



AGENDA ~ Revised

**FORT SMITH BOARD OF DIRECTORS
REGULAR MEETING**

AUGUST 3, 2010 ~ 6:00 P.M.

**FORT SMITH PUBLIC SCHOOLS
SERVICE CENTER
3205 JENNY LIND ROAD**

THIS MEETING IS BEING TELECAST LIVE ON THE CITY CABLE ACCESS CHANNEL 6

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING

(Section 2-37 of Ordinance No. 24-10)

APPROVE MINUTES OF THE JULY 20, 2010 REGULAR MEETING

ITEMS OF BUSINESS:

1. Presentations:
 - Fort Smith Museum of History Centennial Celebration
2. Ordinance rezoning identified property and amending the zoning map (*Residential Single Family Row House & Zero Lot Line District (RS-5) to Residential Single-Family Duplex High Density (RSD-4) by classification located at 4121-4119; 4102-4100; 4017-4015; 4007-4005; 4003-4001; and 4002-4000 Seminole Circle*)
3. Ordinance rezoning identified property and amending the zoning map (*Commercial-2 to Commercial-5 by extension located at 7601 Rogers Avenue*)
4. Ordinance accepting certain territory into the City of Fort Smith, State of Arkansas (*Landfill property and FCRA property*)
5. Resolution adopting the Fort Smith Redevelopment Plan 2010 proposed by the Fort Smith Housing Authority

6. Resolution of intent of the Board of Directors of the City of Fort Smith, Arkansas regarding the issuance of bonds for the purpose of assisting in the financing of an industrial facility expansion to be located within the city
7. Consent Agenda
 - A. Resolution accepting the bid for and authorizing the purchase of transit passenger shelters (\$103,513.00)
 - B. Resolution authorizing the settlement of just compensation issues with Leslie Lee Webb, Jr. and Amanda Jo Webb for real property acquired for the East Highway 45 Water Line Improvement Project, Project No. 06-03-C1 (\$3,500.00)
 - C. Resolution authorizing an amendment to the agreement with Hawkins-Weir Engineers, Inc. for engineering services associated with the Sunnymede Wet Weather Flow Management Improvements (\$166,000.00)

OFFICIALS FORUM ~ presentation of information requiring no official action
(Section 2-36 of Ordinance No. 24-10)

- A. Mayor
- B. Directors
- C. City Administrator

CITIZENS FORUM ~ presentation of information by citizens ~ an opportunity for citizens to present matters to the Mayor and Board of Directors which involve the city government and are not directly related to items considered on the agenda for this meeting. *Presentations are limited to 2 minutes for each citizen*
(Section 2-44(b) of Ordinance No. 24-10)

ADJOURN

2.

ORDINANCE NO. _____

**AN ORDINANCE REZONING IDENTIFIED PROPERTY
AND AMENDING THE ZONING MAP**

WHEREAS, the City Planning Commission has heretofore held a public hearing upon request No. 11-7-10 to rezone certain properties hereinafter described, and, having considered said request, recommended on July 13, 2010, that said change be made;

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

SECTION 1: That the following property to-wit:

Lots 27A, 30A, 31A, 32A, 33A and 37A of the proposed replat, "Leigh Ridge Addition – Lots 27A thru 39A", City of Fort Smith, Arkansas (see Exhibit "A")

More commonly known as 4121-4119; 4102-4100; 4017-4015; 4007-4005; 4003-4001; and 4002-4000 Seminole Circle, should be, and is hereby rezoned from Residential Single Family Row House & Zero Lot Line District (RS-5) to Residential Single-Family Duplex High Density (RSD-4) by Classification.

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

PASSED AND APPROVED THIS _____ DAY OF AUGUST, 2010.

ATTEST:

APPROVED:

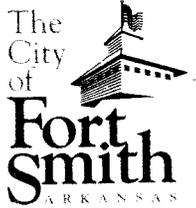
City Clerk

Mayor

Approved as to Form:

JFC

City Attorney
Publish/Time



July 29, 2010

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

Re: Rezoning #11-7-10; A request by Pat Mickle, agent, for Planning Commission consideration of a zone change from R-6 (RS-5) Residential Single Family Row House & Zero lot Line District to Residential Single-Family Duplex High Density (RSD-4) by Classification for Lots 27A (4119 & 4121 Seminole Circle; 30A (4015 & 4017 Seminole Circle); 31A (4005 & 4007 Seminole Circle); 32A (4001 & 4003 Seminole Circle); 33A (4000 & 4002 Seminole Circle); and 37A (4100 & 4102 Seminole Circle).

On July 13, 2010, the City Planning Commission held a public hearing to consider the above rezoning request.

Mr. Wally Bailey read the staff report indicating that the purpose of this rezoning request is to allow for the construction of six duplexes (12 dwelling units) for the proposed Leigh Ridge development to be located to the north of the intersection of Cliff Drive and Seminole Circle.

Mr. Bailey noted that a neighborhood meeting was held on June 23, 2010, at 8:00 a.m. at the development site on Seminole Circle. He stated that the meeting was attended by developers Cliff Ivey and Robert Young and Brenda Andrews from the planning department. No property owners attended the meeting. Mr. Bailey noted that Mr. Ivey had spoken with adjacent property owners, including Lynn Ellison with the Fort Smith Public Schools and Matt Scott, Vice President of Kelley Realty Company who had no opposition to the proposed rezoning or proposed development plan.

Mr. Pat Mickle, 3434 Country Club, was present to speak on behalf of this request.

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

Following a discussion by the Commission, Chairman Griffin called for the vote on the rezoning request. The vote was 6 in favor and 0 opposed.

A copy of the draft minutes and staff report to the Planning Commission is enclosed for your review.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(501) 785-2801
Administrative Offices FAX (501) 784-2407

The Planning Commission hereby certifies this zoning map amendment to the Board of Directors in accordance with A.C.A. 14-56-422.

Respectfully submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/lp

cc: File
City Administrator

Memo

To: City Planning Commission

From: Senior Planner

Date: July 13, 2010

Re: Rezoning # 11-7-10; a request by Pat Mickle, agent, for consideration of a zoning change from R-6 (RS-5) Residential Single Family Row house & Zero Lot Line District to Residential Single-Family Duplex High Density (RSD-4) by classification for lots 27A (4119 & 4121 Seminole Circle); 30A (4015 & 4017 Seminole Circle); 31A (4005 & 4007 Seminole Circle); 32A (4001 & 4003 Seminole Circle); 33A (4000 & 4002 Seminole Circle ; and 37A(4100 & 4102 Seminole Circle). (companion item to item #4)

LOT LOCATION AND SIZE

The proposed rezoning request site is located along Seminole Circle to the north of Cliff Drive. The subject property is 5.1 acres in size and has approximately 350 feet of street frontage on Cliff Drive and 510 feet on Seminole Circle.

EXISTING ZONING

The property is currently zoned as R-6 (RS-5) Residential Single Family Row House & Zero Lot Line District. Characteristics of the RS-5 are as follows:

Purpose: To achieve a more efficient use of land as compared with the typical single-family development, making available needed housing at a more affordable cost. By placing the dwelling against one (1) or more property lines, the outdoor space is essentially grouped and utilized to its maximum benefit to provide high density attached homes, including multi-story residential buildings in those areas where such building types already exist or where such buildings would be consistent with an area's established development pattern and character. The use of this district is equally appropriate in portions of the city as a transitional or buffer zone between low density residential districts, commercial district, industrial districts, or major transportation arteries, or other uses that are not compatible with a low density residential environment. RS-5 zoning is appropriate in urban areas in the Residential Attached, Residential Detached, Mixed Use Residential, or Mixed Use Employment categories of the Master Land Use Plan.

Permitted Uses: Single-Family Detached Homes, Row Homes, Zero Lot Line Dwelling Unit, Group Home, Family

Conditional Uses: Commercial Communication Towers, Utility Substations, Country Club, Golf Course, Parks, College, Schools, Fire Stations, Day Care Home, Churches.

3A

REQUESTED ZONING

The requested zoning on this tract is Residential Single-Family Duplex High Density (RSD-4). Characteristics of the RSD-4 zone are as follows:

Purpose: To provide very dense single family detached and duplex housing as either new or infill development. The RSD-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 RSD-4 Zoning District corresponds to the Residential Detached and Residential Attached classification of the Master Land Use Plan as a stand-alone district and to the Mixed Use classification in conjunction with other zoning districts provided it is in character with the existing or planned uses of the surrounding districts.

Permitted Uses: Detached dwelling units, duplexes, family group homes,

Conditional Uses: Schools, churches, utility substations, commercial communication towers, country club, golf course, parks and playgrounds (public and non-public) police stations and police substations, daycare home (12 or less), and home occupations and community recreation centers.

Area Regulations

Lot Area – 5,000 square feet
Minimum Lot Width at Building Line – 50 feet
Maximum Lot Coverage – 60%
Minimum Street Frontage – 20 feet
Maximum Height – 35 feet (1+1)
Front Yard Setback - 20 feet
Side Yard Setback - 5 feet
Side Yard on Street Side of Corner Lot - 20 feet
Rear Yard Setback - 10 feet
Separation of Buildings - 10 feet

Density Requirements:

8.7 dwelling units per acre

SURROUNDING ZONING AND LAND USE

The area to the north of the proposed rezoning is zoned RE-1 (Residential Estate-One Acre). The land use classification is Public-Institutional and the property is developed as Southside High School.

The area to the south of the proposed rezoning is zoned C-5 (Commercial Heavy) The land use classification is Mixed-Use Employment and the property is developed as the Fort Smith Pavilion Shopping Center.

The area to the east of the proposed rezoning is zoned RE-1 (Residential Estate-One Acre). The land use classification is Residential Detached and the property is undeveloped.

The area to the west of the proposed rezoning is zoned T (Transitional). The land use classification is Commercial Neighborhood and the property is developed as the Arkansas Best Offices.

PROPOSED ZONING CHANGE

The applicant has requested rezoning a portion of the property to Residential Single-Family Duplex High Density (RSD-4) to allow for the construction of six duplexes. (12 dwelling units)

LAND USE COMPLIANCE

The site is classified as Residential Attached by the Master Land Use Plan. The proposed rezoning will be in compliance with that land use classification.

STREET CLASSIFICATION

The Master Street Plan classifies Seminole Circle as a Local Street.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held on June 23, 8:00 a.m., at the development site on Seminole Circle. The meeting was attended by developers Cliff Ivey and Robert Young and Brenda Andrews with the planning department. No property owners attended the meeting. Mr. Ivey has spoken with adjacent property owners including Lynn Ellison with the Fort Smith Public Schools and Matt Scott, Vice President of Kelley Realty Company who have indicated no opposition to the proposed rezoning or proposed development plan.

The requested zoning is compatible with the existing land use classification and surrounding areas. Staff recommends approval of the rezoning request contingent on the approval of the companion development plan.

30

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)

Lots 27A, 30A, 31A, 32A, 33A, and 37A of the proposed replat, "Leigh Ridge Addition - Lots 27A thru 39A", City of Fort Smith, Arkansas

2. Address of property: 4121, 4119, 4102, 4100, 4017, 4015, 4007, 4005, 4003, 4002, 4001, 4000 Seminole Circle

3. The above described property is now zoned: Residential-6 (RS-5)

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

5. Why is the zoning change requested?

To allow construction of duplexes

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

Signed:

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

Owner .

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

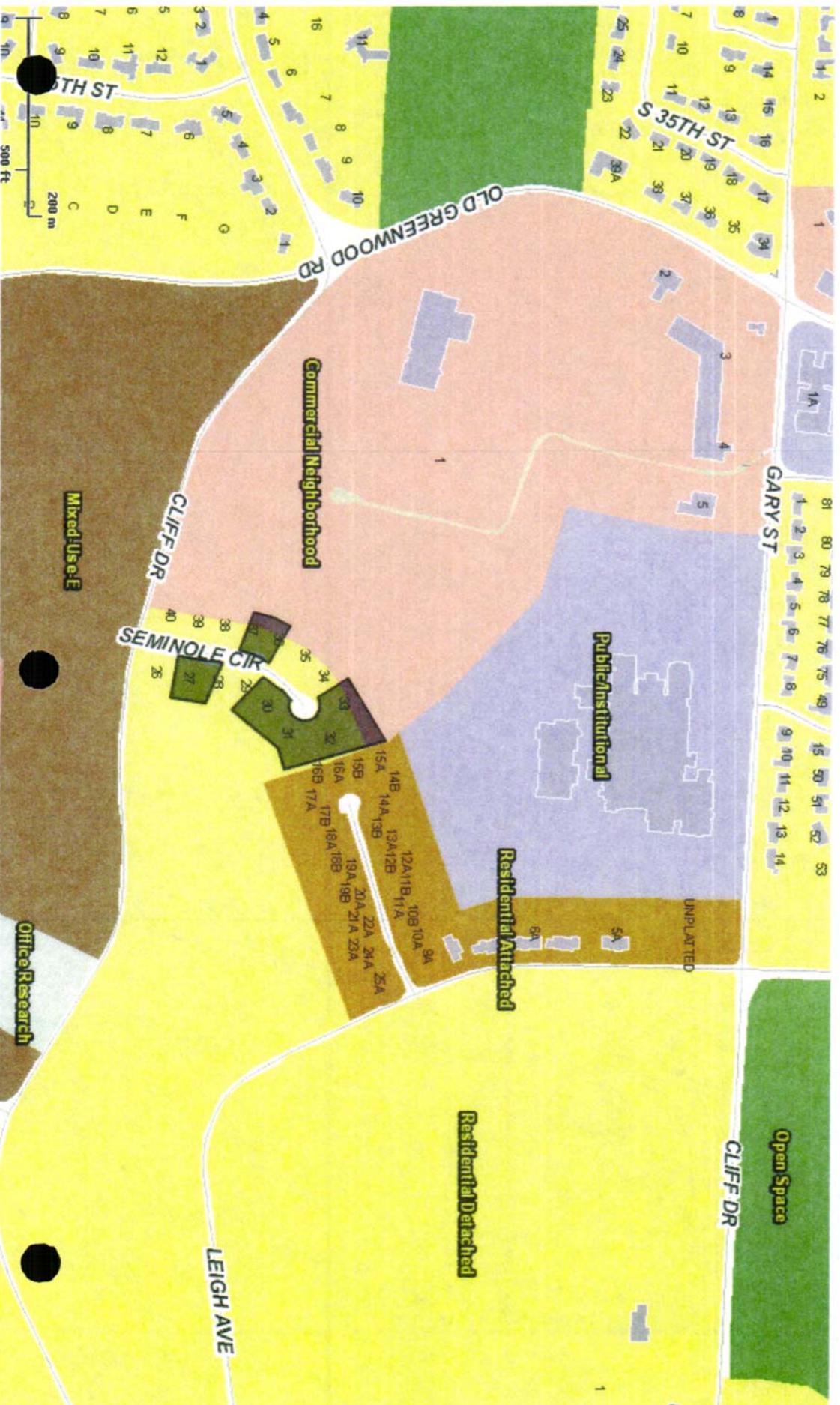
or
Pat Mickle
Agent

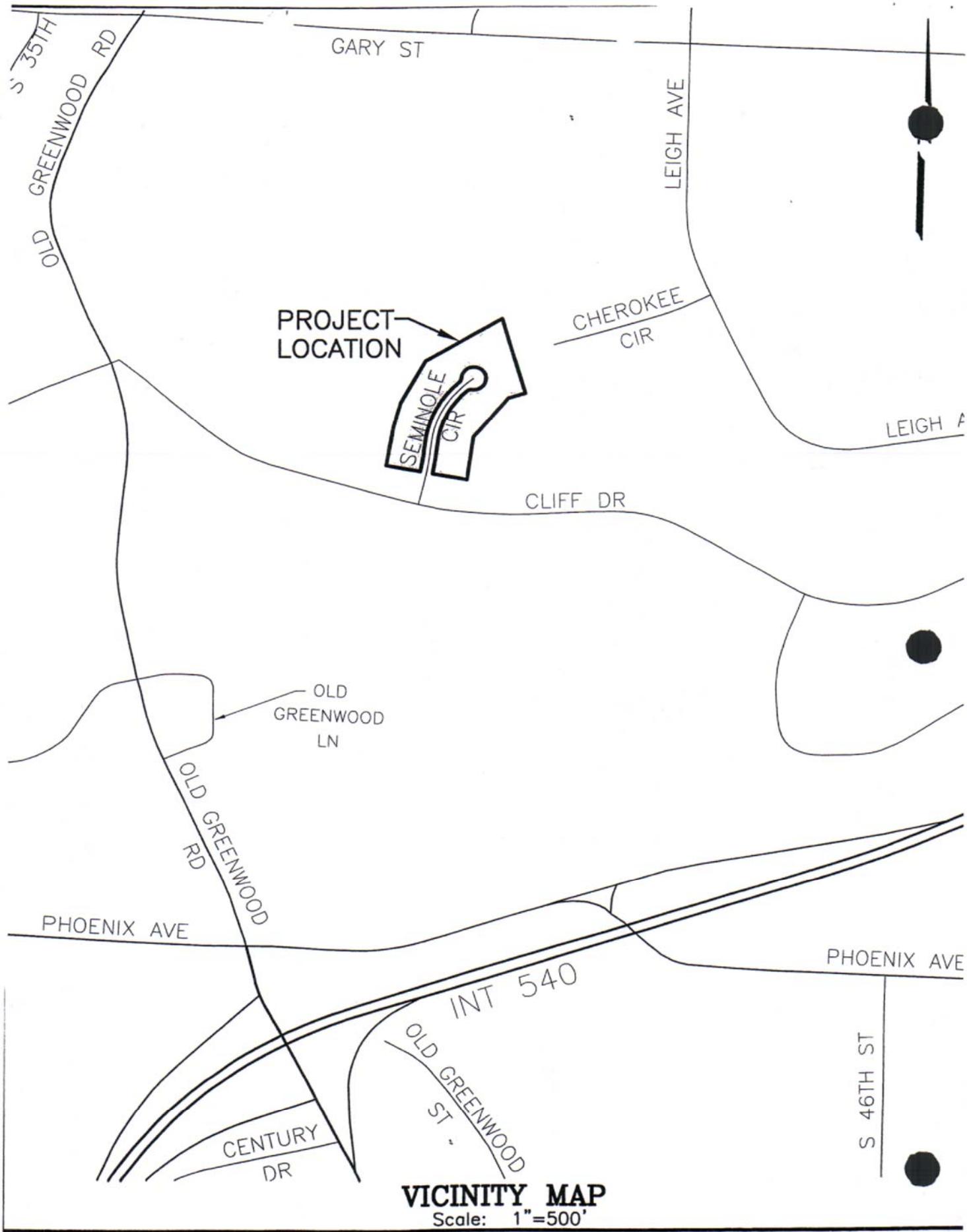
649-8484
Owner or Agent Phone Number

Master Land Use Map for Rezoning #11-7-10: From Residential-6 (RS-5) to Residential Single Family-Duplex High Density (RSD-4)

3F

Lots 27A, 30A, 31A, 32A, 33A, 37A Leigh Ridge





VICINITY MAP

Scale: 1" = 500'

3G

Arkansas Best Corporation
P. O. Box 10048
Fort Smith, AR 72917

RA Young Properties
P. O. Box 10048
Fort Smith, AR 72917

Lynn Ellison
Fort Smith Public Schools
P. O. Box 1948
Fort Smith, AR 72902

Kelley Realty
P. O. Box 1551
Fort Smith, AR 72902

DRAFT

Planning Commission Meeting Minutes
July 13, 2010

Mr. Bailey also noted that a neighborhood meeting was held on Thursday, July 1, 2010, with two adjacent property owners attending the meeting. Mr. Bailey stated that staff recommended approval subject to a condition that a twenty-five foot no development buffer strip of land along the northern boundary of this tract remain. Mr. Bailey stated that this condition was originally implemented with the adoption of Ordinance 76-92 that rezoned the property to Commercial Light.

Mr. Alan Lewis, 5414 Pinnacle Point Drive, Rogers, AR, was present to speak on behalf of this request.

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

Motion was then made by Commissioner Lorenz, seconded by Commissioner Stephens and carried unanimously to amend this request to make approval subject to a twenty-five foot no developer buffer strip remaining on the land along the northern boundary.

Chairman Griffin then called for the vote on the rezoning request as amended. The vote was 5 in favor, 0 opposed and 1 abstention (Lau).

3. **Rezoning #11-7-10; A request by Pat Mickle, agent, for a zone change from R-5 to RSD-4 by Classification located at 4121, 4119, 4102, 4100, 4017, 4015, 4007, 4005, 4003, 4002, 4001 and 4000 Seminole Circle. (companion item to item #4)**
4. **Development Plan – Leigh Ridge – Seminole Circle – Tim Risley & Associates**

Mr. Bailey read the staff reports for these items. He noted that these items would be discussed together but would need to be voted on separately. Mr. Bailey stated that the purpose of these requests is to allow for the construction of six duplexes (12 dwelling units) for the proposed Leigh Ridge development to be located to the north of the intersection of Cliff Drive and Seminole Circle. Mr. Bailey noted that a neighborhood meeting was held on June 23, 2010, at 8:00 a.m. at the development site on Seminole Circle. He stated that the meeting was attended by developers Cliff Ivey and Robert Young and Brenda Andrews from the planning department. No property owners attended the meeting. Mr. Bailey noted that Mr. Ivey had spoken with adjacent property owners, including Lynn Ellison with the Fort Smith Public Schools and Matt Scott, Vice President of Kelley Realty Company who had no opposition to the proposed rezoning or proposed development plan.

Mr. Pat Mickle, 3434 Country Club, was present to speak on behalf of these requests.

No one was present to speak in opposition.

1057

Chairman Griffin then called for the vote on these requests separately.

- 3. **Rezoning #11-7-10; A request by Pat Mickle, agent, for a zone change from R-5 to RSD-4 by Classification located at 4121, 4119, 4102, 4100, 4017, 4015, 4007, 4005, 4003, 4002, 4001 and 4000 Seminole Circle. (Lots 27A, 30A, 31A, 32A, 33A and 37A) (companion item to item #4)**

The vote on the rezoning request was 6 in favor and 0 opposed.

- 4. **Development Plan – Leigh Ridge – Seminole Circle – Tim Risley & Associates (companion item to item #3)**

The vote on the development plan was 6 in favor and 0 opposed.

- 5. **Conditional Use #12-7-10; A request by Ricky Hill, agent, for a conditional use for a beer garden located at 4416 Towson Avenue.**

Ms. Brenda Andrews read the staff report indicating that the purpose of this conditional use request is to allow an outdoor beer garden for an existing restaurant which will consist of an approximately 1,800 square foot wooden deck on the north side of the restaurant. Ms. Andrews stated that a neighborhood meeting was held on June 29, 2010, at 11:00 a.m. at Big Al's Restaurant BBQ with attendees being planning department staff and a representative of the applicant. No property owners attended the meeting.

Mr. Ricky Hill was present to speak on behalf of the conditional use request. Mr. Hill stated that the applicant had no objections to any of the staff's recommendations and comments relative to this application.

No one was present to speak in opposition.

Following a discussion by the Commission, motion was made by Commissioner Lau, seconded by Commissioner Maurras and carried unanimously to amend the request to make approval subject to the following:

- Any existing or proposed trash containers must be screened and gated with a 6' tall, wood or masonry, opaque screen fence.
- Perimeter landscaping should be maintained with an automatic irrigation system or a maintenance plan provided specifying the method of keeping the plants alive.
- Any additional area and security lighting shall be designed and installed so as not to create any adverse affects on surrounding developments.
- Any new signs will require separate permits.

