



**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
AGENDA
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
APRIL 14, 2015**

I. ROLL CALL

II. ELECTION OF OFFICERS

**III. APPOINTMENT OF A REPRESENTATIVE TO THE COMPREHENSIVE PLAN
IMPLEMENTATION COMMITTEE**

IV. APPROVAL OF MINUTES FROM MARCH 10, 2015

V. STAFF COMMENTS AND PROCEDURES

1. Preliminary Plat – Middleton Estates – Lots 1 thru 14 – Mickle-Wagner-Coleman
2. Preliminary Plat – Stonebrook at Chaffee Crossing – Phases II and III – Brixey Engineering
3. Rezoning #3-4-15; A request by Randy Coleman, agent for Zero Mountain, Inc., for a zone change from Extra Territorial Jurisdiction Open-1 (ETJ O-1) to Extra Territorial Jurisdiction Industrial Moderate (ETJ I-2) by Extension located at 8425 Highway 45 South.
4. Subdivision Variance #1-4-15; A request by Pat Mickle, agent for Richard Griffin, Brad Kidder, Westphal Leasing, LLC and Patsy Bateman, for the following subdivision variances located at 8400 thru 9400 Howard Hill Road: (companion item to item #1)
 - (A) Article 27-500, Section 503-2(E) – (driveway access)
 - (B) Article 27-500, Section 503-11(B) (3) – (perimeter landscaping requirements)

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

5. A request by Bob Stinchcomb, agent for Gerda, for development plan approval for construction of a pipeline and fence located at 5225 Planters Road.

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

6. Variance #8-4-15; A request by John Horne for a variance from 120 days to 180 days maximum length of time for a seasonal permit (Section 27-327) located at 2700 Market Trace.
7. Variance #9-4-15; A request by Pat Mickle, agent for Richard Griffin, Brad Kidder, Westphal Leasing, LLC and Patsy Bateman, for a variance from 125 feet to 90 feet separation between driveways on adjacent lots located at 8400 thru 9400 Howard Hill Road. Requested by Pat Mickle.
8. UDO Amendments – Mobile Food Trucks

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
March 10, 2015**

On roll call, the following Commissioners were present: Brandon Cox, Rett Howard, Michael Redd, Bob Cooper, Richard Spearman, Don Keesee and Vicki Newton.

On roll call, the following Commissioner were not present: Marshall Sharpe and Jennifer Parks.

Vice Chairman Cox called for the vote on the Planning Commission minutes from the February 10, 2015, meeting. Motion was made by Commissioner Keesee, seconded by Commissioner Spearman and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on procedures.

1. UDO Amendment

Wally Bailey read the staff comments indicating that proposed amendment would exempt multifamily development from screening individual trash cans provided by the Fort Smith Sanitation Department. With the new automated collections it is not possible to screen each can. All multifamily developments with dumpsters will still be required to provide screening. Individual trash receptacles provided by the Fort Smith Sanitation Department shall not be required to be screened.

No one was present to speak relative to the proposed UDO Amendment.

Following a discussion by the Commissioner, Vice Chairman Cox called for the vote on the proposed UDO Amendments. The vote was 7 in favor and 0 opposed.

- 2. A request by Dubin Singer, agent for W.W.A. Company, Inc. for a Master Land Use Plan Amendment from Residential Detached to Commercial Neighborhood located at 4100 North "O" Street/1525 North Albert Pike.**
- 3. Rezoning #2-3-15; A request by Dubin Singer, agent for W.W.A. Company, Inc. for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Commercial Light (C-2) by Extension located at 4100 North O Street/1525 North Albert Pike.**
- 4. A request by Dubin Singer, agent for W.W.A. Company, Inc. for development plan approval for a neighborhood store (Family Dollar) located at 4100 North O Street/1525 North Albert Pike.**

7. Variance #7-3-15; A request by Dubin Singer, agent for W.W.A. Company, Inc. for a variance from 30 feet to 15 feet interior side yard setback located at 4100 North O Street/1525 North Albert Pike.

Ms. Brenda Andrews read the staff reports indicating the purpose of these request is to allow for the development of a Family Dollar store on the corner of North O Street and North Albert Pike.

Ms. Brenda Andrews stated that a neighborhood meeting was held on Friday, March 6th at 4201 North O Street (Sunnymede Elementary School cafeteria) at 4:00 P.M.

Chris Conley of Dubin Singer, agent for W.W.A Company, spoke on behalf of these requests.

Robert Bowen, 1512 N 41st Street spoke in opposition to the requests. Mr. Bowen stated that he felt it would decrease the value of his property and had concerns relative to trash, traffic and noise.

James Tatro, 4115 North N Street spoke in opposition. Mr. Tatro felt this project would decrease the value of his property.

The Commission expressed concerns about the development. Some of the significant concerns include:

- Impact of the truck traffic
- Proximity of building to residential to the south
- Encroachment of commercial zoning/development on the residential neighborhood.

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

2. A request by Dubin Singer, agent for W.W.A. Company, Inc. for a Master Land Use Plan Amendment from Residential Detached to Commercial Neighborhood located at 4100 North "O" Street/1525 North Albert Pike.

Vice Chairman Cox called for the vote on the Master Land Use Plan Amendment. The vote was 2 in favor and 4 opposed. (Cooper and Newton).

3. Rezoning 2-3-15; A request by Dubin Singer, agent for W.W.A. Company, Inc. for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Commercial Light (C-2) by Extension located at 4100 North O Street/1525 North Albert Pike.

Vice Chairman Cox called for the vote on the zoning request. The vote was 2 in favor and 4 opposed. (Cooper and Newton).

- 4. A request by Dubin Singer, agent for W.W.A. Company, Inc. for development plan approval for a neighborhood store (Family Dollar) located at 4100 North O Street/1525 North Albert Pike.**

Vice Chairman Cox called for the vote on a development plan. The vote was 2 in favor and 4 opposed. (Cooper and Newton).

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

- 7. Variance #7-3-15; A request by Dubin Singer, agent for W.W.A. Company, Inc. for a variance from 30 feet to 15 feet interior side yard setback located at 4100 North O Street/1525 North Albert Pike.**

Vice Chairman Cox called for the vote on the variance. The vote was 2 in favor and 4 opposed. (Cooper and Newton).

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

- 5. Conditional Use #2-3-15; A request by Ricky Hill, agent for Lance Beaty and Steve Nelson, for a conditional use for a professional (beauty) school located at 1000 Phoenix Avenue.**

Ms. Maggie Rice read the staff report indicating the purpose of this request is to provide for a professional beauty school. Ms. Rice noted that a neighborhood meeting was held on Thursday, March 5, 2015, at 4600 Towson Avenue - Suite 314.

Staff recommends approval of the application contingent upon the following:

1. Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.
2. All signs will require a permit and must comply with the UDO.
3. All exterior building and site lighting shall not produce glare, light trespass or unnecessary skyglow. The use of shielded light fixtures is required. At a height of five feet above the property line of subject property, illuminations from light fixtures shall not exceed 0.1 foot candles in a vertical plane on residentially zoned property.

Mr. Ricky Hill, agent for Lance Beaty, was present to speak on behalf of this request.

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

Vice Chairman Cox called for the vote on the conditional use request with the above noted staff comments. The vote was 7 in favor and 0 opposed.

6. Home Occupation #1-3-15; A request by Andrea Overall for a home occupation for a bakery for homemade dog treats located at 2814 Osage Street

Ms. Maggie Rice read the staff report indicating the purpose of this request is to allow the applicant to operate a homemade dog treat business from her residence.

Staff recommended approval of the application contingent upon the following:

1. All vehicles shall be parked in compliance with the Fort Smith Parking Regulations.
2. The business license cannot be transferred to another residence without a new home occupation application.
3. No commercial trash container will be placed at the residence.
4. No sale of any retail or wholesale item or times shall take place on the premises.

Ms. Andrea Overall, 2814 Osage Street spoke on behalf of her business.

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

Vice Chairman Cox called for the vote on this request with the above noted staff comments. The vote was 7 in favor and 0 opposed.

Meeting Adjourned!

SUBDIVISION COMMENTS

April 14, 2015

1. Middleton Estates, Lots 1-14 - Preliminary Plat- Mickle-Wagner-Coleman

Existing Zoning Designation: Residential Single Family Medium/High Density (RS-3) and Residential Single Family High Density (RS-4)

Land Use: These zoning districts provide for medium to high density detached development on new sites or as infill.

Proposed Use: Single family homes on large estate-size lots.

We recommend approval of the preliminary plat with the following comments:

- 1) Planning Commission approval of the companion subdivision variance requests that would allow access on a Major Collector street and reduced perimeter landscaping.
- 2) The developer must agree to meet all franchise and City utility easement requirements.
- 3) The preliminary and final plat must comply with the city's Subdivision Design and Improvement Standards Specifications for Public Works Construction.

2. Stonebrook at Chaffee Crossing , Phases II and III – Preliminary Plat – Brixey Engineering

Existing Residential Single Family Medium/High Density (RS-3)

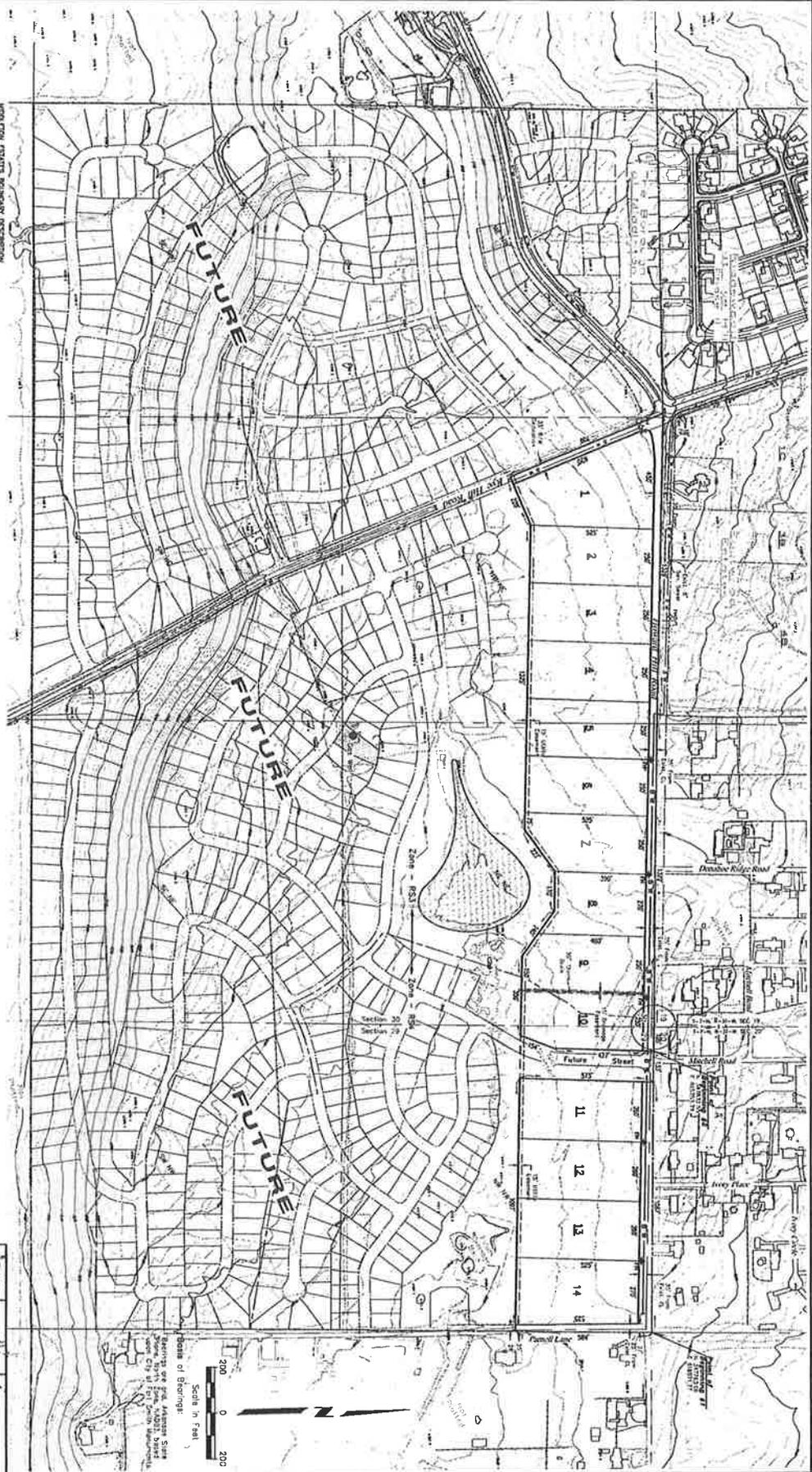
Land Use: Provides locations for medium to high density detached development on new sites or as infill.

Proposed Use: Single family homes.

We recommend approval of the preliminary plat with the following comments:

- 1) The developer must agree to meet all franchise and City utility easement requirements.
- 2) The preliminary and final plat must comply with the city's Subdivision Design and Improvement Standards Specifications for Public Works Construction.
- 3) The perimeter landscaping for Stonebrook at Chaffee Crossing, Phase I shall be completed prior to the filing of Stonebrook at Chaffee Crossing – Phase II and III.

1,2



PROPOSED LOT AND STREET LAYOUT

Part of the Southeast Quarter of the Southeast Quarter of Section 29, and part of the South Half of Section 30, all in Township 7-N, Range 11-W, Sebastian County, Arkansas, being more particularly described as follows: ...

Part of the Southeast Quarter of the Southeast Quarter of Section 29, and part of the South Half of Section 30, all in Township 7-N, Range 11-W, Sebastian County, Arkansas, being more particularly described as follows: ...

