

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT  
AGENDA  
ROSE ROOM  
CREEKMORE PARK COMMUNITY CENTER  
5:30 P.M.  
MAY 10, 2016**

**I. ROLL CALL**

**II. APPROVAL OF MINUTES FROM APRIL 12, 2016**

**III. STAFF COMMENTS AND PROCEDURES**

1. Final Plat – The Havens at Chaffee Crossing – Crafton Tull
2. Final Plat – Highland Crossing at Chaffee Crossing – Crafton Tull
3. Rezoning #10-5-16; A request by Sara Baker/Emily Oakes, agents for Morningside Addition neighborhood rezoning for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by Classification located at 1700-1730 South Albert Pike; 3901-4111 South “Q” Street; 1701-1721 Hendricks Boulevard and 4001-4119, 3904-3923, 4002-4120 South “P” Street.
4. Rezoning #11-5-16; A request by Mickle-Wagner-Coleman, agent for Free Will Baptist Family Ministries, for a zone change from Not Zoned to a Planned Zoning District by Classification located at 11201 Custer Boulevard.

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

5. Variance #13-5-16; A request by Mickle-Wagner-Coleman, agent for Cuong Phan, Treasure Dairy, for a variance from 15 feet to 0 feet exterior side yard setback located at 400 South “C” Street.

6. Variance #14-5-16; A request by J.S. "Pete" & Mary Ramsey for a variance from 25 feet to 4.5 feet and from 25 feet to 6 feet exterior side yard setback and from 10 feet to 6.5 feet minimum distance between structures on the same lot located at 600 Lecta Avenue.
7. Unified Development Ordinance Amendment – Mobile Food Trucks

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT  
MINUTES  
ROSE ROOM  
CREEKMORE PARK COMMUNITY CENTER  
5:30 P.M.  
APRIL 12, 2016**

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

Chairman Sharpe called for the vote on the Planning Commission minutes from the March 8, 2016, meeting. Motion was made by Commissioner Newton, seconded by Commissioner Howard and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on the procedures.

- 9. Home Occupation #2-4-16; A request by Byron Lawrence for a home occupation for a recording studio located at 4114 Alabama.**

Chairman Sharpe called for the tabling of this item indefinitely. The vote was 7 in favor and 0 opposed to table this request indefinitely.

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

- 10. Variance #6-3-16; A request by Ricky Hill, agent for Guard Tronic, Inc. for the following variances:**

**104 & 108 North 13<sup>th</sup> Street (Lot 1A)**

From 25' to 23.6' front yard setback (building portion on Lot 2)  
From 25' to 0.8' front yard setback (canopy)  
From 25' to 23.6' front yard setback (building portion on Lot 3)  
From 10' to 6.9' rear yard setback  
From 10' to 0.2' rear yard setback  
From 41 to 27 minimum number parking spaces

**120 North 13<sup>th</sup> Street (Lot 6A)**

From 10' to 7.5' side yard setback  
From 25' to 12.9' front yard setback (building portion on Lot 5)  
From 25' to 12.9' front yard setback (building portion on Lot 6)  
From 18 to 15 minimum number parking spaces

Ms. Brenda Andrews read the staff report indicating that the purpose of this variance request is to facilitate the subdivision of the property into two lots and allow the sale of the building at 120 North 13<sup>th</sup> Street. Ms. Andrews noted that the affected buildings cannot be sold separately unless the variances are approved. It was also noted that approval of these setback variance requests would bring the structures into compliance with the UDO and avoid future issues should the buildings be destroyed or damaged more than 50% of their value.

Mr. Ricky Hill was present to speak on behalf of this request.

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 amend this request to make approval subject to the existing development and building locations.

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

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

- 1. Preliminary Plat – Avalon at Chaffee Crossing – Crafton Tull**
- 2. Rezoning #9-4-16; A request by Crafton Tull, agent for ERC and Fort Chaffee Redevelopment Authority, for a zone change from Unzoned to Residential Single Family Medium/High Density (RS-3) by Classification located at 8501 McClure Drive.**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow for the development of a 10.78 acre tract into a 30 lot single family subdivision.

Ms. Caroline Gardner with Crafton Tull was present to speak on behalf of these requests.

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

Chairman Sharpe then called for the vote on these requests.

- 1. Preliminary Plat – Avalon at Chaffee Crossing – Crafton Tull**

Chairman Sharpe called for the vote on the preliminary plat. Motion was made by Commissioner Howard, seconded by Commissioner Carson and carried by a vote of 5 in favor and 2 abstentions (Cooper and Keese) to make approval of the plat subject to the following:

- Developer agreeing to meet all franchise and City utility easement requirements.

- Compliance with the City's Subdivision Design and Improvement Standards and the Standard Specifications for Public Works Construction
- Approval by the Board of Directors of the rezoning application.

Chairman Sharpe then called for the vote on the preliminary plat as amended. The vote was 5 in favor and 2 abstentions (Cooper and Keesee).

- 2. Rezoning #9-4-16; A request by Crafton Tull, agent for ERC and Fort Chaffee Redevelopment Authority, for a zone change from Unzoned to Residential Single Family Medium/High Density (RS-3) by Classification located at 8501 McClure Drive.**

Chairman Sharpe called for the vote on the rezoning request. The vote was 5 in favor and 2 abstentions (Cooper and Keesee)

- 3. A request by Crafton Tull, agent for Rod Coleman, for development plan approval for a retail development located at 6000 Hutcheson Court. (companion item to item #4)**
- 4. Variance #12-4-16; A request by Crafton Tull, agent for Rod Coleman, for a variance from Section 27-601-14(B)(3)-required passing aisle; from Section 27-602-4(C)(8)-required 6 foot screening fence along residentially zoned property and from Section 27-414(4)-from three (3) to four (4) maximum number of wall signs allowed on a principal structure located at 6000 Hutcheson Court. (companion item to item #3)**

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to allow for a four (4) unit 4,778 square foot retail building with 24 parking spaces and landscaping

Ms. Caroline Gardner with Crafton Tull and Ms. Mary McGetrick with ERC, were present to speak on behalf of these requests.

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

Chairman Sharpe then called for the vote on these requests.

- 3. A request by Crafton Tull, agent for Rod Coleman, for development plan approval for a retail development located at 6000 Hutcheson Court. (companion item to item #4)**

Chairman Sharpe called for the vote on the development plan. Motion was made by Commissioner Newton, seconded by Commissioner Richardson and carried by a vote of 5 in favor and 2 abstentions (Howard and Cooper) 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.

- Landscaping plan shall meet the minimum requirements of the UDO.

Chairman Sharpe then called for the vote on the development plan as amended. The vote was 5 in favor and 2 abstentions (Howard and Cooper).

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

4. **Variance #12-4-16; A request by Crafton Tull, agent for Rod Coleman, for a variance from Section 27-601-14(B)(3)-required passing aisle; from Section 27-602-4(C)(8)-required 6 foot screening fence along residentially zoned property and from Section 27-414(4)-from three (3) to four (4) maximum number of wall signs allowed on a principal structure located at 6000 Hutcheson Court.**

Chairman Sharpe called for the vote on the variance request. Motion was made by Commissioner Newton, seconded by Commissioner Richardson and carried by a vote of 5 in favor and 2 abstentions (Howard and Cooper) to amend this request to make approval subject to the following:

- Parking lot screening shall be required to be the full length of the western property line.
- Approval contingent upon the submitted development plan.
- The passing aisle variance shall be limited to the east side of the property.
- The drive-aisle associated with the drive-through window shall be at least 12 feet wide.

Chairman Sharpe then called for the vote on the variance request as amended. The vote was 5 in favor and 2 abstentions (Howard and Carson)

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

5. **A request by Thomas Shankle, agent for Donnie and Peggy Kratzberg, for a Master Land Use Plan Amendment from Residential Attached to Office, Research & Light Industrial located at 7423 Highway 271 South: Units 102B, 106, 110, 112, 114, 116, 118, 120, 122 and 130.**
6. **Rezoning #8-4-16; A request by Thomas Shankle, agent for Donnie and Peggy Kratzberg, for a zone change from Commercial Heavy (C-5) to Industrial Light (I-1) by Extension located at 7423 Highway 271 South: Units 102B, 106, 110, 112, 114, 116, 118, 120, 122 and 130.**

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests in some respects is a corrective rezoning. It was noted that the effect of the rezoning should not change how the property has developed and will allow the buildings to be rented and used for the purpose of their original construction.

Mr. Thomas Shankle was present to speak on behalf of these requests.

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

Chairman Sharpe then called for the vote on these requests.

- 5. A request by Thomas Shankle, agent for Donnie and Peggy Kratzberg, for a Master Land Use Plan Amendment from Residential Attached to Office, Research & Light Industrial located at 7423 Highway 271 South: Units 102B, 106, 110, 112, 114, 116, 118, 120, 122 and 130.**

Chairman Sharpe called for the vote on the master land use plan amendment. The vote was 7 in favor and 0 opposed.

- 6. Rezoning #8-4-16; A request by Thomas Shankle, agent for Donnie & Peggy Kratzberg, for a zone change from Commercial Heavy (C-5) to Industrial Light (I-1) by Extension located at 7423 Highway 271 South: Units 102B, 106, 110, 112, 114, 116, 118, 120, 122 and 130.**

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

- 7. Conditional Use #7-4-16; A request by James Reddick and Salvation Army, agents for First Asset Holdings, LLC, for a conditional use for a recycling collection station and a community food service located at 2900 North 50<sup>th</sup> Street.**
- 8. Variance #10-4-16; A request by James Reddick and Salvation Army, agents for First Asset Holdings, LLC, for a variance from Section 27-602-4(C) Architectural Design of Structures located at 2900 North 50<sup>th</sup> Street.**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow the applicant to remodel a vacant 23,700 square foot warehouse which the Salvation Army is proposing to utilize as a drop off site for donated items, such as clothing and furniture. Ms. Andrews stated that the facility would also be used as a site to distribute clothing and household items about four times a year and distribution of Christmas gifts associated with the Angel Tree operation which would take place two days each December. Ms. Andrews noted that the variance request is for the renovation of an existing metal warehouse without compliance with the Transitional and Commercial Building Design Standards. Ms. Andrews stated that the applicant is proposing to renovate the exterior of the warehouse with metal siding with concealed fasteners.

Mr. James Reddick and Major Poff with the Salvation Army were present to speak on behalf of these requests.

Ms. Pauline Novak was present to speak in opposition to these requests.

Director Andre Goode was also present to speak relative to these requests.