ORDINANCE NO. _____

**AN ORDINANCE REZONING IDENTIFIED PROPERTY
AND AMENDING THE ZONING MAP**

WHEREAS, the City Planning Commission has heretofore held a public hearing upon request No. 10-7-10 to rezone certain properties hereinafter described, and, having considered said request, recommended on July 13, 2010, that said change be made;

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

SECTION 1: That the following property to-wit:

Lot 1, Circuit City, an addition to the City of Fort Smith, Sebastian County, Arkansas
More commonly known as 7601 Rogers Avenue , should be, and is hereby rezoned from
Commercial Light (C-2) to Commercial Heavy (C-5) by Extension, subject to a twenty-five (25)
foot no development buffer strip of land along the northern boundary of the tract and no outdoor
storage or display of merchandise on the property.

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

PASSED AND APPROVED THIS _____ DAY OF AUGUST, 2010.

ATTEST:

APPROVED:

City Clerk

Mayor

Approved as to Form:

JSC

City Attorney
Publish 1 time



July 29, 2010

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

Re: Rezoning #10-7-10; A request by John Alan Lewis, agent, for Planning Commission consideration of a zone change from Commercial Light (C-2) to Commercial Heavy (C-5) located at 7601 Rogers Avenue.

On July 13, 2010, the City Planning Commission held a public hearing to consider the above rezoning request.

Mr. Wally Bailey read the staff report indicating that the purpose of this rezoning request is to allow a movie lounge at this location. Mr. Bailey stated that patrons would be able to eat dinner and also watch a movie. He noted that a zoning change is needed due to the fact that movie theaters are not permitted in the current Commercial Light (C-2) zone.

Mr. Bailey also noted that a neighborhood meeting was held on Thursday, July 1, 2010, with two adjacent property owners attending the meeting. Mr. Bailey stated that staff recommended approval subject to a condition that a twenty-five (25) foot no development buffer strip of land along the northern boundary of this tract remain. Mr. Bailey stated that this condition was originally implemented with the adoption of Ordinance 76-92 that rezoned the property to Commercial Light.

Mr. Alan Lewis, 5414 Pinnacle Point Drive, Rogers, AR, was present to speak on behalf of this request.

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

Following a discussion by the Commission, Chairman Griffin called for the vote on the rezoning request. Motion was then made by Commissioner Lorenz, seconded by Commissioner Stephens and carried unanimously to amend this request to make approval subject to a twenty-five (25) foot no development buffer strip remaining on the land along the northern boundary.

Chairman Griffin then called for the vote on the rezoning request as amended. The vote was 5 in favor, 0 opposed and 1 abstention (Lau).

A copy of the draft minutes and staff report to the Planning Commission is enclosed for your review.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(501) 785-2801
Administrative Offices FAX (501) 784-2407

The Planning Commission hereby certifies this zoning map amendment to the Board of Directors in accordance with A.C.A. 14-56-422.

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/lp

cc: File
City Administrator

Memo

To: City Planning Commission
From: Planning Staff
Date: July 8, 2010
Subject: Rezoning #10-7-10; A request by John Alan Lewis, agent, for Planning Commission consideration of a zone change from Commercial Light (C-2) to Commercial Heavy (C-5) by extension at 7601 Rogers Avenue.

LOT LOCATION AND SIZE

The requested rezoning area is north of Rogers Avenue and to the east of South 74th Street. The area to be rezoned is approximately 2.2 acres.

EXISTING ZONING

The existing zoning on this tract is Commercial-2. Characteristics of this zone are as follows:

The C-2 zone was established for business activities located at the edge of residential areas but which serve an area larger than adjacent neighborhoods.

Permitted Uses: A wide variety of retail uses including clothing stores, restaurants, grocery stores and specialty shops. Commercial-2 zones also allow professional offices and multi-family apartments.

Conditional uses allowed in C-2 zones include churches, schools, day care centers and taverns.

Area Regulations:

Minimum Lot Size - 7,000 square feet

Street Right-of-Way Setback - 25 feet

Interior Side Yard Setback - 10 feet

Rear Yard Setback - 10 feet

Separation of Buildings – Determined by current city building and fire code.

Maximum Height – 35 feet

Density Regulations:

Maximum Lot Coverage - 60%

REQUESTED ZONING

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

Purpose: To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion and reduce visual clutter.

Uses: Retail sales and outside storage, offices and other high volume activities.

Area Regulations:

Lot Area - 14,000 square feet

Front Yard Setback - 25 feet

Side Yard Setback - 20 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side/Rear Yard Setback (adjoining single family) - 30 feet

Rear Yard Setback - 20 feet

Separation of Buildings - Per current City Building/Fire Code

Maximum Height - 45 feet

SURROUNDING ZONING AND LAND USE

The areas to the north is zoned Transitional and is developed as a fitness center.

The areas to the south and west are zoned Commercial Heavy (C-5) and are developed as shopping centers and restaurants.

The area to the east is zoned Commercial Light and is developed as a shopping center.

PROPOSED REZONING

The applicant states the requested zone change is for a Movie Lounge. Patrons would be able to come to eat dinner and watch a movie. Movie theaters are not permitted in the current Commercial Light (C-2) zone.

LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies this site as *Commercial Neighborhood* classification provides locations for convenience goods and services in a residentially compatible design, for surrounding neighborhoods. Appropriate uses include uses, such as coffee shops, movie rentals, specialty retail, personal and professional services..

MASTER STREET PLAN CLASSIFICATION

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

STAFF COMMENTS AND RECOMMENDATIONS

The proposed rezoning is to allow for a Movie Lounge which includes a movie theater and a restaurant. A neighborhood meeting was held on Thursday, July 1, 2010. Two adjacent property owners attended the meeting, heard a summary of the application, and had their questions answered. The summary of the meeting is enclosed.

Staff recommends approval of the requested rezoning subject to the condition that a twenty-five foot no development buffer strip of land along the northern boundary of this tract remain. This condition was originally implemented with the adoption of Ordinance 76-92 that rezoned the property to Commercial Light.

10-7-18

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)

Lot 1, Circuit City, an addition to the City of Fort Smith, Sebastian County, Arkansas with a street address of 7501 Rogers Avenue, Fort Smith, Arkansas.

- 2. Address of property: 7601 Rogers Avenue

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

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

- 5. Why is the zoning change requested?

Proposed land use, a movie theatre and restaurant serving alcoholic beverages, is not permitted under the C-2 zone.
For this reason, C-5 by extension is requested.

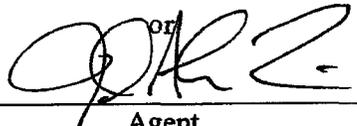
- 6. Submit any proposed development plans that might help explain the reason for the request.

Signed:

John Alan Lewis
Owner or Agent Name
(please print)

Owner

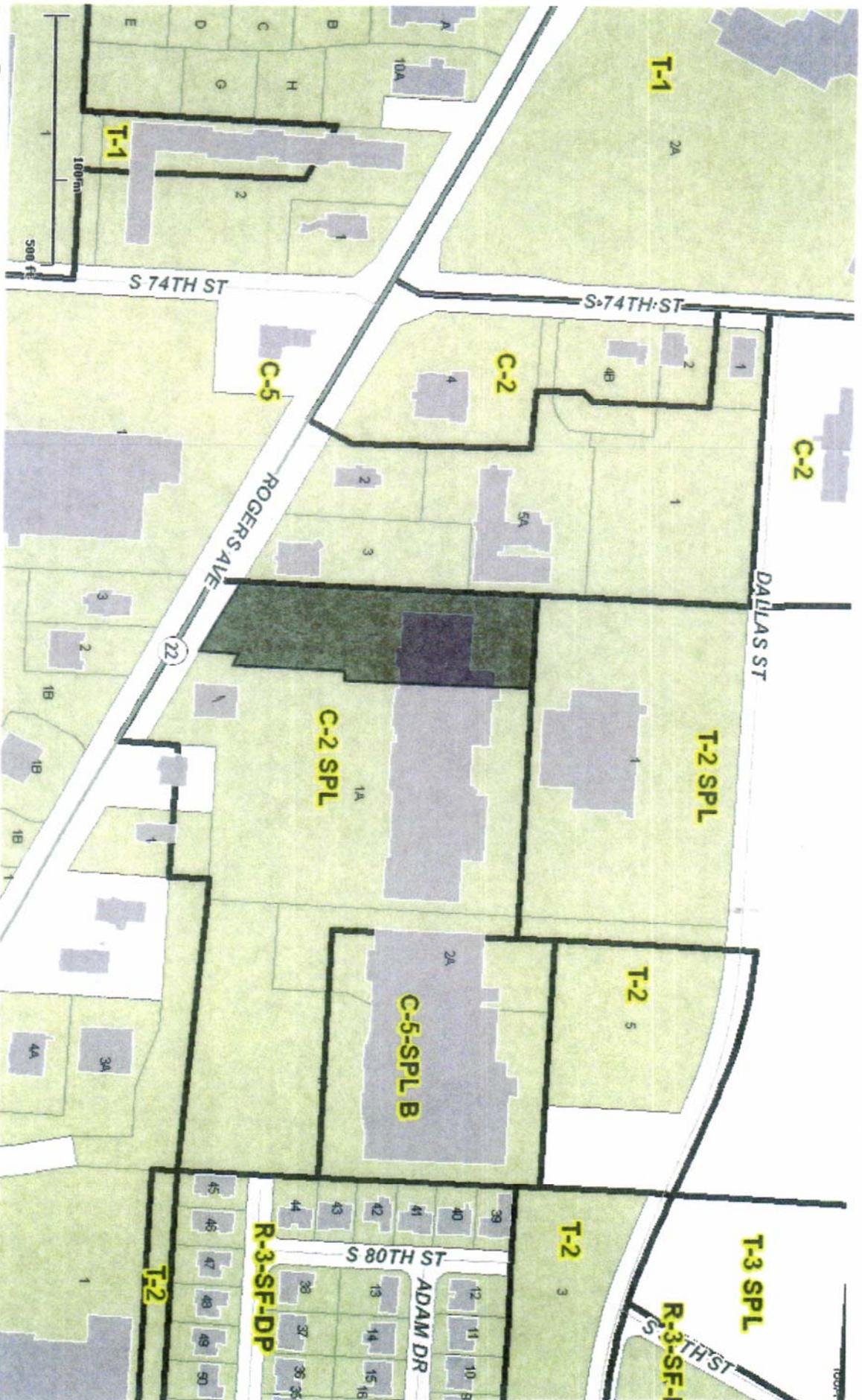
5414 Pinnacle Point Drive
Owner or Agent Mailing Address
Suite 500
Rogers, AR 72758
479-464-5656
Owner or Agent Phone Number


Agent

Rezoning #10-7-10: From Commercial-2 to Commercial Heavy (C-5)

7601 Rogers Avenue

2E



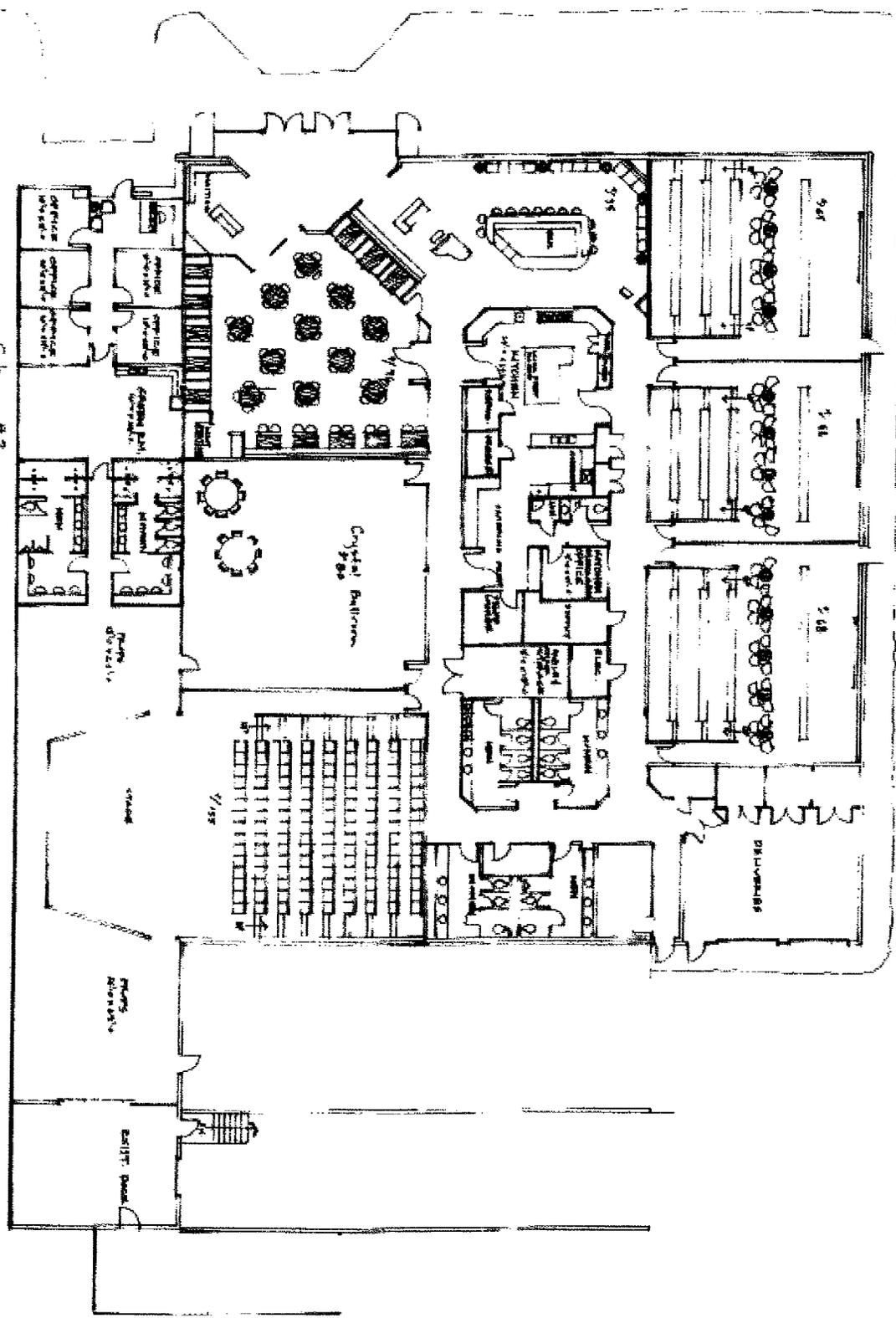
Master Land Use Map for Rezoning #10-7-10: From Commercial-2 to Commercial Heavy (C-5)

7601 Rogers Avenue



2F

Scale: 1/8" = 1'-0"
 1/4" = 1'-0"



	<p>ARCHITECTURE PLUS, INC. <small>5701 EAST 11TH STREET, SUITE 200, FORT SMITH, ARKANSAS 72304</small></p>	<p>"MOVIE LOUNGE" (FORMERLY CIRCUIT CITY) <small>7301 ROBERTS AVE. FORT SMITH, ARKANSAS</small></p>	<p>2H</p>
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Rice, Maggie

From: Alan Lewis [JALewis@mwlaw.com]
Sent: Thursday, July 01, 2010 6:28 PM
To: Rice, Maggie
Cc: Andrews, Brenda; Bailey, Wally; Dwight Curry; Lynn Weidman; Leslie Kimes; kellyunderwood@cox.net; keith lau; Tony Leraris
Subject: Neighborhood meeting - 7601 Rogers Avenue
Attachments: SCAN8912_000.pdf

Maggie,

This is the synopsis of the neighborhood meeting held at 7601 Rogers Avenue on July 1, 2010 at 4:00 PM pursuant to 27-304-1. Attached is the attendance list. The only persons not affiliated with the applicant that came to the meeting were Mr. and Mrs. Roy Holland, adjoin property owners, and two representatives from St. Edward Mercy Medical Center, Cristelyn Udouj-Roebuck and Patrick Pendleton. Dwight Curry, a principal in DHC Properties of Fort Smith, LLC, the applicant, explained his plans for the building and the reasons zone change. He gave everyone an overview as to his expected use of the building – showing movies that might not otherwise be seen in the Fort Smith market, serving food (and alcoholic beverages), a possible event center, or a facility for showing other forms of satellite entertainment or video presentations for corporate functions. Dwight shared with Mr. and Mrs. Holland as well as the St. Edward representatives with a rendering of the building, a tentative layout for the interior and an overall development plan for the site. After a few questions, both parties appeared to be satisfied. The meeting adjourned at approximately 4:25 PM.

Alan Lewis

MITCHELL WILLIAMS

John Alan Lewis

T 479.464.5656 | C 479.462.4242 | F 479.464.5680

jalewis@mwlaw.com | MitchellWilliamsLaw.com

5414 Pinnacle Point Dr. | Ste. 500 | Rogers, AR 72758-8131

Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.

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Hartness Living Trust
813 Garrison
Fort Smith, AR 72901

GMRI, Inc.
P. O. Box 593330
Orlando, FL 32859

Retail Buildings, Inc.
7030 S. Yale Avenue-Suite 107
Tulsa, OK 74136

ZP NO 64 LLC
P. O. Box 2628
Wilmington, NC 28402

St. Edward Mercy Medical
P. O. Box 17000
Fort Smith, AR 72917

Fort Smith Lodging LLC
3336 East 32nd Street #217
Tulsa, OK 74135

Kloma B. Holland Trust
2716 Heather Oaks Way
Fort Smith, AR 72908

National Western Life Insurance
850 E. Anderson Lane
Austin, TX 78752

Sam's Real Estate Business Trust
Walmart Property Tax Dept. 8013
Bentonville, AR 72712

K-mart Corporation
Dept. 768
Tax B2-116A
Hoffman Estates, IL 60192

SBW Capital Partners, LLC
433 N. Camdem Drive-Suite 1070
Beverly Hills, CA 90210

Hugh, Tammy & Nghiem Nguyen
100 Rivercrest Drive
Fort Smith, AR 72903

Lynn Ellison
Fort Smith Public Schools
P. O. Box 1948
Fort Smith, AR 72902

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
AGENDA
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
JULY 13, 2010**

On roll call, the following Commissioners were present: Keith Lau, Jennifer Parks, Steve Griffin, Mike Lorenz, Travis Stephens and Walton Maurras. Commissioners Pam Weber, Jennifer Canada and Brandon Woodrome were absent.

Chairman Griffin then called for the vote on the minutes from the June 8, 2010, Planning Commission meeting. Motion was made by Commissioner Lorenz, seconded by Commissioner Parks and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on the procedures.

1. Fort Smith Redevelopment Plan 2010 – Fort Smith Housing Authority

Mr. Wally Bailey stated that the Fort Smith Housing Authority was seeking City approval of its plan that would designate the Housing Authority as a Redevelopment Agency under the Arkansas Housing Authority Act. Mr. Bailey stated that the Housing Authority's plan focuses on bringing jobs and economic development to Fort Smith, especially in the low to moderate income areas by providing a financial incentive for commercial, retail, industrial and housing development in those areas.

Mr. Ken Pyle, Director of the Fort Smith Housing Authority, was present to speak on behalf of this redevelopment plan and to ask the Planning Commission for their endorsement.

No one was present to speak in opposition to this redevelopment plan.

Motion was then made by Commissioner Parks, seconded by Commissioner Lau and carried unanimously to endorse the Redevelopment Plan as submitted by the Housing Authority.

2. Rezoning #10-7-10; A request by John Alan Lewis, agent, for a zone change from Commercial-2 to Commercial-5 by Extension located at 7601 Rogers Avenue.

Mr. Wally Bailey read the staff report indicating that the purpose of this rezoning request is to allow a movie lounge at this location. Mr. Bailey stated that patrons would be able to eat dinner and also watch a movie. He noted that a zoning change is needed due to the fact that movie theaters are not permitted in the current Commercial Light (C-2) zone.

DRAFT

Mr. Bailey also noted that a neighborhood meeting was held on Thursday, July 1, 2010, with two adjacent property owners attending the meeting. Mr. Bailey stated that staff recommended approval subject to a condition that a twenty-five foot no development buffer strip of land along the northern boundary of this tract remain. Mr. Bailey stated that this condition was originally implemented with the adoption of Ordinance 76-92 that rezoned the property to Commercial Light.

Mr. Alan Lewis, 5414 Pinnacle Point Drive, Rogers, AR, was present to speak on behalf of this request.

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

Motion was then made by Commissioner Lorenz, seconded by Commissioner Stephens and carried unanimously to amend this request to make approval subject to a twenty-five foot no developer buffer strip remaining on the land along the northern boundary.

Chairman Griffin then called for the vote on the rezoning request as amended. The vote was 5 in favor, 0 opposed and 1 abstention (Lau).

3. **Rezoning #11-7-10; A request by Pat Mickle, agent, for a zone change from R-5 to RSD-4 by Classification located at 4121, 4119, 4102, 4100, 4017, 4015, 4007, 4005, 4003, 4002, 4001 and 4000 Seminole Circle. (companion item to item #4)**
4. **Development Plan – Leigh Ridge – Seminole Circle – Tim Risley & Associates**

Mr. Bailey read the staff reports for these items. He noted that these items would be discussed together but would need to be voted on separately. Mr. Bailey stated that the purpose of these requests is to allow for the construction of six duplexes (12 dwelling units) for the proposed Leigh Ridge development to be located to the north of the intersection of Cliff Drive and Seminole Circle. Mr. Bailey noted that a neighborhood meeting was held on June 23, 2010, at 8:00 a.m. at the development site on Seminole Circle. He stated that the meeting was attended by developers Cliff Ivey and Robert Young and Brenda Andrews from the planning department. No property owners attended the meeting. Mr. Bailey noted that Mr. Ivey had spoken with adjacent property owners, including Lynn Ellison with the Fort Smith Public Schools and Matt Scott, Vice President of Kelley Realty Company who had no opposition to the proposed rezoning or proposed development plan.

Mr. Pat Mickle, 3434 Country Club, was present to speak on behalf of these requests.

No one was present to speak in opposition.

Chairman Griffin then called for the vote on these requests separately.

ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING CERTAIN TERRITORY INTO
THE CITY OF FORT SMITH, STATE OF ARKANSAS**

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

WHEREAS, on the 22nd day of June, 2010, before the County Court of Sebastian County, Greenwood District, State of Arkansas, pursuant to Arkansas Code Annotated § 14-40-602 (Repl. 1998), there came to be heard a Petition for Annexation, in proper form and substance, and executed by the City of Fort Smith, Arkansas, and the Fort Chaffee Redevelopment Authority, which are all of the owners of the subject real properties in the territory to be annexed;

WHEREAS, the County Court for Sebastian County, Arkansas, Greenwood District, approved the Petition and entered an Order annexing the hereinafter described real property to the City of Fort Smith, pursuant to the Petition of all the owners of the real properties in the territory to be annexed, proper notice being issued in accordance with Arkansas Code Annotated § 14-40-602(b) (Repl. 1998), and all other procedures set forth in Arkansas Code Annotated § 14-40-601 et seq.; and

WHEREAS, no objection to the said Order of Annexation entered by the County Court for Sebastian County, Arkansas, Greenwood District, on June 22, 2010, has been filed within the subsequent thirty (30) day period in which an action could be filed to prevent the said annexation pursuant to Arkansas Code Annotated § 14-40-604 (Repl. 1998).

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

Section 1: The real properties described in Section 2 of this Ordinance are hereby accepted into the City of Fort Smith, State of Arkansas, annexed to the City of Fort Smith, State of Arkansas, and made a part of the City of Fort Smith, State of Arkansas, for all purposes as provided by law.

