



**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT  
AGENDA  
ROSE ROOM  
CREEKMORE PARK COMMUNITY CENTER  
5:30 P.M.  
AUGUST 11, 2015**

**I. ROLL CALL**

**II. APPROVAL OF MINUTES FROM JULY 14, 2015**

**III. STAFF COMMENTS AND PROCEDURES**

**1. CONSENT AGENDA**

- A. Final Plat – Speer Addition – Lots 3A, 3B, 3C, 4A, 4B, 5A & 5B – Block 10 – Satterfield Land Surveyors
  - B. Conditional Use #12-8-15; A request by Marvin Wilson, agent for Stephens Media, for a school, technical or trade located at 1000 Rogers Avenue.
  - C. Conditional Use #13-8-15; A request by Jeff Lee, agent for Lao Buddhist Association, for a temple and parking lot located at 2205 High Street.
  - D. Conditional Use #14-8-15; A request by Terry Burruss, agent for Jim Meadows, for a restaurant (with outdoor dining) located at 8801 Wells Lake Road.
  - E. Conditional Use #15-8-15; A request by Branson Harris, agent for Bleaux & Samantha Barnes, Sam Mathias and Silverthorne LLC, for a restaurant (with outdoor dining) located at 5400 Phoenix Avenue.
2. Preliminary Plat – The Providence Subdivision – Crafton Tull
3. Rezoning #11-8-15; A request by Crafton Tull, agent for Fort Chaffee Redevelopment Authority, for a zone change from Unzoned to Commercial Light

(C-2), Residential Single Family Duplex Medium/High Density (RSD-3) and Residential Single Family Medium/High Density (RS-3) by Classification located at 7100-7200 Wells Lake Road.

4. UDO Amendment – Text Amendment (Land Uses in Commercial-6)
5. Subdivision Variance #3-8-15; A request by Ricky Hill, agent for Hung Tran, for a variance from Section 27-503-2(E) prohibiting access for proposed duplexes on a major arterial street located at 3805 and 3807 North 6<sup>th</sup> Street.
6. Rezoning #12-8-15; A request by Tom Kirkham for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to a Planned Zoning District by Classification located at 3109 Old Greenwood Road.
7. Conditional Use #11-8-15; A request by David Reynolds, agent for First Tee, Inc. for a communications tower located at 6110 Golf Course Loop.

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8. Variance #19-8-15; A request by Larry Hall, agent for Bennie Westphal, for a variance from Section 27-602-4(C) 4B (screening requirements for mechanical units) and Section 27-602-4(C) 8 (opaque 6-foot screening fence) located at 5721 Rogers Avenue.
9. Variance #20-8-15; A request by Damon Wright, agent for Bennie Westphal, for a variance from Section 27-704-4 (C) (from 1000 feet to existing signs and 4 signs per mile) and from Section 27-704-4 (K) (2) (sign bank requirements) located at 5701 Rogers Avenue.
10. Variance #21-8-15; A request by Damon Wright, agent for Bennie Westphal, for a variance from Section 27-704-4 (C) (from 1000 feet to existing signs and 4 signs per mile) and from Section 27-704-4 (K) (2) (sign bank requirements) located at 5801 Rogers Avenue.
11. Variance #22-8-15; A request by Steven Spradlin, agent for Davidson Holding Company, LLC, for a variance from 25 feet to 5 feet front yard setback located at 2015 Savannah Street.

12. Variance #23-8-15; A request by Paul Loyd, agent for Christopher Groom, for a variance from 7.5 feet to 0 feet interior side yard setback and from 10 feet to 0 feet rear yard setback located at 2714 Reeder Place.
13. Variance #24-8-15; A request by Paul Loyd, agent for John and Vickie Casey, for a variance from 7.5 feet to 0 feet interior side yard setback and from 10 feet to 0 feet rear yard setback located at 2716 Reeder Place.
14. Variance #25-8-15; A request by Stephen Giles, agent for Farmers Bank, for a variance from Section 27-704-4 (K) (2) (sign bank requirements) and Section 27-704-4 (i) (minimum sign height requirements) located at 8420 Highway 71 South.
15. Variance #26-8-15; A request by Cary Smallwood for a variance from 25 feet to 15 feet exterior side yard setback and from 7.5 feet to 5 feet interior side yard setback located at 7920 Rome Way.
16. Variance #27-8-15; A request by Al Prieur, agent for William White, for a variance from 153 square feet to 270 square feet maximum size of a sign located at 3510 South Zero Street.
17. Variance #28-8-15; A request by Lee King, agent for Bear Creek Leasing Co., for a variance from 25 feet to 0 feet front yard setback, and from 15 feet to 0 feet exterior side yard setback located at 617 South 7<sup>th</sup> Street.

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

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

Chairman Sharpe then called for the vote on the Planning Commission minutes from the June 9, 2015, meeting. The following corrections were noted by Commissioner Richardson and Sharpe:

**Item #8 – The third bullet should be corrected to read as follows:**

- Any future signage shall require a separate sign permit application for review and approval by staff.

**Item #11 – The first paragraph should be corrected to read as follows:**

Maggie Rice read the staff reports indicating that the reason for the conditional use is to allow Covenant Presbyterian Church, located across the street at 120 North 9<sup>th</sup> Street, to utilize the building as a fellowship hall.

**Item #12 – The third paragraph should read as follows:**

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

Motion was then made by Commissioner Howard, seconded by Commissioner Newton and carried unanimously to approve the minutes as corrected.

Mr. Wally Bailey spoke on the procedures.

- 1. Preliminary Plat – Speer Addition – Lots 3A, 3B, 3C, 4A, 4B, 5A & 5B – Block 10 – Satterfield Land Surveyors**

**2. Subdivision Variance #2-7-15; A request by Ricky Hill, agent for James Williams and William Cantrell, for a variance from the perimeter landscaping requirements located at 4712 South 28<sup>th</sup> Street and 4721 South 27<sup>th</sup> Street.**

Ms. Brenda Andrews read the staff reports indicating the purpose of these requests is for the construction of single family residential homes with a variance to eliminate the required perimeter landscaping required under Section 27-503-11(B).

Ms. Andrews noted two (2) phone calls from neighboring property owners who expressed no concerns when told the development would be single family homes.

Mr. Ricky Hill was present to speak on behalf of these requests.

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

Commissioner Howard questioned the applicant as to his hardship for not wanting to provide the perimeter landscaping.

Mr. Williams noted that the size of the lots was the main reason for the variance and the fact that the landscaping would have to be located in the front yard and there were existing numerous mature trees and shrubs.

Commissioner Redd noted that he did not feel the need to force landscaping on these lots since the homes would be landscaped to match the existing homes.

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

**1. Preliminary Plat – Speer Addition – Lots 3A, 3B, 3C, 4A, 4B, 5A & 5B – Block 10 – Satterfield Land Surveyors**

Motion was made by Commissioner Newton, seconded by Commissioner Howard and carried unanimously to make approval of the preliminary plat subject to the following:

- The developer must agree to meet all franchise and City utility easement requirements.
- The preliminary and final plat must comply with the City's Subdivision Design and Improvement Standards Specifications for Public Works Construction.

- Planning Commission approval of the companion subdivision variance requesting a variance from the perimeter landscaping requirements.

Chairman Sharpe called for the vote on the preliminary plat as amended. The vote was 8 in favor and 0 opposed.

- 2. Subdivision Variance #2-7-15; A request by Ricky Hill, agent for James Williams and William Cantrell, for a variance from the perimeter landscaping requirements located at 4712 South 28<sup>th</sup> Street and 4721 South 27<sup>th</sup> Street.**

Motion was made by Commissioner Howard, seconded by Commissioner Newton and carried unanimously to amend this request to make approval subject to the subdivision being developed with single family homes.

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

- 3. Rezoning #8-7-15; A request by Larry Hall, agent for Chaffee Crossing Clinic, for a zone change from Not Zoned to Transitional by Classification located at 11300 Roberts Boulevard. (companion item to items #4 & #5)**
- 4. Development Plan; A request by Larry Hall, agent for Chaffee Crossing Clinic, for a doctor's office and clinic located at 11300 Roberts Boulevard. (companion item to items #3 & #5)**
- 5. Variance #17-7-15; A request by Larry Hall, agent for Chaffee Crossing Clinic, for a variance from 200 feet to 107 feet and from 200 feet to 28 feet minimum separation between adjacent driveways located at 11300 Roberts Boulevard. (companion item to items #3 & #4)**

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests is to allow for the construction of a medical clinic at this location with two (2) driveways to be constructed on the site. One driveway at each end of the property is being proposed with an existing driveway to the east of the site that they are requesting the second variance.

Mr. Larry Hall was present to speak on behalf of these requests.

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

Following a discussion by the Commission , Chairman Sharpe called for the vote on these items.

- 3. Rezoning #8-7-15; A request by Larry Hall, agent for Chaffee Crossing Clinic, for a zone change from Not Zoned to Transitional by Classification located at 11300 Roberts Boulevard. (companion item to items #4 & #5)**

Chairman Sharpe called for the vote on the rezoning request. The vote was 6 in favor and 2 abstentions (Keesee, Howard)

- 4. Development Plan; A request by Larry Hall, agent for Chaffee Crossing Clinic, for a doctor's office and clinic located at 11300 Roberts Boulevard. (companion item to items #3 & #5)**

Motion was made by Commissioner Howard, seconded by Commissioner Richardson and carried unanimously to amend this request to make approval subject to the following:

- 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.
- Board of Zoning Adjustment approval of the companion variance application.
- All platting requirements shall be completed prior to the issuance of the building permit.
- All site design features of the development not specifically mentioned or shown on the development plan shall comply with the UDO requirements and Chaffee Crossing Design Guidelines.

Chairman Sharpe then called for the vote on the development plan as amended. The vote was 6 in favor and 2 abstentions (Keesee, Howard).

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

- 5. Variance #17-7-15; A request by Larry Hall, agent for Chaffee Crossing Clinic, for a variance from 200 feet to 107 feet and from 200 feet to 28 feet minimum**

**separation between adjacent driveways located at 11300 Roberts Boulevard.  
(companion item to items #3 & #4)**

Chairman Sharpe then called for the vote on the variance request. The vote was 6 in favor and 2 abstentions. (Keesee, Howard)

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

- 6. Rezoning #9-7-15; A request by Mickle-Wagner-Coleman, agent for Brownwood Life Care, for a zone change from Not Zoned to a Planned Zoning District by Classification located at 7500 Wells Lake Road.**

Ms. Brenda Andrews read the staff report indicating that the purpose of the rezoning request is to allow for a new 42,630 square foot nursing home located on an approximate 9 acre tract of land with approximately 86 parking spaces and landscaping.

Mr. Nick Griffin, representing Mickle-Wagner-Coleman, was present to speak on behalf of this request.

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

Following a discussion by the Commission, motion was made by Commissioner Howard, seconded by Commissioner Newton and carried unanimously to amend this request to make approval subject to compliance with the submitted project booklet.

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

- 7. Rezoning #10-7-15; A request by Al Prieur, agent for Bryan White and Renee Barrow, for a zone change from Commercial-5-Special (C-5-SPL) to Commercial Heavy (C-5) by Classification located at 1520 South "U" Street. (companion item to items #8 & #9)**
- 8. Development Plan; A request by Al Prieur, agent for Bryan White and Renee Barrow, for a multi-family development located at 1520 South "U" Street. (companion item to items #7 & #9)**
- 9. Variance #16-7-15; A request by Al Prieur, agent for Bryan White and Renee Barrow, for a variance from 20 feet to 10.5 feet interior side yard setback; from 20**

**feet to 10.5 feet rear yard setback and from Section 27-602-3(B) (perimeter landscaping requirements) located at 1520 South “U” Street. (companion item to items #7 & #8)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow for the development of a multi-family development (four-plex).

Mr. Al Prieur was present to speak on behalf of these requests.

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

Following a discussion by the Commission, Chairman Sharpe called for the vote on these items.

- 7. Rezoning #10-7-15; A request by Al Prieur, agent for Bryan White and Renee Barrow, for a zone change from Commercial-5-Special (C-5-SPL) to Commercial Heavy (C-5) by Classification located at 1520 South “U” Street. (companion item to items #8 & #9)**

Motion was made by Commissioner Keesee, seconded by Commissioner Redd and carried unanimously to amend this request to make approval contingent upon the submitted development plan and variance applications.

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

- 8. Development Plan; A request by Al Prieur, agent for Bryan White and Renee Barrow, for a multi-family development located at 1520 South “U” Street. (companion item to items #7 & #9)**

Motion was made by Commissioner Keesee, seconded by Commissioner Redd and carried unanimously to amend this request to make approval subject to the following:

- 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.
- If signage is proposed, signage shall be limited to one sign no larger than 24 square feet.

- Drainage and erosion plans shall be submitted for review and approved by the City's Engineering Department.
- A traffic information statement shall be submitted for review and approved by the City's Engineering Department.
- Contingent upon approval of the companion variance application.

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

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

- 9. Variance #16-7-15; A request by Al Prieur, agent for Bryan White and Renee Barrow, for a variance from 20 feet to 10.5 feet interior side yard setback; from 20 feet to 10.5 feet rear yard setback and from Section 27-602-3 (B) (perimeter landscaping requirements) located at 1520 South "U" Street. (companion item to items #7 & #8)**

Chairman Sharpe called for the vote on the variance request. The vote was 8 in favor and 0 opposed.

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

- 10. Conditional Use #8-7-15; A request by Greta Barr, agent for Delana Anderson, for a secondary school located at 12 North 11<sup>th</sup> Street.**

Mr. Wally Bailey read the staff report indicating that the purpose of this request is to allow the existing building to be utilized as a secondary school for 300 students in grades 10<sup>th</sup> – 12<sup>th</sup>. Mr. Bailey stated that the applicant has indicated that the facility would be leased for 1-2 years having a minimum of 100 students the first year and increase to approximately 200 students the second year with the enrollment anticipated to increase to 300 by the third year at which time the school plans to build/locate a permanent facility.

Mr. Bailey stated that a neighborhood meeting was held on Wednesday, July 1, 2015, at 5:00 p.m. on site with one (1) surrounding property owner present with no objections to the proposed project.

Ms. Greta Barr and Ms. Trish Flanagan were present to speak on behalf of this request. They noted that they would be staggering start and end times in order to avoid class starting and dismissing during rush hour traffic.

Commissioner Keesee expressed his concerns relative to safety issues as well as parking concerns. He noted that this school would be for students old enough to drive, whereas the similar facility in Little Rock only goes thru 8<sup>th</sup> grade. Commissioner Keesee stated that he felt approval of this request would be a mistake that could potentially cost us the life of a youth.

Commissioner Richardson and Commissioner Howard both expressed their support of this request noting that they felt it would be a positive impact to downtown and that they were simply asking for the first step in the process and would still have to overcome a lot of issues prior to opening of the school. Commissioner Howard noted that any function being held at this location would require more parking than is currently there.

Mr. Butch Johnson, owner of Johnston's Quality Flowers, spoke in opposition to this type of use for this location citing his concerns relative to traffic and safety of the students.

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

- 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.
- Submittal of a Traffic Impact Analysis for review by the Engineering Department prior to the issuance of a building permit.
- Submittal of parking agreements that will provide adequate parking for students and staff with the understanding that these sites will be utilized for parking and drop-off and pick-up sites for students. The parking agreements shall be submitted to the planning department for review and approval prior to the issuance of a building permit.

Chairman Sharpe then called for the vote on the conditional use as amended. The vote was 6 in favor and 2 opposed (Keesee, Redd)

**11. Conditional Use #9-7-15; A request by Kevin Thomas, agent for Thomas Shankle, for a contractor's shop and storage yard located at 7423 Highway 271 South #106.**

Ms. Brenda Andrews read the staff report indicating that the purpose of this request is to allow for the applicant to utilize the existing building for a contractor shop and storage yard.

Mr. Kevin Thomas was present to speak on behalf of this request.

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

Chairman Sharpe then called for the vote on the conditional use request. The vote was 8 in favor and 0 opposed.

**12. Development Plan; A request by Al Prieur, agent for Matt Enderun and Shan Russell, for an auto and vehicle dealer located at 3301 South Zero Street. (companion item to item #13)**

**13. Variance #15-7-15; A request by Al Prieur, agent for Matt Enderun and Shan Russell, from the perimeter landscaping requirements located at 3301 South Zero Street. (companion item to item #12)**

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests is to allow for a new auto sales facility, a repair area used for the maintenance of vehicles sold onsite, as well as an office/sales area.

Mr. Bailey noted the revised development plans received by Mr. Prieur prior to the Planning Commission meeting which would negate the need for the requested variance.

Mr. Al Prieur was present to speak on behalf of these requests and confirmed that he wished to have the variance request withdrawn.

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

**12. Development Plan; A request by Al Prieur, agent for Matt Enderun and Shan Russell, for an auto and vehicle dealer located at 3301 South Zero Street. (companion item to item #12)**

Motion was made by Commissioner Newton, seconded by Commissioner Redd and carried unanimously to amend this request to make approval subject to the following:

- 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.
- Access to the dumpster shall be coordinated with the Sanitation Department to verify that the dumpster will be accessible.
- All site design features of the development not specifically mentioned or shown on the development plan shall comply with the UDO requirements or applicable standards.

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

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

**13. Variance #15-7-15; A request by Al Prieur, agent for Matt Enderun and Shan Russell, from the perimeter landscaping requirements located at 3301 South Zero Street. (companion item to item #12)**

Motion was made by Commissioner Keesee, seconded by Commissioner Howard and carried unanimously to approve the withdrawal of this variance request.

**14. Variance #14-7-15; A request by Jose Garcia for a variance from 25 feet to 3.5 feet front yard setback and from 7.5 feet to 2.9 feet interior side yard setback located at 3716 Marshall Drive.**

Ms. Brenda Andrews read the staff report indicating that the purpose of this variance request is to allow the owner to construct a new 25' x 25' carport to replace a carport that was removed because of hail damage. Ms. Andrews stated that staff had received two (2) phone calls from adjacent property owners with no objections.

Mr. & Mrs. Jose Garcia were present to speak on behalf of this request.

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

Following a discussion by the Commission, motion was made by Commissioner Howard, seconded by Commissioner Keesee and carried unanimously to amend this request to

make approval subject to the carport having a pitched and shingled roof similar in shape and color to the existing home.

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

**Meeting Adjourned!**

**SUBDIVISION COMMENTS**

**August 11, 2015**

**1. Speer Addition, Lots 3A, 3B, 3C, 4A, 4B, 5A & 5B, Block 10 – Final Plat -  
Satterfield Land Surveyors**

Existing Zoning Designation: Residential Multifamily Medium Density (RM-3)

Land Use: RM-3 provides locations for medium density attached homes, including multi-unit residential buildings where such development already exists or is planned for the future.

Proposed Use: Single family residential

We recommend approval of the final plat with the following comment:

After all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents, the plat will be filed with the county recorder.



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 22, 2015

**Re:** Conditional Use #12-8-15 - A request by Marvin Wilson, agent for Stephens Media, for Planning Commission consideration of a Conditional Use for a school, technical or trade located at 1000 Rogers Avenue.

## PROPOSED CONDITIONAL USE

Approval of the conditional use will allow for a trade school that will educate students on how to brew beer, spirits distilling, cooperage (the making of kegs). Although not part of the conditional use application, the site will also be the location for the Core Brewing and Distilling LLC with approximately 25-30 employees with ample parking located on-site and across Carnall Avenue.

## LOT LOCATION AND SIZE

The subject property is fronted by Rogers Avenue with approximately 310 of street frontage, South 10<sup>th</sup> Street with approximately 250 of street frontage, and Carnall Avenue with approximately 380 feet street frontage. The tract contains an approximate area of 1 acre with a 25,294 s.f. building.

## EXISTING ZONING

The existing zoning on this tract is Commercial Downtown (C-6). Characteristics of this zone are as follows:

### Purpose:

To provide for the orderly development of the original downtown area of Fort Smith and the areas immediately adjacent to it. The Commercial Downtown (C-6) zoning district establishes guidelines and controls that allow for retail and residential development which is compatible with existing and expanding governmental, financial, professional, cultural, historic, and entertainment facilities. Commercial, governmental, and professional uses that serve the metropolitan area are allowed in this zone.

**Permitted Uses:**

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-6 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

**Conditional Uses:**

Orphanage, dormitory, sorority, fraternity, homeless shelter, medical laboratory, bus station, parks, educational facilities, detention facility, police station, community health and welfare clinic, daycare center, senior citizen center and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Maximum Lot Size – N/A

Maximum Height – N/A

Maximum Lot Coverage - 100%

Minimum Parcel/Lot Size for Rezoning – Existing District (By Extension) – 42,000 square feet

Minimum Lot Width – N/A

Front Yard Setback – N/A

Side Yard on Street Side of Corner Lot – N/A

Side Yard Setback – N/A

Rear Yard Setback – N/A

**SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Commercial Downtown (C-6) and is developed as a hotel.

The area to the east is zoned Commercial Downtown (C-6) and is developed as the United States Postal Service.

The areas to the south are zoned Commercial Downtown (C-6) and are developed as an auto repair garage, Farmers Cooperative storage yard, and City of Fort Smith Police Department Parking Lot.

**PURPOSE OF CONDITIONAL USE**

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

**CONDITIONS FOR A CONDITIONAL USE**

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

1B-2

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

### **MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as Mixed Use Employment. This classification is intended to provide for a dense, compatible mix of retail, residential, employment and production activities designed for all modes of transportation.

### **SITE DESIGN FEATURES**

**Ingress/egress/traffic circulation** – The subject area has existing parking on site and additional parking across Carnall Avenue. All ingress and egress will occur on Carnall Avenue, South 10<sup>th</sup> Street, South 11<sup>th</sup> Street, and South A Street as shown on the aerial map.

**Easement/utilities** – N/A.

**Drainage** – No additional drainage improvements are required.

**Right-of-way dedication** – No new R.O.W. is required.

**Landscaping** – The application reflects that it would install landscaping on the southwest portion of the building. Any landscaping installed shall not create site hazard or sidewalk accessibility.

**Screening** – No new screening is proposed or required at this time.

**Parking** – Parking is located onsite and across Carnall Avenue.

**Signage** – No new signage is proposed at this time. Any new signage shall comply with the Downtown Design Guidelines and the UDO.

**Lighting** – No new lighting is proposed at this time. Any new lighting would be required to comply with the Downtown Design Guidelines and the UDO.

**Setbacks** – The building is existing.

**Architectural features** – No changes in the architectural features are proposed at this time. If exterior building changes are proposed in the future, CBID board approval may be necessary.

**Height and Area** – The site is currently developed as the previous print building for the Southwest Times.

### **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held on Friday, July 31, 2015, no neighboring property owners attended the meeting.

Staff recommends approval with the following conditions:

1. All new signage and building changes require permits and must comply with the Downtown Design Guidelines, UDO and all applicable construction codes.
2. The business shall receive all Arkansas Beverage Control (ABC) approvals and comply with all City of Fort Smith Police Department requirements.

Conditional Use # 12-8-15

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: Stevens Media LLC

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

Legal Description of property included in the conditional use request:

Lot 6 Block 519 of Reserve Addition

Street Address of Property:

1000 Rogers Ave Fort Smith AR

Existing Zoning Classification:

C-6

Proposed Zoning Classification (if applicable):

C-6

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

Beer brewing, spirits distilling and cognac (making kegs)

within 2yrs establishment of a school for brewing distilling and cognac in conjunction with U. of A. Fort Smith leading to Bachelor of Applied Science  
What amenities are proposed such as landscaping and screening?

LAND SCAPING ON S.W. of Bldg

MARVIN L. WILSON JR.  
Owner or Agent Name (please print)

Signed:

Care Brewing 2470 Lowell Rd  
Owner or Agent Mailing Address Springdale, AR  
72764

Owner

Or

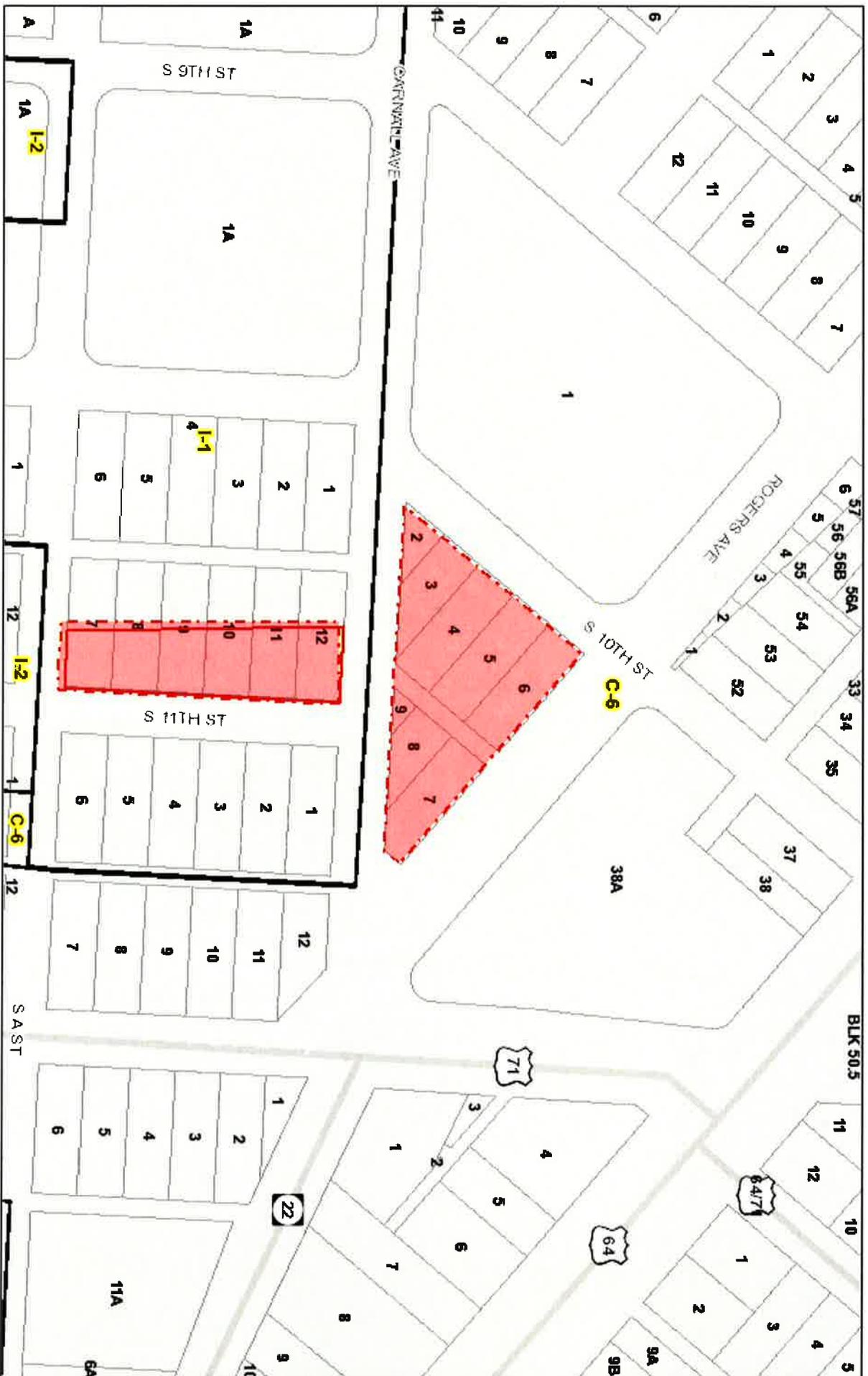
479 387-5444  
Owner or Agent Phone Number

M. L. Wilson Jr.  
Agent

1B-5

# Conditional Use #12-8-15 - Trade School for Beer Brewing and Distilling with Parking Lot 1000 Rogers Avenue

1B-6



July 20, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions



# Conditional Use #12-8-15 - Trade School for Beer Brewing and Distilling with Parking Lot 1000 Rogers Avenue

1B-7



July 20, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 27, 2015

**Re:** Conditional Use #13-8-15 - A request by Jeff Lee, agent for the Lao Buddhist Association, for Planning Commission consideration of a Conditional Use request to develop a new temple and parking lot at 2205 High Street

## PROPOSED CONDITIONAL USE

The approval of this Conditional Use will allow for the construction of a new temple with a parking lot with 23 parking spaces. The new temple will replace the temple that was destroyed by fire.

## LOT LOCATION AND SIZE

The subject property is on the northwest side of the intersection of High Street and North 23<sup>rd</sup> Street. The tract contains an area of 4.13 acres with approximately 409 feet of street frontage along High Street and approximately 413 feet of street frontage along North 23<sup>rd</sup> Street.

## EXISTING ZONING

The existing zoning on this tract is Residential Multifamily Medium Density (RM-3). Characteristics of this zone are as follows:

### Purpose:

To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 zoning district is appropriate in urban areas within the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial Land use categories of the Master Land Use Plan.

### Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

**Conditional Uses:**

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

- Minimum Lot Size – 6,500 square feet
- Maximum Density – 20 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 - 15 feet
- Side Yard Setback – 7.5 feet
- Rear Yard Setback - 10 feet
- Side/Rear adjacent to RS district/development – 30 feet
- Minimum building separation – 10 feet
- Maximum Height - 40 feet (1+1)
- Maximum Lot Coverage - 65%

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Residential Multifamily Medium Density (RM-3) and are developed as a single family residential.

The areas to the east are zoned Residential Multifamily Medium Density (RM-3) and are developed as single family residences.

The area to the south is zoned Residential Multifamily Medium Density (RM-3) and developed as a church.

The areas to the west are zoned Industrial Moderate (I-2) and are undeveloped.

**PURPOSE OF CONDITIONAL USE**

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

**CONDITIONS FOR A CONDITIONAL USE**

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

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An

extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

### **MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as Institutional. This classification is to provide for needed community services of both a public and quasi-public nature.

### **SITE DESIGN FEATURES**

**Ingress/egress/traffic circulation** – There will be no modifications to the existing driveways.

**Easement/utilities** – No easements are required.

**Drainage** – No additional drainage is required.

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

**Multi-Use bike path** – Not required.

**Landscaping** – Five new trees will be added between the proposed temple and High Street and North 23<sup>rd</sup> Streets.

**Screening** – The property is currently surrounded by a masonry fence.

**Parking** – A new parking lot with 23 parking spaces will be added. There is currently an existing parking lot with 175 spaces.

**Signage** – No new signage is noted on the plans.

**Lighting** – No new lighting is noted on the plans.

**Setbacks** – The setbacks along High Street are 25’ and the setbacks along North 23<sup>rd</sup> Street a minimum of 15’ and will be 45’ as shown on the plans.

**Architectural features** – The building will be brick with a metal roof.

**Height and Area** – The building will have an approximate height of 16’ and an area of 2,600 square feet.

### **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Monday, August 3, 2015 at the Activity Building at 2205 High Street. Two surrounding property owners attended the meeting and had no objections to the proposed construction. A copy of the attendance records is enclosed.

Staff recommends approval of the application with the following comments:

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 mechanical equipment, heating/cooling systems, trash receptacles and utility boxes shall be completely screened from adjoin properties and street right-of-way.
3. Any new exterior lighting shall comply with the UDO Commercial Outdoor Lighting requirements.
4. Any new signage will require a separate application and review.

Conditional Use # 13-8-15

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: LAO BUDDHIST ASSOC.

Name of Authorized Agent (if applicable) JEFF LEE

Legal Description of property included in the conditional use request:  
LOT 1, KIM'S PLACE, AN ADDITION TO THE CITY  
OF FORT SMITH, SEBASTIAN CO., AR 11/21/97

Street Address of Property:  
2205 HIGH ST.

Existing Zoning Classification:  
RM-3

Proposed Zoning Classification (if applicable):  
\_\_\_\_\_

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

TEMPLE STRUCTURE & PARKING LOT

What amenities are proposed such as landscaping and screening? 2600 SF +/-  
NONE: PROPOSED STRUCTURE BUILT WITHIN THE  
WALLS OF AN EXISTING 6 FT HIGH SCREEN FENCE  
PLUS 5 NEW TREES BETWEEN BUILDING & FENCE

JEFF LEE  
~~Owner or~~ Agent Name (please print)

Signed: \_\_\_\_\_  
Owner

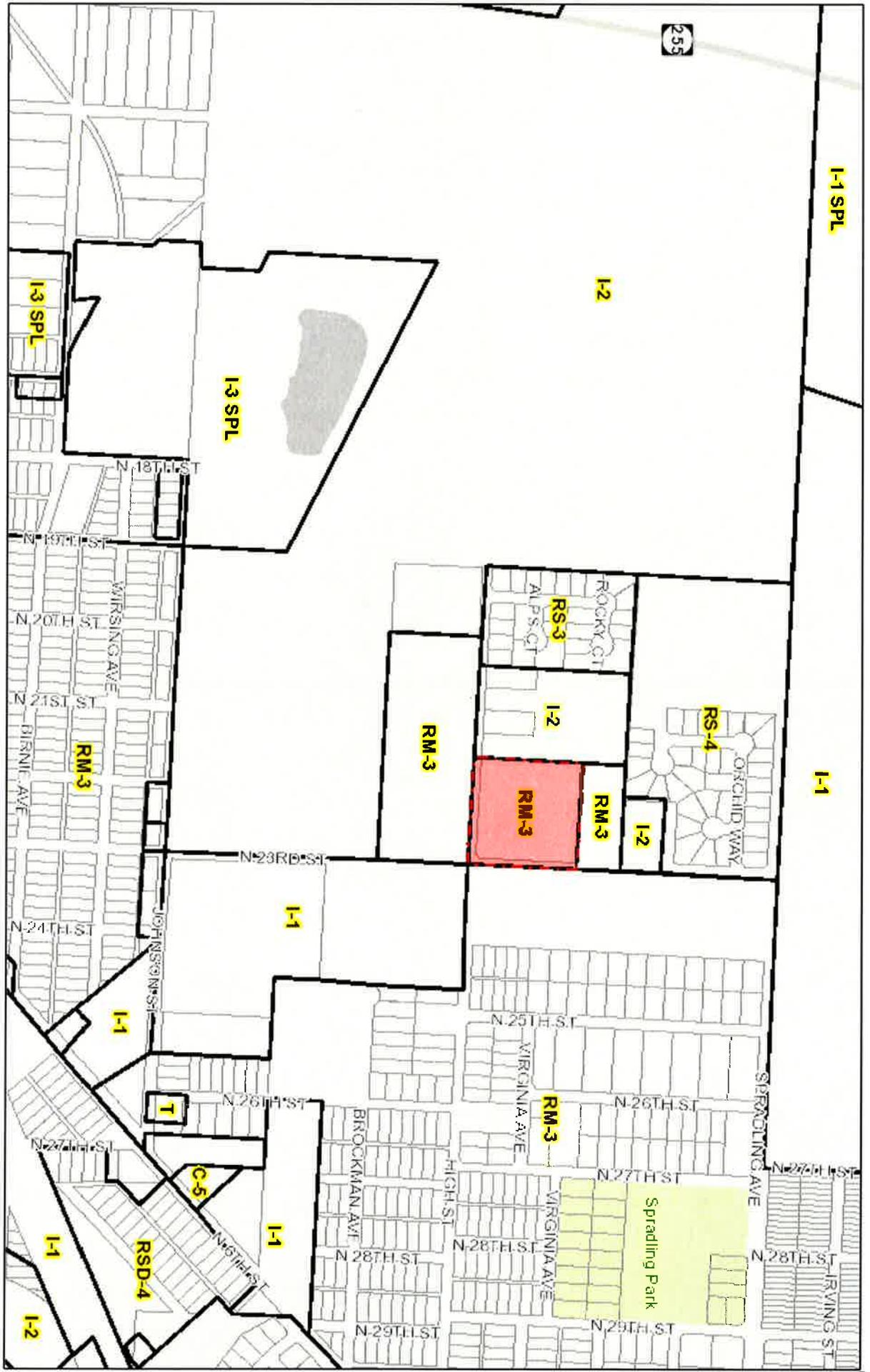
3409 Village Rd, FSM, AR 72903  
~~Owner or~~ Agent Mailing Address

479-452-9226  
~~Owner or~~ Agent Phone Number

Or  
Jeff Lee  
Agent

1C-5

# Conditional Use #13-8-15: Temple and Parking Lot 2205 High Street



July 20, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions

1C-6

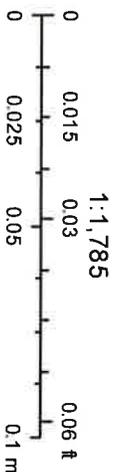


# Aerial View 2205 High Street



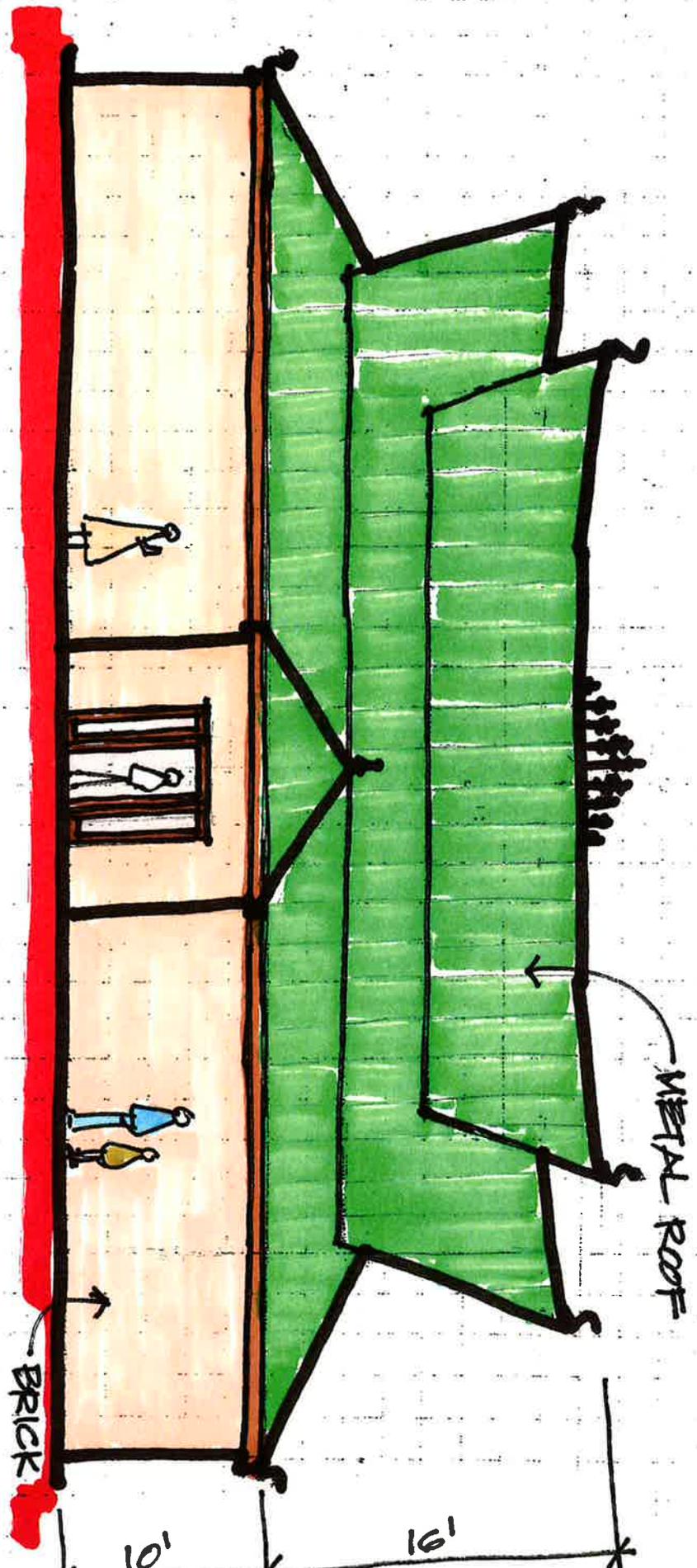
July 20, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions

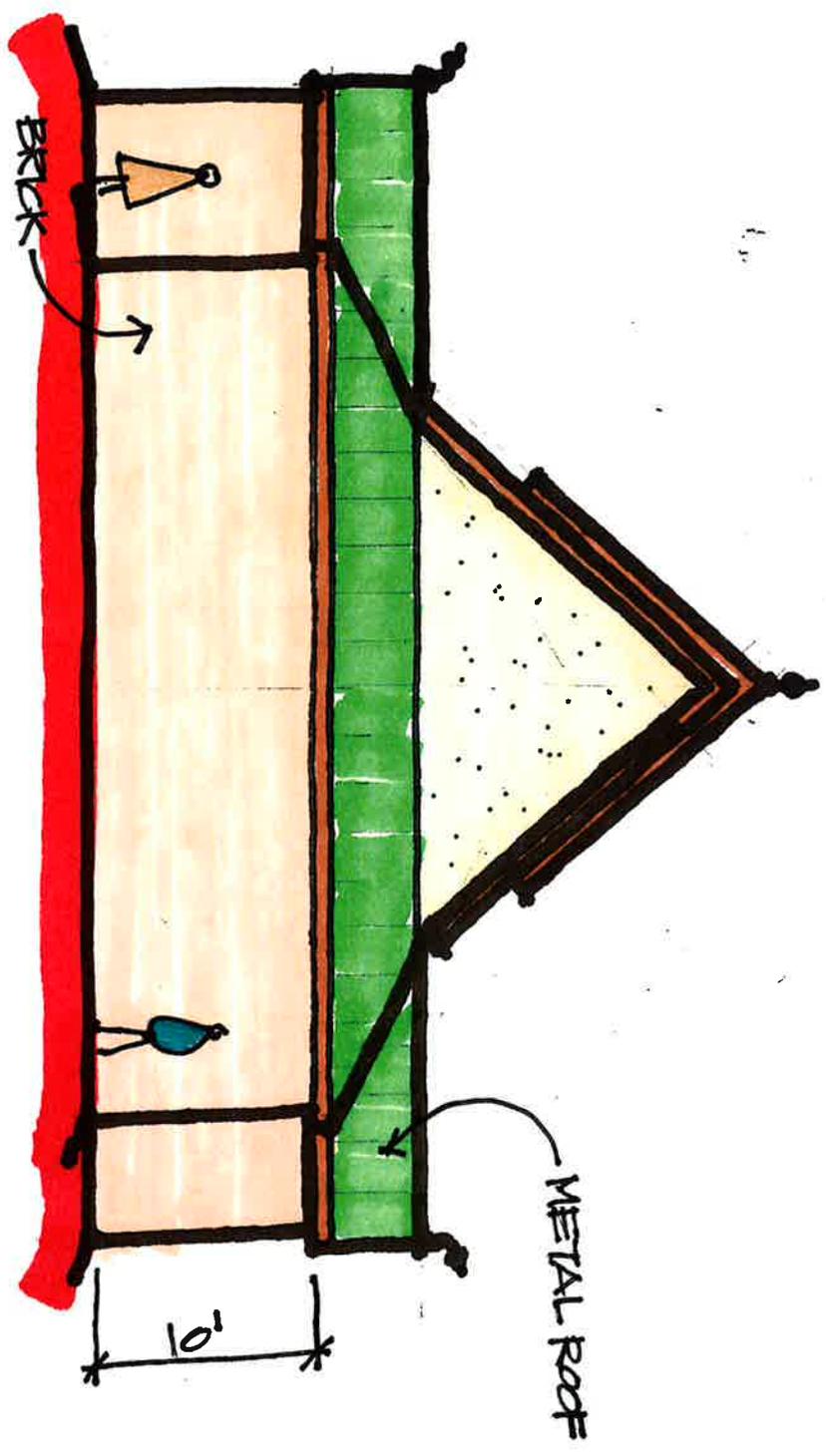


1C-8

WEST ELEVATION  
(EAST SIMILAR)



SOUTH ELEVATION  
(NORTH SIMILAR)



ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location 2205 HIGHT ST

Meeting Time & Date Noon, Aug 3, 2015

Meeting Purpose DISCUSS PROPOSED TEMPLE

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<u>JEFF LEE</u>	<u>3409 Village Rd</u>	<u>479-452-9226</u>
2.	<u>Brendan Gindus</u>	<u>First Smithy Plant Dept</u>	<u>784-2216</u>
3.	<u>Alfred Johnson</u>	<u>3415 N 23 st</u>	<u>479-459-0494</u>
4.	<u>Connie Johnson</u>	<u>3419 N 23'</u>	<u>479-782-5951</u>
5.	<u>Whauby Demainy</u>		<u>479-420-3597</u>
6.	<u>Thongsavath Duong</u>		<u>479-420-6416</u>
7.	<u>Thongsavanh Mixaywanh</u>		<u>479-420-4993</u>
8.			
9.			
10.			
11.			

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 27, 2015

**Re:** Conditional Use #14-8-15 - A request by Terry Burruss, agent for R.U.M, Inc, for Planning Commission consideration of a Conditional Use request to allow outdoor dining and events at 8801 Wells Lake Road

## **PROPOSED CONDITIONAL USE**

The approval of this Conditional Use will allow for a proposed restaurant currently under construction to add an outdoor eating and events area. This will allow for outdoor dining; special events (weddings, receptions etc.); live music; erect tent pavilion on existing patio for special events; cover existing porch with free-standing structure for all-weather use.