Preliminary Layout Middleton Estates Lots 1 Thru 14

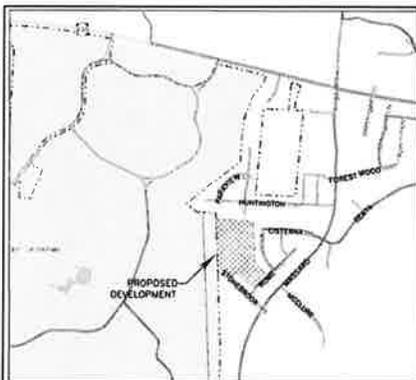
An Addition to the City of Fort Smith, Sebastian County, Arkansas

NOTE:
Lots will be served by proposed
Sanitary disposal systems
Zone RS-1 & RS-4



| <p>PRELIMINARY LAYOUT MIDDLETON ESTATES Part of Sections 29 & 30, T-7-N, R-31-W FORT SMITH, SEBASTIAN COUNTY, ARKANSAS</p> | | <p>MICKLE WAGNER COLEMAN Engineers-Consultants-Surveyors 3034 Country Club Ave. P.O. Box 1507 Fort Smith, Arkansas (478) 649-8484 Fax: (478) 649-8486 info@mwc-eng.com</p> | <table border="1"> <thead> <tr> <th>DATE</th> <th>REVISION</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> | DATE | REVISION | BY | | | | | | | | | |
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1A



VICINITY MAP
SCALE 1" = 1000'

CURVE TABLE PHASE 2

| NUMBER | ARC LENGTH | CHORD DIRECTION | CHORD LENGTH | RADIUS |
|--------|------------|-----------------|--------------|--------|
| C1 | 38.75 | S 89°55'15" W | 34.98 | 25.00 |
| C2 | 37.22 | S 04°02'03" E | 33.87 | 25.00 |
| C3 | 8.10 | S 38°10'11" W | 8.10 | 25.00 |
| C4 | 88.35 | N 28°24'40" W | 87.76 | 225.00 |
| C5 | 193.86 | N 24°28'48" W | 188.04 | 250.00 |
| C6 | 150.04 | S 24°20'20" E | 151.19 | 200.00 |
| C7 | 26.27 | S 47°15'38" E | 35.35 | 25.00 |
| C8 | 39.27 | N 42°44'21" E | 35.36 | 25.00 |

CURVE TABLE PHASE 3

| NUMBER | ARC LENGTH | CHORD DIRECTION | CHORD LENGTH | RADIUS |
|--------|------------|-----------------|--------------|--------|
| C9 | 70.69 | N 42°44'21" E | 63.64 | 45.00 |
| C10 | 44.09 | N 00°18'47" E | 44.97 | 500.00 |
| C11 | 32.02 | S 45°19'01" W | 33.73 | 25.00 |
| C12 | 39.27 | N 47°15'39" W | 35.35 | 25.00 |
| C13 | 39.27 | N 42°44'21" E | 35.36 | 25.00 |
| C14 | 39.27 | S 47°15'38" E | 35.35 | 25.00 |
| C15 | 39.27 | S 42°44'21" W | 35.36 | 25.00 |
| C16 | 8.32 | N 30°17'40" W | 7.89 | 8.50 |
| C17 | 11.81 | N 51°21'50" W | 11.89 | 51.50 |
| C18 | 40.58 | N 11°23'00" W | 37.13 | 51.50 |
| C19 | 41.51 | N 45°23'31" E | 40.39 | 51.50 |
| C20 | 67.70 | S 73°51'30" E | 62.93 | 51.50 |
| C21 | 8.32 | S 84°13'38" E | 7.89 | 8.50 |

NOTES

- This plot prepared for the purpose of depicting proposed Lots 18-24 & 31-78
- A 1/2" iron pin with a yellow cap stamped L.S. 888 will be set at each lot corner.
- All dimensions along curves are chord distances.
- All lot return radii are 25.00' unless otherwise noted.

CERTIFICATE OF PRELIMINARY ENGINEERING ACCURACY

I, Harold N. Breyer, hereby certify that this plot correctly represents a plot made by me, and that engineering requirements of the City of Fort Smith Land Subdivision Development Code have been complied with.

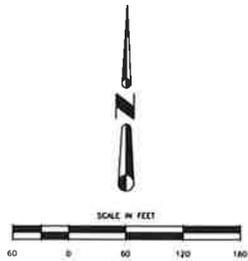
DATE _____

SIGNATURE _____



OWNER & DEVELOPER

Corrington Creek Homes, LLC
5000 Rogers Avenue
Fort Smith, AR 72903
(479)462-5516



ZONING DESIGNATION: RS-3

AREA: 728,758.80 Sq. Ft. or 16.73 Acres

FLOOD ZONE STATEMENT

THE PROPERTY IS LOCATED IN ZONE "X", BEING OUTSIDE THE 500 YEAR FLOOD ZONE, AS GRAPHICALLY DEPICTED ON F.I.R.M. MAP NO. 0513100140E, DATED MAY 20, 2010.

LEGEND

- EXISTING WATERLINE
- PROPOSED WATERLINE
- EXISTING SEWERLINE
- PROPOSED SEWERLINE
- WATER SERVICE LINE
- SEWER SERVICE LINE
- FIRE HYDRANT
- STORM SEWER WITH CURB INLET
- CENTERLINE STREET
- EASEMENT LINE
- ORIGINAL CONTOURS
- PROPOSED CONTOURS
- PROPOSED CONCRETE SIDEWALK
- CONCRETE CURB & GUTTER
- CONCRETE PAVING

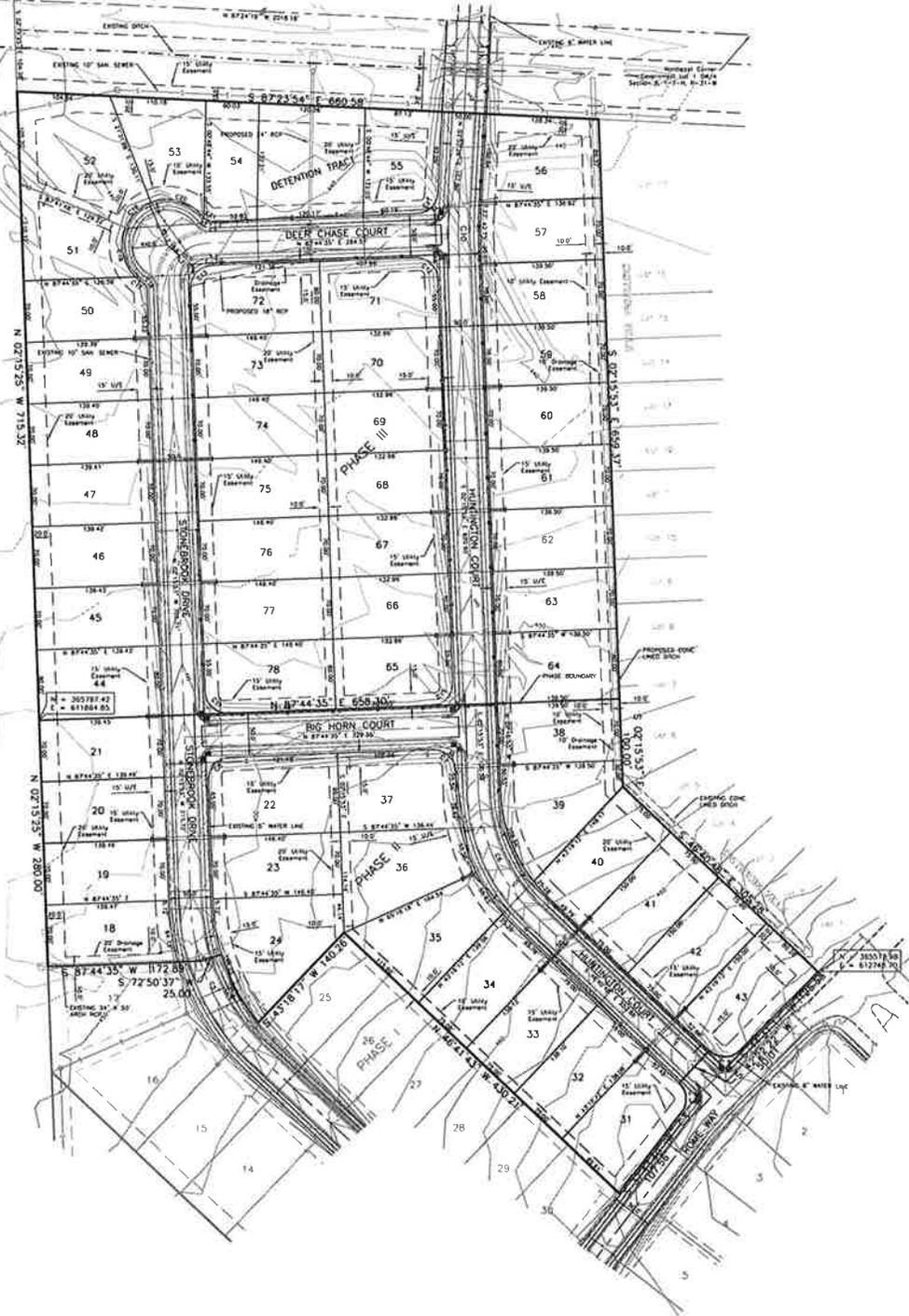
ALL PROPOSED SEWER LINES ARE TO BE 8" PVC
ALL PROPOSED WATER LINES ARE TO BE 6" PVC

DEDICATION

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

SURVEY DESCRIPTION - PROPOSED PHASE 2 AND PHASE 3

Part of Government Lots 1 and 2 of the Southwest Quarter (SW/4) of Section 8, Township 7 North, Range 31 West, Sebastian County, Arkansas, being more particularly described as follows: Commencing at an existing iron pin located at the Northeast corner of said Government Lot 1 of the SW/4, thence N 07°24'19" W, 2018.16 feet along the North line of said Government Lot 1; thence S 02°15'25" E, 104.78 feet to the Point of Beginning; thence S 88°23'04" E, 600.50 feet to the West line of Calonne Vile; thence along said West line S 02°15'25" E, 720.33 feet; thence S 48°40'48" E, 305.28 feet to the Northern right of way line of Bame Toy; thence S 44°31'37" W, 125.05 feet; thence along said right of way line S 26°15'40" W, 34.88 feet and a radius of 25.00 feet; thence S 42°22'27" W, 50.01 feet; thence S 27°22'27" E, 33.87 feet and a radius of 25.00 feet; thence along said right of way line S 10°10'11" W, 8.10 feet and a radius of 325.00 feet; thence along said right of way line S 37°43'40" W, 107.58 feet to the Northeast corner of Lot 20 (Chaffee Crossing Phase I); thence N 48°41'43" W, 430.21 feet to the Northern most corner of Lot 25 (Stonebrook at Chaffee Crossing Phase I); thence S 42°18'17" W, 140.28 feet to the Eastern right of way line of Stonebrook Drive; thence along said right of way line S 80°53'40" W, 82.76 feet and a radius of 225.00 feet; thence S 72°50'37" W, 25.00 feet; thence S 87°44'35" W, 112.88 feet to the Northeast corner of Lot 17 (Stonebrook at Chaffee Crossing Phase I); thence N 02°13'25" W, 895.32 feet to the point of beginning, containing 16.73 acres, more or less, and being subject to public road rights of way and any easements of record.



BRIXEY ENGINEERING & LAND SURVEYING, INC. 2016
The professional seal of the Engineer is shown in this plat. The seal of the Surveyor is shown in this plat. The seal of the Professional Engineer is shown in this plat. The seal of the Professional Surveyor is shown in this plat.

BRIXEY ENGINEERING & LAND SURVEYING, INC.
CONSULTING ENGINEERS -- LAND SURVEYORS
8333 East Highway 45 P.O. Box 0150 Fort Smith, Arkansas 72906 (479) 646-0394



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| Revisions | |
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PRELIMINARY PLAT
STONEBROOK AT CHAFFEE CROSSING
PHASES II AND III
CITY OF FORT SMITH
SEBASTIAN COUNTY, ARKANSAS
Prepared for: CORRINGTON CREEK HOMES, LLC

Date: 2/14/2016
Drawn By: HNB
Job No.: 15-0033
Sheet #: 2A

Memo

To: City Planning Commission

From: Planning Staff

Date: March 31, 2015

Re: Rezoning #3-4-15 - A request by Randy Coleman, agent for Zero Mountain, Inc., for Planning Commission consideration of a rezoning request from Extra Territorial Jurisdiction Open-1 (ETJ O-1) to Extra Territorial Jurisdiction Industrial Moderate (ETJ I-2) by extension at 8425 Highway 45.

PROPOSED ZONING

The zoning if approved will allow for the addition and use of a packaging and distribution at the current location. This zone change will make their land use permitted by right and therefore allow for a construction approval letter to be issued for the proposed addition connecting two existing buildings.

LOT LOCATION AND SIZE

The subject property is on the southeast corner of Highway 45 and Planters Road. The tract contains an area of 23 acres with approximately 1500 feet of street frontage along Highway 45 and 900 feet of street frontage along Planters Road.

REQUESTED ZONING

The requested zoning on this tract is Extraterritorial Jurisdiction Industrial Moderate (ETJ I-2). Characteristics of this zone are as follows:

Purpose:

To provide for industrial uses that can be operated in a clean and quiet manner that will not be obnoxious to adjacent uses and have relatively limited environmental impacts. ETJ I-2 uses are primarily contained indoors and have heavier traffic generation than ETJ I-1 uses. ETJ I-2 zoning is appropriate in the industrial classification of the ETJ land use map.

Permitted Uses:

Bus, truck, mobile homes, or large vehicle sales or service, convenience store, heavy machinery and equipment sales or service, lawn and garden, lumber yard and building materials, heating

and plumbing equipment, financial institutions, real estate, offices, veterinary services, extermination and pest control, manufacturing are examples of permitted uses.

Conditional Uses:

Automobile storage, truck stop, medical laboratory, petroleum storage and loading, fairground/rodeo ground, community center, golf course, gun club, sports stadium, natural and other recreational parks, nursery and preschool, police, fire, emergency response, child day care (up to 12 children) and day care center are examples of uses permitted as conditional uses..

Area and Bulk Regulations:

Minimum Lot Size – 20,000 square feet
Minimum Lot Width at Setback Line – 100 feet
Minimum parcel/lot size for rezoning – New District (By Classification) – 10 acres
Minimum parcel/lot size for rezoning – Existing District (By Extension) – 20,000 square feet
Minimum Street Frontage – N/A
Front Yard Setback - 50 feet
Side Yard on Street Side of Corner Lot - 50 feet
Side Yard Setback – 25 feet
Rear Yard Setback - 20 feet
Side/Rear Setback abutting RS – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)
Required street access: Major Arterial or higher

EXISTING ZONING

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

Purpose:

A zone to protect the undeveloped areas within the city’s extraterritorial zoning jurisdiction from incompatible land use or other specific uses that may constitute a nuisance to the residents therein or uses that may create an endangerment to the health, safety, or general welfare of the jurisdiction’s population.

Permitted Uses:

Single family homes, duplexes, nurseries and greenhouses, truck farms, golf courses, fire and police station, utility substations and parks, playgrounds and other open spaces.

Conditional Uses:

Agricultural uses (limited), churches, country clubs more than ten (10) acres, boarding schools, nursing homes, orphanages, educational services and public buildings.

SURROUNDING ZONING AND LAND USE

The area to the north is zoned ETJ I-2 SPL and is undeveloped.

The area to the east is zoned ETJ O-1 and is developed as part of Gerdau metal reclamation process.

The area to the south is zoned ETJ O-1 and is undeveloped.

The areas to the west are zoned Industrial Light (I-1) and are developed as electrical motor sales and light manufacturing.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Extraterritorial Jurisdiction Industry. This classification is intended to primarily accommodate wholesale activities, processing, distributions, storage and warehouse and industrial operations which may generate low levels of noise, odor, smoke, dust or intense light.

STAFF COMMENTS AND RECOMMENDATIONS

In 2003, all properties in the ETJ were given an Open-1 zoning district as a placeholder until development occurs that required a zoning change. Existing land uses were permitted to continue as nonconforming uses.

Staff recommends approval of the requested zone change.

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: 8425 Hwy 45

3. The above described property is now zoned: ETJ-O1

4. Application is hereby made to change the zoning classification of the above described property to ETJ-I-2 by Extension.
(Extension or classification)

- 5. Why is the zoning change requested?

To accommodate the structural connection of two existing industrial
buildings.

