and maintenance of public utilities, and are provided for the purpose of enabling such utilities their agents and employees to enjoy free, open, and unobstructed access through, over and along such easements to the end that their persons trucks and work equipment may at all times install, service, operate and maintain all utility facilities within the boundaries of said easements.
3. No lot in Hardscabble Way shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than residential dwellings and private garages for the occupant's vehicles and other outbuildings incidental to residential use of the lot.
4. No commercial building of any kind or type shall be erected nor shall any commercial activity be conducted on any lot.
5. No structure of a temporary character, trailer, basement tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. No parking will be permitted for an extended period of time of recreational vehicles, trailers, motor homes and campers in front or side yards. Where Lots are located facing two streets, the yard facing each street is considered a front yard for the purpose of these covenants.
6. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

FILED: May 3, 1977 at 2:39 P. M.

857

7. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

8. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the roadway shall be placed or permitted to remain on any corner lot, within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply to each intersection of a street property line with the edge of a driveway or triangular area shall be formed by the street and driveway or alley lines and a line connecting them at points 10 feet from their intersection.

Fencing  
Restrictions

9. No noxious or offensive activity shall be carried on; upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

10. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 10 years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 5 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

11. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of these covenants, violators being subject either to restraint or to an action for damages.

12. The invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

IN witness whereof, said owners of record, by their attorney in fact, has caused these presents to be executed this 3rd day of May, 1977.

Impco, Inc.

  
Richard B. Griffin  
President

8K



May 7, 2013

City of Fort Smith  
Planning Department  
623 Garrison Avenue  
Fort Smith, Arkansas 72901

Attn: Ms. Brenda Andrews  
Senior Planner

RE: Application for Variance  
Sally Parker  
5610 South Enid Street  
Lot 63, Hardscrabble Way  
Fort Smith, Arkansas

Dear Ms. Andrews:

On behalf of our client, Sally Parker, we held a second neighborhood meeting at the request of the Board of Zoning Adjustment. Please find enclosed the attendance list. The purpose of the meeting was to discuss the board fence that Mrs. Parker is planning to build along the South and East property lines. The neighbor to the South, Ann Brady, and her sister who lives North of the intersection of South 57<sup>th</sup> Street and Enid Street are concerned with the sight distance when Mrs. Brady is backing out of the driveway. I explained to them that the fence was not obstructing the sight triangle as described in the Bill of Assurances and as shown on an exhibit drawing prepared at our office. Mr. Bill Striplin and I explained to everyone attending that Mrs. Parker was not in violation of any City ordinances or the Bill of Assurances governing this neighborhood. Mrs. Parker then agreed to consider putting a radius of  $\pm 6$  feet at the Southeast corner of her fence to help Mrs. Brady's sight distance concerns. The meeting was then adjourned.

Respectfully,

HOFFMAN & ASSOCIATES, INC.

Bart L. Petray, P.S.

BLP/jam

Enclosure

xc: Ms. Sally Parker

APD-PERSMITS\SALLY PARKER #53826\53826 PARKER CORRESPONDENCE (3)



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** April 30, 2013

**Re:** Variance #16-5-13 - A request by Jeff Lee, agent, for Board of Zoning Adjustment consideration of a zoning variance request from 25' to 8.6' front yard setback at 3758 Midland Boulevard

## LOT LOCATION AND SIZE

The subject property is on the southeast side of the intersection of Midland Boulevard and North Albert Pike Avenue. The tract contains an area of .32 acres with approximately 100 feet of street frontage along Midland Boulevard and approximately 140 feet of street frontage along North Albert Pike Avenue.

## EXISTING ZONING

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

### Purpose:

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

### Permitted Uses:

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

### Conditional Uses:

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

9A

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

### **Area and Bulk Regulations:**

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

### **SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Industrial Light (I-1) and are developed as an oil company.  
The areas to the east are zoned Commercial Heavy (C-5) and is developed as a Family Dollar Store.  
The areas to the south are zoned Commercial Heavy (C-5) and is developed as a fire station.  
The areas to the west are zoned Commercial Heavy (C-5) and is developed as an auto repair facility.