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

**7. Conditional Use #7-4-16; A request by James Reddick and Salvation Army, agents for First Asset Holding, LLC, for a conditional use for a recycling collection station and a community food service located at 2900 North 50<sup>th</sup> Street.**

Chairman Sharpe called for the vote on the conditional use request. Motion was made by Commissioner Howard, 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.
- Activities occurring on the property shall be in accordance with the submitted description of activities.
- Any new free standing signage is required to be a monument sign.
- All exterior building lighting and new site lighting shall comply with the lighting requirements of the UDO, Section 27-602-5.
- The proposed canopy along North 50<sup>th</sup> Street shall not have ground supports without approval of a front yard setback variance.
- All proposed parking spaces shall be marked with bumper blocks or other approved barriers as required by the UDO, Section 27-601-15.
- Any donated items left outside on the property shall be removed promptly by the Salvation Army, including weekends.
- The dumpster shall be relocated to remain permanently inside the building.
- Though the Planning Commission did not make a requirement for landscaping, they did encourage the installation of landscaping as much as possible.

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

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

- 8. Variance #10-4-16; A request by James Reddick & Salvation Army, agents for First Asset Holdings, LLC, for a variance from Section 27-602-4(C) Architectural Design of Structures located at 2900 North 50<sup>th</sup> Street.**

Chairman Sharpe called for the vote on the variance request. The vote was 7 in favor and 0 opposed. The variance was approved subject to the metal siding having concealed fasteners.

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

- 11. Planning Commission recommendation for the appointment to the Comprehensive Plan Implementation Committee.**

Chairman Sharpe nominated Commissioner Vicki Newton to serve on the Comprehensive Plan Implementation Committee. Commissioner Howard seconded the nomination and the vote was unanimous to appoint Commissioner Newton to the Committee.

**Meeting Adjourned!**

**1. The Havens at Chaffee Crossing, Lots 1-47 - Final Plat – Crafton Tull**

Existing Zoning Designation: Residential Single Family Duplex Medium/High Density (RSD-3)

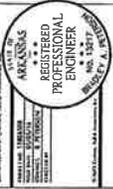
Land Use: Provides locations for medium-high density compact single family detached and duplex development on new sites or as infill construction.

Proposed Use: Single Family and Duplex Dwelling Units

Approval of the final plat is pending the developer's submittal of the associated maintenance entity that will provide maintenance for all common areas. Staff anticipates submittal of this document prior to the Planning Commission meeting. Once staff receives and reviews the document, we will revise the comments for the plat.



**THE HAVENS**  
 CHARLES CROSSING  
 FORT LAUDERDALE, FL



**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD	DIRECTION	CHORD LENGTH
C1	14.07'	25.00'	107.07°	48.77'	SW	34.56'
C2	28.14'	50.00'	214.14°	97.54'	SW	69.12'
C3	42.21'	75.00'	321.21°	146.31'	SW	103.68'
C4	56.28'	100.00'	428.28°	195.08'	SW	141.12'
C5	70.35'	125.00'	535.35°	243.85'	SW	178.56'
C6	84.42'	150.00'	642.42°	292.62'	SW	216.00'
C7	98.49'	175.00'	749.49°	341.39'	SW	253.44'
C8	112.56'	200.00'	856.56°	390.16'	SW	290.88'
C9	126.63'	225.00'	963.63°	438.93'	SW	328.32'
C10	140.70'	250.00'	1070.70°	487.70'	SW	365.76'

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD	DIRECTION	CHORD LENGTH
C11	154.77'	275.00'	1177.77°	536.47'	SW	403.20'
C12	168.84'	300.00'	1284.84°	585.24'	SW	440.64'
C13	182.91'	325.00'	1391.91°	634.01'	SW	478.08'
C14	196.98'	350.00'	1498.98°	682.78'	SW	515.52'
C15	211.05'	375.00'	1606.05°	731.55'	SW	552.96'
C16	225.12'	400.00'	1713.12°	780.32'	SW	590.40'
C17	239.19'	425.00'	1820.19°	829.09'	SW	627.84'
C18	253.26'	450.00'	1927.26°	877.86'	SW	665.28'
C19	267.33'	475.00'	2034.33°	926.63'	SW	702.72'
C20	281.40'	500.00'	2141.40°	975.40'	SW	740.16'

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD	DIRECTION	CHORD LENGTH
C21	42.21'	75.00'	321.21°	146.31'	SW	103.68'
C22	84.42'	150.00'	642.42°	292.62'	SW	216.00'
C23	126.63'	225.00'	963.63°	438.93'	SW	328.32'
C24	168.84'	300.00'	1284.84°	585.24'	SW	440.64'
C25	211.05'	375.00'	1606.05°	731.55'	SW	552.96'
C26	253.26'	450.00'	1927.26°	877.86'	SW	665.28'
C27	295.47'	525.00'	2248.47°	1024.17'	SW	777.60'
C28	337.68'	600.00'	2569.68°	1170.48'	SW	890.00'
C29	379.89'	675.00'	2890.89°	1316.79'	SW	1002.40'
C30	422.10'	750.00'	3212.10°	1463.10'	SW	1114.80'

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD	DIRECTION	CHORD LENGTH
C31	42.21'	75.00'	321.21°	146.31'	SW	103.68'
C32	84.42'	150.00'	642.42°	292.62'	SW	216.00'
C33	126.63'	225.00'	963.63°	438.93'	SW	328.32'
C34	168.84'	300.00'	1284.84°	585.24'	SW	440.64'
C35	211.05'	375.00'	1606.05°	731.55'	SW	552.96'
C36	253.26'	450.00'	1927.26°	877.86'	SW	665.28'
C37	295.47'	525.00'	2248.47°	1024.17'	SW	777.60'
C38	337.68'	600.00'	2569.68°	1170.48'	SW	890.00'
C39	379.89'	675.00'	2890.89°	1316.79'	SW	1002.40'
C40	422.10'	750.00'	3212.10°	1463.10'	SW	1114.80'

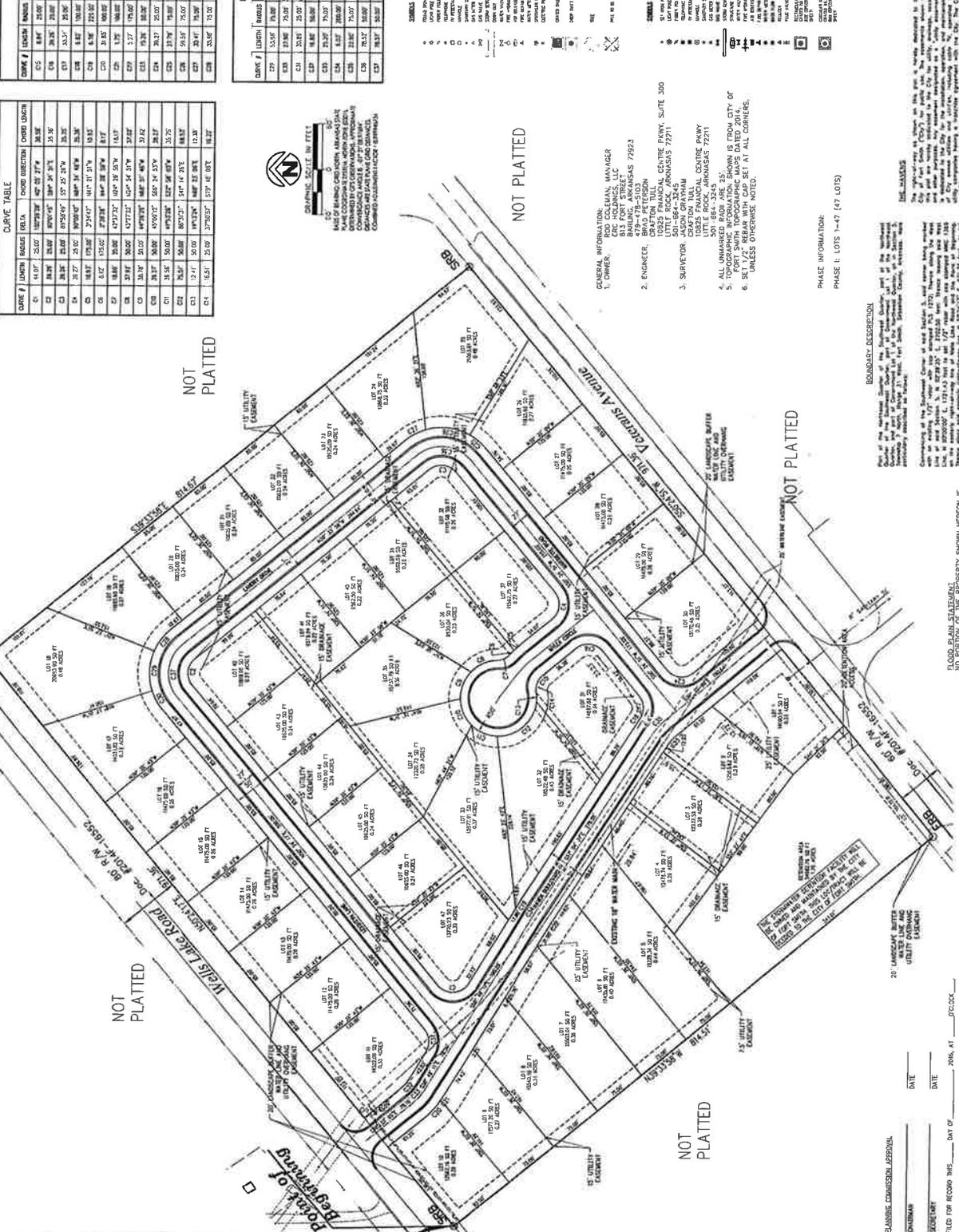


**GENERAL INFORMATION:**  
 1. OWNER: RRD COLLIER, MANAGER  
 815 FORT STREET, SUITE 200  
 FORT LAUDERDALE, FL 33304  
 2. ENGINEER: BRAD PETERSON  
 10225 FINANCIAL CENTRE PKWY, SUITE 300  
 FORT LAUDERDALE, FL 33304  
 3. SURVEYOR: JASON GRAYHAM  
 10225 FINANCIAL CENTRE PKWY, SUITE 300  
 FORT LAUDERDALE, FL 33304  
 4. ALL UNMARKED RADII ARE 25'  
 5. THIS PLAN IS BASED ON THE 2014 FORT SMITH TOPOGRAPHIC MAPS DATED 2014.  
 6. SETBACKS SHALL BE SET AT ALL CORNERS, UNLESS OTHERWISE NOTED.

**PHASE INFORMATION:**  
 PHASE 1: LOTS 1-47 (47 LOTS)

**BOUNDARY RECORDATION**  
 Part of the Northern and Eastern boundaries of the subject property are shown as being the same as the boundaries shown on the plat recorded in Public Record, Book 21, Page 10, Collier County, Florida, 2014.