## **LOT LOCATION AND SIZE**

The subject property is on the southeast side of the intersection of Wells Lake Road and Massard Road. The tract contains an area of 2.58 acres with approximately 375 feet of street frontage along Massard Road and approximately 376 feet of street frontage along Wells Lake Road.

## **EXISTING ZONING**

The existing zoning on this tract is Commercial Light (C-2 SPL) with Special Conditions of being subject to the development plan approval (Ord. 37-14)  
Characteristics of this zone are as follows:

### **Purpose:**

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, 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-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

**Conditional Uses:**

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, pet shop, mail services, commercial communication towers, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

- Minimum Lot Size – 7,000 square feet
- Maximum Building Size – 30,000 square feet
- Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet
- Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)
- Minimum Lot Width – 50 feet
- Minimum Street Frontage – 20 feet
- Front Yard Setback - 25 feet
- Side Yard on Street Side of Corner Lot - 10 feet
- Side Yard Setback – 10 feet
- Rear Yard Setback - 10 feet
- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Major Collector or higher
- Maximum Height - 35 feet (1+1)
- Maximum Lot Coverage - 60%

**SURROUNDING ZONING AND LAND USE**

The area to the north is not zoned and developed as the Janet Huckabee Nature Center.

The area to the east is Not Zoned and undeveloped.

The area to the west is not zoned and undeveloped.

The areas to the south are zoned Transitional (T) and Residential Multifamily Medium Density (RM-3) and developed as a fire station and undeveloped areas.

**PURPOSE OF CONDITIONAL USE**

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

## **CONDITIONS FOR A CONDITIONAL USE**

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

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

## **MASTER LAND USE PLAN COMPLIANCE**

The *Chaffee Crossing Redevelopment Plan* currently classifies the site as Commercial/Office. This classification is intended for 60% Commercial- regional large retail (box stores, home goods, hotels, outparcel development), 30% Office – Multi-story corporate headquarters (professional offices), and 10% residential- high density multi-family condos or apartments. Approval of the zone change will not conflict with the goals and objectives of the Chaffee Crossing Redevelopment Plan.

## **SITE DESIGN FEATURES**

**Parking** – The parking design is the same as the Development Plan approved July, 2014. The plans show the ability to expand the parking another 12 spaces when necessary.

**Signage** – No signage information noted on submitted plans. However, two monument signs were proposed with the development plan for the restaurant previously submitted.

**Lighting** – No lighting information noted on submitted plans for the outdoor dining area. Any additional lighting beyond what has been approved for the restaurant shall comply with the UDO Commercial Outdoor Lighting requirements.

**Architectural features** – The new patio cover will have an aluminum frame with canvas roll-up sides.

**Height and Area** – The patio area will be approximately 1,000 square feet.

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Monday, August 3, 2015, at 8801 Wells Lake Road. No neighboring property owners attended the meeting.

Staff recommends approval of the application with the following comments:

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 mechanical equipment, heating/cooling systems, trash receptacles and utility boxes shall be completely screened from adjoin properties and street right-of-way.

3. All exterior building and site lighting shall not produce glare, light trespass and/or unnecessary skyglow. Lighting used for security purposes or to illuminate walkways, roadways, and parking lots, only shielded light fixtures shall be used.
4. Any new signage will require a separate application and review.
5. Chaffee Crossing Design Review Committee approval shall be submitted prior to the issuance of any further building permits.

Conditional Use # 14-8-15

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: R. U. M., Inc.

Name of Authorized Agent (if applicable) Terry Burruss, Architect

Legal Description of property included in the conditional use request:

See Attached.

Street Address of Property:

8801 Wells Lake Road

Existing Zoning Classification:

C-2-SPL

Proposed Zoning Classification (if applicable):

C-2 (C.U.P.)

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

To allow outdoor dining; special events (wedding, reception, etc.); live music; erect "tent" pavillion on existing patio for special events; cover existing porch (rear) w/ free-standing structure for all-weather use.  
What amenities are proposed such as landscaping and screening?

Terry Burruss, Architect

Owner or Agent Name (please print)

11912 Kanis, Ste. F-8, Little Rock

Owner or Agent Mailing Address 72211

501-376-3676

Owner or Agent Phone Number

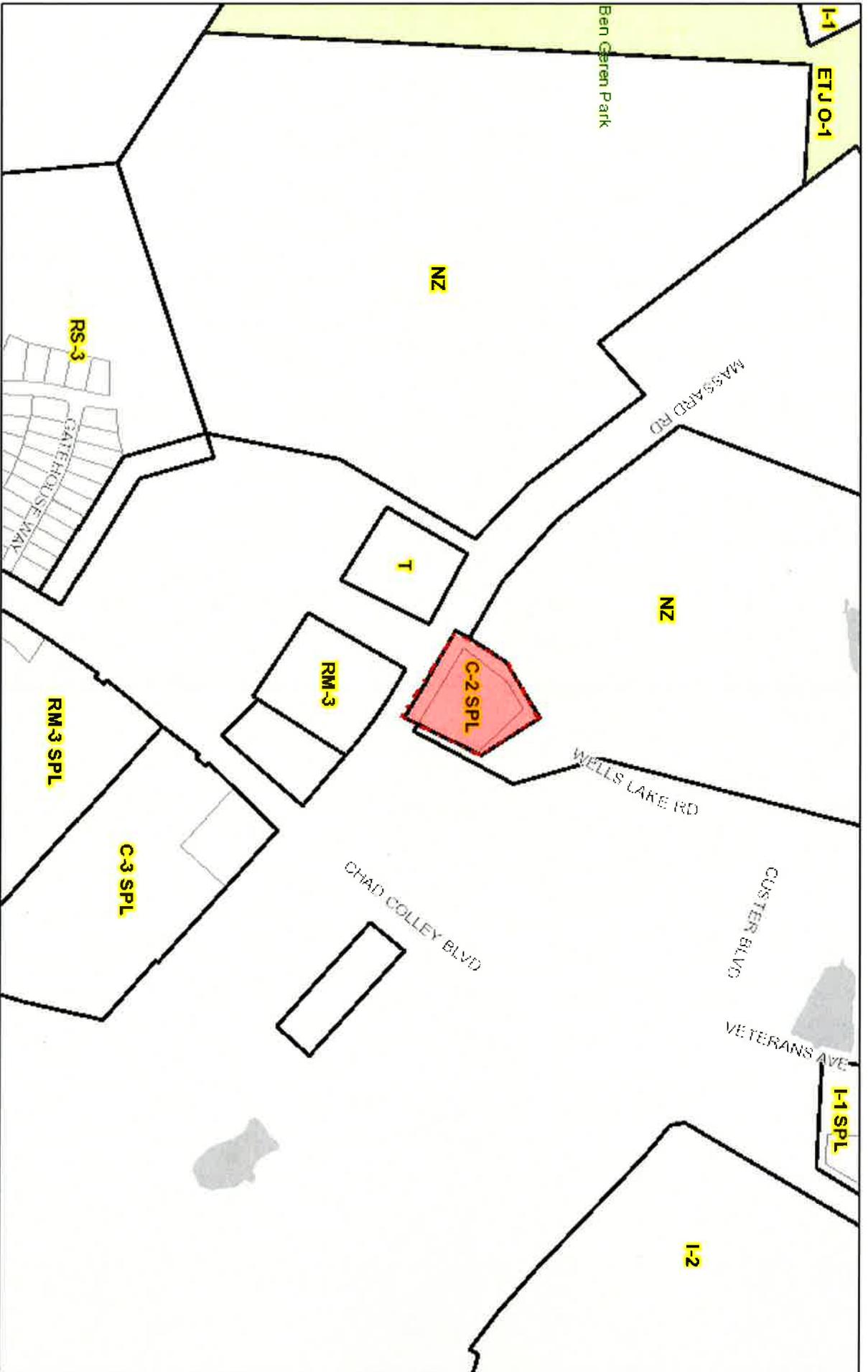
Signed:

Owner

Terry Burruss  
Or  
Terry Burruss  
Agent

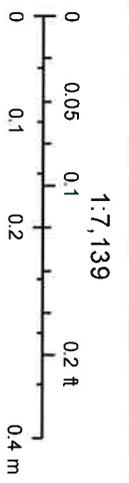
# Conditional Use #14-8-15: Outdoor Dining and Special Events 8801 Wells Lake Road

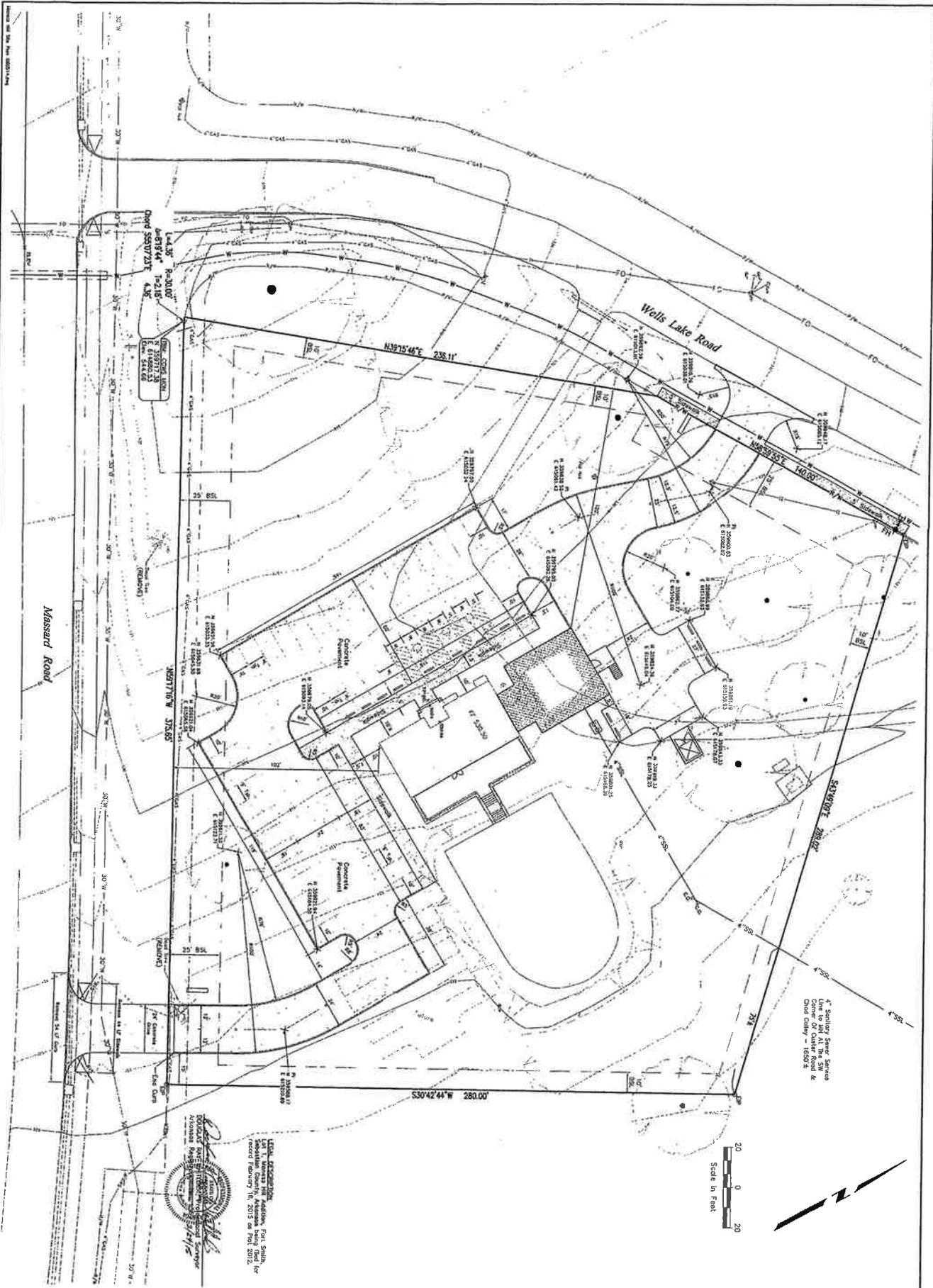
10-6



July 20, 2015

- Fort Smith City Limits
- Zoning
- Subdivisions





LISA M. WAGNER  
 Surveyor  
 3434 Country Club Ave.  
 P.O. Box 1507  
 Fort Smith, Arkansas  
 Record February 16, 2015 or May 2012.

DATE	BY
02/13/15	PJM
02/24/15	PJM

**SITE PLAN**  
**MANESS HILL ADDITION, LOT 1**  
**WELLS LAKE ROAD at MASSARD ROAD**  
 FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

**MICKLE  
 WAGNER  
 COLEMAN**

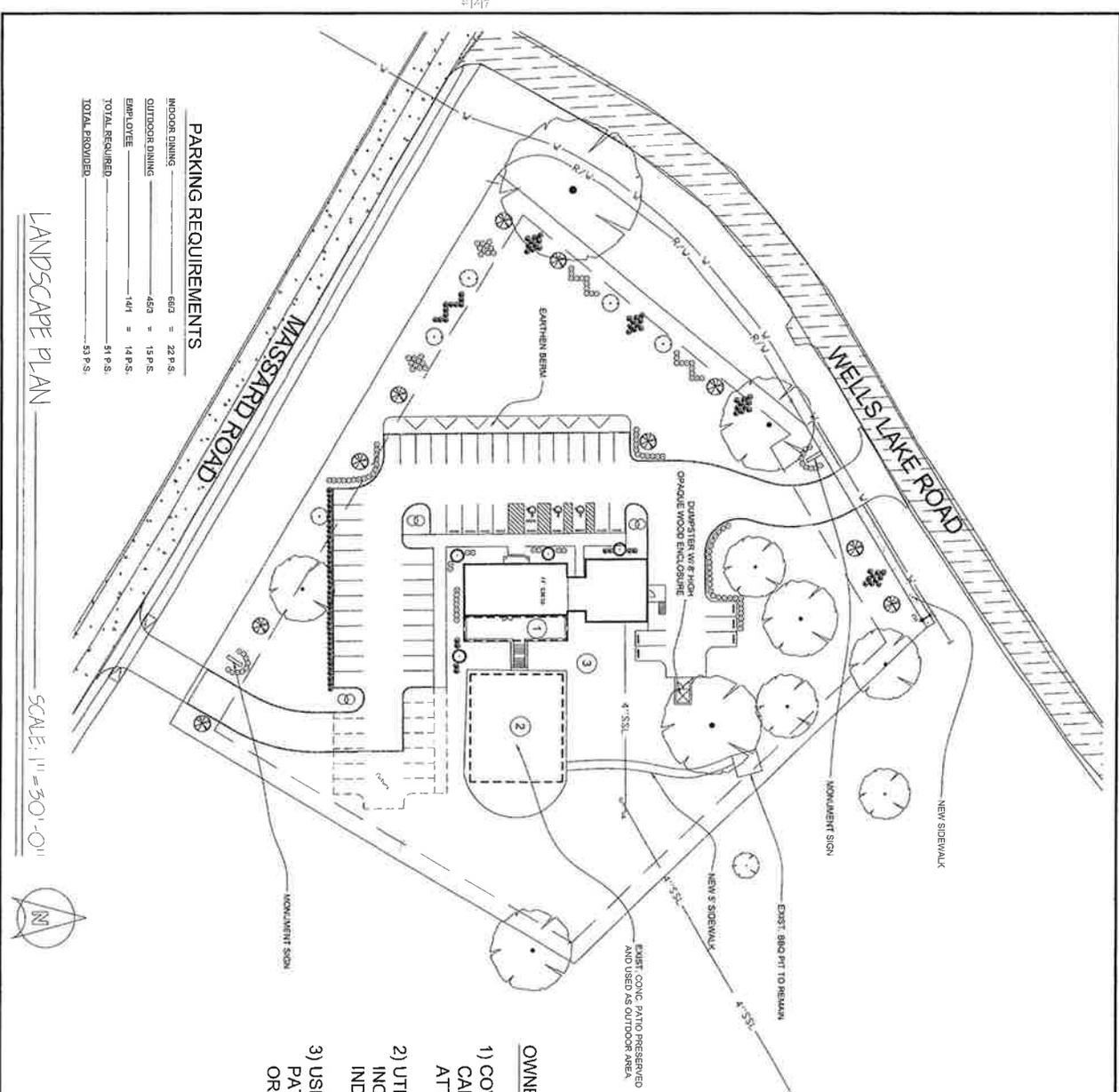


**Engineers-Consultants-Surveyors**  
 3434 Country Club Ave.  
 P.O. Box 1507  
 Fort Smith, Arkansas  
 (479) 649-8484  
 Fax: (479) 649-8486  
 info@mwc-eng.com

DATE	REVISION	BY
02/13/15	Add Shown Adjacent to Wells Lake Road	PJM
02/24/15	Add Surveyors signature	PJM



107



**PARKING REQUIREMENTS**

INDOOR DINING	663	=	22 P.S.
OUTDOOR DINING	459	=	15 P.S.
EMPLOYEE	141	=	14 P.S.
<b>TOTAL REQUIRED</b>			<b>51 P.S.</b>
<b>TOTAL PROVIDED</b>			<b>53 P.S.</b>

LANDSCAPE PLAN

SCALE: 1" = 30'-0"



**OWNER REQUESTS**

- 1) COVER EXISTING PORCH W/ FREE-STANDING ALUMINUM / CANVAS STRUCTURE FOR ALL-WEATHER USE (SEE ATTACHED DRAWING)
- 2) UTILIZE EXIST. CONC. PATIO FOR OUTDOOR ACTIVITIES (MAY INCLUDE USE OF TEMPORARY TENT STRUCTURES - INDIVIDUAL PERMITS REQUIRED)
- 3) USE OF LIVE MUSIC @ EXISTING FACILITY OR OUTDOOR PATIO AREA (OWNER WILL COMPLY W/ EXISTING NOISE ORDINANCE)

	<p>PROPOSED RENOVEL FOR <b>MANESS SCHOOL HOUSE</b></p>	<p>LANDSCAPE PLAN</p>	
<p>NO. 1072</p>	<p>DATE: 05/13/16</p>	<p>PROJECT: 224</p>	<p>1100 S. 10th St. Ste. 100 Lincoln, NE 68502-5104 402.441.2222</p>

10-8



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 27, 2015

**Re:** Conditional Use #15-8-15 - A request by Bransen Harris, agent for Silverthorne, LLC, for Planning Commission consideration of a Conditional Use request to develop a restaurant with outdoor dining at 5400 Phoenix Avenue

## PROPOSED CONDITIONAL USE

The approval of this Conditional Use will allow for the new restaurant under construction to add an outdoor dining area that will have 44 seats.

## LOT LOCATION AND SIZE

The subject property is on the east side of Phoenix Avenue just north of Leigh Avenue. The tract contains an area of 2.5 acres with approximately 832 feet of street frontage along Phoenix Avenue.

## EXISTING ZONING

The existing zoning on this tract is Commercial Heavy (C-5) with special conditions of all future development on property will require Planning Commission approval of a development plan. Characteristics of this zone are as follows:

### Purpose:

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

### Permitted Uses:

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

- Minimum Lot Size – 14,000 square feet
- Maximum Height - 45 feet (1+1)
- Maximum Lot Coverage - 75%
- Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
- Existing District (By Extension) – 14,000 square feet
- Minimum Lot Width – 100 feet
- Front Yard Setback - 25 feet
- Side Yard on Street Side of Corner Lot - 15 feet
- Side Yard Setback – 20 feet
- 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 SPL) and is undeveloped. An area north across I-540 is zoned Residential Multifamily Medium Density (RM-3) and also undeveloped.

The area to the east is zoned Industrial Light (I-1) and developed as Arkansas Air National Guard.

The area to the south is zoned Industrial Light (I-1) and undeveloped.

The areas to the west are zoned Commercial Heavy (C-5 SPL) and are developed as Sodie’s Liquor and an undeveloped property.

**PURPOSE OF CONDITIONAL USE**

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

**CONDITIONS FOR A CONDITIONAL USE**

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

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

### **MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as *General Commercial and Institutional*. This classification is to provide opportunities for business transactions and activities, and meet the consumer needs of the community and to provide for needed community services of both a public and quasi-public nature.

### **SITE DESIGN FEATURES**

**Parking** – There are 123 parking spaces on site and only 99 parking spaces are required.

**Signage** – No signage information provided on plans.

**Lighting** – No exterior building or site lighting noted on plans. Any new exterior lights must comply with the UDO Outdoor Commercial Lighting requirements.

**Setbacks** – Setbacks comply with the C-5 zoning requirements.

**Architectural features** – The roof cover will be constructed of steel and will not have walls. The original development plan was approved January 14, 2014. The only change from the approved development plan is the addition of the patio cover and outdoor seating. There will be a metal rail system around the seating area at a height of 36”.

**Height and Area** – The patio cover will be 1,080 square feet in area and approximately 14 feet tall.

### **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Wednesday, August 5, 2015, at The Holiday Inn Express meeting room at 6813 Phoenix Avenue. No neighboring property owners attended the meeting.

Staff recommends approval of the application with the following comment:

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.

Conditional Use # 15-8-15

**APPLICATION FOR CONDITIONAL USE**

Name of Property Owner: Silver Thorne, LLC

Name of Authorized Agent (if applicable) Bransen Harris

Legal Description of property included in the conditional use request:  
Attached

Street Address of Property:  
5400 Phoenix Ave.

Existing Zoning Classification:  
C5

Proposed Zoning Classification (if applicable):  
\_\_\_\_\_

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

What amenities are proposed such as landscaping and screening?  
Landscaping is provided and a part of the original construction documents.

Bransen Harris  
Owner or Agent Name (please print)

Signed: [Signature]  
Owner

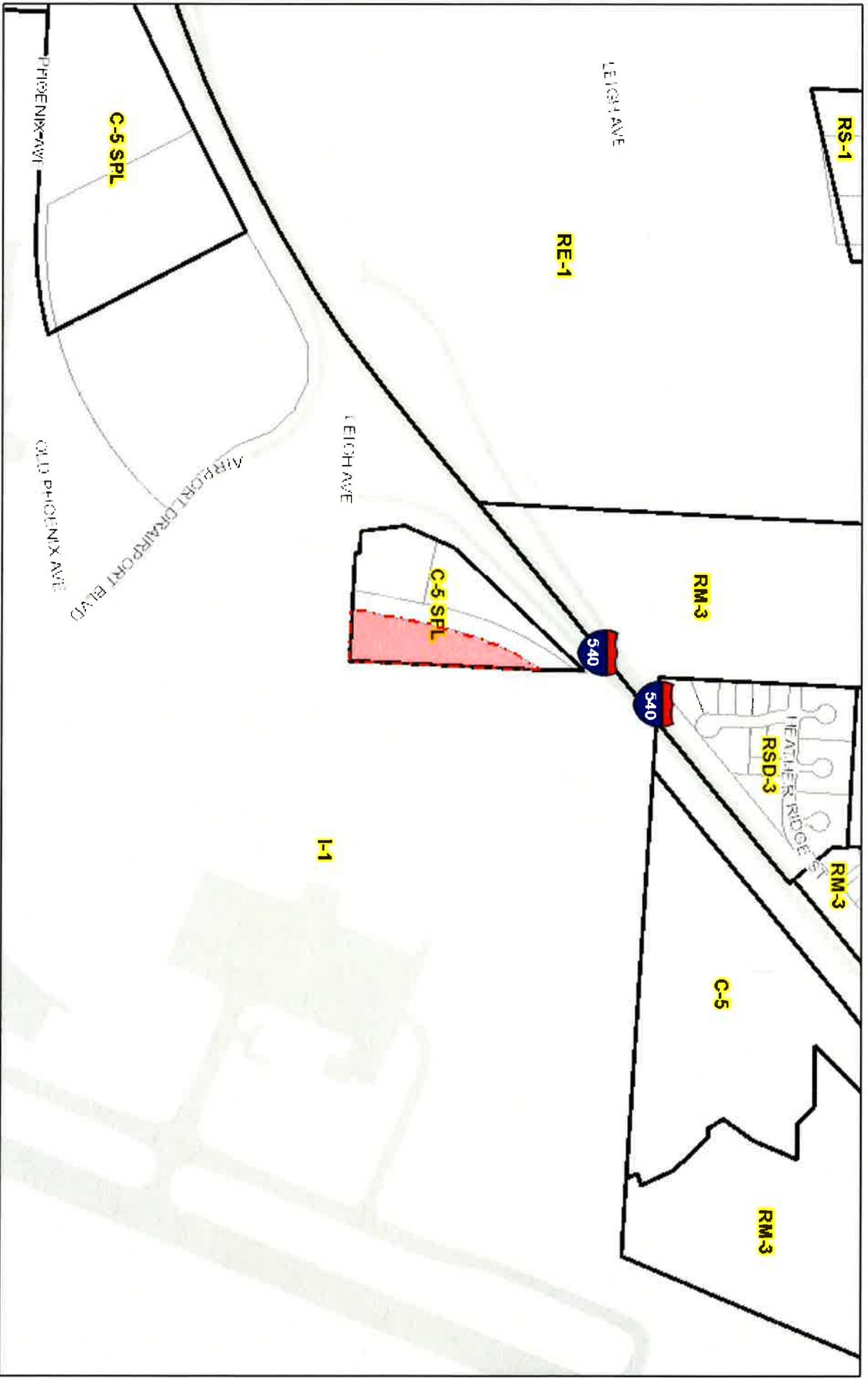
5311 S. 28<sup>th</sup> St.  
Owner or Agent Mailing Address

479-806-8670  
Owner or Agent Phone Number

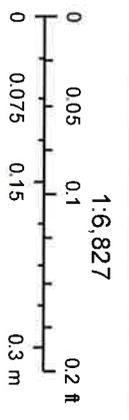
Or  
[Signature]  
Agent

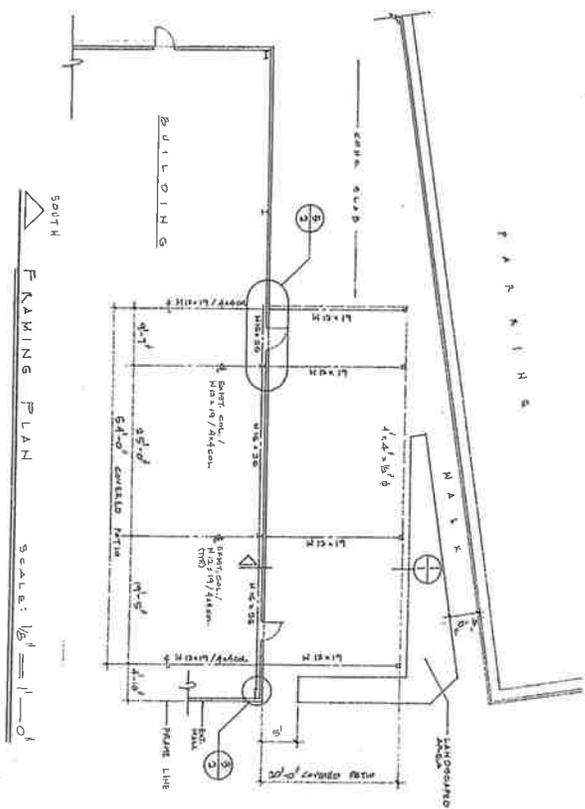
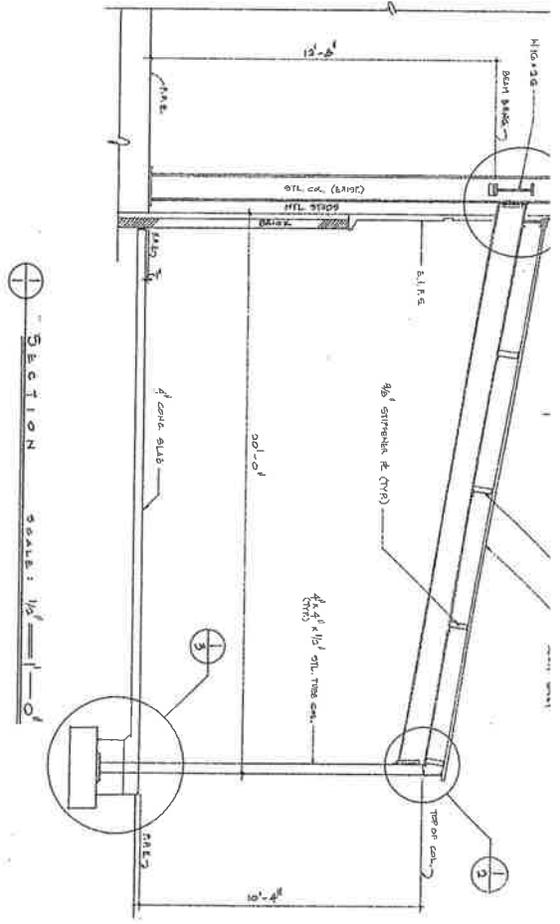
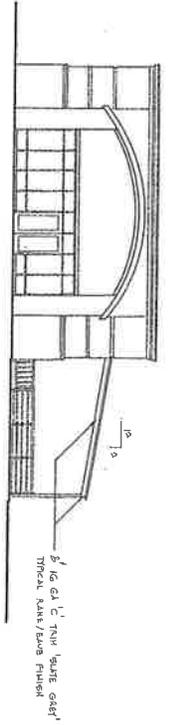
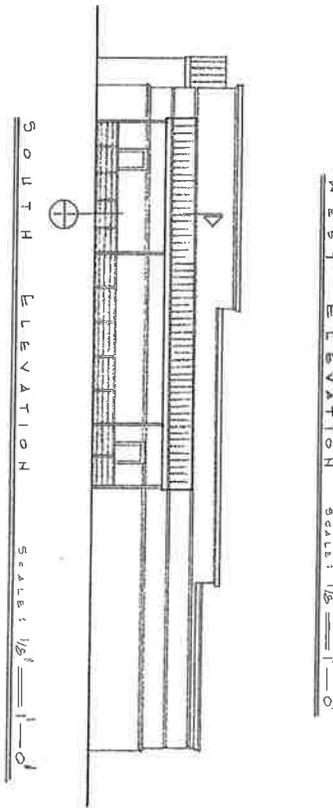
# Conditional Use #15-8-15 - Restaurant with outdoor dining 5400 Phoenix Avenue

5-1-1



- July 21, 2015
- Fort Smith City Limits
- Zoning
- Subdivisions





2005 ARCHITECTURE FROM ARCHITECTURE LINE BOOKS, VOL. 1, P. 111

2012 NPK, LLC Safety Code Code

2012 City Planning & Zoning Ordinance

2012 ARKANSAS HISTORICAL CODE

2012 ARKANSAS HISTORICAL CODE

2012 City Electric Code Amendments

2012 City Electric Code Amendments

A.C.A. 15-48-115 through 15-48-124 Enforcement Remedial Order

2005 ARKANSAS FIRE CODE CODE

**GENERAL NOTES**

1. DESIGN LOADS:

Roof dead load: 15 psf + 4 psf IM

Roof live load: 20 psf

Ground snow load: 10 psf

Wind: ASCE 7-05

2. CONCRETE FINISHES:

1. 2" POLISHED CONCRETE FINISH: 2000 PS

2. 2" POLISHED CONCRETE FINISH: 2000 PS

3. 2" POLISHED CONCRETE FINISH: 2000 PS

4. 2" POLISHED CONCRETE FINISH: 2000 PS

5. 2" POLISHED CONCRETE FINISH: 2000 PS

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7-3-15

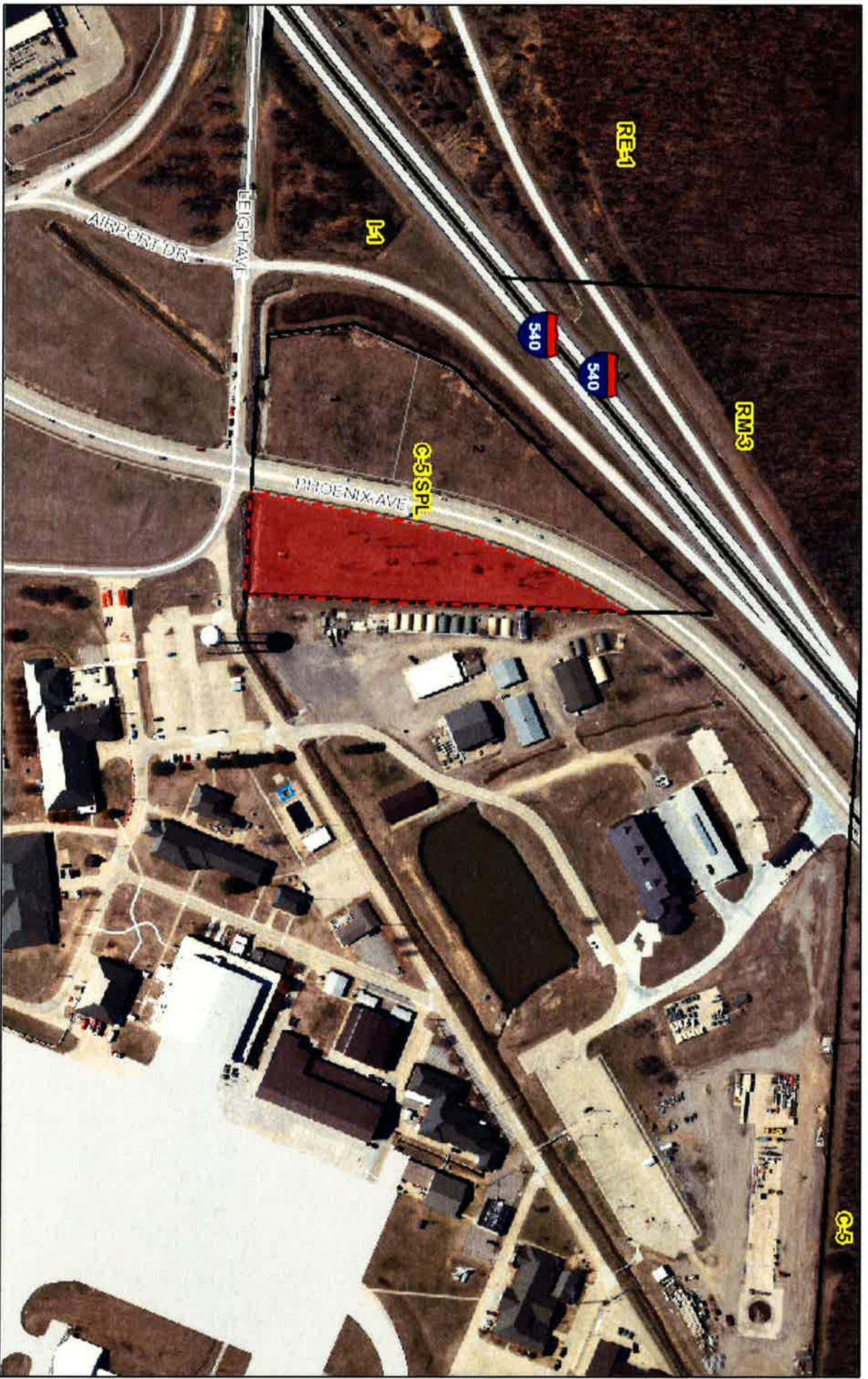
JJ's GRILL  
5400 PHOENIX AV.  
FORT SMITH, ARKANSAS

KEN SHANER, ARCHITECT  
4 CHAPEL LANE  
BELLA VISTA, ARKANSAS 72115  
419-859-4238 kshaner@osbosh.net



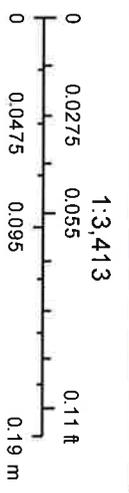
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Conditional Use #15-8-15 - Restaurant with outdoor dining  
5400 Phoenix Avenue



July 21, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions



C-15





**SUBDIVISION COMMENTS**

**August 11, 2015**

**2. The Providence Subdivision – Lots 1-94 – Preliminary Plat – Crafton Tull Engineers**

- Proposed Zoning Designations:
- 1) Residential Single Family Medium/High Density RS-3) – Lots 16-20, 23-94;
  - 2) Residential Single Family-Duplex Medium/High Density (RSD-3) – Lots 3-15, 21 & 22; and
  - 3) Commercial Light (C-2) – Lots 1 & 2

Land Uses:

RS-3- to provide for medium-to-high density, compact single family detached development on new sites or as infill construction.

RSD-3 - to provide for medium-to-high density, compact single family detached and duplex development on new sites or as infill construction.

C-2 – to provide for office, service, and retail activities that are located within buffer areas near the edge of residential areas, but which serve an area larger than adjacent neighborhoods.

Proposed Land Uses: Single and duplex dwellings



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 27, 2015

**Re:** Rezoning #11-8-15 - A request by Crafton Tull, agent, for Planning Commission consideration of a zone request from Not Zoned to Commercial Light (C-2); Residential Single Family Medium/High Density (RS-3); and Residential Single Family – Duplex Medium/High Density (RSD-3) by classification at 7100-7200 Wells Lake Road

## PROPOSED ZONING

This rezoning will allow the development of a new subdivision with 94 lots. Two lots located along Wells Lake Road are proposed to be Commercial Light (C-2). There will be 17 lots located within the Residential Single Family – Duplex Medium/High Density (RSD-3) area and the remainder of the lots will be the Residential Single Family Medium/High Density (RS-3) section.

## LOT LOCATION AND SIZE

The subject property is on the west side of Wells Lake Road and adjacent to the proposed R.A. Young Jr. Drive. The tract contains an area of 55.56 acres with approximately 270 feet of street frontage along Wells Lake Road.

## REQUESTED ZONING

The proposed zoning on this tract is Commercial Light (C-2). Characteristics of this zone are as follows:

### Purpose:

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, 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-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

**Conditional Uses:**

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, pet shop, mail services, commercial communication towers, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

- Minimum Lot Size – 7,000 square feet
- Maximum Building Size – 30,000 square feet
- Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet
- Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)
- Minimum Lot Width – 50 feet
- Minimum Street Frontage – 20 feet
- Front Yard Setback - 25 feet
- Side Yard on Street Side of Corner Lot - 10 feet
- Side Yard Setback – 10 feet
- Rear Yard Setback - 10 feet
- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Major Collector or higher

AND

The proposed zoning on this tract is Commercial Light (C-2). Characteristics of this zone are as follows:

**Purpose:**

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, 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-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

**Conditional Uses:**

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, pet shop, mail services, commercial communication towers, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

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- Side Yard Setback – 10 feet
- Rear Yard Setback - 10 feet
- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Major Collector or higher

AND

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

Characteristics of this zone are as follows:

**Purpose:**

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

**Permitted Uses:**

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

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

Maximum Height - 35 feet (1+1)  
Maximum Lot Coverage - 60%

**EXISTING ZONING**

The property currently has No Zoning.

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Not Zoned and are undeveloped.

The areas to the east are zoned Not Zoned and are undeveloped.

The areas to the south are zoned Not Zoned and RS-4 and are undeveloped.

The areas to the west are zoned PZD and will be developed as the new ArcBest Corporate Office.

**MASTER LAND USE PLAN COMPLIANCE**

The *Chaffee Crossing Land Use Plan* classifies the site as Single-Family Residential. This classification is to encourage residential development that promotes both internal and external connectivity while allowing each neighborhood to differentiate itself.

**STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Wednesday, August 5, 2015, at the ERC Offices located at 813 Fort Street, Barling, AR. No neighboring property owners attended the meeting.

Staff recommends approval of the requested rezoning.

Rez # 11-8-15

PETITION FOR CHANGE IN ZONING MAP

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

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

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

SEE ATTACHMENT

7100-7200 Wells Lake Road

- 2. Address of property: NW Corner Wells Lake Road and R.A. Young Jr. Drive

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

- 4. Application is hereby made to change the zoning classification of the above described property to C-1, RSD-3, RS-3 by Classification.  
(Extension or classification)

- 5. Why is the zoning change requested?