### **MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Midland Boulevard as Boulevard and North Albert Pike Avenue as Major Collector.

### **LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as Mixed-Use-E. This classification is intended to provide for a dense, compatible mix of retail, residential, employment and production activities designed for all modes of transportation. Approval of the variance will not conflict with the goals and objectives of the Unified Development.

### **REQUESTED VARIANCE**

The owner would like to enlarge the dining room with an addition to the side of the building.

### **APPLICANT HARDSHIP**

The applicant states that the original building was constructed prior to the widening of Midland Boulevard. The widening caused the existing building to be in violation of the current front yard setbacks. The proposed addition will align with the front of the existing building, not

9B

encroaching more than the existing building currently does. The dining room is currently along the front of the building, so relocating the new dining area would not be feasible.

**STAFF COMMENTS AND RECOMMENDATIONS**

The owner has a remote parking agreement with the neighboring body shop to use nine parking spaces. The spaces are shown on the site plan located on Lot 3.

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

Var. #16-5-13

**APPLICATION FOR VARIANCE**

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

*Electric Park, Block 22  
Lots 1 & 2*

Address of property 3758 MIDLAND BLVD., Existing or Proposed

Zoning Classification C5, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

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

- | <b><u>FROM</u></b> | <b><u>TO</u></b> |  |
|--------------------|------------------|--|
| <u>25'</u>         | - <u>8.6'</u>    | Front Yard Setback or Minimum Distance from Right-of-Way |
| _____              | - _____          | Exterior Side Yard Setback                               |
| _____              | - _____          | Interior Side Yard Setback                               |
| _____              | - _____          | Rear Yard Setback  |
| _____              | - _____          | Maximum Height of Structure                              |
| _____              | - _____          | Minimum Distance Between Structures on the Same Lot      |
| _____              | - _____          | Minimum Lot Area (Square Feet)                           |
| _____              | - _____          | Minimum Lot Frontage                                     |
| _____              | - _____          | Maximum Size of a Sign                                   |
| _____              | - _____          | Other: _____   |

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

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

Signed:

JEFF LEE  
Owner or Agent Name (please print)

\_\_\_\_\_  
Owner

or

479-452-9224  
Owner or Agent Phone Number

Jeff Lee  
Agent

3409 Village Rd, FSM, 72903  
Owner or Agent Mailing Address

Variance # \_\_\_\_\_

9E

**VARIANCE INFORMATION FORM**

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

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

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

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

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Explanation of question #4 (if applicable)

The existing building was constructed before Midland Blvd. was widened. The widening of Midland, along with the 25 ft. setback requirement, put the building into a setback violation condition, to which it was grandfathered.

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

The owner wishes to enlarge the dining area of the restaurant, and wishes to do it in the logical place, the front of the building adjacent to current dining area. A 25 ft. setback for the new addition would force the dining to the rear & into the parking lot.

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

The existing building was constructed before the current 25 ft. setback was in place.

Note:

The new addition will include a new entry point that will face the interior parking lot. This will increase customer safety by diverting them to the side of the building, away from the front door that is now very close to Midland. Additionally, landscaping will be provided between the building & Midland, once the front door location is relocated.

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# Variance #15-4-13: From 25 Feet to 8.6 Feet Front Yard Setback