**FLOOD PLAIN STATEMENT:**  
 THE PROPERTY SHOWN HEREON IS LOCATED WITHIN THE 100-YEAR FLOOD PLAIN AS SHOWN ON THE 2014 FORT SMITH TOPOGRAPHIC MAPS, FEDERAL EMERGENCY MANAGEMENT AGENCY, DATED 2014. THE PROPERTY SHOWN HEREON IS IN ZONE X.



NOT PLATTED

NOT PLATTED

NOT PLATTED

NOT PLATTED

NOT PLATTED

PLANNING COMMISSION PERSONAL  
 CHAIRMAN \_\_\_\_\_ DATE \_\_\_\_\_  
 SECRETARY \_\_\_\_\_ DATE \_\_\_\_\_  
 FILED FOR RECORD THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2014 AT \_\_\_\_\_  
 COUNTY AND DISTRICT RECORDER  
 BY \_\_\_\_\_  
 PLAN CERTIFIED CORRECT

**2. The Highlands at Chaffee Crossing, Lots 1-32 - Final Plat – Crafton Tull**

Existing Zoning Designation: Residential Single Family Medium/High Density (RSD-3)

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

Proposed Use: Single Family Dwelling Units

Approval of the final plat is pending the developer's submittal of the associated maintenance entity that will provide maintenance for all common areas. Staff anticipates submittal of this document prior to the Planning Commission meeting. Once staff receives and reviews the document, we will revise the comments for the plat.



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** April 29, 2016

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

## PROPOSED ZONING

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

## LOT LOCATION AND SIZE

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

## REQUESTED ZONING

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

### Purpose:

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

**Permitted Uses:**

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

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

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

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

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

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

### **MASTER STREET PLAN CLASSIFICATION**

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

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

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

### **NEIGHBORHOOD MEETING**

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

### **STAFF COMMENTS AND RECOMMENDATIONS**

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

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

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

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

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

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

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

**PETITION FOR CHANGE IN ZONING MAP**

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

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

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

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

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

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

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

5. Why is the zoning change requested?

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

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

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

\_\_\_\_\_  
 Owner

1720 South Albert Pike  
 Owner or Agent Mailing Address

Sara E. Baker or  
 Agent

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

## Authorizations for Agent

25 property owners out of 45 properties (55%)

**AUTHORIZATION OF AGENT**

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

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

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. <u>Tanya Merrill</u>	<u>Tanya Merrill</u>
2. <u>Margie Belt</u>	<u>Margie Belt</u>
3. <u>Carrie Vargas</u>	<u>Carrie Vargas</u>
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____

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

**AUTHORIZATION OF AGENT**

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(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

- |                                 |                        |
|---------------------------------|------------------------|
| 1. <u>Glen Turner</u>           | <u>Glen R. Turner</u>  |
| 2. <u>Frankie Turner</u>        | <u>Frankie Turner</u>  |
| 3. <u>Haralson, Jodie</u>       | <u>Jodie Clark</u>     |
| 4. <u>Kelly Wingfield</u>       | <u>Kelly Wingfield</u> |
| 5. <u>Buttery Mason</u>         | <u>Buttery Mason</u>   |
| 6. <u>ROZAN OLIVER</u>          | <u>Rozan Oliver</u>    |
| 7. <u>Sandra + James Jackio</u> | <u>Sandra Jackio</u>   |
| 8. _____                        | _____                  |
| 9. _____                        | _____                  |
| 10. _____                       | _____                  |

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

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. ALLEN & DARLENE BRANHAM

Allen Branham / Darlene Branham

2. \_\_\_\_\_

\_\_\_\_\_

3. \_\_\_\_\_

\_\_\_\_\_

4. \_\_\_\_\_

\_\_\_\_\_

5. \_\_\_\_\_

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6. \_\_\_\_\_

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10. \_\_\_\_\_

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

(Type or clearly print)

NAMES OF ALL OWNERS.

1. Mary Co Ha
2. Pierce Rebsamer
3. SAM & GRAHAM
4. Tim Thomas
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

SIGNATURE OF ALL OWNERS.

- M. Co Ha
- P. Rebsamer
- James Graham
- Tim Thomas
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. Emily Oakes
2. Peggy Pierson
3. Thadeous Pierson
4. Sara Baker
5. ALBERT M. BAKER
6. Barbara Newman
7. Larry J Newman
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

1. Emily Oakes
2. Peggy Pierson
3. Thadeous Pierson
4. Sara Baker
5. Albert M. Baker
6. Barbara Newman
7. Larry Newman
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

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

**AUTHORIZATION OF AGENT**

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

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

- 1. Deborah C Carney
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
- 10. \_\_\_\_\_

- Deborah C Carney
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. BILLY R. ORME
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

Billy R. Orme

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

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

3M

**AUTHORIZATION OF AGENT**

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

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

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

- |                                      |                                   |
|--------------------------------------|-----------------------------------|
| 1. <u>Cathy Armstrong</u>            | <u>Cathy Armstrong</u>            |
| 2. <u>Lynette &amp; Harry Denton</u> | <u>Lynette &amp; Harry Denton</u> |
| 3. <u>Keith McCallon</u>             | <u>Keith McCallon</u>             |
| 4. <u>Georgia Hammill</u>            | <u>Georgia Hammill</u>            |
| 5. _____                             | _____                             |
| 6. _____                             | _____                             |
| 7. _____                             | _____                             |
| 8. _____                             | _____                             |
| 9. _____                             | _____                             |
| 10. _____                            | _____                             |

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

**AUTHORIZATION OF AGENT**

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

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

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

- 1. JOAN M. MAYHUE
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
- 10. \_\_\_\_\_

Joan M. Mayhue

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

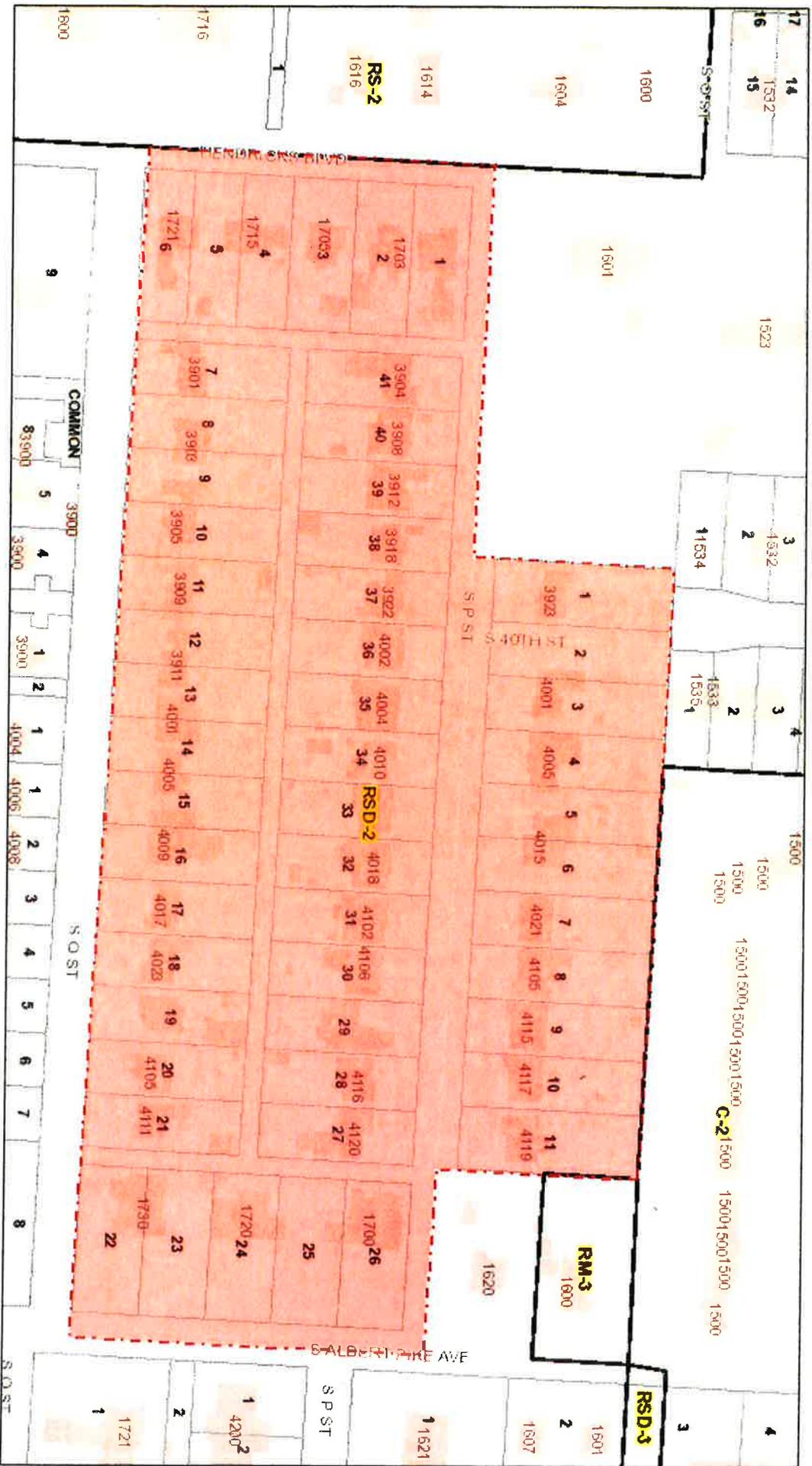
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