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

Signed:

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

Owner

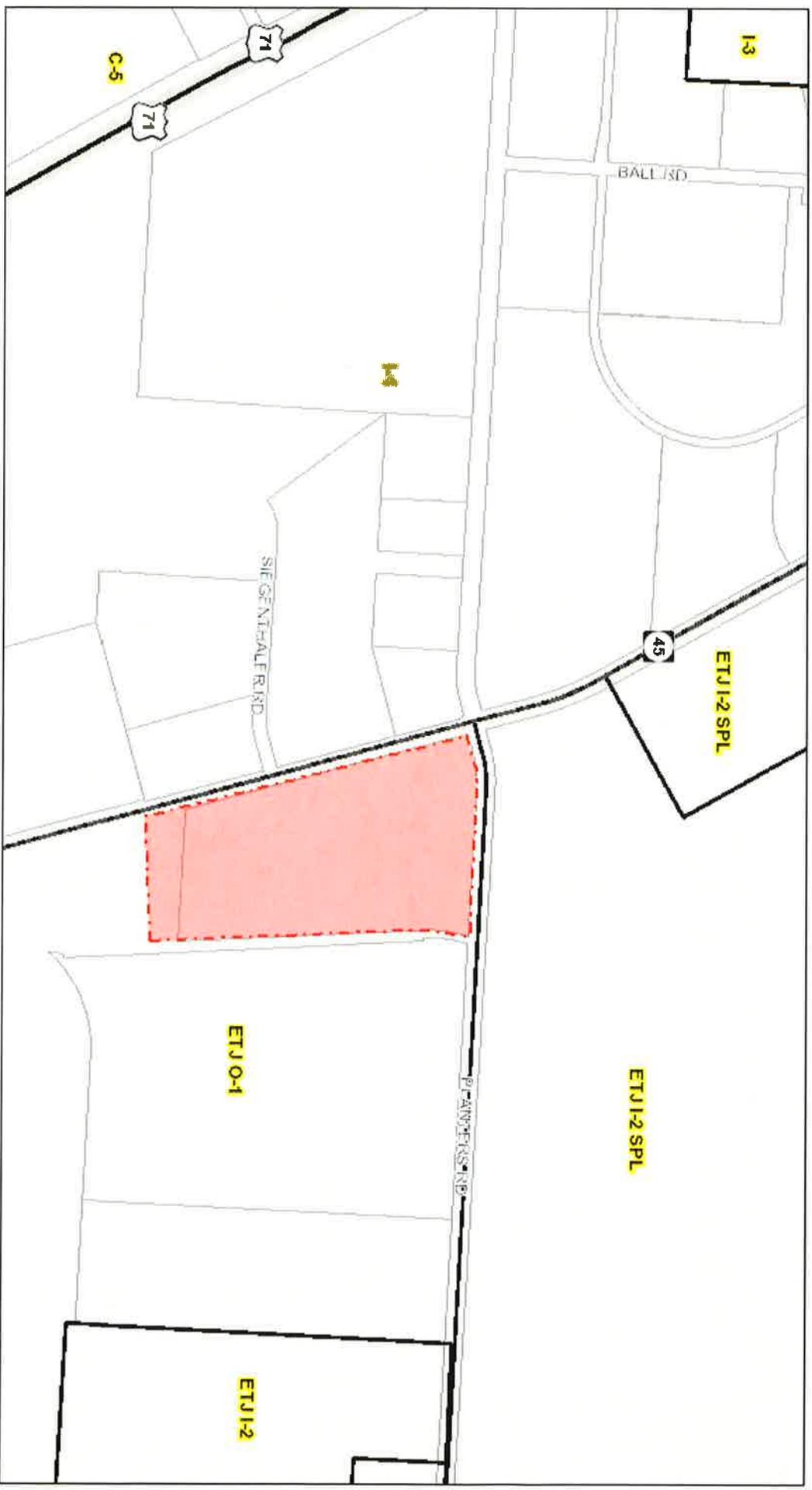
P.O. Box 1507, Fort Smith, AR 72902
~~Owner or Agent Mailing Address~~

or
Randall Coleman
Agent

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

Rezoning #3-4-15: From ETJ O-1 to ETJ I-2 8425 US Highway 45

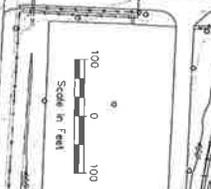
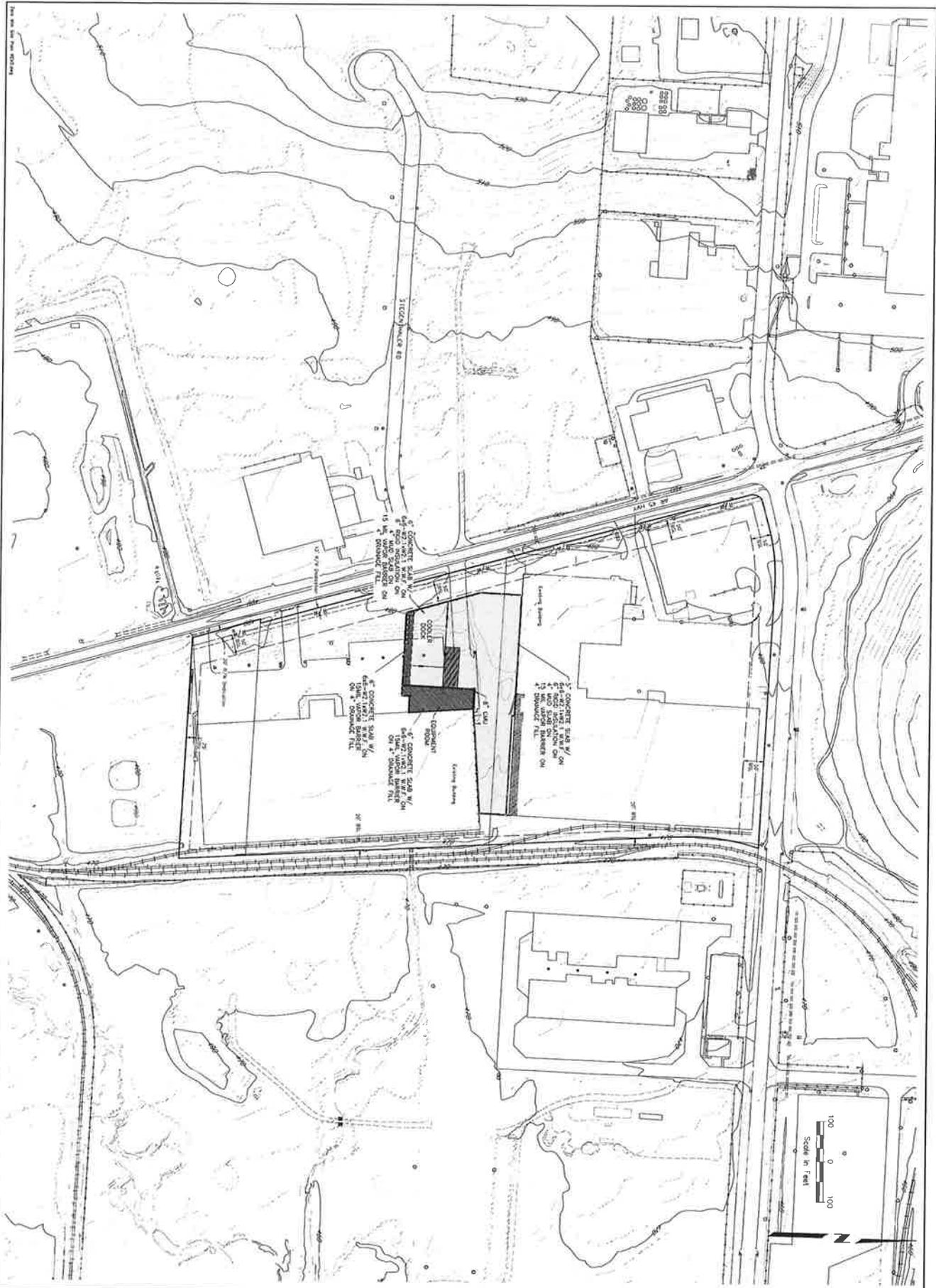
3E



March 23, 2015

- Fort Smith City Limits
- Zoning
- Subdivisions





| | | |
|------|----------|----|
| DATE | REVISION | BY |
| | | |
| | | |
| | | |
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SITE EXHIBIT

ZERO MOUNTAIN WAREHOUSE
INDUSTRIAL PARK TRACT 4A

FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

| | | |
|---|---|---|
| <p>MICKLE WAGNER COLEMAN</p> |  | <p>Engineers-Consultants-Surveyors 3434 Country Club Ave. P.O. Box 1507 Fort Smith, Arkansas (479) 649-8484 Fax (479) 649-8486 info@mwc-engr.com</p> |
|---|---|---|

3F

Memo

To: City Planning Commission

From: Planning Staff

Date: April 1, 2015

Re: Subdivision Variance #1-4-15 - A request by Pat Mickle, agent, for Planning Commission consideration of the following subdivision variance requests: A) Section 503-2(E) – to allow driveway access on a Major Collector street; and B) Section 27-503-11(B)3, to allow reduced perimeter landscaping at 8400 - 9400 Howard Hill Road (Companion to item #1)

REQUESTED VARIANCES

(A) Section 27-503-2(E) prohibits access to collector or arterial streets for developments that include single-family, row house, or duplexes. Approval of this request would allow driveway access on Howard Hill Road and Rye Hill Road South to facilitate the development of fourteen (14) single family homes on large (3 acre) estate-size lots.

(B) Section 27-503-11(B) 3 requires subdivisions to install a 10’ wide perimeter landscaping area that is planted with a minimum of one (1) tree and 10 shrubs for every 50’ linear feet of right-of-frontage. Approval of this variance would allow perimeter landscaping that would include three (3) trees per lot, with no two (2) trees closer than 50’ apart, and to allow existing trees versus only newly planted trees to meet part or all of the proposed three (3) trees per lot. The trees would be planted approximately 30’ from the right-of-way.

LOT LOCATION AND SIZE

The subject property is on the south side of Howard Hill Road at the intersection with Rye Hill Road South to the east. The tract contains an area of 33.18 acres with approximately 3,800 feet of street frontage along Howard Hill Road.

EXISTING ZONING

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

Purpose:

To provide for medium-to-high density, compact single family detached development on new sites or as infill construction. Adequate public services and facilities shall be available with

sufficient capacity to serve the proposed development. This zoning district is intended to serve as a transition between the lower density single family districts and the multifamily of commercial districts. RS-3 zoning as appropriate in urban and suburban areas and primarily applies to the Residential Detached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

Permitted Uses:

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

Conditional Uses:

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

Area and Bulk Regulations:

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

AND

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

Purpose:

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

Permitted Uses:

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

4B

Conditional Uses:

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

Area and Bulk Regulations:

- | | |
|--|--------------------------------|
| Minimum Lot Size – 5,000 square feet | Maximum Height - 35 feet (1+1) |
| Maximum Density – 8.7 Dwelling Units/Acre | Maximum Lot Coverage - 65% |
| Minimum Lot Width at Building Line – 50 feet | |
| Minimum Street Frontage – 20 feet | |
| Front Yard Setback - 20 feet | |
| Side Yard on Street Side of Corner Lot - 20 feet | |
| Side Yard Setback – 5 feet | |
| Rear Yard Setback - 10 feet | |
| Minimum building separation – 10 feet | |

SURROUNDING ZONING AND LAND USE

The areas to the north are zoned Residential Single Family Medium/High Density (RS-3) and ETJ Open-1 and are developed as single family residences.

The areas to the east are not zoned and are developed as single family residences and this area is also out of the city limits and the ETJ.

The areas to the south are zoned Residential Single Family Medium/High Density (RS-3) and Residential Single Family High Density (RS-4) and are undeveloped.

The areas to the west are zoned; not zoned, Residential Single Family Medium/High Density (RS-3) and Residential Single Family Rowhouse and Zero Lot Line District (RS-5) and are undeveloped.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Howard Hill Road and Rye Hill Road as Major Collectors.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Residential Detached. This classification creates and maintains stable neighborhoods, provides safe, attractive family environments, and protects property values.

APPLICANT HARDSHIP

The applicant indicates strict enforcement of Section 27-503-2(E) would eliminate the possibility of platting residential lots that face a street designated as a Major Collector. The applicant states that the opposite side of the street is developed as single family on large lots, and the proposed development would complement the existing neighborhood.

40

The applicant indicates strict enforcement of Section 27-503-11(B) 3, which would require trees and shrubbery adjacent to the right-of-way, would obstruct the view of both the street and driveway user. The applicant states that trees set back approximately 30' from the right-of-way would increase site distance for both parties, creating a safer intersection.

STAFF COMMENTS AND RECOMMENDATIONS

Staff concurs with the variance request to allow access on Howard Hill Road and Rye Hill Road South on the condition that all lots are required to have either a U-Shaped driveway or driveways with a turn-around design to eliminate vehicles backing out onto the street. The city engineering department is also acceptable with the variance request with this condition. A separate variance application for this site requests a driveway separation variance for driveways that include turn-arounds for each driveway.

Staff also concurs with the perimeter landscaping variance. Perimeter landscaping around the perimeter of a subdivision is typically adjacent to a home's rear-yard or side-yard. With the proposed Middleton Estates, Lots 1-14, the homes would face Howard Hill Road and the required landscaping would be placed in the front-yards. When the issue of perimeter landscaping was conceived during the drafting of the UDO, it was intended to address the perimeter of a subdivision but not necessarily to regulate the perimeter landscaping in the front yards of single-family homes. An example used for the drafting of UDO was the Remington Place subdivision at the corner of South 58th Street and Geren Road. For this reason, staff agrees with the variance request.

If the Planning Commission approves the variances, staff requests that it substantiate its reason for approval in accordance with Section 27-516-2 of the Unified Development Ordinance, which permits the granting of a subdivision variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the Subdivision Design and Improvement Standards chapter.

**APPLICATION FOR VARIANCE FROM SUBDIVISION DESIGN
AND IMPROVEMENT STANDARDS**

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

Street Address or Location: 8400 thru 9400 Howard Hill Road, Fort Smith, AR

Legal Description of Property (attach separate sheet if necessary): _____

See Attached

Zone: RS-3 and RS-4

Specific article and section of the Unified Development Ordinance which necessitates the subdivision variance request:

Article: A. 27-500
B. 27-500

Section: 503-2E
503-11B3

The specific request is as follows:

A) To permit driveway access from single family lot to a street classified as a major collector.

B) To change the perimeter landscaping plantings from one tree and ten shrubs for every fifty feet, to three trees per lot with no two trees closer than 50' apart, and to allow existing trees, versus only newly planted trees, to meet part or all of the 3 tree requirement. (Trees will be set back from the right-of-way approximately 30 feet).

Signed:

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

Owner

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

or

Agent

Variance # _____

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-8 Subsection B) of the Fort Smith Unified Development Ordinance defines the criteria for granting a subdivision variance.

In considering such appeals, the Planning Commission may, where the literal enforcement of these regulations would result in unnecessary hardship, consider deviation from the strict application of any part of these regulations, where in its judgment the public convenience and welfare will be substantially served, the neighboring property will not be substantially injured, and a reasonable development and improvement of property will be permitted. In approving appeals or variances, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of these regulations. (Ord. No. 101-88, art. 3.5, 1-21-89; Ord. N. 6-91, subsection 1, 2-6-91)

1. Describe how the strict enforcement of the Development Regulations causes an undue hardship for your project:

A) Strict enforcement would eliminate the possibility of platting residential lots that face a designated major collector. The opposite side of the street is developed as single family on large lots. The proposed development will compliment the existing neighborhood.

B) Shrubs and trees set near the right-of-way obstruct the view of both the street and driveway user. Trees set back will increase site distance for both parties, creating a safer intersection.

2. 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:

A) The proposed lots are generally 250' wide and thus the number of driveways and volume of traffic entering the street will be only 1/3 to 1/4 the norm for a residential subdivision. All lots will be required to either have U-shaped driveways or driveways with a turnaround, eliminating any cars from backing into the street.