Redevelopment of Fort Chaffee (See attached with application "Providence" Subdivision

Preliminary Plat)

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

Signed:

Crafton Tull & Associates  
Owner or Agent Name  
(please print)

\_\_\_\_\_  
Owner

10825 Financial Centre Pkwy., Ste. 300  
Little Rock, AR 72211

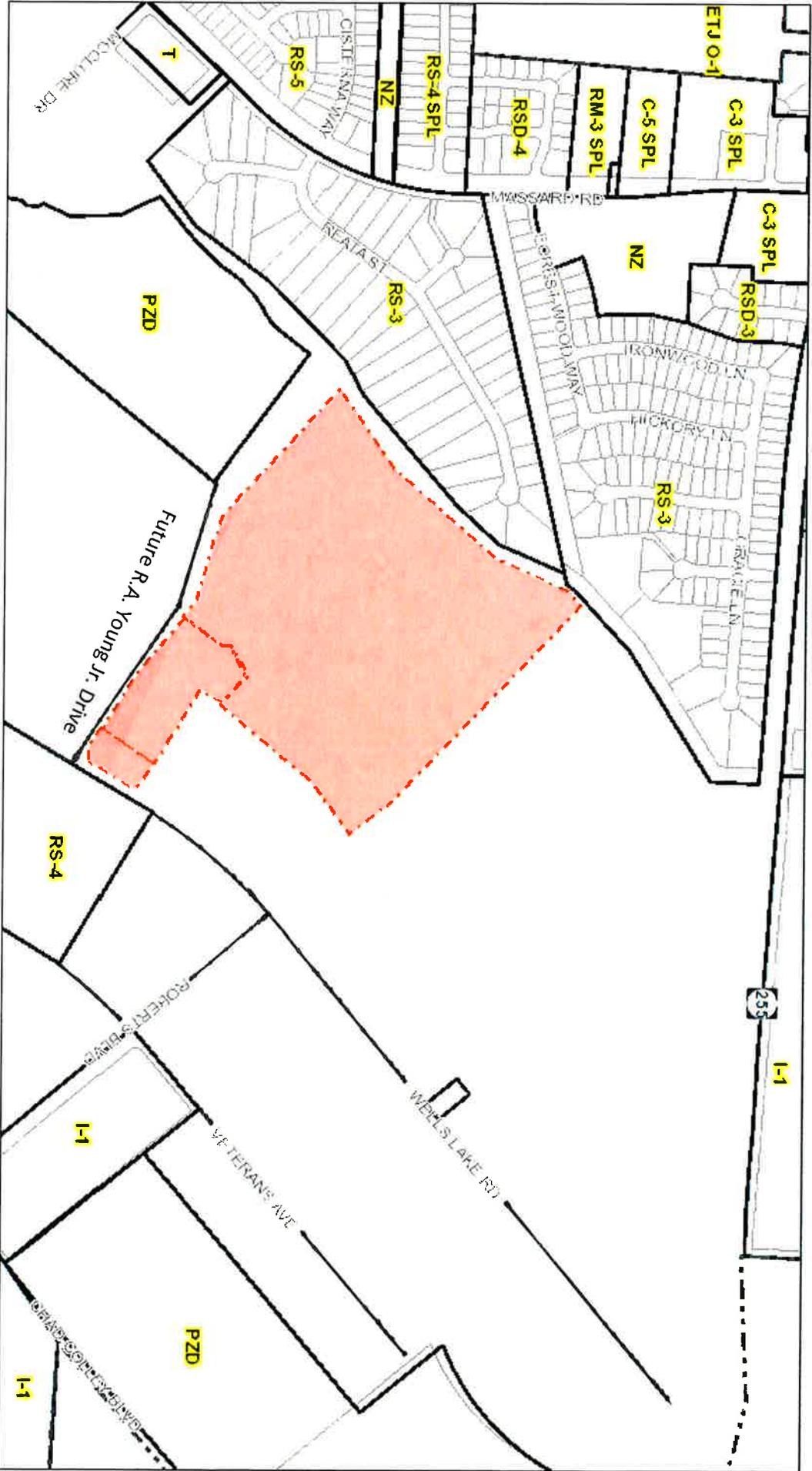
\_\_\_\_\_  
Owner or Agent Mailing Address

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

(501) 664-3245  
Owner or Agent Phone Number

Rezoning #11-8-15: From Not Zoned to RS-3, RSD-3 and C-2  
 7100 & 7200 Wells Lake Road

BT



July 21, 2015  
 Fort Smith City Limits  
 Zoning  
 Subdivisions

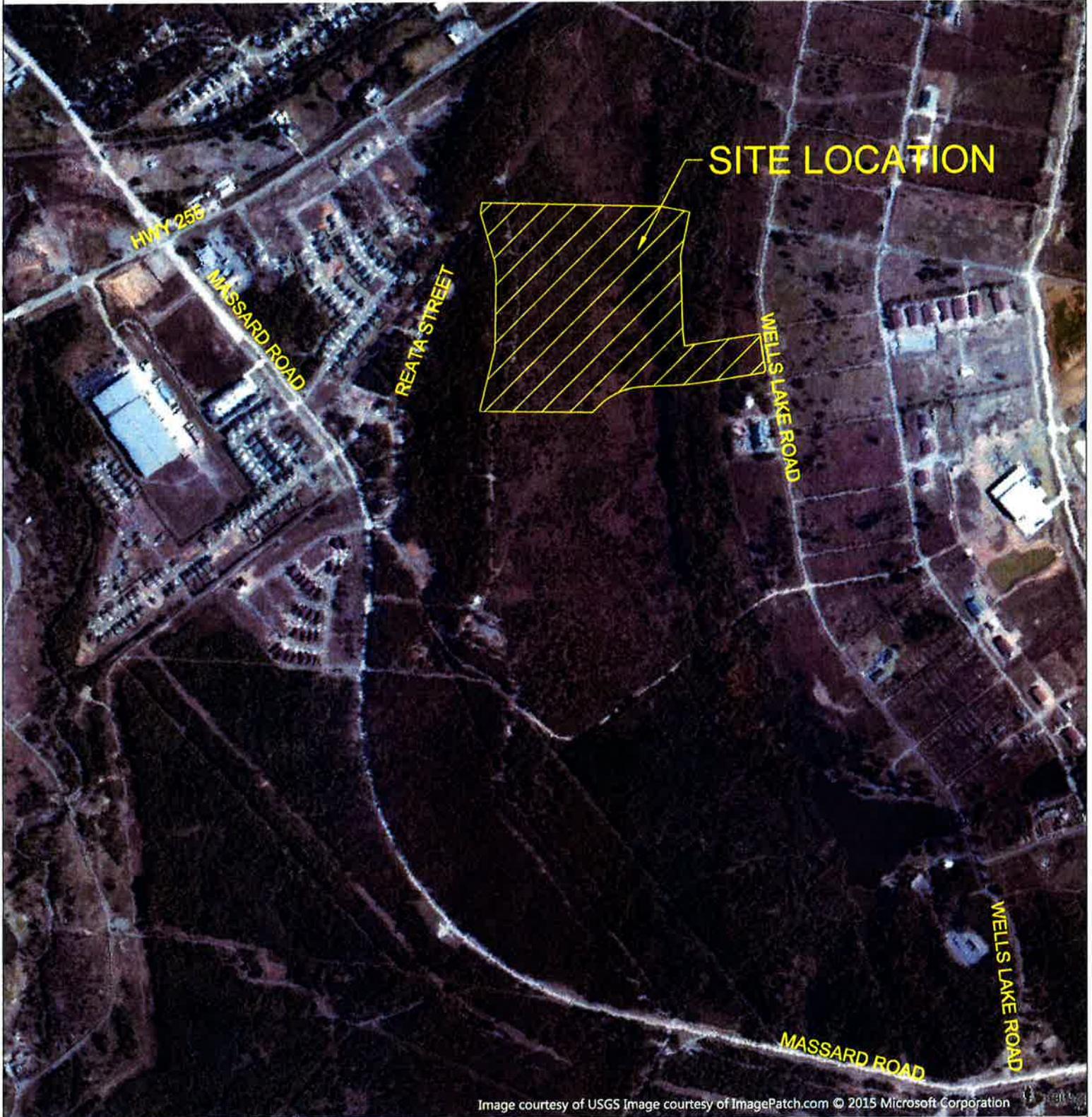
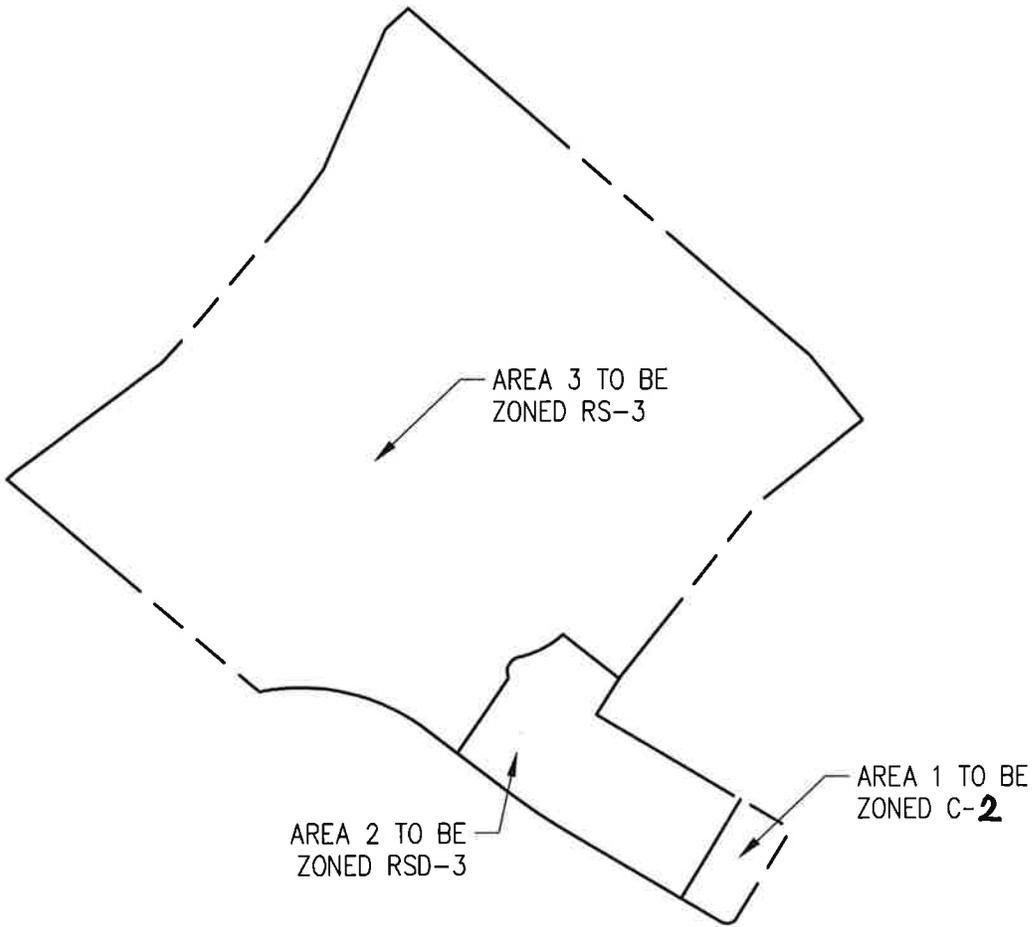


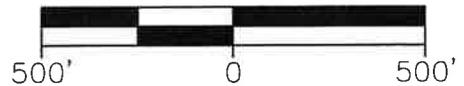
Image courtesy of USGS Image courtesy of ImagePatch.com © 2015 Microsoft Corporation



VICINITY MAP  
NTS



GRAPHIC SCALE IN FEET



**REZONING AREAS**

Project No: 15802100  
 Issue Date: 7/16/2015  
 Contact: J. GRAYHAM  
 Checked by: \_\_\_\_\_

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10825 Financial Center Parkway, Suite 300  
 Little Rock, Arkansas 72211



501.664.3245 | 501.664.6704 |  
 www.craftontull.com

CERTIFICATE OF AUTHORIZATION



This document, and the ideas and designs incorporated herein, as an instrument of professional service, is the property of Crafton, Tull & Associates, Inc., and is not to be used, in whole or in part, for any other project, without the written authorization of Crafton, Tull & Associates, Inc.

3H

# Memo

To: City Planning Commission  
From: Planning Staff  
Date: August 6, 2015  
Subject: Proposed UDO Text Amendments in the Commercial Downtown (C-6) Zoning District

Rodney Ghan, General Partner of Ghan Properties, LLP, has submitted a request for text amendments in the Commercial Downtown (C-6) zoning district. He has requested that the following uses in the C-6 zoning district be changed from permitted land uses to conditional use requiring planning commission approval:

1. Neighborhood Group Home
- 2) Rooming or Boarding House
- 3) Auto and Vehicle Dealer
- 4) Auto detailing service
- 5) Car wash (self-service)
- 6) Appliance Repair (small)
- 7) Bicycle sales and service
- 8) Tattoo/body piercing parlor
- 9) Parking garage
- 10) Parking lot (commercial)
- 11) Parking lot (off site)

The definitions for each of the above land uses are enclosed. Staff has reviewed the proposed text amendments and recommends approval with the following exceptions:

**Neighborhood Group Home** – In 1989, the City of Fort Smith went through an extensive review and eventual amendment to our codes so as to be in compliance with the Fair Housing Act as amended in 1988. As part of our review of Mr. Ghan's request, staff consulted with Rick Wade, Assistant City Attorney, who worked on this issue for us in 1989 and reviewed the Department of Justice website regarding the Fair Housing Act. Based on our review of this information and consulting with the city attorney, it would be a violation of the Fair Housing Act to place any obstacles in place for persons with disabilities when we permit similar land uses for persons without disabilities. Therefore staff recommends that the Neighborhood Group Home remain a permitted use in the C-6 zoning district.

**Tattoo/body piercing parlor** – Section 27-332 regarding Conditional uses states that certain uses are defined as conditional because of the potential harmful affects the use may cause to nearby properties. The section also states that the planning commission will review the overall compatibility of the planned use with surrounding uses as well as such specific items as screening, parking and landscaping to make sure that no harmful effects occur to nearby properties.

Because tattoo/body piercing parlors conduct their services within a building, staff believes that there are no potential harmful effects to surrounding properties and that requiring a conditional use would result in minimal or no benefit. Based on this section of the UDO, staff recommends that Tattoo/body piercing parlor remain a permitted use in the C-6 zoning district.

**Bicycle sales and service** - Mr. Ghan requested this land use be amended to require a conditional use in order to prevent outside storage. However, the existing definition for *bicycle sales and service* prohibits outside storage. To make this requirement more clear, staff will insert “no outside storage” on the land use chart.

Mr. Ghan concurs with the above staff comments and has agreed to omit Neighborhood Group Home, Tattoo, body piercing parlor, and bicycle sales and service from his list of text amendments.

The proposed amendments were presented to the Central Business Improvement District board on July 21, 2015, for its input. Enclosed is a resolution approved by the CBID board supporting the amendments.

The proposed text amendments with the changes as discussed above are enclosed and highlighted.

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

## Proposed C-6 Text Amendments

August 11, 2015

- 1) **Neighborhood Group Home** – shall mean a community based home licensed by the state or sponsored by an agency or organization certified by the state that may provide room and board, personal care, habilitation services and supervision in a multiple-family environment for more than eight (8) but less than sixteen (16) handicapped persons.
- 2) **Rooming or Boarding House** – shall mean a building other than a hotel or motel, arranged and used for the lodging, with or without means, for compensation of more than three (3) persons exclusive of the operating person or family, pursuant to previous arrangements.
- 3) **Auto and Vehicle Dealer** – shall mean a facility for display, service and sales of used or new automobiles, motorcycles, recreation vehicles, and travel trailers, excluding heavy equipment.
- 4) **Auto detailing service** – shall mean a facility for the cleaning, washing, waxing and polishing of motor vehicles including steam cleaning.
- 5) **Car wash (self-service)** - Shall mean a facility for washing and steam cleaning passenger automobiles (including self-service operation), operating either as a separate facility or in conjunction with another use.
- 6) **Appliance Repair (small)** – shall mean a shop for the repair of household and home equipment, such as electrical appliances, lawnmowers, tools and similar items (no outside storage).
- 7) **Bicycle sales and service**– comprises establishments retailing new or used bicycles in combination with repair services and selling replacement parts and accessories.
- 8) **Tattoo/body piercing parlor**- shall mean an establishment whose principal business activity, either in terms of operations or as held out to the public, is the practice of one or more of the following: (1) Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.
- 9) **Parking garage** – shall mean an area or structure devoted to the parking or storage of motor vehicles.
- 10) **Parking lot (commercial)** – shall mean an area devoted to the parking or storage of motor vehicles for a fee.
- 11) **Parking lot (off site)** - shall mean off-site parking spaces which are not located on the same lot or tract occupied by the main use, but which are within three hundred (300) feet of such lot or tract.

# Ghan Properties, LLLP

July 1, 2015

City of Fort Smith  
Planning & Zoning Department  
623 Garrison Avenue  
Fort Smith, AR 72901

RE: Text Amendment to C-6 Zoning

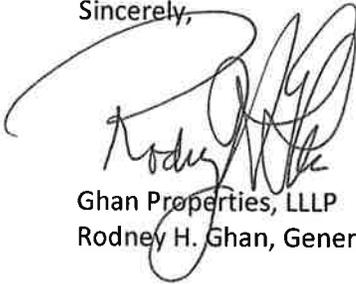
To Whom It May Concern:

I would like to request a text amendment to the unified development ordinance of the City of Fort Smith. Specifically to the permitted and conditional uses in zoning C-6. This request is to have some of the permitted uses changed to conditional use for C-6 zoning.

Attached to this letter is a redlined land use chart for C-6 zoning. I ask that you consider changing the items with a red asterisk beside them from permitted use to conditional use.

Thank you for your consideration. If you have any questions or would like to discuss this request, you may contact me at (479) 478-6161 or [rhghan@rhghan.com](mailto:rhghan@rhghan.com)

Sincerely,



Ghan Properties, LLLP  
Rodney H. Ghan, General Partner



THE COMMON LAW IS THE WILL OF *Mankind* ISSUING FROM THE *Gr* OF THE *People*

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## JOINT STATEMENT OF THE DEPARTMENT OF JUSTICE AND THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### GROUP HOMES, LOCAL LAND USE, AND THE FAIR HOUSING ACT

Since the federal Fair Housing Act ("the Act") was amended by Congress in 1988 to add protections for persons with disabilities and families with children, there has been a great deal of litigation concerning the Act's effect on the ability of local governments to exercise control over group living arrangements, particularly for persons with disabilities. The Department of Justice has taken an active part in much of this litigation, often following referral of a matter by the Department of Housing and Urban Development ("HUD"). This joint statement provides an overview of the Fair Housing Act's requirements in this area. Specific topics are addressed in more depth in the attached Questions and Answers.

The Fair Housing Act prohibits a broad range of practices that discriminate against individuals on the basis of race, color, religion, sex, national origin, familial status, and disability.<sup>(1)</sup> The Act does not pre-empt local zoning laws. However, the Act applies to municipalities and other local government entities and prohibits them from making zoning or land use decisions or implementing land use policies that exclude or otherwise discriminate against protected persons, including individuals with disabilities.

The Fair Housing Act makes it unlawful --

- To utilize land use policies or actions that treat groups of persons with disabilities less favorably than groups of non-disabled persons. An example would be an ordinance prohibiting housing for persons with disabilities or a specific type of disability, such as mental illness, from locating in a particular area, while allowing other groups of unrelated individuals to live together in that area.
- To take action against, or deny a permit, for a home because of the disability of individuals who live or would live there. An example would be denying a building permit for a home because it was intended to provide housing for persons with mental retardation.
- To refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.
- What constitutes a reasonable accommodation is a case-by-case determination.
- Not all requested modifications of rules or policies are reasonable. If a requested modification imposes an undue financial or administrative burden on a local government, or if a modification creates a fundamental alteration in a local government's land use and zoning scheme, it is not a "reasonable" accommodation.

The disability discrimination provisions of the Fair Housing Act do not extend to persons who claim to be disabled solely on the basis of having been adjudicated a juvenile delinquent, having a criminal record, or being a sex offender. Furthermore, the Fair Housing Act does not protect persons who currently use illegal drugs, persons who have been convicted of the manufacture or sale of illegal drugs, or persons with or without disabilities who present a direct threat to the persons or property of others.

HUD and the Department of Justice encourage parties to group home disputes to explore all reasonable dispute resolution procedures, like mediation, as alternatives to litigation.

DATE: AUGUST 18, 1999

#### Questions and Answers

#### on the Fair Housing Act and Zoning

#### Q. Does the Fair Housing Act pre-empt local zoning laws?

#### GENERAL INFORMATION CIVIL RIGHTS DIVISION HOUSING & CIVIL ENFORCEMENT

##### LEADERSHIP

**Steven H. Rosenbaum**  
Chief

##### CONTACT

**Housing & Civil  
Enforcement Section**  
(202) 514-4713  
TTY - 202-305-1882  
FAX - (202) 514-1116  
To Report an Incident of Housing  
Discrimination:  
1-800-896-7743

##### MAILING ADDRESS

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Housing and Civil Enforcement Section, NWB  
Washington, D.C. 20530

Email: [fairhousing@usdoj.gov](mailto:fairhousing@usdoj.gov)



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No. "Pre-emption" is a legal term meaning that one level of government has taken over a field and left no room for government at any other level to pass laws or exercise authority in that area. The Fair Housing Act is not a land use or zoning statute; it does not pre-empt local land use and zoning laws. This is an area where state law typically gives local governments primary power. However, if that power is exercised in a specific instance in a way that is inconsistent with a federal law such as the Fair Housing Act, the federal law will control. Long before the 1988 amendments, the courts had held that the Fair Housing Act prohibited local governments from exercising their land use and zoning powers in a discriminatory way.

**Q. What is a group home within the meaning of the Fair Housing Act?**

The term "group home" does not have a specific legal meaning. In this statement, the term "group home" refers to housing occupied by groups of unrelated individuals with disabilities.<sup>(2)</sup> Sometimes, but not always, housing is provided by organizations that also offer various services for individuals with disabilities living in the group homes. Sometimes it is this group home operator, rather than the individuals who live in the home, that interacts with local government in seeking permits and making requests for reasonable accommodations on behalf of those individuals.

The term "group home" is also sometimes applied to any group of unrelated persons who live together in a dwelling -- such as a group of students who voluntarily agree to share the rent on a house. The Act does not generally affect the ability of local governments to regulate housing of this kind, as long as they do not discriminate against the residents on the basis of race, color, national origin, religion, sex, handicap (disability) or familial status (families with minor children).

**Q. Who are persons with disabilities within the meaning of the Fair Housing Act?**

The Fair Housing Act prohibits discrimination on the basis of handicap. "Handicap" has the same legal meaning as the term "disability" which is used in other federal civil rights laws. Persons with disabilities (handicaps) are individuals with mental or physical impairments which substantially limit one or more major life activities. The term mental or physical impairment may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. The Fair Housing Act also protects persons who have a record of such an impairment, or are regarded as having such an impairment.

Current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, are not considered disabled under the Fair Housing Act, by virtue of that status.

The Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others. Determining whether someone poses such a direct threat must be made on an individualized basis, however, and cannot be based on general assumptions or speculation about the nature of a disability.

**Q. What kinds of local zoning and land use laws relating to group homes violate the Fair Housing Act?**

Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to six unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission. If that ordinance also disallows a group home for six or fewer people with disabilities in a certain district or requires this home to seek a use permit, such requirements would conflict with the Fair Housing Act. The ordinance treats persons with disabilities worse than persons without disabilities.

A local government may generally restrict the ability of groups of unrelated persons to live together as long as the restrictions are imposed on all such groups. Thus, in the case where a family is defined to include up to six unrelated people, an ordinance would not, on its face, violate the Act if a group home for seven people with disabilities was not allowed to locate in a single family zoned neighborhood, because a group of seven unrelated people without disabilities would also be disallowed. However, as discussed below, because persons with disabilities are also entitled to request reasonable accommodations in rules and policies, the group home for seven persons with disabilities would have to be given the opportunity to seek an exception or waiver. If the criteria for reasonable accommodation are met, the permit would have to be given in that instance, but the ordinance would not be invalid in all circumstances.

**Q. What is a reasonable accommodation under the Fair Housing Act?**

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As a general rule, the Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" (modifications or exceptions) to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling.

Even though a zoning ordinance imposes on group homes the same restrictions it imposes on other groups of unrelated people, a local government may be required, in individual cases and when requested to do so, to grant a reasonable accommodation to a group home for persons with disabilities. For example, it may be a reasonable accommodation to waive a setback requirement so that a paved path of travel can be provided to residents who have mobility impairments. A similar waiver might not be required for a different type of group home where residents do not have difficulty negotiating steps and do not need a setback in order to have an equal opportunity to use and enjoy a dwelling.

Not all requested modifications of rules or policies are reasonable. Whether a particular accommodation is reasonable depends on the facts, and must be decided on a case-by-case basis. The determination of what is reasonable depends on the answers to two questions: First, does the request impose an undue burden or expense on the local government? Second, does the proposed use create a fundamental alteration in the zoning scheme? If the answer to either question is "yes," the requested accommodation is unreasonable.

What is "reasonable" in one circumstance may not be "reasonable" in another. For example, suppose a local government does not allow groups of four or more unrelated people to live together in a single-family neighborhood. A group home for four adults with mental retardation would very likely be able to show that it will have no more impact on parking, traffic, noise, utility use, and other typical concerns of zoning than an "ordinary family." In this circumstance, there would be no undue burden or expense for the local government nor would the single-family character of the neighborhood be fundamentally altered. Granting an exception or waiver to the group home in this circumstance does not invalidate the ordinance. The local government would still be able to keep groups of unrelated persons without disabilities from living in single-family neighborhoods.

By contrast, a fifty-bed nursing home would not ordinarily be considered an appropriate use in a single-family neighborhood, for obvious reasons having nothing to do with the disabilities of its residents. Such a facility might or might not impose significant burdens and expense on the community, but it would likely create a fundamental change in the single-family character of the neighborhood. On the other hand, a nursing home might not create a "fundamental change" in a neighborhood zoned for multi-family housing. The scope and magnitude of the modification requested, and the features of the surrounding neighborhood are among the factors that will be taken into account in determining whether a requested accommodation is reasonable.

**Q. What is the procedure for requesting a reasonable accommodation?**

Where a local zoning scheme specifies procedures for seeking a departure from the general rule, courts have decided, and the Department of Justice and HUD agree, that these procedures must ordinarily be followed. If no procedure is specified, persons with disabilities may, nevertheless, request a reasonable accommodation in some other way, and a local government is obligated to grant it if it meets the criteria discussed above. A local government's failure to respond to a request for reasonable accommodation or an inordinate delay in responding could also violate the Act.

Whether a procedure for requesting accommodations is provided or not, if local government officials have previously made statements or otherwise indicated that an application would not receive fair consideration, or if the procedure itself is discriminatory, then individuals with disabilities living in a group home (and/or its operator) might be able to go directly into court to request an order for an accommodation.

Local governments are encouraged to provide mechanisms for requesting reasonable accommodations that operate promptly and efficiently, without imposing significant costs or delays. The local government should also make efforts to insure that the availability of such mechanisms is well known within the community.

**Q. When, if ever, can a local government limit the number of group homes that can locate in a certain area?**

A concern expressed by some local government officials and neighborhood residents is that certain jurisdictions, governments, or particular neighborhoods within a jurisdiction, may come to have more than their "fair share" of group homes. There are legal ways to address this concern. The Fair Housing Act does not prohibit most governmental programs designed to encourage people of a particular race to move to neighborhoods occupied predominantly by people of another race. A local government that believes a particular area within its boundaries has its "fair share" of group homes, could offer incentives to providers to locate future homes in other neighborhoods.

However, some state and local governments have tried to address this concern by enacting laws requiring that group homes be at a certain minimum distance from one another. The Department of Justice and HUD take the position, and most

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courts that have addressed the issue agree, that density restrictions are generally inconsistent with the Fair Housing Act. We also believe, however, that if a neighborhood came to be composed largely of group homes, that could adversely affect individuals with disabilities and would be inconsistent with the objective of integrating persons with disabilities into the community. Especially in the licensing and regulatory process, it is appropriate to be concerned about the setting for a group home. A consideration of over-concentration could be considered in this context. This objective does not, however, justify requiring separations which have the effect of foreclosing group homes from locating in entire neighborhoods.

**Q. What kinds of health and safety regulations can be imposed upon group homes?**

The great majority of group homes for persons with disabilities are subject to state regulations intended to protect the health and safety of their residents. The Department of Justice and HUD believe, as do responsible group home operators, that such licensing schemes are necessary and legitimate. Neighbors who have concerns that a particular group home is being operated inappropriately should be able to bring their concerns to the attention of the responsible licensing agency. We encourage the states

to commit the resources needed to make these systems responsive to resident and community needs and concerns.

Regulation and licensing requirements for group homes are themselves subject to scrutiny under the Fair Housing Act. Such requirements based on health and safety concerns can be discriminatory themselves or may be cited sometimes to disguise discriminatory motives behind attempts to exclude group homes from a community. Regulators must also recognize that not all individuals with disabilities living in group home settings desire or need the same level of services or protection. For example, it may be appropriate to require heightened fire safety measures in a group home for people who are unable to move about without assistance. But for another group of persons with disabilities who do not desire or need such assistance, it would not be appropriate to require fire safety measures beyond those normally imposed on the size and type of residential building involved.

**Q. Can a local government consider the feelings of neighbors in making a decision about granting a permit to a group home to locate in a residential neighborhood?**

In the same way a local government would break the law if it rejected low-income housing in a community because of neighbors' fears that such housing would be occupied by racial minorities, a local government can violate the Fair Housing Act if it blocks a group home or denies a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities. This is so even if the individual government decision-makers are not themselves personally prejudiced against persons with disabilities. If the evidence shows that the decision-makers were responding to the wishes of their constituents, and that the constituents were motivated in substantial part by discriminatory concerns, that could be enough to prove a violation.

Of course, a city council or zoning board is not bound by everything that is said by every person who speaks out at a public hearing. It is the record as a whole that will be determinative. If the record shows that there were valid reasons for denying an application that were not related to the disability of the prospective residents, the courts will give little weight to isolated discriminatory statements. If, however, the purportedly legitimate reasons advanced to support the action are not objectively valid, the courts are likely to treat them as pretextual, and to find that there has been discrimination.

For example, neighbors and local government officials may be legitimately concerned that a group home for adults in certain circumstances may create more demand for on-street parking than would a typical family. It is not a violation of the Fair Housing Act for neighbors or officials to raise this concern and to ask the provider to respond. A valid unaddressed concern about inadequate parking facilities could justify denying the application, if another type of facility would ordinarily be denied a permit for such parking problems. However, if a group of individuals with disabilities or a group home operator shows by credible and un rebutted evidence that the home will not create a need for more parking spaces, or submits a plan to provide whatever off-street parking may be needed, then parking concerns would not support a decision to deny the home a permit.

**Q. What is the status of group living arrangements for children under the Fair Housing Act?**

In the course of litigation addressing group homes for persons with disabilities, the issue has arisen whether the Fair Housing Act also provides protections for group living arrangements for children. Such living arrangements are covered by the Fair Housing Act's provisions prohibiting discrimination against families with children. For example, a local government may not enforce a zoning ordinance which treats group living arrangements for children less favorably than it treats a similar group living arrangement for unrelated adults. Thus, an ordinance that defined a group of up to six unrelated adult persons as a family, but specifically disallowed a group living arrangement for six or fewer children, would, on its

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face, discriminate on the basis of familial status. Likewise, a local government might violate the Act if it denied a permit to such a home because neighbors did not want to have a group facility for children next to them.

The law generally recognizes that children require adult supervision. Imposing a reasonable requirement for adequate supervision in group living facilities for children would not violate the familial status provisions of the Fair Housing Act.

**Q. How are zoning and land use matters handled by HUD and the Department of Justice?**

The Fair Housing Act gives the Department of Housing and Urban Development the power to receive and investigate complaints of discrimination, including complaints that a local government has discriminated in exercising its land use and zoning powers. HUD is also obligated by statute to attempt to conciliate the complaints that it receives, even before it completes an investigation.

In matters involving zoning and land use, HUD does not issue a charge of discrimination. Instead, HUD refers matters it believes may be meritorious to the Department of Justice which, in its discretion, may decide to bring suit against the respondent in such a case. The Department of Justice may also bring suit in a case that has not been the subject of a HUD complaint by exercising its power to initiate litigation alleging a "pattern or practice" of discrimination or a denial of rights to a group of persons which raises an issue of general public importance.

The Department of Justice's principal objective in a suit of this kind is to remove significant barriers to the housing opportunities available for persons with disabilities. The Department ordinarily will not participate in litigation to challenge discriminatory ordinances which are not being enforced, unless there is evidence that the mere existence of the provisions are preventing or discouraging the development of needed housing.

If HUD determines that there is no reasonable basis to believe that there may be a violation, it will close an investigation without referring the matter to the Department of Justice. Although the Department of Justice would still have independent "pattern or practice" authority to take enforcement action in the matter that was the subject of the closed HUD investigation, that would be an unlikely event. A HUD or Department of Justice decision not to proceed with a zoning or land use matter does not foreclose private plaintiffs from pursuing a claim.

Litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and the Department of Justice encourage parties to group home disputes to explore all reasonable alternatives to litigation, including alternative dispute resolution procedures, like mediation. HUD attempts to conciliate all Fair Housing Act complaints that it receives. In addition, it is the Department of Justice's policy to offer prospective defendants the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.

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1. The Fair Housing Act uses the term "handicap." This document uses the term "disability" which has exactly the same legal meaning.
  2. There are groups of unrelated persons with disabilities who choose to live together who do not consider their living arrangements "group homes," and it is inappropriate to consider them "group homes" as that concept is discussed in this statement.

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## RESOLUTION

**WHEREAS**, the Central Business Improvement District has reviewed an application submitted by Rodney Ghan requesting text amendments to land uses in the Commercial Downtown (C-6) zoning district; and,

**WHEREAS**, the text amendments request that certain land uses be changed from permitted uses to conditional uses in the C-6 zoning district; and

**WHEREAS**, the Central Business Improvement District supports the text amendment and believe that the amendments would have a positive impact on the CBID area;

**NOW THEREFORE, BE IT RESOLVED BY THE CENTRAL BUSINESS IMPROVEMENT DISTRICT, THAT:**

The Central Business Improvement District supports the proposed text amendments and encourages the Fort Smith Planning Commission and Fort Smith Board of Directors to approve the amendments.

**THIS RESOLUTION ADOPTED THIS 21<sup>ST</sup> DAY OF JULY 2015.**

APPROVED:

  
Richard Griffin, Chairman



Districts	Permitted Use, C = Conditional Use, A = Accessory Use																												
	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1,2	I-3	I-4				
<b>P = Permitted Use, C = Conditional Use, A = Accessory Use</b>	Car wash - full service																												
	Car wash self-service																												
	Gasoline service station																												
	Motorcycle or ATV sales & service																												
	Tire sales																												
	Truck stop/travel plaza																												
	<b>Heavy Consumer Goods Sales or Service</b>																												
	Agricultural equipment and supplies (sales & service)																												
	Appliance repair - (Large) (no outside storage)																												
	Appliance repair (Small) (no outside storage)																												
Bus, truck sales and service																													
Clothing and personal items (repair)																													
Commercial, industrial machinery & equipment (sales & service)																													
Department store, warehouse club or superstore																													
Computer and software shop																													
Electronics and appliances (new)																													
Floor, paint, wall coverings, window treatments																													
Furniture or home furnishings (new)																													
Furniture or home furnishings (used)																													
Furniture repair and upholstery shop																													
Greenhouse (sales)																													
Hardware store																													
Hardware store (neighborhood)																													
Home improvement center																													
Lawn and garden supplies																													
Locksmith																													
Lumber yard and building materials																													
Mall or shopping center																													
Manufactured home and mobile home sales and service																													
Oil and gas equipment (sales and service)																													
Sand, gravel, stone, or earth sales and storage																													
Swimming pool sales and supply store (w/o storage yard)																													
Truck or tractor sales and service facility																													
<b>Durable Consumer Goods Sales or Service</b>																													
Bait and tackle shop																													
Bicycle sales and service																													
Bicycle sales and service (no outside storage)																													
Bookstore																													
Bridal shop																													
Cameras, photographic supplies and services																													
Clothing, jewelry, luggage, shoes, accessories																													
Gift shop																													

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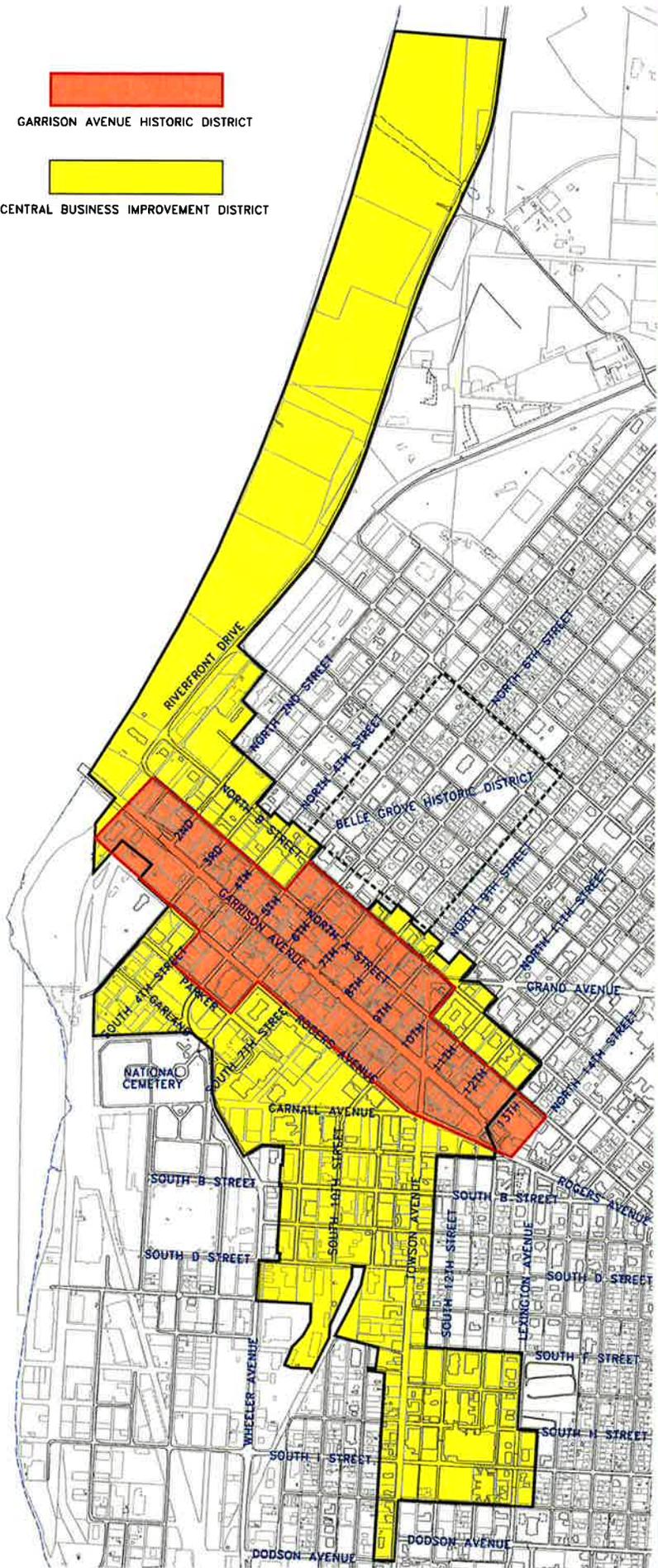
	Districts	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1,2	I-3	I-3	
<b>P = Permitted Use, C = Conditional Use, A = Accessory Use</b>	Laundry and cleaning facilities (self-service)																	P	P	P	P	P	P	P			
	Laundry, cleaner																	P	P	P	P	P	P	P			
	Laundry, cleaner (drop-off station)																	P	P	P	P	P	P	P			
	Photocopy shop																	P	P	P	P	P	P	P			
	Photography studio																	P	P	P	P	P	P	P			
	Print shop																	P	P	P	P	P	P	P			
	Shoe repair shop																	P	P	P	P	P	P	P			
	Tailor shop																	P	P	P	P	P	P	P			
	Tanning salons																	P	P	P	P	P	P	P			
	Tattoo/body piercing parlor																	P	P	P	P	P	P	P			
Weight loss centers																	P	P	P	P	P	P	P				
<b>Pet and animal services</b>																											
Animal and pet services (indoor)																		P	P	P	P	P	P	P			
Animal and pet services (outdoor)																		P	P	P	P	P	P	P			
Animal shelter																		P	P	P	P	P	P	P			
Equestrian facilities																		P	P	P	P	P	P	P			
Kennels																		P	P	P	P	P	P	P			
Pet cemetery																		P	P	P	P	P	P	P			
Pet shop																		P	P	P	P	P	P	P			
Pet supply store																		P	P	P	P	P	P	P			
Veterinary clinic (no outdoor kennels)																		P	P	P	P	P	P	P			
Veterinary clinic (with outdoor kennels)																		P	P	P	P	P	P	P			
<b>Automobile Parking Facilities</b>																											
Parking garage																											
Parking lot (commercial)																											
Parking lot (off site) (See Section 27-601-11)																											
<b>Manufacturing and Wholesale Trade</b>																											
<b>Food, Textiles and Related Products</b>																											
Animal food processing																											
Clothing manufacturing																											
Food and beverage processing																											
Leather and allied products																											
Textiles																											
Tobacco manufacturing																											
<b>Wood, Paper and Printing Products</b>																											
Cabinet and woodwork shop																											
Furniture or home furnishings																											
Manufacturing, boxes/containers/corrugated																											
Manufacturing, packaging material																											
Paper and printing materials																											
Wood products manufacturing plant																											
<b>Chemicals, Metals, Machinery, and Electronics Mfg.</b>																											
Acid manufacturing																											

CENTRAL BUSINESS IMPROVEMENT DISTRICT

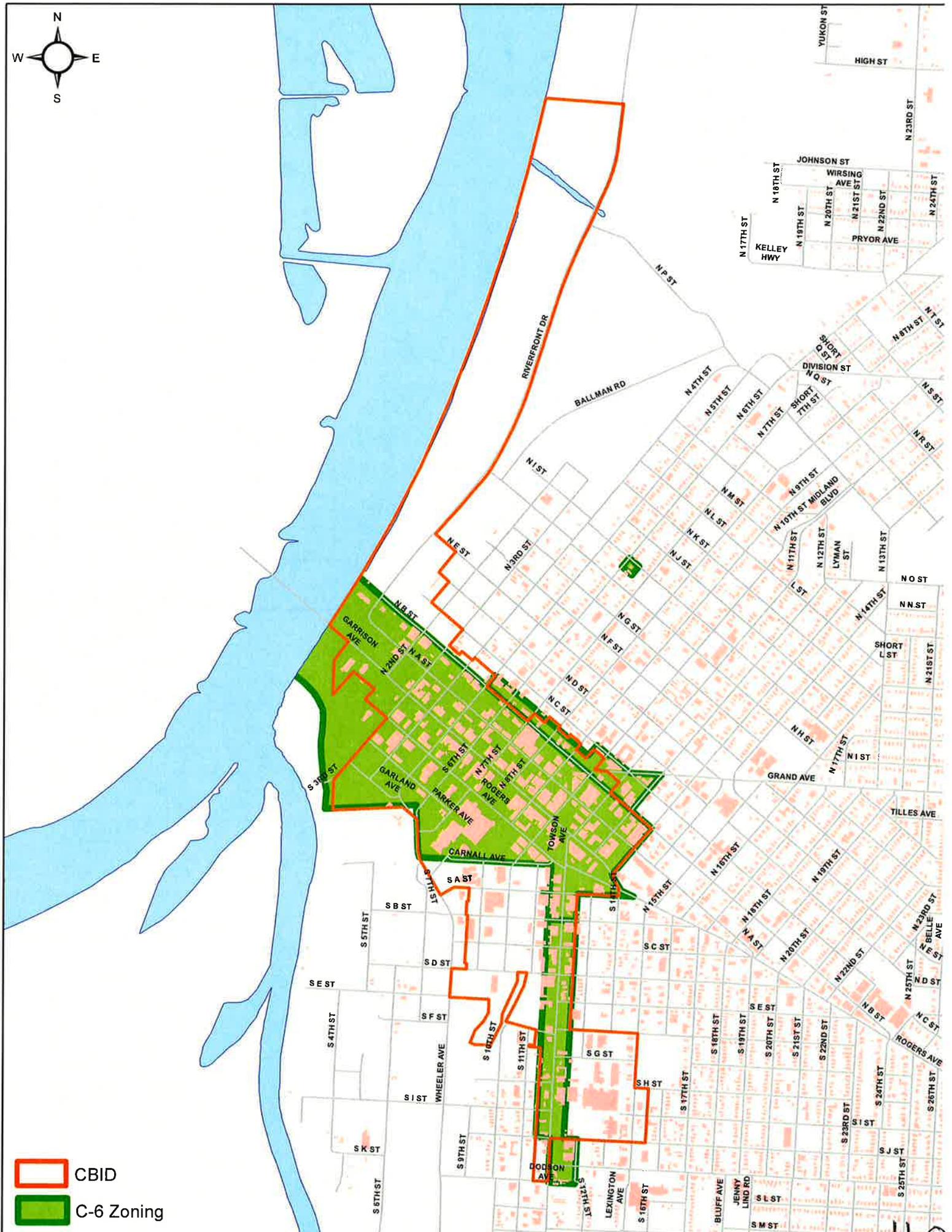
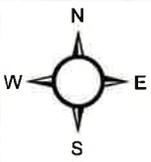
EXHIBIT A



-  GARRISON AVENUE HISTORIC DISTRICT
-  CENTRAL BUSINESS IMPROVEMENT DISTRICT



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-  CBD
-  C-6 Zoning

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# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 22, 2015

**Re:** Subdivision Variance #3-8-15 - A request by Ricky Hill, agent for Hung Tran, for Planning Commission consideration of a subdivision variance request from Section 27-503-2(E) prohibiting access for proposed duplexes on a major arterial street located at 3805 and 3807 North 6<sup>th</sup> Street.

## REQUESTED VARIANCE

Section 27-503-2(E) prohibits access of any single family, row house, or duplex along a Major Arterial Street. Approval of this variance would allow the developer to provide a shared driveway for two duplexes on separate lots.

## LOT LOCATION AND SIZE

The subject property is on the northwest side of North 6<sup>th</sup> Street between the Mussett Road and Eller Avenue. The tract contains an area of 0.44 acres with approximately 120 feet of street frontage along North 6<sup>th</sup> Street.

## EXISTING ZONING

The existing zoning on this tract is Residential Multifamily Medium Density (RM-3). Characteristics of this zone are as follows:

### Purpose:

To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 zoning district is appropriate in urban areas within the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial Land use categories of the Master Land Use Plan.

### Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

**Conditional Uses:**

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

- Minimum Lot Size – 6,500 square feet
- Maximum Density – 20 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 - 15 feet
- Side Yard Setback – 7.5 feet
- Rear Yard Setback - 10 feet
- Side/Rear adjacent to RS district/development – 30 feet
- Minimum building separation – 10 feet
- Maximum Height - 40 feet (1+1)
- Maximum Lot Coverage - 65%

**SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Residential Multifamily Medium Density (RM-3) and is developed as a large tract of single family housing.

The area to the east is zoned Residential Multifamily Medium Density (RM-3) and is developed as a single family residence.

The area to the west are Commercial Light (C-2) and is developed as a single family residences

The area to the south has split zoning of Residential Multifamily Medium Density (RM-3) and Commercial Light (C-2) and is developed as residential and an auto body and paint shop.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies North 6<sup>th</sup> Street as a Major Arterial.

**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 the zoning on this tract already exists as RM-3 and duplexes are permitted by right to be located in this zone. He states that the only access to this site is to utilize North 6<sup>th</sup> Street.

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Tuesday, August 4, at 3226 Irving Street. No surrounding property owners attended the meeting.

The engineering department has reviewed the development plan and variance request and has no objections to the variance. The existing RM-3 zoning district and Master Land Use Map classification permits duplexes or single family homes. With the proposed shared driveway and on-site maneuvering shown on the submitted development plan, driveways will be minimized and vehicles backing out onto North 6<sup>th</sup> Street will be eliminated.

Although the proposed development is not a multi-family development since each duplex is on a separate lot, the shared driveway will allow the site to function as a multifamily development. The UDO allows multifamily developments to have access on streets classified as Major Arterial.

Based on the submitted development plan, staff recommends approval of the variance request with the following comment:

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.

If the Planning Commission approves the variance, 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.

#3-8-15

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

Owner or Agent Name (please print): \_\_\_\_\_

Street Address or Location: 3805 & 3807 N. 6<sup>th</sup> St., Fort Smith, AR 72904

Legal Description of Property (attach separate sheet if necessary): Part of Lot 7, Taylor Farm to the City of Fort Smith, Sebastian County, Arkansas

Zone: R.M-3

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

Article: \_\_\_\_\_ Section: 27-503-1(E)

The specific request is as follows:  
Variance from UDO Section 27-503-1(E) prohibiting access for proposed duplexes on an arterial street.