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

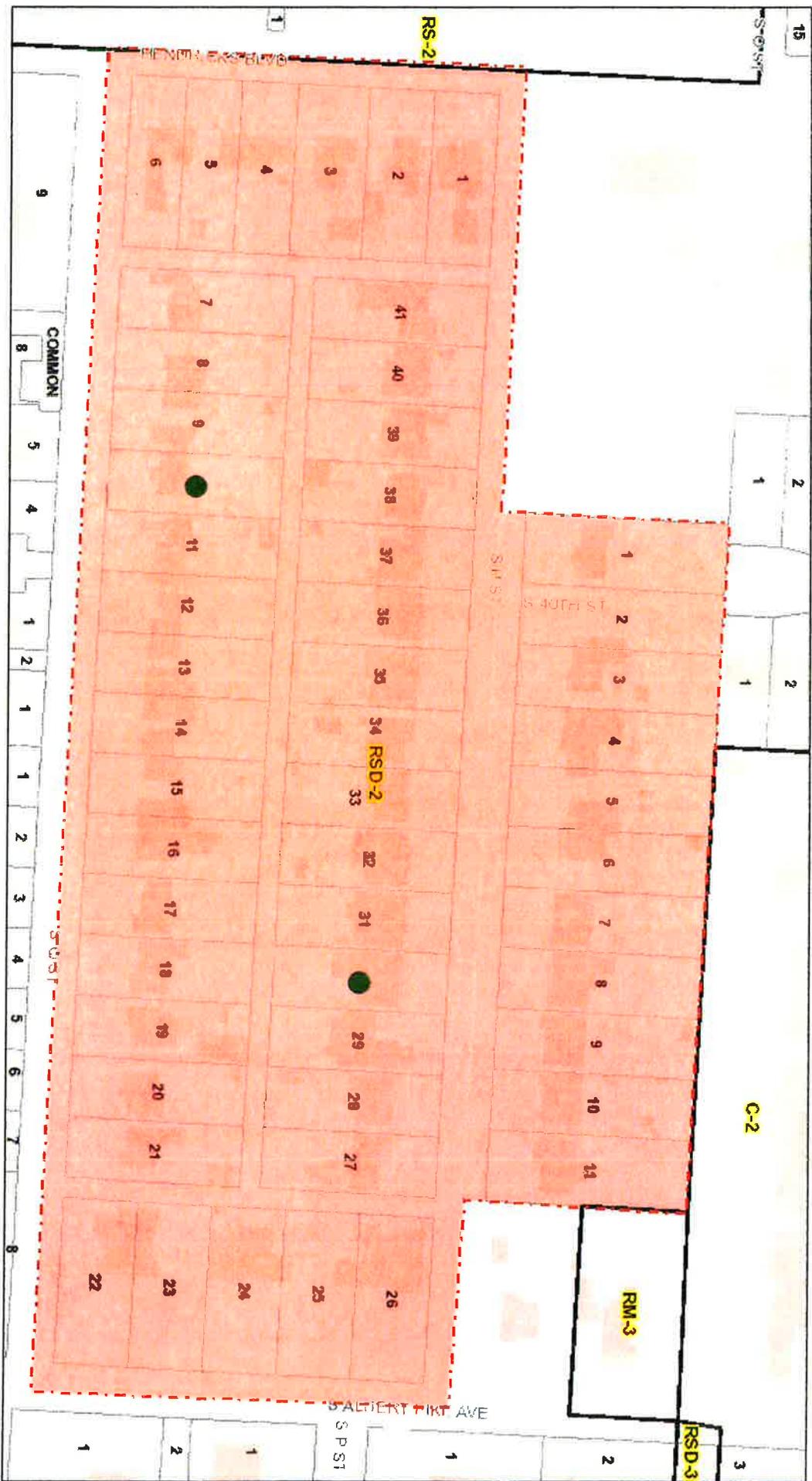


April 25, 2016

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



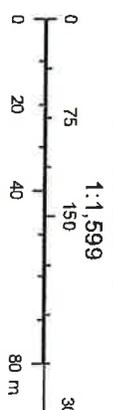
# Duplexes located within the rezoning area



May 4, 2016

- Fort Smith City Limits
- Zoning
- Subdivisions

Building Footprints



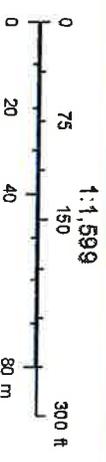
# Property owners that signed the rezoning application



May 4, 2016

- Fort Smith City Limits
- Zoning
- Subdivisions

Building Footprints



1:1,599

Handwritten initials/signature

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location Fort Smith Public Library

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

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

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<u>John Otwell</u>	<u>4700 South P St</u>	<u>479-522-0062</u>
2.	<u>Nora Otwell</u>	<u>4700 South P St</u>	<u>479 522-5584</u>
3.	<u>Glenn Rabideau</u>	<u>1621 S Albert Pike</u>	<u>479-782-9763</u>
4.	<u>Nina Rabideau</u>	<u>1621 S Albert Pike</u>	<u>479-782-9763</u>
5.	<u>Lynne Huma</u>	<u>4116 S. P</u>	<u>479 831 7311</u>
6.	<u>Carl Oest</u>	<u>4023 S Q</u>	<u>479 782-7743</u>
7.	<u>Steen Turner</u>	<u>4015 S "P"</u>	<u>479-782-6617</u>
8.	<u>Emily Oakes</u>	<u>4119 S. P</u>	<u>479-459-0540</u>
9.	<u>J. Adams</u>	<u>3900 S Q</u>	<u>479 4346360</u>
10.	<u>Barbara Newman</u>	<u>4116 So. P St.</u>	<u>479 8317311</u>
11.	<u>Frank Herz &amp; Betty Herz</u>	<u>1820 Hendricks</u>	<u>479 783-2876</u>



## MINUTES OF NEIGHBORHOOD MEETING

### REZONING MORNINGSIDE ADDITION

5:30, MARCH 30, 2016

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

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

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

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

MINUTES OF NEIGHBORHOOD MEETING

REZONING OF MORNINGSIDE ADDITION

5:30 MARCH 30, 2016

(Cont'd.)

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

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

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

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

Exhibit C

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

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

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

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

Exhibit A



realtor.com® (March 28,



ormation, visit our list of



Exhibit B

Login

Sort by Best

train line. I'm surprised

2W/

4106 So. P

Severation of Alley



exhibit 10

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SIGNATURES FROM PROERTY OWNERS INSIDE MORNINGSIDE ADDTION  
SUPPORTING REZONING



SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

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

EXISTING RSD-2

PROPOSED REZONING RS-3

<u>PRINTED NAME</u>	<u>PROPERTY ADDRESS</u>	<u>SIGNATURE</u>
Peggy Pierson	4117 South Pst.	Peggy Pierson
Thaddeus Pierson	4117 South Pst	Thaddeus Pierson
Cathy Armstrong	4223 South Pst	Cathy Armstrong
Emily Carter	4119 S. P	Emily Carter
Larry Newman	4116 So. P St	Larry Newman
Pierce Reisman	4120 S. P St	Pierce Reisman
Mr & Mrs Glen Turner	4015 South P St	Glen Turner / Frenchie Turner
Barbara Newman	4116 So P St	Barbara Newman
Albert Baker	1720 So. Albert Pike	ALBERT M. BAKER
Sara Baker	1720 So Albert Pike	Sara Baker

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

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

EXISTING RSD-2

PROPOSED REZONING RS-3 OR RS-4

PRINTED NAME

PROPERTY ADDRESS

SIGNATURE

ALLEN BRANHAM 4018 SO P ST Allen Branham

James Mahm 4014 50 P ST James Mahm

Sandra + James Jackson 4005 South P. St. Sandra Jackson

ROZAN OLIVER 4010 South P Street Rozan Oliver

LARRY HILTON 4021 SOUTH P ST. [Signature]

DAVID SHARUM 4105 S Q [Signature]

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

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

EXISTING RSD-2

PROPOSED REZONING RS-3

PRINTED NAME

PROPERTY ADDRESS

SIGNATURE

Lynette Denton -	4009 South Q Street	Lynette Denton
LARRY E. DENTON	4009 SOUTH Q ST.	Larry Denton
Keith McGilbr	3903 S. Q	Keith McGilbr
Georgia Hamon	3901 So Q	Georgia Hamon
Bill R. Drum	4005 So. Q St.	Bill R. Drum
Jean M. Mangue	1703 Hendricks Blvd	72903
Ashley F. Ahler	1721 S. Albert Pike	72903 Ashley Ahler
Mary Cotta	1700 S. Albert Pike	72903 McCork

\* - Resides in 300' surrounding Morningside

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

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

EXISTING RSD-2

PROPOSED REZONING RS-3 OR RS-4

PRINTED NAME

PROPERTY ADDRESS

SIGNATURE

Carrie Vargas 4001 S. P. Carrie Vargas

Tim Thomas 4105 S. P. Tim Thomas

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

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

300' Neighborhoods Surrounding

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

EXISTING RSD-2

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

PRINTED NAME

PROPERTY ADDRESS

SIGNATURE

Deborah Carney	1715 Hendricks Blvd	[Signature]
Sue Bice	1614 Hendricks Blvd.	[Signature]
Doug Bice	1614 Hendricks Blvd.	[Signature]
Garland Hoover	1716 Hendricks Blvd	[Signature]
FRANCES J. BATEMAN	1714 HENDRICKS BLVD.	Frances J. Bateman
DEANNA S. FRIEDMAN	1800 HENDRICKS BLVD	Deanna S. Friedman
BROO KIDDER	1810 Hendricks Blvd	[Signature]
Kim Kidder	1810 Hendricks Blvd.	[Signature]
BRUCE JONES	1906 HENDRICKS BLVD.	[Signature]
SARAH JONES	1906 HENNRICKS BLVD.	[Signature]
Amanda Bulger	3710 So "O" St.	Amanda Bulger
Melanie Jaber	1616 Hendricks Blvd	Melanie Jaber
<del>Stacey Grubb</del>	1519 Hendricks Blvd Fort Smith, AR 72903	[Signature]
Caroline K. Whitby	1520 So. 40th Ft. Smith, AR 72903	Caroline K. Whitby
Stephen L. Ware	1530 S. 40th St Ft Smith AR 72903	Stephen L. Ware
SARON PARIS	1500 S. Albert Pike #41 - Ft Smith, AR 72903	[Signature]

Property is in Morningside

SIGNATURE SHEET IN SUPPORT OF REZONING

MORNINGSIDE SUBDIVISION

300' SURROUNDING NEIGHBORS

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

EXISTING RSD-2

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

<u>PRINTED NAME</u>	<u>PROPERTY ADDRESS</u>	<u>SIGNATURE</u>
BLAKE PEACOCK	4923 P STREET	BP
DREW WARNER	4366 So. "A" ST.	Drew Warner
Clara Rabideau	also 1607 So. Albert Pike 1621 S. Albert Pike	Clara R. Rabideau
Dana Rabideau	1621 S. Albert Pike	Dana Rabideau
William J. Williams	1620 S. ALBERT PIKE	William J. Williams
Hyd Oles	4200 S/O	Hyd Oles
Neo Oles	" "	Neo Oles
ROBERT F. BOUDEN	4221 So. Q	Robert F. Bouden
E. JANE SPERRY	4102 So. Q	Jane Sperry
Michael Farrell	1523 Hendricks Blvd	M Farrell
Laura Moore-Farrell	" "	L Farrell
FRANK HUG	1820 HENDRICKS	Frank Hug
Eric Pendergrass	1807 Hendrick	EP
Meghan Pendergrass	1807 Hendricks	Meghan Pendergrass

April 29, 2016

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

Brenda Andrews

32-8

**Monaco, Tom**

---

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

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

I will add this to the file and red folder.