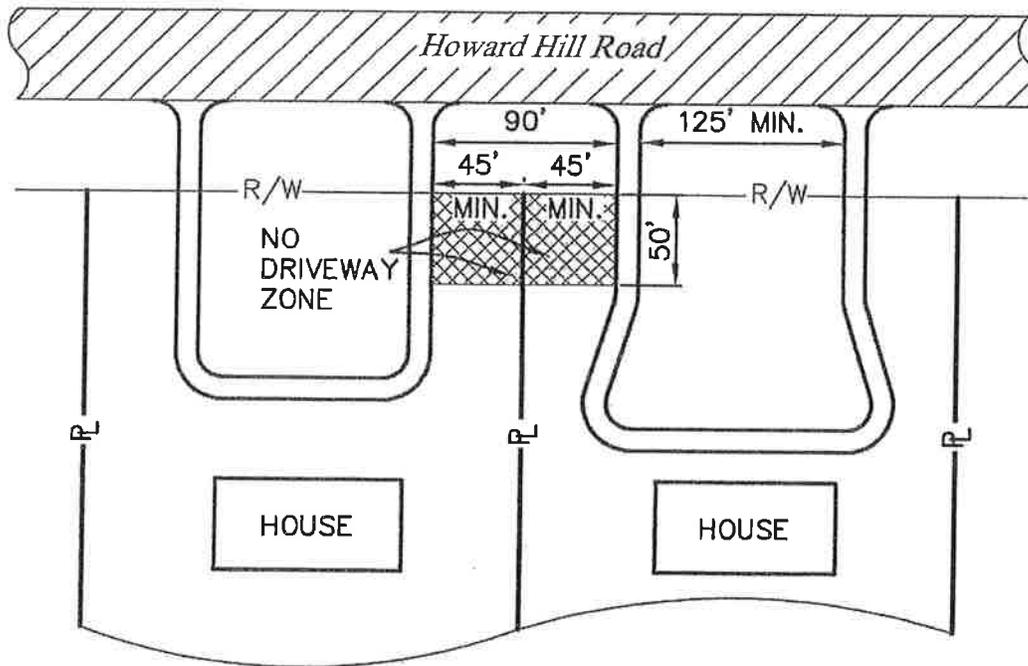
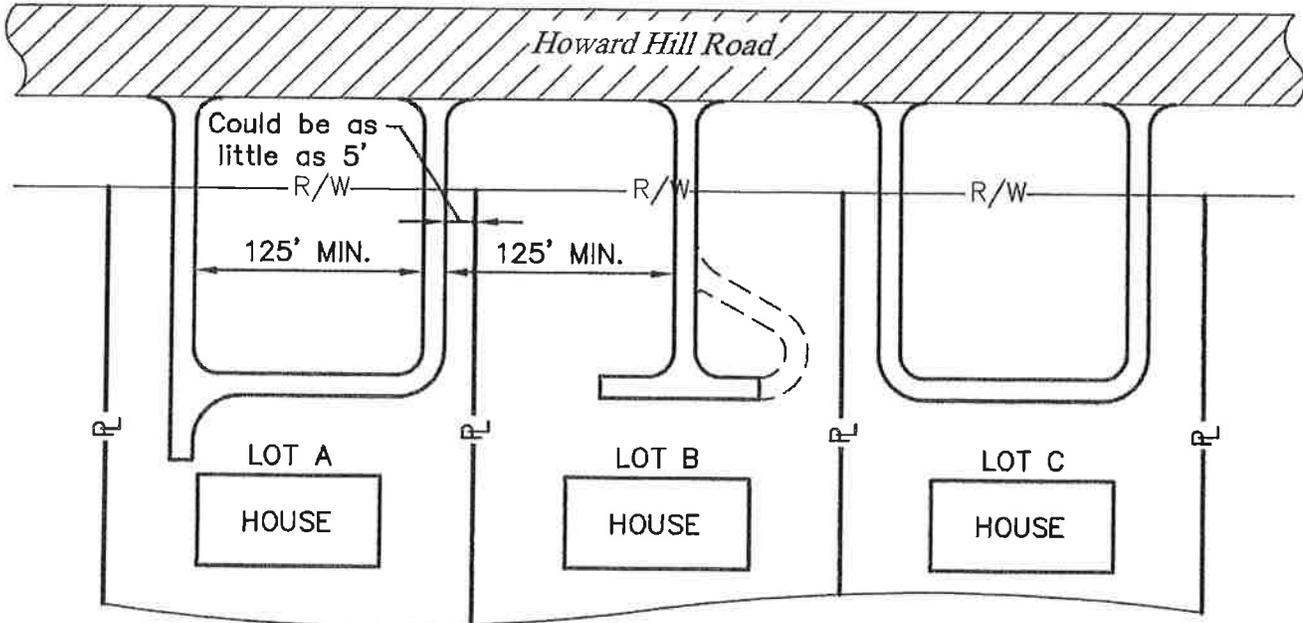
B) Other properties in the area did not have a requirement to plant street frontage landscaping, which obstructs sight distance.

K:\Work Orders\Middleton Estates - 11942\Drafting\Exhibits\Middleton Estates Sideyard Exhibit.dwg, Layout1, 3/18/2015 8:14:49 AM

**MICKLE
WAGNER
COLEMAN**



Engineers-Consultants-Surveyors
3424 Country Club Ave. (479) 649-8494
P.O. Box 1507 Fax (479) 649-8986
Fort Smith, Arkansas info@mwc-engr.com



**MIDDLETON ESTATES
SIDEYARD SETBACK EXHIBIT
Fort Smith, Arkansas**

4G

Memo

To: City Planning Commission

From: Planning Staff

Date: April 2, 2015

Re: Development Plan Review - A request by Bob Stinchcomb, agent for Gerdau, for Planning Commission consideration of a Development Plan request for: 1) construction of a products fuel pipeline; and 2) construction of approximately 1,100 feet of 6 ft. chainlink fence at 5225 Planters Road.

PROPOSED DEVELOPMENT PLAN

Approval of the development plan will allow: 1) the construction of a 12” fuel products pipeline that will transport diesel fuel, gasoline, and jet fuel; and 2) the construction of approximately 1,100 feet of 6 ft. tall chainlink fence along Gerdau’s northern property line. Ordinance #75-11 requires any development within 300 feet of Gerdau’s northern property line to receive approval by the Planning Commission. A copy of this ordinance is enclosed. Both projects are within 300 feet of the northern property line, which is bordered by Millennium Estates, a residential subdivision.

For the planning commission’s reference, the UDO defines development as “the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of land.

LOT LOCATION AND SIZE

The subject property is on the east side of Highway 45 between Ayers Road and Planters Road. The tract contains an area of 189.2 acres with approximately 2,000 feet of street frontage along Hwy 45 and approximately 3,700 feet of street frontage along Planters Road.

EXISTING ZONING (or) PROPOSED ZONING

The existing zoning on this tract is Extraterritorial Jurisdiction Industrial Moderate (I-2) SPL. Characteristics of this zone are as follows:

Purpose:

To provide for industrial uses that can be operated in a clean and quiet manner that will not be obnoxious to adjacent uses and have relatively limited environmental impacts. I-2 uses are

5A

primarily contained indoors and have heavier traffic generation than I-1 uses. I-2 zoning is appropriate in the industrial classification of the ETJ land use map.

Permitted Uses:

Bus, truck, mobile homes, or large vehicle sales or service, convenience store, heavy machinery and equipment sales or service, lawn and garden, lumber yard and building materials, heating and plumbing equipment, financial institutions, real estate, offices, veterinary services, extermination and pest control, manufacturing are examples of permitted uses.

Conditional Uses:

Automobile storage, truck stop, medical laboratory, petroleum storage and loading, fairground/rodeo ground, community center, golf course, gun club, sports stadium, natural and other recreational parks, nursery and preschool, police, fire, emergency response, child day care (up to 12 children) and day care center are examples of uses permitted as conditional uses..

Area and Bulk Regulations:

| | |
|--|----------------------------|
| Minimum Lot Size – 20,000 square feet | Maximum Height - 45 feet |
| Minimum Lot Width at Setback Line – 100 feet | Maximum Lot Coverage - 60% |
| Minimum parcel/lot size for rezoning – New District (By Classification) – 10 acres | |
| Minimum parcel/lot size for rezoning – Existing District (By Extension) – 20,000 square feet | |
| Minimum Street Frontage – N/A | |
| Front Yard Setback - 50 feet | |
| Side Yard on Street Side of Corner Lot - 50 feet | |
| Side Yard Setback – 25 feet | |
| Rear Yard Setback - 20 feet | |
| Side/Rear Setback abutting RS – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process) | |
| Required street access: Major Arterial or higher | |

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Industrial Light (I-1) and Residential Single Family Duplex Medium and High densities (RSD-3 and RSD-4) and developed as Hiram Walker and a residential subdivision. First Tee is also to the north of Gerdau.

The areas to the south are zoned ETJ Open-1 and ETJ Industrial Moderate and are developed as Zero Mountain, Maverick Trucking, and Owens Corning.

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

The area to the west is zoned Industrial Light (I-1) and is developed Cintas Industrial Laundry, International Paper, and undeveloped property.

SITE DESIGN FEATURES

Ingress/egress/traffic circulation – All ingress and egress will occur on the existing site. No new locations are proposed.

Landscaping – No new landscaping is proposed.

Screening – No new screening is proposed.

Signage – No new signage is shown on the plans.

Lighting – No new lighting is shown on the plans.

STAFF COMMENTS AND RECOMMENDATIONS

Staff recommends approval of the application with the following conditions:

Construction must comply with the submitted development plan and any Planning Commission amendments. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.

4
Revised

ORDINANCE NO. 75-11

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

WHEREAS, the City Planning Commission has held a public hearing to consider a request to amend the Master Land Use Plan Map relative to property described in Section 1 of this ordinance, and, having considered the request, recommended on September 13, 2011, that said change be made; and,

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

WHEREAS, the City Planning Commission has heretofore held a public hearing to consider request No. 28-9-11 to rezone certain properties hereinafter described, and, having considered said request, recommended on September 13, 2011, that said change be made;

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

SECTION 1: The hereinafter described property is hereby reclassified on the Master Land Use Plan Map from Extra Territorial Jurisdiction Light Industrial to Extra Territorial Jurisdiction Industrial and the Master Land Use Plan Map is hereby amended to reflect said amendment to-wit:

Industrial Park South No. 5, Tract 2, an addition to the City of Fort Smith, Sebastian County, Arkansas. more commonly known as 5225 Planters Road.

SECTION 2: The hereinafter described property is hereby rezoned from Extra Territorial Jurisdiction Open-1 (ETJ O-1) to Extra Territorial Jurisdiction Industrial-2 (ETJ I-2) by Classification, subject to the

Approved as to form
JSC
Publish 1 time

501

submittal of a development plan for Planning Commission review prior to any proposed development within 300 feet for the northern boundary of the property:

Industrial Park South No. 5, Tract 2, an addition to the City of Fort Smith, Sebastian County, Arkansas more commonly known as 5225 Planters Road.

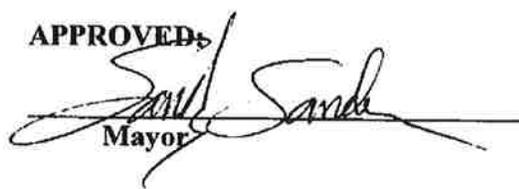
The zoning map of the City of Fort Smith is hereby amended to reflect said rezoning.

PASSED AND APPROVED THIS 4th DAY OF October, 2011.

ATTEST:


City Clerk

APPROVED:


Mayor

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)

Lot 1 and 2 of Industrial Park South No. 5 as filed for public record December 7, 1983.

2. Address of property: 5225 Planters Road, FSM, AR 72916

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

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

Yes _____ No X

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:

N/A by _____
(Zoning Classification) (Extension or classification)

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

I - 2, ETJ I-2 SPL, R-4-SF-DP, R-3-SF-DP, ETJ Open-1

8. Total acreage of property 189.42 acres

Gerdau - Fort Smith Mill
Owner or Agent Name
(Please print)

Bob Stinchcomb
Owner or Agent
(Please sign)

5225 Planters Rd., FSM, AR 72916
Owner or Agent Mailing Address

3/17/15
Date

479-646-0223
Owner or Agent Phone Number

bob.stinchcomb@gerdau.com
Email

Development Plan Review for the construction of a pipeline and fencing 5225 Planters Road

5H



April 10, 2015

- Fort Smith City Limits
- Zoning

55



| | | | |
|------------------------|-------------------|---|--------------------|
| PROPOSED 12" PIPELINE | UNKNOWN PIPELINE | Ⓡ | FIRE HYDRANT |
| PROPOSED HOOD | GUY ANCHOR | Ⓢ | GAS METER |
| EASEMENT CENTERLINE | POWER LINE | Ⓜ | POWER POLE |
| TEMPORARY ACCESS ROAD | SANITARY SEWER | Ⓦ | SANITARY SEWER |
| CONSTRUCTION FOOTPRINT | STORM SEWER | Ⓦ | TELEPHONE PEDESTAL |
| ABANDONED PIPELINE | TELEPHONE LINE | Ⓦ | WATER METER |
| AOG PIPELINE | WATER LINE | Ⓦ | WATER VALVE |
| CPE PIPELINE | FIBER OPTIC CABLE | | |
| ENAS PIPELINE | TREE LINE | | |

MAGELLAN PIPELINE COMPANY, L.P.
FORT SMITH CONNECTOR
AERIAL MAP SERIES



| | | |
|---------------------------------|--|--|
| | <p>MAGELLAN MIDSTREAM PARTNERS, L.P. PRELIMINARY FOR REVIEW ONLY MAGELLAN MIDSTREAM, LP PROPRIETARY</p> | <p>DRAWN BY: HMM 12/21/2014</p> <p>CHECKED BY: HMM</p> <p>APPROVED BY: HMM</p> <p>REV. DATE: 09/17/2015</p> <p>REVISION: 3</p> <p>DESC:</p> <p>PAGE: Page 4 of 109</p> |
| <p>ABSOLUTE SCALE 1:500</p> | <p>Hatch Mott MacDonald 807 Conway Street, West Monroe, LA 70056 P.O. Box 222222 - 70002 707-339-2222</p> | <p>REFERENCE SCALE 1 IN = 50 FT</p> |