3301 Irving St.  
Fort Smith, AR 72904  
Owner or Agent Mailing Address

Signed: [Signature]  
Owner

(479) 783-8093  
Owner or Agent Phone Number

[Signature] or [Signature] (SLS)  
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:

*The lot is located at zoning Rm-3. Building duplexes in this zone is permitted by the city. Due to UDO section 27.503-11 the access for proposed duplexes on an arterial street is prohibited. However, the street of N. 6<sup>th</sup> is the only available access for entrance/exit.*

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:

*Previous landowner(s) has access available for entrance/exit to the resident(s).*

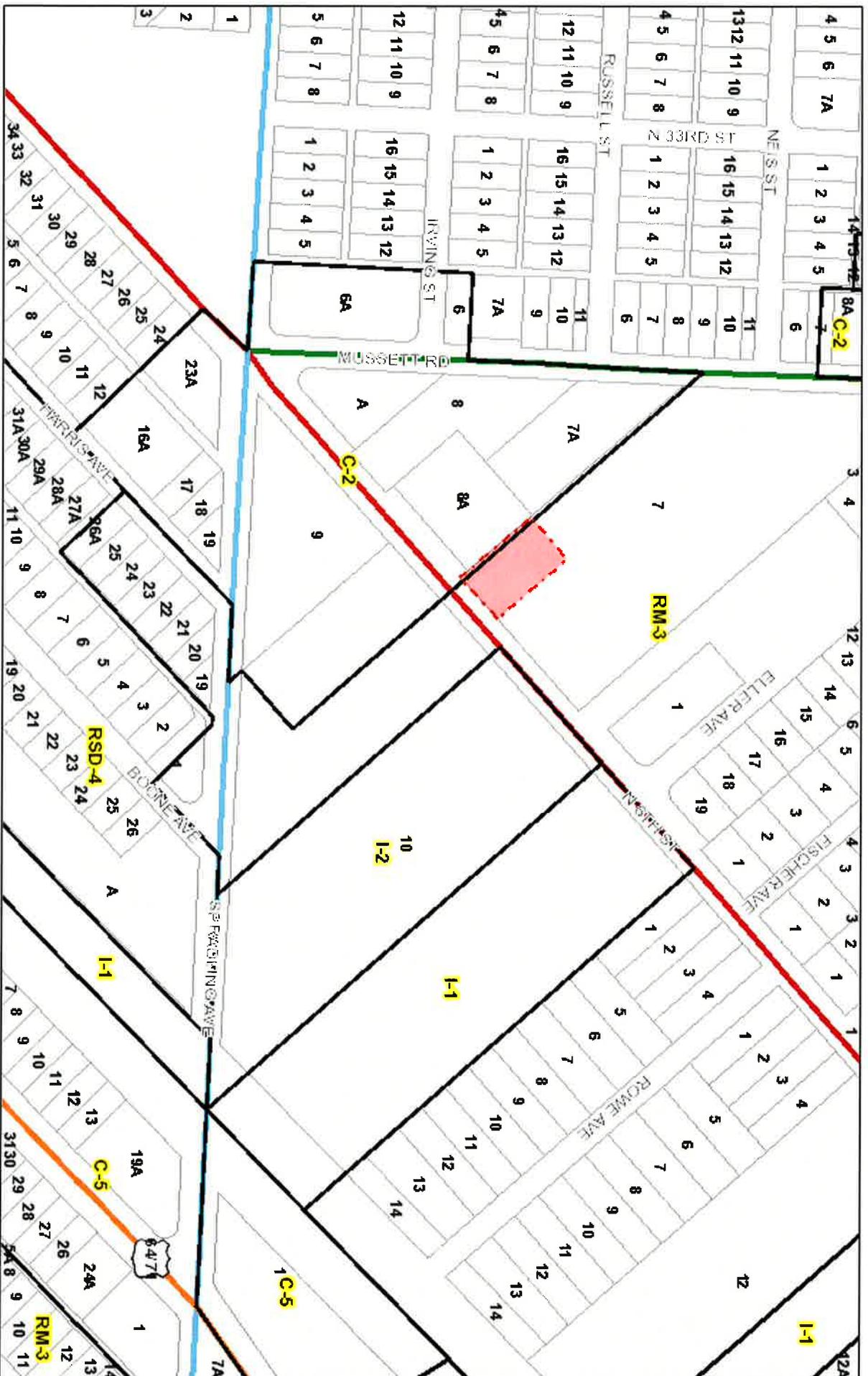
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# Sub Variance #3-8-15 - From 27-503-1E no driveway access allowed on Major Arterial 3805 & 3807 North 6th Street

15



July 21, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions





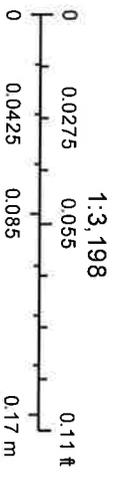
Sub Variance #3-8-15 - From 27-503-1E no driveway access allowed on Major Arterial  
 3805 & 3807 North 6th Street

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July 21, 2015

- Fort Smith City Limits
- Zoning
- Subdivisions



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 23, 2015

**Re:** Rezoning #12-8-15 - A request by Tom Kirkham for Planning Commission consideration of a zone request from Residential Single Family – Duplex Low/Medium Density (RSD-2) to Planned Zoning District (PZD) by classification at 3109 Old Greenwood Road

## PROPOSED ZONING

Approval of the PZD will create a zoning district that will allow for an existing legal non-conforming commercial building to be utilized for many of the businesses that have at this location in the past.

## LOT LOCATION AND SIZE

The subject property is on the east side of Old Greenwood Road between Carthage Street and Dallas Street. The tract contains an area of 0.3 acres with approximately 145 feet of street frontage along Old Greenwood Road.

## REQUESTED ZONING

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

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

6A

**EXISTING ZONING**

The existing zoning on this tract is Residential Single Family – Duplex Low/Medium Density (RSD-2).

Characteristics of this zone are as follows:

**Purpose:**

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

**Permitted Uses:**

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

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

**SURROUNDING ZONING AND LAND USE**

The areas to the north and east are zoned Residential Single Family – Duplex Low/Medium Density (RSD-2) and are developed as single family residences.

The area to the south is zoned Transitional Special (T-SPL) and is undeveloped.

The area to the west is zoned Commercial Light Special (C-2-SPL) and is developed as interior design

**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

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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.

### PROJECT BOOKLET

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

- A. Is the site capable of accommodating the building(s), parking areas and drives with the appropriate open space provided? **YES**
- B. Does the plan provide for safe and easy ingress, egress and internal traffic circulation? **YES**
- C. Is the plan consistent with good land use planning and site engineering design principles, particularly with respect to safety? **YES**
- D. Are the architectural designs consistent with the City of Fort Smith policies and regulations and compatible with surrounding land use features? **YES**
- E. Does the Plan represent an overall development pattern that is consistent with the Comprehensive Plan, Master Street Plan, Master Land Use Plan, and other adopted planning policies? **YES**
- F. The required right-of-way dedication has been identified by the City Engineering Department? **N/A**
- G. All easements and utilities shall meet the requirements of the approving departments and agencies? **YES**
- H. Articulate how the plan minimizes or mitigates the impact of increased traffic both in volume and vehicle size. **N/A**
- I. Articulate how the plan exceeds the UDO requirements. (e.g. increased landscaping increased high quality materials, etc.). **The booklet limits the size of walls signs and prohibits stand-alone signage also has limited land uses. Also the existing building is 100% high-quality materials.**

### FACTORS TO BE CONSIDERED

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

- A. Compatibility with the Comprehensive Plan, Master Street Plan, and applicable area plans (e.g., corridor, neighborhood)
- B. Compatibility of the proposed development with the character of the neighborhood.

6C

- C. The zoning and uses of adjacent and nearby properties, and the compatibility of the proposed future uses with those existing uses.
- D. The extent to which the proposed land use would increase or change traffic volume or parking demand in documented evidence or engineering data, road conditions, road safety, or create parking problems in combination with any improvements that would mitigate these adverse impacts.
- E. The current availability of public utilities and services and the future capacity needed to adequately serve the proposed land use in combination with any improvements that would mitigate these adverse impacts.
- F. That the application complies with all relevant ordinance requirements (for example 27-200, 27-500, 27-600, and 27-700).

### **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting will be held Monday, August 10, 2015, at the site. A summary of the meeting will be provided to the planning commission.

Staff recommends approval of the proposed Planned Zoning District based on compliance with the submitted project booklet.

# Project Booklet

Tom Kirkham  
Kirkham Systems Building  
3109 (3111) Old Greenwood Road

Planned Zoning District No. \_\_\_\_\_

## Planned Zoning District Certification Statement

Thomas & Ashley Kirkham (deceased)<sup>1</sup> are the property owners of Parcel 17315-0001-00000-00, Southwood Place, Lot 1, 3109 (3111)<sup>2</sup> Old Greenwood Road, Fort Smith, AR 72903 does hereby certify that the Project Booklet for a Planned Zoning District complies with the City of Fort Smith's Planned Zoning District Regulations as defined in Section 27-341-2 of the Fort Smith Unified Development Ordinance. I agree to the terms and conditions within the Project Booklet, and request the City of Fort Smith to approve the rezoning.

Tom Kirkham, Owner

A handwritten signature in black ink that reads "Tom Kirkham". The signature is written in a cursive style with a large, looping initial "T".

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<sup>1</sup> See attached copy of death certificate.

<sup>2</sup> When the owner purchased the building, we were verbally told that 3111 Old Greenwood Road could also be used to designate and differentiate the suites, but somehow that never occurred, so the building is labeled and mail is received at both 3109 and 3111 Old Greenwood Road.

## **Introduction Statement**

The proposed planned zoning district (PZD) for the property located at 3109 Old Greenwood Road, as such property is more particularly described below, will be permitted to utilize all permitted and conditional uses as shown in the attached Fort Smith Use Matrix and as defined in the Project Booklet herein.

### PZD Property Description:

Parcel 17315-0001-00000-00, Southwood Place, Lot 1, 3109 Old Greenwood Road, Fort Smith, AR 72903

## 27-341-2 Submission Requirements

Tom Kirkham  
Kirkham Systems Building  
3109 (3111) Old Greenwood Road, Fort Smith, AR  
August 7, 15

1. Pre-application meetings were held
2. The application fee has been paid.
3. The application booklet has been submitted and comments are listed below:
  - a. Reason for Request: Owner is requesting a zoning change for the Property from a Residential zone to a Planned Zone District to clarify the uses of the building, including restrictions of signage to protect the neighborhood and commercial uses of the building. Although the existing zoning district is residential (RSD-2), the current commercial uses for the existing building are “grandfathered” and creates confusion when new businesses attempt to occupy the building. The building and lot have always been commercial and is not a house that has been converted to commercial space. Past types of businesses that have resided in the building include a restaurant (Creative Kitchen), a grocery store, a liquor store and currently Kirkham Systems, a technology company.
  - b. Ownership Information: The property that will be included in the proposed PZD area is Parcel 17315-0001-00000-00, 3109 Old Greenwood Road, Fort Smith, AR 72903, Southwood Place, Lot 1. Due to confusion when the owner purchased the property, it is also known as 3111 Old Greenwood Road. The current owners are Thomas M & Ashley (deceased) Kirkham. There are currently no proposed or pending property sales.
  - c. Description of the Scope, Nature, and Intent of Proposal: There are currently no proposed or pending changes to the building or property.
  - d. General project concept:
    - i. Street and Lot Layout - N/A
    - ii. Site plan showing proposed improvements - N/A
    - iii. Buffer areas, screening, and landscaping - N/A
    - iv. Storm water detention areas and drainage - N/A
    - v. Undisturbed natural areas - N/A
    - vi. Existing and proposed utility connections and Extensions - N/A
    - vii. Development and architectural design standards - N/A
    - viii. Building Elevations - N/A
    - ix. Proposed signage (type and size) - All new signage shall consist of framed wall signage only. The maximum

cumulative coverage of all wall signs shall not exceed 4% on the front façade and shall not exceed 24% of the south façade. Wall signage on the north and rear facades is prohibited. Ground mounted and pole signs are also prohibited.

- e. Proposed development phasing and timeframe: N/A
- f. The existing land use is Commercial Neighborhood.
- g. PZD Area and Bulk Regulations:
  - Minimum Lot Size/Maximum Building Size - 17,191 s.f./3,800 s.f.
  - Minimum Lot Width - 140'
  - Maximum Lot Coverage - 25%
  - Minimum Street Frontage - 143'
  - Maximum Building Height - 25'
  - Front Setback - 25'
  - Side Setback - 5'
  - Street Side Setback - 2'
  - Rear Setback - 0'
- h. Chart Comparing Proposed PZD to Current Zoning District Requirements (land uses, setbacks, density, height, intensity, bulk and area regulations)

	PZD	RSD-2
Min. Lot Size/Max. Building Size	17,191 s.f./3,800 s.f.	10,500 s.f./N.A.
Min. Lot Width	140'	75'
Max. Lot Coverage	25%	50%
Min. Street Frontage	143'	50'
Front Setback	25'	30'
Side Setback	5'	7.5'
Street Side Setback	2'	30'
Rear Setback	0'	10'

- i. Chart comparing the proposed land uses and the zoning districts where such land uses are proposed. The objective is to allow some businesses from the C2 zone that would complement the surrounding area, but not have too much traffic. See Land Use Chart attached.
- j. N/A/
- k. The owner wishes to keep the land use limited to business types that would be acceptable to the surrounding residential neighborhood, with businesses that would not contribute to appreciable increases in traffic. The owner wishes to limit signage and appearance to a level between a transitional zone and C2.
- l. N/A
- m. All necessary water and sewer lines are present.

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PETITION FOR CHANGE IN ZONING MAP

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

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

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

Southwood Place, Lot 1

- 2. Address of property: 3109 Old Greenwood Rd, Fort Smith, AR 72903

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

- 4. Application is hereby made to change the zoning classification of the above described property to a Planned Zoning District.

- 5. Explain why the Planned Zoning District is requested?

To clearly define what has always been a commercial property & the type of tenants, signage and other considerations that compliment the surrounding area

Tom Kirkham  
Owner or Agent Name  
(please print)

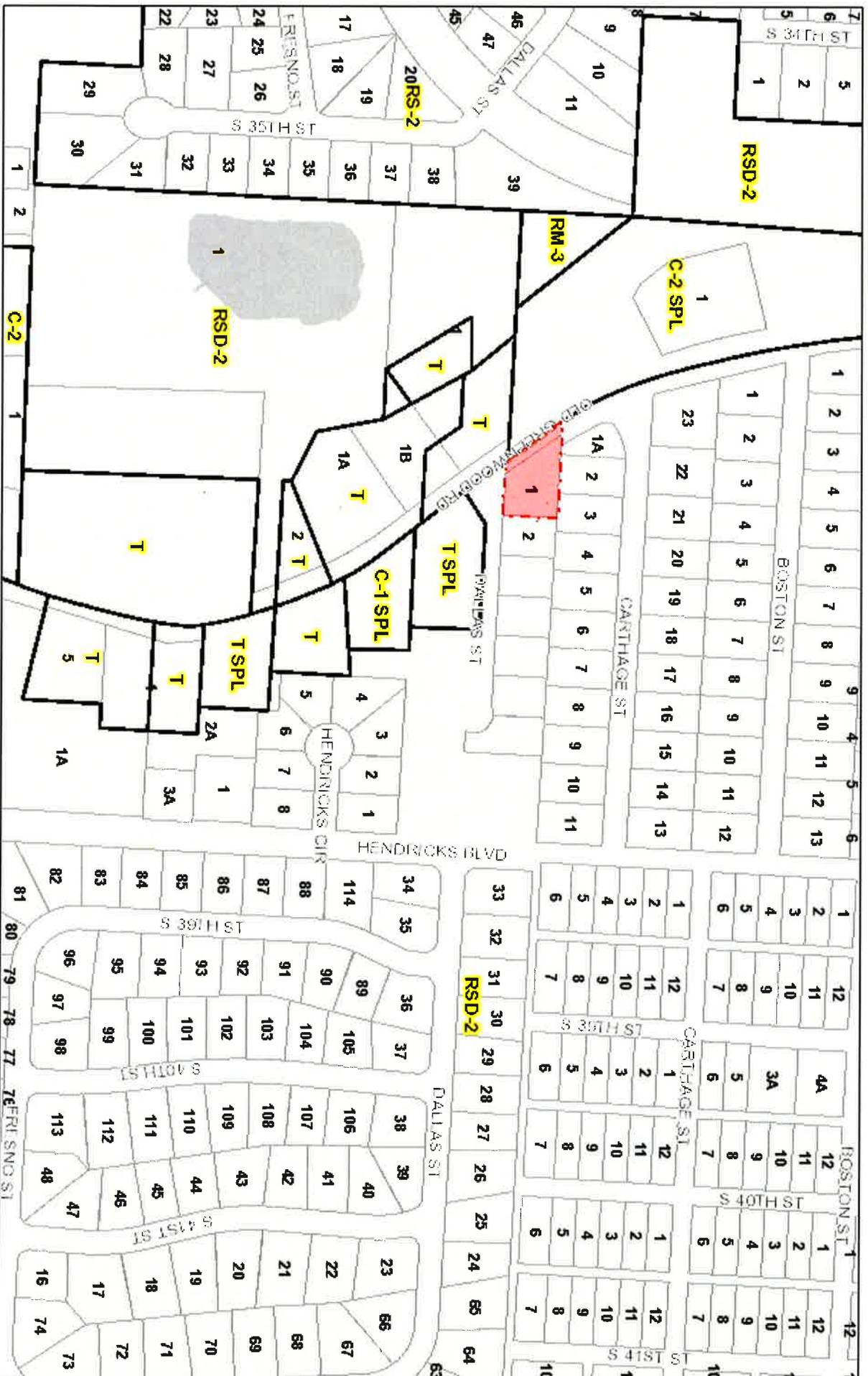
Signed: [Signature]  
Owner

3613 Dallas St. Fort Smith, AR  
Owner or Agent Mailing Address 72903

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

# Rezoning #12-8-15 - From RSD-2 to PZD 3109 Old Greenwood Road

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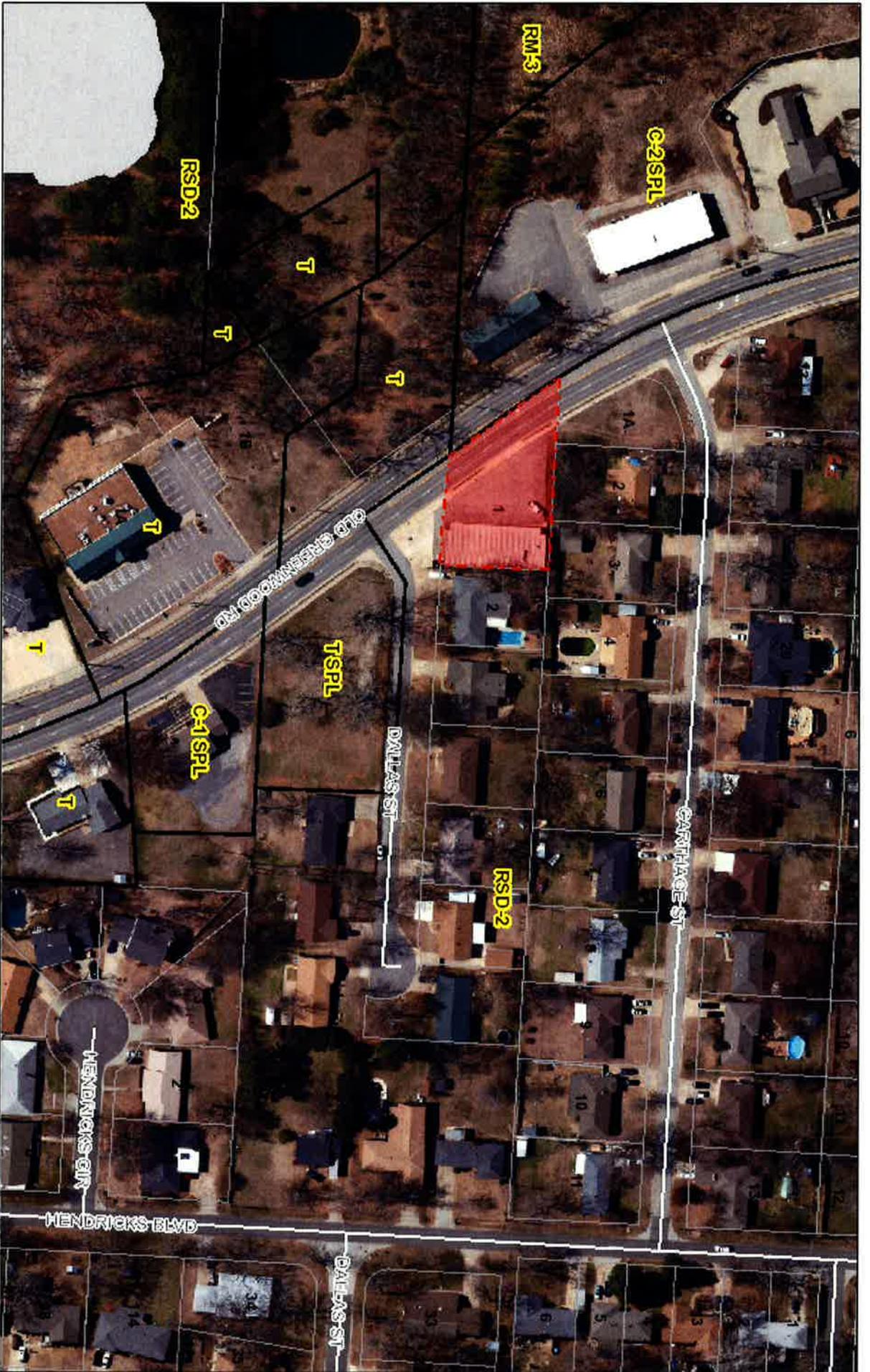


July 21, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions



Rezoning #12-8-15 - From RSD-2 to PZD  
3109 Old Greenwood Road



July 21, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 22, 2015

**Re:** Conditional Use #11-8-15 - A request by David Reynolds, agent for First Tee, for Planning Commission consideration of a Conditional Use request to develop a communications tower at 6110 Golf Course Loop

## PROPOSED CONDITIONAL USE

The conditional use if approved will allow for a new 122 feet “flag pole style” communication tower to be installed at 6110 Golf Course Loop. The selected location is in an RSD-2 zone, however the closest residential structure is approximately 365 feet in distance from the tower site.

## LOT LOCATION AND SIZE

The subject property is located on a private street with limited access southwest of the Geren Road and South 58<sup>th</sup> Street intersection. The lease site area contains approximately 0.08 acres on a parent tract of 49.80 acre parcel.

## EXISTING ZONING

The existing zoning on this tract is Residential Single Family – Duplex Low/Medium Density (RSD-2).

Characteristics of this zone are as follows:

### Purpose:

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

### Permitted Uses:

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

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

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

**SURROUNDING ZONING AND LAND USE**

The areas to the north and west are zoned Residential Single Family – Duplex Low/Medium Density (RSD-2) and are developed as single family residences.

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

The area to the south is zoned Extraterritorial Jurisdiction Industrial Moderate (I-2) and are developed as Gerdau.

**PURPOSE OF CONDITIONAL USE**

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

**CONDITIONS FOR A CONDITIONAL USE**

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

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

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## **MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as Park/Open Space/Floodway. This classification is intended to provide for the open space and recreation needs of the region, and protect the regions natural resources, water quality and development investments.

## **SITE DESIGN FEATURES**

**Ingress/egress/traffic circulation** – All ingress and egress will occur on a private road that starts and ends at Geren Road and South 58<sup>th</sup> Street.

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

**Drainage** – All draining information has been submitted to the Fort Smith Engineering department for review and approval.

**Right-of-way dedication** – No new R.O.W. dedication is required.

**Landscaping** – No new landscaping is proposed at this site. However, the developer has agreed to keep the existing forest, trees, and foliage around the lease area to help screen the site.

**Screening** – The applicant has proposed an 8' tall chain link fence with screening slats. It has also been verbally agreed that the surrounding forest will be maintained.

**Signage** – The only signage on the site will contain safety signs positioned on the fence as required by the FCC.

**Lighting** – The development proposes a medium intensity dual LED flashing light that has been required by the Federal Aviation Administration (FAA)

**Setbacks** – The site exceeds the setbacks required by the UDO.

**Architectural features** – The plan proposes a “flag pole style” communication tower. This design of tower has less visual impact than traditional cell tower sites. The design will be similar to the communication tower installed at Carol Ann Cross Park.

**Height and Area** –The height of the tower shows to be 122 feet and complies with the maximum tower height of 200 feet outlined in the UDO. The application has submitted a letter from the FAA confirming that no hazard of air navigation exist with the proposed tower. It will be required for the applicant to also receive an approval letter from the Fort Smith Regional Airport Administration prior to development.

## **STAFF COMMENTS AND RECOMMENDATIONS**

The applicant conducted two neighborhood meetings held on Tuesday August 3, 2015, at 12:00 noon and Thursday August 6, 2015, at 6:00 P.M. on site at the First Tee, Inc., meeting room. Only one couple attended the first neighborhood meeting with no objections about the installation of the tower. No neighboring property owners attended the second meeting.

Staff recommends approval with the following comments:

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. The approval shall be contingent upon maintain the surrounding forest around the cell tower site for screening purposes. In the event that any trees are removed, sufficient screening shall be installed that complies with the zoning code.
3. The applicant shall submit a licensed engineer's structural certification of the tower structure, foundation, and engineer's determination of maximum possible fall zone for the tower and must be demonstrated and approved by the building department prior to the issuance of a building permit.
4. The construction must provide a letter of approval from the Fort Smith Regional Airport Administration prior to the issuance of a building permit.
5. Other than the street side of the site, any side that faces any residential use shall include opaque fencing or sufficient shrubs, approved by staff, to screen the site.

Conditional Use # 11-8-15

**APPLICATION FOR CONDITIONAL USE**

Name of Property Owner: First Tee, Inc.

Name of Authorized Agent (if applicable) Smith Communications, LLC

Legal Description of property included in the conditional use request:

Part of the SW 1/4 of the SE 1/4 and Part of the SE 1/4 of the SE 1/4, Section 2, Township 7 North, Range 32 West, Sebastian County, Arkansas.

Street Address of Property:

6110 Golf Course Loop Fort Smith AR

Existing Zoning Classification:

RSD-3

Proposed Zoning Classification (if applicable):

N/A

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

Attached

What amenities are proposed such as landscaping and screening?

Attached

David Reynolds

Smith Communications, LLC

Owner or Agent Name (please print)

Signed:



520 N College Ave Fayetteville AR

Owner or Agent Mailing Address 72701

Owner

479-443-2222

Owner or Agent Phone Number

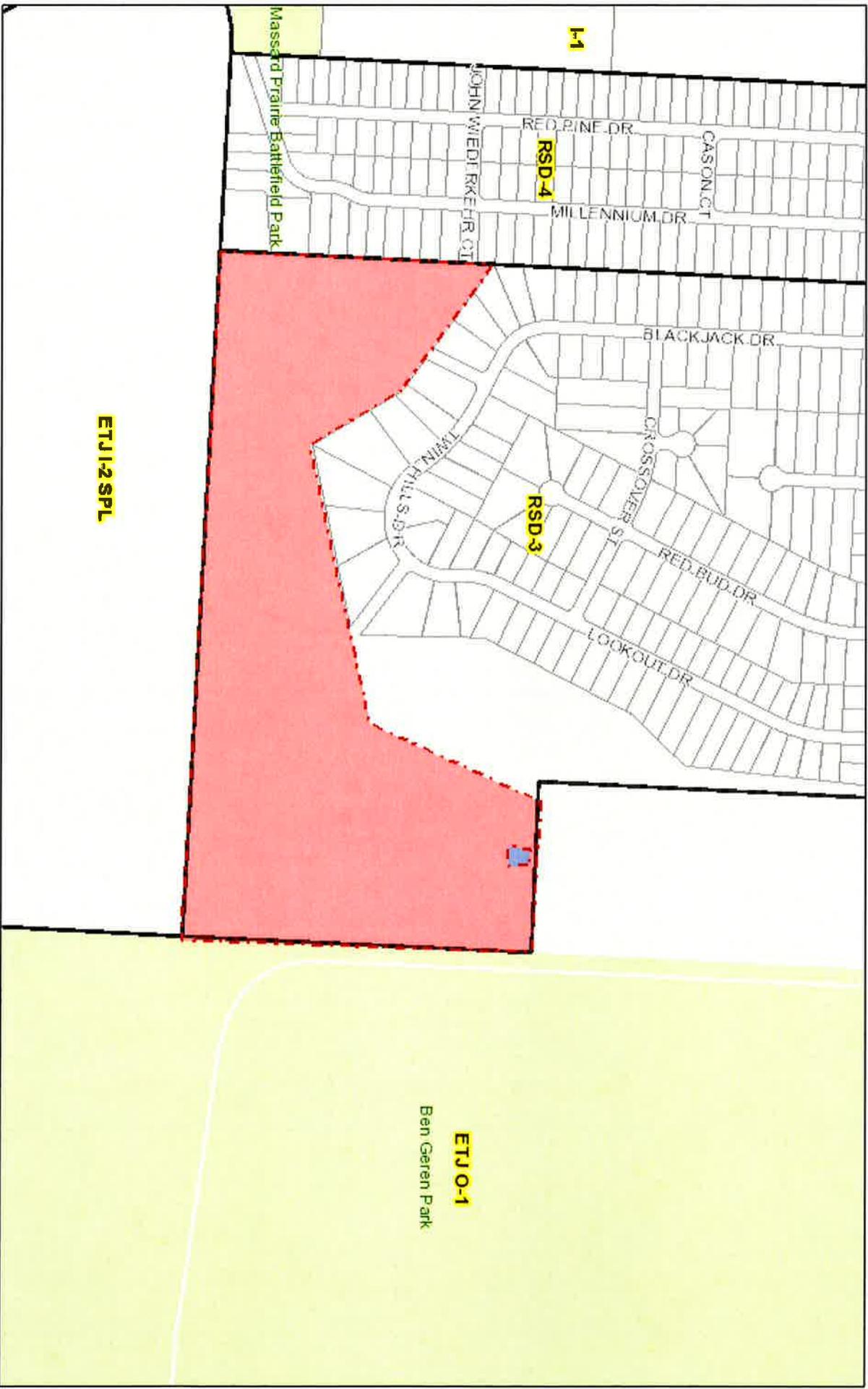


Agent

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# Conditional Use #11-8-15: Communication Tower 6110 Golf Course Loop

LE



July 20, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions

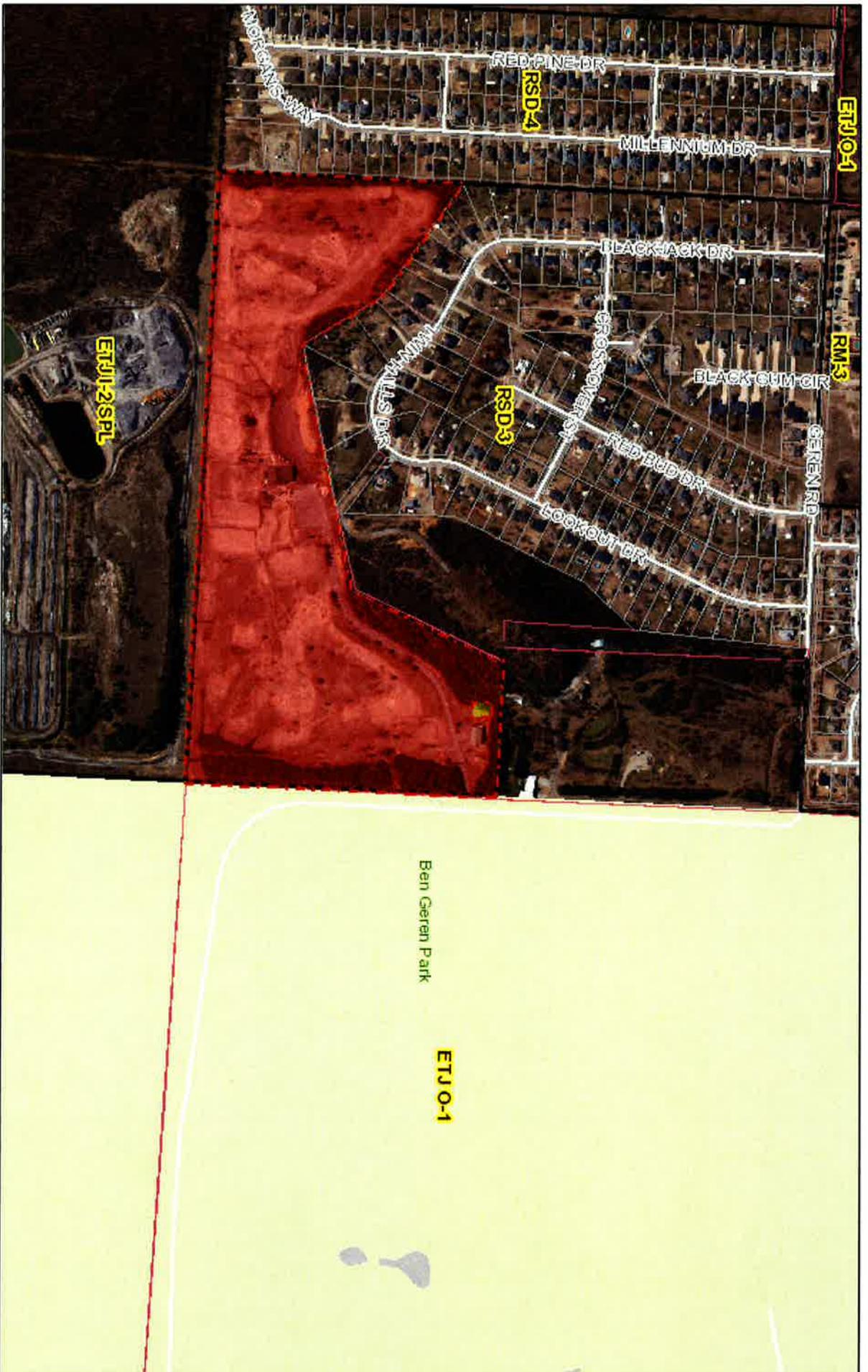






# Conditional Use #11-8-15: Communication Tower 6110 Golf Course Loop

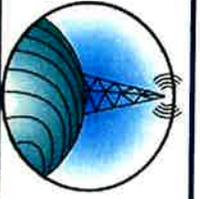
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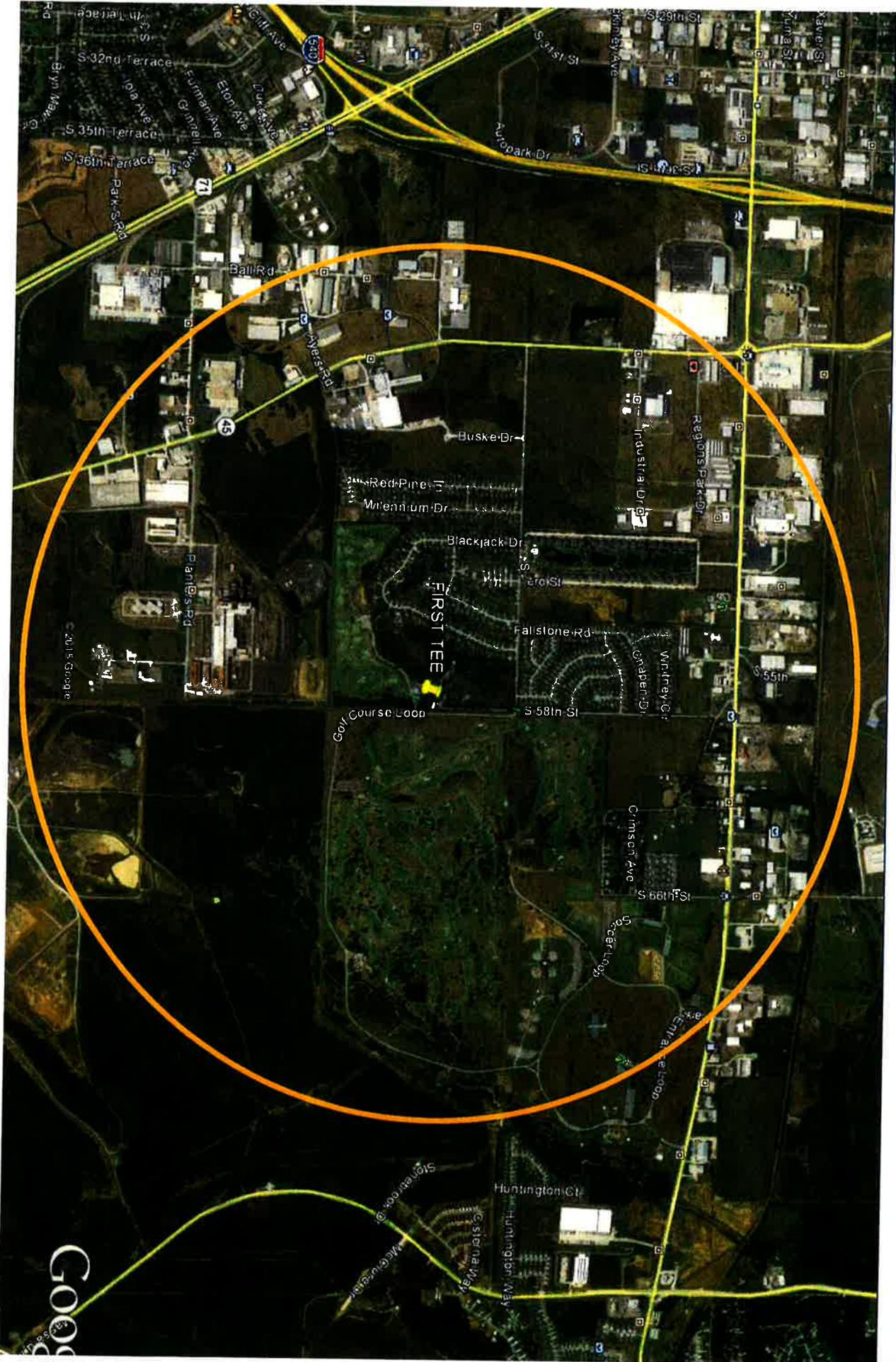
July 20, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions
-  Parcels

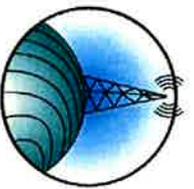




# Proposed - FIRST TEE - 1 MILE RADIUS - (No Other Towers)



LF



## **Proposed First Tee Wireless Communications Facility 120 ft. Flagpole Type Tower with 2ft. Lightning Rod**

Smith Communications, LLC. is presenting a project to the City of Fort Smith Planning Department to request a Conditional Use Permit (CUP) For a Wireless Communications Facility (WCF). The new WCF will contain a 120ft. With 2ft. Lightning Rod "Flag Pole" type tower surrounded by a 8 ft. privacy type wooden fence located inside The First Tee Golfing Facility.

The site will have an interior dimension of 65 X 65 ft. with some new landscaping along with new plantings (to better screen compound area from visitors inside the Facility) will be placed as detailed in the site plans, and on the South, East and West sides we propose to use existing vegetation to accomplish visual screening. This in combination with the terrain and access ways the site compound area will have a very limited view from golf course loop and no visibility from other properties.

This property currently serves as a portion of the , and is zoned as RSD-3 . Other surrounding properties have various zoning types and uses of: R-3-SF-DP, R-4-SF-DP, ETJ O-1 (Ben Geren Park), and ETJ1-2 SPL (QUANEX CORP)

There are no other existing communications towers or co-location structures in this part of Fort Smith and no other towers within 1 mile of the proposed facility. The closest being .

This existing Golf Facility covers approximately all of the parcel with only a very small part of the park to be used for the proposed site

The proposed WCF facility is outside of both the 100 year and 500 year Flood Zones

This facility will be located in an area of Fort Smith that is currently experiencing both coverage and capacity problem. Due to the ever expanding number of wireless devices, and the increasing usage of each individual device, coupled with Carriers conversion to the latest 4-G / LTE Technology services. These developments have an created an overall condition of a constant overload in the capacity and low signal strength of the wireless network in Fort Smith.

To solve this specific need a new tower site is proposed to allow carriers to insert a new service point into the network . This would allow the overall capacity of the network to grow – relieve pressure on surrounding sites – while providing specific coverage relief to this section of Fort Smith.

Verizon and the other carriers are suffering service affecting capacity and coverage issues due to the unprecedented growth in population and volume of Cell Phone Users



**Sec. 27-703. Commercial communication towers.**

**27-703-1 Purpose. The purpose of these regulations is described as follows:**

- A. Minimize the adverse effects and impact of towers through careful design, siting and screening;
- B. Conserve the value of adjacent land and buildings;
- C. Avoid potential damage to adjacent properties through engineering and careful siting of tower structures; and
- D. Maximize the use of existing towers in order to reduce and minimize the number of towers needed.

In our site development process we most certainly addressed the requirements of A-D in this basic site design in several different ways.

The Flagpole style tower has been proposed to lower the visual impact of the tower. By moving the antennas from exterior mounting arms used in typical Monopole Towers, to inside the Flagpole Tower Shell, you drastically reduce the cluttered look of the Monopole and create a "Clean Look" to the outside of the tower. By using this design tactic this we address the biggest hurdle – You make the top of the tower 120 ft. tower look better.

This tower site has been placed inside the First Tee Facility at a location carefully chosen to provide the best opportunity to effectively screen the site from view from public areas while providing the least disturbance to the existing tree canopy and natural grading of the land. This sites screening will be aided in its appearance by installation of an 8 ft. chain link with opaque slat fence to screen the support-equipment shelters. This tower will be mostly screened from view of the Residential Areas with only about 10 ft. exposed above the existing tree lines.

These are the efforts we are proposing to address the siting and screening aspects of the project and the required utility lines will be routed underground. We feel with these efforts the second hurdle of effective screening the site is properly addressed.

With no existing facilities capable of providing the services needed, this project is designed to provide maximum use of the site by multiple wireless carriers. What that means is-- With this one facility you can have Verizon, AT&T Sprint and T-Mobile Antenna Equipment all enclosed inside the towers Flagpole Shell and all the equipment shelters on the ground all hidden behind the same fence and screening. By design this project is build for the collocation of multiple carriers. Thus providing a solution to all the carriers and reducing the need for additional new tower in the same area.

By using a good site development process, that from the beginning concept, address the visual and land use compatibility of a tower and its surrounding properties and the community as a whole, it is possible to properly address mitigate the main issues. We feel that by implementing the steps above we have made significant efforts to reduce any effect our project may have of had on any surrounding properties.



Smith Communications, LLC

COMMUNICATIONS

27-703-2 *Approved tower locations (zoning districts)*. As defined herein, commercial communication towers are prohibited within any public right-of-way, utility easement or residential, or C-1 and C-2 zoning districts unless granted by conditional use permit. Such uses are allowed by right within the C-3, C-4, C-5, C-6, I-1, I-2, and I-3 zoning districts subject to applicable zoning restrictions as well as the following restrictions set forth herein.

**Smith Communications is pursuing a Conditional Use Permit (CUP) for the project**

27-703-3 *Ownership*. The proposed location for the tower must be large enough to accommodate the communications tower and support facilities, and must include access to a public right-of-way or accessible parking area. Purchase or ownership of a separate parcel may require platting and improvements before construction permits can be issued.

**Smith Communications submits that the facility size & easement are of adequate design to meet the above requirements**

27-703-4 *Construction*. In order to minimize visual impacts and possible damage that can result from the presence of such facilities, towers (including attached antennae) are limited to monopole construction and shall not exceed two hundred (200) feet in height. Compliance with all requirements of the City of Fort Smith Building Code, including a licensed engineer's structural certification of the tower structure and foundation, must be demonstrated before a building permit will be issued.

**Smith Communications submits the proposed tower will be 120ft with a lightning rod of 2ft. To make a highest point of 122 ft.**

27-703-5 *Setback*. All commercial towers must meet the minimum setbacks for the zoning districts in which they are located. Additionally, commercial towers must be set back from any residential structure a number of feet equal to that distance stated by the tower manufacturer's registered structural engineer's determination of the maximum possible fall zone for the tower. The structural engineer shall be licensed in the state.

**Smith Communications submits the proposed facility exceeds all applicable setback requirements.**

**Smith Communications submits that before issuance of a Building Permit it will supply a letter from the tower manufacturer's registered structural engineer's stating the maximum possible fall zone for the tower**

27-703-6 *Appearance*. No lights, signals or illumination shall be permitted on any tower unless required by the Federal Communication Commission (FCC), Federal Aviation Administration (FAA), or other federal, state, or city agency. No commercial advertising, signage or flags shall be allowed on any tower. This shall not prevent the joint use of a legal existing sign structure as a support mechanism for antennae or microwave dishes. Towers and accessory facilities must be colored or painted in muted tones that minimize their visibility, unless otherwise required by the FCC, FAA, or other federal, state, or city agency. The applicant may be required to disguise, conceal or camouflage a tower and/or antenna to ensure compatibility with the surrounding area.