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

**Miller, Perry**

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

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

Thank you,

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

**LEGAL OPINIONS REGARDING REZONING FROM INTERESTED  
PERSONS**

*File  
City opinion  
-----  
Include  
Planning Comm  
Zoning  
Petitions*

August 8, 1978

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

Re: Rezoning Petition

Dear Mr. Parker:

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

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

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

Page 2

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

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

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

Very truly yours,

Jerry Lee Canfield  
blm

37-13

*File  
City  
Opinion*

December 19, 1972

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

RE: Persons having sufficient interest to request zoning changes

Dear Mike:

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

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

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

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



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

Yours very truly,

Jerry Lee Canfield

37-14

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** April 26, 2016

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

## PROPOSED ZONING

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

## LOT LOCATION AND SIZE

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

## REQUESTED ZONING

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

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

### EXISTING ZONING

This tract is currently Not Zoned (NZ)

### SURROUNDING ZONING AND LAND USE

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

### MASTER STREET PLAN CLASSIFICATION

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

### MASTER LAND USE PLAN COMPLIANCE

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

### PROJECT BOOKLET

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

- A. Is the site capable of accommodating the building(s), parking areas and drives with the appropriate open space provided? **Yes**
- B. Does the plan provide for safe and easy ingress, egress and internal traffic circulation? **Yes**
- C. Is the plan consistent with good land use planning and site engineering design principles, particularly with respect to safety? **Yes**
- D. Are the architectural designs consistent with the City of Fort Smith policies and regulations and compatible with surrounding land use features? **Yes**
- E. Does the Plan represent an overall development pattern that is consistent with the Comprehensive Plan, Master Street Plan, Master Land Use Plan, and other adopted planning policies? **Yes**
- F. The required right-of-way dedication has been identified by the City Engineering Department? **If R.O.W. is needed it will be dedicated during the plat phase of the project.**
- G. All easements and utilities shall meet the requirements of the approving departments and agencies? **At this time it is unknown.**

- H. Articulate how the plan minimizes or mitigates the impact of increased traffic both in volume and vehicle size. **The PZD Booklet indicates that the City Engineering Department has reviewed and approved the traffic statement for this project.**
- I. Articulate how the plan exceeds the UDO requirements. (e.g. increased landscaping increased high quality materials, etc.) **The building's architectural elevations will utilize 100% of high quality materials. The landscaping utilized for the site will meet or exceed the UDO requirements. Additionally, they exceed the UDO by proposing limited land uses as well as a monument sign**

### **SITE DESIGN FEATURES**

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

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

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

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

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

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

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

### **FACTORS TO BE CONSIDERED**

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

- A. Compatibility with the Comprehensive Plan, Master Street Plan, and applicable area plans (e.g., corridor, neighborhood)
- B. Compatibility of the proposed development with the character of the neighborhood.
- C. The zoning and uses of adjacent and nearby properties, and the compatibility of the proposed future uses with those existing uses.
- D. The extent to which the proposed land use would increase or change traffic volume or parking demand in documented evidence or engineering data, road conditions, road

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

- E. The current availability of public utilities and services and the future capacity needed to adequately serve the proposed land use in combination with any improvements that would mitigate these adverse impacts.
- F. That the application complies with all relevant ordinance requirements (for example 27-200, 27-500, 27-600, and 27-700).

### **NEIGHBORHOOD MEETING**

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

### **STAFF COMMENTS AND RECOMMENDATIONS**

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

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

**PETITION FOR CHANGE IN ZONING MAP**

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

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

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

See Attached

2. Address of property: 11201 Custer Boulevard

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

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

5. Explain why the Planned Zoning District is requested?

To establish a zoning district for limited residential uses

\_\_\_\_\_

\_\_\_\_\_

Signed:

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

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

479-649-8484  
 Owner or Agent Phone Number

\_\_\_\_\_  
 Owner -

  
 Agent

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

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

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

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

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

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

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

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

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

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

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

**3d. General Project Scope.**

- i. Street and lot layout:  
See attached development plan. Access to the site is via Custer Boulevard.
- ii. Site plan showing improvements:  
See attached Development Plan.

- iii. Buffer areas, screening and landscaping areas:  
All items will meet or exceed City UDO requirements. Landscaping meets FCRA requirements with the exception of the variances. Proposed variances are detailed in section 3j.
- iv. Storm water detention areas and drainage:  
All detention and drainage will comply with The City of Fort Smith's 2011 Storm Drainage Standards. Detention areas are shown on attached Development Plan.
- v. Undisturbed natural areas:  
All boundaries of the property contain good quality hardwood trees that will remain as act as perimeter landscaping.
- vi. Existing and proposed utility connections and extensions:
  - a. An existing 16" water line along Custer Boulevard will provide water service to the property.
  - b. An Existing 30" Sanitary Sewer along the northern property line provide sewer service to the property.
  - c. Franchise Utilities will be extended to the site
- vii. Development and architectural design standards:
  - a. Design standards will meet or exceed UDO and FCRA design guidelines with approved FCRA variances.
  - b. Landscape materials and types will meet the requirements of the UDO and FCRA architectural standards.
  - c. All exterior lighting will comply with the UDO "Commercial Outdoor Lighting" regulations.
- viii. Building elevations:
  - a. See attached elevations
- ix. Proposed signage (Type and Size):
  - a. The sign will be a masonry monument style sign and will comply with UDO and FCRA sign regulations. The road frontage is 327', thus the maximum sign area is limited to 100 sq.ft. maximum.

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

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

**3f. Identify land use designations**

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

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

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

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

Not Applicable. The property is not zoned.

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

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

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

Architectural Elevations and Landscape Plans are included in Appendix B.

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

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

**Building Landscaping:**

FCRA Requirement: 1 Tree plus 4 shrubs per 40 linear feet of building.

Variance: To the extent possible, the existing trees and vegetation will be retained and will serve as building landscaping.

**Parking Lot Landscape:**

FCRA Requirement: 1 shade tree per 8 spaces.

Variance: To the extent possible, the existing trees and vegetation will be retained and will serve as parking lot landscaping.

**Perimeter Landscaping:**

FCRA Requirement: Along perimeter within setbacks

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

**Parking Lot Screening:**

FCRA Requirement: Parking lots shall be screened from Street rights of way as well adjacent properties.

Variance: The existing vegetation will serve as parking lot screening.

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

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

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

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

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

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

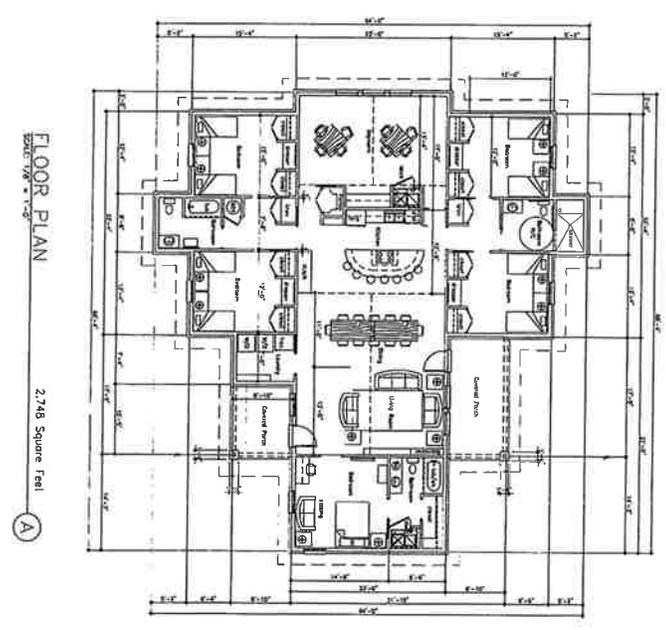
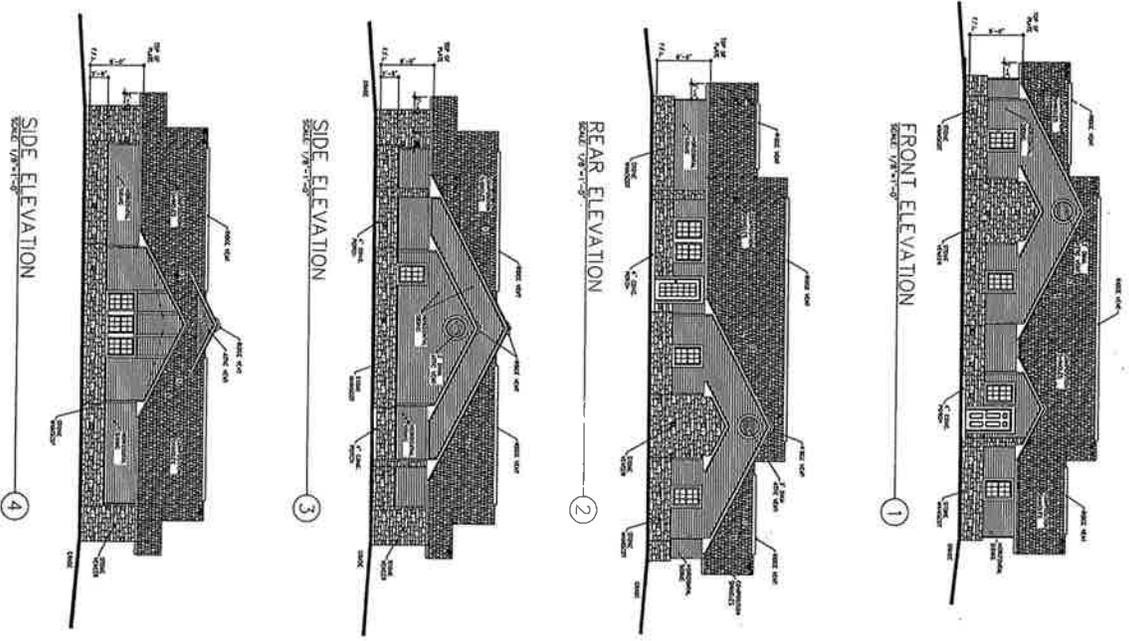
**APPENDIX A**

Vicinity Map  
Development Plan



**APPENDIX B**

Architectural Elevations



PREL V

DATE	03-23-16
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BY	
FOR	
PROJECT NO.	
SHEET	A1 of 2