Section 2: The subject real properties accepted into and annexed to the City of Fort Smith, State of Arkansas, by Section 1 of this Ordinance above, are located in Sebastian County, Arkansas, and are more particularly described as follows, to wit:

A part of the East Half (E $\frac{1}{2}$) of Section 12, and a part of the Northeast Quarter (NE $\frac{1}{4}$) of Section 13, Township 7 North, Range 32 West, a part of the West Half (W $\frac{1}{2}$) of Section 7, and a part of the Northwest Quarter (NW $\frac{1}{4}$) of Section 18, Township 7 North, Range 31 West, Sebastian County, Arkansas. More particularly described as follows:

Commencing at the Northwest (NW) corner of said Section 13; thence Southerly 660 feet more or less along the West line of said Section 13 to the South boundary of the City of Fort Smith Landfill - Phase II; thence Easterly along said South boundary 2,620 feet more or less to the West line of said NE $\frac{1}{4}$ of said Section 13; thence Southerly along said South boundary and along said West line 1,320 feet more or less to the Southern most point of said South boundary and the point of beginning, said point also being on the Easterly boundary of the City of Fort Smith Sanitary Landfill - Phase II; thence North 48°20'10" East, 1,295.12 feet along said boundary; thence South 87°03'59" East, 655.60 feet along said boundary; thence North 19°17'07" West, 70.87 feet along said boundary; thence North 01°57'55" West, 109.15 feet along said boundary; thence North 11°24'34" East, 205.54 feet along said boundary; thence North 19°22'06" East, 157.73 feet along said boundary; thence North 27°35'04" East, 214.81 feet along said boundary; thence North 26°04'17" East, 51.91 feet along said boundary; thence North 10°02'11" East, 99.04 feet along said boundary; thence North 06°36'27" West, 215.11 feet along said boundary; thence North 01°56'09" West, 107.67 feet along said boundary; thence North 07°18'34" East, 109.42 feet along said boundary; thence North 20°46'09" East, 373.35 feet along said boundary; thence North 27°25'37" East, 214.06 feet along said boundary; thence North 35°19'03" East, 157.46 feet along said boundary; thence North 42°08'56" East, 362.80 feet along said boundary; thence North 57°14'10" East, 159.89 feet along said boundary; thence North 60°35'17" East, 102.30 feet along said boundary; thence

North 50°48'07" East, 113.92 feet along said boundary; thence North 41°14'00" West, 1,737.56 feet along said boundary; thence North 02°54'16" East, 508.29 feet along said boundary; thence North 69°14'09" West, 1,095.41 feet along said boundary to the proposed South right of way of Planters Road; thence North 69°42'13" East, 2,059.91 feet along said right of way; thence North 80°03'44" East, 912.34 feet along said right of way; thence North 87°19'03" East, 290.53 feet along said right of way; thence South 25°57'49" East, 2,250.89 feet; thence South 76°51'52" West, 513.95 feet; thence South 71 °23'41" West, 370.00 feet; thence South 41 °52'34" West, 715.00 feet; thence South 52°38'33" West, 1,335.00 feet; thence South 27°03'37" West, 640.00 feet; thence South 66°46'38" East, 650.00 feet; thence North 59°53'13" East, 760.00 feet; thence South 68°36'50" East, 1,200.00 feet; thence South 56°35'28" East, 980.00 feet; thence South 02°08'47" West, 950.88 feet; thence South 33°42'46" West, 1,180.24 feet; thence South 02°33'42" West, 242.28 feet; thence North 85°53'39" West, 2,179.05 feet; thence North 88°21'20" West, 2,320.10 feet more or less to a point on the West line of said NE¼ of Section 13, said point being 50.00 feet North of the SW corner thereof; thence North 02°54'20" East, 623.73 feet more or less along said West line to the point of beginning; containing 412.30 acres, more or less. The identified property is shown as Tract 1 on the attached Exhibit "A."

AND

A tract of land situate in the County of Sebastian, State of Arkansas: that part of the North Half (N½) of the West Half (W½) of Section 12, Township 7 North, Range 32 West, being more particularly described as follows:

Beginning at Monument Number LF04=FSCLF-344, also being the common property line between the City of Fort Smith Sanitary Landfill and the Fort Chaffee Military Reservation boundary; thence North 02°47'29" East, approximately 463.90 feet, to a point of intersection with the proposed south right-of-way of Planters Road; thence along said south right-of-way the following courses and distances: South 87°02'26" East, approximately 2259.10 feet, to a point; thence North 69°42'11" East, approximately 377.74 feet, to the intersection of the common property line between the Fort Chaffee Military Reservation boundary and the City of Fort Smith Landfill; thence along said common property line South 43°03'16" West, approximately 801.30 feet, to a point; thence North 87°02'30" West, approximately 2088.72 feet, to the point of beginning, and containing 24.70 acres, more or less. The identified property is shown as Tract 2 on the attached Exhibit "A."

Section 3: The Fort Smith City Clerk shall forward notice of the adoption of this Ordinance to the Sebastian County Clerk and provide such assistance as is required to provide notification to the Arkansas Secretary of State and the Director of the Tax Division of the

Arkansas Public Service Commission pursuant to the provisions of Arkansas Code Annotated §
14-40-605 (Repl. 1998).

THIS ORDINANCE PASSED, APPROVED AND ADOPTED THIS ____ DAY OF

_____, 2010.

APPROVED:

Mayor of the City of Fort Smith

ATTEST:

Fort Smith City Clerk

APPROVED AS TO LEGAL FORM:



Fort Smith City Attorney

PUBLISH ONE (1) TIME

MEMORANDUM

To: Dennis Kelly, City Administrator
From: Wally Bailey, Director of Development Services
Date: July 29, 2010
Subject: Annexation of Landfill Property

The attached ordinance regarding the annexation of landfill property includes approximately 412.30 acres contiguous to other landfill property owned by the City. The city acquired this property from the federal government at no cost to the city through the conversion of parts of Fort Chaffee to civilian re-use. The annexation also includes approximately 24.70 acres owned by the Fort Chaffee Redevelopment Authority south of Ben Geren Regional Park.

The Board of Directors approved Resolution R-59-10 authorizing and directing the city administrator and the city attorney to present the petition for annexation to the Sebastian County Court (*see the attached resolution and briefing report from the April 6, 2010 Board agenda*). The Fort Chaffee Redevelopment Authority approved Resolution 4-01-10 which authorized their executive director to proceed with causing the petition for annexation to be filed (*see attached resolution from the FCRA*).

On June 22, 2010, the County Court for Sebastian County approved the Petition and entered an Order annexing the properties to the City of Fort Smith. (*Attached is a copy of the Order of Annexation signed by David Hudson, Sebastian County Court Judge*). No objection to the Order of Annexation has been filed within the thirty-day period following the date of the Order in which an action could be filed to prevent the annexation pursuant to Arkansas Statutes.

An Ordinance has been prepared for the Board of Directors consideration that will complete the process for annexing the property.

Please contact me if you have any questions.

FILED

JUN 22 2010

DORIS TATE
County Clerk & Recorder

By _____

**IN THE COUNTY COURT OF SEBASTIAN COUNTY, ARKANSAS
GREENWOOD DISTRICT**

IN RE:

CASE NO. CC-2010-2-G

**PETITION BY THE CITY OF FORT SMITH,
ARKANSAS, AND THE FORT CHAFFEE
REDEVELOPMENT AUTHORITY FOR
ANNEXATION OF REAL PROPERTY TO
THE CITY OF FORT SMITH**

PETITIONERS

ORDER OF ANNEXATION

COMES on before this Court the Petition for Annexation of Adjoining Territory by Owners filed herein by the Petitioners, the City of Fort Smith, Arkansas, and the Fort Chaffee Redevelopment Authority, and the Court, from the pleadings filed herein, finds and orders that:

1. On May 3, 2010, the Petition for Annexation of Adjoining Territory by Owners in this matter was filed pursuant to Ark. Code Ann. § 14-40-601 et seq. (Repl. 1998);

2. A hearing was scheduled by this Court for June 22, 2010, which is fifty (50) days after the said filing of the Petition for Annexation of Adjoining Territory by Owners and in accordance with the time requirements of Ark. Code Ann. § 14-40-602(a)(2) (Repl. 1998);

3. Proof of Publication has been filed and presented to the Court evidencing that, in accordance with Ark. Code Ann. § 14-40-602(b) (Repl. 1998), the substance of the Petition for Annexation of Adjoining Territory by Owners, the time and place appointed for the hearing thereon and the following legal description of the subject real property to be annexed, described as:

A part of the East Half (E½) of Section 12, and a part of the Northeast Quarter (NE¼) of Section 13, Township 7 North, Range 32 West, a part of the West Half

(W½) of Section 7, and a part of the Northwest Quarter (NW¼) of Section 18, Township 7 North, Range 31 West, Sebastian County, Arkansas. More particularly described as follows:

Commencing at the Northwest (NW) corner of said Section 13; thence Southerly 660 feet more or less along the West line of said Section 13 to the South boundary of the City of Fort Smith Landfill - Phase II; thence Easterly along said South boundary 2,620 feet more or less to the West line of said NE¼ of said Section 13; thence Southerly along said South boundary and along said West line 1,320 feet more or less to the Southern most point of said South boundary and the point of beginning, said point also being on the Easterly boundary of the City of Fort Smith Sanitary Landfill - Phase II; thence North 48°20'10" East, 1,295.12 feet along said boundary; thence South 87°03'59" East, 655.60 feet along said boundary; thence North 19°17'07" West, 70.87 feet along said boundary; thence North 01°57'55" West, 109.15 feet along said boundary; thence North 11°24'34" East, 205.54 feet along said boundary; thence North 19°22'06" East, 157.73 feet along said boundary; thence North 27°35'04" East, 214.81 feet along said boundary; thence North 26°04'17" East, 51.91 feet along said boundary; thence North 10°02'11" East, 99.04 feet along said boundary; thence North 06°36'27" West, 215.11 feet along said boundary; thence North 01°56'09" West, 107.67 feet along said boundary; thence North 07°18'34" East, 109.42 feet along said boundary; thence North 20°46'09" East, 373.35 feet along said boundary; thence North 27°25'37" East, 214.06 feet along said boundary; thence North 35°19'03" East, 157.46 feet along said boundary; thence North 42°08'56" East, 362.80 feet along said boundary; thence North 57°14'10" East, 159.89 feet along said boundary; thence North 60°35'17" East, 102.30 feet along said boundary; thence North 50°48'07" East, 113.92 feet along said boundary; thence North 41°14'00" West, 1,737.56 feet along said boundary; thence North 02°54'16" East, 508.29 feet along said boundary; thence North 69°14'09" West, 1,095.41 feet along said boundary to the proposed South right of way of Planters Road; thence North 69°42'13" East, 2,059.91 feet along said right of way; thence North 80°03'44" East, 912.34 feet along said right of way; thence North 87°19'03" East, 290.53 feet along said right of way; thence South 25°57'49" East, 2,250.89 feet; thence South 76°51'52" West, 513.95 feet; thence South 71°23'41" West, 370.00 feet; thence South 41°52'34" West, 715.00 feet; thence South 52°38'33" West, 1,335.00 feet; thence South 27°03'37" West, 640.00 feet; thence South 66°46'38" East, 650.00 feet; thence North 59°53'13" East, 760.00 feet; thence South 68°36'50" East, 1,200.00 feet; thence South 56°35'28" East, 980.00 feet; thence South 02°08'47" West, 950.88 feet; thence South 33°42'46" West, 1,180.24 feet; thence South 02°33'42" West, 242.28 feet; thence North 85°53'39" West, 2,179.05 feet; thence North 88°21'20" West, 2,320.10 feet more or less to a point on the West line of said NE¼ of Section 13, said point being 50.00 feet North of the SW corner thereof; thence North 02°54'20" East, 623.73 feet more or less along said West line to the point of beginning; containing 412.30 acres, more or less. The identified property is shown as Tract 1 on the Exhibit "A" attached to the Petition

for Annexation of Adjoining Territory by Owners filed in this matter on May 3, 2010.

AND

A tract of land situate in the County of Sebastian, State of Arkansas: that part of the North Half (N½) of the West Half (W½) of Section 12, Township 7 North, Range 32 West, being more particularly described as follows:

Beginning at Monument Number LF04=FSCLEF-344, also being the common property line between the City of Fort Smith Sanitary Landfill and the Fort Chaffee Military Reservation boundary; thence North 02°47'29" East, approximately 463.90 feet, to a point of intersection with the proposed south right-of-way of Planters Road; thence along said south right-of-way the following courses and distances: South 87°02'26" East, approximately 2259.10 feet, to a point; thence North 69°42'11" East, approximately 377.74 feet, to the intersection of the common property line between the Fort Chaffee Military Reservation boundary and the City of Fort Smith Landfill; thence along said common property line South 43°03'16" West, approximately 801.30 feet, to a point; thence North 87°02'30" West, approximately 2088.72 feet, to the point of beginning, and containing 24.70 acres, more or less. The identified property is shown as Tract 2 on the Exhibit "A" attached to the Petition for Annexation of Adjoining Territory by Owners filed in this matter on May 3, 2010.

were included in a notice that was published one (1) time a week for three (3) consecutive weeks in a newspaper of general circulation in Sebastian County, State of Arkansas;

4. As set forth in the Petition for Annexation of Adjoining Territory by Owners, a total of 412.30 acres for Tract 1 and a total of 24.70 acres for Tract 2 are to be annexed, and that said real properties are contiguous to the City of Fort Smith, State of Arkansas;

5. Attached to the Petition for Annexation of Adjoining Territory by Owners as Exhibit "A" is a map depicting the boundary lines of the City of Fort Smith, Arkansas, as same currently exist and relate to the above-described real properties owned by the Petitioners; and

6. Pursuant to Ark. Code Ann. § 14-40-601, et seq. (Repl. 1998), the sole owners of the subject real properties to be annexed authorize the annexation of the aforescribed real properties.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the County Court of Sebastian County, State of Arkansas, that the above described real properties should be, and hereby are, annexed within the City of Fort Smith, Sebastian County, State of Arkansas.

IT IS SO ORDERED this _____ day of June, 2010.



Honorable David Hudson
Sebastian County Court Judge

RESOLUTION NO. 04-01-10

A RESOLUTION AUTHORIZING FILING OF ANNEXATION
PETITION WITH SEBASTIAN COUNTY COURT

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE FORT CHAFFEE
REDEVELOPMENT AUTHORITY, THAT:

The Fort Chaffee Redevelopment Authority, as the owner of the approximate 24.7 acre tract described in the attached Petition for Annexation of Adjoining Territory by Owners, hereby authorizes and directs its executive director to cause said Petition for Annexation to be filed with and submitted to the County Court of Sebastian County, Arkansas.

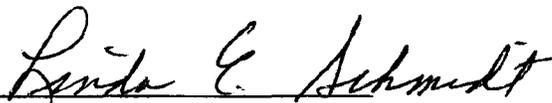
THIS RESOLUTION ADOPTED THIS 22ND DAY OF APRIL, 2010.

APPROVED:



Executive Director

ATTEST:



Secretary

Planning

7D

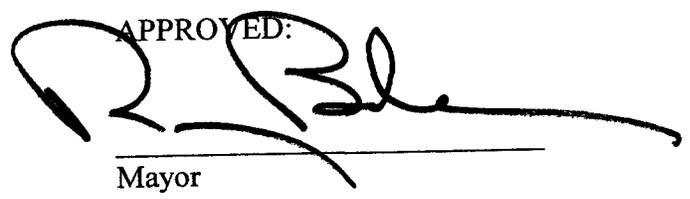
RESOLUTION NO. R-59-10

A RESOLUTION AUTHORIZING FILING OF ANNEXATION
PETITION WITH SEBASTIAN COUNTY COURT

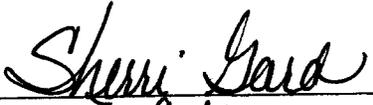
BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT
SMITH, ARKANSAS, THAT:

The City, as the owner of the approximate 412.30 acre tract described in the attached
Petition for Annexation of Adjoining Territory by Owners, hereby authorizes and directs the City
Administrator and the City Attorney to present said Petition for Annexation to the Sebastian
County Court.

THIS RESOLUTION ADOPTED THIS 6th DAY OF April, 2010.

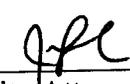
APPROVED:


Mayor

ATTEST:


City Clerk *Acting*

Approved as to form



City Attorney
No Publication Required



MEMORANDUM

March 31, 2010

TO: Dennis Kelly, City Administrator

FROM: Ray Gosack, Deputy City Administrator

SUBJECT: Annexation of Landfill Property

Attached for the board of directors' consideration is a resolution authorizing the filing of an application to annex landfill property owned by the city into the City of Fort Smith. A map showing the location of the property is also attached.

The city acquired this property from the federal government at no cost to the city through the conversion of parts of Fort Chaffee to civilian re-use. The area is approximately 412 acres, and is contiguous to the other landfill property owned by the city. This expansion area will help meet the region's solid waste disposal needs well into the second half of the 21st Century.

Following passage of the resolution, the city attorney will file a petition for annexation with the Sebastian County Court. After the county's detachment of the land area from the unincorporated areas, the annexation request will come before the board of directors.

We've also identified another tract of land for annexation. There's a parcel of 24.7 acres owned by the Fort Chaffee Redevelopment Authority south of Ben Geren Regional Park. The FCRA board will be considering annexation of this tract at its April meeting. If it concurs with the annexation, we'll process the two annexations simultaneously.

The staff recommends passage of the attached resolution. This will begin the process for annexing landfill property owned by the city into the City of Fort Smith.

Attachments

Ray

DAILY & WOODS

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

KMW BUILDING
58 SOUTH SIXTH STREET
P.O. BOX 1446
FORT SMITH, AR 72902
TELEPHONE (479) 782-0361
FAX (479) 782-6160

COMMERCE PARK II BUILDING
2049 EAST JOYCE BOULEVARD, SUITE 401
FAYETTEVILLE, AR 72703
TELEPHONE (479) 582-0361
FAX (479) 251-8111

JAMES E. WEST
PHILLIP E. NORVELL*
DALE CARLTON *

OF COUNSEL

HARRY P. DAILY (1886-1965)
JOHN P. WOODS (1886-1976)
JOHN S. DAILY (1912-1987)
BEN CORE (1924-2007)

WRITER'S E-MAIL ADDRESS
JCanfield@DailyWoods.com

JERRY L. CANFIELD, P.A.
THOMAS A. DAILY, P.A.
WYMAN R. WADE, JR., P.A.
DOUGLAS M. CARSON, P.A.
ROBERT R. BRIGGS, P.A. †*
C. MICHAEL DAILY, P.A. †
COBY W. LOGAN*
L. MATTHEW DAVIS†
COLBY T. ROE

* Fayetteville Office
† Also Licensed in Oklahoma
* Certified Mediator

March 17, 2010

Mr. Ray Gosack
Deputy City Administrator
623 Garrison Avenue, 3rd Floor
Fort Smith, AR 72901

Re: Annexation of Landfill Properties and FCRA Properties South of Ben Geren

Dear Mr. Gosack:

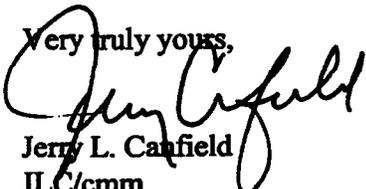
I am enclosing a Petition for Annexation of adjoining property by property owners. The Petition covers the approximate 400 acres of landfill property that is currently annexed to the City as well as a 24 acre tract owned by the Fort Chaffee Redevelopment Authority.

If the City desires to proceed with the annexation, we suggest that a resolution be adopted by the Board authorizing the filing of the Petition for Annexation. A similar resolution should be adopted by the Fort Chaffee Redevelopment Authority. I am enclosing drafts of those resolutions. I assume that you will make a contact with the FCRA.

Once the Petition is filed, the notice must be issued regarding the hearing of the matter by the county court. We will prepare such a notice once the board and the FCRA have approved the filing of the Petition.

Thank you for your attention in this matter.

Very truly yours,


Jerry L. Canfield
JLC/cmm

Enclosures

**IN THE COUNTY COURT OF SEBASTIAN COUNTY, ARKANSAS
GREENWOOD DISTRICT**

In Re:

NO. _____

**Petition by the City of Fort Smith, Arkansas,
and the Fort Chaffee Redevelopment
Authority for Annexation of Real Property
to the City of Fort Smith**

PETITIONERS

PETITION FOR ANNEXATION OF ADJOINING TERRITORY BY OWNERS

COME NOW the Petitioners, the City of Fort Smith, Arkansas, and the Fort Chaffee Redevelopment Authority and, for their Petition for Annexation of Adjoining Territory by Owners to the County Court of Sebastian County, Arkansas, state as follows:

1. The Petitioners are the owners of certain lands adjoining the City of Fort Smith, which are within Sebastian County, Arkansas, more particularly described in paragraph 3 of this Petition.

2. This Petition is being filed pursuant to legislation codified in A.C.A. § 14-40-601, et seq. Venue is in the County Court of Sebastian County, Arkansas, pursuant to A.C.A. § 14-40-601 (a).

3. The lands that adjoin the City of Fort Smith that are subject to this Petition are described as follows:

A part of the East Half (E½) of Section 12, and a part of the Northeast Quarter (NE¼) of Section 13, Township 7 North, Range 32 West, a part of the West Half (W½) of Section 7, and a part of the Northwest Quarter (NW¼) of Section 18, Township 7 North, Range 31 West, Sebastian County, Arkansas. More particularly described as follows:

Commencing at the Northwest (NW) corner of said Section 13; thence Southerly 660 feet more or less along the West line of said Section 13 to the South boundary of the City of Fort Smith Landfill - Phase II; thence Easterly along said

South boundary 2,620 feet more or less to the West line of said NE¼ of said Section 13; thence Southerly along said South boundary and along said West line 1,320 feet more or less to the Southern most point of said South boundary and the point of beginning, said point also being on the Easterly boundary of the City of Fort Smith Sanitary Landfill - Phase II; thence North 48°20'10" East, 1,295.12 feet along said boundary; thence S87 °03'59" East, 655.60 feet along said boundary; thence North 19°17'07" West, 70.87 feet along said boundary; thence North 01°57'55" West, 109.5 feet along said boundary; thence North 11°24'34" East, 205.54 feet along said boundary; thence North 19°22'06" East, 157.73 feet along said boundary; thence North 27°35'04" East, 214.81 feet along said boundary; thence North 26°04'17" East, 51.91 feet along said boundary; thence North 10°02'11" East, 99.04 feet along said boundary; thence North 06°36'27" West, 215.11 feet along said boundary; thence North 01°56'09" West, 107.67 feet along said boundary; thence North 07°18'34" East, 109.42 feet along said boundary; thence North 20 °46'09" East, 373.35 feet along said boundary; thence North 27°25'37" East, 214.06 feet along said boundary; thence North 35°19'03" East, 157.46 feet along said boundary; thence North 42°08'56" East, 362.80 feet along said boundary; thence North 57°14'10" East, 159.89 feet along said boundary; thence North 60°35'17" East, 102.30 feet along said boundary; thence North 50°48'07" East, 113.92 feet along said boundary; thence North 41°14'00" West, 1,737.56 feet along said boundary; thence North 02°54'16" West, 508.29 feet along said boundary; thence North 69°14'09" West, 1,095.41 feet along said boundary to the proposed South right of way of Planters Road; thence North 69°42'13" East, 2,059.91 feet along said right of way; thence North 80°03'44" East, 912.34 feet along said right of way; thence North 87°19'03" East, 290.53 feet along said right of way; thence South 25°57'49" East, 2,250.89 feet; thence South 76°51'52" West, 513.95 feet; thence South 71 °23'41" West, 370.00 feet; thence South 41 °52'34" West, 715.00 feet; thence South 52°38'33" West, 1,335.00 feet; thence South 27°03'37" West, 640.00 feet; thence South 66°46'38" East, 650.00 feet; thence North 59°53'13" East, 760.00 feet; thence South 68°36'50" East, 1,200.00 feet; thence South 56°35'28" East, 980.00 feet; thence South 02°08'47" West, 950.88 feet; thence South 33°42'46" West, 1,180.24 feet; thence South 02°33'42" West, 242.28 feet; thence North 85°53'39" West, 2,179.05 feet; thence North 88°21'20" West, 2,320 feet more or less to a point on the West line of said NE¼ of Section 13, said point being 50.00 feet North of the SW corner thereof; thence Northerly, 624 feet more or less along said West line to the point of beginning; containing 412.30 acres, more or less. The identified property is shown as Tract 1 on the attached Exhibit "A."