**Smith Communications submits the proposed facility meets all applicable disguise, conceal or camouflage standards.**

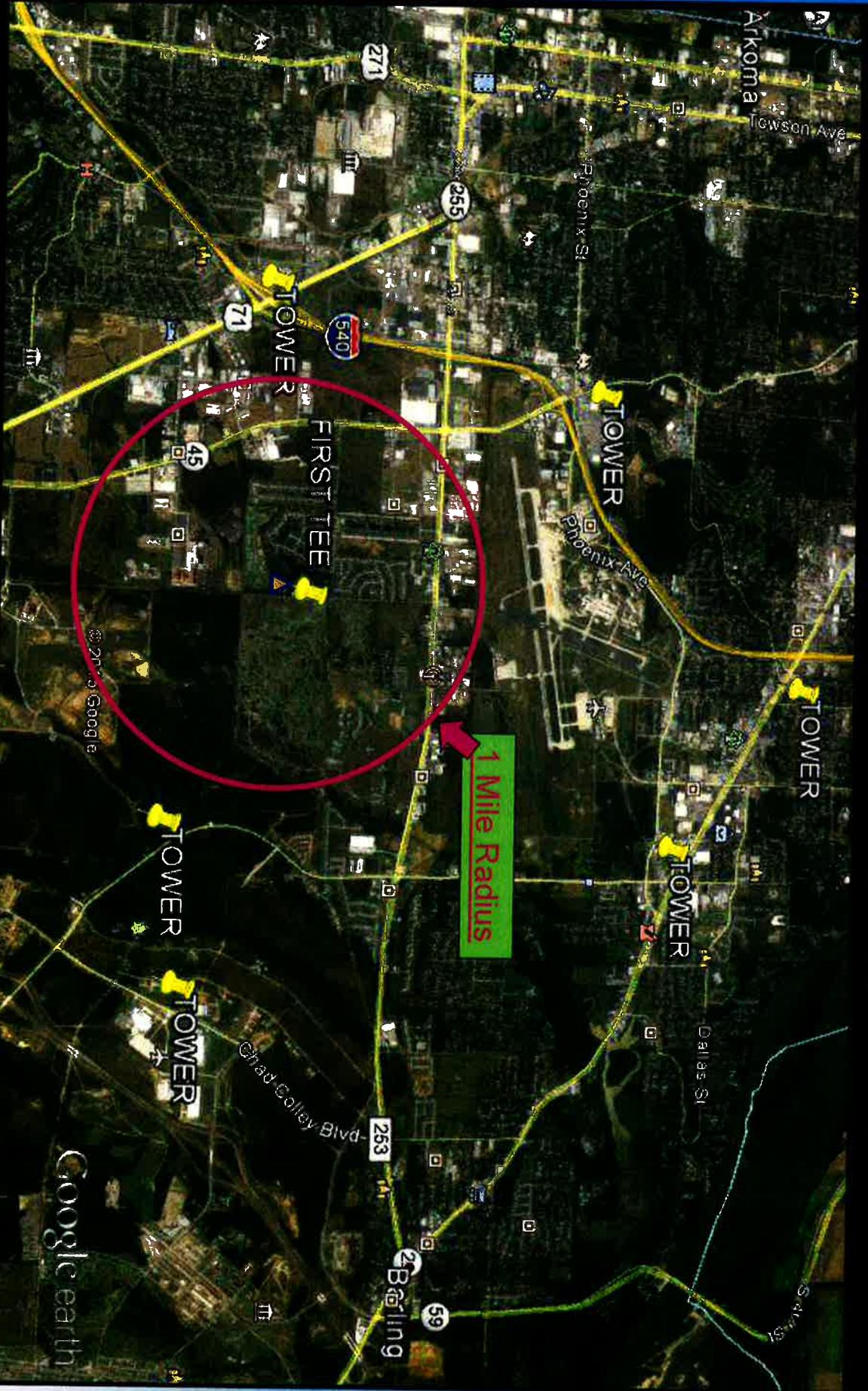
**Smith Communications submits the proposed facility will be lighted according to FAA Requirements and have only minimal signage mounted to the exterior gates to provide information Ownership Name & Contact Information – FCC Registration Information and Site Safety information as required by law (Signage Examples Enclosed)**

27-703-7 *Site design*. The area containing the monopole, accessory and support structures, and the immediate surrounding area utilized for servicing of the communication tower shall be secured by a minimum eight-foot height chain-link fence. The area within the fence must be either paved or graveled and kept weed-free. Other than the street side of the site, any side that faces any residential use shall include opaque fencing or sufficient shrubs to screen the site. Any shrubbery provided will be planted and maintained within the next appropriate growing season. If security lighting is installed, such light should be directed downward within the site and only triggered by motion detectors.

**Smith Communications submits the proposed facility exceeds all applicable setback requirements.**



Smith Communications - FIRST TEE - PROPOSED LOCATION VICINITY TOWER MAP



# Flash Technology

FAA Obstruction Lighting  
L-864 / L-865

## Medium Intensity Dual LED Vanguard® II FTS 370d

### Application

The Vanguard II FTS 370d is a dual (red and white) L-864/L-865 medium intensity LED aviation obstruction lighting system. With a separate flash head and system controller it is considered a split system. Along with (3) LED L-810 markers, it creates an E-type tower lighting system for structures between 200' and 500' AGL.



FAA type E1 or E2 200'-500' AGL



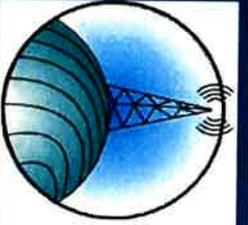
### Standard Features/Benefits

- Combined single flash head and marker cable for power and communication
- LED by-pass circuitry
- IEC 61000-4-5 Surge Immunity to 25kA
- Single enclosure for power, control and monitoring with no interlock switch
- Upgradeable firmware - onsite
- Fresnel Optics to minimize ground scatter
- Automatic Failsafe—switches to day mode for FAA compliance after 19 hours of no mode change
- Unique 4-line backlit display for visibility in any lighting conditions
- Monitoring—Dry Contacts (Day, Night, Marker, PEC, GPS, Comm, Mode)
- Future Compatibility—Future LED designs require no controller modification for proper monitoring
- Radar Interface
- Avian compliance—programming allows the lighting system to be converted to avian compliance at installation or in the future

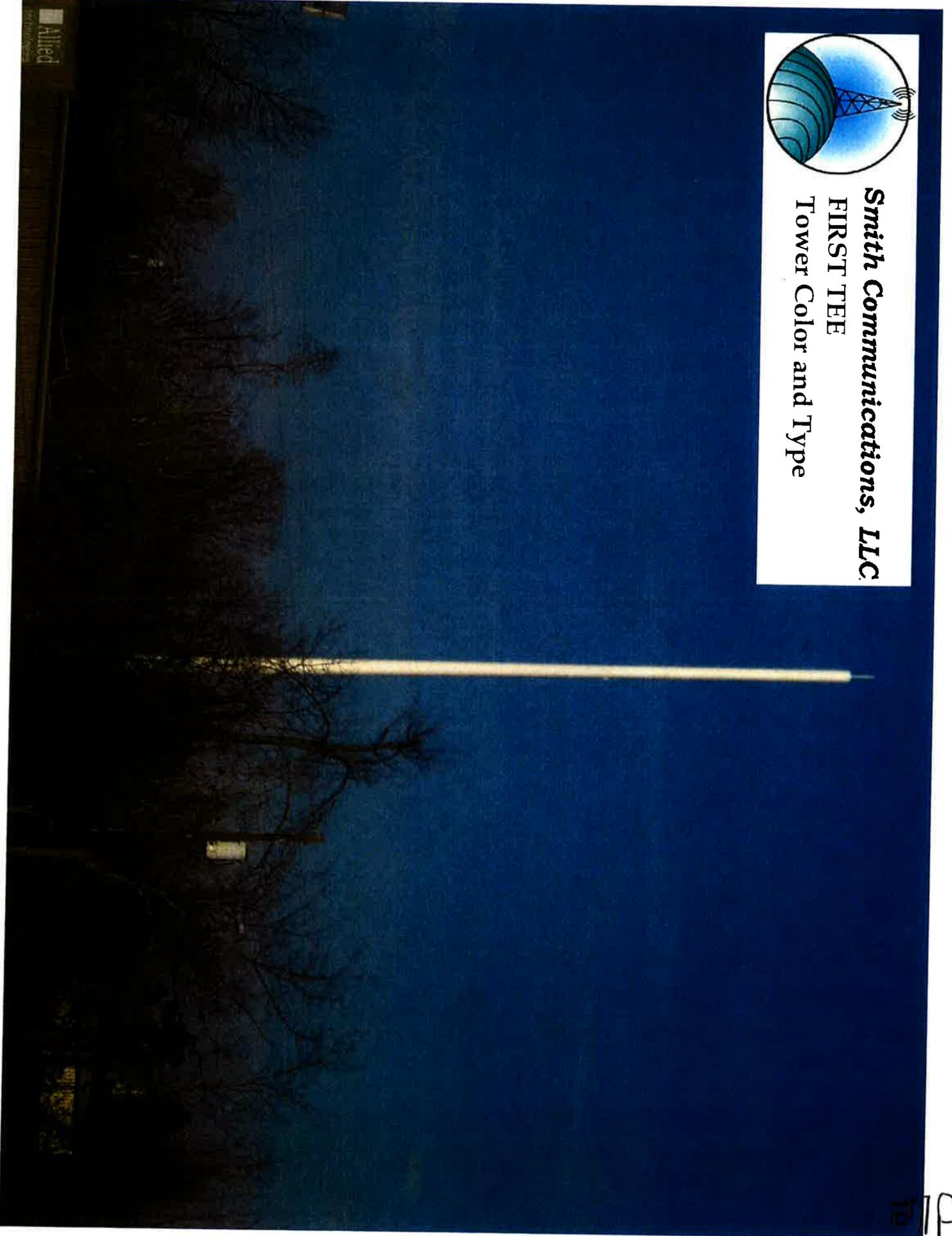
ISO 9001:2008 Certified

[www.flashtechology.com](http://www.flashtechology.com) Call us at 888.313.5274

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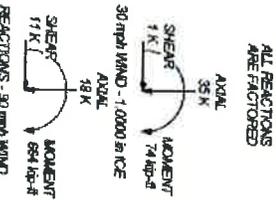
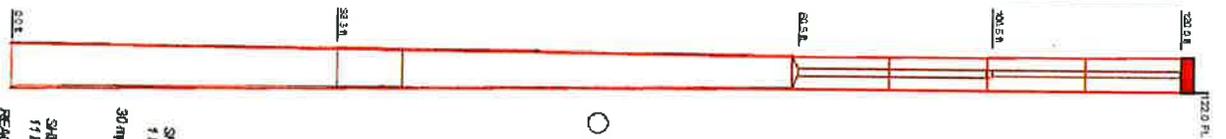
**Smith Communications, LLC**  
**FIRST TEE**  
**Tower Color and Type**





Smith Communications, LLC  
1220 PL

Section	1	2	3	4	5
Length (ft)	40.00	48.75	48.75	48.75	48.75
Number of Ribs	16	16	16	16	16
Thickness (in)	0.1250	0.1250	0.1250	0.1250	0.1250
Rib Spacing (ft)	2.50	3.05	3.05	3.05	3.05
Top Dia (in)	48.000	48.000	48.000	48.000	48.000
Bot Dia (in)	54.000	48.400	48.400	48.400	48.400
Grade		A572-60		A572-60	
Weight (K)	11	4.2	0.8	0.8	0.8



DESIGNED APPURTENANCE LOADING

TYPE	ELEVATION	TYPE	ELEVATION
48" x 16" Channel	120'-11.0	48" x 16" Channel	120'-0.0
12" x 8" x 0.135	115	12" x 8" x 0.135	115
17" x 6" x 0.135	110	17" x 6" x 0.135	110
48" x 16" Channel	105	48" x 16" Channel	105
12" x 8" x 0.135	100	12" x 8" x 0.135	100
17" x 6" x 0.135	95	17" x 6" x 0.135	95

MATERIAL STRENGTH

GRADE	Fy	Fu	GRADE	Fy	Fu
A572-60	50 ksi	65 ksi	A572-60	50 ksi	65 ksi

TOWER DESIGN NOTES

1. Tower is located in Sebastian County, Arkansas.
2. Tower designed for Exposure C to the TIA-222-G Standard.
3. Tower designed for a 90 mph basic wind in accordance with the TIA-222-G Standard.
4. Tower is also designed for a 30 mph basic wind with 1.00 in ice. Ice is considered to increase in thickness with height.
5. Members are loaded upon a 90 mph wind.
6. Tower is designed in accordance with the TIA-222-G Standard.
7. Topographic Category 1 with Crest Height of 0.00 ft.
8. Connectors use galvanized A325 bolts, nuts and locking devices. Installation per TIA/EIA-222 and AISC Specifications.
9. Tower members are "not clipped" galvanized in accordance with ASTM A123 and ASTM A153 Standards.
10. Welds are fabricated with ER-70S-6 electrodes.
11. TOWER RATING: 73.7%

**Elversmann Engineering Inc.** FIRST TEE-FORT SMITH, AR  
 4400 West 31st Street  
 Yankton, SD 57078  
 Phone: (605) 666-7582  
 FAX: (605) 666-6790

Owner: TIA-222-G  
 Designer: Smith Communications, LLC  
 Date: 07/14/15  
 Scale: N/A  
 Project No: E

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## Miller, Perry

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**From:** Hollie Wentz <hwentz@smithradio.com>  
**Sent:** Friday, August 07, 2015 9:27 AM  
**To:** Miller, Perry  
**Cc:** Dave Reynolds  
**Subject:** RE: Meeting Minutes  
**Attachments:** First Tee-sign in sheet.PDF

Tyler,

See attached sign in sheets for both of the meetings. We had two neighbors show up for the meeting held on 8/3/2015, they were not against the tower being built.

Let us know if you should need anything else.

---

**From:** Dave Reynolds [mailto:dreynolds@smithradio.com]  
**Sent:** Friday, August 07, 2015 9:12 AM  
**To:** 'Miller, Perry'  
**Cc:** Hollie Wentz  
**Subject:** RE: Meeting Minutes

You are correct – No one except you and us -- Hollie is on her way in and has the sheet with her and will send it ASAP.

Thanks for your Help

Dave

**From:** Miller, Perry [mailto:PMiller@FortSmithAR.gov]  
**Sent:** Friday, August 7, 2015 8:37 AM  
**To:** [DReynolds@smithradio.com](mailto:DReynolds@smithradio.com)  
**Subject:** Meeting Minutes

Dave,

I just wanted to confirm that no neighbors showed up at the meeting yesterday evening on 8-6-15 after I left. Also, please send me the sign-in sheet for the file.

Thank you,

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

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location 5800 Geren Rd., Fort Smith, AR

Meeting Time & Date 8/6/15 6:00 pm

Meeting Purpose CUP-proposed flagpole type tower

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<u>Tyler Miller</u>	<u>City of Fort Smith</u>	<u>479-784-2241</u>
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			

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ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location First Tee, Inc. 5800 Geren Rd., Ft. Smith, AR

Meeting Time & Date 8/3/2015 from 12:00 pm-2:00 pm

Meeting Purpose CUP - proposed flagpole type tower

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<u>Bill Striplin</u>	<u>C.O.F.S.</u>	<u>784-2211</u>
2.	<u>Bell + Becky Watson</u>	<u>5310 Fair Hills Dr. FS.</u>	<u>3040617</u>
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____
11.	_____	_____	_____

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# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 22, 2015

**Re:** Variance #19-8-15 - A request by Larry Hall, agent for Bennie Westphal, for Board of Zoning Adjustment consideration of a zoning variance request from Section 27-602-4(C)4B (screening requirements for mechanical units) and Section 27-602-4(C)8 (opaque 6-foot screening fence) located at 5721 Rogers Avenue

## REQUESTED VARIANCE

The variance if approved will allow for the development of the Burlington Coat Factory to not install mechanical equipment screening for the rooftop units mounting on the top of the building, and will allow for the development to not install an opaque screening fence or landscaping buffer between the residential property to the north and commercial development.

## LOT LOCATION AND SIZE

The subject property is on the North Side of Rogers Avenue between Burnham Road and Waldron Road with an approximate street frontage of 30 feet along Rogers Avenue. The tract contains an area of 4.74 acres.

## EXISTING ZONING

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

### Purpose:

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

### Permitted Uses:

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

- Minimum Lot Size – 14,000 square feet
- 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 areas to the north are zoned Residential Single Family – Duplex Low/Medium Density (RSD-2) and are developed as single family residences.

The areas to the east are zoned Commercial Heavy (C-5) and are developed as a bank and hotel.

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

The area to the west is zoned Commercial Heavy (C-5) and is developed as an office equipment supply store (Staples).

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Rogers Avenue as a Major Arterial.

**MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as Regional Center. This classification is intended to provide for major destination clustering of major employers, retailers, entertainment and regional level services of all types in a walkable setting.

**APPLICANT HARDSHIP**

The applicant states that the elevation change in the lots make the screening of the units and installation for the screening fence a strict enforcement to comply with. Additionally, the applicant states that with the screening, the neighbor’s elevation difference would still allow them to visually see the unit.

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held on Monday July 27<sup>th</sup>, at 11:30 a.m. at 8100 Dallas Street. No neighboring property owners attended the meeting. Staff received a telephone call from a Pat Meyers, who owns property at 5804 and 5808 Euper Lane located behind the applicant's site. Mr. Myers stated that he had no objection to the variance and preferred that no fence be installed.

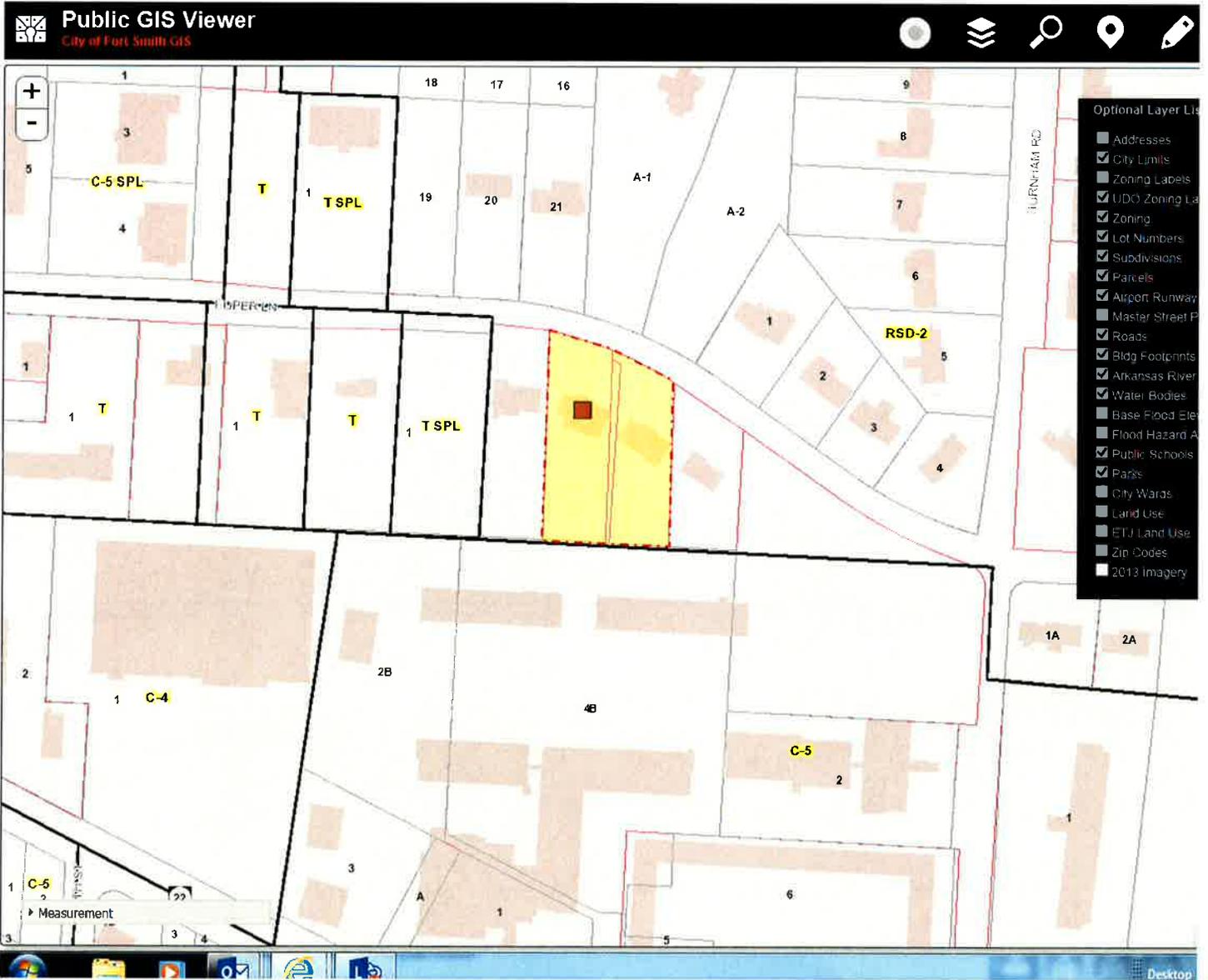
Staff recommends approval of the variance application for the mechanical equipment screening.

However, staff recommends denial for the variance application with the installation of the screening fence. Planning staff believes the screening fence could be installed adjacent to the property line and screen the commercial development from the residential zone.

If the BZA is inclined to approve the variances, 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.

# Miller, Perry

To: Miller, Perry  
Subject: FW: 5721 Rogers Avenue Variances



From: Miller, Perry  
Sent: Monday, July 27, 2015 4:11 PM  
To: Planning Email Group  
Subject: 5721 Rogers Avenue Variances

Pat Meyers (452-2313) at 5804 and 5808 Euper lane which is two properties behind the subject site said he is in favor of the variances and would prefer the fence not be put into place.

I will add a copy to the file.

Thank you,

Var # 19-8-15

**APPLICATION FOR VARIANCE #1**

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

**LOT 4B AZALEA SQUARE**

Address of property 5721 ROGERS AVE, 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: OMIT MECH UNIT SCREENING AT REAR PROPERTY

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

8E

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

Signed:

TIM A. BISLEY & ASSOC.

LARRY B. HALL

Owner or Agent Name (please print)

\_\_\_\_\_

Owner

or

*Larry B. Hall*

Agent

(479) 452-2636

Owner or Agent Phone Number

6101 PHOENIX AVE, F.O.

Owner or Agent Mailing Address

Variance # 1

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>	
_____	_____	Is this variance needed because of previous actions taken by yourself?
_____	_____	Is this variance needed because of previous actions taken by a prior owner?
_____	_____	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.
_____	_____	Is the lot of an odd or unusual shape?
_____	_____	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	_____	Does the lot contain required easements other than those that might be located on its perimeter?
_____	_____	Is any part of the lot in a flood plain or flood way?
_____	_____	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	_____	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?

Explanation of question #4 (if applicable)

THE EXTREME TOPS OF THE LOTS TO THE NORTH MAKE IT  
IMPOSSIBLE TO SCREEN THE MECH. UNITS, PARTS OF  
THE PROPERTY TO THE NORTH ARE HIGHER THAN  
THE BUILDING'S ROOF LINE, THEY LOOK DOWN  
ON THE ROOF,

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

WASTE OF MONEY TO TRY TO SCREEN MECH. UNITS  
THAT ARE LOWER THAN SOME THE ADJOINING  
PROPERTIES.

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:

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**APPLICATION FOR VARIANCE #2**

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

**LOT 4B AZALEA SQUARE**

Address of property 5721 BOWERS AVE, 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:

**Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship**

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**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: INSTALL PRIVACY FENCE @ REAR PROPERTY

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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**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

- |               |               |  |
|---------------|---------------|--|
| <u>      </u> | <u>      </u> | Is this variance needed because of previous actions taken by yourself?   |
| <u>      </u> | <u>      </u> | Is this variance needed because of previous actions taken by a prior owner?  |
| <u>      </u> | <u>      </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>      </u> | <u>      </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>      </u> | <u>      </u> | Is the lot of an odd or unusual shape?   |
| <u>  X  </u>  | <u>      </u> | Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?   |
| <u>      </u> | <u>      </u> | Does the lot contain required easements other than those that might be located on its perimeter?   |
| <u>      </u> | <u>      </u> | Is any part of the lot in a flood plain or flood way?  |
| <u>      </u> | <u>      </u> | Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?  |
| <u>      </u> | <u>      </u> | Is the lot developed with structures in violation of current zoning requirements?  |
| <u>      </u> | <u>      </u> | Does the lot front any street classified as an arterial or collector on the Master Street Plan?  |

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Explanation of question #<sup>5</sup>/~~4~~ (if applicable)

THERE IS AN EXTREME GRADE ALONG BEAR  
PROPERTY LINE.

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

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:

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

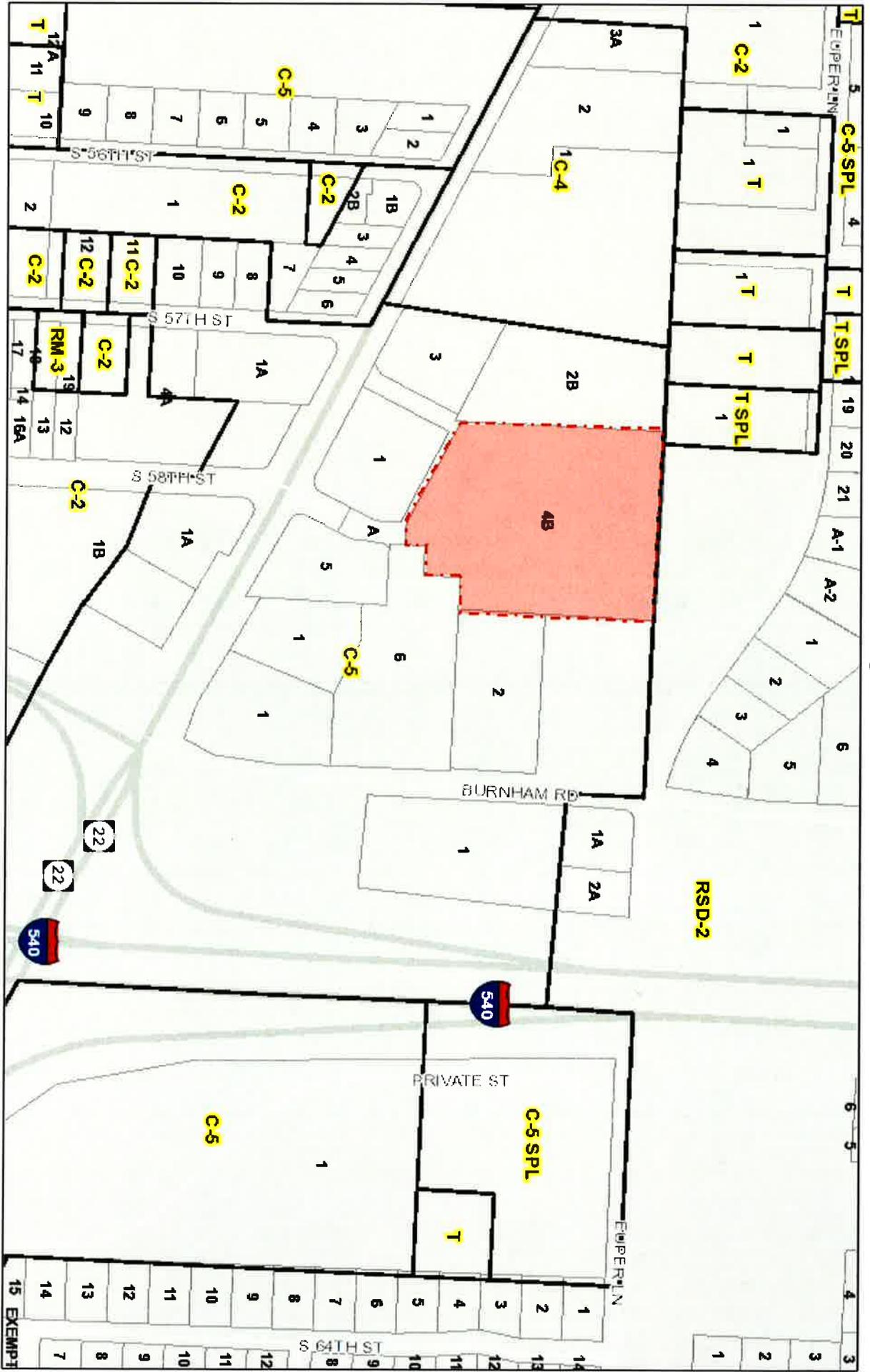
Meeting Location FORT SMITH LIBRARY  
DALLAS ST BRANCH

Meeting Time & Date 11:30 A.M. 7/27/15

Meeting Purpose BURLINGTON

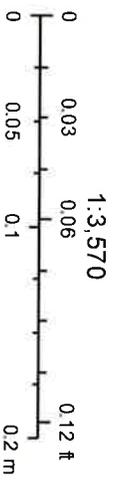
	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	LARRY HALL	6101 PHOENIX AVE	(479) 452-2636
2.	Rodney H. Ghar	5831 Euper lane	(479) 478-6161
3.			
4.			
5.			
6.			
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11.			

# Variance #19-8-15 - From Section 27-602-4 omit mechanical screening and privacy fence 5721 Rogers Avenue



August 7, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions



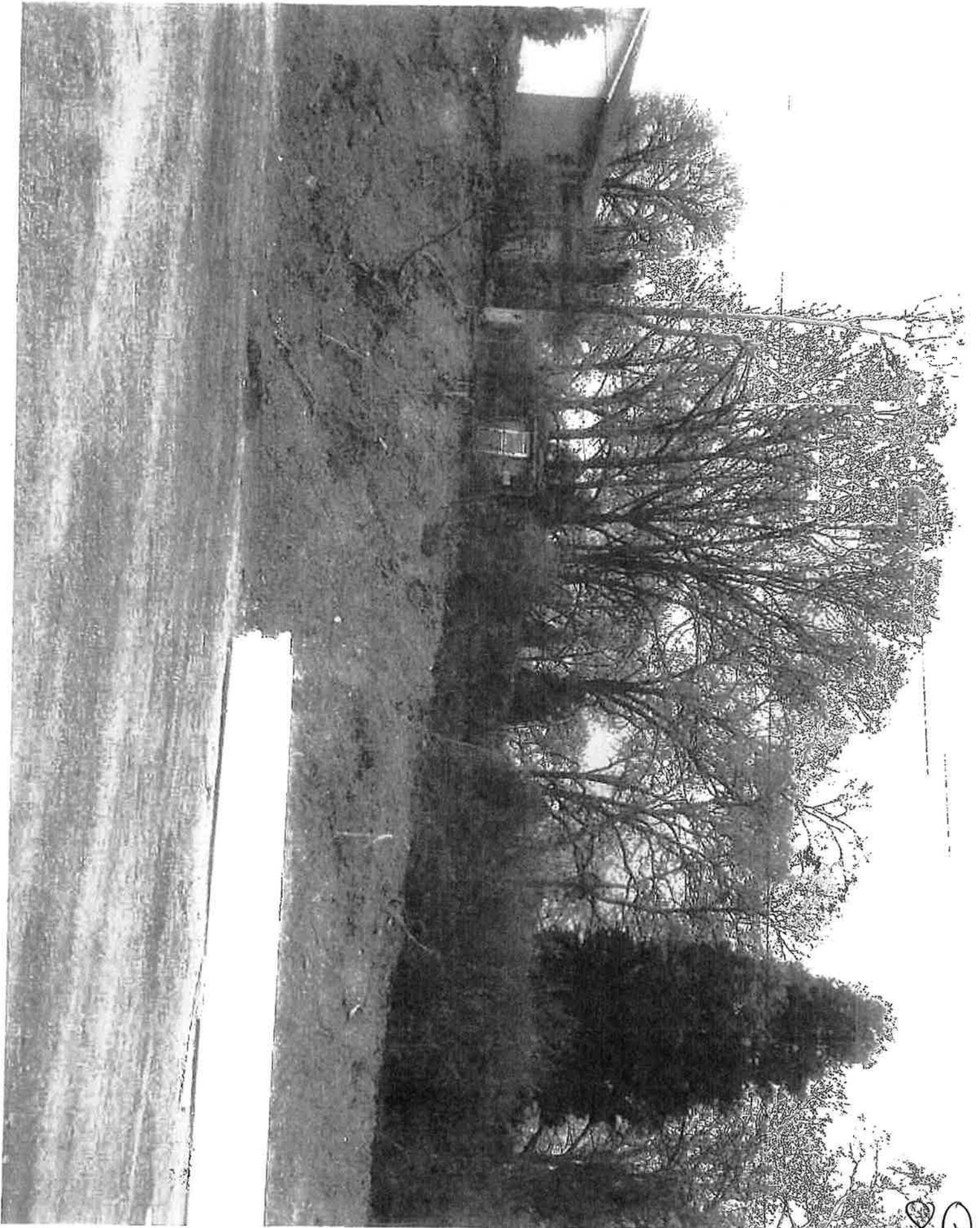
28







8P



8Q

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 28, 2015

**Re:** Variance #20-8-15 - A request by Damon Wright, agent for Bennie Westphal, for Board of Zoning Adjustment consideration of a zoning variance request from a) from 1000 feet distance between outdoor advertising signs, b) from no more than 4 outdoor advertising signs per mile and c) from the sign bank requirements at 5701 Rogers Avenue.

## REQUESTED VARIANCE

The approval of this variance will allow the installation of a new outdoor advertising sign for the new Burlington Coat. This is an off premise sign not located on the same lot/property as the businesses being advertised on the sign.

## LOT LOCATION AND SIZE

The subject property is on the north side of Rogers Avenue just east of South 57<sup>th</sup> Street. The tract has approximately 56 feet of street frontage along Rogers Avenue.

## EXISTING ZONING

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

### Purpose:

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

### Permitted Uses:

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

- Minimum Lot Size – 14,000 square feet
- 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 areas to the north are zoned Commercial Heavy (C-5) and are developed as Staples and Burlington Coat.

The areas to the east are zoned Commercial Heavy (C-5) and are developed as Furr’s restaurant.

The areas to the south are zoned Commercial Heavy (C-5) and are developed as Regions Bank.

The areas to the west are zoned Commercial Heavy (C-5) and are developed as Taco Bueno.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Rogers Avenue as Major Arterial.

**MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as Regional Center. This classification is to provide for major destination clustering of major employers, retailers, entertainment and regional level services of all types in a walkable setting.

**APPLICANT HARDSHIP**

Large commercial lots with minimal frontage along Rogers Avenue is the main hardship. The sign is considered off site because it is advertising a business not on the same lot. New, large retail store needs a sign along Rogers Avenue.

9B

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Friday, July 31, 2015 at 3307 Old Greenwood Road Suite A. No one attended the meeting except for the applicant and Bill Striplin, City Staff.

We received an email opposed to the variance requests. A copy of the email is enclosed.

Because this is an off premise sign it must comply with the outdoor advertising sign requirements. The variance request at 5801 Rogers is similar but only reverses the business names on the sign.

The proliferation of signs along this section of Rogers Avenue is significant. We have provided information in the packet showing signage and will have photographs in the power point at the meeting.

Options for the Board of Zoning Adjustment are:

*Approve as submitted.*

*Deny the applications.*

*Conditionally approve.* Approve only of the two signs (5701 Rogers Ave. or 5801 Rogers Ave.) Establish that the one approved sign will be the Master Sign for Azalea Square and that any new signs for Azalea Square must be placed on the master sign structure.

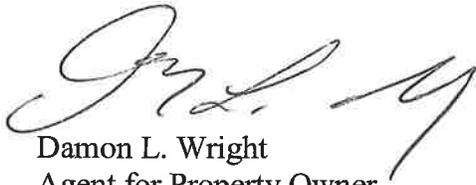
If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the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

Neighborhood Meeting on July 31, 2015

Re: Sign Variance at 5701 and 5801 Rogers Avenue, Fort Smith

**Summary**

Our meeting was held at 9:00 on July 31, 2015 at 3307 Old Greenwood Road in Fort Smith Arkansas. No one from our mailing list attended and nothing was discussed. The City was represented by Bill Striplin.



Damon L. Wright

Agent for Property Owner

Nunnelee & Wright Commercial Properties

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location 3307 OLD GREENWOOD

Meeting Time & Date 9 A.M. JULY 31

Meeting Purpose VARIANCE (5701)

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<u>Bill Stroplin</u>	<u>CITY OF Fort Smith</u>	<u>784-2211</u>
2.	<u>Damon Wright</u>	<u>3307 Old Greenwood</u>	<u>785-4343</u>
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____
11.	_____	_____	_____

## Andrews, Brenda

---

**From:** Rodney Ghan [rhghan@rhghan.com]  
**Sent:** Thursday, July 23, 2015 3:14 PM  
**To:** Andrews, Brenda  
**Cc:** Evea Lomon  
**Subject:** Sign Variance

Brenda,

I received a letter for a neighborhood meeting regarding a sign variance at 5701 & 5801 Rogers Ave. at 9:00 am July 31st. Unfortunately I will be unable to attend the meeting. Since I do not have enough information regarding this request I do need to note I oppose any increase in sign sizes. The center pylon sign was designed when Staples first opened and I would think the owners would have taken into consideration future development in the center.

Thanks

Rodney H. Ghan, CCIM

**R. H. Ghan & Cooper Commercial Properties**

4611 Rogers Ave., Suite 201

Fort Smith, AR 72903

Phone: (479) 478-6161

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential or privileged material. Any review, distribution or other unauthorized use of the information by persons or entities other than the intended recipient is prohibited. If you received this communication in error, please contact the sender and delete the material from any computer.

Nor. # 208-15

**APPLICATION FOR VARIANCE** #1

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 5701 Rogers, Ft. Smith, 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: See Attached

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:

Damon Wright  
Owner or Agent Name (please print)

(479) 785-4343  
Owner or Agent Phone Number

3307 Old Greenwood Rd  
Owner or Agent Mailing Address  
Ft. Smith, Ar. 72903

\_\_\_\_\_  
Owner  
or  
[Signature]  
Agent

Variance # 1

**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

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

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?

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.

\_\_\_\_\_

\_\_\_\_\_

Is the lot of an odd or unusual shape?

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

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?

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Explanation of question #4 (if applicable)

Large Commercial lots with minimum  
frontage along Rogers Avenue.

The sign will be considered off site because it is  
advertising businesses not on the same lot.

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

New, Large Retail store needs  
sign along Rogers

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 sign will need be leased to  
advertising businesses not in this development.

Needed variances;

1: A variance from the requirements of 27-704-4 Outdoor Advertising Signs

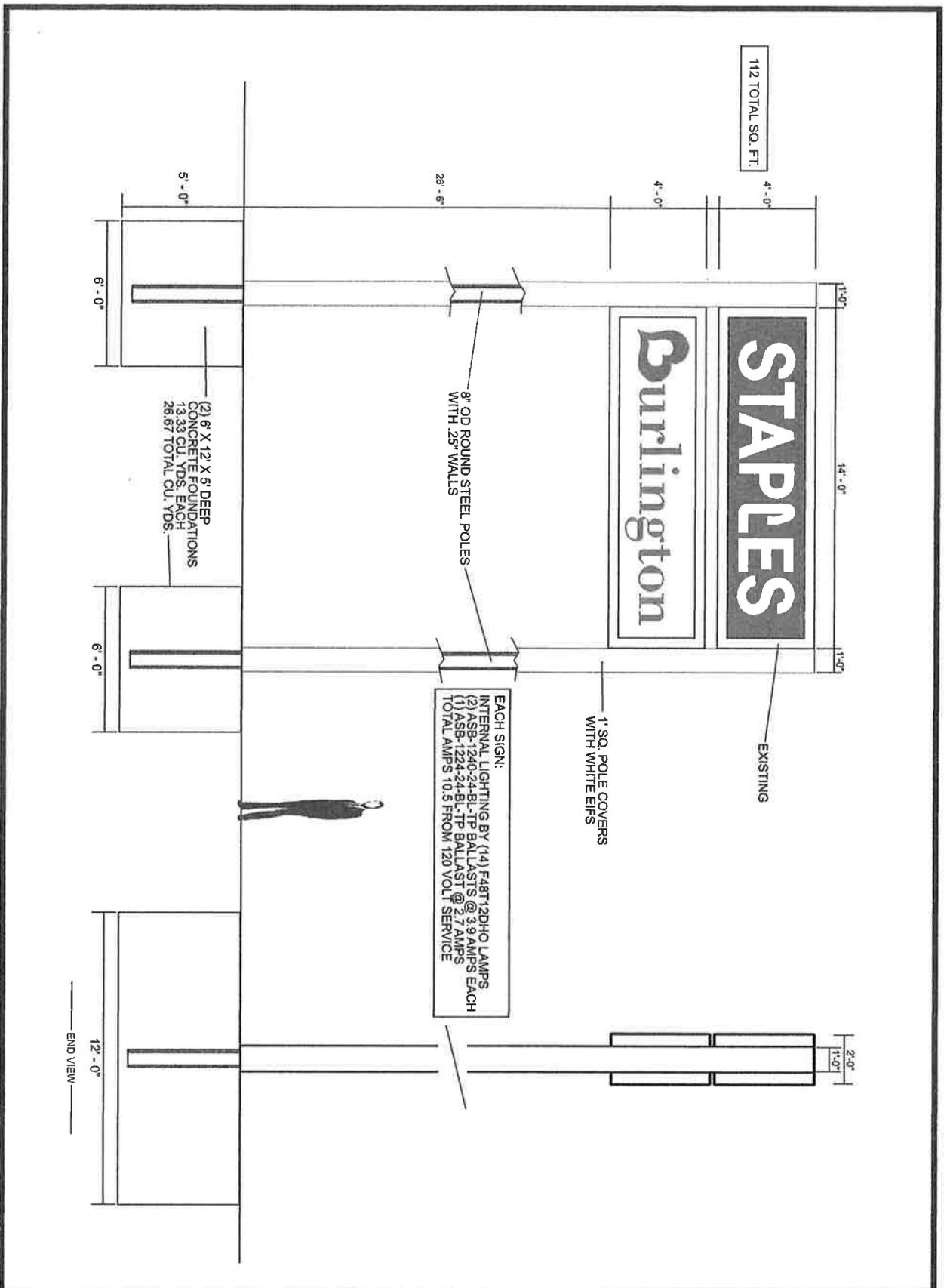
A: From sign bank requirements

B: From: not closer than 1000 feet to an existing outdoor advertising sign, To: No Requirement

C: From: No more than 4 outdoor advertising signs per statute mile, To: No Requirement

9K





**MACK THOMPSON & SON**  
 INCORPORATED  
 6208 SOUTH 29TH STREET  
 FORT SMITH, AR 72308  
 PHONE 479-644-7061  
 FAX 479-644-7061  
 E-MAIL: mack@mtsgn.com

Project/Location:  
 STAPLES #1719  
 5709 ROGERS AVE.  
 FORT SMITH, AR

Description:  
 ADDITION OF 4' X 14' DOUBLE-FACED BURLINGTON SIGN UNDER EXISTING STAPLES SIGN.

Scale:  
 1/4" = 1'-0"

(Scale is accurate on 11' X 17" paper)

Date:  
 8/29/2014

Customer Approval:  
 \_\_\_\_\_

Date:  
 \_\_\_\_\_

Landlord Approval:  
 \_\_\_\_\_

Date:  
 \_\_\_\_\_

This original drawing is provided as part of a planned project and is not to be exhibited, copied or published without the written consent of Mack Thompson & Son, Inc. or its authorized agents.

9M

14' - 0"

Burlington

STAPLES

4' - 0"

6"

4' - 0"

20' - 0"

5' - 0"

4' - 0"

4' - 0"

8' - 0"

(2) 4' X 8' X 5' DEEP  
CONCRETE  
FOUNDATIONS  
TOTAL OF 11.85 CU. YDS.



**Mack Thompson & Son**  
INCORPORATED  
6208 SOUTH 29TH STREET  
FORT SMITH, AR 72908  
PHONE 479-648-1061  
FAX 479-648-1068  
E-MAIL: mack@mssigns.com

Project/Location:  
BURLINGTON/STAPLES  
5801 ROGERS AVE.  
FORT SMITH, AR

Description:  
(2) 4' X 14' DOUBLE-FACED  
INTERNALLY-ILLUMINATED  
SIGNS INSTALLED ON (2) 10"  
STEEL SQ. TUBES IN  
CONCRETE FOUNDATIONS.  
ALUMINUM CABINETS WITH  
FLAT LEXAN FACES WITH  
TRANSLUCENT VINYL COPY.

Scale:  
1/4" = 1' - 0"

Date:  
8/29/2014  
6/16/2015 REVISED  
7/16/2015 REVISED

Customer Approval:

Date:

Landlord Approval:

Date:

This original drawing is provided as part of a plan set. It is not to be reproduced without the written permission of Mack Thompson & Son, Inc. or its authorized agents.

26

14'-0"

Burlington

STAPLES

4'-0"

6"

4'-0"

20'-0"



**Mack Thompson & Son**  
INCORPORATED  
6208 SOUTH 29TH STREET  
FORT SMITH, AR 72908  
PHONE 479-648-1061  
FAX 479-648-1058  
E-MAIL: mack@msssigns.com

Project/Location:  
BURLINGTON/STAPLES  
5801 ROGERS AVE.  
FORT SMITH, AR

Description:  
(2) 4' X 14' DOUBLE-FACED  
INTERNALLY-ILLUMINATED  
SIGNS INSTALLED ON (2)  
STEEL SQ. TUBES IN  
CONCRETE FOUNDATIONS.  
ALUMINUM CABINETS WITH  
FLAT LEXAN FACES WITH  
TRANSLUCENT VINYL COPY.

Scale:  
1/4" = 1' - 0"

Date:  
8/29/2014  
6/16/2015 REVISED

Customer Approval:

Date: \_\_\_\_\_

Landlord Approval:

Date: \_\_\_\_\_

This original drawing is provided as part of a plan set prepared for the project. It is to be reproduced without the written permission of Mack Thompson & Son, Inc. or its authorized agents.