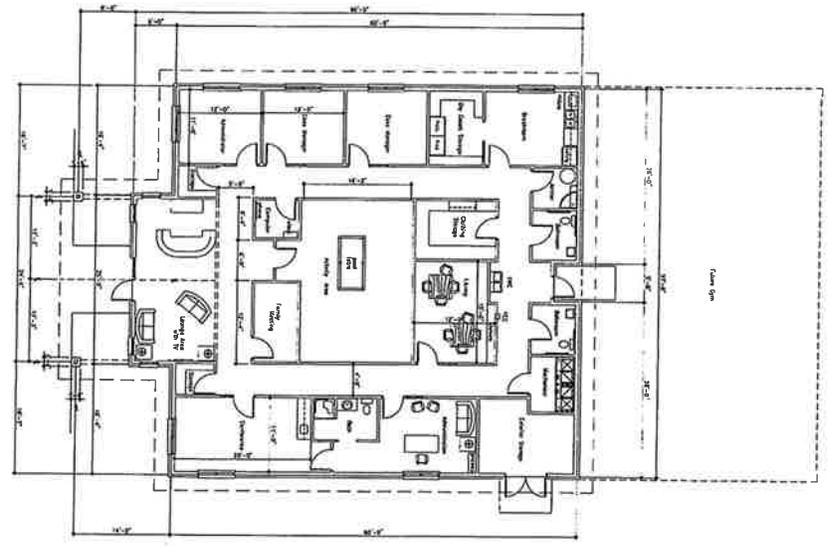
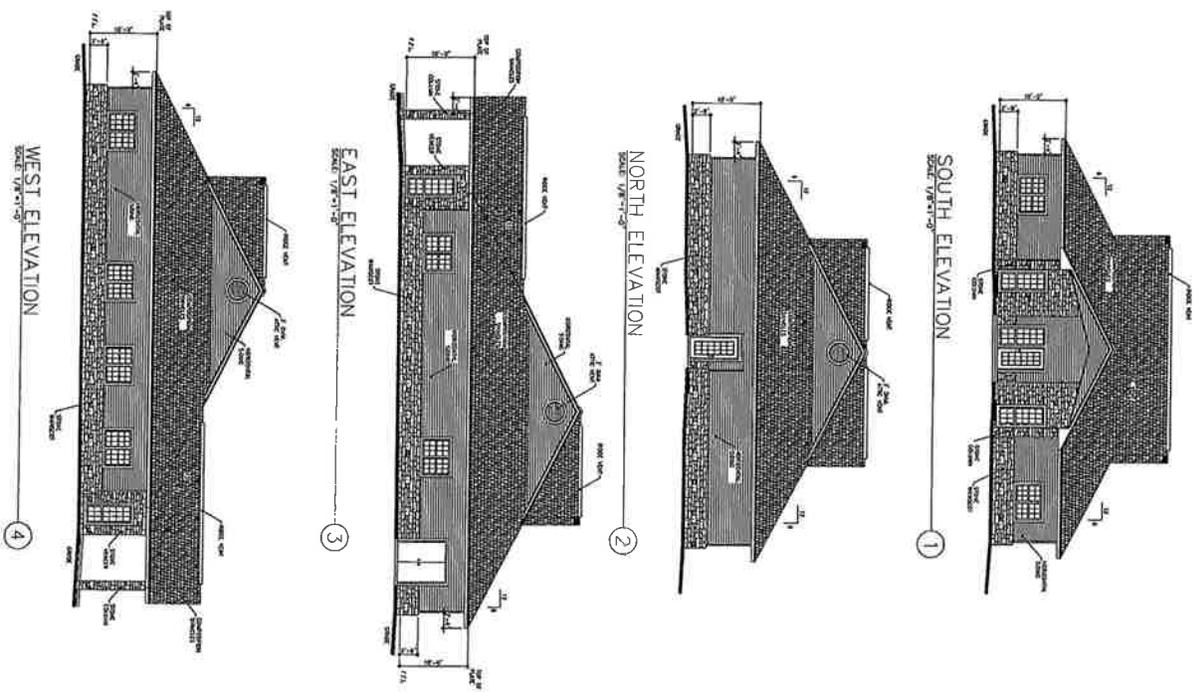
**BM & A**

BIGGERSTAFF MINDEN & ASSOCIATES P.A.  
 ARCHITECTS & PLANNERS  
 305 NORTH GREENWOOD FORT SMITH, ARKANSAS 72201 (501) 321-5019 FAX 321-5018

FLOOR PLAN

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

4M




 ADMINISTRATION FLOOR PLAN  
 SCALE: 1/8" = 1'-0"  
 3,589 Square Feet  
 (B)

PRELIM

<b>BM &amp; A</b> ARCHITECTS & PLANNERS 305 NORTH GREENWOOD FORT SMITH, ARKANSAS 72201 (479) 782-5049 FAX 782-5040	PROJECT NO: 18-03 DATE: 03-23-16 REVISED:	Curt, Cliff & Opal Young Family Home a Division of Family Ministries at Chaffee Crossing 11201 Custer Boulevard Fort Smith, Arkansas
	SHEET: A2 OF 3	

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**APPENDIX C**

Land Use Chart





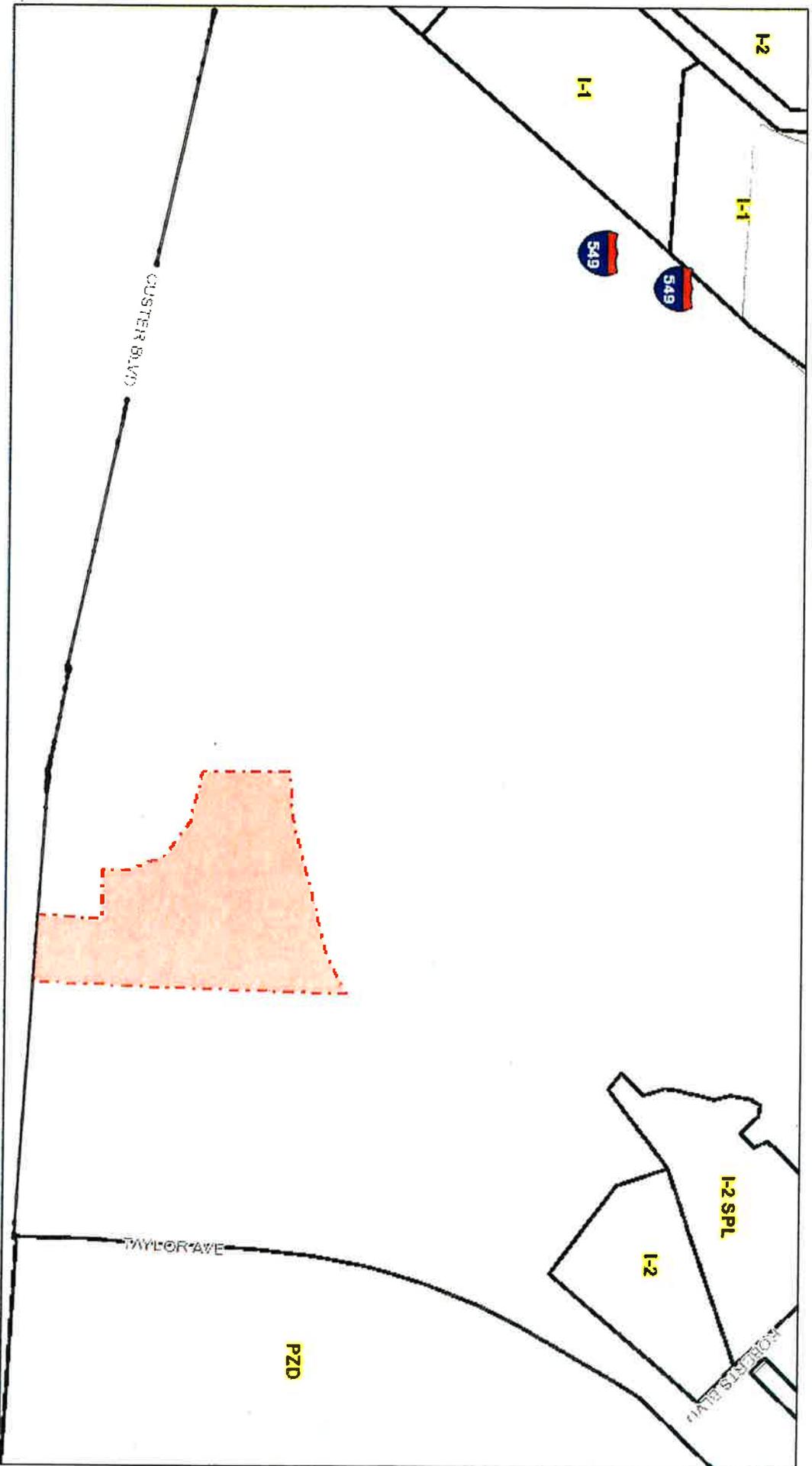
Base of Bearings:  
 Bearing one grid, Alameda State  
 upon City of Fair Smith Monument

**LEGEND**

—	1/4" SECTION LINE
—	1/2" SECTION LINE
—	3/4" SECTION LINE
—	1" SECTION LINE
—	2" SECTION LINE
—	4" SECTION LINE
—	8" SECTION LINE
—	16" SECTION LINE
—	32" SECTION LINE
—	64" SECTION LINE
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# Rezoning #11-5-16: From Not Zoned to PZD 11201 Custer Boulevard

FR



April 19, 2016

- Fort Smith City Limits
- Zoning
- Subdivisions



## Variance

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** April 27, 2016

**Re:** Variance #13-5-16 - A request by Mickle Wagner Coleman, Inc., agent, for Board of Zoning Adjustment consideration of a zoning variance request from 15 feet to 0 feet exterior side yard setback at 400 South "C" Street

### REQUESTED VARIANCE

The approval of this variance request will allow for the construction of a 30,000 gallon storage tank adjacent to an existing storage tank along South "C" Street. The new tank will be 53 feet in height and approximately 9' in diameter. It will be partially located within the street right-of-way. The applicant has submitted an application for Board of Director approval of a temporary revocable license to allow the tank to occupy a portion of the right-of-way.

### LOT LOCATION AND SIZE

The subject property is on the South side of South "C" Street between South 10<sup>th</sup> Street and South 11<sup>th</sup> Street. The tract contains an area of 2.0 acres with approximately 300 feet of street frontage along South 10<sup>th</sup> Street, South 11<sup>th</sup> Street, South "C" Street and South "D" 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 (ORLI) and Industry classifications of the Master Land Use Plan.

#### Permitted Uses:

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

5A

**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
- Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
- 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

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

Existing District (By Extension) – 20,000 square feet

**SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Industrial Light (I-1) and developed as Hiland Dairy and an office.

The area to the east is zoned Industrial Light (I-1) and developed as a machine shop.

The area to the south is zoned Industrial Light (I-1) and developed as Hiland Dairy and a sign company.

The area to the west is zoned Industrial Light (I-1) and developed as Hiland Dairy.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies South 10<sup>th</sup>, South 11<sup>th</sup>, South “C” and South “D” Streets as Local Roads.

**MASTER LAND USE PLAN COMPLIANCE**

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

### **APPLICANT HARDSHIP**

The applicants states a hardship exists due to the existing building, which is just few feet off the right-of-way. The applicant also states that this variance will allow construction of the new tank adjacent to an existing tank that was previously constructed after receiving a variance.