AND

A tract of land situate in the County of Sebastian, State of Arkansas: that part of the North Half (N½) of the West Half (W½) of Section 12, Township 7 North, Range 32 West, being more particularly described as follows:

Beginning at Monument Number LF04=FSCLF-344, also being the common property line between the City of Fort Smith Sanitary Landfill and the Fort Chaffee Military Reservation boundary; thence North 02°47'29" East, approximately 463.90 feet, to a point of intersection with the proposed south right-of-way of Planters Road; thence along said south right-of-way the following courses and distances: South 87°02'26" East, approximately 2259.10 feet, to a point; thence North 69°42'11" East, approximately 377.74 feet, to the intersection of the common property line between the Fort Chaffee Military Reservation boundary and the City of Fort Smith Landfill; thence along said common property line South 43°03'16" West, approximately 801.30 feet, to a point; thence North 87°02'30" West, approximately 2088.72 feet, to the point of beginning, and containing 24.70 acres, more or less. The identified property is shown as Tract 2 on the attached Exhibit "A."

Attached hereto as Exhibit "A" is a map depicting the boundary lines of the City of Fort Smith, Arkansas, as it exists and relates to the above-described real properties owned by the Petitioners.

4. The Petitioners hereby petition the County Court of Sebastian County, Arkansas, to enter an Order, after proper notice and hearing, granting the annexation of said real property to the City of Fort Smith, Sebastian County, Arkansas.

DATED this ____ day of _____, 2010.

CITY OF FORT SMITH, ARKANSAS

FORT CHAFFEE REDEVELOPMENT
AUTHORITY

DAILY & WOODS, P.L.L.C
P.O. Box 1446
Fort Smith, AR 72902-1446
(479) 782-0361

By: _____
Jerry L. Canfield
ABA #70016
Attorney for Petitioners

**IN THE COUNTY COURT OF SEBASTIAN COUNTY, ARKANSAS
GREENWOOD DISTRICT**

In Re:

NO. _____

**Petition of the City of Fort Smith, Arkansas,
and the Fort Chaffee Redevelopment
Authority for Annexation of Real Property
to the City of Fort Smith**

PETITIONERS

NOTICE

Notice is hereby given that a Petition was filed with the County Clerk of Sebastian County, Arkansas, on the _____ day of _____, 2010, praying for the annexation of certain real properties situated in Sebastian County, Arkansas, alleging that the Petitioners are the owners of all said real properties proposed to be annexed. Said real properties proposed to be annexed are a portion of Sebastian County, Arkansas, more particularly described as follows:

A tract of land situate in the County of Sebastian, State of Arkansas: that part of the East Half (E½) of Section 12, and a part of the Northeast Quarter (NE¼) of Section 13, Township 7 North, Range 32 West, a part of the West Half (W½) of Section 7, and a part of the Northwest Quarter (NW¼) of Section 18, Township 7 North, Range 31 West, more particularly described as follows:

Commencing at the Northwest (NW) corner of said Section 13; thence Southerly 660 feet more or less along the West line of said Section 13 to the South boundary of the City of Fort Smith Landfill - Phase II; thence Easterly along said South boundary 2,620 feet more or less to the West line of said NE¼ of said Section 13; thence Southerly along said South boundary and along said West line 1,320 feet more or less to the Southern most point of said South boundary and the point of beginning, said point also being on the Easterly boundary of the City of Fort Smith Sanitary Landfill - Phase II; thence North 48°20'10" East, 1,295.12 feet along said boundary; thence South 87°03'59" East, 655.60 feet along said boundary; thence North 19°17'07" West, 70.87 feet along said boundary; thence North 01°57'55" West, 109.15 feet along said boundary; thence North 11°24'34" East, 205.54 feet along said boundary; thence North 19°22'06" East, 157.73 feet along said boundary; thence North 27°35'04" East, 214.81 feet along said boundary; thence North 26°04'17" East, 51.91 feet along said boundary; thence North 10°02'11" East, 99.04 feet along said boundary; thence North 06°36'27" West, 215.11 feet along said

boundary; thence North 01°56'09" West, 107.67 feet along said boundary; thence North 07°18'34" East, 109.42 feet along said boundary; thence North 20°46'09" East, 373.35 feet along said boundary; thence North 27°25'37" East, 214.06 feet along said boundary; thence North 35°19'03" East, 157.46 feet along said boundary; thence North 42°08'56" East, 362.80 feet along said boundary; thence North 57°14'10" East, 159.89 feet along said boundary; thence North 60°35'17" East, 102.30 feet along said boundary; thence North 50°48'07" East, 113.92 feet along said boundary; thence North 41°14'00" West, 1,737.56 feet along said boundary; thence North 02°54'16" East, 508.29 feet along said boundary; thence North 69°14'09" West, 1,095.41 feet along said boundary to the proposed South right of way of Planters Road; thence North 69°42'13" East, 2,059.91 feet along said right of way; thence North 80°03'44" East, 912.34 feet along said right of way; thence North 87°19'03" East, 290.53 feet along said right of way; thence South 25°57'49" East, 2,250.89 feet; thence South 76°51'52" West, 513.95 feet; thence South 71°23'41" West, 370.00 feet; thence South 41°52'34" West, 715.00 feet; thence South 52°38'33" West, 1,335.00 feet; thence South 27°03'37" West, 640.00 feet; thence South 66°46'38" East, 650.00 feet; thence North 59°53'13" East, 760.00 feet; thence South 68°36'50" East, 1,200.00 feet; thence South 56°35'28" East, 980.00 feet; thence South 02°08'47" West, 950.88 feet; thence South 33°42'46" West, 1,180.24 feet; thence South 02°33'42" West, 242.28 feet; thence North 85°53'39" West, 2,179.05 feet; thence North 88°21'20" West, 2,320.10 feet, more or less, to a point on the West line of said NE¼ of Section 13, said point being 50.00 feet North of the SW corner thereof; thence North 02°54'20" East, 623.73 feet, more or less, along said West line to the point of beginning; containing 412.30 acres, more or less

AND

A tract of land situate in the County of Sebastian, State of Arkansas: that part of the North Half (N½) of the West Half (W½) of Section 12, Township 7 North, Range 32 West, being more particularly described as follows:

Beginning at Monument Number LF04=FSCLF-344, also being the common property line between the City of Fort Smith Sanitary Landfill and the Fort Chaffee Military Reservation boundary; thence North 02°47'29" East, approximately 463.90 feet, to a point of intersection with the proposed south right-of-way of Planters Road; thence along said south right-of-way the following courses and distances: South 87°02'26" East, approximately 2259.10 feet, to a point; thence North 69°42'11" East, approximately 377.74 feet, to the intersection of the common property line between the Fort Chaffee Military Reservation boundary and the City of Fort Smith Landfill; thence along said common property line South 43°03'16" West, approximately 801.30 feet, to a point; thence North 87°02'30" West, approximately 2088.72 feet, to the point of beginning, and containing 24.70 acres, more or less.

Notice is further given that said Petition for Annexation will be heard by the Sebastian County Court in the _____ of the Sebastian County Courthouse in _____, Arkansas, on the ____ day of _____, 2010, at _____ M.

CITY OF FORT SMITH, ARKANSAS

FORT CHAFFEE REDEVELOPMENT
AUTHORITY

DAILY & WOODS, P.L.L.C
P.O. Box 1446
Fort Smith, AR 72902-1446
(479) 782-0361

By: Jerry L. Canfield

Attorney for Petitioners

RESOLUTION NO. _____**A RESOLUTION ADOPTING THE FORT SMITH REDEVELOPMENT PLAN 2010
PROPOSED BY THE FORT SMITH HOUSING AUTHORITY**

WHEREAS, the City of Fort Smith, Arkansas ("City"), is a body corporate and a political subdivision of the State of Arkansas, duly created, organized and existing under and by virtue of the laws of the State of Arkansas; and,

WHEREAS, pursuant to Resolution No. 106-10, the Board of Directors of the City endorsed and supported the proposal by the Fort Smith Housing Authority ("Housing Authority") to prepare a redevelopment plan and to become a certified community development entity ("CDE") in order to pursue the use of new markets tax credits to stimulate development and redevelopment projects in low-to-moderate income areas of Fort Smith; and,

WHEREAS, the Housing Authority will soon become a certified community development entity and has drafted the "Fort Smith Redevelopment Plan 2010" ("Redevelopment Plan 2010"); and,

WHEREAS, on July 13, 2010, after all proper notice was given, the Fort Smith Planning Commission held a public hearing and received comments from all interested persons affected by the proposed Redevelopment Plan 2010 and subsequently endorsed the Redevelopment Plan; and,

WHEREAS, the Redevelopment Plan 2010 proposes to redevelop the Redevelopment Area by the acquisition of the property within the Redevelopment Area, the preparation of the site and the development of new commercial, retail, industrial or housing uses, as set forth in the Redevelopment Plan 2010; and,

WHEREAS, the Board of Directors of the City of Fort Smith has determined that the

proposed Redevelopment Plan 2010 is of economic significance to the City, will serve to benefit the general welfare, that the proposed Redevelopment Plan 2010 involves an area where one or more slum, blighted, deteriorated, or deteriorating areas exist in the municipality and that the rehabilitation, conservation, redevelopment, or a combination thereof, of such areas is necessary in the interest of the public health, safety, morals or welfare of the residents of the municipality; and,

WHEREAS, it is necessary and desirable and in the best interest of the City to approve the Redevelopment Plan 2010 which will provide for the promotion of the general welfare through redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan which redevelopment includes, but is not limited to, assistance in the physical, economic, and social development of the City, providing for a plan for the optimal growth of the City, encouragement of a sense of community identity, safety and civic pride and the elimination of impediments to development in the City; and,

WHEREAS, the Board of Directors of the City of Fort Smith hereby determines that the Redevelopment Plan 2010 is acceptable and that the proposed Redevelopment Plan 2010 is in the best interest of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specific in A.C.A. § 14-169-709.

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

SECTION ONE: The Board of Directors hereby approves the Fort Smith Redevelopment Plan 2010 in accordance with A.C.A. § 14-169-606. The Board of Directors specifically acknowledges the Housing Authority has the powers set forth in A.C.A. §§ 14-169-604, 14-169-705, 14-169-707 as well as the powers contained in A.C. A. § 14-169-601, et. seq. and A.C.A. §

14-169-701, et. seq. and A.C.A. § 14-169-801, et. seq., but subject to the restrictions set forth in the Redevelopment Plan 2010. In particular, the use of eminent domain for any project undertaken as part of the Redevelopment Plan 2010 shall not occur unless first approved by the City of Fort Smith Board of Directors.

SECTION TWO: The Board of Directors finds and determines that the assistance of new markets tax credits is necessary and desirable in order to implement the Redevelopment Plan 2010 and to enable the Fort Smith Housing Authority to carry out the proposed Redevelopment Plan 2010.

SECTION THREE: Severability. It is hereby declared to be the intention of the Board of Directors that each and every part, section and subsection of this Resolution shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Directors intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Resolution shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

Passed and approved this _____ day of August, 2010.

APPROVED:

ATTEST:

Mayor

City Clerk

Approved as to form:

Jde

City Attorney

Publish 1 Time



MEMORANDUM

July 29, 2010

TO: Dennis Kelly, City Administrator

FROM: Ray Gosack, Deputy City Administrator

SUBJECT: New Markets Tax Credits

Attached for the Board of Directors' consideration is the resolution adopting the Fort Smith Redevelopment Plan 2010 for the use of new markets tax credits. The board reviewed this plan at its July 27th study session. The resolution includes a sentence that the use of eminent domain must first be approved by the Board of Directors.

The staff recommends approval of the resolution. The redevelopment plan will help bring new markets tax credits to Fort Smith. The plan supports several goals of the city's comprehensive plan.

-Ray

Attachment

cc: Ken Pyle, Fort Smith Housing Authority

Fort Smith Housing Authority

2100 North 31st Street
Fort Smith, Arkansas 72904
(479) 782-4991 FAX (479) 782-0120

July 30, 2010

Mr. Ray Gosack
Deputy City Administrator, City of Fort Smith
623 Garrison Avenue
Fort Smith, AR 72901

Re: Fort Smith Redevelopment Plan 2010

Dear Ray:

The Fort Smith Housing Authority Board of Commissioners met yesterday and approved the Fort Smith Redevelopment Plan 2010. I am forwarding a copy of the executed resolution for inclusion in the packet for the Board of Directors' consideration.

Please let me know if you have any questions.

Sincerely,



Kenneth L. Pyle
Executive Director

Enclosure

RESOLUTION 1011

**RESOLUTION FOR THE APPROVAL OF THE FORT SMITH REDEVELOPMENT
PLAN 2010**

WHEREAS, the Fort Smith Housing Authority (FSHA) prepared a redevelopment plan, the Fort Smith Redevelopment Plan 2010 (the Redevelopment Plan) for low-income areas of the City; and

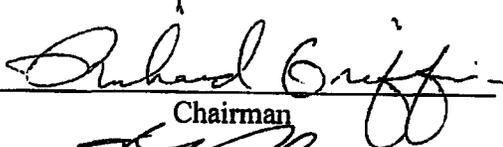
WHEREAS, FSHA has submitted the Redevelopment Plan to the Fort Smith Planning Commission (Planning Commission); and

WHEREAS, the Planning Commission unanimously endorsed the Redevelopment Plan; and

WHEREAS, FSHA requires approval of the Redevelopment Plan from its Board of Commissioners; and

WHEREAS, the Redevelopment Plan must be submitted to the Fort Smith Board of Directors for approval;

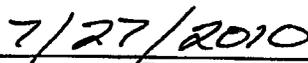
NOW THEREFORE, BE IT RESOLVED that the Commissioners approve the Redevelopment Plan and authorize the Executive Director to submit the Redevelopment Plan to the Fort Smith Board of Directors for approval.



Chairman



Secretary-Treasurer



Date



3

MEMORANDUM

July 22, 2010

TO: Dennis Kelly, City Administrator

FROM: Ray Gosack, Deputy City Administrator

SUBJECT: New Markets Tax Credits

Last month, the Board of Directors passed a resolution supporting the Fort Smith Housing Authority's proposal to use new markets tax credits. The federal tax credits can stimulate development in low-to-moderate income areas of Fort Smith.

The housing authority has prepared a redevelopment plan for the board's consideration. Arkansas law allows housing authorities to prepare and undertake such plans with approval of the municipality. The planning commission has conducted a public hearing and reviewed the plan. The commission voted unanimously (6 in favor, none opposed) to endorse the redevelopment plan.

During previous discussion, the board stated concern about the use of eminent domain. The use of eminent domain is outlined on page 19 of the redevelopment plan. In summary, eminent domain may be used only with the approval of the city Board of Directors.

Approval of the redevelopment plan will enhance the housing authority's likelihood of receiving an allocation of new markets tax credits. The redevelopment plan supports several goals of the city's comprehensive plan as outlined on pages 15 and 16. A draft resolution approving the plan is attached. The staff recommends approval of the resolution and redevelopment plan at the August 3rd board meeting.

Attachments

cc: Ken Pyle, Fort Smith Housing Authority

A handwritten signature in cursive script that reads "Ray".

DRAFT

RESOLUTION NO. _____

**A RESOLUTION ADOPTING THE FORT SMITH REDEVELOPMENT PLAN 2010
PROPOSED BY THE FORT SMITH HOUSING AUTHORITY**

WHEREAS, the City of Fort Smith, Arkansas (“City”), is a body corporate and a political subdivision of the State of Arkansas, duly created, organized and existing under and by virtue of the laws of the State of Arkansas; and,

WHEREAS, pursuant to Resolution No. 106-10, the Board of Directors of the City endorsed and supported the proposal by the Fort Smith Housing Authority (“Housing Authority”) to prepare a redevelopment plan and to become a certified community development entity (“CDE”) in order to pursue the use of new markets tax credits to stimulate development and redevelopment projects in low-to-moderate income areas of Fort Smith; and,

WHEREAS, the Housing Authority will soon become a certified community development entity and has drafted the “Fort Smith Redevelopment Plan 2010” (“Redevelopment Plan 2010”); and,

WHEREAS, on July 13, 2010, after all proper notice was given, the Fort Smith Planning Commission held a public hearing and received comments from all interested persons affected by the proposed Redevelopment Plan 2010 and subsequently endorsed the Redevelopment Plan; and,

WHEREAS, the Redevelopment Plan 2010 proposes to redevelop the Redevelopment Area by the acquisition of the property within the Redevelopment Area, the preparation of the site and the development of new commercial, retail, industrial or housing uses, as set forth in the Redevelopment Plan 2010; and,

WHEREAS, the Board of Directors of the City of Fort Smith has determined that the proposed Redevelopment Plan 2010 is of economic significance to the City, will serve to benefit

DRAFT

the general welfare, that the proposed Redevelopment Plan 2010 involves an area where one or more slum, blighted, deteriorated, or deteriorating areas exist in the municipality and that the rehabilitation, conservation, redevelopment, or a combination thereof, of such areas is necessary in the interest of the public health, safety, morals or welfare of the residents of the municipality; and,

WHEREAS, it is necessary and desirable and in the best interest of the City to approve the Redevelopment Plan 2010 which will provide for the promotion of the general welfare through redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan which redevelopment includes, but is not limited to, assistance in the physical, economic, and social development of the City, providing for a plan for the optimal growth of the City, encouragement of a sense of community identity, safety and civic pride and the elimination of impediments to development in the City; and,

WHEREAS, the Board of Directors of the City of Fort Smith hereby determines that the Redevelopment Plan 2010, attached as Exhibit A hereto and incorporated herein by reference, is acceptable and that the proposed Redevelopment Plan 2010 is in the best interest of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specific in A.C.A. § 14-169-709.

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

SECTION ONE: The Board of Directors hereby ratifies and confirms its approval of the Fort Smith Redevelopment Plan 2010 and approves the plan in accordance with A.C.A. § 14-169-606. The Board of Directors specifically gives the Housing Authority the powers set forth in A.C.A. §§ 14-169-604, 14-169-705, 14-169-707 as well as the powers contained in A.C. A. § 14-

DRAFT

169-601, et. seq. and A.C.A. § 14-169-701, et. seq. and A.C.A. § 14-169-801, et. seq. subject to the restrictions set forth in the Redevelopment Plan 2010.

SECTION TWO: The Board of Directors finds and determines that the assistance of new markets tax credits is necessary and desirable in order to implement the Redevelopment Plan 2010 and to enable the Fort Smith Housing Authority to carry out the proposed Redevelopment Plan 2010.

SECTION THREE: Severability. It is hereby declared to be the intention of the Board of Directors that each and every part, section and subsection of this Resolution shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Directors intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Resolution shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

Passed and approved this _____ day of August, 2010.

APPROVED:

ATTEST:

Mayor

City Clerk

Approved as to form:

City Attorney
Publish __ Time

Fort Smith Housing Authority

2100 North 31st Street
Fort Smith, Arkansas 72904
(479) 782-4991 FAX (479) 782-0120

July 23, 2010

Honorable Ray Baker and
Board of Directors
623 Garrison Avenue
Fort Smith, AR 72901

Dear Mr. Mayor and Directors:

The Fort Smith Housing Authority is asking the City to approve the Fort Smith Redevelopment Plan 2010. If the plan is approved, we will be able to undertake development and redevelopment projects as the Redevelopment Agency for the City under the Arkansas Housing Authority Act. The purpose of the Redevelopment Agency is to bring jobs and economic development to Fort Smith, especially in the low- to moderate-income areas. The Housing Authority believes it can assist the community to achieve that purpose.

Our status as a Redevelopment Agency will strengthen our standing as a U.S. Treasury Department certified Community Development Entity (CDE) when we apply for an allocation of New Markets Tax Credits in early 2011. The NMTCs can provide up to 25% of a development project's financing if the project is located in a low- to moderate-income census tract. This could mean significant improvements for a large portion of central and north Fort Smith. The tax credits will encourage qualified business and industry to locate in a low-income census tract and revitalize the area. Commercial, retail, industrial and housing development are potential business clients of the CDE.

There have been three public hearings held to answer questions, provide information and engage support:

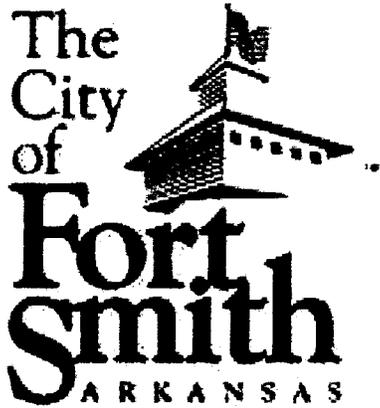
1. June 17 at United Methodist Church on North 10th Street sponsored by the Northside Town Branch Group. Approximately 40 persons attended.
2. July 8 at Elm Grove Community Center sponsored by the Housing Authority. Approximately 20 persons attended.
3. July 13 at Planning Commission voting meeting at Creekmore Park, Rose Room. Approximately 20 people plus the Planning Commission members were present.

We look forward to presenting the Plan to you at the Study Session on July 27, 2010.

Sincerely,



Kenneth L. Pyle
Executive Director



Fort Smith

REDEVELOPMENT PLAN

2010

FORT
SMITH
HOUSING
AUTHORITY



The Housing Authority of the City of Fort Smith

Fort Smith

Redevelopment Plan

Mayor: C. Ray Baker Jr.

Directors:

Steve Tyler
André Good
Rev. Don Hutchings
Bill Maddox
Gary W. Campbell
Kevin Settle
Cole Goodman, M.D.