06



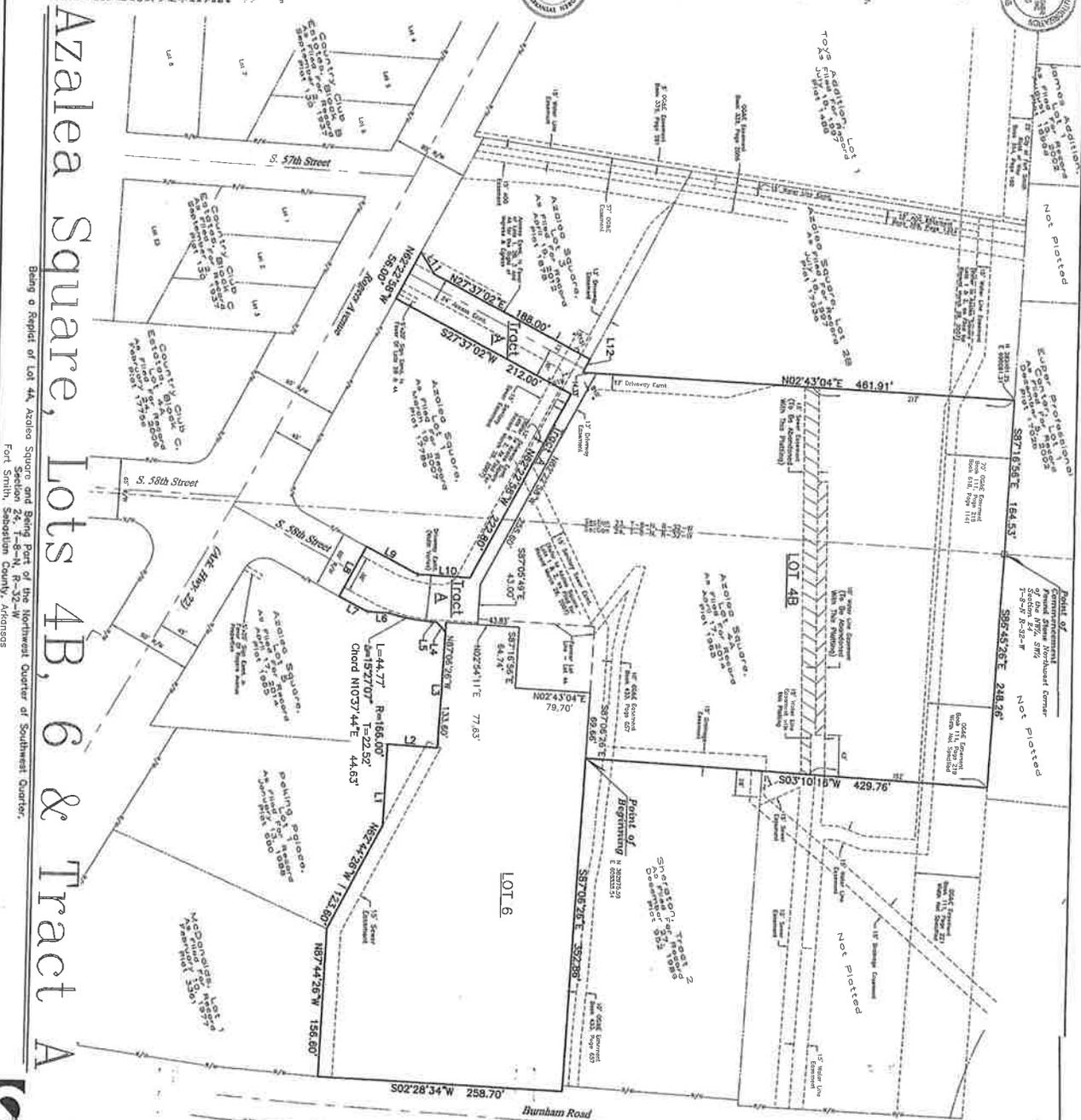
PLANNING COMMISSION  
 APPROVED  
 12/1/2015  
 FOR CHAIRMAN  
 SECRETARY  
 PLANNING COMMISSION

THIS PLAN IS FILED FOR THE PURPOSE OF REGISTERING AS A PUBLIC RECORD AND IS NOT TO BE CONSIDERED A CONTRACT OR WARRANTY OF ANY KIND. THE CITY OF FORT SMITH, ARKANSAS, IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS PLAN OR THE RESULTS OF ANY CONSTRUCTION THEREFROM. THE CITY OF FORT SMITH, ARKANSAS, IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS PLAN OR THE RESULTS OF ANY CONSTRUCTION THEREFROM.

ADVERTISER:  
 Robert B. Bluff  
 Rogers Avenue Properties, LLC  
 Robert Rose

STATE OF ARKANSAS  
 COUNTY OF SESSON  
 City of Fort Smith, Arkansas  
 My Commission Expires 12/31/2015

LEGAL DESCRIPTION:  
 Lot 44 of the plat titled 'Azalea Square, Lots 4A, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.



**Azalea Square, Lots 4B, 6 & Tract A**  
 Being a Replat of Lot 4A, Azalea Square and Being Part of the Northwest Quarter of Southwest Quarter of Section 24, T-6N-R-32-W  
 Fort Smith, Sebastian County, Arkansas

**Rogers Avenue Properties, LLC**  
 Owners  
 109 N. 6th Street  
 Fort Smith, AR 72901

**Robert Rose**  
 And  
 109 N. 6th Street  
 Fort Smith, AR 72901

**Rogers Avenue Properties, LLC**  
 109 N. 6th Street  
 Fort Smith, AR 72901

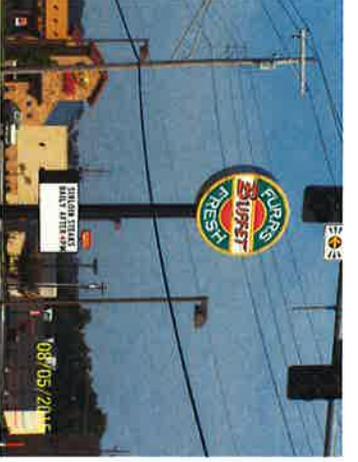
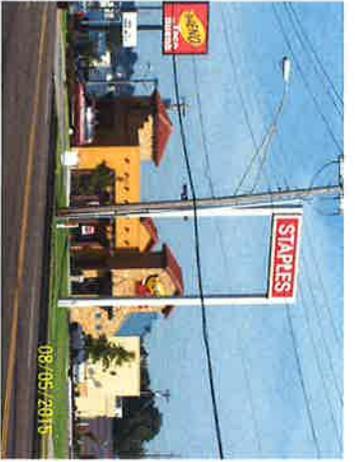
LINE #	BEARING	LENGTH
L1	N87°44'26"W	66.65'
L2	N29°28'58"E	52.86'
L3	N87°08'37"W	123.02'
L4	S70°53'32"W	143.4'
L5	N25°41'11"E	61.5'
L6	N27°37'02"E	34.07'
L7	N27°37'02"E	30.00'
L8	N27°37'02"E	61.54'
L9	N25°41'11"E	55.44'
L10	S72°32'35"W	27.23'
L11	S82°22'39"E	15.85'



96



9Q



QR

Signs in the area of 5701 - 5801 Rogers Avenue





08/07/2015

TP

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 28, 2015

**Re:** Variance #21-8-15 - A request by Damon Wright, agent for Bennie Westphal, for Board of Zoning Adjustment consideration of a zoning variance request from a) from 1000 feet distance between outdoor advertising signs, b) from no more than 4 outdoor advertising signs per mile and c) from the sign bank requirements at 5801 Rogers Avenue.

## REQUESTED VARIANCE

The approval of this variance will allow the installation of a new outdoor advertising sign for the new Burlington Coat. This is an off premise sign not located on the same lot/property as the businesses being advertised on the sign.

## LOT LOCATION AND SIZE

The subject property is on the north side of Rogers Avenue at the intersection with South 58<sup>th</sup> Street. The tract has approximately 80 feet of street frontage along Rogers Avenue.

## EXISTING ZONING

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

### Purpose:

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

### Permitted Uses:

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

10A

**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
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- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Minor Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Commercial Heavy (C-5) and are developed as Staples and Burlington Coat.

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

The areas to the south are zoned Commercial Heavy (C-5) and are developed as a bank.

The areas to the west are zoned Commercial Heavy (C-5) and are developed as Furr’s restaurant.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Rogers Avenue as Major Arterial.

**MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as Regional Center. This classification is to provide for major destination clustering of major employers, retailers, entertainment and regional level services of all types in a walkable setting.

**APPLICANT HARDSHIP**

Large commercial lots with minimal frontage along Rogers Avenue is the main hardship. The sign is considered off site because it is advertising a business not on the same lot. New, large retail store needs a sign along Rogers Avenue.

10B

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Friday, July 31, 2015 at 3307 Old Greenwood Road Suite A. No one attended the meeting except for the applicant and Bill Striplin, City Staff.

We received an email opposed to the variance requests. A copy of the email is enclosed.

Because this is an off premise sign it must comply with the outdoor advertising sign requirements. The variance request at 5701 Rogers is similar but only reverses the business names on the sign.

The proliferation of signs along this section of Rogers Avenue is significant. We have provided information in the packet showing signage and will have photographs in the power point at the meeting.

Options for the Board of Zoning Adjustment are:

*Approve as submitted.*

*Deny the applications.*

*Conditionally approve.* Approve only of the two signs (5701 Rogers Ave. or 5801 Rogers Ave.) Establish that the one approved sign will be the Master Sign for Azalea Square and that any new signs for Azalea Square must be placed on the master sign structure.

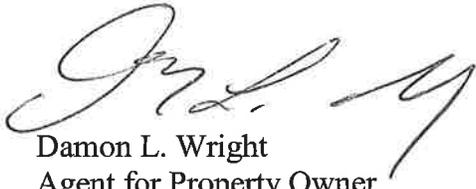
If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the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

Neighborhood Meeting on July 31, 2015

Re: Sign Variance at 5701 and 5801 Rogers Avenue, Fort Smith

**Summary**

Our meeting was held at 9:00 on July 31, 2015 at 3307 Old Greenwood Road in Fort Smith Arkansas. No one from our mailing list attended and nothing was discussed. The City was represented by Bill Striplin.



Damon L. Wright  
Agent for Property Owner  
Nunnelee & Wright Commercial Properties

**ATTENDANCE LIST FOR NEIGHBORHOOD MEETING**

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

Meeting Location 3307 OLD GREENWOOD

Meeting Time & Date 9 A.M. JULY 31

Meeting Purpose VARIANCE (5701)

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<u>Bill Striplin</u>	<u>CITY OF Fort Smith</u>	<u>784-2211</u>
2.	<u>Damon Wright</u>	<u>3307 Old Greenwood</u>	<u>785-4343</u>
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____
11.	_____	_____	_____

## Andrews, Brenda

---

**From:** Rodney Ghan [rhghan@rhghan.com]  
**Sent:** Thursday, July 23, 2015 3:14 PM  
**To:** Andrews, Brenda  
**Cc:** Eeva Lomon  
**Subject:** Sign Variance

Brenda,

I received a letter for a neighborhood meeting regarding a sign variance at 5701 & 5801 Rogers Ave. at 9:00 am July 31st. Unfortunately I will be unable to attend the meeting. Since I do not have enough information regarding this request I do need to note I oppose any increase in sign sizes. The center pylon sign was designed when Staples first opened and I would think the owners would have taken into consideration future development in the center.

Thanks

Rodney H. Ghan, CCIM  
**R. H. Ghan & Cooper Commercial Properties**  
4611 Rogers Ave., Suite 201  
Fort Smith, AR 72903  
Phone: (479) 478-6161

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential or privileged material. Any review, distribution or other unauthorized use of the information by persons or entities other than the intended recipient is prohibited. If you received this communication in error, please contact the sender and delete the material from any computer.

Var #21-8-15

#7

**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 5801 Rogers Ave, 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:

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

- | <b><u>FROM</u></b>                  | <b><u>TO</u></b>   |
|-------------------------------------|--|
| _____                               | - _____ 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                                   |
| <input checked="" type="checkbox"/> | - <input checked="" type="checkbox"/> Other: <u>See Attached</u> |

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

106

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

Signed:

Damon Wright  
Owner or Agent Name (please print)

(479) 785-4343  
Owner or Agent Phone Number

3307 Old Greenwood Rd  
Owner or Agent Mailing Address  
Ft. Smith, Ar. 72903

\_\_\_\_\_  
Owner  
or  
[Signature]  
Agent

Variance # 7

10H

**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>	
_____	_____	Is this variance needed because of previous actions taken by yourself?
_____	_____	Is this variance needed because of previous actions taken by a prior owner?
_____	_____	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.
_____	_____	Is the lot of an odd or unusual shape?
_____	_____	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	_____	Does the lot contain required easements other than those that might be located on its perimeter?
_____	_____	Is any part of the lot in a flood plain or flood way?
_____	_____	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	_____	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?

Needed variances;

1: A variance from the requirements of 27-704-4 Outdoor Advertising Signs

A: From sign bank requirements : *TO NO Requirements*

B: From: not closer than 1000 feet to an existing outdoor advertising sign, To: No Requirement

C: From: No more than 4 outdoor advertising signs per statute mile, To: No Requirement

Explanation of question #4 (if applicable)

Large Commercial lots with minimum  
frontage along Rogers Avenue.

The sign will be considered off site because it is  
advertising business not on the same lot.

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

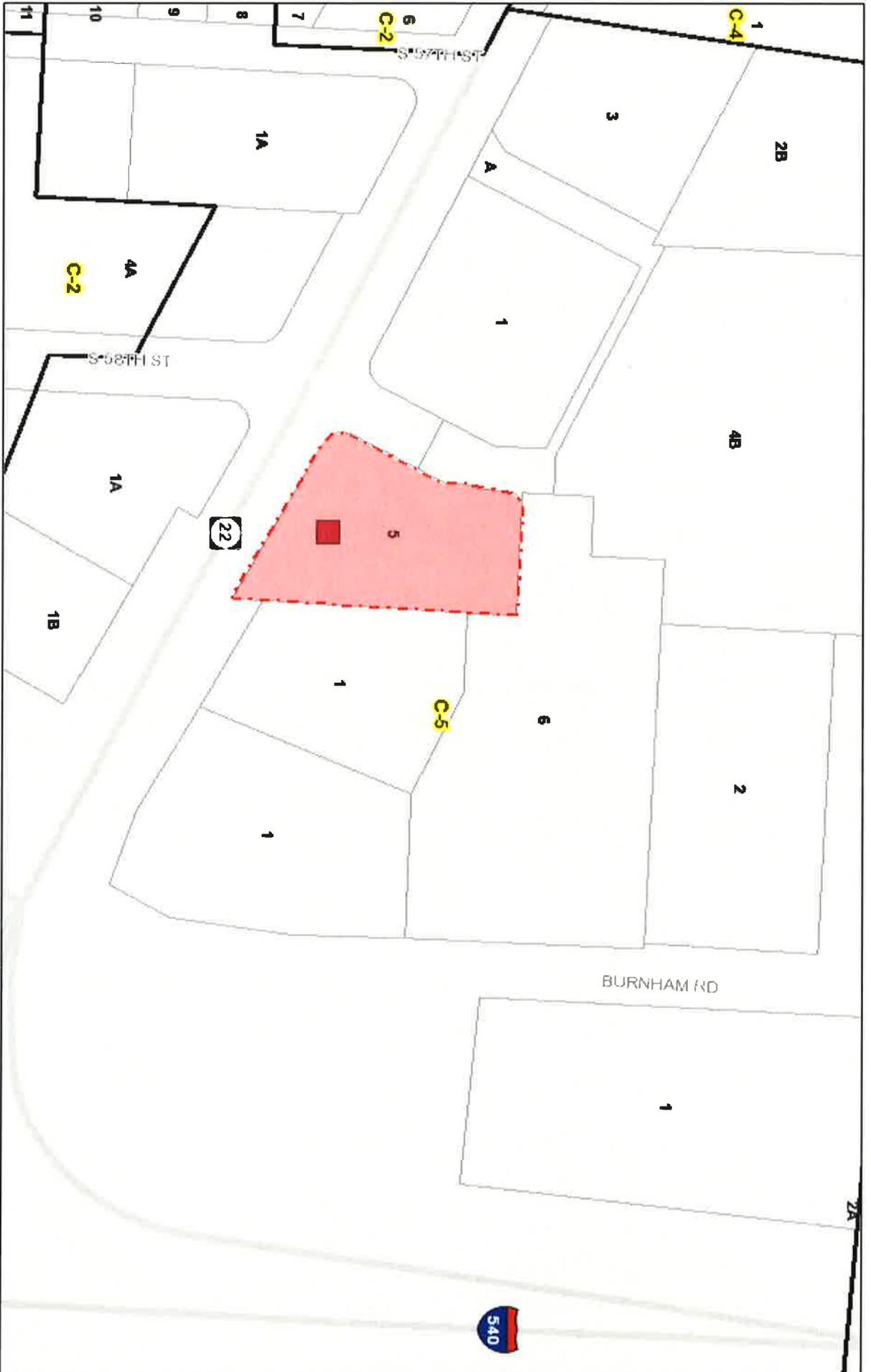
New, large retail store needs  
sign along Rogers

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 sign will need to be leased to  
advertising businesses not in this development.

From (1000 feet to existing signs and 4 signs per mile) and from (sign bank requirements)  
5801 Rogers Avenue

701



August 4, 2015

- Fort Smith City Limits
- Zoning
- Subdivisions



14' - 0"

Burlington

STAPLES

4' - 0"

6"

4' - 0"

20' - 0"



**MAC K THOMPSON & SON**  
INCORPORATED  
6208 SOUTH 29TH STREET  
FORT SMITH, AR 72908  
PHONE 479-648-1061  
FAX 479-648-1068  
E-MAIL: mack@mstsigns.com

**Project/Location:**  
BURLINGTON/STAPLES  
5801 ROGERS AVE.  
FORT SMITH, AR

**Description:**  
(2) 4' X 14' DOUBLE-FACED  
INTERNALLY-ILLUMINATED  
SIGNS INSTALLED ON (2)  
STEEL SQ. TUBES IN  
CONCRETE FOUNDATIONS.  
  
ALUMINUM CABINETS WITH  
FLAT LEXAN FACES WITH  
TRANSLUCENT VINYL COPY.

**Scale:**  
1/4" = 1' - 0"

**Date:**  
8/29/2014  
6/16/2015 REVISED

**Customer Approval:**

**Date:**

**Landlord Approval:**

**Date:**

This original drawing is provided as part of a planned project and is not to be exhibited, copied or reproduced without the written permission of Mack, Thompson & Son, Inc. or its authorized agents.

10M





100



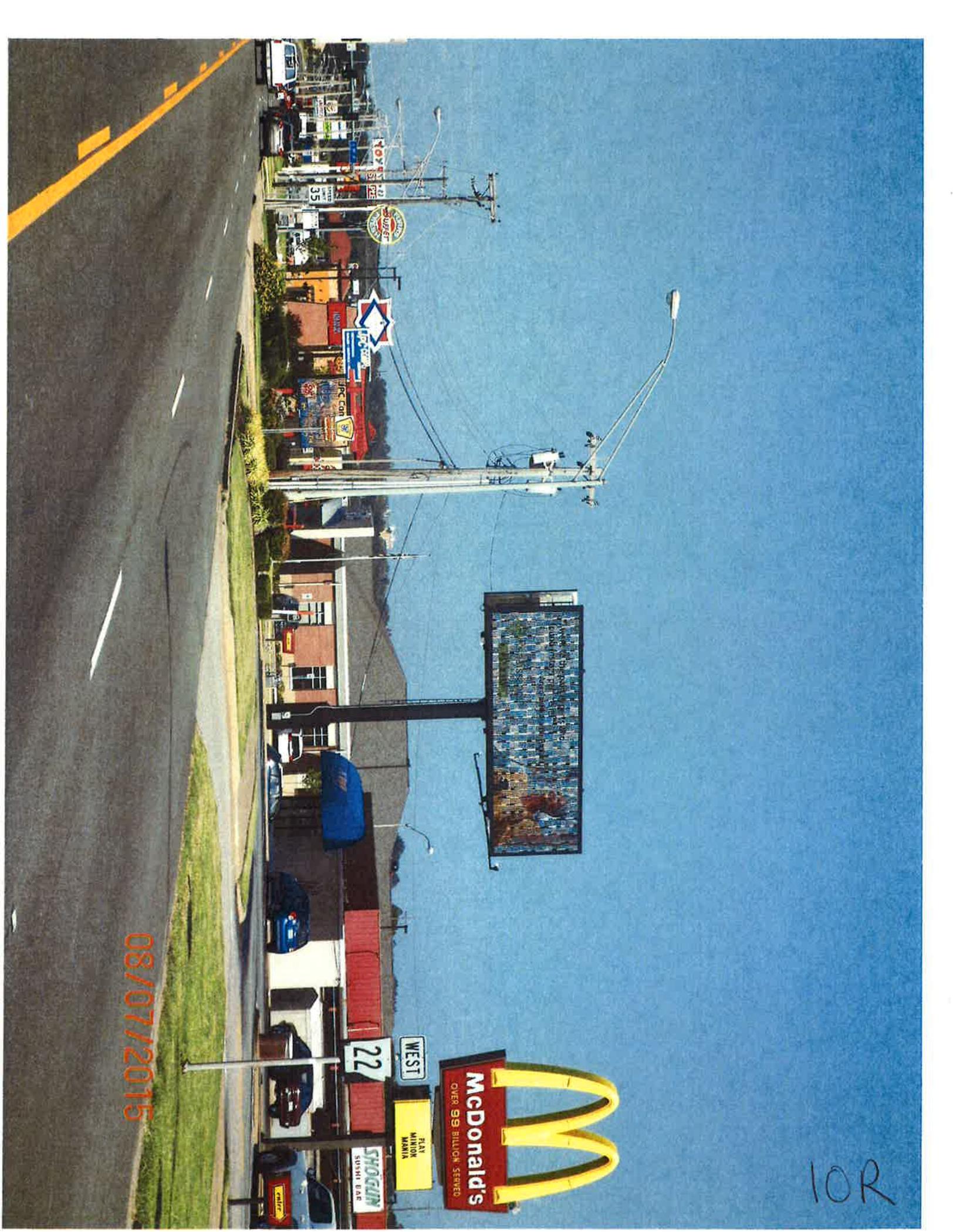
TOP

Signs in the area of 5701 – 5801 Rogers Avenue



08/07/2015

10Q



08/07/2015

10R

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 22, 2015

**Re:** Variance #22-8-15 - A request by Steven Spradlin, agent for Davidson Holding Company, LLC, for Board of Zoning Adjustment consideration of a zoning variance request from 25 feet to 5 feet front yard setback located at 2015 Savannah Street

## REQUESTED VARIANCE

Approval of the variance will allow for the development of a new proposed canopy at 2015 Savannah Street. The existing canopy has developed leaks inside the roofing system so the business owner has decided to have a new canopy constructed that is within the same setbacks of the existing canopy.

## LOT LOCATION AND SIZE

The subject property is on the north side of Savannah Street between Jenny Lind Road and South 22<sup>nd</sup> Street. The tract contains an area of 0.65 acres with approximately 160 feet of street frontage along Savannah Street.

## 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.

11A

**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 Residential Single Family Medium/High Density (RS-3) and is undeveloped.

The area to the east is zoned Residential Single Family – Duplex Medium/High Density (RSD-3) and is undeveloped.

The areas to the south are zoned Residential Multifamily Medium Density (RM-3) and are developed as a single family residence and multi-family development.

The area to the west is zoned Commercial Heavy (C-5) and is developed as a self-service carwash.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Savannah Street as a local road.

**MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as General Commercial and Residential Detached. The General Commercial classification is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community. The Residential Detached classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values.

11B

**APPLICANT HARDSHIP**

The applicant states that there is an existing covered drop-off area that must be remodeled to stop roof leaks and the existing covered canopy currently encroaches the setbacks.

**STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Monday August 3<sup>rd</sup>, on site at 9:00 a.m. No neighboring property owners attended the meeting. A copy of the attendance record is enclosed.

Based on the submitted site plan, staff has no objections to the requested variance. The new canopy cover will encompass the same foot print as the existing cover that's damaged.

If the BZA is included to approve the 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.

11C

Var. #22-8-15

**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)

LOT 21C, MAZZARD TRACTS ADDITION

Address of property 2015 SAVANNAH, 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>	

- | <u>FROM</u> |   | <u>TO</u> |  |
|-------------|---|-----------|--|
| <u>25'</u>  | - | <u>5'</u> | Front Yard Setback or Minimum Distance from Right-of-Way |
| _____       | - | _____     | Exterior Side Yard Setback                               |
| _____       | - | _____     | Interior Side Yard Setback                               |
| _____       | - | _____     | Rear Yard Setback  |
| _____       | - | _____     | Maximum Height of Structure                              |
| _____       | - | _____     | Minimum Distance Between Structures on the Same Lot      |
| _____       | - | _____     | Minimum Lot Area (Square Feet)                           |
| _____       | - | _____     | Minimum Lot Frontage                                     |
| _____       | - | _____     | Maximum Size of a Sign                                   |
| _____       | - | _____     | Other: _____   |

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

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

Signed:

STEVEN A SPRADLIN  
Owner or Agent Name (please print)

\_\_\_\_\_  
Owner

479-806-7434  
Owner or Agent Phone Number

or  
  
Agent

900 ATLANTA ST FT SMITH, AR 72901  
Owner or Agent Mailing Address

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

11E

**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.

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

<u>Yes</u>	<u>No</u>	
<u>      </u>	<u>  X  </u>	Is this variance needed because of previous actions taken by yourself?
<u>  X  </u>	<u>      </u>	Is this variance needed because of previous actions taken by a prior owner?
<u>      </u>	<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>	<u>      </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>      </u>	<u>  X  </u>	Is the lot of an odd or unusual shape?
<u>      </u>	<u>  X  </u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
<u>      </u>	<u>  X  </u>	Does the lot contain required easements other than those that might be located on its perimeter?
<u>      </u>	<u>  X  </u>	Is any part of the lot in a flood plain or flood way?
<u>      </u>	<u>  X  </u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
<u>  X  </u>	<u>      </u>	Is the lot developed with structures in violation of current zoning requirements?
<u>      </u>	<u>  X  </u>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

11F

Explanation of question #4 (if applicable)

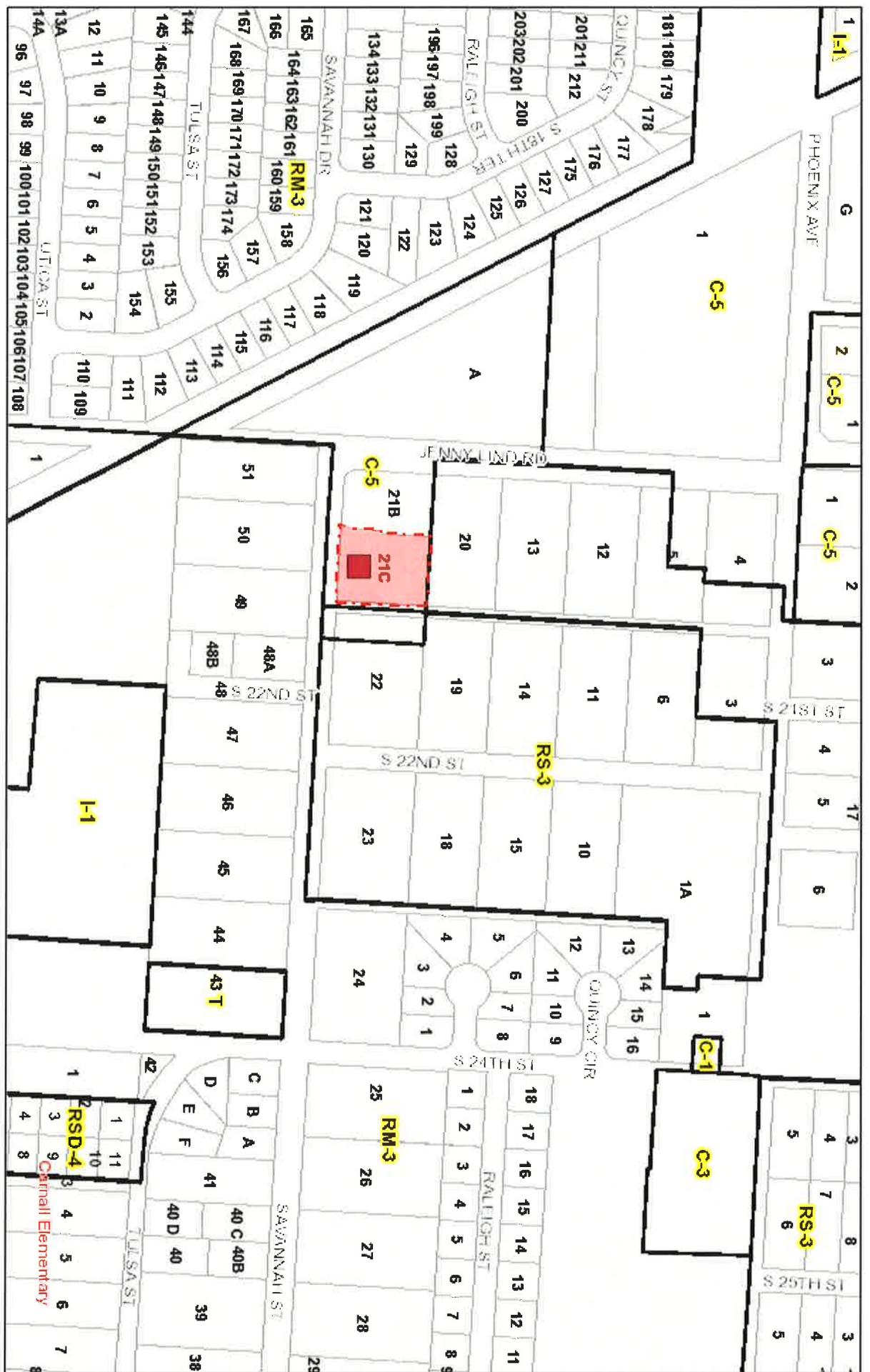
THERE IS AN EXISTING COVERED DROP OFF AREA THAT MUST BE REMODELED TO STOP ROOF LEAKS. THE PROPERTY IS NOT SUITABLE WITHOUT THE COVERED DROP OFF AREA.

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

SEE ABOVE

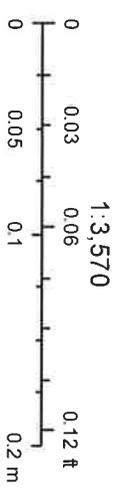
3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

# Variance #22-8-15 - From 25 feet to 5 feet front yard setback 2015 Savannah Street

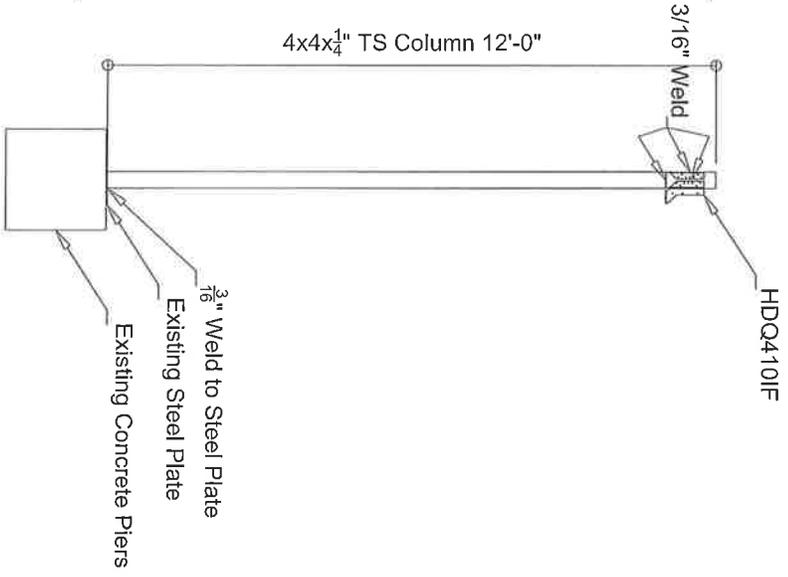
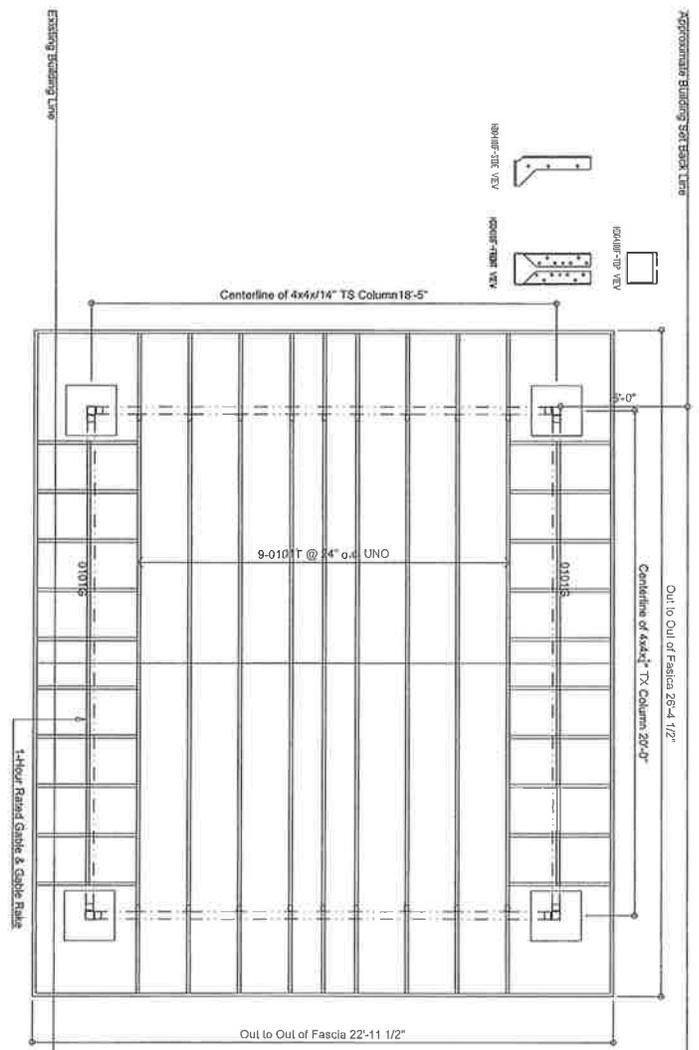
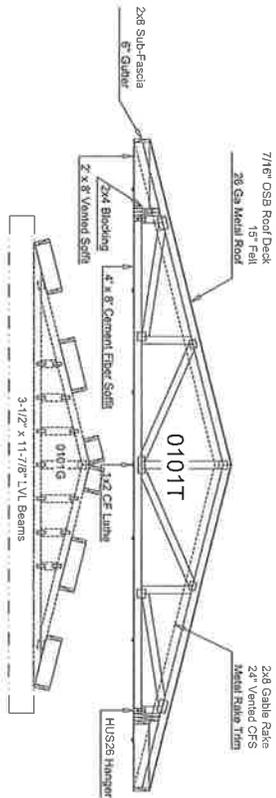


July 20, 2015

- Fort Smith City Limits
- Zoning
- Subdivisions







Job Number	1507025		
Project	Quality Childcare Canopy Rebuild		
Contractor	ArkBest Really		
Drawn By	SAS	Date	07-15-15
Sheet Number	Canopy	Scale	NTS



**Capital Structures SFC, Inc.**  
Structural Building Components and Construction



115

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location 2015 S SAVANNAH  
Meeting Time & Date 8/3/15 9:00 AM  
Meeting Purpose 25'-5" VARIANCE

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<u>Bill Strohm</u>	<u>COFS</u>	<u>784-2211</u>
2.	<u>STEVEN SPRADUN</u>	<u>CSI</u>	<u>783-8666</u>
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			

11K

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 23, 2015

**Re:** Variance #23-8-15 - A request by Paul Loyd, agent for Christopher Groom, for Board of Zoning Adjustment consideration of a zoning variance request from 7.5 feet to 0 feet interior side yard setback and from 10 feet to 0 feet rear yard setback located at 2714 Reeder Street

## REQUESTED VARIANCE

Approval of the variance will allow for the reconstruction of a partially existing garage with zero setbacks located at the rear of the property that is accessed by the alley. This structure is an existing shared garage that was damaged by a storm in May 2015. The adjoining neighbor at 2716 Reeder Street has submitted a variance application as well.

## LOT LOCATION AND SIZE

The subject property is on the south side of Reeder Street between South Greenwood Avenue and May Avenue. The tract contains an area of 0.16 acres with 50 feet of street frontage along Reeder Street.

## EXISTING ZONING

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

Characteristics of this zone are as follows:

### Purpose:

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

### Permitted Uses:

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

12A

**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            |                                |

**SURROUNDING ZONING AND LAND USE**

All of the surrounding areas are zoned Residential Single Family – Duplex Medium/High Density (RSD-3) and are developed as single family residences.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Reeder Street as a local road.

**MASTER LAND USE PLAN COMPLIANCE**

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

**APPLICANT HARDSHIP**

The application states that the shared garage and slab has been in existence for several years. It states that the spring storms this year damaged the existing garage and the owners wish to rebuild the shared garage to maintain property value. The size of the lot wouldn't allow many options to install a garage at another location on the property.

**STAFF COMMENTS**

This construction is typical of many properties in this neighborhood and adds to its historic character. Staff has no objections to the variance with the following conditions:

1. A building permit is required.
2. The shared garage shall be constructed based on the submitted site plan.

12B

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

**APPLICATION FOR VARIANCE**

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

*Reeder Place, Lot 4*

Address of property *2714 Reeder Place*, Existing or Proposed

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

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

**FROM**

**TO**

- Front Yard Setback or Minimum Distance from Right-of-Way
- Exterior Side Yard Setback
- 7 1/2* - *8* Interior Side Yard Setback
- 10* - *8* Rear Yard Setback
- Maximum Height of Structure
- Minimum Distance Between Structures on the Same Lot
- Minimum Lot Area (Square Feet)
- Minimum Lot Frontage
- Maximum Size of a Sign
- Other:

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

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

L & L Development Inc  
Paul R. Coyd Pres.  
Owner or Agent Name (please print)

1479. 806. 3996  
Owner or Agent Phone Number  
214 Lavender Ln  
Alma AR 72921  
Owner or Agent Mailing Address

Signed:

\_\_\_\_\_  
Owner  
Paul R Coyd  
or  
Agent  
L & L Development Inc

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>	
_____	_____/_____ ✓	Is this variance needed because of previous actions taken by yourself?
_____/_____ ✓	_____	Is this variance needed because of previous actions taken by a prior owner?
_____/_____ ✓	_____	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?
_____/_____ ✓	_____	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.
_____	_____/_____ ✓	Is the lot of an odd or unusual shape?
_____	_____/_____ ✓	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	_____/_____ ✓	Does the lot contain required easements other than those that might be located on its perimeter?
_____	_____/_____ ✓	Is any part of the lot in a flood plain or flood way?
_____	_____/_____ ✓	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____/_____ ✓	_____	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?

Explanation of question #4 (if applicable)

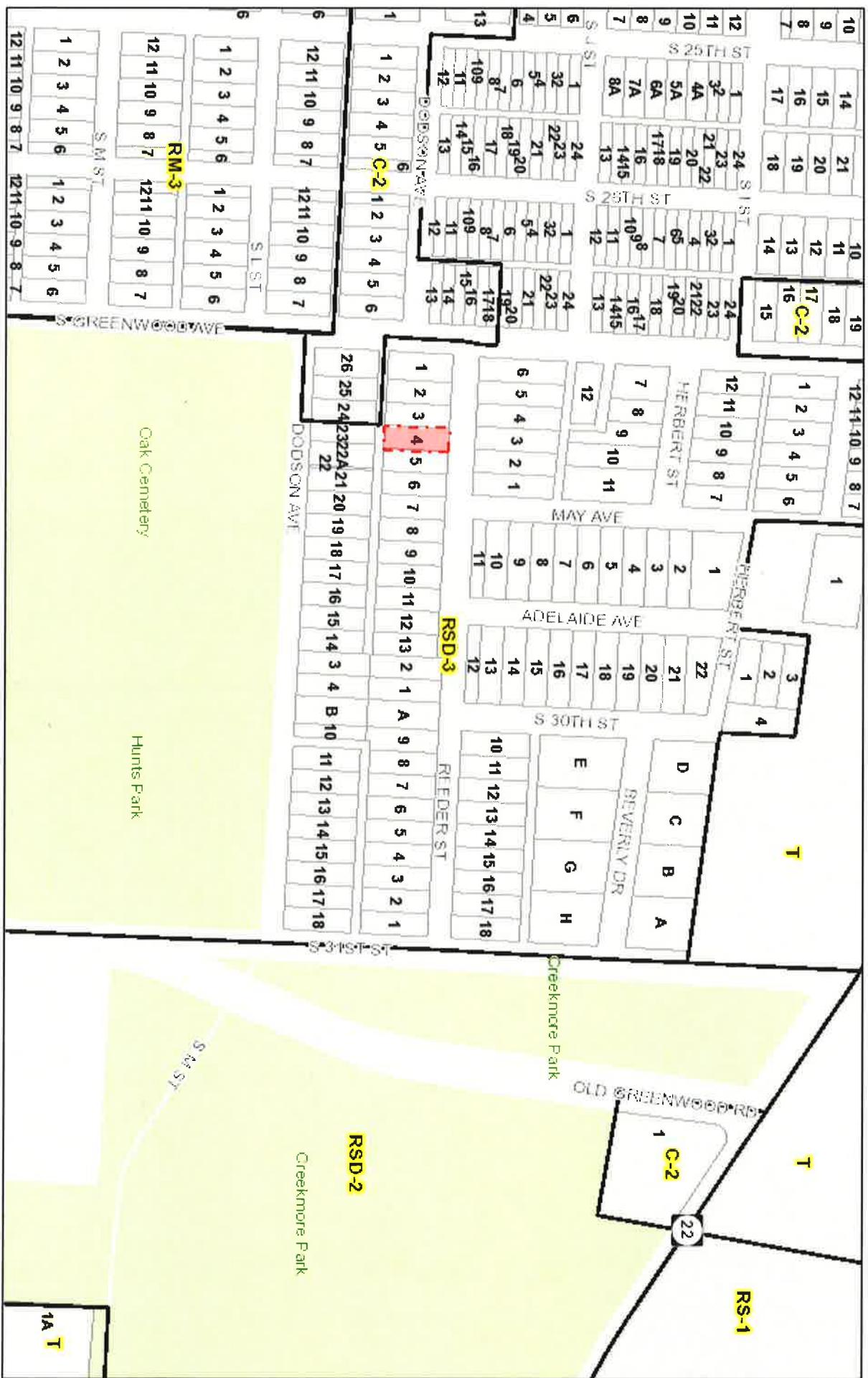
- ① 25-50+ yrs of shared driveway
  - ② Mar, 2015 Storm Damage / fallen tree damaged existing garage & had to be partially demolished.
  - ③ Owners wish to rebuild shared garage on existing slabs
  - ④ Existing concrete pad from former building
2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

Owners want to rebuild to avoid decrease in property value.

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:

One of few - if any homes that "share" garage & driveway.

# Variance #23-8-15: From 7.5' to 0' interior side yard setback and from 10' to 0' rear yard setback 2714 Reeder Place



August 4, 2015

- Fort Smith City Limits
- Zoning
- Subdivisions



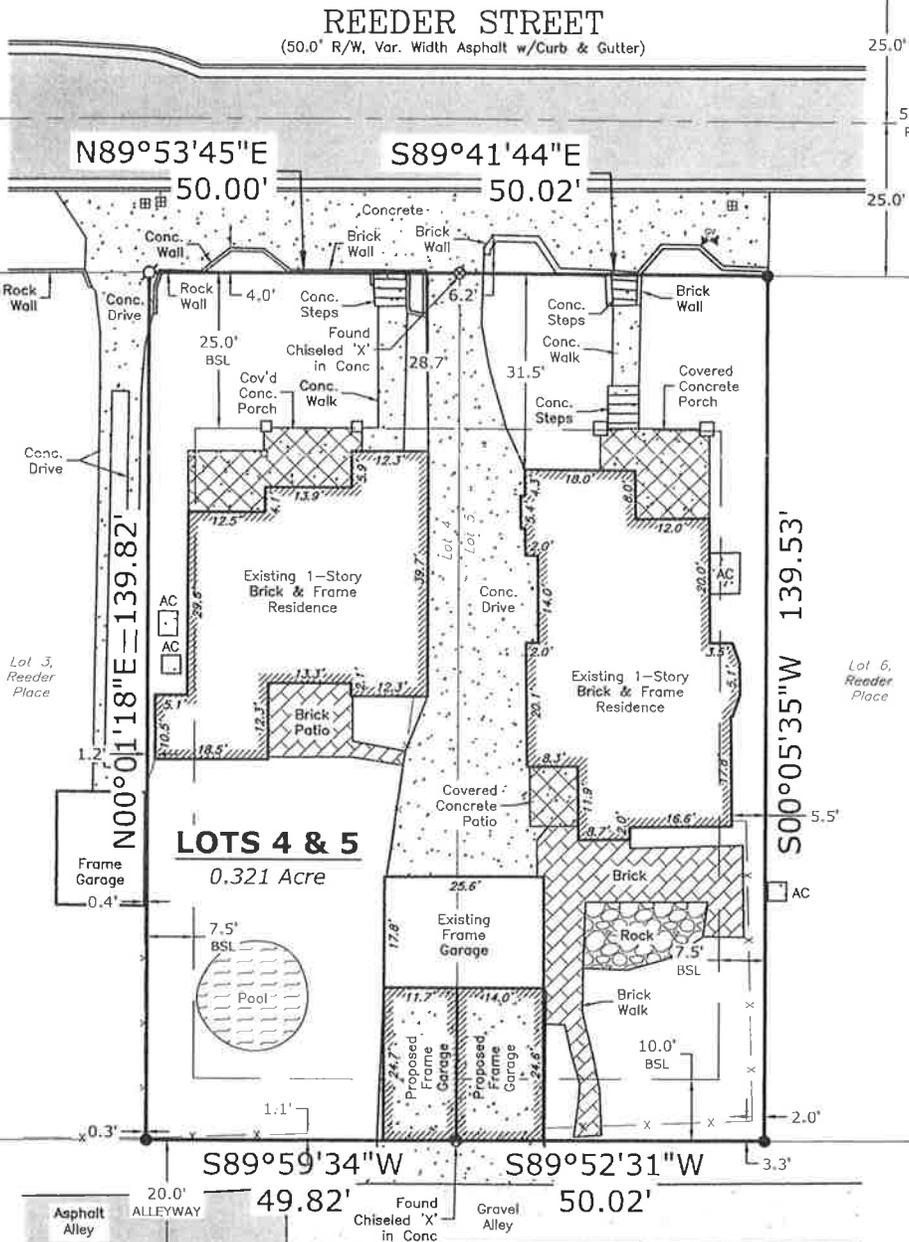
**SURVEY DESCRIPTION:**  
 LOTS 4 & 5, REEDER PLACE,  
 AN ADDITION TO THE CITY OF FORT SMITH,  
 SEBASTIAN COUNTY, ARKANSAS.