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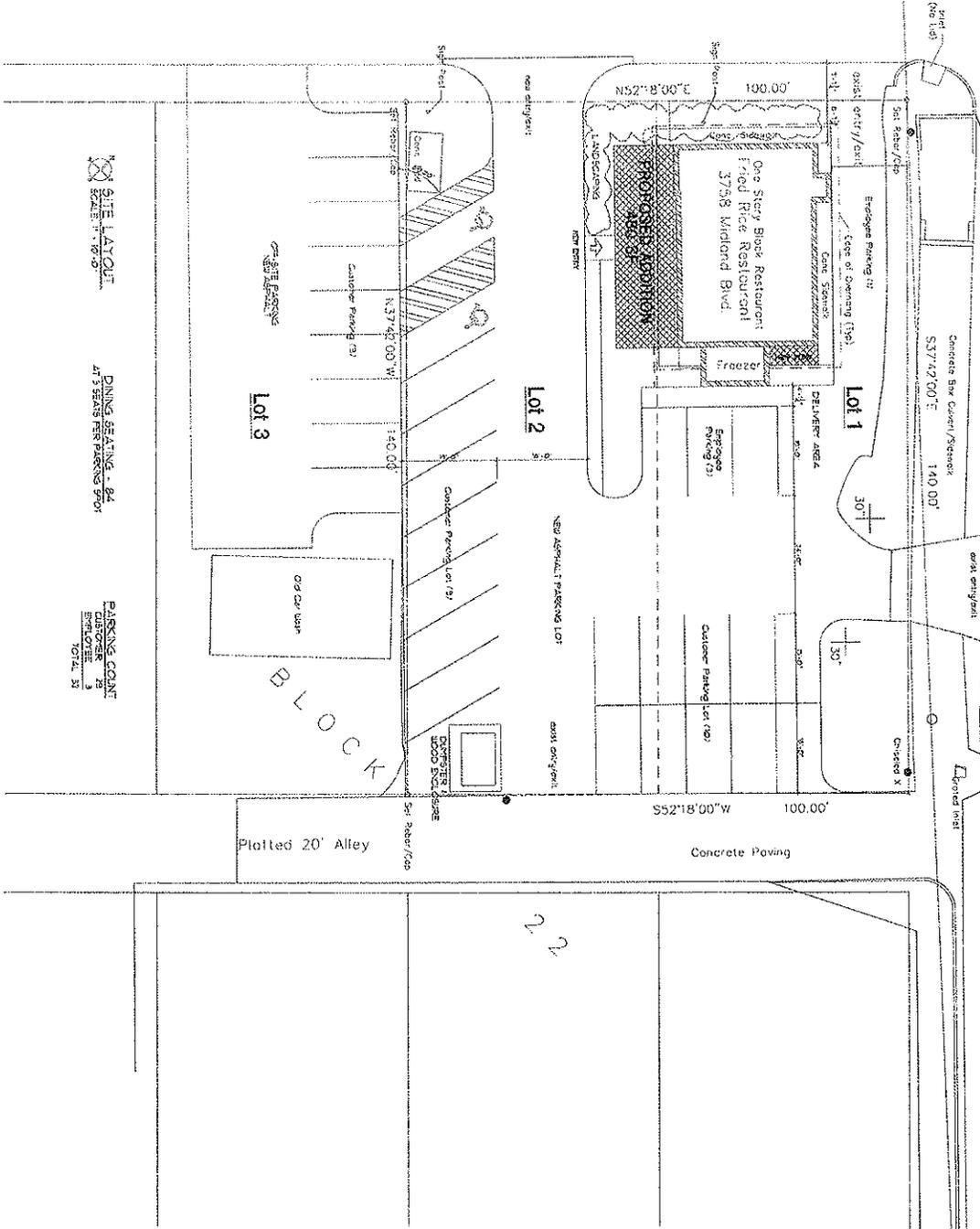
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3758 Midland Boulevard



MIDLAND BOULEVARD (ARK HWY 64/71)  
80' 9"W 65' Asphalt w/ Curb & Gutter

NO. ALBERT PIKE  
50' 9"W 22' Asphalt



**SITE LAYOUT**  
SCALE: 1" = 20'

**DINING SEATING - 64**  
473 SEATS PER PARKING SPOT

**PARKING COUNT**  
CUSTOMER 74  
EMPLOYEE 10  
TOTAL 84

**P. JEFFERY LEE, AIA**  
ARCHITECT  
I hereby certify that the design and specifications have been prepared by me or under my supervision. I have drawn and sealed this plan in accordance with the laws of the State of Arkansas. My commission expires on 12/31/2005.  
P. JEFFERY LEE

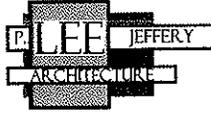
REVIEW COPY

DATE	BY	REVISION

A1



**P. JEFFERY LEE, AIA**  
3409 Village Rd., Fort Smith, AR 72903  
ph/fax: 479.452.9226  
e-mail: PJLarchitect@aol.com



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# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** 4-30-2013