Planning Commissioners:

Travis Stephens
Walton Maurras
Keith Lau
Steve Griffin
Jennifer Canada
Mike J. Lorenz
Pam Weber
Jennifer Parks
Brandon Woodrome

Prepared by:

Fort Smith Housing Authority
Richard Griffin, Chairman
Rick Foti, Vice-Chairman
Linda Edwards
Barbara Meadows
Rex Terry
Ken Pyle, Executive Director

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Introduction

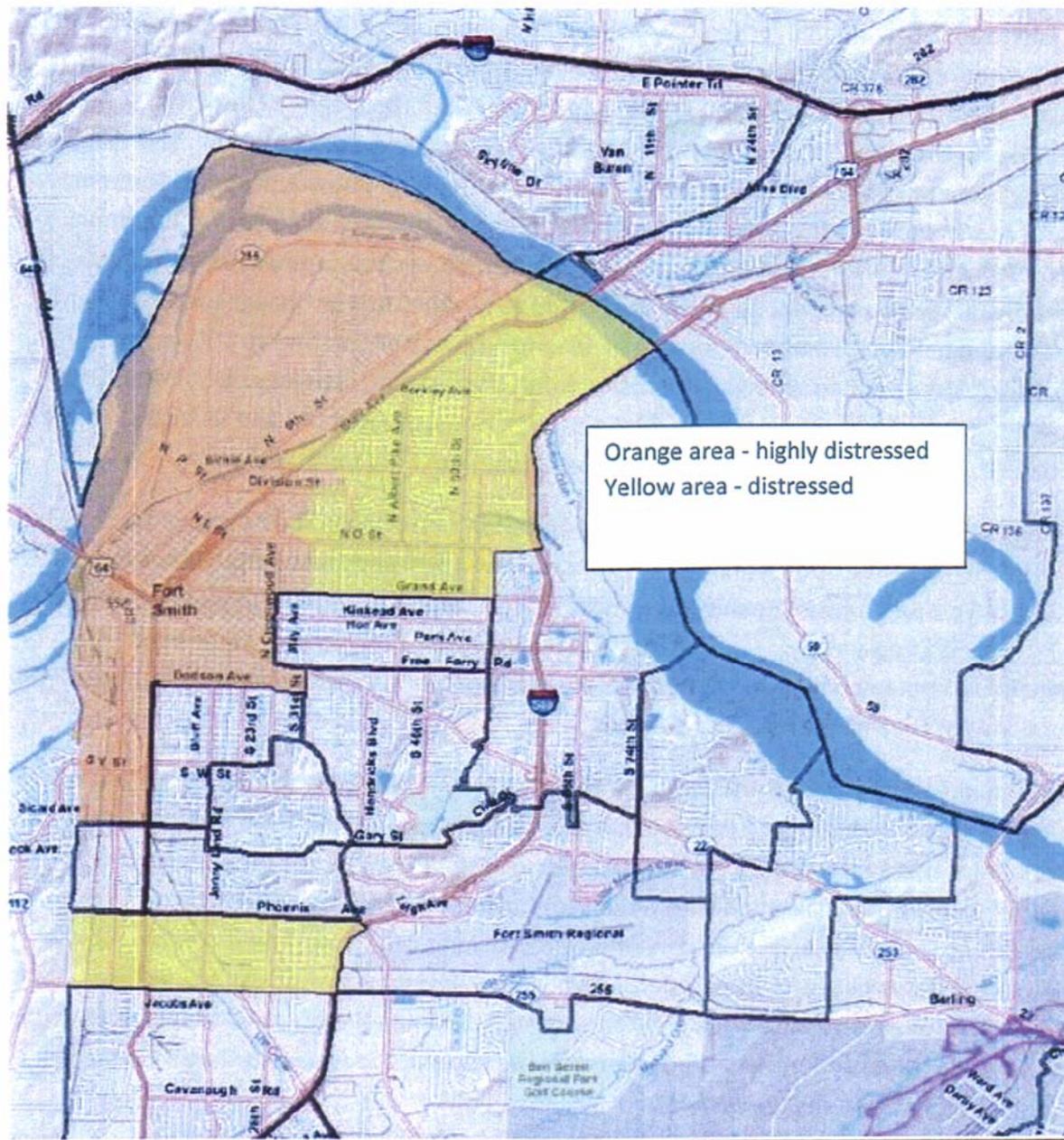
This is the Redevelopment Plan (the "Plan") for the City Redevelopment Project (the "Project") in the City of Fort Smith (the "City"), County of Sebastian, State of Arkansas, and consists of the census tracts 5131000100/200/ 300/ 400/501/800/, and 05131001202. The Project Area Map (Page 5), and the Redevelopment Area Zoning Map (page 16) describe the physical condition and existing zoning. This Plan was prepared by the Redevelopment Agency of the City of Fort Smith (the "Agency") pursuant to the Community Redevelopment Law of the State of Arkansas and Ark. Code Ann. SEC. 14-169-601, et seq. (the "Community Redevelopment Law"), the Arkansas Constitution and all applicable local laws and ordinances. The proposed redevelopment of the Project Area as described in this Plan conforms to the current Master Land Use Plan, Unified Development Ordinance (UDO) and Comprehensive Plan for the City of Fort Smith. All projects will comply with the City of Fort Smith construction standards for infrastructure and buildings. On June 1, 2010 the City adopted Resolution No. R-106-10 supporting the Fort Smith Housing Authority and its efforts to use New Markets Tax Credits to stimulate development and redevelopment of Fort Smith, Arkansas.

The Plan was adopted by the Board of Directors of the City of Fort Smith (the "Board of Directors") on August _____, 2010. The Plan is based upon a preliminary Plan reviewed and endorsed by the Planning Commission of the City of Fort Smith (the "Planning Commission") on July 13, 2010 as accepted by the Agency by Resolution No. _____, adopted on July _____, 2010. The Plan describes the powers, duties and obligations of the Agency to implement and further the redevelopment, rehabilitation and revitalization of the area within the boundaries of the Project (the "Project Area").

Because of the long-term nature of this Plan and the need to retain Agency flexibility to respond to market and economic conditions, property owner and developer interests and opportunities from time to time presented for redevelopment, this Plan does not present a precise schedule of specific projects for the redevelopment, rehabilitation and revitalization within the Project Area. Additionally, the Plan does not present specific proposals to solve or alleviate the concerns and problems of the community relating to the Project Area. Instead, the Agency will work with property owners and developers who wish to advance projects in the eligible areas for which they have identified potential funding sources, but lack full funding. As funding opportunities are identified and projects become ready to proceed, the Agency will assist in putting the final agreements in place to begin redevelopment.

In the accomplishment of these purposes and activities and in the implementation and furtherance of this Plan, the Agency is authorized to use all the powers provided in this Plan and all the powers now or hereafter permitted by law.

II. Map of Redevelopment Area



Courtesy of Novogradac & Company LLP

I. Census Tract Data in Redevelopment Area 2000 Fort Smith

Census Tract:	5131000100	/200	/300	/400	/501	/502	/800	/1202
Status:	Distressed	Very Distressed	Very Distressed	Very Distressed	Distressed	Distressed	Very Distressed	Distressed
Distressed - Poverty Rate:	27.69%	26.50%	33.70%	27.90%	24%	21.2%	25.90%	16.3%
Distressed - Median Family Income Ratio:	80.1%	61.80%	60.30%	68.80%	82.37%	103.7%	84.20%	74%
Distressed - Unemployment Rate:	5.7%	9.60%	11.80%	9.90%	7.6%	3.1%	8.70%	5.1%
2000 Population:	5600	4,409	2,572	3,714	4,756	2,813	4,898	2,969
MSA Median Family Income(\$):	37,051	37,051	37,051	37,051	37,051	37,051	37,051	37,051
State Median Family Income (\$):	38,637	38,637	38,637	38,637	38,637	38,637	38,637	38,637

Courtesy of Novogradac & Company LLP

IV. Major Goals:

- A. Implement the policies identified in the comprehensive plan regarding redevelopment activities to be carried out in distressed areas.
- B. Stimulate in-fill development and land assembly opportunities on blighted, abandoned, underutilized and vacant properties in the Project Area.
- C. Stimulate opportunities for adaptive re-use and preservation of existing building stock in the Project Area.
- D. Attract new businesses and retain existing businesses in the Project Area, providing job training and employment opportunities for Project Area residents.
- E. Improve transportation, open space, parking, and other public facilities and infrastructure throughout the Project Area.
- F. Stimulate home ownership opportunities in the Project Area.
- G. Improve the quality of the residential environment by assisting in new construction, rehabilitation and conservation of living units in the Project Area, including units affordable to low and moderate income households.
- H. Revitalize neighborhood commercial areas and strengthen retail in the Project Area.
- I. Where economically feasible apply green/sustainable principles to redevelopment projects.

These goals conform to the purposes of redevelopment as stated in the Community Redevelopment Law. These purposes include the elimination of blight, the planning, development, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, of a project area, and the provision of residential, commercial, industrial, public, or other structures or spaces (including recreational and open space) as may be appropriate or necessary in the interest of the general welfare.



V. Redevelopment Strategies

1. Assembling adequate sites for the development and construction of residential, commercial, industrial, or public facilities;
2. Demolishing or removing buildings and improvements, when necessary;
3. Conveying sites to redevelopers for the development and construction of residential, commercial, industrial, or public facilities*;
4. Promoting redevelopment by private redevelopers or other public agencies for uses in accordance with this Plan;
5. Supporting the rehabilitation of residential, commercial, industrial, or public structures and improvements by present owners, redevelopers, and the Agency;
6. Providing for participation by current owners and tenants and the extension of preferences to current business occupants and other tenants;
7. Providing relocation assistance to occupants displaced by the Project, as required by law;
8. Managing property under the ownership and control of the Agency;
9. Supporting the installation, construction, reconstruction, or enhancement of streets, utilities, parks and open space, and other public improvements; and
10. Supporting the new construction, rehabilitation, preservation, and increased availability of housing affordable to low and moderate income households.

As part of its efforts to pursue such redevelopment in the Project Area, and pursuant to the recommendations of the citizenry and private enterprise, the Agency intends to establish new redevelopment programs, or expand existing programs, including but not limited to programs in the following areas: façade improvement; infrastructure improvements; retail and commercial recruitment; historic preservation; major employer incentives; land assembly and relocation; community facilities; public/private development; and housing.

In the accomplishment of these purposes and activities and in the implementation and furtherance of this Plan, the Agency is authorized to use all the powers provided in this Plan and all the powers now or hereafter permitted by law, except as may be otherwise limited or provided for herein.

*14-169-701 (3) ...A municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this subchapter, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment of areas by private enterprise.

VI. Potential Projects

- U.S. Marshals Museum
- Sparks Hospital Expansion
- New Theater Preservation and Renovation
- Mixed Use / Commercial Redevelopment in the CBID
- City Hall Construction in CBID
- Farmers Market Expansion
- Parking Structure Development
- Ballpark/ Recreation Facilities
- Arkansas River Waterfront Development / Marina / Mixed Use
- Housing
- Neighborhood Commercial, Retail, and Mixed Use
- Homeless Campus
- Head Start Center
- Mallelieu Church Preservation and Renovation



Conceptual representation of the proposed U.S. Marshal's Museum on Riverfront

VII. Financing, Taxes and Incentives

The Redevelopment Plan as conceived intends to take advantage of new tools devised by the U.S. Treasury, Community Development Financial Institutions Fund, specifically the New Markets Tax Credit Program. This program, in addition to others mentioned later, assist the redevelopment of eligible areas possessing a strategy for renewal and an opportunity for catalytic change. The program provides incentives for private investment in commercial development that creates new jobs. Mixed use projects which include a housing component are allowed, but the program is not specifically designed to provide housing. It is ideal however for facilities such as the U.S. Marshal's Museum, the New Theater on 10th Avenue, and the Sparks Hospital Doctors Office Expansion and other CBID development.

The Treasury recently announced another new program, the Capital Magnet Fund (CMF), intended to attract private capital for housing development or rehabilitation. The CMF program is meant to leverage other funding to produce the maximum number of units over a five-year period.

The Treasury's Build America Bonds program (BABs) offers governmental purpose bonds meant only to finance projects owned by local government. A City Hall would be a good example. This program gives local government issuers greater access to the debt markets, and although the bonds are taxable the treasury sends a check that pays 35% of the interest cost that effectively causes a net reduction to the cost of borrowing.

Disaster Recovery Capital Facilities Bonds are another new source of financing that can be used to develop private sector opportunities.

Taxes and Incentives

Overall, the state of Arkansas is found to have one of the more prohibitive tax environments in the country. Corporate income taxes are relatively high (39th in the country), but unemployment insurance taxes are relatively favorable (17th) to business. However, the tax environment in Arkansas is not as favorable as that of all neighboring states. In bordering states of Missouri and Oklahoma, corporate income and unemployment insurance taxes are among the lowest in the nation. In addition to extremely low electricity rates, companies placing a strong emphasis on the tax environment during the site selection process may consider locations in neighboring counties if tax savings are significant enough to counterbalance other favorable reasons to locate in more populous and developed counties in Arkansas.

A variety of state and local incentives are available in the state; depending on the project, such incentives may significantly reduce the tax burden facing an existing or prospective new employer. Such incentives include:

- The Advantage Arkansas Income Tax Credit provides a credit on state income tax between one percent and four percent of new payroll for five years, depending on the location of the project within the state.

- The Tax Back Refund Program provides sales and use tax refunds for building materials and taxable equipment connected with an eligible project. The state has limited the scope of the refund program but a variety of targeted, non-retail sectors are eligible for the refund.
- The InvestArk Sales and Use Tax Credit is available to businesses established in Arkansas for at least two years that invest at least \$5 million or more in the construction, expansion, or modernization of plant or equipment.
- The Create Rebate Program provides businesses a rebate from 3.9 percent to 5.0 percent of annual payroll of new, full-time employees, depending on the location of the project in the state. Eligibility is limited to the same non-retail sectors that are eligible for the Tax Back Refund Program.
- The ArkPlus Tax Credit is an income tax credit for new or expanding companies in the state that cannot exceed 50 percent of the eligible company's income tax liability resulting from the project. Eligibility is limited to the same non-retail sectors that are eligible for the Tax Back Refund Program and the Create Rebate Program.
- The state offers a number of other Targeted Business Incentives to new knowledge-based companies in their early years, including a variety of income, payroll, and sales and use tax credits.
- The Research and Development Tax Credit offers eligible businesses that contract with one or more Arkansas colleges or universities to perform research receive a 33 percent income tax credit. Companies performing in-house research may receive a 20 percent income tax credit.
- AEDC and ADFA Bond Guarantee Programs can guarantee up to \$5 million of the bond issue, allowing bonds to be sold at a higher credit rating and therefore lowering the effective interest rate for businesses.
- The Seed Capital Investment Program (SCIP) provides working capital up to \$500,000 to help support the initial capitalization or expansion of technology-based companies in the state.
- The Arkansas Capital Corporation also provides direct financing assistance to meet more long-term needs of the state's businesses by providing fixed-rate loans.
- The Venture Capital Investment Fund, administered by the Arkansas Development Finance Authority, is intended to raise significant amounts of venture capital for investments within the state.
- The Disadvantaged Business Enterprise Program provides capital to minority contractors who cannot otherwise finance their capital needs
- Industrial Revenue bonds can lower property taxes on new building construction and equipment purchase by 50% for the qualifying entities.

An Array of Tools for Historic Preservation

A number of financial incentives exist to aid and encourage business and property owners who wish to improve their downtown Fort Smith properties. These include tax advantages as well as low-interest loan programs and other forms of financial assistance. These incentives are excellent tools that allow property owners to enhance their investments in downtown and add to the overall revitalization of the downtown area.

Eligibility for these different incentives depends upon property type and other requirements. Listed below are some of the most available programs in Fort Smith.

Federal Historic Preservation Tax Incentive Programs

For properties listed on or eligible for the National Register, the most important financial incentives are Federal and State income tax credits. A Federal tax credit of 20% is available for the certified rehabilitation of historic structures that are income-producing. Properties must be rehabilitated according to standards set by the Secretary of the Interior, which ensure that the property retains its historic architectural character and appearance. A 10% tax credit is available for the rehabilitation of non-historic commercial buildings that were constructed prior to 1937. Presently, the 10% tax credit does not apply for rental-residential developments.

The federal historic tax credit (HTC) has been used fairly extensively in Arkansas to support the renovation of historic housing, office, and retail space in the state. Between 2000 and 2006, the federal historic tax credit program has supported 57 projects totaling more than \$54 million in renovation (in 2006 dollars). The size of projects supported by the HTC has varied from approximately \$10,000 to \$10 million in 2006 dollars.

Rental housing has comprised the majority of federal HTC projects in Arkansas with the renovations for 43 projects costing more than \$42 million. Commercial projects were the next most common usage with renovation costs for the eight projects totaling more than \$2 million, although this figure was less than a third of the approximately \$7 million cumulatively spent on the four hotel projects. Projects have covered a variety of uses, including office buildings, retail, farming, and inns. While the majority of projects are located in Pulaski County, the federal HTC in Arkansas has also been used in nine other counties: Benton, Bradley, Clark, Conway, Garland, Quachita, Searcy, Union, and Washington.

Arkansas Historic Rehabilitation Tax Credit In 2009, the Arkansas legislature passed a bill to create a historic tax credit program. The purpose of the program is to encourage economic development within existing infrastructure and to promote the rehabilitation of historic structures. It is designed to work in conjunction with the federal tax credits. As the federal historic tax credit has supported a fair amount of rehabilitation in Arkansas, the addition of the state credit is expected to greatly expand the types of projects that are allowed. The state tax credit will provide another avenue for individuals owning homes in historic districts to maintain the quality and historic character of their properties. The key elements of the state tax credit include:

- Allows for a credit on state income taxes equal to twenty-five percent (25%) of the total qualified rehabilitation expenses that are:
 - incurred by the property owner to complete a certified rehabilitation of buildings that are listed or are considered eligible by national, state, or local designation
 - in excess of \$25,000 annually
 - up to \$500,000 for a commercial property
 - up to the first \$100,000 for a residential property

The tax credit can be transferred, sold or assigned and any unused tax credit may be carried forward for five consecutive taxable years. The Arkansas Historic Rehabilitation Tax Credit provides another valuable financial incentive for restoring historic properties. Private property owners rehabilitating their own properties can take up to a \$25,000 tax credit towards their state taxes if they exceed \$100,000 in qualified expenditures while owners of income producing properties can take up to \$100,000 in credits.

Fort Smith Citywide Historic Preservation Plan is administered by the Arkansas Historic Preservation Program and follows the application process currently used for the federal rehabilitation tax credit. Property owners must submit photographs showing the current condition of the property and an application that details their rehabilitation plans. Once the application is approved, property owners complete their work and submit photographs of the finished work. Once the state certifies the rehabilitation, property owners claim the tax credit. In states that have passed similar tax credits, rehabilitation expenditures on historic buildings has often doubled. This holds tremendous potential for historic preservation efforts in Fort Smith and across the state.

ARKANSAS HISTORIC PRESERVATION GRANT PROGRAMS

I. Arkansas Natural and Cultural Resources Council (ANCRC). These funds are used only for state-owned property and are funded by Real Estate Transfer Tax (RETT).

II. Courthouse grants, Model Business Grants, and Historic Preservation Restoration Grants. (These 3 programs are all funded by Real Estate Transfer Tax (RETT).

a. Courthouse (CH) grants are used for county courthouses only. No match is required.

b. Historic Preservation Restoration Grants (HPRG) go to the rehab/restoration of a variety of non-profit & public (city, county, school district) owned structures. A select few HPRGs have also been used for restoration work on private property. All HPRGs require a 1:2 cash match. (Grantees must provide \$1 for every \$2 of grant funds.)

c. Model Business (MB) grants are passed through local Main Street organizations for rehab/restoration of downtown commercial structures. All MBs require a 1:1 match. At least 50% of the required match must be cash.

III. Downtown Revitalization Grants & Slipcover grants. Like Model Business, these are passed through local Main Street organizations for downtown commercial restoration projects.

a. Downtown Revitalization (DTR) grants are funded by RETT. They require a 1:2 match, up to 50% of which may be in-kind. DTR is used for a variety of other downtown activities; only those dealing with brick & mortar projects are included here.

Fort Smith Citywide Historic Preservation Plan, Fort Smith, Arkansas

b. Slipcover (SC) grants are used exclusively for the removal of slipcovers on downtown commercial properties. These are funded by the state's General Improvement Fund (GIF). They require a 1:4 match, up to 50% of which may be in-kind.

Certified Local Government (CLG) are grants used for brick-and-mortar projects. Fort Smith is one of a number of communities across Arkansas that is a Certified Local Government (CLG). The CLG program is part of a local, state, and federal partnership that promotes historic preservation at the grassroots level. An incentive for participating in this program is the pool of matching grant funds available annually for CLG communities. These grants may be used for surveys of historic buildings, the preparation of National Register nominations, the development of design review guidelines, and structural assessments of properties. Though usually funded by the federal Historic Preservation Fund (HPF), the state of Arkansas has supplemented this program with allocation from RETT as well as the state's 1/8 cent conservation tax. Of course, all CLG projects pass through local governments. CLG grants range with regard to match, though are commonly a 1:1 match.

With capital markets still in disarray and regulatory reform now being considered, a combination of incentives must be considered to accomplish any new development. Traditional federal funding from the Dept. of Transportation, Small Business Administration, Economic Development Administration, Housing and Urban Development, Treasury and Commerce will all be accessed to assist in carrying out the plan.

VIII. Conformance with Planning and Zoning

Comprehensive Plan

The Redevelopment plan supports the Comprehensive Plan and Master Land Use Plan, while building upon the work of the city with local citizens in recognizing the needs of the eligible areas.

The Fort Smith Comprehensive Plan vision statement is: "Fort Smith is a diversified regional community, serving a growing population, while promoting a high quality of life." Policy G3 states the need to "Develop a coordinated, City economic development strategy." These two statements form the basis for the Redevelopment Agency activity proposed, the formation of a Community Development Entity (CDE) to access New Markets Tax Credits, and the need to seek other new funding opportunities from the U.S. Treasury and elsewhere. The Policy G3 approach is to "initiate proactive steps in cooperation with area Chambers of Commerce, Eastern Oklahoma, Northwest Arkansas, University of Arkansas–Fort Smith, and other institutions for targeted economic development". The Redevelopment Agency plans to partner in that effort and bring new resources to the table.

Meetings have been held with City Staff, Chambers of Commerce, University of Arkansas- Fort Smith, Western Arkansas Planning and Development District (WAPDD), Regional Intermodal Transit Authority (RITA), and private business and financial sector members, including the Arkansas Capital Corporation's Heartland Renaissance Fund. Discussions were held regarding the need and rationale for establishing a Redevelopment Agency for pursuing New Market Tax Credits. Public education and input is ongoing and essential to the success of the process of organizing and coordinating the creation of an effective plan.

The Redevelopment Agency will assist in implementation of Policy G3.1: "Grow the employment base by retaining existing jobs, assisting business expansion and start-ups, and attracting new and diverse businesses." The Downtown Vision is to "focus on diverse entertainment , creating stimulating things to see and do, additional retail : coffee shop, grocery, and more specialty shops, additional housing- loft residential targeted to singles and couples of all ages and strong neighborhood links." These projects might all be financed and incentivized with the assistance of the Redevelopment Agency.

Policy G4.1 states: "Improve and encourage maintenance of structures, prevent vagrancy , structural damage, theft, and fire hazards, by providing education, incentives and programs for structural maintenance particularly in areas designated Neighborhood Revitalization".

Policy G4.3 states: "Maintain housing opportunities in urban areas by renovating and revitalizing existing housing and promoting infill development of vacant land within the corporate limits." This effort is a prime candidate for Capital Magnet funding from the U.S. Treasury for special non-profits like the CDE.

Policy G4.9 states: “encourage revitalization of the Belle Grove historic district and Downtown historic buildings”. Here again, New Markets Tax Credits may be combined with state and federal Historic Tax Credits to provide a larger incentive that may spur redevelopment.

The Comprehensive Plan is clear in regard to redevelopment of eligible areas:

- G8.1 Increase the number and type of residential opportunities in and around downtown.
- G8.3 Retain and expand the existing job base in and around downtown by developing strategies that support existing businesses and by directing specific economic development actions to downtown.
- G8.4 Concentrate available resources to encourage job creation and population growth in the downtown and riverfront.
- G8.5 Develop and promote niche markets that distinguishes downtown from other retail and entertainment options and reinforces downtown’s position as a destination.
- G8.6 Locate cultural activities, entertainment options, service-oriented businesses and public, private, or institutional programs in downtown.
- G9.1 Integrate the Arkansas River frontage with new and existing development.

All of these policies reinforce the need to have a Redevelopment Agency to bring new funding and incentives to spur redevelopment.

Consolidated Plan

The Consolidated Plan for Fort Smith followed a detailed citizen participation plan that involved a wide spectrum of the community. In addition to providing demographic analyses, market conditions, and needs assessment of community development issues, the plan also identifies strategies to address these needs. Several programs using existing Community Development Block Grant and HOME funds, as well as a \$1.3 million Neighborhood Stabilization grant are in-place providing new community facilities, housing development, and job growth in low-income neighborhoods.

Below are excerpts from the City of Fort Smith Consolidated Plan that relate to the proposed Redevelopment Plan:

- New funding opportunities and financial partnerships that would be utilized to leverage the federal funds to address affordable housing needs
- Efforts to attract corporate relocations/expansions into Fort Smith to increase the total number of available jobs.

In addition the City embraced several redevelopment efforts in very distressed neighborhoods to spur inner-city revitalization. The section on anti-poverty strategy goals lists the following objectives:

Objective 1 states:

- Work with local entrepreneurs to stimulate business development in inner city neighborhoods.
- Work to attract corporate relocations/expansions into Fort Smith to increase available jobs.
- Work with local business leaders to assess the needs that businesses are experiencing.

Objective 2 states:

- Continue to work with developers to identify opportunities for the use of low-income housing tax credits to build affordable housing.
- Work with the Fort Smith Housing Authority to identify homeownership opportunities through subsidized funds.