**ZONING:**  
 R35F

**SETBACKS:**  
 FRONT - 25.0'  
 SIDE - 7.5'  
 REAR 10.0'



**ANDERSON SURVEYING INC.**  
 Arkansas -- Oklahoma  
 P.O. Box 129  
 Van Buren, AR 72957  
 (479) - 474-4247  
 Fax (479) - 410-5333  
 e-mail: andersonsurveying@cox.net



**FORT SMITH, SEBASTIAN COUNTY, ARKANSAS**

**SURVEY OF**  
**LOTS 4 & 5,**  
**REEDER PLACE**

FOR USE BY:  
 Buddy Lloyd  
 PROPERTY ADDRESS:  
 2714 & 2716 Reeder Street  
 Fort Smith, AR

DATE: 6-30-2015  
 JOB NO: 15-06-35  
 SCALE: 1"=20'

**SURVEYORS CERTIFICATION**

I HEREBY CERTIFY THAT THE HEREON PLATTED AND DESCRIBED SURVEY WAS COMPLETED UNDER MY SUPERVISION ON THE 30th day of June, 2015 TO THE BEST OF MY KNOWLEDGE AND ABILITY. THIS SURVEY IS MADE FOR THE PRIVATE USE OF THE PERSONS NAMED ON THIS PLAN AND ALSO THOSE WHO MORTGAGE OR GUARANTEE THE TITLE THERETO WITHIN ONE YEAR FROM DATE HEREOF, AND AS TO THEM I WARRANT THE ACCURACY OF SAID SURVEY.

**ANTHONY B. ANDERSON** AR PLS. 1272

- LEGEND:**
- SET RAILROAD SPIKE
  - SET 1/2" REBAR
  - EXISTING IRON PIN
  - EXISTING CONC NAIL
  - EXISTING RN/SPIKE
  - SET NAIL
  - WATER METER
  - GAS METER
  - POWER POLE
  - EXISTING FENCE
  - OVERHEAD ELECTRIC
  - GAS VALVE

**REVISIONS**

NO.	DATE	DESCRIPTION

**Scale in Feet**

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 23, 2015

**Re:** Variance #24-8-15 - A request by Paul Loyd, agent for John and Vickie Casey, for Board of Zoning Adjustment consideration of a zoning variance request from 7.5 feet to 0 feet interior side yard setback and from 10 feet to 0 feet rear yard setback located at 2716 Reeder Street

## REQUESTED VARIANCE

Approval of the variance will allow for the reconstruction of a partially existing garage with zero setbacks located at the rear of the property that is accessed by the alley. This structure is an existing shared garage that was damaged by a storm in May 2015. The adjoining neighbor at 2714 Reeder Street has submitted a variance application as well.

## LOT LOCATION AND SIZE

The subject property is on the south side of Reeder Street between South Greenwood Avenue and May Avenue. The tract contains an area of 0.16 acres with 50 feet of street frontage along Reeder Street.

## EXISTING ZONING

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

Characteristics of this zone are as follows:

### Purpose:

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

**Permitted Uses:**

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

Minimum Lot Size – 6,500 square feet

Maximum 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

**SURROUNDING ZONING AND LAND USE**

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

The property to the south is zoned Residential Single Family – Duplex Medium/High Density (RSD-3) and is developed as a duplex.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Reeder Street as a local road.

**MASTER LAND USE PLAN COMPLIANCE**

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

**APPLICANT HARDSHIP**

The application states that the shared garage and slab has been in existence for several years. It states that the spring storms this year damaged the existing garage and the owners wish to rebuild the shared garage to maintain property value. The size of the lot wouldn't allow many options to install a garage at another location on the property.

13B

## **STAFF COMMENTS AND RECOMMENDATIONS**

This construction is typical of many properties in this neighborhood and adds to its historic character. Staff has no objections to the variance with the following conditions:

1. A building permit is required.
2. The shared garage shall be constructed based on the submitted site plan.

If the BZA is inclined to approve the 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.



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

C+L Development Inc  
Paul R. Loyd  
Owner or Agent Name (please print)

479.906.3996  
Owner or Agent Phone Number

214 Lavender Ln  
Alma AR 72921  
Owner or Agent Mailing Address

Signed:

\_\_\_\_\_  
Owner

or

Paul R Loyd Pres  
Agent  
C+L Development Inc

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>	
_____	_____/_____ ✓	Is this variance needed because of previous actions taken by yourself?
_____/_____ ✓	_____	Is this variance needed because of previous actions taken by a prior owner?
_____/_____ ✓	_____	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?
_____/_____ ✓	_____	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.
_____	_____/_____ ✓	Is the lot of an odd or unusual shape?
_____	_____/_____ ✓	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	_____/_____ ✓	Does the lot contain required easements other than those that might be located on its perimeter?
_____	_____/_____ ✓	Is any part of the lot in a flood plain or flood way?
_____	_____/_____ ✓	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____/_____ ✓	_____	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?

Explanation of question #4 (if applicable)

- ① 25-50+ yrs of shared driveway
- ② MAY-2015 Storm Damage/Fallen tree damaged <sup>(existing)</sup> garage and had to be partially demolished.
- ③ Owner's wish to rebuild <sup>shared</sup> garage on existing slabs
- ④ existing concrete pad from former building

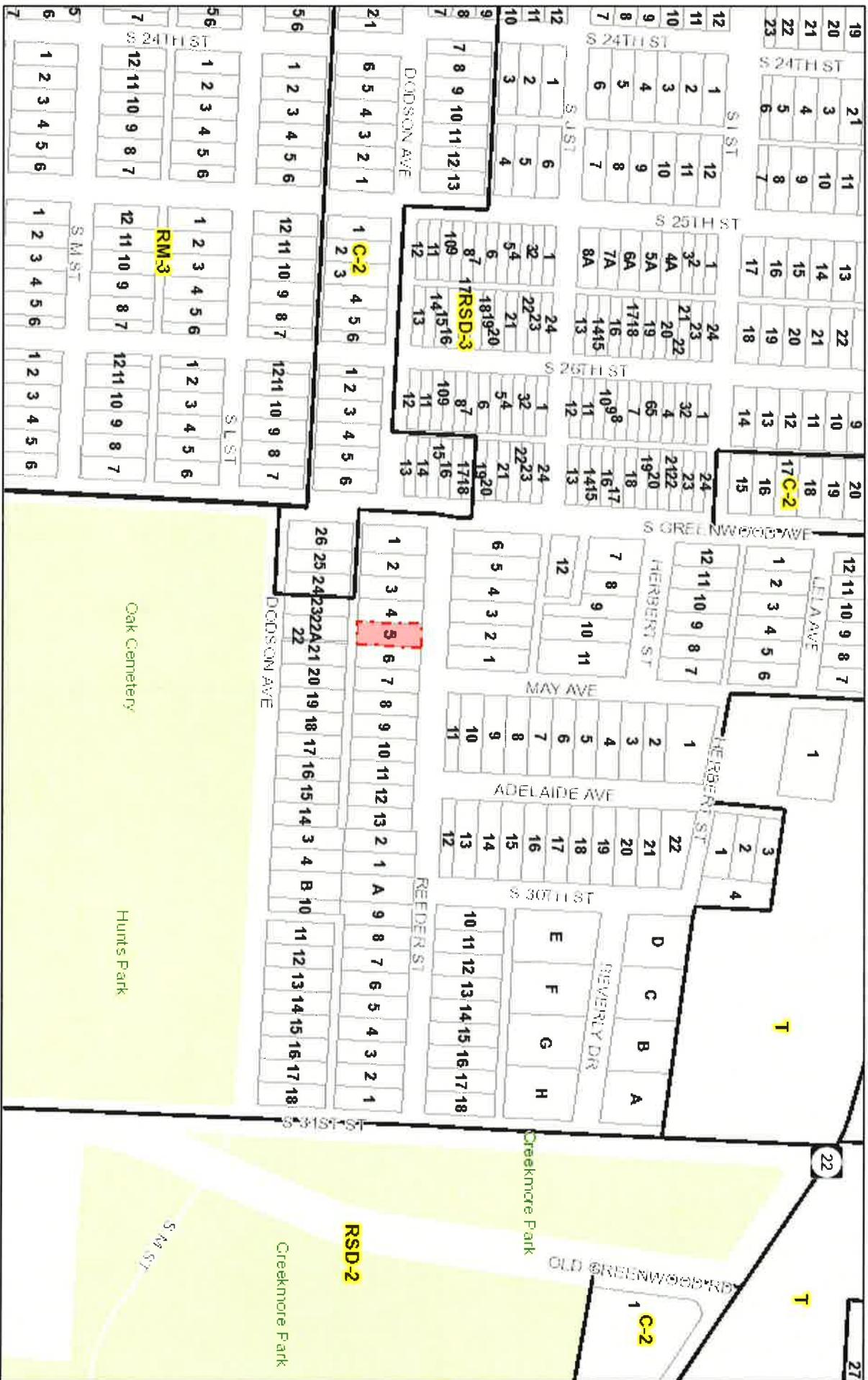
2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

Owners want to rebuild to avoid decrease in property value.

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:

One of few - if not only homes that "share" garage & driveway.

# Variance #24-8-15: From 7.5' to 0' interior side yard setback and from 10' to 0' rear yard setback 2716 Reeder Place



**SURVEY DESCRIPTION:**  
 LOTS 4 & 5, REEDER PLACE,  
 AN ADDITION TO THE CITY OF FORT SMITH,  
 SEBASTIAN COUNTY, ARKANSAS.

**ZONING:**  
 R3SF

**SETBACKS:**  
 FRONT - 25.0'  
 SIDE - 7.5'  
 REAR 10.0'



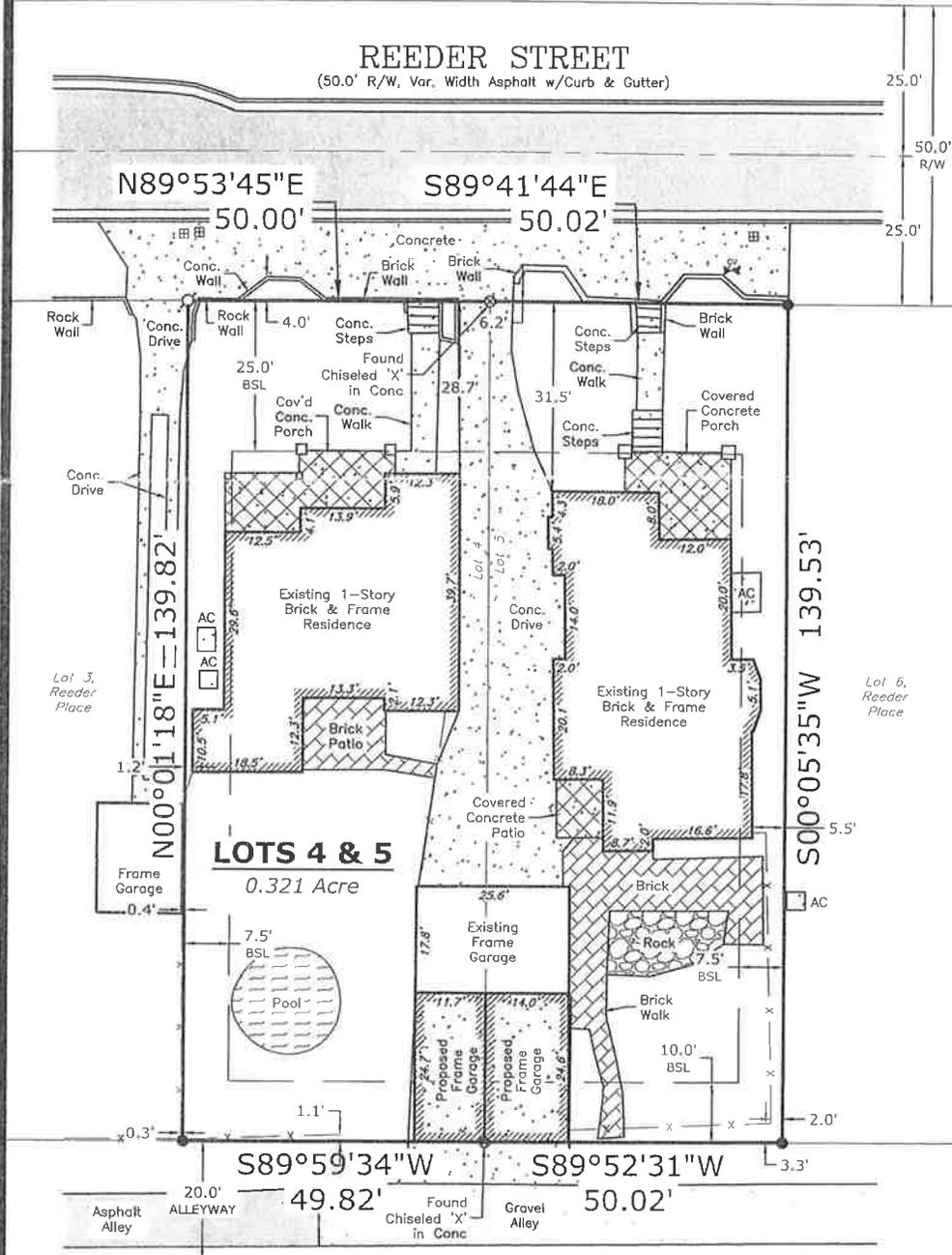
**ANDERSON SURVEYING INC.**  
 Arkansas -- Oklahoma  
 P.O. Box 129  
 Van Buren, AR 72957  
 (479)-474-4247  
 Fax (479)-410-5333  
 e-mail: andersonsurveying@cox.net

FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

**SURVEY OF  
 LOTS 4 & 5,  
 REEDER PLACE**

FOR USE BY:  
 Buddy Lloyd  
 PROPERTY ADDRESS:  
 2714 & 2716 Reeder Street  
 Fort Smith, AR

DATE: 6-30-2015  
 JOB NO: 15-06-36  
 SCALE: 1"=20'



**SURVEYORS CERTIFICATION**

I HEREBY CERTIFY THAT THE HEREON PLATTED AND DESCRIBED SURVEY WAS COMPLETED UNDER MY SUPERVISION ON THE 30th DAY OF June, 2015 TO THE BEST OF MY KNOWLEDGE AND ABILITY. THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PERSONS NAMED ON THIS PLAT AND ALSO THOSE WHO MORTGAGE OR GUARANTEE THE TITLE THERETO, WITHIN ONE YEAR FROM DATE HEREOF, AND AS TO THEM I WARRANT THE ACCURACY OF SAID SURVEY.

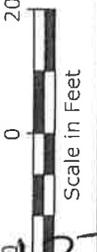
ANTHONY R. ANDERSON AR PLS. 1272

**LEGEND**

- SET RAILROAD SPIKE
- SET 1/2" REBAR
- EXISTING IRON PIN
- EXISTING CONC. NAIL
- EXISTING R/W SPIKE
- SET NAIL
- WATER METER
- GAS METER
- POWER POLE
- EXISTING FENCE
- OVERHEAD ELECTRIC
- GAS VALVE

**REVISIONS**

NO.	DATE	DESCRIPTION
0		
20		



# Variance

## Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 28, 2015

**Re:** Variance #25-8-15 - A request by Stephen Giles, agent, for Board of Zoning Adjustment consideration of a zoning variance request from a) the sign bank requirement and b) the minimum sign height at 8420 US Highway 71

### REQUESTED VARIANCE

The approval of this application will allow for the construction of a monument sign on the Farmer’s Bank property adjacent to Grinnell Avenue. The sign will be 12’-2” tall but the minimum height required is 13’. This is an off premise sign not located on the same lot/property as the business advertising on the sign.



Sign	Qty	Illumination	Area (S.F.)
Walmart	1	Internal	60.00
Fuel Price Sign	1	Internal	28.33
<b>Total Site Signage</b>			

### LOT LOCATION AND SIZE

The subject property is on the southwest side of the intersection of Grinnell Avenue and US Highway 71. The tract contains an area of 2.0 acres with approximately 207 feet of street frontage along Grinnell Avenue and approximately 208 feet of street frontage along US Highway 71.

### EXISTING ZONING

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

14A

**Purpose:**

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

**Permitted Uses:**

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

- Minimum Lot Size – 14,000 square feet
- Maximum Height - 45 feet (1+1)
- Maximum Lot Coverage - 75%
- Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
- Existing District (By Extension) – 14,000 square feet
- Minimum Lot Width – 100 feet
- Front Yard Setback - 25 feet
- Side Yard on Street Side of Corner Lot - 15 feet
- Side Yard Setback – 20 feet
- Rear Yard Setback - 20 feet
- Side/Rear (adjoining SF Residential District/Development) – 30 feet
- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Minor Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Commercial Heavy (C-5) and is developed as convenience store.

The areas to the east are zoned Industrial Light (I-1) and is developed as US Highway 71 and Planters Peanuts.

The areas to the south are zoned Commercial Heavy (C-5) and is being developed as a Neighborhood Market.

The areas to the west are zoned Commercial Heavy (C-5) and is developed as a hotel.

## **MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Grinnell Avenue as Residential Collector and US Highway 71 as Boulevard.

## **MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as General Commercial. This classification is to provide opportunities for business transactions and activities, and meet the consumer needs of the community.

## **APPLICANT HARDSHIP**

See enclosed letter from Stephen R. Giles.

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Thursday, August 6, 2015 at 8420 US Highway 71 (Farmer's Bank). There was one representative of a neighboring property owner in attendance along with the architect and bank representatives. There were no objections to the proposed project. A copy of the attendance record and meeting summary are enclosed.

Enclosed is a statement signed by Ed Wilkinson, President of Farmers Bank, acknowledging approval of the proposed monument sign.

Wal-Mart Neighborhood Market has an access drive easement to Grinnell Avenue from their property that crosses the Farmers Bank property. The proposed sign will be placed on the easement but it is on the Farmers Bank property and not on the Wal-Mart property. Since it is an off premise sign, it must comply with the outdoor advertising sign requirements.

The Board of Zoning Adjustment has the options to:

*Approve as submitted.*

*Deny the request.*

*Conditionally Approve.* A suggested condition is that the sign be counted toward the permitted signage for all existing and future signage along the Farmers Bank frontage of Grinnell Avenue or the BZA could develop different or additional conditions.

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.



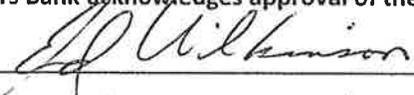
City of Fort Smith  
Planning Department  
623 Garrison Avenue  
Fort Smith, AR 72901

Subject: Monument Sign Letter of Agreement with Farmers Bank  
Variance #25-8-18  
8420 Highway 71 South

Planning Department,

BRR Architecture has met with Norman Wilkinson, General Council for Farmers Bank to discuss the proposed monument sign to be located at the Northwest corner of the Farmers Bank property at Highway 71 South and Grinnell Avenue. BRR Architecture presented the attached monument sign rendering dated 8/5/2015. The monument sign proposed is 8'-0" high and 11'-4" long. The monument includes a green Walmart Neighborhood Market ID sign above price signs for unleaded and diesel fuel. The sign will be located in the sign easement described in an Agreement between Wal-Mart Real Estate Business Trust and Farmers Bank dated February 27, 2015.

Farmers Bank acknowledges approval of the attached Monument Sign rendering dated 8/5/2015.

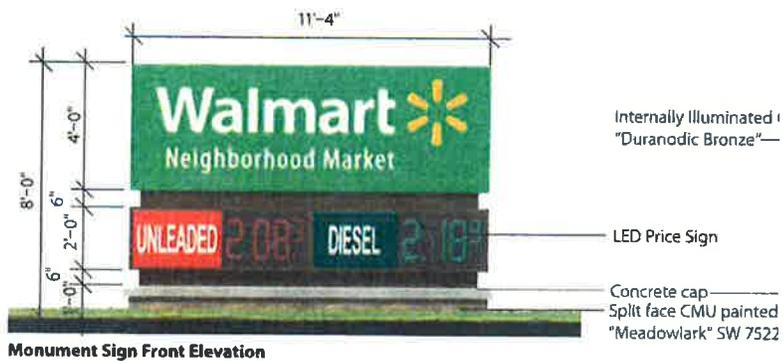
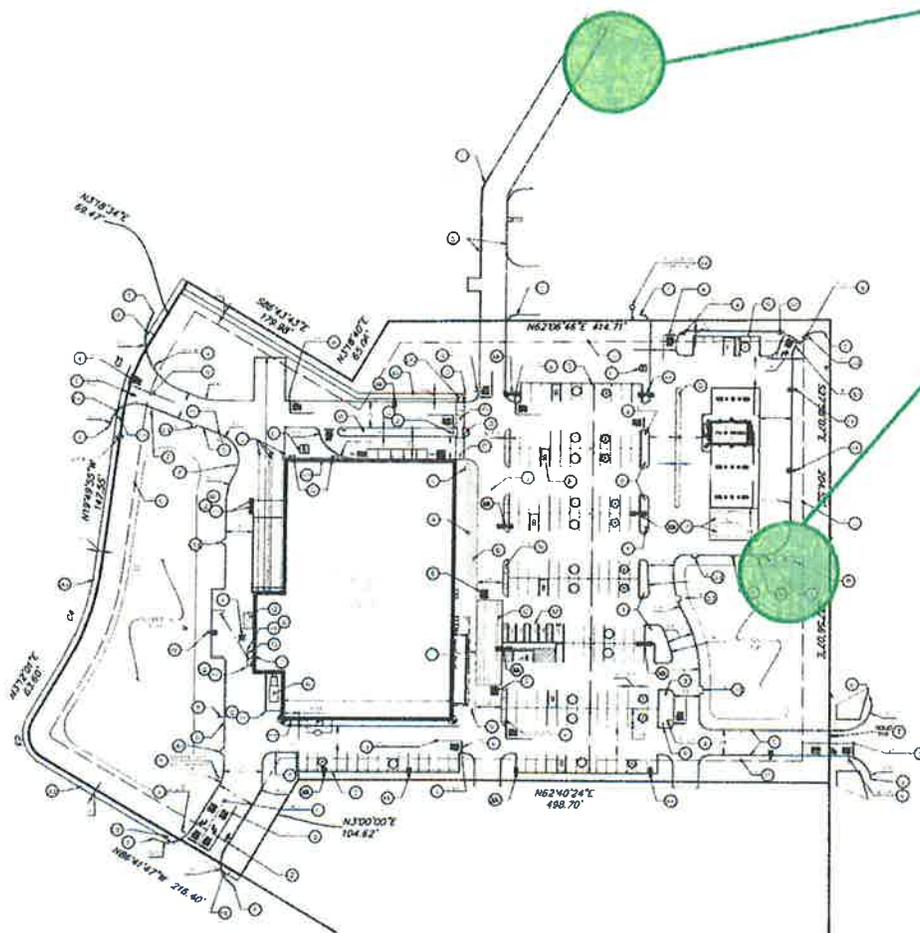
By:   
Name: ED WILKINSON  
Title: PRESIDENT  
Date: Aug 16, 2015

cc: Tyler Miller Planner City of Fort Smith

140

Monumen

Pylon Sign



Monument Sign Front Elevation

Sign	Qty.	Illumination	Area (S.F.)
<b>Walmart</b> Neighborhood Market	1	Internal	60.00
<b>Fuel Price Sign</b>	1	Internal	28.33
<b>Total Site Signage</b>			



August 05, 2015

Fort Smith (South), AR #4579-00 New Store

CONTRACT REPRESENTATION ONLY - NOT FOR CONSTRUCTION

14E

Var # 25-8-15

**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)

Commercial Park South, Phase I, Lot 2B

72908

Address of property 8420 U.S. Highway 71, Fort Smith, AR 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>	

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

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

14F

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>✓</u>	Is this variance needed because of previous actions taken by yourself?
_____	<u>✓</u>	Is this variance needed because of previous actions taken by a prior owner?
_____	<u>✓</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>✓</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>✓</u>	Is the lot of an odd or unusual shape?
_____	<u>✓</u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	<u>✓</u>	Does the lot contain required easements other than those that might be located on its perimeter?
_____	<u>✓</u>	Is any part of the lot in a flood plain or flood way?
_____	<u>✓</u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	<u>✓</u>	Is the lot developed with structures in violation of current zoning requirements?
<u>✓</u>	_____	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

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

Signed

STEPHEN R. GILES  
Owner or Agent Name (please print)

\_\_\_\_\_

Owner

or

(501) 687-0836  
Owner or Agent Phone Number

\_\_\_\_\_

Agent

\_\_\_\_\_  
Owner or Agent Mailing Address

**Stephen R. Giles, P.A.**  
425 West Capitol Avenue, Suite 3200  
Little Rock, AR 72201-3469

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

The Law Firm of  
**Stephen R. Giles**  
A Professional Association

Telephone  
(501) 687-0836

425 West Capitol Avenue  
Suite 3200  
Little Rock, Arkansas 72201-3469

Facsimile  
(501) 374-5092

E-mail: [sgiles@gileslaw.net](mailto:sgiles@gileslaw.net)

July 17, 2015

Mr. Wally Bailey  
Director of Development Services  
City of Fort Smith  
623 Garrison Ave., Room 331  
Fort Smith, AR 72901

Re: Request for Variance from Fort Smith Sign Code

Dear Mr. Bailey:

I am one of the authorized representatives of Farmer's Bank having its branch at 8420 U.S. Highway 71 in Fort Smith. The Bank has authorized me and BRR Architecture, Inc. to pursue a variance on its property at this location. The variance is requested to allow a monument sign for the adjacent Walmart Neighborhood Market which is currently under construction. The variances are necessary to alert potential Walmart customers traveling on the adjacent streets of the entrance to the store. A description of the requested variances is as follows:

1. A variance from the sign code provisions of the Fort Smith Unified Development Ordinance ("UDO") Section 27-704-4.2(k)(2) concerning Sign Bank requirements because the applicant has no credits in the City Sign Bank;
2. A variance from the requirement of a sign to have a minimum of 13 feet in height to its lowest point, in order to allow zero clearance in height to the sign's lowest point because the proposed sign is a monument sign.

Applicant states that a hardship exists that is not caused by the applicant. The sign is necessary for a major retailer on the adjacent property to clearly mark its entrances for customers. The retailer, Walmart, does not own the property adjoining Grinnell Avenue at U.S. Highway 71 so it is necessary to locate its entrance sign off-site on the Farmer's Bank property which has consented to the placement of the sign on its property.

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Mr. Wally Bailey  
Director of Development Services  
City of Fort Smith  
July 17, 2015  
Page 2

I attach a copy of the authorization of the owner, Farmer's Bank, to allow me and representatives of BRR Architecture, designers of the monument sign, to pursue this variance on behalf of the applicants. All of the other documents and information required for these variances is being presented to the Planning Department. Please ask the Planning Commission to place this Application for Variances on its next available agenda and contact me if you have any questions or need any more information. Thank you for your cooperation and assistance in the filing of this application.

Sincerely,



Stephen R. Giles

Enclosures

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ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location 8420 V.S. Hwy 71

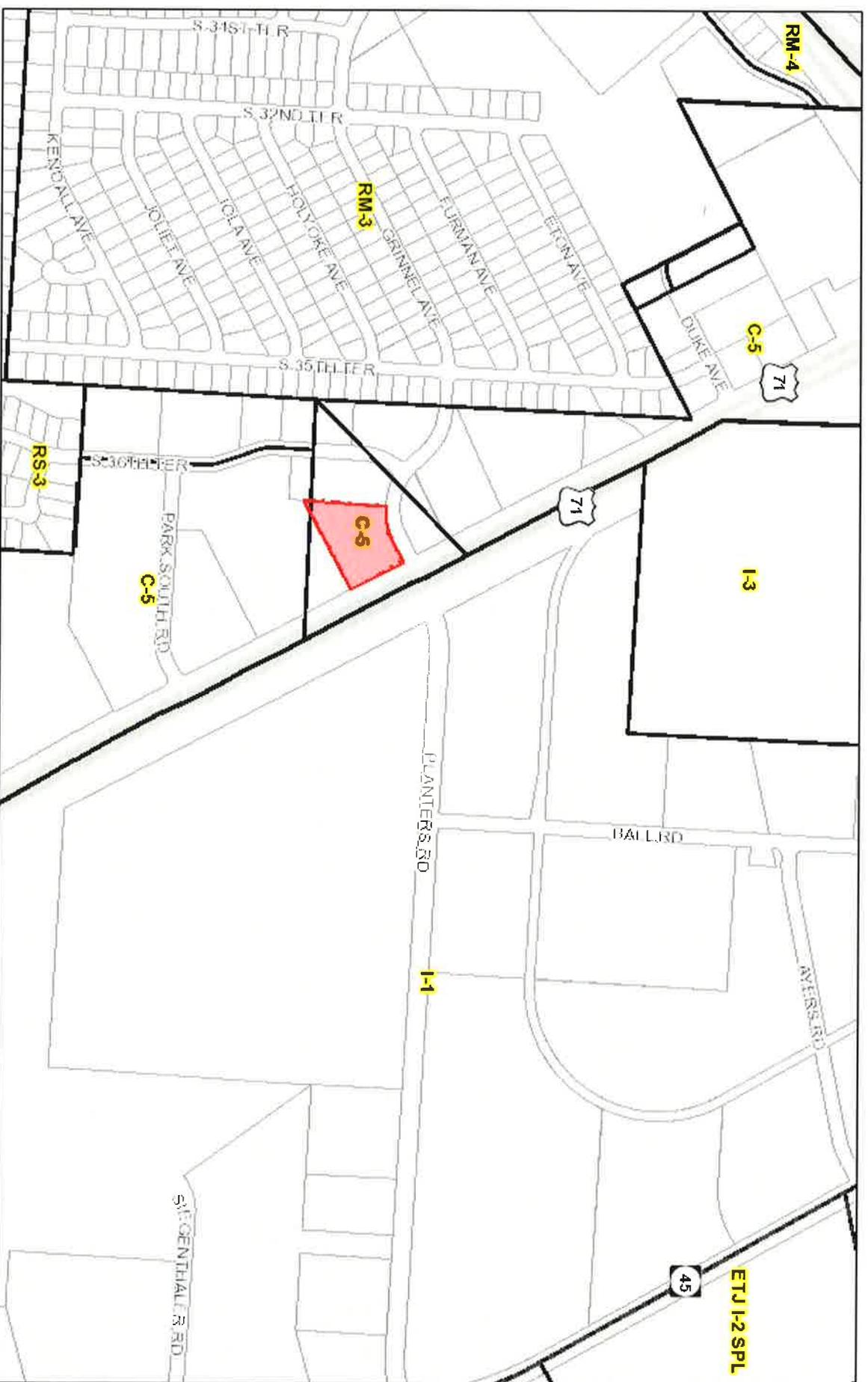
Meeting Time & Date 8-6-15 11:00 AM.

Meeting Purpose SIGN VARIANCE

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	Tom Monaco	CITY	784-2218
2.	Yvonne Wilkinson	City Farmers Bank	(479) 883-1935
3.	Mickie Sprain	FARMERS BANK	479-286-2980
4.	Bob Cooper	Rt 6 + C / 7.5M	479-478-6161
5.	Paul Finn	200 SE 5th Street Bentonville AR	479-226-2948
6.	Pat Sears	3600 S. 36th Terrace FT SMITH AR 72908	479-648-1800
7.			
8.			
9.			
10.			
11.			

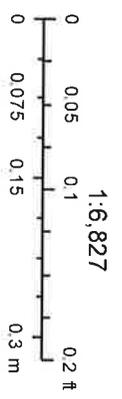
# Variance #25-8-15 - From Section 27-704-4(K)(2) and 27-704-4(i) sign requirements 8420 Hwy 71 South

21



July 21, 2015

- Fort Smith City Limits
- Zoning
- Subdivisions



ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location 8470 US HWY 71

Meeting Time & Date 3-6-15 11:00 AM

Meeting Purpose SIGN VARIANCE

NAME

ADDRESS

PHONE #

1. Tom Menaco CITY 784-2218
2. Norman Luff Simon C: of Farmers Bank (479) 883-1935
3. WIKES PAUL FARMERS BANK 419-286-2980
4. Bob Cooper Rt 67c / Fsm 479-478-6661
5. Paul Fran 700 SE 5th Street 479-296-2944
6. Pat Deary 3600 S. 36th Terrace 479-648-1800
7. FT SMITH AR 72908



August 6, 2015

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

**SUBJECT:** Minutes from Neighborhood Meeting held on August 6, 2015 at Farmers Bank  
Neighborhood Market Off-site Monument Sign Easement Agreement w/ Farmers Bank  
Variance #25-8-18

BRR (Michele Sprain & Bart Brown), Bank Broker (Bob Cooper), Bank Counsel (Norman Wilkinson), and City Planner (Tom Monaco) met in regard to the Off-site Neighborhood Market sign to be located on Farmers Bank property. BRR presented the attached rendering of the proposed sign to the group for review and discussion. The consensus was that the sign was a fair size and there were no objections to the proposed sign. All walked outside to the general vicinity of where the sign will be located within the sign agreement easement. All were in agreeance that due to the setbacks of the easement, the sign would not interfere or pose a visual impairment of the existing Farmers Bank sign in any way. BRR was requested by Bank Counsel to draft an Agreement Letter for the banks signature of approval. Bank Counsel will present the proposed monument sign rendering and the Agreement Letter to bank leadership for their approval and signature. The signed Agreement Letter must be in the hands of the Fort Smith Planning Department by 9:30am, Friday, August 7, 2015 in order to be placed on the Agenda for the BZA Meeting to be held on Tuesday, August 11, 2015.

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 23, 2015

**Re:** Variance #26-8-15 - A request by Cary Smallwood for Board of Zoning Adjustment consideration of a zoning variance request from 25 feet to 15 feet exterior side yard setback and from 7.5 feet to 5 feet interior side yard setback located at 7920 Rome Way

## REQUESTED VARIANCE

The variance if approved will allow for a single family home with a 2 car garage to be built.

## LOT LOCATION AND SIZE

The subject property is located southeast of General Darby's Landing and Rome Way intersection. The tract contains an area of 0.24 acres with approximately 75 feet of street frontage Rome Way and 140 feet of street frontage along General Darby's Landing.

## 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 Density – 6.7 Dwelling Units/Acre  
Minimum Lot Width at Building Line – 60 feet  
Minimum Street Frontage – 20 feet  
Front Yard Setback - 25 feet  
Side Yard on Street Side of Corner Lot - 25 feet  
Side Yard Setback – 7.5 feet  
Rear Yard Setback - 10 feet  
Minimum building separation – 10 feet

Maximum Height - 35 feet (1+1)  
Maximum Lot Coverage - 60%

**SURROUNDING ZONING AND LAND USE**

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

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

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

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies both Rome Way and General Darby’s landing as local streets.

**MASTER LAND USE PLAN COMPLIANCE**

The Chaffee Crossing Master Land Use Plan classifies the site as Single-Family Residential. This classification is intended to promote residential development with internal and external connectivity, reinforce walkability, remove the need for cul-de-sacs, and to create sustainable neighborhoods in various density configurations in locations well connected by multi-modal transportation options with recreational opportunities.

**APPLICANT HARDSHIP**

The applicant states that the lot width is only 75 feet wide and with the increased setbacks of the lot located on the corner of an intersection it only leaves 42 feet of construction area without encroaching the setbacks.

15B

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Wednesday August 5<sup>th</sup>, at 10:00 a.m. on site. There were no objections to the proposed project. A copy of the attendance record and meeting summary are enclosed.

### **Staff Comments:**

When the property was platted the applicant did not take into consideration the corner lot setback requirements. The lot size will not permit a house of the same character/size to be consistent with the neighborhood.

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 or denial) of the application or for the reasons stated in the staff report.

## Miller, Perry

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**From:** Darrin Smith <DSmith@carringtoncreek.com>  
**Sent:** Thursday, August 06, 2015 7:52 AM  
**To:** Miller, Perry  
**Subject:** Neighborhood Meeting  
**Attachments:** Neighborhood Meeting.pdf; ATT00001.txt

Attached is a list of those who attended our neighborhood meeting on Wednesday, August 5, 2015 at 10am.

We have had only one person to contact us at Carrington Creek about the variance request. Her name is Mary Jean Black and she lives in Cisternia, the neighborhood next to Stonebrook. We have talked with her 3 different times by phone, answered all her questions and she was ok with us to proceed with our request to the city.

If you have any questions please don't hesitate to call me at (479)763-8909 or Cary Smallwood at (479) 806-7474.

Darrin Smith

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location LOT 1 Romeway Rd. Fort Smith, AR

Meeting Time & Date 10 AM 8/5/15

Meeting Purpose Variance request for new home

NAME

ADDRESS

PHONE #

1. DARRIN SMITH 1114 Persimmon St. Greenwood, AR (479) 763-8905
2. MATT EDWARDS 54 Haven Dr Fort Smith, AR (479) 716-7017
3. CARY SMALLWOOD Carrington Creek Homes (479) 806-7474
4. Bill Striplin C.O.F.S. 784-2211
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_

Var. # 26-8-15

**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 7920 ROMEWAY STONEBROOK SUBDIVISION Lot #1, Existing or Proposed

Zoning Classification RS3, 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>	

<u>FROM</u>		<u>TO</u>	
_____	-	_____	Front Yard Setback or Minimum Distance from Right-of-Way
<u>25</u>	-	<u>15</u>	Exterior Side Yard Setback <i>Street</i>
<u>7.5</u>	-	<u>5</u>	Interior Side Yard Setback
_____	-	_____	Rear Yard Setback
_____	-	_____	Maximum Height of Structure
_____	-	_____	Minimum Distance Between Structures on the Same Lot
_____	-	_____	Minimum Lot Area (Square Feet)
_____	-	_____	Minimum Lot Frontage
_____	-	_____	Maximum Size of a Sign
_____	-	_____	Other: _____

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

15F

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this 17 day of July, 2015.

Signed:

Cary Swallow  
Owner or Agent Name (please print)

[Signature]  
Owner

479-434-3949  
Owner or Agent Phone Number

\_\_\_\_\_  
Agent

P.O. Box 10176 Es. 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>	
_____	_____✓	Is this variance needed because of previous actions taken by yourself?
_____	_____✓	Is this variance needed because of previous actions taken by a prior owner?
_____	_____✓	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?
_____✓	_____	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.
_____	_____✓	Is the lot of an odd or unusual shape?
_____	_____✓	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	_____✓	Does the lot contain required easements other than those that might be located on its perimeter?
_____	_____✓	Is any part of the lot in a flood plain or flood way?
_____	_____✓	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	_____✓	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?

15H

Explanation of question #4 (if applicable)

The required set backs for corner lot is  
25 FT FOR FRONT OF LOT AND SIDE OF LOT

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

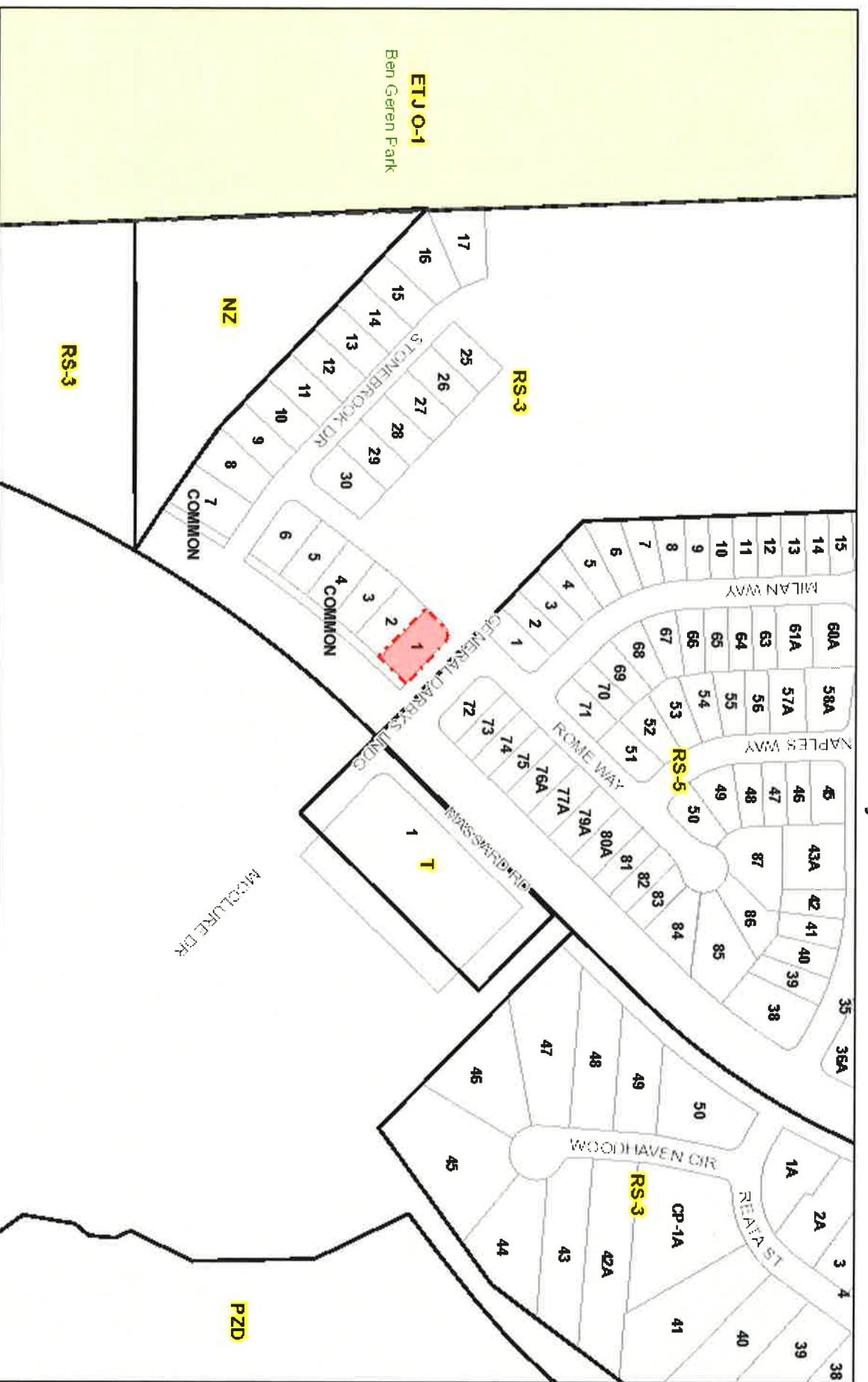
The lot is 75 FEET WIDE. By having the required set backs on both sides in place would make the lot too small for use.  
- CURRENT SETBACKS ONLY LEAVE 42.5 FEET OF BUILDING WIDTH - THIS IS NOT ADEQUATE SPACE FOR THIS HOME

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:

OTHER PROPERTIES - NOT CORNER LOTS - HAVE GREATER BUILDING SPACE

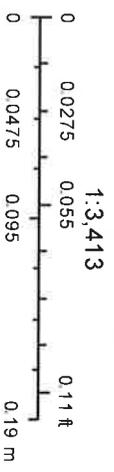
# Variance #26-8-15 - From 25' to 15' exterior side yard setback and from 7.5' to 5' sideyard setback 7920 Rome Way

15



July 21, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions



75.00'

5' GAS LINE EASEMENT

15' UTILITY EASEMENT

47' - 7 1/2"

15' - 0"

55' - 0" OVER BRICK

5' - 0"

54' - 2" OVER FRAME

5"

5"

GREEN SPACE

4' WALK

140.50'

15' UTILITY EASEMENT

5' SIDEYARD SETBACK

141.63'

67' - 0" OVER FRAME

67' - 10" OVER BRICK

GEN. DARBY'S LANDING

18' - 0"

38.75'

3.5' WALK

25' BSL

15' UTILITY EASEMENT

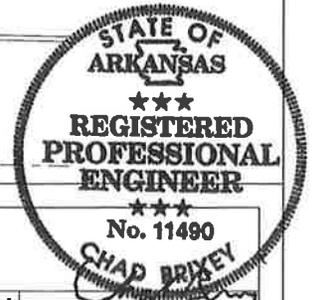
55.43'

26' - 2"

4' WALK

GREEN SPACE

LOT 1 - STONEBROOK  
7920 ROME WAY



**KCP**

Kissinger's Custom Plans



GEOFFREY MACDONALD

Site

Date 7/17/2015 2:03:01 PM

Footage Tabulation

3

OFFICE: 479-431-4183 FAX: 479-431-6210

WWW.KCPH.NET

Scale 1" = 20'-0"

7-2015

15K



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 28, 2015

**Re:** Variance #27-8-15 - A request by Al Prieur, agent for William White, for Board of Zoning Adjustment consideration of a zoning variance request from 153 square feet to 270 square feet maximum size of sign at 3510 South Zero Street

## REQUESTED VARIANCE

With the approval of this application a 270 square foot sign will be constructed on an existing pole. The sign currently on the pole is 178 square feet in size. No variances could be found for the existing sign. The new sign will have one digital face facing North and the South side of the sign will be static. The sign is oriented so that it will be visible from south 36<sup>th</sup> street and I-540.