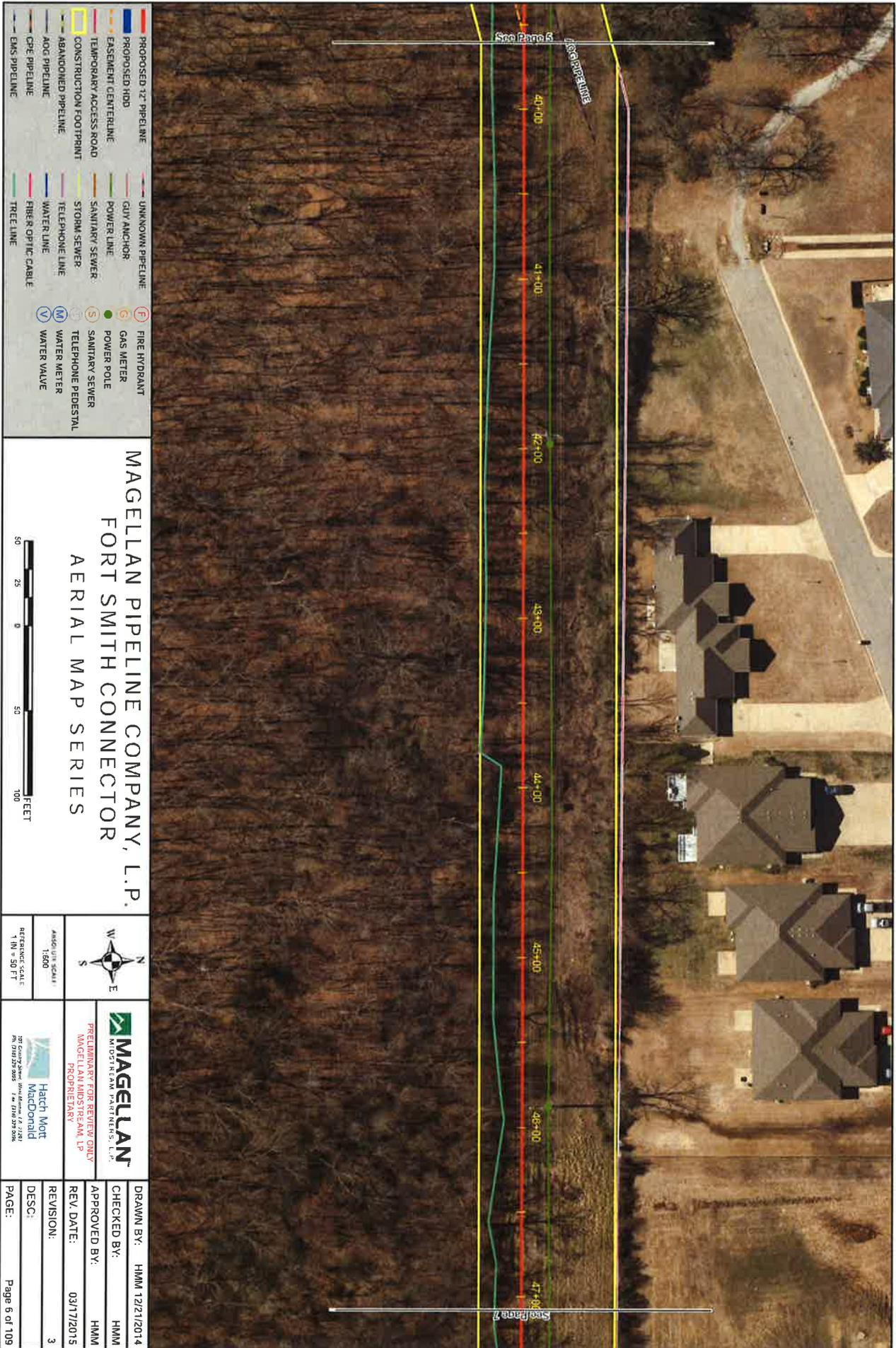
- PROPOSED 12" PIPELINE
- PROPOSED H2O
- EASEMENT CENTERLINE
- TEMPORARY ACCESS ROAD
- CONSTRUCTION FOOTPRINT
- ABANDONED PIPELINE
- AOG PIPELINE
- CPE PIPELINE
- EMS PIPELINE
- UNKNOWN PIPELINE
- GUY ANCHOR
- POWER LINE
- SANITARY SEWER
- STORM SEWER
- TELEPHONE LINE
- WATER LINE
- FIBER OPTIC CABLE
- TREE LINE
- FIRE HYDRANT
- GAS METER
- POWER POLE
- SANITARY SEWER TELEPHONE PEDESTAL
- WATER METER
- WATER VALVE

MAGELLAN PIPELINE COMPANY, L.P.
FORT SMITH CONNECTOR
AERIAL MAP SERIES

| | | | |
|----------------------|---|---|---|
| N E S W | MAGELLAN MIDSTREAM PARTNERS, L.P. PRELIMINARY FOR REVIEW ONLY MAGELLAN MIDSTREAM, LP PROPRIETARY | ANNO 1916 SCALE 1:600 REFERENCE SCALE 1" = 50 FT | DRAWN BY: HMM 12/21/2014 CHECKED BY: HMM APPROVED BY: HMM REV. DATE: 03/17/2015 REVISION: 3 DESC: PAGE: Page 5 of 109 |
|----------------------|---|---|---|



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- PROPOSED 12" PIPELINE**
- PROPOSED HDD
 - EASEMENT CENTERLINE
 - TEMPORARY ACCESS ROAD
 - CONSTRUCTION FOOTPRINT
 - ABANDONED PIPELINE
 - AGG PIPELINE
 - CPE PIPELINE
 - EMS PIPELINE
- UNKNOWN PIPELINE**
- FIRE HYDRANT
 - GAS METER
 - POWER POLE
 - SANITARY SEWER
 - STORM SEWER
 - TELEPHONE LINE
 - WATER LINE
 - FIBER OPTIC CABLE
 - TREE LINE
- Legend Symbols:**
- (F) FIRE HYDRANT
 - (G) GAS METER
 - (P) POWER POLE
 - (S) SANITARY SEWER
 - (M) TELEPHONE PEDestal
 - (W) WATER METER
 - (V) WATER VALVE

MAGELLAN PIPELINE COMPANY, L.P.
FORT SMITH CONNECTOR
AERIAL MAP SERIES

| | | | |
|--|--|---|---|
|  ABSOLUTE SCALE 1" = 30 FT REFERENCE SCALE |  MAGELLAN MIDSTREAM PARTNERS, L.P. PRELIMINARY FOR REVIEW ONLY MAGELLAN MIDSTREAM, LP PROPRIETARY | HATCH MOTT MACDONALD 207 Country Lane, Woodbury, NJ 07269 PH: 908.225.9000 FAX: 908.272.9006 | DRAWN BY: HMM 12/21/2014 CHECKED BY: HMM APPROVED BY: HMM REV. DATE: 03/17/2015 REVISION: 3 DESC: PAGE: Page 6 of 109 |
| | | | |

56

- PROPOSED 12" PIPELINE
- PROPOSED HDD
- EASEMENT CENTERLINE
- TEMPORARY ACCESS ROAD
- CONSTRUCTION FOOTPRINT
- ABANDONED PIPELINE
- AOG PIPELINE
- CPE PIPELINE
- EMTS PIPELINE
- UNKNOWN PIPELINE
- GUY ANCHOR
- POWER LINE
- SANITARY SEWER
- STORM SEWER
- TELEPHONE LINE
- FIBER OPTIC CABLE
- TREE LINE
- FIRE HYDRANT
- GAS METER
- POWER POLE
- SANITARY SEWER
- TELEPHONE PEDESTAL
- WATER METER
- WATER VALVE

MAGELLAN PIPELINE COMPANY, L.P.
FORT SMITH CONNECTOR
AERIAL MAP SERIES



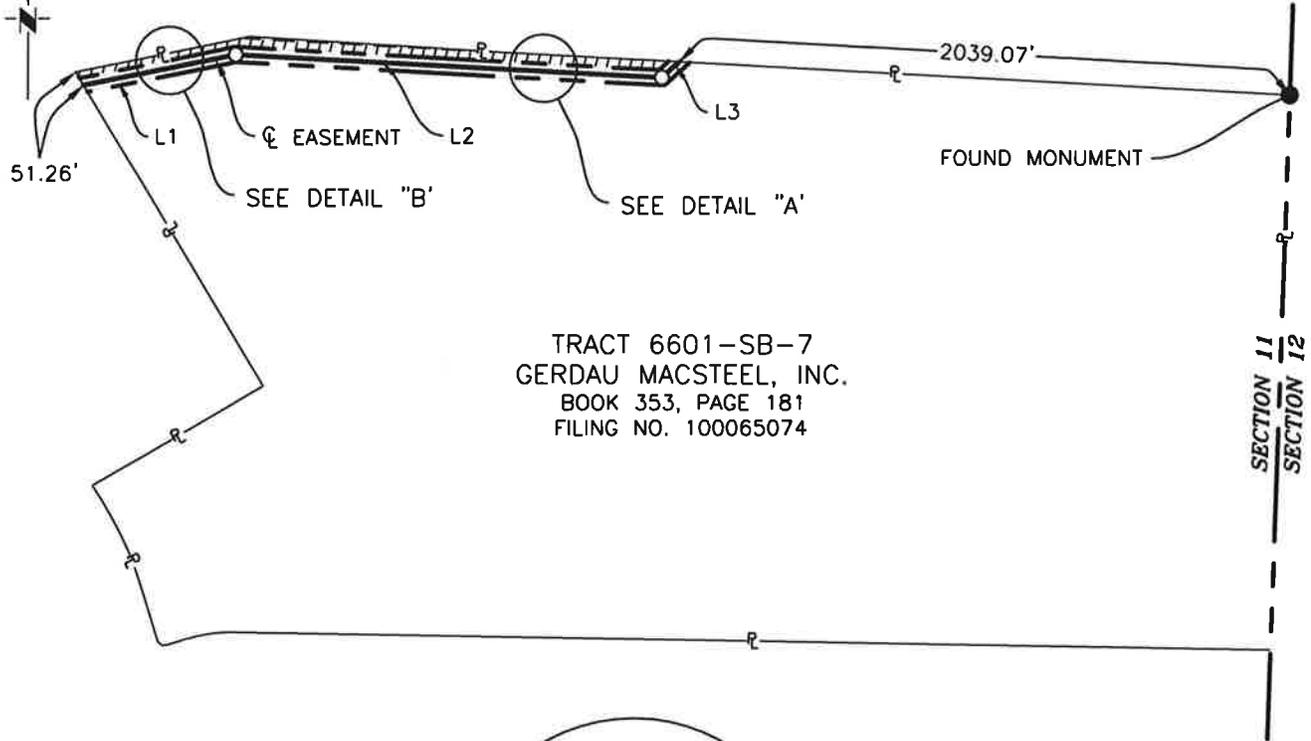
| | |
|---|--|
| MAGELLAN <small>MIDST REAM PARTNERS, L.P.</small> | <small>PRELIMINARY FOR REVIEW ONLY</small> MAGELLAN MIDST REAM, LP <small>PROPRIETARY</small> |
| <small>AS-BUILT SCALE</small> <small>1"=50'</small> | Hatch Mot MacDonald <small>327 Conway Street, West Monroe, LA 70091</small> <small>PH: (225) 233-2882 Fax: (225) 237-2888</small> |

| | |
|--------------|----------------|
| DRAWN BY: | HMM 12/21/2014 |
| CHECKED BY: | HMM |
| APPROVED BY: | HMM |
| REV. DATE: | 03/17/2015 |
| REVISION: | 3 |
| DESC.: | |
| PAGE: | Page 7 of 109 |

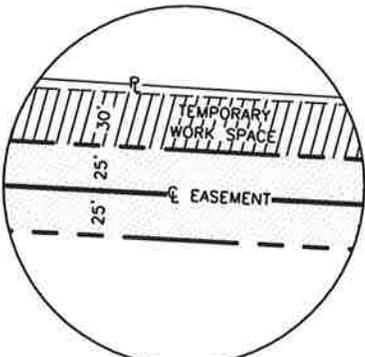


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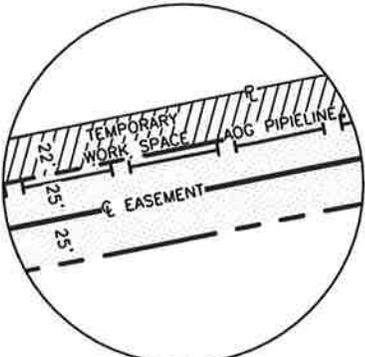
EXHIBIT "A"
SECTION 11, T7N-R32W
SEBASTIAN COUNTY, ARKANSAS



TRACT 6601-SB-7
GERDAU MACSTEEL, INC.
BOOK 353, PAGE 181
FILING NO. 100065074



DETAIL "A"
N.T.S.



DETAIL "B"
N.T.S.

| EASEMENT | | |
|----------|---------------|----------|
| COURSE | BEARING | DISTANCE |
| L1 | N 78°36'03" E | 516.57' |
| L2 | S 86°58'55" E | 1420.07' |
| L3 | N 48°03'43" E | 77.84' |

PROPERTY OF
GERDAU MACSTEEL, INC.
TRACT 6601-SB-7
2014.48 FT. ~ 122.09 RODS

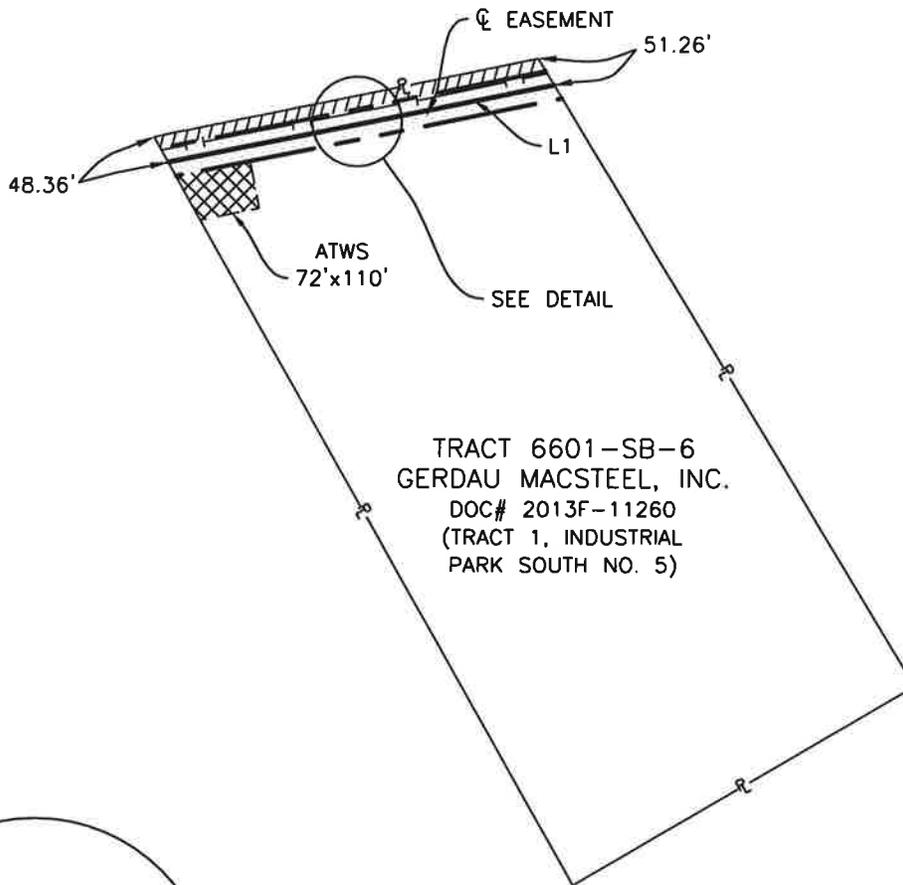
- PROPOSED PERMANENT EASEMENT = 2.31 ACRES
- PROPOSED TEMPORARY WORK SPACE = 1.28 ACRES

NOTE:
THIS IS AN EASEMENT DRAWING
AND DOES NOT REPRESENT A
BOUNDARY SURVEY.

| | | | |
|------------------------|---|---------------------|-----------------------|
| DRAFTING DEPARTMENT | MAGELLAN MIDSTREAM PARTNERS, L.P. | | |
| CHECKED: ALA | ONE WILLIAMS CENTER, TULSA, OK 74172 | | |
| APPROVED: | PROPOSED PIPELINE EASEMENT CROSSING THE PROPERTY OF GERDAU MACSTEEL, INC. SEBASTIAN COUNTY, ARKANSAS | | |
| ENGINEERING DEPARTMENT | SCALE: 1" = 600' | DRAWN BY: HMM | DRAWING NO. |
| CHECKED: | DATE: 02/03/15 | PLOT DATE: 02/03/15 | 6601-SB-7 |
| APPROVED: | | | REVISION 1 |