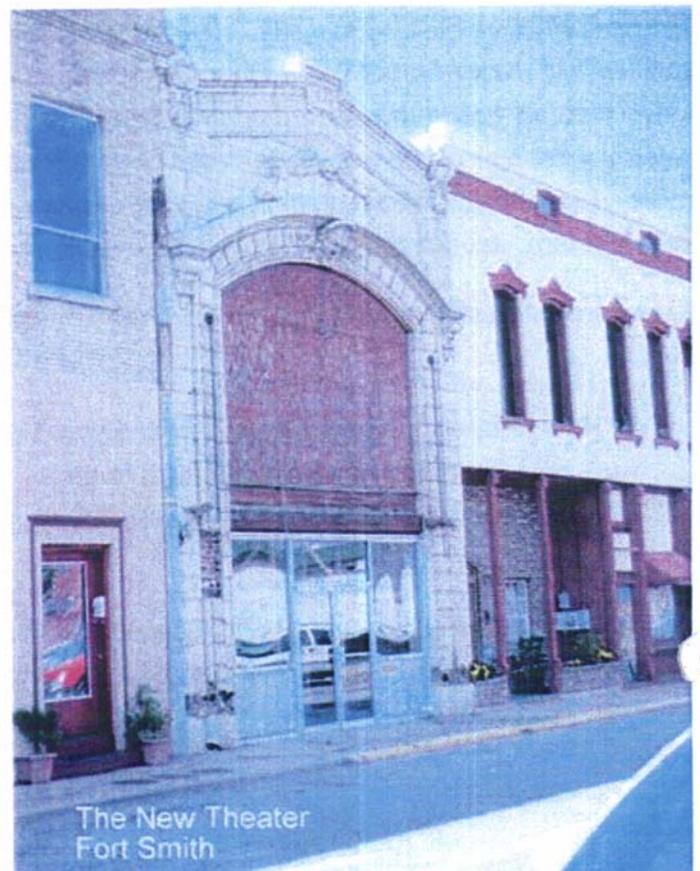
Institutional Structure: Goals and Strategies

- Work with nonprofit organizations to address community needs and provide support to federal and non-federal funding initiatives.
- Continue to identify opportunities to create private /public partnerships for project finance and development to leverage federal funds.

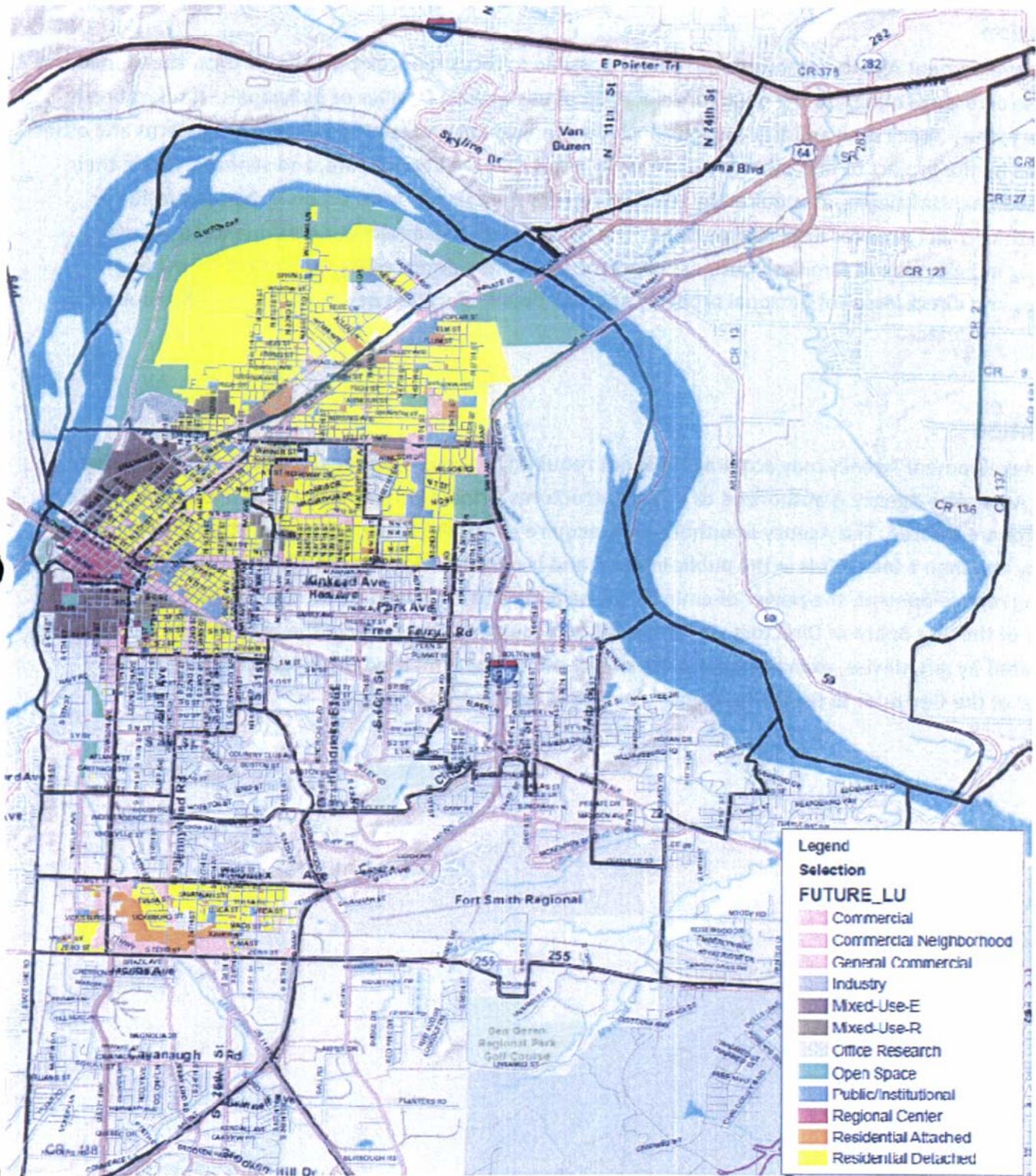
All of these goals and strategies support the Redevelopment Plan proposed herein.

Historic Preservation Plan

The Fort Smith Historic Preservation Plan adopted in 2009 recognizes the economic benefits of historic preservation by the creation of jobs, stabilization of neighborhoods, increase of property values, encouragement of tourism, and downtown revitalization. The Redevelopment Plan supports all the goals and strategies of the Historic Preservation Plan and the financing of the improvement of historic buildings would be enhanced as Historic tax Credits can be used with New Market Tax Credits to create a larger subsidy, making more improvements feasible.



Existing Land Use



IX. Relocation and Acquisition

Relocation

The Redevelopment Agency intends to the extent possible to focus redevelopment efforts on abandoned and vacant structures to minimize the need for relocation of businesses, families or individuals. If relocation is necessary, the Agency shall assist all persons (including individuals and families), business concerns and others displaced by the Project to find other locations or facilities that are decent, safe, and sanitary, within their respective financial means, as required by law. The Agency may also provide access to housing inside or outside the Project Area for displaced persons. The Agency shall make relocation payments to persons (including individuals and families), business concerns and others displaced by the Project for moving expenses and direct losses of personal property and additional relocation payments as may be required by law.

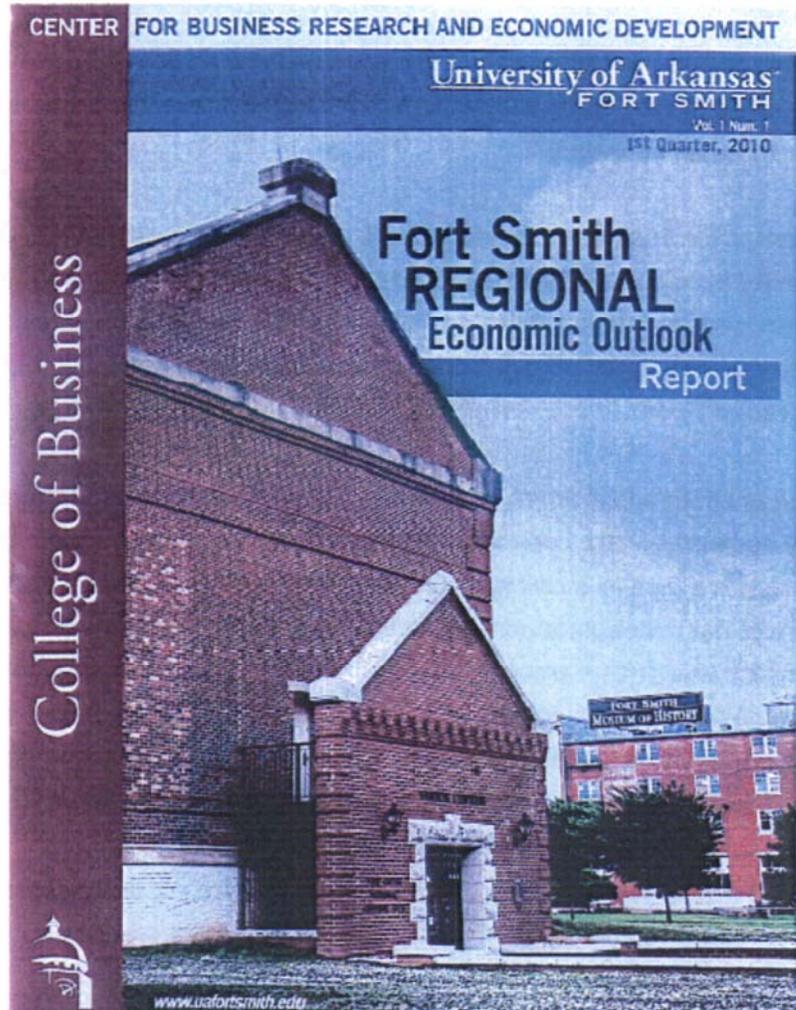
Acquisition

The Redevelopment Agency may acquire, but is not required to acquire, any real property located in the Project Area. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is authorized to acquire either the entire fee or any other interest in real property less than a fee. If it is in the public interest and is necessary in order to eliminate the conditions requiring redevelopment, the power of eminent domain may be employed by the Agency only with the consent of the City Board of Directors via Resolution to acquire real property in the Project Area which cannot be acquired by gift, devise, exchange, purchase or any other lawful method. The Agency will seek the approval of the City prior to using the Agency's power of eminent domain.

X. Existing Conditions

Baseline Data

The data that follow are meant to be examples of data to be collected to measure progress of redevelopment. Kermit W. Kuehn, Ph.D., at the University of Arkansas Fort Smith the Director Center for Business Research & Economic Development has begun collecting and publishing the data shown below and is also preparing Quarterly reports that will become the baseline for measuring progress. Other recommendations on measurements that might be included are welcome.



**FORT SMITH—UNIVERSITY OF ARKANSAS
CENTER FOR BUSINESS RESEARCH AND ECONOMIC DEVELOPMENT**

From the Director:

I am very pleased to release this first issue of the Fort Smith Regional Economic Outlook Report. My hope is that it is the first of many that will provide the best quality and most useful information and analysis available on our regional economy.

The Center for Business Research and Economic Development (CBRED), consistent with the mission of the University of Arkansas **Director, Center for Business Research and Economic Development--Fort Smith**, seeks to demonstrate practical ways our intent to be a valued partner in our region's development, the kind of development that not only provides citizens abundant opportunities to make a good living but also to live a great life.

We live in challenging times, and living a "good life" in an economic sense is increasingly difficult, and not simply because we are currently grinding through one of the most challenging recessions of recent memory. The issues we face as a community, state, and nation are many and complex, often originating from sources outside of our immediate control. While globalism or technology or politics are blamed by many as the reasons for this or that trouble, the reality is that these forces will likely continue to test the status quo of every industry, market, region, and community. It will bring both trouble and unimaginable opportunity. As a region, we want to partake of the right opportunities and face head-on our challenges - and do so every day. In this inaugural issue, we report all three areas of the Fort Smith regional economy:

- 1) review economic activity for the 1st quarter,
- 2) report on the results of the first Fort Smith consumer confidence survey, and
- 3) provide an overview of regional employment trends and prospects going forward

From our review of the first quarter results for 2010, it is evident that we've just concluded a challenging period. There are notable signs of improvement, particularly with March data. Improvements were evident in the housing sector, with home sales and new construction both showing improvement over last year. The unemployment rate eased over last month, though it is still higher than a year ago.

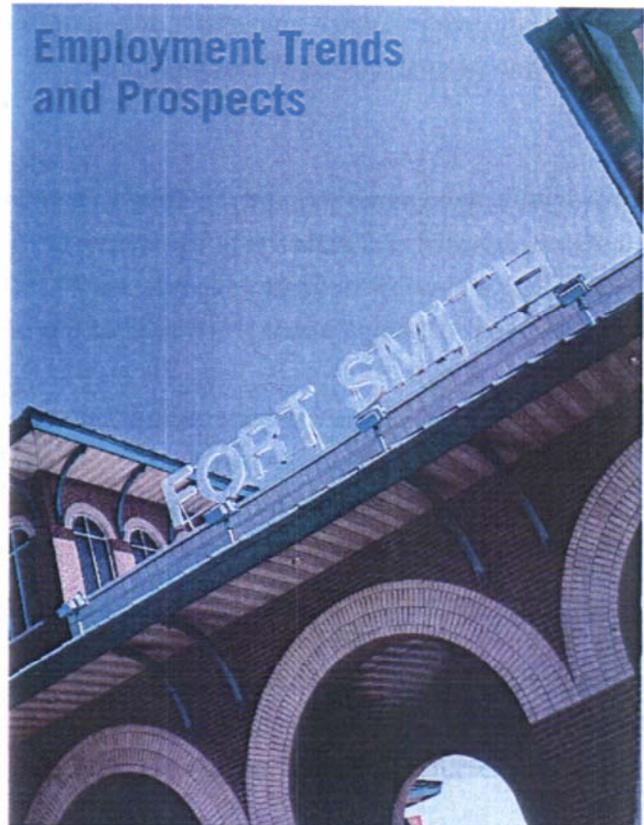
Our first survey of consumer confidence of Fort Smith consumers was conducted in March. We used the well-respected University of Michigan Survey of Consumers to measure consumer sentiment, which will allow us to benchmark local responses to the national survey. As we've often heard, approximately two-thirds of our economy depends on consumer spending. Consumer confidence has been demonstrated to relate to consumer behavior. We believe this information will be a valuable contribution to our understanding of the local economy.

In the third section of this issue, we focus on employment trends over the past 20 years, noting which industry sectors have gained and which have lost, and then summarizing our prospects going forward. We conclude this analysis with a discussion of the implications on our community of an emerging trend toward longer recessionary cycles.

Finally, I want to thank Chancellor Beran for his strong commitment to regional economic development and the role CBRED can play in this, Dean Williams for his enthusiastic support of our work, and those organizations that have supported the production of this publication through their sponsorship and advertising dollars. Collectively, their vision of what we're attempting to do here, and what it can mean to our regional economy, makes future research possible.

To our future.

Kermit Kuehn, PhD



University of Arkansas—Fort Smith College of Business
First Quarter Summary of Regional Economy

First quarter economic data for the Fort Smith regional economy revealed a mixed but strengthening economy when compared to the same period a year ago (See Table I). A lackluster employment picture continues to keep expectations of strong recovery more subdued than what we would like. The area economy generated 3,500 fewer jobs than the same quarter a year ago. The economic activity index for January ended the quarter at 95.3, down 2%, from the previous month and 3.9% below 2009 levels for the same period. There were notable areas of good news as well, suggesting the factors important for a recovery are moving in the right direction.

Retail sales appear to be lagging behind 2009 levels, but sales tax and use tax receipts data are 60 days old, making it difficult to get a pulse on current consumer behavior. Retail sales were off 9.9% from the same three-month period of November through January 2008-09.

Auto sales have shown some strength relative to a year ago, up 3.6% over the first quarter in 2009. This was also true for residential real estate activity, where first-quarter existing home sales were up 1.2%, over last year, as were total new construction permits, up 24.8% over 2009. Fort Smith area consumers are anything but optimistic when looking toward the next 3 to 6 months.

Employment activity has been really been the tough nut to crack since turning negative in the first half of 2008. While national reporting has turned decidedly more positive about the economy for 2010, the prognosis is for slow growth in terms of net new jobs. Manufacturing numbers nationally have been up over recent months, pointing toward positive implications for our local economy going forward.

The 8.6% unemployment rate average for the quarter is 1.1 % higher than this time last year, but March results dropped .5% from the previous month. This bouncing up and down may continue for a time as the turnaround brings people back into the job market who had previously checked out due to lack of employment opportunities earlier in the recession cycle.

Taking a closer look at the employment data, most of the 3,500 jobs lost between the end of the first quarter 2009 and 2010 can be attributed to mainly three sectors: manufacturing (1,000); natural resources, mining, and construction (1,000); and trade, transportation, and utilities (1,100). Health services and government sectors grew approximately 450 jobs during the same period.

Looking at employment over the next few months, a Manpower Inc. March survey of Fort Smith regional employers found that there was a notable increase in the number of employers who intended to increase

hiring during the second quarter. According to the report released March 9, 16% of the employers surveyed indicated they thought they would increase their hiring during the second quarter, up from 3% who said they would during the first quarter, and up from 4%, who indicated they would a year ago. All this suggests that we can continue to expect mixed signals during the short term, barring any significant and unexpected news that jolts the economic landscape. The regional economy shows some signs of improvement as evidenced by real estate and auto sales, but the tone is still negative on the jobs front. Until the economy solidifies expansion, and employment prospects improve, we can expect short term performance of our economy to be unstable.

Table 1. Summary of First Quarter Performance

1st Quarter 2010	Base Year - Q1 2005	Last Year - Q1 2009	This Year - Q1 2010*	% Change 2009-2010
Sales				
Retail Sales (MSA, Nov, Dec, Jan, 000's)	\$ 988,972	\$ 972,627	\$ 876,230	-9.9%
Auto Sales (Seb., Crow., Frank. Counties, AR)	\$ 86,835	\$ 65,975	\$ 68,317	3.5%
Residential Construction (MSA)				
Residential Permits	237	149	186	24.8%
Value of Permits (000's)	\$ 22,122	\$ 14,174	\$ 22,307	57.4%
New and Existing Home Sales (MSA)				
Number Sold	522	401	406	1.2%
Value of Homes Sold (000's)	\$ 55,507	\$ 46,583	\$ 47,255	1.4%
Average Price of Homes Sold (Q1 Monthly Avg.)	\$ 106,335	\$ 116,167	\$ 116,392	0.2%
Employment (MSA unless noted, Q1 Monthly Avg.)				
Wage & Salary Employment (Total Nonfarm)	117,167	118,700	115,200	-2.9%
Manufacturing	28,500	22,433	21,433	-4.5%
Trade, Transportation, Utilities	23,267	24,267	23,100	-4.8%
Government	16,800	18,633	18,967	1.8%
Education and Health Services	13,900	15,800	15,967	1.1%
Professional and Business Services	10,633	10,700	10,600	-0.9%
Leisure and Hospitality	8,267	9,133	8,700	-4.7%
Natural Resources, Mining, and Construction	6,467	8,333	7,333	-12.0%
Financial Activities	4,000	4,200	4,100	-2.4%
Information Services	1,600	1,300	1,200	-7.7%
MSA Unemployment Rate (Q1 Monthly Avg., NSA)	5.2%	7.6%	8.7%	1.1%
AR Unemployment Rate (Q1 Monthly Avg., NSA)	5.8%	7.4%	8.4%	1.0%
U.S. Unemployment Rate (Q1 Monthly Avg., NSA)	5.6%	8.8%	10.4%	1.6%
Airport Traffic (Fort Smith)				
Total Passenger Traffic	45,196	35,782	34,446	-3.7%

Fort
Smith
Sector

*Data as of March 31 except retail sales which includes November - January. Dollars are not inflation adjusted. Data not seasonally adjusted (NSA).
Prepared by the Center of Business Research and Economic Development, UA Fort Smith College of Business

**Employment:
1990-2010**

Total non-farm employment in the Fort Smith MSA has grown by nearly 32%, from 1990-2010, from 87,900 jobs in January 1990 to 115,400 in February 2010. Employment had reached a high of just over 127,000 workers in November 2007 before recessionary forces kicked in. Nearly 12,000 jobs in the five-county area have been lost since the 2007 high.

Taking a look at key sectors underlying these broader numbers reveals significant shifts in how people make a living in the Fort Smith region (See Figure I). Manufacturing employment, once comprising nearly one-third of all jobs in the region, has declined to under 18% of total MSA non-farm employment today. By comparison, overall U.S. manufacturing employment has declined from 17.5% in 1990 to less than nine percent today. As can be seen from this, manufacturing not only has been an important component of the regional economy, but still is, with twice as many workers still employed in manufacturing organizations relative to national participation. Nonetheless, during this recession, manufacturing has dropped below Trade, Transportation, and Utilities as a sector percentage of total non-farm employment.

The rise of the Trade, Transportation, and Utilities sector is due less from significant growth in the sector as it is from the decline of manufacturing. In fact, this sector comprises 19.9% of MSA non-farm employment in February

2010, the same percentage it was in January 1990. Of the 23,000 workers in this sector in February 2010, 56% of the workers are employed in retail, 17% in wholesale, and the remaining 27% in transportation and utilities.

Two sectors that have grown significantly over the period as a percentage of non-farm employment, including during the current recession, are Government and Education and Health Services. Government employment includes not only federal, state and local government but also public education such as K-12 and colleges and universities. In viewing Figure J, a noticeable upward trend can be detected, going from 13.7% in 1990 to 16.5% in February 2010. This trend was particularly evident during the most recent decade. The sawtooth pattern observed in this trend line reflects the influence of teachers not on contract during the summer each year.

Figure 1. MSA Job Sectors as a Percentage of Total Non-Farm Employment

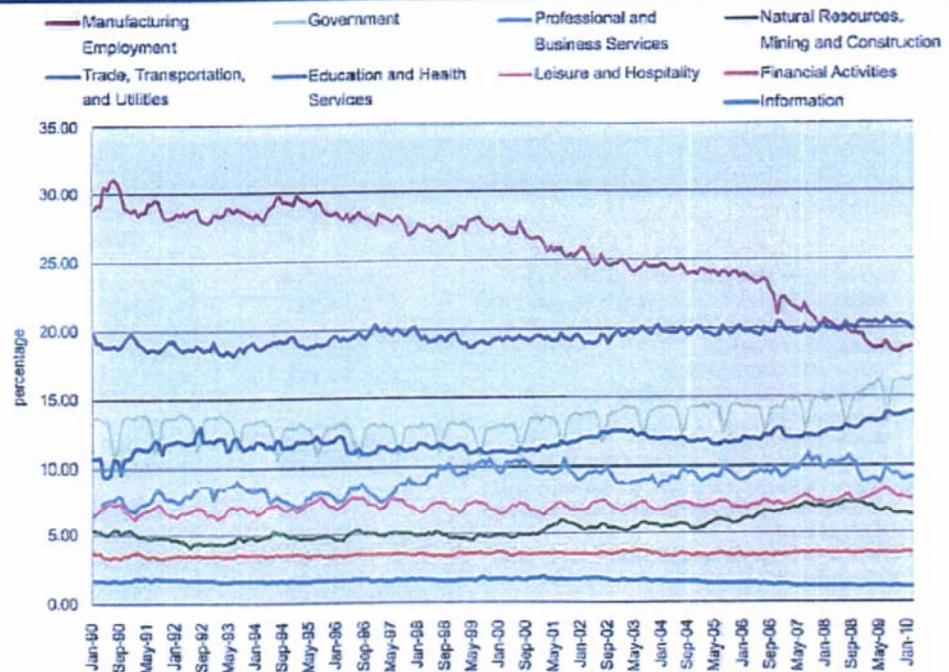


Table 1. U.S. Employment by Industry Sector, 1998, 2008, and 2018 (Projected)

	Percent Distribution			Average Annual Rate of Change	
	1998	2008	2018	1998-2008	2008-2018
Total Employment	100%	100%	100%	0.70%	1%
Non-Farm Employment	90.1	91.3	91.7	0.9	1
Goods-producing, excl agriculture	17.3	14.2	12.9	-1.3	0
Mining	0.4	0.5	0.4	2.4	-1.6
Construction	4.4	4.8	5.1	1.6	1.7
Manufacturing	12.5	8.9	7.4	-2.6	-9
Services-providing	72.8	77.2	78.8	1.3	1.2
Utilities	0.4	0.4	0.3	-9	-1.1
Wholesale Trade	4.1	4	3.7	-3	0.4
Retail Trade	10.4	10.2	9.6	0.5	0.4
Transportation/Warehouse	3	3	3	0.8	0.9
Information	2.3	2	1.9	-7	0.4
Financial Activities	5.3	5.4	5.2	0.9	0.7
Professional/Business Svcs	10.8	11.8	13.2	1.6	2.1
Educational (private)	1.6	2	2.3	3.1	2.4
Health/Social Assistance	8.7	10.5	11.9	2.6	2.3
Leisure/Hospitality	8	8.9	8.8	1.8	0.8
Federal Government	2	1.8	1.7	0	0.3
State/Local Government	12.2	13.1	12.8	1.4	0.8

The "education" in Education and Health Services reflects private' educational employment and is a considerably smaller portion of this sector relative to health related employment. It is of little surprise to see health services increasing with the aging of the population and the general expansion of health services to this population. The sector has grown from 10.7% of non-farm employment in 1990 to nearly 14% today.