## LOT LOCATION AND SIZE

The subject property is on the southwest corner of the intersection of South Zero Street and South 36<sup>th</sup> Street. The tract contains an area of 1.18 acres with approximately 153 feet of street frontage along South 36<sup>th</sup> Street and approximately 335 feet of street frontage along South Zero Street.

## 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.

16A

**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 are zoned Commercial Heavy (C-5) and is developed as Spyder Webb John Deere sales and service.

The area to the east and across the Interstate is ETJ Open-1 is developed as Interstate 540 and an automobile sales and Rheem.

The areas to the south are zoned Commercial Heavy (C-5) and is developed as Harry Robinson Body Shop.

The areas to the west are zoned Commercial Heavy (C-5) and is developed as Stribling Equipment.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies South Zero Street as Major Arterial and South 36<sup>th</sup> Street as a Local Road.

**MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as *Mixed Use E*. This classification is to provide for a dense, compatible mix of retail, residential, employment and production activities designed for all modes of transportation.

16B

## **APPLICANT HARDSHIP**

The strict enforcement will prevent the full use of an existing sign pole and face. The only change will be adding a new face to the sign that is slightly larger.

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Friday, July 31, 2015 at 3510 South Zero Street. There were no neighboring property owners in attendance. A copy of the attendance record and meeting summary are enclosed.

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.

Should the Board of Zoning be inclined to approve the request, the staff recommends the approval be contingent upon the following.

1. No offsite advertising or outdoor advertising otherwise known as billboard advertising shall be permitted on this sign.



16C

Var # 27-8-15

**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)

**Lot 1, Buckner Addition to the City of Fort Smith, AR**

Address of property **3540 South Zero Street**, 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
- 153 sf** - **270 sf** Maximum Size of a Sign
- \_\_\_\_\_ - \_\_\_\_\_ Other: \_\_\_\_\_

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

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

Signed:

Alvin L. Prieur, Jr., P.E.  
~~Owner~~ or Agent Name (please print)

\_\_\_\_\_  
Owner

479-651-7920

Owner or Agent Phone Number

P.O. Box 1689

Van Buren, AR 72957

Owner or Agent Mailing Address

APR  
or  
Agent

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

16E

**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>	
_____	<input checked="" type="checkbox"/>	Is this variance needed because of previous actions taken by yourself?
<input checked="" type="checkbox"/>	_____	Is this variance needed because of previous actions taken by a prior owner?
_____	<input checked="" type="checkbox"/>	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?
<input checked="" type="checkbox"/>	_____	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.
_____	<input checked="" type="checkbox"/>	Is the lot of an odd or unusual shape?
_____	<input checked="" type="checkbox"/>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	<input checked="" type="checkbox"/>	Does the lot contain required easements other than those that might be located on its perimeter?
_____	<input checked="" type="checkbox"/>	Is any part of the lot in a flood plain or flood way?
_____	<input checked="" type="checkbox"/>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	<input checked="" type="checkbox"/>	Is the lot developed with structures in violation of current zoning requirements?
<input checked="" type="checkbox"/>	_____	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

16F

Explanation of question #4 (if applicable)

This lot has an existing sign that the owner wants to modify. The new sign will have a digital sign north and a flex face to the south.

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

The strict enforcement will prevent the full use of an existing sign pole and face. The only change will be adding a new face to the sign that is slightly larger.

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 sign pole was originally used for a larger and taller sign. At some point in time the sign pole was shortened and a different type of sign added.

Variance #27-8-15 - From 153 s.f. to 270 s.f. maximum size of sign  
 3510 South Zero Street



July 21, 2015

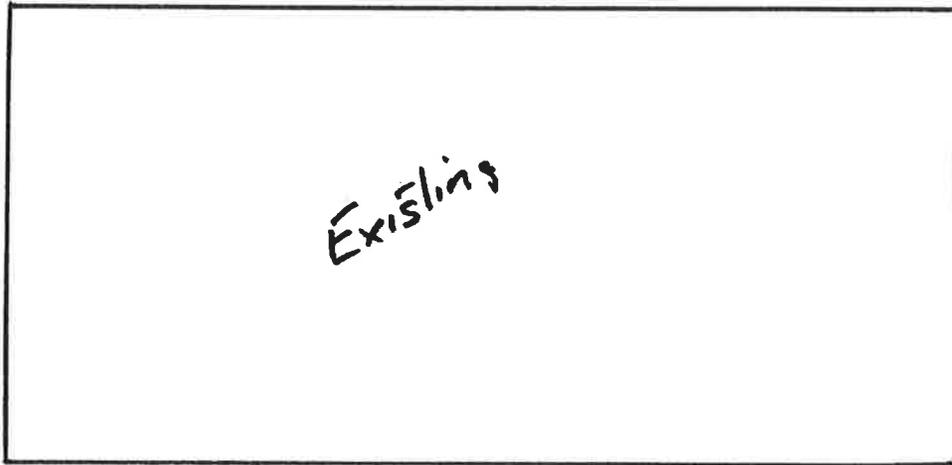
- Fort Smith City Limits
- Zoning
- Subdivisions



1611

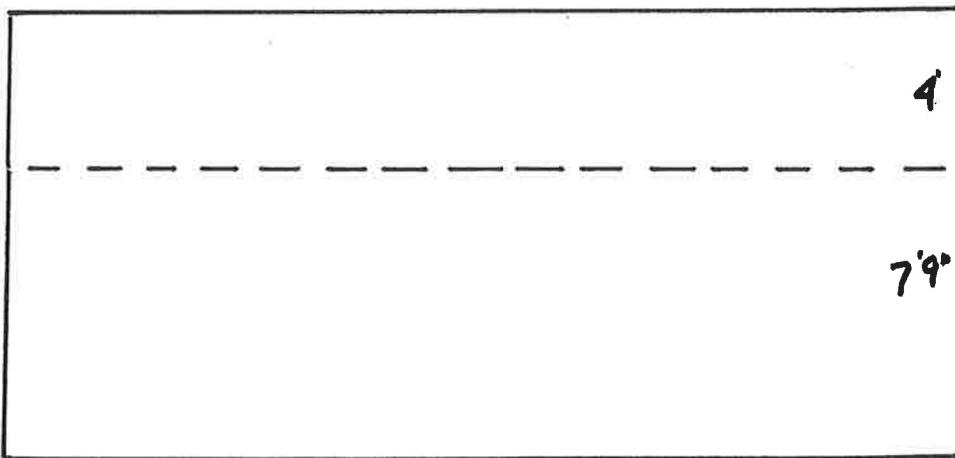
ALVIN L. PRIEUR, JR., PE  
CONSULTING ENGINEER  
P. O. BOX 1689  
VAN BUREN, ARKANSAS 72957  
479-651-7920  
aprieur@cox.net

23'



7'9"

23'



11'9"

7'9"

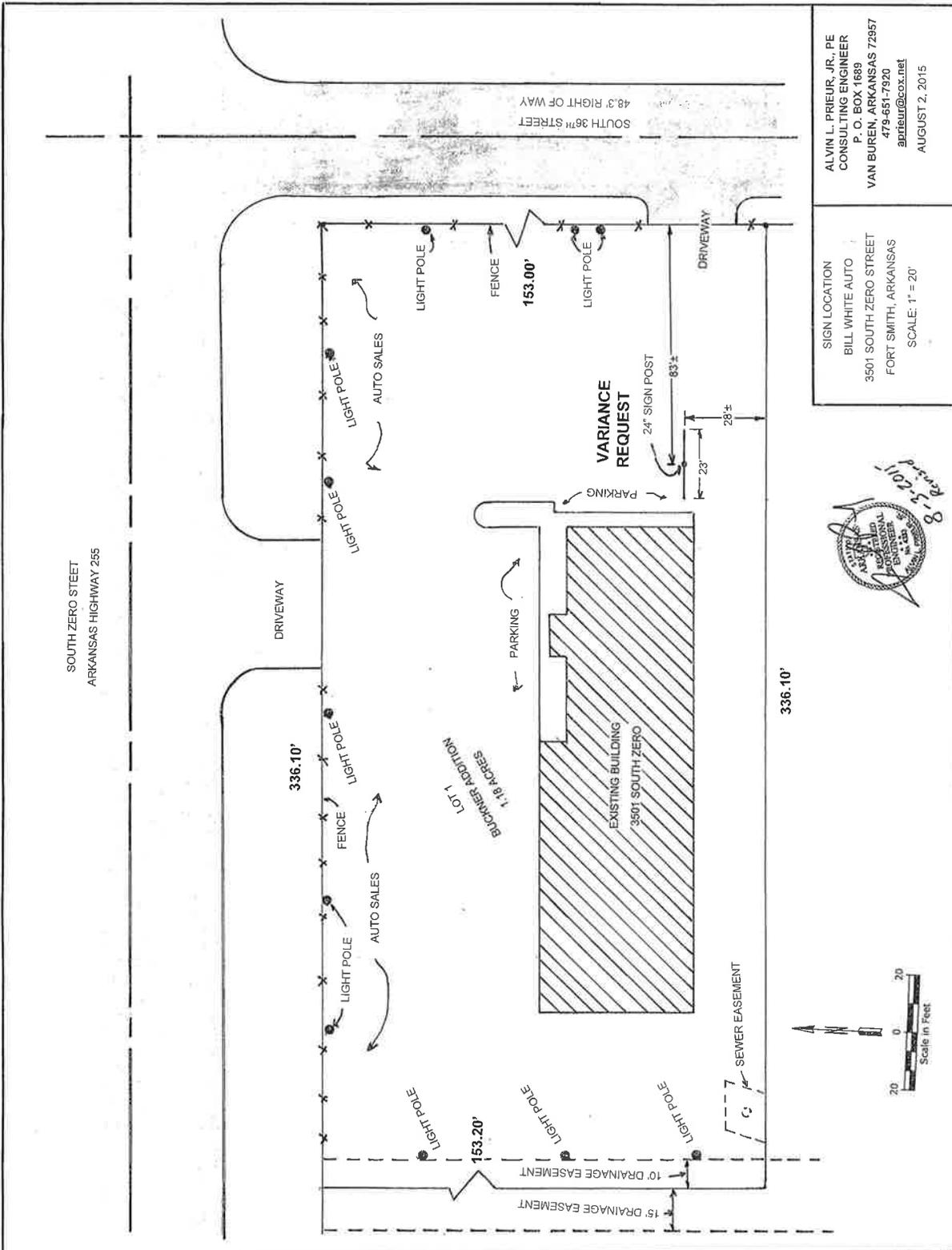
23'

Sign Modification

NTS



165



SOUTH ZERO STREET  
ARKANSAS HIGHWAY 255

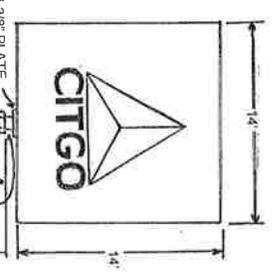
SOUTH 36<sup>TH</sup> STREET  
48.3' RIGHT OF WAY

ALVIN L. PRIEUR, JR., PE  
CONSULTING ENGINEER  
P. O. BOX 1689  
VAN BUREN, ARKANSAS 72957  
479-651-7920  
aprieur@cox.net  
AUGUST 2, 2015

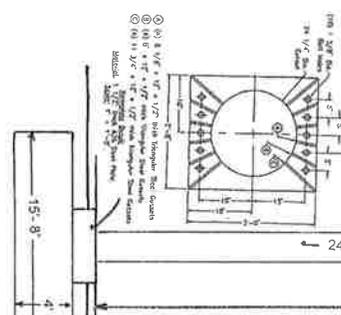
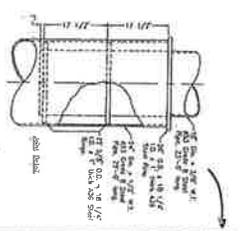
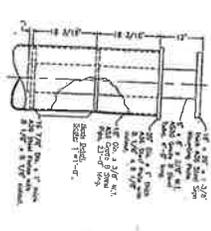
SIGN LOCATION  
BILL WHITE AUTO  
3501 SOUTH ZERO STREET  
FORT SMITH, ARKANSAS  
SCALE: 1" = 20'



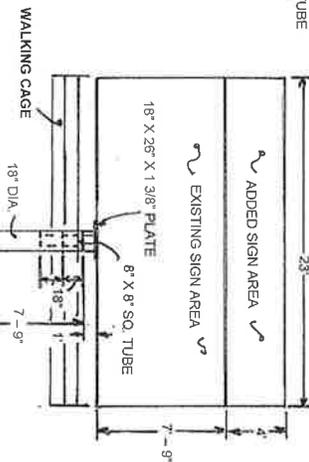
165



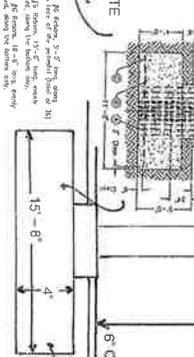
18" X 26" X 1 3/8" PLATE  
8" X 8" SQ. TUBE



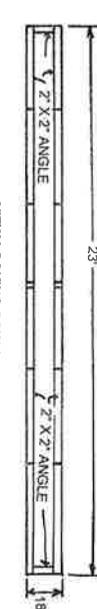
ORIGINAL SIGN LAYOUT  
SCALE: 1" = 5'



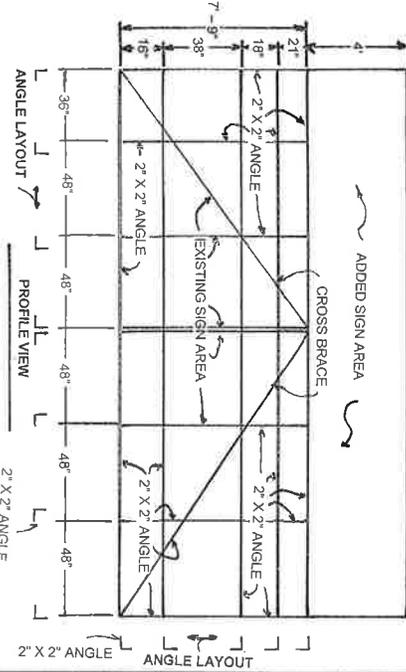
SIGN HAS A CLIMB CAGE



EXISTING SIGN LAYOUT  
SCALE: 1" = 5'



VIEW LOOKING DOWN

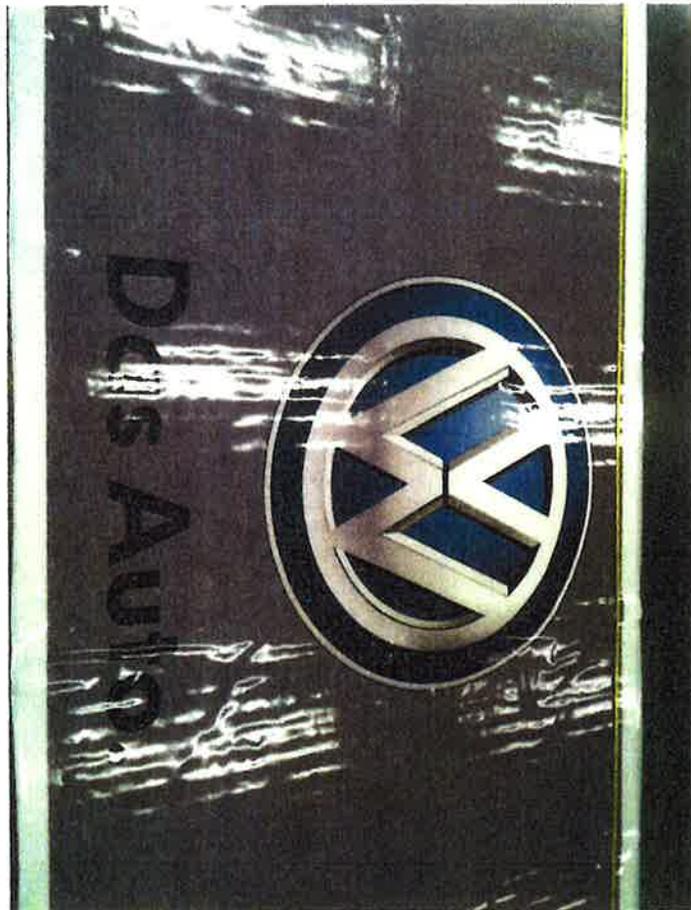


SIGN FRAMING  
SCALE: 1" = 3'

SIGN INFORMATION  
BILL WHITE AUTO  
3801 SOUTH ZERO STREET  
FORT SMITH, ARKANSAS  
SCALE AS SHOWN

ALVIN L. PRIEUR, JR., PE  
CONSULTING ENGINEER  
P. O. BOX 16889  
VAN BUREN, ARKANSAS 72957  
479-651-7920  
aprieur@cox.net  
AUGUST 3, 2015





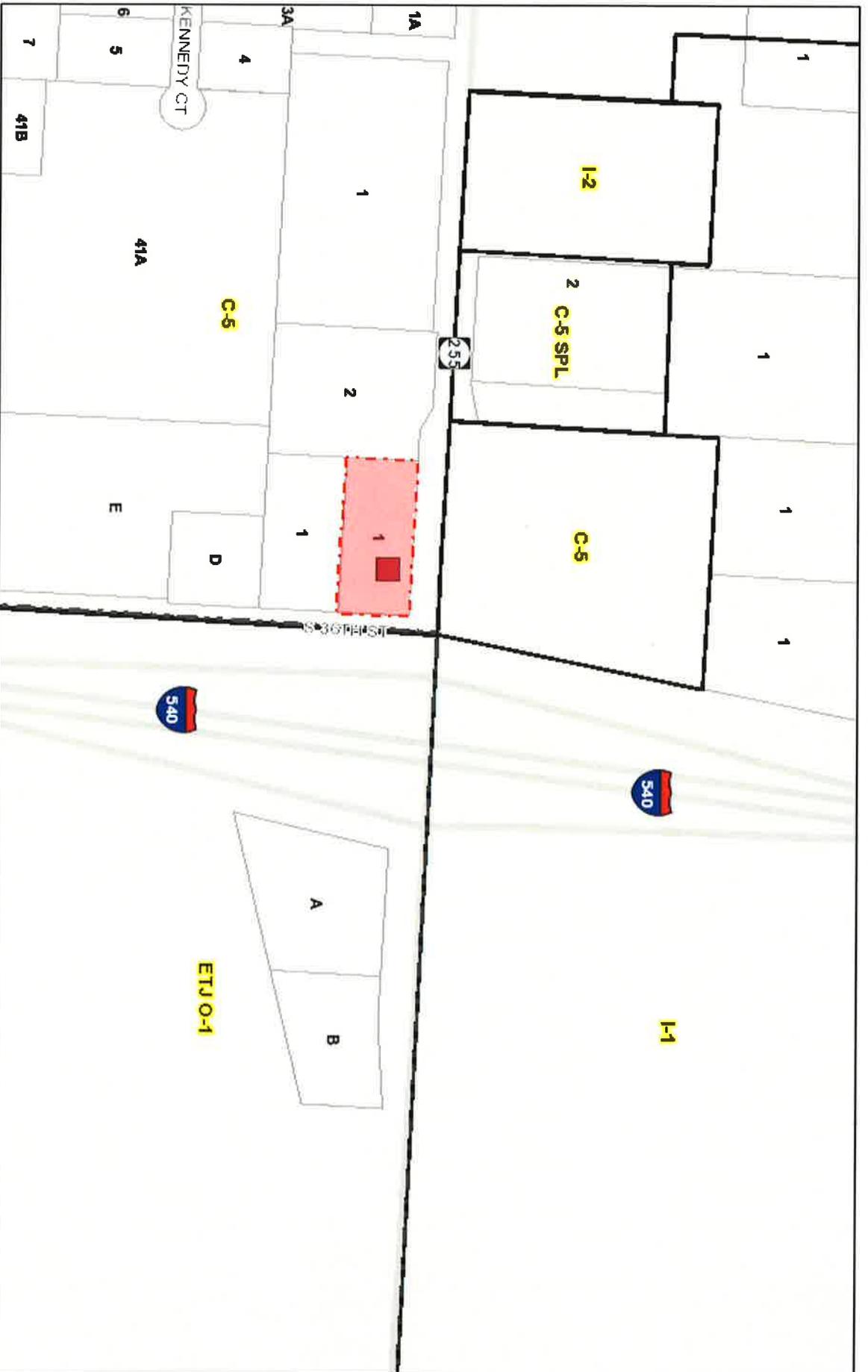
16L



16M

Variance #27-8-15 - From 153 s.f. to 270 s.f. maximum size of sign  
 3510 South Zero Street

291



July 21, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions





160

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 27, 2015

**Re:** Variance #28-8-15 - A request by Lee King, agent for Bear Creek Leasing Co., for Board of Zoning Adjustment consideration of a zoning variance request from 25 to 0 feet front yard setback and from 15 feet to 0 feet exterior side yard setback located at 617 South 7<sup>th</sup> Street

## REQUESTED VARIANCE

The variance if approved will allow for a roof covering and wall enclosure of an existing existing crane and storage area.

## LOT LOCATION AND SIZE

The subject property is on the west side of South 7<sup>th</sup> Street between South E Street and South F Street and encompasses the entire block. The tract contains an area of 2.07 acres with 300 feet of street frontage on each street which is South E Street, South F Street, South 7<sup>th</sup> Street and South 6<sup>th</sup> Street.

## EXISTING ZONING

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

### Purpose:

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

### Permitted Uses:

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

17A

**Conditional Uses:**

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

**Area and Bulk Regulations:**

- Minimum Lot Size – 20,000 square feet
- 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) – 20,000 square feet
- Minimum Lot Width – 100 feet
- Front Yard Setback - 25 feet
- Side Yard on Street Side of Corner Lot - 15 feet
- Side Yard Setback – 10 feet
- Rear Yard Setback - 10 feet
- Side/Rear (adjoining SF Residential District/Development) – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)
- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Major Arterial or higher

**SURROUNDING ZONING AND LAND USE**

All of the surrounding properties are zoned Industrial Light (I-1).

The area to the east is developed as the railroad.

The areas to the south are developed as a church and developed as a warehouse.

The properties to the north are developed as a moving and storage facility and undeveloped land.

The property to the west is developed as a storage yard and utilized by Boyd Metals.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies South E Street, South F Street, South 6<sup>th</sup> Street and South 7<sup>th</sup> Street as local roads.

**MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as Mixed Use E (predominately business). This classification is intended to provide for a dense, compatible mix of retail, residential, employment and production activities designed for all modes of transportation.

17B

**APPLICANT HARDSHIP**

See the applicant's stated hardship on the enclosed application.

**STAFF COMMENTS AND RECOMMENDATIONS**

The existing buildings and crane have existed for a very long time. The application makes reference to only a roof being constructed; however, the plan includes the construction and installation of a side wall enclosing the crane and storage area along the South F street right of way.

Should the Board of Zoning Adjustment approve the application, the staff recommends the application be approved contingent upon the fact that the wall construction along the South F street right of way and the roof construction cannot extend over any street rights of ways.

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.

MC

**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 617 S 7<sup>th</sup> St, Existing or Proposed

Zoning Classification I-1, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

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

<b><u>FROM</u></b>		<b><u>TO</u></b>	
<u>25'</u>	-	<u>0'</u>	Front Yard Setback or Minimum Distance from Right-of-Way
<u>15'</u>	-	<u>0'</u>	Exterior Side Yard Setback
_____	-	_____	Interior Side Yard Setback
_____	-	_____	Rear Yard Setback
_____	-	_____	Maximum Height of Structure
_____	-	_____	Minimum Distance Between Structures on the Same Lot
_____	-	_____	Minimum Lot Area (Square Feet)
_____	-	_____	Minimum Lot Frontage
_____	-	_____	Maximum Size of a Sign
_____	-	_____	Other: _____

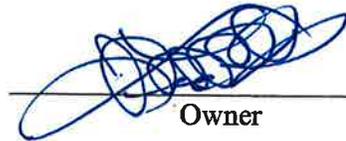
The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

17D

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

Signed:

LEE KING  
Owner or Agent Name (please print)

  
Owner

479-651-6622  
Owner or Agent Phone Number

or  
  
Agent

3647 Carnegie  
Owner or Agent Mailing Address  
Rucky Ave. 72952

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

**LETTER REGARDING RESTRICTIVE COVENANTS**

Restrictive covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

SUBDIVISION: RESERVE  
LOTS 1-12 581 & CLOSEOUT ALLEY

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

NONE LRK

**VARIANCE INFORMATION FORM**

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

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

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

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

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Explanation of question #4 (if applicable)

B VARIANCE REQUEST IS IN ORDER TO  
PUT A ROOF ON AN EXISTING STRUCTURE  
WHERE THE COLUMNS ARE EXISTING &  
SUPPORTING A CRANE

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

MUST HAVE VARIANCE TO INSTALL  
ROOF TO PROTECT EMPLOYEES &  
PRODUCT IN BAD WEATHER

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:

STRUCTURE WAS BUILT MANY YEARS  
AGO & LINES UP WITH OTHERS  
STRUCTURES IN BOTH DIRECTIONS &  
IS MAJOR PART OF COMPANIES  
ABILITY TO FUNCTION,

**BUILDING INFORMATION**

**1. Occupancy Classification**

Group S-2 Storage  
Low Hazard

**2. Occupancy Loading**

Total = 0

**3. Type of Construction**

Type II B - Construction of Noncombustible  
Materials Exterior  
Un-sprinkled

**4. Building Allowable Size**

Height - 1 Stories  
Area - 12,000 Square Feet(SF)

**5. Actual Building Improvements**

Covered Area - 11,914 SF  
Connected to Existing Building

**6. Separation**

See site plan (by others) for separations

**7. Signs**

All signs will be handled under separate  
permitting. No new signs are planned

**8. Metal Building Plans**

Metal Building Supplier will provide the  
City of Fort Smith with a set of  
certified drawings on this building

**DESIGN CODES - CITY OF FORT SMITH**

2007 Arkansas State Fire Prevention Code  
(Volumes I, II, and III )  
2012 NFPA Life Safety Code  
2011 National Electrical Code  
Arkansas Energy Code  
Act 1100-1991 Earthquake Resistant Design

**CRANE ENCLOSURE  
BOYD METALS  
600 South 7th Street  
FORT SMITH, ARKANSAS**

JULY 2015

**CONTRACTOR:**

**KPC, LLC**  
KING PROPERTIES & CONSTRUCTION  
KING CANNERY CIRCLE  
RIFLE, ARKANSAS 72862  
ORIGINAL CONTRACT  
FAX: 479-651-7920  
CELL: 479-651-4222

**SHEETS:**

**PROPERTY SURVEY  
A-1 FLOOR PLAN & ELEVATIONS  
S-1 SECTION & DETAILS**

**ALVIN L. PRIEUR, JR., PE  
CONSULTING ENGINEER**

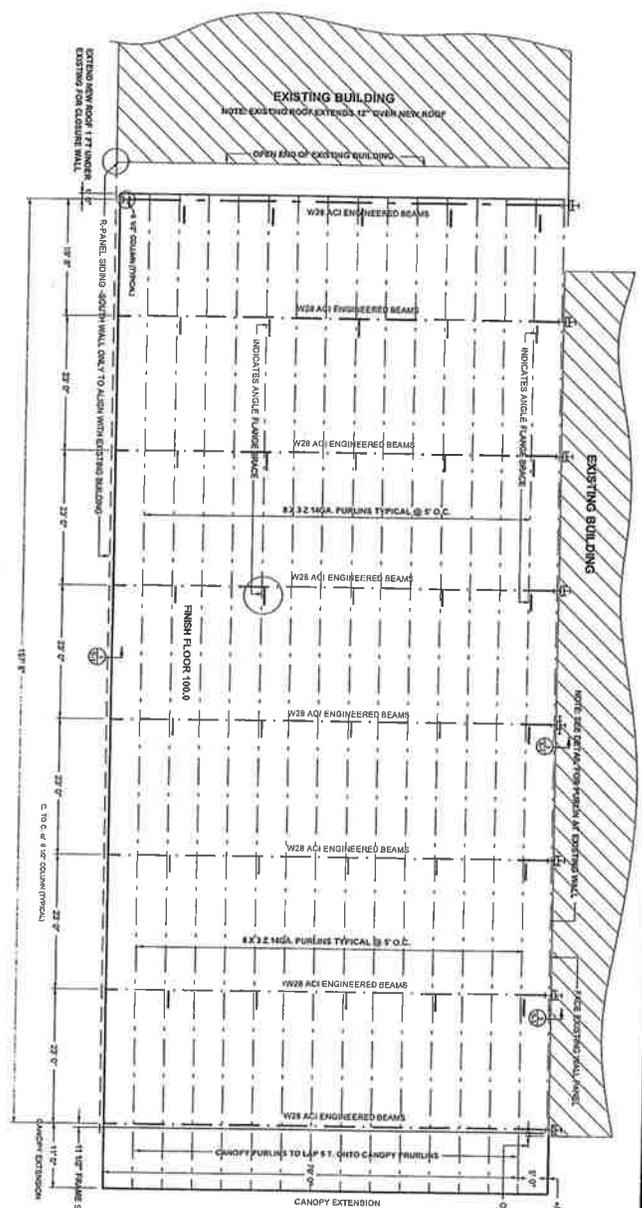
P.O. BOX 1689  
VAN BUREN, AR 72957  
479-651-7920  
APRIEUR@COX.NET

**CERTIFICATION**  
I hereby certify that these plans and specifications have been prepared by  
me, or under my supervision. I further certify that to the best of my knowledge  
that these plans and specifications are as required by law and are in compliance  
with the Arkansas Fire Prevention Code for the State of Arkansas

  
Alvin L. Prieur, Jr., PE

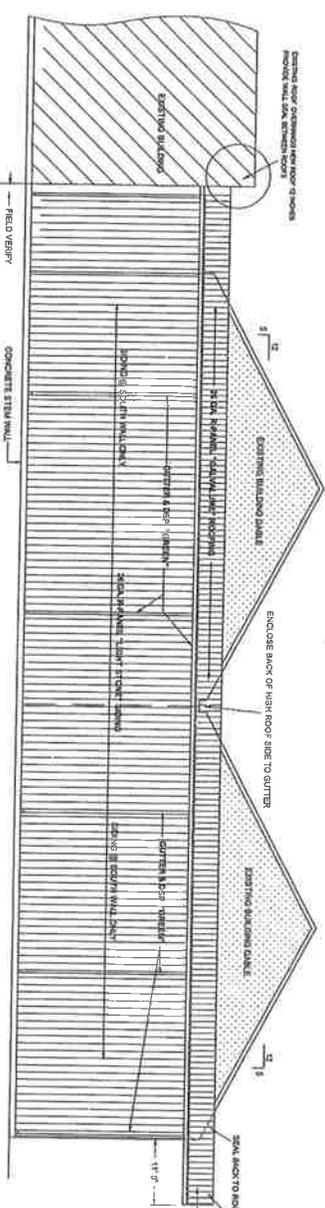
ACT





**FLOOR PLAN**

SCALE: 1/8" = 1'-0"



**SOUTH ELEVATION**

SCALE: 1/8" = 1'-0"

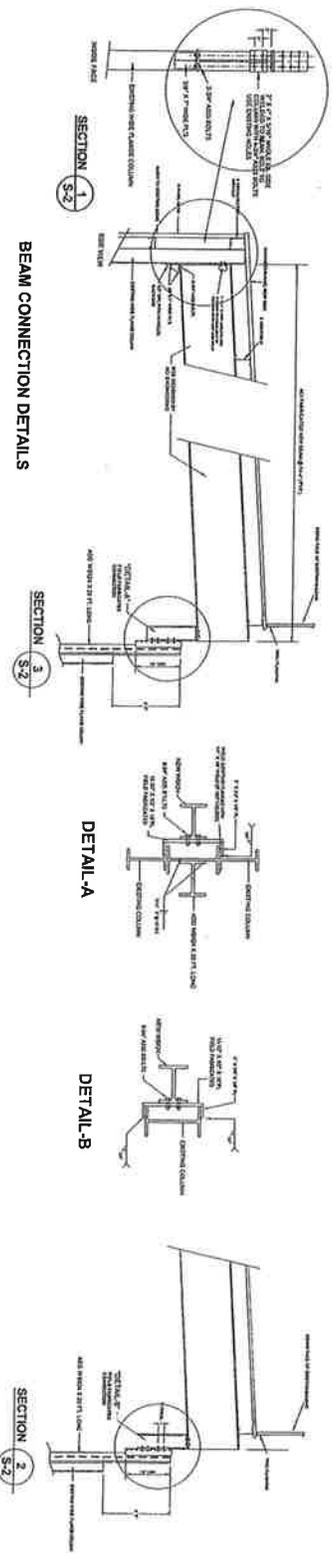
NOTE-1: NEW STRUCTURE IS ENTIRELY WITHIN P.L. AND EXISTING STRUCTURE  
 NOTE-2: ALTERNATE: CANOPY EXTENSION IS OVER CONCRETE DECK OUT TO STREET TO BE BUILT IF APPROVED BY CITY

SHEET NO: A-1
PROJECT NO:
DATE: 7-10-15
SCALE: 1/8" = 1'-0"

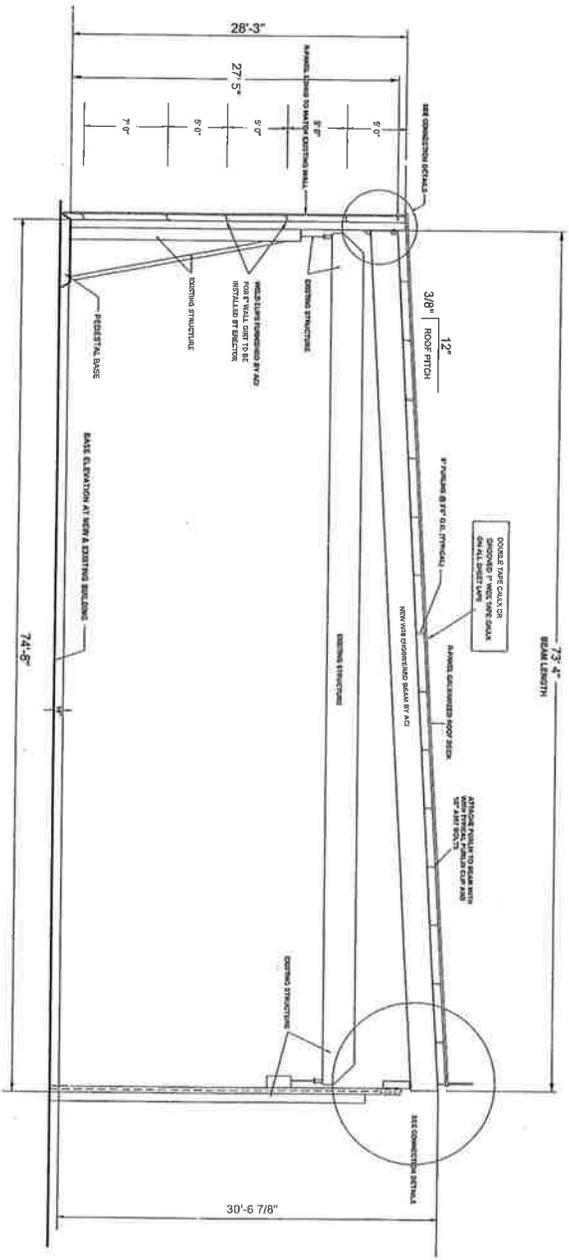
**BOYD METALS FORT SMITH**  
 600 SOUTH 7TH STREET 72902  
**CRANE ENCLOSURE**

**ALVIN L. PRIEUR, JR., PE**  
 CONSULTING ENGINEER  
 PO BOX 1689  
 VAN BUREN, ARKANSAS 72957

17K



BEAM CONNECTION DETAILS



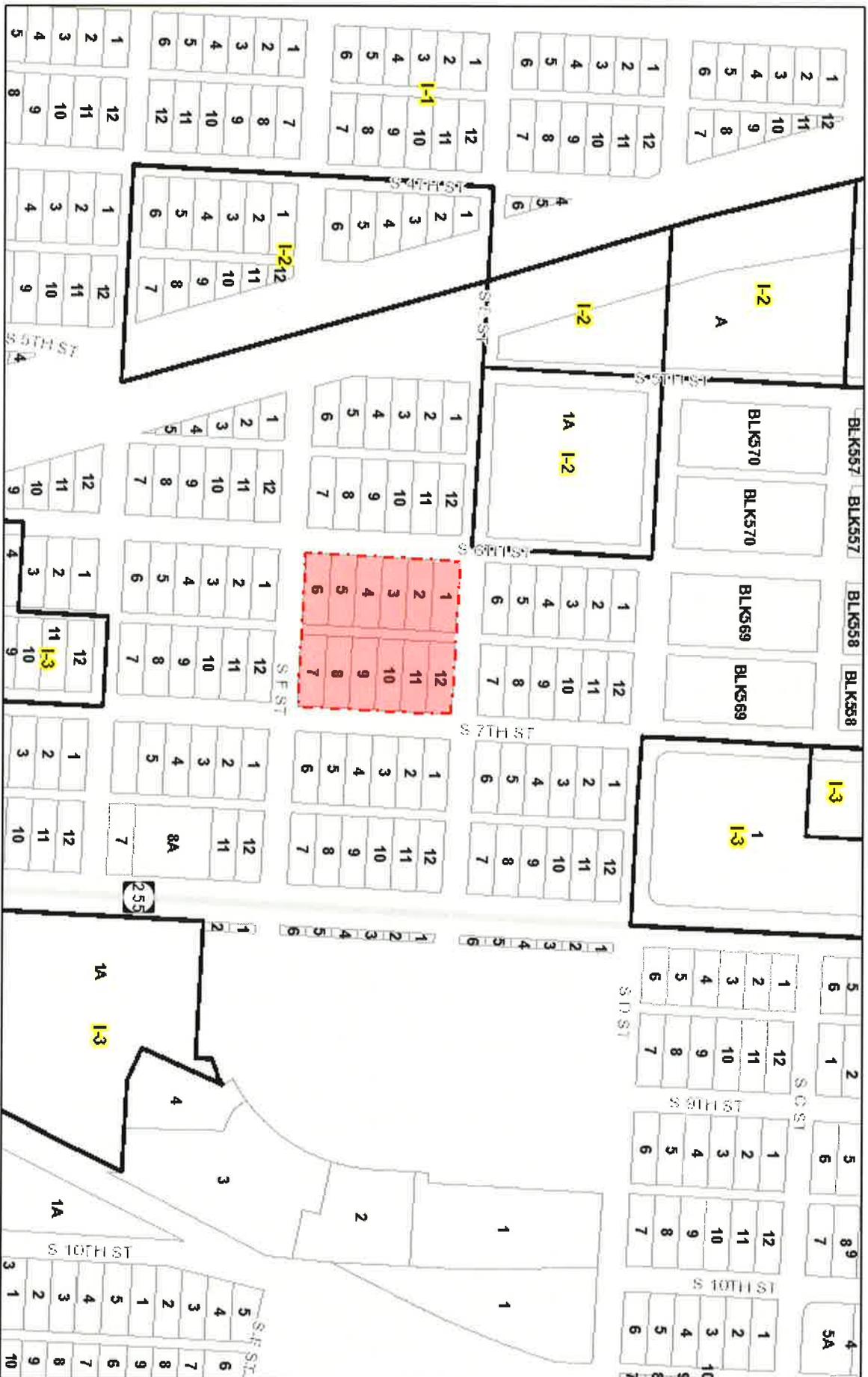
CROSS SECTION  
SCALE: 1/4" = 1'-0"

	SHEET NO: S-1	<b>BOYD METALS FORT SMITH</b> 600 SOUTH 7TH STREET 72902 <b>CRANE ENCLOSURE</b>	REVISIONS	<b>ALVIN L. PRIEUR, JR., PE</b> CONSULTING ENGINEER PO BOX 1689 VAN BUREN, ARKANSAS 72957
	PROJECT NO:			
	DATE: 7-10-15			
	SCALE: AS NOTED			

961

# Variance #28-8-15: From 25' to 0' front yard setback; from 15' to 0' exterior side yard setback 617 South 7th Street

WCI



July 27, 2015

- Fort Smith City Limits
- Zoning
- Subdivisions



Variance #28-8-15: From 25' to 0' front yard setback; from 15' to 0' exterior side yard setback  
617 South 7th Street



July 27, 2015

Fort Smith City Limits

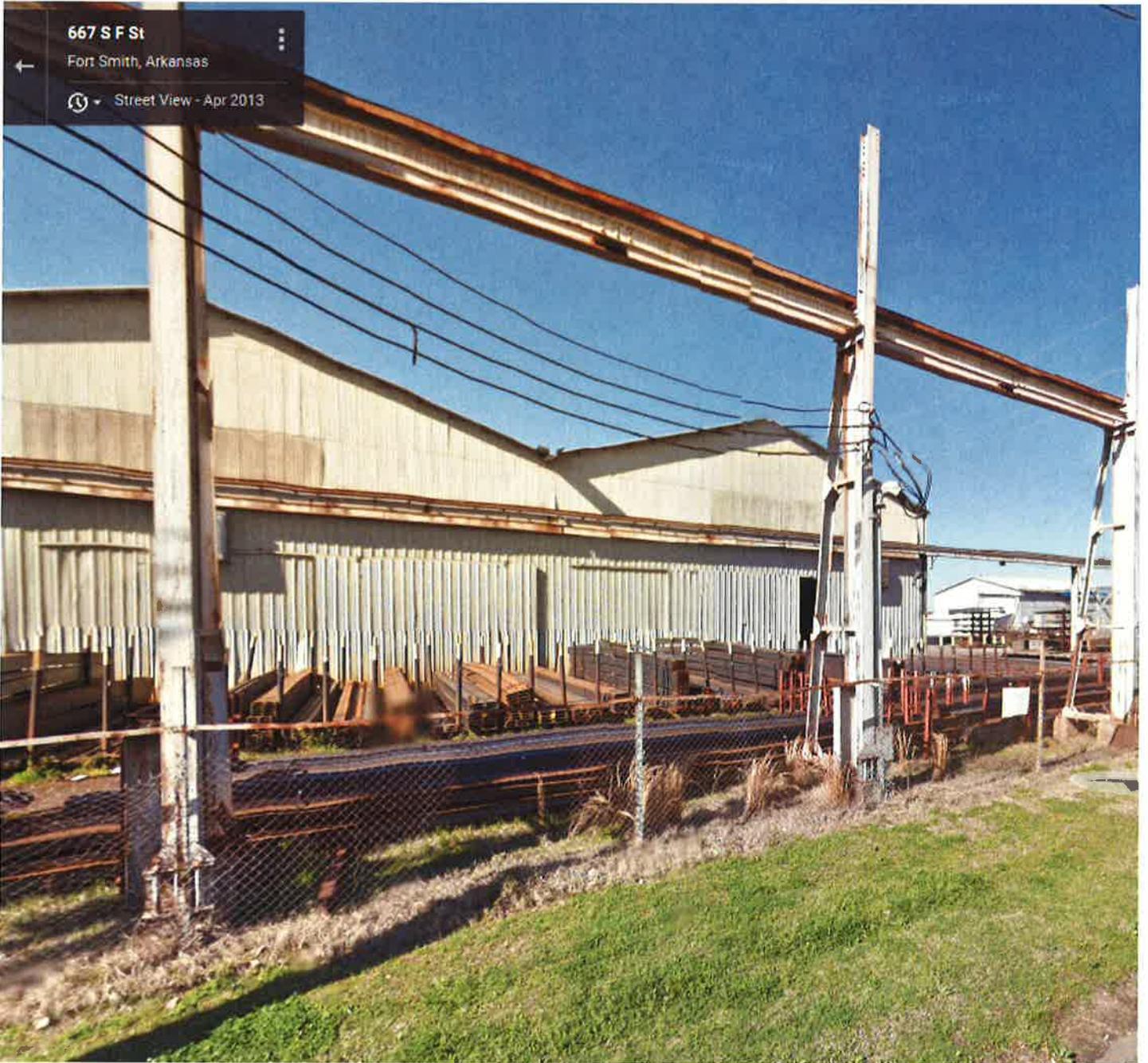
Zoning

261



**Miller, Perry**

---



Thank you,

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

## Miller, Perry



Thank you,

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