52

EXHIBIT "A"
SECTION 11, T7N-R32W
SEBASTIAN COUNTY, ARKANSAS



TRACT 6601-SB-6
GERDAU MACSTEEL, INC.
DOC# 2013F-11260
(TRACT 1, INDUSTRIAL
PARK SOUTH NO. 5)



DETAIL
N.T.S

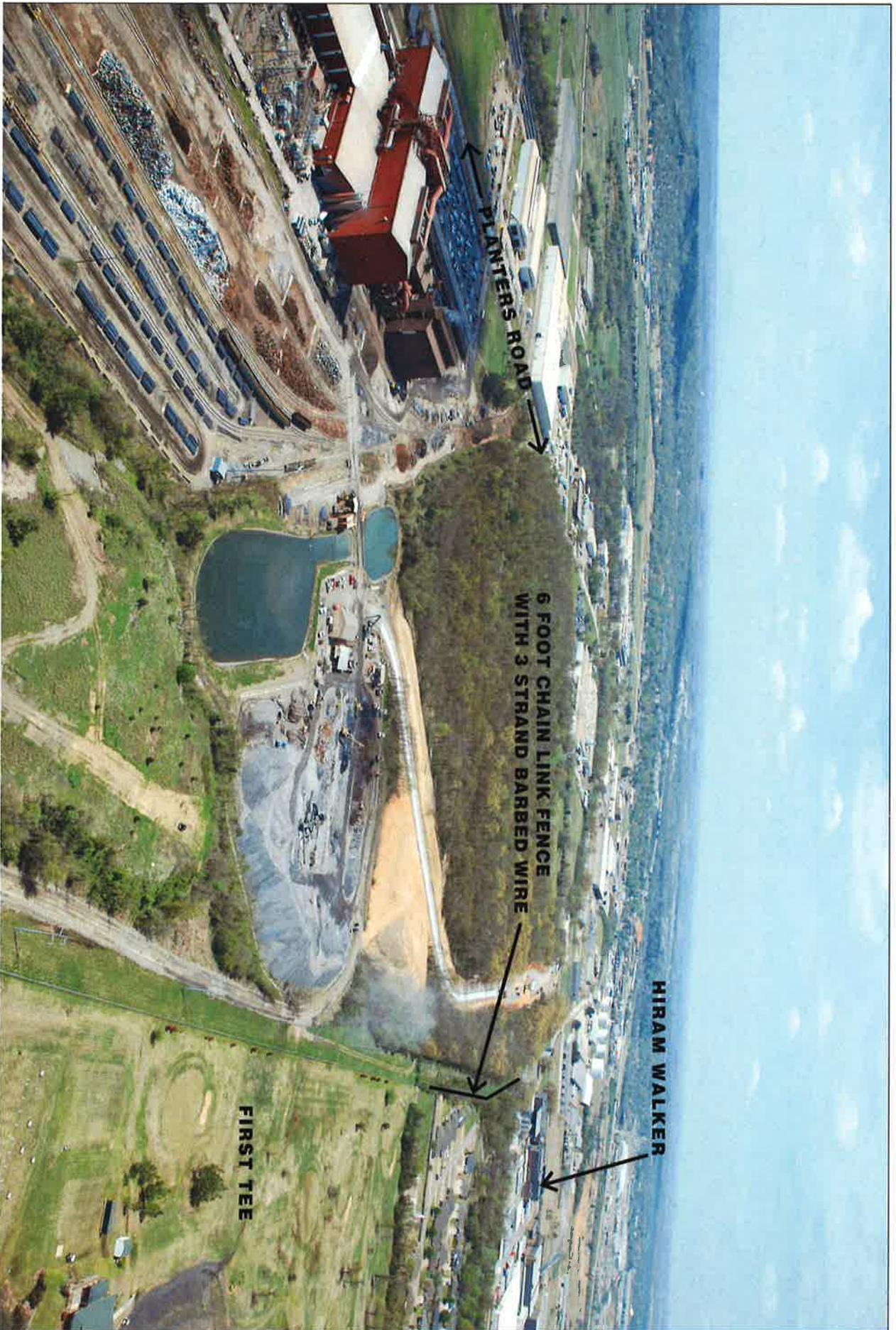
PROPERTY OF
GERDAU MACSTEEL, INC.
TRACT 6601-SB-6
652.85 FT. ~ 39.57 RODS

-  PROPOSED PERMANENT EASEMENT = 0.75 ACRES
-  PROPOSED TEMPORARY WORK SPACE = 0.33 ACRES
-  ADDITIONAL TEMPORARY WORK SPACE = 0.21 ACRES

NOTE:
THIS IS AN EASEMENT DRAWING
AND DOES NOT REPRESENT A
BOUNDARY SURVEY.

| EASEMENT | | |
|----------|---------------|----------|
| COURSE | BEARING | DISTANCE |
| L1 | N 78°36'03" E | 652.85' |

| | | | |
|------------------------|---|---------------------|------------------|
| DRAFTING DEPARTMENT | MAGELLAN MIDSTREAM PARTNERS, L.P. | | |
| CHECKED: ALA | ONE WILLIAMS CENTER, TULSA, OK 74172 | | |
| APPROVED: | PROPOSED PIPELINE EASEMENT CROSSING THE PROPERTY OF GERDAU MACSTEEL, INC. SEBASTIAN COUNTY, ARKANSAS | | |
| ENGINEERING DEPARTMENT | SCALE: 1" = 300' | DRAWN BY: HMM | DRAWING NO. |
| CHECKED: | DATE: 02/03/15 | PLOT DATE: 02/03/15 | 6601-SB-6 |
| APPROVED: | | | 1 |



Memo

To: City Planning Commission

From: Planning Staff

Date: March 31, 2015

Re: Variance #8-4-15 - A request by John Horne, agent, for Board of Zoning Adjustment consideration of a zoning variance request from 120 days to 180 days maximum length of time for a seasonal permit (Section 27-327 of the UDO)

REQUESTED VARIANCE

The variance if approved will allow for the operation of a seasonal use (sno-cone stand) to be utilized for 180 days.

LOT LOCATION AND SIZE

The subject property is on the south side of Market Trace between Jenny Lind Road and South 28th Street. The tract contains an area of 1.96 acres with approximately 165 feet of street frontage along Market Trace.

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.

6A

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

SURROUNDING ZONING AND LAND USE

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

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

The areas to the south are zoned Residential Single Family Rowhouse and Zero Lot Line District (RS-5) and are developed as single family residences.

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

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Market Trace as a local road.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as (Commercial) Neighborhood Compatible. 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.

APPLICANT HARDSHIP

The applicant has listed that the summer and spring season last longer than the allotted 120 day to operate his business.

6B

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Thursday, March 12, 2015 on site. No adjacent property owners attended the meeting. There were no objections to the proposed project or explain the objections.

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.

Staff recommends approval of the application.

6C

Var. # 8-4-15

APPLICATION FOR VARIANCE

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

Address of property 2700 Market Trace, Existing or Proposed

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

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

FROM

TO

- _____ - _____ Front Yard Setback or Minimum Distance from Right-of-Way
- _____ - _____ Exterior Side Yard Setback
- _____ - _____ 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: Extension of Seasonal License from 120 to 180 days

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:

JOHN HORNE
Owner or Agent Name (please print)

J. L. Horne
Owner

or

479-420-9788
Owner or Agent Phone Number

Agent

2218 Glen West Way, FS, AR
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:

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? |
| _____ | _____ | Does the lot front any street classified as an arterial or collector on the Master Street Plan? |

6F

Explanation of question #4 (if applicable)

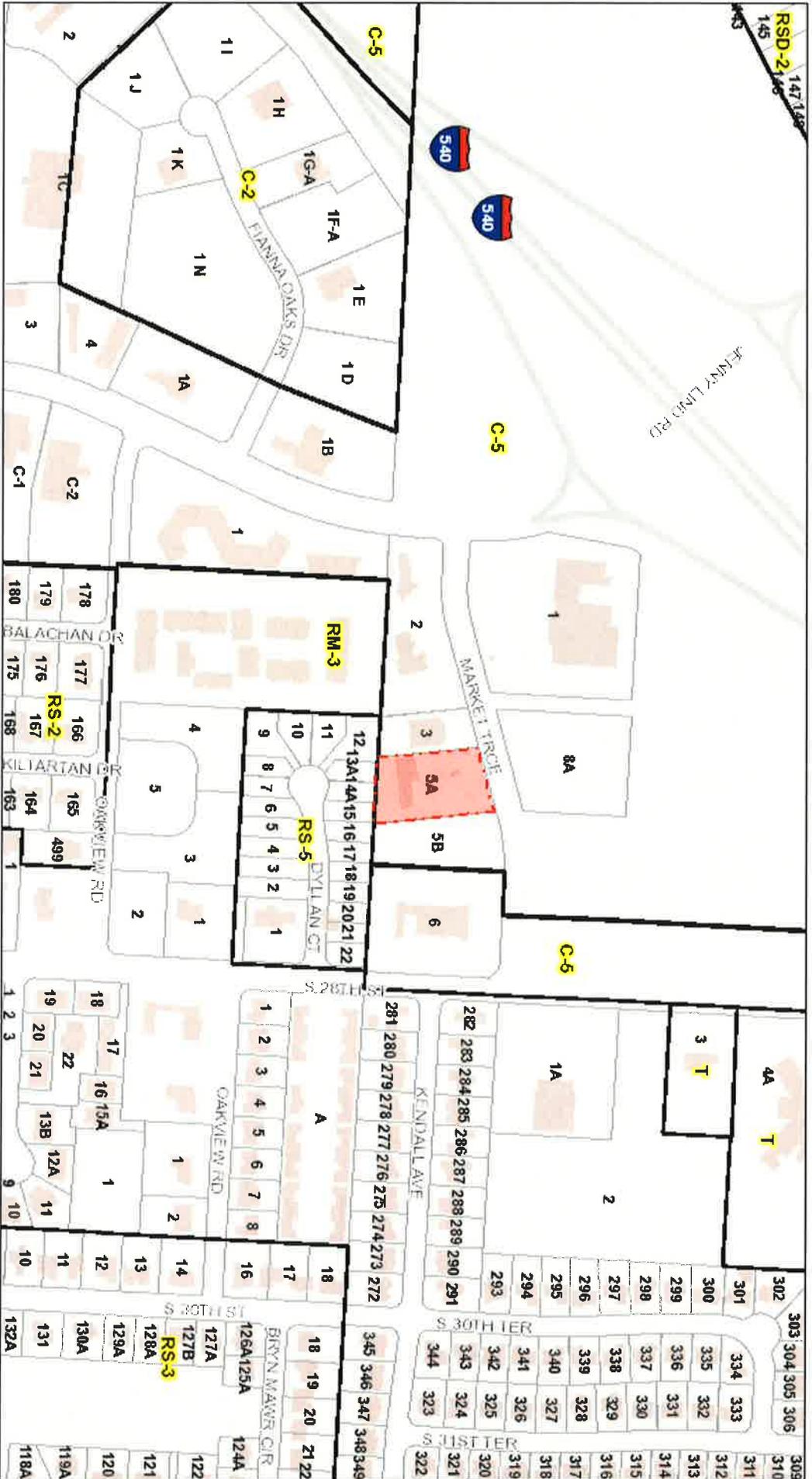
2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

The summer/spring hot months last longer than 120 days

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

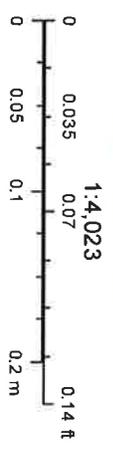
Variance #8-4-15: Extension of seasonal license from 120 to 180 days 2700 Market Trace

F 9



March 16, 2015

- Fort Smith City Limits
- Building Footprints
- Zoning
- Subdivisions



Memo

To: City Planning Commission

From: Planning Staff

Date: April 1, 2015

Re: Variance #9-4-15 - A request by Pat Mickle, agent, for Board of Zoning Adjustment consideration of the minimum separation between adjacent driveways from 125 feet to 90 feet on a Major Collector street on adjacent lots at 8499 – 9400 Howard Hill Road

REQUESTED VARIANCE

Approval of the variance would allow adjacent driveways on a Major Collector street to have a separation of 90 feet instead of the required minimum of 125' as required by Table 27-603-1B of the Access Management regulations of the UDO.

LOT LOCATION AND SIZE

The subject property is on the south side of Howard Hill Road at the intersection with Rye Hill Road to the east. The tract contains an area of 33.18 acres with approximately 3,800 feet of street frontage along Howard Hill Road.

EXISTING ZONING

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

Purpose:

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

Permitted Uses:

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

7A

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%

AND

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

Purpose:

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

Permitted Uses:

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

Conditional Uses:

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

Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet
Maximum Density – 8.7 Dwelling Units/Acre

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

7B

Minimum Lot Width at Building Line – 50 feet
Minimum Street Frontage – 20 feet
Front Yard Setback - 20 feet
Side Yard on Street Side of Corner Lot - 20 feet
Side Yard Setback – 5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet

SURROUNDING ZONING AND LAND USE

The areas to the north are zoned Residential Single Family Medium/High Density (RS-3) and ETJ Open-1 and are developed as single family residences.

The areas to the east are not zoned and are developed as single family residences and this area is also out of the city limits and the ETJ.

The areas to the south are zoned Residential Single Family Medium/High Density (RS-3) and Residential Single Family High Density (RS-4) and are undeveloped.

The areas to the west are zoned; not zoned, Residential Single Family Medium/High Density (RS-3) and Residential Single Family Rowhouse and Zero Lot Line District (RS-5) and are undeveloped.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Howard Hill Road and Rye Hill Road South as Major Collectors.

MASTER LAND USE PLAN COMPLIANCE

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

APPLICANT HARDSHIP

The applicant states that without this provision, one neighbor's driveway placement by the edge of their lot would require the adjacent neighbor to place a driveway 125' away, in the center of his lot, minimizing the opportunity for both to have a U-shaped driveway. The applicant states that U-shaped driveways are deemed safer as they lead to entering on one drive and exiting on the other.

STAFF COMMENTS AND RECOMMENDATIONS

The city engineering department has also reviewed the request and has no objections.

The applicant suggests with the variance approval, a condition be added that the nearest edge of a driveway shall be no closer than 45 feet from the property line.

Staff agrees with this condition and recommends approval.