One other sector that has exhibited consistent and reasonably strong growth over the 20 year period is Business and Professional Services, which is comprised of legal, accounting, and other consulting services. This sector grew from 6.4% of the non-farm workforce to 9.21% in the latest data, reaching a high of 11 % in August 2007. Part of this growth can be attributed to continued outsourcing of white-collar jobs and the tasks in which they were involved. Services in areas of accounting, legal, human resources, and various consulting services have grown as a result.

Of the remaining sectors, Financial Services and Information (largely print, broadcast, and digital media-related) have remained largely flat for the period, while Leisure and Hospitality and Natural Resources, Mining, and Construction have experienced modest growth. There was noticeable growth in the latter sector due to a burst in oil and gas exploration activity, as well as construction in the latter half of the 2000-2010 period leading up to the recession.

Sector Growth Prospects Going Forward

Employment forecasts for the U.S. and for the State of Arkansas suggest that the trend lines taking shape in Figure 1 will continue. Nationally, for the period between 2008 and 2018, the BLS predicts a continued decline in overall manufacturing employment (See Table I). While the Arkansas Department of Workforce Services (DWS) concurs with the overall projection for the state, it estimates there will be some growth in areas of alternative energy production (including manufacturing).

Within the services sector nationally, the most notable growth is expected in Business and Professional Services as more firms outsource tasks. This sector is expected to grow to 13.2% of nonfarm employment from 11.8% in 2008. Health-related employment is expected to continue growing as well, going from 10.4% to 11.9% of total non-farm employment over the 10 year period. Within the state and region, employment growth is expected in K-12 education and health care sectors. The gas and oil sector is projected to add jobs in the Fort Smith region as well, per the DWS estimates. The report also suggests that employment will grow in transportation and local government.

In sum, employment opportunities in the intermediate term are projected to be in the service sector, with job growth strongest in healthcare, K-12 education, business and professional services, and state and local government sectors. In general, Fort Smith continues to have a considerable manufacturing base from which nearly one in five workers directly derives a living, and many more who do so indirectly. Recent recruitment successes bring some confidence that this fact will continue into the intermediate future.

Prospects for Improved Employment

While employment trends and projections provide a general framework for estimating local economic prospects, there are broader questions emerging that suggest more perplexing challenges loom going forward. Only one of these will be discussed here.

Recessions are a recurring fact of life in a free market economy. While the economic turmoil caused by such cycles is painful, the adjustments made by organizations during these times amounts to a recalibration of the system, making it ready to grow vigorously again. Until recent recessions, these cycles were times when a community hunkered down and waited for the good times to return - which historically was relatively a short wait. However, recent recessions have begun to reflect longer and longer reloading periods where not only are the downturns lengthy, but recoveries are taking longer as well, especially when it comes to rehiring workers.

Figure 2 illustrates this point all too graphically. The chart plots the last 11 recessions according to the length of time between the pre-recession employment high until post-recession employment once again reaches that

level of the last 11 recessions. The trend is unmistakable; recent recessions have taken longer to unwind and re-grow employment to previous levels, much less exceed those levels. The long brown line reflects the 2001 recession, where the job market took nearly four years to recover to the same employment levels it reached before the recession.

Many have referred to the 2000-2009 period as the jobless decade, where we ended the decade more or less where we started it - with about 130 million people employed. During that time, the population had grown by 30 million. The current recession (red line) is over two years in the making and appears to have recently reached the bottom. This too fails to consider that the current definition of unemployed significantly underestimates how many are actually not working who wish to be, or are involuntarily underemployed.

A Different Kind of Challenge

The impact of high and prolonged unemployment on a community has not been examined well, particularly as it pertains to long-term competitiveness. Each employer after each cycle is returning fewer workers to the employment roles relative to the dollars generated. Why is this? For the organization, recalibration of the system means the organization learned to live without the people they thought they needed, retooled processes to gain efficiencies, and outsourced tasks in order to ensure lower fixed costs going forward. Even with rehiring, the preference of more and more employers is to use temporary workers, which results in reduced employer commitment to them and lower costs to the employer while they keep them.

For communities, hunkering down until the storm passes may seem a reasonable response for 12 to 18 months, but this is a very different matter if it lasts five to ten years. One implication is that reduced tax receipts (and investment capital in general) over a prolonged period risks the essential investments needed to maintain existing capabilities, much less propel growth into new areas. A second implication, arguably even more important, is the degeneration of human capital.

Former Labor Secretary under President Clinton, Robert Reich, in a March 8 blog, summarized it like this: "Financial capital moves instantly around the globe to wherever it can earn the best return. Human capital - the skills and insights of our people - is the one resource that's uniquely American, on which our future living standards uniquely depend." The market value of any region's human capital is relative, and fleeting, but it is increasingly the key to a region's competitive advantage. Infrastructure is a given to compete; human capital is the advantage. The market value of our human capital is diminishing each day an employee is not acquiring and refining his or her skills. It is probably even more significant for the long-term unemployed or underemployed.

Maintaining relative economic growth while enduring lengthening recessionary periods may be one more feature of the economic environment that may need to be addressed going forward .

Figure 2. Length of Recession Recovery Periods since World War II

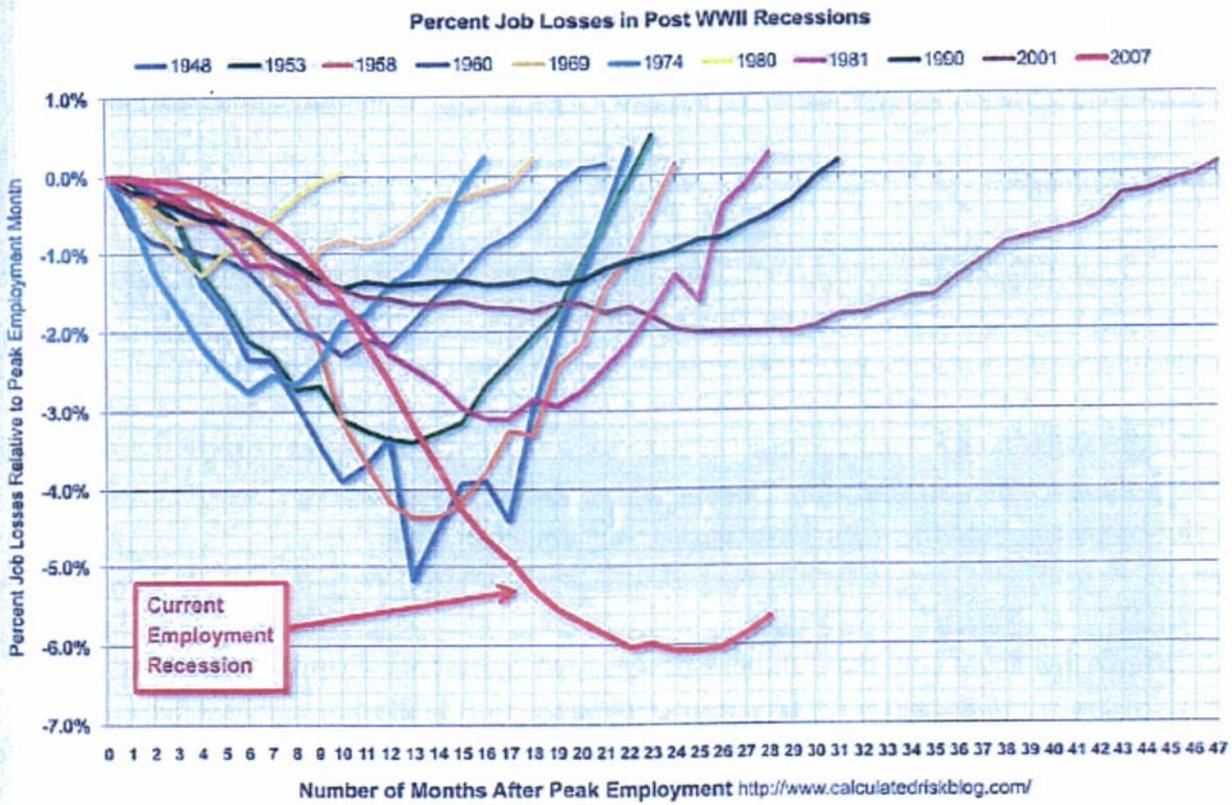


Image used with permission: www.calculatedriskblog.com

The Fort Smith Economy
Fort Smith Economic Activity Indicators
 January 2010

	Base Year 2005	Last Year 2009	This Year 2010**	% Change 2009-2010
Sales				
Retail Sales (Month, MSA, 000s, Nov)*	\$ 266,906	\$ 325,193	\$ 274,192	-15.7%
Retail Sales (YTD, MSA, 000s, Nov)	\$ 2,762,715	\$ 3,638,821	\$ 3,229,509	-11.2%
Auto Sales (Month, AR, 000s, Jan)	\$ 28,977	\$ 21,111	\$ 17,600	-16.6%
Auto Sales (YTD, AR, 000s, Jan)	\$ 28,977	\$ 21,111	\$ 17,600	-16.6%
Residential Construction (MSA, Dec)				
Residential Permits (Month)*	56	20	53	165.0%
Residential Permits (YTD)	794	630	757	20.2%
Permit Value (Month, 000s)*	\$ 7,953	\$ 2,192	\$ 5,195	137.0%
Value of Permits (YTD, 000s)	\$ 83,704	\$ 65,907	\$ 69,425	5.3%
New and Existing Home Sales (MSA, Jan)				
Number Sold (Month)	141	113	105	-7.1%
Value of Homes Sold (Month, 000s)*	\$ 15,551	\$ 12,901	\$ 12,048	-6.6%
Number Sold (YTD)	141	113	105	-7.1%
Value of Homes Sold (YTD, 000s)	\$ 15,551	\$ 12,901	\$ 12,048	-6.6%
Average Price of Homes Sold	\$ 110,291	\$ 114,168	\$ 114,743	0.5%
Employment (MSA unless noted, Dec.)				
Wage & Salary Employment (Month, Nonfarm)*	118,300	124,700	123,400	-1.0%
Wage & Salary Employment (YTD Avg, Nonfarm)	116,858	125,250	123,542	-1.4%
Education and Health Services (Month)	14,000	16,100	16,400	1.9%
Education and Health Services (YTD Avg.)	13,925	15,842	16,250	2.6%
Manufacturing Employment (Month)	28,400	23,700	22,600	-4.6%
Manufacturing Employment (YTD Avg.)	28,500	24,950	22,808	-8.6%
Unemployment Rate (Month)	4.70%	6.10%	7.90%	-29.5%
Unemployment Rate (YTD Avg.)*	5.20%	4.90%	7.50%	-53.1%
AR Unemployment Rate (Month)	5.40%	6.00%	7.60%	-25.7%
U.S. Unemployment Rate (Month)	5.10%	7.10%	9.70%	-35.6%
Airport Traffic (Fort Smith, Jan)				
Total Passenger Traffic (Month)	14,313	10,861	10,796	-0.6%
Total Passenger Traffic (YTD)	14,313	10,861	10,796	-0.6%
Economic Activity Index (as of Nov)	100.0	104.0	100.4	-3.5%

*Economic Activity Index includes monthly MSA retail & home sales, residential permits & value, wage & salary employment, and unemployment rate

**Data available at the time of this report includes data from November, December and January. Dollars are not inflation adjusted.

Prepared by the Center of Business Research and Economic Development, UA Fort Smith College of Business

Commentary

The activity index reveals that we closed 2009 at about the same level as we did 2004.

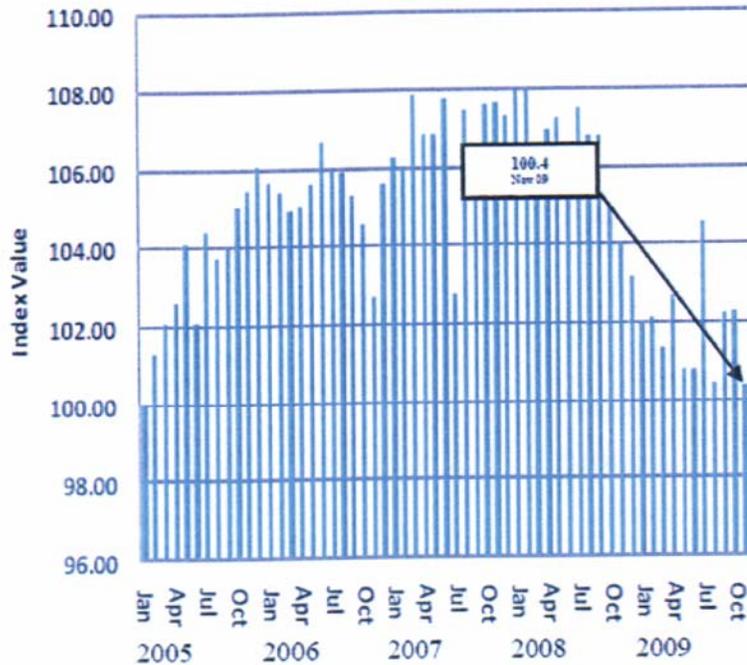
There are some areas for encouragement over last year. Employment numbers through Dec 2009 improved for Education and Health Services, as did residential construction activity. Average home prices seem to have remained stable over the period.

On the downside, Jan 2010 data on auto and residential sales continue to reveal weak activity.

In sum, the results are at best mixed, but there are signs the local economy is stabilizing. This snapshot suggests that the recovery is still more a rumor than a substantive reality.

Note: Monthly data is quite volatile and should be interpreted cautiously.

Fort Smith MSA Economic Activity Index



Change in Employment by Metropolitan Area

	Total Nonfarm Employment (Dec 2007)	Total Nonfarm Employment (Dec. 2009)	Net Change (Current Recession)	Percentage Change (Current Recession)
Jonesboro, AR	49,096	49,278	182	0.37%
Texarkana, AR	57,533	57,215	-318	-0.55%
Hot Springs, AR	39,012	38,279	-734	-1.88%
Fayetteville-Springdale-Rogers, AR-MO	208,822	204,769	-4,053	-1.94%
Fort Smith, AR-OK	126,052	123,266	-2,787	-2.21%
Little Rock-North Little Rock- Conway, AR	348,401	340,277	-8,123	-2.33%
Pine Bluff, AR	38,424	37,081	-1,343	-0.04%
Arkansas	1,207,600	1,172,100	-35,500	-2.94%
United States	137,951,000	129,588,000	-8,363,000	-6.06%

Source: Bureau of Labor Statistics, seasonally adjusted

XI. Acknowledgements

Wally Bailey, Director of Development Services, City of Fort Smith

Gary W. Campbell, City Director-Position 5, Vice Mayor, City of Fort Smith

Steven Clark, S.E. Clark and Associates, Inc

Jim Dunn, Project Director, U.S. Marshal's Museum

Cheryl Garner, VP for Economic Development Fort Smith Chamber of Commerce

Russell Gibson, Director of ITS/GIS, City of Fort Smith

Ray Gosack, Deputy City Administrator, City of Fort Smith

Jane Hughes, Downtown Development Coordinator, City of Fort Smith

Dennis W. Kelly, City Administrator, City of Fort Smith

Kermit W. Kuehn, PH.D., University of Arkansas Fort Smith

Les Lane, Arkansas Capital Corporation, Heartland Renaissance Fund

Norman McLoughlin, Principal, McLoughlin & Associates

Rusty Myers, Vice President, Western Arkansas Planning and Development District

Mitch Minnick, Housing Development Officer, Fort Smith Housing Authority

Mathew Pitsch, Intermodal Project Manager, Western Arkansas Planning & Development District Inc.

Maggie Rice, Senior Planner, City of Fort Smith

Samuel T. Sicard, VP First National Bank of Fort Smith

Kathryn A. Stocks, attorney, Warner Smith Harris plc

Sam Walls III, Senior Vice President, Arkansas Capital Corporation, Heartland Renaissance Fund

XII. Appendix: Resolution R-106-10 Veto

RESOLUTION NO. R-106-10

**A RESOLUTION SUPPORTING THE FORT SMITH HOUSING AUTHORITY
AND ITS EFFORTS TO USE NEW MARKET TAX CREDITS
TO STIMULATE DEVELOPMENT AND REDEVELOPMENT
IN LOW-TO-MODERATE INCOME AREAS OF FORT SMITH**

WHEREAS, the use of new market tax credits offered by the U.S. Treasury Department can stimulate development and redevelopment projects in low-to-moderate income areas which might not otherwise benefit from such projects; and

WHEREAS, the revitalization of residential and commercial neighborhoods are goals of the City of Fort Smith's Comprehensive Plan adopted in 2002; and

WHEREAS, the use of new market tax credits would support those goals of the comprehensive plan, particularly in areas of Fort Smith which might not otherwise prosper from development and redevelopment projects; and

WHEREAS, the Fort Smith Housing Authority has proposed that it prepare a redevelopment plan and seek to become a certified community development entity eligible to apply for new market tax credits; and

WHEREAS, Arkansas Code 14-169-604 provides housing authorities with the authority to undertake development projects to reduce slum and blighted conditions subject to municipal approval of a redevelopment plan as required by Arkansas Code 14-169-606;

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

The City of Fort Smith endorses and supports the proposal by the Fort Smith Housing Authority to prepare a redevelopment plan and to become a certified community development entity in order to pursue the use of new market tax credits to stimulate development and redevelopment projects in low-to-moderate income areas of Fort Smith,

This Resolution passed this 1st day of June, 2010.

Mayor's veto overridden by the Board of Directors with a vote of 6 in favor 0 opposed (Director Campbell absent) at the June 15, 2010 regular meeting.

Vetoed!
Mayor R. Bel...
Mayor
6-4-10

[Signature]
Gary Campbell, Vice Mayor

Attest: *[Signature]*
City Clerk

APPROVED AS TO FORM:

[Signature]
No publication required

RESOLUTION NO. _____

A RESOLUTION OF INTENT OF THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS REGARDING THE ISSUANCE OF BONDS FOR THE PURPOSE OF ASSISTING IN THE FINANCING OF AN INDUSTRIAL FACILITY EXPANSION TO BE LOCATED WITHIN THE CITY.

WHEREAS, the City of Fort Smith, Arkansas (the "City") is authorized under the provisions of the Municipalities and Counties Industrial Development Revenue Bond Law, Arkansas Code Annotated §§14-164-201 *et seq.* (1998 Repl. & 2009 Supp.) (the "Act"), to own, acquire, construct, reconstruct, improve, equip and lease facilities to secure and develop industry and to assist in the financing thereof by the issuance of bonds payable from the revenues derived from such facilities; and

WHEREAS, Gerber Products Company, a Michigan corporation (the "Company") engaged in the business of manufacturing and packaging infant and toddler food products, has evidenced its interest in acquiring, constructing and equipping additional manufacturing facilities (the "Project") to be located at its existing facility at 4301 Harriet Lane within the corporate boundaries of the City if permanent financing for the Project can be provided through the issuance of revenue bonds under the authority of the Act; and

WHEREAS, the City has previously assisted the Company in the expansion of its packaging facilities through the issuance of the City's Not to Exceed \$65,000,000 Taxable Industrial Development Revenue Bonds (Gerber Products Company Project), Series 2004; and

WHEREAS, the City desires to provide additional assistance to the Company in order to secure and develop industry within the City, and to aid in the financing of the Project under the provisions of the Act;

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

Section 1. It is the City's present intention to assist the Company in the financing of the proposed Project through the issuance of industrial development revenue bonds under the authority of the Act. It is presently estimated by the Company that bonds in the aggregate principal amount of approximately \$90,000,000 would be required for this purpose. However, the City's intent is to issue the bonds from time to time, pursuant to the terms of the Act, in such amount as shall be requested by the Company for accomplishing all or any part of the Project, whether or not such amount is more or less than the above estimate and whether or not the facilities and improvements finally acquired, constructed and equipped are identical to or different from the facilities presently expected to constitute the Project.

Section 2. In conjunction with any issuance of bonds to assist in the financing of the Project, the City states its intention to enter into an agreement with the Company providing for annual payments by the Company in lieu of ad valorem taxes in an amount equal to thirty-five percent (35%) of the aggregate amount of ad valorem taxes that would otherwise be due with respect to the Project facilities but for the City's issuance of the bonds. It is the City's present

intention that the bond financing and the agreement for payments in lieu of ad valorem taxes would have a term of approximately twelve years. Any payment made in lieu of ad valorem taxes would be distributed to the political subdivisions which would have received ad valorem tax payments with respect to the Project facilities in the proportion that the millage levied by each affected political subdivision bears to the total millage levied by all affected political subdivisions.

Section 3. All resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict, particularly Resolution No. R-169-09

Section 4. This Resolution shall be in full force and effect from and after its adoption.

ADOPTED this ____ day of _____, 2010.

By: _____
Mayor

ATTEST:

By: _____
City Clerk

(SEAL)



MEMORANDUM

July 29, 2010

TO: Dennis Kelly, City Administrator

FROM: Ray Gosack, Deputy City Administrator

SUBJECT: Gerber Products

Gerber Products' Fort Smith plant has been chosen for an expansion by its parent company, Nestle Nutrition. Gerber plans to add a cereal manufacturing line. The addition is anticipated to create 50 new jobs.

Last year, the Board of Directors passed a resolution of intent (copy attached) to issue industrial revenue bonds for this project. At that time, the project was estimated to cost \$65 million. Gerber now expects to invest up to \$90 million in the project. Attached is a new resolution of intent which reflects this increased investment.

The principal advantage of industrial revenue bonds is reduced property taxes. The payment in lieu of taxes will be 35% of the normal property taxes for 12 years.

Issuance of the bonds will require approval of an ordinance by the board at the time the bond issuance is ready to proceed. Gerber will be solely responsible for the debt service payments on the bonds. The city has no obligation to make the bond payments.

The staff recommends approval of the attached resolution. The investment will support one of the board's top goals: economic development and job retention/creation.

Attachments

cc: Patrick Murray, Gerber Plant Manager
Ken Kovitch, Gerber Plant Controller
Cheryl Garner, Fort Smith Regional Chamber of Commerce
Dr. Benny Gooden, Fort Smith Public Schools
David Hudson, Sebastian County Judge

A handwritten signature in black ink, appearing to read "Ray".