**Re:** Variance #17-5-13 - A request by Wilma Griffith, agent for Alva and Kristen Beasley, for Board of Zoning Adjustment consideration of a zoning variance request from 10 feet to 4.7 feet interior side yard setback at 2015 and 2021 Rogers Avenue

## LOT LOCATION AND SIZE

The subject property is on the North side of Rogers Avenue. The first tract (Lot 9A) contains an area of 0.18 acres with 60 feet of street frontage along Rogers Avenue. The second tract (Lot 9B) contains an area of 0.25 acres with 55 feet of street frontage along Rogers Avenue.

## EXISTING ZONING

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

### Purpose:

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

### Permitted Uses:

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

### Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet  
(1+1)

Maximum Height - 45 feet

75%

Maximum Lot Coverage -

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 14,000 square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 20 feet

Rear Yard Setback - 20 feet

Side/Rear (adjoining SF Residential District/Development) – 30 feet

Minimum building separation – to be determined by current City building and fire code.

Required street access – Minor Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Commercial Heavy (C-5) and are developed as a Nursery and Beauty College.

The areas to the east are zoned Commercial Heavy (C-5) and are developed as a restaurant and apartment complex.

The area to the south is zoned Commercial Heavy (C-5) and is developed as an education center.

The areas to the west are zoned Commercial Heavy (C-5) and are developed as a retail shopping center and a professional offices.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Rogers Avenue as a Major Arterial and North 21<sup>st</sup> Street as a Residential Collector.

**LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as Commercial Neighborhood. This classification is intended to provide convenience goods and services in a residentially compatible design, for surrounding neighborhoods, and to provide appropriate uses for sites on arterials and collectors unsuitable for residential development due to lot configuration, safety and noise. Approval of the variance will not conflict with the goals and objectives of the Unified Development Ordinance.

**REQUESTED VARIANCE**

The applicant would like to replat the lot into two lots. This will allow the two separate buildings with different businesses to have individual lots for split ownership.

**APPLICANT HARDSHIP**

Without the variance the property cannot be platted into 2 separate lots for resale purposes

**STAFF COMMENTS AND RECOMMENDATIONS**

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

**APPLICATION FOR VARIANCE**

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

*Fitzgerald Addition, Block 83  
Lots 9, 10 & 11*

Address of property *2015 & 2021 Rogers Avenue*, Existing or Proposed

Zoning Classification *C-2 - Commercial Right*, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

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

**FROM**

**TO**

- \_\_\_\_\_ - \_\_\_\_\_ Front Yard Setback or Minimum Distance from Right-of-Way
- \_\_\_\_\_ - \_\_\_\_\_ Exterior Side Yard Setback
- 10'* - *4.7'* Interior Side Yard Setback (*proposed Lot 9A & 9B*)
- \_\_\_\_\_ - \_\_\_\_\_ Rear Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Maximum Height of Structure
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Distance Between Structures on the Same Lot
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Area (Square Feet)
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Frontage
- \_\_\_\_\_ - \_\_\_\_\_ Maximum Size of a Sign
- \_\_\_\_\_ - \_\_\_\_\_ Other: \_\_\_\_\_

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

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

Signed:

Wilma Griffith  
Owner or Agent Name (please print)

\_\_\_\_\_  
Owner

or

479-883-3687  
Owner or Agent Phone Number

X Wilma Griffith  
Agent

9207 Hwy 71 South, Suite 6  
Owner or Agent Mailing Address 72916

Variance # \_\_\_\_\_

## VARIANCE INFORMATION FORM

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

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

<u>Yes</u>	<u>No</u>	
<u>✓</u>	<u>      </u>	Is this variance needed because of previous actions taken by yourself?
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Explanation of question #4 (if applicable)

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

*Without Variance the property cannot be placed into (2) lots for resale purposes*

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

*NONE*

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# Variance #17-5-13: From 10 Feet to 4.7 Feet Interior Side Yard Setback

2015 & 2021 Rogers Avenue