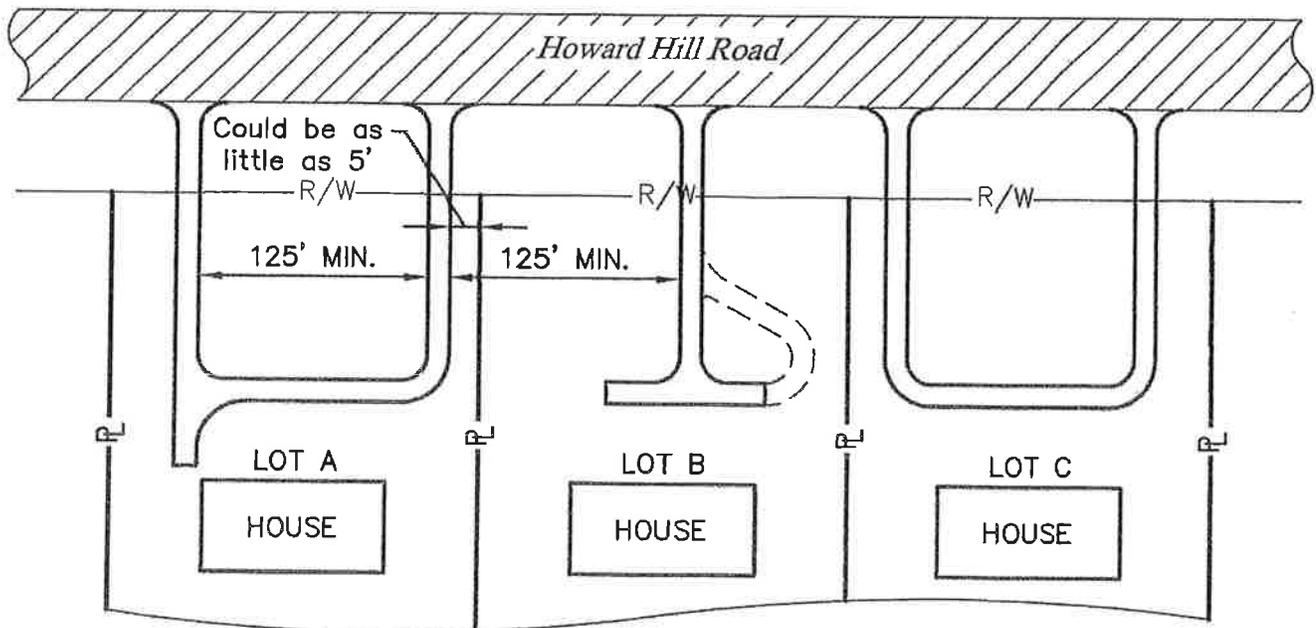
7C

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.

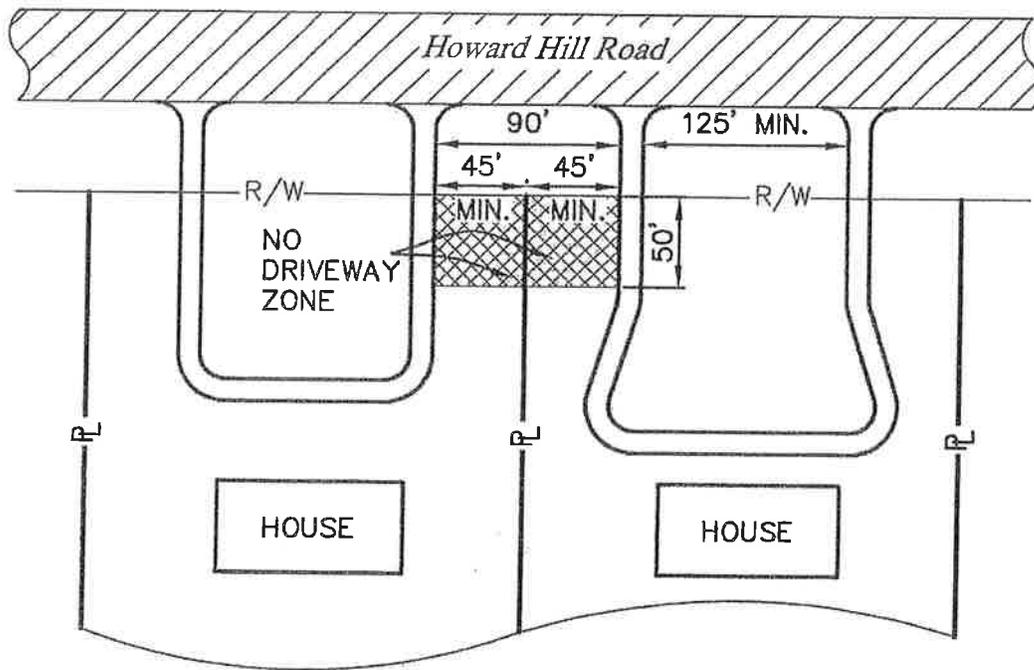
K:\Work_Orders\Middleton Estates - 11942\Drafting\Exhibits\Middleton Estates Sideyard Exhibit.dwg, Layout1, 3/18/2015, 8:14:49 AM



Engineers-Consultants-Surveyors
3614 Country Club Ave. (479) 649-8984
P.O. Box 1507 (479) 649-8986
Fort Smith, Arkansas info@mwc-engr.com



Driveway in middle 1/3 of lot - unlikely to have a U-shaped drive
WITHOUT SIDEYARD RESTRICTION
No Scale



WITH 45' SIDEYARD SETBACK
No Scale

*MIDDLETON ESTATES
SIDEYARD SETBACK EXHIBIT
Fort Smith, Arkansas*

7E

Var. # 9-4-15

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)

See Attached

Address of property 8400-9400 Howard Hill Road, Fort Smith, AR, Existing or Proposed

Zoning Classification RS-3 and RS-4, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

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

FROM

TO

- Front Yard Setback or Minimum Distance from Right-of-Way
- Exterior Side Yard Setback
- Interior Side Yard Setback
- Rear Yard Setback
- Maximum Height of Structure
- Minimum Distance Between Structures on the Same Lot
- Minimum Lot Area (Square Feet)
- Minimum Lot Frontage
- Maximum Size of a Sign
- 125 - 90 Other: Separation between driveways on adjacent lots

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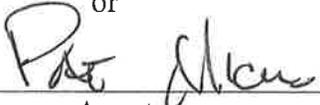
said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this _____ day of _____, 20____.

Signed:

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

Owner

479-649-8484
Owner or Agent Phone Number

or

Agent

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

Variance # _____

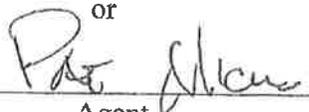
said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this _____ day of _____, 20____.

Signed:

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

Owner

479-649-8484
Owner or Agent Phone Number

or

Agent

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

Variance # _____

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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.

Yes

No

X

Is this variance needed because of previous actions taken by yourself?

X

Is this variance needed because of previous actions taken by a prior owner?

X

A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance? **Not for intended use.**

X

Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.

X

Is the lot of an odd or unusual shape? **Very large & wide**

X

Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?

X

Does the lot contain required easements other than those that might be located on its perimeter?

X

Is any part of the lot in a flood plain or flood way?

X

Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?

X

Is the lot developed with structures in violation of current zoning requirements?

X

Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

By the current code, a 250' wide lot can have two driveways. This variance keeps the driveways away from the edges of the lot, ensuring adequate spacing between driveways on adjacent lots. That is, driveways on adjacent lots could not be close together; they will have to be at least 90 feet apart. The developer, by restrictive covenant, will require that within 50 feet of the right-of-way, the nearest edge of a driveway shall be no closer than 45 feet from the property line.

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

Without this provision, one neighbor's driveway placement by the edge of their lot would require the adjacent neighbor to place a driveway 125' away, in the center of his lot, minimizing the opportunity for both to have a U-shaped driveway. U-shaped driveways are deemed safer as they lead to entering on one drive and exiting on the other. See the attached exhibit.

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:

This large lot development with controlled driveway spacing provides an opportunity to compliment the neighborhood development across the street and provide a buffer from future smaller lots that will be developed.

7K

Memo

To: City Planning Commission

From: Planning Staff

Date: April 10, 2015

Subject: Amendment to the Unified Development Ordinance - Proposed Outdoor Mobile Vending Ordinance

Enclosed is the proposed Outdoor Mobile Vending Ordinance. All the revisions that are highlighted in yellow represent significant changes from the first draft. Please review as we will be reviewing this at the planning commission meeting on April 14, 2015.

The planning commission could recommend further amendments or vote to recommend this as it is proposed.

Enc.

8A

DRAFT OUTDOOR MOBILE VENDING ORDINANCE

27-_____ Sidewalk Vending

A. Definitions.

For purposes of this article, the following definitions shall apply:

Central Business District shall mean the following:

Parts of Sections 4, 5, 8, 9, 16, and 17, Township 8 North, Range 32 West, Sebastian County, Arkansas being more particularly described as follows:

All of the following parts of the Fitzgerald Addition to the City of Fort Smith: Blocks: A, B, K, 1, 2, 3, 7, 8, 9, 10, 58A, 62, and 65; and the East Half of Blocks: 66, 67, 68; and the West Half of Blocks: C, D, E, F, 50, 61 and 94.

All of the following parts to the Original City of Fort Smith: Blocks: A, 1, 2, 3, 4, 7, 8, 9, 10, 15, 16, 17, 18, 23, 24, 25, 26, 29, 30, 48, 49, 50 and 51.

All of the following parts to the Reserve Addition of the City of Fort Smith: Blocks: 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 512, 513, 514, 515, 516, 517, 518A, 519, 521, 522, 523, 524, 525, 526, 529, 530, 531, 532, 533, 536, 541, 542, 543, 544, 545, 546, 547, 548, 561, 562, 563, 564, 565 and 566; and the East Half of Blocks 549, 560, 567.

All of the following additions to the City of Fort Smith: Sparks Regional Medical Center Lots 1 and 2, Southside Garrison Avenue Addition, Corrected Stuart Daniels Addition, Shipley Addition 1, Kremer's Addition and ARS Addition Lots 2 and 3.

All properties contiguous (to the extent of the initial platted lot or, if not platted, legal ownership contiguous to the street Right-of-Way) to the West side of Towson Avenue between Dodson Avenue and South "D" Street.

All properties contiguous (to the extent of the initial platted lot or, if not platted, legal ownership contiguous to the street Right-of-Way) to the South side of South "D" Street between Wheeler Avenue and Towson Avenue.

All properties contiguous (to the extent of the initial platted lot or, if not platted, legal ownership contiguous to the street Right-of-Way) to the North side of North "B" Street between Clayton Expressway and North 11th Street.

Also,

A Tract of Land between the Eastern Bank of Maximum Recession of the Arkansas River and the East Right-of-Way line of Clayton Expressway running from the South Right-of-Way line of Garrison Avenue Northeasterly to a line 1950 feet more or less, South of and parallel to the North line of Section 5, Township 8 North, Range 32 West, Sebastian County, Arkansas.

Stand shall mean any table, showcase, rack, pushcart, wagon or other wheeled vehicle or device which is hand pushed or pulled, without the assistance of a motor vehicle or other source of power, used for the displaying, storing or transporting of products offered for sale by a vendor.

Vendor shall mean any person engaged in the selling or offering for sale of food or beverages or art or crafts or other products on the public sidewalks from a stand.

(Code 1976, § 21-11; Ord. No. 54-87, § 2, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

B. Exemptions.

Temporary sales for non-profit entities that operate for less than five (5) consecutive days shall be exempt from sidewalk vending regulations.

C. Findings and purpose.

It is found and declared that:

- (1) The primary purpose of public sidewalks is for use by pedestrian traffic.
- (2) Vending on the downtown public sidewalks promotes the public interest by contributing to an active and attractive pedestrian environment.
- (3) Reasonable regulation of sidewalk vending is necessary to protect the public health, safety and welfare.

(Code 1976, § 21-10; Ord. No. 54-87, § 1, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

D. Prohibited conduct.

No vendor shall:

- (1) Vend within one hundred (100) feet of any church assembly place while an assembly of the church is in session.
- (2) Vend on any sidewalks where vending is otherwise prohibited.
- (3) Leave any stand unattended.

- (4) Store, park or leave any stand overnight on any street or sidewalk.
 - (5) Sell food or beverages for immediate consumption, unless there is a litter receptacle available within twenty (20) feet of the vending stand for public use.
 - (6) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales.
 - (7) Place any items relating to the operation of the vending business anywhere other than in, on or under the stand.
 - (8) Set up, maintain or permit the use of any table, crate, carton, rack or any other device to increase the selling or display capacity of his stand.
 - (9) Solicit or conduct business with persons in motor vehicles.
 - (10) Sell anything other than that which such vendor is licensed to vend.
 - (11) Vend at any location where the sidewalk is not over five (5) feet in width.
 - (12) Vend within fifteen (15) feet of an entrance way to any building unless written permission is provided by the property owner.
 - (13) Vend within twenty-five (25) feet of any driveway entrance.
 - (14) Vend within ten (10) feet of the crosswalk at the intersection.
- (Code 1976, § 21-15; Ord. No. 54-87, § 6, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

D. Vendor stand specifications.

- (a) No stand shall exceed eight (8) feet in length, and all stands shall have a width compatible with that of a standard cart design.
 - (b) The height of each stand may be determined by the design needs of the vendor's product, but in no case shall it be greater than six (6) feet.
 - (c) All lettering shall be of constant height with smooth-painted edges having not more than one-eighth-inch variation.
 - (d) No advertising shall be permitted on any stand, except to identify the name of the product and the name of the vendor and a posting of prices.
- (Code 1976, § 21-16; Ord. No. 54-87, § 7, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

E. PERMIT. Required; display; fee; renewal.

(a)Required. It shall be unlawful to sell or offer for sale any food or beverage or art or craft or any other product on any public sidewalk within the city without first obtaining a permit from the city.

(b)Display. All city-required permits shall be displayed on the cart at all times.

(c)Fee. A permit fee established by the board of directors for a one-year permit period shall be required upon issuance of the permit. shall be required for a one-year permit in the amount of \$150.00.

(d)Renewal. All permits are valid for the entire approved one-year period, unless revoked or suspended by the city prior to expiration. An application to renew a permit shall be made no later than thirty (30) days before the expiration of the current permit.

(Code 1976, § 21-12; Ord. No. 54-87, §§ 3, 8—11, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

F. Applications.

(a) Applications shall contain the following information:

(1)The name, home and business address of the applicant and the name and address of the owner, if other than the applicant of the vending business.

(2)A description of the type of food or beverage or art or craft or of any other product proposed for vending.

(3)A description of the proposed location(s) and hours of operation.

(4)A description and photograph of the stand to be used.

(5)Certification by the city/county health department for food and/or beverage sales.

(6)Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury including death, which may arise from operations under or in connection with the license. Such insurance shall provide that the policy shall not terminate or be cancelled prior to the expiration date without thirty (30) days' advance written notice to the city administrator. Minimum liability limits of one hundred thousand dollars (\$100,000.00) per person and three hundred

thousand dollars (\$300,000.00) per occurrence and fifty thousand dollars (\$50,000.00) for property damage shall be provided by such policy.

~~(7) List of, and approval from, all business owners or operators within fifty (50) feet of the stand location.~~

(b) Applications shall be filed with the planning department of the city.

(Code 1976, § 21-13; Ord. No. 54-87, § 4, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

G. Issuance; denial, suspension and revocation; appeal.

(a) Issuance of permit. No later than fifteen (15) days after the filing of a completed application for a vendor's permit the applicant shall be notified by the planning department of the decision on the issuance or denial of the license.

(b) Denial, suspension and revocation. Any permit may be denied, suspended or revoked by the city for any of the following causes:

(1) Fraud or misrepresentation contained in the application for the permit.

(2) Fraud or misrepresentation made in the course of carrying on the business of vending.

(3) Conduct of the permitted business in such manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals.

(4) Conduct of the vendor which is contrary to the provisions of this division.

(5) The proposed sale of food or beverages or art or crafts or other products inappropriate or incompatible with standards promulgated by the central business improvement district commission.

H. Appeals of Administrative Determinations.

The Planning Commission shall hear appeals from the Director's decision in respect to the enforcement and application of this Chapter, and may affirm or reserve in whole or in part the decision of the Director.

1. Process. Any person, officer of the City, or other governmental agency not in agreement with a decision made by the director may appeal the decision with 30 days of the decision by filing with the Director a notice of appeal along with payment of the required appeal fee. The filing shall specify the reason for the appeal. The Director shall then transmit to the Planning Commission all the information on the details of the decision and reason for the appeal. This shall

be done in advance of the next regularly meeting that is more than 30 days from the date of the appeal.