EXTERNAL: PRESS RELEASE

For Immediate Release:

For More Information, Contact:

David Mortazavi, Nestlé Infant Nutrition
david.mortazavi@us.nestle.com, 973.593.7460

Emily Korn, Nestlé Infant Nutrition
emily.korn@us.nestle.com, 973.593.7421

NESTLÉ NUTRITION CONFIRMS GERBER FORT SMITH PLANT EXPANSION
\$89.9 Million Plant and Equipment Expansion to Create Local Jobs

(FLORHAM PARK, New Jersey) – July 20, 2010 – Nestlé Nutrition is pleased to announce the most significant expansion and re-design of its GERBER facility in Fort Smith, Arkansas since its installation in 1964. The expansion will generate an anticipated 50 local full-time jobs, plus potential incremental demand for local contractors during the construction period.

“Creating shared value is an important principle at Nestlé, and we are proud to continue to support and encourage growth within the Fort Smith community,” said Kurt Schmidt, CEO of Nestlé Nutrition North America. Earlier this year, Nestlé completed another expansion project at the Gerber Life facility in Fremont, Michigan, adding a call center that will lead to an additional 180 jobs over the next five years.

News of the decision to expand has been welcomed in the community and the state.

Governor Mike Beebe said, “This expansion by Gerber illustrates the continued revival and growth of manufacturing in Fort Smith. It is the continued success of respected companies like Nestlé that will show other prospective businesses the benefits of locating in Sebastian County.”

“Gerber has been a strong corporate citizen in Fort Smith for many years,” John McFarland, chairman of the Fort Smith Regional Chamber of Commerce board, added. “I thank the company for its commitment to doing business and growing in Fort Smith. I look forward to Gerber’s continued success.”

Construction to add an additional GERBER® cereal manufacturing line to the approximately 900,000-square-foot plant is scheduled to begin immediately. Additionally, renovations will be made that support continuous operational improvement and increase production capacity. The Fort Smith site produces a range of GERBER® products including 1st Foods®, 2nd Foods® and 3rd Foods® purees in plastic and glass containers, GERBER® GRADUATES® Meat Sticks® and GERBER® infant cereals.

Patrick Murray, Gerber’s Fort Smith plant manager, has been working with the company for four years. “This investment is truly a testament to the hard work and commitment of our employees,” Murray said.

The expansion project is scheduled to be completed by September 2012.

- more -

The Gerber Fort Smith production plant is located at 4301 Harriet Avenue and currently provides employment to more than 650 people in the area.

About Nestlé Nutrition and Gerber

Nestlé Nutrition, part of Nestlé S.A., a world leader in nutrition, health and wellness is dedicated to infant nutrition, healthcare nutrition, and performance nutrition and weight management. Gerber Products Company, founded in 1928, officially joined the Nestlé family on September 1, 2007. Nestlé and Gerber's combined resources and scientific research expertise have enabled the company to become a worldwide leader in early childhood nutrition. Gerber produces more than 200 food products, all of which are a part of Nestlé's proprietary Start Healthy, Stay Healthy™ integrated nutrition system. Start Healthy, Stay Healthy™ combines products, educational resources and services that are designed to encourage the early establishment of healthy eating habits in children from birth to preschool.

For more information on Nestlé Nutrition, Gerber and GOOD START Infant Formulas, visit www.gerber.com. All trademarks are owned by Société des Produits Nestlé S.A., Vevey, Switzerland.

###

RESOLUTION NO. R-169-09

A RESOLUTION OF INTENT OF THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS REGARDING THE ISSUANCE OF BONDS FOR THE PURPOSE OF ASSISTING IN THE FINANCING OF AN INDUSTRIAL FACILITY EXPANSION TO BE LOCATED WITHIN THE CITY.

WHEREAS, the City of Fort Smith, Arkansas (the "City") is authorized under the provisions of the Municipalities and Counties Industrial Development Revenue Bond Law, Arkansas Code Annotated §§14-164-201 *et seq.* (1998 Repl. & 2005 Supp.) (the "Act"), to own, acquire, construct, reconstruct, improve, equip and lease facilities to secure and develop industry and to assist in the financing thereof by the issuance of bonds payable from the revenues derived from such facilities; and

WHEREAS, Gerber Products Company, a Michigan corporation (the "Company") engaged in the business of manufacturing and packaging infant and toddler food products, has evidenced its interest in acquiring, constructing and equipping additional manufacturing facilities (the "Project") to be located at its existing facility at 4301 Harriet Lane within the corporate boundaries of the City if permanent financing for the Project can be provided through the issuance of revenue bonds under the authority of the Act; and

WHEREAS, the City has previously assisted the Company in the expansion of its packaging facilities through the issuance of the City's Not to Exceed \$65,000,000 Taxable Industrial Development Revenue Bonds (Gerber Products Company Project), Series 2004; and

WHEREAS, the City desires to provide additional assistance to the Company in order to secure and develop industry within the City, and to aid in the financing of the Project under the provisions of the Act;

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

Section 1. It is the City's present intention to assist the Company in the financing of the proposed Project through the issuance of industrial development revenue bonds under the authority of the Act. It is presently estimated by the Company that bonds in the aggregate principal amount of approximately \$65,000,000 would be required for this purpose. However, the City's intent is to issue the bonds from time to time, pursuant to the terms of the Act, in such amount as shall be requested by the Company for accomplishing all or any part of the Project, whether or not such amount is more or less than the above estimate and whether or not the facilities and improvements finally acquired, constructed and equipped are identical to or different from the facilities presently expected to constitute the Project.

Section 2. In conjunction with any issuance of bonds to assist in the financing of the Project, the City states its intention to enter into an agreement with the Company providing for annual payments by the Company in lieu of ad valorem taxes in an amount equal to thirty-five percent (35%) of the aggregate amount of ad valorem taxes that would otherwise be due with respect to the Project facilities but for the City's issuance of the bonds. It is the City's present

intention that the bond financing and the agreement for payments in lieu of ad valorem taxes would have a term of approximately twelve years. Any payment made in lieu of ad valorem taxes would be distributed to the political subdivisions which would have received ad valorem tax payments with respect to the Project facilities in the proportion that the millage levied by each affected political subdivision bears to the total millage levied by all affected political subdivisions.

Section 3. This Resolution shall be in full force and effect from and after its adoption.

ADOPTED this 4th day of August, 2009.

By: 
Mayor

ATTEST:

By: 
Cindy Kemler



RESOLUTION NO. _____

7 A

**A RESOLUTION ACCEPTING THE BID FOR AND AUTHORIZING
THE PURCHASE OF TRANSIT PASSENGER SHELTERS**

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

The bid, as indicated on the attached Bid Tabulation No. 6550-305-BA, for the purchase of Twenty-five (25) bus stop shelters for the Fort Smith Transit Department from Duo-Gard Industries, Inc. in the amount of \$103,513 is accepted and the purchase of the shelters for the bid amount is hereby authorized.

This Resolution adopted this _____ day of August, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



City Attorney

No Publication Required

Tabulation of Bids - City of Fort Smith

Bus Shelters

Transit Department

Bid Tab # 6550-305-BA

Vendor	Each	Total	Total Bid
Duo-Gard Industries, Inc. Canton, Michigan			
5' x 10' Aluminum Bus Shelters (Quantity 25)	\$4,140.52	\$103,513.00	
			\$103,513.00
Brasco International, Inc. Detroit, Michigan			
5' x 10' Aluminum Bus Shelters (Quantity 25)	\$5,327.20	\$133,180.00	
			\$133,180.00
Columbia Equipment Co., Jamaica, New York			
5' x 10' Aluminum Bus Shelters (Quantity 25)	\$7,346.00	\$183,650.00	
			\$183,650.00

 Low Bid

Date Advertised : 06-05-10 & 06-06-10

Bid Opening Date: 06-21-10



MEMORANDUM
July 28, 2010

To: Dennis Kelly, City Administrator
From: Ken Savage, Transit Director *KS*
Subject: Purchase of Transit Bus Stop Shelters

Attached is a resolution authorizing the purchase of twenty-five (25) bus stop shelters in the amount of \$103,513 from Duo-Gard Industries, Incorporated. Also attached is the tabulation of bids ranging from \$103,513 to \$183,650. Bids were advertised on June 5th and 6th and three bids were opened on June 21st. All references for Duo-Gard were positive and all expressed an interest in obtaining additional shelters.

Funding in the amount of \$250,000 was encumbered from the 2009 budget for the acquisition of shelters, property easements and installation. Financial support for the shelter program is provided at 100% by a grant from the American Recovery and Reinvestment Act (ARRA) awarded in July of 2009.

The modular shelters will be placed in specific locations along the fixed routes separate from the existing benches. The shelters will provide seating and a solar lighted enclosure for passengers waiting to board transit buses. Advertising is not planned for transit shelters at this time.

If the Board approves the attached resolution, the next steps would involve obtaining property easements for placement followed by installation. Duo-Gard estimates 10 weeks for delivery. The contract specifies an option to purchase ten (10) additional shelters if sufficient funds exist. This project has been an ongoing goal of the Transit Advisory Commission. Staff recommends approval of the bid from Duo-Gard Industries, Inc.

Please contact me if you have any questions.

7 B

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE SETTLEMENT OF JUST COMPENSATION
ISSUES WITH LESLIE LEE WEBB, JR. AND AMANDA JO WEBB FOR REAL
PROPERTY ACQUIRED FOR THE EAST HIGHWAY 45 WATER LINE
IMPROVEMENT PROJECT, PROJECT NO. 06-03-C1

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

Section 1: The just compensation issues with Leslie Lee Webb, Jr. and Amanda Jo Webb for real property acquired by the City of Fort Smith for the East Highway 45 Water Line Improvement Project, Project No. 06-03-C1, are hereby authorized to be settled via a payment by the City of Fort Smith in the amount of \$3,500.00 to Leslie Lee Webb, Jr. and Amanda Jo Webb.

Section 2: The City Administrator and the City Attorney are hereby authorized to take any and all necessary actions to conclude the current litigation based upon the agreed amount of just compensation.

This Resolution adopted this _____ day of August, 2010.

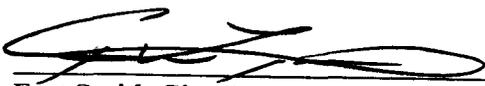
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Fort Smith City Attorney
NPR

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: July 30, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Highway 45 Water Line Improvements
Contract Number 06-03-C1

The Highway 45 Water Line Improvements project provided additional line capacity for new land developments and fire protection within the southern growth area of the city along Highway 45 between Highways 71 and 253. The construction project was awarded in September 2007 and completed in November 2008. As part of that project, the city had to condemn an easement from Leslie and Amanda Webb. The appraised value of the easement was originally established at \$1,600.00 and later adjusted to \$1,000.00 as the city was able to avoid the loss of trees included in the first appraisal. A letter from Daily & Woods is attached with outlines the conclusion of the city's effort to negotiate a compensation settlement with Mr. and Mrs. Webb. Exhibits showing the project and easement locations are attached.

As this matter moved closer to the trial date, the Webb's desire to reach a settlement increased. This matter can now be settled for an amount of \$3,500.00. It is staff's recommendation that the Board approves the attached Resolution authorizing a settlement agreement for that amount.

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

attachment

pc: Ray Gosack

RECEIVED

DAILY & WOODS

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

JERRY L. CANFIELD, P.A.
THOMAS A. DAILY, P.A.
WYMAN R. WADE, JR., P.A.
DOUGLAS M. CARSON, P.A.
ROBERT R. BRIGGS, P.A. +
C. MICHAEL DAILY +
COBY W. LOGAN *
L. MATTHEW DAVIS
COLBY T. ROE

* CERTIFIED MEDIATOR
+ ALSO LICENSED IN OKLAHOMA

58 SOUTH 6TH STREET
POST OFFICE BOX 1446
FORT SMITH, ARKANSAS 72902
TELEPHONE (479) 782-0361
FACSIMILE (479) 782-6160

COMMERCE PARK II BUILDING
2049 EAST JOYCE BOULEVARD, SUITE 401
FAYETTEVILLE, ARKANSAS 72703
TELEPHONE (479) 582-0361
FACSIMILE (479) 251-8111

JUL 21 2010

JAMES E. WEST
PHILLIP J. NORVELL
DALE CARLTON
OF COUNSEL

HARRY P. DAILY (1886-1965)
JOHN P. WOODS (1886-1976)
JOHN S. DAILY (1912-1987)
BEN CORE (1924-2007)

WRITER'S E-MAIL ADDRESS:
CLOGAN@DAILYWOODS.COM

July 20, 2010

Mr. Steve Parke
Director of Utilities
City of Fort Smith
Utilities Administration Building
3900 Kelley Highway
Fort Smith, Arkansas 72904

Re: City of Fort Smith, Arkansas v. Leslie Lee Webb, Jr.; Amanda Jo Webb; Farmers Bank; Allied Home Mortgage Capital Corporation; and Countrywide Home Loans, Inc.
Sebastian County Circuit Court - Case No. CIV-2007-212-G (VI)

Dear Mr. Parke,

The parties have engaged in settlement discussions in the above referenced matter. Mr. Tommy M. Matthews has appraised the value of the subject real property interests needed and acquired by the City of Fort Smith in this matter at \$1,000.00. After various proposals, the parties have agreed that the sum of \$3,500.00 be paid to the landowners, Leslie Lee Webb, Jr. and Amanda Jo Webb, to completely settle the above referenced matter, with no other work or conditions to be performed by the City of Fort Smith, subject to approval of the City's Board of Directors.

We recommend the settlement. We understand that your office likewise recommends the settlement. Please find enclosed a resolution draft for your review, and if said resolution draft meets with your approval, for submission to the Board of Directors of the City of Fort Smith.

Thank you for your attention to this matter.

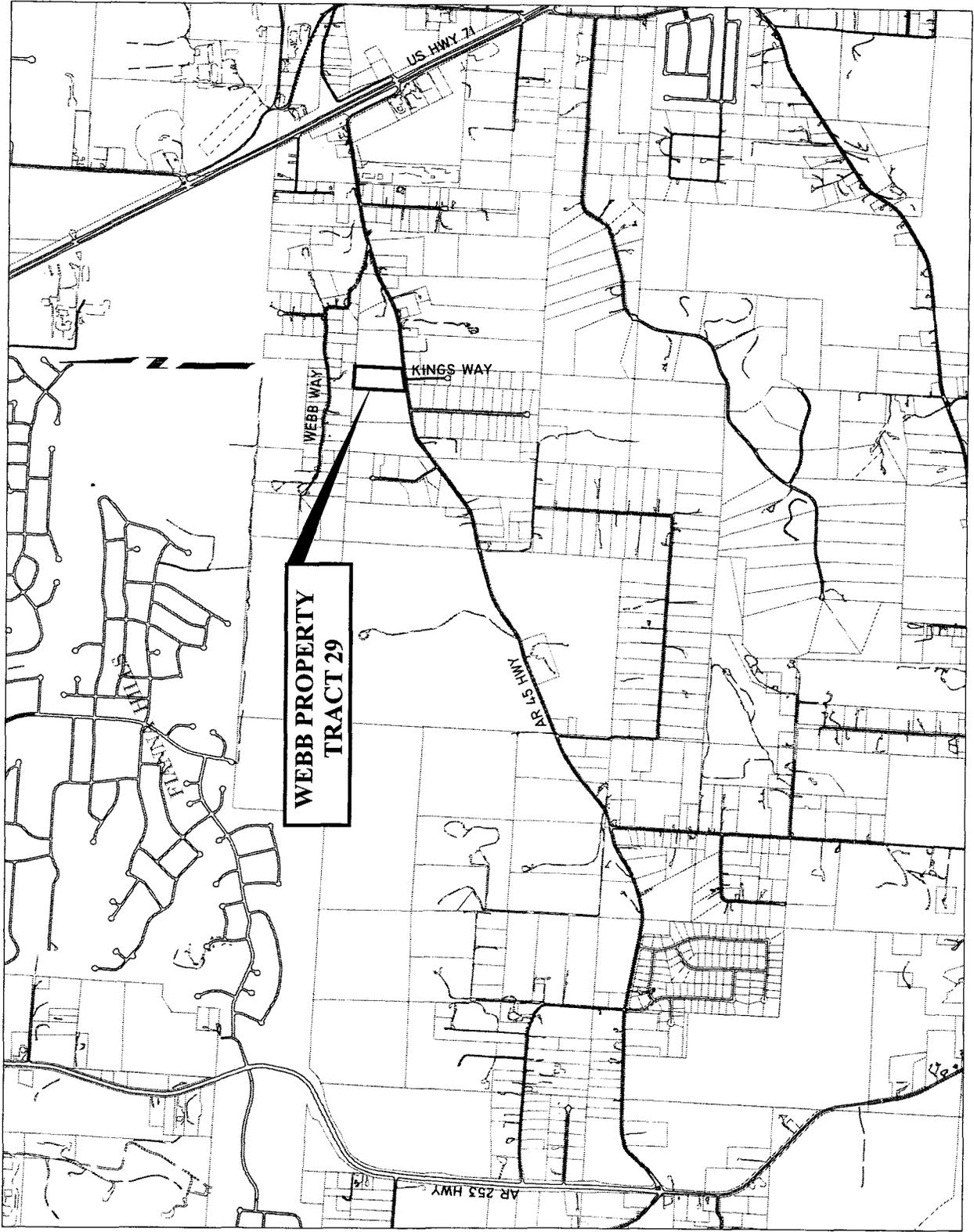
Yours very truly,



Coby W. Logan
CWL/cmm

Enclosure

CC: Mr. Ray Gosack
Mr. Larry Guthrie



MICKLE-WAGNER-COLEMAN, INC.
Engineers Consultants Surveyors

3434 Country Club Avenue
P.O. Box 1507
Fort Smith, Arkansas 72902

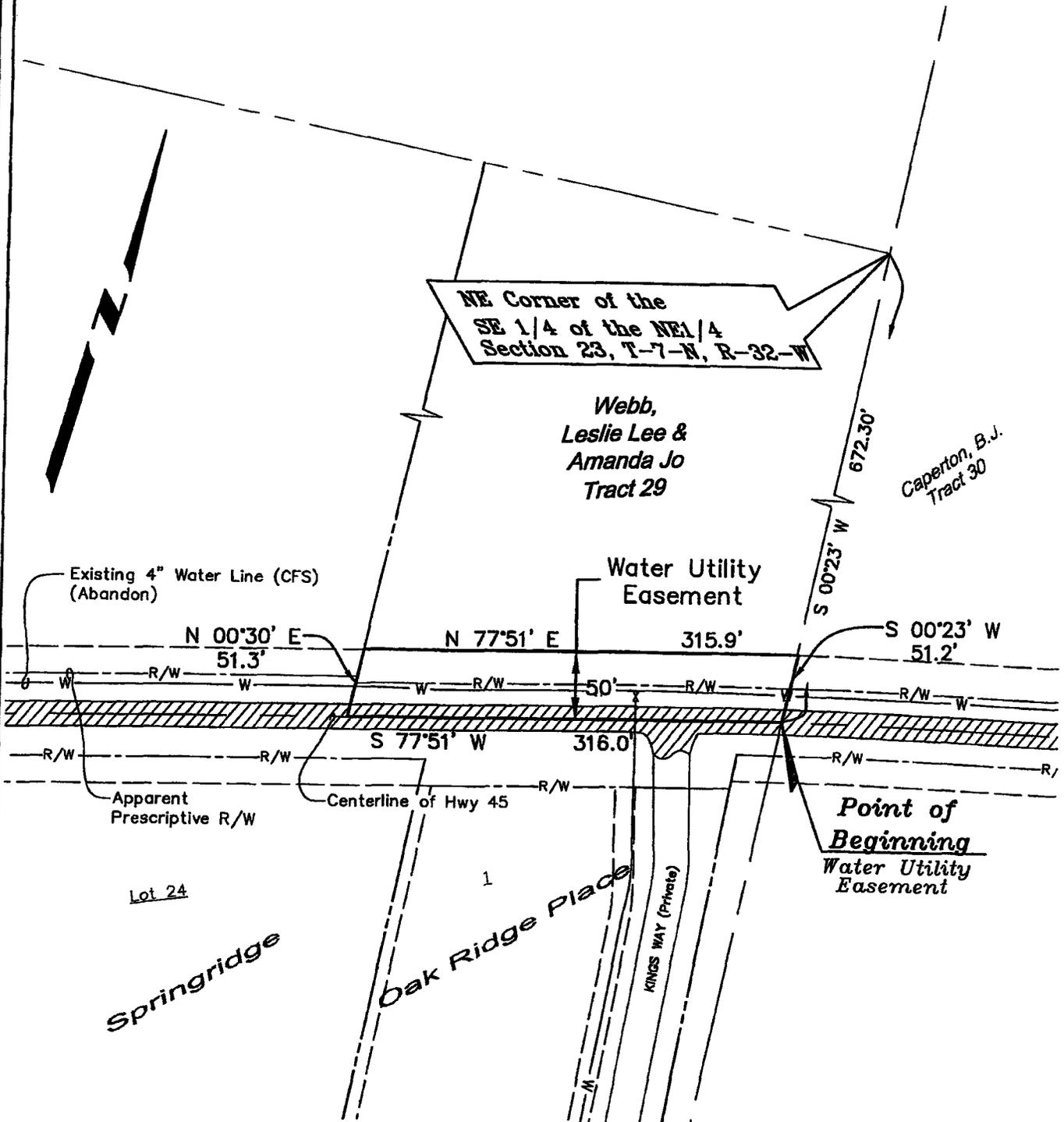


EXHIBIT "A" - TRACT 29

Scale 1"=100'

HWY 45 WATER LINE IMPROVEMENTS

Project No. 03-03-C1

RESOLUTION NO. _____

7 C

RESOLUTION AUTHORIZING AN AMENDMENT TO THE AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC., FOR ENGINEERING SERVICES ASSOCIATED WITH THE SUNNYMEDE WET WEATHER FLOW MANAGEMENT IMPROVEMENTS

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

SECTION 1: Amendment Number Three to the Agreement with Hawkins-Weir Engineers, Inc., to reallocate funds from the unused balance of Sunnymede Wet Weather Flow Improvements design phase services, Project Number 06-04-E2, to provide additional engineering construction phase services for the Sunnymede Wet Weather Flow Management Improvements and associated Sunnymede Walking Trails, Project Number 06-04-E3, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute Amendment Number Two, reallocating an amount of \$166,000.00 from the design phase services, Project Number 06-04-E2, to the construction phase services Project Number 06-04-E3 and adjusting the total amount of that Agreement to \$1,255,456.00, for providing said services.

This Resolution adopted this _____ day of August 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

JSL npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: July 30, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Sunnymede Wet Weather Flow Management
Project Number 06-04-E3
Amendment Number 3

The Sunnymede Wet Weather Flow Management construction phase services agreement with Hawkins-Weir Engineers must be amended due to an extended construction period. The extended construction period is partially due to additional days added to the contract for weather delays. The construction period has also continued beyond the contract completion date due to contractor delay. The cost impact to the city created by that delay will be recovered from the contractor, Branco Enterprises, through the liquidated damages provision within the contract documents. The engineer's cost increase related to the extended construction period is estimated at \$90,000.

The construction phase services being provided by Hawkins-Weir will also require an adjustment to include the addition of the construction contract for the project's walking trails recently awarded to Dixon Construction. The construction period for that project is set at 210 days. The construction phase services anticipated for that contract is estimated at \$76,000.

These two components will bring the total amount of the needed amendment to the construction phase services to \$166,000.00. The funds required for this adjustment are available through the reallocation of the unused balance within the agreement with Hawkins-Weir for the project's design. Therefore, this amendment does not represent an increase to the project's overall budget.

A Resolution is attached authorizing Amendment Number 3 to the Agreement with Hawkins-Weir Engineers for an amount of \$166,000.00, adjusting the total amount for construction phase services to \$1,255,456.00 is attached. It is staff's recommendation that it is presented to the Board for their consideration at their next scheduled meeting.

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

attachment

pc: Ray Gosack



Sunnymede Flow Management Facility