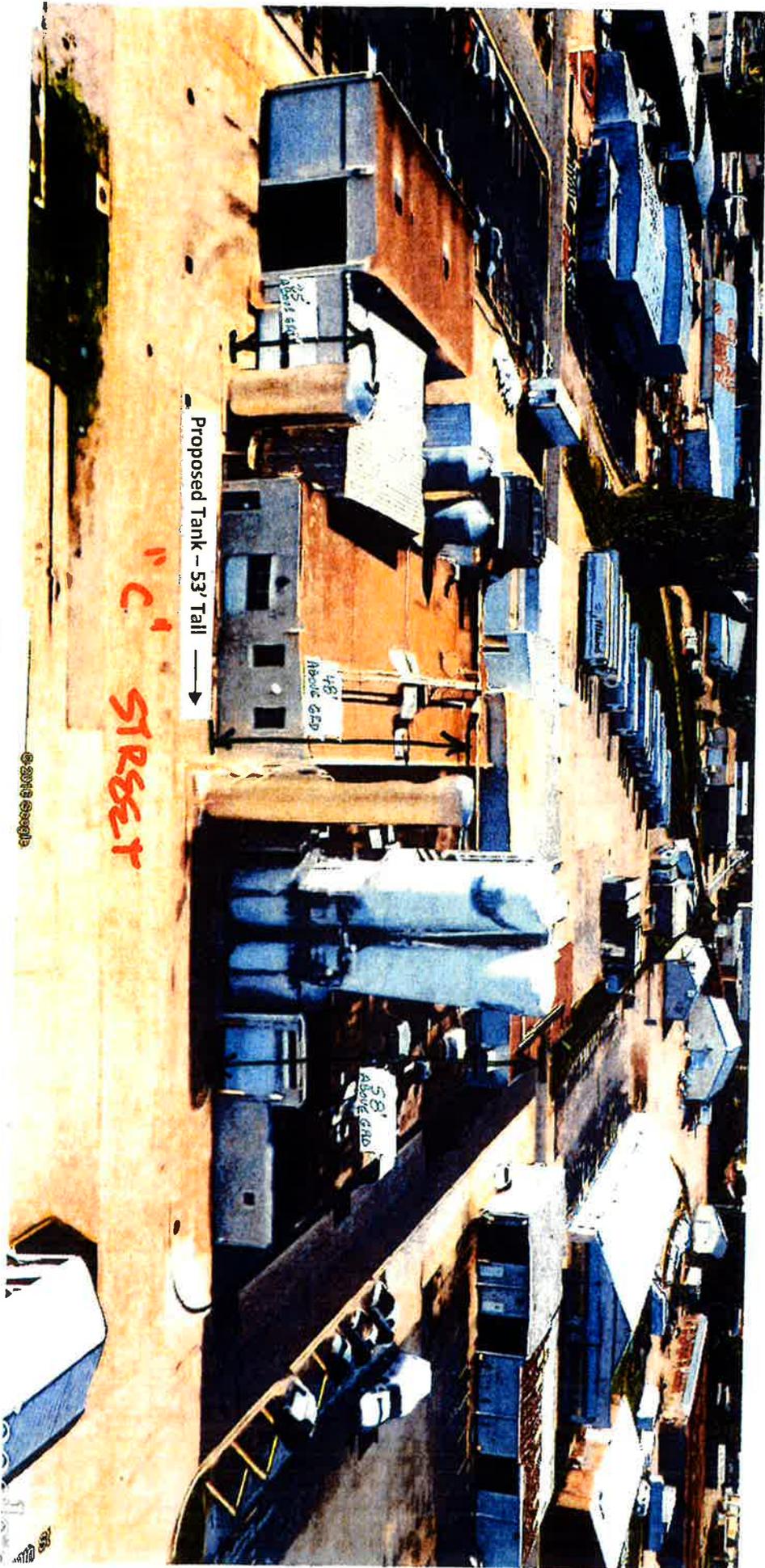
### **NEIGHBORHOOD MEETING**

The neighborhood meeting was waived in accordance with UDO Section 27-337-5, which allows the Director to waive neighborhood meetings when the project represents a minor change to the development and has little or no effect on surrounding properties. In lieu of the neighborhood meeting, the applicant sent letters to adjacent property owners with a description of the project and a copy of the site plan. The applicant nor staff has received any calls or correspondence objecting to the tank.

### **STAFF COMMENTS AND RECOMMENDATIONS**

The site is also within the warehouse district of the Central Business Improvement. Staff will present the project to the CBID for their input at the CBID's meeting on May 10<sup>th</sup>.

While reviewing the application, staff learned that the proposed tank exceeds the maximum height of 45' allowed in the Industrial Light (I-1) zoning district. This information was discovered too late in order for staff to comply with the required legal notices. Therefore, staff recommends that the BZA table the application until the June 14<sup>th</sup> planning commission meeting so that the height variance can be added to the application.



Vor #13-5-16

**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)

Lots 1-12, Block 565, Reserve Addition

Address of property 400 South C Street, Existing or Proposed

Zoning Classification I-2, 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**

- 15 -      Front Yard Setback or Minimum Distance from Right-of-Way
- 15 - 0 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

EE

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

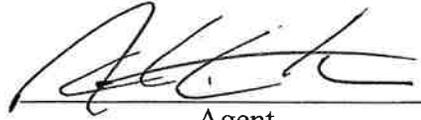
Signed:

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

\_\_\_\_\_  
Owner

or

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

  
\_\_\_\_\_  
Agent

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

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

**VARIANCE INFORMATION FORM**

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

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

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

<u>Yes</u>	<u>No</u>	
<u>      </u>	<u>  X  </u>	Is this variance needed because of previous actions taken by yourself?
<u>      </u>	<u>  X  </u>	Is this variance needed because of previous actions taken by a prior owner?
<u>  X  </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>  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>      </u>	<u>  X  </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?

T/C

Explanation of question #4 (if applicable)

The building is only a few feet off of the right-of-way. This variance will allow construction of another storage tank identified to the existing tank that was previously constructed after getting a variance.

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

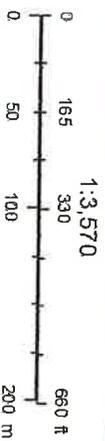
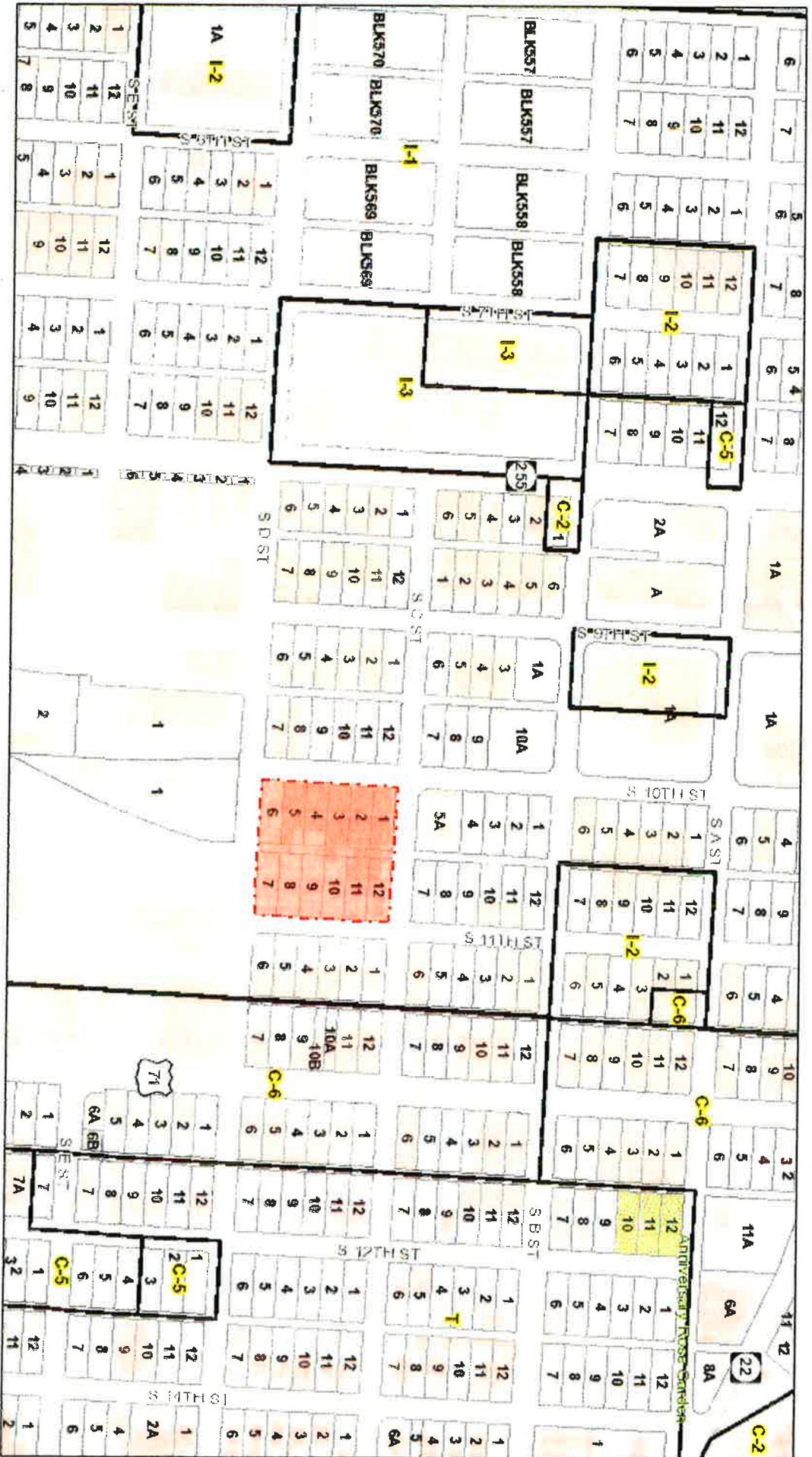
Would not be able to add another tank

- 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 #13-5-16: From 15' to 0' exterior side yard setback 400 South "C" Street

April 25, 2016

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





## Variance

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** April 26, 2016

**Re:** Variance #14-5-16 - A request by J.S. "Pete" & Mary Ramsey, owner, for Board of Zoning Adjustment consideration of a zoning variance request from 25 feet to 4.5 feet and from 25 feet to 6 feet exterior side yard setbacks and from 10 feet to 6.5 feet minimum distance between structures on the same lot located at 600 Lecta Avenue.

### REQUESTED VARIANCE

The setback variance and building separation variances if approved will allow the applicant to build a detached garage with a carport that is architecturally compatible with the existing single family home.

### LOT LOCATION AND SIZE

The subject property is on the northeast corner of Lecta Avenue and Stanard Avenue intersection. The tract contains an area of 0.16 acres with 50 feet of street frontage along Lecta Avenue and 140 feet of street frontage along Stanard Street.