2. **Stay.** An appeal puts all processing of applications on hold until the appeal process is completed.
3. **Hearing.** The Planning Commission shall schedule a reasonable time for the hearing of the appeal of any other matter referred to it. Notice shall be provided, published, mailed and posted pursuant to Section 27-308.
4. **Action.** In exercising its powers, the Planning Commission, in conformity with the provisions of law, may reserve or affirm, wholly or in part, or may modify the order, requirement, decision, or determination.
5. **Appeals.** Appeals from the decision of the Planning Commission shall be made to the Board of Directors within ten (10) days of the Planning Commission's decision.
 1. **Forfeiture of Fee.** If the City revokes a vendor permit, the fee already paid for the permit shall be forfeited.

27-_____ **Outdoor Mobile Food Vending**

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

A. Definitions.

- (1) **Angled parking space** shall mean a parking space that is on a geometric angle to the street curb.
- (2) **Edible goods** shall include, but are not limited to prepackaged and prepared foods, excluding the sales of alcoholic beverages.
- (3) **Food service establishment** shall mean businesses that sell edible goods and have been inspected and approved by the Sebastian County Health Department and the City of Fort Smith.
- (4) **Mobile** shall mean the state of being active, but not necessarily continuous, movement.

- (5) **Mobile food court** shall mean a site that contains more than one mobile food vendor on a regular basis as the principal use of the land.
- (6) **Mobile food vendor** shall mean any person(s) who owns or operates a mobile food vehicle for the purpose of mobile food vending.
- (7) **Mobile food vendor, private property** shall mean any person(s) who exhibits, displays, or sells any food or beverage from a mobile food vehicle at a fixed location on private property.
- (8) **Mobile food vendor, public street right-of-way** shall mean any person(s) who exhibits, displays, or sells any food or beverage from a mobile food vehicle at a fixed location on the public street right-of-way.
- (9) **Mobile food vehicle** shall include, but not be limited to:
 - (a) **Mobile food truck**: A self contained motorized unit selling items defined as edible goods.
 - (b) **Concession trailers**: A vending unit which is pulled by a motorized unit and has no power to move on its own.

(10) **Parallel Parking Space** shall mean a parking space that is adjacent to the curb the full length of the parking space.

(11) **Sell** shall mean the act of exchanging a food for a profit or in return for a donation.

(12) **Stationary** location shall mean the position of the mobile food vendor when not in motion and addressing the public for the purpose of sales.

(13) **Temporary building** shall mean a structure not exceeding 160 s.f. used to vend edible foods and that is not permanently affixed to the ground, or on blocks, etc.

(14) **Tow Vehicle** – A motorized land vehicle.

B. Exemptions

1. An approved Farmers Market;

2. Temporary sales for non-profit entities that operate for less than five (5) consecutive days; and

3. Children's lemonade stands.

C. Outdoor Mobile Food Vendors Located on Private Property

The purpose of this section is to facilitate and control the ability of mobile food vendors and mobile food courts to operate on private property while ensuring such uses are compatible with nearby properties, fosters an aesthetically appealing streetscape, and does not create a dangerous traffic condition.

1. Single Vendor

- a. **Zoning Districts.** Outdoor mobile food vendors shall be permitted on private property in C-2 through C-6 commercial zoning districts and I-1 and I-2 industrial zoning districts. Outdoor mobile food vendors are prohibited in residential zoning districts.
- b. **Number of Vendors.** Only one (1) mobile food vendor shall be permitted per lot. However, if a lot has multiple street frontages, vendors may operate on the lot provided there is only one mobile food vendor proposed per street frontage. Otherwise, all proposed multiple mobile food vendors on a single lot shall be considered a Mobile Food Court and shall comply with the requirements for Mobile Food Courts below.
- c. **Permission required.** Outdoor mobile food vendors shall first obtain written permission from the property owner prior to submitting an application.

2. Mobile Food Courts

- a. **Zoning Districts.** Mobile food courts shall be permitted as a conditional use in C-2 through C-6 and I-1 and I-2 industrial zoning districts. Outdoor mobile food courts are prohibited in residential zoning districts.
- b. **Review Criteria.** A property owner, or agent, proposing a mobile food court shall submit an application for a Conditional Use Permit to the Planning Department. The Planning Commission will review the overall compatibility of the planned semi-permanent use with the surrounding property as well as such specific items as screening,

parking and landscaping to make sure that no harmful effects occur to nearby property. The property owner, or agent, proposing a mobile food court may also be required to provide any of the following improvements to the property:

1. Improvements necessary to provide permanent utility connections for each mobile vending unit location in the mobile food court. This may include permanent water, sanitary sewer and electricity connections.
2. Improvements necessary to ensure safe pedestrian and vehicular access to the site.
3. Off-street parking improvements in compliance with Section 27-601 of the Unified Development Ordinance.
4. A minimum of 1 ½ spaces off-street parking spaces provided for each vending unit in the mobile food court. The number of parking spaces shall be rounded to the next higher whole number when the fraction is 0.5 or higher. Mobile food courts in the C-6 zoning district are exempt from the off-street parking requirements.
5. Provide adequate restrooms facilities on site or through the provision of a shared use agreement with a neighboring business for access to restroom facilities.

c. Permit Requirements. Individual mobile food vendors within a mobile food court shall comply with the permitting requirements in Section E – Mobile Food Vendor Permit Requirements – Private Property. The mobile food court owner/operator shall not pay an annual permit fee, but shall maintain a current business license. The owner/operator shall also provide the following information:

1. Name, address, and contact information of the individual mobile food vendors operating in the mobile food court.
2. Name, address, and contact information of the mobile food court operator and/or owner.

D. Public Street Right-of-Way. Outdoor mobile food vending on public street right-of-way shall be permitted only within the Commercial Downtown (C-6) zoning district.

1. **Permit requirements.** Mobile food vendors are allowed to operate on public street rights-of-way within the Commercial Downtown (C-6) with the following requirements.
 - a. Each application for a permit to conduct a mobile food vendor business on a public street right-of-way shall be accompanied with a permit and processing fee of \$150.00. Permits issued after September 30th shall be accompanied with a permit and processing fee of \$75.00. Mobile food vendor permits shall be issued to the owner of the mobile food vendor vehicle. All permits shall expire March 31st.
 - b. Submit name, address, contact information and signature of the mobile food vendor requesting to locate within a public street right-of-way.
 - c. Submit a scaled drawing, photo, or written documentation verifying the dimensions of the conveyance.
 - d. The mobile food vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile food vendors are not permitted to dispose of their trash in public trash receptacles.
 - e. The mobile food vendor shall be permitted to conduct business in parallel parking spaces only.
 - f. Proof of insurance policy, issued by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury including death, which may arise from operations under or in connection with the license. Such insurance shall provide that the policy shall not terminate or be cancelled prior to the expiration date without thirty (30) days' advance notice to the city administrator. Minimum liability limits of one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000) per occurrence and fifty (\$50,000.00) for property damage shall be provided by such policy.
2. The mobile food vendor shall occupy only one parallel parking space. If the mobile food vendor is utilizing a concession trailer, two parallel parking spaces can be utilized provided the mobile food vehicle is connected to a tow vehicle at all times.

- 3. Location Restrictions.** No vendor within the Commercial Downtown (C-6) zoning district on public right-of-way shall be permitted to operate in the following areas:
- a. Within 10 feet of any street intersection or pedestrian crosswalk.
 - b. Within 10 feet of any driveway, loading zone or bus stop.
 - c. Within 10 feet of any fire hydrant or fire escape.
 - d. Within 10 feet of any parking space or access ramp designated for persons with disabilities
 - e. Angled on-street parking spaces.
 - ~~f. Within 25 feet of any bus stop sign.~~
 - ~~g. Within 25 feet of a driveway entrance.~~
 - h. Within 50 feet of a driveway to police or fire station.
 - i. Within 50 feet of the principal public entrance to a food service establishment not owned by mobile food vendor, unless written permission has been given by the food service establishment, or the food service establishment is closed for business.
 - j. Any area that obstructs pedestrian traffic.
 - k. No customer shall be served on the street side of the mobile unit. All service must occur on curb side when the mobile unit is abutting a public street.
 - l. No drive thru or drive-by customer service shall be provided or permitted as part of a mobile food vendor business.
 - m. No mobile food vendor shall conduct business so as to violate any ordinances of the city regulating traffic and rights-of-way now in effect or hereafter amended.
 - n. No seating or signage shall be provided or permitted in a street right-of-way or public sidewalk as part of a mobile food vendor business.
 - o. No mobile food vendor shall sell or vend from his/her vehicle within 300 feet of a public or private school property while school is in session and**

one hour before and after school is in session; classes or school related events, except when authorized in writing by the school.

- p. In the public street right-of-way on the designated truck route.
- q. In the public street right-of-way of a state highway (Garrison Avenue, Towson Avenue, Rogers Avenue (east of Towson Avenue), North 10th Street, and North 11th Street).
- r. In any parallel parking space that is designated as reserved.

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

E. Mobile Food Permit and Permit Requirements.

1. **Mobile Food Vendor Annual Permit – Private Property.** Mobile food vendors are allowed to operate on a temporary basis for one year in one location with administrative approval of the Planning Department. After the one-year period has expired, the mobile food vendor shall to move to another location or may request one-year renewal from the Planning Department.

2. **Renewal Requirements – Private Property.** Mobile vendors requesting a one-year renewal to stay in the same location shall comply with the following:

- a. Applicant shall submit a renewal request on a form provided by the Planning Department.
- b. Applicant shall provide verification that the mobile food vendor has a valid sales tax permit registered with the Arkansas Department of Finance and Administration.
- c. ~~The Planning Department will also verify if there were any complaints received regarding the mobile food vendor's operation or any unresolved violations of this Chapter. Mobile vendors with unresolved complaints or violations, shall require Planning Commission approval for one-year renewals.~~
- d. The Director or his designee shall review each application for renewal, and upon determining that the applicant is in full compliance with the provisions of these regulations, shall issue a new permit.

e. Planning Commission approval shall be required for all mobile food vendors who have received formal enforcement actions from the city.

f. Payment of a \$150.00 permit fee.

3. Mobile Food Vendor Permit Requirements – Private Property. All mobile food vendors located on private property shall meet the following requirements and submittals prior to approval.

a. Each application for a permit to conduct a mobile food vendor business on private property shall be accompanied with a permit fee of \$150.00. Permits issued after September 30th shall be accompanied with a permit fee of \$75.00. Mobile food vendor permits shall be issued to the owner of the mobile food vendor vehicle. All permits shall expire March 31st.

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

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

d. The mobile food vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile food vendors are not permitted to dispose of their trash in public trash receptacles.

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

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

g. Mobile food vendors shall maintain compliance with parking lot requirements for the existing businesses. The use of parking for a mobile food vendor may not reduce the number of spaces below the minimum required for other uses occurring on the property.

h. Verification that the applicant is registered with the Arkansas Department of Finance and Administration.

4. Temporary Buildings – Private Property. A temporary building can be used on private property to vend edible foods. The temporary building shall meet the

requirements of this Chapter and of the Arkansas Fire Prevention Code, Volume II.

5. **Mobile Food Vendor Transfer Option – Private Property.** Within the permit period, mobile food vendors on private property may transfer to another location that allows mobile food vending. Each transfer request shall be accompanied with an application to the Planning Department and a permit and processing fee of \$40.00.
6. **Mobile Food Vendor on Multiple Locations – Private Property.** Mobile food vendors are allowed to operate on a temporary basis on multiple locations after meeting the following conditions:
 - a. The applicant has submitted an application to the Planning Department accompanied with permit and processing fee of \$200.00.
 - b. The property owner for each location must provide a written statement giving the mobile food vendor permission to operate on the property.
 - c. The mobile food vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile food vendors are not permitted to dispose of their trash in public trash receptacles.

F. Littering and Trash Removal.

1. Mobile food vendors shall keep the sidewalks, roadways, property where the vendor is located and other locations adjacent to their vending site clean and free of debris and refuse generated from the operation of their business.
2. Mobile food vendors shall provide a receptacle for litter that shall be maintained and emptied regularly.

G. Prohibited Conduct.

No person authorized to engage in the business of mobile food vending under these regulations shall do any of the following:

1. Locate in any residential zoning district.
2. Locate within a site triangle described as the area delineated by a distance of twenty-five (25) feet along the intersecting property lines, beginning at a property corner point and extending twenty-five (25) feet in both directions away from the corner point of an intersection and then connecting the terminus points by a line to form the triangular area.

3. No mobile food vendor shall sell or vend from his/her vehicle within 300 feet of a public or private school property while school is in session and one hour before and after school is in session; classes or school related events, except when authorized in writing by the school.
4. Unduly obstruct pedestrian or motor vehicle traffic flow, except a reasonable time to load and unload the mobile food vendor vehicle.
5. Obstruct traffic signals or regulatory signs.
6. Stop, stand or park any mobile food vendor upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings.
7. Leave any mobile food vehicle in a public street right-of-way overnight.
8. Sounds projecting from the mobile food vendor that violate Article II – Noise regulations of the Fort Smith Code of Ordinances.
9. Conducting the business in such a way that would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
10. Use or install any lighting that does not comply with Section 27-602-5 Commercial and Outdoor Lighting requirements of the Unified Development Ordinance.
11. Run hoses, cords, or other apparatus across a pedestrian pathway or sidewalk.
12. Utilize any portion of a public sidewalk or public right-of-way where mobile food vending is not allowed or authorized.
13. Remove the wheels from a mobile food vehicle. The mobile food vehicle shall not be otherwise be rendered immobile such as being placed on blocks, railroad, ties, etc.

H. Revocation of Permit.

A license issued pursuant to this chapter may be revoked, in writing, by the Director or his designee for any of the following reasons:

1. Any fraud, misrepresentation or false statement contained in the application for license;

2. Any fraud, misrepresentation or false statement made in connection with selling of products;
3. Any violation of this chapter;
4. Conducting the business license under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

I. Appeal.

Appeals to the Director's decision relating to this Chapter shall be made to the Planning Commission concerning the issuance of a license or revocation of a license pertaining to this Chapter.

J. Appeals of Administrative Determinations.

The Planning Commission shall hear appeals from the Director's decision in respect to the enforcement and application of this Chapter, and may affirm or reserve in whole or in part the decision of the Director.

1. Process. Any person officer, of the City, of other government agency not in agreement a decision made by the director may appeal the decision with 30 days of the decision by filing with the Director a notice of appeal along with payment of the required appeal fee. The filing shall specify the reason for the appeal. The Director shall then transmit to the Planning Commission all the information on the details of the decision and reason for the appeal. This shall be done in advance of the next regularly meeting that is more than 30 days from the date of the appeal.
2. Stay. An appeal puts all actions processing of applications on hold until the appeal process is completed.
3. Hearing. The Planning Commission shall schedule a reasonable time for the hearing of the appeal or any other matter referred to it. Notice shall be published one (1) time in a local newspaper fifteen (15) days before the public hearing.
4. Action. In exercising its powers, the Planning Commission, in conformity with the provisions of law, may reserve or affirm, wholly or in part, or may modify the order, requirement, decision, or determination.

5. Appeals. Appeals from the decision of the Planning Commission shall be made to the Board of Board of Directors within ten (10) days of the Planning Commission's decision.

K. Forfeiture of Fee. If the City revokes a mobile vending permit, the fee already paid for the permit shall be forfeited.