### 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.

60A

**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 area is zoned Residential Single Family Medium/High Density (RS-3) and is developed as single family residences.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Lecta Avenue and Stanard Street as local roads.

**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 applicant stated that the house was built in 1909 and a garage was not added. The applicant would like a place to park two cars along with his house hold tools for maintaining the residence.

**NEIGHBORHOOD MEETING**

A neighborhood meeting was held Thursday April 21, 2016 at 6:00 P.M. at 600 Lecta Avenue. Nine neighboring property owners attended the meeting with no objections to the variance request.

6B

**STAFF COMMENTS AND RECOMMENDATIONS**

This property is located in the May-Lecta-Sweet Historic District. In these historic neighborhoods it is very common for the existing structures to encroach the setbacks, this is the case here. This variance request will allow the existing home to be in compliance with the zoning as well as allow for the garage addition. The proposed garage will be constructed in a manner to match the home and match the envelope of the existing home and 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 of the application.

10C



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

J.S. "PETE" RAMSEY  
MARY RAMSEY  
Owner or Agent Name (please print)

479-414-4831  
Owner or ~~Agent~~ Phone Number

600 LECTA AVE  
Owner or ~~Agent~~ Mailing Address  
J.S. 72901

Signed:

J.S. "Pete" Ramsey  
Owner

or

\_\_\_\_\_  
~~Agent~~

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

10F

**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?

Explanation of question #4 (if applicable)

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

See #3

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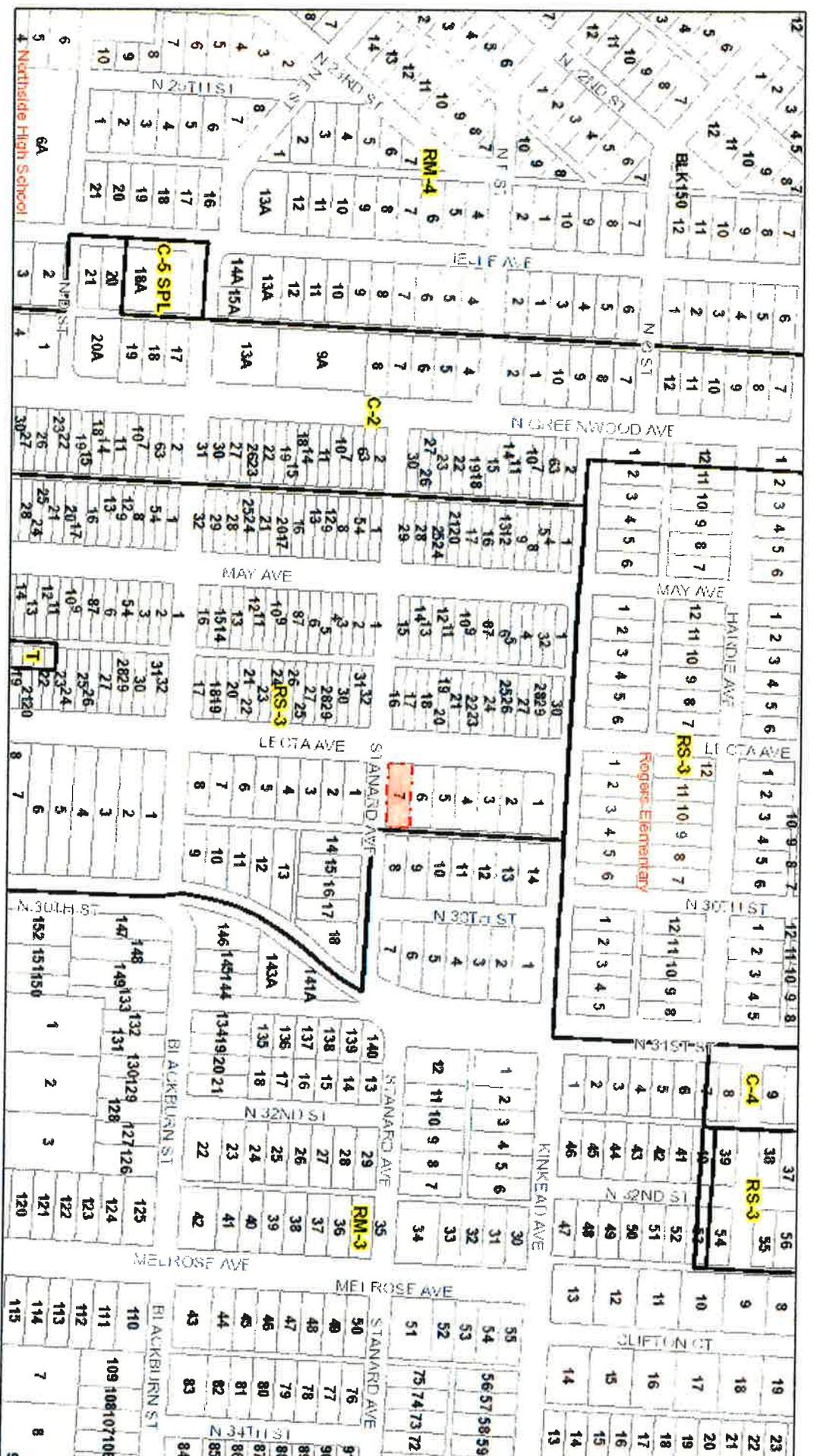
3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

At the time this house was built (1909)  
a garage/home workshop was not  
added.

Now we have need to park 2 vehicles  
and a home workshop for tools and  
lawn equipment

105

# Variance #14-5-16: From 25' to 4.5' & 6' front yard setback and from 10' to 6.5' between structures 600 Lecta Avenue

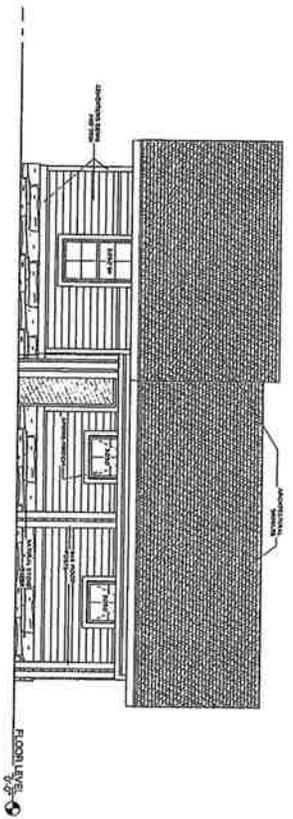


April 19, 2016

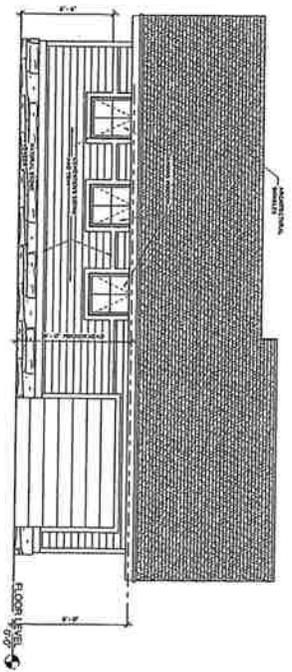
- Fort Smith City Limits
- Zoning
- Subdivisions
- Building Footprints



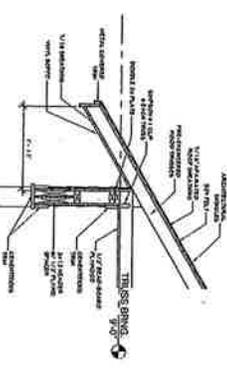




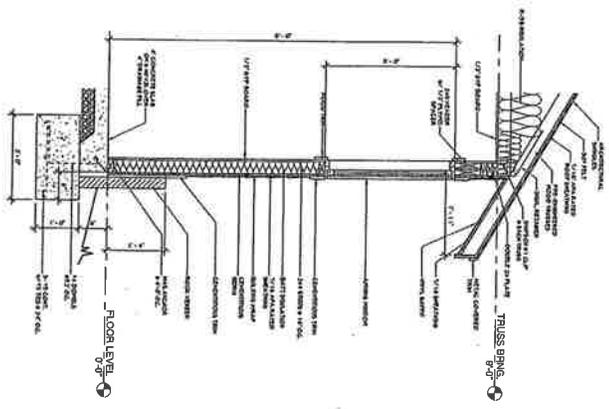
4 WEST ELEVATION  
1/4" = 1'-0"



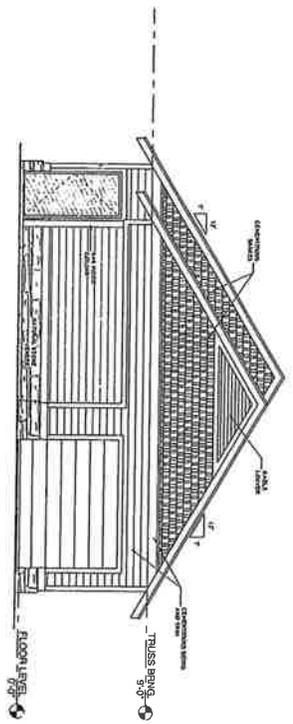
3 EAST ELEVATION  
1/4" = 1'-0"



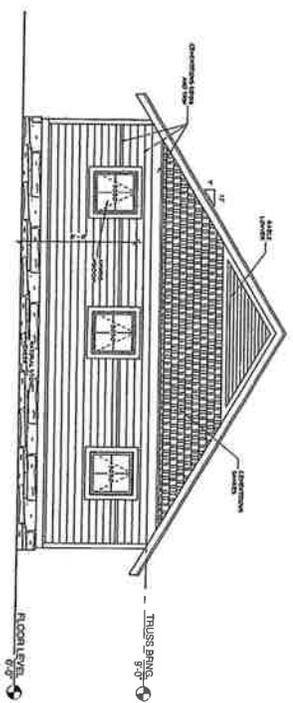
6 WALL SECTION  
3/4" = 1'-0"



5 WALL SECTION  
3/4" = 1'-0"



2 SOUTH ELEVATION  
1/4" = 1'-0"



1 NORTH ELEVATION  
1/4" = 1'-0"

**GARAGE AND WORK SHOP ADDITION**  
**PETE and MARY RAMSEY**  
 600 LECTA  
 FORT SMITH, AR



PROJECT NO.	201
DATE	2.8.18
STATUS	FINAL
DRAWING TITLE	
ELEVATIONS AND WALL SECTIONS	
SHEET NUMBER	
A2	

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** May 6, 2016

**Re:** Unified Development Ordinance Amendment – Mobile Food Vending

Information for this item will be provided prior to the Planning Commission meeting.

# Proposed Outdoor Mobile Vending Amendment



April 26, 2016  
Fort Smith City Limits

Note: Map not drawn to scale

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